

Sidnie Olson

---

**From:** L [trustyordesires@yahoo.com]  
**Sent:** Tuesday, December 16, 2008 4:08 AM  
**To:** DEIRcomments  
**Subject:** Marina Center? Not in our town!

To whom it may concern,

Besides being a grotesque eyesore replete with entirely non-indigenous palm trees, the Marina Center would NOT generate well paying jobs: the money will leave our economically depressed area and feed the fat cats. I 61-1  
I 61-2

Furthermore, the architectural and cultural integrity of Eureka will be compromised by such a distinctly So-Cal "shopping town." "Wildlife preservation area" my foot. "No significant impact" toward breathing quality? I already have asthma, thanks. I 61-3  
I 61-4

Pardon the vitriol, but we as a proud and harworking, largely blue collar community cannot afford to buy into the lies of these smooth talking PR men, and armies of attorneys who speak for one very determined billionaire.

What's it going to take?

Respectfully,  
L. Dickinson,  
Eureka

"When I use my strength in the service of my vision,  
it matters less and less if I am afraid."  
-Audre Lorde

## Letter 61: L. Dickinson

61-1 The opinion of the preliminary project renderings is noted. As stated in the outline on page III-18 of the Draft EIR, under *F. Project Entitlements and Approvals*, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

61-2 The comment states that the proposed project would not generate well paying jobs and that money would leave the community. The comment is noted.

Please see Master Response 1, under “National Stores vs. Local Stores” and “Jobs / Wages Impacts.”

61-3 The opinion of the preliminary project renderings is noted. As stated in the outline on page III-18 of the Draft EIR, under *F. Project Entitlements and Approvals*, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

61-4 The comment makes a reference to impacts to “breathing quality” and references the commenter’s asthma condition. For discussion of the project related impacts associated with air quality, please see to Draft EIR Chapter IV.C, Air Quality.

Sidnie Olson

---

**From:** Amber Dolph [amber.dolph@gmail.com]  
**Sent:** Wednesday, December 17, 2008 12:21 PM  
**To:** DEIRcomments  
**Subject:** comment on balloon tract

My comment on the Marina Center is as follows:

I have great concern about the air quality decreasing because of such a development. I also am very concerned about the traffic issues on the 101 in Eureka that will occur due to the building and traffic from the new Marina Center(Traffic is terrible already during rush hour). I am concerned about the wetland preservation and the fact that there maybe Weott villages that exist on the balloon tract that will need to be explored before any building can be completed. These are all real important concerns that should be considered with great care.

62-1  
62-2

I would also like to comment on what would be nice to see happen with the balloon tract. I would like to see a proper clean up of the area. The traditional dig and remove the soil clean up will not be the best way to tackle the problem. If there are old Native American villages there that need exploration than that will not work. People keep commenting on the cost of clean up. I think there are great and local alternatives. I heard about the Wounded Planet Foundation, which is a non-profit foundation that is interested in planetary cleanup. They may be able to help. Or perhaps there are some scientists that need a brown zone to turn into an urban green zone, to further prove of safer ways to clean up toxic sites without having to disturb the landscape so much. Maybe Eureka could become an example of these great and existing technological advances and how they can be used to reclaim urban brown zones. Going that route would be the best long term solution for Eureka and possibly the world. That would be a great thing to be known for. Instead of added just one more corporate park that can be the eye sore of the Eureka Victorian Waterfront. Oh, and we don't need another hardware store for a town of this size. We are already blessed with an abundance of local building materials. How many green zones do we have in the urban landscape? Could it be that we need to clean that area and others up to create more established parks for the city of Eureka, the locals, Humboldt bay, the oysters, the tourists, and future generations to enjoy. Are we not lucky to still have unclaimed views of the bay for wildlife. It is time to rethink what is best for people here. Thank you for reading my comment and I hope that you will make a resposible desition on the matter. Amber

62-3  
62-4  
62-5  
62-6

## Letter 62: Amber Dolph

- 62-1 The comment expresses concern about the potential traffic and air quality impacts of the proposed project. The comments are noted. Please see Draft EIR Chapters IV.O and IV.C, respectively, for a discussion of these potential impacts.
- 62-2 The comment expresses concern regarding potential archaeological resources at the project site. Implementation of a subsurface survey program would help determine whether significant archaeological sites exist in the project area. Please see Master Response 9, which details revised mitigation measures for subsurface investigations.
- 62-3 The comments expressing a desired process of site remediation and alternative uses for the project site are noted. Alternatives to the proposed project, including uses similar to those suggested, are discussed in Chapter VI. Please see Master Response 4 regarding site remediation, as well as Master Response 9 regarding historic Wiyot villages.
- 62-4 The comment proposes to turn the project site into an urban green zone instead of another corporate park that, in commenter's opinion, can be an eyesore on the Eureka Waterfront. The project is not proposing a corporate park, but is rather a mixed-use project that combines retail, office, industrial, and residential uses near the waterfront and a restored wetland and slough area. The project is meant to provide aesthetically pleasing views for residences and users of the recreational area. Indeed, the proposed project is anticipated to improve the visual character of the area:

Generally, the Marina Center project would improve the visual character of the site, as it would transform a vacant brownfield with low visual quality to a planned development containing a mix of land uses and building types that draw from the site's maritime and industrial heritage, as well as from the contemporary influences of the Eureka waterfront, Old Town, and Downtown areas. (Draft EIR, page IV.A-7.)

Thus, the Draft EIR rightly concludes that the project would have a less-than-significant impact on aesthetics. The Draft EIR also evaluates a reasonable range of alternatives – including a public open space alternative – and concluded in initial screening that a “public open space” or “urban green zone” would be infeasible and would fail to meet the basic project objectives. (Draft EIR, pages VI-12 and -14.) The comment provides no information that is inconsistent with the Draft EIR's assessment, and no further analysis or mitigation is identified. Please also see the Draft EIR, Chapters IV.A and VI, and the more detailed discussions concerning aesthetic impacts and project alternatives.

- 62-5 The comment states that the City of Eureka's hardware retail demands are already adequately met. Please see Master Response 1 for a discussion of retail demand.
- 62-6 The comment suggests alternative uses for the project site. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI of the Draft EIR.

Sidnie Olson

---

**From:** Jean Doran [jeandoran@sbcglobal.net]  
**Sent:** Thursday, January 29, 2009 10:00 PM  
**To:** DEIRcomments  
**Cc:** DEIRcomments  
**Subject:** HOME DEPOT???

There is another aspect besides the Environmental questions-- the sociological question raised by the dominance of Home Depot

in the MarinaCenter. Most Home Depots take up a space larger than a football field., withan. income to match. two " Category Killers" Home Depot

and Lowes had nearly half of all Hardware and Building supplies sales with \$73 billion going to Home Depot in 1904. since then about 5,000 independent

hardware stores have closed, How much of that \$73 billion has retuned to the communities occupied???

[63-1

Introducing the #2 Big Box to an area that supports local businesses is unnecessarry and disruptive, It can be avoided by community action.

Fighting and winning-- austin,Texas--Boulder, Colorado--Bellingham, Wshington. PR like Local Spoken Here-- aqnd Think Local First--

and Put Your Money Where Your House Is. What is for the Common Good?????

## Letter 63: Jean Doran

- 63-1 The comment asks what the effect would be of a closure of the anchor tenant store. Please see Master Response 1, under “National Stores vs. Local Stores.” Also note that the CBRE urban decay analysis concluded that if the space were to be vacated by the planned anchor tenant, the space could be retenanted.

**Comment Letter 64**

**Comment Letter 64**

To: City of Eureka  
 From: Michelle Dulas --Westside Resident (Ward 1)  
 PO Box 7001  
 Eureka, CA 95502  
 Re: Balloon Tract Draft EIR Comments

It is my pleasure to submit these comments regarding the Draft Environmental Impact Report for the big box mall proposed for the Balloon Tract on the Eureka Waterfront.

I am particularly concerned with the potential for massive Urban Decay in our town as a result of this project. I found the Urban Decay section of the document to be grossly inadequate on several fronts:

(1) The vacancy rate presented seems very low compared to actual circumstances and especially in light of recent developments. Specifically, the dismal state of the national economy overall and the closing locally of such major retail outlets as Mervyns & Gottschalks, along with Restoration Hardware and many others, seems to contradict the vacancy rate presented in the document. Please refer to the map I have submitted with my comments for a representation of a partial list of current vacancies as of January, 2009. This map is based on a list of vacancies attached to the end of my comments. It should be clear that there is a severe vacancy problem that is growing and causing urban decay already. Further economic dislocations as a result of the proposed big box mall will inevitably make things worse. A much better and comprehensive study of vacancy rates is absolutely mandatory for this document to be of any utility whatsoever.

(2) The October, 2008 "Update" fails to reflect current economic conditions let alone economic forecasts going forward as national & global situations stagnate. This leads to a gross overestimation of demand to such an extent that a significant excess supply would be created by this project, resulting in empty and deteriorating commercial space. All demand and market growth projections must be updated and reconsidered in light of new information about the economic crisis. This economic crisis is not to be dismissed as a simple market correction or downturn in normal business cycles and therefore warrants new economic work to provide an accurate analysis of the true impact on Eureka.

(3) This report made no study of, nor considered any correlation to, the directly applicable history of the catastrophic impacts on the Eureka Mall and the Old Town & Downtown business sections of Eureka, caused by the opening of the Bayshore Mall in the late 1980's. The physical deterioration caused by this major shopping center opening is a perfect example of an economic chain reaction leading to blight. The omission of any consideration of this history seems a willful blindness to cause & effect that violates both the old saying that those who fail to learn from history are doomed to repeat it, but also violates CEQA Guidelines—Section 15064 requiring the lead agency to consider such a chain reaction effect.

This document is inadequate both in the veracity of the data, the analytical methods used and the scope, depth & breadth of its study. The conclusions are canned and completely inadequate. My conclusion is that the whole thing is a useless waste of time and money.

THROW IT OUT AND DO THE DEIR AGAIN!

