

**CALIFORNIA COASTAL COMMISSION**

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



# F15a

CDP Filed:	9/6/16
180 <sup>th</sup> Day:	3/5/17
CC Modification Filed:	9/6/16
3 Months (CC):	12/6/16
6 Months (CC)	3/6/17
Staff:	K.Huckelbridge-SF
Staff Report:	11/18/16
Hearing Date:	12/9/16

## **STAFF REPORT: PERMIT AMENDMENT/ CONSISTENCY CERTIFICATION**

**Application No.:** E-98-027-A4

**Consistency Certification No.:** CC-041-00

**Applicant:** Level 3 Communications LLC

**Location:** State and federal waters offshore of Grover Beach, San Luis Obispo County (see Exhibit 1).

**Project Description:** Amend **Special Condition 6** of the original permit (E-98-027) and modify consistency certification (CC-041-00), to require periodic surveys of undersea cables only after an event or physical phenomenon that could result in a cable becoming unburied, rather than the current practice of every five years.

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

---

## SUMMARY OF STAFF RECOMMENDATION

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

Key Coastal Act issues addressed in the findings for the original permit include potential adverse effects on coastal resources related to entanglement with the cables. Specifically, the findings addressed concerns that: 1) whales may become entangled with the cables, 2) trawlers may snag their gear on a cable and thus lose gear and fishing time, or 3) abandoned trawl nets may entangle and drown marine mammals or other marine wildlife. To prevent potential adverse impacts associated with entanglement, **Special Condition 4** of the original permit required the applicant to bury the cables to a depth of 1.0 meter except where precluded by seafloor substrates. **Special Condition 6** requires that every 18 to 24 months for the life of project, the applicant shall survey the cable routes to verify that the cables remain buried. If the cable survey indicates that previously buried cable has become unburied, the applicant is required to re-bury the cable segments. In June 2007, the CDP and consistency certification were amended to extend the survey interval to five year for the PAC cable.

The results of the 2001 post-lay inspection survey and four periodic surveys completed in 2003, 2005, 2010 and 2015 demonstrate that buried cable remains buried. The applicant therefore proposes to eliminate the requirement to survey the cables every five years and replace it with a requirement to survey only after an event or physical phenomenon that could result in a cable becoming unburied. Since buried cable has remained buried over time and no conflicts have been reported since its installation, eliminating periodic burial surveys and instead surveying the cable only after a natural or anthropogenic event that has the potential to expose the cable (i.e., seismic activity or gear snag) will not reduce protection of coastal resources. Furthermore, eliminating the periodic burial surveys will reduce the environmental effects associated with performing the surveys (e.g., air emissions from survey vessels and potential conflicts with commercial fishing along the cable survey routes). The Central California Joint Cable/Fisheries Liaison Committee supports the proposed amendment (Exhibit 2).

Commission staff recommends that the Commission approve the proposed permit amendment and concur with Level 3 Communications' modified consistency certification.

## **I. MOTIONS AND RESOLUTIONS**

### **1. Coastal Development Permit Amendment**

#### **Motion:**

*I move that the Commission **approve** Coastal Development Permit Amendment Application No. E-98-027-A4 subject to the conditions set forth in the staff recommendation.*

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

#### **Resolution:**

*The Commission hereby approves Coastal Development Permit Amendment E-98-027-A4 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

### **2. Consistency Certification**

#### **Motion:**

*I move that the Commission concur that Level 3 Communications' certification that with the proposed modification of Consistency Certification CC-041-00, the project, as modified, remains consistent with the enforceable policies of the California Coastal Management Program.*

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

#### **Resolution to Concur with Modification to Consistency Certification:**

*The Commission hereby concurs with Level 3 Communications' modification of Consistency Certification CC-041-00 on the grounds that the project remains consistent with the enforceable policies of the CCMP.*

## II. FINDINGS AND DECLARATIONS

### A. BACKGROUND

In July 2000, the Commission approved coastal development permit (CDP) E-98-027 and consistency certification number CC-041-00 for the installation, operation, and maintenance of the PAC submarine cable system, an oceanic telecommunications fiber optic cable system in State and federal waters offshore of Grover Beach in San Luis Obispo County (see Exhibit 1). The PAC cable extends from Grover Beach to Panama, with branching units connecting to Mexico and Costa Rica. Construction of the cable was completed in March 2001.

