

CALIFORNIA COASTAL COMMISSION

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION
45 FREMONT STREET
SUITE 2000
SAN FRANCISCO, CALIFORNIA 94105-2219
(415) 904-5200 FAX (415) 904-5400
WWW.COASTAL.CA.GOV



W18

Prepared June 07, 2019 (for the June 12, 2019 Hearing)

To: Commissioners and Interested Parties
From: Alison Dettmer, Deputy Director
Subject: **Energy, Ocean Resources and Federal Consistency Division Deputy Director's Report for June 2019**

The following coastal development permit (CDP) waivers, immaterial CDP amendments, CDP extensions, emergency CDPs, and negative determinations for the Energy, Ocean Resources and Federal Consistency Division are being reported to the Commission on June 12, 2019. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review at the Commission's office in San Francisco. Staff is asking for the Commission's concurrence on the items in the Energy, Ocean Resources and Federal Consistency Division Deputy Director's report, and will report any objections received and any other relevant information on these items to the Commission when it considers the report on June 12th.

With respect to the June 12th hearing, interested persons may sign up to address the Commission on items contained in this report prior to the Commission's consideration of this report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on June 12, 2019 (see attached)

Waivers

- 9-19-0387-W, State Lands -C.H. Olsson 805 Well Investigation (Summerland)

Immaterial Amendments

- E-06-013-A3, Carlsbad Desalination Plant-Interim Improvements for Stand-Alone Operation (Carlsbad)

Negative Determinations and No Effect Letters

Administrative Items for Federal Consistency Matters

- **ND-0008-19, Department of the Navy, Action: Concur, 5/30/2019**

Navy, east side of Point Loma, ARCO floating dry dock/Pier 5002, Maintenance Dredging of 19,000 cu. yds. of sediment, with nearshore disposal and/or beneficial reuse (unless contamination is found during testing), San Diego

- **ND-0011-19, Department of the Army, Action: Concur, 5/13/2019**
Demolition and construction of new homes and ancillary facilities at Ord Military Community of the U.S. Army Presidio of Monterey and at La Mesa Village of the Naval Support Activity Monterey, Monterey County.
- **ND-0012-19, Department of the Navy, Attn: Deb McKay, Action: Concur, 5/31/2019**
Navy construction of Directed Energy Systems Integration Lab (DESIL), a surrogate ship platform, including admin. space, laboratory spaces, vehicle mounted lasers pointing out to sea, for simulated land-to-sea training, Naval Base Ventura County, Pt. Mugu, Ventura Co.
- **ND-0013-19, Corps of Engineers, San Francisco District, Action: Concur, 5/7/2019**
Army Corps Crescent City Maintenance Dredging, 118,000 cu. yds, disposal at Whaler Island and at HOODS, Del Norte Co. and Humboldt Co.
- **ND-0015-19, U.S. Coast Guard, Action: Concur, 5/29/2019**
U.S. Coast Guard, 10 Year maintenance Dredging of initially 126 cu. yds., every 2-5 years, with an overall total of up to 10,000 cy. yds., at Noyo Harbor, with disposal at the upland disposal site west of Hwy 1 near the river mouth, Noyo River, Fort Bragg, Mendocino Co.

CALIFORNIA COASTAL COMMISSION

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION
45 FREMONT STREET
SUITE 2000
PH: (415) 904-5200 FAX: (415) 904-5400
WWW.COASTAL.CA.GOV



May 28, 2019

Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

Waiver: 9-19-0387-W

Applicant: California State Lands Commission (CSLC)

Location: Summerland Beach and Lookout Park; Santa Barbara County

Proposed Development: Locate, excavate, and assess the condition and surroundings of the C.H. Olsson 805 well. This temporary investigation and assessment project is a necessary first step in CSLC's efforts to re-abandon and prevent future leakage from the well and includes the following activities: (1) stage equipment and materials within the public parking lot at Lookout Park; (2) drive a backhoe and excavator from Lookout Park onto Summerland Beach and the estimated well location at ebb tide, when the well casing is becoming most accessible during a negative tide; (3) excavate the area immediately around the well to uncover the well casing - which may be buried by as much as 25 cubic yards of beach sand - to allow the casing to be examined in order to determine the best method to cap or remediate the well; and (4) remove equipment from the beach as the tide migrates landward and allow the excavated area to be naturally refilled with sand.

Because the well site is typically submerged and is only accessible from shore during extreme low tides, the project would be carried out during one of the lowest tides of the year on the early morning hours of Wednesday, July 3, 2019. The majority of project activities would be focused on the time period shortly before and after the low tide of -1.28 feet that will peak at 5:11 AM on this day.

Rationale:

- To make use of optimal low tide conditions while minimizing the interruption of beach use, the project would be carried out primarily during the very early morning hours of July 3rd. All equipment and materials would be removed from the beach area no later than 8 AM.

