

**HUMBOLDT BAY HARBOR, RECREATION  
AND CONSERVATION DISTRICT**

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**RESOLUTION NO. 2023-12**

**A RESOLUTION CERTIFYING AN ENVIRONMENTAL IMPACT REPORT (EIR) PREVIOUSLY  
CERTIFIED BY THE COUNTY OF HUMBOLDT, ADOPTING A MITIGATION MONITORING AND  
REPORTING PROGRAM, AND MAKING FINDINGS RELATIVE TO AND APPROVING HARBOR  
DISTRICT PERMIT 2022-02 WITH CONDITIONS FOR THE HUMBOLDT BAY MASTER WATER  
INTAKES**

**WHEREAS**, the Board of Commissioners of the Humboldt Bay Harbor, Recreation, and Conservation District (“Board”) is empowered by Appendix II of the Harbors and Navigation Code, and its own ordinances and resolutions, to grant permits, leases, rights, and privileges;

**WHEREAS**, no permits, rights, leases, and privileges may be granted without first having considered certain potential impacts and without first having made findings relative to said impacts;

**WHEREAS**, the Humboldt Bay Harbor, Recreation, and Conservation District proposes to implement the Humboldt Bay Master Water Intakes “Project”; and

**WHEREAS**, the Project requires a Harbor District Permit, and consistent with District Ordinances and the Harbors and Navigation Code, an application was filed and accepted by the Board on March 4, 2022 and a Notice of Application was published and sent to adjacent property owners and regulatory agencies; and

**WHEREAS**, the County of Humboldt (“County”), as the “lead agency” under the California Environmental Quality Act (Public Resources Code Section 21000 et seq) (“CEQA”) prepared and certified an Environmental Impact Report (EIR) (SCH#2021040532) for the Samoa Peninsula Land-Based Aquaculture Project of which the Project is a portion; and

**WHEREAS**, a Notice of Availability (NOA) for the Draft Environmental Impact Report (“Draft EIR”) was published on December 17, 2021, inviting comment from the general public, agencies, organizations, and other interested parties, with a comment period from December 20, 2021 to February 18, 2022; and

**WHEREAS**, in accordance with CEQA and Section 15088 of the Guidelines for Implementation of the California Environmental Quality Act (14 Cal. Code Regs. Section 15000 et seq.) (the “CEQA Guidelines”), a Final Environmental Impact Report (“Final EIR”) incorporating all comments received on the Draft EIR and responses to comments was certified by the County Board of Supervisors on September 28, 2022; and

**WHEREAS**, the Final EIR consists of the Draft EIR and Draft EIR appendices, comments received on the Draft EIR, and responses to comments, modifications to the Draft EIR, and all documents and resources referenced and incorporated by reference in the Draft EIR and Final EIR; and

**WHEREAS**, the Final EIR has been completed in compliance with CEQA and the CEQA Guidelines;  
and

**WHEREAS**, CEQA requires that in approving a project for which an EIR has been prepared, the decision-making body shall review said EIR and make certain findings regarding the potentially significant effects on the environment identified in the EIR; and

**WHEREAS**, under Pub. Resources Code, § 21067, the Board does hereby certify that acting as a responsible agency for the Project under CEQA it has considered the information contained in such EIR, and concurs in the analysis and conclusions set forth in said documents; and

**WHEREAS**, the Final EIR for the Project is, by this reference, incorporated into this Resolution as if fully set forth herein; and

**WHEREAS**, a Notice of Public Meeting for Certification of the Environmental Impact Report by the District and Approval of Harbor District Permit 2022-02 was published on May 2, 2023, inviting comment from the general public, agencies, organizations, and other interested parties, with a comment period from May 2, 2023 to June 2, 2023; and

**WHEREAS**, the Board has been presented with certain evidence relating to the impact of the Humboldt Bay Master Intakes project upon the air, land, environment, and ecology of the Bay under the jurisdiction of the Humboldt Bay Harbor, Recreation, and Conservation District; and

**WHEREAS**, the Mitigation Monitoring and Reporting Program (MMRP), attached hereto as Exhibit #A-1, incorporates the mitigation measures identified in the Final EIR which will mitigate or avoid the direct or indirect environmental effects of those parts of the Project which the Humboldt Bay Harbor, Recreation, and Conservation District will carry out, finance, or approve; and

**WHEREAS**, the Board has considered and discussed the adequacy of the Final EIR and the MMRP and applied its own independent judgment and analysis to that review in compliance with Pub. Resources Code Section 21002.1, subdivision (d).

