

CALIFORNIA COASTAL COMMISSION

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ADDENDUM

November 2, 2020

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item 16c**, Coastal Commission Permit Application **#6-20-0240 (Cabrillo Power I, LLC)**, for the Commission Meeting of November 5, 2020

The purpose of this addendum is to make corrections and revisions to the staff report, respond to a letter of objection to the project from a member of the public, Dr. Chris Stoughton, and attach the letter as an exhibit. Staff recommends the following changes be made to the above-referenced staff report. Deletions shall be marked by ~~strikethrough~~ and additions shall be underlined:

1. On Page 1 of the staff report, the first sentence shall be corrected as follows:

Staff is recommending approval of the proposed project with conditions to allow maintenance dredging of up to 500,000 cubic yards of beach quality sand from the outer basin of Agua Hedionda Lagoon and beach deposition of the dredged material on North, Middle and South Beaches in Carlsbad.

2. On Page 4, add the letter and photos from Dr. Chris Stoughton dated October 30, 2020 and attach as a new exhibit, as follows:

Exhibit 6 – Letter from Dr. Chris Stoughton dated October 30, 2020

3. In response to Dr. Stoughton's assertion that the dredged sand may contain pollutants, on Page 19, add the following after the second full paragraph:

In September 2017 at the City's Planning Commission hearing for the 2017/2018 maintenance dredge project, Carlsbad residents raised questions regarding sediment toxicity within Agua Hedionda Lagoon based on a recommendation by the San Diego Regional Water Quality Control Board (Regional Water Board) to list the lagoon as an impaired waterbody under

Section 303(d) of the Clean Water Act for sediment toxicity based on studies conducted in 2003, 2004, 2005, and 2008. Of eight samples collected, three samples indicated sediment toxicity above thresholds. The three samples exceeding toxicity thresholds were collected from the inner lagoon basin, while the five passing results were from samples collected from the middle and outer basins. More recent samples collected in 2013 from all three basins were below the toxicity thresholds, suggesting that sediment quality had improved since the 2003 and 2008 samples. Thus, the City Planning Commission approved the special use permit for the 2017 maintenance dredge without requiring additional sediment testing. The Regional Water Board also concluded that additional sediment toxicity testing was not necessary and issued its Notice of Applicability on November 20, 2017.

Commission staff and the applicant are unaware of any more recent testing for sediment toxicity in Agua Hedionda Lagoon. The State Water Resources Control Board's 2014 and 2016 Integrated Report notes that in Agua Hedionda Lagoon "[t]he current impairment due to Toxicity in sediment is based on data collected in the eastern portion of the lagoon. Data collected from the outer and middle portions of the lagoon do not indicate impairment."¹ The subject project would dredge only in the outer basin. Thus, the sand placed is not expected to contain significant levels of toxins. Regional Water Board staff has indicated that the Section 401 Certification for this project should be issued in the next two weeks.

A letter received in opposition to this project asserts that following the 2014 sand distribution on North Beach, there was an increase in tar on the beach. Commission staff and the applicant are unaware of any other claims that tar on any of these beach segments has coincided with prior dredge and sand placement projects. Tar commonly washes up on California beaches from natural seepages in the seafloor and the author has provided no evidence of increases in tar or that the presence of tar on North Beach following the 2014 dredge cycle was caused by the dredge or sand placement activities.

Thus, because the dredged material from the outer basin is sand from the littoral cell, all samples taken from the outer lagoon have passed toxicity screening, and there is no evidence to suggest that tar on North Beach following the 2014/2015 dredge cycle is attributable to the dredge activities, the Commission finds that additional sediment toxicity testing is unnecessary. However, to ensure that the dredged material is consistent with and suitable for deposition on the three beach areas, **Special Condition No. 2** requires the

¹ State Water Board 2014 and 2016 Integrated Report – All Assessed Waters, Map of Agua Hedionda Lagoon, Note on Toxicity Pollutant Assessments,
https://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2014_2016.shtml?wbid=CAE9043100019990209154022.

applicant to submit evidence that the ACOE has determined that the dredged material is suitable for deposition the beach areas and requires the applicant to submit a copy of the results of the sediment characterization report prior to dredging. Therefore, the Commission finds that the dredge material is compatible with and suitable for use as beach sand.

4. On Page 21, the first sentence of the final paragraph shall be corrected as follows:

In addition, beach profile surveys conducted in September 2020, and the October 2020 Sand Deposition Plan indicate that approximately 22034,000 cubic yards of sand has eroded off of North Beach since April 2018; a larger quantity than is proposed to be placed here.

