

**Environmental Impact Statement/
Overseas Environmental Impact Statement
Point Mugu Sea Range**

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Appendix G Agency Correspondence

Appendix G contains correspondence sent between the Navy and government agencies with respect to cooperating agency status, the Marine Mammal Protection Act, and the National Historic Preservation Act.

G.1 Cooperating Agency Status

G.1.1 Navy Request Letter to the National Marine Fisheries Service



DEPARTMENT OF THE NAVY
Office of the Chief of Naval Operations
2000 Navy Pentagon
Washington DC 20350-2000

5090
Ser N45/18U132371
May 7, 2018

Mr. Eric Schwaab
Assistant Administrator
Office of Protected Resources
National Marine Fisheries Service
1315 East West Highway
Silver Spring, MD 20910-6233

Dear Mr. Schwaab:

SUBJECT: COOPERATING AGENCY REQUEST FOR THE POINT MUGU SEA RANGE
ENVIRONMENTAL IMPACT STATEMENT/OVERSEAS ENVIRONMENTAL
IMPACT STATEMENT

In accordance with the National Environmental Policy Act (NEPA) and Executive Order 12114, the Department of the Navy (Navy) is initiating the preparation of an Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) for the Point Mugu Sea Range (PMSR) to evaluate the potential environmental effects associated with military activities. Military activities include Research Development Testing and Evaluation (RDT&E) and training within the PMSR Study Area. The Study Area includes the PMSR and an offshore temporary operating area to cover larger operations such as hypersonic activities off the PMSR. RDT&E activities include the use of aircraft, vessels, targets, ordnance, electronic warfare, biodegradable polymer vessel stopping payloads, direct energy systems/weapons, laser systems/weapons, radar and microwave systems, electromagnetic railgun/systems/weapons, and unmanned systems within the in-water and airspace areas of the PMSR Study Area.

PMSR is located 60 miles northwest of Los Angeles offshore of Ventura County, California, and consists of 36,000 square miles of controlled sea and airspace designated for testing and training activities. Naval Air Systems Command Naval Air Warfare Center Weapons Division Point Mugu meets the established mission to conduct state-of-the-art weapons systems testing and evaluation, and maintains military operational readiness, by providing a safe, operationally realistic, and thoroughly instrumented sea range.

This EIS/OEIS will support authorization and consultation requirements under the Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA). To complete the analysis required by the MMPA and ESA in an efficient and effective way, the Navy believes that participation by the NMFS as a cooperating agency would be beneficial. Therefore, in accordance with the Council on Environmental Quality's (CEQ's) regulations implementing NEPA (specifically 40 CFR § 1501.6), and CEQ's 2002 guidance on cooperating agencies, the Navy requests that NMFS serve as a cooperating agency for the development of the PMSR EIS/OEIS.

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As the lead agency, the Navy will be responsible for overseeing preparation of the EIS/OEIS that will include, but not be limited to, the following:

- a. Gathering all necessary background information, including the most up-to-date scientific research, and preparing the EIS/OEIS and all necessary permit applications associated with the proposed action;
- b. Working with NMFS personnel to determine the method of estimating potential effects to protected marine species, including threatened and endangered species;
- c. Determining the scope of the EIS/OEIS, including the alternatives evaluated;
- d. Circulating the NEPA document with the public, including any other interested parties;
- e. Scheduling and supervising meetings held in support of the NEPA process and compiling any comments received from the public; and
- f. Maintaining an administrative record and responding to any Freedom of Information Act (FOIA) requests relating to the EIS/OEIS.

The Navy requests that NMFS, in its role as a cooperating agency, provide support as follows:

- a. Providing timely comments on working drafts of the EIS/OEIS. The Navy requests that comments on draft EIS/OEIS documents be provided in accordance with approved project schedules and commenting protocols;
- b. Responding to Navy requests for information, in particular related to review of the acoustic effects analysis and evaluation of the effectiveness of protection and mitigation measures;
- c. Participating, as necessary, in public engagement hosted by the Navy for discussion of issues related to the EIS/OEIS, including public meetings;
- d. Adhering to the overall schedule as set forth by the Navy in coordination with NMFS;
- e. Preparing any NMFS-specific documents, such as a Record of Decision, required to support the NMFS decision-making process;
- f. Maintaining an administrative record and responding to any FOIA requests relating to the EIS/OEIS; and

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g. Providing a formal, written response to this request.

