

**CALIFORNIA COASTAL COMMISSION**

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



# F5a

Staff: C. DeSmet-A  
Date: 1/17/2019

## ADMINISTRATIVE PERMIT

**Application No.:** 1-17-1029

**Applicant:** Noyo Harbor District

**Agent:** Sarah Bradley, Dark Gulch Environmental Consulting

**Project Location:** 19101 South Harbor Drive, Fort Bragg, Mendocino County (APN 018-240-22)

**Project Description:** Repair and maintain the Noyo Harbor District's High Dock structure by replacing approximately 29,480 square feet of existing decking boards and bump rails with new decking composed of treated lumber.

### I. EXECUTIVE DIRECTOR'S DETERMINATION

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

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

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

Friday, February 8, 2019 – 9:00 a.m.  
Oceano Hotel & Spa  
Half Moon Bay Harbor  
280 Capistrano Road  
Half Moon Bay, CA 94019

1-17-1029 (Noyo Harbor District)  
Administrative Permit

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

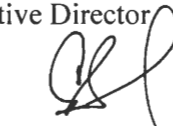
**You must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office pursuant to Title 14, California Administrative Code Sections 13150(b) and 13158. Following the Commission's meeting, and once we have received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

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

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

JACK AINSWORTH  
Executive Director

By:



\_\_\_\_\_  
Clancy DeSmet  
Coastal Program Analyst II

## II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

## III. SPECIAL CONDITIONS:

This permit is granted subject to the following special conditions:

1. **Construction Standards & Responsibilities:**  
The permittee shall implement at least the following Best Management Practices (BMPs) to avoid or minimize potential impacts on water quality and sensitive fish species:

Measures the Permittee Shall Implement as Proposed in the Application:

- a. The ACZA preservative-treated wood shall be treated to the preservative standard of 0.25 pcf.
- b. At all times, cutting or drilling of ACZA preservative-treated wood shall be performed at a minimum of 100 feet away from the water, to minimize transport of sawdust by wind. On a daily basis, the resulting sawdust, drill shavings, and wood scraps shall be contained and collected, in order to prevent the discharge of preservative-treated wood to the marine environment.
- c. A water-based penetrating semi-transparent stain and sealer designed for overwater use shall be applied, prior to installation, to preservative-treated wood used to construct the overwater components of the structure, to reduce leaching and surface dislodgment of the preservative chemicals.

- d. No application of preservatives will take place over coastal waterways. All application of preservatives to raw wood will take place in the staging area, over a protective membrane to prevent any spills or contamination of coastal waterways. This will also prevent any runoff entering the stormwater systems.
- e. All application of preservatives will be done using a small paint roller or similar device. No spraying or aerosol application of preservative will take place to prevent runoff from impacting coastal waters.

Additional Measures the Permittee Shall Implement:

- f. No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion or dispersion.
- g. Any and all debris resulting from construction activities shall be removed on a daily basis and disposed of at an appropriate location.
- h. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash, or construction materials remain on the shoreline or in the water and that the repair and maintenance activities have not created any hazard to navigation.
- i. Prior to commencement of the repair and maintenance activities authorized by this permit, the permittee shall ensure that all onsite workers and contractors understand and agree to observe the standards for work outlined in this permit approval.
- j. Any fueling and maintenance of construction vehicles or equipment shall occur within upland areas or within the designated staging area. Mechanized heavy equipment and other vehicles used during construction shall not be stored or refueled within 100 feet of drainage courses and other coastal waters.
- k. Fuels, lubricants, and solvents shall not be allowed to enter the coastal waters. Hazardous materials management equipment, including oil containment booms and absorbent pads shall be immediately available at the project site, and a registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call.
- l. The ACZA preservative-treated wood used for the project shall not have a preservative retention exceeding the minimum specified for the appropriate Use Category of the American Wood Protection Association's (AWPA), in order to minimize the amount of preservative present in the wood onsite that may subsequently leach into the marine environment.
- m. The ACZA preservative-treated wood shall be inspected onsite to assure it is free of visible surface residues or bleeding of preservatives. If ACZA preservative-treated wood has a noticeable ammonia odor, then it has not been properly processed or aged, and the preservative may not be properly fixed, therefore the lumber shall not be used.
- n. The ACZA preservative-treated wood shall be stored away from the water until it is needed for installation. The wood shall be stacked above the ground, and the area shall have adequate drainage to prevent the wood from being subjected to standing water. If there is a chance of precipitation, the wood shall be stored under a covered area or tarp to minimize exposure to precipitation.

