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W13a

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STAFF REPORT: REGULAR CALENDAR

Application No.:	**1-23-0084**
Applicant:	**Humboldt County Department of Public Works**
Agent:	**Mattole Salmon Group**
Location:	Along Lower Bear Creek and Lighthouse Road near the Mattole River estuary, approximately 4 miles southwest of Petrolia, Humboldt County.
Project Description:	Lower Bear Creek Habitat Enhancement Project involving (1) realigning ~2,000 feet of Lower Bear Creek and installing large woody debris in realigned channel for fish and wildlife habitat improvement purposes, and (2) raising portions of Lighthouse Road and existing private driveway and installing new culvert and bridge crossings in road and driveway for flood resiliency and to accommodate creek realignment.
Staff Recommendation:	Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

Humboldt County Department of Public Works, in partnership with the Mattole Salmon Group, proposes to restore and enhance habitat along Lower Bear Creek, address chronic flooding along Lighthouse Road (a County Road) and a connecting private driveway adjacent to the creek, and improve public access to Mattole Beach and Campground and the King Range National Conservation Area. The project would realign Lower Bear Creek to its historical alignment, raise portions of Lighthouse Road and the lower section of an existing driveway, and install new culvert and bridge

crossings over the restored channel. The proposed restoration work will connect to and expand upon previous restoration efforts completed in the Mattole River estuary.

The 13-acre project area is located within the lower Mattole River watershed approximately one mile from the mouth of the Mattole River. Varied habitat types within the project area include the existing Lower Bear Creek channel, associated floodplain wetlands, riparian vegetation, and large swaths of Red Alder Forest Alliance. The project proposes to realign approximately 2,000 feet of Lower Bear Creek, excavate a sediment capture channel adjacent to the realigned creek channel, and install large wood in the new channels for low-velocity habitat creation. The flood minimization measures of the project include raising and slightly widening Lighthouse Road and an existing intersecting private driveway (that leads to a rural agricultural property owned by the Bear River Band of the Rohnerville Rancheria), installing a new culvert crossing under Lighthouse Road, and installing a new concrete slab bridge crossing along a private driveway over the realigned creek channel. The new roadway infrastructure will also benefit fish habitat by replacing old, impassible structures with properly designed ones suitable for fish passage through the restored channels.

The primary Coastal Act issues raised by this project include substantial alterations of the creek channel, potential impacts to water quality from construction activities, and flood hazard issues. The Mattole River provides important habitat for federally listed, threatened salmonids and historically supported large populations of coho and Chinook salmon and steelhead trout. Lower Bear Creek historically supplied cold water to the middle slough of the Mattole River estuary and provided additional off-channel habitat. Throughout the years, land use changes including logging and new infrastructure changed the geomorphology of the Mattole River and blocked off many historic channels and cold-water inputs, including Lower Bear Creek. The proposed habitat improvements relate to past habitat restoration efforts focused on the “middle slough” components of the downstream estuary and an area referred to as “Dogleg Pool” within the slough. This proposed project aims to link Lower Bear Creek with the middle slough in an effort to reconnect the Mattole River estuary slough network and enhance downstream stream flow quantity and quality. Essentially, the project will restore protected and slow flowing side channels, reconnect the main creek channel to the lower Mattole River, provide over-wintering habitat for state and federally threatened juvenile salmonids, and improve habitat for various fish and wildlife. Thus, the primary purpose of the project, which involves substantial alterations to Lower Bear Creek and dredging and filling of coastal wetlands, is for fish and wildlife habitat improvement and restoration purposes, consistent with Coastal Act sections 30236 and 30233.

The proposed project is recommended to include conditions requiring implementation of feasible mitigation measures, including **Special Conditions 3 through 5** and **Special Condition 9**. Though the proposed project will result in removal of riparian habitat (Red Alder Forest) to excavate the new creek channels, the applicant proposes to restore riparian habitat adjacent to the realigned creek by planting new riparian vegetation along the restored channel and monitoring planted areas over a number of years. The applicant also will monitor the physical and biological conditions of the restored creek habitats and evaluate the success of the restoration project for fish species. The details

on success criteria and monitoring methods have not yet been finalized, so **Special Condition 4** is recommended to require the applicant to submit a final monitoring plan to the Executive Director for review and approval.

In addition to the fish and wildlife habitat improvement work, the project also will reduce flooding risk along the County road by raising Lighthouse Road, which is the only road leading to Mattole Beach. The project was designed to address a 100-year flood event and is expected to greatly reduce the frequency and intensity of flooding of Lighthouse Road and an interconnecting driveway.

Staff recommends that the Commission approve CDP application 1-23-0084 with conditions. The motions and resolutions are on page 5.

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LIST OF APPENDICES

Appendix A: Substantive File Documents

LIST OF EXHIBITS

Exhibit 1 – Location and Vicinity Maps
Exhibit 2 – Site Plans
Exhibit 3 – Biological Reports (excerpts)
Exhibit 4 – Mitigation, Monitoring and Reporting Plan (MMRP)
Exhibit 5 – Monitoring, Operation and Maintenance Plan

I. Motion and Resolution

A. Motion

I move that the Commission **approve** Coastal Development Permit Application No. 1-23-0084 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. 1-23-0084 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. **Conformance to Final Construction Plans.** The permittee shall undertake development in accordance with the approved final 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 approved amendment to this CDP unless the Executive Director determines that no amendment is legally required.

2. **Submittal of As-Built Plans**. Within 90 days of completion of construction, the applicant shall submit to the Executive Director "as built" plans for the authorized restoration work that show, at a minimum, the following: (a) final topographic contours of the project site, including excavation and fill areas of the channels, berms, and floodplain areas, demonstrating that the constructed channel and floodplain topography conforms with the approved final plans; (b) executed final planting plan, including locations, types, and numbers of plants installed in riparian/wetland areas for fish and wildlife habitat improvement; and (c) final as-built plans for the raised sections of road, new culvert, and new bridge along Lighthouse Road and the private driveway.

3. **Construction Responsibilities Required to Protect Coastal Resources.**

   A. The permittee shall undertake development in compliance with all proposed "best-management practices" (BMPs) outlined in the Mitigation, Monitoring and Reporting Plan (MMRP) attached as **Exhibit 4**, and incorporated by reference into this condition, and with the measures and requirements outlined in permits and consultations completed by CDFW and NOAA-fisheries applicable to the project to protect water quality, sensitive habitat areas and sensitive species, and other coastal resources, except as supplemented or modified herein.

   B. 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, as supplemented or modified by these conditions.

4. **Final Fish and Wildlife Habitat Improvement Monitoring and Reporting Plan.**

   A. The permittee shall implement the creek habitat restoration and monitoring in accordance with the proposed (a) "Lower Bear Creek Water Quality Monitoring Plan" received January 10, 2025, and (b) "Maintenance Program" dated January 2, 2024 attached as **Exhibit 5**, except as supplemented or

modified herein. NO LESS THAN 30 DAYS PRIOR TO COMMENCEMENT OF RESTORATION ACTIVITIES, the permittee shall submit a revised final Fish and Wildlife Habitat Improvement Monitoring and Reporting Plan for the review and approval of the Executive Director, which substantially conforms with the above cited plans but which shall be supplemented with monitoring objectives, interim and final success criteria and performance standards, monitoring timing for restored creek channels, overall habitat development, special status wildlife use in restored areas, and reporting plan details as specified herein. The revised final plan shall include at a minimum the following:

i. A map of all planned restoration and impact areas that includes the riparian areas shown on the Wetland Map and includes the areas that will be actively planted, and the areas that will be monitored for passive restoration;

ii. A plant pallet for the areas to be actively planted and a list of target species expected to colonize passive restored areas;

iii. A description of the size and approximate number of container plants and the rate and method of seed application in each type of habitat to be actively planted;

iv. Provisions requiring the following: Only native plant species shall be planted in the proposed restoration areas. All proposed plantings shall be obtained from local genetic stocks within the North Coast region (generally the Humboldt coast, within approximately 30 miles of the coastline). If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside of the local area may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the governments of the State of California or the United States shall be utilized within the project area;

v. Provisions requiring that all proposed planting shall be completed as soon as possible and no later than the end of the first fall to spring season(s) that occurs after completion of construction;

vi. A Fisheries Performance Monitoring Plan that includes provisions for fisheries monitoring including timing of pre- and post- construction fish surveys, turbidity monitoring, and temperature monitoring during and following construction;

vii. A revised final maintenance plan that includes descriptions of and proposed schedules for weeding, irrigation, plant replacement, and other proposed maintenance activities;

viii. A revised final monitoring and reporting plan that proposes five years of post-construction monitoring and reporting consistent with subsection B herein for creek, wetland, riparian, and floodplain restoration areas that includes target goals, objectives, and success criteria for restoration areas, including, at a minimum, achieving ~2,800 feet of restored creek channel and alcoves with ~750 feet dedicated to capture channels and the installation of approximately 27 pieces of large woody material. The revised final monitoring plan shall include a description of monitoring methods and the following minimum success criteria:

a) 80% survivability of plantings by the end of Year 3;

b) 50% native plant absolute cover in the overstory and understory layers by the end of Year 3; and

c) By the end of Year 5 in each habitat area: 80% survivability of plantings, 75% native plant absolute cover or equivalent coverage as compared to nearby intact riparian reference area.

