

CALIFORNIA COASTAL COMMISSION

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**F7****Updated May 8, 2024 (for the May 10, 2024 Hearing)**

To: Commissioners and Interested Parties
From: Cassidy Teufel, Energy, Ocean Resources and Federal Consistency Division Director
Subject: **Energy, Ocean Resources and Federal Consistency Division Deputy Director's Report for May 2024**

The following coastal development permit (CDP) waivers, immaterial CDP amendments, CDP extensions, emergency CDPs, and negative determinations for the Energy, Ocean Resources and Federal Consistency Division are being reported to the Commission on May 10, 2024. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review at the Commission's office in San Francisco. Staff is asking for the Commission's concurrence on the items in the Energy, Ocean Resources and Federal Consistency Division Deputy Director's report, and will report any objections received and any other relevant information on these items to the Commission when it considers the report on May 10, 2024.

With respect to the May 10th hearing, interested persons may sign up to address the Commission on items contained in this report prior to the Commission's consideration of this report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on May 10, 2024 (see attached)

Waivers

- ~~9-23-0874-W, Equinor Wind US LLC (San Luis Obispo County)~~ **Withdrawn**

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

- **ND-0007-24, Replacements and Upgrades to Two Aid to Navigation Structures at Bodega Harbor (Sonoma County)**

Immaterial Extensions

- **9-21-0258**, City of Santa Barbara's Charles E. Myer Desalination Facility

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

- None

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April 26, 2024

Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7

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

Waiver: 9-23-0874-W

Applicant: Equinor Wind US LLC

Location: Offshore of Morro Bay and Diablo Canyon Nuclear Power Plant, San Luis Obispo County

Proposed Development: Equinor Wind US LLC, now Atlas Wind US LLC (Atlas Wind), proposes to conduct geophysical, geotechnical sampling, and benthic (seabed) habitat surveys in state waters off of San Luis Obispo County from the coast to the three-mile state water boundary. The proposed geophysical surveys would identify seafloor features (e.g., substrate and sediment type, archeological and cultural resources, rocky reef and consolidated hard bottom habitat) using high resolution, low energy imaging/sensing equipment including multibeam sonar, sidescan sonar, and a sub-bottom profiler. None of this geophysical survey equipment would contact the seabed. The mapping data from the geophysical survey would be used to identify preliminary submarine exportable routing options, locations of hard bottom habitat and other sensitive resources, and locations for geotechnical and benthic samples.

Geotechnical and benthic sampling would confirm the data interpretation of the geophysical survey mapping, provide information about sediment variability and stratigraphy, and provide samples for geoarchaeological analyses. Atlas Wind anticipates conducting a total of 26 vibracore or piston core samples, 12 cone penetration tests, two sediment grab samples, and six sediment plan view and profile images during their geotechnical and benthic sampling surveys. The vibracore would collect 4-inch diameter, 6 meter vertical sediment cores, the piston core would collect

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3.3-inch diameter, 20 meter vertical sediment cores, the cone penetration test would involve extension of a 6 meter long rod through the sediment without collecting any sediment, and the sediment grab would collect the top 2 to 4 inches of sediment from a one square foot area. In total, approximately 5.5 cubic yards (CY) of sediment would be removed during the combined geotechnical and benthic sampling surveys. The total area of seabed contact during sampling is anticipated to be 1,865 square feet, based on the footprint and number of samples collected by each instrument.

Project Background and Description: The purpose of these surveys is to gather data and information along potential submarine export electric cable corridor between Atlas Wind's offshore wind lease area and potential cable landfall locations in Morro Bay and the vicinity of Diablo Canyon Nuclear Power Plant, beyond Point Buchon. Atlas Wind proposes to conduct surveys in three areas:

- An approximately four-mile-wide swath starting north of Morro Rock and extending northward;
- An approximately one-mile-wide swath northward of the northern boundary of the Point Buchon State Marine Reserve; and
- An approximately one-mile-wide swath that trends around the southern boundary of the Point Buchon State Marine Reserve.

No surveys would be conducted within the Point Buchon State Marine Reserve or Marine Conservation Area. Atlas Wind estimates (including additional time for weather delays) that geophysical surveys will be completed over a maximum of 40 days, geotechnical sample collection will take up to four days, and benthic surveys will take up to four days. In total, the surveys would be conducted over a maximum of 48 days. Surveys would be conducted between June 2024 to July 2025.

