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Filed: 3/29/2019
Action Deadline: 9/25/2019
Staff: Brian O'Neill - SC
Staff Report: 5/24/2019
Hearing Date: 6/13/2019

STAFF REPORT: CDP HEARING

Application Number: 3-19-0179

Applicant: American Legion Post #432

Project Location: Shamel County Park, 5455 Windsor Boulevard, Cambria, San Luis Obispo County.

Project Description: Free annual Fourth of July fair and fireworks display, including vendor booths and construction of a fireworks staging area and safety zone, through July 4, 2021.

SUMMARY OF STAFF RECOMMENDATION

The American Legion Post #432 proposes to provide an annual free, all-day Fourth of July event at Shamel County Park in Cambria, San Luis Obispo County through July 4, 2021. The events involve temporary placement of vendor booths at the Park during the day of each annual event and the siting of a fireworks safety zone/staging and launching area on Shamel County Beach in the evening. The fireworks displays will take place from the beach and over the ocean waters fronting the park, and within the boundaries of the Monterey Bay National Marine Sanctuary (Sanctuary). The fireworks displays will begin about 8:45 p.m. and will last approximately 20 minutes. The displays will be visible from Shamel County Park and surrounding upcoast and downcoast locations, including neighboring Moonstone Beach, which is part of Hearst San Simeon State Park. The Applicant estimates (based on previous events) that 3,000 to 4,000 spectators will attend in total throughout each of the annual events.

The Sanctuary, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service have previously determined that fireworks displays, such as the ones proposed here, are not likely to significantly impact the overall populations of endangered or threatened species and have recommended appropriate mitigation and conservation measures when authorizing fireworks displays within the Sanctuary to minimize or avoid impacts to marine resources. Both the Commission and the Sanctuary have in the past authorized fireworks within Sanctuary waters based in part on these recommendations, including past fireworks events in Cambria on Shamel Beach. Staff therefore proposes a series of special conditions to minimize the impact of the proposed events, including conditions that limit the use of large “aerial salute” shells that may have a larger impact on wildlife, prohibition on the use of firework devices that include plastic shells or casings, and requirements for extensive cleanup efforts for a minimum of two days after each event. Additionally, staff proposes to require pre- and post-event wildlife monitoring to ensure that area wildlife is not impacted by the events and to inform whether additional mitigation may be required to protect wildlife in the future.

In terms of public access, the project is an annual one-day, temporary, and free public event that will provide public recreation and enjoyment at Shamel County Park and adjacent beach. All normally accessible areas will remain open and available to the general public throughout the majority of the day of each event, except a portion of the beach will be restricted from approximately 5 p.m. to 9 p.m. to allow for pre-display setup at the launching area and to provide a spectator safety zone during the fireworks events, which will be reopened immediately following the conclusion of each fireworks display. Potential impacts to public parking will be offset by a free trolley shuttle that will run every hour from 11:00 a.m. to 7:00 p.m. along Main Street and Moonstone Beach Drive to Shamel County Park. With conditions to maintain beach public access and ensure that the beach, the Park, and the surrounding waters are adequately cleaned following each event, the events should not adversely affect coastal visitors generally, and in fact will provide a free attraction in an urban setting capable of handling such events and potential attendees.

With respect to fire hazards, special conditions would require the Applicant to obtain authorization from the Cambria Fire Department and the State Fire Marshall prior to each fireworks display to ensure adequate precautions are taken to protect against potential fire hazards. In addition, Cambria Fire Department officials will be on hand to monitor the fireworks through set up, the display itself, and take down of the firing and during the displays.

Therefore, as conditioned, the project is consistent with the Coastal Act, and staff recommends **approval** of the CDP. The motion is found on page 4 below.

