

**CALIFORNIA COASTAL COMMISSION**

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION  
45 FREMONT STREET  
SUITE 2000  
SAN FRANCISCO, CALIFORNIA 94105-2219  
(415) 904-5200 FAX (415) 904-5400  
WWW.COASTAL.CA.GOV



# W11

**ENERGY, OCEAN RESOURCES AND FEDERAL  
CONSISTENCY DIVISION****DEPUTY DIRECTOR'S REPORT**

*For the*

*June Meeting of the California Coastal Commission*

June 06, 2016

TO: Commissioners and Interested Parties

FROM: Alison Dettmer, Energy, Ocean Resources and Federal Consistency Division  
Deputy Director

Following is a listing for the waivers, emergency permits, immaterial amendments, extensions and Negative Determinations issued by the Energy, Ocean Resources and Federal Consistency Division for the June 2016 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the Energy, Ocean Resources and Federal Consistency Division.

**ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION DEPUTY  
DIRECTOR'S REPORT CONTINUED**

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***REPORT OF DE MINIMIS WAIVERS***

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

<b><i>Applicant</i></b>	<b><i>Project Description</i></b>	<b><i>Project Location</i></b>
<b>9-16-0462-W</b> Ultramar, Inc., Wilmington Refinery	Installation of a new Electrical Power Center to improve reliability of the electrical power distribution system at the Wilmington Refinery. The power center is a pre-fabricated enclosure elevated on concrete piers with a trench underneath to facilitate installation of high voltage cables and terminations and equipped with switchgear and auxiliary equipment.	2402 E Anaheim St, Wilmington, Ca 90744

**EMERGENCY PERMIT WAIVER**

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30611 of the California Coastal Act of 1976.

<b>Applicant</b>	<b>Project Description</b>	<b>Project Location</b>
<b>G-9-16-0006-W</b> Chevron, Attn: Ms. Carri Douglas	On March 1 and March 17, 2016, Lisa Bugrova of Padre Associates as Chevron's agent requested for an emergency authorization to remove hydrocarbon-impacted material that had become exposed on the beach due to high surf and erosion on the western edge (the back beach area) of what was formerly the Guadalupe oil field and is now the Guadalupe Restoration Project site. some of the materials, composed of weathered crude, red rock and asphalt, appeared to have eroded and washed out into the ocean. March 1, 2016 - removal of 20-24 cubic yards of asphaltic type material (solidified weathered crude mixed with sand) using an excavator at the 7X area. March 17, 2016 - removal of 20 cubic yards of asphaltic material using an excavator at the 8X site.	2184 West Thornberry Rd, Guadalupe, Ca 93434 (APN(s): 092-041-003)

**ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION DEPUTY  
DIRECTOR'S REPORT CONTINUED**

***NEGATIVE DETERMINATIONS AND NO EFFECT LETTERS***

Administrative Items for Federal Consistency Matters

<b><i>Applicant</i></b>	<b><i>Project Description</i></b>	<b><i>Project Location</i></b>
<b>ND-0006-16</b> National Park Service	Rehabilitation of the Point Reyes Light Station Historic District, Point Reyes National Seashore, Marin County  Action: <b>Concur, 5/9/2016</b>	Point Reyes National Seashore (APN(s): 109-270-12)
<b>ND-0008-16</b> National Oceanic and Atmospheric Administration	Construction of pre-fabricated observatory building, removal of obsolete structures, and consolidation of research activities and infrastructure into a smaller footprint on USCG property on Trinidad Head, Humboldt County.  Action: <b>Concur, 5/13/2016</b>	Trinidad Head, Trinidad, Humboldt County
<b>ND-0009-16</b> Department of the Navy	Navy mine warfare training exercises, including placement and recovery of inert mine shapes on the seafloor, off the coast of Naval Base Ventura County, Port Hueneme in summer 2016.  Action: <b>Concur, 05/12/2016</b>	Offshore Port Hueneme, Ventura County
<b>ND-0013-16</b> Corps of Engineers, San Francisco District	Army Corps of Engineers, Maintenance Dredging of up to 30,000 cu. yds., with disposal at the North Jetty Upland Disposal Site  Action: <b>Concur, 5/16/2016</b>	Noyo Harbor, Noyo River, Mendocino Co. (APN(s): 01843009)
<b>NE-0005-16</b> Portofino Cove Yacht Homeowners Association, Attn: Bob Flaig	Disposal at LA-2 of up to 11,735 cu.yds. of suitable sediments dredged from Portofino Cove Marina, Huntington Beach, Orange County  Action: <b>Concur, 5/10/2016</b>	La-2 Ocean Disposal Site
<b>NE-0006-16</b> BAE Systems, Attn: Sandor Halvax	Disposal at LA-5 ocean disposal site of up to 392,840 cu.yds. of suitable sediments dredged from the BAE Pier 1N ship repair facility in San Diego Bay  Action: <b>Concur, 5/16/2016</b>	La-5 Ocean Dredge Material Disposal Site, 13 Miles West Of San Diego

