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July 30, 2007

TO: Coastal Commissioners and Interested Parties

FROM: Peter M. Douglas, Executive Director
Alison Dettmer, Deputy Director, Energy, Ocean Resources and Federal Consistency Division
Mark Delaplaine, Manager, Energy, Ocean Resources and Federal Consistency Division
Christina Cairns, Analyst, Energy, Ocean Resources and Federal Consistency Division

SUBJECT: Addendum to Staff Recommendation for CD-037-007 – US Coast Guard Sector San Diego Pier, San Diego Bay

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This addendum to the staff report includes a revised motion regarding conditional concurrence and additional background information on noise impacts for consistency determination CD-037-007. On July 30, 2007, the staff received written confirmation from the United States Coast Guard (USCG) that it has agreed to the recommended condition requiring additional eelgrass monitoring in the project area, and that this condition will be made a part of the project description. Therefore, the condition is no longer necessary, and the project, as modified, is consistent with the Coastal Act. The staff is recommending the Commission make the changes described below incorporating this information into the consistency determination. In addition, the USCG recently submitted information on noise mitigation efforts for pile driving activities under the proposed project, which should be included as an attachment to the staff report.

REVISIONS TO FINDINGS: Staff recommends the Commission adopt the following revisions:

- **Page 5 - Change Motion:** Based on the applicant's agreement with the proposed condition, staff recommends the Commission revise the **Motion** and **Resolution** from a conditional concurrence to concurrence and strike out all conditional concurrence language, as shown below (in strikeout/underline):

  Motion: I move that the Commission **~~conditionally~~ concur** with consistency determination CD-037-07 that the project described therein~~, if modified in accordance with the condition below,~~ would be fully consistent, and thus consistent to the maximum extent practicable, with the enforceable policies of the California Coastal Management Program ("CCMP").

…

Resolution to Concur with Consistency Determination:

The Commission hereby ~~**conditionally**~~ **concurs** with consistency determination CD-037-07 by the United States Coast Guard on the grounds that~~, if modified as described in the Commission's conditional concurrence,~~ the project would be fully consistent, and thus consistent to the maximum extent practicable, with the policies of Chapter 3 of the Coastal Act.

…

~~***Conditional Concurrence***~~

~~15 CFR § 930.4 provides, in part, that:~~

> ~~*(a) Federal agencies … should cooperate with State agencies to develop conditions that, if agreed to during the State agency's consistency review period and included in a Federal agency's final decision under Subpart C … would allow the State agency to concur with the federal action. If instead a State agency issues a conditional concurrence:*~~
>
> ~~*(1) The State agency shall include in its concurrence letter the conditions which must be satisfied, an explanation of why the conditions are necessary to ensure consistency with specific enforceable policies of the management program, and an identification of the specific enforceable policies. The State agency's concurrence letter shall also inform the parties that if the requirements of paragraphs (a)(1) through (3) of the section are not met, then all parties shall treat the State agency's conditional concurrence letter as an objection pursuant to the applicable Subpart…*~~
>
> ~~*(2) The Federal agency (for Subpart C) … shall modify the applicable plan* [or] *project proposal, … pursuant to the State agency's conditions. The Federal agency … shall immediately notify the State agency if the State agency's conditions are not acceptable; and …*~~
>
> ~~*(b) If the requirements of paragraphs (a)(1) through (3) of this section are not met, then all parties shall treat the State agency's conditional concurrence as an objection pursuant to the applicable Subpart.*~~

~~15 CFR § 930.34 (d) and (e) elaborate, providing that:~~

> ~~*(d) … At the end of the … [statutory time] period the Federal agency shall not proceed with the activity over a State agency's objection unless: (1) the Federal agency has concluded that under the "consistent to the maximum extent practicable" standard described in section 930.32 consistency with the enforceable policies of the management program is prohibited by existing law applicable to the Federal agency and the Federal agency has clearly described, in writing, to the State agency the legal impediments to full consistency (See §§930.32(a) and 930.39(a)), or (2) the Federal agency has concluded that its proposed action is fully consistent with the enforceable policies of the management program, though the State agency objects.*~~
>
> ~~*(e) If a Federal agency decides to proceed with a Federal agency activity that is objected to by a State agency, or to follow an alternative suggested by the State agency, the*~~

~~*Federal agency shall notify the State agency of its decision to proceed before the project commences.*~~

- **Page 3 - Change the Executive Summary:** The Executive Summary should be amended to reflect the USCG's acceptance of the recommended condition, as follows:

  "To bring this project into compliance with Section 30230 and 30233 of the Coastal Act, the USCG ~~needs to commit~~ agrees to conduct~~ing~~ an additional post-construction eelgrass survey in the project area for a minimum of one year following the proposed 30-day post-construction survey, to assess any long-term impacts and assure successful recolonization of eelgrass.

  The proposed project meets the Coastal Act Section 30233(a) allowable use test. With the measures included by the USCG, the project would meet the "least environmentally damaging feasible alternative" and "mitigation" tests of Section 30233(a), and further, would be consistent with the marine resource, estuarine habitat, and water quality policies of the CCMP (Coastal Act Sections 30230, 30231, 30232, and 30233). "

- **Page 8 - Change the findings for Section A, Dredging and Filling:** The findings under "Dredging and Filling" should reflect the USCG's acceptance of the proposed eelgrass mitigation condition, as follows:

  "As discussed, one additional measure is needed to bring the project into compliance with the mitigation test under Section 30233(a). As originally proposed, the post-construction monitoring is not sufficient to assure success of the mitigation effort. At the Commission's request, the USCG has agreed that, to bring the project into compliance with Section 30233(a) of the Coastal Act, the USCG ~~needs to~~ will commit to conducting annual eelgrass surveys for a minimum of one year following the proposed 30-day post-construction survey in the project area. This additional surveying would allow the USCG to assess any long-term impacts to eelgrass not measured by the proposed 30-day post-construction survey, and assure that successful recolonization of eelgrass has occurred in the project area. ~~As conditioned~~ With this commitment incorporated into the project description, the Commission finds the project would provide adequate mitigation and would be consistent with the dredge and fill policies of the Coastal Act under Section 30233(a)."

- **Page 11 - Change the findings for Section B, Marine Resources and Water Quality:** The findings under "Marine Resources and Water Quality" should also recognize acceptance of the condition, as follows:

  "As stated previously, the proposed 30-day post-construction monitoring is not sufficient to assess long-term impacts from the project. At the Commission's request, the USCG has agreed that, to bring the project into compliance with Section 30233(a) of the Coastal Act, the USCG ~~needs to~~ must commit to conducting annual eelgrass surveys for a minimum of one year following the proposed 30-day post-construction survey in the project area. This additional surveying would allow sufficient time to assess any long-term impacts to eelgrass not measured by the proposed 30-day post-construction survey and assure that successful recolonization of eelgrass has occurred in the project area. The USCG is currently monitoring

an area adjacent to the project site covering 4,305 square feet of eelgrass as part of mitigation effort from previous projects; this area is currently 24 months into the monitoring phase of a 5-year study. ~~If it agrees to comply with the~~ By incorporating the recommended commitment into this consistency determination, the USCG would thereby expand monitoring of these nearby areas to include the area affected by the proposed project."

