

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE AND TDD (415) 904-5200
 FAX (415) 904-5400

**Th 10****ENERGY, OCEAN RESOURCES, AND FEDERAL CONSISTENCY DIVISION REPORT****FOR THE****SEPTEMBER 12, 2013 MEETING OF THE CALIFORNIA COASTAL COMMISSION**

TO: Commissioners and Interested Parties

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

DE MINIMIS WAIVERS+		
APPLICANT	PROJECT	LOCATION
9-13-0498-W Coastside Fishing Club CA Dept. of Fish & Wildlife	Install and operate a pair of floating salmon smolt acclimation net pens in the outer harbor portion of Pillar Point Harbor.	Pillar Point Harbor Princeton County
9-13-0633-W Sequoia X, LLC	Remove and replace decking and deck support materials on the outer 145-ft. of the former Simpson North Dock platform over Humboldt Bay.	Humboldt Bay Humboldt County



NEGATIVE DETERMINATIONS

APPLICANT	PROJECT	LOCATION
ND-0202-13 Department of the Navy	Scripps Pier and Wharf Replacement Action: Concur, 8/19/2013	Scripps Pier Point Loma, San Diego
ND-0210-13 National Park Service	Pipeline Replacement Action: Concur, 8/7/2013	GGNRA Land Point Lobos, San Francisco
ND-0211-13 Department of the Navy	Unmanned Systems Operations Action: Concur, 8/21/2013	Naval Base Ventura County
ND-0212-13 Department of the Navy	Directed Energy Test Facilities Action: Concur, 8/17/2013	San Nicolas Island Naval Base Ventura County

NO EFFECT DETERMINATION

APPLICANT	PROJECT	LOCATION
NE-0204-13 Port of Oakland	Disposal of 150,000 cu.yds. of dredged material Action: No Effects, 8/27/2013	Offshore Disposal Site SF-DODS Offshore of San Francisco



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NOTICE OF COASTAL DEVELOPMENT PERMIT **DE MINIMIS WAIVER**

DATE: August 26, 2013 **PERMIT NO. 9-13-0498-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.

Applicants: Marc Gorelnik	Fisheries Branch
Coastside Fishing Club	California Department of Fish and Game
8042 Terrace Dr.	830 S. Street
El Cerrito, CA 94530	Sacramento, CA 95811

Project Description and Background: The Coastside Fishing Club in partnership with the California Department of Fish and Wildlife (the applicants), propose to install and operate a pair of floating salmon smolt acclimation net pens in the outer harbor portion of Pillar Point Harbor. The net pens would serve as a temporary holding facility for young hatchery-reared Chinook salmon from California Department of Fish and Wildlife (DFW) fish hatcheries in the Central Valley. DFW research has shown that salmon smolts released directly from these Central Valley hatcheries into rivers experience high rates of mortality as they move downstream towards the San Francisco Bay and ocean due to poor water quality, water diversions, and predation along the route. As a result, DFW has developed a system to transport young salmon in large tanker trucks from the hatcheries directly to the ocean and San Francisco Bay for release. However, this immediate transfer of juvenile fish from fresh water to estuarine or marine waters is known to result in a variety of shocks and stressors on the fish that can also make them susceptible to high levels of predation and mortality. In response, hatchery reared smolts are typically released into temporary holding pens that provide them with a protected area in which to recover from these shocks and acclimate to a salt water environment. After one to three weeks of acclimation, the fish are released into the wild in order to enhance existing populations.

The applicants propose to install and operate two salmon acclimation net pens for use by DFW. These pens were used successfully in 2012 and 2013 under authorization by the

Commission (CDP Waiver No. E-11-022-W). The net pens would be in place for the spring and summer (March through July) of each year that fish are available. By the end of July each year, the pens would be removed from the harbor and stored offsite. The applicants propose to use the Johnson Pier in the inner Pillar Point Harbor during stocking of the net pens, an activity that would occur approximately three to seven times each year. During stocking, the net pens would be towed to the pier to receive roughly 60,000 fish from DFW transport trucks. The stocked net pens would then be towed to an existing mooring location in the outer harbor and would remain in place for roughly seven to 21 days while the smolts are fed and provided with an opportunity to acclimate. Feeding would be carried out with an automated belt-operated fish feeder and would use roughly 26 pounds of three millimeter salmonid feed per day (assuming both pens are stocked at capacity with 60,000 fish each). Coastside Fishing Club volunteers would monitor the net pens and tend to the fish feeders on a daily basis. At the end of the acclimation period, the holding net would be opened and the smolts would be released into the outer Pillar Point Harbor near the entrance to the open ocean.

The pens would include an inner nylon net with a mesh size of 1/8 inch to keep the smolts in place as well as a heavy outer net with a mesh size of four inches that would function as a physical barrier against predators. The outer net would be weighted to maintain tautness and would extend from approximately three feet above the water line to a depth of 12 feet. In addition, a two inch mesh net would be erected over the top of the entire structure to protect the smolts from avian predators. Each net pen would measure approximately 30 feet wide by 54 feet long, including net supports and an encircling walkway.

