

CALIFORNIA COASTAL COMMISSION

455 MARKET ST, SUITE 300
SAN FRANCISCO, CA 94105
FAX (415) 904-5400
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Th7

Prepared May 6, 2022 (for the May 12, 2022 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 2022**

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 12, 2022. 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 12, 2022.

With respect to the May 12th hearing, interested persons may sign up to address the Commission on items contained in this report prior to the Commission's consideration of this report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on May 12, 2022 (see attached)**Waivers**

- 9-22-0209-W, Temporary deployment of methane seep collectors for a period of three to five days at a depth of approx. 70 feet, approx. 0.6 miles offshore of Goleta (Santa Barbara County).

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

- ND-0010-22, Space Force Space Launch Complex-2 Building Demolition, Vandenberg Space Force Base, Santa Barbara County, Action: Concur, 04/05/2022.
- ND-0011-22 U.S. Army Corps of Engineers Maintenance Dredging of Federal Navigation Channels at Humboldt Bay, Humboldt County, Action: Concur, 05/06/2022.

Administrative Items for Federal Consistency Matters, Negative Determinations

- ND-0015-22, National Park Service drilling of a well to replace the existing well as part of the Laguna Water System at Point Reyes National Seashore, Marin County, Action: Concur, 04/28/2022.
- ND-0016-22, San Diego National Wildlife Refuge Complex contaminant removal in Sweetwater Marsh, San Diego National Wildlife Refuge, San Diego County, Action: Concur, 04/04/2022.
- ND-0018-22, Deployment of Portable Tower at Piedras Blancas, Hearst San Simeon State Park, San Luis Obispo County, Action: Concur, 05/05/2022.
- ND-0019-22, U.S. Army Corps of Engineers modification of Sunset-Surfside Beach Sand Replenishment Phase 13, Los Angeles County, Action: Concur, 04/29/2022.
- ND-0021-22: Cotoni-Coast Dairies Range Improvement Projects, Davenport, Santa Cruz County, Action: Concur, 05/05/2022.
- ND-0022-22, National Park Service installation and maintenance of a riparian exclusion fence at Home Ranch at Point Reyes National Seashore, Marin County, Action: Concur, 04/28/2022.

Emergency Permits

- G-9-22-0020, City of Newport Beach removal of invasive alga *Caulerpa prolifera* in the waters adjacent to Collins Isle, Newport Bay. (Orange County)

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April 29, 2022

Notice of 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: 9-22-0209-W

Applicant: Advanced Cooling Technologies, Inc.

Location: Approximately 0.6-miles offshore Goleta, Santa Barbara County

Proposed Development: Researchers at Advanced Cooling Technologies, Inc. propose to temporarily deploy a methane seep collector device approximately 0.6-miles offshore of Goleta in Santa Barbara County. The methane seep collector would be deployed on the ocean floor at a depth of approximately 70 feet. The methane seep collector would be made of a stainless steel and plastic frame approximately six feet in diameter and 5 feet tall. The methane seep collector would be placed by divers on sandy substrate and secured to the ocean floor using metal weights. Researchers propose to collect methane seep data for three to five days. Following the three to five day data collection period, all instruments would be collected and removed.

Rationale: For the following reasons, the proposed development will not adversely affect coastal resources, public access, or public recreation opportunities, and is consistent with and the relevant Chapter Three policies of the Coastal Act:

- The proposed project area is located outside of any state-designated Marine Protected Areas
- Multiple surveys of the project area show an absence of hard substrate or rocky reef habitat where the ocean floor instruments are proposed to be deployed. Divers would survey the site again prior to deployment to ensure selected sites are on soft bottom sea floor.

