

CALIFORNIA COASTAL COMMISSION

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



RECORD PACKET COPY

W 10**DATE:** December 18, 2002**TO:** Coastal Commissioners and Interested Parties

FROM: Peter M. Douglas, Executive Director
Elizabeth A. Fuchs, Manager, Statewide Planning and Federal Consistency Division
Mark Delaplaine, Federal Consistency Supervisor

RE: Negative Determinations Issued by the Executive Director
[Executive Director decision letters are attached]

PROJECT #:	ND-062-02
APPLICANT:	U.S. Coast Guard
LOCATION:	Bolinas, Marin Co.
PROJECT:	Remove antenna curtain and buried cables
ACTION:	Concur
ACTION DATE:	10/15/2002

PROJECT #:	ND-069-02
APPLICANT:	Bureau of Indian Affairs
LOCATION:	Klamath River, Del Norte Co.
PROJECT:	Conveyance of two parcels into trust status
ACTION:	Object
ACTION DATE:	11/25/2002

PROJECT #:	ND-073-02
APPLICANT:	U.S. Coast Guard
LOCATION:	Crescent City Harbor, Del Norte Co.
PROJECT:	Relocation of floating dock
ACTION:	Concur
ACTION DATE:	11/21/2002

PROJECT #:	ND-076-02
APPLICANT:	Department of the Navy
LOCATION:	Camp Pendelton Marine Corps Base, San Diego Co.
PROJECT:	Advanced Amphibious Assault Vehicle Program
ACTION:	Concur
ACTION DATE:	12/4/2002

PROJECT #:	ND-082-02
APPLICANT:	Department of the Air Force
LOCATION:	Vandenberg Air Force Base, Santa Barbara Co.
PROJECT:	Maintenance Dredging with upland disposal
ACTION:	Concur
ACTION DATE:	12/4/2002

PROJECT #:	ND-083-02
APPLICANT:	Department of the Army
LOCATION:	Former Army Base at Fort Ord, Monterey Co.
PROJECT:	Temporary repairs to storm drain outfalls
ACTION:	Concur
ACTION DATE:	12/13/2002

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October 15, 2002

Dave Stalters
Chief-Environmental Division
U.S. Coast Guard Civil Engineering Unit Oakland
2000 Embarcadero, Suite 200
Oakland, CA 94696-5337

Re: **ND-062-02** Negative Determination, U.S. Coast Guard, Removal of Antenna Curtains
and buried cables, Bolinas, Marin County.

Dear Mr. Stalters:

The Coastal Commission staff has received the above referenced negative determination for the removal of two antenna curtains from antenna #8/10 and antenna #22/23, and the removal of 560 feet of shallow buried cable at the Coast Guard's Communication Master Station Pacific (CAMSPAC) transmitter site adjacent to the southern end of the Point Reyes National Seashore, 4 miles northwest of Bolinas, in Marin County.

The antenna curtains are no longer needed for the operation of the antennas, and the removal of 560 feet of cable will eliminate hazards and restore the site to its original grade. The removal of the antenna curtains will improve views of the site and minimize bird collisions. There is currently no public access to this site. Under the federal consistency regulations, 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 a number of Coast Guard antenna proposals at the CAMSPAC facility in Bolinas for which we have concurred with consistency and negative determinations (ND-36-98, ND-99-98, ND-12-99, and ND-009-00).

The Commission staff agrees with your conclusion that no adverse impact to coastal resources would result from the project, and we hereby concur with your negative determination made pursuant to Section 15 CFR 930.35(d) of the NOAA implementing regulations. Please contact Kathleen Stycket of the Commission staff at (415) 904-5295 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Douglas", written over the typed name.

PETER M. DOUGLAS
Executive Director

cc: North Coast Area Office



CALIFORNIA COASTAL COMMISSION

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November 25, 2002

Larry Blevins
Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825

Re: **ND-69-02**, Negative Determination, Bureau of Indian Affairs (BIA),
Placement of Two Parcels, near the Klamath River, into Trust for Yurok
Tribe, Del Norte County.

