

LAND USE

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SUMMARY OF CONCLUSIONS

Pursuant to §30413(d) of the California Coastal Act (Coastal Act), Energy Commission staff acting on behalf of Coastal Commission staff concludes that the Humboldt Bay Repowering Project (HBRP) is consistent with the Coastal Act and Humboldt County's zoning designations, zoning code, and is consistent with all but one of the relevant policies of the Humboldt Bay Area Plan (HBAP). With the exception of unresolved air quality and public health issues, the project would be compatible with existing and planned land uses and would not abut any zoned residential areas, or impact farmland or other agricultural areas.

INTRODUCTION

The land use analysis of the HBRP focuses on two main issues: the project's consistency with local and state land use plans, ordinances, and policies; and the project's compatibility with existing and planned land uses. In general, a power plant and its related facilities could be incompatible with surrounding land uses if they cause unmitigated impacts in the areas of noise, dust, public health, traffic, and visual resources. These individual resource areas are discussed in detail in separate sections of this document. A power plant may also create a significant land use impact if it converts prime or unique farmland or farmland of statewide importance to non-agricultural uses.

LAWS, ORDINANCES, REGULATIONS AND STANDARDS

LAND USE Table 1
Laws, Ordinances, Regulations, and Standards (LORS)

Responsible Agencies	
Federal	The proposed project is not located on federally administered public lands and is therefore not subject to federal regulations pertaining to land use.
State California Coastal Commission Public Resources Code § 25500 et seq.	California Coastal Act of 1976 §25529 of the Warren-Alquist Act
Local Humboldt County	Humboldt County General Plan Volume II: Humboldt Bay Area Plan of the Humboldt County Local Coastal Program and Zoning Ordinance

SETTING

The 5.4-acre HBRP site is within the 143-acre parcel (APN 305-131-34) owned by Pacific Gas and Electric Company (PG&E) in the unincorporated area of Humboldt County. The site is three miles south of Eureka, on Buhne Point along Humboldt Bay. The existing Humboldt Bay Power Plant is situated west of the HBRP site. The proposed project site is zoned coastal dependant industrial (MC) with combining district designations for coastal resource dependant (C), flood hazard (F), and coastal wetland (W). The Humboldt County land use designations for the site are MR/MC (Resource Dependent Industrial/Coastal Dependent).

There are several small residential communities within five miles of the HBRP site, including King Salmon, Humboldt Hill, and Fields Landing. **Land Use Figure 1** shows the project location and surrounding land uses.

PROJECT SITE AND VICINITY DESCRIPTION

Land uses and natural features on the project parcel include industrial land, power plant cooling water intake and discharge canals, wetlands, and Buhne Slough. The property is bounded on the north by Humboldt Bay, on the west by the King Salmon community, on the east by Northwestern Pacific Railroad tracks, and on the south by King Salmon Avenue. Land uses surrounding the site include Highway 101, some rural residential, commercial development, wetland areas, the Humboldt Hill residential development, the community of Fields Landing, Humboldt Bay, a sand spit (South Spit) and the Pacific Ocean. An existing public trail that is part of the California Coastal Trail system (California Coastal Trail, 2006) is on the north side of the Humboldt Bay Power Plant site along Humboldt Bay.

Buhne Slough is a local fishing area. The Elk River Wildlife Area is approximately 2,000 feet to the northeast of the HBRP site. Several recreational parks are in the City of Eureka, which is north of the site and located outside the one-mile radius. Within a one-mile radius of the HBRP site are South Bay Elementary School and a senior home, Sun Bridge Seaview Care Center, and two churches, the Redwood Christian Center and the Calvary Community Church.

PROJECT DESCRIPTION

The HBRP is a repowering project for the existing Humboldt Bay Power Plant, a designated coastal dependent facility. It would be on the same property as the existing power plant and would utilize the plant's existing infrastructure (natural gas pipeline, electric transmission line, well water, and potable water line). The HBRP would not require new transmission lines.

ASSESSMENT OF IMPACTS AND DISCUSSION OF MITIGATION

METHOD AND THRESHOLD FOR DETERMINING SIGNIFICANCE

Significance criteria used in this document are based on the CEQA Guidelines and performance standards or thresholds identified by the Energy Commission staff, based

on applicable LORS and utilized by other governmental regulatory agencies. An impact may be considered significant if the project results in:

- Conversion of Farmland.
 - Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency and the USDA Natural Resources Conservation Service Web Soil Survey, to non-agricultural uses.
 - Conflict with existing zoning for agricultural use, or a Williamson Act Contract.
 - Involve other changes in the existing environment which, due to their location or nature could result in conversion of farmland to nonagricultural use.
- Physically disrupt or divide an established community.
- Conflict with any applicable habitat conservation plan or natural community conservation plan.
- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction, or that would normally have jurisdiction over the project. This includes, but is not limited to, a General Plan, community or specific plan, local coastal program, airport land use compatibility plan, or zoning ordinance.
- Have individual environmental effects which, when considered with other impacts from the same project or in conjunction with impacts from other closely related past, present, and reasonably foreseeable future projects, are considerable, compound, or increase other environmental impacts.

