

CALIFORNIA COASTAL COMMISSION

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Th8

Prepared February 2, 2023 (for the February 9, 2023 Hearing)

To: Commissioners and Interested Parties
From: Kate Huckelbridge, Executive Director
Subject: **Energy, Ocean Resources and Federal Consistency Division Deputy Director's Report for February 2023**

The following coastal development permit (CDP) waivers, immaterial CDP amendments, CDP extensions, emergency CDPs, and negative determinations for the Energy, Ocean Resources and Federal Consistency Division are being reported to the Commission on February 9, 2023. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review at the Commission's office in San Francisco. Staff is asking for the Commission's concurrence on the items in the Energy, Ocean Resources and Federal Consistency Division Deputy Director's report, and will report any objections received and any other relevant information on these items to the Commission when it considers the report on February 9, 2023.

With respect to the February 9th hearing, interested persons may sign up to address the Commission on items contained in this report prior to the Commission's consideration of this report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on February 9, 2022 (see attached)

Waivers

- **9-22-0885-W**, Scripps Institution of Oceanography at University of California (San Diego County)
- **9-23-0095-W**, Valero Wilmington Refinery (Los Angeles County)

Immaterial Amendments

- **9-13-0500-A3**, Hog Island Oyster Company, Inc. (Humboldt County)
- **9-14-1735-A8 / A-3-MRA-14-0050-A8**, Application to amend Coastal

Development Permits granted to California American Water Company ("Cal-Am"), (Monterey County)

Emergency Permits

- **G-9-23-0009**, Emergency discharge of fill material and temporary water diversion to repair the north bank of Honda Creek and footings of the Union Pacific Railroad bridge (Santa Barbara County)

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

- **ND-0044-22**, Dharmata Foundation Fuel Loads Reduction Project, (Monterey County)

**Administrative Items for Federal Consistency Matters,
No-Effects Determinations, Immaterial Extensions**

- None

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January 30, 2023

**Notice of Coastal Development Permit De Minimis Waiver
Coastal Act Section 30624.7**

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 9-22-0885-W

Applicant: Scripps Institution of Oceanography at University of California, San Diego

Location: Approximately one-mile offshore in the Matlahuayl State Marine Reserve, San Diego County

Proposed Development:

Researchers at the Scripps Institution of Oceanography (SIO) at the University of California, San Diego propose to temporarily deploy research instruments to study ocean turbulence approximately one-mile offshore within the Matlahuayl State Marine Reserve in La Jolla Canyon, San Diego County. As part of the proposed study, researchers would release two gallons of non-toxic 21% rhodamine WT dye mixed with sea water at a depth of approximately 100 meters in La Jolla Canyon. Each dye release would occur over a two-hour period and dye would dissipate within four days. Researchers propose to conduct a maximum of three release events over a two-year period. To track the dye dispersion and measure turbulence, three "Wirewalkers" equipped with fluorometers and epsilometers would be attached to buoys during dye releases. Turbulence would also be measured using three acoustic doppler current profilers (ADCP units), which would be placed on the ocean floor at depths ranging from 50 to 150 meters. Each ADCP unit would be placed on sandy substrate and secured to the ocean floor using metal weights. The proposed study also includes a full recovery of ocean floor equipment for maintenance every six months. ADCP units would be deployed for up to 22 months. Conductivity-temperature-depth sensors would also be used to monitor temperatures during the study. Following the 22-month data collection period, all research instruments and their components would be fully removed.

Coastal Development Permit De Minimis Waiver 9-22-0885-W

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

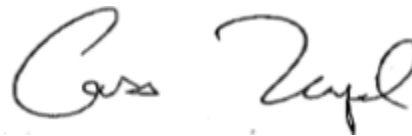
- Multiple extensive surveys of the project area show soft bottom sea floor (fine sand, silt, and clay) where the ocean floor instruments are proposed to be deployed.
- The study would occur within a State Marine Reserve which prohibits fishing within the study area so no potential for negative interactions with fishing activities or equipment would occur.
- A vessel-based observer would monitor for marine mammals during installation and weekly maintenance of the instruments and enforce a safety zone around the project site. Activities that may pose an entanglement or injury risk to marine mammals would not be carried out if any marine mammals are observed within or approaching the safety zone.
- The ADCP/ADV units would be placed at a depth below substantial wave action and have no loose parts which could contribute to marine debris.
- Equipment on the seafloor would be fully recovered every six months for maintenance.
- All instruments would be completely removed immediately following the conclusion of the study.
- Deployment would be coordinated with the U.S. Coast Guard in advance of deployment activities and a Notice to Mariners would be filed.
- Notification to the San Diego Water Board would be provided at least 24 hours in advance of a dye release event in La Jolla Canyon.
- The project vessel would have a Spill Prevention and Response Plan and appropriate equipment on board during all project installation, maintenance, and recovery activities.

