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STAFF REPORT: REGULAR CALENDAR

Application No.:	**1-22-0064**
Applicant:	**Sequoia Investments X, LLC**
Agent:	Annje Dodd, NorthPoint Consulting Group, Inc.
Location:	On the western shore of Humboldt Bay, Finntown area, Humboldt County (APN 401-301-007)
Project Description:	Renovate an existing coastal dependent industrial dock currently leased to Hog Island Oyster Co. for mariculture operations by replacing 100 failing and damaged wooden piles with 46 new steel piles, including follow-up authorization for emergency repairs undertaken in 2021 involving the removal of 12 damaged wood piles and installation of six steel piles.
Staff Recommendation:	Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

Sequoia Investments X, LLC proposes to perform renovations over a 5-year period to an existing, approximately 335-foot-long coastal-dependent industrial (CDI) dock on the western shore of Humboldt Bay. Currently the mariculture operations of Hog Island Oyster Company are the primary use of the dock, but the dock could also support other CDI and/or commercial fisheries uses in the future if renovated as proposed. The proposed renovation work, which involves the removal of one hundred (100) 12-inch-diameter wooden piles and the installation of forty six (46) 12-inch diameter steel piles over the course of 5 years, is necessary to maintain the safety and functionality of the dock. Work would be performed from a barge using a crane, and piles would be removed and installed with a vibratory hammer.

The major Coastal Act issues raised by this project include potential impacts to eelgrass and other marine resources and water quality. The proposed project will avoid direct impacts to nearby eelgrass beds, but indirect impacts could potentially occur from increased turbidity or shading from the staging barge. Staff recommends **Special Condition 3**, which requires the submittal of a final eelgrass monitoring and mitigation plan that includes pre- and post-construction surveys that map eelgrass habitat within the project area to be conducted to ensure no net loss of eelgrass occurs. Additionally, staff recommends **Special Condition 4B(i)**, which requires that no grounding or anchoring in eelgrass shall occur, no shading of eelgrass for more than 12 hours shall occur, and a turbidity curtain shall be installed during pile driving activities.

Staff further recommends **Special Condition 4** requiring the applicant comply with various construction best management practices (BMPs) to protect water quality and aquatic resources and **Special Condition 2** requiring submittal of an Annual Dock Repair plan to ensure that updated pre-construction eelgrass surveys are completed prior to commencement of construction each year that repair work may occur.

Staff believes that the proposed project, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act. The Motion to adopt the staff recommendation of **approval** of CDP 1-22-0064 with conditions is found on page 3.

TABLE OF CONTENTS

LIST OF APPENDICES

LIST OF EXHIBITS

I. Motion and Resolution

A. Motion

I move that the Commission **approve** Coastal Development Permit Application No. 1-22-0064 pursuant to the staff recommendation.

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

B. Resolution

The Commission hereby **approves** Coastal Development Permit Application No. 1-22-0064 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

This permit is granted subject to the following standard conditions:

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

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

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

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

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

III. Special Conditions

This permit is granted subject to the following special conditions:

1. **U.S. Army Corps of Engineers Approval.** PRIOR TO COMMENCEMENT OF DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-22-0064, the permittee shall provide to the Executive Director a copy of a permit issued by the Army Corps of Engineers, or letter of permission, or evidence that no permit or permission is required. The permittee shall inform the Executive Director of any changes to the project required by the Army Corps of Engineers. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

2. **Annual Dock Repair Plan.**

   A. AT LEAST 30 DAYS PRIOR TO COMMENCEMENT OF CONSTRUCTION OF EACH YEAR OF REPAIR WORK, the permittee shall submit, for the review and written approval of the Executive Director, a final dock repair plan for that year of dock construction consistent with the terms and conditions of this permit. The final dock repair plan shall include:

      i. A project description and corresponding site plan and final construction plans approved by a qualified structural engineer that identify the proposed piles to be removed/replaced during that construction year and include recommendations for ensuring stability and structural integrity of replacement piles.

      ii. A detailed work plan that describes the tentative order, duration, and timing of construction activities, and any changes from the previous year to the construction plans including the equipment, staging area, methods for pile installation and removal, and disposal location utilized.

      iii. For any replacement pile work that is proposed within five meters of eelgrass habitat, a pre-construction eelgrass survey and eelgrass monitoring and mitigation plan as further described in **Special Condition 3** below.

      iv. Evidence that the proposed replacement work will be consistent with all Standard and Special Conditions of this permit.

v. Evidence that all relevant agency approvals, including permits from the Army Corps of Engineers, North Coast Regional Water Quality Control Board, and the Humboldt Bay Harbor, Recreation, and Conservation District have been obtained for that year's work. If another agency permit expires, the applicant shall cease all construction activities until a new or updated permit is approved.

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

3. Final Eelgrass Monitoring and Mitigation Plan. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-22-0064, the applicant shall submit, for the review and approval of the Executive Director, a final Eelgrass Monitoring and Mitigation Plan prepared by a qualified biologist.

