CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
1385 EIGHTH STREET • SUITE 130
ARCATA, CA 95521
VOICE (707) 826-8950
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F8a

Staff: M. Kraemer–A
Date: March 25, 2016

ADMINISTRATIVE PERMIT

Application No.: **1-14-1759**

Applicant: **Caltrans (District 1)**

Location: Within the Caltrans right-of-way adjacent to Highway 101 North, at Post Mile 74.24, approximately ½-mile south of Herrick Ave., just outside of the City of Eureka, within the Elk River estuary, Humboldt County.

Project Description: Permanently authorize the emergency repair work conducted under Emergency Permit No. G-1-13-0218, issued on September 20, 2013, including replacing a section of a failed culvert, associated headwall and tidegate.

EXECUTIVE DIRECTOR'S DETERMINATION:

The findings for this determination and any special conditions appear on subsequent pages.

Note: Public Resources Code Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Coastal Commission at the following time and place:

Friday, April 15, 2015, 9:00 a.m.
Veteran's Memorial Auditorium
1351 Maple Avenue
Santa Rosa, CA 95404

IMPORTANT: Before you may proceed with development, the following must occur:

Pursuant to Title 14, California Administrative Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH THE ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

JOHN AINSWORTH
Acting Executive Director

By: _____
MELISSA B. KRAEMER
Supervising Analyst

STANDARD CONDITIONS:

This permit is granted subject to the following standard conditions:

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

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

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

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

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit. Subject to Standard Conditions as attached, said development is in conformity with the policies of Chapter 3 of the California Coastal Act, including those policies regarding public access and coastal recreation opportunities, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

I. FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

A. PROJECT LOCATION & BACKGROUND

The project site is located within the Caltrans right-of-way adjacent to Highway 101 North, at Post Mile 74.24, approximately ½-mile south of Herrick Ave., just south of the City of Eureka, within the Elk River estuary, Humboldt County (Exhibits 1-3).

B. DEVELOPMENT PROPOSAL

The permit application is for permanent authorization of the emergency repair work authorized on a temporary basis by Emergency Permit No. G-1-13-0218 (Exhibit 8), issued on September 20, 2013 and completed in September-October 2013. The proposed development includes: (1) replacement of an approximately 20-foot-long section of a failed 24-inch, 160-foot-long RCP culvert outlet, with an approximately 18-foot-long section of 24-inch RCP replacement culvert outlet, (2) replacement of the previously existing headwall with a larger 17-foot-long by 6.5-foot-high by 4-foot-deep (408 cy) concrete headwall; (3) replacement of the tidegate in-kind, and (4) installation of associated Rock Slope Protection (RSP) to stabilize damaged portions of roadway prism and the ends of the new headwall (Exhibits 4-6).

C. STANDARD OF REVIEW

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

D. OTHER APPROVALS

U.S. Army Corps of Engineers

The Corps has regulatory authority over structures or work in navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 1344), and regulatory authority over fill and discharge in federal waters under Section 404 of the Clean Water Act. The project received coverage under the Corps' Regional General Permit 5.

North Coast Regional Water Quality Control Board

The Regional Board requires a water quality certification (WQC) for projects involving dredging and/or filling activities under Section 401 of the Clean Water Act. The Board was notified of the project's CWA coverage under RGP #5 in a letter dated October 23, 2013.

California Department of Fish and Wildlife (CDFW)

CDFW has jurisdiction over the project under Fish and Game Code Section 1610. Caltrans notified CDFW of the necessary emergency work in a permit application dated October 23, 2013. CDFW staff assisted Caltrans with coffer dam construction, dewatering, and fish relocation efforts during construction of the emergency repair work.

State Lands Commission

The State Lands Commission (SLC), in a letter to Caltrans dated July 24, 2014, determined that the project is not located on State sovereign land under the jurisdiction of the SLC and that no lease from the SLC is required for the project.

E. REPAIR AND MAINTENANCE AND DEVELOPMENT WITHIN WETLANDS

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

Section 30233 of the Coastal Act states, in applicable part, as follows:

> *(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 on 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) <u>Incidental public service purposes</u>, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
>
> *…*

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary…(emphasis added)
…

Section 30610 of the Coastal Act provides, in relevant part, the following:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas: . . .

