

MINUTE ITEM

This Calendar Item No. 1  
was approved as Minute Item  
No. 1 by the State Lands  
Commission by a vote of 3  
to 0 at its 7-17-79  
meeting.

MINUTE ITEM

7/79  
De La Cruz  
PRC 1956.9

1. ASSIGNMENT AND AMENDMENT OF PERMIT PRC 1956.9

During consideration of Calendar Item 1 attached, Mr. William F. Northrop, Executive Officer, indicated that Assemblyman Douglas Bosco and Senator Barry Keene wrote to the Commission expressing their support of this project. In addition, Assemblyman Willie Brown communicated his opposition.

Mr. David Hadly, Staff Counsel, summarized the staff's recent negotiations which the Commission directed the staff to enter into at the June 27, 1979 meeting. He stated the staff sought to achieve a compromise between the surfers and the District; examined other possible rock removal sites other than the intertidal zone of Deadman's Reef; examined the legal implications of the Negative Declaration; consulted with Dr. R. J. Seymour of Scripps Institute, a wave dynamics expert, on the consequences of rock removal in the intertidal zone; and consulted with the San Francisco Army Corps of Engineers. Nevertheless a compromise was not reached.

Mr. Hadly stated the surfers had proposed alternate rock removal sites in the Shelter Cove area. In addition to the economics and road limitations of the other sites, the Coastal Commission stated that additional environmental assessment would have to be made on those sites as they were not considered in the initial environmental document. As to the legal implications of the Negative Declaration, it would not appear appropriate for the Commission to challenge the Negative Declaration because the Commission made no objection during the formal review period, and there is no new information of the type that was not known or would not have been known at that time. He emphasized, though, that the Commission was not bound by the Negative Declaration, and that they should examine all information on the record before making a decision.

With regard to Dr. Seymour's findings, Mr. Hadly reported that Dr. Seymour had concluded that limited rock removal would not harm surfing. He recommended that the District take all suitable and accessible rocks from above the intertidal zone which they have authorization to do pursuant to their 1978 Coastal permit. Once these rocks are taken, the District would be limited 1) the northerly one-half of the rocks closest to the breakwater; 2) to removing a maximum of 570 rocks; 3) to rocks that are 24" maximum in size; and 4) they would be prohibited from mining rocks. The staff incorporated these recommendations in the attached calendar item.

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Mr. Hadly also reported that the San Francisco Army Corps of Engineers had indicated their support of the project.

Appearances in Opposition:

Mark Hoffert, member of the Western Surfing Association.

Thomas Pratte, representing the Northern California Branch of the Western Surfing Association.

Tony Gerschter, representing the Western Surfing Association.

Messrs. Hoffert and Pratte reiterated their previous testimony at the June 5 and June 27, 1979 meetings. In summary, they indicated their support of an improved breakwater, but strongly opposed the removal of the rock from the intertidal zone of Deadman's Reef due to its detrimental affect on recreational surfing in the area. They urged that a comprehensive study be conducted which investigated alternate rock sites. If the Commission felt a study was not warranted, they requested the permit include provisions to mitigate any harmful effects upon surfing by removal of the rocks. In addition, they re-entered into the record the resolution from the Dead Man's Defense Committee and Western Surfing Association dated June 26, 1979, on file in the Office of the State Lands Commission. During Mr. Gerschter's testimony, he concurred with Messrs. Pratte and Hoffert.

Appearances in Support of the Staff's Recommendation:

Zeke Grader General Manager, Pacific Coast Federation of Fisherman's Association. Mr. Grader restated his Association's support for an improved breakwater at Shelter Cove. However, he stressed their concern that control must be placed on the engine block moorings placed there.

Jeremiah Scott, Counsel, and Jack Alderson, Chief Executive Officer, both representing the Humboldt Bay Harbor Recreation and Conservation District. These gentlemen voiced their support of the staff's recommendation.