In June 2022, the Commission conditionally concurred with the Bureau of Ocean Energy Management's (BOEM) leasing of a wind-energy development area offshore of Morro Bay (CD 0004-22). The review of the consistency determination included the federal water portions of the surveys proposed here. The proposed state water survey methods and survey equipment considered in this application are the same as the methods, activities and equipment that the Commission reviewed and conditionally concurred with for federal waters as part of the BOEM consistency determination. Specifically, both sets of surveys would use low energy, high resolution geophysical survey equipment, involve small seafloor disturbance footprints for sediment coring and benthic sampling equipment, and be conducted from survey ships with protected species observers using best practices to avoid marine mammal ship strikes.

Atlas Wind proposes using a combination of offshore, nearshore, and autonomous underwater vehicles (AUVs) to deploy the equipment that will perform their geophysical,

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geotechnical, and benthic surveys. Generally, an offshore vessel (250 – 360 feet in length) would be used in water deeper than 100 m and a nearshore vessel (30 feet in length) would be used to survey water 50 – 100 m deep. The vessels have overlapping operational depth ranges—the vessel used will depend on bathymetry and hazards, distance to port, and availability. Geophysical survey equipment will be deployed on an AUV when the offshore vessel is used, and the equipment will be hull-mounted and/or towed when the vessel is used. The nearshore vessel would operate for 12 hours a day and the offshore vessel would operate for 24 hours a day. Equinor anticipates conducting most of the proposed state water surveys with the nearshore vessel.

Rationale: Section 30624.7 of the Coastal Act provides that “proposed development is de minimis if the executive director determines that it involves no potential for any adverse effect, either individually or cumulatively, on coastal resources and that it will be consistent with the policies of Chapter 3 of the Coastal Act (commencing with Section 30200)”. For the following reasons, there is no potential that proposed development will adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission action in the area and Chapter Three policies of the Coastal Act.

Marine Resources

- The proposed geotechnical and benthic sampling surveys are consistent with previous waivers issued by the Commission for similar types of geotechnical and benthic sampling surveys (e.g. 5-22-0523-W, 1-24-0192-W).
- The proposed geophysical surveys have been permitted through and comply with the California State Lands Commission’s (CSLC) Offshore Geophysical Survey Permit Program (OGSP) which allows operators to conduct surveys using low energy, high resolution types of geophysical equipment; subject to permit terms and conditions that were developed so that the surveys have no significant impacts to marine wildlife and the coastal environment.
- No surveys would be conducted in the Point Buchon State Marine Reserve or Marine Conservation Area.
- Data from the geophysical mapping would be used to ensure that geotechnical and benthic sampling locations will avoid consolidated hard bottom habitat with a 40 ft buffer.
- Sediment grab samples would only be collected where sediment profile images from the benthic camera confirm there are no rare or sensitive benthic organisms.
- Geotechnical and benthic survey sampling methods would temporarily disrupt only a small footprint of seafloor sediment and species within these areas are expected to recover quickly; geotechnical and benthic survey samples would

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collect a total of 5.5 cubic yards of sediment, an insignificant quantity given the amount of similar sediment available adjacent to the project sites and throughout the project region.

- All the geophysical equipment proposed for use in this project, including the multibeam sonar, sidescan sonar, and sub-bottom profiler, are classified as having de minimis impacts on marine animals in a recent U.S. Geological Survey review and classification of active marine acoustic sources and their impacts (Ruppel et al. 2022).¹
- Although they may generate elevated sound levels (i.e., high decibel), the sound frequencies produced by the multibeam sonar and sidescan sonar (>200 kHz) are beyond the hearing range of marine mammals, sea turtles, and fish and are therefore not expected to result in injury or behavioral change in these organisms.
- The sub-bottom profiler produces sound with frequencies (<16 kHz) in the hearing range of marine mammals, but outside the hearing range of sea turtles and the majority of fish species. The narrow beam of sound (17-24°) and the short duration of sound (intermittent pings at a rate of 40 Hz maximum) leads to the classification of sub-bottom profilers as having de minimis effects on marine animals in the Ruppel et al. study (2022) based on thresholds established by National Marine Fisheries Service (NMFS)² and the mitigated negative declaration (MND)³ prepared by California State Lands Commission's Offshore Geophysical Survey Permit Program (OGPP).⁴
- Use of AUV mounted geophysical survey equipment would significantly reduce the amount of the water column exposed to underwater sound (AUV survey activities can be conducted 40 meters or less above the seafloor as compared to near the sea surface when operating shipboard or towed equipment), thus further minimizing potential, temporary sound disturbance of marine organisms.
- Extra precautions would be employed to prevent exposure of marine mammals to potentially disturbing audible frequencies (<180 kHz). Dedicated protected species observers (PSOs) will monitor the area around the sub-bottom profiler,

