

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
72L FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(831) 427-4863

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Page 1 of 5  
Staff: SC-SC  
Date: June 18, 2001  
File: 3-01-047

**ADMINISTRATIVE PERMIT NUMBER 3-01-047**

**Applicant**..... City of Monterey, Department of Public Works (Contact: Tom Reeves, City Engineer)

**Project location** ..... U.S. Naval Postgraduate School (from Del Monte Lake to the Pacific Ocean), Monterey, Monterey County; APN 013-01-02)

**Project description** ..... Del Monte Lake Ocean Outfall Replacement: replace existing pipe with two new 48" pipes

**Executive Director's Determination:** The findings for this determination, and for any special conditions, appear on subsequent pages.

**Note:** Public Resources Code Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs. This permit will be reported to the Commission at the following time and place:

**Thursday, July 12, 2001**  
**Fountain Grove Inn**  
**101 Fountain Grove Pkwy.**  
**Santa Rosa, CA 95403**  
**(707) 578-6101**

**IMPORTANT:** Pursuant to Title 14 of the California Code of Regulations, Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, if applicable, we will send you a Notice of Administrative Permit Effectiveness. Before you can obtain any local permits and proceed with development legally, you must have received both your administrative permit and the notice of permit effectiveness from this office.



**California Coastal Commission**  
**July 2001 Meeting in Santa Rosa**

Staff: S. Craig Approved by: *S. Craig*

**PETER DOUGLAS**

Executive Director

By: **LEE OTTER**

District Chief Planner

### **STANDARD CONDITIONS**

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### **EXECUTIVE DIRECTOR'S DETERMINATION**

The Executive Director hereby determines that the development is a category of development which qualifies for approval by the Executive Director through the issuance of an administrative permit (Public Resources Code Section 30624). Subject to Standard and any Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, is located seaward of the first through public road, and is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.



## **FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION**

### **Background and Project Description**

In the winter of 1998/1999 an existing 54-inch diameter corrugated metal pipe, which carries excess water from Del Monte Lake in the City of Monterey to the Pacific Ocean, collapsed causing flooding and damage to adjacent property. Although the existing outfall pipe was repaired, there was still potential for unexpected failure during the upcoming rainy season. To prevent a repeat of the flood damage, the City of Monterey needed to replace the outfall before the rainy season started in the fall of 1999. Therefore, in August 1999 the City of Monterey was granted an emergency permit (3-99-031-G) to replace the existing 54-inch diameter corrugated metal pipe with two new 48-inch diameter corrugated metal pipes (see Exhibit 1 for plans). The replacement pipeline follows the old line from the Navy's Del Monte Lake north-northwest to the former Monterey Wastewater Treatment Plant, then along a new alignment to the Pacific Ocean. The project also consisted of replacement of a concrete outlet structure at the north end of Del Monte Lake, a concrete and rip-rap outfall structure on Del Monte Beach, and paving of an access road out to the beach outfall structure. The project temporarily excavated and removed up to one acre of sand dune and vegetation. To replace the dune site to its original condition, the City of Monterey replanted the area with a mix of native dune species.

A condition of the emergency permit required that the Permittee return for a regular coastal development permit so that the emergency would be deemed permanent. This administrative permit authorizes and makes permanent the work done under emergency permit 3-99-031-G (see Exhibit 2 for the full text of the emergency permit).

### **Environmentally Sensitive Habitat**

Section 30240 of the Coastal Act provides for the protection of environmentally sensitive habitat. Two endangered species, the Western Snowy Plover (*Charadrius alexandrinus nivosus*) and Smith's Blue Butterfly (*Euphilotes enoptes smithii*), were identified as potentially occurring in the area. The Western Snowy Plover is a species that has been known to forage along Del Monte Beach, as it may do on most beaches in California. Plovers have nested in an area several miles northeast of the project area but project construction did not affect this area and construction was completed prior to the Snowy Plover's nesting season.

