



Statement of Mitigation Monitoring and Reporting Programs

Tuluwat Restoration Project
State Clearinghouse Number 2004122022
April 14, 2008

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the project described below in conformance with Section 21081.6 of the California Environmental Quality Act (CEQA) and Section 15097 of the CEQA Guidelines.

SCH #: 2004122022

PROJECT TITLE: *Tuluwat Restoration Project*

PROJECT APPLICANT: Table Bluff Reservation – Wiyot Tribe

CASE NO: C-04-011

PROJECT LOCATION: Indian Island east of Highway 255, APN 405-011-002, -010

ZONING & GENERAL PLAN DESIGNATION: Natural Resources

PROJECT DESCRIPTION: The Wiyot Tribe is working to renew their cultural connection to Indian Island and Tuluwat, and proposes to construct a ceremonial place where the Tribe can conduct a variety of cultural activities including the World Renewal Ceremony, as well as cultural and environmental education activities for the tribal and regional community. The project includes implementation of an interim site cleanup plan for contaminated soil (including dioxin contamination), construction of tribal gathering areas such as a dance house, as well as a caretaker's residence, restored dock and bulkhead, vault toilet and camp kitchen, all in the setting of a restored native environment which will include trails and native landscaping.

LEAD AGENCY: City of Eureka, 531 "K" Street, Eureka, CA 95501-1165

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INTRODUCTION: On April 14, 2008, the above described project was approved by the Planning Commission of the City of Eureka; mitigation measures were made a condition of project approval. The purpose of this MMRP is to ensure that the mitigation measures adopted in connection with project approval are effectively implemented. This MMRP establishes the framework that the City of Eureka and others will use to implement the adopted migration measures and the monitoring and/or reporting of such implementation.

CEQA provides that the City of Eureka may choose whether the MMRP will monitor mitigation, report on mitigation, or both. "Reporting" generally consists of a written compliance review that is

presented to the decision making body or authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure. "Monitoring" is generally an ongoing or periodic process of project oversight. There is often no clear distinction between monitoring and reporting, and the program best suited to ensuring compliance in any given instance will usually involve elements of both. The choice of program may be guided by the following:

- (1) Reporting is suited to projects which have readily measurable or quantitative mitigation measures or which already involve regular review. For example, a report may be required upon issuance of final occupancy to a project whose mitigation measures were confirmed by building inspection.
- (2) Monitoring is suited to projects with complex mitigation measures, such as wetlands restoration or archeological protection, which may exceed the expertise of the City of Eureka to oversee; are expected to be implemented over a period of time; or, require careful implementation to assure compliance.
- (3) Reporting and monitoring are suited to all but the most simple projects. Monitoring ensures that project compliance is checked on a regular basis during and, if necessary after, implementation. Reporting ensures that the City of Eureka is informed of compliance with mitigation requirements.

ENFORCEMENT: In accordance with CEQA, the primary responsibility for making a determination with respect to potential environmental effects rests with the City of Eureka rather than the monitor or preparer of the CEQA documents. As such, the City of Eureka is identified as the primary enforcement agency for this MMRP.

IMPLEMENTATION OF MITIGATION MEASURES: The following implementation measures are applicable to all mitigation measures contained in the MMRP:

- (1) All mitigation measures herein are included as conditions of approval for the Tuluwat Restoration Project conditional use permit.
- (2) All mitigation measures in the form of this MMRP shall be incorporated in contract and design documents for the project to the satisfaction of the City of Eureka Building and Community Development Departments.
- (3) The City of Eureka, including but not limited to all departments with oversight responsibilities as noted in the following mitigation measures, shall be empowered to direct the Wiyot Tribe and/or its contractor(s) to temporarily suspend project activities - including but not limited to grading, construction, and/or project implementation or operation activities - if project activities are found not to be in compliance with these mitigation measures, pending the successful completion of specific actions to regain compliance. The City shall conduct site inspections as required and authorized to insure compliance.

PROGRAM MODIFICATION: After adoption of this MMRP, minor changes to this MMRP are permitted but can only be made by the City of Eureka. The Director of Community Development, after consultation with affected Departments or Agencies, may make minor modifications to this MMRP. If, for any reason, any mitigation measure specified in this MMRP cannot be implemented due to factors beyond the control of the owner/developer and/or the City of Eureka,

substitution of another mitigation measure may be approved at a noticed public hearing before the Planning Commission of the City of Eureka. In no case shall deviations from this MMRP be permitted unless this MMRP continues to satisfy the requirements of Section 21081.6 of CEQA and Section 15097 of the CEQA Guidelines, as determined by the City of Eureka.

SUMMARY OF POTENTIAL PROJECT IMPACTS: Below is a table that summarizes the impact potential for each category of impact as identified and analyzed in the EIR.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
I. Cultural Resources		✓		
II. Transportation	✓			
III. Utilities & Public Services			✓	
IV. Biological Resources		✓		
V. Hydrology and Water Quality		✓		
VI. Air Quality		✓		
VII. Geology & Tsunami	✓			
VIII. Land Use			✓	
IX. Aesthetics & Visual Resources		✓		
X. Noise		✓		
XI. Public Health Hazards & Hazardous Materials		✓		
XII. Recreation & Open Space		✓		

MMRP ORGANIZATION: This Mitigation Monitoring and Reporting Program is organized according to the following format for each mitigation measure:

Mitigation Measure – This is the listing of the mitigation measure taken verbatim from the EIR with a few minor editing adjustments for clarification, as well as any mitigation measures added during consideration of the conditional use permit which includes Mitigation Measure 3.1.1d.

Timing/Milestones - Each action must take place prior to a specific approval for the project (e.g., issuance of grading permits or building permits, approval of improvement plans), and can also consist of an ongoing action such as inspections during grading and construction.

Responsibility for Oversight - The City of Eureka will have ultimate and legal responsibility for ensuring that all of the mitigation measures are implemented. This item identifies the City department or division which has been assigned responsibility for enforcement of a particular mitigation measure.

Implementation of Mitigation Measure - This item provides details as to how the mitigation measure is to be implemented and monitored.

Responsibility for Implementation - This item identifies the entity responsible for implementing the mitigation measure. In general, this will be the developer and/or site development contractors.

ABBREVIATIONS: The following abbreviations may be used in the MMRP:

ACOE	Army Corps of Engineers
AQMD	Air Quality Management District
BD	City of Eureka Building Department
BMP	Best Management Practice(s)
CCC	California Coastal Commission
CCR	California Code of Regulations
CDD	City of Eureka Community Development Department
CDFG	California Department of Fish & Game
CEQA	California Environmental Quality Act
CGC	California Government Code
City	City of Eureka
EFG	City of Eureka Fire Department
EPD	City of Eureka Police Department
ENG	City of Eureka Engineering Department
ESHA	Environmentally Sensitive Habitat Area
HCDEH	Humboldt County Department of Environmental Health
MND	Mitigated Negative Declaration
PRC	Public Resources Code
PW	City of Eureka Public Works Department
NCRWQCB	Regional Water Quality Control Board
SHPO	State Historic Preservation Office

3.1 CULTURAL RESOURCES

3.1.1 Archaeological impacts from cleanup and treatment of contaminated soil.

Mitigation 3.1.1a: The Tribe shall implement the provisions stipulated by the MOA between the Wiyot Tribe, USACE, and SHPO that prescribes measures to avoid or minimize adverse effects to CA-HUM-67 (The MOA is a confidential document that is on file with the City of Eureka). The MOA stipulates implementation of the Historic Property Treatment Plan for Recovery of Significant Archaeological Data at CA-HUM-67 for the Tuluwat Restoration Project (HPTP), which sets forth an archaeological data recovery plan for the “targeted excavation area” involving treatment of contaminated soil in the vicinity of the way runners. The provisions of HPTP shall also be implemented for ground-disturbing activities in other areas of the project site. The HPTP prescribes proper protocol for protecting cultural resources, including but not limited to: the requirement that all field and laboratory work be directed by a qualified Principal Investigator, assisted by one or more Cultural Monitors designated by the Wiyot Tribe; proper field methodology; protocol for discovery of Native American burials or other sensitive finds, including proper notifications; and protocol for post-review discoveries and unanticipated effects.

