STATE OF CALIFORNIA – THE RESOURCES AGENCY PETE WILSON, *Governor*

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

Tu 10b

DATE: **JULY 22, 1998**

TO: **COASTAL COMMISSIONERS AND INTERESTED PARTIES**

FROM: **PETER DOUGLAS, EXECUTIVE DIRECTOR**
MARK DELAPLAINE, FEDERAL CONSISTENCY SUPERVISOR

RE: **U.S. NAVY, SURFACE WARFARE ENGINEERING FACILITY (SWEF)**
PORT HUENEME, VENTURA COUNTY

On April 30, 1998, the Commission staff objected to two negative determinations for radar systems at the SWEF, and informed the Navy of its position that consistency determinations would need to be submitted for these activities. On June 8, 1998, when these objections were reported to the Commission, the Commission agreed that if no response to the objection letters was received from the Navy, the Commission would schedule at least a status briefing on the matter for the August 11-14, 1998, Commission meeting in Huntington Beach. The Navy has indicated by telephone that it is in the process of preparing a written response, including completion of radar hazard testing results for the previously-untested radar facilities that were the subject of negative determination ND-26-98: (Fire Control System (FCS) MK 99, AN/SPQ-9B Surface Search Radar, AEGIS AN/SPY-1A Antenna Array, and AN/SAY-1 Thermal Imaging Sensor System (TISS)).

On July 16, 1998, the Commission staff received the attached letter from the Navy (Exhibit 1). On July 21, 1998, the Commission staff received the attached letter from The Beacon Foundation (Exhibit 2). If further information is provided by the Navy prior to the Commission meeting, the staff will circulate the information to interested parties and publish an addendum to this report.

DEPARTMENT OF THE NAVY
NAVAL CONSTRUCTION BATTALION CENTER
1000 23RD AVENUE
PORT HUENEME CA 93043-4301

IN REPLY REFER TO:
5090/41GP
July 13, 1998

RECEIVED
JUL 16 1998
CALIFORNIA
COASTAL COMMISSION

Mr. Peter M. Douglas
Executive Director, California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Dear Mr. Douglas:

Thank you for your letter of June 26, 1998 requesting information about the status of several radar systems referenced in ND-26-98 and ND-52-98 Negative Determinations at the Surface Warfare Engineering Facility (SWEF), Naval Construction Battalion Center (NCBC), Port Hueneme, Ventura County.

We are pleased to report the following progress. With respect to ND-26-98, the Space and Naval Warfare Systems Center, Charleston, completed the Radiation Hazard (RADHAZ) Survey for the MK 99 and SPQ-9B on June 25, 1998. The survey did not include the AN/SPY-1A since it does not presently radiate, or the AN/SAY-1 since it is not a Radio Frequency generating device. **Results of the survey confirm the safe operation of both radars in the controlled and uncontrolled environments.** We expect the official RADHAZ survey report to be finalized within 90 days and will forward the unclassified portions as soon as the report is available.

There is no new status to report regarding the MK 74 system (ND-52-98); however we are gathering additional information which we believe will support our negative determination for this system. We are also gathering additional information for the MK 99, SPQ-9B, and two non-radiating systems mentioned above. Our goal is to forward this information in conjunction with the RADHAZ survey report.

Once again, we would like to extend our invitation to meet with any Commission members, staff or designee to discuss and resolve specific issues and concerns. Our perception is that because of the technical nature of the subject, ongoing correspondence and "status briefings" before the Commission have done little to resolve our differences or ease concerns. Perhaps it is time to try a new approach. If you have any questions, please contact Ms. Gail Pringle at (805) 982-2105.

Sincerely,

H. A. Bouika

H. A. BOUIKA
LCDR, CEC, USN
Environmental, Fire, and Safety Director
By direction of the Commanding Officer

EXHIBIT NO. 1
APPLICATION NO.
SWEF

Copy to:
California Coastal Commission, Ventura Office
89 S. California Street, Suite 200
Ventura, CA 93001

Commander, Port Hueneme Division, Naval Surface Warfare Center
4363 Missile Way
Port Hueneme, CA 93043-4307

Mr. Barry Franklin
Engineering Field Activity, West
Naval Facilities Engineering Command
900 Commodore Drive
San Bruno, CA 94066-5006

Internal copy to:
40/CEN/DATE

Writer/Typist: Gail Pringle, Code 41, ext. 2105
File: C:\swef\ndreply.doc

OPTIONAL FORM 99 (7-90)
FAX TRANSMITTAL
# of pages ▶ 2
To Mark D
From G Pringle
Dept./Agency
Phone # 982 2105
Fax # 415-904-5400
Fax #
NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

EX-1, CONT.

Mark D.

FAX

RECEIVED
JUL 21 1998
CALIFORNIA
COASTAL COMMISSION

TO: PETER DOUGLAS (415) 904-5400
Executive Director
California Coastal Commission

DATE: 7/20/98

FROM: LEE QUAINTANCE Fax/Phone (805) 985-9595
The Beacon Foundation

PAGES: 6

RE: REQUEST FOR AUGUST AGENDA OF ENFORCEMENT ACTION REGARDING SURFACE WARFARE ENGINEERING FACILITY (SWEF) PORT HUENEME - VENTURA COUNTY

EXHIBIT NO. 2
APPLICATION NO.
SWEF
California Coastal Commission

The Beacon Foundation
Box 352
3844 Channel Islands Blvd
Oxnard, CA 93035
A Nonprofit Public Benefit Corporation

Mr. Peter M. Douglas
Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, Ca 94105-2219

July 20, 1998

Re: Enforcement Action to Require Coastal Zone Management Act (CZMA) Compliance by Navy Surface Warfare Engineering Facility Port Hueneme, Ventura County

Dear Director Douglas:

It is clear from its July 13, 1998 letter that the Navy will not voluntarily comply with the three separate pending California Coastal Commission (CCC) requests for consistency determination filings regarding the Surface Warfare Engineering Facility (SWEF).

