To: Board of Supervisors

From: Planning and Building Department

Agenda Section: Public Hearing

SUBJECT:
Appeal by Redwood Regional Audubon Society Chapter, Humboldt 350, and the Humboldt Fisherman's Marketing Association, Inc. of the Planning Commission's Certification of an Environmental Impact Report for and approval of the Nordic Aquafarms Project to demolish a dilapidated pulp mill site and construct a land-based recirculating aquaculture facility.

RECOMMENDATION(S):
That the Board of Supervisors:

1. Open the public hearing and receive the staff report, applicants, testimony by the appellants, and public; and
2. Close the public hearing; and
3. Adopt the resolution (Resolution 22-__). (Attachment 1) which does the following:
    a. Certifies the Environmental Impact Report prepared for the Nordic Aquafarms California, LLC, the project has been prepared in compliance with CEQA pursuant to Section 15090 and 15091 of the State CEQA Guidelines; and
    b. Certifies that the Final EIR (FEIR) was presented to the Board of Supervisors and the Board of Supervisors has reviewed and considered the information contained in the FEIR before approving the project; and
    c. Certifies that the FEIR reflects the county's independent judgment and analysis;
    d. Finds that the proposed Coastal Development Permit and Special Permit is consistent with the Humboldt Bay Area Plan and Zoning Ordinance; and
    e. Finds that that there are no grounds to support the appeal; and
    f. Denies the Appeal submitted by Redwood Regional Audubon Society Chapter, Humboldt 350, and the Humboldt Fisherman's Marketing Association, Inc.; and
    g. Adopts the Mitigation and Monitoring and Reporting Program (MMRP); and
    h. Approves the Coastal Development Permit and Special Permit subject to Conditions of Approval.
4. Direct the Clerk of the Board to give notice of the decision to the appellant, the Planning and Building Department, and any other interested party.
5. If approved, direct Planning Staff to prepare and file a Notice of Determination with the County Clerk and Office of Planning and Research within five (5) business days of project approval.

SOURCE OF FUNDING:
The Appellants have paid the fee associated with filing this appeal (1100277-608000).

DISCUSSION:

1. Executive Summary

This is an appeal of the Humboldt County Planning Commission's August 4th, 2022, approval of the Nordic Aquafarms California, LLC Coastal Development Permit and Special Permit and certification of the Environmental Impact Report prepared on behalf of the project (SCH#2021040532) by a unanimous vote (6-0, Commissioner Mitchel absent). Redwood Regional Audubon Society Chapter, Humboldt 350, and the Humboldt Fisherman's Marketing Association, Inc. (Appellants), are appealing the decision to approve the project and have requested that additional studies and alternatives be further evaluated in the Environmental Impact Report if the applicant still intends on pursuing the proposed project. The appellants are requesting that the Board of Supervisors: 1) do not Certify the Final Environmental Impact Report (FEIR) prepared for the Nordic Aquafarms California LLC project pursuant to Section 15090 of the CEQA Guidelines, 2) do not adopt the Mitigation Monitoring and Reporting program pursuant to Section 15097 of the CEQA Guidelines, 3) do not make findings for approval of the Coastal Development Permit and Special Permit, and 4) do not approve the Coastal Development Permit and Special Permit for Nordic Aquafarms California. The appeal claims that the Environmental Impact Report does not accurately evaluate impacts associated to energy use, greenhouse gas production associated with the fish feed, greenhouse gas emissions related to truck traffic, greenhouse gas emissions related to the use of refrigerants, biological impacts associated with operating the existing saltwater intake system, biological impacts associated with use of the outfall -specifically to salmonoids and other coastal species, and the lack of information provided discussing project alternatives (either no project or a smaller project). There is also a claim that the CEQA process followed violates CEQA Guidelines by piecemealing. The appellant is requesting that the project only be brought forward only if/when the necessary studies have been completed, that findings of significance have been altered to reflect revised studies, that the EIR be recirculated, and that the EIR and permitting process are reformulated to address the entire project as a whole.

The appellants did not raise concerns or provide evidence pertaining to the Coastal Development Permit and Special Permit, nor have they formulated a list of requested studies intended to strengthen the EIR. The Environmental Impact Report prepared for the project does evaluate and assess all components of the project which include demolition and construction, use of the existing intake system, and use of the outfall. The EIR is compiled of numerous technical reports executed by subject matter experts within their respective fields, consistent with CEQA Guidelines. The FEIR has undergone vigorous review and reflects the County's independent judgement. The appellants do not raise concerns which have not fully been addressed. The County is recommending that the Board of Supervisors deny the appeal, approve the Coastal Development Permit and Special Permit, and Certify the Environmental Impact Report, as recommended. This is a *de novo* hearing. The Board of Supervisors is not limited to evidence in the existing record and may receive new evidence at the appeal hearing.

2. Project Description and Phasing

The project under consideration is a Coastal Development Permit and Special Permit for the demolition and remediation of the Samoa Pulp Mill facility and construction of a land-based finfish recirculating aquaculture system (RAS) facility. This RAS facility includes five buildings

totaling 766,530 square feet and the installation of 4.8 megawatt (MW) solar panel array mounted on building rooftops. The height of the tallest proposed building is 60 feet.

The aquaculture facility would produce fresh head on gutted fish and fillets for delivery to regional markets. The species to be produced at the facility is intended to be Atlantic Salmon, pending approval from CDFW. The project will include ancillary facilities such as paved parking, fire access roads, security fencing, and stormwater management features.

The project would use approximately 2.5 million gallons of domestic and industrial freshwater per day (MGD) provided by the Humboldt Bay Municipal Water District. The project would require approximately 10 MGD of salt water, provided via modernized seawater intake (sea chest) infrastructure located adjacent to the NAFC Project Site, operated by the Humboldt Bay Harbor, Recreation, and Conservation District. Treated wastewater would be discharged utilizing the existing Redwood Marine Terminal II ocean outfall pipe, which extends one and a half miles offshore. A total volume of 12.5 MGD is anticipated to be released daily.

The Project is anticipated to be built out in two primary phases, with preliminary site preparation (Phase 0):

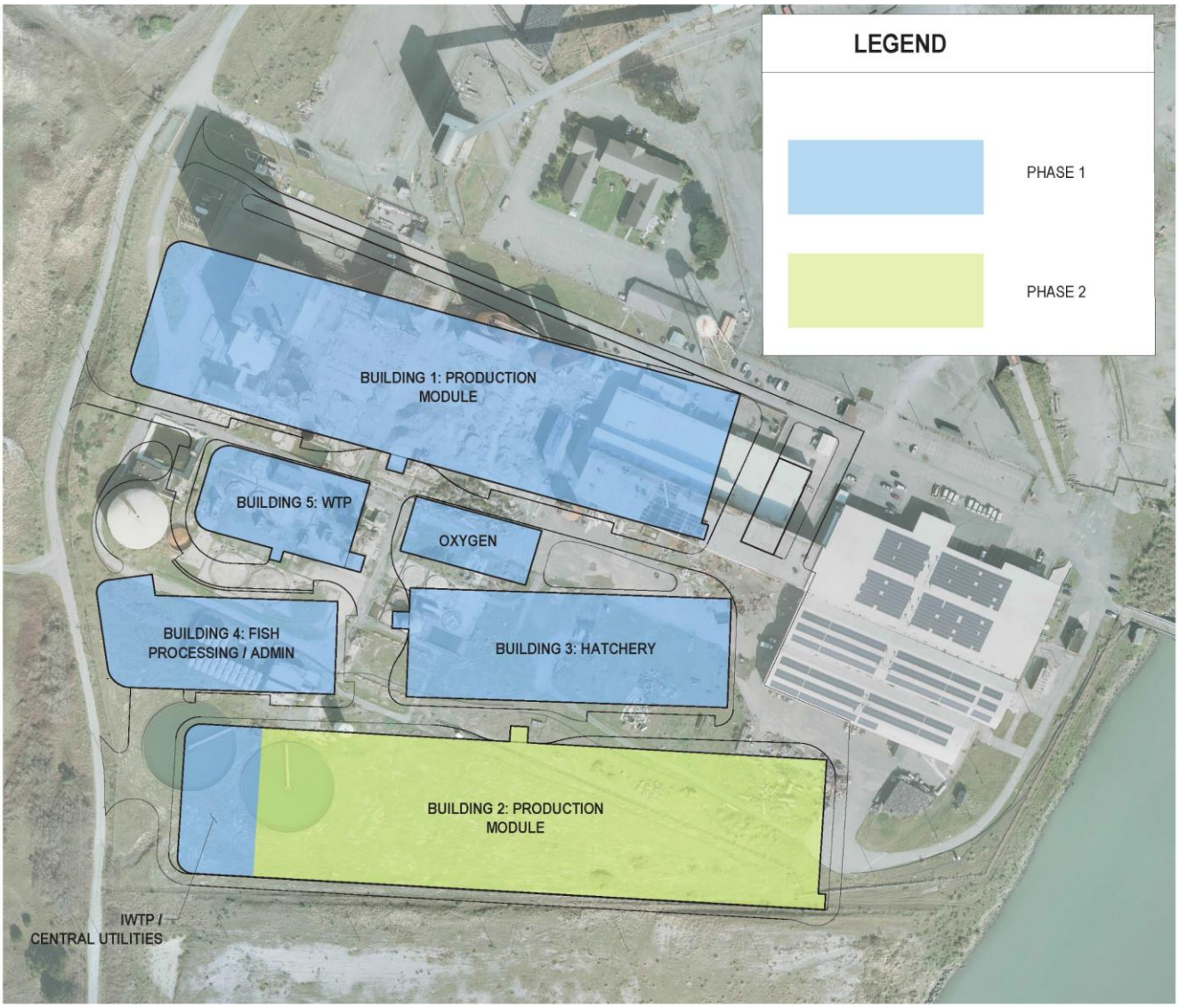
1. Phase 0 – Brownfield Redevelopment: asbestos and lead abatement; structure demolition; soil remediation; waste stream characterization, transportation, and disposal.

2. Phase 1 – Brownfield Redevelopment and Aquaculture Facility Stage 1: Intake and outfall connections; soil remediation; ground densification to prepare for construction of building foundations; construction of Phase 1 grow out module (Building 1), Hatchery (Building 3), Fish Processing Plant/Administrative (Building 4), Wastewater Treatment and Backup Power (Building 5); Oxygen generation storage; stormwater systems; onsite and offsite biological mitigation.

