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Filed:	8/1/12
49th day:	9/19/12
Staff:	M. Kraemer-E
Staff Report:	8/24/12
Hearing Date:	9/13/12

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE

Appeal No.:	**A-1-DNC-12-021**
Applicant:	**Elk Valley Rancheria**
Appellants:	(1) Friends of Del Norte; and (2) Commissioners Mark Stone and Ester Sanchez
Local Government:	Del Norte County
Local Decision:	Approval with Conditions
Location:	Along an approximately 3,000-ft-long stretch of Humboldt Road between Highway 101 and Roy Ave., approximately two miles southeast of Crescent City, Del Norte County.
Project Description (as approved by the County)**:**	(1) Resurface/reconstruct the roadway; (2) construct a roundabout with an outer radius of 115 feet at the intersection of Humboldt and Sandmine Roads; (3) widen the existing road eastward by ~8 feet; (4) fill an existing roadside drainage on the east side of Humboldt Rd. and create a new drainage ditch east of the realigned road; (5) construct a 12-ft-wide paved separated bicycle/pedestrian trail on the east side of the new drainage ditch; and (6) construct new street lighting, road signage, and striping.
Staff Recommendation:	Substantial Issue

SUMMARY OF STAFF RECOMMENDATION

On August 1 and August 6, 2012, Friends of Del Norte and Commissioners Stone and Sanchez (respectively) filed appeals of Del Norte County's approval of Coastal Development Grading Permit No. #GP2011-32C for the reconstruction, widening, and improvement of Humboldt Road from U.S. Highway 101 to a point approximately 300 feet south of Roy Avenue in an area approximately two miles southeast of Crescent City. Together the two appeals raise two principal contentions alleging (1) the project as approved by the County is inconsistent with the wetland protection policies of the certified LCP because it allows for the filling of wetlands for an impermissible use, is not the least environmentally damaging feasible alternative, and does provide for adequate mitigation for wetland fill impacts; and (2) the approved project does not protect or provide adequate mitigation for the loss of and disturbance to adjacent environmentally sensitive habitats (including habitats for fish, amphibians, and various sensitive species of concern).

The project area is located in a mostly rural unincorporated area in an area surrounded primarily by lands devoted to agricultural and natural resources uses. Adjacent to the project area to the west is the 339-acre Crescent City Marsh Wildlife Area, owned and managed by the California Department of Fish and Game. To the east is the former "Martin Ranch," a 203-acre parcel acquired by the applicant in 2001, and transferred to Trust status in 2005, for purposes of relocating the Rancheria's existing gaming facility and developing related resort amenities. Highway 101 intersects the southern end of the project area.

The project as approved by the County will result in the filling of at least one-third of an acre of palustrine emergent wetlands, man-made ditch wetlands, and forested wetlands for road widening and roundabout construction, a significant portion of which are located within the County right-of-way along Humboldt Road.

Regarding the appeal contentions that the project as approved by the County is inconsistent with the wetland protection policies of the certified LCP, Commission staff believes there are significant questions regarding whether the approved wetland fill for the roundabout is for an incidental public service purpose, and given that the approved fill would not be for one of the other uses enumerated within part 4, section VII-D of the Marine and Water Resources chapter of the certified LUP (hereafter "MWR"), staff believes that the appeals raise a substantial issue as to whether all of the approved fill is for an allowable use under LCP and Coastal Act wetland policies. In addition, Commission staff believes that the County did not critically assess other practicable alternatives to the approved filling and grading of wetlands for road improvement purposes (such as the "no roundabout" alternative), and thus a substantial issue exists as to whether no feasible less environmentally damaging alternative to the authorized project exists. Finally, Commission staff believes that there is insufficient information to establish that the development has provided feasible mitigation to minimize adverse environmental effects to wetlands, since the County's approval does not expressly require mitigation for the wetland fill impacts.

Regarding the contentions that the approved project does not protect or provide adequate mitigation for the loss of and disturbance to environmentally sensitive habitats, Commission staff believes there is a substantial issue raised as to whether the approved project has been sited and designed to prevent impacts that would significantly degrade adjacent western lily habitat. The County's approval does not include conditions to ensure that the approved project does not significantly degrade adjacent western lily habitat, other adjacent marsh ESHA, or adjacent sensitive fish ESHA, and the local record does not establish what the project's construction and post-construction hydrologic effects would be on downstream wetlands, groundwater recharge, the Crescent City Marsh, and sensitive species that inhabit the surrounding area.

In sum, Commission staff believes that the County findings provide insufficient factual and legal support for the determination that the approved project conforms to the pertinent LCP policies. The approval of the proposed filing of the subject wetlands for impermissible uses establishes an adverse precedent for allowing similar fill for other projects inconstant with the LCP wetland fill, ESHA, and water quality policies. The protection of the biological productivity and quality of coastal waters, and environmentally sensitive wetlands is an issue of statewide concern addressed by Sections 30230, 30231, and 30233 of the Coastal Act, as it has been long established that coastal waters, and wetlands in particular, provide significant public benefits, such as fish and wildlife habitat, water quality filtration and recharge, flood control, and aesthetic values.

For the reasons stated above and discussed in more detail in the below findings, Commission staff recommends that the Commission find that Appeal A-1-DNC-12-021 raises a substantial issue with respect to the grounds on which the appeals have been filed under Section 30603 of the Coastal Act regarding consistency of the approved development with the Del Norte County certified LCP.

Staff further recommends that if the Commission finds substantial issue, that the Commission continue the *de novo* hearing to a subsequent date until the applicant provides certain information, listed in Section III-H of the staff report, to enable the Commission to determine consistency of the development with the LCP. The portions of the overall development located on Trust lands also require federal consistency certification review by the Commission. Staff would work with the Elk Valley Rancheria to attempt to schedule review of the federal consistency certification for the same meeting as the Commission's *de novo* review of the appeal to enable the Commission to review both portions of the overall project at the same time.

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I. MOTION AND RESOLUTION

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which Appeal A-1-DNC-12-021 has been filed and that the Commission hold a *de novo* hearing.

Motion & Resolution:

> *I move that the Commission determine and resolve that Appeal No. A-1-DNC-12-021 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

Staff recommends a **NO** vote on the foregoing motion. Following the staff recommendation by voting no will result in the Commission conducting a *de novo* review of the application, and adoption of the following findings. Passage of this motion via a yes vote, thereby rejecting the staff recommendation, will result in a finding of No Substantial Issue, and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners.

II. PROCEDURES

The Coastal Act presumes that an appeal raises a substantial issue of conformity of the approved project with the certified LCP, unless the Commission decides to take public testimony and vote on the question of substantial issue.

IMPORTANT NOTE:
THE COMMISSION WILL NOT TAKE PUBLIC TESTIMONY DURING THE SUBSTANTIAL ISSUE PHASE OF THE APPEAL HEARING UNLESS AT LEAST THREE (3) COMMISSIONERS REQUEST IT.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that the appeal raises no substantial issue[1] of conformity of the approved project with the certified LCP. Since the staff is recommending substantial issue,

[1] The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: (a) the degree of factual and legal support for the local government's decision; (b) the extent and scope of the development as approved or denied by the local government; (c) the significance of the coastal resources affected by the decision; (d) the precedential value of the local government's decision for future interpretations of its LCP; and, (e) whether the appeal raises only local issues, or those of regional or statewide significance.

unless three Commissioners object, it is presumed that the appeal raises a substantial issue and the Commission may proceed to its *de novo* review at the same or subsequent meeting. The Commission will not take public testimony during this phase of the appeal hearing unless three Commissioners request it.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission on the substantial issue question are the applicants, the appellant and persons who made their views known to the local government (or their representatives). Testimony from other persons regarding substantial issue must be submitted in writing. It takes a majority of Commissioners present to find that no substantial issue is raised.

Unless it is determined that there is no substantial issue, the Commission will proceed to the *de novo* portion of the appeal hearing and review the merits of the proposed project. Oral and written public testimony will be taken during this de novo review which may occur at the same or subsequent meeting.

III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. DESCRIPTION OF APPROVED PROJECT

On July 11, 2012, the Del Norte County Planning Commission approved Coastal Development Grading Permit #GP2011-32C with conditions for the development of infrastructure improvements along an approximately 3,000-foot-long stretch of Humboldt Road between Highway 101 and Roy Avenue, located approximately one mile southeast of Crescent City (**Exhibits 1-4**). The approved development includes the following: (1) resurfacing/reconstructing the roadway; (2) constructing a roundabout with an outer radius of 115 feet at the intersection of Humboldt and Sandmine Roads; (3) filling an existing roadside drainage on the east side of Humboldt Road and creating a new drainage ditch east of the realigned road; (4) widening the existing road eastward by at least 8 feet to provide for 4-foot-wide shoulders along each side of the road; (5) constructing a 12-foot-wide separated bicycle/pedestrian trail (8-ft-wide trail with 2-ft-wide shoulders on each side) on the east side of the new drainage ditch; and (6) constructing new street lighting, road signage, and striping.

The County granted its approval of the permit subject to numerous special conditions (see **Exhibit 8**), including, but not limited to, conditions requiring (a) the preparation of an erosion and runoff control plan demonstrating that during and post-construction, erosion and runoff on the site will be controlled to avoid adverse impacts to adjacent properties and water resources, (b) no grading within the County right-of-way between October 30 and April 30 of any year without written authorization from the County Engineer, (c) submittal of a drainage study for the County's review and acceptance that includes in part calculations for the routing of all water through the project, provisions for replacing any culvert that is undersized or metal, and the

design of drainage features for carrying runoff from a ten-year storm, and (d) protection of archaeological resources inadvertently discovered during construction.

B. ENVIRONMENTAL SETTING

The project area is located in a rural area outside of the incorporated limits of Crescent City in an area surrounded primarily by lands devoted to agricultural and natural resources uses (**Exhibits 1-3**). Lands to the east of Humboldt Road adjacent to the project area have been used agriculturally for many decades. Lands to the west of Humboldt Road adjacent to the project area are part of the Crescent City Marsh Wildlife Area (CCMWA), owned and managed by the California Department of Fish and Game (CDFG). Highway 101 is immediately south of the project area, with open-space beaches and coastal strand habitats seaward (south and west) of the highway. Approximately 300 feet north of the project area's northern limit is the southern boundary of the Bertsch and Ocean View Tracts residential subdivisions, unincorporated suburban lands platted and built-out in the 1960s.

Lands immediately west of the project area comprise a portion of the CCMWA, a 339-acre fish and wildlife refuge consisting of a mosaic of freshwater, intertidal brackish, and riparian wetlands interspersed with islands of upland. The CCMWA provides habitat to a wide variety of flora and fauna, including the federal- and state-listed endangered western lily (*Lilium occidentale*) and several other rare and unique plant species and vegetation associations. According to the California Native Plants Society:

> *The Crescent City Marsh and environs are home to more than 230 plant species, at least a dozen of which are considered rare, threatened, or endangered. Many of these species are absent or rare elsewhere along California's coast. Some are plants of montane habitats or more northern latitudes, including vanilla grass (*Hierochloe odorata*), stream orchid (*Epipactis gigantea*), great burnet (*Sanguisorba officinalis*), buckbean (*Menyanthes trifoliata*), Sitka alder (*Alnus viridus*), Arctic starflower (*Trientalis arctica*), white-stemmed gooseberry (*Ribes inerme *var.* inerme*), and slender bog-orchid (*Platanthera stricta*). The Crescent City Marsh consists of 335 acres of coastal freshwater wetlands, open water, brackish marsh, beach and dunes, prairie, coastal scrub, and spruce forest… The area also contains suitable habitat for several threatened and endangered animals, including marbled murrelet, northern spotted owl, bald eagle, Oregon silverspot butterfly, and tidewater goby. Several plant communities occur in the Marsh that are rare in northwestern California: buckbean marsh, Pacific reed grass marsh, and Labrador tea marsh. All three marsh types are home to the endangered western lily…*

In addition, according to the U.S. Fish and Wildlife Service (FWS), the CCMWA is "*arguably the most botanically-unique wetland complex in northwest California and perhaps the entire State*" due to its diverse and unique flora and vegetation associations that are absent or rare elsewhere along other ecologically similar portions of the California coast.

Lands immediately east of the project area consist of the former "Martin Ranch," a 203-acre parcel acquired by the Elk Valley Rancheria (applicant) in 2001 for purposes of relocating the

Rancheria's existing gaming facility and developing related resort amenities. The site, which has been devoted primarily to agricultural uses for many decades, currently contains a single-family residence, associated outbuildings, and a barn. At least 29 acres of wetlands (meeting both the Army Corps wetland definition and the Coastal Act wetland definition) were delineated on the Martin Ranch property in 2004. The property drains through various culverts under Humboldt Road and Highway 101 to offsite wetlands, including to the CCMWA.

C. PREVIOUS COMMISSION ACTIONS INVOLVING THE PROJECT AREA

In September of 2005,[2] the Commission conditionally concurred with the Bureau of Indian Affairs' (BIA) federal consistency determination submitted pursuant to the requirements of the federal Coastal Zone Management Act ("CZMA") 16 U.S.C. Section 1451-1464, that the placement of the ~203-acre Martin Ranch property (approximately half of which is in the coastal zone and the other half out) into Trust status and development of the applicant's resort-casino project is consistent with California's coastal management program.

Because Commission staff had expressed numerous concerns prior to the hearing with the project as originally presented and its potential impacts on public views, traffic/roads, sewer/water, wetlands/water quality, agriculture, and the change in status of the coastal zone portion of the parcel, the BIA agreed at the hearing to modify the project to include the following agreement:

> *Prior to commencement of construction, the Tribe will prepare Tribal Ordinances or other equivalent mechanism providing for Commission staff review of detailed project plans, including plans for water quality, hydrology, lighting, signs, roads, sewer and water infrastructure, landscaping and revegetation, and building plans, as applicable.*
>
> *Pursuant to the Tribal Ordinances, the plans shall be submitted to the Commission staff for its review and agreement, and in the event of a disagreement about whether the plans are adequate to protect coastal zone resources (including wetlands and environmentally sensitive habitat), the BIA will continue to play a mediator role.*
>
> *Further, pursuant to the Tribal Ordinances, in the event of a continuing disagreement, the matter will be brought before the Commission for a hearing regarding the parties' respective positions.*
>
> *Subject to applicable law the Commission also retains the ability to require additional consistency review if the project no longer remains consistent with the California Coastal Management Program.*

The above commitment (to which the Elk Valley Rancheria also agreed during the hearing) was incorporated into the project as part of the BIA's submittal. In addition, during the hearing, the Tribe agreed to adopt an ordinance granting a limited waiver of its sovereign immunity and

[2] See http://www.coastal.ca.gov/cd/W17a-10-2005.pdf and http://www.coastal.ca.gov/cd/W8a-9-2005.pdf.

providing an opportunity for the Commission to review and consent to certain aspects of the site development, including detailed project plans, including plans for water quality, hydrology, lighting, signs, roads, sewer and water infrastructure, landscaping and revegetation, and building plans. The applicant adopted the required Tribal Ordinance on October 12, 2005.

With the project modification described above, combined with the agreement to waive sovereign immunity and provide an opportunity for the Commission to review and consent to certain aspects of the site development, the Commission conditionally concurred with the BIA federal consistency determination.

In June of 2011[3] the Commission certified with suggested modifications an LCP amendment request by Del Norte County to amend the land use plan text to accommodate the development of the applicant's resort-casino project on the former Martin Ranch property. Because the property is situated outside of the "Crescent City Urban Area" as delineated on the certified LUP map and, as such, would be prohibited from connecting to the centralized domestic water supply and wastewater collection and treatment systems provided by the nearby Bertsch Ocean View Community Services District and the County of Del Norte's Community Services Area No. 1, the LCP amendment, as effectively certified by the Commission in January of 2012, allows for the limited extension of community water supply and sewer collection and conveyance infrastructure along Humboldt Road beyond the Urban Services Boundary to serve both the Martin Ranch property and the site of the former Ocean Way Motel to the south, also owned by the Rancheria. The Commission's action was approved in part on the basis that the extension of sewer service would avoid reliance on septic systems to serve future development at the sites to better protect water quality consistent with Section 30230 and 30231 of the Coastal Act. The latter property, which is adjacent to the southern boundary of the project area at the intersection of Highway 101 and Humboldt Road, was placed into Trust by the applicant in 2011, and the Commission's Executive Director concurred with the BIA's negative determination on the matter on April 18, 2011.

D. APPEAL JURISDICTION

On July 18, 2012 the Commission's North Coast District office received a Notice of Action from Del Norte County stating that the Del Norte County Planning Commission had approved coastal development grading permit #GP2011-32C with conditions on July 11, 2012. The County's notice indicated that an appeal of the County's decision on the subject permit must be filed with the Clerk of the Board of Supervisors by July 23, 2012 for consideration by the Board (**Exhibit 8**). Since no local appeal was filed with the Board, the Commission's appeal period began on July 24, 2012 and ran for 10 working days, ending on August 6, 2012 (**Exhibit 9**).

The Commission received two appeals of the County of Del Norte's decision to approve Coastal Development Grading Permit #GP2011-32C with conditions. Friends of Del Norte filed an appeal on August 1, 2012 (**Exhibit 10**). Commissioners Mark Stone and Ester Sanchez filed an appeal on August 6, 2012 (**Exhibit 11**). The Commission received correspondence from the applicant questioning the validity of the appeal filed by Commissioners Stone and Sanchez based on its filing date (**Exhibit 13**). Both appeals were filed in a timely manner, within 10 working

[3] See http://documents.coastal.ca.gov/reports/2011/6/F10a-6-2011.pdf.

days of receipt of the County's Notice of Final Local Action on July 23, 2012 (**Exhibits 8 and 9**).

On August 20, 2012, the Commission received a letter from the applicant indicating that the Elk Valley Rancheria objects to the timeliness of the appeal filed by Commissioner's Sanchez and Stone (**Exhibit 13**). The letter alleges that the Commission received notice of the local government's final action on July 18, 2012, which would mean that any appeal would need to be filed by August 1, 2012 to be filed within 10 working days as is required by Coastal Act Section 30603(c). The Elk Valley Rancheria letter notes that the Commissioners appeal was filed on August 6, 2012.

As discussed above, although the Commission received notice of the Del Norte County Planning Commission's action on the coastal development grading permit on July 18, 2012, the notice was not a notice of final local action. The local government notice clearly indicates local appeals of the Planning Commission's approval to the Board of Supervisors would be accepted up to July 23, 2012 (see **Exhibit 8**). The County's Planning Commission action on the project cannot be considered final until the local appeal period to the Board of Supervisors (BOS) has run and any review of such appeals has concluded. Commission staff confirmed with County staff that no appeal of the Planning Commission's action had been filed with the BOS by the close of the appeal period. Since no local appeal was filed with the Board, the Commission appeal period began on July 24, 2012, after the local appeal period had ended on July 23, 3012, and ran for 10 working days, ending on August 6, 2012. The Commission's Notice of Appeal Period (**Exhibit 9**) references the notice of action by the Planning Commission received on July 18, 2012 and does not refer to the notice as a notice of final local action. The Commission's notice clearly indicates that the local appeal period would end at 5:00 p.m. on August 6, 2012. Therefore, the Commissioners' appeal was filed in a timely manner.

As explained in more detail in Appendix A, the subject development is appealable to the Commission pursuant to Section 30603 of the Coastal Act because the approved development is both (1) located within 100 feet of a wetland, and (2) a major public works project.

A portion of the project area is located on lands that have been placed into Trust status (see Finding III-C above) that are outside of the authority of state and local regulations and therefore are not subject to the Commission's appeal authority. The approved road widening extends from the eastern side of the existing roadway beyond the existing County road right-of-way onto the lands that are in Trust status. After widening the road base, the road surface would be reconstructed with shoulders and lanes slightly realigned to the east to accommodate the greater widths. In addition, a separated pedestrian walkway would be constructed on Trust lands along the east side of the widened and realigned roadway. Conditions of the County approval require the applicant to dedicate the expanded road right-of-way area on Trust lands to the County. However, activities on these Trust project lands involving federal funding and/or federal permitting are subject to the Commission's federal consistency regulations under the federal CZMA, 16 U.S.C. § 1451-1464, which 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" (i.e., the Chapter 3 policies of the Coastal Act). Permit approval from the U.S. Army Corps of Engineers is needed for the

portions of the project on Trust land involving wetland fill. As the wetland fill would affect coastal resources within the coastal zone, these activities on Trust lands will require Commission review of a federal consistency certification before any permits from the Army Corps can become effective. As of the date of publication of this report, no federal consistency certification has been submitted to the Commission for the portions of the road widening activities on Trust lands.

E. APPELLANTS' CONTENTIONS

As set forth in Section 30603 of the Coastal Act, after certification of its LCP, an appeal of a local government-approved CDP is limited to allegations made on the grounds that the approved development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act.

Friends of Del Norte raises various grounds for appeal, which overall relate to three general contentions: (1) the approved project is inconsistent with the wetland protection policies of the certified LCP because it allows for the filling of wetlands for an impermissible use, is not the least environmentally damaging feasible alternative, and does provide for adequate mitigation for wetland fill impacts including impacts to riparian wetlands; and (2) the approved project does not protect or provide adequate mitigation for the loss of and disturbance to environmentally sensitive habitats (including habitats for fish, amphibians, and various sensitive species of concern).

Commissioners Stone and Sanchez raise two grounds for appeal, claiming that the approved project: (1) is inconsistent with the wetland protection policies of the LCP; and (2) has not been sited and designed to prevent impacts which would significantly degrade adjacent environmentally sensitive habitat areas, as the certified LCP requires.

As discussed below, the Commission finds that all of the contentions raised by the appellants are valid grounds for appeal. The Commission further finds that the contentions raised by the appellants raise a substantial issue of conformance of the approved development with the policies of the certified LCP regarding the protection of wetlands, environmentally sensitive habitat areas, and riparian vegetation. Each issue is discussed separately below.

F. ANALYSIS

(1) Substantial issue with respect to wetland protection.

According to the "Humboldt Road Safety Improvement Project: Feasibility of Wetland Mitigation" document prepared by Winzler & Kelly on November 30, 2011 for the project (**Exhibit 7**), the project will result in the filling of at least one-third of an acre of palustrine emergent wetlands, man-made ditch wetlands, and forested wetlands for road widening and roundabout construction, a significant portion of which are located within the County right-of-way along Humboldt Road (also see wetland delineation report, **Exhibit 6**).

Land use plan (LUP) "Marine and Water Resources" chapter (hereafter "MWR"), section VII-D ("Wetlands"), part 4 ("Policies and Recommendations") imposes a three-part test for projects involving wetland fill: (a) the allowable use test; (b) the alternatives test; and (c) the mitigation

test. As explained below, the Commission finds that the appeal raises a substantial issue regarding consistency of the approved project with the cited policy of the LCP.

Permissible Use for Diking, Filling, and Dredging of Wetlands. MWR section VII-D, part 4 limits the allowable uses for fill in wetlands to the same kinds of uses for which filling of wetlands is permitted under Section 30233 of the Coastal Act. As discussed above, the project will result in the filling of wetlands within the County right-of-way along Humboldt Road associated with road widening and roundabout construction.

Under the first of three-part test for projects involving wetland fill (the allowable use test), a substantial issue is raised as to whether the approved wetland fill for the roundabout construction is incidental to a public service purpose (Section 30233(a)(4) of the Coastal Act) and thus permitted under the LCP. To qualify as an incidental public service purpose, the wetland fill being undertaken must demonstrate that: (a) it provides a "public service" insofar as it confers benefits onto the public, either at large, or to the segment served by the public entity; and (b) is "incidental," within the meaning of that term as it is used in the LCP and the Coastal Act (i.e., is ancillary and appurtenant to an existing public service purpose).

The County's findings for approval indicate that the approved road widening, roundabout construction, and other associated road improvements will not increase road capacity but rather will simply improve safety for the existing volume and type of traffic that traverses the affected section of Humboldt Road. In past actions by the Commission in interpreting Section 30233(a)(4) of the Coastal Act, the Commission has determined that the fill for certain road safety improvement projects that did not increase vehicular capacity was considered to be for an "*incidental public service*" pursuant to the requirements of Coastal Act Section 30233(a)(4). In reaching such a conclusion, the Commission considers evidence regarding whether a proposed project is a public safety project – and thus is undertaken for a public purpose – and further, if a public safety project is incidental to the primary transportation service provided overall by the existing road. The County's findings, however, do not establish the evidentiary basis for determining that the new roadway improvements involving wetland fill, including in part road widening and roundabout construction within the County road right-of-way, are purely for needed safety improvements and thus are "incidental" to the overall existing road and roadway facilities. The County findings also do not demonstrate that the proposed roadway improvements are necessary to serve existing roadway capacity and not to provide for improved ingress/egress that would serve future intensified development on the applicant's property.

Therefore, a substantial issue is raised as to whether the approved wetland fill associated with the roundabout is for incidental public service purposes or for any of the other allowable uses for wetland fill enumerated within part 4, section VII-D of the MWR chapter of the certified LUP.

The Commission therefore concludes that the appeal raises a substantial issue of consistency of the approved wetland fill for the new roundabout with the policies and standards of the certified LCP with respect to permissible uses for wetlands filling. The public record for the project lacks factual and legal support for the County's decision to approve the wetland filling component of the development as being a permissible use consistent with the certified LCP. Additionally, the

decision to approve the wetland fill for the roundabout would set a precedent with respect to how the County may interpret its LCP in future permitting actions.

Therefore, as there are significant questions regarding whether the approved wetland fill for the roundabout is for incidental public service purposes, and given that the approved fill would not be for one of the other uses enumerated within part 4, section VII-D of the MWR chapter of the certified LUP, the Commission finds that the appeal raises a substantial issue regarding consistency of the project as approved by the County with the LCP provisions regarding permissible uses for the filling, diking, and dredging of wetlands.

Feasible Least Environmentally Damaging Alternative: Under the second of three-part test for projects involving wetland fill (the alternatives test), MWR section VII-D, part 4 requires that wetland fill only be allowed if the fill involved is for the least environmentally damaging feasible alternative. Under these policies and standards, even if the fill was for an allowable use, which, as discussed above, the Commission finds there is a substantial issue as to whether that is the case for the wetland fill associated with the roundabout, wetland fill may only be allowed if the fill involved is for the least environmentally damaging feasible alternative.

Appellant Friends of Del Norte quotes from a traffic study prepared by W-Trans in 2005-2006 for the applicant's planned resort/casino project that states that "…*The existing intersection configuration and traffic control at Humboldt Road/Sandmine Road would be adequate to serve the project*…" and "…*Upon the addition of project-related traffic to existing traffic volumes, all study intersections are projected to continue operating at acceptable levels*..." The report also states that "*A roundabout would act as an entry feature into the project while also eliminating the need for all entry and exit traffic to stop at the approach to Humboldt Road*." Thus, based on the results of the traffic study, the roundabout is proposed primarily for aesthetic and convenience purposes.

The County findings provide no substantive analysis of project alternatives that address other feasible options to the grading and filling of wetlands and riparian vegetation impacts within the County right-of-way that would achieve the same road improvement objectives. For example, an alternative that may involve less wetland fill impacts may be the deletion of the roundabout component of the project. Without the approved roundabout, the intersection of Humboldt Road, Sandmine Road, and the applicant's property would be essentially unchanged (i.e., no stop signs along Humboldt Road), as was deemed adequate by the traffic study prepared by W-Trans in 2005-2006 to accommodate the increased traffic volumes expected to be generated by the applicant's resort/casino project. Despite this feasible alternative that potentially would result in less wetland fill within the County's right-of-way than the approved project, the County findings do not factually establish the infeasibility of this or any other feasible less environmentally damaging alternatives, as is required by MWR section VII-D, part 4.

As the County did not critically assess other practicable alternatives to the approved filling and grading of wetlands for road improvement purposes, the public record for the project lacks substantive factual and legal support for the County's decision to approve the development as being consistent with the requirements of the certified LCP that no feasible less environmentally damaging alternative to the authorized project exists. Additionally, the decision to approve such

development without consideration of other feasible, less environmentally damaging alternatives would set an adverse precedent with respect to how the County may interpret its LCP in future permitting actions. Therefore the Commission finds that the appeal raises a substantial issue regarding consistency of the development as approved by the County with the requirements of part 4, section VII-D of the MWR chapter of the certified LUP that, in approving the filling, diking, and dredging of wetlands, no feasible, less environmentally damaging alternative exist.

Consistency with Wetlands Impact Mitigation Policies: Under the third of three-part test for projects involving wetland fill (the mitigation test), MWR section VII-D, part 4 requires that feasible mitigation measures to minimize adverse environmental effects be provided with any project involving the filling of wetlands. The approved development entails road widening and improvement activities to be conducted within the County's right-of-way along Humboldt Road within and adjacent to wetlands, riparian areas, and other environmentally sensitive areas (ESHA) specifically enumerated in section IV-C of MWR (both "wetlands" and "riparian vegetation systems"). However, the County's approval does not require mitigation for the wetland and riparian fill impacts since, as stated on page 3 of the staff report:

> *"…The only areas found to be available for onsite wetland mitigation are located outside the County and State jurisdiction on the Martin Ranch (Indian trust lands) therefore the County has not recommended conditions specific to wetland mitigation into the approval of the project but the requirement for mitigation will remain in effect through the adoption of the CEQA document…"*

Therefore, the mitigation measures of the CEQA document are not directly enforceable through the coastal development permit, and future changes to the CEQA document and its mitigation measures would not necessarily require amendments to the coastal development permit. Thus, the County-approved project raises a substantial issue of conformance with the policies and standards of the certified LCP, including but not limited to part 4, section VII-D of the MWR chapter of the certified LUP, which requires that wetland fill projects provide feasible mitigation measures to minimize adverse environmental effects. In addition, the County's CDP does not include any conditions requiring the development and implementation of performance standards for the development in and adjacent to natural and man-made wetlands to ensure adequate protection of the wetlands. Thus, a substantial issue exists as to whether the approved development provides feasible mitigation measures to minimize adverse environmental effects, and the appeals raise a substantial issue of conformance of the approved development with the policies and standards of the certified LCP, including but not limited to MWR section VII-D, part 4.

In sum, there is insufficient information to establish that the development has provided feasible mitigation to minimize adverse environmental effects to wetlands. Thus, the record for the project lacks substantive factual and legal support for the County's decision to approve the development as being consistent with the requirements of the certified LCP that feasible mitigation measures be provided to minimize adverse environmental effects. Additionally, the decision to approve such development that might adversely effect aquatic and water resources would set an adverse precedent with respect to how the County may interpret its LCP in future permitting actions. Therefore, for all of the above reasons, the Commission finds that the appeal

raises a substantial issue regarding consistency of the approved project with MWR section VII-D, part 4.

(2) Substantial issue with respect to protection of adjacent ESHA.
The project area and areas immediately adjacent to the project area support various types of environmentally sensitive habitat, including, but not limited to, the following:

- As discussed above in Finding IV-B, the land immediately west of and adjacent to the project area is part of the Crescent City Marsh Wildlife Area, a 339-acre fish and wildlife refuge owned and managed by the CDFG. The refuge provides habitat to more than half the global distribution of the endangered western lily and at least a dozen other state or federally listed plant species and plant communities found nowhere else in northern California. There also are extensive stands of riparian vegetation in and around the marsh.

- The "ditch wetlands" west of the road and culverts underneath the road within the County's right-of-way along Humboldt Road in the project area reportedly support or have the potential to support sensitive fish species, including coastal cutthroat trout (according to Michael van Hattem of CDFG's Eureka staff, pers comm., August 6, 2012) and juvenile salmonids (according to appellant Friends of Del Norte's consultant Bradford Norman, **Exhibit 12**).

Despite the significance and value of the marsh ESHA adjacent to the project area and its identification as environmentally sensitive in the LCP, there is inadequate information in the project record as to whether the approved grading and filling of areas adjacent to wetlands and other ESHA has been sited and designed to prevent significantly degrading impacts to such adjoining areas, or would be compatible with the continuance of nearby habitat areas.

The County's approval does not include any standards or conditions to ensure that the approved project does not significantly degrade the adjacent marsh ESHA or any of the sensitive species that inhabit the area. For example, the CEQA MND adopted by the County for the approved project acknowledges that the project would significantly alter the hydrology of the area, including wetlands and waters that drain directly into the CCMWA. The MND states (on page 31):

> *"The widening of Humboldt Road would require realignment of the ditch to the east of the road. The ditch would generally be reconstructed approximately 5 to 15 feet to the east of its existing location. Reconstruction would include reducing the slope of the ditch banks and revegetation of the ditch. In the area of the proposed round-about, an existing culvert crossing approximately 35 feet under the existing driveway onto the Martin Ranch property and an approximately 165 foot section of open ditch on either side of the driveway would be replaced with an approximately 200 foot proposed culvert. With the exception of the northernmost culverts, existing culverts leading from the roadside ditch under the road to the Crescent City Marsh Wildlife Area would be extended to accommodate the widened road and realigned ditch…The proposed pedestrian*

> *and bike path would cross a large wetland complex and a channelized stream. The proposed path would include the construction of a ditch running on its east and uphill side to collect any water runoff. The proposed path ditch would convey water along the path to one of seven proposed culverts, from which water would discharge to the reconstructed Humboldt Road ditch, and ultimately pass under the road to the Crescent City Marsh Wildlife Area.*

However, the MND finds these hydrology impacts to be "less than significant" since "*the Project would not substantially alter the existing drainage pattern of the site, alter the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site*." A condition of approval of the County CDP (condition #27) is that the applicant must submit a drainage study prior to issuance of the coastal grading permit for the review and approval of the County. "*The drainage study shall include calculations for the routing of all water through the project. Any culvert that is undersized or metal shall be replaced. Drainage calculations shall include any anticipated development on the Martin Ranch Property and in the immediate project vicinity*…." Yet the condition includes no standards requiring new drainage features to be sited and designed to protect adjacent marsh ESHA or any of the rare and endangered species that inhabit it, such as the western lily or sensitive fish species. According to an expert on the species,[4] western lily is particularly sensitive to inundation during the growing season. As the County has not provided sufficient details to establish what the project's construction and post-construction hydrologic effects would be on downstream wetlands, groundwater recharge, the Crescent City Marsh, and sensitive species that inhabit the surrounding area, the Commission finds that the approved project has not been sited and designed to prevent impacts that would significantly degrade adjacent western lily habitat, and the project as approved by the County raises a substantial issue of conformance with the policies and standards of the certified LCP, including but not limited to MWR sections IV-C, VI-C(6), VII-D, VII-D, part 4(f), and to LUP "Recreation" chapter section III(C)

In addition, the County's approval does not include any conditions to ensure that the approved project does not significantly degrade the adjacent sensitive fish ESHA. Despite the recognized potential for sensitive fish species to inhabit the roadside ditch wetlands west of the road and culverts that cross underneath the road, the County did not require the numerous new and replacement culverts approved for the project area to be installed in a "fish-friendly" manner, as had been recommended by CDFG. Furthermore, according to the Planning Commission meeting minutes for the public hearing at which the project was approved, a condition in the draft staff report requiring the replacement "*…of any culverts within the project limits determined to be a fish barrier by the California Department of Fish and Game*" (condition 30 of the County staff report dated 5/22/12) was deleted at the applicant's request and ultimately not a required condition of approval of the approved coastal development grading permit.

Therefore, the Commission finds that the appeals raise a substantial issue as to whether the approved project has not been sited and designed to prevent impacts that would significantly degrade adjacent environmentally sensitive habitat areas. Therefore, the appeals raise a substantial issue as to whether the project as approved by the County conforms with the policies

[4] Dave Imper, retired U.S. Fish and Wildlife Service staff biologist, pers. comm.., August 17, 2012.

and standards of the certified LCP, including but not limited to MWR sections IV-C, VI-C(6), VII-D, VII-D, part 4(f), and to LUP "Recreation" chapter section III(C).

G. CONCLUSION

Overall, the County has not adopted findings that provide factual and legal support for its determination that (1) the approved fill of wetlands conforms with the pertinent LCP policies, (2) the approved project has been sited and designed to prevent impacts that would significantly degrade adjacent environmentally sensitive habitat areas, and (3) riparian vegetation will be maintained along streams, creeks and other watercourses within the coastal zone for its qualities as wildlife habitat, stream buffer zones, and bank stabilization. The approval of the proposed filing, dredging, and diking of the subject wetlands for impermissible uses establishes an adverse precedent for allowing similar fill for other projects where there is a substantial issue of conformance with the LCP wetland fill, ESHA, and water quality policies. The protection of the biological productivity and quality of coastal waters and environmentally sensitive wetlands is an issue of statewide concern addressed by Sections 30230, 30231, 30233, and 30240 of the Coastal Act, as it has been long established that coastal waters, and wetlands in particular, provide significant public benefits, such as fish and wildlife habitat, water quality filtration and recharge, flood control, and aesthetic values.

For the reasons stated above, the Commission finds that Appeal Number A-1-DNC-12-021 raises a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency of the approved development with the certified LCP.

H. INFORMATION NEEDED FOR *DE NOVO* REVIEW OF APPLICATION

Section 30621 of the Coastal Act instructs the Commission to provide for a *de novo* hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the *de novo* hearing to a subsequent date. The *de novo* portion of the appeal must be continued because the Commission does not have sufficient information to determine what, if any, development can be approved, consistent with the certified LCP.

Given that the project the Commission will be considering *de novo* has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP. Therefore, before the Commission can act on the proposed project *de novo*, the applicant must submit all of the information identified below.

(1) Property and right-of-way boundary information. Because the project area includes lands in Trust status not subject to the Commission's appeal jurisdiction, the Commission needs to receive information on property and County road right-of-way information, including (i) the location of the applicant's property boundaries in relation to the approved project features; (ii) the location of the County's and State's existing road right-of-way boundaries in relation to the approved project features; and (iii) the location of the proposed County and State road right-of-way boundaries in relation to the approved project features.

(2) Clarification on extent of wetland impacts. Information in the local record quantifies the extent of wetlands within the project area, but the Commission needs to understand the extent of wetlands within the appeal jurisdictional area versus those located on Trust lands within the project area. Thus, the Commission needs supplemental wetland information that identifies the type and extent of coastal wetlands within the portion of the project area within the Commission's appeal jurisdiction as well as the type and extent of coastal wetlands within the portion of the project area on Trust lands. For each area, information should be provided on the type and extent of wetlands that would be impacted by the approved project and project alternatives (see below).

(3) Alternatives analysis. The LCP (MWR section VII-D, part 4) and Section 30233 of the Coastal Act require that wetland fill only be allowed if the fill involved is for the least environmentally damaging feasible alternative. The Commission needs an analysis of project alternatives that examines other feasible options to the grading and filling of wetlands within the County right-of-way for the project, including a no roundabout alternative, constructing a portion of the widened road westward, widening less than 8 feet, and other feasible alternatives. The type and extent of wetland impacts should be quantified for each alternative.

(4) Additional information on allowable use. The Commission needs an explanation of how any proposed fill to be placed within the County road right-of-way areas qualifies as an incidental public service purpose or other use allowable under MWR section VII-D, part 4. The discussion should address whether the various alternatives analyzed for the proposed project would increase the vehicular capacity of the affected roads and how they would serve future intensified development on the applicant's property. The discussion also should specifically address if and how the roundabout component of the project relates to public safety or other public purposes.

(5) Wetland mitigation proposal. To review consistency of the development with the feasible mitigation requirements of MWR section VII-D, part 4, the Commission needs to receive details of whatever mitigation is proposed for the wetland fill impacts of the project including (i) a narrative description and preliminary plans for the proposed mitigation area, (ii) the specific objectives of the mitigation, (iii) the mitigation ratio of wetlands created to wetlands filled and an explanation of how the temporal loss of habitat values between the time of wetland disturbance and the restoration of habitat values will be accounted for, (iv) details of the mitigation site including the extent of any existing wetlands and other habitats existing at the site and how those resources would be affected by the mitigation plan implementation, (v) a discussion of how the mitigation site will be reserved and protected as habitat over time, (vi) success standards for determining the success of the mitigation proposal, (vii) a proposed monitoring plan to evaluate mitigation success, and (viii) remediation provisions should the success standards not be achieved.

(6) Drainage and hydrology plans. Due to the sensitivity of the endangered western lily to hydrologic changes in its environment and the suite of other sensitive species and unique habitats in wetlands downstream/downslope from the project area, the Commission needs to receive drainage and hydrology plans for the project that clearly articulate the overall goals of (a)

assuring no increases in runoff and sedimentation beyond baseline conditions, and (b) protecting fish habitat through the proper installation of proposed new and replacement culverts. The plans also must (i) address measures to revegetate graded areas and slopes; (ii) include BMP measures to be implemented both permanently and during the construction period; (iii) explain whether and how runoff will be filtered and controlled; (iv) analyze effects of the proposed project and future anticipated development on the applicant's property on groundwater recharge and potential effects on the timing and extent of both surface and groundwater flows to the downstream Crescent City Marsh; (v) include plans and details on the proposed installation of any new culverts and replacement culverts.

(7) Lighting plans. The Commission needs to understand how proposed new lighting associated with the project may affect nearby environmentally sensitive habitat areas. Therefore, a lighting plan must be provided that addresses where new lighting will be placed, proposed lighting intensity, and other standards. Proposed new lighting should be sited and designed to prevent impacts that would significantly degrade adjacent environmentally sensitive habitat areas, including the Crescent City marsh and other sensitive habitat areas.

(8) Landscaping and revegetation plans. The project as approved by the County discusses proposed landscaping in the roundabout area and other parts of the project area corridor. The Commission needs a description of proposed plans for landscaping and for revegetating areas disturbed by construction that includes the use of regionally appropriate native plant species, noninvasive erosion control seeding, and other details.

(9) Updated biological surveys for areas within County road right-of-way. Information in the local record suggests that fish inhabit portions of the project area. The Commission needs to receive an updated biological report that addresses the potential for fish species to inhabit the roadside ditches, culverts, and other suitable habitat areas within the project area.

(10) Effects on the approved watershed hydrological monitoring plan and provisions for minimizing disruption to the ongoing plan. In August of 2006, the U.S. Fish and Wildlife Service (FWS) determined, based on various factors, that the "Martin Ranch Fee-To-Trust Transfer and Casino/Hotel Project" would not adversely affect the endangered western lily or tidewater goby. One factor on which the FWS's determination was based was the fact that, as proposed in the Adaptive Management Plan prepared for the project in 2005 and incorporated into the EIR, hydrological monitoring would be conducted before, during, and following construction of the resort/casino project to detect any significant change in surface or subsurface flow patterns off of the project site. Such changes would be mitigated as necessary to less than significant levels through modifications to the stormwater drainage facilities.

According to the Watershed Hydrological Monitoring Plan prepared by the FWS and the Adaptive Management Plan prepared for the project in 2005 and incorporated into the EIR, nine pressure transducer "piezometers," or water table recorders, were to be installed at critical locations throughout Crescent City marsh and on the applicant's Martin Ranch property to enable an understanding of water flows through and to the marsh. The recorders would continuously record water surface elevations and supplement two existing recorders installed in occupied western lily habitat in 2004. Two of the recorders were to be located on the applicant's

property (Martin Ranch), at least one of which is within the northwestern portion of the property in a drainage feature with the potential to be modified under the approved project.[5] This particular piezometer functions to monitor surface water flowing offsite, and in conjunction with the other piezometers in the study area, enables water level monitoring that can be used to model flow rates using a series of calibration measurements.

Because the project as approved by the County involves modifying roadway drainage features such as extending the lengths of existing culverts in the project area to accommodate the widened roadway as well as replacing existing undersized and/or metal culverts, the project could affect the existing, approved watershed hydrological monitoring plan that has been ongoing for a number of years and was a factor in the FWS's determination that the applicant's resort/casino project would not adversely affect the endangered western lily. Thus, the Commission needs to receive information on (i) how the proposed project will avoid impacts to existing piezometers associated with the referenced hydrological monitoring plan that are located in the project area, and (ii) what measures will be undertaken to minimize disruption to the approved ongoing watershed hydrological monitoring plan, including provisions for removing and relocating existing piezometers in the project area as necessary in coordination with the FWS.

Conclusion

Without the above information, the Commission cannot reach a final determination concerning the project's consistency with the policies of the certified LCP. Therefore, before the Commission can act on the proposed project de novo, the applicant must submit all of the above identified information.

[5] Dave Imper, retired U.S. Fish and Wildlife Service staff biologist, pers. comm.., August 17, 2012.

APPENDIX A:
Commission's Appeal Jurisdiction over Project

On July 11, 2012, the Del Norte County Planning Commission approved Coastal Development Grading Permit #GP2011-32C with conditions for the development of infrastructure improvements along an approximately 3,000-foot-long stretch of Humboldt Road between Highway 101 and Roy Avenue, located approximately one mile southeast of Crescent City.

After certification of local coastal programs (LCPs), the Section 30603 of the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (CDPs). Section 30603 states that an action taken by a local government on a CDP application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within 100 feet of any wetland or stream, or within 300 feet of the top of the seaward face of any coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by local governments may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments that constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified LCP and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission pursuant to Section 30603(a)(2) of the Coastal Act because the approved development is located within 100 feet of a wetland. Wetland areas that are mapped in the certified LCP, including "farmed wetlands" and the wetland identified in part 2 of Section VII-D of the "Marine and Water Resources" chapter of the certified land use plan as "*Sandmine Road Wetland*", occur immediately adjacent to the portion of Humboldt Road within the project area, along both sides of the roadway.

The subject development also is appealable to the Commission pursuant to Section 30603(a)(5) of the Coastal Act because the approved development constitutes a major public works project. "*Major public works*" is defined in Section 13012 of the Commission's regulations (CCR Title 14 Division 5.5) as "*…facilities that cost more than one hundred thousand dollars ($100,000)…*"

APPENDIX B:
Excerpts from the Del Norte County LCP

I. RELEVANT LAND USE PLAN (LUP) POLICIES AND STANDARDS

LUP "Marine and Water Resources" chapter Section IV-C ("Sensitive Habitat Types") in part states as follows:

… … …

B. Designation Criteria: The following criteria are proposed for designating biologically sensitive habitats in the marine and coastal water environments and related terrestrial habitats of Del Norte County:

1. *Biologically productive areas important to the maintenance of sport and commercial fisheries.*
2. *Habitat areas vital to the maintenance and enhancement of rare and/or endangered species.*
3. *Fragile communities requiring protective management to insure their biological productivity, species diversity and/or continued maintenance.*
4. *Areas of outstanding scientific or educational value that require protection to insure their viability for future inquiry and study.*

C. Sensitive Habitat Types: Several biologically sensitive habitat types, designated through the application of the above criteria, are found in the Coastal Zone of Del Norte County. These include: offshore rocks; intertidal areas; estuaries; wetlands; riparian vegetation systems; sea cliffs; and coastal sand dunes. A brief description of these sensitive habitat types is given below:

… … …

4. *Wetlands: Also termed marshes, swamps and bogs, wetlands in the coastal zone vary from brackish to freshwater and range from seasonally flooded swales to year=round shallow lakes. Like estuaries, wetlands tend to be highly productive regions and are important habitats and feeding grounds for numerous wildlife species.*
5. *Riparian Vegetation Systems: The habitat type located along stream and river banks usually characterized by dense growth of trees and shrubs is termed riparian. Riparian systems are necessary to both the aquatic life and the quality of water courses and are important to a host of wildlife and birds.*

… … …

LUP "Marine and Water Resources" chapter Section IV-C (Sensitive Habitat Types) Table 1 ("Sensitive Habitat Types and Their Principal Locations") specifically lists "Sandmine Road" as a "principal location" for the wetland sensitive habitat type.

LUP "Marine and Water Resources" chapter Section VI-C (LCP Policies) in part states as follows:

1. *The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.*

… … …

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

… … …

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

… … …

LUP "Marine and Water Resources" chapter, Section VII-D ("Wetlands"), part 1 defines "Wetland" as follows:

1. *Definition: "Wetland" means lands within the Coastal Zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, bogs, and fens. The land use category will be Resource Conservation Area.*

LUP "Marine and Water Resources" chapter, Section VII-D ("Wetlands"), part 2 identifies "major wetland areas of the Coastal Zone" in part as follows:

2. *Principal Distributions: Wetland habitats are found throughout the generally flat-lying coastal plain of Del Norte County. The following identifies the major wetlands areas of the Coastal Zone.*

… … …

n. Sandmine Road Wetland

… … …

LUP "Marine and Water Resources" chapter, section VII-D ("Wetlands"), part 4 ("Policies and Recommendations") states in part as follows:

a. *The diking, filling, or dredging of wetlands shall be permitted in accordance with other applicable provisions of this program, where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects. Such projects shall be limited to those identified in Section 30233 of the Coastal Act.*

… … …

d. Performance standards shall be developed and implemented which will guide development in and adjacent to wetlands, both natural and man-made, so as to allow utilization of land areas compatible with other policies while providing adequate protection of the subject wetland.

… … …

f. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. A buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource...

… … …

LUP "Marine and Water Resources" chapter, section VII-E ("Riparian Vegetation"), part 4 ("Policies and Recommendations") states in part as follows:

a. Riparian vegetation shall be maintained along streams, creeks and sloughs and other water courses within the Coastal Zone for their qualities as wildlife habitat, stream buffer zones, and bank stabilization

… … …

LUP "Recreation" chapter, section I ("Introduction"), part A describes "Coastal Recreation" as follows:

A. Coastal Recreation: Coastal recreation may be defined as any outdoor leisure-time experience in the Coastal Zone from which an individual derives enjoyment…

… … …

LUP "Recreation" chapter, section III ("General Policies"), part C ("LCP Policies") states in part as follows

… … …

2. New recreational development shall be located and distributed throughout the Coastal Zone in a manner to prevent undue social impacts, overuse or overcrowding.

… … …

6. Fragile coastal resources shall be considered and protected to the greatest possible extent in all new coastal recreational development.