Dear Mr. Blevins:

On September 19, 2002, the Commission staff received the above-referenced negative determination from the BIA for the placement of two parcels (Assessor's Parcel Numbers 140-060-02, and 140-060-10) into trust status for the Yurok Tribe. Both parcels are located within the coastal zone, near the town of Klamath, in Del Norte County. In its negative determination, BIA concluded that the proposed action would not affect the coastal zone. Federal law requires a federal agency to assess an activity's immediate effects and potential future effects. Specifically, 15 CFR § 930.33(a)(1) provides that *"an action which has minimal or no environmental effects may still have effects on a coastal use...or a coastal resource, if the activity initiates an event or series of events where coastal effects are reasonably foreseeable."*

On September 27, 2002, the Commission staff met with representatives of the BIA, the Yurok Tribe, and the State's Attorney General's office to discuss Yurok Reservation trust issues. In response to that meeting, Commission staff sent the Regional Director, Mr. Ron Jaeger, a letter dated October 3, 2002, requesting additional information and documentation to elaborate on some of the issues that were discussed at the meeting. That letter specifically identified the parcels that are the subject of this negative determination as an issue for which the additional information was necessary. To date, the Commission staff has not received a response to that letter. The Commission staff requested the following information in that letter (the original letter, which is enclosed for your convenience, provides more details with respect to the information request):

1. An analysis of development constraints;
2. A description of past uses of the properties and their relationship to proposed uses;

3. A cumulative impact analysis with respect to other trust actions in the Yurok Reservation;
4. A list of potential BIA approvals required for future activities on the land;
5. Information on future casino development; and
6. Additional information on future Tribal Ordinances.

The above-referenced information is necessary for the Commission staff to have a better understand the basis of the BIA's negative determination and is necessary for the Commission's Executive Director to agree with the BIA's conclusion that the activity would not affect coastal uses or resources.

The proposed action would remove the subject parcels from the protection that currently exists through regulation under the California Coastal Act. Such a removal gives rise to the potential for substantial adverse coastal zone effects from unregulated development on these parcels. The site proposed for placement into trust status lies along the steep, forested, northern banks above the lower Klamath River, which the local coastal program for Del Norte County designates as an environmentally sensitive habitat area. The site is visible from many public vantage points along the river and from the town of Klamath. In addition, the parcels are near the Klamath River, a designated "recreational river" within the National Wild & Scenic Rivers System (16 USC § 1271 *et seq.*) and the State Wild and Scenic River System (Cal. Public Resources Code § 5093.50 *et seq.*).

Future ground-disturbing development on the parcels could result in geologic instability and erosion that could have hydrologic and water quality impacts to the Klamath River if not properly designed. Any significant development at the site would likely be visible for great distances and could profoundly alter the visual resources of the lower Klamath River valley area.

In addition, the BIA's placement of these parcels into trust is a federal agency activity that, by definition, affects the coastal uses and resources. Pursuant to 15 CFR § 930.33(b) "*Federal agencies shall consider all development projects within the coastal zone to be activities affecting any coastal use or resource*" (emphasis added). 15 CFR § 930.31(b) defines the term federal "development project" as to includes "*the acquisition... of any coastal use or resource.*" Finally, 15 CFR § 930.11(b) provides that "*the phrase 'any coastal use or resource' means any ...natural resource of the coastal zone. ... Natural resources include ... physical resources that are found within a State's coastal zone.... ...physical resources include, but are not limited to...land....*"

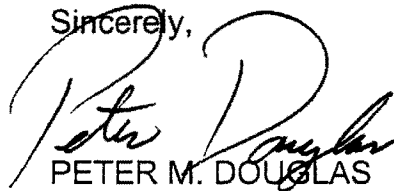
In conclusion, due to the change in regulatory protections, the sensitive coastal resources present on and adjacent to the subject parcels, and the potential for adverse effects on those resources from development, the Coastal Commission staff disagrees with the BIA's determination that the proposed action will not have an effect on coastal uses or resources. We therefore object to the BIA's

negative determination and we conclude that the proposed project requires a consistency determination pursuant to Sections 307(c)(1) and (2) of the CZMA (16 USC § 1456(c)(1) and (2)) and to regulations that implement those statutory provisions at 15 CFR Part 930, Subpart C.

If the BIA furnishes to Commission staff the information that staff requested in its October 3, 2002, letter, the Commission staff may re-assess this conclusion.

If you have any questions, please contact James Raives of the Coastal Commission staff at (415) 904-5292.

Sincerely,



PETER M. DOUGLAS
Executive Director

cc: North Coast District Area Office
OCRM
Attorney General's Office (Sacramento, San Diego)
Governor Gray Davis
NOAA General Counsel
Yurok Tribe

enclosure

CALIFORNIA COASTAL COMMISSION

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November 21, 2002

Dave Stalters
U.S. Coast Guard
Civil Engineering Unit Oakland
2000 Embarcadero, Suite 200
Oakland, CA 94606-5337

Attn: Roy Clark

RE: **ND-073-02**, Negative Determination for the relocation of floating dock,
Crescent City Harbor.

