

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
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December 10, 2020

Permit Application Number: **6-20-0240****COASTAL DEVELOPMENT PERMIT**

On November 5, 2020, the California Coastal Commission granted to **Cabrillo Power I LLC** this permit subject to the attached Standard and Special conditions, for development consisting of **Dredge up to 500,000 cubic yards of lagoon bottom sand within the existing approved dredge limits of the outer basin of Agua Hedionda Lagoon and deposit on North, Middle and South Beaches in Carlsbad**, more specifically described in the application filed in the Commission offices.

The development is within the coastal zone at Outer basin of Agua Hedionda Lagoon and Carlsbad State Beach, Carlsbad, San Diego County

Issued on behalf of the California Coastal Commission by

Sincerely,

John Ainsworth
Executive Director

Original on File signed by:

Erin Prahler
Coastal Program Analyst

A handwritten signature in blue ink, appearing to read "EP", located to the right of the typed name "Erin Prahler".

cc: Commissioners/File

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part of that: "A Public entity is not liable for injury caused by the issuance... of any permit..." applies to the issuance of this permit.

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IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date: December 21, 2020 Signature Pete MacLaggan

STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. **Timing of Dredging and Beach Deposition Placement.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval, final plans that include the following:
 - a. Placement of sand on area beaches shall occur outside of the summer season (Memorial Day weekend through Labor Day of any year).

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- b. To avoid potential impacts to the California least tern breeding period and the California grunion spawning period, dredging and sand placement shall occur between September 15 and April 15. The permittee may extend the dredge period to April 30, if the extension is approved in writing by the Executive Director in consultation with the U.S. Army Corps of Engineers (ACOE) and the California Department of Fish and Wildlife (CDFW).

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. **Pre- and Post-Dredge Requirements.** At least two weeks prior to dredging and within 60 days of completion of the proposed dredge cycle, the applicant shall submit to the Executive Director for review and written approval the following:
 - a. A map of pre-dredge conditions of the outer lagoon and pre- and post-deposition profiles at the approved beach deposition locations; proposed dredge quantities; deposition plan and methodology; and a signage plan to ensure that coastal visitors will be made aware of the project and its boundaries.
 - b. A copy of the results of the approved sampling analysis plan submitted to the ACOE and evidence the ACOE has approved the proposed dredge sediment as suitable for deposition at the approved beach locations, pursuant to the ACOE permit.
3. **Beach Profile Monitoring.** Prior to the placement of any sand material, the applicant shall prepare a total of ten (10) profiles of the relevant beach and off-shore area (to closure or wading depth, consistent with the survey requirements of the ACOE permit) showing the pre-deposition conditions. Profiles shall be taken at the same locations annually thereafter until the area either returns to its pre-deposition condition or is further modified by additional nourishment. Reports shall be provided to the Executive Director following the one-month after deposition profiles and after each annual survey, which provide information on site conditions and an analysis of the long-term changes in sediment supply.
4. **Eelgrass Mitigation and Monitoring Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, an Eelgrass Mitigation and Monitoring Plan that includes, at a minimum, the following:

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- a. Performance of a pre-construction eelgrass survey of the project area by a qualified biologist immediately prior to the proposed maintenance dredging, in order to establish the location of all eelgrass habitat.
- b. The location of all eelgrass habitat found in the pre-construction survey so that the contractor can avoid impacting these areas during the proposed maintenance dredging. No anchorage of dredging equipment is permitted outside the limits of the dredging operation.
- c. Performance of a post-construction eelgrass survey of the project area by a qualified biologist no more than 30 days after the completion of the work to determine if any eelgrass habitat was impacted by dredging activities.
- d. Performance of mitigation if it is determined by the post-construction eelgrass survey that there has been a loss of eelgrass habitat. This mitigation must be performed in accordance with and subject to the requirements of the October 2014 *California Eelgrass Mitigation Policy* (http://www.westcoast.fisheries.noaa.gov/publications/habitat/california_eelgrass_mitigation/Final%20CEMP%20October%202014/cemp_oct_2014_final.pdf) (1.38:1 starting ratio to achieve a final mitigation ratio of 1.2:1). The applicant shall consult with the Executive Director prior to construction to determine if an additional coastal development permit or amendment is required for any necessary mitigation.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Grunion Monitoring & Avoidance Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a Grunion Monitoring and Avoidance Plan that provides for the following:

- a. Should sand placement activities be necessary below the high tide line between March 1 and April 30, the applicant shall avoid impacts to mature and/or spawning grunion and to grunion eggs. The applicant shall retain the services of a biologist with appropriate qualifications. The annually published California Department of Fish and Wildlife (CDFW) expected grunion runs shall be used to determine possible grunion spawning periods. The plan shall, at a minimum, include:

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- i. Sand placement sites shall be monitored for grunion runs beginning at least two weeks prior to commencement of sand placement activities, and throughout the period of planned sand placement work from March 1 through April 30. Monitoring is not necessary in areas where there is no sand, such as areas supporting 100% cobble or bluff backed beaches with no sand exposed during high tide.
- ii. Grunion monitoring shall be conducted by a qualified biologist for 30 minutes prior to, and two hours following, the predicted start of each daily spawning event. Sufficient qualified biologists shall be employed to ensure that the entire proposed sand placement site is monitored during the predicted grunion run. The magnitude and extent of a spawning event shall be defined in 300-foot segments of beach using the Walker Scale ([Exhibit 5](#)). Every individual fish (males and females) shall be counted to determine the Walker Scale value (e.g. 0, 1, 2, 3, 4, or 5) of each 300-foot segment within the proposed work area. Sand placement activities shall be modified according to the following plan:
 - A. If a grunion run consisting of 0-100 individual fish per 300-foot segment (Walker Scale 0 or 1) is reported within two weeks prior to, or during, sand placement work, the applicant does not need to take any avoidance action for grunion eggs. No mature grunion may be buried or harmed as a result of sand placement.
 - B. Within two weeks prior to proposed work, if a grunion run consisting of 100 or more individual fish per 300-foot segment (Walker Scale 2, 3, 4, or 5) is reported, the applicant shall avoid work on the respective beach segment(s) and truck route and additionally, shall avoid a 100-foot buffer on either side of the segment(s) and route, for a minimum of two weeks, to ensure that no grunion eggs are buried or disturbed.¹ These areas shall be memorialized through multiple GPS coordinates, and marked with irrigation flags for a minimum of two weeks when the next scheduled grunion run will be monitored. The applicant shall adapt the sand placement schedule to avoid operations on such beach

¹ During grunion spawning season, grunion spawn once every two weeks, on several nights, during the highest tides that occur during each month (called spring and neap tides). Grunion eggs take approximately 10 days to mature and hatch during the next high tide. Monitoring for grunion runs must happen, per the annual CDFW published grunion spawning schedule, because one cannot predict where grunion will spawn from one event to another.

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segments and their associated buffers. No mature grunion may be harmed as a result of sand placement.

- C. If sand placement has already commenced, and a grunion run consisting of 100 to 500 individual fish, in one or more 300-foot segment (Walker Scale 2) in the work area is reported, the applicant shall avoid impacts to grunion eggs to the greatest extent feasible and then shall minimize impacts to grunion eggs through such measures as alteration of the truck route, sand discharge points, sand spreading areas, and sand placement locations.
- D. If sand placement has already commenced, and a grunion run consisting of 500 or more individual fish per segment (Walker Scale 3, 4, or 5) is reported, the applicant shall avoid work on the respective beach segment(s) and truck route and additionally, shall avoid a 100-foot buffer on either side of the segment(s) and route, for a minimum of two weeks, to ensure that no grunion eggs are buried or disturbed. These areas shall be memorialized through multiple GPS coordinates, and marked with irrigation flags for a minimum of two weeks when the next scheduled grunion run will be monitored. The applicant shall adapt the sand placement schedule to avoid operations on such beach segments and their associated buffers. No mature grunion may be harmed as a result of sand placement.