At the conclusion of the discussion, Recommendation No. 8a was amended as follows:

- 8a. THAT PRIOR TO USING INTERTIDAL ROCK THE DISTRICT SHALL UTILIZE ALL SUITABLE ROCKS LOCATED LANDWARD OF THE INTERTIDAL ZONE, FOR WHICH THE HARBOR DISTRICT HAS REMOVAL AUTHORITY PURSUANT TO THEIR 1973 NORTH COASTAL REGIONAL COASTAL PERMIT. THIS CONDITION DOES NOT CONTEMPLATE MINING.

With the exception of the above-amended Recommendation 8a, the resolution was approved by a vote of 3-0 as presented in Calendar Item 1.

Attachment: Calendar Item 1.

CALENDAR ITEM

1.

5/79  
W 21813  
PIC 1956.9  
De La Cruz

ASSIGNMENT AND AMENDMENT OF  
PERMIT PRC 1956.9

ASSIGNOR: Mario J. Machi  
Shelter Cove  
Whitehorn, California 95489

ASSIGNEE: Humboldt Bay, Harbor, Recreation and  
Conservation District  
P. O. Box 134  
Eureka, California 95501

ORIGINAL PERMIT

AREA, TYPE LAND AND LOCATION:  
A 0.10 acre parcel of tide and submerged  
land in the Pacific Ocean at Shelter Cove,  
Humboldt County.

LAND USE: Construction and maintenance of a rock  
mound breakwater.

TERMS: Unspecified term beginning July 15, 1957.

CONSIDERATION:  
None.

AMENDED PERMIT

AREA, TYPE LAND AND LOCATION:  
A 290 acre parcel of tide and submerged  
land in the Pacific Ocean at Shelter Cove,  
Humboldt County.

LAND USE: Construction and maintenance of a small  
craft launching facility; maintenance of  
an existing mooring area; improvement and  
maintenance of an existing rock mound break-  
water; removal of rock from the intertidal  
zone in front of Dead Man's Gulch for the  
purpose of improving the existing breakwater.

TERMS: Initial period: 25 years from June 1,  
1979.

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Consideration: Public use and benefit, with the State reserving the right to set a monetary rental if the Commission finds that such action is in the State's best interest.

PREREQUISITE TERMS, FEES AND EXPENSES:

Applicant is permittee of upland.

Processing costs have been received.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 & 2.

B. Cal. Adm. Code: Title 2, Div. 3.

BACKGROUND:

Mr. Machi has had a protective structure permit with the State Lands Commission since 1957, however, initial construction of the breakwater did not start until 1974. Mr. Machi, at that time, had received all approvals from State, federal and local agencies. The breakwater project, as authorized in 1974, has not been completed.

The 1974 Coastal Permit NCR-74-C-174 approved by the Regional Coastal Commission was for the construction of the breakwater using rock from the reef of Dead Man's Gulch from an elevation of low water or above. The Regional Commission's decision was appealed by project opponents who were concerned about the effect of the project on surfing and access, the State Coastal Commission upheld the Regional Commission's decision and granted the permit for the breakwater and rock borrow area. Since the development project allowed in Permit NCR-74-C-137 has not been completed, the 1974 Coastal permit is still valid and can be assigned.

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The breakwater, which was the subject of Permit A-202-74, is part of the Harbor District's major improvements of the recreational facilities at Shelter Cove. Shelter Cove provides the only launching facilities for small boats in the Pacific Ocean between the Eel River and Noyo Harbor. The District's proposed improvements also include reconstruction and paving of an access road to the beach area, a boat-launching ramp, construction of a turnabout area at the boat ramp and support facilities on the adjacent uplands.

The only existing land access is across Mr. Machi's upland property. As part of this project, Mr. Machi has agreed to dedicate a 50' wide roadway easement across his property to the Harbor District for public access to the beach for recreational purposes.

Mr. Machi has stated to the Harbor District that if the improvements to the breakwater cannot be completed, he will not dedicate the necessary easement for public access to the beach.

