

**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



# F11

**Prepared February 07, 2020 (for the February 14, 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 February 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 February 14, 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 February 14th.

With respect to the February 14th 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 February 14, 2020 (see attached)**

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### **Immaterial Amendments**

- 9-14-1735-A5, Temporary Slant Test Well Project (Cemex, Inc. Lapis Plant, Lappis Road, Marina)
- 9-16-1153-A1, Marine BioEnergy (Santa Catalina Island)
- 1-93-73-A2, Charles Friend Oyster Company, Marin Co. (Tomales Bay)

### **Negative Determinations and No Effect Letters**

Administrative Items for Federal Consistency Matters

- **ND-0002-20, U.S. Coast Guard, Action: Concur, 1/13/2020**  
Upgrade eight Aids to Navigation located at Bodega Bay Harbor and Moss Landing Harbor, Sonoma and Monterey Counties.
- **ND-0027-19, U.S. Fish and Wildlife Service, Action: Concur, 12/18/2019**

Multiple-year program to conduct mechanical and chemical control of non-native invasive plants in the Tijuana River Valley within the boundaries of the Tijuana Slough National Wildlife Refuge, San Diego County.

- **ND-0031-19, Department of the Navy, Action: Concur, 12/31/2019**

Navy, Floating Dry Dock, east side of San Diego Bay, south berth of the Mole Pier, Naval Base San Diego, including dock placement, dredging, sediment disposal, minor demolition work, installing dolphins and fenders, and utility infrastructure

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

**NOTICE OF PROPOSED IMMATERIAL PERMIT AMENDMENT****9-14-1735-A5 / A-3-MRA-14-0050-A5**

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**TO:** All Interested Parties

**FROM:** John Ainsworth, Executive Director

**DATE:** January 31, 2020

**SUBJECT:** Application to amend Coastal Development Permits No. 9-13-1735 / A-3-MRA-14-0050 granted to California American Water Company (“Cal-Am”) for constructing, operating, and decommissioning a test well, along Monterey Bay shoreline, Monterey County.

Cal-Am has requested the above coastal development permits (“CDPs”) be amended to allow its existing test well to remain in place for an additional year (until February 28, 2021). The Executive Director has determined that the requested project change as described herein may be approved as an immaterial amendment to the CDP, as it would result in only a minor change to the currently approved development.

**Background and Project Description:** In November 2014, the Commission approved CDPs for Cal-Am to construct, operate, and decommission a test slant well and associated monitoring wells and other infrastructure in the City of Marina near the shoreline of Monterey Bay.<sup>1</sup> The project purpose was to conduct a pump test program to obtain data describing the geologic, hydrogeologic, and water quality characteristics in aquifers underlying the project area to see if the site would be suitable for wells that could be used by a long-term desalination facility. In February 2015, Cal-Am completed installation and started the pump test, which ran until June 2015 when monitoring detected that groundwater levels were approaching a permit threshold that required Cal-Am to shut down the test and obtain a permit amendment. In November 2015, the Commission approved an amendment to modify the groundwater monitoring requirements and Cal-Am restarted its pump test.<sup>2</sup> On April 15, 2016, the Commission approved a further amendment to allow Cal-Am to modify its discharge pipe and to require additional monitoring of the pipe area. On December 13, 2017, the Commission approved an immaterial amendment to the permit providing an additional year for the test well to remain in place. Cal-Am ended its full-time pump tests on February 28, 2018. On November 9, 2018, the Commission approved an immaterial amendment to the permit allowing the test well to remain in place an additional year, until February 28, 2019.

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<sup>1</sup> The project is partially within the Commission’s retained jurisdiction and partially within the jurisdiction of the City of Marina’s certified Local Coastal Program. The Commission accepted an appeal of the City CDP decision and approved the portions of Cal-Am’s project within both jurisdictions.

<sup>2</sup> See Commission’s Final Adopted Findings for 9-14-1735-A1 and A-3-MRA-14-0050-A1, November 2015.

**Requested Amendment:** On December 6, 2019 Cal-Am submitted an application to the Commission requesting the CDPs be further amended to allow the existing test well to remain in place for an additional year. **Special Condition 6** of the current CDPs as amended requires no later than February 28, 2020 that Cal-Am complete its pump test, cut off, cap, and bury the slant well head, and remove all other associated temporary facilities. Cal-Am is now requesting that deadline be extended to February 28, 2021. As part of its request, Cal-Am states that it will not operate the well other than to provide limited periodic maintenance pumping (i.e., up to a few hours each week) during this one-year extension, just as it has done since ending its full-time pump tests in February of this year.

