

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
1385 EIGHTH STREET • SUITE 130
ARCATA, CA 95521
VOICE (707) 826-8950
FAX (707) 826-8960



W19c

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STAFF REPORT: REGULAR CALENDAR

Application No.: 1-17-0269

Applicant: Sierra Pacific Industries

Agent: GHD

Location: Sierra Pacific Industries dock located at 1206 W. 14th St., Eureka, Humboldt County (APNs 003-082-01 & -002).

Project Description: Remove and replace 32 existing wooden fender piles, install eight steel reinforcement piles, and perform on-going maintenance operations involving the replacement of up to five piles per year for a period of ten years.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Sierra Pacific Industries (SPI) proposes to perform repairs over a 10-year period to an existing dock off the eastern shore of Humboldt Bay. The dock is used to transport and load wood chips from a staging area located adjacent to the dock onto barges for ocean transport. The proposed repairs are necessary to maintain the safety and functionality of the dock and include the replacement of up to 82 wooden piles with steel piles over the course of 10 years and the

installation of eight additional steel support piles in the first year of work. Work would be performed from the dock using a crane, and piles would be removed and installed with a vibratory hammer. A portion of the pile replacement work may be performed from a barge located on the western side of the dock in a navigation channel, but all work performed in shallow water would be done with a crane from the dock.

The majority of the proposed work constitutes a repair and maintenance project pursuant to Section 30610(d) of the Coastal Act and Section 13252 of the Commission's regulations. The repair and maintenance portion of the work includes the replacement of 32 piles in the first year and the replacement of 50 piles during the course of 10 years. In its consideration of a repair and maintenance project, the Commission reviews whether the proposed method of repair or maintenance – not the underlying existing development – is consistent with the Chapter 3 policies of the Coastal Act.

The eight piles proposed to be installed as support for the existing chip conveyor structure constitute new development. The proposed new fill is an allowable use for fill in coastal waters under Section 30233(a)(1) of the Coastal Act, which allows fill for port, energy, and coastal dependent industrial facilities.

The installation of both the new and replacement piles have the potential to adversely affect wetlands and the biological productivity and quality of coastal waters by impacting: (1) eelgrass habitat from placement of new piles; and (2) water quality from the discharge of debris and hazardous materials generated during construction. Native eelgrass (*Zostera marina*) grows in the project area where SPI proposes to install the eight new piles, and eelgrass may grow within five meters of areas where SPI proposes to perform pile replacement work. Staff recommends **Special Condition 5**, which requires that a final Eelgrass Mitigation and Monitoring Plan be submitted which provides that the loss of eelgrass habitat resulting from the installation of the eight new additional piles will be mitigated as proposed by the applicant by the removal of 16 derelict piles south of the subject dock. Removal of the derelict piles will allow eelgrass to recolonize the mudflat area currently displaced by the piles to be removed. Special Condition 5 also requires that the final mitigation and monitoring plan provide for yearly monitoring of the area of eelgrass habitat where pile replacement work would be performed over the life of the project to ensure that the construction does not adversely affect adjacent eelgrass habitat. If unanticipated damage to eelgrass habitat is observed, the applicant must submit a plan for compensatory mitigation in the form of a permit amendment request. To prevent water quality impacts, the applicant proposes and **Special Condition 4** requires the applicant to comply with certain construction responsibilities.

Staff believes that the proposed project, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act. The motion to adopt the staff recommendation of **approval** of Coastal Development Permit (CDP) 1-17-0269 with special conditions is found on [page 4](#).

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APPENDICES

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EXHIBITS

[Exhibit 1 – Regional Location Map](#)

[Exhibit 2 – Vicinity Map](#)

[Exhibit 3 – Parcel Map](#)

[Exhibit 4 – Project Plans](#)

[Exhibit 3 – Preliminary Eelgrass Survey](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 1-17-0269 subject to the conditions set forth in the staff recommendation.*

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

Resolution:

The Commission hereby approves coastal development permit 1-17-0269 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **North Coast Regional Water Quality Control Board Approval.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-17-0269, the applicant shall provide to the Executive Director a copy of a permit issued by the North Coast Regional Water Quality Control Board (Regional Board), or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the Regional Board. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
2. **U.S. Army Corps of Engineers Approval.** PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION, the applicant shall provide to the Executive Director a copy of a permit issued by the Army Corps of Engineers, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the Army Corps of Engineers. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
3. **Length of Development Authorization.** Development authorized by this permit is valid for five (5) years from the date of Commission approval (until September 13, 2022). One request for an additional five-year period of development authorization may be accepted, reviewed, and approved by the Executive Director for a maximum total of ten (10) years of development authorization (until September 13, 2027), provided that the request would not substantively alter the project description and/or require modifications of conditions due to new information or technology or other changed circumstances. The request for an additional five-year period of development authorization shall be made prior to September 13, 2022. If the request for an additional five-year period would substantively alter the project description and/or require modifications of conditions due to new information or technology or other changed circumstances, an amendment to this permit will be necessary. All dock structural repair work proposed after September 2027, or after 2022 if no additional five-year period of authorization has been granted by the Executive Director or amendment has been obtained, shall require a new coastal development permit.
4. **Annual Dock Repair Plan.**
 - A. BY FEBRUARY 15th OF EACH YEAR OF REPAIR WORK FROM 2018-2027, the applicant shall submit, for the review and written approval of the Executive Director, a final dock repair plan for that year of dock construction

consistent with the terms and conditions of this permit. The final dock repair plan shall include:

- i. A project description and corresponding site plan that identify the proposed piles to be removed/replaced during that construction year.
- ii. A detailed work plan that describes the tentative order, duration, and timing of construction activities, and any changes from the previous year to the construction plans including the equipment, staging area, and disposal location utilized.
- iii. For any replacement pile work that is proposed within five meters of eelgrass habitat, a pre-construction eelgrass survey and eelgrass monitoring and mitigation plan as further described in **Special Condition 5-C** below.
- iv. Evidence that the proposed replacement work will be consistent with all Standard and Special Conditions of this permit, including the limitations on timing of in-water construction and number of piles to be replaced specified in **Special Condition 5** below.
- v. Evidence that all relevant agency approvals, including permits from the Army Corps of Engineers, North Coast Regional Water Quality Control Board, and the Humboldt Bay Harbor, Recreation, and Conservation District have been obtained for that year's work. If another agency permit expires, the applicant shall cease all construction activities until a new or updated permit is approved.