B. For a minimum period of five years beginning the first year after completion of the initial restoration work, the permittee shall submit annual monitoring reports to the Executive Director by January 31st following each monitoring year.

i. Annual monitoring reports shall indicate the progress and relative success or failure of restored areas and include further recommendations and requirements for additional restoration/enhancement activities for the project to meet the success criteria and performance standards and shall include photographs of restored areas. Annual reports shall include results of any turbidity monitoring, temperature monitoring, and fish surveys completed in the prior year.

ii. The final monitoring report must evaluate whether the restoration site conforms with the goals, objectives, and performance standards set forth in the approved final plan. The report must address all the monitoring data collected over the five-year period.

C. If the final monitoring report indicates that the creek habitat restoration project has been unsuccessful, in part or in whole, based on the approved goals, objectives and success criteria set forth in the approved final Restoration Plan, the permittee shall submit a revised or supplemental plan to address those portions of the original plan that did not meet the approved goals, objectives and success criteria. The revised or supplemental plan shall be processed as an amendment to this permit, unless the Executive Director determines no amendment is legally required.

D. The permittee shall undertake development in accordance with the approved final 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 approved amendment to this coastal

development permit, unless the Executive Director determines that no amendment is legally required.

5. **Debris Disposal Plan.** PRIOR TO THE COMMENCEMENT OF DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMET PERMIT 1-23-0084, the permittee shall submit, for review and written approval of the Executive Director, a final Debris Disposal Plan for the disposal of excavated soil and other debris not being re-used in the project. The plan shall identify authorized disposal site(s) where materials will be lawfully disposed of and describe the manner and schedule by which the materials will be removed from the project 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 from the Commission is legally required.

6. **Other Agency Approvals**. PRIOR TO COMMENCEMENT OF RESTORATION ACTIVITIES, the permittee shall submit to the Executive Director written evidence that all necessary permits, letters of concurrence, or other authorizations for the project have been granted by the U.S. Army Corps of Engineers, National Oceanic and Atmospheric Administration, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife, or evidence that no such authorizations are required. The permittee shall inform the Executive Director of any changes to the project required the any of these other agencies. Any such changes shall not be incorporated into the project until the permittee obtains an amendment to this permit, unless the Executive Director determines that no amendment is legally required.

7. **Humboldt County Encroachment and Grading Permits.** PRIOR TO THE COMMENCEMENT OF DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMET PERMIT 1-23-0084, the applicant shall submit to the Executive Director written evidence that encroachment and grading permits from the County of Humboldt have been granted or evidence that no such authorization is required. The permittee shall inform the Executive Director of any changes to the project required the County. Any such changes shall not be incorporated into the project until the permittee obtains an amendment to this permit, unless the Executive Director determines that no amendment is legally required.

8. **Assumption of Risk, Waiver of Liability and Indemnity.** 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, flooding, liquefaction, and tsunami run-up; (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.

9. Protection of Archaeological and Tribal Cultural Resources.

A. AT LEAST ONE MONTH PRIOR TO COMMENCEMENT OF ANY GROUND-DISTURBING ACTIVITIES, the permittee shall provide written notification to the Tribal Historic Preservation Offices (THPOs) of the Bear River Band of the Rohnerville Rancheria to (i) invite tribal representatives to be present and to monitor ground-disturbing activities; and (ii) arrange for any invited tribal representative that requests to monitor and/or a qualified archaeological monitor to be present to observe project activities with the potential to impact archaeological and/or tribal cultural resources. Evidence of written notification shall be made available to the Executive Director upon request. The monitor(s) shall have experience monitoring for archaeological resources of the local area during excavation projects, be competent to identify significant resource types, and be aware of recommended tribal procedures for the inadvertent discovery of tribal cultural and/or archaeological resources and/or human remains.

B. If an area of archeological and/or tribal cultural resources is discovered during the course of the project, project activities with the potential to impact such resources shall cease and shall not recommence except as provided in subsection (D) hereof, and the permittee shall retain a qualified archeological and/or tribal cultural resource specialist to analyze the significance of the find in consultation with Native American Tribes listed on an updated Native American Heritage Commission (NAHC) contact list. An "exclusion zone" where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area that includes a reasonable buffer zone recommended by the monitor(s). Project activities may continue outside of the exclusion zone.

C. Should human remains be discovered on-site during the course of the project, immediately after such discovery, the on-site archaeologist and/or Native American monitor shall notify the county coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted until the remains can be identified. An "exclusion zone" may be established around the discovery area. Project activities may continue outside of the exclusion zone. If the county coroner determines that the human remains are those of a Native American, the coroner shall contact the NAHC within 24 hours, pursuant to Health and Safety Code Section 7050.5. The NAHC shall deem the Native American most likely descendant (MLD) to be invited to participate in the identification process pursuant to Public Resources Code Section 5097.98. The landowner/ permittee shall comply with the requirements of Section 5097.98 and work with the MLD person(s) to preserve the remains in

place, move the remains elsewhere onsite, relinquish the remains to the descendants for treatment, or determine other culturally appropriate treatment. Within five (5) calendar days of notification to NAHC, the permittee/ landowner shall notify the Coastal Commission's Executive Director of the discovery of human remains and identify any changes to the proposed development or mitigation measures that may be needed related to the inadvertent discovery. The Executive Director shall maintain confidentiality regarding the presence of human remains on the project site. The Executive Director shall determine whether the identified changes are de minimis in nature and scope.

D. A permittee seeking to recommence construction within an exclusion zone following discovery of tribal cultural and/or archaeological resources shall submit a Supplementary Archaeological Plan (SAP) prepared by an archaeologist in consultation with the Native American Tribes listed on the NAHC list for the review and written approval of the Executive Director. If the Executive Director approves the SAP and determines that the SAP's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director in writing. If the Executive Director approves the SAP but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

IV. Findings and Declarations

The Commission hereby finds and declares as follows:

A. Project Description, Purpose, and Need

Humboldt County Department of Public Works (HCDPW, Applicant), in partnership with Mattole Salmon Group (MSG) and in cooperation with participating public and private adjacent landowners (Bear River Band of the Rohnerville Rancheria, E. Taylor, and Bureau of Land Management), proposes to undertake the Lower Bear Creek Habitat Enhancement Project. The primary purpose of the project is threefold: (1) to restore and enhance habitat along Lower Bear Creek and the Mattole Rive Estuary, (2) address chronic riverine and creek flooding issues along a rural County road (Lighthouse Road) that leads to Mattole Beach and Campground and along an intersecting private driveway that leads to a rural agricultural property owned by the Bear River Band of the Rohnerville Rancheria, and (3) improve public access to Mattole Beach and Campground and the King Range National Conservation Area (NCA) (**Exhibit 1**).

The principal project elements involve (1) realigning approximately 2,000 feet of Lower Bear Creek (LBC), (2) excavating a sediment capture channel adjacent to the realigned creek channel, (3) installing at least 27 pieces of large woody material in the new channels for low-velocity habitat creation, (4) raising and slightly widening a 1,500-ft stretch of Lighthouse Road and an existing intersecting private driveway from 20 ft to 28

ft, (5) installing a 76-ft-long and 23-ft-wide multiplate arch culvert crossing under Lighthouse Road, and (6) installing a new 14-ft-wide by 60-ft-long, concrete slab bridge crossing along a private driveway over the realigned creek channel (**Exhibit 2**).

The proposed restoration and flood alleviation activities will reroute existing leveed LBC to the west, providing a more natural non-leveed floodplain and geologically appropriate area for sediment to deposit where it will not aggregate in existing slough channels or impact roadways. LBC currently flows through a confined unnatural creek system that has been altered through past land use practices involving the construction of levees along channel banks and the routing of creek related drainage through undersized culverts that intersect with roads and driveways. Due to the topography and sediment deposition, two 36-inch culverts under Lighthouse Road in the project area frequently clog with sediment, leading to deposition and flooding of the roadway, at times closing the public road and adjacent driveways. The applicant has historically conducted routine maintenance following flooding events involving clearing debris and sediment from culverts and the road. The proposed project will improve public access to and along the coast by reducing flooding of Lighthouse Road, which is the primary public access point that leads to the northern end of the King Range NCA including Mattole Beach and Campground and over 80 miles of hiking trails along the coastal beaches and mountains of the Lost Coast.

