



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

Project: Tideland Use and Occupancy Permit to Sunken Seaweed, LLC for Shellfish and Seaweed Farming System
Location: Grape Street Pier, No. 1, San Diego, CA 92101
Parcel No.: 017-025
Project No.: 2019-103
Applicant: Torre Polizzi and Leslie Booher c/o Sunken Seaweed, LLC, 4652 Muir Ave, San Diego, CA, 92107

Date Approved: March 10, 2020

PROJECT DESCRIPTION

The proposed project is a Tidelands Use and Occupancy Permit (TUOP) to Sunken Seaweed, LLC (Tenant) for their continued use of approximately 4,422 square feet (sq ft) of water area adjacent to Grape Street Pier No. 1 located in the city of San Diego, California. The area proposed for use under this TUOP is currently and is proposed to be used only and exclusively for the purpose of a shellfish and seaweed pilot farming system, and for no other purpose whatsoever 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, as well as acquiring necessary permits from relevant resource agencies, such as the Army Corps of Engineers and the Regional Water Quality Control Board.

It is anticipated that the TUOP would have a total term of approximately three (3) years and seven (7) months, commencing April 2020 and ending October 2023. The TUOP may be terminated by the District or Tenant as a matter of right and without cause at any time upon providing thirty (30) days' notice in writing to the other party of such termination.

The purpose of the pilot project is to demonstrate the feasibility and water quality benefits of shellfish and seaweed aquaculture in San Diego Bay, by incorporating the water-purifying capacity of bivalves with the carbon-sequestering potential of seaweeds to create a climate-beneficial farming system. Thus, the key change in this pilot project from the Tenant's current operations is the addition of shellfish to the existing pilot seaweed farming system. The addition of mussel longlines and baskets to the existing submerged farm system would involve minimal activity, as no existing structures need to be permanently modified or demolished. To attach the baskets to the top kelp lines, divers would alter and fit these lines with small approximately six-inch and twelve-inch pickup buoys. To attach the mussel longlines, divers would attach stainless steel shackles to the kelp lines, and attach the mussel longlines to the shackles with carabiners. The installation of the baskets and mussel long-lines is anticipated to be complete in approximately four weeks with three days per week spent on or in the water.

The pilot project would require access to the floating dock alongside the pier for the transportation of project materials, and use of the nineteen top kelp lines of the existing submerged farm system. These lines float with the use of buoys and can sit at depths up to ten feet. Additions to the existing submerged farm system would include up to eighty baskets, which are approximately twenty-five inches by ten inches by six inches, to house both seaweed and shellfish species and up to sixty mussel long-lines, which are fifteen feet in length. The majority of the baskets would have one-inch mesh and would be used to house seaweed species to protect them from predation. The baskets would hang along the kelp lines and the mussel long-lines would hang perpendicular to the kelp lines.

Consistent with existing operations, the project site would be visited approximately four days per week by vehicle or small boat. Operation and maintenance activities are proposed to include: diving, experimental harvesting (cutting and hauling seaweed and shellfish onto boat), SCUBA monitoring and biodiversity surveys, and epiphyte clearing and removal. The monitoring and biodiversity surveys would be conducted by the proposed project applicants, a SCUBA dive team, and when applicable for the surveys, a small-scale remotely operated underwater vehicle (ROV). Most of the diving, sampling, and maintenance can take place off of the floating dock, and diving from the small boat would only be needed for placement of anchors, moorings, buoys, and when lifting lines of kelp out for harvest. The SCUBA monitoring and biodiversity surveys would occur less frequently and include fish recruitment surveys, invertebrate recruitment surveys, epiphyte surveys of the kelp lines, and collecting data for water quality, turbidity, and sea surface and bottom temperature. For one species of algae, sea lettuce, additional samples would be taken to be tested for carbohydrates, lipids, sugars, and other nutrient profile information. All seaweed and shellfish harvested from the system would be taken directly to an uplands marine lab, thus no land-based structures are required for this project.