The Navy views NMFS' participation as an important element to the successful completion of the environmental planning process for the Point Mugu Sea Range EIS/OEIS. My point of contact for this action is Dawn Schroeder, (703) 602-4769, email: dawn.schroeder@navy.mil.

Sincerely,



C. A. Lahti
Rear Admiral, U.S. Navy
Director, Energy and Environmental
Readiness Division

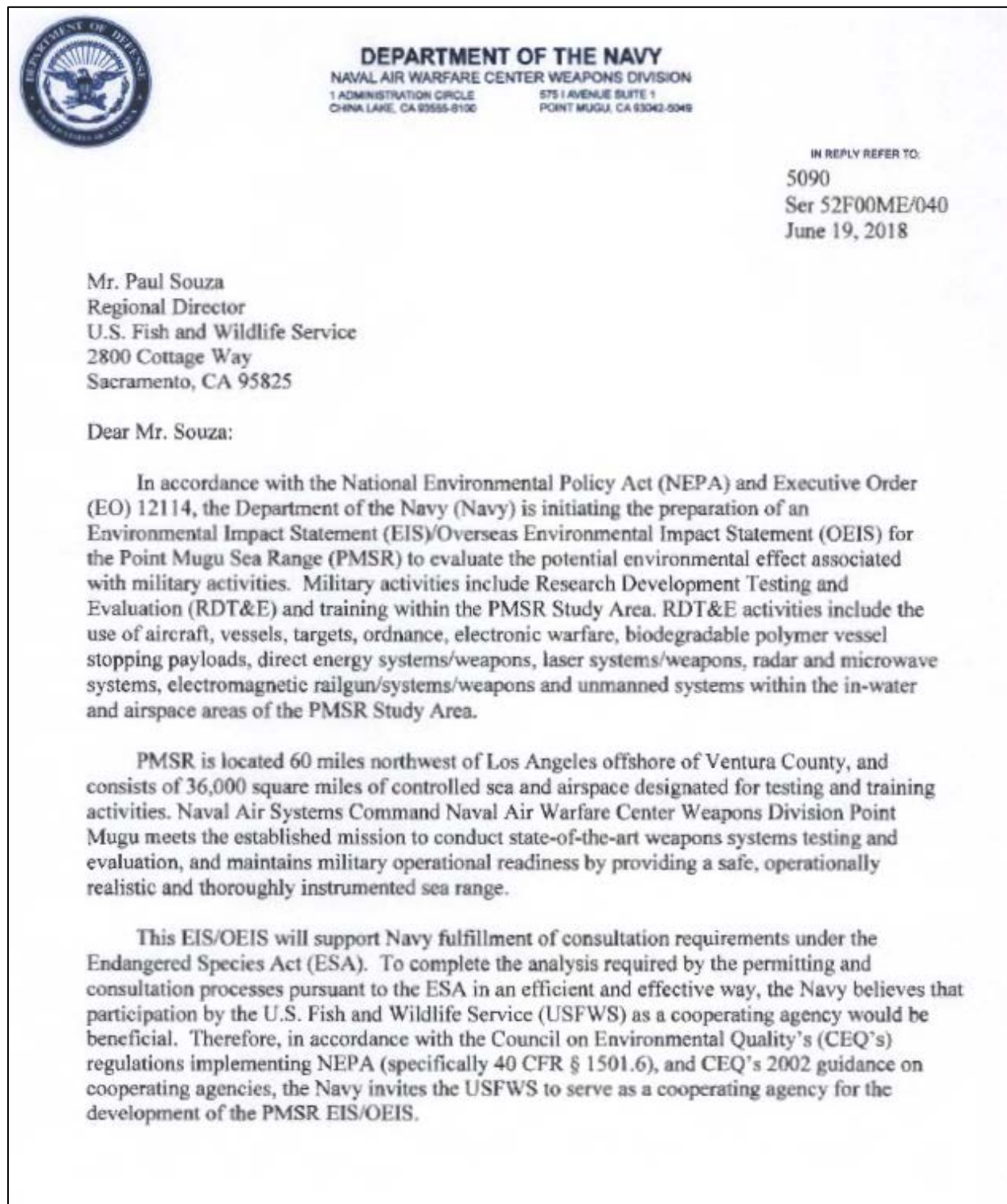
Enclosure: 1. Notional schedule for PMSR EIS/OEIS MMPA, and ESA