Thank you,



Michele Dulas

**RECEIVED**

JAN 20 2009

DEPARTMENT OF  
 COMMUNITY DEVELOPMENT

5-513

64-1

64-2

64-3

64-4

Vacant Storefronts and office buildings in Eureka as of January 7<sup>th</sup>, 2009

01, 02, 03	(next to) 3360 Jacobs Avenue	former industrial supply
04	4 <sup>th</sup> St. North	former Spadoni's Mkt.
05	4 <sup>th</sup> St. North	former Udder Place coffee
06	427 V St.	former Mexican restaurant
07	2006 4 <sup>th</sup> St.	storefront
08, 09	1930 4 <sup>th</sup> St.	former cardroom
10	3 <sup>rd</sup> St.	former Goldrush Coffee
11	2212 2 <sup>nd</sup> St.	service/auto
12	321 X St.	auto sales
13	5 <sup>th</sup> & hwy 255	former Pizza Hut
14	435 5 <sup>th</sup> St.	former Arctic Circle
15	1515 5 <sup>th</sup> St.	The Rental Market
16	923 3 <sup>rd</sup> St.	office for lease
17, 18	835 3 <sup>rd</sup> St.	professional office
19	310 2 <sup>nd</sup> St.	dental office – ½ empty
20	124 2 <sup>nd</sup> St.	vacant building
21	2 <sup>nd</sup> & D Sts.	former 'Consider the Alternatives'
22	2 <sup>nd</sup> and D Sts.	former 'Jimmy Dunne's'
23	333 1 <sup>st</sup> St.	former Cop Bldg.
24	322 1 <sup>st</sup> St.	office building
25	1 <sup>st</sup> St	Eureka Ice & Cold Storage
26	91 1 <sup>st</sup> St.	former GoFish Café
27	2 <sup>nd</sup> St	Imperiale Place
28	foot of F St.	Bayfront 1 restaurant
29, 30, 31	between D & E on 2 <sup>nd</sup> St.	former Restoration Hardware

Comment Letter 64

Comment Letter 64

32	311 E St.	storefront
33	235 4 <sup>th</sup> St.	empty office
34, 35, 36	215 4 <sup>th</sup>	former Eureka Reporter
37	4 <sup>th</sup> & B St.	former Joe's Smoke Shop
38,39	400 Broadway	former East Bay Machine
40	300 Broadway	former All about the Dogs
41	122 W. 4 <sup>th</sup> St.	empty shop
<b>42</b>	<b>REDWOOD ELECTRONICS</b>	<b>occupied</b>
43	w. 6 <sup>th</sup> St.	former OH's Townhouse
44	105 W. 5 <sup>th</sup> St.	empty store
45	117 W. 5 <sup>th</sup> St.	empty store
46	F & 5 <sup>th</sup> Sts.	former Moon's toystore
47	520 5 <sup>th</sup> St.	empty store
48	524 5 <sup>th</sup> St.	empty store
49	532 5 <sup>th</sup> St.	empty store
50	423 F St.	empty store
51	4 <sup>th</sup> & F St.	former Bank of America
52	my jacket!	
53	511 H St.	empty store
54	F St. next to Eureka Theater	empty store
55, 56	6 <sup>th</sup> & b St.	empty car lot
57	7 <sup>th</sup> & A St.	former Rental Helpers
58, 59	120 7 <sup>th</sup> St.	former auto sales
60	133 7 <sup>th</sup> St.	former auto parts store
61	301 7 <sup>th</sup> St.	former VW auto sales
62, 63	7 <sup>th</sup> & F St.	Eureka Inn

<u>New disc</u>		
065	Broadway & Grant	former muffler shop
066	1630 Broadway	empty store
067	1626 Broadway	empty store
068,69		
	Wabash & Broadway	former Channel 6 TV
070	2029 Broadway	former Napa auto parts
071	2616 Broadway	former truck stop
072	2710 Broadway	former café
073	Boardwalk Mall, Broadway	former Wise Flooring
074	Boardwalk Mall, Broadway	empty office
075	#10 Victoria Place, Broadway	empty Beauty Supply store
076	#12 Victoria Place, Broadway	empty Women's Gym
077 - 106	3000 Broadway, Bayshore Mall	31 empty stores + 2 signs
107	3990 Broadway	former Nader auto
107 108	Elk River Tallow Works	vacant
0109	S. Broadway, east side	vacant lot
110	Eureka Mall, Henderson side	empty store
111	Eureka Mall, Henderson side	former 6 Rivers Bank
112	311 Harris	former pain clinic
113	Henderson between F & G	former Sun, Rain, Time
114	437 Henderson	former Thrift Store
	<u>No Photo</u>	
	2816 F St.	former Roberts gift store
115	2858 E St.	empty realty office
116	next to 2912 E St.	empty store

Comment Letter 64

117	2607 Harris	empty office suites
118	2761 Hubbard lane	former trailer rental lot
119	Myrtle Avenue	former Redwood Pharmacy
120	Myrtle & Park St.	former gas station
<b>No Photo</b>	2297 Harrison St.	Former Duck's Market
121	23 <sup>rd</sup> & Harrison Ave.	former Planned Parenthood
122	2456 Buhne	empty Med. Office building
123	Walnut & Hemlock	New bldg for lease
124	101 Wabash	empty gas station
125	Wabash & Union	empty shop bldg
126	Wabash & Union	empty church
127	3 <sup>rd</sup> and I	McMahans Furniture

5-515

Comment Letter 64

RECEIVED  
 JAN 20 2009  
 DEPARTMENT OF  
 COMMUNITY DEVELOPMENT

**Legend**

- Retail
- Office

January 30, 2009  
 Submitted in support of  
 comments by Michele Dukis  
 on the Balcon Tract DEIR.  
 Compiled from data collected by Tom Peters.



## Letter 64: Michele Dulas

- 64-1 The comment disagrees with the vacancy rate included in the Urban Decay analysis. Please see Master Response 1, under “Vacancy in the City of Eureka.”
- 64-2 The comment expresses concern that the Urban Decay analysis failed to take into account the current economic climate. Please see Master Response 1, under “New Recessionary Conditions.”
- 64-3 The comment states that the Urban Decay analysis failed to include the effects of a previous mall opening. Please see Master Response 1, under “Vacancy in the City of Eureka,” as well as under “The Effect of the Bayshore Mall on Local Businesses.”
- 64-4 The comment expressing general dissatisfaction with the Draft EIR is noted. As stated in Chapter I, Introduction, the conclusions reached in the EIR reflect the determinations of the City of Eureka, pursuant to the CEQA Guidelines. The EIR is a factual informational document, prepared in conformance with CEQA, and written for the purpose of making the public and decision-makers aware of the potential environmental consequences of the Marina Center project.

The City of Eureka sent the Notice of Preparation (NOP) to 56 governmental agencies and organizations and persons interested in the project in April, 2006, and the City held two public scoping meetings in April 2006 to obtain public comments on the scope of the EIR. As detailed in the appendices, numerous consultant reports were prepared, analyzed, and summarized. The document underwent several rounds of intensive review by city staff and by the consultants. It represents two-and-a-half years of investigation and effort by these parties.

Sidnie Olson

From: Firewaterdurfee@aol.com  
Sent: Saturday, January 31, 2009 9:53 AM  
To: DEIRcomments  
Subject: MARINA PROJECT LETTER.WPS  
Attachments: Marina project letter.wps

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

January 30, 2009

To: Sidnie L. Olson

From: Robert C. Durfee  
2395 Lindstrom Ave.  
Samoa, CA 95564

Subject: Marina Project

I would like to request that the benefits of a big box also be included in the impact study. My reasons are as follows.

1. When Costco opened their refueling station the gasoline price dropped .10 to .20 cents per gallon through-out our area. These very considerable dollars saved were spent within our area in most cases. Was someone making excessive profit before Costco opened up the competition? Probably. Do you see a lot of gas stations shut down and boarded up in this area? I don't.

65-1

2. When our water heater failed just before we were making a required trip to the Sacramento area I located the water heater I wanted and found it on sale locally. While in Sacramento I found the exact same model water heater, at regular pricing, that was \$50.00 less than in Eureka. That \$50 was spent in our area when we returned.

65-2

My preference is to buy locally, not only for the local jobs it helps create, but part of the sales taxes goes to the local government. We were looking to buy a new vehicle a few months ago. For the exact same vehicle there was a difference of over \$4000.00 cheaper from a dealer in the city than the local dealer. We did not buy a vehicle but when we do seller beware.

Respectfully submitted,

Robert C. Durfee

5-518

## Letter 65: Robert Durfee

- 65-1 The comment stating that big box stores also have benefits is noted.
- 65-2 The comment suggests that the impact study should include benefits of big box retail due to regional price differences experienced with other goods and services. The comment is noted, however, the price of goods is not considered an environmental impact. Please also see Master Response 1.