5. The applicant requested that staff revise Special Condition 5 Grunion Monitoring & Avoidance Plan to require counting of every female fish, rather than every individual fish (including both males and females). Commission staff does not support the requested change. On Page 22, revise the final paragraph as follows:

...Each 300-foot segment must be memorialized through multiple GPS coordinates and be marked with irrigation flags. Each individual fish (males and females) shall be counted to determine the Walker Scale value. Male grunion significantly outnumber female grunion in spawning runs. The female fish spawn only once, while males may spawn multiple times during a single night. Except in a small run, it would be impossible to count only females on the beach. Therefore, the Walker Scale was developed as a proxy for spawning and eggs based on counting all fish on the beach during a run, rather than only females. The Commission's ecologist has confirmed that all fish must be counted during the surveys. Areas of high concentration of grunion and grunion eggs must be avoided, and sand placement activities must halt in these high concentration areas unless a 100-foot buffer on either side of the area is observed and no work occurs within the 100-foot buffers.

6. The applicant has revised the project description to propose conducting dredging and sand placement activities on Saturdays. On Page 26, the third paragraph shall be revised as follows:

Section 30211 requires that development not interfere with the public's access to coastal resources, including the use of dry sand. While the sand replenishment o North, Middle and South Beaches will restrict the public's access to the immediate coastal resources temporarily, the sand placement activities will result in benefits to public access in the long term. The applicant anticipates that work will occur during daylight hours between Monday and Saturday~~Friday~~, unless storm delays require work during daylight hours on Sundays. Although work would occur during some peak weekend use hours during the permit term, the work area has historically remained blocked off on weekends. Therefore, continuation of dredging and sand placement activities on Saturdays will not result in any significant adverse impact to beach access.

~~Saturdays. Therefore, peak weekend use hours shall be avoided to the extent feasible.~~ No work is permitted in summer season (Memorial Day to Labor Day). Further, the City's special use permit requires the applicant to maintain a minimum five foot wide path of travel for lifeguard and public pedestrian access between sand deposition areas and seawalls at the back of the beach at all times. Therefore, the proposed project is consistent with Section 30211 of the Coastal Act.

7. In response to Dr. Stoughton's assertion that placement of sand on North Beach could adversely impact surf conditions in the area, add the following after the first sentence of the third paragraph on Page 27:

In this case, however, the applicant is now proposing the deposit a significantly larger quantity of sand on North Beach than has been placed on this segment in the last ten years. A letter received in opposition to this project raises the potential for adverse impacts to surf conditions due to the placement of this quantity of sand on North Beach. To understand whether this sand placement has any adverse impacts to surf, **Special Condition No. 11** requires the applicant to monitor surf conditions near North Beach prior to commencement of nourishment activities and immediately following nourishment activities and to submit a monitoring report to the Commission. In addition, **Special Condition No. 10** requires the applicant to continue outreach to community stakeholders regarding any ongoing concerns about potential impacts to coastal resources in future dredge cycles. Finally, in order to allow on-going reassessment of impacts, **Special Condition No. 8** limits the permit term to one dredge cycle.

8. On Page 28, the fifth sentence of the second paragraph shall be revised as follows:

According to the applicant's October 2020 Sand Deposition Plan, approximately 22034,000 cubic yards has eroded off of North Beach since April 2018; far more than has been lost from Middle and South Beaches.

October 30, 2020

Delivered via email

To: California Coastal Commission

Re: Application No. 6-20-0240 ((Cabrillo Power I LLC, Carlsbad))

Dear Commissioners,

I am a long-time resident of Carlsbad and I live half a block from the North beach area where I spend nearly every day surfing and playing on the beach with my four year old son. I received my PhD at UC Irvine with a focus on climate change and am a lecturer at Cal Poly Pomona where I teach American Government, California Government, Public Law, and Environmental Politics.

