

Comments Received in Response to the Notice of Preparation of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (SCH No. 2023060752)

More about the project and the permitting processes is available via the following links, which will continue to be updated as more information becomes available:

- <https://humboldtbay.org/humboldt-bay-offshore-wind-heavy-lift-marine-terminal-project-3>
- <https://www.youtube.com/@humboldtbayharbordistrict>

From: Filip Amborski
Sent: Friday, August 25, 2023 1:50 PM
To: District Planner
Subject: Public Comments

I would like to bring to the agency's Amendments to the Humboldt Bay Area Plan, particularly point number 4.

4. Modify limitations of industrial performance standards, including, noise, lighting, vibrations, dust control, and enclosed manufacturing to meet the needs of this Project and surrounding land uses.

Dredging has potentially damaging effects to existing wildlife, both in physical threat as well as auditory. Studies done on the effects of acoustic damage on aquatic mammals and other bay wildlife that is highly relevant for the decision-making process regarding the proposed regulation should be considered, especially with regards to pinnipeds, such as the bay seals (Kastak et. al 2005). There are a number of studies that highlight the decibel levels related to dredging activities, and should be considered with regards to the entire biological profile that exists in the associated bay (CEDA 2011, WODA 2013).

Moreover, any lighting poles, especially the proposed 150-foot ones should consider light pollution that will affect not only residents, but any avian life in the associated proximity. Since the bay is home to a large population of migratory avian species, this is another important point to consider. Studies have shown that light pollution has the potential to disrupt flight directions, sleeping habits, as well as encourage congregation of flocks, and sometimes lead to physical collisions (Adams, C.A et. al, 2021). Similarly, effects on local residents could lead to disrupted sleeping patterns, which become a common health concern (Blume et. al, 2019). When designing these lighting structures, use patterns and any potential mitigating technologies should be heavily considered.

The proposed regulation text does not stipulate auditory limits, or expected boundaries with regard to sound or lighting effects. The research presented above should be considered with regards to both dredging and lighting work that is associated with the planned development. Looking at CEQA, Noise for associated development, Biological Site Awareness with regards to dredging, and Aesthetic impacts when considering lighting design.

The sources for all research cited above can be found at the end of this comment.

Please take this research into consideration when making any adjustments for the final proposed plans and regulation adjustments. Thank you for listening to my comments, and any subsequent considerations with regards to the topics presented.

Sincerely,

Filip Amborski

Environmental Resource Engineering, B.S.

Resources

Adams, C.A., Fernández-Juricic, E., Bayne, E.M. et al. Effects of artificial light on bird movement and distribution: a systematic map. *Environ Evid* 10, 37 (2021). <https://doi.org/10.1186/s13750-021-00246-8>

Blume C, Garbazza C, Spitschan M. Effects of light on human circadian rhythms, sleep and mood. Somnologie (Berl). 2019 Sep;23(3):147-156. doi: 10.1007/s11818-019-00215-x. Epub 2019 Aug 20. PMID: 31534436; PMCID: PMC6751071.

CEDA, Underwater sound in relation to dredging. Central Dredging Association (CEDA), CEDA position paper, 7 November 2011, 2011pg. 6 pp

Kastak D., Southall B., Schusterman R. J., Kastak C. R.. Underwater temporary threshold shift in pinnipeds: effects of noise level and duration, Journal of the Acoustical Society of America, 2005, vol. 118 (pg. 3154-3163)

WODA, Technical Guidance on: Underwater Sound in Relation to Dredging World Organisation of Dredging Associations, 2013

From: Chrissy A Backman [REDACTED]
Sent: Friday, August 25, 2023 4:11 PM
To: District Planner
Subject: Humboldt Lift Terminal Public Comment

Hello my name is Chrissy Backman and I am a resident of Eureka. I use the Samoa bridge frequently and often recreate out on the Samoa peninsula. I am concerned about added traffic, safety of the Samoa bridge, and the environmental impacts of added fossil fuels use for transportation. I am asking that the project takes a close look into all the transportation impacts. I encourage a full electric fleet of cars and trucks for operation. Any machinery that cannot operate with electric motors should require a carbon offset. I also encourage a commitment to lessening the impact of employee transportation. Potential mitigations for increased traffic from employees could be: a well thought out alternative transportation incentive program for their employees that may include free EV charging, rideshare coordination, public buses and incentives for biking. These ideas could lessen the impact of traffic on the peninsula. In addition to incentivizing biking to work, the project should improve the bike-ability of the area. This means contributing to improved dedicated bike paths from Arcata and Eureka. Including a dedicated bike/pedestrian bridge connecting to the Eureka Waterfront Trail. I have tried to bike the existing bridge and it is scary and dangerous. This mitigation would improve the access to the peninsula for all users and would also improve access during the Kinetic Grand Championship, which happens every memorial weekend with hundreds of people biking across that bridge.

I also use the bay for recreation. I kayak and fish in the 3rd channel near this development. How will the project impact my ability to catch a California Halibut? What will the environmental impact be on this special Humboldt bay fish species. What are the access issues for me to kayak in this area?

Thanks for your time and consideration.
Chrissy
[REDACTED]

From: Stacy Becker [REDACTED]
Sent: Friday, August 25, 2023 3:46 PM
To: District Planner
Subject: Offshore Wind Terminal scoping comment

Dear Mr. Holmlund and the Humboldt Bay Harbor, Recreation and Conservation District,

My thoughts on Offshore Wind Terminal development vacillate between the positive impacts of renewable energy, jobs and industrial/economic prosperity vs. the impacts on the stellar environment and wildlife this region harbors - like no other place in California and beyond.

The WindTerminal_NOP_2023 0628_0 notes that "*Among these three ports [inc. Long Beach and Los Angeles], only Humboldt Bay has immediately available developable space. Thus, a major purpose of the proposed project is to serve as California's initial S&I port.*" - A statement that gives pause (and even shudders): we have a long fight ahead regarding whether we want to allow this region to develop into the sprawling abominations that the southern California ports have become, or whether we instead build strong boundaries (with initial references in the NOP) to protect the pride and natural wealth of this area: our environment.

At what cost will this development be to fishers, surfers, paddlers, sailors, rowers, swimmers, wildlife watchers, artists, and the industries built around these activities dependent on healthy port, peninsula and sea systems? Of equal importance: what are the rights of nature in this area? I appreciate all efforts to mitigate environmental impacts per this NOP and into the future, however, to what extent will this activity initiate steps towards ecocide?

Thank you for all efforts to prioritize the outstanding natural wealth that this region has somehow managed to preserve to this day.

Stacy Becker - McKinleyville, CA

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August 11th, 2023

Dear Rob Hulmlund or whomever it may concern,

H.B.H.R. & C.D.

As an indigenous member of our community, I am against the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (SCH No. 2023060752).

I believe this project will have a huge negative impact on our environment, including Marine wildlife, the Restorations done on Tuluwut Island, and aerial locomotion wildlife.

Having this project completed would be devastating to our aquatic ecosystem we have locally. It would affect every species, big and small. According to NOAA Fisheries, Offshore Wind Heavy Lifting can "Increase ocean noise, which could affect the behaviors of fish, whales, and other species. Introduce electro-magnetic fields that impact navigation, predator detection, communication, and the ability for fish and shellfish to find mates." This would absolutely have a negative impact on the environment. Having any Electro-magnetic fields in the water with our animals and our food sources would be very alarming, and raises huge concerns of radiation. One of the biggest concerns is that the electromagnetic fields can damage or alter DNA. Another great concern for the environment ecosystem, is that construction activity and the installation of undersea cables will have direct effects on the seabed and sediments, which can affect the abundance and diversity of aquatic organisms.

As a Native American Descendant of the Karuk Tribe, I am against the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (SCH No. 2023060752).

A huge percent of the population of Humboldt County depends on the Marine Wildlife we have in the Bay and in the Ocean. Fishing Companies, independent fisherman, Oystermen, and local Tribal Members who fish for Salmon, Steelhead, and Crab. Disrupting the ecosystem of marine wildlife and possibly causing radiation would create a negative impact on the economy, due to the vast amount of jobs that will be lost.

The indigenous people of this land have used the Ocean and Bay as one of their main sources of food for hundreds, if not thousands, of years. Disrupting the food source of indigenous people would be betrayal to all 8 local tribes who have inhabited the area long before American settlers.

I sincerely hope you guys can look into the viewpoint of an indigenous person whose ancestors have relied on our water sources to provide food for generations. Proceeding with the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (SCH No. 2023060752) would be harmful for all of the indigenous people in the area, to the aquatic wildlife ecosystem, and to the economy.

Sincerely,



Elizabeth Boak

From: Bruce Campbell [REDACTED]
Sent: Friday, August 25, 2023 4:58 PM
To: District Planner
Subject: Comment on Humboldt Bay Marine Terminal DEIS

August 25, 2023

Rob Holmlund, Humboldt Bay Harbor, Recreation and Conservation District
P.O. Box 1030
Eureka, CA 95502-1030

Dear District Planner Holmlund:

I'd like these several points to be my comments on the Draft EIS for the Humboldt Bay Marine Terminal:

1. I have concerns that part of the site could become an export terminal for logs and/or cants. This concern was prompted by the warning;
2. I have concerns that "3." of Marine Development Subarea under "Demolition and Construction" portion does not seem designed to differentiate between especially toxic dredge loads versus more standard dredge loads (which tend to be somewhat toxic in this area of historic timber and other industrial uses. The wording appears to assume that there is a fairly wide range of options in regards to what to do with dredged material. Is this particularly true if certain dredge loads are determined to be of "beneficial use"? What will be some determining factors to help one conclude whether certain dredge loads qualify as a "beneficial use" in various possible scenarios?
3. I have concerns under "4." in the Upland Development Subarea under "Demolition and Construction". It seems to generally assume that dredge loads can be used to further elevate the site to guard against sea level rise due to climate change without discussing how some dredge loads with notably toxic loads might be separated from the generally dredge spoils at certain points in the process which will primarily be used to elevate the project site.
4. While it makes some sense to construct a major wind power port in this location due to more available land than in other major harbor areas, but make sure to analyze the cumulative impact of a lot of activity at the Humboldt Bay Marine Terminal combined with that giant supposedly all-within buildings, and make sure sea vessels can accommodate some unusually-shaped cargo and hopefully do not distribute more ongoing wildlife and harbor uses of Humboldt Bay and vicinity.
5. Though it may be in regards to exploratory and attaching huge equipment to natural ocean bottom, but be careful of marine life including marbled murrelets, marine mammals, ocean bottom species, and others when messing with the ocean floor especially in the extremely sensitive areas related to the Cascadia Subduction Zone, the Mendocino Fracture Zone, and the Gorda Ridge – plus doesn't make much sense to mess with the northern end of the San Andreas Fault to the south of where the Mendocino Fracture Zone meets the North American continent in the area of the Lost Coast.

Thank you for this opportunity to comment, and go in balance watching out for those toxics and marine / avian critters!

Sincerely yours,

Bruce Campbell

A large black rectangular redaction box covering the signature of Bruce Campbell.



August 24, 2023

Rob Holmlund
Development Director
Humboldt Bay Harbor, Recreation and Conservation District
P.O. Box 1030
Eureka, California 95502-1030
districtplanner@humboldtbay.org

RE: Notice of Preparation of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

Ha'wa'lou (Greetings) Director Homlund and Humboldt Bay Harbor, Recreation and Conservation District Board of Commissioners,

The Wiyot people have been stewards and lived in reciprocity with the waters and lands of Wig ("Humboldt Bay") since time immemorial. Twaya't, or what is today known as Samoa on the Wig peninsula is a place of cultural and natural importance to the Wiyot Tribe, who the Wiyot Natural Resources and the Cultural Department are charged with assessing the scope of potential environmental and cultural impacts from development projects such as those proposed in the Notice of Preparation of a Draft Environmental Impact Report (DEIR) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project, and want to ensure any and all potential cumulative impacts from the proposed project on Tribal cultural and natural resources are fully addressed during the EIR process. Although the terminal development is proposed as a singular project, it is tied to the larger offshore wind development plan for the Northcoast. The proposed port development must be looked at wholly and, in its entirety, to gauge the impacts of the port and the impacts various industries will have on Wig. Our community and potential developers must understand the scope of impacts, in their entirety, and we recommend that the EIR be prepared and certified before leasing the Project site or entering a binding option to lease the site.

With the California Environmental Quality Act (CEQA) process being critical to ensuring proper evaluation and potential mitigation of project impacts the lead agency should carefully follow CEQA's procedural requirements and analyze the "whole of the action," which includes any and all actions associated with the Wind Terminal development and any other future uses of the proposed port development.

Included in the DEIR should be a thorough analysis, with baseline information, of all potentially significant environmental impacts, specifically including: protecting Tribal cultural resources, including sacred and ceremonial locations, preserving Tribal cultural landscapes, protecting bay water, its waterways, estuaries, and wetlands, ensuring safety, protecting biological resources, minimizing infrastructure impacts, abating air quality and greenhouse gas emissions, alleviating maritime congestion, addressing impacts of Project related traffic on surrounding communities, minimizing aesthetic impacts, protecting water quality, minimizing land use and operational impacts, minimizing impacts to fisheries and Bay industries, ensuring that more invasive species are not brought into Wig, and protecting recreational opportunities in and around Wig.

As a place of paramount cultural and ceremonial importance to the Tribe, and due to the project's proximity to Tuluwat (formally known as "Indian Island"), all efforts should be made to preserve and protect Tuluwat. Tuluwat is the heart of the Wiyot people's sacred, ceremonial, cultural, historical, and religious center. It is imperative that the Harbor District work in consistent and ongoing consultation, partnership, and collaboration with the Wiyot Tribe to determine impacts to Wig, Tuluwat, and surrounds. Impacts to these locations could include visual, noise, glare, air and water quality. Further, there is a myriad of other potential cultural and environmental degradation from the proposed project that must be addressed in the DEIR. The DEIR should also address impacts to the hydraulics of the Samoa Channel and the bay from "wet storage" and increased vessel traffic, which could exacerbate erosion to Tuluwat and other cultural sites and habitats around the bay, especially when compounded with the fact the Humboldt Bay has one of the fastest rates of sea level rise (SLR) on the west coast.

Subsistence fishing, clamping, and waterfowl hunting are important Tribal cultural activities that occur in and around Tuluwat and include waters that will be affected by the "wet storage areas" in the Samoa channel. Pacific black brant (*Branta bernicla nigricans*), a culturally important species which migrate to Humboldt Bay during winter depend upon the rich eelgrass (*Zoster marina*) beds of the Wig, and of the also heavily use this area as a grit site. Tribal citizens and peer reviewed research (i.e., Leach et al 2017) have noted declines in brant numbers in recent years and potential impacts to this species from the proposed project need to be assessed in full.

The Tribe recommends including a full analysis of California Endangered Species (CESA) listed species that may be in the Project area and potential impacts in the Draft EIR, as well as the Wiyot Tribe's Endangered and Threatened Species lists. Adverse impacts from the Project leading to the take of CESA listed species would require authorization from the Department according to Fish and Game Code §2081.

Wig is California's second largest bay, and the largest estuary on the Pacific coast between San Francisco Bay and Oregon's Coos Bay. The marine and estuarine habitats of Humboldt Bay provide refuge and nursery habitat for more than 300 fish and invertebrate species, many with important associated commercial and recreational fisheries. Wig and its wetlands and dunes are habitat for at least 20 State and federally listed species and numerous California Species of Special Concern (SSC). Sensitive Natural Communities (SNC) and special status species that are listed under the California Endangered Species Act (CESA); Federal Endangered Species Act; Fish and Game Code as Fully Protected (FP), California Species of Special Concern (SSC) or Watch List (WL); the California Rare Plant Ranking (CRPR) System, or the Vegetation Classification and Mapping Program with sensitive Global (G) / State (S) Heritage Ranks occur in or nearby the Project area and may be impacted by direct and/or indirect Project impacts. These species include:

Fish

- Coho salmon (*Oncorhynchus kisutch*), State and federally-threatened (Southern Oregon/Northern California (SONCC) Evolutionarily Significant Unit (ESU));
- Chinook salmon (*Oncorhynchus tshawytscha*), federally-threatened (California Coastal ESU);
- Coastal cutthroat trout (*Oncorhynchus clarkii clarkii*), State SSC;
- Steelhead trout (*Oncorhynchus mykiss*), federally-threatened (Northern California
- Distinct Population Segment (DPS)), State-endangered (Northern California Summer Steelhead);
- Longfin smelt (*Spirinchus thaleichthys*), State-threatened;
- Eulachon (*Thaleichthys pacificus*), federally-threatened (southern DPS);
- Green sturgeon (*Acipenser medirostris*), federally-threatened (southern DPS), State SCC (northern and southern DPS);

- Pacific lamprey (*Entosphenus tridentatus*), State SSC; and
- Western river lamprey (*Lampetra ayresii*), State SSC.

Birds

- Black brant (*Branta bernicla nigricans*), State SSC;
- Vaux's swift (*Chaetura vauxi*), State SSC;
- Northern harrier (*Circus hudsonius*), State SSC;
- White-tailed kite (*Elanus leucurus*), State FP;
- Long-billed curlew (*Numenius americanus*), State WL;
- Osprey (*Pandion haliaetus*), State WL;
- Double-crested cormorant (*Phalacrocorax auritus*), State WL; and
- California brown pelican (*Pelecanus occidentalis californicus*), State FP.

Plants

- Dark-eyed gilia (*Gilia millefoliata*), CRPR 1B.2;
- Beach layia (*Layia carnosa*), State-endangered, federally-threatened;
- Menzies wallflower (*Erysimum menziesii*), State and federally-threatened; and
- Short-leaved evax (*Hesperevax sparsiflora*), CRPR 1B.2.

Insects

- Western Bumble Bee (*Bombus occidentalis*), State Candidate; and
- Obscure Bumble Bee (*Bombus caliginosus*); State SSC.

In addition, several species with important cultural, commercial, and recreational importance also exist within and adjacent to the proposed Project area and could be impacted by Project activities, including:

- Dungeness crab (*Cancer magister*);
- Pacific herring (*Clupea pallasii*);
- Northern anchovy (*Engraulis mordax*);
- Rockfish (*Sebastodes* sp.); and
- California halibut (*Paralichthys californicus*).

In addition to ensuring that impacts to the above resources and species are addressed in the DEIR, and to reiterated those and other concerns that should be specifically addressed include: Eelgrass Habitat, Intertidal Mudflats, Dredging Impacts, Pile Driving, Bay Water Intakes, Overwater Structures and Light Pollution, Commercial and Recreational Fisheries, Eco-Friendly Shoreline Transition, Black Brant, Waterfowl, and Shorebirds, Ospreys, Cormorants, and Other Nesting Birds, Upland Development and Habitat Restoration Subareas, Water Quality & Benthic Habitat, Marine Debris, Analysis of Alternatives, and Closely Related Past, Present, and Reasonably Foreseeable Probable Future Projects.

We appreciate your inclusion in analyzing these concerns related to potential negative impacts from the proposed Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project. within the DEIR process.

Rra'dutwas (with kindness),



Adam Canter
Natural Resources Director
Wiyot Tribe Natural Resources Department
1000 Wiyot Dr, Loleta, CA 95551



Marnie Atkins
Secretary
Wiyot Tribe Council Member



Rob Holmlund, Director of Development
Humboldt Bay Harbor, Recreation and Conservation District
P.O. Box 1030
Eureka, California 95502
707-443-0801
Per email to: districtplanner@humboldtbay.org

Subject: Notice of Preparation of Draft Environmental Impact Report, Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project

Dear Mr. Holmlund:

Thank you for the opportunity to comment on the Notice of Preparation (NOP). We are also very appreciative of the workshop and slide show you presented to us and other NGOs. The opportunity to see the whole project laid out and to ask questions was invaluable.

Our comments in response to the NOP are attached.

350 Humboldt is a grass roots climate action group. With respect to floating offshore wind, our role is to “speak for the climate” by keeping the climate crisis as our central concern while also acknowledging and respecting the concerns of other stakeholders. 350 Humboldt is part of the statewide organization Climate Action California.

We wish developing the Draft Environmental Impact Report to be a thorough but speedy process.

Sincerely,

A handwritten signature in black ink that appears to read "Daniel Chandler".

Daniel Chandler, Ph.D.
Steering Committee

A handwritten signature in black ink that appears to read "Janet Cox".

Janet Cox, CEO
Climate Action California
<https://climateactionca.org>

COMMENTS ON THE NOTICE OF PREPARATION OF THE DRAFT ENVIRONMENTAL IMPACT
REPORT (DEIR) FOR THE HUMBOLDT BAY HEAVY LIFT MARINE TERMINAL, SUBMITTED BY 350
HUMBOLDT AND CLIMATE ACTION CALIFORNIA

Urgency

The terminal must be completed as soon as possible so that by 2030 we can achieve the CPUC “sensitivity portfolio” of 5 GWs on the central coast and 8 GWs on the north coast, for a total of 13.4 GWs by 2030; the target date for 25 GWs should be 2035.

In July 2023 there was massive flooding in Japan and India and China and Spain and in Vermont. Phoenix had 31 straight days of temperatures over 110 degrees. It was the hottest month ever recorded, yet the average temperature in the world has only increased 1.2°C over pre-industrial times. We are on course for at least a 2.7°C increase.

It is easy to get caught up in the day to day, business-as-usual concerns that attend a large construction project and forget that offshore wind is necessary to mitigate an escalating crisis of climate damage. Mitigation of the crisis must be paramount in every aspect of developing offshore wind, including this DEIR. Many stakeholders in offshore wind would be happy to set a slower pace. To do so would be an extremely costly mistake. The IPCC has told us why we need to keep warming to 1.5°C and that the carbon budget to do so will run out in 2030. Climate scientists have found that every *one* year of delay before the world reverses the growth of emissions reduces by *two* years the time we have to reach net zero at or below 1.5°C.¹ Any delay will contribute to large scale damages; *avoidable* delay is akin to crimes against all living things. In an AB 525 workshop Larry Oetker said the Humboldt Bay Harbor, Recreation and Conservation District (Humboldt Bay Harbor District hereafter) has already cut two years from the process. That exemplifies the urgency the rest of us must show. The DEIR timelines must also reflect this urgency.

Please see Appendix I for information that is not widely known on why the IPCC and other climate scientists say 2030 is a critical year by which to achieve a 43% greenhouse gas emissions reduction worldwide.

¹ Nicholas J. Leach, et al. "Current level and rate of warming determine emissions budgets under ambitious mitigation." *Nature Geoscience* 11, no. 8 (2018): 574-579.

The “no-project” alternative

CEQA contains an explicit mechanism to balance harms from not mitigating the climate crisis against harms from proceeding with the project: it is the “no project” alternative. The DEIR must use the no-project alternative to bring balance to the rest of the CEQA process which privileges the local and the present over the much more consequential worldwide future.

For example, the wind turbines are expected to cause the death of birds caught in the blades or downdrafts. A great deal of effort is going into studying this issue. However, if global temperatures reach even 2°C, 74 bird species in Humboldt County will be threatened with extinction. (Please see Appendix II.) A concise statement of the importance of looking at the context provided by climate changes was offered in a committee consultant’s review of Senator McGuire’s SB 286 on protecting fisheries:

Warming ocean waters, ocean acidification, and hypoxia (low oxygen levels) from climate change could have unpredictable impacts on both fish species and fish stocks, changing the face of today’s commercial fishing economy. (Some scientists believe roughly 25% of fish species will go extinct under the conditions associated with climate change; 25% of species will thrive; and it remains unknown for the other 50%).

Fish populations have plummeted nearly 70% off California’s coast over the last four decades, according to scientists who say the likely culprit is climate change. According to the Monterey Bay Aquarium, 90% of fish populations are currently fished at, or beyond, their sustainable limits. This year, Chinook salmon fishing was banned along California coast due to low population levels, a result of extremely dry conditions and low river flows.

These effects, which will surely worsen without a rapid energy transition, need to be balanced against the far more local and limited effects of the wind project.

Transparent Timeframe

The DEIR should include clear timelines for each aspect and phase of the Terminal development and their coordination.

The NOP states the terminal will be used for Manufacturing and Fabrication, Staging and Integration, and Operations and Maintenance. The American Clean Power Association of California included the following suggestion in their AB 525 comments on permitting:

As ACP has advocated in the past, the state should provide a detailed schedule or Gantt chart that depicts developer/agency early engagement, coordinated agency reviews and sequencing. This schedule will provide the predictability and transparency that are essential for promoting responsible, efficient, and successful offshore wind development. This should include efforts to align the state’s environmental review

under CEQA and state permitting processes with the National Environmental Policy Act (NEPA) and other federal permit processes.

The Humboldt Bay Harbor District is, commendably, getting out in front of the state AB 525 process. However, it is critical that the coordination of this EIR and the actions of related state and federal agencies be mapped out with timelines and permitting authority. No EIR is an island – assuredly not in this case. This is particularly important as Humboldt will likely be serving wind development functions all down (and perhaps up) the coast. Certainly, there will be overlap with federal authority (including NEPA reviews) during the process of installing the turbines and in the operation and maintenance phase. But the State Lands Commission, the Coastal Commission and other agencies need to be involved. Unfortunately, the streamlining processes discussed in the AB 525 permitting report are not yet available. The DEIR will have to get underway immediately while also being able to accommodate to processes that result from AB 525 planning. ***All these interconnections need to be transparent in the DEIR.***

[Greenhouse Gas Emissions from Construction and Operation of the Terminal](#)

The DEIR must include phased provisions to minimize the emissions from the construction and operation of the terminal. Both electrification and clean hydrogen should be considered.

The Moffatt & Nichol port readiness study² says:

Green Port: new port terminals shall have infrastructure and equipment to support state and federal carbon reduction initiatives, including electrification of the terminal operations and the ability to accommodate vessel shore power. Considering greenhouse gas emission reduction initiatives and the desire to develop green ports, considerable load on the transmission grid may be needed. An assessment of power grid upgrades for the proposed development site will be needed to determine the range of power transmission upgrades needed to meet the vessel and terminal operational needs.

Shoreside Vessel Services: port sites will require all standard ship services (e.g., potable water), *shore power*, and security requirements. [Our emphasis.]

The NOP itself says: “To the degree feasible, develop a marine terminal site with modern environmental standards related to minimization of greenhouse gas emissions, onsite renewable energy generation, green building materials, the electrification of terminal operations, and the facilities needed to accommodate vessel shore power.”

We have several suggestions for how to ensure that clean and green proceeds as fast as possible.

² California State Land Commission. AB 525 Final Port Readiness report. July 2023. Available at: [California State Lands Commission AB 525 Port readiness Plan](#)

1. Zero emission means all electric or electric and green hydrogen.
 - a. "All electric" should encompass three phases, with different provisions for each:
 - i. Construction;
 - ii. Operation up to the point that electricity from the offshore wind farm is available in Humboldt; and
 - iii. Operation after the turbines are producing electricity that can be accessed in Humboldt.
- During the third phase there should be plenty of carbon-free renewable power.
During the first two phases the facility should be required to create additive electricity by purchasing additive 24/7 Renewable Energy Credits.³ That is, the wind terminal should use only 24/7 renewable power that increases grid capacity.
- b. The Humboldt Transit Authority is bringing a hydrogen fueling station to Humboldt in the near future. It is expected to provide electrolytic hydrogen from renewable sources ("green hydrogen") by 2028. Hydrogen can be used in place of fossil fuels for ICE engines or in fuel cells. One advantage of hydrogen is that it does not depend on transmission lines that may not be finished before the terminal begins operations. Once the turbines are operating green hydrogen can be produced using curtailed wind power.⁴
- c. Another option is buying Low Carbon Fuel Standard credits or just purchasing biofuels, which would be a possibility for construction, at least. *The planned refueling station should be specified as using low carbon fuels and only when electricity or hydrogen are not available or usable.*
- d. The facility itself should utilize the 650,000 square feet of roofs and other opportunities to deploy solar panels which should be matched by an appropriate amount of battery storage.

2. *Specify what must be zero emissions and when.* The DEIR must include specifics of what constitutes clean and green with respect to the terminal and port. Not everything connected with the terminal construction and operation can be zero emission immediately, but the DEIR should contain a comprehensive list of equipment and

³ At this point in time, purchasing renewable energy credits that purport to cover electrical use on an annual basis means that approximately half of the energy used is actually from fossil fuels. This is explained clearly by Peninsula Clean Energy at: <https://www.peninsulacleanenergy.com/achieving-24-7-renewable-energy-by-2025/> RCEA has begun planning for 24/7 clean energy, but there are not concrete milestones yet. That means to cover the cost of clean renewable electricity for the terminal 24/7 RECS must be purchased until the wind power is available. These are called Time-based Energy Attribute Certificates (T-EACs). See, for example, <https://www.mrets.org/wp-content/uploads/2022/10/M-Rets-Flyer-Final.pdf>

⁴ <http://schatzcenter.org/pubs/SchatzCenter-NorthCoastOffshoreWind-TransmissionAlternatives-20220525.pdf> ; also see a working example at: <https://www.businessfrance.fr/discover-france-news-producing-green-hydrogen-at-sea-a-world-first-for-Ihye>

activities that can at some point be either electrified or run with green hydrogen along with anticipated dates that the zero emissions will be achieved for each element.

Here some general samples of such elements:

- a. Most deliveries will be via sea, so it is important that ships that burn fossil fuels (especially bunker oil) be required to have hookups so that they can be run with electricity from the port. This will also partially address the potential problem of port contamination, especially from ships with scrubbers.⁵
 - b. Basic construction materials should be “green,” including concrete for port construction and the steel used in construction of the facilities and turbines.
 - c. The vessels that tow the turbines and service the turbines should be electric or run on hydrogen. Crowley has developed the first all-electric tugboat, so this is feasible. As with all the elements we mention, however, the project should not be delayed in order to implement less carbon-intensive equipment. In the context of the climate crisis, this would be penny-wise and pound-foolish.
 - d. That said, the Moffatt & Nichol report on ports⁶ makes it clear there will need to be design and development of a number of kinds of vessels. Since we don’t know how “green” these will be, the DEIR has to be flexible enough to adapt to whatever energy source these vessels will use, including renewable diesel, batteries, or hydrogen.
 - e. Many types of electric equipment, such as yard tractors and forklifts, are already in use in ports in California.
3. The Port of Long Beach is planning a \$4.7 billion port development specifically for floating offshore wind that is intended to be zero emission. We would expect that the DEIR will contain information on that and other zero emission port/terminal projects in LA and San Diego to show that the Humboldt terminal will be cutting edge.

⁵ “Based on environmental risk assessments in ports, the contribution of near-ship atmospheric deposition, bilge water discharge, release of Cu and Zn from antifouling paints and the discharge of scrubber water result in unacceptable risk in three out of four port areas. Antifouling paint and open loop scrubber water discharge are the two main contributors to RCRsum. Moreover, the discharge of scrubber water represents an additional risk to the surrounding environment and should be prohibited in areas that fail to reach Good Environmental Status according to Paragraph 7.4 in [MEPC \(2022\)](#). This study shows that there is a significant contaminant load of metals and PAHs from ships in ports and that a large fraction of the load will be transported to the surrounding environment. Therefore, a more holistic assessment of ship-activities is needed to fully understand the impact on the marine environment.” Hermansson, Anna Lunde, Ida-Maja Hassellöv, Jukka-Pekka Jalkanen, and Erik Ytreberg.

“Cumulative environmental risk assessment of metals and polycyclic aromatic hydrocarbons from ship activities in ports.” *Marine Pollution Bulletin* 189 (2023): 114805.

<https://www.sciencedirect.com/science/article/pii/S0025326X23002369>

⁶ California State Land Commission. AB 525 Final Port Readiness report. Available at: [California State Lands Commission AB 525 Port readiness Plan](#)

Workforce Considerations

The DEIR should spell out assumptions about the workforce needed for construction of the terminal for the manufacture and/or fabrication of equipment.

The California State Lands Commission study on port readiness, conducted by Moffatt & Nichol,⁷ points out that state planning about workforce development is at an early stage. It is not even clear if manufacturing will occur in the United States or, if it does, at what port or ports it will occur. This makes creating the DEIR more difficult. Fortunately Moffat & Nichol is also doing the design work for Humboldt. However, it is likely that a number of scenarios for workforce and workforce development will need to be considered. **The assumptions behind these scenarios should be spelled out along with the impacts on local agencies and the community.**

Community Benefits and Community Protections

The DEIR should treat community benefits and equity considerations on a par with environmental concerns.

Fossil fuel developments have exploited—and in many cases poisoned—communities living near them. While wind energy is inherently less dangerous, issues of equity during the development of offshore wind must be included in the strategic plan. Fortunately, there is a history of offshore wind development providing extensive and generous benefits to local communities. Crowley and one of the wind developers, RWE, are only rich enough to obtain the multimillion dollar contracts they have due to their long histories in fossil fuels with attendant externalization of costs. It is crucial that floating offshore wind and the terminal take a different direction.

Local communities must benefit from the terminal and offshore wind in ways which are very transparent to their members. If this does not occur, local opposition to the wind developments is likely and would be terrible for climate action.⁸ Renewable energy technologies have the potential to advance several goals related to social equity, including improved health benefits, energy resilience and job creation. However, the development of energy technology has

⁷ AB 525 WORKFORCE DEVELOPMENT READINESS PLAN. June 16, 2023. Available:

https://lnks.gd/l/eyJhbGciOiJIUzI1NiJ9eyJidWxsZXRpbl9saW5rX2IkjoxMDEsInVyaSl6ImJwMjpjbGljayIsInVybCI6Imh0dHBzOi8vZWZpbGluZy5lbmVyZ3kuY2EuZ292L0dldERvY3VtZW50LmFzcHg_RG9jdW1lbnRDb250ZW50SWQ9ODYwNDQmdG49MjUxMDkwJnV0bV9tZWRpW09ZW1haWwmdXRtX3NvdXJjZT1nb3ZkZWxpdmVyeSlsImJ1bGxIdGluX2IkjoiMjAyMzA3MTkuNzk4OTU5NjEifQ.3Z4xPfeOufFXFtl5GckBB9Nm9nj8MyutwQxm82tmE3I/s/2168633570/br/22896924298-l

⁸ Some opposition is based on misinformation: <https://www.npr.org/2022/03/28/1086790531/renewable-energy-projects-wind-energy-solar-energy-climate-change-misinformation> But most of it is not, which can only be countered by a clear perception of benefit. “We identified 53 utility-scale wind, solar, and geothermal energy projects that were delayed or blocked between 2008 and 2021 in 28 U.S. states.”

<https://www.sciencedirect.com/science/article/pii/S0301421522001471>

traditionally been shaped by existing power structures and social norms, which has disproportionately disadvantaged some communities.⁹ Therefore, there is a need for community engagement processes that have been established with the specific goal of including marginalized and impacted groups in the planning and implementation of energy-related projects. To date, the involvement and efforts of Crowley and the Humboldt Bay Harbor District have been insufficient. The DEIR must make it clear that these entities must engage fully in order to address required impacts on:

- Population / Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Cultural Resources

In efforts to establish distributive justice (the fair distribution of costs and benefits in society) and environmental justice, planning and decision-making must include voices from local tribes, rural, low-income, and other marginalized communities.¹⁰ These efforts are especially crucial when development occurs in rural or coastal areas (such as Humboldt County) that are relatively vulnerable in terms of economic or environmental impacts.¹¹ Inclusion of the interests of Indigenous nations through the community engagement process must be prioritized, as industrial encroachment and development has historically occurred at the expense of these communities and without adequate respect for their sovereignty over unceded ancestral lands.¹² It is important to acknowledge that Indigenous nations are not a monolith, and act accordingly—each Indigenous nation has its own customs, practices and goals which may influence their decisions. To support robust and responsible project development, the process must prioritize strategies from local Indigenous nations which are stakeholders in the project outcome.¹³ The potential disproportionate burdens on disadvantaged and tribal populations must be identified, including the potential increase in missing or murdered indigenous people.

One very concrete concern, articulated by the Yurok Tribal Court, is the potential impact of an influx of workers into the county on Missing and Murdered Indigenous People. We urge you to

⁹ Johnson, O. W., Han, J. Y-C., Knight, A-L., Mortensen, S., Aung, M. T., Boyland, M. Resurección, B. P. 2020. Intersectionality and energy transitions: A review of gender, social equity and low-carbon energy. *Energy Research & Social Science*, 70, 101774, <https://doi.org/10.1016/j.erss.2020.101774>.

¹⁰ Cowell, R., Bristow, G., and M. Munday. 2012. Wind Energy and Justice for Disadvantaged Communities. *Joseph Rowntree Foundation, JRF, York*.

¹¹ Cowell, Wind Energy

¹² Johnson, Intersectionality

¹³ Leonard, K., Aldern, J. D., Christianson, A. C., Ranco, D., Thornbrugh, C., Loring, P. A., Coughlan, M. R., Jones, P., Mancini, J., May, D. Moola, F., Williamson, G. and C. R. Stoof. 2020. Indigenous Conservation Practices Are Not A Monolith: Western cultural biases and a lack of engagement with Indigenous experts undermine studies of land stewardship. *EcoEvoRxiv* <https://doi.org/10.32942/osf.io/jmvqy>

incorporate the recommendations of the Yurok Court document into the mitigation requirements of the DEIR.¹⁴

We also ask for there to be a District-wide Community Benefits Agreement with strong commitments to prioritizing hiring ‘disadvantaged workers’ and women and contracting with tribal and minority-owned businesses.

In public statements, Crowley and the Humboldt Bay Harbor District appear to be taking the position that the minimal commitments to community benefits proposed by the wind developers to BOEM as part of the auction process are adequate and require nothing from themselves. This is not the case, and the DEIR must make it clear.

Avoiding Fossil Fuel Uses of the Terminal

Additional uses of the terminal site should exclude fossil fuel connected applications, such as a liquified natural gas terminal.

The notice of preparation includes this statement:

Design and construct the site in such a way that it can serve multiple purposes either simultaneous with the offshore wind energy functions described above or following the conclusion of the need for those offshore wind energy functions. Additional purposes could include breakbulk uses, dry bulk, wood product manufacturing/shipping, cargo laydown/storage/transport, and/or other related maritime transport uses that require heavy-lift wharfs and large laydown yards.

These other uses must be analyzed in the “cumulative impacts” part of the DEIR. Additionally, it should be clear than the terminal may not be used for the transport of fossil fuels or other fuels designed for internal combustion engines. This would specifically exclude a Liquified Natural Gas terminal.

Social Cost of Carbon

DEIR cost-benefit analyses should use an up-to-date Social Cost of Carbon figure, either the figure proposed by the federal EPA or the UC Berkeley/Resources for the Future figure as published in Nature in 2022.

The EPA has proposed a current social cost of carbon of \$190 using a 2% discount rate.¹⁵ The University of Berkeley and Resources for the Future proposed in *Nature* a social cost of carbon

¹⁴ Katherine Katcher & Chief Judge Abby Abinanti, “How to Protect Native Women, Girls, and People in Humboldt & Del Norte County as Offshore Wind Enters the Region: MMIP Prevention Planning and Recommendations.” June 21, 2023. Available from the Yurok Tribal Court. 230 Klamath Blvd, P.O. Box 1027, Klamath, CA 95548

¹⁵ Report on the Social Cost of Greenhouse Gases: Estimates Incorporating Recent Scientific Advances. September 2022. National Center for Environmental Economics Office of Policy.

https://www.epa.gov/system/files/documents/2022-11/epa_scchg_report_draft_0.pdf

figure of \$185 with a 2% discount rate.¹⁶ With a 1.5% discount rate it would be \$308. Given the accelerating damages around the world a 2% discount rate (which discounts future damages in favor of present value) is the *maximum* that should be used. In the future, our revenues will have to cover escalating costs of adaptation *and* cover the costs of completing the energy transition. In our view, a realistic discount rate should be negative to account for all the costs of the energy transition and the phenomena omitted from the updated social cost of carbon estimates.

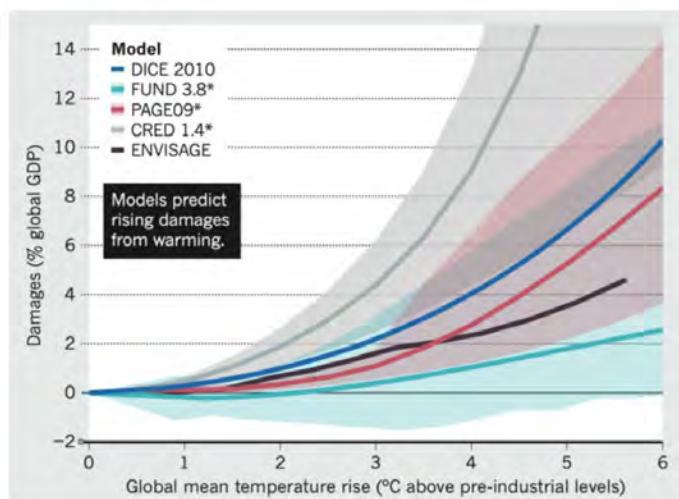
¹⁶ Rennert, Kevin, Frank Errickson, Brian C. Prest, Lisa Rennels, Richard G. Newell, William Pizer, Cora Kingdon et al. "Comprehensive evidence implies a higher social cost of CO₂." *Nature* 610, no. 7933 (2022): 687-692. <https://www.nature.com/articles/s41586-022-05224-9>. The new projections include updated data, better climate modeling, and quantification of many risks that have previously not been included. Nonetheless, this estimate is clearly an *underestimate*: "A limitation of this study is that other categories of climate damages—including additional non-market damages other than human mortality—remain unaccounted for. The inclusion of additional damage sectors such as biodiversity, labour productivity, conflict and migration in future work would further improve our estimates. Current evidence strongly suggests that including these sectors would raise the estimates of the SC-CO₂, although accounting for adaptation responses could potentially counteract some of that effect. Other costs of climate change, including the loss of cultural heritage, particular ways of life, or valued ecosystems, may never be fully valued in economic terms but would also probably raise the SC-CO₂ beyond the estimates presented here.... Although we approximate the effects of a rapid Antarctic ice sheet disintegration tipping point within the BRICK sea-level component, incorporating additional potential discontinuities in the climate system would further improve our SC-CO₂ estimates." To be somewhat more specific, the \$190 estimate does not include the loss of 90% of ocean species by 2100 if emissions are not abated (<https://phys.org/news/2022-08-marine-species-extinction-greenhouse-gas.html>) or the fact that the thawing of the world's permafrost has already passed its tipping point (<https://www.nature.com/articles/s41893-023-01132-6/figures/5>).

APPENDIX I. WHY THE CREATION OF OFFSHORE WIND POWER MUST BE ACCELERATED AND MORE THAN 10 GIGAWATTS BE AVAILABLE BY 2030.

Rapid implementation of alternative energy sources, particularly offshore wind, is critically important to avoid escalating climate damage.

Temperatures have been rising in the US as have climate disasters: From 1970 to 2021, average annual temperatures increased for 98% of 246 U.S. locations. Of these, 67% warmed more than 2°F and 28% warmed more than 3°F.¹⁷ According to NOAA “In 2023 (as of July 11), there have been 12 confirmed weather/climate disaster events with losses *exceeding \$1 billion each* to affect United States. The 1980–2022 annual average is 8.1 events (CPI-adjusted); the annual average for the most recent 5 years (2018–2022) is 18.0 events (CPI-adjusted).” The total cost for climate disasters from 1980 – 2022 exceeds \$2.575 trillion, with costs in 2017 exceeding \$380 billion.¹⁸

The damage we have been experiencing this year reflects an increase of 1.24°C since 1850.¹⁹ The world is on track for *more* than 2.7°C, the amount if all countries honored their Paris Accord pledges. ***Climate models show damage from global warming increases at a much faster rate than warming; some climate models show a near exponential rate.***²⁰



¹⁷ <https://www.climatecentral.org/climate-matters/us-temps-billion-dollar-disasters>

¹⁸ [https://www.ncei.noaa.gov/access/billions/#:~:text=ln%202023%20\(as%20of%20July,rm%20event. Total cost: https://www.ncei.noaa.gov/access/billions/events.pdf](https://www.ncei.noaa.gov/access/billions/#:~:text=ln%202023%20(as%20of%20July,rm%20event. Total cost: https://www.ncei.noaa.gov/access/billions/events.pdf)

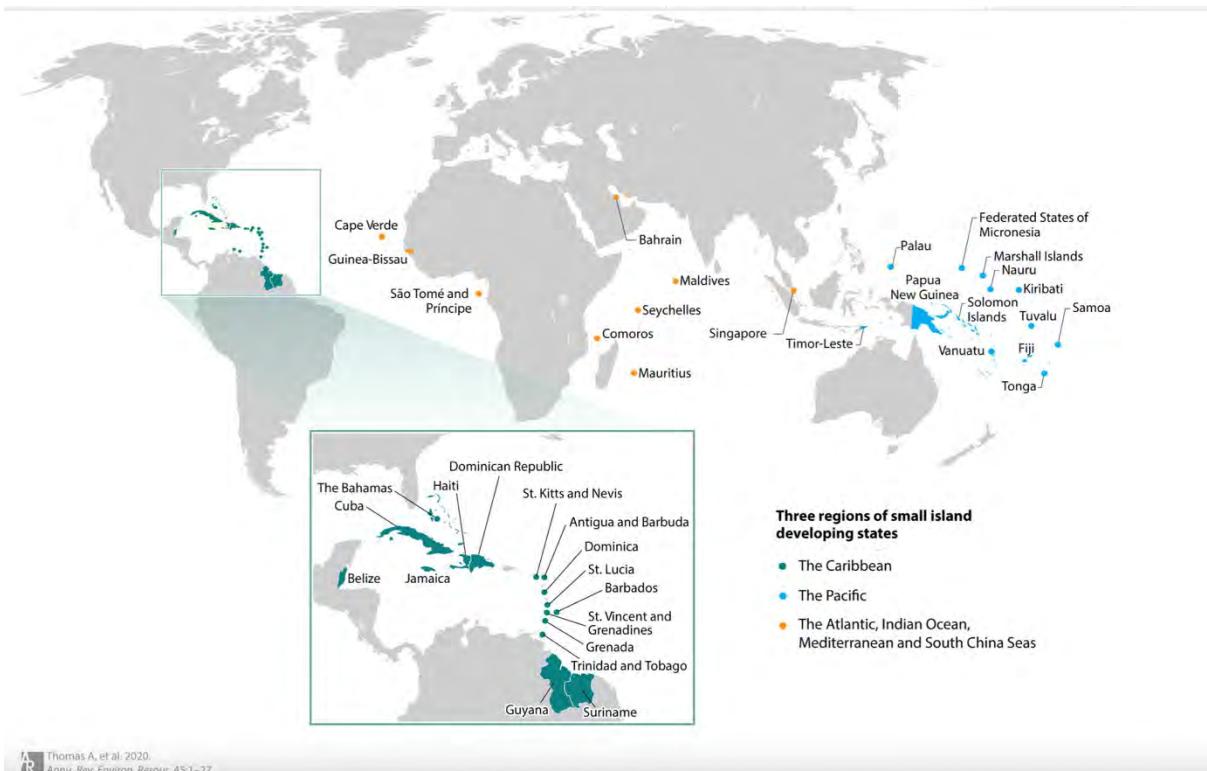
¹⁹ The global mean temperature in 2022 is estimated to have been 1.24 °C (2.24 °F) above the average temperature from 1850-1900, a period often used as a pre-industrial baseline for global temperature targets. <https://berkeleyearth.org/global-temperature-report-for-2022/>

²⁰ Revesz, Richard L., Peter H. Howard, Kenneth Arrow, Lawrence H. Goulder, Robert E. Kopp, Michael A. Livermore, Michael Oppenheimer, and Thomas Sterner. "Global warming: Improve economic models of climate change." *Nature* 508, no. 7495 (2014): 173-175. <https://www.nature.com/articles/508173a>

Why 2030 is a critical deadline.

The International Panel on Climate Change (IPCC) has determined we must not exceed 1.5°C warming in order avoid potentially disastrous consequences. What are these consequences?

- We lose our island nations.²¹

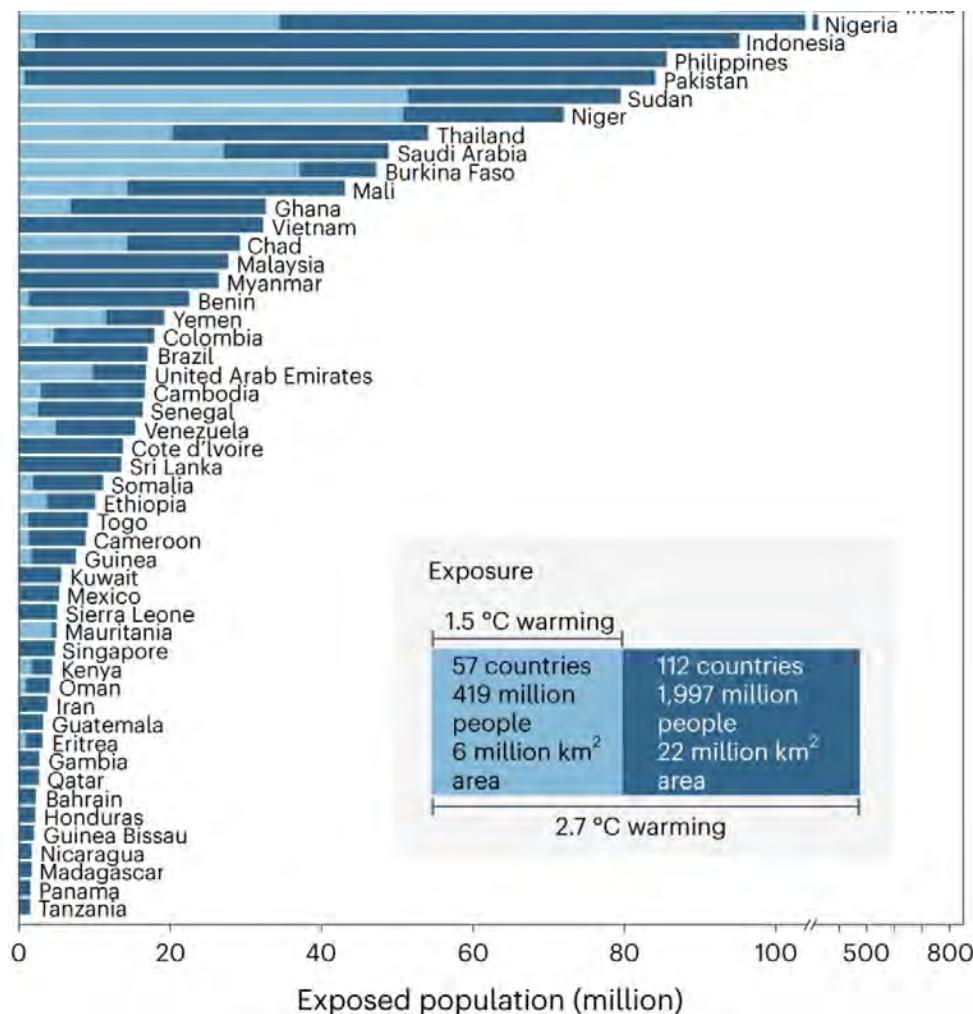


- If we continue on the Paris Accord trajectory to 2.7°C, the number of people who will be living outside of the human-survivable climate niche of *average* temperatures of 12.7° to 27.2°C. (55° to 81°F.) will almost quadruple from a 1.5°C. increase: from 419 million to two billion people. That is, a billion and a half more people in an additional 55 countries will be living at *average* temperatures over 81°F. Please see the graph on the next page.²²

²¹ Thomas, Adelle, April Baptiste, Rosanne Martyr-Koller, Patrick Pringle, and Kevon Rhiney. "Climate change and small island developing states." *Annual Review of Environment and Resources* 45 (2020): 1-27.

<https://www.annualreviews.org/doi/pdf/10.1146/annurev-environ-012320-083355>

²² <https://www.nature.com/articles/s41893-023-01132-6/figures/5>

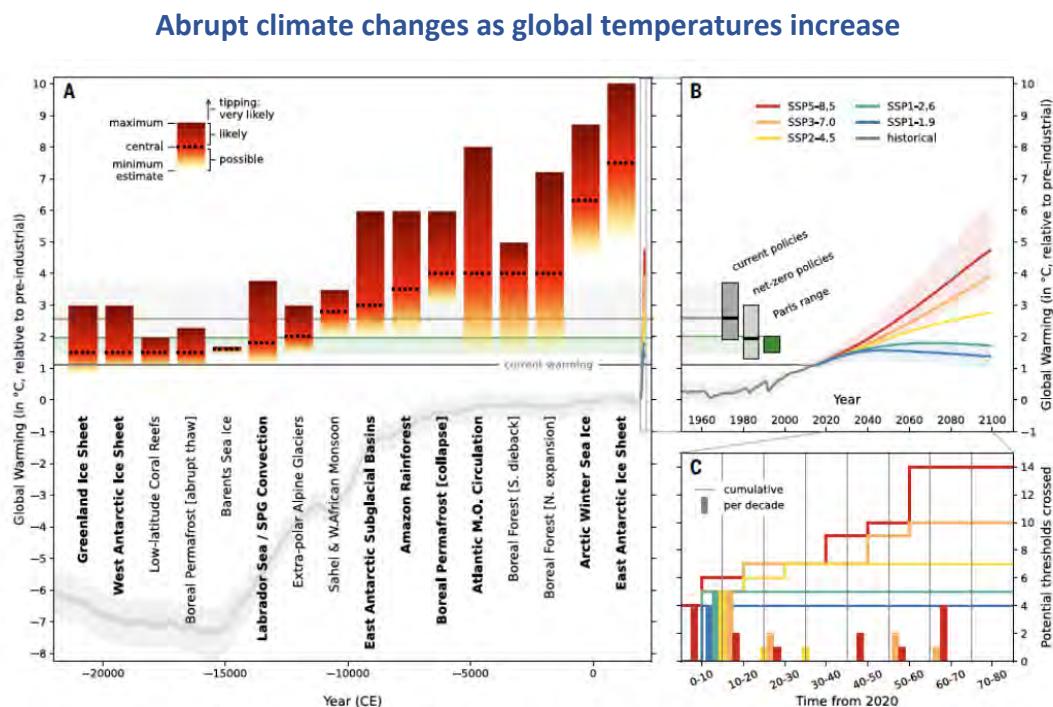


- We increase the likelihood tripping irreversible “tipping points.” Melting of the permafrost is already irreversible and two other tipping points may have already occurred. Such events are much more likely when warming over preindustrial times exceeds 1.5°C.²³
 - Melting of the Greenland Ice Sheet
 - Melting of Arctic Sea Ice
 - Melting of the West Antarctic ice sheet
 - Melting and thawing of East Antarctic sub-glacial basins
 - Melting East Antarctic ice sheet
 - Shifting of the North Atlantic sub-polar gyre / Labrador Sea convection
 - Changes in the Atlantic meridional overturning circulation
 - Death of boreal forests (**happening rapidly**)
 - Extinction of low-latitude coral reefs (**happening rapidly**)

²³ <https://www.science.org/doi/abs/10.1126/science.abn7950> A full-text preprint is available at: <https://ore.exeter.ac.uk/repository/bitstream/handle/10871/131584/Tipping%20points.pdf?sequence=1> Note that to have avoided tipping points the authors say we would have had to limit warming to 1.0°C.

- The end of the Amazon rainforest's ability to sequester carbon (**occurring in large parts already**)
- Massive CO₂ and methane releases from melting permafrost

The graph below incorporates tipping points, as most models do not. These are shown in relationship to the IPCC's six "climate scenarios." Seven tipping points become likely before 2°C, with cumulative consequences shown by the colored lines on the lower right. The overall change in global temperatures over the past 20,000 years is shown in the gray line at the bottom of the graph on the left.²⁴



Source: Armstrong McKay D. I., Staal A., Abrams J. F., Winkelmann R., Sakschewski B., Loriani S., Fetzer I., Cornell S. E., Rockström J., & Lenton T. M. (2022) [Exceeding 1.5°C global warming could trigger multiple climate tipping points](#), SCIENCE 377(6611): eabn7950, 1–10, Figure 2.

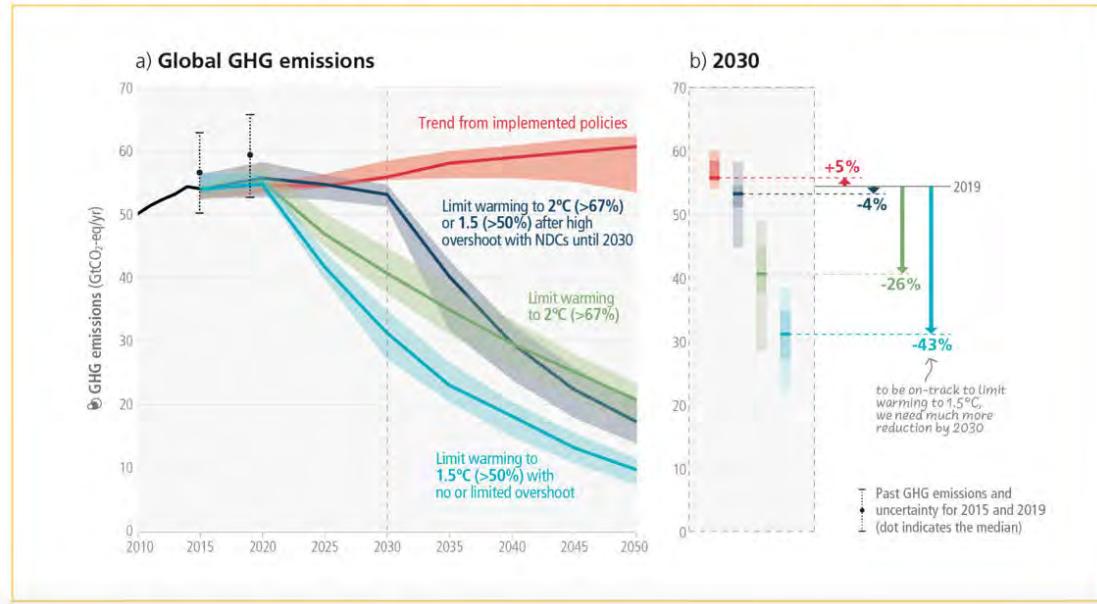
Pathways to 1.5°C require the US to make major emissions reductions by 2030.

To date countries have only been able to agree on *voluntary* emissions reductions, so called Nationally Determined Contributions. These commitments in themselves are insufficient to achieve 1.5°C and many countries lag on their implementation of the policies necessary to achieve their NDC. The figure below from the 2022 IPCC AR 6 report shows the world situation compared to the actions necessary to reach 1.5°C. In order to hit the target we need a worldwide 43% reduction in GHG emissions by 2030. The US share is higher than that because developing countries cannot achieve the same kinds of reductions as wealthy countries. The US

²⁴ <https://www.science.org/doi/10.1126/science.abn7950>

is currently the second greatest greenhouse gas emitting country, and California is the second greatest state greenhouse gas emitter (after Texas). Historically, the US has contributed more to the climate crisis than any other nation.

Figure 1: Projected global GHG emissions from NDCs announced prior to COP26 would make it likely that warming will exceed 1.5°C and also make it harder after 2030 to limit warming to below 2°C.



APPENDIX II: BALANCING PRESENT COSTS AND BENEFITS WITH FUTURE COSTS AND BENEFITS

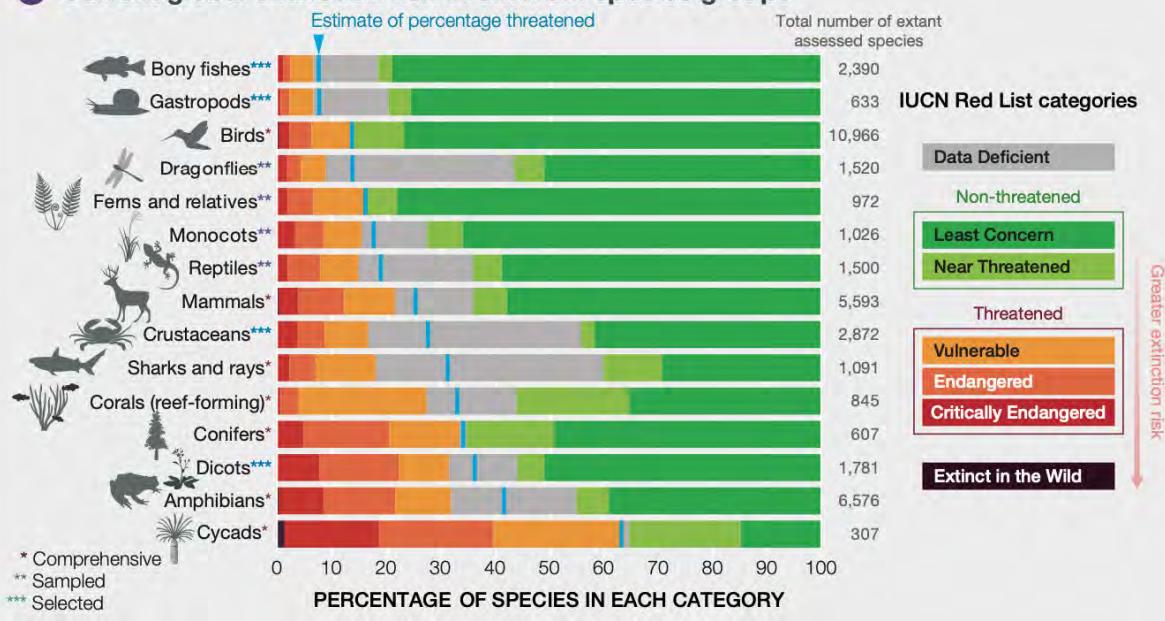
There are concerns about local bird loss due to wind turbine development. The charts below look at risk to local birds at two levels of global warming if climate change is *not* mitigated sufficiently. Species extinction is a far greater risk than unmitigable local impacts.

Example: Vulnerability to local birds at warming scenarios of +2°C and +3°C



As the graph below shows, birds are not even the most threatened of different species groups.

A Current global extinction risk in different species groups



From: Colleen Clifford [REDACTED]
Sent: Friday, August 25, 2023 8:32 AM
To: District Planner
Subject: Comments re: Marine Terminal Project NOP

To Rob Holmlund and the Harbor Commissioners:

I write to express my cautious optimism and requests for the Offshore Wind Project and Marine Terminal development in Humboldt Bay. My optimism comes from a place of wanting the urgent and long-overdue transition to renewable energy sources. The technological feat of the offshore wind industry is incredible, however, those of us who reside near the proposed project have concerns that its industrial nature will negatively impact our way of life. I am also very concerned for the local wildlife and plant species, but my focus in this letter is on the residents of the Peninsula.

The Peninsula communities are small but are made of families, seniors, tax payers, students, etc. like any other Humboldt County neighborhood. We would like the same efforts that are being put into economic development to also be put into community development.

Samoa residents in particular will be impacted with traffic, noise, and after-dark lighting during the construction and daily operations. The increase in worker traffic in the quaint community, which currently has no sidewalks and often sees children playing and biking around town, will be significant. Air, noise and light pollution from cars and industrial equipment will affect Samoa residents on a daily basis. The project should include securing new and improving existing green spaces and recreational Bay access. Samoa is currently undergoing a transition of its own, as Danco fixes up and sells off the properties one-by-one. Therefore, many new and incoming residents are unaware of this large-scale project on the horizon. Please put effort into communicating with all residents about their concerns.

The entire Peninsula will be impacted by increased traffic. While New Navy Base Road is County jurisdiction, S.R. 255 is CalTrans jurisdiction. We would like both entities to work together to determine how best to incorporate the project with connecting roads, including over the bridges to Eureka and through Manila to Arcata.

I participate in Manila Moves, a subset of the Peninsula Community Collaborative, and we have made strides to determine areas of concern with residents. Safe pedestrian crossing of the 255, from the ocean side of Manila to the Bay side of Manila, is a major priority. A HAWK traffic signal was proposed as a short term solution by Caltrans, with community efforts for roundabouts as a longer term solution. There have been recent, positive discussions with CalTrans as they begin their newest S.R 255 Transportation Study, and we will continue to push for significant traffic calming measures. Please connect with Caltrans to discuss the impacts this project will have on their findings, and support their efforts to help us ensure a safer community.

The Great Redwood Trail is another future project that will come to the Peninsula in the coming years. An encouraging view shed for this final stretch of the trail will be a healthy community, welcoming trail users with a clean, beautiful, safe path. Please determine now how best to connect and support this project. And while the GRT is a grand, idealistic project that will likely connect the several Peninsula towns, it would benefit the project to consider and support an overall multi-modal transportation plan throughout the entire Peninsula that includes pedestrian, equestrian, and bicycle traffic.

A Community Benefits Agreement between relevant entities will help memorialize the commitments of the Harbor District to the community, as well as set up a public fund for needed projects and infrastructure, both known and unknown. Besides the issues outlined above, other identifiable concerns for Humboldt County include the need for low-income housing, health care centers, community gathering spaces, and public parks and Bay recreation.

We can welcome this big project and help Humboldt and the Peninsula at the same time. Let's work together to see the future of energy also bring a positive and uplifting future to the residents most directly impacted.

Thank you,

Colleen Clifford

Manila resident since 2003



Responsible Offshore Development Alliance

August 25, 2023

Rob Holmlund
Humboldt Bay Harbor, Recreation and Conservation District
P.O. Box 1030
Eureka, California 95502-1030
Submitted via email to districtplanner@humboldtbay.org

Re: Notice of Preparation of Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project)

Dear Mr. Holmlund:

The Responsible Offshore Development Alliance (RODA) submits the following comments regarding the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Project.¹ RODA is a coalition of fishery-dependent companies, associations, and community members committed to improving the compatibility of new offshore development with their businesses. Members of our coalition operate in federal and state waters of the Mid Atlantic, New England, and Pacific coasts with a number of members based in, and around, Humboldt Bay.

At the outset, we very much appreciate the NOP specifically stating the DEIR will evaluate the cumulative impacts of the project when considered in conjunction with other related past, present, and reasonably foreseeable future projects. The Nordic Aquafarms aquaculture facility is one such project we assume would be considered in the cumulative impacts analysis. While the project location is described as Humboldt Bay, the DEIR should address and analyze potential impacts from activities which will, may, or are likely to occur outside the Project Area. For example, when fully-constructed floating offshore Wind Turbine Devices (WTDs) are towed out to sea, the impacts to vessel traffic will not cease once the WTDs are outside the entrance of Humboldt Bay. Likewise, serious environmental effects could well occur over time as increased water depths due to dredging result in higher daily tidal flows throughout the great estuary that is Humboldt Bay. This increased tidal flow will scour the banks of the estuary, increase turbidity

¹ https://humboldtbay.org/sites/humboldtbay.org/files/WindTerminal_NOP_2023%200628_0.pdf. Public comment deadline extended until August 25, 2023 on July 19, 2023 (<https://humboldtbay.org/sites/humboldtbay.org/files/Humboldt%20Bay%20Marine%20Terminal%20-NOP%20-%20Review%20Extension%20-%202023%200719.pdf>)

and shoreline loss, and possibly harm eelgrass beds. One only needs to study the effects of increased tidal flow in Elkhorn Slough National Marine Estuary to recognize this as a possible outcome of the Heavy Lift project.

The Project Objectives, in particular item E, appears to be outdated. After the BOEM study was published in January of this year, the Port of Long Beach unveiled its proposed Pier Wind project.² The Port of Long Beach is the only port in California capable of serving all three primary port needs of the offshore wind industry. Humboldt Bay *may* be able to serve all of the needs of the OSW industry, but only after significant and costly physical improvements, including environmental impacts which may be difficult to mitigate. From the perspective of choosing the most cost effective, least environmentally impactful alternative, one can argue the Port of Long Beach is more suited to meet those needs today. The DEIS should evaluate a suite of alternatives, including:

- 1) A project that proposes Humboldt Bay as a location for OSW component manufacturing, assembly, delivery of fully assembled turbines to the water, and on-going OSW maintenance.
- 2) A Project which only includes assembly, delivery to the water, and maintenance.
- 3) A project that only includes maintenance infrastructure
- 4) A no-project alternative.

The first two alternatives must compare Humboldt Bay capabilities with the Port of Long Beach.

The Table provided on page 11 lists key environmental issues to be Addressed in the DEIR. We recommend such analyses include the reasonably foreseeable and potentially significant impacts, including cumulative impacts, outside of the project area but directly linked to or caused by the project. For example, impacts on housing stocks, prevailing rents, changes in local traffic patterns, transportation impacts and/or any necessary modifications and/or construction on major roadways to, or within, the geographic area surrounding Humboldt Bay. We also question why impacts to fisheries and tourism are absent.

Neither “tsunami”, “earthquake”, nor “seismic activity” appear in the NOP. Humboldt Bay resides within an active tsunami zone.³ Scientists have evidence that the subduction zone in 1700 generated a magnitude 9 earthquake and tsunami. “A similar event could send surges onshore up to 50 feet high toward Crescent City and 30 feet high along the outer coast of Humboldt Bay and the Eureka area.”⁴ Tsunamis will continue to hit the Northern California

² See - <https://polb.com/port-info/news-and-press/port-of-long-beach-releases-pier-wind-project-concept-05-09-2023/>

³ See - <https://rctwg.humboldt.edu/sites/default/files/humboldtbay-regional.pdf>

⁴ See - <https://www.conservation.ca.gov/index/Pages/News/CGS-Issues-New-Tsunami-Maps-for-Humboldt-County.aspx>

coast, the only question is will the next one be large enough to cause damage. Given the foreseeability of tsunami events, the DEIR needs to address those.

The NOP indicates the site will be regraded, in anticipation of sea level rise, to obtain final ground elevations between +13 to +17 feet. Dredged material and/or upland sources may be used as imported fill. The DEIR should address the potential for liquefaction resulting from significant seismic events. San Francisco's Marina District and Santa Cruz Harbor suffered significant damage during the 1989 Loma Prieta earthquake due to liquefaction. Materials dredged from San Francisco Bay and a Santa Cruz coastal lagoon were included in the fill that resulted in the creation of the Marina District and Santa Cruz's North Harbor.⁵

We suggest the DEIR consider potential impacts from dredging in and around the project site. For example, will this result in sedimentary impacts to eel grass or other sensitive ecosystems? How will local aquaculture operations be impacted? Is entrainment of marine organisms expected and how will that be minimized and mitigated? Dredge materials to be disposed of at the Humboldt Open Ocean Disposal Site (HOODS), should be tested to ensure no harmful contaminants are inadvertently deposited in HOODS.

The DEIR should address how the District will comply with the California Coastal Act's mandates to protect facilities serving the commercial fishing and recreational boating industries as well as preserving existing commercial fishing and recreational boating harbor space.

We would welcome an opportunity to have a meeting with you to discuss how the Strategy can most benefit from the fishing industry and vice versa. Thank you for your consideration of these comments.

Sincerely,



Mike Conroy, West Coast Director



Lane Johnston, Programs Manager
Responsible Offshore Development Alliance

⁵ See - <https://www.geoengineer.org/education/web-class-projects/ce-179-geosystems-engineering-design/assignments/liquefaction-during-the-loma-prieta-earthquake#>

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

**JENNIFER LUCCHESI, Executive Officer****(916) 574-1800 Fax (916) 574-1810**

California Relay Service TDD Phone 1-800-735-2929
from Voice Phone 1-800-735-2922

Contact Phone: (916) 574-1890

August 24, 2023

File Ref: SCH #2023060752

Rob Holmlund
Humboldt Bay Harbor, Recreation and Conservation District
P.O. Box 1030
Eureka, CA 95502-1030

SENT VIA ELECTRONIC MAIL ONLY (districtplanner@humboldtbay.org)

Subject: Notice of Preparation (NOP) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project, Humboldt County

Dear Rob Holmlund:

The California State Lands Commission (Commission) staff has reviewed the Notice of Preparation (NOP) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project) prepared by the Humboldt Bay Harbor, Recreation and Conservation District (District). The District, as the public agency proposing to carry out the Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). Staff submits these comments and suggestions in its capacity as a trustee agency, pursuant to State CEQA Guidelines section 15386, for projects that could directly or indirectly affect sovereign land and their accompanying Public Trust resources or uses. Staff also provides these comments in keeping with its responsibility to provide oversight of the State's granted tidelands and submerged lands pursuant to Public Resources Code section 6009.1, subdivision (b).

Commission Jurisdiction and Public Trust Lands

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. (c); 6009.1; 6301; 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the ordinary high water mark which is generally marked by the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

The California Legislature is vested with the authority to enact laws involving the State's sovereign Public Trust lands. Since 1851, the Legislature has periodically transferred portions of the State's Public Trust lands to over 80 local governmental entities for management purposes, including California's five major ports. These granted lands are held in trust for the people of California and must be used for Public Trust purposes, including water-related commerce, navigation, and fishing. The granting language conveys the State's legal title to the sovereign lands subject to certain terms and conditions and subject to the common law Public Trust Doctrine.

Based upon the information provided in the NOP and a preliminary review of our records, the proposed Project is located partly on tide and submerged lands in Humboldt Bay which are granted to the District pursuant to Chapter 1283, Statutes 1970, as amended (Chapter 1283). Another portion of the Project site is located within lands the State patented as Tideland Survey 75. In 1984, a Boundary Line and Settlement Agreement (BLA 227) involving the State, the District, and Louisiana Pacific Corporation fixed the boundaries of the last natural mean high and mean low water marks at some or all of the Project site, thus defining the upland and waterward boundaries of Tideland Survey 75. The Agreement confirmed that lands below mean low water were owned by the District, as trustee, pursuant to Chapter 1283. Lands above mean low water and below mean high water were confirmed to Louisiana Pacific Corporation, subject to a Public Trust easement held by the District, and lands above mean high water were confirmed to Louisiana Pacific, free of the Public Trust.

Commission staff requests details of the District's acquisition of the upland parcels previously owned by Louisiana Pacific Corporation. If not prohibited by its granting statute, a trustee may purchase property with trust revenue, when pursuing trust consistent goals, but such property acquires the legal character of tidelands and the trustee is required to hold the lands as an asset of the trust. Or if the District acquired the uplands with non-trust resources, expenditures of trust resources on non-trust lands for management or improvement may also result in the lands taking on the legal character of trust lands.

For these reasons, Commission staff recommends that the District overlay the boundary lines fixed by BLA 227 on Project planning documents. All areas waterward of the fixed mean high water line are subject to the Public Trust. The proposed Project

is generally consistent with the Public Trust Doctrine, being primarily related to waterborne commerce. But staff wishes to highlight that consolidated development of trust lands and nontrust lands requires special consideration to prevent commingling or inadvertent results. Staff understands the District owns other properties managed outside of the trust, and we encourage the District to carefully track and separate all funds and accounts from the District's Public Trust lands.

Project Description

The Project would redevelop an area of approximately 180 acres on the Samoa Peninsula adjacent to Humboldt Bay to provide a new multipurpose, heavy-lift marine terminal facility to support the offshore wind energy industry and other coastal-dependent industries. The Project includes demolition of existing structures, site preparation, marine terminal construction, dredging, establishment of wet storage sites, habitat restoration, relocation of existing tenants currently in the Project area, and Project operations. The NOP describes 12 objectives of the Project.

Environmental Review

Commission staff requests that the District consider the following comments on the NOP.

General Comments

1. **Project Description:** A thorough and complete Project Description should be included in the Draft Environmental Impact Report (DEIR) in order to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. The Project Description should be as precise as possible in describing the details of all proposed activities (e.g., types of equipment or methods that may be used, maximum area of impact or volume of sediment removed or disturbed, seasonal work windows, locations for material disposal, construction schedule and staging areas, etc.), defining the Project area, as well as the details of the timing and length of activities.

Aesthetics

2. The DEIR should address aesthetic issues including, but not limited to, changes to the visual setting due to the increased industrialization of this area.

Air Quality

3. The DEIR should thoroughly describe the impact of the Project on air quality and the efforts to avoid, minimize, and mitigate those impacts.

Biological Resources

4. **Sensitive Species and Habitats:** The DEIR should disclose and analyze all potentially significant effects on sensitive species and habitats in and around the

Project area, including special-status wildlife, fish, and plants, and if appropriate, identify feasible mitigation measures to reduce those impacts. The District should conduct queries of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database and U.S. Fish and Wildlife Service's (USFWS) Special Status Species Database to identify any special-status plant or wildlife species that may occur in the Project area. The DEIR should also include a discussion of consultation with the CDFW, USFWS, and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS), including any recommended mitigation measures and potentially required permits identified by these agencies.

5. **Invasive Species:** One of the major stressors in California waterways is introduced species. Therefore, the Draft EIR should consider the Project's potential to introduce and encourage the establishment or proliferation of aquatic invasive species (AIS), including aquatic and terrestrial plants. For example, construction boats and barges brought in from long stays at distant projects may transport new species to the Project area via vessel biofouling, wherein marine and aquatic organisms attach to and accumulate on the hull and other wetted parts of a vessel. If the analysis in the Draft EIR finds potentially significant AIS impacts, possible mitigation could include contracting vessels and barges from nearby or requiring contractors to perform vessel cleaning prior to arrival. The CDFW's Invasive Species Program and the Commission's Marine Invasive Species Program could assist with this analysis as well as with the development of appropriate mitigation (information at <https://www.wildlife.ca.gov/Conservation/Invasives> and <https://www.slc.ca.gov/misp/>).
6. **Construction Noise:** The DEIR should evaluate noise and vibration impacts on fish, birds, and marine mammals from all Project activities. Mitigation measures could include species-specific work windows as defined by CDFW, USFWS, and NMFS. Again, staff recommends early consultation with these agencies to minimize the impacts of the Project on sensitive species.

Commercial Fishing

7. The DEIR should provide details about the Project's impacts on commercial fishing including, but not limited to, user conflicts for the mouth of the federal channel and displacement of commercial fishing uses due to the relocation of the mariculture facility, the hagfish holding facility, the small boat repair area, and the fishing equipment storage site.

Cultural Resources

8. **Submerged Resources:** The DEIR should evaluate potential impacts to submerged cultural resources in the Project area. The Commission maintains a shipwrecks database that can assist with this analysis. Please contact Commission staff to obtain shipwrecks data from the database and Commission records for the Project

site (see contact information at end of letter for Environmental Review information). The database includes known and potential vessels located on the State's tide and submerged lands; however, the locations of many shipwrecks remain unknown. Please note that any submerged archaeological site or submerged historic resource that has remained in state waters for more than 50 years is presumed to be significant. Because of this possibility, please add a mitigation measure requiring that in the event cultural resources are discovered during any construction activities, Project personnel shall halt all activities in the immediate area and notify a qualified archaeologist to determine the appropriate course of action.

9. **Title to Resources:** The DEIR should also mention that the title to all archaeological sites, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the California State Lands Commission, except where transferred by appropriate legal conveyance (Pub. Resources Code, § 6313). Staff understands that the boundary lines in the Project area are complicated, and the mapping requested above will be helpful to determine title to such resources in the event archaeological sites or historic or cultural resources are discovered during the Project. Commission staff requests that the District consult with Commission staff should any cultural resources on state lands be discovered during construction of the proposed Project. In addition, staff requests that the following statement be included in the DEIR's Mitigation and Monitoring Plan: "The final disposition of archaeological, historical, and paleontological resources recovered on State sovereign land under the jurisdiction of the California State Lands Commission must be approved by the Commission."

Environmental Justice

10. **Environmental Justice Analysis:** Environmental justice is defined by California law as "the fair treatment and meaningful involvement of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies." (Gov. Code, § 65040.12.) This definition is consistent with the Public Trust Doctrine's principle that management of trust lands is for the benefit of all people.

Through its [2018 Environmental Justice Policy](#), the Commission reaffirms its commitment to an informed and open process in which all people are treated equitably and with dignity, and in which its decisions are tempered by environmental justice considerations. Among other goals, the policy commits the Commission to strive to minimize additional burdens on and increase benefits to marginalized and disadvantaged communities resulting from a proposed project or lease. Furthermore, the Commission's Environmental Justice Policy aligns with that of its sister agency, the California Coastal Commission.

Industrial facilities and transportation projects have historically been built among traditionally marginalized communities who do not have access to resources to address the environmental and public health impacts that come with these developments, causing an environmental justice issue. Based on the information

from [CalEnviroScreen 4.0](#), the Project is located within an area¹ with more groundwater threats, hazardous waste sites, impaired waters, and solid waste sites relative to the rest of the state. Additionally, the population for this census tract has a CalEnviroScreen 4.0 percentile score of 80 for asthma and 95 for cardiovascular disease. Finally, the population experiences higher than average rates of poverty (71) and unemployment (85).

Commission staff suggests that the District include a section describing the environmental justice community outreach and engagement undertaken in developing the DEIR and the results of such outreach. Environmental justice communities often lack access to the decision-making process and experience barriers to becoming involved in that process. It is crucial that these communities are consulted as early as possible in the project planning process. In this manner, the CEQA public comment process can improve and provide an opportunity for more members of the public to provide input related to environmental justice. Commission staff also recommends incorporating or addressing opportunities for community engagement in mitigation measures.

Greenhouse Gas Emissions

11. Greenhouse Gas (GHG): A GHG emissions analysis consistent with the California Global Warming Solutions Act (Assembly Bill [AB] 32) and required by the State CEQA Guidelines should be included in the Draft EIR. The NOP notes that GHG emissions will be evaluated in the Draft EIR. This analysis should identify a threshold of significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of Project construction activities, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce them to the extent feasible. In particular, Commission staff recommends that the District identify a quantitative threshold if the regional air quality management district has not done so.

Hazards/Hazardous Materials

12. The DEIR should describe the District's response plan for the accidental release of hazardous materials and plans for disposal of any hazardous materials generated during Project activities.

Hydrology/Water Quality

13. The DEIR should identify any potential discharges and describe how erosion control measures or other best management practices will be used during construction and operation.

¹ Census tract number 6023001300.

Land Use and Planning

14. The increased industrialization of this area resulting from the Project may displace existing port users. The DEIR should address land use changes that will occur during both construction and operation.

Recreation/Public Access

15. Please provide a comprehensive description of existing recreational uses and public access to waterways and coastal resources within the Project area and vicinity. Describe any restrictions or limitations on public access to the Project area, navigation within Humboldt Bay, and use of New Navy Base Road and access to adjacent beaches during construction, and methods to provide notice to the public prior to construction.

Sea Level Rise

16. In the Environmental Setting section of the DEIR, please provide detail regarding the Project area's surface hydrology features and characteristics, groundwater characteristics and any known information on groundwater table elevation and emergence trends, history of flood events and any known land uses and structures subject to flood hazards, and the most recent flood zone designations for the Project area.

Please also provide a detailed description of the sea level rise projections for the site and any analysis relevant to the site's vulnerability. Please describe how the Project will plan for sea level rise through the lifespan of the Project. Please use the State's best available science for sea level rise projections; currently this is the Ocean Protection Council's 2018 [State of California Sea-Level Rise Guidance](#). This Project should consider the Medium-High Risk Aversion Scenario for planning purposes because [Humboldt Bay](#) is experiencing the greatest amount of relative sea level rise in the State, the Project is connected to critical energy infrastructure, and has low adaptive capacity. Consider flood control and shoreline protection options for the Project that prioritize nature-based strategies, or hybrid green-grey strategies, to increase the site's resiliency to sea level rise and minimize harmful impacts of conventional shoreline protection strategies that disproportionately affect Public Trust tidelands, resources, uses, and values.

Tribal Cultural Resources

17. AB 52 amended CEQA to require a lead agency to consult with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, if the tribe requested to the lead agency, in writing, to be informed of proposed projects in that area. However, it is the Commission's broader policy to conduct outreach and consultation with all tribes culturally affiliated with a project area, as determined by the Native American Heritage Commission, for a proposed project that may have significant effects on tribal cultural resources. The

Commission strongly encourages early and meaningful engagement with all culturally affiliated tribes that may be affected by this Project.

Alternatives

18. In addition to describing mitigation measures that would avoid or reduce the potentially significant impacts of the Project, the District should identify and analyze a range of reasonable alternatives to the proposed Project that would attain most of the Project objectives while avoiding or reducing one or more of the potentially significant impacts (see State CEQA Guidelines § 15126.6).

Thank you for the opportunity to comment on the NOP for the Project. Staff requests that you consider these trustee agency comments as you develop the DEIR. Please send copies of future Project-related documents, including electronic copies of the Draft EIR, Mitigation Monitoring and Reporting Program, Notice of Determination, CEQA Findings and, if applicable, Statement of Overriding Considerations when they become available, and refer questions concerning environmental review to Amy Vierra, Senior Environmental Scientist, at amy.vierra@slc.ca.gov. For questions about Commission jurisdiction, please contact Reid Boggiano, Public Land Management Specialist, at reid.boggiano@slc.ca.gov. For questions relating to the Commission's Environmental Justice Policy and outreach, please contact Yessica Ramirez, Environmental Justice Liaison, at yessica.ramirez@slc.ca.gov. Please send inquiries regarding the Commission's shipwrecks database to Shipwre@slc.ca.gov.

Sincerely,



Nicole Dobroski, Chief
Division of Environmental Science, Planning,
and Management

cc: Office of Planning and Research
A. Vierra, Commission
R. Boggiano, Commission
J. Garrett, Commission
L. Calvo, Commission
M. Wiemer, Commission
Y. Ramirez, Commission

From: Amber Shehan
Sent: Monday, August 28, 2023 8:46 AM
To: Rob Holmlund; District Planner; Wagschal, Adam
Subject: FW: Form submission from: Contact

-----Original Message-----

From: Humboldt Bay Harbor District <techadmin@precisionintermedia.com>
Sent: Saturday, August 26, 2023 4:10 PM
To: Amber Shehan [REDACTED]
Subject: Form submission from: Contact

Submitted on Saturday, August 26, 2023 - 16:10 Submitted by anonymous user: [131.243.155.19] Submitted values are:

Your Name: Millard (Skip) Dunham

Email Address: [REDACTED]

Phone Number: [REDACTED]

Questions / Comments:

Input on NOP for DIER Wind Energy Development

I support the overall concept of increasing the production of renewable energy including the off-shore wind resources of Northern California. I support the overall concept that Humboldt Bay is suited to provide a key role in wind energy development. However, I believe there should be a heavy level of local control over HOW the bay is developed and used to support the wind energy industry. I'm skeptical of wholesale trust or outsourcing of control of the bay to a commercial operator that may or may not have contractual commitments to behave in the best interest of the community.

This is a request that any contracts to commercial entities be carefully crafted to ensure the local community has ongoing direct influence over how the bay is used. Suggest both Technical requirements and Terms and Conditions of any agreements be thoroughly reviewed for local best interest by persons skilled in such reviews and with prior experience applicable to this project. Consider obtaining lessons learned and best practices from other similar or applicable projects and map the adoption of those lessons learned and best practices into the requirements for this project.

The proposed Wet Storage Subarea poses an impact to recreational bay users outside the Federal navigation channel (sailing, rowing, fishing, etc.). The arguments presented in the DOP for DEIR for this space being needed to minimize bay congestion do not seem fully rational given that the area itself contributes to bay congestion. Overall bay congestion risk can be minimized without this area by well planned and scheduled manufacturing and assembly using the planned wharf space. Seasonal weather impacts should be addressed in the overall manufacturing schedule. It is expected that Just-in-Time deployment would be utilized again to minimize overall bay congestion.

I am open to follow-up communication on this topic.

Skip Dunham
Ferndale, CA Resident
Woodley Island Marina Tenant
Rower and sailor on the bay
Infrastructure Projects Director for University of California - Lawrence Berkeley National Laboratory

District Planner

From: Olivia Estetter [REDACTED]
Sent: Saturday, August 05, 2023 10:06 AM
To: District Planner
Subject: Samoa townhomes right next door to proposed Marine heavy lift turbine assembly area

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

I am a local and am a current resident of the Samoa DANCO townhomes which is located right next door to the proposed area for the assembly port AKA marine terminal. I am not necessarily opposed to the project, however I do have some real concerns regarding how the round the click operation, noise and lighting will be impacting our families quality of life. I did not even see our apt complex as being depicted on the port site map, which is infact right smack in the middle. My other concern is that the giant wind turbines have been designed to withstand a mega thrust earthquake which could virtually be generated anytime within the next 60 yrs by the Cascadian Subduction Zone plate shifting. This zone lies approximately 60ish miles off our coastline in the ocean.. So it's a little ways past the proposed zone where the turbines will be anchored. Ok thank you for your time!

Sincerely,
Ms. Estetter

[REDACTED]

From: michael fennell [REDACTED]
Sent: Friday, August 25, 2023 4:25 PM
To: District Planner
Subject: Port Development

8/26/23

Rob Holmlund
Humboldt Bay Harbor Recreation and Conservation District

Dear Rob,

This project as proposed, will incur sacrifices and a degradation of quality of life for citizens of the Peninsula and beyond. While the goal of providing renewable energy is laudable, there are other ways to generate that power, on smaller scaled projects like solar arrays and perhaps land based wind turbines, combined with battery storage. Have other alternative methods been fully explored, or because the district owns the property, this is best for the district's finances?

How will you mitigate the traffic that will pass through Manila on Highway 255, a two lane road.

It is not just this project that will affect us but the fish tank farm, the railroad museum, Samoa's further development, and other lumber companies and the chipping mill that will continue operations? As it is now, it is often not safe for Manila residents to cross 255 to get to our park and bay.

As for the residents of Samoa, they will be subjected to constant noise and very bright lights, forever changing the present quality of life.

Marine life disturbance! This project will negatively affect the fishing industry here. How will you compensate them? How do the migrating whales and other species not get harmed with so many guy wires and cables in the water?

Any community benefits that are negotiated should be included in the lease with Crowly, a company with some awful history of ignoring crimes against women. These benefits should be significant, not crumbs.

If it is built, the port should be green as possible, electrifying as much as can be done.

What guarantees will the community have if any of these companies fail or pull out? Will it be like the pulp mills that left a mess for others to clean up?

Who keeps the profits from this venture? Will these companies be free to charge a high price for the power that is generated, or can there be profit sharing or a regulated price for the electricity generated? There is a lot of taxpayer money that is subsidizing them. They should compensate the community for the sacrifices we are asked to endure.

This project just seems too big for our community. So much can go wrong, are you risking hundreds of millions of dollars for the benefit of your District?

Thank you for the opportunity to comment,

Michael Fennell
[REDACTED]

From: Amy ferron [REDACTED]
Sent: Thursday, July 27, 2023 10:42 AM
To: District Planner
Subject: Windfarm concerns

Follow Up Flag: Follow up
Flag Status: Flagged

Hello
My main concerns with this project

The harm to all sea life in the bay with all the boats coming and going. The pollution the boats and all the materials bring brought to the site. The unknown harm the windmills out in the ocean to whales and the noise that could harm them.

The noise and light pollution for the humans and animals. The night herons and rooky will make them go away.

The additional traffic this project will bring to the bridge from Eureka to Somaos and how dangerous it will become for people that walk and ride their bikes. I think there should be a safe area on the outside along the bridge for a walk trail. The low-income development that Danco, a lot of those people don't have cars and are starting to walk that bridge a lot more.

This project is the saddest thing off our beautiful coast line and this area will never be the same. I walk our beaches every day and love looking out into the ocean and my mind can rest and be free from all the pressure. Now knowing what's coming, I shall be looking at an Industrial site where is the most animal life is still left makes me sick.

I support solar over this. I do not want to trade out amazing ocean and animals for this!!!!!!!!!!

This project should be on the hook to upgrade out power system at no cost to Humboldt residence.
Amy Ferron
[REDACTED]



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

3015 H Street Eureka CA 95501
Phone: (707)445-7541 Fax: (707) 268-3792

RECEIVED

August 25, 2023

AUG 28 2023

Humboldt Bay Harbor, Recreation and Conservation District
Attn: Rob Holmlund, Director of Development
P.O. Box 1030
Eureka, CA 95502-1030

H.B.H.R. & C.D.

RE: Notice of Preparation: Humboldt Bay Offshore Wind Heavy Lift Marine Terminal

Dear Mr. Holmlund,

The Humboldt County Planning and Building Department appreciates the opportunity to comment on the Notice of Preparation for the EIR being prepared for the Humboldt Bay Offshore Wind Heavy Lift Marine Terminal. Development of offshore wind and the facilities to support operation of wind generation facilities is a county priority. In that spirit of cooperation and support we offer the following comments on the NOP.

CEQA Guidelines section 15082(a)(1) requires: "*The Notice of Preparation shall provide the responsible and trustee agencies ... with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response.*" The information contained in the NOP does allow adequate scoping for the EIR.

1. Project Description. While the project description is robust relative to the purpose of the project it does not provide sufficient detail to determine the potential environmental effects of the project. The following are areas that illustrate this comment:

- a. The exhibits attached to the NOP identify two project examples, one including significant new buildings in the upland area of the project and a second calling for a lay down yard in the upland area. Which will the EIR address?
- b. For Project Example 1, what is involved in the manufacturing activities being contemplated? Do these involve the use, generation of or disposal of hazardous materials?

- c. How many employees are expected on the site during the period of construction and then during the operation of the site?
- d. There is no description of how many employee trips, truck trips or shipping trips will be going to and from the site.
- e. Associated with the fill to adapt to Sea Level Rise, will this involve importing material to raise the operational elevation of buildings and the lay down yard? How much material needs to be imported? How will this be accomplished?
- f. The heavy lift terminal by nature will require support of extremely heavy loads which includes the proposed docks in the bay. How will this be accomplished?
- g. How much excavation will be required to install bulkheads or other structural features?
- h. Amendments to the Humboldt Bay Area Plan and Zoning Ordinance are listed but are not specific. It would be helpful to better understand what changes are contemplated. The County is undertaking amendment to the Humboldt Bay Area Plan and anticipates addressing needed amendments.