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District as follows:

1. **Section One**. That the above recitals are true and correct and are incorporated herein by this reference.
2. **Section Two**. That the Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District finds, after considering the impact of the proposed use upon the air, water, land, environment, and ecology of the lands under the jurisdiction of the Humboldt Bay Harbor, Recreation, and Conservation District, that:
  - a) The proposed uses are necessary to promote public safety, health, comfort, and convenience of the public;
  - b) The proposed uses are required by the public convenience and necessity;

- c) The proposed uses will not have any substantial adverse environmental or ecological effect in light of the mitigation measures made conditions of this approval;
  - d) The proposed uses are consistent with the Humboldt Bay Management Plan;
  - e) The permit, right, or privilege is reasonably required by public convenience to promote growth, and to meet area demands, and does not adversely affect the environment or ecology of the area to any substantial degree;
  - f) The proposed uses will not produce an unreasonable burden on the natural resources and aesthetics of the area, on the public health and safety, and air and water quality in the vicinity of Humboldt Bay, or on the parks, recreation and scenic area, historic sites and buildings, or archeological sites in the area.
3. **Section Three.** That the Board does hereby make the following CEQA findings:
- a) It has independently reviewed and analyzed the Final EIR and other information in the record and has considered the information contained therein prior to acting upon or approving the portion of the Project before the Board for consideration.
  - b) The Final EIR prepared for the Project has been completed in compliance with CEQA, Public Resources Code Section 21000 et seq, and the CEQA Guidelines.
  - c) The Final EIR is consistent with the independent judgment and analysis of the Humboldt Bay Harbor District in its capacity as a responsible agency for the Project.
4. **Section Four.** That the Board makes the following findings regarding the potential impacts of the Humboldt Bay Master Water Intakes Project, in compliance with Pub. Resources Code Section 21081 subdivision (a) and CEQA Guidelines Section 15091:
- a) The parts of the Project for which the Board is responsible will result in no significant impacts related to the following: aesthetics, energy, greenhouse gas emissions, noise, population and housing, transportation, utilities and service systems, and wildfire.
  - b) The parts of the Project for which the Board is responsible will result in the following potentially significant impacts related to air quality, which will be mitigated to a less-than-significant level through the adoption and implementation of mitigation measures (EIR, Section 3.2):
    - i. **Potential conflict with or obstruction of implementation of the applicable air quality plan (Impact AQ-1):** Construction activity would include earth disturbance and, therefore, potential to result in fugitive dust. The amount of dust generated at any given time would be highly variable and is dependent on the size of the area disturbed at any given time, amount of activity, soil conditions, and meteorological conditions. The Board finds that Mitigation Measure AQ-1, Best Management Practices to Reduce Air Pollution, will control fugitive dust emissions from the Project and mitigate this impact to a less-than-significant level. Thus, the Board finds, pursuant to Public Resources Code, section 21081, subdivision (a)(1), that “[c]hanges or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”
    - ii. **Cumulatively considerable net increase in any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard (Impact AQ-2):** As discussed above, construction activity may result in fugitive dust and increase localized PM10. For the same reasons discussed above, the Board finds that Mitigation Measure AQ-1 will mitigate this impact to a less-than-significant level. Thus, the Board finds, pursuant to Public Resources Code, section 21081, subdivision

(a)(1), that “[c]hanges or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

iii. ***Exposure of sensitive receptors to substantial pollutant concentrations (Impact AQ-3):***

The nearest potential receptor is more than 0.2 mile from the Project boundary. As discussed above, construction activity may result in fugitive dust and expose sensitive receptors to substantial pollutant concentrations. For the same reasons discussed above, the Board finds that Mitigation Measure AQ-1 will mitigate this impact to a less-than-significant level. Thus, the Board finds, pursuant to Public Resources Code, section 21081, subdivision (a)(1), that “[c]hanges or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

iv. ***Contribute to a cumulatively significant impact to air quality (Impact AQ-C-1):*** While the Project’s generation of fugitive dust during construction could potentially contribute to a cumulatively significant impact to air quality, the incorporation of Mitigation Measure AQ-1, as described above, and Mitigation Measure AQ-2, Best Management Practices to Reduce Asbestos Emissions During Demolition would mitigate this impact to a less-than-significant level. Thus, the Board finds, pursuant to Public Resources Code, section 21081, subdivision (a)(1), that “[c]hanges or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