A. The final plan shall demonstrate that:

i. Prior to each year of dock repair work in which pile removal or installation will occur within 5 meters of eelgrass habitat, a pre-construction eelgrass survey shall be conducted and completed during the active growing season for eelgrass (May-September) prior to the beginning of construction in the action area, and at a comparable reference site. If construction work does not commence within 60 days of completion of the pre-construction growing season survey, a new pre-construction survey shall be completed. The survey shall be conducted in substantial conformance with the National Marine Fisheries Service (NMFS)' October 2014 California Eelgrass Mitigation Policy and Implementing Guidelines (CEMP). Survey results shall be submitted for the review and approval of the Executive Director and CDFW no more than 30 days after the pre-construction survey occurs;

ii. For each year of dock repair work in which pile removal or installation will occur within 5 meters of eelgrass habitat, a post-construction survey of the eelgrass habitat in the action area and at the reference site 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;

iii. During pre- and post-construction eelgrass surveys, eelgrass spatial distribution, aerial extent, percent vegetated cover, and turion density shall be sampled within 10 meters of the in-water project footprint, and at an

appropriate reference site to help determine whether changes in eelgrass characteristics are attributable to natural variability or project actions;

iv. A monitoring report shall be provided to the Executive Director 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;

v. If the post-construction survey and monitoring report demonstrate to the satisfaction of the Executive Director and CDFW 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

vi. If the post-construction survey and monitoring report indicate 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 1-22-0064 that provides for compensatory mitigation within one year of the determination of impacts at an initial mitigation area to impact area ratio of at least 1.2:1.

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

i. A map of the project survey area and reference site;

ii. A 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.

4. **Construction Standards, Restrictions, and Responsibilities.** The permittee shall employ construction-related "best management practices" (BMPs) to protect water quality and adjacent sensitive habit areas. The permittee shall ensure that all on-site workers and contractors understand and agree to observe the standards and limitations for work outlined in this permit and in the detailed project description included as part of the application submittal and as revised by these conditions.

   A. The BMPs proposed by the permittee, including but not limited to the following measures, shall be implemented consistent with the additional requirements specified in subsection (B) below:

      i. Timing of Construction: In accordance with the permittee's proposal, in-water construction authorized by this permit shall be conducted only during the period of July 1st through October 15th of each year that dock renovation work occurs to protect marine resources and the biological productivity and quality of coastal waters.

      ii. Pile Installation:

         a. The equipment operator shall be experienced in pile installation.

         b. Piles shall be installed using a vibratory hammer suspended from a crane located on the barge to minimize turbidity in the water column and sediment disturbance.

         c. Piles to be installed shall consist only of 12-inch-diameter steel piles coated with fusion bonded epoxy;

      iii. Pile Removal: Once the new pilings and pile caps are in place, the failed pilings shall be removed with the vibratory hammer. As proposed, piles shall be completely extracted.

      iv. Barge Operations, Work Surface, Containment: The work surface on barge and/or pier shall include a containment area for removed piles and any sediment removed during pile removal to prevent any contaminated materials or sediment from re-entering the water.

         a. The containment area shall be constructed of durable plastic sheeting.

         b. Containment area shall be removed and disposed in accordance with applicable deferral and state regulations.

         c. Upon removal, the pile shall be moved expeditiously from the water into the containment area. The pile shall not be shaken, hosed-off, left handing to drip or any other action intended to clean or remove adhering material from the pile.

      v. Debris Capture in Water:

a. A floating surface boom shall be installed prior to commencement of dock renovation work to capture floating surface debris. Debris will be collected, placed in the containment area, to be disposed of along with the pilings.

b. The boom shall be located at a sufficient distance from the work area to ensure capture of all work materials.

c. Debris contained within the boom shall be removed at the end of each workday or immediately if waters are rough to minimize the risk that debris escape the boom.

d. Piles removed from the water shall be transferred to the containment area without leaving the boomed area.

vi. Debris Disposal: All debris associated with dock repair work, including removed pilings, shall be hauled, by barge, back to the Fields Landing staging area and then trucked to the nearest licensed waste facility to be disposed of or recycled per State of California recycling standards consistent with the approved final debris disposal plan requirement by **Special Condition 6**.

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

i. Eelgrass and Mudflat Protections: Impacts to eelgrass should be avoided and minimized to the fullest extent possible.

a) Pre-construction training shall be provided for all on-site contractors by a qualified biologist to educate personnel on the biological restrictions and sensitivity of habitats in and adjacent to the construction area, including the need to avoid eelgrass habitat.

b) Avoid grounding or anchoring in eelgrass. Positioning of the barge shall occur at hightide in deep waters to avoid impacts to mudflat and eelgrass habitats

c) Avoid shading eelgrass for long periods of time (>12 hours).

d) The permittee shall implement the usage of a turbidity curtain during pile removal and installation to avoid impacts to the adjacent eelgrass habitat and/or sensitive species.

ii. Pile BMPs:

a) If any treated-wood components (e.g., beams, decking boards, support structure, or railings) are sawcut or drilled during demolition, all treated-wood sawdust and debris generated should be contained and removed, and not allowed to enter the bay.

b) If the derelict piles cannot be fully removed or break during removal, the permittee shall ensure that the piles are cut a minimum of one foot

below the mudline so that bay mud habitat above the broken pile may be naturally restored.

