

CALIFORNIA COASTAL COMMISSION

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION
45 FREMONT STREET
SUITE 2000
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**ENERGY, OCEAN RESOURCES AND FEDERAL
CONSISTENCY DIVISION
DEPUTY DIRECTOR'S REPORT**

*For the
November Meeting of the California Coastal Commission*

October 27, 2016

TO: Commissioners and Interested Parties
FROM: Alison Dettmer, Energy, Ocean Resources and Federal Consistency Division
Deputy Director

Following is a listing for the waivers, emergency permits, immaterial amendments, extensions and Negative Determinations issued by the Energy, Ocean Resources and Federal Consistency Division for the November 2016 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the Energy, Ocean Resources and Federal Consistency Division.

**ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION DEPUTY
DIRECTOR'S REPORT CONTINUED**

REPORT OF DE MINIMIS WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
9-16-0712-W Pacific Operators Offshore LLC (PACOPS), Attn: Clement Alberts	Repair an approximately 30-foot section of the protective sheath encasing an existing offshore power cable.	Within The Intertidal Zone Approximately 70 Ft. East Of The Casitas Pier, Carpinteria, Santa Barbara County
9-16-0836-W Southern California Edison Company	Repair the SONGS public walkway along the seaward perimeter of the plant by (1) fortifying the retaining wall foundation and (2) moving existing riprap along the shoreline and restacking it against the walkway retaining wall as originally designed.	5000 Pacific Coast Hwy, San Clemente, San Diego County

REPORT OF IMMATERIAL AMENDMENTS

The Executive Director has determined that there are no changes in circumstances affecting the conformity of the subject development with the California Coastal Act of 1976. No objections to this determination have been received at this office. Therefore, the Executive Director grants the requested Immaterial Amendment, subject to the same conditions, if any, approved by the Commission.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
E-02-005-A5 Coast Seafoods Company, Attn: Jon Steinman	Extension of the permit term for the presence and use of the clam cultivation rafts from December 1, 2016 to February 10, 2017.	Arcata Bay (Northern Humboldt Bay), Humboldt County
E-06-003-A4 Coast Seafoods Company, Attn: Jon Steinman	Extension of the permit term for off-bottom oyster aquaculture operations from December 1, 2016 to February 10, 2017	Arcata Bay (Northern Humboldt Bay), Humboldt County

REPORT OF PERMIT REVOCATION REQUEST

9-15-0228-REV-4 Southern California Edison Company	Request by Rino Zaccuri to revoke the Commission approval for SONGS CDP No. 9-15-0228	San Onofre Nuclear Generating Station (SONGS), San Diego County
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**ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION DEPUTY
DIRECTOR'S REPORT CONTINUED**

NEGATIVE DETERMINATIONS AND NO EFFECT LETTERS

Administrative Items for Federal Consistency Matters

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
ND-0029-16 Department of the Navy	Proposed Rule for Uniform National Discharge Standards to control certain discharges, incidental to the normal operation of a vessel of the armed forces, into the navigable waters of the U.S., the territorial seas, and the contiguous zone. Action: Concur, 10/18/2016	Ocean Waters Off California
ND-0032-16 Department of the Navy	Navy demolition 20 buildings and construction of 5 buildings on bay and ocean sides of Silver Strand Blvd (Rte. 75) at the Naval Amphibious Base (NAB), Coronado, San Diego Co. Total building square footage on the base would be reduced by 52,105 sq. ft. Action: Concur, 9/22/2016	Within Existing Developed Areas On Both The Bay And Ocean Sides Of Silver Strand Blvd (Rte. 75) At The Naval Amphibious Base (Nab), Coronado, San Diego Co (APN(s): 5376100200)
ND-0033-16 National Park Service	Remove damaged pier at Scorpion Anchorage on Santa Cruz Island and replace with a temporary aluminum gangway on existing onshore and offshore abutments, Channel Islands National Park. Action: Concur, 10/19/2016	Scorpion Anchorage, Santa Cruz Island, Channel Islands National Park, Santa Barbara County
ND-0034-16 Department of the Air Force	Replace a damaged culvert and repair the hillside erosion adjacent to the existing culvert on the ocean side of Pillar Point Air Force Station, San Mateo County. Action: Concur, 10/7/2016	Pillar Point Air Force Station, San Mateo County (APN(s): 047313060)
ND-0035-16 U.S. Fish and Wildlife Service	Undertake maintenance dredging of portions of the inlet channel and tidal basin in the Bolsa Chica Lowlands restoration project area, and place dredged sands on the beach immediately downcoast of the ocean inlet, Action: Concur, 10/11/2016	Bolsa Chica Lowlands Restoration Project Area, Orange County (APN(s): 110-017-49)

**ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION DEPUTY
DIRECTOR'S REPORT CONTINUED**

NE-0011-16 National Oceanic and Atmospheric Administration	Private Moorings approved by the State Lands Commission under the NOAA Sanctuaries/SLC Tomales Bay Mooring Program, Marin County - Third round of moorings approved by the State Lands Commission on October 13, 2016; the 5 mooring applicants are Eric Fuge, Tom and Melissa Riley, Hog Island Oyster Co, Mark Carlson, and Dana Cappiello Action: Concur, 10/18/2016	Various Locations, Tomales Bay
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October 25, 2016

Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 9-16-0712-W

Applicant: Pacific Operators Offshore LLC

Location: Within the intertidal zone approximately 70 ft. east of the Casitas Pier, Carpinteria, Santa Barbara County.

Proposed Development: Repair an approximately 30-foot section of the protective sheath encasing an existing offshore power cable.

Project Description: Pacific Operators Offshore LLC (PACOPS) proposes to conduct repairs on a 30-foot section of the protective sheath encasing an existing 16-kilovolt power cable that supplies electricity to two offshore oil and gas platforms, Platforms Hogan and Houchin, in the Santa Barbara Channel. The section in need of repair is located in the intertidal zone off of Casitas Beach, immediately adjacent to the Casitas Pier, in Carpinteria. Heavy surf during 2015-2016 winter storms resulted in extensive scour of beach sands and cobble at this beach, leading to the damage of the steel sheath protecting the cables. Further damage to the cables could result in the loss of electrical power to the offshore Platforms, necessitating the use of back-up generators. The proposed project would consist of the following primary elements:

- Staging of a tool truck with all necessary pneumatic and power tools in the paved parking lot on the bluff east of Casitas Pier; running of electric and air lines to the work area on the beach; use of a crane to life hoses and tools from the staging area to the beach.
- Placement of a temporary coffer dam around the portions of the cable to be repaired to exclude seawater from the work areas;
- Excavation of sand and cobble from around of the damaged cable area using hand tools and, as needed, a jet-pump;
- Clearing of sediment and debris from around the cable, inspection and repair of the cable as needed, and repair/reattachment of the protective sheath;

Coastal Development Permit De Minimis Waiver

9-16-0712

- Encapsulation of the cable sheath with cement pumped from a truck staged in the parking area;
- Removal of the coffer dam, demobilization of the work and staging areas

No vehicles or heavy equipment would be used on the beach, and no tools or equipment would be left on the beach overnight. Staging of project vehicles and equipment would require the use of no more than 20 of 100 available parking spaces in the parking lot above the beach. Project activities would occur during daylight hours (7 AM to 5:30 PM), Monday through Friday, avoiding weekends, and would be scheduled during a low tide window in order to minimize in-water repair work. Assuming favorable weather and tide conditions, PACOPS anticipates that the project will require no more than 10 working days to complete.

The project site is located adjacent to a recognized haul-out and rookery area of Pacific harbor seals (*Phoca vitulina richardsi*), a protected marine mammal species. The City of Carpinteria enforces a seasonal beach closure between December 1 and May 31 in order to avoid human interference with harbor seal pupping occurring during that time period. PACOPS has committed to conducting the project outside of the December 1 to May 31 period in order to avoid the pupping season.

Rationale: For the following reasons, the proposed development will not adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission actions in the area and Chapter Three policies of the Coastal Act:

- Marine Mammals & Wildlife: The proposed project would be conducted outside the December 1 to May 31 period, avoiding the harbor seal pupping season. Additionally, PACOPS will provide a qualified marine biological monitor during all project activities to ensure that no interactions between marine wildlife and project personnel or equipment occur. The marine monitor will have the authority to temporarily halt project operations in order to avoid potential harm to or harassment of marine mammals or other protected species.
- Sensitive Habitats: No vehicle or heavy equipment use would occur on the beach or in the intertidal zone, minimizing the potential for significant disturbance of or damage to beach and hard substrate habitats. In addition, the marine biological monitor would remain on-site during the project to ensure that work activities are limited to the immediate project area.
- Water Quality and Spill Prevention: Sediment disturbance during the uncovering of the offshore cable would be temporary and minor, similar to or less than that occurring naturally during high wave conditions. Use of the coffer dam around the active work areas will minimize levels of turbidity generated during in-water work. To meet the conditions of the Section 401 Water Quality Certification granted by the Central Coastal Regional Water Quality Control Board, PACOPS will implement measures to control dust and loose soil, prevent and contain spills, limit storm water runoff, and prevent solid materials from entering the ocean.
- Public Access & Visual Resources: The proposed project is of short duration (about ten working days), will avoid weekends, and will not result in closure of the beach. During construction, project personnel will be stationed on site to direct beach users away from construction areas. The temporary use of 20 parking spaces for project staging will not significantly impair beach access. Reductions in visual quality related to the presence of project vehicles, equipment, and personnel at the site would be minor and temporary; no permanent visual impacts would occur.

Coastal Development Permit De Minimis Waiver

9-16-0712

This waiver will not become effective until reported to the Commission at its November 2-4, 2016 meeting in Half Moon Bay, and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Sincerely,

John Ainsworth
Acting Executive Director

A handwritten signature in blue ink, appearing to read "Joseph Street", is written over a faint, light blue circular stamp.

Joseph Street
Environmental Scientist

cc: File

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October 25, 2016

Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 9-16-0836-W

Applicant: Southern California Edison Company

Location: San Onofre Nuclear Generating Station (SONGS), 5000 Pacific Coast Hwy, San Diego County

Proposed Development: Repair the SONGS public walkway along the seaward perimeter of the plant by (1) fortifying the retaining wall foundation and (2) moving existing riprap along the shoreline and restacking it against the walkway retaining wall as originally designed.

Background: Southern California Edison Company (SCE) proposes to repair the public access walkway along the seaward perimeter of SONGS. The coastal development permit (CDP# 6-81-330-A) authorizing SONGS Units 2 and 3 required the construction of a 15-foot wide public access walkway connecting sections of San Onofre State Beach north and south of the plant, and requires that this walkway be open to the public at all times except when closure is necessary for reasons of public safety or plant security. Since its construction, the walkway has been subject to regular maintenance and several repairs, including repair work authorized under a previous CDP waiver (#E-04-001-W) in 2004. Over time, the riprap revetment installed to protect the walkway has settled, and rock has been displaced and scattered by wave action. During higher tides and large swell events, water flowing through the loosely-packed riprap has penetrated beneath the concrete walkway retaining wall, eroding the compacted sand beneath the walkway. Recently, the asphalt and concrete of the walkway itself has collapsed in several places, resulting in the formation of sink holes that present a public safety hazard. During August and September of 2016, SCE conducted temporary repair work, including backfilling of the sink holes, but an engineering analysis has determined that more extensive repair work is necessary to restore the walkway.

Project Description: The proposed walkway repair work would consist of two primary elements:

- (1) Injection of grout under the base of the walkway retaining wall to stabilize the sand core and create a barrier to erosion; and

Coastal Development Permit De Minimis Waiver

9-16-0836-W

- (2) Recovery and restacking of existing riprap to partially restore the original configuration of the revetment in order to better protect the retaining wall foundation.

The grout solution will be mixed on the walkway by equipment that will be stationed on the SONGS site proper and craned over the perimeter fence and wall. Workers on stationed on the walkway will then inject the grout into the sub-grade through preset PVC tubes. The proposed restacking of riprap will require the use of earthmoving equipment on the beach in front of the walkway, accessing the site from San Onofre State Beach, to the north, during low tide periods. The heavy equipment will restack existing, visible riprap as high as possible along the walkway retaining wall. No excavation or retrieval of buried riprap is proposed. SCE proposes to begin the project during the week of November 12-17, 2016, during a period of extreme low tides. Project activities will continue through the fall and winter, and, if needed, into the early spring. However, SCE anticipates that the project will be completed by the end of January 2017.

Rationale: For the following reasons, the proposed development will not adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission actions in the area and Chapter Three policies of the Coastal Act:

- Sensitive Habitats & Species: Heavy equipment use on the shore will be confined to sandy areas and will avoid sensitive hard substrate habitats. The beach at the site is not frequently used by marine mammals or other sensitive wildlife. Nonetheless, SCE will designate a qualified marine biologist to provide training to project personnel and implement a marine wildlife monitoring and protection protocol for all work on the beach. Project operations on the beach will be suspended in the event a marine mammal or turtle approaches within 100 feet of the beach or hauls out on the beach, until the animal has left the area.
- Placement of Fill: Existing riprap will be restacked within its original footprint and configuration. The fill placed as part of this project is necessary to maintain protection for an existing structure. The riprap will be placed only during low tides within a previously authorized fill area, and will not enlarge or extend the approved structure.
- Water Quality and Spill Prevention: Project activities will comply with the SONGS site-specific Storm Water Management Plan and Spill Prevention Control and Countermeasures Plan, which contain best management practices to control dust and loose soil, prevent and contain spills, limit storm water runoff, and prevent solid materials from entering the ocean. No equipment or vehicle refueling will occur on the beach.
- Public Access: SCE will maintain public access along the walkway during construction in accordance with conditions of previously-issued CDPs, except when heavy equipment operation would make public use hazardous. During the work, designated personnel will monitor the walkway to alert pedestrians of the work or temporarily prevent them from using the walkway. Public access to the beach in front of SONGS is already limited due to the presence of the facility.

This waiver will not become effective until reported to the Commission at its November 2-4, 2016 meeting in Half Moon Bay, and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Coastal Development Permit De Minimis Waiver
9-16-0836-W

Sincerely,

John Ainsworth
Acting Executive Director

A handwritten signature in blue ink, appearing to read "Joseph Street". The signature is fluid and cursive, with the first name "Joseph" and last name "Street" clearly distinguishable.

Joseph Street
Environmental Scientist

cc: File

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NOTICE OF PROPOSED IMMATERIAL PERMIT AMENDMENT

Coastal Development Permit Amendment No. **E-02-005-A5**

October 25, 2016

To: All Interested Parties

From: John Ainsworth, Acting Executive Director

Subject: Coastal Development Permit No. **E-02-005** granted to **Coast Seafoods Company** for: installation of ten 12-foot by 20-foot floating clam cultivation rafts in the Mad River Slough section of Arcata Bay. Through amendments to this permit (**E-02-005-A1, E-02-005-A2, E-02-005-A3, and E-02-005-A4**), these rafts were changed from wood to aluminum, their configuration was changed, twenty additional rafts were added and their use period was extended.

Project Site: Arcata Bay (northern Humboldt Bay), Humboldt County.

The Executive Director of the California Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following change(s):

Extension of the permit term for the presence and use of the clam cultivation rafts from December 1, 2016 to February 10, 2017.

FINDINGS

Pursuant to 14 Cal. Admin. Code Section 13166(b) this amendment is considered to be IMMATERIAL and the permit will be amended accordingly if no written objections are received within ten working days of the date of this notice. If an objection is received, the amendment must be reported to the Commission at the next regularly scheduled Commission hearing. This amendment has been considered "immaterial" for the following reason(s):

- The extension of the current permit term would be for only two months.
- Clam grow-out operations would continue in the current manner and level without increases in the number, size, or age-class of cultivated clams.
- All proposed operations would continue to be carried out consistent with the resource protection measures established through Special Conditions 1 through 9 of the coastal development permit and permit amendments issued to Coast Seafoods Company for the clam rafts. These conditions include provisions regarding the protection of marine wildlife; the collection of marine debris and fouling material during the conduct of maintenance cleaning operations; and the design of seawater intakes to minimize the entrainment and impingement of marine life.

Notice of Proposed Immaterial Permit Amendment

E-02-005-A5

If you have any questions about the proposal or wish to register an objection, please contact Cassidy Teufel at the phone number provided above.

cc: Commissioners/File

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NOTICE OF PROPOSED IMMATERIAL PERMIT AMENDMENT

Coastal Development Permit Amendment No. **E-06-003-A4**

October 25, 2016

To: All Interested Parties

From: John Ainsworth, Acting Executive Director

Subject: Coastal Development Permit No. **E-06-003** granted to **Coast Seafoods Company** for: off-bottom oyster aquaculture operations on approximately 300 acres in Humboldt Bay. Through amendments to this permit (**E-06-003-A1** and **E-06-003-A2**), cultivation methods were changed from longlines to elevated culture baskets on a portion of these operations and the permit term was extended. Another application to amend this permit (**E-06-003-A3**) was submitted and withdrawn.

Project Site: Arcata Bay (northern Humboldt Bay), Humboldt County.

The Executive Director of the California Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following change(s):

Extension of the permit term for off-bottom oyster aquaculture operations from December 1, 2016 to February 10, 2017.

FINDINGS

Pursuant to 14 Cal. Admin. Code Section 13166(b) this amendment is considered to be IMMATERIAL and the permit will be amended accordingly if no written objections are received within ten working days of the date of this notice. If an objection is received, the amendment must be reported to the Commission at the next regularly scheduled Commission hearing. This amendment has been considered "immaterial" for the following reason(s):

- The extension of the permit term would be for only two months.
- Aquaculture operations would continue in the current manner and level without increases in the planting and harvest areas.
- All proposed operations would continue to be carried out consistent with the resource protection measures established through Special Conditions 1 through 9 of Coastal Development Permit E-06-003 and Special Conditions 9 through 11 of Coastal Development Permit Amendment E-06-003-A1 issued to Coast Seafoods Company for the oyster aquaculture operation. These conditions include provisions regarding the protection of marine wildlife; the location of culture areas; the submittal of annual reports; the implementation of adverse impact avoidance and mitigation measures; and the collection of marine debris and fouling material during the conduct of maintenance cleaning operations.