2. Key Environmental Issues to be Addressed in Environmental Impact Report. The NOP lists the topical items to be addressed in an Initial Study but does not identify what potential impacts may result from the project. The areas that are of most concern to Humboldt County and where another agency is not responsible include the following:

- a. Aesthetics. The visual impact of the Wind Turbines at this location will need to be addressed as well as the potential impact of the proposed lighting located on poles of 150 feet tall.
- b. Land Use and Planning. The entire project site is within the Humboldt Bay Area Plan and the relative policies should guide impact determinations for levels of significance. In addition, a portion of the site is within the Samoa Town Master Plan and there are performance criteria for this portion of the industrial property.
- c. Population/Housing. The EIR should address the ability of the local population to fill jobs and the extent to which workers will need to be imported from other areas. This has the potential to result in a need for additional housing.
- d. Public Services. The project will create additional demand for services, and the EIR should contemplate whether adequate services exist.
- e. Transportation. The EIR should address the potential to create additional opportunities for reductions in Vehicle Miles Traveled.

- f. Cumulative Effects. There are many foreseeable projects that should be analyzed in the EIR. The county will assist in providing a list of projects within the County jurisdiction.
- g. Growth Inducing Effects. The EIR should address the potential for creation of not only primary sector jobs but jobs in support of the project including secondary and tertiary jobs and the effect that is likely to have on population growth and growth of commercial and industrial facilities.

We stand ready to assist in any additional scoping work that is needed for preparation of the EIR.

Thank you for the opportunity to comment.

Sincerely,



John H. Ford
Director of Planning and Building

Attn: Cade McNamara, Associate Planner
Long Range Planning
Humboldt County Planning and Building Department
(707) 268-3777
cmcnamara@co.humboldt.ca.us



August 7, 2023

Mr. Rob Holmlund
Development Director
HBHRCD
Districtplanner@humboldtbay.org
P.O. Box 1030
Eureka, CA 95502-1030

Dear Mr. Holmlund:

The following comments are submitted in response to the June 26, 2023 Notice of Preparation (NOP) for the Heavy Lift Marine Terminal.

Public Safety Concerns

The Draft Environmental Impact Report (DEIR) should state clearly what marine traffic “draft” restrictions will apply to Wind Turbine Devices (WTD) when sediment reduces the design depths in portions of Humboldt Bay proposed for use by this project. The draft restrictions should include limiting placement of any additional WTD into the Bay when design depths are reduced beyond specific limits.

Provide quantified extent, and geographic locations where WTD will be located, moored, or stored in Humboldt Bay. Additionally, state the maximum number of WTD that will be allowed to be “stored,” moored, or otherwise parked in Humboldt Bay, and address the increased risk of maritime accidents posed by placement of such large obstacles into the Bay adjacent to the navigation channel.

Describe the environmental impacts of the proposed new dredging in multiple areas of Humboldt Bay, and evaluate how, when, and where scouring, erosion, and increased tidal flow velocities will occur as a result of dredging. There are likely to be both short term and long-term impacts to shoreline areas, structures, including the Highway 255 bridge foundation that must be evaluated.

Project the frequency of new and expanded maintenance dredging that will be required to maintain the proposed project. Additionally, state clearly how the project proponents plan to pay to accomplish increased maintenance dredging?

Address the impact of the proposed project to existing and increased marine traffic (both sport and commercial).

Clearly state what delays to both sport and commercial fishing vessels may be reasonably anticipated due to conflicts in using the federal navigation channel to enter and exit Humboldt Bay.

Land based transportation impacts and public safety on roads should be considered in detail, along with potential mitigation measures to reduce the unrestricted type of surface access

currently available to industrial sites. For example, mandatory provision of incentives for carpooling by employees, consolidation of deliveries by vendors, and methods to reduce or eliminate fossil fuel use. Restrictions on diesel truck idling during visits to the terminal should be required. Penalties for noncompliance should also be addressed.

Environmental Pollution:

State amount of “ablative” paints and other “antifouling” materials that will be used both on land, and placed into the marine environment of Humboldt Bay. Provide specific toxic constituents that are anticipated to be used on the WTD.

Address the need for monitoring of the pollution affects of the proposed project on both WQ and living organisms in the bay from contaminants purposefully (i.e. Antifouling paints, and other materials) placed in Bay waters. Monitoring should also be required to address unintended pollution from any source, including increased marine traffic, fuel spills, bunker fuel burning by commercial vessels, and all other reasonably foreseen sources. All monitoring plans or proposed testing should clearly state data collection intervals and constituent level analysis, as well as detailed Quality Assurance/Quality Control techniques.

Provide projections of the environmental effects of the quantity of increased commercial marine traffic that the proposed project will generate. Specifically, provide reasonable projections of the amount and types of materials (both solid and liquids) that may inadvertently be spilled, lost, or otherwise deposited into Humboldt Bay.

Rapid response plan preparation is needed to address unexpected pollution discharge(s) into waters of Humboldt Bay.

Address the statement on page 8 of the NOP, “Piping will be installed to allow for water discharge back to the bay...”. Clearly state required treatment of any runoff water (Including the relocated HAGFISH Operation) that will be allowed to enter the Humboldt Bay. Provide an evaluation of providing a water retention storage structure to allow capacity for 90 days of runoff water storage.

General Concerns

Provide a detailed analysis of the volume of dredge spoil that will be generated by the proposed project along with where and how it will be disposed of.

Dredging impacts should be considered and mitigation measures proposed, including mandated requirements to reuse of dredge spoil on the project site in lieu of importation of fill material from off site locations. Reuse of dredge spoil should be required even when more expensive than “dumping” material at the offshore Hoods disposal site.

Evaluate the unavoidable environmental impacts of increased dredging depths adjacent to the “terminal dock(s)” as well as proposed WTD mooring sites parallel to the federal navigation channel.

Dredging to depths of 40 feet or greater as described in the NOP should require detailed analysis and evaluation of scour damage.

The DEIR should address the foreseeable changes in lost recreational opportunities caused by the implementation of the project.

The DEIR should address the potential loss of biological productivity caused by the predictable impact of industrial materials (primarily chemicals) used on site and the probability of release of sediments containing pollution along with runoff water allowed to enter Humboldt Bay.

Address and identify the source(s) of fill material required to raise the project site elevation. The NOP indicates a need to increase the site elevation to 17 feet. The proposed source and location of fill material will create off site impacts that must be considered.

Project Alternative(s)

A robust Alternative Site analysis is essential. The proposed site is too far from the Harbor entrance, and therefore requires an immense amount of dredging to accomplish implementation. Moving the proposed terminal location closer to the harbor entrance will reduce the amount of dredging necessary and therefore will significantly reduce environmental impacts.

The other seven existing dock locations should all be given a fair and thorough analysis as alternative project sites.

The existing commercial docks are rarely used, approximately 5% of the time in any year. Consideration should be given to making a more efficient use of one of the existing dock locations.

The HBHRCD is proposing to partner with a commercial firm, Crowley, to operate the proposed new project. A similar partnership opportunity should be considered in sharing space at a location that can be collocated with existing commercial dock(s). The benefits from sharing dock facilities should be given careful analysis.

A fair and accurate evaluation of existing docks should include bathometric survey elevations that reflect the relative amount of dredging that would be needed, or avoided by selecting alternative project locations.

Sincerely,

Scott Frazer
President
Citizens Protecting Humboldt Bay





HUMBOLDT BAY MUNICIPAL WATER DISTRICT

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JOHN FRIEDENBACH

RECEIVED

August 23, 2023

AUG 24 2023

Rob Holmlund
Humboldt Bay Harbor, Recreation and Conservation District
PO Box 1030
Eureka CA, 95502-1030

H.B.H.R & C.D.

RE: Comments on Notice of Preparation for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project

Dear Mr. Holmlund,

We are writing to provide comments on the above referenced project's Notice of Preparation (NOP).

The Humboldt Bay Municipal Water District (Water District) serves both wholesale and retail water customers (approximately 94,000 residents). Current operations of the Water District include Ruth Lake, which provides our reliable year-round water supply; a hydro-electric power house at Ruth Lake; facilities on the Mad River between Arcata and Blue Lake; and storage and treatment facilities at various locations. We have two separate and distinct water pipeline systems. One delivers treated drinking water. The other is an industrial pipeline that provides "raw" water to our industrial customers on the Samoa Peninsula.

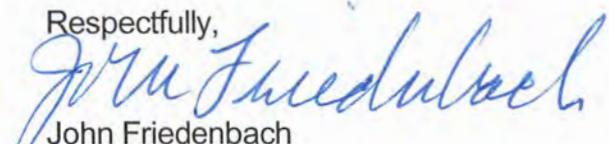
We assume that our Water District will provide water to the Harbor District's project, but as the Harbor District is aware, the water infrastructure will need substantial upgrades to serve the Heavy Lift Terminal project.

The Water District asks that the following questions be addressed so the "public utilities" section of the Draft Environmental Impact Report is comprehensive and complete:

- What is the total water demand and its demand schedule?
- How much water is anticipated to be treated water and industrial "raw" water?
- How will water infrastructure improvements be funded?

What is the schedule and deadlines for Water District and Harbor District staff to work together to design the infrastructure improvements? We look forward to working together on this local, renewable energy project.

Respectfully,



A handwritten signature in blue ink, appearing to read "John Friedenbach".

John Friedenbach
General Manager

BLUE LAKE RANCHERIA

P.O. Box 428
Blue Lake, CA 95525

Office: (707) 668-5101
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www.bluelakerancheria-nsn.gov



August 25, 2023

Larry Oetker, Executive Director
Rob Holmlund, Director of Development
Humboldt Bay Harbor, Recreation, and Conservation District
P.O. Box 1030
Eureka, California 95502-1030

Via Email to: loetker@humboldtbay.org and districtplanner@humboldtbay.org

Re: Blue Lake Rancheria Comments on Notice of Preparation of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

To Executive Director Oetker, and Director Holmlund, and Others This May Concern:

The Blue Lake Rancheria, a federally recognized Wiyot Area Tribal Nation and government (Tribe) submits these comments on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project) released June 26, 2023, by the Humboldt Bay Harbor, Recreation and Conservation District (Harbor District).

This comment letter includes the Tribe's general and contextual comments and increasing concerns for this Project, incorporates and attaches the Redwood Region Climate and Community Resilience Hub (CORE Hub) technical comments which the Tribe is a signatory to, and includes selected DEIR scoping recommendations which are unfortunately brief due to inadequate time to comment.

The Tribe is an internationally recognized leader in climate resilient infrastructure development and decarbonization strategies. The Tribe has extensive experience forming strategic partnerships (including with other Tribes, local governments and agencies, state and federal governments, and our regional subject matter experts, and some of the largest vendors and contractors in the nation/globe) to deliver leading-edge energy and related infrastructure on time, on budget, and with the lowest possible carbon footprint. The Tribe's success in these areas includes capital projects of over \$200 million, and an indirect economic benefit for the region of over \$320 million. The Tribe's projects are also designed to deliver crucial community benefits, including resources and infrastructure for emergency preparedness and response.

The Tribe is deeply concerned about the impacts of climate change to Humboldt Bay and other cultural and natural resources and supports immediate action to decarbonize our shared energy and infrastructure systems. The Tribe is serious about implementation of climate change mitigations, and understands from governmental, regulatory, and owner / operator experience how to embrace new technologies, equipment, and systems as models that have then made significant market development

impacts through replication. The Tribe understands the importance of future-proofing projects for emerging technologies which may not be available or cost effective today but will be in the immediate or near-term future. Further, the Tribe understands how to create projects with bold climate and social benefit narratives that are successful in obtaining public and private funding, in-kind technical assistance, and other resources.

The Tribe has also suffered significant harms from past exploitative and extractive economic eras, including the gold rush, timber rush, land rush, salmon rush, water rush, cannabis rush, and biomass energy rush. All these have, to varying degrees, exploited natural resources, extracted wealth from the region, and consolidated power in grossly inequitable ways. The Tribe is also the only Tribal Nation with lands spanning the Mad River / Baduwa't and is an active co-manager of the Mad River / Baduwa't watershed, with decades of providing robust air and water quality monitoring, fish counts, ecosystem studies, data collection, and tributary, fish passage, riparian, and in-stream restoration activities. Balancing ecosystem health with economic development is one of the Tribe's areas of expertise.

Concerns Regarding Capacity, Expertise, Project Scale

The Project will create enormous changes in Humboldt Bay and surrounding areas and ecosystems, growing from a port with relatively small amounts of commercial operations and the Harbor District's current annual operating budget in the tens of millions, to a port with a profile that will likely be equivalent to larger commercial ports, and annual project and operating budgets in the billions.

The Tribe is highly concerned about the Harbor District's lack of experience with large port operations and projects of this size. As a case in point, the Harbor District's process to develop the Project to date has fallen far short of the minimum requirements for collaborative engagement with Tribal Nations and has led to the unacceptable selection by the Harbor District of Crowley Maritime Services (Crowley) within an exclusive right to negotiate agreement as a potential port development partner. The selection process was evidently done without engagement with the Tribe, or apparently without engagement with other Tribes or constituencies in the region. Evidence of this is available on the Harbor District's website.

The Tribe requires "justice beyond jobs," where these once-in-a-generation wind energy industry projects bring far more equitable infrastructure and economic benefits to Tribal Nations and local communities. Yet without Tribal engagement, and without Tribes' free, prior, and informed consent, the Harbor District negotiated a project labor agreement (PLA) that included terms and conditions affecting Tribal Nations and Tribal members. In its current form, the PLA illegally and/or seriously damaged Tribal sovereignty by including processes (such as apprenticeship programs) subjected to state regulation inapplicable to Tribal Nations and which involve Tribal members. The structure of the PLA is unacceptably flawed with respect to Tribal components, creates an unacceptable precedent in terms of prescribing state subject matter jurisdictions and civil regulatory authority on to Tribes and their governmental management of their labor practices. These serious issues could have been averted had the Harbor District sought meaningful engagement with Tribes on the PLA terms. As the process unfolded there was less than six (6) business days for Tribes to view the proposed PLA and respond appropriately. The Harbor District's decision to impose such a short review window actively prevents Tribal and other engagement with highly complex labor union topics, which are impacting and new to many of the region's constituencies, including Tribes.

The Harbor District's selection of Crowley with Crowley's public record of sex trafficking, and forced labor allegations and violations,¹ environmental violations,² and business operation issues and violations³ is unacceptable. To date, the Harbor District has provided no public communications or responses regarding these serious issues. Crowley's actions are indicative of corporate leadership and culture fundamentally incompatible with the values and multi-decade strategic partnerships this region must build to host the offshore wind energy industry safely and equitably. The Tribe urges the Harbor District to exercise any termination for cause or other applicable clause(s) in its exclusive right to negotiate to rescind that agreement.

The Tribe recommends conducting a second, more transparent port developer selection process. That process must include criteria that demonstrate a company's human rights record, including any policies that prevent sexual crimes, and protections against Missing and Murdered Indigenous People (MMIP), efforts to ensure safety for women in the workplace, compliant and legal business practices, in depth information on their climate mitigation strategies, goals, and progress to date, and proof of performance of their approaches to environmental and cultural protections.

The Tribe recommends the Harbor District adopt the deeply representative developer selection process model developed by the Redwood Coast Energy Authority (RCEA) in their successful process to select a wind developer partner for the region. That process included several public meetings, preserved all the confidentiality required of a negotiation process, and included a wide array of regional constituencies to assist RCEA in vetting the request for proposals (RFPs), including review, interviews, and final selection. Regardless of the developer selected, the Tribe insists the Harbor District's agreements, plans, and operational implementation includes enforceable safeguards to protect against increased risk of sexual assault, sex-trafficking and Missing or Murdered Indigenous Persons (MMIP).

The Tribe is well-aware of the speed that is needed to combat carbon emissions that are causing climate change and because of this is in conditional support of the offshore wind energy industry cluster and build out. However, the Harbor District's opaque and rushed processes, lack of commitment to zero emission port design, and reluctance to include community benefits in its agreements does not serve to accelerate the Project, and indeed it could slow it down, or forfeit it due to opposition created by these approaches. As two recent examples, at the public scoping meeting held by the Harbor District on July 12, 2023, the Tribe highly recommended a 30-day extension of the comment period for the NOP DEIR.

¹ See: <https://www.maritimelegalaid.com/foia/crowley-officer-accused-of-sexually-assaulting-two-women-receives-12-month-suspension>, <https://www.firstcoastnews.com/article/news/crime/second-woman-files-federal-sex-trafficking-lawsuit-against-crowley-maritime/77-4f1850d6-ddcf-407f-82e7-11a9b39f1060>, <https://law.justia.com/cases/federal/district-courts/florida/flmdce/3:2022cv00174/398749/34/>, <https://gcaptain.com/judge-rules-sex-trafficking-lawsuit-against-crowley-can-move-forward/>, <https://www.justiceformariners.com/blog/crowley-sex-trafficking-lawsuit-complaint-pdfs> Accessed 8.23.2023

² See: <https://www.kinnyradio.com/news/news-of-the-north/crowley-fuels-pays-1-3-million-for-environmental-public-safety-violations-in-alaska/>, Accessed 8.23.2023

³ See: https://www.joc.com/article/crowley-pleads-guilty-puerto-rico-price-fixing_20120802.html, <https://www.law.alaska.gov/pdf/press/yukon-crowley-consent-decree.pdf>, <https://casetext.com/case/franklin-balance-sheet-invest-fund-v-crowley> Accessed 8.23.2023

The Harbor District provided a 22-day extension. Also, at that public meeting there were multiple requests for at least one or two additional public meetings on NOP DEIR scoping due to the size and scale and multi-decade timeline of the Project, which have apparently been ignored by the Harbor District. In a region where Tribal Nations are at capacity, every day counts, and the Harbor District's choices to limit the extension and public input is viewed as uncooperative and worse, actively eroding equitable means of engagement in the NOP DEIR process.

Due to the Project's complexity, the Tribe recommends the DEIR process include at least two (2) additional public scoping meetings, with hybrid virtual and in-person attendance and on-the-record input capabilities, preceded by robust public notification of the meetings, at site(s) and time(s) accessible by public transportation, to enable equitable participation for all the region's constituencies.

The Harbor District could have created, and still might work to create, a network of strategic partners and allies including Tribal Nations to develop and fund a state-of-the-art zero emission Project that uses best available technology, constructed to enable existing (and robustly future proof for emerging) technologies for achieving zero-emission and decarbonization goals, negotiate and commit to community benefits, and to maximize climate benefits, as is happening in multiple ports in California and across the globe.⁴ The Tribe understands the Harbor District's annual operating budget is approximately \$13 million, with cash flows of \$2-6 million.⁵ The Heavy Lift Terminal project will be ~\$1 billion. As noted above, the Tribe is concerned about the Harbor District's relative lack of experience with large port projects and operations and recent lack of success in securing public funding for port infrastructure. Regional support resulted in the successful award of funding from the California Energy Commission for Project planning. The Harbor District should work closely with Tribal Nations to source additional capacity, expertise, and strategic partnerships to ensure the enormous growth and change to the shared regional port is conducted in a sustainable way, and to be highly competitive in obtaining public and private funding resources. The Tribe is confident the Harbor District can achieve the climate, equity, and regional benefit development goals of this Project and attract significant funding, but that is dependent on a Project that incorporates and publicly commits to human rights, climate, and equity goals.⁶

Scoping Comments

Whether the Harbor District course-corrects to a more transparent, regionally engaged set of processes, it must at a minimum prevent degradation of Tribal cultural resources, climate and the environment, Tribal fisheries, and adjacent port communities, with enforceable safeguards for maximum pollution and emission controls, management of toxic substances (e.g., metals), and to the maximum extent possible, by using lowest-carbon construction (e.g., carbon-neutral cement) and operation methods (e.g., electric construction and terminal operation equipment such as cranes and cargo handling machines).

⁴ See: <https://www.offshore-energy.biz/port-of-san-diego-eyes-more-business-as-it-welcomes-all-electric-harbor-crane/>, [https://energized.edison.com/stories/long-beach-port-operators-lead-the-way-tozero-emissions-goal](https://energized.edison.com/stories/long-beach-port-operators-lead-the-way-to-zero-emissions-goal), <https://polb.com/environment/our-zero-emissions-future/#program-details> Accessed 8.23.2023

⁵ See: <https://humboldtbay.org/sites/humboldtbay.org/files/Agenda%20Packet%2007-27-2023.pdf> Accessed 8.23.2023

⁶ See: <https://www.gov.ca.gov/2023/07/06/governor-newsom-announces-1-5-billion-in-port-infrastructure-upgrades-to-power-nation-leading-supply-chain/>, <https://polb.com/port-info/news-and-press/record-state-grant-will-go-to-rail-infrastructure-08-01-2023/> Accessed 8.23.2023

The Tribe had a ~40-year adjacency to a major stationary source of particulate matter pollution which created health hazards and environmental hazards due to permitted and non-compliant, and unenforced emission and pollution exceedances, including toxic leachates into the Mad River / Baduwa't. The Tribe cannot overstate how important it is to avoid up front those kinds of emissions, sources of pollution, and the health hazards they create, and the Project must incorporate hard lessons learned by other marginalized port-adjacent communities.⁷ A comprehensive transparent CEQA process that incorporates community, human, cultural, and environmental needs, analyzes the full Project and incorporates input from Tribal Nations' rigorous scientific and ecological knowledges and data are all minimum requirements.

The Tribe's position is that the CEQA process, all Tribal government to government consultations, including AB 52, and the Harbor District's EIR must be complete prior to signing any option to lease, lease, and/or development agreements, to follow the law, and most importantly to ensure the findings and mitigations in the EIR can be incorporated into subsequent Project agreements.

The Tribe will provide detailed requirements and input into the DEIR scoping in its AB 52 government to government consultation process with the Harbor District, to include but not be limited to the following categories:

- Blue Lake Rancheria Tribal Cultural Resources
- Blue Lake Rancheria Tribal Fishery
- Cultural, endangered, threatened, and keystone species in the Mad River / Baduwa't that share ecosystems with Project site(s), e.g., anadromous species, and species that may be impacted by Project pollution, toxics, and/or emissions, etc. These include but are not limited to:
 - o Lamprey, Sturgeon, Salmonids, Eulachon
- Baseline studies and data sets needed (e.g., baseline salmon population studies)
- Tribal jurisdictional considerations (e.g., non-point source pollution)

In addition, the Tribe includes and reiterates the scoping input from the enclosed CORE Hub letter and technical attachments.

Conclusion

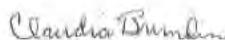
It gives the Tribe no pleasure to voice these serious concerns about, and strong objections to, the processes the Harbor District has chosen to date. The Tribe joins other Tribes,⁸ other entities in the

⁷ See: <https://www.epa.gov/community-port-collaboration/ports-primer-71-environmental-impacts>, <https://www.epa.gov/community-port-collaboration/environmental-justice-primer-ports-impacts-port-operations-and-goods>, <https://envhealthcenters.usc.edu/wp-content/uploads/2016/11/Impact-Project-Ports-issue-brief-2012-1.pdf>, <https://oceancconservancy.org/blog/2021/09/23/zero-carbon-ports/>, https://ww2.arb.ca.gov/sites/default/files/2021-11/SPBP_Congestion_Anchorage_Emissions_Final.pdf Accessed 8.23.2023

⁸ See: <https://www.times-standard.com/2023/08/20/my-word-harbor-district-should-reconsider-crowley-deal/> Accessed 8.24.2023

region,⁹ and reporting¹⁰ on these issues, and calls for improvements. These comments are provided to ensure that no further harms accrue, and that course corrections may work to accelerate the clean energy transition, wind energy industry cluster and related development here and elsewhere, and that equitable economic, social, and environmental benefits accrue within Tribal Nations and this region. For more information, please contact Heidi Moore-Guynup, the Tribe's Community Development and Strategic Partnerships Director at hguynup@bluelakerancheria-nsn.gov.

Sincerely,



Claudia Brundin
Tribal Chairperson
Blue Lake Rancheria

Cc:

The Honorable Blue Lake Rancheria Tribal Council
The Honorable Members of the Northern California Tribal Chairpersons Association
The Honorable Aaron Newman, 1st Division Harbor Commissioner
The Honorable Greg Dale, 2nd Division Harbor Commissioner
The Honorable Stephen Kullmann, 3rd Division Harbor Commissioner
The Honorable Craig Benson, 4th Division Harbor Commissioner
The Honorable Patrick Higgins, 5th Division Harbor Commissioner
The Honorable Steve Madrone, Humboldt County Supervisor
The Honorable Mike Wilson, Humboldt County Supervisor
Jennifer Luccesi, Executive Officer, California State Lands Commission
Kate Hucklebridge, Executive Director, California Coastal Commission
David Hochschild, Chair, California Energy Commission
The Honorable Jared Huffman, U.S. Congressman, 2nd District, California
The Honorable Mike McGuire, California Senator, District 2; Senate Majority Leader
The Honorable Jim Wood, California Assemblymember, 2nd Assembly District
Walter Musial, Principal Engineer, National Renewable Energy Laboratory

Attachment:

Redwood Region Climate and Community Resilience Hub Comment Letter and Enclosures

⁹ See: <https://lostcoastoutpost.com/2023/may/10/guest-opinion-responsible-offshore-wind-developmen/>
Accessed 8.24.2023

¹⁰ See: <https://www.times-standard.com/2023/07/26/crowley-the-offshore-wind-terminal-operator-accused-of-sex-trafficking/>, <https://lostcoastoutpost.com/2023/jul/14/humboldt-bay-port-development/> Accessed 8.24.2023



August 25, 2023

Rob Holmlund
Development Director
Humboldt Bay Harbor, Recreation and
Conservation District
P.O. Box 1030
Eureka, California 95502-1030
districtplanner@humboldtbay.org

Re: Notice of Preparation of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

Dear Director Holmlund:

On behalf of the Redwood Region Climate and Community Resilience Hub (CORE Hub)¹ and the following entities from the Offshore Wind Community Benefits Network: Bear River Band of the Rohnerville Rancheria, Blue Lake Rancheria, California Center for Rural Policy, Changing Tides Family Services, College of the Redwoods, Humboldt County Association of Governments, Hoopa Valley Tribe, Northern California Indian Development Council, Peninsula Community Collaborative, Peninsula Community Services District, Redwood

¹ The CORE Hub was established by regional leaders in climate resilience, mitigation, and adaptation and is based at Humboldt Area and Wild Rivers Community Foundation, serving California Counties of Humboldt, Del Norte, and Trinity, as well as Curry County in Oregon. The service area also includes 26 Tribal Nations and Indigenous Territories.

Community Action Agency, Selkie Land + Sea, Sierra Club North Group of the Redwood Chapter, Surfrider Foundation Humboldt Chapter, we submit these comments on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project or Wind Terminal) released on June 26, 2023 by the Humboldt Bay Harbor, Recreation and Conservation District (Harbor District). We recognize the significant role the Project plays in meeting the State's climate goals and are committed to working with the Harbor District in partnership on this important effort.

I. Introduction

As a community deeply connected to and reliant on the natural world, we are profoundly concerned about the impacts of climate change, both globally, regionally, and in Humboldt Bay. We support urgent and immediate action to decarbonize our energy systems and act on climate change and are committed to working in partnership with the Harbor District to develop a Wind Terminal that includes robust community benefits, addresses mitigation needs, and uses best available technology for achieving zero-emission goals to maximize climate benefits. Project development must protect against increased sex trafficking, sexualized violence, or Missing and Murdered Indigenous Persons (MMIP) risks, prevent degradation of fisheries and the environment, and deliver infrastructure and economic benefits to Tribal Nations and local communities. Key to achieving these goals is a thoughtful, transparent, public-facing CEQA process that incorporates community, human, cultural, and environmental needs, and analyzes the full Project (including the lease or option to lease agreement between the Harbor District and the future leaseholder/developer/operator of the Wind Terminal) and incorporates input, expertise and traditional knowledge from Tribal Nations, together with other rigorous science. We believe the development of this Wind Terminal and its ability to attract significant funding is dependent on achieving these goals and will be catalytic to securing additional investment and competitive public funding dollars for the region. We crafted the comments below with the intention to support the Harbor District to achieve a Project aligning with this vision and values. This comment letter includes (a) a high-level overview of our goals for this Project and recommendations for the CEQA process, (b) technical comments on the NOP prepared by Shute Mihaly & Weinberger, and (c) a memorandum prepared by Shute Mihaly & Weinberger dated, on the issue of lease timing and environmental review.

I. Values and Goals

We see the Project as an opportunity to disrupt past cycles and foster a collaborative approach in ensuring that climate-combatting actions are done right from the beginning. Our region has endured devastating boom-and-bust cycles associated with extractive industries like mining, logging, and dams. These industries exploited our natural resources and people to benefit those outside our region, resulting in significant environmental damage, a legacy of underinvestment, and unfulfilled promises of restoration. Local Tribal Nations experienced land theft and state-sanctioned genocide, and today, continue to face some of the highest rates of MMIP in the nation. Chronic underinvestment has further exacerbated the lack of basic infrastructure and services, including housing, electricity, healthcare, broadband, roads, public

transportation, and childcare. These needs are deeply visible across the region, especially on the Samoa Peninsula, the designated Project site.

In the last eighteen months, the CORE Hub brought together leaders across the region to discuss potential community benefits associated with offshore wind development. Over the course of this process, it became clear that the Wind Terminal on the Samoa Peninsula, the first “staging and integration” port serving California’s floating offshore industry, would profoundly transform our region. There are a number of potential benefits of the Project, including contributing to the State’s climate and energy resilience goals, regenerative economic and community development, resourcing the Harbor District’s important work, clean-up of the Wind Terminal site, strong Tribal leadership, and an innovative environmentally, socially and culturally terminal that could help to establish an offshore wind industry that is sustainable and responsive to the communities it is part of. This transformation also includes challenges from air and water quality issues and infrastructure impacts to surrounding Tribal Nations, communities, and fisheries as well as increased risk of MMIP and sex trafficking with the influx of new workers and maritime activity. Meaningful and ongoing public engagement and Tribal consultation are important on such an historic project. Our comments are informed by extensive conversations and engagement, as well as the oral comments that were made by members of the public at the public scoping meeting held by the Harbor District on July 12, 2023.

We believe that a state-of-the-art Wind Terminal begins with a firm commitment to protecting the human and natural environment and addressing climate change. By committing to building a zero-emission terminal from the start, we are better equipped to protect our communities² and the environment from air and noise pollution and water contamination from vehicles and ships. In addition, the Wind Terminal must be designed, built, and operated as sustainably and safely as possible to protect environmental and cultural resources, including Tribal cultural landscapes, and address significant community infrastructure needs,³ particularly for portside communities. Preservation of local Tribal, commercial, and recreational fisheries is critical to our region’s physical and economic health. We believe in ensuring the Project moves forward in strong relationship with the environment which can be championed by a community-led adaptive management committee. It is critical that the Project include strong measures to prevent MMIP, meaningful Tribal consultation and ongoing communication over the life of the

² California’s Coastal Commission has found that the District’s terminal expansion and future operations in support of offshore wind energy generation would cause additional pollution and impacts, including additional air pollution burdens that may occur from vehicle emissions on land and vessel emissions offshore and loss of lower-cost recreational boating opportunities. Burdens such as increased air, water, noise and light pollution would not only affects residents, but also workers and visitors who might recreate near port areas. Near the Port, there are several low-income communities and populations with additional sensitivities such as asthma and cardiovascular disease “that may be exacerbated with additional pollution impacts in the area that may occur from Humboldt Harbor District expansion and future operations to support offshore wind energy generation.” See Coastal Commission Consistency Determination Staff Report, page 117.

³ A legacy of underinvestment has left the region with significant needs. These range from an existential and growing housing shortage, severe healthcare and childcare gaps, acute electricity stability issues, aging water treatment systems and lack of broadband access. Many of these needs are felt particularly by portside communities, members of tribal nations, communities of color and low-income communities.

Wind Terminal, transparency, innovative governance structures, and community decision-making. Our values underscore the significance of ensuring that the Wind Terminal development leads to good careers and leadership opportunities for local residents, members of Tribal Nations, and underrepresented communities, as well as opportunities for Tribal ownership and meaningful Tribal economic benefits. Furthermore, we emphasize the need for a community needs agreement (CNA)⁴ for the Wind Terminal prior to the Harbor District signing and approving the lease, and a lease that includes strong community commitment and benefit provisions.

II. CEQA Specific Comments.

The purpose of an NOP is to solicit guidance from members of the public and reviewing agencies about the scope and content of environmental information that should be included in the environmental impact report (EIR).⁵ However, to effectively solicit such guidance, the NOP must provide adequate and reliable information regarding the nature of the Project and its probable environmental impacts. Crucially, the Draft Environmental Impact Report (DEIR) must be released before the Wind Terminal lease or option to lease is signed, so the public and decision-makers can understand and address the Project's environmental impacts, consider a full range of mitigation measures and alternatives, and ensure the future Wind Terminal leaseholder/developer/operator is committed to implementing all measures or Project design changes/commitments before binding commitments are made. Notably, we are concerned that the current proposed sequencing has underlying legal vulnerabilities that could lead to Project delays and prevent us from meeting our climate goals in time.

As proven by many thoughtful oral comments at the July 12 Harbor District Scoping Meeting on the Project, our community is deeply invested in ensuring the best, long-term outcomes for the environment as the Project progresses under CEQA. We will rely on the DEIR for a thorough assessment of the environmental impacts of the proposed Project. Therefore, we have identified key issues that must be studied in the DEIR, as well as critical process actions to be taken by the District. These specific issues and actions include:

- Prepare and certify the EIR before leasing the Project site or entering into a binding option to lease the site.
- Carefully follow CEQA's procedural requirements and analyze the "whole of the action," which includes any and all actions associated with the Wind Terminal development.
- Include in the DEIR a thorough analysis of all potentially significant environmental impacts, specifically including: protecting Tribal cultural resources, preserving Tribal cultural landscapes, ensuring safety, protecting biological resources, minimizing infrastructure impacts, abating air quality and greenhouse gas emissions, alleviating

⁴ Co-Developed community Benefits packages to benefit communities of concern were a key expectation of the Coastal Commission. For many in local fisheries, Tribal Nations, and other constituents, it is unclear that an agreement around the Wind Terminal will bring benefits, rather than addressing impacts, so we use the term "Community Needs Agreements")

⁵ CEQA Guidelines § 15375; *see also* CEQA Guidelines § 15082.

maritime congestion, addressing impacts of Project related traffic on surrounding communities, minimizing aesthetic impacts, protecting water quality, minimizing land use and operational impacts, minimizing impacts to fisheries and Bay industries, and protecting recreational opportunities in and around Humboldt Bay.

- Ensure safe multimodal travel and accessibility on the Peninsula including to recreation sites, and analyze transportation impacts to local Peninsula communities using present day-conditions, as a baseline.
- Develop a Project design that incorporates best available technology to achieve a zero-emission Wind Terminal.
- Conduct meaningful public engagement and ensure community involvement and leadership throughout the Project development and CEQA process early and often.
- Commit to MMIP prevention and worker safety in the future lease terms and Project approvals.
- Preserve Tuluwat Island, in consultation with the Wiyot Tribe from impacts (visual, noise, glare, air and water quality, and other potential environmental degradation).
- Update the Wind Terminal Project Objectives to include objectives of the larger community. Specific Objectives include:
 - Safeguard the community and workers from construction and operations-related sex trafficking and sexualized violence, in recognition of the devastating toll of Missing and Murdered Indigenous Persons and history of trafficking in this region, as well as documented sexual assault and harassment issues in the maritime industry.
 - Create workforce and economic opportunities for residents of the region that include high-road careers, training, educational and leadership opportunities for local residents, members of Tribal Nations, and underrepresented communities, as well as opportunities for Tribally owned enterprises.
 - Preserve local Tribal, commercial, and recreational fishing, and avoid and minimize impacts on fisheries and Bay aquaculture businesses.
 - Protect the natural environment, create, and preserve green space, and ensure equitable access and recreation for surrounding communities.
 - Provide maximum infrastructure benefits, such as transportation, electricity, and broadband, for local communities.
 - Engage Tribes meaningfully in all aspects of Project design, review, construction, and operations.
 - Use the best available technology to achieve a Zero-Emission Wind Terminal by 2030, including zero-emission operational equipment, berthing for vessels, and zero-emission engine requirements for drayage trucks accessing or calling at the Wind Terminal.
- Identify and analyze a wide range of alternatives in the DEIR, including options that incorporate community objectives.

We appreciate your attention to this letter and related attachments. The proposed Wind Terminal offers a chance to redefine climate-positive development for our region and prioritize community and environmental wellbeing. We are pleased to work in partnership with the Harbor District as we embark on the CEQA process.

Thank you for your dedication to the climate and our community's future.

Sincerely,

**Josefina Frank, Tribal Chairwoman
Bear River Band of the
Rohnerville Rancheria**

**Claudia Brundin, Chairperson
Blue Lake Rancheria**

**Dawn N. Arledge, Executive
Director
California Center for Rural
Policy**

**Kerry Venegas, Executive Director
Changing Tides Family Services**

**Keith Flamer, President
College of the Redwoods**

**Katerina Oskarsson, Executive in
Residence
CORE Hub**

**Beth Burks, Executive Director
Humboldt County Association of
Governments**

**Joe Davis, Chairman
Hoopa Valley Tribe**

**Madison Flynn, Chief
Administrative Officer,
Northern California Indian
Development Council**

**Carol Vander Meer, Facilitator
Peninsula Community
Collaborative**

**Leroy Zerlang, Director
Peninsula Community Services
District**

**Val Martinez, Executive Director
Redwood Community Action
Agency**

**Mica O'Herlihy, Owner/Operator
Selkie Land and Sea**

**Robin Gray-Stewart, Marine
Chair North Group of the
Redwood Chapter Sierra Club**

**Jessie Misha, Chair
Surfrider Foundation Humboldt
Chapter**

**Daniel Chandler, Steering
Committee Member
350 Humboldt**

With copies to:

1st Division Commissioner Aaron Newman
2nd Division Commissioner Greg Dale
3rd Division Commissioner Steven Kullman
4th Division Commissioner Craig Benson
5th Division Commissioner Patrick Higgins
Executive Director Larry Oetker

Attachments:

- A. Technical comments on the Notice of Preparation from Shute, Mihaly & Weinberger dated August 25, 2023
- B. Memorandum dated August 25, 2023 from Shute, Mihaly & Weinberger on CEQA and Option to Lease issue

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MEMORANDUM

TO: Redwood Region Climate and Community Resilience Hub (CORE Hub)¹

FROM: Winter King

DATE: August 25, 2023

RE: Technical Comment on the Notice of Preparation of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project

Shute, Mihaly & Weinberger LLP has prepared these technical comments on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project or Wind Terminal), released on June 26, 2023 by the Humboldt Bay Harbor, Recreation and Conservation District (Harbor District). These comments identify issues that the Harbor District must address in designing the Project, engaging the community, and preparing the DEIR to comply with the California Environmental Quality Act (CEQA).

I. The Harbor District must prepare and certify the EIR before leasing the Project site or entering into a binding option to lease the site.

Per the District's website² and comments made at the Public Scoping meeting, the Harbor District and Crowley Wind Services, Inc. (Crowley) are currently negotiating an option agreement, by which the District would grant Crowley the right to lease Port land

¹ The CORE Hub was established by regional leaders in climate resilience, mitigation, and adaptation and is based at Humboldt Area and Wild Rivers Community Foundation, serving California Counties of Humboldt, Del Norte, and Trinity, as well as Curry County in Oregon. Its service area also includes 26 Tribal Nations and Indigenous Territories.

²

https://humboldtbay.org/sites/humboldtbay.org/files/HBHRCD_Crowley_PressRelease_v2%20ddc_2.pdf

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for the development and operation of the Wind Terminal. According to the exclusive negotiating agreement recently posted on the District's website³, the lease will be an exhibit to the option agreement and must contain initial plans for development sufficient to obtain entitlements. Once the option agreement is approved by the Harbor District, Crowley will have the right to enter into the lease under the terms of the agreement.

Per statements from the District and the timeline contained in the NOP, the District is planning to execute the option agreement with Crowley before certifying the EIR for the Project. This would plainly violate CEQA, as described below and in Exhibit B to the Network's NOP comment letter.

CEQA applies to discretionary projects carried out or approved by public agencies, and specifically includes leases. See CEQA Guidelines § 21080(a). Under CEQA, a "Project" is defined as "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment," which specifically includes "the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies." See CEQA Guidelines § 21065; see also CEQA Guidelines §§ 15378(a)(3), 15377.

California case law is also clear that leases trigger CEQA. In *World Business Academy v. California State Lands Commission*, (2018) 24 Cal.App.5th 476, the court found there was "no dispute" that a replacement lease for continued operation of a nuclear powerplant was a "project" subject to CEQA. In *City of Orange v. Valenti*, (1974) 37 Cal.App.3d 240, the court stated that it was "inescapable" that leasing a building was a "project" under CEQA.

CEQA's environmental review process must occur *before* project approval. The CEQA Guidelines state that every lead agency "shall consider a final EIR or negative declaration" "[b]efore granting any approval of a project subject to CEQA." See CEQA Guidelines § 15004. The CEQA Guidelines also state that, for public projects, agencies may not undertake actions concerning the project "that would have a significant adverse effect or limit the choice of alternatives or mitigation measures before completion of CEQA compliance." See CEQA Guidelines § 15004(b)(2).

In 2008, the California Supreme Court addressed the issue of environmental review timing in the context of a joint "public-private" project proposed in the City of West Hollywood. *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116. In that case, the City had executed a property acquisition and development agreement with a private developer without conducting environmental review. The Court applied "the

³ https://humboldtbay.org/sites/humboldtbay.org/files/Agenda%20Packet%2010-27-2022_0.pdf

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general principle that, before conducting CEQA review, agencies must not ‘take any action’ that significantly furthers a project ‘in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.’” *Id.* at 138. Applying this test to the specific facts of that case, the Court held that the City had committed itself to a definite course of action regarding the project before conducting environmental review, and thus had violated CEQA.⁴

Here, the option agreement described in the exclusive negotiating agreement is similar to the agreement addressed in *Save Tara*. It will commit the Harbor District to leasing Port Property to Crowley for the express purpose of developing the Project, and the initial plans for that development will be part of the agreement. Thus, the option agreement and attached lease will certainly commit the District to a definite course of action and foreclose alternatives and mitigation measures. As a result, the District must complete its environmental review for the Project prior to entering the option agreement and authorizing the lease.

The CEQA memorandum prepared by SMW and included as Exhibit B to the Network letter further delineates the requirements of CEQA in relation to the lease between the Harbor District and Crowley, including the requirement to prepare and certify the EIR in advance of executing the lease.

II. The Harbor District must carefully follow CEQA’s procedural requirements and analyze the “whole of the action.”

CEQA requires that an EIR provide a complete picture of the existing conditions of the Project in addition to providing a detailed Project description. According to the CEQA Guidelines, “project” means the whole of an action that has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. In the case of this Project, the “whole of the action” clearly goes beyond just the construction of the Wind Terminal.

First and foremost, the Harbor District’s lease with the leaseholder/developer/operator is part of this Project, and the leaseholder/developer/operator will be responsible for implementing any mitigation measures identified in the DEIR. The NOP fails to

⁴ See also *California Farm Bureau Federation v. California Wildlife Conservation Board* (2006) 143 Cal.App.4th 173, 191-82 (acquisition of conservation easement by Department of Fish and Game required CEQA review where easement required conversion of 235 acres of agricultural land to wetlands and other habitat); *McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District* (1988) (transfer of property to public agency required environmental review because property contained PCBs and, under federal law, remediation activities were mandatory).

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mention that the Project will largely be undertaken by a private developer, Crowley Wind Services, Inc. The DEIR cannot omit this information. The leaseholder/developer/operator will also be responsible for designing and building the Project as described in the DEIR. Therefore, the DEIR's Project Description must include an explanation of the developer/operator/leaseholder's role, and the EIR's Mitigation Monitoring and Reporting Program (MMRP) must identify the leaseholder/developer/operator as the entity responsible for implementing all measures and ensuring installation of all design features identified in the DEIR.

In addition to recognizing the lease as part of the Project, the DEIR must also clearly and accurately describe all other actions associated with the Wind Terminal, including:

- Demolition of any existing buildings or facilities – both on land and in the water (docks, piers).
- Relocation or reconstruction of any existing facilities, whether those facilities are being relocated within the delineated Project Area or outside of it, including:
 - Seaweed farms/shellfish nursery/mariculture sites
 - Scientific and academic testing sites
 - Commercial fishermen storage area and small boat repair facility
 - Hagfish holding facility
- Improvements or modifications to any existing facilities remaining in the Project Area.
- New facilities outside of the Project Area that are directly related to the construction or operation of the Wind Terminal or are a result of the Project, including:
 - Upgrades to the existing electrical substation and/or construction of a new substation
 - Construction of the landfill solar array
 - Modernizing the existing dredge material dewatering area and/or construction of a new dewatering area
 - Creation of a new habitat restoration area
- Ongoing operations at the Wind Terminal and in Humboldt Bay that are related to offshore wind turbines: receipt of materials, manufacturing, fabrication, staging, storage, assembly, transportation, utilization of waterways and channels for ingress and egress of turbines, storage of turbines in Humboldt Bay Harbor, and

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wind platform and turbine installation, platform/turbine repair and decommissioning, and use of heavy cargo vessels, among other activities.

- Ongoing operations at the Wind Terminal that are not related to offshore wind, but are related to other maritime activities that will be enabled by developing enhanced capabilities at the Wind Terminal. These activities include additional cargo handling, materials storage and processing, expansion of fishing facilities and processing, or other similar activities.

While the Harbor District has described the Wind Terminal as distinct and separate from the Humboldt Bay Offshore Wind Energy Development project and the development and operation of other wind energy areas, clearly a purpose of the Wind Terminal is to support the development and operation of offshore wind projects. As a result, the Harbor District must consider if CEQA requires that the DEIR for the Wind Terminal consider the potential environmental impacts of that offshore development, too. In addition, Crowley, the prospective leaseholder, will also be engaging in vessels operations and other maritime activities in connection with constructing and maintaining offshore wind projects, which is not discussed in the NOP. These activities include the assembly, installation, and operation of offshore wind floating platforms, use of large heavy cargo vessels and providing crewing and marshaling services in the Pacific waters. The EIR cannot ignore these impacts altogether.

Failure to analyze the whole of the Project would violate CEQA's prohibition on "piecemealing," which is when a lead agency divides a single project into distinct pieces, thereby "avoid[ing] the responsibility of considering the environmental impacts of the project as a whole." *Orinda Ass'n v. Bd. of Supervisors*, 182 Cal.App.3d 1156, 1171 (1985). This prohibition ensures that "environmental considerations do not become submerged by chopping a large project into many little ones – each with a minimal potential impact on the environment – which cumulatively may have disastrous consequences." *Laurel Heights Improvement Association v. Regents of University of California* (1988) 47 Cal.3d 376, 396.

Under CEQA, the term "'project' means the whole of an action." *POET, LLC v. State Air Res. Bd.*, 12 Cal.App.5th 52, 73 (2017) ("POET II") (quoting CEQA Guidelines § 15378(a)). This "broad interpretation of 'project' . . . is designed to provide the fullest possible protection of the environment within the reasonable scope of CEQA's statutory language." *Id.* If an activity is part of the "whole of an action," the refusal to disclose and evaluate it in the EIR constitutes illegal piecemealing in violation of CEQA. *Id.* at 76.

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Courts have developed a liberal test for evaluating when multiple “acts are part of the whole”: Activities are part of the same project when they are “related to each other.” *Id.* at 74. A sufficient relationship exists when activities are “among the ‘various steps which taken together obtain an objective’” or when they are “part of a coordinated endeavor.” *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora*, 155 Cal.App.4th 1214, 1226 (2007) (citing *Ass’n for a Cleaner Env’t v. Yosemite Cnty. Coll. Dist.*, 116 Cal.App.4th 629, 639 (2004)). It exists when one activity “legally compels or practically presumes” another. *Banning Ranch Conservancy v. City of Newport Beach*, 211 Cal.App.4th 1209, 1223 (2012). And it exists when activities are “related in 1) time, 2) physical location, and 3) the entity undertaking the action [sic].” *Tuolumne*, 155 Cal.App.4th at 1227.

Here, the Wind Terminal and offshore wind energy developments appear to be “among the ‘various steps which taken together obtain an objective’”—indeed, the primary purpose of the Project is to help construct and operate the offshore wind projects in Humboldt and elsewhere, and future offshore development in the Pacific. And the Wind Terminal, Crowley’s support operations, and offshore wind energy development are happening at the same time in the same physical location. The Harbor District must ensure the DEIR defines the Project adequately to include the “whole of action” to avoid future allegations of piecemealing.

III. The Wind Terminal Project Objectives must be updated to include objectives of the larger community.

The Harbor District has repeatedly stated its belief that the Wind Terminal project will provide significant benefits to the larger community. To ensure that this belief becomes a reality, the desired benefits and outcomes must be formalized in the Project Objectives so that the Project, or any suitable alternative, will be designed to achieve them. To that end, the Harbor District must modify the project objectives to include:

- Safeguard the community from construction- operations-related sex-trafficking and sexualized violence, in recognition of the devastating toll of Missing and Murdered Indigenous Persons in this region.
- Create workforce and economic opportunities for residents of the region that include high-road careers, training, educational and leadership opportunities for local residents, members of tribal nations, and underrepresented communities, as well as opportunities for Tribally owned enterprises and ownership.
- Preserve local Tribal, commercial, and recreational fishing and avoid and minimize impacts on fisheries and Bay aquaculture businesses.

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- Protect the natural environment and create and preserve green space, equitable access, and recreation for surrounding communities.
- Provide maximum infrastructure benefits, such as transportation, electricity and broadband, for local communities.
- Engage area Tribes meaningfully in all aspects of Project design, review, construction, and operations.
- Protect Tuluwat Island, in consultation with the Wiyot Tribe, from impacts (e.g., cultural landscape, visual, light, glare, noise, and air quality impacts) and degradation.
- Create a Zero-Emission Wind Terminal by 2030, including zero-emission operational equipment, berthing for vessels, and zero-emission engine requirements for drayage trucks accessing or calling at the Wind Terminal.

This last objective is especially critical for protecting nearby communities from air pollution from vehicles and preventing water contamination, while achieving maximum climate benefits. Notably, a commitment to developing a zero-emission facility will also be vital to be competitive for current State and Federal grants and eligibility for large scale public investments. A shared aspiration of a safe, zero-emission, state-of-the art Wind Terminal that is a world-class model could generate investment, partnership, and accelerated support.

IV. The DEIR must include a thorough analysis of all potentially significant environmental impacts.

As identified in the NOP, this Project has the potential to impact every environmental category across the board. Even though the goal of the Project is to support the development of renewable energy, the analysis of its direct and indirect environmental impacts must be thorough and robust.

To begin this analysis, the DEIR must include a detailed description of the Project's environmental setting, which provides "the baseline physical conditions by which a lead agency determines whether an impact is significant." CEQA Guidelines § 15125(a). "Without a determination and description of the existing physical conditions on the property at the start of the environmental review process, the EIR cannot provide a meaningful assessment of the environmental impacts of the proposed project." *Save Our Peninsula Committee v. Monterey Cnty. Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 119. While the NOP did not contain any description of these "baseline" conditions, the DEIR must be sure to include current baseline environmental conditions, including for Tuluwat Island, at the time of NOP issuance (2023). This will be particularly important

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for the transportation, water quality, and air quality analyses – the DEIR must examine existing conditions as of 2023 rather than relying on any historical environmental baseline for when the Samoa pulp mill was operational.

The DEIR must also analyze *all* of the potentially significant impacts of the entire Project. The NOP did not identify the probable environmental impacts of the Project, so this letter cannot provide detailed input on this content. Instead, we have identified several subject areas that are of concern. We will also be examining the DEIR closely to ensure that a proper baseline has been established, impacts are adequately assessed, and mitigation measures are robust and effective to reduce impacts to the greatest degree possible. The key issue areas are:

- **Tribal Cultural Resources.** The area that will be impacted by this Project includes the Tribal lands of the Bear River Band of the Rohnerville Rancheria, Big Lagoon Rancheria, Blue Lake Rancheria, Cher-Ae Heights Indian Community of the Trinidad Rancheria, Elk Valley Rancheria, Hoopa Valley Tribe, Karuk Tribe, Nor Rel Muk Wintu Nation, Resighini Rancheria, Tolowa Dee-ni' Nation, Tsungwe Tribe, Wiyot Tribe, and Yurok Tribe. Tuluwat Island in Humboldt Bay is sacred to the Wiyot people because it is the center of their world. It is also the site of their World Renewal Ceremony. In 1860, a small group of white settlers interrupted the ceremony and murdered nearly 100 women, children and elders. Today, the site has been returned to the Wiyot Tribe and they are in the process of remediating it and preserving its cultural traditions.⁵ The Blue Lake Rancheria has protected certain cultural resources on the Samoa Peninsula and in other areas around the Bay. There are specific places within Humboldt Bay that are inappropriate for future development to support offshore wind or otherwise, due to their cultural significance. The DEIR must incorporate consultation with Tribal governments,⁶ elected leaders and staff, a complete assessment of Tribal cultural resources that could be potentially impacted by the Project and plans to avoid and minimize disturbance to the greatest degree possible. The DEIR must also disclose if the Project would impact water levels and mud composition in the Bay and, if so, what impact that could have on buried cultural resources and human remains.

⁵ chrome-extension://efaidnbmnnibpcapcglclefindmkaj/https://semspub.epa.gov/work/HQ/100001200.pdf f. "Environmental Stewardship and Cultural Preservation on California's Coast, The Tuluwat Village Site on Indian Island in Humboldt Co., CA, EPA, March 2018.

6 Pursuant to AB 52, public agencies are required to consult with California Native American Tribes that are on the Native American Heritage Commission's (NAHC) consultation list that are traditionally and culturally affiliated with the geographic area of a proposed project subject to CEQA, when Tribes request formal consultation.

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Either the Project or adopted mitigation must also create supports/methods for protection of Tuluwat Island (National Historic Landmark) from new and legacy industrial contaminants after significant cleanup efforts and land use goals by the Wiyot Tribe; protection from visual, air and water quality, noise and aesthetic impacts; and other significant impacts.

The Tribal Consultation processes followed by the California Coastal Commission, beginning on page 104 in their March 17, 2022 staff report related to BOEM's offshore lease, included consultation on potential cultural and ethnographic resources that could be unearthed during implementation of future offshore wind facilities and other potential impacts. These same issues and processes should be explored during consideration of the Wind Terminal.

Inadvertent discovery protocols must be included at every instance of ground disturbance, and a protocol for communication directly with Tribes in the event of an unanticipated discovery, as well as post-discovery process for evaluation of a discovery, must be created. Tribal expertise and jurisdictional authorities must be meaningfully included in this, and other environmental analysis, to ensure that the Wind Terminal process incorporates Tribal science, traditional knowledge, and cultural practices so that this region's unique Tribal cultural resources can be protected.

- **Tribal Cultural Landscapes.** The Wind Terminal is a huge project located in a visually prominent area on a peninsula of land between Humboldt Bay and the Pacific Ocean. The Bay is an important cultural landscape and ecosystem for many Tribes, particularly the Wiyot peoples and Wiyot-area Tribes. The DEIR will need to assess the visual, noise, and other aesthetic impacts on Tribal cultural landscapes, considering new buildings, cranes, high mast light poles, and other heavy industrial equipment and facilities. In particular the DEIR must analyze visual and other aesthetic impacts to Tuluwat Island, an important cultural and environmental site for the Wiyot People and home to the Wiyot Tribe's annual World Renewal Ceremony.⁷ Furthermore, the Yurok Tribe has indicated that changes in viewshed from high elevation sacred sites will impact their Tribal cultural landscapes. The DEIR must contain visual simulations of the Project (and Project Alternatives) from various vantage points, including from Tuluwat Island, the coast and from higher-elevation sites not on the coast, so that proper analysis and conclusions can be reached.
- **Safety.** Given the historical and present-day crisis of sex trafficking and Missing and Murdered Indigenous People (MMIP) in the region, California and the United States, and documented challenges with sexual assault and harassment in the

⁷ <http://www.wiyot.us/186/Tuluwat-Project>

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maritime industry, special attention and strong protocols are needed to ensure the safety of Native and at-risk people in the region. California has the fifth largest MMIP caseload in the United States, and Northern California is the epicenter for these cases.⁸ A 120-year survey of California MMIP cases found that one in five of the state's MMIP cases are from Humboldt County.⁹ Since the Gold Rush, and continuing through the timber rush, land rush, water rush, and green/cannabis rush, Tribes in California have lost countless women, girls, and two-spirit individuals to violence, most frequently targeted by non-local individuals or contract workers. The Wind Terminal projects will bring hundreds of workers from outside the region to work on a range of projects. While this development is potentially good for the local economy and will contribute to addressing the climate and energy catastrophes, there is a great risk of harm to Native and other at-risk people, particularly women and girls. The Harbor District must work with regional Tribal governments and other constituencies to identify and mitigate MMIP impacts.

- **Biological Resources.** Impacts to biological resources on, and in the vicinity of, the Project site, and in the Bay must be studied. Humboldt Bay, California's second-largest estuary, is surrounded by an extraordinary dune ecosystem, and feeds into the freshwater streams and rivers which support production of anadromous salmonids. Construction activities, and notably Crowley's vessel support operations, will each impact marine mammals, fisheries and other resources. Increased dredging will cause additional impacts. Many of these resources—marine mammals such as whales, sea lions, seals and dolphins, a variety of seabirds, and fish such as salmon, steelhead, green sturgeon, smelt, eulachon, and eel—have been identified as culturally important in other processes. Due to current levels of low activity at the site and proximity to ever-evolving coastal conditions, portions of the site and site-adjacent areas may be in a natural or semi-natural state with a resurgence of flora/fauna, wetland habitat, and Environmentally-Sensitive Habitat Areas (ESHA). An accurate assessment of existing conditions and a thorough analysis of the Project's potential impacts to biological resources will be crucial to determining how best to minimize them. Mitigation measures based in sound science along with a clear implementation plan and strict accountability will be critical, as will an adaptive management plan with clear performance standards created and enforced by an adaptive management committee comprised of those with Tribal, scientific and local lived experience of the Bay. Specific biological resources that must be analyzed include: *Sulcaria spiralifera* (formerly *Bryoria spiralifera*, changed in 2021), eelgrass

⁸ <https://www.sovereign-bodies.org/tokeeskuysooney-wo-che>

⁹ <https://www.times-standard.com/2020/08/23/2588961/>

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habitat, special status and other seabirds, Pacific Lamprey, marbled mullet, and marine mammals.¹⁰ The DEIR must also analyze impacts to steelhead and cutthroat trout, coho and Chinook salmon, along with all salmonid species migrating to the rivers within indigenous and Tribal lands in the greater region.

- **Infrastructure Impacts.** Communities immediately surrounding the port, including Manila, Samoa, Fairhaven, and Eureka experience deteriorating road conditions, which will be worsened by traffic serving the Wind Terminal. In addition, communities and Tribal Nations along highways 101 and 299 will also be impacted by increased traffic and road closures due to traffic accidents by vehicles hauling heavy turbine equipment to the Wind Terminal. Conduct a full analysis of the local impacts that will be caused by the construction and operation of the Project using 2023 as the baseline conditions.
- **Truck, Vehicle, and Equipment Efficiency and Emissions.** Conduct a full assessment of the air quality and safety impacts caused by truck traffic that will be brought through the community en route to the Wind Terminal. Heavy-duty trucks are the largest source of diesel particulate matter, a toxic air contaminant that is directly linked to a number of adverse health impacts. The DEIR will need to cover the air quality and greenhouse gas emission impacts of transportation. As discussed above, the Project must either be designed or mitigated to ensure that the leaseholder/developer/operator utilizes a zero-emission fleet, in both deliveries to the site as well as on-site vehicles and equipment. This Wind Terminal will be used for manufacturing and assembling unique products, and it is likely that the procurement of materials will also be a strategic and deliberate process. The DEIR must also mitigate the Project's impacts by requiring the leaseholder/developer/operator to include provisions in its contracts with suppliers and contractors requiring the use of clean fleets, truck electrification, on-site charging, and other creative, innovative measures to create the least impactful transportation environment possible, together with opportunities for electrification for local communities. All transportation or greenhouse gas related mitigation

¹⁰ “Future development in the Humboldt Harbor District has the potential to affect eelgrass either directly through redevelopment of Redwood Marine Terminal 1, or indirectly due to the need for a wider navigation channel and increased need for dredging in Humboldt Bay. Depending on their siting, cable landings may also impact eelgrass habitat. Future development, will need to be sited, constructed and operated to ensure that these habitats are maintained, enhanced and where feasible, restored. Mitigation will be expected for any impacts to eelgrass in Humboldt Bay. Because of the biological significance of eelgrass and other nearshore and coastal habitats, these areas are afforded special protection under the Coastal Act.”

(<https://documents.coastal.ca.gov/assets/upcoming-projects/offshore-wind/Th8a-4-2022%20adopted%20findings.pdf>, p 50)

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measures must be aggressive, measurable, effective, and benefit the communities immediately adjacent to the Wind Terminal to the greatest degree possible.

- **Maritime Transportation Emissions.** The maritime industry contributes measurably to state, national, and global greenhouse gas emissions. Even when ships are idling at berth, the vessels' smaller diesel auxiliary engines and boilers stay in operation and often run continuously during a vessel's stay at port. This particular source of pollution disproportionately affects people who live near freight hubs, such as ports. As discussed above, the Project must be designed or mitigated to use a zero-emission maritime fleet and provide adequate electric shore power. The California Air Resources Board (CARB) recently approved "Ocean-Going Vessels At Berth Regulations" (under review by US EPA) already requires much of this infrastructure, with terminal and port operators responsible for compliance.¹¹ The DEIR will need to cover the air quality and greenhouse gas impacts of increased maritime shipping and transportation.
- **Maritime Transportation Congestion.** In addition to the emissions and infrastructure impacts associated with Crowley's transportation vessels, the Project will impact the quantity and type of vessel traffic that is able to move through the Bay, creating impacts, congestion, and access issues for fisheries (including mariculture), Tribal Nations, seaweed farmers, and other Bay users. Maritime transportation routes in Humboldt Bay are already highly congested with a 'pinch point' and limitations on usage due to weather. There are certain "high use times" which are already congested, and these will likely be desirable times for both wind farm construction, staging, and shipping, impacting commercial fisheries, Tribal Nations, various bay industries, and recreational users. The Bay has a robust commercial fishing industry as well as prolific recreational opportunities that provide an economic engine for the community. Most critically, though, the Bay provides a relatively inexpensive, local and high-protein food source, and Tribal Nations rely on natural resources in Humboldt Bay and rivers fed by (and immediately to the north and south of) the Bay for commercial, cultural, and sustenance fishing. The EIR must include an analysis of impacts to the existing maritime and fishing industries, including Tribal fisheries in the Bay and rivers within Indigenous and Tribal lands in the greater region. There will be additional shipping and hauling in the transportation channel and the temporary storage of assembled turbines in Humboldt Bay that will impact the existing industries and Tribal uses. The DEIR must also analyze impacts to safety in the Bay for other users, including recreational, academic, and scientific users.

¹¹ <https://ww2.arb.ca.gov/our-work/programs/ocean-going-vessels-berth-regulation>

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- **Other Air Quality Impacts.** Page 122 of the Coastal Commission’s Conditional Concurrence staff report notes that “[M]any air emissions associated with turbine manufacturing and assembly have the potential to occur within Humboldt Bay. The town of Samoa is directly adjacent to the Redwood Marine Terminal 1 (now known as the Wind Terminal) site, and, as discussed in section L, the communities near the proposed terminal redevelopment have disproportionate vulnerability and will likely bear disproportionate impacts of air emissions as a result of manufacturing and transport of materials required for manufacturing.” In addition to the air quality impacts discussed above, the Project will have air quality impacts from construction equipment and vehicles, truck traffic, dredging, manufacturing processes, vessels and shipping, and ongoing industrial operations, among other sources. The DEIR will need to examine all sources of air pollutants and conduct a complete air quality and health risk assessment for both construction and ongoing operations, including from maritime operations. The DEIR must analyze and mitigate potential air quality impacts of the project’s vehicular traffic on the walkability and bikeability of Highway 255, New Navy Base Road, and the surrounding street network.
- **Greenhouse Gas Emissions.** Operational GHG impacts from utilization of onsite equipment, trucks, and vessels serving the Wind Terminal must be assessed. The Project must also be analyzed in relation to compliance with the California Air Resources Board 2022 Scoping Plan. The State’s roadmap to address climate change cuts greenhouse gas emissions by 85% and achieves carbon neutrality by 2045. To reach this goal, all development must be at least carbon neutral, if not carbon offsetting. The DEIR must address how the Project is contributing to achieving this goal.
- **Aesthetics (Views).** As discussed previously, the Wind Terminal is a large project located in a visually prominent area on a peninsula of land between Humboldt Bay and the Pacific Ocean. In addition to impacts to Tribal Cultural Landscapes, The DEIR will need to assess the visual and aesthetic impacts on coastal views and coastal resources from new buildings, cranes, high mast light poles, and other heavy industrial equipment and facilities.
- **Aesthetics (Light and Glare) and Noise.** In addition to the impacts to views, the anticipated light, noise, and glare impacts from 150’ tall “high mast terminal lighting” around the perimeter of the Project Area, and equipment operations, will be substantial. The coastside/harborside location of the Project Area means that there will be potentially detrimental nighttime impacts to humans, terrestrial wildlife, and ocean wildlife. Specifically, as discussed above, there are Tribal lands in the vicinity of the future Project that are used for ceremonial purposes, and round-the-clock lighting and noise is likely to impact this use. The DEIR must

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contain photometric calculations and visual simulations of the night time conditions created by 150' tall light fixtures, and must address the impact to Tribal cultural practices and Tribal resources. The DEIR must model noise levels across the operational profile of Terminal activities (e.g., 24/7/365).

- **Water Quality.** With the level of development proposed for the Project Area and the type of industrial activities proposed to take place on the site, as well as increased dredging at new depths, the EIR will need to study water quality impacts in detail. In particular, the EIR will need to analyze the potential impacts resulting from dredging that will disturb legacy pollutants. It must also analyze how degraded water quality could impact the shellfish, seaweed, and fishery industries that currently operate in the bay. These industries produce food for human consumption and thus may not be able to operate if water quality is degraded. Project analysis and design must include mitigation measures that address how the District will assist with disposal of contaminated foods and provide resources for increased water quality testing that food-based industries and Tribal Nations will be required to conduct to ensure safety of their Bay-based activities. Further, the EIR must describe how the project will manage any increase in impervious surfaces and control polluted runoff from industrial processes. The DEIR must also assess the potential waterside impacts from construction of new docks and submersible platforms and the demolition of existing docks and piers. A robust analysis of the potential water quality impacts resulting from spills or other accidental releases of materials from the Wind Terminal into Humboldt Bay must be included as well.
- **Land Use.** The EIR must fully analyze the Project's consistency with land use policies and the Coastal Act, including any inconsistency that would result from the proposed amendments to the Humboldt Bay Area Plan (Local Coastal Plan) or any natural resource plans that relax standards associated with noise, dust, light, vibration, or outdoor uses, including impact to the Wiyot Tribe's land use goals for Tuluwat Island. Pursuant to SB 18, the Harbor District must consult with Tribes prior to making land use planning decisions and provide notice at key points in the planning process.
- **Operational Impacts.** In addition to the construction impacts of the Project, the DEIR must analyze the ongoing operational impacts of the Wind Terminal—which could be an active manufacturing and assembly facility serving the West Coast for 25 + years. Moreover, Crowley's wind project support operations will occur not just during construction of the Humboldt wind project, but will continue over the operational life of the wind leases, and any future repowering. Any traffic, air quality and water impacts analysis must include consideration of the role of the Project as a long-term construction and operations facility.

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- **Recreation.** The Project has the potential to impact the quantity and type of vessel traffic moving through the bay and may impact recreational uses within Humboldt Bay, including non-motorized recreational boating (e.g., rowing, kayaking, sailing, surfing) and recreational fishing within Humboldt Bay. The site is adjacent to the low tide water trail in Samoa, and it is foreseeable that large, motorized vessel traffic in the vicinity of the water trail would increase, and operations to tow assembled turbines to and from the Wind Energy Areas may make the vicinity less suitable for recreation, and may therefore push recreational users to other areas. The DEIR must include an analysis of impacts to water-based recreation.

Broadly speaking, the EIR must provide sufficient analysis and detail about environmental impacts to enable decision makers to make intelligent judgments in light of the environmental consequences of their decisions. See CEQA Guidelines §15151; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692. Both the public and decision makers need to fully understand the implications of the choices that are presented related to the project, mitigation measures, and alternatives. *Laurel Heights Improvement Ass'n v. Regents of University of California* (1988) 6 Cal.4th 1112, 1123. To the extent the DEIR identifies potentially significant impacts, it must also identify effective, enforceable mitigation measures to reduce those impacts to the greatest extent possible.

V. The Project must incorporate energy-efficient, emissions-reducing, and demonstrably effective “green” features by design.

In its Consistency Determination Report dated March 17, 2022, the California Coastal Commission found that the District’s terminal expansion and future operations in support of offshore wind energy generation would cause additional pollution and impacts, including additional air pollution burdens that may occur from vehicle emissions on land and vessel emissions offshore, in addition to a loss of lower-cost recreational boating opportunities. Burdens such as increased air, water, noise, and light pollution would not only affect residents and wildlife, but also workers and visitors who recreate in the area. Near the Port, there are several low-income communities and populations with additional sensitivities such as asthma and cardiovascular disease “that may be exacerbated with additional pollution impacts in the area that may occur from Humboldt Harbor District expansion and future operations to support offshore wind energy generation.” See Coastal Commission Conditional Concurrence Staff Report, page 117.

In fact, the Coastal Commission Staff Report contains an entire section on Environmental Justice and the potential impacts of the Wind Terminal on communities of concern living near the future Project site. Due to the potential impacts identified, the Project must do everything practicable to minimize further degradation of conditions in

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these communities. This would include designing the Project with the most energy-efficient materials and facilities, with zero-emissions ships, vehicles and equipment, and the smallest climate impacts possible. These features and commitments must be described in detail in the Project Description.

The only way to achieve the climate goals set by the State is for the Harbor District and the future leaseholder/developer/operator to commit to a ‘zero-emission’ Project. Such a commitment would protect the surrounding communities from air pollution and prevent water contamination, while achieving maximum climate benefits.

VI. The DEIR must identify a wide range of alternatives.

CEQA requires that an EIR analyze a range of reasonable alternatives to the project. The alternatives must feasibly attain most of the basic project objectives while avoiding or substantially lessening the project’s environmental impacts. *See* Public Resources Code § 21100(b)(4); *see also* CEQA Guidelines § 15126.6(a). The CEQA Guidelines state that the selection and discussion of alternatives should foster informed decision-making and informed public participation. *See* CEQA Guidelines § 15126(d)(5).

To comply with these requirements, the DEIR must analyze a range of alternatives that meet the Project Objectives (enhanced as suggested in the previous section) and reduce significant impacts that are created by the Project. The NOP did not identify any possible Project Alternatives, and therefore we are not able to provide input on the suitability of what the Harbor District may be considering. Instead, potential alternatives include a zero-emissions/fully electric alternative; an alternative that minimizes dredging and preserves bay access for fisheries and their operations; a cultural resource preservation alternative that reduces or avoids visual, air and water quality, noise and aesthetic impacts and re-contamination impacts to Tuluwat Island and other important Tribal cultural sites; an alternative that maximizes on-site renewable energy and electricity benefits to surrounding communities; and an alternative that provides greenspace, public recreation and infrastructure benefits.

VII. The Harbor District must seek public engagement and involvement early and often.

The Wind Terminal offers a unique opportunity to create climate-friendly energy in a climate-positive way. Unlike other boom-and bust natural resource projects in the region such as dams, logging, mining, and drilling that have harmed indigenous communities and the environment without providing local benefits or investment, there is an opportunity here for the community to be an engaged interested party, and to engage

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with the Harbor District in a partnership to create a project that is a source of international leadership and pride for this region.

While CEQA Guidelines establish the minimum thresholds for public outreach and engagement, the Harbor District should do more: Establish consultation and regular communication with Tribal representatives to advise on key project milestones and seek feedback. Hold additional informational meetings to educate the public on the project as it is being designed. Seek input from the Network and other community groups on alternatives that are being considered. Provide authentic and transparent design adjustments based on feedback. Begin consultations on Community Benefits Processes and Agreements. Design policies and practices that ensure community, industry, and environmental shared well-being for generations.

Transparency is critical to building trust and support for this Project. To date, the Harbor District's process has not met that crucial standard. Only recently was the Exclusive Negotiating Agreement with Crowley made available on the Port website after numerous requests. The Harbor District's proposal to enter into a lease with Crowley that will govern the development of the Project before the DEIR is released underscores the need for more robust community involvement and transparency. The Harbor District must ensure that community members and policy-makers know key terms that will affect the Project going forward. The community deserves to have opportunities to influence those terms through the CEQA and other robust public processes.

VIII. Tribal safety concerns must be addressed in the future lease terms and Project approvals.

The Coastal Commission Consistency Determination staff report detailed findings and concerns related to the safety of Native Tribes and local communities on p. 118 of their report. Specifically, the staff report states that “[T]he Commission expects future wind development to not only provide benefits to the community but also in a manner that does not continue to exacerbate harm in Native American communities and any additional vulnerable populations with limited resources to address these harms.”

Development projects on or near Tribal communities in the United States, Canada, and globally, have brought both economic opportunity and an increase in MMIP, violent crime, drug abuse, and sex trafficking of Native women and children. A recent article in the Harvard Journal of Law & Gender studying extraction projects near the Fort Berthold

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Reservation in North Dakota demonstrates these impacts.¹² During the period of development near Fort Berthold, there were more murders, fatal accidents, sexual assaults, domestic disputes, drug busts, gun threats, and human trafficking cases than in any year before the project commenced.¹³ And over a two-year period, the Tribe's court system saw its caseload grow by over 2,000%. In Canada, the National Inquiry on Missing and Murdered Indigenous Women and Girls found that "work camps, or 'man camps,'" in Canada, associated with the resource extraction industry (were) implicated in higher rates of violence against Indigenous women at the camps and in the neighboring communities."¹⁴

In addition to consulting with Tribes during the preparation of the EIR, the Harbor District must actively solicit Tribal participation during lease term negotiations and throughout the Project approval process to define the protections and protocols that should be in place to prevent damage to human life, Tribal culture, and exacerbation of MMIP. This should include MMIP prevention, education, organizational policy making, enforcement, and response.

IX. Conclusion.

Given Humboldt Bay's unique physical characteristics and its location and proximity to future call areas for wind farm development, the Harbor District is sitting in a very strong position to negotiate a beneficial package with the future leaseholder/developer/operator of the Wind Terminal, which will be instrumental in establishing best practices for the offshore wind industry on the West Coast. The CEQA analysis must be completed, and all potential impacts and mitigation measures known, before those negotiations conclude. The EIR for the Project must analyze and mitigate all of the impact areas identified in this memorandum.

1681940.1

¹² Kathleen Finn, Erica Gajda, Thomas Perin, and Carla Fredericks, "Responsible Resource Development and Prevention of Sex Trafficking: Safeguarding Native Women and Children on the Fort Berthold Reservation". 40 Harv. J.L. & Gender 1: Colorado Law Scholarly Commons, 2017, [Responsible Resource Development and Prevention of Sex Trafficking: Safeguarding Native Women and Children on the Fort Berthold Reservation \(colorado.edu\)](https://colorado.law.colorado.edu/journals/jlsg/vol40/iss1/art1)

¹³ Kimberly N. Mitchell, "Man Camps, Oil Pipelines, and MMIW: How United States V. Cooley is a False Victory for Indigenous Tribes". Vermont Journal of Environmental Law, [Man Camps, Oil Pipelines, and MMIW: How United States v. Cooley is a False Victory for Indigenous Tribes \(vermontlaw.edu\)](https://vermontlaw.edu/journals/vjel/article/man-camps-oil-pipelines-and-mmiw-how-united-states-v-cooley-is-a-false-victory-for-indigenous-tribes)

¹⁴ "Our Mandate, Our Vision, Our Mission". National Inquiry into Missing and Murdered Indigenous Women and Girls, [Our Mandate, Our Vision, Our Mission | MMIWG \(mmiwg-ffada.ca\)](https://mmiwg-ffada.ca)

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MEMORANDUM

TO: Redwood Region Climate and Community Resilience Hub (CORE Hub)

FROM: Winter King

DATE: August 25, 2023

RE: Environmental Review for Proposed Humboldt Bay Offshore Wind and Heavy Lift Multipurpose Marine Terminal

Introduction

You have asked our firm to provide you with an overview of the California Environmental Quality Act’s (“CEQA”) requirements for environmental review of the proposed Humboldt Bay Offshore Wind and Heavy Lift Multipurpose Marine Terminal (“Project”) currently under consideration by the Humboldt Bay Harbor Recreation and Conservation District (“District”). In particular, you have asked whether the District must complete its CEQA review prior to issuing a lease, or option agreement, authorizing development of the Project.

The answer is plainly “yes.” Leases are specifically included in the definition of “projects” subject to CEQA. And it is a fundamental principle of CEQA that any required environmental review must be completed before a project is approved so that the decisionmakers can take into account the environmental consequences of the project in deciding whether to approve it, what mitigation measures to require, etc.

Background

The United States and California have both established goals for the development of offshore wind energy projects to reduce carbon emissions and slow the impacts of climate change. To accomplish these goals, the federal Bureau of Ocean Energy Management (“BOEM”) has initiated the process for leasing areas off the coast of Humboldt County (“Humboldt Wind Energy Area” or “WEA”) to private developers of offshore wind projects. In 2022, BOEM prepared an environmental assessment (“EA”) prior to initiating the first step in this process, which would allow potential offshore wind

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developers to carry out site assessment and site characterization activities prior to seeking the right to develop a wind energy facility. The EA clearly states that, prior to BOEM conveying the rights to develop a wind energy facility in the WEA, BOEM will prepare and circulate for public review an environmental impact statement (“EIS”). The two bidders who obtained site assessment leases from BOEM were RWE Offshore Wind Holdings and California North Floating with leases issued in June 2023.

While these wind energy projects will be developed and operated offshore, onshore facilities will also be needed at the Port of Humboldt Bay (“Port”), both to support construction and operation and to assemble and maintain wind turbines. Indeed, obtaining deepwater port access is a prerequisite to developing wind offshore throughout the Pacific. The Port of Humboldt Bay has been identified in studies as the most promising opportunity to assemble offshore wind given its deep navigation channel, no bridges, and existing space. The District is the public agency that manages the Port and is authorized to lease Port land for these onshore facilities (referred to as “Humboldt Bay Offshore Wind and Heavy Lift Multipurpose Marine Terminal” or “the terminal”). In October 2022, Crowley Wind Services signed an agreement with the District to exclusively negotiate to be the developer and operator of the terminal. According to the Conceptual Master Plan available on the District’s website and the Notice of Preparation (“NOP”) recently issued by the District, this terminal would accommodate several buildings, wharf expansion, and two dredge areas.

The agreement being negotiated by Crowley and the District is an option agreement, by which the District would grant Crowley the right to lease Port land for the development and operation of the terminal. According to the exclusive negotiating agreement recently posted on the Port’s website, the lease will be an exhibit to the option agreement and must contain initial plans for development sufficient to obtain Project entitlements. Once the option agreement is approved by the Harbor District, Crowley will have the right to enter the lease; no further District approvals will be necessary. The option agreement recognizes, however, that additional approvals are required to develop the Project, including the modification of the District’s “Humboldt Bay Area Plan” (the Port’s Local Coastal Program under the California Coastal Act).

To date, the District has stated that it is planning to prepare an environmental impact report (“EIR”) for the Project, but that it will not complete this process until after it has entered the option agreement with Crowley.

Analysis

I. The District must prepare and finalize the environmental analysis required under CEQA before considering approval of the lease.

In general, CEQA requires public agencies to identify the potential environmental impacts of a project, as well as mitigation measures and project alternatives, *before* approving it. “Project” is defined as “an activity which [1] may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment” and [2] is either undertaken by a public agency or requires agency approval. Guidelines § 15378(a). If a project could have significant, adverse impacts, the agency must prepare an “environmental impact report” or “EIR.” If a project will have no significant, unmitigable impacts, the agency may prepare an initial study and negative declaration. The purpose of conducting this environmental review is to provide the public and decision-makers with information about the project’s environmental effects and ways to minimize them before the project is approved.

In this instance, California’s Coastal Commission has found that the District’s terminal expansion and future operations in support of offshore wind energy generation would cause additional pollution and impacts, including additional air pollution burdens that may occur from vehicle emissions on land and vessel emissions offshore and loss of lower-cost recreational boating opportunities. Burdens such as increased air, water, noise and light pollution would not only affects residents, but also workers and visitors who might recreate near port areas. Near the Port, there are several low-income communities and populations with additional sensitivities such as asthma and cardiovascular disease “that may be exacerbated with additional pollution impacts in the area that may occur from Humboldt Harbor District expansion and future operations to support offshore wind energy generation.” See Coastal Commission Consistency Determination Staff Report, page 117.

You have asked us to advise whether the District is required to complete its environmental review of the project before entering the option agreement authorizing the lease between the District and Crowley for the development of an “Offshore Wind and Heavy Lift Multipurpose Marine Terminal,” or whether the District may authorize the lease first but prepare environmental review before taking other steps toward Project development, including amending its Area Plan. Because authorizing the lease commits the District to a definite course of action that forecloses consideration of alternatives and mitigation measures, the District must complete its environmental analysis of the Project prior to authorizing the lease.

A. A lease between the District and Crowley for the development of an “Offshore Wind and Heavy Lift Multipurpose Marine Terminal” is a project subject to CEQA.

A lease that would allow the development of an “Offshore Wind and Heavy Lift Multipurpose Marine Terminal” is a project subject to CEQA. CEQA applies to discretionary projects carried out or approved by public agencies. CEQA § 21080(a). “Project” is defined as “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment,” which includes “the issuance to a person of a **lease**, permit, license, certificate, or other entitlement for use by one or more public agencies.” CEQA § 21065 (emphasis added); *see also* Guidelines §§ 15378(a)(3), 15377. In determining whether an activity is a project subject to CEQA, the question is “whether the activity’s potential for causing environmental change is sufficient to justify the further inquiry into its actual effects,” without considering whether the potential environmental effects will actually occur. *Union of Medical Marijuana Patients, Inc. v. City of San Diego* (2019) 7 Cal.5th 1171, 1197. The California Supreme Court has stated that when determining whether an activity is a project, CEQA must be interpreted broadly, “to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259 (disapproved of on other grounds).

Caselaw supports this conclusion as well. In *World Business Academy v. California State Lands Commission*, (2018) 24 Cal.App.5th 476, the court found there was “no dispute” that a replacement lease for continued operation of a nuclear powerplant was a “project” subject to CEQA. In *City of Orange v. Valenti*, (1974) 37 Cal.App.3d 240, the court stated that it was “inescapable” that leasing a building was a “project” under CEQA.

Lastly, in *City of Long Beach v. City of Los Angeles* (2018) 19 Cal.App.5th 465, the project at issue was a lease agreement entered between the City of Los Angeles and a railway company for development of a new railyard at the Port of Los Angeles. The harbor department conducted environmental review of the project, preparing and certifying an EIR before approving the lease. Several parties successfully challenged the sufficiency of the EIR. The City did not even attempt to argue that the lease was not a “project” for the purposes of CEQA.

Similarly, here, a lease for development and operation of the Offshore Wind and Heavy Lift Multipurpose Marine Terminal is a “project” subject to CEQA: It is a discretionary action taken by a public agency that would result in both direct and indirect physical changes to the environment. The Conceptual Master Plan for the terminal

currently includes plans for several buildings, wharf expansion, and two dredge areas. The exclusive negotiating agreement further requires Crowley and the District to include initial plans for development in the lease terms. Thus, the option agreement and lease will describe the planned development, and this planned development will result in physical changes to the environment. Because the definition of “project” explicitly includes an activity involving the issuance of a lease and the proposed lease agreement “is capable of causing direct or reasonably foreseeable indirect effects on the environment” through its proposed development, it is a project under CEQA. *Union of Medical Marijuana Patients, Inc.*, 7 Cal.5th at 1198.

B. The District must complete its environmental review of the lease before approving it.

The District is required to complete its environmental review of the Project before approving the option agreement described in the exclusive agreement to negotiate. The Guidelines state that every lead agency “shall consider a final EIR or negative declaration” “[b]efore granting any approval of a project subject to CEQA.” Guidelines § 15004. Similarly, CEQA’s definition of “environmental impact report” provides that, when preparation of an EIR is required, it “shall be considered by every public agency *prior to its approval* or disapproval of a project.” CEQA § 21061 (emphasis added). Any environmental review “should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design.” Guidelines § 15004(b). And, “public agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance.” Guidelines § 15004(b).

California courts, including the Supreme Court, have consistently held that CEQA requires environmental review *before* an agency approves a project. The California Supreme Court has stated that preparation of an EIR “is the key to environmental protection under CEQA.” *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 70. The basic purposes of CEQA, including informing decision-makers and the public about potential environmental effects of a proposed activity and identifying alternatives and mitigation measures, are best served when environmental review provides information to be used in deciding whether to approve a project, not to inform of environmental effects after a project has already been approved. *POET, LLC v. State Air Resources Board* (2013) 218 Cal.App.4th 681, 714-15. When environmental review occurs after a project has been approved, “it is likely to become nothing more than a post hoc rationalization to support action already taken.” *Id.*

In *No Oil, Inc.*, the California Supreme Court stated: “CEQA requires that an agency determine whether a project may have a significant environmental impact, and thus whether an EIR is required, [b]efore it approves that project.” 13 Cal.3d at 79. Many other cases reach the same conclusion. *See, e.g., Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 394 (“A fundamental purpose of an EIR is to provide decision makers with information they can use in deciding *whether* to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved. If postapproval environmental review were allowed, EIR’s would likely become nothing more than post hoc rationalizations to support action already taken.”); *Tomlinson v. County of Alameda* (2012) 54 Cal.4th 281, 286 (If the agency determines the project may have a significant effect on the environment, “the agency must proceed to the third step, which entails preparation of an [EIR] before approval of the project.”); *POET, LLC v. State Air Resources Board* (2013) 218 Cal.App.4th 681, 715 (“the policy declaration [of CEQA] implies that an evaluation of environmental issues. . . should occur *before* an agency approves a project. This implication is borne out by CEQA’s explicit requirements for EIRs. . . which. . . ‘shall be considered by every public agency *prior to its approval* or disapproval of a project.’”); *Friends, Artists & Neighbors of Elkhorn Slough v. California Coastal Commission* (2021) 72 Cal.App.5th 666, 678 (“the Coastal Commission was required to consider project alternatives, mitigation measures, and conditions for the project *before* approving the coastal development permit application”); *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1315 (“Central to CEQA is the EIR, which has as its purpose informing the public and government officials of the environmental consequences of decisions before they are made.”).

C. The District may not wait to conduct environmental review of the Project simply because other, later approvals are also required.

Where a “project” involves a lengthy planning process or several government approvals, lead agencies must determine when during that planning process environmental review must be done. The CEQA Guidelines state that “EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program design and yet late enough to provide meaningful information for environmental assessment.” Guidelines § 15004(b). For public projects, agencies may not undertake actions concerning the project “that would have a significant adverse effect or limit the choice of alternatives or mitigation measures before completion of CEQA compliance.” Guidelines § 15004(b)(2).

In 2008, the California Supreme Court addressed this timing issue in the context of a joint “public-private” project proposed in the City of West Hollywood. *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116. There, the City was working with several

non-profit community housing developers to build low-income, senior housing on land owned by the City. In pursuit of that goal, the City approved a “Conditional Agreement for Conveyance and Development of Property,” which provided that the City would convey the property to the developers and provide a project loan if the developers satisfied certain conditions, including compliance with CEQA. *Id.* at 124-25. The agreement also provided a predevelopment loan of \$475,000 that was not subject to prior CEQA review. *Id.* at 124. A group of neighbors and citizens objected, arguing that the City was required to conduct CEQA review before approving the agreement. *Id.* at 124.

In reviewing this challenge, the Supreme Court identified two policy considerations that are “important to the timing of [environmental review]: (1) that CEQA not be interpreted to require an EIR before the project is well enough defined to allow for meaningful environmental evaluation; and (2) that CEQA not be interpreted as allowing an EIR to be delayed beyond the time when it can, as a practical matter serve its intended function of informing and guiding decision makers.” *Id.* at 130. The Court then applied “the general principle that before conducting CEQA review, agencies must not ‘take any action’ that significantly furthers a project ‘in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.’” *Id.* at 138 (quoting Guidelines § 15004(b)(2)(B)); *see also id.* at 139 (“If, as a practical matter, the agency has foreclosed any meaningful options to going forward with the project, then for purposes of CEQA the agency has ‘approved’ the project.” [internal quotations omitted]).

Applying this test to the specific facts of that case, the Court held that the City had committed itself to a definite course of action regarding the project before conducting environmental review, and thus had violated CEQA. In particular, the Court noted that the development agreement stated its purpose was to “facilitate development of the project.” *Id.* at 140. Moreover, if the City did not ultimately approve the development, the developer would not have to repay the predevelopment loan. *Id.* And the City began relocation proceedings for current tenants. *Id.* All of these circumstances, the Court found, indicated that the City had committed itself to a definite course of action in approving the agreement, and thus violated CEQA by failing to conduct environmental review first. *Id.*¹

¹ See also *California Farm Bureau Federation v. California Wildlife Conservation Board* (2006) 143 Cal.App.4th 173, 191-82 (acquisition of conservation easement by Department of Fish and Game required CEQA review where easement required conversion of 235 acres of agricultural land to wetlands and other habitat); *McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District* (1988) (transfer

Here, the option agreement described in the exclusive negotiating agreement is indistinguishable from the “Conditional Agreement for Conveyance and Development of Property” addressed in *Save Tara*. It will commit the Harbor District to leasing Port Property to Crowley for the express purpose of developing the Project, and the initial plans for that development will be part of the agreement. Thus, the option agreement and attached lease will certainly commit the District to a definite course of action and foreclose alternatives and mitigation measures. As a result, the District must complete its environmental review for the Project prior to entering the option agreement and authorizing the lease.²

Recently, the District notified the public that it is preparing an environmental impact report (EIR) for the Project. However, this notice did not mention the District’s intention to lease the terminal to Crowley, did not suggest the EIR would be complete before the option agreement is executed, and in fact suggests that the Project would be a public project carried out by the District. We recommend that the District clarify Crowley’s role in the Project. If Crowley will, in fact, be developing and operating the Project, the District should process the lease together with the Area Plan amendments, and complete the EIR prior to approving either step in the process.

Conclusion

The District’s approval of an option agreement to lease Port property to Crowley for the purpose of developing an onshore terminal to support the development and operation of anticipated offshore wind energy projects is a “project” subject to CEQA. Therefore, any environmental review for that project must be completed before the District enters the option agreement authorizing the lease. This remains the case even though the District must issue other approvals (e.g., amending its Area Plan) in order to carry out the Project.

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of property to public agency required environmental review because property contained PCBs and, under federal law, remediation activities were mandatory).

² Section 8.14 of the exclusive negotiating agreement provides that “Crowley’s exercise of the Option will expressly be conditioned upon compliance with CEQA and/or NEPA.” As discussed above, however, compliance with CEQA requires preparing an EIR *before* the option agreement is executed and the Project is set in motion; as in *Save Tara*, it is not sufficient to condition approval of the agreement on environmental review happening after-the-fact.

From: Benjamin M George [REDACTED]
Sent: Friday, August 25, 2023 3:48 PM
To: District Planner
Subject: Public Comment on Humboldt Bay Lift Terminal

Hello,

My name is Benjamin George, and I am currently an environmental resource engineering undergraduate student at Cal Poly Humboldt. My main concern for the proposed development would be the potentially harmful and high amounts of runoff from such a large area being covered by asphalt or any other industrial material going into the bay. I am asking that green solutions like rain gardens are strongly considered to help mitigate the runoff. Rain gardens can also potentially help filter out pollutant in runoff and provide habitats for wildlife, as well as reduce the aesthetic drawbacks of such a large industrial area.

I would also like to see high levels of collaboration with Wiyot tribe leadership in decision making, as the site is on/near important cultural sites.

Thank you for your time and consideration,
Benjamin George



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
501 West Ocean Boulevard, Suite 4200
LONG BEACH, CA 90802

In response refer to: 151422WCR2023AR00151

August 23, 2023

Sent Via Email

Rob Holmlund, Development Director
Humboldt Bay Harbor, Recreation, and Conservation District
P.O. Box 1030
Eureka, California 95502
rholmlund@humboldtbay.org

RE: Scoping comments on the proposed Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project

Dear Mr. Holmlund,

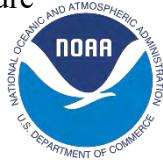
NOAA's National Marine Fisheries Service (NMFS) provides the following comments on the Humboldt Bay Harbor, Recreation and Conservation District's (District) June 26, 2023, Notice of Preparation ([NOP](#)) of a draft Environmental Impact Report (EIR) for the proposed Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project) on the Samoa Peninsula in Humboldt County, California.