3. Phase 2 – Aquaculture Facility Stage 2: Ground densification; Phase 2 grow out module (Building 2); soil remediation; expansion of utilities; existing leach field decommissioning and connection to Peninsula CSD.

The Project is located 1,000 feet east of the Samoa Solid Waste Disposal Site (SWDS). A Special Permit is required pursuant to Sections 313-109.3.12 and 313-109.1.5.2 for an exception to the parking and loading space requirements.

Project Phasing



1. Building 1 (Grow-out Module 1): 265,028 square feet; 55-feet-tall; 1 story
2. Building 2 (Grow-out Module 2): 286,888 square feet; 55-feet-tall; 1 story
3. Building 3 (Hatchery): 105,085 square feet; 55-feet-tall; 1story
4. Building 4 (Fish Processing and Administration): 66,878 square feet; 60-feet-tall; 3 stories
5. Building 5 (Wastewater Treatment and Backup Power): 42,651 square feet; 40-feet-tall with 40-foot backup; generator exhaust stack; 2 stories.

3. Permitting

This project involves many different permits in order to obtain all approvals necessary to operate. The EIR has been prepared to address the entire project from construction to operation and consider the water intake and effluent discharge from the facility. The Water Intake is a project being undertaken by the Humboldt Bay Harbor, Recreation, and Conservation District (Harbor District). This is not part of the County Permit. The outfall is also owned by the Harbor District

and is not part of the County permit. The County is responsible for the permits associated with the land-based development, in this case, the Coastal Development Permit and Special Permit.

Permitting responsibility is as follows:

Activity	Jurisdiction	Permit Type
Aquaculture Facility	County of Humboldt	CDP, SP
Intake Upgrades	Coastal Commission, National Marine Fisheries Service, US Army Corps of Engineers, RWQCB	CDP, 404, Section 7 consultation, and National Pollutant Discharge Elimination System (NPDES)
Outfall	Coastal Commission, and RWQCB	CDP, NPDES
Fish Species Egg Importation	CDFW	Fish Species/Egg Importation

4. Overview of EIR

The County is the Lead Agency as defined under CEQA Guidelines sections 15050(a) and 15051 and is responsible for preparing the EIR and granting approval of the project.

An Initial Study and Mitigated Negative Declaration was prepared for the project pursuant Section 15074 of CEQA Guidelines. The draft Initial Study and Mitigated Negative Declaration was circulated for public review from July 17, 2020, to August 17, 2020. After circulation of the IS/MND and due to substantial comments received expressing concerns related to energy usage, impacts associated with effluent discharge and related monitoring, transportation and traffic, alternative fish species, and potential biological impacts related to the water intake, the applicant and the County as the Lead Agency determined that an Environmental Impact Report (EIR) should be prepared for the proposed project.

Lead Agency obligations under AB 52 (CEQA 21080.3.1) were conducted. The County began consulting Tribes to determine the potential for cultural resources associated with the project site. No Tribal cultural resources were identified. In November of 2020, the County formally invited local Tribes to engage in government-to-government consultation in preparation of the MND. Blue Lake Rancheria declined on November 24, 2020. Bear River Band of the Rohnerville Rancheria met with the County on December 9, 2020, to discuss the project. No Tribal cultural concerns were identified. Follow up information was provided to the Bear River Band on February 9, 2021. Government-to-government consultation between the County and the Yurok Tribe occurred on March 2, 2021. No Tribal cultural resources were identified on-site. As part of EIR preparation, invitations were sent to local Tribes asking for government-to-government consultation related to

Tribal cultural resources. The Wiyot Tribe, Blue Lake Rancheria, Bear River Band of the Rohnerville Rancheria, and Yurok Tribe were sent invitations for consultation on June 4, 2021. The County sent out letters on July 21, 2021, stating that there had been no response to the request for consultation. On July 23, 2021, government-to-government consultation was closed, unless request for consultation was received. This concluded AB 52 consultation. Though outside of the consultation period, it should be noted that continued coordination occurred with local Tribes. The County met with the Bear River Band on August 21, 2021, to discuss the project and answer questions and on October 21, 2021, the County met with the Wiyot Tribe to discuss the project and answer questions. The County received letters regarding the project from the Blue Lake Rancheria and the Bear River Band. On May 23, 2022, the Bear River Band submitted a letter identifying components of the project that pleased the Tribe and requested the standard inadvertent discovery protocol condition be applied to the project. On June 6, 2022, the County received a letter from the Blue Lake Rancheria identifying content with the environmental document and the support of the sustainable aquaculture proposed.

The County prepared and circulated a Notice of Preparation (NOP), on May 28, 2021, to notify Responsible Agencies, Trustee Agencies, the Office of Planning and Research, involved Federal Agencies, and the Public, that the County planned to prepare an EIR for this project. The NOP was posted to the State Clearinghouse for 30-days, through June 28, 2021. The NOP was solicited in a press release on June 3, 2021, encouraging participation in scoping meetings to be held on June 10, 2021. The County held two (2) separate scoping meetings, one for the public on June 10, 2021, at 6pm, and one for Responsible and Trustee Agencies on June 10, 2021, at 11am, to identify significant environmental issues, reasonable alternatives, and mitigation measures to be explored. 12 comment letters were elicited identifying areas of concern involving: project alternatives, energy use, effluent discharge, species selection, greenhouse gas emissions, traffic, quality control for pathogens, and cumulative biological impacts.

Agency scoping meetings were held with California Department of Fish and Wildlife, Regional Water Quality Control Board, National Marine Fisheries Service, California Coastal Commission, and the County in accordance with section 15082(c) of CEQA Guidelines. Following scoping meetings, and with the continued consultation of these agencies, the Draft Environmental Impact Report was prepared. The DEIR addresses all components of the project; the intake, outfall, and land-based development; to thoroughly evaluate the project in its entirety.
A Notice of Availability (NOA) was prepared, and DEIR uploaded to State Clearinghouse on December 20, 2021. The NOA and DEIR were made available for review at the Humboldt County Planning and Building Department, the Humboldt County Library, the Humboldt County Clerk-Recorder's Office, the Humboldt Bay Harbor, Recreation, and Conservation District, and at the Humboldt State University Library. Document files were also be made available at https://humboldtgov.org/3218/Nordic-Aquafarms-Project. The Draft EIR was circulated for 60 days, from December 20, 2021 to February 18, 2022, to allow interested individuals and public agencies to review and comment on the document. Comments were submitted in writing via the United States Postal Service or via email. Written comments on the Draft EIR were accepted until February 18, 2022.

A total of 242 comments were reviewed as a result of circulation. Letters received consisted of the following: 12 letters were local, state, and federal agency comments; 19 were non-governmental

organizations; 79 were from individuals, and 132 were letters of support for the project. The FEIR responds to all comments made on the DEIR. For comments that required more explanation or comments which had many of the same inquiry, Master Responses were prepared. Eleven (11) Master Responses were prepared which addressed specific topics including: (1) Truck Traffic and Road Safety, (2) Greenhouse Gas and Energy, (3) Fish Escape, (4) Fish Health and Biosecurity, (5) Marine Outfall, (6) Statements Unrelated to Environmental Issues as Defined Under CEQA, (7) Intake Biologic Productivity, (8) Substantial Evidence, Speculation, and Unsubstantiated Opinion, (9) Level of Detail in EIR and Responses to Comments, (10) Fish Feed, and (11) Waste Handling and Disposal. Master Responses thoroughly address public comments that are most common and provide a more concise explanation of points of interest within the EIR. The FEIR consists of response to comments, master responses, a description of circulation, errata to the DEIR, references, and lists of preparers. An Errata to the FEIR was uploaded to SCH and the County website on July 15, 2022.

Main areas of concern revolve around the amount of energy required for operation, cumulative analysis of greenhouse gas emissions for the project, and potential impacts associated with the intake and outfall components of the project. Currently, NAFC is proposing to use the same amount of energy as the City of Eureka and Fortuna combined. The applicant has voluntarily agreed to procuring 100% renewable and/or non-carbon energy. This commitment has been vested in the project description within the EIR and is enforceable as a Condition of Approval (COA#22) of the Coastal Development Permit and Special Permit. This commitment came to fruition in part by working with Nongovernment Organization (NGO) environmental groups, energy providers, and the applicant's voluntary commitment. If this condition were not in place, there would be reliance on the local gas fired power plant. Green energy sourcing provides an alternative that significantly reduces the greenhouse gas emissions produced by facility operation. By sourcing net-zero carbon and renewable energy, the greenhouse gas impact has been deemed less than significant. The applicant has worked with RCEA, whose sustainability goals are in line with state initiative, to ensure that this commitment can be accomplished. By 2030, Humboldt County will be its own net exporter of renewables. The applicant is looking to purchase local renewables assuming that the market cost does not exceed 10% of their current commitment with RCEA. The standing condition offsets the carbon footprint of the facility's operations related to energy consumption.

There has been extensive consideration for the effluent discharge via the existing ocean outfall pipeline within the EIR. Modelling results show that the treated effluent will achieve and far exceed conformance requirements outlined within the NPDES permit, issued by the RWQCB, required for discharge. Temperature, salinity, and ammonia are the criteria evaluated to determine marine toxicity and physiological stress. When evaluating the modelling, temperature and salinity are the areas of focus within the study. Ammonia, specifically ammonium nitrate, is modelled to be 100-fold from the allowable discharge thresholds. Numeric modelling results within the mixing zones show that the temperature of the effluent water released is slightly higher than ambient water temperatures (an increase of .1F within the mixing zone), and that salinity is slightly lower than ambient waters. The study finds that the effluent meets the dilution target within 5 feet of the diffusers, and that nutrient release, specifically ammonium nitrogen, is significantly lower than the threshold allowable (.004mg/L of the .6mg/L allowable).