Dear Mr. Stalters:

The Coastal Commission staff has received and reviewed the above-referenced negative determination. The Coast Guard proposes to relocate an existing floating dock approximately 20 feet northeast of its current location within Crescent City Harbor. The purpose of the project is to move the dock away from a revetment, because rocks from the structure are interfering with navigation. The project will include the relocation of the existing steel piles and the installation of three new steel piles. Since the proposed relocation site is adjacent to the existing site, the project will not affect public access or recreational use of the area. Additionally, the habitat at proposed relocation site is similar to the existing dock site. After a survey of the area, the Coast Guard concluded that the project site does not contain any eelgrass, salt marsh, hard rock, or other environmentally sensitive habitat values. Although the project includes an increase in the number of piles, the loss of soft-bottom habitat is minor and is not a significant effect on habitat resources.

In conclusion, the Coastal Commission staff agrees that the proposed project will not significantly affect coastal zone resources. The Commission staff, therefore, concurs with the negative determination made pursuant to 15 CFR § 930.35. If you have any questions, please contact James Raives of the Coastal Commission staff at (415) 904-5292.

Sincerely,

Mark Douglas
(for) PETER M. DOUGLAS
Executive Director

cc: North Coast District

PMD/JRR

CALIFORNIA COASTAL COMMISSION

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SAN FRANCISCO, CA 94105-2219
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December 4, 2002

Commander
Southwest Division
Naval Facilities Engineering Command
Attn: Ms. Lisa Seneca, Code 5CPR.LS
1220 Pacific Highway
San Diego, CA 92132-5190

RE: **ND-076-02**, Negative Determination for the Advanced Amphibious Assault Vehicle, Camp Pendleton Marine Corps Base, San Diego County.

Dear Ms. Seneca:

The Coastal Commission staff has received and reviewed the above-referenced negative determination. The Navy proposes to implement the Advanced Amphibious Assault Vehicle (AAAV) program at the Camp Pendleton Marine Corps Base and at San Clemente Island. The AAAV will replace the Amphibious Assault Vehicle (AAV). The Navy currently operates 270 AAVs and it proposes to replace those vehicles with 224 AAAVs. Thus, the proposed project will result in a reduction of these types of vehicles operating offshore of Camp Pendleton and San Clemente Island. The AAAV will continue to operate in the same training areas as the AAV. However, the new vehicles will have a greater offshore range and, to accommodate these vehicles, the Navy will expand the offshore range from three nautical miles to 24 nautical miles. The project also includes the demolition of the existing AAV training and maintenance facilities and the construction of a Consolidated Training, Maintenance, and Headquarters Complex. In addition, the Navy will modify two other existing facilities to accommodate the new vehicles. All of the new construction will be located in the Del Mar Boat Basin area of Camp Pendleton.

As described below, the proposed project will not have a significant effect on coastal resources. Specifically, the AAAV program will not affect access and recreational resources. Both Camp Pendleton and San Clemente Island are primarily used for military purposes and most of these areas are closed to public use in order to maintain military security and to protect public safety. On Camp Pendleton, the Marine Corps has leased a stretch of beach near of San Onofre Nuclear Power Plant to the California Department of Parks and Recreation. The AAV currently operates at Green Beach, which is surrounded by San Onofre State Beach. However, while operating at Green Beach, the Navy does not close any public beaches. Similarly, the AAAV vehicle will continue to operate at Green Beach and will not require any public beach closures.

The only significant operating difference between the AAAV and the AAV is that the new vehicle will operate much further offshore. When operating offshore, the

Navy could restrict or interfere with recreational boating and fishing activities. However, these impacts will have a short duration (the vehicle requires approximately one hour to travel 24 nautical miles to shore) and the impacts will only occur during an operation, which could happen up to five times per year. Since this impact has a short duration and will occur intermittently, it will not be significant. Therefore, the Commission staff concludes that the proposed project will not significantly affect access and recreational resources of the coastal zone.

In addition, the proposed project will not significantly affect marine resources. The proposed project includes the replacement of two existing boat ramps with new ramps of identical dimensions and will not result in the loss of marine habitat. The project does not involve any other dredging, diking, or filling wetlands or other marine resources. The construction and reconstruction of the existing facilities at the Del Mar Boat Basin will include best management practices to minimize construction and operational related runoff into the marine environment. In addition, the Navy will construct two stormwater filter vaults to treat runoff from the AAV facilities. Therefore, the new construction will not affect water quality resources of the coastal zone.