The project will tie in to restored off-channel habitat in “Middle Slough” of the Mattole River estuary that has been enhanced through previous restoration and enhancement projects on federal lands undertaken by the Bureau of Land Management and the Mattole Salmon Group. The project will restore additional salmonid habitat in the freshwater reach of the project area upstream of the Mattole River estuary by constructing new alcoves and backwater channels in the rerouted creek channel. The channel excavation consists of four sections: delivery reach, upper depositional reach, lower depositional reach, and slough channel reach. The delivery channel would extend from the existing channel for approximately 345 feet and be designed to convey coarse sediment downstream of the new driveway bridge. The upper and lower depositional reaches of the channel would extend for approximately 850 feet and are expected to aggrade with fine/medium grade sands. The downstream-most reach (slough channel reach) would extend approximately 860 feet, travel under Lighthouse Road, and ultimately connect with the Mattole River estuary near “Dogleg Pool,” a fish habitat feature important for juvenile salmonid rearing. Reconnecting LBC to Dogleg Pool will provide a source of cold water to the off-channel rearing habitat as well as opportunities for fish to access the restored creek channel through the proposed new arch culvert crossing under Lighthouse Road (whereas under current conditions, due to sediment aggradation in the confined creek channel and undersized crossing structures, fish that are able to access LBC often are unable to egress back to the river as the stream channel dries up and fish are stranded in poor quality creek habitat). Additional capture channels and small alcoves would be excavated alongside the realigned creek to collect bank overflow and reroute it back to the channel. A mosaic of woody structures, which provide fish habitat and mimic geomorphic features found in wooded floodplain channels, would be incorporated into the excavated channels, including unanchored

rootwad structures in some areas and anchored logs in others, depending on the restoration need.

Thus, the project ultimately aims to restore geomorphic processes through rerouting of LBC to the west and providing an area for sediment to deposit without impacting existing roadways or aggrading in existing slough channels to directly benefit water quality and salmonid habitat within the Middle Slough of the Mattole River estuary and improve safety on Lighthouse Road.

Construction would occur over one or two construction seasons (approximately June 15 – October 31) 8-10 hours per day, for up to 240 days of work. Construction access to the project area would be provided via the county-maintained Lighthouse Road and the private driveway. Staging would occur in two upland grassy areas and adjacent to the existing residence accessed via the private driveway (**Exhibit 2**). All areas disturbed by temporary staging and stockpiling would be de-compacted and reseeded as needed prior to project completion.

B. Project Location and Environmental Setting

The 13-acre project area is located approximately four miles southwest of the small rural unincorporated town of Petrolia within the lower Mattole River Watershed approximately one mile from the mouth of the Mattole River (see **Exhibit 1** and Figure 1 below). The project area includes land owned by private landowners and the Bear River Band of the Rohnerville Rancheria (BRB), roadway owned by Humboldt County, and federal lands managed by BLM. Lighthouse Road is a county road providing the only point of access to a federally managed public beach, campground, and hiking trails. APNs within the project area include 104-183-010, 104-183-009, and 105-031-32.

The project area ranges in elevation from approximately 20 to 160 feet above mean sea level. Vegetation within the project area is a combination of forests, riparian, understory, and shrub layers and includes red alder (*Alnus rubra)* forest, bigleaf maple forest, and mixed understory species including stinging nettle, cow parsnip, ferns, California blackberry, and patches of slough sedge in the wetter areas. Areas upslope and adjacent to the project site are classified as Douglas-fir Forest and Woodland Alliance (*Pseudotsuga menziesii).* A disturbed upland grassy area west of the private driveway is dominated by grasses and Italian thistle (wild oats and annual brome grasslands). The only sensitive vegetation type in the project area is the Red Alder Forest Alliance (*Alnus rubra / Salix lasiolepis / Rubus spp.*). The varied habitats within the project area have the potential to support a number of rare or endangered animal species, including but not limited to Willow flycatcher, Western yellow-billed cuckoo, sensitive riparian nesting species, and sensitive amphibians (Foothill Yellow-legged Frog and Pacific Tailed Frog).

As discussed above, the project area is located near the primary public access point to the northern end of the King Range NCA including Mattole Beach and Campground and over 80 miles of hiking trails along the coastal beaches and mountains of the Lost Coast.

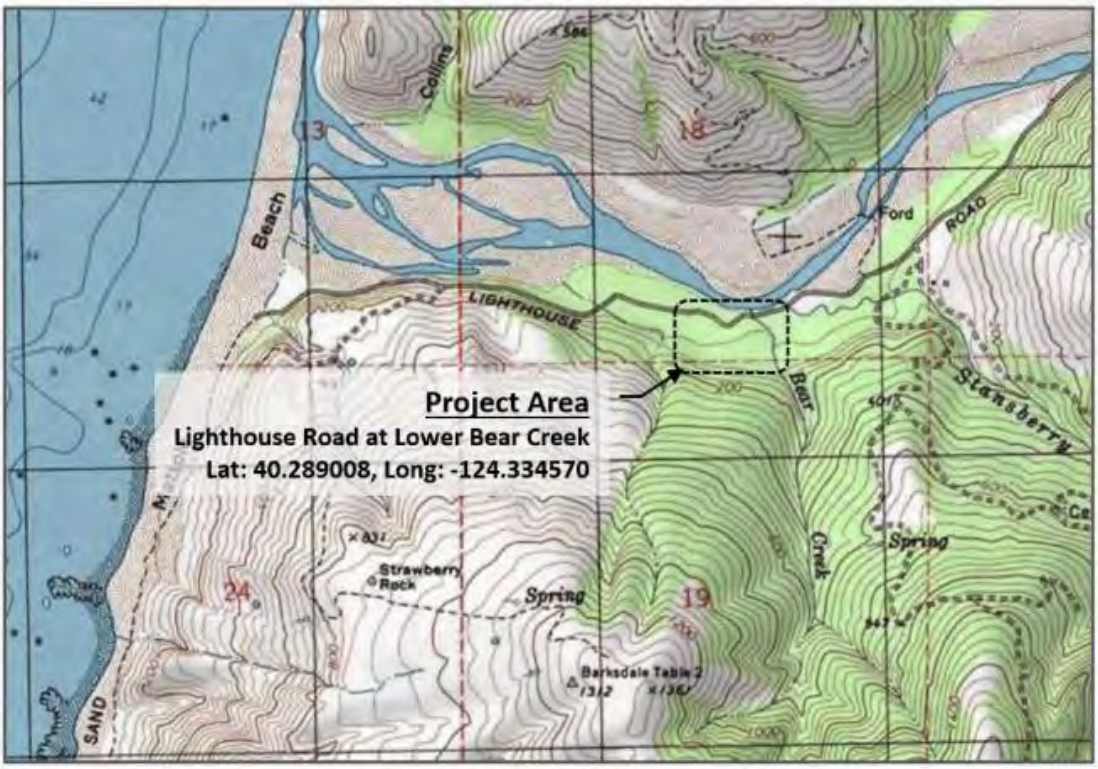


Figure 1-1. Overview map of lower Mattole River and the Lower Bear Creek watershed (USGS Quad, Petrolia CA).

C. Standard of Review

The proposed development site is bisected by the County of Humboldt's LCP jurisdiction boundary and the Commission's retained jurisdiction. The County and the Executive Director have agreed that the Commission will process a consolidated CDP application for the project pursuant to Coastal Act Section 30601.3(a)(2). 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. The Humboldt County certified LCP may be used as guidance.

D. Other Agency Approvals

U.S. Army Corps of Engineers (USACE)

The project requires a Clean Water Act Section 404 National Permit from the United States Army Corps of Engineers. USACE has reviewed the proposed project and confirmed that it is eligible for coverage under the Section 404 programmatic Nationwide Permit. To ensure that the permit issued by the Corps, which will be granted after approval of this CDP, is for the same project as proposed and as conditioned under this CDP, the Commission attaches **Special Condition 6**. This condition requires that prior to commencement of development, the permittee shall submit written evidence that all necessary permits for the project have been granted by the USACE. The permittee shall inform the Executive Director of any changes to the project required

the USACE. Any such changes shall not be incorporated into the project until the permittee obtains an amendment to this permit.

NMFS & U.S. Fish and Wildlife Service (USFWS)

The project requires consultations with the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act for potential impacts of habitat restoration projects on federally listed salmonid species and other listed species and designated critical habitats. **Special Condition 6** requires that prior to commencement of development, the permittee shall submit written evidence that all necessary approvals from NOAA and USFWS have been obtained, and any changes to the project required by these agencies shall not be incorporated into the project until the permittee obtains an amendment to this permit, unless the Executive Director determines that no amendment is legally required.

State and Regional Water Quality Control Boards

The project requires authorization under the Clean Water Act Section 401 and the Porter-Cologne Water Quality Control Act. The North Coast Regional Water Quality Control Board issued their Notice of Applicability for Coverage under the State Water Resources Control Board Order WQ 2022-0048-DWQ on November 21, 2024.

California Department of Fish & Wildlife (CDFW)

As the project involves alterations to a coastal stream and its associated riparian habitat, the project requires a Lake and Streambed Alteration Agreement pursuant to state Fish and Game Code. The project also requires California Endangered Species Act Compliance from the CDFW. Therefore, as discussed above for the other agency permits, the Commission attaches **Special Condition 6** requiring that prior to the commencement of development, the permittee shall submit written evidence that all necessary approvals from the CDFW have been obtained.