I am writing to object to the proposed project by Cabrillo Power I LLC. Cabrillo for the following reasons:

1. The sand distribution proposal is nearly quadruple the amount placed on North Beach in recent memory. North Beach is currently expansive and the sand will be placed on top of the existing beach.
2. This proposal would worsen the public safety hazard that is the result of previous sand distributions. These sand distributions have led to a steep slope at the tide line thus limiting public recreational access to and use of the ocean and shoreline.
3. The addition of sand will further drown the reefs at North Beach, affecting several very popular surf breaks; as the United States National Marine Fisheries Service stated would be the case when they commented on a dredging permit application to the Coastal Commission in 2014.
4. The decision to so heavily nourish North Beach appears to be related to outdated directives to replenish North Beach under circumstances of severe sand loss. This is no longer relevant and such an addition of sand will harm public safety, coastal resources and coastal recreation rather than enhance it. There is no evidence of public support or advocacy for this amount of sand nourishment in the North Beach area by the City, residents, or businesses.
5. There are serious questions about the possibility of pollutants in the dredged-up sand that are not addressed in this proposal or the Staff Report Recommendation.

Cabrillo Power I LLC is proposing to distribute some 200,000 cubic yards to the North Beach area in Carlsbad. As the Staff Report notes, "this is significantly more sand than has been placed on North Beach in recent years." It is in fact nearly four times the amount of sand placed during recent sand distribution projects: during the 2010/2011 and 2014/2015 dredge cycles, 62,030 cubic yards and 64,968 cubic yards, respectively, were placed on North Beach." This proposal is an unprecedented increase in sand distribution to North Beach and thus deserves more strict scrutiny. If it is allowed to proceed then it will have a variety of negative impacts including on recreational use, public safety, and the flow of the sand back into the Lagoon.

The sand level in the North Beach area is already unnaturally and extraordinarily wide and high due to past sand distribution efforts (see attached pictures). Anyone who spends any time in this beach area knows that the sand levels are right now too high —, not too low — because the



sand is currently higher than sea level at the tide line and often reaches the height of seawalls at the back of the beach. On October 30, 2020 I measured 82 feet from the sea wall to the edge of the beach. If anything, sand should be removed, not added. There is absolutely no good reason why any stakeholder would need any more sand for any recreational use than there currently exists. The current beach width does not limit any recreational activity.

In fact, the opposite is the case. There is too much sand as is and this **hinders** recreational use on the beach and in the water. Further, the large amount of sand on the beach makes it nearly impossible for anyone, especially young children, to boogie board since there is a steep incline at the tide line thus leading to crashing, dangerous surf. As a result, I am forced to drive to another beach so that my four year old son can boogie board. The large amount of sand has also drowned the reefs surf breaks in this beach area making surfing nearly impossible during high tide due to the steep shore incline. Surfing, boogie boarding, and playing in the water are the primary reasons why large numbers of people come to the beach, and currently the already excessive quantities of sand are preventing these recreational activities - to play in the water, boogie board, and surf. These recreational activities have been harmed by the amount of sand distributed to North Beach. The current beach is extremely wide and high as is. If September 2020 beach profile surveys indicate "a significant deficit," as the Staff Report states, it is because of a baseline of a very heavily nourished beach. Bringing in additional 200,000 cubic yards of sand would make this bad situation worse and would not add to/improve anyone's recreational use of the beach. Rather it would have the opposite effect.

Additionally and most importantly, as a result of the large amount of sand that has been distributed to North beach, during and after storm surges and large tidal shifts there are steep sand walls that form along the shore up to the beach. This is a serious public safety hazard. In the years following the last sand distribution to North Beach in 2014 the sand walls were nearly vertical and in some cases 5-15 feet high. There were many occasions on which I had a hard time getting back up to the beach from the ocean. The vertical distance from sea level to the top of the beach must have been 20-30 feet. As the attached pictures show, the steep incline from the sea level to the top of the beach poses a serious public safety hazard and limits recreational access to and use of the shoreline and beach. The slope can be so steep at times that is virtually impassable for many beach users.

During the last sand distribution to North Beach in 2014 I spoke with the lifeguards and they said that they were not happy about the sand distribution. They told me they voiced their opposition to the sand distribution saying that it would lead to more incidents and make it more difficult to prevent and respond to incidents. In the years following the 2014 sand distribution, multiple lifeguards told me that they experienced an increase in incidents as a direct result of the sand distribution. For years they could not see the shore break from their trucks at the top of the beach due to the steep incline and sand walls just described. There is no record of Poseidon reaching out to the lifeguards to ask them what they think about this Plan. Lifeguards were not included in the Stakeholders meeting conducted by Poseidon on August 26 even though they are certainly one of the primary stakeholders concerning this proposal as they will be affected directly.

