

CALIFORNIA COASTAL COMMISSION

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



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DATE: November 18, 2003

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-071-03
APPLICANT:	Department of the Navy
LOCATION:	Naval Postgraduate School, Monterey
PROJECT:	Installation of Oceanographic Instrument and Relocation of Video Tower
ACTION:	Object
ACTION DATE:	10/23/2003

PROJECT #:	ND-077-03
APPLICANT:	U.S. Coast Guard
LOCATION:	U.S. Coast Guard Reservation Cape Mendocino, Humboldt Co.
PROJECT:	Increase height of existing antenna tower
ACTION:	Concur
ACTION DATE:	10/28/2003

PROJECT #:	ND-088-03
APPLICANT:	Bureau of Indian Affairs
LOCATION:	Klamath Townsite, Del Norte Co.
PROJECT:	Lease/loan for Yurok Tribe Travel Center
ACTION:	Concur
ACTION DATE:	11/18/2003

PROJECT #:	ND-090-03
APPLICANT:	Department of the Navy
LOCATION:	Naval Air Station, North Island, Coronado, San Diego Co.
PROJECT:	Replacement of an existing fence
ACTION:	Concur
ACTION DATE:	10/22/03

PROJECT #:	ND-091-03
APPLICANT:	Department of the Navy
LOCATION:	San Diego Bay Naval bases
PROJECT:	Extension of periodic replacement of Navy Piers and Shoreline Structures
ACTION:	Concur
ACTION DATE:	11/14/2003

PROJECT #:	ND-092-03
APPLICANT:	Corps of Engineers, San Francisco District
LOCATION:	Northern California
PROJECT:	Regional General Permit for Repair and Protection Activities in Emergency Situations
ACTION:	Concur
ACTION DATE:	10/28/2003

PROJECT #:	ND-099-03
APPLICANT:	Department of the Navy
LOCATION:	Naval Air Station, Pt. Mugu, Ventura Co.
PROJECT:	Installation of Pad Alpha Launch Support Equipment
ACTION:	Concur
ACTION DATE:	11/13/2003

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October 23, 2003

Edward Thornton
Oceanography Department
Department of the Navy
Naval Post Graduate School
Monterey, CA 93943-5000

RE: **ND-071-03**, Negative Determination for the Installation of Oceanographic Instruments and Relocation of a Video Tower, Monterey Bay Area, Monterey County

Dear Professor Thornton:

The Coastal Commission staff has received and reviewed the above-referenced negative determination. The proposed project includes installation of oceanographic instrument and relocation of a video tower in the Monterey Bay Area, Monterey County. On September 4, 2003, the Commission staff e-mailed you a request for additional information. We followed up the e-mail with a phone message in mid-October. The Commission staff did not receive a response to either the e-mail or the phone call. The Commission staff's primary concern is that the Navy's negative determination lacks sufficient information on the project's location and habitat effects. Without this information, we cannot fully evaluate your negative determination. However, the submittal refers to relocating a 40-foot high video tower on dune habitat. Since Commission staff does not have any information on the quality of the habitat or the amount of area affected, we must presume that the project will adversely affect coastal dune habitat.

In conclusion, the Coastal Commission staff **disagrees** with the Navy's conclusion that the proposed project will not adversely affect coastal zone resources. We, therefore, object to the negative determination made pursuant to 15 CFR Section 930.35. If you have any questions, please contact Mark Delaplaine of the Coastal Commission staff at (415) 904-5289.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Douglas".

PETER M. DOUGLAS
Executive Director

cc: Central Coast District

PMD/JRR

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October 28, 2003

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

Attn: Louis Rivero

RE: **ND-077-03**, Negative Determination, U.S. Coast Guard, Increasing the height of existing antenna tower, U.S. Coast Guard Reservation Cape Mendocino, Humboldt Co.

Dear Mr. Stalters:

The Coastal Commission staff has received the above-referenced negative determination for increasing the height of an existing antenna tower from 90 ft. to 150 ft., at the U.S. Coast Guard Reservation Cape Mendocino in Humboldt County. The height increase is needed to maximize broadcast signals for safe navigation. The project also includes replacing a 9 ft. high existing chain link fence around the tower. The project is located on federal land, and biological and archaeological surveys show that the project will not adversely affect sensitive wildlife or cultural resources. The project's effects on scenic public views will be very similar to the existing situation. The site is located off Mattole Rd. (and south of the Bear River), and it is inaccessible to the public, located on a high knoll overlooking the Pacific Ocean at an elevation of 1200 ft. Due to the topography the only public place it would be visible from is the ocean, at distances that would make the proposed height change relatively insignificant.

