

**CALIFORNIA COASTAL COMMISSION**

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September 5, 2014

C.L. Stathos  
Department of the Navy  
Navy Region Southwest  
Environmental Dept. N45  
937 North Harbor Drive, Box 81  
San Diego, CA 92132-0058

Subject: Temporary Closure of San Miguel Island, Naval Base Ventura County, California

Dear Mr. Stathos:

This letter serves to document previous telephone and email communications between the Navy and Coastal Commission staff regarding the Navy's April 7, 2014, closure to the public of San Miguel Island, which is owned by the Navy but managed by the National Park Service as a part of Channel Islands National Park. This letter also provides our understanding of the history of public access on the island and of the timeline of events this year leading up to and after the island closure. This letter also formally requests that the Navy prepare and submit to the Commission a consistency determination for the island closure, given that this closure constitutes a clear change to the historic availability of public access to and recreation on San Miguel Island, access which is predominantly by visitors whose underlying reasons for visiting the island involve water-oriented activities, such as boating, diving, recreational fishing, and enjoying the ocean views in this highly unique coastal setting, as well as by researchers studying pinnipeds and seabird species which regularly travel in and out of the coastal waters surrounding the island.

It is our understanding that the Navy took ownership of San Miguel Island in 1934 for use as a military training and bombing range. In 1963 the Navy and the Department of the Interior (DOI) signed a memorandum of understanding (MOA) providing for protection and study of natural and cultural resources on the island, including visitation by DOI personnel and DOI-authorized visitors for purposes of scientific study on the island. In 1965 the Navy conducted a four-day surface inspection of the island searching for unexploded ordnance. In 1966 pilot training activity took place over the island and approximately 250 bombs and twenty thousand rounds of ammunition were dropped on the island. The Navy states that no ordnance inspections have occurred since 1965 and that it has not undertaken a comprehensive surface and shallow underground search of the island for unexploded ordnance.

In 1976 the Navy and DOI (including the National Park Service (NPS)) amended the 1963 MOA in part to allow for public access through a controlled reservation system confined to daylight hours under the supervision of the NPS and Channel Islands National Monument. In 1980

Channel Islands National Park was established, including San Miguel Island, which remained under Navy ownership but with day-to-day management of the island conducted by the NPS. In 1985, and again in 1991, the Navy and DOI amended the MOA for a second time to document matters of mutual interest and to continue NPS management of the island. The 1991 amendment included an acknowledgement of the need for a subsequent MOA. While no further MOAs have been signed, the Navy did reaffirm in a June 9, 2008 letter to the NPS that the NPS would continue to manage the island.

Visitor use occurring historically at the island, and prior to the April 7, 2014 closure, is summarized in “Alternative 1” in the NPS’s *Draft General Management Plan* currently under review<sup>1</sup> as follows:

### ***SAN MIGUEL ISLAND***

#### ***VISITOR USES, ACCESS, FACILITIES, AND SERVICES***

*This island would continue to be an ideal place for seeing native vegetation, the unique caliche forest, seals and sea lions (with ranger escort), scenic Cuyler Harbor beach; to do limited hiking (to the Cuyler Harbor beach and 0.75 mile to the ranger station); and to take day and long overnight camping trips. To see other parts of the island, specifically the pinnipeds at Point Bennett and Cardwell Point, visitors must continue to be escorted by a ranger. (Boating visitors must contact the park staff in advance to coordinate this one day activity.) Visitors would continue to come ashore only at Cuyler Harbor. Overnight anchorages would continue to be restricted to Cuyler Harbor and Tyler Bight. All boating and landings would continue to be restricted seasonally around Point Bennett. Due to frequent strong winds, swimming, snorkeling, diving, and kayaking would continue to be limited and recommended for the experienced visitor.*

*No new visitor facilities would be provided in alternative 1. The existing 30-person campground would continue to be maintained. A visitor contact station would remain in the NPS ranger station / housing complex.*

#### ***USER CAPACITIES (DAY USE AND OVERNIGHT)***

*The user capacity in the ranch complex area would continue to be 75 people per day, which would not include the 30 campers per night that would continue to be allowed. On the remainder of the island, day use would be limited to ranger-guided hikes, and no camping would be permitted.*

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<sup>1</sup> Draft General Management Plan / Wilderness Management Study / Environmental Impact Statement, Channel Islands National Park Ventura and Santa Barbara Counties, California, November 2013

The NPS reported to the Commission staff in August 2014 that annual recreational visits to the island between 2003 and 2013 ranged between 962 and 1591 visitors ashore. In addition, the Navy and the NPS have stated that no injuries from unexploded ordnance have occurred to NPS personnel, park visitors, or NOAA researchers since the NPS assumed management of the island in 1976.

On January 14, 2014, NPS staff discovered potential unexploded ordnance on the island and reported this to the Navy. On January 23, the Navy submitted a letter commenting on the *Draft Environmental Impact Statement for the Channel Islands National Park General Management Plan and Wilderness Study*. In that letter the Navy noted the recently discovered potential unexploded ordnance (which the Navy later determined to be metal shrapnel from previously exploded ordnance), changes in Department of Defense requirements and policies for tracking and reporting unexploded ordnance and real property management, and the need for the Navy and the NPS to meet to discuss island safety issues.

On April 7, 2014, the Navy sent a letter to the NPS closing San Miguel Island until further notice due to alleged public safety concerns regarding possible unexploded ordnance and the stated need to undertake a comprehensive survey of the island for such materials. The Navy did not notify the Coastal Commission of this decision. The NPS received the Navy's letter on April 14, 2014, and on April 17, 2014, posted a public notice that the island was now closed to all public entry. In a letter dated April 18, 2014, the NPS responded to the Navy's closure order, in part stressing the need for the two agencies to work cooperatively to address public safety, sensitive natural and cultural resources, and public access concerns. On April 24, 2014, the Commission staff was made aware of the Navy's island closure decision from a news article in the Ventura County Star newspaper.

