

CALIFORNIA COASTAL COMMISSION

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**Tu3a**

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Date Filed: 3/7/02
49th Day: 4/25/02
Staff: MVC-SF
Staff Report: 03/20/02
Hearing Date: 04/9/02

ADMINISTRATIVE PERMIT

Application No.: E-01-018

Project Applicant: Santa Monica BayKeeper / Orange County Coastkeeper

Project Location: Two restoration areas (each 2,000 square meters), one located in state waters offshore Malibu, Los Angeles County, and the other in state waters offshore Crystal Cove, Orange County (See Exhibits 1 and 2)

Project Description: Using rubber bands or rope, 1) outplant lab-grown juvenile kelp plants grown on tile, and 2) transplant kelp removed from the natural marine environment to rocky reef substrate.

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: Public Resources Code § 30624 provides that this permit shall not become effective until it is reported to the Commission at its next scheduled meeting. If one-third or more of the appointed Commissioners so request, the Executive Director's permit issuance shall not be effective, and the application shall be set for public hearing at a subsequent Commission meeting. This permit will be reported to the Commission at the following time and location:

DATE: April 9, 2002
TIME: 9 A.M.
PLACE: Radisson Santa Barbara
1111 E. Cabrillo Blvd.
Santa Barbara, CA 93103
(805) 963 0744

IMPORTANT – Before you may proceed with development, the following must occur:

Pursuant to 14 CCR §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 it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU MAY PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

PETER M. DOUGLAS
Executive Director

By: _____
ALISON J. DETTMER
Manager
Energy and Ocean Resources Unit

ACKNOWLEDGEMENT OF PERMIT RECEIPT AND ACCEPTANCE OF CONTENTS:

The undersigned permittees acknowledge receipt of this permit and agree to abide by all terms and conditions thereof.

The undersigned permittees acknowledge that Government Code § 818.4 states in pertinent part that: "A public entity is not liable for injury caused by issuance ... of any permit" applies to issuance of this permit.

Applicant's Signature _____ Date _____

Co-Applicant's Signature _____ Date _____

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 of 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.

SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Project Term.** This permit shall expire five years from the date of permit issuance, unless before that date the applicant obtains approval of an amendment to this permit to extend its term. The permit amendment application shall include a five-year summary report assessing the success of the kelp restoration project as compared to control sites and baseline biological data.
2. **California Department of Fish and Game Letter of Permission.** By January 30 of each year, the applicant shall submit to the Executive Director copies of each new Letter of Permission issued by the California Department of Fish and Game ("CDFG") for the proposed project for each restoration area.
3. **Monitoring and Reporting Requirements.** By January 1 of each year, the applicant shall submit to the Executive Director annual monitoring reports with the following information: (a) documentation of the number of juvenile kelp plants outplanted and the number of kelp plants transplanted; (b) identification and description of unmanipulated control sites and baseline existing biological characteristics prior to project commencement; (c) documentation and assessment of the success of outplanting and recruitment activities as compared to baseline conditions and unmanipulated control sites.

4. **Exclusionary Devices.** The applicant shall not use or install mesh nets or any other exclusionary devices at the project sites.
5. **Alteration of Natural Community.** The applicant shall not alter the natural communities of the marine environment in any way other than that authorized by the CDFG in its annual Letters of Permission and by this permit.

1.0 EXECUTIVE DIRECTOR'S DETERMINATION

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to PRC § 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit. Subject to Standard and Special Conditions, the proposed development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act.

2.0 FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

2.1 Project Description and Location

Santa Monica Baykeeper and Orange County Coastkeeper propose to perform kelp restoration activities in state waters offshore Malibu and Crystal Cove. (See Exhibits 1 and 2.) Santa Monica Baykeeper proposes to restore kelp in Santa Monica Bay offshore Malibu in state waters in the Escondido Beach Area: N 34° 01' 15.1", W 118° 48' 26.5". Orange County CoastKeeper proposes to restore kelp offshore Crystal Cove in state waters at Wheeler's Reef and Toller's Reef: N 33° 34' 28.1", W 117° 50' 46.9". From these center coordinates for each restoration area, the applicants propose to restore four 500 meters square sites, so that each restoration area is 2,000 meters square for a total of 4,000 square meters. Both restoration areas are situated more than 100 meters offshore, in water depths greater than 10 meters.