The Commission has been at this for three years. Over this time frame Navy non-compliance has evolved to open defiance of the law and a refusal to recognize the responsibilities of the Coastal Commission. We urge you to recommend an enforcement action against the Navy at the August meeting of the Commission.

The first CCC request for a consistency determination was by a staff letter of September 8, 1995. This request was reaffirmed by direction from the full Commission at its meetings of February 7, 1996 and March 10, 1998. This first request was prompted by The Beacon filing with the Commission in August of 1995 of a Navy pre-construction environmental report. That Navy document found the SWEF would violate the Coastal Act and present unmitigatable radio frequency (RF) hazards to users of the coastal zone. Neither this nor any other environmental report on the SWEF was ever submitted to the Commission by the Navy. In fact, after claiming that CCC records were incomplete and that that the SWEF had been subject to a consistency determination review (letter of April 5, 1996), the Navy admitted (letter of May 13, 1997) that a "rigorous review" had found "no environmental documentation" for the SWEF.

The second CCC consistency determination request concerns the MK74 MOD 6/8/AN/SPG-51C Fire Control System that was installed on building 5186 of the SWEF facility in 1996. The placement of this powerful emitter on this building in the SWEF complex closest to public areas of the coastal zone was not disclosed until

EX. 2, CONT.

January 26,1998 when the Navy provided the Commission with a redacted copy of a RADHAZ study completed in January 1997. CCC staff requested a consistency determination on this system by a letter of February 24, 1998.

The third CCC consistency determination request was by your two letters of April 30, 1998. One rejected a Navy ND request for four new systems installed on the main SWEF building and the other rejected a Navy ND request for the MK74 MOD 6/8/AN/SPG-51C Fire Control System on building 5186 of the SWEF facility.

Now, after three years and in the face of three separate pending CCC consistency determination requests, the Navy in its July 13, 1998 letter suggests "it is time to try a new approach." It offers a non-responsive "perception" that "...because of the technical nature of the subject, ongoing correspondence and 'status briefings' before the Commission have done little to resolve our differences or ease concerns." The suggested "new approach" is to substitute a private site visit for the mandated open public process.

The Navy "perception" demeans the CCC and the whole purpose of consistency determination reviews. Federal regulations (15 CFR Part 930.39) require that a consistency determination "... shall ... include a detailed description of the activity, its associated facilities, and their coastal zone effects, and comprehensive data and information sufficient to support the Federal agency's consistency statement." Coastal zone impact concerns of the Commission and the public regarding operations of the SWEF have not been resolved because the Navy has withheld the data needed to allow an analysis. The Commission and the public are fully capable of understanding the technical issues. Based on public input and its own review the Commission has posed specific questions regarding impacts on the coastal zone and the Navy has deliberately chosen not to respond other than with unsubstantiated testimonials.

The fundamental issue now is process. By past stalling and now by direct comment in its July 13th letter, the Navy makes it clear it does not intend to comply with the CZMA requirements for a consistency determination. The issue is not a misunderstanding about technical features but rather the Navy refusal to comply with the law. This refusal necessarily heightens concern regarding the coastal zone impacts of SWEF operations for which the Navy declines to be accountable. The Navy describes the SWEF as a major facility "unique .... in the world" (Facility Description January 7, 1998). According to an article in the July 9, 1998 Los Angeles Times, the Naval Surface Warfare Command at Port Hueneme, of which the SWEF is a part, has a staff of 2,300 and an annual budget of about $400 million. The letter of July 13th is the final and considered

EX. 2 CONT.

position of a professionally staffed entity that is not only obliged but fully competent to understand and discharge its legal obligations.

In response to the pending consistency determination requests the July 13, 1998 letter says that a not yet finalized RADHAZ will concluded that two emitters operate safely. Within 90 days "unclassified" portions of the in-house report may be provided. As the Navy is well aware, The Commission has previously found redacted in house RADHAZ surveys inadequate to discharge the obligation for a consistency determination filing.

Regarding the powerful MK74MOD6/8/AN/SPG-51C Fire Control System, the July 13 letter says "There is no new status to report .... however we are gathering additional information which we believe will support our negative determination for this system." The Navy knows that a piecemeal ND approach regarding this system was definitively rejected in the CCC letter of April 30th in view of the "... absence of a baseline analysis establishing safe exposure levels for the overall SWEF radar systems." As explained in person to the Navy at the March 10, 1998 Commission study session and as further detailed in the April 30th letter "... the Navy needs to analyze not only the MK 74 facility itself but also the cumulative impacts of the entire facility ...." The July 13, 1998 Navy letter is a refusal to submit a consistency determination and the verifiable quantitative data that would be a part of such a submission.

We call upon the Commission to take appropriate legal action to cause the Navy to become accountable under the law.

The Beacon Foundation is a non profit public benefit corporation dedicated to protection of the coastal environment of Ventura County. This request for action is written at the unanimous direction of our Board of Directors.

Sincerely yours,

Vickie Finan Gordon Birr Jean Rountree

Lee Quaintance Don Dodd Ellen Spiegel

EX-2 CONT.