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STAFF REPORT: REGULAR CALENDAR

Application No.:	**9-23-0548**
Consistency Certification No.:	**CC-0002-23**
Applicant:	**Seren Juno Network America, Inc.**
Location:	In state and federal waters offshore of San Luis Obispo County to the edge of the outer continental shelf; and at an existing landing at Pismo State Beach in Grover Beach, San Luis Obispo County.
Project Description:	Install and operate one submarine fiber optic cable extending from one of four existing landing pipes in Gover Beach through state and federal waters and terminating in Japan. The project would also install and operate one ocean ground bed system located below ground within the gravel parking lot for Pismo State Beach.
Commission Action:	Approval with conditions (CDP); Conditional concurrence (Consistency Certification).

SUMMARY OF COMMISSION ACTION

Seren Juno Network America, Inc. (JUNO) proposes to install and operate one fiber optic cable (extending through state and federal waters and ultimately terminating in Japan) as the third part of a multi-phase project to install and operate up to four trans-Pacific submarine fiber optic cables with landings in Grover Beach (**Exhibit 1**). The proposed project would begin by installing the cable within the existing landing site located at the parking lot adjacent to Fin's Seafood Restaurant on West Grand Avenue and continuing through the existing landing pipes to approximately 3,600 feet offshore where the cable would then continue along the seafloor to the outer continental shelf (OCS). The landward side of the cable would connect to existing terrestrial infrastructure previously approved by the City of Grover Beach. At the conclusion of this project, one (of four) landing pipes authorized under CDP 9-20-0275-A1 would remain available for future use. The project also includes installation of an ocean ground bed (OGB) onshore to provide cathodic protection and electrical grounding of the fiber optic cable.

Because the project would extend through the state waters portion of the coastal zone and into federal waters, JUNO submitted both a CDP application (for the portion within the coastal zone) and a consistency certification (for the portion seaward of the coastal zone) for it. This consolidated staff report includes an analysis of both aspects of the project.

The key Coastal Act issues raised by this project are the potential for adverse impacts to marine resources and commercial fishing. To minimize adverse effects to marine resources, Commission staff recommends the Commission adopt several conditions designed to protect marine habitats and sensitive species. These include **Special Condition 4** requiring JUNO to submit a Marine Wildlife Monitoring and Contingency Plan (MWMCP), **Special Condition 5,** which requires the cable to be buried to a depth of one meter, and **Special Condition 6,** which requires JUNO to avoid and eliminate cable suspensions. **Special Condition 12** would require JUNO to eventually remove the cable from state waters. In addition, **Special Conditions 13** and **14** would require JUNO to quantify any impacts on hard bottom substrate and provide mitigation for those impacts through payment of a hard bottom mitigation fee to be used to remove abandoned and derelict fishing gear from waters off of California. Further, **Special Condition 15** would require JUNO to submit plans to protect against the discharge of hazardous and non-hazardous substances into the marine environment. With these conditions in place, staff recommends that the Commission find that the proposed project is consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

The proposed project also has the potential to result in conflicts with, and adverse impacts to, commercial and recreational fishing. To minimize this potential, **Special Conditions 7, 8**, **9** and **18** would require JUNO to notify fishermen of the location of the installed cable and any areas of exposed or suspended cable as well as to adhere to the requirements included in the Fishing Agreement (as defined in **Special Condition 18**) between fiber optic cable companies and the fishing industry. As conditioned, staff

recommends that the Commission find that the proposed project protects commercial and recreational fishing interests and, therefore, is consistent with Coastal Act Section 30234.5.

The motions and resolutions to carry out this recommendation are on page 5. The standard of review for both is Chapter 3 of the Coastal Act.

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APPENDICES

EXHIBITS

I. MOTIONS AND RESOLUTIONS

1. Coastal Development Permit

Motion:

I move that the Commission **approve** Coastal Development Permit No. 9-23-0548 pursuant to the staff recommendation.

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 Coastal Development Permit 9-23-0548 and adopts the findings set forth below on 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 either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

2. Consistency Certification

Motion:

*I move that the Commission **conditionally concur** with Consistency Certification CC-0002-23 on the grounds that, if modified in accordance with the conditions listed in the staff report, the project described therein would be consistent with the enforceable policies of the California Coastal Management Program (CCMP).*

Staff Recommendation:

Staff recommends a YES vote on the motion. Passage of this motion will result in a concurrence with the consistency certification and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.

Resolution to Conditionally Concur with Consistency Certification:

> *The Commission hereby conditionally concurs with Consistency Certification CC-0002-23 on the grounds that, if modified in accordance with the conditions listed in the staff report, the project described therein would be consistent with the enforceable policies of the CCMP.*

II. APPLICANT'S CONSISTENCY CERTIFICATION

Seren Juno Network America, Inc. has certified that the proposed activity complies with the California Coastal Management Program and will be conducted in a manner consistent with such program.

III. STANDARD CONDITIONS

The Coastal Development Permit (CDP) No. 9-23-0548 is granted 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 an extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or 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.

IV. SPECIAL CONDITIONS

Both CDP No. 9-23-0548 and Consistency Certification (CC) No. CC-0002-23 are subject to the following special conditions:

1. **Performance Bond.** PRIOR TO ISSUANCE OF THIS PERMIT, the Permittee shall provide a surety bond or other security device guaranteed by the Permittee and acceptable to the Executive Director of the Commission (hereinafter Executive Director), for $500,000, and naming the Commission as the assured, to guarantee the faithful observance and performance of the applicant of the terms and conditions of this permit. The surety bond or other security device shall be maintained in full force and effect at all times until the cable has been removed pursuant to **Special Condition 12** of this permit.

2. **Other Agency Review and Approval.** PRIOR TO COMMENCEMENT OF PROPOSED CONSTRUCTION AND/OR CABLE INSTALLATION ACTIVITES, the Permittee shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, and/or authorizations for the project have been granted, including the final authorization from U.S. Army Corps of Engineers. Any changes to the approved project required by these agencies shall be reported to the Executive Director. No changes to the approved project shall occur without an amendment to this permit unless the Executive Director determines that no amendment is legally necessary.

3. **Mitigated Negative Declaration Mitigation Measures.** This permit incorporates as conditions those mitigation measures identified in the Mitigated Negative Declaration (approved in April 2020 and amended in April 2022) for the RTI Infrastructure, Inc. Grover Beach Subsea Fiber Optic Cables Project (State Clearinghouse No. 2020040309) concerning marine habitats, biological resources, fishing, public access, cultural resources and hazards that are attached to this report as **Exhibit 7.**

4. **Marine Wildlife Monitoring and Contingency Plan (MWMCP**). AT LEAST 60 DAYS PRIOR TO THE START OF CABLE INSTALLATION ACTIVITIES, the Permittee shall prepare an MWMCP for review and approval by the Executive Director. The Permittee shall implement the MWMCP during all marine operations (e.g., cable installation, post-lay inspection, burial, maintenance and repair, retrieval of entangled fishing gear, and inspection surveys). The MWMCP shall include the following elements, and shall be implemented consistent with vessel and worker safety:
   - Prior to the start of offshore activities, the Permittee shall provide awareness training to all Project-related personnel and vessel crew, including viewing of an applicable wildlife and fisheries training video, on the most common types of marine wildlife likely to be encountered in the Project area and the types of activities that have the most potential for affecting the animals.
   - A minimum of two National Marine Fisheries Service (NMFS)-qualified marine mammal observers shall be located on the cable installation vessel (CIV) to conduct observations, with two observers on duty during all cable installation activities. The MWMCP shall identify any scenarios that require an additional observer on the CIV or other Project vessel and, in these cases, make

recommendations as to where they should be placed to ensure complete coverage of the surrounding marine environment.

- Shipboard observers shall submit a daily sighting report to the Executive Director no later than noon the following day, provided that electronic communications from the CIV are available, that shall be of sufficient detail to determine whether observable effects to marine mammals are occurring. A compilation of all daily sighting reports shall also be submitted to the Executive Director within one week of the completion of project activities.
- The observers shall have the appropriate safety and monitoring equipment adequate to conduct their activities (including night-vision equipment).
- The observers shall have the authority to stop any activity that could result in harm to a marine mammal or sea turtle. For monitoring purposes, the observers shall establish a 1,640 foot (500 meter) radius avoidance zone around the CIV and other Project vessels (if required by the MWMCP) for the protection of large marine mammals (i.e., whales) and a 500-foot (152-meter) radius avoidance zone around the CIV and other project vessels (if required by the MWMCP) for the protection of smaller marine mammals (i.e., dolphins, sea lions, seals, etc.) or sea turtles. The plan shall describe the measures taken to prevent activities from occurring within the applicable avoidance zones.
- In the event that a whale becomes entangled in any cable or lines, the observer shall immediately notify NMFS and the Executive Director, so appropriate response measures can be implemented. Similarly, if any harassment or harm to a marine mammal occurs, the observer shall immediately notify the Executive Director, NMFS and any other required regulatory agency.
- While cable is being deployed, cable-laying vessel speeds shall be limited to less than two nautical miles per hour (knots), with the speed of Project support vessels while assisting the cable-laying vessel limited to three to five knots, to minimize the risk of collisions with marine mammals and sea turtles.
- Propeller noise and other noises associated with cable laying activities shall be reduced or minimized to the extent feasible.
- The captain of the CIV and the Permittee's Project management team shall be responsible for ensuring that the MWMCP is implemented.
- A final report summarizing the results of monitoring activities shall be submitted to the Executive Director and other appropriate agencies no more than 90 days following completion of cable installation and retrieval activities. The report shall include: (a) an evaluation of the effectiveness of monitoring protocols and (b) reporting of: (i) marine mammal, sea turtle, and other wildlife sightings (species and numbers); (ii) any wildlife behavioral changes; and (iii) any project delays or cessation of operations due to the presence in the project area of marine wildlife species subject to protection.

