

**CALENDAR ITEM
C84**

A	Statewide	06/28/16
		W 6005.166
S	Statewide	R. B. Greenwood

**CONSIDER APPROVAL OF A THREE-YEAR NON-EXCLUSIVE
GEOLOGICAL SURVEY PERMIT ON TIDE AND SUBMERGED LANDS
UNDER THE JURISDICTION OF THE
CALIFORNIA STATE LANDS COMMISSION**

APPLICANT:

Bureau of Ocean Energy Management
Attn.: Mr. David Ball
760 Paseo Camarillo, Suite 102
Camarillo, CA 93010

BACKGROUND:

The U.S. Department of the Interior's Bureau of Ocean Energy Management (BOEM) has applied for a three-year offshore Non-Exclusive Geological Survey Permit. The first geologic survey to be done is in support of the BOEM's research efforts for a multi-year research project that BOEM recently awarded to San Diego State University to conduct archaeological and biological assessments of submerged landforms near the northern Channel Islands. The permit will also allow the BOEM this geologic research on other scientific or safety related opportunities as they present themselves over the term of the permit.

The geological surveys authorized under the terms of the permit are for the purpose of obtaining shallow samples of the seafloor for geotechnical information. The data obtained is used in the study of nearshore sand erosion and deposition studies; design, construction and safety of offshore structures (pipelines, piers, etc.); and for technical and environmental analyses of offshore operations. The shallow samples are acquired using nonrotary techniques (dart, jet, percussion, grab, box core, and vibracore) from a self-contained vessel. The vessel is typically no larger than a fishing boat (usually 50 to 150 feet in length, with a six-foot draft).

This Geological Survey Permit requires the permittee to provide Commission staff with advance notification of operations and the specifications of the equipment to be employed; to obtain staff approval 30 days in advance of sample

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locations, including specific latitude/longitude coordinates; and to clearly mark as confidential any confidential archaeological information. Coordination with California Department of Fish and Wildlife (CDFW) and National Oceanic and Atmospheric Administration (NOAA) staffs is also required prior to commencing survey activities in Marine Protected Areas and in National Marine Sanctuaries and no sampling within these areas is allowed without prior approval of the above agencies. Upon request, Commission staff will receive copies of all data derived from any and all surveys under this permit.

STAFF ANALYSIS AND RECOMMENDATION:

Public Trust and State's Best Interests Analysis:

BOEM is a federal agency, and approval of its permit application would allow geological surveys in support of BOEM research initiatives, including improving models of submerged archaeological resources and studying underwater seep ecosystems. The marine research activities to be conducted under the permit are a water-dependent use, and scientific study has been recognized by the courts to be a use consistent with the common law Public Trust Doctrine. (See, for example, *Marks v. Whitney* (1971) 6 Cal.3d 251, 259-260.) The permit contains restrictions protective of public rights and environmental resources; for example, the permit would be non-exclusive, is limited to three years in length and would require 30-day advance approval of sample locations by Commission staff, as well as coordination with CDFW and NOAA staffs for survey activities in Marine Protected Areas and in National Marine Sanctuaries. Commission staff believes that granting the permit will not substantially interfere with Public Trust needs at this time, or for the foreseeable term of the permit. For all the reasons above, Commission staff believes the approval of the permit application is consistent with the common law Public Trust Doctrine and is in the best interests of the State. Staff recommends approval of this Non-Exclusive Geological Survey Permit application.

TERMS OF PROPOSED PERMIT:

Three (3) years beginning June 29, 2016 through June 27, 2019.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Required fees, expense deposit, and other security have been received.

STATUTORY AUTHORITY AND OTHER REFERENCES:

A. Public Resources Code sections 6005, 6212.2, 6016, and 6301

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- B. California Code of Regulations, title 2, section 2905, subdivision (e)(3)
- C. California Code of Regulations, title 14, section 15061

OTHER PERTINENT INFORMATION:

- 1. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 6, Information Collection; California Code of Regulations, Title 2, section 2905, subdivision (e)(3).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300; and California Code of Regulations, Title 2, section 2905.

- 2. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370, et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.
- 3. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction.

EXHIBIT:

- A. Permit Regions

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDINGS:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 6, Information Collection; California Code of Regulations, Title 2, section 2905, subdivision (e)(3).

PUBLIC TRUST AND STATE'S BEST INTEREST:

Find that proposed permit will not substantially interfere with the public's

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public trust needs and values, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a Non-Exclusive General Permit to conduct Geological Surveys for the period June 29, 2016, through June 27, 2019, within Permit Regions I, II, III, and IV as designated on Exhibit A, attached hereto, to the Bureau of Ocean Energy Management.

EXHIBIT A PERMIT REGIONS

