

TRINITY COUNTY PLANNING COMMISSION STAFF REPORT

DATE PUBLISHED: August 7th, 2020

COUNTY STAFF CONTACT: David Colbeck, Environmental Compliance Specialist (DOT)

APPLICANT: The Yurok Tribe

PROPERTY OWNER: Bureau of Land Management and Ray and Ginger Ruiz

REQUEST: The purpose of this item is for the Planning Commission to adopt, by Resolution No. PC-2020-08, the proposed Mitigated Negative Declaration (14 PCR §15074, TCC §18.04.120) demonstrating compliance with CEQA (California PRC, §21000 et seq.) for the Indian Creek Connectivity and Restoration Project.

LOCATION: Section 25 of Township 32 North, Range 9 West, Mount Diablo Meridian, in eastern Trinity County and is visible on the Bully Choop USGS 7.5-minute quadrangle map. (APNs: 015-180-09-00, 015-180-10-00, 015-180-27-00, and 015-180-30-00)

APPROX. ACREAGE: Project area = 21.4 acres; Environmental Study Limits = 29.55 acres

GENERAL PLAN DESIGNATION: Resource (RE) – All Parcels

ZONING DISTRICT: Unclassified (UNC) – All Parcels

OVERLAY ZONE: Flood Hazard Overlay (FH) – All Parcels

STAFF RECOMMENDATIONS: Adopt the California Environmental Quality Act (CEQA) determination of a Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program and adopt the recommended findings listed in Resolution PC-2020-08.

ADJACENT LAND USE AND ZONING INFORMATION:

Direction	Land Use	Zoning	General Plan Designation
North	Undeveloped	AF40	RE
South	Timber	TPZ	RE
East	Res./Undeveloped	UNC	RE
West	BLM	UNC	RE

ATTACHMENTS:

1. Project Location and Site Map
2. Environmental Assessment/Initial Study (EA/IS)
3. Resolution No. PC-2020-08

COUNTY PERMIT PROCESS:

Per Trinity County Code § 17.29B.070.A., fisheries or wildlife habitat improvement projects shall be allowed by first securing a Floodplain Development Permit (Director's Use Permit), provided a certification by a Registered Professional Engineer demonstrates that the net effect of the project will not cumulatively increase flood waters of the stream by more than one foot in the project area. On July 12, 2020 the Floodplain Administer (the Planning Director) received the Indian Creek FEMA and Bridge Assessment Memo certified and stamped by Registered Professional Engineer David J. Bandrowski of the Yurok Tribe. This certification has been deemed sufficient by Trinity County Department of Transportation Director and staff.

The project is required to comply with NEPA because it has both Federal funding and is on Federal land. The project is required to comply with CEQA because the project requires a Floodplain Development Permit (TCC § 17.29B.250). As the decision-making body of the CEQA lead agency, the Planning Commission has discretionary authority over Mitigated Negative Declarations (MND). The purpose of this agenda item is for the Planning Commission to adopt the project's proposed MND (14 CCR §15074, TCC §18.04.120). Should the MND be adopted, the Director of Building and Planning will decide on the associated Floodplain Development Permit on August 14, 2020 (TCC §17.29B.070). A draft Floodplain Development Permit has been attached. The Trinity County Planning Department, with the Bureau of Land Management and the Yurok Tribe as federal co-lead agencies has prepared an Environmental Assessment/Initial Study for the Project in accordance with the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA).

PROJECT LOCATION:

The Indian Creek Project site is located adjacent to Indian Creek Road in Section 25 of Township 32 North, Range 9 West, Mount Diablo Meridian, in eastern Trinity County. The Project footprint encompasses a total of 21.4 acres. The downstream end of the Project area is located approximately 200 feet northwest of where Indian Creek Road Bridge 5C-046 crosses Indian Creek. From the downstream end of the Project, the proposed work area extends upstream for approximately 4,000 feet (see Figure 1). The downstream (west) half of the Project area is located entirely on BLM-administered public land, whereas the upstream half is about evenly split between BLM land and portions of two private parcels. Of the 29.25 acres within the Environmental Study Limits (ESL, the area evaluated in EA/IS), the BLM owns 22.55 acres and 6.7 acres are private property.