The applicants' goal is to restore kelp populations in locations that historically supported kelp. The applicants observe that historic kelp canopy coverage charts and biomass estimates indicate significant declines in kelp coverage over the last forty years along the Southern California bight. In the manner described below, the applicants propose to restore kelp consisting of juvenile kelp outplanting (*i.e.*, lab-grown and then attached to natural substrate) and kelp transplanting (*i.e.*, transporting kelp material from the natural environment and attaching it to natural substrate at a restoration site). The majority of the restoration effort will depend upon lab-grown kelp outplanting. In all cases, the applicants propose to restore *Macrocystis pyrifera*, giant kelp.

Juvenile kelp plants will be grown at a shared mariculture facility at the Southern California Marine Institute. Each juvenile kelp plant will be cultured individually on 0.5 inch by 4 inch non-glazed, non-leaded ceramic tiles in aquaria. Juvenile plants will be grown until they reach sufficient size (approximately 5 cm) to be planted at the restoration areas. The juvenile kelp plants will be transported to the restoration areas, and divers will then attach the kelp and the tiles to subtidal reef substrate with natural latex biodegradable rubber bands. When these plants

have grown enough to attach themselves to the reef substrate (8-12 months), divers will remove all rubber bands and tiles. The applicants propose to install approximately 1,500 juvenile kelp plants at each restoration area using a maximum of 2,000 tiles (the extra tiles allow for some kelp mortality), for a total tile coverage area of less than 3 meters square for both restoration areas.

In addition to outplanting lab-grown juvenile kelp, Orange County Coastkeeper proposes to transplant kelp with reproductive material at the Crystal Cove restoration area to act as a spore source to encourage natural kelp recruitment. Orange County Coastkeeper received permission from CDFG to harvest mature and juvenile kelp from inside the breakwaters of the Newport and Dana Point Harbors for use at the Crystal Cove restoration area. CDFG also authorized Santa Monica Baykeeper to gather drift kelp from Santa Monica Bay for use at the Malibu/Escondido Beach restoration area. The drift kelp at the Escondido Beach restoration area will be temporarily attached to reef substrate with organic rope, and is intended to act as a "decoy" for herbivorous organisms in the perimeter of the project area, reducing grazing pressure on the juvenile outplanted kelp. All rope will be removed as soon as the rope is no longer needed to secure the kelp (*i.e.*, the plant has died, or has attached itself to the substrate).

Because the Escondido Beach restoration area is considered to be "urchin barren" (an area largely devoid of kelp and other growth due to sea urchin overpopulation – likely related to absence or decreased numbers of urchin predators such as sea otters and lobsters), the CDFG gave Santa Monica Baykeeper authorization to remove sea urchins found within the restoration areas to waters away from the project restoration areas. Sea urchins graze on kelp, and could eliminate outplanted kelp plants if they are found in sufficient densities within the project restoration area. However, CDFG did not grant permission for sea urchins to be moved from the Orange County restoration area because its site characteristics were more balanced and sea urchins are not present there in such large numbers.

Eight to twelve months after outplanting (varying by individual plant), tiles and rubber bands can be removed from the reef and the maturing kelp plant. This process involves severing the haptera (an individual branch of the holdfast) from the tile and cutting the rubber band and removing them. By that point in its growth, the kelp plant's holdfast will have become attached to the rocky reef and will have no further need for the tile. Removal of the attachment materials will not harm the kelp or other marine resources. The applicants will assess the need for material removal during visual surveys that will take place every three months. Outplanted tiles will be counted and recorded in a database so that all tiles are accounted for at each restoration area.

The applicants propose to monitor the restoration sites and control sites adjacent to the targeted restoration areas during all phases of the project to assess the growth and mortality of outplanted and transplanted kelp plants as well as any new kelp recruitment. At both restoration areas, volunteer diver monitors will use sampling protocols established for the Catalina Conservancy Divers and Channel Islands National Park to measure the temporal and spatial variability of kelp plants.

