

**CALENDAR ITEM
C54**

A	Statewide	12/06/16
		WP 9108
S	Statewide	R. B. Greenwood

**CONSIDER AN APPLICATION FOR A NON-EXCLUSIVE GEOLOGICAL
SURVEY PERMIT ON TIDE AND SUBMERGED LANDS**

APPLICANT:

Ecosystems Management Associates, Inc.

BACKGROUND:

Ecosystems Management Associates, Inc. (Applicant) has applied for a 3-year Non-Exclusive Geological Survey Permit (Permit). The Applicant's current geologic permit expires on January 23, 2017, and the Applicant has requested that a new 3 year permit be issued upon its expiration. 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, etc.); and for the 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 vessel. The vessel is typically no larger than a commercial fishing boat (usually 50 to 150 feet in length, with a 6-foot draft).

This Permit requires the permittee to provide staff with advance notification 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 the California Department of Fish and Wildlife (CDFW) and National Oceanic and Atmospheric Administration (NOAA) staffs is also required prior to commencing survey activities in Marine Protected Areas and in National Marine Sanctuaries and no sampling within these areas is allowed without prior approval of the above agencies. Upon request, Commission staff may receive copies of all data obtained from any and all surveys under this Permit.

CALENDAR ITEM NO. **C54** (CONT'D)

STAFF ANALYSIS AND RECOMMENDATION:

Public Trust and State's Best Interests Analysis:

The Permit allows geological surveys to obtain scientific data, a use recognized by the courts to be consistent with the common law Public Trust Doctrine, and is in the best interests of the State by providing greater understanding of tide and submerged lands. (See, for example, *Marks v. Whitney* (1971) 6 Cal.3d 251, 259-260.) The Permit contains restrictions protective of public rights and environmental resources. For example, the Permit is 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 lands. Commission staff believes that granting the Permit will not substantially interfere with Public Trust needs at this time, or for the foreseeable term of the Permit.

For all the reasons above, Commission 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.

Strategic Plan:

This action is consistent with the Commission's Strategic Plan, Strategy 1.1 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.

TERM OF PROPOSED PERMIT:

Three years beginning January 24, 2017, through January 23, 2020 (as requested by the Applicant).

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

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

STATUTORY AUTHORITY AND OTHER REFERENCES:

- A. Public Resources Code sections 6005, 6212.2, 6216, and 6301
- B. California Code of Regulations, title 2, section 2905, subdivision (e)(1)
- C. California Code of Regulations, title 14, section 15061

CALENDAR ITEM NO. **C54** (CONT'D)

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)(1).

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.

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)(1).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that 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.

CALENDAR ITEM NO. **C54** (CONT'D)

AUTHORIZATION:

Authorize issuance of a Non-Exclusive General Permit to conduct Geological Surveys for the period January 24, 2017, through January 23, 2020, within Permit Regions I, II, III, and IV as designated on the attached Exhibit A, to Ecosystems Management Associates, Inc.

EXHIBIT A PERMIT REGIONS

