

**CALIFORNIA COASTAL COMMISSION**

NORTH COAST DISTRICT OFFICE  
1385 8TH STREET, SUITE 130  
ARCATA, CA 95521  
VOICE (707) 826-8950  
FAX (707) 826-8960  
[WWW.COASTAL.CA.GOV](http://WWW.COASTAL.CA.GOV)



# F10a

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## STAFF REPORT: MATERIAL AMENDMENT

**Amendment Application No.:** 1-06-018-A1

**Applicant:** Pacific Union College

**Agent:** Spade Natural Resources Consulting

**Location:** At the Pacific Union College Albion Field Station located on the south bank of the Albion River approximately ¼-mile east of the Albion River Bridge (Highway 1) at 34100 Albion Street, Albion, Mendocino County.

**Description of Previously Approved Project:** (1) Construct an approximately 1,680-square-foot T-shaped boat dock facility, (2) remove an existing 3,840-square-foot dilapidated boat barn in wetlands, (3) construct a new boat barn in an upland area, (4) install a bridge over an unnamed creek behind the proposed new boat barn to provide access to the dock facility, (5) install a 15-foot-wide gravel driveway, (6) remove an existing cement boat from the creek, and (7) remove an existing culvert from a wetland area.

**Proposed Amendment:** (1) Remove unauthorized development, (2) relocate the existing 1,158-sq.-ft. boat barn constructed in an unauthorized location next to the river to a new location 1,000 feet further away from the river, (3) install decking at the existing lab building, (4) authorize after-the-fact

placement of road base and gravel within an existing parking area, (5) authorize after-the-fact placement of a 120-sq.-ft. shed, and (6) restore riparian and wetland habitats.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission approve with conditions the permit amendment request for additional development at Pacific Union College's Albion Field Station along the south bank of the Albion River near the village of Albion in Mendocino County. In May of 2007, the Commission granted the original permit (CDP No. 1-06-018) to the applicant to construct a boat dock facility; remove a boat barn in wetlands and replace it by constructing a new boat barn in an upland area; install a bridge over an unnamed stream to provide access to the dock facility; construct a gravel driveway; and remove an abandoned cement boat and culvert from wetland areas. Subsequent to approval of the original permit, certain development not authorized by the permit occurred at the site, involving: construction of the replacement boat barn in a different location than had been authorized; placement of unpermitted wetland fill; unpermitted removal of riparian ESHA trees; unpermitted grading within an existing gravel parking area; the unpermitted installation of a deck, low retaining wall, and lighting adjacent to an existing lab building; and the unpermitted installation of a small equipment shed. Under this permit amendment request, the application seeks to address the unpermitted development, and proposes additional new development.

The applicant proposes: (1) relocation of the 1,158-square-foot boat barn from its current, unauthorized location to a site approximately 1,000 feet to the east from the river's edge; (2) removal of a 650-square-foot portion of the unauthorized deck attached to the east side of the lab building and authorization after-the-fact of the remaining 400 square feet of the deck; (3) construction of approximately 506 square feet of new decking along the northern portion of the lab building; (4) removal of an unauthorized retaining wall and light posts; (5) installation of three new downcast shielded light fixtures on the exterior of the lab building; (6) authorization after-the-fact of the grading of approximately 42 cubic yards of gravel fill within the parking area, including the installation of a small gravel berm between the parking area and the stream; (7) authorization after-the-fact of the installation of the 120-square-foot equipment shed; (8) restoration of riparian vegetation along a portion of the stream east of the lab building where the unauthorized tree removal occurred; and (9) restoration of 5,272 square feet of wetlands impacted by the placement of fill (woodchips) northwest of the lab building and 72 square feet of gravel south of the unauthorized boat barn (see **Exhibit No. 3**).

The primary Coastal Act issue raised by the application is whether the development is consistent with Coastal Act requirements regarding development within and adjacent to environmentally sensitive habitat areas (ESHA). Within ESHA, the applicant proposes to restore the riparian

ESHA along the unnamed stream area affected by the unauthorized tree removal by planting a mix of regionally appropriate native species to provide cover to the adjacent stream. In addition, the applicant proposes to restore the wetland areas affected by the unauthorized wetland fill by removing the fill and invasive species, and then planting native species. Staff recommends that the Commission find that the wetland and riparian restoration activities with conditions are permissible within ESHA under section 30240(a) as a use dependent on the resource. To ensure the proposed restoration activities will be successful and actually result in ESHA restoration, **Special Conditions Nos. 27 and 28** require monitoring of the restoration areas and include provisions for remediation if the monitoring indicates that the identified success standards have not been achieved. To ensure the dismantling of the existing boat barn in its unauthorized location does not result in impermissible development within sensitive bat roosting ESHA, the amended development as proposed and conditioned would require that such work either occur in September and October outside of the bat roosting period or only proceed after bat surveys demonstrate that no bat roosting ESHA exists in the building.

Apart from the proposed development within ESHA, the applicant proposes various developments in areas adjacent to known or potential ESHA. The after-the-fact shed is approximately 50 feet from ESHA. Staff believes that with various recommended conditions, the proposed amended development is (1) designed to prevent impacts that would significantly degrade adjacent environmentally sensitive habitat areas and is compatible with the continuance of those areas, consistent with section 30240(b) of the Coastal Act, and (2) will protect marine resources and maintain the biological productivity and quality of coastal waters and wetlands, minimize adverse effects of wastewater discharges and entrainment, and control runoff, consistent with sections 30230 and 30231 of the Coastal Act. The new boat barn will result in a larger river ESHA buffer and is designed to limit human intrusion into the nearby stream and direct stormwater runoff into a ditch away from the stream. Along the east side of the lab building near the stream ESHA, the authorized development would be limited to removing portions of the deck to reduce it to the minimum width necessary to provide ADA compliant ingress and egress and minimal exterior lighting that will be downcast and shielded to avoid inadvertent lighting of the ESHA. The gravel berm to be authorized after-the-fact as part of the parking area grading directs stormwater runoff from the parking area away from the stream. **Special Condition No. 22** would require the use of construction-related BMPs to protect water quality and ESHA. **Special Condition No. 24** would ensure potential Sonoma tree vole habitat is not adversely impacted by the proposed work by restricting the use of high level noise producing equipment.

Violations of the Coastal Act (unpermitted development) exist on the subject property including, but not necessarily limited to: unpermitted wetland fill; unpermitted riparian ESHA tree removal; the unauthorized placement of a boat barn; unauthorized decking, retaining wall, and light posts; unpermitted gravel fill in the existing parking area; unpermitted gravel berm adjacent to an ESHA; and the unpermitted placement of a plastic shed. Approval of this permit amendment application pursuant to the staff recommendation, issuance of the permit amendment and the applicant's subsequent compliance with the terms and conditions of the permit amendment will result in resolution of future impacts of the violations noted above.

1-06-018-A1 (Pacific Union College)

The motion to adopt the staff recommendation of approval of CDP amendment request 1-06-018-A1 with special conditions is found on [page 6](#).

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### APPENDICES

[Appendix A](#) – Substantive File Documents

[Appendix B](#) – All Standard and Special Conditions that Apply to CDP No. 1-06-018-A1

### EXHIBITS

[Exhibit 1](#) – Location Map

[Exhibit 2](#) – Vicinity Map

[Exhibit 3](#) – Project Plans

[Exhibit 4](#) – BMP Plans

[Exhibit 5](#) – Wetland Restoration Plan Excerpts

[Exhibit 6](#) – Riparian Restoration Plan Excerpts

[Exhibit 7](#) – Boat Barn Alternatives

[Exhibit 8](#) – Site Photos

[Exhibit 9](#) – FEMA Maps

[Exhibit 10](#) – Adopted Findings for Original Permit

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** the proposed amendment to Coastal Development Permit No. 1-06-018 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 the coastal development permit amendment on the grounds that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit amendment complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.*

## II. STANDARD AND SPECIAL CONDITIONS

NOTE: The original Coastal Development Permit (CDP No. 1-06-018) was approved with four (4) standard conditions and twenty (20) special conditions. Standard Conditions Nos. 1-4 and Special Conditions Nos. 1- 7 and 9-20 of CDP 1-06-018 are reimposed without changes and remain in full force and effect. Special Condition No. 8 is being modified as shown below and reimposed as a condition of the CDP as amended. **Special Conditions Nos. 21- 32** are new conditions added to CDP Amendment No. 1-06-018-A1. New conditions and modifications to existing conditions imposed in this permit amendment are shown in the following section (deleted condition language are shown in ~~striketrough~~ text; added conditions are **bold underlined**). **Appendix B**, attached, includes all standard and special conditions that apply to the amended development, as approved by the Commission in its original action and modified and/or supplemented by this amendment. For comparison, the text of all the original permit conditions is included in **Exhibit No. 10**, the Adopted Findings for CDP 1-06-018.

### 8. Boat Barn Final Plans

- A. ~~PRIOR TO COMMENCEMENT OF CONSTRUCTION~~ and Within 180 days of Commission approval **of CDP Amendment No. 1-06-18-A1 and prior to the reconstruction of the boat barn as authorized under the amendment**, or such additional time as the Executive Director may grant for good cause, the ~~applicant~~ **permittee** shall submit to the Executive Director, for review and written approval, final design plans for the proposed boat barn building demonstrating the following:

- (i) The boat barn shall be sited at the location as shown on Exhibit No. 3 (**page 1 of 8) of the staff report for CDP Amendment No. 1-06-018-A1** and shall be ~~no~~ larger than 110' x 60' and shall not exceed 35 feet in height; **conform with square footage and dimensions as proposed in the preliminary boat barn and deck plan prepared by John M. Duncan, dated June 6, 2014;**
  - (ii) All exterior siding, trim, and roofing of the proposed structure shall be composed of natural materials in earth tone colors as proposed in the application, including weathered cedar or redwood siding;
  - (iii) All exterior materials, including roof and windows, shall be non-reflective to minimize glare; and
  - (iv) All exterior lights, including any lights attached to the outside of the building, shall be the minimum necessary for the safe ingress and egress of the structure, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward.
- B. The permittee shall undertake development in accordance with the approved **final** plan. Any proposed changes to the approved **final** plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**21. Scope of Permit as Amended.**

- A. CDP Amendment No. 1-06-018-A1 authorizes the following additional development, as proposed and modified by the Special Conditions of this permit amendment and as depicted in Exhibit No. 3:**
- (i) Dismantle and remove the boat barn from its unauthorized location;**
  - (ii) Reconstruct the boat barn approximately 1,000 feet further east of the river and the existing unauthorized boat barn site as proposed and in accordance with the final approved boat barn plans pursuant to Special Condition No. 8;**
  - (iii) Remove**
    - (a) 650 square feet (10 feet wide) of unauthorized decking, and**
    - (b) retaining wall and light posts from the east side of the lab building;**
  - (iv) Retain the following improvements constructed without authorization:**
    - (a) approximately 400 square feet of decking for the lab building,**
    - (b) 42 cubic yards of gravel fill spread throughout the existing parking area north of the lab building,**
    - (c) a 6-inch-tall, 75-foot-long, 1-foot-wide gravel berm consisting of approximately 0.78 cubic yards of material along the eastern side of the parking area north of the lab building, and**
    - (d) a 120-square-foot shed adjacent to the northwest corner of the lab building;**
  - (v) Construct 506 square feet of new decking and three new associated exterior lighting fixtures along the north and east sides of the existing lab building;**
  - (vi) Restore riparian habitat east of the lab building consistent with Special Condition No. 28 and the preliminary Overstory Restoration Plan for**

Alder Tree Removal Area, prepared by Spade Natural Resources Consulting and dated June 10, 2019.