Coastal Development Permit De Minimis Waiver
9-22-0209-W

- Sensitive marine habitats including surfgrass (*Phyllospadix scouleri*), eelgrass (*Zostera marina*) and kelp (i.e. *Macrocystis pyrifera*, etc.) beds were not found in the project area during habitat surveys.
- The applicant has submitted an application to the California Department of Fish and Wildlife (CDFW) to receive a General Use Scientific Collecting Permit. Commission staff has coordinated with CDFW staff and confirmed that they have not identified any significant concerns with the project.
- A vessel-based observer would monitor for marine mammals during installation and enforce a safety zone around the project site. Activities that may pose an entanglement or injury risk to marine mammals would not be carried out if any marine mammals are observed within or approaching the safety zone.
- The methane seep collector device would be placed at a depth below substantial wave action and have no loose parts which could contribute to marine debris.
- In the unlikely event that divers find any damage or marine debris from the instruments, the instrument would be repaired and marine debris collected and brought onshore for proper disposal.
- All instruments would be completely removed after no more than five days.
- Deployment would be coordinated with the U.S. Coast Guard in advance of deployment activities.
- The project vessel would have a Spill Prevention and Response Plan and appropriate equipment on board during all project installation, maintenance, and recovery activities.

This waiver will not become effective until reported to the Commission at its May 11-13, 2022 meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Sincerely,

John Ainsworth
Executive Director



(by) Cassidy Teufel
Manager

cc: Commissioners/File

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
FAX (415) 904-5400
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April 5, 2022

Beatrice Kephart
Chief, Installation Management Flight
Department of the Air Force
30 CES/CEI
1028 Iceland Avenue
Vandenberg SFB CA 93437-6010

Re: Negative Determination No. ND-0010-22: Space Launch Complex 2 Building
Demolition, Vandenberg Space Force Base, Santa Barbara County

Dear Beatrice Kephart:

We have received your letter dated January 31, 2022, in which you have determined that the above-referenced proposal to demolish buildings within 50 acres of Space Launch Complex 2 and restore the project area to natural conditions would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0010-22. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations.

Please contact Alexis Barrera at alexis.barrera@coastal.ca.gov if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cassidy Teufel".

CASSIDY TEUFEL
Federal Consistency Coordinator
(for)

JOHN AINSWORTH
Executive Director

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
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May 6, 2022

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

Subject: Negative Determination **ND-0011-22** (2022 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 million cubic yards (with a maximum of 2 million cubic yards) of sediment from the Bar and Entrance channel, with disposal at the Humboldt Open Ocean Disposal Site (HOODS). Dredging and disposal is proposed to take place in May of 2022. 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 2022 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-0007-21 for the 2021 maintenance dredging project, 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. The Corps currently has LiDAR survey data of the North Spit from 2020 and is planning another LiDAR survey for later this year or 2023. Once the LiDAR results are collected, the Corps would conduct a hydrologic and hydraulic (H&H) analysis and then submit a report on the LiDAR analysis to the Commission. Because these surveys are critical for determining disposal alternatives (as discussed in CD-005-18) Commission staff strongly encourages the Corps to take all necessary steps to prioritize and expedite their completion and the associated update to the Humboldt Shoreline Monitoring Program. 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

ND-0011-22 (U.S. Army Corps of Engineers)

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 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. Due to the significant differences in the number and type of fish sampled in the 2019 and 2020 results, the study was repeated for a third year in 2021 and was expanded to include collection of eDNA samples. The third and final FSMP was implemented between March and October 2021 and included 135 individual bottom trawls over 14 trawling events. In contrast to 2019 and 2020, northern anchovy was not the most abundant species in the 2021 survey results. Instead English sole, shiner surfperch, and Pacific sand lance were the three most abundant species. The number of total fish caught in 2021 was similar to 2020, which was much lower than in 2019. In 2019, no federally or state-listed threatened or endangered species were captured. In 2020, one green sturgeon and one longfin smelt were captured. In 2021, two adult green sturgeon were captured. These species are listed as threatened under the federal Endangered Species Act (ESA) and California ESA. 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. The final 2021 FSMP report is expected to be complete in August 2022. 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

ND-0011-22 (U.S. Army Corps of Engineers)

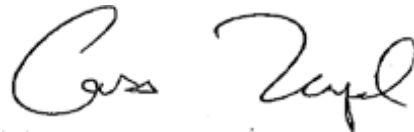
Opinion and Essential Fish Habitat Consultation pertaining to Corps Humboldt Bay maintenance dredging projects.

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. 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 2022 maintenance dredging project will not adversely affect coastal resources.

