UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

January 12, 2009

Anne Elston
SRI International
333 Ravenswood Avenue, G 234
Menlo Park, CA 94025-3493

Subject: Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) for Replacement of National Oceanic and Atmospheric Administration, National Marine Fisheries Service Southwest Fisheries Science Center, La Jolla, California (CEQ # 20080481)

Dear Ms. Elston:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. Our detailed comments are enclosed.

The National Oceanic and Atmospheric Administration (NOAA) proposes to relocate its Southwest Fisheries Science Center (SWFSC) to an undeveloped site across the street from the existing site, since the existing facility is located at the edge of a 180-foot eroding high coastal bluff. The DEIS/EIR evaluates this proposed action and a no action alternative.

EPA commends NOAA for proposing a high performance green building which will be certified Silver per the Leadership in Energy and Environmental Design (LEED) green building rating system. The proposed facility's roof will include a photovoltaic farm and a green roof planted with vegetation. While we commend this proposal, we have concerns regarding impacts to air quality from construction emissions. We also have concerns regarding mitigation for impacts to Diegan coastal sage scrub, a sensitive vegetative community, and request additional information regarding cumulative impacts to this resource. We have rated the DEIS as Environmental Concerns – Insufficient Information (EC-2) (see enclosed "Summary of Rating Definitions").

EPA appreciates the opportunity to review this DEIS/EIR. When the Final EIS is released for public review, please send <u>one</u> copy to the address above (mail code: CED-2). If you

have any questions, please contact me at (415) 972-3521, or contact Karen Vitulano, the lead reviewer for this project, at 415-947-4178 or vitulano.karen@epa.gov.

Sincerely,

Kathleen M. Goforth, Manager
Environmental Review Office (CED-2)

Enclosure: Summary of EPA Rating Definitions
EPA's Detailed Comments

cc: David Lawhead, California Department of Fish and Game

SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT / ENVIRONMENTAL IMPACT REPORT FOR REPLACEMENT OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, NATIONAL MARINE FISHERIES SERVICE SOUTHWEST FISHERIES SCIENCE CENTER, LA JOLLA, CALIFORNIA. JANUARY 12, 2009

Air Quality

Impacts from truck emissions

EPA is concerned about impacts from truck emissions to possible nearby receptors. The proposed project will remove 127,000 cubic yards of soil from 3.3 acres of the site. The DEIS states that there will be an average of 928 daily tandem haul truck trips during the 5-month grading phase (Table 6, p. 56). If this is correct[1], this will result in approximately 2 trucks leaving or arriving at the site every minute for 5 months (assuming an 8-hour day).

In our scoping comments (letter dated March 19, 2008), we suggested that the DEIS evaluate emissions impacts from diesel particulate matter (DPM) and disclose the available information about the health risks associated with vehicle emissions and mobile source air toxics (see http://www.epa.gov/otaq/toxics.htm). No information is included regarding these potential health impacts. We note that diesel exhaust is classified by EPA as a "likely" human carcinogen at environmental exposure levels[2]. Exposure to diesel exhaust may contribute to respiratory irritation and lung damage. Because of the volume of trucks that will be visiting the site during the site preparation phase, it is important to disclose, and minimize where possible, potential health impacts to receptors along the likely truck route.

> *Recommendation:* The FEIS should disclose potential health impacts from the steady stream of diesel haul trucks during the 2.5 year construction phase of the project, and especially during the 5-month grading/site preparation phase. Identify the likely truck route and likely destination of the 127,000 cubic yards of soil that will be removed, and identify proximity of the haul truck emissions to potential residential receptors and sensitive receptors, such as schools, hospitals, day care facilities, and nursing homes. If possible, assign a truck route that will minimize exposure to receptors. Other mitigation measures could include establishment of an activity schedule designed to minimize traffic congestion around the construction site, and locating staging areas away from receptors.

General conformity

The project site is located in an area designated as nonattainment for the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard). The DEIS states that the ozone NAAQS classification for the San Diego Air Pollution Control District (SDAPCD) is "serious nonattainment"; however, this area is currently classified as "basic nonattainment" for the 1997

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[1] The DEIS contains some contradictory information regarding the number of trucks per day predicted during the grading/site preparation phase. Page 56 states 928 average daily trips during the 5-month site preparation, p. 64 states there will be 64 truck trips per day during site preparation, and p. 55 states there will be 12,700 round trips (25,400 single trips) during the 5-month period, which equates to roughly 196 trips/day assuming a 6 day work week.

[2] EPA, 2002. *Health Assessment Document for Diesel Engine Exhaust.* Available: http://www.epa.gov/ttn/atw/dieselfinal.pdf

8-hour ozone standard. In response to a December 2006 D.C. Circuit Court decision, EPA is in the process of determining how we will reclassify this area. In early January 2009, EPA signed a rulemaking proposing to classify the area as "moderate" nonattainment; however, we don't expect a final action until August 2009. Current air quality monitoring indicates that the San Diego nonattainment area will not meet the standard by the required 2010 moderate area attainment date, mandated by the Clean Air Act, so the California Air Resources Board is likely to need to request a higher classification for the area, in order to obtain more time to attain the 1997 ozone standard. Additionally, EPA tightened the ozone standard in March of 2008 and is in the process of making designations as to which areas meet and do not meet that standard. We expect to finalize these designations in March 2010. The monitored ozone levels in the San Diego air basin are well above the revised 2008 ozone standard.

