

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT**

Resolution Number 23-

Record Number PLN-2022-18036

Assessor's Parcel Numbers: 222-084-004, 222-085-002

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Salmonid Restoration Federation Conditional Use Permit.

WHEREAS, Salmonid Restoration Federation submitted an application and evidence in support of approving a Conditional Use Permit (CUP) for constructing a 5 million gallon off-channel water storage pond and associated plumbing infrastructure designed to deliver approximately 15 gallons per minute of flow augmentation to La Doo Creek and thence Sproul Creek during the 5-month dry season to improve instream aquatic habitat. Storage will be in the one pond filled with wet-season runoff including rainwater catchment and water delivered from a small tributary. Other ancillary project components include road surfacing and stream crossing upgrades along 0.9 miles of forest road leading to the diversion and construction of a grid-intertie solar power system. Approximately 22,500 cubic yards of grading is required and will be balanced on-site. The project will encompass 7.62-acre area.

WHEREAS, a Mitigated Negative Declaration was prepared for the proposed Conditional Use Permit and circulated for public review pursuant to Section 15074 of the CEQA Guidelines; and

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

- 1. FINDING:** **Project Description:** A Conditional Use Permit (CUP) for constructing a 5 million gallon off-channel water storage pond and associated plumbing infrastructure designed to deliver approximately 15 gallons per minute of flow augmentation to La Doo Creek and thence Sproul Creek during the 5-month dry season to improve instream aquatic habitat. Storage will be in the one pond filled with wet-season runoff including rainwater catchment and water delivered from a small tributary. Other ancillary project components include road surfacing and stream crossing upgrades along 0.9 miles of forest road leading to the diversion and construction of a grid-intertie solar power system. Approximately 22,500 cubic yards of grading is required and will be balanced on-site. The project will encompass 7.62-acre area.

EVIDENCE: Project File: PLN-2022-18036

- 2. FINDING:** **CEQA:** As required by the California Environmental Quality Act, the project was found subject to CEQA and a Mitigated Negative Declaration was prepared by the Planning and Building Department, Planning Division (Attachment 2), which evaluated the project for any adverse effects on the environment.

- EVIDENCE:**
- i. The CEQA document includes an analysis of the subject Conditional Use Permit. The Initial Study and Draft Mitigated Negative Declaration (IS/MND) was circulated at the state clearinghouse from May 5, 2023 to June 5, 2023.
 - ii. The IS/MND included thirty-seven mitigation measures which have been incorporated into a Mitigation Monitoring and Reporting Plan which is being adopted as part of the project.

3. FINDING

ENVIRONMENTAL IMPACTS FOUND NOT TO BE SIGNIFICANT- NO MITIGATION REQUIRED. The following impacts have been found to be less than significant and mitigation is not required to reduce project related impacts: Aesthetics, Agriculture and Forestry Resources, Air Quality, Energy, Greenhouse Gas Emissions, Land Use and Planning, Mineral Resources, Population and Housing, Public Services, Recreation, Transportation, and Wildfire.

- EVIDENCE**
- a) There is no evidence of an impact to any of the above reference potential impact areas based on the project as proposed at this proposed location.
 - b) Initial Study/Mitigated Negative Declaration circulated for public review May 5, 2023 to June 5, 2023.

4. FINDING

ENVIRONMENTAL IMPACTS MITIGATED TO LESS THAN SIGNIFICANT – The Initial Study identified potentially significant impacts to Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Tribal Cultural Resources, Utilities and Service Systems, and Mandatory Findings of Significance, which could result from the project as originally submitted. Mitigation Measures have been required to ensure potential impacts are limited to a less than significant level.

- EVIDENCE**
- a) **Biological Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures:
 - i. For coho and chinook salmon, steelhead, and Pacific lamprey, downstream of the project area, discharge of sediment will be controlled and minimized with the implementation of best management practices (BMPs) on all disturbed soils that have the potential to discharge into area watercourses. Applicable BMPs include, but are not limited to, installation of silt fences, straw wattles, and placement of seed-free rice straw. BMPs will be installed at all access points to the work sites, which will minimize the potential for sediment delivery and deleterious effects on salmonids (BIO-1). Additionally, Crossing upgrades and point of

diversion installation will be constructed when intermittent watercourses are dry between June 1 and October 15 (BIO-2). To reduce the risk of amphibian entrapment, the Project will follow the Fish Screening Criteria for Salmonids in Appendix S of the California Salmonid Stream Habitat Restoration Manual (Flosi et. al 2010), as well as NOAA Restoration Center/Army Corps of Engineers programmatic biological opinion requirements for all diversion and outflow structures (BIO-3). A visual observation survey of the Project areas will be conducted within two weeks prior to the start of construction to determine if any special status amphibians are present (BIO-4). If special status amphibians are present, then a qualified biologist will be present immediately prior to the start of construction to remove any amphibians and relocate them to suitable habitat (BIO-5). The Project manager or qualified designee will conduct daily morning inspections of the area slated for work to determine if special status amphibians entered the areas overnight. Any

