

# CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
WEB: WWW.COASTAL.CA.GOV



## EMERGENCY COASTAL DEVELOPMENT PERMIT ACCEPTANCE FORM

TO: CALIFORNIA COASTAL COMMISSION  
CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060

RE: **Emergency Coastal Development Permit (ECDP) No. G-3-23-0070**

INSTRUCTIONS: After reading the attached ECDP, please sign this form and return it to the Central Coast District Office within 15 days from the permit's date.

I hereby understand all of the conditions of the ECDP being issued to the County of Monterey and agree to abide by them.

I also understand that the emergency work is TEMPORARY and that a regular CDP is necessary. I agree to apply for a regular CDP upon conclusion of the long-term planning process, unless this deadline is extended by the Executive Director.

DocuSigned by:  
*Craig Spencer*  
9A435825BB244E...  
\_\_\_\_\_  
Signature of County of Monterey Authorized  
Representative

\_\_ Craig Spencer \_\_\_\_\_  
Name (Print)

\_\_ 1441 Schilling Place, 2nd Fl South \_\_\_\_\_  
Address

\_\_ Salinas, CA 93901 \_\_\_\_\_

**CALIFORNIA COASTAL COMMISSION**

455 MARKET STREET, SUITE 300  
SAN FRANCISCO, CA 94105  
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# **EMERGENCY COASTAL DEVELOPMENT PERMIT**

## **Emergency CDP G-3-23-0070 (Carmel River Lagoon Sandbar Management) Issue Date: November 29, 2023**

**Permittee:** Monterey County

**Emergency Location:** Carmel River State Beach, Carmel River Lagoon and adjacent residential properties

**Emergency Description:** Potential flooding of homes and State Beach facilities directly adjacent to the Carmel River Lagoon due to the buildup of a sandbar fronting the lagoon that blocks drainage of the lagoon until it is breached by natural overtopping of the sandbar, or via the construction of a pilot channel through the sandbar. Specifically, there is a risk that any significant rainfall could lead to flooding of approximately 12 residential homes, loss of the State Beach parking lot, and undercutting of the State Beach restroom, all located upcoast and to the north along the bank of the lagoon.

**Emergency Development:** Manage the sandbar at Carmel River State Beach during the 2023-24 rainy season (i.e., until April 15, 2024), including by cutting and managing a pilot channel between the lagoon and Carmel Bay to reduce the water level in the lagoon so as to minimize flooding of and damage to residences, State Beach facilities upcoast and to the north of the lagoon, and Scenic Road. Mobilization and mechanical breaching of the sandbar would commence when one or more of the following conditions is met: 1) lagoon water level reaches a surface elevation of 13.27 feet (NAVD88); 2) the rise in lagoon water levels indicates there is less than six hours until the water surface elevation reaches 12.77 feet (NAVD88) or when Carmel River flows reach or exceed 200 cubic feet per second at the Robles del Rio Bridge stream gauge; or 3) data indicates that wave over-topping will begin to rapidly increase water levels of the lagoon or sandbar elevation.

The sandbar management permitted in this emergency CDP is an interim measure necessary to minimize flooding risk while Monterey County continues to pursue a long-term management plan to address flooding and erosion issues in the lagoon area. Planning for the long-term management of these coastal hazards is actively underway.

### **Executive Director's Determination**

Enclosure: ECDP Acceptance Form

cc: (via email): Brent Marshall (California Department of Parks and Recreation); Sophie De Beukelaer (Monterey Bay National Marine Sanctuary); Katerina Galacatos (U.S. Army Corps of Engineers); Chad Mitcham (U.S. Fish and Wildlife Service); Amanda Morrison (National Marine Fisheries Service); Linda Connolly (California Department of Fish and Wildlife); Kim Sanders (Regional Water Quality Control Board); Craig Spencer (Monterey County Housing and Community Development); Brandon Swanson (City of Carmel-by-the-Sea Community Planning and Building)

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The Executive Director of the California Coastal Commission hereby finds that: (a) a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services exists (i.e., an “emergency” (see Title 14 California Code of Regulations Section 13009 and California Coastal Act (Public Resources Code) Section 30624); (b) the emergency requires action more quickly than allowed by the procedures for regular CDPs; (c) the emergency development can and will be completed within 30 days unless otherwise specified by the terms of this ECDP; (d) the emergency development carried out under this ECDP is considered temporary work done in an emergency situation to abate an emergency and is undertaken at Permittee risk; (e) a regular CDP must be obtained for the emergency development to become more than temporary emergency abatement and/or if the Permittee wishes to expand the scope of work beyond that authorized by this ECDP; (f) absent obtaining a regular CDP, the emergency development shall be removed and the affected area restored; and (g) Commission staff will review public comment on the proposed emergency development as time allows.

