

CALIFORNIA COASTAL COMMISSION

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Staff:	K.Huckelbridge-SF
Staff Report:	11/21/14
Hearing Date:	12/12/14

STAFF REPORT: PERMIT AMENDMENT/ CONSISTENCY CERTIFICATION

Application No.: E-01-029-A4

Consistency Certification No.: CC-111-01

Applicant: GU Holdings, Inc.

Location: State and federal waters offshore of Hermosa Beach, Los Angeles County (see Exhibit 1).

Project Description: Amend Special Condition 18 of the original permit (E-01-029) and modify consistency certification (CC-111-01), to require periodic surveys of undersea cables every five years, rather than every 18 to 24 months as originally approved.

Staff Recommendation: Approve permit amendment/concur with modified consistency certification

SUMMARY OF STAFF RECOMMENDATION

In July 2002, the Commission approved for Tyco Networks (US), Inc. coastal development permit E-01-029, and concurred with consistency certification CC-111-01 for the construction and operation of two telecommunications fiber optic cables to land at the City of Hermosa Beach in Los Angeles County (see Exhibit 1). One of those cables, segment 4, was not completed until 2009. In 2012, GU Holdings, Inc. (GU Holdings) took over ownership of this cable, including the responsibility of complying with the conditions set forth in CDP E-01-029.

A key Coastal Act issue addressed in the findings for the original permit and consistency certification was the potential adverse effect on coastal resources related to entanglement with the cables. Specifically, the findings addressed concerns that: 1) whales may become entangled with the cables, 2) trawlers may snag their gear on a cable and thus lose gear and fishing time, or 3) abandoned trawl nets may get snagged on the cable and entangle and drown marine mammals or other marine wildlife. To prevent potential adverse effects associated with entanglement, the original permit required the permittee to bury the cables to a depth of 1.0 meter if feasible. The permit also required that every 18 to 24 months for the life of project, the permittee would survey the cable routes to verify that the cables remain buried. If the cable survey indicates that previously buried cable has become unburied, the permittee is to re-bury the cable segments. In its consistency certification, Tyco (and then GU Holdings) committed to implement these measures for cable located in federal waters.

The results of the 2009 post-lay inspection survey and two periodic surveys completed in 2011 and 2013 demonstrate that buried cable remains buried. GU Holdings proposes to reduce the frequency of the periodic surveys for the cable segments in state and federal waters from once every 18 to 24 months to once every five years, with the next survey report due to the Commission by November 1, 2020. This proposed change is consistent with amendments made to the CDPs for seven other fiber optic cable projects. Since buried cable has remained buried over time, changing the frequency of the burial surveys from every two years to every five years is not expected to reduce protection of coastal resources. Furthermore, changing the frequency of the burial surveys will reduce the environmental effects associated with performing the surveys (e.g., air emissions from survey vessels and potential conflicts with commercial fishing along the cable survey routes). For this reason, the South Bay Cable/Fisheries Liaison Committee supports the proposed five-year survey interval. Finally, extending the deadline of the next survey until 2020 will bring GU Holdings onto the same compliance schedule as the other fiber optic cable projects, thus providing for coordination of survey vessels and equipment, and reducing the environmental impacts associated with the surveys.

Commission staff recommends that the Commission approve the proposed permit amendment and concur with GU Holdings' modified consistency certification.

I. MOTIONS AND RESOLUTIONS

1. Coastal Development Permit Amendment

Motion:

*I move that the Commission **approve** Coastal Development Permit Amendment Application No. E-01-029-A4 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit amendment and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves Coastal Development Permit Amendment E-01-029-A4 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

2. Consistency Certification

Motion:

I move that the Commission concur that GU Holdings, Inc.'s certification that with the proposed modification of Consistency Certification CC-111-01, the project, as modified, remains consistent with the enforceable policies of the California Coastal Management Program.

Staff recommends a **YES** vote on the motion. Passage of this motion will result in an agreement with the certification that the project remains consistent with the CCMP and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.

Resolution to Concur with Modification to Consistency Certification:

The Commission hereby concurs with GU Holdings, Inc.'s modification of Consistency Certification CC-111-01 on the grounds that the project remains consistent with the enforceable policies of the CCMP.

