

CALIFORNIA COASTAL COMMISSION

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

**RECORD PACKET COPY****F 7**

DATE: March 24, 2004

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-007-04
APPLICANT:	U.S. Air Force
LOCATION:	Vandenberg Air Force Base, Santa Barbara County
PROJECT:	2004 Beach Management Plan to Protect the Western Snowy Plover
ACTION:	Concur
ACTION DATE:	2/27/2004

PROJECT #:	ND-012-04
APPLICANT:	Corps of Engineers, San Francisco District
LOCATION:	San Francisco Main Ship Channel and ocean disposal site SF-8
PROJECT:	Disposal of maintenance dredged material
ACTION:	Concur
ACTION DATE:	3/3/2004

PROJECT #:	ND-013-04
APPLICANT:	U.S. Fish and Wildlife Service
LOCATION:	Select beaches in Del Norte, Humboldt, and Mendocino counties
PROJECT:	Installation of temporary symbolic fencing to protect western snowy plovers during nesting season
ACTION:	Concur
ACTION DATE:	3/17/2004

PROJECT #:	NE-018-04
APPLICANT:	North County Transit District
LOCATION:	San Onofre Area, Camp Pendleton Marine Corps Base, San Diego Co.
PROJECT:	Bridge 208.6 Emergency Repairs
ACTION:	No Effect
ACTION DATE:	3/24/2004

PROJECT #:	NE-019-04
APPLICANT:	North County Transit District
LOCATION:	Penasquitos, San Elijo Lagoon, and Batiquitos Lagoons, San Diego Co.
PROJECT:	Bridge Piling Inspections
ACTION:	No Effect
ACTION DATE:	3/24/2004

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February 27, 2004

Thomas M. Churan
Chief, Environmental Flight
Department of the Air Force
30 CES/CEV
ATTN: Nancy Francine
806 13th Street, Suite 116
Vandenberg AFB, CA 93437-5242

Subject: Negative Determination ND-007-04, 2004 Beach Management Plan to Protect the Western Snowy Plover, Vandenberg Air Force Base, Santa Barbara County

Dear Mr. Churan:

The Coastal Commission staff has reviewed the above-referenced negative determination for implementation of a beach management plan for the 2004 western snowy plover nesting season, which provides for restrictions to beach access on Vandenberg Air Force Base (Vandenberg) in order to protect the snowy plover, a federally listed threatened species. The Air Force requests Executive Director concurrence with a negative determination for this proposed activity, rather than a consistency determination, based on: (1) the proposal would implement the same plan in 2004 that was previously concurred with by the Commission on January 8, 2003; and (2) the results from 2003 monitoring indicate plan success in protecting snowy plovers while maintaining beach access.

The federal Coastal Zone Management Act Federal Consistency Regulations state at 15 CFR Part 930.35(a) that:

If a Federal agency determines that there will not be coastal effects, then the Federal agency shall provide the State agencies with a negative determination for a Federal agency activity . . . (2) Which is the same as or is similar to activities for which consistency determinations have been prepared in the past. . . .

The Commission first reviewed interim beach management activities at Vandenberg in CD-012-94, which restricted public access along Ocean Beach to protect snowy plover nesting activity. Subsequently, the Commission concurred with five consistency determinations for interim beach management plans at Vandenberg, one consistency determination for a predator management plan, and four negative determinations for modifications to beach management plans. The beach management plans implemented by the Air Force (and concurred with by the Commission) for the last several nesting seasons remained consistent in their design and application, with only minor modifications made to the plan in each subsequent year in order to better meet the

objective of protecting plover habitat and nesting activities while minimizing adverse effects on public access and recreation. Most recently, in January 2003 the Commission concurred with CD-089-02 for an interim beach management plan for the 2003 nesting season. In that action, the Commission found that the Air Force's proposal to re-implement the 2002 interim management plan, with two modifications regarding temporary beach shelters for enforcement personnel and an increase in the number of allowable violations on Surf Beach, were consistent with the public access, recreation, and environmentally sensitive habitat policies of the Coastal Act.