5. **Cable Burial Depth**. The cable shall be buried beneath the seafloor to a depth of one meter in waters 1,800 meters or less in depth, except where precluded by

seafloor substrates. Where a one-meter burial depth cannot be achieved, the Permittee shall bury the cable to the maximum depth feasible.

6. **Avoid and Eliminate Cable Suspensions**. AT LEAST 60 DAYS PRIOR TO THE START OF CABLE INSTALLATION ACTIVITIES, the Permittee shall prepare a Cable Slack Management Plan for review and approval by the Executive Director. The plan shall include the following elements to avoid and eliminate cable suspensions:
   - During cable surface-lay operations, the Permittee shall employ a remotely-operated vehicle (ROV) to track cable-lay operations and provide real-time ROV video feed to the cable ship.
   - If the ROV video feed identifies a suspended segment of cable that can be eliminated or minimized by repositioning or introduction of additional cable slack, the Permittee shall recover the cable and reinstall it using the methods outlined in the cable slack management and in accordance with **Special Condition 5**.
   - During post-lay inspection and burial operations, the Permittee shall use an ROV to reposition and/or bury to one meter any suspended or exposed cable segment in waters 1,800 meters or less in depth, unless precluded from doing so by seafloor substrates.

7. **Notification of Exposed Cable**. During cable installation activities, the Permittee shall submit to (a) the Executive Director, (b) the U.S. Coast Guard (for publication in a Notice to Mariners), and (c) the signatories of the Fishing Agreement (see **Special Condition 18**), weekly notices containing preliminary as-built coordinates of any unburied or exposed sections of cable. The Permittee shall also make radio broadcast announcements on the local fishers' emergency radio frequency that provide the current cable installation location and a toll-free number that can be called for additional information.

8. **As-Built Documentation**. Within 45 days of the date of completion of the marine cable installation approved under this permit, the Permittee shall submit to the Executive Director and the signatories of the Fishing Agreement (see **Special Condition 18**) the following: (a) as-built plans in writing (Route Position List) and alignment or strip charts depicting bathymetry, seafloor substrates or features, seabed profile, depth of cable burial below the seafloor, and cable tension; (b) electronic as-built plans (in a format to be determined by the Fishing Agreement signatories); and (c) as-built cable plans overlaid on National Oceanic and Atmosphere Administration (NOAA) navigation charts. The cable location shall be obtained by an acoustic navigation system linked to a surface differential global positioning system. The transponder for the acoustical navigational system shall be mounted on the equipment used for cable burial. The cable shall be considered installed the day after the last day of post-lay inspection burial operations.

9. **Changes to Nautical Charts:** WITHIN 30 DAYS OF THE DATE OF COMPLETATON OF ALL IN-WATER CONSTRUCTION APPROVED UNDER

THIS PERMIT, the Permittee shall provide written verification to the Executive Director that the Permittee has submitted project-related information to NOAA to be included on area nautical charts. Information submitted shall include as-built drawings, blueprints, or other engineering documents which depict the completed development; geographic coordinates of the location, using a Differential Geographic Positioning System (DGPS) unit or comparable navigational equipment; and the Permittee's point of contact and telephone number.

10. **Cable Installation Report**. WITHIN 60 DAYS OF DATE OF COMPLETION OF ALL CABLE INSTALLATION APPROVED UNDER THIS PERMIT, the Permittee shall submit to the Executive Director a cable installation report containing, at minimum, the following: (a) a summary of pre-lay, cable-laying, and burial methods used; (b) a summary of slack control equipment and methods applied during cable installation; (c) results from the post-lay burial survey indicating the depth of burial achieved along the cable route; (d) identification of any areas of cable suspension greater than one meter from the seafloor and a description of why cable could not be re-routed to avoid suspended cable; (e) a map depicting the cable route and indicating areas where the cable could not be buried and where cable suspensions of greater than one meter from the seafloor are present; (f) an evaluation of the consistency of cable installation with the project description and applicable special conditions of this permit; and (g) a description of any observed fishing activity during the pre-lay and cable installation project phases.

11. **Cable Surveying** Immediately following the end of the fifth year from the date of completion of all cable installation approved under this permit, the Permittee shall survey those portions of the cable route from the mean high tide line to where project operations extend into federal waters out to the 1,800-meter depth contour to verify that the cable has remained buried consistent with the cable installation report required by **Special Condition 10**. The survey shall be conducted by a third party, approved by the Executive Director, using an ROV equipped with video and still cameras. Within 30 days of survey completion, the Permittee shall submit to the Executive Director a report describing the results of the survey (including still images) and a copy of the video recorded during the cable survey. The video shall include a display that identifies the date, time, position, water depth, and heading of the ROV.

    a. If the initial five-year cable installation survey demonstrates no significant change in cable burial status, then the Permittee shall not be required to conduct a follow-up cable survey except after any event that has the potential to affect the cable. "Event" for the purposes of this condition is defined as: an incident or activity (such as a gear snag), the circumstances of which indicate the likelihood that the previously buried cable has become unburied; an act of God, such as a severe earthquake in the vicinity of the cable that could cause deformation of the sea floor or underwater landslides; or any other significant event that could cause excessive ocean floor scouring. The Permittee shall notify the Executive Director in writing within ten days of the reporting or other

identification of a qualifying event. This notification shall describe the location and nature of the qualifying event and the proposed survey, including survey location and timing. Following Executive Director approval of the proposed survey, the applicant shall schedule a survey at the soonest available opportunity, subject to vessel availability, weather conditions, and related operational conditions affecting the survey. Immediately following the end of the fifth year after the initial cable survey, and once every five years thereafter, in the absence of an event that would trigger a cable survey as described above, the Permittee shall submit a written statement to the Executive Director confirming that no qualifying event has occurred since the prior cable survey and that no other conditions or changes have occurred that would affect the burial status of the segments of the cable that were documented as buried in the post-lay survey and subsequent cable surveys.

b. If the Executive Director determines that the initial five-year survey demonstrates that a segment(s) of a cable is no longer buried consistent with the cable installation report required by **Special Condition 10**, the Permittee shall, within 30 days of survey completion, submit to the Executive Director for review and written approval a plan to re-bury that cable segment(s). Upon approval of the plan by the Executive Director, the Permittee shall proceed to implement the plan in accordance with the time schedule specified therein. The Permittee shall also be required to conduct additional cable burial surveys within five years of the initial survey and every five years thereafter and to re-bury any unburied cable identified in such surveys consistent with this special condition.

12. **Cable Removal**. WITHIN 90 DAYS OF EITHER TAKING A CABLE OUT OF SERVICE, or within 90 days after the expiration of the Permittee's State Lands Commission lease, or expiration of any amendments that would extend the lease period, or within 90 days after any early termination of the lease, whichever occurs first, the Permittee shall apply for an amendment to this permit to remove the cable(s) from the territorial waters of the State of California. Upon approval by the Commission of the permit amendment, the applicant shall implement the cable removal project authorized by the amendment in accordance with the time schedule specified therein.

13. **Hard Bottom Seafloor Study.** WITHIN 60 DAYS OF ALL CABLE INSTALLATION APPROVED UNDER THIS PERMIT, the Permittee shall submit to the Executive Director for review and approval the results of a Hard Bottom Study that quantifies the extent of hard bottom substrate, if any, that is impacted by the installed cable out to the edge of the outer continental shelf. The study will use data collected during cable installation and/or post-lay burial operations to determine areas where the cable is in direct contact with or is suspended above hard bottom substrate. At least 30 days prior to the cable installation work, the Permittee shall submit to the Executive Director for review and approval a proposed methodology for collecting the necessary data and calculating the hard bottom impact. Still-photographs of representative habitat shall be taken in any

area of rocky substrate traversed by the cable. The survey shall quantify the extent of exposed rocky substrate, including type and relief along the cable corridor and the height and length of any cable suspended over rocky or soft substrates at heights greater than one meter from the seafloor.

14. **Hard Bottom Mitigation Fund.** The Permittee shall compensate for all project-related impacts to hard bottom habitat, if any, through payment of a compensatory hard bottom mitigation fee to be used to remove derelict fishing gear and other marine debris from waters in the Southern California Bight. This work will be carried out pursuant to a Memorandum of Agreement (MOA) by and between the California Coastal Commission and the Regents of the University of California on behalf of the UC Davis Wildlife Health Center's California Lost Fishing Gear Recovery Project.