c) The parts of the Project for which the Board is responsible will result in the following potentially significant impacts related to biological resources, which will be mitigated to a less-than-significant level through the adoption and implementation of mitigation measures (EIR, Section 3.3):

i. ***Substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service (Impact BIO-1):*** The Project could potentially impact various special status terrestrial mammals, special status amphibians, special status and protected birds, and special status fish. The Board finds that Mitigation Measures BIO-2, Protect Special Status Terrestrial Mammals, BIO-4, Protect Special Status Amphibians, BIO-5, Protect Special Status, Migratory, and Nesting Birds, and BIO-6a, Protection of Longfin Smelt, will require protective measures that will minimize these impacts and mitigate them to a less-than-significant level. Thus, the Board finds, pursuant to Public Resources Code, section 21081, subdivision (a)(1), that “[c]hanges or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

d) The parts of the Project for which the Board is responsible will result in the following potentially significant impacts related to cultural resources, which will be mitigated to a less-than-significant level through the adoption and implementation of mitigation measures (EIR, Section 3.4):

i. ***Substantial adverse change in the significance of an archaeological resource (Impact CR-1):*** The Humboldt Bay region and Samoa Peninsula were traditionally occupied by the Wiyot people. While no direct evidence of Wiyot habitation or use has been encountered at the Project site, much of the Project site remains capped by cement and fill. The Board finds that Mitigation Measures CR-1, Implementation of Protocols for Cultural

Monitoring During Ground Disturbance, and CR-2, Implementation of Inadvertent Discovery Protocols, will provide protection for archaeological resources that may be inadvertently discovered during the course of construction. These measures would provide cultural resource monitors during construction and establish protocols for inadvertent archaeological discovery and mitigate these impacts to a less-than-significant level. Thus, the Board finds, pursuant to Public Resources Code, section 21081, subdivision (a)(1), that “[c]hanges or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

- ii. ***Disturbance of any human remains, including those interred outside of formal cemeteries (Impact CR-2)***: While the cultural resource investigation did not determine archaeological resources were likely to be present, inadvertent discovery of human remains may still occur. The Board finds that Mitigation Measure CR-3, Minimize Impacts to Unknown Archaeological Resources or Human Remains if Encountered, would be implemented to ensure any potential impact would be less than significant. Thus, the Board finds, pursuant to Public Resources Code, section 21081, subdivision (a)(1), that “[c]hanges or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”
- e) The parts of the Project for which the Board is responsible will result in the following potentially significant impacts related to geology and soils, which will be mitigated to a less-than-significant level through the adoption and implementation of mitigation measures (DEIR, Section 3.6):
  - i. ***Substantial erosion or loss of topsoil (Impact GEO-4)***: The Project would require trenching and operation of heavy machinery that would disturb soil and, therefore, have the potential to cause erosion. Erosion and sediment control provisions prescribed in the Humboldt County Code and the CBC would be required as part of the Project. The Board finds that Mitigation Measures GEO-2, Construction Best Management Practices, and HWQ-1, Implement Stormwater Pollution Prevention Plan (SWPPP), would reduce erosion and ensure potential water quality impacts are at a less-than-significant level during and after construction. Thus, the Board finds, pursuant to Public Resources Code, section 21081, subdivision (a)(1), that “[c]hanges or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”
- f) The parts of the Project for which the Board is responsible will result in the following potentially significant impacts related to hazards and hazardous materials, which will be mitigated to a less-than-significant level through the adoption and implementation of mitigation measures:
  - i. ***Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment (Impact HAZ-2)***: Construction would require the use of heavy machinery for grading, excavation, trenching, compaction, and transportation of materials. There is always the possibility that an accident could occur and petroleum products could be accidentally released onto the soil. Equipment on-site during construction would be required to have emergency spill cleanup kits immediately accessible in the case of any petroleum product spills. Equipment would not be refueled near any one-parameter wetlands nor Humboldt Bay. If equipment must be washed, it would be washed off-site at an appropriate facility. This component would also partially overlap with the AOIs listed in the Interim Work Plan document, therefore there is

potential for the construction phase to encounter hazardous substances. The Board finds that adherence to Mitigation Measures AIR-2, Best Management Practices to Reduce Asbestos Emissions During Demolition, GEO-2, Construction Best Management Practices, HWQ-1, Implement Stormwater Pollution Prevention Plan (SWPPP), and HAZ-1, Implement Recommendations of Interim Measures Work Plan, which include Construction BMPs, implementation of a SWPPP, and implementation of recommendations from the Interim Measures Work Plan, would further negate the potential for accidental releases of hazardous materials during construction and reduce this impact to a less-than-significant level. Thus, the Board finds, pursuant to Public Resources Code, section 21081, subdivision (a)(1), that “[c]hanges or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