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

5. Construction Responsibilities. The permittee shall comply with the Construction Best Management Practices listed in the applicant's "Project Design" section of the document entitled "Sierra Pacific Industries Eureka Dock Limited Piling Replacement Project Description" and dated August 9, 2017, except as modified herein. The permittee shall comply with the following Best Management Practices:

A. Timing of construction: In accordance with SPI's proposal, in-water construction authorized by this permit shall be conducted only during the period of July 15th through October 15th of each year to avoid impacts to salmonids.

B. Rainfall avoidance:

- i. All construction activities shall occur during periods of dry weather only; and
- ii. If rainfall is forecasted during the time construction activities are being performed (i.e., the National Weather Service's Northwestern California forecast for the Eureka area predicts a greater than 50 percent chance of precipitation for the timeframe in which the work is to be conducted), all onsite stockpiles of soil, gravel, and construction debris shall be covered and secured before the onset of precipitation.

C. Eelgrass avoidance:

- i. Pre-construction training shall be provided for all on-site contractors by a qualified biologist to educate personnel on the biological restrictions and sensitivity of habitats in and adjacent to the construction area, including the need to avoid eelgrass habitat; and
 - ii. The use of barge and tug shall be limited to the dredged channel on the western side of the dock and the barge shall not be permitted to ground or anchor in eelgrass habitat.
- D. Pile removal:
 - i. The permittee shall remove timber piles proposed for removal in their entirety. Piles that cannot be removed in the entirety shall be cut off at least one foot below the level of the mudline.
- E. Pile installation:
 - i. Piles to be installed shall consist only of 12-inch-diameter steel piles coated with fusion bonded epoxy; and
 - ii. To protect fish from the acoustic impacts of pile driving, the use of impact pile driving shall be prohibited.
- F. Staging and stockpiling:
 - i. Construction equipment and materials shall be staged and stockpiled away from coastal waters at the SPI facility.
- G. Debris Disposal:
 - i. To the maximum extent feasible, the permittee shall prevent debris from entering the water. Debris held on the dock shall be contained at all times, and covered with plastic sheeting during high winds and/or precipitation; and
 - ii. During construction, all trash shall be removed from the work site and disposed of on a regular basis to avoid contamination of habitat. All debris resulting from construction activities shall be removed from the project site within 10 days of project completion and/or prior to the onset of the rainy season, whichever is earlier.
- H. Use of heavy equipment:
 - i. Any fueling and maintenance of equipment shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants;
 - ii. Equipment used over the water shall use biodiesel and vegetable based hydraulic oil; and
 - iii. No fuels, lubricants, or solvents shall be allowed to enter coastal waters. All equipment shall be inspected for leaks prior to commencing work. Spill containment trays shall be placed around the
- I. Removal of pressure-treated wood:
 - i. Pile waste from removed creosote-treated or ACZA-treated piles shall be transported to an accredited laboratory and tested to determine proper disposal requirements. Nonhazardous materials shall be transported to Andersen Landfill

and hazardous waste shall be transported to and disposed of at the correct disposal facility; and

- ii. Any wood debris resulting from the removal of pressure-treated wood shall be contained and removed as soon as possible.

6. Final Eelgrass Monitoring and Mitigation Plan. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-17-0269, the applicant shall submit, for the review and approval of the Executive Director, a final eelgrass monitoring and mitigation plan prepared by a qualified biologist.

A. The final plan shall demonstrate that:

- i. Prior to each year of dock repair work in which pile removal or installation will occur within 5 meters of eelgrass habitat, a pre-construction eelgrass survey shall be conducted and completed during the active growing season for eelgrass (May-September) prior to the beginning of construction in the action area, and at a comparable reference site. If construction work does not commence within 60 days of completion of the pre-construction growing season survey, a new pre-construction survey shall be completed. The survey shall be conducted in substantial conformance with the National Marine Fisheries Service (NMFS)' October 2014 California Eelgrass Mitigation Policy and Implementing Guidelines. Survey results shall be submitted for the review and approval of the Executive Director;
- ii. For each year of dock repair work in which pile removal or installation will occur within 5 meters of eelgrass habitat, a post-construction survey of the eelgrass habitat in the action area and at the reference site shall be completed within 30 days of completion of construction, or, if project completion occurs after the eelgrass active growth season (September 30), in the same month as the pre-construction survey during the next growing season. The post-construction survey shall be performed in substantial conformance with NMFS' October 2014 California Eelgrass Mitigation Policy and Implementing Guidelines;
- iii. During pre- and post-construction eelgrass surveys, eelgrass spatial distribution, aerial extent, percent vegetated cover, and turion density shall be sampled within 10 meters of the in-water project footprint, and at an appropriate reference site to help determine whether changes in eelgrass characteristics are attributable to natural variability or project actions;
- iv. A monitoring report shall be provided to the Executive Director within 90 days of completion of the post-construction growing season survey. The monitoring reports shall include the pre- and post-construction growing season survey results including eelgrass maps and information on the spatial distribution, areal extent, percent cover, and turion density of eelgrass at the project and reference sites within defined survey areas. The reports shall also include: (1) a summary of work operations; (2) photo-documentation of pre- and post-construction site conditions; (3) an impact analysis, including a quantitative assessment of any impacts on eelgrass that may have occurred as a result of project actions; and (4) a calculation of the area required for compensatory mitigation if needed and

