

CALIFORNIA COASTAL COMMISSION

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

RECORD PACKET COPY**Tu 5**

DATE: April 19, 2000

TO: COASTAL COMMISSIONERS
AND INTERESTED PARTIES

FROM: MARK DELAPLAINE, FEDERAL CONSISTENCY SUPERVISOR

RE: NEGATIVE DETERMINATIONS ISSUED BY THE EXECUTIVE
DIRECTOR

PROJECT #:	ND-010-99
APPLICANT:	Navy
LOCATION:	Naval Construction Battalion Center, Port Hueneme, Ventura Co.
PROJECT:	Replacement of an existing radar equipment
ACTION:	Object (Commission action)
ACTION DATE:	04/14/2000

PROJECT #:	ND-005-00
APPLICANT:	Navy
LOCATION:	Naval Construction Battalion Center, Port Hueneme, Ventura Co.
PROJECT:	Installation of 4 radar systems at SWEF
ACTION:	Object (Commission action)
ACTION DATE:	04/14/2000

PROJECT #:	ND-006-00
APPLICANT:	Navy
LOCATION:	Naval Construction Battalion Center, Port Hueneme, Ventura Co.
PROJECT:	Installation of fire control radar system at SWEF
ACTION:	Object (Commission action)
ACTION DATE:	04/14/2000

PROJECT #:	ND-014-00
APPLICANT:	Bureau of Land Management
LOCATION:	King Range National Recreation Area (Lost Coast), Humboldt Co.
PROJECT:	Relocate Cape Mendocino Lighthouse
ACTION:	Concur
ACTION DATE:	04/14/2000

PROJECT #:	ND-018-00
APPLICANT:	Corps of Engineers
LOCATION:	San Francisco Main ship channel, offshore of Golden Gate Bridge
PROJECT:	Maintenance dredging with nearshore disposal
ACTION:	Concur
ACTION DATE:	04/19/2000

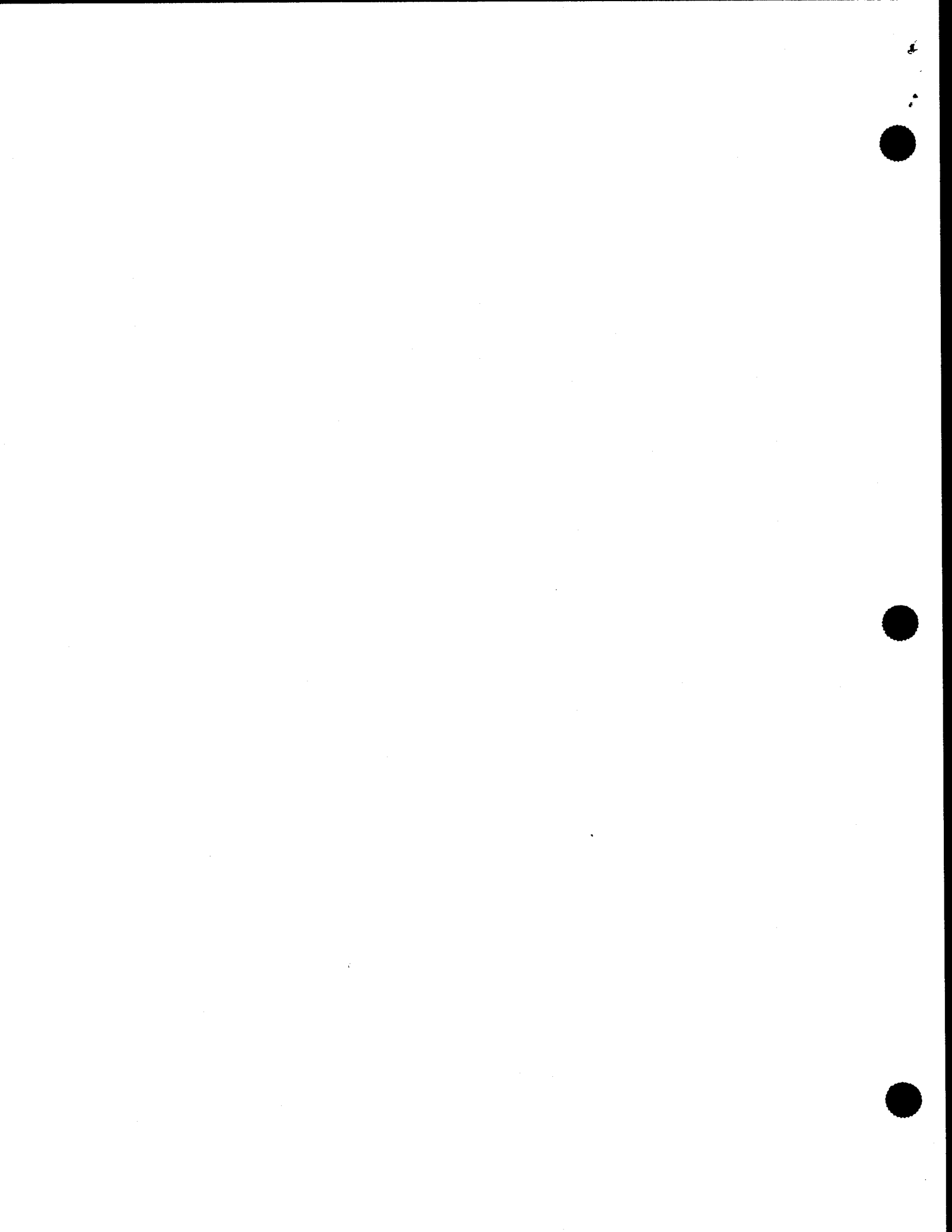
PROJECT #:	ND-021-00
APPLICANT:	Navy
LOCATION:	Naval Construction Battalion Center, Port Hueneme, Ventura Co.
PROJECT:	Installation of a wireless antenna facility
ACTION:	Concur
ACTION DATE:	04/07/2000