The original permit and consistency certification authorized three cable segments for two co-applicants: the PC cable segments—including PC South and PC East—owned and operated by PC Landing Corporation; and the PAC segment, owned and operated by PAC Landing Corporation. At the time of the original project review, both PC Landing Corporation and PAC Landing Corporation were subsidiaries of Global Crossing Ltd. However, since the cables were approved and installed, ownership of the two cable systems has diverged and Level 3 Communications LLC is the current owner of the PAC cable. The application currently before the Commission is an application by Level 3 Communications only, and applies to the PAC segment only.

In addition to the PAC cable project, the Commission approved the installation and operation of eight offshore fiber optic cable systems between 2000 and 2009.<sup>1</sup> The Commission required each applicant to bury the cable in soft sediment, where feasible, to avoid interference with commercial fishing gear and prevent whale entanglements. Each permit also required that every cable be surveyed every 18 to 24 months to determine if the cable remains buried. If previously buried cable becomes unburied the conditions require it to be reburied. In each case, the applicant, as part of its consistency certification, agreed to implement these same measures in federal waters.

By 2005, most of the fiber optic cable companies had completed two cable burial surveys. Generally, the results of these surveys showed that buried cable remains buried and stable. As a result, in 2006, 2007, 2010, 2012, and 2014, the Commission approved amendments to all eight of the permits for installation of fiber optic cables approved by the Commission to extend the required burial survey interval from once every 18 to 24 months to every five years.<sup>2</sup> In 2016, the Commission approved a new fiber optic cable project proposed by MC Global (CDP 9-16-

---

<sup>1</sup> E-98-027/CC-041-00 - PC Landing Corporation and PAC Landing Corporation; E-98-029/CC-059-00, E-00-004/CC-078-00 and E-08-021/CC-005-09 – AT&T Corporation; E-99-011/CC-028-00 – MFS Globenet, Inc.; E-00-008/CC-110-00 – Global West Network, Inc.; and E-05-007/CC-076-05 – Monterey Bay Research Institute.

<sup>2</sup> E-98-027-A2/CC-041-00 – PC Landing, approved 2/9/06; E-98-027-A3/ CC-041-00 – PAC Landing, approved 6/15/06; E-99-011-A2/CC-028-00 – MFS Globenet, Inc, approved 8/8/07; E-98-029-A2/CC-059-00 and E-00-004-A1/CC-078-00 – AT&T Corporation, approved 11/15/07, E-01-029-A3/CC-111-01 – Tata Communications, approved 12/17/2010, E-05-007/CC-76-05 – Monterey Bay Research Institute, approved 8/10/12, E-01-029-A4/CC-111-01 – GU holdings, approved 12/12/14.

0160/CC-0002-16), bypassing the 18 to 24 month survey interval, and instead requiring surveys every five years from the onset.

## **B. PROPOSED AMENDMENT AND CONSISTENCY CERTIFICATION MODIFICATION**

**Special Condition 6** of the original coastal development permit (CDP) E-98-027 required periodic cable inspection surveys in State waters every 18 to 24 months. In its consistency certification, CC-041-00, PAC Landing Corporation committed to performing burial surveys every 18 to 24 months for the cable segments in federal waters. The purpose of the periodic surveys is to ensure that previously buried cable remains buried. If a cable survey indicates that previously buried cable has become unburied, the cable owner is required to re-bury the cable segments.

The CDP and Consistency Certification were amended in 2007 to extend the interval between burial surveys to five years. Surveys conducted in 2003 and 2005 indicated that the cable had remained buried over time. Thus, the Commission found that changing the frequency of the burial surveys from every two years to every five years would not reduce protection of coastal resources. Furthermore, the Commission found that changing the frequency of the burial surveys would reduce the environmental effects associated with performing the surveys (e.g., air emissions from survey vessels and potential conflicts with commercial fishing along the cable survey routes). The Central California Joint Cable/Fisheries Liaison Committee supported the proposed five-year survey interval.