In the subject negative determination, the Air Force states that recreational beach access to Vandenberg beaches for the 2004 nesting season (March 1 through September 30) would remain the same as in 2003:

- Public access to 0.5 mile of Surf Beach near Surf Station. Access would be permitted at Surf Beach for approximately 0.5 mile, with access primarily through Surf Station. A trail extending from Ocean beach park, through the back dunes to the open beach area at Surf Station, would serve as a secondary beach access route.
- Controlled access¹ to the northernmost 0.25 mile of Wall Beach. Access would be provided only to this northernmost section.
- Controlled access² to the northernmost 0.5 mile of Minuteman Beach. Access would be provided only to the bluff-backed beach habitat to the north of the Minuteman Beach access trail.
- All other beach areas on Vandenberg supporting nesting snowy plovers would be closed from March 1 through September 30, 2004. In all, 11.25 miles of nesting habitat on VAFB would be protected during the nesting season.

The Air Force commits to implementing the enforcement measures used in previous nesting seasons:

- Enforcement personnel will patrol open beach areas during open beach hours to ensure compliance with beach rules. Periodic patrols during closed beach periods (including nighttime) will also be conducted. All enforcement will be done by foot or horseback in the closed areas and will be restricted to the wet sand to the maximum extent practicable. ATVs will be used only when essential for specific enforcement, emergencies, or mission

¹ Controlled access encompasses active duty military and their dependents, retired military and their dependents, Department of Defense Civil Service employees, Non-Appropriated Funded personnel, Army-Air Force Exchange Service personnel, Chumash Tribal members, authorized Federal Bureau of Prison employees, state and federal law enforcement employees, and authorized public access for saltwater fishing on weekends (Wall Beach only).

² Id.

requirements. In those instances, ATVs will be restricted to established trails and the wet sand. Enforcement will be conducted at the same level as in 2003.

- Enforcement personnel will issue citations to unauthorized individuals observed entering restricted areas and/or not complying with beach regulations.
- If more than 50 violations of the closed area of Surf Beach are documented by the Air Force during the 2004 breeding season, Surf Beach will be closed to all recreational access for the remainder of the snowy plover breeding season.
- If more than 10 violations of the closed area of Wall Beach are documented by the Air Force during the 2004 breeding season, Wall Beach will be closed to all recreational access for the remainder of the snowy plover breeding season.
- If more than five violations of the closed area of Minuteman Beach are documented by the Air Force during the 2004 breeding season, Minuteman Beach will be closed to all recreational access for the remainder of the snowy plover breeding season.

Lastly, the Air Force will implement the 2003 predator management in 2004, in accordance with the U.S. Fish and Wildlife Service-approved and the Coastal Commission-approved 2001 Interim Predator Management Plan (as amended in 2002).

The negative determination also summarized the biological monitoring and enforcement results from the 2003 nesting season:

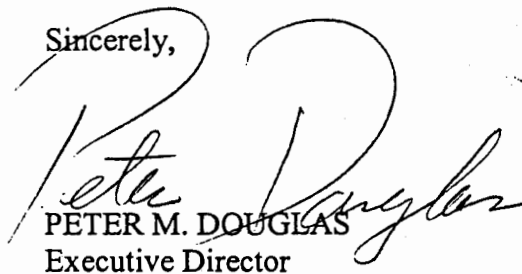
- Reproductive Success. Nest hatch success was 51 percent basewide. Snowy plovers on Surf Beach experienced the highest nest hatch success (67 percent) that has been documented since the monitoring program began in 1993. Fledging success was estimated at 43 percent basewide, with at least 228 chicks estimated to have fledged from VAFB. An estimated 75 percent of banded broods on VAFB fledged at least one chick, including 90 percent of broods on south (Surf and Wall) beaches.
- Predation. In 2003, predation was lower (26 percent) than has been observed in most prior years. Most of this predation was attributed to corvids on north VAFB beaches. Surf and Wall beaches, where historically coyotes have been the primary nest predator, lost only 7 percent of nests to predators, and only 4 percent to coyotes, in 2003. Increased awareness and enforcement of anti-littering rules, and the feasibility of regular cleanup of open beach areas, likely contributed to reduced scavenging by coyotes and other predators with consequent decreases in nest predation.
- Enforcement. The success of VAFB's enforcement program was evidenced by the low number of violations observed in 2003. Only 17 violations were documented at Surf Beach, and none were observed at Wall or Minuteman beaches.