Coastal Development Permit De Minimis Waiver

9-19-0387-W

- To minimize the amount of beach area closed to access during the work, the public would only be restricted from the project access route between Lookout Park and the well site for a brief duration during the movement of project vehicles. The excavation area at the well site would be delineated with caution tape and monitored by safety personnel. All other beach areas would remain open for public use.
- The excavation site would only be affected temporarily as minimal amounts of beach sand (<25 cu. yds.) are displaced during well investigation activities. As the tide migrates landward, all equipment would be removed from the beach and the excavated sand would naturally fill the excavated area.
- Staging of project equipment and materials in Lookout Park would be limited to a small portion of the parking lot (approximately ten parking spaces). This equipment would be cleared and the full parking lot re-opened for public use as soon as possible following the completion of project activities.
- An environmental monitor would be onsite throughout the beach work to ensure that no sensitive species or habitats are adversely affected by the project.
- Operations would only occur during low tide, preventing any equipment from contacting marine waters.
- Equipment and vehicle staging would occur in the paved area of Lookout Park. Equipment would be provided with drip pans to provide secondary containment of accidental leaks and to protect against soil contamination. No refueling of equipment would occur onsite during the project.
- CSLC would implement a Spill Contingency Plan with procedures and materials for the containment and clean-up of spills in the unlikely event of any leaks from project vehicles or from the well itself during excavation and assessment activities. Spill response equipment and trained response personnel would be onsite throughout the project.
- The applicant would carry out advance public noticing of the project and its effect on beach access no less than one week prior to the planned implementation. This noticing would include posting physical notices at the work site and all primary beach access routes for Summerland Beach, including the public beach use parking area and trailhead off of Finney Street and the beach access route from Lookout Park.
- If project activities cannot be completed as expected on July 3rd and must continue the following day, they would be completed in the early morning so that the beach and Lookout Park parking area would be completely cleared and re-opened for public use no later than 8AM.
- Similar project activities were successfully carried out without adverse effects to coastal resources as part of the initial investigation of the Becker Well on Summerland Beach, authorized under CDP De Minimis Waiver No. 9-15-1312-W.

The proposed development will not adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission actions in the area and Chapter Three policies of the Coastal Act.

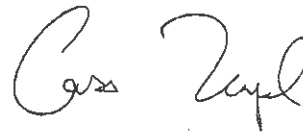
This waiver will not become effective until reported to the Commission at its June meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four

Coastal Development Permit De Minimis Waiver
9-19-0387-W

(4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Sincerely,

John Ainsworth
Executive Director

A handwritten signature in black ink, appearing to read "Cassidy Teufel". The signature is written in a cursive, flowing style.

(by) Cassidy Teufel
Senior Environmental Scientist

cc: File

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904- 5200
FAX (415) 904-5400
TDD (415) 597-5885
WWW.COASTAL.CA.GOV



MODIFIED
**NOTICE OF PROPOSED IMMATERIAL PERMIT
AMENDMENT**

Coastal Development Permit Amendment No. **E-06-013-A3**

~~May 29~~ **June 7, 2019**

To: All Interested Parties
From: John Ainsworth, Executive Director
Subject: Coastal Development Permit No. **E-06-013-A3** granted to the **Poseidon Water, LLC** for construction and operation of a desalination facility.
Project Site: City of Carlsbad, County of San Diego, adjacent to the coastal waters of Agua Hedionda Lagoon and the Pacific Ocean.

Note: Commission staff modified this notice from its original May 29, 2019 version to reflect new information received. The modifications, shown in **bold underline** and ~~striketrough~~ text, provide additional detail regarding the project but do not substantively change the project or staff’s recommendation that this be considered an immaterial amendment to the existing coastal development permit.

The Executive Director of the California Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following change(s):

Replace the existing seawater pumps previously used by the co-located Encina Power Station for its once-through cooling water and by Poseidon for the desalination facility’s first several years of operations with new pumps that will be used solely by Poseidon. The new pumps will allow Poseidon to operate in “stand-alone” mode with more efficient pumps than had been available in the power plant, which ended its use of seawater in December 2018, **and at Poseidon’s authorized intake rate of approximately 300 million gallons per day.**

The proposed work also involves modifications to the existing intake and discharge structures, extension of an existing brine line, installation of a prefabricated electrical building and new tie-in to provide electrical service, a temporary discharge diversion barrier, additional parking, and minor changes to facility lighting and landscaping. All activities will occur within the existing facility footprint.

FINDINGS

Pursuant to 14 Cal. Admin. Code Section 13166(b) this amendment is considered to be IMMATERIAL and the permit will be amended accordingly if no written objections are received within ten working days of the date of this notice. If an objection is received, the amendment must be reported to the Commission at the next regularly scheduled Commission hearing. This amendment has been considered "immaterial" for the following reason(s):

- The proposed work is required pursuant to a May 2019 determination by the San Diego Regional Water Quality Control Board ("Regional Board") meant to allow Poseidon to comply with state Ocean Plan requirements applicable to seawater desalination facilities. The new pumps will provide more efficient flow augmentation to allow the dilution needed for the facility's discharge to meet state water quality standards. However, during the interim period between the power plant shutdown and Poseidon's installation of the new pumps, Poseidon will be using more water than it had been using during its joint operations with the power plant.

