

**CALIFORNIA COASTAL COMMISSION**

455 MARKET ST, SUITE 300  
SAN FRANCISCO, CA 94105  
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# Th19

**Prepared August 29, 2024 (for the September 12, 2024 Hearing)**

**To:** Commissioners and Interested Parties  
**From:** Cassidy Teufel, Energy, Ocean Resources and Federal Consistency Division Director  
**Subject:** **Energy, Ocean Resources and Federal Consistency Division Deputy Director's Report for September 2024**

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 September 12, 2024. 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 September 12, 2024.

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

**Items being reported on September 12, 2024 (see attached)**

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**Administrative Items for Federal Consistency Matters,  
Negative Determinations**

- **ND-0023-24:** Crop Cover, Mulching and Pollinator Habitat Improvements, BeeWorthy Farms (San Diego County)
- **ND-0024-24:** Dana Point Harbor West Breakwater Repairs (Orange County)
- **ND-0025-24:** Kraus/Gibson Revocable Trust Orchard Cover Crops (Santa Barbara County)
- **ND-0026-24:** Ventura Harbor Federal Navigation Channel Maintenance Dredging (Ventura County)
- **ND-0029-24:** Arroyo Hondo Preserve Plant Management (Santa Barbara County)

- **ND-0030-24:** Moss Landing Harbor Federal Navigation Maintenance Dredging (Monterey County)
- **ND-0031-24:** Tule Elk Enclosure Fence Removal and other Tomales Point Area Plan Initial Management Actions (Marin County)
- **ND-0033-24:** Humpty Dumpty Rancho Dos Pueblos LLC Irrigation and Pollinator Habitat Improvements (Santa Barbara County)

**Immaterial Amendments, Immaterial Extensions, Administrative Items for Federal Consistency Matters, No-Effects Determinations, Waivers**

- None

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August 9, 2024

Via Electronic Mail To: [shea.okeefe@usda.gov](mailto:shea.okeefe@usda.gov)

Shea O'Keefe  
Area 4 Biologist  
United States Department of Agriculture  
Natural Resources Conservation Service  
Salinas Service Center  
744 La Guardia Street, Salinas, CA 93905

Re: Negative Determination No. ND-0023-24: Crop Cover, Mulching and Pollinator Habitat Improvements, BeeWorthy Farms, San Diego County

Dear Shea O'Keefe:

We have received your letter dated June 13, 2024, regarding the above-referenced project to plant seasonal vegetative cover (grasses, legumes and/or forbs), install hedgerows and apply mulch at BeeWorthy Farms in San Diego County, to improve soil health and enhance pollinator and wildlife habitat. The U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) has determined that this project would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0023-24. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations.

Please note, however, that this concurrence reflects the project description and information contained on page one of your June 13, 2024, negative determination, and in the Conservation Plan included in your submittal. Confusingly, the negative determination made several references (on page two) to livestock grazing activities that are not consistent with the project description or the size and location of the project site. Staff has assumed that the references to livestock grazing are in error, as similar errors were included (and were later corrected) in other recent negative determinations from NRCS for projects in Santa Barbara County (e.g., ND-0025-24 - Kraus-Gibson Orchard, ND-0029-24 – Arroyo Hondo Preserve). If project elements related to livestock and/or grazing are in fact proposed at this site, a separate negative determination providing an accurate description of these activities and their potential for coastal effects is required.

Please contact Joseph Street at [Joseph.Street@coastal.ca.gov](mailto:Joseph.Street@coastal.ca.gov) if you have any questions regarding this matter.

Sincerely,

A handwritten signature in blue ink that reads "Joseph Street". The signature is written in a cursive style with a large, looping initial "J".

JOSEPH STREET  
Federal Consistency Coordinator  
(for)

Dr. Kate Huckelbridge  
Executive Director

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August 27, 2024

Jodi L. Clifford  
Chief, Planning Division  
U.S. Army Corps of Engineers  
Los Angeles District  
915 Wilshire Blvd., Suite 1109  
Los Angeles, CA 90017-3409  
Via email: [Jodi.L.Clifford@usace.army.mil](mailto:Jodi.L.Clifford@usace.army.mil)

Re: Objection to Negative Determination No. ND-0024-24: Dana Point Harbor West Breakwater Repairs (Orange County)

Dear Jodi Clifford:

The California Coastal Commission (Commission) staff has reviewed the above-referenced negative determination (ND), dated June 13, 2024, for the U.S. Army Corp of Engineers (USACE) proposed structural maintenance on the West Breakwater of Dana Point Harbor, Orange County, in order to assure the continued safe navigation for maritime traffic within the harbor. The proposed project includes replacing displaced armor stone and resetting existing stone on both sides of the west breakwater to restore the structure to its original design dimensions. Up to 6,000 tons of new stone would be added to the breakwater within its existing footprint. USACE also proposes to dredge of up to 45,000 cubic yards of sandy sediment adjacent to the breakwater to allow for work barge and vessel access and to place the dredged materials at a nearshore site, in 15 to 25 feet of water, offshore of Doheny Beach and approximately two miles downcoast of the breakwater. The USACE has determined that the project is consistent with the enforceable policies of the California Coastal Management Plan and pursuant to 15 CFR Section 930.35 of the National Oceanic Atmospheric Administration implementing regulations, and that the project will not adversely affect coastal zone resources.

Commission staff disagrees with the determination that the activity will not affect any coastal use or resource and has concluded that the proposed activity would result in reasonably foreseeable adverse effects to coastal resources.<sup>1</sup> In this case, the negative determination and supporting documentation, including a marine habitat survey,<sup>2</sup> clearly

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<sup>1</sup> As established in Section 930.35 of the Coastal Zone Management Act regulations, negative determinations are to be limited to federal agency activities that will “not affect any coastal use or resource.”

<sup>2</sup> Marine Taxonomic Services Ltd. (MTS), 2023. Marine Habitat Survey for the Dana Point Harbor Breakwater Repair Project. Prepared for Eco & Associates, Inc. August 28, 2023.

demonstrate that the proposed nearshore placement of dredged sediments would result in the direct burial of approximately 3.5 acres of sensitive seafloor habitats, including biologically-rich rocky reefs and surfgrass beds. Moreover, the information contained in the negative determination and supplemental materials indicates the potential for other adverse effects to sensitive habitats and species from dredging and rock placement activities, and to coastal access and recreation from the proposed closure of a public parking lot for use as a staging area and the possible transport of armor stone to the site along roadways important for coastal access. These reasonably foreseeable adverse effects to coastal resources are discussed in more detail below, along with the additional information and protective measures that would be needed to adequately characterize and address these impacts in a consistency determination.

### Marine Resources – Impacts from Dredged Sediment Placement

The proposed nearshore sediment placement site offshore of Doheny State Beach would result in the burial of approximately 3.5 acres of sensitive rocky reef, boulder and cobble substrate supporting sensitive biological communities, including surfgrass beds. USACE has indicated that the disposal of the approximately 45,000 cubic yards of dredged sandy sediment from the harbor channel adjacent to the breakwater could result in deposition of 16 inches of sediment across the full placement area. While USACE states in its 8/1/2024 submittal that the placement site is within an active littoral cell, that “currents and tides will dissipate and redistribute these sediments, and ultimately nourish nearby beaches”, and that the deposited material will be depleted within 14 months, it has provided no sediment transport analysis to support its expectation of sediment mobility. Grain-size analyses indicate that the existing sediment at the nearshore placement site is composed of significantly finer-grained materials (fine sand and silt) than the dredged sediment (fine to medium sands). It is unclear that the coarser dredged sediments from the harbor channel will be readily mobilized from the placement site. Regardless, the amount, thickness, and expected duration of the proposed sediment placement has clear potential to adversely affect the sensitive seafloor habitats present at the nearshore placement site.<sup>3</sup>

Commission staff recommends that the USACE prepare a consistency determination proposing a dredged sediment placement scheme that avoids impacts to sensitive benthic habitats, or at the very least, containing a detailed alternative analysis establishing why full impact avoidance is not feasible and proposing appropriate mitigation. One alternative that should be evaluated in detail is the beneficial reuse of the dredged sand at nearby beaches, which have recently experienced sustained, severe erosion and are in dire need of sand replenishment. USACE has indicated that beach and/or surf zone placement were previously considered but rejected due to higher costs. Nonetheless, Commission staff notes Orange County has successfully carried out at least three significant harbor channel dredging efforts, with beach and surf zone sand placement at Capistrano County Beach and “Baby Beach” within the Harbor, in the past 30 years, demonstrating the feasibility of

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<sup>3</sup> Notably, the USACE’s biological consultant (MTS) advised in its marine habitat survey report that “consideration should be given to the quality of the reef habitat and the presence of surfgrass. If possible, alterations should be made to the disposal plan to avoid direct placement on top of reef and surfgrass habitats.”

this type of project.<sup>4</sup> A detailed and specific evaluation of alternative nearshore placement locations that would avoid or minimize direct impacts to sensitive habitats is also recommended.

