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Th16b

Prepared September 8, 2021 for September 9, 2021 Hearing

To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager
Alexandra McCoy, Coastal Planner

**Subject: STAFF REPORT ADDENDUM for Th16b
CDP Application Number 3-20-0546 (Avila Pier Rehabilitation)**

In the time since the staff report was distributed, the California Department of Fish and Wildlife (CDFW) submitted comments on the staff recommendation for the above-referenced item (see CDFW email dated September 3, 2021 in the correspondence package for this item). Specifically, CDFW staff raises some questions about: (1) sea otter and pinniped exclusion zones; (2) pile driving methods; (3) Oil Spill Contingency Plan requirements; and (4) ACZA-treated pilings with an epoxy/polyurethane coating. Staff notes that staff has been coordinating with CDFW staff on this matter for some time, including due to the special issues associated with the hydrocarbon plume present in the Avila Beach area, and appreciates CDFW's concerns, which staff believes are addressed in the staff report. Thus, the purpose of this addendum is to provide a brief response specific to CDFW, and to make some changes in light of their recommendations, as well as to make one minor clarification to an unrelated issue regarding CDP consolidation. Staff notes that this addendum does not change the basic staff recommendation, which continues to be approval with conditions.

Sea Otter and Pinniped Exclusion Zones

CDFW staff requests clarification as to how the proposed exclusion zones (EZ)¹ for sea otters and pinnipeds (both 100 feet for this project) were determined, indicating that the staff report was unclear as respects EZs for these species. However, as identified in the staff report (see pages 29-33), the Commission typically requires that hydroacoustic surveys be completed to determine the appropriate EZs for projects that include pile driving. In this case, hydroacoustic testing was completed on December 17, 2020 at the nearby Harford Pier, which is also located in San Luis Bay. Given the proximity of the Harford Pier to Avila Pier (i.e., about a mile apart), the similar water depths and substrates at both sites, the similar pile materials, pile diameters, and types of pile

¹ Exclusion zones are defined as the radial distance between the work site and the locations at which the maximum recorded peak sound pressure level (SPL) or cumulative sound exposure level (SEL) falls below the temporary threshold shift (TTS) and permanent threshold shift (PTS) levels for marine wildlife.

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driving equipment that would be used for both projects, Commission staff, including Commission staff ecologists, found that results from the Harford Pier testing could be used as comparable values to what would be expected at Avila Pier. For sea otters and pinnipeds, that testing identified EZs for earless pinnipeds of 10 feet, and eared pinnipeds and sea otters of 2 feet. To err on the precautionary side, the Applicant here proposes much larger EZs than this, 100 feet in each case. As to CDFW's recommendation to consult with USFWS on these EZs, USFWS and NMFS consulted with the U.S. Army Corps of Engineers as part of its review of the project, and actually didn't recommend any EZs for pinnipeds and sea otters for it. Staff believes that the 100-foot exclusion zones are appropriate to protect these marine species.

Pile Driving Method

CDFW staff indicates that the use of a vibratory hammer (instead of an impact hammer) is preferable for pile installation, and staff generally agrees because it generally results in lower underwater noise levels. However, in this case, staff determined that use of a vibratory hammer was not feasible. First, vibratory pile driving equipment is heavier than impact pile driving equipment, and Avila Pier is currently structurally compromised (and thus is currently mostly closed to use as a result). Based on the Applicant's representations, staff concluded that the use of such heavier equipment could further compromise the pier, potentially resulting in further damage and the need for additional pile driving, potentially over or near the subsurface petroleum hydrocarbon plume. Second, the use of a vibratory hammer to install timber piles can result in damage to the pile (because the hydraulic clamps needed to connect the vibratory hammer to the pile can damage the timber), which in turn can lead to compromised piles, the need for additional piles, and potential additional disturbance from pile preservative/coating materials finding their way into the marine environment. In light of the potential for plume disturbance coupled with the potential for further impacts from distressed piles themselves, staff concluded that the use of an impact hammer, provided appropriate BMPs were applied (which generally include those recommended by CDFW),² was appropriate in this case.