Notice of Proposed Immaterial Permit Amendment

E-06-003-A4

If you have any questions about the proposal or wish to register an objection, please contact Cassidy Teufel at the phone number provided above.

cc: Commissioners/File

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October 24, 2016

Via Electronic Mail

Greg Zaccuri
Laguna Beach, CA 92651
rjzacc@gmail.com

Re: Request for Revocation of Coastal Development Permit No. 9-15-0228

Dear Mr. Zaccuri,

Coastal Commission staff has received your October 6, 2016 request for the revocation of Coastal Development Permit (CDP) 9-15-0228 (Southern California Edison), approved by the Commission on October 6, 2015. CDP 9-15-0228 authorizes the installation and operation of a new independent spent fuel storage installation at San Onofre Nuclear Generating Station. Your request provides a list of contentions as to why the permit should be revoked:

- ***Nuclear waste storage should be met now, not deferred 20 years.***
The Coastal Commission may not have the jurisdiction to choose casks, but it can require their special conditions be met now. Thin (1/2" to 5/8" thick) stainless steel canisters can crack, cannot be inspected, repaired, maintained or adequately monitored. Cracked canisters cannot be transported. The Coastal Commission should require a system that does not have these flaws and not accept promises of future solutions.
 - ***Edison can meet Coastal requirements with thick casks.*** *For example, Areva sells thick (over 10" thick) metal casks to the U.S. market, and to most of the rest of the world for storage and transport. The Areva TN-32 and TN-40 are licensed by the NRC. The TN-24 used at Fukushima survived the massive earthquake and tsunami. Spent fuel must cool in the pools for a few years, so choosing proven thick storage casks will not significantly delay removing fuel from pools.*
 - ***Canisters cannot be repaired.*** *Holtec President says these canisters cannot be repaired.*
 - ***Partially cracked canisters cannot be transported.*** *NRC Regulation 10 CFR § 71.85.*
 - ***Canisters may crack.*** *The NRC states it takes about 16 years for a crack to go through the wall of thin stainless steel canisters and canisters are vulnerable to cracking from marine environments.*
A similar component at the Koeberg nuclear plant failed in 17 years with numerous cracks.
 - ***No funds are available to relocate this system.*** *Once the system is installed, there are no funds to rebuild and move it to a different site, so it is unreasonable to expect it will be relocated (even on-site). Edison's \$1.3 billion Spent Fuel Management Plan to the California Public Utilities Commission assumes nothing will go wrong (the likelihood something will go wrong is far more realistic) and they will not need to pay to move the*

fuel. Edison's plan assumes the Dept. of Energy will start picking up the fuel in 2024, which Edison admitted to the CPUC is unlikely.

- *Edison plans to destroy the spent fuel pools. Pools are the only method to replace canisters. The Commission could add a special condition to mandate that the pools not be destroyed unless a better plan is in place.*
- *Existing 51 thin canisters may have cracks. Fuel loading into thin canisters began in 2003, so "special conditions" for aging management and related issues need to be addressed now.*

The grounds for revocation of a CDP are set forth in 14 Cal. Code of Regulations Section 13105 and provide as follows:

- a) Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application;*
- b) Failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the commission and could have caused the commission to require additional or different conditions on a permit or deny an application.*

Commission regulations (14 CCR 13106) grant the Executive Director the authority to review a revocation request and decline to initiate revocation proceedings if he determines that the request is patently frivolous and without merit.

I have reviewed the grounds for revocation stated in your revocation request and decline to initiate revocation proceedings because I have concluded, pursuant to Commission regulations (14 CCR § 13106), that your October 6, 2016 revocation request is patently frivolous and without merit because you neither assert nor provide evidence that the Applicant, Southern California Edison, either intentionally included inaccurate, erroneous or incomplete information in connection with their coastal development permit application or failed to comply with the notice provisions of Section 13054 of the Commission's regulations.

If you have questions about this matter, please contact Alison Dettmer, Deputy Director, or Joseph Street, Environmental Scientist, in the Energy and Ocean Resources and Federal Consistency Division, at (415) 904-5240.

Sincerely,



JOHN AINSWORTH
Acting Executive Director

cc: Kim Anthony, SCE

From: Rino Zaccuri
To: Street, Joseph@Coastal
Subject: SoCal Edison Coastal Development Permit#9-15-0228
Date: Thursday, October 06, 2016 7:59:23 AM

Dear Mr. Street,

I understand that the California Coastal Commission granted a Coastal permit for the San Onofre Holtec nuclear waste storage facility with "Special Conditions" that are apparently unlikely or impossible to meet, so I am writing to urge you to revoke the permit.

It is also my understanding that "Special Conditions" require a storage system that can be inspected, repaired, maintained, monitored, and transported without cracks – but only after 20 years? This means that if one cracks, it could not be dealt with or am I misunderstanding the conditions? The Coastal Commission recognizes the Holtec system does not currently meet these requirements, so how has Edison and others convinced you that there are no other reasonable options and someday these problems will be solved?

From what I've learned, there seems to be insufficient evidence to support that it will be solved anytime soon and leaks leading or a nuclear disaster due to an earthquake, as in Fukushima (considering the location of the San Andreas fault line), is imminent.

Notwithstanding the likelihood of a disaster these are the reasons it is imperative to revoke SoCal Edison Coastal Development Permit#9-15-0228:

- **Nuclear waste storage should be met now, not deferred 20 years.**

The Coastal Commission may not have the jurisdiction to choose casks, but it can require their special conditions be met now. Thin (1/2" to 5/8" thick) stainless steel canisters can crack, cannot be inspected, repaired, maintained or adequately monitored. Cracked canisters cannot be transported. The Coastal Commission should require a system that does not have these flaws and not accept promises of future solutions.

- **Edison can meet Coastal requirements with thick casks.** For example, Areva sells thick (over 10" thick) metal casks to the U.S. market, and to most of the rest of the world for storage and transport. The Areva TN-32 and TN-40 are licensed by the NRC. The TN-24 used at Fukushima survived the massive earthquake and tsunami. **Spent fuel must cool in the pools for a few years, so choosing proven thick storage casks will not significantly delay removing fuel from pools.**
- **Canisters cannot be repaired.** Holtec President says these canisters cannot be repaired.
- **Partially cracked canisters cannot be transported.** NRC Regulation 10 CFR § 71.85.
- **Canisters may crack.** The NRC states it takes about 16 years for a crack to go

through the wall of thin stainless steel canisters and canisters are vulnerable to cracking from marine environments.

A similar component at the Koeberg nuclear plant failed in 17 years with numerous cracks.

- **No funds are available to relocate this system.** Once the system is installed, there are no funds to rebuild and move it to a different site, so it is unreasonable to expect it will be relocated (even on-site). Edison's \$1.3 billion Spent Fuel Management Plan to the California Public Utilities Commission assumes nothing will go wrong (the likelihood something will go wrong is far more realistic) and they will not need to pay to move the fuel. Edison's plan assumes the Dept. of Energy will start picking up the fuel in 2024, which Edison admitted to the CPUC is unlikely.
- **Edison plans to destroy the spent fuel pools.** Pools are the only method to replace canisters. The Commission could add a special condition to mandate that the pools not be destroyed unless a better plan is in place.
- **Existing 51 thin canisters may have cracks.** Fuel loading into thin canisters began in 2003, so "special conditions" for aging management and related issues need to be addressed now.

I urge the Coastal Commission to not base decisions on promises of solutions that do not exist. I appreciate your consideration of these facts and hope you can revoke the Edison permit to mitigate damages before it's too late.

Regards,
Greg Zaccuri
Laguna Beach, CA

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200



October 18, 2016

Frank Stone
Acting Deputy Director
Energy and Environmental Readiness Division
Department of the Navy
Office of the Chief of Naval Operations
2000 Navy Pentagon
Washington DC 30250-2000

Attn: Mike Pletke

Re: **ND-0029-16** Navy National Consistency Determination, Uniform National Discharge Standards for Vessels of the United States, Phase II, Batch One Proposed Rule

Dear Mr. Stone:

The Navy has submitted the above-referenced National Consistency Determination for Uniform National Discharge Standards (UNDS) under the Clean Water Act (CWA), Section 312. This phase of discharge standards (Phase II Batch One) contains standards applicable to Vessels of the United States.

The Environmental Protection Agency (EPA) previously adopted discharge standards (under the CWA) which were applicable to private commercial vessels,¹ through issuance of National Pollutant Discharge Elimination System (NPDES) Vessel General Permits (VGPs) in 2013 and 2014. The Commission staff reviewed those NPDES VGPs under EPA's Consistency Determination CD-058-11. Because, under the CWA, military vessels are not covered under NPDES permits, the subject separate consistency determination is needed.²

As noted in your determination, the proposed standards are comparable to those previously issued by EPA for commercial vessels. As further noted in your determination, the proposed standards would "...reduce the adverse environmental impacts associated with the discharges, stimulate the development of improved pollution control devices, and advance the development of environmentally sound ships by the Armed Forces." The rules would apply generally out to 12 miles from shore.

¹ I.e., discharges incidental to the normal operation of commercial and non-recreational vessels greater than or equal to 79 feet in length.

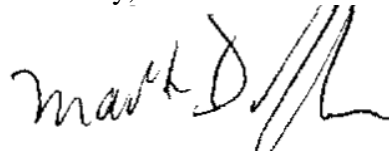
² The CWA directs the Secretary of Defense, in consultation with EPA, to establish separate standards for military vessels.

The proposed Phase II Batch One standards would apply to 11 of the discharges from Vessels of the Armed forces (out of a total of 25 discharges for which DOD/EPA have determined that it is reasonable and practicable to require a marine pollution control device (MPCD)). The 11 discharges in this phase/batch consist of: aqueous film forming foam, chain locker effluent, distillation and reverse osmosis brine, elevator pit effluent, gas turbine water wash, non-oily machinery wastewater, photographic laboratory drains, seawater cooling overboard discharge, seawater piping biofouling prevention, small boat engine wet exhaust, and well deck discharges. The performance standards for these discharges are attached (Attachment A).

The Navy has indicated that the Navy/DOD and EPA will subsequently propose further standards and a rule for a second phase (i.e., for the remaining 14 of the total of 25 discharges mentioned in the first sentence of the previous paragraph). This subsequent submittal will cover: catapult water brake tank and post-launch retraction exhaust, clean ballast, compensated fuel ballast, controllable pitch propeller hydraulic fluid, deck runoff, dirty ballast, firemain systems, graywater, hull coating leachate, motor gasoline compensating discharge, sonar dome discharge, submarine bilgewater, surface vessel bilgewater/oil-water separator, and underwater ship husbandry. We look forward to reviewing that subsequent submittal.

Under the federal consistency regulations (Section 930.35), a negative determination can be submitted for an activity “which is the same as or similar to activities for which consistency determinations have been prepared in the past.” We **agree** that the proposed Phase II, Batch One discharge standards would be “the same as or similar to” the EPA standards we previously concurred with, and would benefit (and not adversely affect) coastal zone resources. We therefore **concur** with your determination submitted under the Coastal Zone Management Act. Please contact Mark Delaplaine of the Commission staff at (415) 904-5289 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark D. Delaplaine', with a stylized flourish at the end.

(for) JOHN AINSWORTH
Acting Executive Director

Attachment – Discharge Performance Standards

cc: SFBCDC
EPA (Region 9 and Headquarters)
SWRCB
U.S. Coast Guard

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch One Discharges

B. CONSISTENCY STATEMENT

Based on a review of the applicable sections of the CZMA (Title 16, U.S.C. §1456(c)) and the data presented in this National Consistency Determination, the EPA and DoD have concluded that the proposed Phase II Batch One performance standards were developed in a manner consistent to the maximum extent practicable with the enforceable policies of each of the 34 federally-approved state and territories coastal management programs.

The proposed rulemaking included with this Phase II Batch One National Consistency Determination provides the basis for this finding.

1. CONSISTENCY DETERMINATION APPROACH

The EPA and DoD thoroughly reviewed 34 federally-approved state and territory coastal management programs and/or similar coastal policy documents to determine their applicability to the UNDS Phase II Batch One rulemaking. The Federal Consistency rulemaking (65 FR 77123-77154) identifies that a National Consistency Determination should address the “common denominator of these policies, i.e., the common coastal effects and management issues, and thereby address different states’ policies with one discussion and one determination.” Therefore, based on the review of each coastal management program, the EPA and DoD grouped and addressed relevant enforceable policies as ‘themes’ within this determination. The EPA and DoD ensure that the UNDS Phase II Batch One discharge performance standards are consistent with each identified theme. These themes are listed and described in *Section F. Relevant Enforceable Policies (State- or Territory- and UNDS- Identified)*.

C. REVIEW PERIOD AND POINTS OF CONTACT

The 34 coastal states and territories that may be affected by UNDS are given 60 days from the issuance of the National Consistency Determination letter to review this document and provide any questions and/or comments. Questions and comments may be directed to:

Katherine Weiler, Marine Pollution Control Branch (4504T), U.S. EPA, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460; (202) 566-1280; weiler.katherine@epa.gov

Mike Pletke, Chief of Naval Operations (N45), 2000 Navy Pentagon (Rm 2D253), Washington, DC 20350-2000; (703) 695-5184; mike.pletke@navy.mil.

D. PHASE II BATCH ONE PERFORMANCE STANDARDS

This section describes the MPCDs determined to be reasonable and practicable to mitigate the adverse impacts to the marine environment from the Batch One 11 discharges. In selecting these standards, the EPA and DoD considered the information from Phase I of UNDS, the NPDES VGP effluent limitations, and the seven statutory factors listed in CWA § 312(n)(2)(B).

1. AQUEOUS FILM FORMING FOAM (AFFF)

AFFF is the firefighting foam and seawater mixture discharged during training, testing, or maintenance operations. The performance standard for AFFF is:

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch One Discharges

The UNDS standard will prohibit the discharge of AFFF (i.e., AFFF used during training, testing, or maintenance operations); however, AFFF can be collected and stored for onshore disposal or discharged when the vessel is located seaward of waters subject to UNDS.

2. CHAIN LOCKER EFFLUENT

Chain locker effluent is the accumulated sediments and any potential accompanying pollutants that is emptied from the compartment used to store the vessel's anchor chain. The performance standard for chain locker effluent is:

The UNDS standard will require that all anchor chains from surface vessels (submarines are not subject to this requirement) must be carefully and thoroughly washed down (i.e., more than a cursory rinse) as they are being hauled out of the water to remove sediment and organisms. The EPA and DoD also require that all chain lockers must be cleaned periodically to eliminate accumulated sediments and any potential accompanying pollutants. The dates of all chain locker inspections must be recorded in the ship's log or other vessel recordkeeping documentation.

In addition, the UNDS standard will require that for vessels that sail seaward of waters subject to UNDS at least once per month, chain lockers shall not be rinsed or pumped out within waters subject to UNDS to eliminate any potential impact to nearshore waters. If technically feasible, the chain locker shall be periodically cleaned, rinsed, and/or the accumulated water and sediment (i.e., chain locker effluent) shall be pumped out prior to entering waters subject to UNDS (preferably in mid-ocean). For vessels that do not sail seaward of waters subject to UNDS at least once per month, if a discharge of chain locker effluent occurs within waters subject to UNDS it shall occur at the greatest distance practicable from shore and, if technically feasible, shall not be discharged in federally-protected waters.

3. DISTILLATION AND REVERSE OSMOSIS BRINE

Distillation and reverse osmosis brine is the concentrated seawater (brine) produced as a by-product of the processes used to generate freshwater from seawater. The performance standard for distillation and reverse osmosis brine is:

The UNDS standard will prohibit the discharge of the distillation and reverse osmosis brine if it comes in contact with machinery or industrial equipment (other than distillation or reverse osmosis machinery), toxic or hazardous materials, or wastes.

4. ELEVATOR PIT EFFLUENT

Elevator pit effluent is the liquid that accumulates in, and is discharged from, the sumps of elevator wells on vessels. The performance standard for elevator pit effluent is:

The UNDS standard will prohibit the direct discharge of elevator pit effluent. Elevator pit effluent can be discharged when commingled with another discharge for the purposes of treatment prior to discharge; under no circumstances may oils, including oily mixtures, be discharged from that combined discharge in quantities that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines, or contain an oil content above 15 parts-per million (ppm) as measured by EPA Method 1664A or other

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch One Discharges

appropriate method for determination of oil content as accepted by the International Maritime Organization (IMO) (e.g., International Organization for Standardization (ISO) Method 9377) or U.S. Coast Guard, or are otherwise harmful to the public health or welfare of the U.S.

5. GAS TURBINE WATER WASH

Gas turbine water wash is the water released from washing gas turbine components. The performance standard for gas turbine water wash is:

The UNDS standard will prohibit the direct discharge of gas turbine water wash. Gas turbine water wash should be collected separately and disposed of at an onshore facility. If gas turbine water wash is commingled with any other discharge for the purposes of treatment prior to discharge, then under no circumstances may oils, including oily mixtures, be discharged from that combined discharge in quantities that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines, or contain an oil content above 15 ppm as measured by EPA Method 1664A or other appropriate method for determination of oil content as accepted by the IMO (e.g., ISO Method 9377) or U.S. Coast Guard, or are otherwise harmful to the public health or welfare of the U.S.

6. NON-OILY MACHINERY WASTEWATER

Non-oily machinery wastewater is the combined wastewater from the operation of distilling plants, water chillers, valve packings, water piping, low- and high-pressure air compressors, propulsion engine jacket coolers, fire pumps, and seawater and potable water pumps. The performance standard for non-oily machinery wastewater is:

The UNDS standard will require that direct discharges of non-oily machinery wastewater or the discharge of non-oily machinery wastewater that is commingled with another discharge for the purposes of treatment prior to discharge be free from any additives that are toxic or bioaccumulative in nature. In addition, under no circumstances may oils, including oily mixtures contained in non-oily machinery wastewater be discharged in quantities that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines, or contain an oil content above 15 ppm as measured by EPA Method 1664A or other appropriate method for determination of oil content as accepted by the IMO (e.g., ISO Method 9377) or U.S. Coast Guard, or otherwise are harmful to the public health or welfare of the U.S.

7. PHOTOGRAPHIC LABORATORY DRAINS

Photographic laboratory drainage is the laboratory wastewater resulting from the processing of photographic film. The performance standard for photographic laboratory drains is:

The UNDS standard will prohibit the discharge of photographic laboratory drain overboard.

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch One Discharges

8. SEAWATER COOLING OVERBOARD DISCHARGE

Seawater cooling overboard discharge is the discharge of seawater from a dedicated system that provides noncontact cooling water for other vessel systems. The seawater cooling overboard discharge performance standard requires:

The UNDS standard will require that the discharge of seawater cooling should occur only when the vessel is underway. In addition, the standard provides for the reduction in production and discharge of seawater cooling overboard by urging the use of shore power in port if: (1) shore power is readily available; (2) shore-based power supply systems are capable of providing the needed electricity; and (3) the vessel is equipped to connect to shore-based power. Specifically, the EPA and DoD require that, for vessels that are less than 79 feet in length, fouling organisms be removed from seawater piping on a regular basis and the discharge of such removed organisms be prohibited within waters subject to UNDS. For vessels that are greater than or equal to 79 feet in length, maintenance of all piping and seawater cooling systems needs to meet the requirements of 40 CFR 1700.32 (Seawater Piping Biofouling Prevention) and fouling organisms removed from seawater piping shall not be discharged. Submarines have suction clearing procedures, which must be performed for vessel safety purposes; therefore, submarines are not required to meet these operational removal requirements.

