

**CALIFORNIA COASTAL COMMISSION**

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION  
455 MARKET ST, SUITE 300  
SAN FRANCISCO, CA 94105  
FAX (415) 904-5400  
TDD (415) 597-5885  
[WWW.COASTAL.CA.GOV](http://WWW.COASTAL.CA.GOV)



# W11

**Prepared August 5, 2020 (for the August 12, 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 August 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 August 12, 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 August 12th.

With respect to the August 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).

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**Items being reported on August 12, 2020 (see attached)**

**Waiver**

- **9-20-0415-W**, Installation of a one to two cubic yard stone with affixed one to two square foot bronze memorial plaque for the 34 victims of the MV Conception tragedy, (Barbara Gentile-Crary and Channel Islands National Marine Sanctuary, Santa Barbara County).

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

- **ND-0018-20, Department of the Navy, Action: Concur, 7/10/2020**  
Navy Northwest Training and Testing Activities, offshore of northern California.

- **ND-0019-20, U.S. Army Corps of Engineers, Action: Concur, 7/29/2020**  
Moss Landing Harbor maintenance dredging, Monterey County.

**CALIFORNIA COASTAL COMMISSION**

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

**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:** 9-20-0415-W

**Applicants:** Barbara Gentile-Crary and Channel Islands National Marine Sanctuary

**Location:** Seafloor at Platt's Harbor, Santa Cruz Island (Santa Barbara County)

**Proposed Development:** Installation of a one to two cubic yard stone with affixed one to two square foot bronze memorial plaque in remembrance of the 34 victims of the MV Conception tragedy. The memorial stone would be made of granite and the plaque would have the names of the victims engraved on it. The names of the victims have been fully vetted and approved by the families and their designated points of contact.

**Rationale:** For the following reasons, the proposed project will not have a significant adverse effect, either individually or cumulatively, on coastal resources, nor will it conflict with Chapter 3 policies of the Coastal Act:

- The stone will be of a low angular profile and flat surface to help prevent entanglement risk.
- The stone would be transported to the installation site by boat from San Pedro. It would then be transferred to the water and moved to the installation site by highly trained divers who have experience in lifting and navigation operations.
- Divers would pre-inspect the dive site to find a location for the memorial with a continuous sand landscape and an absence of rocky reef. Once a site is determined, a marker buoy (float) with a line will be temporarily anchored at the site. No attachment, change nor alterations will be made to the underwater site.

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.

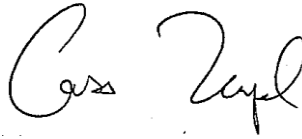
This waiver will not become effective until reported to the Commission at its August 12-14th meeting. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required. In addition, the site of the proposed

**Coastal Development Permit De Minimis Waiver**  
9-20-0415-W

development must be appropriately noticed, pursuant to 13054(b) of the California Code of Regulations, and this Notice of Pending Permit shall remain posted at the site until the waiver has been validated at the Commission hearing.

Sincerely,

John Ainsworth  
Executive Director

A handwritten signature in black ink, appearing to read "Cassidy Teufel". The signature is fluid and cursive, with the first name "Cassidy" written in a larger, more prominent script than the last name "Teufel".

Cassidy Teufel  
Senior Environmental Scientist

Cc: File

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



July 10, 2020

D.A. McNair, Director  
Environmental Readiness  
Department of the Navy  
Commander, United States Pacific Fleet  
250 Makalapa Dr.  
Pearl Harbor, HA 96860-3131

Subject: Negative Determination **ND-0018-20** (Navy Training Activities, Northwest Training and Testing, offshore of northern California)

Dear Director McNair:

The Coastal Commission staff has reviewed the above-referenced negative determination. The Navy proposes to continue conducting components of its Northwest Training and Testing (NWTT) activities offshore of Humboldt and Del Norte Counties in northern California. The purpose of these activities is to ensure that the Navy can safely and successfully train with and test sensors and weapon systems used in military missions and combat operations. NWTT activities are currently authorized for seven years and take place mostly offshore of the states of Oregon and Washington. Most of the activities would occur offshore of Washington where Navy unit homeports are located. Under the federal Coastal Zone Management Act, the Navy has submitted separate consistency or negative determinations to the Washington, Oregon, and California coastal management programs.