PROJECT #:	ND-025-00
APPLICANT:	Corps of Engineers
LOCATION:	Port Hueneme Harbor, Ventura Co.
PROJECT:	Repair of jetties
ACTION:	Concur
ACTION DATE:	04/14/2000

PROJECT #:	ND-026-00
APPLICANT:	Navy
LOCATION:	Naval Weapons Station, Seal Beach, Orange Co.
PROJECT:	Acquisition of three parcels
ACTION:	Concur
ACTION DATE:	04/14/2000

PROJECT #:	ND-027-00
APPLICANT:	Corps of Engineers
LOCATION:	Noyo River, near Fort Bragg, Mendocino Co.
PROJECT:	Maintenance dredging with upland disposal
ACTION:	Concur
ACTION DATE:	04/14/2000

PROJECT #:	ND-037-00
APPLICANT:	Marine Corps
LOCATION:	Marine Corps Recruit Depot, San Diego
PROJECT:	Construction of a skateboard park
ACTION:	Concur
ACTION DATE:	04/11/2000



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April 17, 2000

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

Re: **ND-10-99** Negative Determination, Navy Replacement of MK-78 Mod 1 Director at Building 1384, Surface Warfare Engineering Facility (SWEF), Naval Construction Battalion Center (NCBC), Port Hueneme, Ventura County

Dear Captain Phillips:

Pursuant to 15 CFR Section 930.35(d), the U.S. Navy submitted to the Coastal Commission staff the above-referenced negative determination for the replacement of the existing MK-78 Mod 1 Director, which is a component of the MK-57 Mod 3 NATO Seasparrow Surface Missile System (a self-defense fire control system), and which has outlived its 10-year life cycle and in need of replacement. The Navy states this project constitutes routine repair/maintenance of existing equipment.

In a related matter, on April 30, 1998, the Commission staff objected to two negative determinations (ND-52-98 and ND-26-98) for radar systems at the SWEF in Port Hueneme. The Commission staff requested that the Navy submit consistency determinations for those systems. The Navy disagreed with the Commission staff and declined to submit consistency determinations. Based on this disagreement, on August 21, 1998, the Commission requested, and the Navy subsequently agreed, to seek informal mediation of the matter by the Office of Ocean and Coastal Resource Management (OCRM).¹ Working with the Commission staff and the Navy, OCRM convened an expert review panel to advise the Commission on the potential coastal zone effects of the SWEF radar facilities. The Navy agreed to extend the review period for the subject project to enable the Commission to consider the panel review.

The panel review results are now available, and OCRM has summarized the panel members' review as follows:

General Summary - The panel members found that the operation of the SWEF, including its radiofrequency emissions, *in accordance with the Navy's described operational and safety guidelines*, do not, *generally*, pose impacts to any land or water use or natural resource of the coastal zone and do not represent a public health risk. Some of the panel members stated that there may be health or exposure risks to

¹ Pursuant to federal consistency regulations 15 CFR Part 930, § 930.36 and Subpart G, § 930.110 et seq.

people on vessels transiting or anchoring in the harbor. Most of the panel members recommended steps the Navy can, or should, take to further ensure that the operation of the SWEF is safe, that the Navy's operational and safety guidelines are carefully adhered to and monitored and that radiofrequency measurements in the uncontrolled (off-base) environment are adequate to continue to assess the impact of the radiofrequency emissions. [Emphasis in original]

The recommendations of the panel members include such measures as taking steps to: (1) avoid ships transiting the harbor with SWEF radars; (2) increase public confidence in Navy radar testing by (a) performing a "well designed public exposure assessment study" within the next six months; (b) designating a microwave safety officer; (c) agreeing to comply with any new updated safety guidelines promulgated by public agencies; and (d) submittal of operational logs to an independent federal agency (such as OCRM) on an annual basis; and (3) use a camera to monitor (and avoid affecting) bird roosting on the roof of the SWEF.

In its response, the Navy made several changes to the recommendations. One of these changes was that, rather than have a "non-DOD² RFR measurement expert participate fully in the survey and the writing of the final report submitted to the public," the Navy has agreed to expand on the surveys and their communication to the public, but not to the extent of designating a "non-DOD person" as part of the survey team. The Navy has also not agreed to perform a "public exposure assessment study," but rather has chosen to address this recommendation by improving the existing Radhaz surveys, including doubling the measurement points taken in public (uncontrolled) areas, "translating" the survey results into plain English, and appointing an information officer to answer any questions about the surveys.

Due to these changes, the Commission staff believes that the Navy has not adequately responded to the panel members' recommendations and has not included sufficient commitments to enable the Commission and its staff to agree that these radar modifications will not affect coastal zone resources. The Commission staff believes that the panel recommendation that the Navy designate a "non-DOD person" as part of the survey team is essential to maintaining the objectivity of the survey panel and any conclusions it reaches as to the effects, or lack thereof, of radar facilities on coastal zone resources.

Additional Navy commitments include that the Navy will continue to test all radar facilities, submit test results to the Commission staff, and continue to coordinate radar modifications at the SWEF with the Commission staff, including, where appropriate, submittal of future consistency or negative determinations for operational or equipment changes at the facility. For its analysis of future changes the Commission staff will rely for its baseline description and level of impacts on the Navy's "Technical Parameters for SWEF emitters," dated February 18, 2000, which was the baseline relied upon by the expert panel, as well as the "to scale" map submitted by the Navy to the panel dated January 13, 2000. The Commission staff also expects that the Navy will measure and report not only any exceedances of the legally applicable

² Department of Defense

The Navy's agreements to these basic points, along with the Navy's agreements to submit sufficient information to enable the Commission staff to adequately compare the radar activities with the baseline and with the FCC guidelines, are clarified and memorialized in the Navy's letter to the Commission dated April 13, 2000 (copy attached). The Commission staff appreciates these clarifications and commitments.

Nevertheless, despite these commitments, the Commission staff cannot concur with the Navy's negative determination absent the Navy's agreement to include on its expanded radar survey team a "non-DOD" expert. The Coastal Commission staff therefore **disagrees** with the Navy's conclusion that the proposed project will not affect coastal zone resources, and, consequently, with the above-identified negative determination.

