

CALIFORNIA COASTAL COMMISSION

455 MARKET ST, SUITE 300
SAN FRANCISCO, CA 94105
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TDD (415) 597-5885



F10

Prepared October 8, 2021 (for the October 15, 2021 Hearing)

To: Commissioners and Interested Parties
From: Kate Huckelbridge, Deputy Director
Subject: **Energy, Ocean Resources and Federal Consistency Division Deputy Director's Report for October 2021**

The following coastal development permit (CDP) waivers, immaterial CDP amendments, CDP extensions, emergency CDPs, and negative determinations for the Energy, Ocean Resources and Federal Consistency Division are being reported to the Commission on October 15, 2021. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review at the Commission's office in San Francisco. Staff is asking for the Commission's concurrence on the items in the Energy, Ocean Resources and Federal Consistency Division Deputy Director's report, and will report any objections received and any other relevant information on these items to the Commission when it considers the report on October 15, 2021.

With respect to the October 15th hearing, interested persons may sign up to address the Commission on items contained in this report prior to the Commission's consideration of this report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on October 15, 2021 (see attached)

Emergency Permits

- G-D-21-0032, Removal of invasive alga *Caulerpa prolifera* in the China Cove area of Newport Bay through hand collection and the use of a suction hose, powered by a hydraulic pump. (Newport Bay, Orange County)

Waivers

- 9-21-0014-W, Application of the Southern California Gas Company for a waiver to remove and replace a portion of gas line 1026, which is attached to the south bound bridge of Carlsbad Boulevard, spanning Batiquitos Lagoon/San Marcos Creek. (Batiquitos Lagoon/San Marcos Creek, San Diego County)

Administrative Items for Federal Consistency Matters, Consistency Determinations

- CD-0005-21, NOAA Restoration Center, construction and operations associated with a test firing program called Extended Range Cannon Artillery II, at Space Launch Complex LF-05 on northern Vandenberg Space Force Base, Santa Barbara County. Action: Concur, 9/27/2021.

Administrative Items for Federal Consistency Matters, Negative Determinations

- ND-0018-21, Naval Postgraduate School proposal to deploy one six-meter portable tripod tower with attached meteorological instruments at Point Piños in Pacific Grove, Monterey County, Action: Concur, 9/15/2021.
- ND-0020-21, Department of the Air Force proposal to conduct ABL Space Systems Company (ABL) launch activities of the RS1 vehicle at Launch Complex 576-E on Vandenberg Space Force Base (VSFB), Santa Barbara County, Action: Concur, 9/8/21.
- ND-0024-21, National Marine Fisheries Service delayed implementation of the electronic monitoring program for the Pacific Coast Groundfish Trawl Catch Share program, West Coast Region, Action: Concur, 9/30/21.
- ND-0025-21, Tomales Bay Oyster Company proposal to carry out native habitat restoration and non-native vegetation removal activities within a portion of Point Reyes National Seashore between Highway One and the shoreline of Tomales Bay adjacent to the entrance of the Tomales Bay Oyster Company's onshore base of operations, Marin County, Action: Concur, 10/5/21.

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**EMERGENCY PERMIT**

Issue Date: September 2, 2021
Emergency Permit No.: G-D-21-0032

APPLICANT:

Jayne Joy, Executive Officer
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501

LOCATION OF EMERGENCY:

CHINA COVE, NEWPORT BAY, NEWPORT BEACH, CALIFORNIA, STATE
SOVERIEGN LAND

EMERGENCY WORK:

Removal of invasive alga *Caulerpa prolifera* in the China Cove area of Newport Bay through hand collection and the use of a suction hose, powered by a hydraulic pump. Water, sand and *C. prolifera* will be pumped to the beach in China Cove and directed into holding tanks for dewatering. The discharged water will then be routed above the high tide line and exit into a geotextile filter bag. The filtered water that flows through the geotextile bag will flow onto the beach behind a sand berm. The water will gravity filter through the sand berm before returning to China Cove. Care will be taken to avoid removal of native algal species and eelgrass throughout the *C. prolifera* removal process. Following the suction-assisted removal, the infestation area will be surveyed again 2, 4, 8, and 12 weeks following the first removal effort. During these surveys, *C. prolifera* patches that have regrown or were missing in the initial removal will be removed by hand.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your application information that *C. prolifera* is a known invasive marine species with the potential to grow and spread rapidly, resulting in the disturbance and loss of native marine habitats and species. The location of the *C. prolifera* infestation is concerning because as it grows it will encounter tidal currents that may spread it throughout Newport Bay and into the open ocean. This potential for rapid spread of a known invasive algae species requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services pursuant to 14 Cal. Admin. Code Section 13009. The Executive Director of the California Coastal Commission hereby finds that:

- (a) An emergency exists that requires action more quickly than permitted by the procedures for administrative or ordinary coastal development permits (CDPs), and that the development can and will be completed within 90 days unless otherwise specified by the terms of this Emergency Permit; and

(b) Public comment on the proposed emergency development has been reviewed if time allows.

The emergency work is hereby approved, subject to the conditions listed on the attached pages.

Sincerely,

John Ainsworth
Executive Director

A handwritten signature in black ink, appearing to read "Cassidy Teufel". The signature is written in a cursive style with a large initial "C" and "T".

By: Cassidy Teufel, Manager

cc:

Coastal Commission, South Coast District Office
Chris Miller, City of Newport Bay
Chris Potter, California Department of Fish and Wildlife
Bryant Chesney, National Marine Fisheries Service
Lia Protopapadakis, U.S. Army Corps of Engineers

Enclosures: 1) Acceptance Form

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September 23, 2021

Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7

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

Waiver: 9-21-0014-W

Applicant: Southern California Gas Company

Location: South bound bridge of Carlsbad Boulevard over Batiquitos Lagoon/San Marcos Creek

Proposed Development: Remove and replace a portion of gas line 1026, which is attached to the south bound bridge of Carlsbad Boulevard, spanning Batiquitos Lagoon/San Marcos Creek. Removal and replacement of gas line 1026 would involve removing the existing U joints and pipe on the bridge and replacing them with new U joints and pipe as well as trenching on the north and south sides of the bridge to cut and re-weld the new pipe to the existing pipe. All trenches would be 5' wide and 5' deep; the trench to the north of the bridge would be 10' long, and the trench to the south of the bridge would be 59' long. As part of the new pipe installation, a new pressure control fitting valve would be installed under Carlsbad Boulevard on the new pipe. The new pipeline would be hydro tested with water to ensure high-pressure capability.

Rationale:

- The removal of the U joints and existing pipe on the bridge would be done in a lined manlift containment basket, ensuring that shavings, metal slag, tools, or parts do not enter San Marcos Creek.
- Unbolting existing U joints and removing the existing pipe from the bridge would occur with hand tools. Similarly, installing new U joints and new pipe would occur using hand tools.
- No painting, cutting, or welding would be carried out over the waterway.

Coastal Development Permit De Minimis Waiver
9-21-0014-W

- All trenching in native soil would be done using hand tools and would not result in the removal of any native vegetation.
- Asphalted sections of Carlsbad Boulevard would be partially removed with mechanized equipment during trenching to allow access to soils for hand tool removal near the pipe.
- On-site staging would occur within the right-of-way on Carlsbad Boulevard.
- The project would be carried out over a period of eight weeks between October and December to avoid summer periods of high beach use and the City of Carlsbad's Traffic Control Plan Requirements would be followed to minimize vehicle travel disruption along Carlsbad Boulevard and help ensure the safety for drivers and workers.
- All project activities would be conducted in accordance with a project specific spill response and prevention program.
- Off-site staging and storage for larger equipment would occur on a cleared property on Ponto Drive, with the property owner's authorization.
- Used hydro-test water would be discharged into a Baker tank mounted on a truck; no discharge of water would be allowed on any portion of the site.
- The proposed project schedule from October - December avoids avian nesting season and pre-construction biological reconnaissance would be performed one week before construction begins.