NWTT activities would take place at least 12 nautical miles offshore of northern California, with the majority of activities occurring at least 50 nautical miles from shore. Training and testing activities are sometimes conducted during transit of naval vessels through waters offshore of California. Activities with potential adverse effects to coastal resources include at-sea sonar testing, non-explosive torpedo testing, and undersea warfare testing. Activities offshore of northern California would consist of: (1) two surface firing training events using non-explosive ordnance per year; (2) approximately one hour of mid-frequency sonar training per year; (3) approximately 30 hours of airspace training per year; and (4) one active and passive sonar tracking event using sonobuoys per year. The northern California offshore activities, if conducted at all, would consist of less than one percent of the training and testing activities proposed for the Washington, Oregon, and California study area.



The Navy proposes to implement standard operating procedures and mitigation measures to avoid or minimize potential adverse effects on coastal resources. Mitigation measures for marine life include using trained lookouts to monitor for marine species whenever stressors or disturbance as part of NWTT activities are expected; not conducting explosive and non-explosive activities within 50 nautical miles from shore in the Marine Species Coastal Mitigation Area; not conducting non-explosive large caliber gunnery and bombing training activities within 20 nautical miles from shore; and not using mid-frequency active sonar or conducting explosive Mine Countermeasure and Neutralization Testing within the Point St. George Humpback Whale Mitigation Area. In addition, the Navy will notify ships and aircraft to the possible increased density of Southern Resident killer whales, humpback whales, and gray whales during periods of natural seasonal activity. Information gathered from these notifications will be used along with the Navy's visual monitoring to create whale mitigation zones for NWTT activities. Due to the infrequency and geographical restrictions of these activities, impacts to marine mammals are predicted to be small. There are also no predicted impacts to biological productivity, water quality, or fishing activities for the California coastal zone.

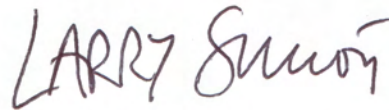
Under the federal consistency regulations (15 CFR Section 930.35(a)), a negative determination can be submitted for an activity that will not have coastal effects and "which is the same as or is similar to activities for which consistency determinations have been prepared in the past." The Commission staff **agrees** that the proposed component of NWTT activities, along with the added mitigation measures, would not affect California coastal zone resources. This project can be considered the same as or similar to the previous NWTT activities concurred with by the Executive Director in ND-066-09 and ND-0018-15.

Finally, and as we noted in our negative determination concurrences in 2009 and 2015, our concurrence with this negative determination is not in any way meant to convey the message that the Commission's concerns over the use of mid-frequency sonar have been diminished, as expressed in its actions on Navy SOCAL consistency determinations (CD-008-13, CD-049-08, and CD-086-06). The reason this NWTT matter is being treated administratively is rather due to the fact that the sonar use off California would be limited to only a few hours per year, compared to the over 19,000 hours per year of sonar use off southern California.

Thus, while we are agreeing with your negative determination ND-0018-20, please note that we do not intend the Navy to be left with the impression that the Commission has changed its position over the need for additional mitigation measures to protect marine mammals and sea turtles from the effects of mid-frequency sonar (as discussed in detail in the Commission's findings in the above-referenced consistency determinations). We continue to believe additional measures as described in those findings are warranted, and we continue to urge the Navy to implement (and NMFS to require) them.

With that understanding, we **concur** with your negative determination for the NWTT activities made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations. Please contact Alexis Barrera at [Alexis.Barrera@coastal.ca.gov](mailto:Alexis.Barrera@coastal.ca.gov) should you have any questions regarding this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "LARRY Simon". The signature is written in a cursive, slightly slanted style.