    The amount of the hard bottom mitigation fee shall be calculated by applying a 3:1 mitigation ratio to the total square footage of impacted hard bottom and then multiplying that acreage by a compensation rate of $17.87 per square foot. The total square footage of hard bottom impacted shall be calculated by multiplying the linear distance of cable laid on or suspended over hard bottom by twice the width of the cable. The fee shall be paid to the UC Davis Wildlife Center within 30 calendar days of the approval of the Executive Director of the results of the hard bottom study required by **Special Condition 13**. The applicant shall provide evidence of this payment to the Executive Director within the same time frame.

15. **Spill Prevention and Response Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Project-specific Spill Prevention and Response Plan to the Executive Director for review and approval. The Plan shall identify the worst-case spill scenario and demonstrate that adequate spill response equipment will be available. The Plan also shall include preventative measures the Permittee will implement to avoid spills and clearly identify responsibilities of onshore and offshore contractors and the Permittee personnel and shall list and identify the location of oil spill response equipment (including booms), appropriate protocols and response times for deployment. Petroleum-fueled equipment on the main deck of all vessels shall have drip pans or other means of collecting dripped petroleum, which shall be collected and treated with onboard equipment. Response drills shall be in accordance with Federal and State requirements. Contracts with off-site spill response companies shall be in place and shall provide additional containment and clean-up resources as needed.

16. **Critical Operations and Curtailment Plan (COCP).** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Final COCP to the Executive Director for approval. The COCP shall define the limiting conditions of sea state, wind, or any other weather conditions that exceed the safe operation of offshore vessels, equipment, or divers in the water; that hinder potential spill cleanup; or in any way pose a threat to personnel or the safety of the environment. The COCP shall provide for a minimum ongoing five-day advance

favorable weather forecast during offshore operations. The plan shall also identify the onsite person with authority to determine critical conditions and suspend work operations when needed.

17. **Marine Discharge**. There shall be no marine discharge of sewage or bilge/ballast water from vessels either installing or repairing the cable. A zero-discharge policy shall be adopted for all project vessels.

18. **Compliance with Fishing Agreement Requirements**. The Permittee shall adhere to all requirements set forth in the Central California Joint Cable Fisheries Liaison Committee Joinder Agreement ("Fishing Agreement") provided in **Exhibit 6** and updated by the September 29, 2023 Central California Joint Cable/Fisheries Liaison Committee's resolution that joined the JUNO cable in the Fishing Agreement. In a manner consistent with the requirements of the Fishing Agreement, the Permittee shall comply with all deadlines for payment, reimbursement, and compensation of all expenses of the Cable Committee and Cable Committee representatives, as approved by the Cable Committee in its Annual Budget, and shall abide by all other terms of the Fishing Agreement. Additionally, the Permittee shall annually provide to the Executive Director financial reports from the Cable Committee pursuant to the Fishermen's Agreement, including, but not limited to balance sheets; income and expense statements; list of all transactions, list of all grant fund requests, awards, and disbursements; and lost gear claims from any fishermen. In addition, upon written request by the Executive Director, the Permittee shall use reasonable best efforts to provide the Executive Director with requested information and documents concerning operation and management of the Commercial Fishing Industry Improvement Fund of the Fishing Agreement.

19. **Cable Repairs**. The Permittee shall provide notice of proposed cable repairs in writing to the Executive Director and in a U.S. Coast Guard Notice to Mariners no less than 15 days prior to any cable repair or maintenance activity, or as soon as possible for emergency repairs.

20. **Cable Entanglements and Gear Retrieval**. In the event that fishing gear snags a cable and is cut or lost, or that any other type of entanglement occurs (e.g., involving a whale), the Permittee shall use all feasible measures to retrieve the fishing gear or inanimate object. In the event of an entanglement involving a whale, the Permittee shall notify the NOAA stranding coordinator. The Permittee shall notify the Executive Director within 48 hours of its knowledge of gear loss or other cable entanglement. Retrieval shall occur no later than six weeks after discovering or receiving notice of the incident, unless otherwise authorized by the Executive Director. If full removal of gear is not feasible, the Permittee shall remove as much gear as practicable to minimize harm to wildlife (e.g. fishes, birds, and marine mammals). Within two weeks of completing the recovery operation, the Permittee shall submit to the Executive Director a report describing: (a) the nature of and location of the entanglement (with a map), and

(b) the retrieval method used for removing the entangled gear or object or the method used for minimizing harm to wildlife if gear retrieval proves infeasible.

21. **Elimination of Future Hazards.** Within 30 days of discovering that a project component installed in terrestrial, beach or intertidal areas and approved under this CDP has become unburied, the Permittee shall rebury the project components or, if reburial is infeasible, it shall submit a complete application to amend this CDP to seek approval for a different course of action.

V. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

Seren Juno Network America, Inc. (JUNO) proposes to install and operate one fiber optic cable as the third part of a multi-phase project to install and operate up to four transpacific submarine fiber optic cables landing at Pismo State Beach in the City of Grover Beach with the purpose of connecting the United States to parts of Asia and/or Australia (**Exhibit 4**). The proposed cable, known as the JUNO Subsea Cable Project, would extend through state and federal waters and connect to Japan. The proposed project includes the installation of the cable through a pre-existing landing pipe that extends belowground approximately 3,600 feet offshore from the cable landing site before exiting on the seafloor (**Exhibit 2**). The proposed cable would connect with terrestrial fiber optic cable infrastructure within the jurisdiction of the City of Grover Beach and both the cable and the proposed "ocean ground bed" would be located in a dirt parking lot adjacent to and east of Fin's Seafood Restaurant. The landing pipes being used for this proposed project are currently in place and were approved and installed under CDP No. 9-20-0275-A1 using horizontal directional drilling techniques. The seven-inch diameter pipe for this project is approximately 4,675 feet long and daylights on the seafloor 3,600 feet offshore. The pipe is buried approximately 35 feet below the ocean bottom and surface offshores in a water depth of approximately 50 feet.

The project would also include installation and use of an ocean ground bed[1] (OGB), which would be used for cathodic protection to control corrosion and to provide a ground for the electrification of the cable. The OGB would be located within the dirt portion of the Pismo State Beach Parking lot and would be approximately 50 feet long. An excavator or similar equipment would be used to excavate the trench down to a depth of six feet followed by installation of the OGB. Following the completion of installation of the OGB the area would be backfilled, restored to original grade and returned to use for parking.

[1] Ocean Groundbeds (OGBs) were authorized under CDP 9-20-0275-A1. However, they are typically installed concurrently with the cable landing. Installation of OGBs will take place in proximity of the landing manholes in the existing dirt parking lot. All conditions applicable to the aforementioned permit remain in effect.

JUNO proposes to install the cable along the alignment shown in **Exhibit 4**. As illustrated in **Exhibits 3 and 5** this alignment was selected to avoid, to the extent feasible, marine protected areas such as the Point Buchon State Marine Reserve and Point Buchon State Marine Conservation Area as well as sensitive marine habitats including seagrass, rocky reefs, and kelp beds.

Before installation, JUNO would conduct a pre-lay grapnel run to clear seafloor debris from the cable corridor. Anything that the grapnel snags, such as discarded fishing gear, would be retrieved and disposed of onshore.

Following the pre-lay grapnel run and beginning at the seaward extent of the installed bore pipe, JUNO would install the cable. Divers, Remotely Operated Vehicles (ROVs), or a cable plow towed by the cable lay vessel would be employed, depending on water depths. The installation would occur by creating a furrow under the cable, allowing the cable to drop into the furrow, and allowing disturbed sediments to resettle, burying the cable to a depth of three to four feet (1 to 1.2 meters). Where the plow is not able to achieve the targeted burial depth due to bottom conditions, an ROV would attempt to bury the cable. In waters deeper than 5,904 feet (1,800 meters), the cable would be laid directly on the seafloor. In instances where the JUNO cable would cross another, existing fiberoptic cable, the JUNO cable would be surface laid on the seafloor and not buried within approximately 3,000 feet on either side of the crossing point. Instead, a ROV with water jets would jet the cable into the seafloor.

JUNO estimates that construction of the proposed project would take approximately 15 weeks on a 24 hours per day and seven days per week schedule. Work within the gravel parking area, including installation of the OGB, would take approximately one month. Once installed, the marine and terrestrial portions of the fiber optic cable do not require routine maintenance. However, damage caused by saltwater intrusion into the conduit, anchors, or snagged fishing gear could result in a fault that would need to be repaired. Repairs would be subject to additional Commission review and could include cable recovery by use of a grapnel, divers, and/or an ROV, depending on water depths. Once at the ocean surface, the cable would be repaired and then reburied in its original position to the extent practicable.

JUNO estimates that the cable would have a life of 25 years. Within 90 days of either taking the cable out of service or expiration of the project lease, JUNO would notify the City of Grover Beach, the Commission, and other agencies of the proposed disposition of the inactive cable.

