

**CALIFORNIA COASTAL COMMISSION**

455 MARKET ST, SUITE 300  
SAN FRANCISCO, CA 94105  
FAX (415) 904-5400  
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# F10

**Prepared May 7, 2021 (for the May 14, 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 May 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 May 7, 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 May 14, 2021.

With respect to the May 14th 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 May 7, 2021 (see attached)**

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## **Immaterial Amendments**

- 1-16-1110-A1, Installation of a temporary salinity barrier, temporary access road, and two temporary bridges along the North Fork of Martin Slough as part of a larger habitat restoration project. (Eureka, Humboldt County)
- E-89-003-A5, Extension of interim facility operations for one year to allow for completion of a final design as approved by the Los Angeles Regional Water Quality Control Board and submittal of a CDP application for planned facility enhancements at Pebbly Beach Generating Station. (Santa Catalina Island, Los Angeles County)

## **Waivers**

- 9-21-288-W, Installation of a protective metal grid around one of the processing units at Valero Refinery.. (Valero Refinery, Wilmington, Los Angeles County)

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

- ND-0007-21, U.S. Army Corps of Engineers, maintenance dredging of federal navigation channels at Humboldt Bay, Humboldt County, Action: Concur, 5/6/21
- ND-0008-21, U.S. Customs and Border Protection, installation of gantry license plate readers on I-5 North, near Camp Pendleton, Oceanside, San Diego County, Action: Concur, 4/22/21
- ND-0010-21, National Park Service, repair of Cushing Creek box culvert near Enderts Creek Road, Del Norte County, Action: Concur, 4/22/21
- ND-0011-21, U.S. Marine Corps, military landing exercise on Belmont Shores Beach, Los Angeles County, Action: Concur, 4/22/21
- ND-0012-21, U.S. Navy, modification Short-Approach Light System Replacement Project at Naval Air Station North Island, San Diego County, Action: Concur, 5/6/21

## **Administrative Items for Federal Consistency Matters, No-Effect Letters**

- NE-0001-21 (ExxonMobil): No Effects Determination for ExxonMobil's amendment to the Pacific Region Oil Spill Response Plan to remove the Fast Response Vessel (FRV) from Santa Barbara Harbor.

**CALIFORNIA COASTAL COMMISSION**

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April 30, 2021

## NOTICE OF PROPOSED IMMATERIAL PERMIT AMENDMENT

### Coastal Development Permit Amendment No. **1-16-1110-A1**

**To:** All Interested Parties

**From:** John Ainsworth, Executive Director

**Subject:** Permit No. **1-16-1110-A1** granted to the **City of Eureka** for: The restoration and enhancement of approximately 8000 feet of Martin Slough, its tributaries and associated riparian and wetland habitat.

**Project Site:** Martin's Slough near the intersection of Pine Hill Rd. and Meyer's Ave., Eureka, Humboldt County y (APNs: 301-211- 006, 301-211-007, 301-221-001, 302-161-003, 301-031- 008, 305-021-010, 305-021-011, 305-021-008, 305-031- 001, 301-031-018, 301-031-013)

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 2017, the Commission approved CDP 1-16-1110 for the City of Eureka to restore and enhance approximately 8000 feet of Martin Slough and its tributaries including associated riparian habitat and wetland areas. In 2018, the City of Eureka began construction on Martin Slough. The project purpose was to restore access and improve habitat for coho salmon, improve water quality, improve adjacent prime agricultural land, and increase the resiliency of the slough to extreme storm events and associated flooding. The current CDP includes introducing a muted tidal regime to lower Martin Slough and widening and deepening the mainstem and North Fork of Martin Slough. This channel work is expected to be completed in 2021.

The Eureka Municipal Golf Course currently diverts surface water from Martin Slough for irrigation of turf using their riparian water right. The diversion is located in Pond G on the North Fork of Martin Slough, 265 feet upstream from the confluence with the mainstem. The golf course operates an electric pump located on the shore of the pond to divert water and pressurize their irrigation lines. Water pumped from Pond G originates from both the North Fork and mainstem of Martin Slough, due to the low gradient of the slough and resulting backwatering of the pond from the mainstem. The Eureka Municipal Golf Course plans to change its irrigation system to rely less on Martin Slough surface water, thus

allowing brackish water to ebb and flow through Pond G. The planning and final design of the new irrigation system is anticipated to be completed by 2023 and implemented in 2024.

**Requested Amendment:**

On February 19, 2021 the City of Eureka submitted an application to the Commission requesting for CDP 1-16-1110 be amended to clarify vegetation removal conditions, and to include installation of a temporary salinity barrier, and construction of a temporary access road and two temporary stream crossings. **Special Condition 12** of the current CDP includes restrictions on vegetation removal during the bird nesting season (March 1 – August 15) and required the applicant to submit a Sensitive Bird Nesting Habitat Protection Plan (Plan) for review and approval by the Executive Director.