The NOP identified key environmental issues to be addressed in the EIR. We reviewed the sections of the NOP pertaining to our trust resources and identified several areas that require further analysis and information to be adequately addressed within the Draft and Final EIR.

NMFS Regulatory Authorities

NMFS is the lead federal agency responsible for the [stewardship of the nation's living marine resources and their habitats](#). NMFS implements the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA) for the conservation and recovery of protected species and their habitats. NMFS is the lead federal agency for federal fisheries management under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), which includes provisions for essential fish habitat (EFH) conservation. Federally-managed fisheries provide an important source of food and recreation for the nation, as well as thousands of jobs, and a traditional way of life and essential nutrients for many tribal nations and coastal communities. NMFS also plays a central role in developing and implementing policies that enable marine aquaculture and works to ensure that aquaculture complies with existing federal laws and regulations that we implement under our marine stewardship mission.

We anticipate that there will be Federal actions associated with the Project that will trigger the need for [ESA Section 7](#) and [MSA EFH](#) consultations. California Environmental Quality Act (CEQA) documents may provide foundational information for these ESA and EFH consultations, and we therefore encourage the District to include sufficient information in the Draft and Final EIR to aid in streamlining these future



consultation processes. For any required ESA consultation, we would analyze the effects of the Project upon ESA-listed species and their designated critical habitats to ensure the Project does not jeopardize the continued existence of the species or adversely modify their designated critical habitats. For any required EFH consultation, we would analyze the effects caused by the Project and provide conservation recommendations that avoid, minimize, or offset the adverse effects identified. As described further below, actions that “take” marine mammals are generally prohibited by the MMPA absent an MMPA authorization. The District should discuss the need for any MMPA authorizations with the NMFS Office of Protected Resources.

Finally, NOAA recently published a [Mitigation Policy for NOAA Trust Resources](#) that NMFS will apply in our consultations and authorizations. We recommend the District review this policy as it considers potential proposed mitigation measures in the EIR and/or related to the Project, such as habitat mitigation and/or offsetting measures.

ESA-Listed Species and Critical Habitats

The following federally listed species (Evolutionarily Significant Units [ESU] or Distinct Population Segments [DPS]) and their designated critical habitat under the jurisdiction of NMFS occur in areas that could be affected inside of Humboldt Bay and within the Pacific Ocean, for example during disposal of dredge spoils at designated offshore disposal sites.

Southern Oregon/Northern California Coast

(SONCC) coho salmon ESU

(Oncorhynchus kisutch)

Threatened (70 FR 37160; June 28, 2005)

Critical habitat (64 FR 24049; May 5, 1999)

California Coastal (CC) Chinook salmon ESU

(O. tshawytscha)

Threatened (70 FR 37160; June 28, 2005)

Critical habitat (70 FR 52488; September 2, 2005)

Northern California (NC) steelhead DPS

(O. mykiss)

Threatened (71 FR 834; January 5, 2006)

Critical habitat (70 FR 52488; September 2, 2005)

North American green sturgeon Southern DPS

(Acipenser medirostris)

Threatened (71 FR 17757; April 7, 2006)

Critical habitat (74 FR 52300; October 9, 2009)

Pacific Eulachon Southern DPS

(Thaleichthys pacificus)

Threatened (75 FR 13012; March 18, 2010)

Critical habitat N/A

Sunflower sea star

(Pycnopodia helianthoides)

Proposed/Threatened (88 FR 16212; March 16, 2023)

Critical habitat N/A

Southern Resident killer whale

(Orcinus orca)

Endangered (70 FR 69903; November 18, 2005)

Critical habitat (86 FR 41668; August 2, 2021)

Gray whale: Western North Pacific Stock

(Eschrichtius robustus)

Endangered (58 FR 3121; January 7, 1993)

Critical habitat N/A

Humpback whale: Mexico DPS

(Megaptera novaeangliae)

Threatened (81 FR 62259; September 8, 2016)

Critical habitat (86 FR 21082; April 21, 2021)

Humpback whale: Central America DPS

Endangered (81 FR 62259; September 8, 2016)

Critical habitat (86 FR 21082; April 21, 2021)

MSA Essential Fish Habitat

Humboldt Bay is designated as EFH for the Pacific Coast Salmon Fishery Management Plan (FMP), the Pacific Coast Groundfish FMP, and the Coastal Pelagic Species FMP (PFMC 2016, PFMC 2019b, PFMC 2019a).¹ Furthermore, Humboldt Bay has been identified as a Habitat Area of Particular Concern (HAPC) for the Pacific Coast Salmon FMP and the Pacific Coast Groundfish FMP (PFMC 2016, PFMC 2019b). Eelgrass beds have also been designated as HAPC for both Pacific Coast Salmon and Pacific Coast Groundfish FMPs. HAPC are described in the regulations as subsets of EFH that are identified based on one or more of the following considerations: the importance of the ecological function provided by the habitat; the extent to which the habitat is sensitive to human-induced environmental degradation; whether, and to what extent, development activities are, or will be stressing the habitat type; and the rarity of the habitat type (50 CFR 600.815(a)(8)).² Designated HAPC are not afforded any additional regulatory protection under MSA; however, federal projects with potential adverse impacts to HAPC are more carefully scrutinized during the consultation process. Humboldt Bay hosts the largest eelgrass population in the State of California and the third largest eelgrass population on the West Coast.

Marine Mammal Protection Act

The MMPA prohibits the “take”³ of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1371 (a)(5)(A) and (D)) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, take of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if the taking will be of small numbers, have a negligible impact on the affected species or stock, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). NMFS Office of Protected Resources is responsible for the review of any requests for an incidental take authorization to take small numbers of marine mammals incidental to construction activities associated with the Project. More information on the MMPA incidental take authorization process, including application timing requirements, is available from our [Office of Protected Resources](#).

Effects to ESA-Listed Species, Critical Habitats, Essential Fish Habitat, and Marine Mammals⁴

Acoustics. The removal of existing docks and wharfs and the construction of new docks and wharfs will create acoustic noise that could adversely affect the individuals exposed. The new infrastructure will likely require the installation of large diameter steel pilings that would produce elevated noise levels. The potential impacts from pile driving and pile removal should be evaluated for all life stages of ESA-listed species and all marine mammals (e.g., harbor seals).

¹ https://www.pcouncil.org/managed_fishery/habitat/

² More information about West Coast HAPC can be found at <https://www.fisheries.noaa.gov/west-coast/habitat-conservation/habitat-areas-particular-concern-west-coast>

³ “Take” under the MMPA means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal. “Harassment” means any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment). 16 U.S.C 1362.

⁴ For information on the recent marine mammal stock assessment visit: <https://repository.library.noaa.gov/view/noaa/44406>

Eelgrass. Portions of the heavy lift wharfs, sinking basin, and other overwater structures are likely to be built over, or near, existing eelgrass beds. Shade caused by overwater structures is known to reduce or prevent eelgrass growth. A study conducted by Holmer and Laursen (2002) found that after only two weeks of shading, eelgrass biomass and above ground growth was significantly reduced when compared to eelgrass without shade. Bertelli and Unsworth (2018) found similar results after shading eelgrass for three weeks. Wong et al. 2020 found that eelgrass resources did not recover after restoring light after weeks of low light levels. The EIR should incorporate estimates of the area of eelgrass that will be impacted and include mitigation and monitoring plans that would ensure achieving no net loss of eelgrass resources consistent with NOAA’s California Eelgrass Mitigation Policy (NOAA 2014). The Humboldt Bay Eelgrass Comprehensive Management Plan is another resource (District 2017).

Benthic Impacts and Habitat Conversion. The expanded dredge footprint, sinking basin, wet storage, and subsequent maintenance dredging will convert shallower water habitats along the margins of the Federal Navigation Channel into deeper water and significantly widen the footprint of the deepwater channel. The wet storage areas will require that anchors, anchor chains, and mooring buoys will be installed in order to stage wind turbine device (WTD) components in the dredged wet storage areas. The number and residence time for the WTD components staged in the wet storage areas needs to be evaluated in the EIR for shading impacts to marine resources and for avoidance by listed salmonids. Shading has been well studied in the marine environment and known to displace organisms and alter species assemblages in affected areas (Glasby 1999, Miller and Etter 2008, Pardal-Souza et al. 2016). The anchors will occupy space and displace infaunal organisms and reduce the quantity of benthic habitat available. A hydrodynamics model would be valuable for evaluating if the expanded dredge areas might lead to channel enlargement or other physical changes to habitats in the bay, or where deposition of sediments might occur.

Vessel and Propeller Strikes. The number of vessels expected to travel to the Wind Terminal facility from the Entrance of Humboldt Bay (arriving from the Pacific Ocean), as well as the number of vessels expected to transit from the Wind Terminal to the Entrance of Humboldt Bay (towards the Pacific Ocean) will be fundamental information sources needed to evaluate the potential risk of vessel strikes that could occur as a consequence of the Project. The number of vessels, their estimated size, their estimated speed, the number of trips, and propeller size should be described and evaluated as part of potential vessel strike risks in the EIR (as well as the same information for vessels engaged in towing to support the wet storage of WTD components, or for vessels engaged in dredging and other Project-related activities). Vessel and propeller strikes are known to injure marine mammals, and the most recent five-year status review for Southern DPS (SDPS) green sturgeon indicated that vessel strikes have become an increasing threat to SDPS green sturgeon (NMFS 2021). There is a growing body of research which has shown that many sturgeon species may not be as benthic-oriented as once believed (Killgore et al. 2011, Kelly and Klimley 2012, Watanabe et al. 2013, Goldsworthy et al. 2016, Breece et al. 2018). Using vector analysis, Kelly and Klimley (2012) found that green sturgeon spent the majority of their time in the upper water column, often at the surface, while undergoing rapid long-distance movements in deep, high-current areas such as portions of Humboldt Bay.

Fisheries and Fishing Community Resilience

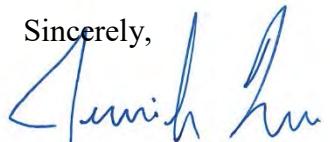
The Port of Humboldt provides shoreside infrastructure vital to many fisheries and seafood processors in the region. Given the nature of the Project and far-reaching change it is expected to have in the Port and Bay, the scope of the EIR should include commercial, tribal, and recreational fisheries; seafood processors; and fishing communities. In addition to the impacts to the EFH that are necessary habitat to support these fish stocks, it is important to consider how the Project will affect, and hopefully strengthen, fishing community resilience. Working waterfront areas with ample infrastructure, such as fuel and ice/freezer support industries, are critical ingredients in determining whether local and regional fisheries participants (e.g., fishing boat owners, crews, operators, and fish processors) and related businesses can continue providing sustainable U.S.-harvested seafood to the region and nation. There should be an evaluation of how navigation-related issues would disrupt fisheries, and measures identified to offset any disruptions.

Offsetting Measures and Mitigation

The NOP did not provide insights into the mitigation strategies intended to be applied to eelgrass, or for habitat conversion (deepening), shading, acoustic noise, or other marine-related impacts. The draft EIR should provide an analysis of these impacts and propose adequate mitigation to offset or compensate for any adverse effects that are expected to occur. NOAA's Mitigation Policy for Trust Resources (NOAA 2022) suggests that impacts to high value resources (such as eelgrass) be avoided or minimized. In order to support the development of appropriate offshore wind facilities, most of these impacts are not avoidable and cannot be minimized given the large-scale nature of the WTD manufacturing. The offsetting measures intended to mitigate for the loss of these high value resources will be a fundamental and required component of the Project and EIR. The increases in maritime traffic and nature of maneuvering WTDs into wet storage, or for transportation outside of Humboldt Bay, may result in propeller strikes and injuries to SDPS green sturgeon which may require monitoring and minimization measures. Hydrodynamic models would be valuable to evaluate if additional impacts or mitigation might be necessary for unanticipated changes that may occur to the channel network or adjacent mudflats. Offsetting measures for the fishing community, such as improved facilities, would help mitigate disruptions to access for tribal, recreational, and commercial fishing.

Points of Contact

Thank you for the opportunity to comment on the NOP and for the District's coordination thus far on the Project. Please continue to coordinate with Matt Goldsworthy (Matt.Goldsworthy@noaa.gov) of our NMFS West Coast Region for technical assistance on the ESA and EFH components of the Project, or if you have any questions regarding our comments. For assistance with MMPA authorization questions, please contact Ben Laws (Benjamin.Laws@noaa.gov) of NMFS' Office of Protected Resources.

Sincerely,

Jennifer Quan
Regional Administrator

cc: L. Kasey Sirkin, U.S. Army Corps of Engineers, Eureka, California
Corianna Flannery, California Department of Fish and Wildlife, Eureka, California
Melissa Kraemer, California Coastal Commission, Arcata, California
Holly Wyer, California Coastal Commission, San Francisco, California
Kerry Griffin, Pacific Fishery Management Council

References

- Bertelli, C. and R. Unsworth. 2018. Light Stress Responses by the Eelgrass, *Zostera marina*. Frontiers in Environmental Science, Section Conservation and Restoration Ecology. Volume 6 - 2018
<https://doi.org/10.3389/fenvs.2018.00039>
- Breece, M. W., D. W. Fox, and M. J. Oliver. 2018. Environmental drivers of adult Atlantic Sturgeon movement and residency in the Delaware Bay. Marine and Coastal Fisheries: Dynamics, Management, and Ecosystem Science 10:269–280.
- Glasby, M. 1999. Effects of shading on subtidal epibiotic assemblages. Journal of Experimental Marine Biology and Ecology. 234 (2) 275-290
- Goldsworthy, M., B. Pinnix, M. Barker, L. Perkins, A. David, and J. Jahn. 2016. Green Sturgeon Feeding Observations in Humboldt Bay, California. Field Note from August 19, 2016. National Marine Fisheries Service, United States Fish and Wildlife Service, Arcata, California.
- Holmer, M., and Laursen, L. 2002. Effect of shading of *Zostera marina* (eelgrass) on sulfur cycling in sediments with contrasting organic matter and sulfide pools. Journal of Experimental Marine Biology and Ecology. 270(1) 25-37. [https://doi.org/10.1016/S0022-0981\(02\)00015-1](https://doi.org/10.1016/S0022-0981(02)00015-1)
- Humboldt Bay Harbor, Recreation, and Conservation District (District). 2017. Humboldt Bay Eelgrass Comprehensive Management Plan.
http://humboldtbay.org/sites/humboldtbay2.org/files/documents/Humboldt%20Bay%20Eelgrass%20Management%20Plan_10-30-17.pdf
- Kelly, T. and A. P. Klimley. 2012. Relating the swimming movements of Green Sturgeon to the movement of water currents. Environmental Biology of Fishes 93(2):151–167.
- Killgore, K. J., L. E. Miranda, C. E. Murphy, D. M. Wolff, J. J. Hoover, T. M. Keevin, S. T. Maynard, and M. A. Cornish. 2011. Fish entrainment rates through towboat propellers in the upper Mississippi and Illinois Rivers. Transactions of the American Fisheries Society 140(3): 570-581.
- Miller, R., R. Etter. 2008. Shading facilitates sessile invertebrate dominance in the rocky subtidal Gulf of Maine. Ecology. 89(2) 452-462
- NMFS. 2021. Five Year Status Review for Southern Distinct Population Segment North American Green Sturgeon (*Acipenser medirostris*). Sacramento, California.

NOAA. 2014. California eelgrass mitigation policy and implementing guidelines. Prepared by NOAA, West Coast Region. <https://www.fisheries.noaa.gov/resource/document/california-eelgrass-mitigation-policy-and-implementing-guidelines>

NOAA. 2022. NAO 216-123: NOAA Mitigation Policy for Trust Resources.
<https://www.noaa.gov/organization/administration/noaa-administrative-orders-chapter-216-program-management/nao-216-123-noaa-mitigation-policy-for-trust-resources>

Pardall-Souza A., G. DIas, S. Jenkins, A. Ciotti, R. Christofletti. 2016. Shading impacts by coastal infrastructure on biological communities from subtropical rocky shores. *Journal of Applied Ecology*. 54(3) 826-835.

PFMC (Pacific Management Fishery Council). 2016. The Fishery Management Plan for U.S. West Coast Commercial and Recreational Salmon Fisheries off the Coast of Washington, Oregon, and California. PFMC, Portland, Oregon. As Amended through Amendment 19, March 2016.

PFMC. 2019a. Coastal Pelagic Species Fishery Management Plan. Portland, Oregon. As Amended through Amendment 17, June.

PFMC. 2019b. Pacific Coast Groundfish Fishery Management Plan For California, Oregon, and Washington Groundfish Fishery. Portland, Oregon. As Amended through Amendment 28, December.

Watanabe, Y. Y., Q. Wei, H. Du, L. Li, and N. Myazaki. 2013. Swimming behavior of Chinese Sturgeon in natural habitat as compared to that in a deep reservoir: preliminary evidence for anthropogenic impacts. *Environmental Biology of Fishes* 96:123–130.

Wong, M., B. Vercaemer, and G. Griffiths. 2020. Response and Recovery of Eelgrass (*Zostera marina*) to Chronic and Episodic Light Disturbance. *Estuaries and Coasts*. 2021(44) 312-324

Department of Biological Sciences

25 August 2023

Rob Holmlund
Humboldt Bay Harbor, Recreation and Conservation District
P.O. Box 1030
Eureka, California 95502
707-443-0801
districtplanner@humboldtbay.org

Dear Mr. Holmund,

I am writing to provide input on the scope of the environmental analysis of potential impacts of wind energy to marine mammals in Humboldt Bay.

As the marine mammologist at Cal Poly Humboldt since 1996, I have studied the ecology, behavior and feeding habits of harbor seals who are year-round residents of Humboldt Bay and rely on the bay, harbor mouth and near shore waters in all aspects of their ecology and natural history.

The Humboldt Bay harbor entrance, mudflats and the surrounding near shore waters serve as critically important habitat for harbor seals for pupping, molting, hauling out (resting on the mudflats) and foraging. I am deeply concerned that significantly increased traffic, noise and turbidity in the bay along with potential degradation of foraging habitat may have significant impacts on the harbor seal populations that depend on Humboldt Bay as a refuge.

I would encourage BOEM and the Harbor district to support the study of the environmental impacts of wave energy construction to the north and south Humboldt Bay harbor seal populations. Specifically, I would support seal population monitoring (weekly surveys), food habit assessment (scat analysis), water clarity and quality assessment in their transit and haulout areas, ambient sound production in and around their transit and haulout areas, and movement patterns (through satellite telemetry) – particularly those movements in and out of the bay during the building phase. This should begin immediately before construction begins and continue throughout the construction period and beyond. Findings from this work would be important to consider in an adaptive management program if there are significant environmental impacts to these seals.

Harbor seals are local residents of the bay and nearshore areas and are often referred to as an indicator species of nearshore and marine health. Every single day, hundreds of seals transit into and out of the



H.

tidally influenced bay as their haulout sites become flooded. The proposed increased boat traffic, activity and noise in and around the narrow corridor of the harbor entrance may have a profound impact on seal's ability to access the nearshore waters or return to the safety of the bay. They depend on the bay for food, safe transit, safe harbor for resting, and for a quiet area to acoustically communicate during breeding season. I encourage the scope of the environmental analysis to address these issues to protect one of the keystone ecological species of the bay and nearshore waters.

Similar to the harbor seal, the harbor porpoise is a year round resident of the bay and nearshore waters and would benefit from similar environmental analysis to determine potential impacts to this important near shore resident.

As you may be aware, all marine mammals are federally protected under the Marine Mammal Protection Act, but, more importantly, the harbor seals and harbor porpoise rely on this specific habitat to rest, reproduce and feed and they both play a critical ecological role in the area. Please consider these concerns and include a broad scope of environmental analyses to protect these marine mammals.

Please feel free to contact me if you have any questions or concerns. Thank you for considering my comments on the scope of the environmental analysis of potential impacts of wind energy to marine mammals in Humboldt Bay.

Sincerely,

Dr. Dawn Goley
Professor of Zoology
Cal Poly Humboldt State University
[REDACTED]

District Planner

From: Amber Shehan
Sent: Wednesday, August 02, 2023 9:08 AM
To: Rob Holmlund; District Planner
Subject: FW: Form submission from: Contact

Follow Up Flag: Follow up
Flag Status: Flagged

-----Original Message-----

From: Humboldt Bay Harbor District <techadmin@precisionintermedia.com>
Sent: Wednesday, August 2, 2023 7:56 AM
To: Amber Shehan <[REDACTED]>
Subject: Form submission from: Contact

Submitted on Wednesday, August 2, 2023 - 07:55 Submitted by anonymous user: [75.111.26.179] Submitted values are:

Your Name: Kirk Gothier

Email Address: [REDACTED]

Phone Number: [REDACTED]

Questions / Comments: Please let me know when you prepare the vertical illustrations and description of the impacts to the view from Eureka, for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

Also, do you know if the applicant has applied for the required Coastal Development Permit?

url:

The results of this submission may be viewed at:

<https://humboldtbay.org/node/5/submit/1365>

From: Dawn Graydon [REDACTED]
Sent: Saturday, July 8, 2023 9:23 AM
To: District Planner
Cc: [REDACTED]
Subject: NOP comment: Humboldt Bay Offshore wind terminal

The Environmental Impact Report Notice of Preparation for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project fails to adequately address several important considerations.

Specifically, you failed to make any mention of the larger community impacts that construction and operation of the wind terminal would have. And there was no discussion at all of the steps the Developers would take to mitigate these **significant** impacts. These impacts include, but are not limited to the following:

1. Significant decrease in safety for pedestrians and cyclists from the much higher volume and more frequent use of highway 255 by new work force getting to and from work, but by equipment and transportation trucks associated with the wind terminal and daily operational needs. Families with pets and children live immediately alongside 255; pets are already killed often from this too fast highway through these communities, and neither children nor adults are safe crossing the road on foot to get to other parts of the town, friends houses, parks, back and forth to the beach, store, or laundry. And you are making this worse, but fail to even mention this very important consideration in the NOP.
2. Significant increase in noise and direct decrease in quality of life do community members as a result of increased traffic, noise, and pollution. Which brings me to my third point,
3. Pollution. Describing how you intend to address very important environmental concerns as "To the degree feasible" is an absolute disgrace. There are people living immediately around, across from, and downwind of the proposed facility, and with the potential for "diesel fumes [to] significantly raised cancer risk for people within **fifteen miles** of the terminals" - saying that you might consider addressing this, if it works for the developer.. is honestly quite disgusting.

I have high hopes for the potential benefits this offshore wind terminal could have for our region and the environment overall, but it absolutely not okay to do so in a way that very negatively affects the people already living here - specifically Manila, Somoa, and Fairhaven. You have the resources to not only more fully consider the above points, but finds ways to avoid and mitigate them adequately by the time you get to your final EIR. Please do so.

Sincerely,
Dawn Osborne



August 25, 2023

Rob Holmlund
Humboldt Bay Harbor, Recreation and Conservation District
P.O. Box 1030
Eureka, California 95502-1030
Submitted via email: districtplanner@humboldtbay.org

RE: Notice of Preparation of Draft Environmental Impact Report – Audubon California’s Commet Letter

Dear Rob Holmlund,

On behalf of Audubon California, a state office of the National Audubon Society, and our 118,000 members and supporters, we submit these comments regarding the Notice of Preparation (NOP) of the Draft Environmental Impact Report (DEIR) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project).

Audubon’s mission is to protect birds and the places birds need, now and into the future. In order to build a better future for California, we need to take bold actions to mitigate the impacts of the climate crisis. Audubon’s climate study, [Survival by Degrees](#), reveals that 389 species of North American birds may go extinct if warming reaches 3°C above pre-industrial levels, and the closer we can keep warming to 1.5 °C above pre-industrial levels, the better for our birds and communities¹. Audubon is committed to 100% clean energy and net zero emissions by 2050 or earlier. To reach these goals, investing in renewable energy, like offshore wind in federal waters, is key. Audubon supports an environmentally responsible build-out of the infrastructure needed to reach California’s offshore wind goals, including the build-out of the Port of Humboldt Bay.

Audubon CA has worked with organizations, community members, and policy makers to ensure that Humboldt Bay is protected for the benefit of wildlife and the various stakeholders that rely on the health of this critical bay. While we are in support of offshore wind, we also recognize the significant role the Bay plays in providing habitat for migratory birds along the Pacific Flyaway. Humboldt Bay is designated as an Important Bird Area by the National Audubon Society, a Globally Significant IBA, and a Western Hemisphere Shorebird Reserve Network site of Hemispheric Importance. It also hosts 35-40% of California’s remaining eelgrass². We are invested in renewable energy while ensuring that critical habitat and the species that rely on them are protected. Below are a few items to consider in preparation for the DEIR.

Eelgrass

Eelgrass provides critical habitat that is protected by a suite of state and federal regulations. The National Marine Fisheries Service’s (NMFS) California Eelgrass Mitigation Policy states, “It is NMFS’ policy to recommend no net loss of eelgrass habitat function in California.”³ The California Ocean Protection Council set a goal in their 2020-2025 Strategic Plan to “...preserve the existing, known 15,000 acres of seagrass beds and create an additional 1,000 acres by 2025.”⁴ According to a habitats and

¹ Audubon Society’s Survival by Degrees, <https://www.audubon.org/climate/survivalbydegrees>

² ca.audubon.org/conservation/conservation/seas-shores/humboldt-bay

³ National Fisheries, West Coast Region, National Oceanic and Atmospheric Administration, 2014. California Eelgrass Mitigation Policy and Implementing Guidelines.

⁴ California Ocean Protection Council, 2020. [Strategic Plan to Protect California’s Coast and Ocean 2020-2025](#).

mariculture map Audubon CA created in July 2019 using data from The Humboldt Bay and Eel River Estuary Benthic Habitat Project⁵ (Figure 1), eelgrass and patchy eelgrass is present within the proposed Project site maps included in the NOP. Potential impacts and mitigation from the construction and 40' MLLW dredging required for the on-terminal wet storage should be taken into consideration.

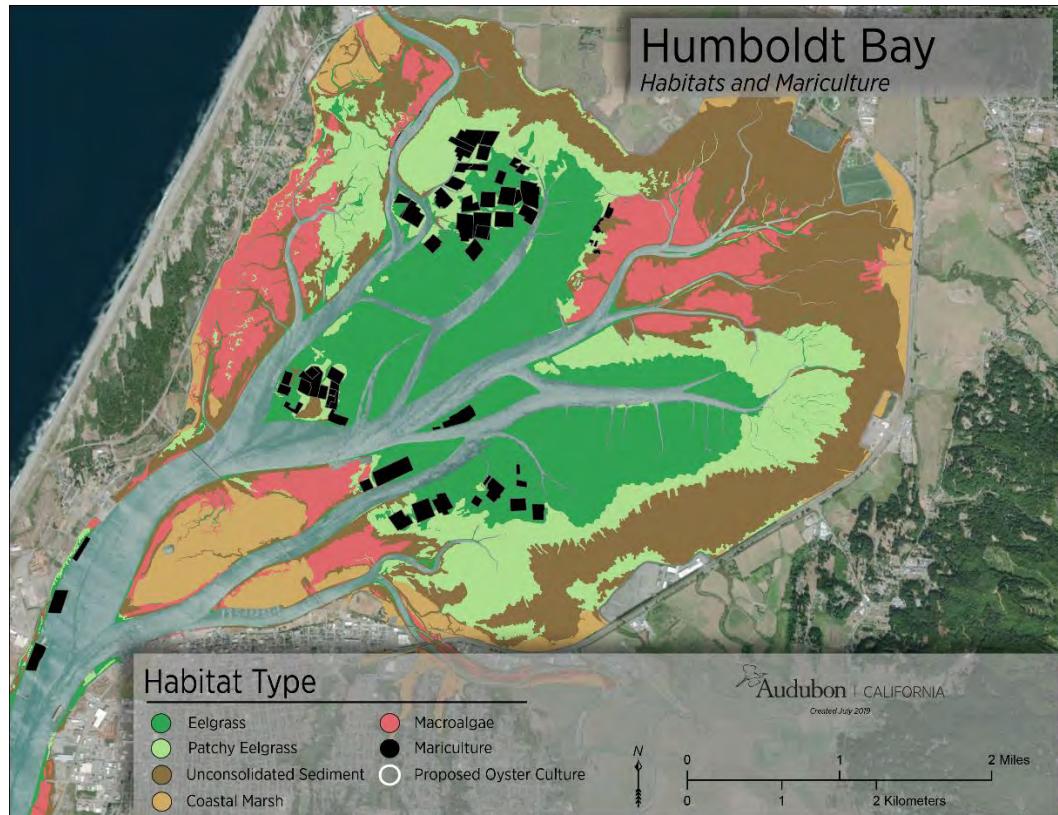


Figure 1 Habitat and Mariculture Map by Audubon CA

Black Brants

Eelgrass serves as essential habitat for several species, including the Black Brant, a California species of special concern⁶. Humboldt Bay serves as a stopping ground for the Black Brant and activity from this project can have potential impacts on this species.

Long-billed Curlews

Long-billed curlews overwinter in Humboldt Bay. They are found on the west side of Tuluwat Island in numbers of up to 600 individuals⁷. Long-billed curlews forage on intertidal habitats. Impacts from dredging should be evaluated as it has the potential to alter intertidal habitats and flush out wintering birds.

⁵ Schlosser, S., and A. Eicher. 2012. The Humboldt Bay and Eel River Estuary Benthic Habitat Project. California Sea Grant Publication T-075. 246 p. <https://www.fisheries.noaa.gov/inport/item/47851>

⁶ www.audubon.org/news/new-study-finds-humboldt-bay-among-most-important-places-entire-hemisphere#:~:text=Humboldt%20Bay%20in%20the%20northwestern,Marbled%20Godwit%20and%20much%20more

⁷ Mathis, R. et al. 2006. Long-billed Curlew Distributions in Intertidal Habitats: Scale-Dependent Patterns. Western Birds 37:156–168

In addition to the items listed above, we also want to reference and emphasize the comments submitted by the Redwood Regional Audubon Society, one of the 48 affiliated Audubon chapters throughout California. Impacts from lighting, increased traffic, and oil spills can affect the 500,000 shorebirds found in Humboldt Bay and the marine mammals that use the channel as a throughfare.

Although this Project has some potential impacts on important bird species and critical habitat, we recognize that this Project is being proposed in an area that has the least amount of conflict for various stakeholders. In June 2018, Audubon CA published a study that identified appropriate oyster farming sites that meet growing and conservation needs. This Project sits in a low conflict area (Figure 2).

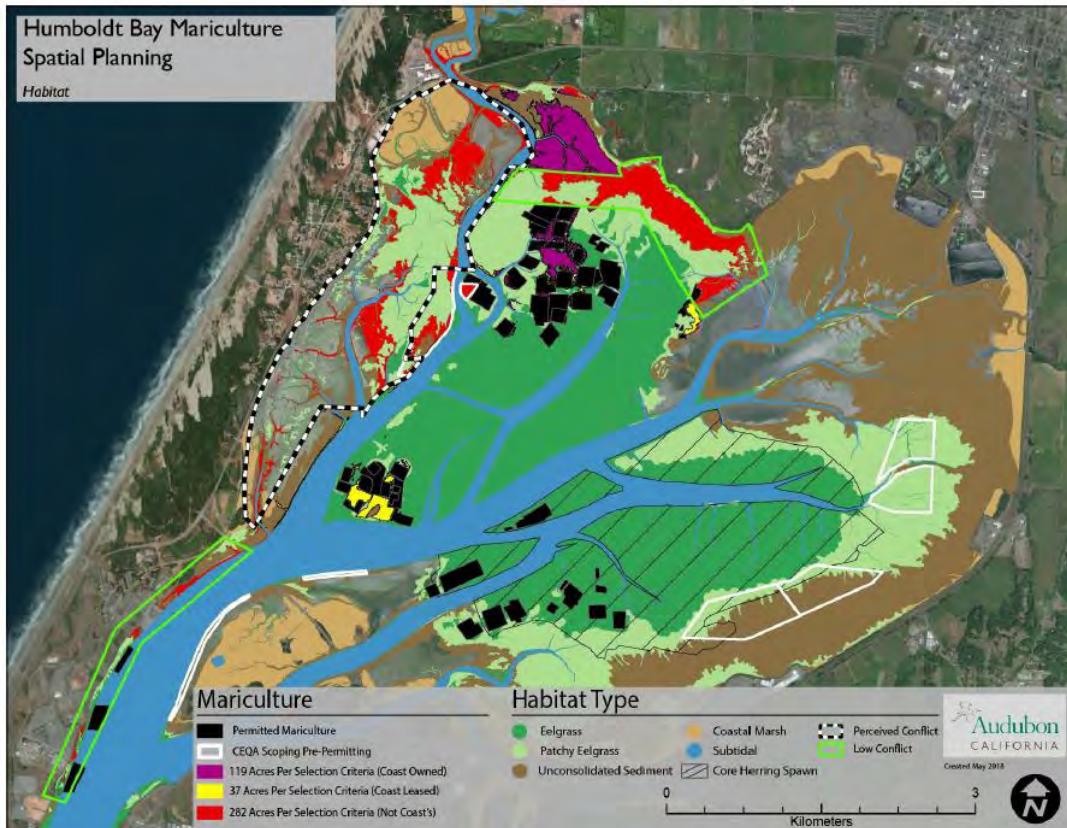


Figure 2 Humboldt Bay Mariculture Spatial Planning Map with Habitat Types. Green polygons represent low conflict areas.

We hope this information proves to be useful as you proceed with the environmental review process. Please feel free to reach out if we can be helpful in sharing the habitat maps we have created for Humboldt Bay. We are also available for consultation.

Sincerely,



Liliana Griego
Sr. Coastal Program Manager
Audubon California

From: Lacey K Harrigan [REDACTED]
Sent: Friday, August 25, 2023 3:48 PM
To: District Planner
Subject: Humboldt Lift Terminal Public Comment

To whom it may concern,

I am Lacey Harrigan, a student at Cal Poly Humboldt in the Environmental Resources Engineering program and I am concerned about the Marine Terminal the Humboldt Bay Off Shore Wind project is developing. I am concerned about the light pollution all of the work lights will give off because of their height. One of my favorite things to do here is look at constellations and if lights are on at the Marine Terminal 24/7, it will be a lot more difficult. I think something to consider is implementing regular work hours so that the surrounding residents are not affected when trying to sleep or visit a nearby beach to stargaze.

Thank you for your time and consideration,
Lacey Harrigan

George Bradshaw
President
Larry Collins
Vice-President
Loren Edwards
Secretary
Lori French
Treasurer

PACIFIC COAST FEDERATION of FISHERMEN'S ASSOCIATIONS



Glen H. Spain
Acting Executive Director
Northwest Regional Director
Vivian Hellwell
Watershed Conservation Director
In Memoriam:
Nathaniel S. Bingham
Harold C. Christensen
William F. "Zeke" Grader, Jr.

Please Respond to:

California Office
P.O. Box 29370
San Francisco, CA 94129-0370
Tel: (415) 561-5080

www.pcffa.org



Northwest Office
P.O. Box 11170
Eugene, OR 97440-3370
Tel: (541) 689-2000

Response Email: fish1ifr@aol.com

August 25, 2023

To: Rob Holmlund
Humboldt Bay Harbor, Recreation and Conservation District
P.O. Box 1030, Eureka, California 95502-1030
districtplanner@humboldtbay.org

**Re: Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project
Scoping on NOP for Draft EIR, from Pacific Coast Federation of Fishermen's Associations
(PCFFA) and Institute for Fisheries Resources (IFR)**

Dear Mr. Holmlund
and Humboldt Bay Harbor, Recreation, and Conservation District Commissioners,

Thank you for this opportunity to provide input on the proposed Draft Environmental Impact Report for the proposed Heavy Lift Terminal on Humboldt Bay.

PCFFA is a West Coast-wide trade organization representing small and medium size, family commercial fishing businesses that have historically relied on once-abundant wild Pacific salmon stocks to bring high quality seafood to market. Our members depend on healthy salmon populations to bring fresh caught, free-range, heart-healthy protein to the table. IFR is a 501(c)(3) non-profit that advocates for policies to protect, restore and maintain viable salmon stocks and their "Critical Habitat," above standards required for de-listing under the ESA, in order to produce the "Harvestable Surplus" we need to supply our local communities. During the onset of the Covid-19 pandemic, we were gratified that several states recognized commercial

fishing and its support businesses as “essential” food production jobs for health, wellbeing and food security.

There needs to be a combined EIS/EIR

- 1) The port of Humboldt Bay is a federally recognized, “navigable,” port of entry.
- 2) International shipping regularly comes and goes.
- 3) The U.S. Coast Guard under the U.S. Department of Homeland Security, along with the Army Corps of Engineers under the U.S. Department of Defense, share responsibility for navigation and safety in and out of federal waters and channels.

“The mission of the U.S. Coast Guard is to ensure our Nation’s maritime safety, security and stewardship.”¹
- 4) The U.S. BOEM offshore wind proposed projects are federal projects, in "waters of the United States." whose ships and tugs would transit the federal navigation channel of Humboldt Bay to service and transport the wind towers to and from the proposed project areas.
- 5) The proposed Heavy Lift Terminal depends largely on the development and federal approval of the offshore wind farms through the NEPA process.
- 6) In the absence of offshore wind development, other shipping commerce would also transit federal navigable waters. (“Additional purposes could include breakbulk uses, dry bulk, wood product manufacturing/shipping, cargo laydown/storage/transport, and /or other related maritime transport uses that require heavy-lift wharfs and large laydown yards.” Pg. 3 F. NOP). Safety patrols, dredging and the other services provide by the federal agencies would be required for all of these commerce activities.
- 7) Additionally, important fish species inhabit Humboldt Bay that are listed as threatened under the federal Endangered Species Act: Coastal chinook, coho salmon, and steelhead, requiring Section 7 federal agency consultation.²

How can an EIR be considered “adequate” if it does not discuss the cumulative interactions between these projects? Our conclusion is that due to all of the above-named interdependency with federal approval processes, there needs to be a combined EIS/EIR for the Heavy Lift Terminal.

Alternatives

- 1) Will there be a project design in the Draft EIR for agencies and the public to comment on?
- 2) What alternative designs will the Harbor analyze that could avoid, reduce, minimize, or otherwise mitigate for impacts?
- 3) Will the Harbor analyze the impacts of a “no action” alternative?

¹ United States Coast Guard, Department of Homeland Security: Mission

² U.S Fish and Wildlife Service <https://www.fws.gov/service/esa-section-7-consultation>

Navigational Safety

Project Overview, d. page 4 of NOP, is the only mention of navigation issues. It claims that wet storage for the WTDs mitigates for “...the risk of weather downtime, vessel traffic, entrance channel congestion, and other transportations risks.” Other questions to be answered include:

- 1) How will the Humboldt Bay Harbor, Recreation, and Conservation Commission (“Harbor Commission,” “Harbor”) address the safety issue of competition between fishing vessels and towing of offshore wind (OSW) platforms for passage through the narrow jetty exit/entrance to Humboldt Bay during limited, favorable tide and weather windows? The bottleneck for boats being unable to pass platforms in transit is the dredged channel between Buoy #12, in front of the Coast Guard station, to Buoy #2 beyond the jetties.³
- 2) Who will decide when the entrance is closed to fishing traffic to allow passage of wind platforms? The Coast Guard does not normally decide between private businesses.
- 3) How will vessels be notified in a timely manner that the entrance will be closed so they can get back inside safely, or plan when to go out so they can get back in safely? If the wind towers require the best wind and tide conditions at the entrance, will fishing vessels be pushed into less safe conditions in order to tend their fishing gear?

Background: The Humboldt Bay entrance has a notoriously deadly bar that causes large waves to rise up and break, especially during ebb tides, but any time when there is an ocean swell, that has sunk boats and killed people. Vessels forced to wait outside the bar to allow for offshore wind platforms to pass through can be in deadly peril. Vessels that have to wait for less favorable tidal moments to go out to run fishing gear are also in danger.

The first winter storms, often corresponding with the beginning of Dungeness crab season, causes shoaling and usually closes the bar to fully loaded ships, which has caused ships transporting “quality forest products” (wood chips) to be able to exit with only half a load during half the year. It is also not possible to dredge the channel during stormy periods.

From the Environmental Assessment for Humboldt Bay Entrance Channel Jetties FY2020 & FY2021 Repairs and Reconstruction:

“As winter approaches, the Pacific High begins to weaken and shift to the south, allowing polar storms to pass through the region. Severe storms, heavy winds and squalls occur frequently along the coast during the winter season as a result. As such, the Humboldt Bay jetties are regularly pounded by the severe wave conditions spawned by these storms. The Pacific Northwest, and particularly the Humboldt Bay environs, experiences the most extreme wave climate, by an order of magnitude, of any place in the continental United States.

“The following excerpt, from a 19th-century U.S. Army Corps of Engineers navigation report, describes typical sea conditions at the entrance to Humboldt Bay during the winter months:

‘It has been reported by masters of vessels that no such heavy seas have been encountered elsewhere in the world, unless perhaps south of the Cape of Good Hope or

³ Leroy Zerlang, Chairman Humboldt Harbor Safety Committee

Cape Horn. Waves have been seen to break in 8 or 10 fathoms of water. It was originally believed that no jetties or such construction could possibly withstand the forces brought to bear by waves during storms, so that the improvement was undertaken with great misgiving. ”⁴

Local fisherman David Helliwell, Fishing Vessel Corregidor, reports, “Waves break in 14 fathoms here.” (outside Humboldt Bay)

4) How will the following additional navigational traffic safety issues be addressed? Please give details of your Safety Plan.

4A) How will the Harbor address increased ship traffic to transport parts into the bay, and for surveys and maintenance, that would increase potential incidences of collision or pushing other vessels into the more dangerous, shallow side of the narrow entrance channel or onto the jetties? Visibility is often greatly reduced by thick fog, and strong currents can increase the danger of boats and ships colliding.

4B) How will the Harbor address dredging during the winter months that, when even possible, can cause traffic issues with the dredge?

4C) Since Humboldt Bay is a “Port of Refuge” for any boat or ship that is in trouble at sea, how will this be addressed when towing assembled wind towers in or out through the entrance?

4D) Will the Harbor create a designated small boat channel for 65 ft. and under vessels? This was proposed by fishermen at one of the public meetings we attended to discuss this DEIR. If not, how else will the Harbor mitigate and prevent passage problems during platform transport?

4E) Address worst case scenarios: What is the Harbor’s Safety Plan if/when one of the wind platforms gets stuck in the channel? Turning a ~425 foot wide platform (Diagram 1, page 3 NOP) 110 degrees⁵ to make the turn into the exit/entrance channel between the jetties (Figure 8, Bar Entrance Fed Channel) even at slack high tide with light wind, seems like a risky maneuver. Who is responsible when an assembled platform/tower being towed goes aground and blocks the entrance?

Lost Fishing Time⁶

How will the Harbor reimburse fishermen for lost fishing time when they cannot get out or into the entrance due to closures for traffic from the Offshore Wind Farms and Heavy Lift Terminal projects?

⁴ ENVIRONMENTAL ASSESSMENT Humboldt Bay Entrance Channel Jetties FY2020 & FY2021 Repairs and Reconstruction file:///Users/mac/Desktop/Humboldt_Jetty_Repair_Project_Final_EA_and_FONSI.pdf

⁵ Harbor Safety Plan of the Humboldt Bay Area
<https://humboldtharborsafety.org/sites/humboldtharborsafety.org/files/2018%20HSP%20Humboldt%20Bay.pdf>

⁶ 15064. DETERMINING THE SIGNIFICANCE OF THE ENVIRONMENTAL EFFECTS CAUSED BY A PROJECT

e. Economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant.

“Fishing is the cornerstone of countless coastal economies and has been a way of life for generations of Americans,” said U.S. Commerce Secretary Wilber Ross in September, 2019.

Our members’ livelihoods depend on being able to come and go through the Humboldt Bay entrance during favorable tides and weather conditions. Fishing seasons are limited by season; 8.8 million pounds of Dungeness crab were landed in Eureka in 2019⁷, most of it during the first weeks of the season, a winter fishery that starts between December 1st and January. Fishermen wait for non-lethal weather windows to exit—and then re-enter—Humboldt Bay entrance to set their gear and then to run their gear. About 20 million pounds of fish are landed in Eureka each year.⁸ It doesn’t make sense to eliminate existing, high quality food-producing jobs and businesses to replace them with other jobs.

At a minimum, the lost economic value of fishery delays should be considered as impacts that offset any economic benefits of the Heavy Lift Terminal.

Ecological Function of Humboldt Bay

1) How will the Harbor prevent damage to the functioning ecosystem of Humboldt Bay Estuary from dredging such as sediment and bank erosion; oil spills, bottom paint, and lightning strikes?

Humboldt Bay is one of the largest estuaries on the coast, supporting major eelgrass beds that act as a nursery for many marine species, as well as providing passage to and from the ocean for endangered and threatened salmonids. Not only do Dungeness crab, halibut, Chinook salmon, and the remaining Coho salmon and steelhead--threatened and endangered under state and federal Endangered Species Acts--inhabit the bay for part of their life cycles, they are of great economic importance to our local food-producing fishing families and the businesses that support and benefit from commercial, recreational and subsistence fishing in our community. Local fisheries provide heart-healthy, low carbon footprint, high quality protein to the local community and markets beyond, while contributing to food security. The socio-economic value of these local fisheries should be delineated, and impacts that may adversely affect those values explained as part of any cost/benefit analysis, as well as mitigation measures that will be taken to reduce those impacts.

Many other marine species use Humboldt Bay estuary as a nursery and habitat, including this being a stopover for numerous bird species that stop here on their Pacific Flyway migrations. All of the species together create a living habitat for economically important fisheries, as well as making Humboldt Bay a recreational and tourist attraction, contributing to the community well-being of fishing families and the community as a whole. All of these monetary and non-monetary values of the current *status quo* should be delineated, and proposed mitigation measures intended to protect these values and to minimize adverse impacts to these values should be carefully and fully explained.

⁷ California Department of Fish and Wildlife Page: pg. 4 Table 9 - Monthly Landings in Pounds in the Eureka Area During 2019 <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=178011&inline>

⁸ <https://wildlife.ca.gov/Fishing/Commercial/Landings>

2) How will the Harbor address mitigation for eelgrass when dredging the channel much wider to accommodate wind platforms? The Harbor Commission was unable to get permits to dredge the comparatively tiny King Salmon fairway, as there was no place found to mitigate for the loss of eelgrass because every place that it can grow is already occupied.

3) How will the Harbor remediate for turbidity from channel dredging and its effect on fisheries? Turbidity is a problem for marine crustaceans and fish using the saltwater nursery, clogging their gills and making it hard to see food. Larvae and creatures that are not killed outright can be pushed out of feeding areas into smaller remaining habitat. How will this be avoided?

3) How will the Harbor address increased bank erosion from dredging and increased ship traffic? Bay shore erosion is already threatening the highway, with rip-rap being added under Samoa Bridge.

4) How will the Harbor protect Humboldt Bay from oil spills during assembly, storage, and transport of the wind towers? How much lubricating oil is in the hubs and platforms of these wind towers? Exxon-Mobile says between 200-1,400 liters (53-370 gallons) of oil in the main gear box, depending on the size of the turbines.⁹ They are known to leak, and the oil and the oil-bearing parts also have to be serviced at regular intervals. Even small oil spills can be environmental disasters for the marine larvae and species using the estuary as a nursery, and for ESA-listed salmon passing to and from natal streams, including Elk River, Freshwater Creek, and Jacoby Creek. Juvenile salmon abide in the tidal zone while smolting, a change from fresh water to saltwater metabolism, and a lifestage at which they are particularly vulnerable to potential oil spills and pollution.

Any additional hazards for our remaining salmon while we attempt to recover their numbers to viable, self-sustaining populations with a harvestable surplus, could push them into local extinction at a very vulnerable time in their recovery. What will adverse impacts of the project be on those dwindling salmon runs, and what mitigation measures will be taken to protect against these adverse impacts?

An oil spill would also be a disaster for the oyster businesses in Humboldt Bay. A harm to one is a harm to all, as our community members rely on all the others doing well.

4) How will the wind towers stored in Humboldt Bay be grounded to prevent fire and oil spills from lightning strikes while assembled on land, stored on the water, and in transit?¹⁰

⁹ <https://energyfactor.exxonmobil.eu/science-technology/lubricant-wind-turbines/>

¹⁰Lightening protection for offshore wind turbines

http://www.cired.net/publications/cired2001/4_14.pdf

Observation and Simulation of Lightning Strikes in an Offshore Wind Turbine Cluster Online ISSN:2333-5084
Earth and Space Science

<https://agupubs.onlinelibrary.wiley.com/doi/full/10.1029/2022EA002809>

Lightening protection of wind turbines

https://pure.manchester.ac.uk/ws/portalfiles/portal/54594218/FULL_TEXT.PDF

On the estimation of the lightening incidence to offshore wind farms

<https://www.researchgate.net/publication/322301277> On the estimation of the lightning incidence to offshore wind farms



<https://www.firefighternation.com/news/video-lightning-strike-burns-up-tx-wind-turbine/#gref>

Other Cumulative Effects

It is a problem that there is not yet a full project design. Without a project design it is impossible to fully identify and deal with potential impacts.

- 1) Explain how the Harbor will mitigate, minimize and avoid cumulative effects of the Heavy Lift industry to Humboldt Bay when combined with the effects of pumping out 10 million gallons a day of bay water proposed for the permit of Nordic Aquaculture, nearby?
- 2) How will the Harbor address the need for increased road infrastructure support, and the impacts of noise and delays on local communities, from the increase in vehicle traffic when combined with the traffic from Nordic Aquaculture, and the businesses that already exist on Samoa Peninsula.
- 3) How will the Harbor address the need for electricity, when combined with the need for electricity from Nordic Aquaculture and the rest of the county?
- 4) How will the Harbor address the housing and sewage needs of the combined workforce?
- 5) How will the Harbor address the combined effects of increased marine traffic to and from the Heavy Lift Terminal and the impacts of marine traffic to and from the wind farms, including interaction with the fishing grounds.

Fishermen will be dealing with safety issues at the entrance, combined with traffic safety and fishing gear loss at sea, plus the loss of fishing grounds, and the possibility that the noise and electric fields of the wind farms may change the migration patterns of whales and target fishes as well. The cumulative impacts of all these problems may well be synergistic, i.e., greater than just the sum of all the separate impacts. These cumulative impacts should be fully quantified and assessed.

- 6) How will the Harbor address the energy consumption footprint of the manufacture and transport of the wind tower components

7) How will the Harbor address the landfill footprint of the wind tower components, after their useful lifespan?

Thank you for taking the care to consider and analyze the potential impacts of the proposed Heavy Lift Terminal on our local fishing fleet and our community.

Glen Spain, Executive Director



Vivian Helliwell, Watershed Conservation Director



Cc.

Gavin Newsom, Governor

Wade Crowfoot, Resources Secretary

Charlton Bonham, Director California Department of Fish and Wildlife

Mike McGuire, Senator

Jim Wood, Assembly member

Jared Huffman, Congressman



Early detection of oil and hydraulic fluid leaks from wind turbines.

<https://www.laiier.io/use-cases/wind-turbine-oil-leaks#:~:text=Turbines%20as%20a%20vessel%20for,extreme%20environments%20they%20operate%20in.>

From: Mariana Hill [REDACTED]
Sent: Friday, August 25, 2023 3:57 PM
To: District Planner
Subject: Wind Farm Public Comment

To The Humboldt Bay Harbor District,

My name is Mariana Hill, I am a Cal Poly Humboldt student in her senior year of environmental resources engineering. While I am very excited for this project, I do have some concerns. My main concerns fall under two categories; environmental and community impacts. On the environmental side I am worried about the water runoff from the facility, how it will affect the water quality and if it will contribute to flooding of the neighboring communities. I think a possible mitigation would be to incorporate green building practices that would allow for more natural drainage. The increase in human volume is of great concern in this area as we currently have a serious housing crisis. Increased traffic, not only from the workers, but from the semi trucks bringing construction materials, will have a huge impact on both the community and the environment. Hiring locals will help lower the strain on housing and traffic conjunction. I believe in the long run this project will greatly improve the community by creating more jobs and making the area a headliner for green energy.

Keeping my eye on the horizon,

--
Mariana Hill

Undergraduate, Spring 2024
Cal Poly Humboldt School of Engineering
Vice President, ASCE Student Chapter

District Planner

From: Rob Holmlund
Sent: Friday, August 11, 2023 1:12 PM
To: [REDACTED]
Subject: RE: Form submission from: Contact

John,

It is my understanding that you have questions about "... the development, use, and occupancy of Redwood Marine Terminal the long-term goal for the terminal is to repurpose the area into a Multipurpose Marine Terminal."

How can I help you?

In the meantime, you can learn more about the project and the permitting processes via the following links:

- <https://humboldtbay.org/humboldt-bay-offshore-wind-heavy-lift-marine-terminal-project-3>
- <https://www.youtube.com/@humboldtbayharbordistrict>

Best.

R

Rob Holmlund, AICP; Development Director
Humboldt Bay Harbor, Recreation, and Conservation District
601 Startare Drive, Eureka, CA
Phone: (707) 443-0801



---Original Message-----

From: Humboldt Bay Harbor District <techadmin@precisionintermedia.com>
Sent: Friday, August 11, 2023 9:39 AM
To: Amber Shehan [REDACTED]
Subject: Form submission from: Contact

Submitted on Friday, August 11, 2023 - 09:38 Submitted by anonymous user: [172.56.169.96] Submitted values are:

Your Name: John Hoeflich

Email Address: [REDACTED]

Phone Number [REDACTED]

Questions / Comments: Regarding the development, use, and occupancy of Redwood Marine Terminal the long-term goal for the terminal is to repurpose the area into a Multipurpose Marine Terminal. Please provide contact information for reply.

url:

The results of this submission may be viewed at:

<https://humboldtbay.org/node/5/submission/1383>

From: Mary Hurley [REDACTED]
Sent: Friday, August 25, 2023 3:51 PM
To: District Planner
Subject: Comment for the Humboldt Bay Marine Terminal

I am submitting a public comment for the Humboldt Bay Marine Terminal wind project:

I support the use of the floating turbine wind energy project proposed for Humboldt Bay and the process of retrofitting the Humboldt Bay Marine Terminal to build the wind turbines. I think it is extremely important to utilize green energy for the building of the terminal to the greatest extent possible to avoid pollution to the nearby community from diesel use and noise. I strongly urge the District to incorporate these technologies into the planning process.

I also urge that the planning process work with the community coalitions including tribalnations that are stakeholders in this project to ensure that Humboldt County can plan for the growth in a sustainable manner that will occur with this project. It is important to work with community leaders and educational institutions so that the new jobs that are created can hire within our County at higher wages.

The planning process must take into consideration protection of the natural resources of Humboldt Bay and protect plant and animal species. Protection and restoration of wetlands and salt marsh habitat is critical especially with the sea level rise projected for this area in the coming years.

Finally, given the current fast moving climate crisis, I urge the District and all community stakeholders to place this project and planning on a timeline that will allow the wind turbines to be placed in the ocean that will help reduce carbon emissions sooner and will also provide wind energy to this community.

Thank you.

Mary Hurley
[REDACTED]

From: Nancy Ihara [REDACTED]
Sent: Friday, August 25, 2023 5:00 PM
To: District Planner
Subject: scoping comments

Issues that I would like addressed are the impacts on people living near the facility. What will be done to keep noise emanating from equipment to a minimum. What will be done to keep lights from shining into houses and backyards. Will the facility operate at night or ideally will work primarily be done during the day. During construction there will be truck traffic. Can this traffic be directed away from nearby residents and the community of Manila. Will there be landscaping to separate the facility from nearby residents. What sources of air pollution are anticipated and can these be eliminated. Regular conversations with residents of the peninsula to identify concerns should be part of the project so these can be mitigated.

Nancy R. Ihara.



July19, 2023

Rob Holmlund
Development Director
Humboldt Bay Harbor District
Eureka, CA

Dear Mr. Holmlund,

This letter is commenting on the draft EIR for the proposed Humboldt Bay Heavy Lift Marine Terminal.

I have a five decades long experience of using Humboldt Bay for recreation, sailing, rowing, paddling and fishing. As a sailor I have used Federally designated deep water channels for Keel Boat races organized by Humboldt Yacht Club. For more than 20 years sailors have had a weekly event which uses the Samoa Channel and the waters surrounding that channel north to channel marker #4. That mark is a windward turning mark for our races. This is a favored course because there are consistent NW winds which come across the open dunes south of Manila unobstructed by built structures. The next nearest winds of such consistent quality arrive at bay waters south of Fairhaven where again they are not blocked by built structures.

All this is background to inform you how the proposed Heavy Lift Marine Terminal will have a significant impact on the recreational use of Humboldt Bay. Relocating navigational marks will effect our sailing courses. The proposed Wet Berth areas will eliminate those areas which are currently open water used for racing. The installation of completed and partially constructed wind towers will have an adverse effect on the winds that now are free flowing over that area. The commercial traffic , tugs and ships coming and going from the wharfs will require that sailors and any other recreational boaters need to keep clear of the deep water channel when traffic is present.

The development of this green new deal project needs to be mindful of the green recreation sports of sailing , rowing and paddling on Humboldt Bay.

Additionally this project needs to be aware of the potential hazard of unintended collisions with the Samoa Bridge which is in close proximity to the project. Prudent design will need to assess the dangers of such events and provide warning to CalTrans about their need to protect the bridge.

Sincerely yours,

Peter Jermyn



August 25, 2023

Rob Holmlund
Development Director
Humboldt Bay Harbor, Recreation and
Conservation District
P.O. Box 1030
Eureka, California 95502-1030
districtplanner@humboldtbay.org

Re: Notice of Preparation of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

Dear Director Holmlund:

On behalf of the Redwood Region Climate and Community Resilience Hub (CORE Hub)¹ and the following entities from the Offshore Wind Community Benefits Network: Bear River Band of the Rohnerville Rancheria, Blue Lake Rancheria, California Center for Rural Policy, Changing Tides Family Services, College of the Redwoods, Humboldt County Association of Governments, Hoopa Valley Tribe, Northern California Indian Development Council, Peninsula Community Collaborative, Peninsula Community Services District, Redwood

¹ The CORE Hub was established by regional leaders in climate resilience, mitigation, and adaptation and is based at Humboldt Area and Wild Rivers Community Foundation, serving California Counties of Humboldt, Del Norte, and Trinity, as well as Curry County in Oregon. The service area also includes 26 Tribal Nations and Indigenous Territories.

Community Action Agency, Selkie Land + Sea, Sierra Club North Group of the Redwood Chapter, Surfrider Foundation Humboldt Chapter, we submit these comments on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project or Wind Terminal) released on June 26, 2023 by the Humboldt Bay Harbor, Recreation and Conservation District (Harbor District). We recognize the significant role the Project plays in meeting the State's climate goals and are committed to working with the Harbor District in partnership on this important effort.

I. Introduction

As a community deeply connected to and reliant on the natural world, we are profoundly concerned about the impacts of climate change, both globally, regionally, and in Humboldt Bay. We support urgent and immediate action to decarbonize our energy systems and act on climate change and are committed to working in partnership with the Harbor District to develop a Wind Terminal that includes robust community benefits, addresses mitigation needs, and uses best available technology for achieving zero-emission goals to maximize climate benefits. Project development must protect against increased sex trafficking, sexualized violence, or Missing and Murdered Indigenous Persons (MMIP) risks, prevent degradation of fisheries and the environment, and deliver infrastructure and economic benefits to Tribal Nations and local communities. Key to achieving these goals is a thoughtful, transparent, public-facing CEQA process that incorporates community, human, cultural, and environmental needs, and analyzes the full Project (including the lease or option to lease agreement between the Harbor District and the future leaseholder/developer/operator of the Wind Terminal) and incorporates input, expertise and traditional knowledge from Tribal Nations, together with other rigorous science. We believe the development of this Wind Terminal and its ability to attract significant funding is dependent on achieving these goals and will be catalytic to securing additional investment and competitive public funding dollars for the region. We crafted the comments below with the intention to support the Harbor District to achieve a Project aligning with this vision and values. This comment letter includes (a) a high-level overview of our goals for this Project and recommendations for the CEQA process, (b) technical comments on the NOP prepared by Shute Mihaly & Weinberger, and (c) a memorandum prepared by Shute Mihaly & Weinberger dated, on the issue of lease timing and environmental review.

I. Values and Goals

We see the Project as an opportunity to disrupt past cycles and foster a collaborative approach in ensuring that climate-combatting actions are done right from the beginning. Our region has endured devastating boom-and-bust cycles associated with extractive industries like mining, logging, and dams. These industries exploited our natural resources and people to benefit those outside our region, resulting in significant environmental damage, a legacy of underinvestment, and unfulfilled promises of restoration. Local Tribal Nations experienced land theft and state-sanctioned genocide, and today, continue to face some of the highest rates of MMIP in the nation. Chronic underinvestment has further exacerbated the lack of basic infrastructure and services, including housing, electricity, healthcare, broadband, roads, public

transportation, and childcare. These needs are deeply visible across the region, especially on the Samoa Peninsula, the designated Project site.

In the last eighteen months, the CORE Hub brought together leaders across the region to discuss potential community benefits associated with offshore wind development. Over the course of this process, it became clear that the Wind Terminal on the Samoa Peninsula, the first “staging and integration” port serving California’s floating offshore industry, would profoundly transform our region. There are a number of potential benefits of the Project, including contributing to the State’s climate and energy resilience goals, regenerative economic and community development, resourcing the Harbor District’s important work, clean-up of the Wind Terminal site, strong Tribal leadership, and an innovative environmentally, socially and culturally terminal that could help to establish an offshore wind industry that is sustainable and responsive to the communities it is part of. This transformation also includes challenges from air and water quality issues and infrastructure impacts to surrounding Tribal Nations, communities, and fisheries as well as increased risk of MMIP and sex trafficking with the influx of new workers and maritime activity. Meaningful and ongoing public engagement and Tribal consultation are important on such an historic project. Our comments are informed by extensive conversations and engagement, as well as the oral comments that were made by members of the public at the public scoping meeting held by the Harbor District on July 12, 2023.

We believe that a state-of-the-art Wind Terminal begins with a firm commitment to protecting the human and natural environment and addressing climate change. By committing to building a zero-emission terminal from the start, we are better equipped to protect our communities² and the environment from air and noise pollution and water contamination from vehicles and ships. In addition, the Wind Terminal must be designed, built, and operated as sustainably and safely as possible to protect environmental and cultural resources, including Tribal cultural landscapes, and address significant community infrastructure needs,³ particularly for portside communities. Preservation of local Tribal, commercial, and recreational fisheries is critical to our region’s physical and economic health. We believe in ensuring the Project moves forward in strong relationship with the environment which can be championed by a community-led adaptive management committee. It is critical that the Project include strong measures to prevent MMIP, meaningful Tribal consultation and ongoing communication over the life of the

² California’s Coastal Commission has found that the District’s terminal expansion and future operations in support of offshore wind energy generation would cause additional pollution and impacts, including additional air pollution burdens that may occur from vehicle emissions on land and vessel emissions offshore and loss of lower-cost recreational boating opportunities. Burdens such as increased air, water, noise and light pollution would not only affects residents, but also workers and visitors who might recreate near port areas. Near the Port, there are several low-income communities and populations with additional sensitivities such as asthma and cardiovascular disease “that may be exacerbated with additional pollution impacts in the area that may occur from Humboldt Harbor District expansion and future operations to support offshore wind energy generation.” See Coastal Commission Consistency Determination Staff Report, page 117.

³ A legacy of underinvestment has left the region with significant needs. These range from an existential and growing housing shortage, severe healthcare and childcare gaps, acute electricity stability issues, aging water treatment systems and lack of broadband access. Many of these needs are felt particularly by portside communities, members of tribal nations, communities of color and low-income communities.

Wind Terminal, transparency, innovative governance structures, and community decision-making. Our values underscore the significance of ensuring that the Wind Terminal development leads to good careers and leadership opportunities for local residents, members of Tribal Nations, and underrepresented communities, as well as opportunities for Tribal ownership and meaningful Tribal economic benefits. Furthermore, we emphasize the need for a community needs agreement (CNA)⁴ for the Wind Terminal prior to the Harbor District signing and approving the lease, and a lease that includes strong community commitment and benefit provisions.

II. CEQA Specific Comments.

The purpose of an NOP is to solicit guidance from members of the public and reviewing agencies about the scope and content of environmental information that should be included in the environmental impact report (EIR).⁵ However, to effectively solicit such guidance, the NOP must provide adequate and reliable information regarding the nature of the Project and its probable environmental impacts. Crucially, the Draft Environmental Impact Report (DEIR) must be released before the Wind Terminal lease or option to lease is signed, so the public and decision-makers can understand and address the Project's environmental impacts, consider a full range of mitigation measures and alternatives, and ensure the future Wind Terminal leaseholder/developer/operator is committed to implementing all measures or Project design changes/commitments before binding commitments are made. Notably, we are concerned that the current proposed sequencing has underlying legal vulnerabilities that could lead to Project delays and prevent us from meeting our climate goals in time.

As proven by many thoughtful oral comments at the July 12 Harbor District Scoping Meeting on the Project, our community is deeply invested in ensuring the best, long-term outcomes for the environment as the Project progresses under CEQA. We will rely on the DEIR for a thorough assessment of the environmental impacts of the proposed Project. Therefore, we have identified key issues that must be studied in the DEIR, as well as critical process actions to be taken by the District. These specific issues and actions include:

- Prepare and certify the EIR before leasing the Project site or entering into a binding option to lease the site.
- Carefully follow CEQA's procedural requirements and analyze the "whole of the action," which includes any and all actions associated with the Wind Terminal development.
- Include in the DEIR a thorough analysis of all potentially significant environmental impacts, specifically including: protecting Tribal cultural resources, preserving Tribal cultural landscapes, ensuring safety, protecting biological resources, minimizing infrastructure impacts, abating air quality and greenhouse gas emissions, alleviating

⁴ Co-Developed community Benefits packages to benefit communities of concern were a key expectation of the Coastal Commission. For many in local fisheries, Tribal Nations, and other constituents, it is unclear that an agreement around the Wind Terminal will bring benefits, rather than addressing impacts, so we use the term "Community Needs Agreements")

⁵ CEQA Guidelines § 15375; *see also* CEQA Guidelines § 15082.

maritime congestion, addressing impacts of Project related traffic on surrounding communities, minimizing aesthetic impacts, protecting water quality, minimizing land use and operational impacts, minimizing impacts to fisheries and Bay industries, and protecting recreational opportunities in and around Humboldt Bay.

- Ensure safe multimodal travel and accessibility on the Peninsula including to recreation sites, and analyze transportation impacts to local Peninsula communities using present day-conditions, as a baseline.
- Develop a Project design that incorporates best available technology to achieve a zero-emission Wind Terminal.
- Conduct meaningful public engagement and ensure community involvement and leadership throughout the Project development and CEQA process early and often.
- Commit to MMIP prevention and worker safety in the future lease terms and Project approvals.
- Preserve Tuluwat Island, in consultation with the Wiyot Tribe from impacts (visual, noise, glare, air and water quality, and other potential environmental degradation).
- Update the Wind Terminal Project Objectives to include objectives of the larger community. Specific Objectives include:
 - Safeguard the community and workers from construction and operations-related sex trafficking and sexualized violence, in recognition of the devastating toll of Missing and Murdered Indigenous Persons and history of trafficking in this region, as well as documented sexual assault and harassment issues in the maritime industry.
 - Create workforce and economic opportunities for residents of the region that include high-road careers, training, educational and leadership opportunities for local residents, members of Tribal Nations, and underrepresented communities, as well as opportunities for Tribally owned enterprises.
 - Preserve local Tribal, commercial, and recreational fishing, and avoid and minimize impacts on fisheries and Bay aquaculture businesses.
 - Protect the natural environment, create, and preserve green space, and ensure equitable access and recreation for surrounding communities.
 - Provide maximum infrastructure benefits, such as transportation, electricity, and broadband, for local communities.
 - Engage Tribes meaningfully in all aspects of Project design, review, construction, and operations.
 - Use the best available technology to achieve a Zero-Emission Wind Terminal by 2030, including zero-emission operational equipment, berthing for vessels, and zero-emission engine requirements for drayage trucks accessing or calling at the Wind Terminal.
- Identify and analyze a wide range of alternatives in the DEIR, including options that incorporate community objectives.

We appreciate your attention to this letter and related attachments. The proposed Wind Terminal offers a chance to redefine climate-positive development for our region and prioritize community and environmental wellbeing. We are pleased to work in partnership with the Harbor District as we embark on the CEQA process.

Thank you for your dedication to the climate and our community's future.

Sincerely,

**Josefina Frank, Tribal Chairwoman
Bear River Band of the
Rohnerville Rancheria**

**Claudia Brundin, Chairperson
Blue Lake Rancheria**

**Dawn N. Arledge, Executive
Director
California Center for Rural
Policy**

**Kerry Venegas, Executive Director
Changing Tides Family Services**

**Keith Flamer, President
College of the Redwoods**

**Katerina Oskarsson, Executive in
Residence
CORE Hub**

**Beth Burks, Executive Director
Humboldt County Association of
Governments**

**Joe Davis, Chairman
Hoopa Valley Tribe**

**Madison Flynn, Chief
Administrative Officer,
Northern California Indian
Development Council**

**Carol Vander Meer, Facilitator
Peninsula Community
Collaborative**

**Leroy Zerlang, Director
Peninsula Community Services
District**

**Val Martinez, Executive Director
Redwood Community Action
Agency**

**Mica O'Herlihy, Owner/Operator
Selkie Land and Sea**

**Robin Gray-Stewart, Marine
Chair North Group of the
Redwood Chapter Sierra Club**

**Jessie Misha, Chair
Surfrider Foundation Humboldt
Chapter**

**Daniel Chandler, Steering
Committee Member
350 Humboldt**

With copies to:

1st Division Commissioner Aaron Newman
2nd Division Commissioner Greg Dale
3rd Division Commissioner Steven Kullman
4th Division Commissioner Craig Benson
5th Division Commissioner Patrick Higgins
Executive Director Larry Oetker

Attachments:

- A. Technical comments on the Notice of Preparation from Shute, Mihaly & Weinberger dated August 25, 2023
- B. Memorandum dated August 25, 2023 from Shute, Mihaly & Weinberger on CEQA and Option to Lease issue

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WINTER KING
Attorney
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MEMORANDUM

TO: Redwood Region Climate and Community Resilience Hub (CORE Hub)¹

FROM: Winter King

DATE: August 25, 2023

RE: Technical Comment on the Notice of Preparation of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project

Shute, Mihaly & Weinberger LLP has prepared these technical comments on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project or Wind Terminal), released on June 26, 2023 by the Humboldt Bay Harbor, Recreation and Conservation District (Harbor District). These comments identify issues that the Harbor District must address in designing the Project, engaging the community, and preparing the DEIR to comply with the California Environmental Quality Act (CEQA).

I. The Harbor District must prepare and certify the EIR before leasing the Project site or entering into a binding option to lease the site.

Per the District's website² and comments made at the Public Scoping meeting, the Harbor District and Crowley Wind Services, Inc. (Crowley) are currently negotiating an option agreement, by which the District would grant Crowley the right to lease Port land

¹ The CORE Hub was established by regional leaders in climate resilience, mitigation, and adaptation and is based at Humboldt Area and Wild Rivers Community Foundation, serving California Counties of Humboldt, Del Norte, and Trinity, as well as Curry County in Oregon. Its service area also includes 26 Tribal Nations and Indigenous Territories.

²

https://humboldtbay.org/sites/humboldtbay.org/files/HBHRCD_Crowley_PressRelease_v2%20ddc_2.pdf

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for the development and operation of the Wind Terminal. According to the exclusive negotiating agreement recently posted on the District's website³, the lease will be an exhibit to the option agreement and must contain initial plans for development sufficient to obtain entitlements. Once the option agreement is approved by the Harbor District, Crowley will have the right to enter into the lease under the terms of the agreement.

Per statements from the District and the timeline contained in the NOP, the District is planning to execute the option agreement with Crowley before certifying the EIR for the Project. This would plainly violate CEQA, as described below and in Exhibit B to the Network's NOP comment letter.

CEQA applies to discretionary projects carried out or approved by public agencies, and specifically includes leases. See CEQA Guidelines § 21080(a). Under CEQA, a “Project” is defined as “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment,” which specifically includes “the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.” See CEQA Guidelines § 21065; see also CEQA Guidelines §§ 15378(a)(3), 15377.

California case law is also clear that leases trigger CEQA. In *World Business Academy v. California State Lands Commission*, (2018) 24 Cal.App.5th 476, the court found there was “no dispute” that a replacement lease for continued operation of a nuclear powerplant was a “project” subject to CEQA. In *City of Orange v. Valenti*, (1974) 37 Cal.App.3d 240, the court stated that it was “inescapable” that leasing a building was a “project” under CEQA.

CEQA’s environmental review process must occur *before* project approval. The CEQA Guidelines state that every lead agency “shall consider a final EIR or negative declaration” “[b]efore granting any approval of a project subject to CEQA.” See CEQA Guidelines § 15004. The CEQA Guidelines also state that, for public projects, agencies may not undertake actions concerning the project “that would have a significant adverse effect or limit the choice of alternatives or mitigation measures before completion of CEQA compliance.” See CEQA Guidelines § 15004(b)(2).

In 2008, the California Supreme Court addressed the issue of environmental review timing in the context of a joint “public-private” project proposed in the City of West Hollywood. *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116. In that case, the City had executed a property acquisition and development agreement with a private developer without conducting environmental review. The Court applied “the

³ https://humboldtbay.org/sites/humboldtbay.org/files/Agenda%20Packet%2010-27-2022_0.pdf

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general principle that, before conducting CEQA review, agencies must not ‘take any action’ that significantly furthers a project ‘in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.’” *Id.* at 138. Applying this test to the specific facts of that case, the Court held that the City had committed itself to a definite course of action regarding the project before conducting environmental review, and thus had violated CEQA.⁴

Here, the option agreement described in the exclusive negotiating agreement is similar to the agreement addressed in *Save Tara*. It will commit the Harbor District to leasing Port Property to Crowley for the express purpose of developing the Project, and the initial plans for that development will be part of the agreement. Thus, the option agreement and attached lease will certainly commit the District to a definite course of action and foreclose alternatives and mitigation measures. As a result, the District must complete its environmental review for the Project prior to entering the option agreement and authorizing the lease.

The CEQA memorandum prepared by SMW and included as Exhibit B to the Network letter further delineates the requirements of CEQA in relation to the lease between the Harbor District and Crowley, including the requirement to prepare and certify the EIR in advance of executing the lease.

II. The Harbor District must carefully follow CEQA’s procedural requirements and analyze the “whole of the action.”

CEQA requires that an EIR provide a complete picture of the existing conditions of the Project in addition to providing a detailed Project description. According to the CEQA Guidelines, “project” means the whole of an action that has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. In the case of this Project, the “whole of the action” clearly goes beyond just the construction of the Wind Terminal.

First and foremost, the Harbor District’s lease with the leaseholder/developer/operator is part of this Project, and the leaseholder/developer/operator will be responsible for implementing any mitigation measures identified in the DEIR. The NOP fails to

⁴ See also *California Farm Bureau Federation v. California Wildlife Conservation Board* (2006) 143 Cal.App.4th 173, 191-82 (acquisition of conservation easement by Department of Fish and Game required CEQA review where easement required conversion of 235 acres of agricultural land to wetlands and other habitat); *McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District* (1988) (transfer of property to public agency required environmental review because property contained PCBs and, under federal law, remediation activities were mandatory).

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mention that the Project will largely be undertaken by a private developer, Crowley Wind Services, Inc. The DEIR cannot omit this information. The leaseholder/developer/operator will also be responsible for designing and building the Project as described in the DEIR. Therefore, the DEIR's Project Description must include an explanation of the developer/operator/leaseholder's role, and the EIR's Mitigation Monitoring and Reporting Program (MMRP) must identify the leaseholder/developer/operator as the entity responsible for implementing all measures and ensuring installation of all design features identified in the DEIR.

In addition to recognizing the lease as part of the Project, the DEIR must also clearly and accurately describe all other actions associated with the Wind Terminal, including:

- Demolition of any existing buildings or facilities – both on land and in the water (docks, piers).
- Relocation or reconstruction of any existing facilities, whether those facilities are being relocated within the delineated Project Area or outside of it, including:
 - Seaweed farms/shellfish nursery/mariculture sites
 - Scientific and academic testing sites
 - Commercial fishermen storage area and small boat repair facility
 - Hagfish holding facility
- Improvements or modifications to any existing facilities remaining in the Project Area.
- New facilities outside of the Project Area that are directly related to the construction or operation of the Wind Terminal or are a result of the Project, including:
 - Upgrades to the existing electrical substation and/or construction of a new substation
 - Construction of the landfill solar array
 - Modernizing the existing dredge material dewatering area and/or construction of a new dewatering area
 - Creation of a new habitat restoration area
- Ongoing operations at the Wind Terminal and in Humboldt Bay that are related to offshore wind turbines: receipt of materials, manufacturing, fabrication, staging, storage, assembly, transportation, utilization of waterways and channels for ingress and egress of turbines, storage of turbines in Humboldt Bay Harbor, and

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wind platform and turbine installation, platform/turbine repair and decommissioning, and use of heavy cargo vessels, among other activities.

- Ongoing operations at the Wind Terminal that are not related to offshore wind, but are related to other maritime activities that will be enabled by developing enhanced capabilities at the Wind Terminal. These activities include additional cargo handling, materials storage and processing, expansion of fishing facilities and processing, or other similar activities.

While the Harbor District has described the Wind Terminal as distinct and separate from the Humboldt Bay Offshore Wind Energy Development project and the development and operation of other wind energy areas, clearly a purpose of the Wind Terminal is to support the development and operation of offshore wind projects. As a result, the Harbor District must consider if CEQA requires that the DEIR for the Wind Terminal consider the potential environmental impacts of that offshore development, too. In addition, Crowley, the prospective leaseholder, will also be engaging in vessels operations and other maritime activities in connection with constructing and maintaining offshore wind projects, which is not discussed in the NOP. These activities include the assembly, installation, and operation of offshore wind floating platforms, use of large heavy cargo vessels and providing crewing and marshaling services in the Pacific waters. The EIR cannot ignore these impacts altogether.

Failure to analyze the whole of the Project would violate CEQA's prohibition on "piecemealing," which is when a lead agency divides a single project into distinct pieces, thereby "avoid[ing] the responsibility of considering the environmental impacts of the project as a whole." *Orinda Ass'n v. Bd. of Supervisors*, 182 Cal.App.3d 1156, 1171 (1985). This prohibition ensures that "environmental considerations do not become submerged by chopping a large project into many little ones – each with a minimal potential impact on the environment – which cumulatively may have disastrous consequences." *Laurel Heights Improvement Association v. Regents of University of California* (1988) 47 Cal.3d 376, 396.

Under CEQA, the term "'project' means the whole of an action." *POET, LLC v. State Air Res. Bd.*, 12 Cal.App.5th 52, 73 (2017) ("POET II") (quoting CEQA Guidelines § 15378(a)). This "broad interpretation of 'project' . . . is designed to provide the fullest possible protection of the environment within the reasonable scope of CEQA's statutory language." *Id.* If an activity is part of the "whole of an action," the refusal to disclose and evaluate it in the EIR constitutes illegal piecemealing in violation of CEQA. *Id.* at 76.

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Courts have developed a liberal test for evaluating when multiple “acts are part of the whole”: Activities are part of the same project when they are “related to each other.” *Id.* at 74. A sufficient relationship exists when activities are “among the ‘various steps which taken together obtain an objective’” or when they are “part of a coordinated endeavor.” *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora*, 155 Cal.App.4th 1214, 1226 (2007) (citing *Ass’n for a Cleaner Env’t v. Yosemite Cnty. Coll. Dist.*, 116 Cal.App.4th 629, 639 (2004)). It exists when one activity “legally compels or practically presumes” another. *Banning Ranch Conservancy v. City of Newport Beach*, 211 Cal.App.4th 1209, 1223 (2012). And it exists when activities are “related in 1) time, 2) physical location, and 3) the entity undertaking the action [sic].” *Tuolumne*, 155 Cal.App.4th at 1227.

Here, the Wind Terminal and offshore wind energy developments appear to be “among the ‘various steps which taken together obtain an objective’”—indeed, the primary purpose of the Project is to help construct and operate the offshore wind projects in Humboldt and elsewhere, and future offshore development in the Pacific. And the Wind Terminal, Crowley’s support operations, and offshore wind energy development are happening at the same time in the same physical location. The Harbor District must ensure the DEIR defines the Project adequately to include the “whole of action” to avoid future allegations of piecemealing.

III. The Wind Terminal Project Objectives must be updated to include objectives of the larger community.

The Harbor District has repeatedly stated its belief that the Wind Terminal project will provide significant benefits to the larger community. To ensure that this belief becomes a reality, the desired benefits and outcomes must be formalized in the Project Objectives so that the Project, or any suitable alternative, will be designed to achieve them. To that end, the Harbor District must modify the project objectives to include:

- Safeguard the community from construction- operations-related sex-trafficking and sexualized violence, in recognition of the devastating toll of Missing and Murdered Indigenous Persons in this region.
- Create workforce and economic opportunities for residents of the region that include high-road careers, training, educational and leadership opportunities for local residents, members of tribal nations, and underrepresented communities, as well as opportunities for Tribally owned enterprises and ownership.
- Preserve local Tribal, commercial, and recreational fishing and avoid and minimize impacts on fisheries and Bay aquaculture businesses.

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- Protect the natural environment and create and preserve green space, equitable access, and recreation for surrounding communities.
- Provide maximum infrastructure benefits, such as transportation, electricity and broadband, for local communities.
- Engage area Tribes meaningfully in all aspects of Project design, review, construction, and operations.
- Protect Tuluwat Island, in consultation with the Wiyot Tribe, from impacts (e.g., cultural landscape, visual, light, glare, noise, and air quality impacts) and degradation.
- Create a Zero-Emission Wind Terminal by 2030, including zero-emission operational equipment, berthing for vessels, and zero-emission engine requirements for drayage trucks accessing or calling at the Wind Terminal.

This last objective is especially critical for protecting nearby communities from air pollution from vehicles and preventing water contamination, while achieving maximum climate benefits. Notably, a commitment to developing a zero-emission facility will also be vital to be competitive for current State and Federal grants and eligibility for large scale public investments. A shared aspiration of a safe, zero-emission, state-of-the art Wind Terminal that is a world-class model could generate investment, partnership, and accelerated support.

IV. The DEIR must include a thorough analysis of all potentially significant environmental impacts.

As identified in the NOP, this Project has the potential to impact every environmental category across the board. Even though the goal of the Project is to support the development of renewable energy, the analysis of its direct and indirect environmental impacts must be thorough and robust.

To begin this analysis, the DEIR must include a detailed description of the Project's environmental setting, which provides "the baseline physical conditions by which a lead agency determines whether an impact is significant." CEQA Guidelines § 15125(a). "Without a determination and description of the existing physical conditions on the property at the start of the environmental review process, the EIR cannot provide a meaningful assessment of the environmental impacts of the proposed project." *Save Our Peninsula Committee v. Monterey Cnty. Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 119. While the NOP did not contain any description of these "baseline" conditions, the DEIR must be sure to include current baseline environmental conditions, including for Tuluwat Island, at the time of NOP issuance (2023). This will be particularly important

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for the transportation, water quality, and air quality analyses – the DEIR must examine existing conditions as of 2023 rather than relying on any historical environmental baseline for when the Samoa pulp mill was operational.

The DEIR must also analyze *all* of the potentially significant impacts of the entire Project. The NOP did not identify the probable environmental impacts of the Project, so this letter cannot provide detailed input on this content. Instead, we have identified several subject areas that are of concern. We will also be examining the DEIR closely to ensure that a proper baseline has been established, impacts are adequately assessed, and mitigation measures are robust and effective to reduce impacts to the greatest degree possible. The key issue areas are:

- **Tribal Cultural Resources.** The area that will be impacted by this Project includes the Tribal lands of the Bear River Band of the Rohnerville Rancheria, Big Lagoon Rancheria, Blue Lake Rancheria, Cher-Ae Heights Indian Community of the Trinidad Rancheria, Elk Valley Rancheria, Hoopa Valley Tribe, Karuk Tribe, Nor Rel Muk Wintu Nation, Resighini Rancheria, Tolowa Dee-ni' Nation, Tsungwe Tribe, Wiyot Tribe, and Yurok Tribe. Tuluwat Island in Humboldt Bay is sacred to the Wiyot people because it is the center of their world. It is also the site of their World Renewal Ceremony. In 1860, a small group of white settlers interrupted the ceremony and murdered nearly 100 women, children and elders. Today, the site has been returned to the Wiyot Tribe and they are in the process of remediating it and preserving its cultural traditions.⁵ The Blue Lake Rancheria has protected certain cultural resources on the Samoa Peninsula and in other areas around the Bay. There are specific places within Humboldt Bay that are inappropriate for future development to support offshore wind or otherwise, due to their cultural significance. The DEIR must incorporate consultation with Tribal governments,⁶ elected leaders and staff, a complete assessment of Tribal cultural resources that could be potentially impacted by the Project and plans to avoid and minimize disturbance to the greatest degree possible. The DEIR must also disclose if the Project would impact water levels and mud composition in the Bay and, if so, what impact that could have on buried cultural resources and human remains.

⁵ chrome-extension://efaidnbmnnibpcapcglclefindmkaj/https://semspub.epa.gov/work/HQ/100001200.pdf f. "Environmental Stewardship and Cultural Preservation on California's Coast, The Tuluwat Village Site on Indian Island in Humboldt Co., CA, EPA, March 2018.

6 Pursuant to AB 52, public agencies are required to consult with California Native American Tribes that are on the Native American Heritage Commission's (NAHC) consultation list that are traditionally and culturally affiliated with the geographic area of a proposed project subject to CEQA, when Tribes request formal consultation.

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Either the Project or adopted mitigation must also create supports/methods for protection of Tuluwat Island (National Historic Landmark) from new and legacy industrial contaminants after significant cleanup efforts and land use goals by the Wiyot Tribe; protection from visual, air and water quality, noise and aesthetic impacts; and other significant impacts.

The Tribal Consultation processes followed by the California Coastal Commission, beginning on page 104 in their March 17, 2022 staff report related to BOEM's offshore lease, included consultation on potential cultural and ethnographic resources that could be unearthed during implementation of future offshore wind facilities and other potential impacts. These same issues and processes should be explored during consideration of the Wind Terminal.

Inadvertent discovery protocols must be included at every instance of ground disturbance, and a protocol for communication directly with Tribes in the event of an unanticipated discovery, as well as post-discovery process for evaluation of a discovery, must be created. Tribal expertise and jurisdictional authorities must be meaningfully included in this, and other environmental analysis, to ensure that the Wind Terminal process incorporates Tribal science, traditional knowledge, and cultural practices so that this region's unique Tribal cultural resources can be protected.

- **Tribal Cultural Landscapes.** The Wind Terminal is a huge project located in a visually prominent area on a peninsula of land between Humboldt Bay and the Pacific Ocean. The Bay is an important cultural landscape and ecosystem for many Tribes, particularly the Wiyot peoples and Wiyot-area Tribes. The DEIR will need to assess the visual, noise, and other aesthetic impacts on Tribal cultural landscapes, considering new buildings, cranes, high mast light poles, and other heavy industrial equipment and facilities. In particular the DEIR must analyze visual and other aesthetic impacts to Tuluwat Island, an important cultural and environmental site for the Wiyot People and home to the Wiyot Tribe's annual World Renewal Ceremony.⁷ Furthermore, the Yurok Tribe has indicated that changes in viewshed from high elevation sacred sites will impact their Tribal cultural landscapes. The DEIR must contain visual simulations of the Project (and Project Alternatives) from various vantage points, including from Tuluwat Island, the coast and from higher-elevation sites not on the coast, so that proper analysis and conclusions can be reached.
- **Safety.** Given the historical and present-day crisis of sex trafficking and Missing and Murdered Indigenous People (MMIP) in the region, California and the United States, and documented challenges with sexual assault and harassment in the

⁷ <http://www.wiyot.us/186/Tuluwat-Project>

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maritime industry, special attention and strong protocols are needed to ensure the safety of Native and at-risk people in the region. California has the fifth largest MMIP caseload in the United States, and Northern California is the epicenter for these cases.⁸ A 120-year survey of California MMIP cases found that one in five of the state's MMIP cases are from Humboldt County.⁹ Since the Gold Rush, and continuing through the timber rush, land rush, water rush, and green/cannabis rush, Tribes in California have lost countless women, girls, and two-spirit individuals to violence, most frequently targeted by non-local individuals or contract workers. The Wind Terminal projects will bring hundreds of workers from outside the region to work on a range of projects. While this development is potentially good for the local economy and will contribute to addressing the climate and energy catastrophes, there is a great risk of harm to Native and other at-risk people, particularly women and girls. The Harbor District must work with regional Tribal governments and other constituencies to identify and mitigate MMIP impacts.

- **Biological Resources.** Impacts to biological resources on, and in the vicinity of, the Project site, and in the Bay must be studied. Humboldt Bay, California's second-largest estuary, is surrounded by an extraordinary dune ecosystem, and feeds into the freshwater streams and rivers which support production of anadromous salmonids. Construction activities, and notably Crowley's vessel support operations, will each impact marine mammals, fisheries and other resources. Increased dredging will cause additional impacts. Many of these resources—marine mammals such as whales, sea lions, seals and dolphins, a variety of seabirds, and fish such as salmon, steelhead, green sturgeon, smelt, eulachon, and eel—have been identified as culturally important in other processes. Due to current levels of low activity at the site and proximity to ever-evolving coastal conditions, portions of the site and site-adjacent areas may be in a natural or semi-natural state with a resurgence of flora/fauna, wetland habitat, and Environmentally-Sensitive Habitat Areas (ESHA). An accurate assessment of existing conditions and a thorough analysis of the Project's potential impacts to biological resources will be crucial to determining how best to minimize them. Mitigation measures based in sound science along with a clear implementation plan and strict accountability will be critical, as will an adaptive management plan with clear performance standards created and enforced by an adaptive management committee comprised of those with Tribal, scientific and local lived experience of the Bay. Specific biological resources that must be analyzed include: *Sulcaria spiralifera* (formerly *Bryoria spiralifera*, changed in 2021), eelgrass

⁸ <https://www.sovereign-bodies.org/tokeeskuysooney-wo-che>

⁹ <https://www.times-standard.com/2020/08/23/2588961/>

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habitat, special status and other seabirds, Pacific Lamprey, marbled mullet, and marine mammals.¹⁰ The DEIR must also analyze impacts to steelhead and cutthroat trout, coho and Chinook salmon, along with all salmonid species migrating to the rivers within indigenous and Tribal lands in the greater region.

- **Infrastructure Impacts.** Communities immediately surrounding the port, including Manila, Samoa, Fairhaven, and Eureka experience deteriorating road conditions, which will be worsened by traffic serving the Wind Terminal. In addition, communities and Tribal Nations along highways 101 and 299 will also be impacted by increased traffic and road closures due to traffic accidents by vehicles hauling heavy turbine equipment to the Wind Terminal. Conduct a full analysis of the local impacts that will be caused by the construction and operation of the Project using 2023 as the baseline conditions.
- **Truck, Vehicle, and Equipment Efficiency and Emissions.** Conduct a full assessment of the air quality and safety impacts caused by truck traffic that will be brought through the community en route to the Wind Terminal. Heavy-duty trucks are the largest source of diesel particulate matter, a toxic air contaminant that is directly linked to a number of adverse health impacts. The DEIR will need to cover the air quality and greenhouse gas emission impacts of transportation. As discussed above, the Project must either be designed or mitigated to ensure that the leaseholder/developer/operator utilizes a zero-emission fleet, in both deliveries to the site as well as on-site vehicles and equipment. This Wind Terminal will be used for manufacturing and assembling unique products, and it is likely that the procurement of materials will also be a strategic and deliberate process. The DEIR must also mitigate the Project's impacts by requiring the leaseholder/developer/operator to include provisions in its contracts with suppliers and contractors requiring the use of clean fleets, truck electrification, on-site charging, and other creative, innovative measures to create the least impactful transportation environment possible, together with opportunities for electrification for local communities. All transportation or greenhouse gas related mitigation

¹⁰ “Future development in the Humboldt Harbor District has the potential to affect eelgrass either directly through redevelopment of Redwood Marine Terminal 1, or indirectly due to the need for a wider navigation channel and increased need for dredging in Humboldt Bay. Depending on their siting, cable landings may also impact eelgrass habitat. Future development, will need to be sited, constructed and operated to ensure that these habitats are maintained, enhanced and where feasible, restored. Mitigation will be expected for any impacts to eelgrass in Humboldt Bay. Because of the biological significance of eelgrass and other nearshore and coastal habitats, these areas are afforded special protection under the Coastal Act.”