Sidnie Olson

From: Brian Dykstra [Brian.Dykstra@humboldt.edu]
Sent: Saturday, January 31, 2009 4:59 PM
To: DEIRcomments
Subject: DEIR Comments

Comments on the DEIR for the proposed Marian Center Project on Eureka's Balloon Tract

From: Brian Dykstra
Address: POB 5166 Arcata, CA 95518
Email: bjd24@humboldt.edu

Zoning of the project area is changing to 'mixed use' which in this case does not include mention of 'public zoning'. I feel like publicly zoned areas are still important to include in planning. 66-1
Why does the Humboldt Baykeeper information on the proposed Marina Center project area describe it as the "Balloon Track".. a 39 acre property" while others have described it as 43 acres? How many acres in the proposed project? 66-2
The hazardous materials and other contaminants at the site needs remediation. Why is there no contemporary data in the DEIR concerning the present and known actual levels of dioxins, furans, copper, lead, hydrocarbons, arsenic and other substances? The source(s) of these pollutants have to be geographically located to ensure proper and successful remediation efforts. Why are the sources of some of these toxins still not completely known? Not all exposure pathways are identified in the DEIR. How can the project and lead agency ensure wetlands, ground water, and exposed soils will not be or become contaminated? These data gaps make site remediation less likely to actually mitigate effects on the environment. In Mitigation measures G-1a to G-1e employed mitigation measures are described as to be decided at a future date, and in such a way as to meet the RWQBC... The Regional Water Control Board can have their laws met by mitigation measures, however that does not ensure that other city, state and federal laws will be followed. The intent to follow these laws, and the means of doing so need to be in writing in the DEIR before It could be considered acceptable. 66-3
Why are solar panel installations omitted from air quality mitigation measures? How can air quality impacts be considered "unavoidable" when affordable mitigation measures exist? The City Council needs to consider their responsibility to all of Humboldt County in meeting PM-10 levels. 66-4
It seems the transportation element of the DEIR is lacking. A Federal Highway Safety Administration study shows Broadway in Eureka as a place where many pedestrians are hit by automobiles. Yet unsignalized intersections and incomplete pathways for bicycles are all additions of the project to the area. Waterfront Drive itself is described in the DEIR as 48 feet wide, when in reality in some places it is only 30 feet wide when bottlenecking. People living on Broadway will have a difficult time entering traffic from driveways due to increased traffic. The DEIR traffic studies were done during March and April, a low traffic time of year; and still show unacceptable levels of transportation impacts. What about tourist months of June and July? 66-5
A beautiful view of the coast should be protected under the Coastal Act. Why can this project destroy that? Tidal and estuarine wetlands, habitat for peregrine falcons and other wildlife needs preservation. Section 30233 of the Coastal Act provides protection for wetlands so protect the remaining estuarine wetlands in the project area please! What needs to be in the area is natural space and public access areas. Why not a park where the Farmer's Markets can be held. This would increase commerce. The plaza in Arcata is always hopping when Saturday mornings come around. Currently the Eureka Farmers Market is a blocked off street. No comparison! Urban decay can be prevented by wise use, not big projects with incomplete plans, inadequate Environmental Assessments , and un-thought out mitigations! The city needs to clean up the toxins of the area anyways. Why not do it and then provide for visitor and local serving recreational use? Remember that one-half a million square feet do not have any businesses lined up for them yet! 66-6
66-7
66-8
66-9

## Letter 66: Brian Dykstra

- 66-1 The comment about the importance of public zoning is noted. The proposed new land use designations for the project site are discussed on pages IV.I-76 through IV.I-80. As stated on Draft EIR page IV.I-79, the Conservation Water District would provide for public recreational space and uses.
- 66-2 The project site is 43 acres. It is beyond the scope of this document to speculate why Humboldt Baykeeper's document(s) include different site acreages.

However, the Biological Assessment prepared in March 2008 (Appendix G) states that the project site is 38 acres, as does the Investigation of the Presence of Wetlands prepared in March 2008 (Appendix H). The Eureka Balloon Track Retail Development Economic Impact and Urban Decay Analysis prepared in November 2006 (Appendix K) states that the project site is 35 acres, the Water Supply Assessment prepared in 2007 (Appendix R) states that the project site is approximately 40 acres, and the Utility Impact Analysis prepared in 2006 (Appendix Q) states that the proposed project site is 32 acres.

These different sizes can result from a number of definitions of project site, some that may have extended the site all the way southeast to the intersection of Washington Street and Broadway, and others that may have not included the project site properties on the north side of Second Street, depending on the impact category under investigation.

A site and parcel map is in Figure III-5 on page III-13 of the Draft EIR.

- 66-3 The comment asks why the source of contaminants on the project site are not known. The sources of the contaminants are the historic uses of the project site, as detailed in the Draft EIR and in Master Response 4 and new Appendix S.

RWQCB regulations, as well as other regulations, are called out in Mitigation Measures to describe what actions are required by regulatory agencies, and how these actions could reduce impacts to less-than-significant levels. However, the proposed project would be required to adhere to all legal and regulatory requirements, both those directly stated in Mitigation Measures and those not mentioned. For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 of this document.

- 66-4 The comment states that the Mitigation Measures G-1a through G1-e state that RWQCB regulations would be met by the proposed project, but that local, state, and federal regulations and laws must also be followed, and that this information must be included in the Draft EIR. As stated on Draft EIR page IV.G-20 under Mitigation Measure G-1a, "the Project Applicant shall prepare a site-specific remediation plan and health and safety plan that meets the requirements of the Regional Water Quality Control Board (RWQCB) *or other overseeing agency and shall comply with all federal and state regulations*"

(emphasis added). Similar language is used in other mitigation measures, including “the RWQCB or other applicable oversight agency” in Mitigation Measure G-1b, and “local environmental oversight agency (Humboldt County Department of Health) and/or the RWQCB” in Mitigation Measure G-1d. Therefore, the Draft EIR discloses the fact that oversight agencies at various government levels, beyond the RWQCB, would be consulted, and their regulations would be met.

Moreover, specific details about only certain agencies and their regulations are included in the Draft EIR to better illustrate mitigation measures. However, Project Applicants are assumed to follow all applicable laws and regulations, and the Draft EIR does not need to explicitly state each and every law that would be followed during planning, construction and operation of the proposed project.

66-5 The comment indicates that all feasible mitigation measures to reduce the significant PM10 impact to less than significant have not been identified in the EIR, such as requiring solar panels to be installed on the roofs of buildings. See response to comment 22-3 for a discussion of solar panels as a identified mitigation.

66-6 The comment states that Waterfront Drive is described as 48 feet in the Draft EIR, when it is only 30 feet in bottlenecking areas.

There are several cross sections along Waterfront Drive while only the cross section near the proposed Fourth Street Extension is provided in the Draft EIR. The EIR will be revised to provide more information regarding the cross section of Waterfront Drive. The roadway width on Waterfront Drive:

- Near the S curve between Washington Street and 14th Street narrows to about 44 feet curb to curb.
- At Commercial Street is about 48 feet.
- At Washington Street is about 48 feet
- At 14th Street is about 44 feet.

Waterfront Drive narrows to 28 feet curb to curb for approximately 700 feet just south of the proposed intersection of Fourth Street Extension. Parking is not allowed on either side of the street in this narrow section. The parking restrictions are implemented through red curbs, but the paint is faded and barely noticeable.

Railroad Avenue is about 44 feet wide to Del Norte Street.

Despite this additional information, the Draft EIR’s conclusions concerning traffic circulation and the viability of traffic mitigation remains unchanged. Again, except for the cumulative transportation-related impacts that are identified as significant and unavoidable, the project’s traffic-related impacts would remain less than significant.

The comment states that people living on Broadway would have a difficult time to exit their driveways and that pedestrian and bicyclists' safety is a concern.

Traffic volumes on U.S. 101 will increase with or without the proposed project, and the project would have little impact on drivers turning into or out of driveways confronted with higher volumes in the future. See also to response to comment 33-3 regarding pedestrian and bicycle circulation. It is expected that the identified mitigation measures would improve traffic safety.

- 66-7 The comment states that traffic studies were done during March and April, a low traffic time of year, and asks whether the tourist months of June and July should have their own traffic counts.

Per data available from Caltrans, the Average Daily Traffic (ADT) volumes on Broadway are collected annually in late February and early March. In August the volume appears to be the highest, approximately 10 percent higher than average. The lowest traffic volumes occur in early November and in January where volumes are about 10 percent lower than average. The traffic software used for this analysis, Synchro, considers percentiles of traffic. Therefore, variations of 10 percent and more are already accounted for in the LOS analysis. Another consideration is that while average daily traffic volumes are higher in August than in March, the increase is not necessarily in the p.m. peak hour. The volume of tourist traffic along U.S. 101 does not significantly contribute to the a.m. peak hour or to the p.m. peak hour. The actual p.m. peak hour increase in August is less than 10 percent over the volumes analyzed in the traffic impact study.

- 66-8 The comment states that tidal and estuarine wetlands, habitat for peregrine falcons and other wildlife needs preservation, and that the Coastal Act provides for protection of wetlands so the project should protect the remaining estuarine wetlands.

The project site is a contaminated brownfield dominated by invasive, non-native plant species, lacks suitable habitat for sensitive or special status species, and the majority of the wetlands at the project site are highly degraded and largely created from past industrial and railroad use of the project site. Remediation of the project site cannot proceed without affecting the onsite estuarine wetlands. But those wetlands are not natural; they were created through past industrial and other uses of the project site. The 8.67 acres of combined palustrine and estuarine wetlands at the project site would be temporarily impacted when subject to soil remediation activities. The proposed project would result in the permanent filling of 6.15 acres of wetlands, but mitigation includes establishment of a wetland restoration area of 11.89 acres containing 8.98 acres of estuarine wetlands (6.46 acres of these estuarine wetlands would be created as a result of the proposed project). These restored wetlands are anticipated to be of much higher quality and biological significance than those currently onsite. Please also see responses to comments 1-2 and 3-8, which further discusses the wetlands mitigation ratio.

Although peregrine falcon was observed on the project site by HBG field scientists, appropriate nest sites do not occur in the project area. American peregrine falcons are known to winter in the general vicinity of Humboldt Bay, and sporadic use of the undeveloped but disturbed project area as a winter foraging area would be expected. Significant foraging area for this species is present in the marshes, mudflats and open water habitats within the greater Humboldt Bay area. The project would not be considered as having a significant impact on peregrine falcons.

- 66-9 The comment refers to the Coastal Act and the views it protects. Please see Master Response 5 regarding the Coastal Act's regulation of the filling wetlands, as well as Master Response 3, which discusses uses in the coastal zone under the Local Coastal Program. Alternatives to the proposed project, some of which includes the uses suggested in the comment, are discussed in Chapter VI of the Draft EIR.