There was still some public concern over the increased use of the outfall and the potential impacts that could be associated with the discharge 12.5 MGD of treated wastewater. To address these concerns, the project was initially conditioned to include monitoring of the outfall beginning at operation to ensure that no unforeseeable impacts occur as a result of facility operation. During the July 28, 2022, Planning Commission meeting, the applicant voluntarily agreed to baseline monitoring. This was incorporated into the Condition of Approval (COA#21) applied to the project. The Condition of Approval (COA#21) was revised to reflect baseline monitoring prior to facility operation, continued monitoring during phased buildout, and additional monitoring at full build out. This will provide transparency and a verification of the modelling used within the EIR. The NPDES permit will be required prior to discharge/use of the outfall. Baseline monitoring and additional monitoring that has been conditioned will provide a more robust data set for the RWQCB to review in its issuance and compliance verification of the discharge permit. The NPDES permit will require renewal every 5 years and requires its own standard monitoring. The monitoring that has been conditioned exceeds that which is required by the RWQCB. This additional monitoring will strengthen a determination by the RWQCB and provides public assurance enforceable as a Condition of Approval for the project.

There has also been extensive consideration for the proposed use and modernization of the existing saltwater intake systems proposed for facility operation. The EIR identifies how screen modernization, specifically design criteria, flow rate, position related to tidal flow, and cleaning systems, have been designed to minimize the potential impacts to biological productivity within the bay. These considerations were largely made in part through collaboration with the National Marine Fisheries Service (NMFS) and California Department of Fish and Wildlife (CDFW). The NMFS and CDFW both provided agency insight when preparing the EIR. NMFS guidance helped formulate a screen design to minimize impingement/entrainment of marine species (Appendix R, FEIR). Screen size and flow rate have been designed to exceed regulatory criteria at both the federal and state level. The flow rate of the intake has been designed to operate at a 0.2 fps or less through-screen velocity, which is less than the 0.5 fps requirement for intakes. The screen size has been designed to 1mm for screen openings, smaller than the 1.75mm requirement. The screen has also been designed so that it will sit parallel with intertidal flow. The reduction of intake flow, reduction of screen size openings, and placement of the screen relative to intertidal flow are all criteria evaluated in the EIR to reduce the potential entrainment of larval biota within the bay.

There is only one mitigation measure identified relative to the use of the intake system. BIO-6A identifies mitigation for the California listed species, Longfin Smelt (LFS). This mitigation was created to reduce the impact of entrainment of larval Longfin Smelt at the intakes. Pile removal at the Kramer Dock location was originally proposed as mitigation for Longfin Smelt. The ideology behind pile removal is that the overall removal of creosote pilings would largely contribute to bay habitat and water quality improvements, which would contribute to the proliferation of LFS as a species, and the overall ecosystem. By benefitting adult longfin smelt habitat, the species would benefit as a whole. During circulation of the DEIR, comments were received from CDFW expressing concern over mitigation measure BIO-6A. CDFW stated that the mitigation proposed did not address the appropriate life stage impacted for LFS because it would be addressing adult LFS and not larval LFS. Impacts associated with intake operation would be associated with larval LFS, and so the mitigation may not address the appropriate life stage. Pile removal in open water may not fully mitigate for LFS larvae. LFS known larval habitat is within fresh/brackish waters. To

mitigate for the appropriate life stage, CDFW recommended that the County revise the mitigation measure to reflect habitat creation for larval LFS in the form of spawning/rearing nursery habitat.

BIO-6A has been substituted to concur with comments received from CDFW during the DEIR circulation period. BIO-6A now reflects habitat creation at a 1:1 basis to mitigate for the loss of every individual LFS as a result of intake operation. Utilizing the formula for the spawning area required per Longfin Smelt and the egg production per female, habitat creation in the form of spawning/rearing nursery habitat will be required within the brackish waters of Humboldt Bay. Impacts identified in the EIR did not reflect degradation of larval habitat, rather the potential impact to a life stage of a California listed species. For this reason, the formation of habitat for larval Longfin Smelt does alter the findings of the EIR and does not pose new impacts. BIO-6A is the only substituted mitigation measure. The mitigation substitution is consistent with section 15074.1 of CEQA Guidelines for substitute mitigation measures. BIO-6A is also consistent with section 15088.5 of CEQA Guidelines, identifying new information which clarifies and amplifies findings within the EIR and does not identify new impacts; therefore, recirculation is not required.

Consistent with sections 15126.6 of CEQA Guidelines, an alternatives analysis was prepared within the EIR to discuss and consider alternatives for the project. There were three alternatives analyzed in the EIR: 1) no project alternative, 2) an off-site location, and 3) alternative water sources and fish species selection. The no project alternative evaluated an analysis of the environmental/other impacts associated with no project. If there were no project, there would be no site remediation and no public infrastructure improvements via private funding. No site remediation would result in the failure to abate hazardous materials at the existing Pulp Mill site and failure in its demolition. The site has already received EPA grant funding and still remains a superfund site. For remediation to be accomplished, private funding will need to be sourced. If Nordic is not approved, adaptive reuse of the parcel may be extremely difficult for a different user given the costs associated with hazardous material abatement. Additionally, ground densification would require that the site undergo a more thorough remediation process. Ground densification would require the applicant to dig and screen all material down to the water table. This would remove all potentially hazardous subsurface material not currently identified. If not for the ground densification, standard testing would occur via core sampling at areas with the potential for having hazardous materials by the RWQCB. Core sampling would not usher the same remediation effort. Lastly, improvements to public infrastructure to be used by Nordic -intake and outfall- would not occur. No improvements to this infrastructure could impact the potential for future users of the intake and outfall. This could result in taxpayers paying for said improvements if future users require the use of these facilities. The blight of the Pulp Mill site would sit as it does today, which could pose a risk to public safety and welfare.

The alternatives analysis does evaluate off-site locations within the EIR. These potential locations were identified in collaboration with the County, The Humboldt Bay Harbor, Recreation, and Conservation District (Harbor District), and the California Coastal Commission (CCC), during agency coordination as part of the EIR process. The Redwood Marine Terminal 1 (RMT 1) parcel to the north was considered infeasible due to its extended shape which is long and thin. This shape would not be conducive to the proposed development given its proposed size and need for more space. An alternative was analyzed which combined the RMT 1 parcel with two parcels to the west, owned by Samoa Pacific Group, LLC. All three parcels are appropriately zoned Coastal

Dependent Industrial and are generally vacant/underutilized. These parcels are presently proposed to be encumbered by the Harbor District as part of a future Off-shore Wind Energy Port. While the alternative is feasible, it does not reduce impact findings, does not remove the dilapidated Pulp Mill, and would require an extension of infrastructure (intake water lines, outfall water lines, power lines). The extension of infrastructure could pose additional environmental impacts. No other project site would be feasible for the applicants because there isn't the required infrastructure needed for the project. Without the saltwater intake, ocean outfall, existing electrical transmission lines capable of providing the adequate amount of power, and existing water lines to provide the appropriate amount of freshwater, there is no other feasible project location within Humboldt County. A smaller project is not financially feasible for the applicant. Evidence of feasibility is on-file and confidential due to the nature of the document containing trade-secret information.

The DEIR outlines three alternatives to the saltwater intake: slant wells, oceanic seawater intake, and Humboldt Bay seawater wells. These alternatives can be found in the Alternatives Description and Analysis on pages 4-16 and 4-17 of the DEIR. Slant wells were found to be infeasible due to the rate and magnitude required for the projects use. An estimated 40 slant wells would be required to achieve the equivalent capacity needed. With the facility footprint taking up a majority of functional space, there are also issues of where to put the field of wells. Site contamination poses a risk of groundwater contamination too great to supply a food production system. A new offshore intake may lead to more environmental impacts not yet evaluated. Using existing infrastructure is least intensive. Piping would have to be constructed through surf, potential ESHA for the land-based portion of piping, and maintenance of the oceanic intake would complicate the standard procedural monitoring and cleanings of the intake screens. Impacts associated with an intake, such as entrainment and impingement, are still risks associated with an ocean water intake. Humboldt Bay seawater wells would require extensive in-water construction. Environmental impacts associated with this construction have not been analyzed. The project would require more than one seawater well to serve project needs during operation. Screens would need to be cleaned regularly and would likely also need a compressed air line to ensure the piping remain clear of debris. For these reasons, these three alternatives were not deemed feasible alternatives.

The EIR addresses all components of the project: the intake, outfall, and land-based development of the project, reflecting the County's independent judgement. The net finding of the EIR is that there are no significant unavoidable impacts associated with the project. All potential impacts will be mitigated to a level of less than significance via mitigation measures or have been previously identified and held actionable through vesting within the project description, made enforceable by Conditions of Approval.

5. Policy Analysis

The project site is located within the Coastal Zone and is subject to the Humboldt Bay Area Plan and Coastal Zoning Ordinance. The proposed development is in conformance with the applicable policies set forth in the HBAP. The following are discussions of the various policies and requirements applicable to the site.

a) Use. The site is designated Industrial, Coastal Dependent (MC) and Industrial, General - Coastal Areas (MG) under the HBAP. All development will occur within the MC designation.

Aquaculture and aquaculture support facilities are principally permitted coastal dependent industrial uses under both the MC and MG land use designations.

Aquaculture is a coastal-dependent use, and coastal dependent uses shall have priority over other developments near the shoreline, except they shall not be sited in a wetland (3.13 - 30255). The project is sited directly adjacent to Humboldt Bay to the east. The project development will not be sited in/on a wetland. One-parameter wetlands do exist on-site and will not be impacted as a result of the project.

b) Location. The HBAP encourages coastal dependent industrial uses to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with the LCP. The project site is located within a historically industrial area, planned and zoned for coastal dependent industrial use. The project location has a history of heavy industrial use, previously occupied by the Freshwater Tissue Pulp Mill. The proposed aquaculture facility would utilize that same infrastructure to accommodate facility needs. (3.14-250)

The project will utilize existing sea chest infrastructure at the Red Tank Dock and RMT II dock. Existing ocean intake public infrastructure will be upgraded. Improvements to the sea chest are required to undergo environmental review and have been addressed in the Environmental Impact Report for the project. Sea water intake upgrades will require an additional CDP from the California Coastal Commission. The intake water treatment system will be designed to ensure that sediment, and pathogens do not enter the facility.

