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Staff report prepared by:	Jonathan Bishop
Staff report approved by:	Dan Carl
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COASTAL DEVELOPMENT PERMIT APPLICATION

Application number ..... **3-08-038, Port San Luis Harbor District Dredging**

Applicant..... Port San Luis Harbor District

Project location ..... Port San Luis Harbor, Avila Beach (San Luis Obispo County).

Project description..... Application of the Port San Luis Harbor District to dredge and use for beach nourishment up to 250,000 cubic yards of sediment annually for five years at the Port San Luis Harbor.

File documents..... Coastal Commission coastal development permit (CDP) files for CDPs 3-93-027, 3-97-078 (including amendment 3-97-078-A), and 3-02-100; *Sediment Sampling and Analysis Plan* (Tenera Environmental, July 31, 2002); *Sediment Sampling and Analysis Report in Support of 2003 Dredge Permit Application* (Tenera Environmental, March 10, 2003); *Subtidal Substrate Survey using Sidescan Sonar Imagery* (Tenera Environmental, February 5, 2003); *Study of Sand Shoaling at Port San Luis* (Moffatt and Nichol, June 1998); *Year-2000 Sediment Management Tactic for Port San Luis* (Everts Coastal, January 11, 2000); U.S. Army Corps of Engineers (ACOE) Permit Number 200201383-LM.

Staff recommendation ..... **Approve with Conditions**

A.Staff Recommendation

1. Summary of Staff Recommendation

The Port San Luis Harbor District has applied to dredge and use for beach nourishment up to 250,000 cubic yards of sediment annually for five years at the Port San Luis Harbor near Avila Beach in San Luis Obispo County. At a maximum, up to approximately 32 acres of the harbor could be dredged to a depth of –10 feet below mean lower low water (MLLW) in the area surrounding the Port's Mobile Hoist Basin, Sport Launch Basin and Harford Pier areas, with disposal of the dredged sediments in six nearshore and sandy beach areas of San Luis Bay. In the past, sand shoaling has limited the use of harbor facilities, and the proposed project is necessary to maintain existing depths in navigational channels, turning basins, berthing areas and boat launching ramps. The project is essential for

recreational boaters, commercial fisherman and various vessels, as well as other coastal dependent and coastal related operations that make use of the Port San Luis facilities. The Commission has historically permitted such activities within Port San Luis Harbor since 1994.

While the proposed dredging and dredge material disposal facilitate the continuance of high priority uses under the Coastal Act, the project nevertheless raises Coastal Act issues pertaining to the protection of marine resources, coastal water quality, and public access and recreation.

The Coastal Act requires that projects involving the dredging or filling of coastal waters provide measures to minimize adverse environmental effects, and that marine resources and the biological productivity of coastal waters be maintained. Sensitive biological resources have been identified within the project area including rocky reef substrate, nearshore kelp beds, and eelgrass. Also, the sandy beaches surrounding the project site are known California grunion spawning areas. Dredging and beach disposal operations may increase suspended particulates and turbidity in the harbor area and sediment resuspension can reduce dissolved oxygen levels and primary productivity, as well as potentially smother and scour benthic habitats. To protect these resources from such potential adverse impacts, the recommended permit conditions require avoidance of grunion spawning areas, rocky reef, eelgrass, and kelp beds during dredging operations.

Water quality impacts resulting from dredging operations can occur due to dredge operations changing a number of water-related variables (including dissolved oxygen, pH, salinity, total suspended solids, and turbidity). While changes to these water quality variables would result from the proposed dredge operation, pre-dredge ambient water quality conditions should recur shortly after each dredge episode, and impacts to these water quality variables are expected to be short-term and minor in magnitude and scope. Furthermore, the recommended permit conditions require the sediments to be sampled and deemed chemically and physically suitable for unconfined aquatic disposal and beneficial reuse as beach nourishment, and proper dredge equipment maintenance is required, to avoid adverse water quality impacts.

The Coastal Act requires that dredge material suitable for beach replenishment be used for such purposes. As described, the proposal would allow up to 250,000 cubic yards of sediment to be disposed of at six on shore and nearshore locations in the Harbor vicinity, and recommended conditions ensure that such materials are tested and confirmed to be suitable for this purpose. Disposal of sandy, clean sediment into the nearshore environment will allow the sandy sediment to become available to nearby beaches.

The Coastal Act requires that public recreational access opportunities be protected and maximized. Adverse impacts to public access and recreation are possible with the dredging operation, but will be of limited duration. Although the project will help protect public access and recreation opportunities by nourishing beach areas with sand, dredge operations can impact nearshore activities (e.g., dredge sediments in the nearshore water column and on the beach), and can displace public access uses when they take place in the same areas (e.g., the flexible pipelines used to transport suitable dredge spoils to designated beach replenishment sites can create a modest impediment to pedestrian travel along or to the

beach as well as interference with vessel navigation). To minimize these impacts, the recommended special conditions require the dredge operations plans to avoid public recreational access areas and impacts by design, including through managing the placement of dredge pipelines so that they do not interfere with public access or navigation.

Overall, and subject to the recommended conditions, the dredge program is necessary and appropriate to protect priority uses, is essential to support commercial fishing and recreational boating, will avoid adverse environmental impacts to coastal marine resources, and will protect public access and recreation. **Therefore, Staff recommends that the Commission approve a CDP with conditions for the proposed dredging and dredge material disposal project.** The necessary motion is found directly below.

2. Staff Recommendation on CDP Application

Staff recommends that the Commission, after public hearing, **approve** the CDP for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve coastal development permit number 3-08-038 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the ground that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the amended development on the environment.

Report Contents

B.Findings and Declarations

The Commission finds and declares as follows:

1. Project Location

Port San Luis Harbor is located in northern portion of San Luis Bay, just upcoast from the town of Avila Beach. The Bay is hook-shaped and is delineated by Point San Luis to the southwest and Fossil Point to the southeast. The Port facilities are partially protected by a large rock breakwater that extends southeast from Point San Luis (see Exhibits A and B). San Luis Obispo Creek enters San Luis Bay approximately 5,000 feet to the northeast of the Harbor. Small rock outcroppings, nearshore kelp beds and intermittent sandy beaches characterize the coast between Point San Luis and Fossil Point.

Port San Luis lies at the southwest end of the San Luis Obispo Bay Littoral Cell (SLOBLC),[1] a 3-mile long, near-closed system contained between Point San Luis at the southwest end and the Fossil Point headland east of Avila Beach.[2] While Point San Luis and the breakwater generally provide adequate protection from large northwesterly swells, high-energy surges can still produce strong currents and movements of water within the harbor. The seasonal disposition of sediment from San Luis Obispo Creek combined with strong wave action transport sand and other suspended particles into calmer harbor areas where they are eventually deposited. Shoaling of the launch facilities and navigational areas is the result of natural littoral drift processes that appear mostly unavoidable. On average, the Port

[1] A littoral cell is a closed or near-closed coastal system into which sediment is discharged, within which sediment is deposited or scoured, and out of which sediment is lost.