Timing/Milestones – Implementation of the MOA shall begin prior to any ground disturbing activities associated with soils remediation activities and/or construction, and shall occur throughout these activities and beyond as dictated by the MOA.

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – Pursuant to the MOA, the Army Corps of Engineers is charged with ensuring that adverse effects to archeological resources associated with CA-HUM-67 are resolved by implementing and completing the Historic Property Treatment Plan for Recovery of Significant Archaeological Data at CA-HUM-67 for the Tuluwat Restoration Project (HPTP). Any correspondence or reports provided to the ACOE or SHPO by the Wiyot Tribe, or prepared by the ACOE or SHPO associated with the implementation of the HPTP shall also be provided to the Community Development Department. The Wiyot Tribe shall provide notification to the Community Development Department five days prior to the beginning of any work subject to the MOA, and shall provide documentation that all work subject to the MOA was completed in accordance with said document, including the report required in Section IV of the MOA.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.1.1b: If, during construction, subsurface archaeological resources (or materials that may be considered to be archaeological resources) are encountered, in addition to notification protocol identified in the HPTP, City staff shall be notified immediately.

Timing/Milestones – Throughout the construction process, including soil remediation, building construction, and any other activities involving soil disturbance

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure –The Building and Community Development Departments shall be notified immediately of any archaeological resources discoveries, in a manner agreed upon prior to the start of any excavation work. The Building and Community Development Departments shall be empowered to enforce and shall enforce any required work stoppages at the location of the find as determined by the MOA and/or existing state or local regulations. Work in the vicinity of the find shall not recommence until specifically authorized by the MOA and with the approval of the Community Development Department.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.1.1c: Only low ground pressure tracked equipment will be employed at the project site to minimize disturbance to the archaeological deposit.

Timing/Milestones – Throughout the construction process, including soil remediation, building construction, and any other activities involving soil disturbance.

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – As required for all mitigation measures, this measure shall be part of construction and design documents, which shall specify compliance with this measure. City inspectors shall ensure that equipment utilized onsite is in compliance with this measure.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.1.1d: Cultural resources such as artifacts or human remains unearthed during the excavation and removal of contaminated material may be re-interred on-site and in compliance with the MOA under the following conditions:

- A. Cultural resources with dioxin levels at or below naturally occurring background dioxin levels for the Humboldt Bay Area, as demonstrated to the satisfaction of the North Coast Regional Water Quality Control Board (NCRWQCB) prior to re-internment of these resources, may be re-interred directly into on-site soils.
- B. Cultural resources with suspected or confirmed dioxin levels above naturally occurring background levels may be re-interred on-site by placing them in a waterproof stainless steel container deemed acceptable and sufficient by the NCRWQCB to protect the environment from contact with the contaminated contents of any such container now and into perpetuity. A material other than stainless steel may be substituted if deemed culturally acceptable by the Wiyot Tribe and if approved by the NCRWQCB to be at least functionally equivalent to stainless steel in regard to protection of the surrounding environment from contaminated resources. Any such container shall be re-interred in an area already impacted by dioxin contamination, to the extent feasible.

C. The Tribe shall obtain City and NCRWQCB approval of the location of any cultural resource re-internment sites prior to re-internment. Re-internment shall be conducted using only hand tools (i.e. no mechanized equipment), unless re-internment will occur in areas where heavy equipment has been allowed for construction purposes.

Timing/Milestones – Throughout the construction process, including soil remediation, building construction, and any other activities involving soil disturbance.

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Community Development shall be notified of any cultural resource discoveries as noted above, and of the Tribe’s intent to re-inter cultural resources. Prior to any re-internment any such cultural resources, the Wiyot Tribe shall submit to the Community Development Department written documentation from the NCRWQCB indicating that the NCRWQCB finds the re-internment will be in compliance with the terms of this mitigation measure. No re-internment shall occur until the Community Development Department notifies the Wiyot Tribe of the City’s determination that the re-internment is in compliance with this measure.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

3.1.2 Archaeological impacts from development activities and visitor use.

Same as *Mitigation 3.1.1a-d*

Mitigation 3.1.2a: The Tribe shall develop and implement a Management Plan that includes measures to protect cultural resources from direct or indirect disturbance from site visitors. Measures may include, but are not limited to, controlling the time of visits, the number of visitors, the areas visitors can access, and visitor activities.

Timing/Milestones – Prior to issuance of a certificate of occupancy and ongoing for the life of the project

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Management Plan shall be submitted to the Community Development Department for administrative approval based on a determination by the Department that the plan meets the intent of this measure. It is anticipated this Plan will be incorporated into the Site Use Management Plan required by Mitigation Measure 3.4.1c.

Responsibility for Implementation – Wiyot Tribe

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Mitigation 3.1.2b: Landscaping vegetation (on the midden) shall be limited to those species that

tend to not have significant root structures such as pine, spruce and cypress. All vegetation planted on the midden will be managed so that nothing will be allowed to grow over 30 feet in height or over 12 inches in diameter at breast height.

Timing/Milestones – Prior to installation of any landscaping

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Wiyot Tribe shall submit a landscaping plan as part of the Design Review application to the Community Development Department for approval by the Design Review Committee. The landscaping plan shall include this measure as a specification.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

3.2 TRANSPORTATION

Impact 3.2.1 Cause an increase in traffic that adversely affects the existing system capacity or exceeds LOS C (or LOS D for Highway 101)

Mitigation 3.2.1a: The Tribe shall prepare a Traffic Management Plan pursuant to City of Eureka standards to address construction and truck traffic. Traffic control measures consistent with Institute of Transportation Engineers, Caltrans or similar standards shall be implemented during construction. The Traffic Management Plan shall address the following elements, as determined by the City Traffic Operations Manager prior to preparation of the Plan:

- A. Hours of construction or contractor operation. In critical circulation areas or locations the hours of operation may be scheduled to occur to avoid significant traffic flow restrictions.
- B. Identification of travel routes that:
 1. Minimize trips through residential areas and in areas containing sensitive receptors to the extent feasible;
 2. Limit truck traffic to streets capable of carrying the truck weight;
 3. Minimize construction vehicle maneuvers that would cause safety or congestion impacts (e.g. minimizing left turns at unsignalized intersections on Broadway);
- C. Changes in roadway conditions, including avoidance of lane closures during AM and PM peak traffic hours.
- D. Warning signs, lights, or other traffic control measures required to inform the traveling public of the project.
- E. Notification of potentially affected residents and businesses of possible access disruptions, at least 24 hours prior to construction activities that would affect such access.
- F. Notification of emergency service providers and school districts of expected construction timing and duration, and of probable travel restrictions within the construction area.

Emergency vehicles will be given priority at traffic control stations during construction. Delays for school buses will be minimized to the extent feasible.

Timing/Milestones – Prior to the start of construction and/or issuance of building permits

Responsibility for Oversight – City of Eureka Building, Engineering Department – Traffic Division, and Community Development Departments

Implementation of Mitigation Measure – The Wiyot Tribe or their contractor shall coordinate with the City Traffic Operations Manager prior to the start of construction and prior to the preparation of the Plan to determine the elements that will need to be addressed, based on the construction scenario for the project. The Plan shall be approved by the Traffic Operations Manager prior to the start of construction.

Responsibility for Implementation – Wiyot Tribe

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Mitigation 3.2.1b: The Tribe and the Harbor District shall develop and execute an MOA to allow the Tribe to utilize parking at the Woodley Island Marina for the Tribe’s activities at Tuluwat in a manner that will not impact uses for which the parking area is currently designated. The MOA will at a minimum specify parking locations, times of use and special event protocols.

Timing/Milestones – Prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Tribe shall work with the Harbor District and the Community Development Department in drafting the required MOA to insure the MOA meets its intended purpose. The MOA shall contain a provision that the Community Development Department be notified of any changes to the MOA or its status at least 30 days prior, in order to insure continued compliance with its parking requirements. The MOA shall be approved by the City prior to its execution. The Wiyot Tribe shall provide the Community Development Department with a copy of the executed MOA.