- **Page 10 - Change the findings for Section B, Marine Resources and Water Quality:** The USCG clarified that the expected noise level of 80 dB due to pile driving activities was estimated for the air, not the water. After staff stated concerns over the lack of information on noise impacts to marine species during construction of the proposed pier, the USCG submitted a letter written to the National Marine Fisheries Service on June 28, 2006, responding to comments on pile driving impacts due to the repair of the existing pier at the Harbor Drive Facility. The letter describes the mitigation efforts undertaken during pile driving activities to minimize impacts upon marine species by jetting the piles instead of hammering them into the seafloor and using wooden cushion blocks atop the concrete piles to muffle the noise, as well the use of silt curtains to limit water turbidity during pile installation and removal. The USCG concluded that, with similar mitigations employed during pile driving activity, the proposed project would not significantly impact marine mammals in the project area. The findings under "Marine Resources and Water Quality" should be changed as follows:

  "Although habitat exists for harbor seals, California sea lions, and bottlenose dolphins near the proposed project site, these species generally do not occur in the upper northeastern corner of the San Diego Bay. No haulout sites for harbor seals or California sea lions occur within or in the vicinity of the project area. However, the possibility of affecting a marine mammal due to the construction noise, vibration, and lighting of project activities remains. During construction of the pier and floating dock, air noise levels could potentially reach 80 dB in the immediate vicinity of the construction activities. ~~The Coast Guard did not clarify whether this is an air or water standard estimate, or what this distance reflects; staff has requested additional clarification that will be provided in an addendum.~~ Also, the USCG submitted results from similar pile driving activity conducted during repairs of the existing pier at the Harbor Drive Facility, stating that noise impacts from proposed pile driving activities did not significantly impact marine mammals in the project area given similar mitigation measures, including jetting the piles instead of hammering them into the seafloor and using wooden cushion blocks atop the concrete piles to muffle the noise. However, the USCG maintains that, given that noise associated with pile driving activities would be short term (less than 4 hours total over a period of several days) and the fact that the noise environment of the project area is currently dominated by air traffic from the San Diego International Airport located to the north and helicopter operations at the USCG Facility, noise contributions from the project would be minor. As a precaution, to minimize noise and vibrations from pile driving, a wooden cushion block would be placed between the hammer and the pile to muffle the impact from the hammer strike against the concrete. In addition, as part of the proposed project, a biological monitor will be onsite during pile installation activities to survey for sea turtles and marine mammals and silt curtains will be used to limit water turbidity during pile installation and removal."

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STAFF RECOMMENDATION

ON CONSISTENCY DETERMINATION

Consistency Determination No.	CD-037-07
Staff:	CMC-SF
File Date:	6/13/2007
60th Day:	8/12/2007
75th Day:	8/27/2007
Commission Meeting:	8/10/2007

FEDERAL AGENCY: **United States Coast Guard (USCG)**

PROJECT LOCATION: USCG Harbor Drive Facility, Port of San Diego, City of San Diego (Exhibits 1 and 2)

PROJECT DESCRIPTION: Construction of a 242-foot long patrol boat pier and floating dock structure to be located between an existing boat dock and sea plane ramp at the USCG Sector Harbor Drive Facility within San Diego Bay (Exhibits 3, 4 and 5)

SUBSTANTIVE FILE DOCUMENTS:

1. ND-045-06 (U.S. Coast Guard, Concrete Floating Dock Replacement at Coast Guard Harbor Drive Facility, San Diego).
2. ND-078-03 (U.S. Coast Guard, Timber Pier Replacement and Expansion of Dock Facility at Coast Guard Harbor Drive Facility, San Diego).
3. Draft Environmental Assessment (EA), USCG Civil Engineering Unit of Oakland, Department of Homeland Security – May 2007.
4. Final Biological Assessment (BA), USCG Civil Engineering Unit of Oakland, Department of Homeland Security – April 2007.

EXECUTIVE SUMMARY

The United States Coast Guard (USCG) has submitted a consistency determination for the construction of a 242-foot long patrol boat pier and floating dock structure to be located between an existing boat dock and seaplane ramp at the USCG Sector Harbor Drive Facility in northern San Diego Bay, east of Harbor Island and south of the San Diego International Airport (see Exhibits 1-2). The project objective is to allow the relocation of USCG vessels, including search and rescue boats, from the Harbor Drive Facility to the Ballast Point Mooring (BPM) site at the west entrance of San Diego Bay, which would reduce emergency response time and improve mission operations for the USCG in the greater San Diego area. The new pier will provide dock space for larger USCG vessels to be relocated from the BPM site, as well as future USCG vessels and additional U.S. Customs and Border Protection vessels. The pier and floating dock would consist of three main components: a pile-supported grated fixed pier, grated gangway, and a concrete floating dock (see Exhibits 4-5). Eleven 24-inch concrete piles and two steel H-piles would be driven into the Bay sediment to support the floating dock and fixed pier, respectively. The proposed pier/floating dock would be of similar size and scale as the existing pier to the west. Utilities including sewage, potable water, electricity, and telecommunications would run through the floating dock. Access to the work site would be through the gated USCG Harbor Drive Facility.

In addition to construction of the pier, proposed activities at the Harbor Drive Facility include the construction of a security gate and relocation of existing portable ammunition boxes at the entrance to the fixed pier. Other minor shoreline modifications at the interface of the fixed pier and shore may be required to support the fixed pier. Construction of the proposed pier/floating dock would take approximately 60 to 90 days and would be scheduled between September 16, 2007, and April 1, 2008, to occur outside the breeding season of the California least tern (*Sterna antillarum browni)*. The USCG consulted with the U.S. Fish and Wildlife Service (USFWS) to avoid impacts to sensitive habitat and species such as the California least tern and brown pelican due to installation of the pier structure. The USFWS concluded that, with effective mitigation, the project can avoid impacts on listed species in the area.

The USCG has incorporated avoidance and mitigation measures into the project description to reduce potential environmental effects on coastal zone resources, including avoiding construction during the least tern breeding season, mitigating noise impacts that could affect local seabird and marine mammal species, use of Best Management Practices (BMPs) such as silt curtains to minimize water quality impacts, and surveying for and mitigating any impacts to eelgrass. USCG has also previously agreed to implement predator-control measures, such as tree-trimming, at the Facility to reduce direct predator impacts on least terns in the nearby nesting colony. In addition to the proposed USCG mitigation measures, several mitigation measures as recommended by USFWS and the Commission staff are necessary to minimize impacts to California least terns and brown pelicans and the eelgrass habitat they use for foraging. USFWS has also expressed concerns over the effects of pier shading on benthic habitat and foraging species, such as least terns. While the proposed structure would cover 1,850 square feet of open Bay habitat, the USCG has already created 2,149 additional square feet of shallow subtidal habitat since 2002 by removing existing dock coverage and riprap along the south shore of the

Facility; this is 1,749 square feet more than what was required by permit conditions and can count toward mitigation for the loss of 1,850 square feet of Bay coverage due to the proposed pier. The USCG has also planted an additional 4,305 square feet of habitat for eelgrass mitigation from previous projects, 3,442 square feet more than what was required, however this area is currently only 24 months into the monitoring phase of a 5-year study and it is premature to determine success of the replacement. To bring this project into compliance with Section 30230 and 30233 of the Coastal Act, the USCG needs to commit to conducting an additional post-construction eelgrass survey in the project area for a minimum of one year following the proposed 30-day post-construction survey, to assess any long-term impacts and assure successful recolonization of eelgrass.