… … …

The LUP certified constraint maps designates areas immediately adjacent to the subject road, both east and west of the road, as "Resource Conservation Areas" (RCA), specifically as "farmed

wetlands" and "riparian." RCAs are described in LUP "Land Use" chapter, section I ("Land Use Categories"), part D in part as follows:

> *D. Resource Conservation Areas: Resource Conservation Areas (RCA) are areas mapped on the accompanying constraint maps as wetlands and farmed wetlands, riparian, estuaries, and coastal sand dunes. Development within these areas is subject to the policies of the certified land use plan….*

II. RELEVANT IMPLEMENTATION PLAN (IP) POLICIES AND STANDARDS

Chapter 14.05 of the coastal zoning regulations addresses grading, excavation and filling in part as follows:

> *14.05.010 Purpose. The purpose of this chapter is to promote and protect the public safety, convenience, comfort, prosperity, general welfare and Del Norte County's natural resources by establishing minimum requirements for grading, excavating and filling in order to:*
>
> *A. Control flooding, erosion and sedimentation and prevent damage to off-site property and resource conservation areas;*
>
> *B. Avoid creation of unstable slopes or unstable filled areas;*
>
> *C. Prevent impairment or destruction of potential leach fields for sewage disposal systems;*
>
> *D. Regulate de facto development caused by uncontrolled grading; and*
>
> *E. Implement the policies of the general plan coastal element within the county's designated California Coastal Zone. (Ord. 83-03 (part), 1983.)*
>
> …
>
> *14.05.040 Prohibited grading. No grading shall be done or caused to be done:*
>
> *A. That will endanger any public or private property, result in the deposit of debris on any public way or significantly affect any existing wetland, drainage or other resource conservation area unless the hazard is eliminated by construction of retaining structures, buttress fills, drainage devices, landscaping, vegetation buffers, or other means required as a condition of a building and grading permit or other entitlement;*
>
> …

APPENDIX C:
Substantive File Documents

Appeal File No. A-1-DNC-12-021, including local record for Del Norte County coastal development grading permit #GP2011-32C

Initial Study and Mitigated Negative Declaration prepared for the project by Winzler & Kelly dated December 2011

Wetland delineation for Elk Valley Rancheria prepared by Winzler & Kelly dated July 2011

Humboldt Road Safety Improvement Project: Feasibility of Wetland Mitigation memo to Randy Hooper (Del Norte Co. Planning Dept.) prepared by Robert Holmlund (Winzler & Kelly) dated November 30, 2011

Delineation of waters of the United States Elk Valley Rancheria Martin Ranch Fee-to-Trust project prepared by Analytical Environmental Services dated March 2004

Conceptual wetland mitigation and monitoring plan Elk Valley Rancheria Martin Ranch Fee-to-Trust project prepared by Analytical Environmental Services dated March 2004

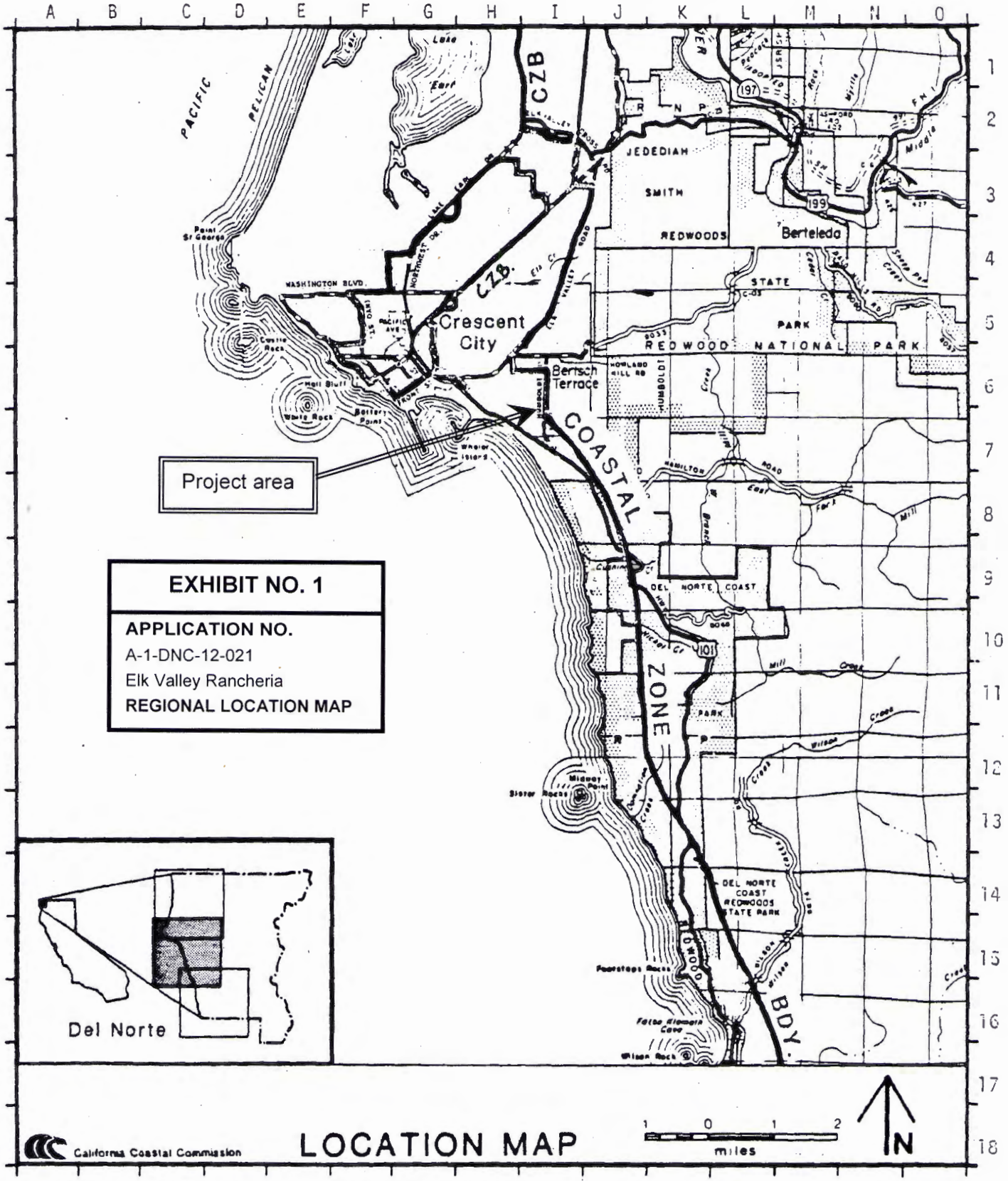
Final Environmental Impact Statement Elk Valley Rancheria Martin Ranch Fee-to-Trust and Casino Project dated September 2006, including both Volumes I and II (appendices)

Staff Report for Consistency Determination CD-054-05 conditionally approved on September 14, 2005 and Adopted Findings on CD-054-05 approved October 12, 2005

Draft Watershed Hydrological Monitoring Plan, Crescent City Marsh, prepared by David Imper, U.S. Fish and Wildlife Service, Arcata Field Office, February 24, 2006

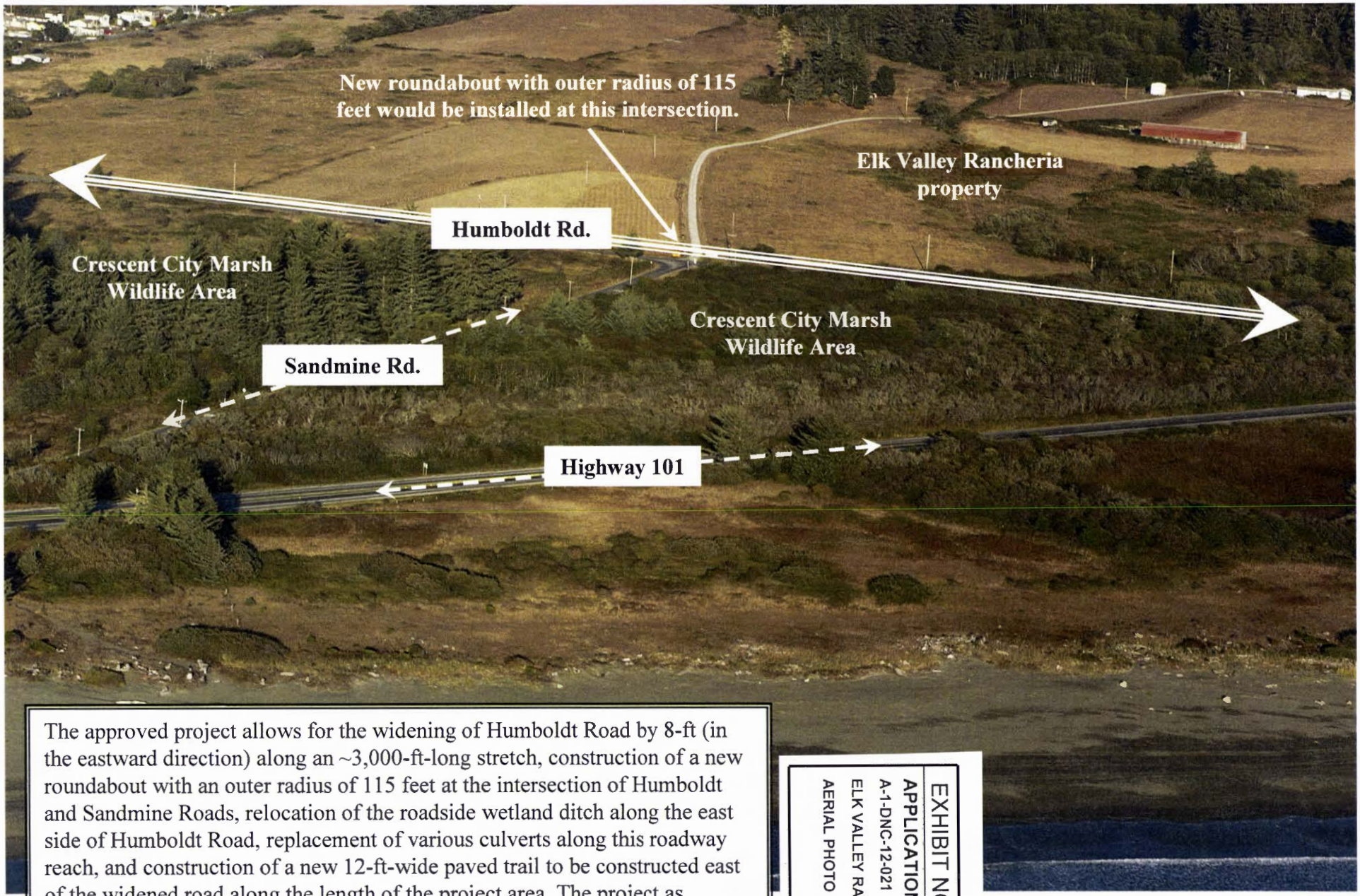
Lilium occidentale (western lily) 5-Year Review: Summary and Evaluation, prepared by U.S. Fish and Wildlife Service, Arcata Field Office, January 2009

Del Norte County certified local coastal program (LCP)



County of Del Norte


Project area
101
Crescent Harbor
Whaler Island
Legend
Geographic Features
Geographic Place Names
Coastal Zone Boundary
Coastal Streams
Major Roads
TYPE
INTER
ST-HWY
US-HWY
Del Norte County Roads
EXHIBIT NO. 2
APPLICATION NO.
A-1-DNC-12-021
ELK VALLEY RANCHERIA
VICINITY MAP
COASTAL
0 780 1,560 Feet
0 200 400 Meters
Locations approximate.
For illustrative purposes only.

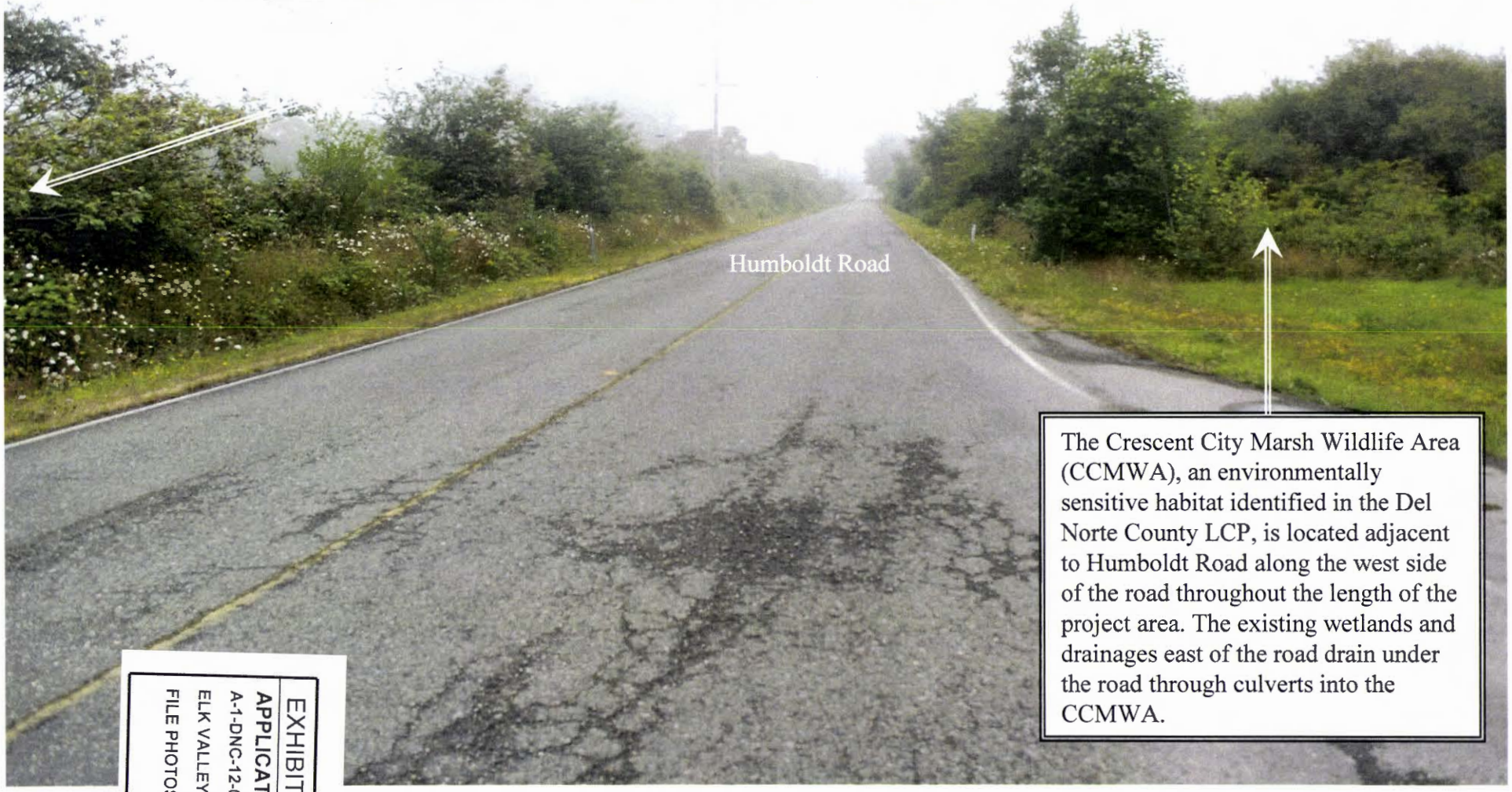


The approved project allows for the widening of Humboldt Road by 8-ft (in the eastward direction) along an ~3,000-ft-long stretch, construction of a new roundabout with an outer radius of 115 feet at the intersection of Humboldt and Sandmine Roads, relocation of the roadside wetland ditch along the east side of Humboldt Road, replacement of various culverts along this roadway reach, and construction of a new 12-ft-wide paved trail to be constructed east of the widened road along the length of the project area. The project as approved by Del Norte County would fill wetlands within the County road right-of-way, including wetland ditches; culverted portions of reportedly fish-bearing watercourses; and riparian wetlands.

EXHIBIT NO. 3
APPLICATION NO.
A-1-DNC-12-021
ELK VALLEY RANCHERIA
AERIAL PHOTO

8/5/12

Road to be widened 8-ft eastward and new 12-ft-wide paved trail to be constructed east of the widened road resulting in the filling of wetlands within County road right-of-way, including wetland ditches; culverted portions of reportedly fish-bearing watercourses; and riparian wetlands.

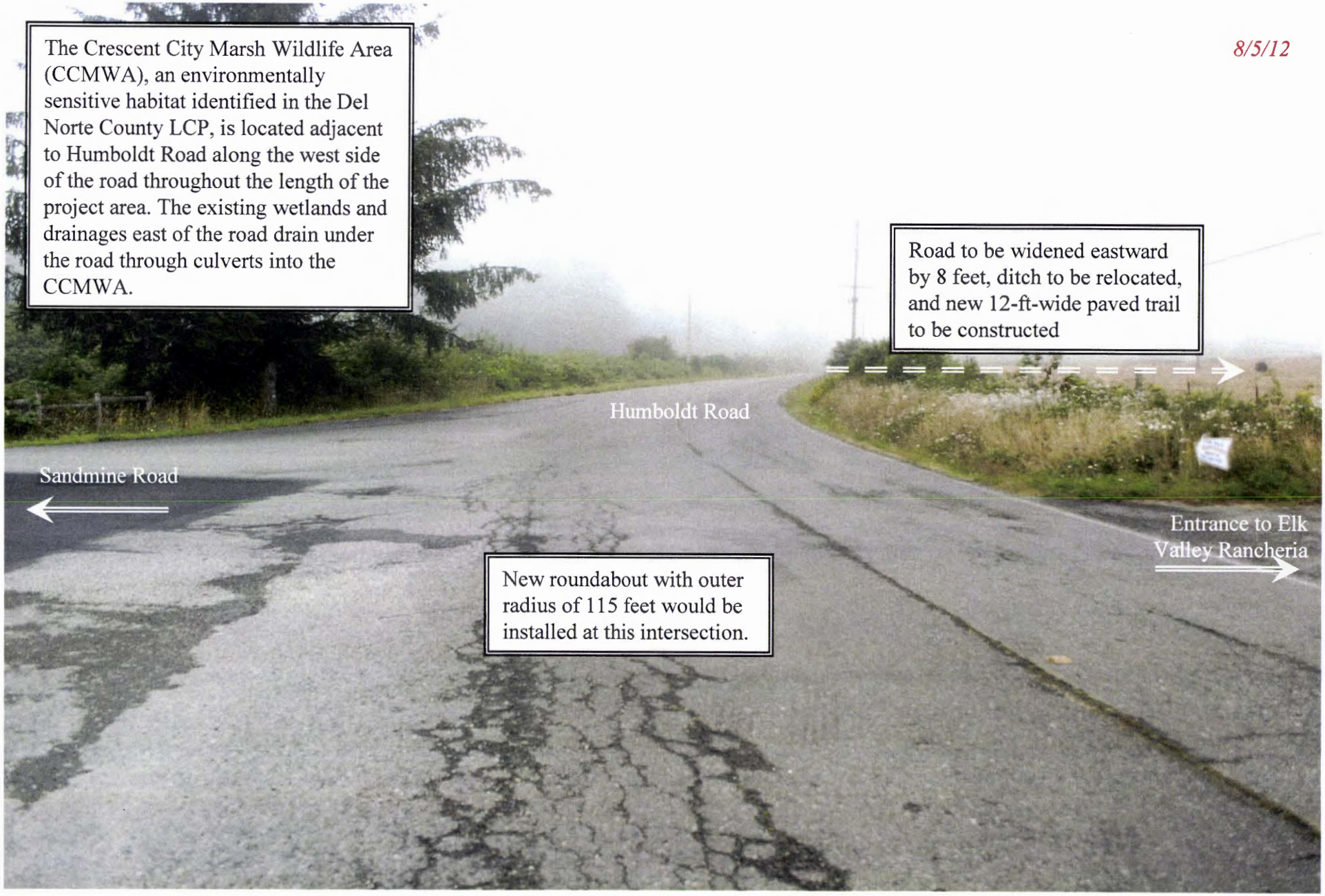


The Crescent City Marsh Wildlife Area (CCMWA), an environmentally sensitive habitat identified in the Del Norte County LCP, is located adjacent to Humboldt Road along the west side of the road throughout the length of the project area. The existing wetlands and drainages east of the road drain under the road through culverts into the CCMWA.

View southward of Humboldt Road from Sandmine Road.

EXHIBIT NO. 4
APPLICATION NO.
A-1-DNC-12-021
ELK VALLEY RANCHERIA
FILE PHOTOS (1 of 2)

8/5/12



View northward of Humboldt Road from Sandmine Road at the location of the County-approved new roundabout.

January 26, 2012

Randy Hooper
Planner
County of Del Norte
Community Development-Planning
981 H Street, Suite 110
Crescent City, CA 95531

RE: Record Clarification related to CEQA document prepared for the Humboldt Road Improvement Project

Dear Mr. Hooper

It has come to our attention that GHD (formerly Winzler & Kelly) did not accurately document some specific events and communication with California Department of Fish and Game (DFG) in the CEQA document that we prepared for the Elk Valley Rancheria's Humboldt Road Improvement Project. The CEQA document inaccurately stated that DFG never responded to the April 29th letter sent by the Tribe or phone calls by our staff regarding the potential for coastal cutthroat trout in the roadside ditch on the east side of Humboldt Road, and the stream on the north side of Martin Ranch property. Since this information is inaccurate we ask that that the public record be revised to show that DFG did in fact contact the Tribe after receiving the April 29th letter to discuss their concerns, and has made themselves available to GHD for consultation related to the project.

Yours sincerely,
GHD Inc.

Josh Wolf, P.E.
Project Manager

Cc: Chris Howard, Elk Valley Rancheria, California
Michael Van Hattem, California Department of Fish and Game

EXHIBIT NO. 5
APPLICATION NO.
A-1-DNC-12-021
ELK VALLEY RANCHERIA
CEQA DOCUMENT (1 of 50)

GHD Inc.
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~~140~~ 145 ~~126~~

Initial Study & Draft Mitigated Negative Declaration

Humboldt Road Safety Improvement Project

December 2011

Proponent:
Elk Valley Rancheria, California

Lead Agency:
County of Del Norte

Prepared by:
WINZLER & KELLY
633 Third Street
Eureka, CA 95501

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Appendices

The following appendices and reports are available under separate covers at the County of Del Norte Community Development Department, 981 H Street, Crescent City, CA 95531.

Appendix A	Natural Features Assessment for the Humboldt Road Safety Improvement Project (Winzler & Kelly 2010)
Appendix B	Wetland Delineation for the Humboldt Road Safety Improvement Project (Winzler & Kelly 2011)
Appendix C	An Historic Properties Investigation for the Elk Valley Rancheria – Humboldt Road Safety Improvement Project (available to authorized individuals only) (Roscoe & Associates 2010)

Community Development Department, 981 H Street, Crescent City, CA 95531 (707) 464-7254

INITIAL STUDY and CHECKLIST

PROJECT: **Humboldt Road Safety Improvement Project**

LEAD AGENCY: County of Del Norte Community Development Department
981 H Street
Crescent City, CA 95531

LEAD AGENCY CONTACT PERSON:
Randy Hooper, Planner
Community Development Department
County of Del Norte
Phone: (707) 464-7254
Email: rhooper@delnortecounty.us

THIS *INITIAL STUDY and CHECKLIST* PREPARED BY:
Winzler & Kelly
633 Third Street
Eureka, CA 95501
(707) 443-8326

PROJECT LOCATION: Del Norte County, CA (Attachment A - Figure 1)

PROPERTY OWNERS: Elk Valley Rancheria, California (Tribe), California Department of Fish and Game (DFG), Del Norte County (County) right-of-way.

GENERAL PLAN DESIGNATION: (Nonbinding on Martin Ranch property) Agricultural General 20 acre minimum (AG 20), Agricultural General 5 acre minimum (AG 5), Resource Conservation Area (RCA), Timberland, and Urban Residential 0-6 dwelling units per acre.

ZONING DESIGNATION: (Nonbinding on Martin Ranch property) Agricultural General 5 acre minimum (AG 5), Agricultural General 20 acre minimum (AG 20), and RCA-2 (fw) Resource Conservation Area, farmed wetland.

TRIBAL ZONING DESIGNATION: Martin Ranch property: Planned Unit Development (PUD)

PARCEL NUMBERS: 115-020-28, 115-020-29, and 115-020-20

1.0 PROJECT DESCRIPTION

1.1 SITE CONTEXT

Humboldt Road is located in Del Norte County in northwestern California (see Attachment A - Figure 1). Humboldt Road is less than one mile east of the Pacific Ocean and approximately 2.5 miles southeast of Crescent City, the only incorporated city in Del Norte County. Under the maintenance jurisdiction of Del Norte County, the two-lane road serves as a direct connector to Highway 101, the Elk Valley Rancheria, Bertsch-Oceanview neighborhood, Redwood National Park, a bypass to US Highway 199, via Howland Hill Road and Elk Valley Road and an indirect connector to Jedediah Smith Redwood State Park and several beach trails. Humboldt Road is the most direct route from U.S. Highway 101 and the coast to the Elk Valley Rancheria and the surrounding neighborhoods. South of Humboldt Road, across U.S. Highway 101, is Enderts Beach Road, which provides many access points to beaches and other coastal recreation. From Roy Avenue to the north, Humboldt Road travels through the Bertsch-Oceanview neighborhood and terminates at the southern boundary of the Elk Valley Rancheria. The posted speed limit on the road is 45 miles-per-hour. As of 2005, the Average Daily Traffic (ADT) of Humboldt Road was 2,600 (W-Trans 2006).

Humboldt Road can generally be split into two segments:

1) A northern segment outside of the proposed project area and beginning at Roy Avenue in the Bertsch-Oceanview neighborhood. This segment has sidewalks in areas adjacent to new homes, dedicated bike lanes on both sides, and the road surface is in generally good condition due to resurfacing completed in 2009; and,

2) A southern segment within the proposed Project area, which starts at Roy Avenue and ends at Highway 101. This segment does not have shoulders, sidewalks, or bike lanes. In this segment the road generally has a 22-foot wide deteriorating asphalt-paved surface with inadequate and unpaved shoulders.

Humboldt Road within the southern segment is especially unsafe for pedestrians, who are forced to walk in the travel lane or, when vehicles are approaching, in the steep roadside ditch. There are no existing street lights on Humboldt Road. Although the entire length of the road is designated as a Class II bikeway (City of Crescent City 2001), the southern segment is not safe for bikes as there is neither a bike lane nor a paved shoulder. One of the most dangerous portions of the road is the intersection with Sandmine Road, which has no pedestrian safety features.

The lands adjacent to the southern segment of Humboldt Road are mostly undeveloped, with pasture dominated areas to the east and shrub/tree dominated areas to the west. The California Department of Fish and Game (DFG) Crescent City Marsh Wildlife Area lies to the west of Humboldt Road in the Project area. Wetlands exist throughout the area to the west of Humboldt Road and in portions of the lands to the east of the Project. Existing utility poles and overhead phone and power lines occur along the western and eastern edge of the Project segment of the road.

The Project segment of Humboldt Road is entirely within the California Coastal Zone, with combined jurisdiction between the County of Del Norte and the California Coastal Commission (CCC 1986). The Project area is not within a mapped 100-year floodplain and does not have a

FEMA flood zone rating, although a Zone V boundary is located immediately west of Humboldt Road approximately 150 yards south of Roy Avenue (FEMA 2010). Zone V flood zones are areas along coasts subject to inundation by the 1-percent-annual-chance (100-year) flood event.

1.2 DESCRIPTION OF PROPOSED IMPROVEMENTS

The proposed Project includes several safety-related infrastructure improvements within the southern segment of Humboldt Road (Attachment A - Figure 3), including:

- Resurfacing and/or reconstructing the road structural pavement section;
- Construction of roundabout with sidewalks and crosswalks at intersection with Sandmine Road;
- Construction of 4-foot wide paved shoulders on each side of the road;
- Construction of separated bicycle/pedestrian trail on east side of road;
- Construction of street lighting;
- Reconfiguration of drainage ditch on east side of road;
- Construction of new road signage and striping.

Beginning just north of the Highway 101 Caltrans right-of-way (ROW), Humboldt Road would be resurfaced and widened. Widening would occur to the east of the existing road only, with the existing western edge of the road fill prism remaining in its existing location. In other words, the Project would not substantially expand the existing road to the west. A proposed perpendicular crosswalk located approximately 300 feet from the southern end of the Project would connect both road shoulders to a proposed pedestrian/bike path east of the roadway. The proposed path would be separated from the roadway by an open wetland drainage swale/ditch that would capture, store, transport, and treat storm water. This proposed configuration of two road shoulders, two paved vehicular travel lanes, wetland drainage swale, and path would continue to the intersection of Humboldt Road with Sandmine Road.

At Sandmine Road, a proposed roundabout would be constructed as recommended in the 2006 Traffic Study (W-Trans 2006). The proposed roundabout would be constructed in such a way that most of the new pavement required would extend eastward and would minimize any new fill, grading, or pavement west of the existing road edge. The proposed roundabout would include raised concrete sidewalks that would be connected to the eastern bike path via crosswalks on the south, west, and north sides of the roundabout. Channelization islands would also occur at the north, west, and south sides of the roundabout, providing areas of pedestrian refuge and properly guiding vehicular traffic into the roundabout. Proposed lighting around the roundabout would also be installed, making the feature safer and making night-time navigation easier for vehicles, bikes, and pedestrians.

North of the proposed roundabout, the proposed road, drainage swale, and path would follow the same pattern, with 4-foot shoulders, two paved vehicular travel lanes, wetland drainage swale, and separated path. Widening would occur on the east side of the existing road and the existing western edge of the road would remain in its current location. The path would generally parallel the roadway until approximately 200' south of Roy Avenue, at which point the path would rejoin the road at a proposed perpendicular crosswalk.

The proposed Project would improve the safety of this section of road, minimize environmental impacts, and meet American Association of State Highway and Transportation Officials (AASHTO) standards.

Roadway Width

The proposed total roadway width would be 30 feet, maintaining the existing 22-foot travel lane width and adding a 4-foot paved shoulder to each side of the road.

Path Design

The proposed path width would be 12 feet in width, with 8 feet of paved path and an additional 2-foot shoulder on each side. The path would be outside the right-of-way of Humboldt Road and within the Tribally-owned Martin Ranch property, except at the northern and southern ends of the path, where the path rejoins the road at the location of two proposed Humboldt Road crosswalks. A proposed drainage ditch would be placed on the east side of the path to convey runoff to one of seven proposed culverts under the path. The path culverts would discharge into the relocated roadside ditch.

Roundabout Design

The proposed roundabout at Sandmine Road would include a raised center planter surrounded by a truck apron. Each roadway entering the roundabout would have a concrete channelization island, separating and passively directing traffic into and out of the roundabout. The roundabout would have an outer radius of approximately 115 feet.

Existing driveway access for the Martin Ranch property would be maintained at the location of the proposed roundabout. At the proposed roundabout, two proposed pedestrian crosswalks would connect Humboldt Road to the proposed path and another proposed crosswalk would cross Sandmine Road. A sidewalk would connect to all crosswalks with curb ramps along the outside perimeter of the roundabout.

Structural Pavement Sections

The proposed action would include asphalt concrete reconstruction, overlay, or other repairs to surfacing in areas where the existing roadway is in disrepair. The top 6 inches of subgrade material would be scarified and recompacted to at least 95 percent relative compaction. All fill material would be compacted to no less than 90 percent relative compaction.

Striping and Signage

Proposed roadway striping and signage would follow the California Manual on Uniform Traffic Control Devices (MUTCD). Signage would include yield signs, pedestrian crossing signs and other roundabout traffic signage. Reflective delineators may be placed on both sides of the roadway. Striping would include centerline and fog line striping, as well as stop bars at appropriate intersections.

Drainage

Existing drainage ditches on the east side of Humboldt Road would be reconstructed to convey runoff and treat stormwater as much as practicable to reduce adverse environmental effects. The reconfigured ditch would have a maximum slope of 2:1. There are no proposed changes to the existing drainage features on the west side of the road.

Street Lighting

Street lights are proposed at the corners of the proposed roundabout and at each of two crosswalks at the northern and southern end of the proposed path. Flashing pedestrian crossing beacons would also be constructed at crosswalks at the northern and southern ends of the proposed trail.

Driveway Approach

The existing gravel driveway approach would be reconstructed as either paved or gravel approach to connect to the roadway.

Fencing

Any existing fencing or gates that are affected by construction will be repaired and/or relocated to accommodate the proposed Project. The existing fence at the east side of Humboldt Road would be relocated to the east side of the proposed path.

Temporary Traffic Control During Construction

Construction activities may result in full or partial road closures during earthwork, paving, sidewalk construction, roundabout construction, and associated construction activities. All lane and road closures and temporary traffic control would comply with the MUTCD. In the event of full road closures, detour routes would be provided.

Equipment Staging

Equipment staging would occur within the shoulders of Humboldt Road and on the adjacent Martin Ranch property, which is owned by the Tribe in trust status.

Funding

The Tribe is pursuing Project funding from the Bureau of Indian Affairs ("BIA"), Federal Highway Administration (FHWA), State Transportation Improvement Program (STIP), and STIP Transportation Enhancement (TE), among others.

Proposed Construction Schedule

The proposed Project is expected to begin in the spring/summer of 2012 and would likely be completed within the same period.

2.0 PUBLIC AGENCIES WITH JURISDICTIONAL AUTHORITY

The County of Del Norte is the CEQA lead agency for the proposed Project. Other agencies with jurisdictional authority (e.g., responsible and trustee agencies) are listed below. It should be noted that the Project is: partially within County ROW on federal trust lands of the Tribe, and; partially within County ROW on non-federal land; and partially within federal land not subject to any ROW.

Federal

- U.S. Army Corps of Engineers (Corps)
- U.S. Fish & Wildlife Service (FWS)
- Bureau of Indian Affairs (BIA)

State

- Regional Water Quality Control Board (RWQCB)

- California Coastal Commission (CCC)
- California Department of Fish & Game (DFG)

Tribal

- Elk Valley Rancheria, California

3.0 ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Greenhouse Gas Emissions	☐ Population/Housing
☐ Agricultural & Forestry Resources	☐ Hazards & Hazardous Materials	☐ Public Services
☐ Air Quality	☐ Hydrology/Water Quality	☐ Recreation
☐ Biological Resources	☐ Land Use/Planning	☐ Transportation/Traffic
☐ Cultural Resources	☐ Mineral Resources	☐ Utilities/Service Systems
☐ Geology/Soils	☐ Noise	☐ Mandatory Findings of Significance

DETERMINATION

(To be completed by the Lead Agency) On the basis of this initial evaluation:

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

☒ 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 will be prepared.

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

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect: (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed. .

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect: (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Dec. 19, 2011
Date

Randy Hooper

Community Development Department

4.0 EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each questions. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including offsite as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

   a) Earlier Analysis Used. Identify and state where they are available for review.

   b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

   c) Mitigation Measures. For effects that are "Less Than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be citied in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The analysis of each issue should identify:

   a) the significance criteria or threshold used to evaluate each question; and
   b) the mitigation measure identified, if any, to reduce the impact to less than significant.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
AESTHETICS: Would the project:				
a) Have a substantial adverse effect on a scenic vista?			X	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?			X	
c) Substantially degrade the existing visual character or quality of the site and its surroundings?		X		
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X	

Discussion

a-b) Visual resources within the proposed Project area include rural/pastoral views and natural habitats. Upon completion of the preferred alternative, Humboldt Road would have new 4-foot shoulders, a bikeway, pedestrian pathway and crossings, street lighting, and a roundabout at Sandmine Road. Several above ground utility and light poles would be removed, relocated, altered, or constructed as a result of the Project. The existing drainage ditch to the east of Humboldt Road would be relocated and widened as a result of the Project. This would represent a change in visual character of the road segment from the existing poorly-maintained rural road to a recently constructed rural road with more modern features. Existing viewsheds are not expected to be substantially obstructed under the preferred alternative as no large or tall structures are proposed. The Project is expected to improve the visual appeal of the streetscape that would encourage non-motorized transportation. Therefore impacts would be ***less than significant.***

c) Construction of the expanded road prism and trail would result in the removal of existing vegetation. The removal of vegetation may damage scenic resources and/or substantially degrade existing visual character in these areas. This impact would be ***less than significant after mitigation*** with implementation of Mitigation Measure AES -1.

d) Proposed street lighting at the roundabout and crosswalks could change the night-time visual resources by providing lights where there currently are none. The proposed trail lighting would be designed and constructed to conform to all applicable performance standards for light and glare including shielding and focusing all lighting downward. With incorporation of these performance standards, outdoor light and glare impacts would be ***less than significant.***

Mitigation

AES -1) *Upon completion of construction, soils and slopes exposed due to project-related earthwork shall be re-vegetated with native ground cover, understory species,*

and trees. If removed as a result of the proposed Project, trees and shrubs shall be replaced with native species on a 1:1 basis.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
AGRICULTURE AND FOREST RESOURCES: Would the project:				
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 of the California Resources Agency, to non-agricultural use?			X	
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?			X	
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g), timberland (as defined by PRC section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				X
d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forestland to non-forest use?			X	

Discussion

a, b, e) According to the County of Del Norte Local Coastal Use Plan (a.k.a – General Plan Coastal Element or Local Coastal Program [LCP]), prime agricultural lands may be defined by a number of different rating systems, including: areas mapped as USDA Class I or Class II soils under the Land Compatibility Classification System, areas with soils Storie Index Rating of 80 through 100, areas meeting the Williamson Act definition of prime agricultural lands (definition parallels Coastal Act definition), areas meeting the Del Norte County General Plan definition of prime agricultural lands (actively used areas with a minimum of 20 acres of contiguous ownership which qualify for a rating of 80 through 100 on the Storie Index). Under Section 304 of the federal Coastal Zone Management Act of 1972, the Martin Ranch property is excluded from the Coastal Zone because it is held in trust by the federal government. However, if activities on such excluded lands affect land uses, water uses, or natural resources of the Coastal Zone, they must be reviewed for consistency with the California Coastal Act under the federal consistency review process.

Although the proposed road improvements predominantly fall within the developed right-of-way and footprint of the existing roadway, the proposed path runs along the edge of a large (approximately 200 acre) grazed pasture area within the Martin Ranch property. For purposes of the analysis herein only, the Martin Ranch is assumed to be prime agricultural land because it can be shown to meet most or all of the criteria contained in

the definitions above. The Tribe does not consent to or otherwise cede jurisdiction to the State or any political subdivision thereof over Tribal lands. The Martin Ranch area ("south of the Bertsch-Oceanview tract") is also specifically identified in the Del Norte County LCP as an "existing agricultural district." The Del Norte County LCP requires that development on coastal prime agricultural lands shall not be permitted unless allowable under Section 30241 of the Coastal Act. Section 30241 of the Coastal Act requires that the maximum amount of prime agricultural land be maintained in agricultural production, and that conflicts between urban and agricultural uses be minimized by a variety of means, including assuring that public facility expansions and nonagricultural development do not impair agricultural viability through degraded air or water quality. Section 30241 also provides that use conflicts shall be minimized by "establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas..." The County LCP further stipulates that, "In general, recreational uses are compatible with agriculture," and that, "Buffer zones...may be utilized to shield agricultural lands from adjoining incompatible land uses."

The proposed Project would be consistent with both the County LCP and the Coastal Act because the proposed path would effectively create a buffer zone between the agricultural lands to the east and the Humboldt Road transportation corridor. The existing pasture fence is positioned on the edge of the pasture and at the top of the bank of the drainage ditch that separates Humboldt Road from the pasture. This configuration allows livestock to be present in close proximity to the flowing water in the drainage ditch and, as such, does not provide an adequate buffer zone for the treatment of runoff from pasture. Likewise, under the existing conditions, livestock productivity and health may be somewhat negatively impacted due to the close proximity of traffic.

The proposed Project would reconfigure the area between the pasture and the road by placing the proposed path approximately 15 to 50 feet east of the edge of the road. A fence on the east side of the proposed path would exclude livestock from the path and the vegetated area/drainage ditch between the road and path, effectively creating a natural buffer shielding the transportation corridor from the agricultural land. Because the proposed project would provide a natural buffer between the transportation and agricultural uses, and would not substantially reduce or alter available agricultural land on the Martin Ranch, a ***less than significant impact*** would occur.

c, d) The Project is not located in any area zoned for forest land, timberland, or Timberland Production forest and would not result in the loss or conversion of any forest land. ***No impact*** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
AIR QUALITY: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				

a) Conflict with or obstruct Implementation of the applicable air quality plan?			X	
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?			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

a, b, c) The Project site is located within the North Coast Air Basin (NCAB) and the jurisdiction of the North Coastal Unified Air Quality Management District (NCUAQMD). The NCAB currently meets all federal air quality standards; however, it has been designated as non-attainment (exceeds maximum limits) for California Ambient Air Quality Standards for particulate matter less than ten microns in size (PM_{10}). To address this, the NCUAQMD adopted a Particulate Matter Attainment Plan in 1995. This plan presents available information about the nature and causes of PM_{10} standard exceedance, and identifies cost-effective control measures to reduce PM_{10} emissions, to levels necessary to meet California Ambient Air Quality Standards.

The Del Norte County General Plan calls for the County to continue to solicit and consider comments from local and regional agencies on projects that may affect regional air quality and to encourage that development be located and designed to minimize direct and indirect air pollutants.

The proposed Project would generate particulate construction emissions in the form of dust and vehicle emissions as a result of earthwork, paving, and other associated Project construction activities. While the NCAB is in non-attainment for PM_{10}, the temporary nature of construction activities combined with implementation of standard NCUAQMD dust and CO_2 emission reduction measures during construction (e.g., watering of construction site, covering haul trucks, street sweeping haul routes, landscaping/covering freshly graded areas immediately after grading, etc.) would avoid significant impacts. In the long term, the proposed Project would not substantially add to the level of PM_{10} emissions such that it would cause a cumulatively considerable net increase. The proposed path would, however, provide a safer and more attractive non-motorized transportation alternative that may result in a minor reduction of local vehicle emissions and result in a minor long-term net beneficial air quality impact. The proposed project would not obstruct implementation of the NCUAQMD Particulate Matter Attainment Plan, violate air quality standards, or contribute substantially to an existing or projected air quality violation. The Project would be consistent with applicable General Plan policies related to air resources and a ***less than significant impact*** would occur. See also

Hydrology and Water Quality Mitigation Measure HYD -1 for BMPs that would reduce dust emissions.

d) The proposed Project is not located adjacent to a sensitive receptor (e.g., hospitals, daycare centers, schools, etc.) and would not result in substantial air pollutant concentrations. Therefore, ***no impact*** would occur.

e) The construction phase would include a number of operations and materials which may produce odors that would be objectionable. However, such odors would be temporary and localized. In addition, due to the rural nature of the Project area, any odors would likely be experienced only by those driving in the area during construction or those working on the Project. A ***less than significant impact*** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
BIOLOGICAL RESOURCES: Would the project:				
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 or other sensitive natural community identified in local or regional plans, policies, and 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 resident 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	

Analysis Methodology

The following analysis is based on a Natural Features Assessment and Wetlands Delineation prepared for the Project by W&K (Appendices A and B, available at Del Norte County

Community Development Department). The Natural Features Assessment includes: (1) a description of existing habitats and site features related to biological resources; (2) a review of California Natural Diversity Database (CNDDB) and US Fish and Wildlife Service species list databases listing special-status plant and animal species that have been previously recorded in the region in which the proposed Project would occur; and (3) an assessment of the likelihood that the Project area contains habitat that may support any of the recorded species. The Wetland Delineation includes delineation of jurisdictional wetlands within and adjacent to the Project following federal and state delineation criteria and procedures. The wetland boundary was evaluated using the Army Corps of Engineers (Corps) (three-parameter), and/or Coastal Commission (one-parameter) methodologies, as applicable based on location. A prior wetland delineation for the Martin Ranch property conducted in 2005 by Analytical Environmental Services, Inc (AES) was used as a reference in completion of the W&K delineation (AES 2005). Winzler & Kelly conducted field investigations for special status species in April and late June of 2011.

Applicable Regulations

Impacts to Wetlands and Waters - The Corps has jurisdiction over wetlands as defined in the Corps Wetlands Delineation Manual (Environmental Laboratory, 1987). Pursuant to Clean Water Act, a Corps Section 404 permit would be required for any fill or dredging within jurisdictional wetlands or waters of the U.S. Federally-permitted projects on tribal land are also subject to EPA 401-water quality certification for impacts to "Waters of the U.S." The portion of the Project on non-federal land may be subject to 401-water quality certification by the RWQCB.

Special Status Species - Special-status species include those plant and wildlife species that have been formally listed, are proposed as endangered or threatened, or are candidates for such listing under the federal Endangered Species Act (FESA) or California Endangered Species Act (CESA). These Acts afford protection to both listed and proposed species. Special-status species evaluated for CEQA may also include: DFG Species of Special Concern, FWS Birds of Conservation Concern, species included in FWS Recovery Plans, and FWS special-status invertebrates. Plant species on California Native Plant Society (CNPS) Lists 1 and 2 are also considered special-status plant species under CEQA. Prior to issuance of any federal permit or authorization for any project which may affect federally listed threatened or endangered species or critical habitat, the FWS must conduct consultation under Section 7 of the federal Endangered Species Act. The DFG has jurisdiction over species listed as threatened or endangered under California Fish and Game Code Section 2080.

Coastal Zone Policies - The Del Norte County LCP includes several policies that apply to biological resources, including among others: protection of environmentally sensitive coastal habitats, protection of sensitive species, protection of wetlands, establishment of buffer zones, and the protection of water resources. These policies would apply on all Project lands subject to Del Norte County jurisdiction, including all land to the west of the Martin Ranch property. Under Section 304 of the federal Coastal Zone Management Act of 1972 (CZMA), the Martin Ranch property is excluded from the Coastal Zone because it is held in trust by the federal government. However, the CZMA requires that certain federal agency activities, and certain

private activities done under the authority of a federal license or permit, that affect the coastal zone, be consistent with the State's coastal management program. See 16 U.S.C. § 1456(c). A federal agency carrying out an activity that affects the coastal zone must provide a consistency determination to the relevant State agency before final approval of the federal activity. See 16 U.S.C. § 1456(c)(1)(C). Any applicant for a required federal license or permit to conduct an activity, within or outside of the coastal zone, that affects any land or water use or natural resource of the coastal zone is required to furnish a certificate that its proposed activity is consistent with the State's coastal management program. See 16 U.S.C. § 1456(c)(3)(A). Title 15 C.F.R. part 930 et seq., enacted pursuant to the CZMA, "describes the obligations of all agencies, individuals and other parties who are required to comply with the Federal consistency provisions of the Coastal Zone Management Act."

Coastal wetlands are defined in the Del Norte County LCP as areas "which may be covered periodically or permanently with shallow water..." Under the LCP, impacts to wetlands shall only be permitted under certain conditions identified in Section 30233 of the Coastal Act. Section 30233 requires that diking, filling, or dredging of wetlands shall be permitted for certain types of projects only if there is no feasible less environmentally damaging alternative, and if feasible mitigation measures have been provided to minimize adverse environmental effects.

DFG Streambed Alteration (Section 1600) - - California's streams and lakes are generally subject to DFG jurisdiction under Sections 1600-1616 of the California Fish and Game Code. Significant alterations to or work within or adjacent to streambeds or lakes generally require a 1602 Lake and Streambed Alteration Agreement. Because impacts to ditches and streams for the proposed project only occur on federal trust land, the eastern portion of Project is exempt from Section 1600. The western portion of the Project is not within the bed or banks of any stream.

Existing Conditions

Habitat Types - The site elevation is approximately 20 feet above mean sea level (msl), and is generally flat and with relatively consistent elevation. The low coastal Rellim Ridge rises to the east of the site reaching up to approximately 900 feet above msl. The Humboldt Road corridor between Highway 101 and Roy Avenue is dominated by undeveloped pasture land and wetlands to the east on the Martin Ranch property (Attachment A - Figure 2a and 2b). On the west side of Humboldt Road in the Project area is DFG-owned and managed Crescent City Marsh Wildlife Area, which is predominantly wetland habitat beyond the toe of the fill slope of the road. Habitat types present in the Project area include wetlands, grasslands, and woodland, as briefly described below:

Grassland / Pasture Habitat: Pasture and open space areas exist on the west and east sides of Humboldt Road throughout the Project area. Throughout the Project corridor, the Humboldt Road shoulders beyond the edge of pavement are vegetated predominantly with facultative grassland and upland perennial species. The area to the west of Humboldt Road is generally densely vegetated with shrubs with occasional open areas that support grassland. The northern portion of this area, along the Humboldt Road corridor, appears drier in nature and contains predominantly upland species. The southern portion of this area near the intersection of Sandmine and Humboldt Roads contains a mix of dense upland and wetland scrub-shrubs with some herbaceous understory.

Wetland Habitats: The DFG owns and manages the large Crescent City Marsh Wildlife Area to the west of Humboldt Road. The Wildlife Area is predominantly a forested and scrub/shrub wetland and contains areas of western lily habitat (see Special Status Species, below). The Del Norte County LCP identifies the "Sandmine Road Wetland" as a major coastal wetland. Although the LCP does not map this wetland, it is assumed herein to be comprised of all wetlands to the west of Humboldt Road in the area of the Project.

Several small unnamed stream channels enter the Martin Ranch property from the Rellim Ridge area and flow west towards Humboldt Road. These streams have a low gradient and generally shallow channels. The streams are either channelized and predominantly devoid of riparian vegetation along their banks or they flow to larger wetland complexes within the Martin Ranch property. These intermittent and ephemeral streams are generally dry, following the wet season, but likely provide seasonal habitat for amphibians and other wildlife. The stream channels and wetland areas to the east of Humboldt Road generally flow to the ditch on the east side of Humboldt Road, where water is conveyed to several culverts under the road, eventually flowing to the Crescent City Marsh Wildlife Area.

Detailed descriptions of the wetlands and wetland delineation maps for the Project area may be found under separate cover (Appendix B and C) at the Del Norte County Community Development Department (AES 2005, W&K 2011).

Special Status Species - The DFG California Natural Diversity Database (CNDDB) special status species with potential to occur in the Project vicinity are listed in Table 1, below. The FWS Listed/Proposed Threatened and Endangered Species for the Sisters Rock Quad are provided in Table 2, below.

Table 1: Potentially Occurring Special-Status Species in the Project Vicinity

Scientific Name	Common Name	Status	Description / Habitat	Presence at Project Site According to Seasonally-appropriate Survey
Abronia umbellata var. breviflora	pink sand-verbena	CNPS (1B.1)	Sandy soils, coastal scrub, lees of dunes near strand; open sandy beaches, typically at or below the zone of driftwood accumulation. flowers July-Oct.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Arborimus pomo	Sonoma tree vole	DFG (SSC)	Forage on needles of Douglas fir and grand fir. Frequents mature and other stands of Douglas-fir, redwood, or mixed evergreen trees in fog belt.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Ascaphus truei	western tailed frog	DFG (SSC)	Inhabits cold, clear, rocky streams in wet forests; unlikely in ponds or lakes. Rocky streambed is necessary for cover for adults, eggs, and larvae. After heavy rains, adults may be found in the woods away from streams.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Calamagrostis crassiglumis	Thurber's reed grass	CNPS (2.1)	Northern Coastal Scrub, Freshwater Wetlands, wetland-riparian	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Carex lenticularis var. limnophila	lagoon sedge	CNPS (2.2)	Wetlands, North Coastal Coniferous Forest, wetland-riparian	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Carex lyngbyei	Lyngbye's sedge	CNPS (2.2)	Estuaries, coastal salt marsh, brackish marshes. Flowers May-Aug.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Carex viridula var. viridula	green yellow sedge	CNPS (2.3)	North coastal coniferous forest, wetland-riparian	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Castilleja affinis ssp. litoralis	Oregon coast paintbrush	CNPS (2.2)	Dry areas along bluffs, chaparral near coast.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Empetrum nigrum ssp. hermaphroditum	mountain crowberry	CNPS (2.2)	Northern Coastal Scrub rock outcrops, typically non wetlands although occasionally found in moist Coastal Prairie	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Eriogonum nudum var. paralinum	Del Norte buckwheat	CNPS (2.2)	Sandy to gravelly flats, mesas, or coastal bluffs, mixed grassland and manzanita communities, oak and scattered conifer woodlands;	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Gilia capitata ssp. pacifica	Pacific gilia	CNPS (1B.1)	Valley and foothill grasslands, cismontane woodlands, and chaparral habitats,	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.

