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Filed	4/16/21
180th Day:	10/13/21
Staff:	T. Gedik-A
Staff Report:	06/18/21
Hearing Date:	7/8/21

STAFF REPORT: REGULAR CALENDAR

Application No.: **1-20-0712**

Applicant: **City of Arcata**

Project Location: Along the shoreline of Humboldt Bay, at the southern terminus of the Arcata Marsh and Wildlife Sanctuary's "I" Street parking lot, Arcata (Humboldt County).

Project Description: Construct a non-motorized personal watercraft launch facility including an ADA-compliant dock, parking lot improvements, loading/unloading areas, and a vault toilet restroom. Associated development includes removing a defunct floating dock near the northwest side of the parking lot.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends **approval** of CDP application 1-20-0712, as conditioned.

The City of Arcata proposes to improve public access and recreational boating opportunities in Humboldt Bay. Proposed improvements to the existing boat launch facility at the end of I Street would include construction of a new dock for launching non-motorized personal watercraft, and associated landside improvements including new signage, parking lot improvements, a new walkway, and a vault toilet restroom at the northern end of the parking lot to replace an existing portable toilet. The dock and

gangway are designed to meet Americans with Disabilities Act (ADA) and Department of Boating and Waterways (DBW) accessibility requirements.

Although a concrete boat ramp and dock already exist at the northwest corner of the parking lot and support launching of both motorized and non-motorized watercraft, shallow water depths in this area render the dock usable only at the highest tides (at low tide the channel is approximately 150 feet from the ramp). Furthermore, the floating dock is currently closed to the public for safety reasons. The proposed project will help maximize public access and encourage increased recreational boating, two priorities of the Coastal Act.

Construction activities would occur within and adjacent to Humboldt Bay. Additionally, the proposed new floating dock requires the installation of two new 16.5-inch-diameter piles in Humboldt Bay mudflat. The applicant proposes a number of mitigation measures such as installing piles using a vibratory hammer, limiting installation to low tide periods only between July 1 and September 30 to minimize impacts to sensitive salmonids, and using Best Management Practices (BMPs) to avoid discharges to the waters of the bay. To ensure these and additional BMPs necessary to avoid or minimize potential project impacts on water quality and coastal waters are implemented, staff recommends **Special Condition Nos. 3, 4, and 5.**

The City proposes to conduct pre-construction surveys to verify the determinations of previous inspections that eelgrass does not exist within the mudflat disturbance area of the project at the time of construction. **Special Condition No. 6** requires the City to conduct the pre-construction survey as proposed and if eelgrass is detected within 10 meters of the project area, requires the City to conduct post construction eelgrass surveys and develop an eelgrass mitigation plan for any unanticipated impacts to eelgrass. The mitigation plan must be submitted for review by the Commission in the form of a permit amendment.

To mitigate for the 343 square feet of additional fill and temporary impacts associated with pile installation, the City proposes to remove the 545-square-foot floating dock serving the existing boat ramp off the parking lot that currently rests on the mudflats during low tide cycles. The dock would be removed after completion of the project to allow continued boat access at this site during project construction. Removal of the dock would not affect the existing concrete ramp, which would continue to provide access to motorized and non-motorized watercraft at this location during high tides. Staff recommends **Special Condition 7** requiring removal of the dock as proposed.

Staff believes that the project, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act.

The motion to adopt the staff recommendation of approval with conditions is found on page 4.

Table of Contents

APPENDICES

EXHIBITS

Table

Figures

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit No. 1-20-0712 pursuant to the staff recommendation.

Staff Recommendation of Approval:

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

Resolution to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

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 applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration**. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

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

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

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

III. SPECIAL CONDITIONS

1. **Humboldt Bay Harbor, Recreation, and Conservation District Approval.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0712, the permittee shall provide to the Executive Director a copy of a permit issued by the Humboldt Bay Harbor, Recreation, and Conservation District, a letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the District. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

2. **Submittal of Final Plans.**

   A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0712, the permittee shall submit, for the review and approval of the Executive Director, a set of final construction plans that are consistent with all special conditions of this coastal development permit and that substantially conform with the 60% plans and associated specifications prepared by GHD Inc. and dated April 27, 2020 (Exhibit 3). The permittee shall submit evidence that an appropriate licensed professional has reviewed and approved final foundation plans for the new public restroom, and certified that the final plans are consistent with the recommendations of June 2019 geotechnical investigation report prepared by GHD, Inc.

   B. The final plans shall demonstrate that the new sign acknowledging the funding of the facility by the Department of Boating and Waterways will be visually compatible with surrounding area signage with respect to height and bulk, will not exceed the maximum dimensions of three feet by four feet, and will not significantly obstruct views from public vantage points.

   C. The approved development shall substantially conform to the approved final construction plans. 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 a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

3. **Construction Responsibilities.** The permittee shall comply with the following construction-related requirements:

A. Timing of Construction:

i. In-water construction shall be conducted only during the period of July 1 through September 30 to minimize potential impacts to sensitive aquatic species;

ii. Construction activities occurring below the high-water mark shall be timed to occur during low tides;

iii. All work shall occur during the dry season (May 19th – October 15); and

iv. All ground-disturbing activities and asphaltic-concrete paving operations shall occur during dry weather only. No work shall occur within 72 hours of 50% or greater forecast of rain by the National Weather Service.

B. In-water Work Best Management Practices (BMPs):

i. Construction activities within tidal and upland work areas shall not commence until all sediment, turbidity, and runoff control measures as appropriate have been properly installed in and around active work areas;

ii. Any heavy equipment to be operated over the waters of Humboldt Bay shall use vegetable oil-based hydraulic fluids only;

iii. The applicant shall only use precast concrete piles. No creosote-treated wooden piles shall be placed in the waters of Humboldt Bay;

iv. Piles shall be driven with a vibratory hammer; use of an impact hammer is prohibited; and

v. All temporary construction ground support pads and any associated materials shall be completely removed at the end of in-water work.

C. Erosion, Runoff, and Sediment Control:

i. No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to entering Humboldt Bay. All onsite stockpiles of soil and construction debris shall be contained at all times to minimize discharge of sediment and other pollutants;

ii. If rainfall is forecasted during the time construction activities are being performed, all onsite stockpiles of soil and construction debris shall be covered and secured, and fiber rolls shall be placed around all disturbed areas before the onset of precipitation;

iii. Suitable sediment control BMPs such as silt fencing or straw waddles shall be installed downgradient of disturbed areas;

iv. Exposed soils shall be stabilized using mulch or other erosion control measures; and

v. Only wildlife-friendly 100% biodegradable erosion control products that will not entrap or harm wildlife shall be used. Erosion control products shall not contain synthetic (that is, plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable.

D. Debris Disposal:

i. During construction, all trash shall be removed from the work site and disposed of on a regular basis. Any and all spoils and debris resulting from construction activities shall be removed from the project site and disposed of consistent with the final Debris Disposal Plan approved pursuant to Special Condition 5 within 10 days of project completion and/ or prior to the onset of the rainy season, whichever is earlier.

ii. 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 land or in the water, and that the project has not created any hazard to navigation.

E. Hazardous Materials Management

i. Fuels, lubricants, and solvents shall not be allowed to enter Humboldt Bay. All equipment used during construction shall be free of oil and fuel leaks at all times. Staging, fueling and equipment maintenance shall occur in the designated staging area at least 50 feet away from the high water mark. Within the staging area, refueling will occur on a pad to capture any drips or spills. Equipment washing if necessary shall occur offsite;

ii. All equipment used during construction shall be free of leaks at all times; and

iii. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available and immediately on-hand at the project site. A registered first-response, professional, hazardous materials clean-up/remediation service shall be locally available on call. Any accidental spill shall be contained rapidly and cleaned up. In the event of a spill, the permittee shall notify the appropriate regulatory agencies immediately.

F. Concrete Paving and Grinding Operations:

i. BMPs for concrete paving and grinding operations and storm drain inlet protection shall be employed to prevent concrete grindings, concrete slurry, and paving rinseate from entering drop inlets or sheet-flowing into coastal waters. No concrete will be poured below the high water mark.

4. **Final Erosion and Sediment Control and Pollution Prevention Plan.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0712, the permittee shall submit, for the review and approval of the Executive Director, an Erosion and Sediment Control and Pollution Prevention Plan.

   A. The plan shall demonstrate that temporary impacts to the biological productivity and quality of nearby coastal waters shall be minimized during construction activities consistent with the provisions of Special Condition 3.

   B. The plan shall include, at a minimum, the following required components:

      i. A construction site map delineating the construction site, and the location of all temporary construction-phase BMPs (including silt fences, fiber rolls, and inlet protection), staging and stockpiling areas, vehicle and equipment maintenance and fueling areas, and concrete washout areas;

      ii. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities; and

      iii. A schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training).

   C. The permittee shall undertake development in accordance with the approved final Erosion and Sediment Control and Pollution Prevention Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. **Debris Disposal Plan.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0712, the permittee shall submit, for the review and written approval of the Executive Director, a final Debris Disposal Plan for the disposal of excess construction and demolition debris and excavated soils. The plan shall identify authorized disposal site(s) where materials will be lawfully disposed of on a regular basis and describe the manner and schedule by which the materials will be removed from the construction site. The permittee shall undertake development in accordance with the approved final Debris Disposal Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. **Final Eelgrass Monitoring and Mitigation Plan**. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0712, the permittee shall submit, for the review and approval of the Executive Director, a final Eelgrass Monitoring and Mitigation Plan in substantial conformance with the City's Mitigation Measure BIO-2.