Since the permit was amended, the owner of the PAC cable conducted two additional surveys, in 2010 and 2015. The results of these surveys, similar to the surveys conducted in 2003 and 2005, demonstrate that buried cable remains buried. The surveys found that burial depths were often greater than the as-laid burial depth due to natural settlement and sedimentation over time. The surveys did not find any indication that the cable had been dragged or moved. Level 3 Communications therefore proposes to eliminate the requirement to survey the cables every five years and replace it with a requirement to survey only after an event or physical phenomenon that could result in a cable becoming unburied.

The proposed revised special condition set forth below would supersede and replace **Special Condition 6** approved by the Commission in CDP E-98-027 as it applies to the PAC cable. The revisions are illustrated by strikethroughs for deletions and underlining for additions. All other requirements of the Commission's approval of CDP E-98-027, including but not limited to the Standard Conditions set forth in Section 2.0 of the Commission's findings, remain in full force and effect with respect to the amended project.

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

burial plan required by **Special Condition 5**, the applicants shall, within 30 days of survey completion, submit to the Executive Director for approval a plan to re-bury those cable segments.

- (a) PC-1 Cable Segments. The cable surveys as described above shall be performed for the PC-1 cable segments (i.e., PC-1E and PC-1S) once every five years for the life of the project.
- (b) PAC Cable Segment. The cable surveys as described above shall be performed for the PAC cable segment ~~once every five years for the life of the project~~ **after any event that has the potential to affect the cable. "Event" for the purposes of this condition is defined as: an incident or activity (such as a gear snag), the circumstances of which indicate the likelihood that previously buried cable has become unburied; an act of God, such as a severe earthquake in the vicinity of the cables that could cause deformation of the sea floor or underwater landslides; or any other significant event that could cause excessive ocean floor scouring. The applicant shall notify the Executive Director in writing within 10 days of the reporting or other identification of a qualifying event, and shall schedule a survey at the soonest available opportunity, subject to vessel availability, weather conditions, and related operational conditions affecting the survey. Starting in 2020, and once every five years thereafter, in the absence of an event that would trigger a cable survey as described above, the applicant shall submit a written statement to the Executive Director confirming that no qualifying event has occurred since the prior cable survey and that no other conditions or changes have occurred that would affect the burial status of the segments of the cable that were documented as buried in the post-lay survey and subsequent cable surveys.**

Level 3 Communication also proposes to apply the revised condition to the portion of the cable in federal waters.

### **C. PERMIT AND FEDERAL CONSISTENCY JURISDICTION**

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

The project also required a federal permit from the United States Army Corps of Engineers, and therefore required a federal consistency certification pursuant to Section 307(c)(3)(A) of the Coastal Zone Management Act (CZMA). For the portion of the project that lies outside the coastal zone in federal waters, Level 3 Communications submitted a modified consistency certification to the Coastal Commission on November 16, 2016. Under 15 CFR § 930.65, the Commission has the authority to review changes to projects (or changed circumstances), to

determine whether they remain consistent with the CCMP. Level 3 Communications has certified that the activity, as modified, remains consistent with California's approved coastal management program (CCMP) and will be conducted in a manner consistent with the CCMP.

#### **D. RELATED AGENCY APPROVALS**

##### **State Lands Commission**

The applicant entered into a lease (No. PRC 8152.1) with the State Lands Commission (CSLC) that authorized the laying of the subject cable segments across State-owned submerged lands and tidelands. This lease requires periodic surveys on the same schedule as the existing requirement of the CDP, that is, once every 5 years. In June 2016, the applicant applied to CSLC to revise the survey requirements of its lease consistent with the proposed CDP amendment described above. The State Lands Commission's lease currently gives, and would continue to give, the SLC authority to require the applicant to perform additional surveys of the cable in the event of natural or human-caused events that may uncover and expose the cable. The CSLC is scheduled to hear this item on December 6, 2016.