(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that <u>if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter</u>. [Emphasis added]

Section 13252 of the Commission administrative regulations (14 CCR 13000 *et seq*.) provides, in relevant part, the following:

(a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:…

(3) Any repair or maintenance to facilities or structures or work <u>located in an environmentally sensitive habitat area</u>, any sand area, <u>within 50 feet of the</u> edge of a coastal bluff or <u>environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:</u>

(A) <u>The placement or removal, whether temporary or permanent, of</u> rip-rap, rocks, sand or other beach materials or <u>any other forms of solid materials</u>;

(B) <u>The presence, whether temporary or permanent, of mechanized equipment or construction materials</u>.

All repair and maintenance activities governed by the above provisions shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits. The provisions of this section shall not be applicable to methods of repair and maintenance undertaken by the ports listed in Public Resources Code section 30700 unless so provided elsewhere in these regulations. The provisions of this section shall not be applicable to those activities specifically described in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Commission on September 5, 1978 unless a proposed

> *activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean.…* [Emphasis added.]
>
> *(b) Unless destroyed by natural disaster, the replacement of 50 percent or more of a single family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit.*

The applicant proposes to replace a highway culvert and associated headwall and tidegate, and place RSP to stabilize damaged portions of the roadway prism and the ends of the new headwall. As the development involves work in coastal wetlands and waters, the Commission must consider the consistency of the project with the wetland filling diking & dredging policies of the Coastal Act. The evaluation of the consistency of the project with these Coastal Act policies is affected to some degree by whether the project qualifies as a repair and maintenance activity.

Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities. However, the Commission retains authority to review certain extraordinary methods of repair and maintenance that involve a risk of substantial adverse environmental impact, as enumerated in Section 13252 of the Commission regulations.

The portion of the emergency repair and maintenance work involving the replacement of the culvert segment and tidegate qualifies as a repair and maintenance project because the work as proposed (a) does not involve an addition to or enlargement of the object of the repair and maintenance activities, and (b) does not involve replacement of 50% or more of the object of the repair and maintenance activities. Although certain types of repair projects are exempt from CDP requirements, Section 13252 of the regulations requires a CDP for extraordinary methods of repair and maintenance enumerated in the regulation. The proposed work involves the placement of construction materials and removal and placement of solid materials within 20 feet of coastal waters. Therefore, the proposed project requires a CDP under Sections 13252(a)(3) of the Commission regulations.

While repair of the culvert and tidegate qualify as a repair and maintenance project, the headwall structure installed under the emergency repair work is larger than the structure that required repair. The headwall was installed within the roadway embankment fill, with portions extending down into the tidal slough. In addition, Caltrans installed RSP on the ends of the headwall to stabilize the structure and minimize the potential for erosion of roadway embankment fill material.

Repair and Maintenance of Culvert and Tidegate

In considering a permit application for a repair or maintenance project pursuant to the above-cited authority, the Commission reviews whether the proposed *method* of repair or

maintenance is consistent with the Chapter 3 policies of the Coastal Act. The Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the conformity with the Coastal Act of the existing development. As discussed above, in considering a permit application for a repair or maintenance project pursuant to Section 30610(d) of the Coastal Act and Section 13252 of the Commission administrative regulations, the Commission reviews whether the proposed method of repair or maintenance - and not the underlying use of the development - is consistent with the Chapter 3 policies of the Coastal Act. As such, the applicable provisions of Sections 30230, 30231, and 30233 of the Coastal Act cited above require that the method of proposed repair and maintenance: (1) use the least environmentally damaging feasible alternative; (2) provide feasible mitigation measures to minimize adverse environmental effects; (3) protect the biological productivity and the quality of coastal wetlands and waters; and (4) protect adjacent environmentally sensitive habitat areas against any significant disruption of habitat values.

The repair and maintenance work could have adverse impacts on coastal resources, in this case primarily coastal wetlands and waters and adjacent brackish marsh habitat, if not properly undertaken with appropriate mitigation. The location of the repair work is within a tidally influenced tributary of Elk River, which flows into Humboldt Bay. Various species of fish, including three species of federally threatened salmonids (*Onchorhynchus kisutch, O. tshawytscha,* and *O. mykiss*) and the federally threatened tidewater goby (*Eucyclogobius newberryi*), as well as designated critical habitat for the threatened fish species, are known to occur or have the potential to occur in the work area. In addition, a rare sedge – Lyngbye's sedge (*Carex lyngbyei*) – lines the banks of the slough downstream from the work area.

Least Environmentally Damaging Feasible Alternative. As previously discussed, the applicable provisions of Sections 30231 and 30233 of the Coastal Act that the Commission must consider in its review of the methods of proposed repair and maintenance require that the proposed methods be the least environmentally damaging feasible alternative. Coastal Act Section 30108 defines "feasible" as "*…capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors*." In this case, two alternatives to the proposed fill in estuarine waters are considered: the proposed project and the "no project" alternative.