Through this amendment, the City of Eureka requests the addition of language in **Special Condition 12** to allow for limited vegetation removal during the nesting bird season within reaches of the Martin Slough channel that are to be restored under the current CDP. The City of Eureka has requested the following changes below in bold underline text to **Special Condition 12** of the CDP:

***“Bird Breeding and Nesting Habitat. PRIOR TO ISSUANCE OF THE CDP, the Applicant shall submit, for the review and written approval of the Executive Director, a Sensitive Bird Nesting Habitat Protection Plan, prepared by a qualified biologist, for conducting seasonally appropriate pre-construction surveys for bird nesting habitat in the project area and protecting such habitat from construction impacts. The plan shall include, at a minimum, the following:***

- a. Removal of vegetation during initial project construction or vegetation maintenance during the nesting season (March 1 - August 15) is prohibited **except if vegetation removal outside the nesting season is infeasible or the type of vegetation to be removed does not support nesting birds. For example, if in-channel vegetation removal is required while the channel is dewatered and these activities must occur during the nesting season then limited vegetation removal would be provisionally allowed. If vegetation removal is authorized during the nesting season, the Permittee shall implement protective measures in 12 b, c and d below prior to removal of vegetation.***
- b. Provisions for surveying the project area each year by a qualified biologist according to current Department of Fish and Wildlife protocols no more than one week prior to commencement of construction activities proposed to occur that year during the bird breeding and nesting season (March 1 through August 15) for the presence of active nesting habitat;*
- c. Provisions for avoiding construction activities other than vehicular use of roads during the nesting season(s) within 100 feet of an occupied nest of any native migratory bird species; within 300 feet of an occupied nest of any special-status bird species; and within 500 feet of an occupied nest of*

*any raptor species. No-disturbance buffers around active nests shall be maintained until completion of nesting unless the Executive Director, in consultation with CDFW and/or USFWS determines that reductions in buffer area would not significantly degrade the nesting habitat and is compatible with the continuance of that nesting habitat.*

- d. Provisions for submittal of the surveys required above for the review and approval of the Executive Director prior to the commencement of authorized work each year during the bird breeding and nesting season that includes a map that locates any sensitive nesting habitat identified by the surveys and a narrative that describes sensitive habitat avoidance measures proposed.”*

The applicant has identified segments of Martin Slough where predominately non-native and obstructive woody vegetation is growing inside the channel and must be removed while those areas are dewatered for the current CDP’s restoration activities to continue.

**Special Condition 2** of the current CDP limits in-channel construction and maintenance activities to the dry season (June 15 to October 31), which coincides with the nesting bird season. The proposed addition would not remove any of the existing protections to nesting birds listed in **Special Condition 12** or the plan.

Furthermore, the City of Eureka is requesting the addition of a temporary salinity barrier for a maximum period of five years, to prevent brackish waters from being drawn from Pond G into the irrigation system on the Eureka Municipal Golf Course, giving the City time to develop an alternate irrigation system that does not require surface water to be diverted from Martin Slough during the driest periods of the year. This temporary salinity barrier will be operated during the irrigation season and the entire structure will be removed after a maximum of five years. The salinity barrier will consist of five (5) 4’x8’ steel plates driven into the channel bed (at approximately the same height of the channel bed) and banks to span the channel. Removable wooden stop logs would be installed during periods of the dry season to a maximum elevation of 5.3 feet depending on salinity conditions in the channel. The wooden logs would be completely removed during the wet season to allow full flow within the channel. To allow for fish passage and water flow even at low baseflow conditions, a 0.5 feet deep v-notch would be cut into the stop log. To prevent erosion and bank scour from the salinity barrier, a 30-foot long plunge pool will be constructed downstream of the salinity barrier and dissipate water energy from the channel. Approximately 25 cubic yards of material will be excavated from the channel and off-hauled to a permitted location. Once the irrigation system upgrades have been implemented, the entire temporary salinity barrier will be removed from the channel and the channel banks and bed will be restored. Any native plants damaged by the construction activities during the salinity barrier removal will be replaced. The salinity barrier will allow for fish passage and is not expected to negatively impact fish species. Approval for the salinity barrier has been received from the following natural resource agencies: CDFW, NMFS/NOAA, USFWS, NCRWQCB, and USACE.

The City of Eureka is also requesting the addition of a temporary access road and two temporary stream crossings to access the northern edge and both sides of the North Fork channel near the mainstem confluence.

## **FINDINGS**

The Executive Director has determined this amendment to be IMMATERIAL within the meaning of section 13166(b) of the Commission's regulations.<sup>1</sup> 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 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):

### **Vegetation Removal**

With the implementation of the protective measures in Special Condition 12b – d and the narrow conditions under which vegetation removal would be allowed, the proposed change in Special Condition 12a for the removal of vegetation during the bird nesting season would not lessen the intent of Special Condition 12 to protect bird nesting habitat. These protective measures require that a survey for nesting habitat be conducted prior to construction activities by a qualified biologist and that the results of those surveys be submitted to the Executive Director with proposed avoidance measures to be implemented. In the case that an occupied or active nest were to be found during those surveys, no-disturbance buffers would be required to avoid adverse impacts to nesting

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

habitat such as nest abandonment or destruction of nesting habitat, from construction noise or removal of vegetation for as long as the nest is active.