9. SEAWATER PIPING BIOFOULING PREVENTION

Seawater piping biofouling prevention is the discharge of seawater containing chemicals used to prevent the growth and attachment of fouling organisms in dedicated seawater cooling systems on selected vessels. The seawater piping biofouling prevention performance standard requires:

The UNDS standard will require a performance standard for seawater piping biofouling prevention that minimizes the amount of chemicals (e.g., chlorine) used to keep fouling under control. Fouling organisms need to be removed from seawater piping via a cleaning event on a regular basis to minimize the impact to the receiving waters. Fouling organisms removed during a cleaning event are prohibited from being discharged. This prohibition does not apply to the discharge of organisms resulting from the routine chemical biofouling control system nor does it apply to submarines. Lastly, this performance standard requires practices consistent with Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) registration requirements for chemicals used to control biofouling of seawater piping, and prohibits discharges of pesticides or chemicals banned for use in the U.S.

10. SMALL BOAT ENGINE WET EXHAUST

Small boat engine wet exhaust is the seawater that is mixed and discharged with small boat propulsion engine exhaust to cool the exhaust and quiet the engine. The small boat engine wet exhaust performance standard requires:

The UNDS standard will require that alternative fuels be used. In addition, the performance standard requires that four-stroke engines be considered instead of two-stroke engines. Vessels using two-stroke engines are required to use environmentally acceptable lubricants (found in the definitions for this term at 40 CFR 1700.3) unless such use would be technologically infeasible. Additionally, the standard urges the use of low sulfur alternative fuels.

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch One Discharges

11. WELLDECK DISCHARGES

Welldeck discharges is the water that accumulates from seawater flooding of the docking well (welldeck) of a vessel used to transport, load, and unload amphibious vessels, and from maintenance and freshwater washings of the welldeck and equipment and vessels stored in the welldeck. The welldeck discharges performance standard requires:

The UNDS standard will prohibit welldeck discharges containing graywater and prohibit the washdown of gas turbine engines within three nautical miles of the U.S. Welldeck discharges from equipment and vehicle washdowns need to be free from garbage, and not contain oil in quantities that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines, or contain an oil content above 15 ppm as measured by EPA Method 1664A or other appropriate method for determination of oil content as accepted by the IMO (e.g., ISO Method 9377) or U.S. Coast Guard, or otherwise are harmful to the public health or welfare of the U.S.

E. DESCRIPTION OF COASTAL EFFECTS

The UNDS standards govern the discharges incidental to the normal operation of a vessel of the Armed Forces. As the majority of the 11 discharges in Batch One are no discharge or discharge further from shore, it is anticipated that the proposed standards will protect the coastal environment. The EPA and DoD do not expect the 11 Batch One discharges to have physical effects on the coast, the shoreline, marine species, or the coastal floor. An analysis of the coastal effects described in *Section F. Relevant Enforceable Policies (State- or Territory- and UNDS- Identified)* of this National Consistency Determination, indicates that the establishment of the UNDS performance standards will not result in any negative coastal effects.

F. RELEVANT ENFORCEABLE POLICIES (STATE- OR TERRITORY- AND UNDS- IDENTIFIED)

This section details the analysis by which the EPA and DoD have determined that the proposed UNDS Phase II Batch One discharge performance standards are consistent to the maximum extent practicable with the enforceable policies of each of the 34 state and territory coastal management programs reviewed.

Based on the review of each federally-approved coastal management program, similar enforceable policies were grouped into 11 themes. Each enforceable policy theme is addressed in this National Consistency Determination, providing a description of the policy and the EPA and DoD's response.

The themes addressed are:

- Water and Air Quality
- Pollution
- Oil/Petroleum Products

National Consistency Determination: Uniform National Discharge Standards (UNDS) Phase II Batch One Discharges

- Pesticides
- Coast
- Wetlands
- Aquatic Life and Wildlife (including Endangered and Threatened Species, and Critical Habitats)
- Beneficial or Designated Uses
- Recreational Uses
- Permit Regulations
- Human Health

For each theme, one or more state enforceable policies may be applicable. In addition, a specific enforceable policy may overlap several themes. Table 1.1 details each theme and the corresponding state and territory enforceable policies. Specific enforceable policies found in the reviewed coastal management programs for each policy theme are provided in *Section II. Specific State and Territory Enforceable Policies by Theme*, of this document.

As detailed earlier, in support of the Batch One discharge performance standards development, the EPA and DoD evaluated the environmental impact of implementing all feasible MPCD options for the vessel discharges. Included in the environmental analysis was a comparison of discharge constituent concentrations to ambient water quality criteria and other regulatory limits. Analytical results were compiled into an Environmental Effects Analysis Report for each Batch One discharge. This analysis evaluated cumulative impacts using narrative water quality criteria (e.g., pathogens, nutrients, aesthetic conditions, and temperature), as well as impacts from constituents of concern (COC) that were compared to relevant federal guidance values and state water quality standards. Based on the results, the Batch One discharge performance standards were determined to be effective and the cumulative effect of implementing the standards was determined to have equal or less impact than the present discharge to receiving waters.

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September 22, 2016

S.D. Barnett, Captain
Commanding Officer
Naval Base Coronado
Department of the Navy
Box 357033
San Diego, CA 92135-7033

Attn: Deb McKay

Re: **ND-0032-16** Navy Negative Determination, Redevelopment at the Naval Amphibious Base (Navy MILCON Projects P-855 and P-857), Coronado, San Diego Co.

Dear Captain Barnett:

The Navy has submitted the above-referenced negative determination for the redevelopment of the Naval Amphibious Base (NAB), consisting of demolition of 20 existing buildings, and construction of five new buildings, for a total reduction in building square footage of 52,105 sq. ft. Several NAB tenants are moving to the Coastal Campus further south in Coronado (which was authorized by the Commission in its review of Navy consistency determination CD-003-14). The redevelopment would occur within existing developed areas, and on both the bay and ocean sides of the NAB.

On the ocean side of NAB the project would consist of two new 2-story buildings and a new tank with a diving platform. Building areas would be approximately 66,000 sq. ft., with a maximum height of 50 ft. This project would also include a new warehouse addition to an existing warehouse to the south (Bldg. 638), which would add 20,000 sq. ft. of storage area. Slightly further south, renovations would occur within existing Bldg. 637. Seven buildings would be demolished (totaling 57,880 sq. ft), one of which is a 69 ft. tall paraloft building (which is being relocated to the Coastal Campus site).

On the bay side of NAB the project would consist of a new building, renovation of three existing buildings, replacement of one facility and one rappel tower, and demolition of 15 buildings and a paraloft. All new structures on this side of NAB would be internal to the NAB and not visible to the public.

The proposed renovations would not adversely affect public views, archaeological resources, or public access and recreation. Building designs would be consistent with existing Navy Base design guidelines, including the recently developed Coastal Campus Design Guidelines. Best Management Practices would be implemented to protect water quality.

Several measures would be included to avoid effects on western snowy plovers and California least terns, which nest on beaches 650 ft. or more further south of the NAB, including avoiding demolition during the nesting tern/plover seasons, incorporation of bird-friendly designs, using glass and lighting materials designed to prevent collisions, enforcing access restrictions in nesting areas, shielding of outdoor lighting, and fitting buildings and rooftops with anti-bird perching devices and incorporating appropriate roof slopes to avoid nest and chick predation.

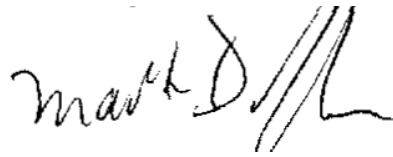
Although no new structures would be constructed seaward of existing buildings to the south on the ocean side of NAB, the Navy notes that this area of the NAB was subject to high tides and flooding earlier this year, and states: “In light of this, the proposed redevelopment project implements two strategies, adaptation and managed retreat, to minimize future risk from sea level rise in the project area.” To clarify this commitment, the Navy states:

Although the primary purpose of the proposed action is to support consolidation and renovation of NSW personnel and facilities, a related benefit is the opportunity to implement managed retreat practices. The project also incorporates consolidation and relocation of NAB parking areas as well as flood-proofing and raising building elevations. Conceptual plans for the proposed redevelopment were drawn to provide construction of facility foundations at elevations between 12.5 and 22.5 ft. above the forecasted 2100 mean high tide level. Individual buildings and utility lines serving them will be designed to account for forecasted inundation potential in order to mitigate sea level rise to the extent practical. The proposed projects do not include backbone utility system upgrades or significant modifications other than those necessary to provide service to new facilities. In addition, the proposed action relocates the majority of the new buildings, with the exception of the Bldg. 638 warehouse extension, east of the most severely impacted projected inundation areas; and does not increase the potential for inundation issues moving forward. ...

To support an adaptation strategy, the redevelopment would incorporate site improvements into project designs to improve diversion and infiltration of storm water on site in accordance with LID [Low Impact Development] best practices. NAB is establishing a beach monitoring plan through partnership with the Scripps Institute of Oceanography and has an emergency protection plan in the event of coastal flooding. Thus, the proposed project incorporates both adaptation and managed retreat strategies by ensuring finished floor elevations are well above anticipated inundation levels and by relocating certain infrastructure further away from the shoreline. Due to the inherently coastal dependent nature of the NSW community and its mission, complete managed retreat away from NAB, is not feasible or practical.

In conclusion, the Commission staff **agrees** that, with the above commitments, the proposed project would not adversely affect coastal zone resources. This conclusion is contingent on the assumption that the Navy will continue to consider adaptation and managed retreat in accordance with the commitments articulated above, and should not expect Commission authorization of any “hardened” shoreline protective structures to protect the proposed storage building (Bldg. 638) addition. With this understanding and these commitments, we therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations. Please contact Mark Delaplaine at (415) 904-5289 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Delaplaine", with a stylized flourish at the end.

(for) JOHN AINSWORTH
Acting Executive Director

cc: San Diego District

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October 19, 2016

Russell E. Galipeau, Jr.
Superintendent
Channel Islands National Park
1901 Spinnaker Drive
Ventura, CA 93001-4354

Subject: Negative Determination ND-0033-16 (Scorpion Pier Emergency Repair, Santa Cruz Island, Channel Islands National Park, Santa Barbara County)

Dear Mr. Galipeau:

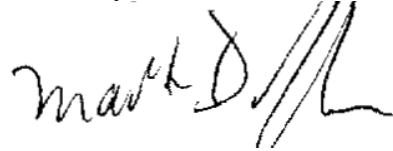
The Coastal Commission staff has reviewed the above-referenced negative determination. The National Park Service ("NPS") proposes to remove the damaged Scorpion Pier on Santa Cruz Island and replace it with a 92-foot-long aluminum gangway that will rest on the existing landward and offshore concrete pier abutments. The existing pier (installed in 2000 and intended for only temporary use) has structurally deteriorated to such a degree that it is no longer able to safely bear any loads. Recent winter storms further damaged the pier and displaced rocks which protect the base of the landward abutment. The proposed project also includes repositioning these dislodged rocks around the base of the landward abutment but no importation of additional rocks to this location. The proposed project will take less than one week to construct, falls within the footprint of the existing pier, results in a decrease in shading because of the grating of the temporary gangway, and will not adversely affect the ocean floor or shoreline.

The pier is essential to provide access to the island for NPS staff and visitors. Since closure of the pier, NPS staff and visitors must be transferred from offshore boats to a small inflatable skiff that runs through the surf zone to the beach. The NPS states that this operation is very time consuming and poses additional safety risks during the transfer of passengers through the surf zone to and from the island. The NPS is developing a Final Environmental Impact Statement for construction of a permanent replacement pier at a different location within the Scorpion Anchorage area on the island, and will submit a consistency determination for this project to the Commission at a future date.

In conclusion, the Commission staff **agrees** that the proposed pier replacement will not adversely affect coastal resources. We therefore **concur** with your negative determination made pursuant to 15 CFR 930.35 of the NOAA implementing regulations. Please contact Larry Simon at (415) 904-5288 should you have any questions regarding this matter.

ND-0033-16 (National Park Service)
Channel Islands National Park

Sincerely,

A handwritten signature in black ink, appearing to read "John Ainsworth", with a stylized flourish at the end.

(for) JOHN AINSWORTH
Acting Executive Director

cc: CCC – South Central District

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October 7, 2016

Beatrice L. Kephart
Chief, Installation Management Flight
30 CES/CEI
ATTN: Tracy Curry, 30 CES/CEIEA
1028 Iceland Avenue
Vandenberg AFB, CA 93437-6010

Subject: Negative Determination ND-0034-16 (Culvert replacement and bluff erosion repairs,
Pillar Point Air Force Station, San Mateo County)

Dear Ms. Kephart:

The Coastal Commission staff has reviewed the above-referenced negative determination. The Air Force proposes to replace a corroded and failing storm water culvert and repair bluff erosion adjacent to the culvert on the north (ocean) side of Pillar Point Air Force Station. The project includes: (1) constructing a temporary access road from the main station road downslope to the lower end of the eroded bluff and the terminus of the existing culvert; (2) removing the existing culvert, partially excavating the eroded gully to reach stable soil, and creating stable 1:1 slopes on both sides of the gully; (3) backfilling the gully with approximately 1,000 cubic yards of imported soil, placed in 8-inch-thick layers and then compacted; (4) installing a new 24-inch diameter drain pipe on the repaired slope, which will collect storm water from the station road and deliver it into an existing concrete swale located approximately halfway down the slope and terminating at the base of the bluff; (5) installing erosion control mats and straw wattles on the repaired slope and on the temporary access road; and (6) applying a hydroseed mix of plants native to the Pillar Point area on the repaired slope and temporary access road. The estimated maximum area of disturbance is approximately one-quarter acre.

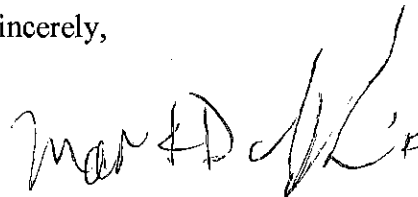
The Air Force states that the proposed project is required in order to prevent additional erosion of the hillside due to the failed culvert, to protect the station roadway at the top of the slope, and to avoid a larger and more disruptive repair project in the future. The project will not adversely affect public access as the project site is located within the fenced security area of the Air Force Station and on the bluff face. An informal access path connecting the top of the bluff and the beach, located just north of the project area and outside the fenced security area, may need to be temporarily closed during the two to three week-long construction period in October 2016. However, other such pathways to the north will remain open and the public's ability to reach the beach in the vicinity of the project area will not be interrupted. No listed species or critical habitat will be affected by the construction project. The project will minimize the potential for additional erosion of the bluff face and the associated adverse impacts to coastal water quality from such erosion or slope failure. Standard construction best management practices will be

ND-0034-16 (Department of the Air Force)
Pillar Point Air Force Station

implemented throughout the construction period to prevent and minimize impacts to water quality, bluff vegetation, and the beach.

In conclusion, the Commission staff **agrees** that the proposed culvert replacement and bluff erosion repairs will not adversely affect coastal resources. We therefore concur with your negative determination made pursuant to 15 CFR 930.35 of the NOAA implementing regulations. Please contact Larry Simon at (415) 904-5288 should you have any questions regarding this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "John Ainsworth", written in a cursive style.

for

JOHN AINSWORTH
Acting Executive Director

cc: CCC – North Central Coast District

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October 11, 2016

Clark Winchell
Division Chief
Conservation Partnerships Program
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

Subject: Negative Determination ND-0035-16 (Maintenance Dredging at Bolsa Chica Lowlands Restoration Project Tidal Basin and Ocean Inlet and Placement of Dredged Sediments on Bolsa Chica State Beach, Orange County)

Dear Mr. Winchell:

The Coastal Commission staff has reviewed the above-referenced negative determination. The U.S. Fish and Wildlife Service ("Service") proposes to undertake Fall 2016 maintenance dredging in a section of the ocean inlet and full tidal basin at the Bolsa Chica Lowlands Restoration Project area, and place the dredged sands on Bolsa Chica State Beach immediately south of the ocean inlet. Approximately 130,000 cubic yards of clean sands, tested and determined to be physically suitable for beach nourishment, will be removed using a cutter head dredge and transported to the nourishment site by a temporary floating or shore-anchored discharge pipeline. Maintenance dredging would occur over a 14-acre area to a depth of -5.5 feet mean lower low water (plus up to two feet of overdepth dredging) and sand would be placed along a 1,700-foot-long stretch of beach covering approximately 6.4 acres. The Service states that while the proposed project is expected to maintain an open inlet for 12 months, an additional 260,000 cubic yards of shoaled sediments still need to be removed to return the inlet and tidal basin to their design depths.

In November 2001 the Commission concurred with consistency determination CD-061-01 for restoration of the Bolsa Chica lowlands, to be accomplished in part by the construction of an ocean inlet to return tidal flows to the historic wetland complex at Bolsa Chica and grading to create diverse wetland and tidal habitats across portions of the 880-acre project area. In August 2006 construction was completed and approximately 560 acres of the project site were opened to full or muted tidal flows. Maintenance dredging of sections of the ocean inlet and full tidal basin to remove shoaled sands, and placement of dredged sands on the downcoast beach to minimize erosion due to sand capture by the tidal inlet, were essential design elements of the restoration project concurred with by the Commission and occur on average every two years.

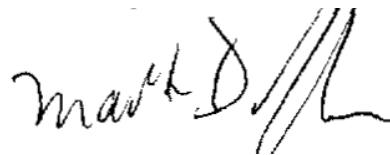
The periodic removal of shoaled sediments is necessary in order to prevent closure of the tidal inlet, which would lead to significant adverse impacts to habitat values, listed species, fisheries,

and water quality within the restored lowlands area. Closure of the inlet would also increase groundwater and surface water levels in the lowlands, potentially leading to flooding of adjacent residential areas and active oil production fields. Flooding of those fields could lead to contaminant dispersal into the tidal basin and adjoining wetlands. In addition, without replenishment from beach disposal of dredged sediments from the inlet and tidal basin, upcoming winter storms could further erode the beach south of the ocean inlet (beyond that which occurred during the 2016 El Nino winter) and damage the shoreline Multi-Use Trail and Pacific Coast Highway.