The "no project" alternative, i.e., not permanently authorizing the emergency culvert replacement and tidegate repair work, is infeasible, because requiring removal or alternation of the completed emergency work would result in construction impacts to coastal waters, surrounding wetlands and rare plants, and would place the highway embankment at risk from erosion hazards. Therefore, the no project alternative is not a less environmentally damaging feasible alternative to the proposed project. For these reasons, the Executive Director finds that the proposed project is the least environmentally damaging feasible alternative, and therefore the second test of Coastal Act Section 30233(a) is satisfied.

Feasible Mitigation Measures. The Commission must ensure that the method of repair and maintenance (a) minimizes adverse environmental wetland effects consistent with Section 30233; (b) protects the biological productivity and the quality of coastal wetlands consistent with the requirements of sections 30230-30231; and (d) protects adjacent environmentally

sensitive habitat areas from impacts that would significantly degrade those areas consistent with Section 30240(b).

The applicant undertook the emergency work with several mitigation measures including: (1) providing "environmental awareness" training by a biologist to construction personnel prior to commencement of construction; (2) installing avoidance fencing was placed around Lyngbye's sedge and marsh areas to protect sensitive plants/habitats from construction impacts; (3) prohibiting equipment from operating within the wetted channel; (4) installing a coffer dam and removing it at low tide to minimize water quality impacts; (5) stationing qualified biologists on site to provide biological monitoring and fish relocation, under the oversight of CDFW staff, prior to channel dewatering; (6) installing fish screens on dewatering pumps to prevent aquatic organisms from exposure to pumps; (7) placing plywood on the ground for equipment to stage upon to minimize ground disturbance; (8) using erosion control BMPs during and after construction (straw waddles and seeding with native seed); (9) protecting existing native vegetation that provides shade canopy to the slough (coyote brush) from impacts; and (10) reseeding disturbed areas by hand following construction with native seed from material gathered nearby for the successful revegetation of equipment staging areas and other temporarily disturbed areas. Follow-up monitoring conducted in July of 2014 deemed the revegetation successful, because temporarily disturbed areas were fully recovered, rare plant cover had actually increased at the site (due to reseeding with *Carex lyngbyei* and *Angelica lucida*), and the upland roadway embankment area was completely revegetated, including, in part, with native species (*Lupinus rivularis* and *Juncus balticus*). Commission staff confirmed the revegetation success on a site visit in March of 2016 (Exhibit 7). Finally, the work as completed resulted in a gain of 0.005-acre (218 square feet) of estuarine water habitat due to use of a shorter replacement culvert section. These feasible mitigation measures were successful in minimizing the project's adverse environmental impacts. As discussed in the following findings, no additional measures are needed to further minimize the project's impacts on wetlands and water quality.

Conclusion. Therefore, the Executive Director finds that the repair and maintenance work (1) uses the least environmentally damaging feasible alternative; (2) provides feasible mitigation measures to minimize adverse environmental effects; (3) protects the biological productivity and the quality of coastal wetlands and waters; and (4) protects adjacent environmentally sensitive habitat areas against any significant disruption of habitat values, consistent with Sections 30230, 30231, and 30233 of the Coastal Act.

Installation of Headwall and Rock Slope Protection

As discussed above, although repair of the culvert and tidegate qualifies as a repair and maintenance project, the headwall structure installed under the emergency repair work is larger than the structure that required repair. The headwall was installed within the roadway embankment fill, with portions extending down into the tidal slough. In addition, Caltrans installed RSP on the ends of the headwall to stabilize the structure and minimize the potential for erosion of roadway embankment fill material.

As installed under the emergency repair work, the project resulted in permanent impacts (from new RSP and increased headwall size) to 0.001-acre (44 sf) of estuarine waters. During

construction, the project resulted in temporary impacts to (1) 0.01-acre (435 sf) of estuarine waters (the channel was dewatered for 6 days); and (2) 0.01-acre (435 sf) of estuarine emergent wetlands (brackish marsh) from limited equipment staging and personnel access/foot traffic adjacent to the channel.

The Commission may authorize a project that includes filling of estuarine waters if the project meets the four tests of Coastal Act Section 30233. The first test requires that the proposed activity fit within one of seven use categories described in Coastal Act Section 30233(a)(1)-(7). The second test requires that no feasible less environmentally damaging alternative exists. The third test mandates that feasible mitigation measures are provided to minimize any of the project's adverse environmental effects. The fourth and final test requires that the biological productivity and functional capacity of the habitat shall be maintained and, where feasible, enhanced.