The City's proposed amendment would allow vegetation removal under two narrow exceptions: 1) when conducting the work outside the nesting season is infeasible and 2) when the specific type of vegetation to be removed does not generally support nesting birds. Under the first exception, vegetation removal is proposed to occur during a limited time period (June 15 to August 15) within the Martin Slough channel in the North Fork tributary pond, which consists of in-channel shrubs and invasive species that provide minimal habitat structure, and several willow trees. The applicant previously removed woody vegetation and shrubs from the North Fork tributary pond in the fall of 2020, outside of the nesting bird season. The vegetation proposed to be removed in this amendment was not removed outside of the nesting bird season because it was located in the interior of the channel and could not be reached from the shoreline and without causing adverse impacts to the channel and aquatic species. As required by Special Condition 2 of the CDP, any work occurring in the channel is limited to the dry season (which coincides with the nesting season) to avoid adverse impacts to aquatic habitats and species. Removal of the proposed in-channel vegetation from within the North Fork tributary pond is a critical component of the restoration project that must occur during the nesting season to avoid potentially adversely affecting aquatic habitats and species. Implementation of the protective measures described above will also ensure that in the unlikely event that birds are nesting in the in-channel vegetation, the City will protect these nests by implementing buffers and avoiding any work within these buffers until the nest is no longer active. In its prior work to implement the restoration project, the City has worked closely with staff from CDFW to identify any active nests and identify and implement protective buffers, and will continue to work with the City during this last phase of restoration. Under the second exception, the vegetation proposed to be removed consists of predominately non-native or invasive plant species that generally do not support nesting birds. California Rapid Assessment Method (CRAM) results and qualitative field review of Martin Slough showed that percent invasive cover generally exceeded 50% in most of the channel. Five species co-dominated most of the channel, three of which are invasive species:

- *Ranunculus repens* (invasive)
- *Oenanthë sarmentosa*
- *Agrostis stolonifera* (invasive)
- *Phalaris arundinacea* (invasive)
- *Scirpus microcarpus*

Within the channel, herbaceous vegetation provides minimal habitat structure for nesting birds. In these areas, vegetation is present in low-lying small patches with little interspersions between the patches, which is not ideal for nesting habitat. For these reasons, the proposed amendment would ensure continued protection of nesting birds as required by Section 30240 of the Coastal Act.

The proposed salinity barrier would also not adversely affect coastal resources with the implementation of special conditions required in the original CDP, proposed design elements which would provide for fish passage and protection against erosion, and the

limited period of operation. The salinity barrier would not be a permanent development; it would be installed during the 2021 construction season and every aspect of the salinity barrier (including rocks placed around the structure and in the downstream rock grade control) would be removed no later than 5 years after installation, or by November 15, 2026. Three years after the installation, the applicant would provide an interim progress report to Commission staff with updates on the salinity barrier removal timeline. Once fully removed, the channel banks and bed would be reconstructed as designed in the original restoration design plans.

The proposed salinity barrier would not adversely affect fish species by blocking their passage in Martin Slough. Tidewater goby are not found in the area where the salinity barrier is proposed and juvenile salmonids are mostly present in Martin Slough during the wet season (typically mid-October into June) when the salinity barrier would not be in operation. During the wet season stop logs would not be in place and the salinity barrier would not block fish passage or conveyance of high flows from upstream. The barrier would only be in operation with stop logs in place during the dry season if water sampling results show a high salinity concentration and would still allow for fish passage. During the limited times when the tide falls below 4.3 feet during the dry season and fish are unable to move upstream over the stop logs, fish would be able to stay in the downstream plunge pool, move downstream, or freely move into one of the recently enhanced off-channel ponds from the current CDP. In the case that an unseasonal storm event were to occur during the dry season and stop logs are in place, the City has committed to ensure that stop logs are adaptively managed to avoid adverse impacts. On site project partners would monitor weather forecasts and take the following actions for three different precipitation thresholds:

1. Forecast of 1/4" but under 1/2" of rain; remove the top center stop log;
2. Forecast of 1/2" but under 3/4" of rain; remove all center stop logs;
3. Forecast of 3/4" or more; remove all stop logs

To ensure potential erosion and scour to the channel bed from the use of the salinity barrier is avoided, on site project partners would conduct daily observations for potential erosion and debris and notify the City if adaptive management actions are needed to prevent adverse impacts to the channel. The original CDP also includes fish monitoring; hydrology, topography and water quality monitoring; and vegetation monitoring which would provide information on whether the salinity barrier was adversely affecting coastal resources and prompt further adaptive management.

Additionally, the proposed amendment would remain subject to the current CDP's special conditions which require the applicant to implement protective measures to help ensure that adverse impacts to coastal resources are avoided during the installation and removal of the salinity barrier. These special conditions require that all fish be safely relocated out of the construction area prior to all in-channel work and that the approved Storm Water Pollution Prevention Plan be implemented during construction. Erosion and water quality measures are also included in the current CDP which require the installation of in-stream turbidity curtains, silt fences, and coffer dams and implementation of the approved Slough Dewatering and Diversion Plan. The National Marine Fisheries Service (NMFS) reviewed



the salinity barrier proposal and determined that it would not create new or different effects from the original restoration project and that therefore additional NMFS consultation was not required. However, the proposed salinity barrier would remain subject to the protective measures described in the NMFS Biological Opinion for the original project. These measures include isolating work areas using fish screens to prevent sensitive fish species from entering, working during the low tide when no water or fish are present, not operating equipment in flowing water areas, and conducting equipment maintenance in upland areas away from aquatic habitats. The U.S. Fish and Wildlife Service also concluded that additional consultation was not needed for the salinity barrier as the location was too far upstream for the tidewater goby.