Copy to:
Assistant Secretary of the Navy (EI&E))
Deputy Assistant Secretary of the Navy (Environment)
Office of the Assistant General Counsel (EI&E)
Commander, Pacific Fleet (N465)
Commander, U.S. Fleet Forces Command (N465)
Commander, Navy Region Southwest
Commander, Naval Air Systems Command
Naval Facilities Engineering Command, Southwest
Commander, Navy Region Hawaii
Naval Facilities Engineering Command, Pacific

G.1.2 National Marine Fisheries Service Response Letter

	UNITED STATES DEPARTMENT OF COMMERCE National Oceanic and Atmospheric Administration NATIONAL MARINE FISHERIES SERVICE 1315 East-West Highway Silver Spring, Maryland 20910 THE DIRECTOR
Captain C.A. Lahti Director, Energy and Environmental and Readiness Division Department of the Navy 2000 Navy Pentagon Washington, DC 20350-2000	
SEP 05 2019	
Dear Captain Lahti:	
Thank you for your letter requesting the National Marine Fisheries Service (NOAA Fisheries) be a cooperating agency in the preparation of an Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) to evaluate potential environmental effects in the Department of the Navy's (Navy) Point Mugu Sea Range (PMSR) Study Area. Activities conducted in the PMSR Study Area are military activities including Research Development Testing and Evaluation (RDT &E) and training. We support the Navy's decision to prepare an EIS/OEIS on this activity and agree to be a cooperating agency, due, in part, to our responsibilities under section 101(a)(5)(A) of the Marine Mammal Protection Act and under section 7 of the Endangered Species Act. NOAA Fisheries will make every effort to support the Navy in the development of an EIS/OEIS, including:	
▪ Participating, as necessary (and as funding is available where travel is required), in meetings hosted by the Navy for the discussion of issues related to the EIS/OEIS; ▪ Providing timely comments on working drafts of the EIS/OEIS in accordance with the agreed-upon project schedule and commenting protocols; ▪ Responding to Navy requests for information, in particular, those related to review of the acoustic effects analysis and evaluation of the effectiveness of protection and mitigation measures; ▪ Adhering to the overall schedule as set forth by the Navy in coordination with NMFS.	
If you need any additional information, please contact Jolie Harrison at (301) 427-8420.	
Sincerely,	
 Samuel D. Rauch III Deputy Assistant Administrator for Regulatory Programs National Marine Fisheries Service	
cc: Barry Thom, NMFS WCRO Vicki Wedell, NMFS HQ NMS Steve Leathery, NMFS HQ NEPA Dawn Schroeder, Navy	THE ASSISTANT ADMINISTRATOR FOR FISHERIES
 Printed on Recycled Paper	

G.1.3 Navy Request Letter to the U.S. Fish and Wildlife Service



5090
Ser 52F00ME/040
June 19, 2018

As the lead agency, the Navy is responsible for overseeing preparation of the EIS/OEIS to include, but not be limited to, the following:

- Gathering all necessary background information, including the most up-to-date scientific research, and preparing the EIS/OEIS and all necessary permit applications associated with the proposed action;
- Working with USFWS personnel to determine the method of estimating potential effects to threatened and endangered species;
- Determining the scope of the EIS/OEIS, including the alternatives evaluated;
- Circulating the NEPA document with the general public, including any other interested parties;
- Scheduling and supervising meetings held in support of the NEPA process and compiling any comments received from the public; and
- Maintaining an administrative record and responding to any Freedom of Information Act requests relating to the EIS/OEIS.