State Lands Commission

State Lands has jurisdiction and management authority over public trust lands, including all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. State Lands also has review authority over public trust lands legislatively granted in trust to local governments. State Lands has confirmed that there will be no work on State Lands and therefore a State Lands Commission Lease is not required.

Humboldt County Encroachment and Grading Permits

The project requires local encroachment and grading permits from the County of Humboldt. To ensure that the applicant receives these permits prior to commencement of construction, the Commission attaches **Special Condition 7**. The condition requires the applicant to inform the Executive Director of any changes to the project required the County, and any such changes shall not be incorporated into the project until the permittee obtains an amendment to this permit (unless the Executive Director determines that no amendment is legally required).

E. Legal Interests in Subject Property

Under section 30601.5 of the Coastal Act, an applicant for a CDP does not need to be the owner of a fee interest in the property on which the proposed development is located as long as the applicant can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, and as long as all holders or owners of any other interests of record in the affected property are notified in writing of the permit application and invited to join as co-applicants. In addition, section 30601.5 requires that the applicant demonstrate authority to comply with all conditions of approval prior to issuance of a CDP.

The project area includes private and tribally owned property, County road right-of-way, and federal property (owned by BLM). The Applicant has informed all the owners of private property (Bear River Band of the Rohnerville Rancheria and E. Taylor) of the permit application and invited them to join as co-applicants. The Applicant has also provided Landowner Access/Entry Agreements with the neighboring landowners demonstrating that the applicant may undertake the project as conditioned by the CDP. BLM was invited to be a co-applicant due to a portion of the project occurring on federal land but declined the invitation. BLM provided written authorization to conduct restoration activities on their federal property in a letter dated April 6, 2023 and through a landowner access agreement dated March 30, 2023. Thus, the project has met the requirements of Coastal Act section 30601.5.

F. Substantial Alteration of Coastal Streams

Section 30236 of the Coastal Act states (emphasis added):

> Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

The Mattole River provides important habitat for federally listed, threatened salmonids and historically supported large populations of coho and Chinook salmon and steelhead trout. The river system provides habitat for salmonids at all life stages, including cool water in the summer and low-flow areas for winter refugia. Lower Bear Creek (LBC) historically supplied cold water to the middle slough of the Mattole River estuary and provided additional off-channel habitat. Throughout the years, land use changes including logging and new infrastructure changed the geomorphology of the Mattole River and blocked off many historic channels and cold-water inputs, including LBC.

LBC currently drains forested hillslopes of Prosper Ridge and exits a steep gorge onto the historical floodplain of the Mattole River, connecting with the main stem of the river instead of the historic confluence with the middle slough area. As discussed in the

Project Description finding above, the project is related to past habitat restoration efforts along the lower Mattole River and Lighthouse Road[1] and is consistent with a 2017 planning report titled “Salmonid Off-Channel Habitat Improvements in the Mattole River Estuary, Humboldt County California, Restoration Planning Study.” Past restoration efforts focused on the “middle slough” components and an area referred to as “Dogleg Pool” within the slough. This proposed project aims to link LBC with the middle slough in an effort to reconnect the Mattole River estuary slough network and enhance downstream stream flow quantity and quality. The proposed project was selected out of a number of alternatives, analyzed further below in Finding F. The reconnection of LBC with the adjacent river is anticipated to advance restoration efforts previously completed in the downstream estuary by reducing sedimentation issues, opening new habitat for salmonids, providing cold water to downstream habitats, and reducing stranding associated with current high sediment and low-flow conditions.

The following proposed development involving alterations to Lower Bear Creek channels and associated floodplain constitutes “substantial alteration” of rivers and streams and must be found consistent with the specific provisions of section 30236 of the Coastal Act: (a) realigning and constructing a new main channel, capture and side channels with enhanced morphology/functionality, and connecting the restored channels to the middle slough of the Mattole River; (b) placing large woody debris within the newly constructed channels; (c) raising portions of Lighthouse Road and interconnecting private driveway to address flooding and accommodate future aggradation during larger flood events; (d) replacing an existing undersized culvert under Lighthouse Road with a new, larger, fish-friendly culvert and installing a new bridge to accommodate the driveway crossing; and (e) restoring riparian forest habitat along the outer banks of the new channels.

In order to realign the creek channel, approximately 12,850 cubic yards of topsoil and subsoil will be excavated. Excavated materials from the realigned channel will be used to construct other project elements including roadway embankment construction for flood control purposes. Imported rock slop protection (RSP) and fill for project elements will be required, as the amount of excavated material is less than the expected fill amounts. Tables 1 and 2 below summarize the cut and fill volumes for the project.

Table 1. Project Excavation Volume (cubic yards, CY), Length (feet) and Acreage (ac):

Realigned channel (excavation)	10,900 CY	2050 ft	2.1 ac
Capture channels (excavation)	1,950 CY	750 ft	0.4 ac
TOTALS	**12,850 CY**	**2,800 ft**	**2.5 ac**

[1] Past restoration efforts include BLMs aquatic habitat improvement projects in the lower Mattole River estuary completed in 2018 and 2020 and authorized by the Commission under a 2005 concurrence of BLM’s consistency determination

Table 2. Project Component Fill Volume, Length, and Acreage:

Fill for culvert construction	20 CY	75 ft	0.06 ac
RSP at bridge	200 CY	60 ft	0.04 ac
Fill to raise lighthouse road	5,900 CY	1,500 ft	1.25 ac
Fill to raise private drive	7,600 CY	100 ft	1 ac
Fill at delivery channel (through + downstream bridge	400 CY	325 ft	0.5 ac
TOTALS	**14,120 CY**	**2,060 ft**	**2.85 ac**

Section 30236 limits the allowance of any proposed substantial alteration of a river or stream to only three purposes and requires that the best mitigation measures feasible be provided. The primary function of the proposed project is the improvement of fish and wildlife habitat. A secondary function of the project is flood control necessary for public safety and to protect existing infrastructure.

Improvement of Fish and Wildlife Habitat

The Mattole River is listed as a Critical Coastal Area (CCA) under the Clean Water Act due to sedimentation/siltation and water temperature. In addition, recovery plans for salmonids often list key limiting factors as "lack of floodplain and channel structure, impaired estuary function, impaired water quality and altered sediment supply…" (NMFS, 2014). Top recovery priorities in several other statewide plans and policies[2] include improving channel structure and off-channel rearing habitat. With this recovery need in mind, the Applicant, in partnership with the Mattole Salmon Group, developed the proposed riverine restoration project with the primary function of improvement of fish and wildlife habitat, especially for endangered salmonids. By reconnecting Lower Bear Creek to the middle slough of the Mattole River Estuary, the proposed project will improve ecological function and provide unimpeded access to support the reproduction, growth and survival of salmonids. In addition to its fish habitat benefits, the proposed channel reconstruction work will restore the diversity of habitats that historically occurred in the river corridor, including forest riparian habitat and transitional habitats between wetland and upland areas. The restored habitat and vegetative diversity along the river corridor will promote a greater diversity of birds and other wildlife and will be

[2] Including, but not limited to, the Steelhead Restoration and Management Plan for California (CDFW, 1996); Recovery Strategy for California Coho Salmon (CDFW, 2004); and California Water Action Plan (CNRA, CEPA, CDFA, 2014).

significantly more valuable than the monotonous willow and alder stands that currently choke the existing river system.

As previously discussed, the proposed channel realignment work is expected to provide improved habitat for juvenile salmonids by reestablishing open water habitats that historically existed in the area prior to hydrologic modifications of the site by historic land use practices such as constructing roads and restricting natural channel migration to support timber harvesting. The essential purpose of the proposed stream altering activities is to restore backwater channel, open water habitat, wetlands, and riparian habitat to a natural condition of much greater ecological value than the existing altered, fragmented and degraded habitats. Prior to the historic rerouting of LBC to its current alignment, the channel meandered through a wetland complex that discharged to the downstream estuary. In the dry season, flow from LBC would contribute to groundwater levels and provide cool water to the Mattole Middle Slough. The proposed project will restore protected and slow flowing side channels that are hydrologically disconnected to the main river channel except during high flow periods to provide calmer over-wintering aquatic rearing habitat for state and federally threatened juvenile SONCC coho salmon, CC Chinook salmon, NC steelhead and also Pacific lamprey. Surface water ponding and shallow soil saturation on site also will increase available habitat for native amphibians and reptiles (including, potentially, for Northern red-legged frog, *Rana aurora*, a state-listed species of special concern, and Western pond turtle, *Emys marmorata*).

These findings that the proposed project has the primary function of fish and wildlife habitat improvement are based, in part, on the assumption that the proposed project will be successful in restoring the various historic habitats and processes as proposed and increasing habitat values. Specifically, the increased habitat values expected to result from the proposed restoration include (1) restored natural connection to the river, (2) increased quantity of available salmonid habitat, and (3) increased quality of available salmonid habitat through riparian and wetland revegetation. Should the project be unsuccessful, or worse, if the proposed dredging/filling impacts and substantial alteration of the river actually result in long-term degradation of the riverine habitats, the proposed project would not be primarily for improvement of fish and wildlife habitat and would be inconsistent with section 30236.