Finally, the proposed addition of a temporary access road and two temporary stream crossings would be very similar to the temporary access roads and stream crossings already approved in the current CDP. The current CDP includes protective measures and conditions for access roads and stream crossings which would also apply to the proposed crossings included in the amendment. These measures include pre-construction surveys for sensitive plants and avoidance of special status plant species. These measures also require that at the end of construction, the access road and stream crossings would be removed and those areas with native vegetation that were disturbed during construction, would be revegetated to their pre-project state with native plant species.

The changes proposed to the project are temporary and any areas inadvertently disturbed will be restored to their original conditions. Additionally, with the implementation of the current CDP's special conditions, the proposed amendment would be carried out in a manner that would help ensure that adverse impacts to coastal resources, including nesting bird habitat, aquatic species, and habitat, would be avoided and minimized to the extent feasible. The overall purpose of the current CDP is for the restoration and enhancement of Martin Slough which will ultimately improve riparian and wetland habitat, and benefit plant and animal species. The proposed amendment would help the City of Eureka to finish the restoration project and improve water flow within Martin Slough. The proposed amendment will allow the City to complete this important restoration work in a manner that will not adversely impact coastal resources and is thus, in conformance with the policies of Chapter 3 of the Coastal Act.

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 Alexis Barrera via email at [alexis.barrera@coastal.ca.gov](mailto:alexis.barrera@coastal.ca.gov).

cc: Commissioners/File

**CALIFORNIA COASTAL COMMISSION**

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**NOTICE OF PROPOSED IMMATERIAL PERMIT AMENDMENT****E-89-003-A5****May 3, 2021****TO:** All Interested Parties**FROM:** John Ainsworth, Executive Director**SUBJECT:** Application to amend Coastal Development Permit No. E-89-003 granted to Southern California Edison for constructing and operating a desalination facility at Pebbly Beach Generating Station, Santa Catalina Island, County of Los Angeles.

Southern California Edison (“SCE”) has requested the above-referenced coastal development permit (“CDP”) be amended to allow a **one-year extension** of interim facility operations to allow for completion of a final design as approved by the Los Angeles Regional Water Quality Control Board (“Regional Board”) for planned facility enhancements. The Executive Director has determined that the requested project change as described herein may be approved as an immaterial amendment to the CDP.

**Background:** Southern California Edison (SCE) owns and operates a desalination facility on the grounds of the Pebbly Beach Generating Station, approximately 1.5 miles south of Avalon on Santa Catalina Island (at 1 Pebbly Beach Road, APN 7480-045-801). The plant was built to supplement the limited fresh water supply on the island, particularly during shortages, and currently provides drinking water to the City of Avalon. The facility draws seawater from intake wells and discharges its effluent via an outfall structure located on riprap along the shoreline.

The Commission initially authorized the facility in 1989 under CDP No. E-89-003 and SCE constructed the facility in 1990. Between 1998 and 2003, SCE upgraded the facility by installing a more efficient water treatment process and relocating the intake wells. In 2015, in response to statewide drought conditions and in order to avoid the necessity of imposing severe Stage 3 water rationing in Avalon, SCE proposed to install a temporary, portable desalination unit to operate in conjunction with the existing facility for up to one year. This temporary unit would be capable of treating the existing facility’s brine effluent to extract additional freshwater without increasing the facility’s seawater intake or brine discharge volumes. Operated in tandem with the older unit, the portable unit increased the freshwater production capacity of the facility from about 200,000 gallons per day (“gpd”) to about 350,000 gpd. During lower water demand periods, SCE

could operate the more efficient portable unit on its own to produce the needed water supply. In July 2015, the Commission approved installation and temporary operation of this portable unit for up to one year under Immaterial Amendment E- 89-003-A1. The unit became operational in April 2016.

SCE has since proposed several upgrades to the overall facility, which were subject to review by the Regional Board for a new or renewed National Pollutant Discharge Elimination System (“NPDES”) permit and for a determination of conformity to the requirements of the State Ocean Plan applicable to new or expanded desalination facilities. SCE submitted its application to the Board in 2016, though the review was not completed until recently. In the interim, SCE requested several one-year extensions for the temporary unit’s operations. The Commission approved those requests in April 2018 (through Immaterial Amendment E-89-003-A2), in May 2019 (through Immaterial Amendment E-89-003-A3) and in May 2020 (through Immaterial Amendment E-89-003-A4) to allow for that review to be completed.

**Project Description:** SCE now proposes to extend its operation of the temporary unit for an additional year to allow completion of a final facility design that incorporates the requirements of the Regional Board’s determination. SCE expects to submit a coastal development permit application later this year for operating the facility over the long term in a manner consistent with the Regional Board’s determination. During this proposed one-year extension, the temporary unit could be operated either on its own or with the permanent desalination facility to provide necessary amounts of drinking water. This proposed extension would involve no increase in the volume of the facility’s previously approved effluent discharge.

**THE PROPOSED AMENDMENT HAS BEEN DEEMED “IMMATERIAL” FOR THE FOLLOWING REASONS:**

**Marine Resources & Water Quality:** Marine life and water quality near the facility would be protected and maintained due to its use of sub-surface water intakes, which cause little, if any, adverse effects on marine organisms. The facility discharge is currently subject to effluent limitations imposed by the existing NPDES permit, which is meant to ensure conformity to the state’s water quality standards. The additional year of operation is not expected to cause any additional adverse impacts to marine resources or water quality.