The previous one-year extension was to allow the test well facilities to remain in place while Cal-Am completed its CEQA and NEPA review processes with the California Public Utilities Commission (“CPUC”) and the Monterey Bay National Marine Sanctuary (“MBNMS”). Those reviews were completed earlier this year. Cal-Am is proposing this additional one-year extension to allow the well to remain in place during the Commission’s review of Cal-Am’s requests for CDPs that could authorize the use of the test well facilities as part of Cal-Am’s proposal to construct additional wells and infrastructure nearby that would serve a desalination facility to be located further inland.<sup>3</sup> If the additional wells and infrastructure are not approved by the Commission, Cal-Am would still be required to remove the test well and its associated infrastructure, but not until February 28, 2021. Should these permit review processes take longer than currently anticipated, Cal-Am may also request a subsequent extension of these CDPs.

Cal-Am has requested the change shown below in strikethrough and bold underline text to the currently-amended **Special Condition 6** of the CDP:

***“Monitoring and Removal of Temporary Structures, Well Head Burial & Well Closure/Destruction.*** *The Permittee shall monitor beach erosion at least once per week over the duration of the project to ensure the slant well and monitoring wells remain covered. If the wellheads, linings, casings, or other project components become exposed due to erosion, shifting sand or other factors, the Permittee shall immediately take action to reduce any danger to the public or to marine life. When components of the discharge pipeline below the connection to the outfall are exposed, the Permittee shall conduct monitoring, including photographic documentation of the exposed components, at least once per day until the components are naturally reburied, after which erosion monitoring shall be done no less than once per week. When components are exposed, the Permittee shall also post notices at the nearest upcoast and downcoast vertical public access points informing the public of the exposed components. The Permittee shall provide monitoring records, photographs, and proof of the above public notices to the Executive Director upon request.*

*Prior to conducting any repairs or reinstallation of exposed equipment that require construction methods other than the hand methods described in Amendment 2 of this permit, the Permittee shall apply for and obtain a permit amendment unless the Executive Director determines no such amendment is necessary.*

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<sup>3</sup> On November 14, 2019, the Commission found that substantial issue existed regarding an appeal of the City’s denial of Cal-Am’s CDP application and additionally continued the hearing for the consolidated permit review being conducted by the Commission.

*The Permittee shall complete its regular test slant well pumping operations by February 28, 2018. Thereafter, the Permittee may conduct limited periodic maintenance pumping necessary to maintain the test slant well. No later than February 28, ~~2020~~**2021**, the Permittee shall cut off, cap, and bury the slant well head at least 40 feet below the ground surface, and shall completely remove all other temporary facilities approved by this coastal development permit. To ensure timely removal, the Permittee shall post the bond or other surety device as required by **Special Condition 17** to ensure future removal measures would be appropriately supported and timed to prevent any future resurfacing of the well casing or other project components.*

**FINDINGS: THE PROPOSED AMENDMENT HAS BEEN DEEMED “IMMATERIAL” FOR THE FOLLOWING REASONS:**

- **Public Access:** The proposed amendment would delay for up to one year any required decommissioning activities. The project would remain subject to the CDP’s other special conditions, including the terms of **Special Condition 6** above that require monitoring and notification to avoid potential adverse effects to public access to the shoreline.
- **Biological and Marine Resources:** Although the proposed amendment would delay decommissioning activities, the project would remain subject to the CDP’s other special conditions, including those that require biological monitoring and that provide for the approved biologist(s) to halt any work activities that may affect special-status species or habitat near the project location. It would also eliminate the potential that Cal-Am’s decommissioning work, if started now to comply with the required removal by February 28, 2020, could nonetheless extend into the breeding/nesting season of the federally threatened western snowy plover (*Charadrius nivosus nivosus*), which starts on March 1 of each year. The proposed amendment will not result in new development in currently undisturbed areas of the site.

**Immaterial Permit Amendment**

Pursuant to the California Code of Regulations—Title 14, Division 5.5, Volume 19, section 13166(b)—the Executive Director has determined this amendment to be IMMATERIAL.

Pursuant to section 13166(b)(1), if no written objection to this notice of immaterial amendment is received at the Commission office within ten (10) working days of mailing said notice, the determination of immateriality shall be conclusive and the amendment shall be approved.