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I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission **approve** Coastal Development Permit Number 3-19-0179 pursuant to the staff recommendation, and I recommend a **yes** vote.*

***Resolution to Approve CDP:** The Commission hereby approves Coastal Development Permit Number 3-19-0179 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.*

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Permit Duration and Allowable Extensions.** This CDP shall be valid for three annual Fourth of July fireworks events to take place (through and including July 4, 2021). The approval for an annual Fourth of July fireworks event allowed under this CDP, as conditioned, may be extended in a maximum of five-year increments after July 4, 2021 (e.g., through July 4, 2026, through July 4, 2031, etc.) subject to Executive Director review and approval with verification that: the Permittee has secured authorization from the Monterey Bay National Marine Sanctuary to hold the annual Fourth of July firework event during the requested extension period; the Permittee has secured the “Other Agency Approvals” required in Special Condition 2; there are no changed circumstances associated with the event that may affect the consistency of the event with the policies of Chapter 3 of the Coastal Act, and; that the terms and conditions of this CDP remain adequate to protect coastal resources. For such extension(s), the Permittee must provide evidence that there are no changed circumstances with respect to this approved CDP’s terms and conditions, including to the adequacy of marine resource and water quality protections, and must request Executive Director review and approval of the extension at least three months prior to the end of each Sanctuary approval period then in effect (e.g., for the first requested extension by March 28, 2022 or earlier). If the Executive Director determines that extension pursuant to the procedure above is not appropriate due to failure to meet the above-specified criteria, the Permittee shall submit a complete CDP application for Commission review to authorize future fireworks events.
2. **Other Agency Approvals.** PRIOR TO THE COMMENCEMENT OF EACH FIREWORKS EVENT, the Permittee shall submit to the Executive Director for review and approval evidence of all permits, permissions or approvals granted for the fireworks display from: (1) Monterey Bay National Marine Sanctuary; (2) United States Coast Guard; (3) State Fire Marshall; (4) Cambria Fire Department; and (5) San Luis Obispo County Parks Department, as applicable. The Permittee shall inform the Executive Director of any changes to the current approved and any future proposed project required by any of the above-listed agencies. Such changes shall not be incorporated into the project until the Permittee obtains an amendment to this coastal development permit from the Coastal Commission, unless the Executive Director determines that no amendment is legally necessary.
3. **Fireworks Limitations.**
 - a. **Aerial Salute Limitations.** The total number of aerial “salute” shells or devices used in each fireworks event shall not exceed 6% of the total number of aerial shells and/or special effect pyrotechnic devices combined. Aerial “salute” shells/devices shall not be launched or detonated during the first five minutes of each fireworks display.
 - b. **All Labels and Wrapping Removed.** All plastic and aluminum labels and wrappings shall be removed from all aerial shells and special effect pyrotechnic devices prior to use and before they are launched or detonated.

- c. **Prohibited Devices.** Aerial shells and/or special effect pyrotechnic devices that include a plastic outer casing and/or non-biodegradable inner components that make up more than 5% of the mass of the shell/device shall be prohibited.
 - d. **Duration of Display.** The fireworks display is authorized to occur on July 4, 2019, 2020, and 2021. Each of these fireworks displays shall be limited to no longer than 20 minutes.
- 4. **Clean-up and Restoration of Beach and Adjacent Ocean Waters.** FOLLOWING EACH FIREWORKS EVENT, all fireworks-related debris from the launch site shall be recovered. The Permittee shall inspect the immediate upcoast and downcoast area (i.e. the beach area between the rocky outcrop downcoast and the Moonstone Beach parking lot upcoast), and the adjacent water area for a minimum of two days following the conclusion of each fireworks event for any remaining event debris, including but not limited to all fireworks detritus. All such debris found shall be properly disposed of and the inspections shall continue for at least 24 hours from the time that any such fireworks debris is located, and indefinitely until such inspections do not identify any more fireworks debris.
- 5. **Beach Public Access.** Public access to the beach located seaward of Shamel County Park may be restricted beginning no earlier than 5:00 p.m. on the day of each annual event to allow for pre-fireworks display setup at the launching area and to provide a spectator safety zone during each fireworks event. The beach shall be reopened to public access immediately following the conclusion of each fireworks event.
- 6. **Pre and Post-Event Monitoring Report.** WITHIN 60 DAYS OF THE CONCLUSION OF EACH EVENT, the Permittee shall submit a Pre- and Post-Event Monitoring Report, prepared by a qualified biologist, to the Executive Director for review and approval. The Report shall, at a minimum, include:
 - a. **Marine Mammals Monitoring Report.**
 - i) Conduct a census detailing the number of all pinnipeds and otters in the impact area of the event, and in the surrounding waters, on the day prior to each fireworks display with observations to occur for no less than 30 minutes;
 - ii) Monitor, record, and report all marine mammal injury, serious injury, or mortality observed in the vicinity of the fireworks display area and in the surrounding waters. Monitoring for injury, serious injury, or mortality shall occur no later than the morning after each fireworks display, and shall occur for no less than 30 minutes;
 - iii) An analysis of the data collected indicating whether and to what extent each event had an impact, if any, on marine mammals.
- 7. **Modifications to this CDP.** All requirements above shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition. Minor adjustments to these requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