In conclusion, the Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We, 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,

A handwritten signature in black ink, appearing to read "Peter Douglas".

PETER M. DOUGLAS
Executive Director

cc: North Coast District

PMD/JRR

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November 18, 2003

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

Subject: Negative Determination ND-088-03, BIA lease/loan for Yurok Travel Center, Klamath Townsite, Del Norte County

Dear Mr. Blevins:

The Commission staff has reviewed the above-referenced negative determination for construction of a travel center on two acres of trust land on the Yurok Reservation in the town of Klamath. The Bureau of Indian Affairs (BIA) proposes to execute a land lease and provide a guaranteed loan to enable the Yurok Economic Development Corporation (a tribal chartered corporation formed by the Yurok Tribe of California) to construct the proposed project. The purpose of the project is to produce economic opportunities and generate income for tribal self-sufficiency on the Yurok Reservation.

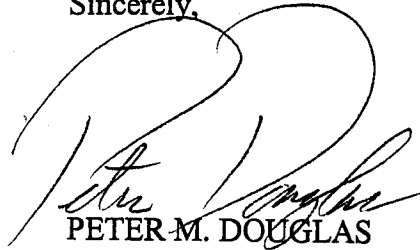
The travel center would be situated on three parcels of federal tribal trust land located on the southeast corner of Highway 101 and Ehlers Road. Vehicles will enter the travel center from Klamath Boulevard and Ehlers Road. Existing water, sewer, and electric utilities will connect to the project. The proposed project includes eight gasoline and diesel pumps, a canopy over the pumps, a 3,000 sq.ft. convenience store with a fast food outlet, restrooms, parking for cars, RVs, and trucks, signage, and native plant landscaping.

The project site is flat and vacant and no grading is required excepting excavation for underground fuel tank installation and minor leveling of the building pad. The site is covered with non-native grasses and spruce trees at the western edge of the property; no sensitive habitat or resources exist on the property. Several cultural resource surveys and studies of the Klamath townsite concluded that no cultural resources are located on or adjacent to the project site. The proposed one-story travel center is located on the inland side of Highway 101 and would not create adverse effects on visual resources in the town of Klamath.

In conclusion, the Commission staff agrees that the proposed project will not adversely affect coastal resources. We therefore **concur** with your negative determination made pursuant to 15

CFR Section 930.35 of the NOAA implementing regulations. Please contact Larry Simon at (415) 904-5288 should you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter M. Douglas", written in a cursive style.

PETER M. DOUGLAS
Executive Director

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

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October 22, 2003

Captain D.R. Landon
Naval Air Station North Island
ATTN: Mike Peterson
Box 357033
San Diego, CA 92135-7033

Subject: Negative Determination ND-090-03 (Fence replacement at Naval Air Station North Island, San Diego County).

Dear Captain Landon:

The Commission staff has reviewed the above-referenced negative determination for replacement of an existing fence at the shoreline on the border between Naval Air Station North Island (NASNI) and Dog Beach in the City of Coronado. The fence serves as a security barrier at NASNI but the structure has deteriorated over time, no longer reaches the water, and must be replaced. The Navy proposes to remove the existing fence (and rocks placed at the seaward end of the fence) and install a 450-foot-long corrosion-resistant wire fence suspended between 14-inch-diameter concrete piles. The fence will run along the same line as the existing fence to approximately -2 feet mean lower low water. Approximately 20-25 piles will be installed via water jetting and pile driving, the piles will stand 20-25 feet apart, and the 12-inch by 12-inch wire grid fence will stand 10-feet high. The final three to five piles will be located seaward of the mean high water line. Each pile will have a warning sign stating "Navy Property - Do Not Enter." Construction will occur in the fall of 2003, outside the California least tern and Western snowy plover nesting season, and will last approximately four weeks.

The Commission staff agrees that the proposed project will not adversely affect coastal resources on or adjacent to the project site. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations. Please contact Larry Simon at (415) 904-5288 should you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter M. Douglas".

PETER M. DOUGLAS
Executive Director

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

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November 14, 2003

Jo Ellen Anderson
South Bay Area Focus Team
Southwest Division
Naval Facilities Engineering Command
ATTN: Grace Penafuerte
2585 Callagan Hwy, Bldg. 99
San Diego, CA 92136-5198

Subject: Negative Determination ND-091-03 (Extension of General Consistency Determination for Periodic Replacement of Navy Piers and Shoreline Structures, San Diego).