(<https://documents.coastal.ca.gov/assets/upcoming-projects/offshore-wind/Th8a-4-2022%20adopted%20findings.pdf>, p 50)

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measures must be aggressive, measurable, effective, and benefit the communities immediately adjacent to the Wind Terminal to the greatest degree possible.

- **Maritime Transportation Emissions.** The maritime industry contributes measurably to state, national, and global greenhouse gas emissions. Even when ships are idling at berth, the vessels' smaller diesel auxiliary engines and boilers stay in operation and often run continuously during a vessel's stay at port. This particular source of pollution disproportionately affects people who live near freight hubs, such as ports. As discussed above, the Project must be designed or mitigated to use a zero-emission maritime fleet and provide adequate electric shore power. The California Air Resources Board (CARB) recently approved "Ocean-Going Vessels At Berth Regulations" (under review by US EPA) already requires much of this infrastructure, with terminal and port operators responsible for compliance.¹¹ The DEIR will need to cover the air quality and greenhouse gas impacts of increased maritime shipping and transportation.
- **Maritime Transportation Congestion.** In addition to the emissions and infrastructure impacts associated with Crowley's transportation vessels, the Project will impact the quantity and type of vessel traffic that is able to move through the Bay, creating impacts, congestion, and access issues for fisheries (including mariculture), Tribal Nations, seaweed farmers, and other Bay users. Maritime transportation routes in Humboldt Bay are already highly congested with a 'pinch point' and limitations on usage due to weather. There are certain "high use times" which are already congested, and these will likely be desirable times for both wind farm construction, staging, and shipping, impacting commercial fisheries, Tribal Nations, various bay industries, and recreational users. The Bay has a robust commercial fishing industry as well as prolific recreational opportunities that provide an economic engine for the community. Most critically, though, the Bay provides a relatively inexpensive, local and high-protein food source, and Tribal Nations rely on natural resources in Humboldt Bay and rivers fed by (and immediately to the north and south of) the Bay for commercial, cultural, and sustenance fishing. The EIR must include an analysis of impacts to the existing maritime and fishing industries, including Tribal fisheries in the Bay and rivers within Indigenous and Tribal lands in the greater region. There will be additional shipping and hauling in the transportation channel and the temporary storage of assembled turbines in Humboldt Bay that will impact the existing industries and Tribal uses. The DEIR must also analyze impacts to safety in the Bay for other users, including recreational, academic, and scientific users.

¹¹ <https://ww2.arb.ca.gov/our-work/programs/ocean-going-vessels-berth-regulation>

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- **Other Air Quality Impacts.** Page 122 of the Coastal Commission’s Conditional Concurrence staff report notes that “[M]any air emissions associated with turbine manufacturing and assembly have the potential to occur within Humboldt Bay. The town of Samoa is directly adjacent to the Redwood Marine Terminal 1 (now known as the Wind Terminal) site, and, as discussed in section L, the communities near the proposed terminal redevelopment have disproportionate vulnerability and will likely bear disproportionate impacts of air emissions as a result of manufacturing and transport of materials required for manufacturing.” In addition to the air quality impacts discussed above, the Project will have air quality impacts from construction equipment and vehicles, truck traffic, dredging, manufacturing processes, vessels and shipping, and ongoing industrial operations, among other sources. The DEIR will need to examine all sources of air pollutants and conduct a complete air quality and health risk assessment for both construction and ongoing operations, including from maritime operations. The DEIR must analyze and mitigate potential air quality impacts of the project’s vehicular traffic on the walkability and bikeability of Highway 255, New Navy Base Road, and the surrounding street network.
- **Greenhouse Gas Emissions.** Operational GHG impacts from utilization of onsite equipment, trucks, and vessels serving the Wind Terminal must be assessed. The Project must also be analyzed in relation to compliance with the California Air Resources Board 2022 Scoping Plan. The State’s roadmap to address climate change cuts greenhouse gas emissions by 85% and achieves carbon neutrality by 2045. To reach this goal, all development must be at least carbon neutral, if not carbon offsetting. The DEIR must address how the Project is contributing to achieving this goal.
- **Aesthetics (Views).** As discussed previously, the Wind Terminal is a large project located in a visually prominent area on a peninsula of land between Humboldt Bay and the Pacific Ocean. In addition to impacts to Tribal Cultural Landscapes, The DEIR will need to assess the visual and aesthetic impacts on coastal views and coastal resources from new buildings, cranes, high mast light poles, and other heavy industrial equipment and facilities.
- **Aesthetics (Light and Glare) and Noise.** In addition to the impacts to views, the anticipated light, noise, and glare impacts from 150’ tall “high mast terminal lighting” around the perimeter of the Project Area, and equipment operations, will be substantial. The coastside/harborside location of the Project Area means that there will be potentially detrimental nighttime impacts to humans, terrestrial wildlife, and ocean wildlife. Specifically, as discussed above, there are Tribal lands in the vicinity of the future Project that are used for ceremonial purposes, and round-the-clock lighting and noise is likely to impact this use. The DEIR must

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contain photometric calculations and visual simulations of the night time conditions created by 150' tall light fixtures, and must address the impact to Tribal cultural practices and Tribal resources. The DEIR must model noise levels across the operational profile of Terminal activities (e.g., 24/7/365).

- **Water Quality.** With the level of development proposed for the Project Area and the type of industrial activities proposed to take place on the site, as well as increased dredging at new depths, the EIR will need to study water quality impacts in detail. In particular, the EIR will need to analyze the potential impacts resulting from dredging that will disturb legacy pollutants. It must also analyze how degraded water quality could impact the shellfish, seaweed, and fishery industries that currently operate in the bay. These industries produce food for human consumption and thus may not be able to operate if water quality is degraded. Project analysis and design must include mitigation measures that address how the District will assist with disposal of contaminated foods and provide resources for increased water quality testing that food-based industries and Tribal Nations will be required to conduct to ensure safety of their Bay-based activities. Further, the EIR must describe how the project will manage any increase in impervious surfaces and control polluted runoff from industrial processes. The DEIR must also assess the potential waterside impacts from construction of new docks and submersible platforms and the demolition of existing docks and piers. A robust analysis of the potential water quality impacts resulting from spills or other accidental releases of materials from the Wind Terminal into Humboldt Bay must be included as well.
- **Land Use.** The EIR must fully analyze the Project's consistency with land use policies and the Coastal Act, including any inconsistency that would result from the proposed amendments to the Humboldt Bay Area Plan (Local Coastal Plan) or any natural resource plans that relax standards associated with noise, dust, light, vibration, or outdoor uses, including impact to the Wiyot Tribe's land use goals for Tuluwat Island. Pursuant to SB 18, the Harbor District must consult with Tribes prior to making land use planning decisions and provide notice at key points in the planning process.
- **Operational Impacts.** In addition to the construction impacts of the Project, the DEIR must analyze the ongoing operational impacts of the Wind Terminal—which could be an active manufacturing and assembly facility serving the West Coast for 25 + years. Moreover, Crowley's wind project support operations will occur not just during construction of the Humboldt wind project, but will continue over the operational life of the wind leases, and any future repowering. Any traffic, air quality and water impacts analysis must include consideration of the role of the Project as a long-term construction and operations facility.

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- **Recreation.** The Project has the potential to impact the quantity and type of vessel traffic moving through the bay and may impact recreational uses within Humboldt Bay, including non-motorized recreational boating (e.g., rowing, kayaking, sailing, surfing) and recreational fishing within Humboldt Bay. The site is adjacent to the low tide water trail in Samoa, and it is foreseeable that large, motorized vessel traffic in the vicinity of the water trail would increase, and operations to tow assembled turbines to and from the Wind Energy Areas may make the vicinity less suitable for recreation, and may therefore push recreational users to other areas. The DEIR must include an analysis of impacts to water-based recreation.

Broadly speaking, the EIR must provide sufficient analysis and detail about environmental impacts to enable decision makers to make intelligent judgments in light of the environmental consequences of their decisions. See CEQA Guidelines §15151; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692. Both the public and decision makers need to fully understand the implications of the choices that are presented related to the project, mitigation measures, and alternatives. *Laurel Heights Improvement Ass'n v. Regents of University of California* (1988) 6 Cal.4th 1112, 1123. To the extent the DEIR identifies potentially significant impacts, it must also identify effective, enforceable mitigation measures to reduce those impacts to the greatest extent possible.

V. The Project must incorporate energy-efficient, emissions-reducing, and demonstrably effective “green” features by design.

In its Consistency Determination Report dated March 17, 2022, the California Coastal Commission found that the District’s terminal expansion and future operations in support of offshore wind energy generation would cause additional pollution and impacts, including additional air pollution burdens that may occur from vehicle emissions on land and vessel emissions offshore, in addition to a loss of lower-cost recreational boating opportunities. Burdens such as increased air, water, noise, and light pollution would not only affect residents and wildlife, but also workers and visitors who recreate in the area. Near the Port, there are several low-income communities and populations with additional sensitivities such as asthma and cardiovascular disease “that may be exacerbated with additional pollution impacts in the area that may occur from Humboldt Harbor District expansion and future operations to support offshore wind energy generation.” See Coastal Commission Conditional Concurrence Staff Report, page 117.

In fact, the Coastal Commission Staff Report contains an entire section on Environmental Justice and the potential impacts of the Wind Terminal on communities of concern living near the future Project site. Due to the potential impacts identified, the Project must do everything practicable to minimize further degradation of conditions in

these communities. This would include designing the Project with the most energy-efficient materials and facilities, with zero-emissions ships, vehicles and equipment, and the smallest climate impacts possible. These features and commitments must be described in detail in the Project Description.

The only way to achieve the climate goals set by the State is for the Harbor District and the future leaseholder/developer/operator to commit to a ‘zero-emission’ Project. Such a commitment would protect the surrounding communities from air pollution and prevent water contamination, while achieving maximum climate benefits.

VI. The DEIR must identify a wide range of alternatives.

CEQA requires that an EIR analyze a range of reasonable alternatives to the project. The alternatives must feasibly attain most of the basic project objectives while avoiding or substantially lessening the project’s environmental impacts. *See* Public Resources Code § 21100(b)(4); *see also* CEQA Guidelines § 15126.6(a). The CEQA Guidelines state that the selection and discussion of alternatives should foster informed decision-making and informed public participation. *See* CEQA Guidelines § 15126(d)(5).

To comply with these requirements, the DEIR must analyze a range of alternatives that meet the Project Objectives (enhanced as suggested in the previous section) and reduce significant impacts that are created by the Project. The NOP did not identify any possible Project Alternatives, and therefore we are not able to provide input on the suitability of what the Harbor District may be considering. Instead, potential alternatives include a zero-emissions/fully electric alternative; an alternative that minimizes dredging and preserves bay access for fisheries and their operations; a cultural resource preservation alternative that reduces or avoids visual, air and water quality, noise and aesthetic impacts and re-contamination impacts to Tuluwat Island and other important Tribal cultural sites; an alternative that maximizes on-site renewable energy and electricity benefits to surrounding communities; and an alternative that provides greenspace, public recreation and infrastructure benefits.

VII. The Harbor District must seek public engagement and involvement early and often.

The Wind Terminal offers a unique opportunity to create climate-friendly energy in a climate-positive way. Unlike other boom-and bust natural resource projects in the region such as dams, logging, mining, and drilling that have harmed indigenous communities and the environment without providing local benefits or investment, there is an opportunity here for the community to be an engaged interested party, and to engage

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with the Harbor District in a partnership to create a project that is a source of international leadership and pride for this region.

While CEQA Guidelines establish the minimum thresholds for public outreach and engagement, the Harbor District should do more: Establish consultation and regular communication with Tribal representatives to advise on key project milestones and seek feedback. Hold additional informational meetings to educate the public on the project as it is being designed. Seek input from the Network and other community groups on alternatives that are being considered. Provide authentic and transparent design adjustments based on feedback. Begin consultations on Community Benefits Processes and Agreements. Design policies and practices that ensure community, industry, and environmental shared well-being for generations.

Transparency is critical to building trust and support for this Project. To date, the Harbor District's process has not met that crucial standard. Only recently was the Exclusive Negotiating Agreement with Crowley made available on the Port website after numerous requests. The Harbor District's proposal to enter into a lease with Crowley that will govern the development of the Project before the DEIR is released underscores the need for more robust community involvement and transparency. The Harbor District must ensure that community members and policy-makers know key terms that will affect the Project going forward. The community deserves to have opportunities to influence those terms through the CEQA and other robust public processes.

VIII. Tribal safety concerns must be addressed in the future lease terms and Project approvals.

The Coastal Commission Consistency Determination staff report detailed findings and concerns related to the safety of Native Tribes and local communities on p. 118 of their report. Specifically, the staff report states that “[T]he Commission expects future wind development to not only provide benefits to the community but also in a manner that does not continue to exacerbate harm in Native American communities and any additional vulnerable populations with limited resources to address these harms.”

Development projects on or near Tribal communities in the United States, Canada, and globally, have brought both economic opportunity and an increase in MMIP, violent crime, drug abuse, and sex trafficking of Native women and children. A recent article in the Harvard Journal of Law & Gender studying extraction projects near the Fort Berthold

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Reservation in North Dakota demonstrates these impacts.¹² During the period of development near Fort Berthold, there were more murders, fatal accidents, sexual assaults, domestic disputes, drug busts, gun threats, and human trafficking cases than in any year before the project commenced.¹³ And over a two-year period, the Tribe's court system saw its caseload grow by over 2,000%. In Canada, the National Inquiry on Missing and Murdered Indigenous Women and Girls found that "work camps, or 'man camps,'" in Canada, associated with the resource extraction industry (were) implicated in higher rates of violence against Indigenous women at the camps and in the neighboring communities."¹⁴

In addition to consulting with Tribes during the preparation of the EIR, the Harbor District must actively solicit Tribal participation during lease term negotiations and throughout the Project approval process to define the protections and protocols that should be in place to prevent damage to human life, Tribal culture, and exacerbation of MMIP. This should include MMIP prevention, education, organizational policy making, enforcement, and response.

IX. Conclusion.

Given Humboldt Bay's unique physical characteristics and its location and proximity to future call areas for wind farm development, the Harbor District is sitting in a very strong position to negotiate a beneficial package with the future leaseholder/developer/operator of the Wind Terminal, which will be instrumental in establishing best practices for the offshore wind industry on the West Coast. The CEQA analysis must be completed, and all potential impacts and mitigation measures known, before those negotiations conclude. The EIR for the Project must analyze and mitigate all of the impact areas identified in this memorandum.

1681940.1

¹² Kathleen Finn, Erica Gajda, Thomas Perin, and Carla Fredericks, "Responsible Resource Development and Prevention of Sex Trafficking: Safeguarding Native Women and Children on the Fort Berthold Reservation". 40 Harv. J.L. & Gender 1: Colorado Law Scholarly Commons, 2017, [Responsible Resource Development and Prevention of Sex Trafficking: Safeguarding Native Women and Children on the Fort Berthold Reservation \(colorado.edu\)](https://colorado.law.colorado.edu/journals/jlsg/vol40/iss1/art1)

¹³ Kimberly N. Mitchell, "Man Camps, Oil Pipelines, and MMIW: How United States V. Cooley is a False Victory for Indigenous Tribes". Vermont Journal of Environmental Law, [Man Camps, Oil Pipelines, and MMIW: How United States v. Cooley is a False Victory for Indigenous Tribes \(vermontlaw.edu\)](https://vermontlaw.edu/journals/vjel/article/man-camps-oil-pipelines-and-mmiw-how-united-states-v-cooley-is-a-false-victory-for-indigenous-tribes)

¹⁴ "Our Mandate, Our Vision, Our Mission". National Inquiry into Missing and Murdered Indigenous Women and Girls, [Our Mandate, Our Vision, Our Mission | MMIWG \(mmiwg-ffada.ca\)](https://mmiwg-ffada.ca)

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MEMORANDUM

TO: Redwood Region Climate and Community Resilience Hub (CORE Hub)

FROM: Winter King

DATE: August 25, 2023

RE: Environmental Review for Proposed Humboldt Bay Offshore Wind and Heavy Lift Multipurpose Marine Terminal

Introduction

You have asked our firm to provide you with an overview of the California Environmental Quality Act’s (“CEQA”) requirements for environmental review of the proposed Humboldt Bay Offshore Wind and Heavy Lift Multipurpose Marine Terminal (“Project”) currently under consideration by the Humboldt Bay Harbor Recreation and Conservation District (“District”). In particular, you have asked whether the District must complete its CEQA review prior to issuing a lease, or option agreement, authorizing development of the Project.

The answer is plainly “yes.” Leases are specifically included in the definition of “projects” subject to CEQA. And it is a fundamental principle of CEQA that any required environmental review must be completed before a project is approved so that the decisionmakers can take into account the environmental consequences of the project in deciding whether to approve it, what mitigation measures to require, etc.

Background

The United States and California have both established goals for the development of offshore wind energy projects to reduce carbon emissions and slow the impacts of climate change. To accomplish these goals, the federal Bureau of Ocean Energy Management (“BOEM”) has initiated the process for leasing areas off the coast of Humboldt County (“Humboldt Wind Energy Area” or “WEA”) to private developers of offshore wind projects. In 2022, BOEM prepared an environmental assessment (“EA”) prior to initiating the first step in this process, which would allow potential offshore wind

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developers to carry out site assessment and site characterization activities prior to seeking the right to develop a wind energy facility. The EA clearly states that, prior to BOEM conveying the rights to develop a wind energy facility in the WEA, BOEM will prepare and circulate for public review an environmental impact statement (“EIS”). The two bidders who obtained site assessment leases from BOEM were RWE Offshore Wind Holdings and California North Floating with leases issued in June 2023.

While these wind energy projects will be developed and operated offshore, onshore facilities will also be needed at the Port of Humboldt Bay (“Port”), both to support construction and operation and to assemble and maintain wind turbines. Indeed, obtaining deepwater port access is a prerequisite to developing wind offshore throughout the Pacific. The Port of Humboldt Bay has been identified in studies as the most promising opportunity to assemble offshore wind given its deep navigation channel, no bridges, and existing space. The District is the public agency that manages the Port and is authorized to lease Port land for these onshore facilities (referred to as “Humboldt Bay Offshore Wind and Heavy Lift Multipurpose Marine Terminal” or “the terminal”). In October 2022, Crowley Wind Services signed an agreement with the District to exclusively negotiate to be the developer and operator of the terminal. According to the Conceptual Master Plan available on the District’s website and the Notice of Preparation (“NOP”) recently issued by the District, this terminal would accommodate several buildings, wharf expansion, and two dredge areas.

The agreement being negotiated by Crowley and the District is an option agreement, by which the District would grant Crowley the right to lease Port land for the development and operation of the terminal. According to the exclusive negotiating agreement recently posted on the Port’s website, the lease will be an exhibit to the option agreement and must contain initial plans for development sufficient to obtain Project entitlements. Once the option agreement is approved by the Harbor District, Crowley will have the right to enter the lease; no further District approvals will be necessary. The option agreement recognizes, however, that additional approvals are required to develop the Project, including the modification of the District’s “Humboldt Bay Area Plan” (the Port’s Local Coastal Program under the California Coastal Act).

To date, the District has stated that it is planning to prepare an environmental impact report (“EIR”) for the Project, but that it will not complete this process until after it has entered the option agreement with Crowley.

Analysis

I. The District must prepare and finalize the environmental analysis required under CEQA before considering approval of the lease.

In general, CEQA requires public agencies to identify the potential environmental impacts of a project, as well as mitigation measures and project alternatives, *before* approving it. “Project” is defined as “an activity which [1] may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment” and [2] is either undertaken by a public agency or requires agency approval. Guidelines § 15378(a). If a project could have significant, adverse impacts, the agency must prepare an “environmental impact report” or “EIR.” If a project will have no significant, unmitigable impacts, the agency may prepare an initial study and negative declaration. The purpose of conducting this environmental review is to provide the public and decision-makers with information about the project’s environmental effects and ways to minimize them before the project is approved.

In this instance, California’s Coastal Commission has found that the District’s terminal expansion and future operations in support of offshore wind energy generation would cause additional pollution and impacts, including additional air pollution burdens that may occur from vehicle emissions on land and vessel emissions offshore and loss of lower-cost recreational boating opportunities. Burdens such as increased air, water, noise and light pollution would not only affects residents, but also workers and visitors who might recreate near port areas. Near the Port, there are several low-income communities and populations with additional sensitivities such as asthma and cardiovascular disease “that may be exacerbated with additional pollution impacts in the area that may occur from Humboldt Harbor District expansion and future operations to support offshore wind energy generation.” See Coastal Commission Consistency Determination Staff Report, page 117.

You have asked us to advise whether the District is required to complete its environmental review of the project before entering the option agreement authorizing the lease between the District and Crowley for the development of an “Offshore Wind and Heavy Lift Multipurpose Marine Terminal,” or whether the District may authorize the lease first but prepare environmental review before taking other steps toward Project development, including amending its Area Plan. Because authorizing the lease commits the District to a definite course of action that forecloses consideration of alternatives and mitigation measures, the District must complete its environmental analysis of the Project prior to authorizing the lease.

A. A lease between the District and Crowley for the development of an “Offshore Wind and Heavy Lift Multipurpose Marine Terminal” is a project subject to CEQA.

A lease that would allow the development of an “Offshore Wind and Heavy Lift Multipurpose Marine Terminal” is a project subject to CEQA. CEQA applies to discretionary projects carried out or approved by public agencies. CEQA § 21080(a). “Project” is defined as “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment,” which includes “the issuance to a person of a **lease**, permit, license, certificate, or other entitlement for use by one or more public agencies.” CEQA § 21065 (emphasis added); *see also* Guidelines §§ 15378(a)(3), 15377. In determining whether an activity is a project subject to CEQA, the question is “whether the activity’s potential for causing environmental change is sufficient to justify the further inquiry into its actual effects,” without considering whether the potential environmental effects will actually occur. *Union of Medical Marijuana Patients, Inc. v. City of San Diego* (2019) 7 Cal.5th 1171, 1197. The California Supreme Court has stated that when determining whether an activity is a project, CEQA must be interpreted broadly, “to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259 (disapproved of on other grounds).

Caselaw supports this conclusion as well. In *World Business Academy v. California State Lands Commission*, (2018) 24 Cal.App.5th 476, the court found there was “no dispute” that a replacement lease for continued operation of a nuclear powerplant was a “project” subject to CEQA. In *City of Orange v. Valenti*, (1974) 37 Cal.App.3d 240, the court stated that it was “inescapable” that leasing a building was a “project” under CEQA.

Lastly, in *City of Long Beach v. City of Los Angeles* (2018) 19 Cal.App.5th 465, the project at issue was a lease agreement entered between the City of Los Angeles and a railway company for development of a new railyard at the Port of Los Angeles. The harbor department conducted environmental review of the project, preparing and certifying an EIR before approving the lease. Several parties successfully challenged the sufficiency of the EIR. The City did not even attempt to argue that the lease was not a “project” for the purposes of CEQA.

Similarly, here, a lease for development and operation of the Offshore Wind and Heavy Lift Multipurpose Marine Terminal is a “project” subject to CEQA: It is a discretionary action taken by a public agency that would result in both direct and indirect physical changes to the environment. The Conceptual Master Plan for the terminal

currently includes plans for several buildings, wharf expansion, and two dredge areas. The exclusive negotiating agreement further requires Crowley and the District to include initial plans for development in the lease terms. Thus, the option agreement and lease will describe the planned development, and this planned development will result in physical changes to the environment. Because the definition of “project” explicitly includes an activity involving the issuance of a lease and the proposed lease agreement “is capable of causing direct or reasonably foreseeable indirect effects on the environment” through its proposed development, it is a project under CEQA. *Union of Medical Marijuana Patients, Inc.*, 7 Cal.5th at 1198.

B. The District must complete its environmental review of the lease before approving it.

The District is required to complete its environmental review of the Project before approving the option agreement described in the exclusive agreement to negotiate. The Guidelines state that every lead agency “shall consider a final EIR or negative declaration” “[b]efore granting any approval of a project subject to CEQA.” Guidelines § 15004. Similarly, CEQA’s definition of “environmental impact report” provides that, when preparation of an EIR is required, it “shall be considered by every public agency *prior to its approval* or disapproval of a project.” CEQA § 21061 (emphasis added). Any environmental review “should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design.” Guidelines § 15004(b). And, “public agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance.” Guidelines § 15004(b).

California courts, including the Supreme Court, have consistently held that CEQA requires environmental review *before* an agency approves a project. The California Supreme Court has stated that preparation of an EIR “is the key to environmental protection under CEQA.” *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 70. The basic purposes of CEQA, including informing decision-makers and the public about potential environmental effects of a proposed activity and identifying alternatives and mitigation measures, are best served when environmental review provides information to be used in deciding whether to approve a project, not to inform of environmental effects after a project has already been approved. *POET, LLC v. State Air Resources Board* (2013) 218 Cal.App.4th 681, 714-15. When environmental review occurs after a project has been approved, “it is likely to become nothing more than a post hoc rationalization to support action already taken.” *Id.*

In *No Oil, Inc.*, the California Supreme Court stated: “CEQA requires that an agency determine whether a project may have a significant environmental impact, and thus whether an EIR is required, [b]efore it approves that project.” 13 Cal.3d at 79. Many other cases reach the same conclusion. *See, e.g., Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 394 (“A fundamental purpose of an EIR is to provide decision makers with information they can use in deciding *whether* to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved. If postapproval environmental review were allowed, EIR’s would likely become nothing more than post hoc rationalizations to support action already taken.”); *Tomlinson v. County of Alameda* (2012) 54 Cal.4th 281, 286 (If the agency determines the project may have a significant effect on the environment, “the agency must proceed to the third step, which entails preparation of an [EIR] before approval of the project.”); *POET, LLC v. State Air Resources Board* (2013) 218 Cal.App.4th 681, 715 (“the policy declaration [of CEQA] implies that an evaluation of environmental issues. . . should occur *before* an agency approves a project. This implication is borne out by CEQA’s explicit requirements for EIRs. . . which. . . ‘shall be considered by every public agency *prior to its approval* or disapproval of a project.’”); *Friends, Artists & Neighbors of Elkhorn Slough v. California Coastal Commission* (2021) 72 Cal.App.5th 666, 678 (“the Coastal Commission was required to consider project alternatives, mitigation measures, and conditions for the project *before* approving the coastal development permit application”); *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1315 (“Central to CEQA is the EIR, which has as its purpose informing the public and government officials of the environmental consequences of decisions before they are made.”).

C. The District may not wait to conduct environmental review of the Project simply because other, later approvals are also required.

Where a “project” involves a lengthy planning process or several government approvals, lead agencies must determine when during that planning process environmental review must be done. The CEQA Guidelines state that “EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program design and yet late enough to provide meaningful information for environmental assessment.” Guidelines § 15004(b). For public projects, agencies may not undertake actions concerning the project “that would have a significant adverse effect or limit the choice of alternatives or mitigation measures before completion of CEQA compliance.” Guidelines § 15004(b)(2).

In 2008, the California Supreme Court addressed this timing issue in the context of a joint “public-private” project proposed in the City of West Hollywood. *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116. There, the City was working with several

non-profit community housing developers to build low-income, senior housing on land owned by the City. In pursuit of that goal, the City approved a “Conditional Agreement for Conveyance and Development of Property,” which provided that the City would convey the property to the developers and provide a project loan if the developers satisfied certain conditions, including compliance with CEQA. *Id.* at 124-25. The agreement also provided a predevelopment loan of \$475,000 that was not subject to prior CEQA review. *Id.* at 124. A group of neighbors and citizens objected, arguing that the City was required to conduct CEQA review before approving the agreement. *Id.* at 124.

In reviewing this challenge, the Supreme Court identified two policy considerations that are “important to the timing of [environmental review]: (1) that CEQA not be interpreted to require an EIR before the project is well enough defined to allow for meaningful environmental evaluation; and (2) that CEQA not be interpreted as allowing an EIR to be delayed beyond the time when it can, as a practical matter serve its intended function of informing and guiding decision makers.” *Id.* at 130. The Court then applied “the general principle that before conducting CEQA review, agencies must not ‘take any action’ that significantly furthers a project ‘in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.’” *Id.* at 138 (quoting Guidelines § 15004(b)(2)(B)); *see also id.* at 139 (“If, as a practical matter, the agency has foreclosed any meaningful options to going forward with the project, then for purposes of CEQA the agency has ‘approved’ the project.” [internal quotations omitted]).

Applying this test to the specific facts of that case, the Court held that the City had committed itself to a definite course of action regarding the project before conducting environmental review, and thus had violated CEQA. In particular, the Court noted that the development agreement stated its purpose was to “facilitate development of the project.” *Id.* at 140. Moreover, if the City did not ultimately approve the development, the developer would not have to repay the predevelopment loan. *Id.* And the City began relocation proceedings for current tenants. *Id.* All of these circumstances, the Court found, indicated that the City had committed itself to a definite course of action in approving the agreement, and thus violated CEQA by failing to conduct environmental review first. *Id.*¹

¹ See also *California Farm Bureau Federation v. California Wildlife Conservation Board* (2006) 143 Cal.App.4th 173, 191-82 (acquisition of conservation easement by Department of Fish and Game required CEQA review where easement required conversion of 235 acres of agricultural land to wetlands and other habitat); *McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District* (1988) (transfer

Here, the option agreement described in the exclusive negotiating agreement is indistinguishable from the “Conditional Agreement for Conveyance and Development of Property” addressed in *Save Tara*. It will commit the Harbor District to leasing Port Property to Crowley for the express purpose of developing the Project, and the initial plans for that development will be part of the agreement. Thus, the option agreement and attached lease will certainly commit the District to a definite course of action and foreclose alternatives and mitigation measures. As a result, the District must complete its environmental review for the Project prior to entering the option agreement and authorizing the lease.²

Recently, the District notified the public that it is preparing an environmental impact report (EIR) for the Project. However, this notice did not mention the District’s intention to lease the terminal to Crowley, did not suggest the EIR would be complete before the option agreement is executed, and in fact suggests that the Project would be a public project carried out by the District. We recommend that the District clarify Crowley’s role in the Project. If Crowley will, in fact, be developing and operating the Project, the District should process the lease together with the Area Plan amendments, and complete the EIR prior to approving either step in the process.

Conclusion

The District’s approval of an option agreement to lease Port property to Crowley for the purpose of developing an onshore terminal to support the development and operation of anticipated offshore wind energy projects is a “project” subject to CEQA. Therefore, any environmental review for that project must be completed before the District enters the option agreement authorizing the lease. This remains the case even though the District must issue other approvals (e.g., amending its Area Plan) in order to carry out the Project.

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of property to public agency required environmental review because property contained PCBs and, under federal law, remediation activities were mandatory).

² Section 8.14 of the exclusive negotiating agreement provides that “Crowley’s exercise of the Option will expressly be conditioned upon compliance with CEQA and/or NEPA.” As discussed above, however, compliance with CEQA requires preparing an EIR *before* the option agreement is executed and the Project is set in motion; as in *Save Tara*, it is not sufficient to condition approval of the agreement on environmental review happening after-the-fact.



HCAOG
*Regional Transportation
Planning Agency*

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H.B.H.R. & C.D.

July 20, 2023

Rob Holmlund, Director of Development
Humboldt Bay Harbor, Recreation and Conservation District
P.O. Box 1030
Eureka, CA 95502-1030

**RE: Notice of Preparation of the Draft Environmental Impact Report
(DEIR) for the Humboldt Bay Offshore Wind Heavy Lift
Multipurpose Marine Terminal Project**

Dear Mr. Holmlund:

Thank you for the opportunity to comment on the Notice of Preparation of the Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

The Humboldt County Association of Governments (HCAOG) is the Regional Transportation Planning Agency (RTPA) comprised of the seven cities and County of Humboldt. As the RTPA, HCAOG maintains and updates the Regional Transportation Plan (RTP) to guide transportation investments in the region over the 20-year planning period. HCAOG has also been an active partner in the Redwood Region Climate and Community Resilience Hub (CORE Hub) and the broader North Coast Offshore Wind Community Benefits Network (Network).

HCAOG has a particular interest in the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project because, as noted in the California Coastal Commission's staff report for the Bureau of Ocean Energy Management Coastal Consistency Determination for lease of federal waters for the future development of offshore wind energy facilities, there are many aspects of the project that could impact the region's transportation system, and cause increased air pollution and greenhouse gas emissions, with disproportionate effects on lower-income and Native communities. Specifically, the staff report notes that:

Rob Holmlund, Director of Development
Humboldt Bay Harbor, Recreation and Conservation District
July 20, 2023
Page 2

"Ports have significant economic importance both locally and statewide. However, industrial activity and development at ports can result in significant environmental burdens for communities of concern living near ports, including air, water, noise, and light pollution (EPA, 2021). This not only affects residents, but also workers and visitors who might recreate near port areas. Near the Redwood Marine Terminal area, there are several low-income communities and populations with additional sensitivities such as asthma and cardiovascular disease (See Exhibits 8-1, 8-4 and Table 4-1) that may be exacerbated with additional pollution impacts in the area that may occur from Humboldt Harbor District expansion and future operations to support offshore wind energy generation.

Additional air pollution may occur from vehicle emissions on land and vessel emissions offshore. Road capacity in the Samoa area is limited and future harbor development has the potential to result in higher numbers of trucks delivering manufacturing, fabrication, and assembly supplies to the Redwood Marine Terminal, affecting air quality for nearby communities of concern as well as communities further inland along transportation routes"¹.

The region's long-range regional transportation plan Varieties in Rural Options of Mobility 2022-2042 (*VROOM*) charts a course for developing a balanced and sustainable transportation system. When analyzing whether the project conflicts with any adopted transportation plans, please review *VROOM* to determine if the Project is consistent with the adopted regional policies and targets. Policies within *VROOM* may influence your evaluation of DEIR environmental topic areas including but not limited to, Air Quality, Greenhouse Gas Emissions, and Transportation. Adopted Safe and Sustainable Transportation Targets² call for reducing Vehicle-Miles Traveled and transitioning public fleets to Zero Emission. Chapter 11 "Goods Movement" includes an evaluation of Harbor/Marine facilities in Humboldt Bay and associated maritime shipping resources. In addition to the Safe and Sustainable Transportation Targets, specific policies to be aware of include but are not limited to:

Policy GM-1. (Intermodal) HCAOG shall promote multiple uses of transportation corridors and strategic use of intermodal transfer facilities.

Policy GM-2. (Intermodal) HCAOG shall encourage and support safe, multimodal accessibility at Humboldt's public use airports and seaports.

Policy GM-4. (Maritime) HCAOG will support the Humboldt Bay Harbor, Recreation and Conservation District's efforts to develop a fully operational, sustainable, and environmentally compatible maritime transportation system as consistent with the Harbor District's mission.

Policy GM-8. Energy-Wise Freight & Transport: HCAOG shall promote projects and programs that increase energy efficiency, conserve energy, and use alternative ("clean") energy sources to transition to a carbon-neutral transportation system and reduce the direct and indirect costs of freight and passenger transportation.

Policy GM-9. (Goods Movement) HCAOG shall work with NCUAQMD and other stakeholders to develop and promote programs, technologies, and best practices to reduce the

¹ California Coastal Commission Staff Report, 1/24/2022, page 17-19.

² Vroom 2022-2042, Safe and Sustainable Transportation Targets, found in the Renewing Our Communities chapter, pages 2-13 to 2-18.

Rob Holmlund, Director of Development
Humboldt Bay Harbor, Recreation and Conservation District
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transportation sector's air pollutant emissions (e.g., NOx, PM, SOx, sulfate, VOC) and to decarbonize California's freight transport system. {*California Sustainable Freight Action Plan 2016*}

Policy GM-10. (Zero Emission Vehicles): HCAOG will work with the freight industry to encourage and help accelerate the widespread transition to zero-emission technologies and infrastructure (CAPTI 2021).

Policy GM-12. (Maritime) HCAOG will assist local, regional, or state lead agencies in preserving coastal-dependent land uses as necessary for successfully operating the regional maritime transport system to meet demands for its highest and best use.

Policy GM-13. (Goods Movement) HCAOG shall collaborate with State, local, and Tribal agencies to help reduce and eliminate health, safety, and quality-of-life impacts on communities that are disproportionately affected by operations at major freight corridors and facilities. This includes reducing toxic hot spots from freight sources and facilities and ensuring continued net reductions in regional freight pollution. {*California Sustainable Freight Action Plan 2016*}

POLICY STREETS-7. Global Warming Solutions: HCAOG shall carry out policies and program funding for projects that will help achieve the goals of the Global Warming Solutions Act (California Assembly Bill 32 (2006) and Senate Bill 32 (2016)). This shall include supporting efforts to reduce non-renewable consumption and air pollution, such as projects that increase access to alternative transportation and renewable fuels, reduce congestion, reduce single-occupancy (motorized) vehicle trips, and shorten vehicle trip length, and reduce greenhouse gas emissions.

POLICY STREETS-11. Vision Zero: HCAOG adopts the Vision Zero commitment to support policy, strategies, and roadway design standards that have been shown to be most effective in improving safety, with the goal of eliminating all traffic fatalities and severe injuries in Humboldt, while increasing safe, healthy, equitable mobility for all users.

With regard to multimodal transportation, HCAOG encourages the Harbor District to analyze and mitigate for potential impacts of the project's vehicular traffic on the walkability and bikeability of Highway 255, New Navy Base Road, and the surrounding street network. We hope to see a robust commute trip reduction plan to encourage non-single occupancy trips to the site. We recommend working with the Humboldt Transit Authority to ensure transit service is available.

Viable transit service is not only useful in meeting goals to reduce vehicle miles traveled and carbon emissions but can also promote safety for vulnerable populations living on/near port development sites. The report by the Yurok Tribal Court, *How to Protect Native, Women, Girls, and People in Humboldt and Del Norte County as Offshore Wind Enters the Region: MMIP Prevention Planning Recommendations*³, notes that given the historical and present-day crisis of sex trafficking and Missing and Murdered Indigenous People in California, with especially

³ *How to Protect Native Women, Girls, and People in Humboldt & Del Norte County as Offshore wind Enters the Region: MMIP Prevention Planning and Recommendations*, June 21, 2023, by Yurok Tribal Court, Authors Katherine Katcher & Chief Judge Abby Abinanti.

high rates in Humboldt County, special attention, prevention planning, and agreements are needed to protect Native and vulnerable people in the region as offshore wind development occurs. Providing a robust public transit service for the peninsula communities is one strategy to reduce potential harm. Notably, Humboldt Transit Authority Drivers receive human trafficking awareness training.

From the report: "*The port sites being developed along the Northern Coast are isolated, and yet within these areas that will be booming with new workers, there are low-income housing facilities who will be surrounded by the largely male workforce. Women, children, and people in these housing developments currently lack access to public transportation. There needs to be a public transportation plan for this population to get to/from home safely, to reduce their vulnerability risk. For example, there needs to be an increase in public transportation to peninsula communities.*"

Ensuring the project contributes to a robust public transportation system will have multiple benefits for the region.

In May 2023, HCAOG adopted Resolution 23-18 concerning offshore wind development and participation in the North Coast Offshore Wind Community Benefits Network. HCAOG believes it is essential that the offshore wind industry develops and operates equitably and sustainably, and in partnership with the region's communities, to address the area's unique assets, needs, and connections with natural resources.

North Coast Wind Community Benefits Network Goals include:

1. Investment in partnerships to enhance community infrastructure and services,
2. Environmental protections and compliance,
3. Equitable workforce and economic development,
4. Community centered decision-making, outreach, and engagement, and
5. Local and tribal fisheries protections.

HCAOG applauds Humboldt Bay Harbor, Recreation and Conservation District's Resolution No. 2023-05,⁴ that commits to sustainable and equitable development of the offshore wind industry, and to collaborate with the CORE Hub's Offshore Wind Community Benefits network and others in pursuing community benefits agreements. We encourage the Harbor District to share their progress in acting on this resolution and we are willing and able to partner on supporting these efforts by offering technical assistance or capacity where possible.

We note that the NOP does not mention a lease with Crowley Wind Services. However, signing a lease agreement is a project under CEQA and should be included in the NOP. Signing a lease agreement in advance of the Harbor District completing the environmental review process would not only be out of sequence for CEQA compliance, but it will disadvantage the community's ability to meaningfully participate in the process, and potentially open the project up to vulnerability and delays.

⁴ Humboldt Bay Harbor, Recreation, and Conservation District Resolution No. 2023-05: A Resolution of the Board of Commissioners Concerning Offshore Wind Development off the west Coast of the United States and Around Humboldt Bay

Rob Holmlund, Director of Development
Humboldt Bay Harbor, Recreation and Conservation District
July 20, 2023
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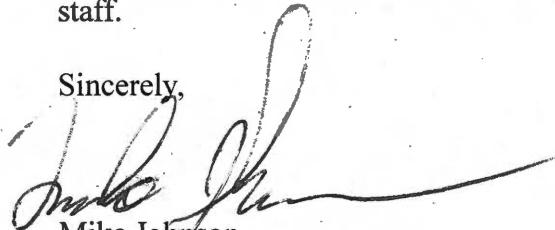
Specific to the NOP, the following suggestions are offered, based on HCAOG's goals and policies, including to support efforts around the community benefits agreement, and our understanding of the goals of local communities:

1. Revise Project Objective H. Objective H currently states: *To the degree feasible, develop a marine terminal site with modern environmental standards, related to the minimization of greenhouse gas emission, onsite renewable energy generation, green building materials, the electrification of terminal operations, and the facilities needed to accommodate vessel shore power.* Revising the objective to commit to the development of a zero-emissions port more succinctly would offer a greater sense of certainty that a zero-emission port would be aggressively pursued, eliminating potential air quality and greenhouse gas emission impacts which will inequitably burden populations around Humboldt Bay and beyond. Expressly including a zero-emission port in the project objectives would also further NOP Objective C which is to: *Develop a project that establishes Humboldt Bay as a global leader in addressing climate change and energy decarbonization by serving a critical role in offshore wind renewable energy development.*
2. If a zero- emissions port is not added to the project objectives, include it as a project alternative to be analyzed.
3. Using avoidance or mitigation measures offset foreseeable impacts with specific operational commitments as part of the Wind Terminal design and buildout, including commitments to traffic safety, electric vehicle charging stations, a dig-once policy, public fishing piers, surf and beach access, a comprehensive trail system, coastal dune restoration, climate resilience projects, dedicated greenspace, and spaces for community services.

Equitable offshore wind development in our region presents a unique opportunity to meet state and federal climate goals, as well as those promoted by HCAOG which include a carbon-neutral, multimodal transportation system that is safe, sustainable, and equitable. We hope that the benefits of an offshore wind industry include improved local electrical capacity and reliability which will be essential to increasing charging infrastructure for zero emission vehicles and producing hydrogen fuel locally.

We appreciate the Harbor District's leadership on this regionally significant project and the opportunity to comment on the NOP. If HCAOG can be of assistance in pursuing federal or state funding to achieve a zero-emission port, or advance multimodal goals please reach out to staff.

Sincerely,



Mike Johnson
HCAOG Board Chair

From: Amber Shehan
Sent: Wednesday, August 23, 2023 2:05 PM
To: Rob Holmlund; District Planner; Wagschal, Adam
Subject: FW: Form submission from: Contact

Follow Up Flag: Follow up
Flag Status: Flagged

-----Original Message-----

From: Humboldt Bay Harbor District <techadmin@precisionintermedia.com>
Sent: Wednesday, August 23, 2023 1:55 PM
To: Amber Shehan [REDACTED]
Subject: Form submission from: Contact

Submitted on Wednesday, August 23, 2023 - 13:54 Submitted by anonymous user: [64.194.161.235] Submitted values are:

Your Name: nancy johnson

Email Address: [REDACTED]

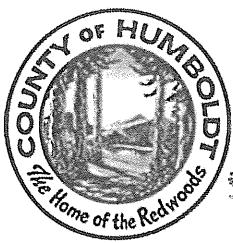
Phone Number: [REDACTED]

Questions / Comments:

Comment on Wind farm Proposal: seeking alternative energy solutions is paramount, BUT proceeding with the Crowley model is deeply problematic on too many levels. It's scope is too large with no proven track record of success or acceptable level of risk. We have a Fishing Industry, environmental Scientists and local Tribes that must be seated at the decision making table, not just consulted. Complete the full CEQA process and Environmental Review period before signing any lease as is legally required. Document all concerns in the EIR. Solar panels on all public buildings and clearing regulatory issues for private residences carries no risk. Wind energy on a scale that can serve local energy needs...no risk. Thank you for extending Public Comment and please continue to do so.

url:

The results of this submission may be viewed at:
<https://humboldtbay.org/node/5/submission/1425>



August 25, 2023

Rob Holmlund
Humboldt Bay Harbor, Recreation and Conservation District
PO Box 1030
Eureka, CA 95502-1030

Subject: DEH comments on Notice of Preparation for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project Draft Environmental Impact Report

Dear Mr. Holmlund:

Thank you for providing the Department of Health and Human Services, Public Health Branch, Division of Environmental Health with the opportunity to comment on the Notice of Preparation (NOP) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project) Draft Environmental Impact Report (DEIR).

CEQA Guidelines section 15082(a)(1) requires: “The Notice of Preparation shall provide the responsible and trustee agencies with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response.

1. Project Description. More detail is needed to determine the potential impacts of the project in the following areas:

- a. Anticipated number of employees during both the construction and operations phases.
- b. Hours of operation during both the construction and operational phases.
- c. Development of a waste management plan for project construction and demolition debris, including waste reduction and reuse.
- d. Preparation of a soil contingency plan, to be in place prior to beginning work, to address potential exposures and contamination removal.

2. Issues to be addressed in the DEIR. Areas of most concern to DEH include:

- a. Air quality. Impacts to workers and nearby residents during project construction that may be associated with removal of existing structures, buried utilities and solid wastes, including contaminated soil, and asbestos-containing materials.



- b. **Utilities/Service Systems.** Impacts of the project on existing public water, sanitary sewer, and storm water infrastructure, with identification of estimated daily water and wastewater volumes during the life of the project.
- c. **Hazards and Hazardous Materials.** Specific to the proposed ground-mounted solar array on and near the closed Samoa Ash Landfill, CalRecycle SWIS # 12-AA-0017, which is regulated by this department through the Local Enforcement Agency (LEA) program and the North Coast Regional Water Quality Control Board, we ask that the DEIR identify and disclose approvals required under state law and assess any air, soil and water impacts associated with construction, including any impacts to the existing clay cap and landfill gas monitoring infrastructure.

We look forward to reviewing the DEIR when it becomes available.

Thank you for the opportunity to comment.

Sincerely,



Mario Kalson, REHS
Director, Division of Environmental Health

CC (via e-mail): Rob Holmlund districtplanner@humboldtbay.org



REDWOOD REGION AUDUBON SOCIETY

A MEMBER OF THE NATIONAL AUDUBON SOCIETY
P.O. BOX 1054, EUREKA, CALIFORNIA 95502



July 28, 2023

Rob Holmlund
Humboldt Bay Harbor, Recreation and Conservation District
P.O. Box 1030
Eureka, California 95502-1030
districtplanner@humboldtbay.org

RE: Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project NOP Comments Regarding Biological Resources Alternative Site Analysis

A robust analysis and comparison of at least one alternative Humboldt Bay project site should be included in the DEIR. The analysis should include alternative sites for wet storage subareas that could be less impactful, such as between the Samoa and Woodley Island (Fisherman's) channels south of Tuluwat Island.

Dredging & Deepening

Marine Development Subarea

Item 3, 4: Deepening to -40' mean lower low water (MLLW) for three berths and connection to the existing channel and deepening to -60' MLLW for the sinking basin will require a United States Army Corps of Engineers (USACE) permit and has the potential to cause significant environmental impact.

Wet Storage Subarea

Item 3: Deepening the wet storage subareas to -40' MLLW will require a USACE permit and has the potential to cause significant environmental impact.

Draft Environmental Impact Report: Deepening and Dredging

Dredging to deepen the proposed marine development and wet storage subareas as shown in the project examples has the potential for significant near and long-term negative environmental impact. Deepening of the bay in these subareas will change tidal flow characteristics in, and adjacent to these areas. Sloughing of bottom material from adjacent shoal areas to the east and upstream channel scouring could impact bottom configuration beyond the dredged area and affect marine life and, by extension, birds, and other faunal wildlife. Wet storage areas east of the existing turning basin and channel could negatively impact Eelgrass and cause erosion of the west side of Tuluwat Island. The biological effects of the proposed dredging and deepening cannot be evaluated without knowledge of the potential long term hydrographic and bathymetric effects.

The DEIR should include, at a minimum:

- Area, depth, and dredged volume of the marine development and wet storage subareas and related environmental impacts.
- Frequency of dredging required to maintain working depth of the marine development and wet storage subareas and related environmental impacts.
- Identify areas proposed for dredging that are contaminated with hazardous materials, including hazard analysis.

Lighting

Each of the three project examples include eleven high mast lighting units. Light trespass from the upland development area has the potential for significant environmental impact to terrestrial and marine wildlife. Light trespass should not occur beyond the perimeter of the upland and marine development subareas.

Draft Environmental Impact Report: Lighting

The DEIR should include, at a minimum:

- A statement that lighting will comply with all applicable International Dark-Sky Association standards.
- An analysis of the effects of lighting on aquatic life in the marine development subarea or how illuminating that area will be avoided or reduced to the level of insignificant environmental impact.
- Analysis of the probable effects of project lighting on migratory birds.

Habitat Restoration Subarea

The DEIR should include the purpose and justification for the proposed habitat restoration subarea:

- Current habitat description, including plant and faunal species present.
- A description of the habitat to be restored, including projected species.
- Explanation of how the restored habitat will thrive in its location adjacent to the marine development subarea.
- Describe the significance of the restored habitat to the ecology of Humboldt Bay.

Public Observation Access and Control

Large industrial activities like assembly and deployment of large WTDs as described in the notice of preparation attract public observers. Projects from rocket launch sites to skyscraper construction provide some public accommodation for observation. The scale and importance of this project indicates that access and control of spectators will be required to avoid significant environmental impacts. Trespass and destruction of wildlife habitat from trampling and unregulated parking are examples of potential environmental impacts.

The DEIR should include, at a minimum:

- An estimate of the number and time distribution of spectators expected.
- Facilities designed to accommodate the maximum number of spectators at any one time.

- Proposed observation areas for WTD assembly and deployment.

Impact Mitigation and Adaptive Management

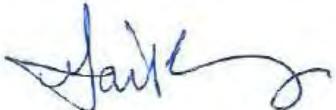
Mitigation for unavoidable impacts should be monitored and adaptive management applied as needed in a timely manner. The DEIR should include:

- Minimum mitigation goal timelines for each impacted species.
- Mitigation contingencies that will be implemented if goals are not met, including reserve mitigation areas.
- Mitigation monitoring and adaptive management planning should be done by a qualified independent, third-party consultant.

Oil Spill Response

Increased marine traffic will increase the likelihood of oil spills. The DEIR should include an analysis to determine if the existing oils spill response unit is adequate for the increased risk of oil spills.

Sincerely,



Gail Kenny
President

From: Elizabeth Kernahan [REDACTED]
Sent: Friday, August 25, 2023 11:22 PM
To: District Planner [REDACTED]
Cc: [REDACTED]
Subject: Humboldt Bay Offshore Wind Heavy Lift Marine Terminal - Public Comment

To whom it may concern,

This correspondence is to serve as a public comment on items and scope to be considered for the Draft Environmental Impact Report for the proposed Humboldt Bay Offshore Wind Heavy Lift Marine Terminal. To the best of my knowledge Humboldt Bay has not been subject to heavy shipping traffic for some decades. In that time it is possible that Humboldt Bay and the project site have been able to see a degree of recovery from its previous more industrial use, and it seems prudent to confirm the appropriate baseline conditions for the site prior to initiating the planning and permitting process for development.

The project has often been presented with a narrow focus, limiting the scope to only the main channel and a portion of the peninsula. This makes sense to avoid confusion given its nexus to other potential large development projects such as floating offshore wind turbines and additional new long range high voltage transmission lines. However the project has as a necessary component an industrial impact beyond simply the development of the site and the use of the central channel of Humboldt Bay. The project necessitates increased international shipping traffic into Humboldt Bay using vessels that Humboldt Bay has likely not accommodated with high frequency, if ever, transiting from ports that Humboldt Bay has potentially never received traffic from. This type of activity has the potential to facilitate the importation of invasive species into an area that has a significant number of endemic sensitive and endangered species. This must be considered in the assessment of the projects environmental impact. These invasive species could be adapted to marine, freshwater aquatic, or terrestrial environments, and could be macro or micro organisms. So what must be considered are the potential impacts to not just the project site, but all of Humboldt Bay and the outlying areas of Humboldt County.

This project is presented and described in public presentations as being critical for meeting clean energy production goals set by the State of California and the United States federal government to work to address the root cause of climate change. This is a noble and necessary effort, but in this venture what must never be forgotten is that the impact of climate change is not just a warming Earth with a more extreme climate. It is also the damages from those environmental changes, being primarily the loss of biodiversity, habitat destruction, and rapidly changing ranges (shrinking or growing) of varied species leading to competition between species that previously did not interact. Species that are either not adapted to the changes or can not adapt quickly enough will already be in states of stress making them more susceptible to infection, predation, or being less able to compete for resources. If this project fails to appropriately mitigate invasive import and ultimately contributes to habitat and biodiversity loss in the surrounding area then it will have ultimately failed in its primary mission and will only serve as a development project to support a collection of energy companies.

This project has the opportunity to demonstrate, and arguably has a fundamental imperative to demonstrate, that development and industrial practices employed by the human species can serve to promote biodiversity and aid in habitat recovery rather than occurring in spite of it.

Thank you for considering these comments.

Sincerely,

Elizabeth Kernahan
Humboldt County Resident

From: Joyce King [REDACTED]
Sent: Wednesday, August 23, 2023 10:04 PM
To: District Planner
Subject: Wind Terminal Project

Will this project be thoroughly evaluated for **Cumulative Effects** on:

- the present and future viability of our oyster, fishing, recreation, and tourism industries
- pollution of land, air, and waters as the climate changes, sea level rises, and the expected earthquakes and tsunamis occur
- the viability of native plants and animals which inhabit the peninsula, bay, and marine environments
- reliability of infrastructure and housing resources for our communities' long term interests
- environmentally safe disposal capacity for the industrial waste products

Will the owners and operators of the project be required to provide an adequate reserve fund to cover costs of future cleanup in case of unexpected closure, damage, or bankruptcy?

I am most concerned that the Offshore Wind Heavy Lift Multipurpose Marine Terminal Project is too large and complex in its potential impacts for our bay and surrounding communities.

This is a world-class project and we are a small and relatively unsophisticated, inexperienced population which is and always has been a target for exploitation by large corporate interests.

If it comes down to a choice between the economic benefits of this giant industrial scale project, and the diversity of small scale economic uses in and surrounding Humboldt Bay, will the public have sufficient opportunity to weigh in?

And will the public be consulted re whether the following changes are good for us in the long run?

Humboldt Bay Area Plan Amendments The Project will assess the environmental effects of making required amendments to the Humboldt Bay Area Plan ("HBAP", Local Coastal Program). The following aspects of the HBAP may need to be amended:

1. Recognizing the Project as a Priority 1 Site for the proposed Coastal-dependent industrial use. Resolve conflicting language in relationship to other coastal act policies that are addressed in the HBAP and with other current uses including policies regarding natural resources, viewsheds, and recreation.
2. An area designated NR-W by Humboldt County is within the Harbor District's primary regulatory jurisdiction and is contrary to the purposes of the tidelands granted in 1970 to the Harbor District by the California State Lands Commission. This inconsistency will need to be resolved.
3. Differentiate between buildings and non-building structures (e.g. cranes, high mast lighting and assembly of wind turbines) and increase maximum building and structure height allowances to accommodate the Project.
4. Modify limitations of industrial performance standards, including, noise, lighting, vibrations, dust control, and enclosed manufacturing to meet the needs of this Project and surrounding land uses.
5. With the need to amend the HBAP regarding this Project, HBAP policies would need to be resolved that conflicted with policies of the Coastal Act for the area within the State Retained Jurisdiction, Chapter 3 Coastal Resources Planning and Management Policies apply.

Thank you
Joyce King
McKinleyville

[REDACTED]

From: Zach Kirchman [REDACTED]
Sent: Friday, August 25, 2023 3:58 PM
To: District Planner
Subject: Public comment for CEQA Scoping Document Regarding the Humboldt Bay Offshore Wind Project

To: Humboldt Bay Harbor District

From: Zach Kirchman, lifelong Eureka resident

Re: Public comment for CEQA Scoping Document Regarding the Humboldt Bay Offshore Wind Project

Hello, my name is Zach Kirchman. I am a Eureka resident and am incredibly excited at the prospect of the Humboldt Bay Harbor District setting up a staging and assembly site for the offshore wind turbines that are being planned for construction. I do have some concerns regarding the impact that this project may have on the surrounding wildlife. From what I understand, dredging is expected to occur. If this is to be the case, I hope that a full investigation is done to assess the impact that said dredging will have on the aquatic life in Humboldt Bay and how that may affect non-aquatic wildlife found in the Humboldt Bay National Wildlife Refuge at the south end of Humboldt Bay. Like I previously mentioned, I am incredibly excited for this project to be kicking off, and look forward to its positive benefits for the environment. Thank you for reviewing my comment.

Zach Kirchman

Memorandum

To: DISTRICT PLANNER, HUMBOLDT BAY HARBOUR DISTRICT

From: SANJEEV KUMAR, CAL POLY HUMBOLDT STUDENT

Title: REVIEW OF THE ENVIRONMENTAL IMPACTS OF THE HUMBOLDT BAY OFFSHORE WIND TERMINAL PROJECT

Date: August 25, 2023

Dear Mr. Planner,

The proposed new Humboldt Bay offshore wind terminal project is a significant step in achieving 30GW of offshore wind by 2030, but it also impacts the environment. The primary resource topics, as per CEQA that are covered in this memo are noise, hazardous materials, population/housing, cultural impact, traffic, aesthetics, recreation, etc. I am writing to bring some insight into the matter, and some key points are mentioned below.

- Noise: The proposed offshore wind terminal project would require significant component manufacturing, staging, and integration facility construction, increasing noise levels. However, these could be mitigated to a certain extent by operating the facility at regular work hours instead of round the clock.
- Transportation/Traffic: The construction would require raw materials like cement, steel, and other materials, leading to increased cargo movement. I believe these impacts can be mitigated entirely but minimized or compensated by deploying EVs or providing charging facilities to EV owners nearby.
- Population/Housing: The proposed project would require skilled, semi-skilled, and unskilled labor, increasing the population. It will also lead to an increase in water use as well as wastewater. These could be mitigated by constructing multi-story housing having green energy (solar powered) and increasing the capacity of drinking water and wastewater treatment facilities.

- Cultural impacts: The land belongs to the Wyot tribe, and constructing this project will severely impact the tribe's cultural resources. These could be mitigated by collaborating with the tribes and incorporating them into the future decision-making process related to the project.
- Hazardous material: The proposed project would generate dangerous waste like asbestos from the ship repairing facility. It could be mitigated by following strict regulations associated with handling hazardous materials.
- Recreation: The proposed project construction will impact the recreation activities as many residents go for Kayaking. It could be mitigated to some extent by creating another channel for Kayaking.
- Wildlife: Dredging could impact the fisheries in the bay and the native people. How this could be mitigated?
- Aesthetics: The construction of a large facility will impact the area's aesthetics. Any modification suggested in the future public hearing should be incorporated to mitigate the aesthetics.

The project can be moved forward by doing a detailed environmental impact report, mitigating the abovementioned impacts and other resource topics, and addressing public comments.

From: Hallie Kutak [REDACTED]
Sent: Monday, August 28, 2023 12:36 PM
To: District Planner
Cc: Lisa Belenky
Subject: NOP for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (SCH No. 2023060752)

Mr. Holmlund,

Please add Lisa Belenky and I to the notice list for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (SCH No. 2023060752). Thank you.

Best,
Hallie

Hallie Kutak
Staff Attorney | Senior Conservation Advocate
Urban Wildlands Program
CENTER for BIOLOGICAL DIVERSITY
[REDACTED]



From: Emily Lin [REDACTED]
Sent: Thursday, August 24, 2023 2:01 PM
To: District Planner
Subject: Public Comment Re: Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project

Hi Rob,

Thank you for sharing these resources and extending the comment period. I currently live in Eureka and previously lived in Samoa. Below are some areas of concern and ideas. I look forward to continuing to participate in this process and staying up to date.

- **Environmental Impact Scope:** Must include all related impacts - areas with new or increased traffic (on land, in the bay, and in the ocean). The impact on marine ecosystems and migration and travel routes is especially of concern. Create and enforce research-based marine traffic routes to mitigate negative impact.
- **Habitat Protection:** Budget a percentage of funds & revenue for habitat protection throughout the course of the project, not just restoration after destruction. It is much more impactful and cost-effective to protect and maintain existing ecosystems and populations. Wildlife will need to go somewhere when their habitat is destroyed - Figure out where they may go or end up, and bolster those places (enhanced protection, maintenance of needed air & water quality, buffering from human disturbance such as construction and traffic).
- **Population Assessments:** Thoroughly evaluate current wildlife use of the area and their current populations. Many species are migratory and the project area may include or impact critical nurseries or areas for feeding and mating.
- **Light Pollution:** Require that lights be turned off or be dim red light (or whatever is least disruptive, environmentally) outside of active work hours. Use solar-powered motion-activated lights.
- **Transit:** With many more people needing to get around the area, it is important to increase bus lines & frequency, create safe and highly visible bike lanes, prioritize pedestrian and bike safety (create stop signs and crosswalks and lights as needed, ideally in anticipation of high traffic intersections; build sidewalks where there aren't any), and limit large trucks and construction vehicles to certain roads (at least during certain hours) so kids can bike and play safely. Incentivize employees to take the bus, bike, carpool, and drive EVs via education, provision (ex. providing certain staff with company EVs to drive and e-bikes to ride), and subsidies (discounted bus pass, etc.) Create bike stations that include e-bikes throughout the peninsula so that everyone can get around more easily and w/ zero emissions.
- **Waste Management:** Create and strictly enforce regulations as to how waste is processed, cleaned up, stored, moved, and so on. There must not be run off and dumping into the ocean and bay. Also, the Samoa bridge and the islands will need additional signage and enforcement regarding no littering or dumping.
- **Energy Equity:** Prioritize allowing peninsula residents to use clean energy at a discounted/affordable rate. Residents will be forced to endure all sorts of pollution and disruption and should not be required to rely on natural gas & propane while companies are using the peninsula to profit from the wind project.

I encourage your office to evaluate the concerns brought forth by environmental groups with due diligence, as impacts on wildlife impact us, as humans. We rely on healthy ecosystems to regulate the climate and soil, air, and water quality. These impact food procurement (seafood) and food production. The ocean, bay, dunes, and wetlands also serve as important recreational spaces for residents (critical to physical and mental health). Tourists also come to enjoy the rich biodiversity here. It would be a shame to operate a green energy project in a way that echoes previous industrial uses of Humboldt where resources and communities were exploited rather than invested in and enhanced.

Thank you for considering these concerns in your evaluation and planning process.

Sincerely,
Emily Lin

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0069
(916) 319-2069
FAX (916) 319-2169



Mr. Rob Holmlund
Humboldt Bay Harbor, Recreation and Conservation District
PO Box 1030
Eureka, California 95502
Sent via email to districtplanner@humboldtbay.org

Mr. Holmlund:

As you may know, this office is a member of the California State Assembly Select Committee on Ports ("Committee") and we are writing in conjunction with the Extended Comment Period filed in conjunction with the Notice of Preparation of a Draft EIR for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project ("the Project") (SCH No. 2023060752).

As with other major Port-related infrastructure projects throughout the State, the Wind Terminal project at Humboldt Bay presents a unique opportunity to fulfill the environmental, labor and operational goals that have collectively been set by the State, communities and the maritime industry in recent years. These include, but are not limited to, the Governor's goals of advancing zero-emission technologies in the goods movement sector and CARB's rule making decisions around heavy duty vehicles at Port terminals. As a member of the Committee that represents the State's largest Port complex, I am also interested in making sure that the Project involves input from the many stakeholders that will be impacted by the project build out and operation.

Thank you very much for your attention to this matter. If you have any questions, or if I can be of further assistance, please contact me at [REDACTED]

Sincerely,

JOSH LOWENTHAL
ASSEMBLYMEMBER, 69TH DISTRICT

From: Marcy Manning [REDACTED]
Sent: Tuesday, July 25, 2023 6:18 PM
To: District Planner
Subject: Terminal Development

Follow Up Flag: Follow up
Flag Status: Flagged

Planners, One of my concerns with this project is increased traffic on Samoa Blvd, Hwy 255. I hope that traffic for the port can be diverted to Hwy 101 and the bridge, rather than driving through Manila. The other concern I have is for the added emissions to air and water, as well as noise. This can be mitigated by having the project using solely electric vehicles and processes during building and continued operation.

Thank you, Marcy Manning

44 FEET PROJECT

August 25, 2023

Via E-mail
Rob Holmlund
Humboldt Bay Harbor, Recreation and Conservation District
P.O. Box 1030
Eureka, California 95502
707-443-0801
districtplanner@humboldtbay.org

Dear Mr. Holmlund:

Please accept this comment from the 44 Feet Project to the Humboldt Harbor, Recreation and Conservation District's ("District") Notice of Preparation ("NOP") of Draft Environmental Impact Report ("DEIR") for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project ("Project").

The 44 Feet Project is a forward-looking, transdisciplinary, collaborative research project based at Cal Poly Humboldt. The Project has brought together state agencies, utility representatives, scientists, tribes, community members, and subject matter experts to support the responsible long-term management of the spent nuclear fuel site on Humboldt Bay.

The goals of the 44 Feet Project are to: 1) fill in gaps in existing safety analysis to account for increased future risk of coastal and climate hazards to the spent nuclear fuel site on Buhne Point; 2) affirm the desire that community and tribal perspectives are included in future spent nuclear fuel siting decisions; and 3) promote the idea that trust, communication, and public awareness rank equal to science in the responsible long-term management of spent nuclear fuel sites in a climate-changed world.

In accordance with the requirements of the California Environmental Quality Act ("CEQA"), the District has requested input on the scope of environmental impacts to be studied in the Draft Environmental Impact Review ("DEIR"). A topic of potential impact not included in the NOP is the potential impact of efforts to dredge the channel entrance to accommodate increased deep draft cargo vessel traffic year-round on the structural integrity of the rip rap wall currently mitigating erosion of the bluff at Buhne Point. In the 1890s, construction of the Humboldt Bay entrance jetties directed high-energy waves at the bluff. Consequently, approximately 1,480 feet of Buhne Hill eroded away until 1950, when the shoreline was fortified by a rip rap wall, which also provides protection to the community of King Salmon.

In 2007, 37 tons of spent nuclear fuel were buried below grade atop Buhne Point, which is located directly across from the channel entrance. That same year, the California Coastal Commission issued a license for storage of spent nuclear fuel at this site in perpetuity. Although

44 FEET PROJECT

PG&E expects that the Department of Energy will assume title to the spent nuclear fuel around the year 2032, we have reasonable expectations based on historic record that such timeline will be prolonged until a more secure or consent-based siting option is permitted, and thus that the spent nuclear fuel will still be on site during the channel dredging activities the NOP describes. Consequently, Project construction may have a reasonably foreseeable impact on the stability of the bluff site, particularly as changes to the channel entrance may increase the wave energy action funneled from the channel entrance toward the bluff.

We thus find it reasonably foreseeable that the planned changes to the navigation channel entrance may impact the structural integrity of the rock slope protection, thus potentially increasing the rate of erosion of the bluff. The DEIR, in accordance with CEQA, should address, monitor, and mitigate for such potential impacts.

Thank you for your consideration of our comments.

Sincerely,



Jennifer Marlow
44 Feet Project
Assistant Professor
Department of Environmental Science and Management
Cal Poly Humboldt
[REDACTED]
[REDACTED]

COMMENT ON HUMBOLDT BAY OFFSHORE WIND
HEAVY LIFT MARINE TERMINAL PROJECT

25 August, 2023

Rob Holmlund
Humboldt Bay Harbor Recreation And Conservation District
P.O. Box 1030
Eureka, California 95502-1030
districtplanner@humboldtbay.org

Dear Rob Holmlund,

THE PROPOSED PROJECT HAS THE FOLLOWING FATAL FLAWS:

Magical thinking:

You are proposing to design a project to support a project whose feasibility is itself a wholly invented and imaginary project;

Blindness to recent history:

The project's basic assumption is that we can address imminent cataclysmic threats to our present way of doing business by doubling down on the practices and assumptions that have brought these threats upon us in the first place;

Mission creep:

The initial goal was to reduce and eventually replace our dependence on PG&E's Buhne Point gas generation power plant, but the project will actually create additional greenhouse gasses while reducing them is left to the imaginary future; the first response, as always to these projects, was Jobs Jobs Jobs! Greater than Oakland!

Reversal of environmental gains:

The most environmentally friendly and sustaining industries--mariculture, boat building, fishing--will be reduced if not eliminated; instead, the goal of establishing a "major regional employment center" simply translated means a return to "good old days" of resource extraction, like shipping logs and pulp, only now the resource to be extracted will include the struggling communities of the peninsula and most beneficial uses of the bay, if not the life of the bay itself;

False needs:

The claim that this is the only feasible site for this project based on the fact that we have a place more ready to sacrifice than LA or Long Beach is specious and insulting to the intelligence of your constituents, if not an outright fantasy; what happened to Oakland?

Unbalanced goals:

Your agency is driven in this project as always by the need for revenue to pay for dredging; the harbor district sacrificing the recreation and conservation district;

Toxically high levels of BS:

Offsetting sea level rise and industrial impacts with "modern ecofriendly shoreline transition" (BS 9.5); setting upright a multi-ton thousand-plus-foot tower described as making it "vertically integrated" (BS 9.7); towing it out to sea and anchoring in a single word: "deployed" (BS 10);

Blindness to global realities:

Proposing to be part of the "offshore wind supply chain" in a global system that struggles to maintain its supply of the most basic spare parts; lack of any awareness that global capital is moving away from financing wind farms that propose to supply power to an industrial civilization on the brink of collapse;

Weasel words:

The plan relies entirely on conditional evasions of consequences: the project could/may/or/possibly/would/if/and/or be based on lies/error/ miscalculation/outright falsehoods;

A great leap backward:

Approval of this project will require gutting the Humboldt Bay Area Plan, its Natural Resource designations, and any limits on noise, lighting, vibration, dust and destruction. Again, the project is a betrayal of your duties as a recreation and conservation district;

Thank you for extending the deadline for comment. Please begin again. Start with the basic goals. Take it to the people. Listen. Speak clearly. Make sense.

Thank you.

Jerry Martien (contact person)

[REDACTED]

From: Pakuni Martin [REDACTED]
Sent: Friday, August 25, 2023 4:21 PM
To: District Planner
Subject: Humboldt Bay Offshore Wind Public Comment

Aiy-yue-kwee (Hello). My name Pakunihanich. I am a member of the Yurok Tribe and of Karuk descent. In spring of 2023 I earned a B.S. in Environmental Science and Management - Energy and Climate emphasis from Humboldt State/Cal Poly Humboldt. Now I'm a graduate student at Cal Poly Humboldt in the new Engineering and Community Practice Program that emphasizes collaboration between Engineering, Native American Studies, indigenous perspectives, and community partnerships.

I am interested in the planning processes/protocols of hiring employees at all levels of technicalities. I am concerned about the potential influx of nonlocal people filling the majority of the new job positions. I suggest a mitigation of hiring at least 85% of locals and 45% of that to be indigenous peoples of Humboldt County.

I appreciate your time and consideration.

Thanks, Pakunihanich

August 26,2023

Dear Rob Holmlund and Humboldt Bay Harbor, Recreation and Conservation District,

I see there was a deadline for August 25, 2023 - 5pm for public comment, I do wish my letter to be considered.

I was born in Eureka in the 1960's and grew up / reside in Humboldt County. My Grandfather worked in Samoa at Hammond Lumber Company / Georgia Pacific / Louisiana Pacific 1940's - 1980's. [Which had its problems - the smell from the pulp mill through out Humboldt Bay, Samoa and the City of Eureka - I will never forget the smell from the mill] He taught us kids to fish the Humboldt County coast line, find agates at Agate Beach, Surf fish Big / Dry Lagoon. This brings me to the off shore Wind Farm.

Yes , we have heard about the Off Shore Wind Farms coming to Humboldt, [I had wondered whether we would see it from land, creating light pollution, visual obstruction, would it effect our aquatic and seabird life? [but not until I read/ saw the article in Lost Coast Out Post.... Did I see the off shore wind farm proposed visual off of Patricks Point - Sue- Meg - I was so discouraged, this is our pristine coast line, visitors come from all over the world to see this area. Creating a wind farm is not only visually unpleasing.... What about the freight moving windmills to and from the bay out to sea, effecting the aquatic life in the Humboldt Bay and Humboldt coast line? The effects on our recreational and commercial fishing in Humboldt Bay, due to the continual dredging of the harbor channel? The visual appearance from Eureka to Samoa - seeing cranes, light towers, wind turbines.... This project is not only aesthetically unpleasing to the human eye, but our marine ecosystem with in the ocean and the harbor will be extremely effected by Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

Please keep in mind, we humans are only on this planet a brief time and have already installed hydro electric dam on our rivers, nuclear power plants on our coast lines and now looking to Humboldt County for the first off shore wind farm in California. How will this effect future generations?

Thank you for considering my concerns,

Jill McClure

OPERATING ENGINEERS

LOCAL 3

N. CALIFORNIA • N. NEVADA • HAWAII • UTAH



AFL-CIO

3000 CLAYTON ROAD
CONCORD, CA 94518
PHONE 510.748.7400
FAX 510.748.7412

DAN REDING BUSINESS MANAGER

Via Email

districtplanner@humboldtbay.org

Humboldt Bay Harbor, Recreation and Conservation District
Rob Holmlund,
Director of Development
P.O. Box 1030
Eureka, California 95502

Re: Scoping Comments on the Notice of Preparation of the Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project

On behalf of Operating Engineers Local 3, please consider these scoping comments regarding the proposed Heavy Lift Offshore Wind Terminal. We are in full support of this project, particularly because of the jobs it will create in our community, how it offers solutions to the climate crisis and because it will help Humboldt County and California meet state and federal goals for renewable energy. In securing and implementing a project of this proportion, certain steps and exact language related to inclusion and environmental concerns are necessary. We must ensure that we are being responsible socially, fiscally and environmentally. Certain aspects of the CEQA Scoping process can be improved upon, clarified or added. While some of our comments may be addressed in the **Key Environmental Issues to be Addressed in Environmental Impact Report** section, we feel that certain topics deserve to be addressed in the **Project Objectives**.

The “F” section of the **Project Objectives** should include:

The design and construction of a site that would incorporate Best Management Practices and architectural ergonomics so that addressing Missing and Murdered Indigenous People (MMIP), Sexual Violence, Workplace Violence and general worker safety can be built into the construction of and overall design of the site. Main objectives of the project should also include government-to-government communications with Tribal Nations and Indigenous Communities to ensure environmental and cultural resources are properly identified and protected. (This is a great opportunity to create a culture of protection and awareness surrounding these sensitive issues right from the start.)

Section “G” of **Project Objectives** should be expanded to include:

District/Developer/Operator working with a strong Community Benefits Agreement (CBA) so that additional incentives and funding streams can be identified or created for the betterment and upkeep of all stakeholders.

August 25, 2023

Scoping Comments Heavy Lift offshore Wind Terminal

Pg. 2

Section "H" of the **Project Objectives** should include stronger language to reflect the community's goal of attaining the *greenest port feasible*. Possible language changes to Section "H" could include:

H. To the *highest* degree feasible, develop a marine terminal site with the *most* modern environmental standards related to minimization of greenhouse gas emissions, onsite renewable energy generation, green building materials, the electrification of terminal operations, and the facilities needed to accommodate vessel shore power and *exceeding these standards wherever feasible to ensure Humboldt Bay is at the forefront of green energy and zero emission technology and practices.*

Under the **Demolition and Construction** section, the use of a cultural monitor as an onsite asset during any operations involving excavation should be identified through communications with local Tribal Nations.

Thank you for your expansion of the commenting period, your willingness to work with and listen to the community and your commitment toward renewable energy goals, while protecting and strengthening our local workforce, environment and diverse cultures. We have a great opportunity to make an environmental, social and economic difference with this project, so let's ensure all parties involved (Tribal Nations, local Skilled and Trained Workforce and every citizen within our diverse community) are protected, included and utilized, going forward.

Sincerely,



Dan Reding
Business Manager and
International Vice President

From: Humboldt Bay Rowing Assoc. [REDACTED]
Sent: Friday, August 25, 2023 4:31 PM
To: District Planner
Subject: Public Comment on Notice of DEIR for Off Shore Wind Marine Terminal

To whom it may concern:

As Head Coach of the Humboldt Bay Rowing Association (HBRA) located at 1011 Waterfront Drive, Eureka I am providing comment on the NOTICE OF PREPARATION OF DRAFT ENVIRONMENTAL IMPACT REPORT for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project. **Our facilities are located directly on the waterfront and actively use the federal and navigation channels referenced in the project plan.** Our rowing club, as well as both university affiliated rowing teams, are active marina tenants and bring a high level of value to Humboldt Bay community members through rowing. The water ways we use regularly include all channels between and around Tulowat and Woodley Islands. See below my list of concerns and/or requests

1. **Increased traffic:** Our boats (small man powered racing shells) and rowers are small and vulnerable compared to larger vessels that may move faster and/or have blind spots. **We ask more information about increased traffic be released and that further boating guidelines be required for vessels associated with the project. This could include but is not limited to limited hours of operation and/or access to certain channels during regular practice hours.** Rowing teams that use the water ways, including HBRA, typically practice for short durations in early mornings and early evenings. This would likely be amenable to peak construction hours during the day.
2. **Unsafe obstructions in wet storage:** The wet storage proposed covers a significant area in the Samoa Federal channel which is actively used by rowing teams. Rowers are seated backwards and are susceptible to missing obstructions. If a collision occurs this can cause irreparable damage to our rowing equipment and can also lead to bodily injury. Therefore, increased water way obstructions are a significant safety concern. **We ask safety precautions be taken to better demarcate and contain obstructions where they allow passage of rowing hulls. This could include but is not limited to a buoyed course through the wet storage channels.**
3. **Reduced access:** Samoa federal channel is actively used by rowing clubs in the humboldt bay. Even more concerning is the overflow use of the channels surrounding Woodley island as these are heavily used including launching our boats from floating docks on the eureka bound shore. **Limited and impacted access to these channels due to waterway use, construction and traffic would impact the health of our organization and its ability to continue business as usual. Our organization not only provides value to community members, we are also registered as a non profit through our work with community youth. We ask that more information on the impact to these smaller channels be provided and the impact be minimized within the Samoa Federal channel.**

Olivia McShea
Head Coach
HBRA Master's Rowing Team

[REDACTED]

From: Vincent V Mendez [REDACTED]
Sent: Friday, August 25, 2023 4:02 PM
To: District Planner
Subject: Public Comment

My name is Vincent Mendez and I am a senior in the Environmental Resources Engineering program at Cal Poly Humboldt. I am concerned with what will be done with the land used for this project when the goals are fully met. Will the land meet a similar fate to the previous factories such as the lumber mills? What will you do to keep the infrastructure built to support this project from closure? Hopefully the boating and production infrastructure will continue to be used for regular repairs on the turbines as well as production for out of state wind projects.

Thanks you for your time and consideration,
Vincent Mendez



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August 25, 2023

**Via Email**

Rob Holmlund

Humboldt Bay Harbor, Recreation and Conservation District

P.O. Box 1030

Eureka, California 95502

707-443-0801

[districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)

Aiy-ye-kwee Mr. Holmlund,

This letter serves as the written portion of Yurok Tribe’s (“Tribe”) comment to the Humboldt Harbor, Recreation and Conservation District’s (“District”) Notice of Preparation (“NOP”) of Draft Environmental Impact Report (“DEIR”) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (“Project”). This letter is not and should not be construed as the Tribe’s participation in tribal consultation pursuant to AB 52 (Chapter 532, Statutes 2014). Additionally, this letter should not be construed as an endorsement of or opposition to any other comments to the NOP, except as expressly provided herein. The intent of this letter is to provide the Yurok Tribe’s input on the scope of impacts to be analyzed in the DEIR and Project Objectives, and to raise concerns with the timing of EIR finalization with respect to the leasing of port space for development of the Project and the adequacy of the NOP under CEQA.

**I. Introduction to the Yurok Tribe**

The Yurok Tribe is the largest Native nation within California with over 6,400 members. The Yurok people have always lived along the Pacific Coast and inland on the Klamath River. As stated in the Yurok Constitution:

The Ancestral Lands of the Yurok Tribe extend unbroken along the Pacific Ocean coast (including usual and customary offshore fishing areas and ocean territory) from Damnation Creek, its northern boundary, to the southern boundary of the Little River drainage basin, and unbroken along the Klamath River, including both sides and its bed, from its mouth upstream to and including the Bluff Creek drainage basin. Included within these lands are the drainage basin of Wilson Creek, the



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drainage basins of all streams entering the Klamath River from its mouth upstream to and including the Bluff Creek and Slate Creek drainage basins, including the village site at Big Bar (except for the drainage basin upstream from the junction of Pine Creek and Snow Camp Creek), and the Canyon Creek (also known as Tank Creek) drainage basin of the Trinity River, the drainage basins of streams entering the ocean or lagoons between the Klamath River and Little River (except for the portion of the Redwood Creek drainage basin beyond the McArthur Creek drainage basin, and except for the portion of the Little River drainage basin which lies six miles up from the ocean). Our Ancestral Lands include all submerged lands, and the beds, banks and waters of all the tributaries within the territory just described. Also included within the Ancestral Lands is a shared interest with other tribes in ceremonial high country sites and trails as known by the Tribe, as well as the Tribe's usual and customary hunting, fishing and gathering sites.<sup>1</sup>

The Yurok Reservation, established by Executive Order in 1855, is tethered to the lower forty-five miles of the Klamath River, a mile on either side, from the Yurok village of Req-woi at the mouth of the Klamath River to upstream of the Yurok village of Weych-pues. The Yurok people, the Tribe's inherent sovereignty, and the Yurok Constitution provide the Tribal government authority to create Yurok laws, manage Yurok lands and natural resources, and adjudicate violations of Yurok laws in Yurok Tribal Court. The Yurok Tribe's jurisdiction lies throughout the Yurok Ancestral Territory and "extends to all of its member wherever located, to all persons throughout its territory, and within its territory, over all lands, waters, riverbeds, submerged lands, properties, air space, minerals, fish forests, wildlife, and other resources, and any interest therein now or in the future."<sup>2</sup> Via the adoption of the Yurok Constitution, the Yurok Tribe, in its governing authority, strives to:

- 1) Preserve forever the survival of our tribe and protect it from forces which may threaten its existence;
  - 2) Uphold and protect our tribal sovereignty which has existed from time immemorial and which remains undiminished:

<sup>1</sup> YUROK CONST. art. I, § 1.

<sup>2</sup> *Id.* § 3.



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- 3) Reclaim the tribal land base within the Yurok Reservation and enlarge the Reservation boundaries to the maximum extent possible within the ancestral lands of our tribe and/or within any compensatory land area;
  - 4) Preserve and promote our culture, language, and religious beliefs and practices, and pass them on to our children, our grandchildren, and to their children and grandchildren on, forever;
  - 5) Provide for the health, education, economy, and social wellbeing of our members and future members;
  - 6) Restore, enhance, and manage the tribal fishery, tribal water rights, tribal forests, and all other natural resources; and
  - 7) Insure peace, harmony, and protection of individual human rights among our members and among others who may come within the jurisdiction of our tribal government.<sup>3</sup>

The Yurok Constitution Preamble provides in part that:

[i]n times past and now Yurok people bless the deep river, the tall redwood trees, the rocks, the mounds, and the trails. We pray for the health of all the animals, and prudently harvest and manage the great salmon runs and herds of deer and elk. We never waste and use every bit of the salmon, deer, elk, sturgeon, eels, seaweed, mussels, candlefish, otters, sea lions, seals, whales, and other ocean and river animals... This whole land, this Yurok country, stayed in balance, kept that way by our good stewardship, hard work, wise laws, and constant prayers to the Creator.<sup>4</sup>

The Yurok Tribe and Yurok people's health, wellbeing, and cultural resources are intimately connected with the health of the ecosystem and the species within them. Self-described as salmon, water, forests, and prayer people, the Tribe values management of, and reliance on, a traditional subsistence diet and practices—they are a vital part of Yurok cultural identity. Abundant and thriving salmonid and other anadromous fish populations are essential for the continuation of subsistence fishing, cultural, and economic lifeways of the Yurok people. And a

<sup>3</sup> *Id.* Preamble.

4 Id.



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healthy Klamath River is a prerequisite for healthy salmon populations. These important connections to the Klamath River make the River a tribal cultural landscape to the Yurok people. Likewise, the portion of the Yurok Ancestral Territory along and within the Pacific Ocean is central to the health of the Klamath River, subsistence fishing and gathering, and viewsheds for cultural practitioners, and as such is also a tribal cultural landscape of the Yurok people.

Unfortunately, ocean, coastal, and aquatic habitat degradation caused by increasing temperatures and shifting currents in the Pacific Ocean, dams and wildfires along the Klamath River, and other causes, the Yurok salmon fishery has undergone a substantial decline during recent decades, negatively impacting the Yurok Tribe and its people's capacity pass traditional ceremonial and ecological knowledge to future generations, access commercial fishing income, and ensure tribal food security, health, and wellbeing.

Impacts to salmon populations and viewsheds are just two of many potentially significant impacts of the Project to the tribal cultural resources of the Yurok Tribe, the environment within the Yurok Ancestral Territory, and to health and wellbeing of the Yurok people, necessitating a robust, probing analysis of the scope of the Project's impacts. The potential for this Project, along with other projects associated with the nascent offshore wind industry on the west coast, to negatively impact tribes has been flagged by the California Coastal Commission, whose Consistency Determination of the industry's development is predicated upon the assumption that "future wind development [] not only provide benefits to the community but also in a manner that does not continue to exacerbate harm in Native American communities and any additional vulnerable populations with limited resources to address these harms."⁵

Moreover, because this Project, perhaps more than any other, will determine the manner and speed of development of the offshore wind industry in the north coast, it is pivotal that the District adheres absolutely to the requirements of CEQA in the preparation of the DEIR.

II. A. The DEIR must address additional impacts not mentioned in the NOP

In accordance with the requirements of CEQA, the District has requested input on the scope of environmental impacts to be studied in the DEIR. The Yurok Tribe finds it is necessary to point out two topics of impacts which the District did not include in the NOP, and which the DEIR must

⁵ CALIFORNIA COASTAL COMM'N, CONSISTENCY DETERMINATION CD-0001-22 p. 121 (Jan. 24, 2022), <https://documents.coastal.ca.gov/assets/upcoming-projects/offshore-wind/Th8a-4-2022%20adopted%20findings.pdf>.



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analyze: impacts to the ongoing Missing and Murdered Indigenous Peoples (MMIP) and opioid Crises.

A. Impacts of the Project on the Ongoing MMIP Crisis

California has the fifth largest MMIP caseload, and Northern California is the epicenter for these cases. A 120-year survey of California MMIP cases found that one in five of the state's cases are from Humboldt County.⁶ Since the Gold Rush, tribes in California have lost countless women, girls and two-spirit individuals to violence. Most commonly, these crimes are perpetrated by non-Indians and away from tribal jurisdictions. Nationally, nearly all Indigenous women (97%) who reported experiencing violence reported a perpetrator who was not indigenous, and more than 4 in 5 American Indigenous women have experienced violence in their lifetime and more than 1 in 3 in the last year. Rates of violent victimization are higher among America's Indigenous population than for any other race, regardless of sex or gender. Approximately 1 in 130 Native American children go missing each year.

Much of the violence against Native women, girls, and people in the north coast region has come from and been caused by development booms associated with extractive industries like mining, logging, and dams. There are myriad of reasons that development projects on or near Tribal communities exacerbate the crisis of MMIP and result in increased rates of violence and trafficking. These causation factors include: (1) complex jurisdictional issues among federal, state, and Tribal governments that make policing, prosecution, and the protection of Tribal people more difficult, making Native people, especially those living on reservations, easier targets;⁷ (2) “man camp culture” which exacerbates isolation, mental illness, drug and alcohol abuse, violence, misogyny, and racism among the men living there;⁸ (3) man camp conditions, location, and lack of regulation, on or in close proximity to Indigenous communities but with the anonymity of a “shadow population” of transient men;⁹ and (4) most rural communities do not

⁶ <https://www.times-standard.com/2020/08/23/2588961/>

⁷ Kimberly N. Mitchell, *Man Camps, Oil Pipelines, and MMIW: How United States v. Cooley is a False Victory for Indigenous Tribes*, VJEL BLOGS (Mar. 23, 2022), <https://vjel.vermontlaw.edu/man-camps-oil-pipelines-and-mmiw-how-united-states-v-cooley-is-a-false-victory-for-indigenous-tribes>.

⁸ Missing & Murdered Indigenous Persons (MMIP) & Pipeline Mancamps, PIPELINE FIGHTERS HUB, <https://pipelinefighters.org/resources/indigenous-resources/missing-murdered-indigenous-persons/>

9 Id.



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have sufficient law enforcement, victim services, and other support needed for the influx of workers in the community, the rise in crime, and the increased number of calls for service.¹⁰

As a recent example, the formation of industrial work camps to facilitate extraction projects near the Fort Berthold Reservation in North Dakota, coincided with more murders, fatal accidents, sexual assaults, domestic disputes, drug busts, gun threats, and human trafficking cases than in any year before the project commenced.¹¹ And over a two-year period, the Fort Berthold Tribe's court system saw its caseload grow by over 2,000%. In Canada, the National Inquiry on Missing and Murdered Indigenous Women and Girls found that "work camps, or 'man camps,' in Canada, associated with the resource extraction industry (were) implicated in higher rates of violence against Indigenous women at the camps and in the neighboring communities."¹² The Canada Inquiry found that "Increased crime levels, including drug- and alcohol-related offenses, sexual offenses, and domestic and 'gang' violence, have been linked to 'boom town' and other resource development contexts."¹³

The Project will bring hundreds, if not thousands, of workers from outside the north coast region. With this influx comes a great risk of harm to Native people, particularly women and girls. This development is also coming at a time where Native communities in Northern California are being hit harder than any other community by the fentanyl crisis, making young women and girls particularly vulnerable.¹⁴

In summary, an analysis of potentially significant and cumulative impacts of the Project on the existing MMIP crisis must be included within the scope of the DEIR.

¹⁰ SOVEREIGN BODIES INSTITUTE & BRAVE HEART SOCIETY, ZUYA WINYAN WICAYUONIHAN, HONORING WARRIOR WOMEN: A STUDY ON MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS IN STATES IMPACTED BY THE KEYSTONE XL PIPELINE, https://2a840442-f49a-45b0-b1a1-7531a7cd3d30.filesusr.com/ugd/6b33f7_27835308ecc84e5aae8ffbdb7f20403c.pdf

¹¹ Mitchell, *supra* note 7.

¹² *Our Mandate, Our Vision, Our Mission, NAT'L INQUIRY INTO MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS*, <https://www.mmiwg-ffada.ca/mandate/>.

¹³ *Id.*

¹⁴ Kate Wolffe, *Roundtable explores solutions to fentanyl crisis in California Native American communities*, CAPRADIO (Apr. 3, 2023), <https://www.capradio.org/articles/2023/04/03/roundtable-explores-solutions-to-fentanyl-crisis-in-california-native-american-communities/>.



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B. Impacts of the Project on the Ongoing Opioid Crisis

In rural Northern California, fentanyl use and overdose rates are at an all-time high, and the crisis is extreme for Native people in the region. In Del Norte County, recorded deaths related to fentanyl are more than 60 per 100,000 residents. In Humboldt County, the fentanyl death rate wavered between 30-40 per 100,000 residents in 2022. This us up from just under five deaths in the counties only a few years ago. The overdose deaths numbers skyrocketed starting in 2020.

Fentanyl is disproportionately impacting Native American people in the North Coast region. In 2021, Del Norte County, Native people visited the Emergency Department for fentanyl-related overdoses at a rate of 54.49 per 100,000 residents. In the same county, White people visited the Emergency Department at a rate of 5.87 per 100,000 residents. In 2021 in Humboldt County, Native people visited the Emergency Department for fentanyl-related overdoses at a rate of 43.2 per 100,000, compared to 15.87 per 100,000 for White people and 6.58 per 100,000 for the Hispanic/Latino population of Humboldt County. In 2021, in Humboldt County, the fentanyl-related overdoes death rate for Native people was 114.99 per 100,000. In the same year and county, the next highest fentanyl-related overdose death rate was among the Hispanic/Latino population at 26.32 per 100,000 and the lowest was for the White population at 23.80 per 100,000 residents.

The Yurok Tribe is engaging in many efforts to combat the fentanyl crisis. In May 2023, the Yurok Tribe declared an emergency on the Yurok Reservation and within the surrounding community to bring attention and resources to bare upon the crisis. The Yurok Tribal Court Community Outreach team is currently working on Narcan (Naloxone) trainings to reverse opioid overdoses, having conducted numerous training courses in the region since the beginning of February 2023, distributing dozens of units of Narcan. These trainings were put on at public libraries for the community at large, in Tribal Offices for the Yurok Public Health team, and in community centers for families involved in other tribal programs.