The Commission's approval of Poseidon's initial coastal development permit required Poseidon to mitigate for the adverse effects on marine life caused by the facility's use of about 300 million gallons per day ("mgd") of seawater, and **Special Condition 9** of that permit requires Poseidon to obtain a permit amendment if Poseidon proposed or was required to withdraw an average flow of more than 304 mgd of seawater. During the time between the power plant shutdown (December 2018) and the new pump installation (expected by ~~April~~ June 2020), Poseidon has been, and will be, withdrawing about 330 mgd.¹ The Coastal Commission and Regional Board previously approved a Marine Life Mitigation Plan ("MLMP") to address adverse effects on marine life resulting from Poseidon's approximately 300 mgd intake flows. To mitigate for the additional loss of marine life resulting from this temporarily increased seawater use, the Regional Board's May 2019 approval (**Order No. R9-2019-0003**) required that Poseidon ~~provide~~ an in-lieu fee of about \$60,000 per year that will be used for mitigation projects that benefit the marine environment, pursuant to Ocean Plan provisions prepare an updated MLMP that fully mitigates for the marine life impacts resulting from the increased flows (i.e., the additional approximately 30 mgd) between December 2018 and June 2020. Mitigation for these interim effects could take the form of habitat restoration, an in-lieu mitigation fee, or other measures. The Regional Board further required that Poseidon implement this updated MLMP requirement in consultation with the Commission, which will require Poseidon to submit an after-the-fact coastal development permit amendment application to authorize the temporarily increased flows. This current immaterial permit amendment incorporates that mitigation

¹ The development activities conducted without the required coastal development permit amendment involves Poseidon using more than its permitted amount of water since approximately mid-December 2018. Although development occurred prior to the submission of this permit amendment application, consideration of the application by the Commission has been based solely on the Chapter 3 policies of the Coastal Act. Commission review and action on the permit application does not constitute a waiver of any legal action with regard to the alleged violation, nor does it constitute an admission as to the legality of any development undertaken as part of the project without a coastal development permit.

Modified Notice of Immaterial Permit Amendment – E-06-013-A3
Poseidon Water, LLC – ~~May 29~~ **June 7**, 2019

requirement by reference. **It also allows Poseidon to replace the pumps and reduce its intake flows more quickly than waiting for when the Regional Board and Commission will evaluate Poseidon's upcoming proposed MLMP updates.**

- The proposed work will be subject to the facility's Spill Prevention and Response Plan, a Standard Urban Water Mitigation Program Water Quality Technical Report, and Storm Water Management Plan, as approved by the City and the Regional Board. The proposed work is similar to work the Commission previously approved as part of its initial project approval, will occur within the same project footprint as previously reviewed, and is not expected to result in adverse impacts to coastal resources. **The City has approved all aspects of the project subject to its review and permitting authority, except for the new parking area. Poseidon will not start construction of the parking area until it receives final City approvals.**
- The landscape modifications involve removal of 11 non-native, ornamental plantings, most of which have been identified as diseased or damaged by an International Society of Arboriculture certified arborist. The trees to be removed are between about 15 and 30 feet high, though are within an area that includes more and larger vegetation that will remain; therefore, there is likely to be no more than a *de minimis* change to the visual quality of the area.
- The work will occur between the coastal waters of Agua Hedionda and the Pacific Ocean; however, all work will be contained within the boundaries of this existing industrial facility where there is no public access. The project is therefore not expected to adversely affect public access to the shoreline.
- All conditions of the previously approved coastal development permit that are applicable to this proposed additional development remain in effect.

If you have any questions about the proposal or wish to register an objection, please contact Tom Luster at 415-904-5248 or tluster@coastal.ca.gov.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



May 30, 2019

James M. Alger
Dept. of the Navy
Attn: Deb McKay
Naval Base Point Loma
140 Sylvester Rd.
San Diego, CA 92106-3521

Re: **ND-0008-19** U.S Navy, Negative Determination, ARCO/Pier 5002, Maintenance Dredging, Point Loma, San Diego

Dear Mr. Alger:

The U. S. Navy has submitted the above-referenced negative determination for the maintenance dredging of up to 19,000 cu. yds. of sediment to maintain submarine berthing capabilities on the south side of Pier 5002, east side of the Point Loma peninsula, Naval Base Point Loma. All but one sediment test results have been completed, and the material would be used, as determined suitable based on the dredge material Tier III test results, for nearshore disposal or LA-5 disposal. Sediment test results to date have confirmed suitability for open ocean disposal, with the preferred disposal to be nearshore disposal. The Navy will inform and coordinate with the Commission staff in the event the one remaining test being conducted necessitates a modification to the disposal regime.

Under the federal consistency regulations, a negative determination can be submitted for an activity "which is the same as or similar to activities for which consistency determinations have been prepared in the past." We **agree** with the Navy that the proposed dredging is similar to previous Commission and Commission staff concurrences with the above-described consistency and negative determinations submitted by the Navy for San Diego Bay dredging activities (CD-64-92, CD-51-94, CD-89-99, CD-031-01, ND-011-11, ND-052-12, CD-011-13, ND-007-14, ND-0031-14, ND-0011-16, ND-0002-18, and ND-0040-18), and would not adversely affect public access and recreation, sensitive habitats, or other coastal zone resources. We therefore **concur** with your negative determination made pursuant for 15 CFR Section 930.35 of the NOAA implementing regulations. Please contact Mark Delaplaine at (415) 904-5289, if you have any questions regarding this matter.