Dear Ms. Anderson:

The Commission staff has reviewed the above-referenced negative determination for an extension of the *General Consistency Determination for Periodic Replacement of Navy Piers and Shoreline Structures (CD-070-98)*. The Commission concurred with this consistency determination in August 1998, which extended an earlier five-year general consistency determination, CD-012-93. The activities covered by the proposed extension fall within three categories:

1. Repair, maintenance, and partial replacement of piers, pier appurtenances (e.g., decking, pilings, load-out cradles, moorings, dolphins, fender systems), pier utilities (e.g., lighting, water, sewer), floating docks, and wharves. This category excludes projects that result in replacement of greater than 50% of the pier, a change in use of the pier, or a change in size or location of the pier.
2. Repair, maintenance, replacement, and removal of ramps and shore protection structures, including seawalls, bulkheads, revetments, and wave attenuation systems. This category excludes projects that result in an alteration in the foundation of the structure, replacement of greater than 50% of the structure, a substantial change in size or location of the structure, or the seaward expansion of the structure.
3. Removal of in-water structures including piers, pilings, moorings, load-out cradles, dolphins, and fender systems that are no longer required by the Navy.

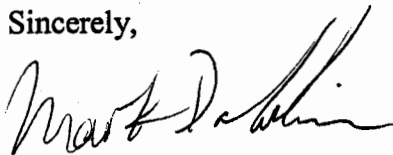
In addition, five special conditions are included in the proposed five-year extension of the general consistency determination:

1. Shore construction and dredging is excluded.
2. Any work in sensitive habitat areas or special aquatic sites, including but not limited to wetlands, eelgrass beds, and designated least tern foraging and nesting areas during the tern nesting season, is excluded.
3. The Navy will notify the Executive Director at least 45 days before the award of any contract conducted pursuant to this General Consistency Determination.
4. Projects located in public access areas are excluded.
5. This General Consistency Determination is valid for five years only, upon approval by the Commission.

The proposed extension will not affect public access or recreation because all activities covered by the extension will occur on Navy facilities closed to the general public due to military security requirements. The extension does not provide for the dredging or filling of coastal waters and no adverse effects on marine resources or habitat is expected from any of the activities allowed by the extension.

In conclusion, the Commission staff agrees that the proposed five-year extension of the General Consistency Determination for periodic replacement of Navy piers and shoreline structures at San Diego naval facilities will not adversely affect coastal resources. In addition, 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." The proposed extension follows previous Commission concurrences with consistency determinations submitted by the Navy (CD-070-98 and CD-012-93) for the same activities in San Diego. We therefore concur with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations. Please contact Larry Simon at (415) 904-5288 should you have any questions regarding this matter.

Sincerely,



(for)

PETER M. DOUGLAS
Executive Director

cc: San Diego Coast District Office
Corps of Engineers, SD
California Department of Water Resources
Governor's Washington, D.C., Office

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October 28, 2003

Calvin Fong
U.S. Army Corps of Engineers
San Francisco District
Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

Attn: Ed Wylie

RE: **ND-092-03** Negative Determination, Army Corps, Renewal of Regional General Permit (RGP) No. 5, Emergency Repair and Protection Activities in Emergency Situations, Waters of the U.S., Northern California

Dear Mr. Fong:

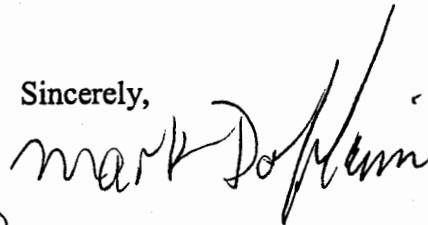
In past reviews of Army Corps Regional General Permits, the Coastal Commission has not asserted jurisdiction over issuance of the permit due to the Corps' willingness to include conditions requiring coordination with our agency of activities being undertaken under the permit. The proposed RGP No. 5 reissuance contains similar language to that which we have worked with the Corps to include in past RGPs. This language is contained in Condition No. 8, which provides:

***Coastal Zone Management:** For those projects affecting uses or resources of the coastal zone, the Federal Coastal Zone Management Act (CZMA) requires that the permittee obtain concurrence from the California Coastal Commission that the project is consistent with the State's certified Coastal Management Program. For activities within the coastal zone that require a coastal development permit from the commission, the permittee should contact the Commission office to request an emergency permit, and no additional federal consistency review is necessary. For activities within the coastal zone that require a coastal development permit from a local government with a certified local coastal program, the permittee should contact the appropriate local government. Since a coastal permit issued by a local agency does not satisfy the federal consistency requirements of the CZMA, the permittee should also contact the CCC or the BCDC to determine the appropriate emergency procedures. For any activity outside the coastal zone, but with the potential to affect coastal uses or resources, or for any activity conducted by a federal agency, the permittee should contact the CCC or the BCDC to determine the appropriate emergency procedures.*

