

CALIFORNIA COASTAL COMMISSION

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F9

Prepared October 2, 2020 (for the October 9, 2020 Hearing)

To: Commissioners and Interested Parties
From: Kate Huckelbridge, Deputy Director
Subject: **Energy, Ocean Resources and Federal Consistency Division Deputy Director's Report for October 2020**

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 October 9, 2020. 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 October 9.

With respect to the October 9th 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 October 9, 2020 (see attached)

No Items to Report

**Administrative Items for Federal Consistency Matters
Negative Determinations and No Effect Letters**

- **ND-0024-20, Corps of Engineers, Action: Concur, 9/10/2020**
Lower Newport Bay Maintenance Dredging, Orange County.
- **ND-0025-20, Corps of Engineers, Action: Concur, 9/11/2020**
Lower Newport Bay East Jetty Repair, Orange County.

Energy, Ocean Resources and Federal Consistency Division Deputy Director's Report

- **ND-0026-20, Customs and Border Protection, Action: Concur, 10/2/2020**
Portable Tower Surveillance System, Gaviota and Refugio State Parks, Santa Barbara County.
- **ND-0028-20, Natural Resources Conservation Service, Action: Concur, 9/25/2020**
Native Upland Vegetation Planting, Arroyo Honda Preserve, Santa Barbara County.
- **ND-0029-20, Department of the Air Force, Action: Object, 9/17/2020**
Vandenberg Dunes Golf Resort, Vandenberg Air Force Base, Santa Barbara County.

CALIFORNIA COASTAL COMMISSION

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September 10, 2020

Eduardo T. De Mesa
Chief, Planning Division
Los Angeles District
U.S. Army Corps of Engineers
ATTN: Larry Smith (CESPL-PDR-Q)
915 Wilshire Blvd., Suite 930
Los Angeles, CA 90017-3489

Subject: Negative Determination ND-0024-20 (Lower Newport Bay Maintenance Dredging,
Newport Beach, Orange County)

Dear Mr. De Mesa:

The Coastal Commission staff has reviewed the above-referenced negative determination. The Corps of Engineers proposes maintenance dredging of approximately 145,000 cubic yards (cu.yds.) of sediment from the Lower Newport Harbor Entrance Channel and the Main Channel Balboa Reach to re-establish the authorized channel depth of -20 feet mean lower low water. All of the sediments to be dredged from the Entrance Channel, totaling approximately 68,000 cu.yds, are clean, beach compatible sands and will be beneficially reused and disposed at the Newport Beach Nearshore Placement Site, located upcoast from the harbor entrance in water depths between -25 and -40 feet. The remaining 77,000 cu.yds. of fine-grained sediment from the Balboa Reach, which are clean but unsuitable for beach nourishment, will be disposed at the EPA-designated LA-3 ocean disposal site located 4.3 miles southwest of the harbor entrance. The project could begin as early as October 2020 and will take between three and four months to complete. The Corps last conducted maintenance dredging of these two federal channels in 2003 and the proposed work is necessary to remove shoaling in the channels and maintain safe navigation for vessels transiting the channels.

The sediment sampling and analysis plan (SAP) and SAP results were reviewed and approved by the Southern California Dredged Material Management Team (SC-DMMT, which includes Coastal Commission staff and representatives from the U.S. Environmental Protection Agency and the Regional Water Quality Control Board) in May 2019. Based on the SAP test results, the SC-DMMT determined that the proposed dredged materials were physically and chemically suitable for disposal at LA-3 or the Newport Beach Nearshore Placement Site, depending on the grain size classification of sediments sampled within the two federal channels. Water quality monitoring of salinity, pH, temperature, dissolved oxygen, turbidity, and light transmissivity will occur during project operations. Temporary changes to water quality will be limited to the immediate dredge and nearshore disposal locations, and if necessary, project operations will be modified and silt curtains installed to

minimize water quality impacts. In addition, the dredging contractor will implement a spill prevention and clean-up plan to further protect water quality during project operations, and ocean disposal will adhere to EPA's LA-3 site use conditions.