A. The final plan shall demonstrate that:

i. A pre-construction eelgrass survey shall be conducted and completed during the active growing season for eelgrass (May-September) no more than 60 days prior to the beginning of construction. Eelgrass spatial distribution, aerial extent, percent vegetated cover, and turion density shall be sampled within the action area and at an appropriate reference site to help determine whether changes in eelgrass characteristics are attributable to natural variability or project actions. The survey shall be conducted in all intertidal and shallow subtidal areas within 10 meters of the in-water project footprint ("the action area") and at the reference site, and shall be conducted in substantial conformance with the National Marine Fisheries Service (NMFS)' October 2014 California Eelgrass Mitigation Policy and Implementing Guidelines (CEMP). Survey results shall be submitted for the review and approval of the Executive Director no more than 30 days after the pre-construction survey occurs;

ii. If the pre-construction eelgrass survey detects eelgrass within 10 meters of the in-water project area:

1. A post-construction survey of the eelgrass habitat in the action area and at the reference site conducted using the same sampling protocols as the pre-construction survey shall be completed within 30 days of completion of construction. If project completion occurs after the eelgrass active growth season (September 30), the post-construction eelgrass survey shall occur the following year during the same month as the pre-construction eelgrass survey. The post-construction survey shall be performed in substantial conformance with NMFS' October 2014 CEMP;

2. A monitoring report shall be provided to the Executive Director for review and approval within 90 days of completion of the post-construction growing season survey. The monitoring report shall include both the pre- and post-construction growing season survey results and include eelgrass maps and information on the spatial distribution, areal extent, percent cover, and turion density of eelgrass at the project and reference site within the defined survey areas at the time of each survey. The reports shall also include: (1) a summary of work operations; (2) photo-documentation of pre- and post-construction site conditions; (3) an impact analysis, including a quantitative assessment of any impacts on eelgrass that may have occurred as a result of project actions; and (4) a calculation of the area required for compensatory mitigation if needed and a description of how mitigation requirements will be met;

3. If the post-construction survey and monitoring report demonstrates to the satisfaction of the Executive Director that eelgrass distribution and density has not decreased and there has been no loss of extent of vegetated cover, then no further monitoring or mitigation is required; and
4. If the post-construction survey and monitoring report indicates any decrease in eelgrass distribution or density attributable to project impacts, then an extended eelgrass mitigation and monitoring plan shall be prepared and submitted as an application for an amendment to Coastal Development Permit 1-20-0712 that provides for compensatory mitigation.

B. The final plan shall include, at a minimum, the following components:
   i. A map of the project survey area and reference site;
   ii. Detailed schedule and methods for conducting pre- and post-construction eelgrass monitoring in substantial conformance with NMFS' October 2014 CEMP;
   iii. Clear standards for quantifying project impacts on eelgrass triggering compensatory mitigation;
   iv. A preliminary plan for potential compensatory mitigation to provide for an initial mitigation area to impact area ratio of at least 1.2:1; and
   v. A schedule for submittal of monitoring reports to the Executive Director.

C. Eelgrass monitoring, mitigation, and reporting shall be conducted at all times in accordance with the final approved Eelgrass Monitoring and Mitigation Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

7. Final Coastal Wetlands and Waters Fill Mitigation Plan. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0712, the permittee shall submit, for the review and approval of the Executive Director, a final Coastal Wetlands and Waters Fill Mitigation Plan to mitigate in-kind for the filling of 340 square feet of coastal waters and three (3) square feet of soft bottom wetland habitat by removing the existing defunct floating dock and two guide piles to mud level as proposed by the permittee.

A. The final plan shall demonstrate that:
   i. Mitigation will be achieved through removal of the 545-square-foot floating dock from the mudflat immediately after installation of the new personal watercraft launching facility;
   ii. Piles will be cut at or below the mudline;

iii. Piles and dock debris will be disposed of at an authorized location and any potentially hazardous waste materials will be disposed of at a landfill equipped to handle hazardous waste. The piles and debris disposal shall be included in the Final Debris Disposal Plan required by Special Condition 5;

B. The plan shall include, at a minimum, the following components:

i. A description of the proposed mitigation work;

ii. A schedule for implementing the mitigation work immediately following construction of the new dock; and

iii. Provisions for submittal within 30 days of completion of the mitigation work photo-documentation of before and after conditions and a narrative discussion demonstrating that the mitigation work has been completed in accordance with the approved final mitigation plan.

C. The permittee shall undertake development in accordance with the approved final Mudflat Fill Mitigation Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

8. Rare Salt Marsh Plant Species Protection Plan.

A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0712, the permittee shall submit, for the review and approval of the Executive Director, a plan prepared by a qualified botanist for the protection of salt marsh and sensitive plant species in the project area.

i. The plan shall demonstrate that:

1. All existing salt marsh habitat in the project area shall be avoided and protected to the maximum extent feasible; and

2. If impacts to salt marsh species will be unavoidable, (a) a qualified botanist shall collect and conserve all seeds of the individuals to be affected prior to disturbance and distribution of the seeds in a suitable habitat (with suitable host plants, native plant cover, elevations, and tidal exchange for the species) that already contains Humboldt Bay owl's clover and Point Reyes bird's beak near to where the seeds were collected; and (b) collected seeds shall be distributed into the identified habitat areas at the phenologically appropriate time, as determined by the qualified botanist.

ii. The plan shall include at a minimum the following components:

1. Updated preconstruction seasonally appropriate botanical surveys conducted by a qualified botanist for Humboldt Bay owl's clover and Point Reyes bird's beak that indicate the

number of special-status plant individuals, if any, to be impacted by construction activities;

2. A narrative and site plan map that describes avoidance measures proposed, including but not limited to, (1) flagging and staking for avoidance the upper elevational boundary limit of the salt marsh vegetation on the site; and (2) limiting grading work and other disturbance to areas outside of the staked area; and
3. A narrative description and map of the seed distribution site that explains why the distribution site is suitable habitat, indicates when the distribution will be scheduled, and explains why the scheduled seed distribution will occur at the phenologically appropriate time.

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 final plan shall occur without an amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

9. Protection of Sensitive Bird Nesting Habitat. If it is not feasible to avoid project construction during the avian nesting season (i.e. between March 1 and August 15), a survey for nesting birds in and adjacent to the project construction area shall be conducted by a qualified biologist according to current California Department of Fish and Wildlife (CDFW) protocols no more than seven days prior to the commencement of construction activities. If any sensitive bird ESHA is detected (i.e., detection of an active nesting areas of sensitive species) during preconstruction surveys, the biologist, in consultation with CDFW, shall determine the extent of a construction-free buffer zone to be established around the nest, and construction in the buffer zone shall be delayed until after the young have fledged, as determined by additional surveys conducted by a qualified biologist.

10. Assumption of Risk, Waiver of Liability and Indemnity.

A. By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to ground shaking, liquefaction, wave run-up, storm surges, flooding, and erosion, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee 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.

B. **PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT**, the permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (i) indicating that, pursuant to this permit, 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 (hereinafter referred to as the "Standard and Special Conditions"); and (ii) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit 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.

11. Area of Archaeological Significance.

A. AT LEAST TWO WEEKS PRIOR TO COMMENCEMENT OF GROUND-DISTURBING ACTIVITIES AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-20-0712, the permittee shall notify the Tribal Historical Preservation Officers (THPOs) from the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria of the construction schedule and arrange for tribal representative(s) to be present to observe ground-disturbing activities if deemed necessary by the THPOs. A cultural resources monitor approved by the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria shall be present to oversee all ground disturbing activities authorized by Coastal Development Permit 1-20-0712 unless evidence has been submitted for the review and approval of the Executive Director that the THPOs of these three entities have agreed that a cultural resources monitor need not be present.

B. If an area of cultural deposits or human remains is discovered during the course of the project, all construction shall cease and shall not re-commence until a qualified cultural resource specialist, in consultation with the THPOs of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria, analyzes the significance of the find and prepares a supplementary archaeological plan for the review and approval of the Executive Director, and either: (a) the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, or (b) the Executive Director reviews the Supplementary Archaeological Plan, determines that the changes proposed therein are not

de minimis, and the permittee has thereafter obtained an amendment to coastal development permit 1-20-0712.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Environmental Setting

Proposed Project

The City of Arcata[1] proposes to construct a new dock facility for launching non-motorized personal watercraft off of an existing parking lot at the southern terminus of I Street at the Arcata Marsh and Wildlife Sanctuary and within the northeast portion of Humboldt Bay (**Exhibits 1** and **2**). A boat launch ramp already exists at the northwest corner of the parking lot and supports launching of both motorized and non-motorized watercraft. However, shallow water depths in this area render the existing ramp usable only at the highest tides (at low tide the channel is approximately 150 feet from the ramp), and its attached floating dock is currently closed to the public for safety reasons. The proposed facility improvements include installation of a new non-motorized watercraft dock and associated landside features including new signage, parking lot improvements (adding asphalt paving to some graveled areas, restriping and re-surfacing paved areas, and creating an area for loading and unloading watercraft from vehicles), a new walkway, and installation of a vault toilet restroom at the northern end of the parking lot to replace a portable toilet in the same vicinity. The dock and gangway are designed to meet Americans with Disabilities Act (ADA) and Department of Boating and Waterways (DBW) accessibility requirements.

The proposed dock would be located at the southern side of the parking area and would consist of the following components (in order from land to farthest extent in the bay): (1) a concrete abutment above the mean higher high water line, (2) a 75-foot-long and 10-foot-wide aluminum gangway, (3) a 10-foot-long and 16-foot-wide gangway landing float, (4) a 4-foot-long and 10-foot-wide aluminum transition plate bridging between the landing float and launching float, and (5) a 6-foot-long and 30-foot-wide launching float (**Exhibit 3**). Two pre-cast concrete guide piles would be driven into the bay to laterally stabilize the launching floats.

The piles would not exceed 16.5 inches in diameter and would be driven by a vibratory hammer using either land-based equipment or a temporary ground support pad if needed to enable equipment to reach the pile installation location. If a ground support pad is used, a protective barrier would be installed (such as, but not limited to installing two layers of geofabric directly on the existing ground surface, followed by a layer of base rock and/or trench plates), resulting in approximately 1,250 square feet of temporary impacts to bay lands. The installation of the piles and boat launch equipment is anticipated to be completed within one tidal cycle. After installation of the guide piles,

[1] "The City of Arcata" is also referred to hereafter as "the City."

all ground support pad materials would be removed and disposed of at an authorized facility outside the coastal zone. Standard land-based equipment would be used to install the gangway and floats.

