

CALIFORNIA COASTAL COMMISSION

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F5b

Prepared October 5, 2011 (for October 7, 2011, hearing)

To: Coastal Commissioners and Interested Persons
From: Mark Delaplaine, Manager, Energy, Ocean Resources and Federal Consistency Division

Subject: STAFF REPORT ADDENDUM for Item F 5b

Consistency Determination CD-038-11, NOAA, Federal Funding to Yurok Tribe for Fish Processing Facility, Requa, Klamath River, Del Norte County

The Commission staff proposes changes and clarifications to the staff recommendation. [Proposed new language is shown in underline text; language to be deleted is shown in ~~strikeout~~ text.]

Executive Summary, page 3, paragraph 4, and, **Condition 1**, page 7, and **Environmentally Sensitive Habitat and Water Quality**, page 11, first paragraph, make the following change:

Condition:

1. Stream Buffer. ~~NOAA agrees to assure that~~ Either: (1) the project will be modified so that the project footprint and/or design will provide a 50 ft. buffer from Cannery Creek (i.e., the part of the building that is closest to the creek must be at least 50 feet away from both the creek bank and edge of riparian vegetation); OR (2) the creek will be restored through (i) the removal of invasive species in and adjoining the project area; (ii) the removal of refuse; (iii) replanting of native riparian species on both sides of the creek to establish a vegetated, multi-layered, riparian corridor; and (iv) improve channel and culvert configuration to pass high flows.

If the second (restoration) alternative is implemented, the Yurok Tribe will provide a written commitment and prepare a restoration plan for the review and concurrence of the Executive Director of the Commission, and the Tribe will agree that commencement of construction of the fish processing facility will not occur until the Executive Director review and concurs that the plan will substantially improve the creek and its riparian habitat. The plan shall include success criteria, and monitoring and reporting to the Commission staff on achievement of the success criteria.

Executive Summary, page 3, after paragraph 4, and **Environmentally Sensitive Habitat and Water Quality**, page 11, after paragraph 1, add the following finding (after stating the condition language):

The second option is the functional equivalent or better than the first option, because the vegetated buffer, although narrower in one section, is nevertheless more protective of the existing resources than a simple setback, and provides much more valuable overall habitat.

Project Description, page 5, third paragraph on page, make the following change:

To evaluate the suitability ~~of~~ soils in the leachfield areas, the site has been tested and borings drilled. NOAA states:

History, page 5, fifth paragraph on page, make the following change:

B. History. Salmon are key to Yurok subsistence and culture, and the Yurok Tribe has fished salmon from the Klamath River since long before recorded history and European settlement. Events in recent decades have reaffirmed ~~of~~ the Tribe's right to fish the Klamath, and currently the Yurok Tribe holds the primary rights to commercially fish salmon in the Klamath River. The Tribe now manages its own fishery and has undertaken significant efforts to manage and restore the health of the fishery.

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STAFF RECOMMENDATION**ON CONSISTENCY DETERMINATION**

Consistency Determination No.	CD-038-11
Staff:	MPD-SF
File Date:	8/2/11
60th Day:	10/1/11
75th Day:	10/16/11
Commission Meeting:	10/7//11

FEDERAL AGENCY: National Oceanic and Atmospheric Administration

PROJECT LOCATION: North side of the Klamath River, near the river mouth, Requa, Del Norte Co. (Exhibits 1-3)

PROJECT DESCRIPTION: Federal Funding of Yurok Fish Processing Plant (Exhibits 4-7)

SUBSTANTIVE FILE DOCUMENTS: See page 20.

Staff Recommendation: Conditional Concurrence. Motion and condition are on page 7.

List of Exhibits

Exhibit 1	Project Area
Exhibit 2	Project Location
Exhibit 3	Aerial Photo
Exhibit 4	Site Plans
Exhibit 5	Utility Plans
Exhibit 6	Building Elevations
Exhibit 7	Visual Rendering
Exhibit 8	Letter, Yurok Tribe to CCC, July 23, 2003

EXECUTIVE SUMMARY

The National Oceanic and Atmospheric Administration (NOAA) has submitted a consistency determination for providing federal funding to the Yurok Tribe for the construction of a fish processing facility on the north side of the Klamath River, in Requa, Del Norte County. The Commission is reviewing this activity as a federal consistency matter for two reasons: (1) the project site is excluded from the coastal zone, because it has been placed in Trust Status for the Yurok Tribe; and (2) federal funds are being used to construct the facility.

The Yurok Tribe has used the site and general project area as a primary fishing and related activity center for centuries. In the 20th century, uses of the site were predominantly fishery-related, including, at times, the operation of a cannery. It is currently used as a commercial recreational vehicle (RV) park, and the site includes a boat ramp.

The Commission staff previously concurred with a negative determination submitted by the Bureau of Indian Affairs (BIA) for the placement of the project site (and surrounding parcel) in trust, after discussions with the BIA and Yurok Tribe, which culminated in an exchange of letters between the Tribe, BIA, and Commission staff. In these letters both the Tribe and the Commission staff expressed an agreement to work together to protect and restore the natural resources and fisheries habitats of the Klamath River Basin, and “and in the spirit of government-to-government diplomacy,” to continue to work together “to accomplish common environmental protection goals.”

NOAA’s primary goal in funding the project is to help restore the Tribe’s economic viability, which has been severely affected for over a century by construction of dams in the river’s upper watershed, and more recently, by drought conditions in the upper Klamath Basin from 2001-2005. These conditions led to fish diseases significantly affecting and causing substantial mortality in juvenile and adult Chinook salmon. In most of these years thousands of juvenile salmon died from these diseases, with a catastrophic collapse occurring in September 2002, when over 33,000 salmon died and were floating within the first 20 miles of the lower Klamath River. Later, in 2006, after a particularly low spawning count, a complete closure of the Klamath River Fall Chinook salmon (KRFC) fishery was only able to be avoided through:

A... collaborative effort by NMFS, Council, state and tribal representatives to identify a limited fishery that will address conservation concerns for KRFC while preventing a total closure of the fishery. NMFS issued a temporary rule for emergency action to implement very restrictive 2006 annual management measures for the west coast ocean salmon fisheries. These regulations closed a majority of the fishery in the Klamath impact area between May 1 and August 31, 2006, reducing fishing opportunity in this area by more than 70 percent from recent years.

Due to these needed but severe restrictions, the Secretary of Commerce declared a fishery resource disaster, and a commercial fishery failure, under federal fisheries laws, and Congress approved disaster relief funds to eligible affected entities. The Yurok Tribe then applied for and received approval of grant funding "... for the design and construction of a fish processing facility to process fish harvested by the Yurok Tribe commercial salmon fishery."