c) The permittee shall avoid using coated steel piles. If uncoated steel piles are not available, the permittee must use steel piles that are coated in an inert material that does not leach chemicals that could contribute to aquatic toxicity.

iii. Use of Heavy Equipment and Spill Prevention:

a) Equipment used over the water shall use biodiesel and vegetable based hydraulic oil.

b) Any fueling and maintenance of equipment shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants;.

c) Fuels, lubricants, and solvents shall not be allowed to enter the coastal waters. Hazardous materials management equipment, including oil containment booms and absorbent pads shall be immediately available at the project site, and a registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call

iv. Rainfall Avoidance:

a. All construction activities shall occur during periods of dry weather only;

b. If rainfall is forecasted during the time construction activities are being performed (i.e., the National Weather Service's Northwestern California forecast for the Eureka/Arcata area predicts a greater than 50% chance of precipitation for the timeframe in which the work is to be conducted), all onsite stockpiles of construction debris shall be covered and secured before the onset of precipitation.

v. Other Required BMPs:

a. No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion or dispersion;

b. Any and all debris resulting from construction activities shall be removed on a daily basis and disposed of at an appropriate location;

c. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash, or construction materials remain on the shoreline or in the water and that the repair and maintenance activities have not created any hazard to navigation.

5. **Debris Disposal Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-22-0064, the permittee shall submit, for the review and written approval of the Executive Director, a final Debris Disposal Plan for the disposal of piles and associated debris. 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. **Assumption of Risk, Waiver of Liability, and Indemnity Agreement**. By acceptance of this permit, the permittee acknowledges and agrees (a) that the site may be subject to hazards from waves, ground shaking, tsunamis, and other geologic and flood hazards; (b) 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; (c) 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 (d) 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.

7. **Protection of Archaeological Resources.** If an area of cultural deposits or human remains is discovered during the course of the project, all construction shall cease and shall not recommence until a qualified cultural resource specialist, in consultation with the Tribal Historic Preservation Officers 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 CDP 1-21-0356.

IV. Findings and Declarations

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant, Sequoia Investments X, LLC, proposes to replace the majority of the piles of an existing coastal dependent industrial dock situated on the western shore of Humboldt Bay located on the Samoa Peninsula in the Fairhaven/Finntown area. The site is near the Fairhaven Business Park and surrounded by coastal-dependent industrial and general industrial lands. Currently, Hog Island Oyster Company leases a portion of the dock facility for mariculture operations.

The existing dock facility is approximately 335 feet long and 22 feet wide and consists of timber pilings driven in rows that are connected with 12 by 12-inch timber cross-members, pump structures, and three timber dolphins. The cross-members are tied together with stringers, which are then capped with 4x12-inch decking. The applicant undertook emergency pile replacement under Emergency CDP No. G-1-21-0048 in October 2021, which included the removal of twelve damaged/failing wood piles and installation of six steel piles. The additional pile replacement proposed under this CDP application includes the removal of 100 damaged wooden piles and installation of 46 new steel piles to support the dock structure. The total combined pile replacement covered by this permit (proposed plus emergency follow-up authorization) includes the removal of 112 wooden piles and installation of 52 steel piles.

All pile replacement work would be conducted from a barge located in deep water adjacent to the dock so that no barge, anchor, or other material would be placed temporarily on mudflat or eelgrass habitat. Materials would be staged at a contractor's yard across the bay in Fields Landing, loaded onto the barge as needed, and floated to the subject dock for renovation work. The proposed new piles would be installed by a crane with an American Piledriving Equipment (APE) vibratory hammer. The existing wood lateral beams would be replaced with new steel I-beams (pile caps), and the steel piling would be welded or bolted to the I-beams. Once the new pilings and pile caps are in place, the failed pilings would be removed with the vibratory hammer. Complete extraction of pilings is proposed. The removed pilings would be hauled, by barge, back to the Fields Landing staging area and then trucked to the nearest licensed waste facility to be disposed of or recycled per State of California recycling standards. The applicant plans to time construction during the dry season and outside of salmonid spawning migrations between July 1st and October 15th. The applicant seeks to conduct repairs over a five-year period to allow for flexibility as to when repair and maintenance would occur (aside from the set work window of July 1st through October 15th). Other Best Management Practices (BMPs) proposed include use of a containment area constructed of durable plastic sheeting on the barge deck for removed piles and any associated sediment removed during pile removal; and use of a floating surface boom to capture any floating surface debris.

B. Related Permit

On October 15, 2021, the Executive Director issued Emergency CDP No. G-1-21-0048 authorizing the emergency removal of 12 damaged wood piles and installation of six steel piles. Issuance of an emergency permit was necessary because an unexpected pile failure had caused the dock to buckle, posing a threat to the structural integrity of the dock and risk of catastrophic failure of the structure, which would have directly impacted adjacent commercial mariculture operations, interfered with navigation in the shipping channel, and threatened the water quality and marine resources of Humboldt Bay. The authorized emergency work was completed on October 29, 2021. The scope of the subject CDP includes the applicant's request for the necessary follow-up CDP authorization for the emergency repair work, as required by Condition 16 of ECDP G-1-21-0048.