- 6. Invasive Species.** PRIOR TO THE COMMENCEMENT OF DREDGING, the applicant shall provide evidence that dredging of the outer lagoon can occur without the risk of spreading the invasive green alga *Caulerpa taxifolia* as follows:
- a. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit, the applicant shall undertake a survey of the project area (including the dredging area, anchoring areas and any other areas where the bottom could be disturbed by project activities) and a buffer area of at least ten (10) meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
 - b. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the National Marine Fisheries Service.
 - c. Within five (5) business days of completion of the survey, the applicant shall submit the survey:

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- i. For the review and written approval of the Executive Director, and
 - ii. To the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish and Wildlife (CDFW) (858-467-4218) or Bryant Chesney, National Marine Fisheries Service (NMFS) (562-980-4037).
 - iii. If Caulerpa is found, then the NMFS and CDFW contacts shall be notified within 24 hours of discovery.
 - d. If Caulerpa is found, the applicant shall, prior to the commencement of dredging, provide evidence to the Executive Director for review and written approval either that all Caulerpa discovered within the project and buffer area has been eradicated or that the dredging project has been revised to avoid any contact with Caulerpa. No changes to the dredging project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- 7. Habitat Monitoring.** The applicant shall submit copies of the annual Nearshore Marine Habitat Monitoring Mapping reports, required by the ACOE, to the Executive Director. These reports shall monitor changes in turbidity/sedimentation, water quality, coverage of coastal aquatic resources, and biology within the proposed discharge site and the adjacent offshore area. The Nearshore Habitat Monitoring Mapping reports shall identify and delineate coastal habitat types, including eelgrass beds, high-relief reef and low-relief vegetated reefs (with indicator species including giant and feather boa kelp, large sea fans, sea palms and surf-grass), located immediately adjacent up coast and down coast of the proposed discharge, with potential to be impacted by the proposed discharge.
- 8. Permit Term.** This coastal development permit authorizes development on a temporary basis only. The proposed maintenance dredging is authorized for one dredge cycle (2020/2021 cycle), commencing upon the date of Commission approval, after which time the authorization for continuation of dredging and deposition of dredged sand on area beaches approved as part of this permit shall cease. After the authorization for the development expires, the continuation of dredging and deposition on area beaches will require either the issuance of a new coastal development permit or an amendment to this coastal development permit.

All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. Any deviation from the approved project plans must be submitted for review by the Executive Director to

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determine whether an amendment to this coastal development permit is legally required.

9. **Required Agency Permits.** PRIOR TO THE COMMENCEMENT OF DREDGING, the applicant shall submit to the Executive Director, all necessary local, state, and federal discretionary permits, including approval from the ACOE and CDFW. The applicant shall inform the Executive Director of any changes to the project required.
10. **Future Permit Coordination and Informational Requirements.** By acceptance of this coastal development permit, the applicant agrees that prior to any request for a new coastal development permit or amendment to this coastal development permit to conduct future maintenance dredging within the outer basin of Agua Hedionda Lagoon, the applicant will work with Commission staff and community stakeholders to assess regional alternative options for the placement and volumes of dredged sand to address concerns about potential impacts to coastal resources.
11. **Surf Monitoring Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, for review and written approval, a Surf Monitoring Plan to visually monitor surfing conditions at and adjacent to North Beach before and after sand placement. The Surf Monitoring Plan shall include, at a minimum, the following:
 - a. Identify the major surging breaks at and adjacent to North Beach and determine appropriate monitoring sites;
 - b. Document morning conditions using a standardized data sheet, with video recording as appropriate, as follows:
 - i. Pre-construction monitoring shall begin four weeks prior to sand placement, and take place 3 times per week over 30 days; and
 - ii. Post-construction monitoring shall begin within two weeks following completion of sand placement, and take place 3 times per week over 30 days.
 - c. Surf monitoring shall include estimates of wave height, type of wave (hollow or mushy), breaker distance from shore, length of peel, and existence of backwash;
 - d. Conduct standardized interviews with surfers using a questionnaire;
 - e. Estimate the density of surfers at each surfing site during monitoring; and

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- f. A final report that includes the monitoring results and an analysis of any change in surfing conditions, which shall be submitted to the Executive Director within 90 days of the final survey.

The permittee shall undertake development in conformance with the approved final plan unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.