

**CALIFORNIA COASTAL COMMISSION**

445 MARKET STREET, SUITE 300  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885



# W11a

Date Filed: May 18, 2021  
180<sup>th</sup> Day: October 26, 2021  
Staff: T. Luster-SF  
Staff Report: May 20, 2021  
Hearing Date: June 9, 2021

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 9-21-0258

**Applicant:** City of Santa Barbara

**Location:** Offshore of East Beach in the City of Santa Barbara, CA

**Project Description:** Repair and maintenance of offshore components of seawater intake structure used by the City's Charles E. Meyer Desalination Facility.

**Staff Recommendation:** Approval with Conditions

---

## SUMMARY OF STAFF RECOMMENDATION

The City of Santa Barbara ("the City") proposes to repair two offshore components of the seawater intake system used by the City's desalination facility. These components, located about 2,500 feet offshore of the City's East Beach, consist of two concrete foundations ("Intake Platforms") on the seafloor that support pumps, screens, and associated equipment within a concrete vault. One of the two Platforms has experienced scour caused by currents in the area, and the City anticipates that the other Platform will soon be subject to scour. The proposed work involves injecting grout and constructing a rock apron around the two Platforms to ensure they remain stable.

The standard of review is the Coastal Act's Chapter 3. To provide conformity with relevant Chapter 3 provisions, Commission staff is recommending several Special

Conditions. [Special Condition 1](#) would require the City to submit copies of other required approvals before starting work. [Special Conditions 2 through 5](#) would require the City to adhere to all relevant provisions and mitigation measures in several Plans approved by the Executive Director for a previous City project at this same location that used similar materials and involves similar activities. These include an Anchoring Plan, Turbidity Monitoring Plan, Sensitive Marine Species Monitoring Plan, and a Hazardous Material Spill Prevention and Response Plan. These Special Conditions would also require the City to update various elements of these Plans to ensure they reflect current site conditions and currently proposed project activities.

**Recommendation:** Commission staff believes the project, as conditioned, conforms with applicable Coastal Act policies and therefore recommends **approval** of coastal development permit application 9-21-0258.

## TABLE OF CONTENTS

<b>I. MOTION &amp; RESOLUTION .....</b>	<b>4</b>
<b>II. STANDARD CONDITIONS .....</b>	<b>4</b>
<b>III. SPECIAL CONDITIONS.....</b>	<b>5</b>
<b>IV. FINDINGS &amp; DECLARATIONS.....</b>	<b>7</b>
A. PROJECT DESCRIPTION AND BACKGROUND.....	7
B. COMMISSION JURISDICTION.....	9
C. OTHER AGENCY APPROVALS & CONSULTATIONS.....	10
D. PROTECTION OF COASTAL WATERS AND SPECIES .....	11
E. FILL IN COASTAL WATERS.....	14
F. PUBLIC ACCESS, RECREATION, AND VISUAL RESOURCES.....	16
<b>V. CALIFORNIA ENVIRONMENTAL QUALITY ACT .....</b>	<b>18</b>

### APPENDICES

[Appendix A](#) – Substantive File Documents

### [EXHIBITS](#)

[Exhibit 1 – Location Map](#)

[Exhibit 2 – Site Plan](#)

[Exhibit 3 – Schematic of Intake Platforms](#)

[Exhibit 4 – CDP #9-14-1781 for prior project at current location](#)

[Exhibit 5 – Anchoring Plan](#)

[Exhibit 6 – Turbidity Monitoring and Mitigation Plan](#)

[Exhibit 7 – Special Marine Species Monitoring and Mitigation Plan](#)

[Exhibit 8 – Hazardous Material Spill Prevention and Response Plan](#)

[Exhibit 9 – Alternative Scour Protection Method – Vertical Sheet Piles](#)

[Exhibit 10 – Alternative Scour Protection Method – Modified Rock Gabions](#)

[Exhibit 11 – Selected Scour Protection Method – Rock Apron](#)

## I. MOTION & RESOLUTION

### Motion:

I move that the Commission **approve** Coastal Development Permit No. 9-21-0258 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### Resolution:

The Commission hereby approves the coastal development permit and adopts the findings set forth below on the grounds that the development, as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