Coastal Development Permit De Minimis Waiver
9-22-0885-W

This waiver will not become effective until reported to the Commission at its February 8-10, 2023 meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Sincerely,

John Ainsworth
Executive Director

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

Cassidy Teufel
Manager

cc: Commissioners/File

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January 30, 2023

Notice of Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 9-23-0095-W

Applicants: Ultramar Inc., Valero Wilmington Refinery

Location: 2402 East Anaheim St., Wilmington, Los Angeles County

Proposed Development: The proposed project involves installation of a new flow meter and instrumentation on an existing oil pipeline within the Valero Wilmington Oil Refinery facility to assist with accurate measurement of the amount of refined material transported within it. The project also includes installation of a new concrete pad, approximately 60 feet long by 20 feet wide by two feet tall, adjacent to the existing pipeline to secure the flow meter and associated instrumentation. Construction is projected to take up to three months and will involve site preparation, grading, foundation laying, and equipment setting.

Rationale:

- The Coastal Commission has issued numerous de minimis waivers to Ultramar in the past such as 9-18-0813 and 9-17-0172 for similar equipment upgrades that improve operational safety of the refinery.
- All construction activities will occur within the existing large-scale Refinery boundaries. The project is consistent with the heavy industrial zoning for the site.
- The new metering skid is low profile relative to the existing Refinery and will not change the existing visual quality of the Refinery which is dominated by large industrial facilities.

Coastal Development Permit De Minimis Waiver
9-23-0095-W

- The proposed project is situated entirely within the boundaries of the Refinery in an area surrounded by large process equipment and tanks in an area with no existing public access.
- During construction activities, Ultramar will follow the South Coast Air Quality Management District's Rule 403, which regulates and limits fugitive dust during construction.
- The proposed project is necessary for Ultramar to comply with the State of California's Coastal Best Available Technology (CBAT) regulation by April 1, 2023. The CBAT regulation requires that refinery pipelines within ½ mile of the coastal zone and/or an environmentally and ecologically sensitive area must use the best available technology to reduce the amount of petroleum product released in the event of an oil spill.
- The applicant will carry out construction activities consistent with the Storm Water Pollution Prevention Plan currently in place for refinery operations to manage storm water runoff during construction and operation of the proposed flow meter.
- The entire site has been previously graded and developed and is devoid of native habitats and vegetation; therefore, there will be no adverse effects to biological resources of the coastal zone.

The proposed development will not adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission actions in the area and Chapter Three policies of the Coastal Act.

This waiver will not become effective until reported to the Commission at its February 2023 meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Sincerely,

Kate Huckelbridge, PhD
Executive Director



(by) Cassidy Teufel
Manager

cc: File

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January 26, 2023

**NOTICE OF PROPOSED IMMATERIAL
PERMIT AMENDMENT**Coastal Development Permit Amendment No. **9-13-0500-A3****To:** All Interested Parties**From:** Dr. Kate Huckelbridge, Executive Director
Amanda Cousart, Environmental Scientist**Subject:** Coastal Development Permit No. **9-13-0500** granted to **Hog Island Oyster Company, Inc.** for: Installation of shellfish nursery rafts, floating upwelling systems (FLUPSYs), and associated equipment on and adjacent to an existing pier and construction and operation of an onshore shellfish hatchery, shellfish seed setting facility, office, algae greenhouse, covered work area, and seed washing facility.**Project Site:** 1 Bivalve Way, Samoa, Humboldt County (APNs 401-301-14; 401-301-11)

The Executive Director of the California Coastal Commission has reviewed a proposed amendment to the above-referenced permit, which would result in the following change(s):

Authorization of the following relating to algae cultivation: (1) expand onsite terrestrial algae cultivation to include the cultivation of macroalgae species by HOIC's sublessee, Sunken Seaweed LLC, (2) grade approximately 806 square feet of disturbed ground, (3) install ten 1,000 gallon cultivation tanks, and one 1,450 gallon seawater holding tank and associated equipment on approximately 1,000 square feet of the existing shellfish nursery site and (4) increase the volume of daily seawater intake to a total of 340,000 gallons per day.

