August 25, 2023

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*Submitted via email*

**Re: Scoping Comments on the Notice of Preparation of the Draft Environmental Impact Report for the Humboldt Bay Offshore Wind Heavy Lift Multipurpose Marine Terminal Project (SCH No. 2023060752)**

Dear Mr. Holmlund,

On behalf of the undersigned organizations, please consider these scoping comments regarding the proposed Heavy Lift Multipurpose Marine Terminal (the Project). We understand and value the importance of port development in Humboldt Bay to meet California's clean energy targets to address climate change. We are also committed to ensuring that any potentially significant impacts are avoided, minimized, and mitigated to the greatest extent possible.

To ensure the timely buildout of the port of Humboldt and meet the demand of California's clean energy goals, the permitting process and environmental review pursuant to the California Environmental Quality Act (CEQA) must be robust, transparent, thorough, and strictly in accordance with state law. As the lead public agency conducting CEQA, the Humboldt Bay Harbor, Recreation, and Conservation District **(**the District) is responsible for ensuring sustainable port development and protecting communities and the environment.

The sheer size of this Project —with a potential geographical footprint twice the size of the adjacent town of Fairhaven— will inevitably result in various impacts. Humboldt Bay is the second-largest natural bay in the state, with a wide variety of habitats, including open water, shallow water, mud and sand flats, salt marshes and slough channel ponds, sand beaches, islands, and woody riparian vegetation. Humboldt Bay is home to approximately half of California's eelgrass population, as well as 120 species of fish, 250 species of marine birds, 550 species of marine invertebrates, 80 species of algae, and numerous resident and visiting marine mammals. This letter outlines some concerns to address in the Draft Environmental Impact Report (DEIR).

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## I. CEQA Procedural Recommendations

CEQA is the bedrock of California's environmental protection laws. CEQA requires all State agencies to consider the environmental impacts of all discretionary actions that "may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment." CEQA strives to ensure better decision-making that reduces impacts on the natural environment through considered and public examination of the potential environmental impacts and ways to avoid and minimize those impacts to the maximum degree feasible. Under CEQA, impacts that cannot be avoided must be mitigated. The following section addresses procedural and substantive concerns with the CEQA process.

### A. Baseline Data

It is first necessary to understand the existing conditions to evaluate project impacts, as these serve as a measurement against which project impacts are compared. CEQA Guidelines provide that "[g]enerally, the lead agency should describe physical environmental conditions as they exist at the time the notice of preparation is published . . . from both a local and regional perspective."[1] "An existing conditions baseline shall not include hypothetical conditions, such as those that might be allowed, but have never actually occurred, under existing permits or plans, as the baseline."[2]. Because site conditions on the project site and use have not fluctuated in many years, this is not a situation where a projected future use under existing approvals should be considered as part of the baseline.[3] An EIR's assessment of project impacts should generally be limited "to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published."[4]

The direct impacts of this Project on resources require the assessment of baseline data reflective of standards at the time of the release of the Notice of Preparation. Conditions on the Samoa peninsula during the industrialized periods of the timber years cannot be used as a cross-reference for impact analysis on greenhouse gas emissions (GHG), air quality, transportation, cultural resources, and/or other categories. Including ancient industrial-point references (not subject to CEQA) in the baseline analysis would be misleading and dangerous. We suggest that the EIR process should conduct any analysis based on baseline data collected between 2020 and 2024.

### B. Tribal Consultation

Affected Tribal Nations need to be a central part of all stages of the permitting process through robust government-to-government consultation. Throughout the process, the District should also evaluate additional mechanisms that could enable tribal decision-making and influence over EIR certification. We also recommend that the District provide a pool of funding

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[1] Cal. Code Regs. Tit. 14, § 15125.
[2] Id. § 15125(a)(3).
[3] Id. § 15125(a)(1)-(2).
[4] Id. § 15126.2(a); see also Communities for a Better Envt. v. SCAQMD, 48 Cal.4th 310, 320-21 (2010).

to local Tribal Nations that allows compensation for work on the Project, including participation in the EIR process.

### C. Maintaining Local Control over the Project and Public Trust

It is critical that the District maintain local control over port development, operations, and maintenance, including the use of the waters of Humboldt Bay and adaptive management throughout the life of the Project. As a new industry with many unforeseen and unpredictable impacts and outcomes, it is critical that our elected representatives and the District protect and manage Humboldt Bay's public trust lands for the benefit of the People of California.

## II. Requested Changes to Wind Terminal Project Description and Range of Alternatives

### A. Zero Emissions Port

We support the District's vision to "develop a marine terminal site with modern environmental standards related to minimization of greenhouse gas emissions, onsite renewable energy generation, green building materials, the electrification of terminal operations, and the facilities needed to accommodate vessel shore power." We ask that the District go further by formally committing to a zero-emissions port as soon as feasible. Other ports in California, such as the Port of San Diego, have made similar commitments. To achieve such a vision, it is necessary to begin planning now to identify limiting factors and work towards overcoming obstacles.