Table 1: Potentially Occurring Special-Status Species in the Project Vicinity

Scientific Name	Common Name	Status	Description / Habitat	Presence at Project Site According to Seasonally-appropriate Survey
Lathyrus japonicus	seaside pea	CNPS (2.1)	Sandy shores	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Lathyrus palustris	marsh pea	CNPS (2.1)	Wet meadows and shores, swamps.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Lilium occidentale	western lily	Fed/State (E); CNPS (1B.1)	Bogs composed of poorly drained, slightly acidic, highly organic soils. Existing populations from near sea level to 320 feet asl. Flowers June-July.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Martes americana humboldtensis	Humboldt marten	DFG (SSC)	Physical structure of the forest, including large live and dead trees, coarse woody debris, and a relatively low and closed canopy	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Oceanodroma furcata	fork-tailed storm-petrel	DFG (SSC)	Off the Pacific Coast; during the breeding season species nests in colonies on small Pacific islets with enough soil in which to dig nest-burrows. Forage on the open ocean over the continental shelf and farther out to sea.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Oenothera wolfii	Wolf's evening-primrose	CNPS (1B.1)	Grasslands, coastal strand, roadsides, and coastal bluffs. Sandy soils, well drained but adequate moisture. Areas protected from NW exposure, south of a headland, promontory, or near river mouth.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Oncorhynchus clarkii clarkii	coastal cutthroat trout	DFG (SSC)	Variety of habitat types including low and upper reaches of large and small river systems, estuaries, sloughs, ponds, lakes, and nearshore ocean waters.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Packera bolanderi var. bolanderi	seacoast ragwort	CNPS (2.2)	Coastal Strand, Northern Coastal Scrub. Partial canopy removal increases light and improves habitat	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Phalacrocorax auritus	double-crested cormorant	DFG (WL)	Coastal and inland waters; perch on rocks, sandbars, piles near forage areas at ponds, lakes, slow-moving rivers, estuaries, and open coastlines. Breed on rocky or sandy islands, or exposed offshore rocks. May also nest or roost in trees, especially when predators are present.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Polemonium carneum	Oregon polemonium	CNPS (2.2)	Lowlands of mountain ranges and in prairies, to moderate elevations in the mountains.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.

Table 1: Potentially Occurring Special-Status Species in the Project Vicinity

Scientific Name	Common Name	Status	Description / Habitat	Presence at Project Site According to Seasonally-appropriate Survey
Potamogeton foliosus ssp. fibrillosus	fibrous pondweed	CNPS (2.3)	Submerged habitats.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Rana aurora	northern red-legged frog	DFG (SSC)	Humid forests, woodlands, grasslands, streamsides with plant cover. Lowlands or foothills. Breeds in permanent waters, lakes, ponds, reservoirs, slow streams, marshes, bogs, and swamps.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Romanzoffia tracyi	Tracy's romanzoffia	CNPS (2.3)	Ocean bluffs in contact with salt sprays.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Sanguisorba officinalis	great burnet	CNPS (2.2)	Riparian, meadows, freshwater-marsh, bogs/fens Grows in moist meadows and shady places, chiefly in mountainous districts	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Sidalcea malachroides	maple-leaved checkerbloom	CNPS (4.2)	Broadleafed upland forest, Riparian woodland, disturbed areas,North Coast coniferous forest, Coastal scrub, Coastal prairie, Flowers late May-June.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Trientalis europaea	arctic starflower	CNPS (2.2)	Meadows, bogs/fens, coastal	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.
Viola palustris	alpine marsh violet	CNPS (2.2)	Coastal scrub and coastal bogs and fens; flowers March-August.	**Not Present.** Seasonally appropriate surveys in April and late June of 2011 indicate species is not present at project site.

Source: Sister Rocks and Crescent City Quads
Key: E = State and/or Federally Endangered; T = Threatened; SSC = State DFG Species of Special Concern.

Table 2 - Listed/Proposed Threatened and Endangered Species for the SISTER ROCKS Quad (Candidates Included)

April 5, 2011

Document number: 442506124-111230

KEY:
(PE) Proposed Endangered Proposed in the Federal Register as being in danger of extinction
(PT) Proposed Threatened Proposed as likely to become endangered within the foreseeable future
(E) Endangered Listed in the Federal Register as being in danger of extinction
(T) Threatened Listed as likely to become endangered within the foreseeable future
(C) Candidate Candidate which may become a proposed species Habitat Y = Designated, P = Proposed, N = None Designated
* Denotes a species Listed by the National Marine Fisheries Service

Type		Scientific Name	Common Name	Category	Critical Habitat
Plants					
		Lilium occidentale	western lily	E	N
Invertebrates					
	*	*Haliotis cracherodii*	black abalone	E	N
		Polites mardon	mardon skipper	C	N
Fish					
	*	*Acipenser medirostris*	green sturgeon	T	Y
		Eucyclogobius newberryi	tidewater goby	E	Y
	*	*Oncorhynchus kisutch*	S. OR/N. CA coho salmon	T	Y
Reptiles					
	*	*Caretta caretta*	loggerhead turtle	T	N
	*	*Chelonia mydas (incl. agassizi)*	green turtle	T	N
	*	*Dermochelys coriacea*	leatherback turtle	E	Y
	*	*Lepidochelys olivacea*	olive (=Pacific) ridley sea turtle	T	N
Birds					
		Brachyramphus marmoratus	marbled murrelet	T	Y
		Charadrius alexandrinus nivosus	western snowy plover	T	Y
		Coccyzus americanus	Western yellow-billed cuckoo	C	N
		Phoebastris albatrus	short-tailed albatross	E	N
		Strix occidentalis caurina	northern spotted owl	T	Y
		Synthliboramphus hypoleucus	Xantus's murrelet	C	N
Mammals					
	*	*Balaenoptera borealis*	sei whale	E	N
	*	*Balaenoptera musculus*	blue whale	E	N
	*	*Balaenoptera physalus*	fin whale	E	N
	*	*Eumetopias jubatus*	Steller (=northern) sea-lion	T	Y
		Martes pennanti	fisher, West Coast DPS	C	N
	*	*Megaptera novaengliae*	humpback whale	E	N
	*	*Physeter macrocephalus*	sperm whale	E	N

Source: AFWO Web - http://www.fws.gov/arcata/specieslist/speciesreport.asp

Evaluation of Special Status Species - Several of the CNDDB- and FWS-listed special status species known from the vicinity were eliminated from further consideration due to a lack of suitable habitat in the Project area and/or a lack of Project impacts. A variety of habitats in and around the Project area, however, have the potential to support several of the CNDDB- and FWS-listed species.

The western lily (*Lilium occidentale*), a state and federal endangered plant species, is known to occur in bogs composed of poorly drained, slightly acidic, highly organic soils from near sea level to 320 feet above sea level. Western lily populations and habitat are known to occur in the Crescent City Marsh Wildlife Area, to the west of the Project.

The federally threatened and state endangered Southern Oregon/Northern California coho salmon (*Oncorhynchus kisutch*) has been observed in tributaries to nearby Elk Creek. Critical habitat for the coho includes all accessible reaches of all rivers (including estuarine areas and tributaries) between the Mattole River in California and the Elk River in Oregon. The ditches, streams and wetlands in the immediate Project area do not maintain enough flow or connectivity to Pacific Ocean to support the coho salmon. Nearby tributaries of the Elk Creek watershed do not drain or connect to the Project area.

The state species of special concern coastal cutthroat trout (*Oncorhynchus clarkii clarkia*) occupies a variety of habitat types including low and upper reaches of large and small river systems, estuaries, sloughs, ponds, lakes, and nearshore ocean waters in the Project area. During personal communications with DFG regarding this Project, DFG staff indicated that the roadside ditch on the east side of Humboldt Road and stream on the north side of the Martin Ranch property may support coastal cutthroat trout (M. van Hattem 2011). However, the streams and ditches in the Project area are seasonally intermittent, overgrown with vegetation, filled with sedimentation, and do not have continuous channels. Therefore, these ditches and streams do not appear to meet the habitat requirements for coastal cutthroat trout. A letter sent to DFG on April 29, 2011 provided map figures of the project area, outlined the history of the communications with DFG regarding the Pproject, acknowledged DFG's stated concerns, referenced 2008 and 2010 studies that failed to find suitable habitat for coastal cutthroat trout in the Project area, and requested a response from DFG. DFG was re-contacted in the subsequent weeks, but the department never responded to phone calls or the April 29th letter. Given that the ditches and stream are seasonally intermittent, overgrown with vegetation, filled with sedimentation, and do not have continuous channels, it is unlikely that coastal cutthroat trout occur in the Project area. In addition, the Project will not impact the northern stream or the northern culvert and the roadside ditch will be replaced and improved where it is impacted. Therefore, the Project is not likely to impact coastal cutthroat trout and no mitigation is proposed.

The Project area also contains potential habitat for two state listed frog species of special concern. The western tailed frog (*Ascaphus truei)* inhabits permanent or semi-permanent rocky, high-gradient streams. Permanent and semi-permanent, high-gradient streams are not present within the Project area. However the species is known to occur within 0.25-miles of the Project area and may be present in upper, higher gradient reaches of streams which pass through or near the Project area. The northern red-legged frog (*Rana aurora)* occurs in seasonal wetlands, marshes, and slow moving vegetated streams and is expected to occur within the Project area.

Several additional CNPS-listed plants included in Table 1, above, may also occur in the project area. These plants include: alpine marsh violet (*Viola palustrus*), arctic starflower (*Trientalis europaea*), maple leaved checkerbloom (*Sidalcea malachroides*), Oregon polemonium (*Polemonium carneum*), marsh pea (*Lathyrus palustris*), green yellow sedge (*Carex viridula var. viridula*), lagoon sedge (*Carex lenticularis var. limnophila*), and Thurber's reed grass (*Calamagrostis crassiglumis*).

Discussion

a) The Project area contains suitable habitat for several special status plant species, as discussed above. During field visits in September 2010 and seasonally appropriate surveys in April and late June of 2011, these species were not located within areas that would be directly or indirectly impacted by the proposed Project. This impact would be ***less than significant impact.***

The wetlands and ditches in and around the Project area provide potential habitat for one state listed frog species of special concern, the northern red-legged frog (*Rana aurora*), and another, the western tailed frog (*Ascaphus truei)* occurs nearby. Project construction activities involve activities that could cause direct mortality to frogs. The Project would also generate temporary noise, sediment, vibration, and light that could have adverse impacts to these species. Although no special status frog species were observed during the field survey, additional surveys for these species should be conducted prior to construction activities. If special status frogs are found, a qualified biologist should remove individuals from the Project area to other suitable habitat outside of the Project area. The Project would have a ***less than significant impact after mitigation*** on special status frog species with implementation of Mitigation Measure BIO-1 and BIO-2.

b, c) Implementation of the Project would result in impacts to jurisdictional wetlands. The Project would cause impacts to 0.31 acres of jurisdictional wetlands. A ***less than significant impact after mitigation*** would occur with implementation of Mitigation Measure BIO-3.

d) The ditches and streams in the Project boundaries are seasonally intermittent, overgrown with vegetation, filled with sedimentation, and do not have continuous channels. Therefore, the Project site does not meet the habitat requirements for any native resident or migratory fish or meet the criteria for established native resident or migratory wildlife corridors. In addition, the Project will not impact the northern stream or the northern culvert and the roadside ditch will be replaced and improved where it is impacted. Therefore, ***no impact*** would occur.

e) The Del Norte County LCP includes several policies that apply to biological resources, including among others: protection of environmentally sensitive coastal habitats, protection of sensitive species, protection of wetlands, establishment of buffer zones, and the protection of water resources. These policies would apply on all Project lands subject to Del Norte County jurisdiction, including all land to the south and west of the Martin Ranch property. Under Section 304 of the federal Coastal Zone Management Act of

1972, the Martin Ranch property is excluded from the Coastal Zone because it is held in trust by the federal government. However, if activities on such excluded lands affect land uses, water uses, or natural resources of the Coastal Zone, they must be reviewed for consistency with the California Coastal Act under the federal consistency review process.

Coastal wetlands are defined in the Del Norte County LCP as areas "which may be covered periodically or permanently with shallow water..." Under the LCP, impacts to wetlands shall only be permitted under certain conditions identified in Section 30233 of the Coastal Act. Section 30233 requires that diking, filling, or dredging of wetlands shall be permitted for certain types of projects only if there is no feasible less environmentally damaging alternative, and if feasible mitigation measures have been provided to minimize adverse environmental effects.

Review and approval by the Del Norte County and California Coastal Commission under these policies would ensure that the Project would not conflict with local policies adopted to protect biological resources. A ***less than significant impact*** would occur.

f) Several state and federal plans prepared for the protection of threatened and endangered species may apply to varying degrees in the Project area, in particular the western lily and coastal cutthroat trout. Based on the discussions above, the proposed Project would not significantly impact any species or habitat and, therefore, would not conflict with any conservation plans. A ***less than significant impact*** would occur.

Mitigation

BIO-1) Construction activities within the streams on the Martin Ranch property shall include the implementation of BMPs to avoid sedimentation and polluted runoff from draining to the creeks and sloughs from the construction sites.

BIO-2) Pre-construction surveys for the northern red-legged frog (*Rana aurora*) shall be conducted by a qualified biologist prior to construction activities. If the species is found to be present, a qualified biologist shall remove the frog(s) from the Project area to other suitable habitat outside of the Project area. The Project shall not cause a permanent net loss to habitat for this species. If any suitable habitat impacts cannot be avoided, additional suitable habitat areas shall be created such that there is no net loss of suitable habitat for any special status frog.

BIO-3) The applicant has conducted a wetland mitigation feasibility analysis. The feasibility analysis identified two on-site upland locations for mitigation that are of sufficient size to achieve conservative compensatory mitigation ratios (i.e. 2:1 and 3:1). Each upland site is adjacent to existing mapped wetlands. Groundwater monitoring wells were installed at each of the two on-site upland locations, the results of which indicate that the locations are suitable for mitigating the impacted wetlands. Based on the results of the feasibility analysis, the applicant shall develop an on-site compensatory wetland mitigation and monitoring plan approved by the Corps, DFG, Del Norte County, the California Coastal Commission and any other resource agency with jurisdiction. Approximately

0.31 acres of impacts would occur due to the Project. At a minimum, the plan shall: result in no net loss of wetland area or function; include a planting plan that reflects the native plant species within the wetland types to be impacted; and include maintenance and monitoring of the mitigation site for a minimum of 5 years.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
CULTURAL RESOURCES: Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?		X		
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §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		

This discussion of cultural resources is based on *An Historic Properties Investigation for the Elk Valley Rancheria – Humboldt Road Safety Improvement Project* prepared by Roscoe and Associates Cultural Resources Consultants for the project (Roscoe and Associates 2010).

Discussion

a-d) Roscoe and Associates, a cultural resources consulting firm, conducted an initial Phase I historic properties investigation for the proposed Elk Valley Rancheria – Humboldt Road Safety Improvement Project located near Crescent City, Del Norte County, California (Appendix C, available to qualified individuals at the County of Del Norte Community Development Department).

The historic properties investigation was designed to address the requirements of Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations (36 CFR Part 800). The primary goal of this investigation was to conduct a Phase I historic properties survey to identify known or previously unknown cultural resources within or adjacent to the project's Area of Potential Effects (APE). The investigation included a records search at the North Coastal Information Center (NCIC), historical background research, consultation with the Tribal Historic Preservation Officer (THPO) of the Elk Valley Rancheria, other local Native American tribes, and a pedestrian-based field survey of the ground surface. As a result of these efforts, no historic properties or other cultural resources were identified within or adjacent to the project APE. Pursuant to 36 CFR Part 800.4 (d)(1), this investigation supports a determination of no historic properties affected (Roscoe & Associates 2010). According to the report, the report preparers consulted with the Tribe's Tribal Historic Preservation Officer (THPO), Dr. Shannon Tushingham, who concurred with this finding on October 22, 2010.

Although no historic/cultural resources were identified in or adjacent to the APE during the Roscoe and Associates survey, the project includes ground disturbance for road, trail, and mitigation area construction that has a potential to unearth buried archaeological resources, paleontological resources, and/or human remains. The impact would be ***less than significant after mitigation*** with implementation of Mitigation Measures CUL-1 and -2.

Mitigation

CUL-1) Earthmoving and excavation activities related to road, path, and wetland mitigation construction will be monitored for presence of archaeological or paleontological artifacts and immediately stopped if such activities uncover suspected cultural resources. Any suspected cultural resources discovered will be inspected by a qualified archaeologist, and any reporting/curation/ preservation recommendations made by the archaeologist will be implemented.

CUL-2) If human remains are uncovered as a result of the Project, construction activities in the immediate vicinity of the remains shall be halted, the County of Del Norte Community Development Department, County Coroner, Native American Heritage Commission (NAHC), and Elk Valley Rancheria Tribal representatives shall be notified. Any human remains shall be treated in accordance with NAHC treatment and disposition requirements, and in accordance with all applicable federal, state, local, and tribal requirements.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
GEOLOGY AND SOILS: Would the project:				
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 know 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 geologic unit or soil that is unstable or that would become unstable as a result of the project, and potentially result in onsite or offsite landslide, lateral spreading, subsidence, liquefaction or collapse?				
d) Be located on expansive soil, 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 wastewater disposal systems where sewers are not available for the disposal of wastewater?				X

Discussion

a.i-iv, c, d) The Alquist-Priolo Earthquake Fault Zoning (AP) Act was passed into law following the destructive 1971 Mw 6.6 San Fernando earthquake. The AP Act provides a mechanism for reducing losses from surface fault rupture on a statewide basis. The intent of the AP Act is to insure public safety by prohibiting locating most structures for human occupancy across traces of active faults that constitute a potential hazard to structures from surface faulting or fault creep. The project site is not bisected by any known fault and is not located within an AP Earthquake Fault Zone. Since the Project is not in a mapped AP Earthquake Fault Zone and would not include habitable structures, the Project would not expose persons or structures to potential substantial fault rupture hazards. A ***less than significant impact*** would occur.

The Project is located within a seismically active region in which very large earthquakes are possible. Strong seismic shaking is a regional hazard, and is not particular to the project site. Although roads and paths can be damaged by earthquakes, there are proposed project components that would expose persons or structures to potential substantial seismic ground shaking hazards. The Project would comply with AASHTO construction standards that would allow the project to withstand a reasonably anticipated level of strong seismic ground shaking. A ***less than significant impact*** would occur.

The Project area is not mapped by the California Geological Survey under the Seismic Hazards Mapping Act, which addresses non-surface rupture hazards such as landslides and liquefaction. The site is likely underlain by a relatively course alluvial substrate that would not be subject to substantial liquefaction during a seismic event. Furthermore, the proposed Project would not include residential housing or critical facilities that would be subject to liquefaction. Therefore, the Project would not expose persons or structures to potential substantial seismically-induced ground failure and liquefaction hazards, and ***less than significant impact*** would occur.

The Humboldt Road area is relatively flat and separated from the base of the Rellim Ridge slopes by approximately 0.4 miles. There is no apparent visual evidence of recent active landslides that would affect the Project. Slope stability hazards associated with the proposed Project are highly unlikely due to the topographic setting of the surrounding area. Therefore, ***no impact*** would occur.

b) Construction activities, including cut, fill, removal of vegetation, and operation of heavy equipment would potentially disturb soil. Slopes altered as a result of the project will be reconstructed to reduce the potential for erosion. Erosion control measures, such as silt fences, straw bales, and straw wattles, would be maintained during project construction. All disturbed areas would be re-vegetated following construction with native, non-invasive species or non-persistent hybrids that would serve to stabilize site conditions and prevent invasive species from colonizing. Implementing these measures would avoid

substantial erosion or topsoil loss. This impact would be ***less than significant.*** See also Hydrology and Water Quality Mitigation.

e) The proposed Project would not involve the construction or use of septic tanks or an onsite wastewater disposal system. Therefore, ***no impact*** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
GREENHOUSE GAS EMISSIONS: Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?				X
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?				X

Discussion

a, b) In 2002 the California legislature declared that global climate change was a matter of increasing concern for the state's public health and environment, and enacted a law requiring the state Air Resources Board (ARB) to control GHG emissions from motor vehicles (Health & Safety Code §32018.5 et seq.). CEQA Guidelines define greenhouse gases to include carbon dioxide (CO_2), nitrous oxide (N_2O), hydrofluorocarbons, perfluorcarbons, and sulfur hexafluoride. The California Global Warming Solutions Act of 2006 (Assembly Bill 32) definitively established the state's climate change policy and set GHG reduction targets (Health & Safety Code §38500 et seq.). The State set its target at reducing greenhouse gases to 1990 levels by 2020.

Construction of the Project would directly cause GHG emissions as a result of combustion of fossil fuels used in equipment. Use of a variety of construction materials would contribute indirectly the GHG emissions, because of the emissions associated with their manufacture. The construction-related greenhouse gas emissions would be short-term. The Project would increase the potential for non-motorized transportation in the area of the Project, leading to a potential long net term decrease in GHG emissions. Therefore, the Project would not significantly increase greenhouse emissions. The Project would have ***no impact.***

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
HAZARDS AND HAZARDOUS MATERIALS: Would the project:				

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	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 into 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 or public use 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

a) The Project would result in the use of common equipment fuels and lubricants, and common road construction materials, such as asphalt, concrete, and road paints. The Project does not involve the transport, use, or disposal of hazardous materials, and thus would not create a significant hazard to the public associated with these materials. ***A less than significant impact*** would occur.

b, d) Two Phase I Environmental Site Assessments have been completed in the Project area: one conducted in January of 2003 for the Martin Ranch property and a second for the Ocean Way Motel property at the southwest end of Humboldt Road in June 2009. Both followed the guidelines of the American Society of Testing and Materials (ASTM) Practice E 1527-05 (AES, 2009). These reports did not identify any hazardous sites in the Project area. No hazardous materials storage or visual evidence of soil contamination

was noted during any of the field surveys conducted for the Project. If hazardous materials are found during construction, the construction contractor would be required to comply with local, state, and federal regulations pertaining to the discovery of such material. *A **less than significant impact*** would occur.

c) Elk Valley Head Start, approximately 1.5 miles north, is the nearest school to the proposed action. The Project is not located within ¼ mile of a school and would not emit hazardous emissions or acutely hazardous materials, substances, or waste. Therefore, ***no impact*** would occur.

e-f) The proposed Project is not located within an airport land use plan, within two miles of a public airport or public use airport, or within the vicinity of a private airstrip. The Project does not include new development for human occupation, and does not include structures which could potentially represent a hazard to aviation. The Project would not result in airport-related safety hazards for people residing or working in the Project area. ***No impact*** would occur.

g) The Del Norte County Office of Emergency Services (OES) coordinates countywide response to disasters. OES is responsible for alerting and notifying appropriate agencies when disaster strikes; coordinating all agencies that respond; ensuring resources are available and mobilized in times of disaster; developing plans and procedures for response to and recovery from disasters; and developing and providing preparedness materials for the public. The OES would coordinate evacuation planning in the event of seismic events, tsunamis, slope failure, floods, storms, fires, and hazardous materials spills.

The Project is located within an area of State of California mapped tsunami inundation projections and may experience a tsunami in the event of a strong earthquake originating over a broad portion of the Pacific Ocean. The proposed Project would not impair implementation of or physically interfere with implementation of tsunami or other evacuation plans because it would generally improve the flow of traffic and safety on Humboldt Road and Sandmine Road – a potential evacuation route out of tsunami inundation zones. Furthermore, the Project does not include development that would significantly increase the number of people exposed to potential emergencies. *A **less than significant impact*** would occur.

h) The Project does not involve wildlands with substantial risk of wildfire and would not result in the intermixing of residences or other structures with wildlands. The Project would not expose people or structures to a significant risk of loss, injury or death involving wildland fires, and ***no impact*** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
HYDROLOGY AND WATER QUALITY: Would the project:				
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 lowering 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 stream or river course alteration, in a manner which would result in substantial erosion or siltation onsite or offsite?			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 rate or amount of surface runoff in a manner which would result in flooding onsite or offsite?			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 1as 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 the failure of a levee or dam?				X
j) Inundation by seiche, tsunami, or mudflow?			X	

Discussion

a, f) Construction activities can introduce pollutants to stormwater runoff, including paints, solvents, pavement, construction debris and trash, as well as hydrocarbons and other fluids from construction vehicles. These activities would be covered by the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order Number 2009-0009-DWQ, NPDES Number CAS000002). This general permit offers NPDES coverage for stormwater discharges with construction activities of more than 1.0 acre. As the proposed action would cover approximately 1.16 acres of new ground

surface, BMPs would be required to mitigate potential impacts. Because the proposed Project would be required to adhere to these requirements, and because the Project would not generate or discharge wastewater or industrial flows to wetlands, creeks, waters of the U.S., the Project would not violate any water quality standards or waste discharge requirements, or otherwise substantially degrade water quality. The impact would be ***less than significant after mitigation*** with implementation of Mitigation Measures HYD-1.

b) The proposed Project and all of Del Norte County is within an area of high annual rainfall, where groundwater recharge exceeds water withdrawals. The Project would not require a substantial volume of water to construct, and would not use water following construction. Although Project construction would result in an approximately 1.16-acre increase in the area of existing impervious surface in the Project, it would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level. Any increase in stormwater runoff that results from the Project would either infiltrate to the ground or flow to existing and modified ditches in the project area. From the ditches, water would pass through culverts under Humboldt Road to the Crescent City Marsh Wildlife Area. Therefore, ***a less than significant impact*** would occur.

c, d) The proposed Project would cause several changes to the drainage ditches, modified stream channels, and wetlands in the Project area. The widening of Humboldt Road would require realignment of the ditch to the east of the road. The ditch would generally be reconstructed approximately 5 to 15 feet to the east of its existing location. Reconstruction would include reducing the slope of the ditch banks and revegetation of the ditch. In the area of the proposed round-about, an existing culvert crossing approximately 35 feet under the existing driveway onto the Martin Ranch property and an approximately 165 foot section of open ditch on either side of the driveway would be replaced with an approximately 200 foot proposed culvert. With the exception of the northernmost culverts, existing culverts leading from the roadside ditch under the road to the Crescent City Marsh Wildlife Area would be extended to accommodate the widened road and realigned ditch. The northern most culverts would not be modified. The proposed pedestrian and bike path would cross a large wetland complex and a channelized stream. The proposed path would include the construction of a ditch running on its east and uphill side to collect any water runoff. The proposed path ditch would convey water along the path to one of seven proposed culverts, from which water would discharge to the reconstructed Humboldt Road ditch, and ultimately pass under the road to the Crescent City Marsh Wildlife Area.

Although the Project would realign and reconstruct the existing ditch on the east of Humboldt Road, in addition to minor redirection of runoff to the proposed path culverts, the Project would not substantially alter the existing drainage pattern of the site, alter the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site. Therefore, a ***less than significant impact*** would occur.

Proposed construction would involve soil disturbance, use of construction materials, and potential fuel/lubricant leaks in seasonally wet areas and in areas that drain to open water. These proposed activities have the potential to create or contribute runoff water which would provide substantial additional sources of polluted runoff or result in substantial erosion or siltation onsite or offsite during construction without the incorporation of mitigation. A ***less than significant impact after mitigation*** would occur with implementation of Mitigation Measure HYD-1.

e) The proposed Project would result in an approximately 1.16-acre increase in the area of existing impervious surface. Stormwater runoff from the road and path would drain to adjacent lands via existing and reconfigured natural and constructed drainage features. Stormwater flow increases related to the additional impervious surface are expected to be minor and would drain in a similar fashion pre- and post-Project. Following construction, runoff from Humboldt Road would contain similar levels of common road-related contaminants (petroleum, trash, dust, etc.) that occur prior to construction, because there would be no increase in the traffic volume on the road. Thus, the Project would not create or contribute runoff water which would provide substantial additional sources of polluted runoff or result in substantial erosion or siltation onsite or offsite during operation and would not otherwise substantially degrade water quality. Therefore, a ***less than significant impact*** would occur.

g, h, i) The proposed Project is located outside of the 100-year floodplain, as shown on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) Del Norte County Community Pannel Number 065025-0100C (July 3, 1986). Therefore, ***no impact*** would occur.

j) The State of California inundation projections depicted in the 2010 *Tsumami Evacuation Map Crescent City CA* show the Project area within the tsunami evacuation zone. As such, the Project may be subject to inundation in the event of a tsunami. The Project would not include the development of any occupied structures, but would provide an improved evacuation route over the existing conditions. Although it is within the potential tsunami inundation zone, because tsunami evacuation plans exist and the Project would improve an identified evacuation route, the impact would be ***less than significant***.

Mitigation

HYD -1) proposed The following BMPs shall be implemented during the construction of the Project to reduce potential water quality impacts:

- Improve drainage system along the eastside road ditch to meet the applicable standards of AASHTO and the Corps.
- Construct culverts to accommodate stormwater flows and to prevent debris clogging and avoid associated maintenance requirements.
- Phase grading operations to reduce disturbed areas and time of exposure. Avoid grading and excavation during wet weather.

- Delineate clearing limits, easements, setbacks, sensitive or critical areas, trees, drainage courses, and buffer zones to prevent excessive or unnecessary disturbances and exposure.
- Cover stockpiled soil and aggregate materials with secured plastic sheeting and divert runoff around them.
- Protect drainage courses, creeks, or catch basins with straw bales, silt fences, and/or straw wattles.
- Protect storm drain inlets from sediment-laden runoff with sand bag barriers, filter fabric fences, straw wattles, block and gravel filters, and excavated drop inlet sediment traps.
- Prevent construction vehicles from tracking soil onto adjacent paved roadways by constructing a temporary stone pad with a filter fabric underliner near the exit where dirt and mud can be washed from vehicles. Use dry sweep methods to clean sediments from streets, driveways, and paved areas along the construction site. Maintain all construction vehicles and equipment.
- Designate specific areas of the construction site, located well away from creeks or storm drain inlets, for vehicle and equipment parking and routine vehicle maintenance.
- Perform major maintenance, repair, and vehicle and equipment washing off-site or in a designated and controlled area. Clean up spills immediately.
- When vehicle fluids or materials such as paints, solvents, hydrocarbons, and other materials are spilled, cleanup immediately. Use dry cleanup techniques whenever possible.
- Store wet and dry building materials that have the potential to pollute runoff under cover and/or surrounded by berms when rain is forecast or during wet weather months.
- Cover and maintain dumpsters.
- Collect and properly dispose of construction debris, plant and organic material, trash, and hazardous materials as soon as possible.
- Plan roadwork and pavement construction to avoid stormwater pollution during wet weather months.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact

LAND USE AND PLANNING: Would the project:				
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific 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

a) The proposed Project is located on Humboldt Road between Highway 101 and the Bertsch-Oceanview neighborhood. Humboldt Road serves as a direct connector to U.S. Highway 101, the Elk Valley Rancheria, Bertsch-Oceanview neighborhood, a bypass to U.S. Highway 199, via Howland Hill Road, via Elk Valley Road, Redwood National Park and an indirect connector to Jedediah Smith Redwood State Park and several beach trails. Humboldt Road is the most direct route from U.S. Highway 101 and the coast to the Elk Valley Rancheria and the surrounding neighborhoods. The Project will address safety concerns related to the intersection of Humboldt Road and Sandmine Road. It will additionally improve pedestrian access and safety by providing a separated multi-use path, wider road shoulders, crosswalks, improved road surface, lighting, and road striping. These improvements would help to increase the connectivity between the adjacent neighborhoods and would improve transportation safety to the area. The Project would not remove existing streets, would not develop impediments to cross-town vehicular, pedestrian or bicycle movement, and would not otherwise physically divide an established community. Therefore, ***no impact*** would occur.

b) It should be noted that the Project is: (1) partially within County ROW on federal trust lands of the Tribe, and (2) partially within County ROW on non-federal land, and (3) partially within federal land not subject to any ROW. This unique ownership configuration presents complex jurisdictional authority issues, which to some degree may ultimately depend on negotiations between the Tribe and the agencies involved.

Humboldt Road in the area of the proposed Project is within the California Coastal Zone. The eastern portion of the road and proposed Project lie on the Martin Ranch – a tribally-owned property. The western portion of the Project is subject to the Del Norte County 1984 Local Coastal Element and, as such, must obtain a Coastal Grading Permit. The Coastal Commission and Del Norte County will separately review the Project to ensure adherence with the applicable coastal zone policies. The Tribe intends to design and construct the Project in a manner that is consistent to the maximum extent practicable with coastal zone policies.

The proposed Project occurs within agricultural and resource conservation area zoning and General Plan designations otherwise generally applicable in the County, but not applicable on Tribal lands. The eastern portion of the property is on the Martin Ranch property, which is held in trust by the federal government on behalf of the Tribe. Although the Tribe has acknowledged a desire to work cooperatively with state and local agencies, it is exempt from compliance with County land use regulations for the eastern

portion of the Project. The Tribe and the County have developed a MOU related to the future development of the Martin Ranch property that specifies the Tribe shall zone the property as Planned Unit Development. The western portion of the Project is under County jurisdiction, where zoning regulations would apply. The proposed work on the west side of the road in County zoning jurisdiction would not substantially alter the existing conditions from a land use perspective, because only resurfacing and minor improvements are proposed. The proposed work on the east side of the road in Tribal zoning jurisdiction would be compatible with the agreed upon Planned Unit Development zoning. Therefore, the proposed Project would not conflict with existing General Plan land use designations or zoning.

Because the proposed Project would impact Corps jurisdictional wetlands (waters of the US), the Tribe would need to obtain a Clean Water Act (CWA) Section 404 permit. As part of the Corps permit process, the Corps would require compensatory wetland mitigation for any permanent wetland impacts. The Corps may not issue a Section 404 permit for a project that may result in a discharge to waters of the US permit unless the federal Environmental Protection Agency (EPA), on behalf of the Tribe, issues a CWA Section 401 certification (or waiver) that the discharge is consistent with the applicable policies of CWA Section 401. If wetland impacts occur on the west side of Humboldt Road, RWQCB Section 401 certification may be required. By securing these required permits and completing any required wetland mitigation, the Project would not conflict with applicable federal and state wetland regulations. Based on the above, a ***less than significant impact*** would occur.

c) Although sections of the County of Del Norte Local Coastal Element apply to natural habitat conservation, Del Norte County does not have a specific habitat conservation plan or a natural community conservation plan that would apply to any part of the proposed project. The FWS has developed an action plan for the federally endangered western lily (*Lilium occidentale*) that occurs in the adjacent Crescent City Marsh Wildlife Area. The plan calls for habitat restoration and improving drainage conditions for the western lily populations at the Wildlife Area. The Project has been designed and would be constructed to comply with all applicable local, state, and federal policies, codes, and plans related to habitat conservation planning and natural community conservation. Therefore, a ***less than significant impact*** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
MINERAL RESOURCES: Would the project:				
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

a-b) Construction of the proposed Project would not result in the loss of mineral resources because there are no mineral resources found within the Project area. The Project does not require a substantial amount of any mineral resource for construction. Therefore, ***no impact*** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
NOISE: Would the project:				
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 groundborne 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

a, b, c) The Project is located in a rural area in Del Norte County near the unincorporated community of Bertsch-Oceanview. The primary existing source of noise in the Project area is vehicles on U.S. Highway 101, Humboldt Road, and Sandmine Road. No schools, hospitals, or public parks, are in the general vicinity of the project. Homes in the Bertsch-Oceanview neighborhood are approximately 300 feet north of the northern end of the Project. U.S. Highway 101 at the southern extent of Humboldt Road is a relatively constant source of vehicular noise.

The Del Norte County Code and Zoning Regulations do not contain a decibel rating (County of Del Norte 2010). Noise produced by the Project would be solely related to construction operations and would not be expected to result in levels above typical local, state, or federal noise standards. Therefore, the Project would not cause 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.

Construction of the Project would cause minor, temporary groundborne noise in the immediate vicinity of active heavy equipment. This level of groundborne noise would not be excessive.

The Project construction process would result in a temporary increase in noise levels in the Project area, but the Project would not cause any increase in permanent noise levels. The Project is not expected to cause an increase in traffic or related noise on Humboldt Road, because the Project is not related to any development that would increase traffic. Therefore, a ***less than significant impact*** would occur.

d) All construction-related activities that increase noise levels at the Project site would be temporary in nature and would occur only during construction. It is expected that the primary sources of construction noise would include trucks, tractors, backhoes, compressors and similar equipment. Construction related noise could be temporarily disruptive to nearby residences. The Project would have a ***less than significant impact after mitigation*** on noise with implementation of Mitigation Measure NOI-1.

e-f) The Project site is not located within 2 miles of a public airport or in the vicinity of a private airstrip, and thus would not expose people working or residing in the area due to excessive noise levels. ***No impact*** would occur.

Mitigation

NOI -1) Noise producing equipment used during construction shall be restricted to daylight hours during business days. Effective mufflers shall be fitted to gas-powered and diesel-powered equipment. Grading and construction equipment shall be shut down when not in use.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
POPULATION AND HOUSING: Would the project:				
a) Induce substantial population growth in the area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through 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

a) The Project proposes construction of safety and alternative transportation improvements within an existing road corridor. The Project would not extend new roads through undeveloped areas or otherwise allow increased access to or development within

undeveloped areas. The Project would position a proposed round-about access road to the undeveloped Martin Ranch property such that it would replace an existing standard intersection and access road. The existing access road intersects Humboldt Road opposite Sandmine Road. While Sandmine Road is controlled with an existing stop sign, the gravel access road is currently uncontrolled. The proposed round-about would improve safety at this intersection, including the safety of the gravel access road to the Martin Ranch. While the safety of the access road at the intersection would be improved by the proposed Project, the capacity of the access road would remain unchanged from the existing uncontrolled intersection. The proposed improvements to the round-about at the location of the access road would not cause a substantial indirect or direct inducement of growth at the Martin Ranch, because the capacity of the access road will remain unchanged while the safety would be improved. Therefore, a ***less than significant impact*** would occur.

b, c) No existing housing occurs within the Project corridor and the proposed Project would not displace existing housing or people, and would not necessitate the construction of replacement housing. Therefore, ***no impact*** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
PUBLIC SERVICES: Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
a) Fire protection?			X	
b) Police protection?			X	
c) Schools?				X
d) Parks?			X	
e) Other public facilities?				X

Discussion

a, b) The Del Norte County Sheriff and the Crescent Fire Protection District are responsible for emergency response and evacuation in the Project area. The Crescent Fire Protection District Station 22 (Bertsch Station) provides fire protection to the area and is less than one mile north of the proposed Project on Humboldt Road. Two other stations (Cooper and Washington) are located in Crescent City, two to three miles from the proposed action accessed via Sandmine Road and U.S. Highway 101. The Tribe has entered into a Memorandum of Understanding with the Crescent Fire Protection District to provide fire protection services to the Tribe and its properties, including the Martin Ranch. The Del Norte County Sheriff Department office is located in the town of Crescent City, approximately two miles west of the proposed Project.

The Project would not result in significant adverse effects on service ratios for the police or fire departments, because the proposed road improvements would not cause the need

for additional fire or law enforcement services. In fact, the safety improvements related to the proposed Project may reduce the rate of vehicle accidents in the Project area, which would lead to a minor improvement in service ratios. A ***less than significant*** impact would occur.

c) The Del Norte Unified School District operates seven public schools in the area. There are also three private schools in the Crescent City area. Elk Valley Head Start is the nearest school to the proposed action - approximately 1.5 miles north. The County Office of Education also provides educational services, such as alternative education and juvenile hall. A branch of College of the Redwoods is the only college in Del Norte County, with the main campus in the City of Fortuna, California approximately 94 miles to the south. Humboldt State University is located approximately 76 miles south in Arcata, California. The proposed Project would have ***no impact*** on school district service ratios or school facilities.

d) The proposed path would be a new recreational facility, and would enhance connectivity and safety for alternative transportation in the vicinity of the Project. In particular, the path would allow increased alternative transportation opportunities between the Bertsch-Oceanview neighborhood, the Elk Valley Rancheria and the beach recreation areas on the west side of U.S. Highway 101. The proposed path would not contribute to any substantial physical deterioration of parks or other recreational facilities. Therefore, a ***less than significant impact*** would occur.

e) No other public facilities or public services apply to the Project. Therefore, ***no impact*** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
RECREATION:				
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

a) The proposed path and improvements to pedestrian amenities may cause a minor increase in the number of people who pass through the Project area to access regional recreational facilities. Any increase would likely be predominantly due to recreational facility users choosing the improved route over another route, rather than new users triggered by the improvements of the proposed Project. As such, while the Project may redirect traffic via

the safer and more desirable route, it would not increase the use of or demand for other recreational facilities. Therefore, a ***less than significant impact*** would occur.

b) The proposed Project includes a path and pedestrian facilities, but would not require the construction or expansion of other recreational facilities which could result in adverse physical effects. Construction of the proposed path would impact wetland habitat. These potential adverse physical effects would be mitigated as discussed herein and a ***less than significant impact*** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
TRANSPORTATION/TRAFFIC: Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation systems, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.			X	
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards 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 that 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) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?				X

Discussion

a, b) The proposed Project would increase the safety of Humboldt Road by: (1) providing a lighted round-about intersection at Sandmine Road, (2) widening the road to include adequate shoulders, (3) providing an approximately 0.4 mile multi-use path to the east of Humboldt Road, and (4) providing lighted crosswalks at north and south ends of the path and at the round-about. A Traffic Study conducted in 2006 indicates that most traffic coming from Highway 101 from the north to Humboldt Road utilizes Sandmine Road

(W-Trans 2006). Likewise, most traffic heading north from Humboldt Road connects to Highway 101 via Sandmine Road. The 2006 Traffic Study indicates that "the angled approaches of the two minor roadways (Humboldt Road and Sandmine Road) make other movements uncomfortable to most drivers." The study suggests that the unusual angle of the intersection is not ideal, particularly given the nature of traffic flow at the intersection. In addition, the Tribe has indicated that the intersection of Sandmine Road with Humboldt Road is dangerous, particularly due to the tendency of east-bound traffic on Sandmine Road to illegally travel through the intersection without stopping when turning north onto Humboldt Road. Given the lack of shoulders or crosswalks, the safety deficiencies at the intersection are especially dangerous for pedestrians. The 2006 Traffic Study recommends a roundabout at the intersection to resolve the intersection's current safety deficiencies.

The Project would meet the operational needs of adjacent and intersecting roadways while incorporating pedestrian and alternative transportation needs. Design standards were based upon the requirements of MUTCD and AASHTO.

The proposed Project would not increase vehicle traffic on Humboldt and Sandmine Roads. It would not conflict with effective circulation system performance or intersection level of service standards. The Project: (1) would not conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system; (2) would take into account all modes of transportation, including mass transit and non-motorized travel; and (3) would not conflict with any congestion management program, including level of service standards and travel demand measures. Therefore, a ***less than significant impact*** would occur.

c) The proposed Project would not result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks. Therefore, ***no impact*** would occur.

d) The Project includes several safety improvements to Humboldt and Sandmine Roads, as discussed above. These improvements would substantially reduce the existing safety hazards of the roadways involved. The Project may cause an increase in alternative transportation use in the Project area because of the new path and crosswalks. While alternative transportation can be incompatible with motor vehicle uses, the Project has been designed to safely accommodate both uses. Design features aimed at improving compatibility include: separation of path and road, lighted crosswalks, and sidewalks near the round-about.

With incorporation of the design features described above, the proposed Project would not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses. Therefore, a ***less than significant impact*** would occur.

e) The proposed trail would not substantially alter the existing emergency access in the area. The Project may result in a slight improvement because: (1) the round-about would

facilitate faster negotiation of the intersection at Humboldt and Sandmine Roads, (2) the wider shoulders on Humboldt Road would allow other vehicles to move to the side of the roadway. A ***less than significant impact*** would occur.

f) The 1984 Del Norte County Local Coastal Element stresses the importance of developing recreational facilities in the coastal zone (County of Del Norte 1984). The Del Norte County General Plan (though not directly applicable to the project because the Coastal Commission has not approved the coastal elements) lists trail-related policies, including supporting the development of multi-use trails, trail connectivity, and providing trail access to recreation areas (County of Del Norte 2003). The proposed Project is consistent with these coastal recreation and transportation policies and would help implement rather than conflict with adopted policies, plans and programs regarding public transit, bicycle, and pedestrian facilities and would not decrease the performance or safety of such facilities. Therefore, ***no impact*** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
UTILITIES AND SERVICE SYSTEMS: Would the project:				
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 treatment 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 needed?			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

a, b, e) The proposed Project does not involve construction or use of facilities that produce wastewater. It would not require or result in new or expanded water or wastewater treatment facilities. Therefore, ***no impact*** would occur.

c) As discussed in the Hydrology and Water Quality section, above, the proposed Project would cause several changes to the drainage ditches, modified stream channels, and wetlands in the project area. The widening of Humboldt Road would require realignment of the ditch to the east of the road. The ditch would generally be reconstructed approximately 5 to 15 feet to the east of its existing location. Reconstruction would include reducing the slope of the ditch banks and revegetation of the ditch. In the area of the proposed round-about, an existing culvert crossing approximately 35 feet under the existing driveway onto the Martin Ranch property and an approximately 165 foot section of open ditch on either side of the driveway would be replaced with an approximately 200 foot proposed culvert. Existing culverts leading from the roadside ditch under the road to the Crescent City Marsh Wildlife Area would be extended to accommodate the widened road and realigned ditch. The proposed path would cross a large stream/wetland complex and a channelized stream. The proposed path would include the construction of a ditch running on its east and uphill side to collect any water runoff. The proposed trail ditch would convey water along the path to one of seven proposed culverts, from which water would discharge to the reconstructed Humboldt Road ditch, and ultimately pass under the road to the Crescent City Marsh Wildlife Area.

The proposed changes to the existing stormwater infrastructure would be relatively minor and would convey all runoff in a similar fashion – and to the same receiving waters - as existing conditions. Because appropriate drainage facilities would accommodate stormwater runoff and maintain connections to existing drainage facilities, the proposed project would not require the construction of drainage facilities that would cause significant environmental effects. Therefore, a ***less than significant impact*** would occur.

d) The proposed Project would not create a substantial increased demand for water service or capacity. The Project would require a minor amount of water during construction. This minor and temporary demand could be met by existing entitlements and resources. Therefore, the Project would not result in the need for the construction of new water supply facilities, or the expansion of existing facilities. A ***less than significant impact*** would occur.

f, g) The proposed Project would generate a minor amount of solid waste during construction. Any waste generated by construction would be transported to an approved local or regional recycling or disposal facility by the construction contractor. Therefore, a ***less than significant impact*** would occur.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
MANDATORY FINDINGS OF SIGNIFICANCE:				
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 or 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 prehistory?		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

a, c) As analyzed herein, it has been determined that with implementation of the recommended mitigation measures, the proposed Project would not:

- Substantially degrade environmental quality;
- Substantially reduce habitat for a fish or wildlife species;
- Cause a fish or wildlife population to fall below self-sustaining levels;
- Threaten to eliminate a plant or animal community;
- Reduce the numbers or range of a rare, threatened, or endangered species;
- Eliminate important examples of the major periods of California history or pre-history;
- Have environmental impacts that are individually limited, but cumulatively considerable when viewed in connection with past, current, and reasonably anticipated future projects;
- Have environmental effects that will directly or indirectly cause substantial adverse effects on human beings.

Construction of the proposed Project would impact wetland habitat and special status species habitat. With incorporation of mitigation, the Project would not threaten self-

sustaining levels of these species or other endangered plant or animal species. The potential impacts to biological species would be ***less than significant with incorporation of mitigation measures*** (see Biological Resources Section).

The proposed Project would not eliminate important examples of California's history or prehistory (See the Cultural Resources Section). The Project's potential impacts on historic and prehistoric resources would be reduced to ***less than significant with incorporation of mitigation measures.***

b) As discussed herein, the proposed Project predominantly avoids significant adverse impacts to the environment. The identified significant potential environmental effects of the project would be reduced to less than significant with incorporation of the identified mitigation measures.

The Martin Ranch property has been the subject of a proposed resort development by the Tribe. The resort may include a convention center, hotel, casino, and related facilities. Access to the development would be via the existing gravel road that joins Humboldt Road at the proposed round-about. As discussed in Population and Housing, above, the proposed road project would position a proposed round-about access road to the currently undeveloped/agricultural Martin Ranch property such that it would replace an existing standard intersection and access road. According to the Final Environmental Impact Statement (FEIS) and Record of Decision issued by the U.S. Department of the Interior for the resort project in January 2008, the proposed Martin Ranch resort project would have the potential to impact land, air, water, biological, cultural, socioeconomic, public services, and noise resources (Analytical Environmental Services 2006). The FEIS and ROD identify several mitigation measures that would reduce or eliminate these impacts. The Martin Ranch resort project was likewise subject to review by the County in 2002, which resulted in a Memorandum of Understanding approving road improvements at the intersection of Humboldt Road and Sandmine Road.

Because the proposed Project would not result in significant impacts after mitigation, and because impacts related to other known projects in area have been shown to be avoidable or mitigable, the proposed project would not contribute to any significant cumulative impacts which may occur in the area in the future. Therefore, a ***less than significant impact*** would occur.

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01828-10001-11022

WETLANDS DELINEATION FOR ELK VALLEY RANCHERIA HUMBOLDT ROAD SAFETY IMPROVEMENT PROJECT CRESCENT CITY, CALIFORNIA

July 2011

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I. SUMMARY

On March 8 and 22, 2011, a wetland delineation was conducted for the Humboldt Road Safety Improvement Project (the "Project"). The wetland delineation determined the extent of wetlands per U.S. Army Corp of Engineers (COE) wetland definition (three-parameter approach) as well as the California Coastal Commission guidance (one-parameter). The wetland delineation procedure was completed pursuant to the COE 1987 Wetland Delineation Manual and the *Regional Supplement to the COE Wetland Delineation Manual: Western Mountains, Valleys, and Coastal Regions* (COE, 2010) and California Coastal Commission (the "Commission") guidance for wetland delineations. The wetland results are consistent with definitions of both agencies. Figures 1 and 2 (Appendix A) present the Project site vicinity and limits of investigation (Project Study Boundary--PSB). Wetland delineation field work results are provided on Figure 2. Data sheets documenting conditions observed during the investigation are included in Appendix B.

II. INTRODUCTION

The Elk Valley Rancheria, California (the "Tribe") is located in Del Norte County approximately 2 miles southeast of Crescent City and less than one mile east of the Pacific Ocean (see Figure 1). The Humboldt Road Safety Improvement Project (the "Project") is in Section 35, Township 16N, Range 1W of the Sister Rocks quadrangle map (USGS, 1966). The site is just south of the Crescent City quadrangle map (USGS, 1975). Humboldt Road, also known as Bureau of Indian Affairs Route #0088, is the main south/north connector from U.S. Highway 101 to the Elk Valley Rancheria, California's reservation.