The Corps states that *Zostera pacifica* eelgrass beds (instead of the more common *Zostera marina*) are located in the Entrance Channel and that impacts to eelgrass "would be avoided to the maximum extent practicable commensurate with the maintenance of safe navigation." The Corps' negative determination stated that the initial estimate of the potential loss of eelgrass beds from dredging was four acres and was based on the most recent eelgrass survey of the area, performed by the City of Newport Beach in 2016. However, in late July the Corps submitted to the Commission staff an updated eelgrass impact assessment calculation based on the Corps' reduction in the footprint of the proposed dredge area. The Corps stated that dredging along the west side of the Entrance Channel between Stations 23+00 to 40+00 was removed from the proposed dredge footprint to avoid eelgrass beds in this area, and that this modification will not compromise navigational safety in the channel. With the reduction in the dredging footprint, the Corps now estimates that dredging will result in the loss of 1.5 acres of eelgrass, again based on the 2016 eelgrass survey. The Corps will conduct an eelgrass survey in the Entrance Channel prior to the start of the proposed dredging project and following the completion of dredging. The results from these two surveys will then be used to calculate actual eelgrass losses from the maintenance dredging project and guide the development of the required eelgrass mitigation program.

Previous Corps dredging projects that resulted in adverse impacts to and/or an unavoidable loss of eelgrass beds, even after avoidance and minimization measures are incorporated into the project, included a commitment to implement eelgrass mitigation measures consistent with the California Eelgrass Mitigation Policy (National Marine Fisheries Service, 2014). For this project, the Corps has prepared and submitted a conceptual eelgrass mitigation plan to the NMFS and stated that draft and final mitigation plans will be developed in coordination with the NMFS. The results of the pre- and post-project eelgrass surveys will be used to prepare the draft and final plans, with the objective of eelgrass plantings to occur in spring 2021.

The Corps' conceptual plan includes replanting eelgrass at the impact site as well as planting a currently unvegetated area within the channel. The plan states that eelgrass equivalent to the acreage directly affected by the maintenance dredging project (currently estimated at 1.5 acres) will be transplanted back into the impacted footprint in areas currently adjacent to eelgrass (i.e., a 1:1 mitigation ratio). The post-dredging depths of between -20 and -22 feet MLLW remain suitable for eelgrass habitat. The Corps expects that eelgrass regrowth at the mitigation site will be quicker than that which occurs at mitigation sites which involve establishing new eelgrass beds in currently unoccupied areas. The Corps also states that standard monitoring and success criteria will be applied to the mitigation area, including a five-year monitoring program and remedial work if required. Future eelgrass losses in this area associated with future dredging would need to be mitigated.

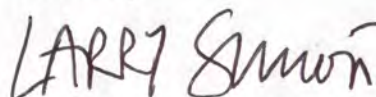
The conceptual plan also includes transplanting an additional 0.3 acres of eelgrass into nearby but currently unvegetated areas within the Entrance Channel. The actual acreage

would be determined based on the pre- and post-dredge surveys in order for the combined mitigation plantings to equate to a 1.2:1 eelgrass replacement value. The Corps states that the purposes of this second element are to offset the temporal loss of eelgrass habitat, to achieve an ecological outcome similar to that which would occur using the California Eelgrass Mitigation Plan's (CEMP) recommended 1.2:1 ratio, and to increase the understanding of *Zostera pacifica* restoration. After discussion with the Commission staff, the Corps agreed to modify its conceptual plan and ensure that the monitoring, success criteria, and remediation (if necessary) associated with the primary mitigation area will also be applied to the additional eelgrass planting areas. The Corps states that it will undertake a single transplant event, if needed, at the end of the five-year monitoring period in coordination with the Commission, NMFS, and California Department of Fish and Wildlife. However, the Commission staff notes that successful mitigation by the Corps of project-related eelgrass impacts remains an ongoing requirement if the project is to meet the "coastal effects" test for negative determinations under the federal consistency provisions of the Coastal Zone Management Act (CZMA).

The NMFS has not yet reviewed the conceptual plan outlined above, although it did identify concerns with an earlier version of the plan. But, as described above, the Corps has committed to working with NMFS to develop the final plan and to ensure that impacts to eelgrass are sufficiently mitigated as required by CEMP. The Corps has also agreed to submit its draft and final eelgrass mitigation plans to the Executive Director for review and comments prior to the start of eelgrass plantings in spring 2021. However, should the final eelgrass mitigation plan not incorporate the above commitments, including adequate monitoring and remediation provisions, the Commission can use the federal consistency reopener provisions of the CZMA (15 CFR § 930.45 and 930.46) and determine whether the maintenance dredging project is adversely affecting eelgrass habitat in Lower Newport Bay in a manner different from that anticipated in the negative determination submitted by the Corps. Similarly, should implementation of the mitigation plan and/or any required remediation activities not adequately protect eelgrass beds at this location, the Commission can use the CZMA reopener provisions to determine whether project impacts are different than currently anticipated and if necessary request that the Corps submit a revised negative or consistency determination.