- (vii) Restore wetland habitat within the proposed wood chip removal area along the shoreline of the river northwest of the lab building and south of the boat barn in its existing unauthorized location consistent with Special Condition No. 27 and as referenced in the preliminary Wetland Restoration Plan, dated November 13, 2014.

- 22. Construction Standards, Restrictions, and Responsibilities. For development authorized under CDP Amendment No. 1-06-018-A1. The permittee shall employ construction-related “Best Management Practices” (BMPs) to protect water quality and adjacent sensitive habitat areas. The permittee shall ensure that all on-site workers and contractors understand and agree to observe the standards and limitations for work outlined in this permit and in the detailed project description included as part of the application submittal and as revised by these conditions.**
- A. The BMPs proposed by the permittee, including but not limited to the following measures, shall be implemented, consistent with the additional requirements specified in subsection (B) below and consistent with the protective measures outlined in the following plans: (1) “East BMP and Stormwater Plan” for the new boat barn, dated February 22, 2019 and received on July 11, 2019 (referenced on page 1 of Exhibit No. 4); (2) the “Grading and BMP Plan,” received on May 20, 2019 (referenced on page 2 of Exhibit No. 4); and (3) the avoidance measures described in the “Botanical Survey and Biological Scoping Survey,” dated November 1, 2017:**
- (i) Timing of Construction: Development authorized by this permit amendment shall only occur during the time period limitations specified in Special Condition No. 32.**
  - (ii) Implement clean-up measures for potential fuel spills from construction equipment, using cloth rags to absorb any leaked fuel or oil during the fueling process. An adequate supply of these items shall be kept available on site;**
  - (iii) Dispose of excess materials and waste at an authorized disposal facility;**
  - (iv) Paintbrushes and containers used to apply deck finishing shall be placed in a refuse container and washed inside existing structures to avoid the potential for pollutants that could enter the stream;**
  - (v) Restrict construction staging and work areas to only those areas identified on the proposed construction staging and work area site plan as depicted on the above-mentioned plans and referenced in Exhibit No. 4;**
  - (vi) Provide pre-construction training for contractors by qualified biologists on how to identify northern red-legged frogs prior to and during construction activities and how to proceed if a frog is encountered. During ground disturbing activities, construction crews shall begin each work day with a visual search around the work area to detect the presence of frogs. If a special status frog is detected during a visual search or at any time during construction, crews shall stop all ground disturbing work and shall contact**

the California Department of Fish and Wildlife (CDFW). Clearance from CDFW shall be obtained before re-initiating work.

(vii) If rain occurs during the ground disturbance period, cease construction and do not resume construction for a period of 48 hours after the rain stops; and

(viii) Avoid construction during bird breeding seasons, if feasible. If construction must occur during the breeding seasons, a qualified biologist shall perform pre-construction breeding bird surveys within 14 days of the onset of construction or clearing of vegetation and no ground disturbing activities shall occur within 100 feet of any nest until the young birds have fledged and left the roost.

B. The following additional requirements also apply to the authorized construction work:

(i) Archaeological Resources: Construction work and scheduling shall adhere to the requirements of Special Condition No. 10 of the original permit for the protection of archaeological resources.

(ii) Protect Adjacent Wetlands: No construction equipment or materials shall be placed in wetland ESHA. Care should be taken in the storage and use of equipment during relocation/removal activities to prevent accidental spills.

(iii) Plastic Netting Prohibition: To minimize wildlife entanglement and plastic debris pollution, the use of temporary rolled erosion and sediment control products with plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers used in fiber rolls, erosion control blankets, and mulch control netting) is prohibited. Any erosion-control associated netting shall be made of natural fibers and constructed in a loose-weave design with movable joints between the horizontal and vertical twines.

(iv) Stockpile BMPs: All on-site stockpiles of construction debris and soil or other construction-related materials shall be covered and contained whenever there is a potential for rain to prevent polluted water runoff from the site.

(v) Trash and Debris: All trash, waste, and debris resulting from construction activities shall be properly contained, removed from the work site on a regular basis, and properly disposed of consistent with section A(iii) above to avoid contamination of habitat during demolition and construction activities.

(vi) Equipment BMPs: Equipment fueling and maintenance shall occur off-site, if feasible. Any fueling and maintenance of equipment conducted on-site shall take place at a designated area located away from coastal waters, drainage courses, and storm drain inlets. The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants.

(vii) Minimize Land Disturbance and Soil Compaction: Construction shall minimize land disturbance (e.g., clearing, grading, and cut-and-fill) and soil compaction to avoid potential increased erosion and sedimentation and to retain the natural stormwater infiltration capacity of the soil;

- (viii) Revegetation: Any disturbed areas, including but not limited to the boat barn dismantling area, shall be appropriately stabilized and revegetated following construction with native seed mixes and shall not include any species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California. No plant species listed as a “noxious weed” by the governments of the State of California or the United States shall be utilized within the bounds of the property;**
- (ix) Straw Mulch: Only certified weed-free straw mulch shall be used for erosion, sediment, and runoff control to avoid the inadvertent introduction of non-native plant species to surrounding environmentally sensitive areas.**
- (x) Protect sensitive Sonoma tree vole habitat areas consistent with Special Condition No. 24;**
- (xi) Protect sensitive roosting bat habitat areas consistent with Special Condition No. 25.**

**23. Revegetation Requirements for Development Authorized Under CDP Amendment No. 1-06-018-A1.**

- A. Revegetation of restoration sites shall be implemented according to the approved final revegetation plans required by Special Condition Nos. 27 and 28. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an additional amendment to this CDP, unless the Executive Director determines that no amendment is legally required.**
- B. Only native plant species shall be planted in the proposed restoration areas. All proposed plantings shall be obtained from local genetic stocks within the north coast region (Sonoma to Humboldt coast, within approximately 30 miles of the coastline). If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside of the local area may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the governments of the State of California or the United States shall be utilized within the project area.**
- C. All proposed revegetation of the wetland and riparian restoration sites shall be completed as soon as possible and by no later than the end of the first full optimal planting season that occurs after issuance of CDP Amendment No. 1-06-018-A1.**
- D. The use of rodenticides containing any anticoagulant compounds including, but not limited to, Bromadiolone, Brodifacoum or Diphacinone, is prohibited.**

**24. Sonoma Tree Vole Habitat Protection Requirements for Development Authorized Under CDP Amendment No. 1-06-018-A1.**

- A.** **The permittee shall not use high level noise-producing equipment for any cumulative period longer than 1/2-hour each day, unless a pre-construction survey for Sonoma tree vole is conducted by a qualified biologist according to agency-approved protocols, with survey results submitted to the Executive Director no later than ten (10) days prior to commencement of the authorized construction work.**
  - B.** **If occupied Sonoma tree vole habitat is found within 300 feet of the authorized development site, no high-level noise-producing equipment shall be used until the permittee prepares a Sonoma tree vole habitat avoidance plan. The habitat avoidance plan shall be processed as an amendment to CDP No. 1-06-018, unless the Executive Director determines that no amendment is legally required. No high level noise producing equipment shall be used until the permittee has thereafter obtained the additional amendment to CDP No. 1-06-018 (if legally required) and the amendment authorizes the use of such equipment.**
- 25. Sensitive Bat Roosting Habitat Protection Requirements for Development Authorized Under CDP Amendment No. 1-06-018-A1.**
- A.** **If demolition of the boat barn will be conducted during the roosting period for sensitive bat species (November-August), a pre-demolition bat roosting survey shall first be conducted during that roosting period to determine whether roosting bats are present in the boat barn to be dismantled. The survey shall be conducted by a qualified biologist with experience surveying for bat roosts and experience conducting habitat assessments for bats. Surveyor qualifications shall be provided to Commission staff for review and approval in consultation with California Department of Fish and Wildlife (CDFW) staff. Survey results shall be submitted to the Executive Director no later than ten (10) days prior to commencement of the authorized demolition work and include, at a minimum, the following: (1) a map that depicts the location(s) of any sensitive roosting habitat within the boat barn identified by the surveys, (2) a narrative discussion of the species found, its relative abundance, and an overview of the general bat habitat quality. No pre-demolition bat roosting survey need be performed if all demolition work will be completed outside of the bat roosting season during the two month period of September through October.**
  - B.** **If roosting bats are present in the boat barn to be demolished, demolition activities shall not take place until the following non-roosting period of September through October, or until a follow-up bat roosting survey is conducted by a qualified biologist meeting the requirements of Part (A) above that documents the bats have left the roost. No other development shall occur within 50 feet of the barn when roosting bats are present.**
- 26. Future Permit Requirement. CDP Amendment No. 1-06-018-A1 only authorizes the additional development described in the amendment application and as summarized in Special Condition No. 21, including, but not limited to, the authorized reconstruction of the boat barn, alteration and construction of decking attached to the lab building, and installation of a 120-square-foot shed. The following future development restrictions apply:**

- A.** **Pursuant to Title 14 California Code of Regulations (CCR) section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) section 30610(b) shall not apply to the development governed by CDP Amendment No. 1-06-018-A1. Accordingly, any future improvements to the boat barn, deck, and shed authorized by this permit amendment shall require an additional amendment to CDP Amendment No. 1-06-018 from the Commission.**
  - B.** **An amendment to CDP No. 1-06-018 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in PRC section 30610(d) and Title 14 CCR sections 13252(a)-(b).**
  