In general, a power plant and its related facilities may also be incompatible with existing or planned land uses, resulting in potentially significant impacts, if it creates unmitigated noise, dust, or a public health or safety hazard or nuisance; results in adverse traffic or visual impacts; or precludes, interferes with, or unduly restricts existing or future uses. Please see other sections of this document, as noted, for a detailed discussion of any additional potential project impacts, recommended mitigation, and conditions of certification.

DIRECT/INDIRECT IMPACTS AND MITIGATION

Conversion of Farmland

There are no properties within one mile of the proposed project site that are identified as Unique Farmland, or Farmland of Statewide Importance. Prime Farmland within one mile of the HBRP is within the Elk River Valley and on portions of Humboldt Hill within one-half mile east of the HBRP. This land is zoned and designated Agricultural-Exclusive in the Humboldt County General Plan. No land within one mile of the proposed project site is subject to the restrictions of a Williamson Act contract. Because the HBRP requires no offsite linears project implementation would not bring about any changes in the environment that could result in the conversion of farmland to nonagricultural use. Neither the construction nor operational activities of the proposed project would result in any impacts to existing agricultural operations or foreseeable future agricultural use. Therefore, the proposed project would not result in the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance

to a non-agricultural use or conflict with existing agricultural zoning or Williamson Act contracts. The project would have no impact with respect to farmland conversion.

Physical Division of an Existing Community

Because the project would be sited within the existing 143-acre Humboldt Bay Power Plant parcel in an area used for power generation, staff does not expect temporary construction related effects, such as dust and noise to impact adjacent land uses. Similarly, neither the size nor the nature of the HBRP would result in a physical division or disruption of an established community, no new physical barriers would be created by the project, and no existing roadways or pathways would be blocked. Because the HBRP requires no offsite linears (transmission or utility lines) project implementation would not present a new physical barrier within the community. Project implementation would result in the continued industrial use of an industrial site. Please see the **Air Quality** and **Noise** sections of the PSA for a complete discussion of construction impacts and mitigation.

Conflict with any Applicable Habitat or Natural Community Conservation Plan

Humboldt County does not have a Multispecies Habitat Conservation Plan, but is subject to the Humboldt Bay Harbor Recreation and Conservation Act. Please refer to the **Biological Resources** section of this document for a thorough discussion of the project's potential impacts on biological resources and compliance with the Humboldt Bay Harbor Recreation and Conservation Act regarding biological resources.

Conflict with any Applicable Land Use Plan, Policy, or Regulation

As required by California Code of Regulations, Title 20, Section 1744, Energy Commission staff evaluates the information provided by the project owner in the AFC (and any Amendments), project design and operational components, and siting to determine if elements of the proposed project would conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project, or that would normally have jurisdiction over the project except for the Energy Commission's exclusive authority. This includes all applicable federal, state, and local laws, ordinances, regulations, and standards, including those adopted by the Coastal Commission and Humboldt County. From a CEQA perspective, the analysis places particular emphasis on any environmental effect that may be avoided or mitigated by conformity with the applicable LORS.

The project must demonstrate consistency with the Coastal Act policies, which constitute the standards used by the Coastal Commission in its coastal development permit decisions; these are discussed below.

California Coastal Act

The Coastal Act establishes a comprehensive approach to govern land use planning along the entire California coast. The Coastal Act also sets forth general policies (Public Resources Code §30200 et seq.) that govern the Coastal Commission's review of permit applications and local plans. In the case of energy facilities, Section 30600 of the Coastal Act states: (a) Except as provided in subdivision (e), and in addition to obtaining

any other permit required by law from any local government or from any state, regional, or local agency, any person, as defined in Section 21066, wishing to perform or undertake any development in the coastal zone, other than a facility subject to Section 25500, shall obtain a coastal development permit. Section 25500 specifically identifies the Warren-Alquist Act and the Energy Commission's exclusive power to certify sites for 50 MW or greater power generation facilities or related facilities anywhere in the state.

The project site is within the Coastal Zone in an unincorporated area of Humboldt County. Although Humboldt County has a certified Local Coastal Program (LCP), the HBRP site is within the retained jurisdiction of the Coastal Commission. The Coastal Commission retains jurisdiction of tidelands trust and other public trust lands such as historical coastal wetlands within areas that would otherwise fall under the jurisdiction of the LCP. The Coastal Commission is responsible for issuing Coastal Development Permits in its retained jurisdiction, based on an evaluation of the project's conformity with the policies of the California Coastal Act of 1976. The policies of Humboldt County's LCP, general plan, and zoning ordinance, however, are used by the Coastal Commission as guidance (HBRP 2006a; Luster 2006). Because the Energy Commission has jurisdiction over power plants and all related facilities (Public Resources Code, Section 25500), the Energy Commission issues a license in lieu of any state or local permit and must make findings concerning whether the proposed modification conforms with state and local laws, ordinances, regulations and standards, including land use plans and zoning. To that end, Humboldt County's LCP, general plan and zoning ordinance and the Coastal Commission's policies will be used as guidance by the Energy Commission for LORS determination.

