



# COUNTY OF HUMBOLDT

For the meeting of: 7/11/2023

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File #: 23-952

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**To:** Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Departmental

**SUBJECT:**

Allocation of Water Quality Improvement Grant Funds from the Friends of the Eel River Mitigation and Remediation Grant Fund and Supplemental Budget in FY 2023/2024 (4/5 Vote Required)

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Receive and consider the staff report and grant applications (Attachment 1), and accept public comment; and
2. Approve the attached supplemental budget for budget unit 1100-282-910, Friends of the Eel River Budget, for \$543,034 and 1200-325, Public Works Road Maintenance for \$287,008 (Attachment 2) (4/5 vote required); and
3. Approve the recommended slate of grant applications from the Mitigation and Remediation Fund Awards by approving the attached Resolution (Attachment 3); and
4. Authorize the Director of the Planning and Building Department to execute the grant agreements after review and approval by County Counsel and Risk Management.

**SOURCE OF FUNDING:**

Mitigation and Remediation Fund 3929

**DISCUSSION:**

The Board of Supervisors is being asked to review and approve the recommended grant awards from the Friends of the Eel River Mitigation and Remediation Grant Fund (Fund).

The Fund was established in 2019 through a settlement agreement between Friends of the Eel River (FOER) and the county. The settlement dictated the fund shall be used to fund sediment reduction programs associated with roads serving cannabis cultivation sites located in impacted and refuge watersheds. At least 80% of funds are to be used for physical road improvements. Properties in the abatement process are not eligible for funding.

The Program Guidelines approved by the Board prioritizes grants to cannabis cultivators and road maintenance associations based upon water quality benefits according to the following criteria:

- 1) Highest priority will be given to projects with one or more stream crossings and corrective grading within and close to a stream channel.
- 2) Improvements to roads in priority sub watersheds identified in Resolution 18-43 (Resolution Establishing a Cap on the Number of Commercial Cannabis Cultivation Permits and Acres).
- 3) Roads serving cultivation sites approved under the 2016 Commercial Medical Marijuana Land Use Ordinance when the improvements will bring the road into compliance with the standards of the 2018 Commercial Cannabis Land Use Ordinance.
- 4) Locations in highly erodible soils, steep slopes, proximity to watercourses, and the presence of impacted fisheries.

The first round of funding took place in 2021-2022. Of the 10 applications submitted, two were funded and six were conditionally funded “subject to California Department of Fish & Wildlife (CDFW) and North Coast Regional Water Quality Control Board (RWQCB) approval; after all permits are obtained, and the cost estimates are correlated with the LSAA agreements and the old cost estimates are updated. The LSAA agreement cost estimate shall be consistent with the amount of the grant.” The conditionally approved projects were Armstrong Road, Serendipity Road, Nooning Creek, Walker Ridge, Bamboo Farms and Diamond Sky.

A year has passed since these applications were conditionally approved. Some of these applicants submitted additional documents to meet the conditions of approval and a meeting was held in May 2023 with county staff, CDFW and RWQCB to discuss their funding based on the new submittals. Half of the applicants increased the amount of their request. The recommendations for funding are in the table below.

<i>Grant Application</i>	<i>Project Description and Staff Notes</i>	<i>Original Funding Request</i>	<i>Revised Funding Request</i>	<i>Recommended Funding</i>
<b><i>Round 1 - Applications Recommended for Funding</i></b>				
Serendipity Road Improvements	Reinforces & replaces five (5) culverts.	\$99,426	\$114,244	\$114,244
Walker Ridge	Reinforces & replaces eight (8) culverts on Class III streams. Installs rock armor at one (1) stream crossing and at inboard/outboard of culverts. Funds approx. half of total project.	\$67,486	n/a	\$67,486
Diamond Sky	Implements conditions of approval of WRPP.	\$15,000	n/a	\$15,000
<b><i>Round 1 - Applications Not Recommended for Funding</i></b>				

Nooning Creek	Reinforces & replaces two (2) culverts. <i>Recommend no funding because there is no record of RWQCB 401 application. High cost for two culverts. Not clear how this is connected to cannabis operation.</i>	\$51,816	\$87,831	\$0
Bamboo Farms Remediation	Three (3) culverts were replaced, inlets/outlets were reinforced with rip-rap, and new gravel placed on the road over the culverts. <i>Recommend no funding because the work is already completed before application.</i>	\$21,362	n/a	\$0
Armstrong Road Improvements	Reinforces & replaces thirteen (13) culverts, as required by Code Enforcement action. <i>Recommend no funding because they are out of compliance with the required documents to CDFW and RWQCB.</i>	\$230,000	\$375,006	\$0
	Totals:	\$485,090	\$680,929	\$196,730

In October 2022 a second round of funding availability was announced. The Planning and Building Department received 17 applications. A meeting was held in June 2023 with county staff, CDFW and RWQCB to discuss their funding. The recommendations for funding are in the table below.