## II. STANDARD CONDITIONS

This permit is subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

1. **Other Approvals.** PRIOR TO STARTING IN-WATER CONSTRUCTION ACTIVITIES, the Permittee shall provide to the Executive Director a copy of the project's Section 401 Water Quality Certification issued by the Regional Water Quality Control Board and a copy of coverage under the U.S. Army Corps' Nationwide Permit program, or evidence that these permits are not needed. The Permittee shall inform the Executive Director of any changes to the project required by these permits. Such changes shall not be incorporated into the project or undertaken until the Permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
2. **Anchoring Plan.** All in-water activities shall be consistent with the provisions, requirements, and mitigation measures in the Anchoring Plan approved by the Executive Director for coastal development permit 9-14-1781.

In addition, and NO MORE THAN 60 DAYS PRIOR TO THE START OF IN-WATER PROJECT ACTIVITIES, the Permittee shall conduct a seafloor survey for Executive Director review and approval to confirm that the previous anchoring locations identified in the Anchoring Plan approved pursuant to coastal development permit 9-14-1781 remain suitable for placing anchors for the project's work barge while avoiding hard substrate and seafloor vegetation. If those locations are no longer suitable, the Permittee shall identify alternative sites where anchors could be placed to avoid hard substrate and seafloor vegetation, and submit a revised Anchoring Plan for review and approval by the Executive Director prior to commencing in-water activities. If hard substrate and seafloor vegetation cannot be avoided, the Permittee shall obtain an amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

3. **Turbidity Minimization and Monitoring.** All in-water activities shall be consistent with the provisions, requirements, and mitigation measures in the Turbidity Minimization and Monitoring Plan approved by the Executive Director for coastal development permit 9-14-1781.
4. **Sensitive Marine Species Monitoring and Mitigation Plan.** All in-water activities shall be conducted consistent with the provisions, requirements, and mitigation measures included in the Sensitive Marine Species Monitoring and Mitigation Plan approved by the Executive Director for coastal development permit 9-14-1781.
5. **Hazardous Material Spill Prevention and Response Plan.** All in-water activities shall be conducted consistent with the provisions, requirements, and mitigation measures included in the Hazardous Material Spill Prevention and Response Plan approved by the Executive Director for coastal development permit 9-14-1781.

In addition, and PRIOR TO STARTING IN-WATER ACTIVITIES, the Permittee shall provide for Executive Director review and approval, a Revised Plan that includes updated information and provisions applicable to the specific vessels and personnel involved in this project. These updates shall include the types and volumes of fuels and other hazardous materials present on the project vessels, spill response equipment to be available on the vessels and needed to respond to any spills, project personnel responsible for implementing the Plan, and contact information for agency and public trustee representatives to be notified in the event of a spill.

## IV. FINDINGS & DECLARATIONS

### A. PROJECT DESCRIPTION AND BACKGROUND

The City of Santa Barbara (“the City”) is proposing to repair part of an offshore seawater intake used by the City’s seawater desalination facility. The repairs would involve installing additional structural support within and around the base of two concrete foundations (“Intake Platforms”) that support intake screens, pumps, check valves, and related equipment within concrete vaults. These Intake Platforms are located near the end of an intake pipeline that extend about 2,500 feet offshore to a water depth of about 30 feet at a location marked by a navigational buoy (see [Exhibit 1](#) – Project Location and [Exhibit 2](#) – Site Plan).

#### Background & History

The City’s desalination facility was built in the mid-1990s in response to state and regional drought conditions and operated for just a short time before being deactivated when the drought ended.<sup>1</sup> The facility’s seawater intake system was built, in part, by installing a liner within an abandoned wastewater treatment line that ran several thousand feet offshore of the City’s East Beach. The intake system includes two Intake Platforms that are concrete pads about 19 feet square and about 80 feet apart (Intake Platforms A and B). Each supports a concrete vault containing pumps, screens, pipes, and associated equipment that rise about 14 feet above the seafloor (see [Exhibit 3](#) – Schematic of Intake Platforms).

Starting in 2015, the City recommissioned the facility by replacing much of the original equipment and by modifying part of the facility’s intake system. The Commission’s approval of CDP #9-14-1781 (see [Exhibit 4](#) – CDP #9-14-1781) allowed the City to modify the intake, including pipeline repairs and replacement of various fittings and cables, along with a number of anticipated maintenance activities.