The applicants have received approval for the project from the California Department of Fish and Wildlife, State Water Quality Control Board, and San Mateo County 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 pens will use existing mooring locations in the outer Pillar Point Harbor and would not require the placement of permanent mooring devices or anchors on the seafloor.
- The net pens will only be in place seasonally (March through July) and would be removed from the water by the end of July each year.
- The net pens include 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 pens.
- Coastside Fishing Club has developed a plan for addressing potential interactions with marine mammals and seabirds. This plan would be implemented as part of the project and it includes both daily inspections and the maintenance of a daily log as well as immediate reporting of any incidents involving marine mammals or seabirds to the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and Marine Mammal Center.

- Coastside Fishing Club members would monitor the net pens on a daily basis to ensure that they are maintained in good repair and no fugitive materials are released into the marine environment.
- Feeding operations for the salmon smolts 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 pens is expected to be minimal and not anticipated to adversely affect the water quality or benthic habitat of Pillar Point Harbor.
- The California Department of Fish and Wildlife will implement a contingency plan for the net pen operation to address any disease or parasite outbreak in the salmon population during acclimation. This plan includes daily monitoring, coordination with DFW pathologists, as well as management oversight by DFW staff during acclimation.

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 September 11-12 in Eureka, CA. If four or more Commissioners object to this waiver, a coastal development permit will be required.

Sincerely,

CHARLES LESTER
Executive Director

By:


MARK DELAPLAINE
Manager

CALIFORNIA COASTAL COMMISSION

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NOTICE OF COASTAL DEVELOPMENT PERMIT
DE MINIMIS WAIVER

DATE: August 26, 2013 **PERMIT NO. 9-13-0633-W**

TO: Coastal Commissioners and Interested Parties

SUBJECT: Waiver of Coastal Development Permit Requirements

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

Applicant: Sequoia X, LLC
323 5th St.
Eureka, CA 95501

Project Description: The applicant proposes to remove and replace decking and deck support materials on the outer 145-feet of the former Simpson North Dock platform over Humboldt Bay. No pilings or dock support structures would be removed, repaired, or replaced. The work would be carried out by hand with the aid of a forklift used to transport materials to and from the dock area under repair. Staging activities are proposed to be located onshore near the shoreside base of the dock.

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 policies of Chapter 3 of the Coastal Act.

All project and equipment staging activities, including preparation and cutting of decking and deck support material, will be carried out onshore within an area separated from the bay by dust control and erosion control devices. All material removed and recovered from the dock will be collected and transported offsite for disposal at an appropriate disposal facility.

The project will include the following measures to prevent fugitive material from discharging into the bay during decking removal and replacement activities:

- No construction materials, debris, or waste will be placed or stored where it may be subject to entering waters of Humboldt Bay or associated intertidal habitats;
- During the project all trash will be properly contained, removed from the work site, and disposed of on a regular basis to avoid contamination of habitat during demolition activities. Following demolition, all trash and construction debris shall be removed from the work area and disposed of properly;
- A floating boom shall be installed around the project area within the bay to contain any debris that may fall into the bay during construction. Any debris that falls into the bay will be recovered immediately and disposed of properly. Non-buoyant debris will be recovered by divers as soon as possible after loss if complete recovery from the surface is not achievable.
- Any fueling or maintenance of construction equipment will be carried out onshore more than 100 feet from the mean high tide line of the bay.
- A temporary tarp system will be installed below the decking area to be repaired prior to the decking removal activities. This tarp will be installed in a manner most likely to capture and contain any fugitive materials that become dislodged during removal or installation of decking and deck supports.
- All on-site stockpiles of construction debris shall be covered and contained whenever they are not in use or whenever there is a potential for rain, to prevent polluted water runoff.

The proposed project site is not near any public access sites and project work will not require closure or restricted access of any public coastal access.

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 September 11-12, 2013 in Eureka. If four or more Commissioners object to this waiver, a coastal development permit will be required.

Sincerely,

CHARLES LESTER
Executive Director

By:



MARK DELAPLAINE
Manager

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Th 10

DATE: September 3, 2013

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-0202-13
APPLICANT:	Navy
LOCATION:	Scripps Pier, Point Loma, San Diego
PROJECT:	Scripps Pier and Wharf Replacement
ACTION:	Concur
ACTION DATE:	8/19/2013

PROJECT #:	NE-0204-13
APPLICANT:	Port of Oakland
LOCATION:	Offshore Disposal Site SF-DODS, offshore of San Francisco
PROJECT:	Disposal of 150,000 cu. yds. of dredge material
ACTION:	No effects
ACTION DATE:	8/27/13

PROJECT #:	ND-0210-13
APPLICANT:	National Park Service
LOCATION:	GGNRA Land, Point Lobos, San Francisco
PROJECT:	Pipeline Replacement
ACTION:	Concur
ACTION DATE:	8/7/2013

PROJECT #:	ND-0211-13
APPLICANT:	Navy
LOCATION:	Naval Base Ventura County
PROJECT:	Unmanned Systems Operations
ACTION:	Concur
ACTION DATE:	8/21/2013

PROJECT #:	ND-0212-13
APPLICANT:	Navy
LOCATION:	San Nicolas Island
PROJECT:	Directed Energy Test Facilities
ACTION:	Concur
ACTION DATE:	8/17/2013

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August 19, 2013

S.F. Adams, Captain
Department of the Navy
Attn: Suzanne Smith
Naval Base Ventura County
311 Main Rd., Suite 1
Point Mugu, CA 93042-5033