### B. Onsite Solar Production and Peninsula Microgrid

We are encouraged by the proposal to include solar with the Project, although, as stated later, we are concerned with the proposed siting of the solar panels. We urge the District to increase onsite solar production through solarizing all structures and parking lots. Furthermore, we recommend the District pair energy production with storage through battery banks and/or by incorporating bidirectional vehicle-to-grid storage. Heavy-duty electric equipment, in particular, could offer grid resiliency through its large battery banks to support off-peak energy demands. In collaboration with its partners, the District should consider a proposal to create a large-scale microgrid capable of storing and distributing power during peak load-bearing periods.

### D. Reduce Project Parking and Reduce Vehicle Miles Traveled (VMT)

We ask that the District appropriately size parking for the Project and try to discourage individual car trips through incentives, like charging for parking and providing ridesharing and carpooling programs.

### E. No New Fossil Fuel Infrastructure

The NOP describes potential new fueling stations. Making initial investments in fossil fuel infrastructure prolongs the use of fossil fuels by creating a sunk investment. We urge the District to remove or downsize new fossil fuel infrastructure and invest instead in electrifying the port.

**F. Creation of Adaptive Management Committee**

Environmental impact analysis is an imprecise art that often fails to identify impacts later felt from developments, particularly one of the size and complexity of the proposed Project. We ask that the District create a mechanism to identify, evaluate, and mitigate impacts that may not be identified during the Project's initial environmental analysis. Adaptive management committees comprised of neutral third-party subject matter experts are essential for responding to project uncertainty.

**G. Limited Change of Use**

The "multipurpose" project scope is broad and includes potential uses other than offshore wind, such as break bulk handling, wood product manufacturing/shipping, and "other related maritime transport that require heavy-lift wharfs." While the DEIR can consider and study some additional uses, it must provide specificity and limits to those other potential uses to ensure an adequate environmental review of the Project.

## III. Anticipated Impacts and Associated Mitigation Strategies

CEQA Guidelines section 15126.2(a) provides that:

> Direct and indirect significant effects of the Project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in...other aspects of the resource base....

CEQA mandates that the District deny approval of a project presenting significant adverse effects when feasible alternatives or mitigation measures can substantially lessen such effects.[5] Only when alternatives that would avoid impacts have been fully considered and feasible mitigation measures have been exhausted may an agency find that overriding considerations outweigh the significant environmental effects.[6] This mandate—to avoid, minimize, and mitigate significant adverse effects where feasible—has been described as the "most important" provision of the law.[7]

To effectuate this "most important" provision, the District is tasked with investigating the potential adverse effects and all feasible alternatives and mitigation measures that decision-makers may adopt.[8] As made clear in *Save Round Valley Alliance v. County of Inyo,* CEQA likewise requires alternatives and mitigation measures to be sufficiently detailed to "foster informed decision-making and public participation."[9]

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[5] Pub. Resources Code 21002.
[6] Pub. Resource Code 21081; S*ee also,* CEQA Guidelines 15091(a).
[7] *Sierra Club v. Gilroy City Council*, 222 Cal. App. 3d 30, 41, 271 Cal. Rptr. 393 (Ct. App. 1990).
[8] Pub. Resources Code 21100; CEQA Guidelines 15126.
[9] *Save Round Valley Alliance v. County of Inyo*, 157 Cal.App.4th at pp. 1456, 1460 (2007).

Mitigation measures, in turn, include:[10]

> (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
> (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
> (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
> (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
> (e) Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements.

This list can also be read as a priority for decision-makers, such that in considering mitigation, avoiding impacts is most preferred, and compensating for effects is the least.[11] Upon inspection, the reasoning is obvious: Avoidance produces certain results and does the least harm to the resources considered. By contrast, compensatory mitigation is less desirable because it allows for harm while providing only uncertain future benefits. For that and other reasons, compensatory mitigation is often required with a multiplier effect—that is, to use the example of the wetland, for every acre impacted, the compensatory mitigation might require the creation of five acres of wetland. Similarly, cases such as *La Costa Beach Homeowners' Assn. v. California Coastal* have made clear that onsite mitigation is preferred over off-site mitigation.[12] Onsite mitigation is preferred as it compensates for the harm in the same general area where it is felt—providing a clear and constitutionally mandated nexus.[13] Timing of mitigation also matters as mitigation *prior* to project impacts is preferred to after-the-fact mitigation.[14]Again, all of these points make intuitive sense—we want to mitigate harms before they occur and in the area that they occur unless there is a special reason to deviate.

