

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
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January 23, 2023

Permit Application Number: **1-20-0560****COASTAL DEVELOPMENT PERMIT**

On April 07, 2022, the California Coastal Commission granted to **Humboldt County Dept. of Public Works** this permit subject to the attached Standard and Special conditions, for development consisting of **Construct 4.25 miles of Class 1 multi-use trail as part of the California Coastal Trail including three bridges, up to two viewing platforms, interpretive signs, fencing, drainage improvements, removal of approximately 200 Eucalyptus trees, repair and maintenance of eroding segments of existing railroad berm, and mitigate for wetland fill impacts under separate CDP authorizations**, more specifically described in the application filed in the Commission offices.

The development is within the coastal zone at along the existing railroad on the northeastern shore of Humboldt Bay between the existing Humboldt Bay Trail North at Brainard Slough, Arcata and the existing Eureka Waterfront Trail at Y Street, Eureka, with separately permitted offsite wetland mitigation at Tuluwat Island, Eureka and at a 70-acre agricultural property west of Arcata.

Issued on behalf of the California Coastal Commission by

Sincerely,

John Ainsworth
Executive Director


Catherine Mitchell
Coastal Program Analyst

cc: Commissioners/File

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

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The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part of that: "A Public entity is not liable for injury caused by the issuance... of any permit..." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date: 1-24-2023

Signature Hank Seeman

STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. **California Public Utilities Commission (CPUC) Approval.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0560, the applicant shall provide to the Executive Director a copy of a final permit, license, review-approval, or other authorization issued by the CPUC for all new trail crossings of the North Coast Railroad Authority rail corridor and cooperative use of the Eureka Slough Railroad

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Bridge, or evidence that no permit or grant of authority is required. The applicant shall inform the Executive Director of any changes to the project required by the CPUC. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

2. **U.S. Army Corps of Engineers Approval.** PRIOR TO COMMENCEMENT OF DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-20-0560, the applicant shall provide to the Executive Director a copy of a permit issued by the Army Corps of Engineers, or letter of permission, or evidence that no permit or permission is required. The permittee shall inform the Executive Director of any changes to the project required by the Army Corps of Engineers. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
3. **California Department of Transportation (Caltrans) Encroachment Permit.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0560, the applicant shall submit to the Executive Director for review and written approval, evidence of an encroachment permit from Caltrans. The encroachment permit or exemption shall evidence the ability of the applicant to develop within State properties, including the U.S. Highway 101 public right-of-way. The applicant shall inform the Executive Director of any changes to the project required by Caltrans. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
4. **Evidence of Legal Ability of Applicant to Undertake Development as Conditioned**
 - A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0560, the applicant shall submit to the Executive Director for review and written approval evidence that clearly demonstrates that the North Coast Railroad Authority (NCRA) or its successor agency and the California Transportation Commission have formally agreed in writing that the applicant may undertake development within the railroad right-of-way pursuant to Coastal Development Permit 1-20-0560 and as conditioned by the Commission herein.
 - B. If the NCRA's or its successor agency's application to railbank the portion of the railroad in the project area is denied by the Surface Transportation Board (STB), the applicant shall inform the Executive Director of any changes to the project necessitated by STB's denial. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this