However as we noted in our previous consistency determinations (CD-0005-18, CD-0001-20, ND-0032-19, and ND-0007-21), 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. Without any progress towards this effort or a reasonable time commitment for implementation, we may have no option but to object to the next negative determination request submitted by the Corps for Humboldt Bay dredging. To avoid such a situation, Commission staff looks forward to Corps staff providing and committing to a definite timeline for completion of the LiDAR survey and update to the Humboldt Shoreline Monitoring Program. We also welcome the opportunity to work 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".

(for)
JOHN AINSWORTH
Executive Director

cc: CCC – North Coast District

CALIFORNIA COASTAL COMMISSION

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY
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April 28, 2022

Craig Kenkel
Superintendent
Point Reyes National Seashore
1 Bear Valley Road
Point Reyes Station, CA 94956

Attn: Brannon Ketcham

Re: Negative Determination No. ND-0015-22 for Drilling a Well to Replace the Existing Well as Part of the Laguna Water System at Point Reyes National Seashore

Dear Mr. Kenkel:

We have received your letter dated March 8, 2022, regarding the above referenced proposal to drill and operate a replacement well as part of the Laguna Water System. You have determined that this activity would have no adverse effects on coastal resources for the reasons identified in Negative Determination No. ND-0015-22. The Coastal Commission staff agrees that the proposed project would not adversely affect coastal zone resources. We therefore concur with your negative determination made pursuant to Section 15 CFR 930.35(a) of the NOAA implementing regulations.

Please contact me at cassidy.teufel@coastal.ca.gov if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cassidy Teufel".

CASSIDY TEUFEL
Federal Consistency Coordinator
(for)

JOHN AINSWORTH
Executive Director

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April 4, 2022

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

Re: Negative Determination No. ND-0016-22: Contaminant Removal in Sweetwater Marsh Unit, San Diego Bay National Wildlife Refuge, San Diego County

Dear Andy Yuen:

We have received your letter dated March 3, 2022, in which you have determined that the above-referenced proposal to remove unauthorized fill of contaminated sediment from an approximately 4-acre area within the Sweetwater Marsh Unit of the San Diego Bay National Wildlife Refuge would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0016-22. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations.

Please contact Alexis Barrera at alexis.barrera@coastal.ca.gov if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cassidy Teufel".

CASSIDY TEUFEL
Federal Consistency Coordinator
(for)

JOHN AINSWORTH
Executive Director

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May 5, 2022

Paul Enriquez
Deputy Director
U.S. Customs and Border Protection
Border Patrol HQ
1300 Pennsylvania Ave NW
Washington, DC 20229

Re: Negative Determination No. ND-0018-22: Deployment of Portable Tower at Piedras Blancas, Hearst San Simeon State Park, San Luis Obispo County

Dear Paul Enriquez:

We have received your letter dated April 8, 2022, in which you have determined that the above-referenced proposal for the deployment of a relocatable tower surveillance system at the Piedras Blancas site for up to one year would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0018-22. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations.

Please contact Alexis Barrera at alexis.barrera@coastal.ca.gov if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cassidy Teufel".

CASSIDY TEUFEL
Federal Consistency Coordinator
(for)

JOHN AINSWORTH
Executive Director

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April 29, 2022

Mr. Eduardo T. De Mesa
Chief, Planning Division
U.S. Army Corps of Engineers
Los Angeles District
ATTN: Mr. Larry Smith, CESPL-PDR-Q
915 Wilshire Boulevard, Suite 930
Los Angeles, California 90017-3489

Re: Negative Determination No. ND-0019-22 for Modification to Sunset-Surfside Beach
Sand Replenishment Phase 13

Dear Mr. De Mesa:

We have received your letter dated February 10, 2022, regarding the above referenced proposal to modify the Sunset-Surfside Beach Sand Replenishment Project Phase 13 by increasing the volume of clean sand to be dredged and placed on the beach from 1.2 million cubic yards to 1.75 million cubic yards. You have determined that this activity would have no adverse effects on coastal resources for the reasons identified in Negative Determination No. ND-0019-22. The Coastal Commission staff agrees that the proposed project would not adversely affect coastal zone resources. We therefore concur with your negative determination made pursuant to Section 15 CFR 930.35(a) of the NOAA implementing regulations.