The black legless lizard (*Anniella pulchra nigra*) is a local dune inhabitant. This species was once proposed for federal listing but this is no longer the case. Condition 10 of the emergency permit required that surveys for this species be done prior to commencement of construction, with proper relocation of any lizards found. According to City staff, these surveys were done and found lizards were relocated to similar undisturbed habitat.

A City of Monterey biological contractor surveyed the project site during the months of June and July 1999 to determine if Smith's Blue Butterfly (*Euphilotes enoptes smithii*), an endangered species, was present. The contractor also surveyed a control site in Sand City (approximately two miles northeast of



the project site) known to harbor Smith's Blue Butterfly. The contractor visited the project site and the control site on July 2, 4, 8, 10, 15, and 30, 1999 and the project site only on July 21, 1999. Smith's Blue Butterfly was seen at the control site on five of six visits, but none were found at the project site. Based on this survey, it was determined that neither the Smith's Blue Butterfly nor its critical habitat would be impacted by the proposed project.

The outfall pipe performs an essential public service in that it prevents Del Monte Lake from flooding and causing damage to adjacent streets and properties. The replacement buried outfall pipe is generally in the same alignment as the existing pipe. The project resulted in a temporary disturbance of some environmentally sensitive dune vegetation. Condition 11 of the emergency permit required that the Permittee submit a restoration and mitigation plan to the Executive Director for review and approval. To restore the dune site, the City of Monterey replanted the area with a mix of native dune species, including *Eriogonum parvifolium* and *Eriogonum latifolium* (known host species of the Smith's Blue Butterfly). Bruce Cowan, an Environmental Landscape Consultant, submitted a native plant restoration/mitigation report on June 3, 2000. Paul Kephart, an environmental consultant with Rana Creek Habitat Restoration, submitted a restoration/mitigation plan for the threatened Monterey Spineflower (*Chorizanthe pungens* var. *pungens*) on March 24, 2000. In addition, the City of Monterey submitted a separate restoration and mitigation plan which included detailed construction procedures and principles to reestablish beach contours within the project area, a plan for restoring beach sand quality, and provisions for removal of all portions of any exposed existing outfall or rip-rap structure. Since the project was completed, including the above-mentioned dune restorations, the dune area around the buried pipe has returned to its pre-construction natural state. Therefore, as conditioned, the development was consistent with Coastal Act Section 30240 regarding environmentally sensitive habitat.

### **Marine Resources**

Sections 30230 and 30231 of the Coastal Act specifically protect the water quality and biological productivity of the marine environment. Replacement of the existing pipe had the potential for negative impacts on Del Monte Lake and the marine environment. However, the emergency permit was conditioned to provide for containment of construction debris and precautionary requirements regarding accidental spills. In addition, the California Regional Water Quality Control Board and the California Department of Fish & Game also conditioned the project for the protection of water quality (see below). Therefore, as conditioned, the development was consistent with the Marine Resource policies of Chapter 3 of the Coastal Act.

### **Other Agency Approvals**

Condition 6 of the emergency permit states that the emergency permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies. These authorizations/permits were obtained as follows:

**Army Corps of Engineers:** The City followed the process of invoking a series of Nationwide Permits: NWP 25 for a concrete headwall at the lake; NWP 13 for the end-wall and placement of dune



restoration; and NWP 3 for the removal and replacement of the storm drainpipe. Condition #11 of NWP 3 requires that "non-federal permittees shall notify the District Engineer if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized." Although endangered/threatened species, including Smith's Blue Butterfly, Snowy Plover, and Monterey Spineflower, are found in the project vicinity, no such notification took place. In discussion with Army Corps of Engineers staff, this lack of notification constitutes a violation. The ACOE, however, does not have the resources to follow up on this violation. As stated above, no Smith's Blue Butterflies were found during surveys of the project site and project construction was completed prior to the Snowy Plover's nesting season. Also, an environmental consultant submitted a restoration/mitigation plan for the threatened Monterey Spineflower.

**California Regional Water Quality Control Board:** A conditional waiver of waste discharge requirements and a waiver of water quality certification were issued on August 31, 1999.