- a description of how mitigation requirements will be met. Survey results shall be submitted for the review and written approval of the Executive Director;
- v. During the first year of construction, the applicant shall perform mitigation for the eight new 12-inch-diameter piles to be installed within eelgrass habitat by removing at least 16 derelict piles with an equivalent or larger diameter from directly south of the dock (as identified in Exhibit X, pg. X), to allow eelgrass to recolonize the vacated pile areas for a mitigation ratio of at least 2:1. The applicant shall remove the debris using a vibratory hammer stationed on the dock or land during the August 1st – October 15th work window, consistent with the limitations and responsibilities outlined in the special conditions of this permit. The location of each pile to be removed shall be mapped with a GPS unit and photo-documented before and after removal, and eelgrass in the vicinity of the mitigation site shall be surveyed following debris removal during post-construction eelgrass monitoring to identify any potential impacts from the pile removal work. Maps, photographs, and survey results shall be included in the mitigation monitoring report following the post-construction survey. The mitigation site monitoring and reporting shall be conducted in accordance with Subparagraphs (i)-(iv) above.
 - vi. For each year that work is performed that may impact eelgrass habitat, the need for compensatory mitigation will be determined following the required post-construction survey. If post-construction survey results indicate any decrease in eelgrass distribution or density attributable to project impacts (beyond the anticipated impacts during the first year of construction from the installation of the eight new 12-inch diameter piles), then a supplemental eelgrass mitigation plan shall be prepared and submitted in the form of a coastal development permit amendment request that provides for compensatory mitigation through removal of additional derelict piles in adjacent tidelands within one year of the determination of impacts at an initial mitigation area to impact area ratio of at least 2:1. If the results of each post-construction survey demonstrate to the satisfaction of the Executive Director that eelgrass distribution and density have not decreased and there has been no loss of extent of vegetated cover (beyond the anticipated impacts for the eight new 12-inch diameter piles), then no further monitoring or mitigation is required.
- B. The final plan shall include, at a minimum, the following components:
- i. A map of the project survey area and reference site;
 - ii. Detailed schedule and methods for conducting pre- and post-construction eelgrass monitoring in substantial conformance with NMFS' October 2014 California Eelgrass Mitigation Policy and Implementing Guidelines;
 - iii. Clear standards for quantifying project impacts on eelgrass triggering compensatory mitigation;
 - iv. A plan for the proposed mitigation for the installation of eight new 12-inch-diameter piles through removal of sixteen derelict piles in the project vicinity as described in Subparagraph (A)(v) above that includes a narrative description of the proposed pile removal and a detailed to-scale plan diagram showing the piles to be removed.

- v. A preliminary plan for potential compensatory mitigation for any eelgrass impacts beyond the anticipated impacts for the installation of eight new 12-inch diameter piles. The plan shall provide for compensatory mitigation through removal of additional derelict piles in adjacent tidelands within one year of the determination of impacts at an initial mitigation area to impact area ratio of at least 2:1.
 - vi. A schedule for submittal of monitoring reports to the Executive Director.
 - C. Eelgrass monitoring, mitigation, and reporting shall be conducted at all times in accordance with the final approved plan. Any proposed changes to the final plan shall be reported to the Executive Director. No changes to the requirements of the special condition shall be made without a Coastal Commission approved amendment of CDP 1-17-0269 unless the Executive Director determines that no amendment is legally required.
- 7. **Protection of Archeological Resources.** If an area of cultural deposits or human remains is discovered during the course of the project, all construction shall cease and shall not recommence until a qualified cultural resource specialist, in consultation with the Tribal Historical Preservation Officers (THPOs) of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria, analyzes the significance of the find and prepares a supplementary archaeological plan for the review and approval of the Executive Director, and either: (a) the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are *de minimis* in nature and scope, or (b) the Executive Director reviews the Supplementary Archaeological Plan, determines that the changes proposed therein are not *de minimis*, and the applicant has thereafter obtained an amendment to CDP 1-17-0269.
- 8. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees: (i) that the site may be subject to hazards from waves, tidal inundation, seismic shaking and other hazards; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- 9. **Limited Development Authorization.**

All work shall be limited to the repair or replacement of existing structural elements of the dock including piles and decking. Other development, including repairs to electrical, mechanical, or piping systems, or any expansion of the existing structure shall require additional coastal development permit authorization.

- 10. State Lands Commission Review.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-17-0269, the applicant shall provide to the Executive Director a written determination from the State Lands Commission that:
- A. No State or public trust lands are involved in the development; or
 - B. State or public trust lands are involved in the development and all permits required by the State Lands Commission have been obtained; or
 - C. State or public trust lands may be involved in the development, but pending a final determination, an agreement has been made with the State Lands Commission for the approved project as conditioned by the Commission to proceed without prejudice to that determination.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. PROJECT DESCRIPTION

Sierra Pacific Industries (SPI) proposes to repair and reinforce an existing dock located on the eastern side of Humboldt Bay's maintained North Bay Channel at 1206 W. 14th Street, Eureka, Humboldt County ([See exhibits 1 and 2](#)). The wooden dock supports a steel chip conveyor at the central portion of the dock which is used to transfer chips from onshore stockpiles to barges for ocean transport. The SPI dock is also periodically used by United States Coast Guard (USCG) vessels for USCG operations purposes. The dock repair project is proposed to maintain the integrity of the dock and to ensure continued safe use.

Project Timing

The proposed project would be divided into three sections, with the first two components of the work scheduled to take place during the first year (2017-2018) and the third section scheduled to take place over the course of ten years, from (2018-2027). Section 1 would consist of pile removal and replacement work on the western dock boundary in the dredged bay channel proposed in the first year. Section 2 would consist of the installation of additional structural reinforcing piles below the chip conveyor structure. Section 3 would consist of ongoing maintenance pile replacement of up to five piles per year as needed over the course of ten years. All work is proposed to be conducted within a work window extending from August 1st to October 15th of each year to minimize disturbance to threatened migratory salmonids.

Section 1: Western Dock Boundary Pile Replacement

During the first year of work, 28 existing wooden fender piles and four existing structural piles, for a total of 32 piles, would be replaced with 12-inch steel piles. The piles proposed to be removed vary from 12.0 inches to 18.0 inches in diameter. See [Exhibit 4](#) for the locations of piles to be replaced in the first year. The contractor would use a barge and crane to access the piles. During pile removal, deck planks may need to be temporarily removed in order to access structural piles, and both structural and fender piles would need to be unbolted from the dock. Fender and structural piles would be vibrated out of ground using an APE Model 150 Vibratory Driver Extractor equipped with a timber clamp, and the duration of each pile removal would last approximately five minutes. If any piles cannot be removed in their entirety, they would be cut

off below the mudline. Once the piles are removed, they would be moved via crane to the designated staging area onshore on the SPI parcel adjacent to the dock. The piles would be replaced with steel pipe piles approximately 12” in diameter and coated in a marine grade epoxy. Replacement piles would be installed using an APE Model 150 Vibratory Driver Extractor. The contractor would attempt to place new piles in the footprint of the old piles to minimize disturbance to the mudflat.

Section 2: Structural Reinforcing Pile Installation

The SPI dock contains a chip conveyor structure located at the center of the dock between the outer trestle of the dock and the shore. The chip conveyor is located in shallow water between the northern and southern dock approaches, and is not accessible via a barge. To reinforce the steel chip conveyor structure, eight new structural steel piles would be installed near four existing wooden piles located below the existing structural framing of the chip conveyor (**Exhibit 4**). The eight steel piles would be installed in pairs adjacent to each existing wooden pile and would support a single length of steel I-beam between each pair. The eight new piles would be 12” in diameter each and would equate to approximately 6.2 square feet of new fill. The steel piles would be installed in the same manner as the replacement piles except that the crane would be located on the dock itself instead of on a barge.

