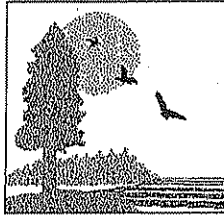


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June 20, 2011

File Ref: SCH #2011051053

Robert C. Gresens
Cambria Community Services District
1316 Tamson Drive, Suite 201
Cambria, CA 93428

Subject: Draft Environmental Assessment/Mitigated Negative Declaration (EA/MND) for the Cambria Geotechnical Sampling and Geophysical Survey, San Luis Obispo County

Dear Mr. Gresens:

The California State Lands Commission (CSLC) staff has reviewed the subject EA/MND for the Cambria Geotechnical Sampling and Geophysical Survey (Project), which is being prepared by the U.S. Army Corps of Engineers (Corps) and the Cambria Community Services District (CCSD). The Corps, as the Project proponent, is the lead agency under the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.), and the CCSD is the lead agency under the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] § 21000 et seq.). CSLC staff has prepared these comments as a trustee agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters. Additionally, because the Project involves geological and geophysical surveys on sovereign lands and, pursuant to PRC section 6826, will require both an Offshore Geologic Sampling Permit and an Offshore Geophysical Survey Permit from the CSLC, the CSLC will act as a responsible agency.

CSLC Jurisdiction and Public Trust Lands

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable rivers, sloughs, lakes, etc. The CSLC has certain residual and review authority for tide and submerged lands legislatively granted in trust to local jurisdictions (PRC §6301 and §6306). All tide and submerged lands, granted or ungranted, as well as navigable rivers, sloughs, etc., are impressed with the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of

the State for statewide Public Trust purposes, which include waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for fill or artificial accretion. On navigable non-tidal waterways, the State holds fee ownership of the bed landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high water mark. Such boundaries may not be readily apparent from present day site inspections.

CSLC staff received applications for both an Offshore Geologic Sampling Permit and an Offshore Geophysical Survey Permit from Diaz Yourman & Associates on May 23, 2011. The final, approved EA/MND prepared by the Corps and the CCSD may be used for CEQA compliance in the event that the CSLC issues the permits.

Although the EA/MND was circulated through the State Clearinghouse, the CSLC was not checked as a Reviewing Agency, and thus did not receive notice of the EA/MND at the beginning of the review period. Pursuant to section 15072 of the CEQA Guidelines, "a lead agency shall provide a notice of intent to adopt a negative declaration or mitigated negative declaration to the public, responsible agencies, trustee agencies...sufficiently prior to adoption by the lead agency of the negative declaration or mitigated negative declaration to allow the public and agencies the review period provided under Section 15105".

From the record of conversations between the Corps and Richard Greenwood, the CSLC Statewide Geophysical Coordinator (p. 50), it should have been apparent to the lead agencies that the CSLC would need to make a discretionary action on the Project and so would need to review the EA/MND to fulfill its responsibilities as a responsible agency. For future notices related to this Project, any related projects, and associated CEQA review, please include CSLC staff on any mailing lists. Staff contact information can be found at the end of this letter.

The CSLC supports siting projects consistent with the Public Trust, such as geotechnical and geophysical research, on State lands; however, the CSLC is also responsible for ensuring that such projects avoid or minimize impacts to other Public Trust resources and uses including, but not limited to biological resources, recreation and public access. In the interest of all Public Trust values of the sovereign land in the tidelands off Cambria, CSLC staff offers the following comments.

Project Description

As described in the EA/MND, the Corps and the CCSD propose to perform geotechnical and geophysical information gathering in the littoral zone between the Mean Low Tide Line (MLTL) and Mean High Tide Line (MHTL) at Santa Rosa and Shamel Beaches in Cambria, CA to meet the agencies' objectives and needs as follows:

- Further define the horizontal alignment of three paleochannels along Santa Rosa Creek and on Shamel Beach as they head seaward;

- Determine subsurface material characteristics by a combination of laboratory analysis of collected samples and cone penetrometer measurements, and verify whether subterranean wells may be feasible to include among alternatives to be defined and analyzed within a subsequent Environmental Impact Statement/Environmental Impact Statement (EIS/EIR) for a future water supply augmentation project.