C. Standard of Review

The project site is located entirely in the Commission's retained permit jurisdiction. The County of Humboldt has a certified Local Coastal Program (LCP), but the site is within tidelands, submerged lands, and an area shown on State Lands Commission maps over which the State retains a public trust interest. Therefore, consistent with Public Resources Code sections 30519(b) and 30604(a), the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

D. Other Agency Approvals

U.S. Army Corps of Engineers (Corps)

The applicant has filed an application with the Corps and is awaiting permit issuance. To ensure that the project ultimately approved by the Corps is the same as the project authorized herein, the Commission attaches **Special Condition 1**, which requires the permittee to submit to the Executive Director evidence of the Corps' approval of the project prior to the commencement of construction activities. The condition requires that any project changes resulting from the Corps' approval not be incorporated into the project until the permittee obtains any necessary amendments to this CDP.

Humboldt Bay Harbor Recreation and Conservation District (Harbor District)

The Harbor District is a county-wide district established by the legislature with permit jurisdiction over all the tidelands and submerged lands of Humboldt Bay. The Harbor District issued a permit for the proposed development on April 14th, 2022 (Permit No. 2022-001).

North Coast Regional Water Quality Control Board

The Regional Board has regulatory jurisdiction over the project pursuant to the Clean Water Act and California Water Code. After approving the emergency repair work in

October of 2021, the Regional Board stated no additional water quality certification was necessary for the project on December 16, 2021.

E. Protection of Coastal-Dependent Priority Uses

The Coastal Act prioritizes protection of certain priority uses over other competing uses without priority. The Coastal Act provides that coastal-dependent developments, including coastal-dependent industrial (CDI) uses, coastal-related developments, and coastal recreation uses, shall have priority over other developments on or near the shoreline. Generally, these priority land uses include uses that by their nature must be located on the coast to function, such as ports and commercial fishing facilities, and uses that encourage the public's use of the coast, such as various kinds of visitor-serving recreational facilities. Coastal-dependent industrial facilities are encouraged to locate or expand within existing sites, and CDI is given priority over visitor-serving commercial recreational facilities that enhance public opportunities for coastal recreation. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support. Coastal-related developments may include facilities that support commercial fishing and aquaculture (e.g., storage and work areas, berthing and fish receiving, areas for fish processing for human consumption, and aquaculture support facilities).

The Coastal Act provides as follows (emphasis added):

Section 30101 defines "coastal-dependent development or use" as:

> …any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

Section 30101.3 defines "coastal-related development" as:

> …any use that is dependent on a coastal-dependent development or use.

Section 30222 states:

> The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30222.5 states:

> Oceanfront land that is suitable for coastal dependent aquaculture shall be protected for that use, and proposals for aquaculture facilities located on those sites shall be given priority, except over other coastal dependent developments or uses.

Section 30234 states in applicable part:

> Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided...

Section 30255 states:

> Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

Section 30260 states:

> Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. However, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.

Section 30701(a) provides that:

> The Legislature finds and declares that:
>
> (a) The ports of the State of California, including the Humboldt Bay Harbor, Recreation, and Conservation District, constitute one of the state's primary economic and coastal resources and are an essential element of the national maritime industry.

The Coastal Act recognizes the Port of Humboldt Bay as one of the state's primary economic and coastal resources and an essential element of the national maritime industry. As such, the port is "encouraged to modernize and construct necessary facilities within [its] boundaries in order to minimize or eliminate the necessity for future dredging and filling to create new ports in new areas of the state" [Coastal Act sec. 30701(b)].

The subject dock was formerly associated with the Simpson Pulp Mill, which operated on and adjacent to the subject site from 1955 to 1993. The pulp mill facility included the subject property and properties to the west and south, including the property now known

as the Fairhaven Business Park. The Simpson Pulp Mill included several storage and distribution warehouses, processing and industrial structures and equipment, administrative buildings, employee facilities, roads, utilities, and other infrastructure. At the height of operations, the pulp mill processed nearly 1,000 tons of paper pulp per day and employed close to 300 people. The facility included a main shipping export dock and the smaller subject dock. The facilities vacated by Simpson are now owned by the applicant and primarily are locally planned and zoned for Coastal Dependent Industrial (CDI) uses under the Humboldt County certified LCP.

On March 13, 2014, the Commission approved CDP No. 9-13-0500 for Hog Island Oyster Company to develop (1) shellfish nursery rafts, floating upwelling systems (FLUPSYs), and associated equipment on and adjacent to the subject dock, and (2) construct and operate an onshore shellfish hatchery, shellfish seed setting facility, office, algae greenhouse, covered work area, and seed washing facility on the upland property adjacent to the subject dock.[1] The permitted shellfish hatchery generates free-swimming oyster and clam larvae, grows them to seed of between 4 and 12 millimeters in size, and prepares larvae and seed for sale and shipping to offsite commercial aquaculture facilities. The LCP allows aquaculture and aquaculture support facilities as principally permitted uses on CDI lands.

Currently the mariculture operations are the primary use of the dock, but the dock could also support other CDI and/or commercial fisheries uses in the future if renovated as proposed. The proposed dock renovation work will occur over the duration of five years and be completed in sections of the dock to minimize interference with the mariculture operations and other coastal-dependent uses of the dock.