Pursuant to section 13166(b)(2), if a written objection to this notice of an immaterial amendment is received within ten (10) working days of mailing notice, and the executive director determines that the objection does not raise an issue of conformity with the Coastal Act or certified local coastal program if applicable, the immaterial amendment shall not be effective until the amendment and objection are reported to the Commission at its next regularly scheduled meeting. If any three (3) Commissioners object to the executive director’s designation of immateriality, the amendment application shall be referred to the Commission for action as set forth in section 13166(c). Otherwise, the immaterial amendment shall become effective.

Pursuant to section 13166(b)(3), if a written objection to this notice of an immaterial amendment is received within ten (10) working days of mailing notice, and the executive director determines that the objection does raise an issue of conformity with the Coastal Act or a certified local coastal program if applicable, the immaterial amendment application shall be referred to the Commission for action as set forth in section 13166(c).

If you wish to register an objection to this notice, please send the objection in writing to Tom Luster at the above address. If you have any questions, you may contact him at (415) 904-5248 or via email at [tluster@coastal.ca.gov](mailto:tluster@coastal.ca.gov).

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## NOTICE OF PROPOSED IMMATERIAL PERMIT AMENDMENT

Coastal Development Permit Amendment No. **9-16-1153-A1**

January 29, 2020

**To:** All Interested Parties

**From:** John Ainsworth, Executive Director

**Subject:** Permit No. **9-16-1153** granted to **Marine BioEnergy, Inc.** for: installation and operation for three years of up to five offshore experimental kelp cultivation systems.

**Project Site:** Offshore (near Howlands Landing/Eagle Rock), Santa Catalina Island, Los Angeles County.

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):

Revision to Special Condition 1 to reflect the new expiration date of April 20, 2025 for the General Lease issued by the California State Lands Commission and the coastal development permit.

### 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):

- A five year extension of the General Lease for the project was approved by the California State Lands Commission in November of 2019. The lease now expires on April 20, 2025.
- The buoys have been inspected on a weekly or bi-weekly basis since installation and have shown no signs of damage or loss, indicating that interactions with fishing gear and/or marine wildlife has not occurred.
- Operation of the experimental kelp cultivation facilities has been carried out consistent with the resource protection measures included in the coastal development permit and no unforeseen issues or adverse impacts have arisen. Aside from the revision to Special Condition 1, all other Special Conditions would be unaltered and remain in

## Notice of Proposed Immaterial Permit Amendment

9-16-1153-A1

effect, including implementation of the approved Spill Prevention and Response Plan, use of a marine wildlife monitor during all installation activities, publication of a Notice to Mariners in advance of all work at the project site, and maintenance of a Letter of Credit to cover removal costs.

- Due to the failure of electronic equipment and other maintenance issues, the experimental kelp cultivation structures were recovered from the water several times during the experimental period and were not in place for the expected and authorized duration. Extension of this authorization for five years would allow the initially proposed experimental period to be completed and would not raise any coastal resource issues that were not considered and addressed by the Commission as part of its initial three-year authorization.

If you have any questions about the proposal or wish to register an objection, please contact Cassidy Teufel at the phone number provided above.

cc: Commissioners/File

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CALIFORNIA 94105-2219  
PH (415) 904-5260 OR (415) 904-5200 FAX (415) 904-5400  
[WWW.COASTAL.CA.GOV](http://WWW.COASTAL.CA.GOV)



## NOTICE OF PROPOSED IMMATERIAL PERMIT AMENDMENT

Coastal Development Permit Amendment No. **1-93-073-A2**

January 29, 2020

**To:** All Interested Parties

**From:** John Ainsworth, Executive Director

**Subject:** Permit No. **1-93-073-A1** granted to **Charles Friend Oyster Company** for: oyster aquaculture in Tomales Bay on State Lease No. M-430-04.

**Project Site:** Approximately 62 acre intertidal and subtidal area near the mouth of Walker Creek in Tomales Bay, Marin County.

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):

Revision to Special Condition 4 to reflect the new expiration date of March 1, 2034 for the coastal development permit and State Water Bottom Lease No. M-430-04 issued by the California Fish and Game Commission.