¹ Ruppel, C.D.; Weber, T.C.; Staaterman, E.R.; Labak, S.J.; Hart, P.E. Categorizing Active Marine Acoustic Sources Based on Their Potential to Affect Marine Animals. *J. Mar. Sci. Eng.* **2022**, *10*, 1278. <https://doi.org/10.3390/jmse10091278>

² [2018 Revisions to: Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing \(Version 2.0\) \(noaa.gov\)](#)

³ Mitigated Negative Declaration: [Low-Energy Offshore Geophysical Permit Program Update | CA State Lands Commission](#)

⁴ Offshore Geophysical Survey Permit Program (OGPP) [Geophysical Survey Permit Program | CA State Lands Commission](#)

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and the equipment will be turned off immediately if any Endangered Species Act (ESA) listed whales come within 500 m of the sound source. Additionally, shutdown would occur if a non-ESA-listed marine mammal species or a sea turtle is observed within 100 m of the sound source.

- PSOs would monitor real-time video from a dual-thermal/high-definition camera for the surveys conducted by the AUV.
- When technically feasible at the start of a survey, the power to geophysical survey equipment will gradually be increased (aka ramped up) to provide a soft-start and allow marine wildlife to receive a lower initial level of sound exposure.
- All the proposed geophysical survey equipment is low-energy and high resolution and is authorized under the California State Lands Commission (CSLC) Offshore Geophysical Survey Permit Program (OGPP). OGPP-approved survey equipment and methods have undergone extensive research and vetting for environmental impacts in coastal waters. CSLC adopted a MND when it approved the OGPP “because it determined that, while the Initial Study identified potentially significant impacts related to activities that may be carried out by individual applicants under the OGPP, project restrictions and/or survey activity requirements have been incorporated into the Project that avoid or mitigate those impacts to a point where no significant impact would occur.”⁵ The applicant’s proposed surveys are permitted under the OGPP and thus will follow all the OGPP requirements identified in the MND to ensure that its survey activities will not have a significant impact on the environment.
- A Vessel Strike Avoidance Zone will be maintained around surface vessels at all times. A PSO will monitor a 500 m Strike Avoidance Zone for ESA-listed whale species or other large identified marine mammals and a 100 m zone for sea turtles. The vessel will take necessary measures to avoid striking the animal. Vessel speeds will not exceed 10 knots, consistent with the Commission’s review of survey and site assessment activity in federal waters under CD-0004-22.

Commercial and Recreational Fishing

- Survey personnel will maintain an active automatic identification system (AIS), and visual and radar watch for fishing gear and fishing activities in the survey area. The survey vessel will take reasonable measures to avoid interfering with fishing, if it is feasible to move to a different part of the survey area the vessel will do so as a preferred avoidance measure.

⁵ Mitigated Negative Declaration: [Low-Energy Offshore Geophysical Permit Program Update | CA State Lands Commission, pg. ES-1.](#)

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- The larger offshore survey vessel will use the Port of San Francisco to resupply and exchange crew, avoiding port congestion or delays in Morro Bay and Port San Luis.
- Survey activities would be communicated to fishermen in advance through a local notice to mariners, on Equinor's website, and through direct communication with Equinor's fisheries liaison officer.
- Fishing gear demonstrated to be lost due to survey activities would be compensated through Equinor's established gear loss claim process which is detailed in their Fisheries Communication Plan.⁶
- Surveys would be timed to avoid Dungeness Crab season to the extent feasible.
- The sound produced from the sub-bottom profiler may be audible to clupeids species (e.g. herring) which can hear higher frequencies than other fish. Clupeids are able to hear sounds up to around 2 kHz in pitch while other fish generally hear below 1 kHz. Based on the source sound levels from the sub bottom profiler, beam width of the sound, and the affected area, any potential impacts to clupeids would be limited to minor, temporary behavioral changes such as short movement towards or away from the area. The behavioral response will depend on fish species, activity, and exposure to the sound (Hawkins and Popper 2018)⁷.
- The National Oceanic and Atmospheric Administration concurred with BOEM's Biological Assessment and Essential Fish Habitat Assessment that survey activities were not likely to adversely affect special-status species or critical habitats, and that essential fish habitat and habitat areas of particular concern would be avoided.