Project success will be evaluated based on the following factors: (1) the number of new kelp recruits and viable outplanted individuals present in restoration areas compared to the control sites; (2) changes in species abundance and diversity in restored areas; and (3) persistence of new

kelp populations over time. Diver monitoring of the restoration areas will occur one month after each initial kelp outplanting or transplanting to survey kelp mortality rates and to assess the health of the outplants. Visual surveys will be conducted every three months, and data collection will be conducted biannually each fall and spring at minimum. Techniques for data collection will include: substrate survey, roving fish count, band transects, quadrats, and size/frequency distribution of sea urchins. Perimeter markers and transect lines will be removed immediately following each survey. Control sites have been chosen based on criteria that most closely resemble the restoration areas, including substrate type, depth, reef heights, and macroalgal densities. All control sites will be within 100 meters of the restoration areas.

2.3 Related Approvals

2.3.1 California Department of Fish and Game

The California Department of Fish and Game ("CDFG") has issued two one-year Letters of Permission for the proposed project. CDFG issued a January 29, 2002 letter valid through December 31, 2002 to Orange County Coastkeeper authorizing kelp restoration in the Crystal Cove area, and authorizing kelp to be harvested from the Newport and Dana Point Harbors for transplanting with the following restrictions: (1) A maximum of 12 adult plants and 200 juvenile plants may be transplanted within any one calendar month; (2) a maximum of 5% of any kelp bed may be removed within one calendar year; and (3) no rock, 6 inches or larger, in any dimension, may be moved from any existing reef site. The CDFG letter prohibits the applicant from the following: removing or destroying sea urchins; excluding herbivorous fish through the use of mesh nets; or altering the natural community in any way beyond translocation of kelp and transplanting of lab grown sporophytes. CDFG also issued a Scientific Collecting Permit to Santa Monica Baykeeper for the purpose of collecting sporophylls (the reproductive blades located near the base of the giant kelp plant just above the holdfast) for lab culture.

CDFG also issued a February 11, 2002 letter valid through December 31, 2002 to Santa Monica Baykeeper authorizing the applicant to gather drift kelp for transplanting purposes and to transplant drift kelp and outplant the lab-grown kelp in the Escondido kelp restoration area with the following restrictions: (1) scientific collecting permits for collecting sporophylls for lab culture are required; (2) permission to move purple sea urchins out of the immediate kelp transplant areas was granted; (3) the applicant was prohibited from excluding herbivorous fish around kelp plants; (4) the natural community cannot be altered in any way not specifically outlined in the CDFG letter; (5) the applicant is responsible for obtaining permission from local parks for transplanting and outplanting of kelp, where applicable; and (6) upon completion of project activities for 2002, Santa Monica Baykeeper is required to provide a written report of annual restoration activities for CDFG staff review.

2.3.2 Department of Parks and Recreation

The Department of Parks and Recreation issued a September 14, 2001 letter in support of the portion of the proposed project in Crystal Cove State Underwater Park.

2.3.3 State Lands Commission

In April 2002, the State Lands Commission plans to issue leases for these restoration sites and as lead CEQA agency is exempting the project as "not a project which will have a potential for causing a significant effect on the environment." (Section 15061(b)(3) California Code of Regulations)

2.3.4 California Regional Water Quality Control Board

The California Regional Water Quality Control Board, Santa Ana Region, issued a July 26, 2001 letter stating that no permit will be required for the proposed project.

2.3.5 National Marine Fisheries Service

The National Marine Fisheries Service ("NMFS") issued a July 24, 2001 letter stating that no permit is required with a determination that the proposed project will not cause any adverse impacts to marine resources of concern to NMFS.

2.3.6 U.S. Fish and Wildlife Service

The U.S. Fish and Wildlife Service issued a January 28, 2002 letter stating that no environmental impacts will result from the proposed project.

2.3.7 U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers ("ACOE") plans to authorize the proposed project (Army Corps reference number 200101228-RLK) under Nationwide Permit Number 27. The ACOE will require a post construction report to be submitted to ACOE within 30 days of completion of transplant operations to (a) document project operations and the number of plants transplanted or outplanted; (b) identify survey protocols; and (c) characterize the existing marine biological baseline condition. Reports must be submitted to ACOE annually for five years.

