

**CALENDAR ITEM**

**C13**

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09/20/13

S 2

W 26651  
R. Boggiano

**GENERAL LEASE – PUBLIC AGENCY USE**

**APPLICANT:**

City of Rio Dell

**AREA, LAND TYPE, AND LOCATION:**

Sovereign lands in the Eel River, adjacent to Assessor's Parcel Numbers (APN) 052-061-053 and 205-111-039, in the city of Rio Dell, Humboldt County.

**PROPOSED USE:**

Installation, use, maintenance, and operation of a 14-inch diameter high density polyethylene (HDPE) effluent pipeline installed using horizontal directional drilling (HDD) beneath the bed of the Eel River.

**LEASE TERM:**

25 years, beginning August 23, 2013.

**CONSIDERATION:**

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

**SPECIFIC LEASE PROVISIONS:**

The lease contains special provisions related to pre-construction and post-construction project engineering review and verification; and provisions related to emergency response and frac-out contingency plans.

**OTHER PERTINENT INFORMATION:**

1. The upland parcel located on the south side of the Eel River (River), APN 052-061-053, is owned by the California Department of Transportation (Caltrans). Caltrans has granted the Applicant an encroachment permit for the use of their land. The upland parcel located on the north side of the Eel River, APN 205-111-039, is owned by the City of Rio Dell. The proposed pipeline will cross into a small portion of a Caltrans Right-of-Way for a bridge crossing the Eel River, authorized by the Commission on

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March 1, 1966 pursuant to Section 101.5 of the Streets and Highways Code.

2. The Applicant is proposing to construct a 14-inch diameter HDPE pipeline to convey treated effluent from a wastewater treatment facility in Rio Dell to a reuse site approximately 1.5 miles northwest of the facility where it will be used for flood irrigation of hay fields. The project is part of the city of Rio Dell Wastewater Treatment Plant Upgrade and Disposal Project which is currently under construction. The project is a result of the California Regional Water Quality Control Board's North Coast Region Cease and Desist Order No. R1-2003-0046 which prohibits the discharge of treated wastewater into the Eel River between May 15 and September 30. The project will provide a significant benefit to water quality in the Eel River during summer months.

The project installation on the lease premises will be from south to north using HDD technology at a depth of approximately 60 feet below the river bed. The total length of the pipeline will be approximately 2,050 feet (0.30 miles) in length with the river crossing being approximately 870 feet in length.

3. The project includes implementation of Best Management Practices to minimize potential environmental impacts during construction activities within the lease premises. Pursuant to the Mitigation Monitoring Program (Exhibit C), the contractor has prepared a frac-out contingency plan including specific procedures that will be implemented in the event of an inadvertent spill or frac-out into the waterway during construction, and requiring on-site monitoring of the River during all boring activities.
4. The Applicant has received written confirmation from the County of Humboldt, U.S. Army Corps of Engineers, California Department of Fish and Wildlife, and the North Coast Regional Water Quality Control Board that no permits are required for the project.
5. A Supplemental Environmental Impact Report (EIR), State Clearinghouse No. 2007062006, was prepared for this project by the City of Rio Dell and certified on August 07, 2013. Commission staff has reviewed such document and Mitigation Monitoring Program prepared in conformance with the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency.
6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et

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seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program
- D. Statement of Findings

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that a Supplemental EIR, State Clearinghouse No. 2007062006, was prepared for this Project by the City of Rio Dell and certified on August 07, 2013, and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

Adopt the Findings, made in conformance with California Code of Regulations, Title 14, sections 15091 and 15096, subdivision (h), as contained in Exhibit D, attached hereto.

Determine that the project, as approved, will not have a significant effect on the environment.

**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Pubic Agency Use to the City of Rio Dell, beginning August 23, 2013, for a term of 25 years, for the installation, use, maintenance, and operation of a 14-inch diameter high density polyethylene (HDPE) effluent pipeline in the bed of the Eel River as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration to be the public use and benefit, with the State reserving the right at any time

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to set a monetary rent if the Commission finds such action to be in the State's best interest, as provided in the lease.