The proposed project would complement existing and historic uses of the site (fishery- and recreation-related uses) and avoid adverse effects on coastal zone resources. The site was previously disturbed and left relatively level by historic (prior to the effective date of the Coastal Act) quarry operations, as well as historic efforts undertaken to grade and raise the site to elevate it above the 100 year floodplain. The building site is above the floodplain and sited away from areas of potential rockfalls (from nearby slopes steepened during the past quarry operation periods).

While the proposed building site itself does not contain any listed species, wetlands, or environmentally sensitive habitat, the southwest corner of the proposed building would be located too close to an existing stream (Cannery Creek) that crosses the site to provide an adequate buffer. Because the creek contains riparian habitat, in order for the project to be found consistent with Section 30240(b) and 30231 of the Coastal Act, the staff is recommending that the buffer be increased to a minimum of 50 ft., through compliance with Condition 1, which would provide:

- 1. Stream Buffer.** NOAA agrees to assure that the project will be modified so that the project footprint and/or design will provide a 50 ft. buffer from Cannery Creek (i.e., the part of the building that is closest to the creek must be at least 50 feet away from both the creek bank and edge of riparian vegetation).

Compliance with this condition would enable the Commission to find the project consistent with the requirements of: (1) Section 30240(b) of the Coastal Act, which requires that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to avoid significantly degrading these areas; and (2) Section 30231, which requires that coastal streams be protected through measures including "...maintaining natural vegetation buffer areas that protect riparian habitats...".

Construction methods will be used to further minimize erosion and other water quality effects on the creek, the surrounding area, and the Klamath River. Thus, if modified in accordance with Condition 1, the project would avoid effects on wetlands, riparian, and environmentally sensitive habitat, and would be consistent with the sensitive habitat (Section 30240) and water quality (Section 30231) policies of the Coastal Act.

Infrastructure issues (water, wastewater, traffic) are insignificant, and adequate public services are available to accommodate the project. The buildings have been sited and designed to be aesthetically pleasing and compatible with the area's visual character. Best Management Practices will be implemented and the project will not adversely affect water

quality. Cultural resources will be protected. If NOAA (and the Yurok Tribe, which will be constructing the project) were to agree to implement Condition 1, the project would be consistent with the public access and recreation (Sections 30210-13), commercial and recreational fishing (30230, 30234, and 30234.5), water quality (30231), environmentally sensitive habitat (30240), archaeology (30244), development, adequacy of public services, and cumulative impact (30250), and view protection (30251) policies of the Coastal Act.

STAFF SUMMARY AND RECOMMENDATION

I. STAFF SUMMARY:

A. Project Description. NOAA is proposing to fund a fish processing facility on the north side of the mouth of the Klamath River in Requa, Del Norte County, approximately two miles up Requa Road, traveling west from U.S. Highway 101 in Klamath. The project site is adjacent to the river, only sparsely vegetated (with little native habitat), and previously disturbed. The area surrounding the site is predominantly steep terrain; however the site itself was leveled by past quarry operations, which left sheer rock face across the entire north side of the site. After the quarrying, fill material was brought in to raise the area above the 100 year flood plain.

The proposed fish processing facility would be located in the western portion of the parcel. The eastern portion of the parcel contains an existing recreational vehicle (RV) Park and a boat ramp. Water lines and leachlines would be included, and a new leachfield would be installed north of the RV parking and north of an existing leachfield (Exhibit 5).

The facility is being designed to meet the entire annual Tribal harvest of 15,000 salmon. It would include a raw and a cooked fish handling room, areas to prepare raw fish for smoking, space to process and package smoked fish, a tote and rack washing room, office space, and restrooms. The 5700 sq. ft. processing portion of the building will include a 593 sq. ft. freezer.

During the fishing season, the raw fish side of the building would be used for de-sliming, glazing and freezing of the fresh caught fish. The fish will be de-slimed, flash-frozen, glazed and stored offsite for future processing. Further fish processing on site will include thawing, de-heading and salting, on racks, followed by curing and smoking, and, finally, filleting and packing.

The project includes engineering features to provide structural support, and installation of water and wastewater systems. The water system would be designed for peak flows up to 30 gallons per minute, and would include a 2,500 gallon storage tank for the fish processing facility, as well as an upgrade of the drinking water storage tank for the Requa Resort RV park to a minimum of a 2,500 gallons, intended to accommodate project activities during the peak usage during the commercial fishing season.

The wastewater treatment and disposal systems were designed to comply with State and County requirements for onsite sewage disposal systems and to provide Best Practicable Treatment (BPT) for these waste streams (including sanitary wastes emanating from the restrooms, kitchen wastes from the restaurant, and process flows from the fish processing). Kitchen wastes would be treated using a gravity grease interceptor. Kitchen and restroom wastes would be discharged to existing septic tanks and existing leachfields at the site (which currently serve the RV campground).

Flows from the fish processing operation would vary with the type of operation. As much of the waste products as possible would be captured “dry” and stored in a plastic tote for offsite rendering. Wastewater flows generated by cleaning operations are estimated to be less than 2,000 gallons/day (gpd). Fresh fish would be processed for about 2 to 4 weeks each year, during which period wash water flows are estimated to be less than 20,000 gpd (18 gal/fish). Floor drains and floor sinks would have screened or grated outlets. The wash water would then flow into two solids capture tanks (2,500 gallon and 1,500 gallon capacity) that are plumbed in series. All discharges from the second tank would then be filtered using two Orenco Biotubes, designed to remove all solids greater than 0.25 inches diameter. The Biotubes would have a localized alarm to inform the operator when the filter is clogged and needs to be cleaned. Effluent from these filters would be discharged to a new leachfield which would be designed in accordance with State and County standards.

To evaluate the suitability soils in the leachfield areas, the site has been tested and borings drilled. NOAA states:

All of the samples fell into Zone 2 of the suitability chart, which says they are acceptable for leachfield operation. The samples have a USDA texture classification as a sandy clay loam, with a combined silt and clay content of between 40 percent and 50 percent.

B. History. Salmon are key to Yurok subsistence and culture, and the Yurok Tribe has fished salmon from the Klamath River since long before recorded history and European settlement. Events in recent decades have reaffirmed of the Tribe's right to fish the Klamath, and currently the Yurok Tribe holds the primary rights to commercially fish salmon in the Klamath River. The Tribe now manages its own fishery and has undertaken significant efforts to manage and restore the health of the fishery.

Recent drought conditions in the upper Klamath Basin between 2001 and 2005 resulted in dry water-year type flow conditions in the mainstem Klamath River and its tributaries, which led to proliferation of endemic fish diseases, and both juvenile and adult Chinook salmon experienced substantial mortality as a result of these epizootic events. In most of these years thousands of juvenile salmon have died from these causes, and in September 2002 a catastrophic collapse occurred, when more than 33,000 salmon died and were floating within the first 20 miles of the lower Klamath River.