individuals will be captured and relocated prior to the start of the day's work (BIO-6). Terrestrial woody debris will be left in place to the greatest extent practicable during operations within the riparian areas. The long-term flow augmentation component of the Project has the potential to adversely impact amphibian habitat in the downstream vicinity of the flow release if the water temperature of the flow augmentation is too high. This concern is especially relevant to southern torrent salamander who have the lowest water temperature tolerances of the amphibians described above. The Project design takes into consideration the objective of providing cool water to the downstream aquatic habitat with flow released from the bottom of the pond through a buried water line. Additionally, temperature sensors will be installed in the pond and at the point of flow release that provide real time data to support project operations. Additional data loggers will also be installed downstream of the project area in La Doo and West Fork Sproul Creeks to track changes in temperature as released water moves downstream. However, there is still the potential for warmer than optimal flow releases to adversely impact downstream amphibians. Mitigation measures BIO-8 through BIO-12 below will be employed during the final design and project operations phases to avoid or minimize the potential for significant impacts to downstream amphibians from the flow releases (BIO-7). To support final design, a qualified biologist will conduct a detailed assessment of conditions downstream from the proposed point of flow release to the confluence of mainstem Sproul Creek, to determine the habitat suitability for special status amphibians and the potential for Project impacts. In addition to

assessing habitat suitability, the survey will also evaluate the observed distribution of special status amphibian species. The qualified biologist will work with CDFW staff prior to the assessment to develop a study plan including survey timing, extent, and protocols. Findings and recommendations will be summarized in a technical memorandum that will be included as an appendix to the Project's Biological Resources Technical Report. A draft of the memo will be submitted to CDFW for review and comment prior to being finalized (BIO-8). Design revisions may include relocation of the primary point of flow release to reduce anticipated impacts, and/or installation of multiple points of release that promote hyporheic flow and natural cooling of the released water (BIO-9). During final design and permitting, an operations and management plan will be developed that identifies approaches and protocols for avoidance of impacts to special status amphibians including a monitoring plan. The operations and management plan will contain a decision matrix tool identifying the conditions for flow release and variations in discharge rate based on receiving water conditions (BIO-10). During project operations, adaptive management of the flow releases will be conducted to avoid impacts to special status amphibians based on monitoring results. The project will have temperature thresholds to avoid discharging water that is warmer than the receiving waters, when increases in temperature may result in negative effects on potentially present special status species based on the realized niche temperature ranges described in Welsh and Hodgson (2008). The project will also avoid discharging water that results in raising water temperatures to harmful levels between the point of release and the confluence of La Doo Creek and West Fork Sproul Creek. Water warmer than the receiving waters may be released when the resulting augmentation does not result in temperatures above optimal levels (BIO-11). Monitoring will occur on monthly time step from the point of discharge down to the confluence of Sproul Creek. Wet/dry mapping will be done before, during and after augmentation to assess project effects on the amount of wetted channel. A qualified biologist will also evaluate broad-level changes in distribution and relative abundance of special status species (BIO-12).

- ii. For amphibians including Foothill yellow-legged frog, red-bellied newt, coastal tailed frog, discharge of sediment will be controlled and minimized with the implementation of best management practices (BMPs) on all disturbed soils that have the potential to discharge into area watercourses. Applicable BMPs include, but are

not limited to, installation of silt fences, straw wattles, and placement of seed-free rice straw. BMPs will be installed at all access points to the work sites, which will minimize the potential for sediment delivery and deleterious effects on salmonids (BIO-1). Additionally, Crossing upgrades and point of diversion installation will be constructed when intermittent watercourses are dry between June 1 and October 15 (BIO-2). To reduce the risk of amphibian entrapment, the Project will follow the Fish Screening Criteria for Salmonids in Appendix S of the California Salmonid Stream Habitat Restoration Manual (Flosi et. al 2010), as well as NOAA Restoration Center/Army Corps of Engineers programmatic biological opinion requirements for all diversion and outflow structures (BIO-3). A visual observation survey of the Project areas will be conducted within two weeks prior to the start of construction to determine if any special status amphibians are present (BIO-4). If special status amphibians are present, then a qualified biologist will be present immediately prior to the start of construction to remove any amphibians and relocate them to suitable habitat (BIO-5). The Project manager or qualified designee will conduct daily morning inspections of the area slated for work to determine if special status amphibians entered the areas overnight. Any individuals will be captured and relocated prior to the start of the day's work (BIO-6). Terrestrial woody debris will be left in place to the greatest extent practicable during operations within the riparian areas. The long-term flow augmentation component of the Project has the potential to adversely impact amphibian habitat in the downstream vicinity of the flow release if the water temperature of the flow augmentation is too high. This concern is especially relevant to southern torrent salamander who have the lowest water temperature tolerances of the amphibians described above. The Project design takes into consideration the objective of providing cool water to the downstream aquatic habitat with flow released from the bottom of the pond through a buried water line. Additionally, temperature sensors will be installed in the pond and at the point of flow release that provide real time data to support project operations. Additional data loggers will also be installed downstream of the project area in La Doo and West Fork Sproul Creeks to track changes in temperature as released water moves downstream. However, there is still the potential for warmer than optimal flow releases to adversely impact downstream amphibians. Mitigation measures BIO-8 through BIO-12 below will be employed during the final design and project operations phases to avoid or minimize the potential for significant impacts to downstream amphibians from the flow releases (BIO-7).