Re: **ND-0202-13**, U.S. Navy, Scripps Pier and Wharf Replacement (SIO/UCSD MarFac wharf and pier), east side of Point Loma, San Diego

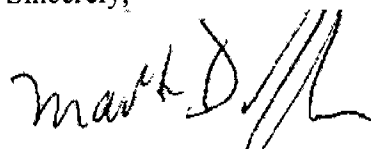
Dear Captain Adams:

The Coastal Commission staff has reviewed the above-referenced negative determination for the replacement of an existing berthing wharf and pier at the Naval Base Point Loma, in San Diego. The existing wharf and pier would be replaced by a concrete pile-supported wharf and pier, approximately the same size and location as the existing structures. The new pier would be 18,250 sq. ft. (365 ft. by 50 ft.) and the wharf would be 10,285 sq. ft. (307 ft. by 33.5 ft.). The landward side of the wharf would be increased slightly to accommodate anticipated sea level rise over the next 50 years.

The project would include 140 two-ft. diameter concrete piles. The fender system would be upgraded. The project does not include in-water dredging. Best Management practices would be included to protect water quality. No changes to public access would occur. The construction period has been scheduled to avoid the least tern nesting season. The project would not affect sensitive habitat or marine resources, including eelgrass or brown pelicans. While pile driving has the potential to affect expected infrequent occurrences of sea turtle and marine mammals, with the monitoring and avoidance measures, which include cessation of activity in the event a marine mammal or sea turtle is within 100 ft. of the work area, effects to these species would be minimal. The Navy has coordinated with the National Marine Fisheries Service (NMFS), which confirms no estimated "take" or "harassment" of marine mammals (under the Marine Mammal Protection Act), and the Navy has committed to notify the Commission staff in the event of any reinitiation of consultation with NMFS.

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,

A handwritten signature in black ink, appearing to read "Mark D. Lester", with a stylized flourish at the end.

(for) CHARLES LESTER
Executive Director

cc: San Diego District
Army Corps, San Diego Field Office

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August 27, 2013

Anne M. Whittington
Environmental Assessment Supervisor
Port of Oakland
P.O. Box 2064
Oakland, CA 94604-2064

Subject: No-Effects Determination NE-0204-13 (Dredge Material Disposal at SF-DODS)

Dear Ms. Whittington:

The Coastal Commission staff received the above-referenced no-effects determination for ocean disposal of up to 150,000 cubic yards of material to be dredged to maintain authorized depths at Berths 24, 25-26, 30, 32, 35, 37, 55, 56, 57, 58, and 59 in the Port of Oakland. The disposal site is the EPA-approved San Francisco Deep Ocean Disposal Site (SF-DODS) located approximately 50 miles west of San Francisco. The dredging aspect of the activity is within San Francisco Bay and does not involve Coastal Commission jurisdiction, but rather the jurisdiction of the San Francisco Bay Conservation and Development Commission.

The Coastal Commission has determined in past federal consistency reviews that transportation of dredged material through the coastal zone to the disposal site outside the zone at SF-DODS could, if not properly conducted, affect the coastal zone. The key to avoiding these effects, according to these reviews, is continuation of adequate testing and monitoring provisions. The consolidated material proposed for ocean disposal was tested by the Port and determined by EPA and the interagency Dredge Materials Management Office to be suitable for unconfined aquatic disposal, including at SF-DODS. The sand content at individual berths ranges from 13% to 40%, with an overall average of 24% sand and therefore the dredged materials are not suitable for beach replenishment via disposal at the SF-8 Disposal Site. As a result, the Port is proposing disposal of the dredged material at SF-DODS.

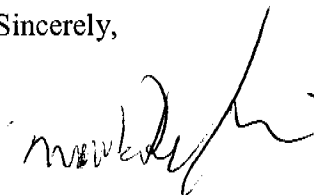
In conclusion, when the Commission concurred in April 1994 with EPA's consistency determination for the designation of the deep water ocean dredged material disposal site (SF-DODS), the Commission determined that disposal at the site would not affect the coastal zone, assuming that dredging would not be authorized unless: (1) an adequate monitoring program remains in place; and (2) the test establishes that the material is suitable for aquatic disposal. Both these tests are met for the proposed 150,000 cu. yds. of dredged material. Thus, with the

Anne Whittington
August 27, 2013

factors discussed above, we agree with the Port of Oakland's assertion that the proposed dredging and disposal at SF-DODS would not affect the coastal zone.

We therefore concur with your "no effects" determination. Please contact Larry Simon at (415) 904-5288 if you have any questions.

Sincerely,



(for)

CHARLES LESTER
Executive Director

cc: CCC – North Central Coast District
EPA
U.S. Army Corps of Engineers
BCDC
S.F. Bay RWQCB

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August 7, 2013

Frank Dean, General Superintendent
National Park Service
Golden Gate National Recreation Area
ATTN: Steve Ortega
Fort Mason, #201
San Francisco, CA 94123

Re: **ND-0210-13**, Negative Determination, National Park Service (NPS)/Golden Gate
National Recreation Area (GGNRA), Pipeline Removal, Point Lobos, San Francisco

Dear Mr. Dean:

The Coastal Commission staff has reviewed the above-referenced NPS negative determination for the removal of a 350 ft. long, 4 to 6 inch diameter pipeline built in the late 1800s that served Sutro Baths with fuel for heating the baths. The pipeline is located east of the overlook just north of the bathhouse ruins. The pipeline parallels (and intersects) an accessway that connects the overlook with trails and the parking lot to the east, adjacent to the current location of the visitor center (at Merrie Way). The project also includes removal of approximately 36 cu. yds. of contaminated soil. The trail will be closed during the removal activity; however no visitor destinations would become inaccessible even during construction (because multiple paths are available to reach any such destinations (e.g., the bath ruins, the overlook, and the Lands End Trail). Access along the trail will be restored upon completion. Construction will last approximately two months, and will not occur during the peak visitor season.