As discussed in **Finding D** ("Fill in Coastal Waters") below, the City proposes to mitigate for the temporary and permanent wetland fill impacts resulting from the dock installation by removing the existing defunct floating dock, which is closed for safety reasons and currently shades approximately 545 square feet of bay lands and rests on the bay mud during low tides. The dock would be removed after installation of the new launch facility to allow continued boat access at this general location during project construction. Removal of the dock would not affect the existing concrete ramp, which would continue to provide access to motorized and non-motorized watercraft at this location during high tides.

Equipment staging and temporary stockpiling of materials would occur within a portion of the existing parking area. To protect water quality, the project as proposed would be implemented using best management practices (BMPs) during construction activities as detailed in **Finding E** ("Marine Resources and Water Quality") below. The applicant anticipates that all proposed construction work can be completed within approximately two to four weeks and would occur between July 1 and September 30. As detailed in **Finding H** ("Public Access and Recreation"), public access would remain available during project construction, although parking would be temporarily reduced.

Environmental Setting

The project site is located on City-owned lands within the Arcata Marsh and Wildlife Sanctuary (Arcata Marsh) which covers approximately 300 acres of publicly owned open space and includes approximately five miles of walking and biking paths and an interpretive center. Established in 1949, the Arcata Marsh is nationally recognized for its methods of treating the City's wastewater via the natural processes of the marsh. Surrounding land uses include parklands, the Arcata Marsh wastewater treatment facility, and Humboldt Bay. Situated along the Pacific Flyway as part of the major migratory corridor for thousands of birds travelling between California, Mexico, and Central and South America, the Arcata Marsh is also a popular destination for bird watching. Over 300 species of birds have been documented at the Arcata Marsh over the years.

The proposed boat launch facility improvements would be located along the northeastern shoreline of Humboldt Bay, (also known as "Arcata Bay" or "North Bay") in low lying areas ranging from approximately two to fourteen feet in elevation (NAVD88[2])(**Exhibit 5**). The project site is located along the southwestern edge of the Arcata Marsh where a parking lot has been developed to provide access to constructed walking and biking paths and the existing boat launching facility. Other developments at the parking lot include a trailhead with signage, bicycle racks, picnic areas with benches, and a portable toilet. As discussed above, due to shallow water depths, the

[2] North American Vertical Datum of 1988

existing boat launch ramp is functional only at higher tides. The mudflat in this area is at an elevation of 1.67 feet (NAVD88), on average. A channel runs through the mudflats parallel to the shoreline along the southern limit of the project area. The channel thalweg has an elevation of approximately 0.98 feet (NAVD88). The proposed dock will extend to this channel to facilitate boat launching at more stages of the tide.

Both native eelgrass (*Zostera marina*) and nonnative eelgrass (*Zostera japonica*) beds are present in the project vicinity. Although the optimal habitat for eelgrass occurs more than 100 feet away from the location of the proposed dock[3], both native and nonnative eelgrass have been observed near the existing dock and because depths of tidal channels do fluctuate, there may be suitable habitat within the project site.

Within the mowed area adjacent to the parking lot, vegetation includes a mix of ruderal grass species and scattered plantings of native shore pine and nonnative Monterrey pine. Salt marsh species are present on a created topographic bench at the southern end of the parking lot approximately 30 feet downslope of an existing picnic area. The salt marsh bench extends to the north where it ends at rip rap associated with the existing boat dock. Salt marsh species within the bench area include salt grass (*Distichlis spicata*), spartina (*Spartina densiflora*) [invasive], pickleweed (*Salicornia virginica*), plantain (*Plantago coronopus*), brass buttons (*Cotula coronopifolia*). Rare annual species including Humboldt Bay owls clover (*Castilleja ambigua* ssp. *humboldtiensis*) and Point Reyes birds beak (*Chloropyron maritimum* ssp. *palustre*) have also been identified within this area. The site of proposed dock construction is located approximately 25 feet from the southern end of this salt marsh habitat (**Exhibit 5**).

As detailed in **Finding G** (“Archaeological Resources”), a row of decaying piles can be seen in Humboldt Bay approximately 100 feet southeast of the proposed dock location. The pilings are the last remnants of the historic wharf supporting the Arcata and Mad River railroad line that operated in the area as early as 1855 (under the former name of Union Wharf & Plank Walk Company). The historic wharf and railroad line extended approximately two miles into the bay “to where ships could tie up to receive and discharge passengers and merchandise[4].” All evidence of this historic landmark (California Historic Landmark #842) other than the decaying remnant piles has disappeared since the railroad line was abandoned in the 1940’s. The proposed dock has been sited 100 feet away from this historic landmark to maintain the physical integrity of this resource.

[3] The Humboldt Bay Eelgrass Management Plan (HBHRCD 2017) indicates the maximum depth capable of supporting native eelgrass in North Bay is -1.3 m MLLW (-4.6 feet NAVD88) and the upper limit is 0.4 m MLLW (0.98 feet NAVD88) (Gilkerson 2008).
[4] Source: Borden 1965:3-4, in Roscoe and Associates 2012

B. Jurisdiction and Standard of Review

The site of the proposed project is within Humboldt Bay and on adjacent previously filled tidelands subject to the public trust. Thus, all of the project site is within the Coastal Commission's area of original or retained jurisdiction. Therefore, the standard of review that the Commission must apply to the development is the Chapter 3 policies of the Coastal Act.

C. Other Agency Approvals

The project requires review by a number of other agencies. The City has already obtained approvals from several state and federal agencies, including from the U.S. Army Corps of Engineers (USACE)[5] National Marine Fisheries Service (NMFS)[6], and North Coast Regional Water Quality Control Board[7]. No approval is required from the California Department of Fish and Wildlife. The City also obtained the approval of the Arcata Historic Landmarks Committee on February 15, 2018. The City is currently in the process of obtaining authorization from the Humboldt Bay Harbor Recreation and Conservation District. To ensure that the City obtains this remaining required agency approval from the Harbor District, **Special Condition 1** requires submittal of evidence of approval from the Harbor District prior to issuance of the permit.

D. Fill of Wetlands and Coastal Waters

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

> (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:
>
> 1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities;

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[5] On October 1, 2020, USACE issued "Department of the Army Nationwide Permit (NWP) 42 for Recreational Facilities," File Number 2020-00261N, pursuant to section 404 of the Federal Clean Water Act and section 10 of the Rivers and Harbors Act.

[6] On July 29, 2020, NMFS responded to a July 7, 2020 request from USACE for concurrence and concurred with USACE's determination that the project was not likely to adversely affect Southern Oregon/Northern California Coast Coho salmon, California Coastal Chinook salmon, Northern California Steelhead, and North American Green Sturgeon and designated critical habitat for these species (File reference number WCRO-2020-01928).

[7] On August 19, 2020 the North Coast Regional Water Quality Control Board issued Federal Clean Water Act, section 401 Water Quality Certification for the proposed project (File reference number ECM PIN CW-866984 WDID 1B20090WNHU).

> 2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basin, vessel berthing and mooring areas, ad boat launching ramps;
>
> 3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities;
>
> 4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines;
>
> 5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas;
>
> 6) Restoration purposes;
>
> 7) Nature study, aquaculture, or similar resource dependent activities.
>
> (b) Dredging and spoils shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation…
>
> (c) In addition to the other provision of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary…

Coastal Act section 30108.2 defines "fill" as "*earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area*." Portions of the proposed watercraft launching facility qualify as fill in Humboldt Bay, including a 160-square-foot landing float, a 180-square-foot launching float, and two new 16.5-inch-diameter precast concrete piles, each displacing approximately 1.3 square feet of mudflat, to laterally stabilize the floating dock. The launching facility results in a total of approximately three (3) square feet of soft bottom wetland habitat ("mudflat") fill resulting from installation of the piles, and 340 square feet of fill of coastal waters resulting from the floats. Although the dock improvements would result in partial shading of coastal waters resulting from the new gangway, the gangway has been designed with slots that will allow for 50% light penetration, reducing potential shading impacts below the gangway. The project will also result in approximately 1,250 square feet of temporary impacts to bay lands resulting from the likely use of a "ground support pad" to accommodate the use of the equipment needed to reach the location for pile installation within the bay. The installation of the piles and boat launch equipment is anticipated to be completed within one tidal cycle. After installation of the guide piles, all ground support pad materials would be removed and disposed of at an authorized facility outside the coastal zone.

The Coastal Act recognizes the importance and scarcity of wetlands. Filling, diking, or dredging in wetlands is permissible under section 30233(a) only if: (1) the use is for one

of the seven allowable uses listed under section 30233(a)(1)-(7), (2) there is no feasible less environmentally damaging alternative, and (3) feasible mitigation measures have been provided to minimize adverse environmental effects. A project must meet all three tests to be authorized pursuant to section 30233(a). In addition, under section 30233(c), the development must maintain or enhance the functional capacity of the wetlands.

Allowable Use

Coastal Act section 30233(a) limits the fill of coastal waters to specific, enumerated uses. The proposed fill is allowable under Coastal Act section 30233(a)(3) because the fill is for an expanded public boating facility in an estuary (Humboldt Bay).

Alternatives Analysis

Coastal Act section 30233(a) also requires that projects involving filling of coastal waters be the least environmentally damaging feasible alternative. Coastal Act section 30108 defines "feasible" as "…capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors."

