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STAFF REPORT: REGULAR CALENDAR

Application No.: 9-24-0741

Consistency Certification No.: CC-0006-24

Applicants: SubCom LLC and Vero Fiber Networks, LLC

Location: In state and federal waters offshore of Dockweiler State Beach out to the edge of the continental shelf; and several locations, including Dockweiler State Beach Parking Lot #3 and South Marine Avenue between Dockweiler Parking Lot #3 and Imperial Highway, within the City of Los Angeles, Los Angeles County.

Project Description: Install and operate one submarine fiber optic cable extending from Dockweiler State Beach, through California state and federal waters, and terminating in the South Pacific. Project is Phase III of the Los Angeles Trans-Pacific Telecommunications Cable Hub (Cable Hub) project and will use a subsea steel bore pipe and beach manhole that were constructed under Phase I of the Cable Hub project. The project would also install and operate one ocean ground bed and a buried terrestrial conduit system to connect the

landing site to a data center outside of the Coastal Zone.

Staff Recommendation: Approval with conditions (CDP); Conditional concurrence (Consistency Certification).

SUMMARY OF STAFF RECOMMENDATION

SubCom LLC and Vero Fiber Networks, LLC (“Applicants”) propose to install and operate a fiber optic cable as the third phase of a multi-phase project to install and operate up to four transpacific submarine fiber optic cables landing at Dockweiler State Beach in the City of Los Angeles. The purpose of the project is to connect the United States to various locations along the western and eastern rims of the Pacific Ocean. In Phase I of the project, a landing site and related infrastructure (including two ocean ground beds, two beach manholes, subsea steel bore pipes, and upland conduit) were constructed at Parking Lot 3 of Dockweiler State Beach and along public Rights of Way (ROW) to the Equinix Data Center in El Segundo. Phase II of the project involved installation and operation of a fiber optic cable using the existing landing site at Parking Lot 3, the existing terrestrial infrastructure, and the previously installed subsea steel bore pipe. Phase III of this project (the subject of this staff report) would involve installation and operation of a submarine fiber optic cable (using the existing subsea steel bore pipe and beach manhole) and one ocean ground bed and a buried terrestrial conduit system to connect the landing site to a data center outside of the Coastal Zone. These findings cover a combined coastal development permit and federal consistency certification; the standard of review for both is Chapter 3 of the Coastal Act.

The key Coastal Act issues raised by this project are the potential for adverse impacts to marine resources and commercial fishing. The proposed project has the potential to harm marine mammals, fish, hard bottom habitat, soft bottom habitat and marine water quality. To minimize impacts, staff recommends several conditions designed to protect marine habitats and sensitive species. These include **Special Condition 4** requiring the Applicants to implement a Marine Wildlife Monitoring and Contingency Plan (MWMCP), **Special Condition 5** that requires the cable to be buried to a depth of 1.0 meter, and **Special Condition 6** requiring the Applicants to avoid and eliminate cable suspensions. **Special Condition 12** requires the Applicants to eventually remove the cable from state waters. In addition, **Special Conditions 13** and **14** require the Applicants to quantify impacts to hard bottom substrate and mitigate for those impacts through payment of a hard bottom mitigation fee to be used to remove derelict fishing gear and marine debris from waters off of Southern California. Further, **Special Conditions 15, 16, 17, and 18** require the Applicants to submit plans to protect against the discharge of hazardous and non-hazardous substances into the marine environment. As conditioned, the proposed project would be consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

Although project activities would not take place directly within environmentally sensitive habitat areas (ESHA), several excavation and work areas would be directly adjacent to

restored southern foredune areas. **Special Condition 20** requires the Applicants to implement the El Segundo Blue Butterfly Avoidance and Southern Foredune Protection Plan that was approved by the Executive Director for Phase I of the Cable Hub project. **Special Condition 21** further requires that pre-construction surveys for nesting birds. **Special Condition 22** also requires minimization of artificial night lighting. As conditioned, habitat supporting special-status species and nesting birds will be protected against any disruption of habitat values, and thus the proposed project is consistent with Section 30240 of the Coastal Act.

The proposed project also has the potential to result in conflicts and impacts to commercial and recreational fishing activities. To minimize this potential, **Special Conditions 7, 8, and 9** require the Applicants to notify fisherman of the location of the installed cable and any areas of exposed or suspended cable. In addition, **Special Condition 23** requires the Applicants to adhere to the requirements included in an existing Fishing Agreement (**Exhibit 9**) which is being amended to include this cable project. As conditioned, the project would protect commercial and recreational fishing interests consistent with Coastal Act Section 30234.5.

Commission staff recommends that the Commission **approve** coastal development permit application 9-24-0741, as conditioned, and **conditionally concur** with consistency certification CC-0006-24. The motions and resolutions to carry out this recommendation are on **page 5**.

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EXHIBITS

[Exhibit 1 – Project Overview Map](#)

[Exhibit 2 – Existing Bore Pipes](#)

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[Exhibit 4 – Terrestrial Conduit Route Overview](#)

[Exhibit 5 – Marine Cable Route and Resources Maps](#)

[Exhibit 6 – Marine Route Seafloor Survey](#)

[Exhibit 7 – EIR Mitigation Measures](#)

[Exhibit 8 – Draft Eighth Amendment to Fishing Agreement](#)

[Exhibit 9 – Vegetative Communities Map](#)

I. MOTIONS AND RESOLUTIONS

1. Coastal Development Permit

Motion:

I move that the Commission **approve** Coastal Development Permit No. 9-24-0741 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 9-24-0741 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-0006-24 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-0006-24 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. APPLICANTS' CONSISTENCY CERTIFICATION

SubCom, LLC, and Vero Fiber Networks, LLC, have 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. 9-24-0741 is granted to SubCom, LLC, and Vero Fiber Networks, LLC (referred to as "Permittees" in this section) 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 Permittees 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 Permittees to bind all future owners and possessors of the subject property to the terms and conditions.

IV. SPECIAL CONDITIONS

Both CDP No. 9-24-0741 and Consistency Certification (CC) No. CC-0006-24 are subject to the following special conditions:

1. **Performance Bond.** PRIOR TO ISSUANCE OF THIS PERMIT, the Permittees shall provide a surety bond or other security device guaranteed by the Permittees 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 Permittees 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 ACTIVITIES, the Permittees shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, and/or authorizations for the project have been granted. These permits and approvals include:
 - a. Regional Water Quality Control Board and State Water Resources Control Board – Los Angeles Region: final approved Clean Water Act Section 401 water quality certification and National Pollution Discharge Elimination (NPDES) General Construction Permit.
 - b. U.S. Army Corps of Engineers: Authorization under Nationwide Permit #57 (Electric Utility Line and Telecommunications Activities Electric Utility Line and Telecommunications Activities), pursuant to Rivers and Harbors Act Section 10 and Clean Water Act Section 404.
 - c. California State Parks and Recreation: Right of Entry Permits (entire project) and Easement (for terrestrial conduit portion of project).
 - d. Los Angeles County Beaches and Harbors: Right of Entry Permits
 - e. City of Los Angeles: Easement (for terrestrial conduit portion of project)

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. **Environmental Impact Report Mitigation Measures.** This permit incorporates as conditions those mitigation measures identified in the March 2016, Final EIR (and addenda for: the Phase II project issued in June 2018; and the Phase III project, this project, issued on June 17, 2024) for the Los Angeles Trans-Pacific Telecommunications Cable Hub (State Clearinghouse No. 2016101050) concerning marine habitats, biological resources, fishing, public access, cultural resources, and hazards, which 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 Permittees shall prepare an MWMCP for review and approval by the Executive Director. The Permittees 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 Permittees 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 Permittees' 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 1,200 meters or less in depth, except where proposed use of the plow for installation is precluded by seafloor substrates or by other physical factors such as steeply sloping seafloor. Where a one-meter burial depth cannot be achieved, the Permittees 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 Permittees 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 Permittees 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 Permittees shall recover the cable and reinstall it using the methods outlined in the cable slack management plan and in accordance with **Special Condition 5**.
 - During post-lay inspection and burial operations, the Permittees shall use an ROV to reposition and/or bury to one meter any suspended or exposed cable segment in waters 1,200 meters or less in depth, unless precluded from doing so by seafloor substrates.
7. **Notification of Exposed Cable.** During marine cable installation phased of the project, the Permittees 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 23**, weekly notices containing preliminary as-built coordinates of any unburied or exposed sections of cable.

The Permittees 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 Permittees shall submit to the Executive Director and the signatories of the Fishing Agreement (see **Special Condition 23**) 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 COMPLETION OF ALL IN-WATER CONSTRUCTION APPROVED UNDER THIS PERMIT, the Permittees shall provide written verification to the Executive Director that the Permittees 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 Permittees' 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 Permittees 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 Permittees 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 1,200-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 Permittees 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 Executive Director determines that the initial five-year cable installation survey demonstrates no significant change in cable burial status, then the Permittees 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 Permittees 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 Permittees 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 Permittees 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 subject to this CDP and CC is no longer buried consistent with the cable installation report required by **Special Condition 10**, the Permittees 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 Permittees shall proceed to implement the plan in accordance with the time schedule specified therein. The Permittees 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 Permittees' City of Los Angeles' lease(s) or permit(s), or expiration of any amendments that would extend the lease period, or within 90 days after any early termination of the lease(s)/permit(s), whichever occurs first, the Permittees shall apply for an amendment to this permit to remove the portion of the cable(s) and associated cable infrastructure subject to this CDP and CC. Upon approval by the Commission of the permit amendment, the Permittees 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 Permittees 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 Permittees 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 Permittees 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 \$18.37 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 Permittees shall provide evidence of this payment to the Executive Director within the same time frame.

15. **Inadvertent Release Contingency Plan for HDD activities.** PRIOR TO ISSUANCE OF THIS PERMIT, the Permittees shall submit to the Executive Director for review and approval an Inadvertent Release Contingency Plan for all HDD activities associated with the project. The plan shall include, at a minimum:
- a. An evaluation of a worst-case spill volume;
 - b. Clear identification of the location of entry and exit pits and the trajectory and depth of all onshore bores.
 - c. Measures describing training of personnel, monitoring procedures, equipment, materials and procedures in place for the prevention, containment, clean up, and disposal of released drilling muds, and agency notification protocols;
 - d. Methods for detecting the accidental release of drilling fluids that include: (1) monitoring by a minimum of one biological monitor throughout drilling operations to ensure swift response if a release (i.e., frac-out) occurs; (2) continuous monitoring of drilling pressures to ensure they do not exceed those needed to penetrate the formation; (3) continuous monitoring of mud returns at the exit and entry pits to determine if mud circulation has been lost; and (4) continuous monitoring by spotters to follow the progress of the drill bit during the pilot hole operation, and reaming and pull back operations;
 - e. Protocols the Permittees will follow if there is a loss of circulation or other indicator of a release of fluids.
 - f. Protocols the Permittees will follow if there is a fluid release on beach or other onshore habitat (e.g., isolating the area through construction of temporary berms/dikes and use of silt fences, straw bales, absorbent pads, straw wattles, and plastic sheeting). Specific protocols shall be developed in the event of a fluid release in suitable El Segundo blue butterfly habitat to ensure that a spill is contained in a manner that avoids impacts to the butterfly and its host plant, the dune buckwheat.
 - g. Protocols the Permittees will follow if there is a fluid release in marine waters (e.g., immediately erect an isolation/containment environment, underwater boom and curtain).
 - h. If a frac-out and fluid release occurs that impacts the marine environment, the Permittees shall immediately halt work and notify and consult with the staffs of the City, Coastal Commission, CDFW's Office of Spill Prevention and Response, and National Oceanic and Atmospheric Administration Fisheries regarding appropriate incident-specific actions to be undertaken before HDD activities can begin again.
 - i. If a frac-out and fluid release occurs in the terrestrial environment, the Permittees shall immediately halt work and notify and consult with the staffs

of the City, Coastal Commission, and U.S. Fish and Wildlife Service regarding appropriate incident-specific actions to be undertaken before HDD activities can begin again.

16. **Spill Prevention and Response Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees 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 Permittees will implement to avoid spills and clearly identify responsibilities of onshore and offshore contractors and the Permittees 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.
17. **Critical Operations and Curtailment Plan (COCP).** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees 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.
18. **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.
19. **Stormwater Management Plan.** PRIOR TO ANY PROJECT-RELATED GRADING OR FILLING, the Permittees shall provide for the Executive Director's review and approval a Stormwater Management Plan that describes all structural and non-structural measures the Permittees will implement to avoid and minimize stormwater-related impacts during construction activities. The Plan shall identify measures the Permittees will implement to store and/or contain materials, soils, and debris originating from the project in a manner that precludes their uncontrolled entry and dispersion into nearby waters or habitat areas. Any debris that inadvertently enters coastal waters shall be removed immediately. The Plan shall identify Best Management Practices (BMPs) that will be implemented during project activities to prevent erosion and excessive sedimentation and to protect

wetlands, coastal waters and upland habitats from stormwater runoff associated with project activities.

20. **EI Segundo Blue Butterfly Avoidance and Southern Foredune Habitat Protection Plan.** The Permittees shall comply with and implement the EI Segundo Blue Butterfly Avoidance Plan that was approved by the Executive Director as part of the approval for Phase 1 of the Cable Hub Project (CDP 9-17-0389/CC-0004-17).
21. **Avoidance of Nesting Birds.** NO MORE THAN 14 DAYS PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITIES, a qualified biologist, approved by the Executive Director, shall conduct a pre-construction survey for the presence of nesting birds. If an active nest of a Federal or State-listed threatened or endangered bird species, bird species of special concern, or any species of raptor is identified during such preconstruction surveys, or is otherwise identified during construction, the Permittees shall notify all appropriate State and Federal agencies within 24 hours, and shall develop an appropriate action plan specific to each incident that shall be consistent with any recommendations of those agencies. The Permittees shall notify the Executive Director in writing within 24 hours and consult with the Executive Director regarding the determinations of the State and Federal agencies. At a minimum, if the active nest is located within 300 feet of construction activities (within 500 feet for raptors), the Permittees must ensure that nesting birds are not disturbed by construction-related noise and activity, and shall submit a plan to the Executive Director, for review and approval, demonstrating how construction activities will be modified to avoid impacts to nesting birds, including, but not limited to, such measures as buffer zones around nests, limits on duration of construction activities, and limits on the location of construction-related machinery and activity.
22. **Artificial Lighting.** Artificial lighting of work areas during nighttime hours shall be minimized to the maximum extent practicable. If nighttime lighting is necessary, lights shall be low-wattage, non-reflective, shielded, and directed downward such that no light will shine beyond the boundaries of the immediate work area or onto the surrounding beach and dune areas.
23. **Compliance with Fishing Agreement Requirements.** PRIOR TO COMMENCEMENT OF PROPOSED CONSTRUCTION AND/OR CABLE INSTALLATION ACTIVITIES, Permittees shall submit the fully executed Eighth Amendment to the Southern California Cable & Fishing Agreement to the Executive Director. In a manner consistent with the requirements of Sections 1.1(a) through 1.1(k) of the Southern California Cable & Fishing Agreement, the Permittees 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. Additionally, the Permittees 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 Permittees 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.

24. **Cable Repairs.** The Permittees 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.
25. **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 Permittees shall use all feasible measures to retrieve the fishing gear or inanimate object. In the event of an entanglement involving a whale, the Permittees shall notify the NOAA stranding coordinator. The Permittees 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 Permittees 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 Permittees 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.
26. **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 Permittees 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 including potential removal of components of the infrastructure installed.
27. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, Permittees acknowledge and agree (a) that the site may be subject to hazards from coastal erosion, storm conditions, wave uprush, and tsunami runup; (b) to assume the risks to Permittees and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (c) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (d) to indemnify and hold harmless the Commission, its officers, agents, and employees on a joint and several basis with

respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

28. **Liability for Costs and Attorneys' Fees.** On a joint and several basis, Permittees shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees – including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys' fees that the Coastal Commission may be required by a court to pay – that the Coastal Commission incurs in connection with the defense of any action brought by a party other than Permittees against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit, the interpretation and/or enforcement of permit conditions, or any other matter related to this permit. The Permittees shall reimburse the Coastal Commission after being informed by the Executive Director of the amount of such costs and fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

V. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

SubCom LLC¹ (SubCom) and Vero Fiber Networks, LLC (Vero), propose the third phase of a multi-phase project to install and operate up to four transpacific submarine fiber optic cables to land at Dockweiler State Beach (Dockweiler) in the City of Los Angeles, with the purpose of connecting the United States to various locations along the eastern and western rims of the Pacific Ocean (**Exhibit 1**). SubCom would perform the marine cable installation, installation of terrestrial landing infrastructure at the landing site at Dockweiler State Beach, and the cable pulling to the data center. Vero would install the terrestrial infrastructure from the landing site to the landward end of the Coastal Zone Boundary at Pershing Drive and Imperial Highway. Phase I of the Los Angeles Trans-Pacific Telecommunications Cable Hub (Cable Hub) project (TE SubCom, CDP Nos. 9-17-0389 and A-5-DRL-17-0071, Consistency Certification No. CC-0004-17) included installation and operation of one submarine fiber optic cable extending from El Segundo through California state and federal waters and terminating in Hong Kong, and construction of a landing site and related infrastructure (including two ocean ground beds, two beach manholes, subsea steel bore pipes, and upland conduit) at Parking Lot 3 of Dockweiler and along public Rights of Way (ROW) to the Equinix Data Center in El Segundo. Phase II of the Cable Hub project (TE SubCom, CDP No. 9-18-0647, Consistency Certification No. CC-0006-18) included installation and operation of another submarine fiber optic cable (extending from Dockweiler State Beach, through California state and federal waters, and landing in Chile) using the

¹ Formerly Tyco Electronics Subsea Communications LLC (TE SubCom)

existing landing site at Parking Lot 3, the existing beach manhole (BMH), and a previously installed subsea steel bore pipe.

