

**CALIFORNIA COASTAL COMMISSION**

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**Tu 11b****STAFF REPORT AND RECOMMENDATION****ON CONSISTENCY DETERMINATION**Consistency Determination No. **CD-70-98**

Staff: JRR-SF

File Date: June 17, 1998

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Commission Meeting: August 11-14, 1998

**FEDERAL AGENCY:** **U.S. NAVY****DEVELOPMENT****LOCATION:** San Diego Bay Area**DEVELOPMENT****DESCRIPTION:** General Consistency Determination for periodic replacement and repair of piers and shoreline structures**SUBSTANTIVE FILE DOCUMENTS:**

1. CD-12-93, General Consistency Determination for periodic replacement and repair of piers and shoreline structures, U.S. Navy, San Diego.

**EXECUTIVE SUMMARY**

The U.S. Navy submitted a general consistency determination for periodic replacement and repair of piers and shoreline structures. This consistency determination renews an expired general consistency determination that the Commission concurred with five years ago. This general consistency determination clearly defines the types of projects allowed under this general consistency determination, requires the Navy to notify the Commission of an activity being conducted pursuant to this consistency determination before the Navy awards the contract, and provides that the consistency determination will expire five

years after Commission action. This general consistency determination is consistent with the marine resource, habitat, access, recreational, and shoreline structure policies of the California Coastal Management Program (CCMP).

## **STAFF SUMMARY AND RECOMMENDATION**

### **I. Staff Note:**

The Navy has submitted a general consistency determination for minor repair and maintenance activities. This consistency determination is different from other ones usually reviewed by the Commission. The Navy is asking the Commission to concur with general types of activities rather than a specific project. The Navy has made this consistency determination pursuant to Section 930.37(b) of the federal regulations implementing the Coastal Zone Management Act (15 C.F.R. Section 930.37[b]). That section provides that:

*In cases where Federal agencies will be performing repeated activity other than a development project (e.g., ongoing maintenance, waste disposal, etc.) which cumulatively has a direct effect upon the coastal zone, the agency may develop a general consistency determination thereby avoiding the necessity of issuing separate consistency determinations for each incremental action controlled by the major activity. A general consistency determination may only be used in situations where the incremental actions are repetitive or periodic, substantially similar in nature, and do not directly affect the coastal zone when performed separately. If a federal agency issues a general consistency determination, it must thereafter periodically consult with the State agency to discuss the manner in which the incremental actions are being undertaken.*

A Commission concurrence with this consistency determination will allow the Navy to conduct minor repair and maintenance of piers and shoreline structures consistent with this consistency determination without any further review by the Commission. Through modifications to the consistency determination, the Navy has limited its applicability to minor repairs and replacements of shoreline structures and piers.

### **II. Project Description.**

The Navy is requesting Commission concurrence for the following categories of activities:

1. Replacement in kind and upgrade of pier lighting, utility systems, decking, load-out cradles, pilings, moorings, dolphins, and fender systems. The Navy will limit fender piling replacement to an one-to-one replacement ratio and possibly require removal through jetting of old pilings/pile stubs. Jetting involves the use of a water jet to loosen sediment around the pile stub. When the Navy uses jetting, it will also use silt curtains to minimize effects on water quality resources. However, for structural piles, it is often a two for one replacement. For a broken concrete structural pile, the Navy usually replaces it by cutting a hole in the pier deck and driving two piles adjacent to the broken one. The Navy then ties the new piles into the cap and deck. Exclusions from this category are projects that:
  - a) result in replacement of greater than 50% of the pier;
  - b) result in a change of use in the pier;
  - c) result in change in size or location of the pier or a change in the number of piles.
2. Replacement in kind and repair of seawalls, bulkheads, ramps and revetments. Exclusions from this category are projects that:
  - a) result in the alteration of the foundation of the structure, including piles;
  - b) result in replacement of greater than 50% of the structure;
  - c) result in a substantial (greater than 10% increase in the original size) change in size or location of the structure;
  - d) result in a seaward expansion of the structure;
  - e) are located in areas accessible to the public.
3. In addition to the limitations described above, the following conditions also apply to this general consistency determination:
  - a) it does not include minor building construction, dredging, or disposal of waste material;
  - b) it does not include any work in sensitive habitat areas or special aquatic sites, including but not limited to wetlands, eel grass beds and least tern foraging and nesting areas during the tern nesting season;
  - c) some projects may require scraping of marine growth in order to perform repairs;
  - d) the Navy will notify Executive Director at least 45 days before award of contract of any activity being conducted pursuant to this general consistency determination;
  - e) this consistency determination is only valid for five years.

**III. Federal Agency's Consistency Determination.** The U.S. Navy has determined the general consistency determination to be consistent to the maximum extent practicable with the California Coastal Management Program.

