

**MINUTES
SPECIAL MEETING OF THE BOARD OF COMMISSIONERS
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT**

February 28, 2017

The Humboldt Bay Harbor, Recreation, and Conservation District met in special session on the above date, 6:00 P.M. Open Session, at the Wharfinger Building, 1 Marina Way, Eureka, CA 95501.

OPEN SESSION – 6:00 P.M.

1) ROLL CALL:

PRESENT: DOSS
 KULMANN
 HIGGINS
 MARKS

ABSENT: DALE

QUORUM: Yes

2) PLEDGE OF ALLEGIANCE

3) PUBLIC COMMENT

The following individuals addressed the Council regarding subject matters not on this meeting's agenda: Susan Penn.

4) CONSENT CALENDAR: NONE.

5) COMMUNICATIONS AND REPORTS: NONE.

6) NON-AGENDA NONE.

7) UNFINISHED BUSINESS- Coast Seafoods Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Project

A. EIR CERTIFICATION BY RESOLUTION 2017-02

- o District Planner George Williamson reported on the background of the Final Environmental Impact Report (FEIR) approval process, as well as this meeting's process for approval of the Coast Seafoods FEIR and Harbor District Permit.
 - i. This matter was previously heard on January 19th, 2017. Staff has been working since then to address comments and supplement the FEIR.
 - ii. The Project:
 - 1. Extend approvals for Coast's existing 300 acres of shellfish culture;
 - 2. Increase shellfish culture in permitted floating upwelling system by adding 8 bins;
 - 3. Authorize culture of Pacific and Kumamoto oysters within Coast's existing clam rafts;
 - 4. Relocate approximately 5 acres of existing cultch-on-longline culture; and
 - 5. Permit additional intertidal culture in two phases.
 - iii. Updates Summary:
 - Clarification regarding FEIR Conservation Measure REC-1
 - Wiyot Tribal Consultation has occurred
 - New and revised Conservation and Mitigation Measures updated in:
 - a. FEIR Certification Resolution 2017-02 Exhibit A - CEQA Findings of Fact
 - b. FEIR Certification Resolution 2017-02 Exhibit B – MMRP
 - c. These measures are:
 - i. New Conservation Measures: BIO-13 and REC-3
 - ii. Revised Mitigation Measures: HAZ-1, HAZ-2, HAZ-3, HAZ-4
 - iii. New Mitigation Measures: HAZ-6, HAZ-7
 - FEIR Appendix D Eelgrass Monitoring Plan Revised January 9, 2017
 - a. Revised version incorporates substantive project changes.

- b. Mitigation no longer through a line spacing increase, total culture removal important for multiple reasons, including eelgrass, green sturgeon, Pacific herring, and birds.
- c. Mitigation both in-kind & meeting CEMP requirements for no-net-loss of eelgrass ecological function.
- d. Culture removed is equivalent to 25% expansion area regardless of habitat type.
- e. Eelgrass monitoring in mitigation sites through aerial photography to show recovery.
- f. Expansion area monitoring has 2 targets: (1) <10% decrease in areal extent as sampled using UAV technology, and (2) < 25% decrease in density as sampled.
- g. 5-year Monitoring schedule and duration
- h. Adaptive management plan includes moving to Phase 2 only if Phase 1 targets met.
- i. The FEIR Mitigation Monitoring and Reporting Program (MMRP) Updated, Eelgrass Monitoring Update expected in March.
- Updated global reference to Indian Island
- New Permit Condition 15 – Advisory Review Committee
 - a. Permit Condition 15, summarized below:
 - b. The District shall create a limited ad hoc Advisory Review Committee to review reports associated with Coast's Eelgrass Monitoring Plan (Mitigation Measure BIO-1), Avian Monitoring Plan (Conservation Measure BIO-13), and Herring Monitoring Plan (Mitigation Measure BIO-2).
 - c. Advisory to the District's Board of Commissioners.
 - d. Duties limited to review of the monitoring plans:
 - i. Evaluate compliance with the monitoring plan requirements
 - ii. Determine whether the results establish Project impacts greater than those identified in the Final EIR.
 - e. If Committee determines that the monitoring plan results show significant adverse impacts beyond those identified in the FEIR, it shall provide recommendations regarding additional mitigation measures or project alterations to reduce additional significant adverse impacts to less than significant levels.
 - f. The Advisory Review Committee shall be composed of 1 representative each from:
 - i. Wiyot Tribe, Coast Seafoods, California Coastal Commission, National Marine Fisheries Service, one shellfish company (unaffiliated with Coast or Pacific Seafood), 2 interested community stakeholders
 - g. Final approval of Committee membership by the Board of Commissioners based on recommendations from the respective Committee agencies
- R-DEIR & FEIR Cumulative Impacts Analysis
 - a. Includes Coast's proposed 622 acres expanded footprint & 266 acres of intertidal habitat & existing aquaculture described in Pre-Permitting FEIR;
 - b. EIR found all cumulative impacts to be less than significant,
 - c. Recommended EBMA Avoidance Alternative is 30% of Project size evaluated in Project EIR & Pre-Permitting Project intertidal also reduced;
 - d. Cumulative impacts associated with recommended Environmentally Superior Alternative expected to be significantly less than those analyzed in the Project EIR, which were found to be less than significant.
- Project biologist staff, Phil Bloch (Confluence Environmental), discussed both previous mitigation and bird-use as related to the Project
 - i. Mitigation
 - Previous Mitigation
 - a. 54-acre Conservation Easement
 - b. McDaniel Slough Restoration
 - Mitigation Actions:
 - a. Avoid: no expansion in the East Bay Management Area (EBMA)
 - b. Minimize: oyster longline spacing at 10-ft for cultch-on-longline and 9-ft/16-ft for basket-on-longline
 - c. Compensatory Mitigation: removal of culture on Sand Island, Gunther Island, and Arcata Channel, including 42.0 acres in Phase 1 and 22.7 acres in Phase 2
 - Other Mitigation:
 - a. Spartina removal at the Bracut Marsh for the Regional Water Board.
 - b. Two phases of project expansion, including a robust monitoring and mitigation plan.