To support final design, a qualified biologist will conduct a detailed assessment of conditions downstream from the proposed point of flow release to the confluence of mainstem Sproul Creek, to determine the habitat suitability for special status amphibians and the potential for Project impacts. In addition to assessing habitat suitability, the survey will also evaluate the observed distribution of special status amphibian species. The qualified biologist will work with CDFW staff prior to the assessment to develop a study plan including survey timing, extent, and protocols. Findings and recommendations will be summarized in a technical memorandum that will be included as an appendix to the Project's Biological Resources Technical Report. A draft of the memo will be submitted to CDFW for review and comment prior to being finalized (BIO-8). The 90% and 100% project design will incorporate revisions based on the findings and recommendation from the amphibian habitat assessment (BIO-8). Design revisions may include relocation of the primary point of flow release to reduce anticipated impacts, and/or installation of multiple points of release that promote hyporheic flow and natural cooling of the released water (BIO-9). During final design and permitting, an operations and management plan will be developed that identifies approaches and protocols for avoidance of impacts to special status amphibians including a monitoring plan. The operations and management plan will contain a decision matrix tool identifying the conditions for flow release and variations in discharge rate based on receiving water conditions (BIO-10). The project will also avoid discharging water that results in raising water temperatures to harmful levels between the point of release and the confluence of La Doo Creek and West Fork Sproul Creek. Water warmer than the receiving waters may be released when the resulting augmentation does not result in temperatures above optimal levels (BIO-11). Following project implementation, effectiveness monitoring will be conducted for a minimum of five years to evaluate project success. Monitoring will occur on monthly time step from the point of discharge down to the confluence of Sproul Creek. Wet/dry mapping will be done before, during and after augmentation to assess project effects on the amount of wetted channel. A qualified biologist will also evaluate broad-level changes in distribution and relative abundance of special status species (BIO-12).

For Southern Torrent Salamander and Coastal Giant Salamander, mitigation measures BIO-1 to BIO 12. Additionally, work sites shall be winterized at the end of each day during the work period when

rainfall greater than 1/2 inch is forecasted to minimize the eroding of unfinished excavations. Winterization procedures shall be supervised by a professional trained in erosion control techniques and involve taking necessary measures to minimize erosion on unfinished work surfaces. Winterization includes the following: smoothing unfinished surfaces to allow water to freely drain across them without concentration or ponding; compacting unfinished surfaces where concentrated runoff may flow with an excavator bucket or similar tool, to minimize surface erosion and the formation of rills; and installation of culverts, silt fences, and other erosion control devices where necessary to convey concentrated water across unfinished surfaces, and trap exposed sediment before it leaves the work site (GEO-1). Effective erosion control measures shall be in place at all times during construction. Construction shall not begin until all temporary erosion controls (i.e., straw bales or silt fences that are effectively keyed-in) are in place down slope or down stream of project activities within the riparian area. Erosion control measures shall be maintained throughout the construction period. If continued erosion is likely to occur after construction is completed, then appropriate erosion prevention measures shall be implemented and maintained until erosion has subsided (GEO-2).

- iii. For Northern Spotted Owl (NSO), the nearest activity center is the project is approximately 0.5 miles away and recent surveys (i.e. within the last four (4) years) have not documented nesting within this activity center. Nesting habitat does not occur within the Project area, but does within adjacent forest. The project activities do not include removal of trees that could provide habitat for owls. Therefore, there will not be any direct impacts on NSO or their habitat. However, there is the potential for construction-related noise to affect NSO that may be on adjacent properties or away from the project area.