**Public Access:** The facility is located within an existing industrial site where there is limited public access. The additional year of operation will not result in adverse effect to access to or along the shoreline.

**Public Services & Growth-Inducing Effects:** The additional year of operation will not involve any increase in the facility’s production volume, which is established as part of a “Safe Annual Yield” as determined by the California Public Utilities Commission. The proposed extended use over the next year is not sufficient to induce new growth in the City or on Catalina Island.

## **Immaterial Permit Amendment**

Pursuant to the California Code of Regulations – Title 14, Division 5.5, Volume 19, section 13166(b) – the Executive Director has determined this amendment to be IMMATERIAL.

Pursuant to section 13166(b)(1), if no written objection to this notice of immaterial amendment is received at the Commission office within ten (10) working days of mailing said notice, the determination of immateriality shall be conclusive and the amendment shall be approved.

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 immaterial amendment shall not be effective until the amendment and objection are reported to the Commission at its next regularly scheduled meeting. If any three (3) Commissioners object to the executive director's designation of immateriality, the amendment application shall be referred to the Commission for action as set forth in section 13166(c). Otherwise, the immaterial 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 immaterial amendment application shall be referred to the Commission for action as set forth in section 13166(c).

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 [tluster@coastal.ca.gov](mailto:tluster@coastal.ca.gov).

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May 4, 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:** 9-21-0288-W

**Applicant:** Ultramar, Inc.

**Location:** Valero Wilmington Refinery, 2402 East Anaheim, Wilmington, CA 90744 (APN #7440-2-20, 22).

**Proposed Development:** Safety improvements to refinery's Alkylation Unit.

**Rationale:** The proposed project involves installing a debri-grid around the refinery's Alkylation Unit. The Unit is used to convert certain petroleum components into other components used in gasoline. The debri-grid would consist of a high-strength metal grid installed to provide a protective shield around the Unit. Construction is expected to take about three months. All work will occur within the refinery boundaries and will be subject to the refinery's Stormwater Pollution Prevention Plan. The project's visual, noise, and traffic impacts will be minimal in relation to the existing refinery structures and operations. Work will not involve excavation or soil disturbance.

For the following reasons, the proposed project will not have a significant adverse effect, either individually or cumulatively, on coastal resources, nor will it conflict with Chapter 3 policies of the Coastal Act:

- The project is within an area surrounded by heavy industrial uses and will not adversely affect coastal resources such as recreational opportunities, aesthetics, sensitive habitat, or public access.
- Any effects to water quality or resulting from potential spills will be minimized due to the project being regulated by the refinery's SWPPP.
- The proposed development is consistent with past Commission actions in the area and with Chapter Three policies of the Coastal Act.

**Coastal Development Permit De Minimis Waiver  
9-21-0288-W**

This waiver will not become effective until reported to the Commission at its May 13-15th meeting. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required. In addition, the site of the proposed development must be appropriately noticed, pursuant to 13054(b) of the California Code of Regulations, and this Notice of Pending Permit shall remain posted at the site until the waiver has been validated at the Commission hearing.

Sincerely,

John Ainsworth,  
Executive Director

*Tom Luster*

Tom Luster  
Senior Environmental Scientist

cc: File

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May 6, 2021

Dr. Tessa Beach  
Chief Environmental Section  
San Francisco District,  
U.S. Army Corps of Engineers  
450 Golden Gate Avenue  
San Francisco, CA 94102

Subject: Negative Determination **ND-0007-21** (2021 Maintenance Dredging of Federal Navigation Channels at Humboldt Bay, Humboldt County)

Dear Dr. Beach:

The Coastal Commission staff has reviewed the above-referenced negative determination. Under current funding, the U.S. Army Corps of Engineers (Corps) proposes to dredge approximately 1.2-1.5 million cubic yards of sediment from the Bar and Entrance channel, with disposal at the newly expanded Humboldt Open Ocean Disposal Site (HOODS). Dredging and disposal is proposed to take place in May of 2021. Annual maintenance dredging is necessary to remove shoals that build up in the Bar and Entrance channels during the winter and spring, and to maintain authorized channel depths and navigational safety for commercial, recreational, and Coast Guard vessels entering and exiting Humboldt Bay.

The proposed 2021 maintenance dredging and disposal project at Humboldt Bay is similar to annual projects previously concurred with by the Commission or authorized by the Executive Director dating back to 1985, most recently in negative determination ND-0032-19 for the 2020 maintenance dredging project and CD-0005-18 for the 2019 maintenance dredging project.

As noted in CD-0005-18, the current sediment testing schedule for Humboldt Bay calls for physical testing of sediments every five years for those channels that have historically contained sediments consisting predominately of sand. The most recent sediment testing was conducted on March 16, 2021. Sediment testing results confirmed that the sediments to be dredged in 2021 are physically and chemically suitable for beneficial reuse or offshore disposal at the newly expanded HOODS.