Cultural and Tribal Resources

- Geotechnical cores and benthic sampling locations will be reviewed by a qualified marine archaeologist using the data collected from the geophysical surveys to confirm that no submerged archaeological resources are present prior to geotechnical cores and benthic sampling proceeding.
- Coastal Commission staff contacted Tribes local to the proposed survey areas with an offer for consultation on April 5, 2024. The Tribes contacted were: Barbareño/Ventureño Band of Mission Indians, Chumash Council of Bakersfield, Coastal Band of the Chumash Nation, Northern Chumash Tribal Council, Salinan Tribe of Monterey San Luis Obispo Counties, Santa Ynez Band of Chumash

⁶ [Equinor Wind California - Fisheries Communication Plan \(atlasoffshorewind.com\)](https://atlasoffshorewind.com)

⁷ Hawkins, Anthony D. and Arthur N. Popper. "Effects of Man-Made Sound on Fishes." (2018).

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Indians, Tule River Indian Tribe, Xolon-Salinan Tribe, yak tityu tityu yak tithini – Northern Chumash Tribe. Two tribes responded to the email sent from Commission staff. One Tribe requested clarify information about the project and did not request further consultation. Another Tribe requested notification of any unanticipated cultural resources encountered during surveys, protocols of which are addressed in Atlas Wind's Native American Tribe Communication Plan (NATCP)⁸ which has been created in collaboration with Tribes near the proposed survey area.

- Atlas Wind will immediately notify BOEM of any unanticipated archaeological or cultural resources discoveries and a report will be prepared by a qualified Marine Archeologist (QMA). BOEM will then share that report with the Tribes listed in Atlas Wind's NATCP.

Based on these considerations and the available evidence, the proposed development will not adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission action in the area and Chapter Three policies of the Coastal Act.

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

Sincerely,

Kate Huckelbridge, PhD
Executive Director

Original on File signed by:



Joseph Street, PhD
Senior Environmental Scientist - Manager

cc: File

⁸ [Central California Offshore Wind Projects Joint Native American Tribes Communication Plan \(atlaswind.com\)](https://atlaswind.com)

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April 5, 2024

Erin Hale
Environmental Protection Specialist
US Coast Guard
Civil Engineering Unit Oakland
1301 Clay Street, Suite 700N
Oakland, CA 94612
Via e-mail to: Erin.E.Hale@uscg.mil

Re: Negative Determination No. ND-0007-24: Replacements and Upgrades to Two Aid to Navigation Structures at Bodega Harbor (Sonoma County)

Dear Ms. Hale:

We have reviewed the above-referenced negative determination submitted by the U.S. Coast Guard for replacements and upgrades to two deteriorated Aid to Navigation structures (ATONs) at Bodega Harbor (Sonoma County), specifically Bodega Harbor Channel Day Beacon 7 and Bodega Harbor Channel Light 6. ATONs mark federal channels and aid navigation by noting hazards. Their upkeep and maintenance is critical for aiding navigation and is federally mandated. The replacements and upgrades are scheduled for June 1 to November 30, 2024. Construction work for both ATON replacements is expected to take approximately 2 hours total.

The project requires the in-water removal of two 18-inch-diameter single-pile steel support piles and installation of two 18-inch-diameter single-pile steel support piles, and replacement of the baskets and ladders on the two ATONs. No dredging or sediment transport is required. When placing piles, a vibratory hammer would be used to drive the pile to the desired depth, typically 30 feet below the mudline or until refusal. Piles would not be placed with an impact hammer. Individual pile placement is expected to take less than 30 minutes and could be as fast as 10 minutes, and operations would be sequentially ramped-up to give wildlife time to clear the project area. If an ATON has an active bird nest, work would be delayed until the nests are inactive and fledglings have departed. If delay is infeasible, the Coast Guard will coordinate with the U.S. Fish and Wildlife Service under the provisions of the Migratory Bird Treaty Act. Standard construction best management practices would be implemented to protect water quality. The ATONs would be topped by 5 ft. by 5 ft. baskets. Solar panels would be attached to each structure to supply power. The upgraded ATONs would not affect scenic views in any manner different from the existing structures.