The potential for Project construction to indirectly impact nesting northern spotted owls was preliminary evaluated using USFWS (2006) guidelines. Owls can be affected by noise-related, visual, or physical disturbances, such as created by heavy equipment. USFWS (2006) identifies the distance that sound associated with different types of construction equipment is estimated to disturb northern spotted owls during the breeding season, relative to ambient noise levels.

Most types of standard construction equipment (e.g., backhoes, bulldozers, construction vehicles, etc.) would require disturbance

buffers of 330–1,320 ft from nesting spotted owl activity centers. No Project activities utilizing these types of equipment are expected to occur within 1,320 ft of a northern spotted owl nest. In addition, as stated above, recent surveys have not found nesting northern spotted owls with the closest known activity center (0.5 mi from the Project area). Therefore, project effects on northern spotted owls would be less than significant. A pre-construction nesting bird survey will be conducted during the breeding season and within two weeks of the start of construction. Appropriate buffers will be established around all active nests within the Project area (BIO-13).

- iv. Suitable habitat for Sonoma tree voles is present in the timber stand adjacent to the Project area. The Project will not occur within the forest nor remove any trees; therefore, there will be no impact on this species.
- v. Suitable habitat for pallid bats is present in the timber stand adjacent to the Project area. The Project will not occur within the forest nor remove any trees or structures that could be occupied by this species; therefore, there will be no impact on pallid bat. The construction and operations of the pond has the potential to create habitat for bullfrogs and subsequently impact native species. The following avoidance and minimization measures will be incorporated in the project design, monitoring and maintenance plan. The following strategies will be implemented to minimize the potential for bullfrogs to infest the project sites:
 - a. Landowner and resident education is one of the most important strategies, as people have been known to intentionally introduce bullfrogs to local bodies of water as a source of food.
 - b. Monitoring of project sites will also be very important as early detection, before populations can get established, is a key component of control. Monitoring will be conducted as per Attachment C of the ISMND: Bullfrog Monitoring and Management Plan prepared by CDFW.
 - c. If needed, the off-channel pond may be drained. David Manthorne, CDFW Senior Environmental Scientist recommends draining of ponds if invasive bullfrogs are present to interrupt their life cycle (CDFW Compliance Guidance). According to research by Doubledee et al. (2007), "Bullfrogs, Disturbance Regimes, and the Persistence of California Red-Legged Frogs ", draining of ponds can be effective for bullfrog management if draining occurs at least every 2 years.

- d. If annual monitoring shows that bullfrogs are present, active measures will be taken in consultation with CDFW and will follow the methods described in Attachment C of the ISMND.
- vi. The project will not have a substantial adverse effect on any riparian habitat or other sensitive natural communities identified in local or regional plans, policies and regulations, or by CDFW or USFWS. One sensitive natural community, *Danthonia californica* (California oatgrass) may be present within the proposed pond and fill area footprints (Appendix D of the BOD Report). Mitigation measures BIO-13 to BIO-18 below will be employed to minimize the potential for significant impacts to the California oatgrass natural community. A vegetation assessment will be conducted in the spring months during the final design phase of the project to determine whether the project will impact the California oatgrass sensitive natural community. If it is determined that the California oatgrass sensitive natural community is present within the pond and fill area footprints, the Project's revegetation plan will be updated to mitigate the impact by increasing California oatgrass cover within the project footprint or in suitable areas adjacent to the project footprint (BIO-13). Planting of seedlings shall begin after December 1, or when sufficient rainfall has occurred to ensure the best chance of survival of the seedlings, but in no case after April 1 (BIO-14). Disturbed and compacted areas shall be re-vegetated with a diversity of native plant species that mimics native communities. Unless otherwise specified, the standard for success is 80 percent survival of plantings or 80 percent ground cover for broadcast planting of seed after a period of 3 years (BIO-15). To ensure that the spread or introduction of invasive exotic plants shall be avoided to the maximum extent possible, equipment shall be cleaned of all dirt, mud, and plant material prior to entering a work site. When possible, invasive exotic plants at the work site shall be removed. Areas disturbed by project activities will be restored and planted with native plants (BIO-16). Mulching and seeding shall be done on all exposed soil which may deliver sediment to a stream. Soils exposed by project operations shall be mulched to prevent sediment runoff and transport. Mulches shall be applied so that not less than 90% of the disturbed areas are covered. All mulches, except hydro-mulch, shall be applied in a layer not less than two (2) inches deep. Where feasible, all mulches shall be kneaded or tracked-in with track marks parallel to the contour, and tackified as necessary to prevent excessive movement. All exposed soils and fills, including the downstream face of the road prism adjacent to the outlet of culverts, shall be reseeded with a mix

of native grasses common to the area, free from seeds of noxious or invasive weed species, and applied at a rate which will ensure establishment (BIO-17).