Allowable use**.** The purpose of the fill is to stabilize the drainage structure within the roadway embankment in a manner that will prevent erosion of the embankment fill (headwall). "Incidental public services purposes" is an allowable use of fill under Coastal Act Section 30233(a)(4). The Commission has in many past actions determined that fill for certain road maintenance and safety projects that did not increase vehicular capacity was considered to be for an "incidental public service" pursuant to the requirements of Coastal Action Section 30233(a)(4). In reaching such conclusion, the Commission has typically determined that a road maintenance and safety project without expansion of vehicular capacity is a road maintenance and public safety project undertaken for a public service purpose, and that the project is incidental to the primary transportation service provided by the roadway. Therefore, the Executive Director finds that the project is for an "incidental public service" pursuant to the requirements of Coastal Action Section 30233(a)(4) and meets the allowable use test for fill of estuarine waters under Coastal Act Section 30233(a).

Least Environmentally Damaging Feasible Alternative. The Commission must find that there is no feasible less environmentally damaging alternative to placing fill in estuarine waters. Coastal Act Section 30108 defines "feasible" as "*…capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors*." As previously discussed, the "no project" alternative is infeasible because requiring removal or alternation of the completed emergency work would result in construction impacts to coastal waters, surrounding wetlands and rare plants, and would place the highway embankment at risk from erosion hazards. The larger headwall was needed to stabilize the drainage structure, and a minimum amount of RSP was added to stabilize soils around the ends of the new headwall. Without the larger headwall and associated RSP, the repaired drainage structure would experience the same embankment erosion problems that led to the need for emergency repairs in September of 2013. Therefore, the no project alternative is not a less environmentally damaging feasible alternative to the proposed project, and for these reasons, the Executive Director finds that the proposed project is the least environmentally damaging feasible alternative.

Feasible Mitigation Measures. The third requirement of determining project consistency with the Coastal Act wetland protection policies summarized above is that filling of coastal waters

may be permitted if feasible mitigation measures have been provided to minimize any adverse environmental impacts. As described above, the applicant undertook the emergency work with numerous mitigation measures described in the above "Feasible Mitigation Measures" finding. These feasible mitigation measures were successful in minimizing the project's adverse environmental impacts, and no additional measures are needed to further minimize the project's impacts on wetlands and water quality. Accounting for the use of a larger headwall and RSP to stabilize the new headwall structure, the completed emergency work still resulted in a net gain of 174 square feet of wetlands. Thus, the Executive Director finds that the third test of Coastal Act Section 30233(a) has been met.

Maintenance of Functional Capacity. As discussed in the above Findings, the project as designed ensures that the biological productivity and functional capacity of the estuarine habitats will be maintained. Thus, the Executive Director finds that the fourth and final test of Coastal Act Section 30233(a) has been met.

Conclusion. The fill in coastal waters associated with the culvert, tidegate, and headwall is allowable for an incidental public service purpose, is the least environmentally damaging feasible alternative, includes feasible mitigation measures to minimize adverse environmental effects, and will maintain and enhance the functional capacity of the wetlands and estuary. Therefore, the Executive Director finds the proposed project consistent with Sections 30230, 30231, and 30233 of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Caltrans served as the lead agency for CEQA purposes. Caltrans determined the project to be statutorily exempt pursuant to CEQA (PRC 21080(b); 14 CCR 15260 et seq.) on September 23, 2013.

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Executive Director incorporates his findings on conformity with the Chapter 3 policies of the Coastal Act at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the development has been conditioned to be found consistent with the policies of the Coastal Act. Mitigation measures, which will minimize all adverse environmental impacts, have been required as permit special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Executive Director finds that the development as conditioned to mitigate the