**Monterey Regional Water Pollution Control Agency (MRWPCA):** This project called for the construction and maintenance of an underground storm drainage pipeline and appurtenances located on an easement controlled by MRWPCA. MRWPCA issued a letter stating that it was willing to permit construction and maintenance of the project by the City, subject to terms and conditions.

**California Department of Fish and Game:** CDFG issued "An Agreement Regarding Proposed Stream or Lake Alteration" on 7/21/99 and conditioned its approval to require use of a sheet pile cofferdam instead of earthen fill in Del Monte Lake to reduce significant impacts to existing aquatic plants.

**U.S. Fish & Wildlife Service:** The City of Monterey never received approval from USF&WS for the project and USF&WS will not issue an after-the-fact approval letter. It is unclear whether USF&WS will take any enforcement action regarding this lack of approval. Potential species of concern include Smith's Blue Butterfly and the Snowy Plover. As stated above, no Smith's Blue Butterflies were found during surveys of the project site and project construction was completed prior to the Snowy Plover's nesting season.

**Monterey Bay National Marine Sanctuary:** Sanctuary approval was not required because all construction/disturbance took place above the mean high tide level.

### **ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS**

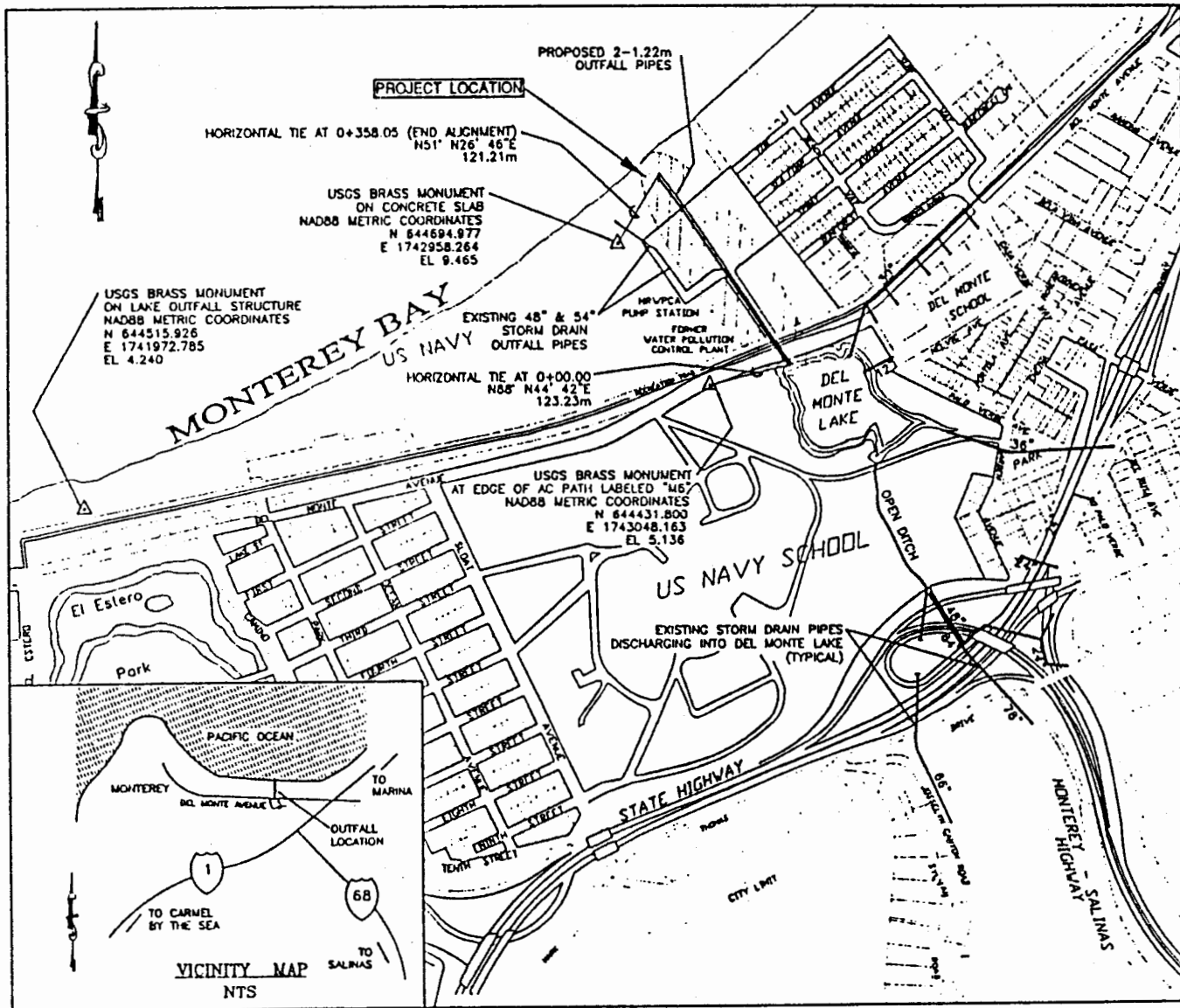
I/We acknowledge that I/we have received a copy of this permit and have accepted its contents, including all conditions.

