

San Diego Unified Port District

**CEQA and COASTAL DETERMINATIONS
and
NOTICE OF APPROVAL**

Project: Tideland Use and Occupancy Permit to Maxum Petroleum Corporation for Fueling Operations at the Embarcadero
Location(s): B Street Pier, 1140 N. Harbor Drive, San Diego, CA 92101
Fish Harbor Pier, 598 Harbor Lane, San Diego, CA 92101
N. Harbor Drive, San Diego, CA 92101
Tuna Harbor Wharf, 3 Tuna Lane, San Diego, CA 92101
Parcel No.(s): 017-047, 018-042, 018-043, and 104-145
Project No.: 2017-169a
Applicant: Mark Mason, General Manager, Maxum Petroleum, 340 Golden Shore, Suite 120, Long Beach, CA 90802
Date Approved: October 24, 2017 Revised: December 5, 2017

Project Description

The proposed project is a Tideland Use and Occupancy Permit (TUOP) to Maxum Petroleum (Tenant) for their continued use of approximately 74,728 square feet of tideland area located in the city of San Diego, California. The area proposed for use under this TUOP is currently and proposed to be used for the non-exclusive purpose by Tenant of fueling operations to commercial and private vessels located on or adjacent to the premises and for no other purpose whatsoever by Tenant without the prior written consent of the Executive Director of District in each instance. The Tenant would be responsible for compliance with all laws and regulations associated with the activities on or in connection with the above-described premises, and in all uses thereof, including those regulating stormwater and hazardous materials. No new development, construction, uses, or increase in the size of the Tenant's TUOP area is proposed or authorized as part of this TUOP.

It is anticipated that the TUOP would commence on January 1, 2018 and terminate on December 31, 2021, for a total term of four (4) years. The TUOP may be terminated by the Executive Director of District or her duly authorized representative, or Tenant, as a matter of right and without cause at any time upon the giving of thirty (30) days' notice in writing to the other party of such termination.

The following categorical determinations are based on the TUOP and all project information known to the District as of the date of this determination.

CEQA DETERMINATION

Based upon the above description, the project is determined to be Categorically Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities) and Section 3.a. (4) of the District's *Guidelines for Compliance with CEQA* because the project is a TUOP for the purpose of fueling operations to commercial and private vessels that would involve no expansion of use beyond that previously existing. Section 3.a. (4) of the District's CEQA Guidelines is as follows:

- 3.a. Existing Facilities (SG § 15301) (Class 1): Includes operation, repair, maintenance, or minor alteration of existing public and private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to:
 - (4) New and renewed short-term tenancy agreements which do not result in change in the existing use. This exemption does not apply to any new development associated with the activities of the tenant. This exemption is also inapplicable if the cumulative impact of continuing the existing use or conditions in the same place, over time, is significant.

The Categorical Exemption listed above is appropriate for the proposed project because it is a TUOP for the purpose of fueling operations to commercial and private vessels that would involve no expansion of use beyond that previously existing. Furthermore, the TUOP would not result in any significant cumulative impacts due to the continuation of the existing use. The District has determined none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

Pursuant to CEQA Guidelines Section 15062, a 35-day statute of limitations for this CEQA exemption shall apply from the date a Notice of Exemption is posted with the San Diego County Clerk, or a 180-day statute of limitations for this CEQA exemption shall apply if no Notice of Exemption is filed.

The proposed project complies with Section 87 of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed project is consistent with the Public Trust Doctrine.

CALIFORNIA COASTAL ACT

PORT MASTER PLAN

The project site is located in Planning District 3, Centre City Embarcadero, which is delineated on Precise Plan Map Figure 11 of the certified Port Master Plan. The Port Master Plan land use designations within the limits of the proposed project are Commercial Fishing, Commercial Recreation, Marine Terminal, Park/Plaza, and Promenade. The project conforms to the certified Port Master Plan because it is issuance of a TUOP for the purpose of fueling operations to commercial and private vessels consistent with the existing certified land use designations. The project would not change the use of the site nor would it interrupt or expand the existing conforming use of the site.

CATEGORICAL DETERMINATION

The above project proposes a TUOP for the purpose of fueling operations to commercial and private vessels that would involve no expansion of use beyond that previously existing. This project is consistent with the existing certified land use designations and is Categorically Excluded under Section 8.a. of the District's *Coastal Development Permit Regulations*, as follows:

- 8.a. Existing Facilities: The operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing.

Pursuant to California Coastal Act Section 30717, there is a 10-working-day period to appeal this "Coastal Act Categorical Determination of Exclusion" to the California Coastal Commission.

RANDA CONIGLIO

President/CEO

Determination by:
Cameron McLeod
Assistant Planner
Development Services

Signature: Cameron McLeod
Date: 12/5/2017

Deputy General Counsel

Signature: W.S. McLeod
Date: 12-5-17