The emergency development is hereby approved, subject to the conditions listed below.

*Kevin Kahn*

Kevin Kahn, Central Coast District Manager, for Kate Huckelbridge, Executive Director

**Conditions of Approval**

1. The enclosed ECDP acceptance form must be signed by the Permittee and returned to the California Coastal Commission’s Central Coast District Office within 15 days of the date of this ECDP (i.e., by December 14, 2023). This ECDP is not valid unless and until the acceptance form has been received in the Central Coast District Office.
2. All emergency development shall be limited in scale and scope to that specifically identified in the Emergency Permit Application Form dated received in the Commission’s Central Coast District Office on September 8, 2023. Only that emergency development specifically described in this ECDP and for the specific location listed above is authorized. Any other development requires separate authorization from the Executive Director or the Commission, as applicable.
3. The emergency development authorized by this ECDP extends through the 2023-24 rainy season (i.e., until April 15, 2024) only, unless extended for good cause by the Executive Director.
4. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., California Department of Parks and Recreation, California Department of Fish and Wildlife, California State Lands Commission, Monterey Bay National Marine Sanctuary, United States Army Corps of Engineers, National Marine Fisheries Service, United States Fish and Wildlife Service, etc.). The Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.
5. By exercising this ECDP, Permittee acknowledges and agrees that: (a) the

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emergency development is temporary, is designed to temporarily abate the emergency, and shall be removed unless and until a regular CDP authorizing the work is approved, and provided the Permittee adheres to such regular CDP's terms and conditions; and (b) a regular CDP is subject to all of the provisions of the California Coastal Act (as codified in Sections 30000 to 30900 of the Public Resources Code) and any applicable Local Coastal Program (LCP) policies and may be conditioned accordingly to avoid and/or to offset coastal resource impacts consistent with the Coastal Act (and LCP as applicable) (including but not limited to requirements for public access provisions (such as offers to dedicate, easements, in-lieu fees, etc.), assumption/disclosure of risks (including deed restrictions), triggers for relocation/removal, offsetting mitigations, etc.). The Permittee acknowledges that review of the CDP application to determine consistency with the Coastal Act (and LCP as applicable) will be based on the conditions the property was legally in prior to initiation of the temporary emergency development that is the subject of this ECDP.

6. By exercising this ECDP, the Permittee acknowledges and agrees in relation to this ECDP and the emergency development that it authorizes: (a) to assume all risks (including all coastal hazard risks, that include but are not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tidal scour, storms, tsunami, coastal flooding, landslide, earth movement, and the interaction of all of these, many of which will worsen with future sea level rise); (b) to unconditionally waive any claim of damage and/or liability against the Commission and/or its officers, employees, agents, successors and/or assigns; (c) to indemnify and hold harmless the Commission and its officers, employees, agents, successors and/or assigns against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement, including as it relates to any damages to public and/or private properties and/or personal injury; (d) that any adverse effects to property or people caused by the emergency development shall be fully the responsibility of the Permittee.
7. The Permittee shall reimburse the Commission in full for all Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (a) charged by the Office of the Attorney General; and/or (b) required by a court) that the Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this ECDP, the interpretation and/or enforcement of ECDP terms and conditions, or any other matter related to this ECDP. The Permittee shall reimburse the Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.
8. The emergency development authorized by this ECDP is only temporary, and shall no longer be authorized if it is not followed-up by a regular CDP that provides a comprehensive response to flooding along Carmel Lagoon in a manner that is most