In most situations, a disagreement with a negative determination is accompanied by a request for a consistency determination. Given the lengthy history of Commission deliberations on this overall matter, including the Navy's previous reluctance to submit a consistency determination when we objected to the previous negative determination for this radar system, we believe it appropriate at this point to also advise the Navy that if the Navy intends to proceed with implementation of the project in the face of this disagreement, under our program, the Navy needs to notify us of its intention to proceed and the reasons for its disagreement with our action.


As the Navy is aware, a Commission disagreement with a *consistency* determination made by a federal agency for an activity or development that affects the coastal zone does not result in a veto of the proposed project. A federal agency may proceed with a proposed project even though the Commission has objected to the *consistency* determination. However, Section C (a)(i) of Chapter 11 of the CCMP requires Federal agencies to inform the Commission of any such action. This section provides that:

If the Coastal Commission finds that the Federal activity or development project directly affects the coastal zone and is not consistent with the management program, and the federal agency disagrees and decides to go forward with the action, it will be expected to (a) advise the Coastal Commission in writing that the action is consistent, to the maximum extent practicable, with the coastal management program, and (b) set forth in detail the reasons for its decision. In the event the Coastal Commission seriously disagrees with the Federal agency's consistency determination, it may request that the Secretary of Commerce seek to mediate the serious disagreement as provided by Section 307(h) of the CZMA, or it may seek judicial review of the dispute.

As was the case for the previous disagreement with a negative determination for this project (ND-52-98), the Commission staff and the Navy have historically acted under the assumption that these provisions are equally applicable to a disagreement with a negative determination, with the clarification that in subpart (a) the Navy would be advising the Commission in writing that the activity does not affect the coastal zone (as opposed to advising that the activity is consistent with the CCMP).

If you have any questions, please contact Mark Delaplaine of the Coastal Commission staff at (415) 904-5289.

Sincerely,



(for)

PETER M. DOUGLAS
Executive Director

Attachment: Navy letter to CCC dated April 13, 2000

cc: Ventura Area Office
NOAA
Assistant Counsel for Ocean Services
OCRM
Governors Washington D.C. Office
California Department of Water Resources
Chuck Hogle (U.S. Navy)
Suzanne Duffy (U.S. Navy)

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April 17, 2000

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

Re: **ND-5-00** (formerly ND-26-98) Negative Determination, Navy Radar Systems,
Surface Warfare Engineering Facility (SWEF), Naval Construction
Battalion Center (NCBC), Port Hueneme, Ventura County

Dear Captain Phillips:

Pursuant to 15 CFR Section 930.35(d), the U.S. Navy submitted to the Coastal Commission staff the above-referenced negative determination for the installation of four radar systems at the SWEF, as follows:

1. Fire Control System (FCS) MK 99
2. AN/SPQ-9B Surface Search Radar
3. AEGIS AN/SPY-1A Antenna Array
4. AN/SAY-1 Thermal Imaging Sensor System (TISS)

On April 30, 1998, the Commission staff objected to this negative determination (as well as ND-52-98) for radar systems at the SWEF in Port Hueneme. The Commission staff requested that the Navy submit consistency determinations for the systems. The Navy declined to submit consistency determinations. Based on this disagreement, on August 21, 1998, the Commission requested, and the Navy subsequently agreed, to seek informal mediation of the matter by the Office of Ocean and Coastal Resource Management (OCRM).¹ Working with the Commission staff and the Navy, OCRM convened an expert review panel to advise the Commission on the potential coastal zone effects of the SWEF radar facilities. Now that the panel review results are available, the staff is reconsidering its response to the Navy's negative determination in light of the panel review results and the

¹ Pursuant to federal consistency regulations 15 CFR Part 930, § 930.36 and Subpart G, § 930.110 et seq.

Navy's response to the panel members' recommendations. OCRM has summarized the panel members' review as follows:

General Summary - The panel members found that the operation of the SWEF, including its radiofrequency emissions, *in accordance with the Navy's described operational and safety guidelines*, do not, *generally*, pose impacts to any land or water use or natural resource of the coastal zone and do not represent a public health risk. Some of the panel members stated that there may be health or exposure risks to people on vessels transiting or anchoring in the harbor. Most of the panel members recommended steps the Navy can, or should, take to further ensure that the operation of the SWEF is safe, that the Navy's operational and safety guidelines are carefully adhered to and monitored and that radiofrequency measurements in the uncontrolled (off-base) environment are adequate to continue to assess the impact of the radiofrequency emissions. [Emphasis in original]

The recommendations of the panel members include such measures as taking steps to: (1) avoid ships transiting the harbor with SWEF radars; (2) increase public confidence in Navy radar testing by (a) performing a "well designed public exposure assessment study" within the next six months; (b) designating a microwave safety officer; (c) agreeing to comply with any new updated safety guidelines promulgated by public agencies; and (d) submittal of operational logs to an independent federal agency (such as OCRM) on an annual basis; and (3) use a camera to monitor (and avoid affecting) bird roosting on the roof of the SWEF.

In its response, the Navy made several changes to the recommendations. One of these changes was that, rather than have a "non-DOD² RFR measurement expert participate fully in the survey and the writing of the final report submitted to the public," the Navy has agreed to expand on the surveys and their communication to the public, but not to the extent of designating a "non-DOD person" as part of the survey team. The Navy has also not agreed to perform a "public exposure assessment study," but rather has chosen to address this recommendation by improving the existing Radhaz surveys, including doubling the measurement points taken in public (uncontrolled) areas, "translating" the survey results into plain English, and appointing an information officer to answer any questions about the surveys.

Due to these changes, the Commission staff believes that the Navy has not adequately responded to the panel members' recommendations and has not included sufficient commitments to enable the Commission and its staff to agree that these radar modifications will not affect coastal zone resources. The Commission staff believes that the panel recommendation that the Navy designate a "non-DOD person" as part of the survey team is essential to maintaining the objectivity of the survey panel and any conclusions it reaches as to the effects, or lack thereof, of radar facilities on coastal zone resources.