In conclusion, the Commission staff **agrees** that with the commitments made by the Corps regarding the development of an eelgrass mitigation plan in coordination with the NMFS and the Commission staff, the proposed maintenance dredging project will not adversely affect coastal resources, including eelgrass in the Lower Newport Harbor Entrance Channel. We therefore **concur** with your negative determination made pursuant to 15 CFR 930.35 of the NOAA implementing regulations. Please contact Larry Simon at Larry.Simon@coastal.ca.gov should you have any questions regarding this matter.

Sincerely,



(for) JOHN AINSWORTH
Executive Director

cc: CCC – South Coast District
National Marine Fisheries Service
California Department of Fish and Wildlife

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September 11, 2020

Eduardo T. De Mesa
Chief, Planning Division
U.S. Army Corps of Engineers, Los Angeles District
915 Wilshire Boulevard, Suite 930
Los Angeles, California 90017-3489

Attn: Larry Smith

Subject: Negative Determination ND-0025-20 (Lower Newport Bay East Jetty Repair
Project, City of Newport Beach, Orange County)

Dear Mr. De Mesa:

The Coastal Commission staff has received and reviewed the above-referenced negative determination for repairs to the existing East Jetty located on the east side of the entrance channel to Lower Newport Bay in the City of Newport Beach. The jetty is on the western edge of Corona Del Mar State Beach. A portion of the approximately 1,500-foot long jetty is topped by an approximately 700-foot long concrete walkway on a concrete bulkhead. The walkway is cracked in many places, and the top of the revetment has sunk below the walkway grade since its last repair in 1996.

The proposed repairs will be to 720 feet of existing rock revetment along the channel side of the jetty and to the existing concrete walkway and bulkhead. Revetment repairs will occur by removing the existing top layer of rock, currently below the grade of the walkway, and placing smaller rock to create a base layer. Following walkway and bulkhead crack repair using epoxy and wet sand blasting of exposed steel, new cement will be placed to provide an even walking deck for the walkway. The previously removed revetment stone will then be returned to the new base layer, placed in an interlocking manner to reduce voids, to bring the height of the revetment to match that of the walkway.

Repairs will be staged from the beach side of the jetty. In response to Commission staff, the Corps clarified how construction staging will occur. Clean sand with a grain size compatible with that of the beach, and that meets sediment pollutant standards established by the US Environmental Protection Agency as well as guidance issued by the Southern California Dredge Materials Management Team, will be placed on the beach side of the jetty to form a 160-foot long, 25-foot wide ramp to enable construction equipment access. Following completion of the project, sand used for the construction access ramp will either be removed from the site (returning the site to pre-construction conditions) or regraded on

the beach. The Corps estimates that approximately 600 cubic yards of sand will be needed for this ramp.

The proposed project is anticipated to occur in October and November of 2020. During this construction period, a 50-foot wide strip of beach adjacent to the jetty will be closed to the public for safety reasons and to provide construction vehicle access. This closure will leave an approximately 1600 foot-wide stretch of beach open for public use during construction. The western parking area for Corona Del Mar State Beach will be used for construction staging, along with staging for a channel maintenance dredging project also being conducted by the Corps (Commission staff concurred with this project through its review of ND-0024-20).

The purpose of the project is to enhance public access through repair of the revetment and walkway. During the two-month construction period, a 50-foot wide portion of the existing beach and the walkway itself will not be available for public access. However, the project is proposed during the off-season for Corona Del Mar State Beach, and during construction the vast majority of the beach will remain open for public use. Ample parking will remain for public use during the project, as the larger, eastern existing parking lot serving the beach will remain open. Signage will be posted at the project site explaining the project and providing a project point of contact.

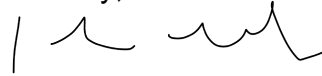
The Santa Ana Regional Water Quality Control Board issued a Clean Water Act Section 401 Water Quality Certification for the proposed project on August 4, 2020. The Corps has stated that they will comply with all conditions in that certification. In addition, in response to Commission staff, the Corps will include the following water quality–related best management practices in the contract specifications for the project:

- A Spill Control Plan will be prepared by the contractor and approved by the Corps, include the procedures, instructions, and reports to be used in the event of an unforeseen spill of a substance regulated by the Emergency Response and Community Right-to-Know Act or regulated under State or local laws or regulations.
- No fueling or maintenance of construction equipment will be allowed on the beach. All fueling and maintenance must take place on the paved staging area.
- Overnight parking of construction equipment on the beach will only be allowed if parked on a pad designed to catch any drippings from the equipment reaching the beach or ocean.
- Water quality monitoring in waters adjacent to the proposed ramp and rock work will be conducted during the first week for five weekdays to confirm that the work is not contributing to water quality issues.
- Equipment will be inspected and maintained in order to prevent any dripping or leaks during beach operations.