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protective of Carmel River and Lagoon and Carmel River State Beach resources, including public recreational access, and including through application of the least environmentally damaging alternative(s) for addressing flood risks and shoreline erosion, and allowing the river/lagoon system to operate as naturally as possible without artificial manipulation. Upon conclusion of the long-term planning process to provide for this comprehensive response, the Permittee shall submit a complete application for a regular CDP to both authorize this temporary emergency development and request authorization for any other development associated with the long-term solution(s). (The CDP application may be found at: <http://www.coastal.ca.gov/cdp/cdp-forms.html>). Otherwise, the temporary emergency development shall no longer be authorized, and all areas affected by it shall be restored to their original pre-emergency development condition. The application shall include photos showing the project site before the emergency, during emergency project construction activities, and after the work authorized by this ECDP is complete. The deadline in this condition may be extended for good cause by the Executive Director.

9. Failure to meet any of the applicable requirements of Condition 8 above shall constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Executive Director and/or the Commission. Such formal action may include: recordation of a Notice of Violation on the Permittee's property; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties of up to \$11,250 per day per violation; a civil lawsuit (that may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day); and/or other applicable penalties and relief pursuant to Coastal Act Chapter 9. In addition, failure to follow and meet all terms and conditions of this ECDP shall also constitute a knowing and intentional Coastal Act violation to which the same actions above may be applied.
10. All emergency development shall be limited to the least amount necessary to temporarily abate the emergency, and shall be undertaken in a time and manner that avoids any and all coastal resource impacts as much as possible, including avoiding impacts to public access. The Permittee shall keep the Executive Director informed regarding emergency development progress, including in terms of any issues encountered that may require adjustment.
11. A qualified biologist (including with a minimum of three years' experience with anadromous salmonids) shall be present during all emergency development activities and shall monitor the lagoon and sandbar on a daily basis for as long as the emergency development activities authorized under this ECDP persist. The biological monitor shall ensure that all emergency development is limited to the least amount necessary to abate the emergency, and that it avoids impacts to adjacent marine and lagoon resources as much as possible, including through adaptive management measures to respond to changing conditions and/or understandings relative to flood risk and habitat impacts.
12. Prior to any mechanical breaching of the sandbar, the Permittee shall have ensured that all other possible flood protection measures (e.g., sandbags, rubber dams, etc.) have been applied to protect surrounding floodwater-threatened homes,

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infrastructure, and other development to the maximum extent feasible.

13. For the construction of the channel, the Permittee shall excavate a channel through the sandbar in a direction and manner as agreed upon in consultation with NOAA Fisheries, and in a manner that results in a more natural and less erosive breach. The intention is that wave action or rising lagoon water levels will naturally breach the sandbar and create a breach channel to the ocean. Based on typical beach and sandbar conditions, the excavation channel would be constructed to the south and result in the excavation and side-casting of approximately 100-250 cubic yards of beach sand. The channel will be excavated to an approximate depth elevation of 12.77 feet (NAVD88). The primary area of site disturbance (including the channel, side-cast area, and sand stockpile area) is estimated at approximately 0.60 acre and 300 linear feet. If existing shoreline conditions prevent establishing a diagonal channel in the manner described above, the Permittee may, in conjunction with the other responsible agencies identified in Condition #4 above, be authorized to modify the channel configuration (i.e., length, width, and location) to reduce flood risks in a manner that also protects sensitive resources and species to the greatest extent practicable.
14. Following any sandbar breach and after high inflows from the river have receded, the lagoon shall either be allowed to naturally close or remain with an open outlet channel flowing over the beach in the alignment described in Condition 13 above (i.e., a long meandering channel that mutes tidal influence and rapid draining of the lagoon), whichever is more protective of resources, including as directed by the biological monitor.
15. All emergency development activities shall limit impacts to coastal resources (including public recreational access, shoreline bluff, Carmel River and Lagoon, Carmel River State Beach, and the Pacific Ocean) to the maximum extent feasible including by, at a minimum, adhering to the following construction requirements (which may be adjusted by the Executive Director if such adjustments: (1) are deemed necessary due to extenuating circumstances; and (2) will not adversely impact coastal resources):
  - a. All construction areas shall be minimized, shall allow public recreational access along Carmel River State Beach, and shall protect public safety to the maximum extent feasible. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.
  - b. Construction work and equipment operations shall not be conducted seaward of the mean high-water line unless tidal waters have receded from the authorized work areas.
  - c. Grading of intertidal areas is prohibited.
  - d. Any construction materials and equipment delivered to the beach area shall be delivered by rubber-tired construction vehicles. When transiting on the beach, all

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such vehicles shall remain as high on the upper beach as possible and avoid contact with ocean waters and intertidal areas.