Feasibility, as used by CEQA and the Guidelines, is where a mitigation measure is "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."[15] *Los Angeles Unified School District v. City of Los Angeles* establishes: "In keeping with the statute and guidelines, an adequate EIR must respond to specific suggestions for mitigating a significant

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[10] CEQA Guidelines § 15370.
[11] CEQA Guidelines § 15126.4.
[12] *See La Costa Beach Homeowners' Assn. v. California Coastal Com.*, 101 Cal. App. 4th 804 (2002) (evaluating the appropriateness of offsite mitigation under the California Coastal Act).
[13] *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); See also, CEQA Guidelines § 15126.4(a)(4)(A).
[14] *See* CEQA Guidelines § 15126.4.
[15] Public Resources Code 21061.1; CEQA Guidelines, § 15364.

environmental impact unless the suggested mitigation is facially infeasible. While the response need not be exhaustive, it should evince good faith and a reasoned analysis." [16]

The ultimate determination of the sufficiency and feasibility of mitigation measures is the province of the action agency. These determinations must be supported by findings supported by substantial evidence.[17]Averments by project developers concerning the financial feasibility of mitigation are not dispositive of the question; rather, that is one piece of information that the action agency may consider**.**

**The following section discusses relevant impacts that should be considered in any potential EIR document:**

**A. Greenhouse Gas Emissions (GHG)**

The forthcoming port development DEIR should thoroughly evaluate the cumulative GHG emitted during the construction and operation of the Project. The analysis and mitigation efforts proposed in a DEIR should take baseline GHG measurements at the time of the release of the NOP into account. GHG emissions throughout all construction and operation phases should be inventoried and accounted for. Specific emissions sources will include:

- Site preparation and construction, including concrete, asphalt, gravel, steel, and other materials needed to build the port.
- Heavy equipment operations associated with the terminal.
- Drayage trucks and vessels associated throughout the life of the Project. Carbon emissions related to travel and delivery to and from the port will substantially contribute to Humboldt's GHG emission portfolio. Vessel traffic for the Project's manufacturing, construction, and operations could also contribute substantially to GHG emissions.
- Manufacturing of components to assemble turbines and/or other products associated with the Project.

**Mitigation Strategy:** The DEIR should plan for a zero-emissions port. While achieving ambitious decarbonization targets may be initially limited by technological innovation in the early years of development, any DEIR (and project alternative) should exhaust all potential zero-emissions technology available. Furthermore, long-term mitigation will require ensuring future electrification efforts are not limited by a lack of structural support. To achieve this, the DEIR should consider key green port elements:

- Upgrading Samoa peninsula's electric infrastructure to support increased electricity loads. As zero-emissions technology becomes readily available, fully

[16] *Los Angeles Unified School District v. City of Los Angeles*, 58 Cal. App. 4th 1019, 1029 (1997) (internal citation omitted).

[17] *See Federation of Hillside & Canyon Associations c. City of Los Angeles*, 83 CAl. App. 4th (2d Dist. 2000); See also, *Concerned Citizens of South Los Angeles v. Los Angeles Unified School District*, 24 Cal. App. 4th 825 (2d Dist. 1994).

electrified heavy-lift cranes, ships, terminal equipment, and drayage will require upgraded transmission infrastructure and charging stations that support high load-bearing activities. This will be especially important regarding long-term GHG mitigation strategies as state and federal port regulations become more stringent.

- At-berth shore power access enables ships and tugs to be plugged into the port electric grid, reducing GHG, local air pollutants, and noise pollution.[18]
- Expansive solarization of all terminal storage, warehouse areas, etc. While this will not be sufficient to supply all the necessary energy, it will make up for some grid capacity issues and maximize the space being used.
- The feasibility of purchasing Redwood Coast Energy Authority's (RCEA) RePower+ plan (or other bulk energy purchases of renewable energy) to supply renewable electricity for port operations.

**B. Additional Air Quality Impacts**

Port construction and operation will likely increase air pollution from large amounts of vessel traffic, heavy-duty machinery, transportation, and drayage trucking. These practices are often associated with higher toxic diesel PM emissions. The NOP also outlines a project that is geographically close to sensitive areas, including low-income neighborhoods, that are likely to be most affected by this decrease in air quality. As the lead permitting agency and landlord, the District is responsible for avoiding, minimizing, and mitigating additional impacts on these local communities.

A robust DEIR will produce a health risk assessment model that calculates health impacts on adjacent populations in cooperation with public health experts, state and federal agencies, and local governments. These assessments should be made using the best available science, with a baseline reflecting emissions at the time of NOP release.

**Mitigation Strategy:** To minimize impacts to air quality and public health, the District should also consider a zero-emissions strategy, as explained above, to reduce potential air pollutants. In cases where zero emissions or near zero is unachievable, the District should mandate and enforce the usage of CARB-compliant equipment with the most stringent air quality filtration systems. Additionally, the District should re-evaluate and reassess before any use change at the site that would open the Project to additional air pollutants (e.g., an industry that utilizes transport refrigeration units).