Area Congresswomen Lois Capps and Julia Brownley wrote to the Navy on July 11 regarding the island closure, requesting that it: (1) initiate and expeditiously complete the necessary surveys and assessments and fully reopen the island to the public as soon as possible; (2) work closely with the NPS to allow as much visitation "as safety will allow while the risk assessment is conducted"; and (3) conduct the risk assessment in an open and transparent manner. The Navy responded to this letter on July 25, stating that it hopes to have funding for the risk assessment secure by the end of the fiscal year, and that it expects that the risk assessment process will take 12-15 months to complete, but that if the assessment determines that further investigation is necessary, the closure may extend beyond that by as much as 12 additional months. The Navy further stated that it cannot allow visitor access until the risk assessment is complete and findings indicate visitation is reasonably safe.

On July 17, 2014, the Commission staff informed the Navy by telephone of the Navy's obligations to coordinate with the Commission under the federal Coastal Zone Management Act (CZMA) for the island closure. The Commission staff stated that the Navy should prepare and submit a consistency determination for these actions. Both agencies discussed this matter again by telephone on August 1. The Navy reported that completing the risk assessment and restoring public access to the island is a high priority, noted that the island was never fully certified as

ordnance-free (both on the surface and to a depth of 12 inches), confirmed that no unexploded ordnance-related accidents involving NPS personnel or visitors are known to have occurred, and stated that it hoped to complete the survey and clear high-use areas for public use within one year. The Navy also informed the Commission staff of the Navy's position that, because the island is federal property and therefore outside the coastal zone, the island closure does not affect the coastal zone, and therefore submittal of a consistency determination to the Commission is not required. The Commission staff replied that because the Navy has allowed (through a management agreement with the NPS) public access to and recreation on the island for 38 years, termination of that access, even if temporary and for legitimate public safety concerns, represents a clear change to the historic availability of public access and recreation and requires submittal of a consistency determination analyzing why the closure is consistent to the maximum extent practicable with the enforceable policies of the California Coastal Management Program (CCMP). To support this position, immediately after the telephone discussion the Commission staff reminded the Navy of a number of previous consistency and negative determinations that had been submitted to the Commission by the Navy (as well as by the Air Force and Marine Corps), that involved changes and/or restrictions to existing public access and recreation on military lands arising from the need to enhance military security, improve public safety, or protect sensitive habitat.<sup>2</sup>

In a letter dated August 11 the Navy officially informed the Commission that:

*. . . The temporary closure of public access to San Miguel Island (SMI), Department of Navy property, for health and safety is not a federal agency activity triggering the need for a separate consistency review. The closure is limited to federally owned Navy land which by definition does not affect California's coastal zone under these circumstances.*

The Navy further stated that it is:

*. . . committed to restoring limited public access as soon as possible consistent with public safety and existing agreements with the NPS . . . The current timeline estimates one year to completely reopen these high use areas. The Navy will strive to beat this estimate, but it will depend on capacity and what, if anything, is discovered.*

The Commission staff appreciates the Navy's commitments both to restore public access to the island, and to protect public safety. However the staff also strongly *disagrees* with the Navy's position that the closure is not subject to the coordination requirements of the Coastal Zone Management Act. We believe that the closure of San Miguel Island to all public entry affects coastal zone uses and therefore triggers the need for the Navy to submit a consistency

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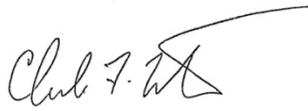
<sup>2</sup> On August 1, 2014, the Commission staff provided the Navy with a sampling of DOI CZMA submittals to the Commission for modifications to public access on military bases, which included the following six staff reports/concurrence letters CD-4-84 (Naval Amphibious Base Coronado), CD-35-84 (Naval Amphibious Base Coronado), CD-19-00 (Vandenberg Air Force Base), ND-20-00 (Vandenberg Air Force Base), ND-090-03 (Naval Air Station North Island), ND-019-12 (Marine Corps Base Camp Pendleton).

determination to the Commission for such closure, because this action clearly affects public access to and recreation on San Miguel Island, activities managed by the NPS in coordination with the Navy since 1976, and because the primary uses of the island, which involve such activities as pinniped, seabird, and other research activities on animals traversing the coastal zone waters surrounding the island, as well as coastal water-oriented recreational uses, are important parts of the underlying reasons that visitors travel to the island, and thus cannot be artificially separated from the visitor uses on the island itself.

This federal consistency coordination requirement arises under Section 307(c)(1) of the CZMA.<sup>3</sup> A consistency determination is a finding that a proposed activity is consistent to the maximum extent practicable with the CCMP, combined with information necessary to support that conclusion, including an analysis of the project's consistency with the enforceable policies of Chapter 3 of the Coastal Act.<sup>4</sup> We would be happy to provide you with copies of the consistency determinations previously submitted by the Department of Defense for the activities identified on the previous page of this letter.

If you have any questions about the need for or preparation of a consistency determination, please contact Larry Simon, the Commission's federal consistency coordinator, at (415) 904-5288.

Sincerely,



CHARLES F. LESTER  
Executive Director

cc: CCC – South Central Coast District  
CCC – Linda Locklin, Public Access Manager  
Russell E. Galipeau, Jr., Superintendent, CINP  
Congresswoman Lois Capps  
Congresswoman Julia Brownley

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<sup>3</sup> 16 U.S.C. Section 1456(c)(1), with implementing regulations at 15 CFR Part 930, Subpart C.

<sup>4</sup> See 15 CFR Section 930.39 for a full listing of the information required for a complete consistency determination.