B. Prior Fiber Optic Cable Projects Approved by the Commission

Since 2016, the Commission has approved the following fiber optic cable projects in northern, central and southern California. A variety of fiber optic cable projects were also approved by the Commission prior to 2016:

- In July 2016, the Commission approved the installation of a fiber optic cable offshore of Hermosa Beach in Los Angeles County and the construction of two landing sites in Hermosa Beach with a total capacity of four cables (CDP/Consistency Certification No. 9-16-0160/CC-0001-16).
- In February 2018, the Commission approved a fiber optic cable and 4-cable landing site at Dockweiler State Beach in Los Angeles County (CDP/Consistency Certification No. 9-17-0389/CC-0004-17).
- In November 2018, the Commission approved a second fiber optic cable at Dockweiler State Beach (CDP/Consistency Certification No. 9-18-0647/CC-0006-18).
- In February 2019, the Commission approved a second fiber optic cable at Hermosa Beach (CDP/Consistency Certification No. 9-18-0593/CC-0008-18).
- In March 2019, the Commission approved a third fiber optic cable at Hermosa Beach (CDP/Consistency Certification No. 9-18-1211/CC-0010-18).
- In February 2020, the Commission approved a fourth fiber optic cable at Hermosa Beach (9-19-0880/CC-0004-19).
- In August 2020, the Commission approved a fiber optic cable and 4 landing pipes at Grover Beach in San Luis Obispo County (9-20-0275-A1/CC-0002-20). This permit was amended in September 2022 to adjust the locations of landing pipes 3 and 4 approximately 450 southeast of their originally permitted locations.
- In August 2021, the Commission approved two fiber optic cables extending from Samoa Beach in Humboldt County (CDP/Consistency Certification No. 9-21-0165/CC-0004-21).
- In October 2022, the Commission approved one fiber optic cable extending from Grover Beach in San Luis Obispo County (CDP/Consistency Certification No. 9-22-0318/CC-0004-22).

C. Other Agency Approvals and Tribal Consultations

Regional Water Quality Control Board – Central Coast Region (RWQCB)
The RWQCB regulates waste discharges and placement of fill materials into receiving waters in the project area. On September 26, 2023, the RWQCB waived its authority to act on the project.

U.S. Army Corps of Engineers (Corps)
The Corps has regulatory authority over the project under Section 10 of the Rivers and Harbors Act of 1899 (*33 U.S.C. 1344*) and Section 404 of the Clean Water Act (CWA) (*33 U.S.C. 1344*). The Applicant received federal conditional authorization from the Corps for the proposed project on September 29, 2023. This authorization is contingent upon Commission authorization of the proposed project.

California State Lands Commission
The California State Lands Commission (CSLC) has lease authority over the proposed cable route in state waters and is the CEQA lead agency for the project. SLC certified a Mitigated Negative Declaration for the project and approved the issuance of a seafloor

lease at its June 23, 2020, meeting. CSLC certified an Addendum to the Mitigated Negative Declaration at its hearing on April 16, 2022. The addendum concluded that no new adverse environmental impacts would result from the changed location of two bore pipes associated with the terrestrial portions of the project. On October 19, 2023, the project was granted a 25-year lease by the SLC, beginning October 19, 2023.

California Department of Parks and Recreation
JUNO received an easement and special use permit from the California Department of Parks and Recreation, which was issued in July 2020 and remains in effect.

City of Grover Beach
On June 24, 2020, the City of Grover Beach approved a Coastal Development Permit for the terrestrial portion of the project within the jurisdiction of its certified Local Coastal Program. This permit remains in effect.

Tribal Outreach and Consultations
During the review of this project, Commission staff reached out to representatives from the following Native American Tribes understood to have current or historic connections to the project area: the Barbareno/Ventureno Band of Mission Indians; Chumash Council of Bakersfield; Coastal Band of the Chumash Nation; Northern Chumash Tribal Council; Salinan Tribe of Monterey and San Luis Obispo Counties; San Luis Obispo County Chumash Council; Santa Ynez Band of Chumash Indians; Tule River Indian Tribe; Xolon-Salinan Tribe; and yak tityu tityu yak tilhini – Northern Chumash Tribe. Contact information for these Tribal representatives was provided by the Native American Heritage Commission (NAHC).

Commission staff received one request for consultation from the Santa Ynez Band of Chumash Indians. The Tribal representatives of the Santa Ynez Band of Chumash Indians requested that ground disturbance activities be accompanied by a Tribal monitor and did not express concern with the staff recommended CDP conditions and MND mitigation measures. Additionally, Commission staff received responses from four tribes: the Salinan Tribe of Monterey and San Luis Obispo Counties, the yak tityu tityu yak tilhini – Northern Chumash Tribe, the Santa Ynez Band of Chumash Indians and the Northern Chumash Tribal Council. Each of the tribes requested that ground disturbance activities be accompanied by a Tribal monitor from their respective Tribe. The requirement for Tribal monitoring is included in the Mitigated Negative Declaration and, through **Special Condition 3**, would be incorporated into this CDP. The applicant confirmed its intent to use monitoring services of all of the Tribes with whom Commission staff consulted or were contacted.

At the time of publication of this staff report, no other Tribal questions or concerns had been brought to the attention of Commission staff. Any concerns raised subsequent to the publication of this report will be included in an addendum to this staff report.

D. Dredging and Placement of Fill in Coastal Waters

Coastal Act Section 30233(a) states:

> *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:*
>
> *(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
>
> *…*

The proposed project includes the placement of a cable on the seafloor and constitutes fill of open coastal waters. Thus, the project is subject to the three-part test of Coastal Act Section 30233(a). The first test requires that the proposed activity fit within one of the seven categories of uses described in Section 30233(a). The second test requires that there be no feasible less environmentally damaging alternative. The third test requires that feasible mitigation measures be provided to minimize the project's adverse environmental effects.

Allowable Use Test

One of the seven allowable uses of fill under 30233(a) is a coastal-dependent industrial facility. The JUNO cable, the purpose of which is to provide trans-Pacific communication and data connectivity between the United States and Japan, is "coastal-dependent" since it requires "a site on, or adjacent to, the sea to be able to function at all" as defined in Coastal Act Section 30101. The Commission thus finds that the proposed JUNO cable meets the allowable use test of Coastal Act Section 30233(a).

Alternatives

The Commission must find that there is no feasible less environmentally damaging alternative to the proposed project, in this case by assessing two components of the proposed project: its landing site and offshore route.

Alternatives to the Proposed Landing Site

The proposed cable landing site would connect to terrestrial fiber optic cable infrastructure at the approved landing site shown in **Exhibit 2**. As shown in **Exhibits 3** and **5** and described in the marine resources survey completed for the project, this landing site avoids the need to route the cable through state marine protected areas (marine reserves and conservation areas) and nearshore kelp and surfgrass (*Phyllospadix* spp.) areas that are north of the landing site. An alternative site would involve new construction or use of a different but already constructed landing site.

Because there is no other already approved or constructed site with availability for a cable to land along the southern or central California coast, use of a different landing site would involve the construction activities and potential adverse impacts associated with prior landing site activities that may include impacts to sensitive habitat and species, public access, and cultural resources and would therefore not be considered less environmentally damaging. Further, the proposed landing site was reviewed by the Commission and approved through CDP No. 9-20-0275-A1. For these reasons, the Commission finds that there is no feasible less environmentally damaging alternative landing location to the proposed project.

Alternative Offshore Routes

As shown in **Exhibit 3**, the proposed cable route avoids some marine areas of special biological significance such as marine protected areas (both state marine reserves and conservation areas). The project would also avoid the Bureau of Ocean Energy Management (BOEM) Morro Bay Wind Energy Area. However, as seen in **Exhibit 5**, the proposed route intersects with other areas of special biological significance, including areas of hard substrate seafloor identified by the National Marine Fisheries Service under the Magnuson-Stevens Fishery Management and Conservation Act as a Habitat Area of Particular Concern (HAPC). The initial cable route survey indicates that this is an area of rocky outcroppings. The initial marine burial assessment for the proposed cable route indicates that approximately 1,063 square feet of this habitat would be adversely affected by the proposed project due to the placement of the cable within it, an activity that could damage or degrade the habitat and species it supports. However, alternative offshore routes would similarly cross these types of habitats but cover greater distances and areas within them. There are no alternatives to the proposed route that would completely avoid areas of sensitive hard substrate marine habitat. As such, the proposed route would minimize adverse impacts to sensitive habitats compared to feasible alternatives. In addition, where the cable cannot avoid contact with hard bottom features, the applicant proposes to minimize impacts to hard bottom substrate by laying the cable on the surface with only enough slack to allow the cable to conform to the ocean floor. It is the intent of the JUNO cable project to avoid moderate to high-relief hard substrate areas that might occur along any of the proposed cable routes and additionally conform with **Special Conditions 13** and **14** to mitigate any impacts to hard bottom habitat.

As described in the project's vessel anchoring plan, vessel anchorage and cable installation activities would avoid mapped kelp beds in the vicinity of the seaward location of the bore pipe. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and meets the second test of Coastal Act Section 30233(a).