Additional Navy commitments include that the Navy will continue to test all radar facilities, submit test results to the Commission staff, and continue to coordinate radar modifications at

² Department of Defense

the SWEF with the Commission staff, including, where appropriate, submittal of future consistency or negative determinations for operational or equipment changes at the facility. For its analysis of future changes the Commission staff will rely for its baseline description and level of impacts on the Navy's "Technical Parameters for SWEF emitters," dated February 18, 2000, which was the baseline relied upon by the expert panel, as well as the "to scale" map submitted by the Navy to the panel dated January 13, 2000. The Commission staff also expects that the Navy will measure and report not only any exceedances of the legally applicable "DOD standards," but also any exceedance in public areas of the "FCC guideline" (currently 1 mW/ cm²) cited by two of the panel members as an appropriate guideline for public areas. The Navy's agreements to these basic points, along with the Navy's agreements to submit sufficient information to enable the Commission staff to adequately compare the radar activities with the baseline and with the FCC guidelines, are clarified and memorialized in the Navy's letter to the Commission dated April 13, 2000 (copy attached). The Commission staff appreciates these clarifications and commitments.

Nevertheless, despite these commitments, the Commission staff cannot concur with the Navy's negative determination absent the Navy's agreement to include on its expanded radar survey team a "non-DOD" expert. The Coastal Commission staff therefore **disagrees** with the Navy's conclusion that the proposed project will not affect coastal zone resources, and, consequently, with the above-identified negative determination.

In most situations, a disagreement with a negative determination is accompanied by a request for a consistency determination. Given the lengthy history of Commission deliberations on this overall matter, including the Navy's previous reluctance to submit a consistency determination when we objected to the previous negative determination for these radar systems, we believe it appropriate at this point to also advise the Navy that if the Navy intends to proceed with implementation of the project in the face of this disagreement, under our program, the Navy needs to notify us of its intention to proceed and the reasons for its disagreement with our action.

As the Navy is aware, a Commission disagreement with a *consistency* determination made by a federal agency for an activity or development that affects the coastal zone does not result in a veto of the proposed project. A federal agency may proceed with a proposed project even though the Commission has objected to the *consistency* determination. However, Section C (a)(i) of Chapter 11 of the CCMP requires Federal agencies to inform the Commission of any such action. This section provides that:

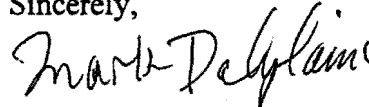
If the Coastal Commission finds that the Federal activity or development project directly affects the coastal zone and is not consistent with the management program, and the federal agency disagrees and decides to go forward with the action, it will be expected to (a) advise the Coastal Commission in writing that the action is consistent, to the maximum extent practicable, with the coastal management program, and (b) set forth in detail the reasons for its decision. In the event the Coastal Commission seriously disagrees with the Federal agency's consistency determination, it may request that the Secretary of Commerce seek to

mediate the serious disagreement as provided by Section 307(h) of the CZMA, or it may seek judicial review of the dispute.

As was the case for the previous disagreement with a negative determination for this project (ND-26-98), the Commission staff and the Navy have historically acted under the assumption that these provisions are equally applicable to an disagreement with a negative determination, with the clarification that in subpart (a) the Navy would be advising the Commission in writing that the activity does not affect the coastal zone (as opposed to advising that the activity is consistent with the CCMP).

If you have any questions, please contact Mark Delaplaine of the Coastal Commission staff at (415) 904-5289.

Sincerely,



(for) PETER M. DOUGLAS
Executive Director

Attachment: Navy letter to CCC dated April 13, 2000

cc: Ventura Area Office
NOAA
Assistant Counsel for Ocean Services
OCRM
Governors Washington D.C. Office
California Department of Water Resources
Chuck Hogle (U.S. Navy)
Suzanne Duffy (U.S. Navy)

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April 17, 2000

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

Re: **ND-6-00** (formerly ND-52-98) Negative Determination, Navy MK74 Radar System, Surface Warfare Engineering Facility (SWEF), Naval Construction Battalion Center (NCBC), Port Hueneme, Ventura County

Dear Captain Phillips:

Pursuant to 15 CFR Section 930.35(d), the U.S. Navy submitted to the Coastal Commission staff the above-referenced negative determination for the installation of the MK74 MOD 6/8/AN/SPG-51C Fire Control System at Building 5186 at the Naval Construction Battalion Center (NCBC) in Port Hueneme. Building 5186 is located near the main SWEF Building, although it is lower in height and closer to publicly accessible areas than the main SWEF building.

On April 30, 1998, the Commission staff objected to this negative determination (as well as ND-52-98) for radar systems at the SWEF in Port Hueneme. The Commission staff requested that the Navy submit consistency determinations for the systems. The Navy declined to submit consistency determinations. Based on this disagreement, on August 21, 1998, the Commission requested, and the Navy subsequently agreed, to seek informal mediation of the matter by the Office of Ocean and Coastal Resource Management (OCRM).¹ Working with the Commission staff and the Navy, OCRM convened an expert review panel to advise the Commission on the potential coastal zone effects of the SWEF radar facilities. Now that the panel review results are available, the staff is reconsidering its response to the Navy's negative determination in light of the panel review results and the Navy's response to the panel members' recommendations. OCRM has summarized the panel members' review as follows:

General Summary - The panel members found that the operation of the SWEF, including its radiofrequency emissions, *in accordance with the Navy's described operational and safety guidelines*, do not, *generally*, pose impacts to any land or water use or natural resource of the coastal zone and do not represent a public health risk. Some of the panel members stated that there may be health or exposure risks to people on vessels transiting or anchoring in the harbor. Most of the panel members recommended steps the Navy can, or should, take to further ensure that the operation

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of the SWEF is safe, that the Navy's operational and safety guidelines are carefully adhered to and monitored and that radiofrequency measurements in the uncontrolled (off-base) environment are adequate to continue to assess the impact of the radiofrequency emissions. [Emphasis in original]

The recommendations of the panel members include such measures as taking steps to: (1) avoid ships transiting the harbor with SWEF radars; (2) increase public confidence in Navy radar testing by (a) performing a "well designed public exposure assessment study" within the next six months; (b) designating a microwave safety officer; (c) agreeing to comply with any new updated safety guidelines promulgated by public agencies; and (d) submittal of operational logs to an independent federal agency (such as OCRM) on an annual basis; and (3) use a camera to monitor (and avoid affecting) bird roosting on the roof of the SWEF.