A decline in ocean conditions, the prolonged drought, and poor in-river conditions combined to result in low numbers of age-3 and age-4 Klamath River Fall Chinook salmon (KRFC) recruiting to the 2006 fishery. The KRFC is a key stock used by NOAA's National Marine Fisheries Service (NMFS) to manage the mixed stock ocean fishery off the Pacific Coast, in which salmon from different rivers of origin come together in ocean waters and are harvested together. The 2006 preseason forecast of approximately 25,000 naturally spawning KRFC was close to the record low and less than the minimum escapement of 35,000 salmon required to allow fishing between Cape Falcon, Oregon, and Point Sur, California, (the Klamath impact area) established in the Pacific Coast Salmon Plan. The conservation objective for KRFC established under the Pacific Coast Salmon Fishery Management Plan (Salmon FMP) requires a return of 33-34% of potential adult natural spawners, but no fewer than 35,000 naturally spawning adults, each year. In compliance with the Salmon FMP, a "conservation alert" is triggered when a stock is projected to fall below its conservation objective. Under such circumstances, the Pacific Fishery Management Council (Council) is required to recommend the closure of salmon fisheries within the Council's jurisdiction that affect the stock.

A complete closure of the Klamath impact area in 2006 was avoided through a collaborative effort by NMFS, the Council, the state, and tribal representatives to identify a limited fishery that would address conservation concerns for KRFC while preventing a total closure of the fishery. NMFS issued a temporary rule for emergency action to implement very restrictive 2006 annual management measures for the west coast ocean salmon fisheries. These regulations closed a majority of the fishery in the Klamath impact area between May 1 and August 31, 2006, reducing fishing opportunity in this area by more than 70 percent from previous recent years. As a result, catches declined substantially, and the commercial salmon fishery and the shore-based support sector endured severe economic hardship in 2006 along this 700 mile stretch of coastline. For example, catches in California and Oregon in 2006 showed a decline of approximately 83% from the 2005 season, and 87% from the 2004 season.

In light of this economic hardship, the then Secretary of Commerce (Carlos Gutierrez) declared a fishery resource disaster and a commercial fishery failure under section 308(b) of the Interjurisdictional Fisheries Act and under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended. The Secretary's findings declared a significant economic impact resulting from limited opportunity to catch salmon due to the low number of fall Chinook salmon returning to the Klamath River to spawn.

In an effort to mitigate the financial effects of the fishery resource disaster and subsequent commercial fishery failure, Congress approved disaster relief funds for dissemination through NOAA's Grants Management Division, in conjunction with the Pacific States Marine Fisheries Commission (PSMFC) under a Cooperative Agreement. The grant funds are distributed to eligible recipients affected by the commercial fishery failure. The Yurok Tribe, which was clearly affected by the fisheries disaster closure, applied for grant funding for the design and construction of a fish processing facility to process fish harvested by the Tribe's commercial salmon fishery.

Funding has also been contributed toward the project from the U.S. Department of Housing and Urban Development (HUD) through the Indian Community Development and Block Grant (ICDBG) Program.

C. Federal Agency's Consistency Determination. NOAA has determined the project consistent to the maximum extent practicable with the California Coastal Management Program.

II. Staff Recommendation. The staff recommends that the Commission adopt the following motion:

MOTION: I move that the Commission conditionally concur with consistency determination CD-038-11 on the basis that, as conditioned, the project will be fully consistent, and thus consistent to the maximum extent practicable, with the enforceable policies of the California Coastal Management Program (CCMP).

STAFF RECOMMENDATION:

Staff recommends a **YES** vote on the motion. Passage of this motion will result in a conditional agreement with the determination and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.

RESOLUTION TO CONDITIONALLY CONCUR WITH CONSISTENCY DETERMINATION:

The Commission hereby **conditionally concurs** with consistency determination CD-038-11 by NOAA on the grounds that the project would be fully consistent, and thus consistent to the maximum extent practicable, with the enforceable policies of the CCMP, provided NOAA agrees to assure that the project will be modified consistent with the condition specified below, as provided for in 15 CFR §930.4.

Condition:

1. Stream Buffer. NOAA agrees to assure that the project will be modified so that the project footprint and/or design will provide a 50 ft. buffer from Cannery Creek (i.e., the part of the building that is closest to the creek must be at least 50 feet away from both the creek bank and edge of riparian vegetation).

III. APPLICABLE LEGAL AUTHORITIES.

A. Standard of Review. The federal Coastal Zone Management Act (“CZMA”), 16 U.S.C. § 1451-1464, requires that federal agency activities affecting coastal resources be “carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs.” *Id.* at § 1456(c)(1)(A). The implementing regulations for the CZMA (“federal consistency regulations”), at 15 C.F.R. § 930.32(a)(1), define the phrase “consistent to the maximum extent practicable” to mean:

... fully consistent with the enforceable policies of management programs unless full consistency is prohibited by existing law applicable to the Federal agency.

This standard allows a federal activity that is not fully consistent with California’s Coastal Management Program (“CCMP”) to proceed, if full compliance with the CCMP would be “prohibited by existing law.” In its consistency determination, NOAA did not argue that full consistency is prohibited by existing law or provide any documentation to support a maximum extent practicable argument. Therefore, there is no basis to conclude that existing law applicable to the Federal agency prohibits full consistency. Since NOAA has raised no issue of practicability, as so defined, the standard before the Commission is full consistency with the enforceable policies of the CCMP, which are the policies of Chapter 3 of the Coastal Act (Cal. Pub. Res. Code §§ 30200-30265.5).

B. Conditional Concurrences. The federal consistency regulations (15 CFR § 930.4) provide for conditional concurrences, as follows:

(a) Federal agencies, ... should cooperate with State agencies to develop conditions that, if agreed to during the State agency’s consistency review period and included in a Federal agency’s final decision under Subpart C ... would allow the State agency to concur with the federal action. If instead a State agency issues a conditional concurrence:

(1) The State agency shall include in its concurrence letter the conditions which must be satisfied, an explanation of why the conditions are necessary to ensure consistency with specific enforceable policies of the management program, and an identification of the specific enforceable policies. The State agency’s concurrence letter shall also inform the parties that if the requirements of paragraphs (a)(1) through (3) of the section are not met, then all parties shall treat the State agency’s conditional concurrence letter as an objection pursuant to the applicable Subpart . . . ; and

(2) The Federal agency (for Subpart C) ... shall modify the applicable plan [or] project proposal, ... pursuant to the State agency’s conditions. The Federal agency ... shall immediately notify the State agency if the State agency’s conditions are not acceptable; and

...

(b) If the requirements of paragraphs (a)(1) through (3) of this section are not met, then all parties shall treat the State agency's conditional concurrence as an objection pursuant to the applicable Subpart.