Project Location

The Applicant is proposing to provide an annual free, all-day 4th of July event at Shamel County Park in Cambria, San Luis Obispo County, over the next three years, i.e. through July 4, 2021. The proposed project involves the temporary placement of vendor booths at the Park during the day of each annual event and the siting of a fireworks safety zone/staging and launching area on Shamel County Beach in the evening. Public access to the beach seaward of the Park will be maintained throughout the majority of the day of each event. However, at 5:00 p.m., public access to this beach will be restricted to allow for pre-display setup at the launching area and to provide a spectator safety zone during the fireworks event (see **Exhibit 3**). The beach around the launch area will be reopened to public access immediately following the conclusion of each fireworks display.

The fireworks displays will take place from the beach and over the ocean waters fronting the park, and within the boundaries of the Monterey Bay National Marine Sanctuary (Sanctuary). The Applicant has authorization from the Sanctuary to hold the annual event (see **Exhibit 4**), which authorization expires on June 28, 2022. The fireworks displays will begin about 8:45 p.m. for any given event and will last approximately 20 minutes. The displays will be visible from Shamel County Park and surrounding upcoast and downcoast locations, including neighboring Moonstone Beach, which is part of Hearst San Simeon State Park. The Applicant estimates (based on previous events) that 3,000 to 4,000 spectators will attend in total throughout each of the full-day events.

Following each event, the Permittee will perform a cleanup of all associated debris, as well as a more detailed cleanup of the beach and park the following day(s). This will include volunteers from the local community, such as Scouts and 4-H, in addition to the fireworks staff.

Please refer to **Exhibit 1** for a location map and to **Exhibit 2** for an aerial photo of the project site.

B. STANDARD OF REVIEW

The proposed project is located within the Commission's retained/original CDP jurisdiction area because it is located on the beach below the mean high tideline within public trust lands, and thus the standard of review is Chapter 3 of the Coastal Act, with the San Luis Obispo County Local Coastal Program (LCP) policies and standards providing guidance.

C. MARINE RESOURCES AND WATER QUALITY

Coastal Act Sections 30230 and 30231 protect marine and inland watercourse biological resources, stating:

Section 30230: *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 30231: *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

The proposed fireworks display would be launched from the beach fronting Shamel County Park (Shamel Beach) and the display will take place over the waters of the Sanctuary (see **Exhibit 1**). The Sanctuary was designated as the ninth national marine sanctuary in the United States on September 18, 1992. Managed by the National Marine Sanctuary Program within the National Oceanic and Atmospheric Administration, the Sanctuary adjoins 276 miles (444 km) of central California's outer coastline (overlying 25% of state coastal waters), and encompasses 5,300 square miles of ocean waters from mean high tide to an average of 25 miles offshore between Rocky Point in Marin County and Cambria in San Luis Obispo County.¹