Therefore, the Commission finds that renovation of the subject dock protects and prioritizes priority coastal-dependent uses consistent with the above-cited Coastal Act policies, because renovating the dock (1) will allow for the ongoing use of the facility by coastal dependent and aquaculture priority uses consistent with Coastal Act sections 30222, 30222.5, and 30255 and (2) will modernize an existing industrial dock facility in the Port of Humboldt Bay consistent with Coastal Act sec. 30260 and 30701(b).

F. Protection of Marine Resources and Water Quality

Section 30230 of the Coastal Act states:

> Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of

[1] The staff report can be accessed from the Commission's website: https://documents.coastal.ca.gov/reports/2014/3/Th11a-3-2014.pdf.

> marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

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

Section 30232 of the Coastal Act states:

> 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 containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

The above-cited policies require protection of marine resources, water quality and the marine environment to sustain the biological productivity of coastal waters and maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes. The development involves work in Humboldt Bay that could impact marine resources and the biological productivity and quality of the bay. The installation of new piles and the removal of existing piles within the bay could result in sediments, debris, or hazardous materials entering coastal waters and impacting sensitive fish species, marine mammals and their habitat, and the water quality of the estuary.

A biological report was prepared in October 2021 by Stillwater Sciences for the emergency repair work permitted on October 15, 2021 (G-1-21-0048). The report documents several species of sensitive fish and other aquatic resources with the potential to be present in the work area.[2] The biological report also identified a narrow (35-40 feet wide) nearshore strip of eelgrass (*Zostera marina*) located within the project vicinity, adjacent to portions of the dock. Although many of the current proposed repairs are over 200 feet from the eelgrass, some of the proposed repairs will take place directly adjacent to the eelgrass beds, potentially less than 10 feet away. The proposed

[2] Southern DPS green sturgeon (*Acipenser medirostris*); Southern Oregon Northern California Coast coho salmon (*Oncorhynchus kisutch*); California Coast Chinook salmon (*Oncorhynchus tshawytscha*); Northern California Steelhead (*Oncorhynchus mykiss irideus*); Longfin Smelt (*Spirinchus thaleichthys).*

improvements to the dock could also result in construction-related adverse environmental effects on mudflat habitat and water quality.

As previously discussed, the applicant has included certain measures and Best Management Practices for construction that will protect water quality and minimize the potential for fish and eelgrass impacts. First, the applicant will time construction to occur during the dry season and outside of salmonid spawning migrations (i.e., construction will be limited to the period of July 1st through October 15th). Second, piles will be installed and removed using vibratory methods to minimize the potential for hydroacoustic impacts to fish. Third, a containment area constructed of durable plastic sheeting will be used on the barge deck for removed piles and any associated sediment removed during pile removal. Fourth, a floating surface boom will be used to capture any floating surface debris. Finally, staging will be confined to the barge and an upland industrial site in Fields Landing, and all demolition debris and waste will be appropriately disposed of at a licensed facility capable of receiving the debris. The use of these proposed measures is appropriate to minimize potential impacts to sensitive fish and to protect water quality. Thus, the Commission attaches **Special Condition 4-A(i)-(vi) to** require implementation of these measures as proposed.

While the proposed measures summarized above are appropriate, there are other measures needed to protect water quality and marine resources consistent with Coastal Act sections 30230-30232, as discussed below.

Avoidance of Impacts to Eelgrass:

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.

The proposed project will avoid direct impacts to the nearby eelgrass population, because no eelgrass is growing in the locations where piles are to be removed or installed for dock renovation. However, indirect impacts of the project could potentially occur as a result of increased turbidity and sediment during pile driving, other impacts to water quality resulting from construction, shading from the staging barge or alteration of circulation patterns. In addition to the construction BMPs discussed above, which will minimize the potential for eelgrass impacts, the applicant also proposes to conduct pre- and post-construction eelgrass surveys in accordance with the California Eelgrass Mitigation Policy to verify that the development will not impact eelgrass habitat as expected.

To ensure that proposed surveys are completed prior to each year of dock repair work in which pile removal or installation will occur within close proximity to eelgrass habitat, the Commission attaches **Special Condition 3**. This condition requires the submittal of a final eelgrass monitoring and mitigation plan that includes pre- and post-construction

surveys that map eelgrass habitat within the project area to be conducted to ensure no net loss of eelgrass occurs. If the post-construction survey and monitoring report indicate 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 1-22-0064 that provides for compensatory mitigation within one year of the determination of impacts at an initial mitigation area to impact area ratio of at least 1.2:1.

In addition, **Special Condition 4B(i)** requires that no grounding or anchoring in eelgrass shall occur, no shading of eelgrass for more than 12 hours shall occur and a turbidity curtain be installed during pile driving activities. The condition also requires that pre-construction training be provided for all on-site contractors by a qualified biologist to educate personnel on the biological restrictions and sensitivity of habitats in and adjacent to the construction area, including the need to avoid eelgrass habitat.