- vii. The project will not have a substantial adverse effect on federally protected wetlands as defined by § 404 of the Clean Water Act because there are no USACE jurisdictional wetlands within the project area. Stillwater Sciences conducted a wetland assessment on February 22, 2022 and did not identify any wetlands within the project footprint as described in Section 5 of the Biological Resources Technical Report for the project including as Appendix D of the BOD report (Attachment A of this MND). No wetlands have been identified within the Project footprint and therefore the project actions will have no effect on wetlands.
- a. The Project does not propose any instream construction in anadromous habitat so it will not affect migration of fish between habitat units. Once completed, the project will result in a substantial improvement in the ability of juvenile fish to migrate between habitat units during the dry season. It is expected that the flow augmentation will help maintain connectivity between habitat units that is currently lacking during dry years. Therefore, impacts to fish are less than significant.
 - b. The project will not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. Such an impact will not occur because project actions are designed to restore and enhance biological resources. The Humboldt County Streamside Management Area Ordinance requires a Special Permit for all activities within Streamside Management Areas. This project does propose some minor disturbance within intermittent stream channels and banks to upgrade road/stream crossings and install the point of diversion with associated plumbing infrastructure needed for the project. This project has been submitted to the Humboldt County Planning Department with a Special Permit application to allow for these project activities within the Streamside Management Areas.

- c. The project will not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan. Such a conflict will not occur because the project restoration actions will not have a significant adverse impact on any species or habitat. Project actions are designed to restore the natural character of the fish and wildlife habitat at the project work sites. The project specifically supports the California Salmon, Steelhead Trout and Anadromous Fisheries Program Act (Fish and Game Code § 6900 et. seq.).
- b) **Cultural Resources and Tribal Cultural Resources:** Less than significant with implementation of the following mitigation measures:
- i. No resources were identified during site-specific surveys. However, ground disturbance will be required to implement the project at some work sites that could still have the potential to affect historical resources that weren't identified during the site-specific surveys. This potential impact will be minimized to a less than significant level through implementation of the protective measures presented below. If cultural materials for example: chipped or ground stone, historic debris, building foundations, or bone are discovered during ground-disturbance activities, work shall be stopped within 50-foot buffer of the discovery location, per the Cultural Resources Investigation Report. Work near the archaeological find(s) shall not resume until a professional archaeologist, who meets the Secretary of the Interior's Standards and Guidelines, has evaluated the materials and offered recommendation for further action.
 - ii. If human remains are discovered during project construction, work would be stopped at the discovery location, within 20 meters (66 feet), and any nearby area reasonably suspected to overlie adjacent to human remains (Public Resources Code, Section 7050.5). The Humboldt County coroner would be contacted to determine if the cause of death must be investigated. If the coroner determines that the remains are of Native American origin, it is necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the NAHC (Public Resources Code, Section 5097). The coroner would contact the NAHC. The descendants or most likely descendants of the deceased would be contacted, and work would not resume until they have made a recommendation to the landowner or the person responsible for the excavation work for means of treatment and disposition, with

appropriate dignity, of the human remains and any associated grave goods, as provided in Public Resources Code, Section 5097.98 (CR-1).

- iii. The project will not cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines § 15064.5. While ground disturbance will be required to implement the project at some work sites that have the potential to affect archaeological resources, this potential impact will be avoided through implementation of the protective measures described above and presented in Appendix C of the BOD Report for all work sites. As a result, mitigation measures will ensure that any potentially significant impacts are avoided or mitigated to below a level of significance.
- iv. The project is highly unlikely to disturb any human remains, including those interred outside of formal cemeteries. While ground disturbance will be required to implement the project at some work sites that have the potential to affect these resources, this potential impact will be avoided through implementation of the protective measures presented in Appendix C of the BOD Report for all work sites. An archeological monitor will be present during excavation in critical areas.
- v. Inadvertent Discovery of Human Remains - If human remains are discovered during project construction, work shall stop at the discovery location, within 20 meters (66 feet), and any nearby area reasonably suspected to overlie adjacent human remains (Public Resources Code, Section 7050.5). The county coroner shall be contacted to determine if the cause of death must be investigated. If the coroner determines the remains are of Native American origin, it is necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American heritage Commission (NAHC) (Public Resources Code, Section 5097). The coroner will contact the NAHC. The descendants or most likely descendants of the deceased will be contacted, and work shall not resume until they have made a recommendation to the landowner or the person responsible for the excavation work for means of treatment and disposition, with appropriate dignity, of the human remains and any associated grave goods, as provided in Public Resources Code, Section 5097.98 (CR-2).