The Harbor District's project received approval from the North Regional Coastal Commission in December of 1978 (78-C-306), with the condition that the Harbor District obtain rock to improve the breakwater from the area above the mean higher high water line and from the beach at Dead Man's Gulch.

The Regional Commission's decision was appealed to the State Coastal Commission by a local surfing group, Western Surfers Association and the Sierra Club. The appeal was based on the supposed detrimental effects that the rock removal portion of the project would have on surfing, and the alleged growth inducing impacts which may occur as a result of the increase use of the improved launching facilities at Shelter Cove. The State Coastal Commission found

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no substantial issue and upheld the Regional Commission decision. The State Coastal Commission also found and upheld that Mr. Machi's 1974 permit was still valid and could be assigned to the District.

**CURRENT SITUATION:**

Since the Harbor District has a valid permit from the Coastal Commission for the improvements at Shelter Cove, the Harbor District has requested that Mr. Machi's State Lands Commission Permit for the maintenance of the breakwater be assigned to the District. Also, the Harbor District has obtained an assignment on Mr. Machi's 1974 Coastal Permit (NCR-74-C-137) in order to obtain a sufficient amount of rock from the intertidal area at Dead Man's Gulch. The rock will be used to improve the breakwater and provide for safer launching and retrieval of small boats in Shelter Cove.

The appellants to the 1978 Coastal permit, the surfing group and Western Surfing Association, have filed suit naming the California Coastal Commission as Respondent and the Harbor District Respondent and Real Party in interest. The Petitioners contend that the Coastal Commission approval of the Harbor District's Shelter Cove project is contrary to the policies of the 1976 Coastal Act. Petitioners have requested to State Lands Commission that this matter be postponed until the court has rendered it's decision.

**OTHER PERTINENT INFORMATION:**

1. The annual rental of the site is estimated to be \$13,900. The Harbor District's application to the State Lands Commission includes the construction of a paved launching ramp; improvements to the breakwater; removal of rock from the intertidal area in front of Dead Man's Gulch and a lease of the tide and submerged

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lands in Shelter Cove. The above would enable the Harbor District to work-up a mooring and anchoring plan which will include protection for environmentally sensitive areas within the Shelter Cove.

2. Shelter Cove has historically been used as a mooring and anchorage area by commercial and small recreational boats. The present system of mooring buoys and anchoring of boats in Shelter Cove is being conducted with no controls. This includes the placing of engine blocks, etc. as means of anchoring the mooring buoys. The incorporation of the tide and submerged lands into the amended permit will allow the Harbor District to control and perpetuate the existing uses at Shelter Cove.
3. The Harbor District does not contemplate any expanded uses at Shelter Cove. However, as a condition to the issuance of this permit, the Harbor District shall prepare and deliver to the Commission's staff, within 1 year of the approval date of this permit, a mooring plan for Shelter Cove for review and approval.
4. The United States Coast Guard and the United States Army Corps of Engineers have expressed their concerns over the indiscriminate manner in which the mooring buoys have been placed. They have suggested to the Harbor District that once the mooring buoys come under the supervision of the Harbor District, Shelter Cove can be designated, at the request of the Harbor District, as a "Special Anchorage Area".
5. Original permit is being amended to reflect:
  - A. New permittee:

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- B. Additional land uses.
  - C. Revised description.
  - D. Conversion of a protective structure permit to a public agency permit.
  - E. Generally to bring the permit format into current leasing policy.
6. A negative declaration was prepared by the Humboldt Bay, Harbor, Recreation and Conservation District, pursuant to CEQA and implementing regulations.

A notice of determination has been received.

7. This project is situated on State land identified as possessing significant environmental values pursuant to P.R.C. 6370.1, and is classified in a use category, Glass A, which authorizes Restricted Use.

Staff has coordinated this project with those agencies and organizations who nominated the site as containing significant environmental values. They have found this project to be compatible with their nomination.