During work performed pursuant to CDP #9-14-1781 in 2016, the City identified significant scouring under Intake Platform B and implemented temporary repairs authorized by the CDP to stabilize the Platform by placing gravel under the Platform foundation. The other platform, Platform A, is partially protected from the prevailing currents by Platform B, but the City anticipates that both Platforms will need additional long-term stabilization to ensure the intake system can continue to provide seawater to the desalination facility. This current proposed project is meant to provide long-term scour protection for both Intake Platforms A and B.

---

<sup>1</sup> In March 1991, the City approved coastal development permit (“CDP”) #91-CDA-06 for construction and temporary operations of the onshore portions of the facility, and in May 1991, the Commission approved CDP #4-91-18 for construction and temporary operation of facility components within its retained jurisdiction on the beach and in offshore water. In December 1995, the City approved CDP 95-0045 for long-term operation of onshore portions of the facility, and in October 1996, the Commission approved CDP 4-96-119 for long-term operation of portions of the facility within its jurisdiction.

CDP #9-14-1781, issued for the recommissioning, required the City to provide, for Executive Director approval, several Plans to demonstrate what measures the City would implement to avoid and reduce a number of potential project-related adverse impacts to coastal resources. These Plans included:

- an Anchoring Plan to ensure the City would avoid areas of hard substrate and other sensitive habitat types on the seafloor (see [Exhibit 5](#) – Anchor Survey);
- a Turbidity Monitoring Plan to ensure the City would avoid and reduce the project's potential adverse water quality effects (see [Exhibit 6](#) – Turbidity Monitoring and Mitigation Plan);
- a Sensitive Marine Species Monitoring Plan to help ensure project activities would not adversely affect marine mammals or other protective wildlife (see [Exhibit 7](#) – Sensitive Marine Species Monitoring and Mitigation Plan); and,
- a Hazardous Material Spill Prevention and Response Plan describing all measures the City would implement to protect against or respond to spills (see [Exhibit 8](#) – Hazardous Material Spill Prevention and Response Plan).

For this currently proposed repair and maintenance project, the City proposes to implement all relevant provisions of those previously-approved Plans, given that the locations, types of materials used, and planned activities are similar for both projects. As described below, several Special Conditions require the City to update elements of those Plans to reflect current site conditions and to incorporate several differences between the previously-approved project and the current project – for example, the Hazardous Material Spill and Response Plan will be updated to reflect the different types and volumes of hazardous materials and spill response equipment on the current project's vessels.

### **Proposed Project Development and Activities**

The proposed project would first involve having barge-supported divers clean Intake Platform surfaces as needed and place grout bags around the perimeter of each Platform. The divers would drill core holes into the Platform undersides, remove most of the previously placed gravel and some vinyl sheet piles, level each Platform, then inject a tremie grout to fill the voids beneath the Platforms. The grout is specifically designed for underwater work and would be contained within the Platform framework by the grout bags. Divers and support personnel would then install rock aprons around each Platform. The rock aprons would consist of a layer of geotextile fabric anchored in place and topped with several layers of rock (CalTrans RSP Class 3). Each apron would extend about 17 feet from the Platforms and cover about 2,600 square feet of seafloor. To provide stability, the barge would be anchored in place using a four-point mooring. The project would also entail the use of a service tug and various heavy equipment to move rock for the rock aprons. Work would occur during daylight hours only. The City expects these activities to take about two to three months, currently anticipated to be during the fall of 2021.



The City anticipates this repair will provide the Intake Platforms with a 30- to 50-year design life, though the Platforms are likely to require regular maintenance in this marine environment. The City also proposes to conduct maintenance activities as necessary to allow for optimal intake operations, including occasional leveling and grouting along with cleaning and removal of biofouling using hand scraping and high-pressure water. These proposed maintenance activities are part of the project being described and approved pursuant to this permit. However, repair and maintenance activities different than those described herein or that were approved under the previous CDP #9-14-1781 would require a permit amendment.

As noted above, the City proposes to implement the same approved Plans used in its previous recommissioning project for this repair and maintenance project, as the activities proposed herein are similar to those in the 2015 CDP and would occur at the same locations. As described in these Findings, several Special Conditions require that the City update those Plans as appropriate to reflect existing conditions at the work site.

