

APPENDIX I

Board of Supervisors

Resolution No. 05-55 and 05-56

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified Copy of Portion of Proceedings, Meeting of August 16, 2005

RESOLUTION No. 05-56

**AFFIRMING THE DETERMINATIONS OF
THE PLANNING DIRECTOR ON THE
MICHAEL MOSS PROJECT; FILE NO.
515-131-23, CASE NO. PMS-03-14**

WHEREAS, in a letter dated May 19, 2005, the Planning Director determined that the Michael Moss project (File No. 515-131-23, Case No. PMS-03-14) was subject to environmental review pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the Initial Study for the project presents a fair argument that there is substantial evidence that the project may have adverse environmental impacts that have not been reduced to levels of insignificance; and

NOW, THEREFORE, be it resolved, determined, and ordered that:

1. This Board of Supervisors finds the proposed Parcel Map Subdivision application is subject to environmental review pursuant to the CEQA Guidelines; and
2. This Board of Supervisors finds the review of the project met the time limits established by CEQA.
3. This Board of Supervisors makes the following findings that there is new information of substantial importance that triggers the need for additional CEQA review, and incorporates by reference the initial study dated May 19, 2005 and the staff report dated July 13, 2005.

The previous mitigated negative declaration was prepared in 1997. Since that time, the following information of substantial importance not previously available and not previously discussed has been received (in summary):

1. **Evidence from the Water Commissioner of the City of Trinidad:**
 - (1) Information has been received from the Water Commissioner of the City of Trinidad in the form of letters dated May 25, 2004, and August 4, 2005, which state in part that the water assessment evaluation performed by Winzler & Kelly in 1995 (and upon which the original mitigated negative declaration was based) is no longer valid. The study, performed in 1994, measured flows in Luffenholtz

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified Copy of Portion of Proceedings, Meeting of August 16, 2005

RESOLUTION No. 05-56

(Page 2 of 3)

Creek in the fall of 1994; and summarized the City of Trinidad water demand over the previous three years which would have been: 1991, 1992, 1993. The Water Commissioner has presented an expert opinion to the lead agency that this assessment, now over ten (10) years old, is no longer valid. Any changes in water flow and water demand in what is a critical source for the City of Trinidad's water supply system is substantially important, because the Luffenholtz Creek watershed is recognized as a "Critical Water Supply Area" in the Humboldt County General Plan.

- (2) Since 1995, water usage in the City of Trinidad has increased by 73%. This increase in the City Water Commissioner's expert opinion brings the water capacity of Luffenholtz creek to near capacity, or "about the maximum capacity of water supply that Luffenholtz Creek can provide." In the Water Commissioner's opinion, any additional demand to the water now will have a much more serious impact to the City's water supply than ten years ago. Correspondingly, the situation will become even more serious ten to twenty years from now.
- (3) New State water quality standards took effect in 2003. These standards are significantly more stringent, and require lower levels of 6 chemicals in drinking water. In the Water Commissioner's expert opinion—with the adoption of new, more stringent standards—any increase in contamination due to an increase in development will have a greater impact on the City's ability to maintain the required water quality standards.
- (4) Current water storage in Trinidad allows for three hours of fire-fighting. Over the past seven years, the threat of forest fires near Trinidad has increased substantially. The combination of shortage of water, as evidenced by the increase in water usage described above, and the increase in fire danger require that the development's impact on fire protection be evaluated in light of the new information that has developed since the previous environmental review occurred.

2. Evidence of Impacts to Biological Resources

- (1) In May 1999, Northern California was designated Critical Habitat for the Coho salmon (listed in 1997 as an Endangered Species). Luffenholtz Creek is within the mapped habitat area for this group of salmon.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified Copy of Portion of Proceedings, Meeting of August 16, 2005

RESOLUTION No. 05-56

(Page 3 of 3)

The designation of critical habitat is important because it identifies habitat that is essential for the continued existence of a species; and, therefore, indicates habitat that may require special management attention. The EIR will examine this issue further to determine if such attention is warranted.

- (2) Since 1997, it has been determined that the main stem of Luffenholtz Creek provides habitat for Coastal Cutthroat Trout (*Onchorynchus clarki clarki*), among other species. Residents of the area contend that there are Coastal Cutthroat trout in the more upstream reaches of the creek that do not migrate to the sea in a truly anadromous fashion. Coastal Cutthroat Trout are a Species of Special Concern.

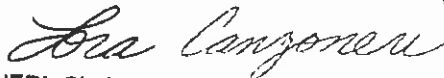
Adopted on motion by Supervisor Geist, seconded by Supervisor Woolley, and the following vote:

AYES: Supervisors Smith, Woolley, Neely, and Geist
NOES: Supervisor Rodoni
ABSENT: None
ABSTAIN: None

STATE OF CALIFORNIA)
County of Humboldt) s.s.