The currently proposed project comprises the third phase of this effort (Phase III) and would install and operate one additional submarine fiber optic cable extending from Dockweiler State Beach, through California state and federal waters, and terminating in the South Pacific. The proposed project would use the subsea steel bore pipe and beach manhole that were constructed under Phase I of the Cable Hub project (**Exhibit 2²**). The project would also install and operate one ocean ground bed and a buried terrestrial conduit system to connect the landing site to a data center outside of the Coastal Zone.

Cable Landing Site

The proposed project includes construction one ocean ground bed and connection infrastructure for the buried terrestrial conduit system at the cable landing site, which is at, and adjacent to, Dockweiler State Beach Parking Lot #3 (**Exhibit 3**). The components of the cable landing site portion of the project are described below.

Ocean Ground Bed (OGB)

The project proposes installation of a third OGB adjacent to Parking Lot 3 at Dockweiler State Beach and next to the two existing OGBs previously installed in Phase I. The OGB design consists of an electrode array for cathodic protection to control corrosion and to provide an earth ground to the electricity that powers the subsea cable repeaters/amplifiers. Installation of an OGB requires excavation of a terrestrial area that is approximately 25 feet long, 30 feet wide, and 16.4 feet (5 meters) deep. All excavated soils will be temporarily stockpiled within the cable landing staging area. Each OGB will contain a single row of four anodes installed at depths between 9.8 and 16.4 feet (3 to 5 meters) below ground level. Warning tape will be placed at a depth of approximately one meter below ground surface, and the area will be backfilled with native soil and restored to its initial condition.

Landing Site Infrastructure for Buried Terrestrial Conduit System

In addition to the installation of the OGB, a 1.25-inch high-density polyethylene (HDPE) conduit, housing the main trunk ground cable, would be installed in an excavated trench between the new third OGB and the existing BMH. Also, a separate 1.25-inch HDPE conduit would be installed via trenching linking the BMH to the planned future location of a fourth OGB to reduce the amount of excavation required for Phase IV of the Cable Hub Project. The conduit will be installed using similar cross-sections as those characterized above for the OGB. Once the conduits are installed, the trenches will be backfilled with native soil.

An HDPE conduit would also be installed to connect the northernmost existing HDD bore pipe to the northernmost BMH previously installed in Parking Lot 3 as part of

² See Exhibit 3 for updated terrestrial infrastructure plans for this project (Phase III)

Phase I of the Project. Connecting the last empty HDD bore pipe to the BMH as part of Phase III would reduce or eliminate the excavation required in Parking Lot 3 for Phase IV of the Project. Additionally, a manhole or handhole would be installed in Parking Lot 3 at the landward terminus of the northernmost HDD bore pipe to be used for the future Phase IV. Additionally, an HDPE interconnect conduit will also be installed between the two existing BMHs. Finally, a 5.1-inch-outer-diameter articulated pipe would be installed as protection around the Phase III cable in Parking Lot 3 at Dockweiler during cable landing and pulling activities.

Surface restoration in the parking lot (described above) and along the terrestrial route (described below) will involve returning the impacted areas to preconstruction contours and elevations. This restoration will include pavement repair, curb and gutter reconstruction, and pavement re-striping, if needed.

Construction Staging

For onshore construction staging associated with the cable landing infrastructure construction, the Applicants will use up to 58 parking spots at Parking Lot 3 for approximately two weeks (with approximately 370 parking spots remaining open in the immediate lot), which is approximately 4.5 percent of available parking at Dockweiler State Beach Parking Lots 1, 2, and 3 (**Exhibit 4**). A coned turnaround area will also be used.

Terrestrial Conduit System

The proposed project includes construction of a buried terrestrial conduit system (**Exhibit 3**) from the existing BMH at the Phase III landing site to an existing data center in El Segundo. Only a portion of the approximately 3.3-mile terrestrial conduit system is located within the Coastal Zone. The terrestrial conduit system provides a pathway for the marine fiber optic cable to link to existing and future fiber optic infrastructure.

Four 5- or 6-inch diameter HDPE conduits would be installed between the previously installed BMH at Parking Lot 3 to the landward edge of the Coastal Zone boundary at Pershing Drive and Imperial Highway. The route of the terrestrial conduit system would originate at the BMHs at Parking Lot 3 and run along South Marine Avenue to the intersection of Vista Del Mar Boulevard and Imperial Highway. This portion along South Marine Avenue would use horizontal directional drilling (HDD) to install the conduits. The route would continue along Imperial Highway, exiting the Coastal Zone near the intersection of Imperial Highway and Pershing Drive. This portion along Imperial Avenue would use open cut trenching for installation. In the paved public rights-of-way, trenches and vault excavations would be backfilled with native soils and concrete slurry. Trenches and vault excavations along the beach would be backfilled with native soils only.

Horizontal directional Drilling (HDD) Along South Marine Avenue

The HDD process would involve drilling a hole with guidance equipment and continuous drill bit position monitoring. Once drilling is completed, the conduit would be pulled through the borehole. HDD uses a mixture of water and bentonite slurry (a naturally-occurring clay) that is pumped down the drill stem to lubricate the drill head and drill pipe, maintain the borehole opening, and remove bore cuttings. Used slurry would be captured and recycled or properly disposed; unused slurry would be contained within covered barrels at all times.

The conduits along the western side of South Marine Avenue would be installed under the pavement and offset from the previously installed conduits. This alignment and installation methodology is proposed to avoid potential impacts to the bluffs and Environmentally Sensitive Habitat Areas (ESHA) on the eastern side of South Marine Avenue, and to limit impacts to public access. Approximately six bore pits will be excavated during construction along the terrestrial conduit route where the HDD bore pipe and drill head assembly will enter the ground to bore horizontally under the surface of the road. Once complete, the bore pit areas would be returned to pre-existing conditions, including re-paving. Additionally, approximately eight manholes will be installed into the ground along the terrestrial conduit route as pre-cast vaults to create an underground area where the conduit and future cable can be accessed (two additional manholes would be installed along Imperial Highway as part of the trenched portion of the conduit installation landward of Dockweiler State Beach).

After terrestrial conduit installation, the manhole areas would be returned to pre-existing conditions, including repaving, but an approximately three-foot-diameter, round, cast-iron circular access cover would be installed at grade to allow access to each vault. Bore pit excavations would be approximately two feet by six feet and manhole excavations would be approximately four feet by 22 feet. The mini-HDD rig to be used to drill along the conduit route can drill approximately 400 feet along the route before needing to be moved and a new bore pit dug. Approximately every other bore pit excavation would then have a manhole installed into it for future access. **Exhibit 3**³ shows the locations of the excavations and work areas for manholes and bore pits along the proposed terrestrial conduit route.

Open-Cut Trenching Along Imperial Highway

Where open-cut trenching is utilized for conduit installation along the Imperial Highway portion, trenches would be excavated with a backhoe or similar equipment, and soils temporarily stockpiled along the edge of the workspace. An approximately two-foot-wide and 5.5-foot-deep flat-bottom trench with sloped sidewalls, would be constructed to install the conduit along the public right-of-way between the entrance of Dockweiler and the Coastal Zone boundary at Pershing Drive along Imperial Highway, along the

³ While the base aerial map for this exhibit appears to show sandy areas along the terrestrial conduit route, that is windblown sand on top of pavement along South Marine Avenue.

southern side of the road in the bike lane. The sidewalk adjacent to the bike lane will be accessible during construction and traffic control will be implemented.

Work Areas and Construction Staging

For the terrestrial conduit installation using HDD inland from the landing site, described above, the work area for each bore pit and manhole location (containing all equipment and work areas) would be approximately 12 feet by 100 feet (**Exhibit 3**)⁴. A single lane of South Marine Avenue would be temporarily closed for the HDD and terrestrial conduit installation and traffic control, including flaggers, would be used. All other staging for terrestrial conduit installation besides onsite work areas will be located offsite at the contractor's yard, outside the Coastal Zone. Some temporary traffic delays during construction could occur during work along Imperial Highway; however, a traffic control plan will be developed and approved by the City of Los Angeles Bureau of Engineering and the Los Angeles Department of Transportation prior to issuance of encroachment permits.

Subsea Cable Installation

The Applicants propose to install the subsea portion of the Phase III cable along the alignment shown in **Exhibit 5**. This alignment was selected to avoid known marine features to the extent feasible such as the Channel Islands National Marine Sanctuary, State or federal Marine Protected Areas, and Habitat Areas of Particular Concern such as mapped sea grass, rocky reefs, and kelp beds (**Exhibit 6**). The subsea cable installation involves conducting a pre-lay grapnel run, an operation to tie-in the cable to the landing site, installation of the offshore cable, and a post-lay inspection and burial, described in more detail below.

Pre-lay Grapnel Run

Immediately prior to installation of the subsea cable a pre-lay grapnel run would be carried out along the Phase III cable route, from the conduit exit point out to a depth of approximately 1,200 meters. The purpose of this operation is to clear debris from the cable corridor. Anything snagged on the grapnel, such as discarded fishing gear, will be retrieved and properly disposed of onshore. The grapnel blade can penetrate the seafloor (depending on bottom substrate type and composition) up to a depth of 15.7 inches (40 centimeters). The grapnel activity will not occur over areas of hard bottom or in the vicinity of existing buried cables.

Cable Tie-in and Pulling

The initial step in cable installation is the connection at the landing site at Parking Lot 3 at Dockweiler, including through the existing subsea steel bore pipe which extends under the beach to an exit point approximately 4,000 feet (1,219 meters) offshore, and

⁴ Work areas will be adjusted to remain on the roadway to avoid impacts to vegetation and the beach and will be adjusted to maintain vehicle access to Dockweiler State Beach

through the landing site infrastructure and upland conduit detailed above. The shore-end landing operation would use divers and a winch to attach and pull the cable from the cable ship offshore through the marine bore pipe and anchor it in place behind the BMH.

Once the terrestrial conduit system is constructed and the cable landed, the cable will be installed through the terrestrial route. The cable will be installed by pulling from one intermediate manhole to the next using trailers for transportation of the cable and trucks with mechanical pulling equipment. Although cable pulling does not disturb the ground surface physically, traffic control may be required for manholes located in traffic lanes. A non-toxic pulling lubricant will be used to facilitate the pulling and will subsequently dry in place.

Offshore Cable Installation

Immediately following the shore-end landing, a dive team would install an articulated pipe (a protective iron casing with a 2 5/8-inch inner diameter) along approximately 16.4 feet (5 meters) of the cable seaward from the bore pipe exit point, and then bury the cable (within this articulated pipe) to a target depth of one-meter using diver jetting. Beginning at the end of the articulated pipe, the cable will be payed out by the cable lay vessel and temporarily laid on the seafloor. Where possible, from the end of the bore pipe to a water depth of 3,937 feet (1,200 meters), the offshore cable will be buried to a target depth of 3.3 feet (one meter) below the sea floor. Through areas of soft seafloor, the cable lay vessel will install and bury the cable simultaneously using a sea plow.

As the plow is towed (and controlled by an operator on the cable ship), it creates an approximately 1.5-foot-wide furrow into which the cable is placed. As the plow continues to move forward, the weight of the sled and the weight of the sediment which falls back into the furrow closes and compacts the furrow, effectively burying the cable to the target burial depth. Computerized modeling and tracking will be used to control the position and tension of the cable during laying activities and correct for external factors such as wind and ocean currents. In areas of hard seafloor, areas where substrate types or high slopes preclude burial, and in areas with water depths greater than 3,937 feet (1,200 meters), the cable will be laid directly on the ocean floor.

Post Lay Inspection and Burial

In areas where plow burial is not possible (e.g. at crossings of other in-service cables or where plow burial could not achieve the target depth because of bottom conditions), the cable will be surface-laid by the main cable lay vessel and subsequently buried through a post lay inspection and burial process.

Post lay inspection and burial is expected to take place immediately following laying of the cable to ensure that the cable was sufficiently buried by the plow or to bury the cable in areas where using the plow was infeasible or unsuccessful. Post lay burial can include two types of operations. In deeper waters, from 98 feet (30m) water depth to the edge of the burial area, a remotely-operated vehicle (ROV) will be deployed and operated

from the cable lay vessel to which it is tethered. The ROV will use water jets to fluidize the seafloor sediments beneath the cable, allowing the cable to settle to the desired depth. In shallower depths between 32 and 98 feet (10 and 30 meters), diver-assisted jet burial can be used, where fluidizing the seabed with hand jets facilitates cable burial.

Construction Schedule

The Applicants have provided a tentative construction schedule, with installation of terrestrial conduits estimated to begin in early 2025, with the landing site construction and cable landing to occur in either the first and second quarters 2025 or the third and fourth quarters of 2025. Terrestrial conduit installation from the BMHs to the Coastal Zone boundary is expected to take approximately 4 months and will occur during the hours of 7:00 AM to 9:00 PM on Monday through Friday and 8:00 AM to 6:00 PM on Saturdays. Onshore landing site-related construction such as setup, landing support, and cleanup, will take approximately two weeks and will use the same work hours as the terrestrial conduit installation.

The pre-lay grapnel run is planned to last approximately five days. The shore-end landing and cable pulling activities will last approximately one day. The marine cable lay is planned to last for approximately three to four weeks and the post-lay inspection and burial is planned to last approximately three to four days. These offshore activities will also be conducted 24 hours a day, seven days a week, except for the pre-lay grapnel run, which will occur only during daylight hours.

Maintenance and Project Life

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.

The Applicants estimate that the proposed fiber optic cable project would have a life of approximately 25 years. Within 90 days of either taking the cable out of service or the expiration of the City's entitlement, the Applicants would notify the City, the Commission and other applicable agencies of the status and 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 Phase I of this project, including 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 Phase II of this project, including 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).
- In November 2023, the Commission approved one fiber optic cable extending from Grover Beach in San Luis Obispo County (CDP/Consistency Certification No. 9-23-0548/CC-0002-23).

Through its federal consistency authority, the Coastal Commission has also concurred with numerous other consistency certifications, consistency determinations, and negative determinations for submarine fiber optic cable-related projects in other areas of the state and in federal waters by, for example, the Navy, Coast Guard, and the Federal Aviation Administration.

C. OTHER AGENCY APPROVALS AND TRIBAL CONSULTATIONS

City of Los Angeles

The City of Los Angeles (City) is the lead agency under the California Environmental Quality Act (CEQA) for the proposed project. On November 3, 2017, the City certified the final EIR for Phase I of the project, and issued an addendum to the final EIR for the Phase II project in June 2018. On June 17, 2024, the City issued another addendum to the final EIR for the proposed project (Phase III). The June 2024 Addendum to the Final

EIR, prepared by the City of Los Angeles for the proposed cable and related activities that are the subjects of this permit, did not identify any additional mitigation measures.

On September 17, 2024, the City issued a local Coastal Development Permit (local CDP) for the proposed project, and no appeals were filed within the appeal period. The onshore portions of the proposed project are located within the City of Los Angeles dual permit jurisdiction area. The Coastal Act requires that any development located in this jurisdiction which receives a local CDP also obtain a second (or “dual”) CDP from the Commission. The Commission's standard of review for proposed development in the dual permit jurisdiction area is the Chapter 3 policies of the Coastal Act. The offshore portions of this project are within the Commission’s original jurisdiction, where Chapter 3 is also the standard of review. Thus, the Commission will consider both the onshore and offshore portions of the project within the Coastal Zone as part of a CDP. In addition to issuing a local CDP, the City is the landowner for one upland parcel and the submerged lands offshore of Dockweiler State Beach.

Ownership and management of the tidelands offshore of the City was granted to the City by the State Lands Commission. On May 31, 2018, the City granted an easement to Tyco Electronics Subsea Communications, LLC (now SubCom LLC), for the tidelands and submerged land and cable landing site portion of the proposed project. Vero submitted an easement request for terrestrial conduit installation work to the City on April 12, 2024. This request is still under consideration by the City, but the Applicants estimate that this process will be completed in January 2025.

County of Los Angeles

The Applicants have applied to the County of Los Angeles for a Right-of-Entry (ROE) Permit for work at Dockweiler State Beach, which is operated by Los Angeles County Beaches and Harbors. These approvals are pending. Vero submitted a ROE permit application on August 26, 2024, and anticipates that process to be completed by the end of 2024. SubCom submitted an ROE permit application on September 27, 2024, and anticipates that process to be completed in December 2024.

The Applicants stated in a letter dated November 4, 2024, that Los Angeles County Beaches and Harbors has already indicated that work in the summer months, between Memorial Day and Labor Day, will not be permitted under the Right-of-Entry (ROE) permit. Therefore, onshore construction at Dockweiler State Beach will be completed outside the Memorial Day to Labor Day no-work period

California Department of Parks and Recreation

The Applicants applied for a Right-of-Entry Permit (ROE) and an Easement from the California Department of State Parks and Recreation (State Parks) for work at Dockweiler State Beach. Both Vero and SubCom have submitted their ROE permit applications (SubCom on September 27, 2024; and Vero on October 7, 2024). Those permits have not been received but the Applicants estimate those processes will be completed in December. Subcom’s Easement was approved and recorded on

November 4, 2018. Vero submitted its Easement request on April 30, 2024, and estimates completion of that process with State Parks by the end of 2024.

Regional Water Quality Control Board – Los Angeles Region (RWQCB)

The RWQCB regulates waste discharges and placement of fill materials into receiving waters in the project area. On August 12, 2024, the Applicants submitted an application for a Section 401 water quality certification. The RWQCB is currently reviewing the application and the Applicants anticipate receiving a final water quality certification in late 2024.

