

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE AND TDD (415) 904-5200



W 9

DATE: May 22, 1996

TO: COASTAL COMMISSIONERS
AND INTERESTED PARTIES

FROM: MARK DELAPLAINE, FEDERAL CONSISTENCY SUPERVISOR

RE: NEGATIVE DETERMINATIONS ISSUED BY THE EXECUTIVE
DIRECTOR [Note: Executive Director decision letters are attached

PROJECT #:	NE-016-96
APPLICANT:	Scripps Institution of Oceanography
LOCATION:	Seaward of Pioneer Seamount, approx. 50 miles offshore of San Francisco
PROJECT:	Alternative ATOC Sound Source Testing
ACTION:	No Effect
ACTION DATE:	4/15/96

PROJECT #:	NE-018-96
APPLICANT:	Van der Kar Family Trust
LOCATION:	Rincon Creek, Carpinteria
PROJECT:	Repair of Stream Protective Device
ACTION:	No Effect
ACTION DATE:	4/18/96

PROJECT #:	ND-033-96
APPLICANT:	Corps of Engineers
LOCATION:	Adjacent to Carsbad Blvd., between inlet and outlet jetties, Carlsbad
PROJECT:	Seawall construction and adding new rock to existing seawall
ACTION:	Withdrawn
ACTION DATE:	4/23/96

PROJECT #:	ND-040-96
APPLICANT:	Navy
LOCATION:	Naval Air Weapons Station, Point Mugu
PROJECT:	Relocating four houses, constructing a 500 foot road and two basketball courts, constructing sidewalks, and landscaping
ACTION:	concur
ACTION DATE:	5/30/96

PROJECT #:	ND-042-96
APPLICANT:	Corps of Engineers
LOCATION:	Moss Landing Harbor and SF-12 disposal site off shore of Moss Landing
PROJECT:	Maintenance dredging of navigational channels with beach disposal, and ocean disposal
ACTION:	concur
ACTION DATE:	5/6/96

PROJECT #:	ND-043-96
APPLICANT:	Corps of Engineers
LOCATION:	Newport Bay
PROJECT:	Jetty repairs
ACTION:	concur
ACTION DATE:	5/13/96

PROJECT #:	ND-045-96
APPLICANT:	Navy
LOCATION:	Naval Construction Battalion Center, Port Hueneme
PROJECT:	renovation of one existing building, construction of five new buildings, and demolition of 32 buildings
ACTION:	Concur
ACTION DATE:	5/6/96

PROJECT #:	ND-050-96
APPLICANT:	Navy
LOCATION:	Offshore of Ormond Beach, Oxnard
PROJECT:	Test to aid in design and development of a Seafloor Excavation System
ACTION:	concur
ACTION DATE:	5/6/96

PROJECT #:	ND-055-96
APPLICANT:	National Weather Service
LOCATION:	Point Piedras Blancas lighthouse, near San Simion
PROJECT:	Replacement of outdated weather equipment
ACTION:	concur
ACTION DATE:	5/21/96

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April 15, 1996

Peter Worcester
Scripps Institution of Oceanography
University of California, San Diego
9500 Gilman Drive
La Jolla, CA 92093

Re: No Effects Letter NE-16-96, Scripps Institution of Oceanography (Scripps)
Proposed Modification to Acoustic Thermometry of Ocean Climate Project
(ATOC) and Marine Mammal Research Program (MMRP) (Previously, CC-110-94)

Dear Mr. Worcester:

On February 15, 1996, we received Scripps request to modify the above-referenced project, for which the Commission has previously granted a consistency concurrence (ATOC/MMRP, CC-110-94), as follows:

During a 12-day period [in June 1996], Scripps proposes to suspend operations of the fixed ATOC sound source and instead undertake an alternate source test using a ship-suspended sound source approximately 10 nautical miles southwest of Pioneer Seamount. The alternate test source will have the same total power output as the current fixed source (195 dB) but divided between two frequency bands at 25 Hz [Hertz] and 75 Hz [75 Hz is the standard ATOC/MMRP frequency]. The purpose of testing the alternate source, generally, is to test the propagation characteristics at the alternate source frequency and to evaluate potential impacts of the dual frequency sound source on marine mammals in the Pioneer Seamount vicinity.