To ensure that the project is implemented as proposed and achieves the intended fish and wildlife habitat improvements, the Commission attaches Special Conditions 2 and 4. **Special Condition 2** requires submittal of as-built plans within 90 days of completion of construction that demonstrate, at a minimum, (a) the final constructed channel and floodplain topography conforms with the approved final plans; and (b) the locations, types, and numbers of plants installed conform with the final planting plan. Additionally, although the Applicant has prepared preliminary monitoring plan details to demonstrate that the project will meet its intended physical, hydrological, and biological goals, the proposed Monitoring Plan is missing several critical elements, such as details on revegetation including a planting pallet and locations and a timeline for vegetation monitoring activities. Two reports, titled “LBC Water Quality Monitoring Plan” and “Maintenance Program” include details on proposed monitoring and maintenance of the

restored area, including details on plant management and water quality monitoring. The maintenance program states that the channel has been designed to accommodate flows and sediment aggradation substantially longer than the 25-year project life, and no ongoing maintenance of the channel is proposed. The Plans describe broad riparian and wetland revegetation strategies, propose certain success criteria, and outline monitoring activities post-construction such as turbidity and temperature monitoring and (as funding allows) snorkel surveys. The Plans propose to report on performance standards in late Fall 2026.

Special Condition 4 requires the Applicant to submit a final revised habitat monitoring plan for the Executive Director's review and approval that substantially conforms to the submitted plan, except that it shall be revised to include added provisions for the above omitted elements as well as details on fish monitoring, maintenance activities, and reporting schedule. Furthermore, **Special Condition 4** requires that the final revised Plan include provisions for remediation to ensure that the goals and objectives of the fish and wildlife habitat improvement project are met.

Flood Control Purposes

In tandem with the fish and wildlife habitat improvement elements of the project discussed above, to accommodate future aggradation across the western portion of the LBC alluvial fan that is anticipated to occur with the restored, realigned, and improved channel and floodplain morphology, the project also will control flooding along Lighthouse Road by raising the road for a length of 1,500 feet along its current alignment and also raising and realigning the lower approximately 1,000 feet of an interconnecting private driveway. The purpose of raising the realigned driveway is to allow it to cross over LBC near the apex of the alluvial fan. The road and driveway currently flood during high-flow periods. The project will raise the roadways to be able to withstand a 10-year flow event under a fully aggraded condition. Lighthouse Road will be raised between two to five feet for approximately 1,500 feet. A new 23-ft x 11.5-ft arch culvert will be installed and designed to convey 100-year flow volumes of LBC. Approximately 1,000 feet of driveway will be realigned slightly to the east and raised as it climbs up to the base of a ridge where it will then cross LBC on a new, 14-ft x 60-ft concrete bridge. The bridge crossing will be placed at least 2 feet above the 100-year flood event water elevation. The roadway and stream crossing improvements are expected to greatly reduce the frequency and damage of roadway flooding and will address flooding from LBC and from the Mattole River.

Best Mitigation Measures Feasible

Section 30236 also requires the incorporation of the best feasible mitigation measures feasible to avoid or minimize the significant adverse environmental effects of the proposed stream alteration project. The potential project impacts and mitigation measures are discussed below.

i. Measures to protect water quality: The project construction could result in direct impacts to water quality and aquatic life, including sensitive salmonids, through

dewatering activities, significant grading and land disturbance that could mobilize sediments, work in coastal waters with the potential to increase turbidity, and use of heavy equipment in and around wetlands and streams, which poses the risk of accidental spills. To address these potential impacts, the Applicant has proposed various mitigation measures that will minimize the adverse environmental effects of construction of the proposed project. These mitigation measures include implementation of construction best management practices such as (1) limiting construction to the period of late summer when river and creek flows are at their lowest and chances of precipitation are minimal; (2) siting staging and stockpiling areas at least 100 feet from wetlands, and installing appropriate erosion control BMPs (silt fences, fiber rolls) between staging areas and work zones to minimize any sediment runoff; (3) revegetating and mulching areas disturbed by project activities so as not to cause any erosion, and others (**Exhibit 4**). **Special Condition 3** requires that these proposed mitigation measures be implemented. In addition, **Special Condition 5** requires submittal of a final debris disposal plan for the Executive Director's review and approval prior to commencement of construction to ensure that an appropriate disposal site(s) for excess excavated soil and other debris not being re-used in the project will be appropriately identified prior to commencement of construction.

ii. Measures to protect special-status fish: The current channel of LBC terminates at the road and does not connect to the Mattole River. Special-status fish have not been observed in the current LBC channel for several years. However, to protect downstream fish, instream construction will be limited to June 15 – October 31 to avoid working during wet season conditions, which will allow time for young-of-the-year salmonids to be mobile and decrease their risk to injury, allow downstream migration of smolts to be completed prior to channel disturbance and avoid construction during the rainy season when adult salmonids are entering freshwater to spawn. Additionally, construction activities will cease before October 31 with the presence of rain. Moreover, a qualified biologist will implement a fish screen capable of precluding movement of aquatic amphibians, fish, and reptiles into the active areas of excavation or soil disturbance in the LBC channel and check routinely throughout project duration to ensure proper function. The project will also follow the Fish Screening Criteria for Salmonids (NMFS 1997), NOAA Restoration Center/Army Corps of Engineers programmatic biological opinion requirements. The fish screen will be checked at a minimum of 2 times per week to ensure proper function by a qualified biologist. Furthermore, the proposed project involves enhancing and creating off-channel habitat for state and federally threatened juvenile SONCC coho salmon, CC Chinook salmon, NC steelhead and also Pacific lamprey. The mitigation measures cited above and incorporated into **Special Conditions 3 and 5** will ensure that construction of the project does not result in direct impacts to sensitive salmonids that may be located in the adjacent Mattole River. In addition, **Special Conditions 1 and 2** require the applicant to undertake development in accordance with the approved final plans and submit as-built plans to verify that the creek habitat restoration project is constructed as intended. **Special Condition 4** requires implementation of restoration monitoring to ensure that the

project achieves the identified objectives, including areas of new open water habitat, and decreased temperature and turbidity.

iii. Measures to protect special status birds: According to the Biological Scoping Report prepared for the project (Slauson 2021), the project area contains potential habitat for several bird species, including Cooper's hawk (*Accipiter cooperii*), Sharp-shinned hawk (*Accipiter striatus*), Red-shouldered hawk (*Buteo lineatus*), Northern saw-whet owl (*Aegolius acadicus*), Western yellow-billed cuckoo (*Coccyzus americanus occidentalis*), Little willow flycatcher (*Empidonax trailii brewsteri*), Yellow-breasted chat (*Icteria virens*). Construction activities associated with the proposed restoration and flood control project could result in disturbance to nesting birds from direct habitat removal, noise, and other forms of disturbance. To avoid and minimize impacts to any nesting birds that may be present in the work area during construction, the Applicant proposes to conduct bird surveys prior to commencement of any construction (for construction that occurs during the nesting bird season, generally March 15 – August 15). If active nests are detected within the construction footprint or up to 500 feet from construction activities, as proposed, the applicant's ornithologist will flag a buffer around each nest, and project construction will avoid nest sites until the ornithologist determines that the young have fledged or nesting activity has ceased. The appropriate buffer size will be determined on a case-by-case basis in consultation with the CDFW and, if applicable, with USFWS, and will be no less than 30 feet. The buffer determination will take into account factors such as (1) noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity; (2) distance and amount of vegetation or other screening between the construction site and the nest; and (3) sensitivity of individual nesting species and behaviors of the nesting birds. The Commission attaches **Special Condition 3** to require the permittee to adhere to these proposed measures to protect nesting bird habitat areas.

iv. Measures to protect sensitive reptiles and amphibians: The Wildlife Survey completed by Slauson Wildlife found suitable breeding habitat for Northern red-legged frog, Pacific tailed-frog, Foothill yellow-legged frog, and Western pond turtle within the project area and especially within the wetted riparian and percolation pond areas. The project's restoration activities could result in direct impacts to frog habitat and/or individual frogs. To minimize impacts to Northern red-legged frogs, the IS/MND includes BIO-2, which requires pre-construction surveys a maximum of 24 hours prior to the start of construction activities and, if individuals are observed, requires relocation to suitable habitat outside of the project footprint. Additionally, as discussed above, a qualified biologist will implement a fish screen capable of precluding movement of aquatic amphibians, fish, and reptiles into the active areas of excavation or soil disturbance in the Bear Creek channel and check routinely throughout project duration to ensure proper function. These measures are required to be implemented by **Special Condition 3.**

v. Measures to Protect Sensitive Riparian Habitat: The project site contains red alder (*Alnus rubra)* forest, portions of which are further classified as a sensitive natural community (described further in Finding I below). Impacts to the red alder forest community will occur during construction activities including stream channel excavation and related stream alteration activities. The Applicant has proposed several measures to protect the sensitive vegetation association during construction, including only removing the minimum amount of vegetation necessary to carry out project activities, siting staging and stockpiling areas outside of riparian habitat, and prohibiting the use of herbicides within the project area. In addition, Mitigation Measure BIO-4 proposes to fully restore disturbed areas following construction activities by revegetating with native species found in the red alder vegetation association. Replanting will follow guidelines in the California Stream Habitat Restoration Manual and will consist of at least a 2:1 planting ratio. **Special Condition 4** requires the Applicant to submit a final planting and revegetation plan prior to commencement of construction activities that provides additional details on restoration and impact areas, a plant pallet, and plans for maintenance and monitoring of the restored area.

