

Staff Report 42

APPLICANT:

California Department of Transportation

PROPOSED ACTION:

Issuance of a Public Agency Permit and approval of a Right-of-Way Map.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Pacific Ocean adjacent to State Route 1, near Big Sur, Monterey County (as shown in Figure 1).

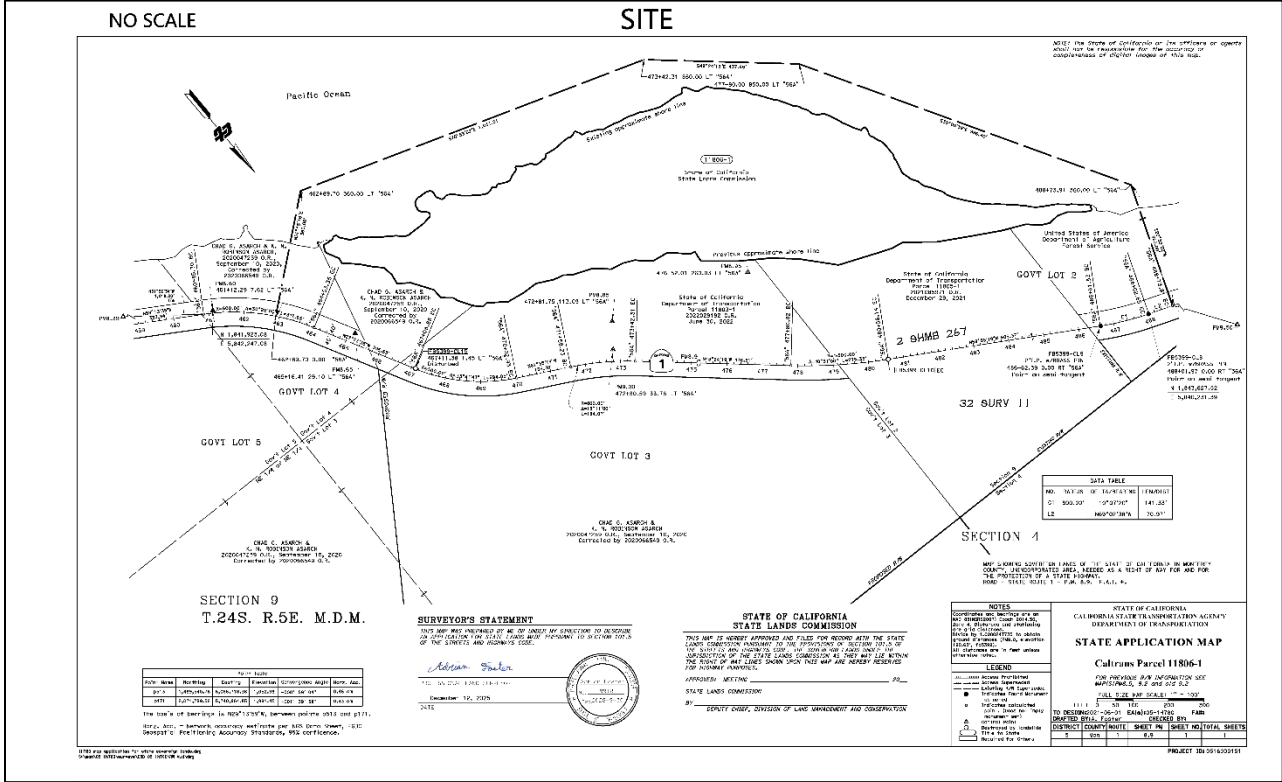
Figure 1. Location



AUTHORIZED USE:

Use of a right-of-way for newly created land in the Pacific Ocean to support the protection, operation, and maintenance of State Route 1 near Mud Creek (as shown in Figure 2).

Figure 2. Site Map



NOTE: This depiction of the permit premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

Continuous use, plus 1 year, beginning April 7, 2026.