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May 23, 2016

## **Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7**

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

**Waiver:** 9-16-0462-W

**Applicant:** Ultramar, Inc., Wilmington Refinery

**Location:** 2402 East Anaheim St., Wilmington (City of Los Angeles) (APN(s): 7440-2-20, 7440-2-22)

**Proposed Development:** Installation of a new Electrical Power Center to improve the reliability of the electrical power distribution system at the Wilmington Refinery. The power center is a pre-fabricated enclosure elevated on concrete piers with a trench underneath to facilitate installation of high voltage cables and terminations and equipped with switchgear and auxiliary equipment.

**Rationale:**

- The refinery is located in an area in which industrial activity is the predominant use. It is adjacent to the Dominguez Channel, which is used primarily for industrial and stormwater drainage, and does not include public access or recreational use. The proposed project will not preclude or interfere with public access to, or recreational uses of, the coast.
- The project involves construction and installation of a Electrical Power Center within an existing paved areas on an industrial site. There will be no impact to biological resources of the coastal zone. Proposed activities will not affect refinery operations and will not increase the risk of a hazardous materials spill. The applicant will carry out construction activities consistent with the Storm Water Pollution Prevention Plan currently in place for refinery operations to manage storm water runoff during construction and operation of the proposed power center.
- The power center is a prefabricated structure that would be installed on concrete footings and its installation would require minimal ground disturbance or excavation. The installation site is within the central portion of the refinery facility and would not block coastal views or be located in an area where visual quality is not already heavily dominated by industrial

## Coastal Development Permit De Minimis Waiver

9-16-0462-W

equipment and processes. Therefore, the proposed project will be visually compatible with the existing character of the area.

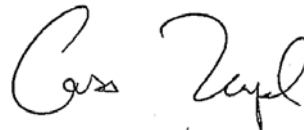
- The applicant is required to obtain building permits from the City of Los Angeles prior to the commencement of construction.

The proposed development will not adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission actions in the area and Chapter Three policies of the Coastal Act.

This waiver will not become effective until reported to the Commission at their June 2016 meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Sincerely,

John Ainsworth  
Acting Executive Director

A handwritten signature in black ink, appearing to read "Cassidy Teufel". The signature is fluid and cursive, with the first name "Cassidy" written in a larger, more prominent script than the last name "Teufel".

Cassidy Teufel  
Coastal Program Analyst

cc: File

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May 4, 2016

Carri Douglas  
2184 West Thornberry Road  
Guadalupe, California 93434

**RE: Waiver of Emergency Permit for Removal of Asphaltic-Type Material at 7X and 8X South Areas**

Dear Ms. Douglas:

On March 1 and March 17, 2016, Lisa Bugrova of Padre Associates (acting as Chevron's agent), contacted Alison Dettmer of my staff requesting emergency authorization to remove hydrocarbon-impacted material that had become exposed on the beach due to high surf and erosion on the western edge (the back beach area) of what was formerly the Guadalupe oil field and is now the Guadalupe Restoration Project site. Some of the material, composed of weathered crude, red rock and asphalt, appeared to have eroded and washed out into the ocean. A number of State agencies, including the California Department of Fish and Wildlife and the Central Coast Regional Water Quality Control Board, requested Chevron take immediate action to remove the material to reduce the risk of re-burial by sand or erosion of additional contaminated material into the ocean from high surf events.