Please contact me at cassidy.teufel@coastal.ca.gov if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cassidy Teufel".

CASSIDY TEUFEL
Federal Consistency Coordinator
(for)

JOHN AINSWORTH
Executive Director

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May 5, 2022

Ben Blom
Field Manager
Bureau of Land Management
CENTRA Coast Field Office
940 2nd Avenue
Marina, CA 93933

Re: Negative Determination No. ND-0021-22: Cotoni-Coast Dairies Range Improvement Projects, Davenport, Santa Cruz County

Dear Benjamin Blom:

We have received your letter dated April 13, 2022, in which you have determined that the above-referenced proposal for a series of range improvements including replacing livestock fencing and installing water tanks at the Cotoni-Coast Dairies unit of the California Coastal National Monument would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0021-22. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations.

Please contact Alexis Barrera at alexis.barrera@coastal.ca.gov if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cassidy Teufel".

CASSIDY TEUFEL
Federal Consistency Coordinator
(for)

JOHN AINSWORTH
Executive Director

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April 28, 2022

Craig Kenkel
Superintendent
Point Reyes National Seashore
1 Bear Valley Road
Point Reyes Station, CA 94956

Attn: Brannon Ketcham

Re: Negative Determination No. ND-0022-22 for Installation and Maintenance of a
Riparian Exclusion Fence at Home Ranch at Point Reyes National Seashore

Dear Mr. Kenkel:

We have received your letter dated February 23, 2022, regarding the above referenced proposal to install and maintain a livestock exclusion fence at Home Ranch. You have determined that this activity would have no adverse effects on coastal resources for the reasons identified in Negative Determination No. ND-0022-22. The Coastal Commission staff agrees that the proposed project would not adversely affect coastal zone resources. We therefore concur with your negative determination made pursuant to Section 15 CFR 930.35(a) of the NOAA implementing regulations.

Please contact me at cassidy.teufel@coastal.ca.gov if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cassidy Teufel".

CASSIDY TEUFEL
Federal Consistency Coordinator
(for)

JOHN AINSWORTH
Executive Director

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**EMERGENCY PERMIT**

Issue Date: May 6, 2022
Emergency Permit No.: G-9-22-0020

APPLICANT:

City of Newport Beach
c/o Keith Merkel, Merkel and Associates
5434 Ruffin Road
San Diego, CA 92123

LOCATION OF EMERGENCY:

WATERS ADJACENT TO COLLINS ISLE AT THE WESTERN TIP OF BALBOA ISLAND IN NEWPORT BAY

EMERGENCY WORK:

Removal of invasive alga *Caulerpa prolifera* in the waters adjacent to Collins Isle at the western tip of Balboa Island in Newport Bay through hand collection and the use of nets, mesh and PVC barrier material. Divers will use the nets and mesh to facilitate hand removal of *C. prolifera*. Removed *C. prolifera* will be taken to upland areas for disposal. After all pieces of *C. prolifera* are removed, the divers will place PVC barrier material over the approximately 120 square foot removal area along with a 1-meter buffer around the removal area. The PVC barrier will be staked in place using 1.5-foot-long pieces of rebar and sealed to the seabed around the edges with sandbags. The barriers are to be maintained such that anaerobic conditions are developed and maintained in the removal area to cause mortality to remaining *C. prolifera* in the removal area.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. *C. prolifera* is a known invasive marine species with the potential to grow and spread rapidly, resulting in the disturbance and loss of native marine habitats and species. The location of the *C. prolifera* infestation is concerning because vessel traffic can dislodge *C. prolifera* material and easily spread it to other locations in the bay. This potential for rapid spread of a known invasive algae species requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services pursuant to 14 Cal. Admin. Code Section 13009. The Executive Director of the California Coastal Commission hereby finds that:

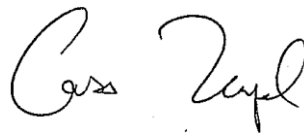
- (a) An emergency exists that requires action more quickly than permitted by the procedures for administrative or ordinary coastal development permits (CDPs), and that the development can and will be completed within 90 days unless otherwise specified by the terms of this Emergency Permit; and

(b) Public comment on the proposed emergency development has been reviewed if time allows.