- e. Any construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs.
  - f. All construction areas shall be minimized and demarked by temporary fencing designed to allow through public access and protect public safety to the maximum extent feasible. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.
  - g. The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep equipment covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach; etc.).
  - h. All construction activities that result in discharge of materials, polluted runoff, or wastes to the beach or the adjacent marine environment are prohibited. Equipment washing, refueling, and/or servicing shall not take place on the beach. Any erosion and sediment controls used shall be in place prior to the commencement of construction as well as at the end of each workday.
  - i. All accessways impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any beach sand in the area that is impacted by construction shall be filtered as necessary to remove any construction debris.
  - j. All contractors shall ensure that work crews are carefully briefed on the importance of observing the construction precautions given the sensitive work environment. Construction contracts shall contain appropriate penalty provisions sufficient to offset the cost of retrieval/clean-up of foreign materials not properly contained and/or remediation to ensure compliance with this ECDP otherwise.
  - k. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office immediately upon completion of construction and required restoration activities. If planning staff should identify additional reasonable restoration measures, such measures shall be implemented immediately.
16. Copies of this ECDP shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of this ECDP, and the public review requirements applicable to it, prior to commencement of construction.

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17. Within 30 days of completion of construction authorized by this ECDP, the Permittee shall submit site plans and cross sections to the Executive Director clearly identifying all development completed under this emergency authorization (comparing the legal pre-emergency development condition to both the emergency condition and to the post-emergency development condition), and a narrative description of all emergency development activities undertaken pursuant to this ECDP. Photos showing the project site before the emergency (if available), during emergency development construction activities, and after the work authorized by this ECDP is complete shall be provided with the site plans and cross sections. The report shall include a section prepared by the biological monitor providing his/her monitoring observations, including in terms of potential impacts to habitat resources (including identification of any fish mortality and/or harm or harassment (e.g., fish entrainment in the outlet channel during breaching)) and recommendations for project changes to avoid such impacts.
18. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and the construction coordinator's contact information (i.e., address, email, phone numbers, etc.) including, at a minimum, an email address and a telephone number (with voice mail capabilities) that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (e.g., name, address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. The Permittee shall submit the record of complaints/inquiries and actions taken in response to the Executive Director on a weekly basis, and upon completion of construction activities.
19. Minor adjustments to the requirements above, including deadline adjustments, may be allowed by the Executive Director if the Executive Director determines that such adjustments: (a) are deemed reasonable and necessary to help to temporarily abate the identified emergency, including as emergency conditions may change; (b) are designed to avoid coastal resource impacts (and limit those that are unavoidable) as much as possible; and (c) in the case of deadline extension adjustments, are appropriate in light of circumstances, including that the Permittee has shown diligence in pursuing the emergency development and meeting all ECDP terms and conditions.
20. By exercising this ECDP, Permittee acknowledges and agrees that this ECDP shall not constitute evidence against and/or a waiver of any public rights which may exist on the property.
21. The Permittee shall disclose this ECDP, including all of its terms and conditions, to any prospective buyer of the affected property during the period of time that any development that is the subject of this ECDP remains on such property.



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22. Failure to comply with the terms and conditions of this ECDP may result in enforcement action under the provisions of Coastal Act Chapter 9. The issuance of this ECDP does not constitute admission as to the legality of any development undertaken on the property without a CDP and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Coastal Act Chapter 9.

If you have any questions about the provisions of this ECDP, please contact the Commission's Central Coast District Office at 725 Front Street, Suite 300, Santa Cruz, CA 95060; [centralcoast@coastal.ca.gov](mailto:centralcoast@coastal.ca.gov); and/or (831) 427-4863.