identified impacts can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

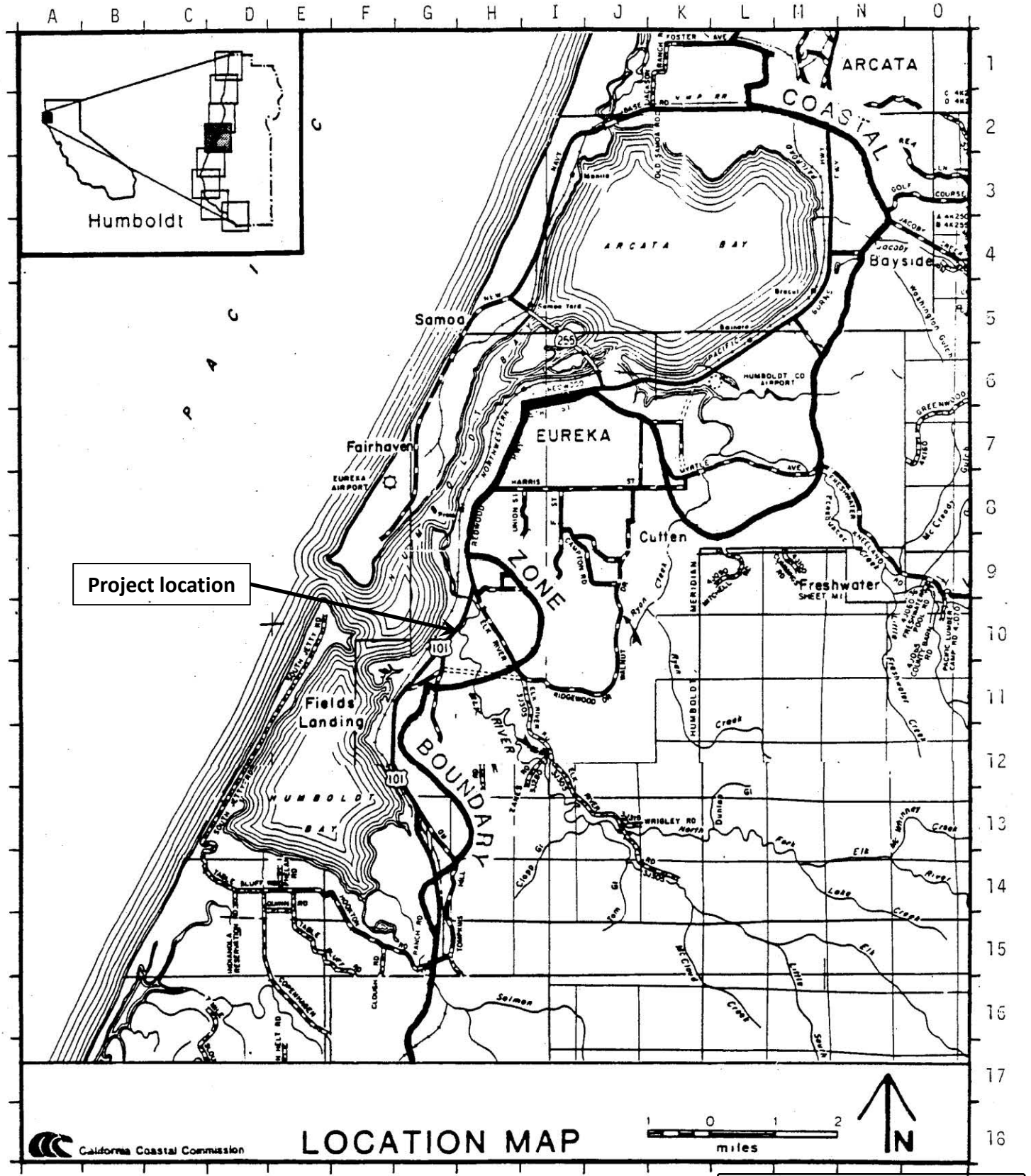
ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature	**Date of Signing**

EXHIBITS:

1: Regional Location Map
2: Vicinity Map
3: Aerial Photo
4: Project Plans
5: Pre-Construction Photos
6: Construction Photos
7: Post-Construction Photos
8: Emergency Permit G-1-13-0218