California Coastal Act Consistency Determination

Energy Commission staff received a letter from the Coastal Commission (docketed on October 16, 2007) stating that due to its staff's substantial workload and limited resources, the Coastal Commission will be unable to participate in the Application for Certification (AFC) reviews currently before the Energy Commission. As a result, the Coastal Commission will not be developing the reports required for the HBRP siting case pursuant to Coastal Act Section 30413(d).

The Coastal Commission further noted that the HBRP (as well as other power plants located in the coastal zone) is proposing to end the environmentally destructive use of seawater for once-through cooling and instead employ dry cooling technology, which the Coastal Commission has strongly supported during past power plant reviews. The move away from once-through cooling reduces the Coastal Commission's concerns about the type and scale of impacts associated with these proposed projects and about the ability of these projects to conform to Coastal Act provisions. As such, the Coastal Commission's letter encourages the Energy Commission to incorporate some aspects of Coastal Act conformity into our review.

In light of the Coastal Commission's letter, staff has determined that the project would be consistent with the land use related policies of the Coastal Act based on staff's review of the project and the applicable Coastal Act policies. Staff's analysis with each applicable requirement is discussed below. Please refer to the **Biological Resources, Hazardous Materials, Visual Resources, Soils and Water**, and **Cultural Resources**

sections of this document for a complete discussion of the project's compliance in these areas with the Coastal Act provisions.

Coastal Dependent Developments

The Coastal Act §30255 states: Coastal-dependent developments shall have priority over other developments on or near the shore line. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

The HBRP is a repowering project for the existing Humboldt Bay Power Plant, which is a designated coastal-dependent facility by the Coastal Commission. The site is zoned coastal dependent industrial (MC) by Humboldt County. The HBRP would be on the same property as the existing power plant and would utilize the plant's existing infrastructure including the natural gas pipeline, electric transmission line, well water, and potable water pipeline (HBRP 2006a). The Coastal Act §30101 defines "Coastal-dependent development or use" as any development or use which requires a site on, or adjacent to, the sea to be able to function at all. While the HBRP would not use ocean water for once-through-cooling and on this basis may not be considered coastal dependent, locating the HBRP at the site of the existing Humboldt Bay Power Plant, which is a coastal dependent facility allows the HBRP to utilize the plant's infrastructure, thereby avoiding offsite construction of linears or other infrastructure. Benefits of developing the HBRP on this site include avoiding the need to develop in areas of Humboldt County unaccustomed or unsuited to this type of industrial development and discontinuing the use of once-through-cooling, which has positive impacts on biological resources.

The region needs an electric generating facility and constructing the HBRP on the Humboldt Bay Power Plant site prevents the need for development in another area of the Coastal Zone. The Humboldt Bay Power Plant has been an established industrial site since the 1950s. The proposed addition of the ISFSI underground cask storage vault will ensure for the foreseeable future that the parcel remain as an industrial site. Therefore, the proposed HBRP would be a suitable use for this site.

Coastal-Dependent Industrial Facilities

The Coastal Act §30260 states: Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. However, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental affects are mitigated to the maximum extent feasible.

The HBRP project would be sited within the boundary of the existing Humboldt Bay Power Plant site. Therefore, the HBRP is consistent with the Coastal Act policy that

prefers onsite expansion of existing power plants to development of new power plants in undeveloped areas of the Coastal Zone.

The AFC states that the project qualifies as reasonable long-term growth of the existing facility because it is consistent with a 1978 Coastal Commission report that envisioned additional power generating equipment at the Humboldt Bay Power Plant¹. The 1978 report states that the areas adjacent to the PG&E Humboldt Bay Power Plant are not designated as areas that would prevent achievement of the objectives of the Coastal Act should reasonable expansion occur. As shown in the 1978 report, the Coastal Commission anticipated reasonable expansion of the Humboldt Bay Power Plant in this location. Staff concludes that the HBRP is consistent with Section 30260 of the Coastal Act.

Environmentally Sensitive Habitat Areas

The Coastal Act §30240 (b) states: Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Buhne Slough, a local fishing area, and the Elk River Wildlife Area are within one-mile of the HBRP site. The **Biological Resources** section of this document provides a detailed analysis of how the HBRP would comply with this section of the Coastal Act. An existing public trail that is part of the California Coastal Trail system is located on the north side of the HRBP site, along Humboldt Bay. The **Visual Resources** section of this document provides a detailed analysis of how the HBRP would comply with this section of the Coastal Act.

From a land use perspective, construction and operation of the HBRP would not impact environmentally sensitive habitat areas and parks, including the existing public trail on the north side of the HBRP site because the HBRP would be entirely within the fenced perimeter of the Humboldt Bay Power Plant.

