

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE AND TDD (415) 904-5200
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ENERGY, OCEAN RESOURCES, AND FEDERAL CONSISTENCY DIVISION REPORT

FOR THE

MAY 10, 2012 MEETING OF THE CALIFORNIA COASTAL COMMISSION

TO: Commissioners and Interested Parties

FROM: Alison Dettmer, Deputy Director
 Energy, Ocean Resources & Federal Consistency

DE MINIMIS WAIVER

APPLICANT	PROJECT	LOCATION
E-12-002-W Monterey Bay Salmon and Trout Project	Propose to annually install and operate a temporary floating net pen.	South end of the Santa Cruz Boat Harbor Santa Cruz County

NEGATIVE DETERMINATIONS

APPLICANT	PROJECT	LOCATION
ND-060-11 U.S. Army Corps of Engineers	Maintenance dredging with nearshore disposal. Action: Concur, 4/10/2012	San Diego Harbor San Diego
ND-006-12 U.S. Army Corps of Engineers	Maintenance dredging with confined disposal in Port of Long Beach Slip 1. Action: Concur, 4/10/2012	Marina Del Rey Harbor Los Angeles Co.



NEGATIVE DETERMINATIONS

APPLICANT	PROJECT	LOCATION
ND-012-12 Department of the Navy	Road and airfield repairs. Action: Concur, 4/11/2012	San Nicolas Island

NO EFFECTS DETERMINATIONS

APPLICANT	PROJECT	LOCATION
NE-017-12 Newport Marina	Disposal at LA-3 of 10,000 cu. yds. of sediment Action: No effect, 5/2/2012	Newport Bay Orange Co.
NE-018-12 City of Newport Beach and County of Orange	Disposal at LA-3 of 60,000 cu. yds. of sediment Action: No effect, 5/2/2012	Newport Bay Orange Co.



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NOTICE OF COASTAL DEVELOPMENT PERMIT
DE MINIMIS WAIVER

DATE: April 27, 2012 **PERMIT NO. E-12-002-W**
TO: Coastal Commissioners and Interested Parties
SUBJECT: Waiver of Coastal Development Permit Requirements

Based on the plans and information submitted by the applicants for the development described below, the Executive Director of the Coastal Commission (Commission) hereby waives the requirements for a coastal development permit, pursuant to Section 30624.7 of the California Coastal Act.

Applicant: Bob Anderson
Monterey Bay Salmon and Trout Project
825 Big Creek Rd.
Davenport, CA 9501

Project Description: The Monterey Bay Salmon and Trout Project (MBSTP) in partnership with the California Department of Fish and Game (CDFG) propose to annually install and operate a temporary floating net pen in the south end of the Santa Cruz Boat Harbor. The net pen would serve as a temporary holding and acclimation facility for young hatchery-reared Chinook salmon from the CDFG Feather River Hatchery. MBSTP propose to install and operate the net pen from approximately April 15th to June 15th every year for 10 years. Hatchery reared juvenile fish would be held in the net pen for three to five days to provide them with a protected area in which to recover from transport shocks and acclimate to a salt water environment. At the end of this holding period, the young fish would be released into the wild on an outgoing tide in order to enhance existing populations.

In mid-April to early-May of each year, MBSTP proposes to move the net pen from a private storage facility, bring it to Santa Cruz Harbor, and unload it by a crane into the water adjacent to an existing boat launch ramp. The floating support for the proposed net pen would measure 26 feet by 46 feet and be enclosed by a 6 foot high steel wire fence. A shade cloth would cover the net pen to protect the fish and discourage bird predation. Below the water surface, a 20 foot by 40 foot net with ¼ inch square netting would hang to a depth of approximately 8 feet to maintain the juvenile fish in place. Outside of this inner net, a heavy nylon cargo net with 4 inch square netting would be installed to provide additional protection from predators. A total of up to 240,000 juvenile fish (60,000 fish per week) would be delivered to the pen

each spring by CDFG transport trucks and be discharged into the net pen by hose. The net pen would be monitored daily by MBSTP volunteers and the Santa Cruz Harbor District staff. After the last fish release in mid-June of each year, the pen would be disassembled, removed from the water by crane, and shipped offsite for storage.

The applicants have received approval for the project from the Santa Cruz Harbor District.