Sincerely,

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

(for) JOHN AINSWORTH
Executive Director

cc: San Diego District

CALIFORNIA COASTAL COMMISSION

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



May 13, 2019

Mr. James M. Willison
Department of the Army
US Army Installation Management Command Headquarters
US Army Garrison, Presidio of Monterey
ATTN: Joelle Lobo
1759 Lewis Road, Suite 210
Monterey California 93944-3223

Re: **ND-0011-19** Negative Determination, Department of the Army, Residential Housing Demolition and Construction, Lower Stilwell Neighborhood of Ord Military Community and Pineview Neighborhood of La Mesa Village, Seaside and Monterey, Monterey Co.

Dear Mr. Willison:

The Coastal Commission staff has received the above-referenced negative determination from the Department of the Army (Army) for the demolition of 323 units and construction of 275 units at the Lower Stilwell Neighborhood of Ord Military Community in Seaside, and demolition of 156 units and construction of 60 units at the Pineview Neighborhood of La Mesa Village in Monterey, Monterey County. Both neighborhoods are outside the coastal zone; however the Lower Stillwell Neighborhood is adjacent to the coastal zone. When the Commission reviewed the Army's consistency determination for the Disposal and Reuse of Fort Ord (CD-016-94), the Army made several commitments for future coordination and protection of coastal resources from future development that might later be proposed outside the coastal zone. These commitments included preserving scenic coastal views along Highway 1, protecting against downstream runoff and erosion, assuring that development would be accompanied by adequate infrastructure (e.g., water, sewer, and traffic), and sensitive habitat protection.

Because the proposed demolition and construction would result in fewer units than existing, the projects would not increase water, sewer, and traffic demand.

Concerning water quality, stormwater management and implementation of Best Management Practices would protect against downstream runoff and sedimentation. The extent of impervious surfaces would be decreased. The Army has committed to not relying on the ‘problematic’ (from a coastal resource protection perspective) stormwater drain that once served the Lower Stilwell neighborhood, and which extends seaward of Fort Ord, and to eventually removing the outfall, stating:

It is the long-term goal of the Army to discontinue use of this outfall. Closure of this outfall would be analyzed under separate NEPA analysis; however it is the intent of USAG POM to employ alternative stormwater management in areas currently serviced by the outfall in preparation for the eventual closure. As such, stormwater at Lower Stilwell would be managed under one of the following methods:

- *Percolation pond within the lower Stilwell project footprint. ...*
- *Installing multiple smaller percolation ponds or drainage swales throughout the existing project footprint....*
- *Storing stormwater for controlled discharge to another conveyance system.*
- *Conveying the stormwater to another location.*
- *Retaining stormwater at the source.*
- *Other stormwater management approaches as determined appropriate during further design stages.*

The Army has also committed that any future stormwater measures that would *not* contain stormwater discharges on-site would be coordinated with the Commission staff for a determination as to the possible need for a future federal consistency submittal.

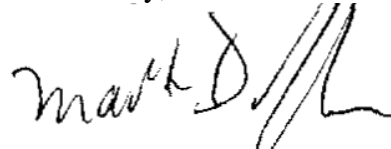
Measures worked out in coordination with the U.S. Fish and Wildlife Service would protect environmentally sensitive habitats, including Monterey spineflower (*chorizanthe pungens* var. *pungens*), and Yadon’s rein orchid (*Piperia yadonii*). Effects on California tiger salamander (*Ambystoma californiense*) would be avoided. Measures to protect nesting and migratory birds would be implemented. The biological avoidance and mitigation measures are attached; these measures would also assist with continuing to protect and improve scenic views.

While both residential neighborhoods are located adjacent to Highway 1, and the Lower Stilwell Neighborhood is adjacent to the coastal zone boundary, the Army has committed to maintaining the protective vegetative screening between the proposed development and Highway 1, which would protect and scenic views and maintain the visual character of the area. Night lighting would be reduced. In addition, energy efficient devices would be implemented to minimize energy consumption.

The Army has performed cultural surveys and analysis and coordinated with the State Historic Preservation Office, and has committed that a Ohlone/Costanoan-Esselen Nation monitor will be present during construction to monitor for cultural resource impacts.

In conclusion, the Coastal Commission staff **agrees** that with the measures discussed above (and in the attachment), the proposed projects would not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 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 Delaplaine". The signature is stylized and written in a cursive-like font.

(for) JOHN AINSWORTH
Executive Director

Attachment – Bio Measures 1-6

cc: Central Coast District (Katie Butler)
City of Seaside
City of Monterey

3.4.3.2 No Action Alternative

Under the No Action Alternative, negligible impacts to biological resources would be expected. No construction or change in operations would occur, and existing conditions would remain unchanged. Negligible impacts would continue to be generated from minor maintenance, landscaping, and human activity.