Public Access Policies

The Coastal Act §30211 states: Development shall not interfere with the public's right of access to the sea where acquired through the use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

The Coastal Act §30212 (a) states: Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

¹ Designation of Coastal Zone Areas Where Construction of an Electric Power Plant Would Prevent Achievement of the Objectives of the California Coastal Act of 1976, 1978 California Coastal Commission.

The HBRP would be located entirely within the fenced perimeter of the Humboldt Bay Power Plant. Construction and operation of the HBRP would not impede or deter public access in the coastal zone, including use of the existing public trail on the north side of the HBRP site. Further, it would not require additional rights-of way for related transmission or linear facilities that could impede or deter public access in the coastal zone.

The AFC states that adequate public access will exist at the HBRP site because an existing trail along the Humboldt Bay shoreline crosses the property on which the HBRP site is located (the trail extends along the shoreline paralleling the western fence line of the site boundary). This trail represents part of a planned coastal trail system that the California Coastal Conservancy envisions would eventually extend from Oregon to Mexico (HBRP 2006a).

As a Coastal Commission condition of approval for PG&E's ISFSI project, PG&E is required to "maintain and enhance the existing accessway by establishing a deed restriction for the accessway and submitting a plan subject to [Coastal Commission] Executive Director review and approval describing measures necessary to provide continued safe public access to the site." The condition ensures that the coastal access on the property will be maintained and that future modifications to the accessway would be made as a result of coastal erosion and sea level rise. In addition, PG&E is required to implement improvements to the accessway, such as an even walking surface and signage (HBRP 2006a).

To facilitate the requirement for public access for this project, staff encourages PG&E to continue to work with the Coastal Commission, the King Salmon community, and Humboldt County to determine where opportunities for public access exist and how to provide access that will best meet the needs of the local community. Staff will discuss this issue at the PSA workshop and address it more fully in the Final Staff Assessment. To that end, staff proposes condition of certification **LAND-2**.

State Agencies (Chapter 5, Article 2)

Pursuant to Public Resources Code §30413(b) of the Coastal Act, the Coastal Commission shall "designate those specific locations within the Coastal Zone where the location of a facility, as defined in § 25110, would prevent the achievement of the objectives of this division; provided, however, that specific locations that are presently used for such facilities and reasonable expansion thereof shall not be so designated." The proposed 5.4-acre HBRP site would be located entirely within 143-acre parcel (APN 305-131-34) owned by PG&E. The Coastal Commission has not designated the existing PG&E power generation facility site as a site that is inappropriate for the facility or for reasonable expansion. As stated above, the HBRP is consistent with Coastal Act provision that prefers onsite expansion of existing power plants to development of new power plants in undeveloped areas of the Coastal Zone.

Warren-Alquist Act (Pub. Resources Code § 25500 et seq.)

Pursuant to § 25529 of the Warren-Alquist Act, the Energy Commission shall require public access to coastal resources as a condition of certification of a facility proposed in the Coastal Zone as follows:

"When a facility is proposed to be located in the Coastal Zone or any other area with recreational, scenic, or historic value, the [Energy] Commission shall require, as a condition of certification of any facility contained in the application, that an area be established for public use, as determined by the Commission. Lands within such area shall be acquired and maintained by the Applicant and shall be available for public access and use, subject to restrictions required for security and public safety. The Applicant may dedicate such public use zone to any local agency agreeing to operate or maintain it for the benefit of the public. If no local agency agrees to operate or maintain the public use zone for the benefit of the public, the Applicant may dedicate such zone to the state. The [Energy] Commission shall also require that any facility to be located along the coast or shoreline of any major body of water be set back from the shoreline to permit reasonable public use and to protect scenic and aesthetic values."

Coastal Commission staff has been discussing several possibilities for public access enhancement at or near the project site with PG&E, the King Salmon community, and Humboldt County to determine whether they have particular access projects in mind. To facilitate the requirement for public access, staff encourages PG&E to continue to work with the Coastal Commission, the King Salmon community, and Humboldt County to determine where opportunities for public access exist and how to provide access that will best meet the needs of the local community. Staff will discuss this issue at the PSA workshop and address it more fully in the Final Staff Assessment. To that end, staff proposes condition of certification **LAND-2**.

Humboldt County

As stated above, the project site is within the Coastal Zone in an unincorporated area of Humboldt County. Although Humboldt County has a certified LCP, the HBRP site is within the retained jurisdiction of the Coastal Commission. The policies of Humboldt County's LCP, general plan, and zoning ordinance, however, are used by the Coastal Commission as guidance (HBRP 2006a; Luster 2006). Therefore, the Energy Commission will use Humboldt County's LCP, general plan and zoning ordinance as guidance for LORS determination.