Background and Project Description

In 2014, the Commission approved CDP 9-13-0500, which authorized the installation of shellfish nursery rafts, floating upwelling systems, and associated equipment on and adjacent to an existing pier. It also authorized the construction and operation of an onshore shellfish hatchery, shellfish seed setting facility, office, algae greenhouse, covered work area, and seed washing facility. In 2015, the permit was amended through CDP Amendment No. 9-13-0500-A1 to allow for the grading, and paving of a parking area, and allowed for modifications to the design, location and configuration of the septic pre-treatment system and leach field at the onshore facility site. The CDP was amended a second time in 2019 (9-13-0500-A2) for an after-the-fact authorization of a 3,000-gallon septic tank and continued use of the system until completion of the Samoa Peninsula

Wastewater project, at which time, the hatchery discharges would be directed into the community treatment system.

Requested Amendment:

On June 7, 2022, HIOC submitted an application to the Coastal Commission requesting a third amendment to CDP No. 9-13-0500 to expand onsite algae cultivation to include the cultivation of two macroalgae species (dulse (*Palmaria mollis*) and sea lettuce (*Ulva lactuca*)) by its sublessee, Sunken Seaweed LLC, by developing structures in an existing disturbed work area on the terrestrial portion of their nursery site. Operations would include hatchery cultivation intended to support existing macroalgae projects in Humboldt Bay and would also include tumble culture cultivation for the growth of macroalgae within onshore tanks for commercial sale. The structures associated with the proposed development would also require approximately 144,000 gallons of seawater per day which would be withdrawn from Humboldt Bay through the HIOC facility's existing intake system (bringing the facility's total seawater intake to a maximum of 340,000 gallons per day). Discharge of wastewater would take place through HIOC's existing effluent raceway and settling basin before being discharged back into the bay. These systems have capacity for the additional discharge without modification.

FINDINGS

The Executive Director has determined this amendment to be IMMATERIAL within the meaning of section 13166(b) of the Commission's regulations.¹ Pursuant to section 13166(b)(1), if no written objection to this notice of immaterial amendment is received at the Commission office listed above within ten (10) working days of mailing of this notice, the determination of immateriality shall be conclusive, and the amendment shall be approved (i.e., the permit will be amended as proposed).

Pursuant to section 13166(b)(2), if a written objection to this notice of an immaterial amendment is received within ten (10) working days of mailing of this notice, and the Executive Director determines that the objection does not raise an issue of conformity with the Coastal Act (or certified local coastal program, if applicable), the amendment shall not be effective until the amendment and objection are reported to the Commission at its next regularly scheduled meeting. If any three Commissioners object to the Executive Director's designation of immateriality, the amendment application shall be referred to the Commission to be reviewed as a material amendment at a subsequent Commission meeting. If no three Commissioners object to the Executive Director's designation of immateriality, that designation shall stand, and the amendment shall become effective.

Pursuant to section 13166(b)(3), if a written objection to this notice of an immaterial amendment is received within ten (10) working days of mailing of this notice, and the Executive Director determines that the objection does raise an issue of conformity

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

with the Coastal Act (or a certified local coastal program, if applicable), the amendment application shall be referred to the Commission to be reviewed as a material amendment at a subsequent Commission meeting.

The Executive Director has determined this proposed amendment to be "immaterial" for the following reason(s):