Should USFWS agree to participate as a cooperating agency, the Navy requests the following support:

- Providing timely comments on working drafts of the EIS/OEIS documents. The Navy requests that comments on draft EIS/OEIS documents be provided in accordance with approved project schedules and commenting protocols;
- Responding to Navy requests for information, in particular related to evaluation of the effectiveness of protection and mitigation measures;
- Participating, as necessary, in public engagement hosted by the Navy for discussion of issues related to the EIS/OEIS, including public meetings;
- Adhering to the overall schedule as set forth by the Navy in coordination with USFWS;
- Preparing any USFWS-specific documents, such as a Record of Decision, required to support the USFWS decision-making process;
- Maintaining an administrative record and responding to any Freedom of Information Act requests relating to the EIS/OEIS; and

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Ser 52F00ME/040
June 19, 2018

- Providing a formal, written response to this request.

The point of contact for this action is Kenneth R. Seeley, (805)989-0927, email:
kenneth.seeley@navy.mil.

Sincerely,

A handwritten signature in blue ink, appearing to read "D.A. Deakin", followed by a stylized flourish.

DWIGHT A. DEAKIN
By Direction

Copy to:
COMNAVAIR
OPNAV (N45)
CNRSW (N40)
NBVC CO
NBVC N45V
NAVFAC SW (L. Megliola)

G.2 Marine Mammal Protection Act

G.2.1 Navy Transmittal Letter to National Marine Fisheries Service for Letter of Authorization Application



DEPARTMENT OF THE NAVY
NAVAL AIR WARFARE CENTER WEAPONS DIVISION
1 ADMINISTRATION CIRCLE 575 I AVENUE SUITE 1
CHINA LAKE, CA 93555-6100 POINT MUGO, CA 93041-5044

IN REPLY REFER TO:

5090
Ser EB2R00M/677
2 Mar 20

Donna S. Wieting
Director, Office of Protected Resources
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
B-SSMC3, Room 13821
1315 East-West Highway
Silver Spring, MD 20910-3282

Dear Ms. Wieting:

On behalf of Commander, Naval Air Warfare Center Weapons Division (NAWCWD), a Letter of Authorization (LOA) application is being submitted pursuant to the Marine Mammal Protection Act requirement for the taking of marine mammals incidental to Navy testing and training activities in the NAWCWD Point Mugu Sea Range (PMSR) from October 2021 to October 2028. These activities are a continuation of the NAWCWD launch program for missiles and targets at San Nicolas Island and at-sea activities to support testing and training associated with operations on the PMSR.

Analysis supporting the application is contained within the PMSR LOA application and in the Navy's 2020 PMSR Draft Environmental Impact Statement/ Overseas Environmental Impact Statement. Due to the large file size and page count (~250 pages), the Navy will be electronically submitting the PMSR LOA application directly to the appropriate National Marine Fisheries Service staff.

Please extend my thanks to your staff for their continued support of the U.S. Navy's compliance process. We are available to meet with you or your staff should you have comments on the enclosed report or recommendations for future reports. My point of contact for these matters is Mr. Greg Sanders at 805-989-4852 or gregory.s.sanders@navy.mil.