Responsibility for Implementation – Wiyot Tribe

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Mitigation 3.2.1c: The Tribe shall apply for and coordinate with the City of Eureka and/or the Harbor District to secure the appropriate Special Event Permit for any event involving more than 49 participants, or for any event that would otherwise require such a permit regardless of the number of participants. The Permit shall at a minimum contain provisions to address parking, traffic, and emergency services to the satisfaction of the appropriate City of Eureka Department (e.g. Police, Fire and Engineering-Traffic).

Timing/Milestones – Throughout the life of the project

Responsibility for Oversight – City Manager’s Office, EFD, EPD, Community Development Department

Implementation of Mitigation Measure – The Wiyot Tribe shall contact the City of Eureka (currently the City Manager’s Office) to obtain a Special Event Permit prior to holding any event subject to such a permit as defined by this mitigation measure. The Tribe shall not hold any event requiring a Special Event Permit until such permit has been obtained from the City.

Responsibility for Implementation – Wiyot Tribe

3.2.2 Result in inadequate parking capacity

Same as Mitigation 3.2.1b and 3.2.1c

3.2.3 Result in inadequate emergency access

Same as Mitigation 3.2.1c

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Mitigation 3.2.3a: The Wiyot Tribe will put in place a mutual aid agreement for law enforcement, fire, medical, evacuation, and emergency services. This mutual aid agreement will identify and involve all pertinent local agencies to the satisfaction of the City of Eureka. Identified agencies include: Eureka Fire Department, Eureka Police Department, Humboldt County Sheriff Department, Humboldt Bay Harbor, Recreation, and Conservation District, U.S. Coast Guard, and the California Highway Patrol. The mutual aid agreement will include:

- Identification of responsible parties.
- Appropriate initiation procedures and/or circumstances for requesting assistance under the mutual aid agreement.
- Response protocols.
- Notification protocols.
- Any other considerations necessary to ensure adequate fire, medical, evacuation, or emergency services to the satisfaction of the City of Eureka.

Operational elements of the mutual aid agreement shall be incorporated into an Operation and Maintenance Plan. The Plan shall be approved by the City of Eureka’s Community Development Department before the site can be utilized by the public.

Timing/Milestones – Prior to the issuance of a certificate of occupancy and throughout the life of the project

Responsibility for Oversight – City of Eureka Building, Fire, Police, and Community Development Departments

Implementation of Mitigation Measure – The Wiyot Tribe shall coordinate with the agencies identified in the mitigation measure to prepare the required Mutual Aid Agreement. The Agreement will require approval from all involved agencies, which must be provided in writing to the Community Development Department prior to the issuance of a certificate of occupancy for the project.

Responsibility for Implementation – Wiyot Tribe

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Mitigation 3.2.3b: The Tribe shall develop and follow an Emergency Response and Evacuation Plan that details how the Tribe will coordinate with emergency response agencies with jurisdiction over the project site, including the EPD, CHP, USCG, HCSD, Harbor District (marine pump) and EFD to develop process and procedures to provide Tuluwat with appropriate emergency access. The plan shall address, but shall not be limited to, the following:

- Coordination and communication with applicable agencies.
- Procedures for event planning and notifying emergency response agencies.
- Process and procedures for evacuating tours and larger events, including evacuation routes, sheltering locations, and foot paths.
- Process and procedures for educating staff on emergency response procedures.
- Provisions for on-site emergency medical equipment and staff training.
- Schedule for updating the emergency response and evacuation plan.

A copy of the most current plan shall be delivered to each of the coordinating emergency response agencies. Under the plan, the Tribe shall provide the coordinating agencies with a minimum of 45 days notice for any large event occurring at Tuluwat, such as the WRC. The plan shall be reviewed and approved by the City of Eureka before the subject event is held.

Timing/Milestones – Prior to issuance of certificate of occupancy and throughout the life of the project

Responsibility for Oversight – City of Eureka Building, Fire, Police, and Community Development Departments

Implementation of Mitigation Measure – The Wiyot Tribe shall coordinate with the agencies identified in the mitigation measure to prepare the required Emergency Response and Evacuation Plan. The Plan will require approval from all involved agencies, which must be provided in writing to the Community Development Department together with a copy of the Plan, and must be delivered to each emergency response agency with jurisdiction over the project. Updates as required shall be treated in the same manner.

Responsibility for Implementation – Wiyot Tribe

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Mitigation 3.2.3c: The Tribe shall maximize emergency preparedness by allowing multi-agency fire, evacuation, and emergency response drills at Tuluwat Village as needed at the direction of the EFD.

Timing/Milestones – Prior to issuance of certificate of occupancy and throughout the life of the project

Responsibility for Oversight – City of Eureka Building, Fire, Police, and Community Development Departments

Implementation of Mitigation Measure – The Wiyot Tribe shall coordinate with all emergency response agencies with jurisdiction over the project to address an appropriate framework for carrying out the required drills. The provision for such drills shall be included in the Emergency Response and Evacuation Plan.

Responsibility for Implementation – Wiyot Tribe

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Mitigation 3.2.3d: During larger events that exceed 49 people such as the WRC, foot bridges will be temporarily placed over major ditches and dikes between the shell mound and S.R. 255 in a manner sufficient to allow dry-foot entry to the site by law enforcement, medical, rescue, and fire personnel and dry-foot exit from the site by visitors in the event of an emergency evacuation situation.

Evacuation routes shall be surveyed as seasonally appropriate to determine the potential presence of Humboldt Bay owl’s clover and Point Reyes bird’s beak, and any populations shall be marked and avoided. Temporary crossing structures shall be placed no sooner than three days prior to an event, and shall be removed no later than three days after an event. Temporary crossings shall be of sufficient length so as to avoid erosion of slough banks, and shall be kept to the minimum width necessary to allow two-way single-file ingress and egress. Salt marsh vegetation along evacuation routes shall be assessed annually by a qualified biologist, and revegetation shall be conducted if areas along the route become denuded.

Timing/Milestones – Prior to the first event that exceeds 49 people and ongoing throughout the life of the project

Responsibility for Oversight – City of Eureka Building, Fire, Police, and Community Development Departments

Implementation of Mitigation Measure – This requirement shall be incorporated into the Emergency Response and Evacuation Plan and the Site Use Management Plan required for the project. Sufficient information regarding the crossings shall be provided to enable the adequacy of the crossings to accommodate emergency ingress/egress to be determined. The Plans shall be

updated if crossing locations change as a result of required seasonally appropriate surveys to determine the absence/presence of Humboldt Bay owl's clover and Point Reyes bird's beak. Documentation shall be provided to the Community Development Department once a year indicating that the required annual assessments for sensitive plant species and denuding have been completed by a qualified biologist, providing recommendations for corrective actions as required, and documenting that such corrective actions have been completed.

Responsibility for Implementation – Wiyot Tribe

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Mitigation 3.2.3e: The Tribe shall use fire resistant building materials for constructed infrastructure at Tuluwat Village to the extent feasible. Design plans will be submitted to the City of Eureka Building Department and EFD for review and approval before a building permit is issued by the City of Eureka.

Timing/Milestones – Prior to issuance of a building permit; prior to issuance of certificate of occupancy

Responsibility for Oversight – City of Eureka Building, Fire, and Community Development Departments

Implementation of Mitigation Measure – Building plans shall demonstrate compliance with this measure by indicating the use of fire resistant materials to the extent feasible. City inspectors shall insure such materials are installed as provided in approved building plans prior to issuance of a certificate of occupancy.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.2.3f: The Tribe shall install an automatic alarm and automatic sprinkler system in the dance house.

Timing/Milestones – Prior to issuance of a building permit; prior to issuance of certificate of occupancy

Responsibility for Oversight – City of Eureka Building, Fire, and Community Development Departments

Implementation of Mitigation Measure – Building plans for the dance house shall include an automatic alarm and sprinkler system in order for a building permit to be issued. The alarm shall be engineered and installed by a licensed contractor and/or design personnel to the satisfaction of the Building and Fire Departments. City inspectors shall insure such materials are installed as provided in approved building plans prior to issuance of a certificate of occupancy.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.2.3g: The Tribe shall maintain an on-site staffed and operable watercraft capable of traveling from Tuluwat Village to the Eureka waterfront during larger events such as the WRC to help facilitate quick emergency evacuation or medical transportation.