- 27.** **Implementation of the Wetland Restoration Plan Under CDP Amendment No. 1-06-018-A1.**
  - A.** **The permittee shall implement proposed wetland habitat restoration within the proposed wood chip removal area along the shoreline of the river northwest of the lab building and within the gravel fill removal area south of the boat barn in its unauthorized location as shown in Page 2 of 8 of Exhibit No. 3 of the staff recommendation in accordance with the proposed “Wetland Restoration Report” (WRP), dated June 13, 2014, prepared by Spade Natural Resources Consulting (Exhibit No. 5 of the staff recommendation), including submittal of quarterly monitoring reports to the Executive Director by April 30, July 31, October 31, and January 31 each year until the Executive Director determines that the success criteria identified in the plan have been met.**
  - B.** **If the Executive Director determines that the success criteria in the WRP have not been fully met within five years of the removal of the gravel fill from the wetland south of the boat barn and the initial planting of wetland plants within the wood chip removal area, the permittee shall submit a revised or supplemental restoration plan to compensate for those portions of the original plan which did not meet the approved performance standards. The revised restoration plan shall be processed as a further amendment to CDP No. 1-06-018, unless the Executive Director determines that no amendment is legally required.**
  - C.** **The permittee shall implement the project in accordance with the WRP. Any proposed changes from the WRP shall be reported to the Executive Director. No changes to the WRP shall occur without a Commission amendment to CDP No. 1-06-018, unless the Executive Director determines no amendment is legally required.**
  
- 28.** **Final Riparian Restoration Plan Under CDP Amendment No. 1-06-018-A1.**
  - A.** **Within 180 days of Commission approval of CDP Amendment No. 1-06-018-A1 and prior to commencement of the restoration of the riparian habitat east of the lab building authorized by the amendment, the permittee shall submit, for the review and written approval of the Executive Director, an updated final riparian restoration plan restoring the riparian ESHA affected by the unauthorized tree removal east of the lab building. The plan shall substantially conform to the plan prepared by Spade Natural Resources Consulting, dated June 10, 2019, for the**

**“Overstory Riparian Restoration for the Tree Removal Area,” except the revised final plan shall include the following:**

- (i) a schedule for riparian restoration;**
- (ii) a minimum 5-year monitoring period;**
- (iii) final success criteria that includes, at a minimum (a) at least 80% native vegetative cover; and (b) no more than 10% non-native vegetative cover;**
- (iv) provisions for submittal of annual reports by January 31 each year of monitoring results to the Executive Director for the duration of the required monitoring period, beginning the first year after planting of vegetation. Each report shall document the condition of the restoration with photographs taken from the same fixed points in the same directions. Each report shall also include a “performance evaluation” section where information and results from the monitoring plan are used to evaluate the status of the restoration project in relation to the performance standards and final success criteria specified above; and**
- (v) provisions for the submittal of a final monitoring report to the Executive Director at the end of the five-year reporting period. The final report must be prepared in conjunction with a qualified biologist. The final report must evaluate whether the restoration site(s) conforms to the goals, objectives, and performance standards set forth in the approved final restoration plan. The report must address all of the monitoring data collected over the five-year period.**

**B. If the final monitoring report indicates that the restoration project has been unsuccessful, in part, or in whole, based on the approved performance standards, the permittee shall submit a revised or supplemental restoration plan to compensate for those portions of the original plan that did not meet the approved performance standards. The revised restoration plan shall be processed as a further amendment to CDP No. 1-06-018, unless the Executive Director determines that no amendment is legally required.**

**C. The permittee shall implement the project in accordance with the approved final restoration plans. Any proposed changes from the approved final restoration plans shall be reported to the Executive Director. No changes to the approved final restoration plans shall occur without a Commission amendment to CDP No. 1-06-018, unless the Executive Director determines no amendment is legally required.**

**29. Lighting Limitation. All exterior lighting attached to the boat barn structure and lab building shall be the minimum necessary for the safe ingress and egress of the structures, and shall be low-wattage, and shall be downcast shielded such that no glare will be directed toward riparian habitat areas and/or into nearby coastal waters.**

**30. Deed Restriction. WITHIN 90 DAYS OF COMMISSION APPROVAL OF CDP AMENDMENT NO. 1-06-018-A1, the permittee shall submit to the Executive Director for review and approval documentation demonstrating that the permittee has executed and recorded against the parcel(s) governed by the permit, as amended, a deed restriction, in a form and content acceptable to the Executive Director: (1)**

**indicating that, pursuant to this permit, as amended, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as amended, as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit as amended. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of the permit as amended, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property. This deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition No. 18 of Coastal Development Permit No. 1-06-018, approved May 11, 2007, which deed restriction is recorded as Instrument No. 2009-10416 in the official records of Mendocino County.**

- 31. Permit Amendment Issuance and Condition Compliance. Because the development proposed under CDP No. 1-06-018-A1 has already commenced, this coastal development permit amendment shall be deemed issued upon the Commission's approval. Failure to comply with the special conditions of this permit amendment may result in the institution of an action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.**
- 32. Timing of Construction for Development Authorized Under CDP Amendment No. 1-06-018-A1.**
- A. As proposed under CDP Amendment Application No. 1-06-018-A1, all ground disturbing activities shall be conducted only during the dry season (May-October).**

### **III. FINDINGS AND DECLARATIONS**

#### **A. BACKGROUND**

The project site, known as the Albion Field Station, is located on the south bank of the Albion River Bridge (Highway 1), near the village of Albion, Mendocino County (APNs: 123-060-07; 123-090-02; 123-170-02, -22) (see **Exhibit Nos. 1 and 2**). The Albion Field Station was historically used as a residence camp for the Albion lumber mill until Pacific Union College purchased the property in the late 1940's. Pacific Union College is a small private liberal arts college with a main campus based in Napa County. The old redwood buildings of the lumber camp were renovated for use as classrooms, laboratories, and dormitories, and the College began to use the site for biological field classes beginning in 1947. Existing structures at the 17.5-acre campus include sleeping cabins, classrooms, restrooms, a dining room, laboratory, garage, storage area, and boat barn.

In May of 2007, the Commission granted Coastal Development Permit (CDP) No. 1-06-018 to the applicant to (1) construct an approximately 1,680-square-foot T-shaped boat dock facility;

(2) remove an existing 3,840-square-foot dilapidated boat barn built in wetlands prior to the enactment of the Coastal Act that had been damaged by a series of winter storms; (3) construct a new boat barn in an upland area; (4) install a bridge over an unnamed creek behind the proposed new boat barn to provide access to the dock facility; (5) install a 15-foot-wide gravel driveway; (6) remove an existing cement boat from the creek; and (7) remove an existing culvert from a wetland area. The Commission granted its approval of the original permit subject to 20 special conditions (see **Exhibit No. 10**).

Although the permit was issued in 2007, the new boat barn wasn't constructed until 2013. The constructed boat barn deviates significantly from the boat barn authorized by the Commission in terms of location, design, and size of the structure. The Commission's original permit approved a 6,600-square-foot replacement boat barn to be constructed near the northern edge of the existing lab building. The boat barn authorized under the original permit was to be sited in an upland area set back 75 feet from the river in an area that avoided any potential impacts to wetland habitats. However, the replacement boat barn was constructed instead approximately 60 feet to the south at a location closer to the river in an area two feet from coastal wetlands. The 1,158-square-foot unauthorized boat barn is smaller in size than the Commission-approved boat barn.

The subject application seeks to address the unpermitted boat barn development, other unpermitted development identified on the site by Commission staff, and additional new development, which is described in detail below.

## **B. CURRENT AMENDMENT REQUEST**

The applicant proposes the following development under the current permit amendment request: (1) dismantle and remove the 1,158-square-foot boat barn from its current, unauthorized location; (2) relocate and reconstruct said 1,158-square-foot barn to a site approximately 1,000 feet further east of the river and the existing unauthorized boat barn site; (3) remove a 650-square-foot portion of a 1,056-square-foot unauthorized deck attached to the east side of the lab building and authorize after-the-fact installation and retention of the remaining 400 square feet of the new deck; (4) construct an additional approximately 506 square feet of new decking along the northern portion of the lab building; (5) remove an unauthorized concrete brick retaining wall and unauthorized exterior light posts installed adjacent to the unauthorized decking; (6) install three new downcast shielded light fixtures on the exterior of the lab building; (7) authorize after-the-fact the placement and grading of approximately 42 cubic yards of road base/gravel fill within an existing overflow parking area adjacent to the northern side of the lab building; (8) authorize after-the-fact the installation of a 75-foot-long by 1-foot-wide gravel berm in between the gravel parking area and a stream course to the east; (9) authorize after-the-fact the installation of an approximately 120-square-foot equipment shed; (10) restore riparian vegetation along a portion of the stream east of the lab building where unauthorized tree removal occurred; and (11) restore 5,272 square feet of wetlands impacted by the placement of fill (woodchips) northwest of the lab building and 72 square feet of wetlands impacted by gravel fill south of the unauthorized boat barn (see **Exhibit No. 3**). Each aspect of the project is described in greater detail below.

**Boat Barn:** The applicant proposes to move the existing boat barn from its unauthorized location to a new location approximately 1,000 feet further east of the river and the existing unauthorized boat barn site, rather than move it to the location approved under the original CDP, which is 75

feet from the river. Following dismantling of the boat barn and reconstruction of the boat barn at the proposed new site, some minor additional improvements to the boat barn are proposed, including the addition of cedar siding, a door on its north side, and downcast lights placed on the north and east sides. The barn is used to store boats, canoes, kayaks, paddles, life jackets, and similar gear.

Decking, Retaining Wall, and Light Posts: The existing 1,056-square-foot deck on the east side of the lab building, an associated concrete brick retaining wall, and several freestanding 10-foot-tall light posts were constructed without the benefit of a permit adjacent to a riparian area that lines the unnamed stream. In 2006, a total of 20-30 mature alder trees were removed. According to the applicant, the trees were removed because they were thought to pose a hazard to adjacent structures. Unpermitted decking, a retaining wall, light posts, and a gravel berm that lines the overflow parking area north of the lab building were subsequently constructed. Under this permit amendment request, the applicant proposes to remove 650 square feet (10 feet wide) of unauthorized decking, but retain 400 square feet (6 feet wide) of decking to allow for legal fire escape and ADA access. In addition, the applicant has proposed to construct approximately 506 square feet (16 feet wide and 31'7" long) of new decking along the northern portion of the lab building. All decking would be positioned at a level approximately 2 ½ feet above ground level using a post and pier block foundation that will include approximately three steps. New exterior downcast lighting fixtures would be installed as exterior attachments to the north and east sides of the lab building.

Riparian Restoration: To compensate for the damage to the riparian area created by unauthorized tree removal as well as the unauthorized decking, retaining wall, and light posts described above, the applicant has prepared a Riparian Restoration Plan (see **Exhibit No. 6**). The plan involves removal of non-native blackberry and planting a mix of overstory, shrub, and understory species, including red alder, redwood, silk tassel, sword fern, and chain fern.

