

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

DATE: January 19, 2017

TIME: Executive Closed Session - 6:00 PM
Special Session – 7:00 PM

PLACE: Woodley Island Marina Meeting Room

The Meeting Room is wheelchair accessible. Accommodations and access to Harbor District meetings for people with other handicaps must be requested of the Director of Administrative Services at 443-0801 at least 24 hours in advance of the meeting.

1. Call to Order at 6:00 p.m.
 - a. Move to Executive Closed Session pursuant to the provisions of the California Government Code Section PUBLIC EMPLOYEE APPOINTMENT--Discussion of appointment to fill vacancy of Commissioner for Third District pursuant to Government Codes section 54957(b)(1).
2. Adjourn Executive Closed Session
3. Call to Order Special Session at 7:00 P.M. and Roll Call
4. Pledge of Allegiance
5. Report on Executive Closed Session
6. Public Comment

Note: This portion of the Agenda allows the public to speak to the Board on the various issues not itemized on this Agenda. A member of the public may also request that a matter appearing on the Consent Calendar be pulled and discussed separately. Pursuant to the Brown Act, the Board may not take action on any item that does not appear on the Agenda. Each speaker is limited to speak for a period of three (3) minutes regarding each item on the Agenda. Each speaker is limited to speak for a period of three (3) minutes during the PUBLIC COMMENT portion of the Agenda regarding items of special interest to the public not appearing on the Agenda that are within the subject matter jurisdiction of the Board of Commissioners. The three (3) minute time limit may not be transferred to other speakers. The three (3) minute time limit for each speaker may be extended by the President of the Board of Commissioners or the Presiding Member of the Board of Commissioners at the regular meeting of the District. The three (3) minute time limit for each speaker may be enforced by the President of the Board of Commissioners or the Presiding Member of the Board of Commissioners at the regular meeting of the District.

7. Unfinished Business
 - a. Consideration of adopting Resolution 2017-01 Adopting CEQA Findings of Fact; Adopting a Mitigation Monitoring Program; and Certifying the Final Environmental Impact Report for the Coast Seafoods Company Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Project.
 - b. Consideration of adopting Resolution 2017-02 which establishes findings for the Coast Seafoods Company Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Project.
 - c. Consideration of granting Permit 14-03, for the Coast Seafoods Company Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Project.
8. Adjournment

AGENDA REPORT

For agenda of: January 19, 2016

**Agenda Items: 7a – EIR Certification by Resolution 2017-01
7b – Permit Resolution 2017-02
7c – Permit 14–03
Coast Seafoods Humboldt Bay Shellfish Aquaculture Permit Renewal
and Expansion Project**

Unfinished Business

7a – EIR Certification by Resolution 2017-01. Consideration of certifying an Environmental Impact Report (SCH #2015082051) which analyzed the proposed Coast Seafoods Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Project (Permit Application 14–03), and alternatives, in Humboldt Bay.

After accepting the Coast Seafoods Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Permit application for filing the District, as lead agency, determined that an Environmental Impact Report (EIR) be prepared for the Project. A Notice of Availability was prepared and posted, that the Draft EIR and its technical studies were available for the CEQA required 45-day public review and comment period, from October 26, 2015 through December 10, 2015.

After that comment period the applicant, Coast Seafoods, made some project modifications and provided additional information on the potential effects to respond to public comments. Based on this, the District determined that the DEIR be recirculated. Another Notice of Availability was prepared and the Recirculated-DEIR (R-DEIR) was released for a 45 day public comment period from July 18 through September 1, 2016 and was extended an additional 15 days to September 16, 2016 in response to agency comments for more review time. A Final Environmental Impact Report (FEIR) was prepared to respond to the public comments received on the R-DEIR.

Project Description

The project, as proposed by Coast Seafoods, involves:

- (1) Extending regulatory approvals for Coast’s existing approximately 300 acres of shellfish culture;
- (2) Increasing shellfish culture within an already permitted floating upwelling system by adding eight culture bins;
- (3) Authorizing culture of Pacific and Kumamoto oysters within Coast’s existing clam rafts;
- (4) Relocating approximately 5 acres of existing cultch-on-longline culture; and
- (5) Permitting additional intertidal culture in two phases, as further described below.

The proposed project, and a range of alternatives, were analyzed in the EIR. All were found to have less than significant impacts, including less than significant cumulative impacts, or impacts that could be mitigated to a less than significant level. The alternative described below was

identified as the Environmentally Superior Alternative. The conservation and mitigation measures in the MMRP are for this alternative.

Environmentally Superior Alternative - East Bay Management Area Avoidance Alternative

Under the East Bay Management Area (EBMA) Avoidance Alternative, Coast would renew regulatory approvals for its existing shellfish culture activities and add an additional 256 acres of intertidal oyster culture, consisting mostly of a mix of double-hung cultch-on-longlines spaced 10-ft apart and basket-on-longlines with two rows of baskets separated by 9-ft, followed by a 16-ft space. This alternative would be installed in phases, with 165.2 acres planted in Phase I and 90.8 acres planted in Phase II. Phase I includes (1) 89.2 acres of cultch-on-longlines, (2) 71.9 acres of basket-on-longlines, and (3) 4 acres of rack-and-bag culture located at least 25 ft. from existing eelgrass beds. Phase II involves 90.8 acres cultch-on-longline and/or basket-on-longline, at the same spacing as that proposed for Phase I.

For mitigation for this alternative, Coast would remove 42 acres of existing longlines spaced 2.5-ft apart as mitigation for Phase I and up to 22.7 acres of existing longlines spaced 2.5-ft apart as mitigation for Phase II. Mitigation will be provided at a 0.25:1 ratio, with one acre of existing planted area removed for every four acres of new cultivation. Therefore, the net expansion in cultivated tidelands for this alternative, at full project buildout, would be approximately 191.3 acres. The proposed mitigation sites are located near Sand Island, Arcata Channel, and Gunther Island, in locations that have been identified through coordination with state and federal regulatory agencies to be important sites for a number of species, including green sturgeon and birds. As compared to the Project analyzed in the R-DEIR, the EBMA Avoidance Alternative eliminates any new cultivation plots within the EBMA and reduces the total amount of net new proposed cultivated acreage by 430.7 acres.

Because no significant unavoidable adverse impact has been identified for the Project or any of the proposed Alternatives, there is no alternative that is “environmentally superior,” as defined by CEQA. However, for the benefit of the public, the FEIR identifies the EBMA Avoidance Alternative, as the environmentally superior alternative because it has less potential environmental impacts but still accomplishes some of the Project’s objectives, and specifically avoids habitat that several regulatory agencies and commenters have identified as important habitat for a number of species. While the impacts to eelgrass, brant, herring, shorebirds, waterfowl, and green sturgeon were all deemed to be less than significant after mitigation, this alternative would also further lessen impacts to those species, in addition to other species for which the EBMA represents important habitat. A program of eelgrass monitoring would ensure that impacts to eelgrass consistent with those described in the FEIR.

Cumulative Impacts

The R-DEIR and FEIR also included an extensive discussion of cumulative impacts. The cumulative impact analysis included an evaluation of the Project (including Coast’s proposed 622 acres of expanded footprint); the Harbor District’s Pre-Permitting Project described in the Pre-Permitting Project FEIR, which included 266 acres of intertidal habitat; and existing aquaculture in Humboldt Bay. The Project EIR found all cumulative impacts to be less than significant. This analysis was extremely conservative, given that the project recommended for approval, the EBMA Avoidance Alternative, is 30% the size of the Project evaluated in the

Project EIR, and the Harbor District has similarly significantly reduced the amount of intertidal cultivation proposed under the Pre-Permitting Project. Therefore, the cumulative impacts associated with the Environmentally Superior Alternative recommended for approval are expected to be significantly less than those analyzed in the Project EIR, which were nevertheless found to be less than significant.

While each impact discussed in the R-DEIR was also discussed in terms of cumulative impacts, three impacts in particular were identified for a more in-depth analysis, given the potential for cumulative effects associated with the particular impacts: (1) eelgrass impacts, (2) brant impacts, and (3) carrying capacity. All three impacts were evaluated from both a quantitative and qualitative perspective, using thresholds and analysis adopted from the best available scientific literature (*i.e.* Gibbs (2007), Rumrill (2004 and 2015), Dumbauld and McCoy (2015), and Stillman (2015)). These impacts were discussed in R-DEIR Section 6.5 (Impacts BIO-9, BIO-25 and BIO-26), Section 7.2.1.3, and Appendix G. The carrying capacity analysis was subject to a third-party independent review by NOAA's CAPES unit, who generally approved of the methodology and analysis once its recommendations had been incorporated into the revised analysis. This is the same analysis the Harbor District utilized when approving the Pre-Permitting Project EIR. Therefore, cumulative impacts associated with existing aquaculture operations, Coast's proposed project, and the Harbor District's Pre-Permitting Project have been thoroughly evaluated and there is strong evidence to support that the impacts are less than significant. For additional discussion of the Project's cumulative impacts, *see* Section 7 of the R-DEIR.

CEQA Findings

Having received, reviewed, and considered the information in the Project EIR, as well as the supporting administrative record, the Commission must make findings pursuant to, and in accordance with Public Resources Code Sections 21081, 21081.5, and 21081.6. The attached CEQA Findings of Fact provides a summary of the environmental effects of the project that are discussed in the Project EIR, and provides written findings for each of the potentially significant effects (See Exhibit A of Resolution 2017-01).

Based on the analysis of environmental impacts and mitigation measures in the Project EIR, changes or alternations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effects of this Project and mitigate all of the significant environmental effects to a less than significant level. No significant and unavoidable adverse impacts are identified for the Project or any of the proposed Alternatives.

Mitigation Monitoring and Reporting Program

Mitigation measures have been developed for affected environmental factors, reducing potential impacts to less than significant. Therefore, the EIR determined that the project's impacts will be less than significant with mitigation incorporated. A Mitigation Monitoring Reporting Program (MMRP) has been prepared for the project to ensure mitigation measures adopted in connection with project approval are effectively implemented. Conservation Measures were also incorporated into the Project to avoid or minimize potential environmental effects and are included in the MMRP. This MMRP establishes the framework HBHRCD and others will use to

implement the adopted mitigation measures and implementation monitoring and/or reporting (See Exhibit B of Resolution 2017-01).

Board Packet Material:

- Notice of Availability of Final EIR
- Final EIR (provided electronically: <http://humboldt-bay.org/coast-seafoods-company-humboldt-bay-shellfish-aquaculture-permit-renewal-and-expansion-project#overlay-context=>)
- Resolution 2017-01 Certifying the FEIR
 - Exhibit A - CEQA Findings of Fact
 - Exhibit B - Mitigation Monitoring Reporting Program (MMRP)

Staff Recommendation: that the Board of Commissioners determine that:

- (1) The Project EIR and MMRP have been completed in compliance with CEQA,
- (2) The Project EIR and MMRP were presented to the decision-making body of the Humboldt Bay Harbor Recreation and Conservation District and that the District reviewed and considered the information contained in the EIR and MMRP prior to approving the project; and
- (3) The Project EIR and MMRP reflect the Humboldt Bay Harbor District's independent judgment and analysis; and

Approve Resolution 2017-01 Adopting CEQA Findings of Fact; Adopting a Mitigation Monitoring Program; and Certifying The Final Environmental Impact Report for the Coast Seafoods Company Humboldt Bay Shellfish Aquaculture Permit Renewal And Expansion Project.

7b – Resolution 2017-02. Consideration of adopting Resolution 2017-02 which establishes findings for the Coast Seafoods Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Project.