The proposed project involves replacement work for up to five years, with a final completion year of 2027. To ensure that dock renovation activities associated with pile replacement work over the five-year duration of planned work do not impact eelgrass habitat and conform with the other water quality and aquatic resource protection conditions of this CDP, **Special Condition 2** requires the applicant to submit an annual dock repair plan prior to any work proposed for the construction year. The annual dock repair plan shall include, among other things, a pre-construction eelgrass survey and eelgrass monitoring and mitigation plan for any replacement pile work that is proposed within five meters of eelgrass habitat. With the incorporation of Special Conditions 2, 3, and 4, the Commission finds that the proposed project will protect water quality and maintain the adjacent eelgrass habitat consistent with the requirements of sections 30230 and 30231.

Avoidance of Impacts to Fish Species:

As previously discussed, the applicant proposes to install new steel 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. In addition, also as previously discussed, the applicant proposes to limit in-water work to July 1st through October 15th, when sensitive salmonids are least likely to be migrating through the area (i.e., before the majority of the upstream adult spawning migrations and after the downstream migration of smolts has occurred). **Special Condition 4A(i)** requires all repair activities to occur during the work window of July 1st to October 15th. **Special Conditions 4A(ii) and 4A(iii)** require the use of a vibratory hammer to minimize turbidity in the water column and sediment disturbance during pile removal and installation.

Other Measures to Protect Water Quality:

While the applicant has proposed some measures to protect water quality (discussed above), more specific measures are needed to further minimize the project's expected and potential impacts on water quality. For example, hydraulic fluids are used in several types of heavy equipment that may be used on a construction site. Hydraulic lines are under pressure and breaks in hydraulic lines are a commonplace occurrence in construction equipment. Standard hydraulic fluids are based on petroleum products (such as mineral oils), and due to their high aquatic toxicity, they pose a risk if leaked or spilled in or near sensitive aquatic habitats. There are alternative non-petroleum hydraulic fluids available for use in construction equipment that have lower aquatic toxicity than petroleum products. Non-petroleum hydraulic fluids choices include vegetable oil-based (canola oil or other crop-based oils) or synthetic (polyglycols or synthetic esters) hydraulic fluids. In addition to having lower aquatic toxicity than petroleum products, vegetable-oil based hydraulic fluid and biodiesel are biodegradable and break down more rapidly in the environment than petroleum products. Using biodegradable hydraulic fluid and biodiesel instead of petroleum products thus can reduce the contamination of soil, groundwater, and surface waters from hydraulic fluid and fuel spills from construction equipment.

Therefore, the Commission attaches **Special Condition 4B(iii)** requiring that equipment used over the water shall use hydraulic oil or biodiesel during construction, fueling and maintenance of construction equipment and vehicles shall be conducted offsite, and that all construction activities only occur during periods of dry weather.

In addition, to ensure that wooden piles do not remain in coastal waters and continue to leach chemicals into sediment and the water column, **Special Condition 4B(ii)** requires that wooden piles be removed in their entirety. If the wooden piles cannot be removed in their entirety, Special Condition 4B(ii) requires that the piles be cut at a minimum of one to two feet below the mudline.

Finally, 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.

Therefore, the Commission finds that the proposed project as conditioned will minimize significant adverse impacts on the marine environment, to sensitive fish species, and will protect the quality of coastal water appropriate to maintain marine organisms consistent with sections 30230 and 30231 of the Coastal Act.

G. Fill of Coastal Waters and Wetlands

Section 30233 of the Coastal Act provides, in applicable part, as follows (emphasis added):

a. The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this

division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(4) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(6) Restoration purposes.

(7) Nature study, aquaculture, or similar resource dependent activities.

b. Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.

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

Section 30108.2 defines fill as “earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.” As discussed above, the proposed project involves the removal of 100 wood piles and the installation of 46 new structural steel piles (fill) embedded in the subtidal bay substrate (mudflat). The 12-inch-diameter steel piles to be installed will be the same size as the removed piles and thus will result in no net increase in bay fill and will actually result in a net reduction in fill (~42.5 feet), as summarized in Table 1 below:

TABLE 1. FILL OF COASTAL WATERS

Fill Removal & Placement	No. of piles	Diameter (in)	Area of Mudflat Displaced (sf)
Piles to be installed	46	12	36
Piles to be removed	-100	12	-78.5
Net Reduction in Fill			**42.5 square feet**

The project involves both fill of coastal waters and wetlands associated with the installation of the 46 new piles and dredging associated with the removal of 100 existing piles. The Commission may only authorize fill in open coastal waters, wetlands, or estuaries for new development that fits within one of seven use categories described in Coastal Act section 30233(a)(1)-(7), only if the placement of fill is the least environmentally damaging feasible alternative, and feasible mitigation measures must be provided to minimize adverse environmental effects.

a. Allowable Uses

As discussed above, the filling, diking, or dredging of coastal waters or wetlands may be authorized only if it is for a designated allowable use. Here, the proposed fill and dredging of coastal waters and wetlands is intended to support a coastal-dependent dock that supports shellfish nursery rafts, FLUPSYs, and associated equipment and an onshore shellfish hatchery, seed setting, and seed washing facilities on the upland coastal-dependent industrial property adjacent to the subject dock. Therefore, the Commission finds that the proposed fill and dredging associated with the project are for an allowable use under Coastal Action section 30233(a)(1), which allows fill for port, energy, and coastal-dependent industrial facilities.