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

5. Ensuring Success of the Proposed Offsite Wetland Mitigation Program.

- A. The applicant shall ensure successful implementation of Spartina densiflora (Spartina) eradication activities on Tuluwat Island (APNs 405-011-010 and 405-011-011) to mitigate for wetland impacts resulting from the Humboldt Bay Trail South project and the successful restoration of at least 24.64 acres of salt marsh habitat in accordance with the wetland mitigation credit program approved under CDP 1-18-1078 Special Condition 5. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0560, the applicant shall submit, for the review and written approval of the Executive Director a signed and executed copy of the Memorandum of Understanding (MOU), cooperative agreement, or similar legally binding agreement, with Caltrans that provides for: (1) the implementation of the Spartina removal, (2) monitoring and maintenance for five years after meeting the removal success criteria, (3) subsequent long term monitoring and maintenance conducted in perpetuity, and (4) the permanent protection of the areas of Spartina removal from future development as defined by section 30106 of the Coastal Act except for the ongoing removal of Spartina and other non-native invasive species, maintenance of native vegetation, and habitat restoration.
- B. The applicant shall ensure that Caltrans successfully completes the primary treatment work involving the removal of at least 24.64 acres of Spartina (in accordance with the approved wetland mitigation credit program) from Tuluwat Island consistent with Special Condition 5 of CDP 1-18-1078 within three (3) years of the date of approval of CDP 1-20-0560 (by April 7, 2025). If the mitigation work is not completed within three (3) years of permit approval, the applicant shall submit a revised or supplemental mitigation program to compensate for the additional temporal loss of habitat associated with the delay in implementing the wetland mitigation plan. The revised mitigation program shall be processed as an amendment to this coastal development permit.

6. **Reestablishing and Monitoring of Onsite Drainage Ditch Wetlands.** As proposed by the County in the final CEQA document adopted for the project, where trail construction would fill 0.98-acre of drainage ditch wetlands between the railroad and Highway 101 (i.e., segments 3-9), an equivalent area of drainage ditch wetlands shall be restored onsite inboard of the trail at an appropriate depth for drainage functionality similar to the existing drainage ditch depth (to provide capacity for a 25-year rain event) and shall be reseeded/replanted with regionally appropriate native wetland plant species. The reestablished drainage ditch wetlands shall be monitored

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for successful plant reestablishment for at least one year following impacts and ditch reconstruction. By December 31st of the first year following filling/reestablishment of drainage ditch wetlands, the applicant shall provide as-built plans for the reestablished drainage ditch wetlands and a monitoring report demonstrating that a minimum of 0.98-acre of drainage ditch wetlands have been successfully reestablished and revegetated with native plant species at a coverage and density similar to vegetation in surrounding undisturbed drainage ditch wetlands. If the monitoring report indicates that the reestablished drainage ditch wetlands do not have a similar native vegetation density and cover to the surrounding wetlands, the applicant shall submit a revised or supplemental restoration program to achieve the objective. The revised or supplemental restoration program shall be processed as an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. Final Site and Construction Plans

- A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0560, the applicant shall submit to the Executive Director for review and written approval final site and construction plans that (1) substantially conform with the project description and draft plans submitted to the Commission (Exhibit 5), and (2) are consistent with all special conditions of CDP 1-20-0560. The final plans shall include, at a minimum, the following:
- i. Plan and profile drawings for all segments of the trail including bridges and railway, roadway, and driveway crossings;
 - ii. Identification of the specific location of all construction area boundaries, staging areas, and construction access corridors in site plan view;
 - iii. Evidence that a licensed professional has reviewed and approved all final design, construction, and drainage plans and has certified that each of those plans is consistent with all applicable recommendations specified in the geotechnical report dated June 2019 prepared by Crawford & Associates, Inc.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission approved amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

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8. As-Built Plans and Post-Construction Report. WITHIN SIX MONTHS OF COMPLETION OF CONSTRUCTION OF EACH TRAIL SEGMENT, the applicant shall submit the following documentation:

- A. As-built plans for the project that substantially conform with the plans submitted on December 17, 2020 that demonstrate, at a minimum, that railroad repairs along segments 4, 7, and 8 are confined to the railroad berm's historical footprint and not further bayward;
- B. For segment 6, a post-construction report for the temporary construction access road along a portion of the bay needed for bridge construction that includes (i) as-built plans that demonstrate that dewatering, temporary access, and bridge construction was completed consistent with approved project plans and (ii) documentation that the site was restored to pre-project conditions following dewatering and construction of the temporary access road.
- C. For segment 9, a post-construction report for the Brainard Slough restoration work that includes (i) as-built plans that demonstrate that rock-slope protection (RSP) placed outside of the historic footprint was confined to the 575-sf portion required to protect the new bridge abutments and culvert; and (ii) documentation of cleanup activities (removal of railroad debris) including photographs and written descriptions of the newly restored channel.