Policy requires wastewater discharges to be treated to protect present and future beneficial uses, and where feasible, to restore past beneficial uses of the receiving waters (3.14-13412.5). A wastewater treatment plant will be implemented in the facility design, and water will be treated on-site prior to discharge off-site. Wastewater discharge permitting, monitoring, and reporting will be conducted under the NPDES permit authorized by the NCRWQCB. The applicant is required to provide the County with evidence of an issued NPDES permit prior to project operations. Compliance with the permit is a Condition of Approval. Additionally, the applicant is required to undergo annual monitoring for project as a voluntary commitment made by the applicant in the FEIR. This commitment to monitor receiving waters is a Condition of Approval (COA#19).

The wastewater effluent entering the Pacific Ocean via the existing RMT II outfall pipe will not significantly alter the ecological balance of the receiving waters, as determined by the Dilution Study prepared by GHD (2020). The study examined the modeled effluent for the various mixing zones near the diffuser. The Project's effluent discharge would not discharge into a coastal wetland or area of special biological significance, marine reserves, or kelp beds; the ecological balance of the receiving area would not be significantly impacted. The NPDES permit will set standards for the discharged effluent. Treated effluent achieves a reduction of 99 percent of total suspended solids, BOD, and phosphorus, with a 90± percent reduction of nitrogen. Ammonium nitrogen release is modelled at .004 mg/L which conforms to the Nitrate Ocean Plan standard of .6mg/L. The preliminary concept design of 64 open ports yields a predicted mixing zone (i.e., marine toxicity and physiological stress to biotic receptors) that is met within 5 ft of the diffuser on the basis of the near-field modelling achieving conformance per Ocean Plan implemented by the RWQCB's NPDES Permit.

Geologic Safety:
The property is located in an area of low to moderate geologic instability. A Geotechnical Investigation by SHN in 2020 outlines an analysis of natural hazards in the County and recommends that the project require designs in accordance with seismic and foundation design criteria, as well as site preparation and grading criteria per California Building Code and the American Society of Civil Engineers (ASCE) 7-16 Minimum Design Loads for Buildings and Other Structures. Existing structural hazards will not impact the proposed project as existing infrastructure will be demolished and the site remediated. Adherence to the recommendations in the Geotechnical Report are required for the project and identified as Mitigation measure GEO-1 of the EIR. The geotechnical recommendations will be incorporated into the final plans and specifications for the Project and will be implemented during construction. Therefore, the project is consistent with Seismic and Public Safety Elements of the General Plan. Structural designs/construction plans, including site densification, will ensure of structural integrity in the rare event of a natural disaster and is designed that no significant erosion, geologic instability, or site alterations would occur to natural landforms.

Tsunami:
The project involves ocean intake, outfall, and land-based development allowable for new development within the 100-year tsunami run up elevation outlined in the HBAP. The parcel is within a tsunami hazard area. Deep foundations and ground densification grade will be constructed as recommended by the Project's geotechnical evaluation and site-specific tsunami inundation analysis (Martin & Chock, Inc., 2020), to protect structural integrity in the event of a tsunami and associated potential wave scouring. Backup generators will be elevated above the predicted tsunami wave height to avoid potential for release of pollutants in the event of a tsunami. Diesel fuel storage would be underground in two 25,000-gallon tanks vented, anchored, and armored to prevent release. Building designs for the hatchery would require tanks to be developed to withstand a 2,500-year event. Adherence to Mitigation Measures GEO-1 and HAZ-1 are identified in the EIR.

Commitment to Renewable Energy:
The project will not result in wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation not will it conflict with or obstruction of a state or local plan for renewable energy or energy efficiency and will not result in a cumulatively significant impact to energy resources. The project will use a significant amount of power for operation of pumps and filters, but the applicant has agreed to purchase power that is renewable or non-carbon in accordance with the Redwood Coast Energy Authority objectives. This is in line with state and local ambitions to minimize greenhouse gas emission through power production. The impact is less than significant.

Protection of Environmentally Sensitive Habitat Area (ESHA):
The Project is consistent with Section 30240 (a) and (b) of the Coastal Act. High quality dune mat located on the project site will be protected by an established requirement of a minimum 35-foot buffer. Within the buffer is a 20-foot-wide fire road. The road will also act as a buffer, as it would only be used in an emergency. To prevent trampling and disturbance of the ESHA, construction fencing is required along the edge of the buffer, as shown on the Site Plan (setback 15 feet from

the road). The fencing shall remain in place throughout the construction period to prevent vehicles, equipment, or materials from entering the ESHA. The grading plans for the project site shall design finished pad grades to not result in grade changes at the edge of the buffer or fire road within the ESHA buffer. The ESHA protection measures are described as Mitigation Measure BIO-7a of the EIR. Additionally, the project was redesigned to ensure setback protections for ESHA during construction and operation of the facility. Other areas where dune mat habitat was identified was anthropogenically modified or contained such a high percentage of non-native species that it did not qualify as ESHA.

Wetlands:
A wetland delineation was completed for the Project Site as part of the Special Status Plant Survey and Vegetation Community Mapping/ESHA/Wetland Baseline Evaluation, Rev. 1 prepared by GHD dated February 16, 2021. Delineated wetlands are classified as one-parameter coastal willow thickets (Salix hookeriana) and were not found to contain hydric soils. A total of 0.27-acres of coastal willow thickets are mapped within the project area and would not be impacted as a result of construction. Due to the size and poor quality of wetlands, the project establishes a 100-foot wetland buffer, consistent with HBAP wetlands setback requirements outside of the urban limit line. Development within the buffer is allowable provided no more than 25% of the developed surface is effectively impervious, stormwater runoff does not detrimentally affect the wetland, areas of temporary disturbance are restored and promptly replanted, and erosion impacts related to construction are minimized with BMPs. Development within the buffer would be limited to site grading and would not result in extensive new impervious surface. Following construction, graded surfaces would be reseeded and/or replanted as identified in the Project's landscaping plan. The Project's stormwater drainage system would route stormwater away from the one-parameter wetlands, avoiding any potential impact related to stormwater. Erosion control BMPs are included in Mitigation Measure GEO-2 of the EIR and would be implemented to protect wetlands during construction.

Offsite Compensatory Restoration: The project is consistent with 3.14 HBAP section 13142.5(b) development policies for Coastal Marine Environment, for each industrial installation for an industrial activity using seawater, requiring mitigation measures feasible shall be used to minimize the intake and mortality of all forms of marine life. Compensatory off-site habitat restoration activities required by the Coastal Development Permit issued by the California Coastal Commission to (1) offset a small reduction in the Humboldt Bay's biological productivity as a result of entrainment of non-special status larval species, and (2) compensate for the potential take of longfin smelt (LFS) larvae during the operation of the two sea water intakes.

Visual Resource Protection:
Project Site currently has low visual quality, low visual sensitivity, and poor visual character. Remediation and demolition activities include the removal of an existing abandoned and dilapidated industrial infrastructure, including the former pulp mills 270-foot-tall smokestack, which are the dominant views of the proposed Terrestrial Development and surrounding area. The existing smokestack is visible from as far north as Arcata, as well as the communities of Eureka, and Humboldt Hill. The smokestack and 12-story Reboiler Building are also visible from Samoa Beach and surrounding dunes by the recreating public. Removal of existing infrastructure will improve overall aesthetics and benefit coastal visual resources. The maximum height of the new

facility would be approximately 60 feet, a reduction in comparison to existing conditions. There would be views of the buildings visible between the dunes via New Navy Base Road. Façade colors and patterns have been chosen to integrate the buildings into the natural setting and visually integrate into surrounding scenic resources absent negative visual effects on the Coastal Scenic Area west of New Navy Base Road. Distant views would exist from the City of Eureka shoreline.

Additionally, the EIR identifies potential impacts to larval Longfin Smelt at the seawater intake location due to potential entrainment. LFS is being mitigated on a 1:1 basis in the form of larval habitat creation within brackish waters of Humboldt Bay known for spawning/rearing habitat explicitly for the potentially impacted LFS life-stage. Off-site compensatory restoration would include pile removal and spartina removal. Pile removal would include up to 988 piles and 151 crossbeams from the Kramer Dock in Humboldt Bay, and Spartina removal would include up to one (1) acre and would be conducted under existing permits issued to the Harbor District (Harbor District Permit 14- 05 and Coastal Development Permit 1-14-0249). Implementation of these measures will be a requirement of the Coastal Development Permit required by the California Coastal Commission.

Zoning:

As described by Humboldt County Code (HCC), the Parcel is zoned Industrial Coastal Dependent (MC) with the combining zone Archaeological Resource Area Outside Shelter Cove (A) and the lands west of Vance Avenue are zoned Industrial General (MG). The aquaculture facility will be constructed on the MC-zoned portion of the parcel. The proposed use of "aquaculture" is principally permitted in the MC zone. Principally permitted uses are explicitly allowed within a given zone district. Coastal dependent industrial uses include but are not limited to the following: fish processing for human consumption, ocean intake, outfall and discharge pipelines, and aquaculture and aquaculture support facilities. Industrial zones involve onsite production of goods by methods that are not agricultural or extractive in nature as defined in Humboldt County Code (HCC Section 313-175). Aquaculture is a principally permitted use and is explicitly allowable in both the MC and MG zoning designations applicable to the Parcel.

The A combining zone is applied to parcels that may contain archaeological and paleontological value as identified by the State Historic Preservation Office. A Cultural Resources Study (CRS) was conducted for the project by a qualified archeological professional. Field investigations did not find evidence of cultural resources on the site (see Appendix 3 – Environmental Impact Report – Cultural Resources for further discussion). Given that the area is archaeologically sensitive, the EIR has required that a cultural monitor be present on-site during ground disturbing activities and that normal inadvertent discovery protocol be followed if any resources are encountered. Based upon these precautions the project is consistent with the requirements of the A combining zone.

The parcel is accessed from Vance Avenue via New Navy Base Road and LP Drive and is served by a 50-foot-wide non-exclusive easement for ingress and egress on Vance Avenue. Repair, resurfacing, and striping upgrades of Vance Avenue and LP Drive is expected to support site access, construction, and operation. Significant expansion of the paved surface of Vance Ave is not expected through the repair and resurfacing process. Temporary signage along Vance Avenue will

be provided as needed during construction activities then permanent signage installed as appropriate for operations. Temporary construction and staging signage to New Navy Base Road will require an encroachment permit from the Public Works – Land Use Division.