Gravel Fill: The applicant requests after-the-fact approval of the placement and grading of approximately 42 cubic yards of gravel fill within an existing approximately 8000-square-foot overflow parking area on the north side of the lab building without the benefit of a permit.

Gravel Berm: The applicant requests after-the-fact authorization of the construction of an approximately 6-inch-tall, 75-foot-long, 1-foot-wide low-relief gravel berm comprised of approximately 0.78 cubic yards of gravel material, along the eastern boundary of the parking area adjacent to the riparian area along the stream. The gravel berm would serve as a barrier to runoff from the parking area entering the stream course.

Equipment Shed: The applicant also requests after-the-fact authorization of the installation of a 120-square-foot equipment shed that was built adjacent to the northwest side of the lab building to store electrical equipment.

Wetland Restoration: The applicant proposes to use hand tools to restore approximately 5,272 square feet of wetlands impacted by the placement of woodchips northwest of the lab building and restore approximately 72 square feet of wetlands south of the existing boat barn in its

unauthorized location near the river that was impacted by the placement of angular gravel as part of the installation of the boat barn, as mentioned above.

### **C. ENVIRONMENTAL SETTING**

The Albion Field Station property consists of four parcels totaling approximately 17.5 acres. The main campus is comprised of approximately 13.5 acres situated at the bottom of a steep, east-west oriented valley, known locally as Happy Valley, which drains to the Albion River. The development under this permit amendment is limited to a smaller portion of the main campus area. The subject site is located adjacent to a tidally influenced portion of the Albion River, approximately ½ mile east of Albion Cove, where the river empties into the sea (**see Exhibit Nos. 1 & 2**). The Albion River, which is tidally influenced for approximately five miles upstream from the river mouth, supports federally listed northern California threatened steelhead (*Oncorhynchus mykiss*), central California coast threatened coho salmon (*Oncorhynchus kisutch*), and California coastal threatened Chinook salmon (*Oncorhynchus tshawytscha*). The project site also includes environmentally sensitive habitat areas (ESHA) southeast of the river consisting of: (1) an unnamed stream that drains to the Albion River flowing down the east-west-oriented valley adjacent to existing campus facilities; (2) red alder riparian areas adjacent to the unnamed stream; and (3) freshwater wetlands. The site is surrounded by Douglas fir forest covering the 200-300-foot-hill slope above the riparian area; as well as sword fern, thimbleberry, and brome grassland south of the proposed development.

The site is located within a designated “Highly Scenic Area” under the certified Mendocino County Local Coastal Program (LCP), and portions of the property are visible to motorists crossing the Albion Bridge (Highway 1), as well as to boaters and recreationists on the river itself.

### **D. STANDARD OF REVIEW**

The proposed project is located entirely within the coastal zone and includes areas within the retained CDP jurisdiction of the Commission and the CDP jurisdiction delegated to Mendocino County by the Commission through the County’s certified LCP. Under Coastal Act section 30601.3, when a project requires a CDP from both a local government with a certified local coastal program and the Commission, the Commission may process a consolidated CDP application for the proposed development when the applicant, the local government, and the Commission’s Executive Director agree to process the CDP as a consolidated CDP, provided that public participation is not substantially impaired. In this case, the applicant requested a consolidated permit process, and the Mendocino County Board of Supervisors adopted resolutions (Resolution Nos. 15-137 and 17-118) on September 8, 2015 and August 15, 2017 consenting to the request. The Executive Director has also agreed to process the CDP as a consolidated CDP.

The policies of Chapter 3 of the Coastal Act provide the legal standard of review for a consolidated CDP application submitted pursuant to section 30601.3, with the local government’s certified LCP used as guidance.

### **E. OTHER AGENCY APPROVALS**

The proposed project requires no other agency approvals other than a County building permit.

## **F. PROTECTION OF WATER QUALITY AND ESHA**

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 30107.5 of the Coastal Act states:

*“Environmentally sensitive habitat area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Section 30240 of the Coastal Act states:

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

As described in Finding IV-C above, the property is adjacent to the Albion River, which supports numerous federally listed northern California threatened fish species. Sensitive habitats along the river include lower salt marsh, upper salt marsh, soft rush marsh, and bulrush marsh. Located just north of the lab building is a riparian area that borders an unnamed tributary to the Albion River. Douglas fir forest (*Pseudotsuga menziesii*) covers the hillslope above the riparian area, which is dominated by an overstory of red alder and an understory mix of thimbleberry (*Rubus parviflorus*), coast hedge nettle (*Stachys chamissonis*), stinging nettle (*Urtica dioica*), giant horsetail (*Equisetum telmateia*), cow parsnip (*Heracleum maximum*), figwort (*Scrophularia*

*californica*), willow herb (*Epilobium ciliatum ssp. ciliatum*), musk monkeyflower (*Mimulus moschatus*), giant chain fern (*Woodwardia fimbriata*), and sword fern (*Polystichum munitum*). The unnamed tributary or stream may support river lamprey (*Lampetra ayresi*) (see **Exhibit No 3, pgs. 1-2**).

A biological report was completed for the project in 2017 (Spade Natural Resources Consulting, November 2017), and no rare species were documented to occur on the subject site. However, the biological report indicates that there is at least a low potential for environmentally sensitive habitat to exist on the property for three rare wildlife species. First, the biological survey indicates that there is potential roosting habitat for several species of special status bats in the area, including within the boat barn to be dismantled. The biological survey states that potential bat roost sites can change from year to year, so pre-construction surveys are usually necessary to determine the presence or absence of bat roost sites in a given area. Bats often are considered “keystone species” that are essential to ecosystem health due to “services” they may provide such as pollination, seed dispersal, soil enrichment (from guano), and/or insect consumption (including, in some cases, consumption of damaging agricultural pests).<sup>1</sup> Many species of bats, including those that occur in the project region, have a tendency to aggregate in colonies – hibernating colonies in the winter and maternity colonies (composed of adult females and their young) from spring through early fall. The entire population for a large area may be concentrated in a single roost. Many species of California bats commonly roost on or in anthropomorphic structures (e.g., bridges and buildings).

Bats use different roosts for different purposes, but common to all suitable roosting habitats are an appropriate temperature regime and protection from predators and undesirable weather.<sup>2</sup> Extra noise, vibration, increased lights, the reconfiguration of large objects, changes in humidity or temperatures, and changes in the approach to a roost that could force the animals to change their mode of egress and/or ingress to a roost all could cause significant disturbance to roosting bats.<sup>3</sup> As bats have a relatively low reproductive rate (most species have only one young per year, and females are often two years old before bearing their first young), impacts to a population can potentially be severe, as it can take a colony many years to recover from activities that cause mortality or even temporary reduced fecundity.<sup>4</sup> According to Bat Conservation International, bat populations are declining around the globe, largely as a result of human activity.<sup>5</sup> Because of the rarity of bats and the value of bats due to their role in the ecosystem combined with the fact that bat roosting areas can be easily disturbed or degraded by human activities and developments, bat roosting areas qualify as ESHA under the Coastal Act.

Second, the biological survey indicates the unnamed stream to the east of the lab building and the proposed location where the boat barn will be relocated may provide breeding habitat for the northern red-legged frog (*Rana aurora aurora*), a species of special concern, as well as other non-sensitive amphibian species. Although only the potential breeding habitat within the stream would be considered ESHA, the biological survey indicates that as northern red-legged frogs are

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<sup>1</sup> Bat Conservation International: <http://www.batcon.org/>.

<sup>2</sup> H.T. Harvey & Associates et al. 2004.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Bat Conservation International: <http://www.batcon.org/>.

known to travel over land up to a mile between breeding locations, individual frogs may transit through adjoining upland areas such as the project site. Third, the biological survey indicates that the Douglas fir forest, located to the north, east, and south of the project area along the slopes of the valley on the opposite side of the unnamed stream, may be suitable habitat for the Sonoma tree vole (*Arborimus pomo*), a species of special concern. The Sonoma tree vole range extends along the coast from Sonoma County northward through Humboldt County. Sonoma tree voles live in the tree canopy and are thought to have limited dispersal capabilities.

Finally, the biological survey notes that numerous other non-rare wildlife species may inhabit the project area. For example, nesting habitat for several bird species may be present on or near the property. Although the nesting habitat for such bird species is not considered ESHA, the biological survey nonetheless offers recommendations for protection of bird nesting habitat.

### **Proposed Development Within ESHA [Section 30240(a)]**

Due to its constrained location within a narrow steep-sided valley that extends east of the Albion River, the entire project is within or in close proximity to coastal waters and environmentally sensitive wetland and riparian habitat areas. Although most of the development is located outside of environmentally sensitive habitat areas (ESHA), some habitat restoration work is proposed within ESHA, including: (1) the hand removal of woodchips from 5,272 square feet of bulrush marsh using handheld rakes and wheelbarrows, (2) removal of gravel from 72 square feet of wetlands south of the existing boat barn using hand tools, and (3) riparian habitat restoration along the stream east of the lab building. Furthermore, the development would also include development within ESHA if the boat barn contains roosting bat habitat at the time when the boat barn will be dismantled and relocated. Under section 30240(a) of the Coastal Act, for any aspect of the development within wetland and riparian ESHA, the Commission must evaluate whether these portions of the proposed development are for a resource-dependent use. In addition, the Commission must find that the proposed development within ESHA will be undertaken in a manner that protects against significant disruption of ESHA habitat values.

Resource Dependent Uses. As noted above, the applicant is proposing to restore two wetland areas impacted by unauthorized fill placement (wood chips and gravel) and to restore riparian vegetation impacted by unauthorized tree removal, with the objectives of restoring the ESHA to conditions that existed prior to disturbance. These restoration activities are proposed in separate wetland and riparian restoration plans. Each restoration plan is described below.

Wetland Restoration Plan. The applicant has prepared a Wetland Restoration Plan (Spade Natural Resources Consulting, dated June 13, 2014, **Exhibit No. 5**) for the proposed restoration work within the 5,272-square-foot wood chip removal area along the river shoreline northwest of the lab building and the 72-square-foot gravel removal area south of the boat barn in its existing unauthorized location. Specific wetland restoration plan components include: (1) careful, low-impact collection of community appropriate native seeds and proper preparation and storage of said seeds from intact on-site wetlands for restoration efforts; (2) careful, low-impact thinning of on-site community appropriate native plants, to be potted and properly cared for until transplanting occurs; (3) seeding, transplanting, and stabilization of bare soils; (4) regular maintenance and monitoring of restored areas, including watering and weeding as required, and reseeded and replacement of native plants as needed until plants are well-established and goals

are achieved; and (5) quarterly reporting of restoration progress until goals have been achieved. The plan will be implemented by collecting seeds from wetlands with guidance from a professional field ecologist trained in the identification of native wetland plant species with expertise in seed collection, preparation and storage. Seeds will be collected during the appropriate time of year and collection will occur by hand and at least 50% of each seed type will remain to ensure continued replenishment. Seeds will be collected into separate paper bags and clearly labeled before they are transferred to drying screens for cleaning, drying, and subsequent storage prior to usage for plantings.