#### **E. MARINE RESOURCES AND COMMERCIAL FISHING**

Section 30230 of the Coastal Act states:

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

Section 30234.5 of the Coastal Act states:

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

Key Coastal Act issues addressed in the findings for the original permit include potential adverse effects on coastal resources related to entanglement with the cables. Specifically, the findings addressed concerns that: 1) whales may become entangled with the cables; 2) trawlers may snag their gear on a cable and thus lose gear and fishing time; and/or 3) abandoned trawl nets may get snagged by the cable and entangle and drown marine mammals or other marine wildlife. The Commission required **Special Condition 6** in order to help ensure that the cables remained buried, to reduce the possibility of adverse impacts to marine mammals and commercial fishing from entanglement with the cables.

The proposal to conduct regular burial surveys was first advanced in 1998 by affected commercial fishermen. In response to fishermen's concerns, the cable companies agreed to survey the cable routes at least every two years. The Coastal Commission required **Special Condition 6** to be consistent with the agreement reached with the fishermen.

In 2007, PAC Landing Corporation submitted an application to amend the CDP to increase the interval between surveys. In support of their proposed amendment, PAC Landing Corporation

cited the results of the two surveys, conducted in 2003 and 2005, that indicated that the cable had not become unburied since the completion of installation in 2001. In fact, survey data show that the percentage of the cable that is buried increased from 97% in 2001 just after the cable was installed, to 100% in 2003 and 2005. In addition, PAC Landing Corporation also argued that each survey causes impacts to coastal resources, including significant emissions of criteria pollutants and greenhouse gases from survey vessel emissions, and space preclusion impacts to commercial fishermen. Reducing the survey interval would reduce these impacts to coastal resources. The Joint Fisheries Liaison Committee agreed with this assessment and supported the proposed five-year survey interval. The Commission concurred with the applicant and approved the CDP amendment in June 2007.

Since the CDP amendment was approved, PAC Landing Corporation and Level 3 Communications, the owner of the PAC cable since 2012, have submitted two additional data sets from surveys conducted in 2010 and 2015. These more recent survey data continue to show that the burial status of the cable has not changed significantly since its installation; 100% of the cable remains buried. These data are consistent with data from surveys of other marine fiber optic cables approved by the Commission that show that the burial status of cables installed offshore of California have not changed significantly with time.

Based on this new information, Level 3 Communications now proposes to eliminate the requirement to survey the cable every five years and replace it with a requirement to survey only after a natural or anthropogenic “event” that could affect the cable. An “event” is defined to be an incident or activity (such as a gear snag), the circumstances of which indicated the likelihood that previously buried cable has become unburied; or act of God, such as a severe earthquake in the vicinity of the cables that could cause deformation of the sea floor or underwater landslides, or any other significant event that could cause excessive ocean floor scouring.

As described above, **Special Condition 6**, which required periodic burial surveys of the PAC cable, was included in the original CDP to reduce the potential for three types of impacts: 1) whales may become entangled with the cables; 2) trawlers may snag their gear on a cable and thus lose gear and fishing time; and/or 3) abandoned trawl nets may get snagged by the cable and entangle and drown marine mammals or other marine wildlife. In general, data collected during the surveys indicate that the potential impacts described above were avoided at least in part because the cable was buried beneath the seafloor during installation and has remained buried in the years since. Survey results show that once installed and buried in the sediment, the cable has not moved or become exposed. In fact, the PAC cable has remained 100% buried since 2003, thus eliminating the potential for whale entanglement or interaction with fishing gear. In support of this conclusion, according to Level 3 Communications, there have been no claims of fishing gear entanglements or other similar impacts since the PAC cable was installed in 2001. In addition, the four cable burial surveys have not found any indication of snagged fishing gear or entanglements.