Mitigation

The Marine Resources and Water Quality Section of this report below describes feasible mitigation measures that would require JUNO to: avoid and eliminate cable suspensions; submit plans to minimize adverse impacts from anchoring, hazardous material spills, and stormwater runoff; and mitigate for impacts to hard bottom habitat.

With the inclusion of these mitigation measures, the Commission finds that the third test of Coastal Act Section 30233(a) has been met.

On this basis and based on the findings regarding alternatives and the allowable use test, the Commission finds that the project is consistent with Section 30233(a) of the Coastal Act.

E. MARINE RESOURCES AND WATER QUALITY

Section 30230 of the Coastal Act 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.*

Section 30231 of the Coastal Act 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 water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30232 of the Coastal Act 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.*

The proposed cable route extends from Grover Beach through state and federal waters out to the edge of the Outer Continental Shelf (**Exhibit 3**). As discussed below, the project has the potential to result in adverse impacts to marine mammals and sea turtles, benthic habitat (soft and hard substrate areas), and marine water quality.

Marine Mammal and Sea Turtles

The proposed project has the potential to adversely affect whales and other sensitive marine wildlife such as sea turtles through entanglement with the project cable, entanglement with "ghost nets" or abandoned fishing gear that collects on the cable, collision with project vessels, and effects from vessel-related noise.

Potential Entanglement with the Project Cable

Marine mammals and sea turtles that forage within or migrate through the project area may become entangled in insufficiently buried cable or cable suspensions. Whale species with a moderate to high likelihood of being present offshore of the central California coast include gray whales (*Eschrichtius robustus*), humpback whales (*Megaptera novaeangliae*), blue whales (*Balaenoptera musculus*), fin whales (*B. physalus*), and killer whales (*Orcinus orca*). Sperm whales (*Physeter microcephalus*) are rarely observed offshore along this portion of the California coast. Several species of dolphins and porpoises, including bottlenose dolphins (*Tursiops truncates*) and short-beaked common dolphins (*Delphinus delphus)*, are also found in the project area, as well as pinnipeds (sea lions and seals), sea otters, and occasionally colder water species of sea turtles such as leatherbacks.[2]

Because of their behavior and migration patterns, two of these species—the California gray whale and sperm whale—have the greatest risk of cable entanglement. Approximately 20,000 gray whales annually migrate between Alaskan waters and Baja California from December to April. Gray whales feed on the seafloor and therefore may face the highest risk of entanglement with insufficiently buried or exposed cables. Although protected by the Marine Mammal Protection Act, the population of this species present in this region is not considered threatened or endangered under either the state or federal Endangered Species Act. Gray whales are vulnerable to gear entanglements and ship strikes and historically faced low population levels due to commercial whaling. The population has been recovering in recent years but ongoing threats, particularly combined with impacts from climate change, continue to put them at risk. Sperm whales are much less abundant than gray whales, numbering approximately 1,200 individuals offshore California (E&E 2001). Sperm whales typically inhabit deep open waters and are the deepest diving of all cetaceans, regularly diving to water depths between 200 and 1,000 meters (E&E 2001). Sperm whales are the only species confirmed to have been entangled in a submarine cable and their deep diving puts them at risk of entanglement with insufficiently buried, exposed, or suspended cables.

JUNO proposes to bury the cable along nearly all of the proposed cable installation alignment out to the outer continental shelf. However, if unexpected seafloor conditions are encountered, there is potential for portions of the cable to be suspended above the seafloor. In addition, there is entanglement risk to marine wildlife during cable installation as the cable is spooled out from the cable-laying vessel and traverses the length of the water column before it is buried in seafloor sediments.

[2] The waters offshore of Grover Beach are considered a biologically important area for humpback whale feeding, gray whale migrations, and also year round harbor porpoise presence.

To minimize the potential for wildlife entanglement, **Special Condition 3** would require JUNO to implement the MND mitigation measures related to marine resources (**Exhibit 7**), including requiring a biologist for marine mammal and sea turtle monitoring and decreasing speeds when marine mammals and sea turtles[3] are present. Further, **Special Condition 4** would require JUNO to submit a Marine Wildlife Monitoring and Contingency Plan (MWMCP) to the Executive Director for review and approval. The MWMCP would expand upon the MND measures by including marine wildlife training for project personnel, efforts to reduce noise impacts (for example; ensuring props are not fouled and avoiding excess machinery noise) as well as reduced vessel speed during all cable-laying activities. In addition, the MWMCP will include use of two NMFS-approved marine mammal observers with the authority to stop any activity that could result in harm to a marine mammal or sea turtle. Additionally, **Special Condition 16** requires JUNO to submit and adhere to a critical operations and curtailment plan which outlines safe weather conditions in which cable laying activities can or cannot take place. Although not an express requirement, these weather conditions are often present during the winter months coinciding with gray whale migrations. As such, JUNO has not scheduled cable laying activities during this time.

Next, **Special Condition 5** would require JUNO to bury the cable beneath the seafloor to a depth of one meter (in waters of 1,800 meters or less in depth) where feasible. To minimize the occurrence of suspended cable, **Special Condition 6** would require JUNO to submit to the Executive Director for review and approval a Cable Slack Management Plan describing the installation measures that would identify and eliminate, where feasible, segments of cable that are suspended above the seafloor. **Special Condition 12** would require JUNO to apply for an amendment to this permit to remove the cable within 90 days of either taking the cable out of service or after the expiration or termination of the project lease from the State Lands Commission. To help ensure compliance with these and other conditions, **Special Condition 1** would require JUNO to post a performance bond in the amount of $500,000 to cover its cable operations in state and federal waters.

Entanglement with Ghost Nets and Abandoned Fishing Gear

When fishing gear snags on cables or other seafloor features and cannot be easily recovered, fishers generally abandon the gear in place. This abandoned gear can continue to "fish," entangling marine mammals and fish, preventing them from feeding and eventually causing them to drown. Several design aspects of the proposed project reduce the potential for gear snags on the proposed cable. First, JUNO anticipates burying the cable approximately one meter beneath the seafloor surface. Additionally, **Special Condition 8** would require JUNO to provide the local fishing entities who are signatories to the Central California Joint Cable Fisheries Liaison Committee Agreement with as-built plans of the installed cable, including burial depths and the locations of any cable suspensions. By having this information, members of the fishing community can avoid using areas and gear types with a higher risk of entanglement. **Special Condition 9** would further this by additionally requiring JUNO to provide the National

[3] Critical habitat for leatherback sea turtles extends from Point Arena to Point Arguello east of the 3,000-meter depth contour.

Oceanographic and Atmospheric Administration (NOAA) with the information necessary to update nautical charts to reflect the position and burial status of the installed cable, thus providing the information to the broader public and ocean users. Finally, **Special Condition 20** would require JUNO to remove snagged fishing gear no later than six weeks after its discovery or notice of an incident. Within two weeks of completing a recovery operation, this condition would also require JUNO to submit to the Executive Director a report describing the nature and location of the entanglement and the retrieval method used.

Marine Wildlife Collision with Project Vessels
Injury or mortality to marine mammals and sea turtles could result from collisions with project vessels during marine operations associated with the proposed project. However, the slow vessel speeds during cable installation activities (generally 0.5 to 1.5 knots) limit much of the potential for such collisions. Marine mammal monitoring protocols required by **Special Condition 4** would also help to reduce collision risk. With these conditions in place, potential adverse effects to marine mammals and sea turtles from collisions with project vessels would be minimized.

Project-Related Vessel Noise
Underwater noise from cable installation could result in adverse effects to marine mammals and sea turtles. However, the time- and geography-limited nature of project activities would limit the potential for underwater noise effects. Vessel speed restrictions and implementation of the marine mammal monitoring program required in **Special Condition 4** would further limit exposure of marine mammals to noise levels that would be sufficiently high to result in adverse effects.

Benthic habitat: Soft Substrate Areas
JUNO summarized data collected during the geophysical survey of the project route and other studies to characterize seafloor habitats and associated biota. According to these data, the seafloor habitat along the route primarily consists of unconsolidated, soft-bottom habitats (e.g., sand, sand and clay mixture, and soft clay). The species found in such habitats are typical of the high-energy and dynamic environments of the California coast. Examples of dominant species present at shallow water depths (subtidal to 30 meters or 98.4 feet) include several species of red algae and ornate tube worm (*Diopatra ornata*), crabs (*Cancer* spp.), octopus (*Octopus* spp.*)*, white sea pen (*Stylatula elongata*), sea cucumber (*Parastichopus californicus*), and sunflower star (*Pycnopodia helianthoides*). In coarser sand habitats, the invertebrate community is dominated by ornate tubeworms and narrow bands of sand dollars (*Dendraster excentricus*). From 30-150-meter depths (98.4-410 feet), sea pens, several species of anemones, sea slug (*Pleurobranchea californica*), and sand star (*Luidia foliolata*) are present. Deeper species include sea urchins, sea pens, octopus, sea stars, and small polychaetes and crustaceans. In deeper areas (below roughly 600 meters or 1,968 feet), low oxygen conditions are likely to contribute to decreased abundance and biomass of invertebrates. According to the project's Mitigated Negative Declaration (MND) prepared by the California State Lands Commission and the marine resources summary, no threatened or endangered soft-bottom species were identified along the proposed cable route.