Therefore, the Commission finds that for all of the reasons discussed above, that the proposed substantial alterations of Lower Bear Creek are for an allowable use under 30236, and as conditioned, the project incorporates the best feasible mitigation measures feasible to avoid or minimize the significant adverse environmental effects of the proposed stream alteration activities.

G. Dredging and Filling Within 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…

In addition to the elements of the project involving substantial alteration of Lower Bear Creek primarily for fish and wildlife habitat improvement and secondarily for flood control purposes, the proposed project also includes elements involving diking and filling of wetlands/waters that must be found consistent with the provisions of 30233, including placement of dredged and imported materials within wetland habitat to raise portions of Lighthouse Road and raise and realign a private driveway. According to the Wetland Delineation submitted with the application (Seney 2023), there are approximately 22 acres of wetlands throughout the project area. The delineation categorized wetlands into three types: 1) three-parameter “Waters of the U.S.” consisting primarily of legacy channels, depressions, and swales associated with the Mattole River and LBC floodplain; 2) one/two-parameter “Coastal Zone Wetlands” consisting of areas adjacent to the three-parameter wetlands but slightly higher and lacking soil indicators; and 3) one-parameter “Waters of the State” riparian forest which includes the existing LBC channel, which is currently hydrologically disconnected from the Mattole River.

Section 30233 limits the approval of the diking, filling, or dredging of open coastal waters, wetlands, and estuaries to only seven enumerated uses and requires that the diking, filling, and dredging can only be approved when the dredging, filling and diking is the least environmentally damaging feasible alternative, and feasible mitigation measures are provided to minimize adverse environmental effects.

a. Allowable Uses

As discussed in the above findings, the project’s proposed dredging and filling activities are allowable for restoration purposes and as an incidental public service in order to protect the publicly maintained Lighthouse Road from flooding impacts. As described in the findings above, through the combination of several components of the proposed

project involving the diking, dredging, and filling of coastal wetlands (summarized above), the project will reestablish freshwater and estuarine habitats that historically existed in the area prior to hydrologic modifications of the site by historic land use practices such as constructing roads and restricting natural channel migration to support timber harvesting.

Construction of the channel will convert approximately 2.26 acres of existing wetland habitat to open channel. The impacted wetland habitat consists of a mix of legacy channels, depressions and swales associated with LBC and the Mattole River floodplain, riparian areas, and the existing LBC flow where it ponds in an alder forest. The project is expected to increase the total acreage of 3-parameter wetlands in the project area by approximately 2.5 acres by slowing and spreading water throughout the project area and converting existing riparian areas to open water. Approximately 0.78-acres of riparian and two-parameter wetlands will be filled as part of the restoration and flood prevention components of the project.

The essential purpose of the proposed dredging and filling activities is to restore backwater channel, open water habitat, wetlands, and riparian habitat to a natural condition of much greater ecological value than the existing altered, fragmented and degraded habitats. As described in the finding above, the proposed project will restore LBC flows and reconnect the restored channel to the main river channel through Dogleg Pool.

Therefore, the Commission finds that the proposed restoration of historic floodplain, historic riparian habitat, and historic backwater channel habitat, along with the raised and realigned roadway and bridge to accommodate the restoration, entail actions that will result in the reestablishment of ecological processes associated with the riverine habitat that historically existed in the area. The Commission therefore finds that the proposed project constitutes filling and dredging for restoration purposes as allowed under section 30233(a)(6).

b. Alternatives

For projects involving diking, dredging, and filling of wetlands, the Commission must ensure that there is no feasible less environmentally damaging alternative to the diking, dredging, and filling aspects of a project. 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.” Alternatives considered include the following:

i. No project alternative: The “no project” alternative would maintain the status quo of the site and would not restore and enhance LBC or reconnect the creek to the Mattole River, resulting in no enhancement of salmonid habitat. Existing conditions in the restoration project site consist of the channelized and re-routed LBC channel which is frequently impacted by sedimentation and results in flooding of Lighthouse Road and private driveways. As a result of sediment impacts and attempting to alleviate flooding, the County department of public

works regularly clears out the channel and clogged culvert underneath Lighthouse Road, further degrading the habitat value of the channel and wetlands associated with LBC. The “no project” alternative would result in continued flooding, impacting public access to the BLM-managed beach and campground and hiking trails at the end of Lighthouse Road. The “no project” alternative also would result in further degradation of the LBC habitat and potential habitat within the Mattole River estuary, which is being impacted by high sediment and lack of cool-water inputs. Without the proposed project, the project area would continue to function as an impaired, ecologically limited and disconnected system, and there would be no restoration of salmonid breeding and overwintering rearing habitat in LBC, which has the potential to contribute to the recovery of SONCC coho salmon in the region. Furthermore, there would be no restored wetland and riparian habitat for the benefit of other fish and wildlife species. Therefore, the no project alternative is not a feasible less environmentally damaging alternative to the proposed development, as conditioned.

ii. Alternative design concepts: Several other design concepts were evaluated as alternatives to the proposed scale of the restoration project. Options evaluated focused on ways to manage the sediment delivered from upstream stretches of LBC and included using an actively managed sediment basin that would be cleaned out every few years, excavating and resetting the alluvial fan, and rerouting Lighthouse Road to cross the creek near the apex of its alluvial fan. Most alternatives included the same LBC channel realignment of moving the channel to the west of its current alignment and connecting to the Middle Slough through Dogleg Pool. All alternatives were analyzed based on the ability of the alternative to meet project objectives and across several project metrics including maintenance requirements, construction impacts to existing forest/wetlands, resiliency to river flooding, landowner support, and construction cost. Out of the five alternatives judged against these metrics, and based on input from stakeholders including resource agencies, the proposed project (to raise Lighthouse Road and the Driveway) was found to have moderate impacts to existing forests and wetlands, low maintenance requirements, the second longest timeline for sediment maintenance requirements (over 34 years), moderate flow capacity into Dogleg Pool, and high resiliency to large episodic flow/sediment events from LBC. Therefore, the proposed project is the least environmentally damaging alternative to the proposed development, as conditioned.

iii. Alternative driveway alignment: The original project design re-routed the private driveway to the east for the entire stretch of driveway. The final project plans were able to keep the driveway in its original alignment for the first approximately 300 feet before routing the driveway east for the remaining 700 feet. This alternative reduced the wetland fill associated with the driveway realignment by 0.16 acres. The proposed project represents a less impactful alternative with respect to road/driveway fill.

The Commission concludes that, as conditioned, the project is the least environmentally damaging feasible alternative and consistent with the alternatives test of section 30233(a).

c. Best Mitigation Measures Feasible

In addition to requiring that diking, dredging, and filling in coastal wetlands 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

i. Measures to protect water quality, special status fish, bird nesting habitat, sensitive amphibians and reptiles, and riparian habitat are required by Special Conditions 3 - 5 as discussed in Finding IV-F above.

ii. Mitigation for Wetland Impacts: Approximately 0.78 acres of wetlands will be converted to upland in order to ensure that the project can adapt to the restoration component (realigned creek channel) and as necessary for the flood control purposes of the project. Approximately 2.5 acres of new open water channel will be created. As discussed above, to ensure that the project fulfills its goals and objectives of restoring and enhancing wetland habitats as proposed consistent with the allowed uses for wetland diking, dredging, and filling under Coastal Act sections 30233 and 30236, **Special Condition 2** requires submittal of as-built plans within 90 days of completion of construction that demonstrate, at a minimum, (a) the final constructed channel and floodplain topography conforms with the approved final plans; and (b) the locations, types, and numbers of plants installed conform with the final planting plan. Additionally, **Special Condition 4** requires the Applicant to submit a final revised habitat monitoring plan for the Executive Director's review and approval that substantially conforms to the submitted plan, and that includes provisions for remediation to ensure that the goals and objectives of the restoration project are met.

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 project will not have significant adverse impacts on coastal waters or wetlands in and around the project vicinity. Furthermore, the project's stated purpose is to restore and enhance the biological productivity of coastal wetlands, and conditions of the permit will ensure that the site is monitored for achievement of these goals. Therefore, the Commission finds that the project, as conditioned, will maintain and enhance the functional capacity of wetlands consistent with the requirements of section 30233 of the Coastal Act.

H. Marine Resources and Water Quality

Section 30230 of the Coastal Act states (emphasis added):

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

Section 30231 of the Coastal Act states (emphasis added):

> 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 (emphasis added):

> 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.