Section 3: Ongoing Maintenance Pile Replacement

In order to maintain the long-term integrity of the dock for continued safe usage, the applicant proposes to replace up to five piles per year for up to ten years, for a maximum of 50 structural and/or fender piles total between the work window of 2017 - 2027. The ongoing replacement piles would be replaced using the same methods as the first year of construction, with the crane located either on the dock or on a barge maneuvering in the deep, dredged channel to the west of the dock.

B. PROJECT BACKGROUND AND SETTING

The SPI Eureka Dock is located on a 5.3-acre lot along the western shore of the City of Eureka and the east side of the North Bay Channel in Humboldt Bay. The dock provides ocean access for SPI’s wood chip stockpiling and shipment operation. The dock covers approximately 33,900 square feet of area and extends west approximately 150 feet into the bay. The dock has three trestles and a chip conveyor that extends out into the bay and connects to a wharf that extends 470 feet along the dredged bay channel parallel to the shoreline. The wharf is approximately 50 feet wide. The adjacent upland parcel is approximately 14 acres and contains open staging areas, wood chip stockpiles, two warehouses, an administrative building, miscellaneous outbuildings and the primary access to the dock. The SPI facility (APN 003-082-02) and the SPI dock parcel (APN 003-082-01) are both owned by SPI. The surrounding parcels include a commercially-zoned industrial parcel and dock to the north, and a railroad parcel to the east.

The SPI Dock was originally constructed between 1965 and 1970. The wood chip conveyor was installed in November 1993 under Coastal Development Permit (CDP) 1-93-65. In 1995, SPI received CDP No. 1-94-093 to install four new 12-inch piles and replace fifteen damaged piles with Alkaline Copper Quaternary (A.C.Q) treated wood piles. There have been no CDPs issued for repairs to the SPI Dock since 1995. There are upwards of 400 timber piles currently supporting the dock. The existing piles are either creosote or A.C.Q pressure-treated timber.

The dock extends bayward from the shore through a subtidal system, with narrow intertidal and supratidal bands close to a steep and well defined edge of upland. The area to the west of the dock is within a relatively deep and maintained navigation channel, which is periodically dredged. The areas to the north and south of the dock consist of fine-grained mudflat. The mudflat supports native eelgrass (*Zostera marina*) which grows in patches to the north and south of the dock, as well as between the dock trestles. On the western side of the dock, water depths vary from -15 to -29 feet MLLW and are generally too deep to support eelgrass. A narrow band of rock, concrete rubble, bare soil, and predominantly non-native vegetation lines the shoreline parallel to the SPI dock, and a City of Eureka storm water outlet discharges to the bay near the southeast corner of the dock.

C. STANDARD OF REVIEW

The proposed dock repair project is located entirely within the Commission's retained jurisdiction area in submerged and tidal areas within Humboldt Bay. Although the proposed staging area is located within the City of Eureka's CDP jurisdiction, the staging activities are proposed in an area currently used to store wood chip piles and to prepare wood chips for transport to barges. Therefore, the proposed staging activities do not constitute a change in density or intensity of use requiring a CDP. The standard of review is the California Coastal Act.

D. OTHER AGENCY APPROVALS

Humboldt Bay Harbor, Recreation, and Conservation District (Harbor District)

The Harbor District is a county-wide agency with permit jurisdiction over all the tidelands and submerged lands of Humboldt Bay. The Harbor District is the lead agency under the California Environmental Quality Act (CEQA) for the proposed pile replacement project. On September 22, 2016, the Harbor District issued Permit No. 2016-06 to SPI for the proposed dock repair project. The Harbor District also issued a CEQA exemption at the same board meeting. The Harbor District permit includes the development discussed above, except that the permit is limited to a five-year term, with the possibility of renewal of the permit after five years have elapsed if it is determined that further repairs or modifications are necessary.

North Coast Regional Water Quality Control Board (NCRWQCB)

The Regional Board requires a water quality certification (WQC) for projects involving fill activities under Section 401 of the Clean Water Act. To ensure that the project ultimately approved by the Regional Board is the same as the project authorized herein, the Commission attaches [Special Condition 1](#), which requires the permittee to submit to the Executive Director evidence of the Regional Board's approval of the project prior to issuance of the CDP. The condition requires that any project changes resulting from the Regional Board's approval not be incorporated into the project until the permittee obtains any necessary amendments to this CDP.

California Department of Fish and Wildlife (CDFW)

CDFW, in its administration of the California Endangered Species Act (CESA), requires an Incidental Take Permit (ITP) for "take" of listed species incidental to otherwise lawful development projects. The applicant consulted with CDFW on the project and CDFW determined that no ITP is necessary.

U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers (ACOE) has regulatory authority over the proposed project under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 1344) which regulates the diking, filling and placement of structures in navigable waterways, and Section 404 of the Clean Water Act which regulates fill or discharge of materials into waters and ocean waters. To ensure that the project ultimately approved by the Army Corps is the same as the project authorized herein, the Commission attaches Special Condition 2, which requires the permittee to submit to the Executive Director evidence of the Army Corps' approval of the project prior to the commencement of construction activities. The condition requires that any project changes resulting from the Army Corps' approval not be incorporated into the project until the permittee obtains any necessary amendments to this CDP.

National Marine Fisheries Service

Pursuant to Section 7(a) of the Endangered Species Act of 1973, as amended (U.S.C. Sec 1531 et seq.), the ACOE initiated consultation with the National Marine Fisheries Service (NMFS) requesting their concurrence that the proposed project is not likely to adversely affect listed species. In a letter to the Army Corps dated September 24, 2014, NMFS concurred with the determination that the project was not likely to adversely affect Southern Oregon/Northern California Coast (SONCC) coho salmon (*Oncorhynchus kisutch*), California Coastal (CC) Chinook salmon (*O. tshawytscha*), Northern California (NC) steelhead (*O. mykiss*), North American green sturgeon (*Acipenser medirostris*) and designated critical habitat for these species.