In evaluating the significance of potential adverse impacts on soft-bottom habitat and associated biota, the MND states that effects to soft sediment biota from the proposed cable are anticipated to be minimal and short-term. In addition to being a relatively small area of disturbance compared to the preponderance of soft-bottom habitats offshore the central coast of California, potentially affected benthic infauna are common species that would readily repopulate the disturbed area after the cable is installed. Because the benthic habitat disturbance does not involve the removal of sediment, and due to the proximity of the disturbed sediments to undisturbed sediments, the amount of time required for benthic organisms to recover would be minimized (AECOM 2023).

Bull kelp in areas of loose silty sand has been previously mapped near the location of the steel bore pipe for other fiberoptic cables approved by the Commission in this area. However, as described in the biological assessment provided by the applicant no kelp or other macroalgae beds are located in the action area for the proposed JUNO cable.

Benthic Habitat: Hard Substrate Impacts

Cable-laying operations can adversely affect hard substrate habitat and associated biota, if present. Hard substrates provide habitat and shelter for numerous sessile organisms, fish, and mobile invertebrates such as lobsters and crabs. In shallow waters (less than 200 meters or 656 feet), giant kelp, eelgrass and anemones are present. At these depths and deeper, if there are favorable high relief substrates, current speeds, and sedimentation rates, hard and soft corals can occur. In waters greater than 600 meters (1,968 feet), species include anemones, amphipods, polychaetes, gorgonians, sponges, shrimp, crinoids, brittle stars, and sea stars. Adverse effects on hard substrate habitats are potentially significant because: (a) deepwater reefs are relatively rare along this portion of the California coast; (b) they support a diverse assemblage of invertebrates; (c) they attract fish as a nursery ground, food source, and shelter; and (d) the species that live on these rocky substrates are sensitive to disturbance.

Additional adverse effects to hard substrate could occur during cable installation and subsequent movement of the installed cable on the seafloor (i.e., from currents and wave action). In their study on the environmental impacts of a one- to three-inch unburied submarine cable in Half Moon Bay (CDP No. 3-95-40/CC-110-94), Kogan et al. (2006) found scrapes and vertical grooves in rocky substrate along the cable route, and typical epifaunal organisms were absent. Placement of the project cable on rocky substrates can disrupt associated bottom communities, crushing and/or dislodging small, sessile or relatively sedentary invertebrates along a narrow strip. Sessile species may experience repeated, localized disturbances throughout the life of the cable if it moves due to current action.

Based on geophysical survey data, the proposed cable route would avoid hard substrate areas to the maximum extent practicable (approximately 1,063 square feet would potentially be impacted). However, it is possible that the cable could cross additional areas of hard substrates that were not accurately mapped. To address this possibility, **Special Condition 13** requires JUNO to conduct a post-lay burial survey

that includes quantification of any impacts to hard substrate areas. Should the post-lay burial survey show that impacts to hard substrate occur, JUNO would be required to mitigate those impacts, similar to previous submarine cable projects approved by the Commission.

In previous marine cable approvals, the Commission has estimated the area of impact by multiplying the length of cable installed over hard substrate by double the cable width to account for limited cable movement following installation, and then has required project applicants to pay a hard substrate mitigation fee to compensate for adverse effects to hard substrate and associated biota. These mitigation funds have been directed to the UC Davis Wildlife Health Center's California Lost Fishing Gear Recovery Project (Recovery Project) for the removal of lost or discarded commercial fishing gear. Such gear is hazardous to divers and wildlife including seabirds, fish, turtles, sea otters, and other marine mammals. Derelict fishing gear can continue to "catch" fish and marine animals, and it can damage the habitat upon which it becomes entangled or upon which it rests.

In CDP/Consistency Certification No. E-08-021/CC-005-09, the Commission approved a mitigation fee of $100,000 to the Recovery Project as compensation for impacts to approximately 5,500 square feet of hard substrate. In subsequent marine cable projects, the Commission relied on this fee-to-impact ratio to calculate compensatory funds. In 2016, Commission staff analyzed data provided by the Recovery Project to determine that it was able, on average, to achieve marine habitat enhancement at a mitigation to impact ratio of 2.7 to 1 for a cost of $12.38/square foot ($17.87 in 2023 dollars).

For cable projects approved in 2016 and after, including the projects listed in the background section of this report above, the Commission has applied this $12.38 cost per square foot ratio (adjusted for inflation) to calculate the mitigation fee for project-specific impacts to hard bottom substrate. Additionally, the Commission has applied a 3:1 mitigation to impact-area ratio, since the Recovery Project removes chronic sources of habitat and wildlife disturbance and loss but does not further restore habitat. The actual "restoration" of habitat is achieved through the natural recruitment of organisms over time (Lissner et al. 1991). Compensating for a time lag between an impact and restoration is a key consideration when the Commission applies mitigation ratios larger than 1:1. Additionally, unlike terrestrial mitigation where the Commission generally requires conservation easements or similar future protection measures, comparable measures are not available to perpetually protect marine mitigation sites. Future anthropogenic disturbance of a Recovery Project site could occur; for example, fishing gear could be re-deployed at the site. Such long-term uncertainty also justifies applying a 3:1 mitigation ratio.

These considerations are incorporated into **Special Condition 14,** which requires JUNO to compensate for hard bottom habitat impacts, if any, through payment of a compensatory mitigation fee. The fee would be calculated by applying a 3:1 mitigation ratio to the area/square footage of hard substrate habitat within the project footprint (based on the post-lay burial survey required by **Special Condition 13**) and using a

rate of $17.87 per square foot. The total area of hard bottom impact will be calculated by multiplying the linear distance of cable laid on or suspended over hard bottom by twice its width. The mitigation work would be carried out pursuant to a Memorandum of Agreement (MOA) by and between the Commission and the Regents of the University of California on behalf of the Recovery Project. Upon receipt of mitigation funds, the Recovery Project will submit a spending plan to the Executive Director for review and approval.

With these conditions in place, the Commission finds that removing lost fishing gear and other debris will offset impacts to hard substrate areas, if any, caused by cable-laying activities. Thus, impacts to hard bottom habitat and the associated benthic species would be minimized, consistent with the requirement in Section 30230 of the Coastal Act that marine resources be maintained, enhanced, and where feasible, restored.

Marine Water Quality Impacts
The project is proposed for a portion of the central California Coast where water transport is dominated by the broad, southward flowing California Current. Water quality is affected by general oceanographic conditions as well as terrestrial point and non-point sources of pollutants. Potential marine water quality effects from the proposed project include: (1) increased turbidity during cable installation and the suspension and resettling of contaminated sediments; (2) the release of fuel, sewage or bilge/ballast water from project vessels; and (3) increased erosion, sedimentation, and other effects from terrestrial staging and construction.

Turbidity and Redistribution of Contaminated Sediments
Water jetting operations and the use of the cable plow will result in localized increases in turbidity. Project corridor sediments largely consist of sand and would settle rapidly following disturbance, resulting in minor, temporary (up to a few hours) water quality impacts. Disturbed sediments could include contaminants, resulting in their potential dispersal and subsequent uptake by benthic organisms. However, no substrate areas with known contamination have been identified along the proposed cable route. In addition, project construction is not likely to result in a significant redistribution of sediments, and any sediment resuspension would be minor and temporary.

Discharges from Project Vessels
Project vessels could accidentally discharge fuel, sewage, bilge water, debris, or ballast water. As such, the project MND includes measures (incorporated into this permit through **Special Condition 3**) to reduce the risk of a vessel spill, including Spill Contingency and Hazardous Materials Management Plans (**Exhibit 7**). In addition, **Special Condition 15** requires JUNO to submit a Spill Prevention and Response Plan for Executive Director review and approval which demonstrates that adequate spill response equipment is available for the worst-case spill scenario. **Special Condition 16** requires JUNO to implement an Executive Director-approved Critical Operations and Curtailment Plan (COCP) that defines the limiting weather conditions that would hinder the safe operation of vessels or potential spill cleanup. Finally, **Special Condition 17** requires the implementation of a zero-discharge policy for all project vessels.

Water Quality Effects from Terrestrial Activities
Terrestrial activities associated with the staging of the proposed project and construction of the Ocean Ground Bed, which would be spatially limited to the disturbed parking lot area, could result in enhanced erosion and stormwater discharges to sensitive habitats. However, as described in the MND, the proposed project would include water quality control measures and best management practices to address potential erosion and stormwater effects. Additionally, inadvertent releases of oil or other hazardous material from construction-related vehicles or equipment could degrade water quality of nearby ground or surface waters. To minimize the likelihood of such a spill, the MND includes measures (incorporated into this permit by **Special Condition 3**) that require JUNO to develop a Spill Contingency Plan for terrestrial construction activities, conduct worker training, maintain equipment to avoid leaks, and employ safe refueling practices (**Exhibit 7**). Implementation of these measures would minimize the potential for an inadvertent release of hazardous materials during construction activities.