Waiver Rationale: For the following reasons, the proposed project will not have a significant adverse effect, either individually or cumulatively, on coastal resources, nor will it conflict with Chapter 3 policies of the Coastal Act:

- The net pen would use existing mooring locations in the Santa Cruz Harbor and would not require the placement of permanent devices or anchors on the seafloor.
- The net pen includes predator exclusion netting to minimize interactions with predators such as marine mammals and seabirds. Such netting has been shown to be effective in protecting the enclosed fish while minimizing the potential entanglement or injury of predatory animals that may be attracted to the net pen.
- Daily monitoring by MBSTP volunteers and the Santa Cruz Harbor District staff would ensure that any entanglement of wildlife or domestic animals in the facility would be addressed quickly contacting the appropriate agency staff at CDFG, the Santa Cruz Harbor District, Marine Mammal Center, and/or Santa Cruz SPCA.
- Three weeks prior to delivery the juvenile fish are inoculated by CDFG at its hatchery facility to prevent the occurrence of disease.
- Feeding operations for the salmon during acclimation would be limited and holding times for the fish would not exceed three weeks. At these levels, accumulation of uneaten feed and fecal materials below the net pen is expected to be minimal and not anticipated to adversely affect the water quality or benthic habitat of Santa Cruz Harbor.

Important: This waiver is not effective unless the project site has been posted and until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of May 9-11 in San Rafael, CA. If four or more Commissioners object to this waiver, a coastal development permit will be required.

Sincerely,

CHARLES LESTER
Executive Director

By: 
ALISON DETTMER
Deputy Director

CALIFORNIA COASTAL COMMISSION

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DATE: May 7, 2012

TO: Coastal Commissioners and Interested Parties

FROM: Charles Lester, Executive Director
Alison Dettmer, Deputy Director
Mark Delaplaine, Manager, Energy, Ocean Resources and Federal Consistency Division

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

PROJECT #:	ND-060-11
APPLICANT:	U.S. Army Corps of Engineers
LOCATION:	San Diego Harbor, San Diego
PROJECT:	Maintenance dredging with nearshore disposal
ACTION:	Concur
ACTION DATE:	4/10/2012

PROJECT #:	ND-006-12
APPLICANT:	U.S. Army Corps of Engineers
LOCATION:	Marina Del Rey Harbor, Los Angeles Co.
PROJECT:	Maintenance dredging with confined disposal in Port of Long Beach Slip 1
ACTION:	Concur
ACTION DATE:	4/10/2012

PROJECT #:	ND-012-12
APPLICANT:	Department of the Navy
LOCATION:	San Nicolas Island
PROJECT:	Road and airfield repairs
ACTION:	Concur
ACTION DATE:	4/11/2012

PROJECT #:	NE-017-12
APPLICANT:	Newport Marina
LOCATION:	Newport Bay, Orange Co.
PROJECT:	Disposal at LA-3 of 10,000 cu.yds. of sediment
ACTION:	No effect
ACTION DATE:	5/2/2012

PROJECT #:	NE-018-12
APPLICANT:	City of Newport Beach and County of Orange
LOCATION:	Newport Bay, Orange Co.
PROJECT:	Disposal at LA-3 of 60,000 cu.yds. of sediment
ACTION:	No effect
ACTION DATE:	5/2/2012

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April 10, 2012

Josephine R. Axt, Ph.D.
Chief, Planning Division
Los Angeles District
U.S. Army Corps of Engineers
ATTN: Erin Jones
P.O. Box 532711
Los Angeles, CA 90053-2325

Subject: Negative Determination ND-060-11 (San Diego Harbor Maintenance Dredging Project, San Diego Co.)

Dear Dr. Axt:

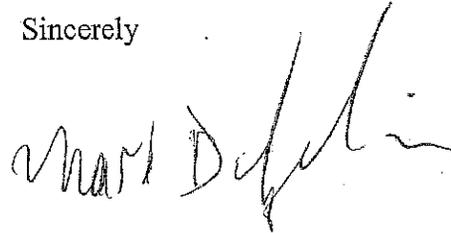
The Coastal Commission staff has reviewed the above-referenced negative determination. The Corps of Engineers proposes to maintenance dredge approximately 550,000 cubic yards of beach-compatible sandy material from the federal approach and entrance channels in San Diego Harbor, with nearshore disposal in waters -15 to -28 feet mean lower low water offshore of Imperial Beach or Coronado Beach. The Imperial Beach disposal site is the same site the Commission authorized and the Corps used for the 2004 Federal Channel Deepening project (consistency determination CD-090-02). The Coronado Beach disposal site will serve as an alternate disposal site. The project is scheduled to occur for a maximum of 100 days between August 1, 2012, and April 1, 2013.