## **B. PERMIT AUTHORITY, EXTRAORDINARY METHODS OF REPAIR AND MAINTENANCE**

Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements repair or maintenance activities that do not add to or expand the object of the repair activities, though it also provides that the Commission may require a permit for repair or maintenance activities that involve the risk of substantial adverse environmental impact and may require reasonable conditions to mitigate any adverse effects on coastal resources. Additionally, the Commission's September 5, 1978 guidance document, "Repair, Maintenance and Utility Hook-Up Exclusions from Permit Requirements" ("1978 Guidance"), describes activities considered to be repair and maintenance and also describes when those activities are exempt from permit requirements. The 1978 Guidance states that no permit is required for repair and maintenance activities, such as those proposed for this project, at existing water and public works facilities that do not alter a facility's service capacity or provide new or increased service to development permitted or exempted under the Coastal Act.

Section 30610 of the Coastal Act provides, in relevant part:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas: ...

(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.

Section 13252 of the regulations (14 CCR 13000 et seq.) provides, in relevant part:

(a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact...

(3) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:

(A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;

(B) The presence, whether temporary or permanent, of mechanized equipment or construction materials.

All repair and maintenance activities governed by the above provisions shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits...

This project requires a permit pursuant to Section 30610(d) because the proposed methods of repair and maintenance are included in Section 13252 of the Commission's regulations as among those that could have a risk of substantial adverse impacts – namely the activities' proximity to coastal waters, the placement of rock and other solid materials, and the presence of mechanized equipment.

In considering a permit application for a repair or maintenance project such as this, the Commission evaluates whether the proposed method of repair and maintenance conforms with the Coastal Act and does not evaluate the underlying development's conformity with the Coastal Act. As conditioned, the method of repair in this case is consistent with the relevant policies of the Coastal Act.

### **C. OTHER AGENCY APPROVALS & CONSULTATIONS**

The project is additionally subject to permits and approvals from the following:

- **City of Santa Barbara:** In April 2021, the City completed an addendum to the Final EIR for City's Emergency Desalination Project (SCH #9010859), March 1991, Final EIR for City's Long-Term Water Supply Program (SCH #91121020), May 1994, and Substantial Conformance Determination, August 2015.
- **Central Coast Regional Water Quality Control Board:** The project will require a Section 401 Water Quality Certification from the Regional Water Quality Control Board.
- **Corps of Engineers:** Nationwide Permit #3 – Maintenance Activities.

[Special Condition 1](#) requires that the City submit proof that it has obtained the above permits or documentation that the permit is not needed.

The project is within an area of State tidelands that were granted in trust to the City and therefore does not require a lease from the State Lands Commission.

#### **D. PROTECTION OF COASTAL WATERS AND SPECIES**

Coastal Act Section 30230 states:

Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Coastal Act Section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Act Section 30232 states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

These Coastal Act policies require that development be conducted in a manner that protects coastal waters, does not result in adverse effects to those waters and their associated coastal resources, and protects against spills of hazardous substances into coastal waters. Project activities at the Intake Platforms would take place about 2500 feet offshore in waters about 30 feet deep. The waters offshore of the City provide a mix of habitat types, including open water, kelp beds, seagrasses (including native eelgrasses *Zostera marina* and *Z. pacifica*, and surfgrasses *Phylospadix torreyi* and *P. scouleri*), soft bottom habitat, and several types of hard bottom substrate. The hard bottom substrate – mostly rocky reef or cobble – are more sensitive to disturbance than the surrounding sandy bottom areas and support a diversity of species not commonly found in the soft bottom areas. Similarly, kelp beds and areas of seagrass are considered a more sensitive resource supporting a diversity of species not found in other nearby habitats. These coastal waters also serve as habitat for numerous marine species, including several types of marine mammals. Pursuant to the federal Magnuson-Stevens Fishery Conservation and Management Act, the offshore waters are

designated as Essential Fish Habitat for several dozen species, including a number that are important for commercial and recreational fishing.