The project includes the operation of amphibious vehicles in the marine environment. These vehicles use water jets to propel through the water and most of the mechanical components are sealed from marine waters. Thus, the AAV will not result in any significant fuel or lubricant discharges into the marine environment. Additionally, the operation of the AAV includes avoidance of obstacles including marine mammals, and if marine mammals cannot be avoided, the exercise will be immediately halted. The AAV includes infrared and other optical sensors that will enhance its crew's ability to find and avoid any marine mammals. The AAV does not have any sonar equipment, nor does it emit sounds at a volume that would adversely affect marine organisms. In addition, current operating procedures require the vehicles to avoid kelp beds, because they could damage the AAV intake system and seawater filters. Therefore, the Commission staff concludes that the proposed project will not affect marine resources of the coastal zone.

The project will not significantly affect Environmentally Sensitive Habitat Areas (ESHA). Both Camp Pendleton and San Clemente Island provide habitat for a number of sensitive species, including several state and federally listed threatened and endangered species. Since the proposed AAV will, with one exception, operate in the same training areas that are used by the AAV, the project will not create any new effects on endangered species. In addition, the AAV currently operates, and the AAV will continue to operate, within the constraints of an agreement with the Fish and Wildlife Service that is designed to protect sensitive species. The only area not currently used by the AAV that will be affected by the AAV is the area between three and 24 miles offshore, within which, as discussed above, the proposed project will not adversely affect marine resources.

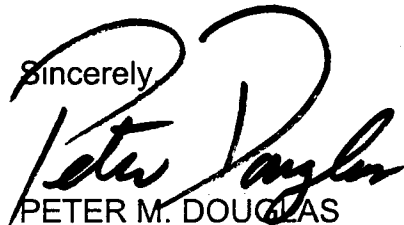
The project also includes the construction and modification of several buildings. One of these buildings will affect 0.73 acres (31,799 square feet) of coastal sage scrub habitat. However, the Navy has concluded that this area is not an ESHA. In its EIS, the Navy states the area does not support California gnatcatcher, nor is the area likely to support this bird. In addition, the Navy states that:

The nearest occupied California gnatcatcher habitats are 0.5 mile (0.9 km) across I-5 to the northeast, and 1 mile (1.6 km) to the northwest, north of the Santa Margarita River, respectively, and are separated from the area in question by developed lands. As a result, it is very unlikely that the species could productively use the isolated patch of coastal sage scrub. The coastal sage scrub is surrounded by disturbed and developed land and would be graded and subsequently revegetated to accommodate P-038 construction.

Based on this description, the Commission staff agrees that the coastal sage scrub habitat is not an ESHA. Therefore, the Commission staff concludes that the proposed project will not affect ESHA resources of the coastal zone.

Finally, the Navy proposes to construct its buildings in a manner that does not affect development patterns or visual resources. Specifically, the proposed construction activities are located in an area near the Del Mar Boat Basin that is already developed with similar buildings. The proposed new construction will not result in the expansion of the Base's development footprint. Additionally, the new buildings will be visually compatible with the developed character of this area and will not block public views of the coast or otherwise effect visual resources of the area. Therefore, the Commission staff concludes that the proposed project will not affect development patterns and visual resources of the coastal zone.

In conclusion, the Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources, and therefore, concurs with the negative determination made pursuant to 15 CFR Section 930.35. If you have any questions, please contact James Raives of the Coastal Commission staff at (415) 904-5292.

Sincerely,

PETER M. DOUGLAS
Executive Director

cc: San Diego Coast District

PMD/JRR

CALIFORNIA COASTAL COMMISSION

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



December 4, 2002

Nancy Read Francine
Department of the Air Force
Environmental Management
806 13th Street, Suite 116
Vandenberg Air Force Base, CA 93437-5242

RE: **ND-082-02**, Negative Determination for the Maintenance Dredging with
Upland Disposal, Vandenberg Air Force Base.

Dear Ms. Francine:

The Coastal Commission staff has received and reviewed the above-referenced negative determination. The Air Force proposes to conduct maintenance dredging of its harbor at Boathouse Flats within Vandenberg Air Force Base. The dredged material will be disposed of at an upland site within the base. The Air Force expects to dredge between 3,000 and 5,000 cubic yards of material and proposes to use a clamshell dredge mounted on its wharf with some dredging from a tugboat to remove sediment that the wharf-mounted crane cannot reach. The Air Force will place the dredged material on the wharf to allow water to drain from the sediment before it is trucked to the disposal site. The sediment consists mostly of clean sand.