## EXHIBIT A

W 26651

### LAND DESCRIPTION

A 20 foot wide strip of State owned submerged land lying in the bed of the Eel River, adjacent to Lots 2 and 6 of fractional Section 36, Township 2 North, Range 1 West, HBM, as shown on official government township plat approved April 20, 1857, County of Humboldt, State of California, the centerline of which is described as follows:

BEGINNING at a point having CCS83, Zone 1, (2010.00) coordinates of North (Y) = 2,075,576.97 feet and East (X) = 5,972,388.97 feet, said point lying distant N 68°43'09" W 3483.09 feet from NGS Monument 101 HUM 53.32 (PID DH6338) having CCS83, Zone 1, (2010.00) coordinates of North (Y) = 2,074,312.82 feet and East (X) = 5,975,634.56 feet; thence N 68°07'57" W 590.48 feet to the beginning of a curve to the right having a radius of 1400.00 feet; thence along said curve through a central angle of 27°53'36" an arc distance of 681.57 feet; thence N 40°11'12" W 723.81 feet to the terminus of said strip.

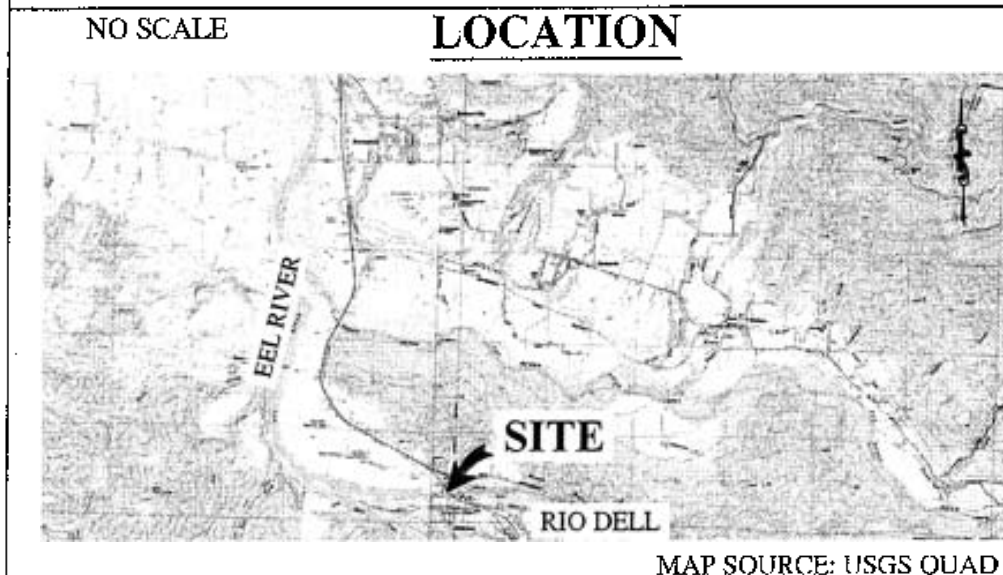
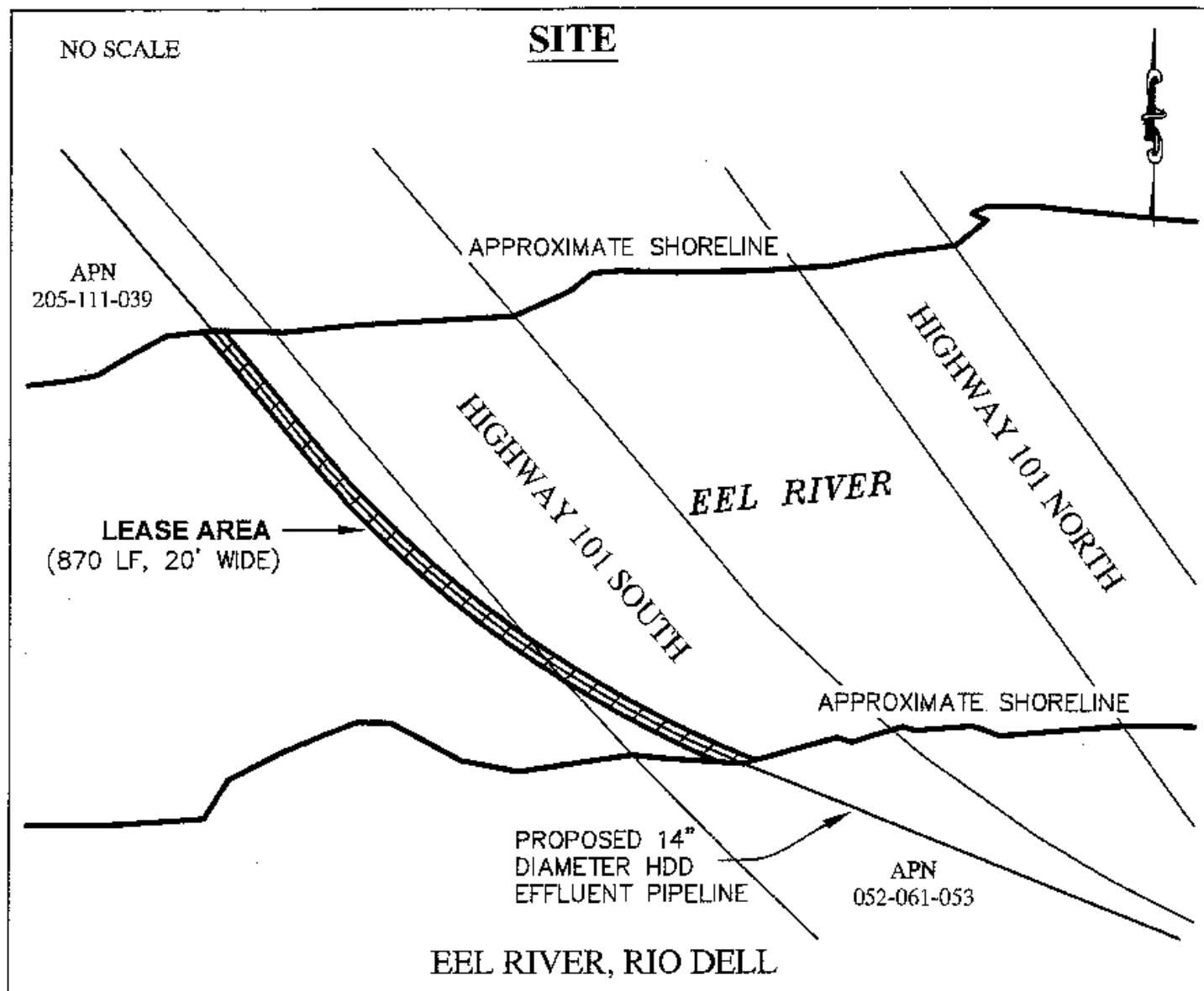
EXCEPTING THEREFROM any portion lying landward of the Low Water Mark of the left and right banks of the Eel River.