Additional visual benthic surveys of the quantity, type and distribution of materials from the shellfish cultivation facilities (such as shellfish, shell material, fouling organisms, and aquaculture equipment) accumulating on the seafloor shall be conducted beneath the shellfish and seaweed farming system and shall be carried out on a quarterly basis throughout the duration of the pilot project. Surveys shall be carried out by an independent, third-party contractor and shall include randomly selected locations beneath the shellfish and seaweed farming system as well as two control sites to be selected based on their similarity to the project area in terms of sediment character and water depth.

If, during monitoring, the visible accumulation of a significant amount of oyster or mussel shell material, fouling organisms, cultivation equipment, or other project-related debris is observed, the Tenant shall adapt its operations and/or redesign the project to avoid recurrence of these changes, and to mitigate any additional impacts to marine resources that may have occurred. Such project changes shall include the removal of accumulated materials and/or modifications to the management and use of shellfish baskets. For the purposes of this condition, a "significant amount of oyster shell material, fouling organisms, or other project-related debris" shall comprise any accumulation in excess of a handful of scattered occurrences, such as the formation of piles or layers of debris.

The Tenant shall not intentionally dispose of or release any equipment or waste, including lines, buoys, baskets, and other equipment, or living or dead shellfish, shells, or non-native fouling organisms into the marine environment. If invasive fouling organisms are present on the cultivation equipment, all maintenance cleaning operations of the equipment, including its buoys, ropes, lines, cables, and anchors, shall be carried out onshore and in a contained manner sufficient to capture all dislodged biological materials. All non-native fouling organisms and biological materials from non-native organisms removed during these cleaning operations shall be collected and disposed at an appropriate upland facility. No discharge of untreated wash water or non-native fouling materials shall occur during maintenance cleaning operations. All onshore shellfish and equipment cleaning and processing operations shall be carried out in a manner that prevents the discharge of untreated water and biological materials into the marine environment.

All seaweed and shellfish species proposed to be grown as part of the project are native or naturalized to southern California. The seaweed species grown in the top layer of kelp lines may include: Sea lettuce (*Ulva spp.*), Ogo (*Gracilaria pacifica*), Nori (*Porphyra spp.*), Dead Man's Fingers (*Codium fragile*), Methane Reducer (*Asparagopsis taxiformis*) and Sea grapes (*Botryocladia pseudodichotoma*). The species grown in the bottom layer of kelp lines may include Giant kelp (*Macrocystis pyrifera*), Oar weed (*Laminaria forlowii*), and Elk kelp (*Pelagophycus porra*). The shellfish species may include Mediterranean Mussel

(*Mytilus edulis* species complex), Pacific oyster (*Crassostrea gigas*; the Tenant will only use existing Pacific oysters residing on habitat near the farm installation), Olympia Oyster (*Ostrea lurida*), and California Mussel (*Mytilus californianus*).

Furthermore, the project would not have over-water coverage and no eelgrass resources are known to occur within the project area. Therefore, the proposed project would not result in any significant impacts to biological resources.

Marine Debris Reduction and Management. The Tenant shall carry out operations consistent with the following marine debris reduction and management practices:

- A. **Storm Damage and Debris.** As soon as safely and reasonably possible following storm or severe wind or weather events, the Tenant shall patrol its shellfish and seaweed farming system for escaped or damaged aquaculture equipment. All equipment that cannot be repaired and placed back into service shall be properly recycled or disposed of at an appropriate onshore facility. In addition, the Tenant shall retrieve or repair any escaped or damaged aquaculture equipment that it encounters while conducting routine daily and/or monthly maintenance activities associated with the pilot project. If the escaped gear cannot be repaired and replaced, it shall be properly recycled or disposed of on land.
- B. **Gear Marking and Replacement.** The Tenant shall mark all shellfish baskets and floats in an easily identifiable manner with identification information including its company name. Markings shall be securely attached and robust enough to remain attached and legible after an extended period in the marine environment (e.g. heat transfer, hot stamp, etching, etc.). Existing floats currently in use shall be marked or replaced with marked versions when replanted and all unmarked gear shall be replaced in this way. In the event that shellfish culture gear or equipment becomes displaced or dislodged from the shellfish and seaweed farming system, it shall be the Tenant's responsibility to retrieve the material from the shoreline, open water, eelgrass beds, mudflat, or submerged bottom with minimal damage to the resources affected. Once located, such material shall be removed as soon as feasible and properly disposed of, recycled, or returned to use.
- C. **Cleanup Events.** The Tenant shall participate in a minimum of four cleanup events on Port tidelands per year and conduct quarterly check-ins with Zephyr Marine Debris Removal to determine whether any discoveries of gear from the pilot study have occurred. If persistent discoveries of certain gear types are made, the Tenant shall evaluate (and if feasible, implement use of) alternative gear types or practices that would reduce these consistent sources of debris.
- D. **Ongoing Operations.** The Tenant shall not leave or temporarily store tools, loose gear, or construction materials on its leased tidelands or surrounding areas. All aquaculture gear installed on and in use in active cultivation sites shall be kept neat and secure and maintained in functional condition. The Tenant shall carry out regular bed inspections and maintenance activities to help ensure that broken, collapsed, fallen, or buried gear is fixed or removed in a timely manner.
- E. **Bed Cleaning at Harvest.** The Tenant shall carry out a thorough inspection to locate and remove loose, abandoned or out of use equipment, tools, and accumulations of oysters from the surrounding substrate. Oyster shell shall not be intentionally placed or deposited within the lease outside of cultivation gear, and oysters or oyster shell accidentally spilled during cultivation or harvest shall be immediately collected and removed.

- F. Excessive Gear Loss or Maintenance Failures.** If the Tenant is found to be responsible for consistently extensive loss of aquaculture equipment into the marine environment or is consistently failing to maintain its equipment in an intact and serviceable condition, the Tenant shall modify its cultivation equipment and/or operational practices to minimize equipment loss and mitigate impacts to affected habitat.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

CATEGORICAL DETERMINATION

Categorical Exemptions: SG §15301, Class 1/Section 3.a: Existing Facilities; SG §15303, Class 3/Section 3.c: New Construction or Conversion of Small Structures; SG §15304, Class 4/Section 3.d: Minor Alterations to Land; and SG §15306, Class 6/Section 3.f: Information Collection

- 3.a. Existing Facilities (SG § 15301) (Class 1): Includes 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, including but not limited to:

- (1) Repair maintenance or minor alteration of existing mooring facilities, floats, piers, piles, wharves, bulkhead, revetment, buoys, or similar structures; marine terminal facilities; airport facilities; and commercial industrial or recreational facilities.

AND/OR

- 3.c. New Construction or Conversion of Small Structures (SG § 15303) (Class 3): Includes construction of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and conversion of existing small structures from one use to another with minor modifications to the exterior of the structure. Examples of this exemption include:

- (1) Commercial, industrial, recreational and marine-oriented mooring facilities or structures if designed for an occupant load of 30 persons or less, if not constructed in conjunction with the building of two or more such structures. In urbanized areas, the exemption also applies to commercial buildings on sites zoned for such use, if designed for an occupant load of 30 persons or less if not constructed in conjunction with the building of four or more such structures, and if not involving the use of significant amounts of hazardous substances.
- (2) Accessory (appurtenant) structures and mechanical equipment including, but not limited to, garages, sheds, railway spur tracks, pilings, temporary trailers, industrial equipment enclosures, fences, parking, on-site roadways, walkways, and health and safety devices.

AND/OR

- 3.d. Minor Alterations to Land (SG § 15304) (Class 4): Includes minor alterations in the condition of land, water and/or vegetation not involving removal of mature, scenic trees.

AND/OR

- 3.f. Information Collection (SG § 15306) (Class 6): Includes basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or

major disturbance to environmental resources. These may be for information gathering purposes, or as part of a study leading to an action which has not yet been approved, adopted or funded.