b. Alternatives

For projects involving diking, dredging, and filling of coastal waters, the Commission must ensure that the placement of fill in coastal waters is the least environmentally damaging feasible alternative. Coastal Act section 30108 defines “feasible” as “…capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” In this case, alternatives that have been identified include the “no project” alternative and the use of alternative construction methods and materials.

i. No Project Alternative: The primary purpose of the proposed project (replacement piles) is to renovate an existing dock to ensure the safe and continued use of the dock for priority coastal-dependent industrial and aquaculture uses. Under the “no project” alternative, the objectives of the project would not be met, the dock would continue to deteriorate, and further pile failure could result in damage to the commercial aquaculture facility as well as to the dock structure itself. As the project is necessary to protect a coastal dependent priority use and to maintain a structurally secure dock, the no project alternative is not a feasible, less environmentally damaging alternative to the proposed project as conditioned.

ii. Alternative construction materials or methods: The applicant proposes to replace up to 100 existing wooden piles over the course of five years with 46 new steel piles. New and replacement piles would be installed using a vibratory hammer. The use of an impact hammer is not proposed for this project. Vibratory hammers produce lower sound amplitudes compared to impact pile driving and are the preferred method of driving piles to protect sensitive fish species during construction. Although in-kind replacement of the wooden piles is an option, wooden piles are more likely to deteriorate more quickly than steel piles requiring more regular replacement and also would require the use of harmful wood preservatives. Therefore, the in-kind replacement alternative is not a feasible less environmentally damaging alternative to the proposed project as conditioned.

The Commission concludes that, as conditioned to include the feasible mitigation measures discussed in part above and reiterated below, the proposed development as conditioned is the least environmentally damaging feasible alternative and consistent with the alternatives test of section 30233(a).

c. Feasible Mitigation Measures

In addition to requiring that diking, dredging, and filling in coastal wetlands and waters only be permitted if found to be an allowable use and the least environmentally damaging feasible alternative, section 30233 further requires that feasible mitigation measures be provided to minimize adverse environmental effects.

As discussed above, the replacement piles will not result in a net increase of the amount of fill in coastal waters. The applicant has designed the project with minimal impacts to coastal and marine resources and has proposed several measures to further minimize any adverse environmental effects. As previously discussed, **Special Conditions 2 through 5** include numerous feasible mitigation measures to protect eelgrass, water quality, and other aquatic resources.

Also as discussed above, the proposed dock work involves the installation of 46 new 12-inch diameter steel piles to replace 100 existing 12-inch diameter piles within open and intertidal waters of Humboldt Bay, resulting in the placement of a total of 36 square feet of fill (see Table 1 above). The placement of new pile fill will be offset by the removal of 100 12-inch diameter timber piles (totaling 78.5 square feet of fill – see Table 1). All of the piles to be installed and removed occur in mudflat and subtidal habitat devoid of eelgrass, resulting in a net reduction of 42.5 square feet of pile fill in bay muds.

The applicant proposes to remove all old piles in their entirety to ensure this net reduction in fill is achieved. If piles break during removal, **Special Condition 4-B(ii)(b)** is included to ensure that all existing piles that cannot be removed in their entirety are cut off a minimum of one foot below the mudline to ensure that the total area of displacement of bay muds is minimized. Removal of the piles in this manner will enable

sediment to eventually settle in the holes from which the piles will be removed and reestablish mudflat within the areas previously displaced by the piles. Thus, the proposed project, as conditioned, will minimize adverse environmental effects from the fill of mudflat and subtidal bay habitats.

Therefore, the Commission finds that the proposed project as conditioned provides feasible mitigation measures to minimize adverse environmental effects consistent with section 30233(a).

d. Biological Productivity and Functionality

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

The mitigation measures incorporated into the project and required by the special conditions discussed above will ensure that the method of repair and maintenance will not have significant adverse impacts on coastal waters or wetlands in and around the project vicinity. Therefore, the Commission finds that the proposed project, as conditioned, will maintain and enhance the functional capacity of wetlands consistent with the requirements of section 30233 of the Coastal Act.

Conclusion

For all of the reasons set forth above, the Commission finds that the proposed development, as conditioned, is consistent with section 30233 of the Coastal Act.

H. Coastal Hazards

Section 30253 states in applicable part:

> New development shall do all of the following:
>
> A. Minimize risks to life 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…

Section 30253 of the Coastal Act mandates that new development shall minimize risks to life and property in areas of high geologic and flood hazard. The proposed development is in an area of the coastal zone that has been identified as subject to potential hazards from strong ground shaking, 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.

In terms of structural stability, as proposed, the dock renovation work will be undertaken by a qualified contractor with expertise in dock construction and repair. As previously discussed, **Special Condition 2** requires the applicant to submit an annual dock repair plan prior to any work proposed for the construction year. The annual dock repair plan shall include, among other things, final construction plans approved by a qualified structural engineer that identify the proposed piles to be removed/replaced during that construction year and include recommendations for ensuring stability and structural integrity of replacement piles to minimize risk of failure from seismic and other hazards.