Fireworks displays have historically been conducted over Sanctuary waters as part of national and local celebrations, and to foster public use and enjoyment of the marine environment. These areas are the preferred venue for such celebrations within California because they optimize public access while avoiding fire hazards that are associated with such displays. The Sanctuary has historically expressed concern about the potential cumulative impacts to marine wildlife and the environment from fireworks displays, particularly if they proliferate to multiple sites within the Sanctuary. Because of this concern, and to provide guidance for future proposed fireworks events in the Sanctuary, in 2001 the Sanctuary developed an Environmental Assessment (EA) of the impacts of fireworks displays.² The EA recognized the historical use of fireworks in certain

¹ *Environmental Assessment of the Issuance of a Small Take Regulations and Letters of Authorization and the Issuance of National Marine Sanctuary Authorizations for Coastal Commercial Fireworks Displays Within the Monterey Bay National Marine Sanctuary, California.* National Oceanic and Atmospheric Administration, National Marine Fisheries Service, and Monterey Bay National Marine Sanctuary. June 2006.

² *Assessment of Pyrotechnic Displays and Impacts within the Monterey Bay National Marine Sanctuary 1993-2001,* dated March 2001.

locations within the Monterey Bay, including Cambria,³ and authorized future fireworks in four discrete areas within the Sanctuary, including Cambria, while noting that fireworks displays would be prohibited within the remainder of the Sanctuary.

On March 26, 2001, the Sanctuary requested formal programmatic consultation from the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) within the context of both the Endangered Species Act and the Marine Mammal Protection Act as to the potential for “take” of listed species and/or protected mammals due to fireworks displays within the Sanctuary’s boundaries. On June 22, 2005, USFWS provided its biological opinion and concurred that the Sanctuary’s authorization of fireworks events within four discrete areas⁴ within the Sanctuary would not likely substantially reduce the overall populations of endangered or threatened species located within these areas. On July 19, 2006, NMFS likewise issued a Letter of Authorization (LOA) to the Sanctuary authorizing professional fireworks displays within Sanctuary waters. Both USFWS and NMFS recommended that the Sanctuary include appropriate mitigation and conservation measures when authorizing fireworks displays within the Sanctuary to minimize or avoid impacts to special status species. Both the Commission and the Sanctuary have authorized in the past fireworks within Sanctuary waters based in part on the Assessment and its recommendations, including past fireworks events in Cambria on Shamel Beach.⁵

Marine mammals can be impacted by fireworks displays in three ways: light, sound, and debris. The primary causes of disturbance are light flashes and sound effects from exploding fireworks. The impact area is affected by certain variables including type of pyrotechnic device, altitude of explosion, etc. The impact area is defined as the area where sound, light, and debris will directly impact marine organisms and habitats. **Special Conditions 3(d)** and **6** address these impacts by limiting the length of each fireworks display to a maximum of 20 minutes, and by requiring a pre-event census of marine mammals in the vicinity of the project site to be done, along with a post-event evaluation to determine if any injury or mortality to these species occurred. **Special Condition 6** also requires submittal of a monitoring report within 60 days of conclusion of each event. The mammal censuses and monitoring reports will provide valuable information that may be used to determine Coastal Act consistency of future proposed CDPs for fireworks displays at this location, including provision of different or additional appropriate mitigation as necessary.

As a means to strictly limit the effect of fireworks on wildlife in the area, previous related Commission actions have included limitations on the types of fireworks that could be launched at

³ “The site has been used annually for Independence Day fireworks displays on July 4. The launch site is on a sandy beach at Shamel County Park. The small aerial display lasts approximately 20 minutes. The aerial shells are aimed to the west. The marine venue is preferred for optimal public access and to avoid the fire hazard associated with terrestrial display sites. The fireworks display occurs at the height of the dry season in central California, when area vegetation is particularly prone to ignition from sparks or embers.” (*Assessment of Pyrotechnic Displays and Impacts within the Monterey Bay National Marine Sanctuary 1993-2001*, dated March 2001.)

⁴ These four areas consist of: 1) Half Moon Bay; 2) Northern Monterey Bay Area (including Santa Cruz, Capitola, and Aptos); 3) Southern Monterey Bay Area; and 4) Cambria.