2.4 Coastal Act Issues

2.4.1 Marine Resources

Coastal Act § 30231 states in part:

The biological productivity of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored...

The purpose of the proposed project is to restore the Southern California bight's kelp population, which serves section 30231's goal of restoring marine resources. However, the proposed kelp restoration activities could potentially impact marine resources by: (1) disrupting existing kelp

beds from which kelp is harvested; (2) disrupting sea urchins located at restoration areas; and (3) disturbing hard bottom habitat due to placement of kelp attachment materials.

The proposed project includes taking adult and juvenile kelp plants from existing kelp beds and transplanting them in the proposed restoration areas. The potential disruption of existing kelp beds from which kelp is harvested and potential impacts to sea urchins due to sea urchin relocation fall within the jurisdiction of the California Department of Fish and Game ("CDFG"). The Fish and Game Code (§6653 and §6750) provides the Fish and Game Commission ("F&GC") with the authority to establish regulations as may be necessary to ensure the proper harvesting of kelp and aquatic plants for commercial and sport purposes.¹ The CDFG is the lead agency responsible for managing giant kelp (*Macrocystis pyrifera*) pursuant to commercial and sport fishing regulations (14 CCR §30 and § 165).

CDFG issued a Letter of Permission to Orange County Coastkeeper authorizing kelp transplanting and outplanting in the Crystal Cove area, and kelp harvesting from the Newport and Dana Point Harbors for transplanting with the following restrictions: (1) A maximum of 12 adult plants and 200 juvenile plants may be transplanted within any one calendar month; (2) a maximum of 5% of any kelp bed may be removed within one calendar year; and (3) no rock, 6 inches or larger, in any dimension, may be moved from any existing reef site. The CDFG letter prohibits the applicant from the following: removing or destroying sea urchins; excluding herbivorous fish through the use of mesh nets; or altering the natural community in any way beyond translocation of kelp and transplanting of lab grown sporophytes.

CDFG issued a second Letter of Permission to Santa Monica Baykeeper authorizing the applicant to gather drift kelp from Santa Monica Bay for transplanting purposes and to outplant lab-grown kelp and in the Escondido kelp restoration area with the following restrictions: (1) Scientific Collecting Permits for collecting sporophylls for lab culture was required; (2) permission to move purple sea urchins out of the immediate kelp transplant areas was granted; (3) the applicant was prohibited from excluding herbivorous fish around kelp plants; (4) the natural community cannot be altered in any way not specifically outlined in the CDFG letter; (5) the applicant is responsible for obtaining permission from local parks for transplanting and outplanting of kelp, where applicable; and (6) upon completion of project activities for 2002, Santa Monica Baykeeper is required to provide a written report of annual restoration activities for CDFG staff review. In addition, CDFG issued a Scientific Collecting Permit to Santa Monica Baykeeper for the purpose of collecting sporophylls for lab culture.

The different requirements and restrictions imposed by CDFG are based on the different site characteristics and proposals for each of the restoration areas. Because the Escondido Beach restoration area is considered to be "urchin barren" (an area largely devoid of kelp and other

¹ Under §6650, the F&GC may establish license and permit requirements; establish fees and royalties; require report of take; establish open and closed seasons; establish or change possession limits; establish and change area or territorial limits for harvesting; and prescribe the manner and the means of taking kelp and aquatic plants for commercial purposes. Under §6750, the F&GC may establish, extend, shorten or abolish open seasons and closed seasons; establish, change, or abolish bag limits, possession limits, and size limits; establish and change areas or territorial limits for taking; and prescribe the manner and means of taking kelp and aquatic plants for recreational purposes.

growth due to sea urchin overpopulation – likely related to absence or decreased numbers of urchin predators such as sea otters and lobsters), Santa Monica Baykeeper also received permission from CDFG to remove sea urchins found within the restoration areas to waters away from the project restoration areas. Sea urchins graze on kelp, and could eliminate outplanted kelp plants if they are found in sufficient densities within the project restoration area. However, CDFG did not grant permission for sea urchins to be moved from the Orange County restoration area because its site characteristics were more balanced and sea urchins are not present there in such large numbers.