As cited above, Coastal Act sections 30230 and 30231 require, in part, that marine resources and coastal wetlands and waters be maintained, enhanced, and where feasible restored. These policies specifically call for the maintenance of the biological productivity and quality of marine resources, coastal waters, streams, wetlands, and estuaries necessary to maintain optimum populations of all species of marine organisms and for the protection of human health.

a. Restoration of Marine Resources and Biological Productivity:

As described above, the project area is centered on Lower Bear Creek, a freshwater tributary to the Mattole River estuary. The project aims to restore the flow of LBC, which is currently confined by roads and undersized culverts, to its historic alignment. The restoration of LBC is expected to contribute cold water flows to the estuary and help support natural sediment deposition away from downstream pools. The Mattole River is listed under Section 303(d) of the federal Clean Water Act by the U.S. Environmental Protection Agency as an impaired water system due to excessive sediment and high temperatures. The Department of Fish and Wildlife (CDFW) lists the Mattole River as a habitat recovery unit it its Coho Salmon Recover Strategy, and it is therefore an important area for maintaining and improving critical habitat for coho salmon and other salmonids. Juvenile salmonids need rearing areas of slow-moving water off of the high flow channel, particularly during winter months when channel velocity and turbidity are highest.

The elements of the project that will restore habitat for marine resources and biological productivity and quality of the river include (a) restoring approximately 2,000 feet of LBC and reconnecting to Mattole River middle slough; (b) excavating a sediment capture channel parallel to Lighthouse Road; (c) installing large wood structures in the new channel; and (d) planting the restored channel with wetland and riparian vegetation. As discussed above, the proposed restoration work is expected to increase available "critical habitat" for federal- and state-listed threatened and endangered fish species, including, but not limited to, SONCC coho salmon, CC Chinook salmon, and NC steelhead.

b. Protecting marine organisms:

Although the proposed project will maintain and enhance marine resources as discussed above, if not carefully implemented, construction of the project in the sensitive stream environment could result in direct impacts to sensitive salmonids. The Mattole River supports four fish species of special status with moderate likelihood to occur in the Project area: summer-run steelhead (Oncorhynchus mykiss irideus), Pacific lamprey (Entosphenus tridentatus), coho salmon (Oncorhynchus kisutch) and Chinook salmon (Oncorhynchus tshawytscha). Although the project is expected to provide significant habitat benefits for salmonids and other aquatic species, construction activities have the potential to cause temporary impacts to the aquatic environment and organisms within these areas. As previously discussed, to minimize impacts to fish habitat, the IS/MND includes BIO-3. This measure includes several components including formal consultation with National Marine Fisheries Service (NMFS), a limited instream work window to avoid wet season conditions, and fish screening to keep fish, amphibians and reptiles out of the active construction areas. The Applicant has initiated formal consultation with NMFS and will comply with any requirements required within the Programmatic Biological Opinions (PBOs) for listed fish species administered by the National Oceanic and Atmospheric Administration Restoration Center (NOAA RC) and U.S. Army USACE of Engineers (USACE) for covered salmonids. **Special Condition 3** requires conformance with the proposed measures, and **Special Condition 6** requires adherence to requirements from other agency approvals.

c. Protection of water quality during construction:

The project involves excavation and handling of construction materials that if not properly implemented without appropriate Best Management Practices (BMPS) could result in erosion and polluted runoff entering coastal waters. The majority of excavated materials would remain on site through incorporation into other project features including road construction and habitat restoration areas. Excavated material from the new channel will be used to raise the road and driveway elevations for flood control purposes.

The Applicant has proposed a number of BMPs to be implemented during construction to protect water quality, control sediment and erosion, and prevent leaks and accidental spills, including, but not limited to; (1) restricting construction activities within stream channels to the low-flow period; (2) staging construction materials at least 100 feet from

coastal waters; (3) limiting refueling of construction equipment to designated staging areas at least 100 feet from coastal waters; (4) installing silt fencing around all temporary stating and stockpile areas; (5) ensuring that staging areas are decompacted and restored to pre-project conditions following construction; (6) implementing erosion, sediment, and runoff control BMPs to ensure that no construction materials, debris, or waste are able to enter coastal waters; (7) maintaining heavy equipment in good condition free of leakage of coolant and petroleum products; (8) training equipment operators in procedures to be taken should accidental spills occur; and (9) requiring that drip pans be used for stationary equipment to capture any drips or leaks. These measures are included as requirements of **Special Condition 3.** In addition, **Special Condition 5** requires, prior to commencement of construction, the completion of a final debris disposal plan to ensure that all construction-related debris is disposed of at an authorized upland disposal location following project completion and/or prior to the onset of the rainy season, whichever is earlier.

In conclusion, for the reasons stated above, the Commission finds that the proposed project, as conditioned, will maintain and enhance the biological productivity and quality of coastal waters both during construction and post-construction consistent with sections 30230, 30231, and 30232.

I. Environmentally Sensitive Habitat

Section 30240 of the Coastal Act states:

a. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

b. Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

ESHA in the project area includes riparian vegetation and nesting habitat for raptors and rare, threatened, and endangered bird species. The project area is dominated by the *Alnus rubra/ Salix lasiolepis/Rubus spp.* community, which is ranked S3 on the VegCAMP State rarity ranking indicating that it is a vulnerable habitat statewide. The Applicant proposes development within the riparian ESHA, including potential impacts to up to 0.29 acres of riparian habitat for the excavation of new creek channels and the raising and widening of roadways. The proposed impacts to ESHA are for a resource-dependent use (restoration(and fish and wildlife habitat improvement)) and are limited to the minimum impacts necessary to carry out the restoration project. Impacts to riparian ESHA will be minimized through construction minimization measures. Construction access will primarily occur via the proposed new channel footprint in order to minimize excess damages to surrounding forest. The contractor will work backwards up the channel to further minimize disturbance. The Applicant proposes to plant disturbed areas at a ration of 2:1 and within an appropriate planting time frame to maximize

planting survival. Following construction, the project area will be revegetated with native and culturally significant trees, shrubs, and herbaceous species. A drip-line irrigation system will be installed to target hardwood tree species for at least two years following planting. The Applicant proposes to monitor the replanted areas for up to three years and aim for an 80% success rate for newly planted areas. Maintenance activities including additional irrigation and replanting are proposed to occur as needed for two to three years following project completion. **Special Condition 4**, previously discussed, requires the Applicant to submit a final planting and revegetation plan for the Executive Director's review and approval that includes, among other provisions, a final plant pallet and map of replanting areas that will ensure the success of the proposed restoration project and adequately compensate for riparian impacts associated with channel construction.

To ensure that impacts to nesting bird species are avoided, as previously discussed **Special Condition 3** requires BMPs, including pre-construction surveys by a qualified biologist for any work conducted during the avian nesting season. If any sensitive bird ESHA is detected (i.e., detection of an active nesting area of a raptor or rare species), the biologist, in consultation with CDFW, shall determine the extent of a construction-free buffer zone to be established around the nest, and work in the buffer zone shall be delayed until after the young have fledged, as determined by additional surveys conducted by a qualified biologist. By identifying nesting habitat and delaying construction until after the young birds have fledged, the project will protect the nesting activities of sensitive bird species against any significant disruption from construction activities occurring within the ESHA and will prevent impacts which would degrade or prevent the continuance of the nesting areas that could result from construction activities occurring adjacent to the ESHA.

Stormwater runoff and discharges of contaminants from roadway and stream channel construction areas could adversely affect water quality within the riparian ESHA and adjacent ESHA. As discussed above, the Applicant has proposed a number of BMPs to be implemented during construction to protect water quality by controlling erosion and sedimentation and preventing leaks and accidental spills of fuel, concrete waste discharges, and other construction related materials and fluids. **Special Condition 3** requires the Applicant to implement these BMPs as proposed. Implementation of the BMPs will protect the riparian ESHA and surrounding ESHA.

Therefore, for the reasons discussed above, the Commission finds that the proposed project as conditioned is consistent with the requirements of section 30240.

J. Coastal Hazards

Section 30235 states:

> Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing

> marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

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…

Section 30270 states:

> The commission shall take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise.

The LBC Habitat Enhancement Project is located along a portion of the creek that floods periodically, causing damage to Lighthouse Road and private driveways. The main cause of flooding is due to stream channelization and sediment accumulation, which reduces channel capacity and results in overtopping. Undersized (36-inch) culverts underneath Lighthouse Road frequently plug with sediment and exacerbate flooding issues as well, at times rendering the road and driveway impassable. The proposed project will restore historic geomorphic processes to the LBC channel and provide an area for sediment to deposit without impacting existing roadways or accumulating in slough channels. The restored creek channel will have improved water quality, provide salmonid habitat, and reduce flooding and therefore improve public safety along Lighthouse Road. The proposed project also attempts to implement a long-term, low-maintenance solution to flooding along the road, which has historically been addressed through short-term actions such as clearing out channels and blocked culverts and placing rock armoring along the riverbank.