While the project is scheduled to start prior to the September 15 end of the endangered California least tern nesting season, the U.S. Fish and Wildlife Service concluded that the proposed project is not likely to adversely affect the least tern. The Service noted that the 2012 chick-rearing period will likely have ended by early August, turbidity in the project area will be limited due to the sandy nature of the dredged sediments, and the majority of least tern foraging occurs outside of the federal channels to be dredged. The project includes water quality monitoring, and provisions to minimize turbidity and water quality impacts at the dredge and disposal sites.

The Executive Director previously concurred with negative determinations ND-030-10 and ND-001-09 for this maintenance dredging and disposal project, but when the Corps was unable to obtain the required air quality permits and/or secure the federal funding for the dredging operation, the proposed project was twice postponed. As noted above, the Commission also concurred with CD-090-02 for a similar maintenance dredging project in the San Diego Harbor federal approach and entrance channels. 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 Commission staff **agrees** with the Corps that this project is similar to previously-authorized activities, including CD-90-02, ND-001-09, and ND-030-10. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 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)

CHARLES LESTER
Executive Director

cc: CCC – San Diego Coast District
USFWS – Carlsbad Office

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April 10, 2012

Josephine R. Axt, Ph.D.
Chief, Planning Division
Los Angeles District
U.S. Army Corps of Engineers
ATTN: Larry Smith
P.O. Box 532711
Los Angeles, CA 90053-2325

Subject: Negative Determination ND-006-12 (Marina del Rey Harbor Maintenance Dredging and Port of Long Beach Disposal Project, Los Angeles Co.)

Dear Dr. Axt:

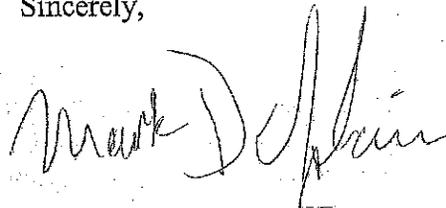
The Coastal Commission staff has reviewed the above-referenced negative determination. The Corps of Engineers proposes to maintenance dredge approximately 320,000 cubic yards of sediment from the federal entrance channel at Marina del Rey Harbor and dispose the sediments in the previously-permitted confined aquatic disposal facility at Slip 1 in the Port of Long Beach. The dredged sediments are unsuitable for beach or nearshore placement or for disposal at an EPA-designated ocean disposal site. The proposed dredging and disposal project was previously reviewed and approved by the Commission (as part of a larger Marina del Rey maintenance dredging project) in its August 2010 conditional concurrence with the Corps' consistency determination CD-035-10. However, implementation of the larger project was delayed due to the time required to complete additional bioassay testing of project sediments proposed for beach nourishment, and later due to delays in securing the federal funding for the project.

The calendar window for placement of the unsuitable sediments from the Marina del Rey entrance channel into the Port of Long Beach Slip 1 landfill disposal site is restricted, the Corps presently only has funding for dredging the unsuitable sediments (and not the sediments suitable for beach nourishment), and endangered species protection measures are required for dredging and disposal between April 15 and September 15. Therefore, in order for the Corps to dredge and transport the unsuitable sediments to the Port of Long Beach before the restricted time period for disposal at Slip 1 expires, the Corps divided the larger maintenance dredging project into two smaller projects: unsuitable sediments and sediments proposed for beach and nearshore placement. The Corps submitted the subject negative determination for dredging the unsuitable sediments and placing them at Slip 1 in order to complete this project before the Marina del Rey entrance channel is blocked by sediment, before the Slip 1 disposal window closes, and to minimize intrusion of project activity into the California least tern nesting season. The proposed project is scheduled to start in early April and extend through the end of May 2012.