- o. The staging area will be surrounded by straw wattles to decrease contaminants from entering the marine environment. In the event that it is essential that the treated wood be cut or drilled in place on the dock, all sawdust, shavings, and wood scraps generated must be collected and prevented from entering the water below.
- p. Coatings that form a film layer on the wood surface that may peel or flake upon weathering and require sanding or scraping prior to reapplication – such as paint, solid stain, or varnish – shall not be used. Non-skid deck coatings that contain plastic beans to provide slip resistance shall not be used, as these may contribute to micro-plastic pollution. A water-repellent incorporated during production of treated wood is less effective at preventing leaching, and shall not be substituted for application of a penetrating coating. A durable polymer coating is an acceptable alternative to a penetrating coating. The coating shall be periodically inspected and reapplied as needed to maintain its effectiveness.

**2. Maintenance of Treated Wood**

- A. To the extent feasible, the treated wood used in the replacement of the decking boards and bump rails shall not be maintained by pressure-washing, sanding, or scraping, as these activities may increase the leaching of wood preservatives and the discharge of treated wood particles into the aquatic environment. If it is essential that treated wood be sanded or scraped for repair or maintenance, all sawdust and debris generated (and sealant if reapplied) shall be contained and removed to prevent wood particles from entering the water below.
- B. Deck cleaners and brighteners, especially those containing acid-based or highly oxidizing chemicals (such as bleach, sodium hydroxide, sodium percarbonate, oxalic acid, and citric acid) shall not be used for maintenance of treated wood, as they may increase the leaching of wood preservatives, and contain chemicals that may directly harm aquatic life.

**3. Permit Compliance.** All development must occur in strict compliance with the proposal as set forth in the permit application, subject to any special conditions, and the final plans received in the North Coast District offices on September 17, 2018 included as [Exhibit 5] of this permit. Any deviation from the approved project must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.

**4. Debris Disposal.** Construction debris shall either be disposed of an authorized disposal site or recycled for any lawfully permitted use as proposed by the permittee.

**5. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees: (i) that the site may be subject to hazards from waves, tidal inundation, seismic shaking and other hazards; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and

employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

#### **IV. FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION**

##### **A. PROJECT LOCATION AND BACKGROUND**

The Noyo Harbor is a fishing port located in unincorporated Mendocino County adjacent to the southern end of the City of Fort Bragg near the mouth of the Noyo River (**Exhibits 1 & 2**). Noyo Harbor is one of four main harbors between San Francisco and the Oregon border, and is the only port of refuge between Bodega Bay in Sonoma County and Humboldt Bay in Humboldt County. The Noyo Harbor supports a large commercial fishing fleet as well as many sport fishermen and recreational boaters. Properties in Noyo Harbor have a zoning and land use classification of Fishing Village under the Mendocino County certified LCP to ensure that the limited available space on the flats at Noyo is reserved for commercial fishing and recreational boating activities and facilities that must be on or near the water.

The applicant, the Noyo Harbor District, is a designated port district that receives its authority from the Harbors and Navigation Code of the State of California. The Harbor District is governed by an appointed five-person Commission that is charged to organize, fund, build, administer, and maintain the Noyo Harbor and has the authority to pass and enforce ordinances to meet those ends. Tide and submerged lands within and along the Noyo River were granted to the Harbor District in 1961 by the state legislature. Infrastructure managed by the Harbor District is primarily located along the south side of the river and includes the subject dock, a boat launch ramp owned by the District, a second public launch ramp owned by the State Department of Boating and Waterways, a harbor office building, parking and storage areas, park facilities, public restrooms and shower, a work hoist, an oil recycling center, and the Noyo Harbor Marina.

The High Dock was originally constructed in 1968 and is supported by approximately 164 piles, none of which are proposed to be replaced as part of this project. The dock services all types of vessels, but is primarily used by, and is especially important to the local commercial fishing fleet, as the structure is used to load and unload large fishing vessels. The structure is a vital part of fishing community, and its use and function are essential for the vessels to be able to continue to operate out of this port. The High Dock is also used by sport and transient vessels for docking, loading, and unloading of supplies. Also, the structure is open to the public and is a key component used for the annual Abalone Festival where many of the booths are set up and the public can stroll and enjoy the beauty of Noyo Harbor. Deferred maintenance of the High Dock has resulted in conditions that have required the structure to be closed for the past year. The repair and maintenance of High Dock will rehabilitate a highly-used facility.