3.4.3.3 Avoidance, Minimization, and/or Mitigation Measures

The following avoidance and minimization measures would be incorporated into the Proposed Action:

- **Bio Measure 1.** Revegetation and use of approved vegetation species.
 1. Revegetate disturbed soils with approved species following each phase of construction activity. Plant species shall not include invasive or noxious species.
 2. If invasive species are discovered in an area proposed for disturbance, they shall be removed. All invasive plant seeds shall be contained (in plastic bags) and taken to the appropriate disposal facility.
 3. All equipment, including clothes and shoes, shall be free of seeds prior to entering the work area.
- **Bio Measure 2.** Demarcate and avoid the two tree mitigation areas within the Lower Stilwell neighborhood.
- **Bio Measure 3.** Avoidance and minimization measures for impacts to the Monterey spineflower.
 1. To the greatest degree possible, the Monterey spineflower would be protected and avoided. As feasible, the species would be relocated if discovered during construction, or the topsoil and seed of these plants would be salvaged to avoid a total loss.
- **Bio Measure 4.** Avoidance and minimization measures for impacts to Yadon's piperia (USFWS 2013).
 1. Surveys. Prior to construction in the Pineview neighborhood, Yadon's piperia surveys shall be conducted during the growing season, between December and March. All individuals identified shall be documented, photographed, and flagged or fenced to maximize avoidance and accurately determine the number of individuals affected.
 2. Protection. If any plants are found within the project area, a biological monitor shall be onsite during all construction activities in or adjacent to Yadon's piperia habitat. Construction activities occurring in occupied Yadon's piperia habitat shall be limited to the minimum area required, and shall occur in existing access roads and disturbed areas to the maximum extent possible. Construction shall be restricted to the dormant season (August to November) to the extent possible. Only the equipment absolutely necessary to accomplish work shall be allowed in occupied habitat. Staging areas, spoils piles, equipment, and vehicle parking shall be located in designated areas outside of occupied habitat. The boundaries of Yadon's piperia

habitat shall be clearly marked with fencing to prevent additional ground disturbance or impacts.

3. **Worker Environmental Awareness Program.** Prior to initiation of construction activities (including staging and mobilization), all personnel associated with project construction shall attend Worker Environmental Awareness Program training, conducted by a qualified biologist, to aid workers in recognizing special status resources that may occur in the project area, including Yadon's piperia. The specifics of this program shall include identification of the sensitive species and habitats, a description of the regulatory status and general ecological characteristics of sensitive resources, review of the limits of construction and mitigation measures required to reduce impacts to biological resources in the work area, and penalties for non-compliance. A fact sheet conveying this information shall also be prepared to distribution to all contractors, their employees, and other personnel involved with construction of the project. All personnel shall sign a form, provided by the trainer, documenting they have attended the Worker Environmental Awareness Program training and understand the information presented to them.
 4. **Pesticide Use.** Use of broad-spectrum insecticide and/or herbicide shall not occur during the growing season of Yadon's piperia (December to August), and individuals shall be covered by a qualified biologist during the growing seasons (December to August) as necessary prior to treatment.
 5. **Relocation.** If individuals of Yadon's piperia cannot be avoided by construction, they shall be salvaged and either donated (upon approval of USFWS) for academic research, or transported to protected areas. Ideal transplant areas shall be in suitable habitat, but outside of known locations of extant population to avoid disturbing extant individuals. The guidelines recommended by USFWS for transplantation include the following:
 - Individuals shall be relocated during the dormant season (fall/winter)
 - Yadon's piperia tubers will be collected by sieving dirt or using a tree spade
 - Local soil will be transplanted with tubers to ensure necessary mycorrhizal fungi are present
 - If necessary, tubers will be stored in trays in the field or in a lathe house to prevent herbivory
 - Non-native invasive species will be removed (non-chemical) from the transplant area prior to transplantation
 - Transplant areas shall be chosen based on habitat characteristics such as the presence of indicator species, soils, and hydrology
 - Transplanted individuals will be monitored during annual surveys
- **Bio Measure 5.** Avoid and minimize impacts to migratory birds if ground disturbance is conducted within the nesting season.
 1. **Surveys.** Conduct surveys no more than 10 days prior to vegetation removal for project activities that occur within the California bird breeding season, which

extends from February 1 through August 31. Surveys would be conducted at any buildings or structures proposed for construction or demolition and in any natural areas directly affected by project activities. Additional surveys of buildings and natural areas directly affected by project activities would be conducted throughout the California breeding season. Surveys would be conducted by a USAG POM-approved biologist. Surveys would include the disturbance area and a 500-foot buffer around the disturbed area, as feasible. Typical buffer distances are 250 feet for non-raptor birds, and up to 500 feet for raptor species. Larger buffers may be required, based on the species, status of the nest, and type of construction activities occurring near the nest.