Hand held rakes will collect fill materials (woodchips and gravel) to be removed by carefully raking around the base of native plants to avoid damage. Invasive plants, such as poison hemlock (*Conium maculatum*), Italian thistle (*Carduus pycnocephalus*), purple velvet grass (*Holcus lanatus*), perennial ryegrass (*Festuca perennis*) and curly dock (*Rumex crispus*), will be removed using gloved hands by pulling plants out of the base. Fill materials and invasive plants will be placed in a wheelbarrow and subsequently brought to a pickup truck located within the existing parking area or roadway to be transported to an approved disposal facility.

Planting will occur in areas where fill and invasive plant removal has resulted in bare soil. The proposed plantings in bulrush marsh areas include small fruited bulrush (*Scirpus microcarpus*), water parsley (*Oenanthe sarmentosa*), rigid hedge nettle (*Stachys rigida*), cinquefoil (*Potentilla anserina*), and common bog rush (*Juncus effusus*). The proposed plantings in the wetlands impacted by gravel fill adjacent to the existing boat barn location include giant horsetail (*Equisetum temateia*) and rigid hedge nettle (*Stachys rigida*). All plantings will occur in late fall at the onset of seasonal rains. The restoration areas will be covered with a protective mesh barrier to prevent bird predation, and temporary fencing will be placed around the perimeter to prevent trampling. The restoration areas will be inspected twice a week for the first month for watering and to ensure mesh and fencing are maintained, afterwards monitoring will occur on a weekly or biweekly basis. Protective mesh will be removed after the first month and protective fencing will be removed in the following spring. Reseeding and replanting will occur as needed on an annual basis until goals are achieved.

The wetland restoration will be deemed successful once the following success criteria have been met: (1) gravel and woodchip fill materials have been removed and are no longer apparent in the impact areas; (2) habitat enhancement is apparent; (3) total native plant cover is increased from 77% to a minimum of 90% and absolute plant cover increases from 65% to 100% in bulrush marsh areas; and (4) total native plant cover is increased from 82% to 90% and 100% absolute plant cover is achieved in the disturbed wetlands adjacent to the unauthorized boat barn. Reports will be sent to Coastal Commission staff on a quarterly basis in April, July, October, and January until the success criteria has been met.

Riparian Restoration Plan. The purpose of the riparian planting is to replace the trees removed along the stream east of the lab building without the benefit of CDP authorization in 2006. Twenty to thirty mature alder trees within the riparian area were removed because they were thought to pose a hazard to adjacent structures. The applicant proposes to restore vegetation to the riparian ESHA affected by the unauthorized tree removal using a mix of regionally appropriate native species both compatible with and providing cover to the adjacent stream and,

due to the siting of the restoration area adjacent to an existing structure, also compatible with CalFire regulations for defensible space

As described in **Exhibit No. 6**, species to be planted within the overstory and shrub layer will be a mix of coast redwood (*Sequoia sempervirens*), red alder (*Alnus rubra*) and silk tassel (*Garrya elliptica*). Sword fern (*Polystichum munitum*) and/or giant chain fern (*Woodwardia fimbriata*) will be planted in the understory where vegetation gaps are present once the trees are large enough to provide shade (approximately two years after they are planted). Regular watering will occur during the dry season for the first year as needed. Non-native blackberry (*Rubus armeniacus*) will also be removed by hand to accommodate the plantings. Dead or dying plants will be replaced and additional trees and ferns will be planted after three years as needed to fill areas where gaps exist. For the life of the project, the applicant proposes to maintain riparian trees and shrubs in accordance with CalFire standards, which may require removal and thinning for fire safety purposes. Branches within ten feet of any existing structure will be trimmed as the trees grow. Any dead or dying trees will be removed and replaced at a ratio of 1:1, for the life of the project (see **Exhibit No. 6, pg. 4**). Pursuant to Special Condition No. 26-B, any riparian vegetation maintenance that is not exempt under Public Resources Code section 30610(d) and Title 14 California Code of Regulations section 13252(a)-(b) will require coastal development permit authorization. The riparian restoration will serve to restore the disturbed area and enhance the natural vegetation buffer area that protects the unnamed stream, which will limit the potential for adverse water quality impacts to the unnamed stream.

The Commission finds that the proposed wetland and riparian restoration work is inherently designed to achieve the enhancement of the ESHA, and the proposed planting and invasive removal activities within the ESHA are designed exclusively for the benefit of the ESHA. Because the proposed enhancement activities are inherently dependent upon the presence of ESHA, the proposed restoration plans constitute a use dependent on the resources of the ESHA consistent with the use requirements of section 30240(a) of the Coastal Act. This finding that the proposed wetland and riparian restoration work constitutes “a use dependent on the resource” is based, in part, on the assumption that the proposed wetland and riparian restoration plans will be successful in restoring the wetland and riparian habitat as proposed and increasing habitat values. Should the wetland and riparian restoration activities be unsuccessful, or worse, if the proposed wetland and riparian restoration activities actually result in long-term degradation of the wetland and riparian habitat, the proposed wetland restoration activities would not be for “a use dependent on the resource.”

Although the proposed riparian restoration plan is generally appropriate to restore the impacted riparian ESHA resulting from the unauthorized tree removal and other unpermitted development, in some cases the plan lacks sufficient detail to ensure that the riparian ESHA will be restored and the restoration work will be successful and is conducted in a manner that will avoid significant disruption of habitat values. For example, no details are provided in the riparian restoration plan related to the proposed planting schedule, monitoring, or success criteria. These details are necessary to ensure successful restoration consistent with section 30240(a) of the Coastal Act. Therefore, new **Special Condition No. 28** requires the permittee to submit a revised riparian restoration plan for the review and approval of the Executive Director with necessary additions, including: (1) a schedule for riparian restoration; (2) a minimum 5-year monitoring

period; (3) final success criteria that includes, at a minimum (a) at least 80% native vegetative cover and (b) no more than 10% non-native vegetative cover; (4) annual monitoring reports; and (5) specific instructions for the final monitoring report. If the final monitoring report indicates that the restoration project has been unsuccessful, in part, or in whole, a revised plan or supplemental restoration plan must be submitted to compensate for those portions of the original plan that were unsuccessful. Furthermore, Special Condition No. 28 requires riparian restoration work to be performed consistent with the approved final restoration plan unless the applicant obtains a permit amendment or the Executive Director determines no amendment is legally required.

As discussed above, the applicant has prepared a wetland restoration plan for the project that identifies success standards, monitoring and reporting methods, and an implementation schedule. The plan as proposed includes the necessary elements to ensure it can be implemented. **Special Condition No. 27** requires the applicant to implement the wetland restoration plan as proposed. Although the riparian restoration plan with the modifications required by Special Condition No. 28 as described above and the wetland restoration plan as proposed should be successful, the results cannot be guaranteed. Therefore, to ensure that the proposed restoration plans will achieve the objectives for which they are intended, Special Conditions Nos. 27 and 28 include provisions for remediation if the monitoring after five years indicates that the identified objectives have not been achieved. The conditions require that the permittee submit revised or supplemental restoration plans to compensate for those portions of the original plans that do not meet the approved success criteria. The revised restoration plans must be submitted as permit amendments unless the Executive Director determines that the proposed changes do not legally require an amendment.

The Commission finds that the proposed wetland and riparian restoration activities as conditioned, are permissible within ESHA under section 30240(a) as a use dependent on the resource.

Although not intended, the amended development would also include development within ESHA if the boat barn contains roosting bat habitat at the time the boat barn is dismantled and relocated. As discussed above, the biological survey did not document the presence of any bat species at the project site, but indicates that potential bat roost sites can change from year to year, and the boat barn to be dismantled could provide potential roosting habitat for several species of special status bats. The biological survey states that because the roosting sites can change, pre-construction surveys are usually necessary to determine the presence or absence of bat roost sites in a given area unless construction would occur during the two months of September and October when roosting bats would not be present. Bat roosting does not occur during those two months because young bats born during the nesting season mature and fledge prior to September 1, and the winter hibernation period for bats does not begin until after October 31. The biological report states that pre-construction surveys for bats do not need to be performed if work within potential bat roosting sites is conducted between September 1 and October 31, after young have fledged and prior to the bat hibernation period.

Development related to relocating a boat barn structure for the storage of small watercraft and other equipment is clearly not a use that must be located within, or is otherwise dependent on the

presence of sensitive bat roosting habitat or other ESHA. Therefore, relocation of the boat barn would not be consistent with section 30240(a) if sensitive bat roosting habitat is present in the boat barn at the time of relocation. To ensure that demolition activities would avoid bat roosting habitat, the Commission attaches new **Special Condition No. 25**. This condition requires the permittee to either limit the boat barn demolition activities to the period between September 1 and October 31 when roosting bats would not be present, or perform demolition at other times of the year only after pre-demolition bat roosting surveys are conducted that document that roosting bats are not present. The special condition also requires that the surveys performed under the second options be performed by a qualified biologist with experience surveying for bat roosts and experience conducting habitat assessments for bats, and that the survey results be submitted to the Executive Director no later than 10 days prior to commencement of the authorized dismantling work. In addition, if roosting bats are encountered in the boat barn to be dismantled, dismantling activities must not commence until an additional survey performed by the qualified expert documents that the roosting bats have left the roost.

Protection Against Significant Disruption of Habitat Values. As discussed above, any development within ESHA must protect against any significant disruption of habitat values. Although designed to enhance and restore wetland and riparian ESHA, the proposed wetland and riparian restoration activities could result in significant disruption of habitat values of the wetland, riparian, and frog breeding habitat where these activities will occur if not carefully implemented. As discussed below, certain conditions are attached to the proposed development to ensure the amended development does not result in significant disruption of habitat values.

Due to the potential for migrating northern red-legged frogs to be present within the restoration areas, the applicant has proposed protection measures for frogs during the course of the proposed restoration work. The applicant proposes to provide pre-construction training to contractors by a qualified biologist on how to identify and avoid northern red-legged frogs prior to and during construction, as well as how to proceed if a frog is encountered. If a special status frog is detected, construction crews will stop ground disturbance and contact the California Department of Fish and Wildlife (CDFW) who would need to provide clearance before work could be reinitiated and for concurrence with protective measures. **Special Condition No. 22** requires implementation of these red-legged frog protection measures proposed by the applicant to ensure that the wetland and riparian restoration activities within the wetland and riparian ESHA do not result in significant disruption of red-legged frog ESHA habitat values.