Board Packet Material:

- Resolution 2017-02

Staff Recommendation: Approval of Resolution 2017-02 for the Environmentally Superior Alternative.

7c – Permit 14–03. Consideration of granting Permit 14-03, for the Coast Seafoods Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Project, East Bay Management Area (EBMA) Avoidance Alternative (Environmentally Superior Alternative).

Summary: The proposed permit would allow shellfish culturing and harvesting, as described above and in attachments.

Humboldt Bay Management Plan

The Humboldt Bay Management Plan (“HBMP”) is generally supportive of aquaculture, while noting that there are potential conflicts with other resources and Bay users. The Project site is in a location designated for mariculture uses under the HBMP. Further, the HBMP specifically supports many of the same objectives as the Project:

- **HFA-4: Assist in developing agency approval strategies and funding for commercial fishing and aquacultural marketing and outreach activities.** While the Project is privately funded, the Project supports these efforts by expanding aquaculture opportunities in Humboldt Bay.
- **HFA-5: Identify additional aquaculture opportunities in Humboldt Bay.** The Project is consistent with this goal, which notes that aquaculture uses are “compatible with other management goals in the portions of Humboldt Bay designated in this Plan as having a priority for mariculture use,” including the Project site.
- **HFA-6: Designate a Preferred Aquaculture Use Area in Arcata Bay.** The Project site is within the area designated under the HBMP as a preferred area for aquaculture uses in Arcata Bay.
- **HFA-8: Identify and implement the requirements for Bay management with respect to Essential Fish Habitat.** Coast has submitted an Essential Fish Habitat analysis to NOAA Fisheries in compliance with Section 7 consultation requirements under the Magnuson-Stevens Fisheries Conservation Management Act.
- **HFA-9 and HFA-10: Develop agreement with the Wiyot Tribe to facilitate cultural resource management and institute procedures to ensure compliance regarding cultural resources and related matters.** Coast and the Harbor District have engaged in consultation with the Wiyot Tribe regarding the Project’s potential impacts to cultural resources and have incorporated mitigation measures concerning cultural resources that were produced based on discussions between the Harbor District and Wiyot Tribe in accordance with this objective.
- **ROP-3: Identification of designated recreational use areas.** The intent of this objective is to ensure access to recreational opportunities that do not adversely affect commerce. The Project is located on Coast’s leased and owned footprint that it has managed for decades and does not propose any expansion to key recreational areas beyond its existing leased and owned footprint. The proposed culture areas would not block any North Bay watercraft navigation routes identified by the US Fish and Wildlife Service, such as Arcata and Mad River Channels, as shown on the Humboldt Bay Water Trails Map. The Project location also avoids California Department of Fish and Wildlife public access lands, including the Mad River Slough Wildlife Area, which is identified in the HBMP as the most popular area for boating in North Bay.
- **RFA-3: Water-oriented recreation facilities; access for fishing and shellfish harvesting.** This objective prioritizes additional recreational facilities and access improvements, provided that they do not preempt other priority uses. As noted above, aquaculture is a designated priority use under the HBMP.
- **RFA-11: Signage for boating safety.** The Project includes navigational markers and maps to identify farmed locations to alert boaters and other recreational users of gear locations, incorporated as R-DEIR Conservation Measure REC-2.

- **CEP-1: Impacts to streams, wetlands, estuaries, and coastal waters may be authorized for specific purposes or project types.** This goal prioritizes aquaculture and other designated uses, even though such projects can directly affect estuaries or coastal waters.
- **CEP-5: Water quality protection is required.** Shellfish have a positive impact on water quality by filtering pollutants and contaminants from the water column.
- **CEP-6: Mitigation program requirements are identified.** As recommended by this goal, the Project incorporates in-kind, on-site mitigation to mitigate for identified impacts to eelgrass.
- **CEP-9: Mitigation must be implemented before or at the same time as the impact being mitigated.** The reconfiguration of longlines within Coast's existing footprint would occur concurrently with the expansion of Coast's farmed footprint.

Board Packet Material: Permit 14-03

Staff Recommendation: Approval of Permit 14-03 for the Environmentally Superior Alternative.

COMMISSIONERS

1st Division
 Larry Doss
 2nd Division
 Greg Dale
 3rd Division
 Mike Wilson
 4th Division
 Richard Marks
 5th Division
 Patrick Higgins

Humboldt Bay
Harbor, Recreation and Conservation District
 (707) 443-0801
 P.O. Box 1030
 Eureka, California 95502-1030



NOTICE OF AVAILABILITY
FINAL ENVIRONMENTAL IMPACT REPORT

Project Title: Coast Seafoods Company Humboldt Bay Shellfish Aquaculture
Permit Renewal and Expansion Project (SCH# 2015082051)

NOTICE IS HEREBY GIVEN that the Humboldt Bay Harbor, Recreation and Conservation District, as lead agency, has prepared the Final Environmental Impact Report (FEIR) for the Coast Seafoods Company Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Project pursuant to California Environmental Quality Act (CEQA) Guidelines §§ 15089 and 15132.

In accordance with Public Resources Code § 21092.5, public agencies that commented on the Draft EIR are being provided a copy of the FEIR along with this notice, including responses to comments. Other interested parties may review and/or obtain a copy of the FEIR at the locations listed below.

DOCUMENT AVAILABILITY: Copies of the FEIR are available for review at Harbor District Offices, 601 Startare Drive, Eureka, CA 95501, on the Harbor District's website: www.humboldtbay.org (left side menu under 'Current Items'), and at the Humboldt County Library – Main Branch, 1313 3rd Street, Eureka, CA 95501.

PROJECT LOCATION: North and central portions of Humboldt Bay, Humboldt County, CA.

PROJECT DESCRIPTION: The project involves: (1) extending regulatory approvals for Coast's existing approximately 300 acres of shellfish culture; (2) increasing shellfish culture within an already permitted floating upwelling system by adding eight culture bins; (3) authorizing culture of Pacific and Kumamoto oysters within Coast's existing clam rafts; (4) relocating approximately 5 acres of existing cultch-on-longline culture; and (5) permitting a total of 622 acres of additional intertidal culture in two phases.

In consideration of comments received on the Recirculated DEIR (R-DEIR), an additional project alternative was identified to address concerns related to herring, eelgrass, the East Bay Management Area (EBMA), black brant, green sturgeon, recreational hunting and boating. This additional EBMA Avoidance Alternative (1) decreases the overall size of the proposed expansion area, (2) removes all proposed expansion areas in the EBMA, (3) focuses expansion on consolidating existing operations (e.g., Bird Island and Mad River vicinities), and (4) avoids eelgrass where possible (e.g., Gunther Island and East Bay expansion areas). See FEIR Section 4 for a complete discussion and analysis of the EBMA Avoidance Alternative.

PROJECT IMPACTS: The EIR identifies potential significant effects in the following areas: cultural and archeological resources, biological resources, air quality, and hazards and hazardous materials. Implementation of the identified mitigation measures would reduce these potentially significant effects to a less than significant level. After incorporation of the mitigation measures identified in the EIR, the project is not anticipated to have any significant and unavoidable adverse environmental impacts.

FEIR CERTIFICATION: The FEIR will be presented to the Harbor District Board of Commissioners to certify as a complete and adequate analysis of the environmental effects of the Project under CEQA at a public meeting in the Harbor District Conference Room, Woodley Island on January 19, 2017, at 7 p.m. All interested persons are invited to be present and be heard. Written communications may be directed to: Jack Crider, Executive Director, 601 Startare Drive, Eureka, CA 95501, or by email to jcrider@humboldtby.org.

Notice Date: December 23, 2016

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

RESOLUTION NO. 2017-01

A RESOLUTION ADOPTING CEQA FINDINGS OF FACT; ADOPTING A MITIGATION MONITORING PROGRAM; AND CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE COAST SEAFOODS COMPANY HUMBOLDT BAY SHELLFISH AQUACULTURE PERMIT RENEWAL AND EXPANSION PROJECT

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

WHEREAS, Coast Seafoods Company (Coast) submitted a permit application for a comprehensive management plan for Coast's owned and leased area and shellfish farm expansion in Humboldt Bay. The Project involves: (1) extending regulatory approvals for Coast's existing approximately 300 acres of shellfish culture; (2) increasing shellfish culture within an already permitted floating upwelling system by adding eight culture bins; (3) authorizing culture of Pacific and Kumamoto oysters within Coast's existing clam rafts; (4) relocating approximately 5 acres of existing cultch-on-longline culture; and (5) permitting 622 acres of additional intertidal culture in two phases.

WHEREAS, the Environmental Impact Report (EIR) (SCH #2015082051) consisting of the Recirculated Draft EIR and Final EIR has been prepared pursuant to the California Environmental Quality Act (CEQA; *Public Resources Code* § 21000 *et seq.*) to analyze the environmental effects of the project; and

WHEREAS, a Notice of Preparation was circulated for a 30-day public review and comment period commencing on August 20, 2015; and

WHEREAS, a public meeting was held on February 17, 2015 to receive comments on the appropriate scope of the EIR and a public meeting was held on December 9, 2015 to receive comments regarding the adequacy of the Draft EIR; and

WHEREAS, the Recirculated Draft EIR was circulated for a 45 day public comment from July 18 through September 1, 2016 and was extended an additional 15 days to September 16, 2016; and

WHEREAS, the Notice of Availability and the Final EIR (Response to Comments) documents were released December 23, 2016; and

WHEREAS, Section 21000 *et. seq.* of the *Public Resources Code* and Section 15000 *et. seq.* of Title 14 of the California Code of Regulations (*CEQA Guidelines*) which govern the preparation, content, and processing of environmental impact reports, have been fully implemented in the preparation of the EIR; and

WHEREAS, the Board of Commissioners has reviewed the EIR prepared for the project, the staff reports pertaining to the EIR, and evidence received by the Harbor District, all of which documents and evidence are hereby incorporated by reference into this Resolution; and

WHEREAS, the EIR identified potentially significant adverse effects on the environment caused by the project and identified mitigation measures that would reduce these potentially significant effects to a less than significant level. No significant and unavoidable adverse impacts are identified for the Project or any of the proposed Alternatives; and

WHEREAS, the Board of Commissioners is required pursuant to CEQA (*Guidelines* Section 15021), to adopt all feasible mitigation measures or feasible project alternatives that can substantially lessen or avoid any significant environmental effects keeping in mind the obligation to balance a variety of public objectives; and

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

1. The Board of Commissioners has reviewed and considered the information contained in the Final EIR prior to acting on the project.
2. The Board of Commissioners certifies that the Final EIR was presented to the Board, that the Final EIR was completed in full compliance with State law and CEQA Guidelines, that there was adequate public review of the Draft EIR and Recirculated Draft EIR, that it has considered all comments on the Draft EIR and Recirculated Draft EIR and responses to comments, that the Final EIR adequately discusses all significant environmental issues, and that the Final EIR reflects the independent judgement of the Harbor District.
3. Exhibit A (CEQA Findings of Fact) and Exhibit B (Mitigation Monitoring and Reporting Program) of this Resolution provide findings required under Section 15091 of the CEQA Guidelines for significant effects of the project. The Board of Commissioners hereby adopts these various findings of fact attached hereto as Exhibits A and B.
4. After considering the EIR and in conjunction with making these findings, the Board of Commissioners hereby finds that pursuant to Section 15092 of the CEQA Guidelines that approval of the project will not result in significant effects on the environment.
5. The Board of Commissioners has considered alternatives to the Project and finds that the Environmentally Superior Alternative (East Bay Management Area Avoidance Alternative) is the best alternative that can be feasibly implemented in light of relevant economic, legal, social, technological, and other reasons, as discussed herein. These findings made by the Board of Commissioners are supported by substantial evidence in the record, which is summarized herein.
6. The Mitigation Monitoring and Reporting Program attached hereto as Exhibit B is hereby adopted to ensure implementation of feasible mitigation measures identified in the EIR. The Board of Commissioners finds that these mitigation measures are fully enforceable conditions on the project and shall be binding upon the Harbor District and affected parties.
7. The Board of Commissioners hereby certifies the EIR in accordance with the requirements of CEQA.
8. A Notice of Determination shall be filed immediately after final approval of the project.
9. Pursuant to CEQA Guidelines Section 15095, staff is directed as follows:
 - a) A copy of the Final EIR and CEQA Findings of Fact shall be provided to the County of Humboldt and City of Eureka Planning Departments and;
 - b) A copy of the Final EIR and CEQA Findings of Fact shall be retained in the project files;
 - c) A copy of the Final EIR and CEQA Findings of Fact shall be provided to the project applicant who is responsible for providing a copy of same to all CEQA "responsible" agencies.