The Coast Guard is coordinating with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, California State Water Quality Control Board, and the U.S. Army Corps of Engineers. The U.S. Coast Guard has determined that this project would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0007-24.

Under the federal consistency regulations (Section 930.35), a negative determination can be submitted for an activity “which is the same as or similar to activities for which consistency determinations have been prepared in the past.” The Commission staff has concurred with past Coast Guard negative determinations for ATON repairs and replacements throughout the coastal zone, including ND-032-94, ND-096-95, ND-085-97, ND-129-98, ND-081-99, ND-022-07, ND-002-08, ND-056-12, and ND-006-13, ND-0013-15, ND-0027-18, ND-0028-19, and ND-0002-20. Where sensitive coastal resources were present or potentially present in those cases, the Coast Guard agreed to implement similar measures to those described in the previous paragraph. Coastal Commission staff agrees that the proposed ATON replacements and upgrades project would be “the same as or similar to” the ATON structure repairs and replacements listed above, and would not adversely affect coastal zone resources. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources.

We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations. Please contact Walt Deppe at Walt.Deppe@coastal.ca.gov if you have any questions regarding this matter.

Sincerely,



JOSEPH STREET
Manager
Energy, Ocean Resources &
Federal Consistency Division
(for)

Dr. Kate Huckelbridge
Executive Director

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April 29, 2024

Notice of Extension Request for Coastal Development Permit

Notice is hereby given that the City of Santa Barbara has applied for a one-year extension of Coastal Development Permit (CDP) 9-21-0258 granted by the California Coastal Commission on June 9, 2021, which is currently set to expire on June 9, 2024.

CDP No.: 9-21-0258

Applicant: City of Santa Barbara

Location: Offshore of the City of Santa Barbara's East Beach and southeast of the terminus of Stearns Wharf, Santa Barbara County

Original CDP Approval

On June 9, 2021, the Coastal Commission approved CDP 9-21-0258, which allowed for repair and maintenance activities associated with improving the structural stability of two offshore intake platforms that are part of a seawater intake system used by the City of Santa Barbara's (City) Charles E. Myer Desalination Facility. The project includes placing grout beneath the platforms and installing rock aprons around each platform to provide long-term stabilization and protection from scour generated by wave action and currents.

Proposed CDP Extension

The Commission's approval required project work to start within two years - i.e., by June 9, 2023. In May 2023, the City applied for a one-year extension of its permit to allow work to start by June 9, 2024. The City requested that extension because it had not yet been able to start work due to a delay in plan review by the Federal Emergency Management Agency (FEMA), which was needed to secure funding via the City's Hazard Mitigation Grant Agreement #4344-382-107R. The City has requested this second CDP extension because of additional FEMA deadlines that prevent work from starting within the next month. This extension would allow the City an additional year – i.e. until June 9, 2025 – to start its repair and maintenance project.

Executive Director's Changed Circumstances Determination

Pursuant to Title 14, Section 13169 of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that there are no changed circumstances affecting the approved development's consistency with relevant provisions of the City of Santa Barbara's certified Local Coastal Program or Chapter 3 of the Coastal Act

**Notice of Extension Request for Coastal Development Permit
9-21-0258**

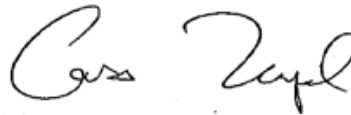
Coastal Commission Review Procedures

The Executive Director's determination and any written objections to it will be reported to the Commission on May 10, 2024. If three or more Commissioners object to the Executive Director's changed circumstances determination at that time, then the extension shall be denied, and the development shall be set for a full hearing of the Commission.

If you have any questions about the proposal or wish to register an objection, please contact Tom Luster at 415-904-5248 or Tom.Luster@coastal.ca.gov.

Sincerely,

Kate Huckelbridge, PhD
Executive Director

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

(by) Cassidy Teufel
Director