Although the sediments are suitable for beach nourishment and nearshore disposal, neither are being proposed as part of this project because the Corps has stated that there are currently no EPA-designated alternative disposal sites available for beneficial reuse in the project area. However, there are other potential nearshore alternatives, such as placement of the material on the beaches on the North and South Spits, that could serve as beneficial reuse sites in the future with further study. As it has for many years, Commission staff continues to encourage the Corps to carry out the studies and take all other necessary steps to pursue beneficial reuse for suitable materials dredged from

Humboldt Bay's Bar and Entrance Channel. We also note that these priorities are reflected in the Water Resources Development Act (WRDA) of 2020 which asserts that there is a critical need for the Corps to "maximize the beneficial use, in an environmentally acceptable manner, of suitable dredged material obtained from the construction or operation and maintenance of water resources development projects."

Towards this end, CD-005-18 also included a commitment by the Corps to provide an update to the Humboldt Shoreline Monitoring Program. The update would contain needed information on the significance of shoreline erosion on the North Spit of Humboldt Bay, which could potentially lead to implementation of disposal alternatives that will reduce the amount of dredged material disposal outside the Eureka littoral zone (including the HOODS site). Results from the update would include aerial flyover photography and subsequent analysis of shoreline changes. The last Humboldt Shoreline Monitoring Program update analyzed shoreline changes using data from 2011 to 2015. The survey results showed no excessive shoreline retreat and determined that erosion of the North Spit was not significant, and no immediate corrective action was needed. However, the baseline used to determine whether excessive erosion had occurred was from shoreline conditions from 1974-1990. The Corps and Commission determined in CD-0005-18 that the 1974-1990 baseline did not adequately represent baseline shoreline conditions due to the extensive jetty modifications that occurred during that time period. Therefore, the next update to the Humboldt Shoreline Monitoring Program (anticipated to occur within the next few years) will use the 1948-1974 shoreline baseline, as noted in CD-0005-18. Because it would rely on this more relevant and scientifically robust baseline, this upcoming shoreline monitoring update is expected to more conclusively and definitively determine if excessive shoreline retreat has persisted along the North Spit. With that information, the Corps and the Commission staffs will then determine if modifications to current dredged material disposal operations are necessary in order to address shoreline retreat along the North Spit. In addition, should excessive shoreline retreat on the North Spit be confirmed, the Commission and Corps staffs would work together on the development of a pilot nearshore placement project. Until these steps have been taken, HOODS would be used because there are currently no feasible alternative disposal sites capable of receiving the dredged sediments from the proposed maintenance dredging.

Expansion of the HOODS boundary was proposed to provide additional disposal capacity and address potential issues with mounding and was concurred with by the Commission in October 2020 (CD-0001-20). That consistency determination did not include any disposal projects; all future disposal at HOODS continues to require separate federal consistency reviews by the Commission or Executive Director. Disposal at the newly expanded HOODS is restricted to the northern and western slopes of the site to avoid further mounding.

In addition to addressing sediment testing and an update to the Humboldt Shoreline Monitoring Program, CD-0005-18 included a commitment by the Corps to develop and implement, in coordination with the National Marine Fisheries Service, California Department of Fish and Wildlife, and Commission staff, a fish survey and monitoring plan (FSMP) to evaluate the potential impact of entrainment of fish species by Corps dredging operations in Humboldt Bay. The species of interest that the FSMP focused on included longfin smelt (*Spirinchus thaleichthys*), northern anchovy (*Engraulis mordax*), Dungeness crab (*Metacarcinus magister*), Southern Oregon/Northern California Coastal (SONCC)



coho salmon (*Oncorhynchus kisutch*), California Coastal (CC) Chinook salmon (*O. tshawytscha*), and green sturgeon (*Acipenser medirostris*). The Corps states that the primary purpose of the FSMP was to:

*...better describe the fish and invertebrate usage of the federal channels in Humboldt Bay and to use this information to assess relative population effects and inform dredging operations best management practices for protection of sensitive and important aquatic species.*

The FSMP was first implemented between April and October 2019 and included 130 individual bottom trawls over 13 trawling events. The second FSMP was implemented between March and October 2020 and included 137 individual bottom trawls over 14 trawling events. Results from these two years were substantially different. The number of total fish caught was much lower in 2020 than in 2019 and in 2019, no federally or state-listed threatened or endangered species were captured. However, in the last trawling event in October 2020, one green sturgeon and one longfin smelt were captured. These species are listed as threatened under the federal Endangered Species Act (ESA) and California ESA, respectively. Due to the significant differences in the number and type of fish sampled in the 2019 and 2020 results, the study will be repeated for a third year in 2021 and will be expanded to include collection of eDNA samples. Similar to the past two years, results from the 2021 FSMP will be reviewed by Commission staff in coordination with staff from the National Marine Fisheries Service (NMFS) and the California Department of Fish and Wildlife to determine the potential need for additional mitigation or protective measures to address adverse impacts to economically valuable and/or special status fish and invertebrate species associated with the proposed maintenance dredging. For the proposed project, the Corps will continue to implement all conservation measures or recommendations for listed species, their critical habitat, and essential fish habitat (EFH) issued by NMFS in their biological opinion/EFH conservation recommendations.

Previous reviews of maintenance dredging operations by the Commission or the Executive Director determined that there would not be any adverse impacts to water quality or marine resources. Proposed maintenance dredging will take place in navigation channels that have been routinely dredged since the 1880s. Project sediments are not contaminated and when dredged, these sands only generate short-term and localized increases in turbidity and less than significant impacts to benthic species in the bay given the relatively small dredging footprint. For the proposed project the Corps would implement all conservation measures issued by the National Marine Fisheries Service (NMFS) in their 2021 Biological Opinion and Essential Fish Habitat Consultation pertaining to Corps Humboldt Bay maintenance dredging projects.