The Commission found in its concurrence with CD-035-10 that should project activity extend into the California least tern nesting season, the Corps would need to submit a consistency or negative determination for such activity. Typically the Commission adheres to the April 15 date for cessation of all dredging activities in and adjacent to least tern foraging waters in California. Exceptions have been made in the past on a case-by-case basis when agreement is reached among the Corps (or other dredging project sponsors), the U.S. Fish and Wildlife Service, and the Commission that extending dredging beyond April 15 will not adversely affect the least tern. In this case, negotiations among the three agencies reached a successful conclusion with the Corps agreeing to implement conservation measures that will minimize adverse effects of dredging on least tern foraging activity, while at the same time allowing the Corps to remove unsuitable sediments from the marine environment and take advantage of a one-time opportunity to place and confine those sediments in an isolated landfill in the Port of Long Beach.

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 Commission staff **agrees** with the Corps that the proposed dredging of unsuitable sediments and their disposal at the Slip 1 landfill in the Port of Long Beach is similar to the previously authorized project concurred with in CD-035-10. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 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,



(fou)

CHARLES LESTER
Executive Director

cc: CCC – South Coast District
USFWS – Carlsbad Office

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April 11, 2012

L.R. Vasquez, Captain
Department of the Navy
Naval Base Ventura County
Attn: Valerie Vartainian
311 Main Road, Suite 1
Point Mugu, CA 93042-5033

Re: **ND-012-12** U.S. Navy, Negative Determination, San Nicolas Island Road and Airfield Repairs, Ventura Co.

Dear Captain Vasquez:

On April 3, 2012, after several pre-submittal coordination conferences with our office, the Navy submitted the above referenced Negative Determination for an infrastructure repair project on San Nicolas Island (SNI). The repairs are needed due to the current degraded condition of roads, culverts, and the airfield on the island. The Navy considers the work critical to maintaining mission readiness. The current degraded road is a safety concern for ordnance and operations transport; sinkholes and surface deformations on the airfield pose a safety and operational hazard to mission-critical daily flights; and many culverts under the roads and runway at the airfield are not functioning properly. Because the supply pier at Daytona Beach currently used to transfer supplies to the island is not designed to handle the large volumes of heavy aggregate that will be needed, the project also includes temporary beach area modifications to accommodate the barge landings at Daytona and Coast Guard Beaches (located on the eastern side of the island).

The project would occur in phases over a 5-year period. Roadwork would involve 12.45 miles of road repairs and 17 culvert repairs, together necessitating 43,500 tons of aggregate. This work would occur within existing disturbed areas. Airfield repairs would involve 151,500 tons of aggregate. Barge landings would involve up to four deliveries per year. Shipping barges would anchor offshore and offload aggregate onto smaller "tender" barges capable of landing. Aggregate transfer would occur via conveyor belts or loaders. Once transferred to shore, aggregate would be loaded onto trucks and taken to various staging areas on the island. The project also includes construction of a temporary asphalt batch plant.

The island is off limits to the public due to military security needs, and the project would not affect access and recreation. Sensitive habitat in the barge landing area potentially includes snowy plover foraging and marine mammals hauling out on the beach. Barge landings would not occur during the plover nesting or pinniped breeding seasons. Pinnipeds in the area are used to barge landings, and the Navy has shown it can successfully temporarily relocate pinnipeds if necessary without adverse effects. Noise levels would not be significant or adverse. Water quality would be protected through use of Best Management Practices (which include measures to prevent spillage of aggregate during the barge to barge transfer process, including but not limited to the use of a tarp or other barrier between the two barges to capture accidental spillage). Additional habitat protection measures, worked out in consultation with the U.S. Fish and Wildlife Service, include:

1. A qualified biologist will oversee avoidance and minimization measures. If handling or potential disturbing of endangered species is required, the qualified biologist will be approved by the Fish and Wildlife Service to conduct the activities pursuant to the Biological Opinion. Construction areas will be marked and flagged. The biologist will provide training for all project personnel.
2. Removal of unnecessary predator perches.
3. Revegetation monitoring, including: (a) if areas have not revegetated, re-seeding with native species seed; and (b) removal of invasive species (quarterly for 2 years).
4. Surveying beach areas for nesting plovers before, and the morning of, barge landing. If nesting occurs within 1,000 ft. of project area, the biologist will remain onsite for monitoring. If nesting occurs within 500 ft. of project area, an alternate beach will be used that has no nesting within 500 ft. of that area. If foraging or roosting occurs within 100 ft., unloading and heavy equipment operations will be suspended until birds vacate the 100 ft. buffer.
5. Surveying for island night lizards (INL), capturing and relocating high risk individuals (no more than 15 days before onset of ground disturbance); biological monitoring of any moderate to high density INL habitat; staging of materials off ground, on pallets, and limiting them to the designated staging areas; avoidance of vegetation clearance in high probability INL areas (between the sensitive period of Sept. 1 to Oct. 31).
6. Annual reporting, and, if any incidental take of snowy plovers or island night lizards occurs, interim reporting to the Fish and Wildlife Service and implementation of remedial measures and/or project modifications, as warranted.