The project's proposed repair and maintenance activities could adversely affect coastal waters, habitats, and species in several ways. The project involves stationing a work barge over the Intake Platforms using a four-anchor mooring system for stability, which could result in the anchors disturbing nearby areas of sensitive benthic habitat, such as rocky substrate or kelp beds. Project activities include underwater drilling and placing rock and other materials on the seafloor, which could result in increased turbidity that would adversely affect nearby water quality. The use of vessels and mechanized equipment create the potential for releasing oil, fuel, or other hazardous materials into offshore waters or onto the beach. Noise from the in-water activities and vessel transit to and from the work site has the potential to cause disturbance or "take" of marine mammals or other protected species in the area of project activities.

As noted above, to avoid or reduce the potential for adverse effects to these coastal resources, the City proposes to implement all relevant measures required in the Plans submitted pursuant to the Commission's approval of a previous CDP issued for similar activities at this location. These Plans and measures are described below.

**Anchoring Plan:** The Intake Platforms are located on the seafloor in an area of primarily soft bottom substrate, with a few areas (less than 10%) of scattered hard cobble and low to moderate concentrations of aquatic vegetation. The proposed activities would require anchoring a work barge for up to about three months near the Platforms. As required by the previously approved Anchoring Plan, the City would use a four-point anchoring system to ensure vessel stability.

The City has conducted several seafloor surveys in the project area. In September 2014, the City surveyed areas around the Platforms to identify nearby benthic habitat types and to locate areas of primarily sandy bottom habitat (i.e., less than 10% hard substrate) where it could place anchors for the work barge while causing minimal disturbance. That survey evaluated eight sites, each about 40 feet in diameter, and found that all were almost entirely sandy or soft sediment with some nearby areas of scattered, low-relief hard substrate. The survey noted no seagrasses in the area but identified areas of other aquatic vegetation, including various red algae species, with an occasional individual giant kelp plant (*Macrocystis pyrifera*) or giant sea palm (*Pterygophora californica*) growing on the nearby hard substrate. The survey also identified an active pipeline within about 50 feet of the intake structures, along with a number of abandoned pipe sections. More recently, the City surveyed the area in preparation for the temporary repairs it conducted at Intake Platform B in 2019.

To ensure the anchoring required for the currently proposed repair and maintenance activities avoids or minimizes effects on hard substrate areas and sensitive vegetation, [Special Condition 2](#) requires the City to implement all relevant provisions of the Anchoring Plan approved pursuant to CDP 9-14-1781. These include conducting dive surveys to identify benthic conditions at potential anchoring sites, including the presence or absence of hard substrate and marine vegetation within those sites, and

identifying whether anchor lines at the proposed sites could affect or avoid entanglement in nearby kelp plants or other marine vegetation. [Special Condition 2](#) also requires that the City conduct a seafloor survey within 60 days of starting project activities to confirm that the previously identified anchoring locations will continue to allow the City to avoid hard bottom substrate and will allow anchor lines and cables to be positioned so as not to scrape across hard bottom areas or affect kelp or seagrasses. [Special Condition 2](#) also requires the City to submit results of this survey for Executive Director review and approval prior to starting the proposed Platform stabilization work and, if previous or new proposed anchoring locations cannot avoid hard substrate or seafloor vegetation, that the City submit an amendment to its CDP application unless the Executive Director determines an amendment is not needed.

**Turbidity Monitoring and Mitigation Plan:** The proposed work would involve disturbance on the seafloor that has the potential to cause adverse turbidity-related impacts in the water column above. The City has included several measures as part of the proposed project meant to avoid or reduce potential turbidity impacts – for example, it will use tremie grout meant for underwater use and will inject it in a manner to allow it to remain within the Intake Platform foundations. It has also proposed to implement measures of the previously approved Turbidity Monitoring and Mitigation Plan that are meant to avoid or reduce turbidity, including requiring the City to provide qualified monitors to conduct ongoing monitoring to ensure any turbidity levels are within thresholds allowed by the California Ocean Plan, to operate equipment at levels that would reduce potential turbidity, and to identify nearby areas of hard substrate, kelp beds, or other sensitive habitat where turbidity and deposition should be avoided. [Special Condition 3](#) requires the City to implement all relevant measures of that previously approved Plan.

**Sensitive Marine Species Monitoring and Mitigation Plan:** Marine mammals can be found year-round in the waters offshore of Santa Barbara. Some pass through during annual migrations, such as gray whales (*Eschrichtius robustus*) during December through April each year and humpback whales (*Megaptera novaeangliae*) in May through September each year. Others, including harbor seals (*Phoca vitulina*) are year-round residents. All these marine mammals are protected under the federal Marine Mammal Protection Act, which prohibits “take,” harm, and harassment of these species. Similarly, several species of protected sea turtles can be found in these coastal waters.