Although the Western Snowy Plover nesting season began on March 1, the USFWS determined that expedited removal of the remaining material at that time would have minimal impact on the plovers. The Western Snowy Plover biologist determined that no active nests were present within the access road or excavation areas and that any potential nesting could be flagged and avoided.

On March 1, Ms. Dettmer verbally authorized removal of 20-24 cubic yards of asphaltic type material (solidified weathered crude mixed with sand) using an excavator at the 7X Area. On March 17, after learning of exposed material at the 8X site, Ms. Dettmer verbally authorized removal of 20 cubic yards of asphaltic material using an excavator. The disturbance areas were surveyed for rare and sensitive plant species prior to the start of the work activities and none were identified. The excavations occurred in un-vegetated areas. Biological monitors were present on site to make sure any active Western Snowy Plover nests were avoided. The work did not result in a loss of public beach access. The excavation areas were backfilled and graded to match the surrounding topography. Commission staff agrees that no post-excavation active restoration work is necessary.

I have determined that Chevron's emergency action is consistent with the provisions of Section 30611 of the Coastal Act, which allows the executive director to waive permit requirements for emergency situations such as this. We will report this determination to the Coastal Commission at its next meeting on May 11 in Newport Beach, California. Please contact Alison Dettmer, deputy director, at 415-904-5205 if you have questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alison Dettmer for".

JACK AINSWORTH  
Acting Executive Director

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May 9, 2016

Cicely A. Muldoon  
Superintendent  
ATTN: Debra Suarez  
Point Reyes National Seashore  
Point Reyes, CA 94956

Subject: Negative Determination ND-0006-16 (Point Reyes Light Station Historic District  
Rehabilitation, Point Reyes National Seashore, Marin County)

Dear Ms. Muldoon:

The Coastal Commission staff has reviewed the above-referenced negative determination. The National Park Service (NPS) proposes to undertake rehabilitation of several structures in the Point Reyes Light Station Historic District. The project area includes the lighthouse and two adjacent buildings, and seven additional structures in the upper area of the District. All ten buildings are proposed to receive repairs to exterior siding, windows, and roofs and will be repainted. The project is necessary to preserve the historic structures, improve public and NPS staff health and safety, and enhance the visitor experience by providing physical and improved programmatic accessibility to the visitor center and overlook area. Best management practices will be used to contain materials being removed and to protect adjacent areas from potential contamination. Construction activities will occur during spring, summer, and fall months and will be weather-dependent. Work will be phased in an effort to avoid significant disruption to visitors and to ensure visitor safety. The NPS is consulting with the State Historic Preservation Office to ensure project conformance with Section 106 of the National Historic Preservation Act.

In conclusion, the Commission staff **agrees** that the proposed rehabilitation project will not adversely affect coastal resources. We therefore **concur** with your negative determination made pursuant to 15 CFR 930.35 of the NOAA implementing regulations. Please contact Larry Simon at (415) 904-5288 should you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Ainsworth", with a stylized flourish at the end.

(for) JOHN AINSWORTH  
Acting Executive Director

cc: CCC – North Central District



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May 13, 2016

Christine L. Schultz  
Field Operations Manager  
Global Monitoring Division  
Earth System Research Laboratory  
National Oceanic and Atmospheric Administration  
325 Broadway – David Skaggs Research Center  
Boulder, CO 80305-3337

Subject: Negative Determination ND-0008-16 (Trinidad Head Atmospheric Baseline  
Observatory, Trinidad, Humboldt County)

Dear Ms. Schultz:

The Coastal Commission staff has reviewed the above-referenced negative determination. NOAA's Trinidad Head Atmospheric Baseline Observatory (THD) facilities are located on a one-acre U.S. Coast Guard parcel near the summit of Trinidad Head. NOAA states that this location is an ideal site for the THD to measure regional and global influences of atmospheric constituents that drive climate change. One of NOAA's global partners, the Scripps Institution of Oceanography at UC San Diego (SIO), has a research facility on the parcel. Also located on the parcel are Coast Guard buildings, a communications tower, a buried antenna array, and fencing. NOAA reports that its THD is in dire need of facility repairs, the Scripps facility is nearing the end of its functional life span, and several of the Coast Guard structures are no longer in service.