<b>Grant Application</b>	<b>Project Description and Staff Notes</b>	<b>Funding Request</b>	<b>Recommended Funding</b>
<b>Round 2 - Applications Recommended for Funding</b>			
3885 Road Z	Replaces five (5) culverts, decommissions four (4) stream crossings and realigns stream(s) into natural channel.	\$149,000	\$149,000
Arnold	Replaces five (5) culverts and one (1) bridge. Creates new channel and upgrades existing crossing.	\$66,000	\$66,000
Walker Ridge	Reinforces & replaces eight (8) culverts on Class III streams. Installs rock armor at one (1) stream crossing and at inboard/outboard of culverts. Funds second half of total project.	\$68,171	\$68,171

Ridge Line Road	Four individual applicants working together to request funding for replacement of failing culvert and pavement of road at the intersection of Alderpoint Road and Sawmill Road. Benefits numerous property owners.	\$4,285	\$4,285
Pitilina Corp		\$3,980	\$3,980
Sky High		\$3,980	\$3,980
Tan Oak		\$3,980	\$3,980
Hwy 36 Homestead -049	Replaces two (2) culverts and rock armor at one (1) crossing. Decommissions spring fed pond to restore natural flow.	\$29,173	\$29,173
Hwy 36 Homestead -050	Replaces pond spillway culvert and rock armor outlet. Replaces failing culvert.	\$17,735	\$17,735
<b>Round 2 - Applications Not Recommended for Funding</b>			
Delaney	Replaces two (2) culverts and one (1) bridge. <i>Recommend no funding because CDFW LSA has had no movement for a year. No enrollment with RWQCB for parcel 220-282-019.</i>	\$71,274	\$0
Sproul Creek	Upgrades fourteen (14) water crossings and addresses eighteen (18) erosion/sediments control projects. <i>Recommend no funding because property has Cleanup and Abatement Order from RWQCB and Notice of Violation from CDFW.</i>	\$117,170	\$0
Green Grass Farms	Decommissions one (1) stream crossing and restores channel. Upgrades two (2) existing stream crossings with rocked fords. <i>Recommend no funding because applicant unresponsive to CDFW requests for documents and no site management plan submitted to RWQCB.</i>	\$9,926	\$0
Big Sun Farms	Installs four (4) new culverts to replace ford crossings, rock armors and stabilizes one (1) existing culvert and channel. <i>Recommend no funding because request is four times greater than estimate in LSA</i>	\$121,136	\$0
Forest Road 1/ GarlandCo LLC	Paves 41 miles of Forest Road 1. Asphalt repair, culvert cleanout, water bar maintenance and fallen tree removal. <i>Recommend no funding because this is a Forest Service Road that should be maintained by the Forest Service</i>	\$652,000	\$0

Aldebaran	Replaces one (1) culvert on Homestead Road and removes legacy hydroelectric infrastructure.	\$17,040	\$0
Eagle Creek Ranch/ EcoMeds	Rock armors two (2) culverts and removes water bladder. <i>Recommend no funding because CDFW is missing all reporting requirements and scope of work does not reflect needed work (removal of tires from the creek).</i>	\$24,486	\$0
Foleva Road	Re-rocks road with chip seal at entrance of property and rocks adjacent drainage ditches. <i>Recommend no funding because there is no RWQCB application on file and the reporting requirements for CDFW are missing.</i>	\$33,787	\$0
	Totals:	\$1,393,123	\$346,304

A statement of the fund balance is detailed below.

<b>Allocation to Fund</b>			
	Amount Collected	20% of Collected	Allocation to Fund
Initial Funding (Prior to FY 18-19)	\$1,475,095		\$1,100,000
FY Ending			
18-19 Penalties	\$1,007,000	\$201,400	\$201,400
19-20 Penalties	\$326,750	\$65,350	\$65,350
20-21 Penalties	\$196,750	\$39,350	\$39,350
21-22 Penalties	\$204,000	\$40,800	\$40,800
		<b>Total</b>	<b>\$1,446,900</b>
<b>Expenditures</b>			
Public Works			\$500,000
Cobb Road			\$18,333
Cobb Road			\$74,525
Samuels Ranch Road			\$24,000
		<b>Total</b>	<b>\$616,858</b>
<b>Remaining Funds Available</b>			

Allocation to Fund			\$1,446,900
Expenditures as of 5/10/23			\$616,858
<b>Remaining Funds Available</b>			<b>\$830,042</b>

The fund has \$830,042 remaining for funding the projects in this Board item. The above projects recommended for funding total \$543,034 which would leave \$287,008 in the fund.

There are no further allocations planned to add to this fund from county cannabis civil enforcement actions. In concert with CDFW and RWQCB, and with the support of Friends of the Eel River, staff is recommending the remaining balance of \$287,008 be transferred to the Department of Public Works to address the list of high priority road improvement projects that will reduce sediment delivery. This means that there will not be another round of grant funding to cannabis applicants for individual road improvements. It should be noted, however, that CDFW grant funding is available to address remediation related to cannabis cultivation operations.

FINANCIAL IMPACT:

Approving the recommended grant awards and transferring the remaining balance to Public Works will deplete the entire fund balance. Administration of the Mitigation and Remediation Fund is supported by existing staff costs by the General Fund. A supplemental budget request (Attachment 3) shows the allocation of Friends of the Eel River Fund 3929 to the Friends of the Eel River Professional Services and Department of Public Works Road Maintenance Fund (1200-325) for disbursement.

STRATEGIC FRAMEWORK:

This action supports your Board’s Strategic Framework by facilitating public/private partnerships to solve problems .

OTHER AGENCY INVOLVEMENT:

Auditor-Controller, County Counsel, Public Works, California Department of Fish and Wildlife and the Regional Water Quality Control Board

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Board may choose alternative funding amounts at its discretion to better fit the administration of the Mitigation and Remediation Fund. The recommended funding amounts are consistent with the Program Guidelines with input from the referral agencies, particularly CDFW and RWQCB, so staff does not recommend further consideration of this alternative.

ATTACHMENTS:

- Attachment 1a: Round 1 2021 Grant Applications
- Attachment 1b: Round 2 2022 Grant Applications
- Attachment 2: Supplemental Budget
- Attachment 3: Resolution

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**PREVIOUS ACTION/REFERRAL:**

Board Order No.: L-1, J-2, H-1, D-49

Meeting of: December 1, 2019, August 17, 2021, June 14, 2022, June 27, 2023

File No.: 19-1675, 21-1136, 22-691, 23-750