Humboldt County General Plan Volume II: Humboldt Bay Area Plan of the Humboldt County Local Coastal Program

The Humboldt County LCP identifies land uses and standards by which development will be evaluated within the Coastal Zone. The Humboldt County General Plan Volume II: Humboldt Bay Area Plan of the Humboldt County Local Coastal Program (HBAP), where the proposed project is located is one of six planning areas of the LCP. The uses and standards contained in the HBAP have been adopted by Humboldt County and certified by the Coastal Commission. These uses and standards are consistent with the Humboldt County General Plan and Zoning Ordinance and are in conformance with and satisfy the policies and requirements for coastal land use contained in the California Coastal Act of 1976 (HBAP 1995). The project's conformance with the relevant policies in the HBAP is discussed in **Land Use Table 2**. Please refer to the **Biological Resources, Visual Resources, Soils and Water, Traffic and Transportation, and Noise** sections of this document for a complete discussion of the project's consistency in these areas.

The land use designations for the site are MR/MC (Resource Dependent Industrial/Coastal Dependent). The purpose of these designations is to protect coastal wetlands, provide for the development of upland areas consistent with resource protection and enhancement, and protect and preserve parcels on or near the sea for industrial uses dependent on or related to the harbor. The HBAP designates a project such as the HBRP a conditional use under the MR/MC land use designations. The HBRP's consistency with policies in the HBAP document is discussed in **Land Use Table 2**, below.

The Humboldt County General Plan Volume I is currently being updated (Hofweber 2007). The land use designations on the project site will not change as a result of updating. There are two parcels within one mile of the PG&E parcel where land use designations may be changed: one from CR (Commercial Recreation) to RM(30) (Residential Medium Density, 30 units per acre); and one from MR/MG (Resource Dependent/General Industrial) to MR/RL (Resource Dependent/Residential Low Density). Humboldt County staff stated that these changes are pending and require submittal to and approval by the Coastal Commission (Hofweber 2007). Staff concludes that the HBRP is consistent with all but one of the relevant policies in the HBAP.

**LAND USE Table 2
Humboldt County HBAP Consistency**

Humboldt County LCP	Goals/Objectives/Policy	Consistency Determination
Industrial/Coastal-Dependent Development	3.13.B.1.b conditional uses within Coastal Dependent Industrial (MC) designations include...coastal-related industrial uses, including... electrical generating facilities or other facilities which require an ocean intake, outfall, or pipeline. Alterations, improvements, and relocations of existing general industrial uses within the MC designation may also be permitted.	Consistent. See staff's discussion under CALIFORNIA COASTAL ACT.
Resource-Dependent Development	Uses specified in Section 30233 a (1) and (5) of the Coastal Act including new or expanded port, energy, and coastal dependent facilities	Consistent. See staff's discussion under CALIFORNIA COASTAL ACT.
Industrial Development Policies – General	3.14B.1 New industrial development, except as may be otherwise provided in this plan, shall be located within, contiguous with, or in close proximity to, existing developed industrial areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. 3.14B1 (13142.5)b For each new or expanded coastal power plant or other industrial installation using seawater for cooling, heating, or industrial processing, the best available site,	Consistent. The project is located within an existing industrial area and will not have significant adverse effects on coastal resources. Consistent. The HBRP will not use seawater for Industrial Development cooling.

	design, technology, and mitigation measures feasible shall be used to minimize the intake and mortality of all forms of marine life.	
Industrial Development Policies – Coastal Marine Environments	3.14B1 (30232)a Industrial uses shall include mitigation and design features for compatibility with adjacent land uses, in particular screening and/or landscaping to buffer adjacent residential and recreational uses.	Inconsistent. Despite the increased stack height to improve air dispersion characteristics (as explained in the AIR QUALITY section of this document), there is an unresolved Public Health issue and staff cannot fully determine the project is compatible with adjacent land uses. To mitigate potential Visual impacts, visual screening landscaping will be provided (See the VISUAL RESOURCES section of this document).
Industrial Development Policies – Coastal Dependent Industrial	3.14B3 Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division However, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 31262 if (1) alternative locations are unfeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental affects are mitigated to the maximum extent feasible. 3.14B3 a. The initial study and subsequent environmental review of a proposed coastal dependent or coastal related facility shall include consideration of alternative sites within appropriate land use designations for the proposed project, and shall rate the sites according to the following priority: Priority 1 Sites: sites with existing facilities suitable, with minor alteration, to accommodate the proposed use, or that could accommodate the proposed use through expansion.	Consistent. The proposed project is located within an existing power plant site. Consistent. Staff’s alternatives analysis considered several sites in addition to the proposed site and found the proposed site to be the environmentally superior site (see the ALTERNATIVES section of this document). The Humboldt Bay Power Plant site is a Priority 1 site as designated in section 3.14B3a of the HBAP.
Public Access	3.5B(30212) Public access shall be provided for new development projects except where (1) it is inconsistent with public safety, military security needs, or protection of fragile coastal resources; 2) adequate access exists nearby; 3) agriculture would be adversely affected.	Consistent. See staff’s discussion under CALIFORNIA COASTAL ACT and WARREN-ALQUIST ACT .