PASSED AND ADOPTED by the Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District at a duly called meeting held on the 19th day of January 2017, by the following polled vote:

AYES:

NOES:

ABSENT:

**Patrick Higgins, President
Board of Commissioners**

ATTEST:

**Richard Marks, Secretary Pro Tem
Board of Commissioners**

Exhibits Attached:

- A. CEQA Findings of Fact
- B. Mitigation Monitoring and Reporting Program

CERTIFICATE OF SECRETARY

The undersigned, duly qualified and acting Secretary Pro Tem 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. 2017-01 entitled,

A RESOLUTION ESTABLISHING FINDINGS RELATIVE TO THE APPLICATION BY COAST SEAFOODS COMPANY FOR HUMBOLDT BAY SHELLFISH AQUACULTURE PERMIT RENEWAL AND EXPANSION PROJECT

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 19th day of January 2017; 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 19th day of January.

Richard Marks, Secretary Pro Tem
Board of Commissioners

Exhibit A

CEQA Findings of Fact

for the

Coast Seafoods Company Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Project

SCH# 2015082051

January 2017

Humboldt Bay Harbor, Recreation and Conservation District

601 Startare Drive

Eureka, CA 95501

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Introduction

A Final Environmental Impact Report (FEIR) was prepared to respond to the public comments received on the Recirculated Draft Environmental Impact Report (R-DEIR) for the Coast Seafoods Company's (Coast) Humboldt Bay Shellfish Aquaculture: Permit Renewal and Expansion Project (Project). The R-DEIR 45 day public comment period was from July 18 through September 1, 2016 and was extended an additional 15 days to September 16, 2016. The Findings of Fact (Findings) presented herein address the environmental effects associated with the Project that are described and analyzed within the R-DEIR and FEIR (collectively referred to as the Project EIR). These Findings have been made pursuant to California Environmental Quality Act (CEQA; California Public Resources Code Section 21000 et seq.), specifically Public Resources Code Section 21081, as well as the CEQA Guidelines (14 CCR 15000 et seq.) Section 15091.

Public Resources Code Section 21081 and CEQA Guidelines Section 15091 require that the Humboldt Bay Harbor, Recreation and Conservation District (Harbor District or HBHRCD) as the Lead Agency for this project, prepare written findings for any identified significant environmental effects along with a brief explanation of the rationale for each finding. Specific findings under CEQA Guidelines Section 15091(a) are:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

Project Summary

The Project proposes a comprehensive management plan for Coast's owned and leased area and shellfish farm expansion in Humboldt Bay. The Project involves: (1) extending regulatory approvals for Coast's existing approximately 300 acres of shellfish culture; (2) increasing shellfish culture within an already permitted floating upwelling system by adding eight culture bins; (3) authorizing culture of Pacific and Kumamoto oysters within Coast's existing clam rafts; (4) relocating approximately 5 acres of existing cultch-on-longline culture; and (5) permitting 622 acres of additional intertidal culture in two phases. See R-DEIR Section 4.0 for the complete project description.

Project Objectives

The overall purpose of the Project is to provide a comprehensive plan for management of Coast's owned and leased area and expansion of its shellfish farm to meet the increasing demand for its product. The Project is guided by several major objectives:

- To expand Coast’s shellfish farm to increase future oyster production, meet Coast and Pacific Seafood’s increasing customer demand for raw and shucked oysters, and regain access to markets and customers lost after production decreases associated with the 2006 transition to sustainable, off-bottom culture practices on a reduced footprint.
- To conduct comprehensive eelgrass monitoring and develop sustainable oyster cultivation practices that can be adapted to documented site conditions.
- To create additional job opportunities and sustainable economic development for Humboldt Bay and local jurisdictions.
- To enhance a source of local sustainable seafood and reduce Humboldt County and California’s reliance on imported seafood.
- To provide comprehensive planning of Coast’s owned and leased areas in Humboldt Bay.
- To develop a flexible farming plan that can adapt to Coast’s operational and management needs, environmental conditions, and farm conditions.
- To utilize Coast’s existing historic leased and owned areas while maintaining undeveloped areas for habitat and recreational uses.
- To locate oyster beds in areas with optimal growing conditions to maximize efficiency and limit the spatial footprint of the farm.
- To use a varied and diverse culture plot design to evaluate and determine the best method(s) to sustainably grow oysters in eelgrass, including different spacing regimes and an adaptive management plan that is responsive to the results of eelgrass monitoring.

CEQA Findings

Having received, reviewed, and considered the information in the Project EIR, as well as the supporting administrative record, the Harbor District hereby makes findings pursuant to, and in accordance with Public Resources Code Sections 21081, 21081.5, and 21081.6. This section provides a summary of the environmental effects of the Project that are discussed in the Project EIR, and provides written findings for each of the potentially significant effects, and the rationale for each finding.

All CEQA project impacts and mitigation measures, including those discussed below, are analyzed in greater detail in the Project EIR. Implementation of mitigation measures identified in the EIR would reduce these potentially significant effects to a less than significant level. No significant and unavoidable adverse impacts are identified for the Project or any of the proposed Alternatives; therefore a statement of overriding considerations is not required.

Environmental Effects Found to be Less Than Significant

Through project scoping and the environmental analysis contained within the Project EIR, it was determined that the Project would not result in a significant effect on the environment with respect to aesthetics, agricultural and forestry resources, geology and soils, greenhouse gas emissions, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public

services, recreation, transportation/traffic, and utilities and service systems. The reasons for this determination are detailed in the Project EIR. Under CEQA, no mitigation measures are required for impacts that are less than significant (14 CCR Section 15126.4(a)(3)). Findings have not been prepared for impacts that are less than significant.

Findings for Environmental Impacts Found to be Less Than Significant After Mitigation

The Project EIR identified potential significant effects in the following areas: cultural, archeological, and tribal cultural resources, biological resources, air quality, and hazards and hazardous materials. Based on the analysis contained within the Project EIR, other considerations in the record, and the standards of significance, the Board of Commissioners finds that implementation of mitigation measures identified in the Project EIR would reduce these potentially significant effects to a less than significant level. The Project Mitigation Monitoring and Reporting Program (MMRP), to be adopted concurrently with these findings, includes all Project mitigation measures intended to avoid and minimize significant impacts.

CULTURAL, ARCHEOLOGICAL, AND TRIBAL CULTURAL RESOURCES

As discussed in R-DEIR Section 6.4, there would be potential significant impacts to Cultural, Archeological, and Tribal Cultural Resources that would be less than significant as a result of mitigation measures incorporated into the project. The impacts and mitigation measures are summarized below, see MMRP for complete mitigation measure language.

Impact CR-1: Placement of equipment

There are no identified or known historic, archaeological, or cultural resources on the Project site. While such resources are unlikely given the intertidal location of the Project, posts and stakes placed in the substrate to secure shellfish culture equipment could potentially disturb previously undiscovered or unknown historic, archaeological or tribal cultural resources. Additionally, such resources could be discovered by culturists when working in intertidal areas. Coast and the Harbor District met with representatives of the Wiyot Tribe in Spring 2014 to discuss how the Project might impact historic, archaeological and tribal cultural resources of interest to the Tribe; while the Tribe did not identify any known cultural or archaeological sites within the Project, it requested inclusion of the below mitigation measures to protect such resources if they are discovered during Project activities.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which would avoid or substantially lessen the significant environmental effect as identified in the EIR. Protection of historic, archeological and tribal cultural resources will be based on protocols that would be implemented if resources are inadvertently discovered. Implementation of Mitigation Measures CR-1, CR-2, and CR-3 would reduce Impact CR-1 to a less than significant level. The mitigation measures are summarized below; see MMRP, to be adopted concurrently with these findings, for complete language, which is incorporated herein by reference.

Mitigation Measures:

Mitigation CR-1: Coast's authorized point of contact for inadvertent archaeological discovery. Coast will designate an authorized point of contact (Cultural Resources POC) in the event of inadvertent discovery of any cultural or archaeological resource or human remains or Native American grave goods during Project implementation; Coast will ensure that the Harbor District has the name and current contact information for its Cultural Resources POC.

Mitigation CR-2: Protocols for inadvertent discovery of any cultural or archeological resource. Should an archaeological resource be inadvertently discovered during ground-disturbing activities, the Tribal Historic Preservation Officers (THPO) appointed by the Blue Lake Rancheria, Bear River Band of Rohnerville Rancheria and Wiyot Tribe, and California State Lands Commission (CSLC), shall be immediately notified and a qualified archaeologist with local experience retained to consult with the Harbor District, the three THPOs, CSLC, Coast, and other applicable regulatory agencies to employ best practices for assessing the significance of the find, developing and implementing a mitigation plan if avoidance is not feasible, and reporting in accordance with the Harbor District's Standard Operating Procedures, as memorialized in this Mitigation Measure and as further laid out in the Harbor District Protocol.

Mitigation CR-3: Protocols for inadvertent discovery of human remains and grave goods. In the event of inadvertent discovery of human remains or Native American grave goods during ground-disturbing activities, work at the discovery locale shall be halted immediately, the Harbor District and County Coroner contacted, and, consistent with State law, the protocol described in Mitigation Measure CR-3 followed (in addition to the protocol described under Mitigation Measure CR-2).

Impact CR-2: Impacts to eelgrass as a tribal cultural landscape and Impact CR-3: Impacts to other species with tribal cultural significance.

The placement of oyster longlines in patchy and/or continuous eelgrass has the potential to cause a significant impact to eelgrass resources. Potential impacts to eelgrass associated with longline aquaculture include reduction in eelgrass density under and around longlines, trampling, desiccation, and stranding. To ensure that the potential eelgrass impacts remain less than significant, the Project incorporates in-kind compensatory mitigation for potentially significant impacts to eelgrass. The Project's impact assumptions will be verified by monitoring and any eelgrass impacts beyond those projected in the EIR will be resolved through adaptive management. With mitigation, the Project will therefore result in no net loss of eelgrass resources. The Project's potential impacts to waterfowl and other species with cultural importance to the Wiyot Tribe, including Dungeness crab and Black brant, are also further described in EIR Section 6.5, Biological Resources. With incorporation of applicable Mitigation Measures, these impacts are less than significant.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which would avoid or substantially lessen the significant environmental effect as identified in the EIR. Implementation of Mitigation Measures BIO-1 through BIO-4 would ensure that the Project does not cause any significant impact to biological resources, and, thus to tribal cultural resources and would reduce Impact CR-2 and

Impact CR-3 to less than significant levels. The Project's impact and mitigation assumptions will be verified by monitoring and any discrepancies resolved through adaptive management. With mitigation, the Project will therefore result in no net loss of eelgrass resources. Additionally, Conservation Measures BIO-1 through BIO-12 are designed to minimize the Project's potential impacts to biological resources, and thus to tribal cultural resources, to the greatest extent practicable. The mitigation measures are summarized below; see MMRP, to be adopted concurrently with these findings and incorporated herein by reference, for complete language.