The BASIS OF BEARINGS for this description is CCS83, Zone 1 (2010.00). All distances are grid distances.

### END OF DESCRIPTION

Prepared 03/20/13 by the California State Lands Commission Boundary Unit.





MAP SOURCE: USGS QUAD

**Exhibit B**  
W26651  
CITY OF RIO DELL  
APN 205-111-039 & 052-061-053  
GENERAL LEASE -  
RIGHT - OF - WAY USE  
HUMBOLDT COUNTY



DJF 07/01/13

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit C: Mitigation Monitoring Program

Potential Impact	Mitigation Measure	Location	Monitoring / Reporting Action	Agency Responsible	Timing
<b>Biological Resources</b>					
<b>BIO-6-6.</b> Temporary direct impact to special status species, riparian habitat, and/or federally protected waters of the United States as a result of inadvertent release of drilling fluids in or near the Eel River during Horizontal Directional Drilling (HDD).	<b>MM BIO-6-6</b> <b>BIO-6-6a:</b> Surface monitoring of the HDD alignment shall be conducted during HDD activities, and the HDD bore shall be advanced with particular caution, especially in the final 300 feet of the HDD alignment. <b>BIO-6-6b:</b> A frac-out contingency plan shall be developed by the contractor and submitted to the city of Rio Dell for review and approval prior to commencement of the HDD process. In addition to incorporating all recommendations of hydraulic fracture analysis report (Appendix C of the geotechnical report, included in the Rio Dell Wastewater Reuse Project Draft Supplemental EIR), the plan shall include construction personnel training measures, agency notification procedures, monitoring methods, spill prevention procedures/equipment, and spill containment procedures/equipment, spill clean-up/disposal procedures/equipment. Preventative measures shall include implementation of geotechnical investigation recommendations regarding HDD depth and drilling mud mixture. The frac-out contingency plan shall also disclose the proposed locations of any relief pit(s) and how they will be monitored.	Eel River	Compliance Monitoring	Construction Manager, Project Sponsor, and Project Contractor(s)	1- during, and 2-post construction
<b>Hydrology and Water Quality</b>					
<b>HY-10-2.</b> Temporary direct impact to Eel River water quality as a result of inadvertent release of	<b>MM HY-10-2</b> See <b>MM BIO 6-6a and MM BIO 6-6b</b>	Eel River	Compliance Monitoring	Construction Manager, Project Sponsor, and	1-prior to construction and 2-post construction

