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Date Filed: April 13, 2007
49th Day: Waived
Staff: DL-SF
Staff Report: May 23, 2007
Hearing Date: June 15, 2007

STAFF REPORT
COASTAL DEVELOPMENT PERMIT AMENDMENT AND MODIFIED CONSISTENCY CERTIFICATION

CDP Amendment Application No.:	**E-98-027-A3**
Consistency Certification No.:	**CC-041-00**
Applicant:	**PAC Landing Corporation**
Project Location:	State and federal waters offshore Grover Beach, San Luis Obispo County
Project Description:	Modify Special Condition 6 of the original permit (E-98-027) and consistency certification (CC-041-00), to require periodic surveys of the undersea cables every five years, rather than every 18-24 months as originally approved.
Substantive File Documents:	See Appendix A

SUMMARY

In July 2000, the Commission approved coastal development permit E-98-027 and concurred with consistency certification number CC-041-00 for the installation, operation, and maintenance of the Pan American Crossing (PAC) cable system and the PC Landing (PC) cables in State and federal waters (Exhibit 1). Both cable systems were installed between August 2000 and March 2001.

Key Coastal Act issues addressed in the findings for the original permit include potential adverse affects 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 entangle and drown marine mammals or other marine wildlife. To prevent potential adverse impacts associated with entanglement, **Special Condition 4** of the original permit required the applicant to bury the cables to a depth of 1.0 meter except where precluded by seafloor substrates. **Special Condition 6** requires that every 18 to 24 months for the life of project, the applicant shall survey the cable routes to verify that the cables remain buried. If the cable survey indicates that previously buried cable has become unburied, the applicant is required to re-bury the cable segments.

In December 2005, the Commission approved changing the survey interval from every 18-24 months to every five years for the PC-1 cable only. This proposed permit amendment and modification to the consistency certification covers the PAC cable system only.

The results of the 2001 post-lay inspection survey and two periodic surveys completed in 2003 and 2005 demonstrate that buried cable remains buried. The applicant therefore proposes to reduce the frequency of the periodic surveys for the PAC cable segment in State and federal waters from once every 18 to 24 months to once every five years. Since buried cable has remained buried over time, changing the frequency of the burial surveys from every two years to every five years will not 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). The Central California Joint Cable/Fisheries Liaison Committee supports the proposed five-year survey interval. Staff recommends the Commission approve the proposed permit amendment and concur with the applicant's modified consistency certification.

1 STAFF RECOMMENDATION

1.1 Coastal Development Permit Amendment: Approval

The staff recommends approval of coastal development permit amendment application number E-98-027-A3.

Motion

> *I move that the Commission approve the proposed amendment to coastal development permit E-98-027.*

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

Resolution

> *The Commission hereby approves coastal development permit amendment E-098-027-A3, and adopts the findings set forth below on grounds that the development, as amended, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the amended 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.*

1.2 Modified Federal Consistency Certification: Concurrence

Staff recommends concurrence with the modification to consistency certification number CC-041-00.

Motion

> *I move that the Commission concur with PAC Landing Corporation's modification to consistency certification CC-041-00 for the proposed change in survey intervals, finding that, 1) the coastal zone effects are not substantially different than originally described, and 2) the project, as modified, continues to be consistent with the enforceable policies of the California Coastal Management Program.*

The staff recommends a **YES** vote. A majority vote in the affirmative will result in the adoption of the following resolution:

Resolution

The Commission hereby concurs with the modified consistency certification made by PAC Landing Corporation, finding that the project, as modified, does not have coastal zone effects that are substantially different than the project as originally reviewed, and that the project continues to be consistent with the California Coastal Management Program.

2 PROPOSED AMENDMENT AND MODIFICATION

Special Condition 6 of the original coastal development permit (CDP) E-098-027 required periodic cable inspection surveys in State waters every 18 to 24 months for both the PC Crossing and PAC landing cable systems. In its consistency certification, CC-041-00, the applicant 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, the applicant is required to re-bury the cable segments.

On February 9, 2006, the Commission approved an amendment to the permit, E-98-027-A2, extending the burial survey period from 18 – 24 months to 5 years for the PC Crossing cable systems. The amendment currently before the Commission is to amend **Special Condition 6** to allow a five-year burial survey period on the PAC Landing cable system only.

The results of the 2001 post-lay inspection survey and two periodic surveys completed in 2003 and 2005 demonstrate that buried cable remains buried. The applicant therefore proposes to reduce the frequency of the periodic surveys for the PAC cable segments in State and federal waters from once every 18 to 24 months to once every five years.

The revised special condition set forth below supersedes and replaces **Special Condition 6** approved by the Commission in E-98-027-A2. The revisions are illustrated by strikethroughs for deletions and underlining for additions. All other requirements of the Commission's approval of CDP E-98-027, 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.