The City has proposed implementing measures of the previously approved Sensitive Marine Species Monitoring and Mitigation Plan as part of the project. That Plan includes measures such as limiting vessel speeds to no more than five miles per hour during all offshore repair and maintenance activities, having two National Marine Fisheries Service-certified marine mammal observers conduct marine mammal monitoring before and during in-water activities, and authorizing the observers to slow or stop work if marine mammals or other sensitive species are observed close to the work area (within 300 feet) or if they exhibit evasive or defensive behaviors during the activities. The Plan also requires the observers to document all observances of these sensitive species and to evaluate the effectiveness of the required monitoring protocols. [Special Condition 4](#) requires the City to implement all relevant measures of the

previous approved Plan and to submit updated information regarding the qualified biologists and observers that will be present during project activities.

**Hazardous Material Spill Prevention and Response Plan:** Project activities would occur directly above, within, and adjacent to coastal waters, and could result in spills of fuel, oil, or other similar hazardous materials. The City has proposed implementing all relevant measures of the previously approved Hazardous Material Spill Prevention and Response Plan, which includes documenting the types and volumes of fuels and hazardous materials used during project activities that could result in a release or spill, monitoring the use of those materials and using Best Management Practices during project activities, maintaining spill prevention and response equipment adequate to respond to a spill, designating an onsite person responsible for implementing the Plan, and maintaining a contact list of regulatory and public trustee agency representatives that would be notified in the event of a release or spill. [Special Condition 5](#) requires the City to implement all relevant measures of that previously approved Plan and to update the Plan as needed to reflect conditions of the proposed project activities – for example, the types and volumes of fuels and hazardous materials, and the spill response equipment needed to respond to those materials, that would be present on vessels, and a current list of agency contacts to be notified in the event of a spill.

### **Conclusion**

With implementation of [Special Conditions 2 through 5](#), the project would be carried out in a manner that would avoid and minimize potential impacts to marine life and coastal water quality and would protect against the spillage of hazardous material releases. The Commission therefore finds that the proposed project, as conditioned, is consistent with the marine life and water quality protection provisions (Sections 30230, 30231, and 30230) of the Coastal Act.

## **E. FILL IN COASTAL WATERS**

Coastal Act Section 30233(a) states, in relevant part:

The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

The Coastal Act allows coastal waters to be filled only for certain types of uses, and only when there are no less environmentally damaging feasible alternatives and when all feasible mitigation measures are provided. The first requirement is that the proposed activity must fit into one of the seven listed categories (i.e., in the “allowable use” test). However, because the project is considered repair and maintenance, as described

previously, only the methods of proposed construction activity are being reviewed; therefore, this “allowable use” test of Section 30233(a) is not applicable.

Regarding potential alternatives, the City, in consultation with Commission staff, considered several alternative options for protecting the existing Intake Platforms. The main options were three variations of adding structural support around the Intake Platforms using vertical steel sheet piles, a modified rock gabion system, or the proposed rock apron (see [Exhibits 9, 10, and 11](#)). All three options involved injecting grout and installing grout bags as part of the overall design.

For the first two alternatives, the City would have installed the sheet piles or gabions to be adjacent to the perimeter of the Platforms and to extend several feet above and below the seafloor. While these options would have resulted in a smaller overall footprint than the selected rock apron design, they would have presented vertical hard surfaces to the prevailing currents at the site. The action of the currents against these surfaces could lead to additional scour and could potentially cause differential settling or could undermine the structural integrity of these designs, resulting in additional disturbance due to a need for increased ongoing maintenance and possibly re-installation. Placing the piles or gabions at other than a vertical angle to reduce the potential for scour was deemed infeasible due to the difficulty of installation next to the existing Platforms. The selected rock apron design covers a somewhat larger area of the seafloor, but has several advantages, including: 1) it does not create a vertical surface that could increase scour, 2) it will allow for some settling and still provide protection to the intake structure, and 3) it will be easier to remove at the end of the project life. The Commission therefore finds that the selected rock apron design is the least environmentally damaging feasible alternative method to conduct the necessary repairs.