### Marine Resources – Impacts from Breakwater Repair Activities

The negative determination and supporting materials provide clear evidence of sensitive biological resources that could be affected by the breakwater repair activities, including from sediment dredging, vessel anchoring, and rock placement. On the inside of the breakwater, dredging, vessel anchoring and armor stone placement could directly impact eelgrass, rocky reefs, and kelp, while rock placement on the outside of the breakwater would occur immediately adjacent to areas of rocky reef. A consistency determination for the proposed project should include an evaluation of the potential for impacts to these sensitive marine resources, as well as specific proposed avoidance, minimization and mitigation measures. For example, the consistency determination submittal should include a vessel anchoring plan demonstrating that sensitive habitats would be avoided to the maximum extent feasible, as well as a mitigation plan for unavoidable impacts. More detailed information is also needed to address how the rock placement work would be conducted to avoid impacts to rocky reef and kelp canopy habitats occurring on or next to the breakwater, or, if impacts cannot be avoided, how they would be minimized and mitigated.

Additionally, while the negative determination contains some discussion of how potential adverse impacts to green sea turtles would be minimized, it does not acknowledge or consider the known presence of protected pinniped species within Dana Point Harbor, and the proposed project lacks basic wildlife protective measures such as the use of trained, NMFS-approved marine wildlife observers during dredging and rock placement work. These concerns should be addressed in a consistency determination.

### Public Access & Recreation

Commission staff appreciates the additional information provided by USACE responding to concerns related to potential impacts to public access and parking. The supplemental information indicates that the proposed project staging area would occupy a 73-space, public parking lot for up to 180 days, and that this temporary loss of public parking comprises a relatively small percentage of the available public parking at Dana Point Harbor. However, Commission staff notes that this parking lot occurs near a popular beach (“Baby Beach”), and that, at least anecdotally, public parking at the Harbor is already scarce during high-demand periods (e.g., summer season, weekends, holidays). Thus, there is a reasonable potential for impacts to public access from the extended loss of parking to the proposed staging area. Staff recommends that USACE submit a consistency determination that includes (1) an analysis of the proposed temporary parking reductions in relation to existing parking availability and demand during peak periods, and (2) as needed, proposed mitigation measures such as providing additional, temporary public parking (e.g., at identified “surplus” park space elsewhere in the Harbor).

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<sup>4</sup> See combined coastal development permit/consistency certifications Nos. 5-97-232/CC-138-97, 5-06-458/CC-071-07, and 5-14-0606/CC-0005-14.

Similarly, more information is needed to evaluate potential adverse effects to public access and recreation from the estimated 150 truck trips that would be necessary if new breakwater stone is imported from inland quarries. A consistency determination should consider making a commitment to alternatives that would avoid the need for trucking along key coastal access routes (e.g., barging of stone from the Catalina quarry or from major industrial ports), or else include a substantive analysis of the potential effects to public access from the proposed trucking.

### Conclusion

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” [emphasis added]. 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)]. Thus, based on the known and reasonably foreseeable potential adverse impacts to coastal resources that would result from implementation of the proposed project, and the inadequacy of the information in the negative determination submittal, the Commission staff disagrees with your determination that the proposed breakwater maintenance project will not affect the coastal zone. We therefore **object** to your negative determination made pursuant to 15 CFR Section 930.35(d). To resolve this objection and address our stated concerns, we strongly encourage USACE to submit a consistency determination containing the information, analysis and project changes outlined above, and to continue to engage with Commission staff.

Please contact Joseph Street at [Joseph.Street@coastal.ca.gov](mailto:Joseph.Street@coastal.ca.gov) if you have any questions regarding this matter.

Sincerely,



JOSEPH STREET  
Manager, Federal Consistency  
(for)

Dr. Kate Huckelbridge  
Executive Director

CC: Andrea Dellapa, NMFS  
CCC South Coast District Office



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August 2, 2024

Shea O'Keefe  
Area 4 Biologist  
United States Department of Agriculture  
Natural Resources Conservation Service  
Salinas Service Center  
Salinas CA 93905

Via email to: [shea.okeefe@usda.gov](mailto:shea.okeefe@usda.gov)

Re: Negative Determination No. ND-0025-24: Kraus/Gibson Revocable Trust Orchard  
Cover Crops

Dear Shea O'Keefe:

We have received your letter dated July 9, 2024, regarding the above-referenced project to plant new cover crop seed mixes in the alleyways of a mature avocado orchard at the Kraus/Gibson Orchard in Santa Barbara County, in an effort to improve soil health. The U.S. Department of Agriculture, Natural Resources Conservation Service has determined that this project would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0025-24. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations.

