



February 7, 2020

Delivered via email

Coastal Commission Staff
7575 Metropolitan Drive
San Diego, CA 92108

Dear Coastal Commission Staff,

Re: Issuance of Permit Exemptions for Revetment Repairs

The Surfrider Foundation (Surfrider) is a non-profit, environmental organization dedicated to the protection and enjoyment of the world's ocean, waves and beaches for all people, through a powerful activist network. Surfrider has prepared this letter in response to the City of Oceanside's issuance of Emergency Coastal Development Permit Exemptions for revetment repairs in August of 2019.

Due to ongoing correspondence with the City of Oceanside, the California Coastal Commission Staff, and concerned community members, Surfrider would like to clarify our concerns related to the process and policies used to issue exemptions. **We are also requesting clarification from Coastal Commission staff on their position on this issue and intentions regarding enforcement.**

Process Issue: Exemptions Appear to Have Been Issued Post-Repairs

In March of 2019 it was brought to Surfrider's attention that the City of Oceanside was looking into receiving emergency coastal development permits from the Coastal Commission. Surfrider agreed with Coastal Commission staff at the time that the situation did not qualify as an emergency due to the fact that the revetments' stability and longevity issues are well-known and documented. Surfrider sent the City of Oceanside a letter detailing this position, much of which is reiterated later in this memo.

In May 2019, Surfrider discovered that the revetment repairs had occurred and asked the City to provide record for the activity. The letter that Surfrider received from the City justifying an exemption from any CDPs was dated August 8, 2019 — despite the fact that the repairs had occurred months earlier.

Surfrider would like clarification as to why the repairs appear to have occurred months prior to the actual issuance of exemptions. If no clarification can be provided, Surfrider recommends enforcement action as this would constitute undocumented emergency activity.

Rip Rap Repairs Were Not An Emergency; Emergency CDPs Require Careful Scrutiny

As was stated in our original letter to the City Of Oceanside, the revetment repair work did not constitute an emergency. The City's Seawall Ordinance (Municipal Code Chapter 19A) defines the term "emergency" to mean "a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services." Changes in the condition of existing coastal revetment due to tidal and storm events last winter were not "sudden unexpected occurrence[s]."

These changes have occurred before and are expected to continue to happen in the future as predicted by the Sea Level Rise Vulnerability study prepared for the City. The changes in the condition of existing coastal revetment that are occurring require long-term mitigation planning and action. As such, it is important that emergency CDPs are considered with careful scrutiny on a case-by-case basis to ensure that the situation being addressed in fact demands immediate action.

Were there a *public safety* emergency pertaining to the existence of loose rock on the public beach, the city could have pursued options for removal of the rock without proceeding to also repair revetments. Repairing revetment defeats the aforementioned goal of long-term mitigation and planning.

A Coastal Development Permit Was Required In This Scenario

Surfrider interprets The City of Oceanside Municipal Code Article V Sec.19A.21. as described below. We would like to please request clarification from Coastal Commission staff as to where our interpretation would not prompt enforcement action.

City of Oceanside Municipal Code states:

ARTICLE V. - REPAIR AND MAINTENANCE

Sec. 19A.21. - Repair and maintenance activities that require a permit.

(a) A coastal development permit shall be required for any methods of repair or maintenance of a seawall, of the following or other shoreline work:

(1) Repair or maintenance involving substantial alterations of the foundation of the protective work including pilings and other surface or subsurface structures;

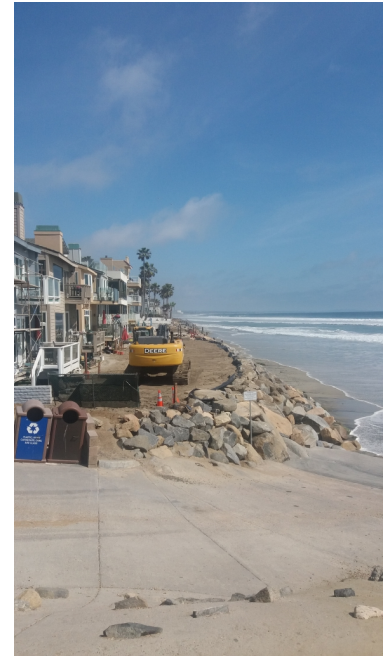
(2) The placement, whether temporary or permanent, of riprap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work except for agricultural dikes within enclosed bays or estuaries;

(3) The replacement of twenty (20) percent or more of the materials of an existing structure with materials of a different kind; or

(4) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials of any sand area or bluff or within twenty (20) feet of coastal waters or streams." (City of Oceanside Municipal Code, Section V, emphasis added)

Mechanized Equipment Was Present in the Sand Area

Surfrider interprets Article V Sec.19A.21.(a)(4) of this code (regarding mechanized equipment) as providing a clear requirement for a CDP in the scenario at hand because a stakeholder photographed mechanized construction equipment completing the revetment repairs on a sandy beach (see right). The City of Oceanside maintains that 1) the mechanized equipment was situated on a private perched beach, and that 2) The rip rap had fallen into a public area. We must therefore presume that the equipment was either on the public beach or reached out from the perched beach onto the public beach to collect the displaced rock. Regardless of where the foundation of the equipment was, it had a “presence” on the public beach and therefore required a CDP.



Materials Were Placed on a Shoreline Protective Work

Article V Sec. 19A.21.(a)(2) is also highly relevant because it specifically states that the placement of rip rap on a shoreline protective work would require a CDP. It is our view that this language does not leave room for interpretation:

*“The placement, whether temporary or permanent, of riprap, artificial berms of sand or other **beach materials, or any other forms of solid materials,** on a beach or in coastal waters, streams, wetlands, estuaries and lakes or **on a shoreline protective work** except for agricultural dikes within enclosed bays or estuaries;”*

The language is very clear that work on a shoreline structure requires a CDP. We would like to note that each of the criteria requiring a CDP in this code is introduced as an independent, not cumulative, requirement. The repair work being discussed meets the criteria of this code section, and therefore required a CDP.

Summary and Moving Forward

Surfrider has intervened in this issue because we are concerned about the potential reinforcement of revetment that was installed without proper permitting. The permitting process is an important tool for government transparency and public notice.

Our fear is that if these areas of unpermitted armoring are reinforced now, it is unlikely that they would be removed at a later date. Coastal armoring slows and, in some cases stops completely, the landward migration of the sandy beach, eventually leading to the complete loss of the beach. Beach loss is clearly happening in Oceanside. By allowing "emergency" repairs to become permanent fixtures, the City is essentially allowing unpermitted revetment to remain and taking away public beaches for the protection of private homes without allowing comment from the affected public.

At a more broad level, the City of Oceanside is currently embarking on major coastal planning efforts, including a Local Coastal Program Update and a sand retention study. It is imperative that these planning activities implement actions to respond to the Sea Level Rise Vulnerability study, and that the city's related actions in the coastal zone work in tandem with this process. We understand that all of our coastal communities are facing increasing pressure to react to impacts from sea level rise, tidal and storm events. There is no easy solution, but clarification around correct decision-making is a place to start.

To support proper decision-making, Surfrider is asking the Coastal Commission to please clarify:

- Where our interpretation of Municipal Code Article V does not require a CDP for the scenario at hand; and
- What enforcement actions will be taken if a violation has occurred.

Thank you,

Kristin Brinner & Jim Jaffee
Beach Preservation Committee co-leads
San Diego County Chapter, Surfrider Foundation

Laura Walsh
Policy Coordinator
San Diego County Chapter, Surfrider Foundation