The Project Study Boundary (PSB) for the current analysis consists of the Humboldt Road corridor and extends from the south at the intersection with Highway 101 (near the north terminus of Enderts Beach Road) to the PSB northern terminus at the intersection with Roy Avenue and Humboldt Road. The PSB for the purposes of the wetland delineation is the road right-of-way area consisting of land immediately adjacent to the existing paved road that are considered for use for the proposed safety improvement project (width of PSB corridor varies, in general is approximately 20 feet off the road pavement and increases in width in areas of special interest for the proposed project, particularly in the area of intersection with Sandmine Road, while is also reduced in width in some areas due to private properties and other exclusion areas). From the Highway 101 intersection, the PSB extends along the east side of Humboldt Road towards the north adjacent to the existing road pavement, past the intersection with Sandmine Road and the Martin Ranch access driveway, and ending at the intersection with Roy Avenue. Along the west side of Humboldt Road, the wetland delineation focused in on areas where the proposed Project footprint extends into areas mapped in the reconnaissance survey as likely wetlands. Therefore, an approximately 100 linear foot area near the existing Ocean Way Motel was evaluated on the east side of Humboldt Road, as well as a 100 linear foot area south of Sandmine Road. The PSB also extends along both sides of Sandmine Road for approximately 50 linear feet west of the intersection with Humboldt Road. Figures 1 and 2 (Appendix A) present the Project site vicinity and limits of investigation (Project Study Boundary--PSB). Wetland delineation field work results are provided on Figures 2 through 9.

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The Project is in the Coastal Zone with combined jurisdiction between the County of Del Norte and the California Coastal Commission [the "Commission"] (per mapping provided in: California Coastal Commission, 1986) for lands not held in trust for the Tribe. South of Sandmine Road appears to be in Commission primary permit authority.

III. PURPOSE

The purpose of this investigation was to determine the location of wetlands and extent of riparian vegetation adjacent to the existing Humboldt Road alignment in anticipation of the proposed Project that includes one or more of the following elements: sidewalks, pedestrian trail, and round-about at Sandmine Road. The upland/wetland delineation was performed in accordance with COE as well as Commission's wetlands criteria.

IV. METHODOLOGY

The wetlands delineation was conducted on March 8 and 22, 2011, by Lia Webb, Professional Soil Scientist and Wetland Ecologist, Winzler & Kelly. The March 2011 field work revised results of a September 23, 2010, reconnaissance mapping effort, and the 2011 results are more accurate due to the seasonal ability to observe wet-season hydrology. Additionally, the March 2011effort verified and concurred with previous mapping effort conducted by Analytical Environmental Services ("AES") along the road alignment, and integrated these previous results for areas within the Project corridor.

To define a wetland, the COE requires that all three parameters (vegetation, soil, and hydrology) show wetland attributes. The wetlands delineation followed the COE guidance from the *Corps of Engineers Wetlands Delineation Manual* (COE, 1987), *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys and Coast Region* (COE, 2010), as well as California Coastal Commission (the "Commission") guidance for wetland delineations. The wetland results are consistent with definitions of both agencies. Botany/soils/hydrology data sheets used are the current standard forms provided by the COE for use (COE, 2010). Data sheets are attached (Appendix B).

Vegetation, soil, and hydrology data were collected, where possible, at transects across the upland/wetland boundary with two plots (upland/wetland) per transect. Test plots are numbered to correlate with transects, according to order of investigation, and denoted with either a "U" to indicate upland location or "W" for wetland plots (for example, test plot W1T2-U indicates transect 2 at upland plot location). Intermediate plots were placed without collection of data sheets as appropriate (based on extrapolation from adjacent test plots and verification of hydrologic conditions) and are indicated with an "-int" after the point number (i.e. W1T3-int). Additionally, due to the large project acreage, additional confirmation test pits were collected in many areas to confirm extrapolation of wetland or upland conditions. Data sheets are not recorded at confirmation test pits as they were not deemed necessary in order to document representative conditions. Data sheets that correspond to delineation of ditch areas are keyed with TOB (for Top of Bank) at the beginning of the numerical identification, and with a "W" for wet or "U" for upland plot location along the transect.

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Botanical Methodology

Vegetation data collection consisted of listing the species at each plot in each layer. All species within a radius of five feet were listed in the herb layer. The species were then classified as to whether or not they are wetlands indicators, using the standard reference for plant wetlands indicators, *National List of Plant Species that Occur in Wetlands: California (Region O)* (U.S. Department of the Interior, 1988). The standard reference document classifies plants based on the probability that they would be found in wetlands, ranging from Obligate (almost always in wetlands) [OBL], Facultative/wet (67% to 99% in wetlands) [FACW], Facultative (34% to 66% in wetlands) [FAC], Facultative/up (1% to 33% in wetlands) [FACU], to Uplands (less than 1% in wetlands) [UP]. Plants listed as non-indicator status (NI) are considered to be in the upland category. Plants not listed (NL) are included in the upland category. Plants listed as Facultative minus (FAC-) are considered to generally tend towards upland conditions and were therefore previously included in the upland category when conducting the Dominance Test. The new COE guidance document (COE, 2010) includes FAC- species in the FAC category when conducting the Dominance Test. The Dominance Test states if greater than 50% of the dominant plant species at each plot are classified Obligate (OBL), Facultative/wet (FACW), or Facultative (FAC), the vegetation is determined to be hydrophytic (wetland plants). Therefore, FAC- species have been included in the FAC category when conducting the Dominance Test.

Soils Methodology

The 1987 Manual's procedures were combined with the Natural Resources Conservation Service's (NRCS) definition of hydric soils presented in *Changes in Hydric Soils of the United States* and *Field Indicators of Hydric Soils in the United States* (United States Department of Agriculture [U.S.D.A.], 1995 and 2006, respectively), as well as most recent wetland guidance document *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys and Coast Region* (COE, 2010). Soil pits were dug to an approximate depth of 18 inches. Data on soil color, texture and redoximorphic features was collected. Care was taken to observe mottling (iron concentrations) and to distinguish between chromas of 1 and 2.

Colors were described for the entire depth of the test pit and were compared to the above parameters at a depth of 10 inches. Colors were determined on moist ped surfaces, which had not been crushed, using the Munsell Color Chart (Gretag Macbeth, 2000). Soils with low chromas were verified as being hydric or upland using indicators for depleted matrix (F3) for fine grained soils per *Draft Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys and Coast Region* (COE, 2010).

Hydrology Methodology

The delineation was performed during winter within the wet-weather season (over 19-inches of rainfall had fallen to date). Direct evidence of ground water (soil saturation, standing water, etc.) was present in all of the wetland plots during the delineation. Primary wetland hydrologic indicators were observed in some locations (ponding/surface inundation). Secondary indicators were evaluated and documented as well in some locations, including sparsely vegetated concave surface (B8), water stained leaves (B9), and a pass on the "FAC-Neutral Test" (D5).

Wetland Determination
The wetland boundary was evaluated using the COE (three-parameter) methodology. The wetland determination was made with an emphasis on predominance of hydric vegetation and presence of wetland hydrology indicators (one primary or two secondary indicators). An area was determined to be uplands based on absence of at least one of the three wetland indicators (soils/botany/hydrology). All wetland plots exhibited a predominance of facultative (FAC) or wetter vegetation and all upland plots exhibited predominance of facultative-up (FACU) or drier vegetation.

The horizontal location of each point along the upland/wetland boundary (location where each transect intersects the upland/wetland boundary) was collected using a handheld GPS Trimble unit (sub-meter accuracy). Flags were not placed in most areas with active land-use due to the dense submaterial that did not allow flag placement to be stable. In some areas, flags were hung on adjacent vegetation. The delineated boundaries can be relocated with the handheld Trimble GPS, therefore flagging of the boundaries was further determined to not be necessary. To relocate the actual test pit locations (uplands and wetlands), the distance from the upland/wetland boundary line was recorded on individual data sheets. Due to the sub-meter accuracy of the GPS unit and scale of the wetland delineation map for the site, it is more helpful to collect the actual plot locations relative to the upland/wetland boundary while in the field and record as a measurement on each individual data sheet under "remarks." The horizontal locations of some site infrastructure features that are visible on the aerial were collected to ensure that the base map lines up accurately with the delineation results. Other site infrastructure features of interest were recorded such as noticeable pipe outlets/culverts.

Ditches
Non-tidal Waters of the U.S./State were mapped/ defined at the Ordinary High Water Mark (OHWM) and/or limits of adjacent freshwater emergent wetlands. The OHWM is determined by observance of scour, water-marked vegetation, drift lines, and/or drift deposit. Due to the confined and man-made nature of most of the drainage ditches in the project corridor, the OHWM has been mapped in most locations at the top-of-bank (TOB) of the ditches.

Riparian
Riparian mapping was conducted during the wetland delineation. The extent of riparian vegetation was based on drip line of riparian-related plant species. In cases where leaning vegetation/falling branches skewed the extent of the dripline, the average dripline was recorded. Riparian vegetation that was not mapped as wetlands (i.e. lacked wetland soils and/or hydrology) was recorded at the drip line as riparian. Where the riparian vegetation is growing in absence of wetland soils and/or hydrology, the plants were determined to not be growing as hydrophytes.

V. ENVIRONMENTAL SETTING

The site elevation is approximately 20 feet above mean sea level (msl), and is generally flat and with relatively consistent elevation. The low coastal "Rellim Ridge" rises to the east of the site reaching up to approximately 900 feet above msl. The climate of the area is temperate and humid

with abundant summer fog. The mean annual temperature is 53 degrees Fahrenheit, and average precipitation for Del Norte County is approximately 66 inches per year (NOAA, 2010). The vicinity surrounding Humboldt Road between Highway 101 and Roy Avenue is dominated by undeveloped fields to the east, with a mix of native and naturalized vegetation to the west; habitat types present include wetlands, grasslands, and woodland. Most of the Project site consists of human-altered soils from cut and fill associated with the road bed and man-made adjacent ditch network that provides drainage for the road. Few natural soil conditions were noted except in some areas of the adjacent agricultural lands and disturbed roadside grassland areas. Much of the vegetation has similarly been altered from long-term land uses, and consists of many non-native and disturbance-oriented species. The natural hydrology is assumed to have been altered from road installation which acts as a berm for natural flow pattern based on topography of the area.

The east side of Humboldt Road adjacent to the Project site has a jurisdictional wetland delineation (COE, 2005) conducted by AES associated with the Martin Ranch property (both south and north of the Sandmine Road intersection). For areas of the PSB that abut the Martin Ranch property to the east, the AES report was utilized as a primary data source and was correlated with observations made by Winzler & Kelly during the September 2010 and March 2011 field visits. The AES wetland mapping (jurisdictional determination COE, 2005) are described below where wetland complexes are within or adjacent to the Humboldt Road corridor. The Winzler & Kelly March 2011 field visit verified and concurred with previous mapping conducted by AES along the Project corridor, and integrated these previous results for areas within the PSB. Regional and general wetlands information was reviewed from National Wetland Inventory (NWI) mapping (FWS, 1987). NWI maps are compiled using a variety of remote sensing data sources, including aerial photographs, infrared photography, and soils data, and it should be noted that they do not necessarily represent an accurate depiction of site-specific conditions and extent of jurisdictional wetlands in the study area.

Palustrine and Forested Scrub-Shrub Mixed Complex. On the west side of Humboldt Road extending from the Ocean Way Motel at the intersection of Humboldt Road and U.S. Highway 101 north to Sandmine Road, a substantial offsite area is dominated by perennial palustrine emergent and freshwater forested scrub-shrub habitat with a presumed temporarily flooded water regime (note: wetland delineation was not conducted at this offsite area and is described herein as vicinity habitat). This riparian-type cover was recorded as predominantly cascara (*Rhamnus purshiana*) with some red alder (*Alnus rubra*), and an understory consisting of sword fern (*Polystichum munitum*), Himalayan berry, and California blackberry. The Humboldt Road margin south of the intersection with Sandmine Road was noted to have dominant wetland scrub-shrub cover consisting almost exclusively of Douglas Spirea (*Spiraea douglasii*).

On the east side of Humboldt Road south of the Sandmine Road intersection, generally two wetland areas are mapped; the larger of which is a palustrine freshwater forested scrub-shrub system dominated by broadleaved deciduous woody plants with a seasonally flooded water regime. The AES report refers to this area as the ***Main Wetland***. Both grass and rush dominated wetland prairie, and alder and willow dominated scrub-shrub wetland cover a substantial area within the Martin Ranch pasture to the east of the PSB and are considered jurisdictional wetland (COE, 2005). This is a mix of forested scrub-shrub wetland and freshwater emergent wetland.

A second wetland area is described as a palustrine system. Both upland and wetland complexes for the area east of Humboldt Road were mapped and described by AES. AES describes the seasonal wetland areas as being associated with seeps and intermittent drainage systems that originate near and/or from Rellim Ridge to the east.

Wetland Prairie. This map unit consists of adjacent wetland agricultural lands on the Martin Ranch property dominated by common rush (*Juncus effuses*), slough sedge (*Carex obnupta*), buttercup (*Ranunculus repens*), plantain (*Plantago lanceolata*), trefoil (*Lotus* sp.), velvet grass (*Holcus lanatus*), and curly dock (*Rumex crispus*). This area is adjacent to the PSB and is part of the AES study (2005).

Northern Stream and Forested Wetland. Willow dominated forested wetland (approximately 2 acres) exists on the north end of the Martin Ranch property near the intersection of Humboldt Road with Roy Avenue, with an understory of Douglas spirea and skunk cabbage (*Lysichiton americanus).* The system is dominated by broad leaved deciduous woody vegetation at least 6 meters in height (20 feet tall) with scrub-shrub woody vegetation less than 6 meters in height with a seasonally flooded water regime. The riparian area is dominated by Pacific willow (*Salix* sp.), lady fern (*Athyrium filix-femina*), horsetail (*Equisetum* sp.), Himalayan berry, and sword fern. The "Northern Stream" area that flows from the Martin Ranch property and connects to culvert(s) under Humboldt Road and discharges to a drainage on the west side of the road. The drainage to the west of Humboldt Road has substantial associated riparian (this area was mapped at the dripline for areas within the PSB). The area mapped at the drip-line as riparian (one-parameter) consist of tree-dominated cover and were not accompanied by wetland hydrology or soils. Where the willows are within a mapped wetland they are mapped as three-parameter wetlands.

Portions of the ditch along the east side of Humboldt Road that are adjacent to the Northern Stream and Forested Wetland were mapped as part of the 2011 wetland delineation as Palustrine Emergent due to adjacency and/or presence of wetland vegetation within the banks of the ditch. Typical vegetation within the Palustrine emergent ditch areas consists of velvet grass, trefoil (*Lotus corniculatus*), horsetail, Himalayan berry, buttercup, self heal (*Prunella vulgaris*), and annual bluegrass (*Poa annua*).

VI. RESULTS

The wetlands delineation was conducted on March 8 and 22, 2011, by Lia Webb, Winzler & Kelly Professional Soil Scientist and Ecologist. Results of the March 22, 2011 effort confirmed the September 23, 2010, reconnaissance wetlands mapping results (able to observe wet-season hydrology). Figures 1 and 2 (Appendix A) present vicinity map and the PSB limits of investigation. Wetland delineation field work results are also provided in Figure 2, Appendix A. Data sheets documenting conditions observed during the March 8 and 22, 2011investigation are included in Appendix B.

The following acreages were mapped as wetlands within the PSB, as shown in Figure 2. Characteristics of wetlands areas are presented in description below, and wetland acreage is

8 of 14

~~180~~ 166

summarized in Table 1. A partial plant list for the Project site consisting of plants observed at the Project site during Winzler & Kelly September 2010 and March 2011 site visits is included at the end of this document as Table 2.

Table 1: Existing Areas of Wetlands

	Forested Palustrine	Palustrine Emergent	Man-made Ditch (3-parameter wetland)	Riparian Habitat (1-parameter wetland)	TOTAL
sf	3,976	18,334	17,546	19,100	58,957
acres	0.09	0.42	0.40	0.44	1.35

1. Palustrine emergent wetlands include sections of road ditch network that are directly adjacent to AES mapped wetlands on the Martin Ranch property.
2. The man-made ditches are dug in uplands as part of the road drainage network, yet connect to intermittent streams via culverts and surface connection during storms, thus are included as wetland map unit.

Ditches

Non-tidal "Waters of the U.S./State" (when not delineated as wetlands) are defined by the Ordinary High Water Mark (OHWM), as observed and mapped in the field. Non-tidal "Water of the U.S." within the Project corridor consists of portions of the ditch that runs along both sides of Humboldt and Sandmine Roads in association with a drainage network for the paved areas. At this site, due to the abrupt nature of the topography of the ditch, the OHWM was defined at or near the Top-of-Bank (TOB) where observance of high water occurred during a rain event in the wet weather season.

In a few cases the roadside ditches are established with facultative (FAC) or wetter vegetation (where adjacent to mapped wetlands on the Martin Ranch property). Portions of the ditch network along Humboldt Road that are adjacent to AES mapped wetlands on the Martin Ranch property were mapped as three-parameter Palustrine Emergents (ditch) due to adjacency and/or presence of wetland vegetation within the banks of the ditch and presence of FAC or wetter vegetation. Typical vegetation, when present, within the Palustrine emergent ditch network consists of Queen Anne's lace, plantain, horsetail, self heal (*Prunella vulgaris*), buttercup, trefoil (*Lotus corniculatus*), velvet grass, annual bluegrass (*Poa annua*), tall fescue (*Festuca arundinacea*), and Himalayan berry.

The remainder of the ditch network lacks vegetation and are likely Commission jurisdictional one-parameter wetlands based on presence of seasonal hydrology. These unvegetated ditches are unlikely to be jurisdictional by the COE, although due to presence of seasonal wetland hydrology and connectivity up and/or down gradient to jurisdictional wetlands, the COE could claim jurisdiction (this will be determined during the jurisdictional determination process with the COE). The PSB was determined to include a total of five (5) segments of jurisdictional wetland area (palustrine emergent ditch) including one vegetated ditch section along Sandmine Road and another vegetated ditch section along the west side of Humboldt Road north of Sandmine Road.

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one (1) discontinuous area was characterized as likely "Water of the State (non-tidal)" and possible COE wetland that is part of the ditch drainage network along Humboldt Road. This consists of portions of the ditch network that carries stormwater along the Humboldt Road alignment, is man-made in nature dug in uplands (documentation of absence of adjacent wetlands is based on AES wetlands report for adjacent Martins Ranch). These ditch sections do connect to the areas mapped as palustrine emergent ditch (three parameter wetland ditches) and as such these areas are considered likely Waters of the State (RWQCB and/or Coastal Commission) and possibly COE jurisdictional (to be determined during agency review period).

Soils in the wetland ditch consisted of loams with matrix colors of 10YR3/2, redoximorphic concentrations beginning within 10 inches of the surface (7.5YR 4/3), and compacted subsoil starting at approximately 12 to 18 inches. The water table was observable in the wetland test pits within 12 inches of the surface (primary indicator). Upland soils adjacent to the ditch consisted of compacted road bed material, very gravelly loam with matrix of 10YR 3/2 and subsoil of very gravelly clay loam with matrix colors of 10YR 2/1 and 7/5YR 3/2. Representative transects for the upland/wetland boundary along the palustrine emergent ditch (vegetated) are plots "W1T1" and "W1T4." Representative plot for the upland/wetland boundary along the one-parameter man-made ditch (unvegetated) which is likely Water of the State is plot "TOB-4". The portions of the ditch identified as a COE three-parameter wetland were classified as a Palustrine emergent wetland (FWS, 1979).

Riparian

The area west of Humboldt Road has associated riparian vegetation that was mapped at the dripline for areas along and within the PSB. Riparian vegetation exists at the western terminus of the Project south of the Humboldt Road intersection with Roy Avenue. The drip-line of this riparian vegetation extends into the PSB. Areas are mapped as riparian where they are not accompanied by wetland hydrology or soils, and consist of tree-dominated cover. Where the willows are within a mapped wetland they are mapped as three-parameter wetlands.

VII. CONCLUSIONS

The wetland delineation on March 8 and 22, 2011 was performed within the PSB. The wetland delineation determined the extent of wetland-type vegetation, hydric soils, and wetland hydrology based on one and three parameters approaches. One single upland/wetland line is presented for the Project site wetlands consistent with both agency approaches. The PSB was determined to include a total of five (5) segments of jurisdictional wetland area (palustrine emergent ditch) including one vegetated ditch section along Sandmine Road and another vegetated ditch along the west side of Humboldt Road north of Sandmine Road. Additionally, one (1) area was mapped as likely "Water of the State (non-tidal)" and possible COE wetland that is part of the ditch drainage network along Humboldt Road. The wetland delineation results are mapped in Figure 2 (Appendix A). The field data sheets from the delineation area are included in Appendix B.

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VIII. SPECIAL TERMS AND CONDITIONS

To achieve the wetland delineation objectives stated in this report, conclusions of the delineation were based on the information available during the period of the investigation, March 2011. Land use practices and regulations can change thereby affecting current conditions and delineation results; therefore, this delineation is given a 5-year expiration period. This report was prepared for the exclusive use of the Elk Valley Rancheria, California. Winzler & Kelly is not liable for action(s) arising out of the reliance of any third party on the information contained within this report.

This report does not authorize any individuals to develop, fill or alter the wetlands delineated, or special or sensitive habitat(s) identified. **Verification of the delineation by jurisdictional agencies is necessary prior to the use of this report for planning and development purposes. An agency stamped delineation map and jurisdictional approval letter is required to signify confirmation of delineation results.** The client/property owner is responsible to maintain all delineation flagging placed at the site by Winzler & Kelly, for ease of jurisdictional agency(s) site review. The client may elect to place semi-permanent markers and/or point labels to avoid loss of data points prior to jurisdictional approval(s). In situations where a field investigation determines that no jurisdictional wetlands occur, jurisdictional concurrence with these findings is recommended. It is recommended that a survey be conducted at the site to record exact location of each data point(s).

If filling is used under permitted authority (after agency review and written verification of said activities) care should be given to maintain sufficient quantity of fill to prevent a reestablishment of wetlands.

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Table 2: Partial Plant List Observed at the Site

Scientific Name	Common Name	Status
Achillea millefolium	common yarrow	FACU
Alnus rubra	red alder	FACW
Agrostis stolonifera	creeping bent-grass	FACW
Agrostis capillaries	colonial ben	NL
Anthoxanthum odoratum	sweet vernal grass	FACU
Aster chilensis	California aster	FAC
Athyrium filix-femina	lady fern	FAC
Baccharis pilulari	coyote brush	FACU
Bellis perennis	English daisy	NL
Brassica nigra	black mustard	NL
Briza media	rattlesnake grass	FAC
Carex obnupta	slough sedge	OBL
Cornus stolonifera	red –osier dogwood	FACW
Corylus cornuta	California hazelnut	NI
Cynosurus cristatus	crested dogstail grass	FACW
Cytisus sp.	scotch broom	NL
Dactylis glomerata	orchard grass	FACU
Daucus carota	Queen Anne's lace	NL
Equisetum sp.	horsetail	FACW
Festuca arundinacea	tall fescue	FAC
Fragaria sp.	strawberry	FACU
Geranium dissectum	cutleaf geranium	NL
Holcus lanatus	common velvet grass	FAC
Hypochaeris radicata	hairy cat's-ear	NL
Iris douglasii	Douglas iris	NL
Juncus effusus	common rush	OBL
Juncus mexicanus	Mexican rush	FACW
Leucanthemum vulgare	ox-eye daisy	NL
Lolium perenne L.	perennial rye grass	FAC
Lonicera involucrata	twinberry	FAC
Lotus corniculatus	birdfoot trefoil	FAC
Lysichiton americanus	skunk cabbage	OBL
Oenanthe sarmentosa	water parsley	OBL
Petasites palmatus	coltsfoot	FACW
Picea sitchensis	Sitka spruce	FAC
Plantago lanceolata	English plantain	FAC
Poa annua	annual bluegrass	FAC
Polystichum munitum	sword fern	NL
Pteridium aquilinum	western bracken fern	FACU
Prunella vulgaris	Heal-all	FAC
Ranunculus repens	creeping buttercup	FACW

Scientific Name	Common Name	Status
Rhamnus purshiana	cascara	NI
Rosa pisocarpa	cluster rose	FACU
Rubus discolor	Himalayan blackberry	FACW
Rubus parviflorus	thimbleberry	FAC
Rubus spectabilis	salmonberry	FAC
Rubus ursinus	California blackberry	FACW
Rumex crispus	curly dock	OBL
Rumex acetosella	sheep sorrel	NI
Salix sitchensis	Sitka willow	FACW
Scirpus microcarpus	panicled bulrush	FACW
Spiraea douglasii	Douglas' spiraea	OBL
Symphoricarpos albus	snowberry	FACU
Tellima grandiflora	fringe cups	NL
Trifolium pratense	red clover	FACU
Trifolium repens	white clover	FACU
Trifolium variegatum	white-tip clover	FACW

WINZLER & KELLY

EXHIBIT NO. 7
APPLICATION NO.
A-1-DNC-12-021
ELK VALLEY RANCHERIA
FEASIBILITY OF WETLAND MITIGATION MEMO (1 of 23)

Humboldt Road Safety Improvement Project: Feasibility of Wetland Mitigation

TO: Randy Hooper (Del Norte County, Planning Department)

FROM: Robert Holmlund

C: Chris Howard (Elk Valley Rancheria); Josh Wolf (Winzler & Kelly)

DATE: 11/30/11

RE: Feasibility of Wetland Mitigation for Humboldt Road Safety Improvement Project

Overview: In October of 2011, the Elk Valley Rancheria submitted to the County of Del Norte a CEQA Initial Study & Draft Mitigated Negative Declaration (ISMND) for the Humboldt Road Safety Improvement Project. As is explained in the ISMND, a portion of the project would require the filling of wetlands. Mitigation Measure BIO-3 (page 23 of the ISMND) was developed to mitigate for these impacts and reads as follows:

> *BIO-3) The applicant shall develop an on-site compensatory wetland mitigation and monitoring plan approved by the Corps, DFG, Del Norte County, the California Coastal Commission and any other resource agency with jurisdiction. Approximately 0.31 acres of impacts would occur due to the Project. At a minimum, the plan shall: result in no net loss of wetland area or function; include a planting plan that reflects the native plant species within the wetland types to be impacted; and include maintenance and monitoring of the mitigation site for a minimum of 5 years.*

The County has requested confirmation that the mitigation measure is feasible. This memo has been drafted to provide the County with evidence that the mitigation measure as described above is feasible.

Wetland Mapping

The project occurs primarily in the County's Humboldt Road right-of-way. In 2011, Winzler & Kelly conducted a wetland delineation in the Humboldt Road right-of-way. A portion of the project occurs east of Humboldt Road on a property known as the Martin Ranch Property. In 2005, AES conducted a wetland delineation of the Martin Ranch Property. Therefore, the ISMND and related map figures refer to these two different wetland delineations. The nomenclatures used in the two delineations are slightly different. For clarification sake, AES's nomenclature of "Wetland Prairie" applies to the same wetland type as Winzler & Kelly's nomenclature of "Palustrine Emergent." Likewise, AES's nomenclature of "Riparian Wetland" applies to the same wetland type as Winzler & Kelly's nomenclature of "Forested Wetlands." All areas identified below combine the mapping of AES and Winzler & Kelly, but use only the Winzler & Kelly nomenclature.

Wetland Impacts

The first Figure set attached to this memo (Figures 1a through 1g) shows the project design and the wetland mapping. The second Figure set (Figures 2a through 2g) shows only the impacts to wetlands

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(i.e. the intersection of the project design with the mapped wetlands). The impacts to wetlands are displayed below:

- *Palustrine Emergent Wetland (Prairie): 4,473 sf*
- *Man-made Ditch: 2,199 sf*
- *Forested/Riparian Wetland: 7,032 sf*
- ***TOTAL = 13,705sf (0.315 acres)***

Note that approximate 17% of the above impacts actually consist of relocating existing wetland ditches (either "man-made ditch" or ditches consisting of "palustrine emergent wetlands"). In these cases, the project will widen the roadway into existing ditches and replace the ditches with equivalent ditches. In this way, approximately 17% of the impacts could be considered "self mitigating." However, at this time the applicant is not considering the new ditches to be "wetlands" and therefore the new ditches will not be considered mitigation.

Proposed Mitigation Site(s)

Portions of the safety improvement project occur on the Martin Ranch Property, which is directly east of Humboldt Road. The project applicant (Elk Valley Rancheria) owns the property and has identified a portion of the property for the wetland mitigation. Figure 3 shows the general location of the two sites identified for wetland mitigation. The two sites are located on the far north side of the property, adjacent to areas of existing forested wetlands and Palustrine wetlands. These two areas are currently open upland pastures that are used for grazing purposes. Both sites are lower in elevation in the north and slope gently uphill to the south.

Six groundwater monitoring wells were installed in the proposed mitigation sites and monitored for a total of 10 weeks throughout the rainy season of 2010/2011. The data collected from these wells provides depth to groundwater for both sites.

Dave Ammerman of the USACE visited the site in October of 2011 to conduct a Jurisdictional Determination. While on site, Mr. Ammerman viewed the proposed mitigation sites and indicated that the two sites were adequate for wetland mitigation.

Proposed Mitigation Design Concept(s)

Figure 4 shows a preliminary concept design for each of the proposed mitigation sites. Each of the two areas is sufficiently large to fulfill a 2:1 mitigation ratio. In combination, the two areas are sufficiently large to fulfill a 3:1 ratio.

Note that Figure 4 is intended to only display a concept for feasibility purposes. Though the final design will occur in the proposed mitigation areas shown, the final design will be based on topographic mapping and could shift slightly in location, orientation, size, and content. However, the map should be sufficient to demonstrate that the applicant has a feasible mitigation site with sufficient space to satisfy the County's request. The map should also demonstrate that sufficient space is available for a 2:1 ratio and for a 3:1 ratio.

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Groundwater data collected at the two mitigation sites indicates that excavation of materials would not need to exceed six vertical feet and would likely not exceed four vertical feet. The mitigation area(s) would be designed to connect to and contribute to existing wetland habitats. The mitigation area(s) would consist of seasonal wetland ponds and/or Palustrine wetlands surrounded by a band of riparian habitat (for habitat value and for screening and protection purposes).

Wetland Mitigation and Monitoring Plan

Winzler & Kelly is currently preparing a wetland mitigation and monitoring plan in the format recommended by the San Francisco District Corps of Engineers (COE) Mitigation Guidelines (U.S. EPA. 2008. 40 CFR Part 230, Compensatory Mitigation for Losses of Aquatic Resources; Final Rule, April 10, 2008). Topics recommended by the COE guidance and to be addressed in the report include site monitoring, implementation plan (specifications), temporary maintenance plan, and long-term management plan (including a recommended requirement for financial assurance to cover long-term maintenance). The mitigation plan will include a site plan and graphics based on topographic survey of the site. This plan will be completed by the end of January 2012.

The plan will include full design plans, specifications, and cost estimates for construction. The applicant intends to construct the wetland mitigation area in tandem with the road improvements.

Conclusion

This memo has been drafted to demonstrate that the applicant has a feasible location in which to mitigate for wetland impacts associated with the project. Please contact me (Robert Holmlund) at any time if you have questions.

Attachments

- Figure Set 1 (Figures 1a through 1g):
- Figure Set 2 (Figures 2a through 2g):
- Figure 3: Wetland Mitigation Area(s)
- Figure 4: Wetland Mitigation Design Concepts

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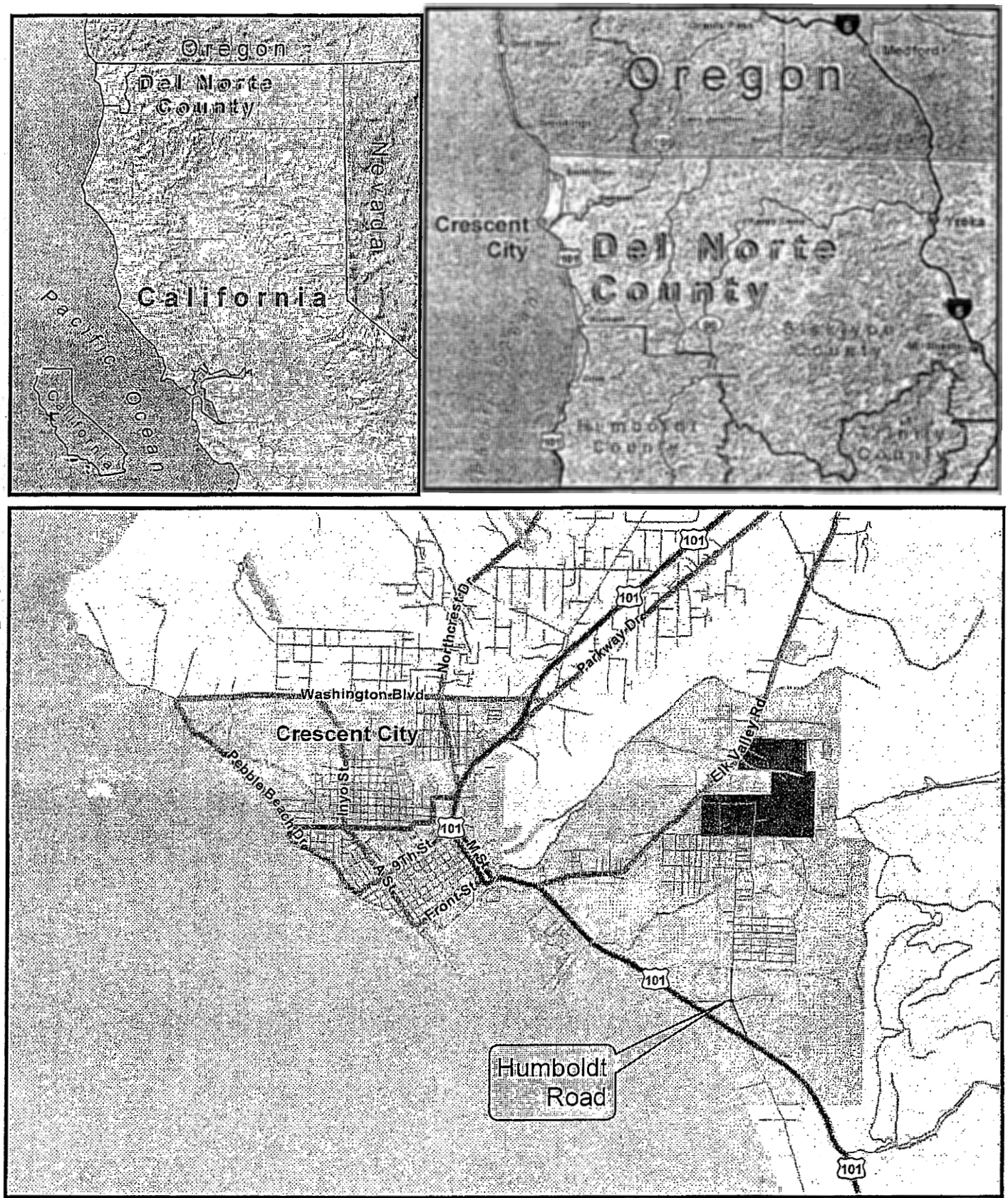

Elk Valley Rancheria

Project Location

U.S Highway

Local Roads

N

0 0.5 1 Miles

1 inch = 1 miles printed at 8.5x11

Sources: NOAA Fisheries: Aerial 2009 0.5 meter resolution; StreetMap USA - TeleAtlas

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Figure 1
Vicinity Map

Humboldt Road Safety Improvement Project: Elk Valley Rancheria

Cartography: GLD

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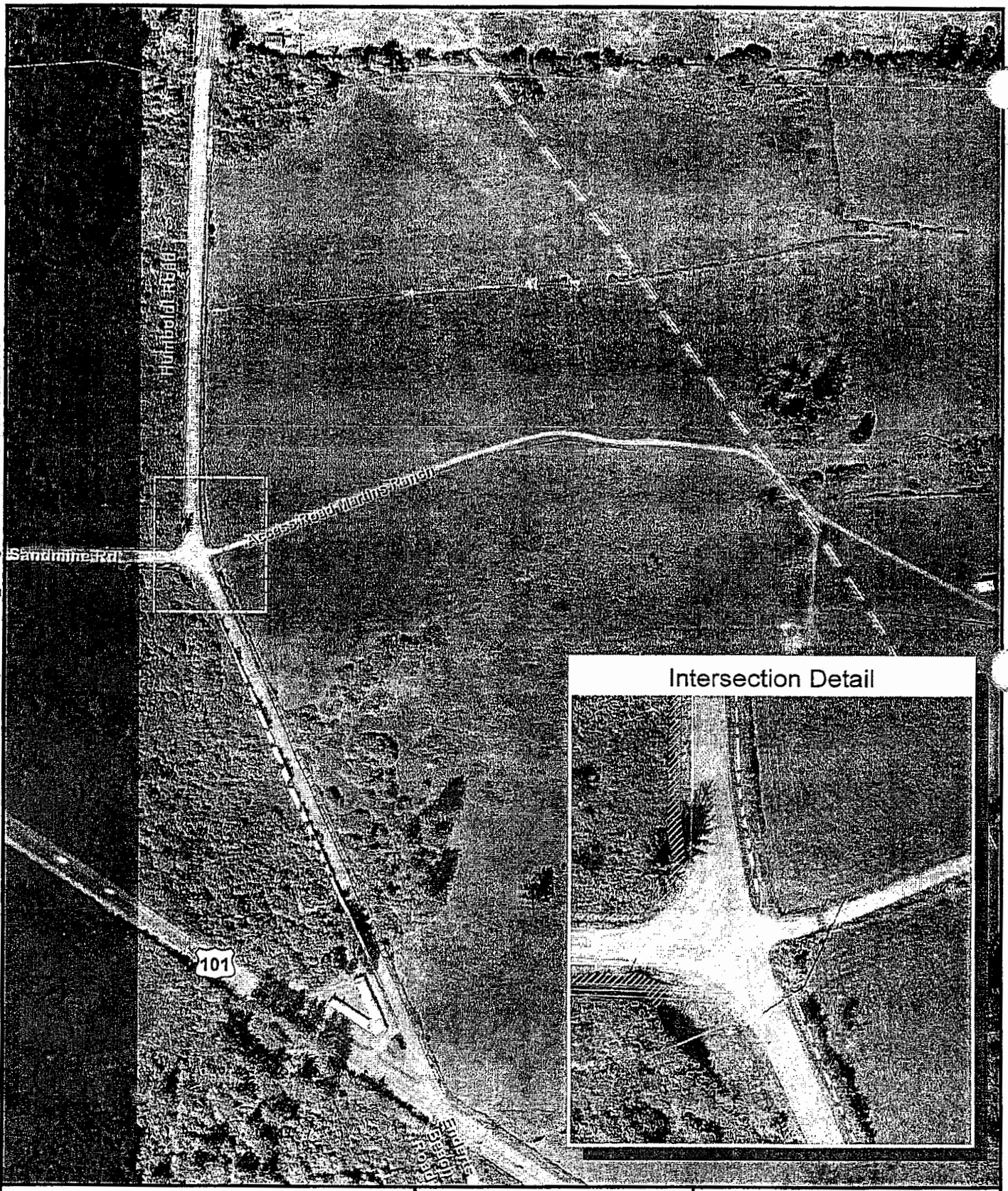

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Cartography: GLD

Coastal Zone Bounndary

Palustrine Emerget Wetland

Forested Palustrine Wetland

Riparian

1 Parameter Man-made Wetland Ditch

N

0 175 350 ft

1 inch = 350 feet printed at 8.5x11

Sources: AES: Aerial 2005 1/2 ft resolution; Winzler and Kelly field data, Sept. 2010

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Figure 2a
Environmental Conditions in Humboldt Road ROW (Based on Winzler & Kelly Wetland Delineation 2011)

Humboldt Road Safety Improvement Project: Elk Valley Rancheria

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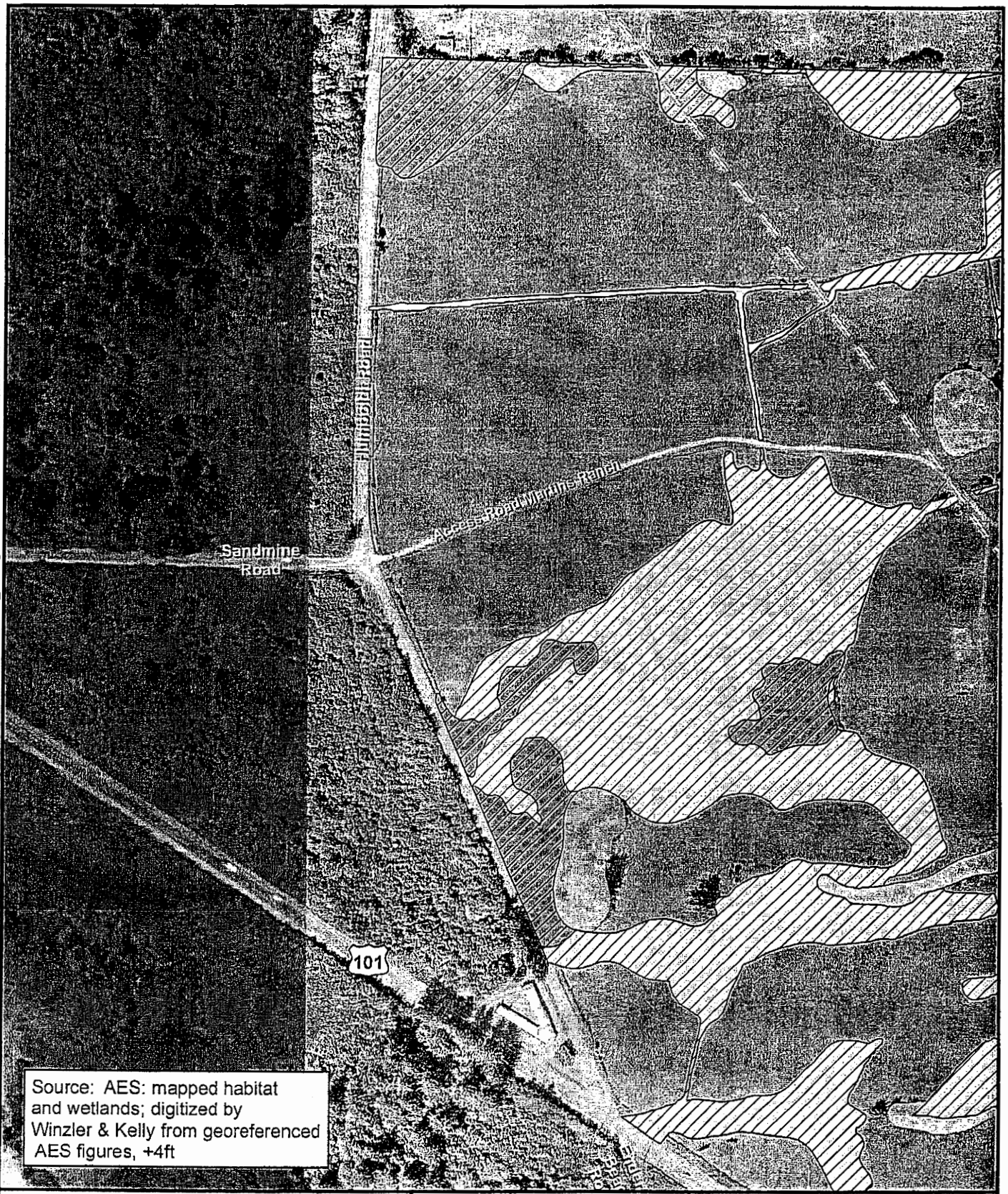

Coastal Zone Bounndary

Wetlands/ SEC 404

Riparian Wetland (Forested Palustrine)

Wetland Prairie (Palustrine Emergent)

Sitka Spruce Forest

Red Alder Mixed Deciduous Woodland

N

0 185 370 ft

1 inch = 350 feet printed at 8.5x11

Sources: 3Di West: Aerial 2005 1/2 ft resolution; Wetlands Jurisdictional Determination, April 11, 2005

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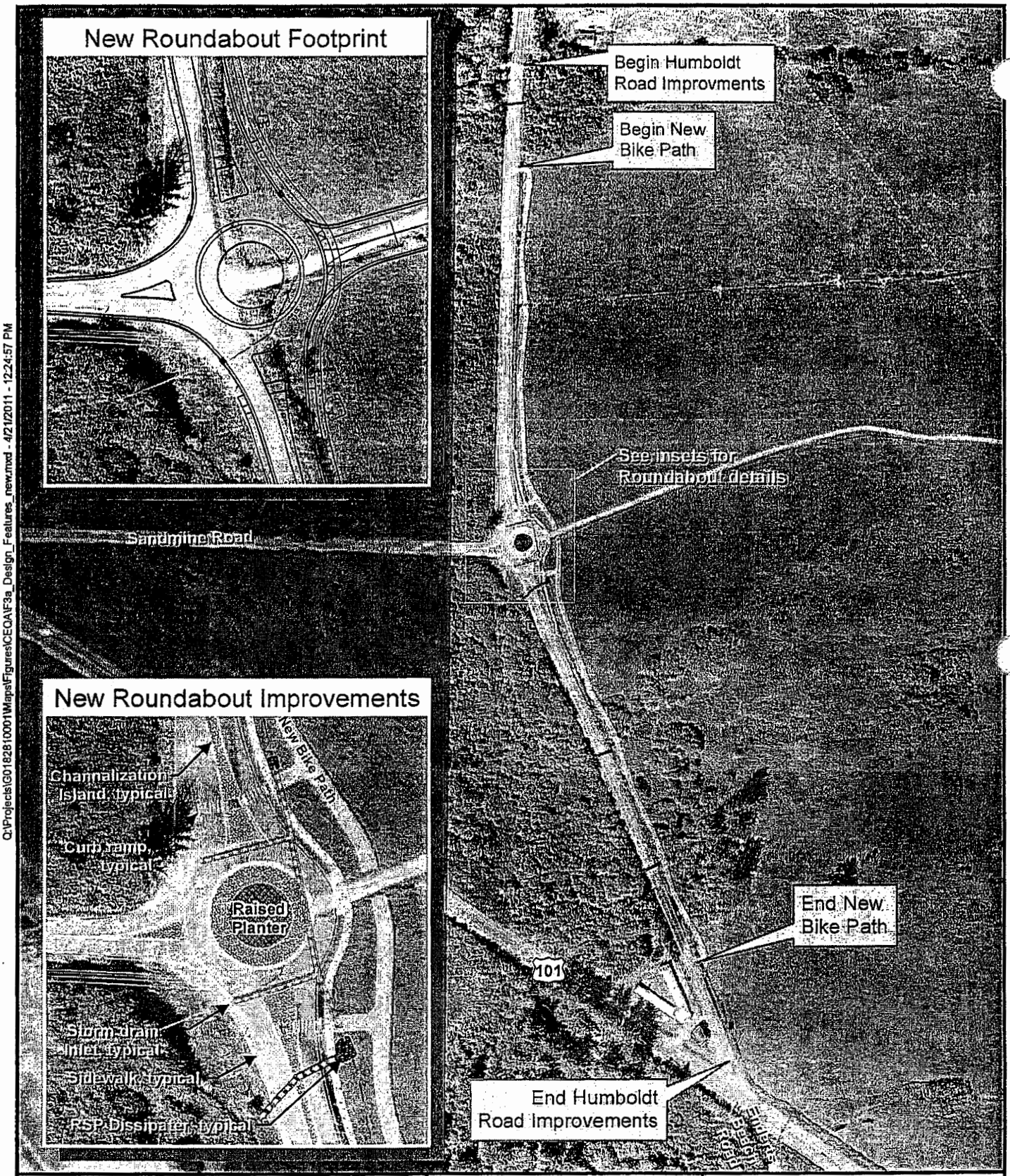
Figure 2b
Environmental Conditions in Martins Ranch Property (Based on AES Wetland Delineation 2005)

Humboldt Road Safety Improvement Project: Elk Valley Rancheria

Cartography: GLD

Q:\Projects\G018281000\Maps\Figures\CEQA\F2a_ExistingConditions.mxd - 4/21/2011 - 12:49:09 PM

6 of 23



Humboldt Road Footprint
New Bike Path
Bike Path Shoulder
Channelization Islands
Sidewalk
Coastal Zone Bounndary
Ditch Flowline
Culverts
Proposed
Existing; To Be Extended
Existing; No Modifications

N

0 175 350 ft

1 inch = 350 feet printed at 8.5x11

Sources: USDA: Aerial NAIP 2009 1 meter resolution; Winzler and Kelly field data, Sept. 2010

WINZLER & KELLY
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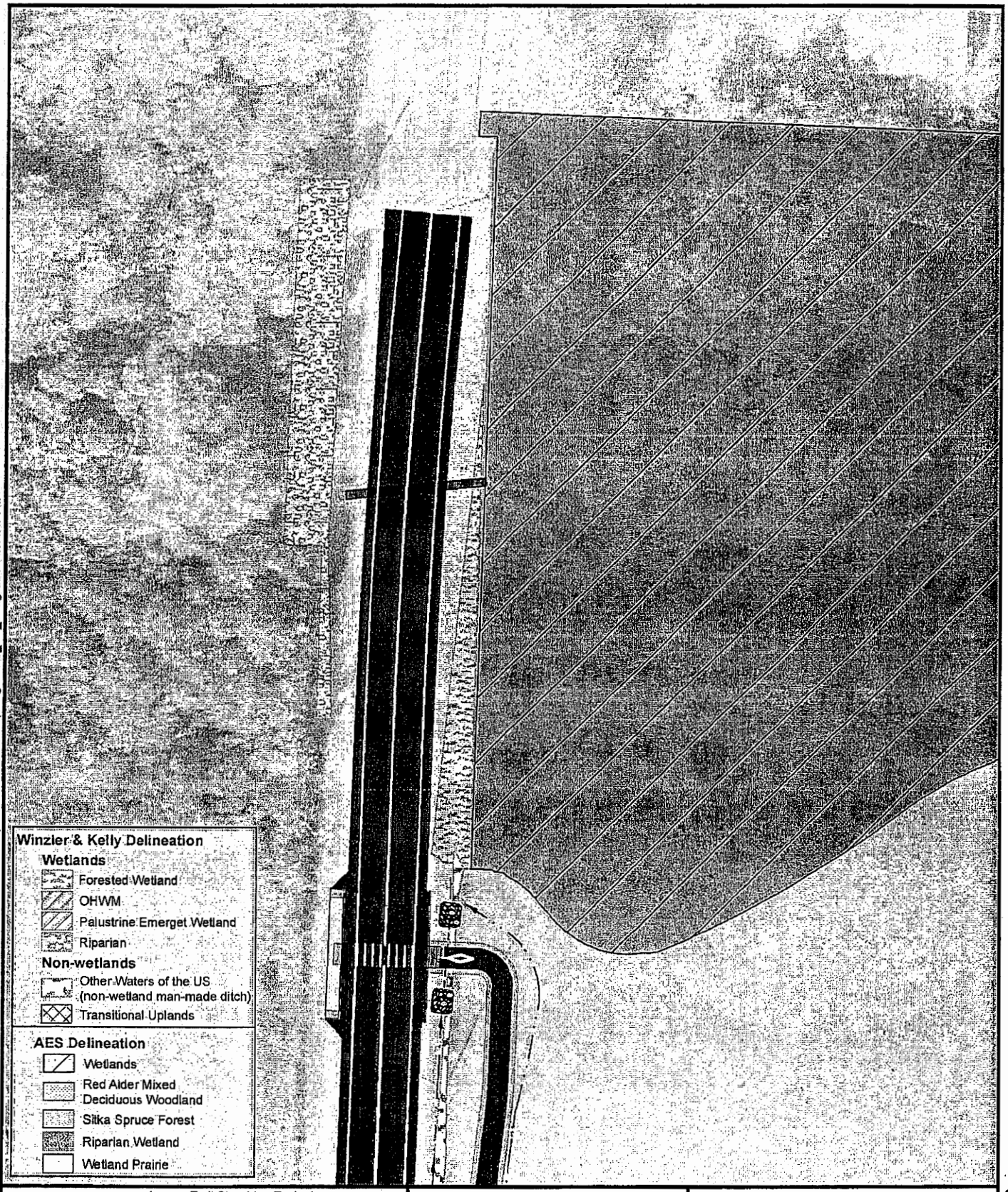
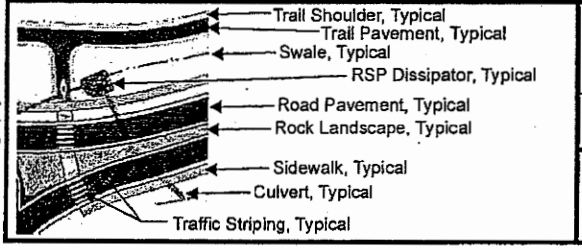
Figure 3
Project Design Features