Timing/Milestones – Prior to issuance of a certificate of occupancy and ongoing throughout the life of the project

Responsibility for Oversight – City of Eureka Building, Fire, Police, and Community Development Departments

Implementation of Mitigation Measure – This requirement shall be incorporated into the Emergency Response and Evacuation Plan required for the project.

Responsibility for Implementation – Wiyot Tribe

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Mitigation 3.2.3h: The Tribe shall maintain on-site site medical aid ability, including a minimum of one staff and/or volunteer trained in First Aid and CPR and an automatic external defibrillator whenever Tuluwat hosts tours as well as larger events such as the WRC.

Timing/Milestones – Prior to issuance of a certificate of occupancy and ongoing throughout the life of the project

Responsibility for Oversight – City of Eureka Building, Fire, Police, and Community Development Departments

Implementation of Mitigation Measure – This requirement shall be incorporated into the Emergency Response and Evacuation Plan required for the project.

Responsibility for Implementation – Wiyot Tribe

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Mitigation 3.2.3i: Signage warning the public about delayed emergency response and limitations for emergency responders such as fire, police and emergency medical personnel shall be posted on the Tuluwat dock where they are visible to people arriving at Tuluwat. Signs shall be approved as to content by the City.

Timing/Milestones – Prior to issuance of building permit; prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The signs shall be included in the building/construction plans submitted to the Building Department. Prior to the issuance of a permit to install the signs, they shall be approved by the Design Review Committee as part of the Design Review process for this project, and by the Fire Department and Community Development Department as to content. City inspectors shall insure such signs are installed as provided in approved building plans prior to issuance of a certificate of occupancy.

Responsibility for Implementation – Wiyot Tribe

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Mitigation 3.2.3j: Signage providing information regarding emergency evacuation procedures and routes be approved as to content by the City, and shall be posted in a visible locations on the project site.

Timing/Milestones – Prior to issuance of building permit; prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The signs shall be included in the building/construction plans submitted to the Building Department. Prior to the issuance of a permit to install the signs, they shall be approved by the Design Review Committee as part of the Design Review process for this project, and by the Fire Department and Community Development Department as to content. City inspectors shall insure such signs are installed as provided in approved building plans prior to issuance of a certificate of occupancy.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.2.3k: A Notice of Emergency Response Limitations, prepared and recorded by the City, and signed by both the Wiyot Tribe and the City, shall be recorded against all properties upon which the Tuluwat Restoration Project is located. The Notice shall state that the Tuluwat development does not comply with Fire Code Section 902 in regard to emergency access requirements; therefore, municipal emergency services response to the development, including but not limited to law enforcement, fire, emergency medical, rescue, and hazardous materials incidents response cannot be guaranteed to the level that would be expected elsewhere in the community where access pursuant to Fire Code Section 902 is provided. The Notice shall serve as formal notification by the City to the Wiyot Tribe and any successors in interest that emergency response to the project site is limited, and shall further serve as formal acknowledgement of these limitations by the Wiyot Tribe.

Timing/Milestones – Prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Wiyot Tribe shall prepare a draft notice for submittal to the Community Development Department for review. Once approved by the City, the Notice shall be executed by the Tribe and the City, and submitted to the City for recording.

Responsibility for Implementation – Wiyot Tribe and City of Eureka

3.4 BIOLOGICAL RESOURCES

3.4.1 Adverse impact to protected species

Mitigation 3.4.1a: Prior to demolition of the vacant on-site buildings, the Tribe shall have a qualified biologist survey for bats. If bats are found to be present, the Tribe shall implement measures to avoid impacts to the bats as recommended by the biologist.

Timing/Milestones – Prior to issuance of demolition permit for any vacant building

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Wiyot Tribe or their contractor shall retain a qualified biologist who shall conduct the bat survey no sooner than 30 days prior to commencement of building demolition. If the biologist finds evidence of nesting or roosting bats during the survey, he shall contact the Tribe or contractor and submit recommendations as to appropriate action. The Tribe or contractor shall contact the Community Development Department in order to coordinate implementation of the appropriate actions. The Community Development Department shall ensure that the recommended actions are implemented to the satisfaction of the biologist prior to issuance of demolition permits. Upon completion of the recommended actions, the Tribe or contractor shall have the biologist prepare a report documenting the survey findings and any mitigating actions, which report shall be submitted to the Community Development Department and the California Department of Fish and Game.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.4.1b: The Tribe shall design, construct and maintain landscaping, trails, low wooden fencing, and signage to direct all visitors away from all environmentally sensitive habitat areas.

Timing/Milestones – Prior to the issuance of a certificate of occupancy and ongoing throughout the life of the project

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – Prior to the issuance of a building permit to install the signs, their form and location shall be approved by the Design Review Committee as part of the

Design Review process for this project, and their form, location and content shall be approved by DFG as part of the Site Use Management Plan. City inspectors shall insure such signs are installed as provided in approved building plans and prior to issuance of a certificate of occupancy.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.4.1c: The Tribe shall develop and implement a Site Use Management Plan that includes measures to protect sensitive habitat areas from direct or indirect disturbance from visitation and associated activities to the satisfaction of the Department of Fish and Game. Measures shall include, but shall not be limited to, monitoring and restricting the time and duration of visits, the number of visitors, and visitor activities. Restrictions related to the caretaker shall also be outlined in the plan including the prohibition of pets.

Timing/Milestones – Prior to the issuance of a certificate of occupancy and ongoing throughout the life of the project

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Tribe shall prepare the Site Use Management Plan in cooperation with DFG, and shall submit the plan, together with DFG’s written approval of the plan, to the Community Development Department. DFG’s written approval shall document that the plan is sufficient to protect sensitive habitat areas from direct and indirect disturbance from site visitation and associated project activities.

Responsibility for Implementation – Wiyot Tribe

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Mitigation 3.4.1d: All lighting shall be shielded so as to restrict the casting of light to only the developed area of the site. No amplification systems shall be utilized on the site.

Timing/Milestones – Prior to issuance of building permit; prior to issuance of a certificate of occupancy; and ongoing for the life of the project

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – This measure shall be incorporated into the Site Use Management Plan. Lighting, designed in compliance with this measure, shall be approved as part of the Design Review process prior to installation.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

3.4.2 Adverse impact to habitats

Same as *Mitigation 3.4.1b and 3.4.1c*

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Mitigation 3.4.2a: A pre-construction survey shall be conducted within areas of potential eel grass habitat. A minimum 20-foot wide construction buffer around eelgrass beds offshore of the project site shall be marked by a qualified biologist and maintained during construction. If eel grass exists in areas where it would be directly impacted, it shall be transplanted to the nearest eel grass bed outside the impact area prior to construction.