We **agree** with your determination that the proposed project would not adversely affect any coastal zone resources, and 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,

A handwritten signature in black ink, appearing to read "Mark D. Lester".

(for) CHARLES LESTER
Executive Director

cc: CCC – North Central Coast District

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August 21, 2013

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

Re: **ND-0211-13**, U.S. Navy Negative Determination, Unmanned Systems Operations,
Naval Base Ventura County

Dear Captain Vasquez:

The Coastal Commission staff has reviewed the above-referenced negative determination for the Navy's Point Mugu Sea Range Expansion of Unmanned Systems Operations at Naval Base Ventura County. The program would increase the capability for unmanned systems testing and training on the Point Mugu Sea Range and at San Nicolas Island (SNI). While the Commission has reviewed past comprehensive proposals for Navy Mugu Sea Range testing and training activities (CD-002-01), these unmanned operations were not specifically covered in past consistency documents. The operations would involve unmanned aerial systems (UAS) and unmanned maritime systems (UMS), within airspaces near Point Mugu and SNI, as well as the Special Use Airspace over the Sea Range. Operations would occur up to 250 days per year, with durations of between 1 hour and 7 days. The systems would be controlled from command centers either at Point Mugu or SNI, or from mobile units (i.e., trucks, vans, or ships).

The project would also include construction of a hangar complex on SNI, southeast of the existing airfield. This complex would include a 22,500 sq. ft. hangar, a 10,500 sq. ft. administrative/office building, and associated paving and other activities. New development would be limited to existing developed/disturbed areas and would avoid effects on native vegetation.

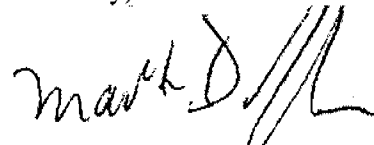
The project would not affect public access or public safety, and the Navy will publish Notices to Mariners and Notices to Airmen 15 days before the operations. Recreational boats and some recreational activities may be temporarily inconvenienced; however the areas around Point Mugu, Port Hueneme, and SNI are already controlled by the Navy, and the baseline recreational use would be low. Additionally, the overall number of days when surface waters on the Sea

Range are closed to transit annually would not change from the baseline discussed in the Sea Range EIS. We therefore agree with the Navy that the overall effects on recreation would be limited and temporary (and consistent with public safety and military security needs).

Effects from noise on sensitive habitat from operations such as aircraft overflights would be minimized through implementation of Special Conservation Measures (SCMs), including maintaining specified altitudes over sensitive areas and during sensitive breeding periods. Ground level disturbances would be minimized such that they would avoid disrupting foraging, resting, or nesting behavior of terrestrial wildlife, including the SNI fox, island night lizard, birds, and mammals. Attachment A lists the measures to be included to protect western snowy plovers and other sensitive wildlife species, and which have been worked out through the Navy's Integrated Natural Resources Management Plan (INRMP), its Point Mugu Sea Range EIS/OEIS, and its coordination with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). Water quality would be protected through development of a stormwater pollution prevention plan (SWPPP), along with site-specific Best Management Practices (BMPs), standard erosion control measures, and spill prevention and containment measures.

Under the federal consistency regulations (Section 930.35), 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 and its staff have concurred with the above-noted Navy consistency and negative determinations for overall testing on the Sea Range (CD-002-01), the Laser Testing and Training Program (ND-017-09), and the Countermeasures Testing and Training Program (ND-0207-13). With the measures incorporated into the activities to minimize effect on sensitive habitat, marine resources, water quality, public access and recreation, and commercial and recreational fishing, the Commission staff **agrees** with the Navy that proposed activities would be similar to consistency and negative determinations with which we have previously concurred. 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,

A handwritten signature in black ink, appearing to read "mark D L", with a stylized flourish at the end.

(for) CHARLES LESTER
Executive Director

Attachment

1. Special Conservation Measures

cc: Ventura District Office

incorporated within the proposed action a number of conservation measures that would be implemented during the construction and operational. Potential disturbance of western snowy plovers during site construction phase would be minimized or avoided by restricting construction, access road improvements, and utilities installation activities to outside the snowy plover breeding season. Disturbance to the western snowy plover during the operational phase would be minimized by implementation of conservation measures designed to make the area less attractive to nesting and monitoring of activity impacts.

The Navy has informally consulted with the USFWS for this project. With implementation of the proposed conservation measures, the USFWS concurs that any of the activities would result in injury to or mortality of western snowy plovers and therefore does not expect that the proposed activities would substantially reduce the reproduction, numbers, or distribution of the species). Therefore, the proposed action would have limited and temporary effects to western snowy plovers.