IV. Findings and Declarations. The Commission finds and declares as follows:

A. Environmentally Sensitive Habitat and Water Quality. Section 30240 of the Coastal Act provides:

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

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

Section 30231 provides:

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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

NOAA describes the vegetation at the project site as follows:

Vegetation

The general project area has been significantly disturbed by human activities. It supports typical riparian salt zone vegetation, heavily impacted by exotic, invasive plant species. The plant communities on the site are spruce, Picea sitchensis dominant, with Alnus sp. and willows, Salix sp. also present. Shrubs include coyote brush, Baccharis pilularis and silktassel, Garrya sp. Ground cover is predominated by non-native invasives, such as perennial ryegrass, Lolium perenne, clovers, Trifolium sp. and thistle, Cirsium sp. Invasive Himalayan blackberry, Rubus armeniacus, Pampas Grass Cortaderia selloana, and English ivy, Hedera helix. are ubiquitous. ...

Site/quarry area

Vegetation on the building pad itself is sparse ground covers interspersed with patches of bare ground. There are young alder, Alnus sp. and willows, Salix sp. at the top of the rip-rap along the bank of the river. The slopes above the site also support more mature spruce, Picea sitchensis.

NOAA further states that because of past site disturbance, the site does not contain any habitat, or suitable habitat, for any listed or special status terrestrial species, and thus, that:

Similarly, the general developed and degraded habitat value of the site means that the proposed construction activities will have little or no impact on local wildlife individuals or populations.

A small watercourse (Cannery Creek) exists on the subject parcel, which NOAA describes as follows:

Cannery Creek, a small Klamath river tributary, drains the hillslope just to the east of the project location. It flows from the base of the hill to the west along the base of the rise separating the quarry from the RV park. The creek flows through two culverts in the roads before flowing into the Klamath River.

This creek does not appear as a “blue-line” creek on the 1966 U.S.G.S. topographic map for the Requa area (U.S. Geological Survey, 1966), but riparian and/or wetland vegetation is apparent. The creek may not support perennial flows, but flows appear to be significant and persistent enough to maintain aquatic resources and habitat.

While this creek is heavily vegetated with non-native species it nevertheless contains native riparian habitat. NOAA states:

The vegetation along the creek is also heavily impacted by invasive species, primarily Himalayan blackberry, Rubus armeniacus and English ivy, Hedera helix. There are a few stands of native willows, Salix sp. and thimbleberry, Rubus parviflorus. Other native plants are also found, such as native coltsfoot, Petasites palmatus and swordfern, Polystichum munitum. On the hillside above creek, native herbs are still fighting through the invasives.

While the proposed project would not be located *within* this creek, because the creek contains riparian habitat and other aquatic resources, an adequate buffer needs to be provided to assure the project will not adversely affect this habitat and these resources. The southwest corner of the proposed building would be located approximately 30 ft. from the centerline of this creek. The Commission typically requires a minimum 50 ft. buffer for creeks and riparian habitat. The Commission is therefore adopting Condition 1, which would increase the buffer to 50 ft.; Condition 1 provides:

1. Stream Buffer. NOAA agrees to assure that the project will be modified so that the project footprint and/or design will provide a 50 ft. buffer from Cannery Creek (i.e., the part of the building that is closest to the creek must be at least 50 feet away from both the creek bank and edge of riparian vegetation).

Compliance with this condition would enable the Commission to find the project consistent with the Section 30240(b) of the Coastal Act, which requires development in areas adjacent to environmentally sensitive habitat areas to be sited and designed to avoid significantly degrading these areas, and Section 30231, which requires the protection of coastal streams through a number of measures, including "...maintaining natural vegetation buffer areas that protect riparian habitats..."

Addressing water quality concerns during construction, NOAA notes:

Construction activities have the potential to produce sediment and other kinds of potentially harmful runoff to site water bodies. Therefore, the project will be required to comply with the Federal Clean Water Act Storm Water Program. Under this program a general National Pollutant Discharge Elimination System (NPDES) permit for construction activities would be required. The applicable requirements of this program can be found online at http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml. The requirements of this program will ensure that impacts from construction will be minimal. Therefore, short-term impacts to water resources will be less-than-significant.

Also, as noted in the project description, the wastewater treatment system will be designed to comply with State and County standards, which would reduce any water pollution concerns. Thus, the construction methods and leachfield design will further minimize erosion and other water quality effects on the creek, the surrounding area, and the Klamath River. The Commission concludes that, if the project is modified in accordance with Condition 1, the project would avoid effects on wetland, riparian, and environmentally sensitive habitat, and would be consistent with the sensitive habitat (Section 30240) and water quality policies (Section 30231) of the Coastal Act.

B. Commercial and Recreational Fishing. Section 30230 of the Coastal Act provides:

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.

Sections 30234 and 30234.5 provide:

30234. Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

30234.5. The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

Section 30222 provides:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

In addition, although not one of the “enforceable” policies of the Coastal Act, in Section 30001.5(d) the Legislature has declared that among the basic goals of the state for the coastal zone is to:

(d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.

As noted in the project description, the project purpose is to improve the Yurok Tribe’s commercial fishing capabilities. The Tribe has used the site for fishery, fishery-related, and recreational purposes for countless years, and the proposed use represents a coastal-related, if not coastal-dependent, commercial fishing industry activity, which is accorded high priority under the above Coastal Act policies. NOAA notes that:

Access to a dock where fish can be brought directly to the facility from boats fishing in the Klamath River was a major factor in site selection, and is of prime importance in project operations. The project location within and adjacent to previously developed areas is consistent with the pattern of development encouraged by Federal and State coastal zone management acts. Therefore, the project appears to be consistent with both the Federal Coastal Zone Management Act and the California Coastal Act.

The Commission agrees and finds that the proposed use of the site for fish processing (and a possible future restaurant) is consistent with past uses of the site by the Tribe, as well as with Coastal Act priorities which encourage commercial fishing and recreational facilities

on lands suitable for such purposes, which the project site clearly qualifies for. NOAA also notes that the project will not, in and of itself, *affect* the health of the fishery. NOAA states:

The project itself involves the purchase and commercial processing of salmon caught in the Klamath River by the Yurok Tribe Commercial Fishery. This fishery, however, is managed independently of the project and will not be affected by the project. Whether this fish processing plant is built or not, there will still be a Commercial Fishery and a commercial fishing season. The Yurok Tribe Commercial Fishery always harvests the maximum quota each year, and the development of a fish processing plant to buy this catch will not change this (Dave Hillemeier, 2010). The quantities of fish caught are dependent on quotas set by the Yurok Tribe Fisheries Program, under oversight of fish and game management programs. These quotas are set based on the needs and health of the fishery and will be unaffected by who buys the harvested fish. Whether an outside broker buys the fish or they are purchased by a processing plant owned and operated by the Yurok Tribe, will not determine, in any way, the number of fish harvested or the methods by which they are harvested. Therefore, the fish processing plant development will not affect the health or well-being of the affected fishery.

The Commission concludes that the project would support, and would not adversely affect, commercial fishing, and is consistent with the commercial and recreational fishing policies, and land use prioritization policies, contained in Sections 30230, 30234, 30234.5, and 30220 of the Coastal Act.