No eelgrass is found along this portion of the channel leading to lower Newport Bay. While there would be temporary effect on marine species that have colonized the rock revetment, such an impact is anticipated to be temporary in nature and such species would be anticipated to quickly recolonize following completion of the project. A majority of the length of the jetty will not be affected by the proposed project. No species with special status are anticipated to be affected by the proposed project.

In conclusion, the Commission staff **agrees** that the proposed project would not adversely affect coastal resources. We therefore **concur** with your negative determination made pursuant to Section 15 CFR 930.35(d) of the NOAA implementing regulations. Please contact John Weber of the Commission staff at (415) 904-5245 should you have any questions regarding this matter.

Sincerely,

(for) 

John Ainsworth
Executive Director

Cc: CCC - South Coast Office

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October 2, 2020

Paul Enriquez, Director
Acquisitions, Real Estate, and Environmental
Program Management Office Directorate
U.S. Customs and Border Patrol
Department of Homeland Security
Washington DC 20229

Attention: Paul Schmidt, CBP

Subject: Negative Determination ND-0026-20 (Deployment of Portable/ Relocatable Tower
Surveillance Systems at Gaviota and Refugio State Parks, Santa Barbara County)

Dear Mr. Enriquez:

The Coastal Commission staff has reviewed the above-referenced negative determination, dated July 30, for the U.S. Customs and Border Patrol (CBP) proposal to deploy a portable/relocatable tower surveillance system at two locations in Santa Barbara County. The CBP originally proposed an up to 80-foot tall tower to be deployed in rotation at an abandoned, already developed parking area inland of Highway 1, near Gaviota State Park and Santa Barbara County Fire Department Station 38 (the Gaviota site), and adjacent to the operations and maintenance area at Refugio State Beach (the Refugio site). Both sites are on land owned by the California Department of Parks and Recreation, which has issued rights-of-entry authorizations to CBP for both sites.

The proposed project is intended to assess surveillance technology related to operations such as searching for drug-smuggling panga boats landing along the Santa Barbara County coast. The proposed project is for the installation, operation, maintenance, repair, dismantlement, and removal of a trailer based, relocatable surveillance tower for a period not to exceed one year (beginning November 1, 2020). One tower would be moved between the Gaviota and Refugio sites over the course of the year; details of deployment timelines and strategy are classified for security reasons. The tower would be on a towable trailer with solar panels and battery power as the primary power source (electrical grid power could also be used if available). In addition, the project includes an eight-foot-tall non-ground penetrating security fence and grounding rods inserted into the soil to provide protection from lightning. No vegetation clearing is anticipated as part of the project, as the Gaviota and Refugio sites are already developed and have existing access roads for vehicle access.

Both sites are in a scenic portion of the Santa Barbara coast, which is mostly undeveloped but does have some existing development including utility lines and scattered buildings.

For example, the Gaviota site is located inland of Highway 1, downhill from an existing County fire station, and west of the developed All American pipeline site. The Refugio site is seaward of Highway 1, immediately adjacent to land that contains State Parks maintenance facilities.

The CBP originally proposed a tower that would be up to 80 feet in height for deployment at both sites. Commission staff requested a visual analysis of an 80-foot and a 30-foot tower at both the Gaviota and Refugio sites, particularly to assess the potential visibility of the tower at public access areas at the State Park properties. This analysis indicated that a 30-foot tower would have a reduced visible effect on public recreation and use areas at both sites. For example, a 30-foot tower at the Refugio site would not be visible from the beach, although an 80-foot tower would be. Similarly, a 30-foot tower at the Gaviota site would not be visible at the beach or the bluffs at Gaviota State Park, while an 80-foot tower would be visible from the bluffs. The project visual analysis indicated that a 30-foot tower would be visible from portions of Highway 1 over a much shorter distance (approximately a quarter of a mile) than an 80-foot tower (a mile or more) at both sites.