⁵ See, for example, CDPs 3-00-117, 3-01-058, 3-02-027, 3-03-034, 3-03-034-A1, 3-03-034-A2 and 3-14-1013 (Monte Foundation Fireworks at Seacliff State Beach and Capitola); CDP 3-09-016 (City of Capitola); CDP 3-13-0960 and 3-16-0391 (City of Santa Cruz); Administrative CDP 3-18-0318 (Cambria).

the beginning of the event. The intent has been to open an event with more minimal fireworks that allow wildlife to ease into the event and flush more readily from the area without an immediate barrage of huge explosions and salutes that may exacerbate impacts. This limitation is appropriate in this case as well, and thus this approval is conditioned to limit the total number of “aerial salute” shells or devices to no more than 6% of the total number of aerial shells and/or special effect pyrotechnic devices combined, and to prohibit such aerial salute shells/devices during the first five minutes of each fireworks display (see **Special Condition 3(a)**)

Event debris from a fireworks program can impair Sanctuary water quality as well as harm wildlife that may ingest and/or become entangled in such debris. The USFWS biological opinion noted that Sanctuary staff has documented the presence of a substantial number of fireworks casings in the ocean immediately following previous fireworks displays held over Sanctuary waters. Other fireworks debris that may enter the ocean includes cardboard cylinders, disks, and shell case fragments; paper strips and wadding; plastic wadding, disks, and tubes; aluminum foil; cotton string; and even whole unexploded shells (i.e. duds or misfires). It is likely that paper strips, cardboard, and cotton string are biodegradable and do not persist for long periods of time in the ocean environment. However, other materials, such as plastic, are likely to persist in the marine environment for lengthy periods if they are not washed ashore and/or removed by personnel. In previous permits for fireworks programs over Sanctuary waters, the Commission and the Sanctuary have prohibited the use of specific pyrotechnic devices, such as those containing an outer plastic casing, and have required that all plastic labels and wrappings be removed from the pyrotechnic shells before they are launched. **Special Conditions 3(b)** and **3(c)** incorporate these prohibitions into this permit. Additionally, **Special Condition 4** requires the Permittee to inspect Shamel County Park, the adjacent stretch of beach, and the adjacent ocean waters for a minimum of two days following the conclusion of each fireworks program to look for any remaining event debris, including, but not limited to, all fireworks detritus, and also to properly dispose of all debris. The Applicant has also agreed to clean up the area immediately following each fireworks display, and has historically received help from members of the community, such as Scouts and 4-H, to aid in cleanup during the days following the event.

In terms of potential impacts to pinnipeds from a fireworks display, according to the Environmental Assessment, sea lions have been observed evacuating haul-out areas upon initial detonation of fireworks, and then returning to the haul-out sites within 4 to 15 hours following the end of the fireworks display. Harbor seals have been seen to remain in the water after initial fireworks detonation around the haul-out site. Sea lions in general are more tolerant of noise and visual disturbances than harbor seals - adult sea lions have likely habituated to many sources of disturbance and are therefore much more tolerant to nearby human activities. For both pinniped species, pups and juveniles are more likely to be harassed when exposed to disturbance than older animals. In general, marine wildlife depart or avoid surface waters and haul-out sites within a 1000-yard radius of the center of the impact area during fireworks displays. Regarding specific impacts to pinnipeds during the proposed fireworks events, the aforementioned Environmental Assessment states that the authorized launch site in Cambria includes low concentrations of sea lions and moderate numbers of sea otters and harbor seals (Sanctuary staff has estimated that an average of zero sea lions and 20 harbor seals may be present during the fireworks displays; no estimate of the potential number of sea otters was provided). With respect to elephant seals, although it is possible for individual elephant seals to enter the area from breeding sites north of the park, it is highly unlikely that this will occur given that elephant seal breeding occurs in the

winter and the fireworks displays in Cambria are limited to the summer. In any event, marine mammals and other wildlife may avoid or temporarily depart the impact area during the hours immediately prior to the beginning of the fireworks displays due to increased human recreational activities associated with the overall celebration event (noise, boating, kayaking, fishing, diving, swimming, surfing, picnicking, beach combing, tidepooling, etc.), and as a fireworks presentation progresses, most marine mammals and birds generally evacuate the impact area.