Impacts to commercial and recreational fishing and boating will be temporary in nature and limited to the area immediately adjacent to the dredge vessel. Removing shoaled areas and returning navigation channels to their design depth will improve navigation safety for all vessels entering and exiting Humboldt Bay. Maintenance dredging is unlikely to adversely affect archaeological and cultural resources, but the project includes provisions for suspension of dredging and consultation with the State Historic Preservation Office should previously undiscovered cultural resources be uncovered.

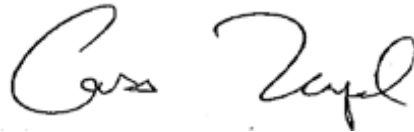
ND-0007-21 (U.S. Army Corps of Engineers)

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." As discussed above, the Commission has concurred with similar consistency determinations for maintenance dredging at Humboldt Bay. The Commission staff **agrees** that the proposed 2021 maintenance dredging project will not adversely affect coastal resources.

However as we noted in our previous consistency determinations (CD-0005-18, CD-0001-20, and ND-0032-19), our concurrence with this negative determination is not in any way meant to convey the message that the Commission's concerns have diminished regarding excessive erosion at the North Spit and the need for viable beneficial reuse alternatives. Commission staff looks forward to working with Corps staff on the development of a nearshore disposal site that would retain in the littoral system clean dredged sands from Humboldt Bay.

With that understanding, we **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,

A handwritten signature in black ink, appearing to read "John Ainsworth". The signature is written in a cursive, flowing style.

(for)  
JOHN AINSWORTH  
Executive Director

cc: CCC – North Coast District

**CALIFORNIA COASTAL COMMISSION**

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



April 22, 2021

John Petrilla  
Environmental Branch Chief, Acting  
U.S. Customs and Border Protection  
24000 Avila Road, Suite 5020  
Laguna Niguel, CA 92677

Re: Negative Determination No. ND-0008-21, Customs and Border Protection, License Plate Reader along Interstate 5 near Oceanside, CA

Dear Mr. Petrilla:

We have received your letter dated March 22, 2021, in which you have determined that the above-referenced installation of a gantry-based license plate reader system and associated utility connections along northbound Interstate 5 near Oceanside, California would have no adverse effects on coastal resources for the reasons identified in Negative Determination No. ND-0008-21. 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 Cassidy Teufel at [Cassidy.Teufel@coastal.ca.gov](mailto:Cassidy.Teufel@coastal.ca.gov) if you have any questions regarding this matter.

Sincerely,

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

CASSIDY TEUFEL  
Federal Consistency Coordinator  
(for)

JOHN AINSWORTH  
Executive Director

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April 22, 2021

Steven N. Mietz  
Superintendent  
Redwood National Park  
South Operations Center  
P. O. Box 7  
Orick, California 95555

Attn: Saylor Moss, REDW Chief of Planning and Compliance

Re: Negative Determination No. ND-0010-21, Cushing Creek Culvert Replacement Project, Redwood National Park

Dear Mr. Mietz:

We have received your letter dated March 26, 2021, in which you have determined that the above-referenced replacement of the Cushing Creek box culvert on Enderts Beach Road would have no adverse effects on coastal resources for the reasons identified in Negative Determination No. ND-0010-21. The Coastal Commission staff agrees that the proposed would 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 Cassidy Teufel at [cassidy.teufel@coastal.ca.gov](mailto:cassidy.teufel@coastal.ca.gov) if you have any questions.

Sincerely,

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

CASSIDY TEUFEL  
Federal Consistency Coordinator  
(for)

JOHN AINSWORTH  
Executive Director

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April 28, 2021

Zachary H. Likins  
United States Marine Corps  
MCI West-MCB  
Box 555009  
Camp Pendleton, CA 92055-5008

Re: Negative Determination No. ND-0011-21, USMC, 11<sup>th</sup> MEU Composite Training Unit Exercise (COMPUTEX) 21-1, Belmont Shores Beach, CA

Dear Mr. Likins:

We have received your letter dated April 16, 2021, in which you have determined that the above-referenced military pre-deployment training (ie: beach landings by military beach landing craft) on Belmont Shores Beach is the same as or similar to previously concurred with consistency and negative determinations and would not adversely affect coastal zone resources for the reasons identified in Negative Determination No. ND-0011-21. The Coastal Commission staff agrees that the proposed project is the same as or similar to previously concurred with consistency and negative determinations and would 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 Cassidy Teufel at [cassidy.teufel@coastal.ca.gov](mailto:cassidy.teufel@coastal.ca.gov) if you have any questions regarding this matter.