Other facilities in Noyo Harbor include the adjacent Noyo Harbor Marina, which includes a main pier and eight docks supporting 265 berths, and the Dolphin Isle Marina and RV Park, a



private marina up-river from the subject dock that provides berths for about 150 boats. The harbor also features a Coast Guard search and rescue station and numerous fishing support facilities, including bait/tackle shops, boat building/repair shops, charter operations, fish buyers, and fish processing plants, fish markets, an ice plant, marine supply/repair stores, and seafood restaurants.

The Noyo Harbor receives tidal influence and functions as a fully saltwater section of the Noyo River estuary during the low flow summer season. The Noyo River estuary supports important commercial and recreational fisheries and is designated critical habitat for Chinook salmon (*Onchorynchus tshawytscha*), Coho salmon (*Onchorynchus kisutch*), steelhead (*Oncorhynchus mykiss*), and green sturgeon (*Acipenser medirostris*). The Noyo River estuary also contains native eelgrass (*Zostera marina*).

## **B. PROJECT DESCRIPTION**

The Noyo Harbor District seeks to replace approximately 29,480 square feet of decking and bump rails on the High Dock facility to restore its condition for safe use. The proposed project has been refined through the application and review process and in consultation with other resource agencies, including the North Coast Regional Water Quality Control Board (Regional Board) to avoid and minimize discharges to the Noyo River. The currently proposed project includes the multi-phased removal and replacement of decking boards and bump rails to restore deck stability and safe access to the entire High Dock facility. Work will be conducted approximately 18 feet above Mean Low Tide with no disturbance to the bed, bank or channel of the Noyo River or discharge of materials proposed. No in-water work is proposed. No replacement wood will be in contact with or submerged within the Noyo River. To avoid and minimize discharges during installation, the applicant proposes to set up an upland staging area approximately 132 feet away from the Noyo River where the treated lumber will be prepared for installation. Any additional cutting, drilling, and sealing of the treated lumber will also take place in the staging area.

To minimize polluted stormwater discharges post-installation of the proposed new decking material, the proposed decking lumber will be treated with Ammoniacal Copper Zing Arsenate (ACZA) preservative at a retention level of 0.25 pcf, which conforms with the proposed use at the High Dock facility and the appropriate standards for “above ground” use category 3B. Additionally, the applicant proposes to seal the treated lumber with “Seal-Once” to further reduce the threat of stormwater discharges into the Noyo River and coastal waters (See Exhibit 5).

The project is planned to be conducted in the spring of 2019 and is expected to take anywhere from one month to three months.

## **C. STANDARD OF REVIEW**

The project site is located within the retained coastal development permit (CDP) jurisdiction of the Commission within tidelands and submerged areas. Therefore, the policies of Chapter 3 of the Coastal Act provide the legal standard of review.

## **D. LOCAL GOVERNMENT AND OTHER APPROVALS**

**Mendocino County Planning & Building Services.** The project needs no local permits other than building permits

### **North Coast Regional Water Quality Control Board**

On September 27, 2018, The North Coast Regional Water Quality Control Board (Regional Board) issued a water quality certification (WQC) for the project activities under Section 401 of the Clean Water Act.

### **U.S. Army Corps of Engineers**

On July 25, 2018, the U.S. Army Corps of Engineers (COE) informed the applicant that the project activities are authorized under Nationwide Permit 3 (Maintenance Activities) under section 404 of the Clean Water Act.

## **E. DOCK REPAIR AND MAINTENANCE**

Coastal Section 30610(d) generally exempts from Coastal Act permitting requirements the repair or maintenance of structures that do not result in an addition to, or enlargement or expansion of, the structure being repaired or maintained. However, the Commission retains authority to review certain extraordinary methods of repair and maintenance of existing structures that involve a risk of substantial adverse environmental impacts as enumerated in Section 13252 of the Commission Regulations.

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

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

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

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

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

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



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

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

*All repair and maintenance activities governed by the above provisions shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits. The provisions of this section shall not be applicable to methods of repair and maintenance undertaken by the ports listed in Public Resources Code section 30700 unless so provided elsewhere in these regulations. The provisions of this section shall not be applicable to those activities specifically described in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean....*

The proposed replacement of decking and bump rails constitutes a repair and maintenance project because the repairs do not involve an addition to or an enlargement of the High Dock structure at Noyo Harbor. Although all of the decking of the High Dock will be replaced, none of the substructure of the dock will be replaced, including the 164 piles and the connecting joists and beams to which the decking will be attached.