**C. Impacts on Tribal Cultural Resources**

As outlined in the NOP, the Project is located on Wiyot ancestral land and will impact many Tribal Nations and people throughout its lifecycle. The immediate proximity of the proposed Project to cultural, ceremonial, and other sensitive sites requires the District to engage

[18] Note: The California Air Resources Board (CARB) already requires some degree of shore side electrification at-berth. These regulations are likely to increase in the coming years.

in robust consultation with local Wiyot-affiliated Tribal Nations to guide the DEIR drafting process. This coordinated approach is especially important, given that effective mitigation strategies may be contingent upon traditional ecological knowledge associated with intellectual property rights held by Tribal Nations and their members. In this process, the District should include an honest and transparent evaluation of all culturally relevant impacts, including, but not limited to:

- **Viewsheds:** The released NOP includes conceptual plans with wet storage space for up to 12 fully assembled, standing wind turbines with an estimated height of up to 1100' per turbine. Additionally, plans suggest the operation of up to two vertical assembly cranes, each required to reach the size of a standing nacelle. The adjacency of Tuluwat Island, a significant cultural site for the Wiyot people, highlights the importance of producing visual simulation models of a port at maximum capacity.[19]
- **Noise:** Construction and operation noise pollution may uniquely impact culturally relevant practices.
- **Access to culturally sensitive sites:** Project construction and operation may impact tribal citizens' access to culturally significant sites.
- **Disturbance of culturally significant sites:** Project development may uncover archaeological sites or other sensitive sites. The DEIR should examine potential impacts on these sites and include methods to ensure grounds are not inadvertently disturbed.
- **Access to traditional foods:** Local Tribal Nations have utilized Humboldt Bay for food security since time immemorial. The DEIR should examine the potential impacts on access to traditional foods.
- **Current and future land management efforts:** DEIR analysis should examine whether project construction and operation may impact tribal land management or the rematriation of lands.

**Mitigation Strategy:** The District should work with impacted Tribal Nations to determine appropriate mitigations to avoid, minimize, and mitigate impacts. These measures may include multi-day work exclusions, tribal monitoring of construction proceedings, accessibility of work sites, viewshed mitigation (i.e., ensuring turbines are out of the port during certain times of the year), free, prior, informed consent (FPIC), compensatory mitigation, and more.

**D. Impacts to Tribal Safety**

Large development projects, such as the proposed Project, are often associated with increased violence to indigenous communities.[20] The DEIR should examine, in partnership with

[19] Maximum capacity refers to wet storage with the maximum number of standing turbines held at any given point.

[20] Kathleen Finn, Erica Gajda, Thomas Perin, and Carla Fredericks, "Responsible Resource Development and Prevention of Sex Trafficking: Safeguarding Native Women and Children on the Fort Berthold Reservation". 40 Harv. J.L. & Gender 1: Colorado Law Scholarly Commons, 2017.

local tribal governments, these potential impacts on indigenous communities and at-risk populations.

**Mitigation Strategy:** Whether through the DEIR and/or through additional legally binding processes (e.g., community benefits agreements), the District should work with Tribal Nations to study and address the increased risk of violence in our communities. Mitigation measures could include developing a Missing, Murdered, Indigenous Peoples (MMIP) prevention plan, agreement to mandatory extensive background checks, monitoring requirements, and more.

**E. Transportation Impacts**

In assessing the Project's impact on vehicle miles traveled (VMT), the EIR must make realistic assumptions about commute and truck trips and use a reasonable baseline and significance threshold. Specifically:

- Current conditions should be considered the baseline for impacts. Long-ago levels of truck traffic generated by former industrial sites in the area were never subject to CEQA review and are no longer relevant.
- The Project's location relative to the regional population centers of Eureka, Arcata, McKinleyville, and Fortuna, as well as the lack of current or reasonably foreseeable high-quality bicycle, pedestrian, or transit connections between the site and these population centers, must be considered in estimating VMT from the Project.
- The Project is located in the Humboldt Bay Area. Therefore, the threshold of significance for VMT impacts should be based on existing VMT in the Humboldt Bay Area, not the average VMT for Humboldt County as a whole. Humboldt County covers a very large area with extremely heterogeneous development patterns, making a whole-county VMT average arbitrary and meaningless as a basis for calculating the significance threshold.

When assessing transportation safety and compatibility of uses, the EIR must consider the lack of adequate dedicated facilities for bicyclists and pedestrians in the area immediately surrounding the project site and on the primary regional roads and highways serving the Project. There are a limited number of routes in and out of the site and the region, particularly for trucks. All of these routes feature areas of substantial bike and pedestrian use—e.g., in Samoa, Manila, Eureka, and Arcata—despite the lack of adequate facilities and consequently have elevated rates of collisions. Increases in truck traffic could significantly exacerbate these safety hazards due to both roadway geometry, such as the lack of dedicated bike and pedestrian facilities, and what CEQA calls "incompatible uses" because, just like farm equipment on a freeway, vulnerable road users are incompatible with heavy car and truck traffic when they are sharing a single facility. The fact that some truck traffic already uses these routes does not negate the potentially significant safety impacts of additional trips generated by the Project, particularly from a cumulative impact perspective. Higher traffic levels, particularly truck traffic, can change the safety implications of current road uses and geometry.

**Mitigation Strategy:** In collaboration with Humboldt County, Caltrans, the Humboldt Transit Authority, and the Cities of Eureka and Arcata, the District should evaluate potential road safety improvement and VMT reduction projects on- and off-site. Such opportunities include dedicated bike and pedestrian facilities, transportation demand management (TDM) programs, increased mass transit to the project site, and considerations of when and how trucks will serve the Project.