8. This project is consistent with Article 6.5 because it will protect and upgrade the commercial fishing and recreational boating industry; and provide coastal access.
9. Mr. R. J. Seymour, an associate with Scripps Institute of Oceanography and an expert in wave dynamics has reviewed aerial photos of Deadman's Reef and made a personal inspection of the site on June 14, 1979. Based on his review and observations, he had concluded that 25% of the rocks in the intertidal

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zone of Deadman's Reef (approximately 600 rocks according to North Coast Regional Coastal Commission estimates) can be removed without seriously changing the zone's underwater bathymetry and thus without seriously affecting wave breaking within that zone at high tide. Dr. Seymour has further concluded that the removal of larger rocks will in fact "definitely enhance" the surfability of the site by leaving a carpet of smaller rock of nearly uniform size to maintain the delta with minimum interference with surf board passage. Dr. Seymour further notes that rock removal from the intertidal zone should be done preferentially with rock coming first from above high water and then from the northerly one-half of the intertidal zone, with removal from the southerly portion of the intertidal zone occurring only from those areas designated by representatives of the surfers.

APPROVALS OBTAINED:

North Coast Regional Commission.

FURTHER APPROVALS REQUIRED:

United States Army Corps of Engineers.

EXHIBITS:

- A. Land Description.
- B. Location Map.
- C. Negative Declaration.
- D. Notice of Determination.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED FOR THIS PROJECT, BUT THAT A NEGATIVE DECLARATION HAS BEEN PREPARED BY THE HUMBOLDT BAY, HARBOR, RECREATION AND CONSERVATION DISTRICT, ON MAY 10, 1977.
2. CERTIFY THAT THE COMMISSIONER HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED IN THE NEGATIVE DECLARATION.
3. DETERMINE THAT THE PROJECT, AS CONDITIONED BY THE PERMIT HEREIN, WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.

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4. DETERMINE THAT THE PROJECT IS CONSISTENT WITH THE PROVISIONS OF ARTICLE 6.5 OF TITLE 2 OF THE CAL. ADM. CODE.
5. FIND THAT APPROVAL OF THE ASSIGNMENT AND AMENDMENT OF PRC 1956.9 WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1, OF THE P.R.C.
6. APPROVE THE ASSIGNMENT OF PRC 1956.9 FROM MARIO J. MACHI TO THE HUMBOLDT BAY, HARBOR, RECREATION AND CONSERVATION DISTRICT EFFECTIVE JUNE 1, 1979, SUBJECT TO THE CONDITIONS SET FORTH IN PARAGRAPH 8 BELOW.
7. APPROVE THE AMENDMENT OF PRC 1956.9 TO CONVERT A PROTECTIVE STRUCTURE PERMIT TO A 25-YEAR GENERAL PERMIT - PUBLIC AGENCY USE TO THE HUMBOLDT BAY., HARBOR, RECREATION AND CONSERVATION DISTRICT FROM JUNE 1, 1979; IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT; WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENTAL IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST; FOR (a) THE CONSTRUCTION AND MAINTENANCE OF A SMALL CRAFT LAUNCHING FACILITIES; (b) MAINTENANCE OF AN EXISTING MOORING AREA; (c) IMPROVEMENT AND MAINTENANCE OF A ROCK MOUND BREAKWATER; (d) REMOVAL OF ROCK FROM THE INTERTIDAL ZONE IN FRONT OF DEAD MAN'S GULCH, THE ABOVE LISTED ACTIVITIES TO BE PERFORMED ON LANDS DESCRIBED IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, SUBJECT TO THE CONDITIONS SET FORTH IN PARAGRAPH 8 BELOW.
8. IMPOSE THE FOLLOWING CONDITIONS ON THE HARBOR DISTRICT'S REMOVAL OF ROCK FROM THE INTERTIDAL ZONE ADJACENT TO DEADMAN'S GULCH.
  - a. THAT PRIOR TO USING INTERTIDAL ROCK THE DISTRICT SHOULD UTILIZE ALL READILY ASSESSIBLE AND SUITABLE ROCKS LOCATED LANDWARD OF THE INTERTIDAL ZONE, FOR WHICH THE HARBOR DISTRICT HAS REMOVAL AUTHORITY PURSUANT TO THEIR 1978 NORTH COAST REGIONAL COASTAL PERMIT.
  - b. THAT ROCK REMOVAL FROM THE INTERTIDAL ZONE OF DEADMAN'S REEF BE LIMITED TO THE NORTHERLY ONE-HALF OF SUCH ZONE, THAT SIDE CLOSEST TO THE BREAKWATER.
  - c. THAT ROCK REMOVAL BE LIMITED TO NO MORE THAN 570 OF THE LARGER ROCKS (24-INCH MAXIMUM) LOCATED WITHIN SUCH NORTHERLY AREA.