9. Final Design Plans for All Signage and Trail Amenities.

- A. PRIOR TO COMMENCEMENT OF DEVELOPMENT OF SIGNAGE AND TRAIL AMENITIES AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-20-0560, the applicant shall submit to the Executive Director for review and written approval final design plans for all signage and trail amenities (i.e., viewing platforms, fencing, seating, interpretive panels, etc.) that (1) substantially conform with the project description and preliminary plans (Exhibit 5) submitted to the Commission, and (2) are consistent with all special conditions of CDP 1-20-0560. The final plans shall:
 - i. Demonstrate that the signage, viewing platforms, fencing, seating, and other site improvements to be erected at the project site: (a) are visually compatible with the character of surrounding areas with respect to height and bulk, including signs that are no larger than those currently installed along the nearby Eureka Waterfront Trail and Humboldt Bay Trail North and which do not significantly obstruct views from public vantage points; and (b) conform in architectural style, construction materials, surface treatments, and physical appearance

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with other similar public improvements along the Bay waterfront and Arcata Marsh.

- ii. At a minimum include: (a) a site plan showing the locations of all signage, lighting, viewing platforms, fencing, and seating; (b) design specifications for the new lighting at the Bracut driveway entrance demonstrating that the new lighting has been designed using appropriate fixture type, cut off angles, shields, lamp arm extensions, and/or pole height to direct light downward and away from natural areas, including the Bracut Marsh; (c) to-scale, dimensioned elevation plan depictions of the signage, including clear representative of sign verbiage, symbology, and size; (d) a description of the materials and colors of the sign elements, fencing, and seating; and (e) interpretive signage related to Wiyot Tribe cultural history and natural resources of the project area with design and content developed in consultation with the Tribal Historic Preservation Officers (THPOs) of the Wiyot Tribe, Blue Lake Rancheria, and Bear River Band of the Rohnerville Rancheria.

- B. The applicant shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission approved amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

10. Use, Maintenance, Modification, and Abandonment of Trail. By acceptance of this permit, the applicant acknowledges and agrees that:

- A. The trail shall be a Class I multi-use trail available for shared public use 24 hours a day daily free of charge. The County may temporarily restrict public trail access when required to address an unforeseeable emergency (i.e., extreme weather, threats to public health or safety, or other such seriously disruptive events) and for required maintenance activities. Where such circumstances arise, the subject closure shall be: (i) for the minimum amount of time necessary to ensure the health and safety of the public; (ii) limited to the least disruption of public access necessary to respond to specific trail concerns; and (iii) communicated immediately to the Executive Director, subject to an emergency permit or Notice of Impending Development as applicable.

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- B. The applicant shall be responsible for maintenance of the multi-modal trail and motorized vehicles shall be permitted access by the County and its agents for construction, maintenance and emergency purposes;
- C. The applicant shall maintain continuously all trail improvements in good order and repair and shall allow no nuisances to exist or be maintained therein. Proposed activities that add to, enlarge, extend, heighten, or otherwise expand the authorized structures (trail, RSP, bridges, overlook) in any way shall not be considered maintenance and shall require an amendment to this permit or a new CDP depending on the nature and extent of the proposed activities.
- D. No portion of the trail owned by the County of Humboldt in fee or by grant of easement may be abandoned by the County until a grant of easement is transferred to another entity, approved by the Executive Director, who can operate that portion of the trail in conformance with all terms and conditions of this coastal development permit; and
- E. Any proposed changes, including any proposed change in the above-identified scope and manner of use or any proposed relocation or abandonment of any portion of the multi-modal trail, shall require an amendment to CDP 1-20-0560 approved by the Commission unless the Executive Director determines that no amendment is legally required.