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² Department of Defense

The Navy's agreements to these basic points, along with the Navy's agreements to submit sufficient information to enable the Commission staff to adequately compare the radar activities with the baseline and with the FCC guidelines, are clarified and memorialized in the Navy's letter to the Commission dated April 13, 2000 (copy attached). The Commission staff appreciates these clarifications and commitments.

Nevertheless, despite these commitments, the Commission staff cannot concur with the Navy's negative determination absent the Navy's agreement to include on its expanded radar survey team a "non-DOD" expert. The Coastal Commission staff therefore disagrees with the Navy's conclusion that the proposed project will not affect coastal zone resources, and, consequently, with the above-identified negative determination.

In most situations, a disagreement with a negative determination is accompanied by a request for a consistency determination. Given the lengthy history of Commission deliberations on this overall matter, including the Navy's previous reluctance to submit a consistency determination when we objected to the previous negative determination for this radar system, we believe it appropriate at this point to also advise the Navy that if the Navy intends to proceed with implementation of the project in the face of this disagreement, under our program, the Navy needs to notify us of its intention to proceed and the reasons for its disagreement with our action.

As the Navy is aware, a Commission disagreement with a *consistency* determination made by a federal agency for an activity or development that affects the coastal zone does not result in a veto of the proposed project. A federal agency may proceed with a proposed project even though the Commission has objected to the *consistency* determination. However, Section C (a)(i) of Chapter 11 of the CCMP requires Federal agencies to inform the Commission of any such action. This section provides that:

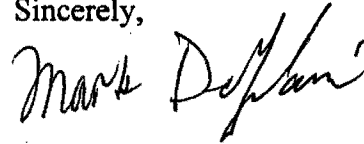
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As was the case for the previous disagreement with a negative determination for this project (ND-52-98), the Commission staff and the Navy have historically acted under the assumption that these provisions are equally applicable to a disagreement with a negative determination, with the clarification that in subpart (a) the Navy would be advising the Commission in writing that the activity does not affect the coastal zone (as opposed to advising that the activity is consistent with the CCMP).

If you have any questions, please contact Mark Delaplaine of the Coastal Commission staff at (415) 904-5289.

Sincerely,

(for)



PETER M. DOUGLAS
Executive Director

Attachment: Navy letter to CCC dated April 13, 2000

- cc: Ventura Area Office
NOAA
Assistant Counsel for Ocean Services
OCRM
Governors Washington D.C. Office
California Department of Water Resources
Chuck Hogle (U.S. Navy)
Suzanne Duffy (U.S. Navy)



DEPARTMENT OF THE NAVY
PORT HUENEME DIVISION
NAVAL SURFACE WARFARE CENTER
4363 MISSILE WAY
PORT HUENEME, CALIFORNIA 93043-4307

IN REPLY REFER TO:

5090.1

Ser 02-CH/14

April 13, 2000

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Dear Commissioners,

The Navy looks forward to the successful resolution of the issues related to Surface Warfare Engineering Facility (SWEF) operations. In 1998, the Navy voluntarily entered into informal mediation with the California Coastal Commission (CCC) overseen by OCRM to resolve the serious disagreement on consistency issues related to the potential impact of SWEF radar operations on the resources of the coastal zone. As remarked by Mark Delaplaine, staff to the CCC, and David Kaiser of OCRM, the Navy has worked cooperatively with these organizations to resolve issues. We all were excited by what we viewed as a consensus resolution of consistency issues.

As part of the informal mediation, a panel including four non-DoD members was selected and charged with providing the CCC and the Navy their independent and objective scientific evaluation on whether SWEF operations impact the resources of the coastal zone. The panel reviewed the SWEF RADHAZ surveys and other information on the SWEF operations. The panel indicated that the SWEF was generally being operated safely with no impacts to the coastal zone. The panelists verified that SWEF is operated in compliance with DoD Standards and that SWEF RF emissions in the uncontrolled areas surrounding the facility are even within the more restrictive limits of the FCC Guidelines.

The panel identified only two areas of concern. These areas were potential exposure of RF energy to personnel on tall ships and potential exposure to roosting birds at the SWEF. The Navy has incorporated enhancements to the SWEF operations to eliminate these potentialities. These enhancements were developed based on the recommendations of the panel members.

The Navy participated in several telephonic discussions with Mark Delaplaine and David Kaiser regarding the implementation of the panel's recommendation. We believed that we had consensus on the manner in which the Navy agreed to make improvements to its operations to address the concerns of the panel and their recommendations. In recognition of the panel's recommendations and to further the public's understanding of the Navy's RF safety program, the Navy has committed to enhancements to the SWEF safety program. The Navy has designated a RF Safety Officer and installed video cameras to monitor for tall ship and roosting birds as suggested by panel members. The Navy has committed to provide the CCC an annual report on SWEF RF emissions and operations. This annual report was agreed by Navy, CCC and OCRM

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April 13, 2000

to be the best way to implement the suggestion by Dr. Adey to provide more information to the public and the Commission. The Navy has also committed to informing the CCC and the public about changes to the DoD Standards that may effect SWEF operations.

Finally, in recognition of the panel's recommendations for a better radar survey (referred to as a public exposure assessment study), the Navy has committed to enhancements to the RADHAZ Surveys of SWEF. These improvements include at least doubling the number of test points in the uncontrolled areas, describing the test equipment and its sensitivity and accuracy, performing a worst case test scenario, and incorporating an executive summary to facilitate the public's understanding of the document. These improvements to our survey were based on the many ideas of Dr. Elder regarding the public exposure assessment study. Furthermore, the Navy would identify a point of contact to answer any questions from the CCC or the public about the results. We believed this last point would improve information exchange and public relations.