In terms of potential bird impacts, the events are expected to have little to no impact to birds. Non-nesting marine birds (especially pelicans, cormorants, and gulls) are among the first wildlife to evacuate the area at the start of fireworks displays. Past observations by Sanctuary staff indicate that virtually all birds within the impact area depart in a burst of flight within one minute of the start of a fireworks display, including low-level displays. Due to the nature of the project, these impacts would be temporary and short term. Birds would be expected to retreat from the area when the fireworks start and to return afterwards.

Based upon the EA and LOA discussed above, the Sanctuary provided the Applicant with a five-year authorization to hold an annual fireworks event at Shamel Beach (see **Exhibit 4**). That authorization was issued on June 28, 2017 and is valid through June 28, 2022, which will allow for three more fireworks displays through the July 4, 2021 event, and associated cleanup. If the Applicant proposes to hold the event on July 4, 2022 and beyond, new Sanctuary authorization must be secured. To coincide with the Applicant's Sanctuary approval, **Special Condition 1** states that the Commission's approval allows for three fireworks displays through the July 4, 2021 event, and associated cleanup. Additionally, **Special Condition 1** allows for the Executive Director to extend this approval for a maximum of five-year increments as long as: the Applicant requests an extension at least three months prior to the Sanctuary's expiration date (i.e. by March 28, 2022 for the first potential extension request; the Applicant has provided verification of valid Sanctuary approval for the duration of the requested extension and has secured the "Other Agency Approvals" required in Special Condition 2; and the Applicant provides evidence that there are no changed circumstances that may affect the consistency of the event with the policies of Chapter 3 of the Coastal Act (i.e., the terms and conditions of the existing approval are adequate to ensure marine resource, water quality, and public access protections). If the Executive Director determines that Commission re-review of the project is warranted for a proposed CDP extension, such as if new information regarding the impacts of firework displays on coastal resources or new mitigation measures are identified that are necessary to address such impacts, **Special Condition 1** requires the Applicant to submit a new CDP application to authorize future fireworks events.

As conditioned, the Commission finds that the proposed fireworks events will preserve water quality and protect marine resources in the vicinity of Shamel County Park. Thus, the project is consistent with the marine resources policies of the Coastal Act.

D. PUBLIC ACCESS

As the project site is located between the first public road and the sea, this application raises consistency issues with respect to the public access and recreation policies of the Coastal Act (Sections 30210, 30211, 30213, 30221, and 30252(3)). These policies protect the beach (and access to and along it) and offshore waters for public access and recreation purposes, including lower-cost access and recreational opportunities:

Section 30210: *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211: *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30213: *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

Section 30221: *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Section 30252: *The location and amount of new development should maintain and enhance public access to the coast by...(3) providing non-automobile circulation within the development...*

The proposed fireworks displays are an annual one-day, temporary, and free public event that will provide public recreation and enjoyment at Shamel County Park and on the adjacent beach.

Special Condition 2 requires approval by the San Luis Obispo County Parks Department prior to each fireworks event.

All normally accessible areas, including the beach located seaward of the Park, will remain open and available to the general public throughout the majority of the day of each event. However, at 5:00 p.m., public access to this beach will be restricted to allow for pre-display setup at the launching area and to provide a spectator safety zone during the fireworks events (see **Exhibit 3**). This beach area will be reopened to public access immediately following the conclusion of each fireworks display (see **Special Condition 5**). Moreover, the entire purpose of the annual fireworks event is to encourage public access and recreation at the beach (which event also provides a unique visual coastal recreational experience that only occurs once per year), notwithstanding that execution of the event requires closure of part of the beach for a launching area and spectator safety zone.