6. **Cable Surveys.** The applicants shall survey the cable routes from the mean high tide line to the seaward extend of the territorial waters of the State of California to verify that the cables have remained buried consistent with the as-built cable burial plan required by Special Condition 5. A third party approved by the Executive Director with a remotely operated vehicle ("ROV") equipped with video and still cameras shall conduct the survey. Within 30 days of survey completion, the applicants shall submit to the Executive Director a report describing the results of the survey. If the survey shows that a segment(s) of a cable is no longer buried consistent with the as-built cable burial plan required by Special Condition 5, the applicants shall, within 30 days of survey completion, submit to the Executive Director for approval a plan to re-bury those cable segments.

(a) PC-1 Cable Segments. The cable surveys as described above shall be performed for the PC-1 cable segments (i.e., PC-1E and PC-1S) once every five years for the life of the project.

(b) PAC Cable Segment. The cable surveys as described above shall be performed for the PAC cable segment once every five years~~18 to 24 months~~ for the life of the project.

3 RELATED AGENCY APPROVALS

State Lands Commission

The applicant has entered into a lease (No. PRC 8152.1) with the State Lands Commission (CSLC) that authorizes the laying of the subject cable segments across State-owned submerged lands and tidelands. This lease requires periodic surveys on the same schedule as the existing requirement of the CDP, that is, once every 18 to 24 months. In April 2007, the applicant applied to CSLC to extend the survey requirements of its lease. That application is pending.

The State Lands Commission's lease currently gives, and would continue to give, the SLC authority to require the applicant to perform additional surveys of the cable in the event of natural or human-caused events that may uncover and expose the cable. Examples of qualifying events that could trigger an additional survey include a major earthquake, or notification from a commercial fisherman that a trawl net has snagged a previously-buried cable segment.

4 FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

4.1 Project Background

PAC Landing Corporation leases certain submerged lands adjacent to Pismo State Beach in the City of Grover Beach, San Luis Obispo County, as a non-exclusive right-of-way in connection with the construction, installation, operation, maintenance, and use of the PAC submarine cable system, an oceanic telecommunications fiber optic cable system. In July 2000, the Commission approved coastal development permit (CDP) E-98-027 and consistency certification number CC-041-00 for the installation, operation, and maintenance of the cables in State and federal waters. The PAC cables were installed between August 2000 and January 2001.

The PAC system consists of one segment of cable in State and federal waters. The cables have been extended onshore approximately one mile to the applicant's existing fiber optic cable terminal building in Grover Beach, and from there connect to the existing fiber optic cable network facilities near the City of San Luis Obispo. Exhibit 1 provides a vicinity map for the offshore segments of the cables.

The original permit and consistency certification authorized three cable segments for two co-applicants: the PC cable segments—including PC South and PC East—owned and operated by

PC Landing Corporation; and the PAC segment, owned and operated by PAC Landing Corporation. At the time of the original project review, both PC Landing Corporation and PAC Landing Corporation were subsidiaries of Global Crossing Ltd. Since the cables were approved and installed, however, only PAC Landing Corporation is still a wholly owned subsidiary of Global Crossing Ltd. The application currently before the Commission is an application by PAC Landing Corporation only, and applies to the PAC segment only.

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, those 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 entangle and drown marine mammals or other marine wildlife.

To prevent potential adverse impacts associated with entanglement, **Special Condition 4** of the original permit required the applicant to bury the cables to a depth of 1.0 meter except where precluded by seafloor substrates. Where a 1.0 meter burial depth could not be achieved, the applicant was required to bury the cables to the maximum depth feasible. During construction, the applicant buried approximately 96% of the cable to a target depth of 0.6 to 1 meter (2 to 3.3 feet) within State waters and out to the 1,000-fathom water depth in federal waters (a distance of about 70 nautical miles). Seaward of the 1,000-fathom depth contour, the cables were laid on the ocean floor.

To help ensure the cables remain buried, the Commission required **Special Conditions 5 and 6. Special Condition 5** requires the applicant to submit to the Executive Director the as-built plans for the cables, including cable burial depths. **Special Condition 6** requires that every 18 to 24 months for the life of project, the applicant shall survey the cable routes to verify that the cables remain buried. If the survey indicates that a segment of the cable is no longer buried consistent with the as-built cable burial plan, the applicant must re-bury the cable.

4.2 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) requires 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, the applicants submitted a modified consistency certification to the Coastal Commission on May 3, 2007. The applicant has certified that the proposed activity complies with California's approved coastal management program (CCMP) and will be conducted in a manner consistent with the CCMP.

4.3 Cable Survey History and Findings

The PAC cable installation was completed in March 2001, as noted in Table 1 below. The positions and conditions recorded during installation and post-lay inspection and burial operations established the "as-built" cable conditions.