NOAA proposes the following modifications and construction on the Trinidad Head parcel:

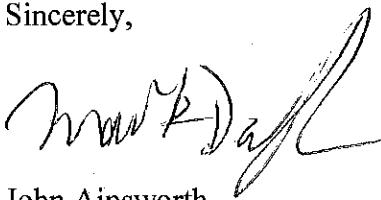
- Construct a single-story, 624 square-foot, eight-foot-high pre-fabricated observatory building on a poured concrete pad that will house NOAA and SIO atmospheric monitoring instrumentation.
- Relocate the existing NOAA instrumentation panel closer to the new observatory building.
- Remove the outdated and unused observatory trailer, communications towers, instrument container, radio building, high voltage building, fencing, and buried antenna array.

Christine L. Schultz  
NOAA

The location of the new observatory building and the relocated instrument platform will take advantage of existing utility services such that no new utility infrastructure will be installed. The proposed upgrading of the THD will improve the scientific capabilities of NOAA and SIO at Trinidad Head and will assist the Coast Guard with site remediation by removing unused communications infrastructure. The project will consolidate research facilities at this location into a much smaller footprint and reduce visual impacts by removing towers, trailers, and fencing. Standard construction and remediation best management practices will be in place throughout the construction period. NOAA consulted with the Yurok Tribe and the Trinidad Rancheria regarding potential impacts to cultural resources. NOAA's Inadvertent Discovery Plan will be implemented during all necessary ground disturbing activities, and approved tribal monitors will be present during such activities. NOAA also consulted with the City of Trinidad and received its support for the proposed project.

In conclusion, the Commission staff **agrees** that the proposed Trinidad Atmospheric Baseline Observatory project on Trinidad Head will not adversely affect coastal resources. We therefore **concur** with your negative determination made pursuant to 15 CFR 930.35 of the NOAA implementing regulations. Please contact Larry Simon at (415) 904-5288 should you have any questions regarding this matter.

Sincerely,

(for)   
John Ainsworth  
Acting Executive Director

cc: CCC – North Coast District  
Yurok Tribe  
Trinidad Rancheria  
City of Trinidad  
U.S. Coast Guard

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May 12, 2016

L.M. Foster  
Department of the Navy  
Commander  
United States Pacific Fleet  
250 Makalapa Drive  
Pearl Harbor, HI 96860-3131

Attn: Deb McKay

Re: **ND-0009-16**, Department of the Navy, Negative Determination, 2016 West Coast Mine Warfare Training, Naval Base Ventura County, Port Hueneme, Ventura Co.

Dear L.M. Foster:

The Navy has submitted a negative determination for a two-week Mine Warfare Training event at the Naval Base Ventura County (NBVC), Port Hueneme. The training would occur in July 2016 and would involve placement of temporary, non-explosive, mine shapes on the seafloor, unmanned underwater vehicle searches for the shapes (using side-scan sonar), and diver retrieval using inflatable craft to retrieve and transport the shapes to shore. Once retrieved, the divers would simulate neutralization of the mines (without use of any explosives). While we originally concurred with this determination on May 10, 2016, the project was subsequently revised to include temporary placement of a ramp, a very small number of landing crafts (LCUs) coming ashore at SWEF beach at Port Hueneme, and set-up of a temporary expeditionary radar tracking station to watch vessels off shore.

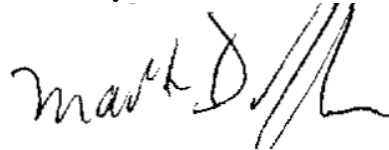
Under the federal consistency regulations (Section 930.35), a negative determination can be submitted for an activity "which is the same as or similar to activities for which consistency determinations have been prepared in the past." The Commission staff has concurred with negative determinations submitted by the Navy for past similar training events in coastal waters off the Ports of Los Angeles/Long Beach (ND-0024-15), and in various locations offshore Marine Corps Base Camp Pendleton, Oceanside, Carlsbad, and Coronado (ND-032-02, ND-015-01, ND-024-99). Similar training was also included within (and considered a non-controversial part of) the Hawaii-Southern California Training and Testing (HSTT) activities off southern California (which the Commission reviewed in consistency determination (CD-008-13)).