[2] Everts Coastal, *Year-2000 Sediment Management Tactic for Port San Luis*, January 2000.

San Luis harbor facilities receive approximately 5,000 to 10,000 cubic yards of sediment per year. Much of this sediment collects at the mobile hoist facility and sport launch basin, and, at times, has rendered these areas impassable to boats (see Exhibit E).

2. Project Description

The Port San Luis Harbor District has requested approval of a five-year permit: (1) to annually dredge up to 250,000 cubic yards (cy) of sediment from a 32 acre site adjacent to the Mobile Hoist Pier, the Sport Launch, and the Harford Pier, down to a depth of –10 feet below mean lower low water (MLLW); and (2) to annually deposit the up to 250,000 cubic yards of material into six possible locations in the intertidal zone and sandy beach areas of San Luis Bay (see Exhibit C for a map of the proposed Port San Luis Harbor dredging and disposal sites).

The Port has historically dealt with shoaling through small-scale annual maintenance dredging events. In the past, Port San Luis has used its own work force and equipment consisting of a small submersible pump, suspended by a landside crane to transport dredge materials over short distances. This method is described by the Port District as being effective, but due to the short reach of land based cranes and piping equipment, is limited to nearshore waters. The following table shows the volume of material dredged from the Sport Launch and Mobile Hoist basins under previous permits during the period from 1994 to present:

Period of Dredge Activity	Sport Launch Area Volume	Mobile Hoist Area Volume
03/94 – 05/94	3,223 cy	3,282 cy
02/95 – 06/95	3,397 cy	2,768 cy
12/95 – 05/96	3,751 cy	3,711 cy
11/96 – 06/97	3,555 cy	3,904 cy
02/98 (post El Niño storms)	4,882 cy	6,621 cy
02/99 – 08/99	4,407 cy	3,105 cy
11/99 – 12/99	350 cy	0 cy
02/00 – 09/00	3,410 cy	3,563 cy
01/01 – 08/01	7,335 cy	1,420 cy
02/02 – 07/02	4,465 cy	965 cy
03/03 – 05/03	10,560 cy	7,995 cy
03/04 – 05/04	7,507 cy	4,620 cy
03/05 – 05/05	8,032 cy	5,115 cy
03/06 – 08/06	17,605 cy	6,551 cy
03/07 – 08/07	15,012 cy	6,930 cy
03/08 – 07/08	9,660 cy	8,085 cy

The Harbor District has indicated that if the opportunity and funding becomes available, they would like to utilize a floating, hydraulic or mechanical dredge to remove larger volumes of sediment and dispose of it further away than they have historically. Thus, the Harbor District is requesting the ability to

dredge up to 250,000 cy per year. In the event these opportunities are not realized, the District will continue to conduct small-scale dredging projects on an as needed basis similar to the episodes over the past 15 years. So although the proposed project request is for the 250,000 cy amount, it is entirely possible, and perhaps even likely given the above-described history, that a much lesser amount of dredging would result.

3. Coastal Development Permit Determination

A. Land Use Priorities

Port San Luis Harbor accommodates a number of coastal-related and coastal-dependant activities including among other things, commercial fishing and recreational boating. The proposed project includes maintenance dredging to remove accumulated sediment from the boat launching areas and navigational channels. Coastal-dependent and coastal-related developments are among the highest priority Coastal Act uses.

1. Applicable Policies

The Coastal Act defines coastal-dependent and coastal-related as follows:

> ***§ 30101:*** *"Coastal-dependent development or use" means any development or use which requires a site on, or adjacent to, the sea to be able to function at all.*
>
> ***§ 30101.3:*** *"Coastal-related development" means any use that is dependent on a coastal-dependent development or use.*

Coastal Act Section 30001.5 states in part:

> *The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:*
>
> *(a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources….*
>
> *(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.*
>
> *(d) Assure priority for coastal-dependent and coastal-related development over other development on the coast…*Coastal Act Sections 30234 and 30234.5 also provide:
>
> ***§ 30234:*** *Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.*
>
> ***§ 30234.5:*** *The economic, commercial, and recreational importance of fishing activities shall*

be recognized and protected.

2. Analysis and Conclusion

Port San Luis Harbor is one of only two commercial harbors located in San Luis Obispo County (the other being in Morro Bay). Port San Luis Harbor provides docking, mooring, and commercial fish processing facilities. In addition to commercial fishing activities, the Port is also a popular sport fishing and recreational destination for the public. The proposed dredging activities not only support coastal-dependent uses, but also are integral to such uses and therefore have a priority under the Coastal Act. Accordingly, the proposed development supports high priority Coastal Act uses that are consistent with the land use priorities of Coastal Act Sections 30101, 30101.3, and 30001.5.

Section 30234 of the Coastal Act provides that facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Section 30234.5 states that the economic, commercial, and recreational importance of fishing activities shall be recognized and protected. Commercial and recreational boating and fishing are coastal-dependent priority uses that cannot function without sufficient harbor depths. Hence, the maintenance of adequate berthing and navigational depths in the Harbor is essential, and must be considered a high priority under the Coastal Act. Therefore, the Commission finds that the project is consistent with Coastal Act Sections 30234 and 30234.5.

B. Marine Resources

1. Applicable Policies

Coastal Act Sections 30230, 30231, 30232, and 30233 afford protection of marine resources and their associated biological productivity and state:

> ***§ 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.*
>
> ***§ 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 waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*
>
> ***§ 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.

§ 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 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.

(4) 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.

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

(6) Restoration purposes.

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

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the l9 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

2. Analysis

Biologic Resources

Port San Luis Harbor is located at the southwest end of San Luis Bay. San Luis Bay includes a diverse complex of marine habitats including, open ocean, kelp forests, rocky seashore, nearshore, intertidal, sandy beaches, coastal streams, and wetlands. These habitats support a wide variety of marine life,

including benthic communities, marine mammals, fish, and seabirds. Commission staff has observed seals and sea lions resting upon piers and jetties, sea otters in nearshore kelp beds, a variety of fish species, and shorebirds resting upon the various poles, masts, and other structural developments within the harbor.