11. Pile Driving Protections. All project activities associated with the installation of temporary or permanent piles or sheet-piles shall be undertaken in accordance with the requirements set forth herein as recommended by the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS):

- A. Pile-driving shall be limited to July 1 – September 31 when salmonids are least likely to be present in the north bay.
- B. Pile-driving shall be isolated from coastal waters by installing piles during periods of minus ebb tides.
- C. Piles shall be driven using vibratory methods to the maximum extent possible, with use of impact hammer limited to the final five feet of pile driving if required to verify load capacity.
- D. Clear water diversions (e.g., cofferdams) shall be installed as necessary to ensure cast-in-place concrete elements of the CRC North and Brainard Slough bridges are isolated from coastal waters until cured and thus minimize the transport of sediment and concrete pollution to coastal waters. Clear

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water diversions shall be installed and removed during periods of minus ebb tides and consistent with the requirements of Special Condition 13.

12. Protection of Biological Resources. The permittee shall undertake development in compliance with the avoidance, minimization, and mitigation measures to protect sensitive biological resources proposed in the final “Mitigation Monitoring and Reporting Program” adopted by the County for the project (Exhibit 8) including, but not limited to, the following:

- A. BIO-1: Avoidance and Protection Measures for Special Status Plants
- B. BIO-2 and BIO-3: Avoidance and Minimization Measures for Fish
- C. BIO-4: Northern Red-Legged Frog Avoidance and Minimization Measures
- D. BIO-5: Avoidance and Protection Measures for Nesting Birds

The permittee shall submit the results of the proposed pre-construction surveys for rare plants, frogs, and birds to the Executive Director prior to commencement of construction, including maps that identify the locations of any sensitive species habitat identified by the survey(s) [e.g., rare plants; sensitive nesting birds; northern red-legged frog adults, subadults, tadpoles, or egg masses], delineation of any required no-disturbance buffer zones, and a narrative description of avoidance and minimization measures.

13. Construction Requirements to Protect Marine Resources and Water Quality.

- A. All mitigation measures proposed by the permittee shall be implemented, including all mitigation measures included in the final “Mitigation Monitoring and Reporting Program” adopted by the County for the project (Exhibit 8) and in permits and/or consultations issued by CDFW, USFWS and NOAA-Fisheries (NMFS), including, but not limited to, the following proposed measures as modified herein:
 - i. Timing of Work: Isolation of the in-water work area and construction within stream channels and the bay shall only occur between July 1 and September 31st during low tides to avoid sensitive fish species, and to reduce the chance of stormwater runoff occurring during construction.
 - ii. Erosion, Sediment, and Runoff Control:
 - i. Staging and stockpile areas shall be located at least 50 feet from coastal waters and drainage courses and all other wetlands and silt

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fencing shall be installed around all temporary staging and stockpile areas to prevent sediment- and pollutant-laden runoff from exiting the site(s).

- ii. During construction, silt fencing or similar runoff and sediment control BMPs shall be used to isolate work areas from surrounding channels and other sensitive areas and to capture any sediment-laden runoff that might flow from the site;
- iii. Following completion of construction or prior to the onset of precipitation capable of generating runoff, whichever comes first, all disturbed soil areas shall be treated with appropriate erosion control devices (e.g., seeding, straw mulch, wood mulch, matting, etc.);
- iv. Only certified weed-free straw shall be used for mulching, and biodegradable geotextile fabrics shall be used where possible; and
- iii. Additional Water Quality and Fish Protection Measures:
 - (a) Drip pans shall be used for stationary equipment to capture any drips or leaks; and
 - (b) Cofferdams or barrier nets shall be installed prior to dewatering work areas in the bay or slough channels, and appropriate protocols for fish handling and relocation shall be followed in consultation with CDFW and NOAA-Fisheries.