Regarding the requirement to mitigate to the extent feasible, the City’s proposal includes a number of measures meant to avoid or reduce potential impacts to coastal resources. As noted above, the rock apron would avoid areas of rocky substrate, kelp beds and other types of unique marine habitats, and instead would be placed on an area of seafloor that is largely soft-bottom habitat, which is ubiquitous in this region. The area covered by the fill would represent a tiny fraction of the soft-bottom habitat in the area and thus would not result in a significant impact on marine species or biological productivity. The City would also reduce potential adverse effects of the grouting by first placing grout bags around the Platform perimeters to contain it within the existing Platform foundations. The placement of fill would also be subject to the Special Conditions requiring the City implement provisions of the Plans identified above in Section IV.D of these Findings, including an Anchoring Plan, Turbidity Minimization and Monitoring Plan, Sensitive Marine Species Monitoring Plan, and a Hazardous Material Spill Prevention and Response Plan. The ongoing maintenance would also be subject to provisions of these Plans. With inclusion of these measures and Plans, the Commission finds that the proposed project would be mitigated to the extent feasible.

## **Conclusion**

Based on the above, and with implementation of the above-referenced Special Conditions, the Commission finds that the proposed project would be consistent with relevant provisions of Coastal Act Section 30233(a).

#### **F. PUBLIC ACCESS, RECREATION, AND VISUAL RESOURCES**

Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30224 states:

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Section 30234.5 states:

The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

Coastal Act Section 30251 states, in relevant part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The above Coastal Act policies require that maximum access to the ocean and coast be provided, that recreational boating use be encouraged, that fishing activities be protected, and that development protect views to and along the coast. The proposed project activities would occur further offshore than where the majority of recreational use occurs, such as beach activities and surfing; however, the work area may be used for recreational fishing and boating. The project would result in temporary but minor limits on recreational access and fishing due to the presence of the work barge and worker activities; however, these affects would last no more than about three months and would encompass a relatively small portion (no more than about two acres) of Santa



Barbara's offshore waters. The presence of the barge and project activities would similarly have a temporary and minor effect on visual resources, as they would be seen from areas to and along the shoreline.

The City has included several measures meant to minimize any adverse effects of project activities on public access and recreation. It will conduct project staging activities either within the desalination facility, which is located somewhat inland of the beach, or at the City's nearby harbor, which generally supports similar equipment and activities. The City anticipates that the project will occur during the fall of 2021, outside of the peak recreational season. Work will occur during daylight hours only, which will minimize the need for offshore lighting and reduce the project's potential visual impacts. Any project-related lighting needed would be directed downward and inward towards the work areas to the extent feasible as needed for safety. To reduce potential conflicts between any fishing or other vessels in the vicinity, the City will provide the timing and location of the project activities to the U.S. Coast Guard to allow the work to be included in a "Notice to Mariners." Therefore, while the activities would represent impacts to access, recreation, and visual resources, these temporary impacts are relatively minor and are consistent with Chapter 3 policies.

### **Conclusion**

Based on the above, the Commission finds that the project, as conditioned, will avoid and reduce its temporary impacts to allow conformity to relevant public access, recreation, fishing, and visual resource policies of the Coastal Act.

## **V. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has the potential to result in significant adverse environmental impacts to a number of coastal resources. The Commission has identified and adopted six special conditions necessary to avoid, minimize, or mitigate these impacts. With the inclusion of these special conditions, the Commission finds that, within the meaning of the California Environmental Quality Act, there are no further feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the proposed project may have on the environment, and there are no remaining significant effects on the environment. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA.

## **APPENDICES**

### **Appendix A – Substantive File Documents**

City of Santa Barbara, Coastal Development Permit Application #9-21-0258, December 2019.

City of Santa Barbara, Coastal Development Permit Application #9-19-1250, December 2019.

City of Santa Barbara, Coastal Development Permit Application #9-14-1781, and associated submittals, March through December 2014.

California Coastal Commission, Coastal Development Permit #4-96-119, issued to the City of Santa Barbara for long-term operation of the Charles E. Meyer Desalination Facility, October 11, 1996.

California Coastal Commission, Coastal Development Permit #4-91-18, issued to the City of Santa Barbara for temporary operation (up to 5 years) of the Charles E. Meyer Desalination Facility, May 9, 1991.