In this case, alternatives include the "no project" alternative, and an alternative location for the new dock. The "no project" alternative would mean not improving coastal access by installing the new dock. Instead, the dock at the existing concrete boat launch ramp would continue to be the sole facility available for launching hand-carried non-motorized personal watercraft into the North Bay from the Arcata Marsh. However, the existing dock is currently in a state of disrepair, is nearing the end of its maintenance life, and is unsafe for use. Furthermore, the existing dock does not provide access to a navigable channel at lower tides which limits boat trips to approximately one hour per tidal cycle, severely curtailing opportunities for recreational boating in the northern portion of Humboldt Bay and making use of the existing boat dock impractical. The existing dock is also unstable and not ADA-accessible, thereby limiting access opportunities for anyone with physical and/or mobility limitations. Therefore, the no project alternative is not a less environmentally damaging feasible alternative, as it would not accomplish the project objective of providing a safe and accessible means to launch non-motorized personal watercraft at the Arcata Marsh.

The City evaluated alternative potential locations including sites to the north towards the existing dock and east along the existing trail. Locations nearer to the existing dock would require a longer gangway to reach the navigable channels at low tides, resulting in increased shading impacts. For example, the proposed boat launch location is approximately 100 feet from the navigable channel (requiring a 75-foot gangway), whereas northerly locations range from 110 to 170 feet from the channel. Additionally, a longer gangway would be less stable and would not meet Department of Boating and Waterways' accessibility requirements (due to shifting cross slope associated with the longer length). Constructing the dock east of the proposed location could reduce the length of the structure by approximately five feet but would be closer to a California Historic Landmark (#842, the Union Wharf & Plant Walk Company Railroad). As discussed in **Finding G** below, a 100-foot setback between the project site and the

historic resource has been recommended to protect the "integrity of setting and feeling of the landmark" and siting the dock east of the proposed location would encroach within this setback. Therefore, an alternative dock location is not a less environmentally damaging feasible alternative to the proposed project as conditioned.

Feasible Mitigation Measures

The third test set forth by section 30233 is whether feasible mitigation measures have been provided to minimize significant adverse environmental impacts. The development involves work in and adjacent to Humboldt Bay that could result in direct and indirect impacts to coastal resources in Humboldt Bay. Depending on the manner in which the proposed development is conducted, the significant adverse environmental effects of the development may include: displacement of mudflat habitat and bay surface area, impacts on water quality and hydrology from construction activities and from post-construction stormwater runoff; impacts to eelgrass habitat; hydroacoustic impacts from pile driving on sensitive salmonids and other fish species; and impacts to sensitive salt marsh plant species (Humboldt Bay owl's-clover and Point Reyes bird's-beak).

Displacement of Mudflat Habitat and Bay Surface Area

As described above, approximately three (3) square feet of soft bottom, wetland mudflat will be filled by the new pile installation, and 340 square feet of coastal waters will be filled by the installation of floats associated with the dock. To compensate for the proposed 343 square feet total of permanent fill associated with installation of the floating dock and two new piles, the City proposes to remove the existing defunct dock that currently shades approximately 545 square feet of bay lands and rests on the bay mud during low tides. The dock would be removed by disconnecting the cable between the dock and its anchoring piles and would be removed at high tide. The piles that hold the existing dock would be left in place to avoid water quality impacts from turbidity generated by their removal. However, the two piles located near the shoreline would be cut to the mudflat level to avoid a safety hazard (**Figure 1**).

The removal of the defunct dock will mitigate for the installation of the fill associated with the new watercraft launching facility at an overall ratio of approximately 1.6 to 1. The Commission finds that a mitigation ratio of 1.6:1 is acceptable in this case because the mitigation will have a high likelihood of success and result in minimal temporal loss given that the unvegetated mudflat habitat to be enhanced need only be uncovered by removal of the defunct dock to be functional as habitat soon after the City removes the defunct dock, which the City proposes to do immediately after installation of the new watercraft launching facility. The mudflats are generally devoid of vegetation that would otherwise take time to regenerate and the invertebrate animal species such as marine worms that live in the mud should quickly recolonize the portion of the mudflat from which the defunct dock will be removed. In addition, the soft bottom area will immediately become available as foraging habitat for shorebirds during low tides, and the area of coastal waters previously occupied by the defunct dock will become immediately available as roosting habitat for wading birds during higher tides. Furthermore, as mitigated, the proposed new watercraft facility will not cumulatively contribute to potential adverse impacts from similar projects in the area.

To ensure the mitigation is carried out as proposed, The Commission attaches **Special Condition 7.** Special Condition 7 requires the applicant to submit a final fill mitigation plan prior to permit issuance for the review and approval of the Executive Director that provides details of the dock removal work and requires the defunct dock to be removed immediately upon installation of the new personal watercraft launching facility. To document achievement of the mitigation, Special Condition 7 also requires the applicant to submit photo-documentation of before and after conditions and a summary of mitigation activities completed.

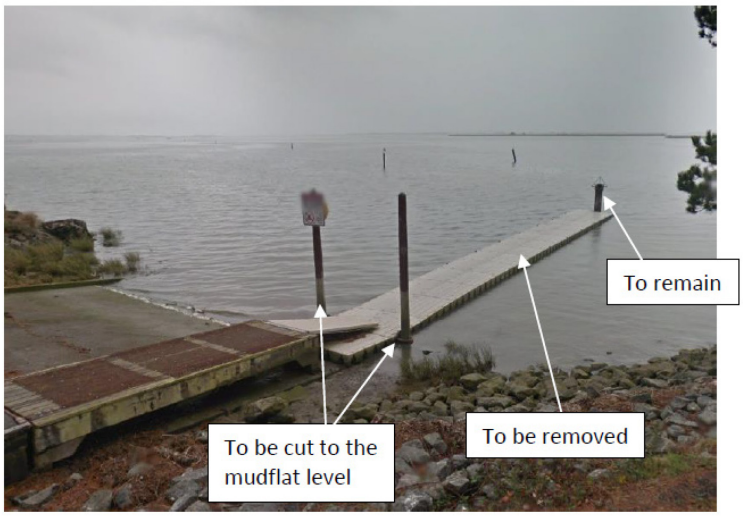

Figure 1. Proposed removal of existing defunct dock as mitigation for project-related wetland impacts

The Commission finds that the proposed development as conditioned provides feasible mitigation measures to minimize the project's bay fill impacts consistent with Coastal Act section 30233.

Impacts to Eelgrass, Fish Species, Salt Marsh Plant Species, and Water Quality

Feasible mitigation measures to ensure that the proposed placement of wetland fill in coastal waters will avoid or minimize adverse environmental effects on eelgrass, sensitive salmonids and other fish species, sensitive salt marsh plant species, and water quality are discussed below in **Finding E** (Marine Resources & Water Quality). The findings discussing these feasible mitigation measures are incorporated herein and the Commission finds that in addition to ensuring that marine resources will be protected consistent with section 30230, Special Conditions 3 through 8 are necessary to ensure the that the approved wetland fill provides feasible mitigation measures to avoid or minimize adverse effects on salmonids, eelgrass, and water quality consistent with section 30233.

For all the reasons discussed above, the Commission finds that the development as conditioned provides feasible mitigation measures to minimize the impacts of the approved fill on coastal waters consistent with section 30233.

Biological Productivity and Functional Capacity

Another general limitation set by section 30233(c) of the Coastal Act is that any proposed dredging or filling in coastal wetlands or estuaries must maintain or enhance the functional capacity of the wetland or estuary.

The mitigation measures incorporated into the project and required by the special conditions discussed above will ensure that the project will not have significant adverse impacts on coastal waters or wetlands in and around the project vicinity. As discussed above, the applicant proposes to remove the defunct dock from the bay (which rests on bay muds during low tides) as compensatory mitigation for the placement of two new piles in the bay.

Therefore, the Commission finds that the project, as conditioned, will maintain the functional capacity of the Humboldt Bay estuary consistent with the requirements of Coastal Act section 30233.

Conclusion

For all of the reasons set forth above, the Commission finds that the project, as proposed and conditioned, is an allowable use, that there is no feasible less environmentally damaging alternative, that feasible mitigation will be provided to minimize all significant adverse impacts associated with the dredging and filling of coastal wetlands, that wetland habitat values will be maintained or enhanced, and that coastal water quality will be protected. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with section 30233 of the Coastal Act.

E. Marine Resources and Water Quality

Applicable Coastal Act Provisions

> **Section 30230**. 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**. 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 30232. Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containments and cleanup facilities and procedures shall be provided for accidental spills that do occur.

The development involves work in and adjacent to Humboldt Bay that could impact marine resources and the biological productivity and quality of the bay. As discussed in **Finding D**, "Fill in Coastal Waters," installation of the new watercraft launching facility will result in the placement of 343 square feet of bay fill which is proposed by the City to be mitigated by the removal of the defunct floating dock at the existing boat launching ramp facility. **Special Condition 7** requires that the proposed mitigation be carried out. The portion of Finding D discussing the bay fill impacts of the development and its mitigation are incorporated herein and the Commission finds that in addition to ensuring that the approved bay fill will provide feasible mitigation measures to compensate for the displacement of bay and mudflat habitat consistent with section 30233, Special Condition 7 is necessary to ensure that the project will protect these marine resources consistent with section 30230.

Installation of the new watercraft launching facility could also result in construction-related adverse environmental effects on mudflat habitat, eelgrass habitat, sensitive salmonids and other fish species, and sensitive salt marsh plant species. In addition, construction and post-construction runoff from the project area could result in adverse environmental effects on water quality.

Avoidance, minimization, and mitigation measures for these potential impacts are discussed below.

Construction-related Impacts on Marine Resources

Mudflat Habitat Impact Avoidance

The new floating dock requires installation of two new 16.5-inch piles in mudflat habitat. To minimize adverse impacts to the mudflat habitat where work will be performed, the City proposes to conduct all work within the mudflat habitat using either land-based equipment or a temporary ground support pad if needed to enable equipment to reach the pile installation location. If a ground support pad is used, a protective barrier would be installed (such as, but not limited to installing two layers of geofabric directly on the existing ground surface, followed by a layer of base rock and/or trench plates), resulting in approximately 1,250 square feet of temporary impacts to the mudflats. The installation of the piles and boat launch equipment is anticipated to be completed within one tidal cycle. After installation of the guide piles, all ground support pad materials would be removed and disposed of at an authorized facility outside the coastal zone. The remainder of work will use standard land-based equipment to install the gangway and floats. The aforementioned construction methods and timing limitations have been incorporated into the requirements of **Special Condition 3** to ensure they are

implemented as proposed to minimize construction impacts and protect and maintain the mudflat habitat.

