

CALIFORNIA COASTAL COMMISSION

455 MARKET ST, SUITE 300
SAN FRANCISCO, CA 94105
FAX (415) 904-5400
TDD (415) 597-5885



Th9

Prepared November 12, 2021 (for the November 18, 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 November 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 November 18, 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 November 18, 2021.

With respect to the November 18th 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 November 18, 2021 (see attached)

Emergency Permits

- G-D-21-0041, Repair of a corroded 2-inch steel distribution pipeline at four locations that was causing natural gas to leak along Sandyland Cove Road in the vicinity of a residential neighborhood and adjacent to salt marsh habitat. (Carpinteria Salt Marsh Reserve, Santa Barbara County)

Emergency Waivers

- G-9-21-0006-W Sand berm reinforcement at the Santa Ana River ocean outfall, and sand berm construction at the Talbert Marsh ocean outfall to protect onshore coastal habitats and resources from an oil spill located offshore of Huntington Beach. (Talbert Marsh, Orange County)

Immaterial Amendments

- 9-14-1735-A7 Construct and operate temporary slant test well and associated monitoring wells to develop data necessary to assess the feasibility of the project site as a potential long-term water source for a desalination facility at CEMEX, Inc. Lapis Plant. (Marina, Monterey County)

Administrative Items for Federal Consistency Matters, Negative Determinations

- ND-0026-21, National Park Service proposal to perform de-siltation and limited vegetation removal to enhance California red-legged frog habitat in five livestock ponds within Point Reyes National Seashore, Marin County, Action: Concur, 10/19/2021.
- ND-0028-21, U.S. Fish and Wildlife Service proposal to restore 2.31 acres of upland coastal habitat within the Tijuana Slough National Wildlife Refuge, San Diego County, Action: Concur, 10/25/2021.
- ND-0029-21, National Park Service proposal to rehabilitate an existing unmaintained Eagle Ridge Trail in Channel Islands National Park, Santa Cruz Island, Ventura County, Action: Concur, 11/9/2021.

CALIFORNIA COASTAL COMMISSION

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION
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**EMERGENCY PERMIT**

Issue Date: October 4, 2021
Emergency Permit No. G-D-21-0041

APPLICANT:

Anthony A. Klecha
Environmental Services Department
Southern California Gas Company
555 W. 5th Street, GT02A
Los Angeles, CA 90013

LOCATION OF EMERGENCY:

Sandyland Cove Road, Carpinteria Salt Marsh Reserve, Santa Barbara County
(APN 004-031-009)

EMERGENCY WORK:

Repair of a corroded 2-inch steel distribution pipeline at four locations that was causing natural gas to leak. The pipeline is located along Sandyland Cove Road in the vicinity of a residential neighborhood and adjacent to salt marsh habitat. The repairs involve minor excavations, replacement of portions of the pipeline, and cutting and capping other portions of the pipeline to stop the natural gas leak.

This letter constitutes approval of the emergency work you or your representatives have done at the location listed above. I understand from the information submitted that corrosion of the steel pipeline resulted in structural damage and deterioration of the line at four locations. This damage required immediate action to prevent the leaking of natural gas in close proximity to homes and public roads, thus preventing 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 30 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.

October 4, 2021

Emergency Permit No.: G-D-21-0041

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

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Permit Acceptance form must be signed by the PROPERTY OWNER 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. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within 30 days of the date of this permit, which shall become null and void unless extended by the Executive Director for good cause.
4. The applicant recognizes that the emergency work is considered temporary and subject to removal 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.
5. 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.
6. 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.
7. Within 30 days of issuance of this Emergency Permit, or as extended by the Executive Director through correspondence, for good cause, the applicant shall 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. The application shall include photos showing the project site before the emergency, during emergency project construction activities, and after the work authorized was completed. 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.
8. Failure to a) submit a complete follow-up CDP Application that complies with Condition 7 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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Issue Date: October 8, 2021
Emergency Permit No. G-9-21-0006-W

Giles Matthews
Senior Environmental Resources Manager
OC Infrastructure Programs
601 North Ross Street
Santa Ana, CA 92701

Re: Coastal Development Permit Waiver Request

Dear Ms. Matthews:

On October 7, 2021, the Executive Director of the California Coastal Commission received the Orange County Public Works Department's request for a waiver of coastal development permit requirements to authorize temporary development necessary to protect life and public property.

