



## VENTURA PORT DISTRICT BOARD OF PORT COMMISSIONERS

Chris Stephens, Chairman  
Brian Brennan, Vice Chairman  
Jackie Gardina, Secretary  
Everard Ashworth, Commissioner  
Michael Blumenberg, Commissioner

Brian D. Pendleton, General Manager  
Todd Mitchell, Business Operations Manager  
Andy Turner, Legal Counsel  
Jessica Rauch, Clerk of the Board

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### PORT COMMISSION AGENDA

#### **TELECONFERENCE**

JULY 15, 2020

#### 5 TELECONFERENCE LOCATIONS

VENTURA PORT DISTRICT OFFICE

1603 ANCHORS WAY DRIVE

VENTURA, CA 93001

**IN ACCORDANCE WITH THE CALIFORNIA GOVERNOR'S EXECUTIVE STAY AT HOME ORDER AND THE COUNTY OF VENTURA HEALTH OFFICER DECLARED LOCAL HEALTH EMERGENCY AND BE WELL AT HOME ORDER RESULTING FROM THE NOVEL CORONAVIRUS, THE VENTURA PORT DISTRICT ADMINISTRATION BUILDING IS CLOSED TO THE PUBLIC. THIS MEETING IS BEING HELD IN ACCORDANCE WITH THE STATE EMERGENCY SERVICES ACT, THE GOVERNOR'S EMERGENCY DECLARATION, AND THE GOVERNOR'S EXECUTIVE ORDER NO. 25-20 ISSUED ON MARCH 12, 2020 TO ALLOW ATTENDANCE BY MEMBERS OF THE PORT COMMISSION BY TELECONFERENCE IN FULL COMPLIANCE WITH THE BROWN ACT.**

### **PUBLIC PARTICIPATION OPTIONS**

1. Join a Zoom meeting LIVE:  
<https://us02web.zoom.us/j/86381045335>  
Meeting ID: 863 8104 5335  
  
1-669-900-6833  
1-877-853-5257
2. If you do not wish to speak but would like to submit a written comment on a specific agenda item, do so via email by 4:00PM on the day of the meeting. Please submit your comment to the Clerk of the Board at [jrauch@venturaharbor.com](mailto:jrauch@venturaharbor.com). When sending an email, please indicate in the Subject Line, the Agenda item. Your email will be read by the Clerk or attached to the minutes.
3. If you wish to speak on a specific agenda item when watching the live Zoom meeting, please email the Clerk of the Board at [jrauch@venturaharbor.com](mailto:jrauch@venturaharbor.com) by 4:00PM on the day of the meeting so you can participate appropriately.

Attendees can dial \*9 or use the 'raise hand' function in Zoom if they would like to speak during public comment periods.

<b>CLOSED SESSION – 5:30PM</b>
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**CALL TO ORDER:** *By Chairman Chris Stephens.*

**ROLL CALL:** *By the Clerk of the Board.*

**PUBLIC COMMUNICATIONS (3 minutes)**

*The Public Communications period is set aside to allow public testimony on items only on the Closed Session Agenda. Each person may address the Commission for up to three minutes or at the discretion of the Chair. Attendees can dial \*9 or use the 'raise hand' function in Zoom if they would like to speak during public comment periods.*

<b>CONVENE IN CLOSED SESSION – 5:35PM</b>
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**CLOSED SESSION AGENDA (1 hour 25 minutes)**

*See Attachment to Agenda-Closed Session Conference with Legal Counsel.*

<b>OPEN SESSION – 7:00PM</b>
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**CALL TO ORDER:** *By Chairman Chris Stephens.*

**PLEDGE OF ALLEGIANCE:** *By Chairman Chris Stephens.*

**ROLL CALL:** *By the Clerk of the Board.*

**ADOPTION OF AGENDA (3 minutes)**

*Consider and approve, by majority vote, minor revisions to agenda items and/or attachments and any item added to or removed/continued from the Port Commission's agenda. Administrative Reports relating to this agenda and materials related to an item on this agenda submitted after distribution of the agenda packet are available for public review at the Port District's office located at 1603 Anchors Way Drive, Ventura, CA during business hours as well as on the District's website - [www.venturaharbor.com](http://www.venturaharbor.com).*

**APPROVAL OF MINUTES (3 minutes)**

*The Minutes of the July 1, 2020 Regular Meeting will be considered for approval.*

**PUBLIC COMMUNICATIONS (3 minutes)**

*The Public Communications period is set aside to allow public testimony on items not on today's agenda. Each person may address the Commission for up to three minutes or at the discretion of the Chair. Attendees can dial \*9 or use the 'raise hand' function in Zoom if they would like to speak during public comment periods.*

**CLOSED SESSION REPORT (3 minutes)**

*Closed Sessions are not open to the public pursuant to the Brown Act. Any reportable actions taken by the Commission during Closed Session will be announced at this time.*

**BOARD COMMUNICATIONS (5 minutes)**

*Port Commissioner's may present brief reports on port issues, such as seminars, meetings and literature that would be of interest to the public and/or Commission, as a whole. Port Commissioner's must provide a brief summary and disclose any discussions he or she may have had with any Port District Tenants related to Port District business.*

**STAFF AND GENERAL MANAGER REPORTS (5 minutes)**

*Ventura Port District Staff and General Manager will give the Commission updates on important topics or items of general interest if needed.*

**LEGAL COUNSEL REPORT (5 minutes)**

*Legal Counsel will report on progress of District assignments and any legislative or judicial matters.*

**CONSENT AGENDA:**

**a) Approval of Notice of Completion for the Ventura Harbor Village Commercial Dock Replacement Project**

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopt Resolution No.3393:

- a) Accepting the work of Bellingham Marine Industries for the Ventura Harbor Village Commercial Dock Replacement Project.
- b) Authorizing the filing of a Notice of Completion with the Ventura County Recorder.

**b) Approval of New Office Lease Agreement for Sheree Ali dba Sparkle Light Entertainment, Inc.**

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve a new Office Lease Agreement between the Ventura Port District dba Ventura Harbor Village and Sheree Ali dba Sparkle Light Entertainment, Inc. for the premises located at 1583 Spinnaker Drive #209 consisting of a total of 316 square feet for a three (3) year term with a three (3) year option.

**STANDARD AGENDA:**

**1) Consideration of Navigation Risk Assessment for the Proposed Ventura Shellfish Enterprise Project**

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners receive and consider public comment and authorize submission of the Navigation Risk Assessment for the proposed aquaculture project referred to as the Ventura Shellfish Enterprise to the U.S. Army Corps of Engineers, U.S. Coast Guard, California Coastal Commission and other regulatory agencies as necessary.

**2) Ventura Shellfish Enterprise Status Report**

Recommended Action: Informational.

That the Board of Port Commissioners receive an annual status report on the proposed aquaculture project referred to as the Ventura Shellfish Enterprise.

**3) Approval of New Professional Services Agreement with Dudek for Environmental Consulting Services**

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve a Professional Services Agreement with Dudek in the amount of \$75,000 for FY2020-2021 in support of the proposed Ventura Shellfish Enterprise project and related 2018 Sea Grant tasks.

**4) Approval of New Professional Services Agreement with K&L Gates for Legal Consulting Services**

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve a Professional Services Agreement with K&L Gates in the amount of \$75,000 for FY2020-2021 in support of the proposed Ventura Shellfish Enterprise project and related 2018 Sea Grant tasks.

**5) Complaint re Brown Act Violation (Government Code §54956.8)**

Recommended Action: Informational.

That the Board of Port Commissioners receive and file this report regarding alleged Brown Act violations, for the purposes of promoting transparency, encouraging public comment, and increasing public trust, in alignment with the District's Goals and 5-Year Objectives (as approved on the January 22, 2020's Open Session Meeting).

**6) Ventura Port District Operations Update as it Relates to COVID-19**

Recommended Action: Informational. (Verbal Report)

That the Board of Port Commissioners receive an update on:

- a) The COVID-19 Ventura Harbor Rental Abatement and Deferment Program; and
- b) Status of Ventura Port District operations.

**ADJOURNMENT**

*This agenda was posted on Friday, July 10, 2020 by 5:00 p.m. at the Port District Office  
and online at [www.venturaharbor.com](http://www.venturaharbor.com) - Port District Business - Meetings and Agendas.*

*In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact  
the Ventura Port District at (805) 642-8538. Notification 48 hours before the meeting will enable the District to make reasonable  
arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)*

**ATTACHMENT TO PORT COMMISSION AGENDA  
CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL**

**WEDNESDAY, JULY 15, 2020**

**1. Conference with Real Property Negotiators - Per Government Code Section 54956.8:**

- a) Property: **Parcel 20**  
Negotiating Parties: Brian Pendleton, Todd Mitchell, Andy Turner  
Derecktor Marine Holdings LLC  
Under Negotiation: **Terms of Approval of Assignment of Lease and 50-year Lease Option**
- b) Property: **1583 Spinnaker Drive #209**  
Negotiating Parties: Brian Pendleton, Todd Mitchell, Andy Turner  
Sheree Ali dba Sparkle Light Entertainment, Inc.  
Under Negotiation: **Terms of New Office Lease Agreement** (verbal report)

**2. Conference with Legal Counsel - Existing Litigation per Government Code Section 54956.9(d)(1):** Ventura Harbor Marine Associates vs. Ventura Port District; Ventura Co. Sup. Court Case No. 56-2020-00541974-CU-NP-VTA. (verbal report)

**3. Conference with Legal Counsel - Potential Litigation per Government Code Section 54956.9(d)(2):** 2 Cases.





VENTURA  
PORT DISTRICT  
*Established 1952*

# BOARD OF PORT COMMISSIONERS

## JULY 15, 2020

### APPROVAL OF MINUTES

#### JULY 1, 2020

# VENTURA PORT DISTRICT

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## BOARD OF PORT COMMISSIONERS MINUTES OF JULY 1, 2020

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### **CLOSED SESSION**

#### **CALL TO ORDER:**

The Ventura Board of Port Commissioners Regular Closed Session Meeting was called to order by Chairman Chris Stephens at 5:33PM at the Ventura Port District Administration Office, 1603 Anchors Way Drive, Ventura, CA 93001 and via Zoom meeting.

#### **ROLL CALL:**

##### **Commissioners Present:**

Chris Stephens, Chairman  
Brian Brennan, Vice Chairman  
Jackie Gardina, Secretary via Teleconference  
Everard Ashworth via Teleconference  
Michael Blumenberg via Teleconference

##### **Commissioners Absent:**

None.

##### **Port District Staff:**

Brian Pendleton, General Manager  
Todd Mitchell, Business Operations Manager  
Jessica Rauch, Clerk of the Board

##### **Legal Counsel:**

Andy Turner via Teleconference  
Elsa Sham via Teleconference

**PUBLIC COMMUNICATIONS:** Sam Sadove, owner of Ventura Harbor Marine Associates, LLC., thanked staff for the subject clarity on the closed session agenda. Lenora V and Tom D introduced themselves, explained their backgrounds and explained why they want to take on Parcel 20 as a new adventure.

**CONVENED TO CLOSED SESSION AT 5:45PM.**

**ADJOURNMENT:** Closed Session was adjourned at 6:54PM.

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### **OPEN SESSION**

#### **ADMINISTRATIVE AGENDA:**

##### **CALL TO ORDER:**

The Ventura Board of Port Commissioners Regular Open Session Meeting was called to order by Chairman Chris Stephens at 7:01PM at the Ventura Port District Administration Office, 1603 Anchors Way Drive, Ventura, CA 93001 and via Zoom Meeting.

**PLEDGE OF ALLEGIANCE:** By Chairman Stephens.

**ROLL CALL:**

**Commissioners Present:**

Chris Stephens, Chairman  
Brian Brennan, Vice Chairman  
Jackie Gardina, Secretary via teleconference  
Everard Ashworth via teleconference  
Michael Blumenberg via teleconference

**Commissioners Absent:**

None.

**Port District Staff:**

Brian Pendleton, General Manager  
Todd Mitchell, Business Operations Manager  
Jessica Rauch, Clerk of the Board  
Gloria Adkins, Accounting Manager  
Robin Baer, Property Manager via teleconference  
John Higgins, Harbormaster via teleconference  
Joe Gonzalez, Facilities Manager via teleconference  
Dave Werneburg, Marina Manager via teleconference

**Legal Counsel:**

Andy Turner via teleconference  
Elsa Sham via teleconference

**ADOPTION OF AGENDA**

**ACTION:** Commissioner Brennan moved, seconded by Commissioner Gardina, and carried by a vote of 5-0 to adopt the July 1, 2020 agenda, removing Consent Item e from the agenda.

**APPROVAL OF MINUTES**

The Minutes of the June 17, 2020 Regular Meeting were considered as follows:

**ACTION:** Commissioner Ashworth moved, seconded by Commissioner Brennan, and carried by a vote of 5-0 to approve the June 17, 2020 Regular Meeting Minutes.

**PUBLIC COMMUNICATIONS:**

Sam Sadove, owner of Ventura Harbor Marine Associates, LLC., gave a status update on the significant damage that was done by a boater to his haul-out dock.

Jean Getchell commented on Brown Act violations regarding the noticing of the VSE project on the Closed Session agenda and that the District is in violation of the Harbor and Navigations code and Commission Protocols Manual in regards to the role of the Chair and Vice Chair. She asked her comments be included with the minutes (attachment 1).

**CLOSED SESSION REPORT:** Mr. Turner stated that the Board met in closed session; discussed and reviewed all items on the closed session agenda. The Board gave direction to staff as how to proceed. No action was taken that is reportable under The Brown Act.

**BOARD COMMUNICATIONS:** None.

**STAFF AND GENERAL MANAGER REPORTS:** Mr. Pendleton reported that the County of Ventura is still taking business grant applications for COVID funding till July 8<sup>th</sup>. He also reported that beaches will be closed from 5:00AM Friday till 5:00AM Monday for the July 4<sup>th</sup> weekend. Also, Governor Newsom halted indoor operations in 19 counties, one being Ventura County for a minimum of three weeks.

**LEGAL COUNSEL REPORT:** Mr. Turner reported that the City Attorney informed the District that there was a comment at the City Council meeting that Commissioner Brennan would be in violation of Harbors and Navigations Code Section 6245 if he participated in the July 1<sup>st</sup> meeting, as his four year term expired June 30<sup>th</sup>. However, Government Code Section 1302 states “Every officer whose term has expired shall continue to discharge he duties of his office until his successor has qualified.” Until the City Council acts on Commissioner Brennan’s seat, he can still serve on the Commission. Secondly, regarding Ms. Getchell’s comments regarding the Chair and Vice Chair presiding, she has recognized that Chair Stephens is in place tonight and the potential problem is apparently solved. However, given the COVID environment and the fact that the Chair was appearing remotely and that the Zoom meeting requires some level of management by those in the Board room with the Vice Chair, Legal Counsel believes it was in the Chair’s authority, given the unique circumstances, to delegate the task of presiding over the meetings to Vice Chair Brennan. Thirdly, Ms. Getchell has raised some Brown Act issues. Legal Counsel is currently working on those and will have a report for the Board and constituency at our next meeting.

## **PROCLAMATION HONORING RICHARD PARSONS**

### **CONSENT AGENDA:**

#### **a) Approval of a Professional Services Agreement with Carpi & Clay, Inc.**

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve a Professional Services Agreement with Carpi & Clay, Inc. in the amount of \$60,000 to provide the District with Federal Advocacy Services from July 1, 2020 to June 30, 2021.

**ACTION:** Commissioner Brennan moved, seconded by Commissioner Gardina and carried by a vote of 5-0 to approve a Professional Services Agreement with Carpi & Clay, Inc. in the amount of \$60,000 to provide the District with Federal Advocacy Services from July 1, 2020 to June 30, 2021.

#### **b) Approval of a Professional Services Agreement with Swift Chip, Inc.**

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve a Professional Services Agreement with Swift Chip, Inc. not to exceed \$115,000 to provide Information Technology services from July 1, 2020 to June 30, 2021.

**ACTION:** Commissioner Brennan moved, seconded by Commissioner Gardina and carried by a vote of 5-0 to approve a Professional Services Agreement with Swift Chip, Inc. not to exceed \$115,000 to provide Information Technology services from July 1, 2020 to June 30, 2021.

**c) Termination of Current Lease Agreement and Approval of New Office Lease Agreement for Ken Caparoni dba State Farm Agent**

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners:

- a) Approve the termination of a Lease Agreement, dated July 1, 2019, for the premises located at 1583 Spinnaker Drive #210, consisting of 637 square feet; and
- b) Approve a new Office Lease Agreement for the premises located at 1583 Spinnaker Drive #210, consisting of 787 square feet between the Ventura Port District dba Ventura Harbor Village and Ken Caparoni dba State Farm Agent for a three-year term with a three-year option with tenant improvements.

**ACTION:** Commissioner Brennan moved, seconded by Commissioner Gardina and carried by a vote of 5-0 to approve the termination of a Lease Agreement, dated July 1, 2019, for the premises located at 1583 Spinnaker Drive #210, consisting of 637 square feet; and approve a new Office Lease Agreement for the premises located at 1583 Spinnaker Drive #210, consisting of 787 square feet between the Ventura Port District dba Ventura Harbor Village and Ken Caparoni dba State Farm Agent for a three-year term with a three-year option with tenant improvements.

**d) Approval of New Office Lease Agreement for Gabriella Navarro Busch**

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners approve a new Office Lease Agreement between the Ventura Port District dba Ventura Harbor Village and Gabriella Navarro Busch for the premises located at 1575 Spinnaker Drive #204A&B consisting of a total of 1,686 square feet for a five (5) year term with a four (4) year option.

**ACTION:** Commissioner Brennan moved, seconded by Commissioner Gardina and carried by a vote of 5-0 to approve a new Office Lease Agreement between the Ventura Port District dba Ventura Harbor Village and Gabriella Navarro Busch for the premises located at 1575 Spinnaker Drive #204A&B consisting of a total of 1,686 square feet for a five (5) year term with a four (4) year option.

**e) Approval of Notice of Completion for the Ventura Harbor Village Commercial Dock Replacement Project**

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopt Resolution No.3393:

- a) Accepting the work of Bellingham Marine Industries (BMI) for the Ventura Harbor Village Commercial Dock Replacement Project.
- b) Authorizing the filing of a Notice of Completion with the Ventura County Recorder.

**ACTION:** This item was removed from the agenda.

**STANDARD AGENDA:**

**1) Draft Navigation Risk Assessment for the Proposed Ventura Shellfish Enterprise Project**

Recommended Action: Informational.

That the Board of Port Commissioners receive an informational report on the draft Navigation Risk Assessment for the proposed aquaculture project referred to as the Ventura Shellfish Enterprise.

Report by Brian D. Pendleton, General Manager, Chris Thomas, COWI, and Maria Grønnegaard, COWI.

**Public Comment:**

David Bacon, who represents recreational anglers, has no issue with an aquaculture site. However, his constituency wants there to be no exclusionary zones to restrict recreational fishing around the aquaculture gear.

Mary Luna is a professional focused on sustainable development and aquaculture and a resident of Ventura County. She is concerned about the current setup of the enterprise and would prefer to see a smaller project that can be evaluated and monitored more effectively to ensure environmental and socio-economic sustainability. She supports the use of technology such as smart buoys and sensors to monitor key factors and constant auditing to ensure efficient use of funds.

Alan DeRossett supports the Ventura Shellfish Enterprise in Federal waters and also wants the language to require real-time monitoring to support the new E-Navigation and Electronic Chart systems standards for autonomous vessels with the ability to receive beacons and alerts with local situational awareness. This will prevent what happened to Catalina Sea Ranch from ever happening again. The Port District and Coast Guard or nearby vessels would be able to always monitor with real-time data.

Sam Sadove, owner of Ventura Harbor Marine Associates, LLC., is concerned that the discarded gear or lines that sink are not being considered an issue but believes that they are a very significant issue for marine mammals. Although he does not think the risk is to the extent that the project would not move forward, he would beg to differ that that gear would not be an issue.

Mike Conroy, West Coast Fisheries Consultants and Executive Director of the Pacific Coast Federation of Fishermen's Associations, called into question the reliance on AIS data since it is not representative of vessel traffic in the area as a vast majority of commercial fishing vessels which utilize the area are less than 65' and AIS is only required on vessels greater than 65'. Table 4.5 shows how AIS understates this because it shows five commercial vessels of having transited traffic lanes, but I can assure you there are 1,000s of trips made by vessels less than 65'. The data from 2013 to 2015, also note that was before current regulations went into effect that requires AIS for those vessels, so he is not too sure how helpful that data will be moving forward. With regards to the accident stats and using history, he does not know how relevant those historical accidents will come into effect. Section 4.3.7: he states that the majority of passenger vessel transits from Port Hueneme; he notes that Port Hueneme does not have any passenger vessels nor landings to pick up passengers, so he does not know where that information came from. Section 4.3.9: he thinks the underlying assumptions are incorrect as a majority of commercial fishing vessels based out of Ventura and other local ports do not have or use AIS and many travel far from shore in many different directions. Section 4.3.10: he would highly recommend going back further in time to 2005 to get a better picture. Figure 4.23: he is curious about catches greater than 240 short tons as those seem to be not counted. Figure 4.24: it is his understanding that public dissemination of VMS data is not allowed under NMFS's policy directive 06-101. Under the conclusion, he thinks the data is incomplete and insufficient to conclude that a navigation risk associated with this project is low. Section 6.1: he thinks a lost/damaged fishing gear compensation plan should be adopted. Section 6.2: he would also like VSE to ensure all vessels leasing facilities have adequate insurance to cover all foreseeable incidents and VSE should be required to post a bond in an amount sufficient to ensure foreseeable damages are available.

Jean Getchell commented on the mischaracterization of LAFCo's position vis-à-vis siting the shellfish project in Federal waters. She asked her comments be included with the minutes (attachment 2).

**ACTION:      The Board of Port Commissioners received an informational report on the draft Navigation Risk Assessment for the proposed aquaculture project referred to as the Ventura Shellfish Enterprise.**

**2) Adoption of Resolution No. 3394 Extending the COVID-19 Ventura Harbor Rental Abatement and Deferment Program**

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners adopt Resolution No. 3394 extending the COVID-19 Ventura Harbor Rental Abatement and Deferment Program, which will allow for the abatement or deferment of all rental payments for those Harbor Master Tenants and Harbor Village Tenants who have been directly impacted by the COVID-19 Pandemic on a monthly basis for repayment of deferred rents within six months after all applicable government emergency orders are rescinded, no sooner than March 2021.

Report by Brian D. Pendleton, General Manager.

Public Comment:

Tristan Thames, owner of the Village Arcade and Carousel hopes the Commission considers extending the rent abatement for his business since they are still mandated by the County to be closed.

Sam Sadove, owner of Ventura Harbor Marine Associates, LLC., thanked Brian for his efforts on this and for meeting with him. He is also extending this program to his tenants.

**ACTION: Commissioner Ashworth moved, seconded by Commissioner Brennan and carried by a vote of 5-0 to adopt Resolution No. 3394 extending the COVID-19 Ventura Harbor Rental Abatement and Deferment Program, which will allow for the abatement or deferment of all rental payments for those Harbor Master Tenants and Harbor Village Tenants who have been directly impacted by the COVID-19 Pandemic on a monthly basis for repayment of deferred rents within six months after all applicable government emergency orders are rescinded, no sooner than March 2021.**

**3) Approval of Portside Partners Loan Extension**

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners:

- a) Approve a loan extension for the Portside Partners project; and
- b) Authorize the General Manager to execute such documents as may be necessary after review and approval by General Counsel.

Report by Andy Turner, Legal Counsel.

Public Comment: None.

**ACTION: Commissioner Brennan moved, seconded by Commissioner Blumenberg and carried by a vote of 5-0 to approve a loan extension for the Portside Partners project; and authorize the General Manager to execute such documents as may be necessary after review and approval by General Counsel.**

**4) Approval of the FY2020-2021 Final Budget and Five-Year Capital Improvement Plan**

Recommended Action: Roll Call Vote.

That the Board of Port Commissioners:

- a) Adopt Resolution No. 3395, approving the Fiscal Year 2020-2021 Ventura Port District Budget and Five-Year Capital Improvement Plan;
- b) Adopt Resolution No. 3396, establishing the Salary Schedule for Non-represented Employees for the Fiscal Year 2020-2021.

- c) Implement a salary freeze and hiring freeze for FY20-21. The MOU with SEIU for Full-Time Harbor Patrol Officers will not be affected by the salary freeze.

Report by Brian D. Pendleton, General Manager, Gloria Adkins, Accounting Manager, and Todd Mitchell, Business Operations Manager.

Public Comment:

Gary King stated that he is opposed to paid parking at Harbor Village and the beaches.

Sam Sadove, owner of Ventura Harbor Marine Associates, LLC., stated that we need to be careful over the next six to nine months because unfortunately he does not think it is going to be as rosy as we would like. He also commented that instead of spending money on paid parking at this time, he requested reinstating the signage for the Harbor in the Capital Improvement Plan.

**ACTION:** Commissioner Brennan moved, seconded by Commissioner Blumenberg and carried by a vote of 5-0 to adopt Resolution No. 3395, approving the Fiscal Year 2020-2021 Ventura Port District Budget and Five-Year Capital Improvement Plan; adopt Resolution No. 3396, establishing the Salary Schedule for Non-represented Employees for the Fiscal Year 2020-2021; and implement a salary freeze and hiring freeze for FY20-21. The MOU with SEIU for Full-Time Harbor Patrol Officers will not be affected by the salary freeze.

**ADJOURNMENT:** The meeting was adjourned at 9:10PM.

The next meeting is Wednesday, July 15, 2020.

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Jackie Gardina, Secretary



ATTACHMENT 1

Jean A. Getchell  
1743 Santa Ynez Street  
Ventura, CA 93001  
(831) 392-6596

July 1, 2020

Board of Port Commissioners  
Ventura Port District  
1601 Anchors Way Drive  
Ventura, CA 93001

Sent Electronically  
to All Recipients.

SUBJECT: DOCUMENTATION THAT CLOSED SESSION MEETINGS TO PROVIDE  
DIRECTION TO DISTRICT STAFF IN REAL PROPERTY NEGOTIATIONS  
WITH U.S. ARMY CORPS OF ENGINEERS FOR USE OF FEDERAL SEA  
BOTTOM WERE A VIOLATION OF THE BROWN ACT

Chairman Stephens and Commissioners:

As my June 16 letter to you explained, Government Code §54956.8 serves an important purpose by keeping negotiations regarding the purchase, sale, exchange or lease of real property confidential and undiscoverable by others, notably the other party to the transaction or a competing bidder. My letter also explained that it was highly unlikely that the District had been negotiating price or terms of payment with the U.S. Army Corps of Engineers (USACE), the only discussion that would authorize meeting in Closed Session. To verify my conclusion, I asked Dr. Allen to confirm whether the USACE had negotiated or planned to negotiate real property interests with the District. Because the USACE has no authority under Section 10 of the Rivers and Harbors Act to negotiate such commercial interests, his answer was a conclusive "No". I have copied my question and his response into this document.

-----Original Message-----

From: Jean Getchell [mailto:[jeanagetchell@gmail.com](mailto:jeanagetchell@gmail.com)]

Sent: Friday, June 19, 2020 11:00 AM

To: Allen, Aaron O CIV USARMY CESPL (USA) <[Aaron.O.Allen@usace.army.mil](mailto:Aaron.O.Allen@usace.army.mil)>

Subject: [Non-DoD Source] Question Regarding Ventura Port District's Shellfish Project

Dr. Allen:

First, I would like to thank you and other staff members for the USACE's prompt response to my prior request concerning the status of the permit with the District.

My question today is two-fold:

- \* Has the USACE ever negotiated the price or terms of payment for any sale, exchange or lease of real property with the District (the Federal Sea Bottom) for its proposed 2,000 acre shellfish farm?
- \* Does the USACE have plans to do so before it issues a permit to the District?

ATTACHMENT 1

To: Jean Getchell

The short answer to both questions is "No". The Corps only has authority to regulate the proposed project under Section 10 of the Rivers and Harbors Act (e.g. work and structures in navigable waters). The Corps does not have any authority to grant leases or negotiate terms for economic use of the sea bottom.

Thanks,  
Aaron O. Allen, Ph.D.  
Chief, North Coast Branch  
Regulatory Division  
Los Angeles District  
O:(805) 585-2148 C:(805) 665-8660

During the Coronavirus Health Emergency, Regulatory Program staff are teleworking. Please do not mail hard copy documents to any Regulatory staff or office. For further details on corresponding with us, please view our COVID-19 special public notice at:  
[https://www.spl.usace.army.mil/Portals/17/docs/publicnotices/COVID19%20Regulatory\\_SPN.pdf?ver=2020-03-19-134532-833](https://www.spl.usace.army.mil/Portals/17/docs/publicnotices/COVID19%20Regulatory_SPN.pdf?ver=2020-03-19-134532-833)

In the interest of serving the people of Ventura and the businesses that have invested in Ventura Harbor, I hope that all future discussion of regulatory issues concerning the shellfish project will be done in Open Session.

I appreciate the opportunity to bring this to the attention of the Commission.

Sincerely,

A handwritten signature in black ink, appearing to be 'A. Allen', with a large, stylized loop at the end.

cc: Dr. Aaron Allen, Ph.D.  
U.S. Army Corps of Engineers

ATTACHMENT 1

Jean A. Getchell  
1743 Santa Ynez Street  
Ventura, CA 93001  
(831) 392-6596

DATE: July 1, 2020

TO: Board of Port Commissioners  
Ventura Port District  
1601 Anchors Way Drive  
Ventura, CA 93001

Sent Electronically  
to All Recipients.

FROM: Jean A. Getchell

SUBJECT: ADDENDUM TO PRIOR COMMUNICATION REGARDING  
DOCUMENTATION THAT CLOSED SESSION MEETINGS TO PROVIDE  
DIRECTION TO DISTRICT STAFF IN REAL PROPERTY NEGOTIATIONS  
WITH U.S. ARMY CORPS OF ENGINEERS FOR USE OF FEDERAL SEA  
BOTTOM WERE A VIOLATION OF THE BROWN ACT

**ATTACHMENT TO PORT COMMISSION AGENDA  
CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL  
WEDNESDAY, SEPTEMBER 12, 2018**

1. Conference with Real Property Negotiators - Per Government Code Section 54956.8(A):
  - a) Property: **Federal Authorized Sea Bottom**  
Negotiating Parties: Oscar Pena, Brian Pendleton, Roland Trinh  
Under Negotiation: Leasing **or Permits** for VSE Aquaculture Purposes

**ATTACHMENT TO PORT COMMISSION AGENDA  
CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL  
WEDNESDAY, SEPTEMBER 26, 2018**

1. Conference with Real Property Negotiators - Per Government Code Section 54956.8:
  - a) Property: **Federal Authorized Sea Bottom**  
Negotiating Parties: Oscar Pena, Brian Pendleton, Roland Trinh  
**Army Corps of Engineers**  
Under Negotiation: Leasing **or Permits** for VSE Aquaculture Purposes  
(**Verbal Report**)

**ATTACHMENT TO PORT COMMISSION AGENDA  
CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL  
WEDNESDAY, DECEMBER 12, 2018**

1. Conference with Real Property Negotiators - Per Government Code Section 54956.8:
  - e) Property: **Federal Authorized Sea Bottom**  
Negotiating Parties: Oscar Pena, Brian Pendleton, Timothy Gosney  
**Army Corps of Engineers**  
Under Negotiation: Leasing **or Permits** for VSE Aquaculture Purposes  
(**Verbal Report**)

(A) Government Code §54956.8 provides an exception to the Brown Act to allow a Closed Session meeting between the legislative body (here, the Port Commission) with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However,

- None of these meetings involved a real property transaction of any kind;
- None of these meetings involved negotiation of price or terms of payment;
- None of these meetings involved the required second party, notably, the U.S. Army Corps of Engineers; and
- Most importantly, none of these meetings involved granting authority to the District's negotiators; instead, the meetings were used for staff to provide secret information to the Commissioners that was not provided to the public.

**ATTACHMENT TO PORT COMMISSION AGENDA  
CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL  
WEDNESDAY, JANUARY 16, 2019**

1. Conference with Real Property Negotiators - Per Government Code Section 54956.8:

h) Property:	<b>Federal Authorized Sea Bottom</b>
Negotiating Parties:	Oscar Pena, Brian Pendleton, Timothy Gosney
Proposed Lessee <sub>(B)</sub> :	<b>Army Corps of Engineers</b>
Under Negotiation:	Sea Bottom Aquaculture Permit <sub>(C)</sub> <b>(Verbal Report)</b>

(B) How can the District be the lessor? What property does it own in Federal Waters?

(C) Permits are not specified in Government Code Section 54956.8.

Following Meetings with the Same Closed Session Subject:

**2019**

February 6  
February 20  
March 20  
April 3  
May 1  
May 15  
June 19  
July 3  
July 17  
September 4  
October 2  
October 16  
November 20  
December 18

**2020**

January 22  
February 5  
February 19  
March 4  
April 1  
April 15  
May 6  
May 20  
June 3

**27 Closed Session Meetings: (3) in 2018; (15) in 2019; and (9) in 2020.**

**If the Port Commissioners were not actually negotiating  
real property price and terms of payment  
with the U.S. Army Corps of Engineers,  
what were they discussing?**



Jean A. Getchell  
1743 Santa Ynez Street  
Ventura, CA 93001  
(831) 392-6596

July 1, 2020

Board of Port Commissioners  
Ventura Port District  
1601 Anchors Way Drive  
Ventura, CA 93001

Sent Electronically  
to All Recipients.

SUBJECT: VIOLATION OF HARBORS AND NAVIGATION CODE SECTIONS 6246  
AND 6248, AND BOARD OF PORT COMMISSIONERS PROTOCOLS AND  
POLICIES MANUAL SECTIONS 2.5 AND 2.6

Chairman Stephens and Commissioners:

Beginning May 6, 2020 and continuing for the following three meetings, Chair Stephens and Vice Chair Brennan violated Sections 6246 and 6248 of the Harbors and Navigation Code by not presiding and presiding, respectively, at meetings when the Chair was present. They also violated Policies 2.5 and 2.6 of the *Board of Port Commissioners Protocols and Policies Manual*, which require the Chair to lead meetings and the Vice Chair to preside in “the absence of the chair or his inability to act...”

April 15: Chair Stephens presided at the Closed and Open Sessions via teleconference.

May 6: Chair Stephens presided at the Closed Session via teleconference; Vice Chair Brennan presided at the Open Session. Chair Stephens was not absent and there is no documentation that his ability to act as Chair became compromised after the Closed Session.

May 20: Vice Chair Brennan presided at the Closed and Open Sessions. Chair Stephens participated via teleconference, so he was not absent and there is no documentation of his inability to act as Chair.

June 3: Vice Chair Brennan presided at the Closed and Open Sessions. Chair Stephens participated via teleconference, so he was not absent and there is no documentation of his inability to act as Chair.

June 17: Vice Chair Brennan presided at the Closed and Open Sessions. Chair Stephens participated via teleconference, so he was not absent and there is no documentation of his inability to act as Chair.

**HARBORS AND NAVIGATION CODE - HNC**

**DIVISION 8. HARBOR AND PORT DISTRICTS [5800 - 7340]**

( Division 8 enacted by Stats. 1937, Ch. 368. )

**PART 4. PORT DISTRICTS [6200 - 6372]**

( Part 4 enacted by Stats. 1937, Ch. 368. )

**CHAPTER 2. Board of Port Commissioners [6240 - 6276]**

( Chapter 2 enacted by Stats. 1937, Ch. 368. )

**ARTICLE 1. Administrative Provisions [6240 - 6255]**

( Article 1 enacted by Stats. 1937, Ch. 368. )

**Section 6246.**

*The chairman is the presiding officer of the board and he shall vote on propositions passed upon by the board.*

(Enacted by Stats. 1937, Ch. 368.)

**Section 6248.**

*The board shall select one of its members vice chairman, who shall preside in the absence of the chairman.*

*The board shall provide for and select such officers, except the auditor, as it deems necessary to conduct the affairs of the district.*

(Enacted by Stats. 1937, Ch. 368.)

**Section 2.5 of the Board of Port Commissioners Protocols and Policies Manual**

*The Chair of the Board is to be elected by the Board of Port Commissioners for a term of two years. (H&N Code Section 6241.1) The Chair shall have the authority to preserve order at all Board meetings, to remove any person from any meeting for disorderly conduct, to enforce the rules of the Board and to determine the order of business.*

*The Chair shall have the authority to prevent the misuse of motions, or the abuse of any privilege, or obstruction of the business of the Board by ruling any such matter out of order. In so ruling, the Chair shall be courteous and fair and should presume that the moving party is acting in good faith.*

*The Chair shall attend an agenda review meeting with the General Manager before each Board Meeting either in person or by phone.*

**Section 2.6 of the Board of Port Commissioners Protocols and Policies Manual**

*In the absence of the Chair or his inability to act, the Vice Chair shall preside at all meetings. The Vice Chair shall attend an agenda review meeting with the General Manager and Chair before each Board Meeting either in person or by phone.*

ATTACHMENT 1

Inasmuch as Commissioner Stephens continues to be listed as Chairman on all Commission meeting agendas and he has not resigned the position of Chair, why is he not presiding at meetings? He has not been absent and there is nothing to suggest that he has been unable to act. I respectfully suggest that this violation of State law and the Commission's Protocols and Policies end immediately. If Chair Stephens no longer presides at Commission meetings, he should resign the position of Chair and the Commission should elect another Commissioner to serve.

I appreciate the opportunity to bring this to the attention of the Commission.

Sincerely,





ATTACHMENT 2

Jean A. Getchell  
1743 Santa Ynez Street  
Ventura, CA 93001  
(831) 392-6596

July 1, 2020

Board of Port Commissioners  
Ventura Port District  
1601 Anchors Way Drive  
Ventura, CA 93001

Sent Electronically  
to All Recipients.

SUBJECT: COMMENT REGARDING STAFF REPORT FOR STANDARD AGENDA  
ITEM NO. 1, NAVIGATION RISK ASSESSMENT

Chairman Stephens and Commissioners:

In my June 16 letter, I reminded the Port Commission that the issue raised by Ventura County LAFCO about the District's shellfish project was not under negotiation with that organization. At its October 16, 2019 hearing on the District's shellfish project, the Commission directed LAFCO staff to work with the Port District to develop a solution. LAFCO staff did. To exempt the District's shellfish project from existing Government Code prohibitions against a special district conducting activities outside of California, LAFCO staff recommended the enactment of special legislation. Nothing has changed, and LAFCO confirmed my understanding in a recent communication with me (*It would be more accurate to state that LAFCO's position is that the shellfish project requires enactment of special legislation to exempt it from existing requirements of the Government Code.*)

Notwithstanding that, the staff reports submitted by your General Manager continue to state:

*The Port District is working cooperatively with the Ventura LAFCo to resolve their differences and an update on this issue will be discussed in a separate project status report to the Board.*

Please do whatever is needed to ensure that the public and your Commissioners receive accurate and timely information, and that everyone understands that without enactment of the special legislation, the District's project cannot be developed.

Thank you for the opportunity to provide this information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ja Getchell', written in a cursive style.

cc: Kai Luoma, Executive Officer, LAFCO



VENTURA  
PORT DISTRICT

*Established 1952*

# BOARD OF PORT COMMISSIONERS JULY 15, 2020

## DEPARTMENTAL STAFF REPORTS

FACILITIES

FEDERAL

MARINA

MARKETING

PROPERTY

**VENTURA PORT DISTRICT**  
**DEPARTMENTAL STAFF REPORT**

Meeting Date: July 15, 2020

TO: Board of Port Commissioners  
FROM: Joe A. Gonzalez, Capital Projects Manager  
Sergio Gonzalez, Maintenance Supervisor  
SUBJECT: June 2020 Facilities Report

**CAPITAL PROJECTS**

**VHV PAINTING PROJECT:**

**Status: Project 90% Complete; Budget: On Budget**

Before



After



The Ventura Harbor Village paint project continues moving a little faster these days. Unfortunately, there are still some weather challenges (strong winds) at times that continues to slow the painting project. We have continued to concentrate on key areas, by doing so these businesses are experiencing minimum to none impact on their return to regular business. We are also continuing working closely with all tenants that have opened, to have the same minimum or no interruption of their businesses. Painting crew is now mostly completing the details withing the center of the Village complex, and have other crews working on the outside buildings as well.

Painting crew continue to be working on several buildings within the Village, mostly working on the details to make sure to continue to maintain the COVID-19 Guidelines provided by the Department of Health (CDC) as this issue progresses, Garland (DBS) is closely monitoring and adjusting and implementing COVID-19 Guidelines to assure the safety of the public and staff.

The Ventura Port District is waiting on a change order proposal from Garland and subcontractor; this change order is for the replacement of corroded metal weather guards above glass panels that are located on two buildings. These metal weather guards will be replaced with weather resistance metal. Unfortunately, once the prep work started on these glass panels guard metals is when it was obvious that replacement was required. Change order will be based on agreed unit cost in the original proposal and is a foreseen expense. Overall, the project continues to be within budget.

We continue to be pleased that Garland is considerate of our tenant needs and are working together with staff to accommodate our requests to make this a successful project.



Failed weather guard flashing

### **EV STATIONS UPDATE:**

**Status: Construction 100% Complete; Budget: No cost**



Glad to report that the EV Charging stations are 100% in service on both located at Harbor Cove beach parking lot and 1691 Spinnaker Drive locations. The EV Charging station had been utilized by several vehicles, and as of today the District has been pleased with the number of vehicles utilizing the units, unfortunately the District has not received the usage data to report to the board.

Sema-Connect and the District Marketing departments have combined to best market our EV chargers to the public. Staff has also completed the registering of the EV Charging units to the current locations (addresses) this ensures that the EV chargers are on the Sema-Connect maps and will come up when the public searches for nearby EV Chargers locations.