Conclusion
For the reasons discussed above, the Commission finds that the proposed project, as conditioned by **Special Conditions 1 through 21**, would be carried out in a manner that maintains marine resources, sustains the biological productivity and quality of coastal waters, protects against the spillage of hazardous substances into the marine environment, and is therefore consistent with Coastal Act Sections 30230, 30231, and 30232.

F. COMMERCIAL AND RECREATIONAL FISHING

Coastal Act Section 30234.5 states:

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

The proposed project could adversely affect fishing through temporary preclusions of fishing activity associated with cable installation or through interactions between cables and fishing gear. Mobile bottom trawls would have the highest potential to be affected although any bottom contact gear has the potential for interaction. Trawling could occur in locations along the cable route. In areas where the cable is not buried, is insufficiently buried, or becomes exposed, bottom trawls (or other bottom contact gear) may be snagged, damaged, or abandoned, resulting in gear damage or loss and subsequent financial losses. Prominent types of fishing that occur off the Central Coast and near the proposed cable route include sablefish, Dungeness crab, rockfishes, coastal pelagic species (including market squid), highly migratory species such as swordfish and albacore tuna, and chinook salmon. The region historically supported a robust groundfish trawling industry. However, that fishery is presently limited in activity. These species are caught by gear types including pots, seines, hook and line, and trawls.

Commercial and recreational fishing would be precluded from the cable installation corridor during cable installation, which is anticipated to last up to 15 weeks. Pursuant to the federal Submarine Cable Act (47 U.S.C. 21 §24), all vessels are required to maintain a distance of at least one nautical mile from a vessel laying or repairing a cable and one-quarter mile from a buoy marking the position of a cable when being laid or out of order. This de facto fishing preclusion would be temporary and would cover a small, constantly changing area as the cable is laid and/or buried. Ample fishing and boating areas unaffected by this vessel exclusion zone would remain in the immediate vicinity and would minimize impacts to the fishing community from cable-laying activities.

To minimize the potential for gear snags, **Special Condition 5** requires JUNO to bury the cable to a depth of one meter in waters up to 1,800 meters, except where precluded by seafloor conditions. Where a one-meter burial depth cannot be achieved, JUNO would bury the cable to the maximum depth feasible. Burying the cable would minimize the potential for fishing gear entanglement and gear damage or loss. JUNO would lay the cable on the seafloor and would not attempt to bury it in waters greater than 1,800 meters in depth, but the types of fishing equipment used in such areas (such as trolling gear used in the Highly Migratory Species fishery) are not expected to interact with the cable on the seafloor.

Additionally, **Special Condition 18** requires JUNO to adhere to the terms of the amended Central California Joint Cable Fisheries Liaison Committee Fishing Agreement (Fishing Agreement), updated September 29, 2023. The Fishing Agreement is signed by companies operating cables offshore in this portion of the California coast and by fishing entities, and it provides the fishing industry with a forum to address issues with cable installation and operation and to compensate fishermen for gear loss. It also requires cable companies to provide funding to administer the Fishing Agreement, contains communication and coordination measures that the cable companies are required to perform to address project-related fishing issues and concerns, and provides funding to be allocated toward projects that address fishing-related interests, as specified in the Fishing Agreement.

To further minimize the potential for exposed cable, **Special Condition 6** requires JUNO to submit a Cable Slack Management Plan to the Executive Director for review and approval, describing how JUNO would identify and eliminate cable suspensions during installation. **Special Condition 7** requires JUNO to provide radio announcements of cable installation activities and weekly notices of preliminary as-built coordinates of any unburied or exposed cable sections during cable installation to the Executive Director, the U.S. Coast Guard (for publication in a *Notice to Mariners*), and the signatories of the Fishing Agreement. **Special Condition 8** requires JUNO to submit to the signatories of the Fishing Agreement electronic and hard copy final as-built plans on NOAA navigation charts. **Special Condition 9** requires JUNO, within 60 days of cable installation, to submit evidence to the Executive Director that the company has submitted the geographical coordinates of the as-built cable to enable NOAA to update its navigational charts.

To make sure that the cable remains buried, **Special Condition 11** requires a re-survey of the cable immediately following the end of the fifth year from the date of completion of all cable installation approved under this permit. Following this re-survey, **Special Condition 11** requires that after any event that has the potential to affect the cable, JUNO would survey those potentially affected portions of the cable route from the mean high tide line to the 1,800-meter depth contour. The purpose of this survey would be to verify that the cable has remained buried consistent with the as-built cable burial plan required by **Special Condition 8**. Within 30 days of survey completion, JUNO is required to submit to the Executive Director a report describing survey results. If the survey indicates that there has been a significant change to the burial status of the cable, JUNO is required to submit to the Executive Director a re-burial plan.

To further ensure that impacts to the fishing community are minimized, **Special Condition 19** requires JUNO to provide notice of proposed cable repair or re-burial to the Executive Director and in a US Coast Guard Notice to Mariners no less than 15 days prior to any cable repair or maintenance activity, or as soon as possible for any emergency repairs. Finally, within 90 days of either taking a cable out of service or after the expiration or termination of JUNO's lease from the State Lands Commission (SLC), or expiration of any amendments that would extend the SLC lease period, **Special Condition 12** requires JUNO to apply for an amendment to this permit to remove the cable from the seafloor within state waters.

With the implementation of these special conditions, the Commission finds that project-related impacts to commercial and recreational fishing would be minimized and fishing activities protected, and thus, the proposed project is consistent with Section 30234.5 of the Coastal Act.

G. Public Access and Recreation

Coastal Act 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.*

Coastal Act Section 30220 states:

> *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

As described above, all vessels, including recreational boaters, must avoid the preclusion zones created by cable installation and repair activities, which would be temporary and would cover a small and constantly changing area. Ample access to other recreation and boating areas would remain. Once the cable is laid, full access

would be restored. Thus, the effect of project-related boating disruption would be minor and temporary.

The construction staging area for the marine portion of cable installation would typically require approximately three to four weeks for the installation of the steel bore pipe, however, this was previously approved by the Commission pursuant to CDP No. 9-20-0275-A1 and completed so is not considered part of this project. Staging for the project and construction of the Ocean Ground Bed would take place within an existing gravel parking area located adjacent to Grand Avenue and east of the parking lot for a seafood restaurant. The gravel parking area is approximately 162,000 square feet and approximately 5,000 square feet of the parking area would be required for staging and construction. Parking within the gravel area is informal and while the lot can accommodate nearly 400 vehicles it is very rarely full. Since project operations would take place outside of the busier Summer season, would require closing off only a 5,000 square foot area of the total parking area, would only be for approximately one month, and there is additional available parking and access to nearby beaches in the vicinity, the project would not significantly impact access and recreation.

Thus, for the reasons stated above, the Commission finds that project-related impacts to public access and recreation would be minimal and temporary and, therefore, concludes that the project is consistent with Sections 30210 and 30220 of the Coastal Act.

H. Cultural Resources

Coastal Act Section 30244 states:

> *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

Coastal Act Section 3060(h) states:

> *When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.*

Project activities could potentially disturb or damage shipwrecks, archeological and paleontological resources, or Native American artifacts by destroying previously unrecorded resources or disrupting the site such that the resource's historic or archaeological context is altered adversely.

Onshore Resources
The project activities onshore include using existing landing cable infrastructure as well as installation of a new Ocean Ground Bed within an informal dirt parking lot. A record search concluded that two previously identified resources are located within the project's Area of Potential Effect (APE). These include a segment of Highway One and

a segment of Union Pacific Railroad. Both of these resources are not considered historical resources. A paleontological resources records search resulted in a low likelihood of encountering buried paleontological deposits. JUNO also conducted a total of three pedestrian surveys of the project area and found that no historic resources were identified within the project area.

However, the MND identifies a general potential for the presence of previously undiscovered archeological resources or historical resources in the project area. To minimize the potential for damage to these resources, the MND includes several measures incorporated into this CDP through **Special Condition 3,** which require JUNO to monitor, evaluate, report, and appropriately care for any discovered resources. These measures, which would be undertaken if a previously unknown cultural or tribal resource is discovered, or if human remains are discovered, include preparation and implementation of a Cultural Resource Monitoring Plan and participation of a culturally affiliated Native American Tribal monitor(s) for any ground disturbing activities (see **Exhibit 7**).

The MND and addendum for the proposed project documented project-related consultation with the Native American Heritage Commission and nine Native American tribes. As described above, during Commission staff's coordination with Native American Tribes pursuant to the Commission's Tribal Engagement Policy, the Santa Ynez Band of Chumash Indians requested consultation. Representatives of the Santa Ynez Band of Chumash Indians requested that ground disturbance activities be accompanied by a Tribal monitor and did not request modification of the staff recommended CDP conditions or the MND mitigation measures. Additionally, Commission staff received responses from three other tribes: the Salinan Tribe of Monterey and San Luis Obispo Counties, the yak tityu tityu yak tilhini – Northern Chumash Tribe, and the Northern Chumash Tribal Council. Each of the tribes similarly requested that ground disturbance activities be accompanied by a Tribal monitor from their respective Tribe. Through **Special Condition 3**, this requirement is incorporated into this CDP despite limited onshore activities taking place.