Mitigation Measures:

Mitigation BIO-1: Removal of existing culture (fallowing). Coast will remove existing culture (fallow) based on a 4:1 ratio of expansion acreage to removed existing culture acreage. Coast will remove 42.0 acres of existing culture as mitigation for Phase I, within the first 3 years of the project. For Phase II, up to 90.8 acres of expansion acreage would result in the removal of up to 22.7 acres of existing culture. See FEIR Figures 5.8 and 5.9 for the location of the mitigation sites proposed for removal of culture.

Mitigation BIO-2: Herring egg monitoring and consultation with CDFW. Coast will ensure that all employees who supervise work on the tidelands are trained by a qualified biologist to conduct pre-work herring spawn surveys. During the months of December through March, trained Coast employees will perform a pre-work herring spawn survey at each location where work is scheduled to take place to determine whether herring have spawned on eelgrass, culture materials, or substrate. If herring spawn is observed, Coast will: (1) notify the CDFW's Eureka Marine Region office within 24 hours, and (2) postpone activities on those beds until all eggs have hatched. In addition, Coast will work with CDFW during spawning surveys to sample within culture gear and identify whether herring are spawning in the longlines.

Mitigation BIO-3: Marine Mammal Buffers and Avoidance. No activity involving human disturbance will occur within 100 m of the area of Sand Island that is above mean higher high water to avoid the harbor seal haul-out location and nesting birds on Sand Island.

Mitigation BIO-4: Impact on eelgrass availability to black brant. If monitoring data demonstrate that eelgrass impacts are above the Project's adaptive management thresholds and additional mitigation is implemented, the mitigation provided eelgrass must be available to black brant.

BIOLOGICAL RESOURCES

As discussed in R-DEIR Section 6.5, there would be potential significant impacts to Biological Resources that would be less than significant as a result of mitigation measures incorporated into the project. The impacts and mitigation measures are summarized below, see MMRP for complete mitigation measure language, which is incorporated herein by reference. (Impacts BIO-1, BIO-2, BIO-4 through BIO-20, BIO-22, BIO-24, and BIO-26 through BIO-33 are considered less than significant without mitigation.)

Impact BIO-3 Eelgrass density reduction analysis.

Native eelgrass (*Zostera marina*) is the dominant habitat of North Bay (38.6%); North Bay is also the main location for shellfish culture (3.4% of North Bay) in Humboldt Bay. The major controlling factors for eelgrass include: (1) light, (2) temperature, (3) energy, and (4) nutrients (R-DEIR Figure

6.5.2). These controlling factors lead to a natural variability for eelgrass areal extent and shoot density in North Bay, as discussed in R-DEIR Section 6.5.

Impacts to eelgrass from the proposed expansion would occur during installation of the longlines (short-term impact) and from shading, mechanical abrasion, and desiccation (longer term impact) that would occur as the cultch grows over a 2-year period. While trampling during planting and harvest is estimated to result in a short-term impact, the current understanding of trampling frequency results in impacts to eelgrass that are not likely to persist for longer than 1 month (see Impact BIO-4).

Interactions between eelgrass and shellfish aquaculture operations under current conditions are both positive and negative. For example, at higher elevations (>1.0 ft MLLW) there are locations where sediment accumulation and/or desiccation at the 2.5-ft spacing are potentially resulting in less eelgrass. Conversely, in other locations at a similar elevation, there are depressions near the longline posts that are potentially creating more eelgrass habitat. Similar to potential movement of sediment around the longlines, there also appear to be both positive and negative effects on eelgrass due to shading. For example, there are a few locations within the existing culture operations that have a non-native species of macroalgae, *Sargassum* sp., growing attached to the lines. Because *Sargassum* floats in the water column, it can shade eelgrass below. Conversely, there are also locations within the existing culture beds where shading is resulting in less desiccation by limiting the effects from solar energy. Eelgrass growing both between and under the longlines within existing beds indicates that the presence of culture does not exclude eelgrass even at the 2.5-ft spacing of current aquaculture.

Potential impacts to eelgrass resources were assessed by evaluating five potential impact scenarios. The impact scenarios incorporate a range of potential impacts (e.g., shading, mechanical abrasion, desiccation, trampling) in order to predict the impacts to eelgrass habitat from the placement of shellfish aquaculture gear. The scenarios range from minimum predicted impacts to maximum predicted impacts, and are based on an approach that was developed in consultation with eelgrass experts, as described in R-DEIR Appendix D. Analysis in R-DEIR Section 6.5 describes the five impact scenarios; the equations used to calculate potential eelgrass density reduction in each impact scenario; and the results of the impact analysis. The impact scenarios include three “growth” scenarios to reflect the growth of oysters on longlines over time and two “footprint” scenarios calculated based on site- and culture-specific shading studies. Based on these impact scenarios, there would be a total of between 2.2% to 17.1% eelgrass density reduction within the Project Phase 1 expansion area. Included in the Phase I activities are a monitoring plan, peer-reviewed by independent experts, which includes monitoring eelgrass areal and density changes from the activity. If the monitoring shows a higher level of impact because of the project than accounted for in the proposed mitigation, additional mitigation will be provided. This step-wise approach will provide confirmation of the impact analysis presented in the R-DEIR and additional assurances of being able to meet the no-net-loss of ecological function of eelgrass standard incorporated into the R-DEIR. Based on this best available science, the Phase II expansion, proposes using 10-ft spaced lines, would have a neutral effect on eelgrass that is below the no-net-loss threshold of significance. It is notable that the Environmentally Superior Alternative, the EBMA Avoidance Alternative, incorporates a more conservative mitigation plan, by mitigating for the loss of 25% eelgrass habitat function.

To verify predicted impacts associated with the Project, Coast will be implementing an eelgrass monitoring plan. The monitoring plan includes an extensive survey of baseline eelgrass conditions prior to Project implementation and at least three years of monitoring following Phase I implementation. The Project may be modified or additional mitigation may be required if observed impacts to eelgrass are greater than anticipated. Assumptions from the impact analysis and monitoring results will be tracked through an adaptive management plan, as described in R-DEIR Section 6.5.7.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which would avoid or substantially lessen the significant environmental effect as identified in the EIR. Implementation of Mitigation Measure BIO-1 would reduce impacts to eelgrass (Impact BIO-3) to less than significant. If monitoring reveals that impacts to eelgrass exceed those predicted in the EIR, the project will implement adaptive management and, potentially, additional mitigation, to ensure that eelgrass impacts remain below the no net loss threshold of significance. Additionally, Conservation Measures BIO-2, and BIO-4 through BIO-8 are designed to minimize the Project's potential impacts to eelgrass, to the greatest extent practicable. The mitigation measures are summarized below; see MMRP, to be adopted concurrently with these findings, for complete language, which is incorporated herein by reference.

Mitigation Measures:

Mitigation BIO-1: Removal of existing culture (fallowing). (See above under Impact CR-2 and CR-3)

Impact BIO-21: Potential impacts to Pacific herring from the expansion of oyster aquaculture in Humboldt Bay.

Pacific herring use Humboldt Bay primarily for spawning and nursery habitat. Herring typically spawn adhesive eggs onto on many different substrates including eelgrass, marine algae, and hard substrates. Predation, temperature and salinity variability, and turbidity are the most common threats to juvenile Pacific herring. Potential impacts from the Project include loss of herring eggs from desiccation or predation, and loss of spawning area.

Based on data from CDFW about past and current spawning locations (R-DEIR Figure 6.5.24), the East Bay Channel and Arcata Channel are likely locations for pre-spawning holding activities. These channels are used to transit to oyster plots, but other than temporary passage of work vessels, there would be no human activities in the pre-spawning holding areas. Potential disturbance in channels is anticipated to be minor. The East Bay Management Area has been identified by CDFW as a key resource for Pacific herring spawning activity. A typical spawning event involves the deposition of herring eggs on approximately 300 acres of eelgrass in North Bay. This represents less than 10% of available eelgrass used in each spawning event.

Overall, there are a variety of complex interactions that determine egg loss/survival. The R-DEIR recognizes that there are multiple factors potentially affecting herring spawn activity and survival of spawn to larval stage associated with the Project. Some of these interactions are likely to be beneficial for herring egg survival (e.g., decreased predation by fish and invertebrates, potential to

reduce desiccation at higher elevations), while others may adversely affect survival (e.g., increased predation by birds).

While desiccation of herring eggs deposited on suspended lines can increase egg mortality, this effect is expected to be limited and offset by reductions in predation due to reduction in predation for eggs on lines. Longlines are not predicted to cause a reduction in area available for spawning since herring access to spawning areas and the total eelgrass cover are not predicted to be impacted. The R-DEIR recognizes that the removal of lines with herring spawn would represent a potential impact to herring and has, therefore, identified a mitigation measure to prevent the accidental removal of viable herring spawn from Humboldt Bay. While egg deposition on gear is not a conclusive loss of eggs from the system, impacts to herring eggs could be significant if gear or shellfish product is removed or disturbed by aquaculture activities during the spawning period in Humboldt Bay.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which would avoid or substantially lessen the significant environmental effect as identified in the EIR. Implementation of Mitigation Measures BIO-1 and BIO-2 would reduce potential impacts to Pacific herring to less than significant by mitigating for reductions in eelgrass function and requiring monitoring and coordination with CDFW and limiting activity where spawning has occurred. While not proposed as mitigation, in response to comments received from CA DFW, Coast has also agreed to a herring monitoring plan, included as Appendix A of the FEIR. The mitigation measures are summarized below; see MMRP, to be adopted concurrently with these findings, for complete language, which is incorporated herein by reference.

Mitigation Measures:

Mitigation BIO-1: Removal of existing culture (fallowing). (See above under Impact CR-2 and CR-3)

Mitigation BIO-2: Herring egg monitoring and consultation with CDFW. (See above under Impact CR-2 and CR-3)

Impact BIO-23: Potential impacts to marine mammals from the expansion of oyster aquaculture in Humboldt Bay.

There are three main species of marine mammals that use Humboldt Bay: California sea lions, harbor seals, and harbor porpoises. Threats associated with shellfish aquaculture activities could include human disturbance, underwater noise, and potential boat strikes. Underwater noise produced by Coast work vessels could impact marine mammals if they are present in the vicinity. However, R-DEIR analysis found that the noise level from the use of Coast's boats would be similar to the background noise conditions currently experienced from existing boat traffic.

Harbor seals and California sea lions haul out on land for rest, thermal regulation, social interaction, predator avoidance, and to give birth. The closest pupping haul-out site is in South Bay, more than six miles away. Therefore, Coast's activities should have no impact on breeding or pupping activities at these haul-out sites. While there are closer non-pupping haul-out locations to the Project, only two haul-out locations are near a culture area, Sand Island and Arcata Channel. It is notable that

Sand Island has been actively cultured for over 60 years with no indication that there are significant impacts to harbor seal populations. While there are temporary haul-out locations, most of the major haul out locations do not overlap with the proposed oyster culture areas. Coast will not conduct any activity when a marine mammal is observed hauled out in or near a culture area ready for planting, scheduled maintenance, or harvesting until the mammal has left on its own and without provocation from Coast (Conservation Measure BIO-10).