State Water Resources Control Board

The Applicants plan to submit an application for a National Pollution Discharge Elimination System General Construction Permit to the State Water Resources Control Board in December 2024, and would obtain that permit prior to construction.

U.S. Army Corps of Engineers (Corps)

The Corps has regulatory authority over the proposed 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 submitted an application to the Corps on July 22, 2024, under Nationwide Permit #57 (Electric Utility Line and Telecommunications Activities Electric Utility Line and Telecommunications Activities) and a final decision is expected in late 2024 or early 2025. Informal consultations with the United States Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) are both currently ongoing as part of this process at the time of publication of this staff report.

Tribal Outreach and Consultations

In a letter dated September 25, 2024, the Applicants stated:

The NAHC was contacted on 12 October 2016, during the initial cultural resources review for Phase I of the Los Angeles Cable Hub installation, and responded on 13 October 2016 with a list of Native American groups or individuals interested in development projects in the study area. On 26 March 2024, the NAHC responded to ERM's request for a Sacred Lands File (SLF) check of the proposed Project Area. The following Tribes were notified: Kizh Nation Gabrieleno Band of Mission Indians, Gabrieleno/Tongva San Gabriel Band of Mission Indians, Gabrielino/Tongva Nation, Gabrielino Tongva Indians of California Tribal Council, Gabrielino-Tongva Tribe, Santa Rosa Band of Cahuilla Indians, and the Soboba Band of Luiseno Indians. The result of any SLF check conducted through the NAHC was negative.

During the process of reviewing the proposed project and developing this recommendation, Commission staff reached out to representatives from Native American Tribes understood to have current and/or historic connections to the project

area. These Tribes include the Gabrieleño Band of Mission Indians - Kizh Nation, the Gabrieleno/Tongva San Gabriel Band of Mission Indians, the Gabrielino/Tongva Nation, the Gabrielino Tongva Indians of California Tribal Council, the Gabrielino-Tongva Tribe, and the Gabrielino-Shoshone Nation of Southern California.

Commission staff received one request for consultation from the Gabrieleño Band of Mission Indians - Kizh Nation. Commission have been in email communication with a representative of the Gabrieleño Band of Mission Indians - Kizh Nation regarding scheduling and they have offered the option of going through consultation via email. This communication is still in progress at the time of publication of this staff report. 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. The requirement for a Cultural and Paleontological Resource Management Plan is included in the EIR and, through **Special Condition 3**, would be incorporated into this CDP.

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 burial or placement of a marine cable on the seafloor. This constitutes fill of open coastal waters that is subject to Coastal Act Section 30233(a), which imposes three tests on a project that includes dredging and/or fill of open coastal waters. The first test requires that the proposed activity must fit into 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 proposed transoceanic fiber optic cable, the purpose of which is to provide direct ocean connectivity between the United States the South Pacific, 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 cable meets the allowable use test of Coastal Act Section 30233(a).

Alternatives

The Commission must further find that there is no feasible less environmentally damaging alternative to the proposed project, especially with respect to the impacts of submarine cables and cable installation on marine organisms and hard bottom habitat. In order to find that there is no less environmentally damaging alternative to the proposed project, it is necessary to assess two types of alternatives: (a) alternatives to the proposed landing site and (b) alternative offshore routes.

Alternatives to the Proposed Landing Site

The Project EIR examined alternative landing sites within the City of Los Angeles, including at Dockweiler State Beach, Hermosa Beach, and Manhattan Beach. Results of this analysis are summarized in the staff report for A-5-DRL-17-0071/ CDP 9-17-0389/CC-0004-17. As discussed in that staff report, the Commission found that there was no less environmentally damaging alternative to the proposed landing site at Dockweiler State Beach, and the CDP approved its construction. The proposed fiber optic cable described in this staff report would land at the previously approved (and already constructed) landing site. An alternative landing site would involve new construction or use of a different but already constructed landing site. Constructing a new landing site would result in additional terrestrial and marine habitat and species-specific, water quality, or other impacts from construction activities.

Thus, use of a new alternative landing site would be considered more environmentally damaging than the proposed use of the existing landing site at Dockweiler. Use of a different existing landing site would involve the same types of construction activities and impacts associated with the proposed project, and therefore would also not be considered less environmentally damaging. For these reasons, the Commission finds that there is no feasible less environmentally damaging alternative landing location to the proposed project.

Alternative Offshore Routes

The proposed cable route was sited to avoid or minimize impacts to sensitive marine habitats and other known marine features. Areas that were identified for avoidance or impact minimization included: rocky substrates, kelp beds, marine sanctuaries, conservation areas, fishing areas, explosives dumping areas, contaminated sediments, commercial outfalls and anchorages, submarine canyons and unstable substrates, as well as known significant marine cultural resources. **Exhibits 5 and 6** show the proposed cable route and several habitat areas that were avoided. In addition, the project Applicants worked with local fishing organizations to choose routes with minimal potential to affect fisheries. The EIR addendum issued June 17, 2024, also states that

the proposed route would avoid known hazards identified in the project area, including infrastructure and chemical disposal sites.

Although the proposed project will not avoid all areas of hard bottom substrate, impacts to biological communities that surround these areas will be minimized. A geophysical survey was conducted of seabed features that concluded that the majority of hard bottom habitat within the cable corridor consisted of low relief rocks or sub-cropping hardground (defined as rock covered by a thin layer of loose sediment less than 6 feet thick and including areas where rocks or boulders are intermittently exposed at the seabed surface). These results are fairly typical of the surrounding marine environment of the Southern California Bight. Although the EIR did not specifically analyze alternate marine cable routes, it is not likely that, due to the prevalence of scattered low-relief rocky outcrops in the relatively narrow corridors available, an alternate route could be found that would be able to completely avoid or even significantly decrease impacts to hard bottom areas. Additionally, as described above, the proposed route was designed specifically to avoid several areas designated for protection or conservation. In addition, where the cable cannot avoid contact with hard bottom habitats, the Applicants propose 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.

Accordingly, for the reasons described above, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and therefore meets the second test of Coastal Act Section 30233(a).

Mitigation

The final requirement of Coastal Act Section 30233(a) is that dredging and filling of coastal waters may be permitted if feasible mitigation measures have been provided to minimize any adverse environmental effects. In Sections V.E and V.F of this report, the Commission has identified feasible mitigation measures that will avoid or minimize the adverse environmental effects of the proposed cable. These mitigation measures (with special conditions described in more detail in those sections) include: requiring the cable to be buried a depth of 1 meter; avoiding and eliminating cable suspensions; providing notification to fisherman of the location of the cable and any exposed sections (to reduce the potential for snags); submitting plans to minimize impacts from frac-outs, spills of hazardous material and stormwater runoff; and assessing and mitigating for impacts to hard bottom habitat caused by the proposed project.

With the imposition of the conditions of this permit, the Commission finds that the third test of Coastal Act Section 30233(a) has been met and the proposed 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 offshore portion of the project extends from the shoreline at Dockweiler Beach State Park, through the Santa Monica and Santa Cruz Basins, and out to the edge of the Outer Continental Shelf (**Exhibit 5**). This area is known for its biological diversity and contains several valuable marine habitats characterized by both soft and hard substrate, and supports several special-status species. Although not located within a State or federal Marine Protected Area, the project would occur in the vicinity of the Channel Island National Marine Sanctuary, Point Vicente and Point Dume State Marine Conservation Area (SMCA), several SMCAs on Catalina Island, and the Santa Barbara Island State Marine Reserve (SMR) (**Exhibit 5**). Santa Monica Bay is also designated as Essential Fish Habitat (EFH) and serves as an important commercial fishery for a variety of fish and invertebrate species. The proposed project also crosses a portion of the California Department of Fish and Wildlife (CDFW)-designated Cowcod

Conservation Area, a portion of the Potato Bank EFH Marine Conservation Area (MCA), and a portion of the San Juan Seamount MCA (**Exhibit 5**).

The proposed project involves the installation of fiber optic cable on the seafloor from the shoreline out to the edge of the OCS and has the potential to result in impacts to marine mammals and sea turtles, fish, hard bottom habitat, soft bottom habitat, and marine water quality. Each of these potential impacts is discussed in detail below.

Marine Mammal and Sea Turtles

There are three potential types of impacts to whales and other marine wildlife due to the proposed project: entanglement with the project cable, entanglement with “ghost nets” or abandoned fishing gear, and collision with project vessels.

Potential Entanglement with the Project Cable

Marine mammals and sea turtles that forage within or migrate through coastal waters in the project area may become entangled in unburied or insufficiently buried cable or in cable suspensions. Whale species commonly observed in the area through which the cable would pass include gray whales (*Eschrichtius robustus*), humpback whales (*Megaptera novaeangliae*), blue whales (*Balaenoptera musculus*), fin whales (*B. physalus*), minke whales (*B. acutorostrata*), sperm whales (*Physeter microcephalus*), and killer whales (*Orcinus orca*), several of which are listed as endangered under the federal Endangered Species Act. In addition, several types of dolphins and porpoises, including bottlenose dolphins (*Tursiops truncatus*), Pacific white-sided dolphins (*Lagenorhynchus obliquidens*) and Risso’s dolphins (*Gampus griseus*) are also common in the area. Other marine mammals such as pinnipeds (e.g., sea lions, harbor seals), fissipeds (e.g., sea otters) and sea turtles have also been observed.

Of the marine mammal species that frequent the area, two species—the California gray whale (*Eschrichtius robustus*) and sperm whale (*Physeter macrocephalus*)—have the potential to become entangled due to, respectively, bottom-feeding behavior or deep-diving behavior. Approximately 20,000 gray whales migrate through California waters each year between Alaskan waters and Baja California. Due to their abundance off the Pacific coast, their tendency to hug the shoreline during migration and their bottom feeding patterns, gray whales may face the highest risk of entanglement with insufficiently buried or exposed cables. The majority of southbound (November to January) gray whales migrate within 2 nautical miles (nm) from shore, while the northbound migration occurs much closer to shore, with mother and calves reported within kelp beds sometimes only yards from the shoreline. These distances vary seasonally over time, particularly because of the deterring presence of boat traffic. The number of migrating gray whales recorded near San Clemente Island suggests that a significant proportion of the total population crosses the project area during the southbound and northbound migrations (E&E 2001).

Gray whales usually feed nearshore in soft-bottom sediments and typically feed opportunistically during migration (MMS 1989). Gray whales forage on the seafloor by

diving, rolling onto one side on the seafloor, and sucking up sediments that the whale filters with its baleen (E&E 2001). One study also found sea floor gouges approximately 15 centimeters deep created by migrating gray whales offshore of Northern California, and concluded that migrating gray whales interact with the muddy part of the central marine shelf (at 60-120 meter water depths), although this behavior was determined to be secondary to their migratory objective (Cacchione et al. 1987). Gray whales can also dive in waters from 150 to 200 meters deep, but usually prefer shallower water.

Sperm whales are much less abundant off the coast of California than gray whales, numbering only approximately 1,200 individuals. Sperm whales typically inhabit deep open waters, and are the deepest and longest diving of all cetaceans. Sperm whales regularly dive 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. However, based on aerial and boat surveys off California, sperm whales are usually found north of the project area (Fahy 2002). In addition, unlike gray whales, sperm whales do not bottom feed; instead, they feed solely on squid and octopi found in the water column (E&E 2001). The National Marine Fisheries Service (NMFS) has therefore determined the risk of sperm whale entanglement from bottom-laid cables to be very low (Fahy 2002).

Several older studies have documented occurrences of whale entanglements with submarine cables. A study by Heezen (1957) documents fourteen examples of sperm whale entanglements with submarine telegraph cables worldwide between 1930 and 1955.⁵ Heezen postulated that the sperm whales became entangled "...while swimming along in search of food, with their lower jaw skimming through the upper layer of sediment. It may also be that the whales attacked the cable mistaking it for prey." The report also documented possible entanglements of baleen (e.g., gray) whales in shallower water, and one humpback whale reported entangled in Alaskan waters.

More recently, Wood and Carter (2008) evaluated two substantial cable fault databases to determine the occurrence of whale entanglements with telecommunication cables since the 1955-1966 time period. This study discusses the 14 cable faults occurring between 1877 and 1955 attributed to whales in Heezen's 1957 study, and cites a 1969 study of the Alaska-mainland USA telegraph system which reported two whale entanglements prior to 1966. Wood and Carter state that both of the aforementioned studies "continue to be cited as examples of the potential threat posed to whales by submarine cables although there is a suggestion (unsupported by definitive data) that entanglements may not have occurred since 1955-1966", and concluded that:

Before 1955-1966, up to 16 faults in submarine telegraphic cables were reported and attributed to entanglements with mainly sperm whales. Circumstantial evidence suggests that capture was related to excessive slack in repaired cables laid in areas of rough and/or steep topography. Since 1955-1966, substantial fault data sets

⁵ At the time of the study, there were nearly a half-million miles of cable laid on the sea floor in various parts of the world (Heezen 1957). That figure has more than doubled in the years since (Rampal 1998).

contain no reference to whale entanglements. This cessation and its continuation to the present day is largely related to marked changes in submarine cable design, deployment, and maintenance as well as advances in marine surveying. The period from 1955 to 1966 marked the phased replacement of submarine telegraphic cables by coaxial types, which were superseded by fiber-optic systems in the 1980s. Cables of the post telegraphic era have different torsional and flexile characteristics, are laid with just enough slack to follow the seabed topography, and are commonly buried below the seabed on the continental shelf and upper continental slope – the main sounding habitat of sperm whales. Furthermore, precision marine surveys allow for accurate cable placement to avoid areas where potential ensnaring suspensions may result.

Despite these findings, the potential for whale entanglement with submarine cables still exists. Given the diving depth ranges of both gray whales and sperm whales, and the bottom-foraging behavior of gray whales, the presence of suspensions in the submarine cable increases the risk of whale entanglement. In addition, the potential for entanglement is present during the initial installation of the cable as cable is payed out from the cable-laying vessel on the surface and traverses the entire length of the water column before it is buried in the seafloor sediments. Due to the protection of these marine mammals under the Endangered Species Act and the Marine Mammal Protection Act, entanglement or injury impacts due to insufficiently buried or exposed cables or from cable-laying would be significant. It is estimated that for the proposed project, approximately 1.8% (or approximately 1.8 nautical miles) of the total⁶ cable distance within water depths shallower than 1,200 meters) crosses hard substrate where the cable will not be buried and will instead be placed on the ocean floor, and another approximately 21.7% (or approximately 21.6 nautical miles) of the total cable distance within water depths shallower than 1,200 meters) crosses other areas where physical factors (such as steep slopes) will preclude the use of the plow to bury the cable, thus creating the potential for cable suspensions over a significant portion of the cable route

The Project EIR analyzed the risk to whales from cable entanglement and concluded that the impact was not significant. Specifically, the EIR listed several factors that contribute to this conclusion:

- The majority of the cable in the nearshore environment where whales transit the coast will be buried.
- In hard bottom areas where the cable cannot be buried, the cable would be surface-laid with only enough slack to allow the cable to conform to the seabed.
- Post-lay burial and inspection would be conducted to attempt to re-bury any segments of exposed cable.

⁶ The total proposed submarine cable distance within water depths shallower than 1,200 meters is approximately 99.44 nautical miles (approximately 184 kilometers).

To ensure that the proposed project minimizes the potential for whale and other marine wildlife interaction with the project cables, and to document any future entanglements, the Commission requires that several conditions be met by the Applicants. **Special Condition 3** requires the Applicants to implement the mitigation measures related to marine resources included in the final EIR (**Exhibit 7**). Final EIR mitigation Measures MBIO-1, 2 and 3 require the Applicants to provide two observers for marine mammal and sea turtle monitoring, submit a cable burial verification report to the City immediately post-project (and five years after cable installation) and after any future event that might result in unburial of the cable, and retrieve any reported snagged fishing gear. **Special Conditions 10** and **11** require such reports to be submitted to the Commission as well; see below for discussion of **Special Condition 25** related to retrieval of entangled fishing gear. To further reduce the potential for entanglement during cable laying, **Special Condition 4** requires the Applicants to prepare and implement a Marine Wildlife Monitoring and Contingency Plan. The plan will incorporate the marine protection elements of EIR Mitigation Measures MBIO-1 but also will include provisions for a marine mammal avoidance zone, reporting requirements, reduced vessel speed during cable-laying activities and minimization of propeller noise. The observers will send daily sightings reports to the Executive Director and other agencies and will have the authority to stop any activity that could result in harm to a marine mammal or sea turtle.

To minimize the potential for entanglement once the cable is installed, **Special Condition 5** requires the Applicants to bury the cable to a depth of 1.0-meter except where use of the plow is precluded by seafloor substrates or other physical conditions such as steeply-sloping bottom. Where a 1.0-meter burial depth cannot be achieved, the Applicants are required to bury the cable to the maximum depth feasible. In order to ensure that cable installation is consistent with the project description, **Special Condition 8** requires the Applicants to submit to the Executive Director and the signatories to the Fishing Agreement (required by **Special Condition 23**) the as-built plans, including burial depth, of the project cable.

To minimize the occurrence of suspended cable, **Special Condition 6** requires the Applicants to develop and implement a Cable Slack Management Plan. This Plan will describe the steps the Applicants will take during cable installation to identify and eliminate, where feasible, segments of cable that are suspended above the seafloor. In addition, **Special Condition 12** requires the Applicants 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 sooner termination of the Applicants' easement in state waters off of Dockweiler State Beach. In order to ensure compliance with these and other conditions, **Special Condition 1** requires the Applicants to post a performance bond in the amount of \$500,000 to cover its cable operations in State and federal waters out to the 1,200-meter water depth.