Eelgrass Impact Avoidance

Both native eelgrass (*Zostera marina*) and nonnative eelgrass (*Zostera japonica*) beds are present in the project vicinity. Eelgrass is essential to the health and productivity of the Humboldt Bay ecosystem as it provides many ecological benefits, including stabilization of bottom sediments, a substrate for epiphytic algae and invertebrates, foraging areas and shelter for young fish and invertebrates, food for migratory waterfowl, and spawning surfaces for invertebrates and fish. Eelgrass beds in Humboldt Bay persist all year, but they exhibit high variability in distribution and density, both seasonally and from year to year.

Although optimal habitat for eelgrass occurs more than 100 feet away from dock construction activities,[8] the City's consulting biologist did not observe any eelgrass within the project area during site reconnaissance performed in May 2018. The absence of eelgrass was anticipated as the mudflat of the project area is not of sufficient depth to support eelgrass. However, both native and nonnative eelgrass have been observed in the past near the existing dock,[9] and because depths of tidal channels do fluctuate, suitable habitat could develop within the project site prior to construction.

To ensure that the development will not impact eelgrass habitat as expected, the City proposes Mitigation Measure BIO-2 to conduct pre-construction eelgrass surveys of the project area during the growing season (May-September) at the lowest daylight tide, and no more than 60 days prior to the start of construction (or at the end of the prior growing season if construction is scheduled to occur between October-April). If pre-construction surveys detect eelgrass in the project area, the City proposes to undertake one of the following actions:

1. If native eelgrass is not determined to be present within the project and/or construction footprint at a given project site, then no further action will be required by Mitigation Measure BIO-2 at that site as there will be no impact to native eelgrass.

2. If native eelgrass is found within the project and/or construction footprint at a given project site, then impacts to the eelgrass will be avoided if practically feasible. If it is reasonable to alter the project and/or construction footprint to avoid impacting native eelgrass, then such avoidance measures will occur and no further action will

[8] According to the City's IS/MND prepared for the project, the Humboldt Bay Eelgrass Management Plan (HBHRCD 2017) indicates the maximum depth capable of supporting native eelgrass in North Bay is -1.3 m MLLW (-4.6 feet NAVD88) and the upper limit is 0.4 m MLLW (0.98 feet NAVD88) (Gilkerson 2008), unless there is a perched pool environment. The project area does not contain a perched pool environment, and according to City GIS Lidar data, depths range between 2 and 8 feet (NAVD88), which is outside the range of suitable elevation for native eelgrass habitat.

[9] Survey efforts were conducted in 2014 around the existing boat launch facility in association with an old boat launch design that would have been developed in the same location as the existing boat launch.

be required by Mitigation Measure BIO-2 at that site as there will be no impact to native eelgrass.

3. If it is determined that native eelgrass is present within the areas to be impacted by the project and avoidance of native eelgrass impacts is not possible, then native eelgrass impacts will be mitigated through either 1) smothering nonnative eelgrass in order to help preserve native eelgrass populations and/or 2) remediating substrate of former shellfish bottom culture sites. Both activities would occur at elevations that are also suitable to support native eelgrass and in close proximity to the project site. The appropriate areal extent will be determined in coordination with regulatory agencies to ensure that there is no net loss of functional native eelgrass habitat.

If impacts to eelgrass are unavoidable, the City's Mitigation Measure BIO-2 additionally proposes developing a specific mitigation plan in coordination with relevant permitting agencies and consistent with the recommendations of the NOAA Fisheries 2014 California Eelgrass Mitigation Policy (CEMP) and Humboldt Bay Eelgrass Comprehensive Management Plan. In most cases in-kind mitigation is the preferred option to compensate for impacts to eelgrass and is generally achieved through transplanting or seeding eelgrass into unvegetated habitat. However, eelgrass mitigation by transplanting in Northern California has a high percent failure rate.[10] Because of the lack of success associated with eelgrass transplanting projects in Northern California, California Department of Fish and Wildlife (CDFW) and Commission staff have been encouraging eelgrass mitigation in Humboldt Bay through debris removal. Removing debris is generally considered in-kind mitigation when: 1) the debris is in an area suitable for eelgrass; 2) the debris is precluding eelgrass growth; and 3) when the debris is removed, eelgrass becomes established in its place.

As proposed, the pre-construction survey would document the current density and distribution of eelgrass beds in the project vicinity. However, the mitigation proposal lacks specificity on the survey and mapping techniques and eelgrass parameters to be measured. The plan also lacks clear standards for quantifying project impacts on eelgrass triggering compensatory mitigation. The Commission therefore requires as part of **Special Condition 6** submittal of a final eelgrass mitigation and monitoring plan prior to permit issuance. The required plan components are based on the California Eelgrass Mitigation Policy and Implementing Guidelines developed by the National Marine Fisheries Service (NMFS, 2014). To ensure monitoring and mitigation oversight by the Commission, **Special Condition 6** also requires the City to submit a monitoring report to the Executive Director for review and approval within 90 days of completion of the post-construction growing season survey if eelgrass is documented in the vicinity of project activities. Among other requirements, this report is required to include survey results, photo-documentation of pre- and post-construction site conditions, and a

[10] The CEMP sites a 75% failure rate in the region based on the results of four transplant actions in the past 25 years.

quantitative assessment of any impacts on eelgrass that may have resulted from project actions. If post-construction survey results indicate any decrease in eelgrass distribution or density attributable to project impacts, **Special Condition 6** (1) requires the final monitoring plan to include a calculation of the area required for compensatory mitigation and a description of how mitigation requirements will be met, and (2) requires the applicant to submit a supplemental eelgrass mitigation and monitoring plan as an application for an amendment to CDP 1-20-0712.

With the incorporation of Special Condition 6, the Commission finds that proposed in-water work will protect and maintain the eelgrass habitat.

Avoidance of Impacts to Fish Species

The marine environment of Humboldt Bay supports numerous fish species, including a number of special-status fish species such as Green Sturgeon (*Acipenser medirostris*), Coho Salmon (*Oncorhynchus kisutch*), steelhead (*Oncorhynchus mykiss irideus*), and Chinook Salmon (*Oncorhynchus tshawytscha*). To minimize the hydroacoustic impacts on fish of pile installation, the City proposes to install the two prefabricated concrete guide piles using a vibratory hammer rather than a traditional impact hammer. Pile driving with an impact hammer generates hydroacoustic pressure impulses and particle velocities that can cause effects on fish ranging from altered behavior, hearing loss, and tissue injuries to immediate mortality. In contrast, vibratory hammers produce peak sound levels that are substantially lower than those produced by impact hammers and as such are not expected to expose fish to sound levels that could result in injury or death (Caltrans, 2009). The City also proposes to limit in-water work to July 1st through September 30, when anadromous fish are least likely to be present in the area (i.e., before the majority of the upstream adult spawning migrations and after the downstream migration of smolts has occurred). All the aforementioned timing limitations and other in-water avoidance and minimization measures and Best Management Practices (BMPs) have been incorporated into **Special Condition 3** to ensure they are implemented as proposed to minimize impacts and protect and maintain fish species.

Avoidance of Impacts to Rare Salt Marsh Species

As described in **Finding A** above, salt marsh species are present on a created topographic bench at the southern end of the parking lot approximately 30 feet downslope of an existing picnic area. The salt marsh bench is located approximately 25 feet north of the site of the proposed dock and extends to the north where it ends at rip rap associated with the existing concrete boat ramp (**Exhibit 5**). Salt marsh species within the bench area include the rare annual species known as Humboldt Bay owls clover (*Castilleja ambigua* ssp. *humboldtiensis*, California Rare Plant Rank 1B.2[11]) and Point Reyes birds beak (*Chloropyron maritimum* ssp. *palustre*, California Rare Plant Rank 1B.2). Surveys conducted in 2012 and again in 2018 detected the presence of

[11] California Native Plant Society (CNPS). 2017. *Inventory of Rare and Endangered Plants* (online edition, v8-01a). CNPS. Sacramento, CA. http://www.cnps.org/inventory. **LIST 1B** = Rare, threatened, or endangered in California and elsewhere; **LIST 2** = Rare, threatened, or endangered in California but more common elsewhere; **0.2** = fairly endangered in California.

approximately 300 individuals of Humboldt Bay owls clover, and 20 individuals of Point Reyes birds beak within 50 feet of the proposed project area.

Both Humboldt Bay owl's-clover and Point Reyes bird's-beak are annual, hemiparasitic species in the Broom-rape family (Orobanchaceae) that grow in coastal salt marsh habitats primarily along the North Coast of California. In addition to photosynthesizing, these hemiparasites supplement their nutrient intake by parasitizing the live roots of adjacent salt marsh species. Humboldt Bay owl's-clover plants typically germinate in late winter to spring and bloom sometime between April and August (often peaking in June). Point Reyes bird's-beak plants usually germinate slightly later in spring and flowering generally occurs in July (CNPS 2008). Population numbers of each species normally fluctuate from year to year since, as annuals, germination rates are dependent on a number of environmental factors.

The City has proposed Mitigation Measure BIO-3 that a qualified biologist conduct a rare plant survey prior to commencement of construction activities, and should any rare plants be detected within the project area, the affected species would be transplanted or replanted on site. However, since the populations of Humboldt Bay owl's-clover and Point Reyes bird's-beak within the salt marsh habitat fluctuate from year to year, the only way to ensure avoidance of all sensitive plants is to avoid disturbance of all salt marsh habitat in the project vicinity. The City's proposed mitigation measure would not ensure protection to Humboldt Bay owl's-clover and Point Reyes bird's-beak because as annual species, any plants that are relocated would not persist over time. Individual plants die off each year, and the species depend on dispersal of the seeds from plants by wind and other means to suitable habitat areas nearby, where the seeds can grow into new individual plants.