Comment Letter 67

January 27, 2009

City of Eureka  
Community Development Dept.  
Att: Sidnie Olson  
531 K Street  
Eureka. CA 95501

RECEIVED

JAN 30 2009

DEPARTMENT OF  
COMMUNITY DEVELOPMENT

Re: Marina Center EIR

Dear Ms Olson:

Today I received a mailing from the developer titled Marina Center EIR findings. I would like to offer some feedback to this project. Mr. Arkley, the developer, has contributed many wonderful philanthropic things to the City of Eureka to enhance the quality of life here. I believe that the Marina Center Mr. Arkley has conceived would definitely be an improvement over the current Balloon Tract abandonment.

I do question the "new jobs estimate" (minimum wage jobs?) and the estimates of increased travel time sound like a joke,

67-1  
67-2

**With all the needs of this community, why can't we do better than Home Depot?** This type of business doesn't belong at the marina. The marina is the last area to be developed and deserves something more beneficial to the community that would be a draw to our tourism sector. I work in a gallery in Ferndale and it is amazing how many travelers from the Bay Area pass through here and linger all year long, not just in the summer months.

I am a local artist and we need an increase in tourism to survive. Perhaps the Chamber of Commerce and Visitors Bureau could develop some creative ideas in conjunction with the developer about what would draw visitors to our marina such as the lovely aquarium located in Newport, Oregon.

67-3

**WE ARE A COASTAL COMMUNITY, THIS IS OUR MARINA, LET'S SHOW PEOPLE HOW VALUABLE AND BEAUTIFUL WE ARE. WE WANT EUREKA TO STAY UNIQUE.**

Please don't let Eureka be like every other rubber-stamped-big-box-mini-mall-on-every corner-two-bit-town.

Very truly yours,

*Marj Early*  
MARJ EARLY  
221 Ponderosa Court  
Eureka, CA 95501

## Letter 67: Marj Early

- 67-1 The comment questions the new jobs estimates in the Draft EIR. Please see Master Response 1, under “Jobs / Wages Impacts.”
- 67-2 The comment disagrees with the estimates of increased travel time. It is unclear as to what aspect of the traffic impact analysis the comment refers. The methodology of the transportation analysis, however, is detailed in page 2 of Appendix B of the Traffic Impact Study (which is in Appendix P of the Draft EIR).
- 67-3 The comment regarding preferred uses on the project site is noted. Alternatives to the proposed project, some of which includes the uses suggested, are discussed in Chapter VI of the Draft EIR.

Sidnie Olson

**From:** Dan Ehresman [porcupine\_d@yahoo.com]  
**Sent:** Friday, January 30, 2009 4:54 PM  
**To:** DEIRcomments@ci.eureka.gov  
**Cc:** Sidnie Olson  
**Attachments:** Marina Center DEIR comments.doc

Attached you will find my comments on the Marina Center DEIR.  
Thank you.

1/26/09

Sidnie L. Olson  
Community Development Department  
531 K St  
Eureka, CA 95501  
[solson@ci.eureka.ca.gov](mailto:solson@ci.eureka.ca.gov)

Re: Marina Center Draft Environmental Impact Report

Dear Ms. Olson:

Subsequent to review of the Marina Center Draft Environmental Impact Report (DEIR) I provide the following questions and comments pertaining to the proposed project.

As a frequent visitor to Eureka's waterfront (and as a former homeowner and resident of Eureka) I wish to stress the significance of the Balloon Track as it currently exists and the importance of mindful development. Given the proximity to Humboldt Bay, the onsite occurrence of environmentally sensitive habitat (i.e. wetlands), and the fact that the site itself is within the coastal zone, it would be fitting that the project be designed ecologically. The DEIR is fundamentally lacking in this regard.

68-1

**Aesthetics and Biological Resources**

First off, I can attest to the beneficial impact of the Balloon Track site as an undeveloped property. I have spent many a day walking and biking along waterfront drive and have spent a good deal of time watching shorebirds, songbirds and raptors on the project site itself. The DEIR fails to provide meaningful analysis of biological resources. For example, the DEIR sites record of a peregrine falcon utilizing the project area but neglects any meaningful analysis of the similar habitat types in the area. Also, project proponents seem to rely on a single cursory investigation rather than detailed multi-season surveys by qualified professionals. The sole biological survey referenced occurred in the summer while the DEIR admits that wildlife use during the winter is more extensive. It casts some light as to why the avian and amphibian lists seem particularly lacking. (e.g. The site contains habitat suitable for the Northern Red-legged frog [a species of special concern], yet there is no evidence of any wet-season surveys)

68-2

The DEIR sidesteps concerns pertaining to aesthetic impacts. Plan proponents play down the significance of open space and grasslands and erroneously assert that parking lots, big-box stores and strip malls are a visual improvement. In fact, the loss of grassland habitat is not even discussed in the report and, therefore, no mitigation has been considered. The plan as proposed would indeed "Substantially degrade the existing visual character or quality of the site and its surroundings." The DEIR failed to consider alternatives such as living roofs (which would also minimize stormwater runoff) and planted swales and rainwater gardens in the parking areas (which would also not only minimize runoff, but allow for groundwater recharge while providing natural filtration of stormwater).

68-3

68-4

The DEIR seeks the incorporation of architecture that seems disjointed and contrary to the style of the closest public hubs of Old Town and downtown. The project relies on the cookie-cutter modernity of strip malls and big box stores and disregards the historic Victorian architecture unique to the area. Incorporating buildings reflecting our past with more of a focus on locally acquired materials would be visually appealing and serve as a link to Old Town and downtown

68-5

5-527

Comment Letter 68

Comment Letter 68

while benefiting Humboldt’s economy and minimizing the carbon footprint through utilization of locally available resources.

68-5 cont.

Transportation, Air Quality and Greenhouse Gases

As written, the proposed project would significantly contribute to particulate emissions. The DEIR makes no reasonable effort to minimize this clearly significant impact nor does it adequately address the cumulatively significant impact of Greenhouse Gas emissions. Further, the DEIR does not account for loss of Carbon storage in the removal of the majority of vegetation on the project site.

68-6

68-7

The DEIR does not account for manufacture or transport of merchandise and building materials in relation to CO2 emissions. Building materials utilized in construction of the proposed project as well as goods sold at Home Depot, Best Buy and most other big-box stores do not focus on locally produced materials. The DEIR fails to consider the “true cost” of these materials. What are the resulting emissions due to how far they are being shipped? Do the manufacturers and transporters minimize their reliance on fossil fuels and utilize alternative sources of energy? How ecologically and socially responsible are the manufacturers? Were local alternatives considered? Pursuant to common sense and state law, we must move towards reducing CO2 emissions. The project fails in this regard.

68-8

Project proponents state, “It is not possible to know at this time whether the project tenants would have longer or shorter commutes relative to their existing homes; whether they would walk, bike, and use public transportation more or less than under existing circumstances; and whether their overall driving habits would result in higher or lower tailpipe emissions.” (DEIR, pg. 130, paragraph 3) While this may be true, such speculation may be avoided by incorporating appropriate design that seeks to minimize automobile traffic and use (i.e. design pedestrian/bicycle/mass transit friendly rather than personal automobile focused) For example live/work facilities rather than big-box retail would significantly reduce vehicular traffic and emissions. The DEIR acknowledges this fact stating, “...if a person moves from one location where the land use pattern requires substantial vehicle use for day-to-day activities (commuting, shopping, etc.) to a new development that promotes shorter and fewer vehicle trips, more walking, and overall less energy usage, the new development might reduce, rather than increase global GHG emissions.” The DEIR fails to consider techniques to minimize automobile dependency and use and thus fails to meaningfully address the associated emissions and congestion issues.

68-9

Hazards and Hazardous Materials

The DEIR fails to appropriately assess and disclose the extent and distribution of all contaminants that potentially occur onsite. This information should be available for public review and comment as it is a significant matter pertaining to environmental health.

68-10

Cultural Resources

The record indicates the likely presence of Wiyot villages within the project area. The DEIR provides insufficient analysis of the site for such historically significant resources. Full disclosure of monitoring activities and subsequent findings should be provided prior to project approval to allow for meaningful public review and comment.

68-11

Hydrology and Water Quality

The DEIR fails to fully address the issue of stormwater runoff. There was no consideration given of alternatives to the impermeable surfaces of roofs and parking lots. The project fails to assess rainwater gardens, permeable pavement, and roof rainwater harvest methodologies (such as trees, ecoroofs and roof gardens) as feasible solutions to minimize stormwater impacts and allow for groundwater recharge.

68-12

The DEIR does not specify proposed stormwater treatment methodology for meaningful analysis of potential impacts due to increased levels of likely contaminants. Nor does it provide sufficient detail pertaining to grass swales (biofilters) such as location and size.

Contrary to the project proponents’ uncorroborated claims in the DEIR, the project appears likely to “...interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level” thus constituting a significant effect pursuant to CEQA, appendix G. The DEIR discloses that there is a perched zone aquifer that is not tidally influenced (DEIR pg. 214, para. 5) underlying the project site and that the majority of rainfall “generally ponds and slowly infiltrates into the subsurface” (DEIR pg. 217 para 3, see also pg. 246 para. 2). In reviewing aerial photographs of Eureka it is clear that the project area represents a substantial percentage of pervious surface area and, though there is no disclosure of the sources of recharge for the aquifer, it seems likely the Balloon track site represents a significant recharge zone. Increasing the amount of impermeable surface by 29 acres in an area where little, if any, permeable surfaces are located is a significant change and will likely result in drastically minimizing the amount of freshwater in the perched zone aquifer.

68-13

The plan proposes converting the majority of the plan area into impervious surfaces (29 acres). What is the impact on groundwater recharge? During high flow events, how effective will stormwater treatment be, and how will the storm drain system be able to withstand such a significant volume of water? What would the impact be of having a significant discharge event during a high tide?

68-14

Also, in this time of uncertain weather patterns, and given that even now we are seeing increased 10 year flood events at intervals shorter than historic events, what would be the effect on the project site and the surrounding areas during a 100 year flood event. What would be the effect on the site given the projected two foot rise of sea level? These concerns were unaddressed.

68-15

Responsible Development?