And now they are proposing to distribute an additional 200,000 cubic yards of sand to North Beach, more than three times the amount in 2014? This sand distribution plan calls into serious question whether it complies with Section 30231 of the Coastal Act which states, "...the protection of human health shall be maintained". Additionally, Section 30210 of the Coastal Act states that the intention of the Coastal Act is to enhance safe recreational opportunities:

“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.”

This proposal is based on a survey conducted by Poseidon for the City of Carlsbad which found that North Beach lost 164,780 cubic yards of sand between 2018-2020. This is highly questionable and should be double checked before distributing such a huge amount of sand, unprecedented at least in recent years. I can tell you as someone who has walked this beach nearly every day for the last seven years, there is no way this amount of sand has been lost over the last couple of years. The beach has remained extremely high and wide. In fact, in some places the sand rises to near the top of the sea wall that separates the beach from the boardwalk (see attached pictures). There has been little noticeable difference in both the width and height of the beach, certainly not to the extent that it has harmed any sort of recreational activities on the sand. In its recommendation to approve this project, the Staff Report notes that “231,000 cubic yards of sand has eroded off North Beach since April 2018”. This figure does not reflect the 164,780 number mentioned above which is taken directly from the Sand Deposition Plan prepared by Poseidon for the City of Carlsbad. More importantly it doesn't jive with the reality on the ground as the attached pictures show.

The staff report notes, “North Beach is the most popular beach segment and the proposed sand volume will restore sand lost from this beach, increasing beach widths to benefit recreational use”. An additional flaw in this justification, besides the ones already noted, is that the sand distribution in 2014 **did not** increase beach widths. The sand was distributed **on top** of the existing beach which is what led to the steep inclines and sand walls leading to safety hazards and a hindrance of recreational use. Further, as previously mentioned the beach is already extraordinarily and unnaturally wide. Thus, there is no legitimate need to widen the beach even further. Again, bringing in more sand will hinder, not benefit recreational use of the beach and ocean.

I also wish to highlight a few points made in the Staff Report concerning the history of sand distribution to North beach. First, the Staff Report notes:

“In 2014, the United States National Marine Fisheries Service (NMFS) reviewed the project for renewal of the ACOE permit. NMFS recommended that no sand be placed on North Beach and all dredge material instead be placed on Middle and South Beaches because North Beach is located in closer proximity to surfgrass and rocky reef habitats.”

Second, the Staff Report notes:

“According to a 1999 survey conducted by Dr. Elwany, approximately 80% of the sand trapped inside the lagoon is deposited from the southward sand transport and 20% from northward sand transport...” These findings are based on historical averages. The report goes on to state “The evaluation of sand placement options provides the following results: 1) to replenish sand removed by the power plant about 80% of the dredged sand should be placed on Middle and South Beach, and 20% on North Beach..) to minimize the need for re-dredging, the sand should be placed as far from the intake channel as

possible... Therefore, for sand placement on North Beach, a 2,000-ft. buffer is recommended..."

These recommendations by experts point to the widely accepted view, most vociferously advocated by the previous operators as noted in the Staff Report, that the vast majority of the sand, if not all of it, should be distributed to the Middle and South beach areas. These two recommendations by experts also call into question whether this sand distribution plan complies with Section 30233 of the Coastal Act which requires that projects such as this follow the least environmentally damaging alternative.

As noted in the Staff Report, the only rationale given for why sand should be distributed to North beach is to "enhance recreational activities as advocated over the years by the City of Carlsbad.." This desire seems to be related to beach conditions that have expired since that original request in 1997. As However, as I have explained, at the current time there is already too much sand on North Beach. There is nobody on record who argues there is a need for more sand.

In fact there is no evidence in the record of any recent public support for this sand distribution plan. Nowhere in the record is the City of Carlsbad advocating for this sand distribution to North beach for this particular dredge cycle. The Staff Report does not include any mention of any representative of the City of Carlsbad who has advocated for or given any justification for distributing this amount of sand to North Beach. I have also reviewed the Sand Deposition Plan prepared by Poisedon for the City of Carlsbad and there is no mention of the City of Carlsbad or any Carlsbad city officials advocating for more sand to be distributed to North Beach. If the main justification for distributing sand to North Beach is the interest of the City of Carlsbad then this should be clearly stated and the City or City officials should be on record advocating for this Plan. Additionally, there is no mention anywhere in the public record of any other advocates for this sand distribution plan. The Carlsbad Chamber of Commerce for example has not issued any public statements or publicly advocated for this sand distribution.