Therefore, to ensure that impacts to the sensitive plant habitat in the project area are avoided or adequately mitigated to maintain the sensitive habitat, the Commission attaches **Special Condition No. 8.** This condition requires the submittal of a final mitigation plan prepared by a qualified botanist for the review and approval of the Executive Director that demonstrates that all existing salt marsh habitat on the site shall be avoided and protected. If impacts to rare salt marsh species are unavoidable, and to ensure compensatory mitigation for any potential impacts to rare plants within the salt marsh habitat, **Special Condition 8(A)** requires as part of the mitigation plan specifications for compensatory mitigation, including by collecting seeds from the area of impact and distributing the seeds to nearby marsh habitat.

The Commission finds that the project as conditioned in the manner discussed above will protect and maintain sensitive salt marsh species.

Avoidance of Impacts on Water Quality

The development could result in adverse impacts to water quality from both construction-related activities and stormwater runoff from the project site once it is completed. To minimize the generation of suspended sediment during construction, the City proposes to install the piles at low tide, outside of the active channel, when no water is present. To ensure that adverse water quality impacts associated with

hazardous material spills are minimized, the City proposes to only use equipment that relies on vegetable based hydraulic oil during in-water construction. Vegetable based hydraulic oil has lower aquatic toxicity and breaks down more rapidly in the environment than petroleum products, reducing the potential water quality impacts of spills.

Proposed landside construction activities include installing a concrete abutment to support the gangway ramp for the new floating dock, installing a new vault toilet, installing a new curbed walkway between the vault toilet and new dock, adding asphalt paving to graveled portions of the parking lot, and resurfacing and restriping the existing paved portions of the parking lot. Landside construction activities could result in sediments, debris, and other pollutants entering Humboldt Bay and impacting water quality. To avoid such impacts, the City proposes a number of erosion and sediment control and pollution prevention measures.

Among other erosion, runoff, and sediment control Best Management Practices (BMP)s, the City proposes to (a) limit all ground-disturbing activities and asphaltic-concrete paving operations to periods of dry weather only; (b) contain onsite stockpiles of soil and construction debris at all times and cover and secure them with fiber rolls before the onset of precipitation; (c) install suitable sediment control BMPs such as silt fencing or fiber rolls downgradient of disturbed areas; and (d) stabilize exposed soils with mulch or other erosion control measures. The City has also indicated that the project contractor will be responsible for providing an Erosion, Runoff, Sediment and Turbidity Control Plan along with a Spill Prevention Plan that use the suggested protocols and BMPs in the City's adopted stormwater BMP handbook.

Spill prevention measures that are proposed by the City include (a) maintaining equipment free of oil and fuel leaks at all times; (b) keeping hazardous materials management equipment including absorbent pads available and immediately on-hand at the project site; and (c) rapidly containing and cleaning up any accidental spills that occur.

The aforementioned best management practices have been incorporated into the requirements of Special Condition 3 to ensure they are implemented as proposed to protect and maintain water quality.

Many of the water quality BMPs proposed by the applicant lack specificity as to the specific type and location of measures to be employed. For example, the application does not specify the type or location of sediment control BMPs to be deployed downgradient of disturbed areas and adjacent to Humboldt Bay. Therefore, the Commission attaches **Special Condition 4** requiring that a final erosion and sediment control and pollution prevention plan be submitted to the Executive Director for review and approval prior to commencement of construction that includes a construction site map identifying the location of all aforementioned BMPs and construction activities, a narrative description of the specific BMPs to be implemented, and a schedule for the management of all BMPs.

Construction debris will include the old dock, temporary ground support pad materials, concrete rinseate, construction materials remnants, replaced materials, and worker-generated trash. The City has indicated that the temporary ground support pad materials would be disposed of offsite at an appropriate disposal facility outside of the coastal zone. The City has also indicated that the contractor would haul all construction waste to an approved disposal site. To ensure that waste and debris generated by the development will be properly handled and disposed of in a manner that protects water quality and aquatic resources, **Special Condition 5** requires submittal of a final debris disposal plan for the Executive Director's review and approval prior to commencement of construction.

With the incorporation of Special Conditions 3, 4, and 5 the Commission finds that the development will protect marine resources and prevent degradation of the biological productivity and quality of coastal waters consistent with the requirements of Coastal Act sections 30230 and 30231. The Commission further finds that as conditioned, the proposed development will provide protection against the spilling of gas, petroleum products, and hazardous substances and provide effective containment and cleanup for accidental spills that do occur consistent with section 30232 of the Coastal Act.

For all the reasons discussed above, the Commission finds that the development as conditioned, will maintain marine resources and the biological productivity and quality of coastal waters as mandated by Coastal Act sections 30230 and 30231.

F. Coastal Hazards

Coastal Act **section 30253** states, in applicable part:

> New development shall do all of the following:
>
> (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
>
> (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs…

The proposed project is located in an area subject to high geologic and flood hazards that include the potential for strong ground shaking, liquefaction, tsunami inundation, and flooding associated with high waves and storm events. The frequency and severity of flood events at the site is expected to worsen with projected sea-level rise.

Flood Hazards and Sea Level Rise

The non-motorized personal watercraft launch facility will range in elevation from a minimum of 11 feet at the top of the existing concrete boat launch ramp to a maximum of 13.20 feet at the southeastern portion of the parking lot where the vault toilet will be installed (referenced to NAVD88). The existing boat launch ramp and the proposed dock are within the mapped 100-year floodplain (in a VE zone with a base flood

elevation of 13 feet), while most of the existing parking lot is located outside of the mapped floodplain.

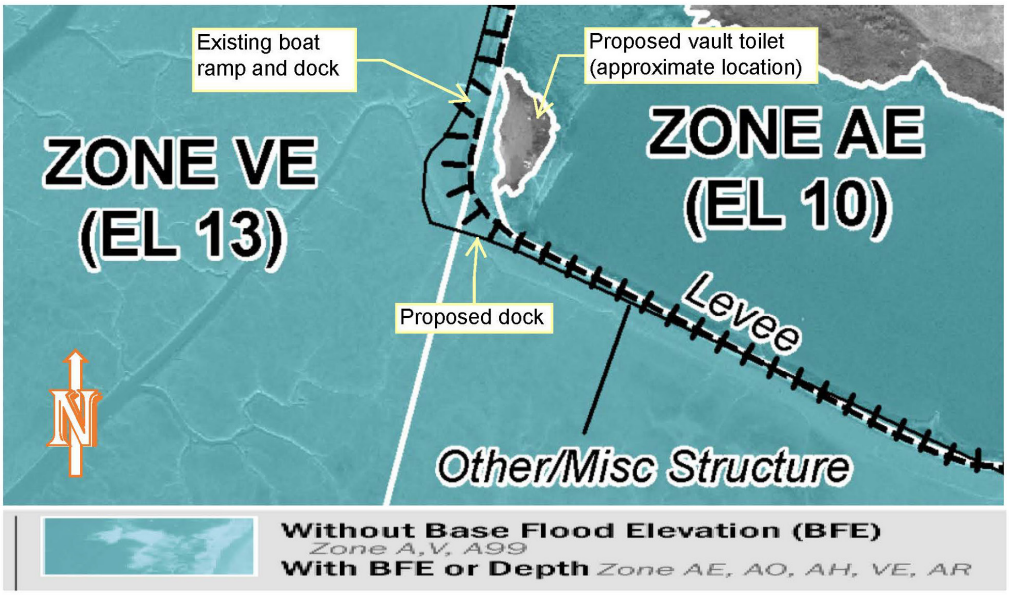

Figure 2. FEMA Flood Insurance Rate Map (Humboldt County Panel 855 of 2050, Map # 06023C0855G**,** effective on 06/21/2017 and accessed online at www.msc.fema.gov).

The California Ocean Protection Council's State of California Sea-Level Rise Guidance 2018 Update contains a set of sea level rise projections for 12 tide gauges throughout California, and the Coastal Commission recommends using these projections and related information as best available science on sea level rise in California. Table 1, below, provides the projections for Humboldt Bay (measured at NOAA's North Spit Tide Gage), which has the highest rate of sea level rise in the State due to active land subsidence.

Table 1. Projected[12] Sea Level Rise (in feet) on Humboldt Bay

	Low Risk Aversion (ft.)	**Medium-High** Risk Aversion (ft.)	**Extreme** Risk Aversion (ft.)
2030	0.7	1	1.2
2050	1.5	2.3	3.1
2070	2.4[13]	4	5.6
2100	4.1	7.6	10.9

(*Source: Ocean Protection Council 2018)*

The current mean monthly maximum water (MMMW)[14] elevation in North Bay near the Arcata Marsh is approximately 8.4 feet NAVD88.[15], and the average annual king tide elevation is 8.8 feet (NAVD 88). The City anticipates the life of the proposed developments overall to be approximately 40-50 years (i.e., through 2070), with the floats expected to last 25-30 years. Under the medium-high risk scenario cited above, future MMMW levels in the year 2070 are projected to be approximately 12.4 feet NAVD88 (i.e., 8.4 feet + 4 feet of sea level rise) and future average annual king tides are projected to be 12.8 feet. With a minimum finished grade elevation of 13.2 feet, the new vault toilet will be safe from nuisance flooding for its design life. Consideration of the medium-high risk scenario is precautionary in this case because the new building is a public restroom not permitted for extended human occupancy.

