

**CALENDAR ITEM
C85**

A Statewide

06/28/16

WP 9007

S Statewide

R. B. Greenwood

**CONSIDER AN APPLICATION FOR A THREE-YEAR
NON-EXCLUSIVE GEOPHYSICAL SURVEY PERMIT TO
CONDUCT LOW-ENERGY GEOPHYSICAL SURVEYS
ON TIDE AND SUBMERGED LANDS UNDER
THE JURISDICTION OF THE
CALIFORNIA STATE LANDS COMMISSION**

APPLICANT:

TerraSond, Limited
Attn.: Mr. Thomas Newman
1617 South Industrial Way, Suite 3
Palmer, AK 99645

BACKGROUND:

TerraSond, Limited has applied for a statewide offshore Geophysical Survey Permit pursuant to the California State Lands Commission's (Commission or CSLC) Low-Energy Offshore Geophysical Permit Program (OGPP). This permit is issued to qualified companies to perform low-energy geophysical surveys of the ocean bottom for purposes including, but not limited to:

- Scientific research, including surveys of near-shore sand erosion and deposition, seafloor changes, and seafloor topography and bathymetry;
- Surveying existing pipeline routes and assessing any structural damage or free spanning;
- Identifying and avoiding seafloor faults and hazards when designing pipeline and cable projects, reducing the likelihood of damage due to these hazards;
- Surveying existing fiber-optic cables, utilities, and other seafloor structures to determine how well they are buried;
- Benthic habitat surveys, mapping hard bottom development and essential fish habitat or cultural resources indicating where the placement of permanent or temporary objects (e.g., cables or anchors) should be precluded;

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- Searching for the locations of historic shipwrecks, other sunken boats, airplanes, and archeological sites; and
- Auditing and supporting dredging of harbors and navigation channels.

The Low-Energy OGPP authorizes the use of electromechanical equipment (e.g., echosounders, side-scan sonars, subbottom profilers), and passive equipment (e.g., magnetometers, remotely operated vehicles) to conduct low-energy geophysical surveys. The use of high-energy equipment, such as airguns or water guns, is expressly prohibited under the permit. This Geophysical Survey Permit requires the Permittee to post a \$50,000 surety bond and provide Commission staff with advance notification of operations, the specifications of the equipment to be employed, a Marine Wildlife Contingency Plan, and a Spill Contingency Plan. Submission of post-survey reports, including records of observations and/or incidents, are also required. Commission staff may receive copies of all data derived from any and all surveys under this permit upon request.

PROPOSED PERMIT APPLICATION, STAFF ANALYSIS AND RECOMMENDATION:

Public Trust and State's Best Interests Analysis:

TerraSond, Limited is a subsea survey and mapping company, and its permit application is to conduct tests of a survey grade fluorometer designed to detect hydrocarbons in the marine environment, as well as to acquire multibeam bathymetry to identify natural hydrocarbon seeps on the seabed. Scientific study has been recognized by the courts to be a use consistent with the Public Trust Doctrine. (See, for example, *Marks v. Whitney*, 6 Cal.3d 251, 259-260 (1971)). The marine research activities to be conducted under the permit are a water-dependent use. Additionally, the permit is limited to three years in length and is required to be conducted in accordance with limitations that are protective of the environment, including a Marine Wildlife Contingency Plan, a Spill Contingency Plan, and a Mitigation Monitoring Program. Commission staff believes that granting the permit will not interfere with, and is consistent with, the common law Public Trust Doctrine uses at this time, and for the foreseeable term of the permit. For all the reasons above, Commission staff believes the approval of the permit application is in the best interests of the State. Staff recommends approval of this data-gathering permit application.

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TERMS OF PROPOSED PERMIT:

Three years, beginning October 1, 2016, through September 30, 2019.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

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

STATUTORY AND OTHER REFERENCES:

1. Public Resources Code sections 6005, 6212.3 and 6301.
2. Public Resources Code section 21080, subdivision (c).
3. California Code of Regulations, Title 2, Article 2.9, section 2100
4. California Code of Regulations, Title 14, section 15074.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State California Environmental Quality Act (CEQA) Guidelines (Cal. Code Regs., tit.14, § 15025), Commission staff prepared a Mitigated Negative Declaration (MND) identified as CSLC MND 751, State Clearinghouse No. 2013072021. The MND was prepared and circulated for public review pursuant to the provisions of CEQA, and adopted by the Commission together with a Mitigation Monitoring Program on September 20, 2013 (Calendar Item 120).
2. On September 20, 2013, the Commission found that, based upon the entire record before the Commission, including the Initial Study, the MND, and the comments received in response thereto, there is no substantial evidence that the program may have a significant effect on the environment; California Code of Regulations, Title 14, section 15074, subdivision (b). A Mitigation Monitoring Program was prepared in conformance with the provisions of CEQA (Pub. Resources Code, § 21081.6).
3. Commission staff prepared an addendum to the previously adopted MND pursuant to California Code of Regulations, Title 14, section 15164, subdivision (b). Commission staff reviewed the proposed changes to the General Permit and Mitigation Monitoring Program and determined that none of the events specified in Public Resources Code section 21166 or section 15162 of the State CEQA Guidelines had occurred, and therefore, no additional CEQA analysis was required.
4. On April 23, 2014, the Commission adopted an addendum to CSLC MND

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No. 751, State Clearinghouse No. 2013072021, which revised the General Permit and Mitigation Monitoring Program (Calendar Item C67).

5. 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.
6. This action is consistent with the Commission's 2016-2020 Strategic Plan, Strategy 1.1 - 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:

1. Find that the MND, CSLC ND No. 751, State Clearinghouse No. 2013072021, and the Mitigation Monitoring Program were prepared by Commission staff and adopted on September 20, 2013.
2. Find that the addendum to the MND, including a revised General Permit and Mitigation Monitoring Program, was prepared by Commission staff and adopted on April 23, 2014, pursuant to the provisions of CEQA.
3. Find that the Commission reviewed and considered the information contained in the previously adopted MND and addendum; that in the Commission's independent judgment, the scope of activities to be carried out under the permit to be issued under this authorization have been adequately analyzed; and that none of the events specified in Public Resources Code section 21166 or State CEQA Guidelines section 15162 has resulted in any new or substantially more severe significant impacts; therefore, no additional CEQA analysis is required.

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PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that approval of the permit application will not substantially interfere with the public's 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 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 three-year Non-Exclusive General Permit to TerraSond, Limited to conduct low-energy geophysical surveys from October 1, 2016, through September 30, 2019, within Permit Regions I, II, III, and IV as designated on the attached Exhibit A.

EXHIBIT A PERMIT REGIONS