In terms of flood risk, the elevation of the dock facility decking is approximately 12 feet (referenced to NAVD88, based on LiDAR available from the Humboldt County WebGis website). The facility is located within the mapped 100-year floodplain (zone AE with a base flood elevation of 12 feet).[3] The current mean monthly maximum water (MMMW)[4] elevation on Humboldt Bay is 7.74 feet, and the average annual king tide elevation is 8.8 feet.

The California Ocean Protection Council's State of California Sea-Level Rise Guidance 2018 Update, and the Commission's 2018 adopted Sea Level Rise Policy Guidance, both contain a set of sea level rise projections for 12 tide gauges throughout California, and both agencies recommend using these projections and related information as best available science on sea level rise in California. Table 2, below, provides the projections for Humboldt Bay (measured at NOAA's North Spit Tide Gage), which has the highest relative rate of sea level rise in the State due to active land subsidence.

Table 2. Projected 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	4	5.6
2100	4.1	7.6	10.9

The applicant anticipates the life of the proposed dock to be at least 50 years (i.e., through 2070). Given that the medium-high risk aversion sea level rise projection for 2070 is 4 feet, the dock will remain accessible for its design life except may be

[3] From fema.gov: https://msc.fema.gov/portal/search?AddressQuery=Samoa%2C%20CA#searchresultsanchor

[4] 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.

overtopped during king tide events. With only occasional inundation, the dock will remain usable for its anticipated life. In addition, because the dock is not critical infrastructure and will not involve a habitable structure, occasional inundation from the highest tides will not result in a significant risk to life or property.

In terms of tsunami risk, the dock facility is located within the mapped tsunami inundation area on the Tsunami Inundation Map for Emergency Planning (California Geological Survey, March 11, 2021).[5] The inundation area represents the maximum considered tsunami runup from several extreme, infrequent, and realistic tsunami sources.[6] As the dock facility is a coastal-dependent use, there is no alternative location for siting the structure that would avoid the zone. However, the risk to life and property associated with inundation of the project site by an extreme tsunami event is reduced, because the facility does not include buildings intended for residential uses or other extended human habitation. As such, the degree of human exposure to an extreme tsunami event is relatively limited. Also, employees and personnel utilizing the renovated coastal dependent industrial dock could access safe ground in the event of a tsunami beyond the extent of inundation if needed, including higher dunes to the west and higher ground in Samoa. Finally, a tsunami warning system is in place in the area, including evacuation drills for residents and employees in the area, and a warning system that includes emergency notifications and sirens in the event of a tsunami and alert people to seek higher ground. As there is no alternative location for siting the dock facility improvements along the bay that would avoid the tsunami zone, and, as discussed, there are tsunami risk minimization measures in place, the Commission finds that the proposed development minimizes tsunami hazard risk.

The Coastal Act recognizes that certain types of development, such as the proposed project to replace damaged piles on the dock, involve some level of risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the owner's property rights. As such, the Commission finds that due to the unforeseen possibility of liquefaction, storm waves, surges, and erosion, the applicant shall assume these risks as a condition of approval. Therefore, **Special Condition 6** requires Sequoia Investment X, LLC to assume the risks of extraordinary waves, ground

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[5] See https://www.conservation.ca.gov/cgs/Documents/SHP/Tsunami/HazardArea/Maps/Tsunami_Hazard_Area_Map_Humboldt_County_a11y.pdf.

[6] 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.

shaking, liquefaction, and other hazards and waive any claim of liability on the part of the Commission.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act section 30253.

I. Archaeological Resources

Section 30244 of the Coastal Act states:

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

The 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. Three federally recognized Tribes in the region – the Wiyot Tribe, the Blue Lake Rancheria, and the Bear River Band of the Rohnerville Rancheria – include citizens of Wiyot ancestry that are culturally affiliated with the greater Humboldt Bay region Wiyot ethnographic area as mapped by the Tribes.

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

Therefore, the Commission finds that the proposed project as conditioned is consistent with Coastal Act section 30244.

J. Public Access

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects, except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or where adequate access exists nearby. Section 30211 of the Coastal Act requires that development not interfere with the public's right to access

gained by use or legislative authorization. Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. In applying Sections 30210, 30211, 30212, and 30214, the Commission is also limited by the need to show that any denial of a permit application based on these sections or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

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

The Commission thus finds that the proposed project will not have any significant adverse effects on public access, and is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

K. California Environmental Quality Act (CEQA)

The Humboldt Bay Harbor, Recreation and Conservation District served as the lead agency for the project for CEQA purposes. The Harbor District filed a notice of exemption for the project on April 14, 2022 pursuant to section 15301 of the CEQA Guidelines (Existing Facilities), which exempts the repair of existing structures involving negligible or no expansion of use.

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

The Commission's review, analysis, and decision-making process for CDPs and CDP amendments has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, this report has discussed the relevant coastal resource issues with the proposal and the Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed project

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

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

Application File for CDP Application No. 1-22-0064

Emergency Permit File No. G-1-21-0048

Application File for CDP Application No. 9-13-0500 (Hog Island Oyster Co.)

County of Humboldt Certified Local Coastal Program