C. Public Access and Recreation. Section 30210 of the Coastal Act provides:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with safety needs and the need to protect public rights, rights of private property public owners, and natural resource areas from overuse.

Section 30212 provides that:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30213 provides that:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The portion of the subject parcel near (but not directly at) the site of the proposed processing facility is currently used for public recreation (i.e., for recreational vehicle (RV) camping, as well as a boat ramp, both of which are accessible to the public). The fish processing plant site would be west of and would not displace or interfere with the functioning of the adjacent RV park or the boat ramp. In addition, if at some future date a restaurant is developed at the site, such use would increase opportunities for public recreation.

In analyzing potential effects on recreation at the site, NOAA notes that the fish processing could produce detectable odors. NOAA states:

First, during the Commercial Fishing season when the entire season's catch is being processed and frozen, there is the potential for a fishy odor near the plant and in the surrounding RV park. This odor, however, is not likely to be significantly different than the odor associated with the existing commercial fishing operations that involve bringing fish from the dock to staging areas set up by the brokers buying the fish and packing the fish in ice. In addition, the RV park is dominated by Tribal members actively engaged in the commercial fishery during the season, which would not be a population sensitive to the odors associated with a commercial fishing operation. The second potential odor source from the project would be associated with the smoking of the fish throughout the rest of the year. This odor, however, should be similar to that from tribal member smokehouses, the campfires and woodstoves used by visitors to the RV park and in many residences in the surrounding area. The smells associated with smoking fish are also considered to be pleasing by many, and are a traditional cultural practice for the Yurok.

NOAA also notes that construction activities could result in short term effects on recreation at the site, such as through traffic, dust, and noise generation. However, these effects would be limited in duration; the Yurok Tribe expects that construction will be completed by May 31, 2012, which would avoid the peak summer season. In the long term the project would benefit public recreation, especially if the restaurant is added. The Commission therefore finds that the project would have only minor temporary effects on public recreation and that the project is consistent with the public access and recreation policies (Sections 30210-30213) of the Coastal Act.

D. Public Views. Section 30251 of the Coastal Act provides:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The areas surrounding both sides of the mouth of the Klamath River provide spectacular public views of the river, ocean, and adjacent forested areas, and are clearly highly scenic. The Del Norte County Local Coastal Program (LCP) has declared most of its coastal areas with large water bodies (i.e., rivers, estuaries, and lakes), and including the lower Klamath area, to be highly scenic. The Requa Hill overlook, located west and north of the site, and which overlooks the river from 600 ft. above, provides one of the California coast's most expansive and spectacular views of the ocean, river mouth, coastal mountains, and redwood forests.

However, the project site would not be visible from this overlook, and the immediate project site, as has been described above, has been historically substantially modified due to past quarrying and grading (Exhibit 3). NOAA states:

The uses most sensitive to the visual qualities of the proposed project are the culturally significant site directly across the river (as discussed in the Impacts on Cultural Resources section above), and views from the recreational or other use of the river itself. Because the cultural resource is so sensitive to the visual qualities of the project, it has been designed such that it will have a minimal impact to the stunning visual qualities of the Klamath River banks. The building design follows a traditional building architecture and uses colors that match the landscape.

... The building will be visible from the river, but has been designed in such a way that it blends in with the surrounding area as much as possible, and to the extent that it is visible, contributes positively to the surrounding hillside riverscape. In addition, the restaurant and associated deck will provide additional opportunities for public access to and enjoyment of the river.

NOAA also notes that the project has the potential to improve public views, in that if a restaurant is developed at the site it could provide restaurant users a highly scenic dining setting with river views. Describing visual effects from lighting, NOAA states:

Plant activities will generally occur inside the proposed building, so noise, light and other disturbances from the facility will be limited. There will be outside lighting associated with the facility and its parking facilities, but this should not be a significantly different light source from those in the existing adjacent RV park. In addition, the outdoor lights will be shaded to focus the light on the facilities and reduce light pollution in the estuary.

...

Therefore, there will be a minimal increase in ... light generated by project activities, but it is not likely to be qualitatively different from existing site conditions.

The Commission agrees with NOAA's assessment and finds that that the project has been sensitively designed (see Exhibit 7), would not detract from scenic views, would be located in an already disturbed area, would not involve any significant landform alteration or break the ridgeline to the north, would be visually compatible with the character of the surrounding area, and would therefore be consistent with the scenic public view protection policy (Section 30251) of the Coastal Act.

E. Adequacy of Public Services. Section 30250 of the Coastal Act provides in part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

NOAA states traffic effects would be minimal, stating:

Facility operations will bring additional traffic to the location. During the 2 to 6 week commercial fishing season, frozen fish will be trucked offsite for storage every 2 to 3 days. This is similar to the existing use of the site during the Tribe's commercial fishery, where fish are caught, sold, processed and shipped by brokers. After this period of intense activity, project activities would continue throughout the year. The freezer and plant facilities, however, have been designed to accommodate a standard 40 ft. trailer truck load of fish at a time. This represents approximately a quarter of the year's catch, so that after the initial freezer full left from the fishing season, a truckfull will only need to be brought to the plant approximately every calendar quarter after that, for a total of three trips throughout the year. This minimal level of truck traffic will not represent a significant disruption of existing site conditions and activities. The project will also bring traffic to the site, particularly when employees arrive and depart.

The skills needed for the majority of the jobs that will be available at the plant are readily available in local populations such that no outside workers will need to be brought in due to special skill or educational requirements. Therefore, plant workers will be local residents, who will add to the social atmosphere of the site, such that the traffic is not likely to be experienced as a disruption or detraction from the functioning of the site or adjacent RV park. The additional population will also add to the viability of the onsite store. Similarly, the [not currently proposed] restaurant will be an added amenity for those staying in the RV park, as well as for visitors and those in surrounding communities.

Addressing water needs, NOAA states:

The project will upgrade the project-associated drinking water storage capacity to accommodate the plant and the commercial fishing operation it serves. This needed upgrade will be of benefit to the currently overstressed local drinking water system. This should reduce the need for the well pump to run for extended hours during the peak demand during the commercial fishing operation. This will enhance the water infrastructure for the surrounding community as well as ensure that there is adequate water for the needs of the project.[Rob Nulph, 2011]

With respect to wastewater, NOAA states:

The project has been designed such that all waste water will be treated on site following state and county standards using a multi tiered system The groundwater return flow to the Klamath River will be sufficiently clean to meet the known beneficial uses. The project will be required to comply with the Federal Clean Water Act Storm Water Program. This program will ensure that site runoff will be handled properly and will minimally impact surrounding lands and waters.

Further description of the wastewater system can be found in the Project Description on pages 4-5 of this report. Based on the above information provided, the Commission finds that the project would be located in an area with adequate public services to accommodate it, and where it would not, individual or cumulatively, adversely affect coastal resources. The Commission therefore finds the project consistent with Section 30250 of the Coastal Act.