- vi. Procedures for treatment of an inadvertent discovery of human remains:
 - a. Immediately following discovery of known or potential human remains all ground-disturbing activities at the point of discovery shall be halted.
 - b. No material remains shall be removed from the discovery site, a reasonable exclusion zone shall be cordoned off.
 - c. The property owner shall be notified and the Permittee Project Manager shall contact the county coroner.
 - d. The Permittee shall retain the services of a professional archaeologist to immediately examine the find and assist the process.
 - e. All ground-disturbing construction activities in the discovery site exclusion area shall be suspended.
 - f. The discovery site shall be secured to protect the remains from desecration or disturbance, with 24-hour surveillance, if prudent.
 - g. Discovery of Native American remains is a very sensitive issue, and all project personnel shall hold any information about such a discovery in confidence and divulge it only on a need-to-know basis, as determined by the CDFW.
 - h. The coroner has two working days to examine the remains after being notified. If the remains are Native American, the coroner has 24 hours to notify the NAHC in Sacramento (telephone 916/653-4082).
 - i. The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD) of the deceased Native American.
 - j. The MLD may, with the permission of the landowner, or their representative, inspect the site of the discovered Native American remains and may recommend to the landowner and Permittee means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The descendants shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site (Public Resource Code, Section 5097.98(a)). The recommendation may include the scientific removal and non-destructive or destructive analysis of human remains and items associated with Native American burials.
 - k. Whenever the NAHC is unable to identify a MLD, or the MLD identified fails to make a recommendation, or the landowner or his/her authorized representative rejects the recommendation of the MLD and mediation between the parties by the NAHC fails to provide measures acceptable to the landowner, the landowner or his/her authorized

representatives shall re-inter the human remains and associated grave offerings with appropriate dignity on the property in a location not subject to further subsurface disturbance in accordance with Public Resource Code, Section 5097.98(e).

1. Following final treatment measures, the Permittee shall ensure that a report is prepared that describes the circumstances, nature and location of the discovery, its treatment, including results of analysis (if permitted), and final disposition, including a confidential map showing the reburial location. Appended to the report shall be a formal record about the discovery site prepared to current California standards on DPR 523 form(s). Permittee shall ensure that report copies are distributed to the appropriate California Historic Information Center, NAHC, and MLD.

e) **Geology and Soils:** Less than significant with implementation of the following mitigation measures:

- i. For the no impact and less than significant impacts:
 - a. here are no earthquake faults on the project site. The nearest fault (Briceland Fault) is located over 8,000 ft to the northeast and is not considered active (CGS 2018). The project site is not located in an Earthquake Fault Zone (CGS 2018). The nearest active fault is the San Andreas fault, which is approximately 9 miles southwest of the project site. Therefore, there would be no impact.
 - b. The project would not result in strong seismic ground shaking or involve construction of features that would be at risk of structural failure due to strong seismic ground shaking. Therefore, there would be no impact.
 - c. Based on the geologic setting and results from the geophysical investigation (Appendix B of the BOD Report), the materials comprising the proposed pond site have low potential for liquefaction under sustained ground shaking. No human habitation structures are being proposed on these sites. Therefore, there would be a less than significant impact.
 - d. The proposed pond site is located within a ridgetop setting with gentle topography and therefore mass wasting is unlikely. In addition, the pond design contains multiple safety features as described in the BOD Report that would further limit the potential for failure. Therefore, there would be a less than significant impact.
- ii. For the less than significant impact with mitigation incorporated:

- a. The project will not result in substantial soil erosion or the loss of topsoil. Such an impact will not occur because the Project is designed based on Best Management Practices (BMPs). Existing roads will be used to access work sites wherever possible. The potential for substantial soil loss associated with pond construction will be avoided through implementation of the design features described in the BOD report and mitigation measures below.
- iii. Work sites shall be winterized at the end of each day during the work period when rainfall greater than 1/2 inch is forecasted to minimize the eroding of unfinished excavations. Winterization procedures shall be supervised by a professional trained in erosion control techniques and involve taking necessary measures to minimize erosion on unfinished work surfaces. Winterization includes the following: smoothing unfinished surfaces to allow water to freely drain across them without concentration or ponding; compacting unfinished surfaces where concentrated runoff may flow with an excavator bucket or similar tool, to minimize surface erosion and the formation of rills; and installation of culverts, silt fences, and other erosion control devices where necessary to convey concentrated water across unfinished surfaces, and trap exposed sediment before it leaves the work site (GEO-1).
- iv. Effective erosion control measures shall be in-place at all times during construction. Construction shall not begin until all temporary erosion controls (i.e., straw bales or silt fences that are effectively keyed-in) are in place down slope or down stream of project activities within the riparian area. Erosion control measures shall be maintained throughout the construction period. If continued erosion is likely to occur after construction is completed, then appropriate erosion prevention measures shall be implemented and maintained until erosion has subsided (GEO-2).
- v. An adequate supply of erosion control materials (gravel, straw bales, shovels, etc.) shall be maintained onsite to facilitate a quick response to unanticipated storm events or emergencies (GEO-3).
- vi. Upon project completion, all exposed soil present in and around the project site shall be stabilized within 7 days. Soils exposed by project operations shall be mulched to prevent sediment runoff and transport. Mulches shall be applied so that not less than 90% of the disturbed areas are covered. All mulches, except hydro-mulch, shall be applied in a layer not less than two (2) inches deep. Where feasible, all mulches shall be kneaded or tracked-in with track marks parallel to the contour, and tackified as necessary to prevent excessive movement. All exposed soils

