

CALIFORNIA COASTAL COMMISSION

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Prepared March 5, 2021 (for the March 12, 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 March 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 March 5, 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 March 12, 2021.

With respect to the March 12th 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 March 5, 2021 (see attached)

Immaterial Amendments

- **E-12-012-A4**, Extension of partnership with aquaculture researchers from University of California Santa Barbara and new partnership with Ocean Rainforest, Inc. for limited term planting, cultivation, and harvest, of giant kelp within Santa Barbara Mariculture's state aquaculture lease (0.75 miles offshore coast of Arroyo Burro County Beach Park in Santa Barbara; State Water Bottom Lease No. M-653-02).
- **9-17-0646-A2**, Removal of previously permitted floating upwelling system (FLUPSY) from its current site and replacement with a newly constructed FLUPSY (Arcata Bay, Humboldt County).

**Administrative Items for Federal Consistency Matters,
Negative Determinations**

- **ND-0041-20**, U. S. Fish and Wildlife Service, Reinforcement of Salt Pond Levees and Replacement of Flume Box, San Diego Bay National Wildlife Refuge Complex, San Diego County, Action: Concur, 2/9/2021

CALIFORNIA COASTAL COMMISSION

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February 26, 2021

**NOTICE OF PROPOSED IMMATERIAL PERMIT
AMENDMENT**Coastal Development Permit Amendment No. **E-12-012-A4**

To: All Interested Parties

From: John Ainsworth, Executive Director

Subject: Permit No. **E-12-012-A1** granted to **Santa Barbara Mariculture Company** for: installation and operation of a 72 acre shellfish aquaculture facility off the coast of Santa Barbara.

Project Site: 0.75 miles offshore coast of Arroyo Burro County Beach Park in Santa Barbara; State Water Bottom Lease No. M-653-02

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):

Extension of partnership with aquaculture researchers from University of California Santa Barbara (UCSB) and new partnership with Ocean Rainforest, Inc. (ORI) for limited term planting, cultivation and harvest, for non-commercial purposes, of giant kelp (*Macrocystis pyrifera*) on 16 of the existing cultivation lines within Santa Barbara Mariculture's state aquaculture lease.

FINDINGS

The Executive Director has determined this amendment to be IMMATERIAL within the meaning of section 13166(b) of the Commission's regulations.¹ Pursuant to section 13166(b)(1), if no written objection to this notice of immaterial amendment is received at the Commission office listed above 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

¹ The Commission's regulations are codified in Title 14 of the California Code of Regulations.

Notice of Proposed Immaterial Permit Amendment

E-12-012-A4

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.

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):

- All planting, inspection and harvest activities would be carried out consistent with the relevant marine resource protection conditions and requirements of CDP No. E-12-012-A1, Water Quality Certification Number 34218WQ41, Department of the Army Permit No. SPL-2018-00684-TS and Scientific Collecting Permits issued by the California Department of Fish and Wildlife (SCP S200500001-20050-001 and SCP S-183050002-18305-001).
- The species of kelp proposed to be cultivated is endemic and native to the California marine environment and abundant throughout Santa Barbara County.
- Cultivation of this species would result in only minor changes to the cultivation equipment and aquaculture operations approved by the Commission in CDP No. E-12-012-A1.
- Santa Barbara Mariculture Company's 2019 Benthic Survey and Biofouling Monitoring Report demonstrated that its operation has not resulted in alteration of the seafloor habitat within its lease area or other adverse impacts to marine biological resources.
- All kelp planted and cultivated by UCSB researchers would be fully harvested and removed from the ocean no later than February 7, 2022 and prior to reaching maturity (capable of reproduction).
- All planting, harvest and cultivation activities carried out by UCSB researchers would be a continuation of those previously authorized by the Commission through CDP Amendment No. E-12-012-A2.
- All kelp planted and cultivated by ORI would be grown from wild-collected reproductive material from natural kelp beds in the local area following the requirements established by the California Department of Fish and Wildlife through a Scientific Collecting Permit and would be fully collected and removed from the ocean no later than February 7, 2022.