**IV. Staff Recommendation:**

The staff recommends that the Commission adopt the following motion:

MOTION. I move that the Commission concur with the Navy's consistency determination.

The staff recommends a **YES** vote on this motion. A majority vote in the affirmative will result in adoption of the following resolution:

**Concurrence**

The Commission hereby **concurs** with the consistency determination made by the U.S. Navy for the proposed general consistency determination, finding that the project is consistent to the maximum extent practicable with the California Coastal Management Program.

**V. Findings and Declarations:**

The Commission finds and declares as follows:

**A. Marine Resources.** The following marine resource policies of the Coastal Act are applicable to this consistency determination:

**Section 30230**

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30233(a)

*(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

....

*(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*

Section 30240

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

The Navy's general consistency determination is for minor repairs and replacements of Navy piers and shoreline structures. The Navy's consistency determination is virtually the same as the consistency determination that the Commission previously approved. This general consistency determination applies to small projects (less than 50% of the existing structure) that do not result in a substantial change in size or location, or any change in use. The project includes the use of jetting to remove piles. This technique may result in impacts to water quality by increasing background turbidity and re-suspending contaminated sediments. However, the effects from this activity are not significant because water quality effects are temporary and the Navy will use silt curtains to minimize the effects. Therefore, these projects will not have any effects on marine resources that are different from the existing structure. Additionally, the general consistency determination does not include any dredging, or disposal of waste material as part of this general consistency determination, thus preventing any impacts to water quality.

In addition, the projects authorized by this general consistency determination will be consistent with the requirements of Section 30233(a) of the Coastal Act. The modifications to this general consistency determination limit its applicability to projects that do not substantially change the size or location of either shoreline structures or piers or the number of pilings of a pier. Any filling associated with these projects will not change the original footprint of the existing structure. Therefore, the Commission finds that these projects will not result in a loss of marine habitat and that this general consistency determination is consistent with Section 30233(a) of the Coastal Act.

The projects authorized by this general consistency determination will not affect environmentally sensitive habitat areas. The Navy modified its general consistency determination to insure that it does not authorize any activities in an environmentally sensitive habitat area. The Commission will require a consistency determination for any activities in such areas. Therefore, the Commission finds that this general consistency determination is consistent with Section 30240 of the Coastal Act.

Finally, the general consistency determination includes provisions for reporting to the Executive Director projects conducted pursuant to this consistency determination prior to authorization of the project. Therefore, the Director can assure that the project is consistent with this general consistency determination and monitor the effects of projects authorized by this process. Additionally, the general consistency determination is only valid for five years. This provision will prevent the general consistency determination from having long-term effects and will allow the Commission to review the general consistency determination at the end of five years to determine if conditions have changed.

In conclusion, the general consistency determination will not affect the marine environment or environmentally sensitive habitat. Therefore, the Commission finds that the general consistency determination is consistent with the marine resource policies of the CCMP.

**B. Public Access and Recreation.** The following public access and recreation policies of the Coastal Act are applicable to this consistency determination:

Section 30211

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30220

*Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 30221

*Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Project authorized by this general consistency determination will not affect access and recreation. Most, if not all, of the Navy's shoreline structures and piers are on Naval bases where the Navy excludes the public for military security reasons. In addition, the Navy has agreed to further limitations to protect public access and recreation. The Navy limits seawall repair and replacement projects authorized by this general consistency determination to activities located in areas where it excludes the public. Therefore, construction impacts from these projects will not affect access and recreation. Additionally, the Navy limits this general consistency determination to repair or replacement of shoreline structures that do not result in a substantial change of their size or location. Therefore, the shoreline structure will not have a new effect on water-oriented recreation or create new erosion problems for public beaches. Therefore, the Commission finds that the proposed project is consistent with the public access and recreational policies of the CCMP.

**C. Shoreline Structures.** The following shoreline structure policy of the Coastal Act is applicable to this consistency determination:

Section 30235

*Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

The proposed repair and replacement of shoreline structures authorized by this general consistency determination will be consistent with the requirements of this policy. This section requires the Commission to approve shoreline structures when they protect coastal-dependent uses. Although the Commission believes that activities authorized by this consistency determination will protect Navy facilities, which are likely to be coastal dependent, such analysis is unnecessary. This general consistency determination only authorizes minor repair and replacement projects. The Commission believes that a repair of an existing structure would be approvable even if it does not protect a coastal-dependent use. Additionally, the general consistency determination only applies to projects that will not substantially change the design or location of a shoreline structure, and thus it will not have a new effect local shoreline sand supply. Therefore, the Commission finds that the Navy's general consistency determination is consistent with the shoreline policy of the CCMP.