County of Humboldt

EXHIBIT N0. 1
CDP Application No.
1-14-1759 (Caltrans)
REGIONAL LOCATION MAP

Failed Tide Gate Repair Project
Humboldt - Highway 101 - Post Mile 74.24

Appendix C
Vicinity Map

EXHIBIT N0. 2
CDP Application No.
1-14-1759 (Caltrans)
VICINITY MAP

EXHIBIT NO. 3
CDP Application No.
1-14-1759 (Caltrans)
AERIAL PHOTO

EXHIBIT N0. 4
CDP Application No.
1-14-1759 (Caltrans)
PROJECT PLANS
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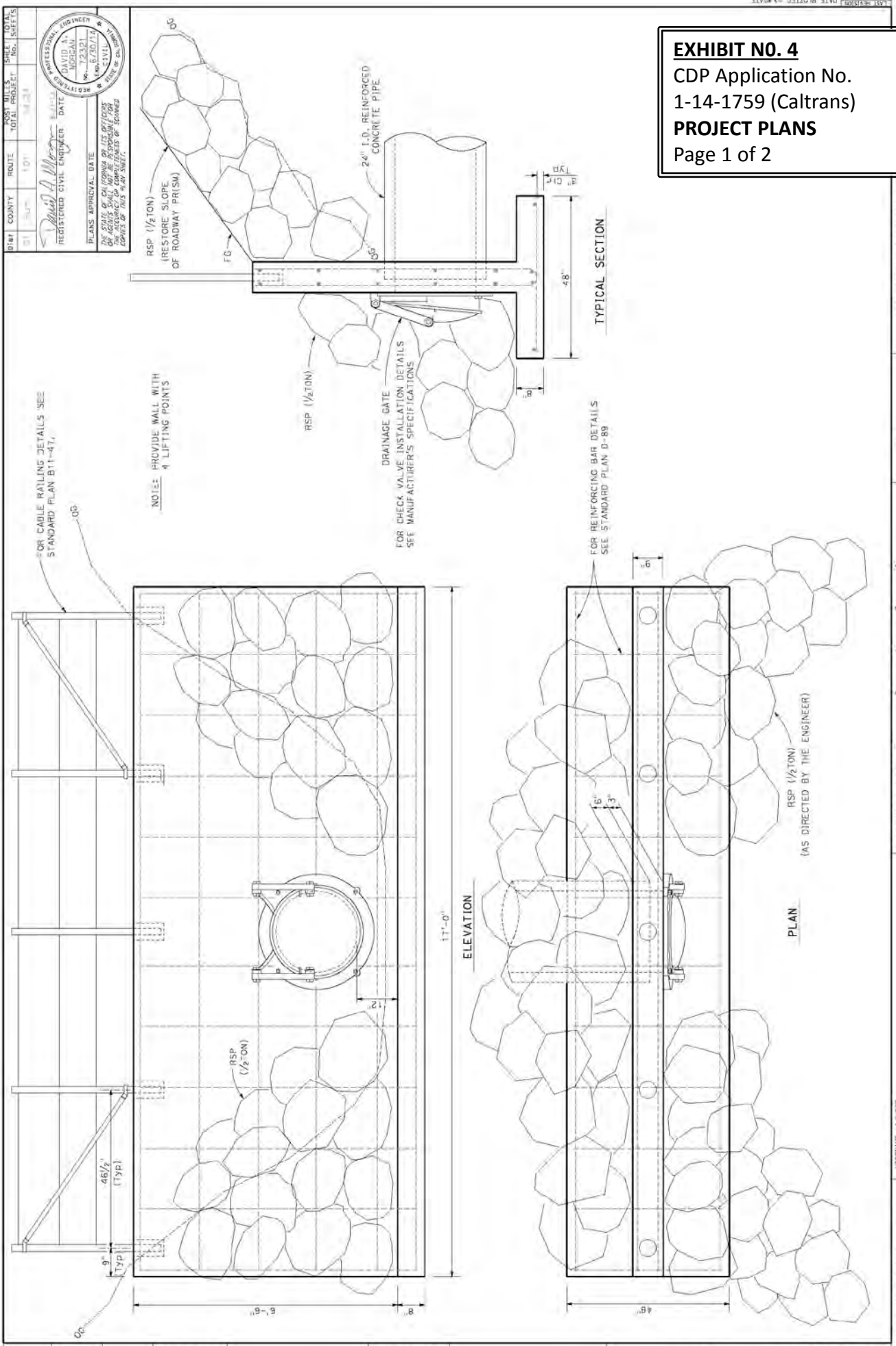
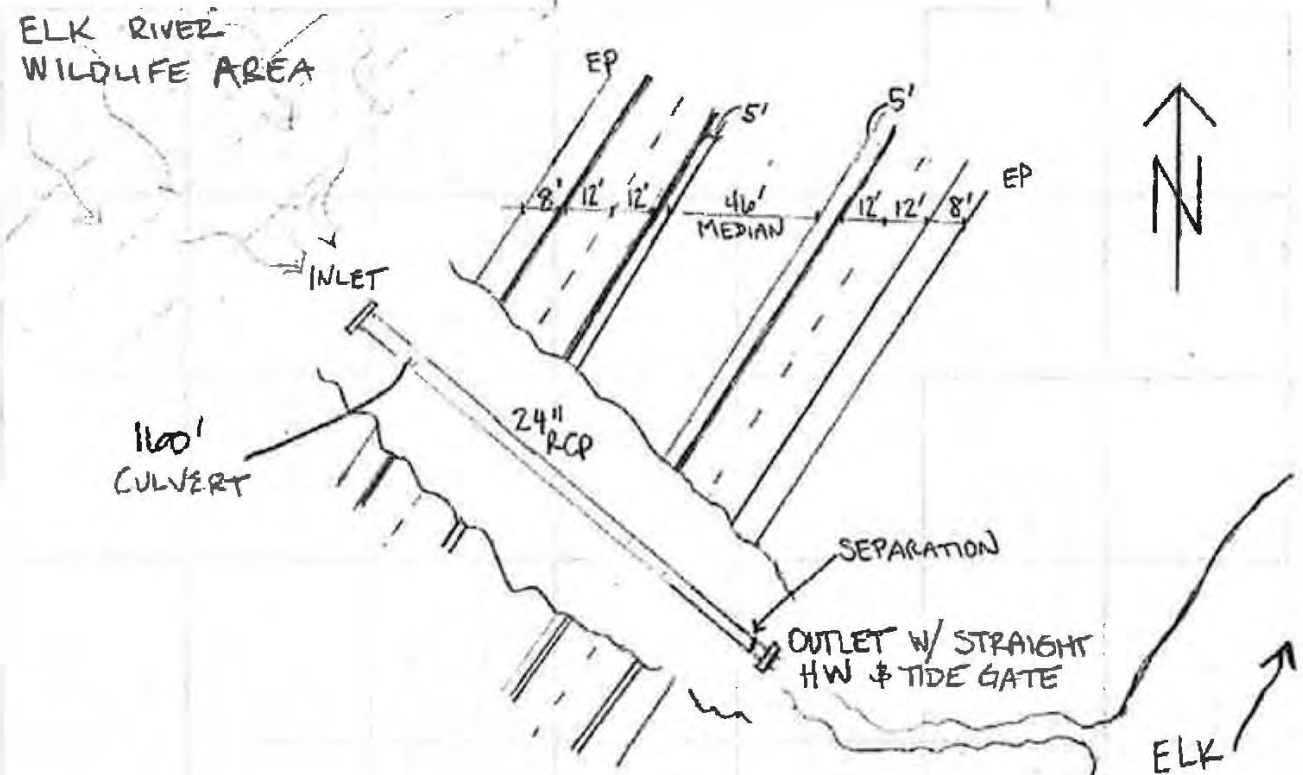