In your staff's recommendations, they reported that the Navy "had adequately responded to the panel members' recommendations and has included commitments that enable the Commission and its staff to agree that these radar modifications would not adversely affect coastal zone resources." They also agree that the Navy's consistency determination for the proposed Virtual Test Capability was consistent to the maximum extent practicable with the enforceable policies of the California Coastal Management Program. Your Staff further urged that the Navy consider doing a public exposure assessment study and also having a non-DOD member participate on the study and report-writing team.

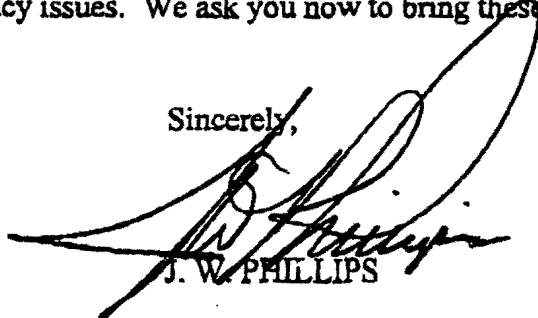
The Navy reconsidered its position on the public exposure assessment and announced at the April 11, 2000 meeting that we would conduct such a study in a comprehensive RF survey. The survey would incorporate the process improvements to our RF studies described above. This study is appropriate because it will establish an accurate baseline of current operations and provide CCC and the public with useful safety data.

We have also given further consideration to having a non-DOD person participate in the new RF survey. We understand that the Commission strongly believes that this would improve the trustworthiness of the data. However, the Navy does not believe that this measure is required to achieve federal consistency under Coastal Zone Management Act (CZMA). The Navy believes that the previously discussed enhancements, which had their genesis in the panel's recommendations, address the CCC's concerns regarding potential impacts to the coastal zone. We are also skeptical that this measure would further enhance public trust or confidence in the Navy's RF safety program. We believed that our involvement in the informal mediation and our cooperation over the past year and half had improved the level of trust. However, we do not believe that certain members of the public would be satisfied with any measure that the Navy takes to better public relations.

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Ser 02-CH/ 14
April 13, 2000

The Navy hopes that you will agree with the Navy's negative determinations and our consistency determination based on your staff's recommendations and the Navy's commitments to improvements to SWEF operations. The Navy believes it has done everything necessary, and more, to address these consistency issues. We ask you now to bring these proceedings to a successful conclusion.

Sincerely,



J. W. PHILLIPS

Enclosure 1: Navy's Response

NAVY RESPONSE

CCC question: Will the Navy provide the SWEF radar logs as part of the annual report to the CCC?

Navy response: The Navy will provide the CCC copies of the SWEF radar logs as part of the annual report. This report, as stated in our April 6, 2000 letter, will be provided to the CCC no later than January 31st of each year to include: number of total hours each radar radiated out of its antenna, the number of times radiation was halted due to ships or roosting birds, the number of aircraft events flown off the Sea Range, and verification that all operational modifications agreed to as a result of this informal mediation and all safety measures are being followed.

CCC question: Does the Navy agree the "Technical Parameters for SWEF Emitters" table dated 18 February 2000 can be used by the CCC as a baseline?

Navy response: The Navy agrees the "Technical Parameters for SWEF Emitters" table can be used as a baseline of current SWEF radar operational parameters.

CCC question: Will the Navy report compliance with the FCC Guidelines in the uncontrolled areas surrounding the SWEF?

Navy response: As stated in our April 6, 2000 letter, the Navy will provide sufficient information to allow comparison to other standards or guidelines. However, the Navy must report in compliance with the DoD Standard.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
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April 14, 2000

Lynda J. Roush
Arcata Field Manager
Bureau of Land Management
ATTN: Bob Wick
1695 Heindon Road
Arcata, CA 95521-4573

Subject: Negative Determination ND-14-00 (Cape Mendocino Lighthouse Reassembly at Mal Coombs Park, Shelter Cove, Humboldt County).


Dear Ms. Roush:

The Coastal Commission staff has received and reviewed the above-referenced negative determination for reassembling the recently relocated Cape Mendocino Lighthouse and providing vehicle and pedestrian areas around the historic structure at Mal Coombs Park, a Bureau of Land Management-managed coastal access area within the community of Shelter Cove and within the King Range National Conservation Area. The Lighthouse was listed as surplus property by the U.S. Coast Guard in 1995 and in a cooperative agreement between the Cape Mendocino Lighthouse Preservation Society (CMLPS) and the BLM, the structure was relocated to Federal land within Mal Coombs Park. Originally, the 40-foot-high structure was to be placed within a traffic island in the parking lot of the park, but additional public interest in the lighthouse led the BLM to reassess both the visitor use potential and safety concerns at the site. BLM and CMLPS now propose to complete the assembly of the lighthouse on a concrete slab foundation in the southwestern-most island in the Mal Coombs Park parking lot, construct a paved four-foot-wide walkway around the structure for pedestrian and wheelchair access, reconfigure parking and pedestrian circulation, and landscape the area around the lighthouse.

Several alternative locations for the lighthouse were examined. The proposed site was selected because it is within an existing developed recreation area managed by the BLM, enhances public recreation and interpretive opportunities in the area, is visually compatible with the surrounding landscape, minimizes flight path safety concerns associated with the nearby Shelter Cove Airport, and places the structure as close as possible to the coast. The proposal conforms with the BLM's King Range NCA Final Visitor Services Plan (September 1992). Excavation will range from eight to 24 inches in the 28-foot-wide diameter circular footprint for the foundation and walkway. BLM and Humboldt State University archaeologists will hand-excavate the site in the presence of a Native American representative. Excavation will stop and other alternatives analyzed in the event that significant cultural resources are discovered.