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

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

Sincerely,

John Ainsworth
Executive Director

Original on File signed by:

Cassidy Teufel
Manager

cc: File

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Permit Acceptance form must be signed by the APPLICANT and returned to our office within 15 days.
2. Only that work specifically described in this permit and for the specific property listed above is authorized. Work is further limited to the use of techniques described in the “Rapid Response and Eradication Plan for the Invasive Green Alga *Caulerpa prolifera* in Newport Bay.” Any additional work requires separate authorization from the Executive Director.
3. All work shall take place in a time and manner to minimize any potential damages to any resources, including eelgrass and benthic invertebrates, and to minimize adverse impacts to public access.
4. The work authorized by this permit must be completed within 90 days of the date of this permit, which shall become null and void unless extended by the Executive Director for good cause.
5. The applicant recognizes that the emergency work is considered temporary and subject to removal or ending unless and until a regular coastal development permit permanently authorizing the work is approved. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include provisions for public access (such as offers to dedicate, easements, in-lieu fees, etc.).
6. In exercising this permit, the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
7. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies, including but not limited to the California Department of Fish & Wildlife, U.S. Fish & Wildlife, U.S. Army Corps of Engineers, and the California State Lands Commission.
8. Within 30 days of issuance of this Emergency Permit, or as extended by the Executive Director through correspondence, for good cause, the applicant shall either: (a) remove all of the materials placed or installed in connection with the emergency development authorized in this Permit and restore all affected areas to their prior condition after consultation with California Coastal Commission staff, and consistent with the Coastal Act. In some instances, a permit may be needed for removal; or (b) submit a complete follow-up Coastal Development Permit (CDP) that satisfies the requirements of Section 13056 of Title 14 of the California Code of Regulations. If the Executive Director determines that the follow-up CDP application is incomplete and requests additional information, the applicant shall submit this

additional information by a certain date, as established by the Executive Director. If such a follow-up CDP application is withdrawn by the applicant or is denied by the Commission, or if the follow-up CDP application remains incomplete for a period of 120 days after the Executive Director informs the applicant that the application is incomplete, the emergency-permitted development shall be removed and all affected areas restored to their prior condition, after consultation with CCC staff and consistent with the Coastal Act, within 30 days, subject to any regulatory approvals necessary for such removal. In some instances, a permit may be needed for removal.

9. Failure to a) submit a complete follow-up CDP Application that complies with Condition 8 above, or b) remove the emergency development and restore all affected areas to their prior condition after consultation with CCC staff, and consistent with the Coastal Act (if required by this Emergency Permit) by the date specified in this Emergency Permit¹, or c) comply with all terms and conditions of the required follow-up CDP, including any deadlines identified therein, or d) remove the emergency-permitted development and restore all affected areas to their prior condition after consultation with CCC staff and consistent with the Coastal Act immediately upon denial of the required follow-up CDP² will constitute a knowing and intentional violation of the Coastal Act³ and may result in formal enforcement action by the Commission or the Executive Director. This formal action could include a recordation of a Notice of Violation on the applicant's property; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties for violations involving public access; and/or a civil lawsuit, which may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day, and other applicable penalties and other relief pursuant to Chapter 9 of the Coastal Act. Further, failure to follow all the terms and conditions of this Emergency Permit will constitute a knowing and intentional Coastal Act violation.

¹ In some instances, a permit may also be required for removal.

² As noted above, in some instances, a permit may also be required for removal.

³ The Coastal Act is codified in sections 30000 to 30900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.