However, the Project has the potential to exacerbate the ongoing opioid crisis and reverse the work the Tribe has conducted within the Yurok community to fight the crisis. The large influx of workers from outside the community in a short period of time may spur an increase in trafficking and prevalence of drugs, including opioids such as fentanyl, into the community. Increasing costs of housing, food, healthcare, and other necessities of life attendant to rapid population increase may drive already vulnerable community members toward new or increased drug use. And any



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exacerbation of the opioid crisis is likely to commensurately exacerbate the crisis of Missing and Murdered Indigenous People, discussed previously.

In summary, impacts of the Project, including cumulative impacts, on the existing opioid crisis in the North Coast generally and in the Yurok community specifically must be included within the scope of the DEIR.

III. The Project Description must be updated to include impacts in the Yurok Ancestral Territory

CEQA requires that an EIR provide a project description which contains a level of detail “needed for evaluation and review of the environmental impact.”¹⁵ Moreover, the project description must be accurate and stable depiction of a project’s activities.¹⁶ “A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings The statement of objectives should include the underlying purpose of the project.”¹⁷ CEQA defines a project as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.”¹⁸ The project description must provide sufficient detail to meet these definition—to describe “the whole of the action.”

The NOP lists as project objectives “[p]rovid[ing] the facilities and infrastructure required for the Humboldt Bay to serve as the first floating offshore wind ‘staging and integration’ port in California” because “only the Ports of Humboldt Bay, Los Angeles, and Long Beach are capable of conducting staging and integration functions” and “only Humboldt Bay has immediately available developable space.” Thus, for an indefinite period of time, the Project will almost certainly be *the only* port deploying and maintaining wind turbines in the existing wind energy areas (“WEAs”)—Humboldt WEA and Morro Bay WEA.

Yet, the NOP does not describe activities associated with offshore wind development in these two WEAs, activities which may have potentially significant environmental impacts in the Yurok Ancestral Territory. As discussed extensively in the comment by CORE Hub, CEQA

¹⁵ Cal. Code Regs. tit. 14, § 15124.

¹⁶ Cnty. of Inyo v. City of Los Angeles, 71 Cal. App. 3d 185, 199 (Ct. App. 1977).

¹⁷ Cal. Code Regs. tit. 14, § 15124(b).

¹⁸ *Id.* § 15378.



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requires that an EIR analyze the “whole of an action,” and that failure to do so results in prohibited “piecemealing” of the analysis of a project’s impacts. As just one example of many, the operations of the Project will involve the passage of vessels which deploy and maintain turbines through Yurok Ancestral Territory to the two lease areas within the Humboldt WEA. Because the operation of these vessels, including the type of vessels, quantity, expected routes, frequency of operation, and vessel activities are a component of the “whole of the project,” is it necessary to include the operation of these vessels in the project description as a component of the “whole of the project.” More broadly, activities originating from or facilitated by the Project which relate to the deployment and maintenance of wind turbines and interconnection of wind turbines to the onshore power grid must be included in the project description to satisfy CEQA.

IV. The scope of reasonably foreseeable potentially significant effects includes impacts in the Yurok Ancestral Territory

CEQA requires that an EIR discuss all reasonably foreseeable and potentially significant effects of a Project. Provided that the Project Description will be expanded to include, at a minimum, wind turbine deployment and maintenance activities, it follows that the scope of the EIR must be commensurately expanded to include all reasonably foreseeable and potentially significant effects of these activities, and corresponding mitigation measures and alternatives which reduce these impacts and their significance.

As discussed previously, it is all but certain that some of the Project's activities in support of the existing WEAs will occur in the Yurok Ancestral Territory and potentially impact tribal cultural resources, air quality, water quality, aesthetics, and other aspects of the environment in the Yurok Ancestral Territory. However, because the Project is expected to be the first staging and integration port for offshore wind energy on the west coast of the United States, it is highly likely that the Project's activities and impacts will extend to any such future WEAs that BOEM may designate on the west coast of the United States.

Indeed, the development of new sea space is, according to AB 525, necessary in order to accommodate the CEC's preliminary planning goals of 2–5 GW of offshore wind energy by 2030 and 25 GW by 2050.¹⁹ The California Energy Commission, pursuant to its development of a Strategic Plan for Offshore Wind and considering wind energy resource potential, existing and

¹⁹ CALIFORNIA ENERGY COMMISSION, OFFSHORE WIND ENERGY DEVELOPMENT OFF THE CALIFORNIA COAST 5 (Aug. 1, 2022).



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necessary transmission and port infrastructure, and “least-conflicting uses,” has identified potential future WEAs offshore of Klamath, Northern Mendocino County, and immediately north of the Morro Bay WEA.²⁰ It can be expected that BOEM and possibly the State Lands Commission will use this analysis to formulate new call areas in furtherance of the federal and state offshore wind energy generation goals, respectively.

Additionally, on August 15, 2023, BOEM published two draft WEAs—the Coos Bay Call Area and the Brookings Call Area, which borders California waters, and therefore is adjacent to Yurok Ancestral Territory.²¹ It is a near certainty that the Project will be necessary to the development of wind energy projects in these future call areas. Thus, it is reasonably foreseeable that the operation of the Project will potentially cause a number of significant effects throughout the Yurok Ancestral Territory. Is it necessary therefore that the DEIR analyze these potentially significant effects.

V. The project objectives should include constructing and operating the Project in full collaboration with tribal nations

As discussed in detail in CORE Hub’s comment, the Project Objectives for the Project should be updated to include larger objectives of the north coast community. The Yurok Tribe writes separately on this issue to additionally recommend that the District make it a Project Objective to pursue agreements with tribes who will be impacted by the Project that allow for the sharing of profits from the Project and ensure collaboration on major construction and operational decisions—to acquire an equity stake in the Project. Given the history of the deeply harmful effects of colonial, extractive, boom-and-bust industries on tribal communities, and the vastness of the potentially significant effects this Project will have on those same communities, it follows that a major goal of this Project should be not only to support tribal needs, but also tribal sovereignty.

This recommended Project Objective is also consistent with policies of the California Governor and state agencies in charge of offshore wind planning. The state of California, while focused on promoting the development of offshore wind energy, has also made it a priority to support tribal sovereignty, particularly with regard to energy project development. In 2019, by

²⁰ CAL. ENERGY COMM’N, IDENTIFYING ADDITIONAL SUITABLE SEA SPACE AND ASSESSING IMPACTS AND MITIGATIONS FOR OFFSHORE WIND ENERGY DEVELOPMENT (JUNE 2, 2023).

²¹ See BUREAU OF OCEAN ENERGY MGMT., DRAFT WIND ENERGY AREAS – COMMERCIAL LEASING FOR WIND POWER DEVELOPMENT ON THE OREGON OUTER CONTINENTAL SHELF (OCS) (Aug. 14, 2023).



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Executive Order N-15-19, the Governor of California issued an apology on behalf of the state for the genocide of Native peoples. In March 2023, the California Energy Commission adopted a Resolution Committing to Support California Tribal Energy Sovereignty, which included commitments to “support[ing] tribal self-determination, self-government, and energy sovereignty . . . provid[ing] opportunities for economic diversification, career development; and investment in renewable energy for California tribes . . . enhanc[ing] tribal consultation and participation in decision-making related to clean energy development in California . . . [and] enhancing land-use considerations in clean energy planning for the protection of tribal cultural resources.”<sup>22</sup> The adoption of and good faith effort to fulfill this recommended Project Objective would be an enormous step in furtherance of these state-level policies on supporting tribal sovereignty.

## **VI. The District must finalize the EIR before entering an agreement authorizing a lease of the port property**

CEQA requires that the District finalize its EIR for the Project before executing a lease or option agreement which would authorize the construction and operation of the Project. For brevity, this comment will not reiterate the legal basis for this conclusion, which is detailed extensively in the comment by the CORE Hub. However, the Yurok Tribe stresses that given the need to analyze the impacts of the Project on the MMIP and opioid crises, it is crucial that these impacts be studied to the full extent required by CEQA before a lease option agreement for development and operation of the port is executed. Environmental study is vital before a lessee is chosen due to the deep influence of the chosen lessee and that lessee’s business practices and internal personnel and other policies on the severity of these impacts in particular. Thus, the Tribe strongly encourages the District to refrain from executing a lease or lease option for the Project until the EIR is completed and certified.

## **VII. The NOP does not discuss potential impacts of the Project**

The District’s NOP does not discuss potential impacts of the Project, as required by CEQA, which limits the Tribe’s ability to provide more detailed comments regarding the scope of environmental impacts that should be studied. CEQA requires the publication of a notice of preparation ahead of the publication of a DEIR. The notice must include, among other information, a brief description of the significant effects on the environment of the project.<sup>23</sup> The NOP published by the District includes a table of “environmental topic areas” that the DEIR will

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<sup>22</sup> CAL. ENERGY COMM’N, RESOLUTION NO. 23-0302-09 (Mar. 2, 2023).

<sup>23</sup> Cal. Pub. Res. Code § 21092(b)(1).



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However, the NOP does not include a brief description of the significant effects on the environment of the project. This insufficiency makes impossible the task of evaluating whether or not the scope of the impacts to be assessed is adequate—is it not possible to ascertain from a table of environmental topic areas which potential impacts within a given topic area, if any, the District intends to study. The District has chosen not to conduct an initial study, which though not required by CEQA, could have prevented this issue.

The full scope of the effects of the Project includes potentially significant impacts to tribal cultural resources, including salmon populations and tribal cultural landscapes, and to the environment, encompassing at least every topic that the District has identified in the NOP. The Tribe expects that the District will, despite not providing a brief description of these potentially significant effects in the NOP, provide a thorough analysis of them in the DEIR.

The Yurok Tribe looks forward to further participation in the CEQA process to ensure the District properly accounts for and mitigates any significant effects of the Project.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph L. James".

Joseph L. James  
Yurok Tribe Chairman

# Elk Valley Rancheria, California



2332 Howland Hill Road  
Crescent City, CA 95531

Phone: 707.464.4680  
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[www.elk-valley.com](http://www.elk-valley.com)

August 25, 2023

**VIA ELECTRONIC MAIL ONLY**  
[districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)

Rob Holmlund  
Director of Development  
Humboldt Bay Harbor, Recreation and Conservation District  
P.O. Box 1030  
Eureka, California 95502-1030

Re: Notice of Preparation of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project

Dear Deputy Director Holmlund:

The Elk Valley Rancheria, California, a federally recognized Indian tribe, submits these comments on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project or Wind Terminal) released on June 26, 2023, by the Humboldt Bay Harbor, Recreation and Conservation District (Harbor District).

## **AB 52 Compliance**

Pursuant to Public Resources Code Section 21080.3.1(b), the Elk Valley Rancheria, California, a federally recognized Indian tribe (the “Tribe”), which is traditionally and culturally affiliated with a geographic area within your agency’s geographic area of jurisdiction, requests formal notice of and information on proposed projects for which your agency will serve as a lead agency under the California Environmental Quality Act (CEQA), Public Resources Code section 21000 *et seq.*

To date, the Tribe is not aware that it has been contacted regarding the proposed Project in accordance with AB 52.

### A. Introduction



We are committed to working in partnership with the Harbor District to develop and fund a state-of-the-art Wind Terminal that uses best available technology for achieving zero-emission goals to maximize climate benefits, includes safeguards to protect against increased risk of sex-trafficking and Missing or Murdered Indigenous Persons (MMIP), prevents degradation of fisheries and the environment, and brings infrastructure and economic benefits to Tribal Nations and local communities.

Key to achieving these goals is a thoughtful, transparent, public-facing CEQA process that incorporates community, human, cultural, and environmental needs, and analyzes the full Project (including the lease or option to lease agreement between the Harbor District and the future leaseholder/developer/operator of the Wind Terminal) and incorporates input and traditional knowledge from Tribal Nations, together with other rigorous science. We believe the development of this Wind Terminal and attracting significant funding is dependent on a Project aligned with these goals. Conversely, investment and competitive public dollars may be in jeopardy without alignment with these vital goals.

The comments below are aimed towards achieving this vision. This comment letter includes: (a) a high-level overview of our goals for this Project and recommendations for the CEQA process; (b) technical comments on the NOP; and (c) lease timing and environmental review.

#### B. Values and Goals

Our region has endured devastating boom-and-bust cycles associated with extractive industries like mining, logging, and dams. These industries exploited our natural resources and people to benefit those outside our region, resulting in significant environmental damage, a legacy of underinvestment, and unfulfilled promises of restoration. Local Tribal Nations experienced land theft, and state-sanctioned genocide, and today, continue to face some of the highest rates of MMIP in the nation. Chronic underinvestment has further exacerbated the lack of basic infrastructure and services, including housing, electricity, healthcare, broadband, roads, public transportation, and childcare. These needs are deeply visible across the region, especially on the Samoa Peninsula, the designated project site.

We see the Project as an opportunity to disrupt these cycles and foster a collaborative approach in ensuring things are done right from the beginning. The development of the Wind Terminal on the Samoa Peninsula, the first “staging and integration” port serving California’s floating offshore industry, would profoundly transform our region, including both Humboldt and Del Norte counties.

This transformation encompasses challenges from air quality and infrastructure impacts to surrounding Tribal Nations, communities, and fisheries as well as increased risk of MMIP and sex trafficking with the influx of new workers. More alarmingly, some key decisions, including the choice of terminal operator, and key project approvals, were moving rapidly or had already been made without meaningful public engagement. Our comments are informed by the extensive



conversations and engagement, as well as the oral comments that were made by members of the public at the public scoping meeting held by the Harbor District on July 12, 2023.

We believe that a state-of-the-art Wind Terminal begins with a firm commitment to protecting the human, natural environment, and climate. By committing to building a zero-emission port from the start, we are better equipped to protect our communities<sup>1</sup> and the environment from air pollution and water contamination from vehicles and ships. In addition, the Wind Terminal must be designed, built, and operated as sustainably and safely as possible to protect, environmental and cultural resources, including Tribal cultural landscapes, and address significant community infrastructure needs,<sup>2</sup> particularly for portside communities. Preservation of local Tribal, commercial and recreational fisheries is critical to our region's physical and economic health. Our values also include strong measures to prevent MMIP, meaningful Tribal consultation and frequent and transparent communication over the life of the Wind Terminal, transparency, good government, and community decision-making. Our values also include ensuring the Wind Terminal development leads to good careers and leadership opportunities for local residents, members of Tribal Nations, and underrepresented communities, as well as opportunities for Tribal ownership and meaningful Tribal economic benefits. Furthermore, we emphasize the need for a community needs agreement (CNA)<sup>3</sup> for the Wind Terminal prior to the Harbor District signing and approving the lease.

### C. CEQA Specific Comments.

The purpose of a NOP is to solicit guidance from members of the public and reviewing agencies about the scope and content of environmental information that should be included in the environmental impact report (EIR).<sup>4</sup> However, to effectively solicit such guidance, the NOP must provide adequate and reliable information regarding the nature of the Project and its probable environmental impacts. Crucially, the Draft Environmental Impact Report (DEIR) must be released before the Wind Terminal lease or option to lease is signed, so the public and decision-makers can understand and address the Project's environmental impacts, consider a full range of mitigation measures and alternatives, and ensure the future Wind Terminal

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<sup>1</sup> California's Coastal Commission has found that the District's terminal expansion and future operations in support of offshore wind energy generation would cause additional pollution and impacts, including additional air pollution burdens that may occur from vehicle emissions on land and vessel emissions offshore and loss of lower-cost recreational boating opportunities. Burdens such as increased air, water, noise and light pollution would not only affect residents, but also workers and visitors who might recreate near port areas. Near the Port, there are several low-income communities and populations with additional sensitivities such as asthma and cardiovascular disease "that may be exacerbated with additional pollution impacts in the area that may occur from Humboldt Harbor District expansion and future operations to support offshore wind energy generation." See Coastal Commission Consistency Determination Staff Report, page 117.

<sup>2</sup> A legacy of underinvestment has left the region with significant needs. These range from an existential and growing housing shortage, severe healthcare and childcare gaps, acute electricity stability issues, aging water treatment systems and lack of broadband access. Many of these needs are felt particularly by portside communities, members of tribal nations, communities of color and low-income communities.

<sup>3</sup> Co-Developed community Benefits packages to benefit communities of concern were a key expectation of the Coastal Commission. For many in local fisheries it is unclear that an agreement around the Wind Terminal will bring benefits, rather than addressing impacts, so we use the term "Community Needs Agreements")

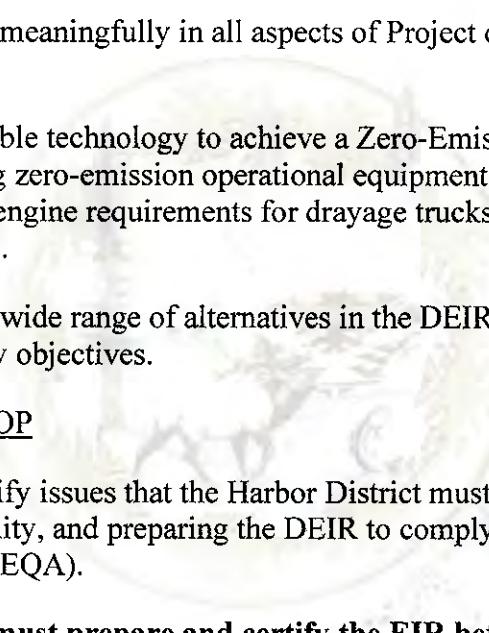
<sup>4</sup> CEQA Guidelines § 15375; see also CEQA Guidelines § 15082.



leaseholder/developer/operator is committed to implementing all measures or project design changes/commitments before binding commitments are made.

As proven by many thoughtful oral comments at the July 12, 2023 Harbor District Scoping Meeting on the Project, our community is deeply invested in ensuring the best, long-term outcomes for the environment as the Project progresses under CEQA. We will rely on the DEIR for an honest and thorough assessment of the environmental impacts of the proposed Project. Therefore, we have identified key issues that must be studied in the DEIR, as well as critical process actions to be taken by the District. These specific issues and actions include:

- Prepare and certify the EIR before leasing the Project site or entering into a binding option to lease the site.
- Carefully follow CEQA's procedural requirements and analyze the "whole of the action," which includes any and all actions associated with the Wind Terminal development.
- Include in the DEIR a thorough analysis of all potentially significant environmental impacts, specifically including: protecting Tribal cultural resources, preserving Tribal cultural landscapes, ensuring safety, protecting biological resources, minimizing infrastructure impacts, abating air quality and greenhouse gas emissions, alleviating maritime congestion, minimizing aesthetic impacts, protecting water quality, minimizing land use and operational impacts, and protecting recreational opportunities in and around Humboldt Bay.
- Ensure safe multimodal travel and accessibility on the Peninsula including recreation sites and analyze transportation impacts to local Peninsula communities using present day-conditions, as a baseline.
- Develop a project design that incorporates best available technology to achieve a zero-emission Wind Terminal.
- Conduct meaningful public engagement and ensure community involvement throughout the project development and CEQA process early and often.
- Commit to MMIP prevention in the future lease terms and Project approvals.
- Preserve Tulowat Island, in consultation with the Wiyot Tribe from impacts (visual, noise, glare, air quality, and other potential environmental degradation).
- Update the Wind Terminal Project Objectives to include objectives of the larger community. Specific Objectives include:
  - Safeguard the community from construction- and Port-related sex trafficking, in recognition of the devastating toll of Murdered and Missing Indigenous Persons in this region.

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- Create workforce and economic opportunities for residents of the region that include high-road careers, training, educational and leadership opportunities for local residents, members of tribal nations, and underrepresented communities, as well as opportunities for tribally-owned enterprises and ownership.
  - Preserve local Tribal, commercial, and recreational fishing and avoid and minimize impacts on fisheries.
  - Protect the natural environment, create and preserve green space, and ensure equitable access and recreation for surrounding communities.
  - Provide maximum infrastructure benefits, such as transportation, electricity, and broadband, for local communities.
  - Engage Tribes meaningfully in all aspects of Project design, review, construction, and operations.
  - Use best available technology to achieve a Zero-Emission Wind Terminal by 2030, including zero-emission operational equipment, berthing for vessels, and zero-emission engine requirements for drayage trucks accessing or calling at the Wind Terminal.
- Identify and analyze a wide range of alternatives in the DEIR, including ones that incorporate community objectives.

#### D. Technical Comment on NOP

These comments identify issues that the Harbor District must address in designing the Project, engaging the community, and preparing the DEIR to comply with the California Environmental Quality Act (CEQA).

##### **1. The Harbor District must prepare and certify the EIR before leasing the Project site or entering into a binding option to lease the site.**

Per the District's website<sup>5</sup> and comments made at the Public Scoping meeting, the Harbor District and Crowley Wind Services, Inc. (Crowley) are currently negotiating an option agreement, by which the District would grant Crowley the right to lease Port land for the development and operation of the Wind Terminal. According to the exclusive negotiating agreement recently posted on the District's website<sup>6</sup>, the lease will be an exhibit to the option agreement and must contain initial plans for development sufficient to obtain entitlements. Once the option agreement is approved by the Harbor District, Crowley will have the right to enter into the lease under the terms of the agreement.

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<sup>5</sup> [https://humboldtbay.org/sites/humboldtbay.org/files/HBHRCD\\_Crowley\\_PressRelease\\_v2%20ddc\\_2.pdf](https://humboldtbay.org/sites/humboldtbay.org/files/HBHRCD_Crowley_PressRelease_v2%20ddc_2.pdf)

<sup>6</sup> [https://humboldtbay.org/sites/humboldtbay.org/files/Agenda%20Packet%2010-27-2022\\_0.pdf](https://humboldtbay.org/sites/humboldtbay.org/files/Agenda%20Packet%2010-27-2022_0.pdf)



Per statements from the District and the timeline contained in the NOP, the District is planning to execute the option agreement with Crowley before certifying the EIR for the Project. This would plainly violate CEQA, as described below and in Exhibit B to the Network's NOP comment letter.

CEQA applies to discretionary projects carried out or approved by public agencies, and specifically includes leases. *See* CEQA Guidelines § 21080(a). Under CEQA, a “Project” is defined as “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment,” which specifically includes “the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.” *See* CEQA Guidelines § 21065; *see also* CEQA Guidelines §§ 15378(a)(3), 15377.

California case law is also clear that leases trigger CEQA. In *World Business Academy v. California State Lands Commission*, (2018) 24 Cal.App.5th 476, the court found there was “no dispute” that a replacement lease for continued operation of a nuclear powerplant was a “project” subject to CEQA. In *City of Orange v. Valenti*, (1974) 37 Cal.App.3d 240, the court stated that it was “inescapable” that leasing a building was a “project” under CEQA.

CEQA’s environmental review process must occur *before* project approval. The CEQA Guidelines state that every lead agency “shall consider a final EIR or negative declaration” “[b]efore granting any approval of a project subject to CEQA.” *See* CEQA Guidelines § 15004. The CEQA Guidelines also state that, for public projects, agencies may not undertake actions concerning the project “that would have a significant adverse effect or limit the choice of alternatives or mitigation measures before completion of CEQA compliance.” *See* CEQA Guidelines § 15004(b)(2).

In 2008, the California Supreme Court addressed the issue of environmental review timing in the context of a joint “public-private” project proposed in the City of West Hollywood. *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116. In that case, the City had executed a property acquisition and development agreement with a private developer without conducting environmental review. The Court applied “the general principle that, before conducting CEQA review, agencies must not ‘take any action’ that significantly furthers a project ‘in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.’” *Id.* at 138. Applying this test to the specific facts of that case, the Court held that the City had committed itself to a definite course of action regarding the project before conducting environmental review, and thus had violated CEQA.<sup>7</sup>

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<sup>7</sup> See also *California Farm Bureau Federation v. California Wildlife Conservation Board* (2006) 143 Cal.App.4th 173, 191-82 (acquisition of conservation easement by Department of Fish and Game required CEQA review where easement required conversion of 235 acres of agricultural land to wetlands and other habitat); *McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District* (1988) (transfer of property to public agency required environmental review because property contained PCBs and, under federal law, remediation activities were mandatory).





Here, the option agreement described in the exclusive negotiating agreement is similar to the agreement addressed in *Save Tara*. It will commit the Harbor District to leasing Port Property to Crowley for the express purpose of developing the Project, and the initial plans for that development will be part of the agreement. Thus, the option agreement and attached lease will certainly commit the District to a definite course of action and foreclose alternatives and mitigation measures. As a result, the District must complete its environmental review for the Project prior to entering the option agreement and authorizing the lease.

The CEQA memorandum prepared by SMW and included as Exhibit B to the Network letter further delineates the requirements of CEQA in relation to the lease between the Harbor District and Crowley, including the requirement to prepare and certify the EIR in advance of executing the lease.

**2. The Harbor District must carefully follow CEQA's procedural requirements and analyze the "whole of the action."**

CEQA requires that an EIR provide a complete picture of the existing conditions of the Project in addition to providing a detailed Project description. According to the CEQA Guidelines, "project" means the whole of an action that has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. In the case of this Project, the "whole of the action" clearly goes beyond just the construction of the Wind Terminal.

First and foremost, the Harbor District's lease with the leaseholder/developer/operator is part of this Project, and the leaseholder/developer/operator will be responsible for implementing any mitigation measures identified in the DEIR. The NOP fails to mention that the Project will largely be undertaken by a private developer, Crowley Wind Services, Inc. The DEIR cannot omit this information. The leaseholder/developer/ operator will also be responsible for designing and building the Project as described in the DEIR. Therefore, the DEIR's Project Description must include an explanation of the developer/operator/leaseholder's role, and the EIR's Mitigation Monitoring and Reporting Program (MMRP) must identify the leaseholder/developer/operator as the entity responsible for implementing all measures and ensuring installation of all design features identified in the DEIR.

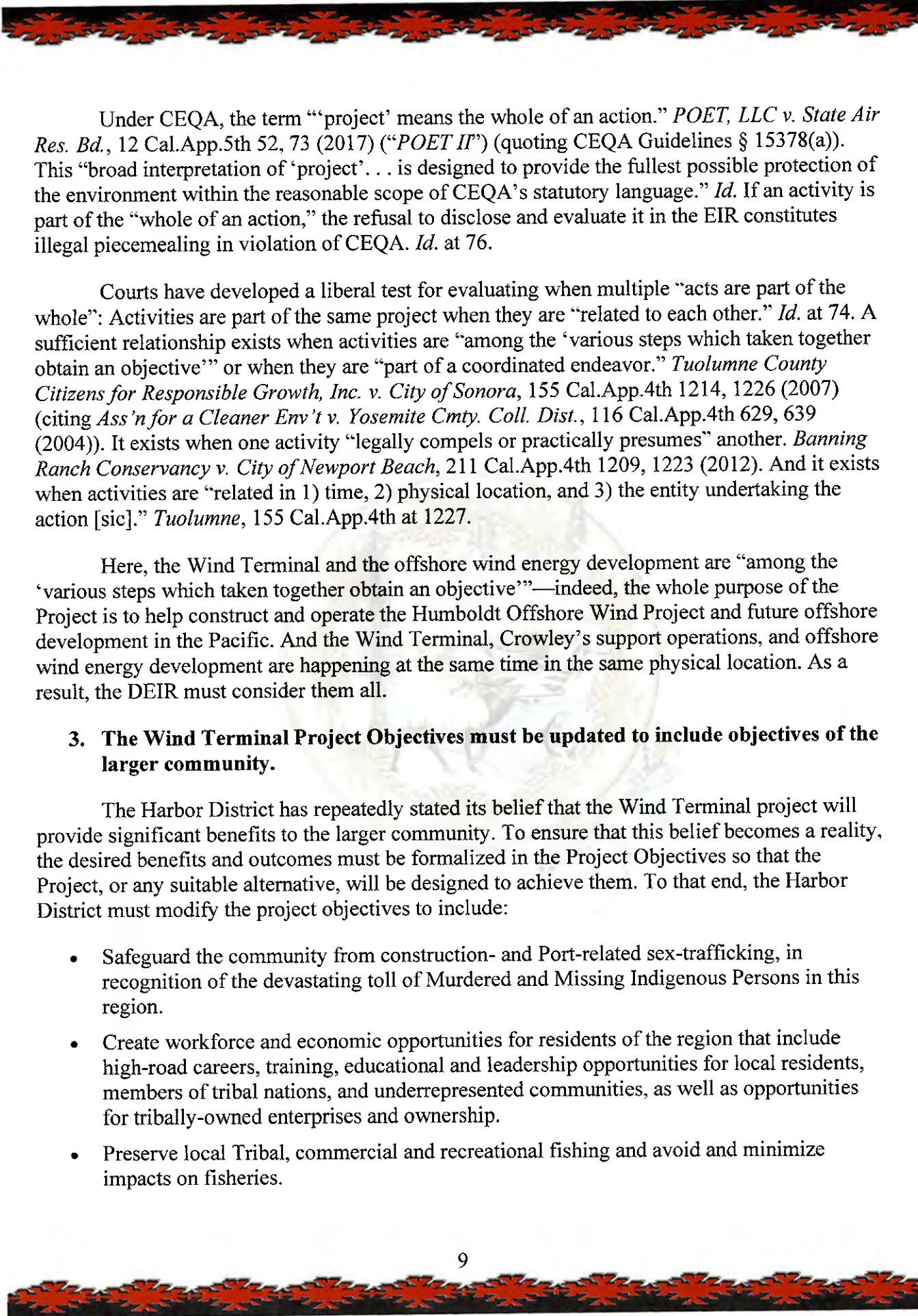
In addition to recognizing the lease as part of the Project, the DEIR must also clearly and accurately describe all other actions associated with the Wind Terminal, including:

- Demolition of any existing buildings or facilities – both on land and in the water (docks, piers).
- Relocation or reconstruction of any existing facilities, whether those facilities are being relocated within the delineated Project Area or outside of it, including:
  - Seaweed farms/shellfish nursery/mariculture sites
  - Scientific and academic testing sites
  - Commercial fishermen storage area and small boat repair facility

- Hagfish holding facility
- Improvements or modifications to any existing facilities remaining in the Project Area.
- New facilities outside of the Project Area that are directly related to the construction or operation of the Wind Terminal or are a result of the Project, including:
  - Upgrades to the existing electrical substation and/or construction of a new substation
  - Construction of the landfill solar array
  - Modernizing the existing dredge material dewatering area and/or construction of a new dewatering area
  - Creation of a new habitat restoration area
- Ongoing operations at the Wind Terminal and in Humboldt Bay that are related to offshore wind turbines: receipt of materials, manufacturing, fabrication, staging, storage, assembly, transportation, utilization of waterways and channels for ingress and egress of turbines, storage of turbines in Humboldt Bay Harbor, and wind platform and turbine installation, platform/turbine repair and decommissioning, and use of heavy cargo vessels, among other activities.
- Ongoing operations at the Wind Terminal that are not related to offshore wind, but are related to other maritime activities that will be enabled by developing enhanced capabilities at the Wind Terminal. These activities include additional cargo handling, materials storage and processing, expansion of fishing facilities and processing, or other similar activities.

While the Harbor District has described the Wind Terminal as distinct and separate from the Humboldt Bay Offshore Wind Energy Development project, clearly a purpose of the Wind Terminal is to support the development and operation of that offshore project. As a result, CEQA requires that the DEIR for the Wind Terminal consider the potential environmental impacts of that offshore development, too. In addition, Crowley, the prospective leaseholder, will also be engaging in vessels operations and other maritime activities in connection with constructing and maintaining Humboldt's offshore wind projects, which is not discussed in the NOP. These activities include the installation and operation of offshore wind floating platforms, use of large heavy cargo vessels and providing crewing and marshaling services in the Pacific waters.

Failure to analyze the whole of the Project—including the offshore development—would violate CEQA’s prohibition on “piecemealing,” which is when a lead agency divides a single project into distinct pieces, thereby “avoid[ing] the responsibility of considering the environmental impacts of the project as a whole.” *Orinda Ass’n v. Bd. of Supervisors*, 182 Cal.App.3d 1156, 1171 (1985). This prohibition ensures that “environmental considerations do not become submerged by chopping a large project into many little ones – each with a minimal potential impact on the environment – which cumulatively may have disastrous consequences.” *Laurel Heights Improvement Association v. Regents of University of California* (1988) 47 Cal.3d 376, 396.



Under CEQA, the term “‘project’ means the whole of an action.” *POET, LLC v. State Air Res. Bd.*, 12 Cal.App.5th 52, 73 (2017) (“*POET II*”) (quoting CEQA Guidelines § 15378(a)). This “broad interpretation of ‘project’ . . . is designed to provide the fullest possible protection of the environment within the reasonable scope of CEQA’s statutory language.” *Id.* If an activity is part of the “whole of an action,” the refusal to disclose and evaluate it in the EIR constitutes illegal piecemealing in violation of CEQA. *Id.* at 76.

Courts have developed a liberal test for evaluating when multiple “acts are part of the whole”: Activities are part of the same project when they are “related to each other.” *Id.* at 74. A sufficient relationship exists when activities are “among the ‘various steps which taken together obtain an objective’” or when they are “part of a coordinated endeavor.” *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora*, 155 Cal.App.4th 1214, 1226 (2007) (citing *Ass’n for a Cleaner Env’t v. Yosemite Cnty. Coll. Dist.*, 116 Cal.App.4th 629, 639 (2004)). It exists when one activity “legally compels or practically presumes” another. *Banning Ranch Conservancy v. City of Newport Beach*, 211 Cal.App.4th 1209, 1223 (2012). And it exists when activities are “related in 1) time, 2) physical location, and 3) the entity undertaking the action [sic].” *Tuolumne*, 155 Cal.App.4th at 1227.

Here, the Wind Terminal and the offshore wind energy development are “among the ‘various steps which taken together obtain an objective’”—indeed, the whole purpose of the Project is to help construct and operate the Humboldt Offshore Wind Project and future offshore development in the Pacific. And the Wind Terminal, Crowley’s support operations, and offshore wind energy development are happening at the same time in the same physical location. As a result, the DEIR must consider them all.

### **3. The Wind Terminal Project Objectives must be updated to include objectives of the larger community.**

The Harbor District has repeatedly stated its belief that the Wind Terminal project will provide significant benefits to the larger community. To ensure that this belief becomes a reality, the desired benefits and outcomes must be formalized in the Project Objectives so that the Project, or any suitable alternative, will be designed to achieve them. To that end, the Harbor District must modify the project objectives to include:

- Safeguard the community from construction- and Port-related sex-trafficking, in recognition of the devastating toll of Murdered and Missing Indigenous Persons in this region.
- Create workforce and economic opportunities for residents of the region that include high-road careers, training, educational and leadership opportunities for local residents, members of tribal nations, and underrepresented communities, as well as opportunities for tribally-owned enterprises and ownership.
- Preserve local Tribal, commercial and recreational fishing and avoid and minimize impacts on fisheries.

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- Protect the natural environment and create and preserve green space, equitable access and recreation for surrounding communities.
  - Provide maximum infrastructure benefits, such as transportation, electricity and broadband, for local communities.
  - Engage area Tribes meaningfully in all aspects of Project design, review, construction, and operations.
  - Protect Tuluwat Island, in consultation with the Wiyot Tribe, from impacts (e.g., cultural landscape, visual, light, glare, noise, and air quality impacts) and degradation.
  - Create a Zero-Emission Wind Terminal by 2030, including zero-emission operational equipment, berthing for vessels, and zero-emission engine requirements for drayage trucks accessing or calling at the Wind Terminal.

This last objective is especially critical for protecting nearby communities from air pollution from vehicles and prevent water contamination, while achieving maximum climate benefits. Notably, a commitment to developing a zero-emission facility will also be vital to be competitive for current State and Federal grants and eligibility for large scale public investments. A shared aspiration of a safe, zero-emission, state-of-the art Wind Terminal that is a world-class model could generate investment, partnership, and accelerated support.

#### **4. The DEIR must include a thorough analysis of all potentially significant environmental impacts.**

As identified in the NOP, this Project has the potential to impact every environmental category across the board. Even though the goal of the Project is to support the development of renewable energy, the analysis of its direct and indirect environmental impacts must be thorough and robust.

To begin this analysis, the DEIR must include a detailed description of the Project's environmental setting, which provides "the baseline physical conditions by which a lead agency determines whether an impact is significant." CEQA Guidelines § 15125(a). "Without a determination and description of the existing physical conditions on the property at the start of the environmental review process, the EIR cannot provide a meaningful assessment of the environmental impacts of the proposed project." *Save Our Peninsula Committee v. Monterey Cnty. Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 119. While the NOP did not contain any description of these "baseline" conditions, the DEIR must be sure to include current baseline environmental conditions, including for Tuluwat Island, at the time of NOP issuance (2023). This will be particularly important for the transportation and air quality analyses – the DEIR must examine existing conditions as of 2023 rather than relying on any historical environmental baseline for when the Samoa pulp mill was operational.

The DEIR must also analyze *all* of the potentially significant impacts of the entire Project. The NOP did not identify the probable environmental impacts of the Project, so this letter cannot provide detailed input on this content. Instead, we have identified several subject



areas that are of concern. We will also be examining the DEIR closely to ensure that a proper baseline has been established, impacts are adequately assessed, and mitigation measures are robust and effective to reduce impacts to the greatest degree possible. The key issue areas are:

- **Tribal Cultural Resources.** The area that will be impacted by this Project includes the Tribal lands of the Bear River Band of the Rohnerville Rancheria, Big Lagoon Rancheria, Blue Lake Rancheria, Cher-Ae Heights Indian Community of the Trinidad Rancheria, Elk Valley Rancheria, Hoopa Valley Tribe, Karuk Tribe, Nor Rel Muk Wintu Nation, Resighini Rancheria, Tolowa Dee-ni' Nation, Tsungwe Tribe, Wiyot Tribe, and Yurok Tribe. Tuluwat Island in Humboldt Bay is sacred to the Wiyot people because it is the center of their world. It is also the site of their World Renewal Ceremony. In 1860, a small group of white settlers interrupted the ceremony and murdered nearly 100 women, children and elders. Today, the site has been returned to the Wiyot Tribe and they are in the process of remediating it and preserving its cultural traditions.<sup>8</sup> The Blue Lake Rancheria has protected certain cultural resources on the Samoa Peninsula and in other areas around the Bay. There are specific places within Humboldt Bay that are inappropriate for future development to support offshore wind or otherwise, due to their cultural significance. The DEIR must incorporate consultation with tribal governments,<sup>9</sup> elected leaders and staff, a complete assessment of tribal cultural resources that could be potentially impacted by the Project and plans to avoid and minimize disturbance to the greatest degree possible. The DEIR must also disclose if the Project would impact water levels in the Bay and, if so, what impact that could have on buried cultural resources and human remains. Either the Project or adopted mitigation must also create supports/methods for protection of Tuluwat Island (National Historic Landmark) from new industrial contaminants after significant cleanup efforts and land use goals by the Wiyot Tribe; protection from visual, noise and aesthetic impacts; and other significant impacts.

The Tribal Consultation processes followed by the California Coastal Commission, beginning on page 104 in their March 17, 2022 staff report related to BOEM's off-shore lease, included consultation on potential cultural and ethnographic resources that could be unearthed during implementation of future offshore wind facilities and other potential impacts. These same issues and processes should be explored during consideration of the Wind Terminal. Inadvertent discovery protocols must be included at every instance of ground disturbance, and a protocol for communication directly with Tribes in the event of an unanticipated discovery, as well as post-discovery process for evaluation of a discovery, must be created. Tribal expertise and jurisdictional authorities must be meaningfully included in this, and other environmental analysis, to ensure that the Wind

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<sup>8</sup> efaidnbmnnibpcajpcgclefindmkaj/<https://semspub.epa.gov/work/HQ/100001200.pdf>. "Environmental Stewardship and Cultural Preservation on California's Coast, The Tuluwat Village Site on Indian Island in Humboldt Co., CA, EPA, March 2018.

<sup>9</sup> Pursuant to AB 52, public agencies are required to consult with California Native American tribes that are on the Native American Heritage Commission's (NAHC) consultation list that are traditionally and culturally affiliated with the geographic area of a proposed project subject to CEQA, when tribes request formal consultation.



Terminal process incorporates Tribal science, traditional knowledge, and cultural practices so that this region's unique tribal cultural resources can be protected.

- **Tribal Cultural Landscapes.** The Wind Terminal is a huge project located in a visually prominent area on a peninsula of land between Humboldt Bay and the Pacific Ocean. The Bay is an important cultural landscape and ecosystem for many Tribes, particularly the Wiyot people. The DEIR will need to assess the visual and aesthetic impacts on tribal cultural landscapes, considering new buildings, cranes, high mast light poles, and other heavy industrial equipment and facilities. In particular the DEIR must analyze visual and other aesthetic impacts, along with new re-contamination industrial impacts after the Wiyot Tribe's past significant environmental cleanup efforts, to Tuluwat Island, an important cultural and environmental site for the Wiyot People and home to the Wiyot Tribe's annual World Renewal Ceremony.<sup>10</sup> The DEIR must contain visual simulations of the Project (and Project Alternatives) from various vantage points, including from Tuluwat Island, the coast and from higher-elevation sites not on the coast, so that proper analysis and conclusions can be reached. In addition, the DEIR must assess and mitigate hazardous material and other recontamination impacts at Tuluwat Island, utilizing a baseline that incorporates the significant, recent Tribal restoration activities on the Island.
- **Safety.** Given the historical and present-day crisis of sex trafficking and Missing and Murdered Indigenous People (MMIP) in California and the United States, special attention and strong protocols are needed to ensure the safety of Native and at-risk people in the region. California has the fifth largest MMIP caseload in the United States, and Northern California is the epicenter for these cases. A 120-year survey of California MMIP cases found that one in five of the state's MMIP cases are from Humboldt County.<sup>11</sup> Since the Gold Rush, and continuing through the timber rush, land rush, water rush, and green/cannabis rush, tribes in California have lost countless women, girls, and two-spirit individuals to violence, most frequently targeted by non-local individuals or contract workers. The Wind Terminal projects will bring hundreds of workers from outside the region to work on a range of projects. While this development is potentially good for the local economy and will contribute to addressing the climate and energy catastrophes, there is a great risk of harm to Native and other at-risk people, particularly women and girls. The Bear River Band of the Rohnerville, Blue Lake Rancheria, and Trinidad Rancheria operate hotel and casino operations in close proximity to the project area. The DEIR must address impacts associated with increased criminal activities at these business operations, such as the need for additional law enforcement activities and facilities and supplemented tribal/law enforcement collaborative protocols to address offenses occurring on tribal lands and surrounding areas.
- **Biological Resources.** Impacts to biological resources on, and in the vicinity of, the Project site, and in the Bay must be studied. Humboldt Bay, California's second-largest estuary, is surrounded by an extraordinary dune ecosystem, and feeds into the freshwater streams and rivers which support production of anadromous salmonids. Construction activities, and notably Crowley's vessel support operations, will each impact marine

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<sup>10</sup> <http://www.wiyot.us/186/Tuluwat-Project>

<sup>11</sup> <https://www.times-standard.com/2020/08/23/2588961/>



mammals, fisheries and other resources. Increased dredging will cause additional impacts. Many of these resources—marine mammals such as whales, sea lions, seals and dolphins, a variety of seabirds, and fish such as salmon, steelhead, green sturgeon, smelt, eulachon, and eel—have been identified as culturally important in other processes. Much of the site is currently unused, or only minimally used, for harbor activities. Due to lack of activity and proximity to ever-evolving coastal conditions, portions of the site and site-adjacent areas may be in a natural or semi-natural state with a resurgence of flora/fauna, wetland habitat, and Environmentally-Sensitive Habitat Areas (ESHA). An accurate assessment of existing conditions and a thorough analysis of the Project's potential impacts to biological resources will be crucial to determining how best to minimize them. Mitigation measures based in sound science along with a clear implementation plan and strict accountability will be critical, as will an adaptive management plan with clear performance standards created and enforced by an adaptive management committee comprised of those with tribal, scientific and local lived experience of the Bay. Specific biological resources that must be analyzed include: *Sulcaria spiralifera* (formerly *Bryoria spiralifera*, changed in 2021), eelgrass habitat, special status and other seabirds, marbled mullet, and marine mammals.<sup>12</sup> The DEIR must also analyze impacts to steelhead and cutthroat trout, coho and Chinook salmon, along with all salmonid species migrating to the rivers within indigenous and tribal lands in the Greater Humboldt Region.

- **Infrastructure Impacts.** Communities immediately surrounding the port, including Manila, Samoa and Fairhaven, experience deteriorating road conditions, which will be worsened by traffic serving the Wind Terminal. Conduct a full analysis of the local impacts that will be caused by the construction and operation of the Project using 2023 as the baseline conditions.
- **Truck, Vehicle, and Equipment Efficiency and Emissions.** Conduct a full assessment of the air quality and safety impacts caused by truck traffic that will be brought through the community en route to the Wind Terminal. Heavy-duty trucks are the largest source of diesel particulate matter, a toxic air contaminant that is directly linked to a number of adverse health impacts. The DEIR will need to cover the air quality and greenhouse gas emission impacts of transportation. As discussed above, the Project must either be designed or mitigated to ensure that the leaseholder/developer/operator utilizes a zero-emission fleet, in both deliveries to the site as well as on-site vehicles and equipment. This Wind Terminal will be used for manufacturing and assembling unique products, and it is likely that the procurement of materials will also be a strategic and deliberate process. The DEIR must also mitigate the Project's impacts by requiring the leaseholder/developer/operator to include provisions in its contracts with suppliers and

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<sup>12</sup> “Future development in the Humboldt Harbor District has the potential to affect eelgrass either directly through redevelopment of Redwood Marine Terminal 1, or indirectly due to the need for a wider navigation channel and increased need for dredging in Humboldt Bay. Depending on their siting, cable landings may also impact eelgrass habitat. Future development, will need to be sited, constructed and operated to ensure that these habitats are maintained, enhanced and where feasible, restored. Mitigation will be expected for any impacts to eelgrass in Humboldt Bay. Because of the biological significance of eelgrass and other nearshore and coastal habitats, these areas are afforded special protection under the Coastal Act.” (<https://documents.coastal.ca.gov/assets/upcoming-projects/offshore-wind/Th8a-4-2022%20adopted%20findings.pdf>, p 50)





contractors requiring the use of clean fleets, truck electrification, on-site charging, and other creative, innovative measures to create the least impactful transportation environment possible, together with opportunities for electrification for local communities. All transportation or greenhouse gas related mitigation measures must be aggressive, measurable, effective, and benefit the communities immediately adjacent to the Wind Terminal to the greatest degree possible.

- **Maritime Transportation Emissions.** The maritime industry contributes measurably to state, national, and global greenhouse gas emissions. Even when ships are idling at berth, the vessels' smaller diesel auxiliary engines and boilers stay in operation and often run continuously during a vessel's stay at port. This particular source of pollution disproportionately affects people who live near freight hubs, such as ports. As discussed above, the Project must be designed or mitigated to use a zero-emission maritime fleet, and provide adequate electric shore power. CARB's recently approved "Ocean-Going Vessels At Berth Regulations" (under review by US EPA) already requires much of this infrastructure, with terminal and port operators responsible for compliance.<sup>13</sup> The DEIR will need to cover the air quality and greenhouse gas impacts of increased maritime shipping and transportation.
- **Maritime Transportation Congestion.** In addition to the emissions and infrastructure impacts associated with Crowley's transportation vessels, the Project will impact the quantity and type of vessel traffic that is able to move through the Bay, creating impacts and congestion to fisheries and other Bay users. Maritime transportation routes in Humboldt Bay are already highly congested with a 'pinch point' and limitations on usage due to weather. There are certain "high use times" which are already congested, and these will likely be desirable times for both wind farm construction, staging, and shipping, impacting both commercial fisheries and other recreational users. The Bay has a robust commercial fishing industry as well as prolific recreational opportunities that provide an economic engine for the community. Most critically, though, the Bay provides a relatively inexpensive, local and high-protein food source, and Tribal Nations rely on natural resources in Humboldt Bay and rivers fed by (and immediately to the north and south of) the Bay for commercial, cultural, and sustenance fishing. The EIR must include an analysis of impacts to the existing maritime and fishing industries, including tribal fisheries in the Bay and rivers within indigenous and tribal lands in the Greater Humboldt Region. There will be additional shipping and hauling in the transportation channel and also the temporary storage of assembled turbines in Humboldt Bay that will impact the existing industries and Tribal uses. The DEIR must also analyze impacts to safety in the Bay for other users, including recreational, academic, and scientific users.
- **Other Air Quality Impacts.** Page 122 of the Coastal Commission's Conditional Concurrence staff report notes that "[M]any air emissions associated with turbine manufacturing and assembly have the potential to occur within Humboldt Bay. The town of Samoa is directly adjacent to the Redwood Marine Terminal 1 (now known as the Wind Terminal) site, and, as discussed in section L, the communities near the proposed

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<sup>13</sup> <https://ww2.arb.ca.gov/our-work/programs/ocean-going-vessels-berth-regulation>

terminal redevelopment have disproportionate vulnerability and will likely bear disproportionate impacts of air emissions as a result of manufacturing and transport of materials required for manufacturing.” In addition to the air quality impacts discussed above, the Project will have air quality impacts from construction equipment and vehicles, truck traffic, dredging, manufacturing processes, vessels and shipping, and ongoing industrial operations, among other sources. The DEIR will need to examine all sources of air pollutants and conduct a complete air quality and health risk assessment for both construction and ongoing operations, including from maritime operations.

- **Greenhouse Gas Emissions.** Operational GHG impacts from utilization of onsite equipment, trucks, and vessels serving the Wind Terminal must be assessed. The Project must also be analyzed in relation to compliance with the California Air Resources Board 2022 Scoping Plan. The State’s roadmap to address climate change cuts greenhouse gas emissions by 85% and achieves carbon neutrality by 2045. To reach this goal, all development must be at least carbon neutral, if not carbon offsetting. The DEIR must address how the Project is contributing to achieving this goal.
- **Aesthetics (Views).** As discussed previously, the Wind Terminal is a huge project located in a visually prominent area on a peninsula of land between Humboldt Bay and the Pacific Ocean. In addition to impacts to Tribal Cultural Landscapes, The DEIR will need to assess the visual and aesthetic impacts on coastal views and coastal resources from new buildings, cranes, high mast light poles, and other heavy industrial equipment and facilities.
- **Aesthetics (Light and Glare).** In addition to the impacts to views, the anticipated light and glare impacts from 150’ tall “high mast terminal lighting” around the perimeter of the Project Area will be substantial. The coastside/harborside location of the Project Area means that there will be potentially detrimental nighttime impacts to humans, terrestrial wildlife, and ocean wildlife. Specifically, as discussed above, there are tribal lands in the vicinity of the future Project that are used for ceremonial purposes, and round-the-clock lighting is likely to impact this use. The DEIR must contain photometric calculations and visual simulations of the night time conditions created by 150’ tall light fixtures, and must address the impact to tribal customs and tribal resources.
- **Water Quality.** With the level of development proposed for the Project Area and the type of industrial activities proposed to take place on the site, as well as increased dredging at new depths, the EIR will need to study how to manage any increase in impervious surfaces and control polluted runoff from industrial processes. The DEIR must also assess the potential waterside impacts from construction of new docks and submersible platforms and the demolition of existing docks and piers. A robust analysis of the potential water quality impacts resulting from spills or other accidental releases of materials from the Wind Terminal into Humboldt Bay must be included as well.
- **Land Use.** The EIR must fully analyze the Project’s consistency with land use policies and the Coastal Act, including any inconsistency that would result from the proposed amendments to the Humboldt Bay Area Plan (Local Coastal Plan) or any natural resource



plans that relax standards associated with noise, dust, light, vibration, or outdoor uses, including impact to land use goals of the Wiyot Tribe of Tuluwat Island.

- **Operational Impacts.** In addition to the construction impacts of the Project, the DEIR must analyze the ongoing operational impacts of the Wind Terminal—which could be an active manufacturing and assembly facility serving the West Coast for 25 + years. Moreover, Crowley’s wind project support operations will occur not just during construction of the Humboldt wind project, but will continue over the operational life of the wind leases, and any future repowering. Any traffic, air quality and water impacts analysis must include consideration of the role of the Project as a long-term construction and operations facility.
- **Recreation.** The Project has the potential to impact the quantity and type of vessel traffic moving through the bay and may impact recreational uses within Humboldt Bay, including non-motorized recreational boating (e.g., kayaking) and recreational fishing within Humboldt Bay. The site is adjacent to the low tide water trail in Samoa, and it is foreseeable that large, motorized vessel traffic in the vicinity of the water trail would increase, and operations to tow assembled turbines to and from the WEA may make the area less suitable for recreation, and may therefore push recreational users to other areas. The DEIR must include an analysis of impacts to water-based recreation.

Broadly speaking, the EIR must provide sufficient analysis and detail about environmental impacts to enable decisionmakers to make intelligent judgments in light of the environmental consequences of their decisions. See CEQA Guidelines §15151; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692. Both the public and decisionmakers need to fully understand the implications of the choices that are presented related to the project, mitigation measures, and alternatives. *Laurel Heights Improvement Ass’n v. Regents of University of California* (1988) 6 Cal.4th 1112, 1123. To the extent the DEIR identifies potentially significant impacts, it must also identify effective, enforceable mitigation measures to reduce those impacts to the greatest extent possible.

## 5. The Project must incorporate energy-efficient, emissions-reducing, and demonstrably effective “green” features by design.

In its Consistency Determination Report dated March 17, 2022, the California Coastal Commission found that the District’s terminal expansion and future operations in support of offshore wind energy generation would cause additional pollution and impacts, including additional air pollution burdens that may occur from vehicle emissions on land and vessel emissions offshore, in addition to a loss of lower-cost recreational boating opportunities. Burdens such as increased air, water, noise and light pollution would not only affect residents and wildlife, but also workers and visitors who recreate in the area. Near the Port, there are several low-income communities and populations with additional sensitivities such as asthma and cardiovascular disease “that may be exacerbated with additional pollution impacts in the area that may occur from Humboldt Harbor District expansion and future operations to support offshore wind energy generation.” See Coastal Commission Conditional Concurrence Staff Report, page 117.



In fact, the Coastal Commission Staff Report contains an entire section on Environmental Justice and the potential impacts of the Wind Terminal on communities of concern living near the future Project site. Due to the potential impacts identified, the Project must do everything practicable to minimize further degradation of conditions in these communities. This would include designing the Project with the most energy-efficient materials and facilities, with zero-emissions ships, vehicles and equipment, and the smallest climate impacts possible. These features and commitments must be described in detail in the Project Description.

The only way to achieve the climate goals set by the State is for the Harbor District and the future leaseholder/developer/operator to commit to a ‘zero-emission’ Project. Such a commitment would protect the surrounding communities from air pollution and prevent water contamination, while achieving maximum climate benefits.

## **6. The DEIR must identify a wide range of alternatives.**

CEQA requires that an EIR analyze a range of reasonable alternatives to the project. The alternatives must feasibly attain most of the basic project objectives while avoiding or substantially lessening the project’s environmental impacts. *See* Public Resources Code § 21100(b)(4); *see also* CEQA Guidelines § 15126.6(a). The CEQA Guidelines state that the selection and discussion of alternatives should foster informed decision-making and informed public participation. *See* CEQA Guidelines § 15126(d)(5).

To comply with these requirements, the DEIR must analyze a range of alternatives that meet the Project Objectives (enhanced as suggested in the previous section) and reduce significant impacts that are created by the Project. The NOP did not identify any possible Project Alternatives, and therefore we are not able to provide input on the suitability of what the Harbor District may be considering. Instead, potential alternatives include a zero-emissions/fully electric alternative; an alternative that minimizes dredging and preserves bay access for fisheries and their operations; a cultural resource preservation alternative that reduces or avoids visual, noise and aesthetic impacts and re-contamination impacts to Tulowat Island and other important tribal cultural sites; an alternative that maximizes on-site renewable energy and electricity benefits to surrounding communities; and an alternative that provides greenspace, public recreation and infrastructure benefits.

## **7. The Harbor District must seek public engagement and involvement early and often.**

The Wind Terminal offers a unique opportunity to create climate-friendly energy in a climate-positive way. Unlike other boom-and bust natural resource projects in the region such as dams, logging, mining, and drilling that harmed indigenous communities and the environment without providing local benefits or investment, there is an opportunity here for the community to be a stakeholder, and to engage with the Harbor District in a partnership to create a project that is a source of international leadership and pride for this region.

While CEQA Guidelines establish the minimum thresholds for public outreach and engagement, the Harbor District should do more: Establish consultation and regular



communication with tribal representatives to advise on key project milestones and seek feedback. Hold additional informational meetings to educate the public on the project as it is being designed. Seek input from the Network and other community groups on alternatives that are being considered. Provide for authentic and transparent design adjustments based on feedback. Begin consultations on Community Benefits Processes and Agreements. Design policies and practices that ensure community, industry, and environmental shared well-being for generations.

Transparency is critical to building trust and support for this Project. To date, the Harbor District's process has not met that crucial standard. Only recently was the Exclusive Negotiating Agreement with Crowley made available on the Port website after numerous requests. The Harbor District's proposal to enter into a lease with Crowley that will govern the development of the Project before the DEIR is released underscores the lack of community involvement and transparency to date. The Harbor District can and must change course now to ensure that community members and policy-makers know key terms that will affect the Project going forward. The community deserves to have opportunities to influence those terms through the CEQA and other robust public processes.

#### **8. Tribal safety concerns must be addressed in the future lease terms and Project approvals.**

The Coastal Commission Consistency Determination staff report detailed findings and concerns related to the safety of Native Tribes and local communities on p. 118 of their report. Specifically, the staff report states that “[T]he Commission expects future wind development to not only provide benefits to the community but also in a manner that does not continue to exacerbate harm in Native American communities and any additional vulnerable populations with limited resources to address these harms.”

Development projects on or near Tribal communities in the United States, Canada, and globally, have brought both economic opportunity and an increase in MMIP, violent crime, drug abuse, and sex trafficking of Native women and children. A recent article in the Harvard Journal of Law & Gender studying extraction projects near the Fort Berthold Reservation in North Dakota demonstrates these impacts.<sup>14</sup> During the period of development near Fort Berthold, there were more murders, fatal accidents, sexual assaults, domestic disputes, drug busts, gun threats, and human trafficking cases than in any year before the project commenced.<sup>15</sup> And over a two-year period, the Tribe's court system saw its caseload grow by over 2,000%. In Canada, the National Inquiry on Missing and Murdered Indigenous Women and Girls found that “work

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<sup>14</sup> Kathleen Finn, Erica Gajda, Thomas Perin, and Carla Fredericks, “Responsible Resource Development and Prevention of Sex Trafficking: Safeguarding Native Women and Children on the Fort Berthold Reservation”. 40 Harv. J.L. & Gender 1: Colorado Law Scholarly Commons, 2017, [Responsible Resource Development and Prevention of Sex Trafficking: Safeguarding Native Women and Children on the Fort Berthold Reservation \(colorado.edu\)](https://scholar.colorado.edu/jlgscholars/2017/1/1)

<sup>15</sup> Kimberly N. Mitchell, “Man Camps, Oil Pipelines, and MMIW: How United States V. Cooley is a False Victory for Indigenous Tribes”. Vermont Journal of Environmental Law, [Man Camps, Oil Pipelines, and MMIW: How United States v. Cooley is a False Victory for Indigenous Tribes \(vermontlaw.edu\)](https://vermontlaw.edu/man-camps-oil-pipelines-and-mmiw-how-united-states-v-cooley-is-a-false-victory-for-indigenous-tribes-vermontlaw-edu)



camps, or ‘man camps,’” in Canada, associated with the resource extraction industry (were) implicated in higher rates of violence against Indigenous women at the camps and in the neighboring communities.”<sup>16</sup>

In addition to consulting with tribes during the preparation of the EIR, the Harbor District must actively solicit Tribal participation during lease term negotiations and throughout the Project approval process to define the protections and protocols that should be in place to prevent damage to human life, Tribal culture, and exacerbation of MMIP. This should include MMIP prevention, education, organizational policy making, enforcement, and response.

Given Humboldt Bay’s unique physical characteristics and its location and proximity to future call areas (including Crescent City) for wind farm development, the Harbor District is sitting in a very strong position to negotiate a beneficial package with the future leaseholder/developer/operator of the Wind Terminal. The CEQA analysis must be completed, and all potential impacts and mitigation measures known before those negotiations conclude. The EIR for the Project must analyze and mitigate all the impact areas identified in this memorandum.

#### E. CEQA Timing and Lease Review

Leases are specifically included in the definition of “projects” subject to CEQA. And it is a fundamental principle of CEQA that any required environmental review must be completed before a project is approved so that the decisionmakers can take into account the environmental consequences of the project in deciding whether to approve it, what mitigation measures to require, etc.

#### 1. Background

The United States and California have both established goals for the development of offshore wind energy projects to reduce carbon emissions and slow the impacts of climate change. To accomplish these goals, the federal Bureau of Ocean Energy Management (“BOEM”) has initiated the process for leasing areas off the coast of Humboldt County (“Humboldt Wind Energy Area” or “WEA”) to private developers of offshore wind projects. In 2022, BOEM prepared an environmental assessment (“EA”) prior to initiating the first step in this process, which would allow potential offshore wind developers to carry out site assessment and site characterization activities prior to seeking the right to develop a wind energy facility. The EA clearly states that, prior to BOEM conveying the rights to develop a wind energy facility in the WEA, BOEM will prepare and circulate for public review an environmental impact statement (“EIS”). The two bidders who obtained site assessment leases from BOEM were RWE Offshore Wind Holdings and California North Floating with leases issued in June 2023.

While these wind energy projects will be developed and operated offshore, onshore facilities will also be needed at the Port of Humboldt Bay (“Port”), both to support construction

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<sup>16</sup> “Our Mandate, Our Vision, Our Mission”. National Inquiry into Missing and Murdered Indigenous Women and Girls, [Our Mandate, Our Vision, Our Mission | MMIWG \(mmiwg-ffada.ca\)](http://OurMandate.ca)



and operation and to assemble and maintain wind turbines. Indeed, obtaining deepwater port access is a prerequisite to developing wind offshore throughout the Pacific. The Port of Humboldt Bay has been identified in studies as the most promising opportunity to assemble offshore wind given its deep navigation channel, no bridges, and existing space. The District is the public agency that manages the Port and is authorized to lease Port land for these onshore facilities (referred to as “Humboldt Bay Offshore Wind and Heavy Lift Multipurpose Marine Terminal” or “the terminal”). In October 2022, Crowley Wind Services signed an agreement with the District to exclusively negotiate to be the developer and operator of the terminal. According to the Conceptual Master Plan available on the District’s website and the Notice of Preparation (“NOP”) recently issued by the District, this terminal would accommodate several buildings, wharf expansion, and two dredge areas.

The agreement being negotiated by Crowley and the District is an option agreement, by which the District would grant Crowley the right to lease Port land for the development and operation of the terminal. According to the exclusive negotiating agreement recently posted on the Port’s website, the lease will be an exhibit to the option agreement and must contain initial plans for development sufficient to obtain Project entitlements. Once the option agreement is approved by the Harbor District, Crowley will have the right to enter the lease; no further District approvals will be necessary. The option agreement recognizes, however, that additional approvals are required to develop the Project, including the modification of the District’s “Humboldt Bay Area Plan” (the Port’s Local Coastal Program under the California Coastal Act).

To date, the District has stated that it is planning to prepare an environmental impact report (“EIR”) for the Project, but that it will not complete this process until after it has entered the option agreement with Crowley.

**2. The District must prepare and finalize the environmental analysis required under CEQA before considering approval of the lease.**

In general, CEQA requires public agencies to identify the potential environmental impacts of a project, as well as mitigation measures and project alternatives, *before* approving it. “Project” is defined as “an activity which [1] may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment” and [2] is either undertaken by a public agency or requires agency approval. Guidelines § 15378(a). If a project could have significant, adverse impacts, the agency must prepare an “environmental impact report” or “EIR.” If a project has no significant, unmitigable impacts, the agency may prepare an initial study and negative declaration. The purpose of conducting this environmental review is to provide the public and decision-makers with information about the project’s environmental effects and ways to minimize them before the project is approved.

In this instance, California’s Coastal Commission has found that the District’s terminal expansion and future operations in support of offshore wind energy generation would cause additional pollution and impacts, including additional air pollution burdens that may occur from vehicle emissions on land and vessel emissions offshore and loss of lower-cost recreational boating opportunities. Burdens such as increased air, water, noise and light pollution would not



only affect residents, but also workers and visitors who might recreate near port areas. Near the Port, there are several low-income communities and populations with additional sensitivities such as asthma and cardiovascular disease “that may be exacerbated with additional pollution impacts in the area that may occur from Humboldt Harbor District expansion and future operations to support offshore wind energy generation.” See Coastal Commission Consistency Determination Staff Report, page 117.

**A. A lease between the District and Crowley for the development of an “Offshore Wind and Heavy Lift Multipurpose Marine Terminal” is a project subject to CEQA.**

A lease that would allow the development of an “Offshore Wind and Heavy Lift Multipurpose Marine Terminal” is a project subject to CEQA. CEQA applies to discretionary projects carried out or approved by public agencies. CEQA § 21080(a). “Project” is defined as “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment,” which includes “the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.” CEQA § 21065 (emphasis added); *see also* Guidelines §§ 15378(a)(3), 15377. In determining whether an activity is a project subject to CEQA, the question is “whether the activity’s potential for causing environmental change is sufficient to justify the further inquiry into its actual effects,” without considering whether the potential environmental effects will actually occur. *Union of Medical Marijuana Patients, Inc. v. City of San Diego* (2019) 7 Cal.5th 1171, 1197. The California Supreme Court has stated that when determining whether an activity is a project, CEQA must be interpreted broadly, “to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259 (disapproved of on other grounds).

In *World Business Academy v. California State Lands Commission*, (2018) 24 Cal.App.5th 476, the court found there was “no dispute” that a replacement lease for continued operation of a nuclear powerplant was a “project” subject to CEQA. In *City of Orange v. Valenti*, (1974) 37 Cal.App.3d 240, the court stated that it was “inescapable” that leasing a building was a “project” under CEQA.

Lastly, in *City of Long Beach v. City of Los Angeles* (2018) 19 Cal.App.5th 465, the project at issue was a lease agreement entered between the City of Los Angeles and a railway company for development of a new railyard at the Port of Los Angeles. The harbor department conducted environmental review of the project, preparing and certifying an EIR before approving the lease. Several parties successfully challenged the sufficiency of the EIR. The City did not even attempt to argue that the lease was not a “project” for the purposes of CEQA.

Similarly, here, a lease for development and operation of the Offshore Wind and Heavy Lift Multipurpose Marine Terminal is a “project” subject to CEQA: It is a discretionary action taken by a public agency that would result in both direct and indirect physical changes to the environment. The Conceptual Master Plan for the terminal currently includes plans for several buildings, wharf expansion, and two dredge areas. The exclusive negotiating agreement further

requires Crowley and the District to include initial plans for development in the lease terms. Thus, the option agreement and lease will describe the planned development, and this planned development will result in physical changes to the environment. Because the definition of “project” explicitly includes an activity involving the issuance of a lease and the proposed lease agreement “is capable of causing direct or reasonably foreseeable indirect effects on the environment” through its proposed development, it is a project under CEQA. *Union of Medical Marijuana Patients, Inc.*, 7 Cal.5th at 1198.

**B. The District must complete its environmental review of the lease before approving it.**

The District is required to complete its environmental review of the Project before approving the option agreement described in the exclusive agreement to negotiate. The Guidelines state that every lead agency “shall consider a final EIR or negative declaration” “[b]efore granting any approval of a project subject to CEQA.” Guidelines § 15004. Similarly, CEQA’s definition of “environmental impact report” provides that, when preparation of an EIR is required, it “shall be considered by every public agency *prior to its approval* or disapproval of a project.” CEQA § 21061 (emphasis added). Any environmental review “should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design.” Guidelines § 15004(b). And, “public agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance.” Guidelines § 15004(b).

California courts, including the Supreme Court, have consistently held that CEQA requires environmental review *before* an agency approves a project. The California Supreme Court has stated that preparation of an EIR “is the key to environmental protection under CEQA.” *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 70. The basic purposes of CEQA, including informing decision-makers and the public about potential environmental effects of a proposed activity and identifying alternatives and mitigation measures, are best served when environmental review provides information to be used in deciding whether to approve a project, not to inform of environmental effects after a project has already been approved. *POET, LLC v. State Air Resources Board* (2013) 218 Cal.App.4th 681, 714-15. When environmental review occurs after a project has been approved, “it is likely to become nothing more than a post hoc rationalization to support action already taken.” *Id.*

In *No Oil, Inc.*, the California Supreme Court stated: “CEQA requires that an agency determine whether a project may have a significant environmental impact, and thus whether an EIR is required, [b]efore it approves that project.” 13 Cal.3d at 79. Many other cases reach the same conclusion. See, e.g., *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 394 (“A fundamental purpose of an EIR is to provide decision makers with information they can use in deciding *whether* to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved. If postapproval environmental review were allowed, EIR’s would likely become nothing more than post hoc rationalizations to support action already taken.”); *Tomlinson v.*



*County of Alameda* (2012) 54 Cal.4th 281, 286 (If the agency determines the project may have a significant effect on the environment, “the agency must proceed to the third step, which entails preparation of an [EIR] before approval of the project.”); *POET, LLC v. State Air Resources Board* (2013) 218 Cal.App.4th 681, 715 (“the policy declaration [of CEQA] implies that an evaluation of environmental issues. . . should occur *before* an agency approves a project. This implication is borne out by CEQA’s explicit requirements for EIRs. . . which. . . ‘shall be considered by every public agency *prior to its approval* or disapproval of a project.’”); *Friends, Artists & Neighbors of Elkhorn Slough v. California Coastal Commission* (2021) 72 Cal.App.5th 666, 678 (“the Coastal Commission was required to consider project alternatives, mitigation measures, and conditions for the project *before* approving the coastal development permit application”); *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1315 (“Central to CEQA is the EIR, which has as its purpose informing the public and government officials of the environmental consequences of decisions before they are made.”).

**C. The District may not wait to conduct environmental review of the Project simply because other, later approvals are also required.**

Where a “project” involves a lengthy planning process or several government approvals, lead agencies must determine when during that planning process environmental review must be done. The CEQA Guidelines state that “EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program design and yet late enough to provide meaningful information for environmental assessment.” Guidelines § 15004(b). For public projects, agencies may not undertake actions concerning the project “that would have a significant adverse effect or limit the choice of alternatives or mitigation measures before completion of CEQA compliance.” Guidelines § 15004(b)(2).

In 2008, the California Supreme Court addressed this timing issue in the context of a joint “public-private” project proposed in the City of West Hollywood. *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116. There, the City was working with several non-profit community housing developers to build low-income, senior housing on land owned by the City. In pursuit of that goal, the City approved a “Conditional Agreement for Conveyance and Development of Property,” which provided that the City would convey the property to the developers and provide a project loan if the developers satisfied certain conditions, including compliance with CEQA. *Id.* at 124-25. The agreement also provided a predevelopment loan of \$475,000 that was not subject to prior CEQA review. *Id.* at 124. A group of neighbors and citizens objected, arguing that the City was required to conduct CEQA review before approving the agreement. *Id.* at 124.

In reviewing this challenge, the Supreme Court identified two policy considerations that are “important to the timing of [environmental review]: (1) that CEQA not be interpreted to require an EIR before the project is well enough defined to allow for meaningful environmental evaluation; and (2) that CEQA not be interpreted as allowing an EIR to be delayed beyond the time when it can, as a practical matter serve its intended function of informing and guiding decision makers.” *Id.* at 130. The Court then applied “the general principle that before



conducting CEQA review, agencies must not ‘take any action’ that significantly furthers a project ‘in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.’” *Id.* at 138 (quoting Guidelines § 15004(b)(2)(B)); *see also id.* at 139 (“If, as a practical matter, the agency has foreclosed any meaningful options to going forward with the project, then for purposes of CEQA the agency has ‘approved’ the project.” [internal quotations omitted]).

Applying this test to the specific facts of that case, the Court held that the City had committed itself to a definite course of action regarding the project before conducting environmental review, and thus had violated CEQA. In particular, the Court noted that the development agreement stated its purpose was to “facilitate development of the project.” *Id.* at 140. Moreover, if the City did not ultimately approve the development, the developer would not have to repay the predevelopment loan. *Id.* And the City began relocation proceedings for current tenants. *Id.* All of these circumstances, the Court found, indicated that the City had committed itself to a definite course of action in approving the agreement, and thus violated CEQA by failing to conduct environmental review first. *Id.*<sup>17</sup>

Here, the option agreement described in the exclusive negotiating agreement is indistinguishable from the “Conditional Agreement for Conveyance and Development of Property” addressed in *Save Tara*. It will commit the Harbor District to leasing Port Property to Crowley for the express purpose of developing the Project, and the initial plans for that development will be part of the agreement. Thus, the option agreement and attached lease will certainly commit the District to a definite course of action and foreclose alternatives and mitigation measures. As a result, the District must complete its environmental review for the Project prior to entering the option agreement and authorizing the lease.<sup>18</sup>

Recently, the District notified the public that it is preparing an environmental impact report (EIR) for the Project. However, this notice did not mention the District’s intention to lease the terminal to Crowley, did not suggest the EIR would be complete before the option agreement is executed, and in fact suggests that the Project would be a public project carried out by the District. We recommend that the District clarify Crowley’s role in the Project. If Crowley will, in fact, be developing and operating the Project, the District should process the lease together with the Area Plan amendments and complete the EIR prior to approving either step in the process.

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<sup>17</sup> See also *California Farm Bureau Federation v. California Wildlife Conservation Board* (2006) 143 Cal.App.4th 173, 191-82 (acquisition of conservation easement by Department of Fish and Game required CEQA review where easement required conversion of 235 acres of agricultural land to wetlands and other habitat); *McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District* (1988) (transfer of property to public agency required environmental review because property contained PCBs and, under federal law, remediation activities were mandatory).

<sup>18</sup> Section 8.14 of the exclusive negotiating agreement provides that “Crowley’s exercise of the Option will expressly be conditioned upon compliance with CEQA and/or NEPA.” As discussed above, however, compliance with CEQA requires preparing an EIR *before* the option agreement is executed and the Project is set in motion; as in *Save Tara*, it is not sufficient to condition approval of the agreement on environmental review happening after-the-fact.



The District's approval of an option agreement to lease Port property to Crowley for the purpose of developing an onshore terminal to support the development and operation of anticipated offshore wind energy projects is a "project" subject to CEQA. Therefore, any environmental review for that project must be completed before the District enters the option agreement authorizing the lease. This remains the case even though the District must issue other approvals (e.g., amending its Area Plan) in order to carry out the Project.

### **Conclusion**

We appreciate your attention to these concerns and look forward to continued collaboration and partnership. The proposed Wind Terminal offers a chance to redefine development for our region and prioritize community and environmental well-being. As we embark on the CEQA process, we ask the Harbor District to carefully consider the issues outlined in these scoping comments.

Thank you for your consideration of our comments.

Sincerely,



Dale A. Miller  
Chairman

**From:** Ken Miller [REDACTED]  
**Sent:** Friday, August 25, 2023 1:03 PM  
**To:** District Planner  
**Cc:** [REDACTED]  
**Subject:** DEIR comment

RE: DEIR Offshore Wind Terminal Scoping

To Rob Holmlund

8/25/23

Dear Mr. Holmlund,

The development and activities of the terminal will require a large and varied workforce over variable periods of time. Many of these workers will have specialized and temporary roles.

What provisions are being made to accommodate and house all these workers, and are these provisions being analyzed as an integral and inevitable consequence of the Project as to their cumulative impacts?

Are there any provisions for housing close to the terminal in an effort to minimize and mitigate impacts of hundreds if not thousands of imported workers?

Are you relying on local municipalities to develop housing, and if so, are these projects included in the DEIR as part of cumulative impacts, including transportation and other effects on local communities?

Respectfully submitted,

Ken Miller

Ken Miller

# CALIFORNIA FISHERMEN'S RESILIENCY ASSOCIATION

1118 6th St.  
Eureka, CA 95501

**Rob Holmlund**  
**Humboldt Bay Harbor, Recreation and Conservation District**  
**P.O. Box 1030**  
**Eureka, California 95502-1030**  
**707-443-0801**  
**[districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)**

**August 3, 2023**

## **California Fishermen's Resiliency Association Comments On Humboldt Bay Harbor District's (HBHD) Samoa Heavy Lift Terminal Facility**

### **Who we are.**

In January 2022, seven Northern California Port Commercial Fishermen's Associations formed the California Fishermen's Resiliency Association (CFRA), a California Nonprofit Mutual Benefit Corporation. The California Fishermen's Resiliency Association now serves as a "point of contact" and negotiator for fishermen with developers of offshore wind power, telecommunication and energy transmission subsea cables, and offshore mineral extraction projects. The CFRA represents all fisheries and gear types through its member fishermen's associations which include the ports of Crescent City, Trinidad Bay,, Shelter Cove, Fort Bragg/Noyo, Bodega Bay and San Francisco ,Half Moon Bay, Santa Cruz and Santa Barbara.The CFRA is funded by an OPC grant from the State of California.

The CFRA is structured to encourage statewide cooperative policies and protocols related to offshore wind power and cable projects in a way that protects fishermen and fishing communities from impacts that result from these developments and allows California to move towards realistic renewable energy goals statewide.

The Samoa Heavy Lift Terminal Project may have far reaching and extremely long term effects and consequences on the state and health of the Humboldt Bay Estuary, the West Coast fishing fleet and the culture of Humboldt County. The CFRA Board of Directors would respectfully submit this series of inquiries to help broaden the scope of the Environmental Impact Report (EIR) for the Samoa Project. By all of us taking the “wide view” we hope to come away with a better understanding of the Samoa Heavy Lift Terminal Project for California’s State Agencies, the local and west coast fishing fleet and the residents of Humboldt County. Thank you for this. Consideration. Our inquiries are as follows:

1. Turbine units, support and material barges, submersible construction platforms will all require ablative, anti-foulant, biocide, paint coatings on submerged structures.

Question: Please address the introduction of bio-toxins introduced into the bay waters and the possible interactions with oyster and shellfish mariculture, and marine animal populations dependent on the estuarine habitat.

2. The project alone will require large amounts of initial and maintenance dredging in areas which have been subject to 100 years of industrial use.

Question: The EIR should describe the procedure for pre-dredging chemical surveys of areas to be dredged.

Question: Will the EIR also plan for real time chemical monitoring of dredge spoils as dredging takes place?

3. Anoxic turbidity events caused by fine sediment displacement during dredging is known to be lethal to clupeoid schooling fish such as Anchovies, Herring and Sardines.

Question: What procedure will the EIR use to prevent dredging turbidity events both during initial dredging and maintenance dredging?

4. In 1999, a Humboldt Harbor deepening project, costing 15 million dollars, increased federal channel depths to 38 feet, this project resulted in a 300% increase in federal maintenance dredging, increased the tidal prism, current velocities, and resulted in extensive erosion in North Humboldt Bay.

Question: How will the EIR address increased current velocities, erosion and bank sloughing as a result of dredging for the Samoa Heavy Lift Terminal and required channel widening for turbine export?

5. This project will require demolition, upland fill, extensive dredging and construction, all diesel fuel powered.

Question: Will the EIR, working with the Schatz Energy Lab calculate the total carbon footprint of this project.

6. Among other things, preliminary plans include provisions for “high mast lighting” of the Samoa site. The Humboldt Basin and mid-bay ESHA areas are extremely compromised by human generated light pollution. The proposed high mast lighting will be visible 19 miles offshore!

Question: Can the EIR address innovative, less polluting lighting of the site similar to ground level lighting used on airfields?

Question: Can the EIR address, in detail, alternative scenarios for the Samoa site in light of the fact that the Port of Long Beach, CA is dedicating an extensive area for OSW construction?

Question: Can the EIR include an evaluation of the possibility of "no project" as planned?

For the California Fishermen's Resiliency Association Board of Directors,

Jake Mitchell, President.

Ken Bates, Executive Director

Crescent City Commercial Fishermen's Association

Trinidad Bay Fishermen's Association

Shelter Cove Fishing Preservation, Inc.

Salmon Troller's Marketing Association of Noyo

Bodega Bay Commercial Fishermen's Association

San Francisco Crab Boat Owners Association

Half Moon Bay Commercial Fishermen's Association

The Alliance of Communities for Sustainable Fisheries

Commercial Fishermen of Santa Barbara

California Wetfish Producers Association

Santa Cruz Commercial Fishermen's Association

Rob Holmlund  
Director of Development  
Humboldt Bay Harbor, Recreation and  
Conservation District  
P.O. Box 1030  
Eureka, California 95502-1030  
[districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)

Re: Notice of Preparation of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

24 August 2023

**Timber Heritage Association (THA)**

**Background-** Founded in the late 1977, our mission is to preserve, interpret, and celebrate Humboldt County's timber heritage. In addition to a timber and railroad museum at Samoa, THA plans to operate the Humboldt Bay Scenic Railroad. The goal is to begin tourist train operations on the historic Northwestern Pacific Railroad (now owned By Great Redwood Trail Authority) around Humboldt Bay between Samoa and Eureka, some 16 miles. Our home, the historic Samoa Roundhouse and Shops Complex were built in 1893 to serve the Vance Lumber Company mills that operated under various timber company ownerships until the 21<sup>st</sup> century. It seems obvious that any development around our property will greatly impact the overall logistics of our operation. Our physical property is below the Samoa Cookhouse, and directly adjacent to the proposed HLT.

**THA Concerns/Comments-**

The following are comments intended to allow for future dialog and planning regarding THA and the Humboldt Bay Scenic Railroad.

**Railroad Operations-** Since 2009, THA has been maintaining the vegetation along the right-of-way on the Northwestern Pacific (NWP) rail line between milepost 300.5 (near the

Cookhouse Driveway) to Manila, roughly milepost 298. During the dry season, THA provides rides on our historic maintenance of way vehicles called *speeder crew cars* to thousands of local residents and visitors alike. (In 2022, an estimated 3500 people enjoyed the experience including families and people of all ages and backgrounds.)

In order to continue the speeder program and to eventually step up to full size equipment, THA needs a spur track access north of our shops, to connect to the mainline of the railroad. THA already has an operational locomotive and cars to use for the excursion train. Historically, this spur was the primary connection to the roundhouse and shops complex.

In Phase 1 construction plans, there are road infrastructure improvements opposite Cookhouse Road, which we use to access the THA property. The old rail access to the main line shown on maps around Humboldt Bay runs from the THA roundhouse, crossing the northern two access roads to the north side entrance of the Heavy Lift Terminal (HLT). For our scenic railroad plans to succeed we would include easements across these access roads and connection to the rail line north of the property. Currently, the triangular section of property going north from the roundhouse towards the railroad/Samoa Bridge is listed as wetland mitigation, and we would like to see an easement through this section. Additionally, there may still be remnants of the old rail bed in this location.

### **Fabrication Assembly Building:**

For 130 years millhands and workers at the Vance and Hammond mills enjoyed the view across Humboldt Bay northeast behind Eureka along to the ridgeline created by Fickle Hill, Greenwood Heights and Kneeland, back to Iqua Butte, south to Headwater Forest above Elk River. A 500 foot long 60-foot-tall Fabrication Assembly Building, by the time fill is added to the current land level, will totally block this historic view from the THA shops and obstruct the

view from Samoa Cookhouse. While we recognize the need for this building, THA members and some members of the board would like to know if it is possible to mitigate this blockage, by locating the building further south. THA does not intend on wholly opposing the construction of this building, but it does compel comment regarding the change in viewshed from the museum site.

#### **Culverts draining THA property through HLT property:**

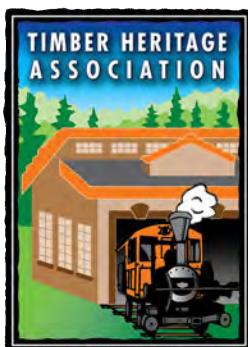
Several drop inlets and pipe culverts carry water off our property along a utility easement between our Boiler Shop and Machine Shop toward the proposed Heavy Lift Terminal property, past or under the proposed fabrication assembly building. The culverts merge and trend southwest toward the foundation assembly area, make a left turn toward the bay and enter the bay through a tide gate near wharf number one and a heavy lift crane. As far as THA is aware, neither the material used for pipe construction, or its condition is known. Because we have replaced some rusted out corrugated metal culvert pipe on our property, we are aware that the pipes, therefore the ability to properly drain our property, may be easily compromised. If 9 to 13 feet of fill is used to fill and level the heavy lift terminal, then the time and machinery needed to affect any emergency repairs increases. We are not sure how raising the present land level may affect soil saturation on THA property. A reasonable solution would be an inspection of the pipes and replacement of old or deteriorating pipes during Phase 1 or Phase 2 construction.

Respectfully,  
Sean Mitchell  
President- THA

Timber Heritage Association  
930 Vance Avenue  
Samoa, CA 95564

Mailing- P.O. Box 6399

Eureka, California 95502





August 25, 2023

Rob Holmlund, Director of Development

Humboldt Bay Harbor, Recreation and Conservation District P.O. Box 1030  
Eureka, California 95502

[districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)

*Submitted via email*

**Re: Scoping Comments on the Notice of Preparation of the Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (SCH No. 2023060752)**

Dear Mr. Holmlund,

On behalf of the undersigned organizations, please consider these scoping comments regarding the proposed Heavy Lift Multipurpose Marine Terminal (the Project). We understand and value the importance of port development in Humboldt Bay to meet California's clean energy targets to address climate change. We are also committed to ensuring that any potentially significant impacts are avoided, minimized, and mitigated to the greatest extent possible.

To ensure the timely buildout of the port of Humboldt and meet the demand of California's clean energy goals, the permitting process and environmental review pursuant to the California Environmental Quality Act (CEQA) must be robust, transparent, thorough, and strictly in accordance with state law. As the lead public agency conducting CEQA, the Humboldt Bay Harbor, Recreation, and Conservation District (the District) is responsible for ensuring sustainable port development and protecting communities and the environment.

The sheer size of this Project—with a potential geographical footprint twice the size of the adjacent town of Fairhaven—will inevitably result in various impacts. Humboldt Bay is the second-largest natural bay in the state, with a wide variety of habitats, including open water, shallow water, mud and sand flats, salt marshes and slough channel ponds, sand beaches, islands, and woody riparian vegetation. Humboldt Bay is home to approximately half of California's eelgrass population, as well as 120 species of fish, 250 species of marine birds, 550 species of marine invertebrates, 80 species of algae, and numerous resident and visiting marine mammals. This letter outlines some concerns to address in the Draft Environmental Impact Report (DEIR).

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## **I. CEQA Procedural Recommendations**

CEQA is the bedrock of California's environmental protection laws. CEQA requires all State agencies to consider the environmental impacts of all discretionary actions that "may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment." CEQA strives to ensure better decision-making that reduces impacts on the natural environment through considered and public examination of the potential environmental impacts and ways to avoid and minimize those impacts to the maximum degree feasible. Under CEQA, impacts that cannot be avoided must be mitigated. The following section addresses procedural and substantive concerns with the CEQA process.

### **A. Baseline Data**

It is first necessary to understand the existing conditions to evaluate project impacts, as these serve as a measurement against which project impacts are compared. CEQA Guidelines provide that "[g]enerally, the lead agency should describe physical environmental conditions as they exist at the time the notice of preparation is published . . . from both a local and regional perspective."<sup>1</sup> "An existing conditions baseline shall not include hypothetical conditions, such as those that might be allowed, but have never actually occurred, under existing permits or plans, as the baseline."<sup>2</sup> Because site conditions on the project site and use have not fluctuated in many years, this is not a situation where a projected future use under existing approvals should be considered as part of the baseline.<sup>3</sup> An EIR's assessment of project impacts should generally be limited "to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published."<sup>4</sup>

The direct impacts of this Project on resources require the assessment of baseline data reflective of standards at the time of the release of the Notice of Preparation. Conditions on the Samoa peninsula during the industrialized periods of the timber years cannot be used as a cross-reference for impact analysis on greenhouse gas emissions (GHG), air quality, transportation, cultural resources, and/or other categories. Including ancient industrial-point references (not subject to CEQA) in the baseline analysis would be misleading and dangerous. We suggest that the EIR process should conduct any analysis based on baseline data collected between 2020 and 2024.

### **B. Tribal Consultation**

Affected Tribal Nations need to be a central part of all stages of the permitting process through robust government-to-government consultation. Throughout the process, the District should also evaluate additional mechanisms that could enable tribal decision-making and influence over EIR certification. We also recommend that the District provide a pool of funding

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<sup>1</sup> Cal. Code Regs. Tit. 14, § 15125.

<sup>2</sup> Id. § 15125(a)(3).

<sup>3</sup> Id. § 15125(a)(1)-(2).

<sup>4</sup> Id. § 15126.2(a); see also Communities for a Better Envt. v. SCAQMD, 48 Cal.4th 310, 320-21 (2010).

to local Tribal Nations that allows compensation for work on the Project, including participation in the EIR process.

### **C. Maintaining Local Control over the Project and Public Trust**

It is critical that the District maintain local control over port development, operations, and maintenance, including the use of the waters of Humboldt Bay and adaptive management throughout the life of the Project. As a new industry with many unforeseen and unpredictable impacts and outcomes, it is critical that our elected representatives and the District protect and manage Humboldt Bay's public trust lands for the benefit of the People of California.

## **II. Requested Changes to Wind Terminal Project Description and Range of Alternatives**

### **A. Zero Emissions Port**

We support the District's vision to "develop a marine terminal site with modern environmental standards related to minimization of greenhouse gas emissions, onsite renewable energy generation, green building materials, the electrification of terminal operations, and the facilities needed to accommodate vessel shore power." We ask that the District go further by formally committing to a zero-emissions port as soon as feasible. Other ports in California, such as the Port of San Diego, have made similar commitments. To achieve such a vision, it is necessary to begin planning now to identify limiting factors and work towards overcoming obstacles.

### **B. Onsite Solar Production and Peninsula Microgrid**

We are encouraged by the proposal to include solar with the Project, although, as stated later, we are concerned with the proposed siting of the solar panels. We urge the District to increase onsite solar production through solarizing all structures and parking lots. Furthermore, we recommend the District pair energy production with storage through battery banks and/or by incorporating bidirectional vehicle-to-grid storage. Heavy-duty electric equipment, in particular, could offer grid resiliency through its large battery banks to support off-peak energy demands. In collaboration with its partners, the District should consider a proposal to create a large-scale microgrid capable of storing and distributing power during peak load-bearing periods.

### **D. Reduce Project Parking and Reduce Vehicle Miles Traveled (VMT)**

We ask that the District appropriately size parking for the Project and try to discourage individual car trips through incentives, like charging for parking and providing ridesharing and carpooling programs.

### **E. No New Fossil Fuel Infrastructure**

The NOP describes potential new fueling stations. Making initial investments in fossil fuel infrastructure prolongs the use of fossil fuels by creating a sunk investment. We urge the District to remove or downsize new fossil fuel infrastructure and invest instead in electrifying the port.

## **F. Creation of Adaptive Management Committee**

Environmental impact analysis is an imprecise art that often fails to identify impacts later felt from developments, particularly one of the size and complexity of the proposed Project. We ask that the District create a mechanism to identify, evaluate, and mitigate impacts that may not be identified during the Project's initial environmental analysis. Adaptive management committees comprised of neutral third-party subject matter experts are essential for responding to project uncertainty.

## **G. Limited Change of Use**

The "multipurpose" project scope is broad and includes potential uses other than offshore wind, such as break bulk handling, wood product manufacturing/shipping, and "other related maritime transport that require heavy-lift wharfs." While the DEIR can consider and study some additional uses, it must provide specificity and limits to those other potential uses to ensure an adequate environmental review of the Project.

### **III. Anticipated Impacts and Associated Mitigation Strategies**

CEQA Guidelines section 15126.2(a) provides that:

Direct and indirect significant effects of the Project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in...other aspects of the resource base....

CEQA mandates that the District deny approval of a project presenting significant adverse effects when feasible alternatives or mitigation measures can substantially lessen such effects.<sup>5</sup> Only when alternatives that would avoid impacts have been fully considered and feasible mitigation measures have been exhausted may an agency find that overriding considerations outweigh the significant environmental effects.<sup>6</sup> This mandate—to avoid, minimize, and mitigate significant adverse effects where feasible—has been described as the "most important" provision of the law.<sup>7</sup>

To effectuate this "most important" provision, the District is tasked with investigating the potential adverse effects and all feasible alternatives and mitigation measures that decision-makers may adopt.<sup>8</sup> As made clear in *Save Round Valley Alliance v. County of Inyo*, CEQA likewise requires alternatives and mitigation measures to be sufficiently detailed to "foster informed decision-making and public participation."<sup>9</sup>

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<sup>5</sup> Pub. Resources Code 21002.

<sup>6</sup> Pub. Resource Code 21081; *See also*, CEQA Guidelines 15091(a).

<sup>7</sup> *Sierra Club v. Gilroy City Council*, 222 Cal. App. 3d 30, 41, 271 Cal. Rptr. 393 (Ct. App. 1990).