2. Nest removal. Nests identified on the premises during the pre-breeding season surveys would be removed, with the exception of eagles' nests, in order to prevent their use during the breeding season. Nests found during the project activities, with the exception of eagles' nests, would be removed, as long as no eggs are present.
 3. Halt activities. If a nest with eggs is found, activities in the disturbance area and buffer area would be halted until the eggs hatched and the young fledged as determined by the biologist or until the USFWS gave its approval.
- **Bio Measure 6.** Avoid and minimize impacts to wetlands.
 1. Buffer area. Adhere to project boundary as shown in Figure 3.4-2 and avoid tree removal outside of boundary to prevent destruction or degradation of wetland habitat.
 2. Avoid or minimize erosion and sedimentation. Use a silt curtain during construction to protect wetlands within the ROI from potential construction and demolition related erosion, dust, and sediment deposition. Following construction, maintain a vegetated buffer adjacent to erosion-prone areas to avoid sedimentation.
 3. Reduce spills. Reduce the potential for spills and to contain and clean up any spills that cannot be prevented. Any maintenance or repair of construction equipment would be performed at least 100 feet away from indicated wetland areas.
 4. Stormwater Management Plan. Comply with Phase 2 of the federal nonpoint source requirements under the CWA, including preparation of a stormwater management plan (i.e., the SWPPP required under Water Measure 1 as per the Stormwater Construction General Permit).

CALIFORNIA COASTAL COMMISSION

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



May 31, 2019

J.E. Chism, Captain
U.S. Navy
Commanding Officer
Naval Base Ventura County
311 Main Rd., Suite 1
Point Mugu, CA 93042-5033

Attn: Deb McKay

Re: **ND-0012-19** Department of the Navy, Directed Energy Systems Integration Laboratory,
Naval Base Ventura County, Point Mugu

Dear Captain Chism:

The Navy has submitted the above-referenced negative determination for the construction of a Directed Energy Systems Integration Laboratory (DESIL) at the Naval Base Ventura County, Point Mugu shoreline. The DESIL would function as a surrogate ship platform, mimicking a shipboard system for research and testing purposes. The DESIL would include administrative spaces, laboratory spaces, a high bay area with crane rails and a crane, a rooftop laser test area, and a concrete pad on which mobile, vehicle-mounted High Energy Lasers (HEL) would point out to sea. The facility would provide lines of sight to the Point Mugu Sea Range and thus enable operational land-to-sea training.

The DESIL would be an approximately 19,000 sq. ft. facility, 48 ft. tall, with roof-mounted beam directors approximately 10 ft. tall. The building would be three stories, constructed on a pile foundation. It would be elevated above grade to accommodate projected sea level rise. It would include a parking lot and other infrastructure. It would also be LEED certified.

Point Mugu is off limits to public access due to military security needs, and the project would not affect public access and recreation. Testing involving communicating with offshore military assets would include notification to mariners to protect offshore public recreational boating. The building would be located behind (landward) of the existing central revetment at Point Mugu, and would not interfere with surfing competitions that occasionally occur at Point Mugu. The project area is disturbed and the project would not affect wetlands or environmentally sensitive habitat. It would be located adjacent to existing, comparably sized military buildings immediately to the east (and behind a revetment), and would not adversely affect public views from the ocean or public areas surrounding the Base.

Best Management Practices and low impact design features would be included to protect groundwater and adjacent surface water quality. A Stormwater Pollution Prevention Plan would be implemented to protect water quality during construction activities. The site does not contain known culturally sensitive resources, and the Navy is coordinating with the State Historic Preservation Officer and will monitor construction for potential cultural impacts.

Several public speakers addressed the Commission during the general public comment period at the May 9, 2019, Commission meeting. Concerns mentioned included: (1) the potential effects of lasers on public access and recreation, and marine and terrestrial habitats; (2) the lack of consideration of the effects of lasers in the Navy's recently published Environmental Assessment for the facility; (3) and request to consider alternative locations such as San Nicolas Island; and (4) concerns over shoreline processes (including shoreline armoring and/or the threat of erosion from the offshore Mugu Canyon).

1) Past Commission Reviews of Laser Use on the Mugu Sea Range

The Commission has reviewed the effects from laser testing and use in previous Navy negative determinations in several contexts. The Commission staff has authorized laser use and testing on the Mugu Sea Range from Point Mugu and San Nicolas Island in Negative Determinations ND-017-09 (Laser Testing and Training Program), ND-0207-13 (Point Mugu Sea Range Countermeasures Testing and Training Program), ND-0211-13 (Unmanned Systems Operations), and ND-0212-13 (Directed Energy Test Facilities, San Nicolas Island). Each of these reviews notes the Navy's safety protocols under its Laser Hazards Control Program (OPNAVINST 5100.27B, May 2, 2008); the Navy states: "Safety procedures include ensuring that no persons, wildlife, or reflective surfaces are within the "hazard area" between the laser and the target, and a mechanism that prevents the high power laser from being fired unless it has locked on the target."

The following excerpts from these previous reviews similarly support Commission staff's agreement that coastal resources would not be adversely affected:

ND-017-09 - Laser Testing and Training Program

The Navy has incorporated a number of measures to protect wildlife resources, including: (a) compliance with all Sea Range safety and procedural requirements; (b) avoiding exposing any persons, wildlife, or reflective surfaces to deployed lasers; (c) providing notices to mariners prior to any offshore activities; (d) avoiding having ships travel through kelp beds to the degree possible; (e) avoiding using snowy plover nesting areas and seasons; (f) avoiding marine mammal breeding and pupping seasons; (g) avoiding known sea otter use areas; (h) limiting on-land activities to already disturbed areas; and (i) recovering targets (for both logistical and environmental reasons), for studying, reusing, and recycling where feasible.