### 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):

- In December of 2019, the California Fish and Game Commission extended by 15 years the lease term for State Water Bottom Lease No. M-430-04. This lease is now set to expire on March 1, 2034. Because Special Condition 4 of CDP No. 1-93-73-A1 establishes a permit term that matches the previous lease term and is set to expire on February 29, 2020, Charles Friend Oyster Company is seeking to change that special condition to reflect the new lease term.
- Charles Friend Oyster Company's activities on State Water Bottom Lease No. M-430-04 have been carried out consistent with the resource protection requirements established in CDP No. 1-93-73-A1, including those focused on preventing marine

## **Notice of Proposed Immaterial Permit Amendment**

1-93-073-A2

debris and protecting eelgrass. During the term of this permit, no compliance issues or adverse impacts to coastal resources have arisen.

- Charles Friend Oyster Company's proposal to continue operating its oyster aquaculture facility on State Water Bottom Lease No. M-430-04, consistent with the requirements of its CDP, would not raise any coastal resource issues that were not previously considered and addressed by the Commission through CDP No. 1-93-73-A1.

If you have any questions about the proposal or wish to register an objection, please contact Cassidy Teufel at the phone number provided above.

cc: Commissioners/File



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January 13, 2020

Dave Stalters  
Chief, Environmental Division  
U. S. Coast Guard  
Civil Engineering Unit Oakland  
Attn: Constance Callahan  
1301 Clay St., Suite 700N  
Oakland, CA 94612-5203

Subject: Negative Determination ND-0002-20 (Upgrade of Eight Aid to Navigation Structures at Bodega Harbor (Sonoma County) and Moss Landing Harbor (Monterey County))

Dear Mr. Stalters:

The Coastal Commission staff has reviewed the above-referenced negative determination submitted by the U.S. Coast Guard to upgrade eight deteriorated Aid to Navigation (ATON) structures at the following sites in central California:

- Bodega Harbor Channel DBN 22
- Bodega Harbor Channel DBN 44
- Bodega Harbor Channel Light 2
- Bodega Harbor Chanel DBN 18
- Bodega Harbor Channel Daybeacon 35
- Moss Landing Harbor Entrance Range Rear Light
- Moss Landing Harbor Channel Daybeacon 5
- Moss Landing Harbor Channel Light 4

ATONs mark federal channels and aid vessel navigation by noting hazards. Their upkeep and maintenance is critical for aiding navigation and is federally mandated. The upgrades are scheduled for June 1 to November 30 at Bodega Bay and June 15 to October 15 at Moss Landing. Construction work at each ATON is expected to take no more than two days.

Cumulatively, the project requires the in-water removal of three steel piles and two temporary buoys, installation of six steel piles, and replacement of two baskets/headers on existing ATONs. The end result is an overall reduction of the total subsurface footprint of the ATONs of approximately 14 square-feet. No dredging or sediment transport is required. When placing piles, a vibratory hammer would be used to drive the pile to the desired depth, typically 30 feet below the mudline or until refusal. Piles would not be placed with an impact hammer. Individual pile placement is expected to take less than one hour and could be as fast as 30 minutes, and operations would be sequentially ramped-up to give wildlife time to clear the project area. If an

ATON has an active bird nest, work would be delayed until the nests are inactive and fledglings have departed. If delay is infeasible, the Coast Guard will coordinate with the U.S. Fish and Wildlife Service under the provisions of the Migratory Bird Treaty Act. Standard construction best management practices would be implemented to protect water quality. Solar panels would be attached to each structure to supply power. The upgraded ATONs would not affect scenic views in any manner different from the existing structures.

Under the federal consistency regulations (Section 930.35), a negative determination can be submitted for an activity "which is the same as or similar to activities for which consistency determinations have been prepared in the past." The Commission staff has concurred with past Coast Guard negative determinations for ATON upgrades and replacements throughout the coastal zone, including ND-032-94, ND-096-95, ND-085-97, ND-129-98, ND-081-99, ND-022-07, ND-002-08, ND-056-12, ND-006-13, ND-0013-15, ND-0027-18, and ND-0028-19. Where sensitive coastal resources were present in those cases, the Coast Guard agreed to implement similar measures to those described in the previous paragraph. We agree that the proposed project would be "the same as or similar to" the ATON structure upgrades and replacements we previously concurred with, and would not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR 930.35 of the NOAA implementing regulations. Please contact Larry Simon at (415) 904-5288 should you have any questions regarding this matter.