Timing/Milestones – Prior to issuance of building permit, and prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Wiyot Tribe or their contractor shall retain a qualified biologist who shall conduct an eel grass survey prior to any construction activities that have the potential to disturb eel grass or eel grass habitat. If eel grass is found, a buffer in compliance with this measure shall be established and maintained. If eel grass is found in areas where it could be directly impacted, the biologist shall contact the Tribe or contractor and submit recommendations as to appropriate action, including transplanting the eel grass to the nearest eel grass bed outside the impact area prior to construction. The Tribe or contractor shall coordinate with DFG, ACOE, and the Community Development Department in order to coordinate submittal, approval and implementation of the appropriate actions, including any required plans governing the transplanting of eel grass. The Community Development Department shall ensure that the recommended actions are implemented to the satisfaction of the biologist, DFG and ACOE prior to issuance of any permits or authorizations governing construction activities that may impact eel grass. Upon completion of the recommended actions, the Tribe or contractor shall have the biologist prepare a report on the survey findings and any mitigating actions, which report shall be submitted to the Community Development Department and the California Department of Fish and Game.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.4.2b: The Tribe shall prepare and implement a City-approved Non Point Source Pollution Plan/Stormwater Pollution Prevention Plan for all construction activities including but not limited to:

- Excavation of contaminated midden
- Constructing and deconstructing the temporary causeway
- Construction of protective soil and geotextile cover
- Transportation of materials

- Construction of all structures including buildings, dock, and bulkhead

The plan shall include construction Best Management Practices (BMP) based on those contained in Sections 3 and 4 of the Stormwater Quality Association Stormwater Best Management Practice Handbook for Construction dated January 2003 or later, or other generally recognized stormwater BMP compilations as may be required by the City or the NCRWQCB. The SWPPP shall also include measures to control suspended sediment from construction activities in the marine environment such as pile installation and the delivery of materials to the site. BMP's may include, but are not limited to:

- Silt fencing
- Silt curtains
- Perimeter sandbagging and straw wattles
- Specifications for construction waste handling and disposal
- Stabilization of exposed surfaces by prompt revegetation and/or soil erosion mats, mulches, or other soil stabilizers
- Training of subcontractors on general site housekeeping
- Conducting ground disturbing activities in areas subject to tidal influence during periods of low tides.

Timing/Milestones – Prior to issuance a building and/or grading permit

Responsibility for Oversight – City of Eureka Building, Public Works (Stormwater) and Community Development Departments

Implementation of Mitigation Measure – The Wiyot Tribe or general contractor shall submit to the Building Department grading plans and a SWPPP which includes erosion control measures in conformance with this mitigation measure and the City's drainage and erosion control standards. The approved grading plans and SWPPP shall be incorporated into the contract documents for project grading and construction. Evidence that a Notice of Intent has been properly filed with the NCRWQCB shall be submitted to the Community Development Department prior to the start of grading or construction activities. City inspectors shall ensure that the contractor(s) is effectively implementing the erosion control measures in accordance with the grading and/or building permit conditions.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.4.2c: The selection of revetment materials shall be made to minimize the area of wetland fill to the extent feasible. The Tribe shall replant with salt grass and pickleweed the mudflat area within the revetment that will remain exposed after installation of the revetment. The Tribe shall mitigate any wetland loss resulting from project activities at a minimum of a 1:1 replacement in-kind and on-site. A mitigation site is located at the road "stub out" located on the northwestern portion of the site adjacent to Highway 255. This "stub out" was constructed by filling an approximately 7,000 square foot area of marsh with approximately 4 feet of rock fill.

Timing/Milestones – Prior to issuance of construction or grading permits

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Wiyot Tribe or contractor shall include the revetment design and planting in grading and/or building plans submitted to the Building Department, as well as in the project plans submitted for Design Review. The revetment as proposed in the FEIR is anticipated to consist of a network of pavers and openings that will result in 382 to 766 square feet of wetland fill, depending on the revetment design. If the revetment design results in greater than 766 square feet of fill, the Tribe or their contractor shall demonstrate why it is infeasible to design a revetment with less fill.

The removal of existing structures and pilings on the site is anticipated to result in 749 feet of regained wetland, roughly equal to the wetland fill proposed for the revetment. The Tribe shall submit to the Community Development Department documentation of the wetland loss and gain based on the final design of the project. Should the revetment result in a net loss of wetland when considering the overall project, a plan for mitigating the loss of wetland onsite shall be submitted to the Community Development Department for approval.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

Impact 3.4.3 Adverse impacts to resident or migratory fish or wildlife species or wildlife corridors and nursery sites.

Same as *Mitigation 3.4.1b, 3.4.1c, 3.4.2a, 3.4.2b*

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Mitigation 3.4.3a: Prior to any pile driving, vegetation removal for installation of the cultural soil and geotextile cap, or similar construction activity that may elevate noise or site disturbance substantially above ambient levels, a qualified biologist shall be consulted to identify the presence of any potentially affected special-status wildlife species. If any such special-status species are present, noise, vegetation removal, or other construction activities that may impact these species shall be limited to non-breeding periods. In addition, the biologist shall recommend measures to be implemented to further minimize disturbance of any such species.

Timing/Milestones – Prior to issuance of building/grading permit; prior to construction activities that may substantially elevate noise

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Wiyot Tribe or their contractor shall retain a qualified biologist who shall conduct the special-status wildlife species survey no sooner than 30 days prior to commencement of substantial noise-generating activities. If the biologist finds

evidence of such species during the survey, he/she shall contact the Tribe or contractor and submit recommendations as to appropriate action. The Tribe or contractor shall contact DFG and the Community Development Department in order to coordinate implementation of the appropriate actions. The Community Development Department shall ensure that the recommended actions are implemented to the satisfaction of the biologist prior to issuance of demolition permits. Upon completion of the recommended actions, the Tribe or contractor shall have the biologist prepare a report documenting the survey findings and any mitigating actions, which report shall be submitted to the Community Development Department and the California Department of Fish and Game.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.4.3b: The Tribe shall limit pile-driving activities and other in-water construction activities to the time period of September 1 through November 30 to avoid direct impacts to juvenile salmon and steelhead, and during low tide during this period to minimize impacts to adult salmon and steelhead. Prior to commencement of pile driving activities, the Tribe shall consult with the Department of Fish and Game in order to obtain and utilize the most up to date information to further facilitate impact minimization to fish and sea mammals.

Timing/Milestones – Prior to issuance of a building and/or grading permit, and prior to commencing in-water construction activities

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – In-water construction shall be conducted in accordance with the timeframes provided in this mitigation measure. Prior to commencement of pile driving activities, the Tribe shall submit to the Community Development Department written documentation from the Department of Fish and Game that 1) the Tribe has consulted with DFG in order to obtain and utilize current information to minimize impacts to fish and sea mammals from pile driving activities at the project site; 2) a description of any new requirements for pile driving activities resulting from the consultation; and 3) DFG’s acknowledgement that the Tribe’s pile driving activities will be carried out in a manner that is satisfactory to DFG.

Responsibility for Implementation – Wiyot Tribe and contractor(s)



3.5 HYDROLOGY AND WATER QUALITY

3.5.2 Surface runoff pollutes and/or adds sediments to surface water

Same as *Mitigation 3.4.2b*

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Mitigation 3.5.2a: All construction materials and debris originating from the project shall be stored and/or contained in a manner to preclude their uncontrolled entry and dispersion to the waters of Humboldt Bay. Any debris resulting from construction activities that should inadvertently enter the bay shall be removed from the bay water immediately.

Timing/Milestones – Prior to issuance of demolition, grading and/or building permits; ongoing throughout the construction process

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – As required for all mitigation measures, this measure shall be part of construction and design documents, which shall specify how materials will be stored onsite to preclude entry into the waters of Humboldt Bay, and the requirement for immediate removal of such materials from the bay, should they inadvertently enter the bay.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.5.2b: Any and all debris resulting from construction activities shall be removed from the project site within ten days on project completion.

Timing/Milestones – Prior to issuance of demolition, grading and/or building permits; ongoing throughout the construction process

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – As required for all mitigation measures, this measure shall be part of construction and design documents, which shall specify the requirement for all construction debris to be removed from the project site within ten days after project completion.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.5.2c: Silt screens, straw bales, coir-rolls, coffer damming, and/or water bladder walls appropriate for use in estuary and intertidal setting applications shall be installed at the toe of the slope and around the perimeter of the area to be graded prior to the initiation of the grading activities, and around pilings during the “jetting” process, and shall be maintained throughout the project construction. Additional siltation barrier materials shall be kept at the site and deployed as needed to reinforce sediment containment structures should unseasonable rainfall occur.