CSLC staff understands that the Project would include the following components, all performed seaward of the MHTL on exposed beach during low tide and low surf conditions:

- Rotosonic sampling, collecting approximately four to six vertically-cored samples
- Cone penetrometer testing (CPT) in seven different sites, each involving pushing a one to one-half inch diameter sensor into the beach sediment using hydraulic force; and
- Geophysical data collection involving hand-placing hydrophones with interconnecting cables on the beach, then producing sound into the sand by striking a 20-pound sledge hammer onto a 1-inch thick steel plate.

Environmental Review

CSLC staff requests that the Corps and the CCSD consider the following comments on the Project's EA/MND:

Project Description

1. There are inconsistencies in the description of the CPT method. On page 13, the EA/MND states that "the CPT testing equipment is operated by a seated driver inside a protective cab," while on page 30, the document notes that both the rotosonic sampling rig *and* CPT rig are "'walked' by remote control by the operator next to the rig". Please clarify the description of work.
2. Because the Project's avoidance of activities, including operation of "motorized vehicles", on the Santa Rosa Creek State Nature Preserve is relevant to the types of authorizations and permits required for the Project, please explain in more detail how those lands will be avoided (e.g., how equipment operators will recognize the boundary, whether or not the turning radii of the rotosonic and CPT equipment are small enough to maneuver below MHTL, etc.).

Air Resources

3. On Page 42 of the EA/MND, Table 6 lists the estimated emissions of various pollutants for the Project, but there is no explanation of how those numbers were derived. In the interest of transparency, please provide the source or model used to determine the estimates.

Climate Change

4. A greenhouse gas (GHG) emissions analysis consistent with the California Global Warming Solutions Act (AB 32) and required by the CEQA Guidelines (§ 15064.4) should be included in the EA/MND, even if the Project's GHG emissions are anticipated to be minimal. This analysis should identify a threshold for significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of all phases of the Project, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce them to less than significant.

Recreation

5. Although the Project is scheduled between September and November, outside of "peak" beach season, Cambria has relatively mild weather throughout the year, and while the presence of beachgoers at that time of year may be low relative to the summer months, it is impossible from the information in the EA/MND to gain a sense of the intensity of use during "low periods". Because the research will involve noise and vibrations that may affect or discourage recreation in the area, the EA/MND should include some sort of numerical characterization of recreational use of the Project area during autumn weekdays. Without this information, it is difficult to conclude that impacts to recreation would be insignificant (p. 44).

Coordination

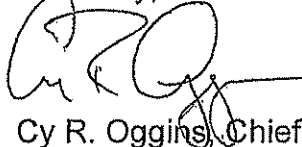
6. CSLC staff appreciates the coordination shown by the Corps with CSLC staff and several other agencies (p. 50). The location of the project inside the Monterey Bay National Marine Sanctuary, inside the Cambria State Marine Park (Marine Park), and adjacent to the Santa Rosa Creek Natural Preserve (Preserve, part of the Hearst San Simeon State Park) will require close cooperation among the agencies. However, it does not appear that the lead agencies coordinated with the Department of Parks and Recreation (Parks) concerning the Marine Park and the Preserve.

The Marine Park was reclassified from its former designation as the Cambria State Marine Conservation Area in August 2010 by the California State Park and Recreation Commission. Both state marine parks and state marine conservation areas are "marine protected areas" under state law (Marine Managed Areas Improvement Act, PRC § 36602(e)). Activities that would compromise protection of a marine park's resources may be restricted (PRC § 36710(b)). Additionally, because the state's tidelands abut the Preserve property, Parks has jurisdiction over the 1,000 feet *waterward* of the ordinary high water mark to enforce its rules and regulations (PRC § 5003.05). Because of the shared jurisdiction of the Project area, CSLC staff strongly recommends that the lead agencies consult with Parks on this project and any future related projects.

Thank you for the opportunity to comment on the EA/MND for the Project. Please send additional information on the Project to CSLC staff as plans become finalized.

Please contact Richard Greenwood, Statewide Geophysical Coordinator, at (562) 590-5897 or by email at Richard.Greenwood@slc.ca.gov, for information concerning our permitting requirements. For questions concerning the environmental review, please contact Sarah Sugar, Environmental Scientist, at (916) 574-2274 or by e-mail at Sarah.Sugar@slc.ca.gov. Please send any CEQA notices for this and future related projects to the letterhead address, Attn: DEPM.

Sincerely,



Cy R. Oggins, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
Richard Greenwood, MRMD, CSLC
Sarah Sugar, DEPM, CSLC

bcc: Pam Griggs, Legal, CSLC