### **ON GOING CAPITAL PROJECTS:**

- |                                      |  |
|--------------------------------------|--|
| • Fishermen's storage project        | Status: waiting on City for plans approval |
| • 1559 public restrooms ADA upgrades | Status: Preparing to go out to bid         |
| • 1591 Suite 112 ADA entry upgrades  | Status: Waiting on City for plans approval |
| • 1567 roofing project               | Status: Preparing to go out to bid         |
| • 1583 suite 210 tenant improvement  | Status: 90% completed (within budget)      |
| • 1583 suite 209 tenant improvement  | Status: Project started today 07/09/20     |
| • 1591 Suite 115 tenant improvement  | Status: interior painting completed        |



**COVID-19 MAINTENANCE RESPONSE /UPDATE:**

VPD Maintenance Department has responded to the COVID-19 pandemic by increasing janitorial services throughout the District with a concentration on high-touch surfaces, including restrooms, door handles, etc.

Maintenance staff continue to work with shifts staggered to minimize overlap in arrival and departure times. In addition, we have implemented a variation in staff schedule to ensure a Maintenance employee is on shift until 9:30 PM, 7 days a week to improve visibility of staff throughout the Village and to supplement Courtesy Patrol door checks. Staff is provided one N95 and two surgical masks per week (limited due to national shortage), gloves, and disinfectant wipes. Morale remains good and Village facilities are kept at a high standard of cleanliness.

Signage has been placed throughout the village addressing the social distancing guidelines. We continue to work with tenants to ensure cooperative compliance with these orders. We have continued the service for the two outdoor portable hand wash stations at the VHV lawn and one adjacent to the Andria's front lawn to give the public additional access to sanitize their hands since these two grassy area are being utilized as Seaside Take Out Zones.



Early into the pandemic, the District closed some restrooms throughout the Village due to the COVID outbreak and open hours were reduced based on restaurant hours and to discourage issues with vandalism and theft. As of July 8th, 2020, we have opened all the public restrooms at VHV (other than two single use all-gender restrooms) to accommodate the influx of visitors due to the County's Phase 2 reopening. Open restrooms hours have been adjusted to close at either 9:00 pm or 11:00 pm depending on the surrounding opened restaurants closing time.

**Status: Completed    Budget: budgeted**

Contracted tree service company was hired to trim and thin 15 bottlebrush trees located at the launch ramp parking lot and properties adjacent to the Mobile Home along Anchors Way Drive owned by and maintained by the Ventura Port District.

Dry Storage planter before



Dry Storage planter after



Mobile Home planter before



Mobile home planter after



### **ARUNDELL BARRANCA WEED ABATEMENT AND CLEARANCE:**

**Status: Completed Budget: Budgeted**

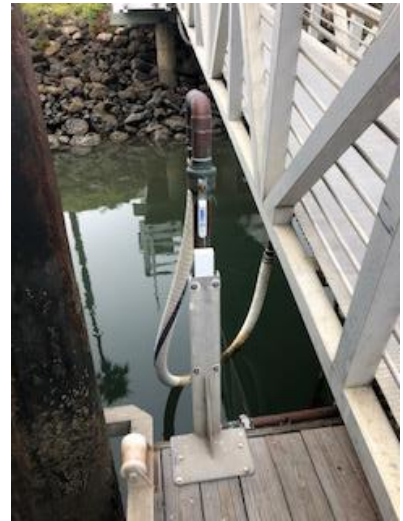
Weed abatement and clearance was performed along the Arundell barranca easement property connecting Harbor Blvd and Anchors Way Drive storm drain channel.



**HARBOR PATROL DOCK GANGWAY:**

**Status: Completed Budget: Budgeted**

Support and assistance were provided to the Project Manager by coordinating with Harbor Patrol in the installation of all utilities (potable water & electrical) after the installation of the replacement aluminum gangway. New dedicated ethernet line was run from Admin building down the dock boat house and the pressurized pneumatic airline servicing the jet ski lift was replaced with new hose.

**VHV PAINTING PROJECT:**

In coordination with the Capital Projects Manager, assist in preparation of painting project by removing ivy from walls, cutting back landscaping, repair of stucco and removal of unnecessary hardware on building before painting begins.

**MARINA/MARKETING DEPARTMENTS:**

The Maintenance Department continues to perform monthly inspections on all gangways, docks, fire extinguishers and fire boxes. Assist Marketing department with banner placement and COVID-19 related signage.

**HARBOR PATROL:**

Assist in the everyday operations by performing preventive maintenance and on the spot repairs of equipment, vehicles, and vessels.

**FACILITIES:**

Staff continues to perform everyday maintenance and on the spot repairs throughout the Ventura Harbor Village and other VPD properties.



## FY21 Appropriations Update

Recently, the Chair of the House Appropriations Committee, Rep. Nita Lowey (D-NY) announced the schedule for the House Appropriations Committee to consider their Fiscal Year (FY) 2021 appropriations bills. The markup schedule is as follows:

Appropriations Bill	Subcommittee Mark Up	Full Committee Mark Up
Agriculture	July 6 <sup>th</sup>	July 9 <sup>th</sup>
Commerce, Justice, Science	July 8 <sup>th</sup>	Week of July 13-16
Defense	July 8 <sup>th</sup>	Week of July 13-16
Energy & Water	July 7 <sup>th</sup>	July 10 <sup>th</sup>
Financial Services	July 8 <sup>th</sup>	Week of July 13-16
Homeland Security	July 7 <sup>th</sup>	Week of July 13-16
Interior & the Environment	July 7 <sup>th</sup>	July 10 <sup>th</sup>
Labor, HHS, Education	July 7 <sup>th</sup>	Week of July 13-16
Legislative Branch	July 7 <sup>th</sup>	Week of July 13-16
Military Construction/VA	July 6 <sup>th</sup>	July 9 <sup>th</sup>
State/Foreign Ops	July 6 <sup>th</sup>	July 9 <sup>th</sup>
Transportation/HUD	July 8 <sup>th</sup>	Week of July 13-16

House leadership is still hoping to have all 12 FY 2021 appropriations bills passed on the floor before the August Congressional recess. On the Senate side, Appropriations Committee Chair Richard Shelby (R-AL) has yet to announce timeline for when the committee will consider its FY 2021 appropriations bills.

## INVEST in America Act

Earlier this month, the House Transportation and Infrastructure Committee held a markup on the Investing in a New Vision for the Environment and Surface Transportation (INVEST) in America Act. The \$494 billion bill reauthorizes highway and transit programs over the next five years. The current reauthorization expires on September 30<sup>th</sup>. The Committee considered over 177 amendments to the bill and adopted 34 Republican amendments and 23 Democratic amendments. Overall, the bill provides:



- \$319 billion for highways
- \$105 billion for public transportation
- \$60 billion for rail
- \$10 billion for passenger vehicle and commercial motor vehicle safety

The bill was approved by the Committee on a party-line vote 35 to 25. The bill will now be considered on the floor of the House this week as a part of a broader infrastructure package.

## Moving Forward Act

This week, the House will consider H.R. 2, the Moving Forward Act, a \$1.5 trillion infrastructure package that includes provisions related to transportation, water, broadband, health, housing, and education infrastructure. The bill builds upon the INVEST in America Act, approved by the Transportation and Infrastructure Committee which provides almost \$500 billion over five years for surface transportation programs. H.R. 2 is expected to pass the House on a largely party-line vote. In addition to the provisions in the INVEST in America Act, H.R. 2 includes:

- At least \$7 billion each year over five years for airports
- Includes reforms to the National Highway Traffic Safety Administration
- Reinstates the Build America Bonds program that expired in 2010
- Reinstates advanced refunding for municipal bonds by allowing interest earned to be tax exempt
- Expands and makes permanent the New Markets Tax Credit
- \$100 billion in affordable housing
- \$100 billion to promote competition for broadband infrastructure to unserved and underserved communities
- \$25 billion for the Drinking Water State Revolving Fund
- Provides approximately \$3.5 billion for western water infrastructure and drought resiliency measures
- Exempts water infrastructure projects from the private activity bond state allocation caps
- \$70 billion for clean energy infrastructure
- \$30 billion to help modernized health care infrastructure

## Congress Considers Police Reform

Over the last few weeks, discussions regarding police reform have been front and center in Washington, D.C. The President signed an Executive Order (EO) entitled “Safe Policing for Safe Communities,” and legislation was introduced in both the House and the Senate. The President’s EO focused mainly on activities at the Department of Justice, such as creating a database for federal, state and local law enforcement offices for excessive use-of-force, as well as allocating certain federal grant funding to law enforcement agencies that meet high standards for use-of-force and de-escalation.

The House bill, entitled the “Justice in Policing Act of 2020 (HR 7120), takes a comprehensive approach to police reform including: limits the transfer of military-grade equipment to state and local law enforcement, mandates training on discriminatory profiling, bans chokeholds for federal law enforcement officers, and requires deadly force to be used only as a last resort. On Thursday evening, the House passed the bill by a bipartisan vote of 236-181.

On the Senate side, Sen. Tim Scott (R-SC) introduced the “Just and Unifying Solutions to Invigorating Communities Everywhere Act of 2020.” The legislation proposes several reforms including the following: making lynching a federal crime, incentivizes chokehold bans, establishes a new grant for body cameras, and requires reporting on no knock warrants. Senate Democrats criticized the legislation saying that it does not go far enough, and the NAACP came out in opposition to the bill. Last week, Senate Majority Leader Mitch McConnell tried to bring the bill up for a cloture vote, but Democrats did not support the bill, and it failed to get the 60 votes needed to proceed.

## Senate Passes Great American Outdoors Act

On June 17<sup>th</sup>, the Senate passed the “Great American Outdoors Act” (S. 3422) dealing with the preservation of public lands. The bill included language to permanently and fully reauthorize the Land and Water Conservation Fund at \$900 million annually. Additionally, the bill created a five-year trust fund to help address the \$20 billion backlog of deferred maintenance projects in national parks and public lands. The legislation passed by a vote of 73-25. The bill now goes to the House for consideration where House Majority Leader Steny Hoyer (D-MD) has indicated that the bill will get a vote on the House floor in late July.

## A Look Ahead: A Jam-Packed July

For Congress, the month of July is expected to be jam-packed with legislative activity. With the August Congressional recess just weeks away, leadership in both parties want to ensure that they are able to get things done before Members return home. Below are some of the pieces of legislation that could see movement during the next few weeks:

- **FY 2021 Appropriations bills:** The House has laid out a very aggressive schedule to mark-up all 12 appropriations bills in their subcommittee and full committee during the first two weeks of July. House Democratic leadership has also indicated they hope to have all 12 bills passed off the floor by the end of the month. While the Senate has yet to release its schedule for the FY 2021 bills, if they can reach an agreement of top-line funding levels and policy riders, they could begin marking up their bills as well sometime in July.
- **Additional COVID-19 Relief Legislation:** The Senate could begin to work on a 5<sup>th</sup> COVID-19 relief package during the month on July. Senate Majority Leader Mitch McConnell has been taking a wait-and-see approach to the need for an additional package as states continue to open and many Americans return to work. The rising number of COVID-19 cases in many states in the U.S. could lead McConnell to work

on an additional package. The House has already passed their 5<sup>th</sup> COVID-19 relief package entitled the “HEROES Act.”

- **Transportation Reauthorization/Infrastructure:** This week, the House will be considering the H.R. 2, the Moving Forward Act which includes the text of the Transportation and Infrastructure Committee’s INVEST in America Act and also include additional infrastructure provisions such as aviation, broadband, education, and water infrastructure.
- **Water Resources Development Act (WRDA):** House Transportation and Infrastructure Committee Chair Peter DeFazio (D-OR) has indicated that now that his committee has finished with the transportation reauthorization bill, the committee will turn its attention to the WRDA bill. The committee is expected to consider their WRDA bill in mid-July, with the possibility of floor time by the end of the month. The Senate Environment and Public Works Committee already passed their WRDA bill earlier this year, and it is awaiting consideration on the Senate floor.
- **NDAA:** This week, the Senate begins debate on the National Defense Authorization Act (NDAA) for FY 2021 where it is expected to pass by the end of the week. On June 27, the House Armed Services Committee Chair Adam Smith (D-WA) unveiled the House’s companion bill. The bill is scheduled to be marked up by the Committee this week and expected to be on the House floor later this month.

## Latest on WOTUS Rule

On June 22<sup>nd</sup>, the new Waters of the United States (WOTUS) rule (now called the Navigable Waters Protection Rule (NWPR)) went into effect. As was to be expected, there are several legal challenges throughout the country to the rule including the following:

- Western ranching groups are suing the Administration that the NWPR goes too far and are seeking a partial injunction for the rule.
- Several states, including California, have joined together in a lawsuit to try and get a nation-wide injunction issued for the rule.
- Multiple environmental groups including the National Resources Defense Council have filed lawsuits to stop the rule from being implemented.
- A coalition of Native American tribes have filed a lawsuit stating that the new rule leaves critical bodies of water protected.

To date, the rule remains effective in all states except Colorado.

## NEPA Rules Moves to OIRA for Review

In early January, the President and the Council on Environmental Quality (CEQ) released a proposed rule to make changes to “modernize” the National Environmental Policy Act (NEPA) and allowed for a 60-day period for public comment. In early June, CEQ sent the

proposed rule to the Office of Information and Regulatory Affairs (OIRA) for review, which is the final review for the rule. It is expected that the Administration will be pushing to get the proposed rule released in the near term.

## EPA Releases Final Rule on Sec. 401 of the Clean Water Act

The Environmental Protection Agency (EPA) announced its final rule to revise Section 401 of the Clean Water Act (CWA), which gives states the responsibility to certify that proposed projects meet water quality standards. State Section 401 certifications approvals are required before the federal government may sign off on CWA Section 402 and 404 permits, Federal Energy Regulatory Commission hydropower licenses and Rivers and Harbors Act Section 9 and 10 permits. The final rule establishes a tighter timeframe and criteria for states to review permits for energy infrastructure. The final rule builds on a similar EPA guidance from June of 2019.

## DOT Announces INFRA Grant Awards

The Department of Transportation (DOT) announced \$906 million in Infrastructure for Rebuilding America (INFRA) grant awards funding 20 projects in 20 states. Rural projects received 53% of funding, and six awards were made in areas that are at least partially located in an Opportunity Zone.

## TSA Updates Roadmap Addressing Threats to Transportation

The Transportation Security Administration (TSA) has published a new two-year roadmap called “Administrator’s Intent 2.0” which addresses tangible security threats across seven broad categories: insider risk, surface transportation, checkpoint strategies, workforce support, cybersecurity, outcome-oriented policy management, and utilization of TSA’s security authorities.

## Federal Agency Nominations and Personnel Changes

**Department of the Interior.** The Department of the Interior's Assistant Secretary for Water and Science Tim Petty was announced as a new co-chair of the federal National Drought Resilience Partnership, an interagency task force on federal drought resilience coordination. The National Drought Resilience Partnership was created in 2016 as a result of a Presidential Memorandum signed by President Obama directing federal agencies to build national capabilities for long-term drought resilience.

**Office of Management and Budget.** The Senate Homeland Security and Governmental Affairs Committee approved along party lines the nomination of Russ Vought to be the budget director at the Office of Management and Budget (OMB). His nomination will now go before the full Senate for a vote.

**Office of Inspector General at the Department of Transportation.** President Trump has nominated Eric J. Soskin, of Virginia, to be Inspector General of the Department of Transportation. The previous DOT IG Calvin Scovel retired from his position at the end of January. Currently, the Administrator of the Pipeline and Hazardous Materials Safety Administration Skip Elliot is serving as the Acting Inspector General.

## Members of California Congressional Delegation Seek to Help Special Districts Address Impacts of COVID-19

In the House, Rep. John Garamendi (D-CA) introduced legislation entitled the “Special Districts Provide Essential Services Act” (HR 7073). This bill would ensure that special districts are eligible for any additional direct federal financial assistance provided by Congress to state, county, and local governments. Specifically, the bill would provide:

- **Eligibility for Coronavirus Relief Fund and Future Federal Assistance:** Make special districts eligible for direct federal financial assistance appropriated by Congress in the future, along with state, county, and local governments and subject to the same oversight requirements. This would not apply retroactively to the \$150 billion provided under the CARES Act.
- **Access to Municipal Liquidity Facility:** Provide special districts access to the Federal Reserve’s Municipal Liquidity Facility, which provides states, counties, and cities federally guaranteed “bridge financing” to offset unexpected short-term revenue shortfalls caused by the current pandemic. Like states, counties, and cities, many special districts serve large populations and have the legal authority to issue short-term tax and revenue anticipation notes. However, special districts are not currently granted direct access to the Municipal Liquidity Facility.

Over in the Senate, Senator Dianne Feinstein (D-CA) and Senator Kamala Harris (D-CA) sent a letter urging the Treasury Department and the Federal Reserve to make short-term loans to special districts that had substantial revenue loss from COVID-19.

## OMB Issues Memo to Agencies Directly to Reduce Regulations

The Office of Management and Budget (OMB) issued a memo to federal agencies directing each agency to prepare a list of regulations that could be eliminated to assist with the economy recovery from COVID-19. Federal agencies were asked to include information about how each proposed regulation would promote economic recovery, timeline for revoking the regulation, and any emergency authority the agency had to pull the regulation. OMB set a deadline of June 23<sup>rd</sup> for federal agencies to submit their list of proposed regulations for consideration.

## Key Federal Actions Related to COVID-19

**Senate Approves COVID-19 Bill.** This week, the Senate approved by voice vote, H.R. 7010, the Paycheck Protection Program Flexibility Act of 2020. The bill amends the Paycheck Protection Program (PPP) to modify certain provisions to the forgiveness loans and defers payroll taxes. Specifically, it increases the current limitation on nonpayroll expenses (such as rent, utilities, mortgage interest) for loan forgiveness from 25 to 40%, removes retroactivity on the increase of maturity period from 2 to 5 years, clarifies Safe Harbors Language and extends borrower deferral. H.R. 7010 was passed by the House last week and was signed into law by the President.

**Bipartisan Group of House Members send Letter regarding Debt.** Reps. Scott Peters (D-CA) and Jodey Arrington (R-TX) led a bipartisan letter along with 58 other Members, to House leadership asking that Congress begin to focus on the federal debt as the nation works to recover from the COVID-19 pandemic. The letter requests that “further pandemic-response legislation include provisions for future budget reforms to ensure we confront these issues when the economy is strong enough. These reforms should have broad, bipartisan support. They should not stand in the way of our making the necessary decisions to deal with the crisis at hand. They should ensure that, in addition to addressing health and economic needs, we lay the foundation for a sustainable fiscal future by building on reforms with established bipartisan support.”

**Senate Approves Nomination for Pandemic IG.** The Senate approved by a vote of 51-40 Brad Miller to be the Special Inspector General for Pandemic Recovery. Along with a budget of \$25 million and a staff of more than 100, Mr. Miller will oversee how the Treasury Department and the Federal Reserve deploy \$454 billion to create upwards of \$4 trillion in lending facilities aimed at keeping financial markets operational and offering larger businesses enough bridge lending to survive the sharp recession caused by COVID-19.

**Economic Development Administration Grant Applications Still Open.** The Economic Development Administration (EDA) announced that it will allocate \$1.5 billion in CARES Act funds to aid communities across the country in preventing, preparing for, and responding to the coronavirus pandemic. EDA will make CARES Act Recovery Assistance grants under the authority of the Economic Adjustment Assistance (EAA) program, which is intended to be flexible and responsible to the economic development needs and priorities of local and regional stakeholders.

**OSHA Issues FAQ About Face Coverings, Surgical Masks and Respirators in the Workplace.** The Occupational Safety and Health Administration (OSHA) has published a series of frequently asked questions and answers regarding the use of masks in the workplace. This guidance outlines the differences between cloth face coverings, surgical masks and respirators. It further reminds employers not to use surgical masks or cloth face coverings when respirators are needed. In addition, the guidance notes the need for social distancing measures, even when workers are wearing cloth face coverings, and recommends following the CDC’s guidance on washing face coverings.

**OSHA Issues Guidance as Non-Essential Businesses Reopen and Employees Return to Work.** The Occupational Safety and Health Administration (OSHA) has issued guidance to assist employers reopening non-essential businesses and their employees returning to work during the evolving COVID-19 pandemic. OSHA urges non-essential businesses to reopen as state and local governments lift stay-at-home or shelter-in-place orders and follow public health recommendations from the Centers for Disease Control and Prevention and other federal requirements or guidelines. Employers should continue to consider ways to use workplace flexibilities, such as remote work and alternative business operations, to provide goods and services to customers. OSHA recommends that employers continually monitor federal, state, and local government guidelines for updated information about ongoing community transmission and mitigation measures, as well as for evolving guidance on disinfection and other best practices for worker protection.



**VENTURA PORT DISTRICT  
DEPARTMENTAL STAFF REPORT**

Meeting Date: July 15, 2020

TO: Board of Port Commissioners  
FROM: Dave Werneburg, Marina Manager / Commercial Fisheries  
SUBJECT: June 2020 Marina Report

---

**COMMERCIAL FISHING**

**California Market Squid Harvest – Ventura Harbor**

- June 2020 – 23 Tons for De Luca Fish
- Squid fleet continues to enjoy modest landings in Monterey and Halfmoon Bay areas.
- 19 - 20YTD (Starting April 1, 2019): 581 landings, 9,262,965 lbs. / 4,631 tons.
- California Squid Season Limit: 118,000 tons.

**BILLING SYSTEM UPGRADE**

**Changes on the horizon for the Marina Department**

**Background**

The Harbor Village Marina population is a mix of permanent tenants, those with a berthing agreement that is perpetual in nature until cancelled. They represent about 75% of our tenant base. They remit slip fees year around whether their slip is occupied or not. We have a mix of some 25-30% who are classified as transient tenants. Some are seasonal i.e. squid, halibut, prawns, lobster, etc. seasons. They pay the base slip fees weighted on size of vessel or slip plus a 15% premium. They typically occupy a slip from a few weeks to several months. We occasionally will get a vessel in transit going north or south for one or two nights.

The billing process is somewhat complex and inflexible. Accounting Staff at the Port District prepares monthly invoices for the Marina Manager's review and approval for all permanent marina tenants. The Marina Manager handcrafts individual invoices for all transient tenants, a tedious and protracted process.

**Going Forward**

Most of our software is antiquated and old legacy Excel spreadsheets, none of which were ever intended or designed to manage a complex marina. After months of exploring and evaluating marina management programs we have selected a comprehensive marina program from Molo, an industry leader in the marina world. Finally, everything will be under one umbrella application including berthing and transient contracts, insurance compliance, billing, accounting reporting, slip inventory management, contact information on demand, electrical meter readings, statistical and management reporting, etc. The application is cloud-based; accounting staff will have full access and transparency; Dockmasters and Harbor Patrol can pull up contact information on demand on their smart phones. No more sorting through 5-6 3-ring binders. Soft target for implementation is October 2020 with full implementation by January 2021.

**Bonus**

Starting this month, we will finally be able to accept debit and credit card payments. For all these years, it has been cash or check.



## COURTESY PATROL

The four-member Courtesy Patrol is supplemented by one Dial Security Officer to ensure 24/7 coverage of the Marina and Village. The unit plays an important ambassadorial role during high-traffic events, weekends, and holidays. During the COVID-19 pandemic, this responsibility has been even greater than normal.

Courtesy Patrol is a multi-tasked unit that performs Dockmaster duties as well as good will ambassadors to the public and our Village tenants i.e. providing escort service for some staff after businesses close, etc. Late evenings and early morning hours can be quite busy in terms of fish offloading. During prime fishing season, fish offloading can start around midnight and last until 4-5 pm. Like many areas and cities, we have our own transient and homeless population that needs to be monitored. They have to play the role of “Good Cop – Bad Cop,” a delicate balancing act to be sure.

## VENTURA HARBOR VILLAGE MARINA

Total Slip Count	106 / 103 *	100%
Slips Assigned	90	87%
Slips Occupied	45	44%
Slips Available	11	11%

\*3 slips not navigable at this time; may require dredging.



# YEAR END MARKETING METRICS

DATE RANGE: JULY 1, 2019 - JUNE 30, 2020

## Social Media Recap



### FACEBOOK

**25,686** Followers  
**438,886** Engagements  
**9,742,743** Impressions



### INSTAGRAM

**17,661** Followers  
**86,931** Engagements  
**2,485,317** Impressions



### TWITTER

**5,466** Followers  
**2,809** Engagements  
**197,681** Impressions



### INSTAGRAM STORIES

**248** Total Stories Posted (187 videos) | **186,159** Reached | **207,382** Impressions | **96%** Story Completion Rate

*This fiscal year, we reached over 12 million screens on social.*

## Website Recap



**VENTURAHARBOR  
VILLAGE.COM**

**118,277** Users  
**336,401** Page Views  
**150,489** Sessions

The goal with all Marketing Programs is to drive business to the Harbor and the Village websites to inform, educate, engage, and share tenant information to increase visitation and revenue.



**VENTURA  
HARBOR.COM**

**82,938** Users  
**197,691** Page Views  
**125,749** Sessions

*This fiscal year, we had 201,215 visitors on harbor websites.*

## Public Relations Recap

**22** Press Releases Sent  
**19,900** Media Reached  
**24** Media Visits to the Harbor  
**351** Publication Features

**Los Angeles Times**



RED  
TRICYCLE

## Events & Entertainment

**62** Live Performances  
**22** Events Produced by Marketing  
**11** Events Produced by Others  
**22** Wedding Ceremonies  
**5** Film Shoots



## Revenue

Event Income +  
Rental & Wedding Fees +  
Film Fees +  
Onsite Vendor Fees +  
Sponsorships & Co-Ops =

**INCOME/REVENUE  
GENERATED:**

**\$43,400**



# JUNE MARKETING REPORT

DATE RANGE: JUNE 1 - JUNE 30, 2020

## Father's Day / June Social Media Contest

**Overview:** The goal with this particular contest was continued follower engagement with the Village and Harbor businesses despite partial closure. It gave participants the opportunity to share favorite memories with Dad and list harbor spots Dad would enjoy. Contest ran until Father's Day on Facebook & Instagram.

**To Enter:** Followers shared a Ventura Harbor business that Dad would enjoy & tagged 2 friends. This translated into organic customer feedback & positive reviews and tagging extended Harbor reach to new audiences beyond existing followers & contest participants.

**Prize:** \$100 prize credit to be used at a Harbor business of their choice with a chance to spend time seaside with that special father-figure. This prize ended up being awarded to a first responder and her father.

**18K+**

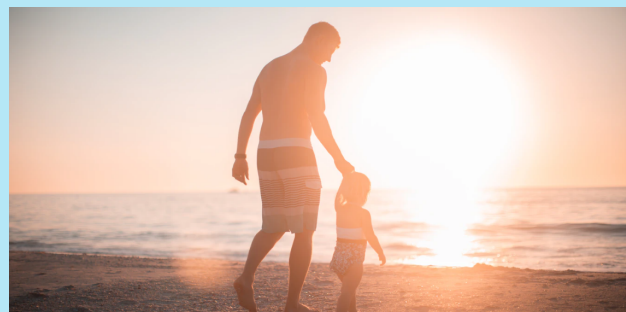
PEOPLE  
REACHED

**542**

PEOPLE  
ENGAGED

**60**

CONTEST  
ENTRIES



## Harbor Village Safety Signage

Tenant Survey revealed a high interest in additional Safety Signage. Marketing team designed additional signs, floor graphics, and messages for website and in Village for visitors and guests. The team provided downloadable files for tenants to print as well to be placed in their business.



## Paid Advertisements

(See page 3 for visuals) Summer focus magazines – **Carpinteria Life Magazine** (June thru September) | **805 Living Magazine** (July & August from Thousand Oaks to San Luis Obispo) Discounted full page ad with all Village businesses listed | **VC Reporter** (Eblasts & Digital ads) | **Visit Ventura** (Banner ad) | **VC Star** (Banner Ads) **Cumulus Radio** ads: KVTA AM / KHAY FM / KBBY FM.

## June Media Coverage

NEWS TALK  
1590 **KVTA**

Santa Barbara  
**Independent**

**VCReporter**

- Arranged for an on-air interview with Cherryl Connally for Island Packers on **KVTA** AM about Island Packers reopening and procedures.
- Media visit with a writer for **Santa Barbara Independent** interested in Island Packers trip – hosted dinner at Andria's Seafood and asked writer to mention The Ultimate Escape Rooms in article.
- Pitched **VC Reporter** for grad issue & highlighted new virtual play with The Ultimate Escape Rooms.
- Over **21+ articles and mentions** on whale watching with Island Packers secured in June via press release send out by Somerville Associates

## Complimentary Advertisements

**Ventura Auto Center Billboard** ad rep offered Ventura Harbor Village complimentary digital rotating ad placement on the 101 Freeway (June thru July 7th) in support of the Harbor's local businesses.

## SEAS THE DAY Campaign Launch

Graphics and visuals were developed and designs for ads, banner ads, web graphics and signage (please see page 3 for graphic samples). SEAS the Day visitor content is flooding in via social media and Google reviews as guests take notice of the promotion. The buzz-worthy installation is not only a good photo op, it is a positive reminder to stop and enjoy the present moment.

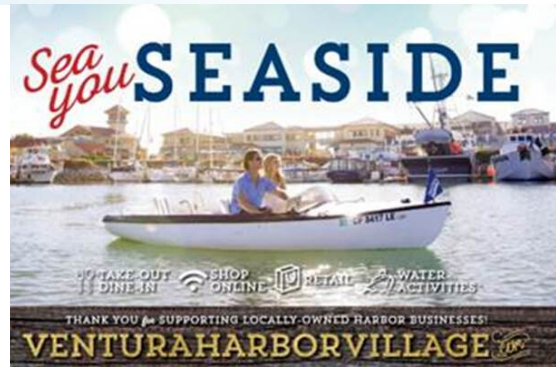




# CAMPAIGN GRAPHICS

DATE RANGE: JUNE 1 - JUNE 30, 2020

## SEAS THE DAY! VENTURA HARBOR VILLAGE



### SUMMER IS OPEN!

# SEAS THE DAY

at VENTURA HARBOR VILLAGE

**ON THE WATER**  
CHANNEL ISLANDS NATIONAL PARK & VISITOR CENTER  
DIVE EXCURSIONS  
ISLAND PACKERS  
PADDLE INTO FITNESS  
VENTURA BOAT RENTALS  
VENTURA MARCO SURF CAMP  
VENTURA PARASAIL  
VENTURA SPORTFISHING  
WHALE WATCHING  
YOGAQUA

**HARBOR & WATERFRONT DINING & COCKTAILS**  
RIS BAR & GRILLED CHEESE  
ALEXANDER'S  
ANDRIA'S SEAFOOD RESTAURANT & MARKET  
BAIA BAY SURF N' TACO  
BOATYARD PUB  
BROPHY BROS.  
CLAM BAR & RESTAURANT  
COASTAL CONE ICE CREAM  
COPA CUBANA  
FRATELLI'S PIZZA & BREW  
HARBOR COVE CAFE  
LE PETIT CAFE & BAKERY  
MARGARITA VILLA MEXICAN RESTAURANT  
THE GREEK MEDITERRANEAN STEAK & SEAFOOD  
THE PARLOR  
VENTURA FRESH FISH  
WATER'S EDGE RESTAURANT & BAR  
WILD LOCAL SEAFOOD CO.

**ENTERTAINMENT**  
THE ULTIMATE ESCAPE ROOMS  
VENTURA HARBOR COMEDY CLUB  
VILLAGE CAROUSEL & ARCADE

**STAY SEASIDE**  
FOUR POINTS BY SHERATON VENTURA HARBOR  
HOLIDAY INN EXPRESS & SUITES VENTURA HARBOR

**SEASIDE BOUTIQUE, SHOPS & GALLERIES**  
ANJA'S BOUTIQUE  
BAREFOOT BOUTIQUE  
CASA DE REGALDO  
CHANNEL ISLANDS NATIONAL PARK GIFT SHOP  
NABORS MARKET & LIQUOR  
HARBOR VILLAGE GALLERY & GIFTS  
HATS UNLIMITED  
ISLAND PACKERS GIFT SHOP  
LEMON & LEE  
LOST IN SOCKS  
MEMPHIS GALLERY  
TOP THIS CHOCOLATE  
TREASURE COVE  
VENTURA DIVE & SPORT  
VENTURA POTTERY GALLERY  
VENTURA SWIMWEAR

**PAMPER SEASIDE**  
FRENCHES MODERN NAIL CARE  
SILHOUETTES BY THE BEACH SALON

**VENTURA HARBOR VILLAGE**

Welcome To  
VENTURA HARBOR VILLAGE

## SEASIDE SAFELY

DURING YOUR VISIT TODAY:

Please... PRACTICE 6 FT SAFE SOCIAL DISTANCING

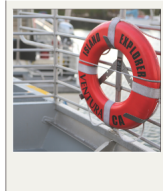
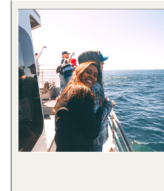
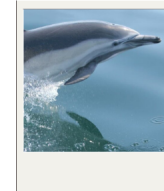
Please... DISPOSE OF YOUR TRASH PROPERLY

Please... RESPECT SHOP & RESTAURANT SIGNAGE UPON ENTERING

Please... BE KIND & RESPECTFUL

*The SEA is a Healing Place*

**VENTURA HARBOR VILLAGE**



VENTURA HARBOR VILLAGE

## SEASIDE TAKE OUT ZONE

*This Way*

Please... DISPOSE OF YOUR TRASH PROPERLY



CELEBRATE DAD Seaside

FILL OUT THE VENTURA HARBOR VISITOR SURVEY FOR A CHANCE TO WIN \$100 TOWARD HARBOR FUN

## WE'RE OPEN!

*Click Here*

**SEAS THE DAY**

**VENTURA HARBOR VILLAGE**

VENTURA HARBOR VILLAGE

## MORE SHOPS

*This Way!*

**Love, Shop & Dine Local**

PLEASE WALK YOUR BIKE

**VENTURA HARBOR VILLAGE**

**Love, Shop & Dine Local**  
VENTURA HARBOR VILLAGE California

**Connect, Shop & Dine Seaside**  
VENTURA HARBOR VILLAGE California

## SEAS THE DAY

Click here for summer fun

**VENTURA HARBOR VILLAGE**



**VENTURA PORT DISTRICT**  
**DEPARTMENTAL STAFF REPORT**

Meeting Date: July 15, 2020

TO: Board of Port Commissioners  
FROM: Robin Baer, Property Manager  
SUBJECT: June 2020 Property Manager Report

---

**CURRENT TENANT REPORT**

1) Harbor Businesses seeking COVID-19 Ventura Harbor Rental Abatement and Deferment Program, Resolution Number 3387 (for the month of June)

- Staff continue to work with tenants on their qualification for this new plan and/or the City Ordinance

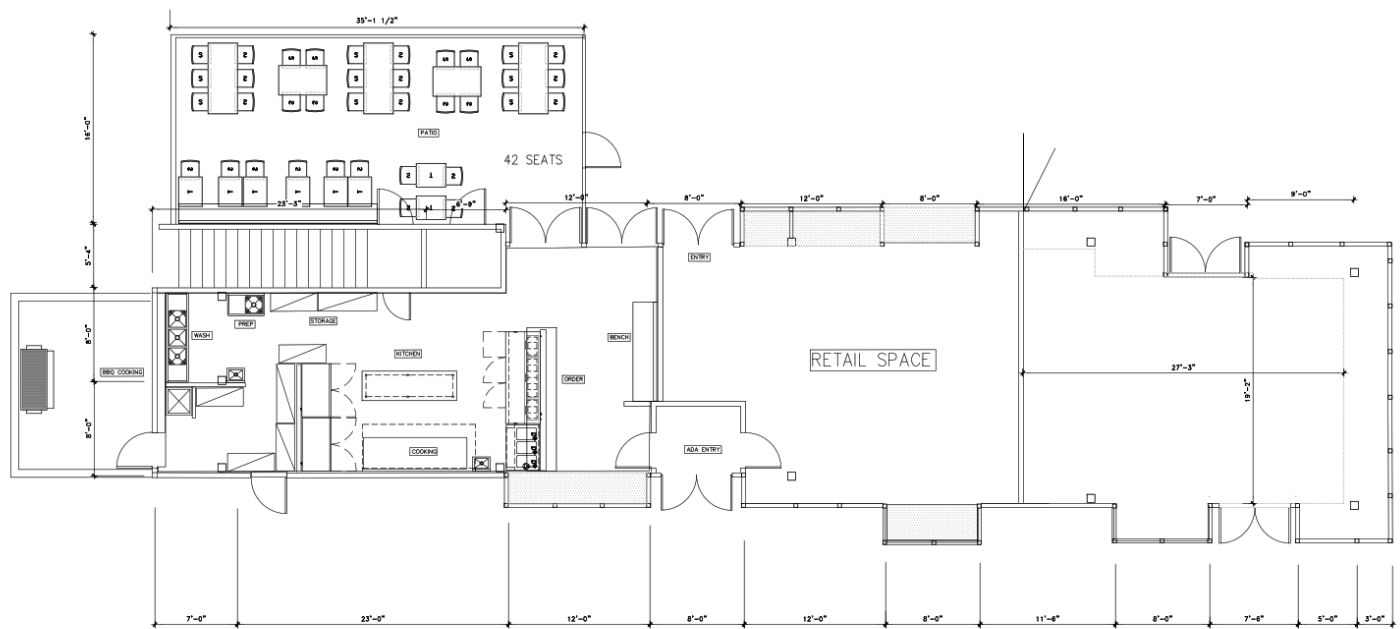
2) *Sugar Lab* – 1575 Spinnaker #105A/B

- Architect submitted plans to City of Ventura on May 14, 2020. Tenant is still waiting on the City of Ventura approval.

3) *Frenchies Nail Salon* – 1583 Spinnaker Drive #105 –Tenant has opened her business but finds the Health Order closures causing reduced customers and must furlough staff.

**CURRENT AVAILABILITY REPORT**

- 1559 Spinnaker Drive #103 (retail), 1583 Spinnaker #209 (office) and 1591 Spinnaker #207 (office). These spaces are being advertised on our leasing outreach programs listed below.
  - Staff is negotiating with prospective tenants for all three spaces
- 1567 Spinnaker Drive #100 –
  - DRC Meeting on June 3, 2020 approved the District plans with minor modifications to the gutter materials and landscape relocation
  - Staff has received a proposal and is currently reviewing the contents.
    - Staff has requested a summary of the six-month occupancy projections from the tenant
- 1591 Spinnaker Drive #114 & 115 (formerly BS Taproom) --- This space is being advertised on our leasing outreach programs listed below. Following is background on the units:
  - All three units were available for lease as one large restaurant for approximately 7 months with no seriously interested restaurant entities (i.e. no proposals). Some parties expressed interest in non-restaurant uses, but again no proposals were submitted.
  - Suite #113 was renovated on spec and a tenant was identified for retail: Anja's Boutique was relocated from 1559 Building (approved by Board at January 22, 2020 meeting).
  - Prior to committing to Anja's Boutique lease, Staff engaged with outside restaurant consultant and an architect for consideration of viable business alternatives for the building. The advice received was:
    1. The costly and long buildout were a deterrent to restaurant businesses generally looking for move-in ready spaces
    2. Exterior improvements would require extensive permitting and possibly caissons
    3. The building size is not large enough to be optimal for a full-service kitchen and full-service restaurant, even with all three suites (unless a second patio and extension to kitchen was built)
    4. Unless the District performed all improvements on spec, there was limited likelihood of identifying a prospective restaurant tenant willing to engage
    5. The restaurant footprint could be reduced to suite #114 or #114+#115 and could still support a concept not reliant on a full kitchen (e.g. grab-n-go, tasting room, etc.) and would reduce cost, schedule, and permitting requirements. See example layout showing #115 only for grab-n-go concept):



42 SEATS FAST FOODS

676 INSIDE SQ. FT.  
660 PATIO SQ. FT.

1,336 TOTAL SQ. FT.

ADA ENTRY @ 40 SQ FT

RETAIL SPACE

607 TOTAL INSIDE SQ. FT.

- Staff had several meetings with a prospective tenant that submitted a complete business proposal for the two remaining spaces. At this time, this prospective tenant is unable to commit to a lease due to some mitigating issues caused by COVID-19. Staff continues to actively market the space(s)
- In an on-going effort to present the space as more desirable to prospective tenants, staff has made improvements as follows:
  - New paint for the ceiling and interior walls to help modernize the space (see photos)
  - Main electrical wiring/conduit coming into the suite has been upgraded to meet current codes
  - New exterior patio awning is scheduled to be replaced within a month. This is covered under the District insurance, due to the hurricane incident on December 25, 2019
  - Refurbishment of exterior patio floor is complete and sidewalls will be performed in July

### **BEFORE**



### **AFTER**



### **LEASING OUTREACH**

A) Leasing Outreach – Daily exposure with our ads online via LoopNet/CoStar which covers the following:

- Listed on Ventura Harbor Village and Ventura Harbor websites, along with window leasing signage on available properties
- Top three commercial real estate marketplaces:
  - Craigslist advertisements;
  - LoopNet, City Feet and Showcase;
  - Email Networking blasts from interested parties
  - 150 plus online newspaper websites including Wall Street Journal
  - 24 Million visitors to these sites /200,000 real estate professionals use CoStar

## OCCUPANCY LEVELS AT HARBOR VILLAGE

June 2020

CATEGORY	TOTAL	Harbor	Harbor	Harbor	Harbor	City *	City *
	Square	Vacancy	Vacancy	Available	Available	Vacancy	Available
	Footage	Sq Ft	%	Sq Ft	%	%	%
Office	19,828	1,955	10%	1,955	10%	26%	47%
Retail	22,518	400	2%	6,698	30%	29%	34%
Restaurant	32,197	1,537	5%	1,537	5%	35%	35%
> Harbor Vacancy --- No tenant or lease							
Office ----		1583 #209 - Former - Kyle & Associates, 1591 #207 - Former -Hawkridge Systems					
Retail ---		1559 #103 -- Former -- Anja's Boutique					
Restaurant ---		1591 #114/#115 -- Former -- BS Taproom					
> Harbor Available --- Tenant on MTM lease, including Harbor Vacancy numbers							
Office ----		1583 #209 - Former - Kyle & Associates, 1591 #207 - Former -Hawkridge Systems					
Retail ---		1567 / Carousel #100, 1583 Lemon & Lei #104A, 1559 #103					
Restaurant ---		1591 #114/#115 -- Former -- BS Taproom					
* City --- Based on comparable square footage within Ventura 93001 area							
** Occupancy Levels for Office -- tend to be lower due to shorter lease terms							
*** City Restaurant vacancy/available as reported by CoStar Program							

## SALES REPORTS

The attached summary for May provides sales for three categories: restaurants, retail, and charters. The reports compare the monthly sales for 2019 and 2020. They also include year-to-date comparisons. The year-to-date overall sales for Harbor Village Tenants in April were down 34.07% from the same time last year.