PREVIOUS PROJECT SITE HISTORY:

The need for the Proposed Project is in response to the degradation of a valley segment of Indian Creek due to the legacy effects of mining and logging in the watershed. The streamflow in Indian Creek, within the Project reach, routinely goes subsurface during August and September which prevents fish from using this area or accessing the relatively cold-water sections found upstream. The limited capacity of the Project reach to store groundwater and frequently inundate the adjacent floodplain has resulted in a near total lack of vegetation in a majority of the Project area. Chinook salmon, Coho salmon, and steelhead are currently found in limited numbers downstream of the Project area, would have access to a restored valley reach for spawning and rearing. The Project area occurs in a valley section of Indian Creek, which is highly desirable to salmon and somewhat uncommon in the Trinity Basin, increasing the need to focus restoration efforts in this specific location.

Past restoration efforts in the same area have been unsuccessful. Previously implemented project designs included at least three rock revetments, built to prevent lateral channel

migration. Material from the floodplain excavation filled other portions of the valley. That project was destroyed within weeks of its completion by the 1997 New Year's flood. Additional flow confinement associated with the valley fill and floodplain excavation could be partially responsible for the incised condition currently observed at the site. A subsequent effort to restore the Project reach occurred in 2011, led by Phillip Williams & Associates, Ltd (PWA) and managed by the TCRCO, that yielded significant findings about the existing conditions of the Project reach and established four ground water measuring wells. The Yurok design team reoccupied these groundwater meters to inform the current design proposal. However, the actual work completed in the 2011 effort was limited to minor excavation and planting willows which experienced 100% mortality (PWA 2011).

Activities recently occurring on site include geological investigations performed within the Project area in late March and early April of 2019. The investigation included excavation of nine test pits upstream from the Indian Creek Road Bridge and installation of piezometers to monitor groundwater levels throughout the 2019 dry season. Current activities on site include ongoing monitoring of the test pits and scheduled restoration work.

PROJECT DESCRIPTION:

As previously explained, the purpose of the Proposed Project is to restore the ecological functionality of a critical valley reach on Indian Creek that has experienced historic environmental degradation. The Proposed Project would improve the aquatic habitat and habitat connectivity to the extent practical for native fisheries by improving groundwater conditions and reducing the period of time that Indian Creek dries up in summer months. The Proposed Project would also restore Indian Creek geomorphic processes by increasing floodplain connectivity which will result in the deposition and storage of fine sediment in the Project area and decrease the delivery of fine sediment to downstream areas of Indian Creek. The combined effect of increasing groundwater storage, increasing the annual duration of surface flow, and increasing the floodplain inundation capability within the Project reach will result in conditions that will promote natural revegetation of desirable species such as alder trees, cottonwood trees, and various species of willow trees throughout the Project area. For reference, see Figures 2 and 3 in Attachment 1 as well as Figures located in the Environmental Document.

The "Stage-0" restoration approach proposed is a comprehensive effort to restore and establish self-maintaining conditions in a critical valley reach of Indian Creek by reconnecting the creek with its floodplain. The Proposed Project "stage-0" restoration design involves the following:

- Re-grading the valley bottom to create a laterally-flat valley bottom that slopes downstream at a near-constant gradient.
- Cutting and filling approximately 32,700 cubic yards of material to create the proposed geomorphic grade surface.
- Doing away with a continuous channel that rapidly conveys water through the reach to allow surface water and groundwater to be retained for extended periods. Rather than flowing rapidly downstream and drawing down the groundwater table, surface flow will spread over a large portion of the valley bottom where it can recharge the alluvial aquifer. In addition to increasing aquatic habitat availability during low-flow periods, spreading the flow over a large portion of the valley bottom spreads the erosive energy of floods over a wide area, thereby discouraging channel incision.
- Revegetating graded areas with willow and cottonwood pole plantings to prevent the channel from re-incising. Natural revegetation of native species is expected to occur throughout the Project area following Project completion as seeds and fine sediment are deposited onto the graded surfaces. Mature vegetation will be retained on site to the extent possible.

In the reasonably foreseeable future, there may be increased recreational use of the area as proposed restoration work restores the physical, chemical, and biological processes that maintain a healthy, diverse, and resilient floodplain ecosystem.

ENVIRONMENTAL EVALUATION:

A digital copy of the joint Environmental Assessment/Initial Study can be found here:

<https://www.trinitycounty.org/Agendas-Minutes-Staff-Reports>

The EA/IS was completed and filed with the California Governor's Office of Planning and Research on June 10, 2020 (SCH#: 2020069018) and made available for public comment. A Finding of No Significant Impact (FONSI) and Decision Record, determining compliance with NEPA (42 USC 4321 et seq.), is anticipated to be signed by the BLM on, or around, September 1, 2020.