Timing/Milestones – Prior to issuance of building and/or grading permit; ongoing throughout construction process

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – As required for all mitigation measures, this measure shall be part of construction and design documents, which shall specify the requirement for implementation of these best management practices. The requirement siltation barrier materials to be kept onsite and deployed as need during rainfall occurrences shall be incorporated into the SWPPP.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.5.2d: Fuels, lubricants, and solvents shall not be allowed to enter the waters of Humboldt Bay. Prior to the start of activities that could potentially result in a liquid hazardous materials spill, hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and a registered fire-response, professional hazardous materials clean-up/remediation service shall be locally available on call to respond within two hours of being notified of a spill. Any accidental spill shall be rapidly contained and cleaned up. All heavy equipment operating in or near the water’s edge shall utilize bio-diesel for fuel and vegetable oil as hydraulic fluid. The Tribe shall regularly inspect construction activities to insure equipment is free of leaks and in good working order. A spill containment and clean-up plan shall be prepared by the Tribe for the City’s review and approval, and provided to any contractor working at the site with hazardous materials.

Timing/Milestones – Prior to issuance of building and/or grading permit; prior to the start of activities that could result in a spill; ongoing throughout construction process

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – A spill containment and clean-up plan incorporating the requirements listed in this measure, together with standard best management practices normally included in such plans, shall be prepared and submitted to the Building Department for review and approval, and shall be kept onsite at all times by any contractor conducting construction involving the potential for a spill.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.5.2e: Revetment materials and dock pilings shall only be installed during lower stages of the tide.

Timing/Milestones – Prior to issuance of building or grading permit and throughout construction of the revetment and dock pilings

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – As required for all mitigation measures, this measure

shall be part of construction and design documents, which shall specify that the revetment and dock pilings shall only be installed during lower stages of the tide.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

3.5.3 Degrade surface waters with effluent discharges

Same as *Mitigation 3.4.1c and Mitigation 3.11.1a and b*

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Mitigation 3.5.3a: The use, design, and operation of any onsite wastewater and/or greywater treatment, storage, or disposal system shall be approved by the NCRWQCB, HCDEH and the City of Eureka Public Works/Building Department before permits to construct or install any such system(s) are issued. No use of the site for project purposes requiring such system(s) shall occur until such system(s) is installed and properly functioning.

Timing/Milestones – Prior to issuance of building and/or grading permit; prior to issuance of certificate of occupancy allowing the use for which the wastewater and/or greywater systems are required

Responsibility for Oversight – City of Eureka Building, Public Works, and Community Development Departments

Implementation of Mitigation Measure – The Wiyot Tribe shall provide written approval from the NCRWQCB and HCDEH of any proposed onsite wastewater and/or greywater system(s) prior to the issuance of any authorization by the City of Eureka Public Works or Building Departments for the installation of any such system(s). The system(s) shall be inspected as required by the NCRWQCB, HCDEH, and/or the City to confirm it is installed and functioning properly prior to issuance of a certificate of occupancy allowing any use for which any such system(s) is required.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.5.3b: The Tribe shall develop and implement a Wastewater Management Plan (WMP) that includes measures to protect water quality through proper management of proposed onsite wastewater and greywater systems. This WMP will be approved by the HCDEH and the City of Eureka before a wastewater system is approved for use.

Timing/Milestones – Prior to issuance of building and/or grading permit; prior to issuance of certificate of occupancy allowing the use for which the wastewater and/or greywater systems are required

Responsibility for Oversight – City of Eureka Building, Public Works, and Community Development Departments

Implementation of Mitigation Measure – The Tribe shall work with the City and HCDEH to prepare a WMP as required by this measure.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

3.5.4 Restrict groundwater recharge and/or degrade groundwater

Same as *Mitigation 3.5.3a-b and Mitigation 3.11.1a and b.*

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3.5.5 Place structures within the 100-year floodplain

Mitigation 3.5.5a: All floor elevations of new or refurbished buildings shall be at or above 12.5 feet MLLW.

Timing/Milestones – Prior to issuance of a building and/or grading permit; prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – As required for all mitigation measures, this measure shall be part of construction and design documents, which shall specify this floor elevation requirement. City inspectors insure compliance prior to issuance of certificate of occupancy.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

3.6 AIR QUALITY

3.6.1 Release of PM₁₀ during construction activities

Mitigation 3.6.1a: The Tribe shall implement dust control measures during construction activities:

- During dry periods, water all earth surfaces when construction involves clearing, grading, earthmoving, and other site preparation activities. Watering should be conducted at least twice daily during construction.
- Use watering to control dust generated during deconstruction/ demolition of structures or pavement break-up.
- Cover trucks hauling construction and demolition debris from the site.

- Regular mud and dirt cleanup carried onto paved streets from the project site.

Timing/Milestones – Prior to issuance of grading and/or building permits and throughout construction process

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – As required for all mitigation measures, this measure shall be part of construction and design documents, which shall specify compliance with this measure. City inspectors shall monitor and require compliance.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.6.1b: The Tribe will implement controls on diesel-powered construction equipment:

- Maintain construction vehicles to maximize efficiency and minimize exhaust emissions.
- Prohibit excessive equipment idling time (for diesel powered equipment).
- Stage diesel-powered equipment as far as possible from residences or other sensitive receptors to the greatest extent possible given the size and location of the site, such as behind a building or dense upland vegetation to maximize any potential noise buffer.

Timing/Milestones – Prior to issuance of grading and/or building permits and throughout construction process

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – As required for all mitigation measures, this measure shall be part of construction and design documents, which shall specify compliance with this measure. City inspectors shall monitor and require compliance.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.6.1c: The construction contractor shall operate in accordance with Air Quality Regulation 1, Chapter IV, Rules 420 and 430, as noted below. *Compliance is required by law, however, inclusion of the requirement as a mitigation measure highlights the need for compliance.*

- Rule 420: Particulate Matter – (a) General Combustion Sources: A person shall not discharge particulate matter into the atmosphere from any combustion source in excess of 0.46 grams per standard cubic meter (0.20 grains per standard cubic foot) of exhaust gas, calculated to 12 percent carbon dioxide; or in excess of the limitations of NSPS, Rule 1-490, as applicable. (b) Non-Combustion Sources: A person shall not discharge particulate matter into the atmosphere from any non-combustion source in excess of 0.46 grams per actual cubic meter (0.20 grains per cubic foot) of exhaust gas.

- **Rule 430: Fugitive Dust Emissions** – The handling, transporting, or open storage of materials in such a manner which allows or may allow unnecessary amounts of particulate matter to become airborne, shall not be permitted. Reasonable precautions should be taken to prevent particulate matter from becoming airborne, including but not limited to: (1) covering open bodied trucks when used for transporting materials likely to give rise to airborne dust; and (2) the use of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, road grading or clearing land.

Timing/Milestones – Prior to issuance of grading and/or building permits and throughout construction process

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – As required for all mitigation measures, this measure shall be part of construction and design documents, which shall specify compliance with this measure. City inspectors shall monitor and require compliance.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

3.7 GEOLOGY AND TSUNAMI

3.7.1 Impacts due to landslides, soil instability and soil erosion

Mitigation 3.7.1a: A protective soil, geotextile and (where appropriate) permeable hardened surface cover will be designed and constructed to protect the midden from weather, tides, waves, visitors, construction and other potentially erosive forces. Native landscaping will be used to provide additional protection from erosion. The design will be approved by the City before the issuance of a grading permit.

Timing/Milestones – Prior to issuance of grading and/or building permits

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – Approval of the design of the protective soil, geotextile and permeable hardened surface cover design, including a landscaping plan, shall be reviewed and approved by the City Building Department and Design Review Committee prior to issuance of permits authorizing installation. Native landscaping shall consist of recommended species as contained in the *Vegetation Survey, Indian Island, Humboldt County, California* prepared by Annie L. Eicher and dated July 2003, included as Appendix “C” of the Feasibility Study for the Project, being Appendix 4, Vol. 2 of the Tuluwat Restoration Project EIR, or shall otherwise be approved by a qualified biologist prior to submittal to the City for Design Review consideration.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

3.7.2 Impacts of a seismic event

Mitigation 3.7.2a: Effective engineering design of foundation elements shall be implemented based on a presumption of liquefaction potential. CDMG Special Publication 117 (SP 117) (CDMG, 1997) provides guidelines for mitigation of seismic hazards and states that,

The hazard assessment required for site within zones of required investigation should (a) demonstrate that liquefaction at a proposed project site poses a sufficiently low hazard as to satisfy the defined acceptable level of risk criteria, or (b) result in implementation of suitable mitigation recommendations to effectively reduce the hazard to acceptable levels (CCR Title 14, Section 3721).