Potential impacts to public parking will be offset by a free trolley shuttle that will run every hour from 11:00 a.m. to 7:00 p.m. along Main Street and Moonstone Beach Drive to Shamel County Park. As such, the events should not adversely affect coastal visitors generally, and in fact will provide a free attraction in an urban setting capable of handling such events and potential attendees, consistent with Coastal Act Section 30252(3).

The 20-minute fireworks displays would temporarily impact the ability of potential boaters to

use ocean waters offshore of the beach during the time of the events, but the impact will be negligible because of the short duration of the events. However, U.S. Coast Guard approval is required prior to each event. Therefore, this approval is conditioned for evidence of U.S. Coast Guard approval prior to each annual event (see **Special Condition 2**).

The main public access issue in this case is with respect to the cleanup of any fireworks and/or event debris following the events. It is possible that fireworks debris may make its way onto the beach, and it is possible that event attendees may leave other debris as well. Given that some debris may float, it may be that debris continues to be present even following initial cleanup activities. Remnant debris on the beach and in the water inhibits public use and enjoyment of those areas. Some debris of this type can be avoided by simply prohibiting certain pyrotechnic devices (such as those that contain an outer plastic casing), and by requiring that all plastic labels and wrappings be removed from the pyrotechnic shells before they are launched. In addition, the Commission's experience with nearby fireworks events has been that aggressive and focused clean-up following each event is adequate to ensure that beach and offshore waters are returned to their pre-event state in a relatively short period of time. To combat this issue, this approval is conditioned for the Applicant to clean up the area immediately following each event and to inspect and clean up the beach and surrounding waters of any remaining event fireworks detritus and other event debris for at least two days following each event, as outlined in **Special Condition 4**.

Lastly, with conditions to maintain beach public access and to limit certain types of shell materials and ensure that the beach, the Park, and the surrounding waters are adequately cleaned up following each event, the proposed project, as conditioned, is consistent with the above-cited Coastal Act public access and recreation policies (**Special Conditions 3, 4, and 5**).

E. FIRE HAZARDS

Coastal Act Section 30253(a) requires that fire risks be minimized and states:

***Section 30253(a).** New development shall do all of the following: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

Launching fireworks during the summer fire season raises the question of whether such an activity could increase fire hazard. In this case, the fireworks would be launched from the beach and over the water and viewed from surrounding public and residential areas. There is also the potential for a misfire of some sort landing on nearby buildings or in other developed areas. The Applicant will obtain authorization from the Cambria Fire Department and the State Fire Marshall prior to each fireworks display to ensure adequate precautions are taken to protect against potential fire hazards. In addition, Cambria Fire Department officials will be on hand to monitor the fireworks through set up, the display itself, and take down of the firing set-up. To ensure consistency with Coastal Act Section 30253(a), this approval is conditioned for evidence of Cambria Fire Department and State Fire Marshall approvals prior to each event (see **Special Condition 2**).

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires that a specific finding

be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment. In this case, the County determined that the project does not require CEQA review.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The preceding coastal development permit findings discuss the relevant coastal resource issues with the proposal related to marine resources and water quality, public access, and fire hazards; and the permit conditions identify appropriate modifications to avoid and/or lessen any potential for adverse impacts to said resources. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS⁶

- *Environmental Assessment of the Issuance of a Small Take Regulations and Letters of Authorization and the Issuance of National Marine Sanctuary Authorizations for Coastal Commercial Fireworks Displays Within the Monterey Bay National Marine Sanctuary, California.* National Oceanic and Atmospheric Administration, National Marine Fisheries Service, and Monterey Bay National Marine Sanctuary. June 2006.
- *Monterey Bay National Marine Sanctuary Authorization MBNS-212-016-A1.* Monterey Bay National Marine Sanctuary. June 28, 2017.

APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS

- San Luis Obispo County Parks and Recreation Department Staff

⁶ These documents are available for review in the Commission's Central Coast District office.