In conclusion, the Coastal Commission staff **agrees** that no adverse impacts to coastal resources will result from the proposed project, and we therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35(d) of the NOAA implementing regulations. Please contact Larry Simon of the Commission staff at (415) 904-5288 should you have any questions regarding this matter.

Sincerely,

FOR 
PETER M. DOUGLAS
Executive Director

cc: North Coast District Office
California Department of Water Resources
Governor's Washington, D.C., Office

G/land use/federal consistency/negative determination/2000/nd-014-00

CALIFORNIA COASTAL COMMISSION

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April 19, 2000

Peter E. LaCivita, Chief
Environmental Planning Section
U.S. Army Corps of Engineers
333 Market Street
San Francisco, CA 94105-2197

Subject: Negative Determination ND-18-00 (Maintenance Dredging of San Francisco Bay Main Ship Channel).

Dear Mr. LaCivita:

The Coastal Commission staff has received and reviewed the above-referenced negative determination for the maintenance dredging of the San Francisco Bay Main Ship Channel, with disposal at the historically used San Francisco Bar Dredged Material Disposal Site. This site, named SF-8, is located 2.8 miles offshore of the Point Lobos/Cliff House area in northwestern San Francisco. The dredging quantity proposed is approximately 600,000 cubic yards. Dredging would begin in April 2000 and last approximately 25 days. We have concurred with numerous similar dredging projects and use of this site for disposal of the predominantly sandy material in consistency determination CD-2-87-A and negative determinations ND-12-88, ND-4-93, ND-4-95, ND-26-96, ND-13-97, and ND-10-98.

Under the federal consistency regulations (Section 930.35(d)), 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." This project is similar to the above-referenced consistency determination and negative determinations with which we previously concurred.

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

Sincerely,

A handwritten signature in cursive script that reads "Peter M. Douglas".

(for)

PETER M. DOUGLAS
Executive Director

ND-18-00 (Corps of Engineers)
Page 2

cc: North Central Coast District Office
California Department of Water Resources
Governor's Washington, D.C., Office

G/land use/federal consistency/negative determination/2000/nd-018-00

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45 FREMONT, SUITE 2000
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April 7, 2000

Ronald J. Dow
Director, Environmental Division
Naval Construction Battalion Center
ATTN: Beverly Damron
1000 23rd Avenue
Port Hueneme, CA 93043-4301

Subject: Negative Determination ND-21-00 (Navy Wireless Antenna Facility, NCBC, Ventura County).

Dear Mr. Dow:

The Coastal Commission staff has received and reviewed the above-referenced negative determination from the U.S. Navy for construction of an AT&T wireless antenna facility near the intersection of Channel Islands Boulevard and Victoria Avenue at the Naval Construction Battalion Center (NCBC), Port Hueneme. The project includes a 95-foot-tall steel monopole (with a diameter of 30 inches at the base and 20-24 inches at the top) upon which antennas will be attached, a concrete and steel equipment shelter (12 feet wide, 28 feet long, and 11 feet high) at the base of the monopole to house the cellular transmission radio and electronic support equipment, and a six-foot-high black vinyl chain-link fence around the perimeter of the facility. Up to three antenna sets will be installed on the monopole. Each set consists of three panels, each of which is eight feet high, twelve inches wide, and eight inches deep. There will be a ten-foot vertical separation between antenna sets on the pole, and the bottom of the lowest set would sit approximately 51 feet above the ground. All three antenna sets would share the same design and visual characteristics.

The purpose of the project is to provide wireless communication (cellular phone service) to Port Hueneme and surrounding areas. The project site is located within an existing developed area at NCBC, supports no environmentally sensitive habitat, and will require no grading or landform alteration to support the proposed facilities. The Navy reports that the equipment shelter and monopole base will be partially shielded from view from the off-base commercial district to the north by an earthen berm and existing and proposed vegetative screening along the north edge of the project site. The proposed height of the pole is necessitated by the 30 to 40-foot tall eucalyptus trees adjacent to the project site and the cellular system requirement for antennas to be mounted free of obstructions by any objects, including trees and buildings. Should there be a proposal by AT&T to replace or install antenna panels with physical dimensions or

characteristics different from those noted above, the Navy confirmed that further federal consistency review for such modifications will occur.

In conclusion, the Coastal Commission staff **agrees** that no adverse impact to coastal resources will result from the project, and we therefore concur with your negative determination made pursuant to 15 CFR Section 930.35(d) of the NOAA implementing regulations. Please contact Larry Simon of the Commission staff at (415) 904-5288 should you have any questions regarding this matter.

Sincerely,



(for)

PETER M. DOUGLAS
Executive Director

cc: South Central Coast District Office
California Department of Water Resources
Governor's Washington, D.C., Office
B. Hess, Tynan Group, Inc.

CALIFORNIA COASTAL COMMISSION

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April 14, 2000

Kenneth Morris
Chief, Regional Planning Division
U.S. Army Corps of Engineers
ATTN: Lois Goodman
P.O. Box 532711
Los Angeles, CA 90053-2325

Subject: Negative Determination ND-25-00 (Port Hueneme Jetty Repairs, Ventura County).

Dear Mr. Morris:

The Coastal Commission staff has received and reviewed the above-referenced negative determination for repairing the east and west jetties at Port Hueneme Harbor in Ventura County. The proposed project would occur between June and September 2000 and is required to prevent catastrophic failure of the jetties and to restore safe navigation within the harbor approach and entrance channels. No repairs to the jetties have been recorded since their construction in 1939 and therefore expansion or alteration of their design is not required. Approximately 25,300 tons of quarry stone would be used to restore the jetties to their original design configurations, and reusable ejected and displaced stone from the jetties would be reset. The construction staging area would be located on an existing developed site on the Navy Construction Battalion Center or on a disturbed site adjacent to the downcoast side of the east jetty. Access to the jetties will be either land-based, sea-based, or a combination of the two methods. If land access is used, quarry rock will be hauled to the jetties by truck and placed using cranes. If sea access is used, approximately 13,000 to 19,500 cubic yards of sand would be excavated using a clamshell dredge and side-cast into the harbor sand trap adjacent to the east jetty to accommodate the construction barge holding the quarry rock and crane. Beach disposal of the excavated sand is not a viable disposal alternative at this time due to the small volume of material. However, the sand would not be lost from the littoral system and will be used for downcoast beach replenishment during the next maintenance dredging operation at Hueneme Harbor.