Coastal Act Sections 30230 and 30231 require protection of marine resources and their associated biological productivity. In the past, the Applicant has performed a subtidal sidescan sonar survey to identify potential biologically sensitive habitat areas, such as rocky reefs, kelp beds and other marine plants, and to evaluate the dredge area and disposal sites accordingly. The sidescan sonar images revealed rocky substrate extending 100 to 300 meters from west of the north end of the small boat launch. Kelp beds were also noted in the north part of this subtidal rocky habitat. In this case, the removal of sediment from dredge areas that include rocky substrate and kelp forest habitats may adversely impact the biological productivity of these sensitive habitat areas through direct disturbance, scraping, scouring, and hydraulic removal of flora and fauna. In such instances, dredging could result in losses of infaunal and epfaunal biota, and some burrowing and bottom dwelling fish within the dredge footprint.

In order to avoid direct impacts to these sensitive areas consistent with the Coastal Act, Special Condition 4(a) requires that approximately 7 acres within the proposed dredge footprint be excluded from sediment removal activities. Based on side scan sonar images, dredging exclusion zones are applied to areas of rocky substrate and include a small buffer area surrounding the hard bottom and associated kelp beds. The 7-acre area to be avoided is necessary to avoid heavy equipment encroachment and disturbances in sensitive habitat areas. This area is depicted in Exhibit D of this report.

Additionally, the disposal and grooming of dredge spoils on beach areas has the potential to adversely impact seasonal California grunion (*Leuresthes tenuis*) spawning events because these activities can smother individuals or eggs, and can interfere with the grunion's affinity for a specific beach location. Grunion spawn during the highest nighttime spring tides. Female grunion swim ashore with the rising high tide and lays eggs in the sand which are then fertilized by the male grunion. The eggs incubate in the sand for 10-14 days and then hatch on the next high tide. In the past, California grunion has been observed using the beach areas surrounding the dredge site for spawning. In 1998, grunion were observed spawning on Fisherman's Beach, Old Port Beach, and Avila Beach. All of these sites are included as potential beach replenishment locations. A 1998 memo from the California Department of Fish and Game (CDFG) to Commission staff states:

> *The full effects of dredge material disposal on grunion spawning are unknown, however, we believe that the presence of these materials in the low intertidal zone during the grunion spawning period may physically and/or chemically disturb the grunion's affinity for the beach and/or have and adverse effect upon the eggs. It is the DFG's view that continued disposal of dredged material during the grunion's 4-day spawning period could negatively impact grunion.*

Communications with CDFG staff have further emphasized the need to avoid grunion during spawning

periods.[3] In order to avoid adverse impacts to grunion during spawning periods, Special Condition 4(b) has been included in this permit. The special condition requires monitoring during grunion spawning season (March 1 – September 1) and if identified, will require stoppage of all dredge activities until the eggs have completely hatched.

Dredging and Dredge Spoils Disposal

Dredging operations must meet the 3-part test of Section 30233(a) of the Coastal Act (i.e., the allowable use, alternative, and mitigation tests). Under Section 30233(b), the project must also provide that dredge spoils suitable for beach replenishment be transported for such purposes to appropriate beaches or into suitable long shore current systems.

The project is an allowable use for dredging under Section 30233(a)(2) because it is for the purpose of maintaining existing navigational area depths. Continued sediment inflows can be anticipated in this area. This can, at times, result in severe impairment of harbor capacity and risk to vessels if no action is taken.

In late 1999, a comprehensive analysis and sand management plan was developed by Everts Coastal to improve the dredging program at Port San Luis. Permanent solutions to the problem were identified by the Applicant and include: fixed groins, permanent sand retention structures, and opening the breakwater to limit sediment shoaling. All of these permanent structural solutions were ruled out as being infeasible, primarily due to the significant costs involved. According to the alternatives analysis performed, this leaves the Port District with two options: 1) continue removing sediment in the sport launch and mobile hoist areas as it has in the past, or 2) intercept incoming sediment before it gets to these locations.[4] While large sediment retention/interception pits are not included in this proposal, the Harbor District has taken a slightly different, but theoretically similar approach, in that they wish to move larger amounts of accumulated sediment further distances away to slow down sand deposition rates at the facility. The goal of this "preventative maintenance" approach is to intercept as much of the sand moving alongshore as possible before it reaches the harbor facilities. Even though the Port has never come close to the proposed theoretical maximum of 250,000 cubic yards, this alternative approach is contemplated under this proposal and would improve the operational efficiency and cost effectiveness of the dredge program, and could reduce the frequency of dredging over the longer term.

The depth of dredging (-10 MLLW) is necessary to accommodate vessel navigation (i.e., the size of vessel and draft). The seaward extent of the dredge area footprint follows this depth and is supported by bathymetric surveys provided by the Applicant. The allowable dredge areas to the north and south follow the recommendations provided in previous studies and can be seen as a way to intercept sediment before it reaches the harbor facilities. Therefore, the spatial extent of the dredge area appears appropriate.

The calculations that the Port District used to arrive at the 250,000 cubic yard estimate were intended to

[3] Personal communication between Commission coastal planner Jonathan Bishop and Deborah Johnston, DFG, Monterey, May 28, 2003.

[4] *Year 2000 Sediment Management Tactic for Port San Luis*, Everts Coastal, January 11, 2000.

be a very rough estimate that would provide the port with some operational flexibility (i.e., an excavation of 5 feet of materials over 32 acres = 1,393,920 sq. ft. x 5 ft. = 6,969,600 cubic ft = 258,133 cubic yards). The estimate assumes that 5 feet of sediment would be removed from the entire 32-acre site. Clearly, this is an overestimate of the potential material that could be dredged from the site in any one year since some of the area is below the -10 ft MLLW depth limit of the dredging, a 7-acre exclusion zone has been required, and some of the area near the rip-rap is too shallow to be dredged. In this case, it is unlikely that the maximum volume threshold allowed under this permit would be reached and in fact may be much lower; particularly if historic dredging rates are in fact continued. In any case, this approval is conditioned to limit dredging to a maximum of 250,000 cubic yards per year as that is the amount understood and evaluated herein (see Special Condition 1).

Reducing the frequency of dredging events may also minimize resource impacts. As described, each dredging episode results in temporary water quality impacts. Therefore, conducting a single large-scale dredge event (perhaps only once during the 5-year permit cycle) would reduce the frequency of such impacts. The result would be an overall environmental benefit over time. Thus, the spatial extent of the expanded dredge site and the larger volume of sediment to be dredged less frequently appear justified under Section 30233.

Section 30233(b) requires that dredge spoils be disposed of in a manner that avoids disruption to habitats. Dredge spoils must be suitable for beach replenishment and placed on appropriate beaches or within suitable longshore currents. To be considered suitable for beach nourishment, sediment must be free of chemical contamination and consist primarily of sand of an acceptable grain size (usually approximately 80% sand, although another commonly used “rule of thumb” is that the material should ideally fall within 10% of the percentage of sand content at the receiver beach). If placed on the dry upland portion of the beach, the grain size should ideally be compatible with the predominant grain size on the receiver beach as well.