Due to the often limited time constraints with emergency actions, the Corps would not require the permittee to provide proof of review by the Commission, if such an action would result in undue harm to life or property. However, the Corps will require the permittee to provide evidence of consistency upon completion of the project unless the Corps is already aware that a particular project, class of projects, or projects in a particular area described by the Commission, have received such determinations or waivers.

As long as this condition remains in the permit, we agree with the Corps' issuance of this RGP. We therefore **concur** with your negative determination for this RGP made pursuant to Section 15 CFR 930.35 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: Central Coast Area Office
North Central Coast Area Office
North Coast Area Office
Larry Simon
BCDC

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November 13, 2003

Robert Wood
Naval Base Ventura County
ATTN: James Danza
311 Main Road, Suite 1
Point Mugu, CA 93042-5001

Subject: Negative Determination ND-099-03 (Pad Alpha Launch Support Equipment Installation, Naval Air Station, Point Mugu, Ventura County).

Dear Mr. Wood:

The Coastal Commission staff has reviewed the above-referenced negative determination for the Pad Alpha equipment installation project. (On September 18, 2003, the Commission's Executive Director concurred with ND-061-03, which provided for replacing communications cables serving Pad Alpha operations.) The existing Pad Alpha complex supports various research, test, and evaluation activities conducted by the Navy at Point Mugu, including missile launch and retrieval operations. The Navy proposes to install temporary trailers, radar equipment, a lightning-grounding tower, lighting, and fencing to support a program to monitor missile launches from San Nicolas Island, which will commence in April 2004 and last approximately four months. In addition, a wastewater holding tank to support restrooms and other facilities on Pad Alpha will be placed along Beach Road in a containment sump several hundred feet north of Pad Alpha. Piping connecting Pad Alpha to the tank, and other piping and hoses required on the pad, will be installed to conform with Navy spill and leak prevention regulations. Site preparation is expected to begin in the fall of 2003. Once operational, approximately 60 people will work at the site with additional people present during missile testing.

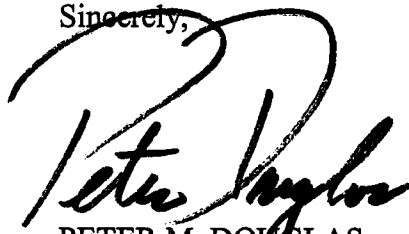
The project site is located adjacent to a sandy beach designated as critical habitat for the threatened western snowy plover, which is known to occur and breed at Point Mugu. The U.S. Fish and Wildlife Service stated in an October 29, 2003, letter to the Navy that the proposed lighting and fencing at Pad Alpha was not fully described in the Service's *Programmatic Biological Opinion for Ongoing Activities under Beach Missile Launch Operations and Associated Activities (1-8-99-F-24)*. However, the Service concurred with the Navy's determination that the proposed project, including lighting and fencing, was not likely to adversely affect the western snowy plover or its critical habitat. The Service acknowledged in its letter that the project included the following measures to avoid adverse effects to the plover and its habitat: (1) site preparation, including fence installation, will occur outside of the snowy plover's March 1-September 31 breeding season; (2) radar equipment, lights, and fences will be installed on existing Navy facilities; (3) radar equipment, lights, and fences will be fitted with

materials to prevent predatory birds from using these structures as foraging roosts; and (4) lights will be removed once the project is completed.

The proposed project includes additional resource protection measures, including aiming project lights inward to reduce ambient light on the adjacent beach (critical habitat); installing fences as far away from the beach as possible; designating the beach off-limits to personnel; and placing signs on the interior fences to explain the sensitive nature of the adjacent beach to project construction and operations personnel. The project will not affect public access to the shoreline as the site is within the boundaries of Naval Base Ventura County – Point Mugu, which is closed to the public due to military security restrictions.

In conclusion, the Commission staff agrees that the proposed Pad Alpha project at Point Mugu will not adversely affect coastal resources. We therefore concur with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations. Please contact Larry Simon at (415) 904-5288 should you have any questions regarding this matter.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Peter Douglas".

PETER M. DOUGLAS
Executive Director

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