Pursuant to NEPA (42 USC 4321 et seq.) and CEQA (California PRC, §21000 et seq.) a combined NEPA/CEQA project-specific evaluation of proposed activities was performed in order to assess potential environmental impacts and invite public input before making formal implementation commitments. A joint NEPA/CEQA document was prepared to streamline environmental compliance requirements. This combined, joint NEPA/CEQA document also recommends project design features or mitigation measures to minimize impacts, and is designed to facilitate project implementation under all applicable laws.

The site-specific EA/IS provides a discussion of the existing conditions, environmental impacts, and mitigation measures required to comply with CEQA (California PRC, §21000 et seq.). In addition to addressing direct and indirect impacts associated with the Proposed Project and alternatives, the EA/IS addresses cumulative impacts associated with the proposed activity.

Pursuant to CEQA guidelines (California PRC, 6 § 15070 et seq. and 14 § 15220 et seq.), the EA/IS document resulted in an MND by showing that potentially significant effects caused by the project will be mitigated so that no significant effects would occur. The Mitigation and Monitoring Report (MMRP), which is required to be adopted with the CEQA document (14 PCR § 15704(d)), is including in Appendix B of the EA/IS.

COMMENTS RECEIVED FOR ENVIRONMENTAL DOCUMENT

The NEPA/CEQA document prepared for this project was available for public comment from June 10 to July 10, 2020. A total of 7 comments were received in that time – two (2) from public agencies, four (4) from individuals and one (1) from the Native American Heritage Commission. Pursuant to 14 PCR § 15074(b), the Planning Commission must consider the proposed mitigated negative declaration together with any comments received during the public review process. The comments received, along with full responses, have been included by reference in section 5.0 of the attached EA/IS and in full in the EA/IS Appendix F. A synopsis of the comments received is provided below:

Comment Letter 1: Individual. Expresses concern regarding the longevity of the proposed project given past restoration efforts in the same project area.

Comment Letter 2: Individual. Expresses concern regarding noxious weeds, additional Best Management Practices and public scoping.

Comment Letter 3: Department of Toxic Substance Control. Addresses hazardous wastes/substances, aerially deposited lead, past mining activities, hazards related to demolishing buildings, importation of soil and pesticides.

Comment Letter 4: California Department of Fish and Wildlife. Addresses Western pond turtles and Lake or Streambed Alteration Agreements.

Comment Letter 5: Individual. Expresses support of the project.

Comment Letter 6: Individual. Expresses concern regarding logging practices and fisheries.

Comment Letter 7: California Native American Heritage Commission. Addresses AB52 requirements for tribal consultation.

STAFF RECOMMENDATION:

Staff finds that the EA/IS and information provided to support the EA/IS adequately address the County's requirements and concerns. Staff recommends the Commission make a motion to adopt a resolution to:

- 1) Adopt the California Environmental Quality Act (CEQA) determination of a Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program; and
- 2) Adopt the recommended findings listed in Resolution PC-2020-08.