- The total area needed for expansion of project operations is approximately 1,000 square feet, entirely located within an existing disturbed area on land currently used for materials storage and would not result in loss or disturbance of native vegetation or sensitive habitat. Approximately 806 square feet of this area would be graded to support this installation.
- Species proposed for cultivation at this site include dulse (*Palmaria mollis*) and sea lettuce (*Ulva lactuca*). Both species are endemic to California and authorized under current permits issued by the California Department of Fish and Wildlife (CDFW).
- If additional nutrients (e.g.; phosphates or nitrogen) are needed for the growth of seaweed species, they would be provided over a 12-hour, monitored period during which no water would be returned to the grey water storage or effluent raceway in order to allow seaweeds to fully metabolize fertilizer. If nutrients are used, levels in the water would be monitored to ensure compliance with limits established by the Regional Water Quality Control Board (RWQCB). The use of native species and compliance with water quality discharge standards would help ensure that there are not additional negative impacts to water quality associated with the proposed project modification.
- Discharge from weekly water changes would occur through HIOC's existing effluent raceway. The discharged water would run from the onshore operations into a settling basin to allow sediments and materials to settle out and be collected prior to discharge through a 12-in diameter screened discharge pipe back into the bay.² The additional proposed water discharge would not significantly increase the water speed through this pipe or result in scour or erosion of bay sediments.
- The intake screen that is currently used would be increased in size from the original approximately 8 square feet to 24 square feet in order to minimize potential entrainment and impingement of salmonid species. Proper screen size ensures that intake velocities are reduced so as to minimize injury or mortality to the aforementioned marine species. Proposed modifications to the intake screen would ensure compliance with the standards outlined in **Special Condition 4** of CDP No. 9-13-0500 and adhere to recommended standards from the National Marine Fisheries Service and CDFW. Thus, the changes to the screen do not increase potential impacts from impingement or entrainment.
- In order to further minimize the probability of seaweed debris spreading outside of the tanks, all gear and equipment (e.g.; dipnets, buckets, etc.) used for seaweed operations would be properly cleaned, disinfected and dried after use.

² HIOC adheres to a [Notice of Availability](#) (updated for these proposed changes) from the North Coast RWQCB for low-threat discharges to surface waters.

- Electricity to the proposed cultivation equipment would be provided by using an existing underground conduit that leads from HIOC's work shed and connects to the facility's main electric fuse box approximately 255 feet southeast of the location of the tanks. Use of existing conduit and extensions across previously disturbed habitat would limit the potential disturbance of native vegetation and habitat.

The proposed amendment to the project described above, which would be subject to relevant conditions of the original CDP, would not result in additional or unforeseen impacts to coastal resources and, therefore, would remain consistent with the applicable policies of Chapter 3 of the Coastal Act.

If you have any questions about the proposal or wish to register an objection, please contact Amanda Cousart at amanda.cousart@coastal.ca.gov.

cc: Commissioners/File

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**NOTICE OF PROPOSED IMMATERIAL PERMIT AMENDMENT****9-14-1735-A8 / A-3-MRA-14-0050-A8**

TO: All Interested Parties

FROM: Dr. Kate Huckelbridge, Executive Director

DATE: January 26, 2023

SUBJECT: Application to amend Coastal Development Permits Nos. 9-13-1735 / A-3-MRA-14-0050 granted to California American Water Company (“Cal-Am”) for constructing, operating, and decommissioning a test well, along Monterey Bay shoreline, within the City of Marina, Monterey County.

Summary: Cal-Am has requested the above coastal development permits (“CDPs”), which were originally issued in December 2014, be amended to allow an existing test well to remain in place for an additional year (until February 28, 2024). As with several previously approved one-year extensions, Cal-Am would operate the test well intermittently (up to a few hours per week) only for maintenance purposes to ensure its equipment remains in working order. Accordingly, and as was done for those previous extensions, the Executive Director has determined that this request can be approved as an immaterial amendment to the CDPs, as it involves no other changes to the currently approved development and would cause no additional effects on coastal resources.

Background and Project Description: In November 2014, the Commission approved CDPs for Cal-Am to first construct, then operate (for up to four years – until February 28, 2018), and finally decommission a test slant well and associated monitoring wells and other infrastructure in the City of Marina near the shoreline of Monterey Bay.¹ The project was meant to allow Cal-Am to conduct a pump test program to obtain data describing the hydrogeologic and water quality characteristics in aquifers underlying the project area to see if the site would be suitable for additional wells that could be used to provide source water for a desalination facility. In February 2015, Cal-Am completed well installation and started the pump test. Cal-Am ran the test until June 2015, when monitoring detected that groundwater levels were approaching a permit threshold that required Cal-Am to suspend the test and obtain a permit amendment. In November 2015, the Commission approved an amendment to modify the CDPs’ groundwater monitoring requirements and Cal-Am restarted its test.² On April 15, 2016, the

¹ The test well project area is partially within the Commission’s retained jurisdiction and partially within the jurisdiction of the City of Marina’s certified Local Coastal Program. The Commission accepted an appeal of the City CDP decision and approved the portions of Cal-Am’s project within both jurisdictions.