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- d. THAT ROCK REMOVAL BE LIMITED TO UPPER LAYER OF  
THE INTERTIDAL ROCK DELTA AND THAT A MINING OPERATION  
NOT BE CONDUCTED.

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EXHIBIT "A"

LAND DESCRIPTION

W 21813

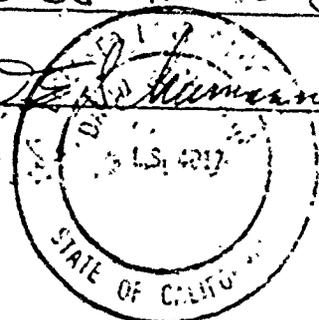
A parcel of tide and submerged land lying in the Pacific Ocean, situated in T5S, R1E, HM, Humboldt County, State of California, more particularly described as follows:

COMMENCING at the section corner common to Sections 9, 10, 15 and 16; thence S 20° 04' 26" W 4,312 feet to the ordinary high water mark at the southern tip of Point Delgado, said point being the POINT OF BEGINNING of this parcel; thence from said point of beginning south 890 feet to the intersection with the protracted section line common to Sections 16 and 21, thence along said protracted section line east to the ordinary high water mark of the Pacific Ocean; thence northwesterly along said ordinary high water mark to the point of beginning.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Pacific Ocean.