To prevent degradation of water quality within the wetlands and riparian areas during restoration activities, the applicant proposed several Best Management Practices (BMPs) to be implemented during the course of the restoration work. These BMPs include (1) limiting staging to the existing gravel parking area; (2) removing and disposing of materials at an authorized disposal facility; and (3) if rain occurs during the ground disturbance period, ceasing construction and not resuming construction for a period of 48 hours after the rain stops. Special Condition No. 22 requires implementation of these BMPs proposed by the applicant to ensure that the wetland and riparian restoration activities within the wetland and riparian ESHA do not result in significant disruption of ESHA habitat values because of water quality degradation.

The Commission further finds that the ESHA habitat values at the project site could be significantly disrupted if non-native, invasive plant species were introduced during revegetation activities. Introduced invasive exotic plant species could spread through the ESHA and displace native wetland vegetation, thereby significantly disrupting the values and functions of the ESHA. The applicant is not proposing any non-native revegetation as part of the proposed project, but rather is proposing to plant regionally appropriate native species adjacent to the stream and in areas where invasive species removal is proposed (such as wetlands). To ensure that the ESHA adjacent to the site is not significantly degraded by any future landscaping that would contain invasive exotic species, the Commission attaches new **Special Condition No. 23**, which requires that (1) revegetation be implemented according to the approved final wetland and riparian restoration plans required by new **Special Condition Nos. 27 and 28**; (2) only native plant species be planted in the proposed restoration areas; and (3) all proposed planting be completed as soon as possible and by no later than the end of the first full optimal planting season that occurs after completion of construction. Areas of disturbed soil are especially vulnerable to invasive non-native plant species. Revegetating disturbed areas with native vegetation as soon as possible after disturbance will help prevent competing invasive plants from gaining an early foothold in the disturbed areas to the exclusion of native vegetation. Furthermore, new **Special Condition No. 22-B** requires that only certified weed-free straw mulch be used for erosion, sediment, and runoff control purposes to avoid the inadvertent introduction of non-native plant species to surrounding environmentally sensitive areas. Compliance with the applicable requirements of Special Condition Nos. 22-B and 23 will help ensure that the wetland and riparian restoration activities within the wetland and riparian ESHA do not result in significant disruption of ESHA habitat values from invasive species that displace native ESHA vegetation.

Revegetation efforts can sometimes cause unintended consequences to wildlife that can cause significant disruption of habitat values. To help in the establishment of vegetation, rodenticides are sometimes used to kill rats, moles, voles, gophers, and other similar small animals to keep them from eating the newly planted saplings. Certain rodenticides, particularly those utilizing blood anticoagulant compounds such as brodifacoum, bromadiolone and diphacinone, have been found to pose significant primary and secondary risks to non-target wildlife present in urban and urban/wildland areas. As the target species are preyed upon by raptors or other environmentally sensitive predators and scavengers, these compounds can bio-accumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species. Therefore, to minimize this potential disruption of ESHA habitat values, new **Special Condition No. 23-D** prohibits the use of specified rodenticides on the property governed by CDP No. 1-06-018-A1.

#### **Proposed development adjacent to ESHA [Section 30240(b)]**

In addition to proposed development within wetland and riparian ESHA, there are several proposed project elements that will occur in areas adjacent to ESHA, including: (1) dismantling the boat barn in its current unauthorized location and relocating it 1,000 feet further east of the river; (2) removal of unpermitted decking; (3) after-the-fact retention of decking on the eastern portion of the lab building; (4) adding new decking along the northern portion of the lab building; (5) removal of the retaining wall and light posts; (6) after-the-fact retention of the equipment shed; (7) after-the-fact retention of the gravel placement area; and (8) after-the-fact retention of the gravel berm (see **Exhibit No. 3**). For these proposed project elements, the Commission must find that the development is designed to prevent impacts that would

significantly degrade adjacent ESHA and will be compatible with the continuance of the riparian ESHA.

### Boat Barn

As discussed previously, the scope of work under this permit amendment request includes dismantling the existing boat barn in its unauthorized location and reconstructing it on a different portion of the property. The boat barn would be placed on a flat gravel surface currently being used for driveway access and RV parking that does not provide habitat value for wildlife. The proposed new boat barn location is set back further from the Albion River (set back over 1,000 feet from the river versus 75 feet as approved under the original permit). However, the new boat barn location will be setback only approximately 12 feet from the unnamed coastal stream along the southeast side of the valley (8 feet from the riparian dripline). The applicant completed a boat barn placement alternatives analysis that addresses the preferred sizing and location of the boat barn with respect to potential impacts on adjacent ESHA. Alternatives evaluated include the options of relocating the boat barn to the Commission-approved location under the original permit, keeping the boat barn in its current unauthorized location, and relocating the boat barn to the location proposed under this CDP amendment (see **Exhibit No. 7**). Given the narrowness of the valley within which the Albion Field Station is located and the relatively dense pattern of existing development at the site, no other alternative sites have been identified for the boat barn.

All three of the alternatives involve rebuilding the boat barn at the size of the existing boat barn, which is substantially smaller than the size of the boat barn approved under the original permit. The Commission approved a 6,600-square-foot boat barn north of the lab building. The unauthorized as-built boat barn is 1,158 square feet and the applicant states that the size cannot be further reduced. The applicant states that the existing boat barn is already too small to store the existing fleet of watercraft on site, which would require a minimum 1,300-square-foot structure, but that the smaller size is sufficient as long as kayaks are stacked.

The alternatives analysis concludes that the proposed siting of the boat barn is the least environmentally damaging feasible alternative for protecting adjacent ESHA from significant degradation for several reasons. First, because the site of the existing unauthorized boat barn is only 2 feet from freshwater wetlands, there is a greater potential for ongoing wetland impacts to adjacent ESHA than under the proposed alternative. Second, relocating the boat barn from its existing unauthorized site to the location approved under the original permit would also result in a smaller river ESHA buffer than that proposed under the current amendment request (75 feet instead of approximately 1,000 feet). In addition, the boat barn location approved under the original permit would affect a much greater expanse of ESHA than the currently proposed location along a portion of the unnamed stream, as the originally approved location is not only adjacent to the stream, but adjacent to the river as well. Therefore, the Commission finds that the proposed alternative location 1,000 feet further away from the Albion River and 8 feet from the riparian dripline has the least potential for causing significant degradation of adjacent ESHA.

Development of the boat barn near the wetland and riparian ESHA of the unnamed stream has the potential to degrade the water quality of the stream, inconsistent with the requirements of Coastal Act sections 30230 and 30231. As proposed, the amended development includes measures to minimize water quality impacts. The applicant's proposal includes a plan to manage

stormwater runoff by directing it away from the stream toward an existing ditch on the upslope side of the road. Other BMPs proposed for boat barn and other construction work include (1) conducting work during the dry season; (2) placing straw wattles between the boat barn and the stream during all ground-disturbance activities; (3) stabilizing areas of disturbed soil with native plant reseeding as soon as possible after disturbance; (4) removing and disposing of materials at an authorized disposal facility; (5) fueling equipment only on the site's paved areas and using cloth rags to absorb any leaked fuel or oil during the fueling process, and (6) restricting construction staging to upland areas.

While the applicant's proposed measures will help protect the adjacent ESHA (including the unnamed stream) from significant degradation from water quality impacts, conditions are needed to ensure that the applicant follows through on its commitment to implement the various measures. In addition, certain additional measures are needed to ensure that the project as implemented prevents impacts that would significantly degrade surrounding ESHA, and is compatible with the continuance of surrounding habitat areas, and maintains the biological productivity and quality of coastal waters, streams and wetlands. Therefore, the Commission attaches new **Special Condition No. 22** to ensure that the project implements erosion and runoff control protection measures during construction, including measures proposed by the applicant and several additional measures proposed by the Commission. These additional requirements include (1) not allowing construction equipment and materials to be placed in wetlands and using precautions to prevent accidental spills; (2) containing and covering all stockpiles of construction debris, soil and related materials to prevent polluted water runoff from the site; (3) proper containment, removal and disposal of trash and debris resulting from construction activities to avoid contamination of habitat; (4) requiring equipment fueling and maintenance to be off-site, if feasible, or in an area designed to contain spills of contaminants located away from coastal waters, drainage courses, and storm drain inlets; (5) minimizing land disturbance and soil compaction during construction to avoid the potential for increased erosion; (6) requiring disturbed areas to be appropriately stabilized and revegetated with native seed mixes and prohibiting the use of invasive plants. Special Condition No. 22 also requires compliance with the protective measures outlined in the following documents submitted by the applicant: (1) the "East BMP and Stormwater Plan" for the new boat barn, dated February 22, 2019 and received on July 11, 2019 (referenced on page 1 of **Exhibit No. 4**); (2) the Grading and BMP Plan, received on May 20, 2019 (referenced on page 2 of **Exhibit No. 4**); and (3) the avoidance measures contained in the Botanical Survey and Biological Scoping Survey, dated November 1, 2017.

As proposed, the project proposes to use manufactured straw wattles as "temporary" erosion and sediment control measures during construction (see **Exhibit No. 4**). Plastic netting used in these and similar products (e.g., mulch control netting, erosion control blankets, fiber rolls, and reinforced silt fences) have been found to entangle wildlife, including reptiles, amphibians, birds, and small mammals. Although erosion and sediment control products classified as temporary are designed to degrade after a period of time, several temporary erosion and sediment control products with netting – such as mulch control netting, erosion control blankets, and fiber rolls – are commonly left in place permanently, particularly when used with seeding. The length of time it takes for netting to begin to degrade depends on the netting composition and the environmental conditions, but the netting can remain intact many years after installation. When plastic netting

does eventually fall apart, plastic fragments may be blown or washed into waterways and the ocean, creating an entanglement and ingestion hazard for marine life, potentially for many years. Due to its durability, buoyancy, and ability to concentrate toxins present in the ocean, plastic can be very harmful to marine life. The applicant's biological evaluation identified potential habitat for several sensitive wildlife species on the site that could become entangled in the plastic netting, and, as discussed, the site is in close proximity to the Albion River, which is host to sensitive salmonids and other marine organisms. To find the project consistent with sections 30230 and 30231, the Commission therefore attaches additional construction responsibilities in **Special Condition No. 22-B** that include, among other requirements, a prohibition on the use of temporary rolled erosion and sediment control products with plastic netting to minimize the potential for wildlife entanglement and plastic debris pollution. The condition also requires that any erosion control associated netting shall be made of natural fibers and constructed in a loose-weave design to reduce the potential for small animal entrapment and avoid leaving a residue of plastic in the environment upon degradation of the material.