The impact of big-box stores on surrounding businesses and resulting urban decay was inadequately addressed. The DEIR pays lip service to “smart growth”, “open space” and “walkable communities”. The Marina Center project as proposed would clearly serve to separate the site from the very walkable and enjoyable Old Town. “Smart Growth” considers ways to integrate various uses, the proposed project would act to segregate. It is contrary to build over one thousand parking spaces and claim it is to support a “walkable” landscape. It would be a meaningful step for such a large, visible development to step away from the status-quo of big-box chains to more diverse, locally owned and operated business, mixed-use residential, restored wetland and park. Construction utilizing passive solar design utilizing locally sourced materials would further the sustainability of the project. Waste recycling including utilization of greywater for irrigation uses would substantially reduce water use during the dry season. The list goes on for reasonable, cost effective methods to minimize the environmental impact of the project.

68-16

68-17

## Comment Letter 68

I hope that the above concerns prove helpful in furthering the process and I thank you for your time in reviewing these comments.

Sincerely,

Daniel J. Ehresman  
PO Box 626  
Eureka, CA 95502

## Letter 68: Dan Ehresman

68-1 The comment expressing a desire for the project to be “designed ecologically” is noted. The potential environmental impacts of the proposed project are discussed throughout the Draft EIR.

68-2 The comment finds the biological survey effort unsubstantial. The Draft EIR meets CEQA Guideline 15151 (on the Standards for Adequacy of an EIR) in that it was prepared with a sufficient degree of analysis to provide decision-makers with information to make a decision which intelligently takes account the potential environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. The northern red-legged frog is evaluated in Appendix G.

A wildlife biologist from HBG reviewed conditions at the project site and kept a record of all wildlife observations during field studies conducted on December 29, 2005 and on July 9, 2006. The Draft EIR discussion on pages IV.D-3 to IV.D-4 therefore provides a list of observed wildlife representing both winter and summer conditions. Furthermore, the project site is degraded and highly disturbed and does not provide suitable habitat for almost all sensitive species or species of concern. The northern red-legged frog, for example, is not identified and is not expected to occur onsite. Generally, the palustrine emergent seasonal wetlands present within the area of disturbed soils are not inundated at depths or sufficient duration to satisfy the life cycle requirements for northern red-legged frog. The brackish water within the Clark Slough remnant would be too salty to support this species. As habitat conditions at the project site are not considered suitable, wet-season surveys were not warranted. Because there is little suitable habitat onsite, an inventory or description of potential habitats elsewhere in the region is not warranted.

68-3 The comment stating that the existing open space and grassland is an aesthetic resource is noted. As state on page IV.A- 16, although visual quality is subjective, and although the project would result in substantial change in visual character, it cannot be concluded that it would have a significant negative aesthetic effect. As outlined on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.

Please also see response to comment 16-12. As stated there, it cannot be reasonably concluded that the proposed project would result in a negative aesthetic effect. While the proposed project would result in aesthetic changes on the project site, these changes would not necessarily be adverse. Furthermore, the project would be subject to the City’s design review process to assure project consistency with existing development and City policies related to visual quality. Based on the above evaluation of the project’s physical

character, massing, and height relationships to other surrounding buildings, the project would not substantially degrade the existing visual character of quality of its site or its surroundings.

- 68-4 The comment states that the Draft EIR fails to consider some stormwater quantity mitigation measures. On Draft EIR page IV.H-19, the potential impact of introducing pollutants in stormwater runoff is analyzed. The Draft EIR determined that with implementation of Mitigation Measures H-5a, -5b, and 5c which would incorporate a number of different treatment technologies including retention basins, bioswales and filtration, this impact would be reduced to less-than-significant levels.
- 68-5 The comment regarding the architectural style of the proposed project is noted. As stated in the outline on page III-18 of the Draft EIR, under F. Project Entitlements and Approvals, and reiterated on page IV.A-6 under Impact A-3, the proposed project would be subject to site plan review and architectural review by the City of Eureka. Design features specific to the site plan and buildings would be established at that time. The Design Review Committee will review the site plans and designs to ensure that EMC Section 156.054 (D) goals are met.
- 68-6 The comment states the importance for the project to minimize its carbon footprint through utilization of locally available resources. The comment goes on to indicate that no reasonable effort is made to mitigate the significant PM10 impact or the cumulatively significant impact of GHG emissions. Please see Draft EIR pages IV.C-14 and IV.C-15 for mitigation measures that would be identified to minimize PM10 and GHG emissions.
- 68-7 The comment states that the Draft EIR does not account for the loss of carbon storage due to the removal of existing vegetation on the project site.
- Vegetation would be removed, plowed, or otherwise disturbed during project construction. This vegetation would be replaced by new landscaping.
- The loss of carbon storage is not considered an environmental impact under CEQA. However, the removal of threatened or endangered plant life is considered a significant environmental effect. The proposed project's potential impacts to biological resources are discussed in Chapter IV.D.
- 68-8 The comment indicates that the Draft EIR should have included GHG emissions associated with manufacturing and transporting the merchandise and building materials that would be associated with the project. The GHG emissions presented in the Draft EIR do include the emissions that would be associated with transporting products to the project site; however, the emissions associated with manufacturing the products that would be sold at the project are not included in the emissions estimates because it would be extremely speculative to assume that the associated emissions would not occur if the proposed project were not implemented. The City believes that it has put forth a good faith effort to disclose the emissions that would be associated with the project.

- 68-9 The comment indicates that the project should include pedestrian, bicycle, and mass transit friendly designs to reduce traffic congestion and associated emissions. For mitigation measures that would require transportation management programs designed to reduce traffic congestion, and automobile use in the vicinity of the project, please see Mitigation Measure C-2a on Draft EIR page IV.C-14 and IV.C-15.

The traffic study analyzed the impacts of the proposed project on current and forecasted traffic conditions and operations. As explained in the response to comment 52-25, mitigation through diversion of trips to walking, bicycles and transit is not considered to be capable of offsetting the vehicle traffic impacts as defined in the traffic study. Appendix G in the traffic study did consider the “internal capture” of project trips, and these are identified in Table III, “Project Trip Generation” in the traffic study. An estimated 1,776 trips are estimated to take place entirely within the project that would otherwise use public streets. Most of these trips would be pedestrian and bicycle trips within the project site. The project is designed as a mixed-use project, including residential, retail, and office space in order to reduce vehicle trips and address associated vehicle emissions and traffic congestion that the comment mentions. Despite the fact that the EIR cannot, and indeed should not speculate as to the driving habits of particular tenants or visitors, the Marina Center as designed is more efficient than a project that would otherwise include a single use (e.g., all retail or all office).

- 68-10 The comment states that the Draft EIR fails to adequately disclose the extent and distribution of contaminants on the project site.

For further discussion regarding the Remedial Action Plan for the proposed project, please see Master Response 4 and new Appendix S, which provide detail regarding contaminants and locations of contaminants.

- 68-11 The comment states that the Draft EIR does not provide for adequate analysis of potential Wiyot villages at the project site.

Draft EIR page IV.E-16 notes that while two Wiyot sites may exist on or near the project area, the archaeological field survey revealed that neither of these potential sites is apparent on the ground surface. With regard to comments about monitoring, such disclosure would occur after project approval. With regard to comments requesting additional subsurface investigations, please also see Master Response 9.

- 68-12 The comment advocates specific stormwater runoff mitigation measures. Please see response to comment 68-4, which discusses these measures incorporated into mitigation.

- 68-13 The comment states that the proposed project would interfere with groundwater recharge. Please see response to comment 22-20, which discusses groundwater recharge, as well as Master Response 4.

- 68-14 The comment questions the impact to groundwater recharge and stormwater of increased impervious surfaces proposed in the project.

Please see responses to comments 3-13 and 16-45, which discuss groundwater recharge and how the project can meet stormwater quantity goals. In response to the question of a high tide event or a high flow event, the drainage facilities would include retention basins which are designed to control flows and limit discharges during storm events so as to avoid any flooding of receiving waters. Incorporation of design elements that meet or exceed the City's drainage plan requirements would be effective in controlling stormwater flows.

- 68-15 The comment questions the potential impacts from a 100-year flood and sea level rise. The potential impacts regarding flooding from a 100-year event are discussed on Draft EIR page IV.H-21. See response to comment 3-15, above, for further discussion of sea-level rise.

- 68-16 The comment states that the urban decay analysis is inadequate. The comment is noted. Please see Master Response 1.

In addition, the comment states that the proposed project does not represent smart growth principles nor provide adequate open space. The proposed project's impacts to recreational facilities are discussed in Chapter IV.N. Regarding smart growth, please see responses to comments 9-4 and 128-1, which explain that the proposed project exemplifies many aspects of smart growth.

- 68-17 The comments regarding potential sustainability measures are noted. As stated in Chapter IV.H, Hydrology and Water Quality, the proposed project would include stormwater mitigation measures, such as bioswales. However, the project has not entered the detailed design phase, so the level of energy and resource sustainability has not yet been determined. To ensure a conservative CEQA analysis, traditional materials and energy systems are assumed to be included in the operation and construction of the development, pursuant to existing regulations. Therefore the impacts are analyzed at a reasonable worst-case scenario. If the proposed project includes additional energy and resource conservation measures, impacts would be less significant than concluded in the Draft EIR.

Comment Letter 69

Comment Letter 69

Sidnie Olson

From: Janet Eidsness [jpeidsness@yahoo.com]
Sent: Thursday, January 22, 2009 10:39 AM
To: DEIRcomments
Cc: Janet Eidsness
Subject: DEIR Marine Center comments from Eidsness (cultural resources)

Attachments: Eidsness FNL comments DEIR Marina Center.doc



Please see attached comments dated January 20, 2009, from Janet P. Eidsness.

Confirm receipt requested. Thanks.