Although certain types of repair projects are exempt from CDP requirements, Section 13252 of the regulations requires a CDP for extraordinary methods of repair and maintenance enumerated in the regulations. The proposed project involves the placement of construction materials and temporary equipment, and removal and placement of solid materials within 20 feet of coastal waters. The proposed project therefore requires a CDP under CCR Section 13252.

In considering a permit application for a repair and maintenance project pursuant to the above-cited authority, the Commission reviews whether the proposed method of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. However, the Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the conformity with the Coastal Act of the underlying, existing development.

The repair and maintenance of the decking and bump rails, such as is proposed under the subject CDP application, can have adverse impacts on coastal resources, in this case primarily on water quality and sensitive fish species. The applicant has included a number of BMPs to avoid discharges to the waters of the Noyo Harbor. Although the measures proposed by the applicant are appropriate, additional measures are needed to avoid or minimize potential project impacts on water quality and sensitive fish species. The conditions required to meet these standards are discussed in the following findings relevant to water quality and marine resources. Therefore, as conditions, the Commission finds that the proposed dock repairs are consistent with all applicable Chapter 3 policies of the Coastal Act.

## **F. PROTECTION OF MARINE RESOURCES AND WATER QUALITY**

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.*

As discussed in the previous finding, the repair and maintenance project can have adverse impacts on coastal resources, in this case primarily on water quality and sensitive fish species. The Commission must review whether the proposed method of repair and maintenance is consistent with the Chapter 3 polices of the Coastal Act. For analysis purposes, the applicable parts of the above-listed polices require that marine resources and the biological productivity and the quality of coastal waters shall be maintained and where feasible restored.

The use of pressure-treated wood in overwater structures is an issue of concern because the wood preservatives pose a risk of aquatic and sediment toxicity. The pesticides in wood preservatives – particularly copper – can adversely impact non-targeted aquatic species, especially fish and invertebrates, and may accumulate in the underlying sediment. Dissolved copper leaching from pressure-treated wood is highly toxic to a broad range of aquatic species. Aquatic organisms in California that are especially copper-sensitive include salmon, trout, abalone, mussels, oysters, sea urchins, Dungeness crab, and certain zooplankton. Juvenile and larval stages of fish and invertebrates are particularly sensitive to copper.

The Noyo River provides habitat for Coho salmon and steelhead trout, including juveniles. Brief exposure of juvenile salmonids to low concentrations of dissolved copper in freshwater (slightly above background level of 3 µg copper/L) has been shown to be toxic to the olfactory system, impairing essential behaviors involved in foraging, predator avoidance, migration, and reproduction. Large installations of treated wood in or over coastal waters that have a low circulation or flow rate, such as harbors, are of primary concern.

Pressure-treated wood should not exceed the American Wood Protection Association's (AWPA) standards for the minimum preservative retention level for the intended Use Category. To minimize the amount of preservative present in the pressure-treated wood that may subsequently leach into the aquatic environment, wood treated to the standards for a higher Use Category (i.e., with a higher preservative retention level) than is necessary for each component of the structure should not be used.

During construction using treated wood in or over coastal waters, wood preservatives may enter the water via releases of sawdust or wood debris, spills of field-applied preservatives, or leaching by rainfall or immersion in coastal waters. After construction is complete, rainfall, wave splash, immersion in coastal waters, and wash water during cleaning may continue to leach preservatives from treated wood. Treated wood particles may also continue to be released to coastal waters due to abrasion by vehicles, pedestrians, or boats, and during maintenance activities.

The Commission typically requires a number of Best Management Practices (BMPs) to minimize water quality impacts from the use of pressure-treated wood in the aquatic environment, including BMPs for cutting, drilling, and field treatment with topical preservatives, storage, installation, and maintenance of the wood.

When pressure-treated wood is used for the dock decking, the Commission recommends that a penetrating coating (such as a semi-transparent stain) be applied to the wood, prior to installation, to reduce leaching and surface dislodgment of the preservative chemicals. Coatings that form a film layer on the wood surface that may peel or flake upon weathering and require sanding or scraping prior to reapplication (such as paint, solid stain, or varnish) should not be used. A water-repellent incorporated during production of treated wood is less effective at preventing leaching, and should not be substituted for application of a penetrating coating. A durable polymer coating may be an acceptable alternative to a penetrating coating. The coating should be periodically inspected and reapplied as needed to maintain its effectiveness.