The boat barn is designed to minimize human disturbance to wildlife that may be using the adjacent stream. The large openings of the boat barn through which the small watercraft will be moved in and out of the structure are oriented westward towards the existing road instead of northward towards the stream. This building orientation avoids the need for vehicles towing or hauling the watercraft to access the streamside of the boat barn. In addition, the wall of the boat barn facing the stream will not have any windows that could allow noise, light, and human motion to disturb wildlife that might be utilizing the stream. The only opening in the wall is for a small doorway to provide safe entry and exit for people separate from the vehicle entrance to the boat barn. There is insufficient room to locate the doorway on the opposite side of the boat barn as the south side of the boat barn is tucked up against the hillside. In addition, there would be no advantage to locating the doorway on the east side of the building as people using the doorway would still need to traverse around the stream side of the building to access the doorway.

The applicant proposes several specific mitigation measures to further avoid disturbance of wildlife using the wetland and riparian ESHAs along the stream. As discussed above in relation to the wetland and riparian restoration work within the ESHA, the applicant proposes various measures to avoid disturbance of northern red-legged frogs traveling between breeding habitats within the stream. These measures will also be applied to the development proposed outside of the wetland and riparian ESHA, including the reconstruction of the boat barn in its new location. In addition, the applicant proposes to avoid dismantling the boat barn if roosting bats are present and avoid construction during the bird breeding season. If complete avoidance of the bird nesting season is not possible, the applicant proposes to have a qualified biologist perform pre-construction breeding bird surveys and delay construction in any area where bird nests are found until after the young birds have fledged.

The applicant also proposes various measures to protect the Sonoma tree vole. As mentioned above, the biological survey conducted for the proposed amendment did not detect any Sonoma tree vole ESHA on the subject site. However, the biological survey identifies potential habitat for the vole in the Douglas fir forest surrounding the project site. This state-listed special of special concern is known to occur in the tree-tops of Douglas fir trees and feed on the needles and twigs of Douglas fir trees and other conifers. Although the voles are believed to have limited dispersal

capabilities below the forest canopy, they are known to be sensitive to high noise levels. The biological report states that:

“If noise impacts are required during construction that are significantly above time periods and/or levels currently experienced within the project area, there may be potential to disturb Sonoma tree voles with potential to be nesting in areas as close as 40 feet to the project area. If during the relocation of the boat barn, chainsaws, bulldozers, pile drivers or similar high level noise producing equipment is expected to be used for any period longer than ½ hour, a pre-construction survey should be conducted by a qualified biologist within 300 feet of the project area for Sonoma tree vole. If tree voles are found, the Department of Fish and Wildlife should be notified and avoidance measures as determined by the Department of Fish and Wildlife should be followed.”

It's unclear whether the project will result in a high level of noise exceeding the 30-minute threshold identified by the applicant's biological consultant as having the potential to impact Sonoma tree vole nests in the vicinity of the site. The applicant has not proposed the use of bulldozers or pile drivers as part of the project, though electric saws and other noise-producing equipment may be used. It's also unclear what the proposed avoidance measures would be if the applicant undertakes the vole survey. To ensure that any Sonoma tree vole ESHA that may be present adjacent to the project area will be protected from significant disruption of habitat values as proposed, the Commission attaches new **Special Condition No. 24**. This condition requires the applicant to not use high level noise-producing equipment for any cumulative period longer than half an hour each day unless a pre-construction survey for Sonoma tree voles is conducted by a qualified biologist with survey results submitted to the Executive Director no later than 10 days prior to commencement of construction. If Sonoma tree vole habitat is encountered within 300 feet of authorized development, no high-level noise-producing equipment shall be used until the applicant prepares a Sonoma tree vole habitat avoidance plan, the plan is processed as an amendment to CDP No. 1-06-018 (unless the Executive Director determines that no amendment is legally required), and the amendment (if legally required) authorizes the use of such equipment. The review of such amendment application will allow the Commission to determine whether the avoidance measures proposed in the plan will be sufficient to avoid impacts that would significantly degrade the adjacent Sonoma tree vole habitat consistent with section 30240(b).

Additionally, if not restricted, exterior lighting associated with the boat barn development could adversely affect nocturnal wildlife using the adjacent wetland and riparian habitats. For example, many species avoid areas with excessive lighting, and some species simply stop reproducing if habitat destruction from overly bright lights becomes too severe. To ensure that exterior lighting does not significantly degrade the adjoining ESHA, the Commission attaches new **Special Condition No. 29**, which requires that the lighting be downcast and shielded. Although the applicant has proposed to use only downcast and shielded exterior lighting on the new boat barn structure and the existing lab building, these limitations on the lighting specified in Special Condition No. 29 will ensure that the project, as conditioned, will not cast light that would be harmful to wildlife using the nearby sensitive habitats.

### Decking and Associated Lighting

As previously mentioned, the site includes an unpermitted 1,056-square-foot deck along the eastern edge of the lab building in close proximity to the riparian area. The applicant has proposed to remove a 650-square-foot portion of the unauthorized decking, but retain 400 square feet of the decking (after-the-fact) to allow for ADA access in and out of the building. The applicant has also proposed construction of 506 square feet of new decking along the northern edge of the lab building. The unpermitted retaining wall and light posts adjacent to the unpermitted decking would also be removed. In addition, the applicant proposed three new downcast light fixtures that would be affixed to the exterior walls of the lab building (see **Exhibit 3, pg. 2**). Since the light posts, retaining wall and portions of the decking will be removed, the proposed decking footprint will result in a larger riparian ESHA buffer. The resulting after-the-fact deck would be 17 feet from the closest edge of the riparian area and its associated stream, which is the largest possible buffer that would still allow for ADA access. The new deck is in an area used for parking and storage and provides an even larger buffer to nearby ESHA. All decking will be approximately 2 ½ feet raised above ground using a post and pier block foundation. In addition, the decking will not cause increased runoff because there are slats in the deck that allow water to permeate the soil directly beneath the deck (see **Exhibit No. 3, pg. 4**). Straw wattles will be placed within areas subject to ground disturbance during construction to protect riparian/stream features. Staging will be within the parking area and straw wattles would serve as a barrier between the development and ESHA (see **Exhibit No. 4**). The applicant has proposed to store paintbrushes and containers used to apply deck finishing in a refuse container and to wash paintbrushes and containers inside existing structures to avoid the potential for pollutants that could enter the stream (enforced by **Special Condition No. 22-A-iv**). As previously discussed, **Special Condition No. 22-B-iii** prohibits the use of temporary rolled erosion and sediment control products with plastic netting to minimize the potential for wildlife entanglement and plastic debris pollution. **Special Condition No. 22-A-v** requires staging and work areas be limited to only those areas identified in **Exhibit No. 4**. As discussed above, the applicant proposes various measures to avoid disturbance of northern red-legged frogs traveling between breeding habitats within the stream. These measures will apply to the proposed deck improvements. Additionally, the applicant proposes various measures to avoid disturbance of potential Sonoma tree vole habitat within the Douglas fir forest on the hillside north and east of the lab building, and the forest located south of the existing boat barn. As modified and augmented by the requirements of **Special Condition No. 24**, the Sonoma tree vole protection measures will avoid impacts from construction of the deck improvements that would significantly degrade the adjacent Sonoma tree vole habitat consistent with section 30240(b). **Special Condition No. 29**, as discussed in greater detail above, will ensure that the exterior lighting proposed for the existing lab building is downcast and shielded to avoid casting light in a manner that could significantly degrade the adjoining wetland and riparian ESHA.

### Gravel Parking Area, Gravel Berm, and Equipment Shed

The applicant proposes to retain the gravel berm, the gravel placed on the overflow parking area, and an equipment shed, all constructed/placed without the benefit of CDP authorization. The gravel berm is a relatively small hump at 6 inches in height above the parking lot surface, located approximately 5 feet from the adjacent stream ESHA. Since it was first constructed without CDP authorization in 2012, the berm has become vegetated with species similar to the adjacent

riparian area (see **Exhibit No. 8, pg. 1**). The berm was constructed when the applicant improved the overflow parking area by leveling the ground and placing gravel to form the berm. The overflow parking area is graveled flat and partially vegetated with grasses and ruderal, low-growing vegetation. The gravel berm helps delineate the edge of the parking lot while serving the purpose of keeping stormwater from directly flowing into the stream from the parking area. The after-the-fact shed is a replacement shed for equipment and is approximately 50 feet from ESHA. The Commission finds that the placement of gravel in the overflow parking area, the gravel berm adjacent to the parking area, and the equipment shed is consistent with section 30240(b), because as constructed these project elements are sited and designed to prevent impacts that would significantly degrade the adjacent stream ESHA.

The Commission notes that future additions to the boat barn, deck improvements, and equipment shed could be sited and designed in a manner that would compromise the value of the wetland and riparian buffers and have potential adverse impacts on the various kinds of adjacent ESHA that exist at the site. Many of these kinds of development are normally exempt from the need to obtain a CDP under section 30610(b) of the Coastal Act and the Commission would not normally be able to review such development to ensure that impacts to sensitive habitat are avoided. However, to avoid such impacts to coastal resources from the development of otherwise exempt additions to existing structures, section 30610(b) required the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to section 30610(b), the Commission adopted section 13253 of Title 14 of the California Code of Regulations (CCR), which specifically authorizes the Commission to require a permit for additions to existing structures that could involve a risk of adverse environmental effect by indicating in the development permit issued for the original structure that any future improvements would require a CDP. As noted above, certain additions or improvements to the approved to the boat barn, deck improvements, and equipment shed could involve a risk of adverse impacts to the ESHA on the site. Therefore, in accordance with provisions of section 13253(b)(6) of Title 14 of the CCR, the Commission attaches new **Special Condition No. 26**, which requires a CDP or a permit amendment for all additions and improvements to the boat barn, deck improvements, and equipment shed on the subject parcel that might otherwise be exempt from coastal permit requirements. This condition will allow future development to be reviewed by the Commission to ensure that future improvements will not be sited or designed in a manner that would result in adverse impacts to the ESHA on or adjacent to the site. **Special Condition No. 30** is also added to require recordation of a deed restriction for the property that will include recordation of the conditions of this CDP, as amended, so that future property owners are aware of the limitations and restrictions that pertain to the property as conditioned by the Commission.