Specifically, the Orange County Public Works Department requests a waiver for the following development: Sand berm reinforcement at the Santa Ana River ocean outfall, and sand berm construction at the Talbert Marsh ocean outfall. Sand berm construction at the Talbert marsh ocean outfall consists of placement of a sand berm across the mouth of the marsh, installation of temporary filter fabric across the face of the berm, and covering the berm with riprap taken from the immediately adjacent rock jetty. These activities are being undertaken to protect onshore coastal habitats and resources from an oil spill located offshore of Huntington Beach. As soon as the risk of contamination from leaked oil has passed, all development will be removed, and the area restored to pre-spill contours.

Under Coastal Act Section 30611, coastal development permit requirements may be waived when immediate action by a person or agency performing a public service is required to protect life and public property in response to an emergency. The Executive Director has determined that the Orange County Public Works Department's emergency action described above meets the criteria to obtain a waiver of permitting requirements under Section 30611. This determination is based on the Orange County Public Works Department's acknowledgement that the proposed development will not result in the erection of any permanent structures valued at more than \$25,000.

Thank you for coordinating with our agency and providing notice of your action. You may reach the Commission's Oil Spill Program Coordinator at (415) 693-8375 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John Ainsworth".

for
John Ainsworth
Executive Director

Notice of Proposed Immaterial Permit Amendment

9-14-1735-A7

STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY

GAVIN NEWSOM, GOVERNOR

CALIFORNIA COASTAL COMMISSION

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION
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November 5, 2021

NOTICE OF PROPOSED IMMATERIAL PERMIT AMENDMENT

Coastal Development Permit Amendment No. **9-14-1735-A7**

To: All Interested Parties

From: John Ainsworth, Executive Director

Subject: Permit No. **9-14-1735-A7** granted to **California-American Water, Richard C Svindland, P.E.** for: Construct and operate temporary slant test well and associated monitoring wells to develop data necessary to assess the feasibility of the project site as a potential long-term water source for a desalination facility.

Project Site: CEMEX, Inc. Lapis Plant, Lapis Road, Marina, CA 93933 (APN(s): 2203011001, 2203011011)

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

Background and Project Description: In November 2014, the Commission approved CDPs for Cal-Am to construct, operate, and decommission a test slant well and associated monitoring wells and other infrastructure in the City of Marina near the shoreline of Monterey Bay.¹ The project purpose was to conduct a pump test program to obtain data describing the geologic, hydrogeologic, and water quality characteristics in aquifers underlying the project area to see if the site would be suitable for wells that could be used by a long-term desalination facility as part of Cal-Am's proposed Monterey Peninsula Water Supply Project ("MPWSP"). In February 2015, Cal-Am completed installation and started the pump test, which ran until June 2015 when monitoring detected that groundwater levels were approaching a permit threshold that required Cal-Am to shut down the test and obtain a permit amendment. In November 2015, the Commission approved an amendment to modify the groundwater monitoring requirements and Cal-Am restarted its pump test.² On April 15,

¹ The project is partially within the Commission's retained jurisdiction and partially within the jurisdiction of the City of Marina's certified Local Coastal Program. The Commission accepted an appeal of the City CDP decision and approved the portions of Cal-Am's project within both jurisdictions.

² See Commission's Final Adopted Findings for 9-14-1735-A1 and A-3-MRA-14-0050-A1, November 2015.

Notice of Proposed Immaterial Permit Amendment

9-14-1735-A7

2016, the Commission approved a further amendment to allow Cal-Am to modify its discharge pipe and to require additional monitoring of the pipe area. On December 13, 2017, the Commission approved an immaterial amendment to the permit providing an additional year for the test well to remain in place. Cal-Am ended its full-time pump tests on February 28, 2018. On November 9, 2018, the Commission approved an immaterial amendment to the permit allowing the test well to remain in place an additional year, until February 28, 2019. On February 14, 2020, the Commission again approved an immaterial amendment allowing another one-year extension until February 28, 2021. On February 12, 2021, the Commission approved another immaterial amendment for a one-year extension until February 28, 2022.