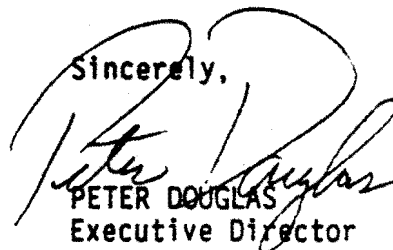
The alternate sound source will have the same total power output as the fixed ATOC source (split between two frequencies), and will operate at only a slightly higher duty cycle (approximately 8% rather than 3%) for a brief, 12-day period.

Under the federal consistency regulations, additional review by the Commission is needed in the event that the Scripps makes any significant modifications to the project to the extent that its effects on coastal resources would be substantially different than the project as originally analyzed, and, as a consequence, the project would no longer be consistent with the Coastal Act (see Section 930.66 of federal consistency regulations).

The mitigation and monitoring measures accompanying the normal ATOC/MMRP operations would remain in place during the modified operation, including MMRP monitoring (e.g., visual surveys, vessel-based visual and acoustic monitoring before, during, and after the operation), source shutdown criteria, and use of a 5 minute ramp up period. The major concern raised by the MMRP Advisory Board in reviewing these modifications, which was echoed during the Coastal Commission's discussion of the situation on March 15, 1996, was that it was critical to assure that the modifications would not disrupt or in any way weaken the validity of the existing MMRP studies. Accordingly, the Commission directed me to authorize these modifications only after Scripps: (1) commits to funding an extension of the MMRP studies; and (2) receives approval of a "No Cost Extension" by the Advanced Research Projects Agency (ARPA), which is needed to allow the studies to be continued after September 1996.

Scripps has made the funding commitment, received the necessary extension from ARPA, and committed to extending the project into October, 1996, in order to "complete the planned number of replicates, replacing any ATOC/MMRP replicates that would have occurred during the time of the Alternative Source Test." (April 10, 1996, letter from Peter Worcester to CCC). With this letter, I am now able to agree that these modifications will not affect the integrity of the existing MMRP program and will not substantially alter the project's effects on coastal zone resources. Therefore, no further Commission consistency review is necessary for these modifications. Please contact Mark Delaplaine at (415) 904-5289 if you have any questions.

Sincerely,



PETER DOUGLAS
Executive Director

cc: NMFS (Drevenak)
NMFS (Long Beach, Cardero)
MBNMS (Jackson)
GOFNMS (Ueber)
ARPA (Spikes)
U.S. Army Corps of Engineers (Fong, S.F. District)
Central Coast Area Office
NOAA Assistant Administrator
Assistant Counsel for Ocean Services
OCRM
Governor's Washington D.C. Office

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Jurisdiction LetterDate: April 18, 1996

Scott Van Der Kar
 Manager, Pinehill Ranch
 7017 Shepard Mesa Drive
 Carpinteria, CA 93013

Project: Streambed alteration and restoration on Rincon Creek, Santa Barbara County.

Coastal Commission file no. (if applicable)
NE-18-96

U.S. Army Corps of Engineers Notice No. (if applicable)

If a nationwide permit, NWP number _____

The Coastal Commission staff has received your request to identify Commission jurisdiction for the purposes of processing an individual, nationwide, general or regional permit from the Army Corps of Engineers (Corps). Pursuant to the federal Coastal Zone Management Act (CZMA), the Corps cannot issue a permit for an activity, either in or out of the coastal zone, that affects land and water uses or natural resources of the coastal zone until the applicant has complied with the requirements of Section 307(c)(3)(A) of the CZMA. (16 USC Section 1456[c][3][A].) These requirements can be met by receiving a Commission concurrence with a consistency certification prepared by the applicant or conclusion that the activity does not affect the coastal zone. Alternatively, these requirements can be satisfied by the issuance of a Commission approved coastal development permit. Since the federal consistency authority cannot be delegated to local governments, a coastal development permit issued by a local agency does not replace the requirement for a consistency certification. However, if an activity is within the Ports of San Diego, Long Beach, Los Angeles, or Port Hueneme and is identified in the Commission certified Port Master Plan, then no consistency certification is necessary.