B. The permittee shall also implement the following additional mitigation measures imposed by this CDP that are necessary to further protect coastal resources:

- i. Additional Water Quality Protection Measures:
 - (a) Project construction shall implement the final approved Stormwater Pollution Prevention Plan (SWPPP) consistent with Special Condition 14.
 - (b) All earth-disturbing activities shall be limited to the dry season, April 15 through October 31. The Executive Director may grant an extension of the work windows through November 30th for good cause upon written request, provided evidence is submitted that continued dry weather is forecast by the National Weather Service during the requested extension period.

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- (c) Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of equipment required on site shall take place only at designated staging areas located in upland areas at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those inlets are blocked to protect against fuel spills). All fueling and maintenance areas shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills;
- (d) Following construction, as appropriate staging area shall be ripped or disked for decompaction, and post-construction erosion control measures shall be implemented, including spreading weed-free straw mulch over bare soils.
- (e) Heavy equipment used in project construction shall be in good condition, shall be inspected for leakage of coolant and petroleum products, and shall be repaired offsite, if necessary, prior to entering the property. If equipment must be washed, washing shall occur offsite only;
- (f) Equipment operators shall be trained in the procedures to be taken should an accidental spill occur. Absorbent materials designed for spill containment and cleanup shall be kept onsite during construction for use in the event of an accidental spill;
- (g) If temporary plugs are installed within the construction backwater channel to minimize potential turbidity impacts, plugs shall be removed from upstream to downstream with the downstream-most plug removed during a rising tide to minimize turbidity impacts related to channel connection.
- (h) If treated wood is used in trail facilities and amenities such as the bridge railings, viewing platforms, and signage, the following additional BMPs shall be implemented: (i) no creosote-treated wood shall be utilized; (ii) whenever possible, cutting or drilling of treated wood shall occur at least 100 feet away from coastal waters and wetlands, and any sawdust, drill shavings, and wood scraps shall be contained and collected to prevent the discharge of treated wood to the marine environment; and (iii) treated wood materials

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shall be stored during construction in a contained, covered area to minimize exposure to precipitation.

ii. Minimizing Vegetation Removal & Soil Compaction:

(a) The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized to maintain transpiration, vegetative interception, pollutant uptake, shading of waterways, erosion control, and other water quality benefits;

(b) Soil compaction due to construction activities shall be minimized to retain the natural stormwater infiltration capacity of the soil; and

iii. Erosion and Sediment Control Measures:

(a) No construction materials, debris, or waste shall be placed or stored where it may be able to enter or be washed by stormwater runoff into coastal waters;

(b) Saturated soils shall be handled and transported in a manner that prevents excess discharge or spillage of soils or water to surrounding areas;

(c) Erosion-control seeding shall not include the use of the invasive species Italian ryegrass (Lolium multiflorum also known as Festuca perennis), a common component of erosion-control seed-mixes.

14. Final Storm Water Pollution Prevention Plan

A. PRIOR TO COMMENCEMENT OF DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-20-0560, the applicant shall submit to the Executive Director for review and written approval a final Storm Water Pollution Prevention Plan (SWPPP). The final SWPPP shall include, at a minimum, provisions for all of the following:

i. Runoff from the project site shall not increase sedimentation in coastal waters or wetlands post-construction. During construction runoff from the project site shall not increase sedimentation in coastal waters beyond what's allowable under the final Water Quality Certification approved for the project by the North Coast Regional Water Quality Control Board;

ii. Runoff from the project site shall not result in other pollutants entering coastal waters or wetlands during construction or post-construction;