Coast Guard Notices to mariners would be posted for the events. The training would not affect public access, commercial or recreational boating, or shipping into and out of Port Hueneme. The mines would be brought to shore at NBVC Port Hueneme, which is not

accessible to the public for military security reasons. Vessel noise, as well as high-frequency side-scan sonar used, would not occur at a level that would adversely affect marine mammals. Vessel speeds would be low, and Standard Operating Procedures and lookouts would be employed to assure avoidance of marine mammals and sea turtles. No materials would be left on the seafloor.

Given the short term nature of the training, the types of equipment being used, and past monitoring results from similar activities conducted in other southern California offshore areas, we **agree** that the proposed training at Port Hueneme would be similar to previously-concurred-with Navy mine training events in southern California, and would not adversely affect coastal zone resources. We also agree that the addition of LCU's as described in the first paragraph above does not modify our previous concurrence with your determination. We therefore again **concur** with your negative determination made pursuant to 15 CFR 930.35 of the NOAA implementing regulations. Please contact Mark Delaplaine at (415) 904-5289 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. L.", with a stylized flourish at the end.

(for) JOHN AINSWORTH  
Acting Executive Director

cc: Ventura District

**CALIFORNIA COASTAL COMMISSION**

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May 16, 2016

Jessica Burton Evans  
Acting Chief, Environmental Section B  
Planning Branch  
U.S. Army Corps of Engineers  
1455 Market Street, 15<sup>th</sup> Floor  
San Francisco, CA 94103-1398

Attn: Mark Weichmann

Re: **ND-0013-16** Negative Determination, Corps of Engineers, Maintenance dredging with upland disposal, Noyo Harbor, Fort Bragg, Mendocino Co.

Dear Ms. Evans:

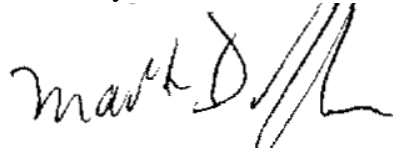
The Coastal Commission staff has reviewed the above-referenced negative determination. The Corps of Engineers proposes the maintenance dredging of up to 30,000 cubic yards of sediment from the Noyo Harbor and River, with disposal at the historically used adjacent, North Jetty upland disposal site, which is owned and maintained by the Noyo Harbor District. Dredging and disposal of the clean, sandy materials would occur through use of a cutterhead dredge and pipeline. The activity is scheduled for late summer/early fall, 2016.

The federal channel in the harbor is dredged roughly every 5-6 years, with the last event occurring in 2009. As we have determined for several past Noyo Harbor maintenance dredging projects, while the material is predominately sand, beach replenishment is not required because this portion of the coast is not eroding and contains a predominance of coastal bluffs rather than sandy beaches. The project will be timed to avoid salmon migration periods. Eelgrass is present in the river; however the survey compiled for the 2009 dredge session indicated the dredge area is outside eelgrass beds, and the Corps will perform both pre- and post-construction eelgrass surveying to assure either avoidance, or if warranted, mitigation, of eelgrass impacts. The pipeline to the disposal site will be sited to avoid wetlands and other sensitive habitats.

Under the federal consistency regulations (Section 930.35), a negative determination can be submitted for an activity "which is the same as or is similar to activities for which consistency determinations have been prepared in the past." We have concurred with similar past Corps of Engineers Noyo Harbor maintenance dredging projects (Consistency and Negative Determinations CD-004-85, CD-013-88, ND-018-93, ND-037-95, ND-027-00, and ND-026-09).

The Commission staff **agrees** that the proposed maintenance dredging project at Noyo Harbor and River can be considered the “same as or similar to” the above referenced determinations with which we have concurred. We therefore **concur** with your negative determination made pursuant to 15 CFR 930.35 of the NOAA implementing regulations. Please contact Mark Delaplaine at (415) 904-5289 should you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "mark D. Ainsworth", with a stylized flourish at the end.