Humboldt Road Safety Improvement Project: Elk Valley Rancheria

Cartography: GLD

Q:\Projects\G0182810001\Maps\Figures\CEQA\F3a_Design_Features_new.mxd - 4/21/2011 - 12:24:57 PM





N

0 25 50 ft

1 inch = 50 feet printed at 8.5x11

Sources: USDA: Aerial 2006 0.25 ft resolution; Winzler and Kelly wetland delineation field data, Sept. 2010; Wetlands Jurisdictional Determination, April 11, 2005

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Figure 1a
Project Design

Humboldt Road Improvements
Elk Valley Rancheria

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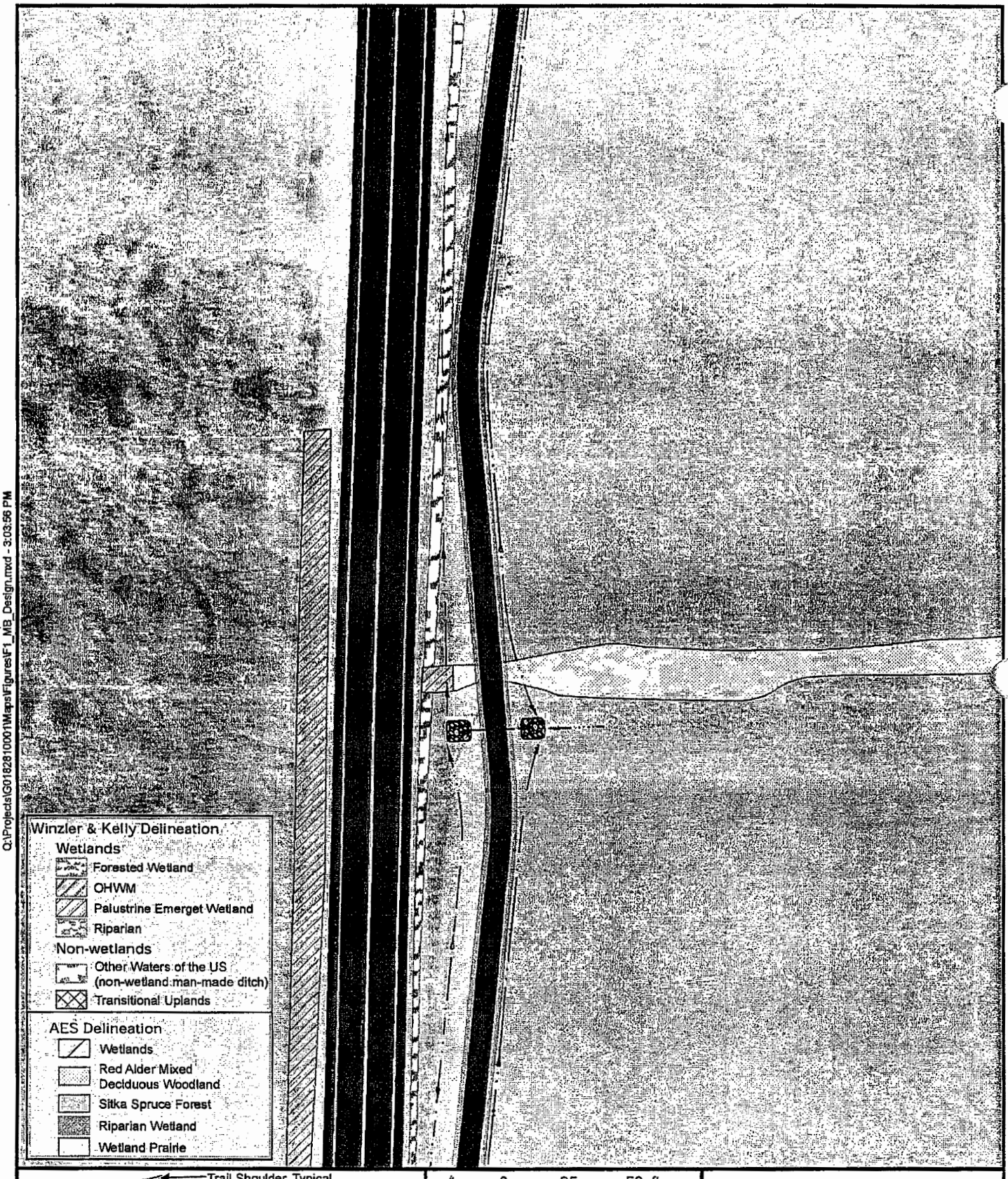
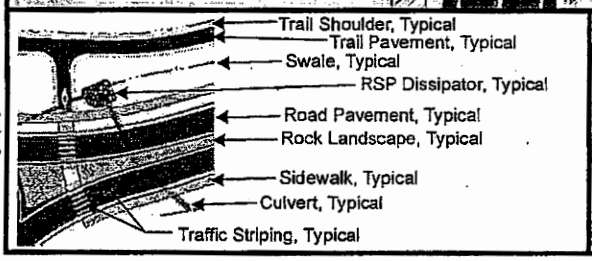
Cartography: GLD

8 of 23





N

0 25 50 ft

1 inch = 50 feet printed at 8.5x11

Sources: USDA: Aerial 2006 0.25 ft resolution; Winzler and Kelly wetland delineation field data, Sept. 2010; Wetlands Jurisdictional Determination, April 11, 2005

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Figure 1b
Project Design

Humboldt Road Improvements
Elk Valley Rancheria

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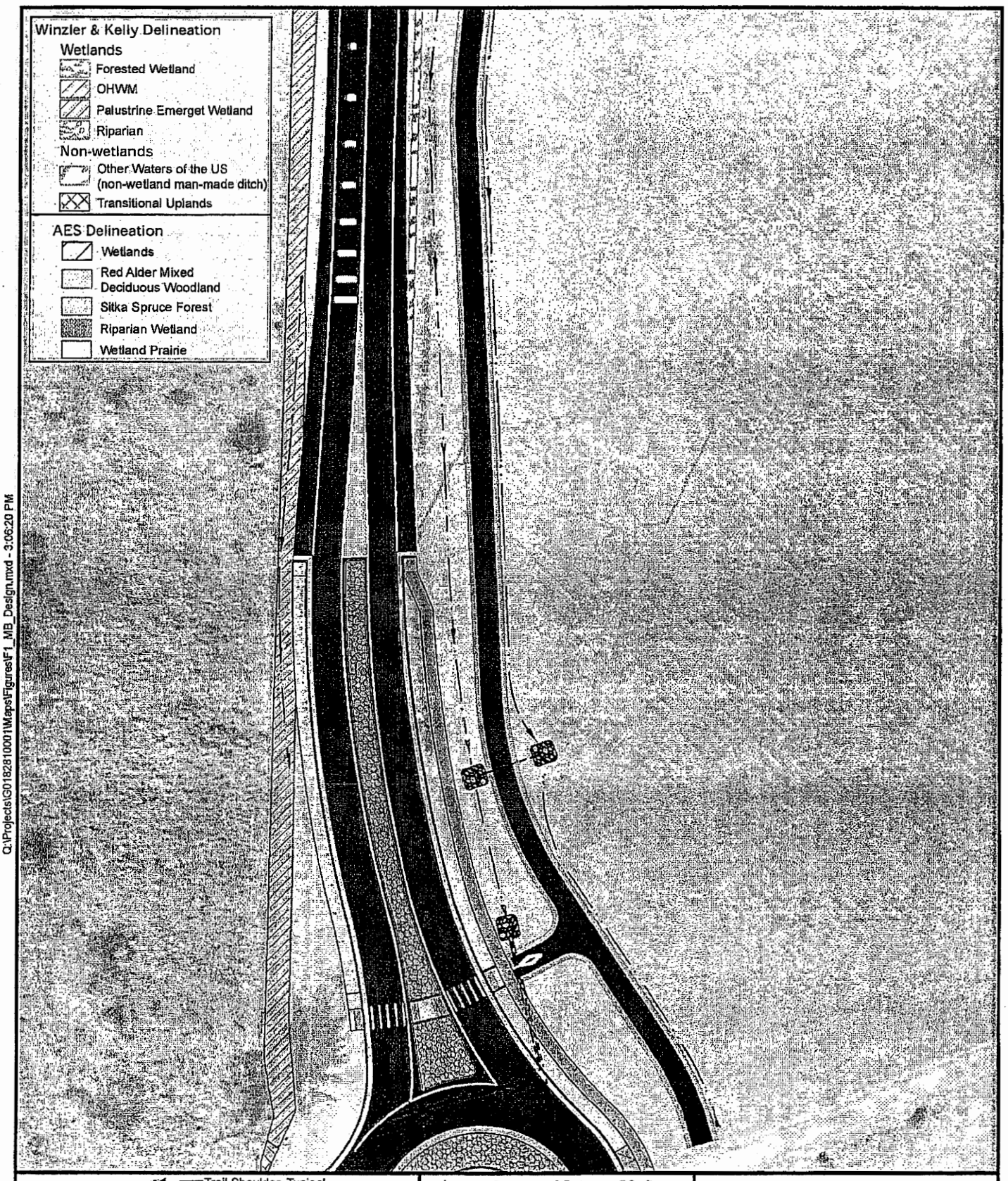
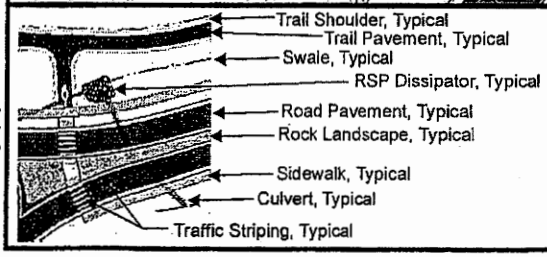
Cartography: GLD

94
23





N

0 25 50 ft

1 inch = 50 feet printed at 8.5x11

Sources: USDA: Aerial 2006 0.25 ft resolution; Winzler and Kelly wetland delineation field data, Sept. 2010; Wetlands Jurisdictional Determination, April 11, 2005

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Figure 1c
Project Design

Humboldt Road Improvements
Elk Valley Rancheria

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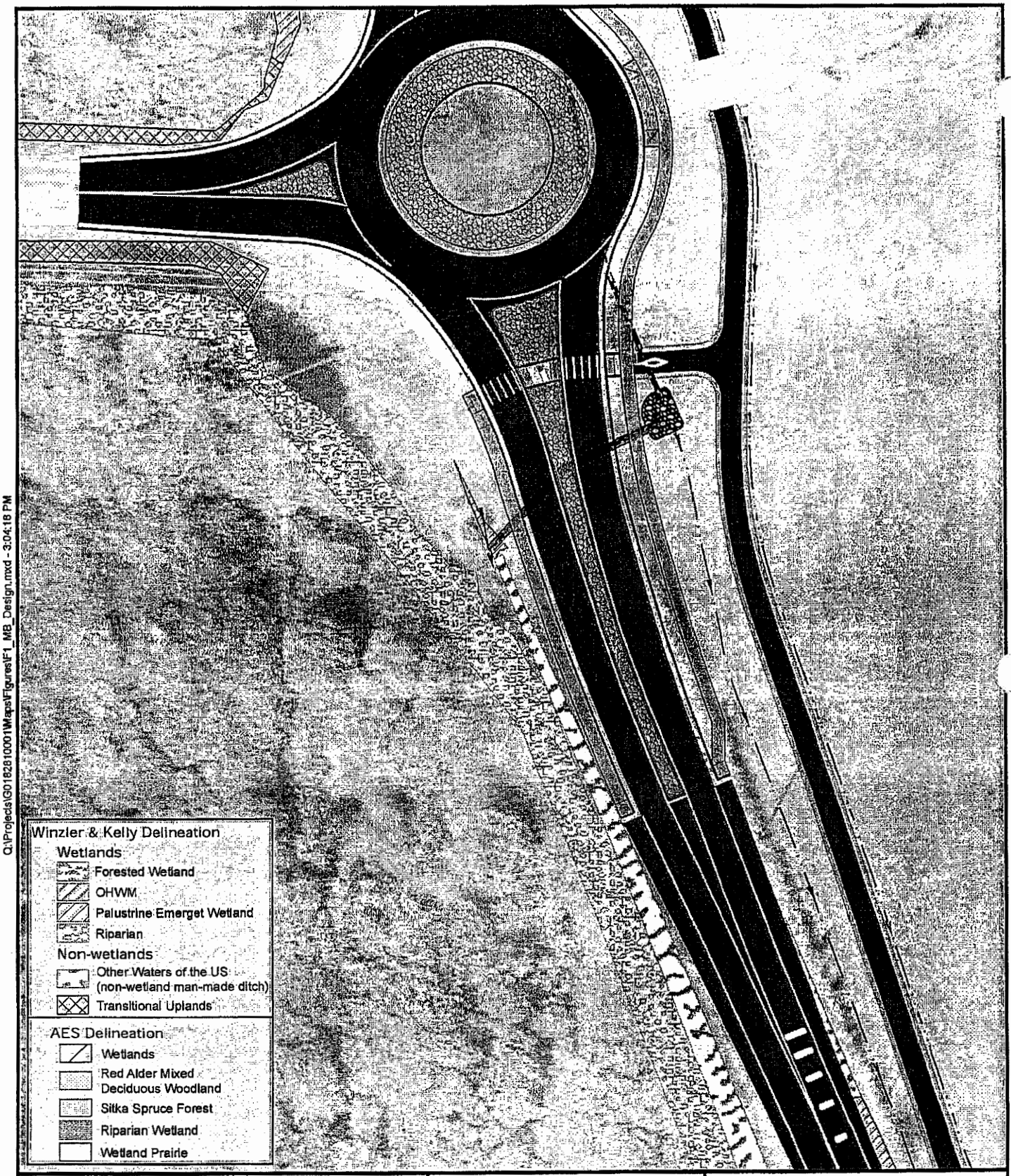
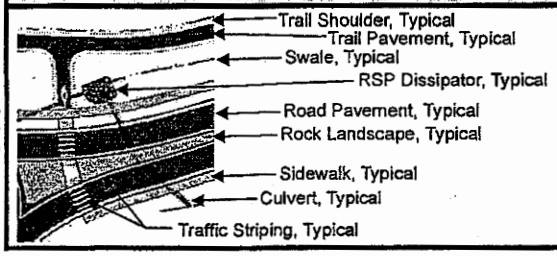
Cartography: GLD

10 of 23





N

0 25 50 ft

1 inch = 50 feet printed at 8.5x11

Sources: USDA: Aerial 2006 0.25 ft resolution; Winzler and Kelly wetland delineation field data, Sept. 2010; Wetlands Jurisdictional Determination, April 11, 2005

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Figure 1d
Project Design

Humboldt Road Improvements
Elk Valley Rancheria

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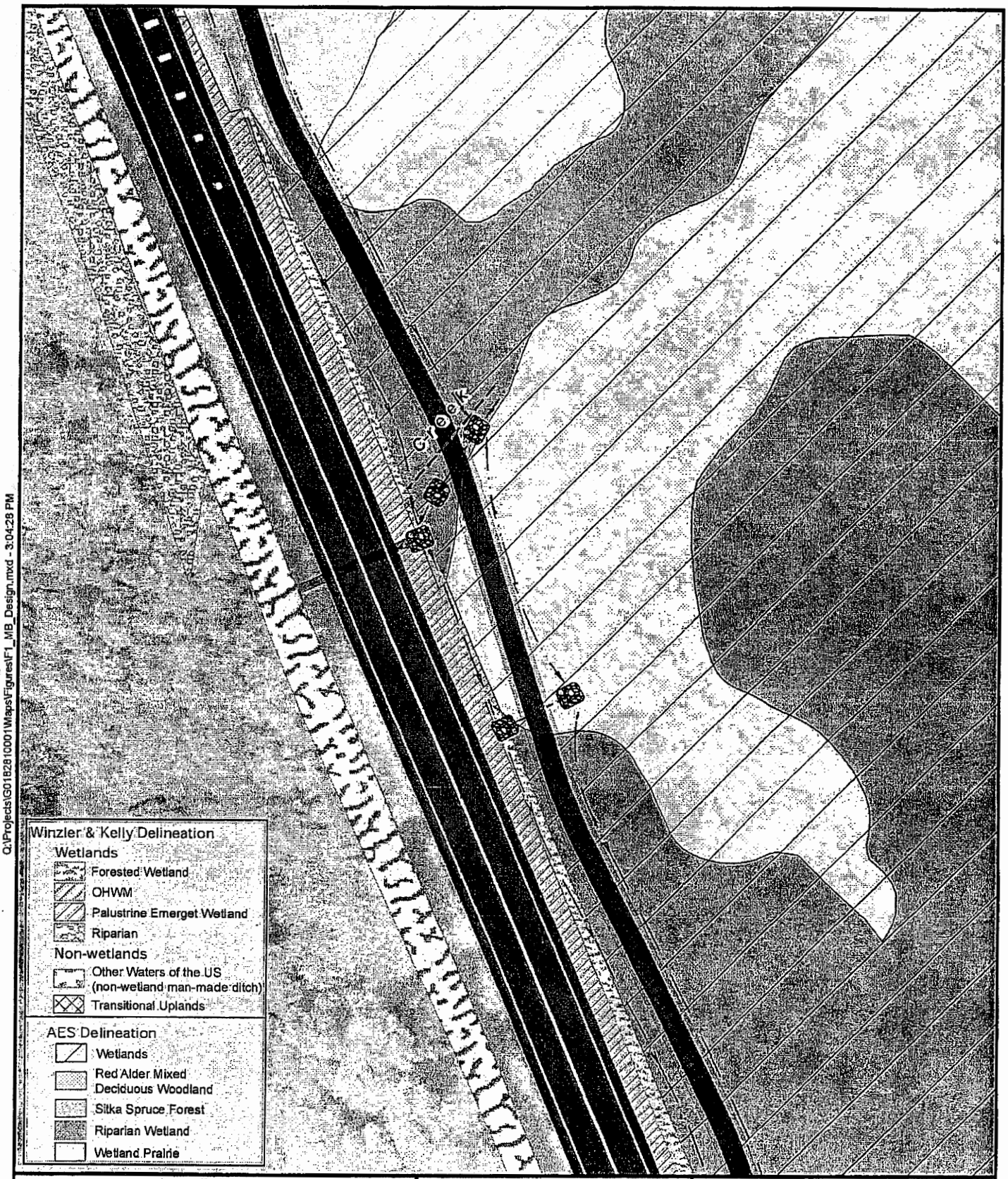
Cartography: GLD

11 of 23


Winzler & Kelly Delineation
Wetlands
Forested Wetland
OHWM
Palustrine Emerget Wetland
Riparian
Non-wetlands
Other Waters of the US (non-wetland man-made ditch)
Transitional Uplands
AES Delineation
Wetlands
Red Alder Mixed Deciduous Woodland
Sitka Spruce Forest
Riparian Wetland
Wetland Prairie
Trail Shoulder, Typical
Trail Pavement, Typical
Swale, Typical
RSP Dissipator, Typical
Road Pavement, Typical
Rock Landscape, Typical
Sidewalk, Typical
Culvert, Typical
Traffic Striping, Typical
N
0 25 50 ft
1 inch = 50 feet printed at 8.5x11
Sources: USDA: Aerial 2006 0.25 ft resolution; Winzler and Kelly wetland delineation field data, Sept. 2010; Wetlands Jurisdictional Determination, April 11, 2005
WINZLER & KELLY
www.w-and-k.com
© Winzler & Kelly
Figure 1e
Project Design
Humboldt Road Improvements
Elk Valley Rancheria
Cartography: GLD
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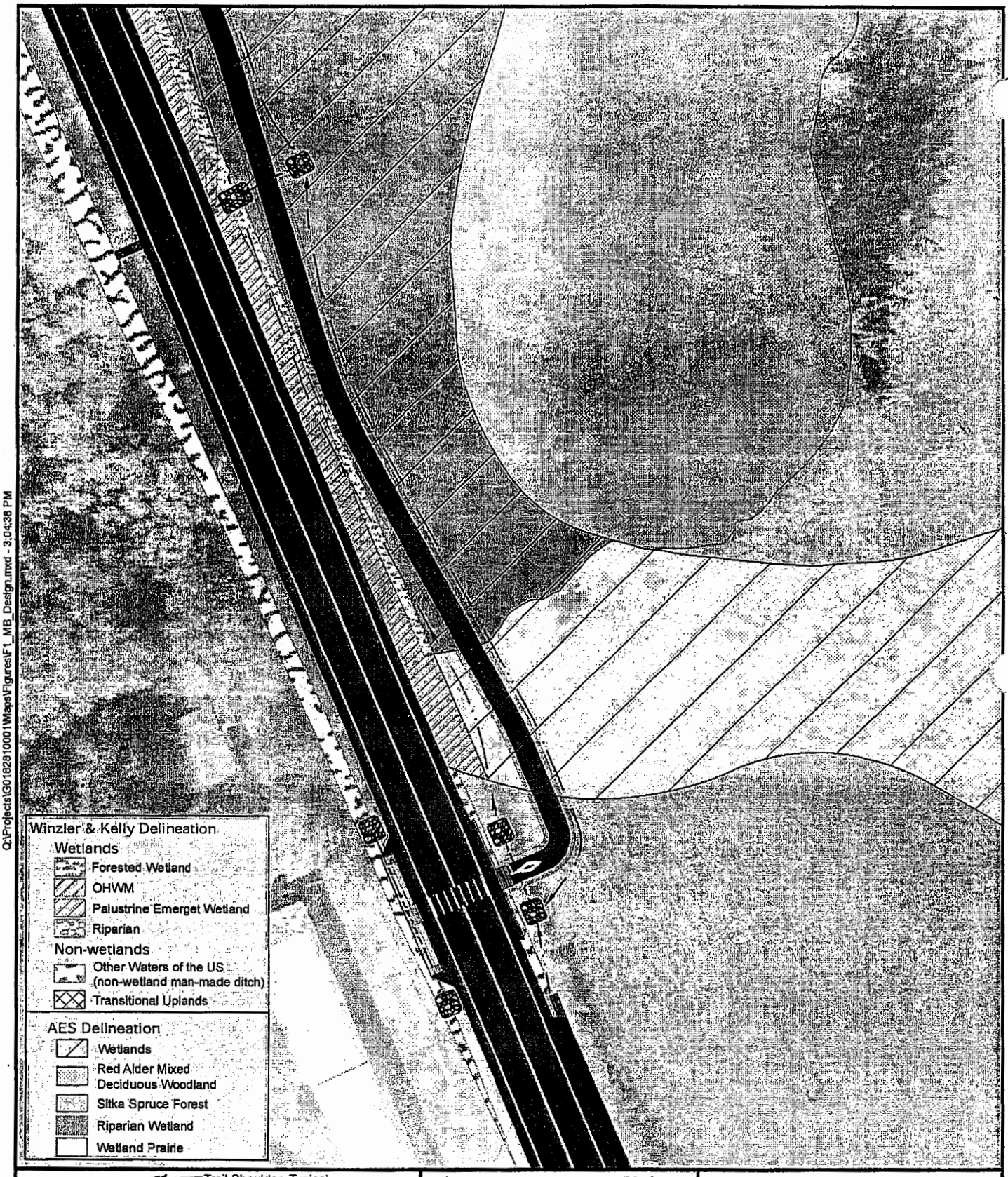
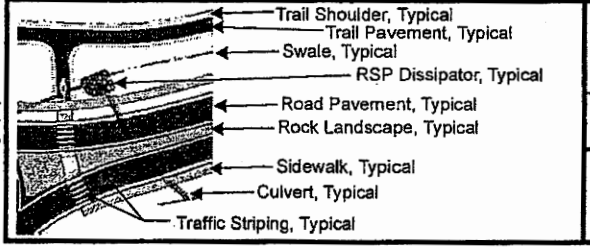
124
23





N

0 25 50 ft

1 inch = 50 feet printed at 8.5x11

Sources: USDA: Aerial 2006 0.25 ft resolution; Winzler and Kelly wetland delineation field data, Sept. 2010; Wetlands Jurisdictional Determination, April 11, 2005

WINZLER & KELLY

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Figure 1f
Project Design

Humboldt Road Improvements
Elk Valley Rancheria

Cartography: GLD

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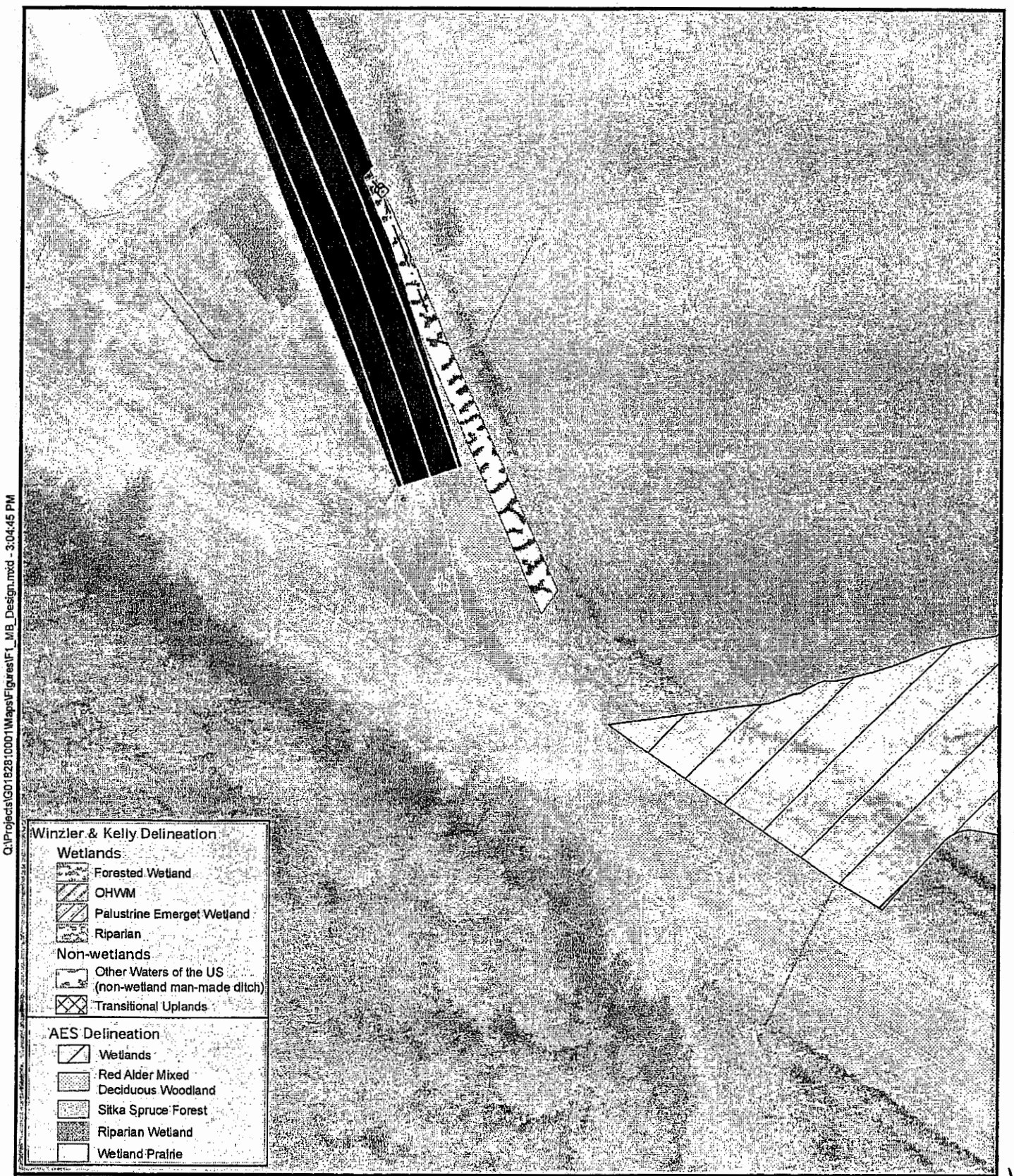
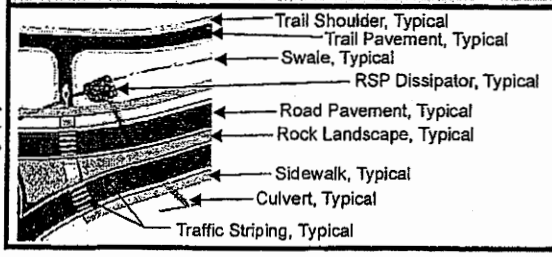
130
23





N

0 25 50 ft

1 inch = 50 feet printed at 8.5x11

Sources: USDA: Aerial 2006 0.25 ft resolution; Winzler and Kelly wetland delineation field data, Sept. 2010; Wetlands Jurisdictional Determination, April 11, 2005

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Figure 1g
Project Design

Humboldt Road Improvements
Elk Valley Rancheria

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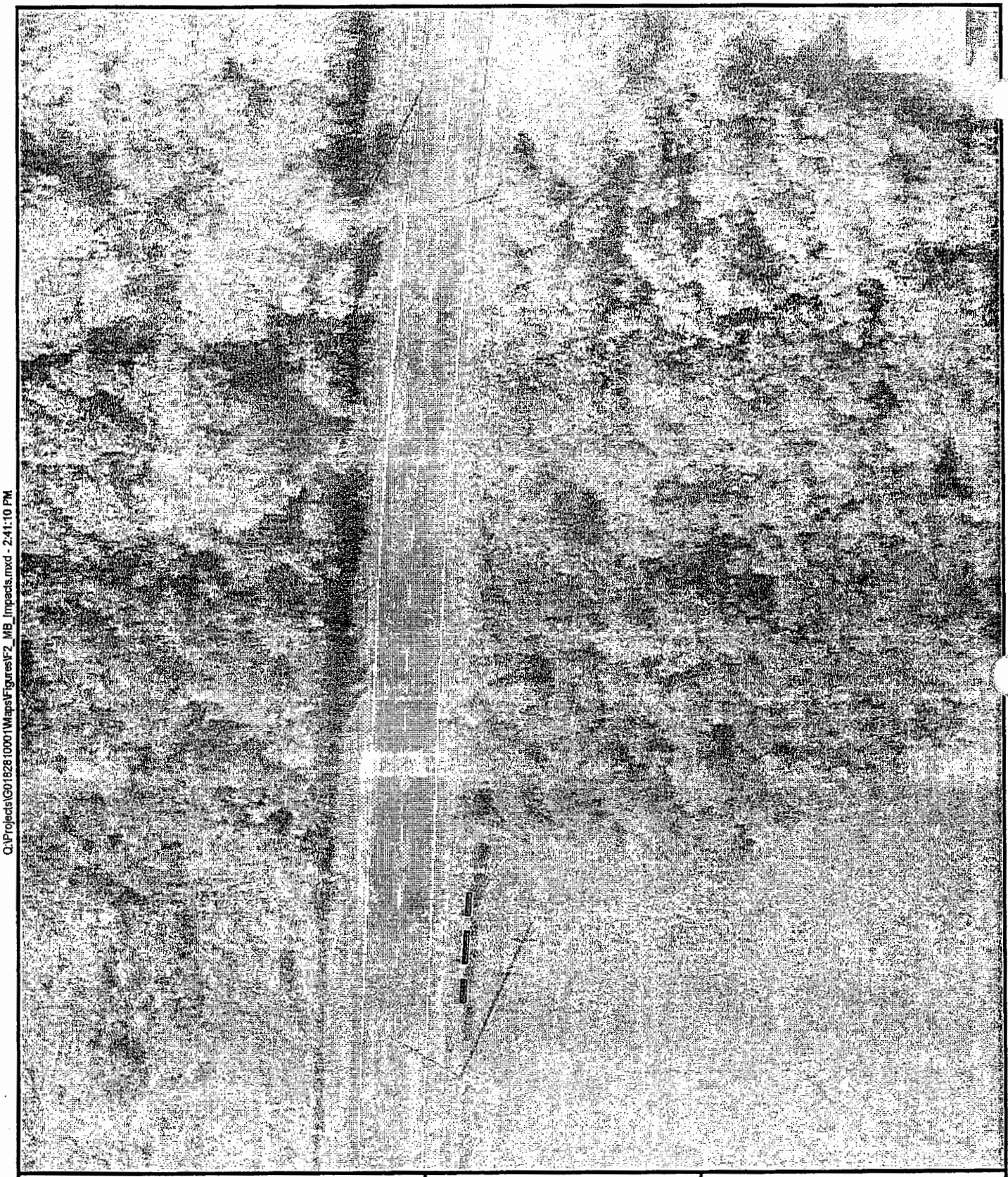
Cartography: GLD

14 of 23



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Cartography: GLD

Impacts

AES Delineation

- Riparian Wetland
- Wetland Prairie

W&K Delineation

- Forested Wetland
- Man-made Ditch
- Palustrine Emerget Wetland

N

0 25 50 ft

1 inch = 50 feet printed at 8.5x11

Sources: USDA: Aerial 2006 0.25 ft resolution; Winzler and Kelly wetland delineation field data, Sept. 2010; Wetlands Jurisdictional Determination, April 11, 2005

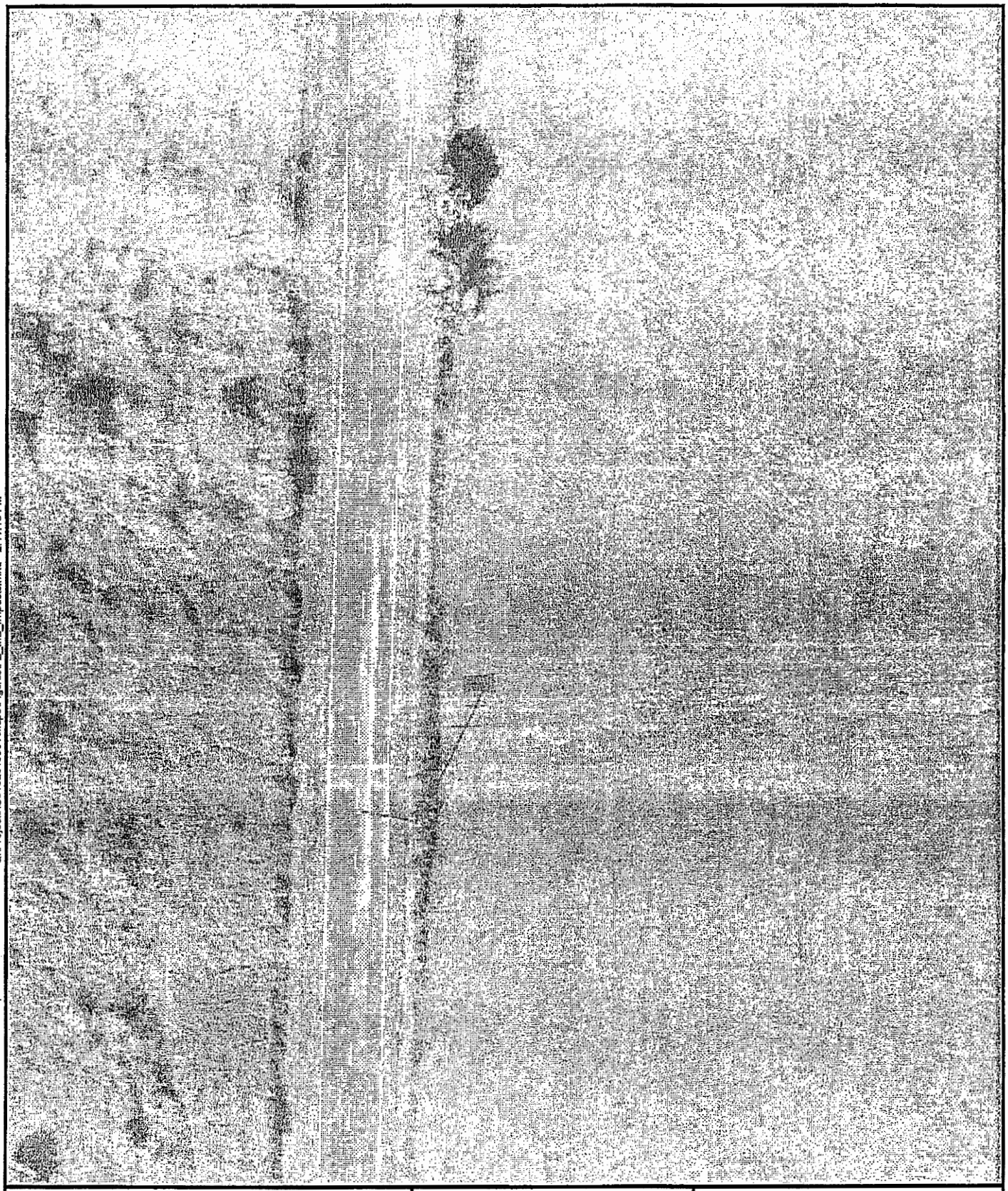
WINZLER & KELLY

www.w-and-k.com

Figure 2a
Wetland and Habitat Impacts

Humboldt Road Improvements
Elk Valley Rancheria

15 of 23



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Cartography: GLD

Impacts

AES Delineation

- Riparian Wetland
- Wetland Prairie

W&K Delineation

- Forested Wetland
- Man-made Ditch
- Palustrine Emerget Wetland

N

0 25 50 ft

1 Inch = 50 feet printed at 8.5x11

Sources: USDA: Aerial 2006 0.25 ft resolution; Winzler and Kelly wetland delineation field data, Sept. 2010; Wetlands Jurisdictional Determination, April 11, 2005

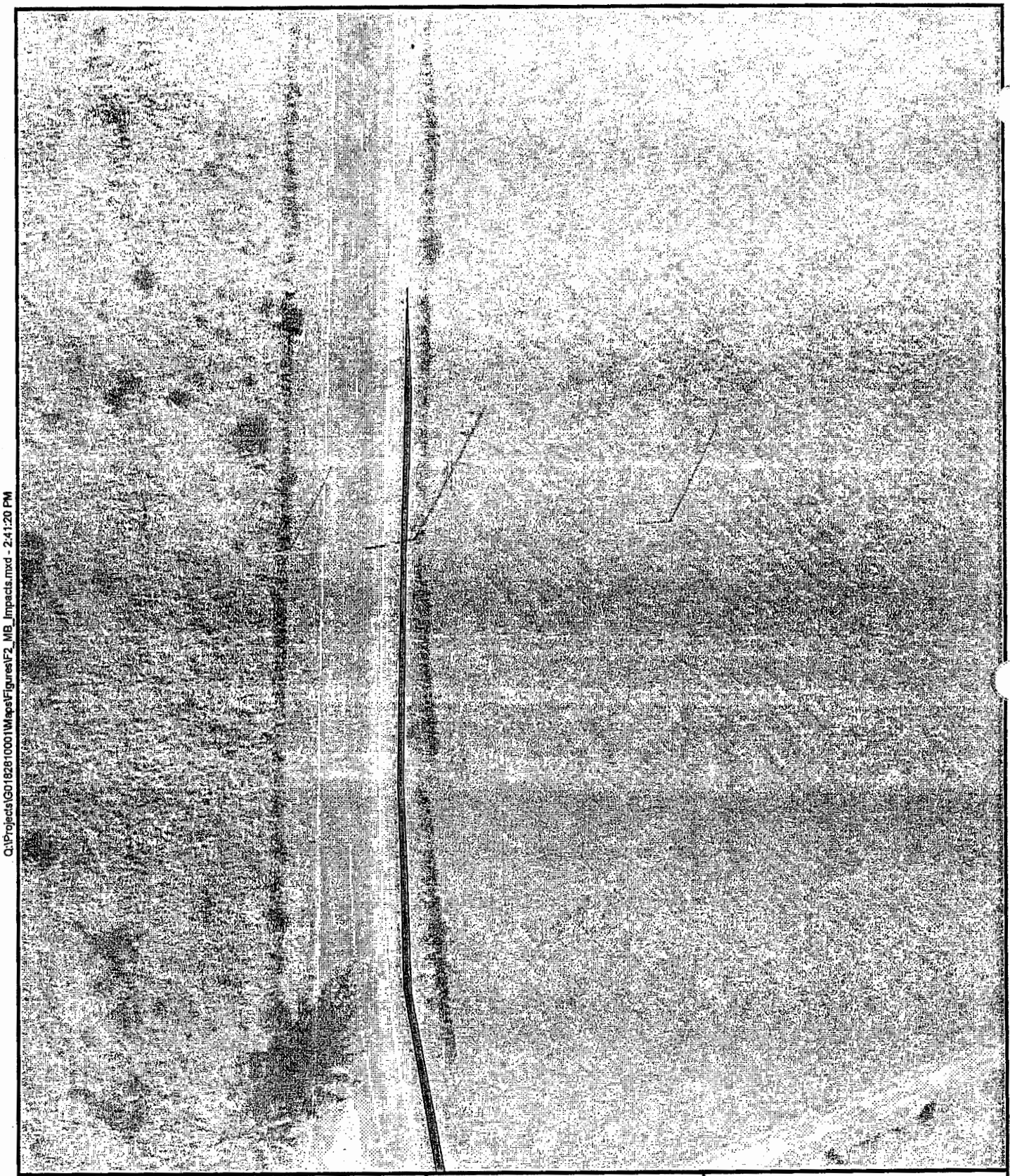
WINZLER & KELLY

www.w-and-k.com

Figure 2b
Wetland and Habitat Impacts

Humboldt Road Improvements
Elk Valley Rancheria

16 of 23



Q:\Projects\G0182810001\Maps\Figures\F2_MB_Impacts.mxd - 2:41:20 PM

Cartography: GLD

Impacts

AES Delineation	W&K Delineation
Riparian Wetland	Forested Wetland
Wetland Prairie	Man-made Ditch
	Palustrine Emerget Wetland

N

0 25 50 ft

1 inch = 50 feet printed at 8.5x11

Sources: USDA: Aerial 2006 0.25 ft resolution; Winzler and Kelly wetland delineation field data, Sept. 2010; Wetlands Jurisdictional Determination, April 11, 2005

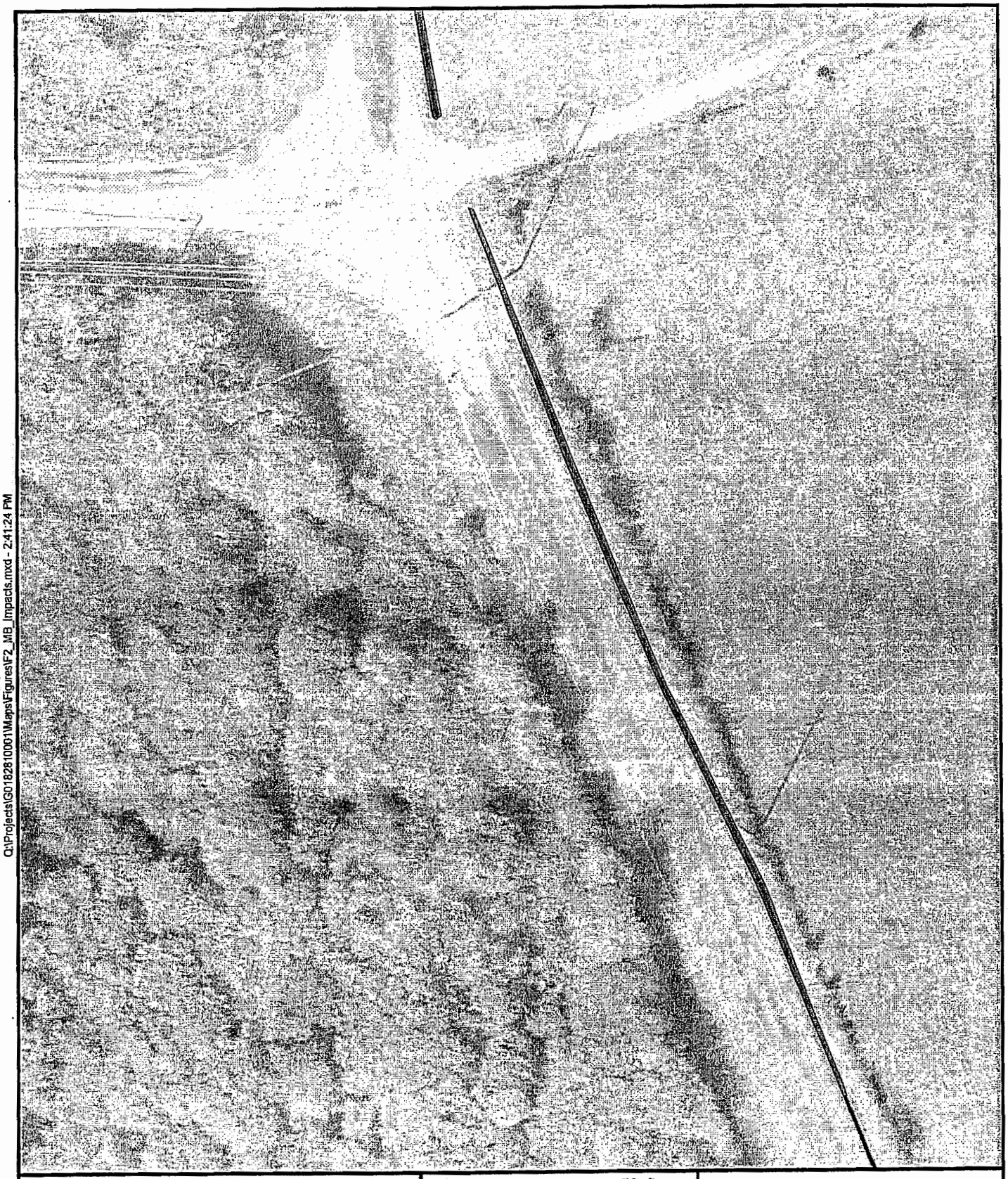
WINZLER & KELLY

www.w-and-k.com

Figure 2c Wetland and Habitat Impacts

Humboldt Road Improvements
Elk Valley Rancheria

179
23



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Cartography: GLD

Impacts

AES Delineation

- Riparian Wetland
- Wetland Prairie

W&K Delineation

- Forested Wetland
- Man-made Ditch
- Palustrine Emerget Wetland

N

0 25 50 ft

1 inch = 50 feet printed at 8.5x11

Sources: USDA: Aerial 2006 0.25 ft resolution; Winzler and Kelly wetland delineation field data, Sept. 2010; Wetlands Jurisdictional Determination, April 11, 2005

WINZLER & KELLY

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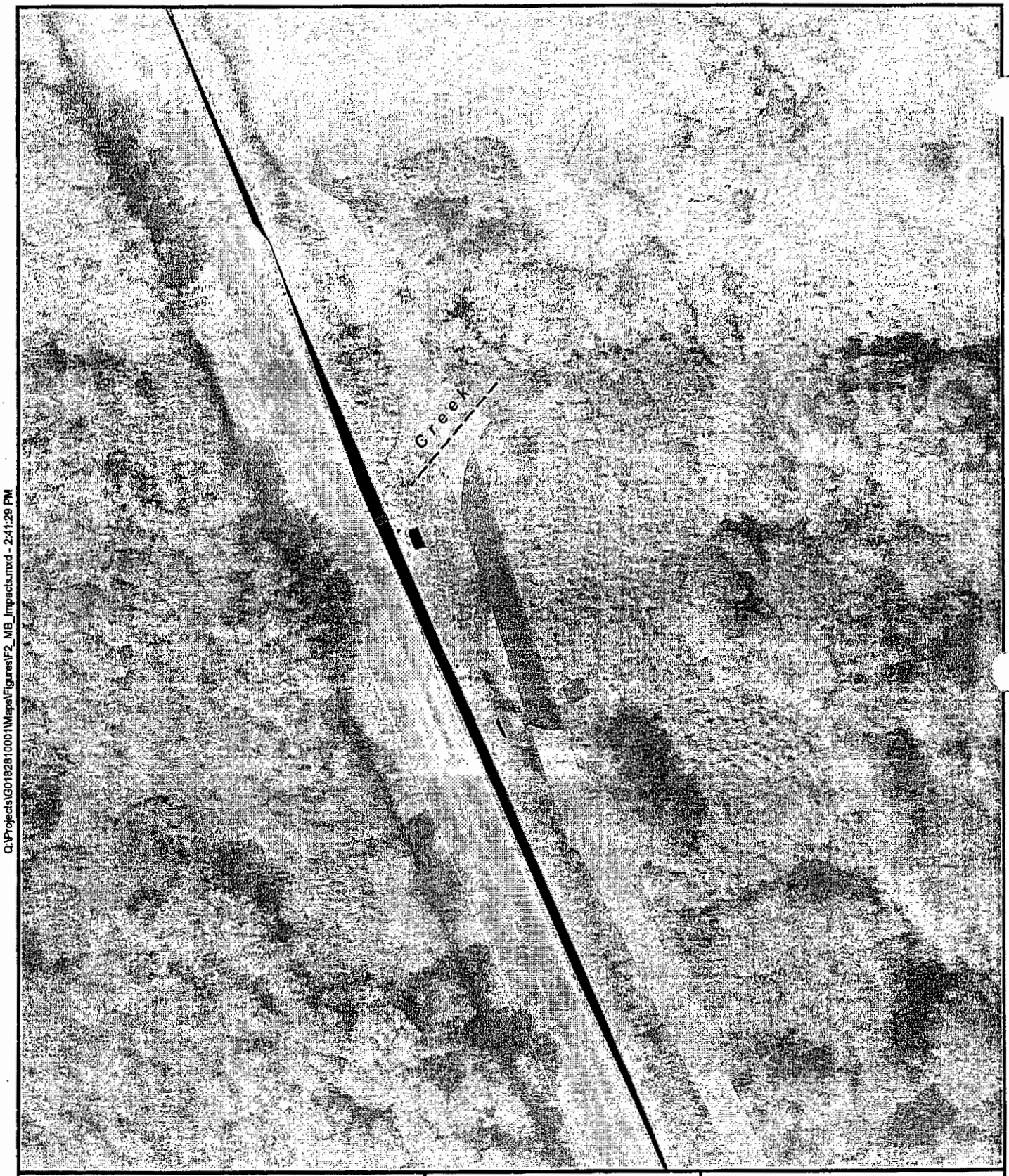
Figure 2d
Wetland and Habitat Impacts

Humboldt Road Improvements
Elk Valley Rancheria

184
23

134



Q:\Projects\GD1828100011\Maps\Figures\F2_MB_Impacts.mxd - 2:41:29 PM

Cartography: GLD

Impacts

AES Delineation	W&K Delineation
Riparian Wetland	Forested Wetland
Wetland Prairie	Man-made Ditch
	Palustrine Emerget Wetland

N

0 25 50 ft

1 inch = 50 feet printed at 8.5x11

Sources: USDA: Aerial 2006 0.25 ft resolution; Winzler and Kelly wetland delineation field data, Sept. 2010; Wetlands Jurisdictional Determination, April 11, 2005