The proposed project meets the Coastal Act Section 30233(a) allowable use test. With the measures included by the USCG, and, if modified as conditioned to provide additional eelgrass monitoring, the project would meet the "least environmentally damaging feasible alternative" and "mitigation" tests of Section 30233(a), and further, would be consistent with the marine resource, estuarine habitat, and water quality policies of the CCMP (Coastal Act Sections 30230, 30231, 30232, and 30233).

The proposed project would occur in an area that is restricted from public access due to safety and military security concerns. No change in public access to or recreational opportunities within San Diego Bay and the surrounding coastal zone would occur. Therefore, the proposed structure will not adversely affect public access to and recreational activities within the project area, and the project is consistent with the access and recreation policies of the CCMP (Coastal Act Sections 30210 and 30212).

STAFF SUMMARY AND RECOMMENDATION

I. STAFF SUMMARY

A. Project Description. The United States Coast Guard proposes to construct a 242-foot long patrol boat pier and floating dock structure at the USCG Sector San Diego Harbor Drive Facility along the northern side of San Diego Bay to provide for the relocation of Sector vessels to and from the Ballast Point Mooring site at the entrance of San Diego Bay (see Exhibit 2). The USCG states in its consistency determination that the new pier/dock structure and relocation of vessels are necessary to reduce emergency response time and improve mission operations for search and rescue (SAR) and other USCG vessels at the USCG's Sector San Diego facilities, as well as to provide additional space for future USCG and U.S. Customs and Border Protection vessels. The 110-foot and two 87-foot cutters stationed at the BPM site would be moved to the new pier upon completion. Eventually, the 110-foot cutter would be replaced with a 123-foot cutter and a third 87-foot patrol boat would be added. The USCG's 47-foot motor life boat and eight smaller safety boats would be moved to BPM giving them quicker access to the Pacific Ocean where the majority of the USCG emergency mission activity occurs. By exchanging vessels, access to outside San Diego Bay would be improved for the Sector's response boats that are responsible for SAR. About half of USCG's SAR caseloads occur in the Pacific Ocean; from the Harbor Drive Facility this means a transit of 4 nautical miles through the Bay, taking approximately 15

minutes. Conversely, the cutters typically operate on a scheduled basis, rather than in an immediate response mode, and the additional 4-nautical mile transit for the cutters will not significantly affect their operations. The proposed project would result in the USCG being able to use a more immediate access route to the ocean and thus would reduce response boat transit time as well as vessel traffic in San Diego Bay and fuel usage. No changes in USCG operations and/or personnel levels would occur as result of the proposed project.

The pier and floating dock would consist of three main components: a pile-supported grated fixed pier, grated gangway, and concrete floating dock (see Exhibits 4-5). The pile-supported grated fixed pier would be supported by two steel H-piles and would measure 5-feet wide by 46-feet long. It would be at a fixed elevation and would lead from the shore to the grated gangway. The grated gangway would be hinged on one end and would be 5-feet wide by 36-feet long. The gangway would join the fixed pier to the floating dock. The floating dock would be 10-feet wide by 160-feet long and made of concrete. It would float with the changing tidal elevation and would be supported by eleven 24-inch diameter steel reinforced concrete piles jetted to approximately 39-feet below the bottom. The fixed pier and gangway would be grated to allow sunlight to penetrate through to the water below and extend far enough from shore to span an eelgrass (*Zostera marina*) bed that runs parallel to the southern shoreline of the Harbor Drive facility (see Exhibit 3). Utilities including sewage, potable water, electricity, and telecommunications would run through the floating dock. The proposed pier/floating dock would be of similar size and scale as the existing pier/floating dock to the west. Construction access to the work site will be through the gated USCG Harbor Facility.

In addition to construction of the pier, proposed activities at the Harbor Drive Facility include the construction of a security gate and relocation of existing portable ammunition boxes at the entrance to the fixed pier. Other minor shoreline modifications at the interface of the fixed pier and shore may be required to support the fixed pier. Construction of the proposed pier/floating dock would take approximately 60 to 90 days and would be scheduled between September 16, 2007, and April 1, 2008, to occur outside the breeding season of the California least tern (*Sterna antillarum browni).*

During the construction phase where pile driving is required for both the fixed pier and the floating docks, a wooden cushion block would be placed between the hammer and the pile to protect the concrete and offer muffling of the sharp sound from the hammer strike. The driving process would take less than 1 hour per pile; however, installation would be spread out over a number of hours as each pile is readied and placed into position for driving. To address the potential for increased turbidity during pile jetting, the USCG will require the project contactor to use a silt curtain during pile installation and visually monitor the turbidity level. Construction equipment and materials would be consistent with pier construction activities, including pile driving. Material for the pier construction would be trucked in from areas off-site. The concrete docks would be floated into place and all remaining construction would be performed using a barge-mounted crane.

B. Federal Agency's Consistency Determination. The United States Coast Guard has determined the project consistent to the maximum extent practicable with the California Coastal Management Program.

II. STAFF RECOMMENDATION

Staff recommends that the Commission adopt the following motion:

Motion: I move that the Commission **conditionally concur** with consistency determination CD-037-07 that the project described therein, if modified in accordance with the condition below, would be fully consistent, and thus consistent to the maximum extent practicable, with the enforceable policies of the California Coastal Management Program ("CCMP").

Staff Recommendation:

Staff recommends a **YES** vote on the motion. Passage of this motion will result in an agreement with the determination and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.

Resolution to Concur with Consistency Determination:

The Commission hereby **conditionally concurs** with consistency determination CD-037-07 by the United States Coast Guard on the grounds that, if modified as described in the Commission's conditional concurrence, the project would be fully consistent, and thus consistent to the maximum extent practicable, with the policies of Chapter 3 of the Coastal Act.

Condition:

1. The USCG will conduct annual eelgrass surveys for a minimum of one year following the proposed 30-day post-construction survey to assess any long-term impacts to eelgrass in the project area and determine whether these impacts have been adequately mitigated by the successful recolonization of eelgrass. If recolonization of eelgrass is incomplete after one year, the USCG will conduct additional habitat replacement at a ratio of 1.2:1 and continue the annual surveys until mitigation is complete.

Conditional Concurrence

15 CFR § 930.4 provides, in part, that:

> *(a) Federal agencies … should cooperate with State agencies to develop conditions that, if agreed to during the State agency's consistency review period and included in a Federal agency's final decision under Subpart C … would allow the State agency to*

concur with the federal action. If instead a State agency issues a conditional concurrence:

(1) The State agency shall include in its concurrence letter the conditions which must be satisfied, an explanation of why the conditions are necessary to ensure consistency with specific enforceable policies of the management program, and an identification of the specific enforceable policies. The State agency's concurrence letter shall also inform the parties that if the requirements of paragraphs (a)(1) through (3) of the section are not met, then all parties shall treat the State agency's conditional concurrence letter as an objection pursuant to the applicable Subpart…

(2) The Federal agency (for Subpart C) … shall modify the applicable plan [or] *project proposal, … pursuant to the State agency's conditions. The Federal agency … shall immediately notify the State agency if the State agency's conditions are not acceptable; and …*

(b) If the requirements of paragraphs (a)(1) through (3) of this section are not met, then all parties shall treat the State agency's conditional concurrence as an objection pursuant to the applicable Subpart.