Commercial fishing in the San Luis Obispo area has fundamentally changed since the PAC cable was installed. Morro Bay and San Luis Obispo experienced a significant decline in fishing activity between 2000 and 2008 due to declines in fish stocks, unpredictable markets, and the



cyclical nature of high value and high volume fish species.<sup>3</sup> In addition, actions by regulatory agencies and non-profits specifically reduced the intensity and extent of trawling in the vicinity of the cable. According to the applicant, since 2012, only one trawl vessel has actively fished in the area. The decline in trawlers further reduces the likelihood of an interaction between the cable and fishing gear in the future.

Current fishing methods and equipment pose less of a risk of interaction with subsea fiber optic cables than trawling. The three most popular fishing methods in the project area are baited traps, line catch and seine nets. Line catch and seine nets do not have any interaction with the seabed and are thus not susceptible to adverse impacts associated with the cable. Baited traps consist of a metal or plastic trap that rests on the seafloor and is attached to a float line with a buoy at the surface. If a cable is suspended or lying on the surface of the seafloor, it could potentially interfere with the baited trap, resulting in the loss or damage to the trap. However, because the PAC cable is buried along its entire length, interactions with baited traps would be avoided. Thus, impacts to fisherman due to snags and lost fishing time are and are expected to remain insignificant.

Furthermore, as pointed out in the 2007 permit amendment, the burial surveys result in impacts to marine resources and fishing interests. Survey vessels required to conduct the surveys generate combustion emissions including criteria pollutants, CO<sub>2</sub> and other greenhouse gases. During transit to and from the project site, and during the surveys, survey vessels have the potential to collide with marine mammals and/or result in avoidance of the project area by marine species while surveys are being conducted. Finally, the presence of survey vessels creates a nuisance for fishermen who are forced to avoid the survey areas or remove traps along the survey route prior to the surveys taking place. In the interest of avoiding this disturbance in the future, commercial fisherman support the proposed amendment (see Exhibit 2).

The Commission agrees with Level 3 Communications that adverse impacts to marine resources and fisherman are not likely to be significant in the future, as long as the cable remains buried. Survey data from the last fifteen years that was not available when the cable was first approved indicate that under normal oceanic conditions, the cable is not expected to move or become exposed. Under these circumstances, the adverse impacts caused by surveys are likely to outweigh the benefit of conducting the surveys. Thus, marine resources and fishing activities are best protected by removing the requirement for periodic surveys. It is important to note, however, that these conclusions rely on the persistence of normal oceanic conditions and the absence of any unanticipated incident or event that has the potential to expose the cable. To address this concern, the amendment includes language that requires Level 3 Communications to conduct a cable survey after any natural or anthropogenic event, such as an earthquake or tsunami or a gear snag, which has the potential to expose the cable. Further, Level 3 Communications is required to submit a statement to the Executive Director every five years confirming that no qualifying event has occurred and that no other conditions or changes have occurred that would affect the burial status of the cable.

---

<sup>3</sup> Lisa Wise Consulting 2008

With the amended condition in place, marine resources and fishing interests will continue to be protected. The Commission therefore finds that eliminating the requirement for periodic surveys but retaining the requirement that the applicant conduct a survey after an event that has the potential to expose the cable is consistent with the marine resources and commercial fishing policies (Sections 30230 and 30234.5) of the Coastal Act.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT**

(Applies to the CDP amendment only.)

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

**Appendix A: Substantive File Documents**

California Coastal Commission. “Final Adopted Findings for CDP Application Number E-98-027 and Consistency Certification CC-041-00.” July 11, 2000 (Approved June 13, 2000).