State Lands Commission (SLC)

The project site is located in an area subject to the public trust. To ensure that the applicant has the necessary authority to undertake all aspects of the project on these public lands, the Commission attached Special Condition 4, which requires that the project be reviewed and where necessary approved by SLC prior to permit issuance.

E. PERMIT AUTHORITY FOR REPAIR & MAINTENANCE DEVELOPMENT

Section 30610 of the Coastal Act provides, in relevant part (emphasis added):

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 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.

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

(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 located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:

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

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

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.

...

(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 proposed development involves the placement of structural fill in coastal waters for the repair and reinforcement of an existing dock. The bulk of the repair work involves removing and replacing as needed, approximately 82 fender and structural piles of the dock. This first component of the development involving the replacement of existing piles qualifies as a repair and maintenance project under Section 30601(d) of the Coastal Act and Section 13252 of the Commission's regulations because (a) it does not involve an addition or enlargement or expansion of the subject dock structure as no net increase in the number of piles would result and this component of the development would not otherwise enlarge or expand the dock, and (b) it does not involve replacement of 50% or more of the entire dock. A second component of the development involving the installation of eight new additional structural steel piles connected by supporting I-beams to reinforce the steel chip conveyor structure located on the dock involves an addition to the subject dock and does not qualify as a repair and maintenance project and is discussed separately below under Finding F, "Permissible Use for Fill in Coastal Waters."

Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements the repair or maintenance of structures that does not result in an addition to, or enlargement or expansion of, the structure being repaired or maintained. However, the Commission retains authority to review certain extraordinary methods of repair and maintenance of existing structures that involve a risk of substantial adverse environmental impact as enumerated in Section 13252 of the Commission regulations. Although certain types of repair projects are exempt from CDP requirements, the proposed pile replacement development involves the presence of construction materials and placement and removal of solid materials within 20 feet of coastal waters. The proposed pile replacement development therefore requires a CDP under

CCR Section 13252(a)(3) as an extraordinary method of repair and maintenance of existing structures that involve a risk of substantial adverse environmental impact.

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 underlying existing development. If not properly undertaken with appropriate mitigation, the necessary dock pile replacement development could have adverse impacts on coastal resources, including threatened salmonids and other fish, eelgrass, and water quality.

While the applicant has proposed some mitigation measures to protect coastal resources, more specific measures are needed to further minimize the pile replacement development's expected and potential impacts on wetlands, marine habitats, and water quality. The conditions required to ensure that these measures are part of the project are discussed below in Finding G, "Fill in Coastal Waters and Protection of Marine Resources." Therefore, as conditioned in these findings, the Commission finds that the proposed method of pile replacement repair and maintenance development is consistent with all applicable Chapter 3 policies of the Coastal Act.

F. PERMISSIBLE USE FOR FILL IN COASTAL WATERS

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) 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.*

...

(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...

Coastal Act Section 30108.2 defines “fill” as “*earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.*”

As discussed above, a component of the development involving the installation of eight new additional structural steel piles connected by supporting I-beams to reinforce the steel chip conveyor structure located on the dock involves an addition to the subject dock and does not qualify as a repair and maintenance project. Therefore, the Commission must not only review the proposed method of this component of the development, but must also evaluate the use of this component of the development for conformity with the Chapter 3 policies of the Coastal Act. The proposed eight new additional 12-inch piles to reinforce the chip conveyor structure on the dock will result in approximately 6.32 square feet of new fill in Humboldt Bay waters. The Commission may only authorize fill in open coastal waters, wetlands, or estuaries for new development that fits within one of seven use categories described in Coastal Act Section 30233(a)(1)-(7). The proposed eight new piles and the existing chip conveyor structure are part of a port terminal used for loading cargo to ocean-going vessels. Therefore, the eight new piles are for an allowable use of fill in coastal waters pursuant to Coastal Action Section 30233(a)(1), which allows fill for port, energy, and coastal-dependent industrial facilities.

G. FILL IN COASTAL WATERS AND PROTECTION OF MARINE RESOURCES

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

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 as follows:

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 piles 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.*

...
(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...

Coastal Act Section 30108.2 defines “fill” as “*earth or any other substance or material, including piles placed for the purposes of erecting structures thereon, placed in a submerged area.*” The proposed project involves the replacement of up to 32 12-inch to 18-inch piles with new 12-inch piles during the first year of construction. The replacement piles will be, on average, smaller than the removed piles and thus will result in a decrease in fill of 20.73 square feet. The proposed project also involves the placement of eight new additional 12-inch piles during the first year of construction, resulting in approximately 6.32 square feet of new fill. Overall the proposed work during the first year of construction would result in a net reduction of 14.41 square feet of fill. In addition to the proposed pile repair and replacement work during the first year of construction, the applicant proposes to replace up to five piles per year for a total of ten additional years. Because the replacement piles will uniformly be 12 inches in diameter and the existing piles range from 12 to 18 inches in diameter, these future years of work will result in no net increase in bay fill, and will likely result in a net reduction in fill.

The Commission must consider whether authorizing the aforementioned fill is consistent with Coastal Act policies addressing the protection of the marine environment, including, but not limited to the requirements of Section 30233 regarding the filling of coastal waters. The applicable provisions of Sections 30230, 30231, and 30233 of the Coastal Act cited above require that the placement of fill in coastal waters, whether as new development or for

repair and maintenance: (1) use the least environmentally damaging feasible alternative; (2) provide feasible mitigation measures to minimize adverse environmental effects; and (3) protect the biological productivity and the quality of coastal wetlands and waters.

The repair and maintenance activities and the new development being proposed would utilize the same construction methods and could have similar impacts on marine resources. Therefore, the following findings address both the repair and maintenance activities and the new development together.

Least Environmentally Damaging Feasible Alternative

As previously discussed, the Commission must ensure that the placement of fill in coastal waters use the least environmentally damaging feasible alternative consistent with Section 30233 of the Coastal Act. In this situation, the Commission must simultaneously find that the proposed new development is 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, alternatives that have been identified include: (1) the “no project” alternative; (2) alternative construction methods; and (3) alternative materials.

1. No project alternative. The primary purpose of the proposed project is to repair damaged piles associated with the SPI dock, and to install eight new piles underneath the chip conveyor, to ensure the safe and continued usage of the dock by two barge subcontractors. Under the “no project” alternative, the objectives of the project – to repair and maintain the facility and to provide additional support for the facility – would not be met. The dock would continue to deteriorate, with more of the existing piles becoming severely damaged and eventually being swept away. Although the “no project” alternative would avoid the adverse impacts to coastal resources that are posed by the dock repair project, this benefit would disappear when the existing dock ultimately fails, potentially during a seismic event. As the project is necessary to maintain a structurally secure dock, the no project alternative is not a less environmentally damaging feasible alternative to the proposed project as conditioned.