Facility Parking

Parking will be located throughout the central campus corridor between Building 1 and Building 2. The facility will include a three-truck loading docks, seven-truck unloading / loading areas, 115 standard light vehicle parking spots, and 6 ADA-accessible light vehicle parking spots. At full production there would be approximately 90 employees at the facility at any given time, comprised of 20 employees in the approximately 6,400-square-foot office/management area of Building 4 and approximately 70 employees spread throughout the rest of the facility.

A Special Permit (SP) has been applied for concurrently with the CDP for an exception to the parking and loading space requirements pursuant to HCC Sections 313-109.1.3.12 and 313-109.1.5.2 Exceptions. Humboldt County Code Section 313-109.1.3.12 allows for a reduction in the required parking spaces due to geographic location of site and levels of anticipated use. As stated in the Parking and Loading Nordic Aquafarms Memorandum prepared by GHD dated November 24, 2020, the applicant is requesting a reduction in required parking spaces to 12 and requesting an exception to the loading zone requirements to reduce the number of loading zones required to 7 loading zones (see Attachment 4). The applicant states the operation of the proposed facility will involve regular loading and unloading of material such as fish feed, waste, and finished product. To accomplish this, the facility proposes seven specially designed loading docks and bays. The justification for the reduction is as follows:

1. Geographic Location of the Site. The proposed facility is located on a large industrial site capable of handling all necessary freight traffic including ingress, egress, queuing, loading, and unloading. The type, number, and design of the proposed docks/bays will meet the facility's needs in a way that does not block or impede internal or external circulation.

2. Levels of Anticipated Use. The proposed facility is highly specialized in its design and function. The anticipated number of staff and the amount of incoming and outgoing truck traffic has been accurately estimated through detailed operational planning and existing comparable facilities. Because of this, the appropriate number (seven) and function of the loading docks is understood and well justified.

Based on the parking demand analysis above and justification described by Parking and Loading Nordic Aquafarms Memorandum prepared by GHD dated November 24, 2020, there is justification for approval of the SP.

Facility Truck Traffic

The level of anticipated use of incoming and outgoing truck traffic has been accurately estimated through detailed operational planning and existing comparable facilities. Daily truck percentage on these roadways increases by at most 0.5% with the project operational at full build out (Section 3.12 Transportation and Errata of the EIR). Facility operations will include regular shipments from and deliveries to the facility. Shipments would include finished product to market and waste streams to secondary use processing sites. While the final distribution strategy for the facility is

still in development, initial estimates have been made based on knowledge of existing West Coast markets in relative proximity to the Project Site. At full production it is currently estimated that there will be 40 outgoing product delivery trucks per week with approximately 30% going to the Seattle area, approximately 30% going to the Los Angeles area, and approximately 40% going to the San Francisco Bay Area. It is expected at full production there will be 32 outgoing trucks weekly carrying waste streams to various secondary use processing sites within 150 miles of the facility. Deliveries to the facility include fish feed, shipping materials, and process chemicals. The final feed vendor will be selected at a later date. Deliveries of shipping materials and process chemicals will consist of three trucks per week likely originating in the Redding or San Francisco Bay area.

Solar and Energy Utilities

Pacific Gas and Electric Company (PG&E) provides electricity to the project site. The estimated normal daily electricity usage is 21.4 megawatts (MW). A portion of this usage will be offset by the 3-5 MW rooftop solar installation which will cover approximately 657,000 square feet of facility rooftops. Normal operation of the facility will use exclusively electricity. In the event of an emergency, the applicant proposes several dual fuel (natural gas or diesel) generators with a combined capacity of approximately 20 MW needed to supply emergency power to the fully developed facility. Regular testing and maintenance of the backup energy system will make use of small amounts of natural gas and diesel fuel. Diesel fuel would be supplied by two new 25,000 gallon double walled fiberglass underground storage tanks (UST), which will be located underground east of Building 5. Modernization and upgrade of the existing 60-kilovolt (KV), 20 megawatt (MW) electrical switchyard is planned to expand the total capacity of the switchyard to 30-35 MW to be utilized by NAFC and HBHRCD RMT II operations.

Sewer

The property is developed with an existing septic system and leach field which will be used temporarily during construction and operation of Phase 1. The septic system use will be discontinued once construction begins on Phase 2 production modules. The second production module building is proposed over the existing leach field. Prior to the site being disconnected from the septic system, the Project Site will be connected to the Peninsula Community Services District (PCSD) sewer line that will be constructed west of the Project Site.

Saltwater Intake

Salt water for NAFC will be provided by the co-applicant, the Humboldt Bay Harbor Recreation and Conservation District. The HBHRCD owns two existing sea chests (water intake structures) at the nearby RMT II and Red Tank Docks which they will modernize and operate. Saltwater usage is estimated at a maximum of 10 MGD. The HBHRCD is in the process of permitting upgrades to the sea chests that will increase water withdrawal capacity and add features that reduce environmental impacts, including upgraded intake screens that enhance the protection of juvenile fish/lavae. The RMT II Dock screen will be 36-inch diameter with a maximum intake flow rate of 5,500 gpm, and the Red Tank Dock screen will be 24-inch diameter with a maximum intake flow rate of 2,750 gpm. Screens are comprised of woven stainless-steel material with approximately 1.0mm spacing between bars (smaller than the standard requirement of 1.75mm). Committing to smaller screens on the intakes is intended to prevent entrainment and impingement of aquatic organisms. No fish are anticipated to be entrained. The sea chest pumps operated by HBHRCD would supply seawater

through piping affixed to the existing docks. The piping infrastructure would extend onshore underground at least 50 feet from the RMT II dock terminus. The aquaculture facility would tie into the sea chest piping at the southeast corner of the RMT II building.

Freshwater

Freshwater is provided to the Project Site by an existing one-million-gallon (1-MG) water storage tank operated by Humboldt Bay Municipal Water District. The existing onsite water service would be connected to the new buildings for potable use, fire suppression, and possibly irrigation. Water service to the buildings would connect to an underground water line running from the 1-MG tank to the Project Site. The HBMWD provided a will-serve letter on March 12, 2021, confirming the District has the capacity to serve NAFC facilities with three (3) million gallons of industrial water per day, and 300,000 gallons of domestic, potable water per day sourced from the Mad River. Service capacity exceeds the anticipated maximum usage of 2.5 MGD of industrial fresh water.

Wastewater Treatment and Discharge

Process Wastewater from the aquaculture facility will be treated on-site prior to discharge into the Pacific Ocean via the existing ocean outfall pipe that extends approximately 1.55 miles offshore. An advanced wastewater treatment plant will be developed to treat wastewater, including a Moving Bed Biofilm Reactor (MBBR), an ultrafiltration membrane bioreactor (MBR), and 300 millijoules per square centimeter (mJ/cm) UV-C disinfection system. Total water volume discharged at full operational capacity is estimated at a maximum of 12.5 million gallons per day (MGD). Previous discharge from the former mill operations was 20 MGD.

Current outfall users, DG Fairhaven and Samoa Wastewater Treatment Plant, are permitted under the National Pollutant Discharge and Elimination System permit program to discharge 350,000 gallons per day and 53,000 gallons per day, respectively. The total hydraulic discharge capacity for the outfall is estimated at 40MGD. The discharge effluent is regulated by the North Coast Regional Water Quality Control Board (NCRWQCB). The NRWQCB draft permit No. CA1000003 would authorize a maximum of 12.5 MGD of treated effluent to be discharged by NAFC. The draft permit prohibits the following: the discharge of waste to Humboldt Bay; the discharge of domestic waste, treated or untreated, to surface waters; and discharge in excess of 12.5 MDG. Additional prohibitions are cited in the draft permit document. The National Pollutant Discharge Elimination System (NPDES) program requires monitoring of effluent constituents, with samples requirements ranging from daily to monthly collection samples. The Monitoring and Reporting Program (MRP) is outlined in attachments of the draft NPDES permit document. The applicant is required to provide the County with evidence of final permit issuance from the RWQCB prior to project operations. Compliance with the requirements of the final NPDES is an on-going requirement for the life of the Project. Water quality parameters of pre-treated effluent discharge were evaluated and conform to the applicable water quality parameters established in both the Ocean Plan and Thermal Plan.

6. Planning Commission Action

The Planning Commission conducted a public hearing for this project spanning the July 28, and August 4, 2022, Planning Commission meetings. On July 28, 2022, all members of the Planning Commission were present, and the public hearing was opened. Staff presented the project and the

EIR. The Planning Commission then received presentations from the Co-applicants, Nordic Aquafarms, and the Harbor District. After the applicant's presentation the Planning Commission received public comment where 64 members of the public addressed the commission, not including the applicant team. Of those who spoke 36 spoke in favor of the project citing the need for jobs, and the benefit this project would bring to the community. The remainder of the comments expressed concerns related to the large electrical use, concerns with climate change and greenhouse gas emissions, volume of water use and discharge into the ocean, concern that studies were incomplete, the source of fish feed, the impact to local fishermen, location in a location subject to earthquakes and tsunamis, that the site should be remediated to residential standards and the size of the project. The Planning Commission finished receiving public comment, closed public comment, and continued the item to the meeting of August 4, 2022.

During the course of discussion, the applicant agreed to begin monitoring water from the outfall as soon as the project became operational that resulted in a modified condition to reflect that change. The commission explored some of the comments made by the public but did not make any other changes to the conditions. The commission expressed that overall, this is a good project and voted unanimously to approve (6-0, Mitchell absent.)

7. Appeal

On August 18, 2022, the Redwood Regional Audubon Society Chapter, Humboldt 350, and the Humboldt Fisherman's Marketing Association, Inc., submitted a timely appeal contesting the approval of the Nordic Aquafarms California, LLC Coastal Development Permit and Special Permit and certification of the Environmental Impact Report (SCH#2021040532) at the August 4, 2020, Planning Commission meeting. The appellants are requesting that the Board of Supervisors: 1) Do not Certify the Final Environmental Impact Report (FEIR) prepared for the Nordic Aquafarms California LLC project pursuant to Section 15090 of the CEQA Guidelines, 2) do not adopt the Mitigation Monitoring and Reporting program pursuant to Section 15097 of the CEQA Guidelines, 3) do not make findings for approval of the Coastal Development Permit and Special Permit, and 4) do not approve the Coastal Development Permit and Special Permit for Nordic Aquafarms California. The following issues were raised by the appellant groups:

Issue 1: The appellants claim is that the FEIR erroneously identifies the severity of the project's impacts including greenhouse gas emissions and energy impacts, impacts to existing commercial fisheries, impacts to coastal and bay ecosystems, and impacts to native salmonoids.