and fills, including the downstream face of the road prism adjacent to the outlet of culverts, shall be reseeded with a mix of native grasses common to the area, free from seeds of noxious or invasive weed species, and applied at a rate which will ensure establishment (GEO-4).

- vii. To minimize the risk of the project interacting with or creating geologic instabilities, geomorphic mapping of the greater project area and a geophysical investigation of the site were conducted. Geomorphic mapping did not identify any landslides within the project vicinity. Additionally, best practices for construction will be maintained, including adherence to detailed compaction specifications as well as construction oversight by senior geology and engineering staff. Less than significant impact.
- viii. Expansive soils shrink and swell in response to soil moisture level and generally have a large clay component. The geomorphic investigation suggests that there are clay soils onsite that have low to medium plasticity and have a potential for expansion and contraction. This project proposes earthen fills and hydraulic appurtenances that will be designed to withstand soil expansion and contraction. In addition, the engineered fills will be required to meet compaction standards and a High-density Polyethylene (HDPE) liner is proposed to reduce risks associated with expansive soil. Therefore, the potential for substantial direct or indirect risks to life or property from this project being located on expansive soils is less than significant.
- ix. The project will not create any sources of wastewater requiring a septic system. No impact.
- x. There are no unique paleontological resources or sites or unique geologic features known to occur within the Project vicinity. However, if such features are discovered during construction, impacts will be reduced to a less than significant level by following mitigation measure below. Less than significant impact with mitigation measure GEO-5.
- xi. Inadvertent Discovery of Unique Paleontological Resources or Unique Geologic Features– If unique paleontological resources or unique geologic features are discovered during project construction, work shall stop at the discovery location, within 20 meters (66 feet), and any nearby area reasonably suspected to overlie the features. State laws relating to such discoveries will be followed to document findings and work will only proceed after authorization by all relevant jurisdictions (GEO-5).

- d) **Hazards and Hazardous Materials:** Less than significant with implementation of the following mitigation measures:
- i. Heavy equipment that will be used in these activities will be in good condition and will be inspected for leakage of coolant and petroleum products and repaired, if necessary, before work is started.
 - ii. When operating vehicles in wetted portions of the stream channel, or where wetland vegetation, riparian vegetation, or aquatic organisms may be destroyed, the applicant shall take appropriate precautions as outlined in the mitigation monitoring and reporting program.
 - iii. All equipment operators shall be trained in the procedures to be taken should an accident occur. Prior to the onset of work, the Permittee shall prepare a Spill Prevention/Response plan to help avoid spills and allow a prompt and effective response should an accidental spill occur. All workers shall be informed of the importance of preventing spills. Operators shall have spill clean-up supplies on site and be knowledgeable in their proper deployment.
 - iv. Absorbent materials designed to clean up leaks of hydraulic fluid and other contaminants will be stored in the cab of all heavy equipment operating in or near a stream to provide spill containment and cleanup in case of an accidental spill. In the event of a spill, work shall cease immediately. Clean-up of all spills shall begin immediately. The responsible party shall notify the State Office of Emergency Services at 1-800-852-7550 and the CDFW immediately after any spill occurs and shall consult with the CDFW regarding clean-up procedures.
 - v. All fueling and maintenance of vehicles and other equipment and staging areas shall occur at least 65 feet from any riparian habitat or water body and place fuel absorbent mats under pump while fueling. The USACE and the CDFW will ensure contamination of habitat does not occur during such operations. Prior to the onset of work, the Permittee shall prepare a plan to allow a prompt and effective response to any accidental spills. All workers will be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur.
 - vi. Location of staging/storage areas for equipment, materials, fuels, lubricants, and solvents, will be located outside of the streams high water channel and associated riparian area. The number of access routes, number and size of staging areas, and the total area of the work site's activity shall be limited to the minimum necessary to complete the restoration action. To avoid contamination of habitat during restoration activities, trash will be contained, removed, and disposed of throughout the project.