The proposed maintenance dredging and beach nourishment activities are similar to previous dredging and nourishment projects undertaken in the project area. No permanent adverse effects on marine resources, water quality, and public access and recreation are expected, and the project will result in protection of those resources consistent with the provisions and commitments contained in CD-061-01. Project development was coordinated with the U.S. Army Corps of Engineers, National Marine Fisheries Service, California State Lands Commission, California Department of Parks and Recreation, and California Department of Fish and Wildlife to ensure consistency with agency mandates for protection of natural resources at the Bolsa Chica Lowlands.

Under the federal consistency regulations, a negative determination can be submitted for an activity "which is the same as or similar to activities for which consistency determinations have been prepared in the past." The proposed project is similar to the maintenance dredging and beach nourishment activities previously undertaken at the Bolsa Chica Lowlands under the provisions of CD-061-01. In conclusion, the Commission staff **agrees** that the proposed maintenance dredging and beach nourishment will not adversely affect coastal resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations. Please contact Larry Simon at (415) 904-5288 should you have any questions regarding this matter.

Sincerely,



(for) JOHN AINSWORTH
Acting Executive Director

cc: CCC – South Coast District
U.S. Army Corps of Engineers
National Marine Fisheries Service
California State Lands Commission
California Department of Parks and Recreation
California Department of Fish and Wildlife

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200



October 18, 2016

Maria Brown, Superintendent
Greater Farallones
National Marine Sanctuary
The Presidio
991 Marine Drive
San Francisco, CA 94129

Dobri Tutov
State Lands Commission
100 Howe Ave., Suite 100-South
Sacramento, 95825-8202

Re: **NE-0011-16**, No Effects Determination, Private Moorings approved by the State Lands Commission under the NOAA Sanctuaries/SLC Tomales Bay Mooring Program, Marin County

Dear Superintendent Brown and Mr. Tutov:

The Commission staff is reviewing "no effects" determinations for seven private moorings in Tomales Bay under ten-year leases being issued by the California State Lands Commission (CSLC) to the five applicants listed below:

Applicant	LAT	LONG	Tag #
Eric Fuge	38.150944	122.890005	G52
Thomas and Melissa Riley	38.1848	122.9138	New
Hog Island Oyster Co., Inc.	38.161718	122.896211	G65
Hog Island Oyster Co., Inc.	38.160909	122.895456	G66
Hog Island Oyster Co., Inc.	38.161039	122.895694	G67
Mark Carlson	38.115713	122.890005	G12
Dana Cappiello	38.151181	122.890005	New

NOAA's Greater Farallones National Marine Sanctuary (GFNMS) staff, in partnership with California State Lands Commission (CSLC) staff, developed the Tomales Bay Mooring Program, as part of the Tomales Bay Vessel Management Plan.¹ Since 1981, when the GFNMS was designated, Sanctuary regulations have prohibited the discharge of materials into GFNMS and disturbance to the seabed; these regulations thus prohibited placement of

¹ The Commission staff concurred with NOAA's negative determination for the Tomales Bay Vessel Management Plan on June 13, 2013 (ND-0203-13).

moorings. However, the establishment of the Vessel Management Plan in April 2013 and subsequent Mooring Program provided a mechanism to permit moorings. The program includes specific criteria for where moorings may be located on the bay, provides overall limits to the number of moorings, introduces mandatory specifications for mooring tackle, and requires inspection and maintenance of the moorings. These program requirements are contained in Attachment B. Under this program (and pursuant to the National Marine Sanctuaries Act, 16 USC §1431 et seq., and regulations thereunder (15 CFR Part 922) and California Code of Regulations (Title 2, Division 3, Chapter 1)), all private mooring holders must obtain a CSLC lease.

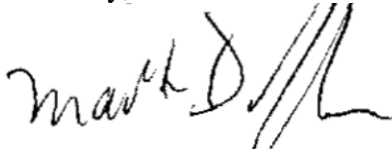
GFNMS and CSLC are administering the Mooring Program together because regulations of both agencies apply in Tomales Bay. GFNMS is issuing a permit to CSLC that makes it possible for CSLC to lease areas of state sovereign lands in the bay for moorings that comply with federal and state laws. The GFNMS permit to CSLC requires, for example, that leases not be located in seagrass beds, and that mooring anchors must be appropriate for the specific conditions at each mooring lease location. CSLC incorporates the necessary GFNMS conditions into the lease agreements, along with its own and those of several other agencies, such as required distances from swimming beaches, State Parks, and aquaculture areas. The conditions that will apply to mooring leases in Tomales Bay will thus reflect CSLC and GFNMS requirements that were developed collaboratively (and with input from numerous agencies and stakeholders, including the Commission staff). On October 13, 2016, the CSLC authorized the five leases that are the subject of this letter. These authorizations follow the CSLC's previous (July 28, 2016 and August 9, 2016) authorizations of 19 private leases, which we subsequently concurred with under No Effects Determinations NE-0007-16 and NE-0008-16.

The primary Mooring Program goals are to: protect habitat; decrease threats to and disturbance of wildlife; and ensure safe and enjoyable water-related recreation, by allowing moorings and removing and preventing illegally and improperly placed moorings and mooring materials. The Mooring Program incorporates an adaptive management approach for decisions regarding various mooring technologies (such as anchors and other equipment) in Tomales Bay, with the goal of selecting and locating those that are the least damaging to the environment and most appropriate for Tomales Bay's hydrodynamic conditions. As new information is acquired and analyzed, requirements and specifications may be amended by GFNMS and CSLC, in collaboration with the Tomales Bay Interagency Committee (TBIC).

Because the moorings as authorized by CSLC will enhance a number of coastal zone resources, the Commission's federal consistency staff is reviewing them through the federal consistency review category typically used for federally-permitted projects that do not generate adverse effects on coastal resources (i.e., through "No Effects" determinations). The Commission staff believes that, with the requirements and monitoring provided under the CSLC leases, the moorings will be sited in a manner that will improve protection of seagrass beds and other marine resources, coastal water quality, coastal recreation and public health.

In conclusion, we **agree** that, as conditioned in conformance with the CSLC leases, the moorings listed on page 1 of this letter would concentrate moorings outside environmentally sensitive areas, and would avoid adverse effects on marine resources, water quality, and other coastal zone resources. We therefore **concur** with "no effects" determinations for these moorings. Please contact Mark Delaplaine at (415) 904-5289 if you have any questions.

Sincerely,



(for) JOHN AINSWORTH
Acting Executive Director

cc: North Central District (Nancy Cave)
Army Corps, S.F. District (Regulatory – Aaron Allen, Holly Costa)
NOAA Sanctuaries (Karen Reyna, Max Delaney)
Mooring Program Lessees

Attachments

A – Mooring Location Maps

B – Mooring Program Requirements (incorporated into the CSLC Leases)

Mooring Program Lessees

Eric Fuge
12460 Mill Street
Petaluma, CA 94952

Thomas McDonnell Riley and Melissa Eaton Riley
PO BOX 271
Point Reyes Station, CA 94956

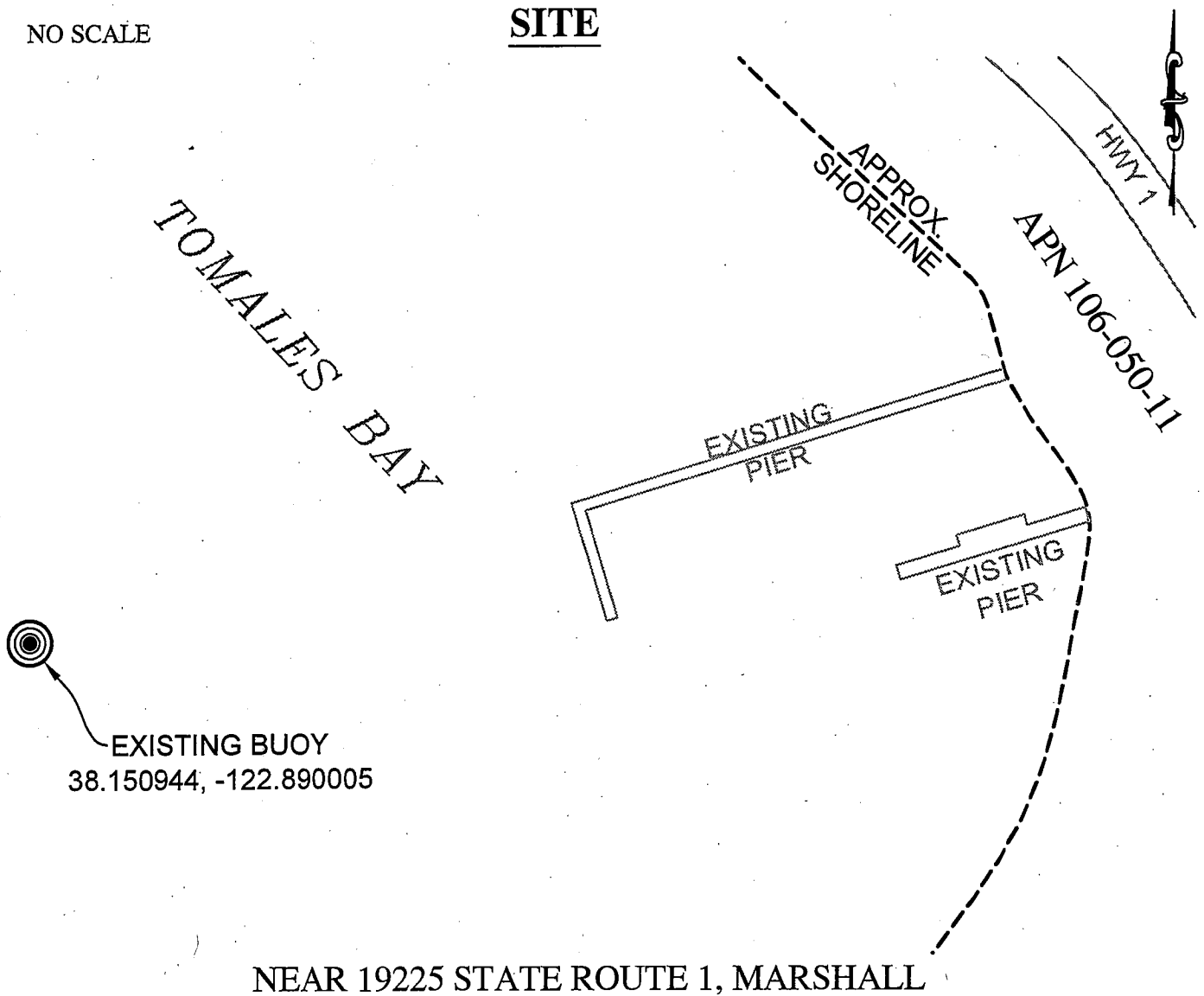
Hog Island Oyster Company, Inc.
20215 State Route 1
Marshall, CA 94940

Mark Carlson
PO BOX 2471
San Francisco, CA 94126

Dana R. Cappiello
68 Yukon Street
San Francisco, CA 94114

NO SCALE

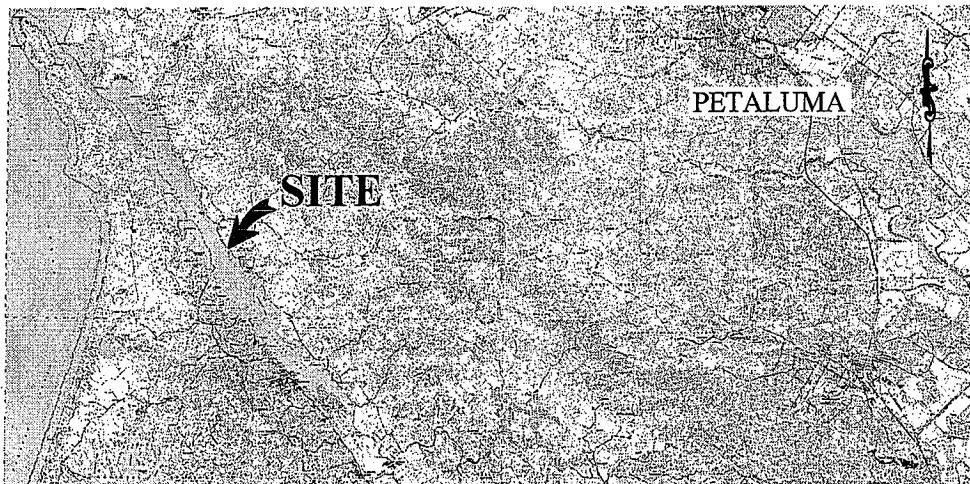
SITE



NEAR 19225 STATE ROUTE 1, MARSHALL

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

W 26983
FUGE
GENERAL LEASE -
RECREATIONAL USE
MARIN COUNTY



RGB 06/24/16

NO SCALE

SITE

TOMALES BAY

APN 104-170-05

APN 104-170-14

HWY 1

APN 104-170-13



PROPOSED BUOY
38.19143, -122.91926

APPROX.
SHORELINE

22667 ROUTE 1, NEAR MARSHALL

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

W 27036

CAPPIELLO TRUST

APN 104-170-14

GENERAL LEASE -
RECREATIONAL USE
MARIN COUNTY



RGB 8/25/16

NO SCALE

SITE



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

W 26986

RILEY

APN 104-190-43, 48, & 50

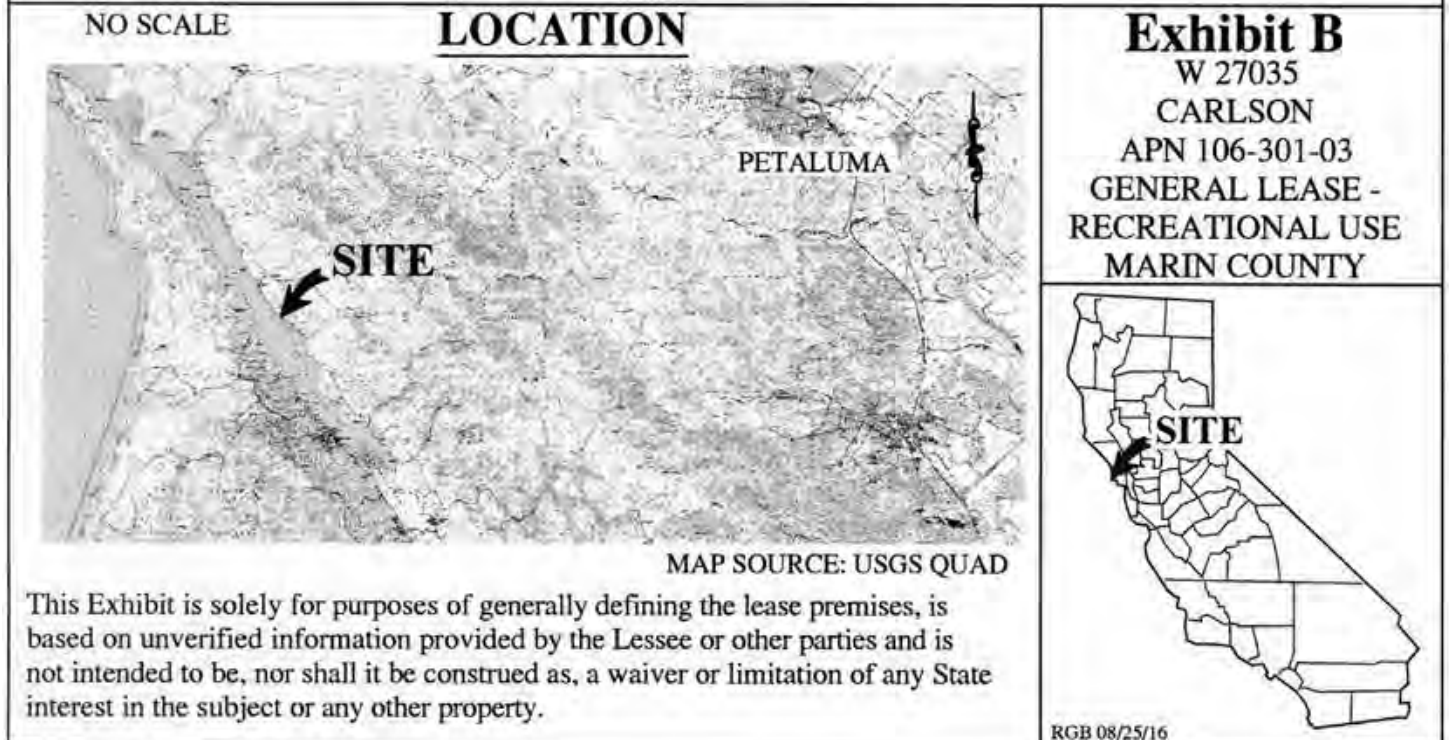
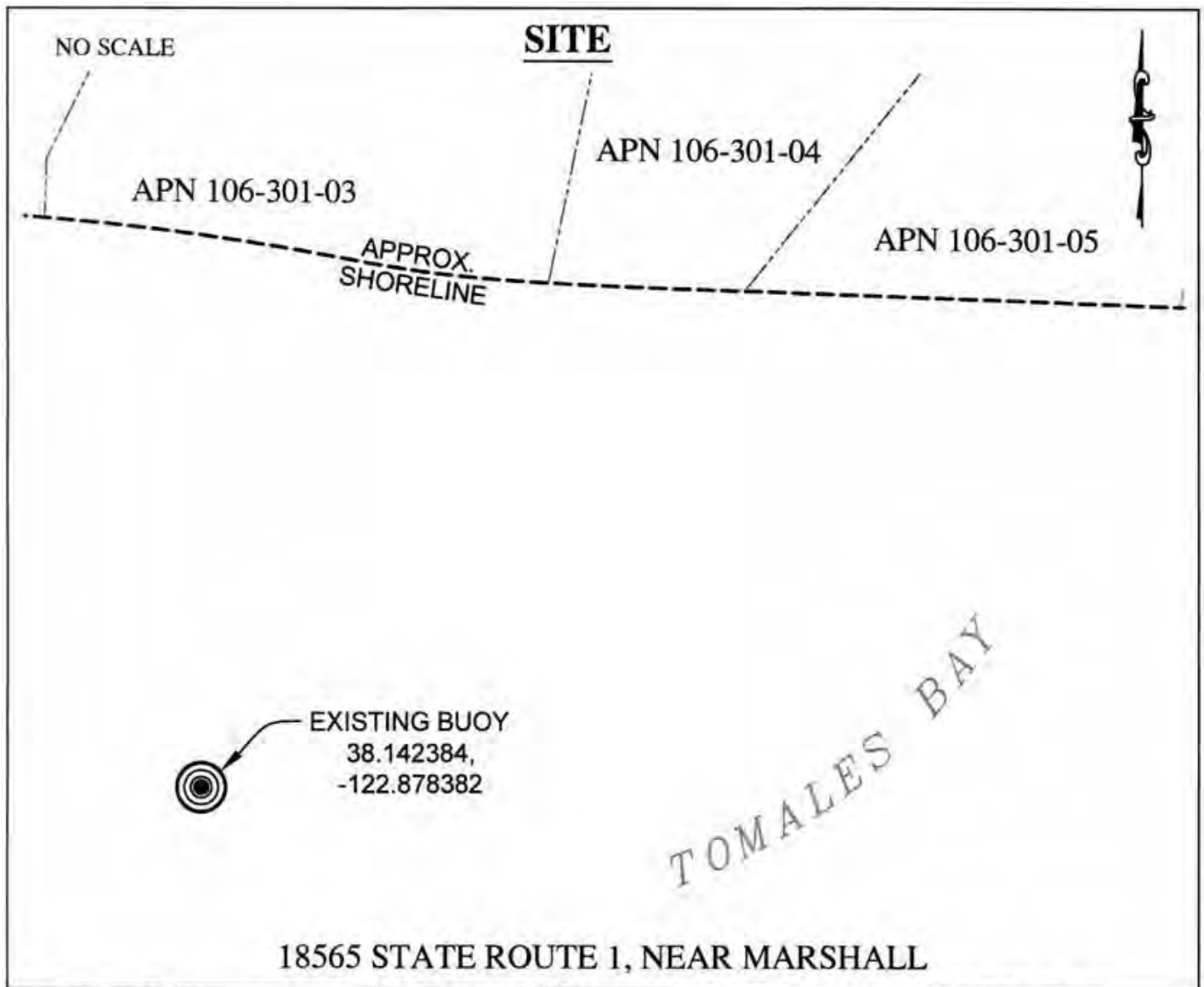
GENERAL LEASE -