7. As suggested by the Fish and Wildlife Service (in the form of "conservation recommendations)," continuation of past Navy programs and monitoring (discussed in the Navy's SNI Integrated Natural Resources Management Plan (INRMP)), including additional habitat restoration and erosion control efforts to improve INL habitat.

With the above measures, the Commission staff **agrees** with the Navy's determination that the proposed project would not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR 930.35 of the NOAA implementing regulations. Please contact Mark Delaplaine of the Commission staff at (415) 904-5289 if you have any questions regarding this matter.

Sincerely,

(for) 
CHARLES LESTER
Executive Director

cc: Ventura District Office
Navy Region Southwest
N40 Environmental NEPA
Box 81 Attn: Suzanne Smith
937 N. Harbor Dr.
San Diego, CA 92132

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May 2, 2012

Adam Gale
Anchor QEA
26300 La Alameda, Ste. 240
Mission Viejo CA 92691

Re: **NE-017-12**, No Effects Determination, Newport Marina Maintenance Dredging,
Newport Beach, Orange Co.

Dear Mr. Gale:

The Coastal Commission staff has received the above-referenced "no effects" determination for LA-3 disposal of approximately 10,000 cu. yds. of material to be dredged from an existing navigation channel at an existing marina adjacent to 2888 Bayshore Drive in Newport Beach. The dredging is exempt from coastal development permit requirements; however the disposal (LA-3 is in federal waters) needs to be reviewed under the federal consistency provisions of the Coastal Zone Management Act (CZMA).

The Commission staff has generally concurred with "no effects" determinations for LA-3 disposal of clean sediments, when, as is the case for this project, the material has tested clean (i.e., determined suitable for open aquatic disposal), and when not suitable (from a grain size perspective) for beach or nearshore disposal.

We therefore concur with your "no effects" determination. Please contact Mark Delaplaine at (415) 904-5289 if you have any questions.

Sincerely,

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

(for) CHARLES LESTER
Executive Director

cc: Long Beach District Office
EPA
U.S. Army Corps of Engineers, L.A. District

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May 2, 2012

Adam Gale
Anchor QEA
26300 La Alameda, Ste. 240
Mission Viejo CA 92691

Re: **NE-018-12**, No Effects Determination, City of Newport Beach and County of Orange,
Orange Linda Isle/Harbor Island Maintenance Dredging, Newport Beach

Dear Mr. Gale:

The Coastal Commission staff has received the above-referenced "no effects" determination for LA-3 disposal of approximately 60,000 cu. yds. of material to be dredged from an existing navigation channel near Linda Island and Harbor Island, in lower Newport Beach. The dredging is exempt from coastal development permit requirements; however the disposal at LA-3 (which is in federal waters) needs to be reviewed under the federal consistency provisions of the Coastal Zone Management Act (CZMA). If the dredging raises coastal resource protection issues, it too could be subject to CZMA federal consistency review.

The Commission staff has generally concurred with "no effects" determinations for LA-3 disposal of clean sediments, when tested and determined suitable for open aquatic disposal, and when not suitable (from a grain size perspective) for beach or nearshore disposal. In this case, the testing was reviewed by the Contaminated Sediments Task Force (the Southern California Dredged Material Management Team (DMMT)). The DMMT agreed that the material was clean and unsuitable for beach disposal.

Eelgrass concerns are raised, as eelgrass surveys show the presence of eelgrass in the dredge area. However the City and County have committed to mitigating this impact pursuant to the mitigation protocols established under the Southern California Eelgrass Mitigation Policy, and to provide documentation to the Commission staff that the mitigation has been successfully implemented.

With these assurances, we **concur** with your "no effects" determination. Please contact Mark Delaplaine at (415) 904-5289 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Mark Delaplaine".

(for) CHARLES LESTER
Executive Director

cc: Long Beach District Office
U.S. Army Corps of Engineers, L.A. District