In terms of harbor porpoise use of the proposed Project area, the intertidal habitat where oyster longlines would be placed is likely too shallow to be used much by this species. According to NMFS (2016a), the harbor porpoise prefers deeper waters in bays, estuaries, harbors, and fjords. Potential interactions with boats in the subtidal portion of North Bay would be avoided using standard avoidance measures. Additionally, Conservation Measure BIO-11 would restrict Coast from intentionally approaching or harassing marine mammals while transiting within subtidal channels.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which would avoid or substantially lessen the significant environmental effect as identified in the EIR. Implementation of Mitigation Measure BIO-3 would reduce impacts to marine mammals (Impact BIO-23) to less than significant by avoiding activities that would disturb marine mammals and staying more than 100 m from animals hauled out on Sand Island. Additionally, Conservation Measures BIO-9 through BIO-11 are designed to minimize the Project's potential impacts to marine mammals, to the greatest extent practicable. The mitigation measures are summarized below; see MMRP, to be adopted concurrently with these findings, for complete language, which is incorporated herein by reference.

Mitigation Measures:

Mitigation BIO-3: Marine Mammal Buffers and Avoidance. No activity involving human disturbance will occur within 100 m of the area of Sand Island that is above mean higher high water to avoid the harbor seal haul-out location and nesting birds on Sand Island.

Impact BIO-25: Potential impacts to black brant foraging from the expansion of oyster aquaculture in Humboldt Bay.

Potential impacts to black brant from the Project primarily take two forms: loss of foraging opportunity due to exclusion from eelgrass beds when project infrastructure is exposed above the water's surface, and disturbance from the increased activity necessary to accommodate additional aquaculture.

The R-DEIR included a quantitative assessment of impacts to brant associated with the Project's operations based on the expansion of the Project's footprint and increases in harvesting and boat activity. Increased disturbances were substantially overestimated in the R-DEIR based on two very conservative assumptions: all boat traffic in Humboldt Bay is attributable to Coast Seafoods, and all of Coast Seafoods' boat activity will disturb brant. Based on these assumptions, the increase in disturbance due to the Project represents less than one percent increase over existing conditions. When this is compared to the best available science evaluating the effects of disturbance on brant in Humboldt Bay (Stillman et al. 2015), the increased disturbance is not expected to have a significant adverse impact on brant.

The R-DEIR acknowledges that impacts to brant foraging will occur due to exposed longline above water levels during low tides, but determined that these impacts will be less than significant. Specifically, the R-DEIR estimated that brant will be excluded from less than three percent of available eelgrass biomass bay-wide, which, when compared to published modeling results of brant foraging in Humboldt Bay (Stillman et al. 2015), does not suggest there would be substantial adverse effects on brant. Brant surveys in North Bay indicated that brant occur in approximately equal densities in aquaculture areas and in control areas when infrastructure is not exposed above the water's surface (R-DEIR Appendix E), which was confirmed with time-lapse video of aquaculture beds.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which would avoid or substantially lessen the significant environmental effect as identified in the EIR. Implementation of Mitigation Measure BIO-1 and BIO-4 would reduce impacts to black brant foraging (Impact BIO-25) to less than significant through eelgrass mitigation and monitoring. If monitoring reveals that impacts to eelgrass are greater than anticipated in the EIR, the Project will implement adaptive management and, potentially, additional mitigation, to ensure that eelgrass impacts remain below the no net loss threshold of significance. Implementation of Mitigation Measure BIO-4 will ensure that any eelgrass generated through additional mitigation is available for brant consumption. Additionally, Conservation Measure BIO-12 would minimize the Project's potential impacts to birds, to the greatest extent practicable. The mitigation measures are summarized below; see MMRP, to be adopted concurrently with these findings, for complete language, which is incorporated herein by reference.

Mitigation Measures:

Mitigation BIO-1: Removal of existing culture (fallowing). (See above under Impact CR-2 and CR-3)

Mitigation BIO-4: Impact on eelgrass availability to black brant. If monitoring data demonstrate that eelgrass impacts are above the Project's adaptive management thresholds and additional mitigation is implemented, the mitigation provided eelgrass must be available to black brant.

AIR QUALITY

As discussed in R-DEIR Section 6.7, there would be a potential significant impact to Air Quality that would be less than significant as a result of mitigation measures incorporated into the Project. The impact and mitigation measure are summarized below, see MMRP for complete mitigation measure language, which is incorporated herein by reference.

Impact AQ-1: Contribution to PM₁₀ levels.

The Project would create a small amount of emissions from two additional small boats that are expected to be used for Project operations and up to 18 additional boat trips per week throughout the bay. It would not create any substantial pollution concentrations or objectionable odors. Additionally, there are no sensitive receptors or substantial numbers of people in the Project vicinity.

As a result of increased boat traffic, there would be a minor net increase in emissions of particulate matter from vessel engines. The Project would also involve a small number of additional vehicle trips to and from Coast's facilities as a result of additional truck trips to accommodate increased production and additional employee trips. However, given the small size of the vessels at issue, the limited quantity of vessels (2 additional boats; 11 total boats), and the limited number of additional vehicle trips, Coast's contribution to PM₁₀ levels in Humboldt Bay is negligible.

The AQMD regulates vessel engine emissions pursuant to several air quality plans. In such circumstances, CEQA allows the lead agency to rely on the regulatory oversight of responsible agencies carrying out statewide policy. Specifically, pursuant to Section 15064(h) of the CEQA Guidelines, the District may rely on air quality management plans promulgated by the AQMD, including the AQMD's PM₁₀ Attainment Plan.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which would avoid or substantially lessen the significant environmental effect as identified in the EIR. Coast would not contribute to a cumulatively significant air quality impact if it complies with the PM₁₀ Attainment Plan adopted by the AQMD and all attendant regulations established thereto. Mitigation Measure AQ-1 would require Coast to comply with AQMD regulations and would reduce impacts to air quality (Impact AQ-1) to less than significant. The mitigation measures are summarized below; see MMRP, to be adopted concurrently with these findings, for complete language, which is incorporated herein by reference.

Mitigation Measures:

Mitigation AQ-1: Coast shall comply with the requirements of all adopted air quality plans, including plans covering particulate emissions, and shall implement all actions required by the AQMD for Coast's mariculture operations.

HAZARDS AND HAZARDOUS MATERIALS

As discussed in R-DEIR Section 6.10, there would be a potential significant impact to Hazards and Hazardous Materials that would be less than significant as a result of mitigation measures incorporated into the project. The impact and mitigation measures are summarized below, see MMRP for complete mitigation measure language, which is incorporated herein by reference. Impacts HAZ-1 and HAZ-3 are considered less than significant without mitigation.

Impact HAZ-2: Hazard from the abandonment or loss of marine debris.

The Project may result in accidental loss of mariculture gear or other debris into Humboldt Bay. Because the equipment is placed in intertidal areas, it is subject to various natural forces including tide, wind, waves and ultraviolet radiation. As a result, there is potential for equipment to become loose, wash away or otherwise escape into the environment. Escaped mariculture gear may pose a hazard to biological resources and to other users of the bay, including boaters (kayakers, stand-up paddle boarders, canoers, wind surfers) and scuba divers. When encountered, marine debris associated with mariculture equipment may damage boat bottoms or engines, snag on trailing lines or otherwise impair navigation. Recreational users of the bay may encounter escaped mariculture

equipment in shallow intertidal areas, which may make transit of these areas more hazardous, particularly if escaped equipment is wholly or partially buried in the substrate and thus hidden from view.

Longline oyster culture involves installation of PVC tubes in the substrate, which are strung with monofilament line and hung with oysters or oyster baskets (polyethylene sleeves). Coast inspects cultch-on-longlines during monthly maintenance work and during harvest. Any pipes disturbed during the harvest are re-secured or removed if damaged. Any identified loose pipes or debris are removed from the culture area. During replanting, pipes are straightened out and replaced as needed. Basket-on-longlines are inspected and maintained each time the oysters are inspected for grading. Baskets are lashed in bins during transport to prevent loss.

Rack-and-bag culture utilizes 3' x 12' rebar frames on which are placed polyethylene mesh bags full of oysters. The bags are attached to the racks using industrial rubber bands. Worn, strained, or damaged rubber bands are routinely replaced during daily inspection and maintenance of the rack-and-bags. Any debris is removed during inspections. Coast also performs a monthly inspection of its owned and leased area for marine debris at both low and high tide and picks up any identified debris, regardless of the source of the identified items.

Finding:

Changes or alterations have been required in, or incorporated into, the Project which would avoid or substantially lessen the significant environmental effect as identified in the EIR. Mitigation Measures HAZ-1 through HAZ-5 would mitigate for impacts associated with IMPACT HAZ-2 concerning potential hazards generated by marine debris. The mitigation measures are summarized below; see MMRP, to be adopted concurrently with these findings, for complete language, which are incorporated herein by reference.

Mitigation Measures:

Mitigation HAZ-1: Following storm or adverse weather events, Coast will patrol mariculture areas for escaped or damaged mariculture equipment, promptly retrieve any equipment encountered and, if it cannot be repaired and placed back into service, properly dispose of the escaped equipment on land. In addition, Coast will retrieve or repair any escaped or damaged mariculture equipment that it encounters while conducting routine daily and/or monthly maintenance activities associated with shellfish culture (e.g. bed inspections, shellfish grading and sorting). If the escaped gear cannot be repaired and replaced on the shellfish bed, it will be properly disposed of on land.

Mitigation HAZ-2: Within 30 days of harvest on any area that is being discontinued or taken out of production for one year or more, Coast will remove all shellfish culture apparatus from the area, including but not limited to, stakes, racks, baskets, and pallets.

Mitigation HAZ-3: Coast will implement annual employee training regarding marine debris issues and how to identify loose culture gear and proper gear repair and removal methods.

Mitigation HAZ-4: Coast will conduct quarterly bay cleanups in coordination with other interested parties or organizations, which will include walking portions of the bay and shorelines to pick up

escaped shellfish gear and other trash (regardless of whether it is generated by the Project). The volume of shellfish gear collected shall be recorded.

Mitigation HAZ-5: Coast will not leave tools, loose gear, or construction materials on its owned and leased tidelands or surrounding areas for longer than one tide cycle. All gear installed in the Project area will be kept neat and secure.

Mitigation Monitoring and Reporting Program

As referenced above in the findings, a MMRP has been prepared for the project and is to be adopted concurrently with these findings pursuant to Public Resources Code Section 21081(a)(1). The MMRP is a separate stand-alone document that will be used by the Harbor District to track compliance with the Project mitigation measures. Conservation Measures were incorporated into the Project to ensure that the Project maintains a high standard that is environmentally responsible, and can be found in R-DEIR Section 6. Conservation Measures may also be applied to improve or provide a beneficial impact even where no significant impact has been identified. These Conservation Measures are also included in the MMRP, and will be incorporated into the Project permit requirements. The MMRP will remain available for public review during Project implementation and operation.