## ATTACHMENTS

Attachment 1 – Sales Summary – May 2020



# ATTACHMENT 1

## Ventura Harbor Village Tenant Sales Summary

Month of  
05/2020

	<u>May-2020</u>	<u>May-2019</u>	<u>% Change</u>
Restaurants	\$ 1,043,754	\$ 1,308,962	-20.26%
Retail	\$ 242,103	\$ 353,429	-31.50%
Charters	\$ 52,232	\$ 541,466	-90.35%
Total	\$ 1,338,089	\$ 2,203,857	-39.28%

Year-to-date through May 2020

	<u>May-2020</u>	<u>May-2019</u>	<u>% Change</u>
Restaurants	\$ 4,508,692	\$ 6,070,100	-25.72%
Retail	\$ 1,048,700	\$ 1,532,304	-31.56%
Charters	\$ 809,991	\$ 2,055,432	-60.59%
Total	\$ 6,367,383	\$ 9,657,836	-34.07%



# BOARD OF PORT COMMISSIONERS

JULY 15, 2020

CONSENT AGENDA ITEM A  
APPROVAL OF NOTICE OF COMPLETION  
FOR THE VENTURA HARBOR VILLAGE  
COMMERCIAL DOCK REPLACEMENT  
PROJECT

**VENTURA PORT DISTRICT**  
**BOARD COMMUNICATION**

**CONSENT AGENDA ITEM a**  
Meeting Date: July 15, 2020

---

TO: Board of Port Commissioners  
FROM: Todd Mitchell, Business Operations Manager  
SUBJECT: Approval of Notice of Completion for the Ventura Harbor Village Commercial Dock Replacement Project

---

**RECOMMENDATION:**

That the Board of Port Commissioners adopt Resolution No.3393:

- a) Accepting the work of Bellingham Marine Industries (BMI) for the Ventura Harbor Village Commercial Dock Replacement Project.
- b) Authorizing the filing of a Notice of Completion with the Ventura County Recorder.

**SUMMARY:**

On September 26, 2018, the Board of Port Commissioners awarded a contract in the amount of \$4,317,967 for the subject project to BMI. The work is now complete and the final contract amount including five change orders is \$4,475,904.

**BACKGROUND:**

Upon the Port District assumption of the ownership of the Harbor Village improvements in the late 1990s, it was apparent that the existing wooden dock system was in poor condition. The District was able to replace the most seriously deteriorated docks in 2005/2006. Finally, in 2018 with the securing of a \$4,610,000 loan from the City National Bank, the District was able to proceed with replacing Docks C, D, G and H.

A contract was awarded to BMI for that work on September 26, 2018. Due to permitting delays BMI was not given Notice to Proceed until December 28, 2018. The initial contract was essentially completed in September 2019, but the District then decided to have 40 electrical pedestals on docks E, F and I replaced. That effort was not part of the original contract and was thus authorized by a \$119,986 change order entered into in December 2019.

All contract work has now been satisfactorily completed.

**FISCAL IMPACT:**

The dock replacement contract was financed by the \$4,610,000 loan secured from City National Bank.

**ATTACHMENTS:**

Attachment 1 – Resolution No. 3393  
Attachment 2 – Notice of Completion



**RESOLUTION NO. 3393**

**RESOLUTION OF THE BOARD OF PORT COMMISSIONERS  
OF THE VENTURA PORT DISTRICT  
ACCEPTING THE WORK OF BELLINGHAM MARINE INDUSTRIES FOR THE  
VENTURA HARBOR VILLAGE COMMERCIAL DOCK REPLACEMENT PROJECT**

WHEREAS, Brian D. Pendleton, General Manager of the Ventura Port District, advised the Board of Port Commissioners of said District that the work of Bellingham Marine Industries, on the project entitled "Ventura Harbor Village Commercial Dock Replacement Project" described in the Agreement between Bellingham Marine Industries and the Ventura Port District, hereinafter referred to as "District", dated September 27, 2018 has been completed and recommends that said work be accepted.

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners DETERMINES and ORDERS as follows:

1. Said work is hereby accepted.
2. Pursuant to the conditions and specifications of the Agreement and upon the recommendation of the General Manager, Bellingham Marine Industries is released from the obligations under said contract, except as to the conditions of the performance bond, required guarantees and correction of faulty work after payment.
3. The General Manager of the District is hereby directed to execute on behalf of the District, or cause to be executed on behalf of the District and be recorded in the office of the Ventura County Recorder a Notice of Completion of said work.
4. The General Manager is hereby directed to send a copy of this Resolution to Bellingham Marine Industries as the District's Notice of Acceptance of said work.

PASSED, APPROVED and ADOPTED this 15th day of July 2020.

---

Chris Stephens, Chairman

Attest:

---

Jackie Gardina, Secretary

ATTACHMENT 1

STATE OF CALIFORNIA                    )  
COUNTY OF VENTURA                 ) ss.  
CITY OF SAN BUENAVENTURA         )

I, Jackie Gardina, Secretary of the Ventura Port District, a public corporation, do hereby certify that the above and foregoing Resolution No. 3393 was duly passed and adopted by the Board of Port Commissioners of said District at a regular meeting thereof held on the 15th day of July 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said District this 15th day of July 2020.

---

Jackie Gardina, Secretary

RECORDING REQUESTED BY:  
Ventura Port District

AND WHEN RECORDED MAIL TO:  
Ventura Port District  
1603 Anchors Way Drive  
Ventura, CA 93001-4229

---

**NOTICE OF COMPLETION**

(Notice pursuant to Civil Code Section 3093, must be recorded within 10 days after completion)

**NOTICE IS HEREBY GIVEN THAT:**

1. The undersigned is an agent of the owner of the interest stated below.
2. The full name of the owner is Ventura Port District, a public benefit corporation and independent special district organized and existing under the laws of the State of California.
3. The full address of the owner is 1603 Anchors Way Drive, Ventura, CA 93001-4229.
4. The nature of the interest or estate is: fee simple.
5. The full name and full addresses of all co-owners who hold any title or interest with the above-named owner in the property are: Not applicable; there are no co-owners.
6. A work of improvement on the property hereinafter described was completed on July 6, 2020.
7. The work accomplished consisted of the replacement of Ventura Harbor Village Marina Docks C, D, G and H.
8. The name of the contractor for the Ventura Harbor Village Commercial Dock Replacement Project is Bellingham Marine Industries pursuant to the Agreement, dated September 27, 2018.
9. The property on which said work of improvement was completed is in the City of San Buenaventura, County of Ventura, State of California, and is described as Ventura Harbor Village Docks C, D, G and H.

Ventura Port District

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Brian D. Pendleton, General Manager

---

**VERIFICATION**

I, the undersigned, say that I am the General Manager of the declarant of the foregoing completion; I have read said Notice of Completion and know the contents thereof; the same is true of my own knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_, at Ventura, California.

---

Brian D. Pendleton, General Manager



# BOARD OF PORT COMMISSIONERS

JULY 15, 2020

## CONSENT AGENDA ITEM B

APPROVAL OF NEW OFFICE LEASE  
AGREEMENT FOR SHEREE ALI DBA SPARKLE  
LIGHT ENTERTAINMENT, INC.

**VENTURA PORT DISTRICT  
BOARD COMMUNICATION**

**CONSENT AGENDA ITEM b**  
Meeting Date: July 15, 2020

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TO: Board of Port Commissioners  
FROM: Robin Baer, Property Manager  
SUBJECT: Approval of New Office Lease Agreement for Sheree Ali dba Sparkle Light  
Entertainment, Inc.  
1583 Spinnaker Drive #209

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**RECOMMENDATION:**

That the Board of Port Commissioners approve a new Office Lease Agreement between the Ventura Port District dba Ventura Harbor Village and Sheree Ali dba Sparkle Light Entertainment, Inc. for the premises located at 1583 Spinnaker Drive #209 consisting of a total of 316 square feet for a three (3) year term with a three (3) year option.

**SUMMARY:**

Staff has negotiated with this tenant who will now be signing a three (3) year term with a three (3) year option. This space has not been updated in over fifteen years, due to a long-term previous tenant occupancy. Tenant improvements were made to internet wiring, flooring, and paint.

**BACKGROUND:**

Ms. Ali formed Sparkle Entertainment, Inc. in October 2000. Her practice is a motion-picture production company providing postproduction, music services, editing, cinematic photography, etc. for the entertainment field. She looks forward to becoming a Ventura Harbor Village tenant.

**FISCAL IMPACT:**

This new lease reflects current market rental rates for office space in the complex. The lease will have a yearly step increase over the three (3) year term and has one three (3) year option which is tied to the Consumer Price Index (CPI). Tenant improvements for updating the space will be in the amount not to exceed \$10,000.00.

**ATTACHMENTS:**

None.





# BOARD OF PORT COMMISSIONERS

JULY 15, 2020

## STANDARD AGENDA ITEM 1

### CONSIDERATION OF NAVIGATION RISK ASSESSMENT FOR THE PROPOSED VENTURA SHELLFISH ENTERPRISE PROJECT

**VENTURA PORT DISTRICT  
BOARD COMMUNICATION**

**STANDARD AGENDA ITEM 1**  
Meeting Date: July 15, 2020

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TO: Board of Port Commissioners  
FROM: Brian D. Pendleton, General Manager  
SUBJECT: Consideration of Navigation Risk Assessment for the Proposed Ventura Shellfish Enterprise Project

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**RECOMMENDATION:**

That the Board of Port Commissioners receive and consider public comment and authorize submission of the Navigation Risk Assessment for the proposed aquaculture project referred to as the Ventura Shellfish Enterprise to the U.S. Army Corps of Engineers, U.S. Coast Guard, California Coastal Commission and other regulatory agencies as necessary.

**SUMMARY:**

On July 1, 2020, the Board of Port Commissioners received an informational report and heard public testimony on the draft Navigation Risk Assessment prepared for the proposed aquaculture project referred to as the Ventura Shellfish Enterprise (VSE). The notice for the meeting was sent to approximately 300 stakeholders.

The Ventura Port District (Port District) filed an application with the U.S. Army Corps of Engineers (Corps) for a permit to establish an aquaculture farm in federal waters near Ventura Harbor (Blocks 664 and 665). In response to the Corps' public notice concerning the project, the U.S. Coast Guard (USCG) requested preparation of a Navigation Risk Assessment. As a result, the Corps required the District to prepare and submit a Navigation Risk Assessment.

It is the goal of this meeting to respond to public comment received on July 1, 2020, receive further public comment and finalize the Navigation Risk Assessment prepared by consultant COWI on the Port District's behalf for submission to the Corps and USCG.

**BACKGROUND:**

The Port District submitted the permit application to the Corps and application for a Coastal Consistency Determination to the California Coastal Commission (Coastal Commission) in October 2018. The project's origins, goals and project funding are extensively discussed in a project status report to the Board on July 17, 2019.

Since receiving the permit application, the Corps conducted its required public comment process, and received comments from the USCG and the Ventura Local Agency Formation Commission (LAFCo). On January 15, 2020, the Corps sent a letter to the Port District requesting a Navigation Risk Assessment, as requested by the USCG, and resolution of a jurisdictional issue raised in the LAFCo letter. As stated in the Corps' letter: "If the requested information cannot be submitted within 30 days, the Corps will withdraw your permit application. When you do provide the requested information, the Corps will resume review of your previously submitted permit application." On February 18, 2020, the Corps notified the Port District that its application had been administratively withdrawn, again stating that it would resume processing the application once the Port District provides the information requested in the January 15 letter. The Port District is working cooperatively with the Ventura LAFCo to resolve their differences and an update on this issue will be discussed in a separate project status report to the Board.

COWI prepared the Navigation Risk Assessment in a manner that took into consideration the unique aspects of the planned aquaculture project, while also ensuring that the Navigation Risk Assessment remains independent and impartial. The approach to this study is as follows:

- Provide a review of USCG procedures for studying navigation risk, and provide a basis for the scope of this study;
- Provide information on the vessel type and waterway use near the proposed aquaculture locations, including;
  - Type, size and drafts of vessel;
  - Vessel routes;
  - Traffic density;
  - Seasonal vessel traffic variances;
  - Notable marine events;
- Present waterway characteristics, including prevailing weather conditions and bathymetry;
- Discuss the risk of collision as a result of the aquaculture project, including;
  - Likelihood of collision between vessel and aquaculture;
  - Likelihood of vessels propeller/rudder getting entangled in 'non-fixed' aquaculture lines;
  - Increased likelihood of collision between vessels;
- Discuss additional navigation considerations such as:
  - Increased waterway constraints;
  - Impact on vessel anchoring;
  - Effects of aquaculture on vessel radar and communications;
  - Marine navigational markings;
- Review the consequences of collision, both on the vessel and the aquaculture;
- Discuss potential mitigation measures, if required.

COWI performed this analysis based upon objective and verifiable data from the National Ocean and Atmospheric Administration, the California Department of Fish and Wildlife, the Ventura Port Harbormaster, and USCG. The draft report concludes that upon incorporation of project design features, all the identified and realistic risks, as a result of the project, were already mitigated to a level where the risk was low or negligible. However, the report identifies some additional low-cost mitigation measures that could further reduce the risk of collision or accident.

In response to the VSE Navigation Risk Assessment, several comments were received regarding the July 1<sup>st</sup> Port District public meeting. These comments have been reviewed by the COWI team, and individual responses to each of these comments have been provided in the attached Comment Response sheet.

While some comments were outside of the scope of the Navigation Risk Assessment, the majority of received comments were insightful and raised legitimate questions that merited a response. One of the major comments was directed to the perceived over-reliance of AIS data for the Navigation Risk Assessment. While it is agreed that reliance solely on AIS would not be appropriate, COWI does not agree that there was an overreliance on this data in this study. The study report describes where other sources of data have been used to cover any gaps between AIS and actual vessel numbers, with actual numbers of all AIS and non-AIS vessels entering and leaving Ventura Harbor numbering around 50,000 per year.

As noted, other comments were received, and they have been addressed individually in the attached Comment Responses sheet. Proposed changes to the Navigation Risk Assessment made since the July 1<sup>st</sup> public meeting have been identified through track changes.

**FISCAL IMPACT:**

On March 4, 2020 the Board approved a contract with COWI to prepare the Navigation Risk Assessment in the amount of \$64,040.

**ATTACHMENTS:**

Attachment 1 - COWI Navigation Risk Assessment

Attachment 2 - Comment Responses

Attachment 3 - Corps letter(s), dated January 15, 2020 and February 18, 2020

JULY 2020  
VENTURA PORT DISTRICT

# AQUACULTURE NAVIGATION RISK ASSESSMENT

VENTURA SHELLFISH ENTERPRISE, VENTURA, CA

PREPARED FOR:



PREPARED BY:

**COWI**

## ATTACHMENT 1



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JULY 2020  
VENTURA PORT DISTRICT

# NAVIGATION RISK ASSESSMENT

VENTURA SHELLFISH ENTERPRISE, VENTURA, CA

PREPARED FOR:



PREPARED BY:

COWI

PROJECT NO.	DOCUMENT NO.
A133628	A133628-001

VERSION	DATE OF ISSUE	DESCRIPTION	PREPARED	CHECKED	APPROVED
001	06/25/2020	Draft Report	MGNN	CHTM, IBK	CHTM
002	7/08/2020	Final Report	CHTM	MGNN	CHTM

## ATTACHMENT 1

Picture Source: Ventura Shellfish Enterprise



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Picture Source: Ventura Shellfish Enterprise



## 1 Executive Summary

A Navigation Safety Risk Assessment has been conducted for the Ventura Shellfish Enterprise (VSE) Aquaculture Farm project. The planned aquaculture farm, located approximately 3.5 nautical miles from the shore, will be near Ventura Harbor with all regular service and support vessels expected to be located within the harbor.

The navigation risk assessment identifies navigation risks associated with the project, evaluates those risks and provides suggestions and recommendations for additional mitigation measures if deemed necessary. It serves as a key decision support document in the process of determining if the navigation risk associated with the project is acceptable and if navigation safety will be maintained after the installation of the aquaculture farm.

The navigation risk assessment includes vessel and environmental data from a number of sources, including 2017 AIS data; commercial and recreational fishing data from the California Department of Fish and Wildlife (CDFW); vessel traffic patterns and detailed information about vessel size, draft etc., from the National Oceanic and Atmospheric (NOAA); and information on non-AIS vessel numbers from the Ventura Harbor Harbormaster and environmental conditions such as wind, current, visibility.

A number of risks were identified within the three main categories:

- 1 Vessel entanglement during normal aquaculture farm operation
- 2 Detached aquaculture elements/lines
- 3 Collision and grounding

Within each of these main categories, a number of different risk scenarios were identified. Each of the risks were subsequently evaluated qualitatively using information from the vessel traffic analysis and identified mitigation measures that have been incorporated into the project design by the project team.

Generally, the available data shows that the location of the aquaculture farm has limited impact to existing vessel traffic patterns, including commercial and recreational fishing. While the data shows that fishing occurs in the vicinity of the project area, there does not appear to be a high level of fishing activity and the project would not result in a significant increase in navigation risk related to fishing vessels.

One of the overarching identified risks was the potential for a local third-party vessel to become entangled with the farm equipment, with a potential worst-case scenario of capsizing of the vessel and casualties. As further described in the assessment, this risk has been adequately mitigated through the following measures:

- > The farm will be marked on the navigation chart and all major equipment associated with the project, other than surface buoys and U.S. Coast Guard navigational and safety buoys, will be submerged at least 15ft below the waterline. The surface buoys will be in tension throughout all tidal and marine conditions and therefore no slack lines will be on the surface. The surface buoys will also provide visual identification of the area. No additional mooring equipment for services vessels is required at the aquaculture farm, and therefore no surface pick uplines will be required.
- > The project permit design has been engineered to withstand 100-year storm conditions, thus minimizing the risk of broken lines or elements that would pose a risk of vessel entanglement.
- > Sinking ropes will be used to connect to surface buoys as well as other elements that may be slack under certain conditions or not able to withstand a 100-year storm. Thus, in the event that any of these elements breaks loose during a storm or from an accidental impact, they will not float to the surface. Any sinking ropes that break loose will be retrieved as part of the project's gear maintenance program.

Operational procedures such as frequent maintenance and immediate repairs will also contribute to mitigate the risk of entanglement, and this will be a requirement of any commercial operator associated with the VSE project area.

The project also proposes speed restrictions for vessels near and within the project site to further reduce both the likelihood and consequence of vessel collisions. Although not currently proposed, an exclusion zone could be considered to prohibit third-party vessel traffic through the project site.

The assessment also considers the increased risk of vessel to vessel collisions resulting from harvest and maintenance vessels (project vessels) going to and from the farm and Ventura Harbor on a daily basis. It is expected that, for a fully developed project, 8-16 vessels servicing the project will travel to and from the project site daily. This is not considered to be a significant increase of the volume of traffic entering and leaving Ventura Harbor. In addition, project vessels will normally only operate during daylight when visibility is best. During transit to the farm from Ventura Harbor the amount of third-party vessel traffic crossing the navigation route is very limited, thus reducing the likelihood of vessel to vessel encounters with the potential for collision.

While the risk of collisions is considered low, it is still recommended that project vessels be equipped with AIS. In addition, the local maritime community should be informed about the project and the anticipated increase in vessel traffic.

## 2 Introduction

The Ventura Port District (VPD) has submitted an application to the U.S. Army Corps of Engineers (USACE) for an aquaculture project to grow Mediterranean mussels in federal waters off the Santa Barbara Channel, approximately 3.5 miles from the shore, northwest of Ventura Harbor (see Figure 2-1). The project will consist of 20 aquaculture plots, each 100 acres in size, for a total of 2,000 acres. All product harvested from the project site is proposed to be landed in Ventura Harbor, which is approximately 4 miles from the nearest aquaculture plot. The installation of the 2,000 acres is proposed to be phased such that 500 acres per year will be installed, on condition that the project meets certain environmental requirements as established by regulatory agencies as part of approval of project permits and monitoring plans.

During their review of VPD's application, USACE and U.S. Coast Guard (USCG) requested a formal Navigation Safety Risk Assessment (NSRA) to be completed as part of the Project's permit application review process to evaluate potential impacts to vessel safety. To comply with this request, VPD commissioned COWI to undertake this navigation risk assessment in line with recommended USCG procedures.



Figure 2-1 Location of VSE Aquaculture Project

## 2.1 Objective

The objective of this study is to identify, analyze and evaluate navigation risks and impacts associated with the VSE project. Navigation impacts to both commercial and recreational fishing, as well as other vessels, are considered. Based on the evaluated risk level, additional mitigation measures are proposed herein to reduce the navigation risk even further.

## 2.2 Scope and outline

This NSRA will consist of five Stages as outlined below:

- > Stage 1: Vessel Traffic Analysis and Existing Environmental Conditions
- > Stage 2: Hazard Identification
- > Stage 3: Risk Evaluation
- > Stage 4: Additional Mitigation Measures
- > Stage 5: Public Review

Stage 1 includes a description the existing environmental conditions in the area near the project site, including wind, current, tidal conditions etc. Following this, the vessel traffic analysis identifies waterways and waterway characteristics together with vessel quantities, types and sizes.

Stage 2 includes identification of potential hazards based on the vessel traffic analysis, previous studies considering navigation risks related to this project, and general risks associated with vessel traffic and offshore installations. This stage includes identification and description of risk reducing measures and best management practices that have already been incorporated into the project plans.

In Stage 3 involves a qualitative or semi-quantitative evaluation of the risks to determine the risk level and discussion of the potential consequences.

Stage 4 involves identification of additional mitigation measures based upon the risk evaluation additional mitigation measures and discussion on how these measures will reduce the risk.

Finally, in Stage 5, The Navigation Risk Assessment will be shared for public review and comment. The results of the study will be presented at the VPD Board of Commissioners at a public meeting and relevant input and comments will be incorporated into the final Navigation Risk Assessment.



### 3 Site description

The VSE project is located in Southern California approximately 3.5 nm out from shore and 4 nm from Ventura Harbor. The project, at full build-out, will consist of 20 distinct farm plots of 100 acres each, organized in a grid as shown in Figure 3-1. The overall dimensions of the project site will be 1.5 nm x 1.5 nm. Each plot will be approximately 2300 ft long and 1900 ft wide and accommodate up to 24 long-lines in 12 rows. There will be a 50-foot separation distance at the end of each line between the screw anchors, and parallel lines will be spaced 150 feet apart. A 125-foot separation distance between the last line and the edge of the farm parcel will be required, giving a total of 250 feet between the lines of adjacent parcels. A navigation corridor, 600 ft wide, is located in the center of the farm to allow for individual access to each plot. The corridor is not designed for third party vessels unrelated to the project to transit through the site.

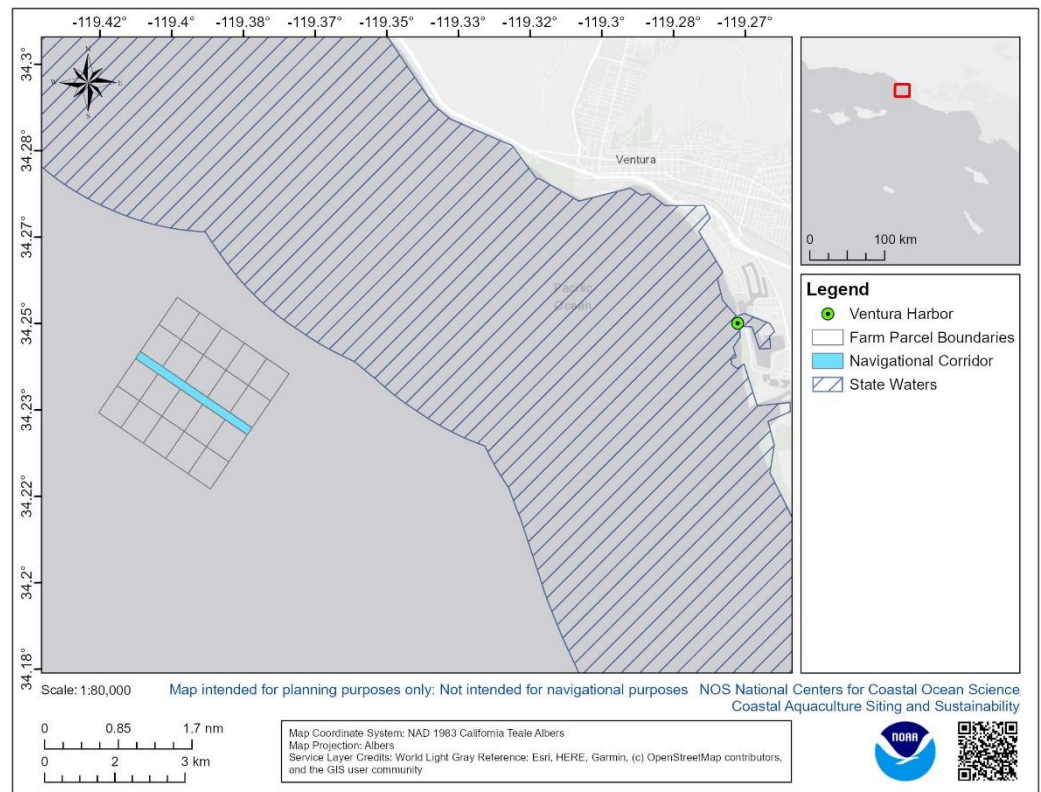


Figure 3-1 Aquaculture farm – grid structure

#### 3.1 Aquaculture farm design principles

Figure 3-2 shows the proposed design of the longline array. The longlines will be submerged between 15-45 ft and anchored in each end using mooring lines and sand screw anchors. Based upon a permit level engineering analysis commissioned by VSE the mooring lines, longlines, and anchors have been designed to withstand a 100-year storm.

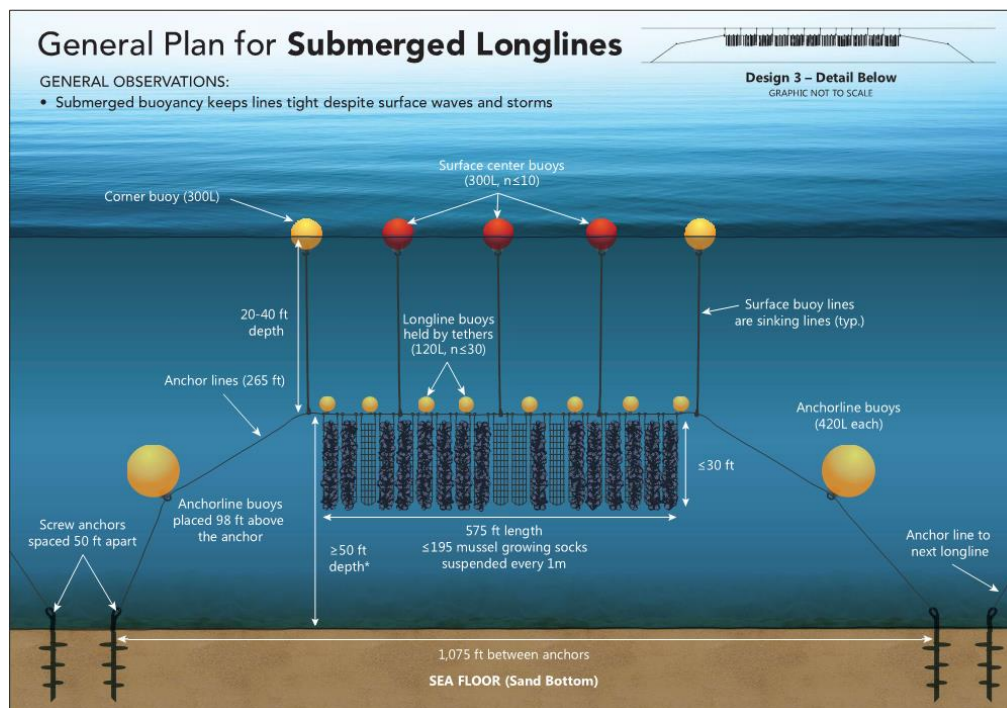


Figure 3-2 General plan for submerged longlines

Operators will be required to use sinking rope for any ropes or lines associated with the aquaculture system that have the potential to be slack under certain design storm conditions, thereby significantly reducing the risk of any slack lines being present on the water surface. Growers will be required to recover any broken or damaged ropes or lines as part of the project's gear maintenance program.

Submerged buoys will provide support and stability for the system. Surface buoys will mark each end of the longline. The surface buoys are designed to always be in tension. To further minimize entanglement potential, a breakaway link will be installed between the surface buoys and vertical lines. The attachment line from the backbone to the surface buoy will be required to be made from sinking rope to ensure that the rope does not float on the surface in the event that a surface buoy becomes disconnected from its attachment line. Instead, it is intended that the rope should sink below the connection point with the longline and be at least 15 ft below the water surface.

Each individual farm plot will be marked by USCG-approved navigation marking in each corner with the appropriate lighting, radar reflectors, markings, AIS etc. As the project will be a phased development project, individual users will have to mark their own areas as part of the operational requirements.

## 3.2 Operation and Maintenance

While VPD will acquire and hold the permits for the VSE project, the operations will be conducted by different shellfish growers. For the purposes of this analysis, it is expected that growers will use regular maintenance and harvesting vessels 25-40 ft in length with fuel capacity of 100-500 gallons, and that all vessels operating in the project site will have a draft assumed to be less than 15 ft. This assumption is

based upon the Project teams understanding of the west coast aquaculture service vessel fleet and, although not a requirement of the operations manual, would mean there will be minimal risk of entanglement with the subsurface aquaculture equipment.

It is expected that 20-40 different vessels will operate to and from the farm. Because VPD will require all vessels to land product harvested from the project area be landed in Ventura Harbor, the assumption is that almost all, if not all, vessels will port in Ventura Harbor for efficiency. Further, this assumption provides a more conservative analysis, as it results in the most frequent and dense vessel traffic pattern to evaluate potential impacts, as compared to a different model wherein some vessels would travel to other ports. Vessels are expected to travel to the project site a few days per week with some variation.

For the purpose of the navigation risk assessment, which will consider a fully developed project site, it is estimated that there will be approximately 3,000-6,000 trips to and from the farm every year, corresponding to an average of 8-16 vessels going to and from the farm every day.

A gear maintenance plan has been incorporated into the project design, which will require bi-monthly (twice per month) maintenance and inspection of longlines, anchor ropes, anchors, and connecting ropes. Any damage must be repaired immediately and reported to VPD and other relevant regulatory agencies. The VSE project also requires shellfish growers to submit a decommissioning plan in the event that their authorization expires or is terminated.

### 3.3 Ventura Harbor

Ventura Harbor is administered by the VPD ~~and under the control of a General Manager, with -Harbor safety being under the control of the~~ is under the control of a harbormaster [1]. It is a small-craft harbor primarily used by the pleasure craft and recreational and commercial fishing vessels. It has existing berthing facilities for about 1,500 boats. Commercial fish processing facilities, including fish landing docks and quayside services, are available in the Harbor. The entrance to Ventura Harbor is between two jetties protected by a 1,800-foot detached breakwater. The buoys in the entrance channel and harbor are frequently relocated due to changing conditions. Mariners that use Ventura Harbor are advised to exercise caution and to contact the harbormaster for the latest channel and Harbor conditions prior to entering.



## 4 Environmental conditions and vessel traffic analysis

The NOAA National Centers for Coastal Ocean Science (NCCOS) Coastal Aquaculture Siting and Sustainability (CASS) team has provided the input data used in this navigation risk assessment, including meteorological and oceanographic data, vessel traffic data, accident data and other relevant information, to inform the hazard identification and risk evaluation presented in Chapter 5<sup>1</sup>.

### 4.1 Environmental conditions

Buoys, weather stations, and oceanographic models were examined and the best available or most representative data for each environmental variable was chosen as it relates to the VSE project site. Figure 4-1 displays the various locations that were used to extract existing environmental information. During evaluation of environmental variables, the proximity of the data's source location as compared to the location of the VSE site should be considered.

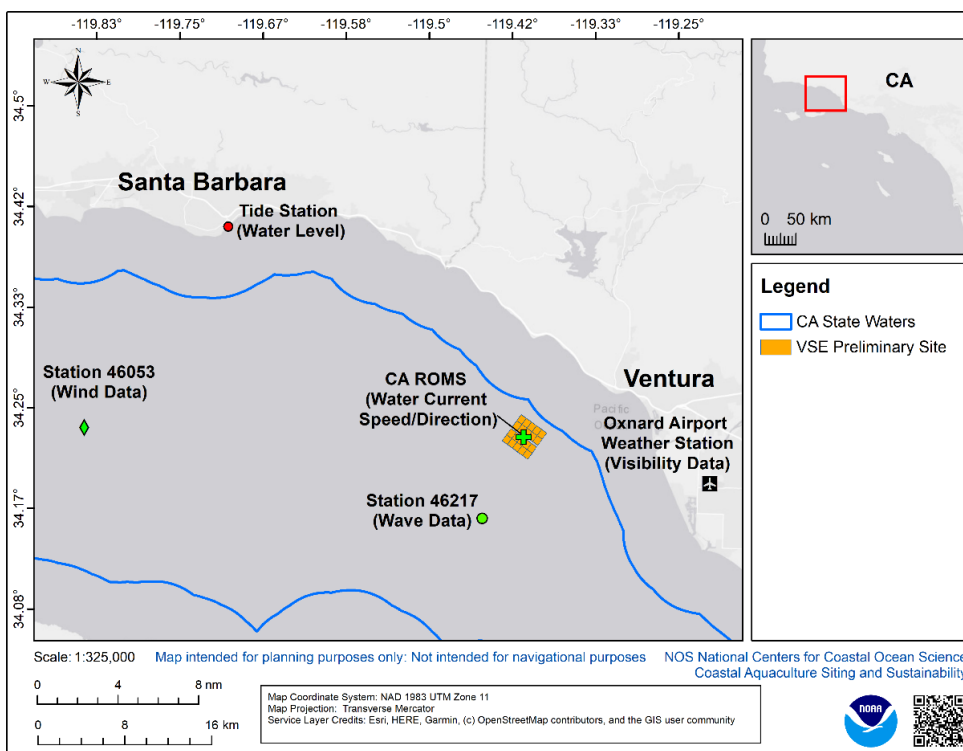


Figure 4-1 The VSE project site is shown with the locations of different data sets that were collected and used for the analysis.

#### 4.1.1 Wind

The nearest available open ocean wind data located was located 20 nm west of the project site, from the East Santa Barbara Data Buoy (National Data Buoy Center

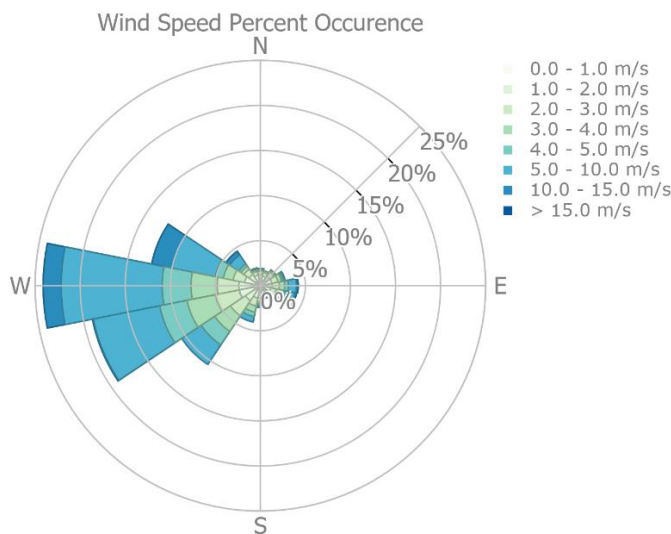
<sup>1</sup> NOAA NCCOS make no warranties to the accuracy or completeness of the data presented here, and NOAA will not be responsible for any adverse result based upon users' reliance on the application or the data presented. Users are advised to exercise due diligence and independently confirm the accuracy and currentness of the data provided.

(NDBC) Station 46053) [2]. Hourly wind data from 1994 to 2019 is summarized in a percent occurrence table by wind speed and direction, Table 4-1. The wind generally blows from the South-West to West-Northwest, with the highest percentage coming from the West as marked in orange in Table 4-1.

*Table 4-1 The percent occurrence of wind speed and direction from National Data buoy Center Station 46053 is displayed for the direction the wind is coming from, with the largest percent of wind coming from the West.*

Wind Speed (m/s)	Direction Wind is Coming From															
	S	SSW	SW	WSW	W	WNW	NW	NNW	N	NNE	NE	ENE	E	ESE	SE	SSE
0.0 - 1.0	0.8%	0.5%	0.6%	0.7%	0.7%	0.6%	0.6%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.4%	0.4%
1.0 - 2.0	0.6%	0.9%	1.4%	1.7%	1.7%	1.2%	0.9%	0.7%	0.7%	0.6%	0.8%	0.8%	0.8%	0.7%	0.5%	0.5%
2.0 - 3.0	0.4%	0.9%	2.0%	2.7%	2.4%	1.3%	0.7%	0.4%	0.4%	0.4%	0.5%	0.7%	0.8%	0.6%	0.4%	0.3%
3.0 - 4.0	0.2%	0.7%	2.1%	3.2%	2.9%	1.1%	0.4%	0.2%	0.1%	0.2%	0.2%	0.4%	0.6%	0.5%	0.3%	0.1%
4.0 - 5.0	0.2%	0.5%	1.8%	3.1%	3.2%	0.9%	0.3%	0.1%	0.1%	0.0%	0.1%	0.2%	0.4%	0.4%	0.2%	0.1%
5.0 - 10.0	0.2%	0.6%	2.6%	7.5%	11.2%	4.9%	1.2%	0.1%	0.1%	0.0%	0.0%	0.2%	0.9%	1.2%	0.4%	0.1%
10.0 - 15.0	0.0%	0.0%	0.0%	0.1%	2.0%	2.3%	0.5%	0.0%	0.0%		0.0%	0.0%	0.2%	0.2%	0.1%	0.0%
> 15.0					0.0%	0.0%	0.0%					0.0%	0.0%	0.0%	0.0%	

The wind speed and direction are also displayed as a wind rose in Figure 4-2. The most prevalent wind condition is the wind coming from the West at 5 to 10 m/s or 10 to 20 knots.



*Figure 4-2 Wind speed and direction percent occurrence from National Data buoy Center Station 46053 is displayed in the wind rose as direction the wind is coming from with corresponding percent of speed.*

#### 4.1.2 Current

The current speed and direction at the water surface was extracted from the California Regional Ocean Modeling System (ROMS) at the VSE project site from 2012 to 2019 at 6-hour time intervals [3]. The data was summarized and categorized by the speed and direction of the current. The current speeds at the VSE project site were generally less than 0.2 m/s and primarily going to the Southeast or Northwest with some variation, see Table 4-2 and Figure 4-3.

Table 4-2 The percent occurrence of current speed and direction from the California ROMS at 6 hour intervals from 2012 to 2019 is displayed by speed and direction category.

Current Speed (m/s)	Direction Current is Going To															
	N	NNE	NE	ENE	E	ESE	SE	SSE	S	SSW	SW	WSW	W	WNW	NW	NNW
0.0 - 0.1	2.08%	1.81%	1.85%	1.91%	2.71%	2.69%	2.72%	2.71%	2.27%	2.19%	1.73%	2.37%	2.42%	2.42%	2.89%	2.39%
0.1 - 0.2	1.84%	1.37%	1.63%	2.19%	2.98%	4.99%	5.33%	3.57%	1.72%	1.13%	1.07%	1.39%	2.96%	4.42%	5.47%	3.15%
0.2 - 0.3	0.43%	0.45%	0.15%	0.12%	0.92%	2.09%	3.01%	1.34%	0.28%	0.07%	0.04%	0.11%	0.46%	1.92%	2.46%	0.95%
0.3 - 0.4	0.07%	0.02%			0.05%	0.57%	0.79%	0.13%					0.02%	0.24%	0.40%	0.12%
0.4 - 0.5					0.01%	0.07%	0.15%							0.01%	0.04%	0.01%
0.5 - 0.6						0.02%	0.06%								0.02%	
0.6 - 0.7							0.01%									0.01%

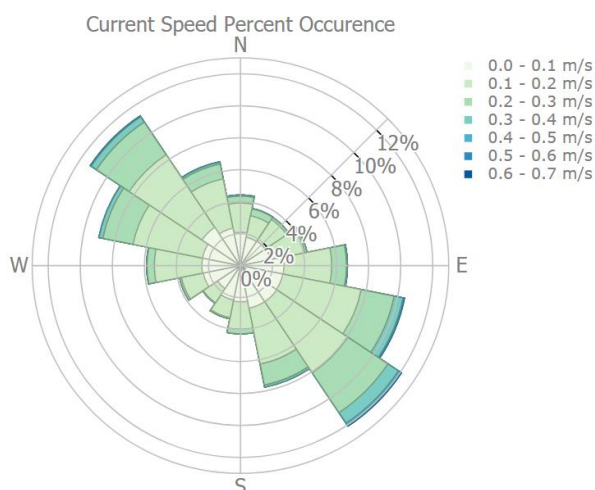


Figure 4-3 The percent occurrence of current speed and direction from the California ROMS at 6 hour intervals from 2012 to 2019 is displayed on the current rose by direction category and percent speed.