The City anticipates the life of the new dock to support access for non-motorized personal watercraft to be approximately 25-30 years (i.e., through 2050). The concrete abutment supporting the gangway and floats will be installed on land at an elevation of 10.25 feet, and the gangway is sized and built to safely provide access to users during operational low and high water levels (defined as 3.20 and 6.83 feet elevation NAVD88,

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[12] The projections for relative sea level rise on Humboldt Bay take into account the combined effects of regional eustatic sea level rise and vertical land motion (tectonic uplift and subsidence). The low-risk aversion scenario has an approximately 17% chance of being exceeded, and the medium-high risk aversion scenario has a 1 in 200 chance, or a 0.5%, chance of being exceeded. The extreme risk accounts for the extreme ice loss scenario and does not have an associated probability at this time. Given the range of many uncertainties incorporated into the models, these projections are not precise, but are intended to reflect a precautionary approach. As our understanding of sea level rise continues to evolve, these sea level rise projections will continue to change as well. While uncertainty will remain with regard to exactly how much sea levels will rise and when, the direction of sea level change is clear.

[13] Table 1 is adapted from the 2018 OPC SLR Guidance to present only the three scenarios OPC recommends evaluating. Additionally, while the OPC tables include low emissions scenarios, only high emissions scenarios, which represent RCP 8.5, are included here because global greenhouse gas emissions are currently tracking along this trajectory.

[14] MMMW is not an official tidal datum, but it is the tidal boundary most closely associated with the current Humboldt Bay natural shoreline elevation. MMMW is the tidal base elevation that has been used in various regional SLR planning documents (e.g., Trinity Associates 2015) to assess shoreline vulnerability and to depict areas that would be vulnerable to tidal inundation should the existing shoreline protection (e.g., agricultural dikes) be breached.

[15] Northern Hydrology and Engineering 2018 (Appendix A).

respectively). Both floats are designed to adjust vertically, and the guide pile extends 11 feet above the mud line, thereby affording the ability accommodate a broad range of high tide conditions. Given that the medium-high risk aversion sea level rise projection for 2050 is 2.3 feet, the dock will remain functional for its design life. Furthermore, because the project is not critical infrastructure and does not include any habitable structures, occasional inundation from king tides will not result in a significant risk to life or property.

Therefore, the Commission finds that the proposed project, as conditioned, will minimize risks to life and property from flood hazards, consistent with Coastal Act section 30253(a).

Geologic Hazards

The project area is not located within an Alquist-Priolo Earthquake Fault Zone, and the nearest active faults displaying recent (Holocene) movement is the Mad River fault zone located approximately 1.0 mile to the northeast. However, northwestern California is one of the most seismically active regions in the continental United States. The Humboldt County region occupies a complex geologic environment characterized by very high rates of active tectonic deformation and seismicity. According to the July 2019 Geologic Report prepared by GHD Inc. for the project, the project area consists of alluvial deposits from the Holocene and Pleistocene periods, and the paved parking area and I Street access road have likely been constructed on top of previously placed dredged material and other imported fill. Although relatively infrequent, high-intensity ground shaking, liquefaction, settlement, and tsunamis are some of the seismic hazards with the potential to occur at the site.

The July 2019 Geologic report includes specifications for seismic design, construction standards, and erosion and surface runoff control and recommends reviewing final construction plans to ensure that final plans are designed consistent with the report's recommendations. The City has submitted 60% design plans for the proposed development prepared by a registered professional engineer (**Exhibit 3**). The design plans specify in several locations that final designs for infrastructure such as the floating dock (Sheet S-001) and gangway (Sheet S-501) must be submitted for final review and approval by the project engineer and/or City of Arcata. **Special Condition 2** requires the applicant to submit final construction plans that substantially conform with the submitted 60% design plans, and provide evidence that an appropriate licensed professional has reviewed and approved final structural plans for the new vault toilet and concrete abutment for the dock, and certified that the final plans are consistent with the recommendations contained in the July 2019 Geologic Report.

The Commission thus finds that the proposed development as conditioned will assure the stability and structural integrity of the new development and minimize risks to life and property from ground shaking, liquefaction, and settlement consistent with the requirements of Coastal Act section 30253.

Tsunamis

The proposed non-motorized personal watercraft launch facility is located within the mapped tsunami inundation area on the Tsunami Inundation Map for Emergency Planning (California Geological Survey, August 2020). The inundation area on this map represents the maximum considered tsunami runup from several extreme, infrequent, and realistic tsunami sources.[16] If the region were to suffer a major seismic event, a local tsunami could hit the shorelines within Humboldt Bay within minutes with tsunami run-up at the project site. Based on available inundation modeling, the entire boat launch facility would be inundated by smaller, more frequent tsunamis. The mapped tsunami inundation area extends inland approximately 2,000 feet to Samoa Boulevard. To help minimize the adverse effects of such tsunamis, the City relies on its previously prepared tsunami evacuation plan. The publicized plan includes a Tsunami Inundation Map that informs the public of the hazardous areas and the City also provides residents with the option to get notified of City and County alerts via their website, using the CodeRED Emergency Alerts system (https://www.cityofarcata.org/241/Emergency-Preparedness). In addition, tsunami warning signage is posted at the boundary of the tsunami zone and safe area on I Street approximately 50 feet south of Samoa Boulevard, which informs people that they are either entering or leaving the tsunami zone. Finally, a tsunami siren located at the Arcata Marsh sounds in the event of a tsunami.

As there is no alternative location for siting the boating facility improvements along the bay that would avoid the tsunami zone, and because the City already has put in place tsunami preparedness, warning, and evacuation procedures through the previously adopted evacuation plan, the proposed development minimizes tsunami hazard risk.

Assumption of Risk

Considering the aforementioned hazards, the Commission attaches **Special Condition 10**, which requires the City of Arcata to assume the risks of coastal hazards to the property and waive any claim of liability on the part of the Commission. Given that the City has chosen to implement the project despite flooding and geologic risks, the City must assume the risks. **Special Condition 10** notifies the Applicant that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires indemnification of the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards.

[16] A 975-year average return period tsunami model (with a 5% probability of exceedance in 50 years) was used as a basis for the maximum inundation extent for inundation mapping in conjunction with data from an earlier 2009 mapping effort. The 2009 maps were not probabilistic and instead used a suite of tsunami source events for modeling, representing realistic local and distant earthquakes and hypothetical extreme undersea, near-shore landslides.

Conclusion

Therefore, for all the reasons set forth above, the Commission finds that the proposed project, as conditioned, assures geologic stability and structural integrity and minimizes risks of geologic and flood hazards consistent with the requirements of Coastal Act section 30253.

G. Archaeological Resources/ Tribal Consultation

Coastal Act **section 30244** states:

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

The project area lies within the traditional territory of the Wiyot tribe. At the time that Euro-Americans first made contact in this region, the Wiyot lived almost exclusively in villages along the protected shores of Humboldt Bay and near the mouths of the Eel and Mad Rivers. Today, representatives of the Wiyot Tribe are the Table Bluff Reservation Wiyot Tribe, the Blue Lake Rancheria, and the Bear River Band of the Rohnerville Rancheria.

Roscoe & Associates conducted a cultural resources investigation for a comprehensive Humboldt Bay Water Trails program that included the proposed boat launch facility and a "north alternative" dock site (see "alternatives" discussion in Finding D), and prepared a report dated August 2012. The investigation included background research, a records search, a field survey of the project area, and correspondence sent on June 4, 2012 to the Tribal Historical Preservation Officers (THPOs) of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria.

The field survey, conducted on June 18th and 19th, 2012, found no cultural resources. The results of the records search at the North Coast Information Center (conducted on June 22, 2012) indicate no previously identified archaeological sites are recorded near proposed developments. However, a remnant segment of wharf that is part of the previously recorded Arcata and Mad River railroad grade (formerly known as the Union Wharf & Plank Walk Company) is documented approximately 100 feet from the proposed dock area. The former railroad grade is the oldest railroad line on the north coast, constructed in 1855. A row of decaying pilings can be seen in Humboldt Bay immediately to the southeast of the proposed dock. All evidence of the former railroad grade, rails, ties or other features of this historic landmark (California Historic Landmark #842) have disappeared in the immediate area of the proposed dock since the line was abandoned in the 1940's. To maintain the physical integrity of this historic landmark, the proposed dock has been sited 100 feet away from the wharf remnants, consistent with the recommendations of the cultural resources investigation report. The City also received approval of the proposed dock location from the Arcata Historic Landmarks Committee, which approved the project on February 15, 2018.

Additionally, as part of the Commission's review process, on May 3, 2021, Commission staff reached out to cultural and environmental representatives from the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria. Commission staff received comments on May 4 and May 7 via electronic mail (email) from representatives of the Blue Lake Rancheria and the Wiyot Tribe, respectively, requesting the project be conditioned to include Inadvertent Discovery Protocol requirements. The comments from the Blue Lake Rancheria THPO also acknowledge no known cultural resources present within the project area.

In response to the request of the THPOs, to ensure protection of any cultural resources that may be discovered at the site during project construction, the Commission attaches **Special Condition 11**. This condition requires that if an area of cultural deposits or human remains is discovered during the course of the project, all construction must cease and a qualified cultural resource specialist, in consultation with the THPOs of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria, must analyze the significance of the find. To recommence construction following discovery of cultural deposits or human remains, the applicant is required to submit a supplementary archaeological plan for the review and approval of the Executive Director and obtain a permit amendment for changes the Executive Director determines are not *de minimis* in nature and scope.

Therefore, the Commission finds that the development, as conditioned, incorporates reasonable archaeological resource impact mitigation measures consistent with Coastal Act section 30244.

H. Public Access and Recreation

Applicable Coastal Act Provisions

Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211. Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212(a) states, in part:

> Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected.

Section 30213 requires in part the following:

> Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. …

Section 30214 requires in part (Emphasis added):

> (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
>
> (1) Topographic and geologic site characteristics.
>
> (2) The capacity of the site to sustain use and at what level of intensity.
>
> (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
>
> (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.
>
> (b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

Section 30220. Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30223. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30224. 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. 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.