Staff Response to Issue 1: The issues raised were thoroughly addressed in the EIR by subject matter experts in each relevant discipline including air quality and climate change, traffic and transportation, biological resources, and water quality. The EIR provides a comprehensive analysis of environmental impacts associated with the project. The appellant has not submitted substantial evidence supporting these conclusions. Per CEQA Guidelines:

> *An effect on the environment shall not be considered significant in the absence of substantial evidence (CEQA Statute Section 21082.2(c), Guidelines Section 15384(b) and 15604 (f)(5)).*

Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence (CEQA Statute Section 21082.2(c), Guidelines Section 15384(a) and 15604 (f)(5)).

Issue 2: The appellants claim is that the FEIR erroneously states that emissions from fish feed do not need to be counted under CEQA and that Nordic will be required to report 80,000 to 190,000 metric tons of CO2 a year based off the projection of needing 36,000 metric tons of fish feed to be used annually during operation.

Staff Response to Issue 2: Nordic Aquafarms California, LLC is not proposing to produce fish feed and is not a feed manufacturer. Nordic will be purchasing fish feed but has not yet selected a desired manufacturer. Greenhouse gasses related to fish feed are not considered an indirect effect of the project as defined in section 15358 of CEQA Guidelines. Truck traffic associated with the transport of fish feed to the proposed facility has been rigorously analyzed in the EIR, specifically section 3.7 Greenhouse Gasses. There is no metric provided by the appellant to support the claim that the fish farm would be required to report 80,000-160,000 metric tons of CO2 annually attributed to the use of fish feed. Since the applicant is not producing fish feed, the production of fish feed is considered a separate project under CEQA.

Issue 3: The appellants claim is that the FEIR erroneously states that the project will emit zero emissions from its electricity consumption.

Staff Response to Issue 3: Nordic Aquafarms has committed to RCEA's non-carbon and renewable energy goals which state:

- *By 2025: 100% of RCEA's power mix will be from a combination of state-designated renewable energy sources—solar, wind, biomass, small hydroelectric, and geothermal—and state-designated net-zero-carbon emission from existing large hydroelectric facilities.*

- *By 2030: Humboldt County will be a net exporter of renewable electricity and RCEA's power mix will consist of 100% net-zero-carbon-emission renewable sources.*

The facility shall purchase 100% renewable energy/power mix from RCEA, who goals are in line with state initiatives. This commitment is vested within the Project Description and Greenhouse Gas sections of the EIR and will be enforceable via Condition of Approval (COA#22) of the Coastal Development Permit and Special Permit for the land-based development of the project. By procuring renewable power mix from RCEA the potential impact has been deemed less than significant. For these reasons the FEIR states that the appropriate carbon intensity factor for electricity use would be zero (0). Applying a zero-carbon intensity factor (0 lbs. CO_2e/MWh) reduces the Project's anticipated operational emissions to 4,024.32 $MTCO_2e$/year and 3,757.75 $MTCO_2e$/year for years 2025 and 2029, respectively.

Issue 4: The appellants claim is that greenhouse gas emissions from refrigerants require further analysis in the FEIR.

Staff Response to Issue 4: Greenhouse gas emissions attributed to refrigerants are analyzed in the EIR. Greenhouse gases are directly correlated to leaks within a cooling system, specifically refrigerants. The appellants claim that greenhouse gas emissions from refrigerants are not adequately addressed is due to their assumption of annual leak rates and the use of refrigerants that the facility may use. The appellant's citation of an EPA study of average supermarket emissions, is cited from 2011 and assumes the use of R-404A refrigerant (global warming potential of 3,921.6) with an annual leak rate of 25% per year (EPA 2011). Under the California Air Resources Board's (CARB) Supplemental Nutrition Assistance Program (SNAP) and Restaurant Meals Program (RMP), the use of high global warming potential (GWP) refrigerants, including R-404A, is prohibited for new refrigeration systems (applicable to the proposed project). The GWP cap for new refrigeration systems is 150 (which is less than 5% the GWP of R-404a). The EPA study's assumed leak rate of 25% is not representative of foreseeable leak rate for the Project. Estimates of leakage rates for older systems in previous years (before 2022) are not accurate indications of potential leaks in the future due to new regulatory requirements for leak inspection, prompt repair, and reporting implemented in 2022.

> *Starting in 2022, the Refrigerant Management Program (RMP) requires facilities with refrigeration systems containing more than 50 pounds of high-GWP refrigerant to conduct and report periodic leak inspections, promptly repair leaks; and keep service records on site.*
>
> *New adopted regulations by CARB require new stationary refrigeration installations to use refrigerants with a global warming potential of 150 or less.*

The new facility would employ a full-time maintenance team as listed in the DEIR table 2-7, page 2-29. Preventative maintenance checks, service, and inspections are effective means of preventing leaks from occurring in these systems. A Refrigerant Management Plan and refrigerant selection with a GWP of 150 or less will be required by the California Air Resources Board. In monitoring refrigerants within the closed cooling systems, and having full-time maintenance team on-site, substantial evidence within the EIR concludes that refrigerants will not be a source of GHG emissions resulting from project operations.

Issue 5: The appellants claim is that the FEIR uses inappropriate methods to calculate greenhouse gas impacts related to vehicle miles traveled by trucks.

Staff Response to Issue 5: Vehicle miles travelled are accurately calculated within the EIR. On-road mobile activity, including truck activity in the CalEEMod analysis, were appropriately assessed, and used within the framework of annual emissions estimation and annual activity. On-road mobile activity emissions were estimated using CalEEMod version 2020.4.0, as described in DEIR Section 3.2 (Air Quality) on page 3.2-6 and Section 3.7 (Greenhouse Gas Emissions) on page 3.7-10. VMT was calculated for employee activity, hauling within NCUAQMD's Jurisdiction (short-hauling), and for hauling outside of NCUAMQD's Jurisdiction (long-hauling), which account for all mobile activity on an annual basis for the Project. CalEEMod contains assumptions for trip length based on the type of trip (trip type), distribution of trip types, and trip purpose. Each of these components is used to generate total VMT estimates, which then feed into the GHG emission calculations. The SmartWay program is a voluntary program started in 2004 as an extension of corporate social responsibility for improving freight sustainability related to fossil fuel consumption. SmartWay is not the EPA-recommended model for assessing on-road mobile

emissions – the Motor Vehicle Emissions Simulator (MOVES) is EPA's emission modeling system for mobile sources. However, MOVES is not appropriate emissions model to use for projects located in California – CARB's EMFAC is the appropriate emissions model. The EMFAC emissions model is developed and used by CARB to assess emissions from on-road vehicles including cars, trucks, and buses in California, and to support CARB's regulatory and air quality planning efforts to meet the Federal Highway Administration's transportation planning requirements.

> *The MOVES defaults do not capture all the details of California emission standards and control programs. Instead, California uses California-specific models for modeling mobile sources. (EPA 2021)*

Issue 6: The appellants claim is that the FEIR erroneously concludes that the no-project alternative would not result in any significant unmitigable impacts or eliminate any significant unmitigable impacts.

Staff Response to Issue 6: The EIR concludes that there are no significant and unavoidable impacts on a basis of extensive environmental analysis utilizing substantial evidence and technical reports to make determinations. No project would result in no Brownfield cleanup, no adaptive reuse of the site, and no public infrastructure improvements via private funding (intake and outfall). No Brownfield clean up could result in harm to the public's welfare and safety, and to the environment, as hazardous materials remain onsite. As latent hazardous materials sit, they pose environmental risk as they potentially leach further into groundwater. This poses risk to water quality and bay ecosystems as sea level rise grows closer to the groundwater table in coming years. This can be avoided with project implementation. The County has provided substantive analysis to both disclose potential environmental effects resulting from the whole of the Project and to inform the Planning Commission of the potential environmental consequences of the no project alternative. Substantial evidence supports this analysis, including the analysis of the No Project Alternative. The project is consistent with section 15151 of CEQA Guidelines in that:

> *The EIR was prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences (no consequences were found that could not be mitigated to a level of less than significant).*
>
> *An evaluation of the environmental effects of the proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible.*
>
> *Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among experts.*
>
> *The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at disclosure.*

Issue 7: The appellants claim is that the FEIR did not consider alternatives of a small project or multi-phase modular build-out.

Staff Response to Issue 7: The County did discuss and consider smaller project alternatives with the applicant in preparation of the environmental document. Confidential information provided to the County provides insight on financial feasibility for a smaller project alternative. Given the amount of money involved in remediation, construction of facilities, and environmental review processes, NAFC is unable to consider a smaller project alternative and remain profitable. A smaller project alternative would result in no project. No project would result in no Brownfield cleanup and no adaptive reuse of the site and associated public infrastructure (intake and outfall). The project will undergo monitoring from multiple agencies (CCC, RWQCB, the County) as remediation and construction activities ensue. A phased build out is proposed. Monitoring of mitigations and conditions applied to the project must be followed. To continue buildout and obtain other permits associated with the project, the applicant must demonstrate compliance. Additionally, if a smaller project alternative was considered it would result in less remediation of the site. Portions of the site would no longer require screening and excavation of hazardous materials due to a decrease in development footprint. This can be avoided with project implementation as proposed.

Issue 8: The appellants claim is that there was no ESA consultation performed when considering biological resources within the EIR.

Staff Response to Issue 8: Local, state, and federal agencies were consulted in preparation of the environmental document. Page 10 of the Marine Resources Biological Evaluation, Appendix D, highlights agency coordination which included pre-project meetings held with the U.S. Army Corps of Engineers, North Coast Regional Board Water Quality Control Board, Humboldt Bay Harbor, Recreation, and Conservation District, California Coastal Commission (Coastal Commission), Humboldt County Planning Department, National Marine Fisheries Service (NMFS), State Lands Commission, and California Department of Fish and Wildlife. NMFS guidelines are contributing criteria for intake design. The EIR did not identify impacts to federally listed species which would require ESA consultation. Essential Fish Habitat was evaluated in the Ocean Discharge Study Area in the Marine Resources Biological Evaluation (Appendix D) using data from Numerical Modelling (Appendix E), which identified that the effects of discharge would not result in significant benthic impacts based off of limited spatial area and organic loading. This results in a low risk of adverse effects to EFH in proximity to the diffuser.