In the past, test results have shown that the material to be dredged is almost entirely sand. With the exception of one area north of the Harford Pier, results of particle size analysis indicate that all samples can be characterized as course to medium grained, ranging from 94.7%- 99.1% sand.[5] On the whole, chemical contaminants have not been an issue at the Harbor. This is supported by past letters from the project biologist and the U.S. Environmental Protection Agency’s (EPA’s) concurrence that the ACOE’s determination that the proposed dredged materials are chemically and physically suitable for beneficial reuse as beach nourishment. Nevertheless, a precautionary approach is warranted and Special Condition 3 requires that all dredge materials be tested and meet ACOE, EPA, and Central Coast Regional Water Quality Control Board (RWQCB) disposal standards.

Finally, to ensure that adequate and effective mitigation measures to protect coastal resources are provided during dredging, dredging operations plans are required before each dredging episode (see Special Condition 4), and the effective timeframe of the permit is limited to a five-year period or until ACOE dredging permit expires, whichever comes first (see Special Condition 2). With respect to the

[5] Sand = fraction of sediment passing through #8, but retained by #200 U.S. Standard Sieve.

latter, the areas subject to dredge operations are dynamic environments that are and will continue to be subject to a variety of natural and man-made processes. There is a myriad of potential future changed circumstances that may affect the adequacy of the currently proposed measures (including potential future listing of species that occur within harbor areas; an unforeseen rise in contaminant levels of harbor sediments from new upstream land uses or spill events; etc.). Thus, in order to enable the implementation of this permit in a manner which best addresses potential future changed circumstances, the Commission finds that, only as conditioned by Special Condition 2, which limits this permit to a period of five years or until the ACOE dredging permit expires (whichever comes first), can the project be found consistent with the resource protection polices of the Coastal Act.

Water Quality

Potential impacts of dredging on marine water quality include temporarily increased turbidity, reductions in dissolved oxygen, and potential resuspension, remobilization, and redistribution of any chemical contaminants present in the sediments. While these impacts could occur, the pre-dredge operation ambient water quality condition recurs shortly after each dredging episode, and thus the impact to these water quality variables is expected to be adverse but short-term and minor in magnitude and scope.

To evaluate the potential impacts associated with the proposed dredging activities, the biological, chemical and physical characteristics of the sediments must be evaluated through sediment sample analyses described above. As described above, the sediment has historically been almost entirely "clean" sand. However, past sediment chemical tests are about 5 years old and a precautionary approach is warranted in order to ensure impacts to water quality (and related marine resources) is avoided under this current permit. Thus, sediment samples are required to be collected from all of the proposed dredging areas and tested under the most current guidelines of ACOE, EPA, and RWQCB (see Special Condition 3).

Finally, Special Condition 5 requires the permittee to show evidence of other regulatory agency approvals from the ACOE, EPA, and RWQCB, or show that none is necessary.

3. Conclusion

The proposed project represents a multi-year program for dredging activities necessary to maintain and improve navigation channels and berthing areas for recreational boating and commercial fishing. Because there are no feasible less environmentally damaging alternatives available to maintain adequate depths within Port San Luis Harbor; because feasible mitigation measures are applied through the special conditions of this approval to minimize adverse environmental effects; and because suitable sediments will be conveyed to appropriate beach replenishment sites, the proposed dredging project, as conditioned, can be found consistent with the Coastal Act's marine resource protection policies as discussed in this finding.

C. Public Access and Recreation

1. Applicable Policies

Coastal Act Sections 30210 through 30224 specifically protect public recreational access opportunities. In particular:

> ***§ 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.*
>
> ***§ 30211:*** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*
>
> ***§ 30212 (a):*** *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects….*
>
> ***§ 30213.*** *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*
>
> ***§ 30220.*** *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*
>
> ***§ 30221.*** *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*
>
> ***§ 30222.5.*** *Oceanfront land that is suitable for coastal dependent aquaculture shall be protected for that use, and proposals for aquaculture facilities located on those sites shall be given priority, except over other coastal dependent developments or uses.*
>
> ***§ 30223.*** *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*
>
> ***§ 30224.*** *Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.*

2. Analysis

The Coastal Act requires public recreational access opportunities to be maximized, including lower cost visitor facilities, water-oriented activities (like recreational boating), and protects areas near and at the shoreline for this purpose. Port San Luis Harbor provides public access and recreational opportunities of

regional and statewide significance. These include boat launching, berthing for commercial vessels and recreational boats, boat repair areas, marine-related retail/commercial businesses, kayaking, windsurfing, beachgoing, and diving. The proposed dredging project will strongly benefit public access and recreation, in two ways: (1) by restoring and maintaining adequate water depths in the harbor's navigation channels and berthing areas, and (2) by directing suitable sandy dredge spoils onto nearby beach areas for beach replenishment.

Adverse impacts to public access from the dredge operations are possible (e.g., displacement of activities in dredge and disposal areas, sedimentation of nearshore waters, presence of dredge pipes impacting access, etc.). For example, the pipelines used to transport suitable dredge spoils to designated beach replenishment sites can create a modest impediment to navigation and pedestrian access to the beach. These pipelines are generally 10-12 inches in diameter, and may need to be traversed by persons walking across the beach. According to the Port, placement of these pipelines can be managed so that they do not form an unintentional continuous barrier, particularly with respect to the less-nimble beach visitors. Fortunately, these types of impacts can be minimized through dredge operation design. Thus, this approval is conditioned to ensure that dredging operations are conducted in such a manner as to avoid, to the greatest extent possible, interference with public recreational access in the Port San Luis Harbor area (see Special Condition 4(c)). With respect to dredge pipelines specifically, such measures may include, but are not limited to, uncoupling segments to allow unimpaired pedestrian movement, building small-scale sand ramps over pipelines, pipeline removal during times of peak beach use, etc. (see Special Condition 4(c)).

3. Conclusion

In conclusion, the dredge program is necessary to protect Coastal Act priority uses. Although the transport of dredge materials to beach replenishment sites may temporarily impact public access in Port San Luis and its surrounding beaches, the dredge program is essential to allow for commercial and recreational boating access, and the nourishment efforts should serve to build beaches in the area. The permit is conditioned to minimize public recreational access impacts, including any possible continuous barrier effects due to pipelines at beach replenishment sites.