2. Alternative construction methods. The applicant proposes to replace 32 existing piles and install eight new piles in the first year, and replace up to fifty piles over the course of the following 10 years. New and replacement piles would be installed using a vibratory hammer. The use of an impact hammer is not proposed for this project. Vibratory hammers produce lower sound amplitudes compared to impact pile driving, and are the preferred method of driving piles to protect sensitive fish species during construction.¹ The applicant originally proposed the use of a water jet to assist with driving wooden piles into the bay substrate. After consultations with local and state agencies raised questions regarding increased turbidity from the use of water jetting, the applicant modified the project to use steel piles which do not require water jetting. For the reasons described above, the Commission finds that installing the replacement piles and the new piles with an impact hammer or utilizing wooden piles installed with the use of water jetting is not a less environmentally damaging feasible alternative to the proposed project as conditioned.

3. Alternative materials. The applicant proposes to replace damaged timber piles with new steel piles, and to install eight new steel piles. The applicant originally proposed to replace the piles with new ammoniacal-copper-zinc-arsenate (ACZA)-treated Douglass Fir to preserve the wood in the marine environment. The preservative chemicals that would be used to treat the wood piles would have the potential to leach into the water column, adversely affecting water quality. Following agency consultations, the applicant switched to steel piles. In order to prevent corrosion weathering of the steel piles, the applicant initially proposed to coat the piles with an acrylic paint product. After consultation with the Commission's Water Quality Unit regarding the limited durability of the proposed paint in the marine environment and the potential for the paint to break down and contaminate coastal waters, the applicant modified the project to use a recommended fusion bonded epoxy designed for immersion in marine waters. The use of steel piles coated with a fusion bonded epoxy is a feasible alternative that the applicant has agreed to incorporate into their project. For the reasons, described above, the Commission finds that using alternative construction materials including chemically treated wood piles and acrylic paint on the proposed steel piles is not a less environmentally damaging feasible alternative to the proposed project as conditioned.

Feasible Mitigation Measures

The Commission must ensure that the placement of fill in coastal waters minimizes adverse environmental wetland effects consistent with Section 30233 and protect the biological productivity and the quality of coastal wetlands consistent with the requirements of Sections 30230 and 30231. The proposed project could have a number of potential adverse effects on the environment of Humboldt Bay, including potential impacts to eelgrass and water quality. To minimize impacts resulting from construction activities, SPI proposes best management practices (BMPs) and avoidance and minimization measures as described in the project document "Sierra Pacific Industries Eureka Dock Limited Pile Replacement Project Description" prepared by GHD and dated July 31, 2017.

The potential impacts and their mitigations are discussed in the following sections:

¹ California Department of Transportation, 2009, p. 2-26

1. Impacts to eelgrass habitat

Native eelgrass (*Zostera marina*) grows in the project area east and southeast of the SPI dock. Eelgrass is essential to the health and productivity of the Humboldt Bay ecosystem as it provides many ecological benefits, including stabilization of bottom sediments, a substrate for epiphytic algae and invertebrates, foraging areas and shelter for young fish and invertebrates, food for migratory waterfowl, and spawning surfaces for invertebrates and fish. Eelgrass beds in Humboldt Bay are persistent all year, but they exhibit high variability in distribution and density, both seasonally and from year to year. A preliminary survey of the project area was conducted in May 2017 to map the extent of eelgrass habitat. Eelgrass grows around the dock trestles but is limited by shading from growing underneath much of the dock and is restricted by water depth from growing west of the wharf. SPI is proposing to install a maximum of eight new piles in areas of potential eelgrass habitat during the first year of the development, which amounts to 6.2 square feet of new fill. The 32 existing piles proposed to be replaced in the first year are located in water too deep to support eelgrass habitat. Eelgrass habitat generally does not extend to areas deeper than 12 feet mean lower low water (MLLW) in most protected bays², and the piles proposed to be replaced on the western side of the dock are located at depths of 15 feet and greater. The piles proposed to be replaced over the course of ten years are located in deep water or under the dock in areas currently outside of eelgrass habitat. However, some of these piles may be located within five meters of eelgrass habitat and future work may have the potential to impact adjacent eelgrass habitat.

Patchy eelgrass was observed in and around the area that SPI is proposing to install the eight new piles. Therefore the placement of eight new piles will directly displace 6.2 square feet of eelgrass habitat. The construction itself could also inadvertently uproot or crush nearby eelgrass turions and/or disturb small, localized areas of substrate located in nearby eelgrass habitat. To mitigate for the direct displacement of eelgrass habitat from the installation of the eight new piles, SPI proposes to remove sixteen derelict piles from existing eelgrass habitat south of the dock. In most cases, in-kind mitigation is the preferred option to compensate for impacts to eelgrass, which is generally achieved through transplanting or seeding eelgrass into unvegetated habitat. However, eelgrass mitigation by transplanting in Northern California has a high percent failure rate.² Because of the lack of success associated with eelgrass transplanting projects in Northern California, CDFW and Commission staff have been encouraging eelgrass mitigation in Humboldt Bay through debris removal. Removing debris is generally considered in-kind mitigation when 1) the debris is in an area suitable for eelgrass; 2) the debris is precluding eelgrass growth; and 3) when the debris is removed, eelgrass becomes established in its place.

The 16 piles proposed to be removed for mitigation vary in diameter from 12 to 18 inches and are proposed to mitigate for the placement of eight 12 inch piles, resulting in a mitigation ratio of 2:1 or greater, depending on the number of 18 inch piles that are removed. SPI proposes to remove the derelict piles within the same seasonal work

² National Marine Fisheries Service, 2014.

window for the rest of the project. The derelict piles proposed to be removed as in-kind mitigation for the first year of work would be removed by October 15, 2017. The derelict piles would be removed using a crane operated from either the dock or land, depending on where the piles are located. A barge is not proposed to be used for removing old piles.