Lastly, there are serious questions about the possibility of pollutants in the dredged-up sand that are not addressed in the proposal or the Staff Report. The last dredging in 2016 was halted to address resident concerns about the possibility of pollutants in the dredged-up sand. The City's Planning Commission delayed approval for the permit to look into this issue. Nowhere is this mentioned in the Staff Report or considered as a condition for the permit. Following the 2014 sand distribution to North Beach we experienced a huge increase in the amount of tar. For a year or two following the sand distribution we would regularly come home with tar on our feet. It is unclear whether this was a coincidence or related to the dredging and sand distribution but it is worth looking into.

For these reasons I respectfully urge the Commission reject this proposed project as currently configured and instruct the applicant to resubmit a proposal which is the result of a more comprehensive survey of the beaches and ocean including speaking with the lifeguards, residents who live near the beach, scientists, and surfers.

Thank you for your consideration.

Sincerely,

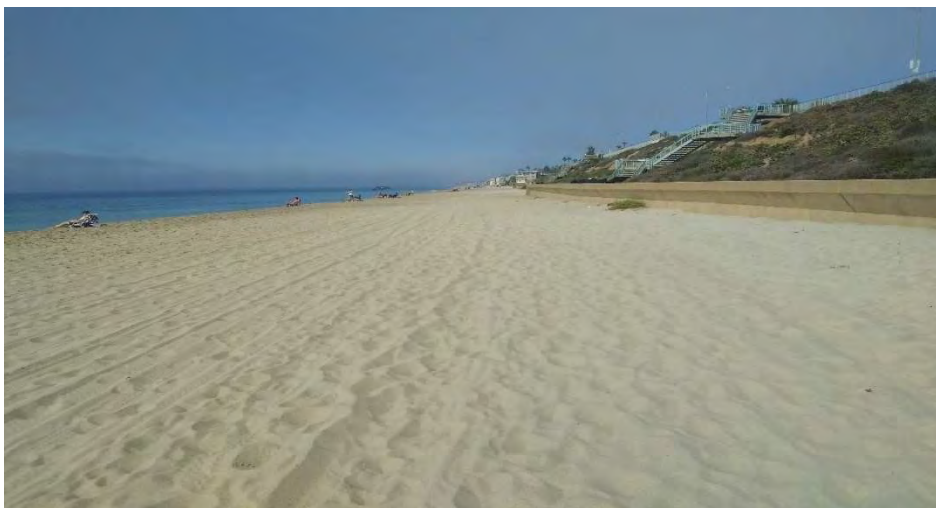
Christopher S. Stoughton, Ph.D.

RE: Application No. 6-20-0240 (Cabrillo Power I LLC, Carlsbad)

Public Comment from Christopher S. Stoughton, Ph.D., resident of North Beach, Carlsbad in opposition to the proposal to distribute 200,000 cubic yards to North Beach

The following pictures were taken at 1pm on Friday October 30, 2020 just north of Cherry Avenue in the North Beach area during a mid-tide and small waves. These pictures undercut the main rationale of the proposal: that the North Beach has experienced significant beach erosion and thus some 200,000 cubic yards of sand is needed to enhance public recreational use of the beach. They also show how there is already too much sand as is which as the pictures clearly show is hindering public access and use of the beach and has created a public safety hazard. Bringing in an additional 200,000 cubic yards of sand would further hinder the public's recreational use and access of the beach and endanger public safety.

The first two pictures show the width of the beach. I counted 82 feet from the sea wall to the edge of the beach before the decline to the ocean. These pictures show how the North Beach area has not suffered from beach erosion as Poseidon and the Staff Report claims.



These next pictures show the steep incline from sea-level to the top of the beach during low tide. During high tide the waves crash dangerously against the steep slope. My estimate is the vertical distance from sea level to the top of the beach is approximately 30 feet or more.



The below picture shows a person walking about half-way up the incline from sea level to the top of the beach during low/mid tide.





The above picture is taken from halfway up the incline from sea level looking towards the beach during low/mid tide. It is a steep incline from sea level to the top of the beach. At the steepest part is difficult to scramble to the top for someone who is highly fit. It is dangerous when the tide is coming in and the waves are big.



The above picture shows the contrast of the incline which at the top is nearly vertical and approximately 5-6 feet. These sand walls can be much steeper and higher during storm surges making them virtually impassable for most people thus limiting the public's recreational access and use of the shoreline and ocean. This creates dangerous situation during incoming tides if someone needs to scramble up to the beach, especially for elderly and children.