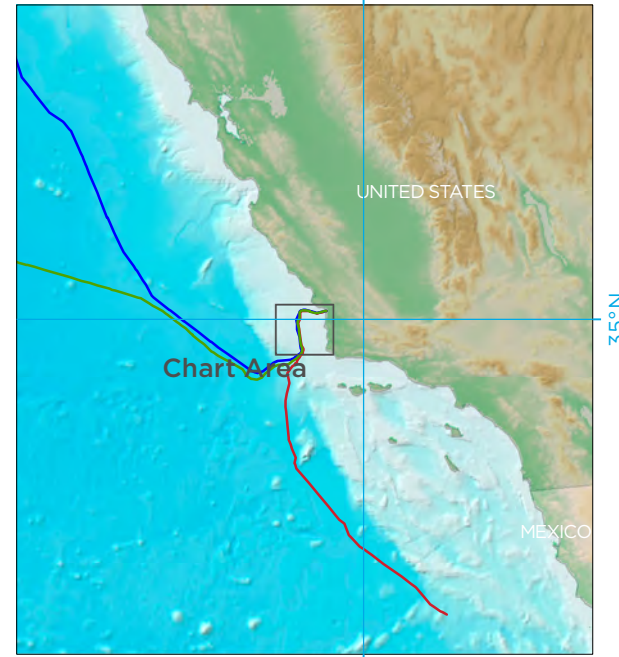
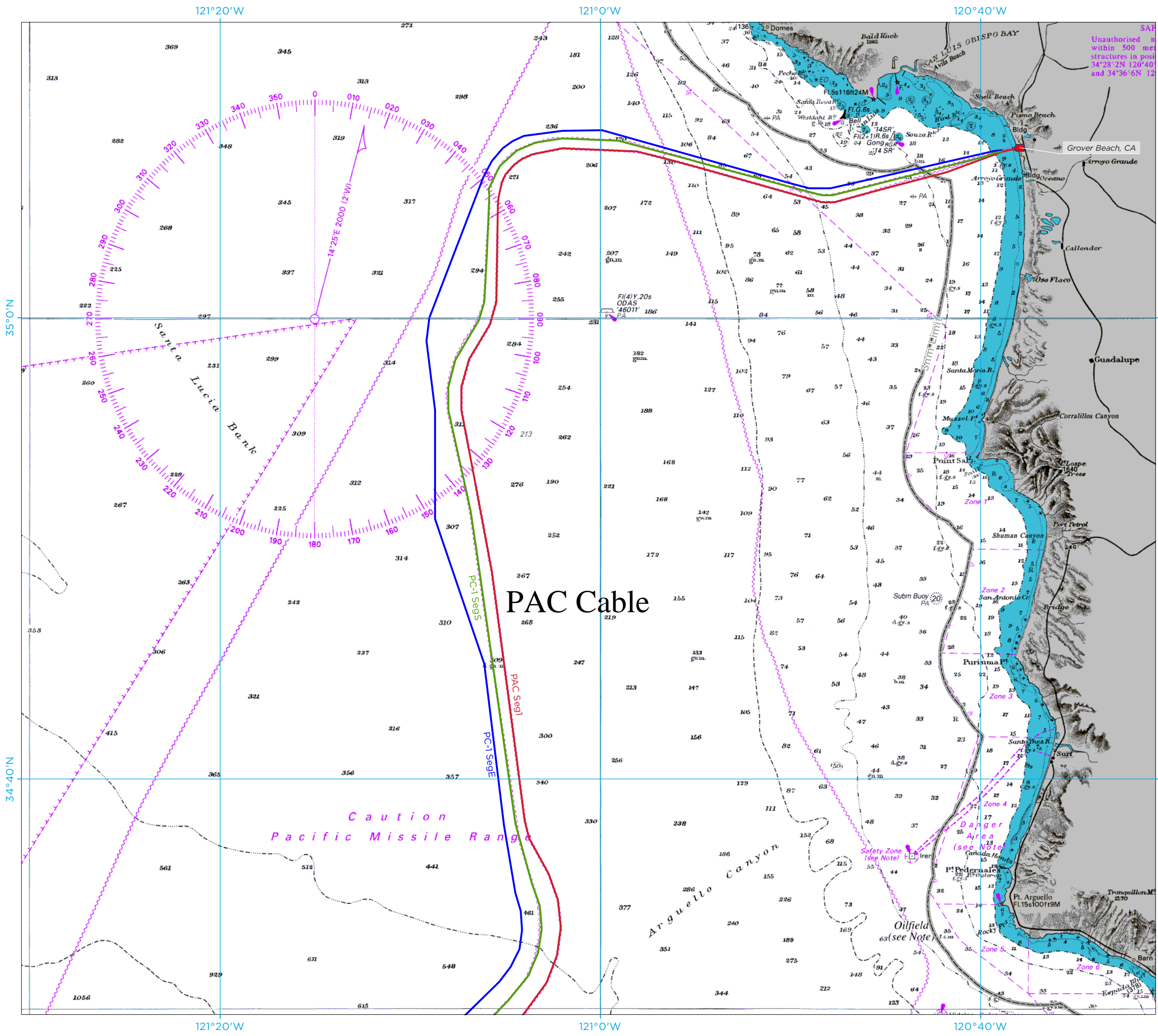
Environmental Resource Management. Response to Notice of Incompleteness for Amendment to CDP E-98-027 for Construction and Operation of the PAC-1 Fiber Optic Cable, dated August 5, 2016.