The following SCMs have been developed for the project EA and/or derived from the Island's Integrated Natural Resources Management Plan (INRMP), Point Mugu Sea Range EIS/OEIS, Letter of Authorization issued by the National Marine Fisheries Service, and the Biological Opinion (BO) issued by the U.S. Fish and Wildlife Service (USFWS).

- The proposed action follows the terms and conditions set forth in the SNI BO (USFWS 2001) designed to protect the western snowy plover and is consistent with the western snowy plover and management requirements developed in the BO (USFWS 2001) and the INRMP (NBVC 2010).
- AV flights above shorelines, Mugu Lagoon, or other bird or marine mammal concentration areas will generally be restricted to an elevation of 1,000 ft (305 m) AGL altitude or greater. Flights below 1,000ft (305 m) will be seasonally restricted and limited to AVs with no impact to biological resources (e.g., small and quiet AVs during non-breeding seasons). Appropriate protective measures for flights below 1,000 ft (305 m) would be developed on an as-needed basis and coordinated with USFW and NMFS prior to testing.
- Group 4 and 5 UASs would follow established flight patterns at Point Mugu and SNI.
- All UAS mission launches would occur from previously disturbed areas to eliminate the potential for new ground disturbance impacts.
- A designated observer would be present during all activities that involve weapons testing, firing, or launching to ensure that these activities would not result in a take of marine mammals, sea turtles, or birds. Standard range clearance procedures would be followed, which include looking for marine mammals, birds, and sea turtles in predicted debris and impact areas. If marine mammals, birds, or sea turtles are observed in or near a predicted debris or impact area, activities would be suspended or moved.

ATTACHMENT A

- Surface target maneuver circuits would be at least 0.1 nm (0.16 km) from any shoreline, beach, haulout, tidepool, or known shipwreck. During weapons testing, surface target maneuver circuits would be at least 0.2 nm (0.37 km) from the shoreline.
- Flight testing would be scheduled among available testing locations to minimize repetitive noise exposures and overflights during marine mammal pupping seasons. The NAVAIR Range Sustainability Office (RSO) would provide guidance for scheduling tests across the various locations throughout the testing season.
- Testing would be conducted during daylight hours as range-time permits. Night tests would only be conducted if range scheduling prevents daylight testing and the RSO coordinates a suitable location for night testing to minimize disturbance to wildlife.
- Based on the most current information available from NBVC Environmental Division, the RSO will provide direction to project participants regarding the locations of seabird rookeries and concentrations of marine mammals. These locations will be subject to seasonal restrictions and will not be overflown. Within safety and mission constraints, target placement and flight patterns will also be designed to maximize horizontal distance from these locations.
- Before a weapon (including lasers) could be fired, the Navy would require as standard procedure that no persons, wildlife, reflective surfaces, or non-target obstructions of any sort are present within the hazard area, which is specific to the type of weapon being used, between the firing point and the target. Additionally, the path from the a weapon firing point to the target would be monitored by observers with binoculars or remote cameras as necessary to ensure that weapons are not fired if and when wildlife is within the nominal hazard zone identified in the Risk Hazard Assessment.
- Targets mounted on floating structures would not be placed on horizontal surfaces where sea lions might haul out, and surfaces near a target may have “bird spikes” (www.nixalite.com) attached to discourage perching.
- Unless approved through consultation with and, if required, a permit issued by the Channel Islands National Marine Sanctuary (CINMS), all UAS and UMS activities would take place outside of the CINMS waters, and no weapon would be fired at any part of the CINMS.
- No project activities would occur in rocky intertidal habitat.
- Per standard operating procedure, a designated monitor would be present during all construction activities to ensure that no island night lizards would be harmed. Any island night lizards found within the construction area would be relocated.

The proposed action would have temporary effects to the marine environment.

Water Quality (CRPMP Sections 30231)

The project will have no long-term effects on biological productivity or water quality. Implementing standard construction Best Management Practices (BMPs), such as a

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August 17, 2013

J.J. McHugh, Captain
Department of the Navy
Naval Base Ventura County
Attn: Suzanne Smith
311 Main Road, Suite 1
Point Mugu, California 93042-5033

Re: **ND-0212-13**, Navy Negative Determination, Directed Energy Test Facilities, San Nicolas Island, Naval Base Ventura County

Dear Captain McHugh:

The Coastal Commission staff has reviewed the above-referenced negative determination for the Navy's Directed Energy Test Facilities on the northwest end of San Nicolas Island. The project purpose is to support Navy training and testing directives to develop "operationally realistic engagements in both maritime and land environments with an over-the-ocean shot from a land-based shooter site to a land-based target." The activities would involve laser and high-powered microwave (HPM) equipment, and the establishment of shooter, target, and calibration sites. The shooter site would be at Tender Point, and the "shooting" would occur over water to the on-land target site at Bomber Cove. The four calibration sites used to verify testing accuracy would be located south and east of Tender Point. Once calibrated, system tests would be conducted to allow attack on airborne and seaborne targets, as well as at Bomber Cove.