Notice of Proposed Immaterial Permit Amendment

E-12-012-A4

- All kelp cultivation and research activities by UCSB and ORI researchers would be completed by February 7, 2022 and all associated equipment, kelp and other materials (not including Santa Barbara Mariculture's cultivation lines, buoys and anchors) would be removed by that date.

If you wish to register an objection to the processing of this amendment application as an immaterial amendment, please send the objection in writing to the address above.

If you have any questions about this notice, please contact Cassidy Teufel at (805) 585-1825.

cc: Commissioners/File

Original on File signed by:

Cassidy Teufel
Senior Environmental Scientist

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February 26, 2021

**NOTICE OF PROPOSED IMMATERIAL PERMIT
AMENDMENT**Coastal Development Permit Amendment No. **9-17-0646-A2**

To: All Interested Parties
From: John Ainsworth, Executive Director
Subject: Permit No. **9-17-0646** granted to **Coast Seafoods Company** for:

Off-bottom shellfish aquaculture operations on approximately 279 acres of tidal flats and use of 30 existing floating shellfish cultivation rafts and a floating upwelling system raft (FLUPSY) for growing immature shellfish.

Project Site: Arcata Bay, including north-east portion of South Dock Facility ("Security National Dock") adjacent to the Fairhaven Business Park at 1900 Bendixen St., Fairhaven, Humboldt County.

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):

Removal of previously permitted floating upwelling system (FLUPSY) from its current site (authorized by the Commission through CDP Amendment No. 9-17-0646-A1) and replacement with a newly constructed FLUPSY of the same design.

FINDINGS

The Executive Director has determined this amendment to be IMMATERIAL within the meaning of section 13166(b) of the Commission's regulations.¹ Pursuant to section 13166(b)(1), if no written objection to this notice of immaterial amendment is received at the Commission office listed above 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).

¹ The Commission's regulations are codified in Title 14 of the California Code of Regulations.

Notice of Proposed Immaterial Permit Amendment

9-17-0646-A2

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.

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):

- The new FLUPSYs would be attached to an existing dock and would not require installation or use of anchors or mooring structures.
- Construction of the new FLUPSY would be carried out onshore and it would be towed into place. Aside from securing the FLUPSYs to the dock, no construction or installation activities would be carried out in Humboldt Bay.
- No eelgrass habitat is present below or in the vicinity of the existing FLUPSY mooring site proposed to be used.
- Placement and operation of the FLUPSY would only include an electrical connection to the dock and would not involve the installation of upgrades, municipal services or other infrastructure on the dock.
- The portion of the South Dock Facility to be used for the FLUPSY is on the inner (landward) side of the dock and would not preclude use of the remaining dock facility by deep-draft vessels or shipping operations.
- Operation, maintenance and use of the FLUPSY would continue to be carried out in the current manner and would be consistent with the permit conditions and coastal resource protection measures established through CDP No. 9-17-0646.

Notice of Proposed Immaterial Permit Amendment
9-17-0646-A2

If you wish to register an objection to the processing of this amendment application as an immaterial amendment, please send the objection in writing to the address above.

If you have any questions about this notice, please contact Cassidy Teufel at the phone number provided above.

Original on File signed by:

Cassidy Teufel
Senior Environmental Scientist

cc: Commissioners/File

CALIFORNIA COASTAL COMMISSION

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February 9, 2020

Andrew Yuen
Project Leader
San Diego National Wildlife Refuge Complex
U.S. Fish and Wildlife Service
1080 Gunpowder Point Drive
Chula Vista, California 9190

Subject: Negative Determination **ND-0041-20** (Reinforcement of Salt Pond Levees and Replacement of Flume Box, San Diego Bay National Wildlife Refuge Complex, San Diego County)

Dear Mr. Yuen:

The Coastal Commission staff has reviewed the above-referenced negative determination. The U.S. Fish and Wildlife Service ("Service") proposes to conduct maintenance and repair activities within several salt ponds located in the South Bay Salt Works portion of the South San Diego Bay Unit, within the San Diego Bay National Wildlife Refuge ("Refuge"). The proposed activities include: (1) reinforcing portions of the perimeter levee in Ponds 22 and Pond 23; (2) stabilizing an interior levee between Ponds 20 and 22; and (3) replacing an interior flume box and associated accessway that extends between Pond 27 and the L Channel.