- vii. Petroleum products, fresh cement/concrete, and other deleterious materials shall not enter the stream channel.
 - viii. Stationary equipment such as motors, pumps, generators, compressors, and welders, located within the dry portion of the stream channel or adjacent to the stream, will be positioned over drip-pans.
- e) **Hydrology and Water Quality:** Less than significant with implementation of the following mitigation measures:
- i. Project operations will be adaptively managed based on flow, temperature and aquatic habitat monitoring results. These monitoring results will be presented to regulatory agency staff on an annual basis and/or as required by final permit conditions. In coordination with regulatory agency staff, the project team will adapt project operations as necessary to optimize aquatic habitat benefits resulting from the project while reducing impacts to a less than significant level. This may include changes to diversion timing/rates, changes to flow release timing/rates, and/or other changes to project operations.
- f) **Noise:** Less than significant with implementation of the following mitigation measures:
- i. To reduce the possibility of the construction noise and vibrations becoming an annoyance to sensitive receptors near the Project, exterior construction activity shall be confined to the weekday hours of 7:00 am to 7:00 pm or until sunset, whichever is later, and weekend hours of 8:00 am to 6:00 pm or until sunset, whichever is later. No heavy equipment construction activities shall be allowed on Sundays or holidays.
 - ii. Construction equipment shall be properly maintained and equipped with noise control devices, such as mufflers and shrouds, in accordance with manufacturers' specifications.

5. FINDING **CEQA Public Comments:** No public or agency comments were submitted in response to the circulation of the IS/MND.

EVIDENCE a) Project file.

FINDINGS FOR CONDITIONAL USE PERMIT

5. FINDING The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.

EVIDENCE a) The General Plan designation for the property is Timberland, which is an Resource and Open Space designation under the Humboldt County General Plan. Fish and Wildlife Habitat Management and Watershed Management uses are specifically identified as allowable uses in the Timberland designation in the Humboldt County General Plan (Table 4-G) Therefore, the project is in conformance with the General Plan designation and complimentary to the Open Space Plan and its Open Space Action Program.

b) The proposed project is consistent with the Conservation and Open Space Element because it is designed to enhance habitat for sensitive species through the enhancement of stream flows and mitigation measures as identified above are in place to protect sensitive habitat and sensitive species.

The county has consulted with the California Department of Fish and Wildlife. CDFW was consulted in preliminary preparation stages of the Initial Study/Mitigated Negative Declaration however no comments were submitted.

c) The Goals and policies of the Conservation and Open Space Cultural Resources have been complied with based on the referral to Northwest Information Center, Bear River Band, and Sinkyone tribe. No consultation was requested in response to AB52 referral outreach. The Bear River Band did request that a cultural monitor be on-site during ground disturbing components of the proposed project and this has been included as a condition of approval for the project.

d) The project is consistent with the Water Resources Element because it will improve water quality and water quantity and associated habitat values through its design to enhance stream flows during summer months. Restoration and enhancement of stream flows and aquatic habitat are specifically identified goals and policies of the Water Resources Element of the General Plan (WR-P29, WR-P39).

e) The project complies with the Safety Element of the General Plan. There are no earthquake faults on the project site and the pond has been designed by a licensed engineer. The pond has been designed with multiple safety features that will limit the potential for failure. In addition, the pond will provide a substantial source of water that will be available to assist in fire-fighting efforts if needed.

6. FINDING The proposed development is consistent with the purposes of the existing AE and TPZ zones in which the site is located.

EVIDENCE a) The Agricultural Exclusive Zone or AE Zone is intended to be applied to

areas of the County in which general agriculture is an allowable use for AE zones.

- b) Management for watershed restoration and fish and wildlife habitat is a principally permitted use in the TPZ zone and a conditionally permitted use in the AE zone.
- c) The location and height of all project elements meet the setback and building height requirements for the AE zone.

7. FINDING

The streamflow enhancement project and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE

- a) The streamflow enhancement project will result in improvements to the public health and welfare through its improvement in water quality and water quantity and improvement in fisheries habitat. All referral agencies have recommended approval or had no comment.

8. FINDING

The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

EVIDENCE

The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element and is not zoned for residential purposes.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopts the Mitigated Negative Declaration for the Salmonid Restoration Federation Conditional Use Permit; and
- Adopts the Mitigation Monitoring and Reporting Program for the Salmonid Restoration Federation Conditional Use Permit; and
- Adopt the findings set forth in this resolution; and
- Conditionally approves the Conditional Use Permit for the Salmonid Restoration Federation based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on **June 8, 2023**.

I, John Ford, Zoning Administrator of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Zoning Administrator at a meeting held on the date noted above.

John H. Ford, Zoning Administrator
Planning and Building Department