Offshore Resources
In the offshore environment, project-related activities have the potential to disturb, disrupt or degrade prehistoric sites and watercraft and historic shipwrecks found on or within ocean sediments. JUNO reviewed shipwreck data within the APE and found no previously identified shipwrecks.

JUNO hired a marine contractor to survey and identify any potential submerged cultural resources located within the path of the proposed cable. Another contractor hired by JUNO then conducted a marine archaeological resources assessment (MARA) of the survey data to assess the presence or absence of submerged cultural resources. In total, survey activities located 147 objects within the APE for the JUNO cable. However, after reviewing the survey data none of the objects were determined to be potential submerged cultural resources or landscapes of archaeological interest.

Based on the information in the California Historical Resource Information System (CHRIS) search and survey findings, JUNO determined that the project would not adversely impact any cultural resources. However, under 30 CFR 585.802, (applicable regulations from Bureau of Ocean Energy Management, Department of Interior for this use of the outer continental shelf) in the event that an unanticipated and as yet undocumented cultural resource is discovered in the Outer Continental Shelf during cable lay-down activities, all seafloor-disturbing activities within the area of discovery shall be halted; appropriate agencies will be notified; the location of the discovery shall remain confidential, and no action that may adversely affect the archaeological resources shall take place until the agency has made an evaluation and given the client instructions on how to proceed. Additionally, mitigation measures outlined in **Exhibit 7** requires notification within 48 hours to any state, local or federal agency with permitting authority as well as potential coordination with culturally affiliated tribes to enact an appropriate treatment plan.

The Commission finds that based on these factors and with the above-referenced measures, the project would not adversely impact archaeological, paleontological, or tribal cultural resources and is therefore consistent with Section 30244 of the Coastal Act as well as the principles articulated in the Commission's Tribal Consultation Policy.

I. GEOLOGY

Coastal Act Section 30253 states:

> *New development shall…:*
>
> *(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The nearshore portions of the project do not cross any active fault. However, the region is subject to strong ground shaking from earthquake activity, during which liquefaction of unconsolidated beach sands could occur. Liquefaction of the upper several meters of seafloor sediments in which the cable is to be installed is also possible. The density of the cable is greater than that of liquefied sediments, and so the cable may sink within such sediments to a greater depth than at installation.

Stability of Landing Site
As described in the MND, there are no significant concerns with the stability of the landing site at Grover Beach related to coastal erosion or sea level rise. The proposed installation would be within existing infrastructure at a depth of approximately 35 feet below the surface of the beach, beginning from a location approximately 1,000 feet inland of the shoreline (**Exhibit 2**). In the unlikely event that cable infrastructure on the beach is exposed, **Special Condition 21** requires that JUNO rebury project components should they become exposed in the future.

Geologic Processes and the Submarine Cable
To address potential effects on the submarine cable related to potential scour and erosion associated with marine currents and waves, **Special Condition 5** requires JUNO to bury the cable to a depth of one meter where feasible. Even with this measure in place, it is possible that the cable could become damaged or exposed due to scouring from submarine currents. Areas of relatively steep slopes (up to 15% grade) could be subject to slumping and/or sliding substrates, which could expose or break the cable. **Special Condition 11** requires that after any event that has the potential to affect the cable, JUNO would survey the potentially affected portions of the cable route to verify that the cable has remained buried consistent with the as-built cable burial plan required by **Special Condition 8**. If the survey shows that previously buried segment(s) of the cable have become exposed, JUNO is required to submit a plan to re-bury the cable segment(s) to the Executive Director and then implement a re-burial plan.

With the implementation of **Special Conditions 5, 8, 11, and 21**, the Commission finds that the proposed project would minimize risks from geologic hazards to life and property and is therefore consistent with Section 30253 of the Coastal Act.

J. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Commission's permit process has been designated by the Natural Resources Agency as the functional equivalent of the CEQA environmental review process. Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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 that the activity may have on the environment.

In this case, the California State Lands Commission (SLC) is the lead agency for CEQA purposes. The SLC certified the CEQA document, a Mitigated Negative Declaration (MND), at its June 23, 2020 meeting. The SLC also certified an Addendum to this Mitigated Negative Declaration at its hearing on April 16, 2022 (2022 Addendum). In reviewing JUNO’s proposed project, the SLC found that the scope of activities to be carried out under the lease to be issued to JUNO have been adequately analyzed under the 2020 MND and 2022 Addendum and that none of the events specified in Public Resources Code section 21166 or State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impacts has occurred, and therefore, no additional CEQA analysis was required. The proposed development has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing marine resources, dredge and fill of coastal waters, water quality, marine resources, public access and cultural resources, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would

substantially lessen any significant adverse impact which the activity may have on the environment, and there are no remaining significant impacts on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of CEQA.

K. FEDERAL CONSISTENCY

The Commission's action in this case would authorize both a CDP for the proposed project and result in a conditional concurrence with JUNO's federal consistency certification. In the case of a conditional concurrence with a consistency certification, the following procedures are triggered under the federal consistency regulations (15 CFR Part 930):

> *930.4 Conditional Concurrences.*
>
> *(a) Federal agencies, applicants, persons and applicant agencies should cooperate with State agencies to develop conditions that, if agreed to during the State agency's consistency review period and included in a Federal agency's …approval under subparts D … of this part, would allow the State agency to concur with the federal action. If instead a State agency issues a conditional concurrence:*
>
> > *(1) The State agency shall include in its concurrence letter the conditions which must be satisfied, an explanation of why the conditions are necessary to ensure consistency with specific enforceable policies of the management program, and an identification of the specific enforceable policies. The State agency's concurrence letter shall also inform the parties that if the requirements of paragraphs (a)(1) through (3) of the section are not met, then all parties shall treat the State agency's conditional concurrence letter as an objection pursuant to the applicable Subpart and notify, pursuant to §930.63(e), applicants, persons and applicant agencies of the opportunity to appeal the State agency's objection to the Secretary of Commerce within 30 days after receipt of the State agency's conditional concurrence/objection or 30 days after receiving notice from the Federal agency that the application will not be approved as amended by the State agency's conditions; and*
> >
> > *(2) The … applicant (for Subpart… D…), … shall modify the applicable plan, project proposal, or application to the Federal agency pursuant to the State agency's conditions. The Federal agency, applicant, person or applicant agency shall immediately notify the State agency if the State agency's conditions are not acceptable; and*
> >
> > *(3) The Federal agency (for Subpart… D…) shall approve the amended application (with the State agency's conditions). The Federal agency shall immediately notify the State agency and applicant or applicant agency if*

> *the Federal agency will not approve the application as amended by the State agency's conditions.*
>
> *(b) If the requirements of paragraphs (a) (1) through (3) of this section are not met, then all parties shall treat the State agency's conditional concurrence as an objection pursuant to the applicable Subpart.*

For all of the reasons described above and incorporated herein by reference, the Commission concurs with JUNO's certification that the proposed development is consistent with the enforceable policies of the CCMP if the staff recommended conditions of approval are satisfied. If the applicant were not to agree to the conditions, the federal consistency regulations require the Commission to notify the applicant as follows:

Right of Appeal
Pursuant to subsection (a)(1) quoted in the prior section and Subpart H of the federal consistency regulations, within 30 days from receipt of notice of a Commission conditional concurrence to which JUNO does not agree, JUNO may request that the Secretary of Commerce override this objection. 15 CFR §§ 930.4(a)(1) & 930.125(a). In order to grant an override request, the Secretary must find that the proposed activity for which JUNO submitted a consistency certification is consistent with the objectives or purposes of the Coastal Zone Management Act, or is necessary in the interest of national security. A copy of the request and supporting information must be sent to the Commission and the U.S. Army Corps of Engineers. The Secretary may collect fees from JUNO for administering and processing its request. [Note: This right of appeal does not apply to the CDP, but only to the activity authorized under the consistency certification.]

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

Coastal Development Permit Application and Federal Consistency Certification Materials:

Application for Coastal Development Permit 9-23-0548, dated June 7, 2023
Application for Consistency Certification CC-0002-23, dated July 21, 2023.

AECOM, Biological Assessment for the JUNO Subsea Cable Project. Prepared for NEC Corporation of America. May 2023.

Environmental Documents:

State Lands Commission, *Initial Study/Mitigated Negative Declaration for RTI Infrastructure, Inc. Grover Beach Subsea Fiber Optic Cables Project.* April 2020. Amended July 2022.

Ecology and Environment (E&E) for the City of Hermosa Beach. *Final Environmental Impact Report, prepared for the Tycom Transpacific Fiber Optic Cable and Hermosa Beach Landing Project*, November 2001.

Published Articles and Reports:

Kogan, Paul, Kuhnz, Burton, Von Thun, Greene, and Barry, 2006. *ATOC/Pioneer Seamount cable after 8 years on the seafloor: Observations, environmental impact*. Continental Shelf Research, Vol. 26, pp. 771-787.