Requested Amendment: On September 30, 2021 Cal-Am submitted an application to the Commission requesting the CDPs be further amended to allow the test well to remain in place for an additional year. **Special Condition 6** of the current CDPs as amended requires that, no later than February 28, 2022, Cal-Am complete its pump test, cut off, cap, and bury the slant well head, and remove all other associated temporary facilities. Cal-Am is now requesting that deadline be extended to February 28, 2023. As part of its request, Cal-Am states that it will not operate the well other than to provide limited periodic maintenance pumping (i.e., up to a few hours each week) during this one-year extension, just as it has done since ending its full-time pump tests in February 2018.

The previous one-year extensions were meant to allow the test well facilities to remain in place while Cal-Am first completed its CEQA and NEPA review processes with the California Public Utilities Commission (“CPUC”) and the Monterey Bay National Marine Sanctuary (“MBNMS”), followed by Cal-Am’s submittal of its coastal development permit applications for the proposed MPWSP and eventual review by the Commission. The CEQA and NEPA reviews were completed in 2018, and the Commission scheduled a September 2020 hearing on Cal-Am’s CDP application (and its appeal of the City of Marina’s denial of a CDP). Cal-Am withdrew its application shortly before that hearing, but later in 2020 submitted a new application, which remains incomplete. Cal-Am is proposing this additional one-year extension to allow the well to remain in place during the Commission’s potential upcoming review of Cal-Am’s requests for CDPs that could authorize the use of the test well facilities as part of Cal-Am’s proposal to construct additional wells and infrastructure nearby that would serve a desalination facility to be located further inland.³ If the additional wells and infrastructure are not approved by the Commission, Cal-Am would still be required to remove the test well and its associated infrastructure, but not until February 28, 2023. Should these permit review processes take longer than currently anticipated, Cal-Am may also request a subsequent extension of these CDPs.

Cal-Am has requested the change shown below in bold underline text to the currently-amended **Special Condition 6** of the CDP:

Monitoring and Removal of Temporary Structures, Well Head Burial & Well Closure/Destruction. *The Permittee shall monitor beach erosion at least once per week over the duration of the project to ensure the slant well and monitoring wells remain covered. If the wellheads, linings, casings, or other project components become exposed due to erosion, shifting sand or other factors, the Permittee shall*

³ On November 14, 2019, the Commission found that substantial issue existed regarding an appeal of the City’s denial of Cal-Am’s CDP application and additionally continued the hearing for the consolidated permit review being conducted by the Commission.

Notice of Proposed Immaterial Permit Amendment

9-14-1735-A7

immediately take action to reduce any danger to the public or to marine life. When components of the discharge pipeline below the connection to the outfall are exposed, the Permittee shall conduct monitoring, including photographic documentation of the exposed components, at least once per day until the components are naturally reburied, after which erosion monitoring shall be done no less than once per week. When components are exposed, the Permittee shall also post notices at the nearest upcoast and downcoast vertical public access points informing the public of the exposed components. The Permittee shall provide monitoring records, photographs, and proof of the above public notices to the Executive Director upon request.

Prior to conducting any repairs or reinstallation of exposed equipment that require construction methods other than the hand methods described in Amendment 2 of this permit, the Permittee shall apply for and obtain a permit amendment unless the Executive Director determines no such amendment is necessary.

*The Permittee shall complete its regular test slant well pumping operations by February 28, 2018. Thereafter, the Permittee may conduct limited periodic maintenance pumping necessary to maintain the test slant well. No later than February 28, **2023**, the Permittee shall cut off, cap, and bury the slant well head at least 40 feet below the ground surface, and shall completely remove all other temporary facilities approved by this coastal development permit. To ensure timely removal, the Permittee shall post the bond or other surety device as required by **Special Condition 17** to ensure future removal measures would be appropriately supported and timed to prevent any future resurfacing of the well casing or other project components.*

FINDINGS

The Executive Director has determined this amendment to be IMMATERIAL within the meaning of section 13166(b) of the Commission's regulations. Pursuant to section 13166(b)(1), if no written objection to this notice of immaterial amendment is received at the Commission office listed within ten (10) working days of mailing said notice, the determination of immateriality shall be conclusive, and the amendment shall be approved (i.e., the permit will be amended as proposed).