The emergency work is hereby approved, subject to the conditions listed on the attached pages.

Sincerely,

John Ainsworth
Executive Director

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

By: Cassidy Teufel, Manager

cc:

Coastal Commission, South Coast District Office
Chris Miller, City of Newport Bay
Chris Potter, California Department of Fish and Wildlife
Bryant Chesney, National Marine Fisheries Service
Lia Protopapadakis, U.S. Army Corps of Engineers

Enclosures: 1) Acceptance Form

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Permit Acceptance form must be signed by the APPLICANT and returned to our office within 15 days.
2. Only that work specifically described in this permit and for the specific property listed above is authorized. Work is further limited to the use of techniques described in the "Rapid Response and Eradication Plan for the Invasive Green Alga *Caulerpa prolifera* in Newport Bay." Any additional work requires separate authorization from the Executive Director.
3. All work shall take place in a time and manner to minimize any potential damages to any resources, including eelgrass and benthic invertebrates, and to minimize adverse impacts to public access.
4. The work authorized by this permit must be completed within 90 days of the date of this permit, which shall become null and void unless extended by the Executive Director for good cause.
5. The applicant recognizes that the emergency work is considered temporary and subject to removal or ending unless and until a regular coastal development permit permanently authorizing the work is approved. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include provisions for public access (such as offers to dedicate, easements, in-lieu fees, etc.).
6. In exercising this permit, the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
7. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies, including but not limited to the California Department of Fish & Wildlife, U.S. Fish & Wildlife, U.S. Army Corps of Engineers, and the California State Lands Commission.
8. Within 30 days of issuance of this Emergency Permit, or as extended by the Executive Director through correspondence, for good cause, the applicant shall either: (a) remove all of the materials placed or installed in connection with the emergency development authorized in this Permit and restore all affected areas to their prior condition after consultation with California Coastal Commission staff, and consistent with the Coastal Act. In some instances, a permit may be needed for removal; or (b) submit a complete follow-up Coastal Development Permit (CDP) that satisfies the requirements of Section 13056 of Title 14 of the California Code of Regulations. If the Executive Director determines that the follow-up CDP application is incomplete and requests additional information, the applicant shall submit this

additional information by a certain date, as established by the Executive Director. If such a follow-up CDP application is withdrawn by the applicant or is denied by the Commission, or if the follow-up CDP application remains incomplete for a period of 120 days after the Executive Director informs the applicant that the application is incomplete, the emergency-permitted development shall be removed and all affected areas restored to their prior condition, after consultation with CCC staff and consistent with the Coastal Act, within 30 days, subject to any regulatory approvals necessary for such removal. In some instances, a permit may be needed for removal.

9. Failure to a) submit a complete follow-up CDP Application that complies with Condition 8 above, or b) remove the emergency development and restore all affected areas to their prior condition after consultation with CCC staff, and consistent with the Coastal Act (if required by this Emergency Permit) by the date specified in this Emergency Permit¹, or c) comply with all terms and conditions of the required follow-up CDP, including any deadlines identified therein, or d) remove the emergency-permitted development and restore all affected areas to their prior condition after consultation with CCC staff and consistent with the Coastal Act immediately upon denial of the required follow-up CDP² will constitute a knowing and intentional violation of the Coastal Act³ and may result in formal enforcement action by the Commission or the Executive Director. This formal action could include a recordation of a Notice of Violation on the applicant's property; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties for violations involving public access; and/or a civil lawsuit, which may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day, and other applicable penalties and other relief pursuant to Chapter 9 of the Coastal Act. Further, failure to follow all the terms and conditions of this Emergency Permit will constitute a knowing and intentional Coastal Act violation.

¹ In some instances, a permit may also be required for removal.

² As noted above, in some instances, a permit may also be required for removal.

³ The Coastal Act is codified in sections 30000 to 30900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.