15 CFR § 930.34 (d) and (e) elaborate, providing that:

(d) … At the end of the … [statutory time] period the Federal agency shall not proceed with the activity over a State agency's objection unless: (1) the Federal agency has concluded that under the ''consistent to the maximum extent practicable'' standard described in section 930.32 consistency with the enforceable policies of the management program is prohibited by existing law applicable to the Federal agency and the Federal agency has clearly described, in writing, to the State agency the legal impediments to full consistency (See §§930.32(a) and 930.39(a)), or (2) the Federal agency has concluded that its proposed action is fully consistent with the enforceable policies of the management program, though the State agency objects.

(e) If a Federal agency decides to proceed with a Federal agency activity that is objected to by a State agency, or to follow an alternative suggested by the State agency, the Federal agency shall notify the State agency of its decision to proceed before the project commences.

III. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Dredging and Filling. The Coastal Act provides:

Section 30233
(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where

there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(l) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

The proposed project at the USCG Harbor Drive Facility involves filling within coastal waters (installing two steel H-piles and eleven concrete pilings to support the new pier structure); no dredging is proposed. The proposed fill triggers the three-part test of Section 30233(a): (1) the project must be one of the eight enumerated allowable uses; (2) the project must be the least damaging feasible alternative; and (3) the project must include feasible mitigation measures to minimize adverse environmental effects. The proposed project is intended as a port for the berthing of USCG vessels and future auxiliary vessels, and therefore qualifies as an allowable use under Section 30233(a)(1).

Aside from the traditional "No Project Alternative," the USCG examined two other alternatives to the proposed pier/floating dock structure, both of which involved demolishing the existing pier at the Harbor Drive Facility and constructing a new, longer pier at another site. The alternative project locations included: 1) west of the existing pier at the Harbor Drive Facility; and 2)

leasing space from the U.S. Navy at the nearby Naval Base San Diego. Both alternatives were dismissed due to the higher cost of constructing a new, longer pier. The proposed project does not replace the existing pier but adds additional dock space immediately adjacent to the current pier. In addition, the former alternative location would create a larger environmental impact upon existing eelgrass beds which extend farther out into the Bay along the southwest shore of the Harbor Drive Facility than at the southeastern end where the project is proposed (see Exhibit 3). The latter alternative location would increase SAR response time for open-ocean missions beyond that of the proposed project. The No Project alternative does not meet the needs of the USCG to shorten emergency response time and improve maritime operations in the area. The proposed project decreases vessel response time and allows additional berthing space for larger USCG vessels while minimizing impacts upon sensitive eelgrass and foraging habitat in the Bay. Therefore, the proposed project remains the least environmentally damaging feasible alternative.

The USCG has also incorporated measures into the project to minimize any potential adverse impacts to coastal resources. These measures are discussed in the section below. As discussed, one additional measure is needed to bring the project into compliance with the mitigation test under Section 30233(a). As proposed, the post-construction monitoring is not sufficient to assure success of the mitigation effort. The Commission finds that, to bring the project into compliance with Section 30233(a) of the Coastal Act, the USCG needs to commit to conducting annual eelgrass surveys for a minimum of one year following the proposed 30-day post-construction survey in the project area. This additional surveying would allow the USCG to assess any long-term impacts to eelgrass not measured by the proposed 30-day post-construction survey, and assure that successful recolonization of eelgrass has occurred in the project area. As conditioned, the Commission finds the project would provide adequate mitigation and would be consistent with the dredge and fill policies of the Coastal Act under Section 30233(a).

B. **Marine Resources and Water Quality.** The Coastal Act provides:

Section 30230.
Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231.
The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

> *Section 30232.*
> *Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

Federally listed species known to occur within the vicinity of the project area include the California least tern, California brown pelican, and green sea turtle. A healthy eelgrass community is also present along the southern shore of the Harbor Drive Facility that supports foraging habitat for these listed species. The USCG consulted with the U.S. Fish and Wildlife Service (USFWS) to avoid impacts to sensitive habitat and species such as the California least tern and brown pelican due to installation of the pier structure. The USFWS concluded that, with additional mitigation, the project could avoid significant impacts on listed species in the area.

The California least tern is known to nest near the project area during the breeding season and infrequently use the area for foraging. The nearest nesting colony is located south of the San Diego International Airport, approximately 880 feet northwest of the project site (see Exhibits 6-7). This nesting colony represents 7% of the total least tern population in San Diego Bay (Final Biological Assessment). California least terns from this colony have been observed to forage in waters near the existing pier and seawall; the USCG's Biological Assessment for this project asserts that these structures act as artificial reefs for juvenile schooling fish, which terns feed upon. To avoid potential direct effects on nesting and foraging terns, project construction is scheduled to occur outside the least tern breeding season, which begins near April 1st and ends around September 15th. The construction of the new pier/floating dock would cover approximately 1,850 square feet (0.04 acres) of open Bay water (not including coverage by vessels docked at the pier), or 0.0025% of vegetated shallow/moderately deep subtidal habitat and 0.0003% of the surface area of the San Diego Bay. Although the extent of open water foraging habitat in the Bay would be slightly diminished by the pier, the USCG states "*…new pilings would over time provide new habitat for algae, invertebrates, and associated fishes, such that no reduction in local productivity or food resources for CLT would be expected.*" In addition, the relocation of larger cutters to the new pier and search and rescue vessels to BPM would decrease vessel traffic in the immediate area, thereby reducing the potential for disturbance of foraging opportunities for and direct impacts on the least tern. To mitigate any unforeseen impacts to least terns nesting at the colony and foraging in the area, the USCG has agreed to adopt the recommended mitigation measures recommended by USFWS and by the Commission staff, including predator-controls, such as tree trimming, at the Facility. With this mitigation in place, the project would adequately protect least terns.

The California brown pelican also occurs in the project area, foraging in the Bay or resting on the shore, structures and open water surface. Since roosting and foraging areas are abundant in the area and throughout the Bay, the USCG contends that pelicans would relocate to similar, nearby sites during construction, and would resume use of the area following project activities. In addition, similar to the least tern, open water foraging opportunities would not be significantly reduced by the presence of the new pier, and in fact may increase due to the additional structural

habitat for prey and reduction in USCG vessel traffic at the Facility. USFWS has proposed no additional project mitigation measures for the pelican aside from conducting eelgrass habitat surveys and replacement, if needed. Therefore, any impacts on the pelican are anticipated to be short-term and insignificant.

The green sea turtle is rarely observed in the project area. Although they forage in eelgrass beds in general, during the day the green sea turtles of San Diego Bay typically reside in the warm water discharge channel of the South Bay Power Plant, while at night they feed on eelgrass beds in the South Bay. No known nesting sites occur in the proposed project area and noise from construction activities would likely deter any turtles from entering the construction site.