The project, as conditioned, will protect boating and other public recreational opportunities consistent with the Coastal Act. Therefore, as designed and as conditioned by Special Condition 4, which mitigates for potential beach access impacts, the proposed project will preserve public access and recreational opportunities and, as such, is consistent with the above-cited public access and recreational policies of the Coastal Act.

4. Coastal Development Permit Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission

office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Maximum Dredge Volume.** Dredging and disposal shall not exceed 250,000 cubic yards of materials per year.

2. **Permit Expiration**. This coastal development permit shall be valid for 5 years from the date of Commission approval (i.e., until December 10, 2013), or until ACOE permit number 200201383-LM for the authorized activities expires, whichever comes first.

3. **Initial Sediment Sampling and Testing Required**. PRIOR TO THE COMMENCEMENT OF THE FIRST DREDGING EPISODE ALLOWED UNDER THIS PERMIT, the Permittee shall submit to the Executive Director for review and approval two copies of each of the following:

   (a) Sampling Analysis Plan. A sampling analysis plan (SAP) that clearly describes and delineates sediment sampling locations and applicable testing protocols. The SAP shall ensure that representative sample locations applicable to authorized dredging areas are tested.

   (b) Sediment Testing. An analysis of all sediment samples identified by the SAP (i.e., chemical, physical, and biological analyses) using the most current ACOE and EPA testing methods and procedures. If any such samples do not meet ACOE, EPA, and RWQCB dredge disposal standards, then the materials from the sampled area shall not be allowed to be deposited on beaches or in the nearshore environment, but rather shall be properly disposed of at an inland location (i.e., landfill or equivalent). All other dredge materials shall be deposited in the six locations identified by the Port District (see Exhibit C).

4. **Dredge Operations Plan**. PRIOR TO THE COMMENCEMENT OF EACH DREDGING EPISODE, the Permittee shall submit for Executive Director review and approval two copies of a detailed dredge operations plan (DOP) that clearly identifies all dredge operations (including, at a minimum, identification of areas to be dredged, dredging depths, overdredge depths, quantity of

materials to be dredged, specific location of dredge spoils disposal, all methods for spreading/grooming beach nourishment areas, all timing (including dredge start and stop days, hours of operations, etc.), all pipeline locations, all measures to be taken to define and delineate dredge activity areas, equipment to be used, etc.). All such DOPs shall, at a minimum, incorporate the following provisions:

(a) Dredge Prohibition Areas. Dredging operations shall not occur in sensitive rocky substrate and kelp forest areas as identified in Exhibit D. Prior to the commencement of dredging activities, all such areas to be avoided shall be clearly demarcated with floatable buoys, or other devices which are clearly visible on surface waters, so as to allow dredge equipment operators to easily identify dredge prohibition areas.

(b) Grunion Spawning Protection. If disposal and/or grooming of dredge spoils will be conducted on beaches during the California grunion spawning season (i.e., from March 1st through September 1st), the affected beach area shall be monitored during all such activities by a qualified professional biologist, approved by the Executive Director, to determine if grunion runs are occurring. If grunion runs are observed, the Permittee shall cease all such beach disposal and grooming operations during any forecasted spawning period, and if any eggs are found, all activities on the beach shall cease until grunion eggs have hatched.

(c) Public Recreational Access Protection. Dredging operations shall be conducted in such a manner as to avoid, to the greatest extent possible, interference with public recreational access in the Port San Luis Harbor area. At a minimum, all measures to be implemented to avoid public recreational access impacts due to dredge pipelines shall be identified (such measures may include, but are not limited to, uncoupling segments to allow unimpaired pedestrian movement, building small-scale sand ramps over pipelines, pipeline removal during times of peak beach use, etc.).

(d) Equipment Maintenance. All dredging equipment (e.g. pipelines, pumps, etc.) shall be maintained and inspected by Port District staff on a regular schedule to ensure proper operation and to eliminate any potential for spills, waterway or beach access conflicts.

The Permittee shall undertake development in accordance with the approved DOPs.

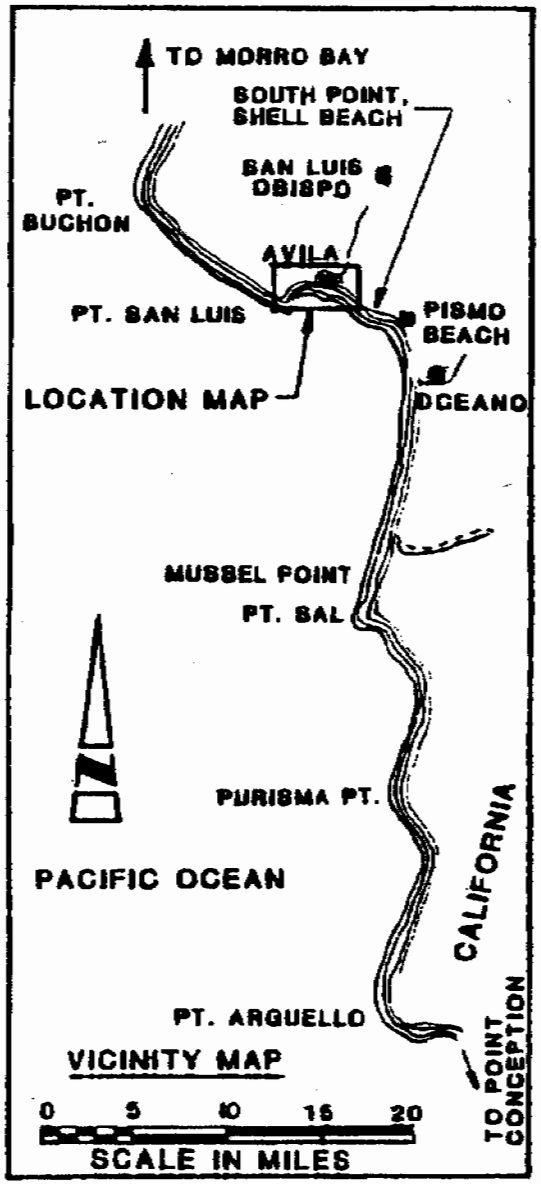
5. Other Agency Approvals. PRIOR TO THE COMMENCEMENT OF THE FIRST DREDGING EPISODE ALLOWED UNDER THIS PERMIT, the Permittee shall submit to the Executive Director for review a copy of a valid permit, letter of permission, or evidence that no permit is necessary for the project authorized by this CDP from the following agencies: ACOE, EPA, and RWQCB.