WINZLER & KELLY

www.w-and-k.com

Figure 2e
Wetland and Habitat Impacts

Humboldt Road Improvements
Elk Valley Rancheria

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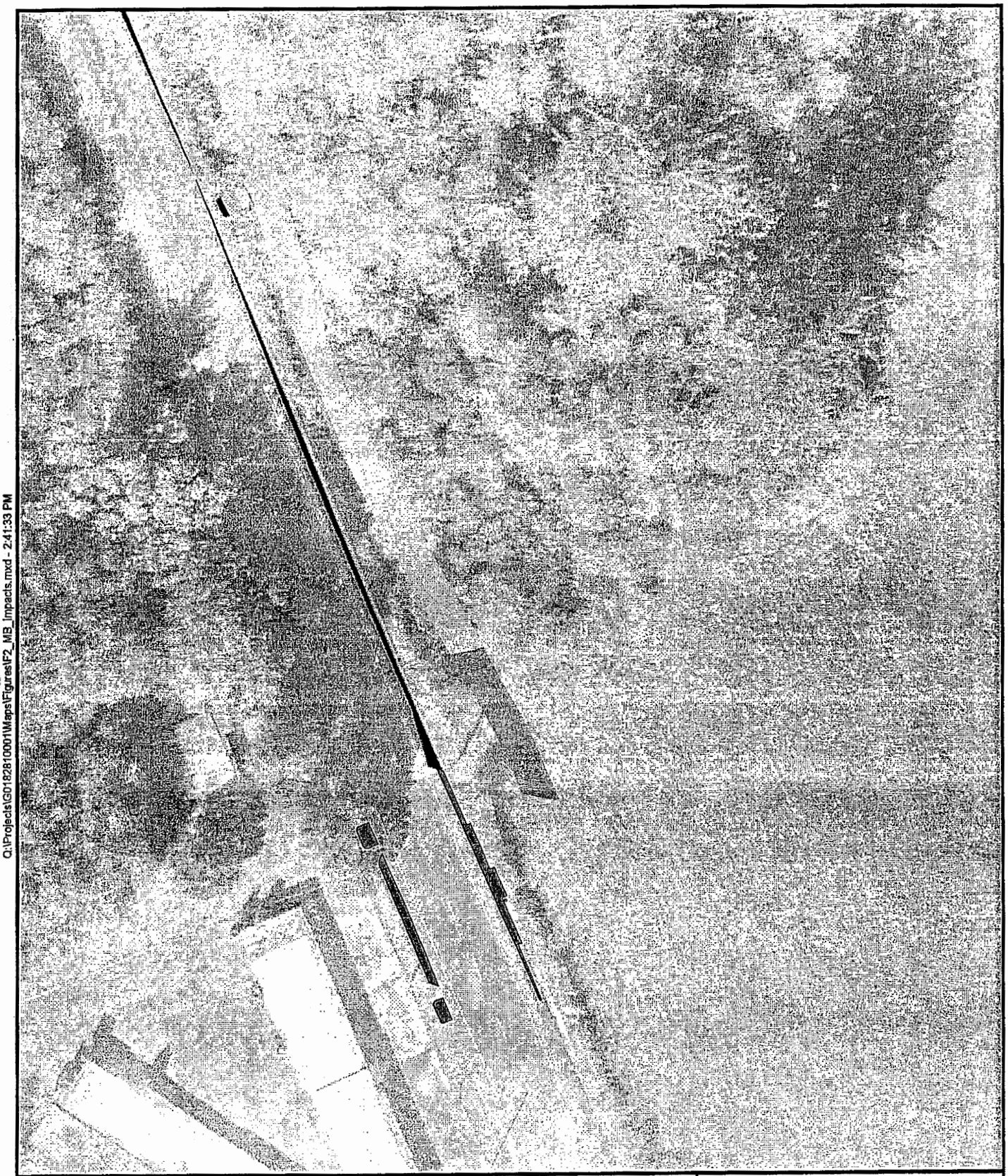

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Cartography: GLD

Impacts

AES Delineation

- Riparian Wetland
- Wetland Prairie

W&K Delineation

- Forested Wetland
- Man-made Ditch
- Palustrine Emerget Wetland

N

0 25 50 ft

1 inch = 50 feet printed at 8.5x11

Sources: USDA: Aerial 2006 0.25 ft resolution; Winzler and Kelly wetland delineation field data, Sept. 2010; Wetlands Jurisdictional Determination, April 11, 2005

WINZLER & KELLY

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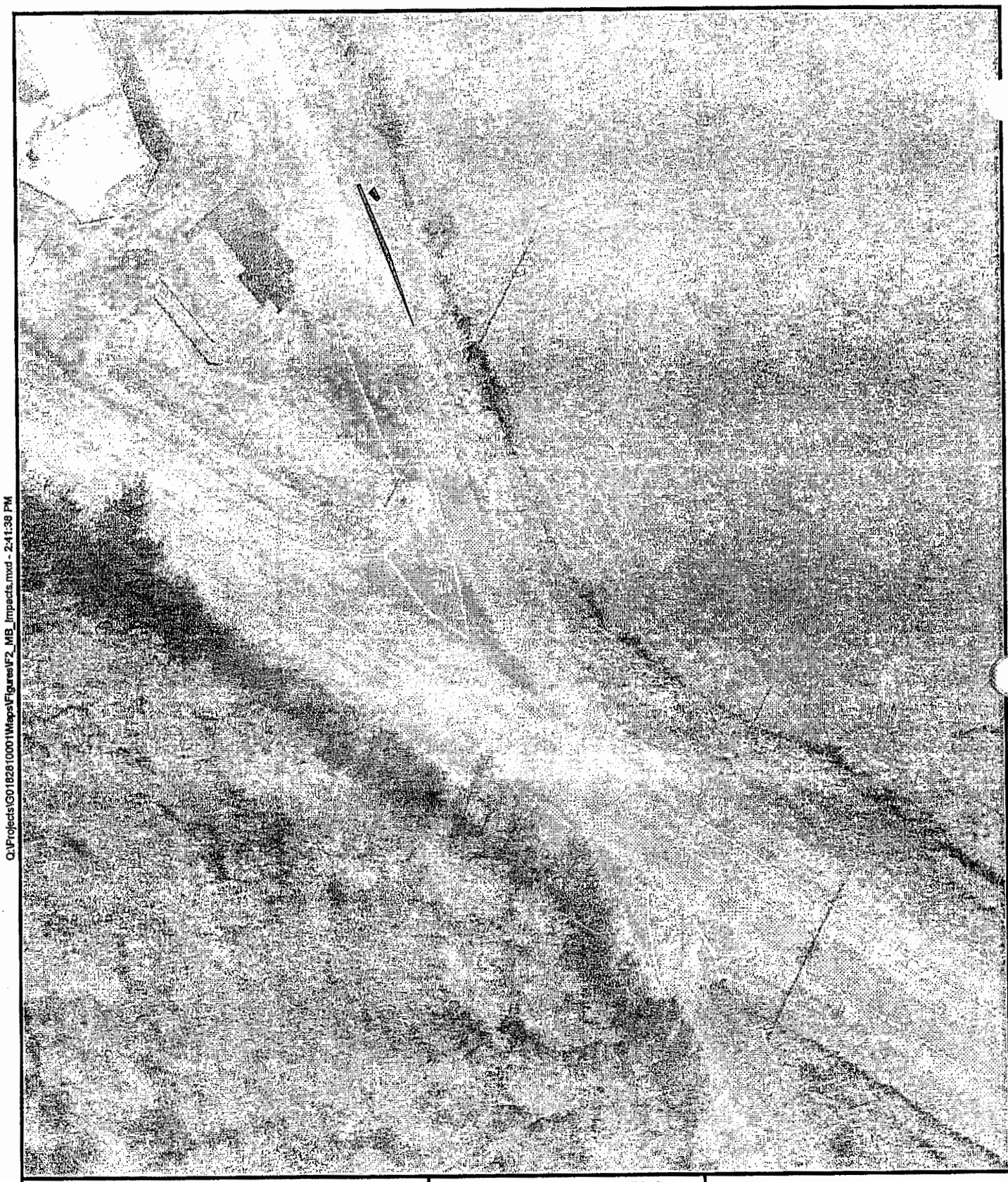
Figure 2f
Wetland and Habitat Impacts

Humboldt Road Improvements
Elk Valley Rancheria

20 of 23



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Cartography: GLD

Impacts

AES Delineation

- Riparian Wetland
- Wetland Prairie

W&K Delineation

- Forested Wetland
- Man-made Ditch
- Palustrine Emerget Wetland

N

0 25 50 ft

1 inch = 50 feet printed at 8.5x11

Sources: USDA: Aerial 2006 0.25 ft resolution; Winzler and Kelly wetland delineation field data, Sept. 2010; Wetlands Jurisdictional Determination, April 11, 2005

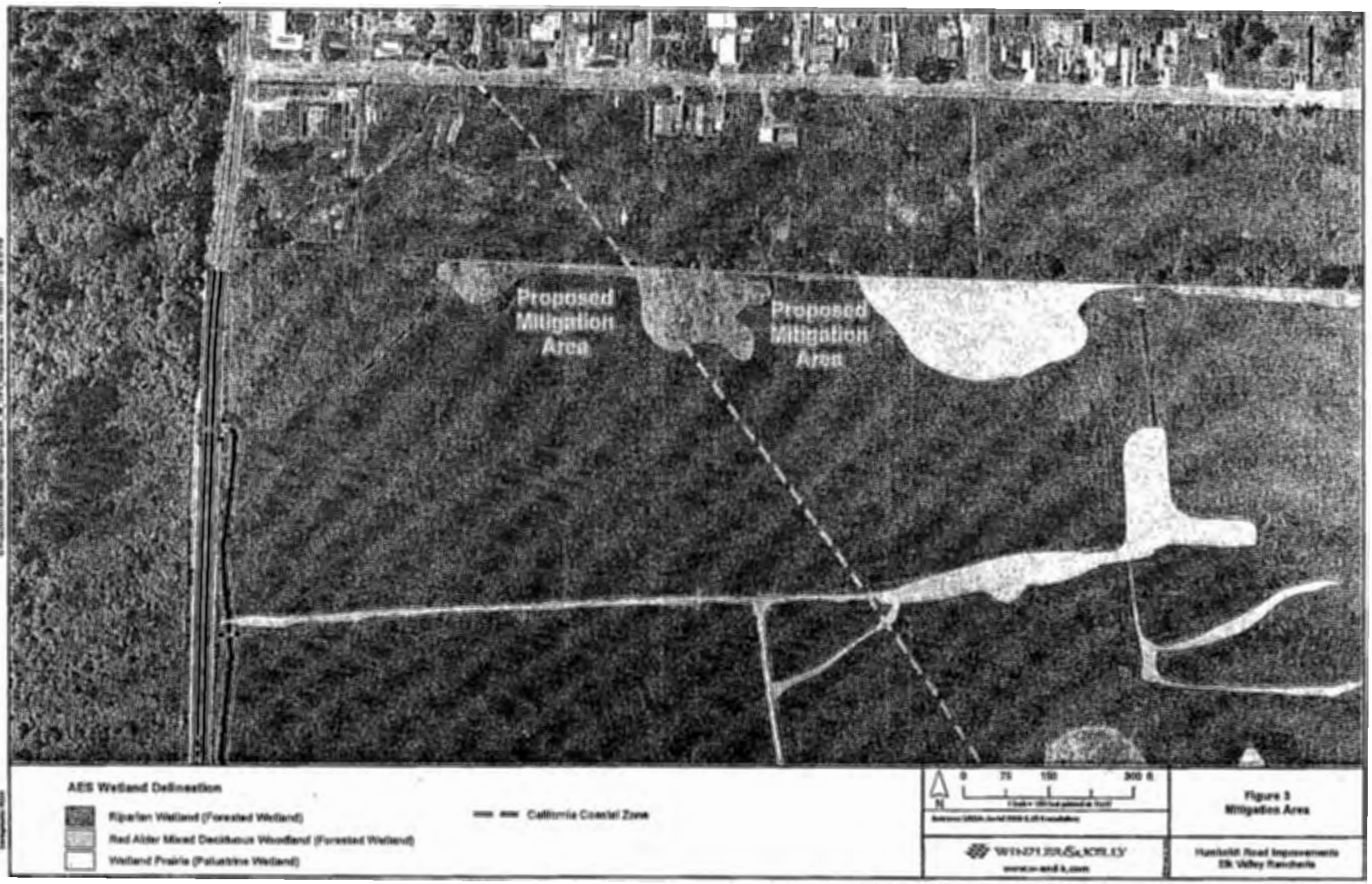
WINZLER & KELLY

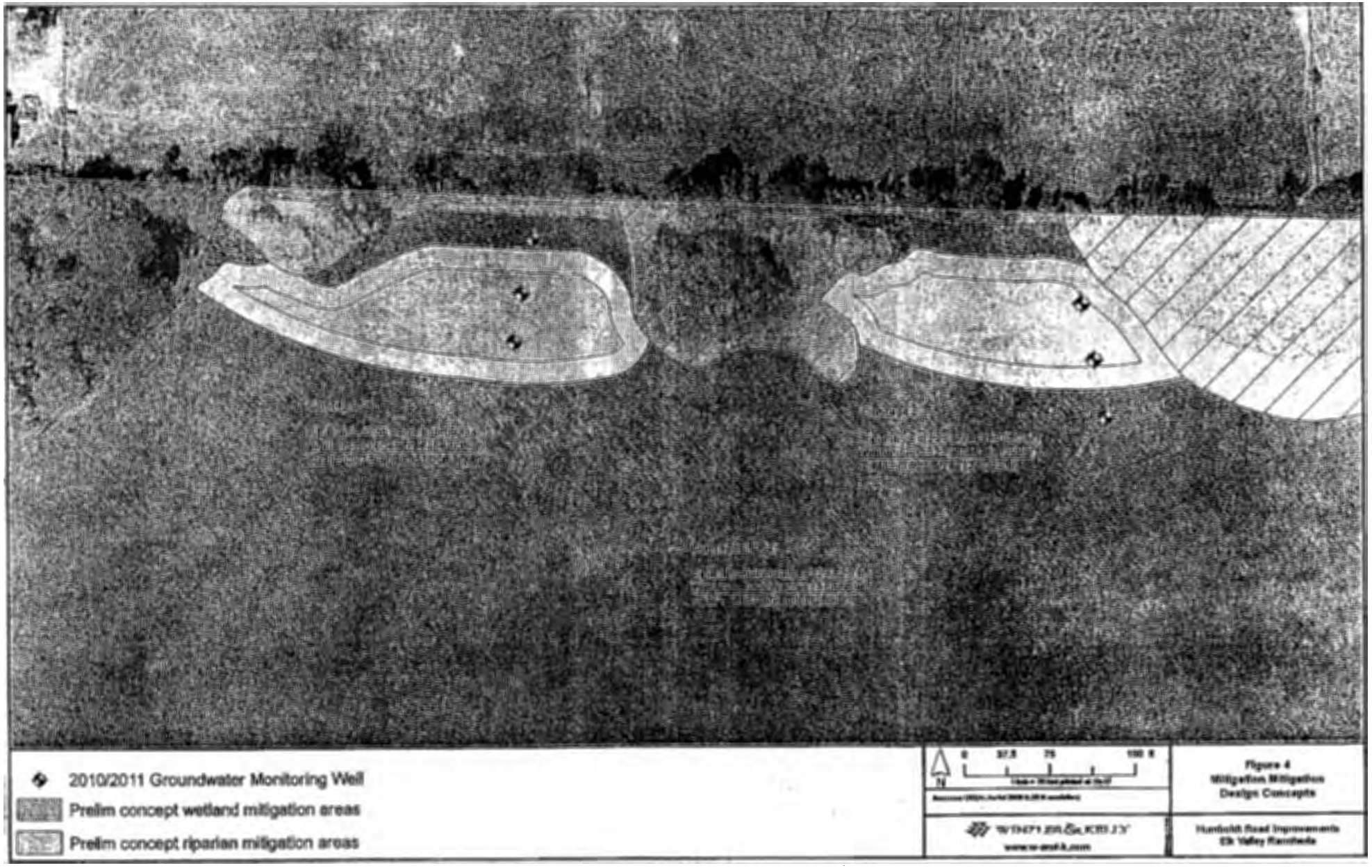
www.w-and-k.com

Figure 2g
Wetland and Habitat Impacts

Humboldt Road Improvements
Elk Valley Rancheria

21 of 23


Proposed Mitigation Area
Proposed Mitigation Area
AES Wetland Delineation
Riparian Wetland (Forested Wetland)
Red Alder Mixed Deciduous Woodland (Forested Wetland)
Wetland Prairie (Palustrine Wetland)
California Coastal Zone
N
0
75
150
300 ft
Figure 3
Mitigation Area
Humboldt Road Improvements
Elk Valley Rancheria


2010/2011 Groundwater Monitoring Well
Prelim concept wetland mitigation areas
Prelim concept riparian mitigation areas
0
37.5
75
150 ft
N
Figure 4
Mitigation Mitigation
Design Concepts
Humboldt Road Improvements
Elk Valley Rancheria

23 of 23

DEL NORTE COUNTY COMMUNITY DEVELOPMENT DEPARTI
981 H STREET, SUITE 110
CRESCENT CITY, CA 95531

EXHIBIT NO. 8
APPLICATION NO.
A-1-DNC-12-021
ELK VALLEY RANCHERIA
NOTICE OF FINAL LOCAL ACTION & COUNTY FINDINGS (EXCERPT) (1 of 10)

NOTICE OF ACTION

I. Notice is hereby given that the **Planning Commission** of Del Norte County took the following action on **July 11, 2012** regarding the application for development listed below:

Action: ✓ Approved ___ Denied ___ Continued ___ Recommended EIR
___ Forwarded to Board of Supervisors

RECEIVED
JUL 18 2012
CALIFORNIA
COASTAL COMMISSION

Application Number: GP2011-32C
Project Description: Coastal Grading Permit
Project Location: Humboldt Road, Crescent City
Assessor's Parcel Number: County right-of-way
Applicant: Elk Valley Rancheria c/o Brad Downes
Applicant's Mailing Address: 2332 Howland Hill Road, Crescent City, CA 95531
Agent's Name & Address: Winzler and Kelly c/o Josh Wolf,718 3rd Street ,Eureka, CA 95501

A copy of any conditions of approval and/or findings adopted as part of the above action is attached.

II. **If Approved:**

✓ This County permit or entitlement serves as a Coastal permit. No further action is required unless an appeal is filed in which case you will be notified.

This County permit or entitlement DOES NOT serve as a Coastal permit. Consult the Coastal Zone Permit procedure section of your NOTICE OF APPLICATION STATUS or the Planning Division of the Community Development Department if you have questions.

III. **Notice is given that this project:**

Is not appealable to the California Coastal Commission, however, a local appeal period does exist.

✓ Is appealable to the California Coastal Commission.

✓ Any appeal of the above decision must be filed with the Clerk of the Board of Supervisors by July 23, 2012 for consideration by the Board of Supervisors.

✓ Any action of the Board of Supervisors on this item may be appealed to the California Coastal Commission within 10 working days or 21 calendar days subject to the requirements of Chapter 21.52 DNCC and Coastal Regulations.

Must be forwarded to the California Coastal Commission for final action. You will be notified of its status by the Coastal Commission Office.

(Continued on the next page)

Is not subject to Coastal Commission regulations, however, a local appeal process is available. Written appeals must be filed with the Clerk of the Board of Supervisors by N/A. Consideration will be by the Board of Supervisors.

Requests for deferment of road improvement standards or for modification of road improvement standards must be filed in writing with the Clerk of the Board of Supervisors by July 23, 2012, with a copy provided to the Secretary of the Planning Commission. Consideration will be by the Board of Supervisors.

Parcel map must be filed within 24 months of the date of approval.

N/A Record of Survey and new deeds must be filed within 24 months of the date of approval.

New deeds must be filed within 24 months of the date of approval.

EXTENSIONS – MAJOR & MINOR SUBDIVISIONS OR BOUNDARY ADJUSTMENTS – Maps (or Records of Survey/Deeds) must be filed within 12 months after the original date of expiration.

NOTICE – SECTION 1.40.070

The time within which review of this decision must be sought is governed by the California Code of Civil Procedure, Section 1094.6, and the Del Norte County Ordinance Code, Chapter 1.40. Any petition seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision was made; however, if within 10 days after the decision was made, a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to no later than the 30th day following the date on which the record is either personally delivered or mailed to you or your attorney of record.

FISH AND GAME FILING FEES

Projects subject to CEQA are also subject to the following fees as required by the California Department of Fish and Game:

Applicable Fee - ✓ Neg. Dec. ($2151.50) ___EIR ($2,969.00) ___Exempt

This fee is due and payable to the County Clerk's Office. The applicant or agent is responsible for paying the current Fish and Game fee, which is subject to change. If not paid within 5 working days of the date of action of the Planning Commission, your project may be invalid by law (PRC 21089(b)) and will be referred to Fish and Game's Department of Compliance and External Audits in the Clerk's monthly deposit and report to Fish and Game.

ATTENTION APPLICANT

As a subdivider or adjuster of property, this notice is to advise you that **all taxes** must be paid in full prior to the recordation of your map or deeds. If the map or deeds are filed **after December 16th, you must pay all taxes due PLUS NEXT YEAR'S TAXES** before the map or deeds can be recorded. 2012

If you have any questions regarding the payment of taxes, call the Del Norte County Tax Collector's Office at (707) 464-7283.

Agent: Winzler and Kelly – Josh Wolf

APP# GP2011-32C

STAFF REPORT

APPLICANT: Elk Valley Rancheria

APPLYING FOR: Coastal Grading Permit for Pedestrian and Safety Improvements

AP#: 115-020-20, 28, 29 LOCATION: Humboldt Road, near Sandmine Road, Crescent City

PARCEL(S) SIZE: N/A | EXISTING USE: Road right-of-way | EXISTING STRUCTURES: N/A

PLANNING AREA: 4 GENERAL PLAN: AgGen 5, Ag Gen 20, RCA

ADJ. GEN. PLAN: Same

ZONING: Ag5, Ag20, RCA-2(fw), RCA-1 ADJ. ZONING: Same, R1-B6

1. PROCESSING CATEGORY: NON-COASTAL | NON-APPEALABLE COASTAL X | APPEALABLE COASTAL | PROJECT REVIEW APPEAL

2. FIELD REVIEW NOTES: DATE: 11/4/11 HEALTH DEPT | PLANNING X | BUILDING INSP X | ENGINEERING/SURVEYING X

ACCESS: Project is Humboldt Road ADJ. USES: Residential, Agriculture, Undeveloped
TOPOGRAPHY: Generally flat project area DRAINAGE: Surface

DATE OF COMPLETE APPLICATION: December 15, 2011

3. ERC RECOMMENDATION: Application complete. Post Public Hearing Notice. Adopt Negative Declaration. Approve with conditions.

4. STAFF RECOMMENDATION:

The Elk Valley Rancheria is proposing to reconstruct Humboldt Road from U.S. Highway 101 to approximately 300 feet south of Roy Avenue in Crescent City, CA. The project limits include the intersection of Humboldt Road and Sand Mine Road. This project is a safety improvement project funded through the Public Lands Highway Discretionary Program. The proposed safety improvements include a multi-use trail, paved shoulders, and a roundabout at the intersection of Humboldt Road and Sand Mine Road. This project is not associated with any other development plans of the Elk Valley Rancheria.

To insure that the structural integrity of the proposed road and associated improvements meet County Code and are equal to or better than the existing improvements, the County has requested a geotechnical study, drainage study, and plans for the proposed improvements. Since the applicant is proposing to reconstruct a road that has already been accepted into the County maintained road system,

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they will be required to do materials testing. Materials testing will be based upon the 2010 Caltrans Standard Specifications. Specifications for concrete, asphalt, signs, and culverts have also been incorporated into the conditions.

Humboldt Road in its present alignment is within the County's right-of-way either by a formal dedication of right-of-way or by prescriptive easement. To complete the proposed project, the applicant has requested to widen Humboldt Road towards the east; the applicant owns said property. This could place the reconstructed Humboldt Road outside of the existing right-of-way. As a result, the County is requesting that the applicant dedicate sufficient right-of-way to Del Norte County for all road improvements associated with this project through a Memorandum of Understanding that has been approved by the Board of Supervisors. The Memorandum of Understanding will allow the applicant to dedicate the right-of-way upon project completion. Otherwise, the applicant would need to dedicate the right-of-way prior to the issuance of the Grading Permit. This condition will most likely require a larger than usual dedication of right-of-way around the proposed roundabout; roundabouts typically consume more right-of-way than standard intersections. The County is requesting that the right-of-way surrounding the roundabout have a radius (width) equal to the diameter (two times the radius) of the constructed roundabout improvements. The Rancheria will also need to ensure that the centerline of the road is at least thirty feet from the right-of-way edge. If the right-of-way edge is not at least thirty feet from the centerline of the road the Rancheria will need to dedicate additional right-of-way. If the multiuse trail is in conflict with the dedication of right-of-way, the County will still request the right-of-way and will require the Rancheria to maintain any portion of the multiuse trail that would end up in the County's right-of-way.

As mentioned earlier, this project would occur on a road already accepted into the County maintained road system. As a result, the applicant will also need to bond for the proposed improvements. The County requires bonding at a rate of 100% for projects of this scale. The project will require a Performance Bond and Payment Bond. The Performance Bond insures that the improvements are properly constructed and the Payment Bond insures that the applicant pays for the materials and labor used to construct the improvements.

After reviewing this project, the Environmental Review Committee had a lengthy discussion regarding the future development plans of the Elk Valley Rancheria. The Elk Valley Rancheria has not provided the County with details regarding the timing of development on the Martin Ranch property, their property to the east. Through the discussion, it was clear that members of the ERC were concerned about the unknown future plans of the Elk Valley Rancheria and whether or not this project should be constructed prior to underground utilities being extended to their property to the east. Staff informed the ERC that road moratorium and drainage conditions were included in an attempt to eliminate unknown future impacts.

Since the majority of the project will occur within Humboldt Road's traveled way, the County must be available to inspect and investigate any complaints for public safety in a timely fashion without undue burden being placed on staff. As a result, the ERC restricted work in the County right-of-way. Work in the County right-of-way shall occur Monday through Friday between 8:00 a.m. and 5:00 p.m. No work shall occur in the County right-of-way on County holidays or County furloughs. As with any work in a County right-of-way, an Encroachment Permit will be required. Construction shall occur during the County's grading season, April 30 and October 30. Providing these restrictions on this permit should aid the applicant in developing a construction schedule.

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The County has not received any comments regarding cultural resources in the vicinity of this project. As a result, staff recommends allowing the Elk Valley Rancheria to secure and use a cultural monitor, as appropriate.

Staff is requesting that the proposed multi-use trail be constructed outside of the County's right-of-way and that the applicant maintain any improvements on the approved set of plans that require hardwired electricity (i.e. streetlights) and/or medium to high maintenance landscaping (i.e. vegetation).

The Planning Division assisted the Engineering Division in the review of this project's environmental issues and for compliance with the California Environmental Quality Act (CEQA). An initial study was prepared for the project to discuss and evaluate environmental issues by the applicant's agent Winzler & Kelly (now GHD). The initial study noted several issues which required mitigation and the proposed document for adoption is a Mitigated Negative Declaration (MND).

Planning staff had concerns related to the Biological section of the CEQA proposed Mitigate Negative Declaration. Specifically, upon review of the document it appeared that Winzler & Kelly had discussed wetland impacts and wetland mitigation but failed to specify locations and lacked specificity in how impacts to wetlands associated with the development of the road and the bike path would be dealt with. Planning staff discussed these concerns with Winzler & Kelly who were able to supplement the initial study with a wetland mitigation feasibility report that identified two areas onsite for wetland mitigation. The supplemental report stated that mitigation could be accomplished in each of these areas to satisfy a 2:1 mitigation ratio and in combination a 3:1 mitigation ratio. The only areas found to be available for onsite wetland mitigation are located outside of the County and State jurisdiction on the Martin Ranch (Indian trust lands) therefore the County has not recommended conditions specific to wetland mitigation into the approval of the project but the requirement for mitigation will remain in effect through the adoption of the CEQA document. If necessary wetland mitigation, as prescribed in the CEQA document, does not actually occur the project could be found to be in violation of CEQA. Wetland mitigation and monitoring will be conducted by the agency with wetland jurisdiction, in this case the Army Corps of Engineers (USACE). Staff recommends that the County and the Department of Fish and Game maintain contact with the USACE during the mitigation and monitoring process to ensure CEQA compliance, as stated in the CEQA document, to the extent allowable upon trust lands.

Other areas discussed in the initial study requiring mitigation were reviewed by staff and found to be acceptable with respect to the mitigation proposed (see proposed Mitigated Negative Declaration for more details). The County did receive several letters from the agencies involved in the CEQA review process. The Regional Water Quality Control Board submitted a letter stating concern that the impacts to wetland and riparian areas be adequately mitigated if avoidance is not possible. Also, the Water Board states their requirement that storm water concerns be addressed through low impact development strategies. Finally, the Water Board states what other permits may be required for the project. It is staff's opinion that the concerns stated in the Water Board letter have been addressed in the CEQA document and/or the conditions of the project approval. The Department of Forestry & Fire Protection (CalFire) submitted a CEQA comment letter stating general CalFire concerns related to development within State Responsibility Areas. It is staff's opinion that the concerns stated in the CalFire letter have been addressed in the CEQA document, conditions of the project approval, and/or are not relevant to this road project.

This project is subject to a Department of Fish and Game Environmental Review and associated Environmental Review Filing Fee. The applicant is required to pay the applicable CDFG Environmental

Review Filing Fee prior to recording a Notice of Determination. State of California Public Resources Code Section 21152(a) states that a Notice of Determination must be filed within 5 working days of an approval, therefore the Environmental Review Filing Fee must also be submitted within this timeframe. The applicant may request that Department of Fish and Game waive the filing fee by submitting the request to the appropriate regional office.

Specific provisions for the construction of a roundabout are not included in the County's Urban and Rural Public Road Standards (Public Road Standards) and therefore require approval from the Board of Supervisors. After reviewing the County's Public Road Standards there are three processes for an applicant to request that the Board delete, modify or defer road improvements. They are as follows: (a) appeal, (b) modification or (c) deferment. In this situation an appeal is the recommended process since the intent and outcome of a modification or deferment request do not match the applicant's need. For example, the County Public Road Standards state that a modification from a road standard may be requested for hardship cases where a road standard less than the minimum is needed for topographical or economic reasons. The proposed roundabout is not a hardship case as it is not proposed to address topographical features or to avoid economic difficulties. Additionally, if constructed, the roundabout is expected to exceed the County's minimum road standards. For obvious reasons a deferment request is not needed as the applicant intends to construct the roundabout.

Therefore, Condition 33 has been placed on the project which requires the applicant to receive Board approval for the use of the roundabout prior to issuance of the subject permit. The appeal process shall be followed as it allows the Board to consider the use/construction of a roundabout in a public hearing forum. All provisions of Condition 15 shall be adhered to including to the filing deadline with the Board of Supervisors.

A related condition has been placed on the project in the event that the Board approves the use of the roundabout. Condition 25 states that the applicant shall receive Board approval for any artwork or landscaping prior to placement. This approval may be considered separately or concurrently with the appeal if the applicant chooses.

The existing conditions are adequate in case the use of a roundabout is not granted by the Board of Supervisors as they were written to address the adopted Urban and Rural Public Road Standards.

5. FINDINGS:

A) The project is consistent with the policies and standards of the General Plan and Title 21 Zoning;
B) An initial study has been conducted by the lead agency so as to evaluate the potential for adverse environmental impact;
C) A Mitigated Negative Declaration has been prepared pursuant to the California Environmental Quality Act, which the Commission has considered in reviewing the project and making its decision;
D) Reports prepared by professional engineers and biologists have been prepared for this project that have been incorporated into the project and the action of the Planning Commission;
E) The project site has been inspected on-site and the project has been reviewed by the Environmental Review Committee;
F) The approval of the Coastal Grading Permit will not materially affect adversely the health and safety of persons residing or working in the neighborhood of the project site, and will not, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood; and

G) This project would create an increase in the density and intensity of land use and would cumulatively contribute to the overall reduction in wildlife populations and habitat, the de minimis finding cannot be made for this project. Therefore the project is subject to the Fish and Game mitigation fee. The Commission further finds that this finding may be voided if the California Department of Fish and Game provide in writing a statement that it determines their mitigation fee to be not applicable to this project.

6. CONDITIONS:

1) This permit shall not apply to any land held in Trust by the Bureau of Indian Affairs that upon project completion will not be dedicated to the County of Del Norte;
2) Prior to the issuance of the Grading Permit, the applicant shall submit road improvement plans to the Engineering Division for review and acceptance. The plans shall be prepared by a California Registered Civil Engineer;
3) Prior to the issuance of the Grading Permit, the applicant shall submit a grading and drainage plan to the Engineering Division for review and acceptance. The plan shall be prepared by a California Registered Civil Engineer. The grading and drainage plan shall be a component of the road improvement plans;
4) Prior to the issuance of the Grading Permit, the applicant shall submit an erosion and runoff control plan to the Engineering Division for review and acceptance. The erosion and runoff control plan shall demonstrate that during and post construction, erosion and runoff on the site will be controlled to avoid adverse impacts to adjacent properties and water resources. The erosion and runoff control plan shall include arrows showing the direction of flow from the construction site, temporary erosion and runoff control methods (i.e. silt fence), and permanent erosion and runoff control methods (i.e. grass seed and straw). The plan shall be prepared by a California Registered Civil Engineer. The erosion and runoff control plan shall be a component of the road improvement plans or SWPPP;
5) Prior to the issuance of the Grading Permit, the applicant shall submit a traffic control plan to the Engineering Division for review and acceptance. The plan shall be prepared by either a California Registered Civil Engineer or California Licensed Contractor. The plan submitted shall be similar to the traffic control plans found in the 2010 Caltrans Standard Plan Book. An additional written description may accompany the plans;
6) During construction, the applicant shall construct the improvements per the approved set of plans;
7) ** Amended per PC Meeting 7/11/12 ** During construction, the applicant shall perform materials testing per Caltrans Standard Specification to verify that the constructed roadbed structural section is consistent with the recommendations of the geotechnical study; ** Amended per PC Meeting 7/11/12 **
8) During construction, the applicant shall have any hot mix asphalt placed in the County right-of-way materials tested to meet all of the provisions listed in Section 39 of the 2010 Caltrans Standard Specifications for HMA – Type A. Refer to page 433 and 434 for frequency of sampling and refer to page 453 and 454 for quality control and quality assurance standards.
9) ** Amended per PC Meeting 7/11/12 ** Prior to the issuance of the Grading Permit, the applicant shall submit a geotechnical study prepared by either a California Registered Geotechnical Engineer or California Certified Engineering Geologist to the Engineering Division for review and acceptance. The geotechnical study shall recommend a roadbed structural section and appropriate geotextile fabrics; ** Amended per PC Meeting 7/11/12 **
10) Upon project completion, any asphalt concrete placed in the County right-of-way shall be at least two inches thick and placed upon seven inches of compacted three-quarter inch minus aggregate base;

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11) ** Amended per PC Meeting 7/11/12 ** Upon project completion, any concrete placed in the County right-of-way subjected to motorized traffic shall be at least six inches thick and placed upon four inches of compacted three-quarter inch minus aggregate base. Fiber shall be mixed into the concrete; rebar is not acceptable except in the center of the roundabout and apron. The concrete shall have a broomed finish; a smooth finish is not acceptable; ** Amended per PC Meeting 7/11/12 **
12) ** Amended per PC Meeting 7/11/12 ** Upon project completion, any concrete placed in the County right-of-way subjected to non-motorized traffic shall be at least four inches thick and placed upon four inches of compacted three-quarter inch minus aggregate base. Fiber shall be mixed into the concrete; rebar is not acceptable except in the center of the roundabout and apron. The concrete shall have a broomed finish; a smooth finish is not acceptable; ** Amended per PC Meeting 7/11/12 **
13) ** Amended per PC Meeting 7/11/12 ** Upon project completion, any concrete in the center of the roundabout and apron shall be constructed with rebar; ** Amended per PC Meeting 7/11/12 **
14) Prior to the issuance of the Grading Permit, the applicant shall provide the County with a Performance Bond and Payment Bond for any improvements that may impact a County maintained road right-of-way. The applicant shall provide the Engineering Division with a California Registered Civil Engineer's Estimate or a California Licensed Contractor's Estimate to construct the improvements and repair any potential damage to existing infrastructure (road, sewer, water, etc.) at prevailing wage rates. The applicant shall submit the estimate to the Engineering Division for review and acceptance. Upon acceptance, the County will require the bonds to equal 100% of the approved estimate. Either of the methods listed below may be used to satisfy this condition:
    - The Property Owner or Government Agency shall bond directly with Del Norte County;
    - The Government Agency's Contractor may bond with both the Government Agency and Del Norte County. Language must exist stating that the bond may not be released without Del Norte County's consent;
15) The applicant shall file a request for modifications or deferments to an urban and rural public road improvement condition with the Clerk of the Board of Supervisors and the Community Development Department within ten days of the Planning Commission's approval for at least the roundabout;
16) During construction, the applicant shall improve the right-of-way within the project limits. The property is not located within the Urban Services Boundary, therefore, improvements shall include graded shoulders and open graded storm drainage systems or better. Drainage features shall be designed to carry runoff from a ten-year storm. The shoulders shall be constructed with four inches of compacted three-quarter inch minus aggregate base or better. Minimum rural road improvement widths shall be:
    - Collector Road: twenty-four foot paved surface with four foot shoulders

    The minimum right-of-way width shall be:
    - Collector Road: sixty feet
17) ** Amended per PC Meeting 7/11/12 ** Prior to the issuance of the Grading Permit, the applicant shall sign a Memorandum of Understanding with the County regarding the dedication of sufficient right-of-way as described in the staff report and obtain the final signature from the Bureau of Indian Affairs on the Memorandum of Understanding. ** Amended per PC Meeting 7/11/12 **
18) *** Deleted per PC Meeting 7/11/12 ***
19) It is the applicant's responsibility to determine if permits are required from additional agencies, to obtain said permits, and to provide the County with a copy said permits;
20) Upon project completion, the proposed project shall comply with the Americans with Disabilities Act (ADA);

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21) Prior to the issuance of the Grading Permit, the applicant shall obtain an Encroachment Permit from the Engineering Division for any work in the County rights-of-way;
22) ** Amended per PC Meeting 7/11/12 ** No grading within the County right-of-way shall occur between October 30 and April 30 of any year unless the applicant has obtained written authorization from the County Engineer; ** Amended per PC Meeting 7/11/12 **
23) The applicant shall be on notice that once road improvements are constructed they are not to be damaged (i.e. saw cut) within a ten year period after project completion. Otherwise, the applicant shall overlay the entire width of the roadbed for the length of the constructed improvements or 50 feet, whichever is greater. If an overlay is necessary, both ends of the existing roadbed shall be ground to create a smooth transition and crack sealed to protect the roadbed;
24) ** Amended per PC Meeting 7/11/12 ** The Elk Valley Rancheria shall enter into a maintenance agreement with the County for any improvements on the approved set of plans that require hardwired electricity (i.e. streetlights) and/or medium to high maintenance landscaping (i.e. any vegetation); ** Amended per PC Meeting 7/11/12 **
25) Prior to placement, any artwork or landscaping in the vicinity of the roundabout shall be approved by the Board of Supervisors;
26) Upon project completion, the applicant shall be responsible for maintaining any portion of the multi-use trail that is constructed within the County's right-of-way.
27) Prior to the issuance of the Grading Permit, the applicant shall submit a drainage study prepared by a California Registered Civil Engineer to the Engineering Division for review and acceptance. The drainage study shall include calculations for the routing of all water through the project. Any culvert that is undersized or metal shall be replaced. Drainage calculations shall include any anticipated development on the Martin Ranch Property and in the immediate project vicinity. Future development that is not accounted for in this drainage study shall be mitigated on-site. Drainage features shall be designed to carry run-off from a ten-year storm;
28) ** Amended per PC Meeting 7/11/12 ** The applicant shall remove or move the existing waterline located in the Humboldt Road culvert to facilitate maintenance; ** Amended per PC Meeting 7/11/12 **
29) ** Amended per PC Meeting 7/11/12 ** Upon project completion, any culverts within the project limits shall not be metal; ** Amended per PC Meeting 7/11/12 **
30) *** Deleted per PC Meeting 7/11/12 ***
31) During construction, the applicant shall be responsible for securing and using a cultural monitor, as appropriate, for the lifetime of the project;
32) Upon project completion, any signs installed in the County right-of-way shall be constructed of diamond grade steel, attached to a galvanized steel pole that is 2 ¼ inches in diameter, and installed using a V-Loc anchoring system. The signs shall comply with the most recent addition of the CA MUTCD for dimensions, reflectivity, etc.;
33) *** Deleted per PC Meeting 7/11/12 ***
34) Work in the County right-of-way shall occur Monday through Friday between 8:00 a.m. and 5:00 p.m. No work shall occur in the County right-of-way on County holidays and County furlough days;
35) Pursuant to legislative action effective January 1, 2007, this project is subject to Section 711.4 of the California Department of Fish and Game (DFG) Code. This section requires that a filing fee is due and payable to the Department of Fish and Game (DFG). The amount of the fee paid is determined by whether a Negative Declaration or an Environment Impact Report is prepared for the project. The filing fee is due upon the filing of the Notice of Determination (NOD) and the amount is subject to change. DFG Code section 711.4 provides that, "no project shall be operative, vested, or final" until the required filing fees are paid. A project proponent who believes their project will have

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no effect on fish and wildlife must contact DFG to obtain a form signed by a representative of DFG officially exempting the specific project from this fee requirement;

36) Should any archaeological resources be found during project activities, construction activities shall be halted until an evaluation of the find is made by either a qualified archaeologist or representatives of the local tribes. Any mitigation measures that may be deemed necessary must have the approval of the local tribes and the County of Del Norte, and shall be implemented by a qualified archeologist representing the County of Del Norte prior to resumption of construction activities. If human remains are exposed by a project related activity, the County of Del Norte shall comply with California State Health and Safety Code, Section 7050.5, which states that no further disturbance shall occur until the County Coroner has made the necessary findings as to the origin and disposition pursuant to California Public Resources Code, Section 5097.98; and

37) This entitlement is specifically conditioned on the applicant agreeing to indemnify and hold harmless the County of Del Norte, the Planning Commission of the County of Del Norte, the Board of Supervisors of the County of Del Norte, their officers, employees and agents against any and all claims arising out of the issuance of the entitlement and specifically against any expense arising from defending any legal action challenging the issuance of the entitlement, including but not limited to the value of time devoted to such defense by County officers, employees and agents and the amount of any judgment, including costs of suit and attorney fees, recovered against the County or any of its officers, employees or agent in such legal action. The County of Del Norte reserves the option to either undertake the defense of any such legal action or to tender such defense to the applicant. Should the County tender such defense to the applicant and the applicant fail or neglect to diligently defend such legal action, the County may consider such failure or neglect to be a material breach of this conditions and forthwith revoke this entitlement.

1041D

STATE OF CALIFORNIA NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *Governor*

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 ' 'REET, SUITE 200
EUI , CA 95501
(707) --5-7833 FAX (707) 445-7877
www.coastal.ca.gov

NOTIFICATION OF APPEAL PERIOD

DATE: July 31, 2012

TO: Kevin R. Hamblin, Planning Director
County of Del Norte, Community Development Department
-- Planning Division
981 H Street, Suite 110
Crescent City, CA 95531

FROM: Melissa Kraemer, Coastal Program Analyst

RE: **Application No. 1-DNC-12-111**

Please be advised that on July 18, 2012 our office received notice of local action on the coastal development permit described below:

Local Permit #: GP2011-32C

Applicant(s): Elk Valley Rancheria, Attn: Brad Downes

Description: Coastal grading permit.

Location: County right-of way, Humboldt Road, Crescent City, Del Norte County

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on August 6, 2012.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: Elk Valley Rancheria, Attn: Brad Downes
Winzler & Kelly, Attn: Josh Wolf

EXHIBIT NO. 9
APPLICATION NO.
A-1-DNC-12-021
ELK VALLEY RANCHERIA
NOTIFICATION OF COMMISSION'S APPEAL PERIOD

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
VOICE (707) 445-7833 FAX (707) 445-7877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Friends of Del Norte
Mailing Address: P.O. Box 229
City: Gasquet, CA Zip Code: 95543 Phone: 707-951-0657

SECTION II. Decision Being Appealed

1. Name of local/port government: Del Norte County

2. Brief description of development being appealed:
GP 2011-32C Coastal Grading Permit for Pedestrian and Safety Improvements

3. Development's location (street address, assessor's parcel no., cross street, etc.):
Humboldt Road, near Sandmine Road, Crescent City

4. Description of decision being appealed (check one.):

RECEIVED
AUG 01 2012
CALIFORNIA
COASTAL COMMISSION

- ☐ Approval; no special conditions
- ☒ Approval with special conditions:
- ☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-DNC-12-021
DATE FILED: 8/1/12
DISTRICT: North Coast

EXHIBIT NO. 10
APPLICATION NO.
A-1-DNC-12-021
ELK VALLEY RANCHERIA
APPEAL – FRIENDS OF DEL NORTE WITH TRAFFIC STUDY ATTACHMENT (1 of 31)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
- ☐ City Council/Board of Supervisors
- ☒ Planning Commission
- ☐ Other

6. Date of local government's decision: July 11, 2012 hearing

7. Local government's file number (if any): GP 2011-32 C

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Elk Valley Rancheria
2332 Howland Hill Rd.
Crescent City, CA 95531

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Eileen Cooper & Bradford Norman
2644 Roy Ave
Crescent City, CA 95531

(2) California Regional Water Quality Control Bd.
North Coast Region
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403 Att: M. Dougherty

(3) California Dept. of Fish & Game
619 2nd Street
Eureka, CA 95501 Att: Michael Van Hattem

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

As Attached

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature on File

Signature of Appellant(s) or Authorized Agent

Date: July 31, 2012

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Eileen Cooper, vice president to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature on File

Signature of Appellant(s)

Date: July 31 2012

Friends of Del Norte, *Committed to our environment since 1973 A nonprofit, membership based conservation group,* advocating sound environmental policies for our region.
PO Box 229, Gasquet, CA 95543, 707-951-0657

July 31, 2012
ATT: California Coastal Commission, Bob Merrill
Cc Dept. of Fish and Game, Michael VanHattem
Cc Regional Water Quality Control Board, Mona Dougherty, Roy O'Connor, electronic copy

Regarding: Coastal Appeal of Elk Valley Rancheria Pedestrian/Safety Improvement Project GP2011-32C, Humboldt Rd, Crescent City

The proposed project requires unnecessary and significant fill, disturbance, redisturbance and degrading of large and biologically valuable coastal wetland/riparian areas, and stream-like, fish bearing ditches that contain species of concern (as well as potential for endangered species), and are considered Environmentally Sensitive Habitat Areas (ESHA) under Del Norte County LCP and the Coastal Act. The stated reasons to fill the fish bearing ditch is landscaping and convenience, which are not an allowed use for wetland/stream ESHA grading and fill. There are other feasible alternatives, identified in the Elk Valley Rancheria's professional traffic studies, that avoid the filling of the stream-like ditch. Wetland delineations are incomplete and/or inaccurate and wetland mitigation is insufficient.

This proposed project is inconsistent with Del Norte LCP policy and the Coastal Act for these and the following reasons.

Unnecessary and Unmitigated Loss of and disturbance to fisheryand amphibian habitat and California species of concern (cutthroat trout, redlegged frogs, and others likely: lamprey, snails, endangered tidewater goby, etc) See Bradford Norman's Report).

The supporting environmental studies by Winzler & Kelly (WK) and the Mitigated Negative Declaration (MND) fail to identify fish within the stream like ditches and riparian wetlands, and thus fail to mitigate for loss of and disturbance to fishery and amphibian resources, including species of concern, ESHA habitat.

Our consultant, Bradford Norman, did observe fish within both the east and west ditches, and the presence of redlegged frogs. Please review his report, submitted timely, Del Norte Planning Commission Packet, pages 242-253.

Riparian /wetland vegetation can be found all along the ditches (WK Appendix A, figures 2a-2i riparian vegetation along the entire length of ditches is marked with x's). When these ditches are full of water, fish and amphibians can be found anywhere along the ditches. These ditches are interconnected to the greater Crescent City Marsh and the Pacific Ocean via culverts.

The Biological Resources section Page 13, WK- MND section d) incorrectly states **no impact for:**

Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native resident wildlife nursery sites.

Not only do we have fish at this site, but we have Elk wildlife corridors and Elk wildlife nursery sites. The local bus driver that goes past this site early each morning, this July 2012, did observe three baby elk being born at this site. I have seen the three babies, a bit more grown, at this site. I have also frequently encountered Elk crossing Humboldt Road both to and from the project area, going to and from the other Fish and Game lands to the west and south. Elk wildlife corridors need to be established.

Page 15, WK, Mitigated negative declaration (MND):

DFG Streambed alteration (Section 1600)—California's streams and lakes are generally subject to DFG jurisdiction under Sections 1600-1601 of the California Fish and Game Code. Significant alterations to work within or adjacent to streambeds or lakes generally require a 1602 Lake and Streambed Alteration Agreement. ***Because impacts to ditches and streams for the proposed project only occur on federal trust land, the eastern portion of Project is exempt from Section 1600. The western portion of the Project is not within the bed or banks of any stream.***

The underlined statements are incorrect, and deny the need for proper Fish and Game Review. The underlined statements above contradict the County's assertion of jurisdiction over the ditches.

The County asserts jurisdiction over the roadway and associated roadside ditches:

Page 2, County Staff Report:

Humboldt Road in its present alignment is within the County's right-of-way either by a formal dedication of right-of-way or by prescriptive easement..... As mentioned earlier, this project would occur on a road already accepted into the County maintained road system. (as per phone conversation with Rosanna Bower, Del Norte County, the roadway includes the ditches, and the county maintains the roadside ditches.)

The proposed project is fragmented into County jurisdictional areas (the roadway and ditches) and Tribal Trust jurisdictional areas. On both jurisdictional areas, there will be significant fill of ESHA wetlands, and waterways with fish and frog species of concern, red legged frogs, cutthroat trout and/or stickleback, other sensitive species and wetland/riparian vegetation.

The two proposed wetland mitigation areas for this project are on Tribal Trust property. However, only half of the mitigation site is within the Coastal Zone, and Coastal Consistency review will be necessary to complete and mitigate this project.

Wetland Delineations and Mitigations are inaccurate and incomplete.

The selected mitigation sites may already be one parameter wetlands.

Please note and forward the following information to the Coastal Consistency Agent:

The selected wetland mitigation areas are adjacent to wetlands that were delineated by AES to Army Corps standards, or three parameter standards. Therefore, the adjacent mitigation sites may already be one parameter coastal wetlands. The mitigation wetland replacement ratio is therefore undetermined, and the specific features of the mitigation strategy, and assurances of success ratios have not been provided accurately. The wetlands adjacent to mitigation areas need to be delineated to Coastal one parameter standards.

