

Staff Report 58

APPLICANT:

SubCom, LLC

PROPOSED ACTION:

Issuance of a Non-Exclusive Offshore Geological Survey Permit.

AREA, LAND TYPE, AND LOCATION:

Statewide offshore, from the mean high-tide line to 3 miles offshore including granted or ungranted tidelands and submerged lands.

AUTHORIZED USE:

Collection of geological information by utilizing percussion, grab, jet, vibracore, box core, and dart sampling methods. No activity or method employing rotary drilling operations is authorized by this permit.

TERM:

3 years, beginning August 17, 2023.

CONSIDERATION:

The Applicant has submitted a \$5,000 application fee.

SPECIFIC PERMIT PROVISIONS:

The general terms of this Geological Survey Permit require the permittee to provide staff with advance notification of operations and the specifications of the equipment to be employed. Staff may obtain copies of all geological data derived from any and all surveys under this permit upon request.

STAFF ANALYSIS AND RECOMMENDATION:

SubCom, LLC has applied for a 3-year Geological Survey Permit. The geological surveys authorized under the terms of the proposed 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 and 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 non-rotary techniques (dart, jet, percussion, grab, box core, and vibracore) from a self-contained ship (usually 50 to 150 feet in length, 20-40 feet wide, and a 6-foot draft). The seafloor sampling will be conducted on a statewide basis.

AUTHORITY:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

SubCom, LLC has applied for a permit to conduct geological surveys on Statewide offshore, from the mean high-tide line to 3 miles offshore including granted or ungranted tidelands and submerged lands.

Collection of scientific data is a use 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 Permit contains restrictions that protect public rights and environmental resources; for example, the Permit would be non-exclusive and is limited to 3 years. Staff believes that granting the Permit will not substantially interfere with the Public Trust needs at this location at this time and for the foreseeable 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 Offshore Geological Survey Permit application.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of

the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant will not be authorized to conduct geological surveys on sovereign land. Upon expiration or prior termination of the permit, the applicant has no right to a new permit or to renewal of any previous permit.

2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. 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)(1).

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

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, subdivisions (e)(1).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that proposed Permit will not substantially interfere with Public Trust needs and values, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a Non-Exclusive Offshore Geological Survey Permit to SubCom, LLC to conduct geological surveys for the period August 17, 2023, through August 16, 2026, statewide offshore, from the mean high-tide line to 3 miles offshore including granted or ungranted tidelands and submerged lands and incorporated by reference herein.