I, LORA CANZONERI, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true and correct copy of the original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand
and affixed the Seal of said Board of Supervisors.



LORA CANZONERI, Clerk of the Board of Supervisors
of the County of Humboldt, State of California
August 25, 2005

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified Copy of Portion of Proceedings, Meeting of August 16, 2005

RESOLUTION NO. 05-55

**AFFIRMING THE DETERMINATIONS OF THE PLANNING DIRECTOR ON THE
MICHAEL MOSS PROJECT; FILE NO. 515-131-23; CASE NO. PMS-03-14**

WHEREAS, in a letter dated May 19, 2005, the Planning Director determined that the Michael Moss project (File No. 515-131-23, Case No. PMS-03-14) was subject to environmental review pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the Initial Study for the project presents a fair argument there is substantial evidence that the project may have adverse environmental impacts that have not been reduced to levels of insignificance.

NOW, THEREFORE, be it resolved, determined, and ordered that this Board of Supervisors finds the proposed Parcel Map Subdivision application is subject to environmental review pursuant to the CEQA Guidelines.

This Board of Supervisors makes the findings as set forth in the staff report and in the Initial Study for Case No. PMS-03-14 as noted below, and incorporates the findings and evidence in the staff report and the Initial Study (Attachment D) as if set forth fully herein.

This Board of Supervisors finds the review of the project met the time limits established by CEQA.

FINDINGS

AGRICULTURE RESOURCES

Finding: The subdivision could diminish the historic use of the property for timber production, as it is less likely that the smaller tracts would continue this agriculture use of the property, given the high costs involved in preparation of Timber Harvest Plans. Owners of smaller parcels would be less likely to find it economical to prepare such plans. There has been no evidence submitted by the applicant to show that these smaller agricultural parcels would still be economically viable. Lacking such evidence, this subdivision proposal could represent a de facto conversion to residential uses if no other agriculture uses of the small parcels are viable. The impacts of this particular subdivision proposal may be significant in this regard, as it could lead the way for conversion of agricultural exclusive lands to strictly residential uses. There could also be cumulative impacts if other large adjacent tracts are also converted to primarily residential uses. This is discussed below under Cumulative Impacts.

BIOLOGICAL RESOURCES

Finding: The project *may* have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service; and it *may* have a potentially significant adverse effect on a riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service unless mitigation is included; and it may interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

The subdivision of approximately 80 acres of agricultural lands into four 20-acre parcels could have a significance in the type of agricultural activity that occurs on the parcels. Historically, the only agriculture that the 80-acre property has seen is that of growing and harvesting trees for wood. With a subdivision into four 20-acre parcels, it makes it less likely (highly improbable even) that this agriculture use would continue, given the high cost of preparing timber harvest plans and the unlikelihood of 20-acre parcels being able to support such a cost. So, if agricultural use of the property is to continue, there would have to be a shift to some other type of agriculture, e.g. small crops/orchards or raising domestic stock. Either of these types of agriculture would be principally permitted, and neither would necessarily require any grading or building permits, though they could result in substantial ground disturbance or water withdrawals. The impacts associated with such a potential shift in agricultural use could include increased sediment runoff due to increases in disturbed ground, and increased pollutant loading in runoff due to fertilizers, pesticides, or animal waste contamination. The mitigation identified previously would not address this pollution potential because these types of agricultural activities are exempt for the most part from the permitting process. The shift in agricultural use could result in significant impacts to biological resources given the nature of potential agricultural activities and the fact that there would be no permitting control over the activities, and their impacts would not be mitigated in the way that we might mitigate residential development.

Since 1997, Coho salmon have been added to the Federal endangered species list. The Department has previous review comments from the National Marine Fisheries Service (now NOAA Fisheries) that erosion and sedimentation control measures that would be imposed for residential developments and that the siting of buildings, roads and leachfields, with the prescribed mitigation measures, were generally protective of listed salmonids. However, the previous review by NOAA Fisheries did not address the potential for more intensive agriculture use that might result for small agricultural parcels; it only addresses potential impacts from development of residences on the parcels. The potential impacts from more intensive agricultural uses of the properties could be significant to resident Coastal cutthroat trout as noted above.

GEOLOGY AND SOILS

Finding: The project could result in substantial soil erosion or the loss of topsoil as discussed under Biological Resources.