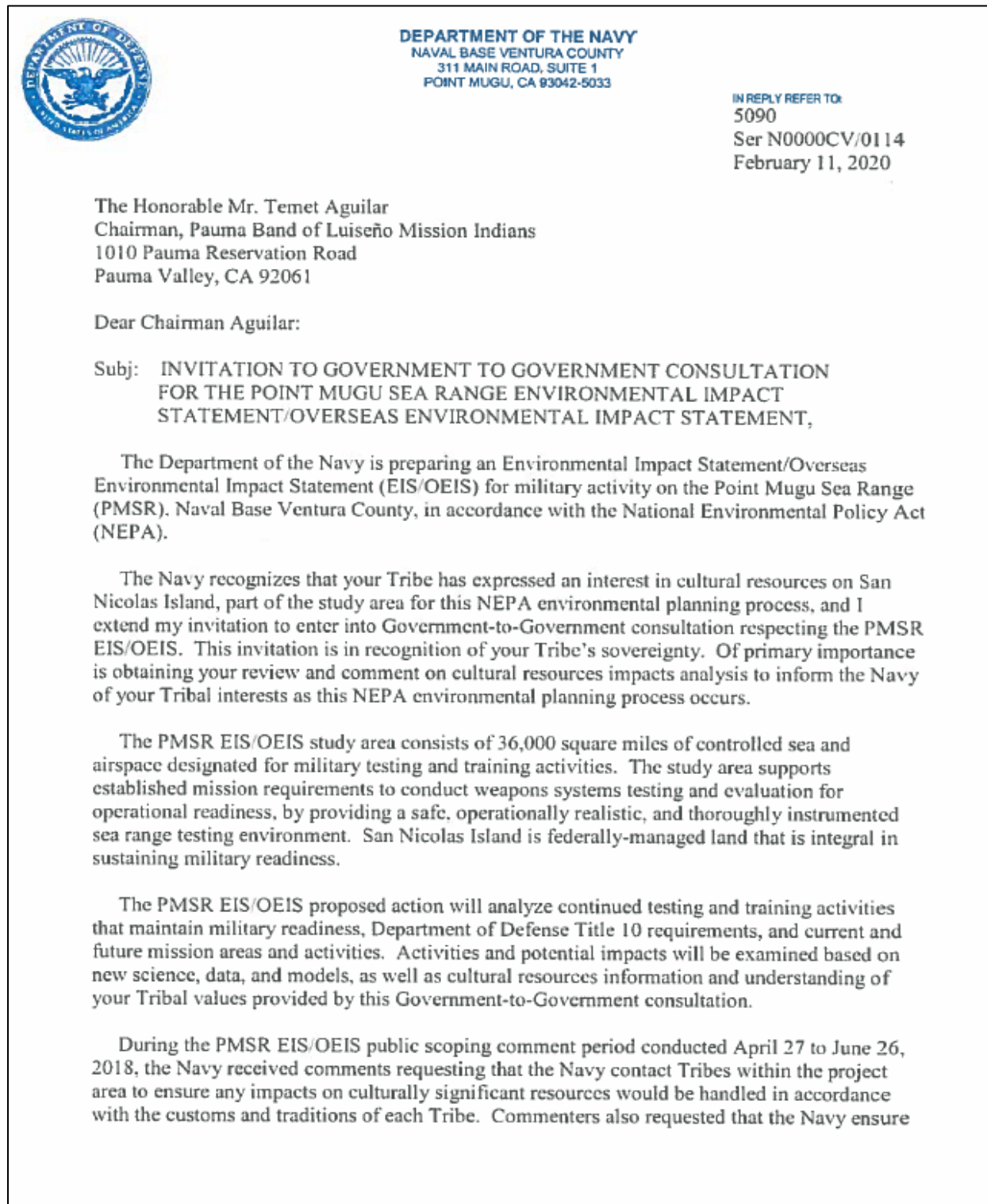
Sincerely,


KENNETH SEELEY
By direction

G.3 National Historic Preservation Act Compliance

G.3.1 Government-to-Government Consultations

G.3.1.1 Navy Invitation Letter to Tribes for Consultation (Example)



5090
Ser N0000CV/0114
February 11, 2020

compliance with Section 106 of the National Historic Preservation Act. This consultation invitation is responsive to these NEPA public scoping comments. Your review and comment on the draft cultural resources impacts analysis provides the Navy with specific information on potentially affected Tribal interests.

Therefore, prior to release to the public, I am attaching copies of the EIS/OEIS's Draft Executive Summary, Draft Cultural Resources Chapter, and also maps of the Areas of Potential Effects (maps designed under the National Historic Preservation Act) for your review and comment. Our intention is that your Tribe will have a full opportunity to provide Tribal comments on these cultural resources specific analysis that inform the PMSR EIS/OEIS. Through your review and comment, the Navy may understand and address issues that concern your Tribal values, customs, and traditions in recognition of your historic relationship with San Nicolas Island.

Please share with my NBVC Environmental Division all comments, within 60 days, care of Mr. Joseph Montoya, NBVC Environmental Planning and Conservation Branch Manager, (805) 989-3804, joseph.l.montoya@navy.mil.