Please contact Joseph Street at [Joseph.Street@coastal.ca.gov](mailto:Joseph.Street@coastal.ca.gov) if you have any questions regarding this matter.

Sincerely,

A handwritten signature in blue ink that reads "Joseph Street".

Joseph Street  
Federal Consistency Coordinator  
(for)

Dr. Kate Huckelbridge  
Executive Director

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August 27, 2024

Jodi L. Clifford  
Chief, Planning Division  
U.S. Army Corps of Engineers, Los Angeles District  
ATTN: Dr. Tiffany Armenta  
915 Wilshire Boulevard, Suite 1109  
Los Angeles, CA 90017  
Via e-mail to: [Tiffany.C.Armenta@usace.army.mil](mailto:Tiffany.C.Armenta@usace.army.mil)

Re: Negative Determination No. ND-0026-24: Ventura Harbor Federal Navigation Channel Maintenance Dredging (Ventura County)

Dear Ms. Clifford:

We have reviewed the above-referenced negative determination submitted by the U.S. Army Corps of Engineers (USACE) for a six-year annual maintenance dredging program for Ventura Harbor from September 16, 2024, through April 14, 2030. The purpose of the project is to maintain the federal navigation channels, which are subject to continual filling by littoral transport processes, to assure the continued safe navigation for maritime traffic within the harbor by minimizing the risk of hazardous shoaling conditions, and to provide beach nourishment material for downcoast beaches eroded by the littoral processes and by the harbor disruption of the longshore transport of sand. The project includes annual dredging of up to approximately 1,000,000 cubic yards of littoral material from the federal entrance channels, navigation channels, and sand traps at Ventura Harbor, and disposal of those sediments at South Jetty Beach, South Beach, and/or in the McGrath State Beach Nearshore Area. Materials would be excavated using either a hydraulic dredge (for beach placement) or a clamshell dredge (for nearshore placement).

Dredged material would not be placed within 200 feet of the mouth of the Santa Clara River or its estuary. 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 Commission staff and representatives from the U.S. Environmental Protection Agency and the Regional Water Quality Control Boards) in October 2023 and February/March 2024, respectively. Based on the SAP test results, the SC-DMMT determined that the proposed dredged materials were physically and chemically suitable for discharge on the beach and/or in the marine environment.

Dredging would typically be completed within a 30-day period during the late winter/early spring each year, but could occur any time between September 16 and April 14. Mobilization and demobilization to the site would require an additional estimated 15 days

each. Mobilization is expected to begin in February or March and demobilization would be completed no later than April 14 in any given year. Dredging and disposal work would terminate well in advance of the Memorial Day weekend and would not occur during the peak summer recreation season.

USACE has consulted with the U.S Fish and Wildlife Service and National Marine Fisheries Service to assure that measures are in place to minimize effects on federally-listed species and other sensitive wildlife and resources. USACE has applied for Clean Water Act Section 401 Water Quality Certification from the Regional Water Quality Control Board, but that approval is still outstanding. USACE will notify Commission staff of any significant project changes that arise out of any of these processes. A water quality monitoring plan would be implemented for the project and USACE would provide an annual water quality monitoring report to Commission staff each year.

USACE has included in the proposed maintenance dredging program avoidance, minimization, monitoring, and coordination measures, substantially similar to the previous and successful measures that the Commission has historically found necessary to protect environmentally sensitive habitat (including areas supporting snowy plovers, grunions, tidewater gobies, and steelhead trout), public access and recreation, water quality, and other coastal resources. In the event beach placement of dredged sediment is used, the proposed protective measures would include biological monitoring performed during all activities on the beach, including pipeline installation, grading, and pipeline removal (including monitoring for grunion during all scheduled grunion runs that overlap with project activities). Specific avoidance measures would be implemented if any active western snowy plover or California least tern nests are identified in the project area or if a Walker Scale 2 (W2) spawning event or greater is observed for grunion. Additionally, if nearshore placement occurs, USACE would conduct one pre- and one post-dredge survey of the beach profile immediately adjacent to the nearshore placement site and bathymetry within the nearshore placement site.