Construction activities would commence in 2014 and would involve:

Shooter Site: constructing a 3,000 sq. ft. 2 story building, a 13,811 sq. ft. vehicle turnaround area/pad, and widening a 3,196 ft. long gravel access road by 10 ft. (from 8 ft. to 18 ft. wide);

Target Site: constructing a 1,600 sq. ft. concrete pad, constructing a new, 2,885 ft. long, 12 ft. wide gravel road, and widening 2,215 ft. (length) of an existing 8 ft. wide gravel road to 12 ft. wide; and

Calibration Sites: constructing four 15 ft. by 15 ft. concrete pads (one at each site), and constructing 500 ft. access road at two of the four sites.

Testing activities, frequencies, and durations would occur as summarized in Attachment A (Navy Environmental Assessment, Table 2-2). The project includes conservation measures to minimize effects on access and recreation, public safety, sensitive habitat, water quality, and cultural resources. Measures to protect public safety include:

Each proposed test of a directed energy system would follow the protocols of DoD Instruction 6055.11, Protecting Personnel from Electromagnetic Fields (19 August 2009). This would include a detailed test plan(s) with a description of the objectives and risks, and a calculation of hazard zones that would need to be cleared; coordination with the Federal Aviation Administration (FAA), and U.S. Coast Guard; and the issuance of Notice to Airmen (NOTAM) and Notice to Mariners (NOTMAR), as appropriate, to the operating parameters of the directed energy system to be tested; and coordination with the DoD Laser Clearing House in the event that a directed energy system will be fired at or above the horizon. This includes coordinating Altitude Reservations with the FAA;

SOPs governing the use of the system during the test events that include detailed step-by-step operational procedures (firing sequence) for pre-operation (alignment and diagnostic checks), safety interlocks, low-power operation (if applicable), high-power lasing, post-operation, and emergency shutdown; and

Qualification/certification statements for operators of the directed energy system(s).

Measures to protect environmentally sensitive habitat include the Conservation measures listed in Attachment B (Navy EA, pp. 2-13 to 2-15). The Conservation measures include monitoring and avoidance/minimization measures (including avoiding activities during sensitive periods, and avoiding any firing if wildlife is within the hazard path). No targets would be located on horizontal surfaces where sea lions might haul out. Surfaces near targets would include perch-discouraging features ("bird spikes"). Construction will be scheduled to avoid Brandt's cormorant nesting periods (generally late February through late August). As activities would occur on land, the activities would not affect sea otters. Moreover, the test areas would be sited within previously disturbed areas, and no sensitive plant or wildlife habitats would be affected. To protect snowy plovers, the Navy coordinated with the U.S. Fish and Wildlife Service, whose Biological Opinion states:

The Navy proposes to minimize the above effects by: 1) conducting project activities primarily during the non-breeding season when snowy plovers are less likely to be nesting in these areas (when operationally feasible); 2) rendering all predator perches unsuitable, as feasible; 3) using non-favorable breeding substrate material for road pack to discourage nesting; 4) using a qualified biologist during plover nesting season (March 1 – September 15) to (a) educate operational personnel about sensitive habitats and how to implement avoidance and minimization measures; and, (b) delineate any areas adjacent to the site that should be avoided; 5) ensuring a qualified biologist is present during plover nesting season if plovers are within 1,000 feet of the action area. A qualified biologist will remain on site during activities (if safety constraints allow) to monitor movement and behavior of western snowy plovers; and 6) implementing additional avoidance and minimization measures, as stated above in the project description.

Overall, we expect that the presence of a Service-approved qualified biologist during project activities occurring within occupied habitat and the measures proposed by the Navy for this action will further avoid and minimize the effects to individuals of the species. Also, impacts to the wintering habitat in the action area would be temporary and periodic (i.e., the habitat conditions are predicted to remain stable). Therefore, we do not

anticipate any of the activities to result in injury or mortality of western snowy plovers and therefore, we do not expect that the proposed activities will substantially reduce the reproduction, numbers, or distribution of the species.

Marine resource and water quality effects would be minimized through implementing storm water controls and Best Management Practices during construction, and strict controls on releases of hazardous materials during operations (e.g., closed-cycle and closed loop systems, and stripping targets of unnecessary hazardous constituents). Finally, measures have also been included to protect cultural resources in the area during construction.

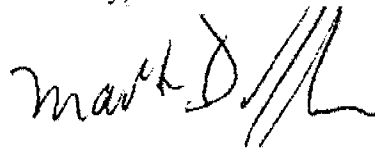
The Navy concludes:

CONCLUSION

The Navy has determined that the proposed directed energy facilities would not have an effect on the coastal zone. The project is consistent with existing land and water use on the Point Mugu Sea Range and at Navy-owned SNI. The project is also consistent with existing federal and state land use plans, policies, and controls. Further, the proposed test is similar to the activities addressed in existing environmental documentation prepared for the Sea Range.