The Fish and Game Commission's regulation through its Letters of Permission of kelp and sea urchin harvesting and/or removal constitutes a "wildlife...management program" within the meaning of that term as it is used in Section 30411(a) of the Coastal Act. That provision prohibits the Coastal Commission from "establish[ing] or impos[ing] any controls with respect to [any such program] that duplicate or exceed regulatory controls established by" the Fish and Game Commission. However, **Special Condition 2** requires the applicant to submit to the Executive Director copies of each new Letter of Permission issued by CDFG for the proposed project for each restoration area, by January 30 of each year. The Commission will thereby be kept informed of the status of CDFG's regulation of the proposed project.

The third potential impact is disruption of existing low and medium relief hard bottom habitat at the restoration areas due to temporary placement of kelp attachment materials consisting of the following: approximately 2,000 small 0.5' x 4' ceramic tiles in each of the two restoration areas; natural latex rubber bands; and organic rope. The total area of hard bottom that would be covered by tiles at both restoration areas is approximately 3 meters square.

The applicant proposes to remove all attachment materials as soon as plants are mature enough to be independently attached to the substrate. The applicants successfully removed tiles from an earlier outplanting of kelp plants at test restoration sites. Eight to twelve months after outplanting, tiles and rubber bands can be removed from the reef and the maturing kelp plant. Mature kelp holdfasts will have become attached to the rocky reef and will have no further need for the tile. The removal process involves severing the haptera (an individual branch of the holdfast) from the tile and cutting the rubber band and removing the attachment materials. Removal of the attachment materials will not harm the kelp or hard bottom. The applicants will assess the need for attachment material removal during visual surveys that will take place every three months. Based on the small area impacted, and the temporary placement of tiles and rubber bands, the hard substrate will not be adversely impacted.

Evidence of the success of kelp restoration efforts of the type proposed in the proposed project is inconclusive. Previous kelp restoration projects have had mixed results.² The proposed project will have at most a neutral impact, and it may have a positive impact if kelp recruitment does occur at the restoration areas. In order that the project is monitored appropriately so that a clear determination of the project's success or failure can be made, **Special Condition 3** requires the applicant to submit to the Executive Director annual monitoring reports with the following information: (a) documentation of the number of juvenile kelp plants outplanted and the number

² See the California Department of Fish and Game's report *California's Living Marine Resources: A Status Report*, pp. 280-281, December 2001.

of kelp plants transplanted; (b) identification and description of unmanipulated control sites and baseline existing biological characteristics prior to project commencement; and (c) documentation and assessment of the success of outplanting and recruitment activities as compared to baseline conditions and unmanipulated control sites.

Special Condition 1 requires that this permit expire five years from the date of permit issuance, unless on or before that date the applicant obtains an amendment to this permit to extend its term. The permit amendment application shall include a 5-year summary report assessing the success of the proposed kelp restoration project as compared to control sites and baseline biological data. After five years, the Commission can then assess the success or failure of such a kelp restoration effort.

The Executive Director further imposes **Special Condition 4** to prohibit the applicant from using mesh nets or any other exclusionary devices that could interfere with the natural movements of fish and other aquatic organisms. In addition, **Special Condition 5** prohibits the applicant from altering the natural communities of the marine environment in any way other than that authorized by CDFG in its Letters of Permission and by this permit.

Hence, the Executive Director concludes that as conditioned the project will be carried out consistent with Coastal Act section 30231.

2.4.2 Public Access and Recreation

Coastal Act § 30220 states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Coastal Act § 30234.5 states:

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

The proposed project offers volunteer divers recreational opportunities to perform kelp restoration work and monitoring. The applicants will use small recreational boats to support the volunteer divers, and the boats will be located only temporarily in the restoration areas when kelp outplanting, transplanting, monitoring or surveying activities are taking place. If restoration is successful, recreational opportunities for scuba diving, fishing, and kayaking may be enhanced.

Escondido Beach is considered to be one of the best diving locations in Santa Monica Bay. Santa Monica Bay is a major tourism destination, with over 60 million visitors to its beaches each year. Popular forms of marine recreation include sport fishing, swimming and boating.³ The restoration area is offshore from the Santa Monica Mountains National Recreation Area.