Because the project will emit oxides of nitrogen (NOx) from 265 to 349 tons per year, which will exceed all de minimus thresholds, National Oceanic and Atmospheric Administration (NOAA) will prepare a Federal conformity determination (p. 64). The DEIS states that NOAA will submit this determination to EPA for approval (p. 66). Per 40 CFR 93.155, NOAA is required to provide EPA Region 9, in addition to other agencies, a 30-day notice which describes the proposed action and NOAA's draft conformity determination on the action. This conformity determination process for ozone should be completed before the Federal action begins. EPA is available to consult with NOAA, as needed, on this determination, however we do not approve general conformity determinations. NOAA is responsible for making the conformity determination and ensuring compliance with Clean Air Act regulations.

> *Recommendations:* Update the FEIS to reflect current NAAQS designations and EPA's role in general conformity determinations. Please indicate the approximate timeframe for this determination. While it is not required, we find it helpful to have this determination as part of the NEPA documentation.
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> EPA also recommends NOAA consult with SDAPCD to determine whether the proposed mitigation measures comport with SDAPCD rules and guidelines. EPA recommends that NOAA commit to including the mitigation measures listed in Section 4.8.3, and any others recommended by SDAPCD, in all construction contracts, and that the FEIS reflect this commitment.

Impacts to Biological Resources

The proposed project would clear 1.7 acres of Diegan coastal sage scrub, considered a sensitive vegetative community by the U.S. Fish and Wildlife Service and the California Department of Fish and Game because it typically supports sensitive plant and animal species (p. 43). The standard of significance for impacts to this resource in the DEIS includes whether the project would have a cumulatively considerable contribution to a cumulative biological resource impact (p. 45); however, the DEIS and its technical appendices do not include an assessment of cumulative impacts on Diegan coastal sage scrub. According to the University of California San Diego (UCSD) 2004 Long Range Development Plan Environmental Impact Report (EIR), researchers estimated that as of 1991, nearly 72% of the County's original sage scrub habitat had

been destroyed or modified, primarily due to urban expansion[1].

NOAA proposes to mitigate the loss of 1.7 acres of Diegan coastal sage scrub by preserving Diegan coastal sage scrub vegetation at Skeleton Canyon on the UCSD campus at a 2:1 ratio (p. 46). The mitigation site at Skeleton Canyon is currently designated as Park land in UCSD's 2004 Long Range Development Plan (LRDP). Skeleton Canyon is categorized as an Ecological Reserve and the UCSD Park website[2] indicates that no buildings, facilities, roads or driveways will be permitted in these areas of the Park.

The Council on Environmental Quality's definition of mitigation includes "compensating for the impact by replacing or providing substitute resources or environments" (40 CFR 1508.20 (e)). Since the mitigation site already receives protection from development, it is not clear how this action mitigates project impacts. The DEIS does not indicate that the mitigation will involve habitat creation, enhancement, or restoration, as referenced in mitigation measure Bio-3B from the LRDP EIR (Appendix D, p. 17). Since the project impacts may be cumulatively significant, we encourage NOAA to ensure that mitigation replaces or provides substitute resources for project impacts to validate conclusions that the mitigation reduces impacts to a less than significant level.

> *Recommendations:* Include a cumulative impacts assessment for impacts to coastal sage scrub in the FEIS (40 CFR 1508.25 (c) (3)). Propose appropriate mitigation for these impacts. EPA recommends that NOAA purchase replacement habitat in a San Diego conservation bank approved by the California Department of Fish and Game or acquire equivalent habitat that is located in an area that is not already receiving protection from development, or repair, rehabilitate or restore disturbed habitat at a restoration site.
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> If the UCSD Park system is operating as a conservation bank in this context, provide additional information regarding the mechanism of management, funding and accountability of this system. The discussion should include how the project mitigation is consistent with the State's official policy on conservation banks[3]. The California Department of Fish and Game has criteria identifying when lands are not appropriate for conservation banking[4]. It would be helpful to reference these criteria in this discussion.

Minor comment

The DEIS states that construction effects on stormwater would not be less than significant (p. 39). It appears this may be a typo and NOAA wished to say these impacts would not be significant. Please correct or clarify.

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[1] Oberbauer and Vanderwier 1991, cited in the UCSD 2004 Long Range Management Plan EIR

[2] http://physicalplanning.ucsd.edu/PPW-PlansStudiesProjects/PP-Studies/parkstdy.html

[3] http://www.dfg.ca.gov/habcon/conplan/mitbank/cmb_genpolicies.html

[4] http://www.dfg.ca.gov/habcon/conplan/mitbank/mitbank_policies/cmb_notaccept.html