USACE would also maintain a 25-foot buffer from all sand dunes to the maximum extent practicable (although the full buffer may not always be achievable in cases when the high and dry beach in the action area erodes to the toe of the dunes after winter storms). As with previous USACE dredging projects at Ventura Harbor, all project activities at the Spinnaker Drive staging area (located at the north end of Spinnaker Drive) will avoid encroaching into or affecting the adjacent environmentally sensitive dune habitat. To allow the public to walk over the pipeline and access the shoreline, sand ramps would be constructed over the pipeline approximately every 300 feet, when there is sufficient beach width to support sand ramps.

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 Commission and its Executive Director have concurred with a number of consistency and negative determinations for similar maintenance dredging operations in Ventura Harbor (CD-017-89, ND-021-92, ND-035-92, ND-021-94, CD-054-94, ND-051-95, ND-103-96, CD-104-96, ND-083-97, CD-064-98, ND-036-04, ND-037-11, and ND-0037-18). In the last four consistency items, the

Commission and Executive Director concurred, respectively, with six-year maintenance dredging programs at Ventura Harbor essentially identical to the proposed six-year program, finding that the dredging and disposal activities would not adversely affect coastal resources.

The USACE has determined that this project would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0026-24. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations. Please contact Walt Deppe at [Walt.Deppe@coastal.ca.gov](mailto:Walt.Deppe@coastal.ca.gov) if you have any questions regarding this matter.

Sincerely,



JOSEPH STREET  
Manager  
Energy, Ocean Resources &  
Federal Consistency Division  
(for)

Dr. Kate Huckelbridge  
Executive Director

Cc: CCC – South Central Coast District  
U.S. Fish and Wildlife Service  
National Marine Fisheries Service  
Los Angeles Regional Water Quality Control Board  
U.S. Environmental Protection Agency- Region 9  
Ventura Port District  
City of Ventura, Public Works Department

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August 2, 2024

Shea O'Keefe  
Area 4 Biologist  
United States Department of Agriculture  
Natural Resources Conservation Service  
Salinas Service Center  
Salinas CA 93905  
Via email to: [shea.okeefe@usda.gov](mailto:shea.okeefe@usda.gov)

Re: Negative Determination No. ND-0029-24: Land Trust for Santa Barbara County Arroyo Hondo Preserve Plant Management

Dear Shea O'Keefe:

We have received your letter dated July 9, 2024, regarding the above-referenced project, proposed by The Land Trust of Santa Barbara County, to restore portions of the Arroyo Hondo Preserve that have been invaded by weeds due to unusually high seed dispersal following the 2021 Alisal fire. The project would include hand-clearing invasive weeds over 6 acres, planting locally-sourced native trees and shrubs (2.1 ac), and conducting follow-up hand weeding in planted areas and non-planted areas (6 ac). The plantings would be performed using hand tools and would be mulched and irrigated to ensure successful establishment.

The U.S. Department of Agriculture, Natural Resources Conservation Service has determined that this project would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0029-24. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations.

Please contact Joseph Street at [Joseph.Street@coastal.ca.gov](mailto:Joseph.Street@coastal.ca.gov) if you have any questions regarding this matter.

Sincerely,

A handwritten signature in blue ink that reads "Joseph Street".

Joseph Street  
Federal Consistency Coordinator  
(for)

Dr. Kate Huckelbridge  
Executive Director

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August 1, 2024

Savannah Fahning  
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Eureka, CA 95501  
Via e-mail to: [savannah.r.fahning@usace.army.mil](mailto:savannah.r.fahning@usace.army.mil)

Re: Negative Determination No. ND-0030-24: Moss Landing Harbor Federal Navigation Maintenance Dredging (Monterey County)

Dear Ms. Fahning:

We have reviewed the above-referenced negative determination submitted by the U.S. Army Corps of Engineers (USACE) for maintenance dredging of the federal navigation channels at Moss Landing Harbor (Monterey County), specifically the Entrance Harbor, Outer Lagoon, and Inner Lagoon, channels. Dredging these three channels using a hydraulic (cutterhead) dredge will remove hazardous shoals and return them to the authorized depth of -15 feet mean lower low water (MLLW). Dredging would also include two feet of overdepth for the Entrance Channel and Outer Lagoon Channel. However, only a half-foot of overdepth would be included in the dredging for the Inner Lagoon Channel (to a maximum depth of -15.5 feet including the overdepth). Up to approximately 44,000 cubic yards of dredged sediments (total from the three channels) will be transported via submerged pipeline to the EPA-designated SF-12 open ocean disposal site (SF-12), located approximately 1,100 feet offshore of Moss Landing. All in-water work would occur during the period from June 1 through November 30; the work is expected to require 22 days to complete.