*Exhibit C: Mitigation Monitoring Program*

Potential Impact	Mitigation Measure	Location	Monitoring / Reporting Action	Agency Responsible	Timing
drilling fluids in or near the Eel River during HDD.				Project Contractor(s)	



# **EXHIBIT D – Rio Dell Wastewater Reuse Project Supplemental EIR**

## **STATEMENT OF FINDINGS**

### **1.0 INTRODUCTION**

The California State Lands Commission (CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these findings and to comply with CEQA as part of its discretionary approval to authorize issuance of a General Lease – Public Agency Use for the Rio Dell Wastewater Reuse Project (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines, § 15381.)<sup>1</sup> The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

The CSLC is a responsible agency under CEQA for the Project because the CSLC must approve a lease for the Project to go forward and because the city of Rio Dell (City) as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. The City analyzed the environmental impacts associated with the Project in a Supplemental Environmental Impact Report (EIR) (State Clearinghouse [SCH] No. 2007062006). On August 6, 2013, the City certified the Supplemental EIR, adopted the Project Summary of Environmental Impacts and Mitigation, and adopted Findings.

The City determined that the Project could have significant environmental effects on the following environmental resources:

- Biological Resources
- Hydrology and Water Quality

The components of the Project within the jurisdiction of the CSLC (Eel River) could have significant environmental effects on both of these environmental resource areas.

In certifying the Supplemental EIR and approving the Project, the City imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be substantially lessened with implementation of mitigation measures.

As a responsible agency, the CSLC complies with CEQA by considering the lead agency's Supplemental EIR and reaching its own conclusions on whether, how, and with what conditions to approve a project. In doing so, the CSLC may require changes in a project to lessen or avoid the effects, either direct or indirect, of that part of the

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<sup>1</sup> CEQA is codified in Public Resources Code section 21000 et seq. The State CEQA Guidelines are found in Title 14 of the California Code of Regulations section 15000 et seq.

project which the CSLC will be called on to carry out or approve. In order to ensure the identified mitigation measures and/or Project revisions are implemented, the CSLC adopts the Mitigation Monitoring Plan (MMP) as set forth in Exhibit C as part of its Project approval.

## 2.0 FINDINGS

The CSLC's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each public agency that approves a project for which a Supplemental EIR has been certified that identifies one or more significant impacts on the environment (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a)). Because the Supplemental EIR certified by the City for the Project identifies potentially significant impacts that fall within the scope of the CSLC's approval, the CSLC makes the Findings set forth below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Resource Defense Fund. v. Local Agency Formation Comm. of Santa Cruz County* (1987) 191 Cal.App.3d 886, 896-898.)

While the CSLC must consider the environmental impacts of the Project as set forth in the City's Supplemental EIR, the CSLC's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve (Pub. Resources Code, § 21002.1, subd. (d); State CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g)). Accordingly, because the CSLC's exercise of discretion involves only Eel River, the CSLC is responsible for considering only the environmental impacts related to lands or resources subject to the CSLC's jurisdiction.

The CSLC has reviewed and considered the information contained in the Project Supplemental EIR. All significant adverse impacts of the Project identified in the Supplemental EIR relating to the CSLC's approval of a General Lease – Public Agency Use authorizing Horizontal Directional Drilling (HDD) of a 14-inch-diameter pipeline under the Eel River for treated effluent in the City, near South Bound Highway 101, are included herein and organized according to the resource affected. These Findings, which reflect the independent judgment of the CSLC, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which a Supplemental EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. The possible findings on each significant effect are (see Pub. Resources Code § 21081, subd. (a) and State CEQA Guidelines § 15091, subd. (a)):

- (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment;
- (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency;
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained

workers, make infeasible the mitigation measures or alternatives identified in the EIR.