CONSIDERATION:

Reasonable value of right-of-way to be deposited into the State Parks and Recreation Fund.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6210.3, 6216, 6301; Streets and Highways Code section 101.5.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On May 20, 2017, a massive landslide near Mud Creek in Big Sur moved approximately 6 million cubic yards of material and buried a quarter-mile portion of State Route (SR) 1. Below the buried SR 1, the landslide created approximately 14 acres of new land in the Pacific Ocean. SR 1, the sole traffic artery of the Big Sur coastline, attracts more than 4.5 million visitors each year. The visitors who come to the Big Sur coast support many family- and locally-owned businesses and hotels in the area. Therefore, it was critical for the California Department of Transportation (Caltrans) to restore traffic along SR 1 as quickly as possible.

Emergency construction began quickly and included a new roadway that has been realigned across the landslide and is buttressed with a series of embankments, berms, rocks, netting, culverts, and other stabilizing material. A larger, more interconnected drainage system was installed, including a 63-inch-diameter pipe that drains runoff from the upland portion of the landslide area and from Mud Creek out to the Pacific Ocean.

At the toe of the newly created parcel in the Pacific Ocean, Caltrans has constructed rock-slope protection using rock accumulated from the landslide and excavated during construction of the repaired portion of SR 1. During high tides and large wave events in late 2023 and early 2024, wave runup caused damage to several areas where wave energy concentrates. Caltrans repaired the rock-slope protection by replenishing it with the excavated rock stored on the newly created parcel.

Caltrans is now requesting authorization from the Commission to use the new parcel of land to protect the upland hillside and SR 1. While the parcel will primarily be used for storage of maintenance equipment and rock-slope protection, construction activities would occasionally occur, and the parcel would be closed to the public for health and safety reasons.

The public's right to access and use California's navigable waters is a mandate of the California Constitution (Article X, Section 4), a condition of statehood in the Act

of Admission of the State of California into the Union (9 Stat. 452, Sept. 9, 1850), and a responsibility of all involved public agencies pursuant to the common law Public Trust Doctrine.

The 2017 landslide impacted public access and other trust resources at this location. The permit to Caltrans does not have an overall impact on current public access at this location. However, the permit will allow for the public's safe use of SR 1. SR 1 is critical infrastructure that is necessary to facilitate the movement of goods, people, and services throughout the State.

The permit does not alienate the State's fee simple interest and does not grant the Applicant exclusive rights to the right-of-way. Staff believes that the proposed right-of-way will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the term of the right-of-way. Moreover, staff believes that this use of State land by a public agency for a public, statewide benefit is in the best interests of the State.

CLIMATE CHANGE:

INTRODUCTION:

The climate crisis and rising sea levels are impacting coastal California now. As underscored in the [State of California Sea Level Rise Guidance](#) (Ocean Protection Council, 2024), the combination of extreme weather events and the persistent and accelerating rise in sea levels will lead to increased coastal hazards, such as wave runup, storm surges, flooding, and erosion. Shorelines will move inland due to rising seas, exposing more of the natural and human-built environment to coastal hazards. The resulting damage will occur repeatedly and incrementally over years and, in extreme cases, over the span of a few large winter storms. These impacts may affect the rock slope protection segments subject to the proposed permit, located along the mean high tide line in Big Sur, Monterey County.

DATA & PROJECTIONS:

Sea levels along most of the California coast rose four to eight inches during the last century, and this trend will accelerate throughout this century. The current rate of sea level rise is triple the rate during the last century. There is growing confidence that by 2050 sea levels will be approximately ten inches higher than they were in 2000. The severity of sea level rise beyond 2050 is contingent on future levels of

greenhouse gas emissions. The California Ocean Protection Council updated the State of California Sea Level Rise Guidance in 2024 to provide a synthesis of the best available science on sea level rise projections and rates for multiple emissions scenarios. To apply a precautionary approach, Commission staff evaluated the “intermediate-high” and “high” scenarios due to the vulnerability and exposure of the permit location and the continued global reliance on fossil fuels. The Monterey tide gauge was used for the projected sea level rise scenario for the permit area, as listed in Table 1.

Table 1. Projected Sea Level Rise for Monterey

| Year | Intermediate-High (feet) | High (feet) |
|------|--------------------------|-------------|
| 2040 | 0.6 | 0.7 |
| 2060 | 1.4 | 1.9 |
| 2080 | 2.9 | 3.9 |
| 2100 | 4.6 | 6.4 |

Source: Table 8, State of California Sea Level Rise Guidance: 2024 Update

Note: Projections are with respect to a 2000 baseline.