The proposed project design was analyzed in a Basis of Design Report (Michael Love & Associates, 2023) and selected out of several project alternatives. The report included hydraulic monitoring to support design details for the channels, new culvert crossing on Lighthouse Road and the bridge crossing on a private driveway. Modeling looked at estimated peak flows, topographic data, geotechnical investigations, and geomorphic characterizations along with historical data and imagery in order to determine channel capacities, water surface elevations, and crossing requirements. The proposed design addresses a 100-year flood event by designing the culvert to convey a 100-year flow in addition to debris and sediment and designing the new concrete bridge at least 2 feet above flood levels. The roadway and crossing improvements will therefore greatly reduce the frequency and intensity of flooding on Lighthouse Road and the private

driveway and will contribute to enhanced access to the public beach, campground, and hiking trails at the end of Lighthouse Road. In addition to designing the new channels and infrastructure to withstand flood events, the BOD report specified streambed material sizing for stability to ensure that streambed substrate is course enough to resist scour but designed to also control subsurface flow. The report also recommends large "structure" rocks at various locations to create steps and cascades found in reference areas upstream of the restoration location.

The Mattole River watershed is a highly unstable and seismically active area known as the "Trible Junction" because of the convergence of three plates (the Gorda, Pacific, and North American). Active tectonic movements in this area result in a very high uplift rate in the watershed. Historical earthquakes have resulted in landslides and coastal uplift and have contributed to the shallow conditions and disconnecting of sloughs and backwater channels in the estuary to the mainstem river. The project proposes to address geological impacts by reconnecting LBC to the middle slough of the Mattole River and alleviating some of the sediment burden.

The California Ocean Protection Council's State of California Sea-Level Rise Guidance 2024 Update[3], and the Commission's Sea Level Rise Policy Guidance 2024 Update[4], both contain a set of sea level rise scenarios for 14 tide gauges throughout California, and both agencies recommend using these scenarios and related information as best available science on sea level rise in California. Table 1, below, provides the scenarios 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 1. Median Values of Sea Level Scenarios (in feet) for North Spit, Humboldt Bay

	Intermediate	Intermediate-High	High
2030	0.6	0.6	0.7
2040	0.9	1	1.1
2050	1.2	1.4	1.6
2060	1.5	2	2.4
2070	1.9	2.7	3.5
2080	2.5	3.6	4.7
2090	3.1	4.5	6
2100	3.9	5.5	7.3

*Values are displayed in feet

[3] The Ocean Protection Council Sea-Level Rise Guidance: 2024 Update is accessible online at: https://opc.ca.gov/wp-content/uploads/2024/05/Item-4-Exhibit-A-Final-Draft-Sea-Level-Rise-Guidance-Update-2024-508.pdf

[4] The California Coastal Commission's Sea Level Rise Guidance 2024 Update is accessible online at: https://documents.coastal.ca.gov/assets/slr/guidance/2024/2024AdoptedSLRPolicyGuidanceUpdate.pdf

Currently, the mouth of the middle slough is the upstream extent of tidal influence. Rising seas are anticipated to extend tidal inundation further upriver during baseflow conditions, causing the lagoon levels to increase with sea level rise when the river mouth is open and closed. The rise is anticipated to increase water depths and tidal influence within the middle slough. With projected sea level rise, the elevated lagoon water level during closed-mouth periods will make the proposed restoration a potential cool water refugia from the warmer waters in the lagoon. Other effects of the rising levels in the estuary include raising local groundwater levels which, when combined with severe storms and large king tides characteristic of the area, will exacerbate flooding effects on Lighthouse Road. Recreating low velocity habitats will serve as an important refugia for salmonids as Mattole River lagoon levels increase and extend further up the middle slough with rising sea level. Recent low flows in drought years have limited spawning and rearing access to only the lower river, and the project will increase available spawning and refugia habitat critical to salmonid survival. Restoration of Lower Bear Creek to its historic confluence with the estuary will also result in the elevation of Lighthouse Road and an adjacent driveway. In addition to facilitating habitat restoration, reconfiguring the road infrastructure will improve public safety and access and increase its resilience to climate change and sea level rise.

Thus, the Commission finds that the proposed project as sited and designed will reduce flood risk along a public road and for private landowners in the project vicinity. The existing disconnected creek channel will be restored to its historic footprint to improve water circulation, water quality, and habitat values within the estuary. The project has been designed with thorough hydraulic analyses, which will assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, consistent with section 30253.

Therefore, the project reduces existing flood hazards along Lighthouse Road expected to worsen with sea level rise and incorporates consideration of long-term management and sea level rise adaptation of LBC and the Mattole River with adaptation pathways. However, as the project is located within an area vulnerable to flood hazards that will be exacerbated as sea levels rise, the Commission attaches **Special Condition 8** requiring the Applicant to acknowledge and assume the risk of hazards and accept a waiver of liability against the Commission for any injuries or damages from the hazards.

The Commission therefore finds that the proposed amended project as conditioned is consistent with Sections 30235, 30253 and 30270 of the Coastal Act.

K. Public Access and Recreation

Coastal Act Section 30210 states:

> 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.

Coastal Act Section 30212 states in part that:

> 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.

Coastal Act Section 30212.5 states:

> Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Coastal Act Section 30214 states in part:

> 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.

Coastal Act Section 30220 states:

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

Coastal Act Section 30224 states:

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

Section 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. Coastal Act sections 30220 and 30224 protect and encourage water-oriented recreational activities.

The project will improve public access by addressing flooding hazards that currently close Lighthouse Road and block the only access to the public BLM-managed Mattole Beach and Campground, and trailheads for the Lost Coast Trail. There are no public trails throughout the LBC channels and no trails through the private properties associated with the restoration components of the project.

With regard to public access impacts during construction, construction activities will be conducted in a manner that minimizes disruption to traffic. However, some limited traffic control will likely be required for public safety, including one-lane traffic control along Lighthouse Road and occasional closures of the road for up to one hour at a time.

For the reasons described above, the proposed project would not adversely affect the public's ability to access, enjoy and recreate in the project area, but would instead improve existing public access opportunities after project completion. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the public access and recreation policies of the Coastal Act (Sections 30210, 30212, 30212.5, 30214, and 30224).

L. Archaeological and Tribal Cultural 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 Mattole People, whose descendants are now part of the Bear River Band of the Rohnerville Rancheria, a federally recognized California Native American Tribe. Mattole settlements were located all along the drainage of the Mattole River, along the coast and along streams, hillsides, and forests. As discussed above, the project area is located near the primary public access point to the northern end of the King Range NCA including Mattole Beach and Campground and over 80 miles of hiking trails along the coastal beaches and mountains of the Lost Coast. Also as discussed above, a portion of the project is located on property owned by the Bear River Band of the Rohnerville Rancheria – a participating partner on the project.

The Applicant completed a cultural resource investigation for the proposed project which included background archival research through the Northwest Information Center

and National Register of Historic Places, and a field survey of the project area. No California Register of Historical Resources eligible historic resources or cultural resources were identified. Tribal consultation was initiated with the Bear River Band of Rohnerville Rancheria who reviewed the project design and did not raise any concerns with the project. As proposed, the project will incorporate inadvertent discovery protocols into construction documents prior to bidding and ground disturbance. Any inadvertent discovery would include tribal notification.

Pursuant to the Commission's adopted Tribal Consultation Policy, the Commission separately outreached to tribal representatives to provide the opportunity for additional comments and recommendations on the project. After consulting with the Native American Heritage Commission (NAHC) to obtain the current tribal consultation list for the proposed development site, Commission staff referred the project to the NAHC-recommended tribal contacts and other tribal representatives with known interest in the project area region. Commission staff also conducted a site visit with the applicant in April of 2023 on which members of the Bear River Band of the Rohnerville Rancheria were in attendance.

To ensure that protection of any cultural resources that may be discovered at the site during construction, the Commission attaches **Special Condition 9**. This special condition requires that if an area of cultural deposits is discovered during the course of the project, all construction must cease and shall not recommence until a qualified cultural resource specialist analyzes the significance of the find in conjunction with the THPO for the Bear River Band of Rohnerville 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.

As thus conditioned, the Commission finds the proposed project is consistent with Coastal Act Section 30244.

M. California Environmental Quality Act (CEQA)

Humboldt County Public Works Department, as the lead agency under the California Environmental Quality (CEQA), prepared an Initial Study and adopted a Mitigation Negative Declaration for the project on January 6, 2023.

Section 13906 of the Commission's administrative regulations requires 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 CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are any feasible alternatives or feasible mitigation measures available that 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. All public comments regarding potential significant adverse environmental effects of the project received by the Commission prior to preparation of the staff report have been addressed. As discussed above, the proposed project has been conditioned to be consistent with the policies of the Coastal Act. As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no other feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts, either individually or cumulatively, that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and thus conforms with CEQA.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

CDP Application File No. 1-23-0084

Final Plans for the Lower Bear Creek Habitat Enhancement Project

Notice of Applicability (NOA) for Coverage under State Water Resources Control Board (CW-896920)

Lower Bear Creek Habitat Enhancement Mitigated Negative Declaration (MND) State Clearinghouse Number 2022120036

Basis of Design Report (Michael Love & Associates, 2023)

Cultural Resources Investigation Report (Roscoe and Associates, 2021)