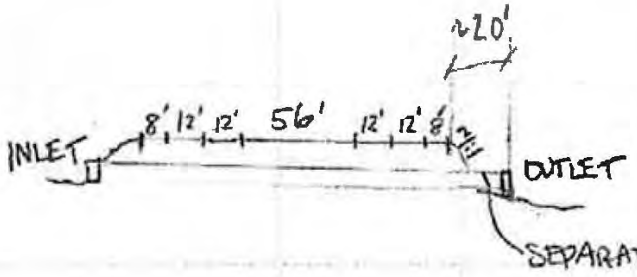
JOB STAMP

CULVERT FAILURE

	01-0E250
HUM-101-74.24	
Sherry Constantino	8/2/13



PLAN



PROFILE

EXHIBIT NO. 4
PROJECT PLANS
Page 2 of 2

EXHIBIT N0. 5
CDP Application No.
1-14-1759 (Caltrans)
PRE-CONSTRUCTION PHOTOS

EXHIBIT N0. 6
CDP Application No.
1-14-1759 (Caltrans)
CONSTRUCTION PHOTOS

EXHIBIT N0. 7
CDP Application No.
1-14-1759 (Caltrans)
POST-CONSTRUCTION PHOTOS
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EXHIBIT N0. 7
POST-CONSTRUCTION PHOTOS

CALIFORNIA COASTAL COMMISSION
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EMERGENCY PERMIT

Caltrans District 1
Attn: David Morgan
1656 Union Street
Eureka, CA 95501

Date: September 20, 2013
Emergency Permit No. **G-1-13-0218**

LOCATION OF EMERGENCY WORK:
Within coastal waters associated with the Elk River, within the Caltrans right-of-way adjacent to the eastern shoulder of Highway 101 North at post mile 74.24, approximately 1 mile south of Eureka between the Herrick Avenue and Spruce Point exits.

WORK PROPOSED:
Remove and replace part of a failed culvert (24-inch RCP), headwall, and tidegate, and place 1/2-ton rock slope protection at the ends of the new 17'-x-4' replacement headwall and along the embankment below the highway shoulder.