Under the federal consistency regulations (Section 930.35), 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 and its staff have concurred with the past Navy consistency and negative determinations for overall testing and training on the Sea Range (including San Nicolas Island (CD-002-01), and, since then, for more focused testing and training activities: Laser Testing and Training Program (ND-017-09), and Point Mugu Sea Range Countermeasures Testing and Training Program (ND-0207-13). With the measures incorporated into the activities to minimize effect on sensitive habitat, marine resources, water quality, public access and recreation, commercial and recreational fishing, and archaeological resources, the Commission staff **agrees** with the Navy that proposed activities would be similar to consistency and negative determinations with which we have previously concurred. 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

Attachments

- A. Table 2-2: Proposed Activities
- B. Conservation Measures

cc: Ventura District Office

Table 2-2. Proposed Activities

Activity	Laser	HPM
GENERAL		
System Parameters	<ul style="list-style-type: none"> Power: Up to and including 1 MW (average). Wavelength: 180 to 14,000 nanometers (0.18 to 14.0 μm). General: Class 1, 2, 3, and 4 lasers. Laser types operated would include: solid-state, fiber, carbon dioxide, free electron, and closed-cycle chemical, including CW, pulsed, and ultra-short pulse. 	<ul style="list-style-type: none"> Power and frequency: refer to Table 2-3 and Table 2-4. Non-lethal anti-personnel HPM systems utilize a frequency of approximately 95 GHz. The combination of power density and shot duration will not exceed 12 Joules per square centimeter at the target for any single shot. This could be tested on human targets as it poses no long-term threat (see Section 3.7.2). Transmitter Operating Mode: CW or pulsed. Antenna types: various types. These include both narrow band and impulse radiating designs.
Personnel	10-30 during each event.	10-30 during each event.
OPERATION		
Tempo	Up to 100 days/year.	Up to 65 days/year.
Event Duration	4-9 hours	Same as laser testing and personnel training.
Usage per Event	40 times Multiple pulses, typically < 15 seconds but may be up to 1 minute	30 times Multiple pulses, typically < 15 seconds but may be up to 1 minute.
Test Event Activities	<p><u>Pre-event</u></p> <ul style="list-style-type: none"> Transportation of system, CONEX boxes, and instrumentation to test facilities via tractor-trailer. Unloading of system, CONEX boxes, and instrumentation using a crane or forklift. System alignment, calibration, and check-out using calibration sites and/or the target site (approximately 2 hours per event) Communications and instrumentation checks. <p><u>Event</u></p> <ul style="list-style-type: none"> Clearance of any hazard areas through use of boundary boats and/or helicopters. Operations of the system-under-test until test objectives have been achieved. Personnel associated with test within safe facility during testing and personnel training; personnel not participating in test excluded from the area. <p><u>Post-event</u></p> <ul style="list-style-type: none"> De-install and package system, CONEX boxes, and instrumentation for transport on tractor-trailers, and depart site. 	Same as laser testing and personnel training.
Generator Use	One 20 kV generator (or multiple smaller generators) at target site, for pre-event, event, and post-event activities, up to 10 hours/day.	Same as laser testing and personnel training.
Vehicle Use	<ul style="list-style-type: none"> Two tractor trailers to transport the system and instrumentation to the site (pre-event set-up and post-event tear-down). Four pick-up trucks for personnel and equipment transportation pre-event, during the event, and post-event. One 4-wheel drive forklift for loading and unloading. One crane for loading and unloading. 	Same as laser testing and personnel training.
Maintenance	Miscellaneous maintenance activities include road grading and preparing infrastructure at shooter site, target site, and calibration test sites. Maintenance activities are estimated at 15 times per year.	Same as laser testing and personnel training.

Attachment A

General Conservation Measures

In addition to the above, the Navy proposes the following general conservation measures:

- All portable equipment will be removed upon test completion.
- Upon completion of the proposed road construction, project vehicles and equipment will be restricted to existing concrete pads, leveled surfaces, and paved or dirt access roads.
- Vehicles will not be allowed to drive onto any beaches.
- Testing and personnel training activities will be minimized during the night.
- Surface targets will not be located within intertidal zones of SNI.

Western Snowy Plovers (*Charadrius alexandrinus nivosus*) at Tender Point

In September 2012, the USFWS issued a Biological Opinion for the project that authorized the flushing of western snowy plovers within the action area during project activities provided that all terms and conditions are implemented. As required under the Biological Opinion, the Navy would reinstate consultation with the USFWS if one western snowy plover is found dead or injured within the action area throughout duration of the project (USFWS 2012a).

The Navy proposes the following conservation measures during the construction phase, which are consistent with the USFWS Biological Opinion for the project (USFWS 2012a):

- As needed, a qualified biologist will oversee avoidance and minimization measures described below. Where a qualified biologist is needed (such as construction and/or operation and maintenance activities) in western snowy plover habitat or near sensitive biological resources, the biologist will: (1) be familiar with the federally listed species and associated habitats that require survey or monitoring; (2) have a bachelor's degree with an emphasis in ecology, wildlife biology, or related science; and (3) have previous experience with applying the terms and conditions of a Biological Opinion. In addition, the qualified biologist will be authorized by the USFWS to conduct the activities pursuant to the Biological Opinion.
- Construction activities at Tender Point will be conducted during the non-breeding season for western snowy plovers (September 16 – February 28).
- Construction and staging areas along with potential western snowy plover habitat will be delineated by a qualified biologist with bright flagging or fencing to minimize the amount of potential habitat damaged and lost. Equipment will not operate outside these delineated areas. All material used for delineating the project area will be removed immediately upon completion of activities.
- Road material that may encourage nesting will not be used at Tender Point.
- Barriers will be placed along the outside edge of Tender Point Road and the turnaround to reduce the nesting appeal for western snowy plovers.
- As feasible, structures that may be used as perches by predators will be rendered unsuitable (e.g., fitted with nixalite) for that purpose.
- Best Management Practices will be implemented to avoid unnecessary vegetation removal, introduction of invasive species, pollution, contamination, and erosion.