Sincerely,



FOR

JOHN AINSWORTH  
Executive Director

cc: CCC – North Central Coast and Central Coast Districts

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December 18, 2019

Andrew Yuen  
Project Leader  
San Diego NWR Complex  
U.S. Fish and Wildlife Service  
ATTN: Victoria Touchstone  
1080 Gunpowder Point Drive  
Chula Vista, CA 91910

Subject: Negative Determination ND-0027-19 (Non-Native Invasive Plant Control, Tijuana Slough National Wildlife Refuge, San Diego County)

Dear Mr. Yuen:

The Coastal Commission staff has reviewed the above-referenced negative determination. The U.S. Fish and Wildlife Service (“Service”) proposes to implement a five-year program of mechanical and chemical control of non-native invasive plants within riparian and upland habitats in the Tijuana River Valley on federal lands within the boundary of the Tijuana Slough National Wildlife Refuge (“Refuge”). The approximately 205-acre project area includes land held in fee title by the Service and adjacent U.S. Navy property managed by the Service. The Service states that riparian habitat within the project area is infested with a range of invasive tree and shrub species (e.g., giant reed, salt cedar, castor bean, and palms) that increase wildfire risk, adversely affect habitat quality for riparian nesting bird species, and impair access and visibility in the area for Service and Border Patrol personnel.

The proposed project includes selectively cutting invasive trees and shrubs using hand and power tools, treating the stumps with herbicide, and leaving native vegetation undisturbed. No removal of below-ground root systems or other soil disturbance is proposed. Targeted spot treatment of seedlings and re-sprouts using a hand-carried, low volume herbicide spray application would generally be limited to use in subsequent years after initial cutting and stump treatments. The Service will move cut materials to disturbed areas outside the Tijuana River floodway. Depending on the species, cut material would be chipped and left onsite or removed for disposal at an approved off-site location. Existing trails and informal pathways would be used to reach the treatment areas and are able to accommodate project personnel and all-terrain vehicles needed to transport cut materials out of treatment areas. In addition, some of the accessible and downed wood that is within the treatment areas as a result of a recent and significant die-off of native willows following a Kuroshio shot hole borer beetle infestation may also be removed. Follow-up

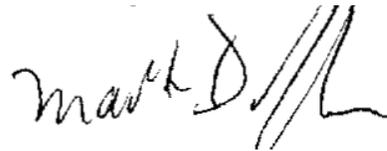
mechanical and chemical control activities are anticipated to occur for up to five years to achieve complete control of invasive plants.

Invasive plant removal and control activities will occur between August 1 and March 20, the time period when the federally endangered least Bell's vireo is not present in project riparian areas. While there are several public hiking and equestrian trails within the project area and no trails will be closed during invasive species control work, trail segments will be used to access control areas and signage will be installed to inform trail users when ATV vehicles are expected to be present. Project best management practices include the maintenance of accidental spill kits during all herbicide applications to ensure protection of water quality. To address concerns received by the Service during August 2019 tribal consultation, buffer zones were established around sacred sites in the project area and they will be avoided during project implementation. In addition, the Service states that if cultural resources are discovered, ground disturbing activity in the vicinity of the find will be halted and the Service's Regional Archaeologist will be notified immediately in order to determine the next steps for protection of cultural resources.

The Service's Environmental Action Statement for the proposed project states that analysis of potential effects to the environment from control of invasive plants using mechanical and chemical methods is included in both the 2000 Tijuana Slough National Wildlife Refuge Comprehensive Management Plan and the 2017 San Diego National Wildlife Refuge Comprehensive Conservation Plan. Those plans also include a number of conservation measures for minimizing potential adverse effects to biological resources as a result of increased control of invasive plants on the Refuge; those measures are incorporated into the proposed project. An annual summary report of treatment actions will include type and quality of herbicide used, effectiveness of mechanical and chemical treatments, and photographs. The Service will forward the annual summaries to the Commission.

The Commission staff **agrees** with your conclusion that the proposed five-year program of mechanical and chemical control of non-native invasive plants within riparian and upland habitats within the boundary of the Tijuana Slough National Wildlife Refuge will 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 Larry Simon at (415) 904-5288 should you have any questions regarding this matter.

Sincerely,



(for) JOHN AINSWORTH  
Executive Director

cc: CCC – San Diego Coast District

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FAX (415) 904-5400  
TDD (415) 597-5885



December 31, 2019

Jackson Habeck, Commander  
Public Works Officer  
Department of the Navy  
Attn: Deb McKay  
Naval Base San Diego  
3455 Senn Rd.  
San Diego, CA 92136-5084

Re: **ND-0031-19** U.S Navy, Negative Determination, Floating Dry Dock Project, Naval Base San Diego

Dear CDR Habeck:

The U. S. Navy has submitted the above-referenced negative determination for the construction of a floating dry dock project on the east side of San Diego Bay at the Naval Base San Diego. The project would consist of placement and operation of up to two dry docks, one on the south side of the Mole Pier and one just north of the Marine Group Boat Works (MGBW) maintenance pier. The dry docks are needed to support maintenance operations for guided missile destroyer vessels, littoral combat ships, and dock landing ships (DDG-51, LCS-2, LSD-41 and LSD-49 class vessels). The Navy is currently at capacity for maintenance operations for DDG-51 class (guided missile destroyer) vessels.