The proposed project is determined to be Categorical Exempt pursuant to the CEQA Guidelines and the Sections of the District's *Guidelines for Compliance with CEQA* as identified above. These are appropriate for the proposed project because the project involves operation of a small-scale seaweed and shellfish farm on Grape Street Pier No.1, and would involve negligible expansion of use beyond the existing uses at Grape Street Pier No. 1; would not have an occupancy load of 30 or more; would include placement of minor structures accessory to an existing facility; and would also collect data and information on environmental factors and conditions around the farm, and also on the viability of seaweed and shellfish aquaculture in San Diego Bay without resulting in a serious or major disturbance to environmental resources. It would not result in any significant cumulative impacts due to the minor impacts of the operation and small number of employees, and would not result in a serious or major disturbance to an environmental resource. Further, there would no dredging or fill impacts and the project would not cause any disturbance to sensitive species or habitat. 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.

CALIFORNIA COASTAL ACT

PORT MASTER PLAN CONSISTENCY

Planning District: 3 - Centre City Embarcadero (Precise Plan Figure 11)

Water Use Designation: Specialized Berthing

The proposed project is located within the Coastal Development Permit (CDP) jurisdiction of the District and conforms to the certified Port Master Plan because it would support a marine commercial use, and utilizes a specialized waterside structure to satisfy the special requirements of marine projects, consistent with the existing certified Water use designation. The proposed project would not change the use of the site nor would it interrupt or expand the existing conforming uses of the site.

CATEGORICAL DETERMINATION

Categorical Exclusions: Section 8.a: Existing Facilities; Section 8.c: New Construction or Conversion of Small Structures; Section 8.d: Minor Alterations to Land; and Section 8.e: Information Collection

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, including but not limited to:

(10) Repair, maintenance, or minor alteration of existing mooring facilities, floats, piers, bulkhead, revetment, buoys, or similar structures.

AND/OR

8.c. **New Construction or Conversion of Small Structures**: Construction and location of limited numbers of new, small facilities or structures and installation of small, new equipment and facilities, involving negligible or no change of existing use of the property, including but not limited to:

- (1) Commercial, industrial, and recreational structures designed for an occupant load of thirty (30) persons or less, if not in conjunction with the building of four (4) or more structures, and if not involving the use of significant amounts of hazardous substances;
- (3) Accessory structures, including, but not limited to, on-premise signs, small parking lots, fences, walkways, swimming pools, miscellaneous work buildings, temporary trailers, small accessory piers, minor mooring facilities, buoys, floats, pilings, or similar structures; and seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar structures.

AND/OR

8.d. Minor Alterations to Land: Minor public or private alterations in the condition of land, water, and/or vegetation which do not involve the removal of mature, scenic trees.

AND/OR

8.e. Information Collection: Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major significant disturbance to an environmental resource.

The proposed project is located within the Coastal Development Permit (CDP) jurisdiction of the District and is determined to be Categorical Excluded pursuant to the Sections of the District's *Coastal Development Permit Regulations* as identified above. These are appropriate for the proposed project because it would involve negligible expansion of use beyond the existing uses at Grape Street Pier No. 1; would not have an occupancy load of 30 or more and would not involve the use of significant amounts of hazardous substances; and would not result in a serious or major significant disturbance to an environmental resource.

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.

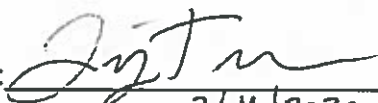
CALIFORNIA PUBLIC TRUST DOCTRINE

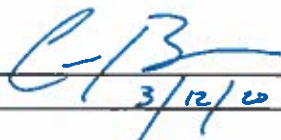
The proposed project complies with Section 87.(a)(1) of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operations of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, 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.

RANDA CONIGLIO
President/CEO

Determination by:
Lily Tsukayama
Associate Planner
Planning and Green Port

Deputy General Counsel

Signature: 
Date: 3/11/2020

Signature: 
Date: 3/12/20