Although habitat exists for harbor seals, California sea lions, and bottlenose dolphins near the proposed project site, these species generally do not occur in the upper northeastern corner of the San Diego Bay. No haulout sites for harbor seals or California sea lions occur within or in the vicinity of the project area. However, the possibility of affecting a marine mammal due to the construction noise, vibration, and lighting of project activities remains. During construction of the pier and floating dock, noise levels could potentially reach 80 dB in the immediate vicinity of the construction activities. (The Coast Guard did not clarify whether this is an air or water standard estimate, or what this distances reflects; staff has requested additional clarification that will be provided in an addendum.) However, given that noise associated with pile driving activities would be short term (less than 4 hours total over a period of several days) and the fact that the noise environment of the project area is currently dominated by air traffic from the San Diego International Airport located to the north and helicopter operations at the USCG Facility, noise contributions from the project would be minor. As a precaution, to minimize noise and vibrations from pile driving, a wooden cushion block would be placed between the hammer and the pile to muffle the impact from the hammer strike against the concrete. In addition, as part of the proposed project, a biological monitor will be onsite during pile installation activities to survey for sea turtles and marine mammals. The biological monitor will establish a Safety Area, consisting of a 500-ft radius around any pile driving activities, and survey the Safety Area for 30 minutes prior to starting and throughout construction activities. If a marine mammal or sea turtle enters the Safety Area at any time during construction, work would be stopped until the animal has been absent from the Safety Area for 15 minutes. Down-turned lighting on the proposed pier/floating dock would also be used to reduce nighttime glare and associated impacts to birds and wildlife.

The fixed pier and gangway would span shallow subtidal areas (approximately 3-6 feet below mean low water line) that support a healthy eelgrass bed (see Exhibit 3); the floating dock would be located in deeper water (at least 10 feet below mean low water line) to avoid direct impacts on the eelgrass bed and allow sufficient clearance for the larger cutters, which require a draft space of 7 feet below the water surface. Shading from structure coverage may adversely affect the growth and extent of eelgrass, although the fixed pier and gangway would be grated to allow some natural light to pass through to the eelgrass bed below. To measure whether impacts occurred from the proposed project, the USCG has proposed to conduct pre- and post-construction eelgrass surveys using a qualified biologist in accordance with the Southern California Eelgrass Mitigation Policy (SCEMP), adopted in 1991 by Federal and state resource

agencies (see Final Biological Assessment Appendix A). The post-construction survey is proposed to be conducted within 30 days of project completion and will identify any project impacts to eelgrass within the footprint of the floating dock and moored boats, including potential shading impacts and any damage from construction work or equipment. USCG has agreed to provide eelgrass mitigation in accordance with the SCEMP for significant eelgrass impacts identified by the post-construction survey at a 1.2:1 replacement ratio.

As stated previously, the proposed 30-day post-construction monitoring is not sufficient to assess long-term impacts from the project. The Commission finds that, to bring the project into compliance with Section 30230 of the Coastal Act, the USCG needs to commit to conducting annual eelgrass surveys for a minimum of one year following the proposed 30-day post-construction survey in the project area. This additional surveying would allow sufficient time to assess any long-term impacts to eelgrass not measured by the proposed 30-day post-construction survey and assure that successful recolonization of eelgrass has occurred in the project area. The USCG is currently monitoring an area adjacent to the project site covering 4,305 square feet of eelgrass as part of mitigation effort from previous projects; this area is currently 24 months into the monitoring phase of a 5-year study. If it agrees to comply with the condition of this consistency determination, the USCG would thereby expand monitoring of these nearby areas to include the area affected by the proposed project.

The USCG would also be required to delineate the eelgrass bed boundary with visual markers during construction to avoid or minimize direct impacts to the eelgrass community. In addition, *Caulerpa taxifolia* surveys would be conducted within 90 calendar days prior to the start of construction, in accordance with the latest version of the Caulerpa Control Protocol, to ensure that the proposed project does not result in the inadvertent spread of this invasive species. If *Caulerpa* is identified, the USCG will notify the appropriate agencies (USACE, USFWS, and NMFS) within 24 hours and take the recommended preventative steps.

Construction of the pier would require jetting and pile driving eleven 24-inch diameter concrete piles and two steel H-pile supports within shallow and moderately deep subtidal marine habitats. To minimize impacts to water quality and marine habitats from disturbance of sediments, in-water activities would be limited within the designated work areas. Prior to pile driving, a silt curtain would be installed around the project area to minimize turbidity and the spread of suspended sediment in the water column. If visible turbidity is observed outside the perimeter of the silt curtain, the USCG will temporarily suspend or immediately modify the operations so that turbidity is contained. Prior to construction activities, the USCG will also conduct a contractor educational session to ensure that all on-site personnel are informed of the biologically sensitive resources associated with the project site and to ensure compliance with all mitigation measures.

With the above measures, and as conditioned, the Commission concludes that the project would adequately protect marine resources and water quality, and, therefore be consistent with Sections 30230 and 30231 of the Coastal Act.

To reduce the potential for spillage of oil or hazardous substances into the environment, vehicles and support equipment would be restricted to existing roads, parking areas, and authorized on-

land construction sites. The concrete docks would be floated into place and any in-water construction activities would be completed by a barge-mounted crane. Refueling and repair of vehicles and other equipment is restricted to construction staging areas and requirements for safe handling and disposal of hazardous wastes would be implemented. The contractor would be required to use only clean construction materials suitable for use in the oceanic environment. The contractor will ensure no debris, soil, silt, sand, sawdust, rubbish, oil or petroleum products, excess cement or concrete washings from construction enter into or are placed where they may be washed by rainfall or runoff into the Bay. Upon completion of the project, any and all excess material or debris would be removed from the work area and disposed of in an appropriate disposal site. In addition, offloading of ballast water would not occur at the pier.

In case of accidental spills, the Harbor Drive Facility maintains an oil spill kit containing protection devices such as absorbent pads that are deployed should toxic materials be spilled. Booms are also used during fueling operations over water, although typically USCG does not transfer fuel at this facility; rather, vessels fuel at a commercial vendor in San Diego Harbor. Therefore, the proposed project would protect against the spillage of petroleum products and other hazardous substances from construction, and provide adequate containment and cleanup procedures in the event of accidental spills. The Commission finds that with these measures in place, the project would be consistent with Section 30232 of the Coastal Act.

C. Public Access and Recreation. The Coastal Act provides:

> *Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*
>
> *Section 30212.*
> *(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*
>
> *(1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*
> *(2) Adequate access exists nearby. . .*

The Harbor Drive Facility is a USCG-owned property where public access is restricted for security reasons and to safeguard against potential hazards associated with USCG operations. The waters within 100 yards of the Harbor Drive Facility and its structures are a designated Safety Zone (U.S. Government Printing Office [USGPO] 2005). Vessels may transit through this Safety Zone without permission, but may not anchor, stop, remain within the zone, or approach within 100 yards of the USCG Facility or its structures (including the piers). The boat pier and floating dock would be placed within this restricted area. Therefore, no change in public access to these areas would occur and the project would not interfere with the public's right of access to areas outside of the restricted zone within San Diego Bay.