² See Commission’s Final Adopted Findings for 9-14-1735-A1/A-3-MRA-14-0050-A1, November 2015.

Commission approved a further amendment allowing Cal-Am to modify its discharge pipe and requiring additional monitoring at the discharge pipe location.³

Near the end of the four-year permit term and the end of the planned well testing program, Cal-Am requested a one-year extension, which the Commission approved as an immaterial amendment on December 13, 2017.⁴ This extension allowed Cal-Am to keep the well and associated equipment in place for an additional year beyond the scheduled February 2018 end of the pump test program and provided Cal-Am more time to complete the CEQA and NEPA reviews and the permitting processes required for its proposed desalination facility. Cal-Am expected that if its proposed facility was approved, the test well could be included as one of the several wells that would be needed to serve the facility.⁵ During this one-year extension, Cal-Am proposed operating the well only intermittently (no more than a few hours per week) just to ensure the equipment remained in working order.

After that initial one-year extension, Cal-Am requested, and the Commission approved, four subsequent immaterial amendments for additional one-year extensions, all of which were to allow the well to stay in place pending the ongoing review by several agencies of Cal-Am's proposed desalination facility and well field.⁶ As with the first extension in 2017, the subsequent extensions only allowed Cal-Am to keep the well in place and to operate it intermittently only for maintenance purposes to ensure the equipment was working. The most recent extension allows the test well to remain in place until February 28, 2023.

In November 2022, the Commission approved a separate and distinct CDP for Cal-Am's proposed desalination facility components and well field, which would include the existing test well and future wells to extract water for desalination.⁷ However, that separate CDP approval includes various "prior to issuance" conditions. These conditions require, among other things, that Cal-Am obtain approvals from several other agencies and that it provide various plans for Executive Director review and approval. Until Cal-Am meets the requirements of these conditions, it cannot obtain the CDP and cannot conduct any development associated with the approved desalination project.

³ See 9-14-1735-A2 / A-3-MRA-14-0050-A2.

⁴ See 9-14-1735-A3 / A-3-MRA-14-0050-A3.

⁵ The California Public Utilities Commission ("CPUC") completed its CEQA review in 2018 and the NEPA review being conducted by Monterey Bay National Marine Sanctuary ("MBNMS") is pending.

⁶ See 9-14-1735-A4 / A-3-MRA-14-0050-A4 through 9-14-1735-A7 / A-3-MRA-14-0050-A7.

⁷ The Commission held a combined hearing on (i) the de novo appeal (A-3-MRA-19-0034) by Cal-Am of the City of Marina's denial of a CDP for portions of the desalination project within the City of Marina's LCP jurisdiction and on (ii) Cal-Am's consolidated CDP application (9-29-0603) for portions of the desalination project within the LCP jurisdictions of Monterey County and the City of Seaside and within the Commission's retained jurisdiction.

Requested Amendment: On December 22, 2022 Cal-Am submitted an application requesting an additional one-year extension for the test well CDPs. This extension would allow the well to remain in place another year (until February 28, 2024) with no changes to the current intermittent well operations for maintenance purposes.

Special Condition 6 of the current CDPs as amended requires that Cal-Am, no later than February 28, 2023, cut off, cap, and bury the slant well head, and remove all other associated temporary facilities. Cal-Am is now requesting that deadline be extended to February 28, 2024. As with previous extension requests, Cal-Am would not operate the well other than to conduct the above-referenced limited periodic maintenance pumping of no more than a few hours each week during this one-year extension, just as it has done since February 2018.

The requested change to Special Condition 6 is shown below in strikethrough and bold underline text:

“Monitoring and Removal of Temporary Structures, Well Head Burial & Well Closure/Destruction. The Permittee shall monitor beach erosion at least once per week over the duration of the project to ensure the slant well and monitoring wells remain covered. If the wellheads, linings, casings, or other project components become exposed due to erosion, shifting sand or other factors, the Permittee shall immediately take action to reduce any danger to the public or to marine life. When components of the discharge pipeline below the connection to the outfall are exposed, the Permittee shall conduct monitoring, including photographic documentation of the exposed components, at least once per day until the components are naturally reburied, after which erosion monitoring shall be done no less than once per week. When components are exposed, the Permittee shall also post notices at the nearest upcoast and downcoast vertical public access points informing the public of the exposed components. The Permittee shall provide monitoring records, photographs, and proof of the above public notices to the Executive Director upon request.

