

CALIFORNIA COASTAL COMMISSION

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49th Day: 3/12/2012
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Staff: Charles Posner - LB
Staff Report: 3/22/2012
Hearing Date: April 11, 2012
Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

APPLICATION NUMBER: 5-12-026

APPLICANT: City of Long Beach Department of Parks, Recreation and Marine

AGENT: Mark Sandoval, Manager

PROJECT LOCATION: 435 Shoreline Village Drive (Rainbow Harbor – Dock 10), City of Long Beach, Los Angeles County.

PROJECT DESCRIPTION: Remove the existing 313-foot long L-shaped public boat dock at Shoreline Village and replace it in the same location with a new 713-foot long L-shaped public boat dock (with new gangway and three sewage pump-out stations) using twelve existing concrete piles and twelve new concrete piles.

LOCAL APPROVAL: City of Long Beach Dept. of Development Services, Approval in Concept, 1/20/2012.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission grant a coastal development permit for the proposed development with special conditions relating to the permitted use of the public dock, permit compliance, protection of water quality and marine resources, public access along the shoreline, and assumption of risk. The applicant agrees with the recommendation. **See Page Two for the Motion.**

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

MOTION: *"I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations."*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

I. Resolution: Approval with Conditions

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Special Conditions**1. Permit Compliance – Use of Dock**

The docking facility approved by Coastal Development Permit 5-12-026 is for transient public docking and public recreational boating related uses only, and shall be reserved for use by the general public. Limited short-term berthing for the loading and unloading of passengers from non-commercial working vessels is also permitted, with the approval of the City of Long Beach Marine Bureau. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. Any deviation from the approved plans, or any proposed intensification of use of the dock (e.g., use of the dock by commercial tour vessels or private charters) must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required pursuant to the requirements of the Coastal Act and the California Code of Regulations. No change in use or other changes to the approved development shall occur without a Commission amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is required.

2. Public Dock - Signage

Signs shall be posted on the dock which clearly designate the dock for public use.

3. Eelgrass Survey and Mitigation Plan

- A. Pre Construction Eelgrass Survey. Prior to commencement of any disturbance of the intertidal or subtidal areas authorized under this coastal development permit, a valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of dredging and pier construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the “Southern California Eelgrass Mitigation Policy” Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The permittee shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any disturbance of the lagoon intertidal or subtidal areas.
- B. Post Construction Eelgrass Survey. If any eelgrass is identified in the project area by the survey required in Section A of this condition above, within one month after the conclusion of construction, the permittee shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the “Southern California Eelgrass Mitigation Policy” Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The permittee shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the permittee shall replace the impacted eelgrass at a minimum 1.2:1 ratio on-site, or at an approved location in Alamitos Bay, in accordance with the Southern California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1 (mitigation:impact). The exceptions to the required 1.2:1 mitigation ratio found within SCEMP shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

4. Caulerpa Taxifolia (Toxic Algae) Pre-Construction Survey

- A. Not earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any disturbance of the intertidal or subtidal areas authorized under this coastal development permit, the permittee shall undertake a survey of the project area and a buffer area at least ten meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- C. Within five business days of completion of the survey, the permittee shall submit the survey for the review and approval of the Executive Director; and to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043).

D. If *Caulerpa taxifolia* is found within the project or buffer areas, the permittee shall not proceed with the project until 1) the permittee provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the permittee has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Construction Responsibilities and Debris Removal

By acceptance of this permit, the permittee agrees to implement the proposed construction best management practices (BMPs) listed below and on **Exhibit #6 of the staff report dated 3/22/12**.

- A. Any wood treatment used shall conform with the specifications of the American Wood Preservation Association for saltwater use. Wood treated with Creosote, CCA (Chromated Copper Arsenate), ACA (Ammoniacal Copper Arsenate) or ACZA (Ammoniacal Copper Zinc Arsenate) is prohibited. Treated timber shall be free of chromium and arsenic and completely sealed in epoxy resin. No exposed wood shall be used where it could come into contact with the water.
- B. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
- C. Machinery or construction materials not essential for project improvements are prohibited at all times in the subtidal or intertidal zones.
- D. Silt curtains will be utilized to control turbidity during placement of all piles.
- E. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day.
- F. Divers will recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- G. Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the bay and a pre-construction meeting to review procedural and BMP guidelines.
- H. Any and all construction material and debris shall be removed from the site within ten days of completion of construction and disposed of at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- I. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash or construction material has been left on the shore or in the water, and that the project has not created any hazard to navigation.