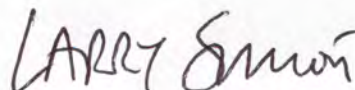
Following the review of this visual analysis and discussion with staff, CBP has agreed to limit the height of the deployed tower to 30 feet for both sites. On this basis, as well as the temporary nature of this proposal, the proposed project protects coastal and ocean views and minimizes the alteration of natural land forms, in accordance with the Coastal Act.

No vegetation clearing or excavation will occur as a result of the proposed project, as the project sites are already developed. Thus, no wildlife, habitat, or cultural resource impacts are anticipated as a result of the proposed project.

The proposal is for a temporary deployment of the surveillance tower system. Should CBP propose to deploy such a system beyond the proposed one year timeframe, Commission staff and CBP have discussed the need for additional Commission review of such a proposal, pursuant to the federal consistency regulations at 15 CFR §930.30 *et seq.*

In conclusion, the Commission staff **agrees** that the proposed project would not adversely affect coastal resources. We therefore **concur** with your negative determination made pursuant to Section 15 CFR §930.35(d) of the NOAA implementing regulations. Please contact John Weber of the Commission staff at (415) 904-5245 should you have any questions regarding this matter.

Sincerely,



FOR

John Ainsworth
Executive Director

cc: CCC Ventura

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September 25, 2020

Ed Burns
NRCS Bay Delta/Central Coast Biologist
Natural Resources Conservation Service
Salinas Area Office
744-A La Guardia Street
Salinas, CA 93905

Subject: Negative Determination **ND-0028-20** (Arroyo Hondo Creek Planting, Arroyo Hondo Preserve, Santa Barbara County)

Dear Mr. Burns:

The Coastal Commission staff has reviewed the above-referenced negative determination. The Natural Resources Conservation Service (NRCS) proposes to plant 0.25 acres of native upland vegetation north of Arroyo Hondo Creek located within the Arroyo Hondo Preserve ("Preserve"), a 782-acre ranch in Santa Barbara County managed by The Land Trust of Santa Barbara County ("The Land Trust"). The proposed project involves hand planting native shrubs, grasses, and trees from local native nursery stock. Planting would involve techniques including mulching, weeding, and irrigation, that have proven to be successful in past projects by The Land Trust. The purpose of the project is to support local wildlife, including pollinating species, and to improve native plant populations within the Preserve.

The proposed project would not result in any adverse effects on natural or cultural resources. NRCS proposes to use hand tools to plant native vegetation which would not adversely affect Arroyo Hondo Creek. The project area does not occur within or adjacent to an environmentally sensitive habitat area, as defined by the California Coastal Act. NRCS archaeologists worked with the State Historic Preservation Officer and determined that the project would not have any adverse effects on cultural resources.

The Commission staff **agrees** with your conclusion that the proposed planting would benefit the Preserve and would not adversely affect coastal resources. We therefore concur with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations. Please contact Alexis Barrera at Alexis.Barrera@coastal.ca.gov should you have any questions regarding this matter.

Sincerely,

John Ainsworth
For JOHN AINSWORTH
Executive Director

cc: CCC - South Central District

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September 17, 2020

Colonel Anthony J. Mastalir
30 SW/CC
747 Nebraska Ave Suite A203
Vandenberg AFB CA 93437

Subject: Negative Determination ND-0029-20 (Vandenberg Dunes Golf Resort,
Vandenberg Air Force Base)

Dear Colonel Mastalir:

The Coastal Commission staff has reviewed the above-referenced negative determination, dated August 21, for the United States Air Force (Air Force) proposal to construct and operate the Vandenberg Dunes Golf Resort at Vandenberg Air Force Base (VAFB). The proposed project would be located on VAFB land northwest of the intersection of San Antonio Road West and Lompoc-Casmalia Road, and east of El Rancho Oeste Road. San Antonio Creek, a perennial stream that flows roughly east-west through VAFB, is on the southern edge of the project site. The approximately 1,273-acre project site is mostly undeveloped, except for the 250-acre former Marshallia Ranch Golf Course (presently not in operation), various roads, and a decommissioned Titan I launch facility.

Project description¹

The Air Force describes the project as including up to five "links-style" golf courses and provides a map identifying the location of three of them, stating that a fourth golf course is not yet designed and the fifth is "not confirmed at this time." Maps accompanying the Air

¹ A version of this project was originally the subject of an Air Force consistency determination submitted to the Commission on October 23, 2019. The Air Force withdrew this consistency determination on January 21, 2020, stating that the private developer for the proposed project would be responsible for meeting CZMA requirements by submitting a consistency certification (pursuant to 15 CFR §930.35 *et seq*). On February 6, 2020, Commission staff received an email from the Air Force stating that the Air Force considered the proposed project a federal project and thus would be submitting a project consistency determination. The project described in this Air Force negative determination is mostly the same as originally proposed, with the exception of the project's water supply (now proposed to be from the California Water Project) and the relocation of a certain project elements (a proposed road and utility line, e.g.) outside of the coastal zone.