Crystal Cove State Park is a 2,791-acre park with 3.5 miles of beach, with offshore waters (approximately 1,100 subtidal acres) designated as an underwater park. This underwater park extends to the 120-foot depth profile. Offshore recreational uses include scuba and skin diving and swimming. Swimmers, surfers, and tide pool explorers use the beach. The California Department of Parks and Recreation issued a letter observing that kelp forests historically grew on most of the rocky intertidal areas up to the 80-90 foot profile, approving the proposed project.

The proposed kelp restoration project will not interfere with the public's right of access to the sea or along the shoreline because it does not involve any construction on land or preclude water-oriented recreational activities at the restoration areas. To further ensure that the project will not interfere with the public's use of the sea, **Special Condition 4** prohibits the placement of any mesh nets or other exclusionary devices.

Hence, the Executive Director concludes that, as conditioned, the project will be carried out consistent with Coastal Act sections 30220 and 30234.5.

4.4.2 Placement of Fill in Coastal Waters

Coastal Act section 30108.2 defines "fill" as "earth or any other substance or material, including pilings placed for purposes of erecting structures thereon, placed in a submerged area." The ceramic tiles, rubber bands, and ropes that will be used to attach the kelp plants to reef substrate constitute fill as that term is defined in Coastal Act section 30108.2.

Coastal Act § 30233(a) states in part:

The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged depths on existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant*

³ Santa Monica Bay Restoration Project, Public Summary of the Santa Monica Bay Restoration Plan, 11.

to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

Coastal Act section 30233(a) permits fill in coastal waters if three tests are met. The first test requires that the project fit into one of the eight categories of uses permitted for open coastal water fill enumerated in Coastal Act section 30233(a). The Commission finds that the proposed kelp restoration activities are clearly allowed under use number (7), "restoration purposes."

The second test requires that there be no feasible less environmentally damaging alternative. The proposed kelp restoration project is designed to have no negative impact on the marine environment, and in fact is intended to restore diminished kelp populations. The proposed attachment materials are the minimum required to achieve the project goal of kelp outplanting and transplanting, and the applicants then propose to remove all artificial materials from the restoration areas. Therefore, the Commission finds that the proposed restoration project has no feasible less environmentally damaging alternative.

The final requirement of Coastal Act section 30233(a) is that filling of coastal waters may be permitted if feasible mitigation measures have been provided to minimize any adverse environmental effects. As described in section 2.1 of this report, the "fill" material at issue here consists of small tiles and rubber bands that will be removed 8-12 months after out-planting an individual plants. Since the area of fill will be temporary and limited to three square meters, the Executive Director concludes that the third and final test of section 30233(a) has been met.