The Navy proposes the following conservation measures during the operational phase:

- Avoid activities when western snowy plovers are present, if operational parameters allow.

- For operations occurring during the snowy plover nesting season (March 1 – September 15), a qualified biologist will: (a) educate operational personnel about sensitive habitats and how to implement avoidance and minimization measures, (b) delineate any areas adjacent to a site that should be avoided, and (c) attend operationally related meetings as needed.
- During the snowy plover nesting season, a biologist will conduct regular surveys of the affected area. When operational activities are scheduled to occur within 1,000 ft of a known or suspected snowy plover nest location and which may potentially disturb nesting snowy plovers, the biologist will observe the nest location prior to the operation to determine nesting status, during the operation to determine if disturbance is occurring, and after operations to determine the status of the nest. After the operational activity is completed, the nests will be observed again to ascertain whether the status of the nests has been permanently altered by the activity. Observations will be made as close to the activity as operational and safety constraints allow and that will also allow a complete view of the plover nest.
- The results of biological monitoring will be included in an annual report that will be submitted to the appropriate USFWS contact summarizing activities related to this project on SNI.
- During the snowy plover nesting season (March 1 – September 15), access to the test facilities will be restricted to operational activities only and recreational use of the facilities (fishing, picnicking, beach-combing, etc.) will be prohibited.
- Unless operationally necessary, personnel will not occupy the site between dusk and dawn and the area will remain dark (no artificial lighting) to reduce the potential for adverse impacts on snowy plovers in adjacent natural habitat.
- If night-time operations are necessary, outdoor lighting will include shielding designs to ensure light entering adjacent snowy plover nesting habitat is minimized.
- At all times, trash collection containers will not be placed on site and the area will be maintained trash free to reduce attracting predators (primarily island foxes [*Urocyon littoralis dickeyi*]).
- Maintenance will be conducted between September 16 and February 28, outside the snowy plover breeding season (see Table 2-1).
- A Spill Prevention, Control, and Countermeasure (SPCC) Plan will be in place to minimize the potential for an oil or hazardous substance spill, to prevent any spill from leaving the confines of the area, and to ensure that the cause of any spill is corrected.

Marine Mammals at Tender Point and Bomber Cove (or Vizcaino Point)

The Navy recommends the following conservation measures during the construction phase:

- All construction will be conducted outside of marine mammal breeding and pupping seasons (see Table 2-1).
- In accordance with the Marine Mammal Protection Act (16 USC, 1379 Sec. 109(h)), a qualified biologist will be present prior to commencement of construction activities and will move marine mammals from the area if required for the protection or welfare of the mammal, the protection of the public health and welfare, or the nonlethal removal of nuisance animals.
- If feasible, permanent barriers (e.g., concrete K-rails) will be installed around concrete pads and work areas to discourage marine mammals from using these areas as haulouts.

The Navy recommends the following conservation measures during the operational phase:

- Prior to scheduling the use of a particular site, NAWCWD will contact the Navy's Natural Resources staff at Point Mugu or SNI for current information regarding the occurrence of marine mammals at sites under consideration. Within 24 hours prior to commencing testing or training activities at these sites, a qualified biologist familiar with the behavior of marine mammals and their use of shoreline habitats in the testing or training area will search for marine mammals within and adjacent to the testing or training area. Test activities will be postponed, relocated, and/or monitored by the qualified biologist as necessary to ensure that the activities are unlikely to result in any "take" (as defined under the Marine Mammal Protection Act) of marine mammals.
- Testing and personnel training activities will be avoided during the marine mammal breeding and pupping seasons unless operationally necessary.
- Missiles and/or targets (e.g., drone aircraft) will not be launched at low elevation on low azimuths that pass close to beach haulout sites.
- Multiple missile and/or target (e.g., drone aircraft) launches in quick succession over haulout sites will be minimized, especially when young are present.
- The results of biological monitoring will be included in an annual report that will be submitted to the appropriate NMFS contact summarizing activities related to this project on SNI.
- Maintenance will be conducted outside marine mammal breeding/pupping seasons (see Table 2-1).

Biosecurity Measures

Construction materials will be transported to SNI via regularly scheduled barges. Transport, use, and storage of construction materials on site will be in accordance with NBVC biosecurity measures to minimize the potential occurrence of invasive species. This includes a requirement that all gravel be certified weed-free.

2.3 ALTERNATIVES DEVELOPMENT

This section considers whether there are alternative means of achieving the stated purpose and need for the proposed action. In addition, the no-action alternative is described.

2.3.1 Siting Process

Proposed directed energy testing and personnel training activities require an over-the-ocean shot from a land-based shooter site to a land-based target. The operational components determined the type of site necessary to accomplish testing and personnel training objectives for directed energy systems. These components are summarized below:

- Systems need to be tested in a realistic maritime environment, i.e., across water to a land-based target at a realistic engagement distance.
- Need to provide a venue within which directed energy systems could be tested that are not yet ready for integration aboard a ship. Therefore, a land shooter site and a land target site with ocean in between are necessary.
- A minimum engagement distance (i.e., distance between the shooter site and the target site) for directed energy systems to be used at the test facilities is 9,000-12,000 ft (2,743-3,658 m).