<sup>8</sup> Pub. Resources Code 21100; CEQA Guidelines 15126.

<sup>9</sup> *Save Round Valley Alliance v. County of Inyo*, 157 Cal.App.4th at pp. 1456, 1460 (2007).

Mitigation measures, in turn, include:<sup>10</sup>

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements.

This list can also be read as a priority for decision-makers, such that in considering mitigation, avoiding impacts is most preferred, and compensating for effects is the least.<sup>11</sup> Upon inspection, the reasoning is obvious: Avoidance produces certain results and does the least harm to the resources considered. By contrast, compensatory mitigation is less desirable because it allows for harm while providing only uncertain future benefits. For that and other reasons, compensatory mitigation is often required with a multiplier effect—that is, to use the example of the wetland, for every acre impacted, the compensatory mitigation might require the creation of five acres of wetland. Similarly, cases such as *La Costa Beach Homeowners' Assn. v. California Coastal* have made clear that onsite mitigation is preferred over off-site mitigation.<sup>12</sup> Onsite mitigation is preferred as it compensates for the harm in the same general area where it is felt—providing a clear and constitutionally mandated nexus.<sup>13</sup> Timing of mitigation also matters as mitigation *prior* to project impacts is preferred to after-the-fact mitigation.<sup>14</sup> Again, all of these points make intuitive sense—we want to mitigate harms before they occur and in the area that they occur unless there is a special reason to deviate.

Feasibility, as used by CEQA and the Guidelines, is where a mitigation measure is "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."<sup>15</sup> *Los Angeles Unified School District v. City of Los Angeles* establishes: "In keeping with the statute and guidelines, an adequate EIR must respond to specific suggestions for mitigating a significant

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<sup>10</sup> CEQA Guidelines § 15370.

<sup>11</sup> CEQA Guidelines § 15126.4.

<sup>12</sup> See *La Costa Beach Homeowners' Assn. v. California Coastal Com.*, 101 Cal. App. 4th 804 (2002) (evaluating the appropriateness of offsite mitigation under the California Coastal Act).

<sup>13</sup> *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); See also, CEQA Guidelines § 15126.4(a)(4)(A).

<sup>14</sup> See CEQA Guidelines § 15126.4.

<sup>15</sup> Public Resources Code 21061.1; CEQA Guidelines, § 15364.

environmental impact unless the suggested mitigation is facially infeasible. While the response need not be exhaustive, it should evince good faith and a reasoned analysis."<sup>16</sup>

The ultimate determination of the sufficiency and feasibility of mitigation measures is the province of the action agency. These determinations must be supported by findings supported by substantial evidence.<sup>17</sup> Averments by project developers concerning the financial feasibility of mitigation are not dispositive of the question; rather, that is one piece of information that the action agency may consider.

**The following section discusses relevant impacts that should be considered in any potential EIR document:**

#### **A. Greenhouse Gas Emissions (GHG)**

The forthcoming port development DEIR should thoroughly evaluate the cumulative GHG emitted during the construction and operation of the Project. The analysis and mitigation efforts proposed in a DEIR should take baseline GHG measurements at the time of the release of the NOP into account. GHG emissions throughout all construction and operation phases should be inventoried and accounted for. Specific emissions sources will include:

- Site preparation and construction, including concrete, asphalt, gravel, steel, and other materials needed to build the port.
- Heavy equipment operations associated with the terminal.
- Drayage trucks and vessels associated throughout the life of the Project. Carbon emissions related to travel and delivery to and from the port will substantially contribute to Humboldt's GHG emission portfolio. Vessel traffic for the Project's manufacturing, construction, and operations could also contribute substantially to GHG emissions.
- Manufacturing of components to assemble turbines and/or other products associated with the Project.

**Mitigation Strategy:** The DEIR should plan for a zero-emissions port. While achieving ambitious decarbonization targets may be initially limited by technological innovation in the early years of development, any DEIR (and project alternative) should exhaust all potential zero-emissions technology available. Furthermore, long-term mitigation will require ensuring future electrification efforts are not limited by a lack of structural support. To achieve this, the DEIR should consider key green port elements:

- Upgrading Samoa peninsula's electric infrastructure to support increased electricity loads. As zero-emissions technology becomes readily available, fully

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<sup>16</sup> *Los Angeles Unified School District v. City of Los Angeles*, 58 Cal. App. 4th 1019, 1029 (1997) (internal citation omitted).

<sup>17</sup> See *Federation of Hillside & Canyon Associations c. City of Los Angeles*, 83 Cal. App. 4th (2d Dist. 2000); See also, *Concerned Citizens of South Los Angeles v. Los Angeles Unified School District*, 24 Cal. App. 4th 825 (2d Dist. 1994).

electrified heavy-lift cranes, ships, terminal equipment, and drayage will require upgraded transmission infrastructure and charging stations that support high load-bearing activities. This will be especially important regarding long-term GHG mitigation strategies as state and federal port regulations become more stringent.

- At-berth shore power access enables ships and tugs to be plugged into the port electric grid, reducing GHG, local air pollutants, and noise pollution.<sup>18</sup>
- Expansive solarization of all terminal storage, warehouse areas, etc. While this will not be sufficient to supply all the necessary energy, it will make up for some grid capacity issues and maximize the space being used.
- The feasibility of purchasing Redwood Coast Energy Authority's (RCEA) RePower+ plan (or other bulk energy purchases of renewable energy) to supply renewable electricity for port operations.

## B. Additional Air Quality Impacts

Port construction and operation will likely increase air pollution from large amounts of vessel traffic, heavy-duty machinery, transportation, and drayage trucking. These practices are often associated with higher toxic diesel PM emissions. The NOP also outlines a project that is geographically close to sensitive areas, including low-income neighborhoods, that are likely to be most affected by this decrease in air quality. As the lead permitting agency and landlord, the District is responsible for avoiding, minimizing, and mitigating additional impacts on these local communities.

A robust DEIR will produce a health risk assessment model that calculates health impacts on adjacent populations in cooperation with public health experts, state and federal agencies, and local governments. These assessments should be made using the best available science, with a baseline reflecting emissions at the time of NOP release.

**Mitigation Strategy:** To minimize impacts to air quality and public health, the District should also consider a zero-emissions strategy, as explained above, to reduce potential air pollutants. In cases where zero emissions or near zero is unachievable, the District should mandate and enforce the usage of CARB-compliant equipment with the most stringent air quality filtration systems. Additionally, the District should re-evaluate and reassess before any use change at the site that would open the Project to additional air pollutants (e.g., an industry that utilizes transport refrigeration units).

## C. Impacts on Tribal Cultural Resources

As outlined in the NOP, the Project is located on Wiyot ancestral land and will impact many Tribal Nations and people throughout its lifecycle. The immediate proximity of the proposed Project to cultural, ceremonial, and other sensitive sites requires the District to engage

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<sup>18</sup> Note: The California Air Resources Board (CARB) already requires some degree of shore side electrification at-berth. These regulations are likely to increase in the coming years.

in robust consultation with local Wiyot-affiliated Tribal Nations to guide the DEIR drafting process. This coordinated approach is especially important, given that effective mitigation strategies may be contingent upon traditional ecological knowledge associated with intellectual property rights held by Tribal Nations and their members. In this process, the District should include an honest and transparent evaluation of all culturally relevant impacts, including, but not limited to:

- **Viewsheds:** The released NOP includes conceptual plans with wet storage space for up to 12 fully assembled, standing wind turbines with an estimated height of up to 1100' per turbine. Additionally, plans suggest the operation of up to two vertical assembly cranes, each required to reach the size of a standing nacelle. The adjacency of Tuluwat Island, a significant cultural site for the Wiyot people, highlights the importance of producing visual simulation models of a port at maximum capacity.<sup>19</sup>
- **Noise:** Construction and operation noise pollution may uniquely impact culturally relevant practices.
- **Access to culturally sensitive sites:** Project construction and operation may impact tribal citizens' access to culturally significant sites.
- **Disturbance of culturally significant sites:** Project development may uncover archaeological sites or other sensitive sites. The DEIR should examine potential impacts on these sites and include methods to ensure grounds are not inadvertently disturbed.
- **Access to traditional foods:** Local Tribal Nations have utilized Humboldt Bay for food security since time immemorial. The DEIR should examine the potential impacts on access to traditional foods.
- **Current and future land management efforts:** DEIR analysis should examine whether project construction and operation may impact tribal land management or the rematriation of lands.

**Mitigation Strategy:** The District should work with impacted Tribal Nations to determine appropriate mitigations to avoid, minimize, and mitigate impacts. These measures may include multi-day work exclusions, tribal monitoring of construction proceedings, accessibility of work sites, viewshed mitigation (i.e., ensuring turbines are out of the port during certain times of the year), free, prior, informed consent (FPIC), compensatory mitigation, and more.

#### D. Impacts to Tribal Safety

Large development projects, such as the proposed Project, are often associated with increased violence to indigenous communities.<sup>20</sup> The DEIR should examine, in partnership with

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<sup>19</sup> Maximum capacity refers to wet storage with the maximum number of standing turbines held at any given point.

<sup>20</sup> Kathleen Finn, Erica Gajda, Thomas Perin, and Carla Fredericks, "Responsible Resource Development and Prevention of Sex Trafficking: Safeguarding Native Women and Children on the Fort Berthold Reservation". 40 Harv. J.L. & Gender 1: Colorado Law Scholarly Commons, 2017.

local tribal governments, these potential impacts on indigenous communities and at-risk populations.

**Mitigation Strategy:** Whether through the DEIR and/or through additional legally binding processes (e.g., community benefits agreements), the District should work with Tribal Nations to study and address the increased risk of violence in our communities. Mitigation measures could include developing a Missing, Murdered, Indigenous Peoples (MMIP) prevention plan, agreement to mandatory extensive background checks, monitoring requirements, and more.

## E. Transportation Impacts

In assessing the Project's impact on vehicle miles traveled (VMT), the EIR must make realistic assumptions about commute and truck trips and use a reasonable baseline and significance threshold. Specifically:

- Current conditions should be considered the baseline for impacts. Long-ago levels of truck traffic generated by former industrial sites in the area were never subject to CEQA review and are no longer relevant.
- The Project's location relative to the regional population centers of Eureka, Arcata, McKinleyville, and Fortuna, as well as the lack of current or reasonably foreseeable high-quality bicycle, pedestrian, or transit connections between the site and these population centers, must be considered in estimating VMT from the Project.
- The Project is located in the Humboldt Bay Area. Therefore, the threshold of significance for VMT impacts should be based on existing VMT in the Humboldt Bay Area, not the average VMT for Humboldt County as a whole. Humboldt County covers a very large area with extremely heterogeneous development patterns, making a whole-county VMT average arbitrary and meaningless as a basis for calculating the significance threshold.

When assessing transportation safety and compatibility of uses, the EIR must consider the lack of adequate dedicated facilities for bicyclists and pedestrians in the area immediately surrounding the project site and on the primary regional roads and highways serving the Project. There are a limited number of routes in and out of the site and the region, particularly for trucks. All of these routes feature areas of substantial bike and pedestrian use—e.g., in Samoa, Manila, Eureka, and Arcata—despite the lack of adequate facilities and consequently have elevated rates of collisions. Increases in truck traffic could significantly exacerbate these safety hazards due to both roadway geometry, such as the lack of dedicated bike and pedestrian facilities, and what CEQA calls "incompatible uses" because, just like farm equipment on a freeway, vulnerable road users are incompatible with heavy car and truck traffic when they are sharing a single facility. The fact that some truck traffic already uses these routes does not negate the potentially significant safety impacts of additional trips generated by the Project, particularly from a cumulative impact perspective. Higher traffic levels, particularly truck traffic, can change the safety implications of current road uses and geometry.

**Mitigation Strategy:** In collaboration with Humboldt County, Caltrans, the Humboldt Transit Authority, and the Cities of Eureka and Arcata, the District should evaluate potential road safety improvement and VMT reduction projects on- and off-site. Such opportunities include dedicated bike and pedestrian facilities, transportation demand management (TDM) programs, increased mass transit to the project site, and considerations of when and how trucks will serve the Project.

## F. Impacts on Wildlife

As noted above, Humboldt Bay is a biodiversity hotspot and home to many rare, threatened, and endangered species and common species protected from harm under State and Federal law. Many of these species are also of cultural significance to tribes. Impacts of construction and operation of the proposed Project on local wildlife and plants including, among other things, noise, lighting, disruption or loss of habitat, increased sediment, turbidity, and other water quality impacts, the potential for collision with marine mammals from increased vessel traffic, and toxicants must be fully addressed in the EIR.

There are many species and habitats that the direct, indirect, and cumulative effects of the proposed Project may impact. The species and habitats that must be considered include but are not limited to, the rare, imperiled, and common species listed in the Appendix. Data must be collected on all these affected species and habitats, including updated surveys in appropriate seasons.

**Mitigation Strategies:** Robust pre-project monitoring is necessary to understand how wildlife and plants utilize the project site and adjacent habitats, including both bay and marine habitats. Similarly, ongoing project monitoring and adaptive management will be required to know how the Project impacts species. Rodenticides should be prohibited to prevent secondary poisoning of raptors and other predators. Science-based mitigation measures are necessary when impacts cannot be avoided or minimized.

## G. Impacts on Water Quality

Humboldt Bay is on 303(d) list as impaired by PCBs, dioxins, and furans, all of which are likely to be present in soil and groundwater on sites used as former lumber and plywood mills, pulp mills, railroad facilities, and associated docks. Other legacy contaminants, including lead, asbestos, creosote, and pentachlorophenol, are likely present in existing structures on the Project site. In addition, soil and groundwater on the site are also likely contaminated with metals, petroleum hydrocarbons, Volatile Organic Compounds (VOCs), etc. A remediation plan for these legacy contaminants must be approved and carried out before the construction of new facilities can begin.

Temporary increases in turbidity from the construction as well as increased vessel traffic and other Project-related activities, have the potential to impact aquatic life in Humboldt Bay, including eelgrass and salmonids, as well as impact to intakes at the oyster hatchery, oyster seed operations, and future aquaculture facilities. Impacts to water quality from stormwater runoff during construction and post-construction also need to be considered.

Anti-fouling paints, wood treatment, and other chemicals that are likely to be used in operations and maintenance for the life of the Project have the potential to impact water quality, aquatic/estuarine habitat and organisms, aquaculture and other existing uses of Humboldt Bay, and human health, including cumulative risks.<sup>21</sup> These impacts must also be considered in the EIR.

**Mitigation Strategies:** The DEIR should include a thorough inventory of lead, asbestos, creosote, and other toxic materials in structures slated for demolition, along with procedures for avoiding, minimizing, or mitigating impacts from demolition, removal, and disposal to air quality, water quality, and human health, including onsite workers and off-site residential, recreational, and commercial areas.

All parcels within the proposed Project must be fully characterized and remediated for a wide range of contaminants prior to ground disturbance. In particular, dioxins and furans, PCBs, mercury and other metals, petroleum hydrocarbons, and other contaminants associated with all past uses of the sites, including the former Hammond Lumber Mill, the second-largest lumber mill in Humboldt County in the 1950s, the former Georgia-Pacific plywood mill, and others. Soil and groundwater on these sites have not yet been characterized, although the District recently received a \$500,000 U.S. EPA grant to begin the site assessment processes. The areas proposed for solar arrays on top of ash landfills must also be analyzed for potential impacts to groundwater and Humboldt Bay related to ground disturbance and mitigation measures developed to prevent such impacts.

Environmental screening levels for contaminants of concern must be used in all areas where stormwater may come into contact with contaminated soil (e.g., screening levels for industrial sites are not acceptable where stormwater will contact the soil or any other sensitive receptors). The Project must be designed to avoid siting "Low Impact Development" features such as detention basins and bioswales where stormwater could come in contact with contaminated soil.

The DEIR should include an accounting of anti-fouling agents, wood treatment agents, and other potential chemicals or non-naturally occurring products to be used in the operation of the terminal, the cumulative risk from multiple contaminants and sources, and a rapid response plan in the event of accidental release. The rapid response plan should outline how an accidental spill or release of hazardous chemicals (including fuel) will be contained, how the public will be notified in the event of an accidental spill or release, and how the environment and public health will be protected, given the use of the area for fishing, shellfish harvesting, and water-based recreation.

## H. Impacts from New and Ongoing Dredging

New and ongoing dredging that the Project proposes may result in impacts to eelgrass (*Zostera marina*), which is protected by state and federal No Net Loss policies; larvae and

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<sup>21</sup> Hermansson, A. Lunde et al. 2023. Cumulative Risk Assessment of Metals and PAHs from Ship Activities in Ports. Marine Pollution Bulletin 189 (2023) 114805.

plankton impacted by dredging, including protected species; remobilization of legacy contaminants; changes in sediment size and distribution; and increased erosion due to permanent removal of sediment from the Eureka Littoral Cell.

### **Mitigation Strategies:**

- Eelgrass: In addition to the usual mitigation method of transplanting eelgrass to new areas of the bay, a mitigation strategy to reduce sediment delivery to the bay might be considered to decrease turbidity in places where light penetration limits eelgrass growth.
- Larvae and plankton: Restoring tidal influence and diked former tidelands is a potential mitigation strategy to increase spawning habitat for Coho Salmon, Tidewater Goby, Longfin Smelt, and other larval fishes that may be impacted by dredging.
- Remobilization of legacy contaminants: Sediment needs to be thoroughly tested to the depth that dredging is proposed before new dredging is conducted. Spoil disposal and/or beneficial reuse in uncontaminated areas must be identified unless all the spoils are hauled to the Humboldt Open Ocean Disposal Site (HOODS).

### **I. Shoreline Erosion**

The DEIR must evaluate the potential for the Project activities to exacerbate shoreline erosion due to the increase in area, volume, and frequency of dredging, including new dredging to 60' below Mean Lower Low Water (MLLW) in the Sinking Basin, 40' below MLLW for Wet Storage Subareas, deepening to 40' below MLLW between the newly-constructed wharves and in the federal navigation channel). Year-round dredging at the Humboldt Bay Entrance can potentially increase erosion from wave energy at sensitive locations, e.g., Buhne Point, where the "Independent Spent Fuel Storage Installation" stores high-level nuclear waste. Shoreline armoring and other hardscaping during or after Project construction also has the potential to increase erosion beyond the project area. Dredge spoils disposal at HOODS permanently removes sediment from the Eureka Littoral Cell and may contribute to shoreline erosion on the Samoa Peninsula. These impacts could be further exacerbated by sea level rise over the term of the Project and should be considered in that context.

**Mitigation Strategy:** Hydrologic and sediment transport modeling should be conducted to examine the potential effects of these activities and to develop appropriate avoidance, minimization, and mitigation strategies for areas at risk from shoreline erosion. Consider spoils disposal closer to shore to retain the sediment in the Eureka Littoral Cell for redistribution and deposition via longshore transport.

### **J. Sea Level Rise, Rising Groundwater, Flooding, and Tsunami Hazards**

Much of the Project site is vulnerable to sea level rise. It will require that the Project be planned and designed to accommodate rising sea levels and groundwater throughout the

expected lifespan of the Project.<sup>22</sup> Using the best available local sea level rise scenarios<sup>23</sup> and the Ocean Protection Council's medium to high-risk aversion scenarios for high emissions at the North Spit tide gage,<sup>24</sup> the DEIR must consider operations and maintenance of any and all intended uses, including the offshore wind Heavy Lift Terminal, forest products, and break bulk cargo. Sea level rise preparation must consider all aspects of the Project, including wharves, warehouses, access roads, and areas proposed for new dredging, including wet storage areas. Scenarios incorporating potential storm surge and shoreline erosion during extreme high tides, such as those in January 2023 along the Central California coast, should be considered, along with expanding 100-year flood zones and tsunami inundation areas as sea level rises. In addition, sea level rise may impact the jetties at the Humboldt Bay Entrance within the life of the Project and predicted changes to the Entrance and navigational channels should be evaluated.

Since the area is also in a tsunami hazard area, the best available local science must also be used to analyze tsunami hazards throughout the expected life of the Project, along with the development of tsunami evacuation plans, designation of a tsunami evacuation site, and development of an emergency notification system consistent with the Humboldt Bay Area Local Coastal Plan.

## K. Seismic Hazards, including Liquefaction

The Project site is within a seismically active region and an area of potential liquefaction. The Project must be designed and built to protect people by being able to withstand significant seismic events, including soil liquefaction.

## L. Impacts to Wetlands

Wetlands on the Project site will need to be delineated, and impacts will need to be avoided, minimized, and fully mitigated, consistent with state and federal No Net Loss policies. The Habitat Restoration Subarea identified in the NOP for wetland mitigation may be more appropriate for mitigating impacts to recreation by converting it into a bayfront park since restoring wildlife habitat so close to the Project could negatively impact wildlife.

**Mitigation Strategy:** In collaboration with trustee agencies and the Wiyot-affiliated Tribal Nations, the District should evaluate alternative sites for wetland mitigation, including Tuluwat Island, Samoa Dunes & Wetlands, Mouralherwaqh (King Salmon), and others. Another potential mitigation strategy to consider is *Spartina* eradication in high-priority locations.

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<sup>22</sup> California Coastal Commission. 2021. Critical Infrastructure at Risk: Sea Level Rise Planning Guidance for California's Coastal Zone.

<sup>23</sup> Northern Hydrology Associates. 2018. Sea Level Rise Scenarios for the Humboldt Bay Area, Update 1 and Update 2.

<sup>24</sup> California Ocean Protection Council. 2018. State of California Sea-Level Rise Guidance.

## **M. Marine Invasive Species and Pathogens**

Although the State Lands Commission regulates ballast water for vessels from international waters, there is currently no regulation/enforcement of measures to protect Humboldt Bay from introducing non-native marine organisms from vessels going between Humboldt Bay and other West Coast ports. Non-native marine invertebrates, pathogens, and other introductions threaten Humboldt Bay's ecosystems and the shellfish industry, including the oyster hatchery and seed-rearing operations contingent upon a disease-free bay.<sup>25</sup>

**Mitigation Strategy:** Avoiding marine introductions is critical since eradication and/or control is rarely successful. A careful assessment of the impact of secondary introductions from initial introductions to other California locations, particularly San Francisco Bay, will provide insights for preventing such introductions in the first place.

## **N. Noise and Light Impacts to People**

Noise impacts to people, both onsite and off-site, from temporary, periodic, and/or permanent increases in ambient noise levels in the project vicinity must be considered and avoided or minimized. It is important to consider realistic distances from the Project that will be affected during various Project activities, including people living and working in Fairhaven, Samoa, Manila, Eureka, and people engaging in tribal cultural and ecosystem management activities on Tuluwat Island. Noise impacts will include construction-related noise, such as demolition, pile driving, ground vibration, operations and maintenance, onsite activities, vessel traffic, and idling.

Light impacts on people must be considered and avoided or minimized. The Project proposes to install high mast terminal lighting (approximately 150' tall) around the site's perimeter. It is essential to consider the health impact of this lighting on neighboring communities, particularly taking into account studies that have strengthened the link between exposure to outdoor nighttime light and breast cancer.<sup>26</sup>

**Mitigation Strategies:** Minimize noise impacts by limiting hours of operation for all phases of the Project, using soundproofing and electrical equipment, limiting vessel idling, etc. Retain local control of hours of operation to respond as necessary to changing conditions. Minimize light impacts by limiting hours of operation and require all exterior lights, including lights attached to the outside of any structures, to be low wattage, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the property or onto the waters or associated wetlands of Humboldt Bay.

## **O. Recreation**

Water-based recreation is central to many people's lives and the culture of the Humboldt Bay area. These activities involve many user groups and individuals, including sport fishing

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<sup>25</sup> Boyd, M.J., T. J. Mulligan, and F. J. Shaughnessy. 2002. Non-Indigenous Marine Species of Humboldt Bay, California. Report to the California Department of Fish & Game.

<sup>26</sup> Bertrand, Kimberly A., et al, 2017. Outdoor Light at Night and Breast Cancer Incidence in the Nurses' Health Study II. Environmental Health Perspectives Vol. 125 No. 8.

(both from boats and from shore), surfing, kayaking, canoeing, stand-up paddleboarding, sailing, rowing, and swimming. All of these uses take place in many different locations in Humboldt Bay, and the District will need to gather information on these uses to analyze potential impacts and develop mitigation strategies.

**Mitigation Strategy:** Due to the wide variety of recreational uses of Humboldt Bay, the Lead Agency should contact the relevant user groups, including the Humboldt Bay Rowing Association, Surfrider Humboldt, Humboldt Bay Aquatic Center, Cal Poly Humboldt's crew teams, Humboldt Bay Maritime Museum (which operates the M/V Madaket), Humboldt Area Saltwater Anglers, Humboldt Yacht Club, etc.

Potential mitigation measures to consider include a new public fishing pier on the bay side of the Samoa Peninsula, new or improved non-motorized boat launches, limited dredging on sides of the harbor entrance, and timing of Project-related activities that would be disruptive to particular recreational activities, seasonal events, etc. In addition, a notification system for all bay users, including recreational users, should be developed to ensure public safety during all project-related activities.

## P. Population and Housing

Humboldt County suffers from a dire shortage of affordable housing. Because this port project would result in a relatively rapid population growth (with an influx of workers from outside of the county), the District should evaluate the possible exacerbating effects of this Project on the housing crisis. Potential impacts include rising rents, limited housing availability, gentrification, etc.

**Mitigation Strategies:** Potential mitigation measures could address this housing crisis by creating additional housing options (with protections put in place to avoid 'man camps'), working with state and local governments to promote housing development, and more.

## Q. Utilities and Service Systems

The District should also evaluate to what extent the proposed Project would create significant stressors on the Public Utilities and Service Systems. Analysis should include:

**Energy Capacity:** The District should evaluate power capacity stressors created by a port buildup and associated developments. A much-needed change in the project description to ensure zero-emissions port development (as laid out in Section II, A) will likely exacerbate the already existing power transmissions and power procurement-related issues on the Samoa peninsula and, more generally, in Humboldt County.

### **Mitigation Strategies:**

- The transmission issue will require coordination with state agencies, including the California Independent System Operator (CAISO) and the California Public Utilities Commission (CPUC), to develop a comprehensive upgrade to power infrastructure on the

Samoa peninsula. This plan's implementation will likely need to be expedited prior to the completion of the port project to ensure the grid can sustain zero-emission technology.

- Should the supply-side power procurement constraints be identified as problematic during the early phases of the Project (when turbines are not operational), the District might consider compensatory mitigation by incentivizing additional solar installations throughout the county.<sup>27</sup>

**General Services:** The DEIR should also study the effects of port development on local hospitals, schools, wastewater treatment facilities, health services, fire departments, law enforcement, and other vital services potentially stressed by a sharp increase in workforce. While this document does not elaborate on mitigation strategies, given the complexity and nuance of these issues, we encourage the District to work with tribal, state, and local governments and other stakeholders to identify these impacts and produce quality mitigation strategies.

## R. Cumulative Impacts

A robust DEIR must also study the cumulative impacts of the proposed Project in addition to other projects located in and around Humboldt Bay. CEQA defines these cumulative effects as "a result of the combination of the Project evaluated in the EIR together with other projects causing related impacts.<sup>28</sup> The District should, therefore, assess how this Heavy Lift Terminal, in conjunction with other past, present, and reasonably foreseeable future projects (i.e., Nordic Aquafarms, maintenance dredging), might result in cumulative impacts on Humboldt Bay and its surrounding environment and community.

## S. Environmental Justice

Direct and indirect burdens to environmental justice communities must be considered, such as pollution, displacement, and public health and safety. Identifying and engaging environmental justice communities throughout the planning process allows stakeholders to inform permitting decisions that may impact their neighborhoods. Meaningful engagement includes early and consistent communication with, and involvement of, communities of concern during all phases of planning and permitting, ensuring project information accounts for language barriers and is disseminated in an understandable format, and maximizing public participation by providing multiple opportunities and formats for the public to provide input on a project.

**Mitigation Strategy:** Project modifications that avoid or minimize harm to environmental justice communities should be developed in collaboration with affected groups. Additionally, the District should go beyond traditional CEQA mitigation strategies and create a robust community benefits package that ensures this project benefits all.

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<sup>27</sup> These constraints will likely be a result of both the need for additional housing (to house workers), and a much needed zero-emissions commitment.

<sup>28</sup> See, e.g., CEQA Guidelines §15355.

#### **IV. Project Alternative: Reduced Project Footprint and/or Different Site**

The District should also look at other potential project sites in Humboldt Bay and Northern California and/or Southern Oregon for completion of all or parts of the proposal. Other coastal-dependent industrial lands around Humboldt Bay could potentially be redeveloped to support all or parts of the Project with fewer negative impacts. Similarly, while other ports may not be able to undertake the final stage of constructing turbines and staging and assembling due to height constraints, they may be able to provide most, if not all, components of the Project. Working with neighboring ports may help reduce certain impacts associated with this Project.

Thank you for the opportunity to provide these scoping comments on this once-in-a-lifetime project. Feel free to reach out for any additional clarifications regarding our concerns—we look forward to reviewing a robust Draft EIR for the Project.

With respect and appreciation,

Jennifer Kalt, Executive Director  
Humboldt Baykeeper  
[jkalt@humboldtbaykeeper.org](mailto:jkalt@humboldtbaykeeper.org)

Caroline Griffith, Executive Director  
Northcoast Environmental Center  
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Colin Fiske, Executive Director  
Coalition for Responsible Transportation Priorities  
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Tom Wheeler, Executive Director  
Environmental Protection Information Center  
[tom@wildcalifornia.org](mailto:tom@wildcalifornia.org)

## **APPENDIX**

The species and habitats that must be considered include, but are not limited to the rare, imperiled, and common species listed here:

### **Marine Animals:**

- Harbor seal: *Phoca vitulina*
- Humpback whale: *Megaptera novaeangliae*
- Grey whale: *Eschrichtius robustus*
- Blue whale: *Balaenoptera musculus*
- Killer whale: *Orcinus orca*
- Leatherback sea turtle: *Dermochelys coriacea*
- California sea lion: *Zalophus californianus*
- Steller sea lion: *Eumetopias jubatus*

### **Pelagic Birds and Other Migratory and Resident Birds:**

- Great egret: *Ardea alba*
- Great blue heron: *Ardea herodias*
- California Ridgway's rail: *Rallus obsoletus*
- Western snowy plover: *Charadrius nivosus*
- Marbled murrelet: *Brachyramphus marmoratus*
- Black-footed Albatross: *Phoebastria nigripes*
- Sooty shearwater: *Ardenna grisea*
- Brandt's Cormorant: *Phalacrocorax penicillatus*
- Double-crested cormorant: *Nannopterum auritus*
- Black brant: *Branta bernicla*

### **Bats:**

- Townsend's big-eared bat: *Corynorhinus townsendii*

### **Fish:**

- Green sturgeon (southern DPS): *Acipenser medirostris*
- Coho salmon (southern Oregon / northern California ESU): *Oncorhynchus kisutch*
- Steelhead (northern California DPS summer-run): *Oncorhynchus mykiss*
- Steelhead (northern California DPS winter-run): *Oncorhynchus mykiss*
- Tidewater goby: *Eucyclogobius newberryi*
- Coastal cutthroat trout: *Oncorhynchus clarkii*
- Longfin smelt: *Spirinchus thaleichthys*
- Pacific lamprey: *Entosphenus tridentatus*

**Amphibians and Herpetofauna:**

- Leatherback sea turtle: *Dermochelys coriacea*
- Northern red-legged frog: *Rana aurora*
- Pacific-tailed frog: *Ascaphus truei*
- Southern torrent salamander: *Rhyacotriton variegatus*
- Foothill yellow-legged frog (North Coast DPS): *Rana boylii*

**Plants:**

- Eelgrass: *Zostera spp.*
- Dark-eyed gilia: *Gilia obscura*
- Humboldt Bay owl's clover: *Castilleja ambigua*
- Point Reyes bird's-beak: *Cordylanthus maritimus*
- Beach layia: *Layia carnosa*

**California Natural Communities:**

- Eelgrass beds: *Zostera marina*
- Northern Coastal salt marsh: *Salicornia virginica*
- Coastal terrace prairie
- Northern foredune coastal grassland

**From:** Cheryl Nicholls [REDACTED]  
**Sent:** Tuesday, August 1, 2023 9:06 PM  
**To:** District Planner  
**Subject:** Windmill project

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

If you have been following other wind projects in other parts of our ocean, they are finding how badly they are impacting marine life, especially our whales and other mammals that communicate by sound. These windmills also kill many birds. I toured the windmill project in Palm Desert where there are many and because they have no storage and the amount of electricity they produce, it is really not worth it. They are big and ugly and at end of life they bury them. They leak oil and other fluids and will pollute our ocean. They will do more harm than good. We need to think before rushing into something that isn't working other places and before it ruins the beauty, nature and our ocean. I am sure we can come up with something better.

Thanks for listening

Sent from my iPhone

## District Planner

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**From:** Jack Nounnan <[REDACTED]>  
**Sent:** Thursday, July 20, 2023 12:56 PM  
**To:** District Planner  
**Subject:** Wind turbines..

### Wind Turbines At Sea.....

*What is not being widely outreached to the community is the incredible downside of any such 'audacity' of planned domination...all this essentially somehow as if being devined as a new green energy phase...environmental groups, essentially encouraging as if somehow this is meant somehow,to fit in.*

*From the very beginning,first off. it ought be known, shared widely the incredible impact all this will have on species life...then the incredible angst of such an enormous rendering, as if we don't have a worthy life here... must always have more! And of course,altogether, as if forgetting the constant ongoing attritions of our white ways,the amazing life we overruled in arriving some 170+ years ago...to replace what the Wiyot Tribe lived and called a very fine way of life. Does it ever matter to know of such truth?*

### **"To Live....Not Harm Life....You hear?"**

*The very 'first' of any initial plans to let loose on our world!  
Don't bother us with your sales pitches unless it means...  
never to kill, only to help preserve life?*

**"Are we clear?"**

The typical lifespan of a 'Wind Turbine' is only, mind you, 20 years,  
Then it's 'rebuild time' at astronomical costs...20 years hence!  
This does not include the huge cost of breakdown and safe storage.  
Then the ever rising costs of rebuilding every 20 years or less.

We face obsolescence, in a situation calling for long term use,  
in regard to this climate crisis, say, 100 years at a minimum.  
We must include the serious possibility of how these turbines face  
a far more stormy Pacific, possibly not able to even last that long,  
including the huge costs of maintenance.  
It begs the question of why such a proposal has even been brought up.

*This is a project, which certainly faces  
the possibility of an incoming Tsunami,  
which would utterly destroy it all, like pushing over matchsticks with its tonnage of water.*

Why do we find ourselves falling prey to such ideas when we could be busy  
seeing Humboldt cities encourage stable solar on all roofs,  
made possible with good financial plans?  
A most minimal impact upon all surroundings.....  
See that Humboldt's Climate Planning is not just setting goals,  
but providing ongoing determined implementations.

Respectfully submitted...  
jack nounnan

## HEAVY LIFT TERMINAL NOP COMMENT LETTER

August 17, 2023

To: Rob Holmlund

Humboldt Bay Harbor Recreation and Conservation District

Re: Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project, Notice of preparation of draft Environmental impact report.

From: David Noyes

Nordic Aquafarms California

Mr. Holmlund,

Thank you for providing additional time for public comments. Nordic Aquafarms California is supportive of the transition to renewable energy and recognizes the importance of developing support facilities such as the proposed Heavy Lift Terminal to build out offshore wind.

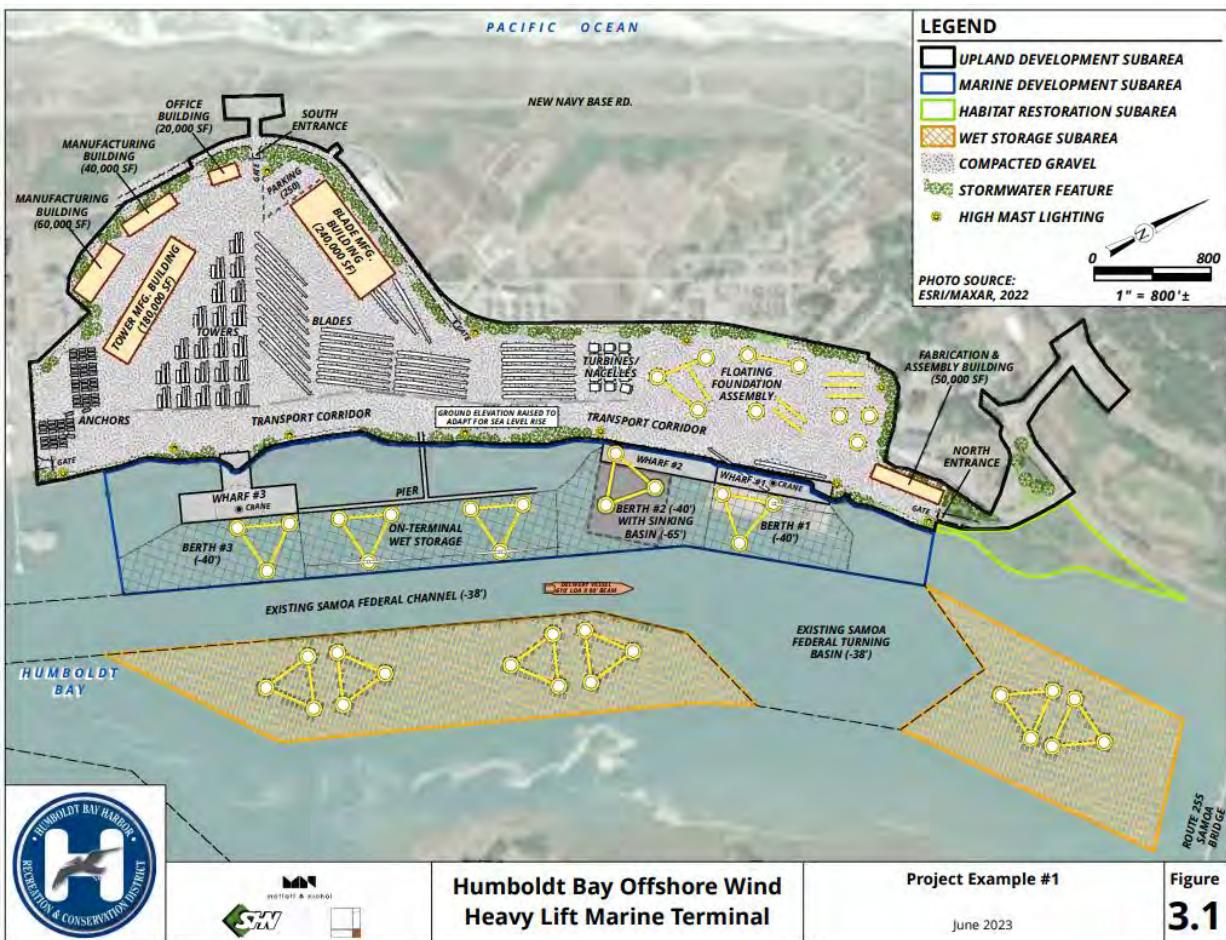
As the EIR is prepared, we would like to ensure several areas are properly analyzed as an abutter to the project. Nordic Aquafarms will be operating a commercial land-based fish farm adjacent to the heavy lift terminal and any impacts resulting from this project have the potential to significantly interrupt or harm our business. Any impacts significant enough to impact our fish would certainly impact marine life in Humboldt Bay. As a fish farm we are reliant upon the marine water we will source from Humboldt Bay to produce our fish. Nordic Aquafarms California will utilize two existing sea chests in Humboldt Bay for sea water. The Redwood Marine Terminal Two (RMT2) sea chest and the Red Tank Dock (RTD) sea chest. The RMT2 sea chest is immediately adjacent to the proposed Heavy Lift Terminal and the RTD sea chest is within the proposed Project. See figure 3.1 below from Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project, NOTICE OF PREPARATION OF DRAFT ENVIRONMENTAL IMPACT REPORT.

We request that complete and open monitoring and reporting of the water quality be conducted prior to the beginning of construction beginning no later than 2024 to establish baseline conditions and that this monitoring continue to be conducted during construction and through operation. The large amount of marine construction work proposed, the size and number of the vessels proposed, dredging, onsite fueling of equipment, painting, welding and other activities all have the potential to negatively impact the water quality of Humboldt Bay. Furthermore, we request this information be made readily available for the public via regular publishing of this information through participation of an established program readily accessible to the public such as the Central and Northern California Ocean Observing System (CeNCOOS).

We request monitoring of Turbidity, Biochemical Oxygen Demand, Dissolved Oxygen, Total Algae, and Salinity be included in this monitoring effort at a minimum. The deployment of multi-parameter Sondes can capture this information continuously at regular intervals. We also request baseline sampling for Oil, Grease, and Total Petroleum Hydrocarbons from the waters around the RTD sea chest be conducted weekly. We request that tidal and weather conditions be recorded for each sampling event.



## HEAVY LIFT TERMINAL NOP COMMENT LETTER



Nordic Aquafarms California also has concerns about the potential for noise and vibration to impact both our fish on our facility as well as marine life in Humboldt Bay. We request that construction techniques be evaluated for both their effectiveness as well as their potential to harass marine life through excessive noise and vibration.

As discussed previously Nordic Aquafarms California will be operating a fish farm adjacent to this site and we have concerns about the potential for the construction and operation of the proposed heavy lift terminal to negatively impact our operations by negatively impacting the quality of the water in Humboldt Bay. We request that a robust incident reporting method be enacted that does not simply require the notation of an incident but the immediate and clear communication with the public, users of Humboldt Bay and interested parties immediately and no later than 8 hours of an incident that has the potential to impact the waters of Humboldt Bay.

The proposed site for the heavy lift terminal currently has a bonded warehouse that has been identified as one of four sites comprising Foreign Trade Zone No. 248 (FTZ). We request the EIR analyze the impacts of establishing a new FTZ and bonded warehouse to replace the one that will be demolished to make room for the proposed heavy lift terminal, and that the Humboldt Bay Recreation and Conservation District begin the process of identifying this new FTZ site and usher it through the required process.

Respectfully

## HEAVY LIFT TERMINAL NOP COMMENT LETTER

David Noyes

Senior Vice President of US Strategic Projects and Technology



**From:** Esther Obikoya [REDACTED]  
**Sent:** Friday, August 25, 2023 2:53 PM  
**To:** District Planner  
**Subject:** Public Comment for Humboldt Bay Offshore Wind Project

Dear District,

I am emailing to give my views on the environmental impacts of the project. Given the project's stated goals and scope and noting that BOEM is in charge of the Wind farm and the Humboldt Bay District is solely responsible for building the factory, it becomes evident that a range of environmental impacts necessitates consideration. Even if a wind farm isn't built, the Harbor district project still necessitates the relocation of tenants, the demolition and construction of the Upland Development Subarea and the Marine Development Subarea, the production of turbine components, and the staging, fabrication, assembly, and towing of WTDs from site.

In my opinion, the ensuing environmental impacts tied to this project encompass the following aspects:

**Aesthetics:** The project's scope entails demolishing existing structures and constructing spaces for manufacturing, repairs, offices, restrooms, and storage that align with the factory's industrial activities. Consequently, the visual landscape of the area will undergo alterations, potentially impacting the scenic vistas that currently exist.

**Air Quality and Noise:** The cumulative effects of construction activities, ongoing factory operations, and the heightened maritime traffic could lead to potential degradation in air quality and contribute to noise pollution within the vicinity.

**Water Quality and Sea Level Rise:** The processes of dredging, construction, and potential runoff have the capacity to result in sedimentation and pollution, thus influencing the quality of water and marine ecosystems. Additionally, the concern of sea level rise comes into play.

**Population/Housing/Community Disruption:** Relocating existing tenants and interrupting present site uses may have social and economic consequences for the surrounding community. People working in the facility may need to live in close quarters, exacerbating Humboldt's existing housing issue. Moreover, this development might enhance Humboldt's appeal as a tourist destination, consequently contributing to an escalated cost of living for both residents and students.

**Transportation:** The anticipated increase in maritime activities and transportation linked to the project might place strain on the local infrastructure. Furthermore, the projected influx of tourists could also lead to heightened road traffic, given that not all visitors can access the site via water transport.

**Habitat Disruption and Restoration:** The establishment of wet storage sites through dredging raises the potential for disruption to aquatic habitats. Adequate measures for restoration and protection are necessary.

**Cultural Resources:** With demolition and construction forming part of the project, there exists the risk of impacting structures and cultural resources present on the site. Therefore, the relocation of existing shellfish and seaweed farms, the commercial fishermen storage area, and the small boat repair facility requires careful consideration.

Considering the energy aspect, it's pertinent to address whether there is sufficient capacity to accommodate a surge in energy demands due to factory operations. It's worth inquiring whether the factory has plans to establish its own power source to meet its energy requirements effectively.

While recognizing the project's significance and the appropriateness of Humboldt Bay for its realization, effective implementation of mitigation measures becomes crucial to alleviate or potentially eliminate environmental impacts and associated risks. It is essential to take into account the perspectives of the public, as their opinions play a vital role in shaping the course of the project.

Kind regards,

Esther Obikoya

Energy Technology and Policy Graduate Student/ Cal Poly Humboldt

Rob Holmlund  
Director of Development  
Humboldt Bay Harbor, Recreation and Conservation District  
P.O. Box 1030  
Eureka, California 95502-1030  
[districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)

Re: Notice of Preparation of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

24 August 2023

TES species accommodation:

Nesting Ospreys on tall structures near Humboldt Bay within the footprint of the Heavy Lift Terminal.

I support the HLT as part of the necessary infrastructure needed to help build the offshore wind farm to help control global climate change.

As raptors, ospreys are protected by the International Migratory Bird Act. This year in view of Samoa Cookhouse there are at least six nesting structures built by ospreys. One nest near the north side of Redwood Terminal No. 1 fledged two young ospreys on August 9, 223. Beside the four birds involved, including both parents, about the same time I noted several other fledged juvenile ospreys within the area of Redwood Terminal No. 1 and the Schneider Terminal.

One thing osprey nests have in common is that they are built on the tallest structure near the water.

At the King Salmon PG&E plant an osprey nest platform was built by PG&E several years ago it is not occupied. Instead, the ospreys built a nest on the top of the tower closer to the bay (a body of water) holding the tsunami sirens.

City of Eureka as a mitigation measure built an osprey nest platform in the created marsh south of Freshwater Slough and between Blue Ox Mill Works and Target. It has never been used. It has a couple of serious flaws. It is too short, it is not protected against access by rats, raccoons, opossums or other potential predatory mammals such as cats.

As a wildlife biologist I have observed many osprey nests in North America from Columbia River as it flows into Canada to the salt loading cranes near Guerrero Negro in Baja, Mexico.

U.S. Coast Guard has in the past removed active osprey nests on channel alert sirens near the base of North Jetty the high dunes. Within a few days, ospreys are replacing the nesting materials there.

For Crowley Marine to be in compliance with the law, they either need to keep the tall towers which osprey now choose on which to build their nests or provide similar undisturbed tall structures.

See Elizabeth Meisman's (a Eureka resident and HSU student) poster

[https://digitalcommons.humboldt.edu/wildlife\\_posters/6/](https://digitalcommons.humboldt.edu/wildlife_posters/6/)

Checking my eBird species lists using locations hotspot of Vance Avenue, and Tuluwat Island and a personal location of Cookhouse Road, between 6 April 2019 and 12 August 2023 I have 25 random observations of 61 osprey within the vicinity of the HLT. I have not yet tallied all my observations in this vicinity.

When the area between Humboldt Bay and the Pacific Ocean west of Samoa was sand dunes, the drifting sands and light vegetation was likely a nesting location for Western Snowy Plover. Because of human disturbance and habitation, people walking unleashed dogs, housecats not confined indoors snowy plovers are almost unobserved recently on Samoa Peninsula. Remnants of native vegetation still occur in small areas- beach layia, Humboldt Bay owl's clover, and Pt. Reyes bird's beak are TES species that need to be looked for and preserved where they occur within the footprint of the HLT. Non-native Pampas grass, European beach grass, and yellow lupine should be removed within the terminal area and native species should be encouraged.

I look forward to looking at Shane Phillips' hydrology and bathymetry studies.

Chet Ogan  
Wildlife biologist, retired  
Redwood Sciences Laboratory, Arcata, CA  
Redwood Region Audubon





**Mr. Rob Holmlund,**  
[districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)  
**Humboldt Bay Harbor,**  
**Recreation and Conservation**  
**District P.O. Box 1030**  
**Eureka, California 95502**  
**707-443-0801**

**Re. Notice of Preparation of a Draft Environmental Impact Report (DEIR) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (SCH No. 2023060752)**

Dear Mr. Holmlund:

The West Coast Pelagic Conservation Group (WCP) submits the following comments regarding the question whether Floating Offshore Wind Energy (FOSW) will be a reliable and affordable energy source in general, and the plans for investment in a Humboldt Bay construction and renovation project to foster and support FOSW.

WCP is composed of commercial fishermen and processors. WCP's present focus is on a coastwide cooperative research project with the Southwest Fisheries Science Center (SWFSC). Our members, however, harvest, process, and market all major species of seafood on the west coast and Alaska. Our processors service over one thousand fishermen and our fishermen and processors employ over 4000 people. Our members have the five largest fish processing plants from San Francisco to the Canadian Border and sell and distribute fresh and frozen seafood from every major west coast fishery across the U.S. and worldwide. Several of our processors and the fishermen that support those processors operate out of Eureka, Crescent City, and other California ports.

As our organization has stated in numerous written and verbal public comments, we are apprehensive about the disordered and inconsistent path the Bureau of Ocean Energy Management (BOEM,) and the Administration have embarked to achieve FOSW and fixed pile Offshore Wind (OSW) in our U.S. Economic Exclusion Zones (EEZs). This is fomented on an "any cost" basis to existing fisheries, coastal communities, and to our national food security. Our industry catches, processes, and markets "Made in USA" seafood products throughout the U.S. and across the globe. In addition, though we have heard many times from BOEM about the importance of U.S. fisheries, BOEM's actual practice continues to be one of diminishment and attenuation of U.S. Fisheries. This at the same time our government pumps out hundreds of billions of dollars in subsidies to a host of OSW Limited Liability Corporations (LLCs) owned primarily by foreign multinational corporations, and concurrent to sharp rises in world hunger and malnutrition.

**For the consideration of plans to use Humboldt Bay (Bay) as a manufacturing, assembly, and staging hub for FOSW we have several concerns and questions.**

1. As we have researched, the Bay is a very productive ecological area that supports struggling salmon runs, that in turn offer support for endangered Orca pods, eel grass production that soaks up its share of carbon emissions, and is protective cover for early life stage fish and crab, oyster beds, and additionally is an important nursery area for forage fish which underwrite food for endangered seabirds, salmon, and whales. We cannot understand how the critical ecology of this area is not considered to be a habitat that will be severely impacted by the scope of planned industrialization and activities. Contrary to former afforded protection for the Bay it is now suddenly worth the environmental sacrifice of its ecological role so an untested technology may be promulgated to occupy some of the roughest seas in the world.
2. We have paid close attention to the stated goals of Puget Sound ports to become a multiport hub that Puget Sound Port commissioners stated could support the entire FOSW industry on the West Coast and Alaska. (If Alaska so chose to take the FOSW route). In addition, the Port of Long Beach (LA) has 400 acres they have said they plan to develop to support FOSW, which they claim can support most or all of the California projects and possibly some of Oregon's FOSW, if it continues to develop. As much of the money to fund these projects would come from the West States and Federal governments (I.e., Taxpayers) we wonder if there is a multi-state regional plan to coordinate these efforts to manufacture, assemble, stage, and transport the wind turbines, anchors, cables to sea? In speaking with Puget Sound Port officials, we found none that knew anything of such a regional plan or knew of the California plans for FOSW hubs. This was several months ago.

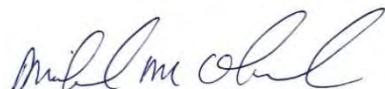
**General information and recent news about FOSW and fixed bottom Offshore Wind (OSW).** The following is a short list of "issues", and/or conflicts drawing increasing media attention to both FOSW and OSW. (Most are East Coast OSW related but WCP believes these to be relative to West Coast FOSW as well).

1. Per the developers, inflationary OSW related capital expenditure costs will be/are much higher than originally budgeted and former project bids are not adequate to cover the cost escalation.
2. Necessary OSW equipment and raw materials are in short supply and competition to secure equipment and raw materials is aggressive, thus likely to further inflate costs.
3. Project completion schedules and targeted OSW output goal (I.e., 30 by 30) dates will likely be extended for many projects.
4. Contracts with many developers are being renegotiated for higher rates, or the developers are threatening to pull out: Would mean increased subsidies and additional ratepayer remuneration to cover inflation, delays, higher financing costs etc. (One developer stated they needed a 6-8% minimum profit margin to go forward)
5. A record number of east coast dead whales are washing up on the beaches while developers conduct surveys. Reportedly even the President is now giving some attention to this issue.
6. Electricity grid construction costs are estimated to have gone up substantially for labor and raw materials (I.e., American steel) What information there is indicates costs to be much higher than originally foreseen and this inflationary dynamic does not appear to be over, at least in Oregon.

7. **Summary:** While WCP is not recommending Humboldt Bay developers forgo their plans to go forward we think the above information should give pause for concern to investors and residents. The two large “WHOOPs” nuclear cooling towers in Washington are evidence that these mammoth projects can fail to launch or reach their targeted goals. The wipe out of Columbia River salmon that occurred with the dams is an example of what can happen when there is a wholesale alteration of ecological function and habitat. Humboldt Bay impacts may indeed erase a pristine ecosystem, but impacts to the ecological system of the California Current Ecosystem instituted by FOSW development could be a much greater catastrophic transformation than the Columbia River loss of salmon.

Thank you for the opportunity to comment.

Sincerely,



Mike Okoniewski

[REDACTED]  
[REDACTED]  
Secretary West Coast Pelagic Conservation Group

C.c. Greg Shaughnessy

[REDACTED]  
Vice President West Coast Pelagic Conservation Group

**From:** Peggy O'Leary [REDACTED]  
**Sent:** Sunday, July 16, 2023 11:55 AM  
**To:** District Planner  
**Subject:** wind turbine project

I am writing to express my concern about the proposed off-shore wind and turbine construction project . As a resident of the Samoa peninsula this project will directly affect my quality of life . Loss of air quality, noise and light pollution, increased traffic and the unknown effects of dredging will all have detrimental effects on all living beings on land, in the bay and ocean. Humboldt County has a long history of outside interests coming in and indiscriminately destroying natural resources for the benefit of a few unscrupulous millionaires, Here we go again. We should not have to compromise the health of the bay nor the residents of the peninsula and Eureka to pursue an untested source of renewable energy. The construction of a huge turbine-building facility should not be allowed to happen in Humboldt Bay. Please stop the greed and listen to the earth. The pursuit of renewable energy should not destroy the environment.

Sincerely,

Peggy O'Leary  
Manila, CA.

## District Planner

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**From:** Scott Osborn [REDACTED]  
**Sent:** Friday, August 25, 2023 5:06 PM  
**To:** District Planner  
**Subject:** Comments for the Notice of Preparation DEIR for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (SCH No. 2023060752)

Hello Harbor District Commission,

We appreciate you taking our comments regarding possible impacts of the heavy lift terminal build out project in Samoa. We are grateful to have our voices heard in this comment period for the CEQA process.

Our family has lived in Manila for 18 years and we are lucky to be able to enjoy Humboldt Bay for its myriad recreational and aesthetic qualities. Mostly, our connection with the Bay is a daily one. We walk/hike with our dogs on the shores of the Bay and the beaches, we bird, we kayak, and we appreciate it for its absolutely fantastic views from all aspects!

We support zero greenhouse gas emission projects. We have solar panels on our home and very recently purchased an all electric vehicle. We do support this wind energy project. We do hope that a zero emissions port will be the goal in the development of this port project.

We do, however, have concerns about how this project will be implemented, and what the impacts to our community might be. For instance, we request that the Community Benefits Agreement will include a push for funding traffic calming measures on the Peninsula, so that our community will not be even more severely divided by increased traffic on Highway 255. In this regard, the community is already working with CalTrans toward these measures and it would be extremely beneficial to have the agreement include funding for projects designed to improve connecting the east side of Manila with the west side.

One such project is the Great Redwood Trail. We are working, along with many others in our community, to help bring Trail to the Peninsula. This wind terminal project could contribute to the Trail's implementation to offset traffic and pedestrian impacts – the Trails would help improve the walkability and bike-ability (multi-modal transportation) all around the Bay!

For the CEQA analysis, it is important to consider the current traffic level as the baseline (pre-project) condition. We have heard comments that the highway traffic will be “no worse” than during the heyday of the mill operations on the Peninsula a few decades ago – this does not seem an appropriate way to analyze the new project’s impacts.

Additionally, we would like to see improved multi-modal trails developed and enhanced to decrease the need for driving on the Peninsula, as well as driving between the Peninsula and Arcata and Eureka.

We would like to see the project and its community benefits agreement: develop a marine terminal site with modern environmental standards related to minimization of greenhouse gas emissions, onsite renewable energy generation, green building materials, the electrification of terminal operations, and the facilities needed to accommodate vessel shore power. Also, it is important to ensure the project prepares the site for sea level rise. It would best to develop a modern eco-friendly shoreline transition between the marine environment and the upland development. And the project must address and manage residual soil contamination if encountered at the site."

Finally, the project has the potential to add to the problems associated with artificial light at night. The increase in artificial light at night at the new terminal will impact local residents as well as nocturnal wildlife species. Mitigation and minimization measures to reduce impacts are easy to implement and relatively inexpensive. They should include:

- Only illuminate areas needing light, where people work or walk
- Smart lighting design – illuminate areas only when people are present and automatically turn off when vacant
- Directed lighting – direct illumination down to the area where work is occurring, shade the lights in other directions
- Use lamps with long wavelengths (oranges to reds) that are not as visible or disruptive to many wildlife species as light in the yellow-to-blue (or white light) spectrums

With our best regards,

Carla and Scott Osborn and the Osborn Family

**From:** Susan .Penn [REDACTED]  
**Sent:** Friday, August 25, 2023 11:06 AM  
**To:** District Planner  
**Subject:** Wind Terminal NOP comments

Many good questions were raised during the public session held at the Wharfinger. Here are a few more questions / concerns.

1. If the terminal is built on the Samoa peninsula, bridge traffic will be much heavier. Even now, the bridges provide little in the way of safe passage for bicyclists and pedestrians. With increased traffic, the potential for accidents will increase. Providing safe passage over the bridges for bicyclists and pedestrians should be part of the Community Benefits.
2. Has the impact of the high intensity lighting that is intended to be used at the site been addressed/considered? There is housing nearby, with more to come. There is a large rookery on Tuluwat Island, in close proximity to the site.
3. Have other sites been seriously considered? Is this the best location? Fields Landing is closer to Hwy 101, and the mouth of the bay. Siting the terminal there would reduce its impacts on the commercial fishing fleet.
4. The visual impacts of the wind mills once they are located in the ocean will be small, but the visual impacts of them while they are in the bay have basically been ignored. There is the possibility of staging 3 1000 foot windmills just east of the channel, very close to Tuluwat Island. The Harbor District has provided illustrations of the size of these relative to the Golden Gate Bridge, and relative to tiny people on the ground. I have not seen anything illustrating what the visual would be from Eureka, or Samoa, of these floating in the bay. And with them being that tall, will they need to have lights on them? And what impact will that light have on surrounding communities, including human, avian, and aquatic?

Thank you for your attention to these matters.

Susan Penn  
Eureka resident

**From:** Charlie Pereda [REDACTED]  
**Sent:** Friday, August 25, 2023 3:55 PM  
**To:** District Planner  
**Subject:** Climate Change Project Proposal Concerns

Hi, My name is Charlie Pereda

- I'm a student at Cal Poly Humboldt
- Live in Humboldt Bay for 5 years
- a senior in Environmental Resource engineering student
  - Focus on renewable energy

My Concerns

- Pollution that will be produced in the
  - Manufacturing of the equipment
  - Transportation
  - Humboldt area has some of the best air quality and the project will introduce a lot of CO<sub>2</sub>
    - Carbon offsetting in the area
- Hydroology effects and potential for flooding
  - The added objects placed in the water are extremely large. Once such, the windmills will displace the water level drastically, causing the sea level to rise even sooner.
  - What about when a 100-year storm occurs? How will the residents of the neighboring area be affected?
- Geological
  - Changing the ground floor and water bay could cause slippage and landslides
- Local Hire
  - giving priority and requirement of a 75% local hire
  - If it's proposed to help the Humboldt economy, then it should be required to hire primary people who live or go to school at Cal Poly Humboldt and CR and have a streamlined system



Sender notified by  
[Mailtrack](#)



**From:** Piscitelli, Amanda@Waterboards [REDACTED]  
**Sent:** Thursday, August 24, 2023 3:52 PM  
**To:** Rob Holmlund; District Planner  
**Cc:** [REDACTED]  
**Subject:** RE: Extension of comment period: CEQA NOP - Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Mr. Holmlund,

Thank you for the opportunity to comment on the Notice of Preparation for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

The proposed project has potentially significant impacts to beneficial uses of Humboldt Bay, particularly to commercial and sport fishing as well as marine habitat. Water quality analysis should address all potential impacts to beneficial uses of Humboldt Bay. Existing and potential beneficial uses of Humboldt Bay include: Agricultural Supply (AGR), Aquaculture (AQUA), Cold Freshwater Habitat (COLD), Commercial and Sport Fishing (COMM), Estuarine Habitat (EST), Industrial Service Supply (IND), Marine Habitat (MAR), Migration of Aquatic Organisms (MIGR), Navigation (NAV), Rare, Threatened, or Endangered Species (RARE), Water Contact Recreation (REC-1), Non-Contact Water Recreation (REC-2), Shellfish Harvesting (SHELL), Spawning, Reproduction, and/or Early Development (SPWN), and Wildlife Habitat (WILD).

Alternatives analysis, as outlined in the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State, likely will be needed for water quality certification. Project alternatives should be explored to ensure the least environmentally damaging practicable alternative (LEDPA) is proposed. The alternatives analysis must establish that the proposed project alternative is the LEDPA in light of all potential direct, secondary (indirect), and cumulative impacts on the physical, chemical, and biological elements of the aquatic ecosystem.

A Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) will be required for all activities that may directly or indirectly impact waters of the state. The rules and regulations apply to all waters of the state, including isolated wetlands and stream channels that may be dry during much of the year, have been modified in the past, look like a depression or drainage ditch, have no riparian corridor, or are on private land. Additionally, the project will likely require enrollment under the Construction General Permit and Industrial General Permit.

Thanks,  
Amanda

Amanda Piscitelli  
Environmental Scientist  
North Coast Regional Water Quality Control Board  
[REDACTED]



August 25, 2023

Rob Holmlund  
Director of Development  
Humboldt Bay Harbor, recreation  
And Conservation District  
PO Box 1030  
Eureka CA 95502-1030

**Via Email To:** [districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)

**Re: Notice of Preparation of a Draft EIR for the Humboldt Bay Offshore Wind Heavy Lift Multi-Purpose Marine Terminal Project**

Sunken Seaweed was founded in 2017 by my partner Leslie Booher and myself, who, while doing intertidal field work along California's North coast, saw first-hand the near total collapse of an entire kelp forest ecosystem. From that experience we decided to forge a career out of restoring ocean ecosystems through farming the world's most sustainable crop; seaweed.

Seaweed farming requires no arable land, no pesticides, herbicides, and no fresh water. It is estimated that every 4 pounds of seaweed grown, 1 pound of CO<sub>2</sub> is sequestered, making it the most climate-friendly form of farming to date. The more seaweed grown, the more we can reduce our carbon footprint and provide nutritional, regenerative foods. In addition to the many planetary benefits to seaweed farming, this crop can also offer incredible human health boosts, as it is an incredible source of protein, vitamins, minerals, and bioavailable compounds. Seaweed farming is an emerging industry in the United States and few regions in the have seized the opportunity to be a player in this market but those who have (e.g. New England, Alaska) have seen major economic benefits. Seaweed aquaculture is now considered one of the fastest growing marine industries in the Northeastern US.

For the past 5 years we have operated in San Diego, with little opportunity to scale operations due to poor water quality and the high cost of upland infrastructure. At the start of 2023 we officially moved operations to the Samoa peninsula in Humboldt County where scalability is achievable. This is our pilot year, and we sublease upland space from Hog Island Oyster Co. and share a seawater intake. Over this past summer we have grown thousands of pounds of fresh Pacific Dulse as well as Pacific Ogo, Sea Lettuce and Nori.

Our entire business is dependent on clean and healthy bodies of seawater, and while we welcome the opportunity of cleaner energy systems such as offshore wind, we do have some concerns about the proposed Offshore Wind Heavy Lift Multi-Purpose Marine Terminal Project.

Please consider our recommendations for specific issues and actions below as you conduct the draft Environmental Impact Report (DEIR):

**The DEIR needs to consider the wholistic evaluation of short-term and long-term impacts to emerging aquaculture industries such as Seaweed farming as well as other aquaculture stakeholders, including:**

- **Short-term and long-term impacts on water quality, including sediment disturbance, turbidity, legacy pollutants such as dioxins, and possible industry associated pollutants from the proposed project.** This evaluation should include direct impacts to the upland and in Bay seaweed farming operations in the area.
- **Biosecurity implications of dredging and increased vessel traffic.** The potential for and impacts from introduction of invasive algal species, viruses, and bacteria as a result of increased vessel traffic and potential release of ballast water.
- **More information on seaweed farming lease relocations.** As farm managers for the Greenwave farm lease and potential candidates for a Sunken Seaweed lease we would like a better understanding of where relocation will take place and the permitting steps necessary to achieve new lease sites.
- **Disruptions to business operations.** Identify and evaluate the potential impact from area closures, potential disruptions to the power grid, etc. for the construction phase as well as long-term operations.

We appreciate your consideration for our comments and concerns and look forward to more dialogue on the proposed wind terminal project. Please contact me if you have any questions regarding these comments, or if you would like to schedule a meeting.

Sincerely,



Torre Polizzi  
Co-Founder at Sunken Seaweed LLC.  
[Redacted]

**From:** leslie quinn [REDACTED]  
**Sent:** Tuesday, July 25, 2023 3:55 PM  
**To:** District Planner  
**Subject:** wind farm

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

please make this a Green Port. thank you. sincerely, leslie quinn

**From:** Jake B Reeser [REDACTED]  
**Sent:** Friday, August 25, 2023 4:01 PM  
**To:** District Planner  
**Subject:** Humboldt Bay Off Shore Wind Public Comment

Hello,

My name is Jake Reeser and I am a resident of Arcata. I am concerned about the noise and light pollution, and the population growth of Humboldt County.

I believe the noise will impact both humans and marine animals. The production of the wind turbines and the operation of the cranes will be very loud for citizens living in Samoa and will be very bothersome and annoying. The operation of the turbines off the coast will impact the whale population by disturbing their communication between each other.

The light pollution will be very annoying because they will be placed very high up and will brighten up a large portion of land, which will be visible even when driving on the corridor. This would be an eyesore, and very annoying for citizens of Samoa.

The population growth is my biggest concern. Humboldt County is already faced with a housing crisis, with Humboldt State University converting to Cal Poly Humboldt, the crisis only got worse. Before the college became a Cal Poly, 1 in 5 students were homeless. After an influx of students enrolling after the switch, the number of homeless students only got bigger, and this stat is for students alone. Ordinary citizens are also faced with this crisis and can't find a home, or even a rental to live in. With even more jobs and opportunities being given, more people will be moving to Humboldt, and there are simply not enough homes for everyone.

Sincerely,  
Jake

**From:** Rich/Freiman Family [REDACTED]  
**Sent:** Friday, August 25, 2023 8:09 PM  
**To:** District Planner  
**Subject:** offshore wind terminal

Hello Rob.....please take care of our precious Humboldt Bay when dealing with any development. Having enjoyed living in Humboldt County for 47 years, and especially having enjoyed the slow growth of this community until recently, and perhaps most important of all....having lived in two areas where over-development, the bottom line and disregard for our role as stewards of the environment, animals and flora, I urge you to be cautious, thoughtful and grounded. And since I have grandchildren.....I urge you be very cautious so they have a chance of a future instead of playing politics.  
With respect, and looking to the future as well,  
Barbara Rich

**From:** [Tricia Riel](#)  
**To:** [District Planner](#)  
**Subject:** Proposed Wind Turbine Project  
**Date:** Wednesday, August 2, 2023 10:34:57 AM

---

Dear Rob,

I am writing to comment about the proposed offshore wind turbine project in Humboldt. While I am a fan of alternative energy (& getting humans off of fossil fuels), I am not a fan of doing it at the expense of our environment in other ways.

I'm concerned about this epic dredging operation, the 800-foot tall turbines becoming a hazard for birds & sea life, & how such a project would affect whale migration & salmon populations. It is a limited passage to the open sea (an important one for many water-dwelling creatures).

We have a fairly pristine area up here... & most of us would like it to stay this way.

I am writing to express my opposition to this project (along with many others who feel the same).

Let us not make the world worse when our aim is actually to make it better.

Thanks so much for adding my comments to the many voices concerned about this proposed project.

Trish "The Dish"

Tricia Riel Saunders





August 25, 2023

Rob Holmlund  
Director of Development  
Humboldt Bay Harbor, Recreation and Conservation District  
P.O. Box 1030  
Eureka, California 95502-1030  
[districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)

**Re: Notice of Preparation of Draft Environmental Impact Report (EIR) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project**

Dear Deputy Director Holmlund:

As an owner, lease holder, employer with a significant presence on the working waterfronts of both Samoa, Eureka, and Humboldt Bay, please accept these written comments on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

Pacific Seafood has been an invested tenant, operator, and user of Humboldt Bay for decades. Our shellfish operation encompasses over 700 acres of farmed tidelands where we grow and farm both Pacific Oysters as well as Kumamoto oysters. These oysters are truly a labor of love that depend on a healthy estuary, ensuring that water quality, diverse use interests are continually considered. We are concerned that without careful consideration, scientific modeling, and robust communication with shellfish growers, maybe overlooked.

We at Pacific Seafood, understand and appreciate the value of what this wind energy project may bring to the state of California, however it should not come at the expense of other user groups like shellfish farmers and commercial fishing fleets that call Humboldt Bay home. We respectfully request that the DEIR complete a robust evaluation of use conflicts and impacts expected for both initial but also ongoing operations of this proposed project as it relates to all user groups in and around Humboldt Bay.

It is also critical that we understand and protect impacts from dredging parts of the bay that have been left undisturbed for decades. The proposed project is likely to disrupt sediments in around a historical, former, lumber and pulp mill operations. Disrupting those sediments could bring to the surface concerns of biosecurity as well as water quality implications that if left unprotected may result in closure of the most productive shellfish farming in the entire state of California. I urge the DEIR to require the project proponents to work with the California Department of Public Health, Shellfish Division, to ensure that any disruptions can be contained and remediated,

before they have severe consequences to existing and sensitive shellfish operations. The DEIR should also require a plan to ensure biosecurity threats from the projects vessel traffic does not threaten the sensitive habitats in Humboldt Bay. These threats can be from ballast water, invasive species, viruses and bacteria that has been shown to often be introduced from ship traversing open ocean, ports, and marine areas that have native organisms that if introduced could be detrimental.

As the largest shellfish producer in Humboldt Bay, we are also concerned with impacts to our in-water operations at both the farm infrastructure level as well as at our floating nursery operation that is near shore in Samoa. The DEIR should study and reveal how impacts from dredging, sedimentation suspension and impacts to tidal flow will impact operations.

Finally, it is imperative that any proposed lease relocation, removal, or farming footprint impacts, be communicated in a robust and timely manner. Shellfish farming has a stringent and exhaustive regulatory framework that it must comply with. Navigating local, state and federal agencies in the planning, building and operating of our farms, requires significant financial resources, specific timing and the ability to retain some agility to ensure compliance with all overseeing agencies. If this project impacts existing operations and the footprint currently in use or currently managed, the DEIR should document how these impacts were justified and how those impacted have been made whole again. Our water dependent operations are a priority and should be treated as so.

Pacific Seafood prides itself in being a part of Humboldt County, serving as a top private employer and depending on surrounding business as an indirect partner to the work we do. The DEIR needs to consider all impacts, to people, diverse user groups, the health of the estuary, the risks. When a robust study can show that the project is still good for Humboldt Bay, we will be committed to working alongside this project. Until that definitive information has been collected, I urge the Harbor District to leave all contracts unsigned and/or dependent upon a review that can demonstrate limited impacts and a robust remediation plan.

As a user within the project area, we are very interested in being a part of this project and respectfully request to be informed of the status and be made privy to any documentation that concerns this project. We welcome any opportunity to better understand this project and any dialogue that the project proponents wish to engage in.

Best Regards,



Miranda Ries  
Director of Regulatory Affairs, Aquaculture Division  
Pacific Seafood Group



## California Department of Transportation

DISTRICT 1  
P.O. BOX 3700 | EUREKA, CA 95502-3700  
(707) 445-6600 | FAX (707) 441-6314 TTY 711  
[www.dot.ca.gov](http://www.dot.ca.gov)



August 25, 2023

1-HUM-255-2.02  
Heavy Lift Marine Terminal  
SCH# 2023060752

Mr. Rob Holmlund  
Director of Development Services  
Humboldt Bay Harbor District  
P.O. Box 1030  
Eureka, CA 95502-1030

Dear Mr. Holmlund:

Thank you for giving Caltrans the opportunity to review and comment on the Notice of Preparation (NOP) for the proposed Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal.

The NOP notes that transportation impacts will be analyzed as part of the project's EIR. A preliminary traffic study memo (August 31, 2022) was prepared using data from previous studies. However, it is our understanding that the EIR will include a more comprehensive analysis of transportation. This should include a full Traffic Impact Analysis (TIA) that includes at least the following scope:

- Trip generation (all modes and vehicle types) for both construction activities and ongoing operation of the terminal
- Description of freight and materials movement (for both construction and ongoing operations)
- Detailed project phasing
- Detailed site plan, including all ingress and egress
- Hours of operation and activity schedule
- Trip distribution, including all modes (trucks, non-motorized, passenger vehicles, trucks, sea freight) for both construction and operation of the terminal

Mr. Rob Holmlund

8/25/2023

Page 2

- Focused operational analysis of all relevant intersections and roadway segments for SR 255 and US 101 (Specific scope and methodology to be determined/approved prior to TIA work.)
- Identification of potential impacts to State Route 255 and US 101, including all modes of travel
- Provisions for permitting, and any potential impacts related to extra-legal loads
- Recommended mitigation for transportation impacts
- Analysis of vehicle miles traveled (VMT) in compliance with SB 743

Potential mitigation measures should include features to reduce or minimize VMT and greenhouse gasses, including such things as: transit incentives (in coordination with Humboldt Transit Authority), vanpools, consideration of on-site or nearby housing, non-motorized facilities and connectivity, and electric vehicle infrastructure.

Caltrans is currently developing an updated Corridor Management Plan (CMP) for SR 255—replacing the current Transportation Concept Report (TCR). This will include a focus on complete streets and non-motorized enhancements, especially in the community of Manila. We would welcome the opportunity to meet with the Harbor District to discuss the plan, and any opportunities for coordination on mitigation, etc.

We request to meet with the Harbor District to conduct a transportation-specific scoping meeting that may help to clarify the above points and allow us to better understand the long-term needs of the Harbor District and plan for any needed improvements to State Route 255 and US 101.

Please feel free contact me with questions, to arrange a scoping meeting, or for further assistance at (707) 684-6879, or by email at: <[jesse.robertson@dot.ca.gov](mailto:jesse.robertson@dot.ca.gov)>.

Sincerely,

*Jesse G. Robertson*

Jesse Robertson  
Transportation Planning  
Caltrans District 1

e-copy: State Clearinghouse

**From:** Briana Celest R Ruiz [REDACTED]  
**Sent:** Friday, August 25, 2023 3:36 PM  
**To:** District Planner  
**Subject:** Public Comment

Hello,

My name is Briana Ruiz and I am a student at Cal Poly Humboldt. I frequently visit the Samoa peninsula dunes to enjoy nature and I have some concerns about the potential implementation of offshore wind turbines. The snowy plover is a shorebird that inhabits the coast of Samoa and is considered an endangered species. Their breeding season extends from March through September. I am concerned that the installation/construction and long term maintenance of the turbines will pose a problem for the reproduction rate of this species. Friends of the Dunes, a non-profit organization that has been involving the community in the conservation of coastal environments shares the impact of human activity, "Just the presence of people and dogs in close proximity can cause adults to temporarily leave nests, which increases the chance of a predator finding the eggs, sand blowing over and covering the nest, or the eggs getting cold." Scheduling the installation and maintenance of the turbines around the snowy plover breeding window could be a good mitigation act to help minimize the impact to their reproduction.

Thank you for your time,  
Briana

August 25, 2023

Rob Holmlund, Director of Development  
Humboldt Bay Harbor, Recreation and Conservation District  
P.O. Box 1030  
Eureka, California 95502-1030  
[districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)

**RE: Notice of Preparation for a California Environmental Quality Act (CEQA) Draft Environmental Impact Report (DEIR) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project)**

Rob,

Thank you for the numerous presentations to the local eNGO groups and to the Peninsula Community Collaborative explaining the concepts and, to the point known, specifics regarding the proposed Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project. I found them very helpful in informing my comments below.

As a 20-year resident of the Samoa Peninsula and longtime community and environmental advocate, I'm grateful for the Humboldt Bay Harbor, Recreation and Conservation District's care for the bay that I live alongside and often surf, kayak or stand-up paddle in. I appreciate the district's dedication to both environmental restoration and economic sustainability. The proposed Marine Terminal Project provides a unique opportunity to reduce planetary harm by assisting in a transition away from fossil fuels while providing living-wage jobs for our struggling region.

**CEQA**

CEQA protects the basic rights of disadvantaged or EJ communities in California. These rights include the right to clean air and water, the right to participate in local land use decisions, and the right to affordable housing and good schools free from pollution and other harms. CEQA also requires public agencies to identify the potential environmental impacts of a project, possible mitigation measures and project alternatives, *before* approving a project.

- **I strongly urge the district to comply with CEQA and prepare the Environmental Impact Report (EIR) before signing a lease for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.**

**Project Objectives**

**Objective B:** "Create a diversity of new jobs and stimulate regional economic development"

- **"New jobs" should be "locally sourced" and include workforce and economic opportunities for residents of the region that include high-road careers, training, educational and leadership opportunities for local residents, members of tribal nations, and underrepresented communities, as well as opportunities for tribally-owned enterprises and ownership.**

**Objective H:** “To the degree feasible, develop a marine terminal site with modern environmental standards related to minimization of greenhouse gas emissions, onsite renewable energy generation, green building materials, the electrification of terminal operations, and the facilities needed to accommodate vessel shore power”

- Instead of “to the degree feasible,” simply commit to developing a site with modern environmental standards to protect the health of nearby communities and a “zero emissions” goal to prevent contributing to climate change.

**Objective I:** “Prepare the site for sea level rise.”

- Site adaptations for sea level rise should avoid hard armoring, instead incorporating, for example, living shorelines or similar approaches

### **Key Environmental Issues to be Addressed in Environmental Impact Report**

The argument that adding a massive marine terminal to the peninsula will be no different in traffic and use impacts than when the two pulp mills were operating at full capacity should be discarded as we have a different baseline now.

With the current reality as a baseline, I’m highlighting specific aspects of the key environmental issues that should be included in the DEIR analysis:

- **Noise**
  - Impacts to residents of the Peninsula and to wildlife from both the terminal and transportation of materials through the bay
- **Air Quality**
  - Impacts to residents of the Peninsula and Eureka from fossil-fuel-based (i.e., diesel and gas) transport methods, including both water- and land-based
- **Population/Housing**
  - Impacts to housing affordability and resident displacement within the Peninsula communities
- **Public Services**
  - Impacts to currently meager public services such that exist on the Peninsula
- **Recreation**
  - Impacts to both bay and ocean recreation including water closures in Humboldt Bay, decreased safety of recreationalists in the bay, increased traffic on Old Navy Base Road near popular surf and beach spots and impacts of increased dredging on surf breaks including the Harbor Entrance.
  - To the extent possible, determining what conditions (if any) would be required for/prohibit transport of materials and turbines through the bay and harbor entrance.
- **Energy**
  - Most efficient energy alternatives should be identified
  - Impacts of increased fuel use, including increased barging in of fuel through the harbor entrance, should be evaluated

- **Transportation**
  - Impacts of noise, air pollution and safety concerns as a result of increased traffic on Old Navy Base Road and over the Samoa bridges, including safety impacts to bicyclists
- **Tribal Cultural Resources**
  - Impacts to Tuluwat Island, including visual, noise, glare, air quality, and other potential areas of potential environmental degradation.
  - Other potential impacts as identified by regional tribal nations.
- **Greenhouse Gas Emissions**
  - Cumulative amount of greenhouse gas emissions created
- **Cumulative Effects**
  - As multiple developments are poised to happen on the Peninsula, the cumulative effects of these projects should be calculated with a clear pathway toward preserving local tribal, commercial and recreational fishing, ensuring community safety and protection against increased environmental hazards, ecosystem protection and necessary public service improvements.

In addition, I strongly support the comments submitted by COREHub.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "Jennifer Savage".

Jennifer Savage  
Manila resident



August 23, 2023

Rob Holmlund  
Director of Development  
Humboldt Bay Harbor, Recreation and  
Conservation District  
PO Box 1030  
Eureka CA 95502-1030

**Via Email To: [districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)**

Re: Notice of Preparation of a Draft EIR for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project

Dear Deputy Director Holmlund,

Hog Island Oyster Company, Inc. has been growing oysters in Tomales Bay, Marin County, California for the past 40 years. Seven years ago, we built an oyster hatchery and nursery in Samoa and as of last year, we also grow oysters in Humboldt Bay. We are writing to submit comments on the Notice of Preparation (NOP) of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

Shellfish growers rely on clean water and healthy ecosystems to produce a safe, nutritious food and to support our livelihood. Our hatchery, nursery and farm are particularly vulnerable to changes in water quality. We produce and sell oyster seed for our own farms, as well as approximately 20 other oyster farms from Southern California up to Washington State. We currently have 20 employees at our Samoa location and are continuing to grow. We are deeply concerned about the potential impacts this proposed project will have on us and the other growers who rely on us as a source of seed.

The importance of alternative forms of energy are essential and we welcome the opportunity to engage in productive and meaningful discussions with the Harbor District that will enable sustainable development of wind energy without compromising the viability of all of the West Coast shellfish growers who operate in and rely on the healthy water quality and productivity of Humboldt Bay.

Please consider our recommendations for specific issues and actions below as you conduct the Draft Environmental Impact Report (DEIR):

**The DEIR needs to be completed before the Wind Terminal lease or option to lease is signed.** Shellfish growers in Humboldt Bay, along with other stakeholders, have expressed concern and frustration that they were not consulted earlier in this process. There must be a comprehensive EIR and public engagement process before binding commitments are made.

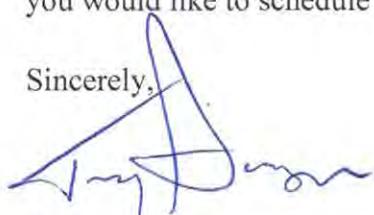
**The DEIR needs to include a wholistic evaluation of the potential short-term and long-term impacts to local and the entire west coast shellfish industry, including:**

- *Evaluation of the short- and long-term impacts on water quality, including sediment disturbance, turbidity, and legacy pollutants.* This evaluation should include direct impacts to the shellfish and fishery operations in the area.
- *Evaluation of the impact disruption of shellfish seed production will have on the broader shellfish industry that relies on Humboldt Bay shellfish seed producers*
- *Biosecurity implications of dredging and increased vessel traffic.* The potential for, and impacts from, the introduction of invasive species, viruses, and bacteria as the result of increased vessel traffic and potential release of ballasts waters.
- *Disruptions to business operations.* Identify and evaluate the potential impacts from area closures, potential disruptions to the power grid, etc. for the construction phase as well as long-term operations. The broader implications to the shellfish industry if the Humboldt operations are impacted should also be considered.
- *Impacts of dredging and dredge spoils* to eelgrass and the healthy function of the Bay's ecosystems.
- *Disruptions or changes to tidal flow and distribution.* It is important to understand if or how the proposed operations could disrupt current tidal flows and nutrient distribution in the bay.

Additionally, we would like **more information and clarification** on the proposed lease relocation and which leases will be affected, and where the rolling closures will take place and how other businesses in the area will be notified.

We appreciate your consideration of our comments and concerns and look forward to more dialogue on the proposed Wind Terminal project. Please contact me if you have any questions regarding these comments, or if you would like to schedule a meeting.

Sincerely,



Terry Sawyer  
Co-Founder, Vice President

**From:** [REDACTED]  
**Sent:** Wednesday, August 9, 2023 2:36 PM  
**To:** District Planner  
**Subject:** comments on NOP

[REDACTED]  
August 9, 2023  
Mr. Rob Holmlund  
Humboldt Bay Harbor, Recreation and Conservation District P.O. Box 1030 Eureka, California 95502-1030  
districtplanner@humboldtbay.org

Dear Mr Holmlund:

Thank you for the opportunity to comment on the upcoming DEIR.

At the outset let me share my support of wind power. I am deeply concerned that we are not doing enough to arrest climate change, and my own family has lost homes to wildfires. Wind power is crucial to the transition necessary, and I hope we can implement as much as possible, as soon as possible.

Also, I make these comments based on decades of wind power experience. Beginning in 1985, I managed research projects on wind power at the Electric Power Research Institute. Over intervening years I served as a wind power consultant to utilities, government agencies, the United Nations, and equipment developers.

#### DEIR must present alternatives

The DEIR must consider the relative effects of all alternatives. In this DEIR the alternatives are numerous, as they depend on a variety of factors affecting the future development of the wind power plant (or plants), the "wind farm."&rdquo;

The North Coast Journal article contains this erroneous statement: "Remember: This project is about port development, not the offshore wind farms." NCJ is wrong because the port development is intimately related to whatever wind farms are built. The port is not independent of the wind farm and vice-versa.

Issues addressed in the DEIR depend on what the port facility will be used for. That in turn depends on the quantity, size and design of the wind turbines; what activities will be carried out in the port; and how and where and when the turbines will be installed.

The size and schedule for the wind farm development also depend on other factors beyond the port's control, for example:

whether the economics of wind power supply are attractive enough to justify investment, and what the schedule is for interconnection to the California grid.

Only after these issues are clearly defined can the port facilities themselves be specified. So trying to specify what port facilities will be before understanding those other issues truly puts the cart before the horse.

Thus, it may be premature to produce a DEIR for the port alone before these other issues are resolved. Alternatively the DEIR could address these issues about which uncertainties are apparent, using a decision analysis framework.

## What kind of turbines, where, and when

Currently turbines installed offshore are in the range of 15 MW. Between now and the actual installation date, probably in the 2030s, they may be larger. If they are larger, fabrication will require more space, heavier equipment and perhaps a deeper harbor.

An uncertainty to be resolved for the port is whether turbines of the size anticipated can be physically transported in and out of Humboldt's harbor. Installation vessels used to install offshore turbines are enormous and might not be able to negotiate the harbor.

Another issue is where turbines fabricated in Humboldt will be installed. That might be here or elsewhere down the coast or even in Oregon. Turbine installations where transmission is more readily available may be more attractive for investors. If indeed 2000 MW of wind turbines are installed here, at least two and maybe three new 500 kV transmission lines will be needed. Permitting and construction for those lines, which typically require a decade, will determine when turbines can deliver electricity.

Thus, the schedule for wind farm installation is a critical issue to pin down before turbine fabrication, or the port, can be specified. It's important to point out that fabrication here really means assembly of components that are manufactured elsewhere, probably China, and delivered by ship.

Locations: offshore floating, offshore fixed bottom or onshore

BOEM has focused attention on federal waters offshore and thus floating turbines, but what they're selling isn't Humboldt's only option. BOEM's mandate is to lease property 20 miles off shore, but to consider all possibilities the DEIR should consider other options.

One option apparently not yet considered by the District is installation of bottom-mounted turbines closer in to shore. The history, installation procedures, and operation of this equipment is well understood, and more than 99% of existing offshore turbines are affixed to the sea bottom. Floating turbines are still experimental. Local press reports I've seen glibly assert that that it's too deep offshore from Humboldt Bay, but that's simply not true. Within a mile or two of shore, depths are appropriate for bottom-mounted turbines.

The other option the District hasn't addressed is whether turbines installed on shore, for example on the beach, might be more appropriate. Such installations would be more economic and more timely, and might not require expanded transmission. That option will certainly affect what kind of harbor facilities are needed. For the DEIR to ignore this option would be a major oversight.

Uncertainty prevails in all these issues, and port development time is probably the most certain and most easily predictable, once other issues are finally resolved.

In summary, the DEIR can only be produced when the following information is well established, probably in reverse order:

Activities to be accomplished in the port, Whether harbor depths and widths are adequate for turbines expected, Turbine design, Turbine location(s) and installation dates, Whether economics permit wind farm investors to commit in advance to purchase the turbines, and The certainty that transmission will be timely available.

The challenge in the DEIR is assembling all these questions so that the whole project is shown to be feasible. Many thanks for your attention to these issues, and please contact me if I can elaborate. I hope we can bring wind power to Humboldt ASAP.

Sincerely,

John Schaefer, Ph.D.

Executive Director, Larry Oetker  
Humboldt Bay Harbor, Recreation and Conservation District  
601 Startare Drive  
Eureka, California 95501-0765  
Dear Mr. Oetker

Thank you for the opportunity to comment on the “**Notice of Preparation of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (SCH No. 2023060752)**”

I appreciate your early engagement with the citizens and local stakeholders in this evaluation process with meetings, one of which I attended.

Although several questions and areas of need for information will surely be identified in comments you receive from this notice, I would like to focus on two areas I have for your clarification.

At the meeting I attended, Mr. Holmlund mentioned that the project would likely invoke the National Environmental Policy Act (NEPA) as well as the California Environmental quality Act (CEQA.) That seems reasonable to me since there will probably be some federal actions required to accomplish this project, such as a permit from the Army Corps of Engineers for the additional dredging to a depth of 40' at the launch site described. Though this dredging might be considered minor compared to other projects, and may even be covered under other permits, I would like to know:

#### **Will NEPA be required as well as CEQA?**

1. Will the dredging require a new permit or be covered under an existing permit? If under an existing permit, what permit is that and how might I find a copy of it.
2. Are there any other permits required by a federal agency such as for the Dredge Material Dewatering Area (Samoa Lagoons) or other actions National Oceanic and Atmospheric Administration (NOAA,) National Marine Fisheries, United States fish and wildlife service (USFWS), US Coast guard for changes to navigational aids or other agencies?
3. If any NEPA is required, even if a Categorical Exclusion, how will that be included in this process? Who will be the lead federal agency? At the meeting it was mentioned that NEPA and CEQA would be completed concurrently, which makes sense but how will determination for such things as length of time for comments, consultations, etc.? By NEPA or CEQA or how will the two be guided if requirements and guidelines differ between NEA and CEQA?

#### **Are Connected Actions Expected Beyond the Project Site?**

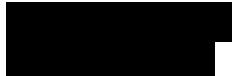
When considering the size, scope and length of this project, including but beyond the initial launch of the wind turbines, will there be actions necessary to accomplish and maintain the harbor project; some of which may be yond the responsibility of the Harbor District? Examples might include beefing up or expanding transportation access to the site for large equipment and spoils including widening existing access roads (Samoa Boulevard) Samoa Bridge, etc. Have any such connected actions been identified already? I apologize if this information is already available but if so, please point me to the documents where those actions are identified.

I appreciate your work on this project. Assuming it will be completed, we want to be proud that we made the best decisions with regard to impacts on the environment, communities and people so we can be proud of the project in the future. I realize this is still an evolving technology in some respects but hope the impact analysis you conduct will be robust to consider and mitigate or eliminate those impacts that are within our ability and authority.

Thank you for your time,

Sincerely,

Dan Sealy



Cc: Director Holmlund, 5<sup>th</sup> Division Commissioner Higgins



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
PO Box 94409  
Sacramento, CA 94244-2090  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



August 23, 2023

Rob Holmlund, Director of Development  
Humboldt Bay Harbor, Recreation and Conservation District  
P.O. Box 1030, Eureka, CA 95502  
[districtplanner@humboldt.org](mailto:districtplanner@humboldt.org)

**SUBJECT: HUMBOLDT BAY OFFSHORE WIND HEAVY LIFT MARINE TERMINAL  
NOTICE OF PREPARATION  
SCH# 2023060752**

Dear Mr. Holmlund,

The California Department of Fish and Wildlife (Department) received the Notice of Preparation (NOP) for a Draft Environmental Impact Report (EIR) from the Humboldt Bay Harbor, Recreation and Conservation District for the Humboldt Bay Offshore Wind Heavy Lift Marine Terminal Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife resources. Likewise, we appreciate the opportunity to provide comments regarding aspects of the Project that the Department, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code (FGC).

## **DEPARTMENT ROLE**

The Department is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the state (FGC §711.7, subd. (a) and §1802; Pub. Resources Code §21070; CEQA Guidelines §15386, subd. (a)). The Department, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, §1802). Similarly, for purposes of CEQA, the Department is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources. The Department is also responsible for marine biodiversity protection under the Marine Life Protection Act in coastal marine waters of California and ensuring fisheries are sustainably managed under the Marine Life Management Act.