Sincerely,


J. E. CHISM
Captain, U.S. Navy
Commanding Officer

Enclosures: 1. EIS/OEIS Draft Executive Summary
2. EIS/OEIS Draft Cultural Resources Chapter
3. Draft APE Maps

Copy to:
The Honorable Mr. Fred Nelson
Chairman, La Jolla Band of Luiseño Mission Indians
22000 Highway 76
Pauma Valley, CA 92061

The Honorable Mr. Robert H. Smith
Chairman, Pala Band of Luiseño Mission Indians
12196 Pala Mission Road
Pala, CA 92059

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February 11, 2020

The Honorable Mr. Mark Macarro
Chairman, Pechanga Band of Luiseño Mission Indians
P.O. Box 1477
Temecula, CA 92593

The Honorable Mr. Bo Mazzetti
Chairman, Rincon Band of Luiseño Mission Indians
One Government Center Lane
Valley Center, CA 92082

The Honorable Mr. Kenneth Kahn
Chairman, Santa Ynez Band of Chumash Mission Indians
P.O. Box 517
Santa Ynez, CA 93460

The Honorable Mr. Scott Cozart
Chairman, Soboba Band of Luiseño Mission Indians
P.O. Box 487 San Jacinto, CA 92581

Admiral Bette Bolivar, United States Navy
Commander, Navy Region Southwest
937 North Harbor Drive
San Diego, CA 92132

Commander
NAVAIRWARCENWPNDIV
Code: EB2R00M
575 I Ave, Suite 1 M/S 0460
Point. Mugu, CA 93042-5049

NAVFAC Southwest
Attn: Diane Silva, NARA Certified Command Records Manager
1220 Pacific Highway, Code EV33
NBSD Bldg. 3519
San Diego, CA 92132

G.3.1.2 Navy Invitation Letter to Tribes for Consultation (Recipient List)

The Honorable Temet A. Aguilar
Chairperson, Pauma Band of Luiseño Mission Indians

The Honorable Fred Nelson
Chairperson, La Jolla Band of Luiseño Mission Indians

The Honorable Robert H. Smith
Chairperson, Pala Band of Luiseño Mission Indians

The Honorable Mark Macarro
Chairperson, Pechanga Band of Luiseño Mission Indians

The Honorable Bo Mazzetti
Chairperson, Rincon Band of Luiseño Mission Indians

The Honorable Kenneth Kahn
Chairperson, Santa Ynez Band of Chumash Mission Indians