Table 1: PAC Offshore Cable Installation and Survey Timeline, 2000 to 2005

DATE	ACTIVITY
20 September 2000	Offshore bore completed for PAC cable.
2 October 2000	Cable pulled through bore to beach manhole.
7 October 2000	Completed plow burial to 1000 m water depth (plow operating depth).
16 October 2000	Completed final splice of nearshore- and offshore-originating cables, and final testing.
4 March 2001	Post Lay Inspection and Burial (PLIB) completed.
May 2001	Deepwater survey conducted in water depth >1000 m.
January/February 2002	Re-lay completed in deep water section to correct exposed cable.
May 2003	Completed the first burial verification survey from inshore of the bore exit to 1000 fathoms water depth.
June 2005	Completed the second burial verification survey from inshore of the bore exit to 1000 fathoms water depth.

In May 2003, PAC Landing Corporation completed the first burial inspection survey of the PAC cable, from just inshore of the bore exits to the 1000-fathom contour, using both a protocol and a survey contractor that were pre-approved by the Commission and CSLC. The survey lasted approximately 12 days and the survey report was submitted to the agencies in June 2003.

The 2003 survey produced a burial graph of the cable overlaid on installation burial records to compare the two data sets. The 2003 report noted consistency with previous data for cable position, and no apparent snags with fishing gear. The 2003 "as-found" cable positions reflected minor differences as compared to the 2001 coordinates recorded during installation, showing a significant portion of the cable to be at a greater depth than the "as buried." This difference could be accounted for by taking into consideration margin of error and measuring methods, nonetheless, the report showed the cable to be well buried with no instances of new cable exposure.

In June 2005, PAC Landing Corporation completed the second burial inspection survey. The second survey also lasted approximately 12 days, and the survey report was submitted to the Commission in June 2005.

The 2005 survey data was compared to the 2003 survey data to determine whether the cable conditions had changed over the two-year period. The 2005 survey's "as-found" cable positions reflected minor differences as compared to the 2003 coordinates recorded during the first burial survey, showing a significant portion of the cable to be at a lesser depth than the 2003 survey.

Again, this difference could be accounted for by taking into consideration margin of error and measuring methods. Nonetheless, the report showed the cable to be well buried with no instances of new cable exposure, nor is there any evidence of the cable interfering with marine mammals or fishing gear.

5 COASTAL ACT ISSUES: Marine Resources and Commercial Fishing

Coastal Act § 30230 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.*

Coastal Act § 30234.5 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 affects 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 entangle and drown marine mammals or other marine wildlife. The Commission required **Special Condition 6** 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 18-to-24-month survey interval was incorporated into the lease granted by the State Lands Commission, and the Coastal Commission required **Special Condition 6** consistent with the agreement reached with the fishermen and the conditions of the State Lands lease.

The applicant now has two survey data sets that indicate the cables have not become unburied since installation nearly five years ago. There is no indication that the cables will become unburied over the second five-year survey burial.

Each survey causes some impacts to coastal resources, including air quality impacts from survey vessel emissions, and space preclusion impacts to commercial fishermen. Reducing the survey interval will reduce these impacts to coastal resources. The applicant has indicated that the Joint Fisheries Liaison Committee supports the proposed five-year survey interval.

Conclusion

When compared with the post-lay inspection data, survey data from 2003 and 2005 indicate that the PAC cable remains well buried. Changing the frequency of the burial survey does not entail a reduction in protection of coastal resources; rather, it is an indication that the primary means of protection (i.e., cable burial) is working. Furthermore, conducting the burial survey is not without environmental cost. 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.

6 CALIFORNIA ENVIRONMENTAL QUALITY ACT

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. The project as conditioned herein incorporates measures necessary to avoid any significant environmental effects under the Coastal Act, and there are no less environmentally damaging feasible alternatives or mitigation measures. Therefore, the proposed project is consistent with CEQA.

APPENDIX A
Substantive File Documents

California Coastal Commission. "Final Adopted Findings for CDP Application Number E-98-027 and Consistency Certification CC-041-00." June 22, 2000 (Approved July 11, 2000).

Global Crossing. "Pan American Crossing Segment 1 Burial Verification Survey Final Report." Prepared by Global Marine Systems Ltd., Essex, UK. June 17, 2003.

------- "Pan American Crossing Segment 1 Burial Verification Survey Final Report." Prepared by Global Marine Systems Ltd., Essex, UK. June 20, 2005.

------- "Application to Amend Lease PRC 8152.1, Pacific Crossing (PAC) Cable System." Prepared by AMEC Earth and Environmental, Inc: San Francisco, CA. April 2007.

May 3, 2007. Letter from Denise Toombs, AMEC Earth and Environmental, to Diane Livia, Coastal Commission staff. Re: PAC Landing Corp. CCMP Consistency.

EXHIBIT 1 Regional Map of PAC Cable