The County Staff points out that if the mitigation plans are not fulfilled, the project does not satisfy CEQA requirements (page 3 staff report).

The project diagrams, Winzler & Kelly (WK) Figures 1a-f, Project Design, incorrectly represent the parts of the existing ditch which are not adjacent to larger weltands/riparian areas, as "non-wetland man-made ditch. This is incorrect, as WK states within their wetland delineation information that these areas of the ditch are at least one parameter wetlands. Please clarify.

Loss of riparian wetlands adjacent to the ditch have not been accounted

Riparian /wetland vegetation can be found all along the ditches (WK Appendix A, figures 2a-2i, show riparian vegetation adjacent to the entire length of ditches marked with x's). Also, we observe wetland/riparian vegetation adjacent to the ditches.

These areas of wetland/ riparian vegetation adjacent to the ditch, and expanding from the top-of-bank, have not been accounted for and included in the wetland loss calculations and mitigation plan. WK delineation, page 4, ditches, states:

Non-tidal Waters of the U.S./State were mapped/ defined at the Ordinary High Water Mark (OHWM) and/or limits of adjacent freshwater emergent wetlands... Due to the confined and man-made nature of most of the drainage ditches in the project corridor, the OHWM has been mapped in most locations at the top-of-bank (TOB) of the ditches.

The new trail will not only fill wetlands, but will also alter and block sheet flow to the entire wetland area between the proposed upper trail drainage ditch and the current ditch along Humboldt Road.

There are only 4 culverts throughout the length of the bike trail that allow flow under the trail to the new eastern ditch. This will channelize flow. This channelization will significantly degrade all wetland areas between the proposed upper ditch and the current existing eastern ditch. These large wetland loses have mistakenly not been identified or mitigated for.

The new lower ditch will not effectively replace the old ditch, as the current ditch has fish in it, and is directly linked to the greater Crescent City Marsh and Enderts Ponds via large culverts. The new lower ditch will be joined by culvert extensions of as much as 15 feet uphill, without any requirement for fish friendly culverts or Dept. of Fish and Game review. The higher elevation is not fish friendly. The mitigated negative declaration mistakenly does not identify the presence of fish

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(threespined stickleback, cutthroat) in the ditches or drainages. Losses of fish spawning and rearing habitat, including potential for endangered salmonids and tide water goby (Bradford Norman Report), have not been identified, studied or mitigated.

The higher elevation of the new ditches and the infrequent culverts under the proposed trail will channelize and alter the natural flows of water to the wetlands below, and can inhibit fish passage. The new 200 foot long culvert under the traffic circle also has potential to inhibit fish passage.

The proposed feature of the traffic circle will result in significant wetland /stream fill and significant impacts to fishery species of concern. The traffic circle is not an allowed Coastal use for wetland and stream fill, and it is unnecessary to have a traffic circle. The roundabout design will require redisturbance.

A large segment of one-parameter or greater fish bearing wetland ditches (1p+ wetlands) will be unnecessarily filled by the traffic circle (WK project design figures 1c and d).

The wide traffic circle and separated side walks surrounding the circle, pushes the project over the ditch, requiring the filling of the current ditch for approximately 2,199 sf (WK memorandum page 2 and project design figures 1c, 1d). The proposed project also requires 200 feet of new culvert under the roundabout circle area, as well as extensions of as much as 15 feet for each of the existing culverts that currently connect the east fish bearing ditch to the greater Crescent City Marsh. It is vitally important that the Dept. of Fish and Game be involved with the design of Fish Friendly Culverts to enable the continued migration and inhabitance of fish through these ESHA ditches.

But there is no provision for fish friendly culverts. And the one conditional requirement, 30, which would have necessitated Fish and Game review of culverts has been purposefully eliminated by Del Norte Planning Commission. Del Norte County planning staff recommended to include condition 30:

Del Norte County letter dated June 26,2012: Condition 30:
Staff recommends that this condition not be modified. Staff does not recall agreeing to eliminate this condition. Why wouldn't the Rancheria want to remove any culverts within the project area that could be considered a fish barrier?

The project proponent may have obstructed a request by the Dept. of Fish and Game to conduct fish surveys within the east ditch. Please consult Fish and Game agent Michael VanHattem on this matter.

The project description is inaccurate in its assertion that the ditches are intermittent, and therefore cannot support fish. Actual wildlife study and observance was never done by the Rancheria.

The project description downplays the importance of impacts to the ditch.
Perhaps the answer to the County's question within the June 26, 2012 letter, is because:

As stated in the Rancheria's W-Trans Traffic Study, the current road configuration is adequate to meet safety demands. Thus, there are other feasible alternatives that avoid wetland fill.

According to the Traffic Study upon which this project is based (referred to in WK MND, traffic discussion, pages 40,41) the W-Trans Elk Valley Rancheria Casino Relocation Traffic Study 2005/6 (as attached):
Page 14, Project Access:

The Intersection of Humboldt Road/ Sandmine Road is projected to operate acceptably upon the addition of an improved east leg driveway to the relocated Rancheria(casino). *Elk Valley Rancheria may want to consider the installation of a roundabout at this intersection. A roundabout would act as an entry feature into the project while also eliminating the need for all entry and exit traffic to stop at the approach to Humboldt Road.*

And again, Page 16 Conclusions and Recommendations:

The existing intersection configuration and traffic control at Humboldt Road/Sandmine Road would be adequate to serve the project. *Elk Valley Rancheria may want to consider the installation of a roundabout at this intersection. A roundabout would act as an entry feature into the project while also eliminating the need for all entry and exit traffic to stop at the approach to Humboldt Road.*

And again, Page 12, Existing plus Project Conditions, and Future Conditions:

Upon the addition of project-related traffic to existing traffic volumes, all study intersections are projected to continue operating at acceptable levels….

Under future conditions and upon the addition of project related traffic, all study intersections are projected to continue operating acceptably.

Currently there is only one stop sign at Sandmine Rd. Humboldt Rd. has no stop signs at the intersection. However, as stated within the W-Trans Traffic Study, this configuration is adequate for projected traffic needs with the addition of an improved east leg driveway to the relocated Rancheria Casino.

Two Stop Signs can control this intersection effectively.

A simple four stop sign intersection would improve safety beyond what is necessary.

Keeping the present configuration would narrow and streamline the project, so as to avoid filling and significantly impacting the fish bearing ditch.

The W-Trans Traffic Study clearly identifies the need for the traffic circle as a landscaping feature to enhance the entranceway of the New Casino/Resort, and as a feature of convenience for visitors, so that entering and exiting the Resort will not necessitate stopping at stop signs.

Observe how there will be landscaping separation between the two lanes of traffic as they approach the designed circle. Observe the wide separation between the surrounding sidewalks and the circle. All of these features unnecessarily widen the project resulting in pushing the roadway at the circle over the ditch and requiring the filling of the fish bearing ditch, 15 ft. culvert extensions, and the building of an extensive section of culvert along the replacement ditch.

Landscaping and convenience are not good enough reasons for filling and severely impacting wetland/stream ESHA, habitats for species of concern and possibly endangered species; **not when there are other feasible alternatives that have been identified by your own consultants.** Under the Coastal Act and LCP, decorative landscaping and convenience are not allowed uses for the filling and dredging of an ESHA fish bearing waterway.

We question the practicality of the traffic circle, in that large trucks, tour buses and motorhomes will need to maneuver the circle on a frequent basis. Currently many large motorhomes and tour buses are regularly parked at the current smaller Casino.

Unnecessary re-disturbance of ESHA will occur, but is required to be avoided.

Please notice, on WK Figure 3 Project Design Features, that the planned entrance to the Casino is at the Sandmine intersection (shown as New Roundabout Footprint). However the proposed current project at the traffic circle (shown as New Roundabout Improvements) does not accommodate adequate entrance and exiting to the circle from the resort to the east, as it does from all other directions. The current approved Coastal Casino/Resort design shows this to be the entrance point to the large new facility. Therefore, redisturbance at the traffic circle will be absolutely necessary.

As stated by Del Norte County staff, there will be other development issues related to the casino that affect the project area, such as the need for power or underground utility supply, water and sewer services, as well as providing adequate drainage features for the added runoff from the casino complex. The development needs of the larger project will require different design features, and **will require changes that will result in re-disturbance of the wetlands/riparian areas fish bearing ditches.**

The greater project needs should be incorporated into the road and trail development, to avoid unnecessary corrections and more disturbances to the delicate aquatic environs. The timing of the two projects should be required to be simultaneous.

The County's condition 23 does not prevent redisturbance, but anticipates redisturbance.

The applicant shall be on notice that once road improvements are constructed they are not to be damaged (ie saw cut) within a ten year period after project completion. Otherwise, the applicant shall overlay the entire width of the roadbed for the length of the constructed improvements or 50 feet, whichever is greater. If an overlay is necessary, both ends of the existing roadbed shall be ground to create a smooth transition and crack sealed to protect the roadbed.

Other Feasible Alternatives for the bike trail, raised stilted walkways, that avoid wetland fill, disturbance, and avoid fishery impacts, have not been considered.

It is understandable that the Rancheria would want the bicycle and pedestrian trail to remain off the roadway for safety reasons. Keeping the walkway/bicycle trail off the roadway and on the eastern side of the current ditch maybe desirable to avoid impacting the existing fish bearing ditch. However, the bike trail could be constructed with raised walkways across the large riparian wetland areas that intersect the trail,

thus avoiding wetland fill and avoiding significant disturbance of sheet flow to the wetlands and degradation of habitat value to aquatic species. There will be only 4 culverts along the entire trail that allow water flow from uplands to pass under the trail. Please review our Consultant Bradford Norman's comments for the benefits of such a raised trail. Also, slightly widening the roadway to the west, to avoid filling in fish bearing ditches, has not been considered.

Raised, stilted walkways would be more pleasant during the rainy season, and would be more aesthetically pleasing. These coastal wetland and riparian areas are considered ESHA within Del Norte County LCP and are protected under the Coastal Act. Why not invest money into a raised boardwalk rather than a fancy traffic circle. Both require maintenance. The trail would be far more pleasant for visitors. The design of a raised boardwalk should have a Coastal Consistency building permit process. The Regional Water Quality comments on the Mitigated Negative Declaration stressed the need for avoidance alternatives rather than impact mitigation.

Specific proposed designs that minimize lighting impacts is needed.

Lighting has great negative impacts to wildlife and especially the small aquatic wildlife found in the ditches, streams and wetlands of this biologically rich coastal ESHA. Lighting encourages predation, and disrupts biological clocks. There has not been careful treatment of lighting, and specific proposed designs that minimize impacts. Please see consultant Bradford Norman's Report

Lighting and signage have visual impacts to this highly scenic coastal gateway area. These visual impacts should be evaluated. Why has Del Norte County stopped issuing building permits along with grading permits to encompass these kind of features? A raised walkway should require building permits, not just grading permits.

Our consultant Bradford Norman also raises the issue of safety conflicts regarding elk. Perhaps a raised boardwalk for pedestrians throughout the trail would be an aesthetically pleasing solution to avoid such conflicts. I live on Roy Avenue and can testify that I have seen a large Elk herd utilizing the entire Martin Ranch on a regular, if not daily basis, year round. The trail should carry pedestrians safely. However, the disruption of the natural elk corridor, as observed by residents on a regular basis, has not been addressed. Where will the Elk Cross? Where will they be encouraged to cross? Some provision should be a part of the design of this project.

The proposed project is inconsistent with the following Del Norte LCP and Coastal Act Policies:

LCP V11.E: Riparian Vegetation, 4: Policies a:
Riparian vegetation shall be maintained along streams, creeks and sloughs and other water courses within the Coastal Zone for their qualities as wildlife habitat, stream buffer zones, and bank stabilization.

LCP Policy, Marine and Water Resources, VI. C:
1. The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.

3. All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of the public health and the biological productivity of coastal waters.
6. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Recreation III.C- LCP Policies
2. New recreational development shall be located and distributed throughout the Coastal Zone in a manner to prevent undue social impacts, overuse or overcrowding
6. Fragile coastal resources shall be considered and protected to the greatest possible extent in all new coastal recreational development

Wetlands- Policies and Recommendations VII. D.4.a:
The diking, filling, or dredging of wetlands shall be permitted in accordance with other applicable provisions of this program, where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects. Such projects shall be limited to those identified in Section 30233 of the Coastal Act.

Section 30233 Diking, filling or dredging; continued movement of sediment and nutrients
(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:
(l) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
(4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
(6) Restoration purposes.
(7) Nature study, aquaculture, or similar resource dependent activities.

Thank you for your careful consideration, (Signature on File Signature on File
Eileen Cooper, Vice President, on behalf of the Board of FODN, 707-465-8904)

Attached: W-Trans Traffic Study

w-trans

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Elk Valley Rancheria Casino Relocation Traffic Study

for the

County of Del Norte

January 3, 2005

Table of Contents

Introduction and Study Parameters

Introduction

This report presents an analysis of the potential circulation impacts associated with relocation and expansion of the Elk Valley Rancheria Casino. Project impacts were evaluated during the p.m. peak period under Existing and Future Conditions. This traffic study was completed to support a NEPA environmental impact analysis for the Bureau of Indian Affairs, and is consistent with standard traffic engineering techniques.

Prelude

The purpose of a traffic impact study is to provide decision makers such as tribal leaders and local government agencies with data that they can use to make an informed decision regarding the potential traffic and circulation impacts of a proposed project, and any associated improvements which would be required in order to mitigate these impacts to a level of insignificance.

Project Profile

The project includes the development of a 40,000 square foot casino, a 156-room hotel with restaurant and 20,000 square feet of conference facilities at a site near the intersection of Humboldt Road and U.S. 101 south of Crescent City. The sole project access driveway would be located at the east leg of Humboldt Road/Sandmine Road. The location of the project site is shown in Figure 1.

Study Intersections

The following intersections were chosen for evaluation as those most likely to experience operating changes upon the addition of project-generated traffic.

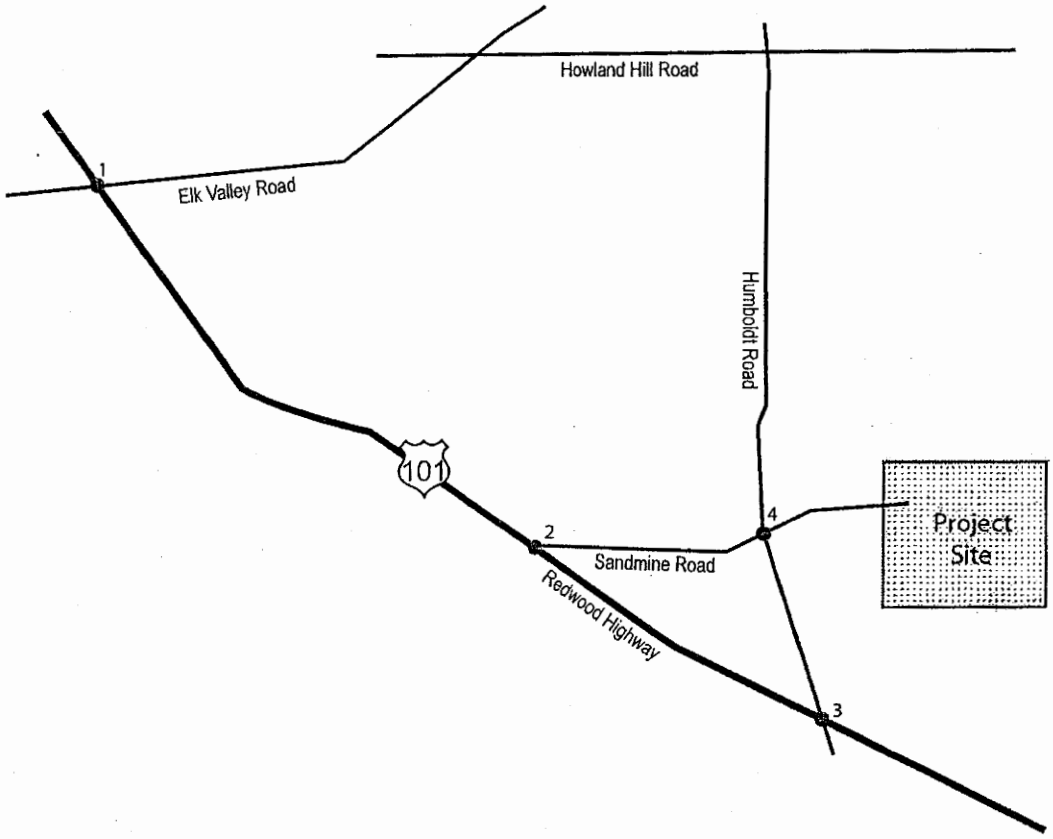
1. U.S. 101/Elk Valley Road-Sunset Circle
2. U.S. 101/Sandmine Road
3. U.S. 101/Humboldt Road-Enderts Beach Road
4. Humboldt Road/Sandmine Road-Proposed Project Access

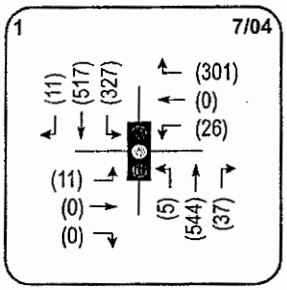
Study Scenarios

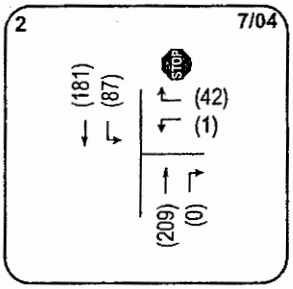
Operating conditions were evaluated under Existing, Existing plus Project, Future and Future plus Project Conditions.

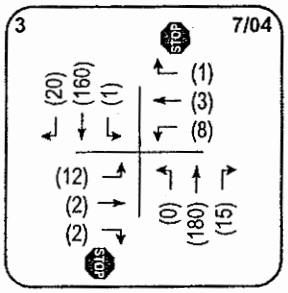
Traffic Volume Data

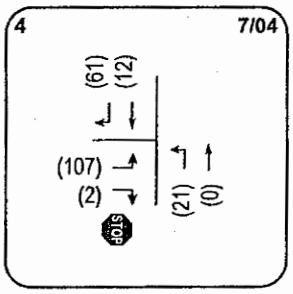
Existing traffic volumes collected on U.S. 101 near Elk Valley Road for the week of July 11-17, 2004 were acquired from Caltrans. A summary of the traffic counts are shown in Table 1.











Not to Scale

LEGEND
- Study Intersection
- (xx) P.M. Peak Hour Volume

Elk Valley Rancheria Casino Relocation Traffic Study

Figure 1
Existing Traffic Volumes

County of Del Norte

DNX009.ai 12/04

Table 1
U.S. 101 Traffic Counts (July 2004)

	Daily Traffic Volume	Peak Hour Traffic Volume
Average Weekday (7-12-04 to 7-16-04)	20,432	1,686 (12:00-1:00 p.m.)
Saturday (7-17-04)	18,531	1,437 (12:00-1:00 p.m.)
Sunday (7-11-04)	16,813	1,498 (12:00-1:00 p.m.)

As shown in Table 1, the highest daily traffic volumes during the summer occurs during weekdays, as opposed to Saturday or Sunday. In addition, the peak hour also occurs during average weekday conditions from 12:00 noon to 1:00 p.m. Therefore, the summer average weekday peak hour of 12:00 to 1:00 p.m. was used as the basis for the traffic analysis.

Traffic volumes at the three study intersections other than U.S. 101/Elk Valley Road-Sunset Circle were obtained specifically for this analysis during March 2001. Because traffic volumes on U.S. 101 are higher during peak summertime conditions than during March and because these counts are from 2001, these volumes were factored to be consistent with the summer 2004 traffic counts from Caltrans described above.

Level of Service Methodologies

Level of Service (LOS) is used to rank traffic operation on various types of facilities based on traffic volumes and roadway capacity using a series of letter designations ranging from A to F. Generally, Level of Service A represents free flow conditions and Level of Service F represents forced flow or breakdown conditions. The LOS designation is generally accompanied by a unit of measure which indicates a level of delay.

Each of the intersections was analyzed using methodologies from the *Highway Capacity Manual 2000*. This source contains methodologies for various types of intersection control, all of which are related to a measurement of delay in average number of seconds per vehicle. Following is a summary of the HCM Level of Service methodologies for various types of intersection control.

Table 2 provides a description of operating conditions under the various Levels of Service as well as the ranges of delay associated with each LOS.

Table 2
Intersection Level of Service Criteria

LOS	Unsignalized Intersections	Signalized Intersections
A	Delay of 0 to 10 seconds. Gaps in traffic are readily available for drivers exiting the minor street.	Delay of 0 to 10 seconds. Most vehicles arrive during the green phase, so do not stop at all.
B	Delay of 10 to 15 seconds. Gaps in traffic are somewhat less readily available than with LOS A, but no queuing occurs on the minor street.	Delay of 10 to 20 seconds. More vehicles stop than with LOS A, but many drivers still do not have to stop.
C	Delay of 15 to 25 seconds. Acceptable gaps in traffic are less frequent, and drivers may approach while another vehicle is already waiting to exit the side street.	Delay of 20 to 35 seconds. The number of vehicles stopping is significant, although many still pass through without stopping.
D	Delay of 25 to 35 seconds. There are fewer acceptable gaps in traffic, and drivers may enter a queue of one or two vehicles on the side street.	Delay of 35 to 55 seconds. The influence of congestion is noticeable, and most vehicles have to stop.
E	Delay of 35 to 50 seconds. Few acceptable gaps in traffic are available, and longer queues may form on the side street.	Delay of 55 to 80 seconds. Most, if not all, vehicles must stop and drivers consider the delay excessive.
F	Delay of more than 50 seconds. Drivers may wait for long periods before there is an acceptable gap in traffic for exiting the side streets, creating long queues.	Delay of more than 80 seconds. Vehicles may wait through more than one cycle to clear the intersection.

Reference: *Highway Capacity Manual,* Transportation Research Board, 2000.

Signalized Intersection Level of Service Analysis Methodology

The signalized study intersection of U.S. 101/Elk Valley Road-Sunset Circle was analyzed using the Operations Method contained in the *Highway Capacity Manual* and optimized timing. This methodology is based on factors including traffic volumes, green time for each movement, phasing, whether or not the signals are coordinated, truck traffic, and pedestrian activity. Average stopped delay per vehicle in seconds is used as the basis for evaluation in this LOS methodology.

Unsignalized Intersection Level of Service Analysis Methodology

The Level of Service at the remaining study intersections, which are "unsignalized," or controlled by a stop sign on the minor street approaches, was analyzed using the unsignalized intersection capacity method from the *Highway Capacity Manual.* This method determines a level of service for each minor turning movement by estimating the level of average delay in seconds per vehicle. The through movements on the main street are assumed to operate at free flow and a Level of Service A.

Traffic Operation Standards

The County of Del Norte maintains a level of service standard of LOS C for intersections on the County roadway network. Intersections on Caltrans facilities use the Caltrans standard of LOS D. It should be noted that at unsignalized intersections, it is not unusual to have side streets operating at LOS E or LOS F with long traffic delays. In fact, it may be financially and physically infeasible to provide mitigation which would allow Level of Service D conditions or better from all of these side streets during peak hours, especially for movements which only serves a minor traffic volume. Mitigation measures such as signalization were considered at unsignalized intersections when LOS E or F conditions occurred on minor approaches and warrants for signalization were met.

Description of the Study Area

The study area is located approximately two miles south of the City of Crescent City along the U.S. 101 corridor. U.S. 101 provides primary regional access to the Crescent City area. The highway is rural in nature through the study area and consists of one through lane in each direction with paved shoulders. Terrain is relatively flat and the highway is free of major horizontal or vertical curves between Elk Valley Road and Humboldt Road. Approximately one-half mile south of Humboldt Road, U.S. 101 makes a gradual turn and gains elevation to the south. A daytime headlight safety zone begins along this segment. The posted speed limit is 55 miles per hour.

Study Roadways and Intersections

Humboldt Road is a minor 2-lane road that runs in a north-south alignment through the study area, and has a posted speed limit of 45 miles per hour. The road is a designated bicycle route. The existing Elk Valley Rancheria Casino is located near the Humboldt Road/Howland Hill Road intersection approximately two miles north of the potential relocation site. Sandmine Road is a short one-half mile long street that connects U.S. 101 to Humboldt Road, "cutting" the corner that is created by the alignment of U.S. 101 and Humboldt Road. Nearly all motorists in the study area appear to use Sandmine Road to access U.S. 101 north of the study area, and Humboldt Road to access U.S. 101 south of the study area. The angled approaches of the two minor roadways to U.S. 101 make other movements uncomfortable to most drivers, and this observation is supported by the collected turning movement data.

The 4-legged intersection of U.S. 101/Elk Valley Road-Sunset Circle is signalized. The northbound approach of U.S. 101 widens to two through lanes and an approximately 75-foot long left turn lane just before the intersection, plus a wide northbound right turn lane. The southbound approach includes one through lane, one shared through/right turn lane, and one left turn lane of approximately 240 feet in length. The eastbound approach, Sunset Circle, is a single lane street and serves primarily as an access for the existing uses on the west side of U.S. 101. The westbound approach of Elk Valley Road includes one shared through/left turn lane and one right turn lane. Sight distance is adequate at all approaches to the intersection.

U.S. 101/Sandmine Road is an unsignalized "tee" intersection with stop-controls on the Sandmine Road approach. U.S. 101 includes a single lane in the northbound direction, and consists of a through lane and 125-foot long left turn pocket in the southbound direction. Sandmine Road consists of a single-lane approach and, as stated above, predominantly accommodates movements to and from U.S. 101 North. Sight distance along U.S. 101 exceeds 1000 feet in each direction and therefore exceeds the minimum standard of 600 feet as required by the *Highway Design Manual* for a 55 mile-per-hour design speed.

U.S. 101/Humboldt Road-Enderts Beach Road is an unsignalized 4-legged intersection with stop-controls on the minor approaches. Humboldt Road runs in a predominantly north-south alignment at this location and U.S. 101 in a northwesterly-southeasterly alignment, with the two roadways creating acute angles on the north and south sides of the intersection. Few drivers turn left from southbound U.S. 101 onto Enderts Beach Road or turn right onto U.S. 101 from Humboldt Road because of this alignment, and instead use the intersection at Sandmine Road. All approaches to the U.S. 101/Humboldt Road-Enderts Beach Road

intersection consist of single lanes. Sight distance onto U.S. 101 is acceptable as it exceeds 1000 feet in each direction.

Humboldt Road/Sandmine Road is an unsignalized, 4-legged intersection with stop controls on the Sandmine Road approaches. The eastbound approach is currently unpaved and appears to be a private road, and is the location of the proposed project access driveway. All intersection approaches consist of single lanes.

Existing Levels of Service

The signalized study intersection of U.S. 101/Elk Valley Road-Sunset Circle is currently operating acceptably at LOS C. The remaining three existing study intersections are unsignalized and are operating acceptably at LOS B or better operation on the minor approaches. These conditions are considered acceptable. Existing traffic volumes are shown in Figure 1. A summary of the level of service calculations is contained in Table 3 and copies are provided in Appendix A.

Table 3
Summary of Existing P.M. Peak Hour Level of Service Calculations

Intersection	Existing Conditions		Existing plus Project	
Approach	Delay	LOS	Delay	LOS
U.S. 101/Elk Valley Road-Sunset Circle	22.0	C	21.4*	C
U.S. 101/Sandmine Road				
WB (Sandmine Rd) approach	*10.1*	*B*	*11.3*	*B*
SB (U.S. 101) Left-turn	*8.0*	*A*	*8.3*	*A*
U.S. 101/Humboldt Road-Enderts Beach Rd				
EB (Humboldt Rd) approach	*11.8*	*B*	*12.0*	*B*
WB (Enderts Beach Rd) approach	*11.9*	*B*	*13.4*	*B*
Humboldt Road/Sandmine Road				
EB (Sandmine Road) approach	*9.5*	*A*	*13.1*	*B*
WB (Project Access) approach	-	-	*11.4*	*B*

Notes: LOS = Level of Service
Delay is measured in average seconds per vehicle
* - The weighted average delay for this intersection as a whole decreases with the addition of the project traffic. The assignment of the project trips results in increased volumes on movements that have average delays below the overall intersection average. Because this increases the weighting of these below-average movements, the overall average is thereby reduced.

Future Conditions

Project Description

The proposed project includes the relocation of the existing Elk Valley Rancheria casino to a new 203.5-acre site near the southeast corner of U.S. 101 and Humboldt Road. The relocated facility would be expanded to include a 40,000 gross square foot building including a casino and ancillary uses such as snack bars and gift shops. The casino would have 400 slot machines and 60 gaming tables. A 156-room hotel would also be constructed and would include conference and restaurant uses. A parking structure and surface parking are also planned.

Access would be provided by a single driveway that would form the east leg of Humboldt Road/Sandmine Road. The project site plan is shown in Figure 2.

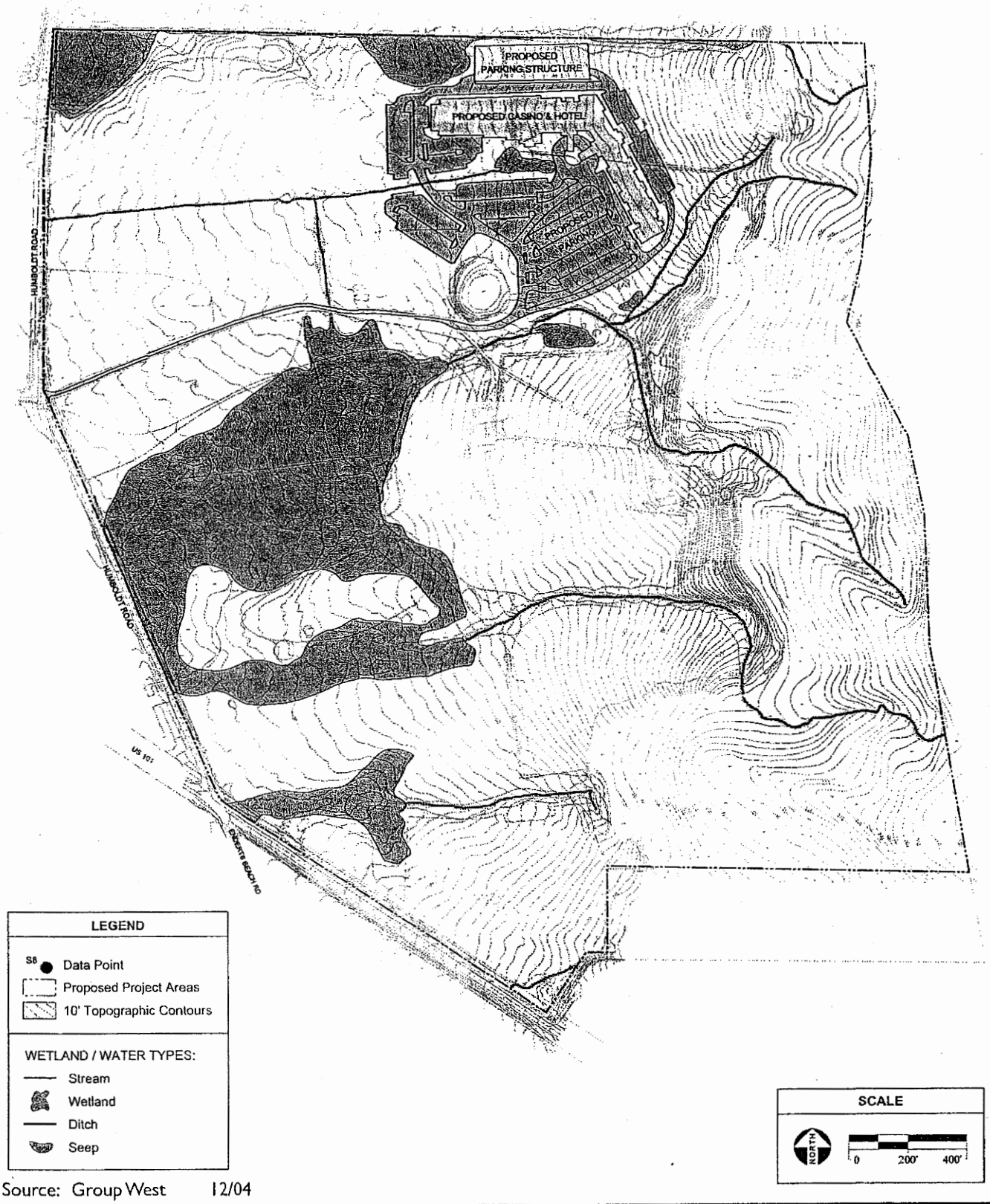
Project Trip Generation

For purposes of estimating the number of trips which the project would be expected to generate, *Trip Generation*, 7th Edition, by the Institute of Transportation Engineers (ITE) was used. This manual is a standard reference used by jurisdictions throughout the country, and is based on actual trip generation studies performed at numerous locations in areas of various populations. Because the manual does not include trip generation rates for casino uses, trip generation characteristics at the existing Elk Valley Rancheria were developed and adjusted based on information contained within a marketing study prepared for the project.

Trip generation rates for the "Hotel" land use (ITE #310) were applied for the hotel portion of the project, with trips being based on an assumption of 100 percent hotel occupancy. The marketing study prepared for the project indicates that historical hotel occupancy rates in the region average less than 70 percent, and so the assumption of 100 percent occupancy should be considered very conservative. The ITE land use description for hotels states that they may include "sleeping accommodations, restaurants, cocktail lounges, meeting and banquet rooms or convention facilities, and other retail and service shops." For this reason, separate trip generation projections for convention and restaurant facilities are not included in this study, as they would in essence result in double-counting.

The convention center may hold special events such as concerts which would accommodate a large number of guests. Since this type of event would not occur on a daily basis, the traffic analysis assumes that the convention center would generate average traffic volumes which are accounted for with the hotel trip generation. The special events are discussed separately.

Turning movements into and out of the existing 26,000 square foot Elk Valley Rancheria casino were obtained on Friday, March 13, 2001. Based on this data it appears that the existing facility has a p.m. peak hour trip generation rate of 3.62 trips per thousand square feet. Because relocation of the casino to a more visible location along U.S. 101 is anticipated by the marketing study to increase casino patronage, this trip generation rate was increased. The marketing study indicates that the number of casino patrons would be approximately 42 percent higher at an expanded facility near U.S. 101 versus an expanded facility at the existing location. The existing casino trip generation rates were therefore increased by 42 percent to 5.13 trips per thousand square feet to account for this change. Daily trip generation rates at the existing facility were not collected, but upon review of recreation and amusement related land uses in *Trip Generation*, it



Source: Group West 12/04

Elk Valley Rancheria Casino Relocation Traffic Study

Figure 2
Site Plan

County of Del Norte

DNX009.ai 12/04

appears that the p.m. peak hour trips typically represent about 10 percent of the daily volume. This proportion was assumed for this analysis.

It should be noted that existing traffic associated with the existing Elk Valley Rancheria casino was not removed from study area roadways. The exact travel patterns and patron mix associated with the existing facility is unknown and would require further study in order to properly analyze. The operating conditions presented in this report for "plus project" scenarios should therefore be considered conservative since the projected traffic conditions include both new traffic that would be anticipated with the proposed project and traffic that is already on the road traveling to/from the existing casino, despite the fact that the existing facility will be closed upon completion of the proposed project.

Based on the applied trip generation rates, the proposed project is expected to generate approximately 3,442 trips per day. Of these, approximately 314 trips are projected during the p.m. peak hour, which consists of 148 inbound trips and 166 outbound trips. The trip generation rates, assumptions and results for the proposed project are summarized in Table 4.

Table 4
Trip Generation Summary

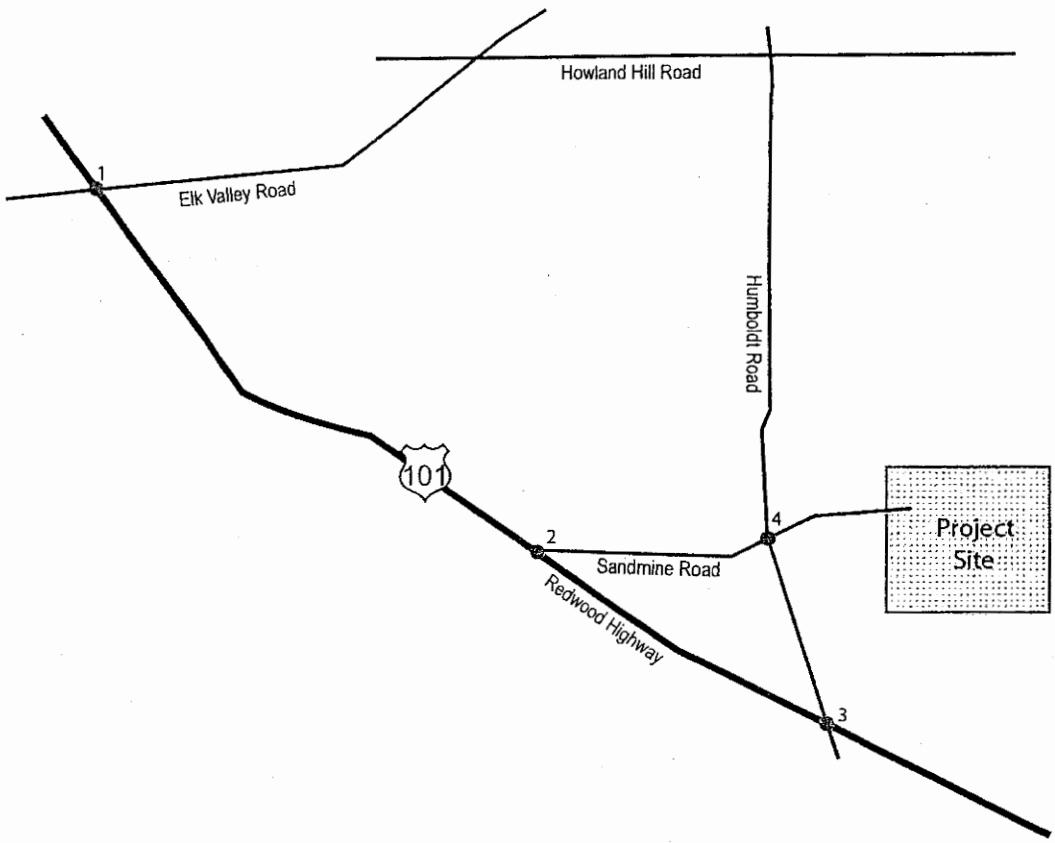
Land Use	Daily		Weekday P.M. Peak Hour			
	Rate	Total Trips	Rate	Total Trips	Trips In	Trips Out
Casino (40.0 ksf)	51.26	2,050	5.13	205	94	111
Hotel (156 occupied rooms)	8.92	1,392	0.7	109	54	55
TOTAL TRIPS		**3,442**		**314**	**148**	**166**

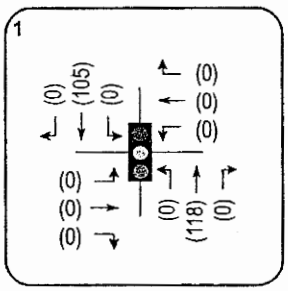
Notes: ksf = thousand square feet

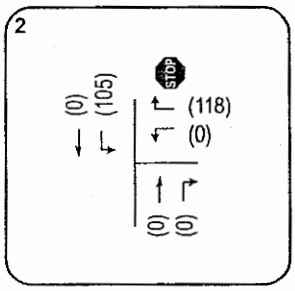
Trip Distribution

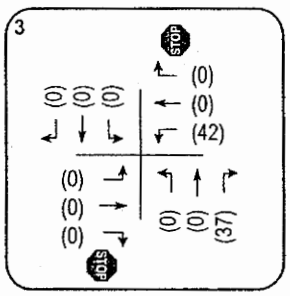
Trip distribution characteristics were based on market research conducted for the Elk Valley Rancheria. The market study includes information regarding the likely proportion of local versus tourist patrons and their origins. The circular "capture area" analyzed by the study is defined as a 100-mile radius from downtown Crescent City. From this data, existing travel patterns, and likely residence locations of employees, it was determined that approximately 71 percent of traffic will be oriented to and from U.S. 101 north of the site, 25 percent to and from U.S. 101 south of the site, and 4 percent to and from Humboldt Road and the Elk Valley Rancheria to the north.

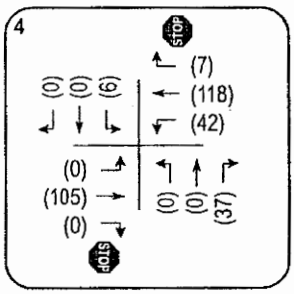
Project volumes are shown in Figure 3.











Not to Scale

LEGEND
- Study Intersection
- (xx) P.M. Peak Hour Volume

Elk Valley Rancheria Casino Relocation Traffic Study

Figure 3
Project Traffic Volumes

County of Del Norte

DNX009.ai 12/04

Existing plus Project Conditions

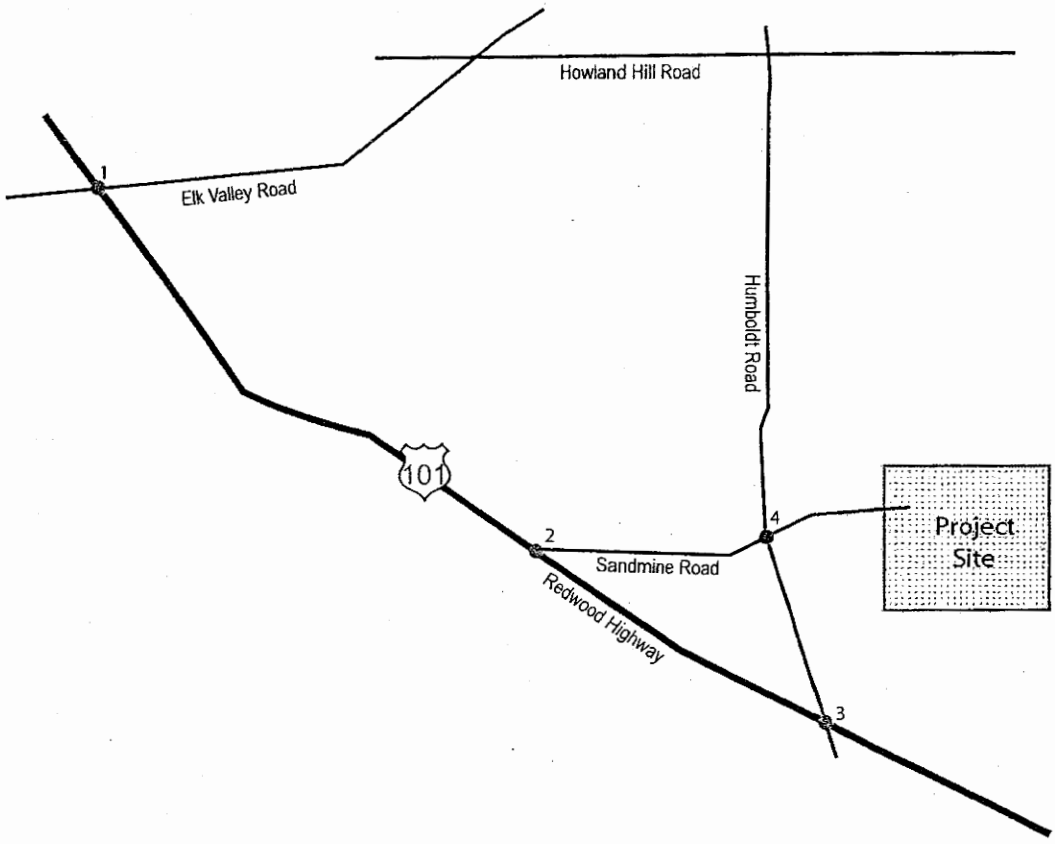
Upon the addition of project-related traffic to existing traffic volumes, all study intersections are projected to continue operating at acceptable levels. The signalized intersection at U.S. 101/Elk Valley Road is anticipated to operate acceptably at LOS C. It should be noted that with the addition of project-generated traffic, the weighted average delay for this intersection as a whole actually decreases. While intuitively it seems that average delay should increase as volumes increase, the assignment of the project trips results in increased volumes on movements that have average delays below the overall intersection average. Because this increases the weighting of these below-average movements, the overall average is thereby reduced. The conclusion could incorrectly be drawn that the project actually improves operation based on this data alone, however, it is more appropriate to conclude that the project trips are expected to make use of excess capacity, so drivers will experience little, if any, change in conditions as a result of the project.

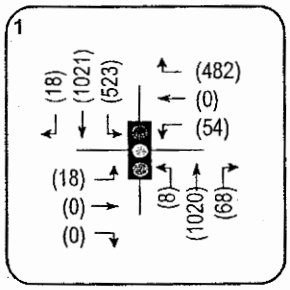
The remaining unsignalized intersections would operate at LOS B or better on the minor movements. A summary of the Level of Service calculations is shown in Table 3, and copies of the calculations are provided in Appendix A.

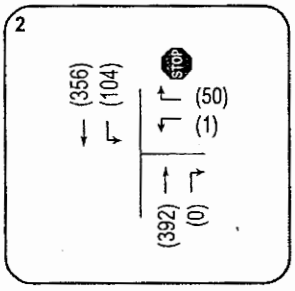
Future Conditions

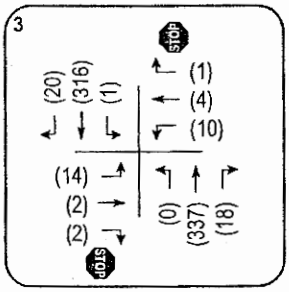
Caltrans staff was contacted for information pertaining to anticipated growth on U.S. 101 through the study area over the next 20 years. Staff indicated that for planning purposes a linear 20-year growth factor of 1.60 should be assumed, though it is likely that this factor will be reduced upon reevaluation of the corridor over the next year. This traffic analysis assumes a 1.60 growth factor for U.S. 101 through movements and a 1.20 growth factor on side street movements in all future scenarios.

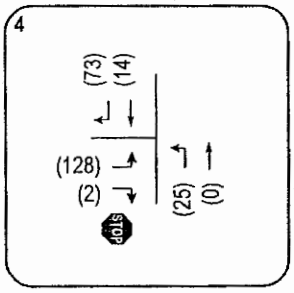
Under future conditions and upon the addition of project-related traffic, all study intersections are projected to continue operating acceptably. Operating conditions of LOS C or better are anticipated at all of the study intersections. Future turning movements are shown on Figure 4. A summary of the future level of service calculations is shown in Table 5, and copies of the calculations are provided in Appendix A.











Not to Scale

LEGEND
● Study Intersection
(xx) P.M. Peak Hour Volume

Elk Valley Rancheria Casino Relocation Traffic Study

County of Del Norte

Figure 4
Future Traffic Volumes

DNX009.ai 12/04

Table 5
Summary of Future P.M. Peak Hour Level of Service Calculations

Intersection	Future Conditions		Future plus Project	
Approach	Delay	LOS	Delay	LOS
U.S. 101/Elk Valley Road-Sunset Circle	32.0	C	34.1	C
U.S. 101/Sandmine Road				
WB (Sandmine Rd) approach	*11.1*	*B*	*12.5*	*B*
SB (U.S. 101) Left-turn	*8.4*	*A*	*8.7*	*A*
U.S. 101/Humboldt Road-Enderts Beach Rd				
EB (Humboldt Rd) approach	*14.7*	*B*	*15.0*	*C*
WB (Enderts Beach Rd) approach	*14.8*	*B*	*16.9*	*C*
Humboldt Road/Sandmine Road				
EB (Sandmine Road) approach	*9.5*	*A*	*12.3*	*B*
WB ((Project Access) approach	-	-	*11.2*	*B*

Notes: LOS = Level of Service
Delay is measured in average seconds per vehicle

Project Access

Access to the project would take place via a single driveway that would form the east leg of Humboldt Road/Sandmine Road. Project-related trips to and from U.S. 101 would occur at the Sandmine Road and Humboldt Road intersections. The intersection at Sandmine Road is projected to operate acceptably with LOS B operation on the westbound approach to U.S.101 under Future plus Project conditions. The southbound left turn at the intersection is projected to operate at LOS A. Based on these projections it appears that the existing intersection configuration and traffic control would be adequate under both existing and future conditions.

The U.S. 101/Humboldt Road intersection is projected to operate with LOS B operation on the westbound approach under Future plus Project conditions. Because very few, if any, project-related left turns are anticipated from U.S. 101 onto Humboldt Road, and because delays on the westbound minor approach are minimal, it appears that the existing configuration of these approaches would remain adequate into the future.

The intersection of Humboldt Road/Sandmine Road is projected to operate acceptably upon the addition of an improved east leg driveway to the relocated Rancheria. Elk Valley Rancheria may want to consider the installation of a roundabout at this intersection. A roundabout would act as an entry feature into the project while also eliminating the need for all entry and exit traffic to stop at the approach to Humboldt Road.

It is recommended that the existing shoulder on northbound U.S. 101 be widened to provide a deceleration lane for vehicles turning right onto Humboldt Road. It is also recommended that directional signs be provided so that patrons use the Sandmine Road intersection when traveling to and from U.S. 101 North, and Humboldt Road when traveling to and from U.S. 101 South.

Special Events

The 20,000 square foot convention center may hold special events such as concerts. The impact of traffic generated by these events would depend on whether the arrival was time specific or spread over a larger time period. Events with time-specific arrival would generate additional congestion in the study area. Manual traffic control can be an effective method of managing traffic for these types of events.

Conclusions and Recommendations

- The relocated and expanded Elk Valley Rancheria is expected to have a less-than-significant impact on operating conditions at the study intersections under both Existing and Future scenarios.

- The existing intersection configuration and traffic control at Humboldt Road/Sandmine Road would be adequate to serve the project. Elk Valley Rancheria may want to consider the installation of a roundabout at this intersection. A roundabout would act as an entry feature into the project while also eliminating the need for all entry and exit traffic to stop at the approach to Humboldt Road.

- It is recommended that the existing shoulder on northbound U.S. 101 be widened to provide a deceleration lane for vehicles turning right onto Humboldt Road. It is also recommended that directional signs be provided so that patrons use the Sandmine Road intersection when traveling to and from U.S. 101 north of the site, and Humboldt Road when traveling to and from U.S. 101 south of the site.

- For special events in the convention center, the project should provide manual traffic control in the study area.

Study Participants and References

Study Participants

Project Manager/Engineer:	Steve Weinberger, P.E., P.T.O.E.
Report Review:	Dalene J. Whitlock, P.E., P.T.O.E.
Planner:	Zack Matley, AICP
Assistant Planner:	Chris Helmer
Assistant Engineer:	Becky Simon, E.I.T.
Technician and Graphics:	Debbie Dunn

References

Del Norte County General Plan Revision - Revised Draft Background Report; Mintier & Associates, Jones & Stokes Associates, Dowling Associates, and Del Norte County Community Development Department; May 1, 1998

Elk Valley Rancheria Casino Redevelopment Feasibility Analysis, Urban Systems, Inc., 1999

Highway Capacity Manual 2000

Highway Design Manual, California Department of Transportation (Caltrans), 1995

Trip Generation, 7th Edition, Institute of Transportation Engineers, 2003

DNX009

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501-6813
VOICE (707) 445-7833
FACSIMILE (707) 445-7877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: See Attachment A

Mailing Address:

City: Zip Code: Phone:

EXHIBIT NO. 11
APPLICATION NO.
A-1-DNC-12-021
ELK VALLEY RANCHERIA
APPEAL - COMMISSIONERS STONE & SANCHEZ
(1 of 15)

SECTION II. Decision Being Appealed

1. Name of local/port government:

Del Norte County

2. Brief description of development being appealed:

Coastal Grading Permit for improvements along Humboldt Road including (1) resurface/reconstruct the road; (2) construct a roundabout at the intersection of Humboldt and Sandmine Rds; (3) fill an existing drainage on the east side of Humboldt Rd and create a new drainage ditch east of the realigned road; (4) widen the existing road eastward by 8 ft; (5) construct a 12-ft-wide separated trail (8-ft-wide trail with 2-ft-wide shoulders) on east side of the new drainage ditch; and (6) construct new street lighting, road signage, and striping.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

In Del Norte County, approximaetly 1 mile southeast of Crescent City, along an approximately 3,000-foot-long stretch of Humboldt Road between Highway 101 and Roy Avenue.