F. Geologic Hazards. Section 30253 of the Coastal Act provides in part:

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

As noted above, the project site has been historically graded and raised above the 100 year floodplain. Due to its elevation, it would avoid flood and tsunami hazards, and because the proposed building site is relatively level, the project would involve minimal site grading. NOAA also selected the proposed building location so as to avoid the potential for rock fall hazard from the sheer cliff face. Nevertheless, due to the past site disturbance, NOAA states the underlying soils are unsuitable for supporting a foundation, which means that the foundations will need to be engineered to provide adequate structural support without relying on soil strength. Thus, while the greater project area is subject to a number of geologic hazards, including landslides, earthquakes, liquefaction, subsidence, and tsunamis, NOAA states:

The site is near the banks of the Klamath, which is a major river and subject to periodic flooding. The adjacent RV park "...was substantially destroyed by floodwaters in 1998," and was raised above the 100-year flood plane with a Federal Emergency Management Agency (FEMA) grant in 2000 (Federal Emergency Management Agency, April 18, 2000, Appendix A, pg 1). The proposed building site itself is elevated above the level [of the] RV park and is therefore well outside the 100-year floodplain. The only portions of the project that will be in RV park area are the project leach fields.

The project will require minimal site grading. Site soils are unsuitable for supporting a foundation, so foundations will be engineered to provide adequate structural support without relying on soil strength. The building has been situated so as to avoid the potential rock fall hazard from the sheer cliff face. As discussed in the Affected Environment section above, it is located outside the 100-year flood and tsunami hazard zones. Groundshaking is a hazard to all development in the North Coast region, but existing building codes requiring earthquake strengthening to minimize this hazard as much as is feasible.

The Commission finds that based on its location and design, the project would minimize geologic risks and neither create nor contribute to erosion, instability, or the need for the construction of any additional shoreline protective devices (the site already contains existing riprap along the riverfront) that would alter natural landforms. The Commission therefore finds that the project would be consistent with the geologic hazards policy (Section 30253(a) and (b)) of the Coastal Act.

G. Archaeology. Section 30244 of the Coastal Act provides:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

NOAA states:

Effects to Historic, Cultural and Religious Properties is regulated by the National Historic Preservation Act (NHPA). This Act requires compliance with 36 CFR 800. The entire project is within the external boundaries of the Yurok Reservation and falls under the jurisdiction of the Yurok Tribal Heritage Preservation Officer (YTHPO). The NHPA process is completed upon receipt of YTHPO Concurrence on a Determination of Effect for NHPA per 36CFR800. A cultural resources study for this project has been prepared, "Cultural Resources Inventory for the Yurok Fish Plant Project, Requa, CA". This report has identified that the project is located within a potentially eligible Traditional Cultural Property (TCP) but finds that the proposed project will not have an Adverse Effect on this TCP. A final recommendation of the report is that the Lead Agency make a determination of "No Adverse Effect". Once YTHPO Concurrence is received, the NHPA compliance process will be completed.

The Commission finds that given past site disturbance, combined with the above-described process for determining and addressing cultural resource issues, the project would not adversely affect archaeological resources and would be consistent with the cultural resource protection policy (Section 30244) of the Coastal Act.

H. Related Commission Action. On July 19, 2002, and November 25, 2002, respectively, the Commission staff initially objected to two BIA negative determinations (ND-037-02 and ND-069-02) for proposed fee-to-trust acquisitions of six parcels¹ within the Yurok Reservation along the north side of the Klamath River. One of these six parcels was the site of the proposed project. Although the Commission staff's primary concerns were over several of the other five parcels and not the subject parcel, because they were less developable and/or involved greater resource sensitivities, procedurally the Commission staff's concerns addressed all six parcels. The concern raised at the time was whether the Commission would still be involved in reviewing future development proposals, once the parcels were placed in trust. As a result of negotiations and correspondence between the BIA, the Yurok Tribe, and the Coastal Commission staff, on August 18, 2003, the Commission staff withdrew its objections to these negative determinations, stating:

¹ ND-037-02: APN 140-020-30, 140-020-34, 140-020-39, and 140-020-40.

ND-069-02: APN 140-060-02 and 140-060-10.

In earlier letters we indicated that if we received written agreements from both the BIA and the Yurok Tribe of the applicability of the federal consistency requirements of the Coastal Zone Management Act (CZMA) to future development activities on these parcels, we would agree to withdraw our objections to the BIA's negative determinations. The BIA and the Yurok Tribe have now both given such written assurances. The Yurok Tribe has also indicated a strong desire to protect the quality of the natural resources in the area, and in fact notes the Tribe's very sustenance is dependent on maintaining the quality of these resources. The Tribe notes that in furtherance of the goal of protecting the natural resources of the Klamath River and the Reservation, "and in the spirit of government-to-government diplomacy," it will continue to coordinate with the Commission staff to accomplish common environmental protection goals.