HAZARDS AND HAZARDOUS MATERIALS

Finding: According to the Fire Hazard map, the parcel is located in a high fire hazard area. Fire jurisdiction is provided by the California Department of Forestry and Fire Protection (CDF). Other than the usual Firesafe issues, the Trinidad CDF office did not have further resource concerns. CDF has recommended approval of the project. Fox Farm Road does meet the Road Category 4 standard (18-20' wide travel way with 2' bladed shoulders), but is a dead-end road. Fox Farm Road is a dead-end road, and is not in compliance with the County's Firesafe Ordinance with regards to emergency access. A further finding is that the project as proposed will have a potentially significant impact on the potential for loss of life and property from wildland fires due to inadequate emergency access.

HYDROLOGY AND WATER QUALITY

Finding: The project *may* substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off site; and *may* otherwise substantially degrade water quality. Since the City of Trinidad and the proposed subdivision will both rely on surface flows from Luffenholtz Creek, the finding is made that the potential for significant impacts to water quality and quantity exist. The proposed subdivision has the potential to alter the water quantity in the Luffenholtz Creek drainage in a manner which could result in off-site impacts.

LAND USE AND PLANNING

Finding: The project may conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. Section 3362 of the Humboldt County General Plan, which defines Critical Water Supply Area as noted above, further states that development proposed within such areas shall demonstrate that no risk of contamination to the water supply area would occur due to the development activity proposed. There has been no information submitted which would demonstrate this "no risk." The proposed project is to create four agricultural parcels from a single parcel which has historically only had the agricultural use of growing timber. The new agricultural parcels would likely not represent viable timber land (see Agricultural Section). So, if agricultural use of the parcels is to continue, it could involve growing crops, raising livestock, or some other agricultural uses. Such uses are known to use fertilizers, pesticides and other amenities, or have animal wastes which could result in significant amounts of pollutants being carried in run-off water from the parcels and into the stream courses. Ground disturbing from increased agricultural uses, such as growing crops, could also result in increased sediment runoff into streams. The runoff would have a high potential to pollute the water

supply system. Impact to the water supply system would be in conflict with the General Plan policies and standards for a Critical Water Supply Area.

PUBLIC SERVICES

Finding: The project will result in a substantial adverse physical impact with regards to acceptable service ratios, response times, or other performance objectives for fire protection. The potential impacts due to wildland fire are considered potentially significant because there is no secondary emergency access proposed as part of the project. This is also considered a potentially significant impact on the public service of fire protection.

TRANSPORTATION/TRAFFIC

Finding: The project may result in inadequate emergency access.

MANDATORY FINDINGS OF SIGNIFICANCE

Finding: The project has the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory; or have significant environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

The project could have an impact that is individually limited, but cumulatively considerable, ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects).

The proposed project could have a significant cumulative impact to agricultural lands due to either de facto conversion of agricultural land to residential uses or a shift from low impact agriculture use, such as growing and harvesting trees, to high impact agricultural uses necessary to make smaller agricultural parcels economically viable.

The potential impacts to biological resources, specifically Federally-listed salmonids, that could result from this and future subdivisions of agriculture exclusive parcels down to 20 acre parcels are cumulatively significant. Such reductions in parcel sizes could result in a shift to high-impact agricultural uses which have a higher potential for causing sedimentation in fish-bearing streams and resulting in increase pollutant loading.

The potential impacts to hydrology, water quality, and water resources in a Critical Water Supply Area for the City of Trinidad that could result from this and future subdivision of this nature are cumulatively significant. This is due to the potential for increased pollutant loading in the watershed; the potential for

increase demands on a limited water resource; potential increase in the level of agricultural activities and their resulting pollutant loadings.

The potential impacts to land use and planning that could result for this and future subdivisions of this nature are cumulatively significant due to the potential to impact a Critical Water Supply Area and the possibility of conversion of agricultural lands to non-agricultural or strictly residential uses.

The potential impacts to traffic on Westhaven Drive could be cumulatively significant as there is the potential for further subdivision into 26 parcels as a consequence of this project improving Fox Farm Road.

Adopted on motion by Supervisor Geist, second by Supervisor Woolley, and the following vote:

AYES: Supervisors Smith, Woolley, Neely, and Geist
NOES: Supervisor Rodoni
ABSENT: None
ABSTAIN: None

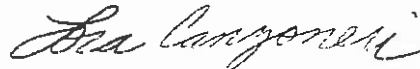
STATE OF CALIFORNIA)
County of Humboldt) s.s.

I, LORA CANZONERI, Clerk of the Board of Supervisors of the County of Humboldt, State of California do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-titled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my office.

IN WITNESS WHEREOF, I have
hereunto set my hand and affixed the
Seal of said Board of Supervisors.