RECREATION USE

MARIN COUNTY

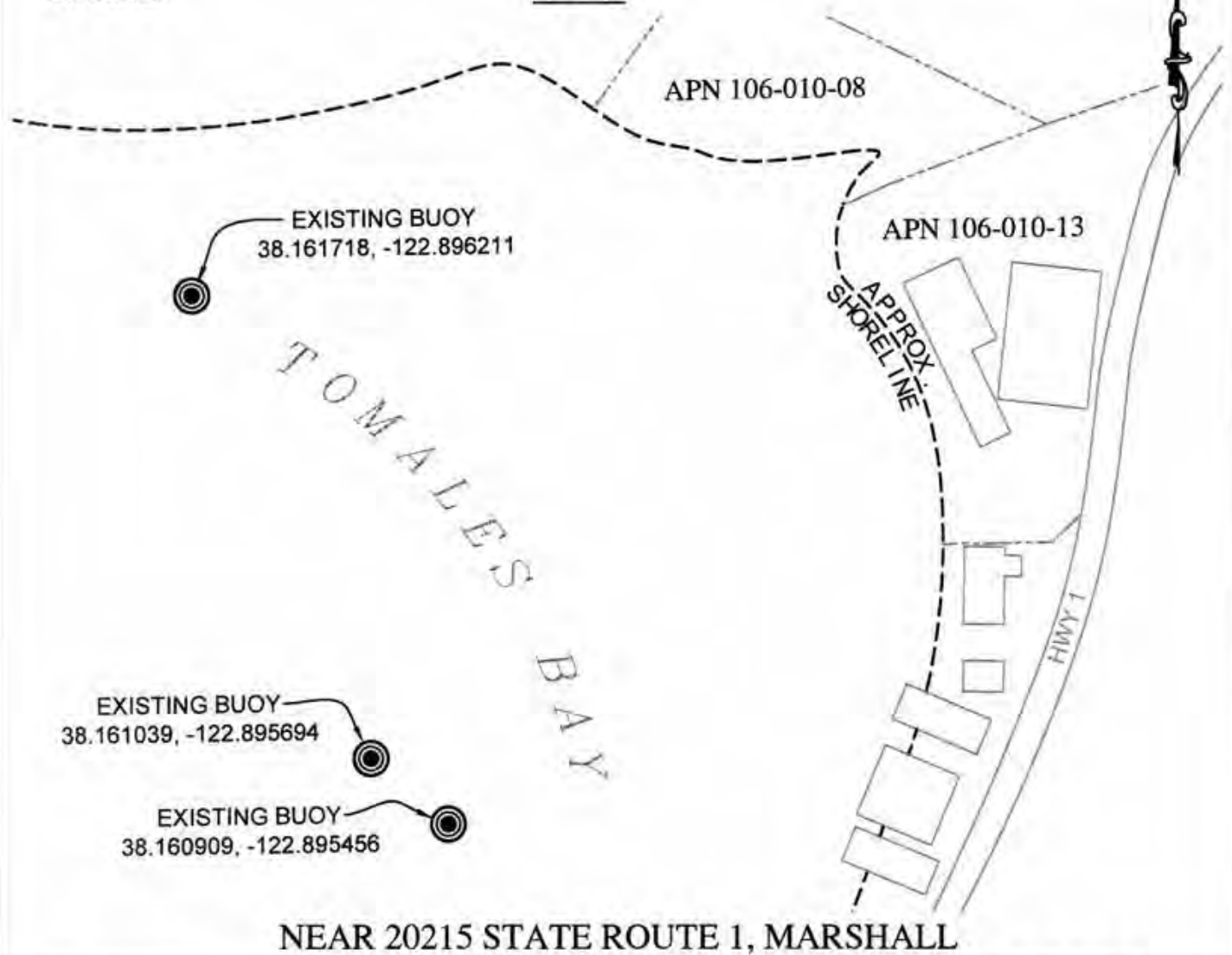


RGB 07/15/16



NO SCALE

SITE



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 26985
HOG ISLAND OYSTER
COMPANY
GENERAL LEASE -
RECREATIONAL USE
MARIN COUNTY



RGB 06/28/16

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

EXHIBIT C
TOMALES BAY MOORING PROGRAM REQUIREMENTS
(POLICIES AND CRITERIA)
APRIL 28, 2016

I. Introduction:

The *Tomales Bay Mooring Program* (MP) was developed as part of the Tomales Bay Vessel Management Plan by NOAA's Greater Farallones National Marine Sanctuary (GFNMS) staff in partnership with California State Lands Commission (CSLC) staff. Since 1981, when the GFNMS was designated, Sanctuary regulations have prohibited the discharge of materials into GFNMS and disturbance to the seabed, which includes the placement of moorings. Although mooring installation is still a prohibited activity, the establishment of the Vessel Management Plan in April 2013 and subsequent Mooring Program now allows for a mechanism to permit moorings. The program includes specific criteria for where moorings may be located on the bay, introduces mandatory specifications for mooring tackle, and requirements for the inspection and maintenance of moorings. Pursuant to the National Marine Sanctuaries Act, 16 USC §1431 *et seq.*, and regulations thereunder (15 CFR Part 922) and California Code of Regulations (Title 2, Division 3, Chapter 1), all private mooring holders must obtain a CSLC lease.

GFNMS and CSLC are administering the Mooring Program together because regulations of both agencies apply in Tomales Bay. GFNMS has issued a permit to CSLC that makes it possible for CSLC to lease areas of state sovereign lands in the bay for moorings that comply with federal and state laws. The GFNMS permit to CSLC requires, for example, that leases not be located in seagrass beds and that mooring anchor must be appropriate for the specific conditions at each mooring lease location. CSLC will include the necessary lease provisions pursuant to the GFNMS permit. Therefore, while mooring lease applicants will only be dealing with CSLC and CSLC applications, the conditions that will apply to mooring leases in Tomales Bay will reflect CSLC and GFNMS requirements that were developed collaboratively with input from numerous agencies and stakeholders.

The primary goals for establishing a program for siting and permitting moorings on the bay are to: protect habitat; decrease threats to and disturbance of wildlife; and ensure safe and enjoyable water-related recreation by allowing moorings and removing and preventing illegally and improperly placed moorings and mooring materials. The Mooring Program (MP) uses an adaptive management approach for decisions regarding various mooring technologies (anchor and all other equipment) in Tomales Bay to select those that are the least damaging to the environment and appropriate for Tomales Bay hydrodynamic conditions. As new information is acquired and analyzed, requirements and specifications may be amended by GFNMS and CSLC in collaboration with the Tomales Bay Interagency Committee.

II. Tomales Bay Mooring Program Applicability and Exemptions:

- The MP allows for up to 165 moorings on Tomales Bay within CSLC and GFNMS jurisdiction. This includes 130 available leases for the use of State sovereign lands for privately owned vessel moorings and up to 35 moorings at Lawson's Landing. Use of State sovereign land for moorings at Lawson's Landing are subject to the terms and conditions of a 25-year commercial lease issued by CSLC in 1998 and that existing lease is not subject to

EXHIBIT C
TOMALES BAY MOORING PROGRAM REQUIREMENTS
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APRIL 28, 2016

the requirements of the MP for the remaining lease term. The 130 remaining leases are subject to the requirements of the MP.

- Moorings directly associated with aquaculture operations and located within state water bottom lease areas for aquaculture pursuant to a valid lease, permit, license or other authorization are regulated by California Department of Fish and Wildlife and Department of Public Health and not subject to the requirements of the MP.

III. CSLC Tomales Bay Mooring Program Lease Requirements:

- CSLC administers the MP and may issue leases for the use of sovereign land for individual moorings within Tomales Bay under a permit from GFNMS. Without exceptions, all owners of private vessel moorings located within Tomales Bay are required to obtain a lease from the CSLC.
- GFNMS has issued a permit to CSLC to allow for the issuance of mooring leases consistent with the criteria in the MP; therefore, in accordance with GFNMS regulations 15 CFR 922.82, moorings without a valid CSLC individual or commercial mooring lease are prohibited. No current or past Tomales Bay mooring owner is granted an automatic right to moor and no moorings will be automatically grandfathered in as exempt from the requirements of the MP.
- The cost of removal of an unauthorized mooring is the responsibility of the mooring owner.
- The Lessee purchases and owns all mooring tackle and pays for all installation, inspection, maintenance, and removal costs.
- CSLC *General Lease- Recreational Use* may have a term of no greater than 10 years.

IV. Special Conditions for Tomales Bay Mooring Leases:

- Only one vessel is allowed on a mooring at one time. The vessel on the mooring must be registered to that mooring and to the Lessee or be registered to a guest of the Lessee. Guest boats are allowed, with permission from the Lessee, for no longer than 30 consecutive days and only if they are the same size and weight or smaller than the vessel for which that mooring was designed.
- No sale or sub-leasing of mooring leases shall be allowed. Any sale, rental or sub- leasing of the mooring will result in immediate termination of the mooring Lease.
- Transfer of moorings will require an assignment authorized by the CSLC. Transfers are not automatic with the sale of a vessel or the littoral property.
- All moored vessels (including guest boats) must be registered, and must display a current

EXHIBIT C
TOMALES BAY MOORING PROGRAM REQUIREMENTS
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registration sticker or other visible proof of registration consistent with the requirements of applicable state and/or federal law.

- All mooring lessees shall maintain, and upon the due date of their rent annually submit proof of, liability insurance that shall adequately protect both Lessee and Lessor against public liability and property damage. Guest boats should also meet these insurance requirements.
- Each Lessee is responsible for ensuring that mooring tackle is inspected and maintained. Failure to maintain a mooring shall be considered grounds for termination of the mooring Lease.
- The moored vessel is required to be secured firmly and the anchor shall be of a size and design sufficient to prevent the vessel or mooring anchor from drifting, dragging or otherwise moving off the assigned mooring site.
- All vessels that are authorized to moor within Tomales Bay must remain in operable condition while attached to the mooring. Any vessel that presents a threat to life, property, or the environment may be removed or impounded at the owner's expense.

V. Tomales Bay Mooring Program Mooring Criteria:

All CSLC mooring Leases subject to the MP shall only be issued in locations meeting all of the following eight criteria (as depicted as “the combined mooring exclusion areas” in Figure 1, Figure 1a. and Figure 1b.):

1. Seagrass: No vessel moorings shall be allowed in seagrass beds.
2. Wildlife Disturbance: No moorings shall be allowed in areas within 300 feet of seal haul-out areas.
3. Parcels Under Private Ownership Outside of CSLC Jurisdiction: No vessel moorings shall be allowed on tidelands and submerged lands under private ownership.
4. NPS-owned Tide and Submerged Lands Outside of GFNMS Jurisdiction: Other than as necessary for NPS administrative use, no moorings shall be allowed on the submerged lands owned by NPS outside of GFNMS jurisdiction.
5. Swimming Beach/Boat Launch Areas: No moorings shall be allowed within 100 feet of swimming beaches and boat launch ramps.
6. State Parks: No moorings shall be allowed within 1000 feet offshore of State Parks property.
7. Aquaculture: No moorings shall be allowed within areas that fail to meet the California Department of Public Health calculations for safe distances between moorings and shellfish growing operations. No moorings shall be located within state water bottom lease areas for aquaculture unless authorized by the State of California.
8. Navigation Channels: No moorings shall be allowed within navigation channels of Tomales Bay.

EXHIBIT C
TOMALES BAY MOORING PROGRAM REQUIREMENTS
(POLICIES AND CRITERIA)
APRIL 28, 2016

The Interactive PDF Map contains layers showing the MP Mooring Criteria.

VI. Requirements for Location of Moorings:

- The CSLC will only issue leases on ungranted sovereign land under its jurisdiction. No mechanism through GFNMS and CSLC currently exists for authorizing moorings on private parcels.
- Moorings and associated ground tackle shall be located within the boundaries of the MP *Mooring Zones* depicted on *Figure 1*, with the following exceptions:
 1. *Aquaculture*: State of California authorized aquaculture moorings used for aquaculture operations within state water bottom lease areas;
 2. *Adjacent to Developed Littoral Properties*: Owners of developed littoral properties must apply for a lease for the use of submerged lands for the placement, use, and maintenance of one mooring directly adjacent to and offshore of that developed littoral parcel. The mooring and attached vessel must meet all of the requirements of the MP including criteria for siting, installation, inspection, and maintenance.
 3. *Preexisting Vessel Moorings*: Mooring owners that applied for a Lease during the MP initial rollout period (between August 10, 2015 and February 10, 2016), for moorings that existed prior to August 2013, were allowed to keep their moorings in the original location if that location met all MP mooring criteria, and the mooring passed an initial inspection.
- CSLC does not guarantee that a Lease will be issued for the same location as the desired mooring location proposed by the applicant, even if that site meets all MP mooring criteria and is within an approved mooring zone. Space and capacity for moorings may be limited in some mooring zones. Spacing limitations will be initially determined by the mooring contractor and his/her expert opinion, but capacity in each zone is subject to agency review and approval based on proximity to aquaculture operations or other sensitive sites, or restricted land access to the mooring sites. If the proposed site is not accepted, then CSLC will provide the applicant with an alternate location within a designated mooring zone, as near in proximity to the proposed location as feasible.

VII. Mooring Tackle Requirements:

In order to prevent vessels from separating from their moorings during extreme weather and sea conditions on Tomales Bay, and to minimize environment impacts and public safety hazards, all vessel moorings authorized under the MP shall be subject to the following requirements for the design and construction, and inspection and maintenance of the mooring system:

- Mooring Lessees shall own and be responsible for maintaining all mooring tackle.
- All mooring equipment must be installed and inspected in accordance with the MP tackle and

EXHIBIT C
TOMALES BAY MOORING PROGRAM REQUIREMENTS
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inspection requirements and by a GFNMS approved Mooring Contractor, at the lessee's sole cost and expense.

- Private vessel mooring tackle will need to meet design standards, as described in this section, developed for Tomales Bay by the TBIC. Mooring tackle that has been installed but not reviewed by an approved Mooring Contractor might not comply with MP Mooring Tackle standards and could violate the terms of the mooring lease.
- Owners of vessels over 55-feet must submit mooring plans from a credentialed marine engineer along with a completed CSLC lease application.
- The mooring tackle and anchor shall be appropriate for Tomales Bay benthic habitat and geologic and hydrodynamic conditions, and capable of withstanding extreme weather and sea conditions. Extreme conditions within Tomales Bay can include: maximum sustained winds of over 30 knots, with gusts over 75 knots; wave heights of up to six feet (3-6 second intervals); maximum current speed of 2-3 knots, and; a maximum tidal variation of 9.1 feet.

Buoys:

- Mooring buoys must be standard white, hard shell, with foam interior and with blue horizontal stripe.
- The associated CSLC lease number must be prominently displayed on two opposite sides of the mooring buoy in block letters (minimum of 4") using black oil-based paint or permanent marine-quality stickers appropriate for use on mooring buoys.
- The cleat, post or deck hardware, which attaches to the pendant, shall be visibly free of rot, corrosion or disrepair and capable of withstanding loads, to the satisfaction of the approved Mooring Contractor.
- If a pendant is used, then chafing gear is required between the pendant and vessel.

Mooring Anchors:

- Mooring anchors must be appropriate for the specific conditions at each mooring lease location and must be approved by an approved Mooring Contractor. Engine blocks, Manta Ray and helical type anchors are not authorized. Examples of acceptable mooring anchors include pyramid (e.g., Dor Mor) or mushroom type anchors, properly designed and constructed one or two concrete filled 55-gallon drums, and clean railroad wheels.
- Anchor weight and design shall be proportional to the size of the vessel being moored and must be sufficient to hold the vessel in extreme weather conditions.
- Helix anchors are not permitted at this time but may be reconsidered upon further demonstration of their effectiveness, including long-term testing in Tomales Bay.

EXHIBIT C
TOMALES BAY MOORING PROGRAM REQUIREMENTS
(POLICIES AND CRITERIA)
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Rode:

- Chain and all metal components such as shackles, swivels, and eyes, shall be appropriately sized and of a high manufacturing quality (e.g. hot-dipped galvanized), to the satisfaction of the Mooring Contractor.
- Stainless steel safety wire or other binding material shall be required on all shackles to prevent unscrewing.
- If two individual lengths of chain (top and bottom chain) are required, they shall be shackled together, with swivel, to form one continuous length.
- Where the mooring chain is a single piece the shackle and swivel shall be placed between the anchor and chain.
- A shackle and swivel shall be used between buoy and top of mooring chain.
- All chain ½” and smaller shall be new upon initial installation.
- Seaflex or other elastic rodes shall not be permitted at this time but may be reconsidered upon further demonstration of their effectiveness including long-term testing in Tomales Bay.