**F. Impacts on Wildlife**

As noted above, Humboldt Bay is a biodiversity hotspot and home to many rare, threatened, and endangered species and common species protected from harm under State and Federal law. Many of these species are also of cultural significance to tribes. Impacts of construction and operation of the proposed Project on local wildlife and plants including, among other things, noise, lighting, disruption or loss of habitat, increased sediment, turbidity, and other water quality impacts, the potential for collision with marine mammals from increased vessel traffic, and toxicants must be fully addressed in the EIR.

There are many species and habitats that the direct, indirect, and cumulative effects of the proposed Project may impact. The species and habitats that must be considered include but are not limited to, the rare, imperiled, and common species listed in the Appendix. Data must be collected on all these affected species and habitats, including updated surveys in appropriate seasons.

**Mitigation Strategies:** Robust pre-project monitoring is necessary to understand how wildlife and plants utilize the project site and adjacent habitats, including both bay and marine habitats. Similarly, ongoing project monitoring and adaptive management will be required to know how the Project impacts species. Rodenticides should be prohibited to prevent secondary poisoning of raptors and other predators. Science-based mitigation measures are necessary when impacts cannot be avoided or minimized.

**G. Impacts on Water Quality**

Humboldt Bay is on 303(d) list as impaired by PCBs, dioxins, and furans, all of which are likely to be present in soil and groundwater on sites used as former lumber and plywood mills, pulp mills, railroad facilities, and associated docks. Other legacy contaminants, including lead, asbestos, creosote, and pentachlorophenol, are likely present in existing structures on the Project site. In addition, soil and groundwater on the site are also likely contaminated with metals, petroleum hydrocarbons, Volatile Organic Compounds (VOCs), etc. A remediation plan for these legacy contaminants must be approved and carried out before the construction of new facilities can begin.

Temporary increases in turbidity from the construction as well as increased vessel traffic and other Project-related activities, have the potential to impact aquatic life in Humboldt Bay, including eelgrass and salmonids, as well as impact to intakes at the oyster hatchery, oyster seed operations, and future aquaculture facilities. Impacts to water quality from stormwater runoff during construction and post-construction also need to be considered.

Anti-fouling paints, wood treatment, and other chemicals that are likely to be used in operations and maintenance for the life of the Project have the potential to impact water quality, aquatic/estuarine habitat and organisms, aquaculture and other existing uses of Humboldt Bay, and human health, including cumulative risks.[21] These impacts must also be considered in the EIR.

**Mitigation Strategies:** The DEIR should include a thorough inventory of lead, asbestos, creosote, and other toxic materials in structures slated for demolition, along with procedures for avoiding, minimizing, or mitigating impacts from demolition, removal, and disposal to air quality, water quality, and human health, including onsite workers and off-site residential, recreational, and commercial areas.

All parcels within the proposed Project must be fully characterized and remediated for a wide range of contaminants prior to ground disturbance. In particular, dioxins and furans, PCBs, mercury and other metals, petroleum hydrocarbons, and other contaminants associated with all past uses of the sites, including the former Hammond Lumber Mill, the second-largest lumber mill in Humboldt County in the 1950s, the former Georgia-Pacific plywood mill, and others. Soil and groundwater on these sites have not yet been characterized, although the District recently received a $500,000 U.S. EPA grant to begin the site assessment processes. The areas proposed for solar arrays on top of ash landfills must also be analyzed for potential impacts to groundwater and Humboldt Bay related to ground disturbance and mitigation measures developed to prevent such impacts.

Environmental screening levels for contaminants of concern must be used in all areas where stormwater may come into contact with contaminated soil (e.g., screening levels for industrial sites are not acceptable where stormwater will contact the soil or any other sensitive receptors). The Project must be designed to avoid siting "Low Impact Development" features such as detention basins and bioswales where stormwater could come in contact with contaminated soil.

The DEIR should include an accounting of anti-fouling agents, wood treatment agents, and other potential chemicals or non-naturally occurring products to be used in the operation of the terminal, the cumulative risk from multiple contaminants and sources, and a rapid response plan in the event of accidental release. The rapid response plan should outline how an accidental spill or release of hazardous chemicals (including fuel) will be contained, how the public will be notified in the event of an accidental spill or release, and how the environment and public health will be protected, given the use of the area for fishing, shellfish harvesting, and water-based recreation.

**H. Impacts from New and Ongoing Dredging**

New and ongoing dredging that the Project proposes may result in impacts to eelgrass (*Zostera marina*), which is protected by state and federal No Net Loss policies; larvae and

[21] Hermansson, A. Lunde et al. 2023. Cumulative Risk Assessment of Metals and PAHs from Ship Activities in Ports. Marine Pollution Bulletin 189 (2023) 114805.

plankton impacted by dredging, including protected species; remobilization of legacy contaminants; changes in sediment size and distribution; and increased erosion due to permanent removal of sediment from the Eureka Littoral Cell.