Force negative determination provide potential locations of four of these golf courses and also depict potential locations² of other project elements, which include:

- practice grounds;
- a reception/starter facility;
- a wastewater treatment system connected to a proposed water storage pond;
- a two-story, 47,000-square-foot lodge;
- between 50 and 70 individual lodging units;
- a 215,000 square-foot maintenance complex;
- an up to 20,000 square-foot barn for use as a mechanics bay³;
- three metal-sided storage barns (approximately 10,000-15,000 square feet each)³;
- a fueling island, fertilizer and pesticide storage facility and open-top concrete storage bins for sand, soil, and gravel³;
- a maintenance equipment and vehicle washing area with a fully contained vault-type wastewater collection system³;
- Reconfiguration of existing roadways to provide access to components of the proposed project while maintaining government-authorized vehicle traffic access areas (including security measures such as an asymmetric V-shaped security ditch);
- a seven-acre water storage pond;
- an underground, 2.4 mile-long water supply system to supply potable water for irrigation;
- Replacement of existing aerial powerline with new underground powerline, and installation of new underground and overhead power lines to provide electricity to the development.

Review of Air Force negative determination

Coordination between the Air Force and Commission staff regarding the proposed project has been ongoing since 2019. Following initial review of the Air Force's October 23, 2019 consistency determination for the project, Commission staff provided information requests in a November 1, 2019 letter to the Air Force, and this letter was the subject of subsequent discussions with the Air Force and the private developer of the golf courses. The Commission's November 1 letter requested information regarding project alternatives, public access, wastewater treatment, utility construction, stormwater management, site grading, landscaping, and future maintenance activities. This November 1 letter also requested information regarding potentially affected coastal natural resources (plant and animal species and habitats) and cultural resources, project interactions with such resources, and proposed mitigation measures for impacts.

² Maps depicting proposed utility locations include a note that "[u]tility locations are approximate subject to change pending submission of final engineering designs." The map of golf course layouts states that "[a]djustments to designed courses to be completed during construction to contain courses within [the project] area boundary and to exclude wetlands and aquatic features designated for construction."

³ The location of this feature is not depicted on the maps accompanying the negative determination.

The August 21 Air Force negative determination contains a brief discussion of potential project effects to California red-logged frog and Monarch butterfly, referencing ongoing consultation with the U.S. Fish and Wildlife Service (USFWS). It does not include information on the other species and habitats requested by Commission staff in its November 1 letter. The August 21 Air Force letter concludes by stating that "...constructing and operating the Project would not affect coastal uses or resources (including natural, cultural and paleontological resources, access to the coast, or coastal scenic and visual qualities)." This conclusion appears to be largely dependent on a previous Air Force statement that "...all project elements...would be wholly constructed and operated outside the Coastal Zone, no construction or development will occur within a designated 150 foot buffer zone from the Coastal Zone..., and no effects will reach the coastal zone."⁴

As the federal consistency regulations state at 15 CFR Section §930.34(a)(1), "Federal agencies shall provide State agencies with consistency determinations for all Federal agency activities affecting any coastal use or resource." Federal agencies shall determine which activities affect coastal uses or resources by "...looking at reasonably foreseeable direct and indirect effects on any coastal use or resource" [15 CFR §930.33(a)(1)]—the "effects test," which is also applicable to projects outside of the coastal zone [see 15 CFR §930.33(c)]. Thus, the results of the effects test are a determining factor in assessing the need for a consistency determination. For the proposed project, as summarized below, Commission staff believes that the proposed project clearly has reasonably foreseeable effects on coastal uses or resources. The animal species that could be affected by the proposed project are mobile and are found throughout the coastal zone (see examples below). In situations where rare, threatened, or endangered plant or animal species (or their habitats) are subject to adverse effects outside the coastal zone, such effects constitute effects on coastal resources because they threaten the viability of the populations of those species within the coastal zone.