Project Alternatives

The Project EIR addresses a range of reasonable alternatives in accordance with CEQA Guidelines Section 15126.6. The R-DEIR Section 5 provides a discussion of alternatives considered and rejected during Project planning and describes the four alternatives selected for further analysis. Refer to R-DEIR Section 6.0 for a complete discussion of relative impacts associated with Alternatives 1-4. In consideration of comments received on the R-DEIR, an additional project alternative was identified in the FEIR to address concerns related to herring, eelgrass, expansion of cultivation in the East Bay Management Area (EBMA), black brant, green sturgeon, recreational hunting and boating. See FEIR Section 4 for a complete discussion and analysis of the EBMA Avoidance Alternative. A total of five alternatives were identified and analyzed for relative impacts as compared to the Project:

- Alternative 1: 10-Foot Spacing Alternative
- Alternative 2: Reduced Footprint Alternative
- Alternative 3: Existing Footprint Alternative
- Alternative 4: No Project Alternative
- Alternative 5: East Bay Management Area (EBMA) Avoidance Alternative

Environmentally Superior Alternative

Because no significant unavoidable adverse impact has been identified for the Project or any of the proposed Alternatives, there is no alternative that is “environmentally superior,” as defined by CEQA. However, for the benefit of the public, the FEIR identifies Alternative 5: East Bay Management Area (EBMA) Avoidance Alternative, as the environmentally superior alternative because it has less potential environmental impacts but still accomplishes some of the Project’s objectives, and specifically avoids habitat that several regulatory agencies and commenters have identified as important habitat for a number of species. Alternative 1: 10 Foot Spacing Alternative, also accomplishes some of the Project

objectives, but has greater, but still less than significant, environmental impacts than the EBMA Avoidance Alternative. Alternative 2: Reduced Footprint Alternative, also accomplishes some of the Project objectives, but has identified significant impacts to eelgrass that must be offset by compensatory mitigation. Alternative 3: Existing Footprint, has the least potential impacts to the environment, but achieves none of the Project objectives. Alternative 4: No Project, has fewer potential impacts to the environment than the Project, but similarly does not achieve any Project objectives.

Summary of Findings

Based on the analysis of environmental impacts and mitigation measures in the Project EIR, summarized above, the Harbor District finds that: changes or alternations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effects of this Project and mitigate all of the significant environmental effects to a less than significant level, as identified in the EIR. No significant and unavoidable adverse impacts are identified for the Project or any of the proposed Alternatives. The Harbor District is committed to implementing the measures listed in the MMRP within its authority and responsibility. Incorporation of these measures into the Project will ensure that mitigation of significant environmental effects will occur.

Statement of Location and Custodian of Documents

Public Resources Code Section 21081.6(a)(2) requires that the Harbor District, as the Lead Agency, specify the location and custodian of the documents of other materials that constitute the record of proceedings upon which its decision has been based. The following location is where review of the record may be performed:

Humboldt Bay Harbor Recreation and Conservation District
601 Startare Drive
Eureka, CA 95501

The Harbor District has relied on all of the documents contained within the record of proceedings in reaching its decision on the project.

References

See R-DEIR Section 8.0 References (<http://humboldtby.org/sites/humboldtby2.org/files/Coast%20Seafoods%20R-DEIR%20July%202016.pdf>)

Exhibit B



Proposed Mitigation Monitoring / Reporting Program

(MMRP)

HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT

This Mitigation Monitoring/Reporting Program (MMRP) has been prepared for the project described below in conformance with California Environmental Quality Act (CEQA) Section 21081.6 and CEQA Guidelines Section 15097, which require adoption of a MMRP for projects in which the lead agency has adopted mitigation to avoid environmental effects. The MMRP was adopted by the Humboldt Bay Harbor, Recreation and Conservation District Board of Commissioners on [January 19, 2017].

PROJECT TITLE: Coast Seafoods Company Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Project

STATE CLEARINGHOUSE NUMBER: 2015082051

LEAD AGENCY: Humboldt Bay Harbor, Recreation and Conservation District (HBHRCD), 601 Startare Drive, Eureka, CA 95501

PROJECT LOCATION: Humboldt Bay, California.

COUNTY GENERAL PLAN LAND USE DESIGNATION: Natural Resource **ZONING:** Natural Resource - Wetland

PROJECT DESCRIPTION: The project, as proposed by Coast Seafoods, involves:

- (1) Extending regulatory approvals for Coast's existing approximately 300 acres of shellfish culture;
- (2) Increasing shellfish culture within an already permitted floating upwelling system by adding eight culture bins;
- (3) Authorizing culture of Pacific and Kumamoto oysters within Coast's existing clam rafts;
- (4) Relocating approximately 5 acres of existing cultch-on-longline culture; and
- (5) Permitting additional intertidal culture in two phases, as further described below.

An Environmental Impact Report (EIR) was prepared to address the potential environmental impacts of the project and evaluate appropriate mitigation measures and alternatives. Where appropriate, the EIR includes recommended mitigation measures adopted in connection with the approval of the project and the methods of monitoring and reporting on such actions. All environmental impacts were found to be less than significant or impacts that could be mitigated to a less than significant level. The alternative described below was identified as the Environmentally Superior Alternative. The conservation and mitigation measures in this MMRP are for this alternative.

East Bay Management Area (EMBA) Avoidance Alternative - Environmentally Superior Alternative

Under the EBMA Avoidance Alternative, Coast would renew regulatory approvals for its existing shellfish culture activities and add an additional 256 acres of intertidal oyster culture, consisting mostly of a mix of double-hung cultch-on-longlines spaced 10-ft apart and basket-on-longlines with two rows of baskets separated by 9-ft, followed by a 16-ft space. This alternative would be installed in phases, with 165.2 acres planted in Phase I and 90.8 acres planted in Phase II. Phase I includes (1) 89.2 acres of cultch-on-longlines, (2) 71.9 acres of basket-on-longlines, and (3) 4 acres of rack-and-bag culture located at least 25 ft. from existing eelgrass beds. Phase II involves 90.8 acres cultch-on-longline and/or basket-on-longline, at the same spacing as proposed for Phase I.

For mitigation for this alternative, Coast would remove 42 acres of existing longlines spaced 2.5-ft apart as mitigation for Phase I and up to 22.7 acres of existing longlines spaced 2.5-ft apart as mitigation for Phase II. Mitigation will be provided at a 0.25:1 ratio, with one acre of existing planted area removed for every four acres of new cultivation. Therefore, the net expansion in cultivated tidelands for this alternative, at full project buildout, would be approximately 191.3 acres. The proposed mitigation sites are located near Sand Island, Arcata Channel, and Gunther Island, in locations that have been identified through coordination with state and federal regulatory agencies to be important sites for a number of species, including green sturgeon and birds.

CONTACT PERSON: Jack Crider Executive Director; *phone:* (707) 443-0801; *fax:* (707) 443-0800; *e-mail:* jcrider@humboldtbay.org

INTRODUCTION: The purpose of this MMRP is to ensure that the mitigation measures adopted in connection with project approval are effectively implemented. The MMRP describes the procedures the project applicant will use to implement the mitigation measures adopted in connection with the approval of the project, and the methods of monitoring and reporting on such actions. A MMRP is necessary only for impacts which would be significant if not mitigated. Additionally, conservation measures were incorporated into the project to ensure that the project maintains a high standard that is environmentally responsible. Conservation Measures may also be applied to improve or provide a beneficial impact even where no significant impact has been identified. These conservation measures are also included in the MMRP.

ENFORCEMENT: In accordance with CEQA, the primary responsibility for making a determination with respect to potential environmental effects rests with HBHRCD as the lead agency. As such, HBHRCD is identified as the primary enforcement agency for this MMRP. The District shall ensure that language assuring compliance shall be incorporated into design and contract documents prepared for the project.

PROGRAM MODIFICATION: After adoption of this MMRP, minor changes to this MMRP are permitted but can only be made by the project applicant or its successor subject to the approval of the HBHRCD. The Harbor District Planner, after consultation with affected Departments or Agencies, may make minor modifications to this MMRP. If, for any reason, any mitigation measure specified in this MMRP cannot be implemented due to factors beyond the control of HBHRCD, at a noticed public hearing before the HBHRCD Board of Commissioners substitution of another mitigation measure may be approved. In no case shall deviations from this MMRP be permitted unless this MMRP continues to satisfy the requirements of Section 21081.6 of CEQA, as determined by HBHRCD.

MMRP IMPLEMENTATION TABLE: To assure that this MMRP is effectively implemented the table on the following pages establishes the framework that HBHRCD and others will use to implement the adopted mitigation measures and the monitoring and/or reporting of such implementation.

Conservation Measure	Responsibility for Implementation	Timing of Implementation	Responsibility for Confirming Completion	Date Completed
CONSERVATION BIO-1: Coast will not cause the intentional deposition of shells or any other material on the seafloor.	Coast Seafoods	Project duration	HBHRCD	
CONSERVATION BIO-2: Longline spacing for new shellfish culture plots would occur at 10-ft intervals for cultch-on-longline and alternating 9-ft and 16-ft intervals for basket-on-longline.	Coast Seafoods	During construction, for project duration	HBHRCD	
CONSERVATION BIO-3: Monthly and post-storm inspection of aquaculture plots will occur to ensure that gear is properly maintained.	Coast Seafoods	Project duration	HBHRCD	
CONSERVATION BIO-4: Rack-and-bag culture plots would not be planted within 25 ft of an existing eelgrass bed.	Coast Seafoods	During construction, for project duration	HBHRCD	
CONSERVATION BIO-5: No anchoring of the longline harvester would be done so as to shade the same area of eelgrass for a period exceeding 12 hours.	Coast Seafoods	Project duration	HBHRCD	
CONSERVATION BIO-6: Larger work boats would be anchored in the channel outside of eelgrass beds and smaller skiffs would be used to access longlines where eelgrass is present when the area is inundated.	Coast Seafoods	Project duration	HBHRCD	
CONSERVATION BIO-7: Boats will be operated in such a way as to minimize the degree of sediment mobilization and avoid propeller scarring in areas of eelgrass.	Coast Seafoods	Project duration	HBHRCD	
CONSERVATION BIO-8: No dredging, hydraulic harvesting, “bed cleaning,” or any other activities with a hydraulic harvester would occur.	Coast Seafoods	Project duration	HBHRCD	
CONSERVATION BIO-9: New shellfish culture plots will not be planted within 10 ft of a subtidal channel.	Coast Seafoods	During construction, for project duration	HBHRCD	

Conservation Measure	Responsibility for Implementation	Timing of Implementation	Responsibility for Confirming Completion	Date Completed
CONSERVATION BIO-10: Coast will not conduct any activity when a marine mammal is observed hauled out in or near a culture area ready for planting, scheduled maintenance, or harvesting until the mammal has left on its own and without provocation from Coast.	Coast Seafoods	Project duration	HBHRCD	
CONSERVATION BIO-11: Coast will not intentionally approach or harass marine mammals during vessel transits.	Coast Seafoods	Project duration	HBHRCD	
CONSERVATION BIO-12: Coast will not intentionally approach or harass migratory birds that are actively feeding or resting within the project area.	Coast Seafoods	Project duration	HBHRCD	
CONSERVATION HAZ-1: Coast will not discharge any feed, pesticides, or chemicals (including antibiotics and hormones) into Humboldt Bay waters.	Coast Seafoods	Project duration	HBHRCD	
CONSERVATION HAZ-2: Coast will implement an equipment maintenance program for all vessels used in mariculture activities in order to limit the likelihood of release of fuels, lubricants, paints, solvents, or other potentially toxic materials associated with vessels as a result of accident, upset, or other unplanned events.	Coast Seafoods	Pre-Construction	HBHRCD	
CONSERVATION HAZ-3: Coast will continue to fuel boats at commercial fuel dock facilities, carry oil spill absorption pads and seal wash decks or isolate fuel areas prior to fueling so as to prevent contaminants from entering the water.	Coast Seafoods	Project duration	HBHRCD	
CONSERVATION AV-1: Reflective materials such as shiny metals will not be used.	Coast Seafoods	Project duration	HBHRCD	