Whenever Finding (3) is made, the CSLC has determined that sufficient mitigation is not practicable to reduce the impact to a less than significant level, and even after implementation of all feasible mitigation measures, there will be or could be unavoidable significant adverse impact due to the Project. Significant impacts requiring Finding (3) were not identified in the Supplemental EIR; therefore, a Statement of Overriding Considerations was not adopted by the City.

These Findings are based on the information contained in the Supplemental EIR, as well as information provided to CSLC staff by the Project proponent, all of which is contained in the administrative record. The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the City's Supplemental EIR.

The CSLC is the custodian of the record of proceedings upon which its decision is based. The location of the CSLC's record of proceedings is in the Sacramento office of the CSLC, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825.

## I. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION

The following impacts were determined in the Supplemental EIR to be potentially significant absent mitigation: BIO-6-6, and HY-10-2. After application of mitigation, however, the impacts were determined to be less than significant.

### A. BIOLOGICAL RESOURCES

#### **CEQA FINDING NO. BIO-6-6**

Impact: **BIO-6-6. Inadvertent Release of Drilling Fluids Impacting Biological Resources.** The Project may have temporary direct impacts to special-status species, riparian habitat, and/or federally protected waters of the United States as a result of inadvertent release of drilling fluids in or near the Eel River during Horizontal Directional Drilling (HDD).

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the Supplemental EIR.

#### **FACTS SUPPORTING THE FINDING(S)**

The potential temporary direct impacts during HDD, from inadvertent release of drilling fluids in or near the Eel River, may impact special-status species, riparian habitat, and/or federally protected waters of the United States. Implementation of **Mitigation Measure BIO-6-6a and BIO-6-6b** will minimize these temporary direct impacts of inadvertent release of drilling fluids in or near the Eel River during HDD.

**Mitigation Measure BIO-6-6a:** Surface monitoring of the Horizontal Directional Drilling (HDD) alignment shall be conducted during HDD activities, and the HDD bore shall be advanced with particular caution, especially in the final 300 feet of the HDD alignment.

**Mitigation Measure BIO-6-6b:** A frac-out contingency plan shall be developed by the contractor and submitted to the City of Rio Dell for review and approval prior to commencement of the Horizontal Directional Drilling (HDD) process. In addition to incorporating all recommendations of hydraulic fracture analysis report (Appendix C of the geotechnical report, included in the Rio Dell Wastewater Reuse Project Draft Supplemental EIR), the plan shall include construction personnel training measures, agency notification procedures, monitoring methods, spill prevention procedures/equipment, and spill containment procedures/equipment, spill clean-up/disposal procedures/equipment. Preventative measures shall include implementation of geotechnical investigation recommendations regarding HDD depth and drilling mud mixture. The frac-out contingency plan shall also disclose the proposed locations of any relief pit(s) and how they will be monitored.

#### **LEVEL OF SIGNIFICANCE AFTER MITIGATION**

With the mitigation described above, this impact is reduced to a less than significant level.

#### **B. HYDROLOGY AND WATER QUALITY**

##### **CEQA FINDING NO. HY-10-2**

Impact: **HY-10-2. Inadvertent Release of Drilling Fluids Impacting Hydrology and Water Quality.** Temporary direct impact to Eel River water quality as a result of inadvertent release of drilling fluids in or near the Eel River during HDD.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant environmental effect as identified in the Supplemental EIR.

#### **FACTS SUPPORTING THE FINDING(S)**

The temporary direct impacts to Eel River water quality, as a result of inadvertent release of drilling fluids in or near the Eel River during HDD will be minimized by implementation of **Mitigation Measures BIO-6-6a and BIO-6-6b**.

**See MM BIO 6-6a and MM BIO 6-6b**

#### **LEVEL OF SIGNIFICANCE AFTER MITIGATION**

With the mitigation described above, this impact is reduced to a less than significant level.