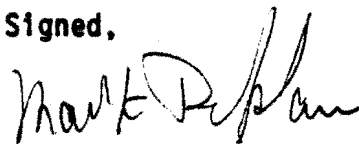
The Coastal Commission staff has reviewed the information submitted for the above-referenced project, and has concluded that it:

Is not within the coastal zone and does not affect the coastal zone. Therefore no further Coastal Commission review is necessary,

Is a non-federal activity within the coastal zone and is in an area where the Commission has not yet delegated permit authority to the appropriate local agency. Therefore, it needs a coastal development permit from the Commission. Contact our _____ Area Office (see addresses on the following page) for details and permit application form. (Note: Receipt of a Coastal Commission-issued coastal development permit satisfies federal consistency requirements.)

- The Coastal Commission declines to assert federal consistency jurisdiction, due to the fact that: (1) this project will need to receive locally issued-coastal development permit within an area where such permits are appealable to the Coastal Commission; and (2) if the Commission has concerns it can address them through the process of reviewing an appeal of a locally-issued coastal development permit.
- Is a federally permitted activity within or affecting the coastal zone and does not otherwise need a coastal development permit from the Commission. Therefore, this project needs a consistency certification. Contact Jim Raives at (415) 904-5280 for information on the federal consistency process. (Note: Receipt of a local government-issued coastal development permit, as opposed to a Coastal Commission-issued coastal development permit, does not satisfy federal consistency requirements.)
- Is within or affects the coastal zone and is a federal agency activity. Therefore it needs a consistency determination (or, at a minimum, a negative determination). Contact Jim Raives at (415) 904-5280 for information on the federal consistency process.
- Is within the port of San Diego, Long Beach, Los Angeles, or Port Hueneme and is consistent with a certified Port Master Plan. Therefore, no further Coastal Commission review is necessary.
- Is within one of the above ports but is not consistent with a certified Port Master Plan. Therefore, a Port Master Plan amendment is necessary.
- We have insufficient information on the project location or details to determine jurisdiction. Please provide the following information:

Signed,



MARK DELAPLAINE
Federal Consistency Supervisor

cc: Ventura Area Office, Coastal Commission
Corps of Engineers, Los Angeles District
Corps of Engineers, Ventura Field Office

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April 30, 1996

Vivian Goo
Deputy Public Works Officer
ATTN: Jim Danza
Department of the Navy
Naval Air Weapons Station
521 9th St.
Point Mugu, CA 93042-5001

RE: **ND-40-96** Negative Determination, U.S. Navy, Neighborhood
Parks/Playground Enhancement, Naval Air Weapons Station, Point Mugu,
Ventura County

Dear Ms. Goo:

The Coastal Commission staff has received the above-referenced negative determination for the Navy's proposed recreational improvements at the Naval Air Weapons Station at Point Mugu. The project includes relocation of four residences and their utilities, construction of two basketball courts and a road within an existing housing complex, and construction of various sidewalks, landscaping and irrigation systems within existing developed housing complexes.

The project would include the fill of 3.03 acres of what the Navy characterizes as "degraded isolated wetlands which have low ecological value." The Navy proposes 1:1 mitigation with "high ecological value" wetlands, which will be intertidal and adjacent to (and hydrologically connected with) existing intertidal wetlands. The Navy states:

NO IMPACT ON COASTAL ZONE

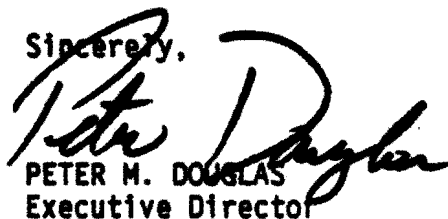
No impacts to the coastal management zone are expected with this project. The project will fill jurisdictional wetlands which has [sic] a low ecological value and do not contribute to the natural resources of the coastal management zone. The mitigation area will enhance the coastal zone by creating tidal wetlands areas that will have a potential for high success by recreating a functional mud/sand flat for foraging shorebirds, waders, and waterfowl.

No impacts to federally listed threatened or endangered species are expected with the implementation of the proposed project because no such species are present in the construction area. No archeological sites are known to exist in the construction area. Land use will not change.