ATTACHMENT 1

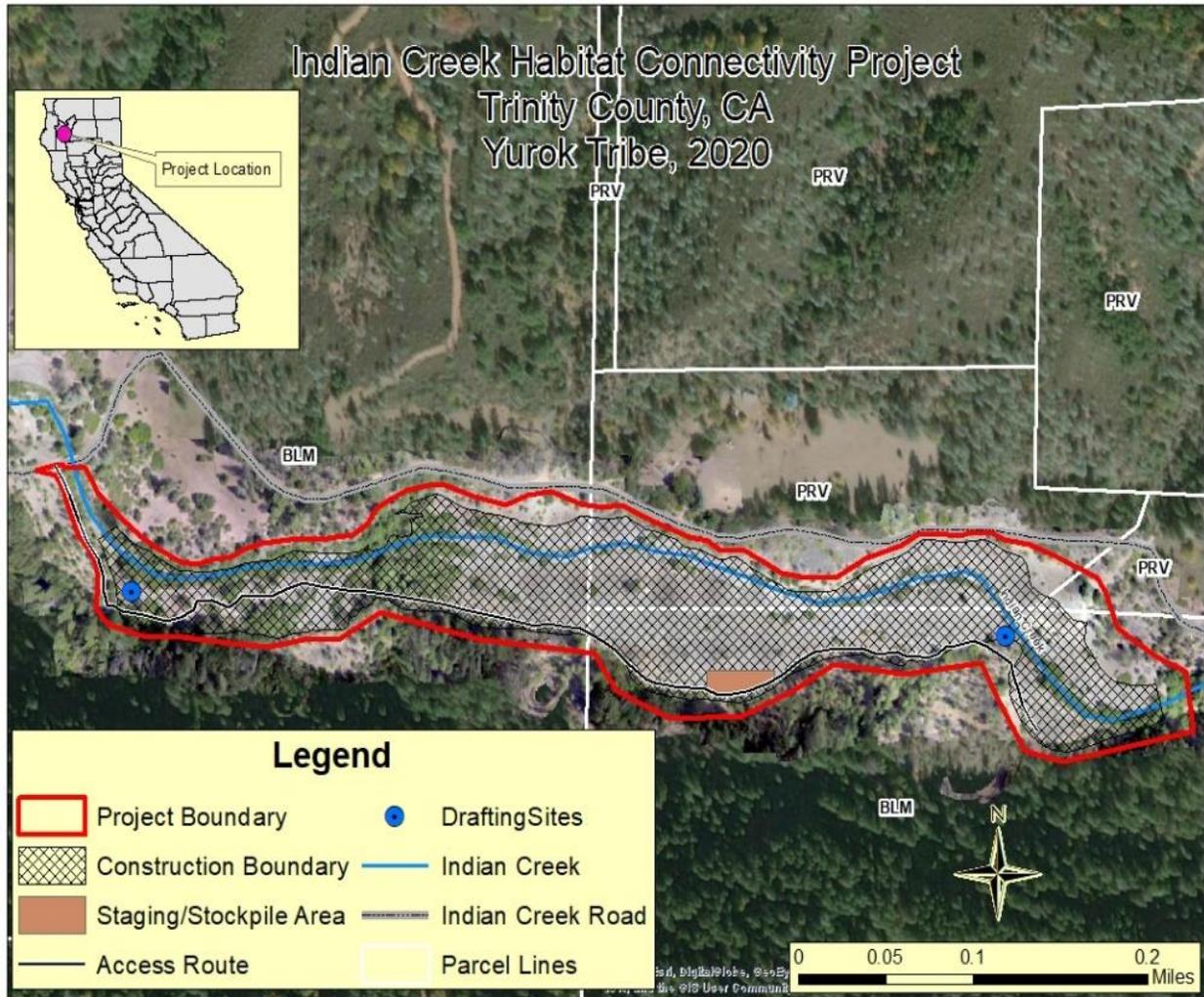


Figure 1: Map of Indian Creek Project and ownership boundaries.

Figure 2: Design elements comprising the proposed Indian Creek Connectivity Project. The creek (not shown) flows from right to left. area.