Based on NMFS guidance, the remnant piles constitute non-habitat and the removal of remnant piles should make it possible for eelgrass to grow in the mudflat substrate. A similar mitigation strategy was employed at a location south of the project area, and post-construction observations indicated that eelgrass established in the area where debris was removed. The Commission finds a mitigation ratio of 2:1 acceptable in this situation given the limited temporal loss of eelgrass habitat and the likelihood of success that eelgrass will re-establish in the mitigation site. To ensure the success of SPI's mitigation work, the Commission is attaching this mitigation requirement as part of **Special Condition 6-A(v)**. Special Condition 6-A(v) also requires that SPI map the location of each pile to be removed and photo-document before and after conditions to be included in a post-construction survey. To demonstrate that the mitigation work is carried out as proposed and to ensure that there are no unanticipated impacts to adjacent eelgrass habitat from debris removal, **Special Condition 6** requires pre and post construction monitoring and reporting on the mitigation work during the first year of construction.

Although such impacts are not anticipated, the installation of the eight new piles in eelgrass habitat has the potential to impact nearby eelgrass not directly within the pile footprint because of increased turbidity or other construction-related impacts. Similarly, replacement of the existing dock piles has the potential to impact nearby eelgrass. To verify that any work near eelgrass will not have adverse environmental impacts on eelgrass habitat, SPI proposes to conduct pre- and post-construction eelgrass surveys at the project site and a reference area. A pre-construction survey was conducted on May 1 and 2, 2017. Because work did not commence within 60 days of the pre-construction survey, SPI conducted a second pre-construction survey on August 22, 2017 as recommended by the California Eelgrass Mitigation Policy and Implementing Guidelines³.

To address any unexpected inadvertent impacts to eelgrass from the project, SPI submitted an initial proposal for eelgrass monitoring and mitigation as part of an Eelgrass Technical Memo, dated June 1, 2017 and prepared by GHD ([Exhibit 5](#)). SPI's plan for monitoring and potential mitigation does not include detailed methods for conducting post-construction eelgrass surveys and submitting post-construction surveys. SPI also does not have a final plan that incorporates data from the most recent eelgrass survey. The Commission therefore attaches **Special Condition 6** requiring submittal of a final eelgrass mitigation and monitoring plan prior to permit issuance. The required plan components are based on the California Eelgrass Mitigation Policy and Implementation Guidelines⁴. In the chance that post-construction survey results may indicate any decrease in eelgrass distribution or density attributable to project impacts, **Special Condition 6-B(v)** requires SPI to identify in their final eelgrass mitigation and monitoring plan

³ National Marine Fisheries Service, 2014.

⁴ Ibid.

additional derelict piles in adjacent tidelands that may be pulled for mitigation beyond the 16 piles currently proposed.

The proposed project involves replacement work for up to ten years, with a final completion year of 2027. To ensure that repair and maintenance activities associated with future pile replacement work do not impact eelgrass habitat, SPI proposes to complete pre-and post- construction surveys each year for any work that would occur within 5 meters of eelgrass habitat over the course of the ten-year pile replacement portion of the project. SPI proposes to minimize impacts to eelgrass during construction by not operating the barge in eelgrass habitat as included in **Special Condition 5-C(ii)**. To ensure that all future pile replacement work is performed consistent with the requirements of the special conditions, **Special Condition 4** requires SPI to submit an annual dock repair plan prior to any work proposed for the construction year. **Special Condition 5-C** further describes the requirements for work proposed within 5 meters of eelgrass habitat. The Commission finds that as conditioned, the proposed pile removal and installation work will minimize its adverse environmental effects on eelgrass.

2. Construction-related impacts to biological productivity and quality of coastal waters

The installation of new piles and the removal of existing piles within Humboldt Bay could result in sediments, debris, or hazardous materials entering coastal waters and impacting sensitive fish species, marine mammals, and their habitat, including the water quality of the estuary.

The project involves the removal and replacement of up to 82 pressure-treated and creosote timber piles. The removal of deteriorated treated piles could result in impacts to the water quality of Humboldt Bay if piles were to leach chemicals into the water. As previously mentioned, the applicant proposes to use steel piles coated with a fusion bonded epoxy designed for immersion in marine waters. Coated steel piles will be used for both the replacement pile work and for the new placement of eight piles. The use of coated steel piles instead of pressure-treated wood will prevent chemical leaching from the installation of new piles. The steel coating has been approved by the Commission's Water Quality Unit as safe to use in marine environments because the coating is durable and will not flake off over time compared to non-marine grade coatings.

Pile removal could also result in debris or hazardous materials entering coastal waters if pieces of pile were allowed to remain in the bay following removal. The applicant proposes a number of measures to minimize water quality impacts from the removal of old treated piles. These measures include the removal of the old treated piles. The applicant proposes to sample the removed piles for evidence of hazardous waste and to dispose of any hazardous waste to an appropriate treatment, storage, and disposal facility at a landfill authorized to accept chemically treated waste. The applicant proposes to move old piles to a designated staging area on land as they are removed in order to minimize the potential of pile debris entering the water. If any piles break off and are not removed in entirety, the applicant proposes to cut the piles below the mudline to minimize chemical leaching. **Special Condition 5** requires the permittee to implement these proposed BMPs for removal of pressure-treated wood. Given that (1) the applicant

proposes to use steel piles coated with a bonded epoxy rather than pressure-treated wood; and (2) that best management practices will be utilized in the removal, storage and disposal of old piles, the placement of steel piles and the removal of up to 82 pressure-treated timber piles is not expected to have an adverse impact on the water quality of Humboldt Bay. Therefore, the Commission finds that the proposed method of pile removal and installation work, as conditioned, provides feasible mitigation measures to minimize potential adverse impacts from the use of painted or coated piles in the marine environment.

Potential adverse impacts to the water quality of Humboldt Bay could also occur during the construction process if other hazardous materials or debris associated with project construction were to enter coastal waters. The applicant has proposed a number of best management practices to ensure that construction debris does not enter the water. Piles will be removed one at a time and will be placed in the containment area on land before removing the next pile. To prevent hazardous materials from entering the bay, the applicant proposes to provide training and equipment necessary to prevent and contain spills of oil or other hazardous materials. The applicant also proposes to use biodegradable hydraulic fluid for the vibratory driver. To ensure that the applicant complies with the aforementioned BMPs, the Commission attaches the BMPs and adds additional construction responsibilities as part of **Special Condition 4**.