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September 27, 2021

Beatrice L Kephart
Chief, Installation Management Flight
Department of the Air Force
30 CES/CEI
1028 Iceland Avenue
Vandenberg SFB CA 93437-6010

Re: Consistency Determination CD-0005-21 (Extended Range Cannon Artillery II Program)

Dear Ms. Kephart:

On July 8, 2021, the California Coastal Commission **concurred** with the above-referenced consistency determination submitted by the Department of the Air Force for the construction and operations associated with a test firing program called Extended Range Cannon Artillery II, at Space Launch Complex LF-05 on northern Vandenberg Space Force Base. The Commission found the proposed activities to be consistent with the California Coastal Management Program.

If you have any questions, please feel free to contact Cassidy Teufel at Cassidy.teufel@coastal.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Cass Teufel".

CASSIDY TEUFEL
Manager
(for)

JOHN AINSWORTH
Executive Director

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September 15, 2021

Dr. James MacMahan, Professor
Oceanography Department
Naval Postgraduate School
833 Dyer Rd., Bldg. 232, Rm. 328
Monterey, CA. 93943

Re: Negative Determination No. ND-0018-21, Temporary Deployment of Wind Monitoring Equipment in Pacific Grove, CA

Dear Dr. MacMahan:

We have received your letter dated June 14, 2021, regarding the above-referenced proposal to deploy one six-meter portable tripod tower with attached meteorological instruments at Point Piños in Pacific Grove, California. The tripod would be placed on rocks of the California Coastal Monument for a period not to extend 8 weeks, would be held in place with weights and would not involve ground disturbance. You have determined that this activity would have no adverse effects on coastal resources for the reasons identified in Negative Determination No. ND-0018-21. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations.

Please contact Alexis Barrera at alexis.barrera@coastal.ca.gov if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cassidy Teufel".

CASSIDY TEUFEL
Federal Consistency Coordinator
(for)

JOHN AINSWORTH
Executive Director

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September 8, 2021

Beatrice L Kephart
Chief, Installation Management Flight
Department of the Air Force
30 CES/CEI
1028 Iceland Avenue
Vandenberg SFB CA 93437-6010

Subject: Negative Determination **ND-0020-21** (ABL Space Systems Launch Activities, Vandenberg Space Force Base, Santa Barbara County)

Dear Ms. Kephart:

The Coastal Commission staff has reviewed the above-referenced negative determination. The U.S. Air Force (Air Force) proposes to conduct ABL Space Systems Company (ABL) launch activities of the RS1 vehicle at Launch Complex 576-E on Vandenberg Space Force Base (VSFB). The proposed launch activities would include a maximum of 12 launches and 12 static fire operations of the RS1 vehicle per year, in addition to the current launches on VSFB. Static fire engine tests would be conducted two to four weeks prior to each launch. With the addition of the proposed ABL RS1 launches, the maximum number of rocket launches at VSFB would total 65 per year, although the number of actual rocket launches per year is much lower. In recent years (2017-2020), the actual number of rocket launches ranged from four to eight per year.

ABL RS1 launch activities are not expected to have significant impacts to natural resources, similar to past and existing launch programs at VSFB. The proposed launch site is currently decommissioned so would be refurbished to support RS1 vehicle launches. Proposed work consists of minor concrete work within the launch site's fence line. According to VSFB staff, the effects of sound exposures and sonic booms generated from the launches have the potential to disturb marine mammals at existing shoreline haul-out sites located over 0.5 miles away from the proposed launch site. Disturbance responses are expected to be limited to temporary startle-responses and would be less than those associated with launch activities from other sites located in closer proximity. Post-launch monitoring of past launches and environmental analyses carried out over many years have demonstrated that launch impacts to wildlife are minimal and no animal mortality at VSFB could be attributed to launch activities. Further, ABL will comply with the 2019 Letter of Authorization (LOA) issued by the National Marine Fisheries Service. The LOA includes mitigation and monitoring measures to minimize adverse impacts to wildlife, including scheduling launches outside of harbor seal pupping season.