Standards for Plan Designations	4.10 The Area Plan Land Use Maps indicate the planned principal use for all areas in the Coastal Zone. These planned uses are the basis on which zoning and subsequent development decisions are made; their intent is to guide the development of each area within the framework of community goals and their objectives and the requirements of the Public Resources Code Section 30000 et. seq.	Consistent. The proposed HBRP is in accordance with the planned uses for areas in the Coastal Zone (Luster 2006; Hofweber 2007).
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Source: Humboldt County, 1995, 2000, as cited in HBRP AFC

Humboldt County Zoning Regulations

The project site is zoned coastal-dependent industrial (MC) with combining district designations for coastal resource dependent (C), flood hazard (F), and coastal wetland (W). This zoning designation specifically relates to those industrial land uses which are given priority by the Coastal Act of 1976 for location adjacent to the coastline. Examples of uses in this designation are thermal power plants, seawater intake structures, discharge structures, tanker support facilities, and other similar uses which must be located on or adjacent to the sea in order to function. **Land Use Table 3** shows the project’s consistency with the applicable sections of the Humboldt County Zoning Ordinance.

As stated in the **Geology and Paleontology** section of this document, the Federal Emergency Management Agency (FEMA) has identified the HBRP site as lying in Zone A, which is subject to 100-year flooding. Humboldt County has established the base flood elevation for the 100-year flood at +6 feet. The HBRP plant grade would be established at +11 to +12 feet, with finished floor elevations at +13 feet. Therefore, the HBRP as constructed would not be within the 100-year flood zone (CH2MHILL 2007a).

Because the project site is in Zone A (an area of 100-year flood), it has a flood hazard (F) designation. The purpose of Flood Hazard Areas is to minimize public and private losses due to flood and tsunami conditions in specific areas of the County. Humboldt Bay and the proposed HBRP site are in an area that could be inundated by a tsunami. Because the project site lies within a tsunami inundation zone, the facilities would be constructed in a manner that would minimize the impacts of flooding and potentially high wave forces. All major structures would also be anchored to avoid flotation from buoyancy (PG&E 2006a, Sec. 8.15.1.3). For further discussion, see the **Geology and Paleontology** section of this document.

The County Zoning Ordinance (section 313-3.4 Maximum Structure Height) requires a height of 50 feet, plus one foot front yard setback over 50 feet, up to a maximum height of 75 feet. To improve air dispersion characteristics (as discussed in the **Air Quality** section of this document), the HBRP stack height was changed from 75 feet to 100 feet.

Because the Coastal Commission is responsible for issuing Coastal Development Permits in its retained jurisdiction, Humboldt County’s LCP and zoning ordinance would not apply. In situations like this where the Coastal Commission would retain its permit jurisdiction, its standard of review would be Chapter 3 Section 30251 of the Coastal Act, as cited below.

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Energy Commission staff in the **Visual Resources** section of this document, has analyzed the proposed 100-foot stack height in the context of Section 30251 and has concluded that it would not substantially degrade the current setting along the ocean, would not alter existing landforms, and would be visually compatible with the character of the surrounding area. Based on the **Visual Resources** analysis, land use staff concludes that allowing the stacks to exceed the 75-foot height restriction would not impair the integrity of the zoning district or the surrounding area. Staff is proposing condition of certification **LAND-1** to ensure compliance with the remaining design standards in the MC zone.

**LAND USE Table 3
Humboldt County Zoning Consistency**

Humboldt County Zoning Code	Regulations/Standards	Consistency Determination
Standards for Industrial Development that Impact Nonresidential Zones	103.1.4.6: All manufacturing and fabricating areas shall be enclosed in buildings.	Consistent. The generator sets would be enclosed. (Section 2.5.2 of the AFC).
MC: Industrial/Coastal-Dependent	313-3.4 Minimum Lot Size: 10,000 square feet.	Consistent. The lot size is 5.4 acres and would exceed the minimum. (Section 8.6 of the AFC).
MC: Industrial/Coastal-Dependent	313-3.4 Maximum Structure Height – 50 feet plus 1 foot for each foot of front yard setback over 50 feet to a maximum of 75 feet.	Consistent. To improve air dispersion characteristics (as explained in the AIR QUALITY section of this document), the HBRP stack height was changed from 75 feet to 100 feet. Energy Commission staff, acting on behalf of Coastal Commission staff concludes allowing the stacks to exceed the 75-foot height restriction would not impair the integrity of the zoning district or the surrounding area.

Source: Humboldt County, 1995, 2000, as cited in HBRP AFC

Energy Commission staff has found no unmitigated impacts in the areas of **Noise, Traffic and Transportation,** and **Visual Resources.** **Air Quality** and **Public Health** staff are analyzing air emission offsets and the use of diesel fuel as a back-up fuel, respectively. Should these issues not be mitigated to a level below significance, staff would consider the HBRP as having a significant land use impact because the project would create an unmitigated public health hazard.