The Honorable Scott Cozart
Chairperson, Soboba Band of Luiseño Mission Indians

G.3.1.3 Pechanga Band of Luiseño Mission Indians Response Letter

	PECHANGA CULTURAL RESOURCES <i>Temecula Band of Luiseño Mission Indians</i>	Chairperson: Neal Ibanez Vice Chairperson: Bridgett Barcello Committee Members: Darlene Miranda Richard B. Seearce, III Robert Villalobos Shevon Torres Juan Rodriguez Director: Gary DuBois Coordinator: Paul Macarro Cultural Analyst: Tuba Ebru Ozdil Planning Specialist: Molly Escobar
Post Office, Box 2183 • Temecula, CA 92593 Telephone (951) 770-6300 • Fax (951) 506-9491		
April 10, 2020		
<u>VIA E-MAIL and USPS</u>		
Mr. Joseph Montoya Department of the Navy Naval Base Ventura County Environmental Planning and Conservation Branch Manager 311 Main Road, Suite 1 Point Mugu, CA 93042-5033		
Re: Pechanga Tribe Request for Consultation Pursuant to Section 106 for the Point Mugu Sea Range Environmental Impact Statement/Overseas Environmental Impact Statement		
Dear Mr. Montoya,		
This letter is written on behalf of the Pechanga Band of Luiseño Indians (hereinafter, "the Tribe"), a federally recognized Indian tribe and sovereign government in response to the Section 106 National Historic Preservation Act Consultation notice dated February 11, 2020, regarding the above referenced Undertaking. This letter serves as the Tribe's formal request for consultation with the Naval Base Ventura County (NBVC) under Section 106 for this Undertaking. It is the Tribe's understanding that the Department of Navy is preparing an Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) for 36,000 square miles of controlled sea and airspace designated for military testing and training activities, which include San Nicolas Island, in accordance with National Environmental Policy Act. To better understand the Undertaking, we request additional detailed information about the proposed Undertaking and further request to meet with the NBVC to discuss further. As you are aware, the entirety of San Nicolas Island is extremely culturally sensitive, including a substantial number of human remains, funerary objects, and tribal cultural resources¹. As previously identified by Pechanga, San Nicolas is both a Traditional Cultural Property and an Archaeological District, both of which the Tribe maintains are eligible under all four Register criteria.		
The Tribe formally requests to be notified and involved in the entire environmental review process for the duration of the above referenced Undertaking. Please add the Tribe to your distribution list(s) for public notices and circulation of all documents, including environmental review documents, archaeological reports, and all documents pertaining to this Project. Please also incorporate these comments into the record of approval.		
¹ Please note that while the NHPA incorporates cultural resources into the rubric of "historic properties," the Tribe takes a much more expansive view of the nature of these resources, which we can discuss further in our Section 106 consultation. For purposes of this letter, the Navy should read the term "tribal cultural resources" to be included within the definition of "historic properties."		
<i>Sacred Is The Duty Trusted Unto Our Care And With Honor We Rise To The Need</i>		

Pechanga Comment Letter to the Naval Base Ventura County
Re: Pechanga Tribe Section 106 Consultation for Point Mugu Sea Range EIS/OEIS
April 9, 2020
Page 2

The Pechanga Tribe asserts that San Nicolas Island is part of 'Atáaxum (Luiseño), and therefore the Tribe's, Aboriginal territory as evidenced by the existence of cultural resources, place names, *tóota yixélval* (rock art, pictographs, petroglyphs), and an extensive 'Atáaxum artifact record on the Island. This culturally sensitive location is affiliated with the Pechanga Band of Luiseño Indians because of the Tribe's cultural ties to San Nicolas Island, including extensive documentation of the Tribe's ancestors living on the Island. Further, the Pechanga Band ('Atáaxum/Luiseño) was determined by the Navy to be culturally affiliated with the Island pursuant to the Native American Graves Protection and Repatriation Act on February 26, 2015.

Under both NEPA and Section 106, we look forward to working closely with the NBVC on ensuring that a full, comprehensive environmental review of the Undertaking's effects is completed, which includes analysis and discussion of any sensitive tribal cultural resources, including human remains and funerary objects, that could potentially be affected by this and any future Undertakings, whether they be direct, indirect, or cumulative effects. Further, we hope to assist the NBVC with ensuring that the Undertaking will provide every effort to avoid effects to human remains, funerary objects, and tribal cultural resources. As such, we request a consultation meeting with the NBVC to receive additional information about the Project and to further discuss our concerns.

As required by the NHPA and Section 106, the Tribe must be included during the identification, evaluation, adverse effects determinations, and resolution of such effects during phases of the environmental review process. The Tribe reserves the right to fully participate in the environmental review process, as well as to provide future comment on the Undertaking's effects to tribal cultural resources and for the potential resolution of such effects at the appropriate time in the Section 106 process.

The Pechanga Tribe looks forward to working together with the Naval Base Ventura County in protecting the invaluable Pechanga cultural resources that could be effected by the issuance of the requested permits. Please contact Michele Fahley, Deputy General Counsel at mfahley@pechanga-nsn.gov or at 951-770-6179 or Ebru Ozdil, Cultural Analyst at 951-770-6313 or at eozeil@pechanga-nsn.gov once you have had a chance to review these comments so that we can schedule our consultation. Thank you.

Sincerely,



Gary DuBois, JD, MSW
Director, Cultural Resources Department
Tribal Historic Preservation Officer

cc: Pechanga Office of the General Counsel

*Pechanga Cultural Resources • Temecula Band of Luiseño Mission Indians
Post Office Box 2183 • Temecula, CA 92592*

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