Conservation Measure	Responsibility for Implementation	Timing of Implementation	Responsibility for Confirming Completion	Date Completed
<p>CONSERVATION REC-1: Coast shall avoid operations in the mapped area of the EBMA from midnight until sunset on days designated by CDFW as brant hunting days, including season opening and closing days (typically brant hunting is limited to Wednesdays, Saturdays, and Sundays between November 15 and December 15). This conservation measure shall not apply in the case of emergency conditions or other operations, such as marine debris removal, required by Coast to comply with other conditions of approval or mitigation measures, or ensure the safety of its operations.</p>	Coast Seafoods	Project duration	HBHRCD	
<p>CONSERVATION REC-2: By December 1 of each year, Coast will submit a current bed map to the Harbor District for posting on the Harbor District's website; Coast will also post the current bed map on its website and at known kayak and boat launching sites in North Bay. The map will describe the locations of all of Coast's subtidal and intertidal culture in North Bay. Coast will provide electronic copies of the bed map upon request. The maps posted at known kayak and boat launching sites must be clear and highly visible to help inform recreational users, wildlife refuge managers, and local regulatory agencies.</p>	Coast Seafoods	By December 1 of each year for project duration	HBHRCD	

Mitigation Measure	Responsibility for Implementation	Timing of Implementation	Responsibility for Confirming Completion	Date Completed
<p>MITIGATION CR-1: Coast's authorized point of contact for inadvertent archaeological discovery. Coast will designate an authorized point of contact (Cultural Resources POC) in the event of inadvertent discovery of any cultural or archaeological resource or human remains or Native American grave goods during Project implementation; Coast will ensure that the Harbor District has the name and current contact information for its Cultural Resources POC.</p>	Coast Seafoods	Pre-Construction	HBHRCD	

Mitigation Measure	Responsibility for Implementation	Timing of Implementation	Responsibility for Confirming Completion	Date Completed
<p>MITIGATION CR-2: Protocols for inadvertent discovery of any cultural or archeological resource. Should an archaeological resource be inadvertently discovered during ground-disturbing activities, the Tribal Historic Preservation Officers (THPO) appointed by the Blue Lake Rancheria, Bear River Band of Rohnerville Rancheria and Wiyot Tribe, and California State Lands Commission (CSLC), shall be immediately notified and a qualified archaeologist with local experience retained to consult with the Harbor District, the three THPOs, CSLC, Coast, and other applicable regulatory agencies to employ best practices for assessing the significance of the find, developing and implementing a mitigation plan if avoidance is not feasible, and reporting in accordance with the Harbor District’s Standard Operating Procedures, as memorialized in this Mitigation Measure and as further laid out in the Harbor District Protocol.</p> <ol style="list-style-type: none"> 1. Ground-disturbing activities shall be <u>immediately</u> stopped if potentially significant historic or archaeological materials are discovered. Examples include, but are not limited to, concentrations of historic artifacts (e.g., bottles, ceramics) or prehistoric artifacts (chipped chert or obsidian, arrow points, groundstone mortars and pestles), culturally altered ash-stained midden soils associated with pre-contact Native American habitation sites, concentrations of fire-altered rock and/or burned or charred organic materials, and historic structure remains such as stone-lined building foundations, wells or privy pits. Ground-disturbing Project activities may continue in other areas that are outside the discovery locale. 2. An “exclusion zone” where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area, plus a reasonable buffer zone, by the District, or party who made the discovery. 	Coast Seafoods	Construction	HBHRCD	

Mitigation Measure	Responsibility for Implementation	Timing of Implementation	Responsibility for Confirming Completion	Date Completed
<p>3. The discovery locale shall be secured (e.g., 24-hour surveillance) as directed by the District if considered prudent to avoid further disturbances.</p> <p>4. Coast’s plant manager (located at 25 Waterfront Drive in Eureka) or party who made the discovery and initiated these Protocols shall be responsible for immediately contacting by telephone the parties listed below to report the find:</p> <ul style="list-style-type: none"> a. The Harbor District’s authorized POC, as listed in the Harbor District Protocol; and b. Coast’s Cultural Resources POC. <p>5. Upon learning about a discovery, the District’s POC shall be responsible for immediately contacting by telephone the POCs listed below to initiate the consultation process for its treatment and disposition:</p> <ul style="list-style-type: none"> a. THPOs with Blue Lake Rancheria, Bear River Band and Wiyot Tribe; b. Other applicable agencies involved in Project permitting (e.g., USACE, California Coastal Commission, etc.); and c. The California State Lands Commission. <p>6. In cases where a known or suspected Native American burial or human remains are uncovered, the Humboldt County Coroner (707-445-7242) shall also be notified immediately, along with the property owner of the discovery site. In addition, Mitigation Measure CR-3 shall be followed.</p> <p>7. Ground-disturbing Project work at the find locality shall be suspended temporarily while the District, the three THPOs, the CSLC, a consulting archaeologist and other applicable parties consult about appropriate treatment and disposition of the find. Ideally, a Treatment Plan will be developed within three working days of discovery notification. Where the Project can be modified to avoid disturbing the find (e.g., through project redesign), this may be the preferred option. Should human remains be</p>				

Mitigation Measure	Responsibility for Implementation	Timing of Implementation	Responsibility for Confirming Completion	Date Completed
<p>encountered, the provisions of State laws shall apply and Mitigation Measure CR-3 followed. The Treatment Plan shall reference appropriate laws and include provisions for analyses, reporting, and final disposition of data recovery documentation and any collected artifacts or other archaeological constituents. Ideally, the field phase of the Treatment Plan may be accomplished within five (5) days after its approval, however, circumstances may require longer periods for data recovery.</p> <ol style="list-style-type: none"> 8. Any and all inadvertent discoveries shall be considered strictly confidential, with information about their location and nature being disclosed only to those with a need to know. The District's authorized representative shall be responsible for coordinating any requests by or contacts to the media about a discovery. 9. These Mitigation Measures shall be communicated to Coast's field work force (including contractors, employees, officers and agents) and such communications may be made and documented at safety briefings. 10. Ground-disturbing work at a discovery locale may not be resumed until authorized in writing by the District and CSLC. 11. The plant manager or party who made the discovery and initiated these Protocols, shall make written notes available to the Harbor District describing: the circumstances, date, time, location and nature of the discovery; date and time each POC was informed about the discovery; and when and how security measures were implemented. 12. The plant manager, Cultural Resources POC, or party who made the discovery shall record how the discovery downtime affected the Project work schedule. 13. Treatment Plans and corresponding Data Recovery Reports shall be authored by professionals who meet the Federal criteria for Principal Investigator Archaeologist and reference the <i>Secretary of</i> 				

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<p><i>the Interior's Standards and Guidelines for Archaeological Documentation</i> (48 Fed. Reg. 44734-44737).</p> <p>14. Final disposition of all collected archaeological materials shall be documented in a final Data Recovery report and its disposition decided in consultation with Tribal representatives.</p> <p>15. Final Data Recovery Reports, along with updated confidential, standard California site record forms (DPR 523 series) shall be filed at the Northwest Information Center of the California Historical Resources Information System, the CSLC, and the Harbor District, with report copies provided to the three identified THPOs.</p> <p>16. The final disposition of archaeological, historical, and paleontological resources recovered on State lands under the jurisdiction of the CSLC must be approved by the CSLC.</p>				
<p>MITIGATION CR-3: Protocols for inadvertent discovery of human remains and grave goods. In the event of inadvertent discovery of human remains or Native American grave goods during ground-disturbing activities, work at the discovery locale shall be halted immediately, the Harbor District and County Coroner contacted, and, consistent with State law, the following protocol followed (in addition to the protocol described under Mitigation Measure CR-2).</p> <p>1. If human remains are encountered, they shall be treated with dignity and respect. Discovery of Native American remains is a very sensitive issue and serious concern of affiliated Native Americans. Information about such a discovery shall be held in confidence by all Project personnel on a need-to-know basis. The rights of Native Americans to practice ceremonial observances on sites, in labs and around artifacts shall be upheld.</p>	Coast Seafoods	Construction	HBHRCD	

Mitigation Measure	Responsibility for Implementation	Timing of Implementation	Responsibility for Confirming Completion	Date Completed
<p>2. Violators of Section 7050.5 of the California Health and Safety Code may be subject to prosecution to the full extent of applicable law (felony offense).</p> <p>In addition, the provisions of California law (Section 7050.5 of the California Health and Safety Code and Section 5097.98 of the California Public Resources Code) will be followed:</p> <ol style="list-style-type: none"> 1. The Coroner has two working days to examine the remains after being notified of the discovery. If the remains are Native American, the Coroner has 24 hours to notify the NAHC in Sacramento at (916) 653-4082. 2. The NAHC is responsible for identifying and immediately notifying the most likely descendant (MLD) of the deceased Native American. (Note: NAHC policy holds that the Native American Monitor will not be designated the MLD.) 3. Within 48 hours of their notification by the NAHC, the MLD will be granted permission by the property owner of the discovery locale to inspect the discovery site if they so choose. 4. Within 48 hours of their notification by the NAHC, the MLD may recommend to the owner of the property (discovery site) the means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The recommendation may include the scientific removal and non-destructive or destructive analysis of human remains and items associated with Native American burials. Only those osteological analyses (if any) recommended by the MLD may be considered and carried out. 5. Whenever the NAHC is unable to identify a MLD, or the MLD identified fails to make a recommendation, or the property owner rejects the recommendation of the MLD and mediation between the parties by NAHC fails to provide measures acceptable to the 				

Mitigation Measure	Responsibility for Implementation	Timing of Implementation	Responsibility for Confirming Completion	Date Completed
<p>property owner, he/she shall cause the re-burial of the human remains and associated grave offerings with appropriate dignity on the property in a location not subject to further subsurface disturbance.</p>				
<p>MITIGATION BIO-1: Removal of existing culture (fallowing). Coast will remove existing culture (fallow) based on a 4:1 ratio of expansion acreage to removed existing culture acreage. Coast will remove 42.0 acres of existing culture as mitigation for Phase I, within the first 3 years of the project. For Phase II, up to 90.8 acres of expansion acreage would result in the removal of up to 22.7 acres of existing culture. <i>See</i> FEIR Figures 5.8 and 5.9 for the location of the mitigation sites proposed for removal of culture.</p>	Coast Seafoods	Mitigation to precede or occur concurrently with expansion activities. Removal of existing longlines will take place within 3 months of new planted acreage. Phase I mitigation to occur within the first 3 years of the project.	HBHRCD	
<p>MITIGATION BIO-2: Herring egg monitoring and consultation with CDFW. Coast will ensure that all employees who supervise work on the tidelands are trained by a qualified biologist to conduct pre-work herring spawn surveys. During the months of December through March, trained Coast employees will perform a pre-work herring spawn survey at each location where work is scheduled to take place to determine whether herring have spawned on eelgrass, culture materials, or substrate. If herring spawn is observed, Coast will: (1) notify the CDFW's Eureka Marine Region office within 24 hours, and (2) postpone activities on those beds until all eggs have hatched. In addition, Coast will work with CDFW during spawning surveys to sample within culture gear and identify whether herring are spawning in the longlines.</p>	Coast Seafoods	December through March, for the project duration	HBHRCD	
<p>MITIGATION BIO-3: Marine Mammal Buffers and Avoidance. No activity involving human disturbance will occur within 100 m of the</p>	Coast Seafoods	Pre-Construction and project duration	HBHRCD	