Staff has considered the minority population (as identified in **Socioeconomics Figure 1**) and Census 2000 information that shows the low-income population within

the six-mile radius in its analysis. Because those populations are considerably lower than the 50% threshold, there are no environmental justice issues related to land use.

CUMULATIVE IMPACTS AND MITIGATION

A project may result in a significant adverse cumulative impact where its effects are cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. (Cal. Code Regs., tit. 14, section 15130.)

The proposed project would not make a significant contribution to regional impacts related to new development and growth. The HBRP is a repowering project for the existing Humboldt Bay Power Plant, a coastal dependent facility. It would be on the same property as the existing power plant and would utilize the plant's existing infrastructure (natural gas pipeline, electric transmission line, well water, and potable water pipeline).

In addition to the HBRP, other activities occurring on the Humboldt Bay Power Plant parcel include PG&E's Independent Spent Fuel Installation (ISFSI) project, the decommissioning of Unit 3, and the removal of Units 1 and 2. Because these projects would occur onsite, staff concludes they would not disrupt or physically divide an established community, nor would they preclude or unduly restrict existing or planned uses, or contribute to significant adverse cumulative land use impacts.

Staff does not expect potential cumulative impacts of PG&E's ISFSI project and the construction and operation of the proposed HBRP to be significant because the ISFSI will only be adding an underground cask storage vault and security building to the Humboldt Bay Power Plant parcel. The ISFSI will be located on Buhne Point Hill, southwest of PG&E Units 1, 2, and 3, and more than one-half mile from the HBRP.

Staff does not expect the decommissioning of Unit 3 to contribute to cumulative land use impacts. The planned decommissioning of Unit 3 is not a part of the HBRP project but activities undertaken for this decommissioning may coincide with the HBRP and the ISFSI projects. While there is no definite schedule for the Nuclear Regulatory Commission (NRC) approved decommissioning activities, final decommissioning of Unit 3 will not likely occur during construction of the HBRP due to the long lead times needed for site characterization and NRC approval (HBRP 2006a).

Staff does not expect the removal of Units 1 and 2 to contribute to cumulative land use impacts. Construction of the HBRP will result in the cessation of operation and surrendering of the air permits for Units 1 and 2 and the Mobile Emergency Power Plants (MEPPs) but it will not directly result in the demolition of any of the structures and associated equipment that comprises Units 1 and 2 for the following reasons:

- Demolition of the structures and associated equipment is not necessary to construct the HBRP. Units 1 and 2 and the MEPPs need to be fully operational to serve the Humboldt County load until the HBRP is constructed, commissioned, and fully operational; and

- Some of the Unit 1 and 2 infrastructure is shared by Unit 3 and cannot be removed without approval of the decommissioning plans for Unit 3.

Staff's discussion under **Conflict with any Applicable Land Use Plan, Policy, or Regulation** shows the project to be consistent with the Humboldt County land use and zoning designations. Therefore, staff finds that the project would not by itself or cumulatively have an adverse effect on land use.

Staff has considered the minority population (as identified in **Socioeconomics Figure 1**) and Census 2000 information that shows the low-income population within the six-mile radius in its cumulative impact analysis. Because those populations are considerably lower than the 50% threshold, there are no environmental justice issues related to land use.

RESPONSE TO AGENCY AND PUBLIC COMMENTS

Staff has not received any public or agency comments related to land use.

CONCLUSIONS

The project would be sited within the existing 143-acre Humboldt Bay Power Plant parcel in an area used for power generation. Neither the size nor the nature of the HBRP would result in a physical division or disruption of an established community. No new physical barriers would be created by the project, and no existing roadways or pathways would be blocked. Project implementation would result in the continued industrial use of an industrial site.

Pursuant to §30413(d) of the California Coastal Act (Coastal Act), Energy Commission staff acting on behalf of Coastal Commission staff concludes that the HBRP is consistent with the Coastal Act and Humboldt County's land use designations, zoning code, and is consistent with all but one of the relevant policies of the HBAP.

With the exception of unresolved air quality and public health issues, the project, if constructed would be compatible with existing and planned land uses and would not abut any zoned residential areas, or impact farmland or other agricultural areas. At this time, the **Air Quality** and **Public Health** staff are analyzing air emission offsets and the use of diesel fuel as a back-up fuel, respectively. Should these issues not be mitigated to a level below significance, staff would consider the HBRP as having a significant land use impact because the project would create an unmitigated public health hazard.

Should the Energy Commission certify the project, staff proposes the following conditions of certification.

CONDITION OF CERTIFICATION

LAND-1 The project owner shall comply with the design and performance standards for the MC Industrial/Coastal Dependent Zone set forth in the Humboldt County Zoning Ordinance, as follows:

- All manufacturing and fabricating areas shall be enclosed in buildings.

Verification: At least 30 days prior to the start of construction, the project owner shall submit to the CPM for review and approval written documentation including evidence of review by Humboldt County that the project conforms to the design and performance standards of the Zoning Ordinance.