(for) JOHN AINSWORTH  
Acting Executive Director

cc: Arcata District

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May 10, 2016

Bob Flaig  
Portofino Cove Yacht Homeowners Association  
16291 Countess Drive, Suite 103  
Huntington Beach, CA 92649

Subject: No-Effects Determination NE-0005-16 (Dredged Material Disposal at LA-2 Ocean Disposal Site)

Dear Mr. Flaig:

The Coastal Commission staff has reviewed the above-referenced no-effects determination. The Portofino Cove Yacht Homeowners Association proposes to dispose at the LA-2 Ocean Dredge Material Disposal Site offshore of San Pedro up to 11,735 cubic yards of sediment dredged from the Portofino Cove Marina in Huntington Harbour. The proposed dredged materials were sampled and tested for physical and chemical composition in order to identify potential disposal alternatives. The Southern California Dredged Material Management Team, which includes representatives from the Coastal Commission, the Regional Water Quality Control Board, and the U.S. Environmental Protection Agency, reviewed the physical and chemical sediment test results and determined in April 2015 that the dredged materials are too fine-grained to be beneficially reused as beach nourishment materials but are suitable for open ocean disposal at LA-2.

The Commission staff agrees that the proposed disposal of fine-grained sediments at LA-2 would not affect coastal resources. We therefore concur with your no-effects determination. Please contact Larry Simon at (415) 904-5288 should you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Ainsworth", with a stylized flourish at the end.

(for) JOHN AINSWORTH  
Acting Executive Director

cc: CCC – South Coast District  
Anchor QEA

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May 16, 2016

Sandor Halvax  
Environmental Manager  
BAE Systems Ship Repair  
P.O. Box 13308  
San Diego, CA 92170-3308

Subject: No-Effects Determination NE-0006-16 (Dredged Material Disposal at LA-5, San Diego County)

Dear Mr. Halvax:

The Coastal Commission staff has reviewed the above-referenced no-effects determination. BAE Systems Ship Repair proposes to dispose at the LA-5 ocean disposal site sediments dredged from its Pier 1N ship repair and dry dock facility in San Diego Bay. The dredging and related dry dock construction work was previously reviewed and approved by the Coastal Commission under CDP Application No. 6-15-0555 on May 11, 2016. The proposed dredged materials were sampled for physical and chemical composition in order to identify potential disposal alternatives. The U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency reviewed the sediment sampling results and determined that the project sediments are too fine-grained to be used for beach nourishment but that approximately 392,840 cubic yards of the sediments are suitable for ocean disposal at LA-5. However, because the proposed dredging includes the excavation of approximately 323,000 cu.yds. of consolidated materials from the underlying native formation, the U.S. EPA determined that several special conditions are required for using LA-5 to ensure that disposal of these materials does not alter the physical environment of the seafloor at LA-5. These conditions include pre-disposal multi-beam bathymetric survey of the surface disposal zone, dredging and aggregate size reduction of formation materials, systematic disposal of consolidated aggregate sediments, and post-disposal multi-beam bathymetric survey of the surface disposal zone. BAE Systems Ship Repair agreed to implement these special conditions.

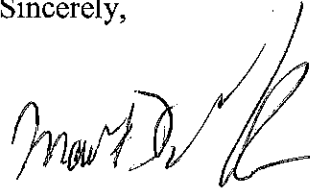
The Commission staff **agrees** that the proposed disposal at LA-5 of fine-grained dredged sediments, and native formation materials that will be mechanically broken up during the dredging operation prior to ocean disposal, will not affect coastal resources. We therefore **concur** with your no-effects determination. Please contact Larry Simon at (415) 904-5288 should you have any questions regarding this matter.



NE-0006-16  
BAE Systems Ship Repair

Sincerely,

(for)

A handwritten signature in black ink, appearing to read "John Ainsworth", with a stylized flourish at the end.

JOHN AINSWORTH  
Acting Executive Director

cc: CCC – San Diego Coast District  
USEPA – San Francisco  
Corps of Engineers – Carlsbad



June 2, 2016

Item 11

California Coastal Commission &  
Deputy Director Dettmer  
45 Fremont Street #2000  
San Francisco, CA 94105  
[Alison.Dettmer@coastal.ca.gov](mailto:Alison.Dettmer@coastal.ca.gov)

Dear California Coastal Commission and Deputy Director Dettmer,

As you are likely aware, the Bureau of Ocean Energy Management and Bureau of Safety and Environmental Enforcement issued a final programmatic environmental assessment (EA) and finding of no significant impact (FONSI) for well stimulation activities in federal waters off the California coast on May 27, 2016. This action ends the moratorium on offshore fracking and acidization in federal waters that has been in place since January. A review of the final documents indicates that the Bureaus inadequately addressed the comments submitted by the California Coastal Commission. Thus, you may want to provide an update to the public and the Commission at the next meeting.