#### 4.1.3 Visibility Data (Fog, Haze, etc.)

Hourly visibility data were acquired from the Oxnard Airport, station ID: WBAN: 93110, approximately 10 miles southeast of the proposed site. Hourly observations for a 10-year period from Jan. 1, 2010 through Dec. 31, 2019 were acquired from the NOAA National Climatic Data Center (NCDC) Local Climatological Data portal [4]. Data were filtered to include observations of fog by hour. The 10 years of data contained a total of 1,083 hours of fog observations with associated average visibility of 0.32 nm. Visibility less than 0.5 nm is considered very poor and requires careful navigation [5].

Fog data was tabulated and graphed in Table 4-3 and Figure 4-4, showing a monthly average of 9 hours of fog. There was significant variation between months and years, with some months of 0 hours of fog and others with up to 60 hours of fog reported.

In Southern California, there are two main periods of the year with increased fog, late winter/ early spring (Feb - Mar), and mid to late summer (Aug - Sep). This trend is also seen in Figure 4-4. Other factors can reduce visibility on the water. In recent years, there have been increased occurrences of wildfires in the area, and the 2017-2018 Thomas fire was the second-largest wildfire in modern California history, burning nearly 300,000 acres. Smoke from large wildfires can reduce

visibility nearshore as winds shift from predominantly onshore winds to offshore winds, sending smoke plumes over the ocean.

Table 4-3 Oxnard Airport, California. Hourly fog reported 2010 – 2019

Month	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Average hr/ Month
Jan	11	5	17	6	3	12	3	11	31	11	11
Feb	5	0	4	5	9	13	6	46	12	0	10
Mar	6	9	16	39	0	19	12	56	22	8	18.7
Apr	8	1	1	3	27	0	7	9	5	1	6.2
May	0	2	0	3	0	2	0	5	1	0	1.3
Jun	0	7	0	0	1	5	20	5	2	6	4.6
Jul	2	3	9	9	0	0	4	0	3	9	3.9
Aug	39	4	3	17	4	1	2	6	2	39	11.7
Sep	60	14	17	5	0	1	10	3	7	13	13
Oct	12	32	11	8	9	4	0	5	17	1	9.9
Nov	3	0	36	10	5	0	5	0	5	2	6.6
Dec	15	9	20	2	16	0	38	0	11	3	11.4

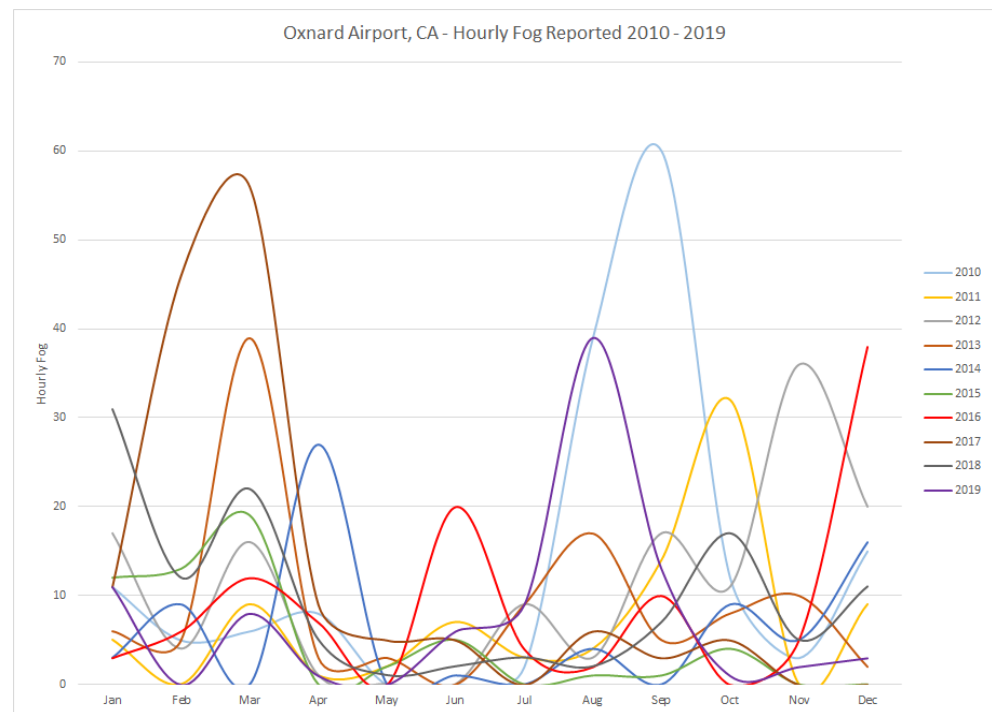


Figure 4-4 Oxnard Airport, California. Hourly fog reported 2010 - 2019

#### 4.1.4 Water depth

Bathymetry data from the Santa Barbara, California 1/3 arc-second MHW Coastal Digital Elevation Model was examined [6]. The VSE project site ranges from 25 to 40 meters in depth, with no hazards shallower than 10 or 15 m in close proximity. The only locations, other than the nearshore zone, with depths shallower than 10 m are within the Channel Islands National Park (see Figure 4-5).

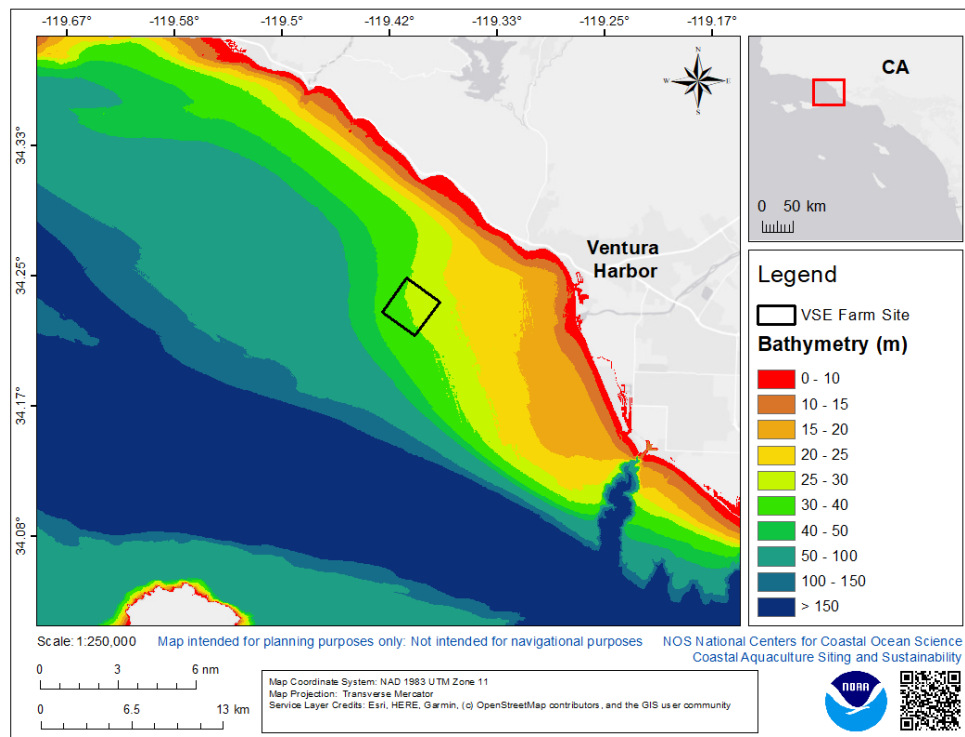


Figure 4-5 Bathymetry data from the Santa Barbara, California 1/3 arc-second MHW Coastal Digital Elevation Model with the VSE farm site displayed.

#### 4.1.5 Tidal variation

Tide Station data from Santa Barbara station 9411340 [7] shows the variation in the water level over the course of year 2019, see Figure 4-6. The Southern California coast exhibits a mixed semidiurnal tidal regime, which means two high and low tides occur daily but differ in size, see Figure 4-7. The tidal variation water level is observed to be approximately 2 m relative to the Mean Lower Low Water level (MLLW).

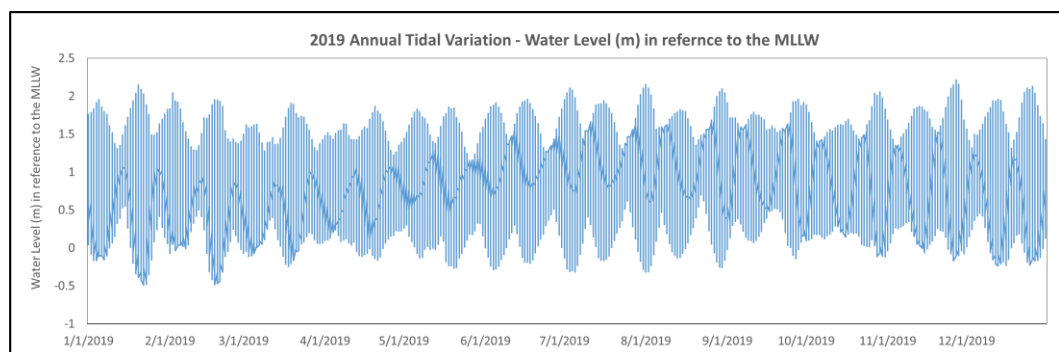


Figure 4-6 Hourly water level heights (m) in reference to the Mean Lower Low Water (MLLW) mark for the Santa Barbara Station 9411340

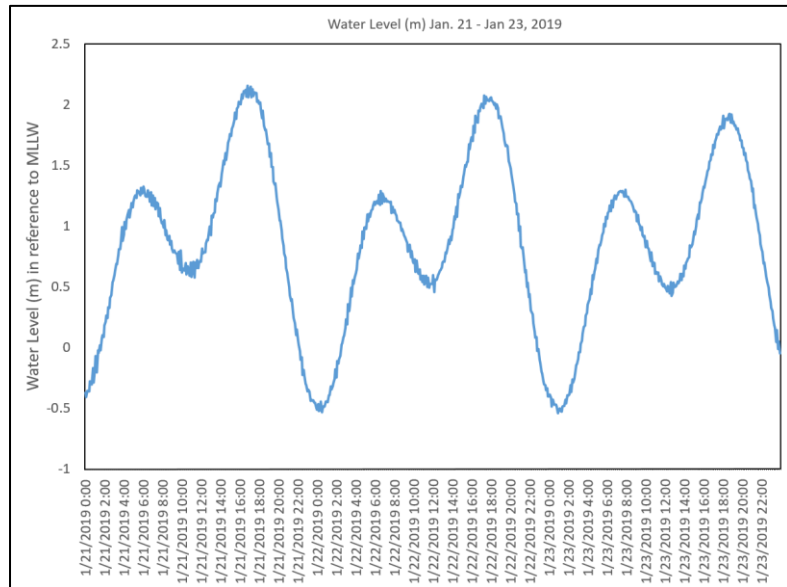


Figure 4-7 Water level height at 6 minute intervals from Station 9411340 from 1/21/2019 to 1/23/2019, showing a mixed semi-diurnal tidal cycle.

## 4.2 Accident statistics

Accident statistics for the area near and around the project site was obtained from [8] for the years 2001 to 2015. The locations of the accidents are shown in red in Figure 4-8. A review of the accidents within a few nautical miles from the project site shows only a handful of accidents, that were not specifically related to or caused by the specific area.

Considering the area within the Ventura Harbor, a higher number of accidents were registered. A total of 69 records were found representing 50 different accident activities. This represent an average of 3.3 incidents per year. This was supported by the Ventura Harbormaster, who confirmed that accidents occasionally happen, up to a maximum of five per year, typically caused by inattentive or sleeping crew.

The recorded accidents generally involved recreational vessels and commercial fishing vessels. The vast majority of these events were classified with environmental impact in the form of oil discharge. The remaining were either registered as allisions, collisions, grounding, material failure or sinking. Accidents were registered evenly throughout the year with no seasonal trend despite the increased vessel traffic in the summer peak months.



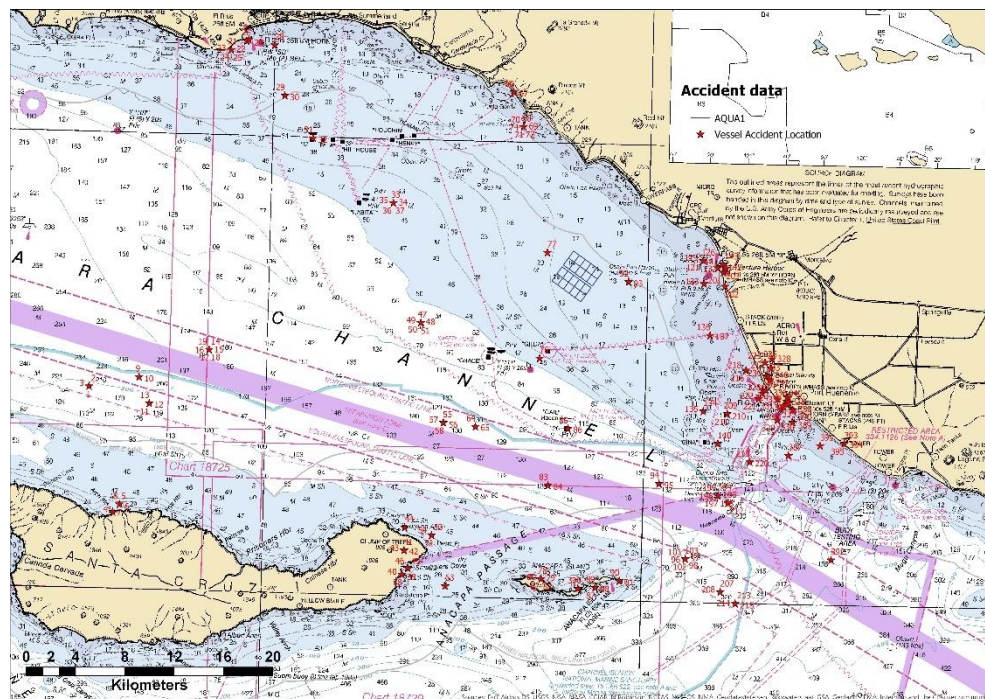


Figure 4-8 Recorded accidents from 2001 to 2015

In addition to the local accident data, one navigation accident related to another aquaculture project should be highlighted. The aquaculture farm Catalina Sea Ranch (CSR), which was located approximately 70 nm south of Ventura, had a tragic accident in 2019 which resulted in one fatality. As described in the Orange County Sheriff's Department report [9], a small recreational fishing boat travelling through the area became entangled with "the approximate 400' section of broken coiled line" associated with the CSR project, which was floating and poorly fastened, and capsized. As concluded by the investigation, the boats "excessive speed through the CSR exacerbated the accident", although the primary cause was the buoyancy and unseen hazard created by the "line tied off to an adjacent line in an attempt to keep it out of the way".

### 4.3 Vessel traffic survey

Various data sources have been analyzed and evaluated to understand vessel traffic near the VSE project site, including information obtained from the VSE project team, including the Ventura Harbor Harbormaster, and outreach to stakeholders. The primary data sources are the following:

- > Automatic Identification System (AIS) data
- > Recreational fishing data from CDFW
- > Commercial fishing data from CDFW
- > Information regarding marine events (sailboat races)

AIS data is the primary data source used for the commercial vessel traffic survey presented in this Chapter [10]. Additional information for recreational and



commercial fishing vessel traffic data is used to provide information on smaller vessels that do not typically carry AIS, see Chapter 4.3.9 and 4.3.10.

### 4.3.1 AIS data

AIS is generally required for commercial vessels greater than 1600 gross tons or with a length of 65 ft or more, in addition to other specific USCG requirements, see Table 4-4. Larger recreational vessels, such as pleasure craft or sailing vessels, sometimes choose to carry an AIS transponder, even though it is not mandatory.

Table 4-4 Vessels generally required by the United States Coast Guard to carry Automatic Identification Systems (AIS). Additional rules and restrictions apply.

<b>USCG Vessels Required to Carry Automatic Identification System (AIS)</b>	
<u><i>AIS Class A device. The following vessels must have on board a properly installed, operational Coast Guard type-approved AIS Class A device:</i></u>	
A self-propelled vessel of 1600 or more gross tons	
A self-propelled vessel of 65 feet or more in length, engaged in commercial service.	
A towing vessel of 26 feet or more in length and more than 600 horsepower, engaged in commercial service.	
A self-propelled vessel that is certified to carry more than 150 passengers.	
A self-propelled vessel engaged in dredging operations in or near a commercial channel or shipping fairway in a manner likely to restrict or affect navigation of other vessels.	
A self-propelled vessel engaged in the movement of certain dangerous cargo	
A self-propelled vessel engaged in the movement of flammable or combustible liquid cargo in bulk	
<u><i>AIS Class B device. Use of a Coast Guard type-approved AIS Class B device in lieu of an AIS Class A device is permissible on the following vessels if they are not subject to pilotage by other than the vessel Master or crew:</i></u>	
<u><i>A self-propelled fishing industry vessels (May use a Class B device)</i></u>	
<u><i>Vessels identified above that are certificated to carry less than 150 passengers and that, (A) Do not operate in a Vessel Traffic Service (VTS) or Vessel Movement Reporting System (VMRS) area, and, (B) Do not operate at speeds in excess of 14 knots</i></u>	
<u><i>Vessels identified above engaged in dredging operations.</i></u>	

AIS transmissions are collected by the USCG via a number of land based stations [11]. NOAA's Office of Coastal Management (OCM), in conjunction with the Bureau of Ocean Energy Management (BOEM), takes the raw data from the USCG and performs a number of operations to improve the quality and completeness of the data, and makes the final product available to the public [12]. AIS data from 2017 was used for this project, as the 2018 and 2019 AIS data was not available at the time of processing. AIS data from 2013 and 2015 were also examined in relation to 2017 to evaluate temporal trends in the vessel traffic. The processed AIS transmissions from <https://marinecadastre.gov/ais/> were downloaded, and point shapefiles were created. The time fields within the point shapefiles were used to create vessel transits, see Figure 4-9 [13].

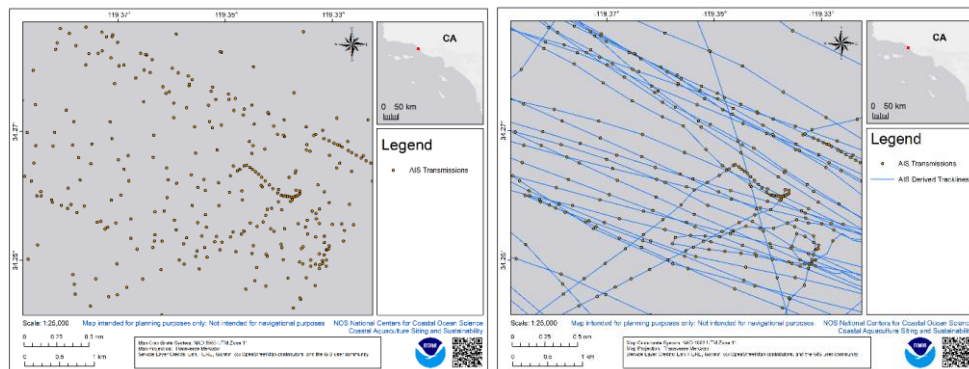


Figure 4-9 (Left) AIS transmissions plotted as point data. (Right) derived tracklines based on time field and vessel ID in the AIS transmission points.

### 4.3.2 Traffic density

Vessel density maps were created to identify commonly used routes and areas where there is a high density of vessel traffic. Vessel density surfaces were created from the AIS vessel tracklines using tools developed by NOAA [14]. These tools take the AIS tracklines and calculate the density or sum per grid cell for a user defined area. The density maps created use a cell size of 100 m by 100 m, with the color representing the number of vessels that passed through that cell during one year, in this case 2017. The vessel traffic density map from 2017 is shown in Figure 4-10.

### 4.3.3 Typical routes

Examination of the vessel density allowed for the identification of the typical routes vessels in the area use. In addition, the area around the project site was also examined, even though the vessel traffic is more scattered in this area without clear routes. In total 13 areas and routes were delineated, see Figure 4-11. Routes such as the Santa Barbara Channel Traffic Separation Scheme (TSS) (10-1 and 10-2) are official shipping lanes and will have larger vessels, while routes 6, 7, 8, and 9 are mainly vessels in transit to the offshore oil and gas platforms from Port Hueneme, Channel Islands Harbor, and Santa Barbara Harbor, see Figure 4-10. Route 5 has the highest density of vessel traffic transiting to and from Ventura Harbor and Channel Islands National Park. Routes 1, 2, 3, 4, and the project site have relatively lower traffic.

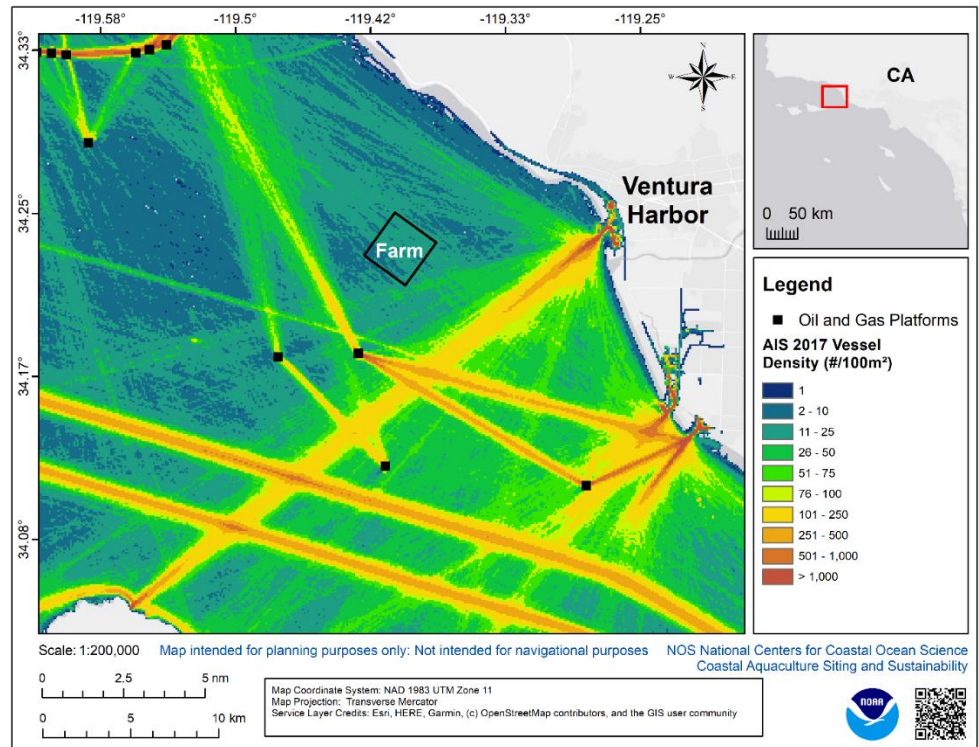


Figure 4-10 AIS vessel density where each cell has the total number of vessels that transited through it during 2017.

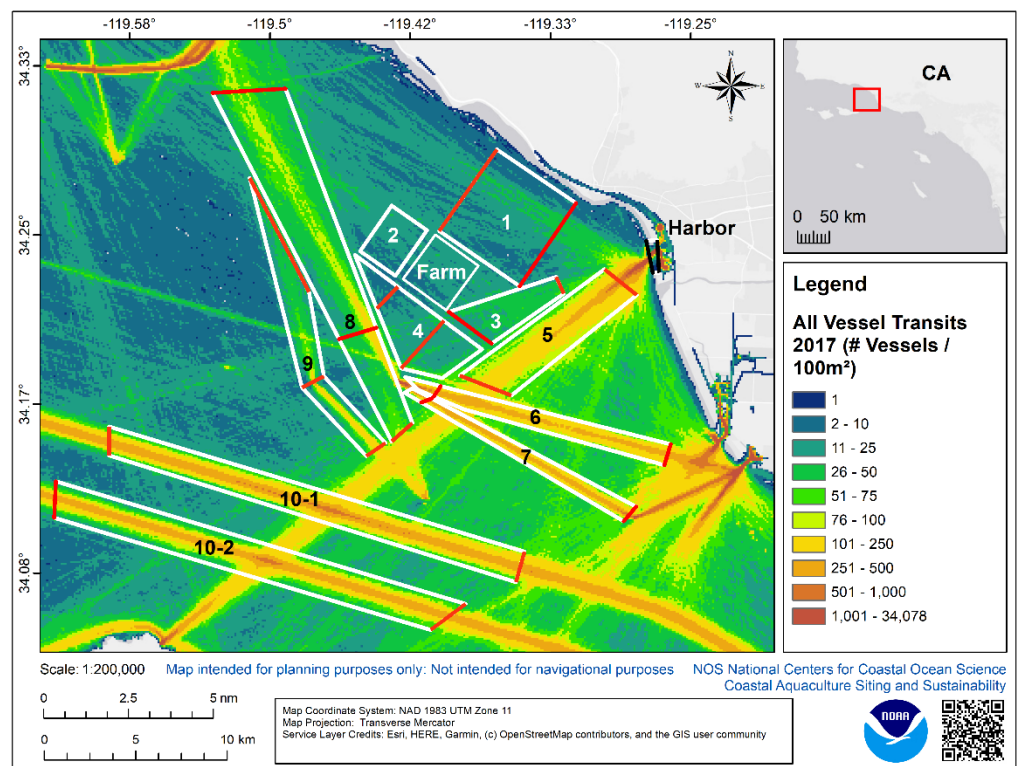
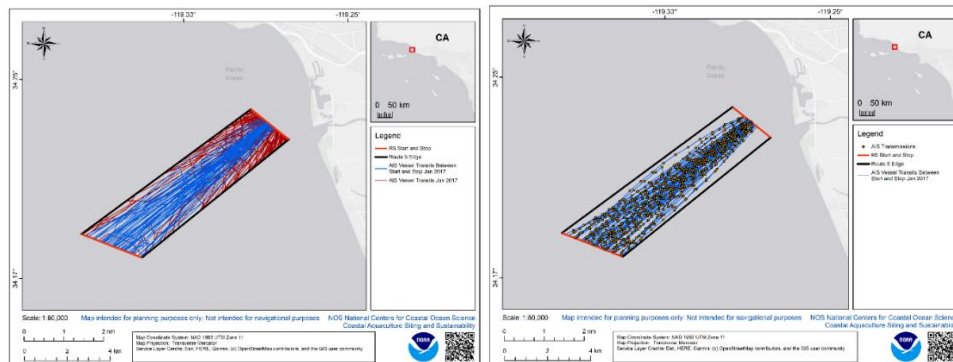


Figure 4-11 Examination of vessel transit density in proximity to the farm yielded 13 areas/routes (including the Farm and Ventura Harbor). Area/Route Start and End, and in the case of 8 and 9, a Middle line, are shown in red.

Start and end crosslines were defined as geographical lines that vessels may have crossed, and only tracks that intersect with the start and end lines are included in the summary tables, see Figure 4-12. For Route 8 and 9 there is a middle crossline, so as long as a vessel track intersected with the start – end, start – mid, or mid – end crosslines that track was included. For the project site and Area 2, all vessels that entered were considered, with no start, middle, or end crosslines defined. Once the vessel transits were identified, transmission points that overlap with the vessel transits are extracted and speed data calculated for individual vessels.



**Figure 4-12** (Left) All the transits are clipped to the route, and only those transits that intersect with both the Start and End crosslines are extracted for the summary table. (Right) The AIS transmissions that overlap with the transits that went between the start and end crossline are used to extract the vessel speed, which is the vessels current speed at the point of transmission. Summary tables of each route and area are created, and include information about the number of vessels, the speed of the vessels, the length, the draft, and seasonal patterns.

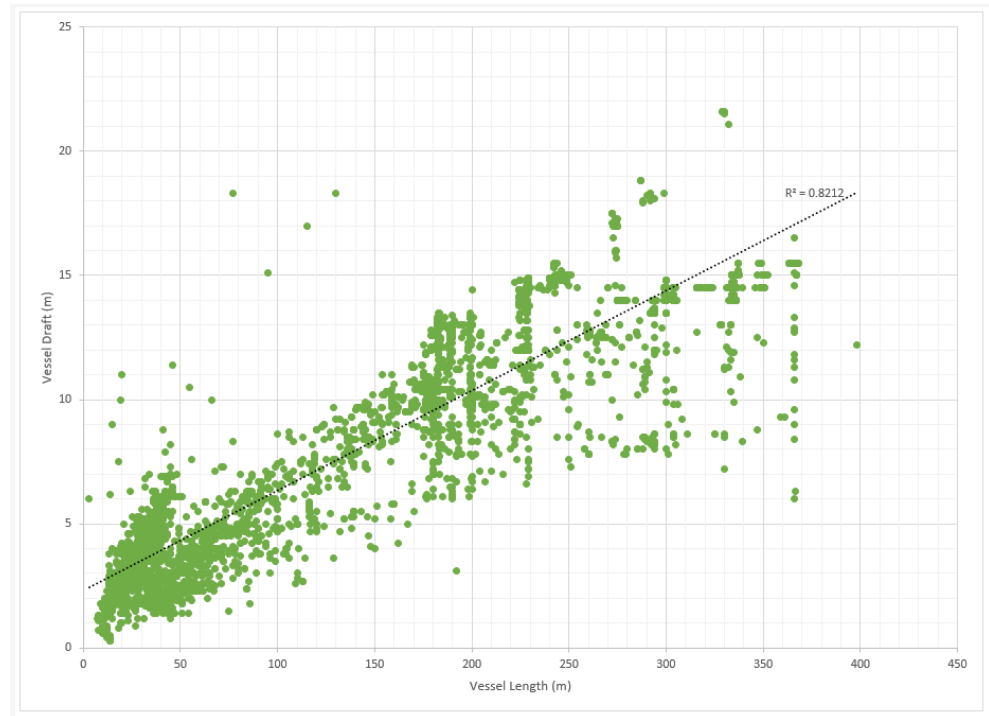
The Maritime Mobile Service Identity (MMSI) is used to identify each vessel, and the max and mean speed of vessels is calculated using the transmitted speed from the vessel. Any speeds < 1 knot were removed as the vessel could be anchored, moored, or drifting. The speed data is summarized for each unique vessel, and a max and mean speed for each individual vessel is recorded. The summarized max speed is the fastest speed recorded by all vessels of a certain type and classification. The summarized mean speed is the mean speed of all individual vessels ( $n$ =the number of vessels), as this ensures each vessel is represented equally.

Vessel length and draft summary tables were also created for each of the routes and areas and utilize the same definition of a vessel transit as above. In the case of missing length or draft information from the AIS transmissions, three methods were used:

1. Vessels with missing length and draft values were manually looked up using the vessel-specific MMSI through online databases (fleetmon.com, marinetraffic.com, and fcc.gov).
2. Vessels with known lengths but missing draft data, had the drafts calculated based on a linear equation from a database created for the AIS data in

Southern California, which contained 3,300 vessels of known vessel length, width, and draft, see Figure 4-13.

3. Vessel data was also indexed and cross-referenced from values previously looked up or interpolated using methods 1 and 2.



**Figure 4-13** Scatter plot of 3,300 individual vessels by vessel length and vessel draft with a linear line fit to the data, of which the equation of the line was used to calculate the vessel draft of vessels with no reported draft based on the length of that vessel.

#### 4.3.4 Vessel traffic areas

Five areas are defined to better summarize and analyze the vessel traffic that was observed from the AIS data, see Figure 4-14. The areas are defined based on their proximity to the VSE project site.

Area A is the proposed project site, Area B is the area around the project site, Area C is the vessel traffic going to and from Ventura Harbor, Area D contains the other routes nearby, and Area E is the TSS route.



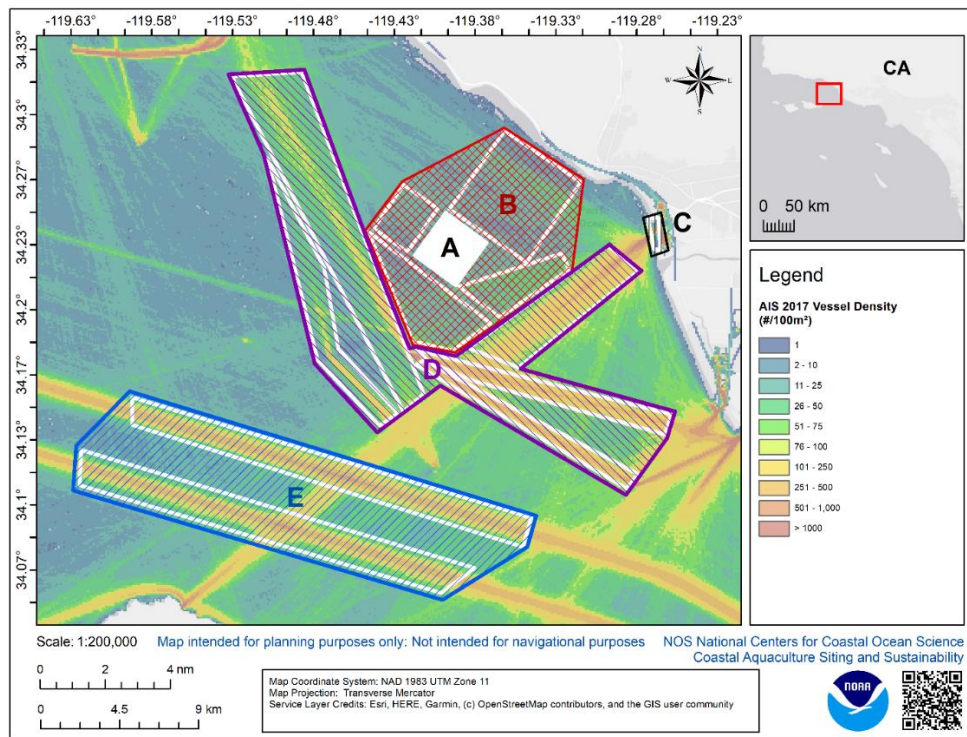


Figure 4-14 Five areas A-E were created based on their relationship to the project site, and used to summarize the vessel traffic from the routes and locations contained within.

#### Area A

In 2017, there were 151 unique vessels that made 382 transits through the project site using their AIS transponder. Passenger vessels and recreational pleasure craft made the greatest amount of transits through the area (63%), and generally traveled the fastest through the area with mean speeds between 10 and 13 knots. 19 commercial fishing vessels transited the area a total of 35 times during 2017. Vessel lengths were predominantly between 50 to 100 feet, with some larger vessels making occasional passages. Nearly all vessel drafts were less than 15 ft, with only 6 vessel transits having drafts greater than 15 ft, see Table 4-5 to Table 4-9.

#### Area B

The areas around the farm site had 344 unique vessels make 1026 transits during 2017. Recreational pleasure craft and passenger vessels were also dominating in this area, together with a number of offshore supply vessels, oil recovery vessels, and commercial fishing vessels, see Appendix A. Passenger and pleasure craft had the fastest recorded speeds through this area with an average of 10-12 knots. Most vessels that transited through this area had lengths less than 100 ft and the vast majority of the vessel transits had drafts less than 15 ft, see Table 4-5 to Table 4-9.

*Area C*

Ventura Harbor (Area C) had 228 unique vessels that made 5306 AIS recorded transits in and out of the Harbor during 2017. About half of all transits were from passenger vessels, with recreational pleasure craft and commercial fishing passages being the next highest. Area C had the slowest vessel speeds with all average speeds less than 6 knots. Slower speeds are expected given the entry/exit into the harbor. All vessels that entered the harbor were less than 200 ft in length, with only 1.7% of transits estimated to having a draft deeper than 15 ft, see Table 4-5 to Table 4-9.

*Area D*

The surrounding area consists of well-defined vessel routes and the lowest number of unique vessels, with only 84 vessels making 3909 transits. 3672 voyages were from passenger vessels, either in-route to the offshore islands or offshore oil and gas platforms. Passenger and pleasure craft generally had the fastest recorded speeds through this area with both around 28 knots and averages between 8-16 knots. All vessels were less than 200 ft long, with nearly all transits having drafts less than 15 ft, see Table 4-5 to Table 4-9.

*Area E*

As to be expected, the TSS area had the largest number of cargo and tanker vessels, with 1715 unique vessels making 3591 transits through this area during 2017. The vast majority of these vessels were cargo vessels, with 2892 freight ship transits. Cargo, passenger, tanker, and pleasure craft had the fastest speeds while transiting this area ranging from an average between 12-13.5 knots. Additionally, this area had the longest vessels with the deepest drafts, with 93% of transits having vessels longer than 500 feet and 96.7% of vessel transits having drafts greater than 15 ft, see Table 4-5 to Table 4-9.

*Table 4-5 Total number of unique vessels in 2017 from all routes within each area by vessel category.*

Vessel Category	Area				
	A	B	C	D	E
Cargo	0	0	0	0	1265
Fishing	19	46	35	14	5
Not Available	1	4	2	1	0
Other	33	83	58	20	95
Passenger	16	47	26	19	23
Pleasure Craft/Sailing	79	160	104	29	28
Tanker	0	0	0	0	265



# ATTACHMENT 1

Tug Tow	3	4	3	1	34
<b>Total</b>	<b>151</b>	<b>344</b>	<b>228</b>	<b>84</b>	<b>1715</b>

Table 4-6 Total number of voyages in 2017 from all routes within each area by vessel category.

Vessel Category	Area				
	A	B	C	D	E
Cargo	0	0	0	0	2934
Fishing	35	107	611	32	5
Not Available	33	38	38	1	0
Other	72	345	1170	122	150
Passenger	131	287	2575	3672	39
Pleasure Craft/Sailing	108	245	905	81	28
Tanker	0	0	0	0	332
Tug Tow	3	4	7	1	103
<b>Total</b>	<b>382</b>	<b>1026</b>	<b>5306</b>	<b>3909</b>	<b>3591</b>

Table 4-7 AIS 2017 mean vessel speed (knots) by vessel category for each area.

Vessel Category	Mean Vessel Speed (knots) by Area				
	A	B	C	D	E
Cargo	0	0	0	0	13.5
Fishing	9.2	8.3	5.75	7.7	9.1
Not Available	6	8.7	4.7	3.7	0
Other	11.6	12.5	5.6	13	11.4
Passenger	12.9	12.3	5.5	15.9	13.4
Pleasure Craft/Sailing	10.1	10	4.9	8.2	12.7
Tanker	0	0	0	0	12
Tug Tow	7.6	6.2	4.3	5.4	7.9

Table 4-8 AIS 2017 total number of voyages by vessel length for each area.

Areas	Vessel Lengths (ft)								
	Unknown	1-50	50 - 100	100-200	200-300	300-400	400-500	500-1000	> 1000
<b>A</b>	<u>0</u>	90	225	61	6	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>B</b>	22	251	582	169	2	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>C</b>	93	1275	3766	172	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>D</b>	15	105	2979	810	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>E</b>	4	1	30	116	31	11	53	2382	963
<b>Total</b>	134	1722	7582	1328	39	11	53	2382	963

Table 4-9 AIS 2017 total number of voyages by vessel draft for each area.

	Vessel Draft (ft)							
Area	Unknown	1-10	10-15	15-20	20-30	30-40	40-50	>50
<b>A</b>	3	183	190	6	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>B</b>	17	581	426	2	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>C</b>	90	4139	1075	<u>0</u>	2	<u>0</u>	<u>0</u>	<u>0</u>
<b>D</b>	6	1455	2448	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>E</b>	2	30	89	69	286	773	2026	316
<b>Total</b>	118	6388	4228	77	288	773	2026	316

#### 4.3.5 Seasonal traffic variances

Analysis of the monthly vessel transits through the different Areas reveals that Areas A and B have the lowest number of transits, with the months of July through September having elevated vessel traffic. Area C, the vessel traffic in and out of the Ventura Harbor, and Area D, have the strongest seasonal changes with low traffic in January and February, and then a gradual increase peaking during July and August. Area E, the TSS, has relatively low seasonal variation, see Table 4-10 and Figure 4-15.

Table 4-10 AIS 2017 total number of vessel voyages during each month from each of the areas

Area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
A	31	17	27	29	29	25	54	44	55	34	16	21
B	68	43	51	79	80	72	114	120	123	103	89	84
C	257	251	366	431	441	445	624	532	461	489	518	491
D	270	212	228	228	306	352	438	536	417	304	327	291
E	301	260	295	285	330	300	306	318	307	287	293	309
<b>Total</b>	<b>927</b>	<b>783</b>	<b>967</b>	<b>1052</b>	<b>1186</b>	<b>1194</b>	<b>1536</b>	<b>1550</b>	<b>1363</b>	<b>1217</b>	<b>1243</b>	<b>1196</b>

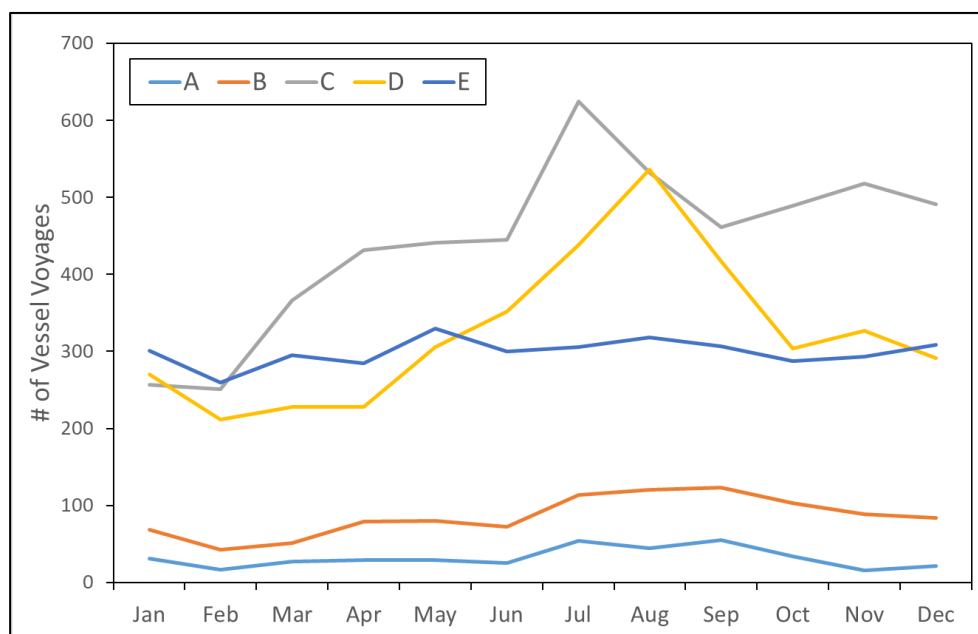


Figure 4-15 AIS 2017 total number of vessel voyages during a month from each of the areas.