Excavation would occur during the endangered California least tern nesting season (April 1 through September 30) and the project site is within the foraging range of the Ormond Beach least tern colony. If excavation and sidecasting of sand is necessary along the harbor side of the east jetty, there will be localized turbidity in this area for several days. As a result, least terns would likely not forage at this location. However, this represents a miniscule fraction of the foraging area available to least terns nesting at Ormond Beach. In addition, U.S. Fish and Wildlife Service staff confirmed in a telephone conversation with Commission staff that the proposed excavation and related short-term turbidity plume would generate no adverse impact on

least tern foraging in this area. Although construction work would occur during the spring and summer months, the adjacent and popular beach areas would not be affected. Fishing from the jetties would be temporarily precluded during the construction period.

In conclusion, the Coastal Commission staff **agrees** that no adverse impacts to endangered species, sand supply, or public access and recreation will result from the proposed project, and we therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35(d) of the NOAA implementing regulations. Please contact Larry Simon of the Commission staff at (415) 904-5288 should you have any questions regarding this matter.

Sincerely,



(for) PETER M. DOUGLAS
Executive Director

cc: South Central Coast District Office
California Department of Water Resources
Governor's Washington, D.C., Office

G/land use/federal consistency/negative determination/2000/nd-025-00

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
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April 14, 2000

David Baillie
Environmental Director
Naval Weapons Station, Seal Beach
800 Seal Beach Boulevard
Seal Beach, CA 90740-5000

RE: **ND-26-00** Negative Determination, Acquisition of three parcels, Naval Weapons Station, Seal Beach, Orange Co.

Dear Mr. Baillie:

The Coastal Commission staff has received the above-referenced negative determination for the Navy's acquisition of three vacant parcels at the Naval Weapons Station in Seal Beach. The three parcels are part of a former electric railway right-of-way, are surrounded by the Naval Weapons Station, and are parallel to and just seaward of Highway 1. The parcels are 75-100 ft. in width and total 10.45 acres in area. Existing land use on the parcels will not change, and the activity will not alter or affect any scenic coastal public views, environmentally sensitive habitat or marine resources, public access and recreation, or any other coastal resources.

Therefore, we **agree** with your conclusion that the activity would not adversely affect any coastal resources, and we hereby **concur** with your negative determination for this project 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 any questions.

Sincerely,

A handwritten signature in cursive script that reads "Mark Delaplaine".

(for) PETER M. DOUGLAS
Executive Director

cc: Long Beach Area Office
California Department of Water Resources
Governors Washington D.C. Office



CALIFORNIA COASTAL COMMISSION

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April 14, 2000

Peter LaCivita
Environmental Section
Attn: Yvonne Le Tellier
U.S. Army Corps of Engineers
San Francisco District
333 Market Street
San Francisco, CA 94111

Re: **ND-27-00** Negative Determination, Army Corps, Year 2000 Noyo Harbor
Maintenance Dredging, Mendocino Co.

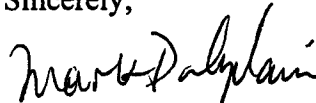
Dear Mr. LaCivita:

The Coastal Commission staff has received the above negative determination for the maintenance dredging of an estimated 38,000 cu. yds. of material from Noyo Harbor, with disposal at the historically used adjacent upland disposal site just north of the harbor. Dredging would commence in early August 2000 and last 45 days. Test results from samples taken in October 1997 are similar to past test results and show that the material is predominantly clean sandy material. As we have determined for several past Noyo Harbor dredging projects, while the material is predominantly sand, unlike areas of the coast threatened by erosion as is common in southern California, 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.

Under the federal consistency regulations (Section 930.35(d)), 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." As the Corps points out in its negative determination, this project is similar to Army Corps Noyo Harbor dredging projects previously concurred with by the Commission (Consistency and Negative Determinations CD-4-85, CD-13-88, ND-18-93, and ND-37-95), thereby qualifying it for review under the negative determination process.

In conclusion, we hereby **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 any questions.

Sincerely,



(for) PETER M. DOUGLAS
Executive Director

cc: North Coast Area Office
California Dept. of Water Resources
Governors Washington, D.C. Office
EPA, Region IX
RWQCB, North Coast Region

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000

SAN FRANCISCO, CA 94105-2219

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April 11, 2000

J.F. Monaghan
United States Marine Corps
Marine Corps Recruit Depot
1600 Henderson Avenue, Suite 238
San Diego, CA 92140-5001

Attn: Lt. Kathy Stewart

RE: **ND-037-00**, Negative Determination for the construction of a
skateboard park, Marine Corps Recruit Depot, San Diego

Dear Mr. Monaghan:

The Coastal Commission staff has received and reviewed the above-referenced negative determination. The proposed project includes construction of a skateboard park at the Marine Corps Recruit Depot, San Diego. The proposed skateboard will be developed on a site that is currently paved, fenced, and used for boat storage. The area around the skateboard park is used by the Marine Corps for recreational activities and includes basketball courts, play ground, picnic benches, Athletics Center, tennis courts, open space, and an administrative facility. In addition, there is a marina across the road to the northeast from the proposed facility. Since the area is already paved, the construction of the park will not affect sensitive habitat or increase the amount of impervious surfaces. Additionally, the project is consistent with the existing land uses in the area and will not alter visual resources of the coastal zone. In conclusion, the Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. 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,

A handwritten signature in cursive script that reads "James Raives (for)".

PETER M. DOUGLAS
Executive Director

cc: San Diego Coast Area Office
Department of Water Resources
Governor's Washington D.C. Office
PMD/JRR