> *"Take" under the ESA includes activities such as "harass, harm, pursue, hunt shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." USFWS regulations define harm to include "significant habitat modification or degradation."*

If habitat were impacted and take identified, then a permit would be required per ESA, requiring consultation. Substantial evidence and analysis within the DEIR have determined that no impacts to EFH will occur as a result of discharge, and therefore no impacts to federally listed species were identified.

The only listed species identified which may be impacted is the California listed species Longfin Smelt (LFS). Impacts to LFS are attributed to the operation of the saltwater intake and are mitigated to a level of less than significance. LFS, in consultation with CDFW, has been mitigated

for the loss of every individual LFS. Mitigation consists of spawning and rearing nursery habitat creation for larval LFS at a 1:1 basis within the brackish waters of Humboldt Bay. No impacts were identified for federally listed species with relation to operation of the saltwater intake.

Issue 9: The appellants claim is that the FEIR has not adequately addressed impacts associated with the saltwater intake, specifically planktonic organisms which may result in ecosystem changes or disrupt the food web.

Staff Response to Issue 9: Effects of the saltwater intake have been analyzed in the EIR, specifically effects due to entrainment on essential fish habitat and specific fish species. These fish species account for listed species (federal and state) and commercial and recreational species. Longfin Smelt is the only species identified requiring mitigation under CEQA. LFS is a California listed species which will be mitigated at a 1:1 basis, accounting for the loss of every individual LFS larvae. Mitigation will be in the form of LFS spawning and rearing nursery habitat creation within the brackish waters of Humboldt Bay. This mitigation will account for the life stage impacted. No habitat impacts were identified as a result of intake operation. Area of Production Forgone (APF) will be analyzed in the Coastal Development Permit required by the California Coastal Commission. The EIR does outline mitigation for APF in the form of pile removal from Kramer Dock and invasive Spartina removal. APF will be determined by the CCC. APF will account for organisms such as zooplankton and phytoplankton which may be entrained by the saltwater intakes. These planktonic species are generally not studied due to their large populations, geographic outspread, and regeneration rates which make them less susceptible to effects of entrainment with the current intake volume reflecting only three percent of overall bay volume at the mean sea level. Planktonic species and eggs are accounted for in the final assessment of each organism with planktonic eggs in the ETM analysis. This will be used for the CCC to evaluate APF. Impacts associated with the use of the existing saltwater intakes have been mitigated to a level of less than significant, supported by substantial evidence in the EIR.

Issue 10: The appellants claim is that the FEIR uses a "piecemeal" approach to permitting the saltwater intake.

Staff Response to Issue 10: The EIR thoroughly addresses all components of the proposed project including land-based development and use of the existing saltwater intakes and outfall infrastructure. Piecemealing occurs when a component of the project has not been analyzed or is analyzed separately. Receiving or applying for multiple permits associated with a project is not piecemealing, it is standard practice. The EIR encapsulates all proposed components and functions associated with the proposed project. This environmental document will be used to provide evidence for the issuance of permits associated with the proposed development. The Lead Agency, the County, must carry out a determination on the project and associated EIR prior to the approval of other permits. In this case, the saltwater intake will not be permitted prior to the permitting of the terrestrial development or certification of the EIR, if approved. In preparation of the EIR, consultation meetings were held with the County, Harbor District, Coastal Commission, Regional Water Quality Control Board, United States Army Corps of Engineers, and others to determine and identify all permits required with the proposed development. An outline of required permits and approvals is disclosed in the Project Description of the DEIR, table 2-2 on pages 2-6 through 2-8.

Additionally, the saltwater intake is addressed in the Project Description and Biological Resource sections of the EIR.

The Humboldt Bay Municipal Water District has provided a will-serve letter which states that they have the capacity to provide the required amount of domestic and industrial water for project operation (504,000 gallons daily of domestic water and 2 million gallons daily of industrial water) with the ability to provide more water if needed. No new infrastructure is required for freshwater allocation from HBMWD to the project site.

Issue 11: The appellants claim is that the FEIR fails to conduct a serious and rigorous alternatives analysis for the saltwater intake.

Staff Response to Issue 11: The DEIR outlines three alternatives to the saltwater intake: slant wells, oceanic seawater intake, and Humboldt Bay seawater wells. These alternatives can be found in the Alternatives Description and Analysis on pages 4-16 and 4-17 of the DEIR. Slant wells were found to be infeasible due to the rate and magnitude required for the projects use. An estimated 40 slant wells would be required to achieve the equivalent capacity needed. With the facility footprint taking up a majority of functional space, there are also issues of where to put the field of wells. Site contamination poses a risk of groundwater contamination too great to supply a food production system. A new offshore intake may lead to more environmental impacts not yet evaluated. Using existing infrastructure is least intensive. Piping would have to be constructed through surf, potential ESHA for the land-based portion of piping, and maintenance of the oceanic intake would complicate the standard procedural monitoring and cleanings of the intake screens. Impacts associated with an intake, such and entrainment and impingement, are still risks associated with an ocean water intake. Humboldt Bay seawater wells would require extensive in water construction. Environmental impacts associated with this construction have not been analyzed. The project would require more than one seawater well to serve project needs during operation. Screens would need to be cleaned regularly and would likely also need a compressed air line to ensure the piping remain clear of debris. The appellant (HFMA) proposed the use of the outfall pipe for the intake of saltwater. An intake could not be added to current outfall piping as it would jeopardize existing and future users by limiting the available capacity of the piping system, this includes the proposed project. The current intakes proposed for use are existing. Impacts associated with the intakes in operation have been mitigated to a level of less than significant. For these reasons, the project alternatives have been deemed infeasible compared to the proposed seawater intakes.

The claim that NOAA recommends that intakes be located offshore, when possible, to minimize fish contact, is misleading. This is applied to new construction. EIR Appendix R reflects a 12-page summation of NMFS guidance applied to the project.

Issue 12: The appellants claim is that the FEIR fails to identify or quantify the amount of ocean sources of fish food that will be utilized in the production of 25,000 metric tons of Atlantic salmon for the project.

Staff Response to Issue 12: Nordic Aquafarms California is not a feed producer. The appellants claim seeks to regulate feed sourcing for an aquaculture facility that will not be operational until after demolition, remediation, and construction of Phase 1 facilities has been completed. This

means that the facility will likely not be operational for roughly five years. Fish feed make-up and ingredient sources have been rapidly changing. Supplemental proteins such as insect meal, fish byproduct trimmings, microalgae, and others allow for manufacturers to rely less on sourcing wild fish proteins. Feed make-up is anticipated to improve in the coming years. Each market is different, and like any market, there are good players and bad players within the fish feed manufacturing market. Nordic Aquafarms has committed to purchasing feed from certified feed manufacturers within the United States whose sustainability goals are in line with theirs. In sourcing a certified product Nordic is ensuring that feed make-up is transparent.

Items 1-7 on page 2-38 of the DEIR states:

> *NAFC will choose a feed supplier that will support responsible Supply Certification Programs or similar initiatives that ensure that the raw materials making up the diet, and ingredient suppliers, are evaluated and approved prior to supply. These raw materials are purchased according to strict specifications and the ingredients are analyzed regularly to ensure consistency in quality as well as compliance with feed regulations governed by FDA under the Federal Food, Drug, and Cosmetic Act and administered by FDA – Center of Veterinary Medicine (page 2-37 of the DEIR). A practical example of this can again be seen at NAFC Aquafarms facilities at Fredrikstad in Norway where a key determining factor in selecting the preferred supplier of feed was the fact that the supplier was the first company in the aquaculture industry certified under the ProSustain™ sustainability standard. ProSustain™ is an independent system for certifying continual improvement in product sustainability including market perception analysis, Eco-Efficiency Analysis, and a whole-chain traceability program designed to assess and steer its product portfolio based on defined sustainability and quality criteria. NAFC will look for similar high standards when assessing potential suppliers for the proposed project to ensure the feed mill meets strict environmental and social requirements, source ingredients from socially responsible suppliers, and use environmentally responsible raw materials.*
>
> *Detailed feed specifications can be provided along with FDA approved labels once NAFC has chosen the supplier that best fits the company's vision of achieving some of the highest environmental stewardship standards of any aquaculture facility in the world today. This information will be provided to the County no later than 90 days prior to stocking the site with feed.*

Nordic Aquafarms California will not be harvesting wild fish, will not be producing feed, and have voiced their commitment to transparency and accountability in purchasing feed from permitted, licensed, and certified manufacturers. Fish feed has been analyzed within the EIR, though impacts associated with the production of fish feed are not considered indirect effects of the proposed project as defined in section 15358 of CEQA Guidelines.

Issue 13: The appellants claim is that the FEIR makes arbitrary determinations of "less than significant" effects prior to obtaining data or documenting factual basis for determinations due to incomplete studies.

Staff Response to Issue 13: Approving projects with ongoing studies is common practice as long as mitigation and ratios for the associated impacts have been clearly identified with performance criteria. Potential impacts associated with the project have been mitigated to a level of less than

significant with mitigation. The Hydrology and Water Quality section of the EIR analyzes water quality associated with construction and operation against the significance thresholds from Appendix G of CEQA Guidelines. As discussed on page 3.3-51 of the Biological Resources section of the DEIR:

> *One of the advantages of the Empirical Transport Model (ETM) is that it provides a relative measure of impacts that should be less prone to estimation error than an absolute measure based on an estimate of the number of larvae entrained per year. The absolute numbers of larvae entrained will change considerably within and between years because of numerous physical and biological factors that affect levels of larval production and survival. The ETM provides a relative measure of impact integrated over some time period (called proportional mortality [PM] in the ETM terminology) that should vary much less over time than absolute levels of impact, such as an estimate of total entrained fishes. An estimate of PM that is very low relative to other natural sources of mortality, or levels of natural variation, indicates that entrainment effects on that organism are not likely to be significant to the population.*

With regard to ongoing sampling at the intake, specific mitigation has been identified to mitigate for the loss of every individual LFS larvae. BIO-6A outlines specific criteria and performance standards that will allow this mitigation to be effective. Technical reports within the EIR provide substantial evidence that strengthen the document and lay out specific performance metrics which have allowed the County to make a determination of less than significant.