END OF DESCRIPTION

Prepared Cris A. Percy Checked J. E. Smith  
Reviewed [Signature] Date 4/10/79



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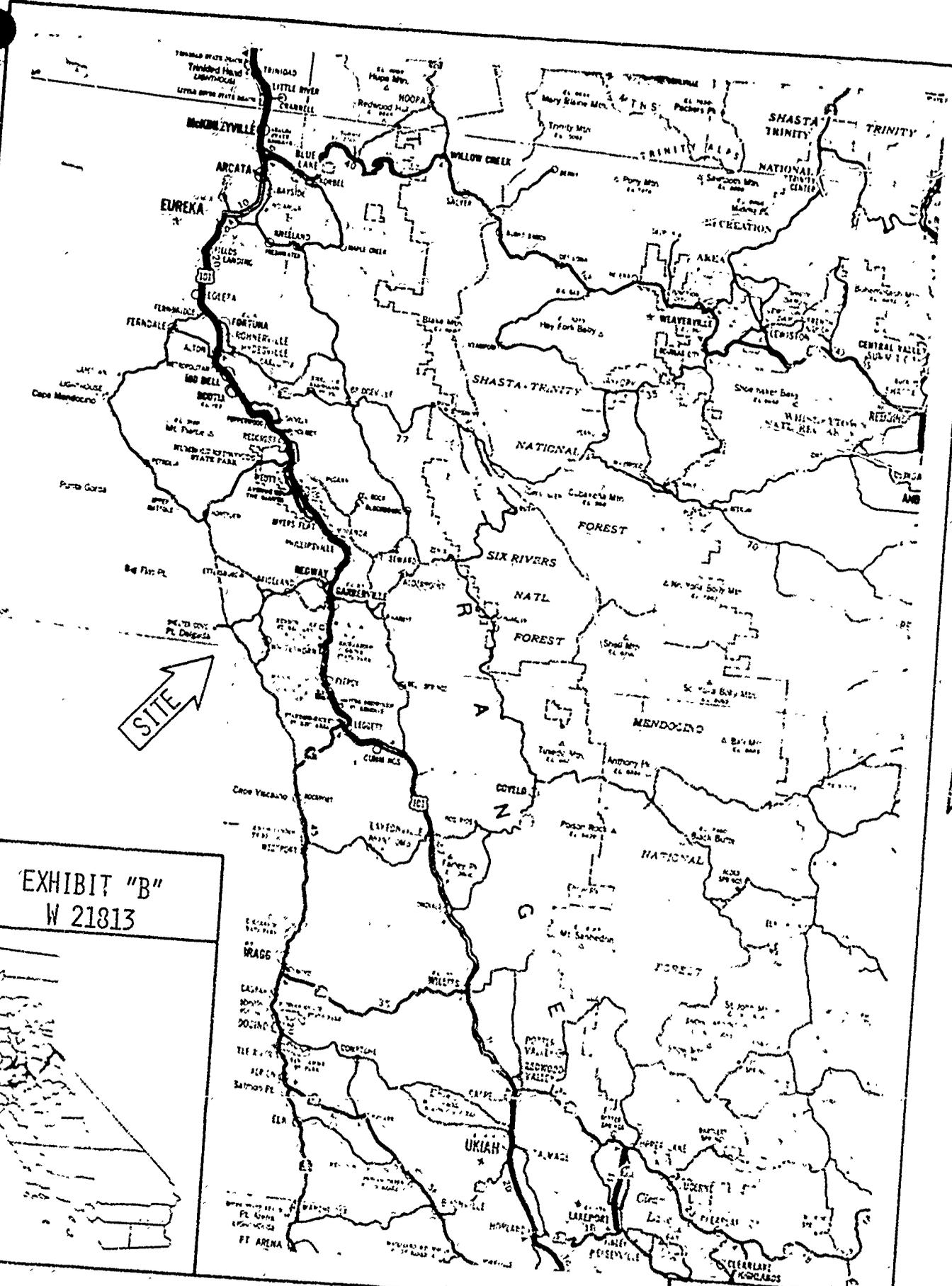


EXHIBIT "B"  
W 21813



(Superseded 7/21/79)

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HUMBOLDT BAY HARBOR,  
RECREATION AND CONSERVATION DISTRICT

EXHIBIT "C"

5.4

NEGATIVE DECLARATION

Project: To improve small craft launching facilities at Shelter Cove, California.

Applicant: Humboldt Bay Harbor, Recreation and Conservation District  
Post Office Box 134  
Eureka, California 95501

Property Owner: Humboldt Bay Harbor, Recreation and Conservation District  
Bureau of Land Management

Location: On the Pacific Coast approximately twenty-three (23) miles west of Highway 101 at Garberville.

Project Description: To acquire a public right of way across private property creating free public access to ocean boat launching facilities, to widen the existing launch ramp access removing material and moving the bluff face back up to five feet above the ramp access creating better drainage and stabilizing the area, paving the launch ramp access and turn around area, stabilizing the bluff face below the launch ramp access to eliminate erosion, to improve the wave energy dissipator utilizing local rock from the intertidal area in front of Dead Mans Gulch, and to provide free public day use parking for 24 automobile/trailer combinations, 12 single spaces, public restrooms and picnic facilities.

Project Purpose: To increase public safety while launching small craft at Shelter Cove, to ease free public access to the Shelter Cove beach area and to install needed sanitary facilities.

General Site Description: Shelter Cove lies under the south face of Point Delgada and affords fair shelter in northwest weather but is exposed and dangerous with south and west storms. An occasional swell runs in the cove. Point Delgada is backed by steep mountains covered with brush and trees. Although Shelter Cove is state tidelands, there is no control of mooring, anchoring or discharges.