In reviewing previous consistency determinations on this matter, the Commission found that the sandy beaches on Vandenberg support nesting snowy plovers, that the U.S. Fish and Wildlife Service designated these beaches as "Critical Habitat" for the snowy plover, and that snowy plover habitat on Vandenberg is an environmentally sensitive habitat area. The proposed continuation of the year 2003 snowy plover management plan for the 2004 nesting season allows the Air Force to minimize human disturbances to plover nests by restricting public and military access. In addition, the plan provides for continuing ongoing predator management in order to reduce plover losses from coyotes, small mammals, crows, ravens, raptors, and other predatory birds, using both non-lethal and lethal techniques in a manner that protects the area's ecology. The Commission has previously determined that certain public access restrictions to protect the snowy plover at Vandenberg are consistent with public access, recreation, and habitat policies of the Coastal Act. Monitoring of snowy plover populations indicates that the Vandenberg snowy plover population has significantly benefited from the ongoing access restrictions. The proposed continuation of seasonal beach closures in 2004 continues to be a necessary component of the Air Force's snowy plover habitat management plan.

In conclusion, the Commission staff agrees that the implementation of the proposed beach management plan for the 2004 western snowy plover nesting season, which provides for continuing the current restrictions on beach access on Vandenberg Air Force Base in order to protect the snowy plover, will not adversely affect the coastal zone. As in previous years, the proposed plan will provide needed protection for critical snowy plover habitat while concurrently providing public access, albeit with seasonal restrictions, along a stretch of shoreline within Vandenberg AFB that has limited public access opportunities. In addition, the Air Force continues to work with the U.S. Fish and Wildlife Service to develop a long-term snowy plover habitat management plan for Vandenberg, and the Air Force remains committed to submitting a consistency determination to the Commission upon completion of the management plan.

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,



PETER M. DOUGLAS
Executive Director

cc: South Central Coast District Office
California Department of Water Resources
Governor's Washington, D.C., Office
U.S. Fish and Wildlife Service, Ventura
James Raives

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March 3, 2004

Roderick A. Chisholm
Chief, Environmental Section
U.S. Army Corps of Engineers
ATTN: Roger Fernwood
333 Market Street
San Francisco, CA 94105-2197

Subject: Negative Determination ND-012-04, Disposal of maintenance dredged material from San Francisco Main Ship Channel at SF-8 Ocean Disposal Site

Dear Mr. Chisholm:

The Coastal Commission staff has reviewed the above-referenced negative determination. The proposed project involves maintenance dredging of approximately 215,000 cu.yds. of material with disposal in the western half of SF-8, an authorized dredged material disposal site for material dredged from the Main Ship Channel. Sediment testing performed in 2002 indicated that material from the Main Ship Channel contains between 98.6 and 100 percent sand by weight and is relatively free of chemical contaminants. The proposed disposal at SF-8, located just south of the Main Ship Channel, will benefit local sand supply. This site is located within the littoral system and sand placed there will serve to replenish down coast beaches. In addition, the Commission has previously reviewed and authorized maintenance dredging of the Main Ship Channel with disposal at SF-8 (e.g. ND-005-03, ND-004-02, ND-009-01, ND-018-00, and ND-010-98). The proposed project is similar in size and scope to these previously reviewed projects.

In conclusion, the Commission staff agrees with the Corps' determination that the proposed project will not significantly affect coastal resources and that it is the same as or similar to previously reviewed projects. We therefore **concur** with your negative determination for the project made pursuant to Section 15 CFR 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".

(for) PETER M. DOUGLAS
Executive Director

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

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March 17, 2004

Michael M. Long
Field Supervisor
U.S. Fish and Wildlife Service
ATTN: Jim Watkins
1655 Heindon Road
Arcata, CA 95521

Subject: Negative Determination ND-013-04, Installation of temporary symbolic fencing to protect western snowy plovers on beaches in Mendocino, Humboldt, and Del Norte Counties.

Dear Mr. Long:

The Coastal Commission staff has reviewed the above-referenced negative determination for temporary fencing to protect the Federally threatened western snowy plover. The project provides for installation of symbolic fencing on selected beaches in Mendocino, Humboldt, and Del Norte counties between March and September 2004. The fencing consists of 0.5-inch diameter blue rope, metal fence posts, and explanatory signs. At the request of the Humboldt County Division of Parks, the U.S. Fish and Wildlife Service (Service) will install fencing at a 500-ft. wide by 3,000-ft. long site at Clam Beach County Park, in an area between two parking lots and their associated beach access trails. If snowy plovers are present, additional fencing around nests may be installed at Manchester State Beach and MacKerricher State Park (both in Mendocino County), and at Centerville Beach in the Eel River Wildlife Area in Humboldt County.