Sediment samples were collected and analyzed for this project, assessing physical, chemical, and biological parameters. Based on those results, the Environmental Protection Agency (EPA) and Central Coast Regional Water Quality Control Board (RWQCB) determined that the material from the Entrance Channel and Outer Lagoon Channel would be suitable for unconfined aquatic disposal at SF-12 or SF-14, or for beneficial reuse through beach nourishment and/or at an identified Moss Landing Wildlife Area (Wildlife Refuge) site (if available). Following additional sediment testing with bioaccumulation tests, EPA and RWQCB determined that the material proposed to be dredged from the Inner Lagoon Channel (only to -16 feet MLLW) would be suitable for unconfined aquatic placement at SF-12 or for beneficial reuse at the Wildlife Refuge (if available). However, both agencies determined that material in the Inner Lagoon Channel below -16 feet MLLW, containing higher concentrations of total DDT, should remain in place until further notice.

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 USACE, U.S. Coast Guard, and the Moss Landing Harbor District. Moss Landing Harbor is located within the boundaries of the Monterey Bay National Marine Sanctuary (MBNMS). However, the harbor is delineated as a "harbor exclusion zone" within the sanctuary boundary. Previous dredging of the federal channels has included an operation in 2002 (ND-056-02) with placement on South Spit Beach (south of the entrance channel), an operation in 2007 (ND-078-06) with placement on South Spit and at SF-12, an emergency dredging operation in 2012 (ND-042-12) with placement at SF-14, and an operation in 2020 (ND-0019-20) with placement at SF-14<sup>1</sup>. The Moss Landing Harbor District also undertook maintenance dredging of the non-federal inner channels and berthing areas within the harbor between October 2019 and January 2020, and dredged sediments were placed on South Spit Beach (south of the entrance channel) and at SF-12.

On April 30, 2024, the Commission issued a concurrence letter to USACE for an earlier version of the proposed 2024 dredging project (under ND-0010-24), but USACE has since made substantive modifications to that project and submitted the new negative determination (ND-0030-24) that is the subject of this letter. The project under ND-0010-24 would have dredged 25,000 cubic yards of sediments from only the Entrance Channel and Outer Lagoon Channel to be transported via submerged pipeline to a designated beneficial use placement site at the Wildlife Refuge, where the sediment would have been used as backfill associated with construction of setback levee authorized under a separate coastal development permit (CDP) issued to the California Department of Fish and Wildlife (CDFW (CDP No. 3-23-0176)). The current negative determination added dredging of the Inner Lagoon Channel to the project scope. Additionally, on July 3, 2024, USACE informed Commission staff that due to unanticipated delays in construction at the Wildlife Refuge site, no material would be placed at the Wildlife Refuge beneficial use site as part of this proposed project.

USACE has stated that the selection of the Wildlife Refuge site was the result of a long and intensive interagency collaboration to identify feasible options for beneficial use, and that no other feasible beneficial use sites have been identified that could accept dredged material this year. USACE has committed to continuing its interagency collaboration efforts to identify a broader range of beneficial reuse sites and alternatives, including beach or nearshore placement of suitable sediments, prior to their next dredging episodes. The 2020 concurrence letter for ND-0019-20 communicated Commission staff's strong preference for beneficial reuse of dredged sediments from Moss Landing Harbor, and included a discussion of several nearby options, including beach placement and use in on-going wetland restoration projects at Elkhorn Slough. Staff continues to emphasize the need to develop viable beneficial reuse options for the dredged sediment, and strongly encourages USACE to engage in a coordinated effort with staff from the Commission, MBNMS, CDFW, RWQCB, U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), US EPA, Elkhorn Slough Foundation, and Moss Landing Harbor District, to develop a dredged material reuse

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<sup>1</sup> The 2020 operation was modified from disposal via pipeline of hydraulically-dredged sediments at the SF-12 to dredging with a clamshell and placement at SF-14 and Commission staff determined that the project modification did not raise any coastal resource issues not addressed in the concurrence letter for ND-0019-20