VIII. List of GFNMS Approved Mooring Contractors:

- GFNMS staff have developed and will maintain a list of mooring services contractors approved for installing, inspecting and repairing/maintaining all moorings subject to the MP. Mooring installations will need to be inspected annually by an approved Mooring Contractor. Completed installation and annual inspection forms will be provided to CSLC.

IX. Inspection and Maintenance Requirements:

- Inspections by an approved Mooring Contractor shall be required for all moorings leased under the MP, at the mooring Lessee’s sole cost and expense. Inspection is required upon submission of a lease application (for preexisting mooring owners), or installation at the mooring site and annually thereafter on the lease anniversary date.
- It is the mooring Lessee’s responsibility to schedule and ensure that the required inspections occur.
- The mooring inspector must complete an *Annual Mooring Inspection Form*, which includes the current GPS location, in decimal degrees with an accuracy of a minimum of 6 decimal place digits, of the mooring anchor and a statement certifying the condition of the mooring tackle and whether or not it passes inspection. This form must be submitted by the mooring Lessee or Mooring Contractor to CSLC on or before the lease anniversary date, along with

EXHIBIT C
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APRIL 28, 2016

the payment of annual rent, proof of liability insurance, and current vessel registration.

- If the mooring does not pass inspection then the Lessee shall be given 45-days to take corrective actions, and submit a revised *Annual Mooring Inspection Form* signed by an approved Mooring Contractor. If corrective action is not taken within 45-days, the lease will be considered in default and CSLC may take action to terminate the lease. Once the lease is terminated, mooring tackle is subject to removal, at the owner's expense, pursuant to the authority of local, state, and federal laws and regulations.
- Moorings/vessels that are determined during an inspection to be at risk of equipment failure shall be reported immediately by the Mooring Contractor to CSLC and GFNMS staff, and shall require immediate action including potential removal at the lessee's expense.
- Mooring pendants, if used, shall be inspected annually and kept in good condition at all times. The mooring Lessee shall routinely check pendant for chafing and wear, and replace as necessary to prevent pendant failure.

X. Mooring Lease Application Process and Submittal Information Requirements For New Moorings:

The following section outlines the general lease application process for all new moorings.

- The following information shall be submitted by the applicant along with a completed *Application for Lease of State Lands* for review prior to consideration of a mooring lease by the CSLC at a public meeting:
 - ✓ The name and address of the vessel owner/mooring lease applicant;
 - ✓ Detailed description and schematic diagram of all mooring tackle planned for use, including the planned size, shape and color of the buoy;
 - ✓ Recent color photograph(s) of and general description of the size and type of vessel(s) to be attached to the mooring;
 - ✓ Documentation of vessel ownership in the lease applicant's name, consisting of applicable valid Department of Motor Vehicle registration or U.S. Coast Guard Certificate of Documentation;
 - ✓ Proof of valid liability insurance upon the due date of their rent for the vessel(s) proposed to be moored;
 - ✓ Letter authorizing or permitting access through a privately owned parcel if applicable;
 - ✓ Request for a proposed mooring location, such as the approximate latitude/longitude coordinates for the anchor placement location and the name of Mooring Zone requested (i.e. Zone 4);
 - ✓ Statement of need if more than one mooring is being requested.

EXHIBIT C
TOMALES BAY MOORING PROGRAM REQUIREMENTS
(POLICIES AND CRITERIA)
APRIL 28, 2016

- If the mooring lease application is for a littoral property owner then the following information, in addition to the above requirements, shall be required to be submitted:
 - ✓ The address and *Assessor's Parcel Number* of the developed littoral parcel.
 - ✓ Copy of the current upland vesting document (Deed).
- Lessees shall be responsible for promptly notifying CSLC staff of any changes to the original information provided on the application.

XI. Mooring Lease Costs:

- An application fee and filing fee will be required by CSLC upon receipt of a mooring lease application.
- Mooring lease rent shall be payable annually.
- Lease Application Fees do not include the costs of the mooring equipment or its installation, inspection, maintenance, annual rent, or removal.

XII. Mooring Installation and Positioning:

- Lessee shall be required to have the mooring installed by an approved Mooring Contractor (as close in proximity to the authorized location as is feasible) within 90-days of CSLC issuance of the lease.
- The Mooring Contractor who is responsible for installation of a mooring is required to fill out a *Pre-installation Mooring Proposal Form*, which shall be submitted to CSLC by the contractor or applicant with the CSLC mooring lease application. Required submittal information on this form includes: GPS location of the proposed mooring anchor; a detailed description and schematic diagram of the proposed mooring tackle demonstrating that all mooring tackle meets MP requirements; current vessel registration and Lessee's contact information.

XIII. Mooring Lease Termination:

A Lease will include provisions that the lease may be terminated by CSLC upon a breach of the lease, which includes, but is not limited to the following occurrences upon described notification as outlined in the lease:

- Failure to pay mooring lease rent on time;
- Failure to provide evidence of the required liability insurance;
- Failure to submit an *Annual Mooring Inspection Form* (within 15 days of inspection due date);
- Failure to pay annual rent, and show annual proof of the required liability insurance and current vessel registration when due;
- Failure to comply with MP mooring tackle requirements or mooring inspection requirements;
- Failure to maintain mooring or perform required repairs and maintenance within 45 days of failing an annual mooring inspection;

EXHIBIT C
TOMALES BAY MOORING PROGRAM REQUIREMENTS
(POLICIES AND CRITERIA)
APRIL 28, 2016

- Failure to maintain the moored vessel in seaworthy and operable condition;
- Selling, renting, or subleasing a mooring lease; and
- Transferring ownership of a non-littoral property mooring lease, or transfer of a littoral property lease without prior approval by CSLC.

If the mooring owner does not remove a mooring system and associated vessel within 45 days of lease termination, then the mooring system and associated vessel shall be removed at the mooring owner's expense and would subsequently be in violation of state and federal laws and regulations including, but not limited to violations of California Public Resources Code, California Code of Regulations Title 14, The National Marine Sanctuaries Act and Regulations at 15 CFR, Part 922, Section H.

XIV. Compliance Monitoring and Enforcement:

- Current laws and regulations shall be enforced. No unauthorized moorings are allowed to exist within Tomales Bay. GFNMS staff, in coordination with other TBIC agencies shall conduct regular ongoing compliance monitoring and maintain a database of permitted moorings on the bay.
- Once the MP initial rollout process is completed unauthorized moorings are subject to removal at the owner's expense and would be in violation of local, state and federal laws and regulations.

EXHIBIT C
TOMALES BAY MOORING PROGRAM REQUIREMENTS
(POLICIES AND CRITERIA)
APRIL 28, 2016

Figure 1: Map of Tomales Bay Mooring Zones

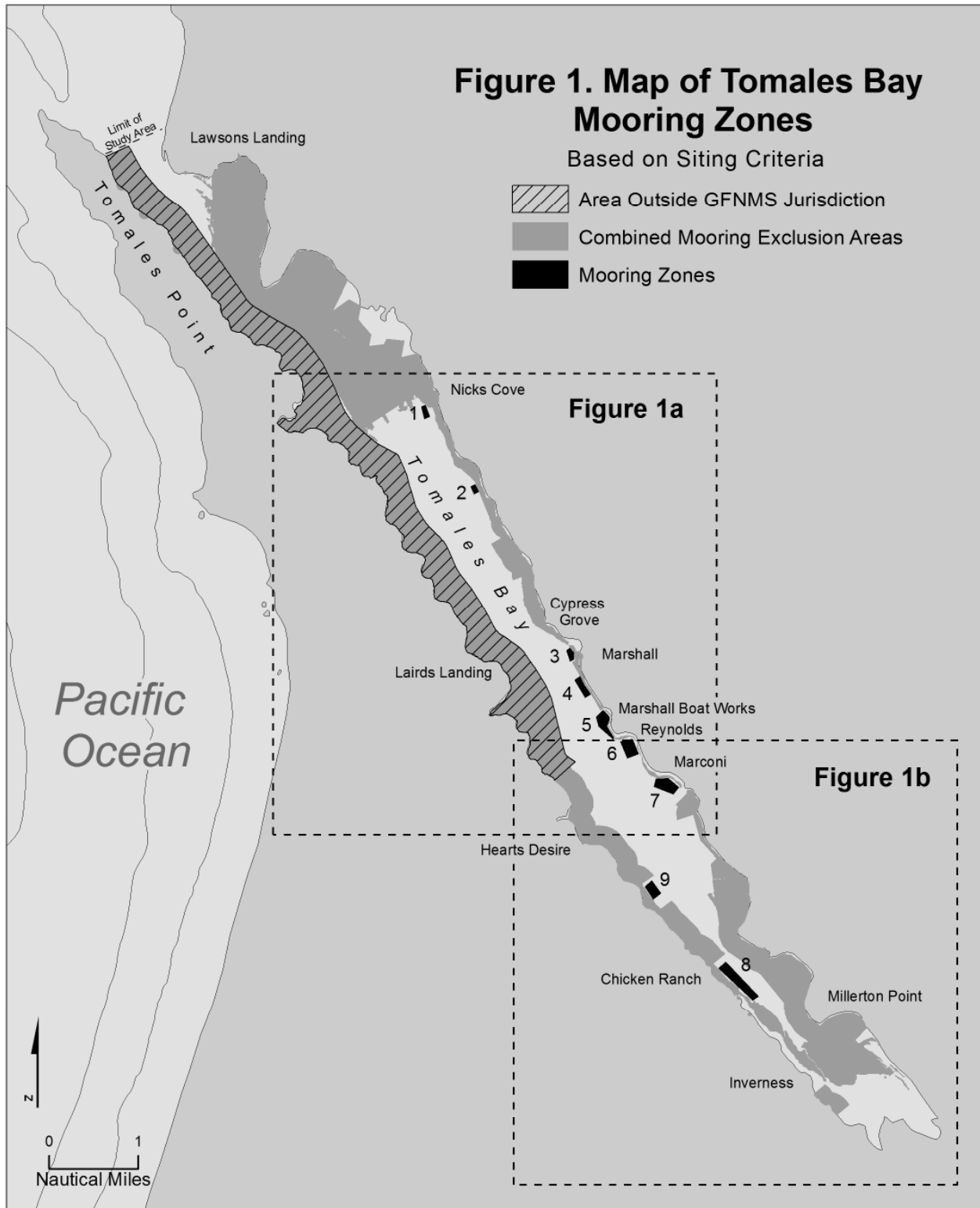


EXHIBIT C

TOMALES BAY MOORING PROGRAM REQUIREMENTS (POLICIES AND CRITERIA)

APRIL 28, 2016

Figure 1a: Map of Tomales Bay Mooring Zones

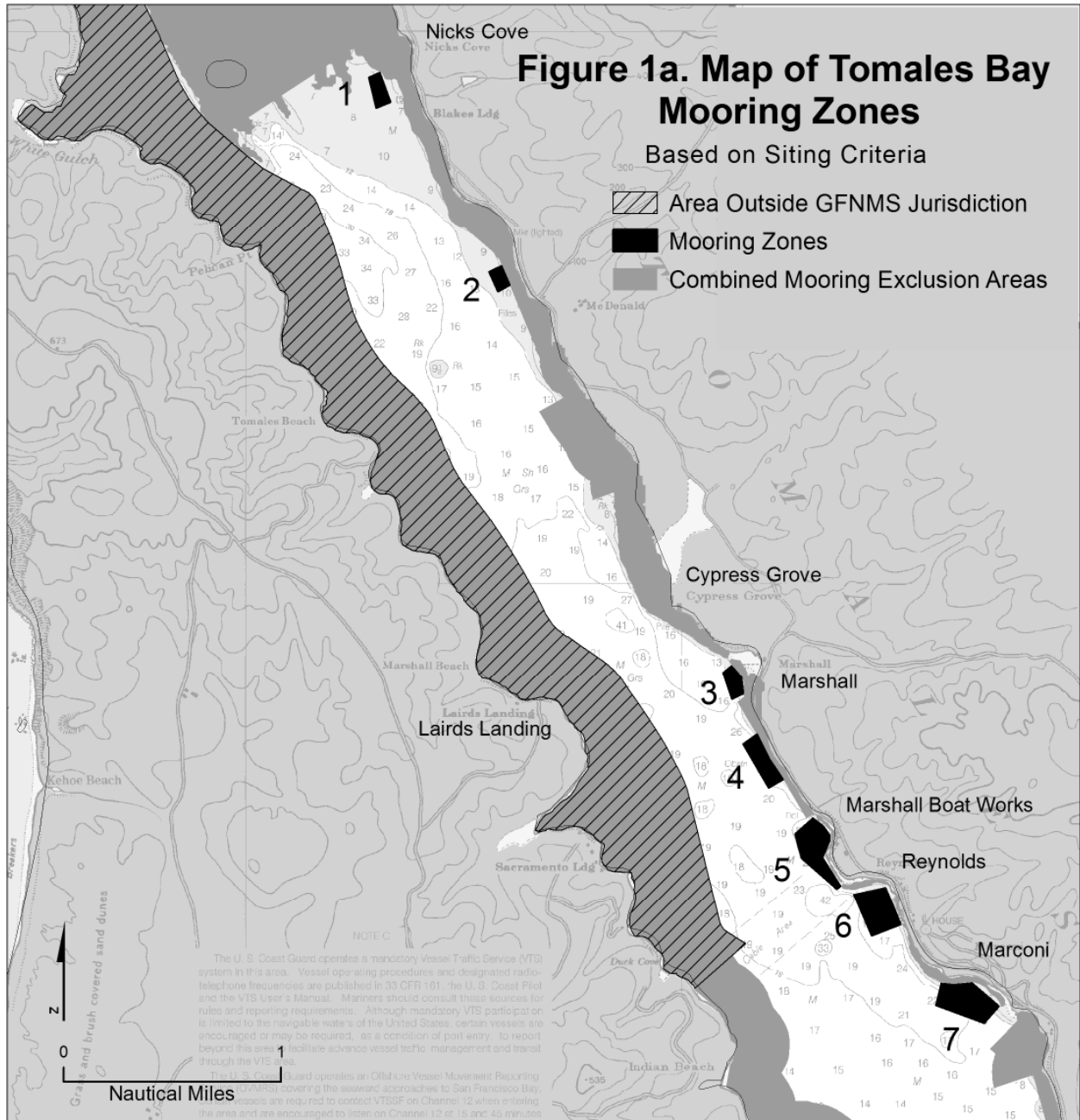
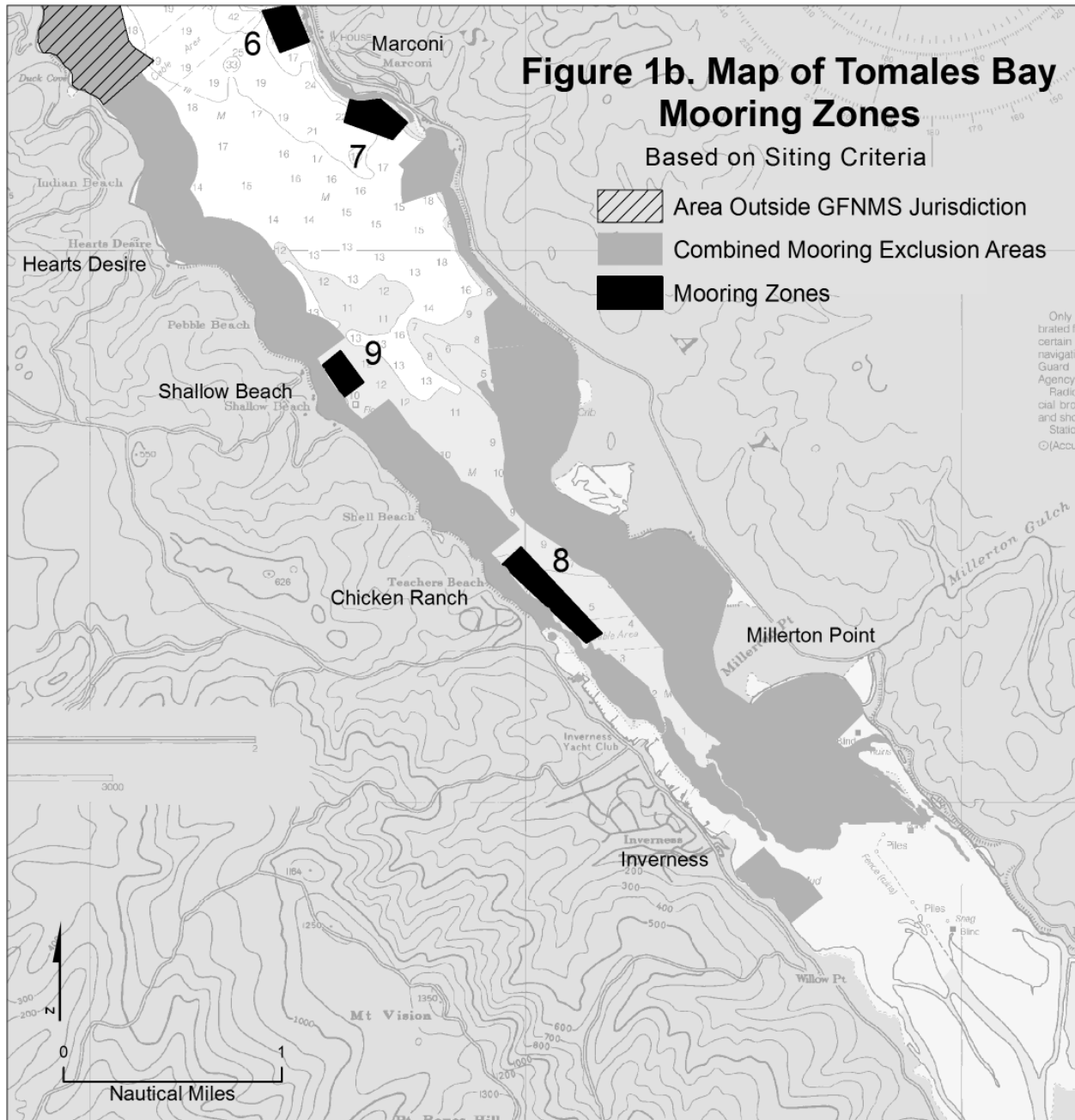


EXHIBIT C
TOMALES BAY MOORING PROGRAM REQUIREMENTS
(POLICIES AND CRITERIA)
APRIL 28, 2016

Figure 1b: Map of Tomales Bay Mooring Zones



CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



F6

November 2, 2016

To: Coastal Commissioners and Interested Parties

From: Alison Dettmer, Deputy Director

Subject: **Review status for proposed Poseidon Resources (Surfside), LLC's Huntington Beach desalination facility**

Information Only – No Action Required

Staff is providing three documents regarding the review of Poseidon Water's proposed Huntington Beach desalination facility:

- October 3, 2016: Interagency Permit Sequencing Framework Agreement.
- October 13, 2016: Letter from Poseidon withdrawing CDP application and attached Memorandum of Understanding with Commission staff
- October 28, 2016: Letter from Poseidon requesting waiver of permit fee.