#### 4.3.6 Long Term Trends in Traffic

Generally, the number of voyages that occurred within each area during 2013, 2015, and 2017 has increased when considering AIS data alone. Areas A, B, and D displayed slight increases in the number of voyages, while Area C (Ventura Harbor) and Area E (TSS) witnessed the greatest increases, with a 64% and 60% increase, respectively, detected using AIS from 2013 through 2017.

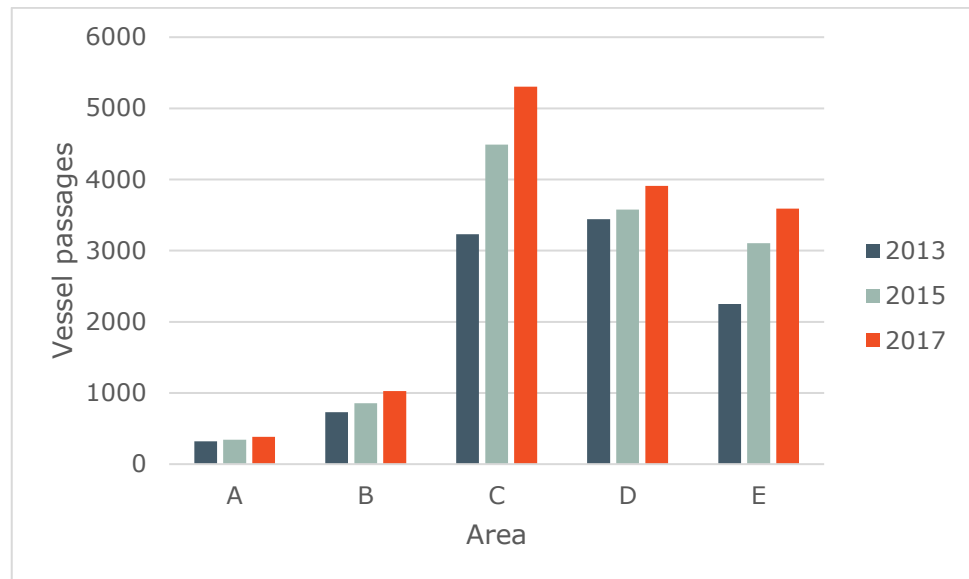


Figure 4-16 Historic trends in vessel traffic within different areas

Table 4-11 Annual Trends in AIS Vessel Traffic by each Area with total voyages occurring within each area in 2013, 2015, and 2017.

Area	2013	2015	2017	Average annual percent increase
A	319	344	382	5%
B	731	857	1026	9%
C	3232	4491	5306	14%
D	3444	3576	3909	3%
E	2251	3104	3591	13%

#### 4.3.7 Harbor and port origin for vessel traffic through the project site

To better assess how the farm may impact vessels from certain ports, the origin and ports visited were assessed. This was performed by extracting all voyages made by a vessel that transited through the VSE project site, and then examining which ports were the origin/destination of the vessels.

Chapter 4.3.4 and Table 4-6, show that the majority of the traffic through the project site was recreational pleasure craft and passenger vessels, which includes supply vessels and crew transfer vessels for the offshore oil platforms. In addition, a limited number of fishing vessels were recorded from the AIS data.

Some passenger vessel transits from Ventura Harbor did transit the project site; however, most were in transit to the Channel Islands, with the majority of passenger vessel transits originating from Port Hueneme, which is reflective of the service and crew transfer vessels that originate from there. Vessels from Port Hueneme made numerous trips to offshore oil and gas platforms in the area, see Figure 4-17. Few pleasure and sailing vessels from Ventura Harbor transited through the project site, with most transits occurring from vessels going between Santa Barbara Harbor and Channel Island Harbor and vice versa, see Figure 4-18. The AIS 2017 fishing vessel transits were predominantly from Ventura Harbor, which indicates that some local fishing traffic from the Ventura Harbor would be transiting through the project site, see Figure 4-19. A mix of other vessels transiting from all four harbors made transits through the project site during 2017, see Figure 4-20. These were local fishing traffic, as well as non-local pleasure/sailing traffic and passenger vessel traffic.

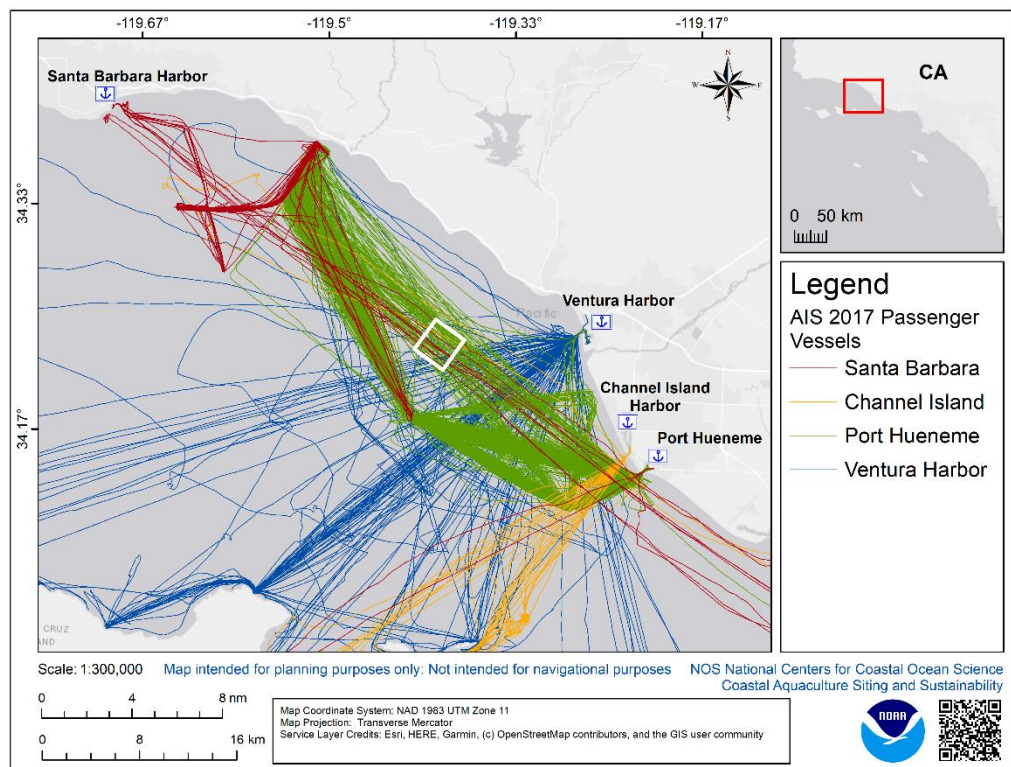


Figure 4-17 Passenger vessel transits (including supply and crew transfer vessels) from Ventura Harbor and Port Hueneme made up the majority of all transits made by passenger vessels in 2017 through the project site (outlined in white).

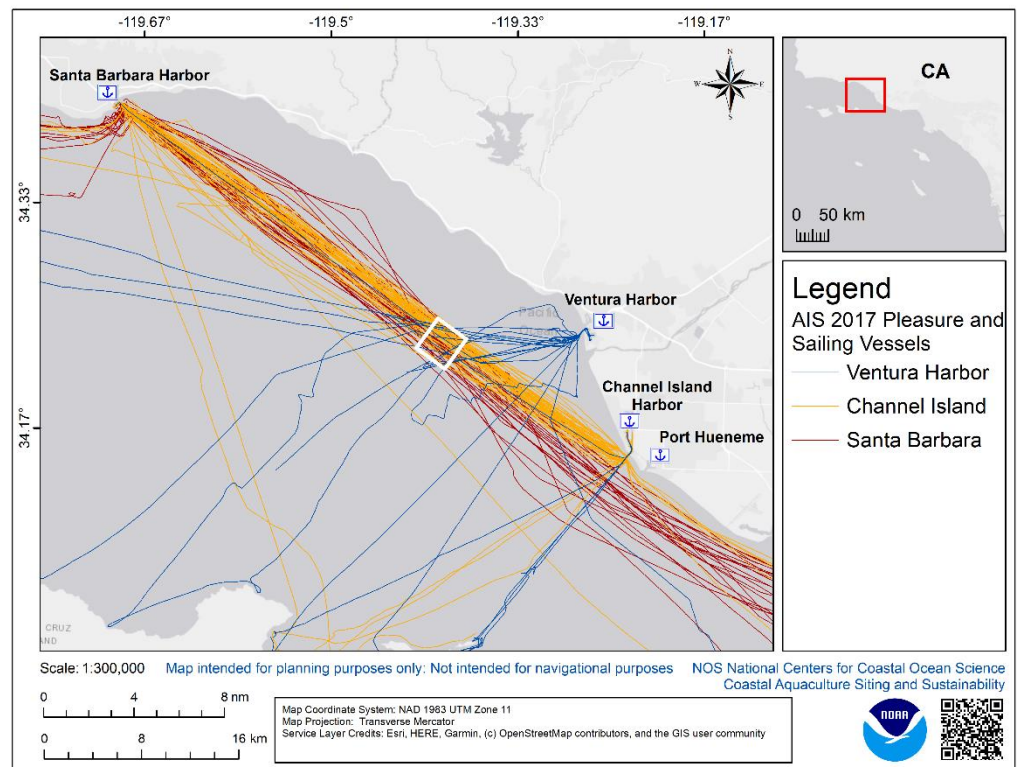


Figure 4-18 Pleasure and sailing vessels transiting from Santa Barbara Harbor to the Channel Island Harbor and vice versa made the majority of all transits during 2017 through the project site (outlined in white).

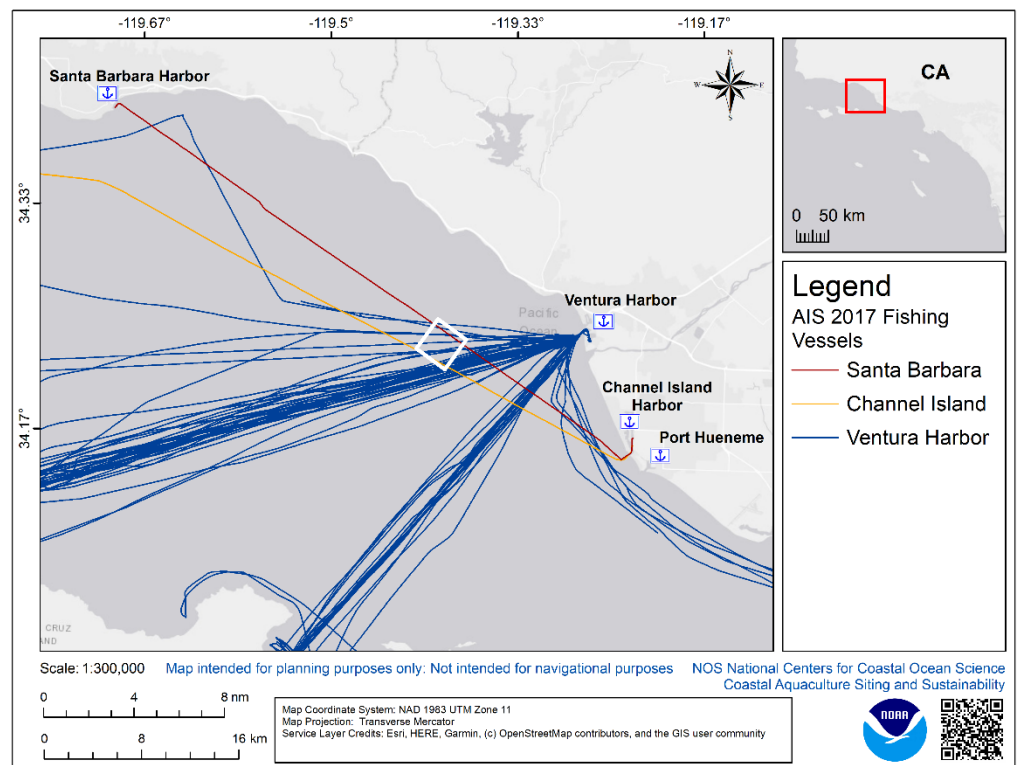


Figure 4-19 Fishing vessel transits from Ventura Harbor made up the vast majority of all transits made by fishing vessels in 2017 through the project site (outlined in white).



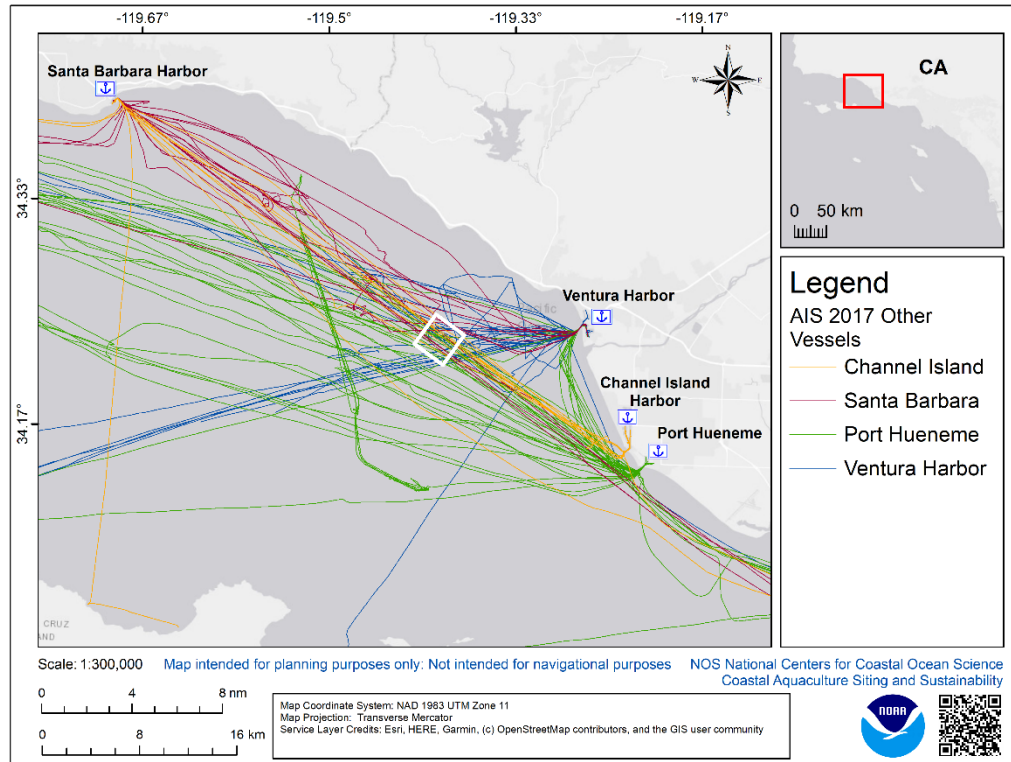


Figure 4-20 A mix of other vessels transiting from all four harbors (Santa Barbara Harbor, Ventura Harbor, Channel Island Harbor, and Port Hueneme) made transits through the project site (outlined in white) during 2017.

#### 4.3.8 Marine events in the area

Figure 4-21 contains a point layer of sailing race markers offshore of Ventura. Points were created using the description, latitude, and longitude for each of the marks. Individual races would use a combination of these marks to create a sailing course depending on various factors including weather conditions and number of vessels in a race. In 2019, the Association of Santa Barbara Channel Island Yacht Clubs (ASBCYC) listed a total of 127 sailing events in the area. These events include both long distance races around the neighboring Channel Islands and nearshore sailing events.

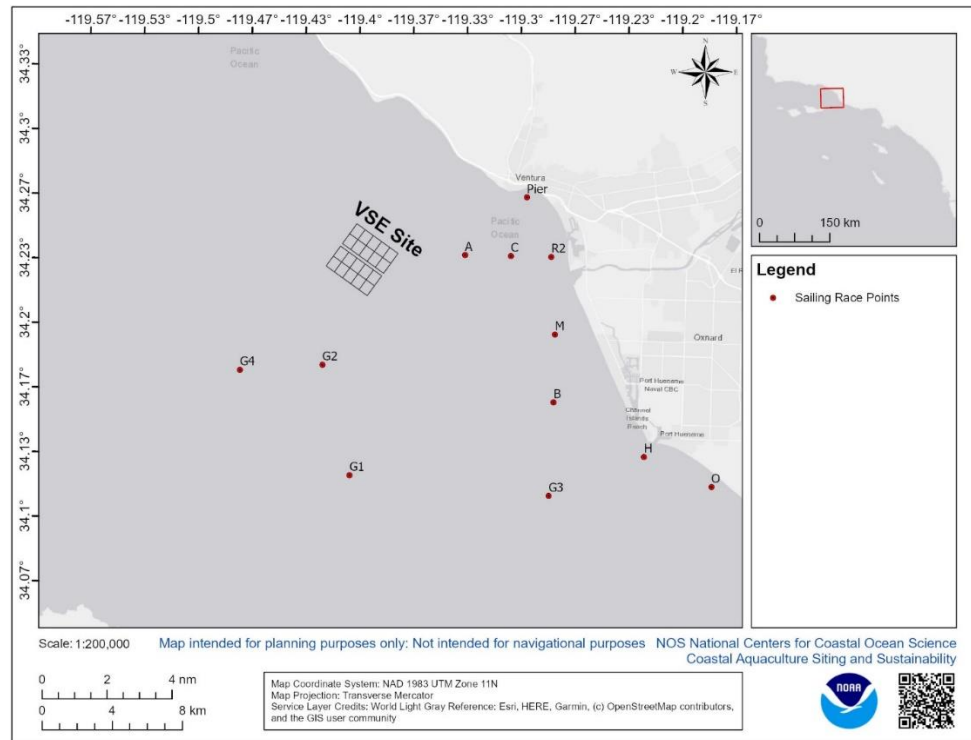


Figure 4-21 Ventura nearshore race course marks.

#### 4.3.9 Vessels without AIS

While some vessels voluntarily decide to use AIS even when not required, not all vessels send and transmit AIS. Additionally, a number of vessels carry only an AIS receiver in order to safely pass through the TSS on route to the Channel Islands.

There is no official data concerning the number of vessels that enter and exit Ventura Harbor; however, the Ventura Harbor Harbormaster has provided information based upon his experience concerning the overall vessel traffic in Ventura Harbor and to what extent AIS is used.

Generally, vessels without AIS are often recreational in nature whereas larger commercial vessels tend to use AIS. AIS use varies on commercial fishing boats, where some do not use AIS.

Generally, there is a much higher degree of seasonality when it comes to recreational vessels as compared to commercial vessels. Based upon AIS data, there is approximately four times as many recreational vessels in the summer months compared to the winter, whereas there is approximately twice as many commercial vessels in Areas A, B and C during the same timeframe.

Based upon AIS data, there are approximately 20 vessels registered as entering and leaving Ventura Harbor per day in the peak summer season. Based upon information from the Harbormaster, for all vessels (including those without AIS), the total number of vessels entering and leaving can (under the most exceptional peak conditions) be as high as 450 per day, but typically is between 100 and 200 vessels per day. This input from the Harbormaster suggests that the total number of vessels entering and exiting Ventura Harbor per year is around 55,000.

The general observation from the Harbormaster is that the majority of recreational vessels without AIS do not travel far from shore and are therefore unlikely to pass

near the project site. In addition, the Harbormaster reported that the AIS vessel routes and vessel density (Figure 4-10) is, for the majority of vessels, representative of vessels that do not have AIS installed, in that the vast majority of non-AIS vessels that do transit to the channel islands will make a direct passage with relatively few crossing through or near the project site. Vessels that may go near the project site without AIS are generally limited to a few to a relatively low number of smaller recreational or commercial fishing vessels, particularly squid fishing vessels in a season where squid are found in that area.

#### 4.3.10 Fishing

##### Commercial Fishing

There are various commercial fisheries that operate in the Santa Barbara Channel. Figure 4-22 below shows the estimated average commercial catch in millions of tons for 2012 – 2017. Data is displayed by CDFW block at a 10 nautical mile resolution. The project site has been located to avoid the most popular areas for commercial fishing. The areas southeast of the farm and southwest near Channel Islands are expected to have significantly more commercial fishing activity compared to the area near the project site.

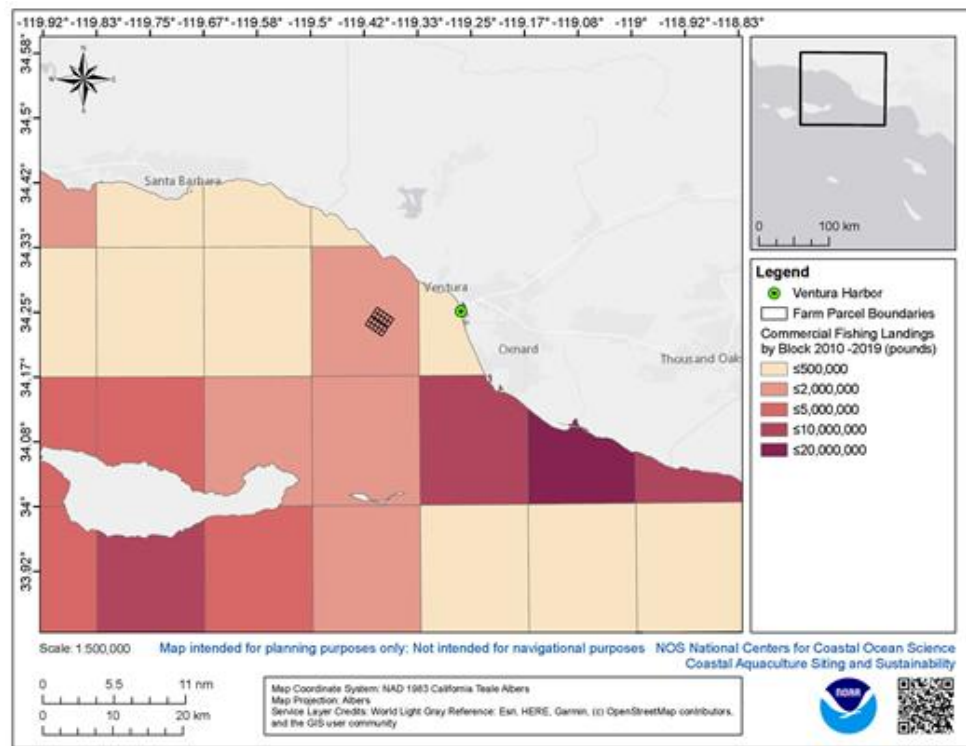


Figure 4-22 Estimated catch by CDFW fishing block data (10 nm) showing average landings per year from 2012-2010 – 2017-2019 in millions of pounds.

The commercial squid fishery that operates in California is highly variable per year by location and total catch. The fishery operates year round with a limited entry permit of 55 vessels per year with a total permitted catch for the fishery of 118,000 short tons. The squid fishery is unique in using light as bait to attract squid such that fishing can occur at any spot within the larger fishery area. Figure 4-23 below shows the average catch in short tons per CDFW microblock at a 1 nautical mile resolution. The most popular areas are near Channel Islands and off the coast of

Port Hueneme. The area at the northern perimeter of the project site has also been subject to squid fishing in the past.

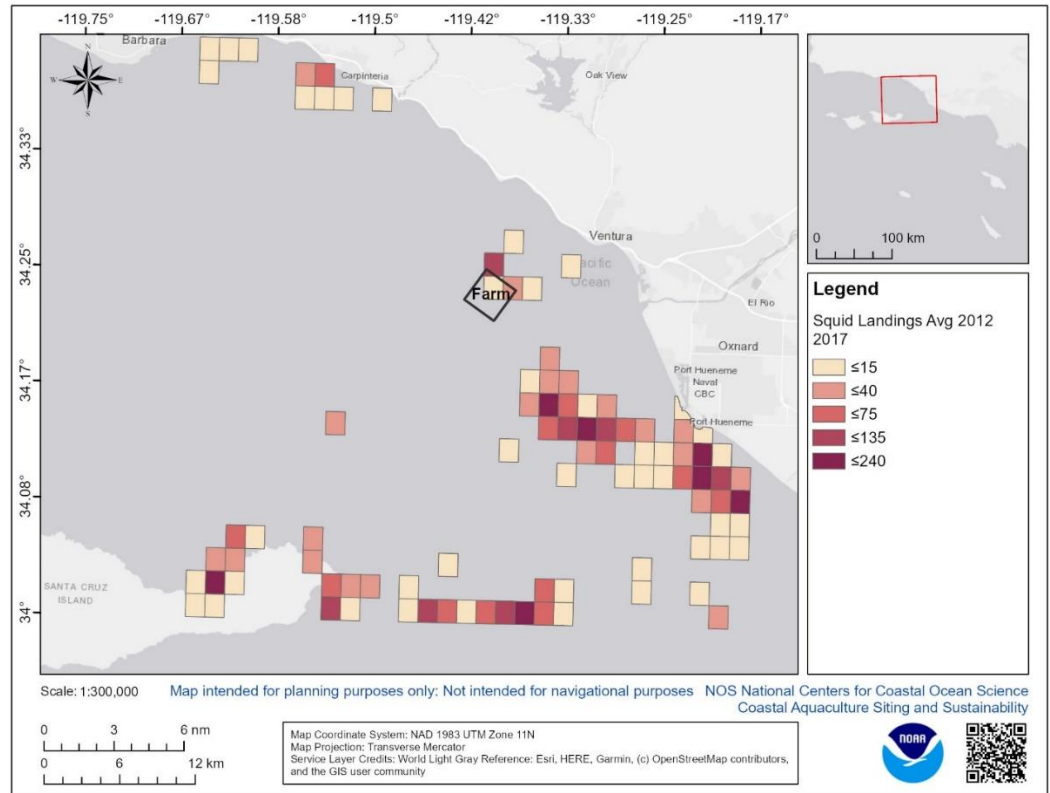


Figure 4-23 Estimated catch by CDFW squid microblock (1 nm) showing average landings per year from 2012 – 2017 in short tons.

The trawl fishery operates within the CDFW trawl grounds which extend from 1-3 nautical miles from shore and North to South from Point Conception to Point Magu. This fishery operates from June to March with a seasonal closure to protect spawning fish species. Figure 4-24 below was created by mapping the total trawl density lines based on a start and end points derived from the CDFW trawl fishing Vessel Monitoring Systems (VMS) dataset from 2010 – 2016, with typical trawling speeds being in the order of 2 to 5 knots. Trawling is observed throughout most of the area including the project site, and the most visited area for trawling appears to be approximately 10 nm northwest of the project site. Figure 4-25 shows AIS data from fishing vessels from 2017, which shows a high density of fishing vessel traffic from Santa Barbara, Ventura, and Port Hueneme towards the Channel Islands and relatively few fishing vessel transit lines in and around the project site.

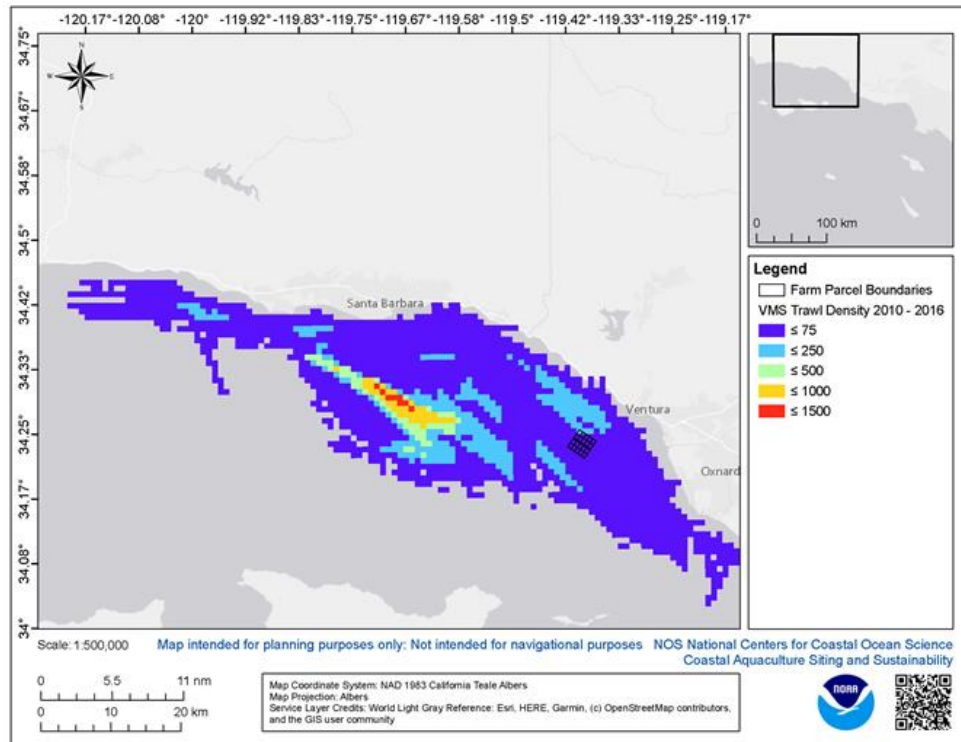


Figure 4-24 Vessel Monitoring System (VMS) density for trawl fishery, showing trawl tracks from 2010 – 2016.

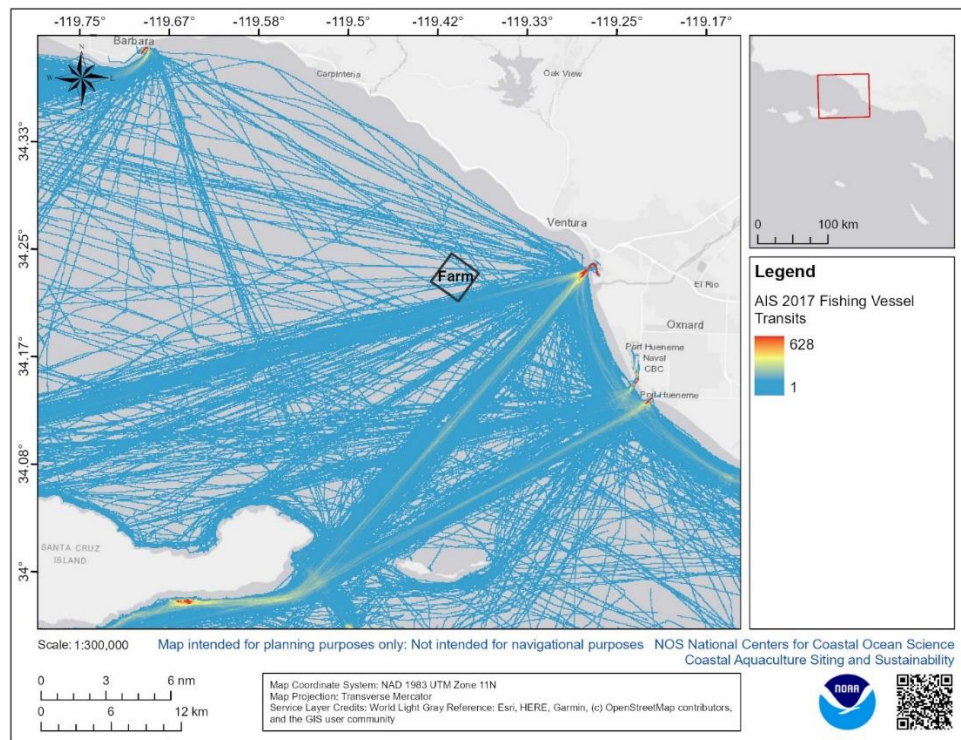


Figure 4-25 AIS fishing vessel category for 2017, showing density of transits.



### Recreational Fishing

CDFW Commercial Passenger Fishing Vessel (CPFV) data comprised of GPS points from 2010 – 2019 was aggregated to microblock (1 nm) resolution. Figure 4-26 below was created from the count of unique vessels per block per day, shown as the average number of vessels per year per microblock. As shown by this data, no significant recreational CPFV fishing activity has occurred near the project site.

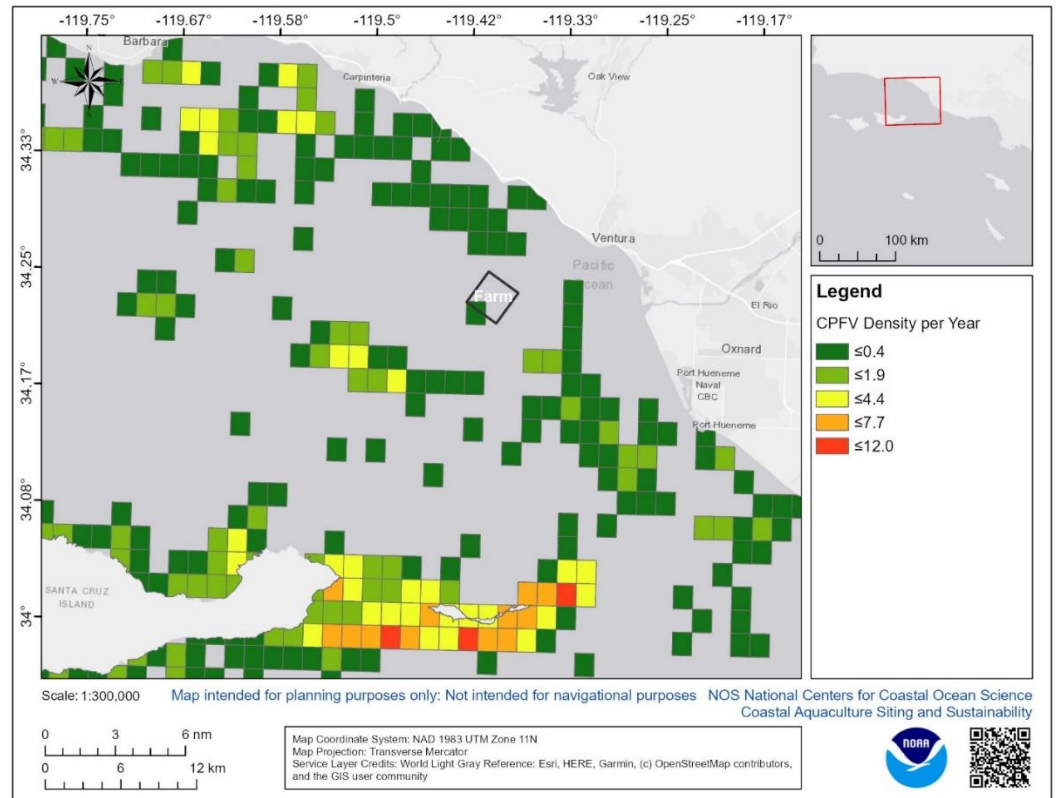


Figure 4-26 CPFV vessel average density per year 2010 – 2019.

CDFW California Recreational Fisheries Survey (CRFS) private vessel data comprised of dockside surveys recorded at the microblock (1 nm) and block (10 nm) resolution. The surveys represent a subsection of the total recreational fishing effort are conducted at the public docks and by phone to licensed anglers to provide an overall representation of recreational fishing activity, where the respondents are presented with a map of the area and asked where they fished. All microblock data was extracted to create a total count per month for each microblock. Figure 4-27 below shows average number of vessels per year per 1 nm microblock. The area near Channel Island has the highest concentration of recreational fishing. There is no significant activity recorded near the project site.



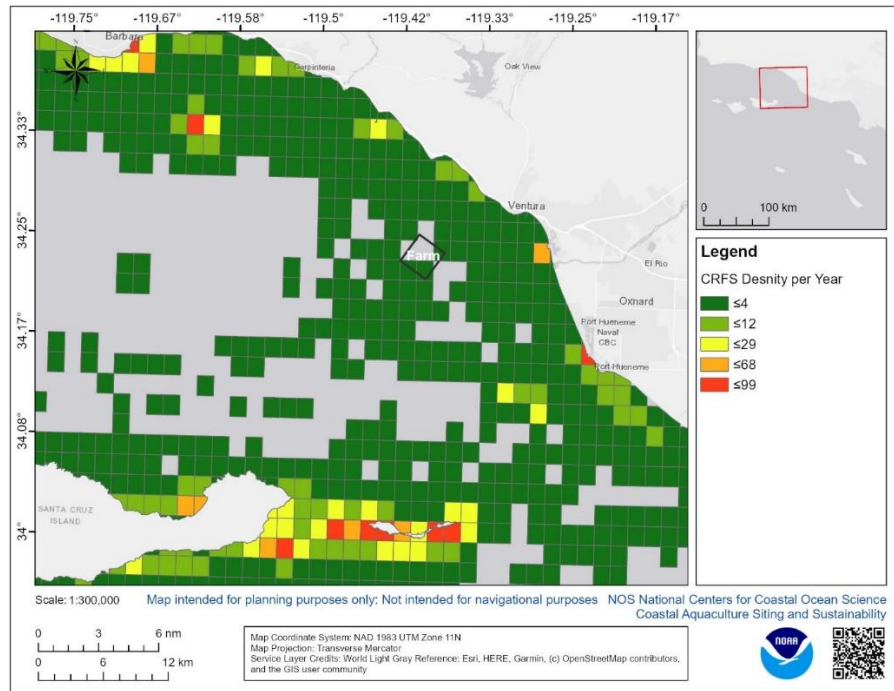


Figure 4-27 CRFS average number of vessels per year per 1 nm microblock 2010 – 2019.

## 5 Navigation Risk

### 5.1 Framework and process

The purpose of the Navigation Safety Risk Assessment (NSRA) is to identify navigation risks associated with the presence of the VSE project. This is followed by an evaluation of the risk considering risk reducing measures already in place. Risks will be evaluated qualitatively with a ranking of "Low", "Medium" or "High" based on the combined consideration of likelihood and consequence. Finally, additional risk reducing measures may be suggested if it is considered necessary or relevant to reduce the risk further.

Prior to initiating this study, the NOAA CASS team performed a siting analysis to determine the optimal location of the VSE project [15]. Navigation risks were considered, as well as other impacts such as marine life, naval and oil/gas interference, see Appendix A Figure 7-1. Overall, the location was chosen to minimize the impacts within the boundaries of a 20,000 acre area that had been initially designated as potentially suitable for aquaculture.

Commercial vessel traffic that passes through the TSS has, in this study, been distinguished from traffic that navigates outside the TSS, which is more local in character. There will be inherent differences in vessel types, sizes and drafts for the two groups that impact the risk evaluation. Vessels associated with the project site (harvest and maintenance) are also identified separately. These categories are defined as follows:

- > Local third party traffic: Vessel traffic not inside the TSS (excluding vessels related to the VSE project)
- > Commercial traffic in TSS: All vessels following the TSS
- > Project vessel: Any vessel associated with the VSE project such as harvest and maintenance

### 5.2 Hazard Identification

Identification of hazards is based on information and outreach from the VPD and VSE consultants and volunteers, public comments received during project outreach and the USACE permitting process, and experience from other offshore aquaculture and wind projects. Hazards were discussed with the project team including the Ventura Harbor Harbormaster on March 7, 2020 as well as presented to USCG on April 13, 2020.

The following hazard categories have been identified:

- > Vessel entanglement during normal aquaculture farm operation
- > Vessel entanglement with disrupted aquaculture farm
- > Vessel Collision & Grounding
- > Other impacts

Specific hazards and risk reducing measures that are already planned or in place are identified for each hazard category.

### 5.2.1 Vessel entanglement during normal aquaculture farm operation

The hazards identified under this category focus on entanglement scenarios where the aquaculture farm and associated gear are operating normally without any broken lines, connections, or improper anchoring. The identified risks along with risk reducing design features already incorporated into the project are described in Table 5-1.

Table 5-1 Hazard identification for entanglement scenarios without equipment failure

Risk No	Hazard	Potential consequence	Risk reducing measures in place	Risk level
1.1	Local third party vessel <u>intentionally</u> entering the project site becomes entangled with aquaculture equipment	Casualties/ equipment damage	<ul style="list-style-type: none"> <li>&gt; System submerged 15ft below surface and vessel draft generally &lt; 15ft</li> <li>&gt; Trawling and fishing below 15ft prohibited inside farm</li> <li>&gt; Surface buoys in tension and reflectors on corner buoys</li> <li>&gt; Notice to mariners during construction activity</li> </ul>	See Chapter 5.3.1
1.2	Local Third party vessel becomes entangled when <u>unintentionally</u> entering the project site	Casualties/ equipment damage	<ul style="list-style-type: none"> <li>&gt; System submerged 15ft below surface and vessel draft generally &lt; 15ft</li> <li>&gt; Limited traffic in vicinity of the farm.</li> <li>&gt; Aids to Navigation (updated navigation chart, corner buoys with radar and AIS)</li> </ul>	See Chapter 5.3.1
1.3	Commercial vessels from TSS drift into farm and becomes entangled with aquaculture equipment	Equipment or boat damage	<ul style="list-style-type: none"> <li>&gt; Distance from TSS route to site is 6nm</li> <li>&gt; Current direction is favorable</li> <li>&gt; Aids to Navigation (updated navigation chart, corner buoys with radar and AIS)</li> </ul>	See Chapter 5.3.1

The risk level for each of the identified hazard is evaluated in further detail in Chapter 5.3.