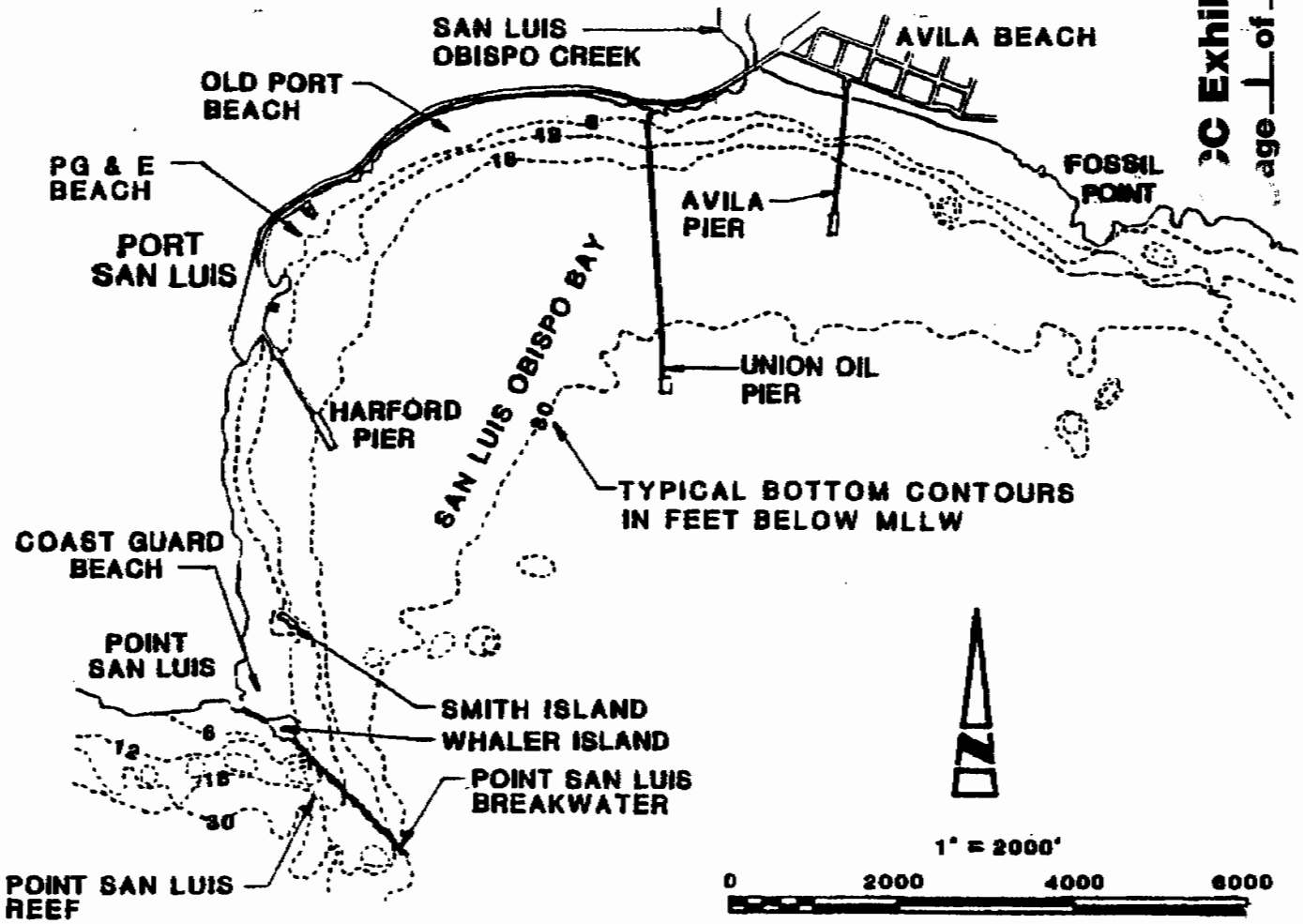
5. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The Commission has reviewed the relevant coastal resource issues with the proposed project, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

The Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).