ND-0207-13 - Point Mugu Sea Range Countermeasures Testing and Training Program

The five components of the proposed action include directed energy (high-energy lasers [HEL] and high-power microwave [HPM] systems), small arms, small missiles, flares, and electronic support systems. No construction, excavation, grading, or filling would occur for any of the project components. Test events would be conducted at a variety of existing proposed test sites on the Sea Range, including nearshore Navy Restricted Areas R-2519 (at Point Mugu) and R-2535 (at San Nicolas Island). The activities would also include monitoring, reconnaissance, and range clearance procedures as needed to ensure there are no hazards to people, ships or planes within the hazard area, including notification to FAA when airspace could be affected, and publication of Notices to Mariners (NOTMARs) and Notices to Airmen (NOTAMs).

Wildlife protection and avoidance measures would also be included, depending on the type or location of the activity, and the time of year. Sensitive habitats would be avoided, and before any directed energy systems, missiles, and/or other projectiles are fired, standard procedures would assure that no persons, wildlife, reflective surfaces, or non-target obstructions are present within any hazard area. A qualified biologist would monitor hazard areas with binoculars or remote sensors as necessary to ensure that the countermeasures systems are not fired if and when wildlife is within the nominal hazard area.

ND-0211-13 - Unmanned Systems Operations

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.

ND-0212-13 - Directed Energy Test Facilities, San Nicolas Island

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).

2) Scope of Review

The Navy did not include specific analysis of laser use because, as noted above, the lasers have already been authorized and are already in use at Point Mugu. The proposal by the Navy being reviewed in this negative determination is the construction of the facility to house the lasers. If the facility were not constructed the Navy would continue laser research and testing from this site and other locations at Point Mugu and San Nicolas Island.

3) Alternative Locations

Concerning the suggested alternative of locating the facility at San Nicolas Island, in its Draft Environmental Assessment for the project the Navy considered several alternative locations, including San Nicolas Island, where it does already have a facility enabling laser research, testing and firing. The Navy's EA states:

Under this alternative a new DESIL would be built at NBVC SNI. Although NBVC SNI has direct access to the Point Mugu Sea Range (PMSR) and construction of a DESIL facility is already planned at SNI, it does not facilitate greater flexibility of test events and test (laser) types. Its remote location presents accessibility challenges in transporting large, heavy lasers. Also, as operations are impeded at SNI due to seasonality and weather, having an operable DESIL at another location adjacent to the PMSR would enable the flexibility to continue DE laser operations. Further, SNI does not have sufficient technical, engineering, and logistical personnel on site to support RDT&E of the Proposed Action. Additional personnel and equipment increases would be required to provide adequate support. Therefore, this site alternative was eliminated from further consideration.

4) Shoreline Processes

Concerning shoreline processes, the Commission concurred with the Navy's consistency determination for strengthening the Point Mugu Central Revetment in CD-0001-16. The Commission agreed with the Navy that the strengthening was needed in the short term, and the Navy and the Commission also agreed that retention of the buildings and other infrastructure would eventually necessitate managed retreat and/or implementation of other non-armoring alternatives, because the offshore Mugu Canyon is continually moving shoreward and likely to undermine the area under and behind the central revetment. The Commission found:

CD-0001-16 - Point Mugu Central Revetment

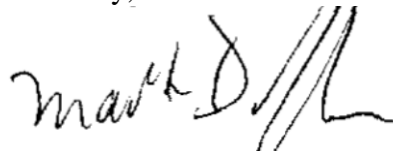
... [T]he Navy recognizes that onshore and offshore littoral and topographic processes, combined with predicted sea level rise, will, in the short term, pose risks to existing facilities that cannot feasibly be remediated by shoreline armoring. The Navy has already implemented some managed retreat options on the base, and will need to consider, if not accelerate, future planning efforts involving considerations of facility relocation/managed retreat.

It is also worth noting that the proposed facility would not extend further seaward than the two Navy buildings immediately to the east, which are both further seaward and closer to the area most likely to be threatened by any undermining due to canyon migration shoreward. Therefore, with or without the proposed building, the Navy will need to eventually consider facility relocation, with managed retreat remaining a principal option.

Finally, the Navy points out that the public will have an opportunity to provide further input into its program as it is in the process of publishing an update to its 2002 EIS/OEIS for its activities on the Point Mugu Sea Range. The Navy's website for this program can be found at <http://pmsr-eis.com>.

In conclusion, with these considerations, the Commission staff **agrees** that the project would not adversely affect coastal resources. We therefore **concur** with your negative determination made pursuant to 15 CFR §930.35 of the NOAA implementing regulations. Please contact Mark Delaplaine at (415) 904-5289 if you have any questions regarding this matter.

Sincerely,



(for) JOHN AINSWORTH
Executive Director

cc: Ventura District

CALIFORNIA COASTAL COMMISSION

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



May 7, 2019

Tessa Beach, Chief
Environmental Sections
U.S. Army Corps of Engineers
450 Golden Gate Ave.
San Francisco, CA 94102

Attn: Mark Wiechmann

Re: **ND-0013-19** U.S. Army Corps of Engineers, Maintenance Dredging, Crescent City, Del Norte Co.