INTERAGENCY PERMIT SEQUENCING FRAMEWORK AGREEMENT

This agreement ("Framework Agreement") is entered into on October 3, 2016 by and between the staffs of the California Coastal Commission, Santa Ana Regional Water Quality Control Board, and California State Lands Commission.

The California Coastal Commission, Santa Ana Regional Water Quality Control Board, and California State Lands Commission all have permitting or leasing authority over Poseidon Resources (Surfside) LLC's ("Poseidon") 50 million gallon-per-day Huntington Beach Desalination project ("Poseidon Project"). These three agencies agree that the following permit sequence framework agreement sets forth the process and sequence of their respective agency's action on the Poseidon Project, which each deem to be consistent with their respective statutory and regulatory permitting authority:

State Lands Commission – Poseidon has submitted an application to the State Lands Commission for an amendment to the October 29, 2010 Amendment of Lease No. PRC 1980.1. The State Lands Commission agrees to consider the Poseidon Project in connection with the proposed amendment first at a properly noticed, public meeting. Consistent with the requirements of the California Environmental Quality Act ("CEQA"), the State Lands Commission shall rely on the 2010 City of Huntington Beach certified Subsequent Environmental Impact Report ("SEIR") as well as prepare any additional environmental analysis required by CEQA in connection with its consideration of the Poseidon Project. The CEQA environmental analysis will be sufficient to address Poseidon's proposed seawater intake and discharge technology modifications to the Project. The State Lands Commission will reasonably consider any comments by the Coastal Commission and the Santa Ana Regional Water Quality Control Board regarding the CEQA analysis conducted by the State Lands Commission staff and will seek to obtain from each agency a sufficient description of the CEQA analysis of the proposed seawater intake and discharge technology modifications to the Project that these agencies deem necessary for them to rely on the State Lands Commission's certified CEQA analysis. The State Lands Commission staff plans for the Commission to jointly consider the Lease No. PRC 1980.1. amendment and the CEQA document before the end of the 2nd quarter of 2017.

Santa Ana Regional Water Quality Control Board – Poseidon has submitted an application to the Santa Ana Regional Water Quality Control Board ("Regional Board") for amendment and renewal of Order No. R8-2012-0007, NPDES No. CA8000403 (2012 NPDES Permit) and the California Water Code Section 13142.5(b) compliance determination in connection with the Poseidon Project. Based on information available to the Regional Board at this time, the Regional Board may want additional environmental information and analysis on the Orange County Water District (OCWD) groundwater injection system plans (should they involve desalinated water from the Huntington Beach Desalination Facility in new injection wells) in support of the Regional Board consideration of Poseidon's NPDES Permit amendment/renewal and Water Code section 13142.5(b) compliance determination. The Regional Board agrees to make available for public review its tentative order amending and/or renewing the 2012 NPDES Permit and tentative Water Code section 13142.5(b) compliance determination within 90 days of: (a) a Regional Board determination that complete applications have been submitted for the

amended or renewed 2012 NPDES Permit and the tentative Water Code section 13142.5(b) compliance determination; (b) a final approval by the State Lands Commission regarding Poseidon's application for an amendment to the October 29, 2010 Amendment of Lease No. PRC 1980.1; and (c) approval and/or certification of any and all CEQA documents and related environmental information and analysis necessary for the Regional Board to act as a CEQA Responsible Agency in connection with the Poseidon Project. As a CEQA Responsible Agency, the Regional Board shall consult, as necessary, with the State Lands Commission regarding the areas of CEQA analysis it may require on Poseidon's proposed seawater intake and discharge technology modifications prior to the release by the State Lands Commission of the CEQA analysis for public comment, and the Regional Board agrees that, except as otherwise required by CEQA, in developing its draft Tentative Order it can rely on the 2010 City of Huntington Beach certified Subsequent Environmental Impact Report (SEIR) in combination with CEQA analysis prepared and approved by the State Lands Commission in its evaluation of Poseidon's proposed seawater intake and discharge technology modifications for the purposes of complying with CEQA. Regional Board staff agrees to consult with Coastal Commission staff on the Poseidon Project's Marine Life Mitigation Plan to ensure both agencies' staffs recommend approval of the same mitigation permit conditions.

California Coastal Commission – The California Coastal Commission staff agrees to schedule a hearing on the Poseidon Project's Coastal Development Permit application on a date that is by the earlier of (a) 90 days from the Santa Ana Regional Water Quality Control Board's public release of the Tentative Order on the amendment and renewal of Order No. R8-2012-0007, NPDES No. CA8000403 and the California Water Code Section 13142.5(b) compliance determination; or (b) the first Southern California Coastal Commission hearing following the Santa Ana Regional Water Quality Control Board Tentative Order public release, provided that there are at least 21 days between the date of the Regional Board's staff's action and the "first mailing" date for that Commission meeting. The Coastal Commission staff agrees to consult with the Regional Board staff on the Project's Marine Life Mitigation Plan to ensure both agencies staffs recommend approval of the same mitigation permit conditions. The Coastal Commission staff agrees the Santa Ana Regional Water Quality Control Board will determine the best available site, design, technology and mitigation measures feasible to minimize the intake and mortality of all forms of marine life as required by California Water Code Section 13142.5(b).

Nothing in this Framework Agreement is intended to constrain the ability of any public agency or body to exercise its lawful discretion to approve, deny, or impose conditions on the Poseidon Project.

This Framework Agreement has been agreed and accepted by the staffs of the California Coastal Commission, Santa Ana Regional Water Quality Control Board, and California State Lands Commission. The following signatories affirm that they have the authority to bind their respective agencies to the terms of this Framework Agreement.

California Coastal Commission:

[Name/Title] John Ainsworth, Acting Executive Director

[Signature]



[Date] October 3, 2016

California State Lands Commission:

[Name/Title] _____

[Signature] _____

[Date] _____

Santa Ana Regional Water Quality Control Board:

[Name/Title] _____

[Signature] _____

[Date] _____

Acknowledged by:

Poseidon Resources (Surfside) LLC

[Name/Title] _____

[Signature] _____

[Date] _____

California Coastal Commission:

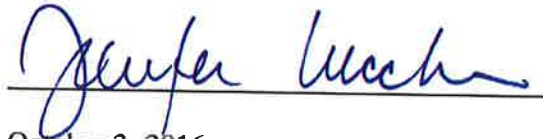
[Name/Title] _____

[Signature] _____

[Date] _____

California State Lands Commission:

Jennifer Lucchesi, Executive Officer

A handwritten signature in blue ink, appearing to read "Jennifer Lucchesi", written over a horizontal line.

October 3, 2016

Santa Ana Regional Water Quality Control Board:

[Name/Title] _____

[Signature] _____

[Date] _____

Acknowledged by:

Poseidon Resources (Surfside) LLC

[Name/Title] _____

[Signature] _____

[Date] _____

California Coastal Commission:

[Name/Title] _____

[Signature] _____

[Date] _____

California State Lands Commission:

[Name/Title] _____

[Signature] _____

[Date] _____

Santa Ana Regional Water Quality Control Board:

[Name/Title] Kurt V. Berchtold, Executive Officer

[Signature] Kt V. Berchtold

[Date] 10/3/16

Acknowledged by:

Poseidon Resources (Surfside) LLC

[Name/Title] _____

[Signature] _____

[Date] _____

California Coastal Commission:

[Name/Title] _____

[Signature] _____

[Date] _____

California State Lands Commission:

[Name/Title] _____

[Signature] _____

[Date] _____

Santa Ana Regional Water Quality Control Board:

[Name/Title] _____

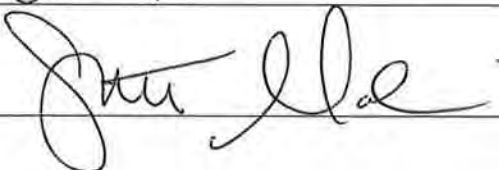
[Signature] _____

[Date] _____

Acknowledged by:

Poseidon Resources (Surfside) LLC

[Name/Title] Scott Mahni Vice President

[Signature] 

[Date] October 3, 2016

October 13, 2016

VIA FEDEX AND E-MAIL: Tom.Luster@coastal.ca.gov

Mr. Tom Luster
California Coastal Commission, Energy and Ocean Resources Unit
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RE: Coastal Development Permit Application 9-15-1731 – Execution of Memorandum of Understanding and Application Withdrawal

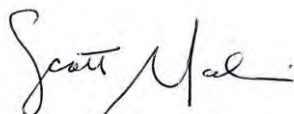
Dear Tom:

Enclosed please find an executed copy of the Memorandum of Understanding (“MOU”) **[Enclosure #1]** between Poseidon Resources (Surfside) LLC (“Poseidon”) and the Coastal Commission staff with respect to the process to be followed by Commission staff during its consideration of Poseidon’s proposed 50 million gallons per day Huntington Beach Desalination Project (“Project”). Pursuant to the terms of the MOU, Poseidon hereby withdraws Coastal Development Permit (“CDP”) Application 9-15-1731, which was submitted to the Coastal Commission on September 1, 2015 and deemed complete by Commission staff on April 1, 2016.

Enclosed please find a copy of the Interagency Permit Sequence Framework Agreement (“Sequence Agreement”) **[Enclosure #2]**, which was executed by Poseidon and the staffs of the Coastal Commission, Santa Ana Regional Water Quality Control Board and State Lands Commission on October 3, 2016 and provides for the orderly and timely consideration of the proposed Project by those agencies. Pursuant to the terms of the Sequence Framework Agreement, Poseidon plans to resubmit its CDP application to the Coastal Commission before the end of October. As was noted by Commission Chair Kinsey at the October 5th Coastal Commission meeting, the appropriate time for the Commission to consider an application for a waiver of the filing fee is upon the resubmittal of a new CDP application. Therefore, in connection with this resubmission, at this time we respectfully request that the Commission staff consider placing on the Commission’s November meeting agenda our application for a waiver of the CDP application filing fee.

Please let us know if you have any questions.

Sincerely,



Scott Maloni
Vice President, Poseidon Water



Stan Williams,
Vice President, Poseidon Water

cc: Coastal Commission Chairman Steve Kinsey
Susan Hori, Esq.

Poseidon Water LLC

17011 Beach Boulevard, Suite 900 Huntington Beach, California 92647 Phone: (714) 596-7946 Fax: (714) 596-7947
www.poseidonwater.com

MEMORANDUM OF UNDERSTANDING
CALIFORNIA COASTAL COMMISSION STAFF &
POSEIDON RESOURCES (SURFSIDE), LLC

1. **Parties** – This Memorandum of Understanding (“MOU”) is entered into on this 13th day of October, 2016, (“Effective Date”) by and between Poseidon Resources (Surfside) LLC, a Delaware limited liability company (“Poseidon”), and the California Coastal Commission (“Coastal Commission”) staff (“Commission Staff”).
2. **Purpose** – The purpose of this MOU is to memorialize an understanding by and between Poseidon and the Coastal Commission with respect to the process to be followed by Commission Staff during the future consideration of Poseidon’s proposed 50 million gallons per day Huntington Beach Desalination Project (“Project”). The Project is the subject of pending Coastal Development Permit application No. 9-15-1361 (“Pending CDP”). Nothing in this MOU is intended to constrain the ability of any public agency or body, including but not limited to the Coastal Commission, to exercise its lawful discretion to approve, deny, or impose conditions on the Project.
3. **Commitments** – Poseidon agrees to withdraw the Pending CDP from consideration by the Coastal Commission within five (5) days of the Effective Date, subject to the following mutual understandings:
 - a. **Resubmitted Application Completeness** – Poseidon intends to resubmit a Coastal Development Permit application for the Project (“Resubmitted CDP”) soon after its withdrawal of the Pending CDP. Poseidon expects the Resubmitted CDP application to be nearly identical to the Pending CDP application, with the exception of modifications to the proposed intake and outfall, which the Commission Staff deemed complete in April 2016. Commission Staff agrees to deem the Resubmitted CDP application complete within thirty (30) days of the Santa Ana Regional Water Quality Control Board’s public release of the Tentative Order on the amendment and renewal of Order No. R8-2012-0007, NPDES No. CA8000403 and/or the California Water Code Section 13142.5(b) compliance determination and payment of any required CDP application fee.
 - b. **Approval Sequencing** – Commission Staff will adhere to and support the permit sequencing schedule outlined in the “Framework Agreement” attached hereto as Appendix A. In order to facilitate the Framework Agreement, at least once per quarter, the Commission Staff shall participate in calls/meetings with the Santa Ana Regional Water Quality Control Board staff and State Lands Commission staff so that the three agencies can discuss any issues in their permitting of the Project.
 - c. **CDP Special Conditions** – Commission Staff agree to work cooperatively with Poseidon on an ongoing basis to develop proposed CDP special conditions. Starting on the Effective Date, Commission Staff shall make itself available to Poseidon either in person or telephonically to discuss proposed special conditions

until the Coastal Commission acts on the Resubmitted CDP application. Proposed special conditions that are or will be the subject of any ongoing California State Lands Commission or Santa Ana Regional Water Quality Control Board action shall be exempt from this requirement, except as set forth in clause d.

- d. Interagency Consultation – Commission Staff shall continue the formal consultation process with the Santa Ana Regional Water Quality Control Board staff, the State Water Resources Control Board State Board staff, and the State Lands Commission staff. Going forward, that consultation process will include review of Poseidon's proposed Marine Life Mitigation Plan with the goal of developing a Plan with Poseidon that satisfies the requirements of each agency. Commission Staff agree to provide Poseidon with updates on its participation in the consultation process on a quarterly basis until that process concludes.
- e. Coastal Commission Action – Commission Staff agree to place the Resubmitted CDP application on a Coastal Commission hearing agenda for consideration and action by the earlier of (1) ninety (90) days from the Santa Ana Regional Water Quality Control Board's public release of the Tentative Order on the amendment and renewal of Order No. R8-2012-0007, NPDES No. CA8000403 and/or the California Water Code Section 13142.5(b) compliance determination; or (2) the first Southern California Coastal Commission hearing following the Santa Ana Regional Water Quality Control Board's Tentative Order public release, provided that there are at least 21 days between the date of the Regional Board's action and the "first mailing" date for the Commission meeting.
- f. Presentation to Coastal Commission – Commission Staff shall present a copy of this MOU, including Appendix A, to the Coastal Commission during its next regularly scheduled meeting.

This MOU has been agreed and accepted by Commission Staff and Poseidon. The following signatories affirm that they have the authority to bind their respective organizations to the terms of this MOU.

California Coastal Commission Staff:

[Name/Title] JOHN AINSWORTH ACTING EXECUTIVE DIRECTOR

[Signature] 

[Date] 10/11/2016

Poseidon Resources (Surfside) LLC:

[Name/Title] Andrew Kingman Officer

[Signature] 

[Date] 10/13/2016



October 28, 2016

VIA ELECTRONIC MAIL (JOHN.AINSWORTH@COASTAL.CA.GOV)

Mr. John Ainsworth
Acting Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: Request to Waive Fee on Resubmitted Coastal Development Permit Application

Dear Mr. Ainsworth:

On October 13, 2016, Poseidon Resources (Surfside) LLC ("Poseidon") entered into a Memorandum of Understanding ("MOU") with the California Coastal Commission staff. The MOU set forth the parties' shared understanding regarding the process that will be followed by the Commission staff in considering Poseidon's application for a coastal development permit ("CDP") for its proposed Huntington Beach Desalination Project ("Project"). At the time the MOU was entered into, Poseidon's CDP Application No. 9-15-1361 ("Pending CDP") was before the Coastal Commission. In accordance with the MOU, Poseidon agreed to withdraw the Pending CDP, which it did on October 13, 2016. The MOU also set forth Poseidon's intention to resubmit its CDP application for the Project soon after its withdrawal of the Pending CDP.

In recent discussions with Commission staff, Poseidon informed staff that it was planning to resubmit its CDP application this week, together with a request to waive the application fee on the resubmitted application so that the waiver request could be scheduled for consideration at the December, 2016 Coastal Commission hearing. Commission staff (Tom Luster) indicated that it would be staff's preference to not have the CDP application resubmitted at this time. Mr. Luster also said that Coastal Commission counsel advised staff that Poseidon's request for a fee waiver could be submitted independent of, and be considered in advance of, having a CDP application on file. Finally, Mr. Luster indicated that delaying the submittal of the CDP application would not affect the Commission staff's obligations under the MOU regarding, for instance, its cooperation with the Regional Water Quality Control Board and State Lands Commission staffs.

Poseidon has not personally spoken to your counsel, but in reliance on Mr. Luster's representation, by this letter, Poseidon formally requests the waiver of its CDP application fee pursuant to Section 13055(h) of the Coastal Commission regulations (14 Cal. Code of Regs. § 13055(h)), and that its request be agendaized for consideration at the December, 2016 hearing.

Poseidon Water LLC

17011 Beach Boulevard, Suite 900 Huntington Beach, California 92647 Phone: (714) 596-7946 Fax: (714) 596-7947
www.poseidonwater.com

Poseidon further requests written confirmation that the delayed submittal of its CDP application will not affect the Commission staff's obligations under the MOU.

Poseidon believes that its request for a fee waiver is supported by the circumstances surrounding its withdrawal and planned future resubmittal. Poseidon's Pending CDP application was deemed complete on April 1, 2016, and was tentatively scheduled to be heard by the Coastal Commission in September, 2016. Poseidon sought to have the Coastal Commission consider its Pending CDP application in advance of actions by other permitting agencies in reliance on input received from Commission staff in August 2015 prior to submitting our CDP application and comments submitted to the State Water Resources Control Board by Coastal Commission staff during the development of the Desalination Amendment to the State Ocean Plan indicating that the Coastal Commission's preference was to act prior to the Regional Water Quality Control Board on permitting applications for desalination plants. As a result of interagency discussions, however, Poseidon and the staffs of the Coastal Commission, Santa Ana Regional Water Quality Control Board and the State Lands Commission entered into an Interagency Permit Sequence Framework Agreement that provides for actions by the State Lands Commission and Santa Ana Regional Water Quality Control Board before the consideration of the Project by the Coastal Commission.