Entanglement with Ghost Nets and Abandoned Fishing Gear

Fishermen may snag gear or nets on cables. When this occurs, fishermen generally abandon their gear or nets (creating “ghost nets”), thereby creating a risk to marine mammals and other species. Pursuant to a Fishing Agreement executed by the Applicants with various fishermen and their representatives (see **Exhibit 8**), when it appears that a fisherman has snagged a cable, he or she is expected to cut their gear instead of risking damage to the cable. If the fisherman was operating consistent with established procedures, the Applicants will reimburse the fisherman for the lost gear. This abandoned gear, and particularly the nets, can become a hazard to marine life, potentially entangling marine mammals and fish, preventing them from feeding and causing them to drown.

To address these concerns, the proposed project was designed to reduce impacts to commercial and recreational fishing. The practice of burying the cable to an optimal depth of 1 meter will ensure that the vast majority of the cable is buried beneath the surface and does not create a potential hazard for fisherman. To further minimize the likelihood that fishing gear comes into contact with the cable, **Special Condition 8** requires the Applicants to provide the signatories to the Fishing Agreement with as-built plans of the installed cable, including information related to burial depth and cable suspensions. This information can be used by fisherman to avoid potentially problematic areas where the cable is exposed. In addition, **Special Condition 9** requires the Applicants to provide NOAA with the information necessary to update its nautical charts to reflect the position and burial status of the installed cable.

Although the entanglement of fishing with the proposed cable is not expected to occur, to provide additional assurance that any gear that does become entangled would not pose a threat to marine wildlife, **Special Condition 25** requires the Applicants to use all feasible measures to retrieve any fishing gear or object that becomes entangled in a cable no later than six weeks after discovering or receiving notice of the incident. If full removal is not feasible, the Applicants shall remove as much gear as practicable to minimize harm to wildlife. Within two weeks of completing a recovery operation, the Applicants are required 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

The proposed project could also result in impacts to marine mammals and sea turtles from collisions with or harassment from project vessels during marine operations associated with the proposed project. As described above, several species of marine mammals are known to inhabit the waters in the vicinity of the proposed project. Ship strikes of whales present the most serious concern. In 2007, four blue whales were found dead in the vicinity of the Santa Barbara Channel and Los Angeles-Long Beach Harbors with direct or indirect evidence of having been struck by a ship. However, the slow speeds necessary for project vessels during cable installation activities are likely to limit the potential for collisions with marine mammals or sea turtles. The EIR for the MC

Global fiber optic cable project, a similar project with a cable landing just south of the project site (in Hermosa Beach) states that:

Ship strikes during cable installation is highly unlikely since the speed of the ship during the cable laying activities is slower (approximately 0.5 to 1.5 knots while plowing) than migrating whales or fast-swimming sea lions. According to the Large Whale Ship Strike Database, the majority of strikes were by vessels traveling between 13 and 15 knots, there are no reported collisions below 2 knots (Jenson and Silber, 2003). Nevertheless, there remains a small risk of marine mammals and sea turtles encountering Project vessels and, therefore, there is a potential for collisions. Any collision or potential for harm to marine mammals and sea turtles would be a significant impact.

In addition, the EIR for the proposed project states that impacts from noise and vessel movement have the potential to result in behavioral changes or disruptions in animal movements. These impacts, however, would be temporary and geographically isolated and would not cause disruptions substantially different from normal ship traffic through the area.

The EIR also includes MBIO-1, a mitigation measure designed to reduce the impact on marine mammals and sea turtles to a less than significant level. This measure requires awareness training, monitoring by two qualified observers, development of project-specific monitoring procedures and control measures and reporting any collisions to the resource agencies. **Special Condition 3** requires the Applicants to implement this mitigation measure. However, although this measure is likely to decrease the risk of a collision, additional measures are necessary for the proposed project to be found consistent with the requirement to protect marine species under Section 30230 of the Coastal Act. For example, for previous cable-laying projects of similar scope, the Commission has generally required a minimum of two NMFS-qualified marine mammal observers on duty during all cable installation activities to ensure adequate coverage of the project area. In addition, these conditions do not identify an appropriate avoidance zone or require project vessels to reduce speeds to avoid collisions.

Therefore, consistent with previous fiber optic submarine cable project approvals, the Commission has included an additional mitigation measure to ensure that impacts to marine mammals and sea turtles are minimized and healthy populations of marine organisms are maintained. **Special Condition 4** requires the Applicants to prepare and implement a Marine Wildlife Monitoring and Contingency Plan. This plan will incorporate elements of the EIR mitigation measures described above but also will include provisions for a minimum of two NMFS-qualified marine wildlife observers on duty during all cable installation activities, the establishment of a 500 –1,640-foot avoidance zone, limits on project vessel speed, and reporting requirements. With these conditions in place, the potential for adverse impacts to marine mammals and sea turtles from collisions with project vessels or harassment from noise associated with project activities will 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.

Fish

The distribution of fish species in Santa Monica Bay, like the rest of the California Coast, is influenced by depth, substrate type, temperature, and ocean currents. According to the MC Global EIR, nearshore rocky areas in the Southern California Bight (SCB) vary widely with respect to the observed assemblages of macroinvertebrates and fishes. Many of the most abundant species in the SCB are schooling fish found in the water column such as seniorita (*Oxyjulis californica*) and blacksmith (*Chromis punctipinnis*) or demersal (i.e., fishes living on or near the sea floor) species such as kelp bass (*Paralabrax clathratus*) and California sheephead (*Semicossyphus pulcher*) often associated with giant kelp communities. In soft substrates, the most widespread benthic habitat in the SCB, fish assemblages are characterized by flatfishes such as sandabs (*Citharichthys* spp), California halibut (*Paralichthys californicus*) and other demersal species as well as several species of pelagic fishes, such as northern anchovy (*Engraulis mordax*), topsmelt and California grunion (*Leuresthes tenuis*). Grunion have been observed to spawn on the sandy beaches at Dockweiler and, consequently, were the focus of a special condition incorporated as part of the CDP for Phase I of the project because it included installation of beach-side infrastructure; this project does not include activities within the areas of the beach where grunion spawning would occur. Other special status species may also be present including the scalloped hammerhead (*Sphyrna lewini*) and steelhead (*Oncorhynchus mykiss*). In addition, the proposed cable route passes through areas of Santa Monica Bay designated as Essential Fish Habitat for three Fishery Management Plans (Pacific Coast Groundfish, Coastal Pelagic Species, and Highly Migratory Species), and through an area designated as a Cowcod (*Sebastes levis*) Conservation Area.

The Cowcod Conservation Area (CCA) is an approximately 4,200-square-nautical mile (~3.6 million acres) area (see **Exhibit 5**) established in 2001 to rebuild heavily overfished cowcod populations to sustainable levels. Cowcod is a large and resilient groundfish species that favors a range of habitats including benthic soft-bottom environments and rocky deep shelf regions as deep as 1,600 feet. The geographic range for the cowcod extends as far north as Oregon, as far south as Baja Mexico, and up to approximately 500 miles offshore (NOAA 2009; Pacific Fishery Management Council [PFMC] 2016). Thus, the area of cowcod habitat is not limited to the CCA.

In contrast to benthic species that are immobile or severely restricted in their mobility, fish species are not likely to experience direct impacts from project activities. Cable

installation activities will result in a temporary increase in turbidity that will likely cause mobile species such as fish and marine mammals to avoid the project area. However, sediment is likely to settle relatively quickly (i.e., within a matter of hours), and the relatively narrow project footprint will not substantially limit available habitat. Thus, these impacts are not expected to be significant. During cable-lay operations, the cable installation vessel will move slowly, allowing any mobile species to avoid the descending cable. There is a low probability that fish species could be harmed by a frac-out during HDD operations, largely due to increases in turbidity. However, since HDD is only proposed for terrestrial conduit installation in this proposed project, the likelihood of discharge into coastal waters from a frac-out would be greatly reduced compared to Phase I, which used HDD to install the bore pipe from the cable landing to its offshore terminus. In the event of a frac-out that results in discharge into coastal waters, fish species will likely avoid the immediate area. Implementation of **Special Condition 15** (discussed in more detail below) will further reduce the potential for a frac-out. **Special Condition 17** requires the Applicants to submit a Critical Operations and Curtailment Plan which describes the sea and weather conditions under which project activities can safely proceed, thus minimizing sediment dispersal and the potential for release of hazardous material by limiting construction activities to avoid periods of storms or heavy seas.

Another concern for fish species is the potential for impacts associated with noise from construction activities. Criteria developed by several federal and state agencies, including the NMFS, U.S. Fish and Wildlife Service (USFWS) and CDFW set threshold-type criteria for exposure to impulse sounds at 206 dB.⁷ Lower levels may cause fish to alter their behavior patterns by avoiding the affected area but are not expected to cause injury. Project-related underwater noise is expected to originate from project vessels, wherein underwater noise is generally correlated with vessel speed. One study measured sound levels from a tug travelling at 11 knots at 160dB at a distance of 2 meters. Due to underwater attenuation, noise levels would be reduced to less than 120 dB at a distance of 200 meters. Background levels of noise in the near-shore environment are often close to 120 dB due to both anthropogenic and natural sources of noise. Based on this information, noise levels are not anticipated to reach levels that would cause injury in fish. As an additional precaution, the Marine Wildlife Monitoring and Contingency Plan described in **Special Condition 4** requires the Applicants to limit the speed of project cable-laying vessels to two nautical miles per hour (knots), further reducing noise levels associated with project activities.

The proposed project also has the potential to result in disturbance to Essential Fish Habitat. Specifically, in areas of soft substrate, the pre-lay grapnel run and cable installation activities including use of the sea plow or ROV to bury the cable could result in short term disturbance associated with the displacement of sediments and minor, local turbidity effects from suspended sediments. In addition, resuspension of contaminated sediments could occur, although the areas of highest concentration will

⁷ Underwater standard ((dB re 1 μ Pa @ 1m).

be avoided. These potential impacts are likely to be short-lived, with full recovery expected within a year. In hard bottom areas, horizontal movement and strumming of the cable has the potential to harm organisms in the immediate vicinity of the cable. However, according to the Project EIR, “methods and equipment used to install undersea cables have improved over the years to greatly reduce horizontal movement during installation, and for this Project an impact width of only 0.25 feet (3 inches; 7.6 centimeters) is assumed.” Thus, impacts to hard substrate in Essential Fish Habitat would be minor and localized. Further, although recovery in hard bottom areas is expected to be longer than in soft-bottom areas, the small width of the disturbance corridor would limit impacts to individuals. Therefore, the proposed project is not likely to lead to any measurable reduction in the capacity of these environments to support fishes identified in Fishery Management Plans for the Pacific Coast.

As described above, a portion of the proposed cable will be laid within the Cowcod Conservation Area (CCA). The area of project-related bottom habitat impact within the CCA would be relatively minimal compared to the overall size of the CCA – approximately 3.7 acres of soft substrate will be disturbed by use of the sea plow and an additional approximately 0.15 acres of impacts where the cable will be laid directly on the sea floor. This impact would be temporary (as described in further detail below in the discussion of soft substrate impacts) and will not adversely affect the cowcod population itself or the ability of CDFW to effectively manage the CCA. Correspondence with CDFW indicated its position that the goals and fishing restrictions of the CCA “are relative to fishing activities not habitat impacts relative to proposed projects” and did not include opposition or a need for additional measures to be applied to the proposed cable (CDFW personal communication 2018).

The proposed project also crosses a portion of the Potato Bank EFH Marine Conservation Area (MCA), and a portion of the San Juan Seamount MCA (**Exhibit 5**). In a letter dated October 31, 2024, the Applicants stated:

The proposed route would also cross through the Potato Bank EFH Marine Conservation Area, a 70,930-square-mile (183,700-square-kilometer) area closed to fishing with bottom trawl gear. Within these Conservation Areas, commercial groundfish trawl fisheries are restricted; however, there are no restrictions pertaining to installation of subsea cables. Due to the motile nature of groundfish, wildlife is anticipated to avoid the sea plow and cable installation and recolonize following installation. Cable installation is therefore not expected to have a significant impact on groundfish populations, including cowcod, and would not be in conflict with the intended use of the Conservation Areas.

For the San Juan Seamount MCA, it is understood that the seamount is conserved for both habitat and foraging value. Therefore, the crossing of the MCA has been minimized to the extent feasible. Additionally, the habitat crossed within the San Juan Seamount MCA is hard bottom, which results in less temporary impact than plow burial across this MCA.

The installation methods and activities for Phase III would be consistent with the activities for Phase I, and impacts on soft bottom and hard bottom MCA communities and habitats would be consistent with impacts to soft and hard bottom communities and EFH analyzed in the Certified EIR. As discussed in the Certified EIR, impacts from installation would be temporary, and the impacted area would be small relative to the overall habitat area. The Project would not introduce permanent structures that would block emigration and immigration, and organisms are expected to recruit into the impacted area and repopulate.

In areas of project-related bottom habitat impact within the Potato Bank Essential Fish Habitat EFH MCA, approximately 0.58 acres of soft substrate will be disturbed by use of the sea plow. In area of project-related bottom habitat impact within the San Juan Seamount MCA, which is located past the outer continental shelf and deeper than 1,200 meters, there will be approximately 0.14 acres of impacts where the cable will be laid directly on the sea floor. These impacts would be temporary (as described in further detail below in the discussion of soft substrate impacts).

Benthic Habitat: Hard Substrate Impacts

Cable-laying operations could adversely impact hard substrate habitat and associated biota. Hard substrate is exposed rocky seafloor area that provides habitat for a diverse group of plants and animals. Common epifaunal invertebrates occurring in the hard substrate areas vary based on depth and substrate relief height. Along much of the California coast, there is a strong positive association between the types of communities and the depths and substrate types in which they occur. Hard substrates, including rocky bottoms, rock outcrops, and rock crevices, provide habitat and shelter for numerous sessile organisms, demersal fishes, and mobile invertebrates such as lobsters and crabs. In shallow waters (less than 200 meters or 656 feet), algae, including giant kelp, eelgrass and anemones such as *Corynactis californica* are present. At these depths (and deeper), depending on favorable high relief substrate, current speeds and sedimentation rates, branching hard and soft corals have also been reported. In deeper waters (greater than 600 meters or 1,968 feet), hydroids provide substrate to anemones, amphipods, polychaetes, and ectoprocts. Gorgonians, large sponges, shrimp, crinoids, ophiuroids, brittle stars, and seastars are also present.

Hard substrate (especially high-relief substrate) and its associated biota are relatively rare in the SCB, and therefore any effect to them is potentially significant. Impacts to high-relief substrate in particular are significant because: (a) deepwater reefs are relatively rare along the central and southern California coast; (b) they support a diverse assemblage of epifaunal invertebrates; (c) they attract fish as a nursery ground, food source, and as shelter; and (d) epibiota residing on rocky substrates are sensitive to mechanical disturbance and increased sediment loads.

Adverse impacts (e.g., crushing, scraping, and/or displacement) to hard substrate can occur during cable installation and subsequent movement of the cable on the seafloor due to currents and wave action. In their study on the environmental impacts of a one-

to three-inch submarine cable offshore of Half Moon Bay, Kogan et al. (2006) found incisions, scrapes, and vertical grooves from 2.5-inches to 17.5-inches wide in rocky substrate along the cable route. Hard substrate was altered or damaged by these scrapes and grooves and typical epifaunal organisms were absent. Placement of the project cable on rocky substrates would disrupt associated bottom communities, likely 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.

Potentially significant impacts to hard substrate and biota could occur if rock features are crossed with the grapnel or if anchors are placed directly on hard bottom. The grapnel will be dragged along the proposed alignment in soft sediment areas and is expected to disturb an approximately three foot-wide area along the centerline of the cable lay corridor. However, to avoid impacts to hard bottom associated with the pre-lay grapnel run, the Applicants will not deploy the grapnel in areas of rocky seafloor substrate. Impacts to hard bottom habitat from anchors would be temporary, and studies have shown that hard bottom ecosystems are relatively slow to recover from direct impacts (e.g., as compared to soft bottom ecosystems). According to the project description and CDP application materials, the main cable laying vessel is equipped with a dynamic positioning system that does not use anchors. This includes during storms, high waves and other reasonably foreseeable circumstances. Diver-support vessels, which would be used to support cable installation at the offshore bore pipe exit point, may use an approximately 18-inch anchor similar to what is used in a fishing boat in rough conditions. The bore pipe is located in an area of soft sediment, however, so no hard bottom impacts will occur from any such anchoring. **Special Condition 13** (described in more detail below) requires that the Applicants submit a post-project study that documents project-related impacts to hard bottom areas, including from any unanticipated anchoring. Thus, with inclusion of this measure, impacts to hard bottom habitat and the associated benthic species from anchoring of project vessels will be minor.

However, cable will be laid over areas of hard substrate. The Commission calculates the hard substrate impact area by multiplying the length of cable that will be laid over hard substrate by double the cable width (because the cable does not necessarily stay stationary). In this case, it is estimated that the length⁸ of cable to be laid over hard substrate to be 15.5 kilometers (50,918 feet). Double the width of cable is 3 inches or 0.25 feet. The projected hard substrate impact area is thus estimated at 12,729 square feet. As described above, cable-laying activities and any ongoing movement of the cable over the life of project has the potential to damage or crush rocky substrate and its associated biota.

In previous marine cable related projects, the applicant has agreed to compensate for potential project-related impacts to hard substrate and its biota by paying a mitigation

⁸ I.e., length in water depths less than 1,200 meters (3,937 feet)

payment to the UC Davis Wildlife Health Center's California Lost Fishing Gear Recovery Project. Started in 2005 by the SeaDoc Society, a marine ecosystem health program of the UC Davis Wildlife Health Center, the primary purpose of the Recovery Project is to remove commercial fishing gear that is accidentally lost or intentionally discarded in California's marine environment.