4. Description of decision being appealed (check one.):

RECEIVED
AUG 06 2012
CALIFORNIA COASTAL COMMISSION

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-DNC-12-021

DATE FILED: 8/6/12

DISTRICT: North Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator

☐ City Council/Board of Supervisors

☒ Planning Commission

☐ Other

6. Date of local government's decision: July 11, 2012

7. Local government's file number (if any): Coastal Grading Permit GP2011-32C

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Elk Valley Rancheria
2332 Howland Hill Road
Crescent City, CA 95531

(Agent) GHD Inc., Attn: Josh Wolf, P.E.
718 Third Street, Eureka, CA 95501

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Friends of Del Norte, Attn: Eileen Cooper
P.O. Box 229
Gasquet, CA 95543

(2) Bradford Norman
380 Cooper Avenue
Crescent City, CA 95531

(3) Mona Dougherty, Senior Water Resources Control Engineer, North Coast Regional Water Quality Control Board
5550 Skyland Blvd., Suite A
Santa Rosa, CA 95403

(4) Michael van Hattem, Environmental Scientist, California Department of Fish and Game
619 Second Street, Eureka, CA 95501

2 of 5

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See Attachment B for reasons supporting this appeal.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: Signature on File
Appellant

Dated: 8/6/12

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Dated: _____

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: Signature on File
Appellant or Agent

Date: 8/6/12

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

ATTACHMENT A

SECTION I. Appellant(s)

1. Mark Stone
County Government Center
701 Ocean Street, Suite 500
Santa Cruz, CA 95060

(831) 454-2200

2. Esther Sanchez
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

(760) 435-0971

ATTACHMENT B

REASONS FOR APPEAL

Appeal Jurisdiction:
After certification of local coastal programs (LCPs), the Section 30603 of the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (CDPs). Section 30603 states that an action taken by a local government on a CDP application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within 100 feet of any wetland or stream, or within 300 feet of the top of the seaward face of any coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments that constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified LCP and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission pursuant to Section 30603 of the Coastal Act because the approved development is (1) located within 100 feet of a wetland, and (2) a major public works project.

Reasons for Appeal:
On July 11, 2012, the Del Norte County Planning Commission approved Coastal Development Grading Permit #GP2011-32C with conditions for the development of infrastructure improvements along an approximately 3,000-foot-long stretch of Humboldt Road between Highway 101 and Roy Avenue, located approximately one mile southeast of Crescent City. The approved development includes the following: (1) resurfacing/reconstructing the roadway; (2) constructing a roundabout with an outer radius of 115 feet at the intersection of Humboldt and Sandmine Roads; (3) filling an existing roadside drainage on the east side of Humboldt Road and creating a new drainage ditch east of the realigned road; (4) widening the existing road eastward by at least 8 feet to provide for 4-foot-wide shoulders along each side of the road; (5) constructing a 12-foot-wide separated bicycle/pedestrian trail (8-ft-wide trail with 2-ft-wide shoulders on each side) on the east side of the new drainage ditch; and (6) installing new street lighting, road signage, and striping.

The approval of the CDP by Del Norte County is inconsistent with the policies and standards of the certified LCP including, but not limited to, policies and standards regarding (1) diking, dredging, and filling of coastal wetlands, and (2) protecting environmentally sensitive habitat areas.

(1) The approved project is inconsistent with the wetland protection policies of the LCP.

Summary of Applicable LCP Policies:

Land use plan (LUP) "Marine and Water Resources" chapter, section VII-D ("Wetlands"), part 4 ("Policies and Recommendations") states in part as follows (**emphasis added**):

a. ***The diking, filling, or dredging of wetlands shall be permitted in accordance with other applicable provisions of this program, where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects. Such projects shall be limited to those identified in Section 30233 of the Coastal Act.***

... ...

d. ***Performance standards shall be developed and implemented which will guide development in and adjacent to wetlands, both natural and man-made, so as to allow utilization of land areas compatible with other policies while providing adequate protection of the subject wetland.***

... ...

Section 30233 of the Coastal Act, cited in LUP "Marine and Water Resources" chapter, section VII-D, part 4 states, in applicable part, as follows (**emphasis added**):

(a) ***The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted*** *in accordance with other applicable provisions of this division,* ***where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:***

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(4) ***Incidental public service purposes****, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*

(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(6) Restoration purposes.

(7) Nature study, aquaculture, or similar resource dependent activities.

... ...

8 of 15

Discussion:

The project as approved by the County involves the filling of wetlands for the purpose of widening the road and constructing the new roundabout and paved trail. According to a 11/30/11 memorandum regarding "Feasibility of Wetland Mitigation" for the project from Winzler and Kelly to County planning staff, the project as approved by the County would result in a total of approximately ~0.3-acre of impacts to palustrine emergent wetlands (~4,473 sq ft.), "man-made ditch" wetlands (~3,000 sq ft.), and forested/riparian wetlands (~7,032 sq ft.). According to figures included with the referenced memorandum, the majority of impacts would occur to wetlands located east of Humboldt Road, primarily on Trust lands owned by the applicant. However, according to figures produced by Winzler and Kelly appended to the County staff report for the approved project, some wetland impacts will occur to palustrine emergent wetlands located west of the road, on non-Trust lands within the County's CDP jurisdiction. In addition, some of the impacts to Palustrine emergent and Palustrine scrub-shrub wetlands east of the road are believed to be within the County road right-of-way, either by a formal dedication of right-of-way and/or by prescriptive easement. Moreover, there several existing culverts beneath Humboldt Road in the project area, and the project as approved by the County requires that "any culvert that is undersized or metal shall be replaced" (County condition of approval #27). Thus, the approved project could result in additional impacts to wetlands associated with streams/ drainages during culvert replacement activities.

The LCP (LUP Marine and Water Resources chapter, section VII-D, part 4) requires that the diking, filling, or dredging of wetlands shall be permitted only for limited specified uses (those listed in Section 30233 of the Coastal Act), and in those cases only "*when there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects.*" The project as approved by the County is inconsistent with the cited section of the LCP because (a) findings were not made demonstrating that the approved project qualifies as an allowable use for wetland fill under the LCP and Section 30233 of the Coastal Act; (b) it is not clear that the approved project is the least environmentally damaging feasible alternative as required by the LCP; and (c) feasible mitigation measures have not been provided to minimize adverse environmental effects. Each is discussed in more detail below.

(a) The County's findings for approval of the coastal development grading permit application are not supported on the basis that the subject project, involving road widening, roundabout construction, and other associated road improvements, will not increase road capacity, but rather will simply improve safety for the existing volume and type of traffic that traverses the affected section of Humboldt Road. In past actions by the Commission in interpreting Section 30233(a)(4) of the Coastal Act, the Commission has determined that the fill for certain road safety improvement projects that did not increase vehicular capacity was considered to be for an "*incidental public service*" pursuant to the requirements of Coastal Act Section 30233(a)(4). In reaching such a conclusion, the Commission determined that if such a proposed project is a public safety project – and thus is undertaken for a public purpose – and further, if the project is incidental to "something else as primary," then the project is therefore a public safety project incidental to the primary transportation service provided overall by the existing road. The

County's findings, however, do not establish the evidentiary basis for determining that the new roadway improvements involving wetland fill, including in part road widening and roundabout construction within the County road right-of-way, are "incidental" to the overall existing road and roadway facilities. The County findings also do not establish that the proposed roadway improvements are necessary to serve existing roadway capacity and not to provide for improved ingress/egress that would serve future intensified development on the applicant's property. Thus, the project approved by the County is inconsistent with the policies and standards of the certified LCP, including but not limited to part 4, section VII-D of the Marine and Water Resources chapter of the certified LUP, because it does not establish that the wetland fill permitted for the various roadway improvements is an "incidental public service purpose" within the meaning of Section 30233(a)(4).

(b) Neither the County findings for approval nor the CEQA mitigated negative declaration (MND) adopted by the County for the project discuss any alternatives to the approved project, including the "no project" alternative or any other alternatives that would avoid or minimize the wetland fill impacts of the approved project. Instead, the County findings assume that all wetland fill impacts would be located outside of the County's CDP jurisdiction, east of Humboldt Road, on Tribal Trust land, which according to the MND (page 14) "is excluded from the Coastal Zone because it is held in trust by the federal government." The County findings and the MND acknowledge that any proposed work on the applicant's property requiring a federal permit (such as a permit from the Army Corps of Engineers for wetland fill impacts pursuant to the federal Clean Water Act) would be subject to the Coastal Commission's federal consistency process, and presumably through that process the project would be analyzed for its consistency with Section 30233 of the Coastal Act. However, according to County's findings and to Figures 1a through 2g included as attachments to the December 2011 CEQA MND adopted by the County, the approved project would result in impacts to wetlands located both east of the road, within the County road right-of-way, as well as to wetlands west of the road on non-Trust lands. Both of these wetland impact areas east and west of the road are within the County's CDP jurisdictional area. Moreover, there are several existing culverts beneath Humboldt Road in the project area, and the project as approved by the County requires both that existing culverts be extended to accommodate the widened road and "any culvert that is undersized or metal shall be replaced" (County condition of approval #27). Thus, the approved project could result in additional impacts to wetlands associated with streams/drainages that intersect the existing and widened roadway areas during culvert replacement activities within the County's CDP jurisdictional area. Although the approved project would involve the placement of fill within coastal wetlands, the County's findings for approval do not present the evidentiary basis that the approved project is the least environmentally damaging feasible alternative, and is inconsistent with the policies and standards of the certified LCP, including but not limited to part 4, section VII-D of the Marine and Water Resources chapter of the certified LUP.

(c) The County's staff report for the approved CDP discusses the fact that the project will result in wetland impacts. However, the approved project does not require any conditions

of approval requiring that wetland impacts be appropriately mitigated since, as stated on page 3 of the staff report,

> "*...The only areas found to be available for onsite wetland mitigation are located outside the County and State jurisdiction on the Martin Ranch (Indian trust lands) therefore the County has not recommended conditions specific to wetland mitigation into the approval of the project but the requirement for mitigation will remain in effect through the adoption of the CEQA document...*"

However, the County failed to include any conditions of approval to the CDP requiring adherence to the CEQA recommended mitigation measures to ensure the mitigation will be carried out. Thus, the County-approved project is inconsistent with the policies and standards of the certified LCP, including but not limited to part 4, section VII-D of the "Marine and Water Resources" chapter of the certified LUP, which requires that wetland fill projects provide feasible mitigation measures to minimize adverse environmental effects, as there are no CDP requirements that proposed mitigation be implemented.

In addition, the County's CDP does not include any conditions requiring the development and implementation of performance standards for the development in and adjacent to natural and man-made wetlands to ensure adequate protection of the wetlands. Therefore, the approved development does not provide feasible mitigation measures to minimize adverse environmental effects, inconsistent with the policies and standards of the certified LCP, including but not limited to LUP "Marine and Water Resources" chapter, section VII-D, part 4.

(2) The approved project has not been sited and designed to prevent impacts which would significantly degrade adjacent environmentally sensitive habitat areas.

Summary of Applicable LCP Policies:

LUP "Marine and Water Resources" chapter Section IV-C ("Sensitive Habitat Types") in part states as follows (**emphasis added**):

... ...

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

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C. *Sensitive Habitat Types*: ***Several biologically sensitive habitat types, designated through the application of the above criteria, are found in the Coastal Zone of Del Norte County. These include****: offshore rocks; intertidal areas; estuaries;* ***wetlands; riparian vegetation systems****; sea cliffs; and coastal sand dunes. A brief description of these sensitive habitat types is given below:*

... ...

4. *Wetlands: Also termed marshes, swamps and bogs, wetlands in the coastal zone vary from brackish to freshwater and range from seasonally flooded swales to year-round shallow lakes. Like estuaries, wetlands tend to be highly productive regions and are important habitats and feeding grounds for numerous wildlife species.*
5. *Riparian Vegetation Systems: The habitat type located along stream and river banks usually characterized by dense growth of trees and shrubs is termed riparian. Riparian systems are necessary to both the aquatic life and the quality of water courses and are important to a host of wildlife and birds.*

... ...

LUP "Marine and Water Resources" chapter Section IV-C (Sensitive Habitat Types) Table 1 ("Sensitive Habitat Types and Their Principal Locations") specifically lists "Sandmine Road" as a "principal location" for the wetland sensitive habitat type.

LUP "Marine and Water Resources" chapter, Section VII-D ("Wetlands"), part 1 defines "Wetland" as follows:

1. *Definition: "Wetland" means lands within the Coastal Zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, bogs, and fens. The land use category will be Resource Conservation Area.*

LUP "Marine and Water Resources" chapter, Section VII-D ("Wetlands"), part 2 identifies "major wetland areas of the Coastal Zone" in part as follows (**emphasis added**):

2. *Principal Distributions: Wetland habitats are found throughout the generally flat-lying coastal plain of Del Norte County.* ***The following identifies the major wetlands areas of the Coastal Zone****.*

... ...

n. ***Sandmine Road Wetland***

... ...

LUP Marine and Water Resources chapter Section VI-C (LCP Policies) in part states as follows:

... ...

6. *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such*

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resources shall be allowed within such areas. ***Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.***

... ...

LUP "Marine and Water Resources" chapter, section VII-D ("Wetlands"), part 4 ("Policies and Recommendations") states in part as follows:

... ...

f. ***Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*** *The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. A buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource...*

... ...

LUP "Recreation" chapter, section III ("General Policies"), part C ("LCP Policies") states in part as follows:

... ...

6. ***Fragile coastal resources shall be considered and protected to the greatest possible extent in all new coastal recreational development.***

... ...

Discussion:

All of the land immediately west of and adjacent to the project area is part of the Crescent City Marsh Wildlife Area (identified, at least in part, as the "Sandmine Road Wetland" in the "Marine and Water Resources" chapter of the certified LUP), a 339-acre fish and wildlife refuge owned and managed by the California Department of Fish and Game (CDFG). The refuge is comprised of a mosaic of freshwater, intertidal brackish, and riparian wetlands interspersed with islands of upland that provide habitat to a wide variety of flora and fauna associated with emergent, scrub-shrub, spruce forest, and coastal grassland ecotones, including the federal- and state-listed endangered western lily (*Lilium occidentale*) and several other rare and unique plant species and vegetation associations. According to the California Native Plants Society:

The Crescent City Marsh and environs are home to more than 230 plant species, at least a dozen of which are considered rare, threatened, or endangered. Many of these species are absent or rare elsewhere along California's coast. Some are plants of montane habitats or more northern latitudes, including vanilla grass (Hierochloe odorata), stream orchid (Epipactis gigantea), great burnet

> *(Sanguisorba officinalis), buckbean (Menyanthes trifoliata), Sitka alder (Alnus viridus), Arctic starflower (Trientalis arctica), white-stemmed gooseberry (Ribes inerme var. inerme), and slender bog-orchid (Platanthera stricta). The Crescent City Marsh consists of 335 acres of coastal freshwater wetlands, open water, brackish marsh, beach and dunes, prairie, coastal scrub, and spruce forest... The area also contains suitable habitat for several threatened and endangered animals, including marbled murrelet, northern spotted owl, bald eagle, Oregon silverspot butterfly, and tidewater goby. Several plant communities occur in the Marsh that are rare in northwestern California: buckbean marsh, Pacific reed grass marsh, and Labrador tea marsh. All three marsh types are home to the endangered western lily...*

In addition, according to the U.S. Fish and Wildlife Service (FWS), the CCMWA is "arguably the most botanically-unique wetland complex in northwest California and perhaps the entire State" due to its diverse and unique flora and vegetation associations that are absent or rare elsewhere along other ecologically similar portions of the California coast.

Despite the significance and value of the marsh ESHA adjacent to the project area and its identification as environmentally sensitive in the LCP, the County's CDP does not include any standards or conditions to ensure that the approved project does not significantly degrade the marsh ESHA or any of the sensitive species that inhabit the area. For example, the CEQA MND adopted by the County for the approved project acknowledges that the project would significantly alter the hydrology of the area, including wetlands and waters that drain directly into the CCMWA. The MND states (on page 31):

> *"The widening of Humboldt Road would require realignment of the ditch to the east of the road. The ditch would generally be reconstructed approximately 5 to 15 feet to the east of its existing location. Reconstruction would include reducing the slope of the ditch banks and revegetation of the ditch. In the area of the proposed round-about, an existing culvert crossing approximately 35 feet under the existing driveway onto the Martin Ranch property and an approximately 165 foot section of open ditch on either side of the driveway would be replaced with an approximately 200 foot proposed culvert. With the exception of the northernmost culverts, existing culverts leading from the roadside ditch under the road to the Crescent City Marsh Wildlife Area would be extended to accommodate the widened road and realigned ditch...The proposed pedestrian and bike path would cross a large wetland complex and a channelized stream. The proposed path would include the construction of a ditch running on its east and uphill side to collect any water runoff. The proposed path ditch would convey water along the path to one of seven proposed culverts, from which water would discharge to the reconstructed Humboldt Road ditch, and ultimately pass under the road to the Crescent City Marsh Wildlife Area.*

However, the MND finds these hydrology impacts to be "less than significant" since "*the Project would not substantially alter the existing drainage pattern of the site, alter the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site.*" A condition of approval of the County CDP (condition #27) is that the applicant must submit a drainage study prior to issuance of the coastal grading permit for

the review and approval of the County. "*The drainage study shall include calculations for the routing of all water through the project. Any culvert that is undersized or metal shall be replaced. Drainage calculations shall include any anticipated development on the Martin Ranch Property and in the immediate project vicinity....*" Yet the condition includes no standards requiring new drainage features to be sited and designed to protect adjacent marsh ESHA or any of the rare and endangered species that inhabit it, such as the western lily or coastal cutthroat trout. Therefore, the approved project has not been sited and designed to prevent impacts that would significantly degrade adjacent environmentally sensitive habitat areas, inconsistent with the policies and standards of the certified LCP, including but not limited to LUP "Marine and Water Resources" chapter sections IV-C, VI-C(6), VII-D, VII-D, part 4(f), and to LUP "Recreation" chapter section III(C).

BRADFORD R. NORMAN
380 Cooper Avenue, Crescent City, CA 95531

Outline of Biological/Issues to address re: the Elk Valley Rancheria Trail, Road Improvements, and Related Casino, proposed for the Martin Ranch Project, along Humboldt Road, with special attention to wetlands modifications, or stream alterations, in Del Norte County, within extreme Northwestern California.

7 March 2012

I spent 2 days assessing the fish and frog habitat at Humboldt Road, just outside the City limits of Crescent City, in extreme northwestern California. This area is proposed to be developed , over time, by the ***Elk Valley Rancheria*** .

Comments:

1. Presence of red-legged frogs. Presence of red-legged frog (***Rana aurora***) has been confirmed on 3 March & 4 March 2012, by visual confirmation. In this proposed project area there is confirmed red-legged frog breeding and/or rearing habitat, as determined by the presence of juvenile red-legged frogs on 3 March 2012 & 4 March 2012, by visual confirmation. Table 1, page 228 of the Staff Report, which is Page 11 of a Winzler & Kelly Memorandum, dated Oct 29th 2010, states that: "pre-construction and/or seasonally appropriate survey recommended." I agree with the pre-construction surveys recommendation and the removal of animals present during and prior to construction activities for this species; however, the term "seasonally appropriate survey" becomes moot when presence is already determined, and really has little meaning in this area, where red-legged frogs can be observed, practically year round. This same Table 1 is mislabeled in the original document as "Potentially Occurring Special-Status Plant Species in the Project Vicinity," but actually contains Special-Status "Animal" species as well!

2. Presence of Fish In Project Area. Fish presence in the form of the migratory threespined stickleback (***Gasterosteus aculeatus***) and /or juvenile salmonids (***Oncorhynchus*** sp.) was verified on 3 & 4 March 2012, by visual observation in ditches on both sides of Humboldt Road, along the perimeter of the proposed wetland trail project area. See Page 227 of the Del Norte County Staff Report which is page 9 of the Winzler & Kelly Memorandum to Rob Holmund and Josh Wolff from Stephane Klein &

Lia Webb (Job # 0828-10001-11001), which states that habitat for the cutthroat trout does not occur in the Project Area! See also Table 1, page 228 of the Staff Report , which is Page 11 of another Winzler & Kelly Memorandum, dated Oct 29th, 2010. It emphatically states that Cutthroat trout is: "not present" at the Project site.

3. Presence of a known cutthroat trout, *Oncorhynchus clarki,* population was verified in USFWS tidewater goby distribution study in 2003-2004 (Arcata Office) to occur in the Crescent City Marsh and this area, and the Endert's Beach lagoons and ponds to the west, are the obvious sources of any fish that occur in the tributaries (=ditches) in the Proposed wetland trail project area.

4. With the presence of fish, which has been confirmed in the ditches and culverts that are proposed for stream alteration, at least in the wetland trail portion of the proposed project, it becomes obvious that there is potential lamprey rearing habitat and potential tidewater goby habitat, by default, as the wetlands and tributaries are now obviously connected. The culverts under Hwy 101 and Humboldt Rd connect the adjacent Crescent City Marsh and Endert Ponds to the upland creeks and ditches, sustaining a biologically interconnected water system. Rearing lamprey populations and rearing coho salmon, and threespine stickleback and cutthroat trout, are all confirmed to occur in nearby Elk Creek to the northwest and in Mill Creek to the south of the proposed project area.

5. The known presence of at least 2 species of protected snail was not mentioned in the EIS documents – no mollusks were. There are a least 2 species of "listed " snails known for the local region: ***Monadenia fidelis pronotis***, and ***Juga chacei*** (Dr. Barry Roth, 2010-2012, personal communications). These species come up on a CNDDB search by me, but are not listed in the for the Elk Valley Rancheria Martin Ranch Coastal Consistency Review EIS (EIS), nor the Winzler & Kelly Memorandum containing the Table of "Potentially Occurring Special –Status Plant [and Animal] Species, dated 29 October 2010, page 11 – as on page 228 in the Del Norte County Staff Report. The Winzler & Kelly Memorandum , dated 29 October 2010, lists that a DFG " Full Report of Selected Elements, California Natural Diversity Database (CNDDB)" was accessed via the Internet , for the Sister Rocks and Crescent City USGS 7.5 Minute Quadrangles in 2010, on page 12 (which is page 230 of the Del Norte County Staff Report). No surveys were conducted for these species in the preparation of the EIS, wetland documents, etc. ***Monadenia fidelis pronotis*** is a terrestrial sideband snail that occurs in the Pt. St. George and Lake Tolowa- Earl areas and could potentially be present on the Martin Ranch property. ***Juga chacei*** is a native aquatic State Species of Special concern that occurs in creeks of the Crescent City area and therefore has a potential to occur in the tributary creeks that run through, along, and adjacent to the Martin Ranch Project Area. It has been recently (2007) confirmed to occur in Elk Creek Tributaries to the immediate northwest and in Kelly Creek, Bummer Lake Creek, and the East Fork of Mill Creek (2010-2012) to the south of the Martin Ranch property (Dr. Barry Roth, personal communications).

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6. **The trail project inhibits sheet run-off** to the wetlands and alters flow to the fish bearing creeks and ditches below the trail. The inhibiting of sheet run-off for the wetlands present on –site, results in stream alteration of the various mapped creeks (see Figure 3-3: surface water map). Even intermittent creeks are protected in the Coastal Zone, therefore if they are shown to contain migratory fish populations, a more thorough fisheries study should be done in order to ensure fish populations can be monitored over the 5-year period as recommended in the Draft EIS documents. Since fish were detected 3-4 March 2012 visually while walking the Del Norte County Right-of-way, it becomes incumbent on the project mitigations to address the presence of fish and not accept the no-impact on fish determination in the current documents.

7. **The presence of the herd of Elk present on-site is a safety concern** in and of itself. Will the trail be fenced in on both sides to prohibit potential close-quarters elk-human interactions. Such interactions can be fatal to humans. I observed evidence that elk are jumping over the broken down existing barbed-wire fence near the existing newer corner of wood fencing near the Smoke Shop. Will the elk herd be able to cross freely over Humboldt Road, or will wildlife corridors be established? These are issues not addressed by the EIS in its present form available to me. The Friends of Del Norte did comment in the Final EIS that Elk utilize this area extensively.

8. **The Fort Dick Caddisfly** was listed in one table of the EIS documents, and not the others; in fact no insects were really addressed in the EIS documents now available to me (dated August 2005, Volume I, Draft EIS, Elk Valley Rancheria Martin ranch Project), or the plant hosts of any Listed, Threatened, or otherwise Species of Special Concern insects in the area were discussed; although, the plants, overall, were dealt with in rather dense detail. After reviewing the portions of the reports that specifically deal with botany and plant –related issues, the Winzler & Kelly Documents especially, seem to me to excel in this regard.

9. **The channelized Roy Avenue Adjacent basin – creek** is not even considered in the EIS, however it has been documented that at least four (N=4) amphibian species breed in this area. These species are listed as follows, in order of abundance: Pseudacris regilla, Ambystoma gracile, Rana aurora, Taricha granulosa (as observed by Barron & Norman, 2008-2012. personal observations).

10. On Figure 10 of the AES Report, dated August 2005, on Page 27, it is reported that the red-legged frog was found on the Martin Ranch property *per se* in the Appendices, Volume II , and then in the Staff Report, the documents available to me at present state that : " not observed at the wetland trail project site" (paraphrased), so I would recommend a raised walkway on a stilted –system , more in –line with modern-day wildlife corridor practices as a best management practice on this portion of project that includes the wetland trail along the East side of Humboldt Road, specifically. The northern part of the project is less problematic in that it does not have the extensive wetland complex and broad riparian area as exists to the south of the traffic circle

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The USFWS, Arcata Office, should be brought into this, and NOAA , so as to clarify any frog and fish presence issues that are now apparent (2011-2011, B. Norman, 2012, 3-4 March).

11. Because of the channelization of these broad wetland areas by the trail, the entire wetland complexes between the proposed upland trail ditch and the current roadside ditch will be significantly degraded. This large area has not been accounted for as impacted wetlands. The .31 acres of impacted wetlands is therefore grossly inaccurate. Again, a raised trail could avoid some of these degradations and result in fewer impacts.

12. **Street lights** are likely to impact the fish and frog populations in unforeseeable manners, such as increasing the rates of predation by birds, disrupting nocturnal behaviors, etc.

13. **Recommendation: There needs to be a design process of a raised walkway and fence, over the wetland, not filling it in,** – and the walkway needs to be an elk-proof multi-use trail that ensures sheet flow from the existing upper wetlands, into the present lower wetlands, the representation of which are possibly inaccurately portrayed within the August 2005 EIS documents.

14. It appears , from the documents available to me at this time, that: AES Wetland determinations were done to Army Corps Of Engineer's (ACOE) Standards, and not to California Coastal Commission (CCC) Standards. This may result in a re-evaluation of wetlands being necessary for this PORTION of THESE PROJECTS TO CONTINUE.

15. Flood maps in the draft EIS documents exhibit that there are ample corridors through which migratory fish continue to establish populations throughout the Crescent City Marsh Area, and beyond, into the Martin Ranch perimeter culverts, Along marshes of Sandmine Road & through the various drainages that have been previously mapped within that project area.

16. **Habitat Fragmentation. Red-legged frogs** utilized the wetlands, and the more upland forested habitats within and adjacent to the proposed project area.

17. **Power Line Maintenance**. This aspect of the on-going proposed activities has not been addressed in the EIS, and other documents, adequately.

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18. It is interesting that the EIS Tables mention sea-turtles, but do not mention the native freshwater aquatic and terrestrially migrating and nest-building turtle, that should have come up on any search for California listed species or species of special concern in the CNDDB Topographic map surveys mentioned in the documents; namely, the Northwestern Pond Turtle, Actinemys marmorata, previously known as Clemmys marmorata, which could occur in the Crescent Marsh Area, does occur in nearby Dead Lake and the Smith and Klamath, and Trinity Rivers, and has been detected in Crescent City and at "Pacific Avenue and Inyo Street, Crescent City" (Frank Galea, 2006, personal communication). The most recent sighting was at Dead Lake, near the boat ramp, in October 2011, Norman). This species is a State of California Species of Special Concern and a State Threatened Species, in southern California populations. It is also considered a United States Forest Service (USFS) Special Concern Species (SCS).

Thank you for considering my comments regarding this proposed sub-project of the larger proposed Elk Valley expansion program.

Thank you for considering these comments.

Bradford R. Norman

Date	Species Observed	Species Name	Common Name	No.	Condition	Location
3-Mar-12	PSRE egg masses	Pseudacris regilla	Pacific Chorus (Tree)Frog	7	live- partially hatched	ditch nearest Smoke Shop
1130 AM	RAAU juveniles	Rana aurora	Red-legged Frog	3	live	East side ditch near Elk fence crossing site
ca. 50 F =AIR	Unidentified small fish	Pices- Fishes	Threespine Stickleback and/or Cutthroat Trout	4	live	Culvert on East Side of Humboldt Road Ditch
	Unidentified small fish	Pices- Fishes	Threespine Stickleback and/or Cutthroat Trout	ca. 10	live	Culvert on West Side of Humboldt Road Ditch
	RAAU juveniles	Rana aurora	Red-legged Frog	2	live	West side of Humboldt Road Ditches
	RAAU Adult	Rana aurora	Red-legged Frog	1	live	West side of Humboldt Road Ditches
	ELK HERD	Cervus	Elk	ca. 30	live	In Pasture adjacent to East Side Wetlands off Humboldt Road
	Flowing Conditions	hydrology		0	none seen	Along channellized Creek along West side of Roy Avenue
4-Mar-12	PSRE egg masses	Pseudacris regilla	Pacific Chorus (Tree)Frog	7	live- partially hatched	ditch nearest Smoke Shop
1200 PM	RAAU sub-adult	Rana aurora	Red-legged Frog	1	live	East side ditch near Elk fence crossing site
47 F=AIR	THOR adults	Thamnophis ordinoides	Northwestern Garter Snake	2	live pr. together	East side ditch near Elk fence crossing site
8-9 = C AIR	RAAU juveniles	Rana aurora	Red-legged Frog	4	live	West side of Humboldt Road Ditches
	Unidentified small fish	Pices- Fishes	Threespine Stickleback and/or Cutthroat Trout	ca. 12-15	live	West side of Humboldt Road Ditches
	RAAU egg mass	Rana aurora	Red-legged Frog	1	live- partially hatched	West side of Humboldt Road Ditches
	ELK HERD	Cervus	Elk	ca. 30	live	In Pasture adjacent to East Side Wetlands off Humboldt Road
	TUMI adult	Turdus migratorius	American Robin	1	live	Across Humboldt Road
	COCO adult	Corvus corax	Common Raven	1	live	over Martin Ranch
			Fox Sparrow	1	live	Across Humboldt Road

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EDUCATION **University of Puget Sound**, Tacoma, WA. 1986-1990.
Pre-Medicine, Biology, Language.
Everett Community College, Everett, WA. 1985-1986.
Pre-Medicine, Biology, Chemistry, Mathematics.
Olympia Technical Community College, Olympia, WA. 1982-1983.
Computer Systems, Mathematics.

On-The-Job Training: *All Terrain Vehicle Certification*, USFWS, 2004;
Chainsaw Qualified, US Forest Service, 2002;
CPR, First Aid, USFS 1992, USFS 1994, USFWS, 2004;
Helicopter and Fixed-winged Aircraft Safety, USFS, Tongass National Forest, 1991-1992;
Forest Road Safety Driving Video Courses & Radio Protocol, US Forest Service, 1992, 1993, 1994, 2000;
Pesticide Safe Handling and Application Training, USFWS, 2004;
Bear Safety & Special Weapons Certification, US Forest Service and USFWS, 1991, 1992;
Watercraft Safety and Operations Certified, USFWS, 1992;
32- Basic Firefighter Training and S-190 Fire Behavior Course, US Forest Service, 1995;
Equal Opportunity and Sexual Harassment Sensitivity Training, US Forest Service, 2000-2002;
Computer Systems Security Training, USFWS, 2004.

EXPERIENCE

Biological Monitor, IBIS Environmental, Highway 101 Ten Mile River Bridge Project, Ft. Bragg, Mendocino County, CA. Monitored construction activities at Caltrans project site. Salmonid surveys; water quality monitoring; discharge monitoring; daily report generation; digital photographic records. April – June 2008, seasonal fulltime.

Biological Monitor, IBIS Environmental, Highway 101 Van Duzen River Bridge Project, Humboldt County, CA. Monitored construction activities at Caltrans project site. fisheries and amphibian surveys; water quality monitoring; discharge monitoring; report generation; digital photographic records. One-week fulltime, 2007.

Wildlife Biologist, Natural Resources Management Corporation (NRM), Eureka, California. Conducted terrestrial surveys at the Samoa Peninsula Pulp Mill Project, February 2006.

Wildlife Biologist, Natural Resources Management Corporation (NRM), Eureka, California. Assisted in securing a $41, 000 terrestrial mollusk survey contract with the USFS, Shasta –Trinity National Forest. 2007. October 2007. Project Clearance field surveys for mollusks, 10 days in the field, fulltime, November: report Generation and voucher specimen identification and curation. Assist on bid preparartion, botanical monitoring and biology projects continues as requested throughthe present (August 2009).

Biological Monitor, IBIS Environmental, Confusion Hill Bridge Project, Mendocino County, CA. Monitored construction activities at Highway 101 Caltrans project site. Salmonid surveys; water quality monitoring; discharge

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monitoring; report generation; digital photographic records. August –December 2006, seasonal part time.

Private Consultant / Creel Surveyor, Smith River , Del Norte County, CA. Cooperative project between CDFG, Rowdy Creek Hatchery & the Smith River Advisory Council. Interviewed steelhead fishermen in the field to collect effort, methods & catch data, genetic tissue & scale samples, fish sizes, sex ratios, injury data, etc. Recorded data to protocol. December 2005 – April 2006, seasonal part time.

Biologist, IBIS Environmental, San Raphael, CA. Conducted field surveys at the Caltrans Highway 101 Greenwood Creek Bridge Project for Tailed frogs (*Ascaphus*) & southern torrent (seep) salamanders (*Rhyacotriton*) and other listed species prior to a Caltrans bridge project. Transect, quadrat (area-constrained), time-constrained, and point-search methods were used. June 2005, seasonal part time.

Biologist, IBIS Environmental, San Raphael, CA. Conducted fisheries surveys for listed species in Spanish Creek, Plumas County, using electro-shocking and snorkel count methods prior to a Caltrans Bridge project. June - July 2005, seasonal part time.

Biological Science Technician, U.S. Fish & Wildlife Service, San Luis National Wildlife Refuge Complex, Central Valley, CA. Conducted trapping surveys for aquatic species, targeting *Thamnophis gigas*, Federally Threatened Giant Garter Snake; nocturnal snake and San Joaquin kit fox surveys; GPS data collection; trap maintenance; exotic fish identifications; bullfrog collection, dissection, and diet study; ATV and Safe Pesticide Practices training. May - September 2004, seasonal fulltime.

Biological Science Technician, U.S. Fish and Wildlife Service, Arcata Field Office, Arcata, CA. Fishery surveys, trapping, beach seining, fish identification, habitat assessment, water quality measurements. Salmonid surveys. April 2003 – January 2004, fulltime.

Herpetology Consultant, Crescent City Marsh Management Project, Humboldt State University Foundation, Arcata, CA. May -October 2002, part time.

Biological Science Technician, Redwood Sciences Laboratory, Arcata, CA. Conducted field surveys for herpetological and mollusk taxa, as well as vegetation plots, transects, GPS mapping, taxonomic inventories, extensive camping, navigation, field safety, vehicle maintenance, etc. March 2000 - September 2002, fulltime.

Mollusk Surveyor, Natural Resources Management, Eureka, CA. Conducted field surveys for terrestrial mollusk species to protocol throughout the Hayfork Ranger District, Shasta-Trinity National Forest.. Mollusk identification, report writing, mapping sites utilizing topographic and GPS data. Fall 2001 and Spring 2002, part time.

Research Assistant, Lake Earl Tidewater Goby Intensive Habitat Study. Conducted intensive and extensive field surveys for aquatic species in Lakes Tolowa and Earl, Del Norte County, CA in conjunction with the Army Corps of Engineers and Tetra Tech, Inc., with private biological consultant Carl Page, from September 1998 through August 1999, half-time.

Biological Science Technician, California Department of Fish & Game, Arcata, CA. Conducted creel surveys of salmonid anglers on the lower Klamath River drainage from August through December 1998 and 1999, seasonal fulltime.

Research Assistant, California Cooperative Fishery Research Unit, Humboldt State University (HSU), Arcata, CA. Field research involving the Del Norte salamander, May 1996 through June 1997 on Six Rivers National Forest. Assisted in field research project involving the Endangered Tidewater goby from September to November 1996 and July through October 1997, seasonal fulltime.

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Biological Science Technician, United States Forest Service (USFS), Six Rivers National Forest, Orleans Ranger District, Orleans, CA. Conducted extensive and intensive field surveys for spawning salmon, amphibians and reptiles throughout District. Worked on Red Cap Creek Watershed Analysis, summarized field data, monitored various wildlife habitat sites, constructed fish habitat improvements, conducted educational programs and habitat inventories in the Klamath River basin. July 1994 - December 1995, fulltime.

Herpetological Specialist, National Biological Survey, California Cooperative Research Unit, HSU, Arcata, CA. Temporary assignment to analyze and report on Alaskan amphibian studies conducted 1991 through 1993 in cooperation with USFS & U.S. Fish & Wildlife Service. 1993 - 1997, part time.

Field Herpetologist, Assistant to Dr. Ernest L. Karlstrom, Professor Emeritus, Dept. of Biology, Univ. of Puget Sound. Conducted extensive wetland habitat surveys for sensitive species in Pierce County, WA. March to April 1994, fulltime.

Field Herpetologist, HSU Foundation, Arcata, CA. Assisted graduate student Seth Pogue during intensive aquatic surveys of streams throughout northwestern California and southwestern Oregon. July and August 1993, fulltime.

Biological Science Technician, USFS, Redwood Sciences Laboratory, Arcata, CA. Conducted intensive trapping, terrestrial and aquatic surveys for sensitive species on Simpson Timber Company, Redwood National Park and Coast Redwood State Park lands in southern Del Norte County, CA. January to May 1993, fulltime.

Field Herpetologist, Humboldt State University Foundation, Arcata, CA. Conducted intensive field surveys for sensitive species throughout Tongass National Forest and Stikine-LeConte Wilderness Area lands, southeast Alaska. Conducted laboratory studies on and cataloged specimens collected. March to December 1992, fulltime.

Associate, James R. Slater Museum of Natural History, Univ. of Puget Sound, Tacoma, WA. Assisted in bird, mammal and reptile specimen preparation, preservation, identification and collection activities. Conducting specific research projects. 1988 to 1992, part time, work-study & volunteer.

Volunteer Field Herpetologist, USFS, Wildlife Office, Petersburg Ranger District, Petersburg, AK. Conducted field surveys of wetland habitats in Tongass National Forest lands of southeast Alaska with emphasis on sensitive amphibian species and insect communities. August to September 1991, fulltime.

Volunteer Herpetological Field Assistant, Dr. E. L. Karlstrom, Univ. of Puget Sound, Tacoma, WA. Assisted during field surveys of a study area in the blast zone of the Mount St. Helens Volcanic Monument, Cowlitz County, WA. 1988 to 1994, part time.

Resource and Information Specialist, Hillhaven Foundation, Tacoma, WA. Conducted day-to-day operations of the Foundation's Resource and Information Center for Gereontological Education materials. October 1990 to May 1991, fulltime.

Undergraduate Researcher, University of Puget Sound, Tacoma, WA. Received a Murdock Science Grant to study variation in Washington populations of the common garter snake, *Thamnophis sirtalis*. Summer 1990.

Work-study Assistant and Herpetological Preparator, James R. Slater Museum of Natural History, Univ. of Puget Sound, Tacoma, WA. Assisted in the preparation and maintenance of the preserved research collection of vertebrates at the museum. Fall 1989, part time, work-study.

Micro-computing Consultant, Academic Computing, Univ. of Puget Sound, Tacoma, WA. Software consulting for students utilizing the University's hardware, assisting students in preparing word-processing, and ad hoc hardware trouble-shooting. Summer 1988 to Spring 1989, part time, work-study.

Teaching Assistant, Department of Chemistry, Univ. of Puget Sound, Tacoma, WA. Laboratory preparation,

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co-supervision, assistance for students, and grading of lab reports for 3 sessions of general chemistry laboratories. Fall 1987 to Spring 1988, part time, work-study.

Research Associate, Pacific Northwest Forestry Laboratory, Olympia, WA. Assisted Dr. Keith Aubry, USFS, on several projects including preserved specimen cataloging, spotted owl data checking, computerization of scientific equipment inventory, specimen catalog and bird community literature references. Spring and Summer 1987, fulltime, work-study.

PUBLICATIONS

1977. Notes on the Embryonic Development of the Wandering Garter Snake in Western Washington. Bulletin of the Chicago Herpetological Society 12(4): 103-107.

1978a. Hybridization in the *Thamnophis* of Western Washington. Bulletin of the Chicago Herpetological Society 13(3): 82-84.

1978b. An Unusual Red Color Morph of the Northwestern Garter Snake, *Thamnophis ordinoides*, from Western Washington. Bulletin of the Chicago Herpetological Society 13(4): 101-102.

1978. Geographical Distribution Extension for *Thamnophis sirtalis concinnus* X *sirtalis pickeringi.* Herpetological Review 10(2): 60-61.

1980a. Intergradation between the *Thamnophis sirtalis* Subspecies *concinnus* and *pickeringi* in the Puget Sound Lowlands. Bulletin of the Chicago Herpetological Society 15(1): 22-23.

1980b. Notes on the Egg Clusters and Hatchlings of *Ensatina eschscholtzi oregonensis* in Western Washington. Bulletin of the Chicago Herpetological Society 15 (4): 99-100. Co-author: C. E. Norman.

1985. Errata and Supplements to the Early Publications of Bradford R. Norman: 1977-1980. Bulletin of the Chicago Herpetological Society 20(3-4): 108-113.

1986. A Note Concerning Reproduction in *Ensatina eschscholtzi oregonensis.* Herpetological Review 17(4): 89.

1988a. Geographical Distribution Extension for *Bufo boreas boreas* in Alaska. Herpetological Review 19(1): 16.

PUBLICATIONS, CONTINUED:

1988b. A Note Concerning Predation on *Plethodon vehiculum* by *Thamnophis sirtalis.* Herpetological Review 19(2): 34. Life History Section.

1991. A Note Concerning Reproduction in *Plethodon vehiculum* in Pierce Co., Washington. Herpetological Review 22(2): 55. Life History Section. Co-author: M. M. Swartwood.

1997a. A Partially Albinistic Northwestern Garter Snake, *Thamnophis ordinoides* (Reptilia, Serpentes, Colubridae), from Washington State. Bulletin of the Chicago Herpetological Society 32(5): 107-109.

1997b. Two New Southernmost Range Extensions for *Plethodon elongatus* (Del Norte salamander). Geographic Distribution Section. Herpetological Review 28(4): 206. Co-author: G. A. Schmidt.

1998. On the Establishment of the Pacific Chorus Frog, *Pseudacris regilla* (Amphibia, Anura, Hylidae), at Ketchikan, Alaska. Bulletin of the Chicago Herpetological Society 33(6): 124-127. Co-authors: D. L. Waters and T. J. Hassler.

1999. ***PLETHODON ELONGATUS*** (Del Norte Salamander). Geographic Distribution Section. Herpetological Review 29(3): 172 (Report of a new coastal southernmost record for the species; historic voucher in the Humboldt State University Vertebrate Collection). Co-author: G. A. Schmidt.

2002. Concerning an Albino Foothill Yellow-legged Frog, *Rana boylii* (Amphibia, Anura, Ranidae), from Red Cap Creek Drainage, Humboldt County, California. Bulletin of the Chicago Herpetological Society 37(1): 2-3. (and see www.chicagoherp.org). Co-author: Monty Mollier.

2004. New Localities in southeast Alaska for the Long-toed salamander, *Ambystoma macrodactylum*. Bulletin of the Chicago Herpetological Society (39 (4): 61-64.

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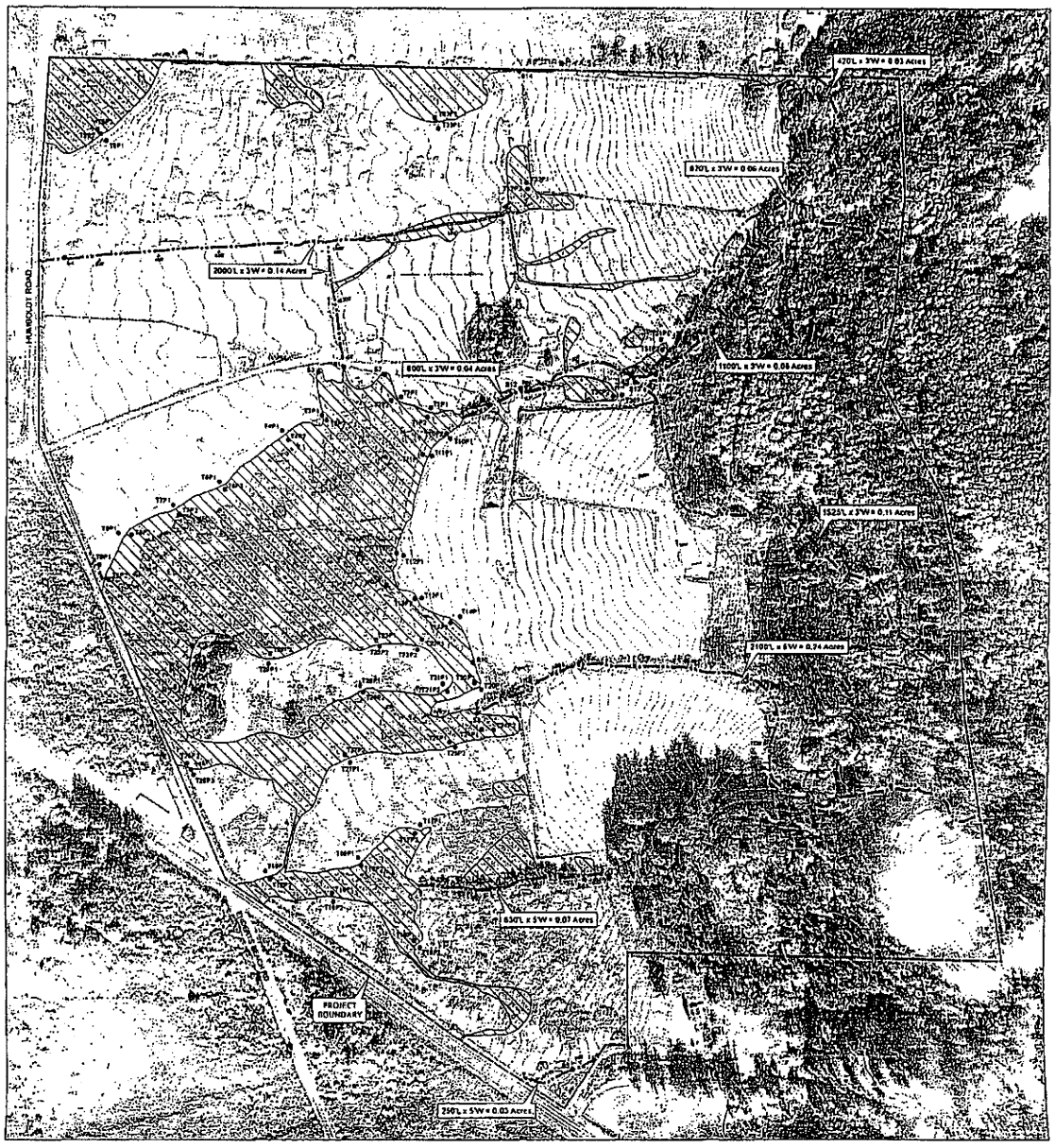

WATERS TYPES	
TYPE	ACREAGE
Wetlands/Sec 404	32.21
Other Waters of the U.S./Sec 404	0.80
TOTAL =	33.01

SCALE

NORTH

0 200' 400'

DELINEATORS

Tim Armstrong and John Miller, February 2004

*Verified February 2005 with Army Corps of Engineers

LEGEND

SS Data Point

Proposed Project Areas

10' Topographic Contours

NOTE: Map Revised 6/1/2005

SOURCE: AES, 2005

Figure 3-10
Revised Delineation of Waters of the United States

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Elk Valley Rancheria, California

2332 Howland Hill Road
Crescent City, CA 95531

Phone: 707.464.4680
Fax: 707.465.2638
www.elk-valley.com

EXHIBIT NO. 13
APPLICATION NO.
A-1-DNC-12-021
ELK VALLEY RANCHERIA
CORRESPONDENCE RECEIVED (1 of 2)

August 17, 2012

VIA POSTAL SERVICE

RECEIVED
AUG 20 2012
CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
Attn: Melissa Kraemer
North Coast District Office
710 E Street
Suite 200
Eureka, California 95501-6813

Re: Commission Appeal No. A-1-DNC-12-021 (Commissioners Stone & Sanchez Appeal)

Dear Ms. Kraemer:

The Elk Valley Rancheria, California, a federally recognized Indian tribe, received your August 7, 2012 Commission Notification of Appeal. That Notification stated that on August 6, 2012, the Commission received a second appeal of the Coastal Development Permit number GP2-11-32C filed by Commissioner's Sanchez and Stone, jointly.

Please be aware that the Elk Valley Rancheria, California hereby objects to the timeliness of the above-referenced appeal as it was filed after the August 1, 2012 deadline for any such appeals. *See* Public Resources Code § 30603(c).

The Commission received notice of the local government's final action on July 18, 2012. As such any appeal was required to be filed by the close of business on the 10th working day from the date of receipt by the Commission of the notice of the local government's final action, i.e., by August 1, 2012. The Commissioners' appeal is untimely and should not be considered by the Commission's staff or by the Commission.

The Elk Valley Rancheria, California hereby reserves its rights to assert other legal and equitable arguments in regard to the above-referenced appeal (and that of the Friends of Del Norte) and nothing herein shall be construed or interpreted as a waiver or other diminishment of the Elk Valley Rancheria, California's rights.

Thank you for your attention to this matter.

Sincerely,

Bradley G. Bledsoe Downes
General Counsel

cc: County of Del Norte, Planning Director
Elk Valley Tribal Council