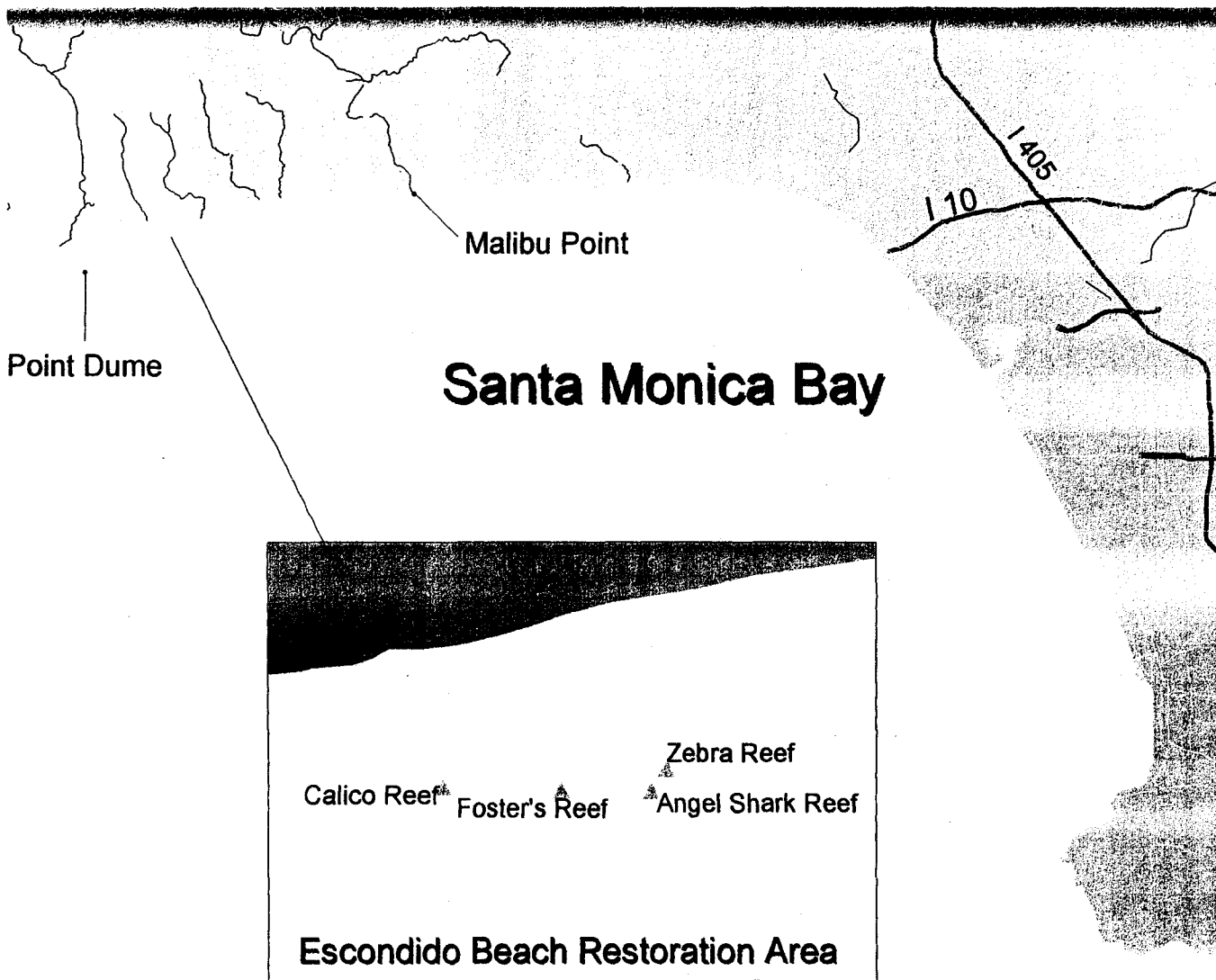
Because the three tests have been met, the Executive Director finds the proposed project consistent with section 30233(a) of the Coastal Act.

3.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA")

The Commission's permit process has been designated by the State Resources Agency as the functional equivalent of the California Environmental Quality Act ("CEQA") environmental impact review process. Pursuant to section 21080.5(d)(2)(A) of the CEQA and section

15252(b)(1) of Title 14, California Code of Regulations ("CCR"), the Executive Director may not approve a development project "if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment." The Executive Director finds no feasible less environmentally damaging alternatives or additional feasible mitigation measures other than those identified herein, that would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Executive Director finds that the project as fully conditioned is consistent with the requirements of CEQA.

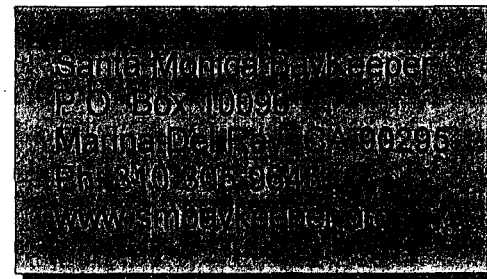
Santa Monica BayKeeper Kelp Restoration



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- Primary road with limited access
- Primary road
- Secondary and connecting road
- Cablkgrp.shp



EXHIBIT NO. 1
APPLICATION NO.
E-01-018



Created for Santa Monica BayKeeper
January 25, 2002
Julie M. Barr

Crystal Cove Restoration Area

Orange County CoastKeeper
 Kelp Restoration Project
 Contact: Nancy Carusso
 441 Old Newport Blvd. Ste. 105
 Newport Beach, CA 92663
 kelpkeeper@mindspring.com
 www.coastkeeper.org