LAND-2 The project owner shall provide a public use area consistent with the requirements of the Coastal Act and the Warren Alquist Act.

Verification: At least 30 days prior to the start of operation, the project owner shall submit to the CPM for review and approval written documentation including evidence of review by the Coastal Commission that public access has been provided.

REFERENCES

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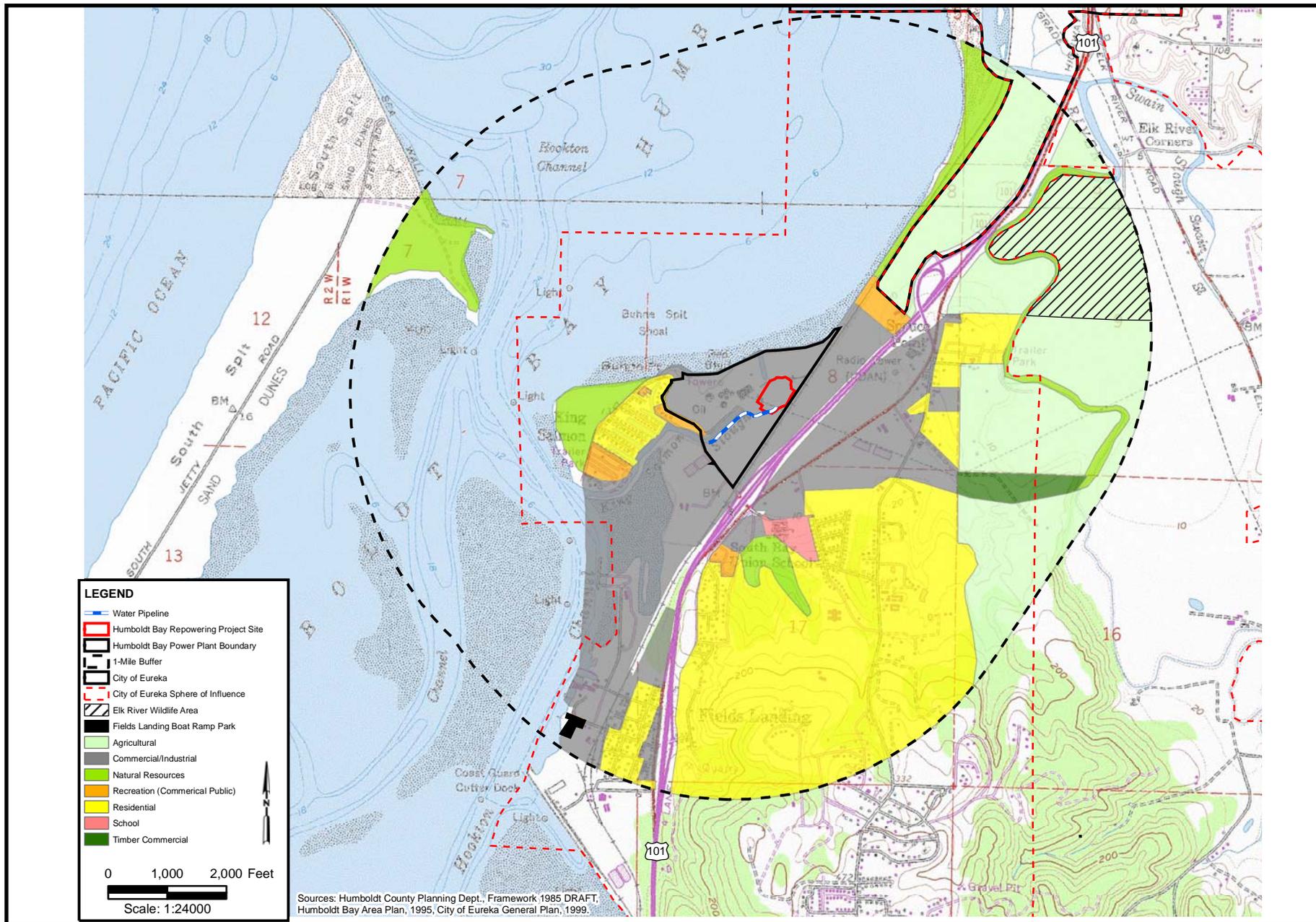
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LAND USE - FIGURE 1
Humboldt Bay Repowering Project - Project location and surrounding land use



LEGEND

- Water Pipeline
- Humboldt Bay Repowering Project Site
- Humboldt Bay Power Plant Boundary
- 1-Mile Buffer
- City of Eureka
- City of Eureka Sphere of Influence
- Elk River Wildlife Area
- Fields Landing Boat Ramp Park
- Agricultural
- Commercial/Industrial
- Natural Resources
- Recreation (Commercial Public)
- Residential
- School
- Timber Commercial

0 1,000 2,000 Feet
Scale: 1:24000

Sources: Humboldt County Planning Dept., Framework 1985 DRAFT, Humboldt Bay Area Plan, 1995, City of Eureka General Plan, 1999.