LORA CANZONERI

Clerk of the Board of Supervisors of the
County of Humboldt, State of California



August 26, 2005

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified Copy of Portion of Proceedings, Meeting of Tuesday, August 16, 2005

SUBJECT: PUBLIC HEARING ON APPEAL OF PLANNING DIRECTOR'S DETERMINATION TO REQUIRE ENVIRONMENTAL REVIEW OF THE MOSS PARCEL MAP SUBDIVISION; FILE NO. 515-131-23; CASE NO. PMS-03-14

- ACTION:**
1. Reviewed the staff report and written testimony.
 2. Held a public hearing in a manner prescribed by law.
 3. Based on the findings in the staff report and public comment, adopted Resolution Nos. 05-55 and 05-56, affirming the Director's determination and the findings of the Initial Study that the project as proposed requires preparation of an Environmental Impact.

Adopted on motion by Supervisor Geist, seconded by Supervisor Woolley, and the following vote:

AYES: Supervisors Smith, Woolley, Neely, and Geist
NOES: Supervisor Rodoni
ABSENT: None
ABSTAIN: None

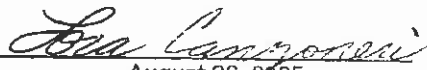
STATE OF CALIFORNIA)
County of Humboldt) s.s.

I, LORA CANZONERI, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true and correct copy of the original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my office.

IN WITNESS WHEREOF, I have
hereunto set my hand and affixed the
Seal of said Board of Supervisors.

LORA CANZONERI

Clerk of the Board of Supervisors of
the County of Humboldt, State of
California


August 26, 2005



PLANNING DIVISION
COMMUNITY DEVELOPMENT SERVICES

COUNTY OF HUMBOLDT

3015 H STREET

EUREKA, CALIF. 95501-4484 PHONE (707) 445-7541

July 27, 2005

Mayor Lin
City of Trinidad
P. O. Box 390
Trinidad, CA 95570

RE: Proposed Moss Subdivision PMS-03-14, File No. 515-131-23

Dear Mr. Mayor:

The County has taken the position that an EIR needs to be done on the Moss subdivision in part because of the information provided by you as the Trinidad Water Commissioner. You wrote a letter dated May 25, 2004 (copy enclosed) indicating three separate reasons for an EIR that were not in existence at the time of the original CEQA review in 1997. We need additional information to back up these statements in order to strengthen our position on the existence of "new substantial information" that may have a significant effect on the environment.

Can the City of Trinidad Water Commissioner assist us and provide more detailed supporting information regarding:

- (1) The assertion that the original assessment on the availability of water in Luffenholtz Creek is now outdated - we need more details on the background information that would support this statement. Where does the information on water usage come from? What about that increase in water usage leads the Commissioner to conclude that the Creek is now at capacity? Are there any studies or other data that can be provided to help support these assertions? Can the Commissioner state unequivocally that Luffenholtz Creek is "at capacity" such that a new subdivision near this creek should not be approved without mitigation?
- (2) A new State water quality standard took effect in 2003. What is that standard? What is the Commissioner referring to? What does it require? How do these requirements differ from what was required to evaluate the Moss subdivision in 1997?
- (3) Similarly, with respect to the issue of fire safety. What has changed in the intervening 8 years that would require a different evaluation now regarding fire safety?

We need assistance from the City of Trinidad in being able to adequately address the City's concerns and advocate from an informed position regarding the need for an EIR, and unfortunately we need this assistance in an expedited manner. This matter relates to the pending appeal of the Director's determination that an EIR needs to be done. The matter is scheduled to be heard by the Board of Supervisors on August 16, 2005, thus your expeditious reply would be greatly appreciated. Thanks for your assistance on this matter.

Sincerely,

Michael E. Wheeler
Senior Planner

THE HARLAND LAW FIRM
 COST ACCOUNT
 622 H STREET
 EUREKA, CA 95501



usbank.com

90-2267/1211 3801

7380

DATE May, 31, 2005

PAY One Thousand, Seven Hundred and Six and 00/100 DOLLARS \$ 1706.00

TO THE ORDER OF County of Humboldt



[Handwritten Signature]

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DETACH AND RETAIN THIS STATEMENT
 THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW. IF NOT CORRECT PLEASE NOTIFY US PROMPTLY. NO RECEIPT DESIRED.
THE HARLAND LAW FIRM LLP

7380

DATE	DESCRIPTION	AMOUNT
05/31/05	Appeal Fee Trinidad, LLC (E6365c-5) (RAS/mr)	1706.00

6/2/05	Harland Law Firm		1706-
DATE	NAME	CASH	CHECK

622 H Street 157545
Eureka, CA 95501

COUNTY OF HUMBOLDT
OFFICIAL RECEIPT

DEPT. Planning
 BY MEW

AMOUNT OF ACCT.		
AMOUNT PAID	1706-	
BAL. DUE	0	

DESCRIPTION Appeal Fees - appeal
Apps # 2840 for Director's decision
PMS-03-14 to require an EIR
SIS-131-23

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