**Mitigation Strategies:**

- Eelgrass: In addition to the usual mitigation method of transplanting eelgrass to new areas of the bay, a mitigation strategy to reduce sediment delivery to the bay might be considered to decrease turbidity in places where light penetration limits eelgrass growth.
- Larvae and plankton: Restoring tidal influence and diked former tidelands is a potential mitigation strategy to increase spawning habitat for Coho Salmon, Tidewater Goby, Longfin Smelt, and other larval fishes that may be impacted by dredging.
- Remobilization of legacy contaminants: Sediment needs to be thoroughly tested to the depth that dredging is proposed before new dredging is conducted. Spoil disposal and/or beneficial reuse in uncontaminated areas must be identified unless all the spoils are hauled to the Humboldt Open Ocean Disposal Site (HOODS).

**I. Shoreline Erosion**

The DEIR must evaluate the potential for the Project activities to exacerbate shoreline erosion due to the increase in area, volume, and frequency of dredging, including new dredging to 60' below Mean Lower Low Water (MLLW) in the Sinking Basin, 40' below MLLW for Wet Storage Subareas, deepening to 40' below MLLW between the newly-constructed wharves and in the federal navigation channel). Year-round dredging at the Humboldt Bay Entrance can potentially increase erosion from wave energy at sensitive locations, e.g., Buhne Point, where the "Independent Spent Fuel Storage Installation" stores high-level nuclear waste. Shoreline armoring and other hardscaping during or after Project construction also has the potential to increase erosion beyond the project area. Dredge spoils disposal at HOODS permanently removes sediment from the Eureka Littoral Cell and may contribute to shoreline erosion on the Samoa Peninsula. These impacts could be further exacerbated by sea level rise over the term of the Project and should be considered in that context.

**Mitigation Strategy:** Hydrologic and sediment transport modeling should be conducted to examine the potential effects of these activities and to develop appropriate avoidance, minimization, and mitigation strategies for areas at risk from shoreline erosion. Consider spoils disposal closer to shore to retain the sediment in the Eureka Littoral Cell for redistribution and deposition via longshore transport.

**J. Sea Level Rise, Rising Groundwater, Flooding, and Tsunami Hazards**

Much of the Project site is vulnerable to sea level rise. It will require that the Project be planned and designed to accommodate rising sea levels and groundwater throughout the

expected lifespan of the Project.[22] Using the best available local sea level rise scenarios[23] and the Ocean Protection Council's medium to high-risk aversion scenarios for high emissions at the North Spit tide gage,[24] the DEIR must consider operations and maintenance of any and all intended uses, including the offshore wind Heavy Lift Terminal, forest products, and break bulk cargo. Sea level rise preparation must consider all aspects of the Project, including wharves, warehouses, access roads, and areas proposed for new dredging, including wet storage areas. Scenarios incorporating potential storm surge and shoreline erosion during extreme high tides, such as those in January 2023 along the Central California coast, should be considered, along with expanding 100-year flood zones and tsunami inundation areas as sea level rises. In addition, sea level rise may impact the jetties at the Humboldt Bay Entrance within the life of the Project and predicted changes to the Entrance and navigational channels should be evaluated.

Since the area is also in a tsunami hazard area, the best available local science must also be used to analyze tsunami hazards throughout the expected life of the Project, along with the development of tsunami evacuation plans, designation of a tsunami evacuation site, and development of an emergency notification system consistent with the Humboldt Bay Area Local Coastal Plan.

**K. Seismic Hazards, including Liquefaction**

The Project site is within a seismically active region and an area of potential liquefaction. The Project must be designed and built to protect people by being able to withstand significant seismic events, including soil liquefaction.

**L. Impacts to Wetlands**

Wetlands on the Project site will need to be delineated, and impacts will need to be avoided, minimized, and fully mitigated, consistent with state and federal No Net Loss policies. The Habitat Restoration Subarea identified in the NOP for wetland mitigation may be more appropriate for mitigating impacts to recreation by converting it into a bayfront park since restoring wildlife habitat so close to the Project could negatively impact wildlife.

**Mitigation Strategy:** In collaboration with trustee agencies and the Wiyot-affiliated Tribal Nations, the District should evaluate alternative sites for wetland mitigation, including Tuluwat Island, Samoa Dunes & Wetlands, Mouralherwaqh (King Salmon), and others. Another potential mitigation strategy to consider is *Spartina* eradication in high-priority locations.

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[22] California Coastal Commission. 2021. Critical Infrastructure at Risk: Sea Level Rise Planning Guidance for California's Coastal Zone.

[23] Northern Hydrology Associates. 2018. Sea Level Rise Scenarios for the Humboldt Bay Area, Update 1 and Update 2.

[24] California Ocean Protection Council. 2018. State of California Sea-Level Rise Guidance.

**M. Marine Invasive Species and Pathogens**

Although the State Lands Commission regulates ballast water for vessels from international waters, there is currently no regulation/enforcement of measures to protect Humboldt Bay from introducing non-native marine organisms from vessels going between Humboldt Bay and other West Coast ports. Non-native marine invertebrates, pathogens, and other introductions threaten Humboldt Bay's ecosystems and the shellfish industry, including the oyster hatchery and seed-rearing operations contingent upon a disease-free bay.[25]

**Mitigation Strategy:** Avoiding marine introductions is critical since eradication and/or control is rarely successful. A careful assessment of the impact of secondary introductions from initial introductions to other California locations, particularly San Francisco Bay, will provide insights for preventing such introductions in the first place.