The project is located within heavily developed residential areas near Highway 1 and on federal land, which is excluded from the coastal zone for purposes of review under the Coastal Zone Management Act. The Commission staff has contacted the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service, which have confirmed the Navy's assertion regarding the isolated and degraded nature of the existing wetland habitat. The existing habitat is not restorable, because it is isolated and surrounded by existing hard structures, such as pavement, residences, and play areas. Additionally, the affected areas do not support coastal zone species such as birds, fish, or other marine organisms that migrate through the coastal zone. Finally, the project will result in a net increase in wetland habitat value, through creation of new tidally-influenced wetlands with at least a 1:1 ratio. Monitoring to assure the success of the wetland restoration efforts has been incorporated into the project. While in most situations involving wetland fill we would not consider a negative determination appropriate, in this particular situation we agree with your conclusion that the affected areas do not support coastal zone resources and, therefore, that the project will not affect any wetland or sensitive habitat resources of the coastal zone, except in a beneficial manner through the mitigation efforts.

In conclusion the project would not result in any adverse impact to wetland, marine or habitat resources, public access, or any other coastal resources. We therefore concur with your negative determination made pursuant to Section 15 CFR 930.35(d) of the NOAA implementing regulations. Please contact Mark Delaplaine at (415) 904-5289 if you have questions.

Sincerely,



PETER M. DOUGLAS
Executive Director

cc: Ventura Area Office
NOAA
Assistant Counsel for Ocean Services
OCRM
California Department of Water Resources
Governors Washington D.C. Office
Army Corps (Ventura Field Office)
RWQCB (L.A. Region)

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May 6, 1996

Peter LaCivita
San Francisco District, Corps of Engineers,
Planning and Engineering Division
211 Main Street
San Francisco, CA 94105-1905

RE: ND-042-96, Negative Determination for the Maintenance dredging of navigational channels with beach disposal of clean sand and ocean disposal at SF-12 of suitable silt, Moss Landing Harbor and SF-12 disposal site off shore of Moss Landing

Dear Mr. LaCivita:

The Coastal Commission has received and reviewed the above-referenced negative determination. The proposed project includes maintenance dredging of approximately 28,000 cubic yards of material from existing navigational channels with beach disposal of clean sand and ocean disposal at SF-12 of suitable silt, Moss Landing Harbor and SF-12 disposal site off shore of Moss Landing.

The original negative determination for this project included dredging and disposal of approximately 60,000 cubic yards of material. The Corps proposed to dispose of this Moss Landing material at three different sites: clean sand on the beach, clean silts at SF-12, and contaminated material at upland sites. After submittal of the negative determination, the Corps determined that approximately 32,000 cubic yards of the material was unsuitable for ocean or beach disposal because of elevated levels of DDT. The Corps initially proposed to place that material at the Moss Landing Harbor District's upland sites. (The District is constructing three upland sites designed to contain contaminated dredged material.) However, the Corps concluded that those upland sites would not be ready for dredge material within the time frame of the Corps' project. On April 19, 1996, the Corps modified its negative determination to limit it to the dredging and disposal of 28,000 cubic yards of clean material. The Corps will not dredge the remaining 32,000 cubic yards at this time.

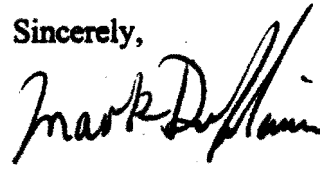
In its negative determination, the Corps stated that the basis for its conclusion that the project qualifies for a negative determination is that the project is the same as or similar to a previously approved consistency determination. On January 25, 1984, the

Commission concurred with a consistency determination (CD-38-83) submitted by the Corps for maintenance dredging at Moss Landing Harbor. That project included dredging of 100,000 cubic yards of material with disposal of clean sand within the intertidal zone to support sand replenishment and disposal of clean silts at SF-12.

The Commission staff agrees that the federal regulations implementing the federal Coastal Zone Management Act allows for the use of negative determinations for activities that are the same as or similar to previously approved projects (15 C.F.R. Section 930.35(d)). Since both CD-38-83 and the proposed project involve the dredging of clean material with intertidal and ocean disposal, and neither project includes the dredging or disposal of contaminated material, the Commission staff agrees that the proposed project is similar to CD-38-83.

In conclusion, the Coastal Commission staff agrees that the proposed project is the same as or similar to a previously approved project. We, therefore, concur with the negative determination made pursuant to 15 C.F.R. Section 930.35(d). If you have any questions, please contact James R. Raives of the Coastal Commission staff at (415) 904-5292.