Pursuant to section 13166(b)(2), if a written objection to this notice of an immaterial amendment is received within ten (10) working days of mailing notice, and the executive director determines that the objection does not raise an issue of conformity with the Coastal Act or certified local coastal program if applicable, the amendment shall not be effective until the amendment and objection are reported to the Commission at its next regularly scheduled meeting. If any three Commissioners object to the executive director's designation of immateriality, the amendment application shall be referred to the Commission to be reviewed as a material amendment at a subsequent Commission meeting. If no three Commissioners object to the executive director's designation of immateriality, that designation shall stand, and the amendment shall become effective.

Notice of Proposed Immaterial Permit Amendment

9-14-1735-A7

Pursuant to section 13166(b)(3), if a written objection to this notice of an immaterial amendment is received within ten (10) working days of mailing notice, and the executive director determines that the objection does raise an issue of conformity with the Coastal Act or a certified local coastal program if applicable, the amendment application shall be referred to the Commission to be reviewed as a material amendment at a subsequent Commission meeting.

The Executive Director has determined this proposed amendment to be "immaterial" for the following reason(s):

- Public Access: The proposed amendment would delay for up to one year any required decommissioning activities. The project would remain subject to the CDP's other special conditions, including the terms of **Special Condition 6** above that require monitoring and notification to avoid potential adverse effects to public access to the shoreline.
- Biological and Marine Resources: Although the proposed amendment would delay decommissioning activities, the project would remain subject to the CDP's other special conditions, including those that require biological monitoring and that provide for the approved biologist(s) to halt any work activities that may affect special-status species or habitat near the project location. It would also eliminate the potential that Cal-Am's decommissioning work, if started now to comply with the currently required removal by February 28, 2022, could extend into the breeding/nesting season of the federally threatened western snowy plover (*Charadrius nivosus nivosus*), which starts on March 1 of each year. This proposed amendment will not result in new development in currently undisturbed areas of the site.

If you wish to register an objection to this notice, please send the objection in writing to Tom Luster at the above address. If you have any questions, you may contact him at (415) 904-5248 or via email at tom.luster@coastal.ca.gov.

Original on File signed by:

Tom Luster
Coastal Program Analyst

cc: Commissioners/File

CALIFORNIA COASTAL COMMISSION

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October 19, 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-0026-21 for Stock Pond Maintenance at Point Reyes National Seashore

Dear Mr. Kenkel:

We have received your letter dated October 7, 2021, regarding the above referenced proposal to carry the repair, maintenance, and restoration of breeding and refugia habitat present in livestock ponds for the California red-legged frog and other native aquatic species. You have determined that this activity would have no adverse effects on coastal resources for the reasons identified in Negative Determination No. ND-0026-21. 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

CALIFORNIA COASTAL COMMISSION

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October 25, 2021

Jill Terp
Acting Project Leader
Fish and Wildlife Service
San Diego National Wildlife Refuge Complex
1080 Gunpowder Point Drive
Chula Vista, California 91910

Re: Negative Determination No. ND-0028-21: Community Habitat Stewardship Project,
Tijuana Slough National Wildlife Refuge, San Diego County

Dear Jill Terp:

We have received your letter dated September 29, 2021, in which you have determined that the above-referenced proposal to restore 2.31 acres of upland coastal habitat within the Tijuana Slough National Wildlife Refuge would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0028-21. 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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November 9, 2021

Ethan McKinley
Superintendent
National Park Service
Channel Islands National Park
1901 Spinnaker Drive
Ventura, California 93001-4354

Re: Negative Determination No. ND-0029-21: Eagle Ridge Trail Rehabilitation Project,
Santa Cruz Island, Ventura County

Dear Ethan McKinley:

We have received your letter dated October 27, 2021, in which you have determined that the above-referenced proposal to rehabilitate an existing unmaintained trail within Channel Islands National Park would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0029-21. 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