Level 3 Communications. Application to Amend CDP E-98-027 and CC-041-00. June 21, 2016.

Lisa Wise Consulting (LWC). 2008. Morro Bay and Port San Luis Commercial Fisheries Business Plan. March.  
[http://www.opc.ca.gov/webmaster/ftp/project\\_pages/Morrow\\_Bay/Morro-Bay-Port-San-Luis-Business-Plan.pff](http://www.opc.ca.gov/webmaster/ftp/project_pages/Morrow_Bay/Morro-Bay-Port-San-Luis-Business-Plan.pff).

Tyco Electronics Subsea Communications. “Periodic Cable Verification Survey Report – Pan American Crossing,” September 15, 2015.

Email Correspondence from Level 3 Communications representative dated 4/11/16, 7/11/16, 8/5/16 and 11/16/16.



**LEGEND**

- Landing Point
- PC-1 SegS
- PC-1 SegE
- PAC Seg1
- State Seaward Boundary (3nm Limit)

**Notes:**  
 This document may only be used for the purpose for which it was commissioned and in accordance with the terms of engagement for that commission. Unauthorized use of this document in any form whatsoever is undertaken entirely at the users' risk.

**Scale:**  
 1: 300,000 (At S.P. of 35°0'0"N)

**Geodetic Parameters:**  
 Coordinate System: GCS WGS 1984      Central Meridian: 121°0'0"E  
 Projection: Mercator                      False Easting: 0.000 m  
 Datum: WGS 1984                          False Northing: 0.000 m  
 Standard Parallel: 35°0'0"N              Units: Meters

**Grover Beach, CA**  
 Cable Burial Survey Route Overview Chart  
 Chart 001 of 001



Issue	Date	Description	Drawn	Checked	Approved
1	2015-05-13	Initial Issue	P.P.L.	J.M.S.	S.P.

Drawing Name: NAZ\_2015\_CCC\_Survey\_GroverBeach



## Central California Joint Cable/Fisheries Liaison Committee

525 Harbor Street, Post Office Box 2033, Morro Bay, California 93443  
Phone: (805) 771 - 9637 | Mobile: (805) 441 - 4838 | [www.cencalcablefishery.com](http://www.cencalcablefishery.com)  
Robert Seitz, Chairman of the Board | Christopher Kubiak, Liaison Officer

June 29, 2016

### VIA U.S. MAIL & ELECTRONIC MAIL

Mr. Kenneth Foster  
California State Lands Commission  
100 Howe Avenue, Suite 100 South  
Sacramento, California 95825  
[Kenneth.Foster@slc.ca.gov](mailto:Kenneth.Foster@slc.ca.gov)

*RE: Requirement for Routine Undersea-Cable Burial Inspection Surveys*

Dear Mr. Foster,

I am writing on behalf of the Central California Joint Cable/Fisheries Liaison Committee (the "Committee"). The purpose of this letter is to inform the California State Lands Commission (the "CSLC") of the Committee's Resolution in support of removing the existing lease requirement to conduct routine undersea cable burial verification surveys on a five-year interval, and to replace this with a requirement to survey the cables after a significant event occurs. In addition, the letter will provide some background information on the Committee and the routine burial inspection survey requirement in order to insure full understanding of the Committee's Resolution.

