

**STAFF REPORT
C68**

A Statewide

11/29/17

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S Statewide

R. B. Greenwood

NON-EXCLUSIVE GEOLOGICAL SURVEY PERMIT

APPLICANT:

Scripps Institution of Oceanography

BACKGROUND:

Scripps Institution of Oceanography has applied for a statewide 3-year Non-Exclusive Geological Survey Permit (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 are used in the study of nearshore sand erosion and deposition studies; design, construction, and safety of offshore structures (pipelines, piers, moorings); and for technical and environmental analyses. The shallow samples are acquired using nonrotary techniques (dart, jet, percussion, grab, box core, vibracore) from a self-contained vessel. A Letter of Non-Objection was approved to allow collection of four offshore samples from October 28 to November 2, 2017.

This Permit requires the permittee to provide staff 21 days advance notice of operations and the specifications of the equipment to be employed; to obtain staff approval 30 days in advance of sample locations, including specific latitude/longitude coordinates; and to clearly mark as confidential any confidential archaeological information. Permittee coordination with California Department of Fish and Wildlife and National Oceanic and Atmospheric Administration staffs is also required prior to commencing survey activities in Marine Protected Areas and in National Marine Sanctuaries. 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:

Authority:

Public Resources Code sections 6005, 6106, 6212.2, 6216, and 6301;
California Code of Regulations, title 2, section 2100.

Public Trust and State's Best Interests Analysis:

Scientific study has been recognized by the courts to be consistent with the common law Public Trust Doctrine. (See, for example, *Marks v. Whitney* (1971) 6 Cal.3d 251, 259-260.) The geological surveys

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authorized under the proposed Permit is for the express purpose of scientific study. The Permit is in the best interests of the State because the data obtained will provide greater understanding of tide and submerged lands. The Permit contains restrictions that protect public rights and environmental resources; for example, the Permit would be non-exclusive and is limited to 3 years in length. The permitted activity is not expected to interfere with navigation or the use and enjoyment of sovereign land. Staff believes that granting the Permit will not substantially interfere with the Public Trust over the term of the Permit.

For all the reasons above, 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.

TERM OF PROPOSED PERMIT:

3 years beginning November 29, 2017, through November 28, 2020.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

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

OTHER PERTINENT INFORMATION:

1. Staff recommends that the Commission find that this activity is exempt from the requirements of 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is 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.

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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 INTERESTS:

Find that the proposed Permit will not substantially interfere with the 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 November 29, 2017, through November 28, 2020, within Permit Regions I, II, III, and IV as designated on the attached Exhibit A, to Scripps Institution of Oceanography.

EXHIBIT A PERMIT REGIONS