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. Additionally, emergency dredging projects will likely continue to be a source of dredging materials in the future, further justifying 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 continued to express concerns in 2020 about whether dredge spoils (from USACE 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 USACE that Coastal Act policies allow for the dredging and filling of coastal waters only 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 prior concurrence letter for ND-0019-20 indicated that, given the aforementioned potential feasible alternative uses of dredged materials from Moss Landing Harbor, the next dredging operation at this location would require submittal of a full consistency determination (CD) evaluating project consistency with the Coastal Act – in particular the consistency of dredged material disposal options. During the current, 2024 dredging cycle, Commission staff accepted the original ND (ND-0010-24) rather than a CD based on the understanding that suitable dredged sediments would be beneficially reused at the CDFW site), and the current, revised ND when the CDFW site became unavailable very late in the planning process. As part of its 2024 submittals, USACE did provide an alternatives analysis that considered other potential beneficial use sites that were ultimately not considered to be feasible this year with the time available. For future dredging cycles, Commission staff strongly recommends that feasible backup options for beneficial reuse be identified and vetted for feasibility well in advance, in case the primary beneficial reuse option becomes infeasible before implementation, such as happened this year. The next USACE maintenance dredging operation at this location, whether a maintenance dredging or an emergency project, will require a consistency determination that includes 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 using a hydraulic cutterhead dredge, implementing best management practices during operations, and complying with waste discharge requirements issued by the Central Coast RWQCB. USACE has coordinated or



consulted with NMFS and USFWS to assure that measures are in place to minimize effects on federally-listed species and other sensitive wildlife and resources. 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 NMFS to protect federally endangered Southern California steelhead. The pipeline will not be deployed in critical eelgrass habitat. The USACE will conduct pre- and post-dredging eelgrass surveys of the project area, including the pipeline extent into Elkhorn Slough, and will share the data with the Commission and other consulting agencies for their review. Consultation with the MBNMS is on-going, and USACE will notify Commission staff of any significant project changes that arise out of this process.

The USACE has determined that this project would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0030-24. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations. Please contact Walt Deppe at [Walt.Deppe@coastal.ca.gov](mailto:Walt.Deppe@coastal.ca.gov) if you have any questions regarding this matter.

Sincerely,



JOSEPH STREET  
Manager  
Energy, Ocean Resources & Federal  
Consistency Division  
(for)

Dr. Kate Huckelbridge  
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  
Ducks Unlimited

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August 16, 2024

Anne Altman  
Acting Superintendent  
U.S. Department of the Interior  
National Park Service  
Point Reyes National Seashore  
1 Bear Valley Road  
Point Reyes Station, CA 94956  
Via e-mail to: [brannon\\_ketchum@nps.gov](mailto:brannon_ketchum@nps.gov)

Re: Negative Determination No. ND-0031-24: Tule Elk Enclosure Fence Removal and other Tomales Point Area Plan Initial Management Actions (Marin County)

Dear Ms. Altman:

We have reviewed the above-referenced negative determination submitted by the National Park Service (NPS) for several initial management actions proposed under the Tomales Point Area Plan (TPAP), including removal of the existing tule elk enclosure fence, installation of a wildlife-friendly cattle exclusion fence, removal of elk enclosure fencing around 12 vegetation monitoring plots and removal of seven supplementary water systems installed in 2021 during extreme drought conditions. In addition to these specific actions, the TPAP would include a variety of programmatic management elements, including tribal coordination and co-stewardship, updates to management zoning, tule elk monitoring and disease surveillance, invasive plant control, use of prescribed fire, and improvements to support historic preservation, visitor use and public access. Specific activities or development stemming from the programmatic elements of the TPAP would require future federal consistency review by the Commission.

As described in the negative determination, NPS's preferred alternative of the TPAP includes the removal of the approximately 2.2-mile-long enclosure fence that currently confines the Tomales Point tule elk herd to a 2,900-acre area on the peninsula. NPS' Tomales Point Area Plan Environmental Assessment (EA) indicates that this relatively small area lacks the carrying capacity to support the tule elk population, particularly during drought conditions. Removal of the enclosure fence would allow tule elk to access additional habitat and, over time, naturally intermingle with free-ranging herds elsewhere in Point Reyes National Seashore, promoting natural population cycles, improving genetic diversity, and increasing population resilience during drought. NPS also proposes to remove several abandoned segments of fencing left behind from previous iterations of the enclosure fence.

Replacement of the elk enclosure fence with a lower cattle exclusion fence (along roughly the same alignment) would prevent cattle from neighboring grazing/agricultural leases from entering the Tomales Point planning area, while still allowing elk to move freely across the boundary. NPS states that the cattle fence would consist of wooden posts and metal T-posts, spaced at 10 to 15-foot intervals and strung with strands of barbed or smooth wire. Existing posts would be reused as feasible; new posts would be embedded in the ground to depths of two to three feet. The open fence design and lower height would allow most wildlife to pass through (or over) the barrier, while preventing cattle incursion into the natural areas on Tomales Point.