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- iii. Best Management Practices (BMPs) shall be used to prevent the entry of polluted stormwater runoff into coastal waters and wetlands during construction and post-construction, including use of relevant BMPs as detailed in the current California Storm Water Quality Best Management Handbooks (<http://www.cabmphandbooks.com>);
 - iv. An on-site spill prevention and control response program, consisting of best management practices (BMPs) for the storage of clean-up materials, training, designation of responsible individuals, and reporting protocols to the appropriate public and emergency services agencies in the event of a spill, shall be implemented at the project to capture and clean-up any accidental releases of oil, grease, fuels, lubricants, or other hazardous materials from entering coastal waters or wetlands;
 - v. A schedule for installation and maintenance of appropriate construction source-control BMPs to prevent entry of stormwater runoff into the construction site and the entrainment of excavated materials into runoff leaving the construction site; and
 - vi. The SWPPP shall be consistent with the provisions of all other terms and conditions of Coastal Development Permit 1-20-0560.
- B. The applicant shall undertake development in accordance with the approved final storm water pollution prevention plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

15. Final Soil and Groundwater Management Plan. PRIOR TO COMMENCEMENT OF DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-20-0560, the applicant shall submit to the Executive Director for review and written approval a Soil and Groundwater Management Plan. The plan shall include minimization measures proposed by the applicant in the adopted CEQA document and CDP application materials and shall be prepared by a qualified geologist or engineer.

- A. The plan shall include, at a minimum, the following:
- i. A description of the specific locations, methods, and procedures for staging, stockpiling, managing, characterizing, and properly disposing of soil, groundwater, and waste material expected to be encountered during construction;

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- ii. Provisions for ensuring that all staging, stockpiling, management, and disposal of waste is consistent with the special conditions of this CDP;
 - iii. BMPs for dust control, including, but not limited to, measures to reduce the potential for exposure of staged and stockpiled materials to wind and stormwater runoff;
 - iv. Measures to demonstrate that all contaminated soil and groundwater encountered during construction, including soil impacted with arsenic and lead in segments 4, 7, and 8, and soils impacted with dioxins in segment 5, shall be contained, handled, and properly disposed of in a manner that prevents discharge of contaminated soil and groundwater to the surrounding environment. Excess soil from each segment shall be properly disposed of off-site consistent with the approved final disposal plan required by Special Condition 16.
 - v. Measures to minimize risks of exposure by construction workers to contaminated soils and groundwater, including proper training of contractors and construction workers.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this CDP unless the Executive Director determines that no amendment is legally required.

16. Final Construction Stockpiling and Debris Disposal Plan.

- A. PRIOR TO COMMENCEMENT OF DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-20-0560, the applicant shall submit to the Executive Director for review and written approval a final plan for (1) the temporary stockpiling of construction materials, (2) the disposal of all construction debris, waste, and vegetative spoils expected to be generated by the authorized work, and (3) if applicable, for the stockpiling of railroad infrastructure for future use if required by the NCRA or its successor agency. The plan shall demonstrate that:
- i. All temporary stockpiles of construction debris, excess sediments, vegetative spoils (including Eucalyptus tree slash), and any other debris and waste associated with the authorized work shall be located at least 50 feet from coastal waters and drainage courses and limited to areas where stockpiles can feasibly be contained with appropriate BMPs to prevent any discharge of pollutants to surrounding coastal waters and wetlands; and

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- ii. All construction debris, excess spoils, and any other debris and waste generated by the authorized work shall be disposed of at an authorized disposal site(s) capable of receiving such materials; and
- iii. If required by the NCRA or its successor agency, all railroad infrastructure removed for the permitted trail project shall be stored at an appropriate upland location at a County Corp Yard or an alternate location owned by the County and shall incorporate appropriate BMPs outlined in subsection A(i) above

The plan shall include, at a minimum, the following:

- i. A site plan showing all proposed locations for the temporary stockpiling of construction debris, soils and vegetative spoils, excess materials, and any other debris and waste associated with the authorized work in relation to coastal waters, drainage courses, storm drain inlets, and project features;
 - ii. Identification of all potential debris disposal sites that will be used; and
 - iii. A schedule for the ultimate removal of all stockpiles, construction debris, excess materials, and all debris and waste associated with the authorized work.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