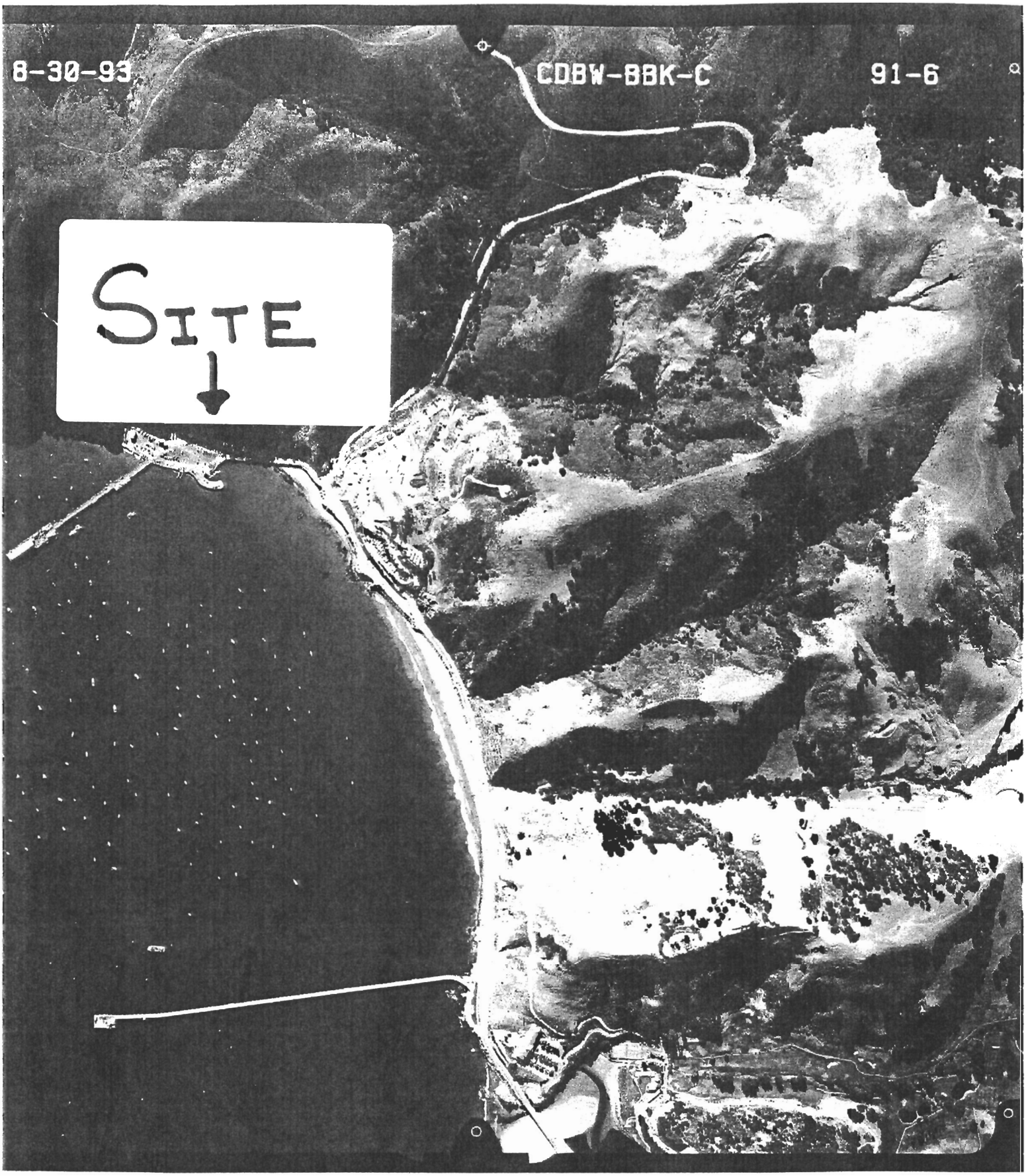
LOCATION MAP

SOURCE : PORT SAN LUIS HARBOR DISTRICT

FIGURE 1 : LOCATION AND VICINITY MAPS

PORT SAN LUIS

MOFFATT & NICHOL, ENGINEERS
WALNUT CREEK, CALIFORNIA



CCC Exhibit B
(page 1 of 1 pages)

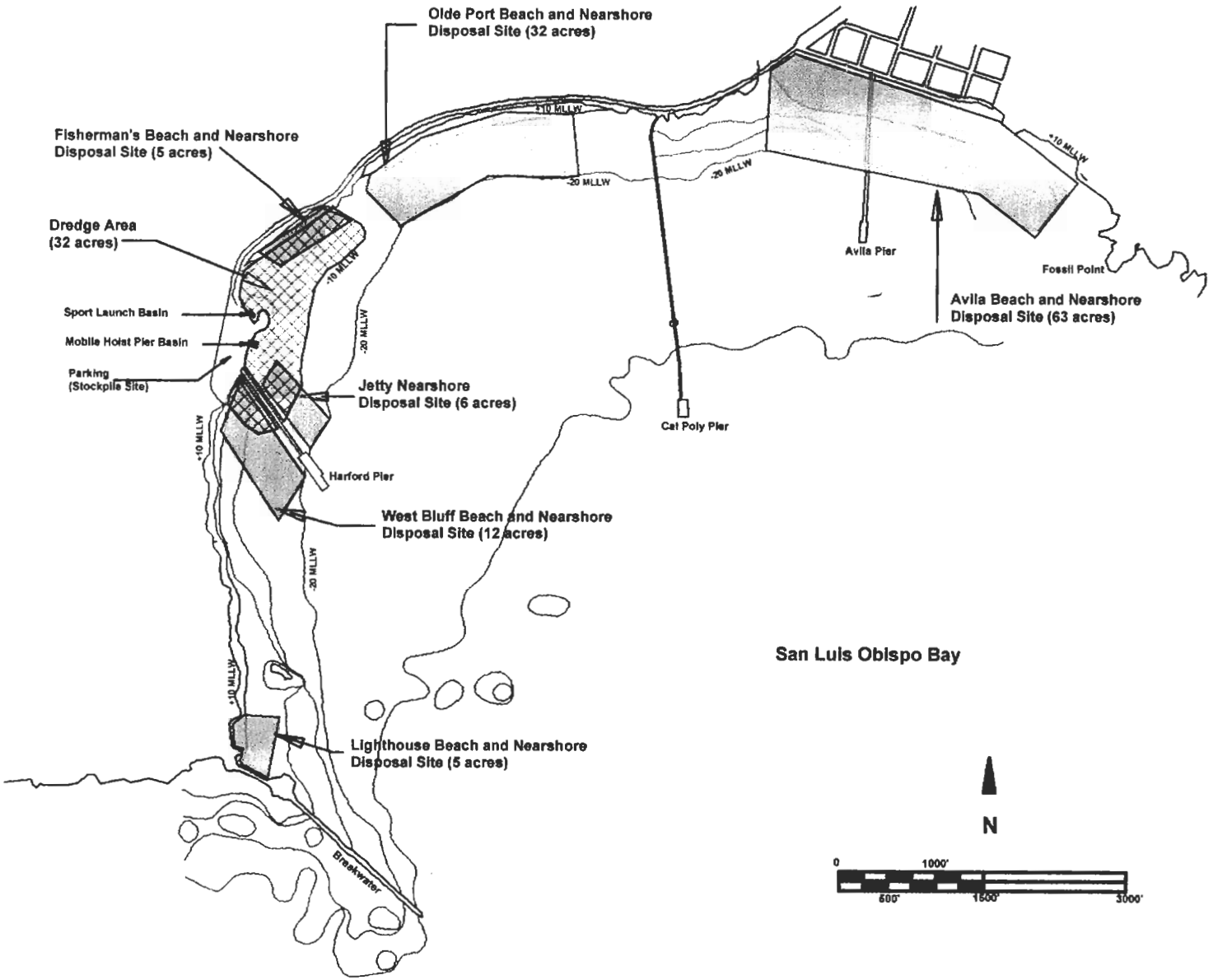
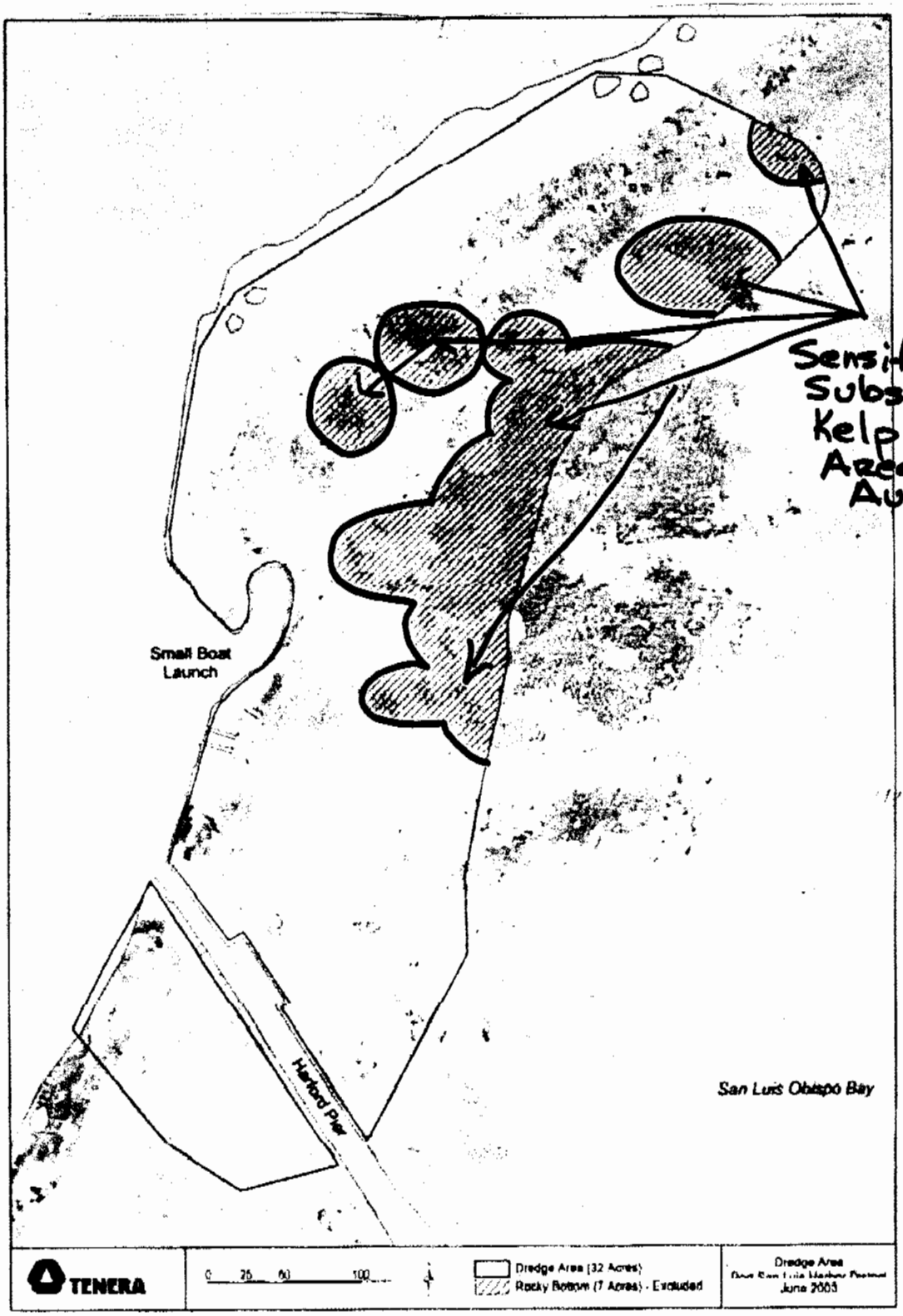