Janet P. Eidsness, M.A., Registered Professional Archaeologist Consultant in Heritage Resources Management

MAIN OFFICE/RESIDENCE:
US Post Office mail deliveries to: P.O. Box 1442, Willow Creek, CA 95573
188 Red Bud Lane, Willow Creek, CA 95573
(530) 629-3153 (VOICE), (530) 629-2854 (FAX) jpeidsness@yahoo.com

5-534

Janet P. Eidsness, M.A., RPA
Consultant in Heritage Resources Management
P.O. Box 1442, Willow Creek, California 95573
(530) 629-3153 voice, (530) 629-2854 fax
jpeidsness@yahoo.com (email)

January 20, 2009

Sidnie L. Olson, AICP, Principal Planner
City of Eureka Community Development Department
531 K Street
Eureka, CA 95501-1165

Related via email to DEIRcomments@ci.eureka.ca.gov

Re: Comments on Draft EIR for Marina Center in Eureka (Cultural Resources)

Dear Ms. Olson:

I have reviewed the subject DEIR and offer the following comments focused on Chapter IV.E, Cultural Resources. Please note that I have met with my colleagues, Mr. Roscoe and Mr. Rohde, to review and discuss the technical cultural resources report prepared by Roscoe & Associates for CUE VI, LLC (May 2006), which is the basis for the environmental analysis presented in the DEIR.

- 1. Research conducted by Roscoe & Associates to-date, as described in the DEIR and their confidential technical report, is incomplete and fails to demonstrate the City, as the lead agency, has made a "good faith effort" to locate the presence (or absence) of "unique archaeological resources" or archaeological resources that meet the criteria as "historical resources" for purposes of CEQA (per §15064.5). Cultural resource findings reported to-date must be considered preliminary. Additional on-site, research design guided archaeological exploratory efforts need to be completed before Project impacts can be adequately assessed and appropriate mitigation measures advanced (see below). While I understand that Mr. Randy Gans of CUE IV, LLC, agreed verbally with Mr. Roscoe's undocumented recommendation for additional site testing, this has not been accomplished nor is it addressed in the DEIR.
2. The DEIR inappropriately defers identification of any archaeological resources that may qualify as "unique" or "historical resources," to the Project implementation stage, i.e., handling of "inadvertent discoveries" located during construction monitoring by an archaeologist and Wiyot representative in defined "archaeologically sensitive areas" (related comments below).
3. As instructed by Michele Messinger, CEQA expert with the California Office of Historic Preservation (OHP), at the 12/10/07 "CEQA and Historical Resources Workshop" presented at the Bayside Grange and, I believe, attended by City planning staff:

69-1

Marina Center Project DEIR, Comments by Janet Eidsness (Cultural Resources)

- 1 -

Comment Letter 69

Comment Letter 69

5-535

"Discovery of cultural resources during construction ... without the appropriate level of identification should be avoided" (emphases are Messinger's; see on-line record of workshop at http://www.ohp.parks.ca.gov/pages/1054/files/arcataceqa.pdf).

- 4. Further, Mitigation Measure E-2a is wholly inadequate, because as Messinger also pointed out at the 12/10/07 workshop: "Archaeological Monitoring as mitigation is typically not a preferred mitigation for archaeological resources; Why?; [because] It may put the resource at risk to project impacts before appropriate archaeological intervention can occur" (Ibid.) Most importantly, Messinger instructed that "If there is evidence in the record that an archaeological resource may be affected by a project, a mitigation measure applicable to accidental discovery is not appropriate" (Ibid). I believe these instructions hold true for the proposed Marina Project, given its scale and sensitivity.
- 5. The incompleteness of the archaeological identification efforts is supported by the DEIR description of the physical conditions and constraints at the project site at the time of Roscoe & Associates' archaeological surface survey, namely the "entire surface of the study area is paved over, filled and/or developed..." (DEIR IV.E-16).
- 6. Opportunities were apparently missed during the pre-DEIR information gathering phase for coordinating subsurface archaeological identification efforts with the "numerous site investigation activities" that were designed and conducted to identify and locate hazardous materials and contaminated soils, as described in DEIR IV.G. The DEIR states: "Extensive field programs including soil sampling, groundwater sampling, stormwater sampling, soil borings, trenching, field testing, site inspections, and laboratory analysis have been conducted" (DEIR IV.G-4). Coordinating the on-site hazardous materials assessment with archaeological explorations would have cost-effectively provided timely data (likely positive and negative) pertinent to locating and determining if the two ethnographically named Wiyot villages, and/or other potentially significant prehistoric and historic archaeological deposits, are present in subsurface contexts in the Project area.
- 7. The DEIR fails to report whether the contaminated soil sampling and trenching activities described in DEIR IV.G were monitored by an experienced archaeologist. I believe it is the City's responsibility to require due diligence when scheduling and permitting pre-DEIR subsurface exploratory field studies that, given the archaeologically sensitive nature of the Project setting (as reported by Roscoe & Associates), have the potential to inadvertently impact archaeological resources. It is possible that buried archaeological deposits were unknowingly disturbed at the Project site by these unmonitored ground disturbing investigations.
- 8. Archaeological identification efforts for the Project site may be supplemented and refined by careful review of the apparently extensive record of soil boring logs and data obtained to-date for soil contamination studies (cf. DEIR IV.G). Analysis of these available data and findings as they relate to identifying existing subsurface archaeological deposits, and/or refining the identified horizontal and vertical extents of "archaeologically sensitive areas" were not reported by Roscoe & Associates (2006). Analysis of depths of fill overlying native ground need to be considered relative to the anticipated depth of soil disturbances from Project construction.
- 9. Based on careful review of historic data and interpretations about the historic geography of the Project site and vicinity by Roscoe & Associates, I generally concur with their delineation of the two "archaeologically sensitive areas" mapped in their report (Confidential Appendix Map 4) and described as the "geographic areas..." to be

69-1 cont.

69-2

69-3

69-4

archaeologically monitored in the DEIR – with the important note that DEIR IV.E-18 inadequately describes the boundaries of the 3<sup>rd</sup> sensitive area, by failing to identify "which" project alternative for the proposed garden area Anchor 1 is being referred to (is it the Preferred Project? Reduced Footprint Alternative?). These two mapped areas correspond to the possible locations of two named Wiyot villages identified by the NCIC records search and through review of various ethnographic and historic sources by Roscoe & Associates: Wiyot Village Site 1, CA-HUM-69 ("djerohichichiwil"); and Wiyot Village Site 2 ("Moprakw"). The technical report and DEIR make compelling arguments that these two Wiyot village sites may, in fact, be located in the Project area or its vicinity.

69-5

10. Defining "archaeologically sensitive areas" for the Project area and vicinity must be considered a "work in progress," with the understanding that new data will contribute to refining vertical and horizontal boundaries based on interpretations of existing and new soils observations. As noted above, there are numerous opportunities for coordinating data acquisition with other fields of inquiry (see Comments 6-8 above).

69-6

11. It would be prudent for the City Planning, Public Works and Maintenance staff to "red-line" these areas and take caution when planning, permitting or conducting ground-disturbing activities in these initially defined sensitive areas. Until the sensitive areas are refined based on new information, the general locations mapped both inside and adjacent to the Project by Roscoe & Associates (2006) are tenuous, and any future ground-disturbing activities in the area need to be on alert.

69-7

12. It is imperative that all critical efforts to refine the subject "archaeologically sensitive areas" are documented by a professional archaeologist and the reports filed with the City and the North Coastal Information Center (NCIC). The necessity of maintaining the record of refinements is paramount to building a solid record of "fact-related reasonable assumptions, predicated on facts" (not speculation or unsubstantiated opinion) for the current Project CEQA analysis.

13. The City should permit no further Project related subsurface testing for purposes of sampling and identifying hazardous materials and soils, or removing underground storage tanks, without requiring advance coordination with and monitoring by an experienced archaeologist and Wiyot representative. Such a measure is not considered with respect to Mitigation Measure IV.G-1b, addressing the possible need for further site characterization field excavations (DEIR IV.G-20).

69-8

14. The reported Native American consultation efforts assert that the two named villages are important to Wiyots today as "significant and highly sensitive cultural resource associated with Wiyot cultural history and identity" (DEIR IV.E-9 & 10). Furthermore, there is a high likelihood that if preserved in intact or disturbed contexts, these two village sites contain multiple Wiyot burials, as supported by the ethnographic literature, memories and oral histories of living descendants, and prior comparative archaeological research findings for the Wiyot ancestral area. The record of Native American Consultation to-date infers that if present, these two Wiyot village sites may qualify as Historical Resources under Criterion A of the California Register of Historical Resources, for their association with the broader patterns of Wiyot history and culture.

69-9

15. In addition, if preserved with sufficient integrity of location, materials and workmanship (as defined by the National Register of Historic Places), the two Wiyot village archaeological sites may be eligible for listing on the California (and National) Register under Criterion D, for their potential to yield information important in prehistory. When

69-10

evaluating whether an archaeological site is "unique" or a "historical resource" for the purposes of CEQA, it is necessary to formally characterize those elements and qualities that make the resources significant, i.e., "those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources" per CEQA. It is those as-yet undefined "physical characteristics ... that convey a property's historical significance" that form the basis for analyzing Project impacts and advancing appropriate mitigation measures. This has not been adequately addressed in the DEIR, principally because the resource identification efforts have been insufficient.

69-10  
cont.

16. Mitigation Measure E-2b, addressing inadvertent discovery of Native American skeletal remains during construction, cites measures that are inconsistent with current State law (CEQA Title 14; Chapter 3; Article 5; Section 15064.5; California Health & Safety Code §7050.5; Public Resources Code §5097.58; AB 2641 of 2006, amending PRC §5097.91 and §5097.98, relating to Native American burial grounds; etc.). See the applicable laws posted on the Native American Heritage Commission website at <http://www.nahc.ca.gov/has.html>.

69-11

17. I concur in general with Roscoe & Associates' observation that the mapped archaeologically sensitive areas may also contain buried historic period archaeological deposits of potential significance. Elevated ground above canoe accessible channels of the historic Clarks Slough, tidal salt marshes and bay waters are the preferred settings for human habitation in both prehistory and history. The proximity of the Project to the Old Town Eureka Historic District reinforces the possibility of finding significant historic archaeological deposits (e.g., trash deposits in backfilled privy pits, wells; early settlement foundations) associated with railroad history, and/or with possible early American settlement by poorer folks (e.g., people of color) that lived at the western fringe of the early townsite.