## 5.2.2 Detached aquaculture farm elements

This chapter covers hazards identified in the situation where aquaculture equipment detaches partially or fully. This could range from a buoy being disconnected from its rope to an event where entire longlines or anchor lines break loose and drift or anchors become unmoored. It is important to distinguish between equipment is fully detached and able to drift away and where it is only partially detached and still connected to the longlines or seabed. The consequences of vessel entanglement are also expected to be largely dependent by the vessel size and speed. The identified scenarios are listed in Table 5-2, together with potential consequences and risk reducing design features already incorporated into the project.

Table 5-2 Entanglement hazards with detached aquaculture equipment

Risk No	Hazard	Consequence	Risk reducing measures in place	Risk level
2.1	Vessel entanglement with partially detached aquaculture equipment (lines, ropes etc.)	Worst case capsizing with casualties  Vessel damage  Aquaculture farm damage	<ul style="list-style-type: none"> <li>&gt; Aquaculture system permit design engineered to withstand 100-year storm</li> <li>&gt; Sinking ropes to be used for surface buoy lines and other lines where rope slack may occur</li> <li>&gt; Gear management plan, which includes monitoring equipment twice a month with immediate repairs</li> <li>&gt; Routine patrol by Ventura Harbor Patrol to ensure aquaculture farms properly maintained</li> <li>&gt; Decommissioning plan requiring removal of all aquaculture gear upon termination or expiration of authorization</li> </ul>	See Chapter 5.3.2
2.2	Vessel entanglement from fully detached and drifting aquaculture equipment (lines, ropes etc.)	Aquaculture farm damage  Limited vessel damage (propeller)	<ul style="list-style-type: none"> <li>&gt; Aquaculture system permit design engineered to withstand 100-year storm</li> <li>&gt; Sinking ropes to be used for surface buoy lines</li> </ul>	See Chapter 5.3.2

		Potential loss of steering power	<ul style="list-style-type: none"> <li>&gt; Gear management plan, which includes monitoring equipment twice a month with immediate repairs</li> <li>&gt; Routine patrol by Ventura Harbor Patrol to ensure aquaculture farms properly maintained</li> <li>&gt; Decommissioning plan requiring removal of all aquaculture gear upon termination or expiration of authorization</li> </ul>	
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Both hazards are discussed further in Chapter 5.3.

### 5.2.3 Collision & Grounding

Collision between two vessels may occur as an indirect consequence of the presence of the VSE project. In addition, new vessel traffic associated with harvest and maintenance vessels (referred to as project vessels) will start when the farm is installed. Hazards related to collisions involving third party vessels and/or project vessels are identified in Table 5-3.

Table 5-3 Hazards related to collisions and grounding

Risk No	Hazard	Consequence	Risk reducing measures in place	Risk level
3.1	Project Vessel Collision with third party vessel	Vessel damage, environmental impact (oil spill)	> Project vessels will generally only operate at daylight	See Chapter 5.3.3
3.2	Project vessel collision with project vessel	Vessel damage, environmental impact (oil spill)	> Project vessels will generally only operate at daylight	See Chapter 5.3.3
3.3	Collision between two third party vessels	Vessel damage, environmental impact (oil spill)	<ul style="list-style-type: none"> <li>&gt; Limited vessel traffic near farm</li> <li>&gt; Limited rerouting necessary</li> <li>&gt; Updated navigation charts</li> </ul>	See Chapter 5.3.3

3.4	Vessel groundings caused by aquaculture farm	Vessel damage, environmental impact (oil spill)	<p>&gt; Aquaculture farm located with limited impact to existing vessel traffic.</p> <p>&gt; Sufficient water depth for vessels going around the farm</p>	<b><u>Not considered further</u></b>
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Risk 3.1-3.3 are discussed and evaluated further in Chapter 5.3. The risk of groundings caused by the presence of the project (Risk No 3.4) is not considered relevant for this project. There is sufficient water depth around the project site and no significant vessel traffic routes travel through the site. Nearly all vessels in the area have drafts less than 15ft, which make it possible to pass on either side of the farm without grounding. Finally, the historical accident data review presented in Chapter 4.2 showed no incident of groundings near the farm.

#### 5.2.4 Other navigation impacts or hazards

Other navigation impacts or hazards are identified based on input from the VSE project consultants and volunteers, project outreach, and experience from other offshore aquaculture and wind farm projects. These impacts include:

- > Radar interference
- > Impact to fishing areas

A typical concern for offshore installations is the potential for radar interference. This can be a concern when the physical extent of the structure creates the possibility of a shadowing effect or the number of physical structures can create a clutter or saturation effect on the radar images. However, the only visible object at the project site are surface buoys with a 16-inch diameter. Corner buoys are equipped with radar reflectors and AIS transmitter but are generally not expected to cause shadowing or other significant adverse radar interference.

A general overview of fishing activities is discussed in Chapter 4.3.10. Generally, while some commercial fishing occurs in the area, the amount of fishing near the project site is not significant as compared to other areas in the region, with the exception of one area used for market squid fishing near the northern boundary of the project area.

Navigation risks related to fishing vessels is covered in previous chapters where fishing vessels are considered part of "third party vessels" similar to passenger vessels and recreational vessels. The extent to which fishing areas will be affected without posing a navigational risk is not part of the scope for this navigation risk assessment.



## 5.3 Risk Evaluation

The following chapter evaluates the risks identified in the previous chapter based on information presented in Chapter 4 and the mitigation measures incorporated into the project plans and permit design.

### 5.3.1 Vessel entanglement during normal aquaculture farm operation

Three different entanglement hazards are identified. Each of these are evaluated below.

#### **Risk No 1.1**

#### ***Local third party vessel intentionally entering the project site becomes entangled with aquaculture equipment***

##### Description

The VSE project currently does not propose to prohibit vessels from being inside the boundaries of the project site. There is therefore a risk that a vessel, which intentionally enters the project site area, becomes entangled in ropes or equipment associated with the aquaculture farm. This scenario considers the situation where the farm is operating normally with all lines, equipment, and anchors properly attached. The alternate scenario where gear has detached or broken loose is discussed in the following chapter.

##### Evaluation

Almost all vessel traffic that currently navigates in the area near the farm has a draft less than 15ft. Further, with proper location identification of the farm on navigational charts and PATON buoys, which are already proposed as part of the project, it is considered unlikely that vessels with a draft of 15 ft or more will intentionally enter the project site. In 2017, only 382 vessel transits with AIS data were made through the project site. AIS data is likely to be fairly representative of the overall vessel traffic near the project site because it is several miles from shore and most vessels passing near the project site are likely in transit to a location further offshore, in which case the most would be expected to carry AIS. A few additional fishing vessels without AIS may also visit the area. Vessels transiting in a north/south direction may in the future choose to navigate around the project site. The detour would add a maximum of 1-2 nm to the trip and may be simpler and safer than navigation through the surface buoys located approx. 150 ft apart (see Figure 3-2).

The VSE project has been designed so that the vast majority of the aquaculture equipment will be submerged at least 15ft below the water surface at all times, see Chapter 3.1. Only the surface buoys and the ropes connecting the buoys to the longlines will not be submerged. However, the permit design of the surface buoys keeps them in tension during normal operations throughout all tidal variation. To further minimize entanglement potential, a breakaway link will be installed between the surface buoys and vertical lines. Finally, the physical extent of the surface buoys, 16 inches in diameter, combined with the tension in the ropes, will likely provide a shielding effect from entanglement and vessels will likely glance off instead. The impact of the surface buoys alone will likely present no greater navigation challenges to vessel that a typical trap fishery, where surface buoys are used.

In certain extreme storm conditions, anchor lines may become slack with the potential to drift upwards and be less than 15 ft submerged. To mitigate this situation, shellfish growers will be required to use sinking rope for all anchor lines avoid lines floating to the surface. This design feature will prevent slack lines from surfacing under extreme storm conditions. Based upon communications with the project team, it is also expected that the project's gear monitoring and management plan will identify any slack lines or lines that have broken loose, to further reduce the risk of entanglement.

**Risk level** Based on the available information, the risk of entanglement to vessels that intentionally enter the farm the risk is evaluated as *low*. This conclusion is based on the assumption that vessels with a draft of 15 ft or more will not intentionally enter the farm and the project design requirements reduce the likelihood and consequence of entanglement.

**Risk No 1.2** ***Local third party vessels become entangled when unintentionally entering the project site***

**Description** Based upon AIS data, there is a low amount of vessel traffic both around and through the project site. If a vessel enters the project site unintentionally due to meteorological conditions, mechanical and/or human error, there is a risk of entanglement. This could lead to equipment damage, vessel damage and, in a worst-case scenario, casualty.

**Evaluation** The traffic volume near the project site was 1026 passages in 2017 based upon AIS data. The majority of the vessel traffic was located west of the project site and consisted mostly of passenger vessels, pleasure craft, fishing and offshore supply vessels. These vessels are generally small with a length of less than 100 ft and a draft less than 15 ft. Thus, if they unintentionally enter the farm, they should be able to pass or drift over the aquaculture farm without entanglement with the longlines and anchor lines. It is assumed that once the farm is operational, trawling vessels will choose to navigate a safe distance from the project site, as determined by the vessel's captain. Further, it is assumed that there will be sufficient time for fishing nets to be retrieved by the vessel operator in the event that the vessel drifts towards, or otherwise gets too close to, the project site, to avoid damage to the nets. As mentioned for Risk 1.1, the surface buoys and rope connections to the longlines are designed to be in tension during all tidal variations. This will make entanglement less likely and lead to vessels glancing off the buoys instead. To further minimize entanglement potential, a breakaway link will be installed between the surface buoys and vertical lines. The scenario of detached lines is considered separately under Risk 2.1 and 2.2.

Entanglement with the surface buoys could happen both from drifting vessels and power-driven vessels. The project site will be marked on the navigation chart and each farm area will be marked by navigational buoys marking each corner with appropriate lighting, radar reflectors, AIS, etc. The probability of power-driven vessels unintentionally entering the farm is therefore considered low.

A few specific offshore supply vessels were identified with a draft of more than 15 ft, regularly passing a few miles west of the farm. Additionally, as per Figure 4-24,

trawling activity identified by VMS data shows a relatively small amount of activity in the vicinity of the project site. Overall, very few vessels are considered to pose a threat for entanglement with the majority of aquaculture gear designed to be located below 15 ft water depth. Vessels with a draft above 15 ft generally travel a few miles away from the project site and should naturally steer clear of the farm and not be enter inside the perimeter.

The consequence of entanglement is expected to be largely dependent on the size of the vessel and the vessel speed. In drifting situations, entanglement could lead to damage to the aquaculture farm or ship but the worst-case consequence of the vessel capsizing is mostly if not fully mitigated by the low drifting speed.

Risk level      Considering both the low likelihood of vessels unintentionally drifting or navigating into the farm area as well as the consequence that are largely mitigated by submerging the aquaculture farm and having the surface buoys in tension, the overall risk level for this scenario is considered low.

**Risk No 1.3      *Commercial vessels from TSS drift into farm***

Description      While the TSS is located far from the project site, there is a risk that vessels can, in the case of engine blackout, drift towards the project area without being able to regain engine power and/or steering.

Evaluation      Vessels navigating along the TSS are at least 6 nm from the project site and the TSS is not oriented towards the project area. Thus, the project should not affect safe navigation of vessels along the TSS.

As described in, Chapter 4.3 Table 4-6, roughly 3600 vessels pass along the TSS every year. The majority of these vessels are large, above 500 ft in length with a typical draft between 30-50 ft.

The likelihood of vessels drifting into the project site can be roughly estimated based on published literature regarding vessel blackouts and drifting vessels as applied to local conditions and vessel traffic. The likelihood of a blackout is assumed to be  $2.5E-4$  per hour [16]. Based upon a 10 nm stretch of the TSS and a conservative low speed of 10 knots, and 3591 yearly passages (Area E) in the considered area, it is estimated that there would be one blackout annually.

The direction that a vessel will drift in case of a blackout is determined primarily by its original course and the wind and current direction. The wind and current directions are described in chapter 4.1. The prevailing wind direction comes from the west and the current being along the direction of the TSS in a Southeastern or Northwestern direction. This means that in some situations a drifting vessel may drift towards the project site in the eastern direction.

In an inertia stop, a vessel will reach a drifting speed at a distance of approximately  $34L$ , where  $L$  is the length of the ship [17]. This means that during a blackout situation a vessel, with a length between 500 – 1000 ft, the vessel will reach a drifting speed after a distance of approx. 2.75 – 5.5 nm. Based on this, it would take approx. one hour for a vessel to slow down and reach a drifting speed of

maximum 2 knots. Using the above assumptions, a drifting vessel would take approximately 2 hours to reach to project area. Studies have shown that the probability of no repair during blackout follow the exponential curve depicted in Figure 5-1 below [16]. After 2 hours there is approximately 30% chance of no repair and consequently 70% chance of repair. Similarly, there is also a significant chance that the vessel is able to anchor before reaching the area to avoid collision with aquaculture equipment.

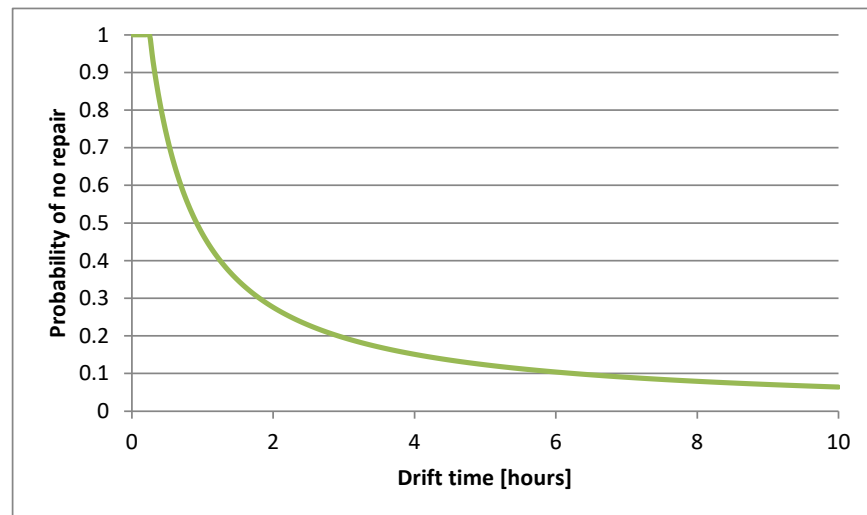


Figure 5-1 Probability of repair vs drifting time [16]

Combining all the above factors, including frequency of blackouts, distance, speed, and possibility of repair, the probability of a drifting vessel reaching the project site is expected to be in the order of magnitude of 1 every 100 years.

The consequence of such an event on the project would likely be most severe as the vessel strength and energy would be able to break lines and pull up anchors. The consequence for these larger vessels is likely to be minimal, as the drifting vessel will likely not be interrupted by collision with the aquaculture equipment, and therefore this is primarily seen as a risk to the project rather than a risk for the general public.

Risk level	Based on a consideration of the both likelihood and consequence (to third parties) of vessels drifting from the TSS into the project site, the overall risk is considered <i>low</i> and, given the very low probability of occurrence, additional mitigation measures are not considered necessary to reduce this risk further.
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### 5.3.2 Detached aquaculture farm elements

#### **Risk 2.1 Vessel entanglement with partially detached aquaculture equipment**

Description:	If a rope partially detaches or a buoy breaks, leaving exposed slack rope that is still connected to the longlines or anchor lines, there is a risk of entanglement. In a worst-case scenario, this could lead to vessel capsizing with casualties.
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## Evaluation

The project permit design has been engineered to withstand a 100-year storm condition. This reduces the likelihood of broken connections and loose rope significantly, and the combined likelihood of damage to equipment and a vessel entering the project site during a 100-year storm together is even less likely.

However, accidental impact from marine life or vessels may damage the aquaculture farm elements and lead to a dangerous situation.

The risk of entanglement associated with broken connections at the surface buoys is mitigated using sinking ropes that will drop towards the seabed instead of regular ropes that would float to the surface. The sinking rope will sink below the connection point with the longline and therefore be at least 15 ft below the water surface. As part of the project's proposed gear management plan, aquaculture equipment will be inspected twice per month and any identified damage must be repaired immediately. The plan also requires inspections after a large storm event once conditions become safe.

When comparing the permit design and planned operational procedures for the VSE aquaculture farm to the actual operations at the CSR project, there are significant differences in the approach that would mitigate against and prevent an accident like that which occurred at the CSR facility (see Chapter 4.2). Mitigation factors that VSE have undertaken or committed to undertake that would seek to prevent such an accident are well described through this report. While entanglement risk cannot be completely eliminated, the risk reducing measures incorporated into the project design provide a robust design to minimize these risks.

## Risk level

Based on the operational requirements discussed above, the risk of entanglement from detached buoys or loose ropes is mitigated to a degree where the risk of entanglement with severe consequence is considered *low*. Additional mitigation measures recommended to reduce the risk even further are presented in Chapter 5.5.

**Risk No 2.2*****Vessel entanglement from fully detached and drifting aquaculture equipment***

## Description:

If sections of ropes or longlines accidentally break loose and start to drift away from the project site there is a risk of entanglement with vessels passing outside the project site.

## Evaluation:

As described in Chapter 3, the aquaculture farm permit design has been engineered to withstand a 100-year storm. This means that it is very unlikely that environmental conditions will cause anchor-lines and longlines to break loose and drift away. Similar to the previous risk, accidental impact from marine life or vessels may also cause aquaculture equipment to break loose. The consequence will depend on what equipment breaks loose.

The surface buoys are in themselves not considered a danger to any passing vessel. Since the buoy connection will use sinking ropes, they will drop to the seabed and

be outside any immediate risk and will be collected as part of routine gear maintenance. The anchor ropes and longlines are not required to be sinking and they can potentially drift if detached from the anchors; however, they will be weighed down by the growing mussel socks to which they are connected, meaning that they will likely sink to the bottom. In the event that lines or ropes are disconnected, they may become entangled with vessels but because the ropes are loose, the consequence would likely be limited to vessel and propeller damage and would not represent an immediate risk of capsizing or casualties. In the event of propeller damage to a third party vessel away from the project site, the vessel would be in a similar circumstance to any other vessel that becomes immobilized while on the water due to other reasons, such as engine failure, fuel depletion etc. Ventura Harbor Patrol and USCG can respond to distress or emergency calls in this circumstance.

The risk of aquaculture equipment breaking free and escaping the project site has been minimized through the same project design features discussed under Risk 2.1 above.

Risk Level	Based on the operational requirements discussed above, the risk from entanglement with fully detached and drifting aquaculture farm elements is considered <i>low</i> .
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### 5.3.3 Collision & Grounding

<b>Risk No 3.1</b>	<b><i>Project vessel collision with third party vessel</i></b>
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Description	Project vessels are expected to travel to and from Ventura Harbor and the project site on a daily basis once the project has been installed. Thus, there is a risk of collision between third party vessels and the project vessels either at the entry/exit at Ventura Harbor or in the corridor between the Harbor and the project site. In the event of a collision, consequences may include material damage to the vessels with the potential of an oil spill.
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Evaluation	Once the project is fully installed and operational it is expected that an average of 8-16 project vessels will travel to and from the site each day, resulting in approximately 3,000-6,000 (8 to 16 per day) round trips per year, as described in Chapter 3.2. Project vessels will generally only travel to and from the project site during daylight hours, which means that the vessels are likely able to maintain a proper look-out as compared to navigating during night.
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A limited number of local third party vessels navigate east of the project site in a corridor between the project site and the shoreline; see Route 1 in Chapter 4.3.3. The width of this corridor between the project site and the shoreline is about 3.5 nm. Based on 2017 AIS data, there were 447 voyages through this corridor, with the majority of the voyages being small passenger and recreational vessels, followed by oil recovery and offshore supply vessels. In addition, a significant number of vessels enter/exit Ventura Harbor every day. While 5306 vessel entries or exits were recorded from AIS data in 2017, a substantial amount of vessels entered and exited the Harbor without AIS, as further outlined in Chapter 4.3.9.



The risk of collision between a project vessel and a third party vessel is evaluated considering the likelihood that two vessels meet or cross outside the Harbor and that at least one vessel fails to take an effective action to avoid collision. The likelihood of this occurring is estimated using the combination of the following input parameters:

- > Causation probability: it is the probability of a vessel being aberrant or failing to correct to a safe course when on a collision course with another vessel. Various studies provide estimates for the causation probability – often in relation to ship-ship collision or ship allisions with bridges. Frequently used referenced studies are published by Fujii et al. and by Macduff, which document a causation probability ranging between 1.0 to  $6.3 \times 10^{-4}$  per vessel passage [18].
- > Total number of yearly voyages of the third party vessels through the specified navigation corridor
- > Yearly trips of project vessels to/from project site
- > Project and third party vessels dimensions and speed
- > Geometrical probability of a project vessel and a third party vessel being on a collision course

Using the conservative estimates for the above mentioned parameters, the risk of collision between the between third party vessels and project vessels is evaluated to be in the order of magnitude between 1 in every 100 to 1000 years.

The risk related to project vessels entering and leaving Ventura Harbor was addressed previously in a letter to USACE. The total passages in or out of Ventura Harbor can be as high as to 450 per day during exceptional peak season conditions and 100 per day during off-peak season. The 8-16 additional vessel passages from project vessels does not constitute a very large increase to existing vessel traffic. Thus, Ventura Harbor can likely accommodate this vessel increase without compromising navigation safety into and out of the Harbor.

Risk level Given the small volume of vessel traffic navigating in the corridor that project vessels will use, the likelihood of collision is considered *low*. However, cost efficient mitigation measures may be considered to reduce the risk even further; see Chapter 5.5.

### **Risk No 3.2 Project vessel collision with project vessel**

Description Multiple project vessels will navigate daily to and from the project site and Ventura Harbor, a distance of approximately 4-5nm. Thus, there is a risk that two project vessels may collide with each other when navigating towards each other.

Evaluation Project vessels are expected to conduct an average 8-16 total daily visits to the project site (16-32 one-way trips). On a yearly basis, this would result in approximately 3,000-6,000 return trips to and from the farm. Project vessels are expected to have a length of approximately 25 to 40 feet.

When evaluating the risk level of collision, the following factors are considered:

- > It will take approximately half an hour for project vessels to reach to the project site, with an average speed of 10 knots. Therefore, the time that each vessel will navigate between the project time and the Harbor is short.
- > The likelihood of two project vessels using the same route at the same time is low, particularly when navigating on a reciprocal course.
- > Project vessels are expected to visit the farm only during the daytime when vessels are likely able to maintain proper lookout as compared to navigating during the night time.

Risk level      The likelihood of collision between two project vessels is considered *low* primarily based on the limited traffic, the short distance to the project site, and project operations being limited to daytime hours. Similar to Risk 3.1, additional risk reducing measures may still be considered and are presented in Chapter 5.5

### **Risk No 3.3      *Collision between two third party vessels***

Description      Collisions between two vessels are a known phenomenon. The likelihood of such collisions may be affected when introducing a new object, such as the project, in a navigable waterway. This may cause vessels to be rerouted to other paths and thereby increase the vessel density and the likelihood of collision.

Evaluation      Based upon the vessel traffic analysis, approximately 151 vessels passed through the project site in 2017. These were generally passenger boats, recreational boats and fishing. When the project is installed, some of these vessels might decide to pass around the project site instead of going through. This marginally increases the likelihood of ship to ship collisions. However, with the limited traffic near the project site, this marginal increase is not considered to result in an overall increase to the risk of collisions in the area. Based upon 2017 AIS data, one vessel will currently transit through the project site every 2.4 days and therefore the chance of two vessels making the same course alteration at the same time is extremely small. That is not to say that collisions of third party vessels in the vicinity of the project site is not possible, but that the chance that they are caused by the presence of the project is negligible.

Risk Level      Because the amount of potentially rerouted vessels and the traffic around the project site is already very limited, any slight increase in ship to ship collisions is considered *negligible*.

## **5.4 Risk Summary**

A summary of the risk evaluation for the hazards presented in Chapter 5.2 is presented in Table 5-4. All risks are evaluated as being either "low" or "negligible".

Table 5-4 Summary of risk evaluation for the identified hazards.

Risk No	Hazard	Risk level
1.1	Local third party vessel <i>intentionally</i> entering the project site becomes entangled with aquaculture equipment	Low
1.2	Local third party vessels become entangled when unintentionally entering the project site	Low
1.3	Commercial vessels from TSS drift into farm	Low
2.1	Vessel entanglement with partially detached aquaculture equipment (lines, ropes etc.)	Low
2.2	Vessel entanglement from fully detached and drifting aquaculture equipment (lines, ropes etc.)	Low
3.1	Collision between project vessel and third party vessel	Low
3.2	Project vessel collision with third party vessel	Low
3.3	Project vessel collision with project vessel	Negligible
3.4	Collision between two third party vessels	Negligible

## 5.5 Additional mitigation measures

It was found that, upon incorporation of risk reducing measures and project design features, all the identified risks as a result of the project are already mitigated to a level where the risk were low or negligible. However, in certain situations, simple cost-efficient mitigation may be considered to further reduce the risks. These are generally recommended. Risk reducing measures to be considered are:

- > **Speed restriction:** One way to lower the potential consequence from entanglement (see risks 1.1, 1.2 and 2.1) is by imposing a speed restriction for vessels who are inside project site. A reduced speed would presumably reduce the likelihood of capsizing in case of entanglement with the ropes.
- > **Exclusion Zone:** A more extensive measure that would further reduce the risk of entanglement from vessels intentionally entering the project site (risk 1.1) is to prohibit third party vessel traffic unrelated to project construction and

operation inside the project site. However, these conditions will not eliminate the risk of entanglement from vessels unintentionally entering the project site. Implementation of these restrictions should be determined in coordination with the USCG.

- > **AIS on project vessels:** It is recommended that VSE project vessels be equipped with AIS transponders that are able to both relay and receive information. This would reduce the likelihood of collisions even further, see Risk 3.1 and 3.2.
- > **Communication to the local maritime community:** It is highly recommended that the Ventura Harbor Patrol and local mariners be informed about the project and associated operational activities so that everyone navigating in the area is fully aware of the fact that they might encounter vessels associated with the project. This process has already started through the outreach program, but it is important to continue sharing relevant information that may affect navigation in the area.

## 6 Conclusions

With the introduction on any offshore installation, that being a wind farm, oil platform or aquaculture, a certain increase in navigation risk is inevitable. However, based on the evaluation of the identified risks for this project, it was determined that the navigation risk level associated with the VSE project is low.

The historic accident statistics from the area document several incidents per year of varying severity. The increase in risk of accidents caused by the presence of project is not expected to be significant.

Considering all the identified risks, there were two general topics that were of most concern:

- > Vessel entanglement with aquaculture equipment (risk 1.1, 1.2, 1.3, 2.1 and 2.2)
- > Ship to ship collisions involving project vessels (risk 3.1 and 3.2).

Subchapters 6.1 and 6.2 below outlines the conclusions for each of the above risks, along with any additional risk reducing measures to be considered.

### 6.1 Vessel Entanglement with aquaculture ropes

The risk of a local third party vessel entangling with the aquaculture equipment can, in a worst-case scenario, result in capsizing and potential casualties. It was concluded that this risk has been mitigated to a large extent through the following measures:

- > The farm will be marked on the navigation chart and all major equipment associated with the aquaculture will be submerged at least 15ft below the waterline, with the surface buoys being the only exception. The surface buoys will be in tension throughout all tidal and marine conditions and therefore no slack lines shall be on the surface. The surface buoys shall also provide visual identification of the area. To further minimize entanglement potential, a breakaway link will be installed between the surface buoys and vertical lines.
- > The project permit design has been engineered to withstand a 100-year storm, thus minimizing the risk of broken lines or equipment that would pose a risk of entanglement.
- > Sinking ropes shall be used for the connection to the surface buoys as well as other equipment that may be slack under certain conditions or not able to withstand a 100-year storm. In the event that any of the equipment breaks loose during a storm or from an accidental impact, it is unlikely that it will float to the surface.
- > The project has incorporated an aquaculture gear monitoring and management plan that requires inspections of aquaculture gear twice per month with immediate repair or replacement to any damaged equipment.

The risk can be mitigated further by introducing additional measures. A speed restriction for vessels inside the project site, if deemed practical, is recommended,

as it will reduce the consequence in the unlikely event that any entanglement does occur. More extreme measures that could be considered would be the introduction of an exclusion zone, prohibiting third party vessels from being within the project site. This type of restriction is often adopted for other offshore installations such as oil platforms and wind farms. The decision regarding such a measure and how to enforce it should be agreed upon between VPD and the USCG

## 6.2 Ship-ship collisions involving project vessels

Risks relating to ship to ship collisions focuses on the potential increased risk resulting from introducing harvest and maintenance vessels (project vessels) going to and from the project site and Ventura Harbor on a daily basis. The increase in vessel traffic in and out of Ventura Harbor has already been addressed in a response to USACE and is generally not considered to constitute a significant increase risk beyond what can be safely handled by the Harbor.

In addition, the risk of collisions during transit to the project site, either between two project vessels or a project vessel and a third party vessel, was found to be low, considering the limited traffic in the area and the short transit time. Furthermore, project vessels will normally only operate during daylight when visibility is best.

In order to further reduce the risk of collisions involving project vessels, it is recommended that all project vessels be required to be equipped with AIS transponders. Finally, it is recommended that the local maritime community in Ventura Harbor and nearby harbors continue to be informed about the project development, installation and operation, as well as any increased awareness this might require when passing near the project site.



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## Appendix A Detailed vessel traffic information

Table 7-1 Total Number of voyages in 2017 from all routes within each area by vessel category and classification.

Vessel Category	Vessel Classification	Area				
		A	B	C	D	E
Cargo	Cargo, all ships of this type					19
	Cargo, hazardous category A					10
	Cargo, no additional information					3
	Freight Barge					2
	Freight Ship					2892
	Public Freight					8
Fishing	Commercial Fishing Vessel	35	103	590	23	5
	Fishing		4	21	9	
Not Available	Not available or no ship, default	33	38	38	1	
Other	Industrial Vessel	5	14	279	72	1
	null	28	83	379	16	105
	Offshore Supply Vessel	16	106	108		4
	Oil Recovery	8	115	176	3	1
	Public Vessel, Unclassified	6	11	129	21	31
	Research Vessel	9	15	97	10	4
	School Ship			2		4
	Wing in ground (WIG), hazardous category C		1			
Passenger	Passenger (Inspected)	131	285	2570	3672	38
	Passenger (Uninspected)		2	2		1
	Passenger Barge (Inspected)			3		

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Pleasure Craft/Sailing	Pleasure Craft		1	1		2
	Recreational	108	244	904	81	26
Tanker	Tank Ship					329
	Tanker, no additional information					3
Tug Tow	Towing Vessel	3	4	7	1	102
	Towing: length > 200m or breadth > 25m					1
	<b>Total</b>	<b>382</b>	<b>1026</b>	<b>5306</b>	<b>3909</b>	<b>3591</b>

Table 7-2 AIS 2017 max vessel speed (knots) for vessels within the vessel category by each area.

Vessel Category	Max Vessel Speed (knots) by Area				
	A	B	C	D	E
Cargo					24.1
Fishing	20.6	20.7	9.9	19.5	10.5
Not Available	10.1	10.2	9.3	9.2	
Other	32.6	31.8	24.7	28	33.5
Passenger	22.2	23.1	20.5	28.3	24
Pleasure Craft/Sailing	39.6	41	17	28	30.8
Tanker					19.2
Tug Tow	11.3	8.1	7.5	8.3	11.9

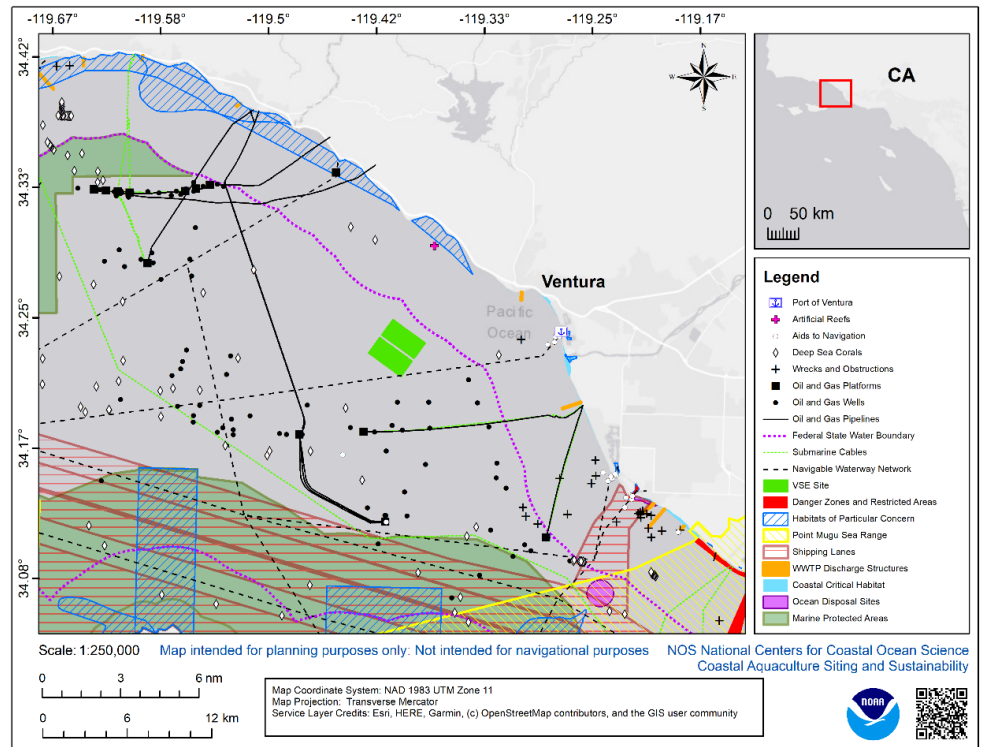


Figure 7-1 Location of aquaculture farm relative to navigation channel, oil and gas platforms, offshore cables and other impacts identified during siting analysis

## ATTACHMENT 2

<b>Ventura Shellfish Enterprise Navigation Risk Assessment</b> <i>Response to Public Comments</i>				
#	Location in Document	Comment Originator	Public Comment	COWI Response
1	General Comment	Alan DeRossett	I support the Ventura Shellfish Enterprise in federal waters and also want the language to require real-time monitoring to support the new E-Navigation and Electronic Chart systems standards for Autonomous vessels with the ability to receive beacons and alerts with local situational awareness. this will prevent what happened to Catilina Sea Ranch from ever happening again. The Port Authority and Coast guard or nearby vessels would be able to always monitor with real-time data	<p>One of the navigation risk mitigations that was considered in this study is the understanding that the VSE project site will be recorded on standard navigation charts. Therefore the location will also be included in any electronic navigation charts (ENC).</p> <p>Autonomous vessel navigation was beyond the scope of this navigation risk assessment as they are not currently being considered for the project. As far as the project team is aware there is no significant push for autonomous vessels in the region and therefore they were not directly considered as part of the navigation risk assessment.</p>
2	General Comment	Mary Luna	I am a professional focused on sustainable development and aquaculture, and resident of Ventura County. I am concerned about the current set up of this enterprise, and would prefer to see a smaller project that can be evaluated and monitored more effectively to ensure environmental and socio-economic sustainability. In addition, I support the use of technology such as smart buoys and sensors to monitor key factors, and constant auditing to ensure efficient use of funds.	<p>With regards to the development of the project, please see Section 2 (1st Paragraph) of the report which describes the intended project phasing. The project is proposed to be phased such that 500 acres per year will be installed, on condition the project meets certain environmental thresholds as established by regulatory agencies, including proper gear maintenance. This navigation assessment has considered the fully developed project.</p> <p>As a considered mitigation for this study, the farm will be marked with USCG compliant navigation buoys. With regards to smart buoys and sensors, which would include monitoring and recording of environmental conditions, their use would not significantly affect the navigational risk levels of the project and they were not considered as a required mitigation. Further consideration of their use, any other benefits they may/may not provide to the project, should be by the VSE project team.</p> <p>With regards to the constant auditing to ensure efficient use of funds, consideration of this falls outside of the scope of this navigation risk assessment; however, note that the project description includes proposed annual reports to the Ventura Port District and other regulatory agencies.</p>
3	General Comment	Capt. David Bacon	I represent recreational anglers. I have no issue with an aquaculture site, however my constituency wants there to be no exclusionary zones to restrict recreational fishing around the aquaculture gear.	<p>The study has concluded there is a low risk to navigation as a result of development of the VSE project without any requirement for an exclusion zone. An exclusion zone is not recommended as a mitigation requirement in the project, and any final determination of the use of one should be by the USCG. Given the depth and type of equipment used, it is assumed that any vessel with a draft or equipment deeper than 15 ft. would choose for their own safety not to navigate above the aquaculture equipment, similar to other underwater obstacles.</p>

## ATTACHMENT 2

4	General Comment		PCFFA	<p>The Draft Assessment's heavy reliance on Automatic Information Systems ("AIS") data is misplaced. AIS is an automated, autonomous maritime tracking system that:</p> <p>1.Provides vessel information, including the vessel's identity, type, position, course, speed, navigational status and other safety-related information automatically to appropriately equipped shore stations, other ships, and aircraft;</p> <p>2.Receives automatically such information from similarly fitted ships, monitors and tracks ships; and</p> <p>3.Exchanges data with shore-based facilities.</p> <p>We do not dispute the quality and nature of AIS data; but are concerned that reliance on AIS paints an incomplete picture of the amount and nature of vessel traffic in the project area. Since March 1, 2016 commercial fishing vessels, sixty-five feet in length or greater , are required to "have on board a properly installed, operational Coast Guard type-approved AIS Class A device." A vast majority of commercial fishing vessels based in local ports are less than 65 feet. Vessels 65 feet or larger are likely purse seine vessels whose fishing operations differ from other fishery operations. It bears noting not all purse seine vessels are 65 feet or greater, we estimate maybe one-half of the purse seine vessels in the market squid fishery would qualify.</p>	<p>The comment is well noted, and we do agree that AIS data does not give a complete picture of the amount of vessel traffic that may be occurring. That said, the study has addressed data gaps that exist outside of AIS data.</p> <p>Section 4.3.9 of the report details the large number of vessels (up to 450 per day) that leave and enter Ventura Harbor, and how they have been considered in the navigation risk assessment. This data was provided by the Ventura Harbor Harbormaster and covers all types of vessels, including commercial fishing vessels and recreational vessels.</p> <p>Other commercial and recreational fishing vessel information has been considered in Section 4.3.10 of the study report by using CDFW and VMS density figures provided by NOAA.</p>
5	General Comment		PCFFA	<p>We appreciate the inclusion of commercial and recreational fishing information in Section 4.3.10 of the Draft Assessment. However, we recommend the timeframe be extended beyond 2012-17. In 2014 – 15 it was The Blob and in 2016 a monster El Nino that wreaked havoc with fisheries based in the Southern California Bight. Going back to 2005 would better show the importance of the project area to commercial and recreational fisheries.</p>	<p>Figure 4-22 has been updated to show "Average pounds landed per year by block for 2010 – 2019", with data before this not being currently available to the project. We acknowledge your concern regarding 2014/15 and 2016 and have now provided a 10 year dataset to account for any annual variations in catch.</p>
6	Section	4.2	PCFFA	<p>We question reliance on historic data give the dramatic increase in vessel traffic between Ventura Harbor and the project area. Section 3.2 estimates an additional 3,000-6,000 trips, annually, to and from the project area. It is reasonably foreseeable the increase in the number of trips will dramatically increase the potential for allisions, collisions, grounding, material failure or sinking. With harvesting vessels expected to have fuel capacity of up to 500 gallons , the potential for environmental harm increases as well.</p>	<p>While we note that historical data should not be the main consideration of future vessel collision/allision risk, it is a useful to understand the baseline level of risk based upon current vessel numbers.</p> <p>While the 3,000 to 6,000 additional vessels per year is a large number on its own, it corresponds to 8-16 vessel trips per day. Considering an average of 200 daily trips in and out of Ventura Harbor it is a relatively small increase of approximately 4 to 8%. It has been reported in other project documents that this increase in vessel traffic will not cause any significant additional strain to the Harbor facilities or Harbor patrol.</p> <p>We acknowledge that any increase in vessel traffic will increase the risk of allision/collision; however, the study determined that this risk would still be low. The report section will be updated to clearly explain this.</p>
7	Section	4.3	PCFFA	<p>Because we question the reliance on AIS data, we believe much of the information contain in this section is not representative of what actually occurs on the water. We offer specific comments to address inconsistencies and provide suggestions for future iterations of the Draft Assessment.</p>	<p>Please refer to our response to Comment 4. While there are data gaps between AIS data and vessels that do not use AIS, that does not reduce the importance in understanding the risks associated with AIS equipped vessels. This section is primarily to introduce and discuss AIS equipped vessels, and to identify vessel routes that are frequently taken around the project site.</p>