Derelict fishing gear is likely found in the water along the entire coast of California. The gear is potentially hazardous to divers and an array of wildlife including seabirds, fish, turtles, sea otters, and other marine mammals. Derelict fishing gear affects the marine environment in several ways: it can continue to "catch" fish and marine animals, which become enmeshed or trapped, and it can damage the habitat upon which it becomes entangled or upon which it rests. It is also a visual blight on the seafloor, diminishing the natural aesthetic quality of the seafloor and rocky habitat. Currently, the SeaDoc Society is focusing gear recovery efforts in the newly established Central Coast Marine Protected Areas network and near the Channel Islands.

The Commission has previously found contributions to the Recovery Project to be an acceptable form of compensation for unavoidable adverse impacts to hard substrate and the organisms it supports. In combined CDP/Consistency Certification no. E-08-021/CC-005-09, the Commission accepted AT&T's offer of \$100,000 to the Recovery Project as adequate to compensate for potential project-related impacts to 5,500 square feet of hard substrate and its biota. Subsequent marine cable projects have used this \$100,000 per 5,500 square feet of impact area figure approved under E-08-021/CC-005-09 to determine appropriate compensatory funds for different areas of impact. For example, the Commission approved a payment of \$32,000 (32% of \$100,000) to compensate for a hard bottom impact of 1760 square feet (32% of 5,500 square feet).

In 2016, Commission staff examined data on completed compensatory mitigation work to quantify the acreage of compensation that could be achieved for the funds provided to the Recovery Project for this purpose. In total, the Recovery Project had received \$801,193 in compensatory mitigation funds to mitigate impacts to a collective total of 24,325 square feet of hard bottom habitat from seven fiber optic cable projects and two pipeline removal projects. With these funds, the Recovery Project was able to collect 1301 items of derelict fishing gear over 105 field days, resulting in the enhancement of an estimated 64,702 square feet. These data showed that the Recovery Project was able to achieve enhancement of marine habitats at a mitigation ratio of 2.7 to 1 and for a cost per area of \$12.38/square foot. When this cost per acre figure is adjusted to 2024 dollars using the Consumer Price Index, the result is \$18.37/square foot.

For all fiber optic cable projects approved in 2016 or after, including Phases I (CDP 9-17-0389) and II (CDP 9-18-0647) of this project, the Commission has applied the results from the analysis of Recovery Project data described above to determine an appropriate mitigation fee for impacts to hard bottom substrate from submarine cable projects. In addition, the Commission applied a 3:1 mitigation ratio because of the nature of the mitigation work performed by the Recovery Project. The Recovery Project's work removes chronic sources of habitat and wildlife disturbance and loss, but it does not

actively restore habitat areas after those sources of disturbance are removed. The actual “restoration” of the disturbed areas is achieved through natural recruitment of missing organisms over time. It can often take years for that natural recovery to occur on marine hard substrate habitats (Lissner et al., 1991). Compensating for this time lag between the impact and the success of the mitigation site is one of the principal reasons the Commission has applied mitigation ratios larger than 1:1 in other cases. Another key consideration is the likelihood of mitigation success. Once the Recovery Project removes a source of disturbance from a particular area, it is highly likely that natural recovery of the restored site will occur over the long-term. However, unlike terrestrial mitigation projects where the Commission generally requires conservation easements or other types of protections to protect against future ecological damage, there is no similar mechanism that can be applied to protect marine mitigation sites. Thus, the Commission cannot assume that future anthropogenic disturbance of the same site will not occur in the future. It is likely that some of the sites that are restored by the Recovery Project could be subjected to future damage as lost fishing gear re-accumulates or other types of damage are sustained. Thus, in this case, the uncertainty in the long term restoration of the site also justifies applying a 3:1 mitigation ratio when calculating the appropriate mitigation fee.

As described above, it is estimated that the proposed project could impact approximately 12,729 square feet of hard bottom substrate. This impact area was determined using data from an April 2024 geophysical survey that used sonar to determine substrate type within the cable corridor. These data are then used to forecast the anticipated depth of burial that can be achieved, but can only provide an estimate of the impact. To determine the actual impact, **Special Condition 13** requires the Applicants to conduct a post-lay burial study of the installed cable to quantify the extent of actual hard bottom impacts. The survey shall also quantify the height and length of any cable suspended at heights greater than 1.0-meter from the seafloor. Within 60 days of completing the survey, the Applicants will submit to the Executive Director a written report describing the results of the survey for review and approval.

Additionally, **Special Condition 14** requires the Applicants to compensate for all project-related impacts to hard bottom habitat through payment of a compensatory hard bottom mitigation fee to the UC Davis Wildlife Center to be used to remove derelict fishing gear and other marine debris from waters in the Southern California Bight. The total hard bottom mitigation fee will 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 \$18.37 per square foot. The total square footage of hard bottom impacted will be calculated by multiplying the linear distance of cable laid on or suspended over hard bottom by approximately twice the width of the cable (i.e., 3 inches).

The mitigation work will 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 UC Davis Wildlife Health Center’s California Lost Fishing Gear Recovery Project. Once the mitigation funds are received, the Recovery Project will submit a

spending plan to the Executive Director for review and approval that includes, at minimum, a description of the mitigation project and its estimated cost. The mitigation work will aim to recover known (previously located and/or reported) and opportunistically encountered derelict commercial fishing nets, traps and other types of gear within the Southern California Bight. The removal of derelict nets snagged on rocky bottom habitat or on underwater structures, or in some cases still attached to fishing vessels, is critical because this form of derelict fishing gear (net) presents a significant entanglement/drowning risk to wildlife and to underwater users (divers, scientists, engineers). The Recovery Project also will recover lost trap gear that results in hazards, blight, and/or interferes with fishing, emphasizing recovery soon after the close of commercial seasons. Project personnel will collect data on all gear recovered, including location, type, substrate type and impacts to resources and habitat. The overall scope of the field effort will be dependent upon the final determination of mitigation funds.

The Commission finds that removing lost fishing gear and other marine debris from the marine environment will offset the projected impacts to rocky bottom areas caused by cable-laying activities. Thus, with the above special condition incorporated, impacts to hard bottom habitat and the associated benthic species will be minimized, consistent with the requirement in Coastal Act Section 30230 that marine resources be maintained, enhanced, and where feasible, restored.

Benthic Habitat: Soft Substrate Impacts

Soft-bottom areas are unconsolidated sediments (e.g., gravel, coarse-grained and mixed sediments, sand, and mud) that provide habitat to epifauna (surface living) and infaunal (below-surface living) organisms. Impacts to epifauna and infauna due to the proposed project are of concern because: (1) the proposed cable burial will disturb their seafloor habitat; (2) many infaunal organisms have limited mobility and cannot easily escape habitat disturbance or rapidly repopulate regions of disturbance; and (3) they are a source of food for more mobile epifaunal and pelagic marine organisms such as crabs, fin fish, and marine mammals.

Soft-bottom benthic communities in the nearshore areas of the proposed cable route are comprised of species associated with the sand and gravel substrate typical of the high-energy and dynamic environments of the California coast. As depth increases from the shore to 200 meters (656 feet), the density of infaunal species increases, most likely because of the greater stability of the sediments. Examples of dominant species present at shallow water depths (subtidal to 30 meters or 98.4 feet) include several species of red algae and epibenthic biota such as the ornate tube worm (*Diopatra ornata*), cancer crabs (*Cancer* sp.), the slender crab (*Cancer gracilis*), the masking crab (*Loxorhynchus crispatus*), octopus (*Octopus rubescens* and *O. bimaculatus/ bimaculoides*), the white sea pen (*Stylatula elongata*), the sea cucumber (*Parastichopus californicus*), the sunflower star (*Pycnopodia helianthoides*). In the coarser sand habitats, the invertebrate community was typically dominated by ornate tubeworms and sand dollars when they were present in colonies occupying fairly narrow bands. Demersal fish present include the California halibut and other flat fish species. From 30 – 150 meter (98.4 – 410 feet)

depths, species such as sea pens, several species of anenomes, the sea slug (*Pleurobranchia californica*), and the leafy flat star (*Petalaster [Luidia] foliolata*), and flatfish are also present. At 125 – 600 meter (410 – 1,968 feet) depths, most of the epibenthic fauna are sea urchins. At deeper depths, soft substrates are generally inhabited by sea pens, octopus, sea stars, and multiple species of small polychaetes and crustaceans. In deep basin areas (e.g., below roughly 600 meters or 1,968 feet), low oxygen conditions contribute to decreased abundance and biomass of invertebrates. However, in near-island habitats such as the Santa Barbara Channel, which comprise a significant portion of the proposed cable route, the above communities become diverse and abundant. The proposed cable routes pass outside the current boundaries of the Channel Islands National Marine Sanctuary. According to the EIR, no threatened or endangered soft-bottom benthic species were identified during surveys or are known to exist in the project area.

The project application states that approximately 80% of the proposed cable route (within water depths shallower than 1,200 meters) crosses soft-bottom habitat (i.e. clay, silt, or sand). In April 2024, a geophysical survey of the proposed cable corridor was completed from the proposed offshore terminus of the landing borepipe extending seaward approximately 220 km to the edge of the outer continental shelf (about 184 km of which included water depths shallower than 1,200 meters – not including a deeper portion of the route through the Santa Cruz Basin). Data collected during that survey were used to characterize the seafloor habitat and associated biota.

The EIR states that potential impacts to marine habitats and associated biota could occur throughout the cable laying operation, including those resulting in seafloor disturbance (i.e., pre-lay grapnel clearance and the laying and burial of the cable). In addition, following surveying of the cable route as required by **Special Condition 11**, any cable segments that have become exposed will be reburied with an ROV jet pursuant to an approved re-burial plan.

In evaluating the significance of potential project impacts on soft-bottom habitat and associated biota, the EIR states that:

The scale and duration of disturbance caused by Project activities, however, are limited, resulting in localized and temporary disturbance to the seabed. As described in environmental analyses for similar projects in California, the maximum width of the disturbance area caused by the sea plow would be approximately 26 ft (8 m), but the furrow or trench would be approximately 3.3 ft (1 m) (AMS 2015, as cited in City of Hermosa Beach 2016).

Motile invertebrates, fish, and other wildlife in the vicinity are anticipated to avoid the plow and recolonize the area after the plow has left. Species that inhabit the upper layer of the soft-bottom sediments may be displaced, smothered or crushed by cable placement and burial. As discussed in Section 3.1.1.3 [of the EIR], these organisms are accustomed to the dynamic conditions of soft bottom habitats and as such the populations are resilient. The area disturbed by cable installation would be small relative to available habitat, and species in the soft bottom habitats are expected to repopulate

rapidly. In addition to being a relatively small area of disturbance, the benthic infauna that would be impacted in the soft-bottom areas are common species that would readily repopulate the disturbed area after the cable is laid (City of Hermosa Beach 2016). An example of this recovery was observed during a routine ROV survey of a fiber optic cable along the central coast of California in 2007. Several other buried fiber optic cables were crossed, and there were no detectable differences in benthic macrofauna observed at these locations (AMS 2015).

Studies have shown that additional factors, including the fact that the disturbance to benthic habitat does not involve the removal of sediment, and the proximity of the disturbed sediments to undisturbed sediments, will also serve to minimize the amount of time needed for benthic organisms to recover (AMS 2015). Thus, impacts to soft bottom habitat from the proposed project would be minor and temporary for the following reasons: (1) the area of impact is relatively small compared to the geographical extent of this habitat type offshore of Dockweiler State Beach; (2) the species that are likely to be impacted are common and will readily repopulate; and (3) studies have shown that recolonization and recovery of most soft-bottom communities is rapid following short-term and localized disturbance.

Marine Water Quality Impacts

The proposed project offshore lies in open coastal waters of Santa Monica Bay and the Southern California Bight. The Dockweiler State Beach landing site is located in Santa Monica Bay, a coastal embayment between Point Dume and the Palos Verdes peninsula, located in one of the most densely populated areas on the California coast. Water quality conditions within the bay are affected by general oceanographic conditions as well as point and non-point sources of pollutants, including wet and dry weather flows through storm drains and urban runoff, and municipal and industrial wastewater discharges, the latter representing the largest source of pollutants to the bay. The Hyperion Treatment Plant alone discharges an average of 352 million gallons per day of treated sewage. Other point sources are the Joint Water Pollution Control Plant with outfalls off the Palos Verdes peninsula, the Chevron Refinery in El Segundo, the El Segundo and Scattergood Generating Stations, and the Redondo Beach L.L.C. Generating Station. According to the EIR, pollutants of concern for the Santa Monica Bay include pesticides (specifically DDT and chlorane), PCBs, PAHs, TBT, metals, pathogenic bacteria and viruses, total suspended solids, nutrients, trash and debris, chlorine, biological oxygen demand, and oil and grease. Dockweiler State Beach and Santa Monica Nearshore and Offshore are considered impaired water bodies under Section 303(d) of the Clean Water Act.

The principal potential impacts on marine water quality due to the proposed project are: (1) impacts to filter-feeding benthic organisms due to increased turbidity during cable installation (including grapnel, burial, re-burial, repair, and water-jetting operations) and the suspension and resettling of contaminated sediments within Santa Monica Bay; (2) impacts on benthic habitat and water quality due to potential release of the drilling fluid bentonite if a “frac-out” occurs that results into a discharge into coastal waters during

horizontal directional drilling (HDD) operations for installation of the terrestrial conduit; (3) the release of fuel, hazardous material, sewage or bilge/ballast water from project vessels; and (4) increased erosion, sedimentation, and other potential water quality impacts related to terrestrial construction activities.

Turbidity and Redistribution of Contaminated Sediments

The size of the turbidity plume caused by cable installation activities (i.e., grapnel, jetting, and burial) depends on the grain size of the bottom sediments, rates at which the suspended particles settle to the bottom or are dispersed by bottom currents, and the energy produced by the trenching equipment. Increases in turbidity can degrade water quality by reducing light penetration, discoloring the ocean surface, or interfering with filter-feeding benthic organisms sensitive to increased turbidity. In addition to impacts associated with turbidity, if suspended sediment is contaminated, it can lead to further impacts associated with increased exposure rates for marine organisms.

At the conduit terminus, water jetting operations to expose the newly installed conduit will result in localized increases in turbidity. Similarly, the pre-lay grapnel run, laying of the cable, jetting of sediments during cable installation, and use of the sea plow farther offshore also will result in local and temporary increases in turbidity. The EIR states that the majority of sediments along the proposed cable route consist largely of clay with some sand and silt. Sand particles are expected to settle rapidly within the immediate area of the impact, whereas clay particles will settle more slowly and have the potential to drift farther from the impact site. The most significant potential turbidity impacts will occur at the bore terminus where water jetting will occur. Because of the predominance of sand particles in this area, suspended sediment is expected to settle rapidly resulting in only minor, short-lived and localized impacts to marine organisms. In areas of the project further offshore, there is a greater potential for suspended particles to remain suspended for longer periods of time. However, the project activities in these areas are less energetic and are expected to result in significantly less suspension of bottom sediments. Thus, the concentration of suspended sediment in the surrounding water column will be small, and any resulting impacts will be minor. Thus, due to the localized, minor and short-term nature of the increase in turbidity, impacts to filter-feeding and other benthic organisms will not be significant.

As the proposed cable is laid through Santa Monica Bay, there is potential to disturb sediments contaminated with DDT, PCBs, metals, and other contaminants, resulting in dispersal and potential uptake of these contaminants by benthic organisms. The degree of sediment contamination in Santa Monica Bay is dependent on location and depth. The proposed cable route avoids known locations of contaminated sediments. However, sampling conducted in the project area did indicate that sediments in this area contain elevated levels of DDT, PCBs and mercury (CDP Application for 9-17-0389). Specifically, individual soils samples contain contaminant levels above Effects Range Low but do not exceed Effects Range Median. Effects Range Median is defined by NOAA as the "concentration above which effects are frequently or always observed among most species of biota." Thus, concentrations are below levels at which impacts

would be expected. Furthermore, studies conducted by the U.S. Coast Guard's Coastal and Marine Group in coordination with the Southern California Water Research Project and the City of Los Angeles, Bureau of Sanitation have found that contaminant levels in Santa Monica Bay sediments are lowest in the surface sediments where project-related disturbance would occur (CDP Application for 9-17-0071). In addition, as discussed above, the proposed construction methods are not likely to result in significant suspension and/or redistribution of sediments. Project activities are confined to a small footprint and would thus be expected to generate small amounts of resuspended sediment, especially compared to natural dispersion through wave action or ocean currents. Thus, water quality impacts associated with resuspension of contaminated sediments would be minor.

Frac-outs during HDD Operations

Bentonite, a non-toxic clay mineral mixed with water to create drilling fluid, will be used during HDD operations. HDD activities could result in the inadvertent release of drilling fluids (i.e., frac-out) onto the beach or surf zone above the bore. Although it does not pose an acute toxicity threat, bentonite releases can smother benthic organisms and contribute to increases in turbidity. To minimize the potential impacts associated with a frac-out, the proposed project includes a measure to prepare and implement an Inadvertent Release Contingency Plan. **Special Condition 3** incorporates this mitigation measure included in the EIR into this CDP. In addition, **Special Condition 15** adds additional requirements to the Inadvertent Release Contingency Plan to ensure it is consistent with Coastal Act requirements and past Commission approvals. Specifically, **Special Condition 15** requires that the Inadvertent Release Contingency Plan also includes protocols to be followed in the event of a loss of drilling pressure and a confirmed frac-out. With these measures in place, the potential for a frac-out will be minimized and in the event a frac-out does occur, procedures will be in place to ensure that any impacts are temporary and minor.