- c. Monitoring of eelgrass, herring, and brant will be evaluated by Advisory Committee.
- ii. Bird-Use
 - Black Brant Background
 - a. Humboldt Bay is an important winter/spring staging site for black brant (*Branta bernicla nigricans*), a small "sea goose".
 - b. Pacific Flyway brant population has been estimated at 150,000 birds.
 - c. Humboldt Bay supports large proportion of population during winter and spring (they migrate northward and winter/stage in west coast estuaries).
 - d. Brant rely exclusively on eelgrass for food throughout flyway.
 - e. Eelgrass shortages are rare.
 - Black Brant: Surveys and Monitoring
 - a. Survey in spring 2015 suggest about half of the birds occur in South Bay and half in North Bay.
 - b. Brant forage in aquaculture plots during high tides when they can easily swim through the sites.
 - c. Brant do not appear to avoid aquaculture equipment (ropes, poles) but they tend to stop moving through aquaculture sites when movements were impeded by equipment.
 - Migratory Shorebirds
 - a. Humboldt Bay is an important estuary for migrating shorebirds.
 - b. Shorebirds appear to forage readily under off-bottom aquaculture plots, but some species (e.g., black-bellied plovers) may avoid aquaculture.
 - c. Most aquaculture expansion proposed for low areas that are often flooded (as opposed to higher elevation mudflats where these birds mostly occur).
 - d. Shorebird use of aquaculture sites generally related to low water levels, foraging shorebirds seem to use sites irrespective of longlines when water level is low enough.
- After staff presentations, Chair Marks moved the item to the Commission for Discussion.
- COMMISSIONER HIGGINS MOVED TO APPROVE RESOLUTION 2017-02. COMMISSIONER KULLMANN SECONDED.
 - i. With a motion on the floor, the Commission then asked questions of staff regarding specifics of the resolution, CEQA Findings of Fact; the MMRP; and the FEIR.
 - a. Discussion included clarifications of the Advisory Committee's actions, and monitoring time-periods
 - Chair Marks then opened the item up for public comment.
 - a. Commenters included: Stephen Rosenberg, Ron Cole, Mitch Farro, Stan Brandenberg, Grace Sterner, Ted Romo, Scott Frazier, Mike Wilson, Casey Allen, Sebastian Elrite, Susan Nolan, Uri Driscoll, Jennifer Kalt, and Scott Sterner.
 - b. Commenters discussed whether or not they supported the adoption of the FEIR, asked questions about the Project and discussed the adoption process.
 - c. Seeing no more persons wishing to speak, Chair Marks moved the discussion back to the Commission.
 - The Commissioners then further discussed the item. Each Commissioner addressed public comments, and asked more questions of staff. Specific points discussed included:
 - a. Commissioners discussed the advisory committee, and how to set it up, so it has "teeth". They also stated that all of the data collected as a part of monitoring should be available and open to the public. Commissioner Higgins requested that Committee proceedings being noticed and open to the public. Commissioner Doss suggested an edit- Paragraph 15 of permit, requesting that language be amended to define that advisory committee will continue to stay in place through the full extent of the permit.
 - i. Commissioner Higgins accepted Commissioner Doss's suggestion as a friendly amendment to his original motion, and Commissioner Kullmann concurred.
 - ii. Seeing no other discussion of the Commission, Chair Marks called for a ROLL CALL VOTE:
Ayes: MARKS, HIGGINS, DOSS, KULLMANN
Noes: NONE.
Absent: DALE
Abstain: NONE.

MOTION PASSED

**Adopted Minutes
Special Meeting of the Board of Commissioners
Humboldt Bay Harbor, Recreation, and Conservation District
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B. PERMIT RESOLUTION 2017-03

- o Consideration of adopting Resolution 2017-03 which establishes findings for the Coast Seafoods Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Project.
- o CHAIR MARKS CALLED FOR A ROLL CALL VOTE:
Ayes: MARKS, HIGGINS, DOSS, KULLMANN
Noes: NONE.
Absent: DALE
Abstain: NONE.

C. PERMIT 14-03, COAST SEAFOODS HUMBOLDT BAY SHELLFISH AQUACULTURE PERMIT RENEWAL AND EXPANSION PROJECT

- o CHAIR MARKS CALLED FOR VOTE, INCLUDING COMMISSIONER DOSS'S AMENDMENT TO THE PERMIT LANGUAGE-THE ADVISORY COMMITTEE WILL CONTINUE TO OPERATE THROUGH OUT THE FULL EXTENT OF THE PERMIT:
Ayes: MARKS, HIGGINS, DOSS, KULLMANN
Noes: NONE.
Absent: DALE
Abstain: NONE.

8) NEW BUSINESS: NONE.

9) ADMINISTRATIVE AND EMERGENCY PERMITS: NONE

10) ADJOURNMENT- The Special Meeting of the Board of Commissioners adjourned at 7:46 pm.

APPROVED BY

Patrick Higgins
Secretary

RECORDED BY:

George Williamson
District Planner