Mitigation Measure	Responsibility for Implementation	Timing of Implementation	Responsibility for Confirming Completion	Date Completed
area of Sand Island that is above mean higher high water to avoid the harbor seal haul-out location and nesting birds on Sand Island.				
MITIGATION BIO-4: Impact on eelgrass availability to black brant. If monitoring data demonstrate that eelgrass impacts are above the Project's adaptive management thresholds and additional mitigation is implemented, the mitigation provided eelgrass must be available to black brant.	Coast Seafoods	Project duration. Initial review based upon eelgrass monitoring data submitted after first three years of project implementation.	HBHRCD	
MITIGATION AQ-1: Coast shall comply with the requirements of all adopted air quality plans, including plans covering particulate emissions, and shall implement all actions required by the AQMD for Coast's mariculture operations.	Coast Seafoods	Project duration	HBHRCD	
MITIGATION HAZ-1: Following storm or adverse weather events, Coast will patrol mariculture areas for escaped or damaged mariculture equipment, promptly retrieve any equipment encountered and, if it cannot be repaired and placed back into service, properly dispose of the escaped equipment on land. In addition, Coast will retrieve or repair any escaped or damaged mariculture equipment that it encounters while conducting routine daily and/or monthly maintenance activities associated with shellfish culture (e.g. bed inspections, shellfish grading and sorting). If the escaped gear cannot be repaired and replaced on the shellfish bed, it will be properly disposed of on land.	Coast Seafoods	Project duration	HBHRCD	
MITIGATION HAZ-2: Within 30 days of harvest on any area that is being discontinued or taken out of production for one year or more, Coast will remove all shellfish culture apparatus from the area, including but not limited to, stakes, racks, baskets, and pallets.	Coast Seafoods	Project duration	HBHRCD	

Mitigation Measure	Responsibility for Implementation	Timing of Implementation	Responsibility for Confirming Completion	Date Completed
MITIGATION HAZ-3: Coast will implement annual employee training regarding marine debris issues and how to identify loose culture gear and proper gear repair and removal methods.	Coast Seafoods	Project duration	HBHRCD	
MITIGATION HAZ-4: Coast will conduct quarterly bay cleanups in coordination with other interested parties or organizations, which will include walking portions of the bay and shorelines to pick up escaped shellfish gear and other trash (regardless of whether it is generated by the Project). The volume of shellfish gear collected shall be recorded.	Coast Seafoods	Project duration	HBHRCD	
MITIGATION HAZ-5: Coast will not leave tools, loose gear, or construction materials on its owned and leased tidelands or surrounding areas for longer than one tide cycle. All gear installed in the Project area will be kept neat and secure.	Coast Seafoods	Project duration	HBHRCD	

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

RESOLUTION NO. 2017-02

**A RESOLUTION ESTABLISHING FINDINGS RELATIVE TO THE APPLICATION BY
COAST SEAFOODS COMPANY FOR HUMBOLDT BAY SHELLFISH AQUACULTURE
PERMIT RENEWAL AND EXPANSION PROJECT**

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

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; and,

WHEREAS, the Board of Commissioners of the Humboldt Bay Harbor, Recreation, and Conservation District has been presented with certain evidence that the Coast Seafoods Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Project will be conducted in a manner consistent with applicable County, State and Federal rules and regulations; and

WHEREAS, Coast Seafoods Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Project will not be detrimental to the air, land, environment, and ecology of the land under the jurisdiction of the Humboldt Bay Harbor, Recreation, and Conservation District.

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

The Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District has found the following to be true and adopts the following findings with respect to the proposed use contemplated by Coast Seafoods Company in Application 14-03 and supplements and amendments thereto:

1. The use proposed by Coast Seafoods Company is necessary to promote the safety, health, comfort, and convenience of the public;
2. The proposed use, as conditioned, is consistent with the California Environmental Quality Act and there is no substantial evidence the project will have a significant effect on the environment upon incorporation of the mitigation measures further described in the Final Environmental Impact Report prepared for the project;
3. The proposed use is consistent with the Humboldt Bay Management Plan with particular relevance to policies HFA-3, HFA-4, HFA-5, CEP-1, and CEP-6;
4. The proposed use is reasonably required to promote growth, and to meet area demands, and does not adversely effect the environment or ecology of the area to any substantial degree;
5. The proposed use is required by the public convenience and necessity; and
6. The proposed use 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.

PASSED AND ADOPTED by the Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District at a duly called meeting held on the 19th day of January 2017, by the following polled vote:

AYES:

NOES:

ABSENT:

**Patrick Higgins, President
Board of Commissioners**

ATTEST:

**Richard Marks, Secretary Pro Tem
Board of Commissioners**

CERTIFICATE OF SECRETARY

The undersigned, duly qualified and acting Secretary Pro Tem 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. 2017-02 entitled,

**A RESOLUTION ESTABLISHING FINDINGS RELATIVE TO THE APPLICATION BY
COAST SEAFOODS COMPANY FOR HUMBOLDT BAY SHELLFISH AQUACULTURE
PERMIT RENEWAL AND EXPANSION PROJECT**

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 19th day of January 2017; 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 19th day of January.

Richard Marks, Secretary Pro Tem
Board of Commissioners

HUMBOLDT BAY HARBOR, RECREATION
AND CONSERVATION DISTRICT

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PERMIT

Permit No. 14-03

601 Startare Drive
Woodley Island Marina
P O Box 1030
Eureka, CA 95502-1030

Permittee:

COAST SEAFOODS COMPANY
25 Waterfront Drive
Eureka, CA 95501

The Board of Commissioners of the **Humboldt Bay Harbor, Recreation and Conservation District** hereinafter referred to as "**District**", having considered the Application herein, number 14-03, received by the **District** on June 2, 2014 and amended on July 7, 2016, and **Coast Seafoods Company, 25 Waterfront Drive, Eureka, California 95501**, hereinafter referred to as "**Permittee**", and the Humboldt Bay Harbor, Recreation and Conservation District as the lead agency, pursuant to the California Environmental Quality Act of 1970, as amended, having made a determination certifying the Environmental Impact Report (SCH #2015082051) (Resolution No. 2017-01) and the Board of Commissioners of the **District** having on January 19, 2017, passed Resolution No. 2017-02 establishing findings relative to the Application by **Permittee** for the Coast Seafoods Humboldt Bay Shellfish Aquaculture Permit Renewal and Expansion Project, the **Permittee** is hereby authorized to perform the work of improvement, as more particularly described under the East Bay Management Area (EBMA) Avoidance Alternative (Environmentally Superior Alternative) in the Environmental Impact Report referred to above.

You are hereby authorized to conduct that activity described in the Permit Application of **Permittee** consisting of:

Continued and expanded aquaculture operations in Humboldt Bay, California as more particularly described as the East Bay Management Area (EBMA) Avoidance Alternative (Environmentally Superior Alternative) in the Environmental Impact Report referred to above.

That the location of the proposed activity shall be in Humboldt Bay, Humboldt County, California.

SUBJECT TO THE TERMS AND CONDITIONS LISTED BELOW:

1. If the plan and scope of the activity materially changes, it will be necessary to submit a new application or request an application and plans revision.

2. That all activities authorized by this Permit shall further be subject to the conditions of approval of the following public agencies:
 - A. United States Army Corps of Engineers San Francisco District
 - B. State of California Coastal Commission
 - C. State of California Regional Water Quality Control Board, North Coast Region
3. That there shall be no unreasonable interference with navigation by the work herein authorized.
4. That no attempt shall be made by the **Permittee** to interfere or forbid the full and free use by the public of all navigable waters at or adjacent to the work.
5. That this Permit, if not previously revoked or specifically extended, shall cease and be null and void and terminate on the 19th day of January 2027. This permit may be extended at the discretion of the **District**.
6. That Permittee shall fully comply with and perform all of the conservation and mitigation measures described in the Project's adopted Mitigation Monitoring and Reporting Program (MMRP), which are made conditions of this permit by reference.
7. That the **District**, its Commissioners, or any officer or employee of the **District** shall in no case be liable for any damages or injury of the work herein authorized which may be caused by or result from future operations undertaken by the **District** for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.
8. That neither the **District**, nor its Board of Commissioners, nor any officer of the **District** shall be liable to any extent for any such injury or damage to any person or property or for the death of any person arising out of or connected with the work authorized by this Permit.
9. That the Board of Commissioners of the **District** may revoke this Permit at any time upon a finding by the **District** of a violation by the **Permittee** of any condition of this Permit.
10. That the **Permittee** shall comply with any regulations, condition, or instructions affecting the work hereby authorized if and when issued by the Federal Water Pollution Control Administration and/or the State of California Water Resources Control Agency having jurisdiction to abate or prevent water pollution. Such regulations, conditions, or instruction in effect or prescribed by Federal or State Agencies are hereby made a condition of this Permit.
11. That neither the **District**, nor its Board of Commissioners, nor any officer of the **District** shall be liable to any extent for the injury or damage to any

person or property or for the work authorized by this Permit, and the **Permittee** shall indemnify and hold harmless the **District**, its Commissioners and officers free and harmless from any liability for any such injury, death or damage.

12. That **Permittee** shall furnish to the **District** a written annual progress report and upon completion, a written completion report describing the completion of the project. **Permittee** shall at all times notify the **District** in writing of all locations, including new locations, in Humboldt Bay, that **Permittee** proposes to install the uses permitted herein, prior to said installation.
13. That as a condition to the issuance of this Permit, **Permittee** agrees to indemnify and hold harmless **District** from an against any and all liability, loss, or damage **District** may suffer from claims and demands for attorneys' fees, costs of suit, and costs of administrative records made against **District** by any and all third parties as a result of third party environmental actions against **District** arising out of the subject matter of this Permit, including, but not limited to attorneys' fees, costs of suit, and costs of administrative records pursuant to the California Code of Civil Procedure §1021.5 or any other applicable local, state or federal laws, whether such attorneys' fees, costs of suit, and costs of administrative records are direct or indirect, or incurred in the compromise, attempted compromise, trial appeal or arbitration of claims for attorneys' fees, costs of suit, and costs of administrative records in connection with the subject matter of this Permit.
14. That this Permit is valid as of the 19th day of January 2017, and is made subject to the **Permittee** approving and agreeing to the conditions above set forth and executing said approval as hereinafter provided.

EXECUTED on this 19th day of January 2017, by authority of the Board of Commissioners of the **Humboldt Bay Harbor, Recreation and Conservation District**.

**Patrick Higgins, President
Board of Commissioners
Humboldt Bay Harbor, Recreation and
Conservation District**

Coast Seafoods Company, Permittee, in the above Permit, hereby accepts and agrees to all of the conditions hereinabove set forth. **Permittee** shall indemnify and hold harmless the **District**, its Board of Commissioners, officers and employees from any

and all claims of any nature arising from the performance of and work of improvement contained in the Application for injury, death or damage to any person or property.

Coast Seafoods Company, Permittee, in the above Permit, agrees to indemnify and hold harmless **District**, its Board of Commissioners, officers and employees from and against any and all liability, loss or damage **District** may suffer from claims and demands from attorneys' fees; costs of suit and costs of administrative records made against **District** by any and all third parties as a result of third party environmental actions against **District** arising out of the subject matter of this Permit including, but not limited to, attorneys' fees, costs of suit and costs of administrative records pursuant to the California Code of Civil Procedure §1021.5 or any other applicable local, state or federal laws, whether such attorneys fees, costs of suit and costs of administrative records are direct or indirect, or incurred in the compromise, attempted compromise, trial, appeal or arbitration of claims for attorneys' fees, costs of suit and costs of administrative records in connection with the subject matter of this Permit.

Dated: _____

COAST SEAFOODS COMPANY