6. Best Management Practices (BMP) Program

By acceptance of this permit, the permittee agrees that the long-term water-borne berthing of boat(s) in the approved dock and/or boat slip will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs.

- A. Boat Cleaning and Maintenance Measures:

1. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints and debris.
2. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls is prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and only minimal amounts shall be used.
3. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.

B. Solid and Liquid Waste Management Measures:

All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits shall be disposed of in a proper manner and shall not at any time be disposed of in the water or gutter.

C. Petroleum Control Management Measures:

Oil absorbent materials should be examined at least once a year and replaced as necessary. The applicant shall recycle the materials, if possible, or dispose of them in accordance with hazardous waste disposal regulations. The boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. Boaters shall to use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas. Bilges shall be cleaned and maintained. The use of detergents or soaps that can be discharged by bilge pumps is prohibited.

7. Public Access To and Along the Waterway

The permittee and the development shall not interfere with public access along Mole Road and the shoreline in the project area, except for the temporary disruptions that may occur during the completion of the permitted development.

8. Resource Agencies

The permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

9. Assumption of Risk

By acceptance of this permit, the applicant, on behalf of a) itself; b) its successors and assigns and c) any other holder of the possessory interest in the development authorized by this permit, acknowledges and agrees i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; ii) to assume the risks to the applicant and the property that is the subject of

this permit of injury and damage from such hazards in connection with this permitted development; iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in i through v.

III. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The proposed project involves the replacement of the existing public boat dock (Dock 10) and sewage pump-out facility located next to the Shoreline Village shopping center and the Downtown Shoreline Marina, near the entrance to Mole Road (Exhibit #3). The existing dock is deteriorated and insufficiently equipped to meet the demands of the boating public. On January 9, 2008, the Commission approved Coastal Development Permit 5-07-158 (City of Long Beach) for the same dock replacement project, but the permit was never vested and it expired.

The existing L-shaped timber dock will be disassembled and removed, and a new L-shaped concrete dock will be constructed off-site and installed in its place. The new concrete dock will meet current dock standards and will incorporate adequate utilities to serve the public's demand, including two additional sewage pump-out stations and an additional four hundred feet of dock to create additional berthing space for vessels. All twelve existing concrete piles will be protected in place and re-used to secure the new dock. No dredging is proposed, and no new nighttime lights (except for navigational lights) are proposed as part of the dock replacement project.

The existing dock has 313 linear feet of dock (Exhibit #4). The new L-shaped floating dock will be four hundred feet longer with 713 linear feet of dock (Exhibit #5). The new dock is fifteen feet wide and will be located eleven feet seaward from the location of the existing dock in order to eliminate vessels grounding at low tides. Twelve new 24-inch diameter concrete piles, in addition to the twelve existing concrete piles, will secure the new dock in place (Exhibit #6). The existing dock's aluminum gangway will be replaced with a similar 5' x 45' gangway in the same location. The dock's utilities will be replaced in kind (e.g., potable water, fire water, electricity) with three sewage pump-out stations installed at the southern end of the new dock (Exhibit #5).

The shoreline in the project area is comprised of imported rocks. Immediately above the rocks there exists a public sidewalk, bicycle path, public parking and the Mole Road (Exhibit #3). The proposed 30' x 80' construction staging area is proposed to be located on a portion of the Mole Road parking area near the project site (Exhibit #5). The staging area will not block access to Mole Road and the public recreational facilities that are accessed from Mole Road (i.e., boat docks, fishing piers, public park, and marina and general public parking).

The proposed project has received the approval of the City of Long Beach Department of Development Services and the City of Long Beach Marine Bureau. The applicant has received a Section 401 Certification from the California Regional Water Quality Control Board (File No. 07-064, 10/19/07), and a preliminary approval (pending Coastal Commission approval) from the U.S. Army Corps of Engineers (Corps File No. SPL-2007-546-KW). The California Department of Fish and Game has reviewed the proposed project and has determined that it would not have a significant adverse effect on marine resources if the proposed best management practices (e.g., the use of silt curtains and a debris boom) are implemented during construction.