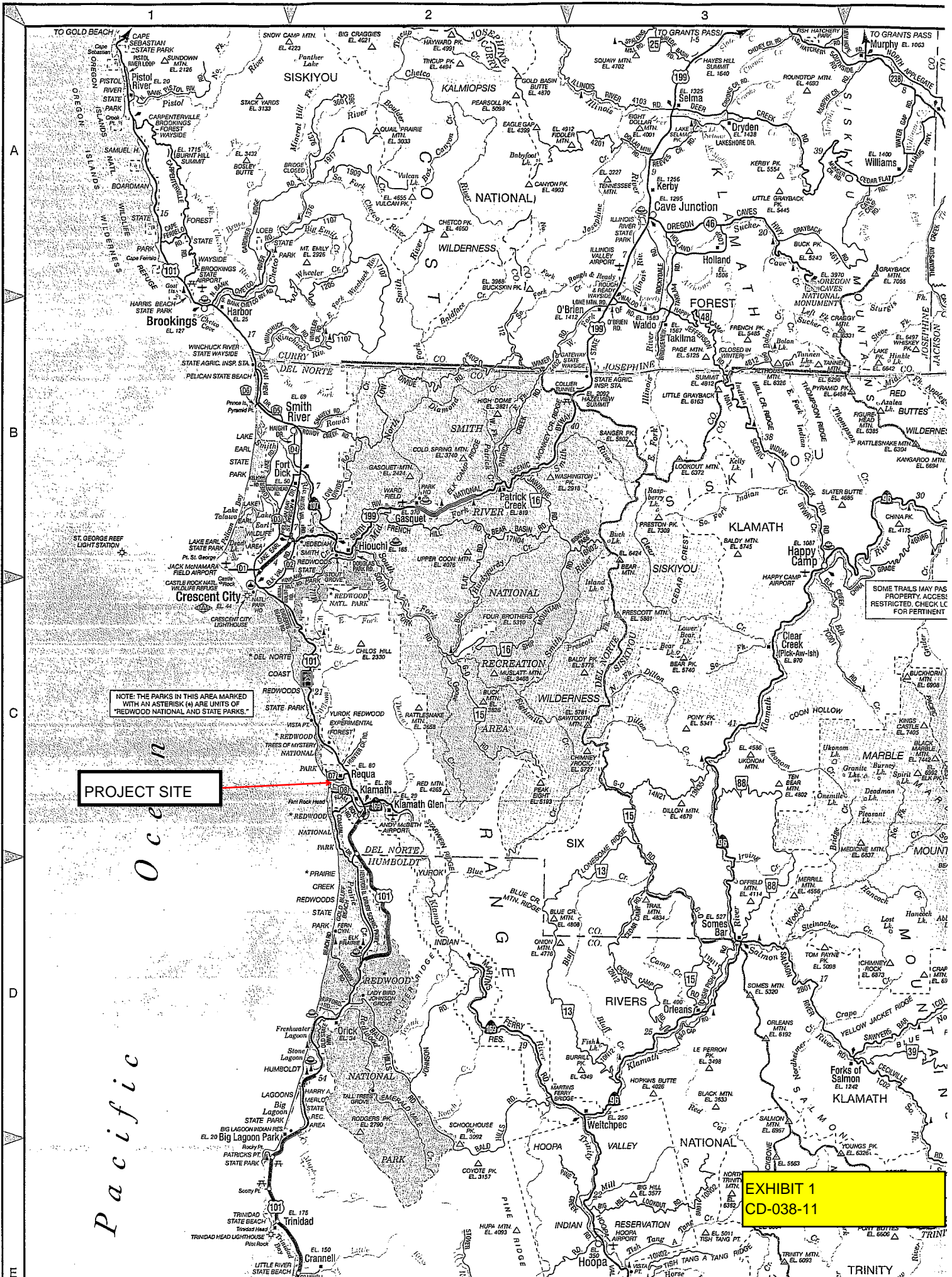
Accordingly and in the same spirit, the Commission staff withdraws its previous objections to placing these parcels in trust. The staff further wishes to reassure the Tribe that we intend to continue vigorous implementation of the Commission's coastal management responsibilities, to protect the natural and cultural resources of the coastal zone region of the Klamath River. We anticipate and look forward to working with the Tribe to accomplish mutual goals of coastal resource protection. We appreciate the Tribe's and the BIA's spirit of cooperation and thank you for the time and effort you have undertaken to meet with us and respond to our questions and concerns.

The Yurok Tribe's letter affirming this commitment is attached as Exhibit 8.

In ND-088-03, the Commission staff concurred with a BIA negative determination for BIA approval of, and a loan for, construction of a travel center on two acres of trust land on the Yurok Reservation in the town of Klamath, at the southeast corner of Highway 101 and Ehlers Road. The purpose of the project was to produce economic opportunities and generate income for tribal self-sufficiency on the Yurok Reservation.

V. SUBSTANTIVE FILE DOCUMENTS:

1. NOAA Consistency Determination, Fish Processing Facility, Requa, CA.
2. Draft Environmental Assessment for Providing Funding under the Klamath Commercial Salmon Fisheries Disaster Program for a Fish Processing Facility On the Yurok Reservation, Requa, CA, NOAA, April 2011.
3. Bureau of Indian Affairs Negative Determinations ND-37-02 and ND-69-02 (Placement of Six Parcels near Requa into Trust Status for the Yurok Tribe, mouth of the Klamath River, Del Norte Co.), and Negative Determination ND-088-03 (Yurok Travel Center, Klamath).



PROJECT SITE

NOTE: THE PARKS IN THIS AREA MARKED WITH AN ASTERISK (*) ARE UNITS OF "REDWOOD NATIONAL AND STATE PARKS."

EXHIBIT 1
CD-038-11



JULY 2011

PREPARED BY



95% SUBMITTAL
NOT FOR CONSTRUCTION
(JULY 2011)

AREA MAP



LOCATION MAP



APPROVALS

YUOK TRIBAL COUNCIL:
CHAIRMAN:

THOMAS P. O'ROURKE

DATE _____

YUOK ECONOMIC DEVELOPMENT CORPORATION:
EXECUTIVE DIRECTOR:

TANYA SANGREY

DATE _____

ENGINEER - WINZLER & KELLY:
PROJECT MANAGER:

NEAL CARNAM

DATE _____

ARCHITECT - DAVID PIERCE ARCHITECT:
PROJECT ARCHITECT:

DAVID PIERCE

DATE _____

APPLICABLE CODES & STANDARDS

CODES:

2010 CALIFORNIA BUILDING CODE (CBC), PART 2
TITLE 24 C.C.R.
2010 CALIFORNIA ELECTRIC CODE (CEC), PART
3, TITLE 24 C.C.R.
2010 CALIFORNIA MECHANICAL CODE (CMC),
PART 4, TITLE 24 C.C.R.
2010 CALIFORNIA PLUMBING CODE (CPC), PART
5, TITLE 24 C.C.R.

2010 CALIFORNIA FIRE CODE, PART 9, TITLE 24
C.C.R.
2010 CALIFORNIA ENERGY CODE, PART 6, TITLE
24 C.C.R.
2010 CALIFORNIA REFERENCED STANDARDS,
PART 12, TITLE 24 C.C.R.

WILDLAND FIRE STANDARDS:

1. DEFENSIBLE SPACE MUST BE SIGNED OFF PRIOR TO SHEETROCK INSPECTION.
2. EXTERIOR WALL VENTS SHALL HAVE A $\frac{1}{4}$ " SCREEN.
3. EXTERIOR DOORS TO BE NON-COMBUSTIBLE CONSTRUCTION.
4. WINDOWS TO BE TEMPERED GLASS.
5. EVE AND SOFFIT VENTS MUST BE FIRE-RATED TO PRECLUDE EMBER AND FLAME ENTRANCE. USE SELF CLOSING VENTS BY VULCAN TECHNOLOGIES, INC. TEST PN# 07059, TEST DATE 9/19-20/07; REPORT DATE 10/13/07 (OR APPROVED EQUAL).