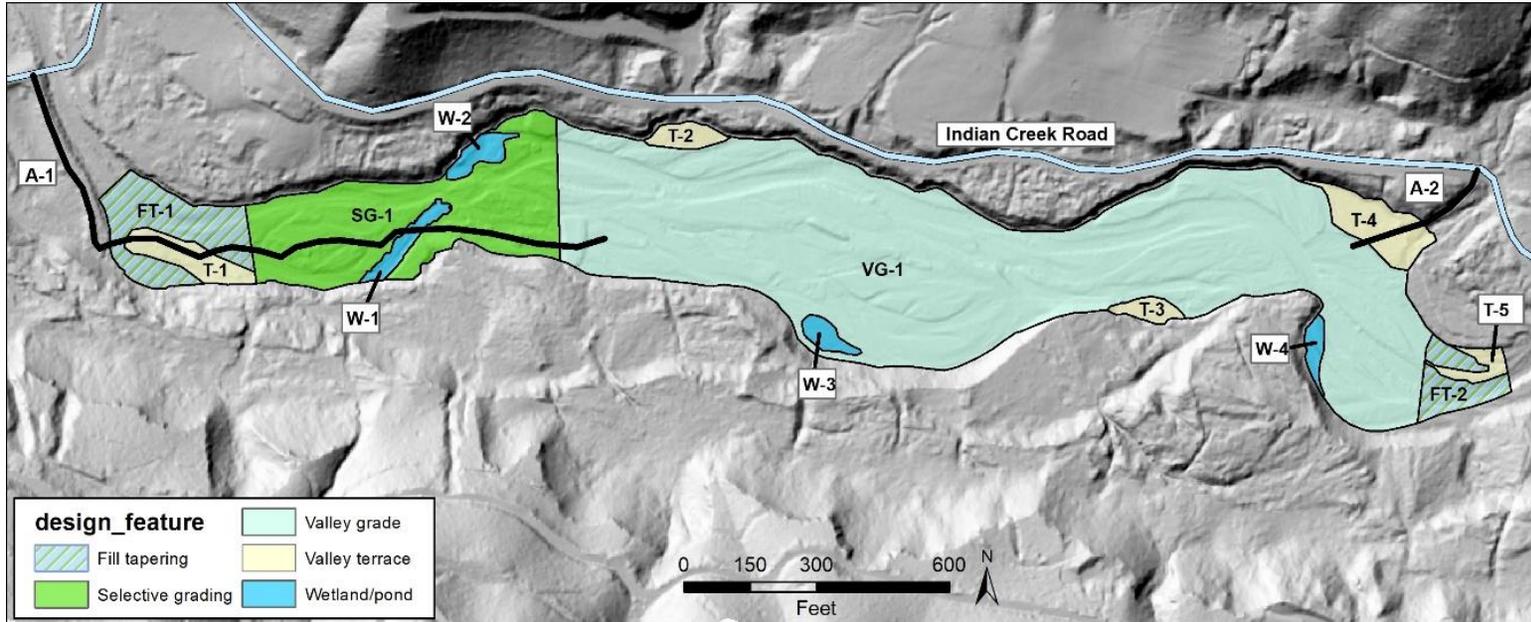
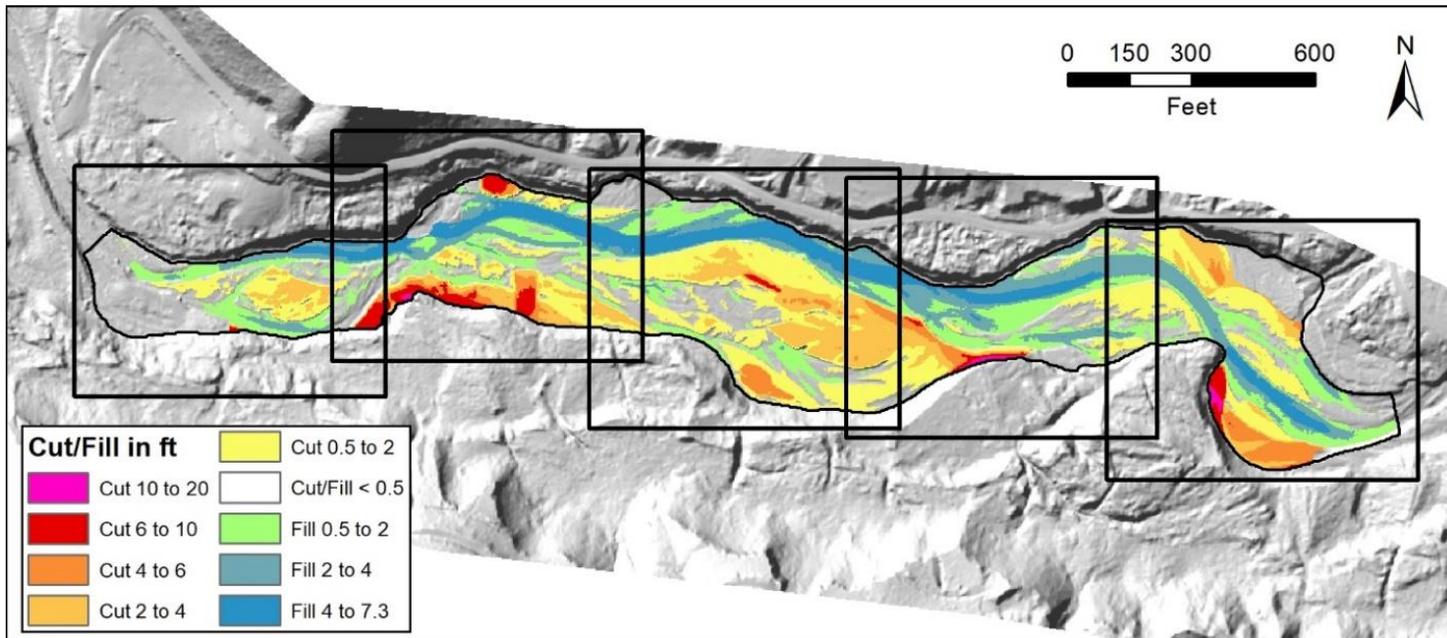


Figure 3: Cut and fill depths across the Project area.