**N. Noise and Light Impacts to People**

Noise impacts to people, both onsite and off-site, from temporary, periodic, and/or permanent increases in ambient noise levels in the project vicinity must be considered and avoided or minimized. It is important to consider realistic distances from the Project that will be affected during various Project activities, including people living and working in Fairhaven, Samoa, Manila, Eureka, and people engaging in tribal cultural and ecosystem management activities on Tuluwat Island. Noise impacts will include construction-related noise, such as demolition, pile driving, ground vibration, operations and maintenance, onsite activities, vessel traffic, and idling.

Light impacts on people must be considered and avoided or minimized. The Project proposes to install high mast terminal lighting (approximately 150' tall) around the site's perimeter. It is essential to consider the health impact of this lighting on neighboring communities, particularly taking into account studies that have strengthened the link between exposure to outdoor nighttime light and breast cancer.[26]

**Mitigation Strategies:** Minimize noise impacts by limiting hours of operation for all phases of the Project, using soundproofing and electrical equipment, limiting vessel idling, etc. Retain local control of hours of operation to respond as necessary to changing conditions. Minimize light impacts by limiting hours of operation and require all exterior lights, including lights attached to the outside of any structures, to be low wattage, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the property or onto the waters or associated wetlands of Humboldt Bay.

**O. Recreation**

Water-based recreation is central to many people's lives and the culture of the Humboldt Bay area. These activities involve many user groups and individuals, including sport fishing

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[25] Boyd, M.J., T. J. Mulligan, and F. J. Shaughnessy. 2002. Non-Indigenous Marine Species of Humboldt Bay, California. Report to the California Department of Fish & Game.

[26] Bertrand, Kimberly A., et al, 2017. Outdoor Light at Night and Breast Cancer Incidence in the Nurses' Health Study II. Environmental Health Perspectives Vol. 125 No. 8.

(both from boats and from shore), surfing, kayaking, canoeing, stand-up paddleboarding, sailing, rowing, and swimming. All of these uses take place in many different locations in Humboldt Bay, and the District will need to gather information on these uses to analyze potential impacts and develop mitigation strategies.

**Mitigation Strategy:** Due to the wide variety of recreational uses of Humboldt Bay, the Lead Agency should contact the relevant user groups, including the Humboldt Bay Rowing Association, Surfrider Humboldt, Humboldt Bay Aquatic Center, Cal Poly Humboldt's crew teams, Humboldt Bay Maritime Museum (which operates the M/V Madaket), Humboldt Area Saltwater Anglers, Humboldt Yacht Club, etc.

Potential mitigation measures to consider include a new public fishing pier on the bay side of the Samoa Peninsula, new or improved non-motorized boat launches, limited dredging on sides of the harbor entrance, and timing of Project-related activities that would be disruptive to particular recreational activities, seasonal events, etc. In addition, a notification system for all bay users, including recreational users, should be developed to ensure public safety during all project-related activities.

**P. Population and Housing**

Humboldt County suffers from a dire shortage of affordable housing. Because this port project would result in a relatively rapid population growth (with an influx of workers from outside of the county), the District should evaluate the possible exacerbating effects of this Project on the housing crisis. Potential impacts include rising rents, limited housing availability, gentrification, etc.

**Mitigation Strategie**s: Potential mitigation measures could address this housing crisis by creating additional housing options (with protections put in place to avoid 'man camps'), working with state and local governments to promote housing development, and more.

**Q. Utilities and Service Systems**

The District should also evaluate to what extent the proposed Project would create significant stressors on the Public Utilities and Service Systems. Analysis should include:

**Energy Capacity:** The District should evaluate power capacity stressors created by a port buildout and associated developments. A much-needed change in the project description to ensure zero-emissions port development (as laid out in Section II, A) will likely exacerbate the already existing power transmissions and power procurement-related issues on the Samoa peninsula and, more generally, in Humboldt County.

**Mitigation Strategies:**

- The transmission issue will require coordination with state agencies, including the California Independent System Operator (CAISO) and the California Public Utilities Commission (CPUC), to develop a comprehensive upgrade to power infrastructure on the

Samoa peninsula. This plan's implementation will likely need to be expedited prior to the completion of the port project to ensure the grid can sustain zero-emission technology.

- Should the supply-side power procurement constraints be identified as problematic during the early phases of the Project (when turbines are not operational), the District might consider compensatory mitigation by incentivizing additional solar installations throughout the county.[27]

**General Services:** The DEIR should also study the effects of port development on local hospitals, schools, wastewater treatment facilities, health services, fire departments, law enforcement, and other vital services potentially stressed by a sharp increase in workforce. While this document does not elaborate on mitigation strategies, given the complexity and nuance of these issues, we encourage the District to work with tribal, state, and local governments and other stakeholders to identify these impacts and produce quality mitigation strategies.