The Commission staff's November 1 letter to the Air Force requested presence, distribution, and abundance information for coastal species and habitats⁵ which could be affected by the proposed project, including:

- San Luis Obispo Monardello (*Monardello undulata ssp undulata*)
- Suffrutescens wallflower (*Erysimum insulare ssp. suffrutescens*)
- Black flowered figwort (*Scrophularia atrata*)
- Seacliff buckwheat (*Eriogonum parvifolium*)

⁴ August 21, 2020 negative determination letter from VAFB to CCC for the Vandenberg Dunes Golf Resort, pages 7-8.

⁵ These species have special status under the California Endangered Species Act and/or are included in the Native Plant Society Inventory of Rare and Endangered Species of California. Sources such as the Integrated Natural Resources Management Plan for VAFB, a draft biological assessment prepared for the project, and the Air Force's October 23, 2019 consistency determination document the presence of these species, or habitat for these species, in the project footprint.

- Coast horned lizard (*Phrynosoma blainvillii*)
- California legless lizard (*Anniella pulchra*)
- Thompson's big-eared bat (*Corynorhinus townsendii*)
- Pallid bat (*Antrozous pallidus*)
- Western red bat (*Lasiurus blossevillei*)
- American badger (*Taxidea taxus*)
- San Diego desert woodrat (*Neotoma lepida intermedia*)
- Little willow flycatcher (*Empidonax traillii*)
- Southwestern willow flycatcher (*Empidonax traillii extimus*)
- El Segundo Blue Butterfly (*Euphilotes battoides allyni*)
- Monarch Butterfly (*Danaus plexippus*)
- California red-legged frog (*Rana draytonii*)
- Tidewater goby (*Eucyclogobius newberryi*)
- Unarmored threespine stickleback (*Gasterosteus aculeatus*)

These species are found throughout the California coastal zone across the state (beyond the boundary of VAFB). These species and/or their habitats are known to occur on or in close proximity to the proposed project site, and the project would directly affect them through activities (e.g., vegetation and tree removal and soil grading) associated with the project. As an example, this letter will focus on potential effects to the Monarch butterfly.

The Monarch butterfly is presently under USFWS review for Endangered Species Act (ESA) listing with a decision anticipated in December 2020. Monarch butterflies have an eastern and western U.S. population, and the western population is known to overwinter in coastal California at the completion of their southward and coast-ward migration in September and October. Western monarch population counts document declines over the last two decades of approximately 75%, with 2020 data suggesting that the number of western monarchs overwintering in California is less than 1% of historic levels.⁶ Overwintering Monarch butterflies are found along the California coast south of Mendocino County,⁷ and typically occupy tree groves (the majority within 1.5 miles of the Pacific Ocean) at elevations less than 300 feet that are large enough to provide necessary microclimates for monarch survival.⁸ Overwintering Monarch butterflies use non-native eucalyptus (*Eucalyptus* spp.), Monterey pine (*Pinus radiata*), Monterey cypress (*Cupressus macrocarpa*), western sycamore (*Platanus racemosa*), and other native trees when available and when suitable for protection from winter storms and cold. In southern coastal California, monarch butterflies breed year-round, but other more northern wintering

⁶ Blog post: [Vanishing butterfly groves of California](#)

⁷ The [Western Monarch Milkweed Mapper](#) includes a map of monarch sightings as well as milkweed habitat locations.

⁸ Western Monarch Butterfly Conservation Plan 2019-2069, Western Association of Fish and Wildlife Agencies, January 2019. Page 11. This plan identifies threats to the species and describes conservation strategies to meet identified population and habitat goals.

sites are for overwintering only.⁹ Monarch butterfly habitat during migration includes nectar plants and trees for roosting; breeding habitat features native milkweeds.

The VAFB Integrated Natural Resources Management Plan identifies Monarch butterfly as a featured species of the eucalyptus woodland base-wide. The Marshallia Monarch butterfly grove, a 13-acre Monarch aggregation site located within the overall project footprint, provides over-wintering habitat for Monarch butterflies: 1000 individuals in December 2016 and 4,400 in January 1999.¹⁰ Information provided in a Monarch butterfly habitat mitigation and monitoring plan, included as an appendix to the draft biological assessment for the proposed project previously provided to Commission staff, provides a general summary of Monarch butterfly counts at this grove, but it is not clear whether the referenced surveys were focused on the species or were conducted opportunistically. The Air Force negative determination states that “[c]ounts were not conducted between 2000 and 2010. Between 2011 and 2016, counts conducted in the month of November recorded small numbers of butterflies. In November 2017, 49 butterflies were present...” but does not describe the nature of the surveys from which these counts were obtained.