Any limitations on recreational fishing or boating opportunities due to construction activities in the water would be intermittent and localized to the area of the activity, and would not affect recreation elsewhere within the coastal waters off of the Harbor Drive Facility. In addition, the proposed project would not interfere with any established recreation-oriented facilities in the Bay.

Under Section 30212, the proposed pier structure is not required to provide for public access to the coastal zone due to military security needs of the USCG; furthermore, the development will not adversely affect public access to and recreation in San Diego Bay and the surrounding coastal zone. The Commission therefore finds that the proposed project is consistent with the access and recreation policies under Sections 30210 and 30212 of the Coastal Act.

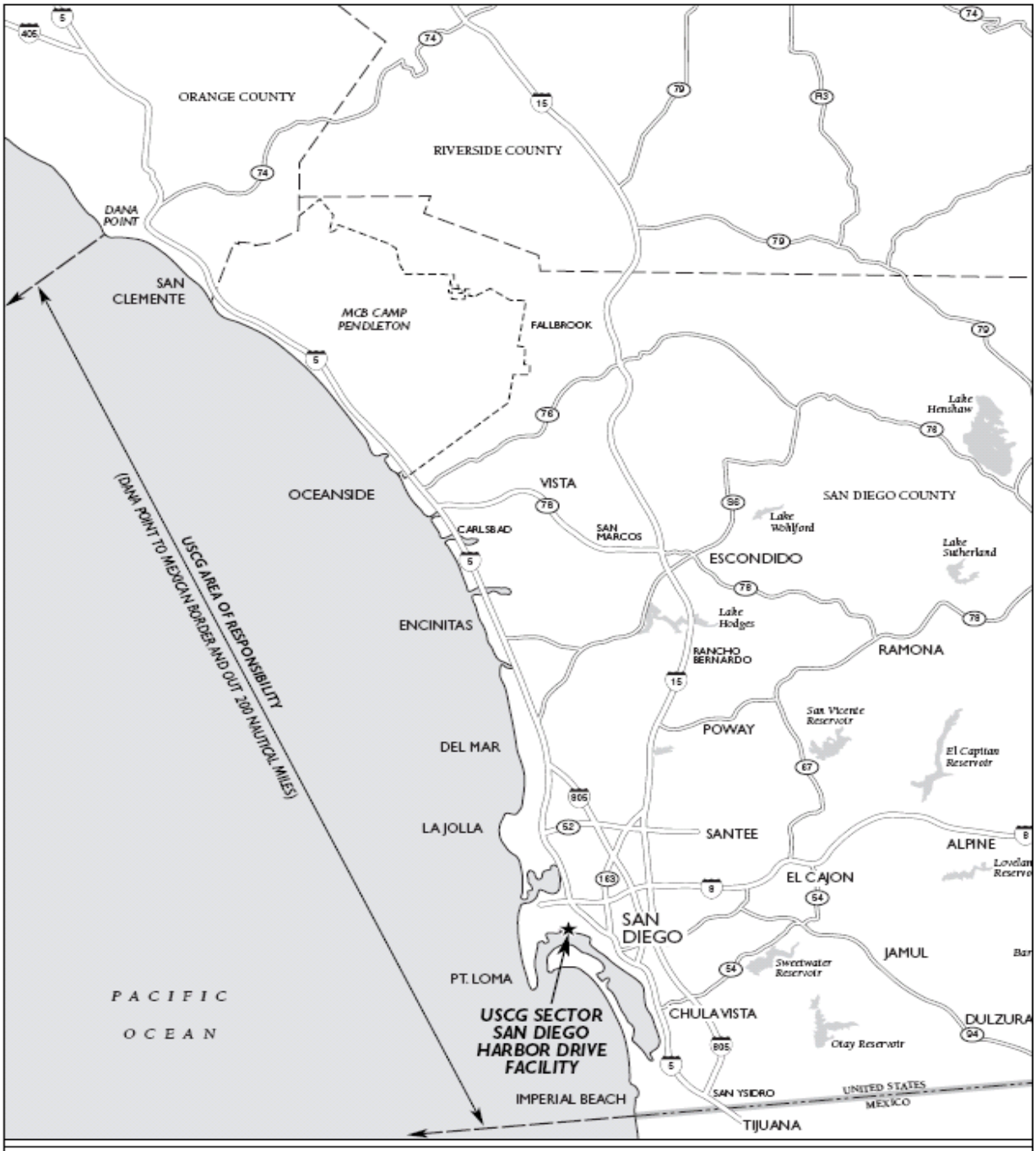


Figure 1-1
Regional Location Map/Area of Responsibility

EXHIBIT NO. 1
APPLICATION NO.
CD-037-07
USCG

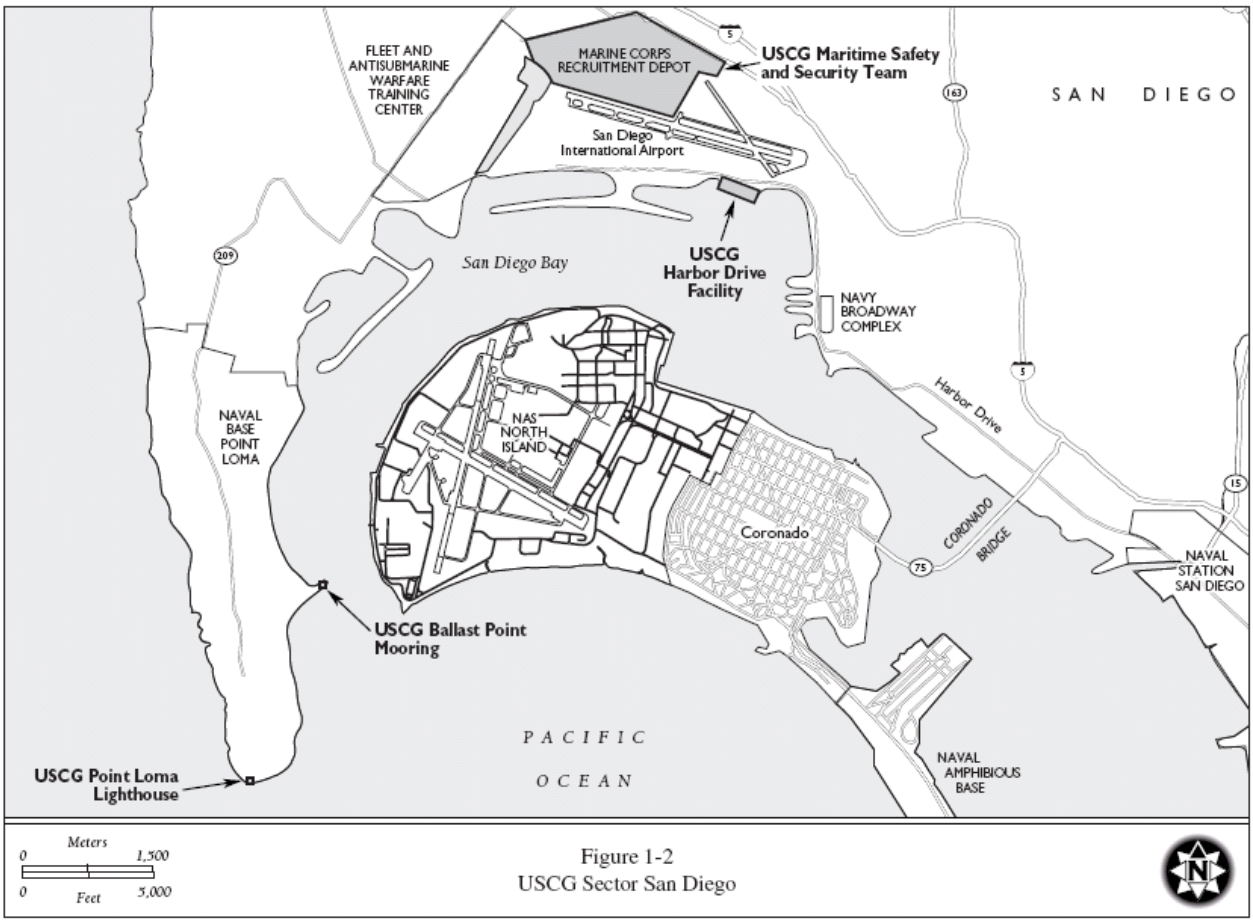


Figure 1-2
USCG Sector San Diego

EXHIBIT NO. 2
APPLICATION NO.
CD-037-07
USCG

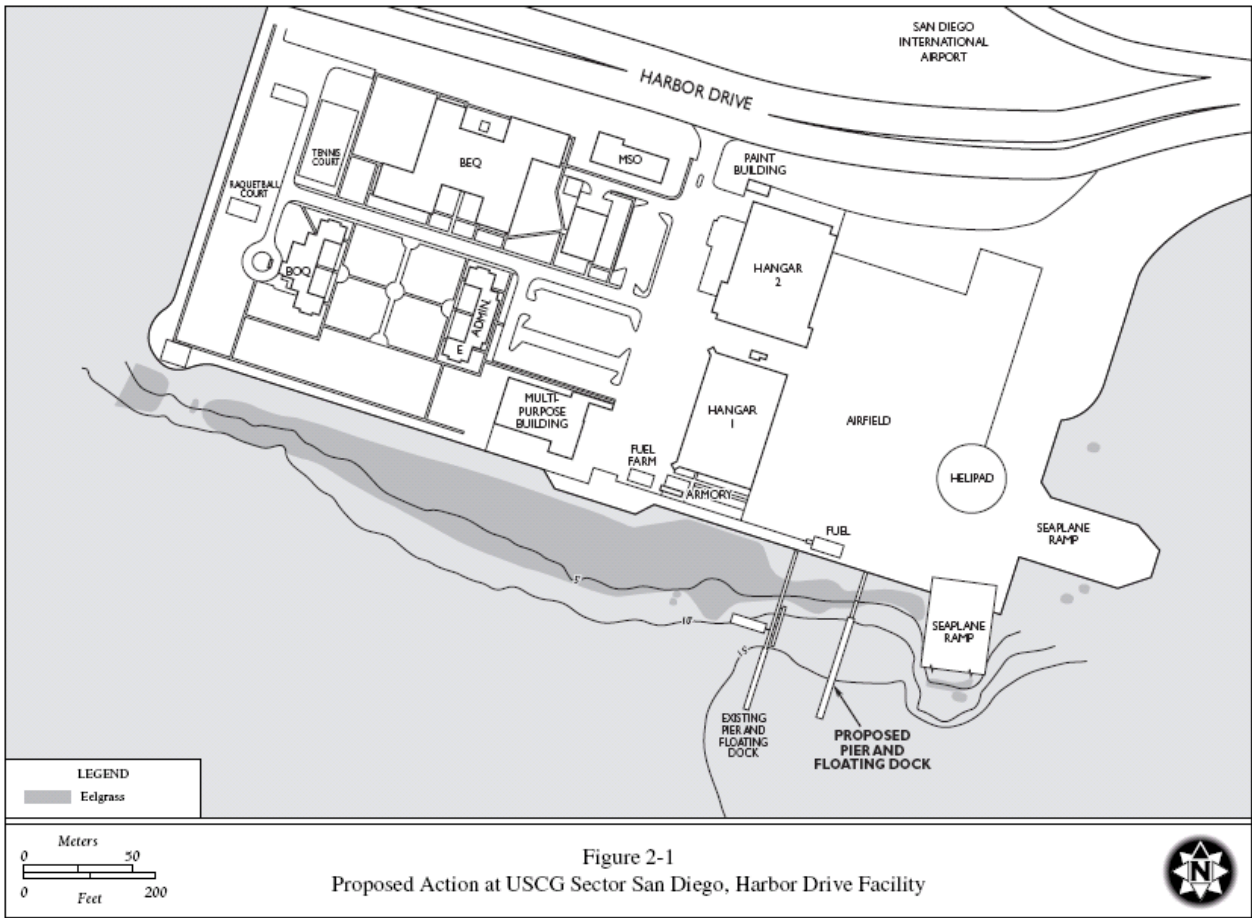
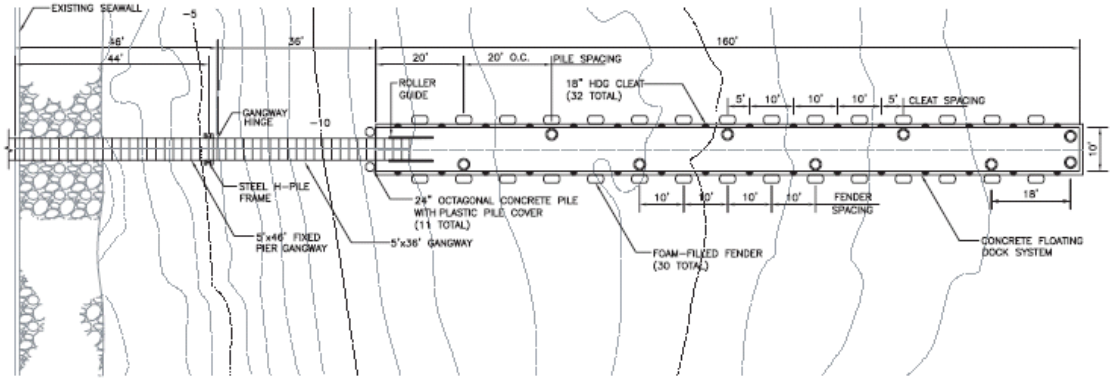


Figure 2-1
Proposed Action at USCG Sector San Diego, Harbor Drive Facility

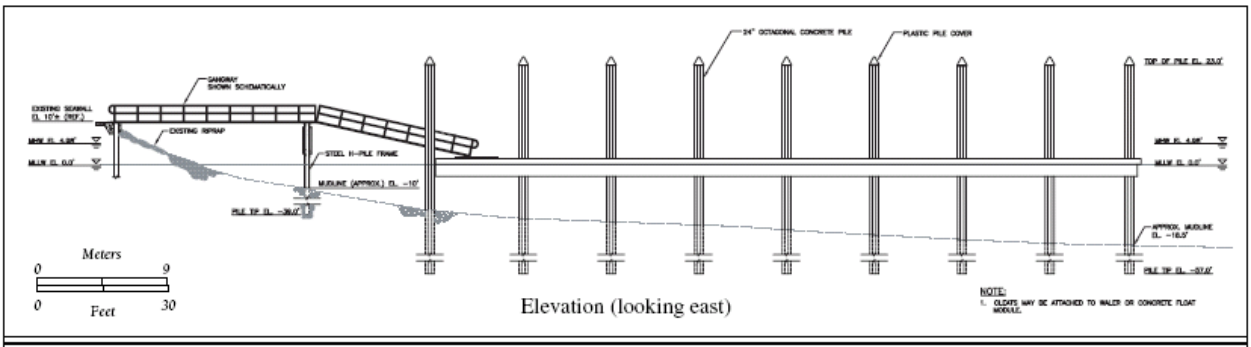
EXHIBIT NO. 3
APPLICATION NO.
CD-037-07
USCG