69-12

18. Before the EIR analysis for cultural resources can be completed and the EIR finalized, there is a compelling need to test and refine the delimited "archaeologically sensitive areas" and importantly, to determine if the Project site contains significant buried archaeological indicators of the two subject Wiyot villages. Recommended is a more comprehensive program of data analysis, coupled with subsurface georarchaeological field investigation. The Roscoe & Associates (2006) report provides important historic land use information for crafting the research design needed to guide this important fact-finding resource identification effort. Any archaeological site work must include consultation and coordination with, and invite the participation of, the interested Wiyot affiliated tribes (Wiyot Tribe, Blue Lake Rancheria, Rohnerville Rancheria). Such as program should expand upon the existing sensitivity analysis of Roscoe & Associates, by considering available soils sampling data (Comments #6-8 above), other records (e.g., NWP, Caltrans and other "as-built" historic records for on-site and adjoining developments) and undertaking systematic geomorphological investigations directed by a qualified georarchaeologist that has demonstrated success in such inquiries. (Presently, the preeminent georarchaeologists in California are Jack Meyer with Sonoma State University and Jeff Rosendall with Far Western Anthropological Research Group). The goals of the testing program should include: subsurface testing to locate, identify the horizontal and vertical extents, characterize the types of constituents, and evaluate the significance of extant buried archaeological deposits. By taking into account current conditions, while reconstructing the historic geography of the Project site (and

69-13

69-14

inferentially, adjacent areas), certain landform locations may be identified and targeted as being most likely to contain buried evidence of prehistoric and early historic human land use. By testing and refining the archaeological sensitivity map crafted by Roscoe & Associates, this site identification program will provide a record of sound, "substantial evidence" needed to determine, through CEQA re-analysis, if the Project (including reasonable alternatives) has the potential to significantly impact "unique" or other significant "historical resources." If testing results confirm the presence of one or more significant archaeological deposits at the Project site, CEQA re-analysis of Project impacts may lead to presenting meaningful and appropriate, enforceable mitigation measures designed to avoid or minimize Project impacts on unique or historical resources to a less-than-significant-level. The DEIR fails to make a compelling argument that the proposed cultural resources mitigation measures will accomplish this objective.

69-15

69-16

69-17

19. I wholeheartedly support the comments on the subject DEIR made by the Wiyot Tribe. Further, I want to recognize and echo the Eureka *Times-Standard* Editorial dated 12/17/08 that encourages the Project Applicants to work with the Wiyot Tribe (as well as other interested tribes having Wiyot descendent members) "... in clearly identifying where the sites are prior to construction, and then working to make sure they are treated with the proper respect when and if construction does proceed" (quoted from editorial titled "Proceed cautiously with Wiyot sites on the Balloon Tract.")

20. It is unreasonable to conclude that Mitigation Measures E-2a and E-2b will adequately reduce Project impacts on unique archaeological resources, archaeological resources that may qualify as historical resources under CEQA, or Native American burials, if such are identified during construction by an experienced archaeological monitor or Wiyot monitor, or by construction personnel that are unlikely to have adequate archaeological experience or training. As emphasized by Messinger in the CEQA-Historical Resources workshop (Comment #4 above), monitoring is not a reasonable measure for discovering, evaluating the significance and protecting or treating anticipated archaeological sites found during construction. DEIR Mitigation Measure E-2a asserts that if a significant discovery is made during construction, the unwritten "protection plans" will involve, at a minimum, one or some combination of: archaeological data recovery; project redesign to avoid and preserve in-place; site capping; and deeding the discovered site as a permanent conservation easement. Experience statewide with CEQA and inadvertent archaeological discoveries has demonstrated that data recovery as the mitigation option is usually preferred by the Applicant, because Project redesign (sometimes coupled with site capping) usually entails reducing the Project's size and objectives, and creates delays in permitting and reassessing the environmental consequences. When Native American burials are involved, the data recovery option (i.e., archaeologists digging up burials) is typically very culturally hurtful to and extremely sensitive for the affiliated tribes. While dedicated Conservation Easements are an important tool for protecting known historical resources and may now be held by Tribes (per Senate Bill 18), such easements require Owner cooperation and approval, and coupled with a post-review discovery scenario, dedicating one or more Conservation Easements (with their respective management plans) is also likely to entail some level of Project redesign, delay and additional costs (low incentives for Applicants).

21. Having deferred the identification of unique or qualifying historical resources to a post-review construction discovery scenario (Measures E-2a, E-2b), the DEIR has failed to meet the requirements of CEQA §15064.5(b)(5): "A lead agency shall identify

5-536

potentially feasible measures to mitigate significant adverse changes in the significance of an historical resource. "The lead agency shall ensure that any adopted measures to mitigate or avoid significant adverse changes are fully enforceable through permit conditions, agreements, or other measures."

69-17  
cont.

22. The DEIR Chapter IV.G, Hazards and Hazardous Materials, does not address the potential for adverse changes on significant cultural resources that may reasonably be expected from implementation of the as-yet undefined Site-Specific Remediation Plan that will require approval by the Regional Water Quality Control Board (RWQCB). As noted above, opportunities to combine objectives of archaeological identification and hazardous soil condition characterizations have been missed; unknown archaeological impacts may have already occurred. Coordination by the City and Applicant with the RWQCB before finalizing the EIR is strongly recommended. Conditions for avoiding impacts to significant archaeological resources from on-site hazardous materials remediation efforts need to be addressed in the final EIR.

69-18

23. As the lead agency for CEQA, the City's failure to convene a "pre-consultation meeting" with the local office of the US Army Corps of Engineers (USACOE), pursuant to the Project's required permitting under Section 404 of the Clean Water Act (CWA), is a glaring omission in the DEIR. CWA Section 404 permits administered by the USACOE constitute federal undertakings subject to compliance with Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800). Section 106 guidelines are recognized as the "best practices" in historic preservation project review. I dare say that the DEIR Cultural Resources chapter is wholly inadequate with respect to Section 106 guidelines, including the incomplete characterization of the cultural resources setting, inadequate efforts to identify buried or otherwise obscured cultural sites, failure to evaluate significance of extant sites per California and National Register of Historic Places criteria, failure to explicitly assess direct, indirect and cumulative impacts of the Project alternatives on significant cultural resources, and failure to advance mitigation measures that will reduce such impacts to a less-than-significant level. Notably, any Agreements conditioning approval of the CWA Section 404 permit from the USACOE will trump and supersede those presented in the DEIR, if found inadequate for purposes of Section 106 compliance. If and, more likely, when, the USACOE imposes new cultural resources management protection measures consistent with Section 106 on the Project's CWA 404 permit, amendment of the EIR will likely be required, imposing additional burden on the Applicants, the City as lead agency for CEQA, other consulting parties such as the Wiyots, and the interested public.

69-19

24. The recent EIR/EIS for the Wiyot Tribe's Tulawat (Indian Island) Restoration Project, which the City served as the lead agency for CEQA, offers a good example of the appropriate scheduling and Section 106 coordination needed before an EIR is drafted. Notably, the outcome of the Section 106 process is an enforceable Agreement document (Memorandum of Agreement or Programmatic Agreement) that clearly identifies signatory and concurring parties, and sets forth clear procedures for protecting significant cultural places, including site-specific Historic Property Treatment Plans (HPTPs), provisions for handling discoveries of Native American remains (e.g., a Burial Protection Plan agreed upon in advance of project implementation by the Most Likely Descendent identified by the Native American Heritage Commission), for handling "Post-Review Discoveries," confidentiality, reporting, curation, objections, termination procedures, duration, etc.

69-20

On this historic day honoring the Inauguration of our Forty-Fourth President, I believe your mission, as the lead agency, and my mission, as a member of the interested public, is to make informed decisions about the environmental consequences of the proposed Project based on substantial evidence and fair argument. I have shared with you my concerns and suggestions, which are drawn from my 30 years working as a professional in cultural resources management, mostly within this great state of California and in the North Coast Region.

Thank you for the opportunity to comment.

Sincerely,

Janet P. Eidsness, M.A.  
Registered Professional Archaeologist

Cc: Humboldt Heritage Professionals Network (HHPN)

5-537

## Letter 69: Janet Eidness

- 69-1 The Draft EIR page IV.E-16 notes that while two Wiyot sites may exist on or near the project area, the archaeological field survey completed by Roscoe & Associates revealed that neither of these sites is apparent on the ground surface. Recommendations by Roscoe & Associates called for archaeological and Native American monitoring during ground-disturbing activity (Roscoe et al., 2006). Project engineering plans and soil remediation plans have not yet been finalized for the proposed project; therefore it is not clear exactly where ground-disturbing activities would occur within the greater project area. Once these plans are finalized, a subsurface investigation would be completed in the discrete areas identified as culturally sensitive to help determine the presence or absence of cultural resources associated with the two Wiyot ethnographic village sites which may or may not exist on the project site. In the meantime, it would be impractical to require significant trenching, boring, and excavation now, in advance of project approval, and before the specific areas of disturbance are ascertained, particularly given the fact that the project site may not contain any significant archeological materials. Such extensive testing would itself require the sort of permits from regulatory agencies that the project is seeking to obtain (e.g., a wetland fill permit). CEQA does not require the Project Applicant or lead agency to conduct every field test, research study, or experiment before approving an EIR. (*Society for California Archeology v. County of Butte* (1977) 65 Cal.App.3d 832, 838.) Still, the sort of site investigation and treatment suggested by the commenter will be conducted and mitigation will be implemented, if necessary, before project construction. Please see Master Response 9.
- 69-2 As described in Mitigation Measure E-2a, if an archaeological artifact or other archaeological remains are discovered onsite during construction, all construction activities shall be halted and a qualified archaeologist shall be summoned within 24 hours to conduct an independent review of the site. If the find is determined to be significant, adequate time and funding shall be devoted to conduct data recovery excavation. Thus, the EIR does not rely solely on monitoring for mitigation as the commenter suggests. Please also see Master Response 9 and see Chapter 2, Errata, for clarifications and improvements to Mitigation Measure E-2.
- 69-3 Implementation of a subsurface survey program would help determine whether significant archaeological sites exist in the project area. Comments regarding missed opportunities for implementation of this program during other extensive soil sampling activities are noted. The field programs implemented to evaluate contamination levels at the project site were conducted as part of a cleanup program administered and required by the Regional Water Quality Control Board and the field reconnaissance protocols would have been different, particularly due to the depth of fill. Please see Master Response 9.
- 69-4 Comments regarding the lack of monitoring by a qualified archaeologist during ground disturbing activities implemented for contaminated soils studies are noted. Prior to