Organized in 1999, the Committee is the principal California non-profit trade association for Submarine Cable Owners and the Commercial Fishing Industry. The Committee's represented member Cable Companies are AT&T Corporation, MFS Globenet (Verizon), X2 Telecom, LLC (Integra), PC Landing Corp, and PAC Landing Corp (Level 3). The fishing industry is two-fold and refers to active members of the Central California commercial fishing industry who operate in the coastal waters of the "Covered Area" described in the Agreement Between Cable Companies and Fishermen dated January 30, 2002 (the "Agreement"). The two components of the fishing industry are commercial *trawl* fishermen, and, two fishing Associations, the Morro Bay Commercial Fisherman's Organization and Port San Luis Commercial Fisherman's Association. Ostensibly, the cable companies, trawl fishing industry, and associations have conflicting business interests. With the cooperation of the fishing and cable industries, the Committee has sought to open communication between the industries so that they could achieve their common business purpose of doing business in the same geographical area with the least potential conflict. As such, the Committee serves as a forum and advocacy organization for its members' interests.

The Committee's purpose is to assist the members of both industries in dealing with mutual business situations. In the context of these purposes, the Committee's Directors and Officers have established policies and procedures to facilitate inter-industry communication, coordination, and cooperation, all with the goal of improving the business conditions of such cable and fishing industries, and the furtherance of their common business interests. These policies and procedures include development of best practices for both industries to minimize the

CENTRAL CALIFORNIA JOINT CABLE/FISHERIES LIAISON COMMITTEE

*California State Lands Commission*

*June 29, 2016*

*Page - 2 -*

possibility of the undersea cables experiencing external aggression events, and to minimize disruption of fishing operations.

Following the initial cable installation(s), the Committee supported, and the CSLC required, cable burial inspection surveys conducted every eighteen to twenty four months. The cable projects of AT&T Corporation, MFS Globenet (Verizon), PC Landing Corp, and PAC Landing Corp. (Level 3) were inspected for burial verification in 2001, 2003, and 2005. In 2005 and 2007, each of the member cable companies applied for, and the Committee supported, lease amendments to extend the burial inspection surveys from the eighteen to twenty four month interval to a five-year interval. The completed burial inspection surveys indicated the cable status had not appreciably changed between the 2003 and 2005 surveys nor since the cables were installed in 2000/2001. The survey reports indicated there was no evidence of cable interaction with fishing gear or with marine mammals. The CSLC approved all of the requested amendments and the cables were surveyed in 2010 and 2015 with the same result; the cable status had not appreciably changed.

As we have stated in the past, we generally believe that the burial verification surveys have become a costly and disruptive nuisance to both fishing and cable interests, without any countervailing benefit. Accordingly, we fully support any permit amendment requests that you may receive from AT&T Corporation, MFS Globenet (Verizon), PC Landing Corp, and PAC Landing Corp (Level 3), to remove the requirement to conduct five-year cable burial verification surveys on cables covered under the terms of our Agreement.

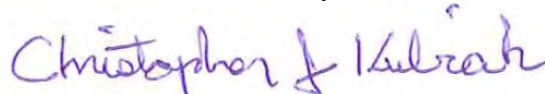
A final note regarding the cable project of X2 Telecom, LLC. This project was installed as part of the now defunct Global West Network on or about year 2001. The cable was then effectively abandoned until X2 acquired the system last year. As such, this cable has not been surveyed and we cannot determine the burial status and the need to conduct subsequent surveys at a specified interval. We will discuss this matter with X2 and address the survey requirement when we have the relevant information.

We are also copying the California Coastal Commission with this letter to notice them of our Resolution of support.

Please do not hesitate to contact me if you need any further information about this matter.

Office: (805) 771-9637 Mobile: (805) 441-4838 Email [fiberfish@sbcglobal.net](mailto:fiberfish@sbcglobal.net)

Sincerely,



Christopher Kubiak, Secretary/Liaison Officer  
Central California Joint Cable/Fisheries Liaison Committee

cc via electronic mail: Ms. Kate Huckelbridge, California Coastal Commission