At the above-referenced locations, the Service would provide land managers with the materials needed to install the fencing in order to enhance the reproductive success of snowy plovers. The fencing eliminates or minimizes potential adverse effects to nesting plovers due to recreational or commercial activities on beaches in proximity to plover nesting areas. The fencing directs beach users away from sensitive plover areas while continuing to provide public access to and recreational use of the shoreline. The Commission previously concurred with negative determinations from the Service (ND-042-99, ND-048-99, ND-054-99, and ND-013-00) for similar fencing on beaches in these three counties in 1999 and 2000. More recently, the Commission concurred in 2002 with a Bureau of Land Management consistency determination (CD-052-02) which included this type of temporary fencing to protect snowy plover nesting habitat on the South Spit of Humboldt Bay. In addition, the Service states in the subject negative determination that the use of this type of symbolic fencing at the mouth of the Pajaro River in the Monterey Bay area and at the Coal Point Preserve in Santa Barbara County contributed to record-high snowy plover reproductive rates at these locations in 2003.

In conclusion, the Commission staff agrees that installation of symbolic fencing at selected beaches in Mendocino, Humboldt, and Del Norte counties to protect the western snowy plover during the 2004 plover nesting season will not adversely affect the coastal zone. As in previous years, the proposed fencing will provide needed protection for snowy plover nests while concurrently protecting existing public access to and along the shoreline at project sites in the aforementioned counties. 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." 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: North Coast District Office
California Department of Water Resources
Governor's Washington, D.C., Office

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March 24, 2004

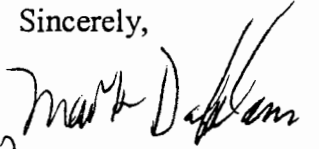
Christina Keller
BRG Consulting, Inc.
304 Ivy St.
San Diego, CA 92101-2030

RE: **NE-018-04**, No-Effects Determination, North County Transit District (NCTD),
Bridge 208.6 Emergency Repairs, San Onofre Area, Camp Pendleton Marine Corps Base, San
Diego Co.

Dear Ms. Keller:

The Coastal Commission staff received your March 18, 2004, letter requesting a "no effects" federal consistency waiver for the above-referenced project, consisting of an emergency repair to an existing railroad bridge (Bridge 208.6) over an existing road on Camp Pendleton Marine Corps Base. As we discussed verbally when the project was implemented, we had no objection to your proceeding with the repairs, as they were very short term and did not raise issues with respect to protecting coastal resources or sensitive wildlife habitat. The project site is on federal land and the project did not affect coastal zone resources. In addition, the project does not trigger the need for an Army Corps permit. We therefore we agree with your "No Effects" letter and your conclusion that no consistency certification needs to be submitted for this project. If you have questions about this letter, please contact Mark Delaplaine, federal consistency supervisor, at (415) 904-5289.

Sincerely,


(for) PETER M. DOUGLAS
Executive Director

cc: San Diego Area Office

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March 24, 2004

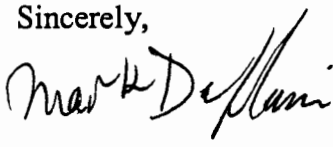
Christina Keller
BRG Consulting, Inc.
304 Ivy St.
San Diego, CA 92101-2030

RE: **NE-019-04**, No-Effects Determination, North County Transit District (NCTD), Bridge Piling Inspections, Bridges 246.1 (Penasquitos Lagoon), 240.4 (Escondido Creek/San Elijo Lagoon), and 234.8 (Batiqitos Lagoon), San Diego Co.

Dear Ms. Keller:

The Coastal Commission staff received your March 18, 2004, letter requesting a "no effects" federal consistency waiver for the above-referenced projects, consisting of inspecting existing bridge pilings at three San Diego County lagoons, using divers (including unwrapping and rewrapping the pilings). The project sites are located within the coastal zone and, geographically, within the Coastal Commission's coastal development permitting jurisdiction. The NCTD believes it is exempt from having to obtain a Commission-issued coastal development permit based on the repair and maintenance exemptions contained in Section 30610 of the Coastal Act. The Coastal Commission nevertheless retains federal consistency authority because the project requires a federal (Army Corps) individual or nationwide permit. We believe it is appropriate to waive federal consistency jurisdiction for this repair project, as the activity is temporary and would not adversely affect coastal zone resources. Based on this waiver we agree your "No Effects" letter and your conclusion that no consistency certification needs to be submitted for this project. If you have questions about this letter, please contact Mark Delaplaine, federal consistency supervisor, at (415) 904-5289.

Sincerely,

(PMD) 
PETER M. DOUGLAS
Executive Director

cc: San Diego Area Office
Corps of Engineers, San Diego Field Office