II. FINDINGS AND DECLARATIONS

A. BACKGROUND

In July 2002, the Commission granted a coastal development permit and concurred with a consistency certification authorizing Tyco Networks, Inc. (“Tyco”) to build two fiber optic cables landing in the City of Hermosa Beach in Los Angeles County, with one cable (Segment 4) landing in Hawaii and one cable (Segment 5) landing in Oregon (see Exhibit 1). Segment 4 was installed up to federal waters in 2002 and then abandoned until 2009 when installation was completed. Segment 5 was installed to completion in 2009. In 2005, Tyco transferred ownership of the Segment 5 cable to Tata Communications (US) Inc. (“Tata”). In 2012, Tyco transferred ownership of the Segment 4 cable to the UNITY consortium comprised of six member companies known as “UNITY¹.” UNITY has appointed GU Holdings, Inc. (“GU Holdings”) as its Agent to act on its behalf with respect to all matters relating to the Permit. In February 2012, Coastal Development Permit No. E-01-029, as it applies to the Segment 4 cable, was officially assigned to GU Holdings.

In addition to the Tyco project, the Commission approved the installation and operation of seven offshore fiber optic cable systems between 2000 and 2009.² The Commission required each applicant to bury the cable in soft sediment, where feasible, to avoid interference with commercial fishing gear and prevent whale entanglements. Each permit also required that every cable be surveyed every 18 to 24 months to determine if the cable remains buried. If previously buried cable becomes unburied the conditions require it to be reburied. In each case, the applicant, as part of its consistency certification, agreed to implement these same measures in federal waters.

By 2005, most of the fiber optic cable companies had completed two cable burial surveys. Generally, the results of these surveys showed that buried cable remains buried and stable. As a result, in 2006, 2007, 2010 and 2012, the Commission approved amendments to seven of the permits to extend the required burial survey interval from once every 18 to 24 months to every five years,³ including the Tata Communications cable that was installed under the same permit as

¹ UNITY is a consortium made up of the following members: (1) Bharti Airtel Limited, (2) Global Transit Ltd., (3) Google Cable Bermuda Ltd., (4) KDDI Corporation, (5) Pacnet Limited, and (6) Singapore Telecommunications Limited.

² E-98-027/CC-041-00 - PC Landing Corporation and PAC Landing Corporation; E-98-029/CC-059-00, E-00-004/CC-078-00 and E-08-021/CC-005-09 – AT&T Corporation; E-99-011/CC-028-00 – MFS Globenet, Inc.; E-00-008/CC-110-00 – Global West Network, Inc.; and E-05-007/CC-076-05 – Monterey Bay Research Institute

³ E-98-027-A2/CC-041-00 – PC Landing, approved 2/9/06; E-98-027-A3/ CC-041-00 – PAC Landing, approved 6/15/06; E-99-011-A2/CC-028-00 – MFS Globenet, Inc, approved 8/8/07; E-98-029-A2/CC-059-00 and E-00-004-

the GU Holdings cable. The GU Holdings segment 4 cable is the last fiber optic cable still on a 18 to 24 month survey cycle. To date, GU Holdings has completed two periodic surveys, in 2011 and 2013. Similar to surveys of the other cables, the results of GU Holdings' surveys indicate that there has not been a significant change in cable placement or exposure. Thus, in this permit amendment application, GU Holdings proposes to amend **Special Condition 18** to extend the required burial survey interval from once every 18 to 24 months to once every five years.

B. PROPOSED AMENDMENT AND CONSISTENCY CERTIFICATION MODIFICATION

Special Condition 18 of the original coastal development permit (CDP) E-01-029 required periodic cable inspection surveys in State waters every 18 to 24 months. In its consistency certification, CC-111-01, Tyco/GU Holdings committed to performing burial surveys every 18 to 24 months for the cable segments in federal waters. The purpose of the periodic surveys is to ensure that previously buried cable remains buried. If a cable survey indicates that previously buried cable has become unburied, GU Holdings has agreed to re-bury the cable segments.

The results of the 2009 post-lay inspection survey and two periodic surveys completed in 2011 and 2013 demonstrate that buried cable remains buried. The surveys found that in areas where the cable was buried in soft sediment, burial depths were often greater than the as-laid burial depth due to natural settlement and sedimentation over time. In area where the cable was laid on the surface, the cable was often covered in a fine layer of sediment. The surveys did not find any indication that the cable had been dragged or moved. GU Holdings therefore proposes to reduce the frequency of the periodic surveys for the GU Holdings segment 4 cable in state and federal waters from once every 18 to 24 months to once every five years, with the next survey report due to the Commission by November 1, 2020. Although this would actually result in a seven year interval between the 2nd and 3rd surveys, it would bring GU Holdings onto the same schedule that is applied for the other fiber optic cable companies. This scheduling overlap allows the companies to coordinate survey vessels and equipment, thus reducing the cost and environmental impacts associated with the surveys.