**R. Cumulative Impacts**

A robust DEIR must also study the cumulative impacts of the proposed Project in addition to other projects located in and around Humboldt Bay. CEQA defines these cumulative effects as "a result of the combination of the Project evaluated in the EIR together with other projects causing related impacts.[28] The District should, therefore, assess how this Heavy Lift Terminal, in conjunction with other past, present, and reasonably foreseeable future projects (i.e., Nordic Aquafarms, maintenance dredging), might result in cumulative impacts on Humboldt Bay and its surrounding environment and community.

**S. Environmental Justice**

Direct and indirect burdens to environmental justice communities must be considered, such as pollution, displacement, and public health and safety. Identifying and engaging environmental justice communities throughout the planning process allows stakeholders to inform permitting decisions that may impact their neighborhoods. Meaningful engagement includes early and consistent communication with, and involvement of, communities of concern during all phases of planning and permitting, ensuring project information accounts for language barriers and is disseminated in an understandable format, and maximizing public participation by providing multiple opportunities and formats for the public to provide input on a project.

**Mitigation Strategy:** Project modifications that avoid or minimize harm to environmental justice communities should be developed in collaboration with affected groups. Additionally, the District should go beyond traditional CEQA mitigation strategies and create a robust community benefits package that ensures this project benefits all.

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[27] These constraints will likely be a result of both the need for additional housing (to house workers), and a much needed zero-emissions commitment.

[28] *See, e.g.,* CEQA Guidelines §15355.

**IV. Project Alternative: Reduced Project Footprint and/or Different Site**

The District should also look at other potential project sites in Humboldt Bay and Northern California and/or Southern Oregon for completion of all or parts of the proposal. Other coastal-dependent industrial lands around Humboldt Bay could potentially be redeveloped to support all or parts of the Project with fewer negative impacts. Similarly, while other ports may not be able to undertake the final stage of constructing turbines and staging and assembling due to height constraints, they may be able to provide most, if not all, components of the Project. Working with neighboring ports may help reduce certain impacts associated with this Project.

Thank you for the opportunity to provide these scoping comments on this once-in-a-lifetime project. Feel free to reach out for any additional clarifications regarding our concerns—we look forward to reviewing a robust Draft EIR for the Project.

With respect and appreciation,

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**APPENDIX**

The species and habitats that must be considered include, but are not limited to the rare, imperiled, and common species listed here:

**Marine Animals:**

- Harbor seal: *Phoca vitulina*
- Humpback whale: *Megaptera novaeangliae*
- Grey whale: *Eschrichtius robustus*
- Blue whale: *Balaenoptera musculus*
- Killer whale: *Orcinus orca*
- Leatherback sea turtle: *Dermochelys coriacea*
- California sea lion: *Zalophus californianus*
- Steller sea lion: *Eumetopias jubatus*

**Pelagic Birds and Other Migratory and Resident Birds:**

- Great egret: *Ardea alba*
- Great blue heron: *Ardea herodias*
- California Ridgway's rail: *Rallus obsoletus*
- Western snowy plover: *Charadrius nivosus*
- Marbled murrelet: *Brachyramphus marmoratus*
- Black-footed Albatross: *Phoebastria nigripes*
- Sooty shearwater: *Ardenna grisea*
- Brandt's Cormorant: *Phalacrocorax penicillatus*
- Double-crested cormorant: *Nannopterum auritus*
- Black brant: *Branta bernicla*

**Bats:**

- Townsend's big-eared bat: *Corynorhinus townsendii*

**Fish:**

- Green sturgeon (southern DPS): *Acipenser medirostris*
- Coho salmon (southern Oregon / northern California ESU): *Oncorhynchus kisutch*
- Steelhead (northern California DPS summer-run): *Oncorhynchus mykiss*
- Steelhead (northern California DPS winter-run): *Oncorhynchus mykiss*
- Tidewater goby: *Eucyclogobius newberryi*
- Coastal cutthroat trout: *Oncorhynchus clarkii*
- Longfin smelt: *Spirinchus thaleichthys*
- Pacific lamprey: *Entosphenus tridentatus*

**Amphibians and Herpetofauna:**

- Leatherback sea turtle: *Dermochelys coriacea*
- Northern red-legged frog: *Rana aurora*
- Pacific-tailed frog: *Ascaphus truei*
- Southern torrent salamander: *Rhyacotriton variegatus*
- Foothill yellow-legged frog (North Coast DPS): *Rana boylii*

**Plants:**

- Eelgrass: *Zostera spp.*
- Dark-eyed gilia: *Gilia obscura*
- Humboldt Bay owl's clover: *Castilleja ambigua*
- Point Reyes bird's-beak: *Cordylanthus maritimus*
- Beach layia: *Layia carnosa*

**California Natural Communities:**

- Eelgrass beds: *Zostera marina*
- Northern Coastal salt marsh: *Salicornia virginica*
- Coastal terrace prairie
- Northern foredune coastal grassland