17. Protection of Archaeological Resources.

- A. In segments 8 and 9, a qualified tribal or archaeological monitor shall be present onsite during construction activities that may extend beyond the depth of existing fill materials within mapped areas of the known cultural resources.
- B. In all segments of the trail construction project area that involve ground disturbance, if cultural materials such as chipped or ground stone artifacts, discarded dietary remains (e.g., shell, burned bone), ash-stained midden deposits, etc. or human remains are discovered during the course of the project, all construction within 66 feet (20 meters) of the discovery site shall cease and shall not recommence until a professional archaeologist who meets the Secretary of the Interior's Standards and Guidelines analyzes the

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significance of the find and prepares a supplementary archaeological plan (SAP) in consultation with the Tribal Historic Preservation Officers of the Wiyot Tribe, Bear River Band of the Rohnerville Rancheria, and Blue Lake Rancheria. The SAP shall be submitted for the review and written approval of the Executive Director, and either: (A) the Executive Director approves the SAP and determines that the SAP's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, or (B) the Executive Director reviews the SAP, determines that the changes proposed therein are not de minimis, and the permittee has thereafter obtained an amendment to CDP 1-20-0560.

18. Length of Development Authorization. Development authorized by this permit is authorized: until July 1, 2046 (i.e., the expiration date of the County's lease with the railroad authority or its successor agency unless extended), except that the Executive Director has authority to extend authorization up to 5 years for good cause and any further extensions to the authorization period require approval by the Commission pursuant to an amendment to this CDP; (2) until the County or any government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the authorized development is currently and permanently unsafe for use due to damage or destruction from waves, flooding, tsunami run-up, liquefaction, or other hazards related to coastal processes or seismic hazards, and that there are no feasible measures that could make the development suitable for use without the use of shoreline protective devices; (3) until removal is required pursuant to LCP policies for sea level rise adaptation planning; or (4) until the development requires new and/or augmented shoreline protective devices that conflict with relevant LCP or Coastal Act policies. In addition, the development approval does not permit encroachment onto public trust lands, and any future encroachment must be removed unless the Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain. Any future encroachment would also be subject to the State Lands Commission's (or other designated trustee agency's) leasing approval. The permittee shall obtain a CDP for removal of approved development unless the Executive Director determines that no coastal development permit is legally required.

19. Assumption of Risk, Waiver of Liability, and Indemnity Agreement. By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards from, storms, flooding, erosion, earth movement, and other natural hazards, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such

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hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

20. Liability for Costs and Attorney's Fees. The permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorney's fees [including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and (2) required by a court] that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit, the interpretation and/or enforcement of permit conditions, or any other matter related to this permit. The permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

21. State Lands Commission Review. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-20-0560, the applicant shall provide to the Executive Director a written determination from the State Lands Commission that: (A) no State or public trust lands are involved in the development; or (B) State or public trust lands are involved in the development and all permits required by the State Lands Commission have been obtained; or (C) State or public trust lands may be involved in the development, but, pending a final determination, an agreement has been made with the State Lands Commission for the approved project as conditioned by the Commission to proceed without prejudice to that determination.

22. Agreement To Record a Deed Restriction if Coastal Trail Property Owned by the County is to be Conveyed. PRIOR TO ANY CONVEYANCE OF ANY COASTAL TRAIL PROPERTIES OWNED BY THE COUNTY OF HUMBOLDT (APNs 501-241-005, 404-141-002, 501-241-030, 501-241-031), the permittee shall submit to the Executive Director for review and approval, documentation demonstrating that the permittee as landowner has executed and recorded against the property to be conveyed a deed restriction, in a form and content acceptable to the Executive Director, which authorizes the Coastal Trail in the scope and manner set forth in Special Condition 10 above. The deed restriction shall run with the land binding all successors and assigns and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.