## ATTACHMENT 2

8	Table	4.4	PCFFA	<p>Table 4.4 incorrectly states that "A self-propelled fishing industry vessel" is required to carry AIS. Fishing industry vessels which are otherwise required to possess AIS are allowed to use an AIS Class B device. Because only fishing industry vessels in excess of 65 feet are required to have AIS, the blanket statement in Table 4.4 is incorrect.</p> <p>Because AIS was not required until March of 2016, we question the value of data from 2013 and 2015 especially since it was compared to 2017 "to evaluate temporal trends in the vessel traffic" as shown in Section 4.3.6 – Long Term Trends in Traffic.</p> <p>This supports our contention above that reliance on AIS data is misplaced.</p>	<p>The Requirement became effective March 2nd, 2015 and those vessels that were not previously subject to AIS carriage must install AIS no later than March 1, 2016. According to § 164.46 Automatic Identification System (b)(2)(i) - AIS Class B device in lieu of an AIS Class A device is permissible on the following vessels: fishing industry vessels. This would apply to all fishing industry vessels greater than 65 feet. Class B devices transmit location at a different rate than Class A devices based on the vessel speed in knots.</p> <p><a href="https://www.navcen.uscg.gov/pdf/AIS_Comparison_By_Class.pdf">https://www.navcen.uscg.gov/pdf/AIS_Comparison_By_Class.pdf</a>. The statement in the report was not intended as a blanket statement and the report has been updated to clarify this.</p> <p>AIS data from 2013 and 2015 was only used to understand how vessel traffic has changed to 2017. Given that less vessels were required to use AIS during 2013/2016 than in 2017, this would suggest that the observed increased vessel traffic is conservative.</p> <p>As noted in Comment 4, the navigation risk study does not rely on only AIS data to make the assessment and to draw conclusions.</p>
9	Table	4.5	PCFFA	<p>Table 4.5 states that only 5 commercial fishing vessels crossed the shipping lanes to and from Ventura Harbor. During squid season, there can be upwards of 60 commercial fishing vessels based in Ventura Harbor (both purse seine and light boats) that frequent Anacapa, Santa Cruz and Santa Rose Islands; and necessarily cross the shipping lanes. That only 5 of them were identified as crossing the shipping lanes further bolsters our claims above.</p>	<p>This comment is duly noted, and we acknowledge that seasonal changes in squid locations and the squid fishing fleet mean that in any one year AIS data may not provide an accurate representation of maximum numbers of vessels that could occur, given that the fleet spend long periods of time away from the Harbor. This was considered in the report under Section 4.3.9, where we analyzed the total maximum vessels that may enter/leave Ventura Harbor on any given day in any given year including commercial and recreational vessels and squid fishing vessels.</p>
10	Section	4.3.7	PCFFA	<p>We applaud the Draft Assessment's consideration of the other local ports. Clearly Channel Islands and Santa Barbara Harbors and Port Hueneme are close enough in proximity that warrant consideration of traffic patterns from those locations.</p> <p>We disagree with the statement that "the majority of passenger vessel transits originat[e] from Port Hueneme." Port Hueneme has no facilities for loading and unloading of passengers. It is the only commercial deep-water port between Los Angeles and San Francisco and supports limited offloading of commercial fishing catch.</p>	<p>The referenced statement refers to "Passenger Vessel", which is the AIS vessel code. This includes supply and crew transfer passenger vessels that service the offshore oil platforms, and is not limited to recreational passenger vessels. The routes taken by these vessels can clearly be seen in Figure 4-17. The report will be updated to provide further clarification.</p>
11	Section	4.3.9	PCFFA	<p>We appreciate the author's acknowledgement of the data gap; but refer to the discussion above surrounding some of the assumptions made. For example, as noted above, a great majority of commercial fishing vessels based out of Ventura (and other local ports) do not have or use AIS. Many of these vessels travel far from shore in all different directions – including routes which will make it likely they will pass near the project site</p>	<p>Vessel traffic estimates are listed in section 4.3.9 and have been provided by the Ventura Harbor Harbormaster, who has decades of experience and operational knowledge in the area. These estimates include recreational and commercial fishing vessels that would both have and not have AIS. The report will be updated to clarify that, as per the observations from the Harbormaster, the identified AIS traffic routes (Section 4.3) are representative of the majority of vessels that enter/exit Ventura Harbor. These vessels, both with and without AIS, have been considered in this risk assessment. The vessel density information of Fishing Vessels identified in Figure 4-25 show that, even assuming a certain number of vessels are not captured by AIS, overall fishing vessel traffic through the project site is still relatively small.</p>

## ATTACHMENT 2

12	Section	4.3.10	PCFFA	<p>The first paragraph under Commercial Fishing indicates that Figure 4-22 "shows the estimated average commercial catch in millions of tons for 2012 – 2017." We assume the figure shows millions of pounds, not tons.</p> <p>Figure 4.23 shows "the average catch in short tons per CDFW microblock at a 1 nautical mile resolution." The legend indicates that catches in the micro blocks do not exceed 240 short tons in any of the areas. Based on our knowledge and experience in fishing squid in the area, this seems highly unlikely. How are areas where catch exceeded 240 st in a year denoted?</p> <p>Figure 4.24 shows Vessel Monitoring System (VMS) density for trawl fishery. I highly recommend reviewing National Marine Fisheries Service Policy Directive 06-101- Vessel Monitoring System Data Access and Dissemination Policy.</p> <p>PCFFA speaks for commercial fishing interests; as such, we are not qualified to address recreational and Commercial Passenger Fishing Vessel concerns.</p>	<p>Figure has been updated to show "Average pounds landed per year by block for 2010 – 2019".</p> <p>This data refers to the average catch over a 6 year period so, while there may have been years where the total catch was higher than 240 ST, the average catch in the area over this period was always less than 240 ST.</p> <p>The policy has been reviewed by NOAA and they have provided an updated figure with a coarser resolution that is consistent with the policy as the data was not transferred outside of NOAA, only map images.</p> <p style="text-align: center;">Noted</p>
13	Section	5.3	PCFFA	<p>We assume that Risk 1.2 covers instances where a commercial fishing vessel unintentionally and inadvertently drifts into the project area and becomes entangled. If a purse seine vessel drifts into the project area with its gear in the water, there is very much a likelihood the gear will entangle the facility. This would be based on a mechanical failure of the purse seine vessel's skiff or a sudden shift in wind and/or currents.</p>	<p>This risk was considered in the assessment and the risk related to entanglement was considered low. This conclusion was based upon the expected low number of vessels that have historically operated within and near the project site (based upon AIS and non-AIS information), the fact that most vessel have a draft less than 15ft and in the event of drifting vessels should have time to retrieve their nets, and that entanglement with a drifting vessel is not expected to have severe consequence (such as fatalities) because of the low drifting speed.</p>
14	Section	6	PCFFA	<p>We disagree with the conclusion "that the navigation risk level associated with the VSE project is low." We do not disagree with the analysis provided by the authors; however we do so because we do not believe enough valid data has been collected to make an informed conclusion. We base this on the discussions above regarding reliance on AIS data and the incomplete picture of fishing activity based on catch during a timeframe accompanied by severe anomalous ocean conditions.</p> <p>We also question the conclusion that the "risk of accidents caused by the presence of project is not expected to be significant." This is based on historic accident statistics. As noted above, we question how relevant historical statistics will be when the project will result in an additional 3,000 – 6,000 trips between Ventura Harbor and the project area.</p>	<p>As described in the above responses to comments, the risk assessment considers both AIS and non-AIS vessel traffic, with the non-AIS traffic numbers being based upon estimates from the Ventura Harbor Harbormaster. Traffic routes were assessed using AIS data, and are considered generally representative of all vessels that enter/exit Ventura Harbor. All available other verifiable data sources have been considered in this study, and based upon this we consider the overall navigation risk to be low. This assumes that once the project is operational, any vessel with a draft deeper than 15ft or trawling with nets that are below 15ft would stay a safe distance from the project site, as determined by the vessel's captain based upon the weather conditions at that time. This analysis will be updated in the report.</p> <p style="text-align: center;">Please refer to our response to Comment 8.</p>

## ATTACHMENT 2

15	General Comment		<p>When the Coastal Commission considered the KZO Sea Farms ' proposal to install and operate a 100-acre shellfish aquaculture facility offshore of Long Beach a condition was added included which addressed potential unintentional interactions between commercial and recreational fishing vessels and the facility.</p> <p>"PRIOR TO COMMENCEMENT OF CONSTRUCTION, KZO shall submit for Executive Director review and approval, a Lost/Damaged Fishing Gear Compensation Plan that outlines the steps that would be taken by KZO to address any adverse impacts to commercial or recreational fishing operations that may result from the loss and/or damage of fishing gear or catch due to contact or entanglement with the shellfish cultivation facility or associated infrastructure. No construction shall commence until the Executive Director has approved the Lost/Damaged Fishing Gear Compensation Plan." To mitigate against this risk, it is essential that a similar requirement be incorporated for the VSE project.</p>	<p>The use of a 'Lost/Damaged Fishing Gear Compensation Plan' will not directly mitigate any risks associated with navigation safety, and therefore is considered outside the scope of this study. Please refer this comment directly to the Ventura Port District.</p>
16	General Comment		<p>To mitigate against the increased risk of ship-ship collisions resulting from the increased amount of traffic, VSE needs to assure that all vessels servicing the leased facilities have adequate insurance to cover all foreseeable incidents. VSE should be required to post a bond in an amount sufficient to ensure foreseeable damages are available.</p>	<p>Adequate insurance coverage will not directly mitigate any risks associated with navigation, and therefore is considered outside the scope of this study. Please refer this comment directly to the Ventura Port District.</p>

### ATTACHMENT 3



**DEPARTMENT OF THE ARMY**  
**U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT**  
**60 SOUTH CALIFORNIA STREET, SUITE 201**  
**VENTURA, CALIFORNIA 93001-2598**

January 15, 2020

SUBJECT: Request for Resolution to Continue Processing Permit Application

Brian Pendleton  
Ventura Port District  
Ventura, California 93001

Dear Mr. Pendleton:

This letter concerns your Department of the Army Permit application (Corps File No. SPL-2017-00093-BLR) which proposes to construct a 2,000 acre aquaculture facility in navigable waters outside state boundaries (in Federal waters) in association with the Ventura Shellfish Enterprise Project. The project would be located offshore from the Ventura Harbor, near the city and county of Ventura, CA (latitude: 34.241891, longitude: -119.292983).

In response to our 30 day public notice (dated August 27, 2019) the Corps received a letter from the Ventura County Local Agency Formation Commission (LAFCO) dated September 16, 2019. You provided a response to all the substantive public notice comment letters on November 15, 2019. Within the combined response you included a general response (response B2-1) as well as a separate letter addressing LAFCO's concerns from your special counsel (DeeAnne Gillick, letter dated November 15, 2019). The Corps Regulatory Division Chief (David Castanon), the Ventura team lead (Antal Szijj) and the senior project manager (Theresa Stevens) also met with you, your special counsel (Robert Smith), and your consultant (Laurie Monarres) on November 19, 2019 to discuss the proposed project, remaining issues, and a potential path forward. Prior to this meeting, Dr. Stevens had discussed concerns about issues raised by LAFCO with Ms. Monarres, and stated that review of the matter by Corps Office of Counsel would be requested. Also prior to this meeting, Mr. Smith conducted a phone conference with Corps Staff Counsel (Tiffany Troxel) on October 28, 2019. During this phone conference it was acknowledged that resolution of this matter via the state legislature or state Attorney General may be required.

In response to our public notice, the Corps also received a letter from the U.S. Coast Guard (USCG) dated November 1, 2019, which requested that a navigational risk assessment be completed prior to the Corps final action on the project. Due to the Corps statutory authority under section 10 of the Rivers and Harbors Act (33 U.S.C. 403) to evaluate impacts on navigation associated with structures and work in navigable waters and the recognized expertise of the USCG on navigation issues, the Corps needs at least a draft navigational risk assessment to be completed and submitted to the U.S. Coast Guard. Without this important information documenting the potential impacts to navigation, we cannot complete our required public interest evaluation. Because navigation is central to our review of your application, it would not be a

### ATTACHMENT 3

-2-

good use of our limited staff resources to continue processing your application without at least a draft of the navigational risk assessment.

Although you have provided to us the letters, legal opinions and legal citations regarding the claims made by LAFCO, it remains unclear whether the Ventura Port District has the authority under state law to construct permanent structures in navigable waters outside state boundaries as would be required for the proposed Ventura Shellfish Enterprise project.

Therefore, I have made a preliminary determination that in order to continue processing your permit application, the above draft navigational risk assessment and documented resolution of your dispute with LAFCO must be provided. Documentation from LAFCO, the LAFCO Board or a higher level state entity that the dispute has been resolved would be sufficient for the Corps to continue processing your application.

The Corps respectfully requests resolution of these matters in the next 30 days. If the requested information cannot be submitted within 30 days, the Corps will withdraw your permit application. When you do provide the requested information, the Corps will resume review of your previously submitted permit application.

If you have any questions, you may contact me at (805) 585-2148 or aaron.o.allen@usace.army.mil or Theresa Stevens, Ph.D. at (805) 585-2146 or via e-mail at theresa.stevens@usace.army.mil.

Sincerely,

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Aaron O. Allen, Ph.D.  
Chief, North Coast Branch  
Regulatory Division

Cc: Kai Luoma, Executive Director, Ventura County Local Agency Formation Commission  
Lieutenant Commander Isaac Mahar, U.S. Coast Guard District 11 Waterways Management,  
Los Angeles-Long Beach



## ATTACHMENT 3

**DEPARTMENT OF THE ARMY**  
**U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT**  
**60 SOUTH CALIFORNIA STREET, SUITE 201**  
**VENTURA, CALIFORNIA 93001-2598**

February 18, 2020

SUBJECT: Withdrawal of Permit Application

Brian Pendleton  
Ventura Port District  
Ventura, California 93001

Dear Mr. Pendleton:

I am responding to your application (File No. SPL-2017-00093) for a Department of the Army permit to install structures or conduct work in, over, under or affecting navigable waters of the U.S., in association with the Ventura Shellfish Enterprise project in the Pacific Ocean near the city of Ventura, Ventura County, California.

Our files indicate you have not provided the additional information we requested in our letter dated January 15, 2020 to continue processing your application. Therefore, your application is considered withdrawn. If you wish to re-establish evaluation of your project, please submit the items described in our January 15, 2020 letter.

Thank you for participating in our Regulatory Program. If you have any questions, please contact Theresa Stevens, Ph.D. at (805) 585-2146 or via e-mail at [theresa.stevens@usace.army.mil](mailto:theresa.stevens@usace.army.mil). Please help me to evaluate and improve the regulatory experience for others by completing the customer survey form at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey).

Sincerely,

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Aaron O. Allen, Ph.D.  
Chief, North Coast Branch  
Regulatory Division





# BOARD OF PORT COMMISSIONERS

JULY 15, 2020

## STANDARD AGENDA ITEM 2

### VENTURA SHELLFISH ENTERPRISE STATUS REPORT

**VENTURA PORT DISTRICT  
BOARD COMMUNICATION**

**STANDARD AGENDA ITEM 2**  
Meeting Date: July 15, 2020

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TO: Board of Port Commissioners  
FROM: Brian D. Pendleton, General Manager  
SUBJECT: Ventura Shellfish Enterprise Status Report

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**RECOMMENDATION:**

That the Board of Port Commissioners receive an annual status report on the proposed aquaculture project referred to as the Ventura Shellfish Enterprise (VSE).

**SUMMARY:**

On September 26, 2018 the Board of Port Commissioners (Board) authorized the General Manager of the Ventura Port District (VPD) to prepare and submit a permit application to the U.S. Army Corps of Engineers (Corps) for use of 2,000 acres of sea water bottom in federal waters near Ventura Harbor in Block 664 and 665, the area generally depicted and described as National Oceanic and Atmospheric Administration (NOAA) Coastal Aquaculture Siting and Sustainability (CASS) Report Alternative 1 for the VSE project. The Board also authorized staff to prepare and submit all other applications to state and federal agencies as required for the VSE project including the California Coastal Commission (Coastal Commission) and prepare all necessary surveys, studies, reports and federal environmental review documents as directed by state and federal agencies as required for the VSE project.

**BACKGROUND:**

For a detailed discussion of the project origins, goals, objectives, grant history, team members and volunteer partners please see the Board Report dated July 17, 2019 Ventura Shellfish Enterprise Status Report. The report can be found at the District's website at <https://venturaharbor.com/board-meetings-minutes-archive/>.

The Port District is the recipient of a NOAA 2018 California Sea Grant (2018 CA Sea Grant) sub-award of \$266,660. The 2018 CA Sea Grant is a two-year grant, with the following deliverables:

Task 4 - Permit Assignment Strategy

Task 5 - Environmental Review

Task 6 - Shellfish Sanitation

Task 7 - Grower/Producer Compliance Training Program and Information Dissemination

Task 8 - Project Summary

An Annual Report of project activities during the grant year is required to be submitted to CA Sea Grant. Attachment 1 provides a summary of activities related to Tasks 4-7 through June 30, 2020. Task 8 will be completed when the grant concludes. As you will see, the project team has made significant progress over the past 12 months, but there is additional work to be performed in order to complete the permitting process, environmental review, shellfish sanitation, mussel grower selection and training processes. This is due in part by additional permitting requirements as described herein and impacts caused by the Covid-19 pandemic. Given that, the Port District has requested a 1-year, no-cost extension to complete the tasks. For context, this request was approved for the 2015 CA Sea Grant, which was completed over a three-year period. Staff will return to the Board for related 2018 CA Sea Grant contract extension requirements as necessary.

Looking ahead, below are some key observations for the upcoming year in terms of project team goals in meeting the 2018 CA Sea Grant Tasks.

#### **Task 4 – Permit Assignment Strategy**

The project team is developing an Operations Plan as part of the Permit Assignment Strategy. The Operations Plan is intended to summarize the terms, conditions, and responsibilities of shellfish growers, the Port District, and other regulatory agencies associated with the VSE project. It has two primary purposes. First, it is intended to clearly describe what responsibilities and conditions will be performed and/or evaluated by shellfish growers, the Port District, and relevant regulatory agencies. In many cases, shellfish growers will be responsible for complying with terms and conditions, will report their compliance to the VPD, who will then compile this information in an annual report submitted to relevant regulatory agencies. Second, the Plan is a consolidated resource for shellfish growers to provide a summary of the VSE project and the terms, conditions, and other information needed to ensure compliance with project requirements. The project team anticipates bringing the Operations Plan to the Board in September for public discussion prior to submission to regulators. After Board review of the Operations Plan, VPD staff will submit the Plan to the Corps and Coastal Commission for review and will resume discussions with the Corps regarding the permitting process to approve shellfish companies within the VSE project upon resolution of the LAFCo issue discussed below.

#### **Task 5 – Environmental Review**

In the fall of 2018, the Ventura County Local Agency Formation Commission (LAFCo) contacted VPD to obtain information on the VSE project. LAFCo's concerns related to the fact that the project was to be located outside the existing territorial boundaries of VPD and LAFCo did not have authority to approve the project. The Corps' has paused its consideration of the VSE project pending resolution of this issue. Discussions and outcomes regarding the LAFCo issue are still ongoing with additional detail provided in the Annual Report. VPD staff and legal counsel will provide an update to the Board when there is additional progress to report.

A significant number of environmental reports and studies have been prepared for the project as referenced in the Annual Report, including a Sediment and Water Quality Management Plan; Aquaculture Gear Monitoring & Marine Debris, and Wildlife Entanglement Plan; Predator Control Management Plan; Gear Removal Management Plan; Spill Prevention and Response Plan; an engineering analysis (Evaluation of Mussel Backbone System in Extreme Storms); VPD Sub-Permitting Proposal; Draft Aquaculture Navigation Risk Assessment; and a Draft Operations Plan.

In May 2019, NOAA's National Marine Fisheries Service (NMFS) received a request from the Corps to initiate informal consultation pursuant to Section 7 of the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act. In July 2019, NMFS sent the Corps a request for additional information and subsequently provided a notice of consultation close out pending receipt of the additional information. In November 2019, VPD sent the Corps the information requested by NMFS. The informal consultation is expected to resume upon re-initiation of Corps' permit review.

#### **Task 6 – Shellfish Sanitation**

With U.S. Coast Guard (USCG) approved sentinel lines now in place at the project site, Coastal Marine Biolabs (CMB) can begin collecting and analyzing data monthly from mussels being grown on these sentinel lines as part of the baseline biotoxin monitoring program. The Cultured Abalone (TCA) obtained the mussels for the sentinel lines and prepared them for deployment. This study is aimed at collecting data prior to project operations that will not only inform the design of the Biotoxin Monitoring and Contingency Plan, but potentially minimize the amount (and cost) of testing imposed on shellfish growers by the FDA.

**Task 7 - Grower/Producer Compliance Training Program and Information Dissemination**

The project team will continue to research, identify and outreach to prospective shellfish growers that are suitable candidates for participation in the VSE project. The project team will also develop a shellfish grower application process, currently underway, for Board consideration, followed by the development of training programs for growers in consultation with the Corps.

**FISCAL IMPACT:**

There is no fiscal impact associated with this informational report. The 2018 CA Sea Grant sub-award is \$266,660, of which \$38,862 is remaining. The District's required cost match for the 2018 CA Sea Grant is \$272,210. This cost match is achieved through volunteer contributions of time by Ashworth Leininger Group (ALG), Coastal Marine Biolabs (CMB), The Cultured Abalone (TCA) and District staff plus direct costs incurred by the District. The accounting of these costs and volunteer hours are documented through quarterly financial reports prepared for Board consideration and approval.

Additionally, the Port District has contracted Illuminas Consulting to prepare a project economic and fiscal impact analysis. This work is underway and planned for presentation to the Board in September alongside the Operations Plan.

**ATTACHMENTS:**

Attachment 1 - Ventura Shellfish Enterprise: Implementing an Integrative Model for New Shellfish Aquaculture Permitting and Production in Federal Waters Proximate to Ventura, California. Project: R/AQ-141; Reporting Period 07/01/2019– 06/30/2020

## **Ventura Shellfish Enterprise: Implementing an Integrative Model for New Shellfish Aquaculture Permitting and Production in Federal Waters Proximate to Ventura, California.**

### **Project: R/AQ-141; Reporting Period 07/01/2019– 06/30/2020**

On September 28, 2018 the Board of Port Commissioners authorized the General Manager of the Ventura Port District to prepare and submit a permit application to the U.S. Army Corps of Engineers (CORPS) for use of 2,000 acres of sea water bottom in federal waters near Ventura Harbor in Block 664 and 665, the area generally depicted and described as CASS Report Alternative 1 for the Ventura Shellfish Enterprise (VSE) project; and, the Ventura Port District prepared and submitted all other applications to local, state and federal agencies as required for the VSE project including the California Coastal Commission; and, prepared all necessary surveys, studies, reports and federal environmental review documents as directed by local, state and federal agencies as required for the VSE project.

The applications were submitted to the CORPS and California Coastal Commission.

#### **Task 4: Permit Assignment Strategy**

As noted above, permit applications were submitted to CORPS and the California Coastal Commission and the VPD has engaged in discussions with agency staff regarding clarifications of the project description, proposed conditions, mitigation measures, and monitoring plans. These discussions will be ongoing with regulatory agency staff as they continue to review the permit applications and circulate the applications for public comment and review by other regulatory agencies.

VPD representatives met with CORPS on January 31, 2019 to discuss a sub-permitting framework. Based upon productive discussions with CORPS, VPD submitted a sub-permitting proposal to CORPS on April 12, 2019. VPD subsequently met with CORPS in November 2019 to discuss the proposal, at which point both parties agreed to revisit the proposal after VPD submitted its operations plan, which would provide greater detail regarding how responsibilities and oversight would be shared between the shellfish growers, VPD, and other regulatory agencies. VPD anticipates submitting the draft operations plan for agency review in September 2020, at which time it will resume permitting discussions with CORPS.

#### **Task 5: Environmental Review**

Permit applications were previously submitted to the Corps and the CCC and VPD has engaged in preliminary discussions with agency staff regarding clarifications of the project description, proposed conditions, mitigation measures, and monitoring plans.

Specifically, in October 2018 a Coastal Consistency Certification was submitted to the CCC and in November 2018 VPD received a request for additional project information in order to process the permit. VPD submitted responses to the CCC in August 2019. In

September 2019 the CCC requested additional information. On behalf of VPD, K&L Gates submitted responses to the CCC in February 2020.

A permit application (ENG Form 4345) was submitted to the Corps in October 2018. The Corps requested additional project information in January 2019 and VPD submitted responses in March 2019. The Corps published a Public Notice in August 2019 with an extended 45-day comment period which closed in October 2019. The Corps received a total of 13 comment letters to which VPD submitted a response to comment letters to the Corps in November 2019. In January 2020, the Corps requested two documents in order to continue processing the permit application: (1) a draft navigational risk assessment; and (2) documented resolution with the Ventura County Local Agency Formation Commission (LAFCo), discussed below. Due to the time it would take to produce the requested information, the Corps withdrew the VPD application in February 2020. It is anticipated that once the Corps receives these requested documents the application review process will be re-initiated.

In May 2019 NOAA's National Marine Fisheries Service (NMFS) received a request from the Corps to initiate informal consultation pursuant to Section 7 of the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act. In July 2019 NMFS sent the Corps a request for additional information and subsequently provided a notice of consultation close out pending receipt of the additional information. In November 2019 VPD sent the Corps the information requested by NMFS. The informal consultation is expected to be re-initiated upon re-initiation of the Corps' permit review.

In the fall of 2018 LAFCo contacted VPD to obtain information on the VSE project. LAFCo's concerns related to the fact that the project was to be located outside the territorial boundaries of VPD. In such instances LAFCo asserted that special districts like VPD must first request and obtain LAFCo's approval to provide services outside their "jurisdictional boundaries" before proceeding with any such activity.

VPD staff responded that, among other things, the California Harbors and Navigation Code specifically empowers port districts like VPD: i.) to own, lease or dispose of property of every kind "...within or without the district" [Section 6294]; ii.) to "...do any work or make any improvement within or without the territorial limits of the district which will aid in the development or improvement of navigation or commerce to or within the district..." [Section 6301]; and (iii) that LAFCo has no jurisdiction over the VSE project since its jurisdiction over activities of special districts is co- extensive with the boundaries of Ventura County and the VSE project site is located in federal waters outside the county and outside state boundaries.

VPD staff and legal counsel have met and corresponded with LAFCo to explain the extent of federal regulation of such aquaculture projects and the various federal and other agencies with permitting or consulting authority over the VSE project. In February 2020 Assembly Member Monique Limón introduced Assembly Bill 2370 which would authorize the Ventura Port District to construct, maintain, operate, lease, and grant permits for installation, maintenance, and operation of aquaculture plots in federal waters off the



coast of the County of Ventura without LAFCo approval. Discussions and outcomes regarding LAFCo resolutions are still on-going.

Last, it should be noted that based on agency requests and permitting requirements, the following environmental documents were produced during the reporting period (07/01/2019 – 06/30/2020):

- Sediment and Water Quality Management Plan – Dudek, August 2019
- Aquaculture Gear Monitoring & Marine Debris, and Wildlife Entanglement Plan – Dudek, August 2019
- Evaluation of Mussel Backbone System in Extreme Storms engineering analysis – Main Marine Composites, August 2019
- Predator Control Management Plan – Dudek, August 2019
- Gear Removal Management Plan – Plauche & Carr, August 2019
- Ventura Port District Sub-Permitting Proposal – Plauche & Carr, August 2019
- Spill Prevention and Response Plan – Dudek, August 2019
- Draft Aquaculture Navigation Risk Assessment – COWI, June 2020
- Draft Operations Plan – Dudek, June 2020

## **Task 6: Seafood Safety and Quality**

### Growing Area Sanitary Survey/Pollution Source Assessment (In Progress)

FDA representatives initiated a pollution source assessment of the proposed growing area during the current grant reporting period. According to FDA representatives, completion of the assessment awaits further refinement through the use of hydrographic modeling, an effort that is now underway. The sanitary survey is nearing formal completion by the FDA and the VSE is now poised to proceed to the next milestone in the sanitation compliance pathway, which involves the creation of a biotoxin monitoring and contingency plan in consultation with FDA representatives. Finalization of this plan will require an analysis of the data collected by CMB through the baseline biotoxin monitoring program (see section below).

### Submission and Approval of USCG Private Aids to Navigation Application

During the current reporting period, VSE submitted an application to the USCG requesting approval to suspend growing lines suspended by marker buoys with warning lanterns at the sampling stations outlined in the section above. The application, which contains a detailed schematic diagram of the sentinel line configuration (including marker buoy, top

and bottom leaders, fuzzy rope, mooring chain, swivel, and anchor), was approved by the USCG on October 17, 2019.

### Baseline Biotoxin Monitoring Program and Sentinel Deployment

The FDA will articulate mandatory biotoxin testing requirements for mussel growers in the Biotoxin Monitoring and Contingency Plan that will ultimately be developed for the proposed growing area at large. Because no biotoxin data currently exists for the area, the FDA strongly encouraged the VSE to conduct a one-year biotoxin pre-monitoring study. This study is aimed at collecting data prior to project operations that will not only inform the design of the Biotoxin Monitoring and Contingency Plan, but potentially minimize the amount (and cost) of testing imposed on growers by the FDA.

In collaboration with FDA representatives, the VSE team defined a biotoxin pre-monitoring plan that involves the identification and quantification of biotoxin-producing phytoplankton from seawater samples, and the detection of ASP toxin accumulation in tissue obtained from mussel sentinels grown in defined locations within the proposed growing area.

The details associated with the Baseline Biotoxin Monitoring Program (B<sup>2</sup>MP), including testing locations, strategies, frequency, etc., are outlined in the Revision to Subtask 6 document that was provided to NOAA Sea Grant staff for review and approval. A revision to Subtask 6 was requested during the current grant reporting period which reflects a shift in emphasis from bacteriological testing to biotoxin testing, in accordance with FDA's recommendations. Briefly, the B<sup>2</sup>MP involves the detection and enumeration of biotoxin-producing phytoplankton in water samples collected adjacent to five mussel sentinel lines, and the detection of biotoxins in tissue extracts obtained from mussel sentinels affixed to these lines. The first sentinel line was deployed on 02/08/2020. Plans to deploy the remaining sentinel lines in April were postponed due to COVID-19 concerns and restrictions. Deployment of the four remaining sentinel lines is now complete.

### Creation of an FDA-Approved Testing Laboratory

As noted above, the biotoxin testing protocols that will be performed at the CMB lab in connection with the B<sup>2</sup>MP (Subtask 6.1) involve the detection and quantification of biotoxin-producing phytoplankton in water samples (using a well-established microscopic detection and enumeration method), and the detection of ASP and PSP toxins in mussel tissue extracts (using commercially available rapid screening kits).

Importantly, both of these methodologies are now NSSP-approved biotoxin management strategies for mussel growers (and both were approved for inclusion in the next revision to the NSSP Model Ordinance). CMB is now finalizing detailed standard operating procedures (SOPs) for the use of these methods. These SOPs will be included in a quality assurance manual that CMB will prepare as a requirement of FDA's testing lab evaluation pathway. We anticipate that the quality assurance manual will be completed and available

for FDA review in September 2020. We will schedule a site visit by an FDA lab evaluation officer after the review of the quality assurance manual is complete.

CMB is also collaborating with FDA and NOAA-SIP on the design of a customized informatics platform for various user groups (e.g., dedicated data managers, mussel growers, product distributors, regulated testing lab personnel, regulatory agencies, and water treatment authorities/agencies, etc.) to organize, manage, validate transmit, review, and certify biotoxin data within a secure and shared online environment and database.

Importantly, the system will be designed with the flexibility necessary to accommodate any organizational structure adopted by the Ventura Port District or any data structure specified in the data management plan that is ultimately developed for the VSE project. Below we summarize some of the key design elements and goals of the system:

1. Provide a user-friendly interface for growers to create site- or lot-specific data records for subsequent validation and FDA/NOAA-SIP review;
2. Ensure compliance with biotoxin data standards established for the VSE project in accordance with the data management plan;
3. Accommodate various NSSP-approved testing methods/strategies through a simplified user console and data form structure;
4. Ensure transparency and traceability in the chain of custody for biological samples and the data obtained from such samples;
5. Provide a streamlined mechanism for regulatory agencies to review and certify biotoxin data obtained from VSE growing areas, and to issue rapid notifications on the disposition of quarantined product; and,
6. Facilitate the rapid transmission of system-wide alerts by various agencies and authorities (e.g., water treatment facility containment failures, toxic chemical spills, oil spills, notifications of closures, etc.).

## **Task 7: Grower/Producer Compliance Training Program and Information Dissemination**

### **Subtask 7.1: Grower/Producer Outreach and Inclusion**

To secure grower/producer tentative commitments, the VPD is undertaking three main work streams: (1) research and identify prospective local, regional, national, and international grower-producers that are suitable candidates for participation in the VSE project; (2) provide direct engagement with potential grower/producers; (3) develop a VPD approved grower/producer application process. Work began in September 2018.

Work stream (1) is well underway with the development of a database framework to input contact data for prospective grower-producers as described above and the initiation of research to identify suitable candidates. Work stream (2) is on-going with more robust engagement contemplated as the project moves through the entitlement process. Works stream (3) will be developed in consultation with the CORPS, who is the permitting authority for the project. A framework for regulatory oversight and sub-permitting is

## ATTACHMENT 1

underway with CORPS. It is anticipated this work stream will be completed during the grant period of September 2020 to August 2021.



# BOARD OF PORT COMMISSIONERS

JULY 15, 2020

## STANDARD AGENDA ITEM 3

APPROVAL OF NEW PROFESSIONAL  
SERVICES AGREEMENT WITH DUDEK  
FOR ENVIRONMENTAL CONSULTING  
SERVICES

**VENTURA PORT DISTRICT  
BOARD COMMUNICATION**

**STANDARD AGENDA ITEM 3**

Meeting Date: July 15, 2020

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TO: Board of Port Commissioners  
FROM: Brian D. Pendleton, General Manager  
SUBJECT: Ventura Shellfish Enterprise: Professional Services Agreement with Dudek for Environmental Consulting Services

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**RECOMMENDATION:**

That the Board of Port Commissioners approve a Professional Services Agreement with Dudek in the amount of \$75,000 for FY2020-2021 in support of the proposed Ventura Shellfish Enterprise (VSE) project and related 2018 Sea Grant tasks.

**SUMMARY:**

The proposed Professional Service Agreement (PSA) with Dudek is for environmental consulting, permit processing, project management and grant administration support services for the Ventura Shellfish Enterprise (VSE) project and related 2018 NOAA Sea Grant for FY 2020-21.

**BACKGROUND:**

On September 26, 2018 the Board of Port Commissioners (Board) authorized the General Manager of the Ventura Port District (VPD) to prepare and submit a permit application to the U.S. Army Corps of Engineers (Corps) for use of 2,000 acres of sea water bottom in federal waters near Ventura Harbor in Block 664 and 665, the area generally depicted and described as National Oceanic and Atmospheric Administration (NOAA) Coastal Aquaculture Siting and Sustainability (CASS) Report Alternative 1 for the VSE project. The Board also authorized staff to prepare and submit all other applications to state and federal agencies as required for the VSE project including the California Coastal Commission (Coastal Commission) and prepare all necessary surveys, studies, reports and federal environmental review documents as directed by state and federal agencies as required for the VSE project.

For a detailed discussion of the project origins, goals, objectives, grant history, team members and volunteer partners please see the Board Report dated July 17, 2019 Ventura Shellfish Enterprise Status Report. The report can be found at the District's website at <https://venturaharbor.com/board-meetings-minutes-archive/>.

The VPD is the recipient of a NOAA 2018 California Sea Grant (2018 CA Sea Grant) sub-award of \$266,660. The 2018 CA Sea Grant is a two-year grant, with the following deliverables:

Task 4 - Permit Assignment Strategy

Task 5 - Environmental Review

Task 6 - Shellfish Sanitation

Task 7 - Grower/Producer Compliance Training Program and Information Dissemination

Task 8 - Project Summary

On November 20, 2019, the Board of Port Commissioners authorized the General Manager to sign the *Cost Reimbursement Research Subaward Agreement* for \$96,800, which reflected the terms and conditions of the CA Sea Grant Subaward for Year 2.

The 2018 CA Sea Grant is a two-year period on a one-plus-one yearly basis. The Year 1 grant period was from September 1, 2018 to August 31, 2019 and the VPD received \$169,860, which



the Board approved on November 14, 2018. The Year 2 grant period is from September 1, 2019 to August 31, 2020 and the VPD received \$96,800 which the Board approved on November 20, 2019. The total two-year sub-award is \$266,660. The VPD has requested a 1-year, no-cost extension to complete the tasks. Staff will return to the Board for related 2018 CA Sea Grant contract extension approvals, as necessary.

**Dudek Scope (Summary)**

Laurie Monarres, a Principal Regulatory Specialist at Dudek will continue to support completion of Task 5, including preparing and updating appropriate environmental reports and studies, drafting and reviewing monitoring plans, providing review of the project's National Environmental Policy Act (NEPA) alternatives analysis, attending meetings and conducting on-going agency coordination, and providing other as-needed environmental support at the VPD's request.

Ms. Monarres and Melissa Blundell, a Biologist and Project Manager at Dudek will provide meeting participation and related coordination at weekly and monthly VSE team meetings and Port District Board of Port Commissioners meetings to support the technical and administrative aspects of the project. This task involves meeting planning and coordination with the VPD, VSE team members, other local agencies or stakeholders, and/or other parties as appropriate.

**FISCAL IMPACTS:**

The Board approved \$75,000 in the FY20-21 budget on July 1, 2020 for the described services to supplement the 2018 CA Sea Grant funding described above for the proposed VSE project.

**ATTACHMENTS:**

None.



# BOARD OF PORT COMMISSIONERS

JULY 15, 2020

## STANDARD AGENDA ITEM 4

APPROVAL OF NEW PROFESSIONAL  
SERVICES AGREEMENT WITH K&L  
GATES FOR LEGAL CONSULTING  
SERVICES

**VENTURA PORT DISTRICT  
BOARD COMMUNICATION**

**STANDARD AGENDA ITEM 4**  
Meeting Date: July 15, 2020

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TO: Board of Port Commissioners  
FROM: Brian D. Pendleton, General Manager  
SUBJECT: Ventura Shellfish Enterprise: Professional Services Agreement with K&L Gates for Legal Consulting Services

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**RECOMMENDATION:**

That the Board of Port Commissioners approve a Professional Services Agreement with K&L Gates in the amount of \$75,000 for FY2020-2021 in support of the proposed Ventura Shellfish Enterprise (VSE) project and related 2018 Sea Grant tasks.

**SUMMARY:**

The proposed Professional Service Agreement (PSA) with K&L Gates is for legal representation, permit assignment strategy, environmental review and shellfish sanitation for the VSE project and related 2018 NOAA Sea Grant for FY 2020-21.

**BACKGROUND:**

On September 26, 2018, the Board of Port Commissioners (Board) authorized the General Manager of the Ventura Port District (VPD) to prepare and submit a permit application to the U.S. Army Corps of Engineers (Corps) for use of 2,000 acres of sea water bottom in federal waters near Ventura Harbor in Block 664 and 665, the area generally depicted and described as National Oceanic and Atmospheric Administration (NOAA) Coastal Aquaculture Siting and Sustainability (CASS) Report Alternative 1 for the VSE project. The Board also authorized staff to prepare and submit all other applications to state and federal agencies as required for the VSE project including the California Coastal Commission (Coastal Commission) and prepare all necessary surveys, studies, reports and federal environmental review documents as directed by state and federal agencies as required for the VSE project.

For a detailed discussion of the project origins, goals, objectives, grant history, team members and volunteer partners please see the Board Report dated July 17, 2019 Ventura Shellfish Enterprise Status Report. The report can be found at the District's website at <https://venturaharbor.com/board-meetings-minutes-archive/>.

The VPD is the recipient of a NOAA 2018 California Sea Grant (2018 CA Sea Grant) sub-award of \$266,660. The 2018 CA Sea Grant is a two-year grant, with the following deliverables:

Task 4 - Permit Assignment Strategy  
Task 5 - Environmental Review  
Task 6 - Shellfish Sanitation  
Task 7 - Grower/Producer Compliance Training Program and Information Dissemination  
Task 8 - Project Summary

On November 20, 2019, the Board of Port Commissioners authorized the General Manager to sign the *Cost Reimbursement Research Subaward Agreement* for \$96,800, which reflected the terms and conditions of the CA Sea Grant Subaward for Year 2.

The 2018 CA Sea Grant is a two-year period on a one-plus-one yearly basis. The Year 1 grant period was from September 1, 2018 to August 31, 2019 and the VPD received \$169,860, which the Board approved on November 14, 2018. The Year 2 grant period is from September 1, 2019

to August 31, 2020 and the VPD received \$96,800 which the Board approved on November 20, 2019. The total two-year sub-award is \$266,660. The VPD has requested a 1-year, no-cost extension to complete the tasks. Staff will return to the Board for related 2018 CA Sea Grant contract extension approvals as necessary.

**K&L Gates Scope (Summary)**

Robert Smith, a partner at K&L Gates LLP, will continue to provide special legal counsel to the VPD for the proposed VSE project, broadly including developing the project permit strategy, conducting a legal review of environmental review documents, assisting with establishing shellfish sanitation protocols, and collaborating with VPD general counsel on the LAFCo matter. On-going coordination with VPD includes participation at weekly and monthly team meetings as well as Board meetings as necessary. Service also includes regular communication and engagement with federal and state agencies including the Corps, NOAA, FDA, CA Coastal Commission and related regulatory agencies, committees and subcommittees.

**FISCAL IMPACTS:**

The Board approved \$75,000 in the FY20-21 budget on July 1, 2020 for the described services to supplement the 2018 CA Sea Grant funding described above for the proposed VSE project.

**ATTACHMENTS:**

None.



# BOARD OF PORT COMMISSIONERS

JULY 15, 2020

STANDARD AGENDA ITEM 5

COMPLAINT RE BROWN ACT  
VIOLATION

(GOVERNMENT CODE §54956.8)

**VENTURA PORT DISTRICT**  
**BOARD COMMUNICATION**

**STANDARD AGENDA ITEM 5**

Meeting Date: July 15, 2020

TO: Board of Port Commissioners  
FROM: Andrew D. Turner, Legal Counsel (Lagerlof, LLP)  
SUBJECT: Complaint re Brown Act Violation (Government Code §54956.8)

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**RECOMMENDATION:**

That the Board of Port Commissioners receive and file this report regarding alleged Brown Act violations, for the purposes of promoting transparency, encouraging public comment, and increasing public trust, in alignment with the District's Goals and 5-Year Objectives (as approved on the January 22, 2020's Open Session Meeting).