The purpose of the project is to provide necessary maintenance and repairs to the salt works system, which supports native and migratory bird habitat and provides brine flow within the ponds. The proposed repair and maintenance activities are necessary to protect the salt ponds from potential breaching which could result in adverse effects to adjacent coastal resources in San Diego Bay. Replacing the flume box would ensure that the salt works can properly convey water within the salt works system. The salt ponds support a variety of brine invertebrates which serve as food for nesting and migratory birds within the Refuge. Reinforcing the levees ensures that potential nesting habitat located on the open levee tops is not lost. Several species of nesting birds, including the western snowy plover and California least tern, depend on this habitat to nest.

The Service has identified portions of deteriorating levee along Pond 22, Pond 23, and between Pond 20 and Pond 22 that are eroding due to tidal action, wind waves, and vehicle use of the berm. To stabilize the levee along Pond 22, the Service proposes to widen the levee by 8 feet along a length of approximately 148 feet (0.027 acres) using 220 tons of concrete armor capped with 100 tons of clean class 2 base material. To stabilize the levee along Pond 23, the Service proposes to widen the levee by 8 feet along a length of 100 feet (0.018 acres) using 160 tons of concrete armor capped with 75 tons of clean class 2 base material. To stabilize the levee between Pond 20 and Pond 22, the Service proposes to widen the levee by 4 feet along a length of 100 feet (0.009 acres) using 64 tons of concrete armor capped with 40 tons of clean class 2 base material. The Service

also proposes to replace an existing deteriorating flume box with a new flume box structure within its same footprint.

Conservation measures will be implemented during construction to protect natural and cultural resources within the Refuge. Work would occur within the confines of the salt works outside of the nesting bird season. Work locations are located in already-disturbed areas with little to no vegetation besides small patches of ice plant and non-native upland plant species. Due to the high salinity of the salt ponds, no wetland native vegetation is present in the project area. The Service will implement standard BMP's including a hazardous substance management plan, emergency response plan, and storage and disposal plan for construction materials. The proposed activities are covered by a NEPA categorical exclusion for resource management by the Service which includes maintenance of existing facilities which result in no or minor changes in use and have no or negligible environmental effects on-site or in the vicinity of the site.

The Native American Heritage Commission (NAHC) found no records for cultural resources in the project area. The Service received correspondence from the San Pasqual Band of Mission Indians requesting to be notified of any project updates and reports of discovered sites. Should cultural resources be discovered during construction, work will be halted, the Service's Regional Archaeologist will be notified, and additional consultation will be initiated to ensure compliance with the National Historic Preservation Act and other applicable Federal regulations and policies.

In 2006, the Commission's Executive Director concurred with negative determination ND-070-06 for the Service's Comprehensive Conservation Plan (CCP) which describes the management program for the Refuge through the year 2022. In that negative determination, the Service committed to submitting additional consistency and/or negative determinations to the Commission for any future CCP projects that held the potential to affect coastal resources. Since that time, the Commission has concurred with negative determination ND-065-09 for construction of a new tide gate at Pond 12 and consistency determination CD-009-10 for restoration of the western salt ponds.

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." The Commission staff agrees that the proposed project is similar to previously concurred-with consistency determinations and with your conclusion that the proposed repair and maintenance activities would not adversely affect coastal 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 should you have any questions regarding this matter.

Sincerely,

Alexis Barrera

For JOHN AINSWORTH

ND-0041-20 (U.S. Fish and Wildlife Service)

Executive Director

cc: CCC – San Diego Coast District