There are several ways in which the final EA and FONSI fail to address the Commission's questions and concerns.

First, there is no assurance that the Bureaus will improve their interagency coordination with the Commission in approving permits (APDs or APMs) for well stimulation. The Bureaus circumvent consistency review for offshore fracking by relying on woefully outdated consistency review of lease sales and development plans — old plans that did not disclose or contemplate fracking (see EA at A-35). Rather than providing meaningful regulatory oversight, the Bureaus inappropriately rely on oil companies to determine when plan revisions and consistency certifications are desired (*Id.*).

Second, the final environmental assessment acknowledges that many of the chemicals used for well stimulation are toxic and that there is insufficient knowledge about the impacts of the chemicals on marine life, but does nothing to fill those data gaps or avoid activities that could have unknown impacts (see e.g., EA at 4-32, 4-38). The Bureaus rely on the Environmental Protection Agency (EPA) permits to safeguard water quality from wastewater discharges (FONSI at 4), but even EPA's comments expressed concern that BOEM and BSEE didn't

provide enough information in the draft EA (EPA at 1-2)<sup>1</sup>. The final EA provides some new analysis of well stimulation flowback, but leaves many comments about water quality and biological impacts unanswered. Notably, the EA acknowledges that periodic whole effluent toxicity monitoring will not be coordinated with the conduct of well stimulation activities (EA at 4-36).

Third, the final environmental assessment continues to rely on the historic infrequency of well stimulation to justify its conclusions that future well stimulation will have negligible environmental impacts (FONSI at 4). The agencies' reliance on the infrequency of well stimulation runs counter to its stated need to approve well stimulation to encourage production from dwindling reserves and the nationwide boom in onshore fracking.

Finally, the agency uses its finding of no significant impact to obviate the need to take a more precautionary approach (EA at 4-77).<sup>2</sup> The California Coastal Commission recommended that the federal government select a less environmentally damaging alternative such as no action, or prohibiting ocean discharge, or other limitations pending further studies on the effects of fracking and acidization on the marine environment. The Bureaus did not heed the call of the Commission and selected the proposed action to allow offshore fracking and acidization without proposing any additional mitigation or monitoring requirements (see e.g., EA at 4-33; FONSI at 2).

The California Coastal Commission was among numerous state agencies to voice concern about the Bureau's proposed action and draft EA to allow offshore fracking. The Department of Conservation's Division of Oil, Gas, and Geothermal Resources recommended that federal oversight match the state requirements for chemical disclosure, notice, and monitoring among other comments. Eleven members of the California State Legislature similarly expressed concerns about the inconsistency between federal and state requirements and urged the Bureaus to continue the moratorium on offshore fracking until they conduct a more thorough environmental review. Congresspersons Capps, Farr and Huffman also requested a full environmental impact statement and highlighted climate concerns and lack of scientific data to support the EA.

In summary, I urge the California Coastal Commission continue to provide oversight of offshore fracking and acidization and fulfill its critical role in safeguarding the California coast and marine resources under the Coastal Zone Management Act. Given that the Bureaus have ended the moratorium on offshore fracking in federal waters off California an update to the public and Commission would be useful.

Sincerely,  
Miyoko Sakashita

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<sup>1</sup> [http://pocswellstim.evs.anl.gov/comments/draftea/act\\_displayfile.cfm?filename=POCSWS\\_50059.pdf](http://pocswellstim.evs.anl.gov/comments/draftea/act_displayfile.cfm?filename=POCSWS_50059.pdf)

<sup>2</sup> "Overall, there are relatively few differences among the action alternatives (or between fracturing and non-fracturing WSTs) regarding the nature and magnitude of the environmental effects (Table 4-23), which remain small under any of the action alternatives." EA at 4-77.