Discharges from Project Vessels

The proposed project requires the use of several different marine vessels and equipment to support the construction and operation of the proposed cable. It is possible that marine vessels could discharge fuel or other hazardous fluids, sewage water, bilge water, debris, or ballast water into the marine environment. Depending on the size and contents of the release, impacts to marine organisms could be significant. Although the likelihood of a spill occurring is low, the Applicants included a measure to develop an Oil Spill Contingency Plan as part of the project. To ensure that this plan is consistent with Coastal Act Requirements, **Special Condition 16** requires the Applicants to 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 is available. In addition, the Plan shall clearly identify responsibilities, list and identify the location of oil spill response equipment, and include a plan for conducting training and response drills. Further, **Special Condition 17** requires the Applicants to implement an Executive

Director-approved Critical Operations and Curtailment Plan (COCP). The COCP defines the limiting conditions of sea state, wind, or any other weather conditions that would hinder safe operation of vessels and equipment or a potential spill cleanup. Finally, consistent with previous fiber optic cable projects, **Special Condition 18** requires implementation of a zero discharge policy for all project vessels.

Water Quality Effects from Terrestrial Activities

Terrestrial construction activities at Dockweiler State Beach Parking Lot 3 and other terrestrial cable installation activities landward (including both horizontal directional drilling and open-trench installation) have the potential to result in water quality impacts due to storm water discharges, accelerated soil erosion, and sedimentation. The Applicants are in the process of seeking a 401 Certification from the Regional Water Quality Control Board that will address these issues. **Special Condition 2** requires the Applicants to submit evidence of approval of the 401 Certification to the Executive Director. To further ensure that impacts associated with stormwater runoff and erosion are minimized, **Special Condition 19** requires the Applicants to submit a Stormwater Management Plan to the Executive Director for review and approval that identifies Best Management Practices to control erosion and stormwater runoff from the project site.

In addition, inadvertent releases of oil or other hazardous material from construction-related vehicles or equipment have the potential to degrade water quality of nearby ground or surface waters. To minimize the likelihood of a spill, **Special Condition 16** requires the Applicants to develop a Spill Prevention and Contingency Plan for terrestrial construction activities (as well as marine activities as described above). The Plan shall include provisions to identify the worst-case spill scenario and demonstrate that adequate spill response equipment is available. In addition, the Plan shall clearly identify responsibilities, including provisions to conduct worker training related to recognizing and responding to spills, maintain equipment to avoid leaks, and implement safe refueling practices. Implementation of these measures will minimize the potential for an inadvertent release of hazardous materials during terrestrial construction activities.

To summarize, with the inclusion of the Special Conditions described above, the Commission finds the proposed project will minimize the potential for adverse impacts associated with increased turbidity, resuspension of contaminated sediments, inadvertent release of drilling fluids or hazardous substances, discharges from project vessels and runoff from terrestrial activities. The project will therefore maintain the biological productivity and quality of coastal waters and ensure that the project does not adversely impact existing populations of marine organisms.

Conclusion

For the reasons discussed above, the Commission finds that the proposed project, as conditioned by **Special Conditions 1-6, 8-9, and 11-19** will be carried out in a manner that maintains marine resources, sustains the biological productivity and quality of coastal waters, and protects against the spillage of hazardous substances into the

marine environment, and is therefore consistent with Coastal Act Sections 30230, 30231 and 30232.

F. ENVIRONMENTALLY SENSITIVE HABITAT AREAS (ESHA)

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30107.5 of the Coastal Act Defines Environmentally Sensitive areas as:

“Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The terrestrial components of the proposed project within the Coastal Zone are located largely in Dockweiler State Beach and the public rights-of-way along South Marine Avenue and Imperial Highway (see **Exhibits 3 and 4**). Land use surrounding the terrestrial conduit routes includes public beach, open space dune habitat, a public utility (Hyperion Water Reclamation Plant) and LAX Airport. The cable landing itself will be located beneath a paved parking lot. The ocean ground beds will be buried in sandy substrate immediately adjacent to the parking lot. The westernmost portions of the terrestrial conduit system, from the beach manholes to South Marine Avenue and then along the South Marine Avenue until its intersection with Imperial Highway, will be located on or beneath pavement (with the exception of a grassy area near that intersection), but directly adjacent to sandy beach areas. Along South Marine Avenue, the cable will be laid under the pavement on the seaward side of South Marine Avenue. As seen in **Exhibit 9**, disturbed southern foredune habitat has been mapped along the landward (east) side of South Marine Avenue along the length of the terrestrial conduit alignment, while restored southern foredune habitat is mapped along a portion of the seaward side of South Marine Avenue, between it and Parking Lot #2 (which is seaward of the road). The cable will be pulled along existing roadways. Although project activities would not take place directly within ESHA, there are areas in which excavation and work areas would be directly adjacent to restored southern foredune areas, which presents the potential to impact protected habitats and special status species as described in detail below.

Southern foredune habitat and the El Segundo Blue Butterfly

Southern foredune habitat is considered a sensitive natural community by the California Department of Fish & Wildlife (CDFW). Dune systems are considered one of the most dynamic habitat types on earth and are dependent upon, and highly influenced by, wind and wave action. These forces cause sand accretion or erosion, depending on their strength, which tends to follow seasonal patterns. Dunes form parallel to the prevailing winds and support an array of native plants and animals uniquely adapted to this transition zone between land and sea. In addition to their habitat and aesthetic values, dune ecosystems provide important protection to inland structures and lands from storm events. The dunes behind Dockweiler Beach are generally characterized by low, often succulent, perennial subshrubs and herbs and can support several species of reptiles, birds and mammals. To the east of the conduit, between Vista Del Mar Rd. and LAX, is approximately 300 acres of disturbed southern foredune habitat that is designated as the El Segundo Dunes ESHA. Small remnants of this habitat exist on the landward edge of Dockweiler Beach, outside of the designated ESHA area, where the Applicants have proposed to install a terrestrial portion of the fiber optic cable. The new terrestrial conduit will be drilled under a paved roadway adjacent to an area of restored southern foredune (**Exhibit 9**).

The Coastal Commission has determined in past actions that southern foredune habitat, regardless of the level of disturbance, is an Environmentally Sensitive Habitat Area (ESHA). According to a memo on Biological Resources at Broad Beach, Malibu, written by Commission biologist Dr. Jonna Engel, California dune ecosystems have suffered a disproportionately high amount of human impact because the coast is a highly desirable area for industry, tourism, recreation, and residential settlements. As a result, dune ecosystems are listed as very rare by the CDFW Natural Diversity Database. Section 30107.5 of the Coastal Act defines environmentally sensitive habitat (ESHA) as “any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.” Consistent with prior Commission actions, the vegetated areas of southern foredunes at Dockweiler Beach rise to the level of ESHA because they are rare and are easily disturbed and degraded by human activities and development as shown by the significant loss of dune habitat and the high cover of non-native and invasive species. Non-vegetated areas in the project area do not rise to the level of ESHA; however, these areas would be prime targets for restoration and could develop into ESHA in the future.

As part of Phase I of the project, the applicant conducted biological surveys of the project area to characterize the vegetation communities and identify any special status species. These surveys generally found that the area surrounding the cable route was heavily disturbed by human use and contained little vegetation. Vegetation that was present consisted largely of invasive species, including iceplant, crystalline ice plant (*Mesembryanthemum crystallinum*), saltgrass, Bermuda grass (*Cynodon dactylon*), Mexican fan palm (*Washingtonia robusta*), tree tobacco (*Nicotiana glauca*), sea

lavender (*Limonium perezii*), and other landscaping species. No special status plant or wildlife species were observed. In the restored southern foredune habitat, field surveys observed several plant species that are both typical and atypical of this vegetation community: ragweed (*Ambrosia artemisiifolia*), mulefat (*Baccharis salicifolia*), dune buckwheat (*Eriogonum parvifolium*), California sagebrush (*Artemisia californica*), brittlebush (*Encelia californica*), lemonade berry (*Rhus integrifolia*), and telegraph weed (*Heterotheca grandiflora*).

Although no special status species were observed in this area during the biological surveys, the El Segundo blue butterfly, federally listed as endangered, has been documented in this area. The butterfly is solely dependent on dune buckwheat at all stages of its lifecycle. Field surveys conducted for the project found several small patches of vegetation including dune buckwheat in the restored habitat area west of South Marine Drive.

The proposed project includes installation of cable adjacent to areas considered both potential and documented El Segundo blue butterfly habitat: vegetated southern foredune habitat and un-vegetated sandy beach areas. Potential impacts include both direct impacts to critical habitat for the butterfly (i.e., individual plants or patches of dune buckwheat) and vegetated foredune habitat, and indirect impacts from dust, noise and other disturbance associated with construction vehicles, equipment and personnel associated with HDD activities, terrestrial cable installation and staging. To avoid impacts to El Segundo blue butterfly, the Applicants propose to install the terrestrial cable using HDD for approximately 4,495 linear feet under the pavement on western side of South Marine Avenue (and to the intersection of Imperial Highway and Vista Del Mar), on the seaward side of the road, adjacent to restored dune habitat where the butterfly has been observed. The remaining 2,052 linear feet of terrestrial cable between the intersection of Imperial Highway and Vista Del Mar, inland along Imperial Highway to the Coastal Zone boundary, would be installed using open trenching methods (see **Exhibit 4**). To minimize the potential for impacts to the El Segundo blue butterfly, the EIR requires Mitigation Measure TBIO-1 that requires the Applicants to retain a qualified biologist to conduct pre-construction presence/absence protocol survey of the conduit alignment including a 300 foot buffer. The biologist would map all areas where dune buckwheat is present and project-related activities including parking, staging, storage and access would occur outside this buffered area. The measure also states that where feasible, installation of terrestrial conduit within 300 feet of suitable butterfly habitat should occur between September and June, outside the flight period of adult El Segundo blue butterflies. Mitigation measure TBIO-2 requires that the Applicants provide environmental awareness training for all project personnel that includes the location of all sensitive biological resources, identification of special status species that could be present, and how to avoid impacts to these resources.

Mitigation measures included in the EIR will be important in minimizing potential impacts to the El Segundo butterfly, but additional protective measures would ensure that impacts to this species and the surrounding habitat are avoided and that the project is consistent with Section 30240 of the Coastal Act. The EIR identifies the restored

southern foredune habitat as ESHA and the Applicants have proposed to avoid direct impacts to this habitat by installing the terrestrial cable below the road and adjacent to the habitat using HDD. Furthermore, TBIO-1 requires that certain project activities, including staging, parking, and equipment storage be conducted outside the 300 foot buffer around suitable butterfly habitat. However, given the time elapsed since the Phase I and II species and ESHA surveys in 2016 – 2018, it remains undetermined exactly how close cable laying activities on the surface will come to suitable butterfly habitat and updated surveys are necessary to better understand potential impacts.

Exhibit 9, shows the ESHA areas in relation to the proposed terrestrial cable alignment, which would be installed using HDD. While the excavation areas for bore pits and manhole installations required for the HDD work would be under pavement, this alone does not eliminate the potential for direct impacts to potential butterfly habitat inside and outside the restored dune area. Furthermore, the EIR and the vegetative communities map from the project application (**Exhibit 9**) does not directly identify all vegetated southern foredune habitat as ESHA, and thus does not include measures to ensure that impacts to these areas are avoided.

The Recovery Plan for the El Segundo blue butterfly, developed by the U.S. Fish and Wildlife Service in 1998 (USFWS 1998), states that loss of native dune habitat and the introduction of invasive plant and wildlife species led to the near extinction of the butterfly. However, efforts in the last 40 – 50 years to preserve remaining dune habitat and expand the population of dune buckwheat have been successful in increasing the butterfly population from a low of approximately 500 in 1984 (Center for Biological Diversity) to 25,000 in 2015 (Watson, 2016). According to the Recovery Plan, the “centerpiece of any effort,” to delist the butterfly “...must be the Airport Dunes, as this site contains not only the largest fragment, but the closest approximation to the prehistoric El Segundo Dune ecosystem.” Based on this statement, the El Segundo Dunes ESHA adjacent to the project site is ground zero for recovery of the butterfly. Thus, any suitable butterfly habitat in the vicinity of the El Segundo Dunes ESHA should be considered ESHA and should be protected against any significant disruption of habitat values as required by Section 30240 of the Coastal Act. Furthermore, as discussed earlier, the Coastal Commission has, in past actions, determined that any southern foredune habitat is ESHA.

To ensure that ESHA is adequately protected and that the project does not significantly disrupt adjacent ESHA, consistent with the Coastal Act, **Special Condition 20** requires the Applicants to implement the El Segundo Blue Butterfly Avoidance and Southern Foredune Protection Plan that was approved by the Executive Director for Phase I of the Cable Hub project. This Plan, required as Special Condition 21 of CDP A-5-DRL-17-0071/9-17-0389/CC-0004-17, builds on TBIO-1 but includes several additional measures. Consistent with TBIO-1, the Plan stipulates that a qualified biologist conduct surveys of the terrestrial conduit route on or adjacent to beach or dune habitat and delineate a 300 foot and 100 foot buffer around vegetated areas. Parking, lay down, storage and staging areas, and site access shall not occur within 300 feet of suitable El Segundo blue butterfly habitat, including any individual or patches of dune buckwheat

observed by the biologist. These activities shall also avoid any vegetated foredune habitat and maximize the buffer around these areas, as feasible. Project activities related to installation of the terrestrial cable shall be conducted between late September and early June, outside of the active period for adult El Segundo blue butterflies, where feasible, and shall not occur within 100 feet of the mapped butterfly habitat or within 5 feet of vegetated southern foredune habitat, except where project activities will occur in paved areas. Given the high level of regular disturbance and isolated nature of the southern foredune vegetation not associated with the restored butterfly habitat or dune buckwheat plant, the smaller 5 foot buffer around these areas is adequate to ensure impacts to these areas are avoided. This Plan also requires a post-construction biological survey to verify that all identified habitat remains intact after construction has concluded.

Furthermore, to further minimize the remote possibility of impacts associated with a frac-out, **Special Condition 15** requires that the Applicants develop for review and approval by the Executive Director, an Inadvertent Release Contingency Plan that includes several provisions specific to HDD activities undertaken along South Marine Avenue in close proximity to El Segundo blue butterfly habitat and vegetated southern foredune habitat. This Plan shall clearly identify the location of the HDD entry and exit pits as well as the trajectory and depth of the bore to ensure direct impacts are avoided. The Plan shall also identify a monitoring procedure to detect a frac-out and protocols to be followed in the event of a loss of drilling pressure and a confirmed frac-out. With these measures in place, the potential for a frac-out will be minimized and in the event a frac-out does occur, the Applicants will have procedures in place to ensure ESHA is not impacted. With the inclusion of **Special Conditions 20 and 15**, impacts to the El Segundo blue butterfly and southern foredune habitat will be avoided and these ESHAs will be protected against the significant disruption of habitat values.

The proposed project also has the potential to result in indirect impacts to southern foredune ESHA from noise, dust and general disturbance. However, project-related impacts are not expected to be substantially different from impacts associated with the routine use of South Marine Avenue, Vista Del Mar and LAX. Furthermore, according to the EIR, impacts on the El Segundo blue butterfly associated with fugitive dust emissions will be avoided with the implementation of best available control measures, such as site watering, required under SCAQMD Rule 403. In addition, implementation of the Plan as required by **Special Condition 20** mandates that the Applicants maintain a 100 to 300 foot buffer around any suitable butterfly habitat. Finally **Special Condition 22** requires that night lighting be minimized to the extent feasible and that any necessary artificial lighting be shielded and directed downward and away from nearby dune and beach habitat which will ensure that indirect impacts to these areas from construction-related activities will be minor.

With the inclusion of **Special Conditions 15, 20 and 22**, impacts to the El Segundo blue butterfly and southern foredune habitat will be avoided and these ESHAs will be protected against the significant disruption of habitat values.

Birds

In addition to the El Segundo blue butterfly, the area surrounding the terrestrial conduit system has the potential to provide habitat for other special status species and migratory birds, such as the state and federally protected western snowy plover (*Charadrius nivosus nivosus*), California least tern (*Sternula antillarum browni*), loggerhead shrike (*Lanius ludovicianus*) and burrowing owl (*Athene cunicularia*). Approximately 850 feet to the north of the project site on Dockweiler State Beach is an area that has been designated as critical habitat for snowy plovers. This area is called the Dockweiler North Critical Habitat Unit. To the south of the project area, is another area designated as critical habitat for snowy plovers. This area is called the Dockweiler South Critical Habitat Unit. Both of these areas would be avoided during all project-related activities. Least terns generally prefer to nest in undisturbed sandy areas and have been observed in Ballona Wetlands, less than a mile to the north. Loggerhead shrikes nest in dune areas and have been observed in the El Segundo Dunes ESHA. Wintering burrowing owls have also been observed in the El Segundo Dunes ESHA, but not in close proximity to the project area.

Although the proposed project avoids designated critical habitat for western snowy plover, California least terns, loggerhead shrikes, burrowing owls and other migratory birds, the project area does include potentially suitable nesting and/or foraging habitat for these bird species. Ground disturbance and other construction-related impacts including noise and dust may potentially disturb or displace any nesting birds that are present. To address this concern, the EIR included Mitigation Measure TBIO-5, incorporated into this CDP through **Special Condition 3**, which requires that the Applicants conduct pre-construction nesting bird surveys within 500 feet of the project area if project-related activities occur during the migratory bird season (February 1 – August 31). If an active nest is found, the biologist will establish a no-disturbance buffer that cannot be breached until the nest is deemed inactive. The size of the buffer will be determined by the biologist based on the bird's behavior, nest location, landscape features and proposed site activities in the vicinity. To ensure that impacts to western snowy plover, California least tern and other nesting birds are avoided, **Special Condition 21** further requires that pre-construction surveys for nesting birds be conducted year-round to ensure that surveys are also conducted during the western snowy plover roosting season (September through March). If an active nest is found any time during the year, the Applicants shall notify all appropriate State and Federal agencies and develop an appropriate action plan. If the active nest is located within 300 feet of construction activities (or 500 feet for raptors), the Applicants shall submit a plan, for review and approval by the Executive Director, describing how construction activities will be modified to avoid impacts to nesting birds.