Prior to conducting any repairs or reinstallation of exposed equipment that require construction methods other than the hand methods described in Amendment 2 of this permit, the Permittee shall apply for and obtain a permit amendment unless the Executive Director determines no such amendment is necessary.

The Permittee shall complete its regular test slant well pumping operations by February 28, 2018. Thereafter, the Permittee may conduct limited periodic maintenance pumping necessary to maintain the test slant well. No later than February 28, ~~2023~~2024, the Permittee shall cut off, cap, and bury the slant well head at least 40 feet below the ground surface, and shall completely remove all other temporary facilities approved by this coastal development permit. To ensure timely removal, the Permittee shall post the bond or other surety device as required by **Special Condition 17** to ensure future removal measures would be appropriately supported and timed to prevent any future resurfacing of the well casing or other project components.”

Findings: The proposed amendment has been deemed “immaterial” for the following reasons:

- **Public Access:** With the proposed amendment, the project would remain subject to the CDPs’ other special conditions, including the terms of **Special Condition 6** above that require monitoring and notification to avoid potential adverse effects to public access to the shoreline.
- **Biological and Marine Resources:** With the proposed amendment, the project would remain subject to the CDPs’ other special conditions regarding biological resources, including those that require biological monitoring and that provide for the approved biologist(s) to halt any work activities that may affect special-status species or habitat near the project location. Additionally, the extension provided by the amendment would eliminate the potential that Cal-Am’s well removal work, if started now to comply with the currently required removal date of February 28, 2023, would extend into the breeding/nesting season of the federally threatened western snowy plover (*Charadrius nivosus nivosus*), which starts on March 1 of each year.

Immaterial Permit Amendment

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

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

Pursuant to section 13166(b)(2), if a written objection to this notice of an immaterial amendment is received within ten (10) working days of mailing notice, and the executive director determines that the objection does not raise an issue of conformity with the Coastal Act or certified local coastal program if applicable, the immaterial amendment shall not be effective until the amendment and objection are reported to the Commission at its next regularly scheduled meeting. If any three (3) Commissioners object to the executive director’s designation of immateriality, the amendment application shall be referred to the Commission for action as set forth in section 13166(c). Otherwise, the immaterial amendment shall become effective.

Pursuant to section 13166(b)(3), if a written objection to this notice of an immaterial amendment is received within ten (10) working days of mailing notice, and the executive director determines that the objection does raise an issue of conformity with the Coastal Act or a certified local coastal program if applicable, the immaterial amendment application shall be referred to the Commission for action as set forth in section 13166(c).

If you wish to register an objection to this notice, please send the objection in writing to Tom Luster at the above address. If you have any questions, you may contact him at (415) 904-5248 or via email at tluster@coastal.ca.gov.

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**EMERGENCY PERMIT**

Issue Date: January 13, 2023
Emergency Permit No.: G-9-23-0009

APPLICANT:

Steve Cheney, Sr. Director of Design and Environment
Union Pacific Railroad
1400 Douglas Street, Stop 0910
Omaha, NE 68179

LOCATION OF EMERGENCY:

La Cañada Honda Creek, west of Coast Road on Union Pacific Railroad property within Vandenberg Space Force Base, Santa Barbara County. Location coordinates are 34.608062°N, 120.636010°W (WGS84)

EMERGENCY WORK:

Conduct emergency discharge of fill material and temporary water diversion to repair the north bank of Honda Creek and bridge supports which were severely eroded by high floods on January 9, 2023. Water diversion will be achieved by excavating approximately 150 cubic feet on an eroded floodplain to divert the creek, and approximately 200 cubic yards of fill will be placed near bridge supports ("bents") 3, 4 and 5 to stabilize the structures. Emergency work will also include stabilizing access to the site by rebuilding the eroded ramp onto the beach and restoration of riparian and wetland habitat damaged during repairs.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. As discussed in your January 13, 2023, letter to California Coastal Commission staff, the stabilization and creek re-routing is necessary to ensure that the bridge structure over Honda Creek does not fail. Stabilization will occur by re-routing the seasonal creek through the placement of various-sized rock fill and construction of a temporary accessway (300 cubic yards fill below OHWM) to allow cranes to place backfill and compact the eroded features at Bents 3, 4, and 5 (approximately 200 cubic yards). An additional approximately 50 cubic yards of large rock will be placed for stormwater protection at a culvert near Coast Road to facilitate site access. Monitoring by a qualified biologist and a cultural resources specialist will take place prior to and during repairs to help ensure adverse impacts to special status wildlife and cultural resources are avoided. This rail line provides the only passenger and freight rail transport on this portion of the Central Coast. Thus, immediate action is necessary to prevent or mitigate loss or damage to life, health, property or essential public services pursuant to 14 Cal. Admin. Code Section 13009. The Executive Director of the California Coastal Commission hereby finds that:

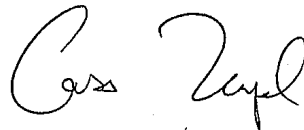
(a) An emergency exists that requires action more quickly than permitted by the procedures for administrative or ordinary coastal development permits (CDPs) or consistency certifications, and that the development can and will be completed within 30 days unless otherwise specified by the terms of this Emergency Permit; and

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

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

Sincerely,

John Ainsworth
Executive Director

A handwritten signature in black ink, appearing to read "Cassidy Teufel". The signature is fluid and cursive, with the first name "Cassidy" written in a larger, more prominent script than the last name "Teufel".

By: Cassidy Teufel, Manager

cc:

Coastal Commission, South Central Coast Office

Enclosures: 1) Acceptance Form

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Permit Acceptance form must be signed by the APPLICANT and returned to our office within 15 days.
2. Only that work specifically described in this permit and for the specific property listed above is authorized. Work is further limited to the use of methods and equipment described in the January 13, 2023, letter, Emergency Permit application and accompanying materials from Althouse and Meade, Inc. (on behalf of Union Pacific Railroad) to California Coastal Commission staff. Any additional work requires separate authorization from the Executive Director of the California Coastal Commission.
3. All work shall take place in a time and manner to minimize any potential damages to any resources, including vegetation, wildlife and habitat. All areas in which vegetation removal or disturbance is proposed to occur shall be documented prior to disturbance or removal through biological surveys that include quantification and photographs of the type and composition of plant communities present. In addition, post-construction biological surveys shall be carried out and document the total area, location and type of each vegetation community disturbed or removed. Both pre- and post-construction surveys shall be provided to the Executive Director of the Coastal Commission within 30 days of the completion of construction activities.
4. If feasible, prior to initiation of ground disturbing activities, the applicant shall contact appropriate representatives of all California Native American Tribes (Tribes) identified by the California Native American Heritage Commission as eligible for consultation in the project area. The applicant shall provide for monitoring of ground disturbance activities by Tribal monitors, if so requested by one or more Tribes.
5. The work authorized by this permit must be completed within 90 days of the date of this permit, which shall become null and void unless extended by the Executive Director for good cause.
6. The applicant recognizes that the emergency work is considered temporary and subject to removal or ending unless and until a regular coastal development permit or consistency certification permanently authorizing the work is approved or concurred with. A regular permit or consistency certification would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly.
7. In exercising this permit, the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
8. This permit does not obviate the need to obtain necessary authorizations and/or permits from other state, local and federal agencies.

9. Within 30 days of issuance of this Emergency Permit, or as extended by the Executive Director through correspondence, for good cause, the applicant shall either: (a) remove all of the materials placed or installed in connection with the emergency development authorized in this Permit and restore all affected areas to their prior condition after consultation with California Coastal Commission (CCC) staff, and consistent with the Coastal Act. In some instances, a permit or consistency certification may be needed for removal; or (b) submit a complete follow-up Coastal Development Permit (CDP) application that satisfies the requirements of Section 13056 of Title 14 of the California Code of Regulations or a consistency certification (or request to modify the consistency certification currently under review by Commission staff for the repair and replacement of the Honda Creek Bridge). If the Executive Director determines that the follow-up CDP application or consistency certification is incomplete and requests additional information, the applicant shall submit this additional information by a certain date, as established by the Executive Director. If such a follow-up CDP application or consistency certification is withdrawn by the applicant or is denied by the Commission, or if the follow-up CDP application or consistency certification remains incomplete for a period of 120 days after the Executive Director informs the applicant that the application is incomplete, the emergency-permitted development shall be removed and all affected areas restored to their prior condition, after consultation with CCC staff and consistent with the Coastal Act, within 30 days, subject to any regulatory approvals necessary for such removal. In some instances, a permit may be needed for removal.