To the extent feasible, treated wood should not be pressure-washed, sanded, or scraped, as this may increase the leaching of wood preservatives and the discharge of treated wood particles into the aquatic environment. If it is essential that treated wood be sanded or scraped for repair or maintenance, all sawdust and debris generated should be contained and removed, to prevent treated wood particles from entering the water below. Deck cleaners and brighteners, especially those containing acid-based or highly oxidizing chemicals (such as bleach, sodium hydroxide, sodium percarbonate, oxalic acid, and citric acid) should not be used for maintenance of treated wood, as they may increase the leaching of wood preservatives, and contain chemicals that may directly harm aquatic life.

The applicant has structured the proposed project to employ some of the impact avoidance and mitigation measures described above to avoid impacts to water quality and the marine environment. Specifically, the applicant has proposed the appropriate retention level for

preservative-treated wood, and has proposed a number of BMPs to avoid discharges into Noyo Harbor, including the following:

- A. All wood will be cut in an area away from any water source. All sawdust produced will be swept up on a minimum of a daily basis to prevent intrusion into coastal waterways.
- B. All small wood debris will be gathered and disposed of properly to prevent any impacts on coastal waterways.
- C. No application of preservatives will take place over coastal waterways. All application of preservative to raw wood will take place in the staging area, over a protective membrane to prevent any spills or contamination of coastal waterways. This will also prevent any run-off from entering the storm-water system.
- D. All application of preservatives will be done using a small paint roller or similar device. No spraying or aerosol application of preservative will take place to prevent run-off from impacting coastal waterways.
- E. Lumber was purchased in appropriate lengths to minimize the need to cut, therefore minimizing the production of sawdust.
- F. Holes and other boring of wood will take place away from any water source. All debris generated will swept up on a minimum of a daily basis to prevent intrusion into coastal waterways.

Although the measures proposed by the applicant will help avoid impacts, the additional measures described above that are not specifically proposed by the applicant have been incorporated as **Special Conditions 1 and 2** to protect the marine environment and the quality of coastal waters. Special Condition 1 is a list of construction-related responsibilities and BMPs; and Special Condition 2 requires additional measures post-construction related to maintenance of the preservative-treated wood on the High Dock.

The Executive Director finds, as conditioned, the proposed repair and maintenance project will minimize significant adverse impacts on the marine environment, to sensitive fish species, and shall protect the quality of coastal water appropriate to maintain marine organisms consistent with Sections 30230 and 30231 of the Coastal Act.

## **G. PUBLIC ACCESS**

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

conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

The subject dock is a public dock used by commercial and sport-fishing vessels, and the public during operating hours. As the dock has been in a state of disrepair for some time, the dock has been closed and use of the facility is currently non-existent. The proposed repair and maintenance project will restore public access use of the facility. Additionally, the proposed repair and maintenance of the facility will not adversely affect public access. The Executive Director therefore finds that the proposed development conforms to the Public Access policies of the Coastal Act, including, but not limited to, sections 30210-30214.

## **H. PROTECTION OF COMMERCIAL FISHING AND RECREATIONAL BOATING FACILITIES**

Section 30224 of the Coastal Act states:

*Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.*

Section 30234 of the Coastal Act states, in applicable part:

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

Recreational anglers who fish from boats based at Noyo Harbor pursue an annual round of fisheries that primarily include salmon, groundfish, abalone, crab, and albacore. Commercial fisheries include the groundfish trawl, urchin dive, Chinook salmon troll, Dungeness crab pot, and sablefish and rockfish/lingcod hook-and-line and trap fisheries. Although, commercial and recreation fishing based at the harbor has experienced a decline over the past 30 years due in part to declining fish populations, fishing remains an important part of the local economy and identity.

As previously stated, the deferred maintenance of the High Dock structure has severely limited its use for commercial and recreational boating. The rehabilitation of the High Dock structure will protect a facility serving commercial and recreational boating uses consistent with Coastal Act policies in Sections 30224 and 30234.

## **I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The Noyo Harbor District served as the lead agency for the project for CEQA purposes. The District determined the project to be categorically exempt from environmental review pursuant to Section 15301, Class 1.

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

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

### **ATTACHED EXHIBITS**

1. General Vicinity Map
2. Noyo Harbor – High Dock & Staging Area
3. Site Map
4. High Dock Elevation
5. Revised Wood Material Treatment

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### **ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:**

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

\_\_\_\_\_  
**Permittee's Signature**

\_\_\_\_\_  
**Date of Signing**