The proposed revised special condition set forth below would supersede and replace **Special Condition 18** approved by the Commission in CDP E-01-029 as it applies to the GU Holdings segment 4 cable. The revisions are illustrated by strikethroughs for deletions and underlining for additions. All other requirements of the Commission's approval of CDP E-01-029, including but not limited to the Standard Conditions set forth in Section 2.0 of the Commission's findings, remain in full force and effect with respect to the amended project.

***Special Condition 18. Cable Surveying and Reburial.** Every ~~18 to 24 months~~ 5 years for the life of the project, the applicant shall survey the cable route to verify that the cables have remained buried consistent with the as-built cable burial plan required by Special Condition 9. The survey shall be conducted with a remotely operated vehicle ("ROV") equipped with video and by a party approved by the Executive Director. Within 30 days of survey completion, the applicant shall submit to the Executive Director a report describing*

A1/CC-078-00 – AT&T Corporation, approved 11/15/07, E-01-029-A3/CC-111-01 – Tata Communications, approved 12/17/2010, E-05-007/CC-76-05 – Monterey Bay Research Institute, approved 8/10/12.

the results of the survey (including example still images) and a copy of the videotape(s) recorded during the cable survey. The videotape(s) shall include a display that identifies the date, time, position, water depth, and heading of the ROV.

If the survey shows that a segment(s) of the cable is no longer buried consistent with the as-built cable burial plan required by Special Condition 9, the applicant shall, within 30 days of survey completion, submit to the Executive Director for approval a plan to re-bury those cable segments. Upon approval of the plan by the Executive Director, the applicant shall proceed to implement the plan in accordance with the time schedule specified therein.

GU Holdings also proposes to survey the cables located in federal waters every five years.

C. PERMIT AND FEDERAL CONSISTENCY JURISDICTION

This staff report is a combined analysis for the coastal development permit amendment and the modified consistency certification. The Coastal Commission has original coastal permit jurisdiction over project areas on public trust lands, tidelands, and submerged lands from the mean high tide line to three nautical miles offshore. The portion of the revised project that involves cables buried within State waters (i.e., seaward of the mean high tide line to three nautical miles offshore) required a CDP amendment from the Coastal Commission, and is the subject of this amendment application.

The project also required a federal permit from the United States Army Corps of Engineers, and therefore required a federal consistency certification pursuant to Section 307(c)(3)(A) of the Coastal Zone Management Act. For the portion of the project that lies outside the coastal zone in federal waters, GU Holdings submitted a modified consistency certification to the Coastal Commission on November 10, 2014. GU Holdings has certified that the activity, as amended, remains consistent with California's approved coastal management program (CCMP) and will be conducted in a manner consistent with the CCMP.

D. RELATED AGENCY APPROVALS

City of Hermosa Beach

The City of Hermosa Beach was legislatively granted the submerged lands offshore of Hermosa Beach pursuant to Chapter 479, Statutes of 1919. These lands were transferred in trust to the City by the Legislature to be used for certain limited purposes including navigation, commerce and fisheries. Additionally, because these lands were granted in trust, any revenues generated on or from these granted lands must be expended for the purpose of promoting or improving these lands. The City of Hermosa Beach therefore acted as lead agency under the California Environmental Quality Act ("CEQA") and as the lessor for the project both onshore and offshore for submerged lands to the limit of State waters.

In a letter sent on November 18, 2014, the City Manager of the City of Hermosa Beach indicated that the City had no objection to the proposed amendment to extend the interval between surveys to 5 years, with the next survey taking place in the summer/fall of 2020. He noted that the City is not aware of any problems with this cable and that the amendment is consistent with the

Precise Development Plan/Planned Development Permit 01-10, as amended, issued by the City for the cable project (see Exhibit 2).

E. MARINE RESOURCES AND COMMERCIAL FISHING

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30234.5 of the Coastal Act states:

The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

Key Coastal Act issues addressed in the findings for the original permit include potential adverse effects on coastal resources related to entanglement with the cables. Specifically, the findings addressed concerns that: 1) whales may become entangled with the cables; 2) trawlers may snag their gear on a cable and thus lose gear and fishing time; and/or 3) abandoned trawl nets may get snagged by the cable and entangle and drown marine mammals or other marine wildlife. The Commission required **Special Condition 18** in order to help ensure that the cables remained buried, to reduce the possibility of adverse impacts to marine mammals and commercial fishing from entanglement with the cables.

The proposal to conduct regular burial surveys was first advanced in 1998 by affected commercial fishermen. In response to fishermen's concerns, the cable companies agreed to survey the cable routes at least every two years. The Coastal Commission required **Special Condition 18** to be consistent with the agreement reached with the fishermen.