Adequate mitigation for lateral spread hazards may be provided by, but is not limited to, the following guidelines stated in the SP 117:

- Edge containment structures;
- Pile foundations that have been designed to accommodate lateral spread hazards;
- Modification of site geometry to reduce the risk of translational site instability.

Adequate mitigation for other liquefaction-related, localized hazards including potential bearing failure, settlements, and lateral displacements, may be provided by adhering to the following guidelines stated in SP 117:

- In-situ ground densification;
- Other types of ground improvements (i.e. permeation grouting, surcharge pre-loading, etc.);
- Deep (pile) foundations that have been designed to accommodate liquefaction effects;
- Reinforced shallow foundations; and/or
- Design of the proposed structures or facilities to withstand predicted ground softening and/or predicted vertical and lateral ground displacements to an acceptable level of risk.

Timing/Milestones – Prior to issuance of grading and/or building permits

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – As required for all mitigation measures, this measure shall be part of construction and design documents, which shall specify compliance with this measure. Foundation designs shall be found in compliance with this measure prior to issuance of a building permit. City inspectors shall monitor and require compliance.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.7.2b: Structural foundations shall be engineered based on settlement and differential settlement analysis of site soils.

Timing/Milestones – Prior to issuance of grading and/or building permits

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – As required for all mitigation measures, this measure shall be part of construction and design documents, which shall specify compliance with this measure. Foundation designs shall be found in compliance with this measure prior to issuance of a building permit. City inspectors shall monitor and require compliance.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

3.7.3 Impacts of tsunamis

Same as *Mitigation 3.2.1c, 3.2.3a-d, and 3.2.3g-k*

3.9 AESTHETICS AND VISUAL RESOURCES

3.9.3 Create a new source of substantial light or glare

Same as Mitigation 3.4.1d

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Mitigation Measure 3.9.3a: The Proposed Project’s design will be subject to review by the City of Eureka Design Review Committee, and will adhere to the following lighting specifications:

- Exterior lighting, whether installed for activity, security, or safety purposes shall be shielded and/or positioned in a manner that broadcasts light downward and that will not shine light or allow light glare to exceed the boundaries of the area on which it is placed.
- Exterior lighting shall be designed to use the lowest intensity lamp/wattage compatible with safety

Timing/Milestones – Prior to issuance of building permit; prior to issuance of a certificate of occupancy; and ongoing for the life of the project

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure –Lighting, designed in compliance with this measure, shall be approved as part of the Design Review process prior to installation.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

3.10 Noise

Same as Mitigation 3.4.1d

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3.10.1 Generate excessive noise and ground born vibrations from construction activities

Mitigation 3.10.1a: The Tribe shall implement standard noise controls during construction activities, including but not limited to:

- Equip all internal combustion engine-driven equipment with mufflers that are in good working condition, are appropriate for the equipment, and are current.
- Utilize “quiet” models of air compressors and other stationary noise sources where technology exists and/or provide noise shields around noise sources.
- Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.
- Prohibit unnecessary idling of internal combustion engine.

Timing/Milestones – Prior to issuance of grading and/or building permits and throughout construction process

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – As required for all mitigation measures, this measure shall be part of construction and design documents, which shall specify compliance with this measure. City inspectors shall monitor and require compliance.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.10.1b: The Tribe shall limit noise-generating construction activities to 7:00 am to 7:00 pm on weekdays and 9:00 am to 5:00 pm on Saturdays. No-noise generating construction to occur on Sundays or holidays.

Timing/Milestones – Prior to issuance of grading and/or building permits and throughout construction process

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – As required for all mitigation measures, this measure shall be part of construction and design documents, which shall specify compliance with this measure. City inspectors shall monitor and require compliance.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

3.11 PUBLIC HEALTH HAZARDS AND HAZARDOUS MATERIALS

3.11.1 Expose humans or the environment to hazardous materials from site cleanup activities.

Mitigation 3.11.1a: Contaminated sites in the project area shall be cleaned up to the extent necessary to ensure safe re-use of the property, based on the Tribe's ISCP and applicable federal, state, and local regulations and laws.

Timing/Milestones – Prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Tribe shall implement the ISCP identified in Mitigation Measure 3.11.1b. Upon completion of this work, the Tribe shall submit written documentation to the Building and Community Development Departments that the project site has been remediated to the extent necessary to allow the safe re-use of the site for the purposes identified in the Tuluwat Restoration Project, to the satisfaction of the NCRWQCB.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.11.1b: The site-specific ISCP, prepared by SHN and approved by the NCRWQCB, shall be implemented as required. The ISCP discusses how the field operations would be performed and included the following:

- Analysis and summary of the site background and physical setting
- Scope and objectives of the cleanup evaluation
- Contaminated way runner characterization and disposal procedures
- Cap design and construction procedures
- Contaminated soil stockpiling procedures
- Contaminated soil stockpile sampling procedures
- Contaminated soil characterization and disposal procedures
- Surface debris removal and disposal
- Quarterly groundwater monitoring and reporting procedures
- Sampling locations
- Sampling methodologies
- Definition of project team and associated responsibilities

Timing/Milestones – Prior to issuance of grading and/or building permits; throughout the construction process; prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Interim Site Cleanup Plan (ICSP) shall be implemented by the Wiyot Tribe and their contractors under the direction and oversight of the NCRWQCB. Prior to the issuance of a certificate of occupancy, the Tribe or contractor shall submit documentation to the Building and Community Development Departments confirming that the ICSP was completed to the satisfaction of the NCRWQCB.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.11.1c: If new contamination is discovered, further investigations on the property shall be completed by a qualified professional to determine the extent of contaminated soils and/or groundwater, and any required remediation actions. If contaminated soils are present, the North Coast Regional Water Quality Control Board would be notified, and the Tribe would proceed pursuant to State law and best management practices under the direction of the Regional Board, the Humboldt County Environmental Health Department and/or the Department of Toxic Substances Control as appropriate.

Timing/Milestones – Prior to issuance of grading and/or building permits; throughout the construction process; prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Building and Community Development Departments shall be notified of any new contamination that is discovered on the property, shall be provided with written documentation that the Tribe has notified the NCRWQCB, and shall be provided with written documentation that the Tribe is proceeding under the direction of the appropriate agencies with the proper remedial actions. Any additional remedial activities shall be submitted to the Building and Community Development Departments prior to implementation, and shall not proceed until all necessary authorizations from the City are issued.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

3.11.2 Expose humans or the environment to hazardous materials from construction activities.

Same as *Mitigation 3.4.2b*

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Mitigation 3.11.2a: A project-specific Health and Safety Plan (HSP) would be prepared by a qualified industrial hygienist in compliance with Occupational Safety and Health Administration (OSHA), USEPA, state, and local safety regulations. All project construction activities shall conform to the HSP. The HSP would include:

- General information
- Key personnel and responsibilities
- Hazard analysis
- Monitoring plan – dose, response, and personnel monitoring
- Personal protective equipment (PPE)
- Appropriate HAZWOPER certification for all personnel
- Site control
- Decontamination procedures
- General safety requirements
- Emergency response plan

Timing/Milestones – Prior to issuance of grading and/or building permits; throughout the construction process

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Tribe or their contractor shall provide the required HSP to the Building and Community Development Departments prior to the issuance of any authorization to construction or remediation work involving contaminated soil or water. The contractor conducting any such work shall have the HSP be onsite at all times.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.11.2b: All native soils, midden, and/or groundwater generated during construction would be sampled and analyzed for contamination. If contaminated soils are present, the North Coast Regional Water Quality Control Board would be notified, and the Tribe would proceed pursuant to State law and best management practices under the direction of the Regional Board, the County Health Department and/or the Department of Toxic Substances Control as appropriate.