To further reduce potential for disturbance to birds and other wildlife, the EIR included TBIO-6 that requires the Applicants to minimize artificial lighting during nighttime hours and to implement glare screening measures and the use of downward cast lighting. **Special Condition 22** further requires the Applicants to shield any necessary lighting and direct it away from beach and dune areas. With incorporation of **Special**

Conditions 3, 21 and 22, the proposed project will avoid impacts to nesting and migratory birds.

Reptiles

Other special status species that could be present in the project area are the silvery legless lizard (*Anniella pulchra pulchra*) and coast horned lizard (*Phrynosoma blainvilli*), both designated as CA species of special concern. These species are known to inhabit foredune and vegetated beach communities and have been observed in the nearby El Segundo Dunes ESHA. To avoid impacts to these species, the EIR included Mitigation Measures TBIO-3 and 4. TBIO-3 requires that a qualified biologist survey all potential habitat within 250 feet of the project area for silvery legless lizard and coast horned lizard on a daily basis before the start of construction activities. If either reptile is discovered, the biologist shall actively move or passively encourage the lizard away from the project area. Measure TBIO-4 requires that, in the event a trench is left open overnight, the Applicants, under the guidance of the biologist, shall incorporate a ramp to provide an escape route to any trapped wildlife. Both of these measures are incorporated into this CDP through **Special Condition 3**. The El Segundo Blue Butterfly Avoidance and Southern Fore-dune Protection Plan required by **Special Condition 20** also requires that the Applicants maintain buffers around suitable habitat for the El Segundo blue butterfly and vegetated southern fore-dune habitat. This measure will also provide additional protection to the silvery legless lizard and coast horned lizard. With these measures in place, impacts to silvery legless lizard and coast horned lizard will be avoided.

Conclusion

With the incorporation of **Special Conditions 3, 15, 16, 20, 21, and 22**, the Commission finds that habitat supporting special-status species and nesting birds will be protected against any disruption of habitat values, and thus the proposed project is consistent with Section 30240 of the Coastal Act.

G. COMMERCIAL AND RECREATIONAL FISHING

Coastal Act Section 30234.5 states:

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

Commercial fishing is an important component of the regional economy in southern California. The major fishing ports in the project area are San Pedro and Terminal Island at the Port of Los Angeles near Long Beach, approximately 24 miles southeast of the proposed cable landing site. In 1999, commercial fishery landings at the Port of Los Angeles were ranked 8th by poundage (194.7 million pounds) and 16th by dollar value (\$36.1 million) nationwide. In 2016, the Port of Los Angeles's nationwide ranking had dropped to 23rd by poundage (36.5 pounds) and 62nd by dollar value (\$18.6 million)

(CDFW 2016, NOAA 2016). Other nearby fishing ports includes Port Hueneme, Redondo Beach, and Newport Beach. Common fishing gear types used in the project area include nets, trawls, pots and traps, trolling, and hand lines.

Recreational fishing in the project area includes fishing from the shore, from boats originating from the two local harbors (Marina Del Rey and Redondo Beach), from kayaks launching from local shores, and by divers. Primary species targeted by recreational fishermen include California halibut, kelp bass, barred sand bass, rockfishes, Pacific chub mackerel, Pacific bonito, white seabass, and Pacific barracuda. Recreational fishing for California spiny lobster (*Panulirus interruptus*), via diving or hoop-netting, is also popular in Santa Monica Bay.

Potential Project-Related Impacts

The gear types with the greatest potential for interacting with cables are bottom trawls. Fishing may still occur over the cables, whether buried or unburied, but in areas where the cable is not buried (e.g., over rocky substrates or on steep slopes), is insufficiently buried, or becomes exposed, and where trawling occurs, the gear may be snagged, damaged, or abandoned if the fisherman is forced to cut gear. Fishing will also be temporarily precluded during cable installation and repair operations. The principal impacts to fishing due to the proposed project therefore are: (1) preclusion from the project area during cable installation and repair; (2) fishing gear-cable conflict or entanglement; (3) and economic losses due to fishing-cable conflicts, including preclusion and gear loss.

Commercial fishing will be precluded from the cable installation corridor and safety zone during marine activities associated with cable installation. While the duration of these activities will vary along the cable corridor, in-water activities could take a total of four weeks. Temporary economic impacts to fishermen therefore could result during cable installation. 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 the buoy of a vessel intended to mark the position of a cable when being laid or out of order. This de facto fisheries preclusion created by all cable installation activities will be temporary and in constant motion as the cables are being laid and/or buried so there will be sufficient access to other fishing and boating areas in the project area. Moreover, once the cables are buried, there will be unrestricted access to these areas. Fishing could occur at locations within the route, but away from the cable-laying vessel(s), throughout the installation period. Therefore, a temporary fishing preclusion zone should not be a significant impact to commercial and recreational fishermen.

To minimize potential conflicts and impacts to fishing from cable installation, operation, and repair, TE SubCom (now SubCom LLC, one of the applicants for this proposed project) is a party to an existing agreement called the Southern California Cable & Fishing Agreement dated June 8, 2002 between fiber optic cable companies representing the UNITY (Cable Segment 4), Tata Communications (Cable Segment 4),

and SEA-US cables, and the Southern California Trawlers Association, Los Angeles Commercial Fishermen's Association, the Southern California Commercial Fishing Association, and individual fishermen not represented by a fishing association (hereinafter referred to as the "Fishing Agreement"). The original Fishing Agreement included the provisions summarized below:

- Distribute as-built cable installation information in writing, electronically, and on navigational charts of cable location and burial depth after installation to assure that accurate positions and depths are known to fishermen and other interested parties;
- Establish and fund a Cable Committee with fishermen and cable company representatives to "...reduce potential conflicts between the installation, continuation, and maintenance of the Cable Projects and commercial fishing activities along the California Coast";
- Fund and hire, through the Cable Committee, a Cable Committee Liaison Officer to carry out Cable Committee activities;
- Approval by the Cable Committee of all future cable alignments;
- Allow a representative of the fishing community to observe all cable-laying activities;
- Fund a Commercial Fishing Industry Improvement Fund in the amount of \$25,000 annually, for enhancement of commercial fisheries and the commercial fishing industry and support facilities. The funds are intended to be used for fisheries research, education, management, safety, and socioeconomic purposes;
- Establish a 24-hour hotline to take calls from fishermen who believe they have snagged their gear on fiber optic cables;
- Pay 100% of the costs of gear sacrificed by fishermen as a result of snagging cable, provided: 1) the fisherman has informed the 24-hour toll-free telephone hotlines of its situation; and 2) the fisherman's conduct was consistent with the Fishing Vessel Operating Procedures established in the Fishing Agreement; and pay additional claims according to Cable Committee guidelines based on the principle of "making the fisherman whole for his economic loss resulting from the Covered Cable snag";
- Pay "reasonable compensation" to fishermen economically impacted by cable installation or repair activities;
- Release any claims they might otherwise have against individual fishermen and refrain from taking any administrative, legal, or other action to sanction and/or recover damages against fishermen who comply with terms and conditions of the Fishing Agreement;
- Assume all liability, responsibility, and risk for any damage which may occur to their cables resulting from their inability to construct, maintain, place, and continue those cables in a manner which does not interfere with traditional fishing operations;
- Pay \$500 for each vessel engaged in trawl fishing in the project area that is owned or operated by a fisherman who signs the Fishing Agreement for use in upgrading communication and navigation equipment; and
- Resolve disputes with fishermen according to Dispute Resolution procedures.

Prior to the approval by the Commission of the Phase II project (TE SubCom, CDP No. 9-18-0647, Consistency Certification No. CC-0006-18,)this agreement was amended in

April 2018 (the Fourth Amendment to the Southern California Cable & Fishing Agreement). This amendment acknowledges that the South Bay Cable/Fisheries Liaison Committee, Inc. (SBCFLCI) is the successor to the Southern California Trawlers Association, the Los Angeles Commercial Fishermen's Association and the Southern California Commercial Fishing Association and that SBCFLCI has represented that it has assumed all rights and obligations of the individual fisherman who had signed the original agreement. The amended agreement, at that time, increased the amount of required funding for the Commercial Fishing Industry and Improvement Fund for cables to \$40,000 annually.

At the time of publication of this staff recommendation, the Eighth Amendment to the Southern California Cable & Fishing Agreement is currently being circulated with all signatory parties for signature. See **Exhibit 8** for an unsigned draft version of that amendment. It is expected that this proposed amendment (No. Eight) will be fully executed by the end of 2024. The Applicants' representative stated in email correspondence dated November 13, 2024, that a copy of that Eighth Agreement Amendment will be provided to the Commission once fully executed. **Special Condition 23** requires the Applicants to submit the fully executed Eighth Agreement Amendment to the Executive Director prior to commencement of proposed construction and/or cable installation activities and to abide by the provisions of the Fishing Agreement. To further minimize potential conflicts with fishing during cable repairs, **Special Condition 24** requires the Applicants to provide notice in writing to the Executive Director and in a U.S. Coast Guard Notice to Mariners 15 days prior to any cable repair or maintenance activity, or as soon as possible for emergency repairs.

To address the economic impacts of preclusion from the project area, in Section 1.2(f) of the Fishing Agreement (as of the fourth amendment in April 2018), the Applicants agree to "provide reasonable compensation to Fishermen who suffer damage as a result of the acts of installing, repairing, replacing, or maintaining of the Cable Projects, or any incidental activities in connection therewith. The amount of such compensation, as well as those entitled to receive it, shall be determined by the Cable Company, implementing guidelines approved by the Committee prior to installation." This portion of the Fishing Agreement does not specify the amount of compensation to fishermen; it allows for Cable Committee input into the quantity and recipients of the compensation through "guidelines."

Once a cable is laid, fishing gear could snag cable segments that are insufficiently buried or exposed on the seafloor, resulting in gear damage or loss. If gear is snagged and lost, fishermen would incur financial losses from abandoned gear and lost fishing time. The Applicants will minimize potential fishing conflicts and effects through several measures. Most importantly, **Special Condition 5** requires the Applicants to bury the cable to a depth of one meter in waters up to 1,200 meters, except where precluded by seafloor substrates. Where a one meter burial depth cannot be achieved, the Applicants shall bury the cables to the maximum depth feasible. The Applicants estimate the cable can be buried along 76.5% of the cable route. Buried cable will minimize the potential for fishing gear entanglement and gear damage or loss. The Applicants will lay the

cable on the seafloor and will not attempt to bury it in waters deeper than 1,200 meters. However, according to local fisherman (pers.com. Halmay and McCorkle, 6/28/16), there is minimal, if any, fishing below a depth of 1,200 meters in this area, and the types of equipment that could be used in areas deeper than 1,200 meters are not expected to interact with the cables on the seafloor. The Applicants' representative also stated in a letter dated November 4, 2024, that "[t]he burial threshold of 1,200 m water depth was selected because it was understood to be the maximum depth to which fishers trawled at the time of the Phase I assessment".

To minimize the potential that fishing gear is snagged on exposed cable, several conditions have been added to ensure fisherman and other interested parties are notified of the as-built location of the cable as well as the location of exposed sections of the cable. **Special Condition 7** requires the Applicants to notify fishermen of areas of exposed cable during the marine cable installation phase of the project by submitting to (a) the Executive Director, (b) the U.S. Coast Guard (for publication in a Notice to Mariners), and (c) the signatories of Fishing Agreement, weekly notices containing preliminary as-built coordinates of any unburied or exposed sections of cable. The Applicants are also required to 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. **Special Condition 8** requires the Applicants to submit to the signatories of the Fishing Agreement electronic and hard copy as-built plans overlaid on NOAA navigation charts. Further, **Special Condition 10** requires the Applicants to submit to the Executive Director a final cable installation report that includes a summary of cable installation and cable slack methods used; identification of any areas of cable suspension greater than 1.0 meter above the seafloor; an evaluation of the consistency of cable installation with the Applicants' project description and conditions of this permit; and a description of any observed fishing activity during the pre-lay and cable installation project phases. In addition, **Special Condition 9** requires the Applicants, within 30 days of completion of cable installation, to submit evidence to the Executive Director that the Applicants have submitted to NOAA the geographical coordinates of the cable as-built plans using a Differential Geographic Positioning System unit or comparable navigational equipment so that NOAA can update its navigational charts for this area of coast.

In areas where the cable is suspended over the seafloor, there is a greater chance of fishing gear snags and entanglements. To minimize cable suspensions, **Special Condition 6** requires the Applicants to prepare and implement a Cable Slack Management Plan. The Plan will describe the steps the Applicants will take during cable installation to identify and eliminate, where feasible, segments of cable that are suspended above the seafloor.

To make sure that the cable remains buried, **Special Condition 11** requires the Applicants to survey the cable route five years after initial cable installation; thereafter, following any event that has the potential to affect the cables, the Applicants shall survey those potentially affected portions of the cable route from the mean high tide line to the seaward limit of the territorial waters of the State of California. The purpose of this

survey will be to verify that the cables have remained buried consistent with the as-built cable burial plan required by **Special Condition 8**. An “event” is defined as an incident or activity (such as a gear snag), the circumstances of which indicate the likelihood that previously buried cable has become unburied; an act of God, such as a severe earthquake in the vicinity of the cables that could cause deformation of the sea floor or underwater landslides; or any other significant event that could cause excessive ocean floor scouring. The survey shall be conducted with a remotely operated vehicle (ROV) equipped with video and still cameras and by a third party approved by the Executive Director. Within 30 days of survey completion, the Applicants shall submit to the Executive Director a report describing the results of the survey. If the survey indicates that there has been significant change to the burial status of the cable, the Applicants shall submit to the Executive Director a plan to re-bury those cable segments.

To address potential impacts during cable repairs or cable re-burial, **Special Condition 24** requires the Applicants to provide notice of such proposed repair or re-burial to the Executive Director and in a US Coast Guard Notice to Mariners 15 days prior to any cable repair or maintenance activity, or as soon as possible for any emergency repairs. In addition, within 90 days of either taking a cable out of service or after the expiration or termination of the Applicants’ lease agreement with the City, **Special Condition 12** requires the Applicants to apply for an amendment to this permit to remove the cables from the seafloor.

In order to ensure compliance with these and other conditions, **Special Condition 1** requires the Applicants to post a performance bond in the amount of \$500,000 to cover its cable operations in State and federal waters out to the 1,200-meter water depth

With implementation of **Special Conditions 1, 5-12, 23, and 24**, the Commission finds that project-related impacts to commercial and recreational fishermen will be minimized, and the proposed project is consistent with Section 30234.5 of the Coastal Act.

H. 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.

Proposed project activities may result in short-term disruption to recreational boaters and beach users. During marine cable installation, recreational fishers and other boaters must avoid the cable installation ship. Pursuant to the federal Submarine Cable Act (47 U.S.C. 21), the master of any vessel must maintain a distance of at least one nautical mile from a vessel engaged in laying or repairing a cable and at least 0.25 miles from buoys intended to mark the position of a cable when it is being laid. Therefore, the project may cause recreational vessels to change their course. However, the preclusion zones created by cable installation and repair activities will be temporary or in constant motion as the cables are being laid and/or buried, so there will be sufficient access to other fishing and boating areas in the project area. Moreover, once the cables are laid, full access will be restored. Because of the short-term nature of the preclusion zones, the disruption of fishing and boating is not significant.

The onshore installation of the marine bores and cable, ocean ground beds and terrestrial cable may inconvenience beach users in the short-term. Project related activities would temporarily occupy a portion of one of the Dockweiler State Beach Parking Lots as well as a small area of beach during installation of the ocean ground beds and other construction activities at the Cable Hub landing site. Project staging and construction would occupy approximately 58 parking spaces in Dockweiler State Beach Parking Lot #3 for approximately two weeks. This represents 4.5 percent of the parking spaces available from the three closest parking lots at Dockweiler State Beach (the farthest lot located approximately a third of a mile away from the project site). In addition, construction and security personnel working on the project may take up additional parking spaces in Lot #3. Beach access would be maintained at all times.

Although project activities would occupy some parking spaces available to Dockweiler State Beach users, impacts to public access would be minor. Approximately 86 percent of the parking spaces, or 370 spots, would remain available in Parking Lot #3. Additional beach parking is available in Lots #1 and #2 (approximately 846 spaces) and along Vista Del Mar Avenue just to the east of the beach. Additionally, the application states that the project Applicants would be required to pay Beaches and Harbors \$7 per parking space temporarily occupied on weekdays and \$9 per parking space on weekends. The surface of the parking lot and beach would also be restored to pre-construction condition or better once construction and installation are complete, so there would be no permanent impact on the use of the beach or lot.

Furthermore, project-related activities are expected to occur outside of the peak summer months. In the event that construction activities do extend into peak beach use season, the EIR included Mitigation Measure LU-1 requiring the Applicants to coordinate with the County of Los Angeles, Department of Beaches and Harbors to arrange for a shuttle to transport construction workers onto the project site from a location away from the beach, to avoid use of additional parking spaces in the Dockweiler State Beach parking lot, if needed. This measure is incorporated into this CDP by **Special Condition 3**. Incorporation of this measure ensures that impacts on beach parking from project-related activities will be minor. However, the project Applicants noted in a letter dated November 4, 2024, that Los Angeles County Beaches

and Harbors has already indicated that work in the summer months, between Memorial Day and Labor Day, will not be permitted under the Right-of-Entry (ROE) permit, which is still being processed, and construction at Dockweiler State Beach will be completed outside the Memorial Day to Labor Day no-work period and the shuttle program mitigation measure will not be required.