Sincerely,

(for) 
PETER M. DOUGLAS
Executive Director

cc: Central Coast Area Office
OCRM
NOAA Assistant Administrator
Assistant General Counsel for Ocean Services
Department of Water Resources
Governor's Washington D.C. Office
Tamara Terry, Corps of Engineers, San Francisco District

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May 13, 1996

Mr. Robert S. Joe
Chief, Planning Division
Attn: Russell Kaiser
Department of the Army
U.S. Army Corps of Engineers
P.O. Box 2711
Los Angeles, CA 90053-2325

RE: . ND-43-96, Negative Determination, Jetty Repair, Newport Bay Harbor, Orange County

Dear Mr. Joe:

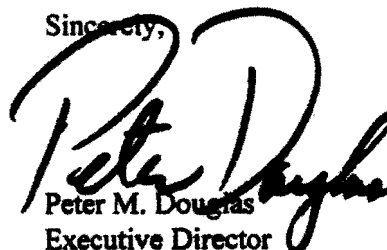
We have received the above referenced negative determination for repair of two sections of the east and west jetties at Newport Bay. The project includes placing new armor stone on failed sections of the jetties, placing new armor stone on the head sections of the jetties, and filling the cells between the two bulkheads on the east jetty. Approximately 9,000 tons of stones will be used on the channel side and 20,000 tons of stones on the seaward side of the jetties. An additional 200 tons of rock will be placed on each of the jetty heads. Grout will be placed between the bulkheads on the east jetty. The project will not expand the footprint of the existing structure. An assessment of the structure in 1993 identified extensive damage to these areas of the structure; the project is necessary to repair the jetties and provide adequate navigation safety and storm protection to the harbor. Construction will last for 30-45 days.

Impacts from the project on marine resources will be temporary and insignificant. Marine vegetation that is disturbed, primarily algae, will recolonize the area. Increases in turbidity will also be localized and short-term. Construction activities will not adversely affect any federally or state listed species or other environmentally sensitive habitat.

Construction will occur in an area that is typically used for recreation year-round. In particular, an area near the west jetty is popular for body surfing. Due to funding constraints, the construction must be completed before September; since construction for the project will occur during peak recreation months, some impacts to recreation can be expected. However, the area affected by the project will be minimal. Due to safety concerns, a small section of water near the west jetty, approximately 5-10 feet adjacent to construction activities, will be cordoned off from public use. However, the remaining area will be open to recreation use, including surfing. To minimize recreation loss, construction will occur only during week days (Monday-Friday). Access to the jetty or surrounding waters will not be restricted on weekends. Further, the impacts to recreation will be temporary in nature, lasting only during the construction of the project. On balance, due to the small area closed to public use and the overall benefits from the project, the impacts to public access and recreation during construction will be minimal.

This project will not significantly affect any resources of the coastal zone; we therefore concur with your negative determination for jetty repair at Newport Bay made pursuant to Section 15 CFR 930.35(d) of the NOAA implementing regulations. Please contact Tania Pollak at (415) 904-5297 if you have any questions.

Sincerely,



Peter M. Douglas
Executive Director

cc: South Coast Area Office
NOAA
Assistant Counsel for Ocean Services
OCRM
California Department of Water Resources
Governors Washington D.C. Office

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May 6, 1996

LCDR H.A. Bouika
Environmental Officer
Department of the Navy
Naval Construction Battalion Center
1000 23rd Ave.
Port Hueneme, CA 93043-4301

RE: **ND-45-96** Negative Determination, Construction, Renovation, and Demolition Activities, Naval Construction Battalion Center, Port Hueneme, Ventura County

Dear LCDR Bouika:

The Coastal Commission staff has received the above-referenced negative determination for the Navy's proposal to renovate an existing facility, construct five new buildings, and demolish 32 obsolete/deteriorated buildings at the Naval Construction Battalion Center (NCBC) in Port Hueneme. The purposes of the improvements is to consolidate automotive vehicle and construction equipment maintenance and repair functions at the NCBC. The improvements would be located within existing developed areas of the NCBC. Any visual impacts from the demolition and consolidation of facilities would be beneficial. The project would not involve any discharges into marine waters. No scenic public views would be affected. The project sites contain no environmentally sensitive habitat. Public access and recreation would not be affected by the project.