Timing/Milestones – Prior to issuance of grading and/or building permits; throughout the construction process; prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Building and Community Development Departments shall be notified of any test results and any new contamination that is discovered on the property, shall be provided with written documentation that the Tribe has notified the NCRWQCB and other

agencies identified as appropriate, and shall be provided with written documentation that the Tribe is proceeding under the direction of the appropriate agencies with the proper remedial actions. Any additional remedial activities shall be submitted to the Building and Community Development Departments, and shall not proceed until all necessary authorizations from the City are issued.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.11.2c: The Tribe shall not build new structures atop any area of the site where known contamination above industrial PRGs remains after the implementation of the interim clean up action so as not to preclude future clean up of remain contamination.

Timing/Milestones – Prior to issuance of grading and/or building permits; throughout the construction process; prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – Site grading plans shall show the areas where contamination exists on the site, and where remedial activities will occur. Upon the completion of the ISCP or other remedial activities that may occur as a result of additional discoveries, the Tribe shall submit a site plan to the Building and Community Development Departments and the NCRWQCB indicating where contamination above industrial PRG’s remains. No building permits will be issued for structures in those areas.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.11.2d: Prior to construction of the dock or any other structure that will result in significant disturbance of bay mud, such as pile driving, jetting, excavating or similar activity, pre-construction testing for all potential constituents of concern shall be conducted to the specifications and satisfaction of the NCRWQCB. If contamination is present, the following shall be implemented to the satisfaction of the NCRWQCB:

- No jetting for installation of piers shall be allowed in areas where preconstruction testing reveals the presence of constituents of concern unless the NCRWQCB determines that based on the level of contamination and/or project site conditions, effects can be minimized to their satisfaction with the employment of standard BMP’s.
- All pile driving shall be conducted in the dry to reduce the potential for contaminated sediment transport.
- Geotextile fabric shall be installed on top of the sediment around each pier to be removed or driven, together with a silt curtain surrounding the pier, in order to provide for containment, collection, removal and proper disposal of any contaminated sediments.
- A silt curtain, together with a water bladder or similar structure necessary to provide a dry

work area, shall be installed around each pier that is to be removed or driven if water is present.

Timing/Milestones – Prior to issuance of grading and/or building permits; throughout the construction process; prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – Prior to the issuance by the City of any authorization to conduct work in bay mud as described in this measure, the Tribe shall coordinate with the City and the NCRWQCB to conduct testing for constituents of concern as may be required by the NCRWQCB. The testing shall be conducted under the direction of the NCRWQCB, and test results shall also be submitted to the Building and Community Development Departments. The Tribe shall provide the City Building and Community Development Departments with a final report/plan approved by the NCRWQCB, describing the level of contamination found at the site and as a result, which measures as described in this MMRP will be utilized to minimize sediment transport during construction. The NCRWQCB shall make the determination as to whether levels of contamination are such that the requirements for construction as contained in this measure shall be implemented.

Responsibility for Implementation – Wiyot Tribe and contractor(s)



3.11.3 Expose humans or the environment to hazardous materials from site use.

Mitigation 3.11.3a: All visitors to the site shall be supervised by Tribal staff and directed to remain outside any exclusionary areas of the site.

Timing/Milestones – Prior to issuance of certificate of occupancy and throughout project operation

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – This requirement shall be incorporated into the Site Use Management Plan to be approved by the Community Development Department prior to issuance of a certificate of occupancy allowing public use of the site.

Responsibility for Implementation – Wiyot Tribe



Mitigation 3.11.3b: A three foot high split rail fence shall be constructed on southern boundary of the developed portion of the site facing the middle channel. The fence shall be placed along the top of bank (at or above 11 foot, MHHW) and shall be designed to keep the visiting public away from the wetland and mudflat areas. Signs shall also be posted notifying the public that access to any of the surrounding wetland areas is prohibited. In addition, all visitors would be required to access the site via the dock only. Beach access via canoe or motorized craft between the dock and

the bulkhead shall not be allowed. These restrictions and the fence may be removed once the Tribe determines the excluded area is not contaminated.

Timing/Milestones – Prior to issuance of grading and/or building permits; throughout the construction process; prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The development plans submitted to the Building Department and the Design Review Committee for the project shall include the required fence and signs. The adequacy of the fence and signs to keep the visiting public out of potentially contaminated wetland and mudflat areas shall be determined by the City in consultation with the NCRWQCB. The fence and signs may be removed only after the City received written documentation from the NCRWQCB that the level of contamination (or lack thereof) does not require these exclusionary measures. The requirement for visitors to be excluded from the wetland and mudflat areas due to potential contamination shall be incorporated in the Operation and Maintenance Plan, as shall the requirement that all visitors shall be required to access the site via the dock only and beach access via canoe or motorized craft between the dock and the bulkhead shall not be allowed. Fencing and signage and the Site Use Management Plan shall be in place prior to issuance of a certificate of occupancy.

Responsibility for Implementation – Wiyot Tribe and contractor(s)

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Mitigation 3.11.3c: The Tribe shall regularly monitor and maintain the soil cover to ensure its condition does not degrade over time and would include a summary of its condition in monitoring reports to the NCRWQCB. The requirement for these actions shall be included in an Operation and Maintenance Plan that shall be developed by the Tribe. The Plan shall be approved by the City of Eureka’s Community Development Department before the site can be utilized by the public.

Timing/Milestones – Prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Tribe shall provide to the Community Development Department copies of the monitoring reports to be submitted to the NCRWQCB documenting monitoring and maintenance of the soil cover. The Tribe shall provide an Operation and Maintenance Plan to the Community Development Department for approval. The Plan shall incorporate the monitoring and maintenance requirements as outlined in this measure. The City shall require the Tribe to take appropriate actions as required for maintenance of the soil cover as designed and permitted.

Responsibility for Implementation – Wiyot Tribe

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Mitigation 3.11.3d: The Tribe shall record an Environmental Covenant, for the purpose of enabling the NCRWQCB to maintain a level of control for the monitoring of future actions concerning this property, which notes the presence of hazard materials remaining after the implementation of the interim clean up action and demonstrates a need to clean up said material in the future. The Tribe shall implement all requirements as contained in the Environmental Covenant to the satisfaction of the NCRWQCB. The Environmental Covenant shall include, but shall not be limited to, the following requirements which will be specified by the NCRWQCB:

- Annual inspection of the site to verify that the geofabric, imported soils, and stone pavers remain in place in the required areas;
- Annual inspections to ensure that permanent structures are not placed above soils containing hazardous levels of contaminants;
- Continued groundwater and surface water monitoring;
- Maintenance, repair and/or replacement of the geofabric, imported soils, and stone pavers by the Tribe in a reasonable time frame;
- Submit annual reports to the Regional Water Board that the above items have been completed; and
- Submit to the Regional Water Board annual verification that the Tribe is continuing to actively seek additional sources of funding for the remaining site cleanup actions.

Timing/Milestones – Prior to issuance of a certificate of occupancy

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Tribe shall provide the Building and Community Development Departments with a copy of the recorded Environmental Covenant prior to issuance of a certificate of occupancy

Responsibility for Implementation – Wiyot Tribe

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Mitigation 3.11.3e: Public access shall not extend to areas below 11 feet in elevation.

Timing/Milestones – Prior to issuance of a certificate of occupancy and throughout the life of the project

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Site Use Management Plan and Operation and Maintenance Plan shall be demonstrated to contain provisions that are judged by the Community Development Department to be adequate to preclude public access to areas below 11 feet in elevation.

Responsibility for Implementation – Wiyot Tribe

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Mitigation 3.11.3f: All agricultural uses of the site shall be excluded, including food crops, chickens, and cattle.

Timing/Milestones – Prior to issuance of a certificate of occupancy and throughout the life of the project

Responsibility for Oversight – City of Eureka Building and Community Development Departments

Implementation of Mitigation Measure – The Operation and Maintenance Plan shall be demonstrated to contain provisions that are judged by the Community Development Department to be adequate to exclude agricultural uses of the site.

Responsibility for Implementation – Wiyot Tribe



3.12 RECREATION AND OPEN SPACE

3.12.2 Changes in Use of Off-Site Recreation Facilities

Same as *Mitigation 3.2.1b and 3.3.1c*