GU Holdings now has two survey data sets that indicate the cable has not become unburied since the completion of installation five years ago. This data is consistent with the data developed so far from the surveys conducted by all of the other applicants for cables that the Commission has approved. Each of the other survey data sets demonstrates that none of the cables approved by the Commission have yet become unburied, so with more than twelve years of data, there is no indication of an ongoing adverse coastal resource effect. Therefore, there is no indication that the cable will become unburied in the next 7 years.

Each survey causes some impacts to coastal resources, including significant emissions of criteria pollutants and greenhouse gases from survey vessel emissions, and space preclusion impacts to commercial fishermen. Reducing the survey interval will reduce these impacts to coastal resources. Aligning GU Holdings' survey schedule with the schedules of the other fiber optic cable companies will further reduce these impacts by facilitating the use of one vessel to conduct multiple surveys. The South Bay Fisheries Liaison Committee indicated its support for the proposed five-year survey interval, noting that (1) there has been little change in the cable

exposure since it was installed and (2) it is not aware of any problems with fishing gear entanglement with this cable (see Exhibit 3).

The Commission therefore finds that reducing the survey interval from once every 18 to 24 months to once every five years is consistent with the marine resources and commercial fishing policies (Sections 30230 and 30234.5) of the Coastal Act.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

(Applies to the CDP amendment only.)

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment. Based on information derived from surveys that have been performed thus far, a reduction in the frequency of the burial surveys will not materially increase the likelihood of the environmental effect that the surveys are intended to detect, namely, the uncovering of the cables. Furthermore, such a reduction will reduce the environmental effects associated with performing the surveys (e.g., air emissions from survey vessels and potential conflicts with commercial fishing along the cable survey routes). The project as amended by the conditions of approval described herein incorporates mitigation measures to avoid any significant environmental effects under the Coastal Act and the CEQA. There are no less environmentally damaging feasible alternatives or mitigation measures.

Appendix A: Substantive File Documents

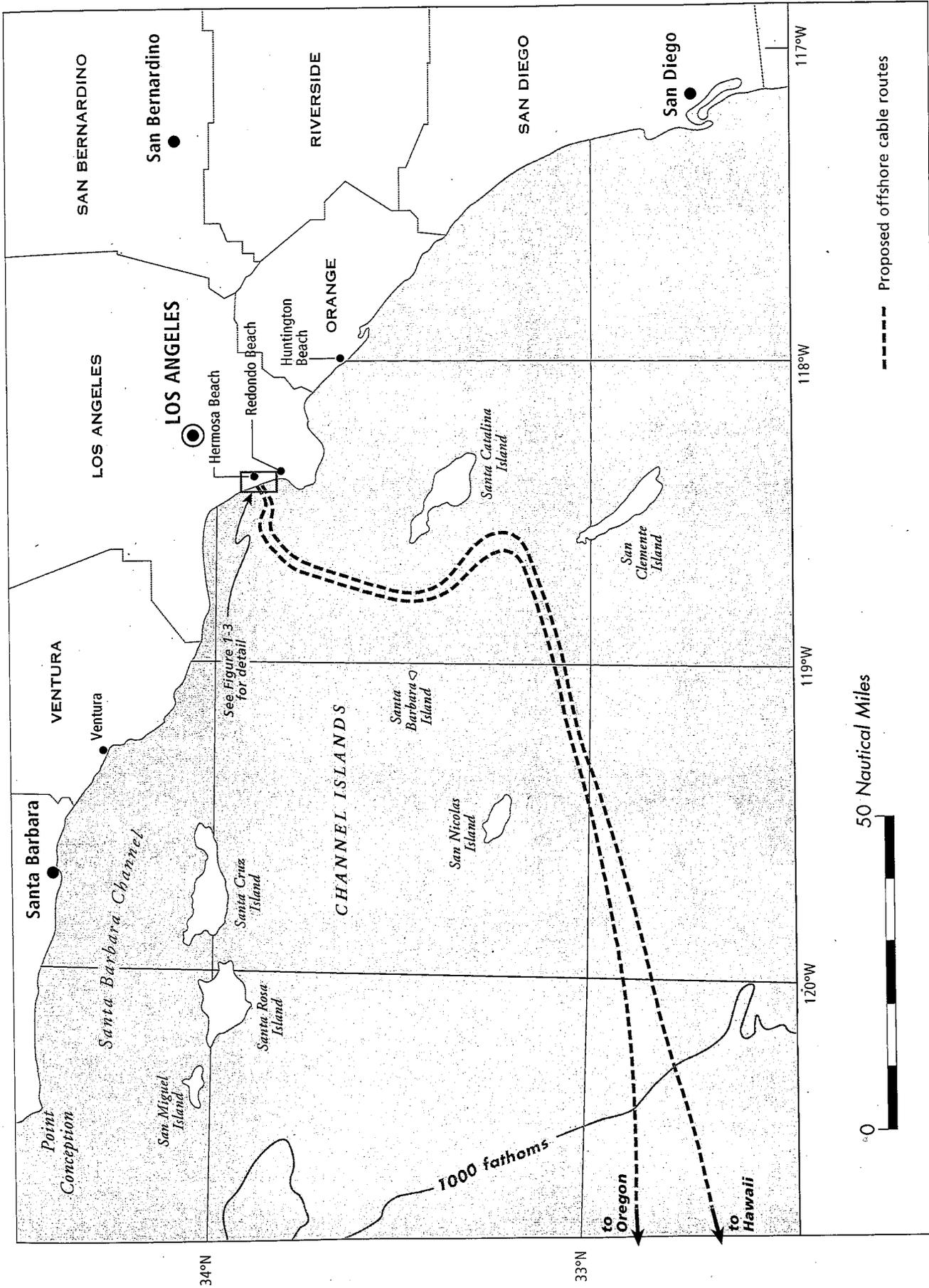
California Coastal Commission. “Final Adopted Findings for CDP Application Number E-01-029 and Consistency Certification CC-111-01.” June 21, 2002 (Approved July 11, 2002).