(for) JOHN AINSWORTH  
Executive Director

cc: CCC – North Coast District



**CALIFORNIA COASTAL COMMISSION**

455 MARKET STREET, SUITE 228  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400



July 29, 2020

Dr. Tessa E. Beach  
Chief, Environmental Section  
San Francisco District  
U.S. Army Corps of Engineers  
ATTN: Christopher Eng  
450 Golden Gate Avenue  
San Francisco, CA 94102

Subject: Negative Determination ND-0019-20 (Moss Landing Harbor Maintenance  
Dredging, Monterey County)

Dear Dr. Beach:

The Coastal Commission staff has reviewed the above-referenced negative determination submitted by the Corps of Engineers for maintenance dredging of the federal navigation channels at Moss Landing Harbor. Dredging the entrance and lagoon channels will remove hazardous shoals and return both channels to the authorized depth of -15 feet mean lower low water. Approximately 85,000 cubic yards of dredged sediments will be placed at the EPA-designated SF-12 open ocean disposal site, located 1,100 feet offshore of Moss Landing. Moss Landing Harbor and SF-12 are located within the boundaries of the Monterey Bay National Marine Sanctuary. However, the harbor is delineated as a "harbor exclusion zone" within the sanctuary boundary and the continued use of SF-12 was grandfathered in when the sanctuary was established on January 1, 1993. The last scheduled dredging of the federal channels took place in 2002 (ND-056-02) and an emergency dredging operation occurred in 2012 (ND-042-12). The Moss Landing Harbor District undertook maintenance dredging of the non-federal inner channels and berthing areas within the harbor between October 2019 and January 2020. Dredged sediments were placed on South Spit Beach (south of the entrance channel) and at SF-12. The Corps expects dredging of the federal channels to begin in mid-September and last approximately two months.

Project sediments were sampled and tested for physical and chemical characteristics in March and April 2020. The entrance channel sediments consisted of 92 percent sand and the lagoon channel sediments consisted entirely of fine-grained materials. Chemical analysis and bioassay tests were performed on samples of the fine-grained sediments and all samples passed for unconfined aquatic disposal. Based on the test results, and a confirmation that the trigger level for bioaccumulation testing of the fine-grained sediments was not exceeded for DDTs, the USEPA and Central Coast Regional Water Quality



Control Board determined in June 2020 that the entrance channel and lagoon channel sediments were suitable for disposal at SF-12. However, both agencies strongly encouraged that the sandy entrance channel sediments be reused for beach nourishment if at all possible.

In June 2020 the Commission staff requested that the Corps document why beneficial reuse of clean sandy sediments from the entrance channel was not a feasible element of the proposed project. In response, the Corps explained that the Moss Landing Harbor District placed approximately 33,000 cubic yards of sand on South Spit Beach during its recent maintenance dredging project and that there is no room left at this location for additional dredged material placement. In addition, this site provides nesting habitat for the endangered Western snowy plover which further restricts beach placement. The U.S. Fish and Wildlife Service confirmed that South Spit Beach was not suitable for additional sand placement at this time. However, staff at the Monterey Bay National Marine Sanctuary informed Commission staff that the Elkhorn Slough Foundation is willing to accept dredged materials from Moss Landing Harbor for its wetland restoration projects across Elkhorn Slough, which is located within the Sanctuary boundary. This beneficial reuse opportunity requires coordination by the Corps with the applicable regulatory agencies and the Foundation during the early phases of maintenance dredging project development. That did not occur for the current project and unfortunately insufficient time remains prior to the start of dredging to implement a beneficial sediment reuse project in Elkhorn Slough using project sediments.