Sincerely,

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

CASSIDY TEUFEL  
Federal Consistency Coordinator  
(for)

JOHN AINSWORTH  
Executive Director

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May 6, 2021

Sarah Koppel  
Installation Environmental Program Director  
Naval Base Coronado  
Box 357033  
San Diego, CA 92135-7033

Attn: LCDR Audrey Nichols, Acting Region National Environmental Policy Act Coordinator

Re: Negative Determination No. ND-0012-21, Modification to Short-Approach Light System Replacement Project, Naval Air Station North Island

Dear Ms. Koppel:

We have received your letter dated April 15, 2021, in which you have determined that modifying the Short-Approach Light System Replacement Project to retain existing rip-rap rock at the seaward end of the system would have no adverse effects on coastal resources for the reasons identified in Negative Determination No. ND-0012-21. The Coastal Commission staff agrees that the proposed would 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 Cassidy Teufel at [cassidy.teufel@coastal.ca.gov](mailto:cassidy.teufel@coastal.ca.gov) if you have any questions.

Sincerely,

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

CASSIDY TEUFEL  
Federal Consistency Coordinator  
(for)

JOHN AINSWORTH  
Executive Director

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April 27, 2021

Russell W. Brandon  
Process Safety & Risk/OIMS/EP&R Advisor  
U.S. Conventional Oil & Gas  
EMHC W4.2A.551  
22777 Springwoods Village Parkway  
Spring, Texas 77389

Robert Zaragoza  
Senior Preparedness Analyst  
Pacific OSP Section-Oil Spill Preparedness Division  
Bureau of Safety and Environmental Enforcement  
760 Paseo Camarillo, Suite 102  
Camarillo, CA 93010

Subject: NE-0001-21: No Effects Determination for ExxonMobil's amendment to the *Pacific Region Oil Spill Response Plan* to remove the Fast Response Vessel (FRV) from Santa Barbara Harbor

Dear Mr. Brandon:

Thank you for the opportunity to review and comment on the proposal by ExxonMobil, sent electronically January 11, 2021, to amend *the ExxonMobil Pacific Region Oil Spill Response Plan* (OSRP) to remove the Fast Response Vessel (FRV) from Santa Barbara Harbor.

Based upon our review of ExxonMobil's proposal, the Commission staff has determined that removing the FRV from Santa Barbara Harbor will not cause substantially different effects on coastal zone resources than those previously reviewed by the Coastal Commission in its original federal consistency review of the Development and Production Plan (DPP) and/or the companion OSRP for ExxonMobil's platforms. Therefore, ExxonMobil's proposal will not require additional federal consistency review by the Coastal Commission at this time.

**No Effects Determination and Standard of Review**

The Commission staff's standard of review for ExxonMobil's proposal is whether the proposed removal of the Santa Barbara FRV triggers the need for an amended OCS Plan or would affect ". . . any coastal use or resource in a manner that is not consistent with the approved management program." (15 CFR §930.85(b) and 930.82 and 930.83). Thus, the issue is whether ExxonMobil's proposal to remove the Santa Barbara FRV is consistent with the oil spill response standards and commitments made in the Commission's prior review of Consistency Certifications for ExxonMobil's platforms (CC-7-83, CC-7-83-R, CC(E)-64-87).

ExxonMobil relies on MSRC to conduct on-water oil spill cleanup and recovery operations for the Pacific Region platforms and facilities. MSRC has had in service three Fast Response

Vessels (FRVs), one stationed at the Cojo Mooring, one stationed at Ventura Harbor, and another stationed in Santa Barbara Harbor. Each FRV is equipped with oil boom, advancing oil recovery systems, storage tanks for recovered oil, and advanced electronic equipment for directing and monitoring oil spill response activities.

ExxonMobil is proposing to remove the FRV from Santa Barbara Harbor. Based on a discharge scenario from platform Heritage, the Cojo FRV response time is .75 hours, and the Ventura FRV response time is 1.5 hours. A cascade of other tactical resources are available to deploy if necessary, including the Ocean Guardian (response time if needed is 5.5 hours) and even the Santa Barbara FRV, that will be now be located in San Francisco, has a response time of 10-12 hours and can be re-deployed to the area if necessary. It should be noted that the platforms are currently “shut-in” and not producing, making the worst-case discharge volumes and risk of an oil spill at this time less than they were originally. While this proposal is a reduction in the total number assets available to respond to a spill, the remaining two FRV’s are able to meet the oil spill response standards and commitments made in the Commission’s prior reviews.

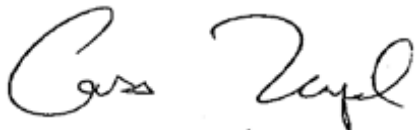
### **Conclusion**

For the reasons discussed above, the Commission staff has determined that ExxonMobil’s proposal to remove the FRV from Santa Barbara Harbor will not cause effects on coastal zone resources substantially different than those previously reviewed by the Commission in its original federal consistency review of the DPPs and/or the companion OSRPs for ExxonMobil’s platforms and therefore will not require additional federal consistency review by the Commission at this time.

However, the Commission staff expressly reserves the right afforded to the Commission under 15 CFR §930.85 to re-open this determination in the event that the oil spill response equipment and procedures described in the subject proposal are not adhered to, or if they have an effect on any coastal use or resource substantially different from that described in this or previous proposals.

Thank you for considering our comments. If you have any questions, please feel free to contact the Commission’s Oil Spill Program staff: Jonathan Bishop (415-693-8375, [Jonathan.Bishop@coastal.ca.gov](mailto:Jonathan.Bishop@coastal.ca.gov)).

Sincerely,



Cassidy Teufel

Manager

Energy, Ocean Resources and Federal Consistency Division  
California Coastal Commission

Cc (via email): Jon Victoria, OSPR