We therefore agree with the Navy that the project will not affect coastal resources, and we concur with your negative determination made pursuant to Section 15 CFR 930.35(d) of the NOAA implementing regulations. Please contact Mark Delaplaine at (415) 904-5289 if you have questions.

Sincerely,

Mark Delaplaine
(for) PETER M. DOUGLAS
Executive Director

cc: Ventura Area Office
NOAA
Assistant Counsel for Ocean Services
OCRM
California Department of Water Resources
Governors Washington D.C. Office

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May 6, 1996

S.C. Tianen, REA
Environmental/Safety and Health
Department of the Navy
Naval Facilities Engineering Service Center
1100 23rd Ave.
Port Hueneme, CA 93043-4370

RE: **ND-50-96** Negative Determination, Seafloor Excavation System,
Offshore of Ormond Beach, Ventura County

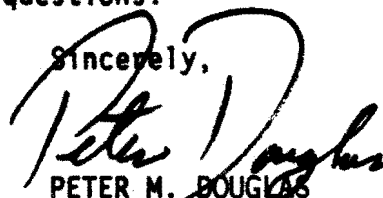
Dear Ms. Tianen:

The Coastal Commission staff has received the above-referenced negative determination for the Navy's proposal to study seafloor digging and pumping equipment, in order to determine how such systems can best be designed to minimize impacts to trawling from the installation of seafloor cables and other seafloor equipment. To do this, the Navy proposes to dig temporary trenches, 8 ft. by 16 ft. in area, and 9 ft. deep, in 30 to 60 ft. of water, offshore of Ormond Beach in Port Hueneme. The project will occur over a 30 day period, tentatively scheduled for June or July, 1996. Excavation equipment would be placed on the seafloor, the trenches excavated, and divers would analyze various results. Buoys would mark the surface to minimize disturbance to boating. All equipment would be removed upon completion of the test. The Navy will post notice in the Coast Guard's Notice to Mariners.

The project is not located in any areas containing environmentally sensitive habitat, such as kelp beds or rocky hard bottom habitat. The project will create temporary turbidity, but will not adversely affect any marine resources, environmentally sensitive habitat, or commercial or recreational fishing. No public views would be affected. Public access and recreation would not be affected by the project.

We therefore agree with the Navy that the project will not affect coastal resources, and we concur with your negative determination made pursuant to Section 15 CFR 930.35(d) of the NOAA implementing regulations. Please contact Mark Delaplaine at (415) 904-5289 if you have questions.

Sincerely,


PETER M. DOUGLAS
Executive Director

cc: Ventura Area Office
NOAA
Assistant Counsel for Ocean Services
OCRM
California Department of Water Resources
Governors Washington D.C. Office

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May 21, 1996

Mike Diestel
United States Department of Commerce
Office of the Deputy Under Secretary for Oceans and Atmosphere
Washington, D.C. 20230

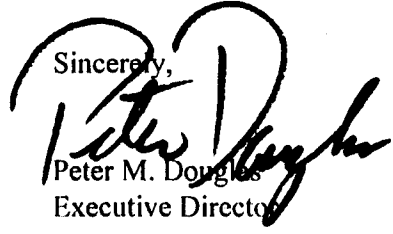
RE: ND-55-96, Negative Determination, Replacement of weather system, Point Piedras Blancas,
San Luis Obispo County

Dear Mr. Diestel:

The Commission has received the above referenced negative determination for the replacement of the existing weather system at Piedras Blancas lighthouse. The project will include the replacement of an existing wind tower and the placement of concrete foundations for new weather sensors, to be located adjacent to the existing weather sensors. The existing wind tower and weather sensors will be removed after the new equipment is operational. The new wind tower will not rise above the lighthouse structure. The project will not affect the visual resources of the coastal zone.

We agree that this project will not affect any resources of the coastal zone; we therefore concur with your negative determination for this project made pursuant to Section 15 CFR 930.35(d) of the NOAA implementing regulations. Please contact Tania Pollak at (415) 904-5297 if you have any questions.

Sincerely,


Peter M. Douglas
Executive Director

cc: Anthony Killiri, Department of Commerce
Central Coast Area Office
NOAA
Assistant Counsel for Ocean Services
OCRM
California Department of Water Resources
Governors Washington D.C. Office