Project-related activities, including installation of the terrestrial conduit and construction traffic to and from the parking and staging areas, could result in increased traffic on streets surrounding the project site including Imperial Highway, South Marine Avenue and a small section of Vista Del Mar. To address these concerns, the EIR included Mitigation Measure TR-1 which restricts construction on arterial or collector roads to off-peak hours and Mitigation Measure TR-2, which requires the Applicants to maintain continuous pedestrian and bicycle routes. These measures are also incorporated into this CDP by **Special Condition 3**. With this measure in place, increased construction-related traffic should not hinder access to Dockweiler State Beach and other coastal areas. Directional drilling activities also could generate noise that could interfere with the recreational experience of beach users. However, background level noise at Dockweiler State Beach is elevated as compared to other beach locations due to aircraft noise from LAX, located just east of the project site and vehicular noise along the major thoroughfares adjacent to the site. According to the EIR, ambient daytime noise measurements on the beach range from 60 dBA to 81 dBA. The two primary sources of project-related noise are the drill rig and the mud system. Assuming an ambient noise level of 70 dBA, it is estimated a noise impact area within which background and project-related noise combined would exceed 75 dBA. The boundary of the noise impact area would be located 415 feet from the HDD equipment. HDD activities would be conducted over a 24-hour period and the total expected duration of project activities would be three to four months. To reduce the impact of project-related noise on beach-goers, the EIR required Mitigation Measure NOISE-1 which requires the Applicants to equip all construction equipment with mufflers and other feasible noise attenuation devices, avoid use of horns, whistles and bells except for safety reasons, and to establish a mechanism for members of the public to report any noise-related concerns. **Special Condition 3** incorporates this measure into this CDP.

With these above-described measures in place, the Commission finds that any project-related impacts to public access and beach users will be minimal and temporary and therefore concludes that the project, as conditioned, would be consistent with Sections 30210 and 30220 of the Coastal Act.

I. 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 30604(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.

Historic and cultural resources are places or objects that possess historical, cultural, archaeological or paleontological significance and include sites, structures, or objects significantly associated with, or representative of earlier people, cultures and human activities and events. Project-related activities have the potential to disturb or damage any Native American artifacts and shipwrecks of potential cultural resources value. Disturbance of surface and subsurface soils both in the onshore and offshore environment could directly destroy a previously unrecorded historic or archaeological resource, including human remains, or disrupt the site such that the historic or archaeological context of the resource is altered adversely.

Onshore Resources

The EIR documents several potential cultural resources within the Project vicinity. A cultural resources record search, archival research and a pedestrian survey identified no known historic or archeological resources within the Project vicinity. The EIR also documents a consultation with the Native American Heritage Commission (NAHC) that did not identify any Native American cultural resources.

In a letter dated September 25, 2024, the Applicants stated:

On 26 March 2024, the NAHC responded to ERM's request for a Sacred Lands File (SLF) check of the proposed Project Area. The following Tribes were notified: Kizh Nation Gabrieleno Band of Mission Indians, Gabrieleno/Tongva San Gabriel Band of Mission Indians, Gabrielino/Tongva Nation, Gabrielino Tongva Indians of California Tribal Council, Gabrielino-Tongva Tribe, Santa Rosa Band of Cahuilla Indians, and the Soboba Band of Luiseno Indians. The result of any SLF check conducted through the NAHC was negative.

During the process of reviewing this proposed project (Phase III) and developing this recommendation, Commission staff reached out to representatives from Native American Tribes understood to have current and/or historic connections to the project area. These Tribes include the Gabrieleño Band of Mission Indians - Kizh Nation, the Gabrieleno/Tongva San Gabriel Band of Mission Indians, the Gabrielino/Tongva Nation, the Gabrielino Tongva Indians of California Tribal Council, the Gabrielino-Tongva Tribe, and the Gabrielino-Shoshone Nation of Southern California.

Commission staff received one request for consultation from the Gabrieleño Band of Mission Indians - Kizh Nation. Commission staff have been in email communications with a representative of the Gabrieleño Band of Mission Indians - Kizh Nation regarding scheduling and they have offered the option of completing a written consultation via

email. This communication is still in progress at the time of publication of this staff report. 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.

The proposed project includes ground disturbing activities associated with installation of the cable tie-in that could adversely impact any buried archeological or paleontological resources. To minimize the potential for damage to these resources, the EIR includes Mitigation Measure CR-1 that requires the Applicants to develop a Cultural and Paleontological Resource Management Plan that includes provisions for awareness training, monitoring by an archeologist and a Native American monitor, procedures to follow in the event that previously unknown resources are discovered, and a process for collection and reporting of any appropriate artifacts. The EIR also required measure CR-3 that describes procedures to follow if human remains are recovered. These mitigation measures were implemented successfully for Phases I and II of the project and are incorporated again into this CDP under **Special Condition 3** (see **Exhibit 8**).

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. Impacts from the pre-lay grapnel run and cable installation, burial and repair activities have the potential to displace or destroy elements of these resources that could result in the loss of important information about the historical or cultural context of the resource. The City's EIR Addendum dated June 17, 2024, included the following information regarding marine cultural resources and project avoidance:

The new information received on the Phase III Cable System route was reviewed along with information on marine cultural resources to determine if any additional impacts or changes in impact significance would be expected as a result of Phase III of the Project. No previously documented archaeological sites were identified within the 10 nmi (18.5 km) study area. [...] CSLC data identifies 12 shipwrecks within 10 nmi (18.5 km) of the Project, three of which are plotted within 3 nmi (5.5 km) of the Phase III Cable System route. Additionally, the Phase II (Curie) marine route survey identified four more wrecks within the Phase III 10 nmi (18.5 km) study area, all of which are within 3 nmi of the Phase III route (TE SubCom 2018). The closest known shipwreck is located 1,969 ft (600 m) from the proposed cable route (see Figure 3.6-1 and Table 3.6-1). No additional shipwrecks have been identified within the study area, and the marine survey will identify the presence of unidentified wrecks in the vicinity of the route, if present.

The route planning and design measures undertaken by the applicant for the marine cable route in Phase I were also undertaken for Phase III, with the survey to be completed. The Phase III Cable System preliminary route was designed to avoid

marine and nearshore hazards and features, including known shipwrecks, and will be adjusted as needed if any wreckage/obstructions are identified during the survey of the marine route. The marine survey will use side-scan sonar and magnetometer data to identify submerged obstructions if present, then the route will be adjusted as needed to avoid.

The review of new information received on the Phase III Cable System route did not identify any new impacts or changes to the significance of expected impacts. No additional mitigation measures were identified. Taking into account the Applicant avoidance measures described above, which will be applied in Phase III, Project impacts on marine historic or archaeological resources would remain less than significant.

The Commission finds that based on the results of these cultural resource investigations and with the measures described above in place, the proposed project, as conditioned, will not adversely impact cultural resources and is therefore consistent with Section 30244 of the Coastal Act.

J. 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.

Geologic conditions vary widely along the terrestrial cable route, at Dockweiler State Beach and along the HDD bore trajectory, and along the submarine cable routes. The terrestrial portion of the cable route ranges in slope from level to gently sloping and is underlain by beach and dune sands with small amounts of silts and clays. The onshore portions of the project do not cross any active fault and are not located in an Alquist-Priolo Earthquake Fault Zone, although the region is subject to strong ground shaking from faults in the region. Liquefaction of the unconsolidated beach sands may be expected during severe ground shaking. The Project itself, however, will not cause or increase the likelihood that liquefaction will occur. Onshore project components will be buried and will not expose people or structures to risk of injury.

In the offshore environment, the marine portion of the project is located in a seismically active area that may experience fault rupture, strong ground shaking, submarine landslides or liquefaction due to activity on nearby faults. During cable installation, it is standard practice to cease installation activities, including returning divers to support vessels, in the event of an earthquake. Although the offshore portions of the cable will cross areas that may be subject to seismic hazards, and could be damaged by such

processes, project activities would not contribute to an increased risk of injury and are not expected to result in significant impacts to people or structures.

Stability of Landing Site

There are no significant concerns with the geological stability of the landing site at Dockweiler State Beach in terms of shoreline retreat associated with coastal erosion or sea level rise, since no coastal bluff is present and project-related infrastructure is located at the back of the beach, well inland of the shoreline. Terrestrial construction activities including excavation and trenching could potentially aggravate erosion by exposing additional volumes of sediment to weather and wave action. However, construction activities are located well inland of the shoreline and should not be exposed to wave or tidal flows. To minimize impacts associated with terrestrial erosion, **Special Condition 19** requires the Applicants to submit to the Executive Director for review and approval a Stormwater Management Plan which incorporates erosion control measures for all activities.

The EIR for the first phase of the Cable Hub project included a sea level rise analysis which used the Coastal Storm Modeling System (CoSMos), developed by the USGS to model the effects of a conservative projection of 1.75 meters of sea level rise. This projection represents a precautionary scenario of potential sea level rise by the year 2100 and does not take into account future beach replenishment projects that could be implemented to reverse beach loss. Modeling results indicated that project components seaward of the beach manholes and ocean ground beds would be inundated under this scenario. All infrastructure at the landing site, including the beach manholes and ocean ground beds, are designed to withstand seawater. However, as sea level rises, wind and wave action under normal and extreme conditions will reach farther inland, leaving open the potential for increased erosion and deposition of beach sand on the landward edge of Dockweiler State Beach. Under these future ocean and weather conditions, there is a potential that project components buried under the beach could become unburied, resulting in a hazard to the public. To address this concern, **Special Condition 26** requires that for as long as the cable and associated infrastructure are present, should any of the project components become unburied, the Applicants will be responsible for reburying the exposed project components. With **Special Conditions 19 and 26** in place, the proposed landing site will not contribute to erosion and will minimize the potential for future hazards.

Geologic Processes and the Submarine Cable

The safety of the submarine cables along their routes offshore is of concern because, as described in Section V.E, repair operations have the capacity to adversely impact marine organisms. Accordingly, to limit the need to conduct repair operations, the potential for breaks or damage to the cable related to erosion, scour, unstable soils, seismic activity or other hazards should also be minimized. To address these concerns, **Special Condition 5** requires the Applicants to bury the cable to a depth of one meter where feasible. Burying the cable will protect it from scour and erosion associated with

marine currents and waves. It is estimated that the cable can be buried along approximately 76.5% of the route.

Even with these measures in place, it is possible that the cable could sustain impacts associated with geologic processes. Given submarine currents present on the continental shelf, burial to the 1.0-meter depth may not be sufficient in all locations to prevent exposure of the cable by scouring. Further, the relatively steep slopes (up to 15 %) on which the cables are to be installed could be subject to slumping and/or sliding, which could expose or break the cables. Exposure of the cable on the seafloor could subject it to damage by anchoring or trawling operations. To identify areas of cable that may have been exposed, **Special Condition 11** requires that five years following initial cable installation and after any event that has the potential to affect the cables, the Applicants shall survey those potentially affected portions of the cable route from the mean high tide line to the seaward limit of the territorial waters of the State of California. The purpose of this survey will be to verify that the cables have remained buried consistent with the as-built cable burial plan required by **Special Condition 8**. An “event” is defined as an incident or activity (such as a gear snag), the circumstances of which indicate the likelihood that previously buried cable has become unburied; an act of God, such as a severe earthquake in the vicinity of the cables that could cause deformation of the sea floor or underwater landslides; or any other significant event that could cause excessive ocean floor scouring. If the survey indicates that there has been significant change to the burial status of the cable, the Applicants shall submit to the Executive Director a plan to assure re-burial of those cable segments.

Potential Impacts Related to Horizontal Directional Drilling Activities

One of the primary geologic concerns related to the proposed project is that horizontal directional drilling operations could result in release of drilling fluids (bentonite) into the terrestrial environment and that could potentially discharge into coastal waters. Most likely is the release of bentonite through fractured bedrock and sediments, or as a result of a “frac-out,” in which the drilling bore creates fractures that extend to the ground surface as a result of drilling fluid pressures that exceed the strength of the rocks or sediments being drilled. Such inadvertent release of drilling fluid to the ground surface results from drilling through brittle, fractured and/or poorly consolidated rocks or sediments, the maintenance of too-high fluid pressures in the bore during drilling, and/or drilling at too shallow a depth below the ground.

To minimize the potential impacts associated with a frac-out, the proposed project includes a measure to prepare and implement an Inadvertent Release Contingency Plan. **Special Condition 3** incorporates this mitigation measure included in the EIR into this CDP. In addition, **Special Condition 15** adds additional requirements to the Inadvertent Release Contingency Plan to ensure it is consistent with Coastal Act requirements and past Commission approvals. Specifically, **Special Condition 15** requires that the Inadvertent Release Contingency Plan also includes protocols to be followed in the event of a loss of drilling pressure and a confirmed frac-out. With these measures in place, the potential for a frac-out will be minimized, and in the event a frac-

out does occur, the Applicants will have procedures in place to ensure that any impacts are temporary and minor.

With implementation of **Special Conditions 5, 8, 11, 15, 19, and 26**, the Commission finds that the proposed project will minimize risks from geologic hazards to life and property and is therefore consistent with Section 30253 of the Coastal Act.

K. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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 amendment, 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 which the activity may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of environmental review under CEQA. (14 CCR § 15251(c).)

The City of Los Angeles, acting as lead CEQA agency, certified an Environmental Impact Report for the Cable Hub project on November 3, 2017. In June 2018, the City issued an Addendum to the EIR and concluded that Phase II of the Cable Hub project would not result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects. On June 17, 2024, the City approved another Addendum to the EIR and concluded that Phase III of the Cable Hub project (this proposed project) would not result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

The Commission incorporates its findings on Coastal Act consistency as if set forth in full herein. The proposed development has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. As discussed in the findings, the project as conditioned herein incorporates measures necessary to avoid any significant environmental effects under the Coastal Act, and there are no feasible alternatives or additional feasible mitigation measures that would substantially lessen any significant adverse impact which the proposed project may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, complies with the applicable requirements of the Coastal Act to conform with CEQA.

L. 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 the Applicants' 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 the Applicants' 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 Applicants were not to agree to the conditions, the federal consistency regulations require the Commission to notify the Applicants 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 the Applicants do not agree, the Applicants 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 the Applicants 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 the Applicants 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 9-24-0741 (dated August 19, 2024) and associated file documents

Consistency Certification CC-0006-24, dated September 25, 2024.

ERM on behalf of Applicants, Response dated September 25, 2024, to First Notice of Incompleteness.

ERM on behalf of Applicants, Response dated October 31, 2024, to Second Notice of Incompleteness.

ERM on behalf of Applicants, Response dated November 4, 2024, to Additional Application Questions.

Application for Coastal Development Permit 9-17-0389, dated May 2, 2017.

Staff report for Coastal Development Permit Nos. 9-17-0389 and A-5-DRL-17-0071 and Consistency Certification No. CC-0004-17, dated January 25, 2018.

Application for Coastal Development Permit 9-18-0647, dated June 18, 2018.

Staff report for Coastal Development Permit No. 9-18-0647 and Consistency Certification No. CC-0006-18, dated October 19, 2018.

Environmental Documents:

City of Hermosa Beach, Final EIR for the Transpacific Fiber Optic Cable Project, March 2016.

City of Los Angeles. Final Environmental Impact Report (EIR) for the Los Angeles Trans-Pacific Telecommunications Cable Hub, November 2017.

City of Los Angeles. Addendum to the final EIR for the Los Angeles Trans-Pacific Telecommunications Cable Hub, June 2018.

City of Los Angeles. Addendum to the final EIR for the Los Angeles Trans-Pacific Telecommunications Cable Hub, May 2024.

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:

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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.

Lissner, Andrew, Taghon, Gary, Diener, Douglas, Schroeter, Stephen, Dixon, John, 1991. Recolonization of Deep-Water Hard-Substrate Communities: Potential Impacts from Oil and Gas Development. *Ecological Applications*, Vol. 1, No. 3 (August 1991), pp. 258-267.

Minerals Management Service, Department of the Interior. Gray Whale Monitoring Study: Final Report, prepared by MBC Applied Environmental Sciences, August 1989.

Rampal, G. Undersea Fiber-Optic Cable Systems Undergoing Unprecedented Growth, *Sea Technology*, Vol. 39, No. 3, 10-19, 1998.

Watson, Traci, "Rare Butterflies Flying High at Los Angeles Airport," *National Geographic Magazine*. April 2016.

Wood, M.P. and Carter L. "Whale Entanglements with Submarine Communication Cables." *IEEE Journal of Oceanic Engineering*, Vol. 33, No. 4, October 2008.

Other:

California Department of Fish and Wildlife, Data on Final California Commercial Landings, 2016. <https://www.wildlife.ca.gov/Fishing/Commercial/Landings#26004609-2016>.

California Department of Fish and Wildlife electronic communication from Loni Adams , CDFW, to Kate Huckelbridge, California Coastal Commission, dated 8/6/2018.

National Oceanic and Atmospheric Administration (NOAA). 2009. Species of Concern: NOAA National Marine Fisheries Service: Cowcod (*Sebastes levis*). Retrieved from: http://westcoast.fisheries.noaa.gov/publications/SOC/cowcode_detailed.pdf.

NOAA Office of Science and Technology, Commercial Fishery Statistics, 2016. <https://www.st.nmfs.noaa.gov/commercial-fisheries/index>