Removal of the tule elk fence and construction of the cattle barrier would involve light-duty trucks or other tracked equipment primarily accessing the fenceline from the pasture lands on the south side of the fence; work in one ravine and along a 60-ft segment within a wetland area would be conducted on foot, with hand tools. Removal of the enclosure fences and the vegetation monitoring plots and of the supplemental water systems (tanks, troughs and pipelines) would typically involve light-duty trucks and would follow NPS guidelines for minimizing disturbance within the Philip Burton Wilderness area.

As described in NPS' negative determination and EA, the proposed project would improve the population resilience of the native tule elk population, while improving habitat and forage quality within the Tomales Point area by reducing elk grazing intensity. The proposed removal and fence installation work would avoid streams, creeks, and areas supporting sensitive plant species, while removal of the elk fence from the small wetland would improve the ecological function of this area. Removal of water tanks (up to 20 feet tall) and replacement of the 8 to 12-foot tall tule elk fence with the lower cattle exclusion fence would improve scenic views to and along the shoreline on Tomales Point. The proposed work would include best management practices to minimize vegetation and ground disturbance. No public access or area closures are anticipated during implementation of these activities at Tomales Point.

Prior studies by NPS and other researchers have found that elk grazing tends to reduce the biomass of both native and non-native perennial vegetation, while increasing the abundance of annual vegetation. Notably, elk grazing in open grassland reduced the abundance of velvet grass, the most common invasive perennial grass at Pt. Reyes. The EA states that "[t]he response of the elk immediately following the removal of the fencing is not fully understood. However, it is anticipated that some elk will expand their range, thus reducing potential for overgrazing during drought, and diluting the general effects of elk grazing across a broader area." NPS further notes that changes in elk grazing patterns would occur alongside additional management activities, such as prescribed burns, invasive species control and ecological restoration, intended to improve conditions for native vegetation communities and rare species. Thus, while the removal of the enclosure fence could lead to some changes in vegetation communities both in the Tomales Point area and, to a lesser degree, elsewhere in the Seashore, the net effect of the TPAP on biological resources and sensitive habitats is expected to be beneficial.

The TPAP does not include areas permitted for cattle grazing and does not propose actions that would convert any agricultural lands to non-agricultural use. Removal of the

tule elk enclosure fence, however, would allow the elk to expand their range into other portions of the Seashore, including grazing lands. Based on long-term observations of the two free-range elk herds in the Seashore, NPS expects that the Tomales Point tule elk herd will continue to primarily occupy its core range, with only limited use of surrounding grazing lands. In its negative determination, NPS states that the potential impacts of the enclosure fence removal on the rest of the Seashore would be “similar to those of the existing free-range herds, which were found in the GMPA [General Management Plan Amendment] planning process to not substantially impact other resources, including historic ranching operations.” NPS will continue its on-going monitoring program and will continue to manage both tule elk populations and grazing operations consistent with the GMPA.

The NPS has determined that this project would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0031-24. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations.

Please contact me at [Joseph.Street@coastal.ca.gov](mailto:Joseph.Street@coastal.ca.gov) if you have any questions regarding this matter.

Sincerely,



JOSEPH STREET  
Manager  
Energy, Ocean Resources &  
Federal Consistency Division  
(for)

Dr. Kate Huckelbridge  
Executive Director

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August 2, 2024

Shea O'Keefe  
Area 4 Biologist  
United States Department of Agriculture  
Natural Resources Conservation Service  
Salinas Service Center  
Salinas CA 93905  
Via email to: [shea.okeefe@usda.gov](mailto:shea.okeefe@usda.gov)

Re: Negative Determination No. ND-0033-24: Humpty Dumpty Rancho Dos Pueblos LLC  
Irrigation and Pollinator Habitat Improvements

Dear Shea O'Keefe:

We have received your letter dated July 9, 2024, regarding the above-referenced project to (1) retrofit the irrigation system with micro-sprinklers and/or drip irrigation on 8 acres of cherimoya and avocado orchard, to improve efficiency and reduce water runoff, and (2) plant native hedgerows to improve native pollinator habitat, at the Humpty Dumpty Rancho Dos Pueblos, in Goleta, Santa Barbara County. The U.S. Department of Agriculture, Natural Resources Conservation Service has determined that this project would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0033-24. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations.

Please contact Joseph Street at [Joseph.Street@coastal.ca.gov](mailto:Joseph.Street@coastal.ca.gov) if you have any questions regarding this matter.

Sincerely,

A handwritten signature in blue ink that reads "Joseph Street".

Joseph Street  
Federal Consistency Coordinator  
(for)

Dr. Kate Huckelbridge  
Executive Director