- implementation of a subsurface survey program, soil boring logs and data would be obtained and examined by a qualified geoaarcheologist. The depths of fill overlaying native ground, as well as the anticipated depth of soil disturbances from project construction have been considered and will be addressed when assessing the subsurface strategy for the pre-construction site investigation in the revised Mitigation Measure E-2. Please also see response to comment 69-3 and Master Response 9. For further discussion regarding the Remedial Action Plan for the proposed project, please refer to Master Response 4.
- 69-5 Comments regarding the adequacy of the archaeological setting analysis are noted. The comment notes a third sensitive area is inadequately described in the Draft EIR. The Draft EIR identifies two sensitive areas. The confidential archaeological survey report (Roscoe et al., 2006) would be used to guide focused subsurface survey and construction monitoring programs. Please also see Master Response 9.
- 69-6 New data obtained from implementation of the subsurface surveys called for in the revised Mitigation Measure E-2 would help to better define archaeologically sensitive areas, and will contribute to a better understanding of the horizontal and vertical boundaries of those areas. Still, the areas designated as highly sensitive already represent the most likely location of significant archeological materials if those materials exist at the project site. If no archeological materials are found within those designated areas, it is highly unlikely that significant archeological resources will be found within other locations at the project site. As the commenter notes, there are opportunities to coordinate data acquisition with other field inquiries. The Phase 1 site remediation, for example, would involve subsurface excavation and testing for both remediation and archeological resources. Please also see Master Response 9.
- 69-7 Results of a subsurface survey program would further define the archaeological sensitive areas. This investigation would occur prior to project implementation. Nonetheless, the areas currently designated as sensitive are sufficient for planning purposes and Mitigation Measure E-2 will ensure that appropriate monitoring would be conducted for future phases of the project. The investigations would be conducted by a qualified archaeologist and, if archeological materials are identified, the results would be submitted to the California Historical Resources Information System. Please also see response to comment 69-6 and Master Response 9.
- 69-8 Comments that the City should not permit any additional subsurface soil sampling without coordination with a qualified archaeologist and Native American representative are noted. Ongoing subsurface testing for purposes of sampling and identifying hazardous materials and soils is being conducted pursuant to a Cleanup and Abatement Order issued and administered by the Regional Water Quality Control Board, and not by the City, and is beyond the scope of this EIR. Any subsurface testing that is part of the proposed project will be conducted in accordance with Mitigation Measure E-2. It should be noted that all underground storage tanks have been removed. Please also see Master Response 9.

- 69-9 Please see Master Response 9. Comments regarding the potential legal significance of any cultural resources within the project area are noted. Moreover, if found, any archeological resource materials must be evaluated under CEQA's mandatory criteria for significance, which include Criterion A of the California Register. Please see Master Response 9.
- 69-10 Please see Master Response 9 and response to comment 69-9. If found, any archeological resources must be evaluated according to the criteria outlined by the commenter. Contrary to the comment, however, the EIR and accompanying Cultural Resources Investigation (Roscoe et al., 2006) detail the physical characteristics and potential historical significance of the site. It would be impractical to conduct a more intensive subsurface investigation at this point in the project-approval process, particularly when it is entirely unclear whether the village sites even exist within the project site and specific building foundations and other project characteristics have not yet been finalized. In any event, Mitigation Measure E-2 will ensure that archeological resources discovered in the investigation process are properly evaluated and treated.
- 69-11 Revisions have been made to Mitigation Measure E2-b to address current state law. Please also see Master Response 9.

The comments regarding the analysis for historic-era archaeological materials are noted. As the Draft EIR states on page IV.E-17, the recommended mitigation measure – Mitigation Measure E-2 – would address potential prehistoric, as well as historic-era archeological materials. Therefore, no further mitigation is necessary. Please also see Master Response 9.

- 69-12 Please see Master Response 9. Mitigation measures have been revised to incorporate a limited archaeological subsurface survey.
- 69-13 Continued archaeological investigations would include consultation with the appropriate Native American tribe(s). Please see Master Response 9.
- 69-14 Please see Master Response 9 for pertinent information on next steps in terms of geoarchaeological investigation. Mitigation Measure E-2 has been revised and strengthened to help locate, identify, and characterize archeological resources.
- 69-15 The results of a subsurface investigation would provide additional data to confirm the presence or absence of one or more archaeological sites. Mitigation Measure E-2a sets forth the measures that must be taken to adequately recover and protect archeological resources if those resources are found to be “historically significant” or “unique.” These sorts of mitigation measures have proven effective in protecting the historical significance and value of those resources to our understanding of pre-history. Therefore, re-evaluation under CEQA is not necessary. If after certification of the EIR there are changes to the project, changes in circumstances, or significant new information that reveal that the project will result in new or more severe environmental impacts than was

disclosed in this EIR, subsequent environmental review may be necessary. (Pub. Res. Code, Section 21166; CEQA Guidelines Section 15162(a).) Please also see Master Response 9.

- 69-16 Comments made by the Wiyot Tribe have been noted, and the tribe will continue to be consulted.
- 69-17 Please see Master Response 9 for revisions to Mitigation Measure E-2. Comments regarding conservation easements are noted. Subsurface investigation for cultural resources would occur after final engineering plans and soil remediation plans have been determined but prior to project construction. Specific details of the treatment plan cannot be worked out, however, until a significant archeological resource is discovered and characterized, and only after site plans have been provided showing those areas that may be subject to subsurface excavation or incursion during construction. While flexibility must be maintained in the precise measures to be adopted in the treatment plan, the plan itself must be developed by a qualified archeologist in consultation with the appropriate Native American group(s), and all following accepted protocols for recovery or preservation.
- 69-18 For further discussion regarding the Remedial Action Plan for the proposed project, please refer to Master Response 4 and Appendix S. The Supplemental Interim Remedial Action Plan has identified several discrete areas where ground excavation at or below the level of fill is required. These areas will be subject to Mitigation Measures E-2a and E-2b, and will involve the sort of investigations and coordination that the commenter suggests. The remainder of the site remediation will not involve soil excavations at or near historical natural ground levels, and therefore no adverse impacts to archeological resources are expected. Consequently, the EIR's analysis and mitigations already address the sort of site disturbance activities that would occur in Phase 1 and subsequent phases of the project.
- 69-19 The EIR has been prepared in compliance with CEQA and is not intended to fulfill NEPA or other federal regulatory requirements. The U.S. Army Corps of Engineers, in considering a permit application under Section 404 of the federal Clean Water Act, will be required to conduct its own NEPA review, including compliance with applicable Section 106 requirements of the National Historic Preservation Act (NHPA). While the EIR is prepared to satisfy CEQA requirements, technical information contained within it may nonetheless help to inform and serve to satisfy other regulatory processes, including Section 106 requirements. Please see response to comment 69-20 for additional clarification of the Section 106 process.
- 69-20 Comment noted regarding the Tulawat Restoration Project, which was evaluated in a joint CEQA/NEPA document. There is currently no federal lead agency for the Marina Center project, and the Section 106 process is not required for an EIR. Moreover, the analysis and mitigation prepared for the Tulawat Restoration Project may not be analogous, and may not be required under CEQA in any event. Section 106 of the federal

NHPA, for example, requires federal agencies to consult with the appropriate state historic preservation officer (SHPO) whenever a federal undertaking may adversely affect an historic or prehistoric site or object included in, or eligible for inclusion in, the National Register of Historic Places. If it is determined that the resource in question is an “historic resource,” and that the undertaking in question will have an adverse effect on that resource, the agency and SHPO may agree on how those effects will be resolved (e.g., through a treatment plan). That treatment plan and agreement is then included in a formal “Memorandum of Agreement” as outlined by the commenter. But that Agreement is a federal, and not a state process, and is not required as part of CEQA. Further, the adoption and imposition of a mitigation, monitoring, & reporting plan (MMRP) under CEQA is an analogous enforcement mechanism, and creates an enforceable mitigation plan under state law.

January 15, 2009

City of Eureka  
Community Development Dept.  
531 K Street  
Eureka, Calif. 95501

RECEIVED  
JAN 20 2009  
DEPARTMENT OF  
COMMUNITY DEVELOPMENT

Attention: Sidnie L. Olson  
AICP, Principal Planner

I am submitting what I believe to be a very successful plan for the development of the "Bellion" tract.

We now have shopping centers in Garberville, Fortuna, Ferndale, Loleta, Eureka, Arcata, Blue Lake, McKinleyville, Willow Creek, Weaverville, etc. and also the mail order outlets. Do we need more??

The success of our local theaters, the Jazz Festival, Fairs, rodeos, etc., demonstrates the local support in this area.

With Del Norte, Mendocino, Shasta, Trinity, Mendocino, etc. Counties around Humboldt, the financial base is substantial. Why not tap into this source of revenue by having a facility to accommodate the performances of the rockbands, etc. etc. and all of the services and accommodations needed?! The sky's the limit!

Sincerely,  
Carolyn M. Eisner

70-1



Mrs. Carolyn Eisner  
750 Driver Rd.  
Eureka, CA 95501

## Letter 70: Carolyn Eisner

70-1 The comment support the proposed project is noted. Alternatives to the proposed project are discussed in Chapter V of the Draft EIR.