Oil Spill Contingency Plan

CDFW staff recommends that the project's Oil Spill Contingency Plan (OSCP) provide additional detail on who will provide OSCP training to employees and contractors involved in the project, and they recommend that further consultation occur with the CDFW's Office of Spill Prevention and Response (OSPR) on this matter. These suggestions are curious to staff given that CDFW's OSPR staff were directly involved in drafting the project's OSCP, including its training requirements. As stated in the staff report on page 39 "The Applicant has worked with CDFW OSPR, the RWQCB, and

² For example, the project includes the use of cushion blocks to reduce sound levels. A bubble screen, as recommended by CDFW, was also considered, but was not required because the available information indicates that underwater sound levels would be expected to be very low, and the 100 and 500 foot EZs are already over ten times larger than would be strictly necessary based on the hydroacoustic testing results, and thus already should provide more than adequate protection. In addition, bubble curtains can be a major undertaking to install and use. For these reasons, staff did not recommend requiring bubble curtains for this project.

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Coastal Commission Oil Spill Program staff to prepare an Oil Spill Contingency Plan (OSCP) for the project.” In fact, the Commission’s Oil Spill Program Coordinator, Jonathan Bishop, worked directly with Melissa Boggs (then a manager at CDFW OSPR, since retired) to craft the OSCP. In other words, the OSCP directly reflects CDFW OSPR input, including as they were co-authors for the document. Staff believes that the OSCP is sufficient to address potential oil spill issues, as described in the staff report starting on page 39.

ACZA Treated Pilings

Finally, CDFW staff expresses concerns regarding the proposed use of ammoniacal copper zinc arsenate (ACZA) wood preservative treated pilings as well as the decay of the proposed marine-grade epoxy/polyurethane coating, and recommends that if ACZA pilings are used that these piles be inspected on at least a yearly basis to confirm the integrity of the coating and to repair any damaged areas. In terms of allowing treated wood piles in this circumstance, and as described in some detail starting on page 23 of the staff report, staff concluded that treated wood was appropriate to maintain engineering integrity³ provided that the least toxicity preservatives were applied and sealed, here determined by Commission water quality staff to be polyurea-coated (to help prevent leaching) ACZA-treated wood piles. As to yearly inspections, the Commission’s ecologists determined that the marine-grade polyurethane coating would encapsulate all portions of the pilings from the mudline to beyond the area in contact with water, and that there was limited potential for impacts. Specifically, there is evidence that concentrations of copper in sediments near pilings in moderately flushed areas do not show accumulation of metals. Because the sediment below Avila Pier is well-flushed due to ongoing tidal and wave action, it is therefore anticipated that such trophic transfer of metals from ACZA-treated piles (i.e., should the coatings prove ineffective) to prey species would not be significant. That being said, staff agrees that a yearly inspection to confirm the integrity of the coating and to repair any damaged areas is a good precautionary principal, and thus adds the following to Special Condition 3 as new subsection g on staff report page 8:

Yearly Inspection. *The Permittee shall at least annually inspect all ACZA-treated and epoxy/polyurethane coated piles to confirm the integrity of the coating and to immediately repair any damaged areas to ensure that all ACZA-treated wood remains completely sealed as part of the inspection process. All such inspections and coating repairs shall be documented in a report provided to the Executive Director for review and approval by December 31st of each year.*

Minor Changes

And finally, as indicated at the onset, the secondary purpose of this addendum is to make one minor correction to the staff report regarding CDP consolidation. Specifically, the staff report and recommendation that was published on August 27, 2021 is modified

³ The Avila Pier is all wood, and only 2 percent of the existing 784 wooden piles are proposed for replacement with this project, and this would create engineering difficulties at the pile replacement locations if wood is not used. If more of the piles were being switched out, it might argue for using a different and more inert pile material as the overall engineering for the pier might change.

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as follows on staff report page 15 (where text in underline format indicates text to be added):

The proposed pier is located entirely within the Commission's retained CDP jurisdiction. Proposed construction staging and access is located in the San Luis Obispo County's CDP jurisdiction, but the County (at the staff level, to be followed up by further concurrence), the Applicant and the Executive Director have agreed to consolidated CDP processing. The standard of review for development within the Commission's retained jurisdiction and for consolidated CDP applications is Chapter 3 of the Coastal Act, with the San Luis Obispo County LCP providing non-binding guidance.