As discussed above, the applicant proposed pile replacement work over a 10 year period. Although the applicant has coordinated with multiple agencies to identify a number of BMPs to minimize impacts to coastal resources, the best available science regarding measures to minimize impacts to coastal resources related to in-water construction work changes over time. For instance, since the SPI dock was originally constructed between 1965 and 1970, regulatory agencies have modified recommendations regarding the use of pressure-treated wood in marine environments, changing from creosote treatment to ACZA treatment, to recommendations that all treated wood be wrapped in order to minimize chemical leaching. The Commission should have the opportunity to reconsider measures to minimize impacts to coastal resources and to take into account new information over the ten year life of the project. Therefore, to protect sensitive coastal resources throughout the course of 10 years, the Commission attaches **Special Condition 3** limiting the length of repair and maintenance work authorized under this CDP to a period of five years from the date of Commission approval. One request for an additional five-year period of development authorization may be accepted, reviewed, and approved by the Executive Director for a maximum total of ten (10) years of development authorization, provided that the request would not substantively alter the project description and/or require modifications of conditions due to new information or technology or other changed circumstances.

The Commission finds that the proposed method of repair and maintenance and the proposed new development, as conditioned, provide feasible mitigation measures to minimize potential adverse environmental impacts of construction on water quality.

Maintenance and Enhancement of Habitat Values

The fourth test set forth by Section 30233 of the Coastal Act is that any approved dredging or filling of coastal waters must maintain or enhance the biological productivity and functional capacity of the habitat. Sections 30230 and 30231 also require that the biological productivity and the quality of coastal waters be maintained. As discussed in the above Findings, the conditions of the permit will ensure that the development will not have significant adverse impacts on Humboldt Bay species or their habitat. These conditions include Special Conditions 3-6 ensuring that the proposed development will avoid, minimize, and mitigate impacts to eelgrass, fish, and water quality. Therefore, the Commission finds that the development, as conditioned, will maintain the biological productivity and functional capacity of the habitat consistent with Sections 30230, 30231, and 30233.

Conclusion

In conclusion, the Commission finds that the method of proposed repair and maintenance as conditioned herein (1) uses the least environmentally damaging feasible alternative; (2) provides feasible mitigation measures to minimize adverse environmental effects; and (3) protects the biological productivity and the quality of coastal wetlands and waters, consistent with Sections 30230, 30231, and 30233 of the Coastal Act. In addition to the three findings above, the Commission finds that the new development as conditioned herein is an allowable use as it is required for a coastal-dependent port facility.

H. VISUAL RESOURCES

Section 30251 of the Coastal Act states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. The Section requires, in applicable part, that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas.

The proposed project is located on a waterfront property on Humboldt Bay and is visible from many vantage points in and around the bay. The site is located near similar port facilities and blends with the visual character of the surrounding area. The dock has existed since the 1970s, and the proposed project will not result in any expansion of the facility beyond the perimeter of the existing dock. Any visual impact from the proposed repairs of damaged and deteriorated components of the dock will be positive. Therefore the proposed pile installation development, as conditioned, will protect views to and along the bay and will be compatible with the coastal development industrial character of the waterfront, consistent with Section 30251 of the Coastal Act.

I. ARCHAEOLOGICAL RESOURCES

Section 30244 of the Coastal Act states:

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

The Wiyot, a Native American tribe, is known to have settled along the Humboldt County coast within the general vicinity of the subject property. The Wiyot had settlements extending from Little River near Trinidad to Bear River Ridge in Scotia. The three entities that represent the Wiyot tribe today include the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria.

The proposed project involves disturbance of bay substrate for pile removal and installation purposes, and has the potential to disturb archaeological resources. Commission staff contacted the THPOs from the three entities of the Wiyot Tribe. THPOs from the Wiyot Tribe and from the Blue Lake Rancheria responded and requested that the Commission attach the Inadvertent Archaeological Discovery protocol as a condition to this project. To ensure protection of any cultural resources that may be discovered at the site during construction of the proposed project, the Commission attaches **Special Condition 7**. This special condition requires that if an area of cultural deposits is discovered during the course of the project, all construction must cease and a qualified cultural resource specialist, in conjunction with the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria THPOs, must analyze the significance of the find. To recommence construction following discovery of cultural deposits, the applicant is required to submit a supplementary archaeological plan for the review and approval of the Executive Director, who determines whether the changes are de minimis in nature and scope, or whether an amendment to this permit is required.

Therefore, the Commission finds that the proposed method of repair and maintenance and the new development, as conditioned, is consistent with Coastal Act Section 30244.

J. PUBLIC ACCESS

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

The proposed dock repairs would not adversely affect public access. The repairs would not displace any existing public access facilities, as the project would simply maintain an existing dock facility that is located in a secured area where no public access currently exists. In addition, the project would not increase the demand for public access facilities, as it would involve no expansion of use, would not increase population density in the area, and would not otherwise draw more people to the waterfront. Therefore, the Commission does not find it necessary to require that public access be provided as a result of the proposed project. Furthermore, lateral

access on the subject industrial parcel would be inconsistent with public safety needs and the security and operational needs of the oil storage facility.

The proposed project involves the removal of numerous piles from the bay. If the piles are only partially removed, or broken off during removal and left in the water, they could pose a safety and navigation hazard to boaters and other bay users. Therefore, to avoid adverse impact to public access and recreation on the bay from hazardous piles, the Commission attaches **Special Condition 5-D** to ensure that all piles that cannot be removed in their entirety are cut off one-foot below the mudline. The Commission thus finds that the proposed method of repair and maintenance and the new development, as conditioned, will not have any significant adverse effects on public access, and is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

K. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Humboldt Bay Harbor, Recreation and Conservation District served as the lead agency for the project for CEQA purposes. The Harbor District filed a notice of exemption for the project on September 22, 2016 pursuant to Section 15301 of the CEQA Guidelines (Existing Facilities), which exempts the repair of existing structures involving negligible or no expansion of use.

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

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed project has been conditioned to be consistent with the policies of the Coastal Act. No public comments were received prior to preparation of the staff report. As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A
SUBSTANTIVE FILE DOCUMENTS

Application File for Coastal Development Permit No. 1-17-0269

Application File for Coastal Development Permit No. 1-91-37

Application File for Coastal Development Permit No. 1-93-65

Application File for Coastal Development Permit No. 1-94-053

California Department of Transportation. (2009, February). Technical guidance for assessment and mitigation of the hydroacoustic effects of pile driving on fish. Sacramento, CA: ICF Jones & Stokes, Illinworth & Rodkin.

National Marine Fisheries Service. (2014, October). California Eelgrass Mitigation Policy and Implementing Guidelines.