The Air Force negative determination states that the proposed project would include removing 60 acres of eucalyptus trees within the project footprint with approximately four acres of the Marshallia eucalyptus grove remaining. The exact configuration of the remaining four-acre grove is not provided. As compensation for this loss of Monarch butterfly habitat, the negative determination states that “approximately 3.8 acres of monarch butterfly aggregation habitat elsewhere on VAFB would be enhanced/ restored, and an aggregation site would be created at the corner of El Rancho Lateral Road and Lompoc-Casmalia Road.” No further details for these measures are provided. Additionally, the negative determination states that \$50,000 was provided in 2018 to California Polytechnic State University to identify regional Monarch butterfly aggregation sites.

It is not certain if the proposed mitigation measures would adequately compensate for the potential loss of over-wintering Monarch butterfly habitat resulting from the proposed project. Additionally, the exact location and size of Monarch butterfly habitat that would remain following the project is not certain. However, it is clear from the project description that there would be effects to this coastal species as a result of the proposed project.

The proposed project also includes reasonably foreseeable effects to aquatic species in San Antonio Creek such as the tidewater goby, unarmored threespine stickleback, and the California red-legged frog (CRLF). CRLF is a coastal species, found in drainages and wetlands throughout the California coastal zone from Sonoma County south to Riverside County, and is dependent on aquatic habitats such as wetlands located within the project

⁹ *Ibid*, Page 7.

¹⁰ Habitat Mitigation and Monitoring Plan for Monarch Butterfly Habitat, Vandenberg Dunes Golf Course, Vandenberg Air Force Base. Althouse and Meade, Inc. September 2019.

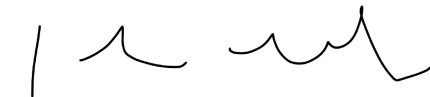
footprint and the riparian area of San Antonio Creek¹¹. The draft biological assessment prepared for the proposed project stated that “[t]he golf courses Project Area and Project Work Footprint contain aquatic features suitable for CRLF inhabitation. Breeding has been documented in some of these features in the past. In addition, the Project Work Footprint constitutes suitable CRLF upland habitat.”¹² The August 21 negative determination notes that the Air Force is presently consulting with the USFWS pursuant to the ESA, following a finding that the Proposed Action is likely to adversely affect CRLF. For example, CRLF would be affected by stormwater runoff resulting from construction activities and the creation of impervious surfaces associated with the project.

The CRLF and Monarch butterfly are two examples of how the proposed project, as described in the negative determination, could affect coastal resources. Commission staff notes that the project could affect other coastal resources as well, for example such as listed on pages 3-4 of this letter.

Therefore, in summary, staff believes that the proposed project has reasonably foreseeable effects to coastal resources. Therefore, we **disagree** with the Air Force’s conclusion that the proposed project activities would not affect any resource of the California coastal zone. We therefore **object** to your negative determination made pursuant to 15 CFR §930.35 of the CZMA federal consistency regulations and request submittal of a consistency determination for the Vandenberg Dunes Golf Resort, with a complete analysis of the project’s consistency with enforceable policies of the California Coastal Management Program (i.e., the Chapter 3 policies of the Coastal Act). Please contact Larry Simon at Larry.Simon@coastal.ca.gov or John Weber at John.Weber@coastal.ca.gov if you have any questions regarding this matter.

Sincerely,

(For)



John Ainsworth
Executive Director

Cc: VAFB – Darryl York, Tracy Curry
USFWS Ventura Field Office – Chris Diel, Lena Chang
CCC – Central Coast District
NOAA Office of Coastal Management – David Kaiser, Kerry Kehoe

¹¹ The US Fish and Wildlife Service describes CRLF as requiring certain habitat features such as a “...breeding pond, or slow-flowing stream reach or deep pool within a stream with vegetation of other material to which egg masses may be attached” and states that “[riparian] areas and upland habitats adjacent to aquatic areas used by the California red-legged frog are essential in maintaining frog populations...” (Revised Designation of Critical Habitat for the California Red-legged Frog, US Fish and Wildlife Service final rule, March 17, 2010. Federal Register 61 FR 25813).

¹² Potential effects to California Red-legged frog, El Segundo Blue Butterfly, Tidewater Goby, Unarmored Threespine Stickleback, and Beach Layia, Vandenberg Dunes Golf Courses Project, Vandenberg Air Force Base. Prepared by AECOM Technical Services, September 25, 2019, page 16.