ANALYSIS:

Commission staff used the online sea level rise mapping tool, [Our Coast Our Future](#), to evaluate risks to the permit premises and structures from sea level rise. At present sea levels, the permit premises are already regularly flooded and subjected to wave impacts and erosion, which could potentially damage any structures or improvements on the premises. Episodic or short-term events, such as extreme storms, very high or King tides, and El Niño events, alone or in combination, will increase the vulnerability of the permit premises and expose it to higher water levels and stronger wave runup, overtopping, and erosion.

Once waves start regularly colliding with the rock slope protection, the reflected wave energy could erode the sediment below and surrounding the segments, leading to structural instabilities. Reliance on rock slope protection is typically not a long-term or sustainable protection strategy because it will provide diminishing protection as rising sea levels destabilize and exceed the conditions for which the rock slope protection was originally designed.

While the rock slope protection may protect the base and upland slope serving as the foundation for Highway 1, it will further accelerate the erosion and narrowing of the intertidal area and alter natural coastal processes by preventing the shoreline

from migrating inland. The loss of intertidal areas harms critical habitats and ecosystem services.

The rock slope protection may sustain substantial damage and degradation over the permit term, requiring more frequent repairs and maintenance to retain its function. Stronger coastal erosion can wash away the soil and sediment supporting the rock slope protection, causing structural instabilities. Additionally, the rock slope protection may experience increased damage from waves breaking closer and stronger to shore.

RECOMMENDATIONS:

Refer to Section Four of the Commission's [2023 Shoreline Adaptation and the Public Trust](#) report for more information about various shoreline adaptation strategies and their advantages and disadvantages for mitigating coastal hazards and protecting Public Trust resources. As stated in Section 4.1.2 of the Report, the impacts on coastal ecosystems can be mitigated, to a degree, by using alternative construction materials like bio-enhancing concrete and designs that mimic rocky intertidal habitats. Any future construction or activities on State land outside the permit area would require a separate authorization from the Commission. Regular maintenance may reduce the likelihood of severe structural degradation or dislodgement.

CONCLUSION:

For all the reasons above, staff believes the approval of the Public Agency Permit and Right-of-Way Map will not substantially impair the public rights to navigation, fishing, or other Public Trust needs and values at this location, for the term of the permit and is in the best interests of the State.

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 receive the permit and will be unable to utilize the proposed Right-of-Way.

2. This action is consistent with the “Leading Climate Activism”; “Meeting Evolving Public Trust Needs” and “Committing to Collaborative Leadership” Strategic Focus Areas of the Commission’s 2021- 2025 Strategic Plan.
3. Caltrans has filed a map with the Commission that depicts the proposed Right-of-Way.
4. Section 101.5 of the Streets and Highways Code requires Caltrans to determine the reasonable value of the proposed Right-of-Way for the Mud Creek permit location and to deposit that amount into the State Parks and Recreation Fund.
5. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a statutorily exempt project. The project is exempt because it involves a specific action to prevent or mitigate an emergency.

Authority: Public Resources Code section 21080, subdivision (b)(4) and California Code of Regulations, title 14, section 15269, subdivision (c).

EXHIBIT:

A. Right-of-Way Map

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 statutorily exempt project pursuant to Public Resources Code section 21080, subdivision (b)(4) and California Code of Regulations, title 14, section 15269, subdivision (c), specific actions necessary to prevent or mitigate an emergency.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

Find that approval of the permit will not substantially impair the public rights to navigation, fishing, or other Public Trust needs and values at this location and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a Public Agency Permit to the Applicant and approve a Right-of-Way Map as submitted by the California Department of Transportation, pursuant to Section 101.5 of the Streets and Highways Code and as authorized by Section 6210.3 of the Public Resources Code, effective April 7, 2026, for a Right-of-Way with a term of continuous use plus one year; consideration being reasonable value of the right-of-way to be deposited into the State Parks and Recreation Fund.