**BACKGROUND:**

On or about June 16-17, 2020 and July 1, 2020, Ms. Jean Getchell communicated verbal and written complaints during Public Communications, at the respective Open Session Meetings, alleging violation(s) of the Brown Act. Specifically, Ms. Getchell alleges that Government Code §54956.8 does not permit the District to conduct closed session meetings regarding Federal Authorized Sea Bottom at this time because: (1) None of these meetings involved a real property transaction of any kind; (2) None of these meetings involved negotiation of price or terms of payment; (3) None of these meetings involved the required second party, notably, the U.S. Army Corps of Engineers; (4) None of these meetings involved granting authority to the District's negotiators, instead, the meetings were used for staff to provide secret information to the Commissioners that was not provided to the public; and (5) there is no active permit application with the U.S. Army Corps of Engineers and therefore nothing to discuss in closed session.

**SUMMARY:**

Per Government Code §54956.8:

...A legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and **terms of payment** for the purchase, sale, exchange, or lease. [Emphasis Added]

Per the Attorney General's Advisory Opinion No. 10-206:

The real-estate-negotiations exception to the open meeting requirements of the Ralph M. Brown Act permits discussion in closed session of: (1) the amount of consideration that the local agency is willing to pay or accept in exchange for the real property rights to be acquired or transferred in the particular transaction; (2) the form, manner, and timing of how that consideration will be paid; and (3) items that are essential to arriving at the authorized price and payment terms, such that their public disclosure would be tantamount to revealing the information that the exception permits to be kept confidential. Whether a particular aspect of a real estate transaction may be discussed in closed session should be evaluated on a case-by-case basis.

Here, the District is involved in the "lease" of real property and the District is discussing the "terms of payment" in closed session, specifically whether a permit from the Army Corps of Engineers will be obtained (1) with the District being the sole permittee; (2) with the District obtaining a master permit and District then sub-permitting to shellfish producers; or (3) the District obtaining the permit and assigning the permit to shellfish producers. This discussion falls under both "the **form**,

**manner**, and timing of how that consideration will be paid” and “items that are **essential** to arriving at the authorized price and payment terms”, which under the Attorney General’s guidance point numbers 2 and 3, are permitted and within the scope of the exception. [Emphasis Added]

Addressing each of Ms. Getchell’s arguments:

- (1) “None of these meetings involved a real property transaction of any kind.”

District’s Legal Position: The real property transaction at issue is the 2,000 acres of federal waters where the VSE project is to be constructed and whether a lease (aka permit) will be extended.

- (2) “None of these meetings involved negotiation of price or terms of payment.”

District’s Legal Position: Every meeting involved discussion of “items that are essential to arriving at the authorized price and payment terms.”

- (3) “None of these meetings involved the required second party, notably, the U.S. Army Corps of Engineers.”

District’s Legal Position: The U.S. Army Corps of Engineers is not a required second party to every closed session meeting. Section 54956.8 states that ... “a legislative body of a local agency may hold a closed session with its **negotiator** prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its **negotiator** regarding the price and terms of payment for the purchase, sale, exchange, or lease.” [Emphasis Added.] Here, the closed session was held for the purpose of communicating with the District’s negotiator, namely District staff, District legal counsel, and outside legal counsel, whom are always individually identified on the agenda.

- (4) “None of these meetings involved granting authority to the District’s negotiators, instead, the meetings were used for staff to provide secret information to the Commissioners that was not provided to the public.”

District’s Legal Position: Each and every meeting involved granting authority to the District’s negotiators to continue negotiations regarding the “items that are essential to arriving at the authorized price and payment terms.”

- (5) “There is no active permit application with the U.S. Army Corps of Engineers and therefore nothing to discuss in closed session.”

District’s Legal Position: The withdrawal of the application by Corps was a ministerial and administrative act. The Corps specifically stated that when the District has satisfied the two remaining requirements (Navigational Risk Assessment and LAFCO Issue), they will re-open the application. An active permit application is not required for the District’s negotiator to continue discussions with the Corps regarding the two issues in furtherance of the transaction.

## **CONCLUSION:**

The intent of the Ralph M. Brown Act is to promote transparency and public participation in local government. Generally, the Brown Act’s language is interpreted narrowly in Court, erring on the side of disclosure to the public. Here, there are compelling arguments that support the District’s position that the prior closed session meetings regarding Federal Authorized Sea Bottom are permitted under §54956.8 and not only affects, but *substantially* affects, the economic value of the transaction. AG Opinion No. 10-206 specifically states that “among the purposes at play in this



situation is the need to conserve scarce public resources through effective negotiation of real estate transactions.” (p. 9) The prior closed session meetings that have discussed and strategized the transaction’s terms of payment absolutely supports the efforts of an effective negotiation.

More importantly, the role of legal counsel in advising the Board on matters relating to compliance with the Brown Act is to provide guidance and advice. The Board’s good faith reliance on advice of counsel is a key factor in determining whether there was an intent to violate the Brown Act. Here, of course, there was no such intent.

Moving forward, a greater effort will be made to better identify the scope of any closed session discussion on the VSE project. This will avoid the appearance that the discussion is unlimited in scope.

On a stakeholder and constituency level, the District has reaffirmed its commitment to improve communications with the public and enhance transparency of the District’s business. In support of both goals, it would be appropriate to select and discuss certain issues related to the transaction’s terms of payment in open session moving forward.

**FISCAL IMPACT:**

None.

**ATTACHMENTS:**

Attachment 1 – Attorney General Opinion No. 10-206

Attachment 2 – Ms. Jean Getchell’s June 16, 2020 Letter

Attachment 3 – Ms. Jean Getchell’s June 17, 2020 Addendum to Prior Communication

Attachment 4 – Ms. Jean Getchell’s July 1, 2020 Letter

Attachment 5 – Ms. Jean Getchell’s July 1, 2020 Addendum to Prior Communication

TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL  
State of California

KAMALA D. HARRIS  
Attorney General

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OPINION	:	No. 10-206
	:	
of	:	December 27, 2011
	:	
KAMALA D. HARRIS	:	
Attorney General	:	
	:	
MARC J. NOLAN	:	
Deputy Attorney General	:	
	:	

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THE HONORABLE TONY RACKAUCKAS, ORANGE COUNTY DISTRICT ATTORNEY, has requested an opinion on the following question:

What items may be discussed under the real-estate-negotiations exception to the open meeting requirements of the Ralph M. Brown Act—an exception which states that the legislative body of a local governmental agency may meet in closed session with its real estate negotiator “to grant authority to its negotiator regarding the price and terms of payment” for a proposed purchase, sale, exchange, or lease of identified real property?

## CONCLUSION

The real-estate-negotiations exception to the open meeting requirements of the Ralph M. Brown Act permits discussion in closed session of: (1) the amount of consideration that the local agency is willing to pay or accept in exchange for the real property rights to be acquired or transferred in the particular transaction; (2) the form, manner, and timing of how that consideration will be paid; and (3) items that are essential to arriving at the authorized price and payment terms, such that their public disclosure would be tantamount to revealing the information that the exception permits to be kept confidential.

## ANALYSIS

The open meetings law known as the Ralph M. Brown Act (Brown Act or Act)<sup>1</sup> was adopted “to ensure the public’s right to attend the meetings of public agencies,”<sup>2</sup> as well as “to facilitate public participation in all phases of local government decisionmaking and to curb misuse of the democratic process by secret legislation by public bodies.”<sup>3</sup> In enacting the Brown Act, the Legislature declared its intent as follows:

[T]he Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people’s business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.<sup>4</sup>

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<sup>1</sup> Govt. Code §§ 54950-54963. All further references to sections of the Government Code are by section number only.

<sup>2</sup> *Freedom Newspaper, Inc. v. Orange Co. Employees Ret. Sys.*, 6 Cal. 4th 821, 825 (1993).

<sup>3</sup> *Cohan v. City of Thousand Oaks*, 30 Cal. App. 4th 547, 555 (1994).

<sup>4</sup> § 54950.

As we have recently observed,<sup>5</sup> the Brown Act both implements and furthers the command set forth in the state constitution that “[t]he people have the right of access to information concerning the conduct of the people’s business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.”<sup>6</sup>

To effectuate these purposes, the Brown Act “requires that the legislative bodies of local agencies . . . hold their meetings open to the public except as expressly authorized by the Act.”<sup>7</sup> While the Brown Act makes exceptions for specified matters<sup>8</sup>—such as litigation,<sup>9</sup> employee discipline,<sup>10</sup> and negotiations for real estate transactions<sup>11</sup>—these exceptions must be construed narrowly, in favor of the public’s right of access to public information.<sup>12</sup>

The courts and this office are occasionally called upon to construe the parameters of a given Brown Act exception. For example, in a recent opinion, we concluded that the Act’s real-estate-negotiations exception does *not* justify a closed-session discussion of a rehabilitation agency’s proposed loan to a private business.<sup>13</sup> It had been argued that the exception should apply because the proposed loan agreement (1) pertained to the use of

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<sup>5</sup> See 93 Ops.Cal.Atty.Gen. 51, 53-54 (2010).

<sup>6</sup> Cal. Const. art I, § 3(b)(1); see Cal. Const. art. I, § 26 (“The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.”).

<sup>7</sup> §§ 54953, 54962; *Kleitman v. Super Ct.*, 74 Cal. App. 4th 324, 331 (1999).

<sup>8</sup> § 54957; *Hamilton v. Town of Los Gatos*, 213 Cal. App. 3d 1050, 1055 (1989).

<sup>9</sup> § 54956.9.

<sup>10</sup> § 54957.

<sup>11</sup> § 54956.8.

<sup>12</sup> *Shapiro v. San Diego City Council*, 96 Cal. App. 4th 904, 917 (2002); *San Diego Union v. City Council*, 146 Cal. App. 3d 947, 954-955 (1983); see *Rudd v. Cal. Cas. Gen. Ins. Co.*, 219 Cal. App. 3d 948, 952 (1990) (statutory language “must be construed in the context of the statutory framework as a whole, keeping in mind the policies and purposes of the statute, and where possible the language should be read so as to conform to the spirit of the enactment”); see also Cal. Const. art. I, § 3(b)(2) (legal authority “shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.”).

<sup>13</sup> 93 Ops.Cal.Atty.Gen. at 55-59.

real property that the redevelopment agency was subleasing to the private business, (2) referred to the sublease, and (3) incorporated certain terms of the sublease. After analyzing the real-estate-negotiations exception, we concluded that the proposed loan agreement did not “effectuate the acquisition, disposal, or modification of any property rights under the existing sublease.”<sup>14</sup> Whereas that opinion was tailored to the factual circumstances underlying the question, here we have been asked to provide more general guidance as to what kinds of matters may be discussed under the real-estate-negotiations exception.

The starting point for our analysis is, necessarily, the language of the exception itself, together with related provisions of the Brown Act.<sup>15</sup> The real-estate-negotiations exception provides, in relevant part, as follows:

Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate.<sup>16</sup>

The disclosure requirement set forth in the second quoted sentence mirrors a more general Brown Act provision to the same effect.<sup>17</sup> Both of these notice provisions reinforce the Act’s general notice requirement that, “[a]t least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, *including items to be discussed in closed session.*”<sup>18</sup>

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<sup>14</sup> *Id.*

<sup>15</sup> *See Shapiro v. San Diego City Council*, 96 Cal. App. 4th at 924.

<sup>16</sup> § 54956.8.

<sup>17</sup> § 54957.7(a) (“Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session . . . .”)

<sup>18</sup> § 54954.2(a) (emphasis added).

With regard to the real-estate-negotiations exception, the Act provides that it is sufficiently specific (or within a “safe harbor”) to describe the agenda item as follows:

# CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation.)

Agency negotiator: (Specify names of negotiators attending the closed session.) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent).)

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both.)<sup>19</sup>

The Act provides that, “in the closed session, the legislative body may consider only those matters covered in its [agenda] statement.”<sup>20</sup>

An oft-cited commentator has described the purpose of the real-estate-negotiations exception this way:

The need for executive [closed] sessions in this circumstance is obvious. No purchase would ever be made for less than the maximum amount the public body would pay if the public (including the seller) could attend the session at which that maximum was set, and the same is true for minimum sale prices and lease terms and the like.<sup>21</sup>

But, as we recently remarked, “[o]bvious though the need for it may be, this is still a narrowly-crafted exception.”<sup>22</sup> The question for us now is, how narrow?

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<sup>19</sup> § 54954.5(b).

<sup>20</sup> § 54957.7(a).

<sup>21</sup> Schwing, *Open Meeting Laws* § 7.76, 416-418 (1994); *see also* *Kleitman v. Super. Ct.*, 74 Cal. App. 4th at 324.

<sup>22</sup> 93 Ops.Cal.Atty.Gen. at 55; *see Shapiro v. San Diego City Council*, 96 Cal. App. 4th at 924 (real-estate-negotiations exception presents a “narrowly defined exception to the rule of open meetings”).

To aid our analysis, we employ well established rules of statutory interpretation. Our primary goal is to ascertain the Legislature’s intent.<sup>23</sup> In doing so, we look “first to the words of the statute themselves, giving to the language its usual, ordinary import and according significance, if possible, to every word, phrase and sentence.”<sup>24</sup> Here, we are particularly concerned with what is meant by the phrase “regarding price and terms of payment for the purchase, sale, exchange, or lease,” which describes the authority that a local agency may convey to its negotiator in a closed session.

Consulting the dictionary to give the statutory language its “usual, ordinary import,”<sup>25</sup> we believe that the word “price” in this context must be understood as the amount of consideration given or sought in exchange for the real property rights that are at stake.<sup>26</sup> Further, we believe that the phrase “terms of payment” is best understood as the form, manner, and timing upon which the agreed-upon price is to be paid—for example, an all-cash transaction (either up-front or in installments), a seller-financed mortgage, an exchange of property or property rights, or the like.<sup>27</sup> It is significant that the word “terms” is immediately modified by the words “of payment.” In our view, this modification rules out any possibility that the statute is meant to authorize closed-session discussions of any and all terms of the transaction as a whole.

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<sup>23</sup> See *Freedom Newsps. Inc. v. Orange Co. Employees Ret. Sys.*, 6 Cal. 4th at 826.

<sup>24</sup> *Dyna-Med Inc. v. Fair Empl. & Hous. Commn.*, 43 Cal. 3d 1379, 1386-1387 (1987).

<sup>25</sup> *Dyna-Med, Inc.*, 43 Cal. 3d at 1387; see also *Smith v. Selma Community Hosp.*, 188 Cal. App. 4th 1, 30 (2010) (“In scrutinizing the words of a statute, courts generally give them their usual, ordinary meaning, which in turn may be obtained by referring to a dictionary.”).

<sup>26</sup> “Price” in the economic sense is defined alternately as “the quantity of one thing that is exchanged or demanded in barter or sale for another”; “the amount of money given or set as the amount to be given as a consideration for the sale of a specified thing”; or “the cost at which something is obtained or offered.” *Webster’s New International Unabridged Dictionary* 1798 (3d ed., Merriam-Webster 2002).

<sup>27</sup> As relevant here, “terms” are defined as “conditions,” as in “terms of a sale,” or “credit granted on liberal terms of repayment.” *Webster’s New International Unabridged Dictionary* 2358. “Payment” is defined simply as “the act of paying or giving compensation,” or “something that is paid.” *Id.* at 1659.



This view is bolstered by the legislative history of the exception,<sup>28</sup> which reveals that the phrase “terms of payment” came about after a series of amendments incorporating other possible wordings. As introduced, the statute would have allowed a county board of supervisors to conduct a closed session “with other persons for purposes of negotiations for the purchase, sale or lease of property.”<sup>29</sup> An early amendment applied the exemption more broadly to “the legislative body of a local agency,” but simultaneously narrowed the scope of discussion to a “meeting with [the local governing body’s] designated negotiator to give instructions” concerning the “terms or price, or both” of a specified *real* property transaction.<sup>30</sup> Next, the language was amended to limit the scope of discussion to only the “price” of the proposed transaction.<sup>31</sup> A final amendment settled on “price and terms of payment” for the particular purchase, sale, exchange, or lease of real property.<sup>32</sup> From this history, we can see that the Legislature considered and rejected the broader phrase (“terms” of the proposed transaction) in favor of the narrower phrase (“terms of payment”). Moreover, the reported appellate decisions in which the phrase “terms of payment” appears reveals a consistent understanding that it is meant to describe how and when the price is to be paid.<sup>33</sup>

Thus, we see that the real-estate-negotiations exception includes two topics that a local agency may discuss in closed session: (1) the negotiator’s authority regarding the price, and (2) the negotiator’s authority regarding the terms of payment. Well established rules of statutory construction hold that “the expression of some things in a statute necessarily means the exclusion of other things not expressed,”<sup>34</sup> and that we “may not rewrite a statute by inserting thoughts that have been omitted . . . .”<sup>35</sup> Applying those

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<sup>28</sup> “Both the legislative history of the statute and the wider historical circumstances of its enactment may be considered in ascertaining the legislative intent. [Citation.]” *Dyna-Med, Inc.*, 43 Cal. 3d at 1387. The real-estate-negotiations exception was enacted in 1984. 1984 Stat. ch. 1126 §§ 2, 3 (Sen. 2216).

<sup>29</sup> Sen. 2216, 1983-84 Reg. Sess. (Feb. 17, 1984).

<sup>30</sup> Sen. 2216 (as amend. Apr. 23, 1984).

<sup>31</sup> Sen. 2216 (as amend. May 7, 1984).

<sup>32</sup> Sen. 2216 (as amend. Aug. 16, 1984); *see* 1984 Stat. ch. 1126 § 2; Govt. Code § 54956.8.

<sup>33</sup> *See Segura v. McBride*, 5 Cal. App. 4th 1028, 1034 (1992); *E & H Wholesale, Inc. v. Glaser Bros.*, 158 Cal. App. 3d 728, 735 (1984); *Kawasho Intl. v. Lakewood Pipe Serv., Inc.*, 152 Cal. App. 3d 785, 792 (1983).

<sup>34</sup> *Gikas v. Zolin*, 6 Cal. 4th 841, 852 (1993); *Dyna-Med*, 43 Cal. 3d at 1391 n. 13.

<sup>35</sup> *Gillett-Harris-Duranceau, etc. v. Kemple*, 83 Cal. App. 3d 214, 219 (1978); 78

rules to this statute leads us to reject the argument that closed-session discussions may extend to issues that might *affect* “the economic value of the transaction,”<sup>36</sup> or what might be called “the price that the local agency is willing to pay or accept.” It is undoubtedly true that any number of issues might fall into this broad category—for example, the availability of easements on the subject property, or credit worthiness of the buyer or seller, or the financial condition of the local agency itself. But we cannot agree that collateral matters of this sort fall within the meaning of the statutory exception such that they may be discussed out of public hearing. We believe that such an expansive reading of what is meant by “price” would render virtually meaningless the phrase “terms of payment,” because payment terms themselves commonly affect the price that a party may be willing to pay or accept.<sup>37</sup> We are not free to construe a statute in a manner that would render any words or phrases redundant.<sup>38</sup>

Moreover, the California Court of Appeal has rejected an argument that the real-estate-negotiations exception implies a “rule of reason” that would allow closed-session consideration of items “reasonably related to the purpose of giving direction to a legislative body’s negotiator.”<sup>39</sup> In *Shapiro v. San Diego City Council*, a city council was considering a development project that included the construction of a new baseball stadium for the San Diego Padres. The city council argued that the complexity of the proposed transaction justified closed-session discussion of various matters “reasonably related” to the ballpark deal.<sup>40</sup> Among these matters were: briefing on land acquisition

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Ops.Cal.Atty.Gen. 192, 194 (1995); 66 Ops.Cal.Atty.Gen. 217, 222 (1983); *see* Code Civ. Proc. § 1858.

<sup>36</sup> Ltr. from League of Cal. Cities to Dep. Atty. Gen. Marc J. Nolan (Aug. 6, 2010) 3-4.

<sup>37</sup> For example, a party’s agreement to make a full lump-sum payment at the outset would typically bring about a lower total payment price than would a series of installment payments made over time. *See, e.g., E & H Wholesale, Inc. v. Glaser Bros.*, 158 Cal. App. 3d at 735 (“cash discount” is “discount granted in consideration of immediate payment or payment within a prescribed time” [citation]).

<sup>38</sup> *Metcalf v. Co. of San Joaquin*, 42 Cal. 4th 1121, 1135 (2008); *Cooley v. Super. Ct.*, 29 Cal. 4th 228, 249 (2002); *see Commn. on Peace Officer Stands. & Training v. Super. Ct.*, 42 Cal. 4th 278, 294 (2007) (quoting *Moore v. Cal. State Bd. of Accountancy*, 2 Cal. 4th 999, 1011-1012 (1992)) (restrictive meaning must be adopted “‘if acceptance of a more expansive meaning would make other items in the list unnecessary or redundant . . . .’”).

<sup>39</sup> *Shapiro v. San Diego City Council*, 96 Cal. App. 4th at 922.

<sup>40</sup> *Id.* at 923.

matters; design work of architects and engineers; infrastructure and parking developments; capping interim expenses; environmental impact report considerations; issues of alternative sites, traffic, stadium naming rights, expert consultants, and staff; and such policy considerations as the impact of the ballpark project on the homeless.<sup>41</sup> The *Shapiro* court acknowledged the “perceived value of confidentiality” in negotiations and did not “denigrate [this] important consideration.”<sup>42</sup> Nevertheless, it concluded that the council’s closed-session discussions exceeded the scope of the “safe harbor notice provisions” on the council’s agenda (which stated that closed-session discussions would be conducted as to *price* and *terms of payment*), and that the topics ranged “far afield of a specific buying and selling decision.”<sup>43</sup>

We note that the city council in *Shapiro* failed to identify a specific parcel of property in its agenda when it referenced the closed-session item of business,<sup>44</sup> and we are aware that an argument may be made that the *Shapiro* case is distinguishable on that basis. But we believe that *Shapiro*’s reasoning is robust enough to support the point we make here, which is that the real-estate-negotiations exception (like the safe harbor notice provision) simply cannot be read so broadly as to incorporate any and every topic that might have a bearing on a public real estate transaction.

We do not mean to say that a closed session must be absolutely limited to the specification of a particular dollar amount (or other specified consideration) that the local agency is willing to pay or accept in a given real estate transaction. While exceptions to the Brown Act must be given a narrow construction,<sup>45</sup> they must still be interpreted in a manner that gives effect to the underlying purposes of the law.<sup>46</sup> Among the purposes at play in this situation is the need to conserve scarce public resources through effective negotiation of real estate transactions. In our view, therefore, a closed-session discussion regarding price or terms of payment must allow a public agency to consider the range of

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<sup>41</sup> *Id.* at 923-924.

<sup>42</sup> *Id.* at 924.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 908 (agenda merely specified “real property interests in the East Village area of downtown San Diego, and at Qualcomm Stadium in the City of San Diego” or, on other occasions, “real estate interests in the Centre City East area of downtown San Diego”).

<sup>45</sup> *Shapiro*, 96 Cal. App. 4th at 917.

<sup>46</sup> See *Duval v. Bd. of Trustees*, 93 Cal. App. 4th 902, 909-911 (2001) (eschewing overly narrow reading of “evaluation of performance” as used in Brown Act’s personnel exception).

possibilities for payment that the agency might be willing to accept, including how low or how high to start the negotiations with the other party, the sequencing and strategy of offers or counteroffers, as well as various payment alternatives. Information designed to assist the agency in determining the value of the property in question, such as the sales or rental figures for comparable properties, should also be permitted, because that information is often essential to the process of arriving at a negotiating price.<sup>47</sup>

Ultimately, of course, each case must be decided on its own facts. But, for the reasons stated, we cannot accept the view that the real-estate-negotiations exception permits the closed-session discussion of any and all aspects of a proposed transaction that might have some effect on price and payment terms. The purpose of the exception is to protect a local agency's bargaining position, not to keep confidential its deliberations as to the wisdom of a proposed transaction.

For the reasons stated, we conclude that the real-estate-negotiations exception to the open meeting requirements of the Brown Act permits the closed-session discussion of: (1) the amount of consideration that the local agency is willing to pay or accept in exchange for the real property rights to be acquired or transferred in the particular transaction; (2) the form, manner, and timing of how that consideration will be paid; and (3) items that are essential to arriving at the authorized price and payment terms, such that their public disclosure would be tantamount to revealing the information that the exception permits to be kept confidential.

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<sup>47</sup> In this connection, we note that section 6254(h) exempts from public disclosure under the Public Records Act (§§6250-6276.48) the "contents of real estate appraisals . . . made for or by the state or local agency relative to the acquisition of property" until after the property has been acquired.

ATTACHMENT 2

Jean A. Getchell  
1743 Santa Ynez Street  
Ventura, CA 93001  
(831) 392-6596

June 16, 2020

Board of Port Commissioners  
Ventura Port District  
1601 Anchors Way Drive  
Ventura, CA 93001

Sent Electronically  
to All Recipients.  
Signed Original  
Personally Delivered  
to Clerk of the Board.

SUBJECT: STATUS OF PERMIT APPLICATION WITH U.S. ARMY CORPS OF  
ENGINEERS FOR USE OF FEDERAL SEA BOTTOM, VIOLATION OF THE  
BROWN ACT, AND ASSOCIATED ISSUES

Chairman Stephens and Commissioners:

Status of Permit Application with U.S. Army Corps of Engineers (USACE) for Siting 2,000  
Acres of Aquaculture in Federal Waters: *Withdrawn*

Given the amount of work and expenditures made on this project, as well as the stated intent to sub-lease twenty (20), one-hundred acre (100 ac) parcels for shellfish farming, I wondered if the USACE had granted approval for the District to sub-lease acreage to other entities. Without authorization to sub-lease, any permit approval would limit the Port District, itself, to entering into the shellfish business. I am not aware that the District has announced its interest in entering directly into the shellfish business or if it has demonstrated the financial wherewithal to develop the capital assets or provide the operating capital. If the District has developed such plans, please provide details.

To determine the status of my question, on May 26 I contacted Dr. Aaron Allen, Chief, North Coast Branch of the Regulatory Division of the Los Angeles District of the USACE. I asked him to confirm the status of the District's request for USACE approval to sub-lease twenty (20) one-hundred acre (100 ac) parcels of the Federal Authorized Sea Bottom. He replied as follows:

*As indicated in our letter dated February 18, 2020, the application is currently withdrawn pending the receipt of the requested additional information. The additional information was requested in our letter dated January 15, 2020. When we receive the requested information, we will continue processing the application.* (Underlining added for emphasis.)



Information Required from the District to Allow USACE Permit Application Review to Proceed  
As the January 15 letter specified, the USACE will consider the District's permit application as "withdrawn" until it receives two items:

- 1) A draft navigational risk assessment, and
- 2) Resolution of issues raised by LAFCO, which could be achieved by State legislation or the State Attorney General.

I trust that District Counsel has informed your Commission that resolution of the second item will not be possible by an Advisory Opinion of the California Attorney General. In accord with Government §12519, these opinions are available to specific California constitutional officers and others, but it does not include a Special District. Ventura County Counsel is entitled to request an opinion. However, he argued at the public hearing on October 16, 2019, which was held to consider the District's project, that other provisions of the Government Code prohibited a special district from activities outside California. As a result, only special legislation would exempt the District's shellfish project from prohibitions against operating outside California.

Inasmuch as legislation is not enacted until signed by the Governor or overridden by a 2/3 vote of the Legislature, the USACE may not reactivate and begin to review the District's permit application for quite some time, likely more than a year from now.

For your reference, I have attached the January 15 and February 18, 2020 letters Dr. Allen sent to District General Manager, Brian Pendleton. After I received these letters through a FOIA request from the Los Angeles District, Dr. Allen clarified on June 10 that:

*The Port District has requested the ability to sub-lease to other entities as part of their application. We have informed the Port District that there are several potential issues associated with the proposed sub-leasing component of their project. However, we will not make a final decision regarding the proposed sub-leasing until we complete our decision document for the proposed project.*

What are the Potential Issues?

With the financial shortfall that is being experienced by the District and the anticipated lengthy delay in providing a complete application to the USACE, why hasn't the Port District disclosed the potential issues? What additional resources might be required to address these issues? What risk do these issues pose to the project objectives?

Government Code §54956.8: No Basis to Discuss the Shellfish Project in Closed Session

The Commission invokes Government Code §54956.8 to authorize discussion of the District's shellfish project in Closed Session. That section serves an important purpose by keeping negotiations regarding the purchase, sale, exchange or lease of real property confidential and undiscoverable by others, notably the other party to the transaction or a competing bidder.



Government Code §54956.8

*Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.*

The shellfish project involves no purchase, sale, exchange or lease of real property. In addition, no price and terms of payment are being negotiated by the District. Had the Legislature intended to authorize discussion of another item like a permit application in Closed Session, it would have included the term in the legislation. Even if a “permit application” were authorized to be discussed, which it is not, the USACE has withdrawn the District’s permit application as a result of the District’s failure to provide required information. There isn’t an active permit application to discuss.

Years of Brown Act Violations and Seven Violations Since Dr. Allen’s February 18, 2020 Letter that Notified the District that Its Application Had Been Withdrawn

Instead, Section 54956.8 has been used as a ruse to keep the harbor businesses, other governmental agencies and the public from knowing the facts about the shellfish project, the uncertainty of the project being implemented, and its continued financial burden on the Port District and its revenue sources. To correct this pattern and practice, the Commission should give notice to the public that until the Governor signs the special legislation required to site the shellfish project in Federal Waters, the project cannot be implemented. Without enactment of the special legislation, the USACE will not review the District’s permit application. Until the USACE issues the required permit, there will be no project. In addition, the District should explain why any additional work (other than the Navigational Risk Study required by the USACE) should be undertaken until the USACE permit is issued.

Project Alternative(s) If USACE Approval to Sub-Lease Is Denied

While there is no certainty that the USACE permit application will ever include the required information for the Federal Government to consider approval of the basic permit, the permit may eventually be issued. However, the “several potential issues associated with the proposed sub-leasing” cited by Dr. Allen pose an additional regulatory hurdle. What plan, if any, has the Port District developed in the event sub-leasing is not approved?

Project Alternatives Developed for Review by NOAA, USACE and the California Coastal Commission

Has the District addressed the comments made by Diane Windham of NOAA, the USACE and the Coastal Commission, which were specified in the May 13 CalMatters article published in the *Ventura County Star*? The article quoted their serious concerns about an offshore project, and NOAA specified that it would prefer a small project that could be evaluated and monitored to ensure that significant impacts to the environment did not develop. To that end, has the District developed a project alternative that the regulatory agencies might more likely approve, a project that could reflect, for example, phased development? Otherwise, is the District prepared for project denial and the loss of six years of work and great cost to other District activities that have funded the shellfish project?



ATTACHMENT 2

I hope the Commission is listening to the regulators' concerns. It should insist that the project be one that can obtain project approval and be overseen to ensure protection of the environment. The regulators' concerns cited in the CalMatters article do not bode well for a two-thousand acre offshore project. If the Commission submits only a two-thousand acre project for approval, denial should be no surprise.

Sincerely,

A handwritten signature in black ink, appearing to be 'JAG' with a long horizontal stroke extending from the 'G'.

cc: Dr. Aaron Allen, Ph.D.

Enclosures: January 15, 2020 Letter to Ventura Port District  
February 18, 2020 Letter to Ventura Port District

Jean A. Getchell  
1743 Santa Ynez Street  
Ventura, CA 93001  
(831) 392-6596

June 17, 2020

Board of Port Commissioners  
Ventura Port District  
1601 Anchors Way Drive  
Ventura, CA 93001

Sent Electronically  
to All Recipients.  
Signed Original  
Personally Delivered  
to Clerk of the Board.

SUBJECT: ADDENDUM: STATUS OF PERMIT APPLICATION WITH U.S. ARMY  
CORPS OF ENGINEERS FOR USE OF FEDERAL SEA BOTTOM,  
VIOLATION OF THE BROWN ACT, AND ASSOCIATED ISSUES

Chairman Stephens and Commissioners:

Violation of Government Code §54954.5, Closed Session Item Description

In addition to what I submitted in my letter of June 16 regarding Government Code §54956.8, which specifies what real property transactions may be discussed by a local agency's legislative body with its negotiator in Closed Session, please note that the District has also failed to comply with Government Code §54954.5 (b). Its requirements include:

**GOVERNMENT CODE**

**TITLE 5. LOCAL AGENCIES [50001 - 57607]**

( Title 5 added by Stats. 1949, Ch. 81. )

**DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821]**

( Division 2 added by Stats. 1949, Ch. 81. )

**PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7] ( Part 1 added by Stats. 1949, Ch. 81. )**

**CHAPTER 9. Meetings [54950 - 54963]**

( Chapter 9 added by Stats. 1953, Ch. 1588. )

**54954.5.**

*For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.*

ATTACHMENT 3

*(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:*

*CONFERENCE WITH REAL PROPERTY NEGOTIATORS*

*Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)*

*Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)*

*Negotiating parties: (Specify name of party (not agent))*


*Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)*

Inasmuch as "price, terms of payment, or both" have never been specified by the District when providing public notice of the District's intent to discuss its shellfish project in Closed Session (because price and terms of payment have never been involved in these Closed Session discussions), the District has never complied with this requirements of the Brown Act. Until the U.S. Army Corps of Engineers requires negotiation of price or terms of payment or both for a lease or sale of its Federal Sea Bottom to the District and the District complies with the requirements of Sections 54954.5 and 54956.8, the District may not discuss its shellfish project in Closed Session.

Because neither the National Oceanic and Atmospheric Administration nor the California Coastal Commission is likely to enter into a purchase, sale, exchange or lease of real property with the District, Section 54956.8 could not be invoked to justify any discussion in Closed Session of their concerns about the District's shellfish project.

Thank you for the opportunity to provide this Public Comment.

Sincerely,

A handwritten signature in black ink, appearing to be "JAS" followed by a horizontal line.

cc: Dr. Aaron Allen, Ph.D.



ATTACHMENT 4

Jean A. Getchell  
1743 Santa Ynez Street  
Ventura, CA 93001  
(831) 392-6596

July 1, 2020

Board of Port Commissioners  
Ventura Port District  
1601 Anchors Way Drive  
Ventura, CA 93001

Sent Electronically  
to All Recipients.

SUBJECT: DOCUMENTATION THAT CLOSED SESSION MEETINGS TO PROVIDE  
DIRECTION TO DISTRICT STAFF IN REAL PROPERTY NEGOTIATIONS  
WITH U.S. ARMY CORPS OF ENGINEERS FOR USE OF FEDERAL SEA  
BOTTOM WERE A VIOLATION OF THE BROWN ACT

Chairman Stephens and Commissioners:

As my June 16 letter to you explained, Government Code §54956.8 serves an important purpose by keeping negotiations regarding the purchase, sale, exchange or lease of real property confidential and undiscoverable by others, notably the other party to the transaction or a competing bidder. My letter also explained that it was highly unlikely that the District had been negotiating price or terms of payment with the U.S. Army Corps of Engineers (USACE), the only discussion that would authorize meeting in Closed Session. To verify my conclusion, I asked Dr. Allen to confirm whether the USACE had negotiated or planned to negotiate real property interests with the District. Because the USACE has no authority under Section 10 of the Rivers and Harbors Act to negotiate such commercial interests, his answer was a conclusive "No". I have copied my question and his response into this document.

-----Original Message-----

From: Jean Getchell [mailto:[jeanagetchell@gmail.com](mailto:jeanagetchell@gmail.com)]

Sent: Friday, June 19, 2020 11:00 AM

To: Allen, Aaron O CIV USARMY CESPL (USA) <[Aaron.O.Allen@usace.army.mil](mailto:Aaron.O.Allen@usace.army.mil)>

Subject: [Non-DoD Source] Question Regarding Ventura Port District's Shellfish Project

Dr. Allen:

First, I would like to thank you and other staff members for the USACE's prompt response to my prior request concerning the status of the permit with the District.

My question today is two-fold:

- \* Has the USACE ever negotiated the price or terms of payment for any sale, exchange or lease of real property with the District (the Federal Sea Bottom) for its proposed 2,000 acre shellfish farm?
- \* Does the USACE have plans to do so before it issues a permit to the District?

ATTACHMENT 4

To: Jean Getchell

The short answer to both questions is "No". The Corps only has authority to regulate the proposed project under Section 10 of the Rivers and Harbors Act (e.g. work and structures in navigable waters). The Corps does not have any authority to grant leases or negotiate terms for economic use of the sea bottom.

Thanks,  
Aaron O. Allen, Ph.D.  
Chief, North Coast Branch  
Regulatory Division  
Los Angeles District  
O:(805) 585-2148 C:(805) 665-8660

During the Coronavirus Health Emergency, Regulatory Program staff are teleworking. Please do not mail hard copy documents to any Regulatory staff or office. For further details on corresponding with us, please view our COVID-19 special public notice at:  
[https://www.spl.usace.army.mil/Portals/17/docs/publicnotices/COVID19%20Regulatory\\_SPN.pdf?ver=2020-03-19-134532-833](https://www.spl.usace.army.mil/Portals/17/docs/publicnotices/COVID19%20Regulatory_SPN.pdf?ver=2020-03-19-134532-833)

In the interest of serving the people of Ventura and the businesses that have invested in Ventura Harbor, I hope that all future discussion of regulatory issues concerning the shellfish project will be done in Open Session.

I appreciate the opportunity to bring this to the attention of the Commission.

Sincerely,

A handwritten signature in black ink, appearing to be 'A. Allen', with a large, stylized loop at the end.

cc: Dr. Aaron Allen, Ph.D.  
U.S. Army Corps of Engineers

ATTACHMENT 5

Jean A. Getchell  
1743 Santa Ynez Street  
Ventura, CA 93001  
(831) 392-6596

DATE: July 1, 2020

TO: Board of Port Commissioners  
Ventura Port District  
1601 Anchors Way Drive  
Ventura, CA 93001

Sent Electronically  
to All Recipients.

FROM: Jean A. Getchell

SUBJECT: ADDENDUM TO PRIOR COMMUNICATION REGARDING  
DOCUMENTATION THAT CLOSED SESSION MEETINGS TO PROVIDE  
DIRECTION TO DISTRICT STAFF IN REAL PROPERTY NEGOTIATIONS  
WITH U.S. ARMY CORPS OF ENGINEERS FOR USE OF FEDERAL SEA  
BOTTOM WERE A VIOLATION OF THE BROWN ACT

**ATTACHMENT TO PORT COMMISSION AGENDA  
CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL  
WEDNESDAY, SEPTEMBER 12, 2018**

1. Conference with Real Property Negotiators - Per Government Code Section 54956.8(A):
  - a) Property: **Federal Authorized Sea Bottom**  
Negotiating Parties: Oscar Pena, Brian Pendleton, Roland Trinh  
Under Negotiation: Leasing **or Permits** for VSE Aquaculture Purposes

**ATTACHMENT TO PORT COMMISSION AGENDA  
CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL  
WEDNESDAY, SEPTEMBER 26, 2018**

1. Conference with Real Property Negotiators - Per Government Code Section 54956.8:
  - a) Property: **Federal Authorized Sea Bottom**  
Negotiating Parties: Oscar Pena, Brian Pendleton, Roland Trinh  
**Army Corps of Engineers**  
Under Negotiation: Leasing **or Permits** for VSE Aquaculture Purposes  
**(Verbal Report)**

**ATTACHMENT TO PORT COMMISSION AGENDA  
CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL  
WEDNESDAY, DECEMBER 12, 2018**

1. Conference with Real Property Negotiators - Per Government Code Section 54956.8:
  - e) Property: **Federal Authorized Sea Bottom**  
Negotiating Parties: Oscar Pena, Brian Pendleton, Timothy Gosney  
**Army Corps of Engineers**  
Under Negotiation: Leasing **or Permits** for VSE Aquaculture Purposes  
**(Verbal Report)**

(A) Government Code §54956.8 provides an exception to the Brown Act to allow a Closed Session meeting between the legislative body (here, the Port Commission) with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However,

- None of these meetings involved a real property transaction of any kind;
- None of these meetings involved negotiation of price or terms of payment;
- None of these meetings involved the required second party, notably, the U.S. Army Corps of Engineers; and
- Most importantly, none of these meetings involved granting authority to the District's negotiators; instead, the meetings were used for staff to provide secret information to the Commissioners that was not provided to the public.



**ATTACHMENT TO PORT COMMISSION AGENDA  
CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL  
WEDNESDAY, JANUARY 16, 2019**

1. Conference with Real Property Negotiators - Per Government Code Section 54956.8:

h) Property:	<b>Federal Authorized Sea Bottom</b>
Negotiating Parties:	Oscar Pena, Brian Pendleton, Timothy Gosney
Proposed Lessee <sub>(B)</sub> :	<b>Army Corps of Engineers</b>
Under Negotiation:	Sea Bottom Aquaculture Permit <sub>(C)</sub> <b>(Verbal Report)</b>

(B) How can the District be the lessor? What property does it own in Federal Waters?

(C) Permits are not specified in Government Code Section 54956.8.

Following Meetings with the Same Closed Session Subject:

**2019**

February 6  
February 20  
March 20  
April 3  
May 1  
May 15  
June 19  
July 3  
July 17  
September 4  
October 2  
October 16  
November 20  
December 18

**2020**

January 22  
February 5  
February 19  
March 4  
April 1  
April 15  
May 6  
May 20  
June 3

**27 Closed Session Meetings: (3) in 2018; (15) in 2019; and (9) in 2020.**

**If the Port Commissioners were not actually negotiating  
real property price and terms of payment  
with the U.S. Army Corps of Engineers,  
what were they discussing?**