\_\_\_\_\_  
Applicant's signature

\_\_\_\_\_  
Date of signing



# DEL MONTE LAKE OCEAN OUTFALL REPLACEMENT



**PROJECT LOCATION PLAN AND SHEET INDEX**  
NTS

EXHIBIT NO. <u>1</u>
APPLICATION NO.
<u>3-01-047</u>
<span style="font-family: cursive; font-size: 1.2em; vertical-align: middle;">PR 1 ch 1</span>

## COASTAL COMMISSION

ACT OFFICE  
SUITE 300  
1990



# EMERGENCY PERMIT

Issue Date: **August 17, 1999**

Emergency Permit No. **3-99-031-G**

Tom Reeves  
City of Monterey  
Department of Public Works  
City Hall  
Monterey, CA 93940

### LOCATION OF EMERGENCY

Between Del Monte Lake and the Pacific Ocean, in the Navy dunes area of the City of Monterey, Monterey County.

### WORK PROPOSED

Emergency repairs to existing outfall undertaken during the winter of 1999; replacement and relocation of existing outfall; construction of headwall and rock seawall with lateral public access walkway at outfall discharge point; and, restoration of sand dunes at existing outfall discharge point, as detailed in the Del Monte Lake Outfall Replacement plans prepared by the City of Monterey dated 6/8/99.

This letter constitutes approval of the emergency work that you have requested, as described above. I understand from the information that you submitted that an unexpected occurrence in the form of corrosion and failure of the existing outfall threatens an adjacent sewer line and represents "a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services." (Definition of "emergency" from § 13009 of the California Administrative Code of Regulations.) Therefore, the Executive Director of the Coastal Commission hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of this permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows; and
- (c) As conditioned, the work proposed would be consistent with the requirements of the California Coastal Act of 1976.

The work is hereby approved, subject to the conditions listed on the attached pages.


Sincerely,

**Peter M. Douglas**  
Executive Director

  
By: **Lee Otter**  
District Chief Planner

Enclosures: Emergency Permit Acceptance Form

cc: David Pereksta, U.S. Fish and Wildlife Service  
Scott Kathey, Monterey Bay National Marine Sanctuary  
U.S. Army Corps of Engineers  
Department of the Navy  
California Department of Fish and Game  
Brad Hagemann, Regional Water Quality Control Board  
Keith Israel, Monterey Regional Water Pollution Control Agency

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APPLICATION NO.
3-a-047
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**CONDITIONS OF APPROVAL**