- g) The parts of the Project for which the Board is responsible will result in the following potentially significant impacts related to hydrology and water quality, which will be mitigated to a less-than-significant level through the adoption and implementation of mitigation measures (EIR, Section 3.9):
- i. ***Violation of any water quality standards or waste discharge requirements or substantial degradation of surface or ground water quality (Impact HWQ-1):*** Construction of a terrestrial pipeline for the Project would require 4,650 feet of trenching parallel to the Humboldt Bay shoreline. Construction to modernize and revitalize the sea chests on the RMT II dock and Red Tank dock would require in-water work in Humboldt Bay. These activities have the potential to impact water quality in Humboldt Bay during construction. The Board finds that Mitigation Measure HWQ-1, Implement Stormwater Pollution Prevention Plan (SWPPP) for the Water Intakes, would reduce these impacts to a less-than-significant level by imposing various practices relating to construction, hazardous materials, and dewatering that will minimize water quality impacts. Thus, the Board finds, pursuant to Public Resources Code, section 21081, subdivision (a)(1), that “[c]hanges or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.”

Therefore, based upon all the foregoing, the Harbor District as a responsible agency under CEQA hereby certifies the Final EIR prepared for the Project as compliant with law and adequate for the portions of the project subject to the Harbor District’s authority. The Final EIR is on file at the Humboldt Bay Harbor, Recreation and Conservation District Office, 601 Startare Drive, Eureka, CA 95501, and available for inspection by any interested person.

5. **Section Five.** That the Board hereby adopts the MMRP attached hereto as Exhibit #A-1, and approves Harbor District Permit No 2022-02 authorizing implementation of the Humboldt Bay Master Water Intakes project (**Exhibit #A-2**) subject to the conditions of approval outlined in Exhibit #A-2.

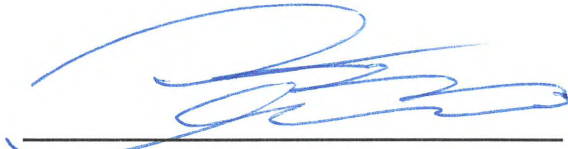
**PASSED AND ADOPTED** by the Humboldt Bay Harbor, Recreation and Conservation District Board of Commissioners at a duly called meeting held on June 8<sup>th</sup>, 2023, by the following polled vote:

**AYES:** Dale, Kullmann, Newman

**NOES:** Benson

**ABSENT:** Higgins

**ATTEST:**



**Aaron Newman, Secretary  
Board of Commissioners**



**Greg Dale, President  
Board of Commissioners**

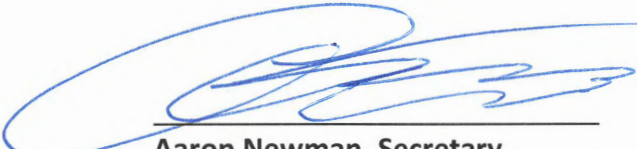
## **CERTIFICATE OF SECRETARY**

The undersigned, duly qualified and acting Secretary of the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, does hereby certify that the attached Resolution is a true and correct copy of RESOLUTION NO. 2023-12 entitled,

**A RESOLUTION CERTIFYING AN ENVIRONMENTAL IMPACT REPORT (EIR) PREVIOUSLY CERTIFIED BY THE COUNTY OF HUMBOLDT, ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, AND MAKING FINDINGS RELATIVE TO AND APPROVING HARBOR DISTRICT PERMIT 2022-02 WITH CONDITIONS FOR THE HUMBOLDT BAY MASTER WATER INTAKES**

as regularly adopted at a legally convened meeting of the Board of Commissioners of the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, duly held on the 8<sup>th</sup> of June of 2023; and further, that such Resolution has been fully recorded in the Journal of Proceedings in my office, and is in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 8<sup>th</sup> of June, 2023.



**Aaron Newman, Secretary  
Board of Commissioners**