PERMIT RATIONALE:
This letter constitutes approval of the emergency work you have requested to be done at the location listed above. I understand from your information that the outlet segment of the RCP, which has an attached concrete headwall and tidegate, has become separated from the rest of the RCP allowing tidewater at higher high tides to erode roadway embankment behind the headwall. In addition the tidegate has suffered a broken hinge, which prevents it from closing and allows tidewater to flow upstream to an area on the other side of the highway that is managed for freshwater habitat resources by the City of Eureka. Based on the condition of the eroded embankment, the high potential for collapse of the roadway shoulder during the on-coming rainy season, and the limited availability of work days remaining within the permissible work window recommended by the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and NOAA-Fisheries for sensitive fish protection purposes, there is an imminent erosion threat to the state highway road shoulder. Therefore, the situation requires immediate corrective action to prevent damage to the state highway.

Pursuant to Title 14 of the California code of Regulations, Section 13009, the Executive Director of the Coastal Commission hereby finds that:

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

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

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

EXHIBIT N0. 8
CDP Application No.
1-14-1759 (Caltrans)
EMERGENCY PERMIT
Page 1 of 3

The work is hereby approved, subject to the conditions listed below and on the attached pages.

Sincerely,
CHARLES LESTER
Executive Director

MELISSA KRAEMER
Coastal Planner

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Permit Acceptance form must be signed by the APPLICANT and returned within 10 days.

2. Only work specifically described in this permit and for the specific area listed above is authorized. The project shall be undertaken in accordance with the conditions of this emergency permit. Any additional work requires separate authorization from the Executive Director or the Commission.

3. Prior to commencement of emergency work, a qualified biologist shall erect temporary exclusion fencing around Lyngbye's sedge (*Carex lyngbyei*) plants in and adjacent to the work area, and plants shall be protected during emergency work activities.

4. Prior to commencement of emergency work in the channel, coffer dams or other temporary barriers shall be placed in the channel during periods of low tide. Dams and barriers shall be removed following completion of construction during periods of low tide.

5. Coffer dam construction, channel dewatering, and relocation of aquatic organisms shall be performed in consultation with staff from, as appropriate, NOAA-Fisheries, California Department of Fish and Wildlife, and U.S. Fish & Wildlife Service.

6. The permittee shall use relevant best management practices (BMPs) during construction as detailed in the California Storm Water Best Management Handbooks accessible at http://www.ca bmphandbooks.com.

7. Effective runoff and erosion control measures shall be in place at all times during construction, including installation of appropriate runoff and erosion control devices in upland staging and stockpiling areas and in-stream erosion and turbidity control measures.

8. Fuels, lubricants, and solvents shall not be allowed to enter the coastal waters or wetlands. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and a registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call. Any accidental spill shall be rapidly contained and cleaned up.

9. Removal of vegetation adjacent to and overhanging coastal waters shall be minimized.

10. Upon completion of construction activities and prior to the onset of the rainy season, all bare soil areas shall be seeded with native species and/or with non-persistent nonnative species only (e.g., sterile, short-lived, non-persistent cereal grasses such as barley (*Hordeum vulgare*), buckwheat (*Fagopyron esculentum*), rye (*Secale cereale*), and wheat (*Triticum aestivum*) and mulched with weed-free rice straw.

11. All debris shall be recycled or disposed of lawfully at licensed disposal facilities.

12. In exercising this permit, the applicant agrees to hold the California Coastal Commission harmless of any liabilities for damage to public or private properties or personal injury that may result from the authorized emergency work.

13. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies, including the County of Humboldt, North Coast Regional Water Quality Control Board, U.S. Army Corps of Engineers, California Department of Fish and Wildlife, State Lands Commission, and other applicable agencies.

14. The emergency work authorized by this permit must be completed within 60 days from the date of permit issuance.

15. A follow-up CDP application to make the reconstruction and replacement of the culvert, headwall, and tidegate and the placement of rock revetment and any other development performed under the emergency permit permanent must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include, but not be limited to, conditions requiring mitigation for wetlands filled or impacted by the development.

If you have any questions about the provisions of this emergency permit, please call Melissa Kraemer at the Commission's North Coast District Office at (707) 826-8950.

Encl.: Emergency Permit Acceptance Form

Cc: Brianna Ceglia, Caltrans, Eureka
Vicki Frey, Dept. of Fish and Wildlife, Eureka
Dean Pratt, North Coast Regional Water Quality Control Board, Santa Rosa
Carol Heidsiek, U.S. Army Corps of Engineers, Eureka
Ninette Lee, State Lands Commission, Sacramento

EXHIBIT N0. 8
EMERGENCY PERMIT
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