In conclusion, the development proposed in ESHA under this permit amendment request, including wetland and riparian restoration, is a resource-dependent use, which, as conditioned will be undertaken in a manner that protects against significant disruption of ESHA habitat values, consistent with section 30240(a) of the Coastal Act. The development proposed adjacent to ESHA, including (1) the dismantling and relocation of the existing unauthorized boat barn; (2) the construction and siting of the proposed new boat barn with minor improvements; (3) the removal of decking, retaining wall, and light posts; (4) after-the-fact and new decking; (5) the equipment shed; (6) the gravel placed in an existing parking area; and (7) the gravel berm, has

been conditioned and designed to prevent impacts that would significantly degrade adjacent ESHA and is compatible with the continuance of those areas, consistent with section 30240(b) of the Coastal Act. Furthermore, as conditioned, all components of the project as amended will maintain marine resources and the biological productivity and quality of coastal waters and wetlands, minimize adverse effects of wastewater discharges and entrainment, and control runoff, consistent with sections 30230 and 30231 of the Coastal Act.

## **G. VISUAL RESOURCES**

Section 30251 of the Coastal Act states the following:

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

The project site is partially visible to motorists crossing the Albion River Bridge (Highway 1) and from limited vantage points along Albion Little River Road and Albion River North Side Road on the bluff along the opposite side of the river from the Albion Field Station. The view of the area is characterized by the wood trestle bridge itself, the steep forested valley walls extending up the Albion River estuary, and the quaint hillside village of Albion. Boaters traveling along the Albion River can also see development on the site.

As the project site is located on the east side of Highway 1, the amended development will not obstruct any views to or along the ocean afforded on the west side of the highway. As discussed below, the amended development will also not obstruct views of the highly scenic area inland of Highway 1, and in fact will to some extent will expand views of the scenic coastal area inland of the highway by relocating the boat barn to a location 1,000 feet further away from the river where it does not partially obstruct views of the natural setting from public vantage points. In addition, the amended development as sited and designed will not result in the alteration of natural landforms. The amended development does not involve any significant grading and would not alter the shape and form of the hillsides, riverbank, or adjacent floodplain areas.

The project site is within a designated Highly Scenic Area under the Mendocino County certified LCP. As sited and designed, the amended development will be subordinate to the character of its setting. The proposed new location for the boat barn is largely hidden from public view and the boat barn is substantially smaller (by one third) than the Commission-approved boat barn under the original permit. As proposed and conditioned, the boat barn would blend with the natural surroundings and be consistent with the materials of other surrounding structures on the campus. The site is planned and zoned Fishing Village (FV) in the Mendocino LCP, which allows a

maximum building height of 35 feet and the maximum height of the building is consistent with that limitation. To ensure that the proposed boat barn is sited and designed in a manner that avoids significant adverse impacts to visual resources, the Commission modifies and reimposes **Special Condition No. 8**, which requires the applicant to comply with the final plans for the boat barn, which must include cedar materials, non-reflective surfaces and downcast lighting (see **Exhibit No 3, pgs. 7-8**). This condition was associated with the original permit, but it has been modified to address the amended development. Any deviation from the approved final plans, including but not limited to, a change in the siding materials of the boat barn would require an amendment to the permit, unless the Executive Director determines that no amendment is legally required. This condition will ensure that the Commission can review any changes to the project for conformance with section 30251. **Special Condition No. 29** will further protect visual resources by imposing additional lighting restrictions, by specifically requiring that all lighting be (1) the minimum necessary for the safe ingress and egress of the structures; (2) be low-wattage; and (3) be downcast shielded so that no glare is directed toward riparian habitat areas and/or into nearby coastal waters.

The proposed after-the-fact authorization of gravel placement in the existing parking area, as well as the portion of the gravel used to construct a 6-inch-tall gravel berm will not be prominent. As previously mentioned, these areas are currently vegetated, and the gravel is no longer noticeable (see **Exhibit No. 8, pgs. 1-3**). In addition, the proposed wetland and riparian restoration work will restore areas impacted by unauthorized fill and tree removal, thereby resulting in a restored natural landscape that will improve visual resources at the site.

The proposed decking would be attached to the existing lab building and is wooden in appearance, thus blending with the development on the site. The proposed downcast shielded exterior light mounts along the north and east sides of the lab building would also be limited by the lighting restrictions required by Special Condition No. 29, as discussed in greater detail above. The equipment shed is just 120 square feet in size, and it is in close proximity to the lab structure, so its clustered placement minimizes the potential for adverse visual impacts (see **Exhibit No. 7, pg. 5**). Therefore, the Commission finds that the proposed amended development, as conditioned, will protect views to and along the ocean and scenic coastal areas, minimize the alteration of landforms, and be compatible with the character of the surrounding area and subordinate to the character of its setting consistent with section 30251 of the Coastal Act.

## **H. PUBLIC ACCESS**

Coastal Act sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Coastal Act section 30210 requires, in applicable part, that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights, and natural resource protection. Section 30211 requires, in applicable part, that development not interfere with the public's right of access to the sea where acquired through use (i.e., potential prescriptive rights or rights of implied dedication). Section 30212 requires, in applicable part, that public access from the nearest public roadway to the shoreline and along the coast is provided in new development projects, except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30214 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 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 public access.

Albion Field Station is currently used by Pacific Union College students and faculty for nature study purposes. The College is a private school, and there are no trails or other roads to and along the shoreline of the Albion Field Station that are open to the general public. However, Pacific Union College allows other interested groups to rent cabin lodging for retreats. The proposed amended development would not change the nature or intensity of use of the site, and thus would not create any new demand for public access or otherwise create any additional burdens on public access. Therefore, the Commission finds that the proposed amended development does not have any significant adverse effect on public access, and that the amended development as proposed, without the provision of new public access, is consistent with the public access policies of the Coastal Act.

## **I. ARCHAEOLOGICAL RESOURCES**

Section 30244 of the Coastal Act states as follows:

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

The project area lies within the traditional territory of the Northern Pomo indigenous tribe. Commission staff contacted the Native American Heritage Commission (NAHC) for a list of tribal contacts for consultation purposes. Staff contacted every tribe on the NAHC list and contacted additional tribes that have expressed interest in receiving notifications on all Mendocino County projects. Consultation consisted of emails, letters sent in the mail, and follow-up telephone conversations with tribal representatives. No concerns were expressed during the tribal consultation process for the subject permit amendment.

During the Commission's review of the original project, the applicant submitted a cultural resources study of the project area prepared by a professional archaeologist, dated January 2005. The purpose of the investigation was to (1) acquire background information, (2) conduct a field survey to identify any archaeological and historical resources at the subject property, and (3) prepare recommendations for regarding resource findings.

The report concludes that the field survey resulted in the recordation of a single archaeological resource. Additionally, two concentrated deposits of artifacts dating between the 1890s and 1930s were observed. The report recommended in the event that previously unidentified cultural resources are encountered during development of the property, work in the immediate vicinity of the find(s) should be temporarily suspended until a qualified professional archaeologist can examine the evidence and determine a suitable course of action in consultation with the owner and regulatory officials with jurisdiction over project activities. The original permit included **Special Condition No. 10**, which

requires the applicant to comply with all recommendations and mitigation measures contained in the Cultural Resources Study prepared for the project. The condition further 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 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 to determine whether the changes are de minimis in nature and scope, or whether an amendment to this permit is required. Special Condition No. 10 remains in full force and effect. Therefore, the Commission finds that the amended development, as conditioned, is consistent with section 30244 of the Coastal Act, as the development includes reasonable mitigation measures to protect archaeological resources.

## **J. HAZARDS**

Section 30253 of the Coastal Act states, in applicable part, as follows:

*New development shall do all of the following:*

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

...

Section 30253 requires in part that new development minimize risks to life and property in areas of high geologic, flood, and/or fire hazards. The site is primarily affected by flood hazards. The existing boat barn in its unauthorized location is within a FEMA-designated Special Flood Hazard Area (see **Exhibit No. 8, pg. 1**). However, the applicant proposes to move the boat barn to a location approximately 1,000 feet further east from the river, outside of the flood zone. The proposed after-the-fact equipment shed and new decking are within the FEMA-designated Special Flood Hazard Area. However, this development is (1) minimal and accessory in nature to existing development on the site, (2) not often occupied by staff, students, and visitors, and (3) can be easily evacuated should flood hazards threaten these project elements. Therefore, the development minimizes risks to life and property from flood hazards consistent with section 30253(a) (see **Exhibit No. 8, pg. 2**).

Although the project has been designed to minimize risks from flooding, the project site is inherently subject to flooding hazards. **Special Condition No. 11** of the original permit requires the landowner to assume the risks of flooding hazards to the property and waive any claim of liability on the part of the Commission. Special Condition No. 11 remains in full force and effect for the amended development. In addition, new **Special Condition No. 30** requires the applicant to record a deed restriction to impose the special conditions of the amended permit as covenants, conditions and restrictions on the use and enjoyment of the property. This special condition helps provide notice of potential hazards of the property and that the landowner assumes the risk and waives any claim of liability on the part of the Commission. Therefore, as conditioned, the amended development minimizes the risks to life and property from flood hazards consistent with section 30253 of the Coastal Act.

## **K. VIOLATION**

Violations of the Coastal Act exist on the subject property including, but not necessarily limited to: wetland fill; riparian ESHA tree removal; the construction of a boat barn in an unauthorized location; installation of decking, a retaining wall, light posts, and an equipment shed; placement of gravel fill within an existing parking area; and the creation of a gravel berm adjacent to ESHA. Approval of this application pursuant to the staff recommendation, issuance of the permit amendment, and the applicant's subsequent compliance with the terms and conditions of the amended permit will result in resolution of future impacts of the violations noted above.

Approval of this application will require the applicant to remove the unauthorized boat barn to an approvable location elsewhere on the property; remove the associated wetland fill and restore the impacted wetlands; remove those portions of the decking that encroach on riparian ESHA inconsistent with the Coastal Act, while authorizing, after the fact, those portions that are consistent with the Coastal Act. The applicant will remove a retaining wall, light posts and other wetland fill and restore wetlands and riparian ESHA as required by **Special Conditions Nos. 21, 23, 27, and 28**.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit amendment does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of development undertaken on the subject site without a coastal permit, or of any other development other than the development approved herein. In fact, approval of this permit amendment is possible only because of the conditions included herein, and the applicant's presumed subsequent compliance with said conditions, and failure to comply with these conditions in conjunction with the exercise of this amended permit would also constitute a violation of this permit as amended and of the Coastal Act. Accordingly, the applicant remains subject to enforcement action just as it was prior to this permit amendment approval for engaging in unpermitted development.

## **L. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 13096 of Title 14 of the California Code of Regulations 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. No public comments regarding potential significant adverse environmental effects of the project amendment were received prior to preparation of the staff report. As discussed above, the proposed project has been conditioned to be consistent with the policies of the Coastal Act. 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 that 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 and to conform to CEQA.