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- Major RiversCarivers.shp
- Cards.shp
- Primary road with limited access
- Primary road
- Secondary and connecting road
- CaliforniaHucs00p020.shp
- Water BodiesHydrogp020.shp



Created: February 26, 2001
 California CoastKeeper Alliance

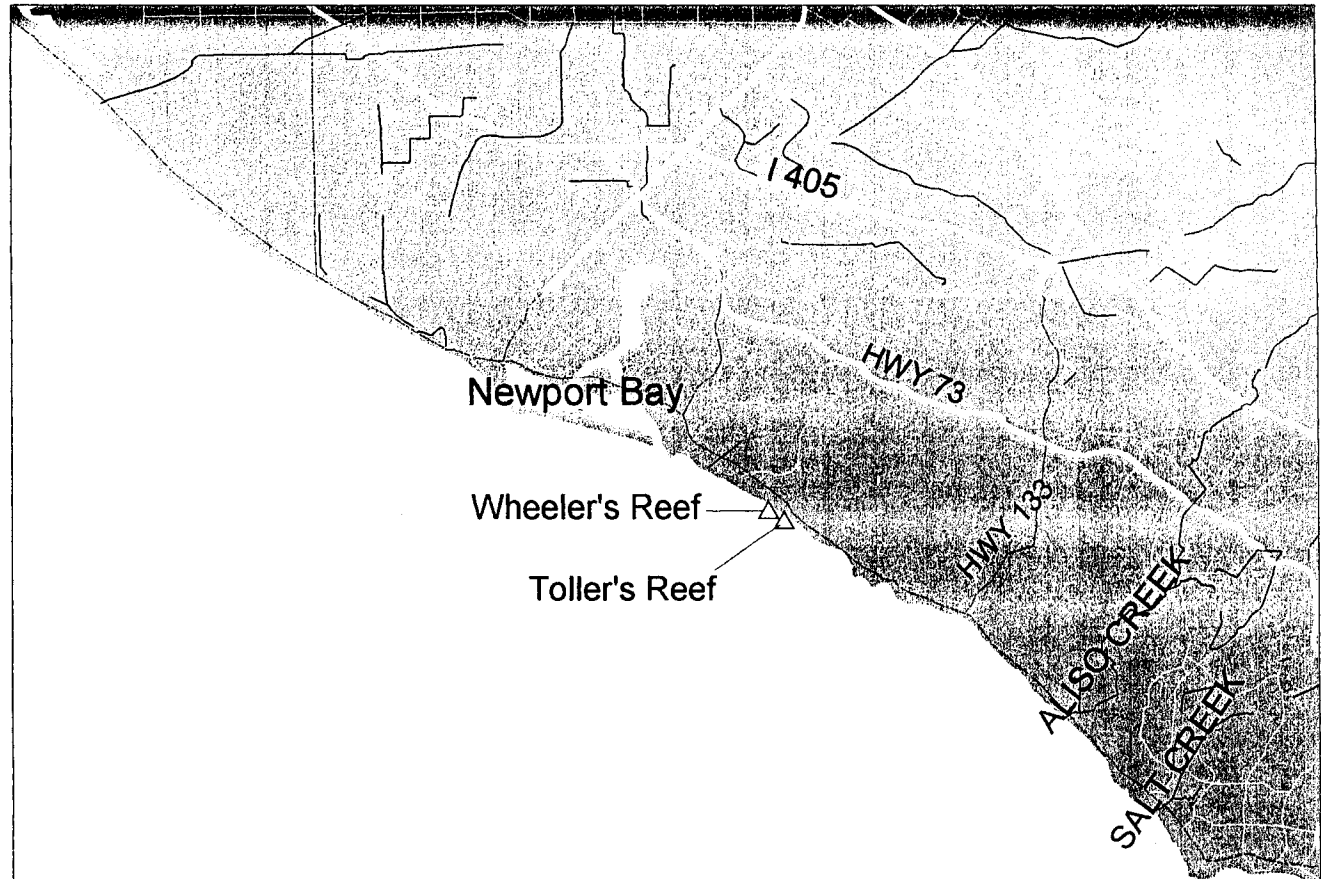


EXHIBIT NO. 2

APPLICATION NO.

E-01-018