Dear Dr. Beach:

The U.S. Army Corps of Engineers has submitted the above-referenced negative determination for maintenance dredging of up to 118,000 cu. yds. in the federal navigation channels (Entrance Channel, Inner Harbor Basin Channel, and Marina Access Channel) in Crescent City. Disposal would be in two locations: (1) for the 95,000 cu. yds. of Entrance and Marina Access Channel sediments, which are suitable for beach or nearshore disposal, disposal would be in the nearshore area off of Whaler Island (i.e., northeast of Whaler Island and adjacent to the existing jetty); and (2) for the remaining, 23,000 cu. yds. of Inner Harbor Basin Channel sediments, which are unsuitable for beach disposal due to grain size, but otherwise suitable for open ocean disposal, disposal would be at the EPA-designated offshore disposal site Humboldt Offshore Ocean Disposal Site (HOODS) offshore the Humboldt Bay area.

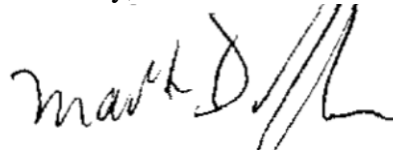
The sediments to be dredged underwent the requisite sediment physical, chemical, and biological testing. Based upon the test results, the Corps has proposed the appropriate two disposal options, and none of the material contains contaminants exceeding thresholds that would make it unsuitable for open ocean disposal. In addition, the Corps agrees to implement the measures identified in EPA's email of May 1, 2019 (with attachments), regarding HOODS cell placement and includes disposal monitoring and reporting requirements.

In past reviews of Corps Crescent City dredge episodes, the Commission has identified concerns over the potential for beach or nearshore disposal to adversely affect sensitive habitat within the Crescent City Marsh, which contains the federally listed as endangered western lily (*Lilium occidentale*). During these reviews the Corps has agreed to monitor the culverts crossing under Highway 1 to assure that they do not become clogged with

dredged material passing downcoast from Whaler Island, which could cause adverse hydrological effects on the marsh system. The Corps remains committed to continuing such monitoring (and performing remedial action, if warranted), and has included as an Appendix to the subject negative determination a beach aggradation monitoring plan, dated April 2019.

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.” With the commitment to continue to monitor the culvert discharges from Crescent City Marsh, and based on the sediment test results, and compliance with EPA disposal requirements, the Commission staff **agrees** with the Corps that this project is similar to the previously-authorized maintenance dredging projects at Crescent City Harbor, including ND-053-10, CD-060-09, CD-081-98, and CD-080-98. We therefore **concur** with your negative determination made pursuant to 15 CFR 930.35 of the NOAA implementing regulations. Please feel free to contact Mark Delaplaine at (415) 904-5289 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Delaplaine". The signature is written in a cursive style with a large, stylized "D" and "L".

(for) JOHN AINSWORTH
Executive Director

cc: Arcata District

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



May 29, 2019

Dave Stalters, Chief
Environmental Management Branch
U.S. Coast Guard
1301 Clay St., Suite 700N
Oakland, CA 94612-5203

Attn: Gilda Barboza

Re: **ND-0015-19** U.S Coast Guard, Negative Determination, 10-Year Maintenance Dredging Program, Coast Guard Station Noyo River, Fort Bragg, Mendocino Co.

Dear Mr. Stalters:

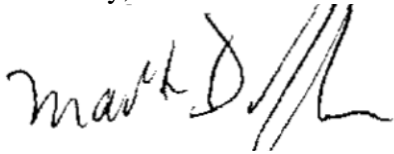
The U. S. Coast Guard has submitted the above-referenced negative determination for a 10 year maintenance dredging program at the Coast Guard Station Noyo River. The initial dredging would be 126 cu. yds., with subsequent dredging occurring every 2-5 years. Disposal would be at the historically used adjacent, North Jetty upland disposal site, which is leased (from the City of Fort Bragg) and maintained by the Noyo Harbor District. The Coast Guard dredging would be similar to, although of a lesser volume than, Commission staff-authorized U.S. Army Corps of Engineers Noyo River maintenance dredging of the federal channel adjacent to the Coast Guard Station (ND-0013-16). That concurrence also noted similar previous Commission and staff authorizations for Noyo River maintenance dredging (CD-004-85, CD-013-88, ND-013-93, ND-037-95, ND-027-00, and ND-026-09).

Dredging will be scheduled for the July 15-Oct. 15 work window, with the first dredging to occur in 2020. Best Management Practices will be implemented to protect water quality. Eelgrass will be avoided.

Under the federal consistency regulations, a negative determination can be submitted for an activity "which is the same as or similar to activities for which consistency determinations have been prepared in the past." We **agree** with the Coast Guard that the proposed dredging is similar to the above-referenced previous Commission and Commission staff concurrences, and would not adversely affect public access and recreation, sensitive habitats, or other

coastal zone resources. We therefore concur with your negative determination made pursuant for 15 CFR Section 930.35 of the NOAA implementing regulations. Please contact Mark Delaplaine at (415) 904-5289, if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Delaplaine". The signature is written in a cursive style with a large, stylized "D" and "L".

(for) JOHN AINSWORTH
Executive Director

cc: Arcata District