The purpose of the proposed boat facility improvements is to expand and improve existing recreational boating opportunities adjacent to and within Humboldt Bay. The proposed development would provide access for non-motorized personal watercraft, including landside features such as parking lot improvements, loading/unloading areas, a dock, ADA accessible walkway improvements, and vault toilet restroom. The project is designed to improve access considerably by connecting boaters to navigable channels at the lowest operational water level (3.20 feet NAVD88), whereas existing access to boating opportunities is limited to approximately one hour of use during high tide cycles.

As the proposed development will provide a new public boat launching facility in the natural harbor of Humboldt Bay, the development is consistent with section 30224, which among other things, calls for increasing public launching facilities and providing for new boating facilities in natural harbors. As the new dock will provide access to deeper water allowing for launching at least some watercraft during more stages of the tidal cycle than the existing boat launch facility at the site, the development will also upgrade an existing recreational boating facility consistent with section 30234.

While the proposed development will upgrade and increase recreational boating facilities for the public, construction of the new dock and removal of the defunct floating dock at the existing boat launching ramp will necessarily result in temporary impacts for other public access users. Besides serving recreational boaters using the boat launching facilities, the parking lot at the terminus of I Street is one of several public access staging areas serving recreationists accessing the approximately five miles of walking and biking paths within the 307-acre Arcata Marsh and Wildlife Sanctuary. As the Arcata Marsh and Wildlife Sanctuary provides significant feeding and resting areas for thousands of birds travelling between California, Mexico, and Central and South America along the Pacific Flyway migratory corridor, the facility is also a popular destination for bird watching.

The applicant anticipates that all proposed construction work will be completed within approximately two to four weeks and will occur during daytime hours between July 1 and September 30. Construction operations will occur between the hours of 7:00 AM and 6:00 PM, Monday through Friday, and 10:00 AM to 5:00 PM on Saturdays (as needed). Public access will generally remain available during project construction. However, at limited times during construction, the City may use temporary construction fencing to demarcate areas that are temporarily unavailable to the public during construction (see Exhibit 4).

Parking would be temporarily reduced. The southern portion of the parking lot would serve as the staging and stockpiling area (**Exhibit 4**), resulting in a reduction of 12 parking spaces during project construction. Additionally, during repaving operations, another 17 parking spaces would be temporarily unavailable. However, approximately

20 parking spaces would remain available throughout project construction (including during parking lot paving).

As discussed in **Finding D** above, the defunct dock at the existing boat ramp would be removed after completion of the project as mitigation for wetland fill impacts associated with construction of the new dock. To avoid disruption of coastal access for non-motorized boaters, work to remove the float at the existing boat launch ramp will not commence until the proposed boat launch is successfully installed and operating.

Therefore, as (1) project construction that would affect public access use will be of relatively short duration, (2) public access will remain available in the project area throughout construction with only limited closures of specific areas for short periods of time, (3) parking would be reduced during construction but not eliminated, and (4) either the existing or new boat ramp will be available for public boat launching use at all times, the Commission finds the proposed development does not have any significant adverse effect on public access, and that the project as proposed is consistent with the coastal access and recreational boating sections of the Coastal Act.

I. Visual Resources

Coastal Act **section 30251** states in applicable part:

> 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 of visually degraded areas.

The end of “I” Street and the existing parking lot and shoreline area at the project site afford sweeping views of Humboldt Bay to the south and west. The site itself is largely screened from view from other vantage points within the Arcata Marsh and Wildlife Sanctuary by the trees and shrubs bordering the site along its northeast side.

The low profile gangway and dock will not significantly obstruct any views as it descends from the parking lot to the bay, and as the project site already supports an existing boat ramp, the new metal boating facility will be compatible with the visual character of its shoreline setting.

Components of the proposed development that could potentially have visual impacts include installation of new signage, the new public vault restroom, and the construction staging areas, which will be removed upon completion of construction.

With regard to the signage, the City proposes to install a new sign acknowledging the funding of the facility by the Department of Boating and Waterways (DBW) adjacent to the new dock. The new sign would be approximately two feet by three feet. In addition, new accessible parking signs will be installed. The final plans for the design and

location of the facility sign have not been completed and therefore Commission staff has not had the opportunity to review the sign for compatibility with the visual character of its setting. To ensure that the proposed signage will be designed and sited in a manner compatible with the character of the surrounding area while protecting public views, the Commission attaches Special Condition 2B. **Special Condition 2B** requires that the final plans demonstrate the proposed DBW sign is appropriately located, sized and designed to be visually compatible with surrounding areas and will not significantly obstruct views from public vantage points.

The proposed restroom building will not affect views of the bay, given its relatively small size and its location inboard of the parking lot and shoreline at the northeast edge of the parking area in the vicinity of the existing portable toilet that it will replace. The building will be constructed against a backdrop of trees and shrubs that separate the site from Klopp Lake. The footprint of the proposed new vault restroom building will be approximately 128 square feet with a ridge height of approximately 10 feet, and a vent pipe height of approximately 12 feet. The general site where the vault toilet will be installed ranges in elevation from 11 feet to 13 feet. Excavation of soils to a depth of approximately four feet will be necessary to accommodate the “vault” portion of the building. However, no significant grading of the area surrounding the building is proposed that would result in major landform alteration. As preliminarily described and depicted by the applicant, the height, bulk, and design of the proposed restroom building is similar to public restroom buildings in use at other coastal access facilities in the area and will thus be compatible with the character of the surrounding area.

The proposed construction staging area will be located within portions of the existing parking lot where the stockpiled equipment and building materials will be visible from public vantage points and will partially obstruct some views of the bay. However, the relatively small staging area will be entirely removed upon completion of construction, and given the short two to four week duration of the project, the staging area will not have significant adverse impacts on views to and along the bay and will not affect the long term compatibility of the development with the surrounding area.

In summary, the proposed development as conditioned is consistent with section 30251, as the development will protect views to and along the coast, will minimize the alteration of natural landforms, and will be incompatible with the character of the surrounding area.

J. Environmentally Sensitive Habitat Areas (ESHAs)

Coastal Act **section 30240(b)** states:

> 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.

Avoiding Impacts to Nesting Birds
Section 30240(b) of the Coastal Act requires that development in areas adjacent to ESHA not degrade the ESHA and be compatible with the continuance of the habitat.

Trees in the general vicinity of the project site could provide nesting habitat for resident and migratory birds. Although none of these trees will be damaged or otherwise impacted by the project, nesting birds and roosting species using the trees, including rare or endangered species or sensitive raptor species, could be disturbed by construction noise.

To ensure potential impacts to nesting birds are avoided, the City has proposed as part of Mitigation Measure BIO-1 the following:

> Any construction or vegetation removal between March 1 and August 15 shall require that preconstruction nesting surveys be conducted by a qualified biologist. If possible, project activities would take place outside of the active nesting season for migratory bird species (i.e. between March 1 and August 15).
>
> If work must be completed during the nesting season, a qualified biologist should conduct preconstruction surveys of all ground disturbance areas to verify absence of nesting native birds in the project area prior to vegetation removal and the start of construction. These surveys would be conducted within two weeks prior to start of vegetation removal or any construction activities. If nesting native birds are found in the construction area during the preconstruction surveys, they would be avoided with an appropriate buffer area until the young birds have fledged. If California Endangered Species Act (CESA) listed species, Endangered Species Act (ESA) listed species, or raptors are found outside of the construction (disturbance) area but near the construction area, appropriate buffers will be implemented upon consultation with CDFW. If non-listed state (CESA), non-listed federal (ESA), including state species of special concern are found near, but outside of the construction area, no buffers will be implemented.

Special Condition 9 requires the applicant to implement the proposed measures to avoid impacts to sensitive nesting birds. Special Condition 9 also specifies that if any active nest of sensitive bird species is identified during preconstruction surveys, the biologist, in consultation with CDFW, must determine the extent of a construction-free buffer zone to be established around the nest, and construction in the buffer zone shall be delayed until after the young have fledged, as determined by additional surveys conducted by a qualified biologist.

With the inclusion of **Special Condition 9**, the Commission finds that the development will not degrade environmentally sensitive bird nesting and roosting habitat and will be compatible with the continuance of the habitat consistent with section 30240(b).

K. California Environmental Quality Act (CEQA)

The City of Arcata served as the lead agency for the project for California Environmental Quality Act (CEQA) purposes. The City adopted a Mitigated Negative Declaration for the project on June 13, 2018 (SCH# 2018062021).

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 CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment. The Coastal Commission's regulatory program for reviewing and granting CDPs has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA (Section 15251(c)).

The Commission incorporates its findings on Coastal Act consistency as if set forth in full herein. All public comments received to date have been addressed in the findings above, which are incorporated herein in their entirety by reference. As discussed above, the project has been conditioned to be consistent with the policies of the Coastal Act. As specifically discussed in these above findings, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment. Therefore, the Commission finds that the proposed development, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative, has no remaining significant environmental effects, either individual or cumulative, and complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

Anderson, Jeffrey K. April 2018. “City of Arcata Sea Level Rise Risk Assessment.” Prepared by Northern Hydrology Associates for the City of Arcata. Available online at https://www.cityofarcata.org/DocumentCenter/View/7193/City-of-Arcata-Sea-Level-Rise-Risk-Assessment-04-2018?bidId=

-----. December 2018. "Sea-Level Rise in the Humboldt Bay Region - Update 2." Local Reports and Publications. 5. Available online at https://digitalcommons.humboldt.edu/hsuslri_local/5

California Coastal Act

Coastal Development Permit Application File No. 1-20-0712

Laird, Aldaron. February 2018 “City of Arcata Local Coastal Program Sea Level Rise Vulnerability Assessment.” Available online at https://www.cityofarcata.org/DocumentCenter/View/7193/City-of-Arcata-Sea-Level-Rise-Risk-Assessment-04-2018#page=50

Ocean Protection Council (OPC). 2018. *State of California Sea-Level Rise Guidance: 2018 Update. http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_Exhibit-A_OPC_SLR_Guidance-rd3.pdf*