The Commission strongly encourages the Corps to immediately begin and lead a coordinated effort with staff from the Commission, Monterey Bay National Marine Sanctuary, California Department of Fish and Wildlife, Central Coast Regional Water Quality Control Board, U.S. Fish and Wildlife Service, National Marine Fisheries Service, USEPA, Elkhorn Slough Foundation, and Moss Landing Harbor District to develop a dredged material reuse plan for Moss Landing Harbor. Beneficially reusing dredged sediments from Moss Landing Harbor can only be achieved if alternative locations and uses for these sediments are identified, evaluated, and permitted well in advance of the next scheduled maintenance dredging project. And, as was seen in 2012, emergency dredging projects will likely be a source of dredged materials in the coming years and further justify the timely development of a sediment reuse plan.

SF-12 is located within the Monterey Bay National Marine Sanctuary and at the head of the Monterey Submarine Canyon. Dredged materials placed here are typically flushed by ocean currents into the canyon. While acknowledging that the subject dredged materials are suitable for unconfined aquatic disposal, Sanctuary staff nevertheless continues to express concerns about whether dredge spoils (from Corps and Harbor District projects) that contain elevated concentrations of persistent pollutants are contributing on a cumulative basis to elevated pollutant concentrations detected in Monterey Bay. Reducing disposal of dredged materials at SF-12 by beneficially reusing those materials through beach nourishment (using only clean sands) and/or wetland restoration in Elkhorn Slough (using clean sands and/or fine-grained sediments, and including capping or isolating problematic fine-grained sediments as necessary) would also reduce the introduction of chemical pollutants into the ocean waters of the Sanctuary. The opportunity to reuse



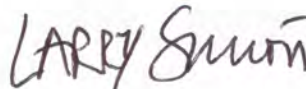
dredged spoils in Elkhorn Slough restoration projects takes on greater urgency in the face of sea level rise and the pressing need to examine potential methods and materials to protect estuarine habitats within Elkhorn Slough portion of the Sanctuary.

The Commission reminds the Corps that Coastal Act policies allow for the dredging and filling of coastal waters when there is no feasible less environmentally damaging alternative (Section 30233(a)) and that dredge spoils suitable for beach replenishment should be used for that purpose (Section 30233(b)). The Commission also notes that given the aforementioned potential feasible alternative uses of dredged materials from Moss Landing Harbor, the next Corps maintenance dredging operation at this location, whether a scheduled project or an emergency project, will require submittal of a consistency determination that incorporates a comprehensive evaluation of dredged material disposal (including beneficial reuse options) for consistency with the above-referenced Coastal Act policies.

The proposed project includes measures to protect water quality during dredging and disposal operations by minimizing localized increases in turbidity through the use of a hydraulic cutterhead dredge, implementing best management practices during operations, and complying with waste discharge requirements issued by the Central Coast Regional Water Quality Control Board. A qualified biological monitor will be present during all project operations to ensure protection of the federally threatened southern sea otter and other marine mammals that may enter the project area. Dredging and disposal will occur during the work window authorized by the National Marine Fisheries Service to protect federally endangered Southern California steelhead. Returning the navigation channels to the authorized depth will ensure safe navigation for the approximately 600 recreational and commercial vessels that are docked at Moss Landing Harbor. During dredging operations vessels will still be able to navigate the federal channels and enter and exit the harbor, through the coordinated efforts of the Corps, U.S. Coast Guard, and the Moss Landing Harbor District.

In conclusion, and with the recommendations noted above, the Commission staff **agrees** that the proposed maintenance dredging and disposal project at Moss Landing Harbor and SF-12 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 Larry Simon at [Larry.Simon@coastal.ca.gov](mailto:Larry.Simon@coastal.ca.gov) should you have any questions regarding this matter.

Sincerely,



For

JOHN AINSWORTH  
Executive Director

cc: CCC – Central Coast District  
U.S. Environmental Protection Agency – Region 9  
Monterey Bay National Marine Sanctuary  
Elkhorn Slough Foundation  
Moss Landing Harbor District  
Central Coast Regional Water Quality Control Board  
California Department of Fish and Wildlife  
U.S. Fish and Wildlife Service  
National Marine Fisheries Service