GU Holdings. “Amendment Request for CDP E-01-029 and CC-111-01. November 17, 2014.

Tyco Electronics Subsea Communications. “Periodic Cable Verification Survey Report – Unity Cable System Segment 1,” December 1, 2011.

Tyco Electronics Subsea Communications. “Cable Verification Survey Report – Unity Cable System Segment 1,” November 13, 2013.

Email Correspondence from GU Holdings representative dated 8/19/14, 9/2/14, 9/10/14 and 11/10/14.



Dr. No: 001346-HB02.06.g Date: 09/21/2001 File: Z.63

Figure 1-2

TyCom Transpacific Fiber Optic Cable and Hermosa Beach Landing Project Vicinity Map

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City of Hermosa Beach

Civic Center, 1315 Valley Drive, Hermosa Beach, California 90254-3885

November 18, 2014

Dr. Charles Lester, Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Subject: CCC Permit No. E-01-029 and Consistency Certification No. CC-111-01, as amended

Dear Dr. Lester,

It is the understanding of the City of Hermosa Beach that GU Holdings, Inc., the current owner of the Unity Cable System, wishes to increase the interval for its survey off the coast of Hermosa Beach to every 5 years, with the next survey starting in 2020. The Unity Cable System is currently on an 18-24 month survey cycle, pursuant to the permit conditions, with two prior surveys completed 2011 and 2013. The completed surveys showed very little change to the cable throughout the first four years of its operation, and that exposure of the cable has actually reduced over time as the trench that the cable sits in becomes filled with sediment.

The City has no objection to this proposed amendment to change the frequency of these surveys. The City is not aware of any problems associated with this cable and finds that this amendment is consistent with Precise Development Plan / Planned Development Permit No. 01-10, as amended, issued by City for this cable system.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Bakaly', written over a horizontal line.

Tom Bakaly
City Manager

SOUTH BAY CABLE/FISHERIES LIAISON COMMITTEE, INC.

217 Calle Manzanita Santa Barbara, CA 93105

November 20, 2014

Dr. Charles Lester, Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
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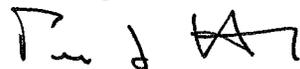
Subject: CCC Permit No. E-01-029 and Consistency Certification No. CC-111-01, as amended

It is our understanding that GU Holdings, Inc., operator of the Unity Cable System, wishes to increase the interval for their survey off the coast from Hermosa Beach to every 5 years with the next survey starting in 2020. On behalf of the Fishermen on the SOUTH BAY CABLE/FISHERIES LIAISON COMMITTEE, we have no objection to this extension.

The Unity Cable System is currently on an 18-24 month survey cycle, with two prior surveys completed 2011 and 2013. The completed surveys showed very little change to the cable throughout the first four years of its operation, and that exposure of the cable has actually reduced over time as the trench that the cable sits in becomes filled with sediment.

The Liaison Committee is not aware of any problems with fishing gear entanglement with this cable and therefore the survey extension is warranted.

Best regards,



Peter Halmay (peterhalmay@gmail.com)
Chairman

Cc Howard Sacks
Gerry Richter