Meters
0 9
0 Feet 30

Figure 2-3a
Proposed Pier and Floating Dock
Plan View

EXHIBIT NO. 4
APPLICATION NO.
CD-037-07
USCG



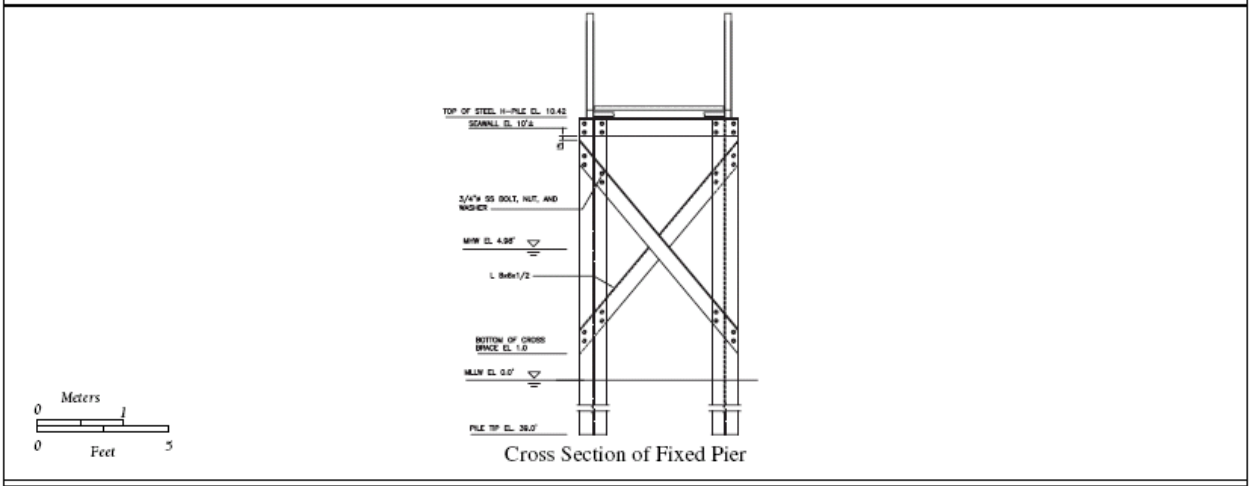


Figure 2-3b
Proposed Pier and Floating Dock
Elevation and Section

EXHIBIT NO. 5
APPLICATION NO.
CD-037-07
USCG

Figure 3.6-2
California Least Tern Foraging Sites and Nesting Grounds

EXHIBIT NO. 6
APPLICATION NO.
CD-037-07
USCG

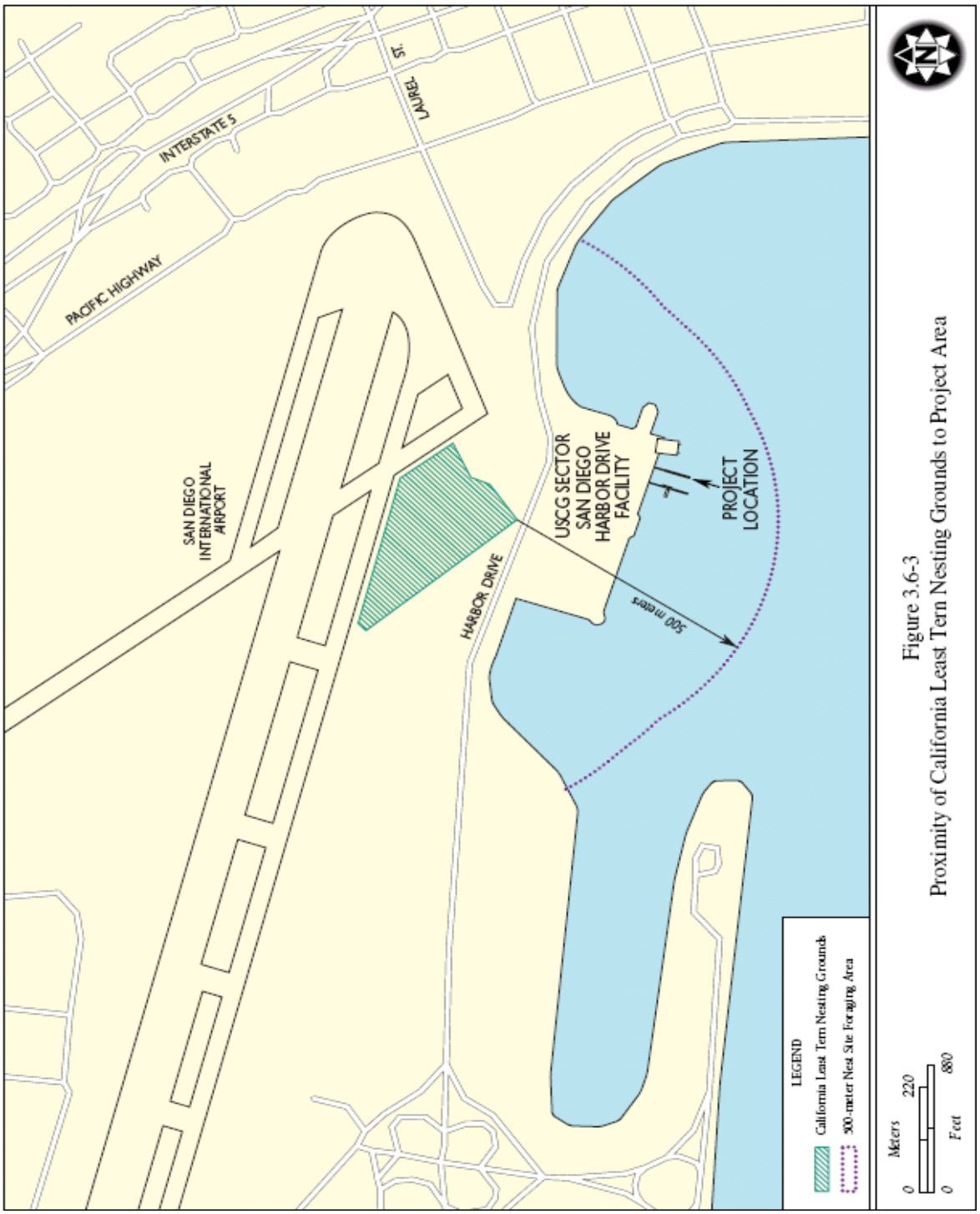


Figure 3.6-3
Proximity of California Least Tern Nesting Grounds to Project Area

EXHIBIT NO. 7
APPLICATION NO.
CD-037-07
USCG