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<sup>1</sup> CEQA is codified in the California Public Resources Code in §21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with §15000.

Rob Holmlund, Director of Development  
Humboldt Bay Harbor, Recreation and Conservation District  
August 23, 2023  
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The Department is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, §21069; CEQA Guidelines, §15381) and may need to exercise regulatory authority as provided by the FGC. As proposed, the Project may result in “take” as defined by State law of species protected under the California Endangered Species Act (FGC, §2050 et seq.), and related authorization as provided by the FGC will be required.

## PROJECT DESCRIPTION SUMMARY

**Proponents:** Humboldt Bay Harbor, Recreation and Conservation District (Harbor District)  
**Objective:** The Project proposes to develop a new multipurpose, heavy-lift marine terminal to support offshore wind energy and other coastal dependent industries. The Project will include redeveloping an approximately 180-acre site on the Samoa Peninsula. Marine components of the proposed Project include: 1) demolish existing docks (6-acre wooden dock at Terminal I and No Name Dock), 2) construct up to three wharfs approximately 2,500ft along the shoreline using steel and/or concrete piles, 3) dredge berths between the new wharfs and the federal navigation channel to -40ft Mean Lower Low Water (MLLW) for deep draft cargo vessel access and wind turbine construction, 4) dredge a sinking basin to -60ft MLLW for semi-submersible vessel operations, 5) construct a pier and associated gangways to an on-terminal wet storage facility, 6) dredge between piers/gangways and the federal navigation channel to -40ft MLLW for a wet storage berth, and 7) construct an eco-friendly shoreline transition between the marine environment and upland development. The Project will also require the relocation of two existing seaweed farms, one existing shellfish nursery, and a hagfish (*Eptatretus stoutii*) holding facility (including its associated bay water intake and discharge). Upland development components of the proposed Project include: 1) vegetation clearing and grubbing, 2) demolition of existing buildings and structures, asphalt and concrete surfaces and remnant foundations, 3) removal, relocation, reuse and/or modernizing of existing utilities, including but not limited to water storage tanks, industrial, domestic and bay water underground water lines, power poles and lines, sewer systems, and stormwater systems. Stormwater improvements may include retention ponds, detention pools, bioswales and subsurface detention, 4) cut, fill, and site regrading to obtain final ground elevations between +13 to +17 feet NAVD88 (dredge material and/or upland sources may be used as fill), 5) construction of approximately 650,000 square feet of building space, an internal transportation network of paved and/or compacted gravel roads, and potentially a 200-space asphalt parking lot, 6) installation of high mast terminal lighting, 7) installation of electric vehicle charging stations, traditional fueling stations, solar panel array, and a connection to the electricity substation, and 8) as necessary improve up to two intersections on New Navy Base Road and the intersection of Cookhouse Road and Vance Avenue.

**Location:** Samoa Peninsula and Samoa Channel, Humboldt Bay

**Timeline:** The timeline for the proposed Project is not included in the NOP.

## CALIFORNIA ENDANGERED SPECIES ACT (CESA)

The CESA provides for the protection of rare, threatened, candidate and endangered plants and animals, and prohibits the taking of such species without authorization (Fish and Game Code Section 2050). The Department maintains a list of rare, threatened, and endangered plants and animals that can be found on the Department's web site:

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<http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/TEAnimals.pdf>. The Department recommends including a full analysis of CESA listed species that may be in the Project area and potential impacts in the Draft EIR. Adverse impacts from the Project leading to take of CESA listed species would require take authorization from the Department according to Fish and Game Code §2081.

## BIOLOGICAL SIGNIFICANCE

Humboldt Bay is California's second largest bay, and the largest estuary on the Pacific coast between San Francisco Bay and Oregon's Coos Bay. The marine and estuarine habitats of Humboldt Bay provide refuge and nursery habitat for more than 300 fish and invertebrate species, many with important associated commercial and recreational fisheries. Humboldt Bay and its wetlands and dunes are habitat for at least 20 State and federally listed species and numerous California Species of Special Concern (SSC). Sensitive Natural Communities (SNC) and special status species that are listed under the California Endangered Species Act (CESA), Federal Endangered Species Act, Fish and Game Code as Fully Protected (FP), California Species of Special Concern (SSC) or Watch List (WL), the California Rare Plant Ranking (CRPR) System, or the Vegetation Classification and Mapping Program with sensitive Global (G) / State (S) Heritage Ranks occur in or nearby the Project area and may be impacted by direct and/or indirect Project impacts. These species include:

### Fish

- Coho salmon (*Oncorhynchus kisutch*), State and federally-threatened (Southern Oregon/Northern California (SONCC) Evolutionarily Significant Unit (ESU));
- Chinook salmon (*Oncorhynchus tshawytscha*), federally-threatened (California Coastal ESU);
- Coastal cutthroat trout (*Oncorhynchus clarki clarki*), State SSC;
- Steelhead trout (*Oncorhynchus mykiss*), federally-threatened (Northern California Distinct Population Segment (DPS)), State-endangered (Northern California Summer Steelhead);
- Longfin smelt (*Spirinchus thaleichthys*), State-threatened;
- Eulachon (*Thaleichthys pacificus*), federally-threatened (southern DPS);
- Green sturgeon (*Acipenser medirostris*), federally-threatened (southern DPS), State SCC (northern and southern DPS);
- Pacific lamprey (*Entosphenus tridentatus*), State SSC; and
- Western river lamprey (*Lampetra ayresii*), State SSC.

### Birds

- Black brant (*Branta bernicla nigricans*), State SSC;
- Vaux's swift (*Chaetura vauxi*), State SSC;
- Northern harrier (*Circus hudsonius*), State SSC;
- White-tailed kite (*Elanus leucurus*), State FP;
- Long-billed curlew (*Numenius americanus*), State WL;
- Osprey (*Pandion haliaetus*), State WL;
- Double-crested cormorant (*Phalacrocorax auritus*), State WL; and
- California brown pelican (*Pelecanus occidentalis californicus*), State FP.

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### **Plants**

- Dark-eyed gilia (*Gilia millefoliata*), CRPR 1B.2;
- Beach layia (*Layia carnosa*), State-endangered, federally-threatened;
- Menzies wallflower (*Erysimum menziesii*), State and federally-threatened; and
- Short-leaved evax (*Hesperevax sparsiflora*), CRPR 1B.2.

### **Insects**

- Western Bumble Bee (*Bombus occidentalis*), State Candidate; and
- Obscure Bumble Bee (*Bombus caliginosus*); State SSC.

In addition, several species with important commercial, recreational, and cultural importance also exist within and adjacent to the proposed Project area and could be impacted by Project activities, including:

- Dungeness crab (*Cancer magister*);
- Pacific herring (*Clupea pallasii*);
- Northern anchovy (*Engraulis mordax*);
- Rockfish (*Sebastes* sp.); and
- California halibut (*Paralichthys californicus*).

## **COMMENTS AND RECOMMENDATIONS**

The Department offers the comments and recommendations below to assist the Harbor District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

### **Comprehensive Project Description**

Several important aspects of the Project have not been described in the NOP. This limits the Department's ability to evaluate the potential impact to trustee resources. The Department recommends the Draft EIR include a comprehensive project description of the following:

- all in-water work for wharf/pier/gangway construction (e.g., methods, equipment, materials, work windows)
- proposed dredging area (e.g., type of dredge equipment, acreage/volume to be dredged, disposal plan, frequency of maintenance dredging)
- wet storage and mooring/anchorage areas
- anticipated impacts to eelgrass and intertidal mudflat habitat
- anticipated vessel traffic and port closures
- shoreline transition between the marine environment and upland environment
- any bay water intake systems
- all potential uses of the marine terminal
- measures to avoid, minimize, and mitigate for impacts to biological resources
- anticipated timeline of construction

## **PROJECT IMPACTS**

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## Eelgrass Habitat

**Comments:** Native eelgrass beds (*Zostera marina*) are an important part of the Humboldt Bay ecosystem and are recognized by state and federal statutes as both highly valuable and sensitive habitats. Humboldt Bay holds approximately 37% of the known mapped eelgrass in the state (Department Marine Bios). Eelgrass provides primary production and nutrients to the ecosystem along with spawning, foraging, and nursery habitat for fish and other species. Pursuant to the federal Magnuson-Stevens Fishery Conservation and Management Act, eelgrass is designated as Essential Fish Habitat for various federally managed fish species within the Pacific Coast Groundfish and Pacific Coast Salmon Fisheries Management Plans (FMP). Eelgrass is also considered a habitat area of particular concern for various species within the Pacific Coast Groundfish FMP. Eelgrass habitats are further protected under state and federal “no-net-loss” policies for wetland habitats. Additionally, the importance of eelgrass protection and restoration, as well as the ecological benefits of eelgrass, is identified in the California Public Resources Code (PRC Section 35630).

The NOP does not describe impacts to eelgrass or propose mitigation. However, from previous correspondence with the Harbor District on this Project, the Project is anticipated to cause a loss of approximately 9 acres of eelgrass habitat. Given the potentially significant impact to eelgrass habitat from the proposed Project, mitigation measures to avoid or substantially reduce the Project's significant environmental impact is required (CEQA Guidelines § 15124.4(a)). The Department recommends a comprehensive impact analysis and mitigation plan be provided in the Draft EIR, as outlined below. Eelgrass mitigation efforts in Humboldt Bay from previous projects have presented challenges and several projects have been unsuccessful at meeting their mitigation requirements resulting in a net loss of eelgrass habitat. To ensure eelgrass mitigation success, the Department recommends the Harbor District coordinate with the natural resource agencies and begin mitigation prior to Project construction.

In addition, modeling efforts in Humboldt Bay predict a substantial shoreward expansion of eelgrass onto intertidal mudflat habitat over the next 100 years in response to sea level rise inundation (Shaughnessy et al. 2012; Gilkerson 2013; and Stillman et al. 2015). The Department is concerned that development and operations in the intertidal zone, as proposed by this Project, will limit eelgrass from expanding higher onto intertidal mudflats in response to sea level rise.

**Recommendations:** The Department recommends the proposed Project avoid and minimize impacts to eelgrass and fully mitigate any remaining impacts. The Department makes the following recommendations for the Draft EIR:

- A comprehensive analysis of impacts to eelgrass habitat. The Department recommends the Harbor District include maps and acreage of eelgrass habitat within the proposed Project footprint and fully analyze the impact to eelgrass habitat from direct and indirect activities such as: dredging, wharf demolition, wharf/pier/gangway construction, anchors, shading, changes in circulation, and sedimentation. Impacts to eelgrass habitat should be analyzed for each of the Project alternatives. The Department recommends multiple years of eelgrass survey

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data be included in the impact analysis, including up to date surveys conducted in the survey window, to account for temporal and spatial variability in eelgrass distribution.

- A comprehensive eelgrass mitigation and monitoring plan. To ensure no net loss, the Department recommends the Draft EIR include avoidance and minimization measures as well as require the development of a comprehensive monitoring and mitigation plan, as defined in the California Eelgrass Mitigation Policy (CEMP) (NMFS, 2014). This plan should include mitigation for any impacts to eelgrass including, but not limited to, impacts from dredging, wharf demolition, wharf/pier/gangway construction, anchors, shading, changes in circulation, and sedimentation. The Department recommends conducting baseline eelgrass habitat surveys prior to construction and multiple years of post-construction eelgrass surveys. Post-construction surveys should capture both direct and indirect effects to eelgrass density and percent vegetated cover within and adjacent to construction areas. Multiple years of post-construction surveys should be performed to evaluate if indirect effects resulted later in time due to altered physical conditions (changes in circulation, sedimentation, increased vessel traffic, etc.). As described in the CEMP, an estimate of likely impacts should be made prior to implementation of the proposed Project based on the best available information (e.g., shading analyses, wave and current modeling). The Department recommends eelgrass mitigation occur prior to Project construction to ensure success and minimize temporal loss.
- Scientific Collecting Permit (SCP). If transplanting of eelgrass is required for mitigation, a SCP from the Department will be required prior to harvest and transplanting activities. The SCP may include conditions such as donor bed surveys, limits on number and density of turions collected, methods for collection and transplanting, notification of activities, and reporting requirements. Please visit the Department's SCP webpage for more information:  
<https://wildlife.ca.gov/Licensing/Scientific-Collecting>.
- Consultation with respective agencies. The Department recommends that the Harbor District consult with the appropriate permitting agencies for review of all eelgrass monitoring, mitigation, and adaptive management efforts.
- To minimize loss of eelgrass habitat in the Project area, the Department recommends the eco-friendly shoreline transition is designed to support eelgrass habitat.

### **Intertidal Mudflats**

**Comments:** Intertidal mudflats provide habitat and foraging opportunities for shorebirds, waterfowl, and fish such as longfin smelt, sturgeon, and elasmobranchs. Several species with important commercial and recreational fisheries value also exist within and adjacent to intertidal mudflat habitat in the proposed Project area, and could potentially be impacted by the Project, including Dungeness crab, rockfish, Northern anchovy, Pacific herring, and California halibut.

The NOP does not describe the acreage of intertidal mudflat habitat that will be lost from Project development or propose mitigation to offset impacts. Intertidal mudflats are protected under the State's 'no-net-loss' for wetlands policy and all impacts should be

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avoided, minimized, and mitigated, with mitigation occurring prior to the implementation of the Project.

**Recommendations:** The Department recommends the Draft EIR include the following:

- A comprehensive analysis of impacts to intertidal mudflat habitat. The Department recommends the Draft EIR include a comprehensive analysis of Project impacts to intertidal benthic habitat that includes: 1) an evaluation of impacts to mudflat habitat from Project construction and activities, including impacts to adjacent mudflats caused by altered currents, erosion, and depositional processes; 2) an assessment of potential changes to infauna composition and the subsequent impacts to shorebird and fish food resources; and 3) an analysis of the reduction in foraging areas for shorebirds, waterfowl and fish species, such as black brant, salmonids, bat rays (*Myliobatis californica*), green and white sturgeon (*Acipenser transmontanus*), leopard sharks (*Triakis semifasciata*) and longfin smelt.
- A comprehensive mitigation plan to offset loss of intertidal mudflat habitat.

### Dredging Impacts

**Comments:** The Project proposes a substantial amount of dredging and deepening of bay habitat to support access for deep draft cargo vessels and wet storage of wind turbines. However, the NOP does not specify the proposed method of dredging (e.g., clamshell, suction, etc.), the acreage/volume to be dredged, disposal plan for dredge spoils, or frequency of dredge events to maintain desired depths. The Department is concerned that dredging activities associated with the development and maintenance of the marine terminal may result in potentially significant impacts to CESA- and ESA-listed species, SSC, and sensitive marine habitats (e.g., eelgrass, mudflats). Dredging causes an increase in suspended sediments, releases contaminants, and entrains benthic, epibenthic, and mid-water organisms (Nightingale and Simenstad 2001). Numerous studies have demonstrated entrainment of longfin smelt, salmonids, and other species of commercial and recreational importance from hydraulic dredging operations (Mari-Gold Environmental Consulting, Novo Aquatic Sciences and Applied Sciences 2011, Mari-Gold Environmental Consulting and Novo Aquatic Sciences 2015, Larson and Moehl 1990, McGraw and Armstrong 1990, Reine and Clarke 1998, USACE 2004, Simenstad 1990).

Several studies in Humboldt Bay have demonstrated that State- and federally-listed species, including vulnerable early life stages, occupy areas of the Bay that are proposed for dredging (Novotny et al. 2022, Pinnix et al. 2012, Tenera Environmental 2023). Coho salmon smolts reside in Humboldt Bay during their outmigration period (April-July), often using deep channels and channel margins during their migration. The highest number of acoustic tag detections was in the Central Bay, which includes the proposed Project area in the Samoa channel (Pinnix et al. 2012). Longfin smelt (all life stages) and green sturgeon are also vulnerable to dredging impacts and are known to occur in the Project area (Novotny et al. 2022, Tenera Environmental 2023, Ray & Bjorkstedt unpublished data). The Department is concerned that dredging operations may result in significant impacts to listed salmonids, longfin smelt, and sturgeon from entrainment, contaminated sediments, and increased turbidity which can result in gill injury, reduced foraging success, and increased predation (Nightingale and Simenstad 2001).

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The Department is also concerned with entrainment of commercially and recreationally important species, including but not limited to Dungeness crab, California halibut, Pacific herring, Northern anchovy, and rockfishes. All these species were documented to occupy the Samoa Channel during the 2019-2021 U.S. Army Corps of Engineers (USACE) bottom trawl surveys.

Additionally, the Department is concerned with potential ecosystem-wide impacts in the bay from changes in circulation, erosion, and sediment depositional processes caused by the proposed dredging and deepening of the Samoa Channel. Furthermore, based on preliminary designs, the Department is concerned that widening/deepening of the Entrance Channel will be necessary to facilitate towing turbines out of Humboldt Bay. However, the NOP does not address the potential need for additional dredging to widen/deepen the Entrance Channel.

**Recommendations:** The Department recommends the Draft EIR include the following:

- Analysis of impacts from dredging: The Draft EIR should include a comprehensive analysis of impacts to marine species and habitats from dredging operations. Sediments should be tested for toxins, contaminants, and sediment grain prior to dredging, and properly disposed of under recommendations by permitting agencies to minimize impacts to surrounding habitats. The analysis should include details on the dredging methods, total area/volume to be dredged, disposal plan for dredge spoils, and frequency of dredging operations to maintain desired depths. The analysis should also evaluate ecosystem-wide impacts in the bay from changes in circulation, erosion, and sediment depositional processes caused by dredging and deepening of the Samoa Channel. The analysis should also evaluate impacts from widening/deepening the Entrance Channel to tow turbines out to sea, as widening the Entrance Channel may become an operational need at some time during the Projects operation.
- Take coverage and mitigation for CESA-listed species: If a hydraulic dredge is proposed, and given the known presence of listed species, the Department strongly recommends the Harbor District consult with the Department on obtaining an Incidental Take Permit (ITP) to address impacts of “take” pursuant to Fish and Game Code sections 2080.1 or 2081(b), and California Code of Regulations Title 14 (14 CCR) § 783 et seq. The ITP application should include a complete project description, as well as other required elements per 14 CCR § 783.2. The project description should be sufficient to evaluate the effects of the project on each species and will be used to evaluate and develop species-specific minimization and mitigation measures. As defined in CESA, all take of listed species must be mitigated in full, proportional in extent to the impact, and upfront. During the ITP development process, the Department recommends that National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) staff be included in discussions to assure that project mitigation measures are consistent with federal requirements.
- Entrainment monitoring: If a hydraulic dredge is proposed, the Department recommends entrainment monitoring occur during active dredging events to better understand the impacts of hydraulic dredging on sensitive aquatic species. Without monitoring, it is difficult to determine if minimization measures are successful. In addition, monitoring can help pinpoint areas of the dredge cycle when fish are most

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vulnerable to entrainment and further refine measures that would minimize take. This data will also help estimate levels of take, and ensure avoidance, minimization and mitigation measures are adequate to protect listed and vulnerable species.

- Work Windows: Work windows are used to protect important life history stages of sensitive aquatic species. The Department recommends dredging activities occur from July 1 through October 1 to minimize impacts to migrating adult and out-migrating juvenile salmon. There is no established work window for longfin smelt in Humboldt Bay since it is assumed they occupy the bay year-round.

### Pile Driving

**Comments:** The Project would require removal of existing docks and piles and replacement with new docks and piles. The NOP does not provide details on methods of pile driving (e.g., impact hammer, vibratory hammer), types of piles, number of piles, or hydroacoustic impacts expected from pile installation/removal. Pile driving produces intense sound vibrations that are injurious (i.e., barotrauma) to fish (Popper et al., 2006). The Department is signatory to the Interim Criteria for Injury to Fish from Pile Driving Activities (Interim Criteria; Attachment 1). According to the Interim Criteria, the sound pressure levels should not exceed 206 dB peaks and 187 dB accumulated sound exposure level (SEL) for all listed fish except those that are less than 2 grams. In that case, the criteria for the accumulated SEL should be 183 dB. Early life stages of longfin smelt (<2 grams) may be present in the Project area, depending on the timing of pile driving.

**Recommendations:** The Department recommends the Draft EIR include the following:

- Analysis of impacts from pile driving. The Draft EIR should include a comprehensive analysis of impacts to sensitive marine species from pile driving. The analysis should describe the material and size of new piles, method of pile driving, size of the pile driving hammer, underwater sound monitoring methods, and mitigation measures to avoid injurious sound pressure levels to fish and marine mammals.
- Take coverage and mitigation for CESA-listed species: If sound pressure levels are expected to exceed the established Interim Criteria for Injury to Fish, the Department recommends the Harbor District consult on obtaining an ITP to address impacts of “take” pursuant to Fish and Game Code sections 2080.1 or 2081(b), and California Code of Regulations Title 14 (14 CCR) § 783 et seq.
- Sound attenuation monitoring plan. The Department recommends the Harbor District develop and provide a sound attenuation monitoring plan for this Project. The Department also requests to receive monitoring results for this aspect of the Project.

### Bay Water Intakes

**Comments:** The Draft EIR should disclose whether any water intake systems are proposed to be installed in the bay to support marine terminal operations, or to support the relocated shellfish nursery and hagfish holding facility. As outlined below, the Department has developed Fish Screening Criteria (see Attachment 2) to minimize intake impacts to CESA-listed species.

**Recommendations:**

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- Fish Screening Criteria. To minimize impacts to CESA-listed species that occur in Humboldt Bay, including salmonids and longfin smelt, any proposed bay water intakes utilized for the Project, including the hagfish holding facility, should comply with the attached Department's Fish Screening Criteria. Intakes in waters where longfin smelt may be present should include the following design specifications: 1) a pore size diameter between 1.75 – 2.38 mm depending on the configuration of pores, approach velocity of 0.2 feet per second for self-cleaning screens or 0.05 feet per second for non-self-cleaning screens, and screen porosity of at least 27%. Intakes should be kept in good repair and inspected periodically to ensure they are clean and free of settling invertebrates, accumulated algae, or other debris, which could block portions of the screen surface and increase approach velocities.
- Take coverage for entrainment of CESA-listed species. We recommend the Project proponent consult with the Department regarding potential "take" of CESA-listed species from intake systems and the potential need for an ITP.

### **Overwater Structures and Light Pollution**

**Comments:** The Project proposes to build an additional 2,500ft of overwater structure along the shoreline and to install high mast terminal lighting (approximately 150ft high). Many fish depend upon sight for feeding, prey capture and schooling. Sight is also important for spatial orientation, predator avoidance and migration. Overwater structures can create underwater light contrasts by casting shadows and creating shade. Changes to ambient underwater light environments pose a risk of altering fish migration behavior and increasing mortality risks (as reviewed in: Nightingale and Simenstad 2001). Pinnix (et al. 2012) noted that migrating coho salmon smolts utilized the channel margins of central Humboldt Bay but were rarely found near pilings or docks. This is similar to other studies that have demonstrated varied responses to overwater structures (Heiser and Finn 1970; Pentec 1997; Toft et al. 2007; Weitkamp 1982).

As the subtidal portion of the Project is located between the streams utilized by all the listed anadromous species in Humboldt Bay and the open ocean, this portion of the Project is likely to impact coho salmon, longfin smelt, chinook salmon, steelhead, green and white sturgeon, and eulachon. These species are likely to be subjected to significant ongoing impacts due to Project structures and activities, such as increased predation risk and impacts to migration, as well as impacts from nighttime lighting and maintenance activities.

**Recommendations:** The Department recommends the Draft EIR include the following:

- An analysis of impacts to species in the Project area from overwater structures and artificial lighting.
- Minimize the footprint of overwater structures to reduce the impacts to less than significant.
- To minimize the adverse effects of artificial lighting on fish and wildlife, the Department recommends lighting fixtures be fully shielded, designed to minimize off-site glare, and avoid on-water light spillage.

### **Commercial and Recreational Fisheries**

**Comments:** The Port of Humboldt Bay supports some of California's most important and valuable commercial fisheries including Dungeness crab, Chinook salmon, and groundfish.

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Additionally, seafood processing plants located in Humboldt Bay depend on these commercial fisheries to provide sustainably harvested seafood to the Humboldt County community and beyond. Any significant impact to the commercial fishing industry operating out of Humboldt Bay can have cascading effects through the seafood supply chain and impact the availability of sustainably sourced seafood to California citizens, as well as lead to job losses in other fishing related industries, including support vessel crewmembers, fishing gear manufactures, and repair workers.

One of the largest concerns that the fishing community has expressed is the potential interference of offshore wind activities with normal port traffic. Rolling closures inside the harbor and at the harbor entrance are possible while assembled offshore wind turbines are being towed from the port out to the lease areas. This will affect the fishing industry's ability to transit into and out of Humboldt Bay and limit when fishing grounds can be accessed or when product can be delivered to market. Limited access to the port also poses a safety concern if fishing vessels are in distress or vessel crew need emergency medical care. There is also concern over increased competition for limited port space, especially when it comes to space for transient fishing vessels (e.g., Albacore fleet) looking to offload product and purchase fuel, bait, and other supplies.

In addition to supporting commercial fisheries, the Port of Humboldt Bay supports recreational fishing and a fleet of Commercial Passenger Fishing Vessels that fish both offshore and utilize Humboldt Bay to fish for California Halibut. The addition of infrastructure in Humboldt Bay associated with this project could pose a safety issue for recreational anglers navigating the bay and possibly limit access to fishing grounds that were historically utilized by recreational anglers.

**Recommendations:** The Department recommends the Draft EIR include the following:

- A comprehensive analysis of the impacts to commercial and recreational fisheries from port congestion and port closures. This analysis should include a description of what rolling port closures will look like in Humboldt Bay and an estimation of how many days per year, and how many consecutive days, the harbor might experience closures due to offshore wind activity. Included in that analysis should be an estimation of how many turbines the Project would possibly service and for how many years the Project would service those turbines. Moreover, this analysis should also include potential impacts and safety hazards to the fishing industry from turbine foundations being held in wet storage just outside of the federal navigation channel and how many foundations would be in wet storage at one time in Humboldt Bay.
- An economic impact analysis. This analysis should include the economic impacts associated with potential harbor closures and increased port congestion to the commercial and recreational fishing fleet, fish processing plants, and other fishing related industries.
- A temporally explicit port usage assessment. The port usage assessment should detail when, both during the year and during an average day, the Port of Humboldt Bay is most highly used by the commercial and recreational fishing industry.
- Impacts to important commercial and recreational fish and invertebrate species inside Humboldt Bay. The DEIR should assess the potential impacts to important

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commercial and recreational species, and prey species, inside the bay, from increased dredging activity and additional infrastructure placed in Humboldt Bay.

- An assessment of additional vessels in the Port of Humboldt Bay. The DEIR should include a full assessment of how many, and what size, vessels will be needed to support offshore wind activities. This assessment should also include where those vessels will be tied up in the port, and how that might impact the Port of Humboldt Bay's ability to host transient fishing vessels.

### **Eco-Friendly Shoreline Transition**

**Comments:** The Department appreciates the idea of establishing a modern eco-friendly shoreline transition between the marine environment and upland development to reduce Project impacts to marine species and habitats.

**Recommendations:** The Department recommends further consulting with the Department and other agencies on the most appropriate design to minimize impacts to species and habitat. Additionally, the Department recommends that the Draft EIR analyze multiple options for the eco-friendly shoreline transition.

### **Black Brant, Waterfowl, and Shorebirds**

**Comments:** Black brant occur in Humboldt Bay as spring and fall migrant and winter visitors. Humboldt Bay is the fourth most utilized staging area in the Pacific Flyway for the species and has historically been the most important area in California for this species, due in part to the health and size of eelgrass habitats found in the Bay. Humboldt Bay is also an internationally important site for overwintering and seasonally migrating shorebirds. Recent surveys (2018-2019) estimate that over one million shorebirds from 52 recorded species utilize the Bay throughout the year (Colwell et al. 2020). Many species rely on mudflat habitats for feeding, resting and/or roosting. Approximately two thirds of the shorebirds that utilize Humboldt Bay are listed as shorebirds of concern or are on the U.S. Fish and Wildlife Service's Birds of Conservation Concern list (USFWS 2008; U.S. Shorebird Conservation Plan Partnership 2015). Human disturbance and habitat destruction have been noted to impact shorebird populations.

The proposed Project area includes transitions across elevations from mudflats to eelgrass habitat, which is highly utilized by brant, shorebirds and waterfowl for foraging. Impacts to eelgrass and mudflat habitat may disproportionately impact birds that feed on eelgrass and mudflat resources and are limited by tidal cycles. Persistent human disturbance that occurs during operations is likely to reduce the amount of time brant and shorebirds utilize Humboldt Bay. The Department is concerned the proposed Project will have impacts to brant and waterfowl due to impacts on foraging habitat (nearby grit site, eelgrass, mudflats) and from disturbance (CEQA Guidelines §15065(a) (1 & 3)). Of particular concern are impacts to Long-billed curlews (*Numenius americanus*), as they are territorial and are known to forage extensively in areas adjacent to the wet storage locations (Mathis et al. 2006).

**Recommendations:** The Department recommends the Draft EIR include the following:

- A comprehensive analysis of impacts to black brant and shorebirds. The Department recommends the Draft EIR include a quantitative analysis of both the

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loss of foraging opportunity and the increase in disturbance along with the cumulative impacts to black brant, waterfowl, and shorebirds when both stressors occur simultaneously.

- Black brant and shorebird avoidance and minimization measures. The impacts to brant, waterfowl, and shorebirds (including Long-billed curlews) through increased disturbance and habitat modification and loss may be significant, and the Department recommends avoidance, minimization and mitigation measures be developed to reduce the impacts to less than significant.

### **Ospreys, Cormorants, and Other Nesting Birds**

**Comments:** Native birds, particularly their nesting stages, are protected pursuant to FGC sections 2000, 3503, and 3503.5. CDFW observations since 2014 indicate a range of 7 to 14 active Osprey nesting territories within the proposed Project area with 10 active nesting territories observed in 2023. Similarly, 'No Name Dock' persistently supports a nesting colony of Double-crested cormorants with 27 nesting pairs observed on June 04, 2023 (James Ray, Personal Communication). The proposed Project upland construction activities and removal of No Name Dock will have significant impacts on these nesting bird species. In addition, the general upland construction activities may also impact other species of nesting passerines.

### **Recommendations:**

Potential impacts to Osprey and Double-crested cormorants from Project-related changes to the physical environment should be analyzed in the Draft EIR and appropriate Mitigation Measures developed. Such measures should include, but not be limited to the development of an Osprey Nest Management Plan (ONMP) for current and future nests. The ONMP should include performance criteria such as no-net-loss of osprey nesting territories with sufficient alternative nest sites within the Project area or immediate vicinity, and that any created nest sites are of equal or higher quality than nests removed. To avoid impacts to nesting birds, construction activities should be conducted outside of the nesting bird season where feasible. If construction cannot reasonably occur outside of the nesting bird season, nesting bird surveys should be conducted prior to construction activities.

### **Upland Development and Habitat Restoration Subareas**

**Comments:** The NOP describes the Habitat Restoration Subarea as including areas of ruderal vegetation and being dominated by non-native invasive plant species and that it will be used to mitigate Project impacts to wetlands and Environmentally Sensitive Habitat Areas (ESHA), presumably from impacts to the Upland Development Subarea. The NOP also describes the following activities will occur at the Habitat Restoration Subarea: 1) Create and enhance wetland and ESHA at a sufficient replacement ratio to Project impacts to ensure no net loss of wetlands and ESHA, 2) Areas may be lowered in elevation to introduce tidal influence and develop salt marsh habitat, 3) Freshwater wetlands may be created at the margins of salt marsh to mimic natural salt marsh to freshwater marsh ecotones in Humboldt Bay, 4) Freshwater wetland will be developed by excavating geomorphic low points to intercept groundwater; placing clay soils in the bottom of geomorphic low points to intercept groundwater; and/or placing clay soils in the bottom of geomorphic low points to capture and retain rainwater, and 5) Salt marsh, freshwater wetlands, and ESHA will be planted with suitable native plant species. To provide context

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for these mitigation concepts and to allow the Department to assess Project impacts on natural resources, the Draft EIR should fully describe the current conditions of the Upland Development Subarea, the Habitat Restoration Subarea, and the Dredge Material Dewatering Area, and analyze the potential Project-related impacts to those resources, including avoidance, minimization, and mitigation measures.

**Recommendations:**

A complete assessment of the flora and fauna within the Upland Development Subarea, the Habitat Restoration Subarea, and the Dredge Material Dewatering Area should be conducted, with particular emphasis upon special status species, including rare, threatened, and endangered species, Sensitive Natural Communities, and wetlands. Consider special-status invertebrates with the potential to occur in the Project area, such as Western Bumble Bee (*Bombus occidentalis*; State Candidate) and Obscure Bumble Bee (*Bombus caliginosus*; State SSC). Appropriately timed habitat assessments and/or focused, species-specific surveys are recommended to adequately evaluate presence within the Project area as well as potential Project impacts. Rare plants and Sensitive Natural Communities should be assessed following the Department's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities.

The Draft EIR should analyze Project-related impacts to biological resources and develop measures to avoid, minimize, and mitigate for those impacts. Mitigation Measures that include the creation of wetlands should contain significant technical detail for the Department to be able to assess the feasibility and efficacy of the proposed measure.

**Introduction of Non-native Species**

**Comments:** The Department is concerned that increased vessel traffic and construction of docks/piers could result in the establishment or proliferation of aquatic invasive species in Humboldt Bay. For example, construction boats and barges may transport new species to the Project area via vessel biofouling, wherein aquatic organisms attach to and accumulate on the hull and other submerged parts of a vessel.

**Recommendations:** The Department recommends the Draft EIR include the following:

- An analysis of the potential for the Project to introduce and host non-native species in Humboldt Bay.
- The Department recommends avoidance and minimization measures to reduce the risk of introducing and spreading non-native species. Possible mitigation could include contracting vessels and barges from nearby or requiring contractors to perform a vessel cleaning prior to arrival in California waters. The Department's Invasive Species Program could assist with this analysis as well as with the development of appropriate mitigation (information at <https://www.wildlife.ca.gov/Conservation/Invasives>).

**Water Quality & Benthic Habitat**

**Comments:** The Department is concerned that increased vessel traffic and operation of heavy equipment along the shoreline might result in oil or hazardous material being

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discharged into bay waters. The Department is also concerned with the potential for biofouling from wind turbine infrastructure to be discharged in the bay and impact benthic habitat during turbine decommissioning/maintenance activities.

**Recommendations:**

- The Draft EIR should describe the risk of oil and hazardous material spills, the potential impacts to coastal and marine resources in the event of a spill, and spill prevention and response measures.
- The Draft EIR should discuss if removal of marine life and biofouling from wind turbine infrastructure would be carried out as part of decommissioning or maintenance activities at the marine terminal. If such activities would be carried out, the Draft EIR should discuss the composition of this marine biofouling and the potential effect of its discharge into the bay (such as accumulation on the benthic habitat, alteration of habitats, and dispersal and spread of aquatic invasive marine species). The Draft EIR should also include measures to avoid discharging marine life and biofouling into bay waters.

**Marine Debris**

**Comments:** The Department is concerned that Project operations in the Bay could result in an increased presence of marine debris.

**Recommendations:**

- The Department recommends the Draft EIR include avoidance, minimization, and mitigation measures to reduce the amount of marine debris resulting from development and operations. Additionally, the Department recommends the development of a marine debris monitoring plan and annual report that will be provided to the resource and permitting agencies.

**Analysis of Alternatives**

The Department is concerned that Project impacts to species and habitats within Humboldt Bay may be both significant and cumulatively considerable. The Draft EIR must describe a reasonable range of alternatives to the Project, or to the location of the Project, that could feasibly attain most of the basic objectives of the Project while avoiding or substantially lessening any of the significant effects of the Project (CEQA Guidelines §15065(a) (1 & 3). To reduce Project level impacts to a level less than significant, the Department recommends the Draft EIR include project alternatives that reduce impacts to sensitive species and habitat areas, such as eelgrass habitat, mudflats, and CESA-listed species.

**Closely Related Past, Present, and Reasonably Foreseeable Probable Future Projects**

The cumulative impacts from the proposed Project need to be thoroughly evaluated in the Draft EIR and should include all current and foreseeable projects in the area, including other impacts associated with offshore wind development and associated transmission of power cables along the coast or to shore. Additionally, other projects in Humboldt Bay that should be included in the cumulative impacts analysis include the Nordic Aquafarms facility

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and associated seawater intakes, Harbor District and USACE maintenance dredging operations, and aquaculture development.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNNDB field survey form can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/SubmittingData#44524420-pdf-field-survey-form>

The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>

## **FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by the Department. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

## **CONCLUSION**

We appreciate the opportunity to comment on the Humboldt Bay Offshore Wind Heavy Lift Marine Terminal Project to assist the Harbor District in identifying and mitigating Project impacts on biological resources.

For further information regarding impacts to marine resources, please contact Corianna Flannery, Environmental Scientist at 707-499-0354 or [Corianna.Flannery@wildlife.ca.gov](mailto:Corianna.Flannery@wildlife.ca.gov). For further information regarding terrestrial impacts, please contact James Ray, Senior Environmental Scientist Specialist at 707-502-5565 or [James.Ray@wildlife.ca.gov](mailto:James.Ray@wildlife.ca.gov).

Sincerely,

— DocuSigned by:  
  
343995CB95354BC...

**Craig Shuman, D. Env.**  
Marine Regional Manager

— DocuSigned by:  
  
1D82ADE7303A474...

**Tina Bartlett**  
Northern Region Regional Manager

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**ATTACHMENT 1:** Agreement in Principle for Interim Criteria for Injury to Fish from Pile Driving Activities

**ATTACHMENT 2:** California Department of Fish and Wildlife Fish Screen Criteria

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## REFERENCES

- Colwell, M.A., C. Polevy & H. LeWinter. 2020. Humboldt Bay, California, USA Hosts A Globally Important Shorebird Community Year-Round. *Wader Study* 127(3).
- Gilkerson, W. and Leroy, T. 2013. Modeling Relative Sea-Level Change and its impacts to Eelgrass and Salt Marsh Distribution within Humboldt Bay, Northern California. Presentation for the 31st Annual Salmonid Restoration Conference, March 13-16, 2013, Fortuna, California.
- Heiser, D. W. and Jr. E.L. Finn. 1970. Observations of juvenile chum and pink salmon in marina and bulkheaded areas, Supplemental Progress Report. WDF, Olympia, WA.
- Larson, K., and C. Moehl. 1990. Entrainment of anadromous fish by hopper dredge at the mouth of the Columbia River. Pages 102-112 in C.A. Simenstad, editor. Effects of dredging on anadromous Pacific coast fishes. University of Washington Sea Grant.
- Mari-Gold Environmental Consulting and Novo Aquatic Sciences. 2011. Fish Monitoring and Water Quality Plan: Stockton Deep Water Ship Channel and Sacramento Deep Water Ship Channel Maintenance Dredging and Dredged Material Placement Projects. Prepared for U.S. Army Corps of Engineers, Sacramento District. Submitted April 2011.
- Mari-Gold Environmental Consulting, Novo Aquatic Sciences, and Applied Sciences. 2011. Longfin Smelt Monitoring During Dredging by The USACE Hopper Dredge Essayons In The San Francisco Bay Area Final Report. Submitted December 2011.
- Mari-Gold Environmental Consulting and Novo Aquatic Sciences. 2015. Stockton and Sacramento Deep Water Ship Channel Maintenance Dredging 2014 Fish Community, Entrainment and Water Quality Monitoring Report. Submitted May 2015.
- Mari-Gold Environmental Consulting. 2018. Stockton and Sacramento Deep Water Ship Channel Emergency Dredging and Dredge Material Placement Projects. 2017 Fish Entrainment Monitoring Report. MEC 21561 S. Parkview Ln. Estacada, OR. 97023.
- Mathis, R.L., Colwell, M.A., Leeman, L.W. and Leeman, T.S., 2006. Long-billed Curlew distributions in intertidal habitats: scale-dependent patterns. *Western Birds*, 37, pp.156-168.
- McGraw, K., and D. Armstrong. 1990. Fish entrainment by dredges in Grays Harbor, Washington. Pages 113-131 in C.A. Simenstad, editor. Effects of dredging on anadromous Pacific coast fishes. University of Washington Sea Grant.
- Nightingale, B. and C. A. Simenstad, 2001. Dredging Activities: Marine Issues. White Paper. Submitted to Washington Department of Fish and Wildlife, Washington Department of Ecology, Washington Department of Transportation. 119 pp.

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NMFS. 2014. California Eelgrass Mitigation Policy, National Marine Fisheries Service, [https://archive.fisheries.noaa.gov/wcr/publications/habitat/california\\_eelgrass\\_mitigation/Final%20CEMP%20October%202014/cemp\\_oct\\_2014\\_final.pdf](https://archive.fisheries.noaa.gov/wcr/publications/habitat/california_eelgrass_mitigation/Final%20CEMP%20October%202014/cemp_oct_2014_final.pdf).

Novotny, S., J. Staton, R. Reed, and E. Campbell. 2022. Benthic fish and invertebrate trawl surveys and eDNA sampling of sub-tidal habitat reaches of the federally maintained Humboldt Bay navigation channels – 2021. Report prepared for the U.S. Army Corps of Engineers.

Pentec Environmental. 1997. Movement of juvenile salmon through industrialized areas of Everett Harbor. Pentec Environmental. Edmonds, WA.

Pinnix, W., Nelson, P., Stutzer, G. & K. Wright. 2012. Residence time and habitat use of coho salmon in Humboldt Bay, California: an acoustic telemetry study. *Environmental Biology of Fishes*. 96(2-3): 315-323.

Popper, A. N., Carlson, T. J., Hawkins, A. D., Southall, B. L., and Gentry, R. L. 2006. Interim Criteria for Injury of Fish Exposed to Pile Driving Operations: A White Paper. 15 pp.

Reine, K., and Clarke, D. 1998. Entrainment by hydraulic dredges-A review of potential impacts. Technical Note DOER-E1. U.S. Army Corps of Engineers, Environmental Laboratory, Vicksburg, MS.

Shaughnessy, F. J., W. Gilkerson, J. M. Black, D. H. Ward, and M. Petrie. 2012. Predicted eelgrass response to sea level rise and its availability to foraging black brant in Pacific coast estuaries. *Ecological Applications* 22: 1743–1761.

Simenstad, C. A. (ed.) 1990. Effects of Dredging on Anadromous Pacific Coast Fishes. Workshop Proceedings, Seattle, September 8-9, 1988. [v]+160pp. Wash. Sea Grant Prog., Univ. Wash., Seattle, WA.

Stillman, R. A., Wood, K. A., Gilkerson, W., Elkinton, E., Black, J. M., Ward, D. H., and Petrie, M. 2015. Predicting effects of environmental change on a migratory herbivore. *Ecosphere* 6(7):114. <http://dx.doi.org/10.1890/ES14-00455.1>.

Tenera Environmental. 2023. Intake Assessment of the Potential Effects on Ichthyoplankton and other Meroplankton Due to Entrainment at Proposed Samoa Peninsula Water Intakes.

Toft, J., Cordell, J., Simenstad, C. & L. Stamatiou. 2007. Fish distribution, abundance, and behavior along city shoreline types in Puget Sound. *North American Journal of Fisheries Management*. 27(2): 465-480.

U.S. Army Corps of Engineers. 2004. Framework for Assessment of Potential Effects of Dredging on Sensitive Fish Species in San Francisco Bay.

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U.S. Fish and Wildlife Service. 2008. Birds of Conservation Concern 2008. United States Department of Interior, Fish and Wildlife Service, Division of Migratory Bird Management, Arlington, Virginia. 85 pp.

U.S. Shorebird Conservation Plan Partnership. 2015. U.S. Shorebirds of Conservation Concern – 2015.

Weitkamp, D. E. 1982. Juvenile chum and chinook salmon behavior at Terminal 91, Report to Port of Seattle. Parametrix.

## **FISH SCREENING CRITERIA**

### **STRUCTURE PLACEMENT**

A. Streams And Rivers (flowing water): The screen face shall be parallel to the flow and adjacent bankline (water's edge), with the screen face at or streamward of a line defined by the annual low-flow water's edge.

The upstream and downstream transitions to the screen structure shall be designed and constructed to match the bankline, minimizing eddies upstream of, in front of, and downstream of, the screen.

Where feasible, this on-stream fish screen structure placement is preferred by the California Department of Fish and Game.

B. In Canals (flowing water): The screen structure shall be located as close to the river source as practical, in an effort to minimize the approach channel length and the fish return bypass length. This in canal fish screen location shall only be used where an "on-stream" screen design is not feasible. This situation is most common at existing diversion dams with headgate structures. The current National Marine Fisheries Service - Southwest Region criteria for these types of installations shall be used.

C. Small Pumped Diversions: Small pumped diversions (less than 40 cubic-feet per second) which are screened using manufactured, self-contained screens shall conform to the National Marine Fisheries Service - Southwest Region criteria Attachment A.

D. Non-Flowing Waters (tidal areas, lakes and reservoirs): The preferred location for the diversion intake structure shall be offshore, in deep water, to minimize fish contact with the diversion. Other configurations will be considered as exceptions to the screening criteria as described in Section 5.F. below.

### **APPROACH VELOCITY (Local velocity component perpendicular to the screen face)**

A. Flow Uniformity: The design of the screen shall distribute the approach velocity uniformly across the face of the screen. Provisions shall be made in the design of the screen to allow for adjustment of flow patterns. The intent is to ensure uniform flow distribution through the entire face of the screen as it is constructed and operated.

B. Self-Cleaning Screens: The design approach velocity shall not exceed:

1. Streams and Rivers (flowing waters) - Either:

- a. 0.33 feet per second, where exposure to the fish screen shall not exceed fifteen minutes, or
- b. 0.40 feet per second, for small (less than 40 cubic-feet per second) pumped diversions using manufactured, self-contained screens.

2. In Canals (flowing waters) - 0.40 feet per second, with a bypass entrance located every one-minute of travel time along the screen face.

3. Non-Flowing Waters (tidal areas, lakes and reservoirs) - The specific screen approach velocity shall be determined for each installation, based on the species and life stage of fish being protected. Velocities which exceed those described above will require a variance to these criteria (see Section 5.F. below).

(Note: At this time, the U.S. Fish and Wildlife Service has selected a 0.2 feet per second approach velocity for use in waters where the Delta smelt is found. Thus, fish screens in the Sacramento-San Joaquin Estuary should use this criterion for design purposes.)

C. Screens Which Are Not Self-Cleaning: The screens shall be designed with an approach velocity one-fourth that outlined in Section B above. The screen shall be cleaned before the approach velocity exceeds the criteria described in Section B.

Frequency Of Cleaning: Fish screens shall be cleaned as frequently as necessary to prevent flow impedance and violation of the approach velocity criteria. A cleaning cycle once every 5 minutes is deemed to meet this standard.

Screen Area Calculation: The required wetted screen area (square feet), excluding the area affected by structural components, is calculated by dividing the maximum diverted flow (cubic-feet per second) by the allowable approach velocity (feet per second). Example:

$$1.0 \text{ cubic-feet per second} / 0.33 \text{ feet per second} = 3.0 \text{ square feet}$$

Unless otherwise specifically agreed to, this calculation shall be done at the minimum stream stage.

#### **Sweeping Velocity** (Velocity component parallel to screen face)

A. In Streams And Rivers: The sweeping velocity should be at least two times the allowable approach velocity.

B. In Canals: The sweeping velocity shall exceed the allowable approach velocity. Experience has shown that sweeping velocities of 2.0 feet per second (or greater) are preferable.

C. Design Considerations: Screen faces shall be designed flush with any adjacent screen bay piers or walls, to allow an unimpeded flow of water parallel to the screen face.

#### **SCREEN OPENINGS**

A. Porosity: The screen surface shall have a minimum open area of 27 percent. We recommend the maximum possible open area consistent with the availability of appropriate material, and structural design considerations.

The use of open areas less than 40 percent shall include consideration of increasing the screen surface area, to reduce slot velocities, assisting in both fish protection and screen cleaning.

B. Round Openings: Round openings in the screening shall not exceed 3.96mm (5/32in). In waters where steelhead rainbow trout fry are present, this dimension shall not exceed 2.38mm (3/32in).

C. Square Openings: Square openings in screening shall not exceed 3.96mm (5/32in) measured diagonally. In waters where steelhead rainbow trout fry are present, this dimension shall not exceed 2.38mm (3/32in) measured diagonally.

D. Slotted Openings: Slotted openings shall not exceed 2.38mm (3/32in) in width. In waters where steelhead rainbow trout fry are present, this dimension shall not exceed 1.75mm (0.0689in).

## **SCREEN CONSTRUCTION**

A. Material Selection: Screens may be constructed of any rigid material, perforated, woven, or slotted that provides water passage while physically excluding fish. The largest possible screen open area which is consistent with other project requirements should be used. Reducing the screen slot velocity is desirable both to protect fish and to ease cleaning requirements. Care should be taken to avoid the use of materials with sharp edges or projections which could harm fish.

B. Corrosion and Fouling Protection: Stainless steel or other corrosion-resistant material is the screen material recommended to reduce clogging due to corrosion. The use of both active and passive corrosion protection systems should be considered.

Consideration should be given to anti-fouling material choices, to reduce biological fouling problems. Care should be taken not to use materials deemed deleterious to fish and other wildlife.

C. Project Review and Approval: Plans and design calculations, which show that all the applicable screening criteria have been met, shall be provided to the Department before written approval can be granted by the appropriate Regional Manager.

The approval shall be documented in writing to the project sponsor, with copies to both the Deputy Director, Habitat Conservation Division and the Deputy Director, Wildlife and Inland Fisheries Division. Such approval may include a requirement for post-construction evaluation, monitoring and reporting.

D. Assurances: All fish screens constructed after the effective date of these criteria shall be designed and constructed to satisfy the current criteria. Owners of existing screens, approved by the Department prior to the effective date of these criteria, shall not be required to upgrade their facilities to satisfy the current criteria unless:

1. The controlling screen components deteriorate and require replacement (i.e., change the opening size or opening orientation when the screen panels or rotary drum screen coverings need replacing),
2. Relocation, modification or reconstruction (i.e., a change of screen alignment or an increase in the intake size to satisfy diversion requirements) of the intake facilities, or
3. The owner proposes to increase the rate of diversion which would result in violation of the criteria without additional modifications.

E. Supplemental Criteria: Supplemental criteria may be issued by the Department for a project, to accommodate new fish screening technology or to address species-specific or site-specific circumstances.

F. Variances: Written variances to these criteria may be granted with the approval of the appropriate Regional Manager and concurrence from both the Deputy Director, Habitat Conservation Division and the Deputy Director, Wildlife and Inland Fisheries Division. At a minimum, the rationale for the variance must be described and justified in the request.

Evaluation and monitoring may be required as a condition of any variance, to ensure that the requested variance does not result in a reduced level of protection for the aquatic resources.

It is the responsibility of the project sponsor to obtain the most current version of the appropriate fish screen criteria. Project sponsors should contact the Department of Fish and Game, the National Marine Fisheries Service (for projects in marine and anadromous waters) and the U.S. Fish and Wildlife Service (for projects in anadromous and fresh waters) for guidance.

Copies of the current criteria are available from the Department of Fish and Game through the appropriate Regional office, which should be the first point of contact for any fish screening project.

MEMORANDUM

June 12, 2008

From: Fisheries Hydroacoustic Working Group

Subject: Agreement in Principle for Interim Criteria for Injury to Fish from Pile Driving Activities

To: Applicable Agency Staff

The signatory agencies, identified below, have agreed in principle to use the attached Interim Criteria for Injury to Fish from Pile Driving Activities. The agreement was concluded at a meeting in Vancouver, Washington on June 10-11, 2008 with key technical and policy staff from the Federal Highway Administration, NOAA Fisheries, U.S. Fish and Wildlife Service, the Departments of Transportation from California, Oregon, and Washington; and national experts on sound propagation activities that affect fish and wildlife species of concern. The agreed upon criteria identify sound pressure levels of 206 dB peak and 187 dB accumulated sound exposure level(SEL) for all listed fish except those that are less than 2 grams. In that case, the criteria for the accumulated SEL will be 183 dB.

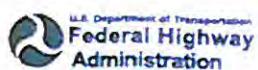
These criteria will apply to all new projects beginning no later than 60 days from the date of this memorandum. During the interim 60 day period, the Transportation Agencies will work with the Services to identify projects currently in the consultation process and reach agreement on which criteria will be used to assess project effects.

The agencies agree to review the science periodically and revise the threshold and cumulative levels as needed to reflect current information. Behavioral impacts to fish and impacts to marine mammals are not addressed in this agreement. Sub-injurious effects will continue to be discussed in future meetings.

The respective agencies also agree to develop appropriate training for staff on these revised criteria, as well as a process to review and possibly refine the criteria, when appropriate.

For questions or concerns about the revised criteria, we recommend staff contact their agency environmental coordinator or agency expert on pile driving issues.

*Carol S. Atkins*



Federal Highway Administration\*

\*FHWA supports the use of these interim criteria in the states signing this agreement in principle. FHWA leaves the schedule for implementation to the discretion of the state DOTs in cooperation with their respective FHWA Division Offices and the Services.

*Michael Jahan*



NOAA Fisheries – NWR

*Russell M. Strock*



NOAA Fisheries – SWR

*Ken S. Berg*



US Fish and Wildlife Service Region 1

*Michael E. Dagnes Jr.*



US Fish and Wildlife Service Region 8

*[Signature]*

California Department of Transportation

*[Signature]*

California Department of Fish and Game

*H.C. Farley, Geo-Environmental Mgr.*

Oregon Department of Transportation



Meganulahs

Washington State Department of Transportation



**FHWG Agreement in Principle**  
**Technical/Policy Meeting Vancouver, WA**  
***June, 11 2008***

| <b>Interim Criteria for Injury</b> | <b>Agreement in Principle</b>                                                                      |
|------------------------------------|----------------------------------------------------------------------------------------------------|
| Peak                               | 206 dB (for all size of fish)                                                                      |
| Cumulative SEL                     | 187 dB - for fish size of two grams or greater.<br>183 dB - for fish size of less than two grams.* |

\*see Table—to be developed



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**Re: Humboldt Bay Offshore Wind Project**

Thank you for the opportunity to comment on the Humboldt Bay Offshore Wind Project. The Humboldt Bay Rowing Association (HBRA) operate out of its large boathouse located at 1063 Waterfront Drive and also from the Adorni Center, Eureka. The land on which the large boathouse is located has been leased from the City of Eureka since 2001 and HBRA has continuously occupied that boathouse since that year.

The proposed map of the project shows extensive use of the Samoa Channel as a Wet Storage Subarea, which appears to severely impact the ability of rowing in this area. HBRA, along with the Cal Poly Humboldt Men and Women's Crew, practice and often hold races in this channel. We are also concerned about how the increased traffic and dredging throughout Humboldt Bay might restrict our ability to safely recreate on the Bay.

HBRA has been a non-profit organization since 1987 operating on Humboldt Bay for 36 years and is committed to providing community rowing programs open to all ages. The organization operates out of two boathouses in Eureka: the HBRA junior and master crew programs operate out of the aforementioned large boathouse and the independent sculling program operates out of the Adorni Center's boathouse. HBRA's mission is to provide our community with the opportunity to participate in the lifelong sport of rowing, either individually or as a team member, on beautiful Humboldt Bay. HBRA rowers range in age from 12 to 85+ years old.

The HBRA Junior crew and Masters programs provide education, instruction, the experience of healthy competition, and training in amateur rowing while supporting healthy minds and bodies, personal growth, and the development of leadership skills of its student athletes. The independent sculling program offers initial instruction and the opportunity for rowers to enjoy the bay as their individual schedules allow.

Please contact me if you have questions or concerns.

  
**Jerome J. Simone**  
President, HBRA



DEPARTMENT OF THE ARMY  
SOUTH PACIFIC DIVISION, U.S. ARMY CORPS OF ENGINEERS  
450 GOLDEN GATE AVENUE  
SAN FRANCISCO, CALIFORNIA 94102

July 24, 2023

Regulatory Division

SUBJECT: File Number SPN-2023-00218

Mr. Rob Holmlund  
Humboldt Bay Harbor, Recreation and Conservation District  
P.O. Box 1030  
Eureka, California 95502-1030  
[districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)

Dear Mr. Holmlund:

This letter is written in response to a request for comments concerning the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project as described in the Notice of Preparation from the Humboldt Bay Harbor, Recreation and Conservation District (District) dated June 26, 2023. Your project is located on the Samoa Peninsula of Humboldt Bay, in Humboldt County, California. Since this activity may involve work and the discharge of fill material below the high tide line and/or within adjacent wetlands, it may impact a water of the U.S. Therefore, the U.S. Army Corps of Engineers (Corps) will need to review those portions of your project.

All proposed work and/or structures extending bayward or seaward of the line on shore reached by mean high water (MHW) in tidal waters or by ordinary high water in non-tidal waters designated as navigable waters of the United States must be authorized by the Corps of Engineers pursuant to Section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. § 403 *et seq.* Additionally, all work and structures proposed in unfilled portions of the interior of diked areas below former MHW must be authorized under Section 10 of the same statute. All proposed discharges of dredged or fill material into waters of the United States must be authorized by the Corps of Engineers pursuant to Section 404 of the Clean Water Act, 33 U.S.C. § 1344 *et seq.* Waters of the United States generally include tidal waters, lakes, ponds, rivers, streams (including intermittent streams), and wetlands.

Your proposed work appears to be within our jurisdiction, and a permit may be required for your project. Application for Corps authorization should be made to this office using the application form on our website:

<https://www.spn.usace.army.mil/Missions/Regulatory/Permitting/>. To avoid delays it is essential that you enter the File Number at the top of this letter into Item No. 1 of the application. The application must include plans showing the location, extent, and character of the proposed activity, prepared in accordance with the requirements contained in this pamphlet. You should note in planning your project that upon receipt of

a properly completed application and plans, it may be necessary to advertise the proposed work by issuing a Public Notice for a period of 30 days.

Our Nationwide and Regional General Permits have already been issued to authorize certain activities, provided specified conditions are met. Your completed application will enable us to determine whether your activity is already authorized. You are advised to refrain from starting your proposed activity until we make a determination that the project is covered by an existing permit.

Commencement of work before you receive our notification will be interpreted as a violation of our regulations.

The Corps regulatory program supports the national goal of “no overall net loss” of wetlands. For permitted activities that result in unavoidable losses, the Corps requires replacement wetlands to offset those losses. The U.S. Army Corps of Engineers and U.S. Environmental Protection Agency released a Compensatory Mitigation Rule on April 10, 2008, to clarify how to provide compensatory mitigation for unavoidable impacts to the nation's wetlands and streams. A copy of this rule can be found on our Headquarters website:

[www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/mitig\\_info.aspx](http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/mitig_info.aspx). The rule describes where and how mitigation is to be completed but maintains existing requirements on when mitigation is required. The rule also preserves the requirement for applicants to avoid or minimize impacts to aquatic resources before proposing compensatory mitigation to offset permitted impacts. Regulatory Guidance Letter 08-03 provides guidance on minimum monitoring requirements for compensatory mitigation projects, including the required minimum content for monitoring reports:  
<https://usace.contentdm.oclc.org/utils/getfile/collection/p16021coll9/id/1241>

A jurisdictional survey (delineation), conducted by a qualified consultant, should be illustrated on a scaled topographic map or site plan. When this document is forwarded with the application, the Corps staff will validate and authenticate the limits of Corps jurisdiction. While it is not necessary to confirm all boundary points, the Corps will verify the jurisdictional boundary along one or more transects and may visit random intermediate points. All delineations of wetlands must be conducted in accordance with the *1987 Corps of Engineers Wetlands Delineation Manual* and appropriate Regional Supplement and submitted to the District for review and verification. Two Regional Supplements have been approved for use within the boundaries of the San Francisco District: The *Arid West Supplement*, and the *Western Mountains, Valleys and Coast Supplement*. Copies of these documents are available to download on our website:  
<https://www.spn.usace.army.mil/Missions/Regulatory/Jurisdiction/>.

The Corps of Engineers receives thousands of requests each year to perform wetland delineations for potential applicants for permits under Section 404 of the Clean Water Act. Due to limited staff and resources, response time can be several months or longer. To expedite this process, the San Francisco District encourages applicants to use consultants to conduct wetland delineations, especially for large and/or complex areas. The San Francisco District is not authorized to recommend any private consulting services and advises applicants to check references and referrals of prospective consultants before contracting services.

You may refer any questions on this matter to me by telephone at 707-443-0855 or by e-mail at [L.K.sirkin@usace.army.mil](mailto:L.K.sirkin@usace.army.mil). All correspondence should be addressed to the Regulatory Division, North Branch, referencing the file number at the head of this letter.

Sincerely,



L. Kasey Sirkin  
Team Lead, TREC  
South Pacific Division

Copy Furnished:

CCC, Eureka, CA (Attn: Melissa Kraemer, [melissa.kraemer@coastal.ca.gov](mailto:melissa.kraemer@coastal.ca.gov))  
CA DFW, Eureka, CA (Attn: Corianna Flannery and James Ray,  
[Corianna.Flannery@wildlife.ca.gov](mailto:Corianna.Flannery@wildlife.ca.gov) and [James.Ray@wildlife.ca.gov](mailto:James.Ray@wildlife.ca.gov))  
NMFS, Arcata, CA (Attn: Matt Goldsworthy and Jeffrey Jahn,  
[Matthew.Goldsworthy@noaa.gov](mailto:Matthew.Goldsworthy@noaa.gov), [Jeffrey.Jahn@noaa.gov](mailto:Jeffrey.Jahn@noaa.gov))  
CA RWQCB, Santa Rosa, CA (Attn: Ryan Bey, [Ryan.Bey@waterboards.ca.gov](mailto:Ryan.Bey@waterboards.ca.gov))

## District Planner

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**From:** jodi smith [REDACTED]  
**Sent:** Friday, August 11, 2023 1:05 PM  
**To:** District Planner  
**Subject:** Wind mills

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I strongly oppose these windmills they cost a lot of money to manufacture they do not produce much electricity and they disrupt the ecosystem of our marine life it affects the whales and dolphins sonar and they go crazy and die you're killing marine life by having these I do not want them here. Do your research and you will find a lot of evidence to what I am speaking about. Why don't you look into the Tesla free energy that was created 100 years ago.

Thank you

[Sent from Yahoo Mail on Android](#)

**From:** Hank Stoffers [REDACTED]  
**Sent:** Wednesday, August 23, 2023 1:17 PM  
**To:** District Planner  
**Subject:** Comments for the Draft EIR for Humboldt Bay Offshore Marine Terminal Project

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Rob Holmlund:

Thank you for considering these comments in the Draft EIR for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

- Please research and consider the installation and ability to accomodate for a Bitcoin mining operation to offset demand response for excess energy generation. Consideration for the revenue/ supplemental funding that an onsite Bitcoin mining facility could provide the harbor district.
- Bitcoin mining available to consume and monetize the excess energy (which is often free or wasted) that is generated from the offshore wind generators must to be considered as a viable option to generate revenue, help offset costs and provide a demand response for excess wind generated power.
- Recreation: improving and or building a new boat ramp in samoa. Consider the impacts of this project to surfing and recreating in the harbor entrance.
- With significant federal funding is there a more permanent pump dredging operation feasible for installation for the harbor and harbor entrance channel instead of the current boat/barge dredging operations.
- Consideration of the impacts to the air traffic at samoa field.
- Consideration for increased traffic and deteriorating road conditions on the Samoa Peninsula.
- Considerations for increased need for water safety and fire department resources.

Sincerely,  
(Fairhaven resident)  
Hank Stoffers

[REDACTED]

**From:** LiaStoffers [REDACTED]  
**Sent:** Wednesday, August 23, 2023 4:33 PM  
**To:** District Planner  
**Subject:** Comments in the Draft EIR for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Rob Holmlund:

Thank you for considering these comments in the Draft EIR for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

My name is Lia Stoffers, Fairhaven resident, who enjoys paddling on the bay from Woodley Island to Fairhaven, boating, sailing and fishing around the bay, swimming from the Coast Guard station to Woodley Island for the Humboldt Bay critter crawl, surfing the bay, harbor, jetties and beaches, cycling along the Samoa peninsula and bridges, I am also a Samoa airfield tenant.

I have concerns that I would like to be addressed such as:

Fire/emergency service funding: Humboldt bay area departments are underfunded and understaffed with difficulty recruiting fire/EMS personnel due to low wages. Who will provide fire/medical rescue if Fire Stations are "brownout" due to staffing?

Concerns about National, State and local infrastructure security: for submarine power and fiber optic cables, substation power plant, bulk fuel plant and PG&E nuclear.

Sound pollution from reverse/backing vehicles, crane operations and air operations.

Concerned that drafting operations would impact surfing and water safety support vessels in the harbor entrance or bay shoaling.

Concerns about air quality such as exhaust from vessels at berth, heavy equipment, trucking, contaminated dust, dredge spoils from site development and operations in Samoa and surrounding areas.

Protection of Samoa channel bridge in the event that a floater or vessel strikes the bridge.

Safety concerns for Samoa peninsula residents as we only have one escape route off the peninsula.

Consider light pollution: color temperature should be dimmable, warm light and downlight when possible.

Infrastructure improvements will be needed:

Like New Navy Base Rd repaving as trucking, traffic and heavy equipment will increase

Roundabout at Samoa Bridge and 255 due to increased traffic at the intersection where accidents are already common.

Samoa airport maintenance and concerns about approach for runway 34 during drafting operations.

Harbor entrance dredging and/or jetties improvement because dune and coastal erosion during King tides and large swells is increasing.

Taxes and fees generated to be distributed to local communities that will be most impacted by industrial development. There is an opportunity for Bitcoin mining to use excess wind energy before, during and after transmission line upgrades that could be used to fund later development phases.

Humboldt bay area residents should not be financially responsible for capital improvements or development only for corporations to profit later (per Crowley's website: their annual revenue is 2.5 Billion).

What happens to project funding if federal, state and/or local government administration change?

Requesting bay access on the west side of the bay (near Samoa bridge) as channel crossing will be more difficult for recreation due to more boat traffic.

Humboldt Bay should be a Green port.

Hoping for consistent application of Local Coastal Program for coastal armoring for industrial and residential properties. It is possible for this massive project to be developed in a responsible and respectful way recognizing tsunami, sea level rise, critical infrastructure target risks and earthquake threats and being mindful of the flora and fauna that inhabit the Humboldt Bay area and stand to benefit or detriment from this development. Please continue to hold well publicized meetings, provide easy to find and read reports and videos and comment options. Humboldt Bay and the Samoa Peninsula offers so much to many people, I hope we can find ways to use and enjoy together,

Lia Stoffers

## District Planner

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**From:** Thompson, Brendan@Waterboards [REDACTED]  
**Sent:** Monday, August 21, 2023 4:10 PM  
**To:** District Planner [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RB1 Comments: NOP Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal (SCH No. 2023060752)  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Mr. Homlund,

Thank you for providing North Coast Regional Water Quality Control Board (Regional Water Board) staff the opportunity to comment on the Notice of Preparation of an Environmental Impact Report (EIR) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project). The Project would involve approximately 180 acres of redevelopment on the Samoa Peninsula and involve construction of paved and compacted roads throughout the site and approximately 13.5 acres of new buildings.

The Regional Water Board is concerned about potential impacts to Humboldt Bay that may occur from stormwater runoff during the permanent Project configuration (i.e., post-construction). We are pleased that the NOP depicts several post-construction stormwater control features around the Project perimeter. Although the Project area is not subject to the County of Humboldt's [Municipal Separate Storm Sewer System stormwater NPDES permit](#) (MS4 permit) coverage and associated post-construction stormwater requirements, the Regional Water Board will utilize the Clean Water Act section 401 water quality certification process to require a level of Low Impact Development (LID) post-construction stormwater control commensurate to the MS4 permit requirements. Please ensure that the Harbor District 1) include all post-construction stormwater control Best Management Practice (BMP) designs and details with your 401 certification application, and that 2) the treatment meets the minimum MS4 permit standards. Additionally, please include as many specific post-construction LID BMP details as possible in the EIR to help Regional Water Board staff evaluate the appropriateness and adequacy of the proposed treatment.

Additionally, because this very large project would present a risk of pollution discharge to Humboldt Bay during construction, the 401 certification application and EIR should also include details that demonstrate how stormwater pollutants will be prevented from entering the Bay during construction, for both the dry and wet seasons.

Thank you. Please contact me if you have any questions.

Brendan Thompson (he/him/his) [Why?](#)  
Environmental Scientist  
North Coast Regional Water Quality Control Board  
[REDACTED]

August 25, 2023

Rob Holmlund  
Director of Development  
Humboldt Bay Harbor, Recreation and Conservation  
District  
P.O. Box 1030  
Eureka, California 95502-1030  
[districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)



**RE: NOTICE OF PREPARATION OF A DRAFT EIR FOR THE HUMBOLDT BAY  
OFFSHORE WIND HEAVY LIFT MULTIPURPOSE MARINE TERMINAL**

Dear Deputy Director Holmlund:

The Pacific Coast Shellfish Growers Association (PCSGA) represents oyster, clam, mussel, and other bivalve shellfish growers in the waters of California, Washington, Alaska, Oregon, and Hawaii. We are writing to submit comments on the Notice of Preparation (NOP) of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project.

Shellfish growers rely on clean water and healthy ecosystems to produce a safe, nutritious food and to support their livelihoods. Humboldt Bay is the largest producer of oysters in California, with a local economic impact of \$20 million in 2016.<sup>1</sup> In addition to growing oysters for consumers, the Bay has ideal water quality for nurseries and hatcheries that provide an important source of oyster seed for shellfish growers along the West Coast, from Southern California to Washington. This location is an important part of the West Coast production portfolio as it provides a more resilient and consistent supply of seed in the face of ocean acidification, hypoxia, and warming ocean temperatures that are harmful to shellfish production. We are deeply concerned about the potential impacts this proposed project will have on shellfish growers in Humboldt Bay and the other growers who rely on them as a source of seed.

PCSGA and our Humboldt Bay growers welcome the opportunity to engage in productive and meaningful discussions with the Harbor District about the proposed project to ensure it does not compromise the viability of shellfish operations that depend on healthy water quality and the productivity of the Bay. Please consider our recommendations for specific issues and actions below as you conduct the Draft Environmental Impact Report (DEIR):

**The DEIR needs to be completed before the Wind Terminal lease or option to lease is signed.** Shellfish growers in Humboldt Bay, along with other stakeholders have expressed concern and frustration that they were not consulted earlier in this process.

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<sup>1</sup> Leitzell, K. (2019, January 23). *Study: Bivalve Business is Big for Humboldt Bay*. California Sea Grant. Retrieved August 23, 2023, from <https://casegrant.ucsd.edu/news/study-bivalve-business-big-humboldt-bay>

There must be a comprehensive EIR and public engagement process before binding commitments are made.

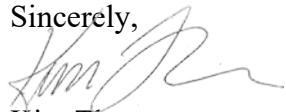
**The DEIR needs to include a wholistic evaluation of the potential short-term and long-term impacts to the local and the entire west coast shellfish industry, including:**

- ***Evaluation of the short- and long-term impacts on water quality, including sediment disturbance, turbidity, and legacy pollutants.*** This evaluation should include direct impacts to the shellfish and fishery operations in the area.
- ***Biosecurity implications of increased vessel traffic.*** The potential for, and impacts from, the introduction of invasive species, viruses, and bacteria as the result of vessel travel from infected areas into growing areas with aquaculture operations.
- ***Disruptions to business operations.*** Identify and evaluate the potential impacts from area closures, potential disruptions to the power grid, etc. for the construction phase as well as long-term operations. The broader implications to the shellfish industry if the Humboldt operations are impacted should also be considered.
- ***Impacts of dredging and dredge spoils*** to eelgrass and the healthy function of the Bay's ecosystems.
- ***Disruptions or changes to tidal flow and distribution.*** It is important to understand if or how the proposed operations could disrupt current tidal flows and nutrient distribution in the bay.

Additionally, we would like ***more information and clarification*** on the proposed lease relocation and which leases will be affected, and where the rolling closures will take place and how other businesses in the area will be notified.

We appreciate your consideration of our comments and concerns and look forward to more dialogue on the proposed Wind Terminal project. Please contact me if you have any questions regarding these comments, or if you would like to schedule a meeting to meet our shellfish growers and learn more about the potential impact this project might have on their operations.

Sincerely,



Kim Thompson  
Executive Director  
Pacific Coast Shellfish Growers Association  
[Redacted]

**From:** Indigo Thorson [REDACTED]  
**Sent:** Friday, August 25, 2023 4:59 PM  
**To:** District Planner  
**Subject:** Humboldt Bay Wind Terminal Project Public Review

Dear Rob Holmlund,  
Humboldt Bay Harbor, Recreation and Conservation District  
P.O. Box 1030 Eureka, California 95501-1030  
(707)443-0801

I am a senior at Cal Poly Humboldt pursuing an Environmental Management and Science major and have concerns about the effects that could be created by the Humboldt Bay Wind Terminal Project. I would like my public comment to be reviewed and noted in the public review process.

First of all, I enjoy spending my free time in Samoa and Eureka to learn about the biodiversity that thrives here. I feel that this environment will be completely changed by the introduction of this project. I know that renewable energy is needed but placing it in a sensitive ecological reserve near low income housing is an environmental injustice. Furthermore, taking into account the influx of jobs that this project will bring; it is important that community and local members are benefiting by the job openings instead of being pushed out. This is important because our community continues to deal with a housing crisis that would not be able to support both the former community and the community that would arrive with the wind shore project. The project will introduce excess sound that would cause stress to the human population and wildlife that resides near the proposed project. I believe that the dredging of the bay will negatively modify the sacred dune system and also affect biodiversity in the material that is transported. More pollution from boats will be introduced into the bay which will likely decrease the biodiversity that I connect with in the area like shore birds, harbor seals, and otters (just to name a few). I love Humboldt and have a strong sense of belonging here, I am afraid the introduction of this project will affect my connection to this place as well as harm the environment that I and so many others steward. I believe there is an effective process to develop a renewable offshore wind farm in Humboldt while improving the environment and connecting the community to climate action, however this needs to be very strategic. I would like to see even more engagement and collaboration with community members and scientific partners.

Thank you for your time and consideration.

Indigo Thorson

August 25, 2023

Rob Holmlund  
Director of Development  
Humboldt Bay Harbor, Recreation and Conservation District  
P.O. Box 1030  
Eureka, California 95502-1030  
[districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)

*Sent via electronic mail*

RE: Notice of Preparation of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project

To Mr. Holmlund and Harbor District Staff:

The Natural Resources Defense Council (“NRDC”) appreciates the opportunity to comment on the Humboldt Bay Harbor, Recreation and Conservation District’s (“Harbor District”) Notice of Preparation of a Draft Environmental Impact Report ("DEIR") for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (“Project”). Given the novelty and uncertainty associated with floating offshore wind projects, our initial comments focus on the importance of conducting a robust CEQA process that analyzes *all* of the potentially significant impacts of the entire Project.

NRDC supports policies to bring offshore wind projects to scale in an environmentally protective manner since developing renewable energy is pivotal for California to avoid the worst consequences of climate change and to achieve a zero-carbon energy future. Offshore wind can support grid reliability, reduce greenhouse gas emissions, and create thousands of good jobs and other community benefits. To realize these benefits, it is essential that the sector be built on a strong foundation that carefully considers potential impacts that may arise from this industry. It is imperative that all offshore wind energy development activities are developed responsibly with strong science-based protective measures in place to avoid, minimize, mitigate, and monitor impacts on coastal and marine habitats and wildlife and the surrounding impacted communities.

#### **I. NRDC supports responsible offshore wind development.**

Offshore wind provides a tremendous opportunity to fight climate change, reduce local and regional air pollution, and grow a new industry that will support thousands of well-paying jobs in both coastal and inland communities. In California, offshore wind is an especially promising

resource since its generation profile is complementary to the large amounts of solar the state has already installed on both a daily and seasonal basis.

At the same time, the offshore wind industry should be developed in a responsible manner with minimal environmental impacts. The floating offshore wind technology that will be used in the deeper waters off the West Coast is relatively new, and the full ecosystem effects of constructing and operating floating offshore wind turbines is still unknown. Developing the offshore wind industry in California will also require major upgrades to existing ports and the construction of new transmission infrastructure. The environmental and community impacts of offshore wind development should be carefully considered at all stages of industry development.

NRDC supports responsibly developed offshore wind projects that (1) avoid, minimize, mitigate, and monitor for adverse impacts on wildlife and habitats; (2) minimize negative impacts on other ocean uses; (3) include robust consultation with Native American Tribes and communities; (4) meaningfully engage state and local governments and stakeholders from the outset; (5) include comprehensive efforts to avoid negative impacts to underserved communities; and (6) use the best available scientific and technological data to ensure science-based and stakeholder-informed decision making.

## **II. The Harbor District should ensure full compliance with CEQA before proceeding with the Offshore Wind Marine Terminal Project.**

In order to meet the objectives and comply with the requirements of CEQA, the Harbor District must provide an accurate project description and conduct a thorough analysis of the potential harmful impacts to the ecosystems of Humboldt Bay. If CEQA is rigorously followed, “the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees.”<sup>1</sup>

### **A. The Harbor District should ensure a complete and accurate project description.**

The Harbor District states that the Project will involve demolition, site preparation, marine terminal construction, dredging, establishment of wet storage sites, habitat restoration, relocation of existing tenants, and Project Operations.<sup>2</sup> However, the project description and list of environmental effects that will be studied in the DEIR do not seem to include the full suite of impacts from importing materials to the site, towing wind turbines to project sites, sending

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<sup>1</sup> *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376.

<sup>2</sup> Humboldt Bay Harbor, Recreation and Conservation District, *Notice of Preparation of Draft Environmental Impact Report for Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project* (June 26, 2023) at 4;

[https://humboldtbay.org/sites/humboldtbay.org/files/WindTerminal\\_NOP\\_2023%200628\\_0.pdf](https://humboldtbay.org/sites/humboldtbay.org/files/WindTerminal_NOP_2023%200628_0.pdf)

maintenance vessels to the the project site, or constructing transmission infrastructure in the Harbor District. These should be included as part of the project description.

Absent a complete project description, courts view the environmental analysis under CEQA as impermissibly limited, thus minimizing the project’s impacts and undermining meaningful public review.<sup>3</sup> Because the Project operations will reasonably be used to service the development and operations of the Bureau of Ocean Energy Management’s Humboldt Bay Offshore Wind Energy Development project, the DEIR should include an analysis of the environmental impacts of Wind Terminal operations to support offshore wind operations. CEQA prohibits a project proponent from seeking approval of a large project in smaller pieces in order to take advantage of environmental exemptions or lesser CEQA review for smaller projects.<sup>4</sup>

California courts have articulated “general principles” for determining whether two actions are one CEQA project, including “how closely related the acts are to the overall objective of the project,” and how closely related they are in time, physical location, and the entity undertaking the action.<sup>5</sup> The appropriate inquiry is whether two projects are related to one another, *i.e.* they comprise the “whole of an action” or “coordinated endeavor.”<sup>6</sup>

In order to provide an accurate project description, the DEIR should also include information regarding the Harbor District’s option agreement with any private developer or operator to which it decides to lease the Project area. Our understanding is that the Harbor District is currently in negotiations with Crowley Wind Services Inc. (“Crowley”) to execute an option agreement that gives Crowley the right to lease Port land for the development and operation of the terminal. It is unclear what Crowley’s role and responsibilities include as it pertains to the implementing measures and mitigations required by CEQA. As such, the DEIR should include a detailed explanation of Crowley’s and/or any other developer’s role in the Project.

## **B. The Harbor District’s lease with a private developer is a “project” under CEQA.**

A lease between the Harbor District and a private developer for the development of the Offshore Wind and Heavy Lift Multipurpose Marine Terminal is a “project” subject to CEQA. A “project” is defined as “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment,” which includes “the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.”<sup>7</sup> California courts have found that lease and development agreements are

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<sup>3</sup> See, e.g., *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376.

<sup>4</sup> *Arviv Enterprises, Inc. v. South Valley Area Planning Com.*, 101 Cal. App. 4th 1337, 1340 (2002).

<sup>5</sup> *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1226-1227.

<sup>6</sup> *Id.*

<sup>7</sup> CEQA § 21065

subject to CEQA review.<sup>8</sup> When an agency reaches a binding, detailed agreement with a private developer and commits resources to that project, the agency's "reservation of CEQA review until a later, final approval stage is unlikely to convince public observers that before committing itself to the project the agency fully considered the project's environmental consequences."<sup>9</sup>

The Harbor District's pending option agreement and lease with Crowley or any other private developer describes the operations of the planned development regarding the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal. Because these operations are "capable of causing direct or reasonably foreseeable indirect effects on the environment," it is considered a project requiring CEQA review.<sup>10</sup>

### **C. The DEIR should include a thorough analysis on the potential harmful impacts to the ecosystem of Humboldt Bay.**

Humboldt Bay is an important and biologically rich marine ecosystem. It contains a significant portion of the state's eelgrass habitat, which many species rely on, and which has been designated by the National Marine Fisheries Service and Pacific Fishery Management Council as Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC).<sup>11</sup> The Bay also includes extensive intertidal mudflats that attract large populations of overwintering and migratory shorebirds.<sup>12</sup> The Bay provides habitat for a number of species that are protected under the California or federal Endangered Species Acts, including the black grant, chinook salmon, coho salmon, green sturgeon, tidewater goby, longfin smelt, steelhead, and white sturgeon.<sup>13</sup> Chinook salmon are the preferred prey species of the highly endangered Southern Resident orca, which is declining, in part, because of prey limitation.<sup>14</sup> Critical habitat was designated under the Endangered Species Act for Southern Resident orcas off the west coast of California in 2021, including for Humboldt Bay.<sup>15</sup> Two-thirds of the shorebirds that use the area are listed as shorebirds of concern by either the state or the U.S. Fish and Wildlife Service.<sup>16</sup> According to a

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<sup>8</sup> See *City of Orange v. Valenti*, (1974) 37 Cal.App.3d 240; *City of Long Beach v. City of Los Angeles* (2018) 19 Cal.App.5th 465; *World Business Academy v. California State Lands Commission*, (2018) 24 Cal.App.5th 476; *Cedar Fair L.P. v. City of Santa Clara* (2018) 194 Cal.App.4th 1150.

<sup>9</sup> *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116.

<sup>10</sup> *Union of Medical Marijuana Patients, Inc.*, 7 Cal.5th at 1198.

<sup>11</sup> See California Coastal Commission, Staff Report re: Coast Seafoods Company, Application No. 9-17-0646 (Aug. 25, 2017) at 24;

<https://documents.coastal.ca.gov/reports/2017/9/w22b/w22b-9-2017-report.pdf>

<sup>12</sup> *Id.*

<sup>13</sup> Coastal Commission at 24.

<sup>14</sup> 86 FR 41668 (Aug. 2, 2021).

<sup>15</sup> *Id.* "Coastal Area 4—Northern California Coast Area: U.S. marine waters from the OR/CA border (42°00'00" N) south to Cape Mendocino, CA (40°26'19" N), between the 6.1-m and 200-m isobath contours. This area covers 1,606.8 mi<sup>2</sup> (4,161.5 km<sup>2</sup>) and includes waters off Del Norte and Humboldt counties in California. The primary essential feature of this area is prey."

<sup>16</sup> Coastal Commission at 25.

recent study, over 850,000 shorebirds use the Bay each year, including species like the Western sandpiper, marbled godwit, and many more.<sup>17</sup> The Bay is also an important spawning site for Pacific herring.<sup>18</sup>

The Harbor District contemplates that Project operations will include importing wind turbine and mooring components, as well as towing wind turbines out of Humboldt Bay.<sup>19</sup> To fully capture Project effects, the Harbor District should evaluate the full set of environmental impacts that could result from importing components by sea, rail, and truck; towing wind turbines out to lease areas; the full set of maintenance activities for offshore wind facilities; and the construction and operation of any transmission infrastructure that will make landfall in the Harbor District.

The DEIR must adequately and accurately assess environmental impacts to habitat, including eelgrass and mudflats, as well as to protected species and commercially valuable species like the Pacific herring. It should also assess the full set of impacts that could result from Project construction and operation.

#### **D. The DEIR should ensure mitigation of significant environmental effects from the project.**

CEQA requires the adoption of alternatives or mitigation measures to avoid or reduce significant environmental damage whenever feasible.<sup>20</sup> A mitigation measure is an action that avoids, minimizes, or reduces a significant environmental effect or that rectifies or compensates for the effect.<sup>21</sup>

In developing mitigation measures for project effects, the Harbor District should make sure to incorporate the following mitigation measures: (1) measures developed by the National Atmospheric and Oceanic Administration (NOAA) to mitigate effects to California eelgrass habitat; (2) measures recommended by the California Coastal Commission for other industrial activities in Humboldt Bay; and (3) measures BOEM requires of wind lessees, such as vessel speed restrictions and avoiding disturbance of benthic habitat, that would also apply to vessels involved in construction of the Marine Terminal and dredging to support the marine terminal.<sup>22</sup>

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<sup>17</sup> Audubon Society, *New Study Finds Humboldt Bay is Among the Most Important Places in the Entire Hemisphere for Migratory Shorebirds* (Dec. 7, 2020); <https://www.audubon.org/news/new-study-finds-humboldt-bay-among-most-important-places-entire-hemisphere#:~:text=Humboldt%20Bay%20in%20the%20northwestern,Marbled%20Godwit%20and%20much%20more>

<sup>18</sup> *Id.*

<sup>19</sup> Notice of Preparation at 9 - 10.

<sup>20</sup> CEQA Guidelines, § 15002, subd. (a)(2), (3).

<sup>21</sup> CEQA Guidelines, § 15370.

<sup>22</sup> NOAA Fisheries, *California Eelgrass Mitigation Policy and Implementing Guidelines* (Oct. 2014), [https://media.fisheries.noaa.gov/dam-migration/cemp\\_oct\\_2014\\_final.pdf](https://media.fisheries.noaa.gov/dam-migration/cemp_oct_2014_final.pdf); Coastal Commission at

### **III. Conclusion**

We look forward to the District's preparation of a DEIR that considers best available technology for achieving zero-emission goals to maximize climate benefits, prevents the degradation of local wildlife habitat and fisheries, and considers infrastructure and economic benefits to the Tribal Nations and local communities in Humboldt.

We appreciate the opportunity to comment on the Notice of Preparation of a Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project. Thank you for your consideration in this matter.

Respectfully submitted,



Paulina Torres  
Staff Attorney



Irene Gutierrez  
Senior Attorney

**From:** Avery J Tunnicliff [REDACTED]  
**Sent:** Friday, August 25, 2023 3:49 PM  
**To:** District Planner  
**Subject:** Humboldt Bay Offshore Wind Public Comment

Hello,

My name is Avery Tunnicliff. I am a resident of Humboldt county and an undergraduate student in the Cal Poly Humboldt Environmental Resources Engineering program. My main concern after watching the [Harbor Bay District Info Video](#) is the potential cultural impacts to the local indigenous tribes. I would like to know how this project plans to collaborate with the local tribes when making future plans and decisions and how input from the tribes is integrated into planning already.

Thank you for time,

Avery James Tunnicliff

August 25, 2023

**To:** Rob Holmlund Humboldt Bay Harbor, Recreation and Conservation District,  
districtplanner@humboldtbay.org

**From:** Carol Vander Meer, Manila Resident, [REDACTED]

**Re:** Comments on the Notice of Preparation for the Draft Environmental Impact Report for the Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project)

Thank you for the opportunity to comment as a resident on the district's NOP for the DEIR for the Project. While I recognize that Humboldt County is in a unique position nationally to help with the country's urgent need to transition to clean energy, I also don't want to lose sight of the importance Humboldt Bay's cultural and natural resources and the need to develop a project that protects both human and wild communities.

Only one of your project goals speaks of protecting bay resources but I am unclear about exactly what it means, and I believe it could be stated more forcefully in terms of protecting the bay. Please clarify in your DEIR just exactly what the following goal means: "Establish a modern eco-friendly shoreline transition between the marine environment and the upland development."

**As a peninsula resident, I am concerned about traffic on 255.** Manila has long struggled with being bisected by an expressway with dangerous speeds along the road. Residents live there because of access to bay shoreline and beautiful beaches. Please look towards mitigations that include reducing speeds along 255 and allow for safe pedestrian crossings that continue to protect access to the beach. The beach and dunes along the peninsula are worthy of National Monument Status and there is an effort afoot to create a Wigi National Monument. Please work with Caltrans and residents on their 255-corridor improvement project to not only accommodate the needs of Wind Energy development, but also the needs of residents and visitors wanting to enjoy the area the areas resources. I am pleased to learn that present-day conditions will be used as the base level to analyze the potential impacts due to the project.

#### **Zero Emission Port**

Clearly state that the project will make use of the best technology available to achieve a zero emissions port. Remove the term where "feasible". This is a commitment worth making.

#### **Lighting**

Incorporate the most night sky friendly lighting while still accommodating industry needs. I am concerned that this will greatly impact the nearby residents nearby.

#### **Open Space**

Make it a priority to look for opportunities to include open space access to the bay and views around the bay while still allowing for wind industry development. I think of big developments in Southern California where space for trails and access to the beach is a part of the development requirements. We have a magnificent bay with views that inspire its people and tides that nourish wildlife. Don't block that with development that restricts access to the bay. The Great Redwood Trail spur that goes out on the peninsula is a perfect opportunity to support access to peninsula resources as well as provide opportunities to reduce the impacts of traffic on the Peninsula.

As a resident, I have participated in the CoreHub meetings and support the community benefits being advanced by the CoreHub and believe they should be integrated in the project. Meaningful engagement of

the communities most impacted by the development of new energy industries is an essential part of developing solutions to climate change that protect both human and wild communities.

I ask that the Harbor District continue to improve their approach to public outreach, be transparent in your dealing with developers and embrace a new way of project development that is done in partnership with the community.

Sincerely,

A handwritten signature in blue ink that reads "Carol Vander Meer".

Carol Vander Meer, Peninsula Resident



STATE OF CALIFORNIA

Gavin Newsom, Governor

## NATIVE AMERICAN HERITAGE COMMISSION

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Rob Holmlund  
Humboldt Bay Harbor, Recreation and Conservation District  
P.O. Box #1030  
Eureka, CA 95502

**H.B.H.R. & C.D.**

**Re: 2023060752, Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal,  
Humboldt County**

Dear Mr. Holmlund:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

**Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

**1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:**

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- a. A brief description of the project.
- b. The lead agency contact information.
- c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
- d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

**2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a**

**Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).

- a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

**3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).

**4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.
- d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

**5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

**6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

**7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:

- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
- b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).

**8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).

**9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).

**10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**

- a. Avoidance and preservation of the resources in place, including, but not limited to:
  - i. Planning and construction to avoid the resources and protect the cultural and natural context.
  - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
  - i. Protecting the cultural character and integrity of the resource.
  - ii. Protecting the traditional use of the resource.
  - iii. Protecting the confidentiality of the resource.
- c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).
- e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
- f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).

**11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
- b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf)

## SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf).

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
  - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

## NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([https://ohp.parks.ca.gov/?page\\_id=30331](https://ohp.parks.ca.gov/?page_id=30331)) for an archaeological records search. The records search will determine:
  - a. If part or all of the APE has been previously surveyed for cultural resources.
  - b. If any known cultural resources have already been recorded on or adjacent to the APE.
  - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
  - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
  - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
    - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
    - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
  - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
  - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
  - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:  
[Cameron.Vela@nahc.ca.gov](mailto:Cameron.Vela@nahc.ca.gov)

Sincerely,

*Cameron Vela*

Cameron Vela  
Cultural Resources Analyst

cc: State Clearinghouse



Rob Holmlund  
Development Director  
Humboldt Bay Harbor, Recreation and  
Conservation District  
P.O. Box 1030  
Eureka, California 95502-1030  
[districtplanner@humboldtbay.org](mailto:districtplanner@humboldtbay.org)

**Re: Concerns Regarding Proposed Offshore Wind Heavy Lift Terminal Project**

Dear Director Holmlund,

On behalf of the Surfrider Foundation Humboldt Chapter, we would like to express our concerns and considerations regarding the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (Project or Wind Terminal) released on June 26, 2023 by the Humboldt Bay Harbor, Recreation and Conservation District (Harbor District). This project, while promising economic development for the region and contributing to fossil fuel reduction, also carries significant implications for coastal recreation and threatens precious natural resources.

Humboldt Bay Harbor and its surrounding waters are a recreational haven for our community. Surfing, boating, kayaking and standup paddle boarding in the harbor contribute significantly to the quality of life for residents and attract visitors to experience the natural beauty of our coastal environment. These activities are central to our community culture and wellbeing. Any project that threatens water recreation must be thoroughly evaluated and its impacts mitigated to ensure that our Bay is not compromised.

There are multiple surf breaks in and around the harbor area that are iconic and need to be protected, including the very popular wave, Stinkies, in the harbor; as well as breaks along the peninsula and near the Harbor mouth. Access to these breaks is threatened by the construction and launch of enormous turbines, the associated increased boat traffic, and dredging of the Bay. Any development and construction should first avoid impacts to these breaks due to their significance to surf communities.