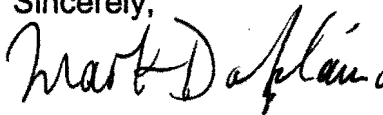
The dredging is necessary to support the evolved expendable launch vehicle (EELV) program. The Air Force transports booster rockets and other equipment to Vandenberg via ocean going ships. One of these ships is scheduled to arrive at Vandenberg Air Force Base in January and the maintenance dredging is necessary to support this delivery. The Commission reviewed and approved the EELV program, CD-049-98, and also approved the previous dredging of the harbor, CD-035-01.

The proposed dredging is similar to the previously approved dredging project and will not result in significant effects on coastal uses or resources. Specifically, the project will not affect public access and recreation resources because the dredge site is located on a military base that is closed to public use in order to maintain military security. In addition, the project may have some short-term effects on marine resources, but these effects will not be significant. These effects include disturbances to marine mammals during the dredging. Although the dredging may startle nearby seals and sea lions, the impact will not be significant because of the short duration of the project. The dredging may also affect water quality resources because it will result in increased turbidity within the harbor. However, this impact will not be significant because the sediment is not contaminated and

any adverse effects from turbidity will dissipate quickly. Finally, the project will remove clean sand from the littoral system. However, because of the small volume of sediment, this effect will not be significant. Also, the Commission authorized removal of sediment from the littoral system when it reviewed the previous dredging project at this location and the impact from this project is similar to the previously approved dredging project. Therefore, the Commission staff concludes that the project will not affect marine resources.

In conclusion, the Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources, and therefore, concurs with the negative determination made pursuant to 15 CFR Section 930.35. If you have any questions, please contact James Raives of the Coastal Commission staff at (415) 904-5292.

Sincerely,


(P.M.D.) PETER M. DOUGLAS
Executive Director

cc: South Central Coast District

PMD/JRR

CALIFORNIA COASTAL COMMISSION

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December 13, 2002

James Willison
Directorate of Environmental and
Natural Resources Management
Department of the Army
Defense Language Institute
Foreign Language Center and
Presidio of Monterey
Presidio of Monterey, CA 93944-5006

Attn: Robert Guidi

RE: **ND-083-02**, U.S. Army, Temporary Storm Drain Repairs, former Fort Ord,
Monterey Co.

Dear Mr. Willison:

The Coastal Commission staff has reviewed the above-referenced negative determination for temporary storm drain repairs to eroded areas beneath Outfalls # 2 and #4 on former Fort Ord. The repairs are need due to erosion undermining the outfalls and causing large gullies and collapsed storm water outfall pipes. Without the repairs further damage to the pipes and to natural landforms will occur. The repairs consist of temporary fencing, grading to create stable slopes, and installation of gabions in the gullies that have been created. Construction activities will be limited to disturbed areas. Disturbed areas will be revegetated. The activity will avoid effects on the sensitive Monterey spine flower which grows in the general project area, and the project will be timed to avoid the snowy plover nesting season. Environmentally sensitive habitat areas will be avoided, and the project will benefit the beaches downcoast be reducing the potential for continued erosion. The project will not adversely affect water quality. The temporary fencing, which is proposed in part to keep activities away from environmentally sensitive habitat areas, will be removed upon completion of the repairs.

The project represents an interim solution to the erosion and disposition of the storm drains. In the near future, the land will be transferred to the California Department of Parks and Recreation, which has given its consent and urged that these repairs be performed as quickly as possible. The U.S. Fish and Wildlife Service has expressed similar views. The Dept. of Parks and Recreation will be responsible for long term revegetation efforts, and the Fort Ord Reuse Authority (FORA) is developing a long-term plan for infrastructure improvements (including storm drain-related activities) for former Fort Ord.

The Commission staff agrees that the proposed project will not adversely affect coastal zone resources. The Commission staff therefore concurs with your negative determination made pursuant to 15 CFR § 930.35. If you have any questions about this negative determination concurrence, please contact Mark Delaplaine of the Coastal Commission staff at (415) 904-5289.

Sincerely,



(for) PETER M. DOUGLAS
Executive Director

cc: Central Coast District
Department of Parks and Recreation (Ken Gray, Monterey District Office)