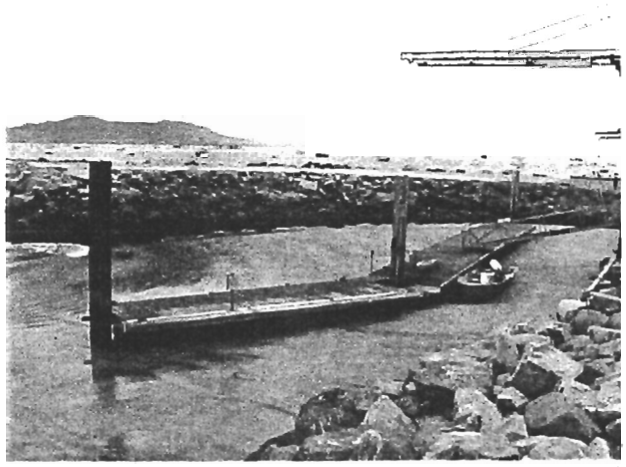
Figure 2. Map of Port San Luis Harbor 2003 Dredge and Disposal Sites

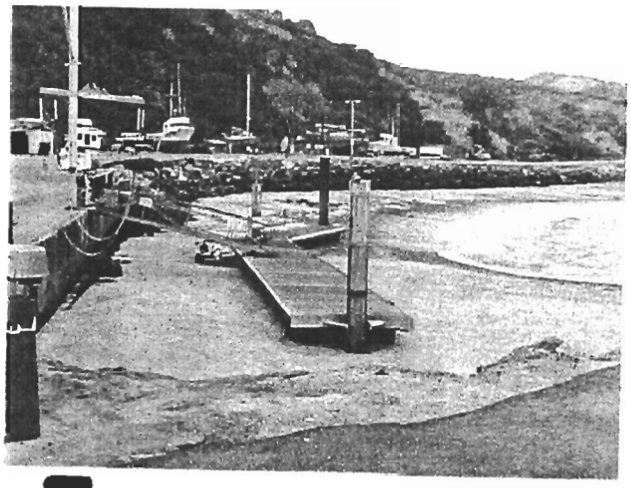
Dredge Prohibition Areas



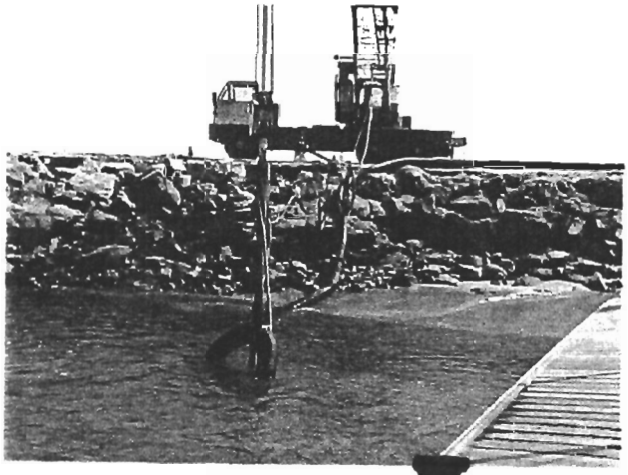
Tuesday, June 03, 2003.max

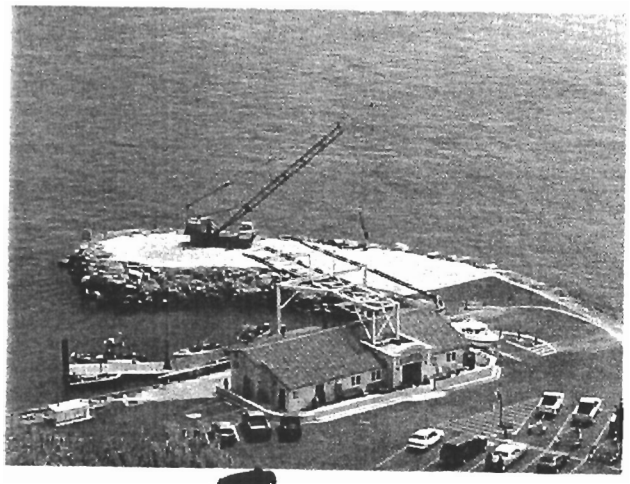
CCC Exhibit D
(page 1 of 1 pages)





Shoaling at Sport Launch





DREDGING

Disposal

CCC Exhibit E
(page 1 of 1 pages)