1. The enclosed emergency permit acceptance form must be signed by the applicant and returned to the California Coastal Commission's Central Coast District Office within 15 days of the date of this permit (i.e., by **September 1, 1999**). This emergency permit is not valid unless and until the acceptance form and application fee has been received in the Central Coast District Office.
2. Only that work specifically described in this permit and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director. The rock wall to be constructed adjacent to the new outfall's headwall and energy dissipater shall not exceed the footprint shown in sheet 3 of these plans, and shall be maintained by the City of Monterey within this footprint throughout the life of the structure.
3. The work authorized by this permit must be completed within 120 days of the date of this permit (i.e., by **December 15, 1999**) unless extended for good cause by the Executive Director.
4. The measures authorized by this emergency permit are only temporary. Within 60 days of the date of this permit (i.e., by **October 16, 1999**), the permittee shall submit a complete application for a regular coastal development permit (or waiver thereof) to have the emergency work be considered permanent. The emergency work shall be removed in its entirety within 150 days of the date of this permit (i.e., by **January 14, 2000**) unless before that time the California Coastal Commission has issued a regular permit for the development authorized by this emergency permit or the Executive Director grants an extension due to circumstances beyond the applicant's control.
5. In exercising this permit, the permittee agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Monterey Bay National Marine Sanctuary, California Department of Fish and Game, California State Lands Commission, Regional Water Quality Control Board).
7. Permittee shall engage in no activity that results in pollution of the adjacent marine environment (concurrently comprising a portion of the Monterey Bay National Marine Sanctuary). Such pollution includes, but is not limited to, petroleum residues and increased turbidity. Construction equipment shall not come into contact with Bay waters.
8. Permittee shall insure that heavy equipment operations on and adjacent to the beach and Monterey Recreational Trail are kept to the absolute minimum necessary to complete the emergency measures authorized by this emergency permit. Project staging areas shall be kept to the minimum size necessary, shall be located outside of dune habitats and the recreation trail right-of-way, and shall be restored to their pre-existing condition immediately upon completion of the emergency work. All leaks, drips, and other spills shall be cleaned up immediately and contaminated materials properly disposed of at an off-site location. Equipment shall not be refueled on beach areas. All construction areas shall be delineated to ensure that construction activities do not intrude upon adjacent sensitive dune habitats. Disruptions to public use of the Recreation trail shall be avoided to the greatest degree

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APPLICATION NO.
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feasible; where unavoidable disruptions may occur, they shall be kept to the minimum length of time possible, and appropriate detours and signage shall be provided.

9. Any dewatering required to install the emergency protection measures shall be coordinated with the Executive Director of the Coastal Commission, the Monterey Bay National Marine Sanctuary (if Sanctuary Waters will be affected), the Central Coast Regional Water Quality Control Board, and the City of Monterey, to the greatest degree feasible. All water discharges shall conform to requirements of these agencies.
10. Immediately prior to the commencement of construction within any dune habitat area, and on a daily basis during any construction within such areas, a qualified biologist shall survey the area for Black legless lizards utilizing raking, coverboards, or other biologically acceptable survey method. Surveys should be done in the mornings and evenings, when black legless lizards are most likely to be found. If found, the lizards should be captured and immediately placed into containers with moist paper towels, and released in similar habitat on undisturbed portions of the site at the same depth in the soil as when found, unless otherwise directed by the California Department of Fish and Game.
11. Within 60 days of the date of this permit (i.e., by **October 16, 1999**), permittee shall submit to the Executive Director for review and approval a Restoration and Mitigation Plan which includes: (a) construction procedures and principles that will be used to reestablish natural beach contours within the project area; (b) a plan for revegetating all dune habitat areas disturbed during construction with an equal or greater number of the same type of native dune plants disturbed or removed during construction; (c) a plan for restoring beach sand quality through removal of all stray rock fragments, debris, and all excess construction and stockpiled materials<sup>1</sup>; and (d) provisions for the removal of all portions of the existing outfall pipe and rip rap structure that will not be completely buried by therecontoured dunes. Any outfall pipe or rip rap that may become exposed at the existing outfall location in the future shall be removed by the City of Monterey within two months of its exposure. Prior to conducting any such removal activities, the City of Monterey shall consult with Commission staff regarding the need for additional coastal development review and approval.
12. Failure to comply with the conditions of this approval will result in enforcement action under the provisions of Chapter 9 of the Coastal Act.
13. The issuance of this emergency permit does not constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Chapter 9 of the Coastal Act.

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APPLICATION NO.
3-91-047
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<sup>1</sup> If there is any excess sand stockpiles on the site, plans for its disposal shall be reviewed and approved by the Executive Director.