WINZLER & KELLY
633 Third Street Eureka, CA 95501

633 Third Street Eureka, CA 95501
tel (707) 443-8326 ♦ fax (707) 444-8330 ♦ www.w-and-k.com

DPA
SUBCONSULTANT

cei
CONSULTANT

BAR IS ONE INCH ON
ORIGINAL DRAWING

REUSE OF DOCUMENTS

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**YUROK ECONOMIC
DEVELOPMENT CORPORATION
FISH PROCESSING FACILITY**

COVER SHEET

PROJ NO: 01666-10-001

DRWN: SJD | CHKD: NO

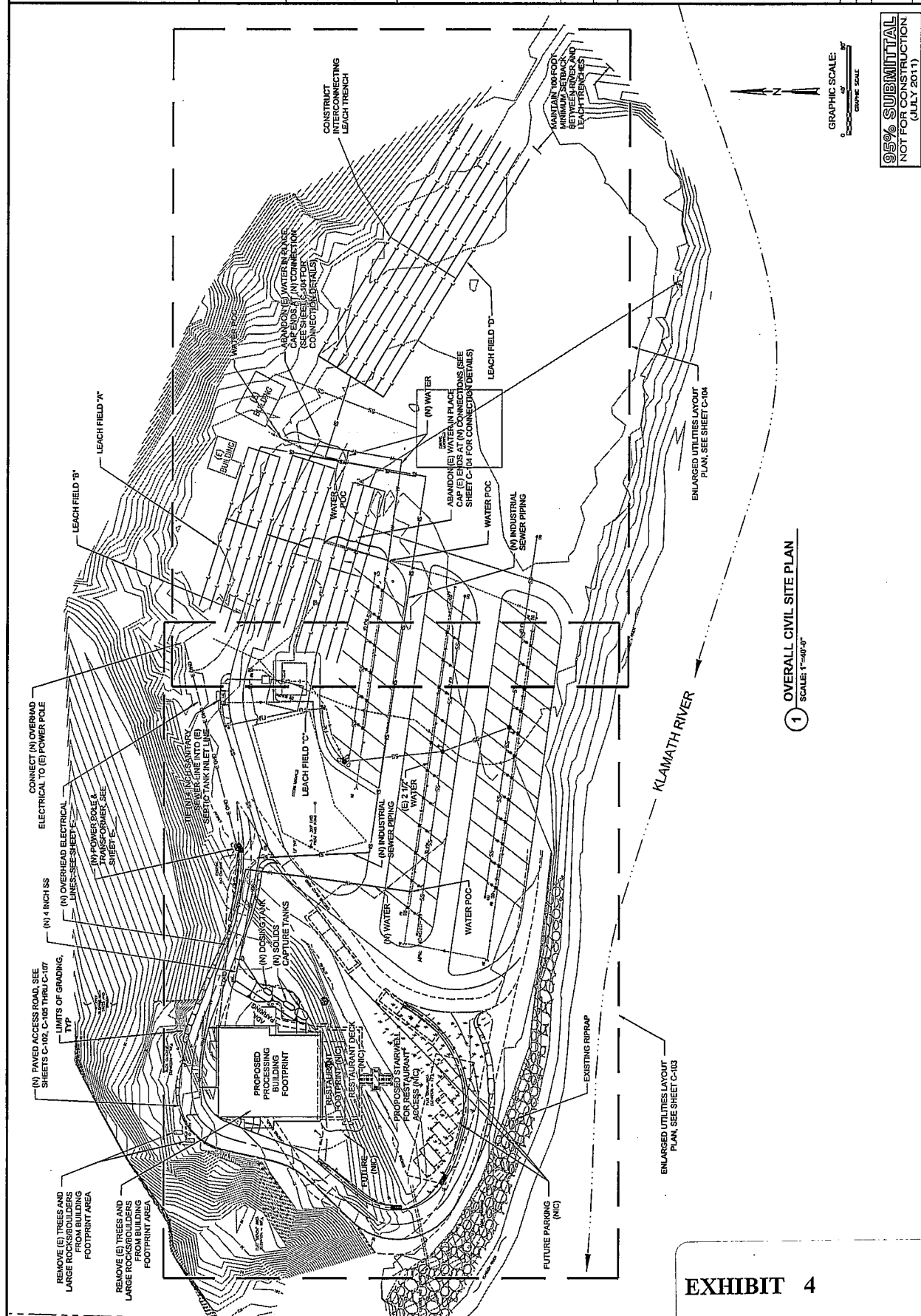
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SHEET 001 OF 04



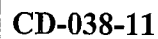
Courtesy: California Coastal Records Project

EXHIBIT 3
CD-038-11



95% SUBMITTAL
NOT FOR CONSTRUCTION.
(JULY 2011)

1 OVERALL CIVIL SITE PLAN
SCALE: 1"=40'-0"





VISUAL RENDERING
NOTE; RESTAURANT AND DECK ARE NOT CURRENTLY
PROPOSED

EXHIBIT 7
CD-038-11



YUROK TRIBE

190 Klamath Boulevard
Klamath, California 95548
Phone: 707-482-1350 Fax: 707-482-1377

RECEIVED
AUG 11 2003
CALIFORNIA
COASTAL COMMISSION

July 23, 2003

Mr. Mark Delaplaine
Federal Consistency Supervisor
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

***Re: ND-37-02 and ND-69-02 Fee to Trust Land Acquisitions, Requa
Area/Klamath Townsite, Yurok Reservation***

Dear Mr. Delaplaine:

This letter is in a follow up to your April 4, 2003 correspondence regarding the parcels that are the subject of the above referenced negative determinations.

Please be advised that Yurok Tribe will continue to act in accordance with all applicable federal and tribal law(s) in the operation of our tribal government. This includes compliance with tribal regulations for the protection of environmental resources, and compliance with the those legal requirements of the Coastal Zone Management Act applicable to the Tribe for any tribal activity concerning development on these parcels that is federally permitted, authorized, or funded.

The quality of our culture and the future of the Yurok tribal government's ability to serve its members is both directly linked, and proportional, to the quality of the environment in which we live, and from which we derive sustenance. As a direct stakeholder in the environmental quality of the region, the Tribe's environmental regulations often exceed more general state standards. It has been our longstanding goal and objective to preserve the natural resources of the Klamath River and our Reservation. In furtherance of this goal and objective, and in the spirit of government-to-government diplomacy, we agree to coordinate with your staff to accomplish our common goal of environmental protection. In return we expect a similar commitment from the Coastal Commission relative to collaborative efforts to protect natural and cultural resources in the Klamath River basin.

EXHIBIT 8

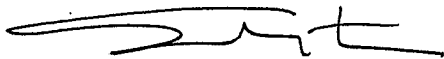
CD-038-11

On April 17, 2002, the Bureau of Indian Affairs issued a Notice of Decision to take the subject parcels into trust for the Yurok Tribe. The Attorney General's Office has filed an appeal from the April 17, 2002 Notice of Decision (IBIA 02-115-A).

We expect that providing this correspondence as discussed will be sufficient for your agency to initiate the appropriate steps for the withdrawal of the State Attorney General's Appeal.

Of course, if you have any concerns or questions regarding this correspondence, please do not hesitate to contact me at (707) 482-1350 or Michael Derry at (760) 861-4972.

Sincerely,



Susan Masten,
Tribal Chairperson, Yurok Tribe

Copy: See Attached List

Kathryn Lynn
Chief Administrative Law Judge
Interior Board of Indian Appeals
U.S. Department of Interior
801 North Quincy Street, Suite 300
Arlington, VA 22203.

Governor Gray Davis
State Capitol
Sacramento, California 95814

David Rosenberg
Director of Community and Governmental Relations
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Michael Derry
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