RESOLUTION NO. PC-2020-08

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF TRINITY
APPROVING THE
INDIAN CREEK CONNECTIVITY AND RESTORATION PROJECT
MITIGATED NEGATIVE DECLARATION
(The Yurok Tribe DP-20-20)**

WHEREAS, the Yurok Tribe filed an application (DP-20-20) on May 13, 2020 for the approval of a Floodplain Development Permit for a fisheries and wildlife habitat improvement project on Indian Creek in eastern Trinity. The project site is located on 22.55 acres of floodplain on four (4) privately and publicly owned parcels: (APNs: 015-180-09-00, 015-180-10-00, 015-180-27-00, and 015-180-30-00); and

WHEREAS, pursuant to Trinity County Code 17.29B.070, the County Floodplain Administrator may issue a Floodplain Development Permit if certification is provided by a registered professional engineer that a fisheries or wildlife habitat improvement project will not cumulatively increase flood waters of the stream by more than one foot in the project areas; and

WHEREAS, on July 12, 2020, the Trinity County Floodplain Administrator has received a certified memo from a registered professional engineer asserting that the proposed project will not create a cumulative increase of flood waters of more than one foot in the project area, and, based on review by County staff, concurs with the memorandum; and

WHEREAS, the project is subject to environmental review pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, pursuant to 18 TCC § 18.01.120, the Planning Commission is the responsible decisionmaking body for the proposed project CEQA documentation; and

WHEREAS, a joint National Environmental Protection Act (NEPA) and CEQA document, per 14 CCR § 15220-15227, has been prepared for the project and notice has been sent to the State Clearinghouse (SCH#: 2020069018) for responsible agency, trustee agency and public review for a period of 30 days as required by the CEQA Guidelines; and

WHEREAS, pursuant to 14 CCR § 15074(c), the Planning Commission acknowledges that when adopting a mitigated negative declaration, the lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based; and

WHEREAS, pursuant to 14 CCR § 15074(d), the Planning Commission acknowledges that when adopting a mitigated negative declaration, the lead agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to mitigate or avoid significant environmental effects; and

WHEREAS, pursuant to 14 CCR § 15074(b), the Planning Commission has considered the proposed mitigated negative declaration together with any comments received during the public review process; and

WHEREAS, pursuant to 14 CCR § 15074(b), the Planning Commission shall adopt the proposed mitigated negative declaration only if it finds on the basis of the whole record before it (including the

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initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the mitigated negative declaration reflects the lead agency's independent judgment and analysis; and

WHEREAS, after due notice of public hearing in accordance with applicable laws, the matter came up for hearing before the Planning Commission of the County of Trinity on August 13, 2020; and

WHEREAS, at said public hearing, due consideration was given to the proposed Initial Study-Mitigated Negative Declaration, the environmental effect of the project, and any changes connected therewith; and

WHEREAS, at said public hearing, due consideration was given to all oral and written comments regarding the request for approval of the Initial Study-Mitigated Negative Declaration, and the Planning Commission concluded that the Initial Study-Mitigated Negative Declaration should be approved subject to certain conditions hereinafter set forth;

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the County of Trinity:

1. Makes the following environmental review findings:
 - A. An Initial Study has been conducted by the Trinity County Planning Department to evaluate the potential for significant adverse environmental affects and there is no substantial evidence in light of the whole record before the agency that the project may have a significant adverse impact on the environment; and
 - B. A Mitigated Negative Declaration has been prepared and circulated to the State Clearinghouse (SCH#: 2020069018) pursuant to the California Environmental Quality Act (CEQA). The environmental documentation as considered for this project reflects the independent judgment of the approving authority; and
 - C. Mitigation monitoring provisions have been considered by the approving authority pursuant to Public Resources Code Section 21081.6. This program is based on those documents and materials referred to in the Mitigated Negative Declaration, and incorporated therein by reference, which are maintained at the County Planning Department; and
2. Adopts the CEQA determination of a Mitigated Negative Declaration.

DULY PASSED AND ADOPTED this 13th day of August, 2020 by the Planning Commission of the County of Trinity by motion of Commissioner _____, seconded by Commissioner _____, and the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

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MICHAEL "DAN" FRASIER, Chairman
Planning Commission
County of Trinity, State of California

ATTEST:

By:

KIMBERLY HUNTER
Secretary of the Planning Commission
County of Trinity, State of California