The work at the first (Mole Pier) site would include:

- Relocation of the USS Curtiss and hoteling facilities along the south berth of the Mole Pier;
- Dredging of approximately 86,121 cubic yards (cy) of sediment and subsequent sediment disposal activities;
- Partial demolition of the existing pier deck and the existing mooring dolphin;
- Installation of two mooring dolphins;
- Fendering upgrades, including installation of two fender piles;
- Minor utility modifications; and
- Emplacement and operation of a prefabricated floating steel dry dock (18,000-ton capacity)

The work at the second (MGBW) site would include:

- Dredging of approximately 165,000 cy of sediment and subsequent sediment disposal activities;
- Installation of new access structures;
- Installation of two mooring dolphins;
- Utility installation and other landside improvements; and
- Emplacement and operation of a prefabricated steel floating dry dock (9,000-ton capacity).

The areas proposed for dredging have not yet been tested, and disposal sites would be identified after the test results have been performed. Suitable clean sandy material would be disposed of as nearshore beach replenishment at either Naval Base Coronado Silver Strand Training Complex Boat Lanes 9 and 10, or Naval Air Station North Island Beach. Suitable clean non-sandy material would be disposed of at LA-5. Contaminated material unsuitable for open ocean aquatic disposal would be disposed of at the Otay Landfill. The Navy will provide the test results to and clarify the disposal regime with the Commission staff, once the testing is complete and has been reviewed by the Environmental Protection Agency, the Army Corps, and other appropriate regulatory agencies.

The project will not affect public access; the Naval Base San Diego is off-limits to public access due to military security and public safety needs. The project will not affect scenic public views. Best Management Practices will be implemented to protect coastal water quality. Pre- and post-construction monitoring for *Caulerpa* (an invasive species) and eelgrass (an environmentally sensitive species) will be performed, and appropriate protocols and mitigation measures will be implemented in accordance with National Marine Fisheries Service and California Dept. of Fish and Wildlife requirements. Protocols will be in place to monitor, avoid, and protect marine mammals and sea turtles during any pile driving activities. Cultural resources would not be affected.

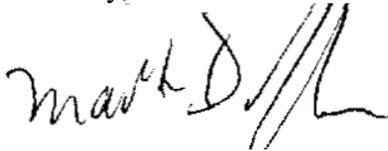
In addition, under the federal consistency regulations, a negative determination can be submitted for an activity "which is the same as or similar to activities for which consistency determinations have been prepared in the past." The Navy states:

*The proposed project is substantially similar in purpose and scope to previous CCNDs [Negative Determinations] and CCDS [Consistency Determinations] for dredging in the San Diego Bay (i.e., CD-51-87; CD-64-92; CD-51-94; CD-89-99; CD-031-01; ND-036-07; ND-011-11; ND-052-12; CD-011-13; ND-007-14; ND-0011-16; ND-0002-18; ND-0040-18; ND-0008-19; and ND-0009-19), as well as pier construction (i.e., CD-51-87 for Pier 12; CD-031-01 for Piers 10/11; ND-011-11 for Pier 12; CD-011-13 for Fuel Pier; and ND-0044-14 for Pier 8). In those decisions, the ... Commission found that the Navy's dredging and in-water construction activities would either have no effect on coastal resources and uses*

*or would otherwise be consistent with enforceable policies (15 C.F.R. § 930.33(a)(1)) of the California Coastal Management Program (CCMP). The Commission concurred that the activities complied with the water quality, public access and recreation, and environmentally sensitive habitat policies of the CCMP.*

We **agree** with the Navy that the proposed project 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 pier, pile driving, and dredging activities, 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 Delaplaine". The signature is stylized with a large, sweeping "M" and "D".

(for) JOHN AINSWORTH  
Executive Director

cc: San Diego District  
Environmental Protection Agency  
U.S. Army Corps of Engineers, L.A. District  
San Diego RWQCB