Additionally, it is essential that the Harbor District conduct a comprehensive evaluation of this proposed project under the California Environmental Quality Act (CEQA). Completing a CEQA assessment before signing any lease or commencing construction is imperative. Not only is this process a legal requirement, but it is a crucial step in understanding the full environmental, social, and economic impacts of the project. It is the Harbor District's duty to ensure that the CEQA process is followed to protect the interests of our community and environment.

The scope of this project extends far beyond our harbor. In analyzing CEQA impacts, the Harbor District should acknowledge the extent of operations of the Harbor, which includes potential servicing of wind turbines/farms in other states. A thorough assessment that considers the full scope and impact of the project is needed.

We urge the Harbor District to carefully consider the recreational value of our harbor, protect our invaluable resources, support the completion of CEQA evaluations before signing any lease, and acknowledge and evaluate the far-reaching scope of this project. Our community's wellbeing and the health of our environment depend on responsible and thoughtful decision making in this matter. Thank you for your attention to these concerns.

Sincerely,

Jessie Misha, Chair  
Surfrider Foundation  
Surfrider Foundation Humboldt Chapter

**From:** Mr. James A. Weber [REDACTED]  
**Sent:** Friday, August 25, 2023 4:56 PM  
**To:** District Planner

Dear Rob,

My concern regarding every project engaged in the myopic employment of "green industry" products is that while little environmental impact may be seen by the end user, the focus is virtually removed from the source of ostensibly clean energy products.

The batteries necessary to operate EVs, for instance, require the use of huge earthmovers that require vast quantities of diesel and other fuels or the labor of 1000s of struggling poor in 3rd world countries to unearth the rare earth to produce their electrical storage capacity that when it's useful life is past requires an equally inefficient path to safe disposal.

Please see fit to address this as what should be a real deterrent to the conscientious citizen.

I cherish the idea of a pristine ecosystem but aren't we kidding ourselves about being responsible stewards if our purity costs fellow human beings theirs.

While my example may not apply directly to what goes on in your operations, it functions as an analogy for what could be applied in the current business about the bay.

Sincerely,  
James A. Weber

**From:** Matthew J Weise [REDACTED]  
**Sent:** Friday, August 25, 2023 9:26 AM  
**To:** District Planner  
**Subject:** Offshore Wind

Dear Rob Holmlund:

The men's and women's rowing teams at Cal Poly Humboldt may be impacted by the new offshore wind terminal. The length of the Somoa channel allows for proper training of our rowing crews. The Inner Reach and Cloudbust channels provide cover from wind but are not long enough by themselves to provide a proper training environment.

It is difficult to assess the impact on the rowing programs from this project but we would like to be kept as part of the process.

Sincerely,  
Matt Weise  
Head Women's Rowing Coach  
Cal Poly Humboldt

Sincerely,  
Matt Weise



## District Planner

---

**From:** William Wickman [REDACTED]  
**Sent:** Thursday, July 20, 2023 9:34 AM  
**To:** District Planner  
**Cc:** Bill & Janet Wickman; Wesley Hodges; Wendy Zampardi; garrett coonrod; Will Bagnall; Bridge and Nancy Randall; Peter Jermyn; Darren Weiss; Stephen Buck  
**Subject:** Comment, CEQA, Humboldt Bay Offshore Heavy Lift Multipurpose Marine Terminal Project

### Comment

#### CEQA NOP, Humboldt Bay Offshore Heavy Lift Multipurpose Marine Terminal Project

Mr. Rob Holmlund  
Director of Development  
Humboldt Bay Harbor, Recreation and Conservation District  
Eureka, CA 95502-1030

Dear Mr. Holmlund,

The Humboldt Yacht Club was established in 1938. Since that time the club has been continuously active in promoting the recreational use of Humboldt Bay and surrounding waters. The year 2023 might be considered a typical year for us. The club will host nearly one hundred events including sailboat racing, on-water social events, social hours, general membership/potluck meetings, and board meetings from the club room located in the Wharfinger Building, 1 Marina Way, Eureka. At least twenty-five sailboat racing days are scheduled on Humboldt Bay. Almost all these races are started in the north of central Humboldt Bay near navigational mark "19" and the majority of the races utilize marks in the northern portions of Humboldt Bay. Attached is a club document charting the "In-Bay Courses" used by the club for these races. In addition to these organized events club members and sailing friends participate in weekly informal "Fog Races" held on Wednesday evenings during the summer months and Saturday afternoons during the winter. These races also utilize the north bay marks and sailboats must utilize all the navigational waters of the north bay to reach these marks. In addition to this racing, club members, friends and members of the general public regularly sail the north central bay area for the simple joy of being "out on the bay". Simply put, it is a great place to sail.

Inclusion of the major structures planned, huge cranes and floating towers for example, will drastically affect conditions in this area. Changes to navigation will occur. There will be significant loss of access and reduction in steering room along with difficult to predict changes in wind profile.

The image of sailing on Humboldt Bay is an important part of the local culture. Many entities use this imagery for identity and marketing. Nearly everything produced by the tourism bureau contains a photo of a sailboat or marina on the cover. While Humboldt Bay has a long and deeply storied past of industry on the bay, what is being proposed is vastly beyond anything in modern memory.

In conclusion, construction of large industrial facilities in this area of Humboldt Bay will certainly create major changes and restrictions to navigation. The Humboldt Yacht Club membership appreciates the positive economic implications of these facilities. However, appropriate consideration should be given to the significant loss of recreational opportunity and quality of life around the bay. Humboldt Yacht Club would like to be a partner in maintaining the iconic sense of a maritime community.

#### Humboldt Yacht Club Board of Governors

Wesley Hodges, Commodore

[REDACTED]  
Wendy Zampardi, Vice Commodore  
[REDACTED]

Bill Wickman, Rear Commodore  
[REDACTED]

Garrett Coonrod, Treasurer  
[REDACTED]

Will Bagnall, Port Captain  
[REDACTED]

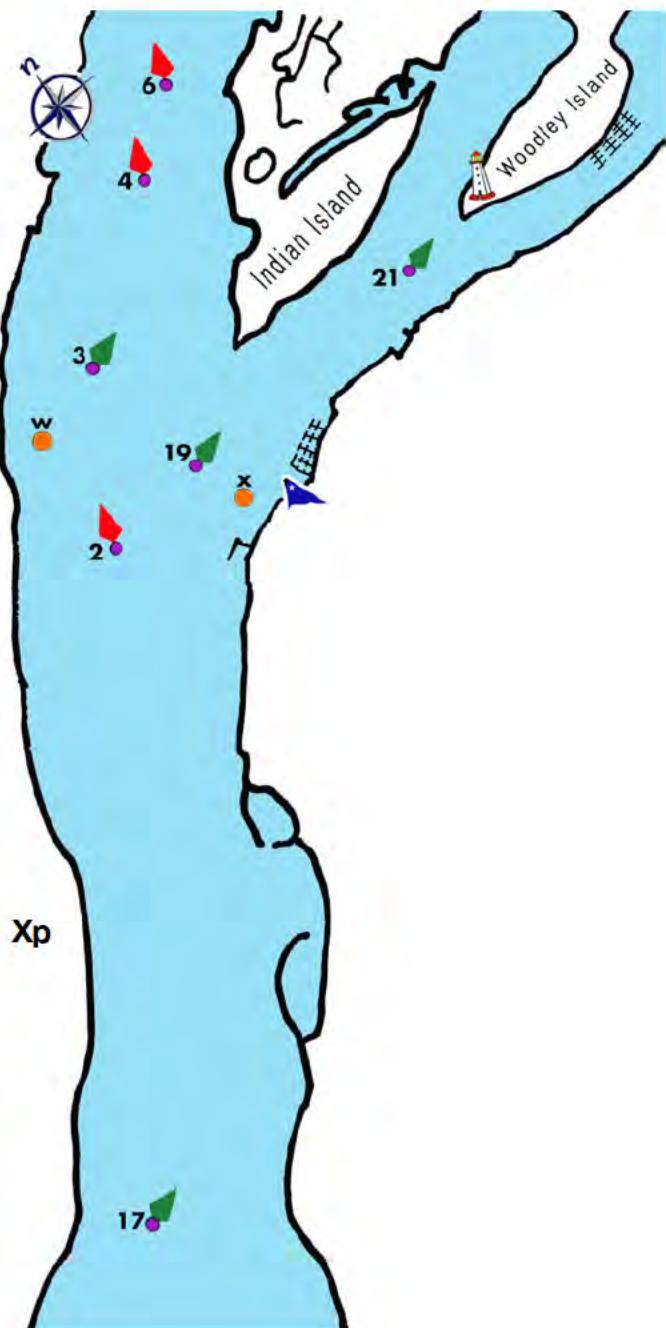


## IN-BAY COURSES

### Marks and Side of Rounding

| Letter             | Letter            |
|--------------------|-------------------|
| A- 3p Xp           | H- 4p Xp          |
| B- 3p 2p Xp        | I- 4p 3p Xp       |
| C- 3p 2p Xp 3p Xp  | J- 3p 17p 3p      |
| D- 3p Xp 19p 2p Xp | K- 17p            |
| E- 2p Xp           | L- Wp Xp          |
| F- 2p Xp 21p       | M- Wp 2p Xp       |
| G- 2p 21p          | N- Wp 2p Xp Wp Xp |

O- ("South Bay":  
12p 10p 5p 7p 8s 10s 13s  
10p 8p 7s 5s 10s 12s  
(Underline indicates marks in So. Bay)



#### Starting/Finishing Lines:

Alpha - - a line between #19 and a Committee boat.  
Bravo - - a line between #19 and the HYC flagpole.

Fouls not covered by a 720 penalty turn must be reported to Race Committee within 30 minutes of last race of day.

Courses or marks preceded by letter "R" = Reverse course and side of rounding.

All marks except "X" and "W" are government navigational aids. Marks X and W may be moved depending on wind at discretion of Race Committee.

Time limit is equal to a two-knot average for the course distance.

**CALIFORNIA COASTAL COMMISSION**

NORTH COAST DISTRICT OFFICE  
1385 EIGHTH STREET, SUITE 130  
ARCATA, CA 95521  
VOICE (707) 826-8950  
FAX (707) 826-8960



August 25, 2023

Rob Holmlund  
Humboldt Bay Harbor, Recreation and Conservation District  
P.O. Box 1030  
Eureka, CA 95502  
ec: [state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

Re: Notice of Preparation for a Draft Environmental Impact Report for the Heavy-lift Offshore Wind Terminal Project (SCH No. 2023060752)

Dear Mr. Holmlund,

Thank you for the opportunity to comment on the Notice of Preparation (NOP) for the Heavy-lift Offshore Wind Terminal Project (Project). We received an email link to the NOP on June 29, 2023. The following comments are provided for lead and responsible agency consideration in developing the final environmental review document and reviewing the environmental effects associated with this development project. Please note that the following are comments of the Coastal Commission staff; the Commission itself has not reviewed the NOP.

**Scope of Agency Comments**

The project site is located within the California Coastal Zone, as defined in Chapter 2.5 of the California Coastal Act (PRC §30000 *et seq.*), and portions of the project site are located within the Commission's original jurisdiction comprised of tidelands, submerged lands, and public trust lands. Accordingly, the Commission will function as both a trustee and responsible agency. The role of trustee agency is based upon the Commission's explicit jurisdiction by law over natural resources held in trust for the people of the State of California that could be affected by the project. The function of responsible agency derives from the role of the Commission in: (a) certifying local coastal programs (LCPs) for areas within the Coastal Zone under local government jurisdiction; (b) issuing coastal development permits (CDPs) within areas of Commission jurisdiction; or (c) hearing appeals on CDPs issued by local governments for certain classes of developments in specified areas. For projects or portions thereof located within the Commission's jurisdiction, the standard of review is the Chapter 3 policies of the Coastal Act. A local government's LCP may be used as guidance (in this case the County of Humboldt's LCP, including Humboldt Bay Area Plan (HBAP) and Coastal Zoning Regulations (CZR), would be used as guidance).

Under Section 15251(c) of the CEQA Guidelines (14 CCR 15000 *et seq.*), the Secretary of Resources has certified the Commission's regulatory program as a "functionally equivalent process" to CEQA. Accordingly, for purposes of considering a request for a

coastal development permit for the project, the certified Environmental Impact Report (EIR) would be used as a technical background document in assessing the effects of the proposed project on coastal resources.

If portions of the project site are located within the CDP jurisdiction of both the Commission and Humboldt County, the Commission has the authority to process a single consolidated CDP application for the project pursuant to Section 30601.3 of the Coastal Act. A consolidated CDP application may be pursued for the project, if requested by the applicant and County, and agreed to by the Commission's Executive Director. If the project pursues a consolidated CDP application, the Coastal Act would be used as the standard of review, with the local coastal program policies as guidance. If the applicant, the local government, and the Commission's Executive Director do not agree to the CDP consolidation process, the project would require separate CDPs. The local government's approval of the CDP would be appealable to the Coastal Commission pursuant to Section 30603(a) of the Coastal Act because the project is located between the sea and the first public road paralleling the sea, and/or within 300 feet of the mean high tide line, and/or within 100 feet of a stream, wetland, and/or estuary.

The comments provided below have been structured to suggest the DEIR address the identified issues in the context of related Coastal Act policies. These comments also may be used as guidance on some of the issues to address during the preparation of a complete CDP application for the Commission's review and consideration.

### Project Alternatives

Commission staff recommends that the DEIR evaluate a robust range of alternatives to the project and particular project components, including, but not limited to, the proposed wet storage areas for assembled turbines, alternative wharf sizes and configurations, an alternative that excludes the installation of fueling stations for land-based vehicles, and an alternative that excludes the installation of the 150-foot-tall high mast terminal lighting. We also recommend that alternative traffic and circulation routes be evaluated. In particular, the DEIR should evaluate those routes that would minimize disturbance to existing and planned residential and low-cost visitor-serving uses in the town of Samoa (for example see County CDP No. PLN-2020-16401 approved June 3, 2021). In accordance with section 30233 of the Coastal Act, we further suggest that for each project element involving dredging and filling activities in coastal waters and wetlands, the alternatives analysis specifically consider whether the proposed dredging and filling activities (1) are for one of the allowable uses listed under section 30233, (2) represent the least environmentally damaging feasible alternative, and (3) integrate the best mitigation measures feasible to minimize adverse environmental effects.

### Aesthetics

Section 30251 of the Coastal Act requires that development be sited and designed to protect views to and along the ocean and scenic coastal areas and to be visually

compatible with the character of surrounding areas. The DEIR should evaluate the visual impacts of project operations, and the extent to which proposed infrastructure (including significant new industrial lighting) and turbine storage would impact views from public vantage points (including from the Eureka waterfront, Highway 255, Highway 101, the Town of Samoa, surrounding public recreational lands, etc.) and be visually compatible with the historic character of Samoa. The DEIR should evaluate alternatives for minimizing impacts on visual and scenic resources. Since a portion of the project is located within the urban boundary of the town of Samoa (approximately 35 acres – see map, Attachment 1), the DEIR should evaluate project conformance with applicable policies and standards the of the Samoa Town Master Plan (STMP) within HBAP and CZR (see Attachment 1 for policy excerpts; in particular, see HBAP STMP (Community Character/Visual) Policies 1 through 10).

### Priority Coastal-Dependent Uses

The Coastal Act provides that coastal-dependent developments, including coastal-dependent industry (CDI), coastal-related developments, and coastal recreation uses, shall have priority over other developments on or near the shoreline. Generally, these priority land uses include uses that by their nature must be located on the coast to function, such as ports and commercial fishing facilities, and uses that encourage the public's use of the coast, such as various kinds of visitor-serving recreational facilities. Coastal-dependent industrial facilities are encouraged to locate or expand within existing sites, and CDI is given priority over visitor-serving commercial recreational facilities that enhance public opportunities for coastal recreation. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support. Coastal-related developments may include facilities that support commercial fishing and aquaculture (e.g., storage and work areas, berthing and fish receiving, areas for fish processing for human consumption, and aquaculture support facilities).

Under the LCP, the project site is planned/zoned MC (Coastal-Dependent Industrial) which allows "any coastal-dependent industrial use that requires access to a maintained navigable channel in order to function." The project should ensure that all manufacturing and envisioned operations and maintenance components are tied to MC and coastal related uses only. Please note that forest product manufacturing is not a coastal-dependent industrial use. The project also proposes installing fueling stations for land-based vehicles. If these stations are unrelated to on-site project equipment such as cranes, then it is unlikely that that the fueling stations are needed or allowable under the zoned coastal-dependent industrial use.

Section 30222.5 of the Coastal Act prioritizes coastal dependent aquaculture development for oceanfront lands, except over other coastal dependent developments or uses. Additionally, Sections 30224 and 30234 of the Coastal Act require that the facilities serving the commercial fishing and recreational boating industries be encouraged, protected, and where feasible upgraded. The proposed project contemplates relocating existing fishing facilities, including gear storage and boat repair

facilities as well as multiple small aquaculture or mariculture operations. We recommend analyzing where these facilities will be moved to, explain the decision-making process for tenant relocation, and provide clear evidence that these facilities will continue to effectively serve the aquaculture and fishing industries. We also recommend considering appropriate mitigation for identified adverse impacts, including, but not limited to, developing dry storage areas elsewhere on the bay, increasing public launching facilities on or offsite, providing additional berthing space, and providing for new boating facilities on the bay, as appropriate.

The proposed project has the potential to increase marine traffic in Humboldt Bay and negatively affect the commercial fishing industry's ability to travel within the bay and to exit the bay to go fishing. The DEIR should fully analyze the effects of the proposed project on marine transportation and traffic in Humboldt Bay, including importing wind turbine components, wet storage of assembled turbines, and towing assembled turbines out of the Bay.

### Water Quality and Marine Resources

Section 30230 and 30231 of the Coastal Act require that marine resources and water quality of coastal waters be maintained, enhanced, and (where feasible) restored to protect marine life, biological productivity, areas and species of special biological significance (including eelgrass beds), and human health. 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. In addition, Section 30232 of the Coastal Act provides for the protection against the spillage of crude oil, gas, petroleum products, or hazardous substances in relation to any development or transportation of such materials.

Project activities, including significant dredging, have the potential to increase turbidity. This change in water quality may adversely impact eelgrass beds, existing offsite mariculture operations, and nearby projects such as seawater extraction at the Red Tank Dock. The DEIR should evaluate project impacts associated with construction and operations on the water quality of coastal waters and ensure that the project will not adversely affect the biological productivity and functional capacity of coastal waters.

The proposed project location has previously been used as an industrial site, and like many similar sites around Humboldt Bay, may require remediation from hazardous substances and contamination in soils and groundwater. The DEIR should ensure that during the demolition phase, adequate testing for constituents of concern occurs on site, including appropriate testing of soils and sediments for dioxins and furans (with toxicity expressed in terms of Toxicity Equivalents or TEQs). The DEIR should also ensure that site remediation for any hazardous substances is completed. This is especially important given the project's proposal to install stormwater drainage improvements on the site which could transmit hazardous substances to Humboldt Bay or the ocean via groundwater. We recommend soil testing and characterization consider environmental

screening levels (ESLs) of significance that could be harmful to Humboldt Bay aquatic life based on the San Francisco Regional Water Quality Control Board (SFRWQCB) ESLs for aquatic life (SFRWQCB 2019) since the North Coast Regional Water Quality Control Board does not currently have specified ESLs for Humboldt Bay aquatic life.

To help maximize the effectiveness of the proposed drainage improvements for stormwater (which may include retention ponds, detention ponds, bioswales, and subsurface detention), we recommend the project incorporate the best available practices for the protection of coastal waters and generally follow the water quality protection requirements applicable to projects in Samoa. These are outlined in CZR sec. 313-34.5.4.1 and 34.5.4.2 (Attachment 1) related to construction pollution control, post-construction stormwater control, LID design, and BMPs. We recommend applying these policies to the project at large, as applicable, and not just within the 35-acre portion of the project within the urban boundary of Samoa. The Commission will consider this project a “development of water quality concern” as defined in CZR sec. 313-34.5.4.1.1.4.1 (Attachment 1) and will use the requirements identified in CZR sec. 313-34.5.4.1.1.4 as guidance. We recommend the project develop a water quality and hydrology plan as outlined in CZR sec. 313-34.5.4.1.1.4.3 for evaluation as part of the DEIR.

### Environmental Justice

Section 30604(h) of the Coastal Act gives the Commission the authority to consider environmental justice when making permit decisions. The DEIR should discuss how the proposed project development and activities will affect environmental justice communities by identifying low-income communities (including lower income residents who live in rental units), Tribes, communities of color, and other disadvantaged communities in the surrounding area and analyzing whether these communities would be disproportionately affected by adverse project impacts. Such impacts would include night lighting, noise, traffic, and changes in air and water quality. The DEIR should then analyze ways such adverse project impacts could be avoided, minimized and mitigated.<sup>1</sup> The DEIR process should also include targeted engagement with low-income communities, communities of color, and groups working with these communities. A summary of engagement activities and responses to address issues and concerns related to environmental justice should be included in the DEIR. Moreover, the DEIR should seek community input to prioritize community improvements and mitigation measures that would most benefit identified EJ communities.

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<sup>1</sup> For reference, Commission staff identified environmental justice concerns related to the Humboldt Wind Energy Area in CD-0001-22. Tools and data layers for identifying EJ communities and existing environmental burdens include, but are not limited to the State of California's CalEnviroScreen 4.0 (<https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>), California Climate Investments Priority Populations Map ([https://gis.carb.arb.ca.gov/portal/apps/experiencebuilder/experience/?id=6b4b15f8c6514733972cabdd\\_a3108348](https://gis.carb.arb.ca.gov/portal/apps/experiencebuilder/experience/?id=6b4b15f8c6514733972cabdd_a3108348)), U.S. Census Data, and U.S. EPA EJ Screen (<https://www.epa.gov/ejscreen>).

Finally, the DEIR should consider potential adverse impacts to public safety from the proposed project, particularly to address the influx of workers, and identify strategies and require mitigation to maximize public safety.

### Archaeological and Tribal Cultural Resources

Coastal Act Section 30244 requires that mitigation be required for adverse impacts to archaeological resources. In addition, AB 52 requires that the Humboldt Bay Harbor, Recreation, and Conservation District (HBHRCD) consult with Tribes as part of the CEQA process. We are supportive of the inclusion of tribal cultural resources in the topics to be analyzed in the DEIR and we encourage the HBHRCD to consult with Tribes on matters beyond archaeological and cultural resources in relation to the project. For example, the proposed project is located near lands that are of importance to various Tribes, including, but not limited to, Tuluwat Island. Some of these lands are being considered for designation in the Wigi National Monument, and we encourage the HBHRCD to consult with Tribes about project impacts on this proposed national monument and other culturally important properties. In Commission staff's consultations with Tribes during our review of the Bureau of Ocean Energy Management's offshore wind lease sale off Humboldt County, we heard concerns about both offshore development in the lease areas and port development in Humboldt Bay including the need for responsible development, public safety, and the potential for adverse impacts to tribal fisheries. Discussion of the tribal consultation conducted through the Commission's process is available in the adopted findings for CD-0001-22 under the Tribal and Cultural Resources section, with discussion of public safety concerns in the Environmental Justice section.<sup>2</sup> In short, the concerns expressed to Commission staff by Tribal representatives were not limited to archaeological and cultural resources. We therefore encourage the HBHRCD to take an expansive approach to the topics included in consultation and to addressing concerns raised by Tribes.

### Energy Conservation

Coastal Act Sections 30253(c) and (d) require new development to be consistent with State Air Resources Control Board requirements and to minimize energy consumption and vehicle miles traveled. The proposed project would install charging infrastructure for electric vehicles and electrified construction equipment and would also install solar panels on the ash landfill. These measures would reduce the project's energy consumption and reduce the project's reliance on fossil fuels. We additionally recommend the use of as many "green port" concepts as possible in this major port redevelopment project, including minimizing the use of and reliance on diesel and other fossil fuels in project operations and other strategies aligned with the State's goals for low carbon fuels and Zero-Emissions targets. This will help reduce potential impacts on nearby EJ communities (see above comments). We further recommend the project design, development, and operations consider the policy requirements of HBAP STMP

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<sup>2</sup> Adopted findings for CD-0001-22 are available on the Commission's website:  
<https://documents.coastal.ca.gov/assets/upcoming-projects/offshore-wind/Th8a-4-2022%20adopted%20findings.pdf>

(New Development) Policy 7 (Attachment 1), including, but not limited to, siting development in a manner that will minimize traffic trips; considering the addition of bus stops along Vance Avenue; incorporating energy efficient building technologies and standards; and encouraging the use of non-motorized or public transportation by employees, including employer incentives to encourage employee use of public transportation.

### Biological Resources

Section 30240 of the Coastal Act protects environmentally sensitive habitat areas (ESHA) from significant disruption. The DEIR should evaluate the project's direct impacts to ESHA as defined under Section 30107.5 of the Coastal Act and the County's certified HBAP (defined under HBAP STMP (Wetlands/ESHA) Policy 11, Attachment 1), including, but not limited to, direct and indirect impacts to rare plants; dune mat; coastal wetlands (as defined/identified under the Coastal Act and HBAP STMP (Wetlands/ESHA) Policy 10); nesting, foraging, and roosting areas for raptors and other types of birds; etc. Consideration of impacts should account for potential necessary expansions and improvements to the existing road network for the complete project (i.e., all phases). The DEIR should also explain how the project will be implemented in a manner that is compatible with the continuance of such habitats by evaluating the adequacy of buffer widths between identified ESHA and proposed new development (see Attachment 1, HBAP STMP (Wetlands/ESHA) Policy 4 and CZR sec. 313-34.5.4.4 for guidance). Additionally, the DEIR should include analysis of how the upland development area may affect the success of the habitat restoration area, and whether the location of these two project elements adjacent to each other could act as an attractive nuisance for wildlife. Activities that occur within the proposed upland development area, such as night lighting, air quality emissions, and noise, may negatively affect the species and wildlife that would be attracted to the restoration area.

We also request the DEIR provide further description of the project's "modern eco-friendly shoreline transition between the marine environment and upland development."

### Coastal Hazards

Sections 30253(a) and (b) of the Coastal Act require minimization of risks in areas of high geologic and flood hazards. The project site is located in an area subject to significant risks from seismic and faulting hazards, tsunami hazards, general flood hazards, and worsening flood risks as exacerbated by sea level rise. The DEIR should evaluate the extent to which the project has the potential to increase risks to life and property associated with geologic, flood, and/or fire hazards. Additionally, the DEIR should evaluate how the built project, including structures, wharfs, piers, and wet-storage mooring systems, will address risks from near-source tsunami hazards and how project elements will perform and adapt to increased sea-level rise using a range of sea-level rise (SLR) scenarios projected for the region. We recommend new structural developments be designed to withstand catastrophic failure or inundation caused by a local Cascadia Subduction Zone earthquake event and accompanying tsunami. We also

recommend the project evaluate SLR using the best available science and State SLR guidance, including guidance provided by the Ocean Protection Council and the Commission's adopted SLR Policy Guidance (as updated in 2018). Since a portion of the project is located within the urban boundary of the town of Samoa, the DEIR should evaluate project conformance with applicable policies and standards the of the STMP (see Attachment 1, HBAP STMP (Hazard) Policies 1, 2, 3 and 6 and CZR sec. 313-34.5.4.5).

### Public Access and Recreation

Coastal Act Sections 30210 through 30224 require that new development maximize public access and recreation opportunities, provide low-cost visitor-serving recreational facilities, protect oceanfront land for recreational use and development, encourage recreational boating facilities, and in general establish that coastal-dependent, visitor-serving, and public recreational access developments have priority over other types of uses and development.

The project involves substantial redevelopment of lands adjacent to existing low-cost housing and several low-cost visitor-serving amenities that support coastal recreation. These include several which are planned and permitted within the Town of Samoa, including a new hostel with 20 guest rooms; a new campground with 20 cabins, six tent sites, and nine RV sites; an expanded visitor-serving maritime museum; new playgrounds, sports fields, and trails; and other low-cost visitor-serving amenities that support coastal recreation (e.g., see County CDP No. PLN-2020-16401 approved June 3, 2021). The DEIR should evaluate project effects to these planned and permitted coastal recreation supporting facilities. As mentioned above, the DEIR should also evaluate alternative traffic and circulation routes for the project site, including routes that minimize disturbance to existing and planned residential and low-cost visitor-serving uses in the town of Samoa.

While we recognize that the project will have many public benefits including the creation of new jobs, the project also is expected to have significant adverse impacts on existing and planned public access and recreational facilities and low-cost visitor serving facilities in the surrounding area, including visual impacts, increased noise levels, and increased traffic. The DEIR should address public benefits of this major redevelopment plan that go beyond the creation of new jobs, such as new or improved facilities on the bay for use by the public, mitigation measures for adjacent low-cost visitor-serving and recreation areas, and other public benefits of the project.

### Conclusion

Thank you again for the opportunity to comment on the NOP for the project. As always, Commission staff is available to discuss our comments in greater detail as well as any questions you may have about the Coastal Development Permit process. If you have questions or would like to set up a meeting, please contact Holly Wyer at

[holly.wyer@coastal.ca.gov](mailto:holly.wyer@coastal.ca.gov), Melissa Kraemer at [melissa.kraemer@coastal.ca.gov](mailto:melissa.kraemer@coastal.ca.gov), and Catherine Mitchell at [catherine.mitchell@coastal.ca.gov](mailto:catherine.mitchell@coastal.ca.gov).

Sincerely,

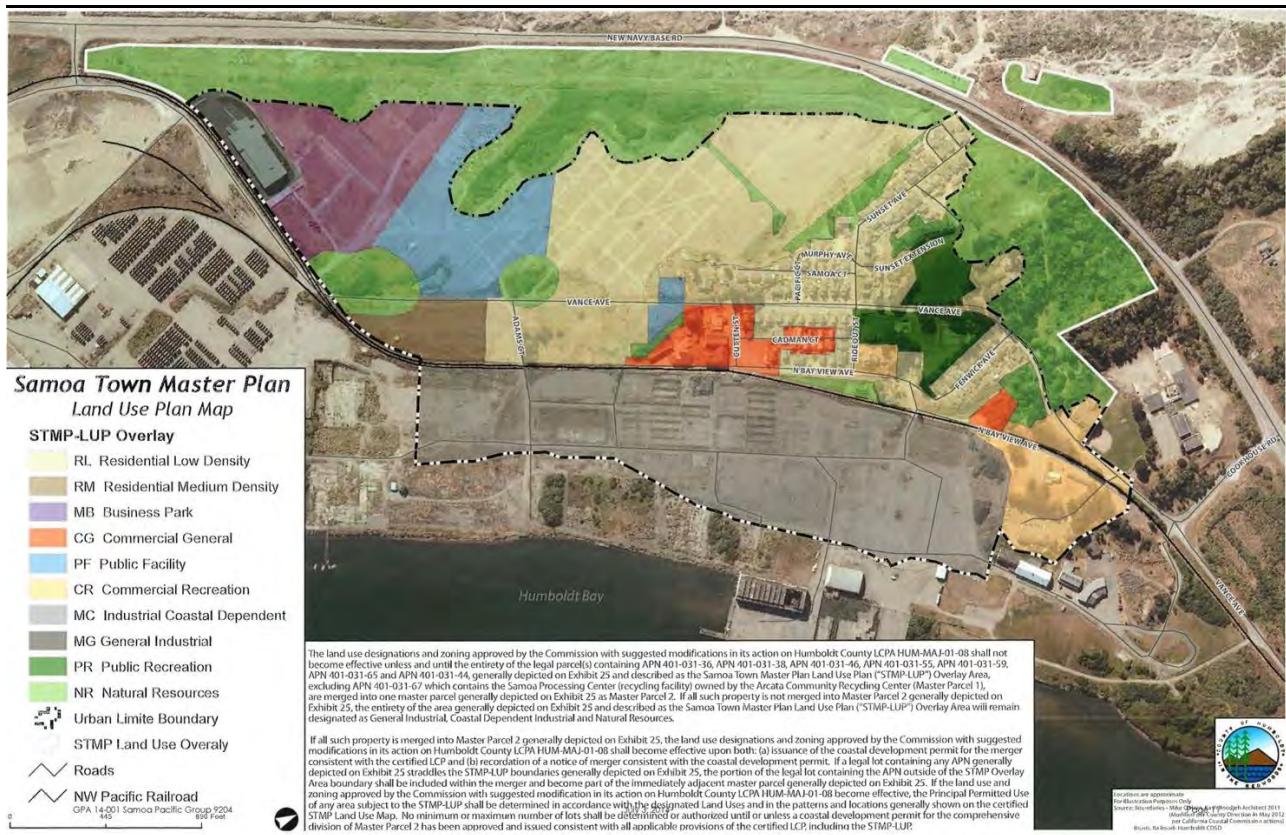
*Holly Wyer*

Holly Wyer  
Senior Environmental Scientist  
California Coastal Commission

Att. Attachment 1. Excerpt of policies and standards from the Samoa Town Master Plan within Humboldt County's certified Local Coastal Program that are applicable in part to the project.

## Attachment 1

Excerpt of policies and standards from the Samoa Town Master Plan (“STMP”) within Humboldt County’s Humboldt Bay Area Plan (“HBAP” or “LUP”) and Coastal Zoning Regulations (“CZR”), which are applicable to ~35 acres of the project. The DEIR should evaluate project conformance with applicable policies and standards for those portions of the project within the STMP-LUP Overlay area, which appears to include, but which may not be limited to, the MC lands shown below (shaded in light gray, south of Vance Ave.):



### Applicable Policies from the HBAP may include, but may not limited to, the following:

#### **STMP (New Development) Policy 6:**

*Land divisions, including re-divisions and lot line adjustments of any land subject to the STMP-LUP, shall be permitted only if all resulting parcels can be demonstrated to be buildable and protective of all coastal resources, and safe from flooding, erosion, and geologic hazards, including the effects of at least 4.6 feet of sea level rise, without the future construction of shoreline armoring devices, and that the development proposed on the resultant lots can be constructed consistent with all pertinent policies of the certified LCP.*

#### **STMP (New Development) Policy 7:**

- To minimize energy demands, which are associated with structural and transportation energy use, development of lands subject to the STMP-LUP shall minimize vehicle miles traveled, and conserve energy by means such as, but not limited to, the following:*

1. *Siting development in a manner that will minimize traffic trips; and*  
...  
3. *Providing well designed and appropriately located bus stops along Vance Avenue; and*  
...  
5. *Incorporating energy efficient building technologies; and*  
6. *Requiring development to meet high standards regarding the energy efficiency of proposed structures; heating, ventilation, and air conditioning systems (HVAC); hot water heaters, appliances; insulation; windows; doors; and lighting such as the standards of established voluntary programs such as Energy Star, LEED, or Build It Green; and*  
7. *Requiring development to incorporate alternative sources of energy such as photovoltaics, solar water heaters, passive solar design, wind generators, heat pumps, geothermal, or biomass; and*  
8. *Requiring development to use structural orientation (heat gain from southern exposure) and vegetation patterns to reduce winter heating needs (such as planting deciduous trees near southern exposures to maximize the winter sun); and*  
9. *Requiring development to include energy meters that provide real-time information to users regarding energy consumption; and*  
10. *Requiring development to use recycled building materials; and*  
11. *Requiring development to use building materials that minimize energy consumption during the manufacture and shipment of the materials; and*  
12. *Requiring development to use construction techniques that minimize energy consumption; and*  
13. *Incorporating structural amenities within non-residential development to encourage the use of non-motorized or public transportation by employees (such as sheltered bicycle storage, bicycle lockers, restrooms with showers/personal lockers, etc.); and*  
14. *Encouraging employer incentives such as paid bus passes, etc., to encourage employee use of public transportation; ...*  
...  
B. *Coastal Development Permits authorized for development of lands subject to the STMP-LUP shall include specific findings concerning the extent of the subject project's incorporation of measures to reduce vehicle miles traveled and to minimize the use of energy.*

**STMP (New Development) Policy 8:**

*Development authorized within the STMP-LUP overlay area generally depicted on Exhibit 25A shall incorporate the best available practices for the protection of coastal waters, in accordance with the standards outlined in STMP Special Area Combining Zone. To achieve these standards, the applicant shall provide supplemental information as a filing requirement of any coastal development permit application for development within the area subject to the STMP-LUP, and the pertinent decision-makers shall adopt specific findings and attach conditions requiring the incorporation of, and compliance with, these water quality protection measures in approving coastal development permits for division or further development of the lands subject to the STMP-LUP.*

**STMP (New Development) Policy 9:**

*Wastewater treatment provided for the lands subject to the STMP-LUP shall be limited to provision of service for development authorized pursuant to the STMP-LUP only. No lands or development outside the STMP-LUP shall be served by wastewater treatment facilities provided for the lands subject to the STMP LUP except as allowed under the listed exceptions in Section 3.22, Public Services-Rural,*

*subsection B. No pipeline connections to collect or transfer waste water from off-site to or through the STMP-LUP lands shall be installed on or adjacent to the lands subject to the STMP-LUP, except for the purpose of transferring treated waste water effluent for disposal to the Redwood Marine Terminal Manhole 5 ocean outfall, and except for the collection of waste water from service connections established in a manner consistent with Section 3.22, Public Services-Rural, subsection B.*

**STMP (Community Character/Visual) Policy 1:**

*Development shall preserve and protect the unique community character of the historic development within the STMP Overlay Area generally depicted in Exhibit 25A by protecting and restoring existing town site structures and by requiring that new construction within the greater Samoa town area extends and enhances the historic community character. The existing town site architectural features and character shall guide the overall design of new development within the STMP Overlay Area. The long-term preservation of the existing structures shall be prioritized, including the preservation of features such as mature landscaping and specimen trees that provide historic context and contribute to the community character. All new development within any part of the lands subject to the STMP-LUP, including any signage or lighting, shall not interfere with the special character of the existing historic neighborhoods and public views available from public vantage points and from special community gathering places such as the Women's Club.*

**STMP (Community Character/Visual) Policy 2:**

*The Design Guidelines for Old Samoa dated March 4, 2007 are hereby incorporated as standards for development within the STMP-LUP overlay designation and are attached as an Appendix to the certified LCP and any changes or revisions to the Design Guideline shall require an amendment of the LCP. Where a conflict arises between the policies of the STMP-LUP overlay designation and the policies of the Design Guidelines, the policies of the STMP-LUP overlay designation shall take precedence.*

**STMP (Community Character/Visual) Policy 3:**

*Energy Efficiency and Conservation: Changes to the existing structures located on lands subject to the STMP-LUP within the historic Samoa "company town" site that may improve energy conservation shall be consistent with the STMP Design Guidelines and shall not disrupt, replace, or distract from the existing historic period details. New structures, however, may utilize alternative construction materials that have the appearance of the original materials, thus achieving aesthetic consistency with the existing structures while increasing energy efficiency.*

**STMP (Community Character/Visual) Policy 4:**

*The demolition or relocation of, any structure that is at least fifty (50) years old and located on lands subject to the STMP-LUP Samoa shall not be considered a principal permitted use and shall require a coastal development permit that is subject to at least one noticed public hearing and is appealable to the Coastal Commission pursuant to Section 30603 of the Coastal Act. No permit to demolish or relocate any structure contributing to the community character and historic context of Samoa shall be approved unless compelling evidence exists that the structure cannot feasibly be restored in place.*

**STMP (Community Character/Visual) Policy 5:**

*Development on lands subject to the STMP-LUP, including lighting and signage, shall be designed and constructed in a manner that: (a) protects distant night skyline views from distant vantage points toward the Pacific Ocean and Humboldt Bay; (b) protects public views of the existing town site from public vantage points such as New Navy Base Road, the public beaches west of New Navy Base Road, and from the public trail that is required between the Samoa Cookhouse property and the underground tunnel crossing of New Navy Base Road, and (c) protects coastal views from the town site, such as the panoramic views of Humboldt Bay and the Pacific Ocean available from the Women's Club and other higher elevation locations. A visual impact analysis shall be submitted with coastal development permit*

*applications for all proposed development on lands subject to the STMP-LUP that utilizes the installation of story poles and other means of assessing the impact of the proposed structures.*

**STMP (Community Character/Visual) Policy 6:**

- A. *Remodeling and restoration of historic “Company Town” structures and structures contributing to the character of old town Samoa, and construction of additional structures proposed for lots containing such structures shall require a coastal development permit and review by the Samoa Design Review Committee, and at least one public hearing, and shall be subject to the following additional requirements:*
  1. *Restoration of existing structures that are at least fifty (50) years old, except for the Fireman’s Hall and garages, shall retain any viable millwork, windows, doors, or other existing exterior material, or if any of these are found to be damaged beyond repair, the feature or material shall be replaced with similar material consistent with the Design Guidelines and installed in such a manner to maintain a comparable exterior building appearance.*
  2. *Exterior remodeling of the existing structures, including but not limited to painting and roofing and the construction of new accessory structures shall be installed in a manner that maintains the exterior appearance of the original building and is consistent with the Design Guidelines.*
  3. *New accessory structures proposed for lots subject to these provisions shall only be approved if designed and located in a manner that harmonizes with and preserves the period character and street views of the primary structure.*
- B. *All coastal development permit applications for exterior remodeling of structures within the historic Samoa neighborhoods shall provide in support of such an application a report prepared by a California state licensed architect with at least five (5) years of historic preservation experience or the equivalent experience that includes the results of a survey of the subject structure undertaken not less than three (3) months prior to submittal of such application, with recommendations for ensuring the proposed remodeling be consistent with the preservation of the historic architectural elements of the subject structure consistent with the Design Guidelines for Old Town Samoa.*
- C. *A coastal development permit approved for exterior remodeling of structures within the historic Samoa neighborhoods shall be conditioned to require timely post-remodeling submittal of evidence prepared by an architect of the same qualifications as set forth in Subparagraph B above, confirming that the final remodeling has been conducted in accordance with the recommendations of the subject architect, including photographs to be retained by the County in the public record, and as required by the conditions attached to the subject coastal development permit.*

**STMP (Community Character/Visual) Policy 7:**

*Land divisions, including redivisions and lot line adjustments of lands subject to the STMP-LUP shall be permitted only if all resulting parcels can be demonstrated to be suitable for the intended use and protective of community character and visual resource context of the existing Samoa town site.*

**STMP (Community Character/Visual) Policy 8:**

*All exterior lights of all development on lands subject to the STMP-LUP, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress and egress of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel.*

**STMP (Community Character/Visual) Policy 9:**

*Architectural or advertising/marketing signage shall be of modest scale and designed in a manner that is aesthetically compatible with the historic Samoa character and reviewed and approved by the Design Committee. Illuminated outdoor advertising shall be restricted to a single sign per commercial establishment affixed to the structure on the first floor level only, and not extending above or beyond the*

*structure's profile (including porches), and not more than three feet wide by three feet in height. Non-illuminated coastal access signage, including resource interpretation displays and modest educational/protective signage shall be permitted at Samoa Beach.*

**STMP (Community Character/Visual) Policy 10:**

*Clean up of contaminated soil and water (surface or ground) surrounding existing or previous structures of the historic "Company Town" of Samoa, including excavation of soils surrounding the structures or removal or treatment of remaining lead-contaminated paint on existing structures, shall be undertaken in a manner that protects the stability of the existing structures and retains and preserves the original woodwork, windows, and millwork.*

**STMP (Wetlands/ESHA) Policy 1:**

*Development within the STMP-LUP shall provide maximum protection, restoration and enhancement of existing Environmentally Sensitive Habitat Areas (ESHA) such as wetlands, dunes, forests, coastal scrub, and rare plant habitat, including the habitat of plants that are locally rare. The STMP shall be implemented in a manner that provides: (1) a substantial undisturbed natural resource corridor along the east side of New Navy Base Road and the northern portion of the subject site shown as NR, Natural Resources, in the certified STMP-LUP map that connects sensitive resource areas and facilitates wildlife movement; (2) an ESHA buffer area that shall generally be a minimum of at least one hundred (100) feet from nearby development (included in "NR" area shown in the certified STMP-LUP map); (3) preservation of opportunities for dispersal of species through the preservation of individual plants and seed banks of rare populations; and (4) conservation of water filtering functions in vegetated areas.*

**STMP (Wetlands/ESHA) Policy 2:**

*Areas of the certified STMP-LUP map designated as NR, Natural Resources, include both ESHA and ESHA buffers. Development within the areas designated Natural Resources is prohibited except for the removal of invasive non-native plant species and the following activities if authorized by a coastal development permit: (1) restoration and enhancement of previously disturbed areas of wetlands and other sensitive habitat; (2) repair and maintenance of existing underground utilities within the existing footprint, provided that restoration of the disturbed areas is implemented in accordance with an approved coastal development permit; (3) installation of public trails in accordance with the provisions of STMP (Wetlands/ESHA) Policy 6; (4) planned roadway and shoulder improvements and maintenance within the Vance Avenue right of way on Master Parcel 2, at the easterly limit of the smaller circular dune hollow ESHA buffer area, designated Natural Resources; and (5) tsunami refuge areas within buffer portions of the area designated Natural Resources but outside of identified ESHA areas.*

**STMP (Wetlands/ESHA) Policy 4:**

A. *All wetlands and non-wetland ESHAs identified outside of the areas designated Natural Resources identified in the certified STMP-LUP map (except for environmentally sensitive raptor nesting habitat areas) shall require a 100-foot setback/buffer, unless it can be demonstrated that a reduced buffer is sufficient to prevent disruption of the habitat. Development adjacent to environmentally sensitive raptor nesting habitat areas shall be consistent with Section 30240(b) of the Coastal Act. Wetland and non-wetland ESHA buffers shall not be reduced to less than fifty (50) feet. The determination that a reduced buffer is adequate shall be based on the following criteria:*

- 1) *Biological significance of adjacent lands and the functional relationships among nearby habitat types and areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting). Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these*

*functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the ESHA that is adjacent to the proposed development.*

- 2) *Sensitivity of species to disturbance. The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall take into account subsections (3) and (4) below and consultations with biologists of the Department of Fish and Game, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the Coastal Commission or others with similar expertise:*
- 3) *Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species, which may include reliance on non-native species, including trees that provide roosting, feeding, or nesting habitat;*
- 4) *An assessment of the short-term and long-term adaptability of various species to human disturbance;*
- 5) *An assessment of the impact and activity levels of the proposed development on the resource.*
- 6) *Erosion susceptibility. The width of the buffer shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, erosion potential, and vegetative cover of the parcel proposed for development and adjacent lands. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development shall be provided.*
- 7) *Use of natural topography. Where feasible, use hills and bluffs adjacent to Environmentally Sensitive Habitat Areas, to buffer these habitat areas. Where otherwise permitted, locate development on the sides of hills away from Environmentally Sensitive Habitat Areas. Include bluff faces in the buffer area.*
- 8) *Required buffer areas shall be measured from the following points, and shall include historic locations of the subject habitat/species that are pertinent to the habitats associated with the STMP-LUP area, as applicable:*
  - *The perimeter of the sand dune/permanently established terrestrial vegetation interface for dune-related ESHA.*
  - *The upland edge of a wetland.*
  - *The outer edge of the canopy of coastal scrub or forests plus such additional area as may be necessary to account for underground root zone areas.*
  - *The outer edge of the plants that comprise the rare plant community for rare plant community ESHA, including any areas of rare annual plants that have been identified in previous surveys and the likely area containing the dormant seed banks of rare plant species.*
  - *The outer edge of any habitat associated with use by mobile or difficult to survey sensitive species (such as ground nesting habitat or rare insects, seasonal upland refuges of certain amphibians, etc.) based on the best available data.*

*Where established “protocols” exist for the survey of a particular species or habitat, the preparing biologist shall undertake the survey and subsequent analysis in accordance with the requirements of the protocol and shall be trained and credentialed by the pertinent agency to undertake the subject protocol survey.*

- B. *A determination to utilize a buffer area of less than the minimum width shall be made by a qualified biologist contracting directly with the County, in consultation with biologists of the California Department of Fish and Game, U.S. Fish and Wildlife Service, and the Coastal Commission. The County’s determination shall be based upon specific findings as to the adequacy of the proposed reduced buffer to protect the identified resource.*

**STMP (Wetlands/ESHA) Policy 7:**

*All new or replacement fencing within the lands subject to the STMP-LUP shall require a coastal development permit based on findings that the location and design of such fencing is safely permeable for wildlife.*

**STMP (Wetlands/ESHA) Policy 10:**

*Wetlands shall be identified and delineated as follows:*

- A. *Delineation of wetlands shall rely on the wetland definition in Section 13577 of the Coastal Commission regulations set forth in pertinent part below. The field methods used in the wetland delineation shall be those contained in the Army Corps of Engineers Wetland Delineation Manual as modified by the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region dated May 2010, or other Corps of Engineers delineation guidance that is in effect at the time of action. Section 13577 states in pertinent part:*

*Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:*

- (A) *the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;*
- (B) *the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or*
- (C) *in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.*

- B. *Wetland delineations shall be conducted according to the California Code of Regulations, Section 13577(b) definitions of wetland boundaries. A preponderance of hydric soils or a preponderance of wetland indicator species shall be considered presumptive evidence of wetland conditions. The delineation report shall include at a minimum: (1) a map at a scale of 1:2,400 or larger with polygons delineating all wetland areas, polygons delineating all areas of vegetation with a preponderance of wetland indicator species, and the location of sampling points; and (2) a description of the surface indicators used for delineating the wetland polygons. Paired sample points will be placed inside and outside of vegetation polygons and wetland polygons identified by the biologist doing the delineation.*
- C. *Wetland delineations shall be prepared by a qualified biologist approved by the County.*
- D. *Wetland delineations should not be greater than five (5) years old at the time of development approval in reliance on the information provided by the delineation(s). If substantial time passes between application submittal for a coastal development permit and approval, such that a delineation becomes outdated, a supplemental delineation prepared in accordance with the same standards set forth herein, shall be prepared and submitted for consideration.*

**STMP (Wetlands/ESHA) Policy 11:**

*Environmentally Sensitive Habitat Areas (ESHA) shall be defined as any area in which plant or animal life or their habitats are either rare, including locally rare, or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities*

*and developments. The determination of whether ESHA is present shall be required before a coastal development permit application for any land division or other development on lands subject to the STMP-LUP is considered complete. The determination shall include a detailed, complete biological resources report prepared by a qualified biologist approved by the County. The data concerning surveys of ESHA shall not be greater than five (5) years old at the time of pertinent development authorization.*

**STMP (Wetland/ESHA) Policy 12:**

*Development, including any division of lands subject to the STMP-LUP, shall not significantly alter drainage patterns or groundwater resources in a manner that would adversely affect hydrology sustaining wetlands or non-wetland ESHA, flood these resources to the extent that a change in the composition of species found within the wetland or non-wetland ESHA would be likely to occur, or change the wetland or other sensitive habitat area in a manner that impairs or reduces its habitat value or water filtering function.*

**STMP (Wetland/ESHA) Policy 13:**

*No herbicides or rodenticides shall be used within STMP-LUP lands designated Natural Resources or Public Facilities, or within other areas containing wetland or ESHA habitat or the buffers thereof. The use and disposal of any herbicides for invasive species removal shall follow manufacturer specifications, comply with imposed conditions, and protect adjacent native vegetation and coastal water quality. Rodenticides containing any anticoagulant compounds, including, but not limited to, bromadiolone or diphacinone shall not be used anywhere within the lands subject to the STMP-LUP. Development approvals for lands subject to the STMP-LUP shall attach conditions specifying these requirements.*

**STMP (Wetlands/ESHA) Policy 14:**

*Landscaping with exotic plants shall be limited to outdoor landscaped areas immediately adjacent to the proposed development. All new landscaping within the lands subject to the STMP-LUP shall follow the California Native Plant Society (CNPS) "Guidelines for Landscaping to Protect Native Vegetation from Genetic Degradation" (<http://www.cnps.org/cnps/archive/landscaping.pdf>). The planting of invasive non-native plants including but not limited to pampas grass (*Cortaderia* sp.), acacia (*Acacia* sp.), broom (*Genista* sp.), English ivy (*Hedera helix*), and iceplant (*Carpobrotus* sp., *Mesembryanthemum* sp.) shall specifically be prohibited. No plant species listed as problematic and/or invasive and/or as a "noxious weed" by the California Native Plant Society, the California Invasive Plant Council, the State of California, or the U.S. federal government shall be used in any proposed landscaping within the lands subject to the STMP-LUP. To minimize the need for irrigation, all new landscaping shall consist primarily of native, regionally appropriate, drought-tolerant plants. New development projects that include landscape areas of 500 square feet or more shall include appropriate water conservation measures related to efficient irrigation systems and on-site stormwater capture. Development approvals for lands subject to the STMP-LUP shall attach conditions specifying these requirements.*

**STMP (Wetlands/ESHA) Policy 15:**

*Proposed land divisions within the area subject to the STMP-LUP, including redivisions and lot line adjustments, shall identify a buildable area for each resultant lot that does not encroach into wetlands, non-wetland ESHAs or the prescribed buffers thereof.*

**STMP (Coastal Access) Policy 1:**

- A. *The lands included within the approximately five (5)-acre area containing the Samoa Cookhouse on Master Parcel 3 shall be constructed or remodeled in accordance with an approved coastal development permit, and shall be reserved for Low Cost Visitor Serving Accommodations (LCVSA), shall not incorporate or be converted to other uses, and shall include the specific amenities listed*

*below, or the equivalent thereof that includes a total of 55 LCVSA units, and the LCVSAs shall be made continuously available to the public at low cost rates:*

- 1) *A hostel with at least 20 guest rooms and common hallway bathrooms on the second floor of the Samoa Cookhouse;*
- 2) *20 detached small housekeeping cabins;*
- 3) *15 car/tent camping spaces with tables and benches, grills, covered trash receptacles and potable water outlets at each site;*
- 4) *bathroom/shower facilities with hot and cold running water, picnic and play areas with potable drinking water outlets, and fenced pet exercise areas for use by the cabin and campsite occupants;*
- 5) *adequate internal circulation routes and parking for coastal visitors and their guests, as well as day-use visitors, restaurant patrons, and adequate space and turnaround capacity for bus arrivals.*

*All of the low-cost visitor serving accommodations and public access facilities specified above shall be permanently maintained and a coastal development permit shall be obtained for any proposed change of use or demolition of these facilities.*

- B. *The LCVSA facilities shall be attractively landscaped with an emphasis on locally native plant species, which shall be permanently labeled to identify the subject species. The LCVSA facilities and grounds shall be maintained in good repair and kept free of trash and litter.*
- C. *The LCVSA facilities shall be connected to the public undercrossing of New Navy Base Road and the dunes and beaches beyond via a public, pedestrian-only path through the lands designated Natural Resources that is constructed in accordance with STMP (Wetlands/ESHA) Policy 6 STMP (Coastal Access Policy 3), and an approved coastal development permit. In addition, paved streets leading through Samoa development to the New Navy Base Road undercrossing shall be open to the public and shall not be gated. The pedestrian pathway specified above shall be permanently maintained and a coastal development permit shall be obtained for any proposed modification of the pathway.*
- D. *The LCVSA owner/manager shall prepare and make continuously available to coastal visitors at no cost, brochures highlighting the habitats and species found along the Natural Resource Corridor pathway and in the beach and dune habitats west of New Navy Base Road. The brochures shall explain the importance of protecting and preserving the resources, and shall provide earthquake and tsunami safety information including Samoa tsunami evacuation routes and assembly areas. Tsunami evacuation routes and assembly areas shall also be prominently posted for the benefit of coastal visitors.*
- E. *The LCVSA owner/manager shall be responsible for daily litter cleanup and the collection and disposal of trash from the LCVSA facilities, from the Samoa Dunes Interpretive Area and associated parking facilities, and shall periodically collect litter from the connecting trail between these, until or unless the County accepts such responsibilities.*
- F. *The County shall ensure that permit conditions for the pertinent STMP development incorporate the conditions necessary to secure the obligations set forth in this policy.*

**STMP (Coastal Access) Policy 2:**

- A. *All approved pedestrian and bicycle paths, corridors, trails and tsunami evacuation routes within the lands subject to the STMP-LUP shall be open to the public at all times. These routes shall not be blocked, gated, obscured, or otherwise barricaded at any time except as may be necessary for initial construction and for occasional short-term maintenance. Pedestrian and bicycle facilities along Vance Avenue shall be installed concurrently with other roadway improvements and shall be open for public use prior to occupancy of any residential development on Master Parcel 2. All other approved public park and open space and pedestrian/bikeway paths and related amenities shall be*

*completed and the facilities opened to the public prior to the commencement of development within either the Business Park area or the new residential areas on Master Parcel 3 ...*

**STMP (Coastal Access) Policy 4:**

- A. *At least two (2) bus stops shall be constructed within the Town of Samoa in accordance with the following requirements:*
  - 1) *The bus stop locations must allow the Humboldt Transit Authority (or successor provider of public transportation services) buses sufficient area to enter, pull over completely out of adjacent through-traffic, and exit the turnout in accordance with physical limits and safety requirement. The necessary turnout area shall be approximately 100 feet in length and proportioned to allow for maneuvering of a 40-ft-long, 102-inch wide bus. Evidence that final designs for the bus stops have been reviewed and approved by the Humboldt Transit Authority shall be required prior to approval of a coastal development permit for the comprehensive division of Master Parcel 2; and*
  - 2) *The bus stop waiting areas shall be covered and weather-sheltered, well lighted for personal security, and furnished with maintained trash receptacles that are wildlife impermeable.*
- B. *A minimum of one of the bus stops required herein and associated amenities to serve the Samoa area shall be installed on Master Parcel 2 concurrent with the development of the Vance Avenue improvements on Master Parcel 2 and prior to occupancy of any residential development on Master Parcel 2. The other bus stops required herein shall be installed prior to commencement of construction of development within the new residential and business park areas...*

**STMP (Coastal Access) Policy 5:**

*The restored historic downtown Samoa on Master Parcel 3 shall include at least one small retail grocery or convenience market that supplies commonly used daily provisions for residents and coastal visitors, thus reducing out-of-Samoa area convenience shopping-related vehicle trips. Such facilities should be scaled to serve Samoa shopping demand and shall not be designed in a manner that attracts more than incidental numbers of traffic trips from retail customers outside of the Samoa area. The landowner/developer shall be required as a condition of the comprehensive division of Master Parcel 3 to (1) construct the building to house the grocery/convenience store prior to the recordation of final subdivision maps for any of the new residential areas, and (2) make the commercial building available for lease at market rates a grocery/convenience store business until at least five years after build-out of 75% of the new residential areas. If at the end of this period no prospective grocery/convenience store business has leased the building for this purpose, the building may be leased or sold for another commercial use. Visitor-serving establishments located in the restored historic downtown Samoa area may include modestly-scaled restaurants, galleries, and other small-scale tourist and neighborhood oriented shops and services, provided adequate parking and other support services are included in the subject development.*

**STMP (Hazard) Policy 1:**

*Prior to approval of a coastal development permit for any development of the lands subject to the STMP-LUP (other than a CDP for (1) the preliminary merger and resubdivision by Parcel Map of the Samoa Lands required by STMP (New Development) Policy 1A, and (2) the cleanup of soil and/or water contamination on any of the master parcels), a site-specific geologic study and review of proposed lot lines and development plans shall be prepared by and accompanied by the written determination of a California licensed professional civil engineer or California licensed professional engineering geologist stating specifically that the proposed lots would support a buildable site for the proposed development, and that a structure so located, if constructed in accordance with the expert's recommendations, will be safe from hazards posed by landslide, slope failure, or liquefaction, and safe from catastrophic failure in the event of the maximum credible earthquake or tsunami. The pertinent decision-makers shall require as a condition of the coastal development permit for such development that the pertinent licensed expert review the final plans and designs and affix the appropriate*

*engineering stamp thereby assuring that the plans and designs fully incorporate the licensed expert's recommendations.*

**STMP (Hazard) Policy 2:**

*The best available and most recent scientific information with respect to the effects of long-range sea level rise shall be considered in the preparation of findings and recommendations for all geologic, geo-technical, hydrologic, and engineering investigations prepared in support of coastal development applications for development of the lands subject to the STMP-LUP. Development at nearshore sites shall analyze potential coastal hazards from erosion, flooding, wave attack, scour and other conditions, for a range of potential sea level rise scenarios, consistent with the best available science on sea-level rise for the Humboldt Bay region and the Coastal Commission's adopted Sea Level Rise Policy Guidance document. The analysis shall also consider localized uplift or subsidence, local topography, bathymetry, and geologic conditions. A similar sensitivity analysis shall be performed for all critical facilities, energy production and distribution infrastructure, and other development projects of major community significance. These hazard analyses shall be used to identify current and future site hazards, to help guide site design, development location, and hazard mitigation requirements, and to identify sea level rise thresholds after which limitations in the development's design and siting would cause the improvements to become significantly less stable. For design purposes, development projects shall assume a minimum sea level rise of 3.2 feet by 2100 and significant or critical infrastructure development of community-wide significance, such as sewage waste treatment facilities or emergency response facilities, shall assume a minimum of 5.3 feet by 2100, consistent with the best available science on sea-level rise for the Humboldt Bay region and the Coastal Commission's adopted Sea Level Rise Policy Guidance document; greater sea level rise rates shall be used if development is expected to have an exceptionally long economic life, if the proposed development has few options for adaptation to sea level higher than the design minimum, or if the best available scientific information at the time of review supports a higher design level.*

**STMP (Hazards) Policy 3:**

*New development associated with the provision of critical or significant community support functions (such as waste water treatment, provision of potable or fire-fighting water, or fire and life safety command and equipment centers) or that may be converted into critical community shelter facilities in an emergency, or structures that house vulnerable populations that cannot be readily evacuated, including hospitals, schools, and care facilities for the elderly and/or disabled, shall be designed and located in a manner that will be free of the risk of catastrophic failure associated with earthquake or tsunami hazard, taking into account a minimum of 5.3 feet of sea level rise by 2100 consistent with the best available science on sea-level rise for the Humboldt Bay region and the Coastal Commission's adopted Sea Level Rise Policy Guidance document. The final approved plans for such facilities shall be reviewed and stamped as conforming to this standard by a California licensed professional civil engineer or a California licensed professional engineering geologist.*

**STMP (Hazard) Policy 6:**

*Prior to any conveyance of title to lands and prior to the issuance of a coastal development permit for any development within the lands subject to the STMP-LUP, including either new development or improvement of existing structures, evidence shall be submitted for the review and approval of the reviewing authority that a Deed Restriction has been recorded against the legal title of such lands, and against title of lands containing the subject development, setting forth the following disclosures,*

- (1) *Disclosure that the lands situated within the STMP-LUP are subject to extraordinary hazards posed by earthquake and tsunamis, and by future sea level rise, which may also increase the risks posed by coastal erosion, storm surge, and wave attack; and*
- (2) *Disclosure of the existence of an approved final Tsunami Safety Plan pertinent to the subject property, including the date of the plan and how a copy may be obtained; and*

- (3) Disclosure that no shoreline armoring structures are approved now, nor are such structures authorized in the future for the protection of development within the STMP-LUP against future hazards that may arise due to the coastal setting of the Samoa lands, and the prospect of increased sea level rise in the future, and that the present landowners have taken future sea level rise into consideration and have warranted that no such protective structures will be necessary to protect the proposed development of the STMP-LUP, and further, have acknowledged the possibility that no such protective structures would secure approval for construction.

**STMP (Archaeological Resources) Policy 1:**

Prior to filing as complete a CDP application for any development of the lands subject to the STMP-LUP, a Phase II archaeological resources assessment of all known archaeological sites shall be submitted that defines the resultant boundaries of such sites if not formerly known, or if the boundaries of the sites are fully recognized, shall ensure that the former Wiyot village sites and all five of the sites noted previously by County studies or referenced in the County's environmental impact reports for the "Samoa Town Master Plan" are protected from further development and disturbance. Prior to approval of a CDP for any development of the lands subject to the STMP-LUP, the landowner and County shall confer with designated Wiyot representatives to ensure that the cultural resources identified herein are protected in accordance with the Wiyot representative's recommendations. The Coastal Development Permit for any land division or other development that is undertaken on lands subject to the resultant restrictions shall be conditioned to ensure the continuing protection of the archaeological resources identified in accordance with these requirements.

**Applicable Standards from the CZR may include, but may not limited to, the following:**

313-34.5      **STMP: SAMOA TOWN PLAN STANDARDS**

34.5.1      **Purpose.** The purpose of these regulations is to provide for the comprehensive planning and orderly development of the community of Samoa.

34.5.2      **Applicability.** These regulations shall apply within the STMP-LUP, specifically to the entirety of the legal parcel(s) containing APN 401-031-36, APN 401-031-38, APN 401-031-46, APN 401-031-55, APN 401-031-059, APN 401-031-65, APN 401-031-67, and APN 401-031-44, generally depicted on Exhibit 25.

34.5.3      **Modifications Imposed by the STMP Regulations.** These regulations shall be in addition to regulations imposed by the primary zone, development regulations, and other coastal resource special area regulations. Where a conflict arises between the regulations of the STMP Combining Zone and any other regulation of the zoning ordinance, the regulations of the STMP Combining Zone shall take precedence.

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34.5.4      **STMP Development Findings.** Coastal development permit approvals for development within the lands subject to the STMP shall only be authorized if the following requirements are met, in addition to any other applicable requirements of the certified Local Coastal Program. Development within the STMP may only be authorized if the decision-making authority adopts specific findings of consistency with the following numbered regulations and provisions and all other applicable requirements of the certified LCP.

34.5.4.1      **STMP (New Development) Standard 1:**

34.5.4.1.1.      New development authorized within the STMP-LUP including restoration of existing structures shall incorporate the best available practices for the protection of coastal waters. To achieve these standards, the applicant shall

*provide supplemental information as a filing requirement of any coastal development permit application for development within the area subject to the STMP, and the pertinent decision-makers shall adopt specific findings and attach conditions requiring the incorporation of, and compliance with, these water quality protection measures in approving coastal development permits for subdivision or further development of the lands subject to the standards of the STMP.*

**34.5.4.1.1.1.** **Construction pollution control plan.** A construction-phase erosion, sedimentation, and polluted runoff control plan (“construction pollution control plan”) shall specify interim best management practices (BMPs) that will be implemented to minimize erosion and sedimentation during construction, and prevent contamination of runoff by construction chemicals and materials, to the maximum extent practicable. The construction pollution control plan shall demonstrate that:

**34.5.4.1.1.1.1.** During construction, development shall minimize site runoff and erosion through the use of temporary BMPs (including, but not limited to, soil stabilization measures), and shall eliminate the discharge of sediment and other stormwater pollution resulting from construction activities (e.g., chemicals, vehicle fluids, asphalt and cement compounds, and debris), to the extent feasible.

**34.5.4.1.1.1.2.** Land disturbance activities during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, to the extent feasible, to avoid increased erosion and sedimentation. Soil compaction due to construction activities shall be minimized, to the extent feasible, to retain the natural stormwater infiltration capacity of the soil.

**34.5.4.1.1.1.3.** Construction shall minimize the disturbance of natural vegetation (including significant trees, native vegetation, and root structures), which is important for preventing erosion and sedimentation.

**34.5.4.1.1.1.4.** Development shall implement soil stabilization BMPs, including but not limited to re-vegetation, on graded or disturbed areas as soon as feasible.

**34.5.4.1.1.1.5.** Grading operations shall not be conducted during the rainy season (from October 1 to April 15), except in response to emergencies, unless the County determines that soil conditions at the project site are suitable, the likelihood of significant precipitation is low during the period of extension, (not to exceed one week at a time), and adequate erosion and sedimentation control measures will be in place during all grading operations.

**34.5.4.1.1.1.6.** The construction pollution control plan shall be submitted with the final construction drawings. The plan shall include, at a minimum, a narrative report describing all temporary polluted runoff, sedimentation, and erosion control measures to be implemented during construction, including:

**34.5.4.1.1.1.6.1.** Controls to be implemented on the amount and timing of grading.

**34.5.4.1.1.1.6.2.** BMPs to be implemented for staging, storage, and disposal of excavated materials.

- 34.5.4.1.1.6.3 *Design specifications for structural treatment control BMPs, such as sedimentation basins.*
- 34.5.4.1.1.6.4 *Re-vegetation or landscaping plans for graded or disturbed areas.*
- 34.5.4.1.1.6.5 *Other soil stabilization BMPs to be implemented.*
- 34.5.4.1.1.6.6 *Methods to infiltrate or treat stormwater prior to conveyance off-site during construction.*
- 34.5.4.1.1.6.7 *Methods to eliminate or reduce the discharge of other stormwater pollutants resulting from construction activities (including but not limited to paints, solvents, vehicle fluids, asphalt and cement compounds, and debris) into stormwater runoff.*
- 34.5.4.1.1.6.8 *BMPs to be implemented for staging, storage, and disposal of construction chemicals and materials.*
- 34.5.4.1.1.6.9 *Proposed methods for minimizing land disturbance activities, soil compaction, and disturbance of natural vegetation.*
- 34.5.4.1.1.6.10 *A site plan showing the location of all temporary erosion control measures.*
- 34.5.4.1.1.6.11 *A schedule for installation and removal of the temporary erosion control measures.*
- 34.5.4.1.1.2. ***Post-Construction Stormwater Plan.*** *A plan to control post-construction stormwater runoff flows, and maintain or improve water quality (“post-construction stormwater plan”) shall specify site design, source control, and if necessary, treatment control BMPs that will be implemented to minimize stormwater pollution and minimize or eliminate increases in stormwater runoff volume and rate from the development after construction. The post-construction stormwater plan shall demonstrate that:*
  - 34.5.4.1.1.2.1. *Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and resources.*
  - 34.5.4.1.1.2.2. *Permanent erosion control measures shall be installed, as may be needed, depending upon the intensity of development proposed and the sensitivity of receiving waters.*
  - 34.5.4.1.1.2.3. *Runoff from the project shall not increase sedimentation in receiving waters.*
  - 34.5.4.1.1.2.4. *On-site filtering, grease, and/or sediment trapping systems shall be installed, as needed, to capture any pollutants contained in the runoff.*

34.5.4.1.1.2.5. Permanent runoff/drainage control improvements, such as subsurface drainage interception, energy dissipaters, recovery/reuse cisterns, detention/retention impoundments, etc. shall be installed, as needed, at the point of discharge.

34.5.4.1.1.2.6. In the application and initial planning process, the applicant shall submit a preliminary post-construction stormwater plan, and prior to issuance of a building permit the applicant shall submit a final post-construction stormwater plan for approval by the County. The plan shall include, at a minimum, the following components:

34.5.4.1.1.2.6.1 Proposed site design and source control BMPs that will be implemented to minimize post-construction polluted runoff.

34.5.4.1.1.2.6.2 Proposed drainage improvements (including locations of infiltration basins, and diversions/ conveyances for upstream runoff).

34.5.4.1.1.2.6.3 Measures to maximize on-site retention and infiltration (including directing rooftop runoff to permeable areas rather than to driveways).

34.5.4.1.1.2.6.4 Measures to maximize, to the extent practicable, the percentage of permeable surfaces, and to limit the percentage of directly connected impervious areas, to increase infiltration of runoff.

34.5.4.1.1.2.6.5 Methods to convey runoff from impervious surfaces into permeable areas of the property in a non-erosive manner.

34.5.4.1.1.2.6.6 A site plan showing the location of all permanent erosion control measures.

34.5.4.1.1.2.6.7 A schedule for installation and maintenance of the permanent erosion control measures.

34.5.4.1.1.2.6.8 A schedule for installation and maintenance of the sediment and debris filtration, grease and/or sediment trap, etc., as warranted for the type of development and site.

34.5.4.1.1.2.6.9 A site plan showing finished grades in one-foot contour intervals and associated drainage improvements.

34.5.4.1.1.3. **Site design using low impact development techniques.** The post-construction stormwater plan shall demonstrate the preferential consideration of low impact development (LID) techniques in order to minimize stormwater quality and quantity impacts from development. LID is a development site design strategy with a goal of maintaining or reproducing the site's pre-development hydrologic functions of storage, infiltration, and groundwater recharge, as well as the volume and rate of stormwater discharges. LID strategies use small-scale integrated and distributed management practices, including minimizing impervious surfaces, infiltrating stormwater close to its source, and preservation of permeable soils and

*native vegetation. LID techniques to consider include, but are not limited to, the following:*

**34.5.4.1.1.3.1.** *Development shall be sited and designed to preserve the infiltration, purification, detention, and retention functions of natural drainage systems that exist on the site, to the maximum extent practicable. Drainage shall be conveyed from the developed area of the site in a non-erosive manner.*

**34.5.4.1.1.3.2.** *Development shall minimize the creation of impervious surfaces (including pavement, sidewalks, driveways, patios, parking areas, streets, and roof-tops), especially directly connected impervious areas, to the maximum extent practicable. Directly connected impervious areas include areas covered by a building, impermeable pavement, and/or other impervious surfaces, which drain directly into the storm drain system without first flowing across permeable land areas (e.g., lawns).*

**34.5.4.1.1.3.3.** *Development shall maintain or enhance, where appropriate and feasible, on-site infiltration of stormwater runoff, in order to preserve natural hydrologic conditions, recharge groundwater, attenuate runoff flow, and minimize transport of pollutants. Alternative management practices shall be substituted where the review authority has determined that infiltration BMPs may result in adverse impacts, including but not limited to where saturated soils may lead to geologic instability, where infiltration may contribute to flooding, or where regulations to protect groundwater may be violated.*

**34.5.4.1.1.3.4.** *Development that creates new impervious surfaces shall divert stormwater runoff flowing from these surfaces into permeable areas in order to maintain, or enhance where appropriate and feasible, on-site stormwater infiltration capacity.*

**34.5.4.1.1.3.5.** *To enhance stormwater infiltration capacity, development applicants shall use permeable pavement materials and techniques (e.g., paving blocks, porous asphalt, permeable concrete, and reinforced grass or gravel), where appropriate and feasible. Permeable pavements shall be designed so that stormwater infiltrates into the underlying soil, to enhance groundwater recharge and provide filtration of pollutants.*

**34.5.4.1.1.4.** ***Water quality and hydrology plan for developments of water quality concern.*** *In addition to the information to be provided in the post-construction stormwater plan, applicants for “developments of water quality concern,” shall submit a water quality and hydrology plan and be subject to the additional requirements listed below.*

**34.5.4.1.1.4.1.** *“Developments of water quality concern” include the following:*

**34.5.4.1.1.4.1.1.** *Housing developments of five or more dwelling units, including but not limited to residential subdivisions.*

**34.5.4.1.1.4.1.2.** *Hillside developments on slopes greater than 20 percent, located in areas with highly erodible soil, such as soils deposited in association with dune formation.*

34.5.4.1.1.4.1.3. *Developments that will cumulatively result in the creation, addition, or replacement of one acre or more of impervious surface area.*

34.5.4.1.1.4.1.4. *Parking lots with 10,000 square feet or more of impervious surface area, potentially exposed to stormwater runoff, or where, combined with adjacent structures, will cumulatively exceed 10,000 square feet.*

34.5.4.1.1.4.1.5. *Vehicle service facilities, including retail gasoline outlets, commercial car washes, and vehicle repair facilities, with 10,000 square feet or more of impervious surface area.*

34.5.4.1.1.4.1.6. *Business or Industrial parks, or other commercial or recreational development with 10,000 square feet or more of impervious surface area, including associated parking.*

34.5.4.1.1.4.1.7. *Commercial, recreational or industrial outdoor storage areas of 5,000 square feet or more, or as determined by the County based on the use of the storage area, where used for storage of materials that may contribute pollutants to the storm drain system or coastal waters.*

34.5.4.1.1.4.1.8. *Business, industrial, commercial, agricultural, or recreational developments of any size that utilize chemicals that may contribute pollutants to the storm drain system that would adversely affect the functioning of the vegetated filtration fields associated with the waste water treatment plant.*

34.5.4.1.1.4.1.9. *Streets, roads, bus stops, and adjacent bicycle lanes and sidewalks cumulatively equaling 10,000 feet or more of impervious surface area, but not including Class I (stand-alone) pedestrian pathways, trails, and off-street bicycle lanes.*

34.5.4.1.1.4.1.10. *All developments entailing the creation, addition, or replacement of 5,000 square feet or more of impervious surface area, located within 200 feet of the ocean or a coastal water body (including estuaries, wetlands, rivers, streams, and lakes), or that discharge directly to the ocean or a water body (i.e., outflow from the drainage conveyance system is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.)*

34.5.4.1.1.4.2. *Additional Requirements for developments of water quality concern:*

34.5.4.1.1.4.2.1. *Water quality and hydrology plan. The applicant for a development of water quality concern shall be required to submit a water quality & hydrology plan (WQHP), prepared by a California licensed civil engineer or landscape architect, which supplements the post-construction stormwater plan. The WQHP shall include calculations, per County standards, that estimate increases in pollutant loads and changes in stormwater runoff*

*hydrology (i.e., volume and flow rate) resulting from the proposed development, and shall specify the BMPs that will be implemented to minimize post-construction water quality and hydrologic impacts. The WQHP shall also include operation and maintenance plans for post-construction treatment control BMPs. In the application and initial planning process, the applicant shall be required to submit for approval a preliminary WQHP, and prior to issuance of a building permit the applicant shall submit a final WQHP for approval by the County Engineer.*

**34.5.4.1.1.4.2.2.** *Selection of structural treatment control BMPs. If the County determines that the combination of site design and source control BMPs is not sufficient to protect water quality and coastal waters, a structural treatment control BMP (or suite of BMPs) shall also be required. Developments of water quality concern are presumed to require treatment control BMPs to meet the requirements of the coastal land use plan and state and federal water quality laws, unless the water quality & hydrology plan demonstrates otherwise.*

*The water quality & hydrology plan for a development of water quality concern shall describe the selection of treatment controls BMPs. Applicants shall first consider the treatment control BMP, or combination of BMPs, that is most effective at removing the pollutant(s) of concern, or provide a justification if that BMP is determined to be infeasible.*

**34.5.4.1.1.4.2.3.** *85th percentile design standard for treatment control BMPs. For post-construction treatment of stormwater runoff in developments of water quality concern, treatment control BMPs (or suites of BMPs) shall be sized and designed to treat, infiltrate, or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, one-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs.*

**34.5.4.1.1.4.2.4.** *Maintain pre-development hydrograph. In developments of water quality concern where changes in stormwater runoff hydrology (i.e., volume and flow rate) may result in increased potential for stream bank erosion, downstream flooding, or other adverse habitat impacts, hydrologic control measures (e.g., stormwater infiltration, detention, harvest and re-use, and landscape evapotranspiration) shall be implemented in order to ensure that the pre- and post-project runoff hydrographs match within 10% for a two-year return frequency storm.*

**34.5.4.1.1.4.3.** *Content. The water quality and hydrology plan shall contain the following:*

**34.5.4.1.1.4.3.1.** *Site design, source control, and treatment control BMPs that will be implemented to minimize post-construction water quality and hydrologic impacts.*

34.5.4.1.1.4.3.2. All of the information required in sub-section A for the post-construction stormwater plan.

34.5.4.1.1.4.3.3. Pre-development stormwater runoff hydrology (i.e., volume and flow rate) from the site.

34.5.4.1.1.4.3.4. Expected post-development stormwater runoff hydrology (i.e., volume and flow rate) from the site, with all proposed non-structural and structural BMPs in place.

34.5.4.1.1.4.3.5. Measures to infiltrate or treat runoff from impervious surfaces (including roads, driveways, parking structures, building pads, roofs, and patios) on the site, and to discharge the runoff in a manner that avoids potential adverse impacts. Such measures may include, but are not limited to, structural treatment control BMPs including biofilters, grassy swales, on-site de-silting basins, detention ponds, or dry wells.

34.5.4.1.1.4.3.6. A description of how the BMPs (or suites of BMPs) have been designed to infiltrate and/or treat the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, one-hour storm event (with an appropriate safety factor of two or greater) for flow-based BMPs.

34.5.4.1.1.4.3.7. Appropriate structural post-construction Treatment Control BMPs selected to remove the specific runoff pollutants generated by the development, using processes such as gravity settling, filtration, biological uptake, media adsorption, or any other physical, chemical, or biological process.

34.5.4.1.1.4.3.8. A long-term plan and schedule for the monitoring and maintenance of all structural Treatment Control BMPs. All structural BMPs shall be inspected, cleaned, and repaired as necessary to ensure their effective operation for the life of the development. Owners of these devices shall be responsible for ensuring that they continue to function properly, and additional inspections should occur after storms as needed throughout the rainy season. Repairs, modifications, or installation of additional BMPs, as needed, shall be carried out prior to the next rainy season.

34.5.4.1.1.5. Best management practices (BMPs); selection and incorporation.

34.5.4.1.1.5.1. All development shall incorporate effective site design and long-term post-construction source control BMPs, as necessary to minimize adverse impacts to water quality and coastal waters resulting from the development, to the maximum extent practicable. BMPs that protect post-construction water quality and minimize increases in runoff volume and rate shall be incorporated as necessary in the project design of developments in the following order of priority:

34.5.4.1.1.5.1.1. Site design BMPs: Project design features that reduce the creation or severity of potential pollutant sources, or reduce the alteration of the project site's natural stormwater flow

*regime. Examples are minimizing impervious surfaces, preserving native vegetation, and minimizing grading.*

**34.5.4.1.1.5.1.2.** *Source control BMPs: Methods that reduce potential pollutants at their sources and/or avoid entrainment of pollutants in runoff, including schedules of activities, prohibitions of practices, maintenance procedures, managerial practices, or operational practices. Examples are covering outdoor storage areas, use of efficient irrigation, and minimizing the use of landscaping chemicals.*

**34.5.4.1.1.5.1.3.** *Treatment control BMPs: Systems designed to remove pollutants from stormwater, by simple gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or any other physical, biological, or chemical process. Examples are vegetated swales, detention basins, and storm drain inlet filters.*

**34.5.4.1.1.5.2.** *The selection of BMPs shall be guided by the California Stormwater Quality Association (CASQA) Stormwater BMP Handbooks dated January 2003 (or the current edition), or an equivalent BMP manual that describes the type, location, size, implementation, and maintenance of BMPs suitable to address the pollutants generated by the development and specific to a climate similar to Humboldt County's. Caltrans' 2007 "Storm Water Quality Handbook: Project Planning and Design Guide" (or the current edition) may also be used to guide design of construction-phase BMPs. Additional guidance on BMPs is available from the state water resources and water quality boards, the U.S. Environmental Protection Agency, regional entities such as the Bay Area Stormwater Management Agencies Association's (BASMAA) "Start at the Source: Design Guidance Manual for Stormwater Quality Protection," and/or as may be developed from time to time with technological advances in water quality treatment.*

**34.5.4.1.1.5.3.** *Where BMPs are required, BMPs shall be selected that have been shown to be effective in reducing the pollutants typically generated by the proposed land use. The strategy for selection of appropriate BMPs to protect water quality and coastal waters shall be guided by Tables 21-55B-1 through -3, below, or equivalent tables which list pollutants of concern and appropriate BMPs for each type of development or land use.*

**34.5.4.2 STMP (New Development) Standard 2:**

**34.5.4.2.1.** *Remediation of contamination, including contaminated soils or residual lead paint on structural surfaces, and/or reinforcement/replacement of the foundations of aging structures associated with the "company town" of Samoa shall be undertaken with special care to preserve the structural integrity and authentic period details (such as original woodwork, windows, and millwork) of the structures, in accordance with the following additional requirements:*

**34.5.4.2.1.1.** *Proposals for remediation shall clearly indicate the removal methods that will be used for the soil, groundwater, and the existing structures in the coastal development permit application submitted to the reviewing authority for each project. In addition, such proposals shall include*

*a Standard Operating Procedure for safe implementation of removal methods that will be used on or near the existing structures, and the Standard Operating Procedure shall be incorporated into each applicable removal contract and which shall clearly state the manner in which release of contaminants to the environment will be prevented;*

**34.5.4.2.1.2.** *A coastal development permit application for such work shall include a survey of each existing structure (a "Building Survey") included in the proposed project or within a 25-foot radius of the proposed project. The Building Survey document shall include at a minimum: a section and plan of the proposed site including existing structures and if a soil removal is proposed – a section and plan prepared by a California-licensed professional civil engineer ("civil engineer") indicating the excavation limits (depth and distance from existing structures), elevation drawings (each façade) of all existing buildings within the proposed project area and the project radius, an evaluation of the structural integrity of each existing structure (including the foundation, exterior walls, and all attached structures such as porches and decks), photographs to support the findings, a description of any prior site disturbance as the result of past remedial actions or naturally occurring earth movement, and provide a written report of the survey conclusions, including recommendations to ensure that the structure remains stable throughout the proposed removal work as well as post-remediation. In addition, the civil engineer shall clearly determine whether the existing foundation of each structure will adequately support the building throughout the removal of hazardous materials or if a new foundation is recommended.*

**34.5.4.2.1.3.** *In the event that a new foundation is recommended by the civil engineer pursuant to Subparagraph 2 above, the civil engineer shall propose an appropriate foundation which meets current California State building standards. The reviewing authority shall require that the new foundation be installed in accordance with the civil engineer's recommendations prior to any site disturbance that the civil engineer indicates could compromise the stability of an existing structure. The civil engineer shall provide a post-remediation survey of each historic structure and warrant the continued stability of the structure in a final report submitted to the reviewing authority, including documentation that the recommendations of the civil engineer have been fully implemented, including the construction of the new foundations where such recommendation has been identified. Should unanticipated destabilization of any existing structure occur during remedial activities, site disturbance shall be halted, the structure temporarily stabilized, and a civil engineering analysis and recommendations to stabilize the structure permanently shall be obtained by the reviewing authority and implemented before remediation or other site disturbance resumes. All civil engineering analyses and reports pertaining to these requirements shall be collected and preserved by the reviewing authority and retained in permanent public files. All survey and civil engineering work performed in accordance with these requirements shall be undertaken by a California State-licensed registered professional civil engineer.*

**34.5.4.3. STMP (New Development) Standard 3:**

**34.5.4.3.1** *Existing structures associated with the historic town shall be restored and maintained in a manner that protects the historic character, period details, and authentic original materials of the original structures. Replacement of period details and features with new materials or methods designed to achieve energy*

*conservation shall not be undertaken in a manner that would replace or distract from the existing period details such as original wood-framed windows and hand-turned wooden decorative details evident in many of the existing Samoa “company town” structures.*

**34.5.4.4. STMP (Wetlands/ESHA) Standard 1:**

**34.5.4.4.1.** *The biological report required by STMP (Wetlands/ESHA) Policy 11 shall include, but is not limited to, the following:*

**34.5.4.4.1.1.** *A study identifying biological resources existing on the site, and the historical extent of the resources as identified in previous reports, surveys, delineations, maps, or publications, disclosing the history, ecology and habitat requirements of the relevant resources, such as plants and wildlife, in sufficient detail to permit a review of functional relationships, their potential for restoration, the potential location of dormant seedbanks of rare (particularly annual) plants, habitat (including non-native species such as individual trees or groves that provide habitat architecture and other resources for birds or other species, or wetlands that may be used by amphibians during specific lifecycle stages) that may be used during specific lifecycle stages or seasonally by migratory species for roosting, breeding or feeding during specific seasonal windows, and present and potential adverse physical and biological impacts on the identified biological resources or on the associated ecosystem, either individually or cumulatively;*

**34.5.4.4.1.2.** *An identification of “fully protected” species and/or “species of special concern,” and an identification of any other species of rarity, including plants designated “List 1B” or “List 2” by the California Native Plant Society, that are present or have the potential to occur on the project site;*

**34.5.4.4.1.3.** *Photographs of the site labeled with orientation noted on pertinent maps;*

**34.5.4.4.1.4.** *A discussion of the physical characteristics of the site including, but not limited to, topography, soil types, microclimate, and migration corridors;*

**34.5.4.4.1.5.** *A site map depicting the location of biological resources, both current and historical. The resources shall be shown within the context of a topographic based map that shall be at a scale sufficiently large to permit clear and accurate depiction of the extent of sensitive resources identified through appropriate field investigations and where pertinent, protocol surveys for sensitive species, vegetation associations and soil types in relation to any and all proposed development (minimum 1:2,400) and other information, such as the locations of specific trees, habitat boundaries, etc. discussed in the text of the subject biological report. Contour intervals shall be five feet, and the map should contain a north arrow, graphic bar scale, and a citation for the source of the base map (including the date).*

**34.5.4.4.1.6.** *An analysis of the potential impacts of the proposed development on the identified habitat or species;*

**34.5.4.4.1.7.** *An analysis of any unauthorized development, including grading or vegetation removal that may have contributed to the degradation or elimination of habitat area or species that would otherwise be present on the*

*site in a healthy condition (note: vegetation or other resources previously surveyed as present but absent at the time of preparation of the subject biological report shall be explained, and if no reasonable ecological basis for the change exists, the County shall presume that unauthorized disturbance of the pertinent resources may have occurred and shall investigate and respond to this information accordingly and the results of the pertinent investigation shall be presented to the pertinent decision-makers). Development of areas subject to prior unauthorized disturbance shall not be authorized until or unless resolution of the potential violation has been achieved.);*

**34.5.4.4.1.8.** *Project alternatives, including project modifications and off-site options designed to avoid and minimize impacts to identified habitat or species;*

**34.5.4.4.1.9.** *A buffer adequacy analysis consistent with the requirements of STMP (Wetland/ESHA) Policy 4 where an ESHA buffer of less than 100 feet (100') is proposed. The buffer adequacy analysis shall at a minimum include the following:*

**34.5.4.4.1.9.1.** *Biological significance of adjacent lands. The functional relationships among nearby habitat types and areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting). Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the ESHA that is adjacent to the proposed development.*

**34.5.4.4.1.9.1.2.** *Sensitivity of species to disturbance. The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with biologists of the Department of Fish and Game, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the Coastal Commission or others with similar expertise:*

**34.5.4.4.1.9.1.3.** *Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species, which may include reliance on non-native species, including trees that provide roosting, feeding, or nesting habitat;*

**34.5.4.4.1.9.1.4.** *An assessment of the short-term and long-term adaptability of various species to human disturbance;*

**34.5.4.4.1.9.1.5.** *An assessment of the impact and activity levels of the proposed development on the resource.*

34.5.4.4.1.9.1.6. *Erosion susceptibility. The width of the buffer shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, erosion potential, and vegetative cover of the parcel proposed for development and adjacent lands. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development shall be provided.*

34.5.4.4.1.9.1.7. *Use natural topography. Where feasible, use hills and bluffs adjacent to Environmentally Sensitive Habitat Areas, to buffer these habitat areas. Where otherwise permitted, locate development on the sides of hills away from Environmentally Sensitive Habitat Areas. Include bluff faces in the buffer area.*

34.5.4.4.1.9.1.8. *Required buffer areas shall be measured from the following points, and shall include historic locations of the subject habitat/species that are pertinent to the habitats associated with the STMP-LUP area, as applicable:*

34.5.4.4.1.9.1.8.1. *The perimeter of the sand dune/permanently established terrestrial vegetation interface for dune-related ESHA.*

34.5.4.4.1.9.1.8.2. *The upland edge of a wetland.*

34.5.4.4.1.9.1.8.3. *The outer edge of the canopy of coastal scrub or forests plus such additional area as may be necessary to account for underground root zone areas. All root zones shall be protected as part of the associated ESHA.*

34.5.4.4.1.9.1.8.4. *The outer edge of the plants that comprise the rare plant community for rare plant community ESHA, including any areas of rare annual plants that have been identified in previous surveys and the likely area containing the dormant seed banks of rare plant species.*

34.5.4.4.1.9.1.8.5. *The outer edge of any habitat used by mobile or difficult to survey sensitive species (such as ground nesting habitat or rare insects, seasonal upland refuges of certain amphibians, etc.) within or adjacent to the lands subject to the STMP-LUP based on the best available data.*

34.5.4.4.1.9.1.8.6. *Where established public agency “protocols” exist for the survey of a particular species or habitat, the preparing biologist shall undertake the survey and subsequent analysis in accordance with the requirements of the protocol and shall be trained and credentialed by the pertinent agency to undertake the subject protocol survey.*

34.5.4.5. STMP (Hazards) Standard 1:

34.5.4.5.1. **Sea Level Rise Analysis.** *Applications for development adjacent to the shore or that may be subject to the influence of sea level over the life of the project shall include an analysis of possible impacts from sea level rise. The analysis shall take into account the best available scientific information with respect to the effects of long-range sea level rise for all requisite geologic, geotechnical, hydrologic, and*

*engineering investigations, consistent with the best available science on sea-level rise for the Humboldt Bay region and the Coastal Commission's adopted Sea Level Rise Policy Guidance document. Residential and commercial development at nearshore sites shall analyze potential coastal hazard sensitivities for a range of potential global sea level rise scenarios, from three to six feet per century. The analysis shall also take into consideration regional sea level variability, localized uplift or subsidence, local topography, bathymetry and geologic conditions. A similar sensitivity analysis shall be performed for critical facilities, energy production and distribution infrastructure, and other development projects of major community significance. These hazard analyses shall be used to identify current and future site hazards, to help guide site design and hazard mitigation and to identify sea level thresholds after which limitations to the development's design and siting would cause the improvements to become significantly less stable. For design purposes, development projects shall assume a minimum sea level rise of 3.2 feet per century and projects of major community-wide significance shall assume a minimum of 5.3 feet per century.*