10. Unless a consistency certification is submitted, failure to a) submit a complete follow-up CDP Application that complies with Condition 9 above, or b) remove the emergency development and restore all affected areas to their prior condition after consultation with CCC staff, and consistent with the Coastal Act (if required by this Emergency Permit) by the date specified in this Emergency Permit¹, or c) comply with all terms and/or conditions of the required follow-up CDP, including any deadlines identified therein, or d) remove the emergency-permitted development and restore all affected areas to their prior condition after consultation with CCC staff and consistent with the Coastal Act immediately upon denial of the required follow-up CDP² will constitute a knowing and intentional violation of the Coastal Act³ and may result in formal enforcement action by the Commission or the Executive Director. This formal action could include a recordation of a Notice of Violation on the

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

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

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

applicant's property; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties for violations involving public access; and/or a civil lawsuit, which may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day, and other applicable penalties and other relief pursuant to Chapter 9 of the Coastal Act. Further, failure to follow all the terms and conditions of this Emergency Permit will constitute a knowing and intentional Coastal Act violation.

CALIFORNIA COASTAL COMMISSION

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
PH (415) 904-5200 FAX (415) 904-5400
WWW.COASTAL.CA.GOV

**EMERGENCY PERMIT ACCEPTANCE FORM**

TO: CALIFORNIA COASTAL COMMISSION
ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105

RE: Emergency Permit No. G-9-23-0009

INSTRUCTIONS: After reading the attached Emergency Permit, please sign this form and return to the Energy, Ocean Resources and Federal Consistency Division Office within 15 working days from the permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them.

I also understand that the emergency work is TEMPORARY and that a regular Coastal Development Permit or consistency certification concurrence is necessary for any permanent installation. I agree to submit a consistency certification, modify a consistency certification currently under Coastal Commission review to include the emergency work or complete the regular Coastal Development Permit application within 30 days of the date of the emergency permit or I will remove the emergency work in its entirety within 90 days of the date of the emergency permit (i.e., by April 13, 2023). Finally, I understand that unless I submit a consistency certification or modify a consistency certification currently under Coastal Commission review to include the emergency work, my failure either to:

- a) submit a complete a follow-up Coastal Development Permit (CDP) Application that satisfies the requirements of Section 13056 of Title 14 of the California Code of Regulations by the date specified in this Emergency Permit, which date may be extended by the Executive Director for good cause, or
- b) Remove the emergency development and restore all affected areas to their prior condition after consultation with Coastal Commission staff as you identified consistent with the Coastal Act,

will constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Commission or the Executive Director.

In some instances, a permit or consistency certification may be required for removal (if required by this Emergency Permit) by the date specified in this Emergency Permit. This formal action could include a recordation of a Notice of Violation on my property; the issuance of a Cease and Desist Order and/or Restoration Order; imposition of administrative penalties for violations involving public access, and/or a civil lawsuit, which may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day, and other applicable penalties and other relief pursuant to

Emergency Permit Acceptance Form

Chapter 9 of the Coastal Act. Further, failure to follow all the terms and conditions of this Emergency Permit will constitute a knowing and intentional Coastal Act violation.



Signature of Applicant or
Authorized Representative

Address: 1400 Douglas Street
Stop 0910
Omaha, NE 68179

Steve Cheney

Print Name

1/18/2023

Date of Signing

CALIFORNIA COASTAL COMMISSION

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
VOICE (415) 904-5260
FAX (415) 904-5400



January 24, 2023

Lauren Sullivan
Area 2 Biologist
Natural Resources Conservation Service
U.S. Department of Agriculture

Re: Negative Determination No. ND-0044-22: Dharmata Foundation Fuel Loads Reduction Project, Carmel-By-The-Sea, Monterey County

Dear Ms. Sullivan:

We have received your letter dated November 10, 2023, regarding the above-referenced project to hand-remove dead or damaged trees that are less than 15 inches diameter at breast height (DBH), remove live trees that are 10 inches DBH or less, and remove dead brush vegetation to reduce forest density and reduce the risk of severe wildfire within four acres of the 12-acre Dharmata Foundation property. The Natural Resources Conservation Service has determined that this project would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0044-22. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations.

Please contact Cassidy Teufel at Cassidy.Teufel@coastal.ca.gov if you have any questions regarding this matter.

Sincerely,

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

CASSIDY TEUFEL
Federal Consistency Coordinator
(for)

JOHN AINSWORTH
Executive Director