In order to allow for that permitting process to occur, as contemplated by the Interagency Permit Sequence Framework Agreement, Poseidon and Coastal Commission staff entered into the MOU pursuant to which Poseidon withdrew its CDP application. In light of the desire among the permitting agencies and Poseidon to cooperatively implement an orderly consideration of the Project, Poseidon has withdrawn and will resubmit its CDP application. At such time as the application is resubmitted, Poseidon would like to be assured that no additional application fee will be required to deem its CDP application complete. For these reasons, Poseidon respectfully requests that its request for a fee waiver be agendaized for the December, 2016 Coastal Commission hearing.

Thank you for your consideration of our request.

Very truly yours,

The block contains two handwritten signatures in black ink. The signature on the left is 'Scott Neal' and the signature on the right is 'Stan Williams'.

Cc: Tom Luster
Christopher Pederson, Esq.
Alison Dettmer
Coastal Commission Chair Steve Kinsey

Poseidon Water LLC

17011 Beach Boulevard, Suite 900 Huntington Beach, California 92647 Phone: (714) 596-7946 Fax: (714) 596-7947
www.poseidonwater.com



F6



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

October 31, 2016

VIA EMAIL AND U.S. MAIL – ENCLOSURE SENT VIA EMAIL ONLY

Scott Maloni, Vice President
Poseidon Water
5780 Fleet Street, Suite 140
Carlsbad, CA 92008
smaloni@poseidonwater.com

**PROPOSED POSEIDON WATER HUNTINGTON BEACH DESALINATION PROJECT,
APPLICATION FOR CALIFORNIA WATER CODE SECTION 13142.5(b) DETERMINATION:
REQUEST FOR ADDITIONAL INFORMATION**

Dear Mr. Maloni:

This letter supplements my July 29, 2016 response to Poseidon Water's (Poseidon's) June 30, 2016 application to the Santa Ana Regional Water Quality Control Board (Regional Water Board) for a Water Code section 13142.5, subdivision (b) (Water Code section 13142.5(b)) determination and a report of waste discharge (ROWD) for amendment and renewal of Order No. R8-2012-0007, NPDES No. CA8000403 (2012 Order) for the Huntington Beach Desalination Project (Project), as augmented by additional information submitted on September 1, 2016. As explained below, the Regional Water Board requires additional information for Poseidon's application for a Water Code section 13142.5(b) determination to be considered complete. For completeness, some of the background information below is repeated from my July 29, 2016 letter. I will address Poseidon's request for amendment and renewal of the 2012 Order in separate correspondence.

Regulatory Background

In 2012, the Regional Water Board adopted the 2012 Order, which conditionally permitted the Project, as proposed at that time, to intake seawater and to discharge waste in accordance with the provisions contained therein. The 2012 Order is set to expire on February 1, 2017. Due to Poseidon's material modifications to the proposed Project and State Water Resources Control Board's (State Water Board's) adoption of new requirements for desalination facilities described below, the 2012 Order is no longer valid for the Project as proposed.

On May 6, 2015, the State Water Board adopted the *Amendment to the Water Quality Control Plan for the Ocean Waters of California (Ocean Plan) Addressing Desalination Facility Intakes, Brine Discharges, and the Incorporation of Other Non-substantive Changes* (Desalination Amendment). The Office of Administrative Law approved the Desalination Amendment on January 28, 2016. The United States Environmental Protection Agency approved the portions of the Desalination Amendment that implement the federal Clean Water Act on April 7, 2016. Therefore, the Desalination Amendment is now fully in effect.

WILLIAM RUH, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | www.waterboards.ca.gov/santaana

♻️ RECYCLED PAPER

The Desalination Amendment requires the owner or operator of a proposed new or expanded desalination facility to submit sufficient information for the applicable regional water quality control board to analyze a range of feasible alternatives for the best available site, design, technology, and mitigation measures to minimize intake and mortality of all forms of marine life that may occur as the result of the construction and operation of the desalination facility, in order to comply with Water Code section 13142.5(b). (Ocean Plan, Chapter III.M.2.a(1).) The Desalination Amendment includes very specific analyses, studies, and considerations that the regional water quality control boards must evaluate in determining whether a proposed desalination facility utilizes the best available site, design, technology, and mitigation measures feasible. (Ocean Plan, Chapter III.M.2.) The Desalination Amendment also states that a regional water quality control board, in consultation with State Water Board staff, may require an owner or operator of a proposed desalination facility to provide additional studies or information, and may require the owner or operator to hire a neutral third party entity to review studies and models and make recommendations to the regional water quality control board. (Ocean Plan, Chapter III.M.2.a(1).)

The proposed Project is a "new" desalination facility. (Ocean Plan, Chapter III.M.1.b(3).) Therefore, it is necessary for Poseidon to submit the information required by the Desalination Amendment, sufficient for the Regional Water Board to conduct a new Water Code section 13142.5(b) analysis for the Project in accordance with the requirements of the Desalination Amendment. Once the Regional Water Board receives and analyzes the information required by the Desalination Amendment, it will schedule a public hearing to determine whether the Project complies with Water Code section 13142.5(b).

Poseidon's Information Submittals and Consultation Process

By letter dated February 9, 2016, the Regional Water Board requested that Poseidon submit a request for a Water Code section 13142.5(b) determination for the proposed Project. The February 9, 2016 letter included as an attachment a February 8, 2016 letter from the State Water Board to the California Coastal Commission which explained that the Desalination Amendment was in full effect for purposes of State law. The February 8, 2016 letter also proposed that staffs of the Coastal Commission, Regional Water Board, and State Water Board initiate a formal consultation to coordinate review of Poseidon's Project to determine compliance with the Desalination Amendment.

On March 15, 2016, Poseidon submitted an initial request for a Water Code section 13142.5(b) determination. Poseidon's initial submittal included a detailed matrix with Poseidon's key recommendations, conclusions, and findings as well as supporting studies and reports regarding the proposed Project's compliance with the Desalination Amendment. Over the next several months, the Regional and State Water Board staffs and California Coastal Commission staff conducted an initial review of this submittal during the formal interagency consultation process. Poseidon provided additional information, including proposed modifications to the Project, during the review and consultation process.

On June 30, 2016, Poseidon submitted its ROWD for renewal of the 2012 Order. The application also included an updated copy of materials submitted on March 15, 2016 addressing Project elements intended to comply with the Desalination Amendment and Water Code section 13142.5(b).

On July 14, 2016, representatives from the Regional Water Board, State Water Board, and California Coastal Commission met with Poseidon to provide an update on the formal consultation process and to provide initial feedback on the section 13142.5(b) application and supporting materials. During the meeting, State and Regional Water Board staffs explained that certain information and data gaps existed and needed to be filled before Regional Water Board staff would have sufficient information to make recommendations to the Regional Water Board regarding compliance with the Desalination Amendment and a new Water Code section 13142.5(b) determination, as well as to process Poseidon's ROWD. In terms of requesting additional information, State and Regional Water Board staffs explained that they intended to utilize a step-wise approach to focus additional information requests on larger unresolved items that would inform other factors in the determination analysis. As explained at the meeting, analysis and review of the submitted information related to these larger unresolved items might lead to additional requests for information pursuant to the Desalination Amendment and Water Code section 13142.5(b), but it might also eliminate the need for Poseidon to submit certain additional information if it is determined to no longer be needed.

At the meeting, State and Regional Water Board staffs identified the following main unresolved items based on their initial evaluation of the submitted materials: (1) the identified need for the desalinated water (Ocean Plan, Chapter III.M.2.b(2)); (2) analysis of alternative sites (Ocean Plan, Chapter III.M.2.b); and (3) the potential need for neutral third party review and analysis of certain information. (Ocean Plan, Chapter III.M.2.a). Following discussion of these unresolved items, State and Regional Water Board staffs agreed to provide Poseidon with more detailed information requests related to these areas. Consistent with the step-wise approach identified above, Regional Water Board staff provided an initial set of more detailed information requests in a July 29, 2016 letter.

On September 1, 2016, Poseidon submitted additional information and documents in response to the Regional Water Board staff's July 29, 2016 letter.

Permit Streamlining Act

For the first time, Poseidon's September 1, 2016 letter asserts that Regional Water Board's determination of the Project's compliance with section 13142.5(b) and the Desalination Amendment falls under the purview of the Permit Streamlining Act (Gov't. Code § 65920 *et seq.*).¹ The September 1, 2016 letter recharacterized the Regional Water Board staff's July 29, 2016 letter as a *Notice of Incomplete Application* under the Permit Streamlining Act, and requested that the Regional Water Board deem complete Poseidon's application for a section 13142.5(b) determination and amendment and renewal of the 2012 Order. By letter dated September 22, 2016, Poseidon granted the Regional Water Board an additional 30 days, or until October 31, 2016, to deem its application for a Water Code section 13142.5(b) determination complete or explicitly specify the remaining additional information necessary to deem the application complete.

¹ To support its position that the Water Code section 13142.5(b) determination falls within the purview of the Permit Streamlining Act, Poseidon's September 1, 2016 letter cites to a May 1, 2013 memo from the State Water Board's Office of Chief Counsel.

As an initial matter, Regional Water Board staff does not agree that the Water Code section 13142.5(b) determination is necessarily subject to the Permit Streamlining Act.² Moreover, Regional Water Board staff disagrees with Poseidon's recharacterization of the Regional Water Board staff's July 29, 2016 letter as a *Notice of Incomplete Application*. As explained above and reflected in the July 29, 2016 letter itself, Regional Water Board staff had taken a step-wise approach by asking for a limited set of additional information in order to better tailor and further narrow additional requests following review of the submitted information. The goal of the step-wise approach was to allow Regional Water Board staff sufficient time to fully evaluate the completeness and accuracy of the submitted information prior to determining whether it was necessary to ask for additional information. Regional Water Board staff appreciates Poseidon's timely response to the limited information requests contained in the July 29, 2016 letter.

Although Regional Water Board staff disagrees with Poseidon's position regarding application of the Permit Streamlining Act to Water Code section 13142.5(b), Regional Water Board staff understands Poseidon's request that Regional Water Board staff move away from the step-wise approach it had employed. To that end, Regional Water Board staff has endeavored to include a complete set of all additional information (attached) that Poseidon must submit for its Water Code section 13142.5(b) application to be considered complete. In doing so, Regional Water Board staff has not had an opportunity to fully evaluate the adequacy, completeness, and accuracy of the voluminous amount of documents and information submitted by Poseidon to date; rather, Regional Water Board staff has focused on whether the documents appear or purport to meet the information requirements contained in the Desalination Amendment. Because of Poseidon's desire for a full response to its Water Code section 13142.5(b) application, Regional Water Board staff has been unable to fully review Poseidon's application for renewal and amendment of the 2012 Order.³ After Regional Water Board staff completes its review of Poseidon's application for renewal and amendment of the 2012 Order, Regional Water Board staff may require additional information in order to consider complete Poseidon's application for the 2012 Order renewal and amendment.

Additional Information Required

As indicated in prior correspondence, the Desalination Amendment's requirements are complex and require substantial information and analysis. Regional Water Board staff appreciates Poseidon's efforts to date in providing information required by the Desalination Amendment and necessary for Regional Water Board staff to make a recommendation to the Regional Water Board regarding whether the Project complies with Water Code section 13142.5(b).

As part of its June 30, 2016 application, Poseidon submitted a *Matrix Analyzing Information Requirements Under the Water Quality Control Plan for Ocean Waters of California Addressing the Proposed Huntington Beach Desalination Project* (Matrix). In consultation with State Water Board staff, Regional Water Board staff has annotated the Matrix (Annotated Matrix) by adding

² While the May 1, 2013 memo cited by Poseidon did analyze application of the Permit Streamlining Act to certain actions taken by the State Water Board and Regional Water Boards, it did not address section 13142.5(b) or discuss whether a Water Code section 13142.5(b) determination could be subject to the Permit Streamlining Act.

³ The May 1, 2013 memo from the State Water Board's Office of Chief Counsel expressly concluded that issuance of an NPDES permit falls outside of the purview of the Permit Streamlining Act. Poseidon did not assert in its September 1, 2016 or September 22, 2016 letters that the Permit Streamlining Act applies to the Regional Water Board's consideration of amendment and renewal for the 2012 Order.

a fifth column to identify the outstanding information needs (in **bold text**) that correspond to the requirements contained in the Desalination Amendment. For each requirement, the Annotated Matrix now lists Poseidon's relevant submittals (including some submittals from Poseidon that were received after Poseidon prepared the Matrix), and, where applicable, provides Regional Water Board staff's initial comments on those submittals and identifies the specific additional information that is required so that the Regional Water Board can consider complete Poseidon's application for a determination of Project compliance with Water Code section 13142.5(b). Please note that Poseidon's responses to the information needs may result in new or different questions or information needs.

As described more fully in the attached Annotated Matrix, the major information needs as they relate to specific requirements of the Desalination Amendment include the following:

1. Alternative sites analysis. The Desalination Amendment requires Poseidon to evaluate a reasonable range of alternative sites, including (but not limited to) sites that would likely support subsurface intakes, in order to determine whether the proposed facility site is the best available site feasible to minimize intake and mortality of all forms of marine life. While Poseidon has identified a fairly large number of alternative sites, the information provided by Poseidon for each alternative site is incomplete, and therefore, insufficient to analyze whether any of these alternative sites is the best available site feasible to minimize intake and mortality of all forms of marine life. Chapters III.M.2.b, III.M.2.c(1), and III.M.2.d(1)(a) direct Poseidon to conduct very specific analyses of a reasonable range of alternative sites, including evaluating subsurface and surface intakes, as well as other designs and technologies to minimize intake and mortality. The Annotated Matrix identifies areas where this analysis is incomplete and/or insufficiently supported.

The information required by the Ocean Plan for potential sites is extensive. Based on the information submitted to date by Poseidon, Regional Water Board staff does not have sufficient information to support ruling out any of the alternative sites identified by Poseidon at this time. Nonetheless, after Poseidon has the opportunity to provide some of the additional information required for each of the alternative sites, it may be possible to eliminate some of the alternative sites from further consideration. Regional Water Board staff is willing to meet with Poseidon to discuss narrowing the focus to a smaller number of alternative sites for which a more comprehensive analysis may better serve the needs of both Poseidon and the Regional Water Board, and also meet the requirements of the Desalination Amendment.

2. Brine Disposal. Ocean Plan Chapter III.M.2.d.2 provides that the preferred technology for minimizing intake and mortality of all forms of marine life resulting from brine discharge is to commingle brine with wastewater that would otherwise be discharged to the ocean. Poseidon has indicated that commingling the brine from the proposed facility with wastewater from the Orange County Sanitation District (OCSD) is not feasible because the wastewater will be used for recycling in the future and will therefore be unavailable for commingling. However, preliminary discussions between OCSD staff and Regional Water Board staff have indicated that wastewater may presently be available to the Project for commingling. The Ocean Plan specifies that the use of wastewater for commingling a brine discharge will not preclude future recycling of that wastewater. (Ocean Plan, Chapter III.M.2.d(2)(a).) Additionally, information submitted as part of the alternative sites analysis describes existing wastewater discharges in

Segments 6 (SOCWA's Aliso Creek Ocean Outfall) and 7 (SOCWA JB Lanthem Treatment Plant's San Juan Creek Ocean Outfall). Accordingly, Regional Water Board staff is requiring additional information regarding the feasibility of commingling the brine discharge with OCSD's outfall or the other two outfall locations identified above.

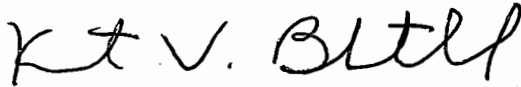
3. Multiport diffusers. Ocean Plan chapter M.2.d.2 states that multiport diffusers are the next best method for disposing of brine when the brine cannot be diluted by wastewater. Multiport diffusers must be engineered to maximize dilution, minimize the size of the brine mixing zone, minimize the suspension of benthic sediments, and minimize mortality of all forms of marine life. Regional Water Board staff is requesting Poseidon submit documentation that specifically addresses how the proposed diffuser designs minimize the size of the brine mixing zone, minimize the suspension of benthic sediments, and minimize mortality of all forms of marine life.
4. Project life cycle costs. Poseidon has submitted a report titled ISTAP Final Phase 2 Report, which addresses economic issues associated with feasibility of subsurface intakes at the proposed site. The ISTAP Final Phase 2 report was prepared prior to the adoption of the Desalination Amendment; thus, it was not written in a format that corresponds clearly to the requirements for the evaluation of project life cycle cost contained in Chapter III.M.2.d(1)(a)(i). Accordingly, Poseidon is required to identify the specific factors related to project life cycle costs that have been evaluated in the ISTAP Final Phase 2 report or any other report submitted by Poseidon. To the extent that any specific factors have not been adequately evaluated in the ISTAP Final Phase 2 Report or other submitted documents, Poseidon must submit evaluations of these factors.
5. Marine Life Mortality Report and Marine Life Mitigation Plan. Poseidon's submissions identify potential mitigation projects for Newland Marsh and/or Bolsa Chica as proposals to comply with Mitigation Option 2: Fee-based Mitigation Program (Ocean Plan, Chapter III.M.2.e(4)). Note that these submissions contemplate specific projects that Poseidon would fully fund, so it appears that these proposals should be considered by the Regional Water Board under Mitigation Option 1: Complete a Mitigation Project (Ocean Plan, Chapter III.M.2.e(3)). The underlying Ocean Plan requirements for potential mitigation options are not substantively different. Additional information is required to more fully evaluate marine life mortality in order to assess whether the proposal fully mitigates for construction impacts and the operational life of the facility and uses the best available mitigation measures feasible.

Finally, please note that the Desalination Amendment authorizes the Regional Water Board to require Poseidon to hire a neutral third party entity to review studies and models submitted and to make recommendations to the Regional Water Board. (Ocean Plan, Chapter III.M.2.a(1).) Following review of all materials submitted as part of Poseidon's complete application for a Water Code section 13142.5(b) determination, the Regional Water Board may require third party review and analysis of certain information submitted by Poseidon. It is possible that, as part of its review, a third party entity may ask Poseidon for additional information related to the subject of the review.

In closing, Regional Water Board staff recognizes that the attached Annotated Matrix contains a significant amount of additional information requirements. Regional Water Board staff would be happy to meet with Poseidon to answer any questions and to resolve any outstanding issues.

If you have any questions or would like to discuss further, please contact me at (951) 782-3286 or Milasol Gaslan at (951) 782-4419.

Sincerely,



Kurt V. Berchtold
Executive Officer

Enclosure:

Attachment A: Annotated Matrix

cc w/ enclosure:

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