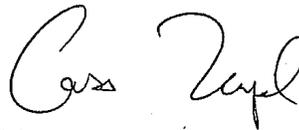
Public access to Surf Beach and Ocean Beach Park would be temporarily restricted (six to eight hours) for public safety during the proposed ABL RS1 launches from Launch Complex 576-E. Based on conversations with VSFB staff, it is the Commission staff's

ND-0020-21, Vandenberg Space Force Base

understanding that recreational beach closures at Surf Beach and Ocean Beach Park will not exceed 12 closures annually for all launch activities at VSFB. The Space Force and Santa Barbara County have an evacuation and closure agreement in place which requires the Space Force to provide a launch notice at least 72 hours prior to beach closures and restricts closures to less than 48 hours.

The Commission staff **agrees** that the proposed ABL RS1 launch activities at Launch Complex 576-E will not adversely affect coastal zone resources. Under the federal consistency regulations (15 CFR Section 930.35(a)), a negative determination can be submitted for an activity “which is the same or is similar to activities for which consistency determinations have been prepared in the past.” Over the past several decades, the Commission previously concurred with similar launch programs at VSFB (CC-30-96, CD-049-98, ND-103-03, ND-088-05, ND-0035-14, and ND-0027-20). The proposed launch activities would not generate new adverse impacts on coastal resources not previously examined by the Commission. We therefore **concur** with the negative determination made pursuant to 15 CFR Section 930.35 of the NOAA Implementing regulations. Please contact Alexis Barrera at Alexis.Barrera@coastal.ca.gov should you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cassidy Teufel". The signature is fluid and cursive, with the first name "Cassidy" written in a larger, more prominent script than the last name "Teufel".

CASSIDY TEUFEL
Federal Consistency Coordinator
(for)

JOHN AINSWORTH
Executive Director

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September 30, 2021

Keeley Kent
National Marine Fisheries Service
Sustainable Fisheries Division, WCR
1201 NE Lloyd Boulevard, Suite 1100
Portland, OR 97232

Attn: Colin Sayre, Catch Share, Groundfish Branch, Sustainable Fisheries Division

Re: Negative Determination, Delayed Implementation of Electronic Monitoring Program
(ND-0024-21)

Dear Ms. Kent:

We have received your letter dated September 14, 2021, in which you have determined that the above-referenced delayed implementation of the electronic monitoring program for the Pacific Coast Groundfish Trawl Catch Share program would have no adverse effect on coastal resources. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your determination pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations.

Please contact Cassidy Teufel at cassidy.teufel@coastal.ca.gov if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Cassidy Teufel".

CASSIDY TEUFEL
Federal Consistency Coordinator
(for)

JOHN AINSWORTH
Executive Director

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October 5, 2021

Craig Kenkel
Superintendent
Point Reyes National Seashore
1 Bear Valley Road
Point Reyes Station, CA 94956

Attn: Dave Press

Re: Negative Determination No. ND-0025-21 for the Tomales Bay Oyster Company
Restoration Project at Point Reyes National Seashore

Dear Mr. Kenkel:

We have received your letter dated September 14, 2021, regarding the above referenced proposal to carry out native habitat restoration and non-native vegetation removal activities within a portion of Point Reyes National Seashore between Highway One and the shoreline of Tomales Bay adjacent to the entrance of the Tomales Bay Oyster Company's onshore base of operations. You have determined that this activity would have no adverse effects on coastal resources for the reasons identified in Negative Determination No. ND-0025-21. The Coastal Commission staff agrees that the proposed project would not adversely affect coastal zone resources. We therefore concur with your negative determination made pursuant to Section 15 CFR 930.35(a) of the NOAA implementing regulations.

Please contact me at holly.wyer@coastal.ca.gov if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cassidy Teufel".

CASSIDY TEUFEL
Federal Consistency Coordinator
(for)

JOHN AINSWORTH
Executive Director