Issue 14: The appellants claim is that the FEIR makes arbitrary determinations regarding risk to wild salmon populations, and that the "less than significant"" effect determinations place wild salmonid population at risk of viral exposure from waste effluent water discharges.

Staff Response to Issue 14: Water used for the facility is treated both when it enters the facility and prior to its discharge from the facility. The wastewater treatment plant will utilize three forms of filtration: ultrafiltration, biofiltration, and UV filtration. This ensures that the fish being raised are safeguarded and that the biota within the Pacific Ocean is safeguarded. Filtration would accomplish a removal of 99% total suspended solid, phosphorus, biological oxygen demand, and the removal of 90% of total nitrogen. Table 2.9, page 2-32 of the FEIR shows the effectiveness of UV filtration on pathogens that impact salmonoids and other fish species associated with fish farming. The table identifies that the UV dose applied to water filtration exceeds the dosage needed to kill pathogens that impact salmonoids and other species.

In attaining an NPDES permit, the NCRWQCB will require the supplier of UV equipment to demonstrate compliance with UV dose requirements (log-3 reduction or 300mJ/cm^2 UV). Additionally, the NPDES permit require NAFC to maintain a program for routine inspection and maintenance of the UV equipment. As a result of the substantial evidence outlined in the EIR, risk to wild salmon populations was determined less than significant.

Issue 15: The appellants claim is that the FEIR fails to adequately address domoic acid proliferation that may result from the Project.

Staff Response to Issue 15: The appellants claims are addressed within the Project Description, Biological Resources, and Hydrology and Water Quality sections of the DEIR, as well as Master Response 5 of the FEIR. Domoic acid proliferation and the potential for HABs have been addressed using Appendix E, the Numeric Modeling Study, also known as a Dilution Study. This study explains how temperature, salinity, and nutrients resulting from the effluent discharge will not impact surrounding water quality or oceanic biota/ecosystems. Numeric modeling shows that the temperature of the effluent water released is slightly higher than ambient water temperatures (an increase of .1F within the mixing zone), that salinity is slightly lower than ambient waters, and that nutrient release, specifically ammonium nitrogen is significantly lower than the threshold allowable (.004mg/L of the .6mg/L allowable). The dilution targets are met within 5 feet of the diffuser. These targets are met as a result of outfall diffuser design, discharge rates, and the wastewater treatment facility reducing 90% of nitrogen from the effluent prior to discharge. Specific safeguards are in place for the project which consist of required monitoring for the National Pollutant Discharge Elimination Systems Permit required by the NCRWQCB for discharge into the Pacific Ocean, and through voluntary monitoring consisting of baseline monitoring (prior to facility operation) and continued monitoring during the projects phasing a full operational capacity. Voluntary monitoring will provide a more robust data set for the RWQCB to review in their overview of the NPDES permit. This is made enforceable through 1) requirement of an NPDES permit for operation and 2) Condition of Approval #21.

The FEIR addresses the potential for localized upwelling and warming contributing to HABs. This is explained in the discussion of how nutrient loading from the Project will not drive toxic blooms. As discussed on pages 2-46 through 2-47 of the FEIR:

> *The environmental (and oceanographic) conditions at the Ocean Discharge site are not suitable for localized HABs. Compared to more southern regions, Northern California has significantly more wind and wave energy, and higher upwelling indices (Jacox 2018). As described in DEIR Section 3.3.6 (Biological Resources) starting on page 3.3-27 and 3.3-29 and Section 3.9 (Hydrology and Water Quality) starting on page 3.9-23, the highly energetic climate yields strong currents in waters nearby the Project. Quantitative predictions and numerical models describing the fast dispersal rate and degree to which effluent is diluted (throughout space and time) in the surrounding waters are provided in DEIR Appendix E. For example, Section 5.3 of the DEIR Appendix E shows that elevated temperatures from the comingled discharge into the ocean are limited to within several feet of the diffuser nozzles to meet the thermal dilution target of 4, and hence cannot provide a thermal refugia for Pseudo-nitzschia spp. Since the effluent is dispersed and diluted at such high rates, the capacity for an algal bloom (including, but not limited to Pseudo-nitzschia spp.) to develop at the Ocean Discharge site because of the Project's effluent is drastically reduced, if not eliminated, and therefore, there also is no temporal window and environmental conditions (e.g., retentive features) to produce toxins (such as domoic acid).*
>
> *Regional HABs (including that of Pseudo-nitzschia) in Northern California are also unlikely to develop as a result of the effluent discharge because they require significantly larger scale changes in the oceanographic environment (McCabe 2016). Compared to changes in nutrients driven by changes in wind and upwelling, Project effluent will not result in significant changes in water quality, as the high-level wastewater treatment removes a large portion of nitrogen prior to discharge. This holds true, regardless of the dispersal and dilution rates described in DEIR Appendix E. There is also minimal evidence suggesting that human*

activities (such as agricultural runoff, submarine groundwater discharge etc.) contribute to toxic HABs (Anderson 2008).

Proliferation of domoic acid and potential for Harmful Algal Blooms (HABs) are unlikely to result from the project. These occurrences are largely due to large scale changes in marine toxicity and phycological stress (temperature, salinity, and ammonia). Appendix E provides data that refutes the possibility of this claim with substantial evidence as outlined within the EIR. Large scale oceanic processes lead to HABs. These processes are as a result of temporal and environmental processes that are unlikely resulting from the fish farms outfall discharge. Additionally, location of the outfall (1.55 miles offshore) and disbursement rates/filtration quality of the effluent prevent the disbursement of particulates from circulating into Humboldt Bay. This is verified via the following methods:

- Establishment of water quality objectives for the coastal waters.
- Near-field modelling to ascertain if the water quality objectives are achieved in close proximity to the diffuser.
- Three-dimensional (3D) hydrodynamic modelling to predict the spatial extent that water quality objectives are met if not met in close proximity to the diffuser.
- 3D particle modelling to evaluate whether particulate organic loads pose a risk to the proximal benthic habitat.

The use of the outfall and analysis of the effluent discharge have been evaluated thoroughly within the EIR. Per CEQA Guidelines:

Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence (CEQA Statute Section 21082.2(c), Guidelines Section 15384(a) and 15604 (f)(5)).

The appellant has not provided evidence substantiating the above claims.

Issue 16: The appellants claim is that the FIER fails to address sand lance spawning habitat within the vicinity of the operational saltwater intakes.

Staff Response to Issue 16: Pacific Sand Lance is not a listed species under the Endangered Species Acts (CESA/ESA). There is not evidence that would reflect a significant impact to Sand Lance or impacts related to this population as a food source. Construction and redevelopment activities are largely attributed to land-based development. Construction related to seawater intake upgrades consisted of a modernized screen replacement and piping. These activities are minimal and would be executed within a short-term time. Per CEQA Guidelines:

An effect on the environment shall not be considered significant in the absence of substantial evidence (CEQA Statute Section 21082.2(c), Guidelines Section 15384(b) and 15604 (f)(5)).

There is currently no provided evidence showing that the operation of the intakes would have an impact on Sand Lance, or the vast food web associated with fish, bird, and marine species.

8. Recommendation

On a basis of substantial evidence in the record, an Environmental Impact Report was prepared reflecting the independent judgment of the Lead Agency, the County, evaluating all components of the proposed project. The appellants have presented 16 claims lacking substantial evidence pursuant CEQA Statute Section 21082.2(c), Guidelines Section 15384(b) and 15604 (f)(5). No new information has been presented identifying a new significant environmental impact or new mitigation measure. The Environmental Impact Report is not subject to recirculation pursuant section 15088.5 of CEQA Guidelines. All claims raised by the appellant have been addressed thoroughly in both the EIR, Staff Report, and Resolution prepared for the project. Based off of this information, the County recommends that the Board of Supervisors act in accordance with the Planning Commission decision on August 4, 2022, certifying the Environmental Impact Report prepared on behalf of the project subject to the Mitigation Monitoring and Reporting Program and approving the Coastal Development Permit and Special Permit subject to the Conditions of Approval applied to the project.
Click or tap here to enter text.

FINANCIAL IMPACT:
The Appellant has paid the fee associated with filing this appeal (1100277-608000). There will be no additional impact on the General Fund.

STRATEGIC FRAMEWORK:
This action supports your Board's Strategic Framework by supporting business, workforce development and creation of private-sector jobs

OTHER AGENCY INVOLVEMENT:
CDFW -California Department of Fish and Wildlife
CCC -California Coastal Commission
RWQCB -Regional Water Quality Control Board
NCUAQMD -North Coast Unified Air Quality Management District
USFWS -United States Fish and Wildlife Service
NMFS -National Marine Fisheries Service
USACE -United States Army Corps of Engineers

ALTERNATIVES TO STAFF RECOMMENDATIONS:
The Board could choose to approve the appeal, refuse the Certification of the EIR prepared on behalf of the project, and deny the Coastal Development Permit and Special Permit for Nordic Aquafarms California, LLC. The Board could also choose to revise or add other conditions of approval.

ATTACHMENTS:
NOTE: The attachments supporting this report have been provided to the Board of Supervisors; copies are available for review in the Clerk of the Board's Office.

Attachment 1: Resolution
Exhibit 1: Conditions of Approval

Exhibit 2: MMRP
Attachment 2: Appeal Letter
Attachment 3: Applicant Response to Appeal Letter
Attachment 4: FEIR
Attachment 4A: FEIR Errata
Attachment 5: DEIR
Attachment 6: Appendices
Attachment 7: PC Staff Report 7.28.22
Attachment 7A: PC Staff Report 8.4.22
Attachment 8: Letters from Tribes
Attachment 9: Public Comments

PREVIOUS ACTION/REFERRAL:
Board Order No.: Click or tap here to enter text.
Meeting of: Click or tap here to enter text.
File No.: Click or tap here to enter text.