A hard packed sandy beach stretches south to Dead Mans Gulch approximately .4 of a mile with a rocky beach continuing .25 miles to the northerly Point No Pass. There is very little area at high tide where public use facilities could be developed.

A paved, two lane county road connects Shelter Cove to Highway 101 at Garberville.

Boat launching facilities at this time are primitive. A dirt ramp connects the paved county road to the bluff and then down to the beach. This is across private property and a charge for the crossing is made. The ramp from the top of the bluff to the beach is steep, unpaved and is carved from sandstone. Traction, even in dry weather, is difficult for many vehicles.

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The Federal Government estimated in 1974 that there were approximately 11,000 boat launchings per year utilizing these primitive facilities. The owner of the private property documented 6,000 launchings during the summer of 1976. In the immediate vicinity of the bluff top are a seasonal restaurant, an r.v. park, and an eight unit motel and 1.9 acres belonging to RLM for beach access and recreational purposes.

The Pacific Ocean in the immediate area of Shelter Cove is very productive with bottom fish and salmon creating a demand for access and launching.

Shelter Cove is the only refuge between Fort Bragg 44 miles to the south and Humboldt Bay 60 miles to the north and there are no other known ocean launching ramps in this stretch.

#### Basis for a Negative Declaration

1. The proposed project will lead to a change of the ambient noise level only during construction.
2. The project will have no known effect to the area respective to historic, cultural or natural effects, for the project is designed to improve existing facilities and usage. The only new feature will be the public restroom.
3. There will be no significant visual effect, the aesthetics of the area will be enhanced by the improvement of existing facilities.
4. The work will enhance a recreational area.
5. The activity will not alter the pattern or behavior of non-human species except during the short term of construction. The rock to be used from the Dead Mans Gulch area does not act as substrata for either algae or animal life.
6. There are no known important breeding, nesting or feeding areas in the vicinity of the proposed project that would be interfered with. The sterile rock from the Dead Mans Creek area will be moved to the wave energy dissipator as other rock has been before creating a productive habitat.
7. The project will not lead to a significant change in air or water quality.
8. The project will not disturb the ecological balance of the area, as the area is already impacted.
9. The project will have no effect on any public water supply source, treatment facility or distribution system.
10. The project will not be detrimental to the quality of human environment, the opposite, it should increase the safe usage of the launching facilities.

REVIEW: This Negative Declaration was reviewed by the Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District at its regular meeting of \_\_\_\_\_ and found to be:

Adequate X

Inadequate \_\_\_\_\_

Robert E. Davenport  
ROBERT E. DAVENPORT, President  
Board of Commissioners

Date: 11/11/11

HARBOR, RECREATION, AND CONSERVATION DISTRICT  
(707) 443-0801  
P. O. Box 134  
Eureka, California 95501



2nd Division  
W. J. Statute  
3rd Division  
J. A. Galt  
4th Division  
H. N. Christensen  
5th Division  
R. L. Ruker  
Secretary

NOTICE OF DETERMINATION

TO:  Secretary for Resources  
1416 Ninth Street, Rm. 1311  
Sacramento, CA 95814  
 County Clerk  
County of Humboldt  
825 Fifth Street  
Eureka, CA 95814

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Project Title  
Shelter Cove Improvement of Small Craft Launching Facilities

State Clearinghouse Number (If submitted to State Clearinghouse)  
SCH Number 77062142

Contact Person Mr. Jack Alderson Telephone Number 443-0801 (707)

Project Location  
Shelter Cove, California

Project Description  
To improve boat launching facilities by providing public access to beach, providing a paved access to the beach launch area, providing public restrooms and parking.

This is to advise that the Humboldt Bay Harbor, Recreation and Conservation District has made the following determinations regarding the above described project:

1. The project has been  approved  disapproved by the Humboldt Bay Harbor, Recreation & Conservation District.
2. The project  will  will not have a significant effect on the environment.
3.  An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.  
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA. A copy of the Negative Declaration is attached.

Date Received for Filing \_\_\_\_\_

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*John H. ...*  
President, Board of Commissioners