B. Public Use of Dock 10

On February 25, 1988, the Commission approved Coastal Development Permit 5-87-961 (City of Long Beach) for the construction of the existing City-owned dock. Special Condition Three of Coastal Development Permit 5-87-961 prohibited the use of the public dock for “either the origin or final destination of tour boats” in order to protect the limited parking facilities in the area from being overburdened by the parking demands generated by commercial tour boats.

The City has not proposed any change in dock use as part of this permit application. Commercial recreational boating concessions, charters and tours do not use the public dock, as there are other docks specifically designated for commercial uses within Rainbow Harbor. The existing dock is currently used for short-term (less than eight hours) transient public docking and for the daily loading and unloading of workers from two private companies’ vessels. The private companies’ workers board the vessels at the dock once in the morning and unload once in the afternoon. Given the large size of the proposed dock, the limited use of the dock for the continuing short-term berthing for the loading and unloading of passengers from non-commercial working vessels will not adversely affect public access or recreation.

Special Condition One of Coastal Development Permit 5-12-026 limits the use of the proposed dock to transient public docking and public recreational boating related uses only, and, with the approval of the City of Long Beach Marine Bureau, the continuing short-term berthing for the loading and unloading of passengers from non-commercial working vessels. As conditioned, the proposed development will support public recreational boating opportunities in the Downtown Shoreline area and is therefore consistent with the public access and recreation policies of the Coastal Act.

C. Recreational Marine Resources

The site has been surveyed for eelgrass (*Zostera marina*) and no eelgrass has been found. On March 15, 2007, Tetra Tech, Inc. conducted an underwater survey and found no eelgrass (*Zostera marina*) or noxious algae (*Caulerpa taxifolia*) in the vicinity of the proposed project. On November 10, 2011, divers from the City of Long Beach Fire Department conducted another eelgrass survey and found none. Therefore, the proposed project is not expected to adversely affect any eelgrass beds or contribute to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. There is a possibility, however, that eelgrass could grow at the site before the commencement of development, given the ongoing delay in construction (the project was previously approved four years ago). Special Condition Three requires that a new pre-construction eelgrass survey shall be completed during the period of active growth of eelgrass (March through October). Special Condition Four requires a survey to determine if the invasive alga *Caulerpa taxifolia* is present in the area. As conditioned, any adverse effects to eelgrass will be mitigated in accordance with the Southern California Eelgrass Mitigation Policy. Special Condition

Five requires the permittee to implement the proposed construction best management practices (BMPs) listed on Exhibit #6. Only as conditioned is the proposed project consistent with the marine resource sections of the Coastal Act.

The proposed development is the improvement of a small boat marina which promotes recreational boating and is an encouraged marine related use. The proposed development has been designed to minimize the fill of coastal waters and adequate mitigation has been provided. The proposed development has been conditioned to minimize adverse effects on the marine environment by avoiding or mitigating impacts upon sensitive marine resources, such as eelgrass and to avoid contributing to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. As conditioned, there are no feasible less environmentally damaging alternatives available. Therefore, the Commission finds that the proposed development conforms with Sections 30224, 30230, 30231, and 30233 of the Coastal Act.

D. Water Quality

The proposed work will be occurring on, within, or adjacent to coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters. To reduce the potential for post-construction impacts to water quality the Commission requires the continued use and maintenance of post construction BMPs. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

E. Public Access

The public currently has unrestricted access along the shoreline at the project site. The proposed project will not interfere with public access along the shoreline, except for the temporary disruptions that may occur during the completion of the permitted development. As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

F. Local Coastal Program

A coastal development permit is required from the Commission for the proposed development because it is located within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Long Beach certified LCP is advisory in nature and may provide guidance. The Commission certified the City of Long Beach LCP on July 22, 1980. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.

G. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires Commission approval of coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (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.

In this case, the City of Long Beach is the lead agency and the Commission is the responsible agency for the purposes of CEQA. On October 19, 2011, the City of Long Beach Department of Development Services issued CEQA Categorical Exemption No. CE-130-11 for the proposed project. Furthermore, the proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require a) implementation of construction and debris removal responsibilities; b) implementation of best management practices to protect water quality and marine sources, c) conformance with post-construction best management practices; d) protection of public access; and e) the permittee's assumption of risk.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

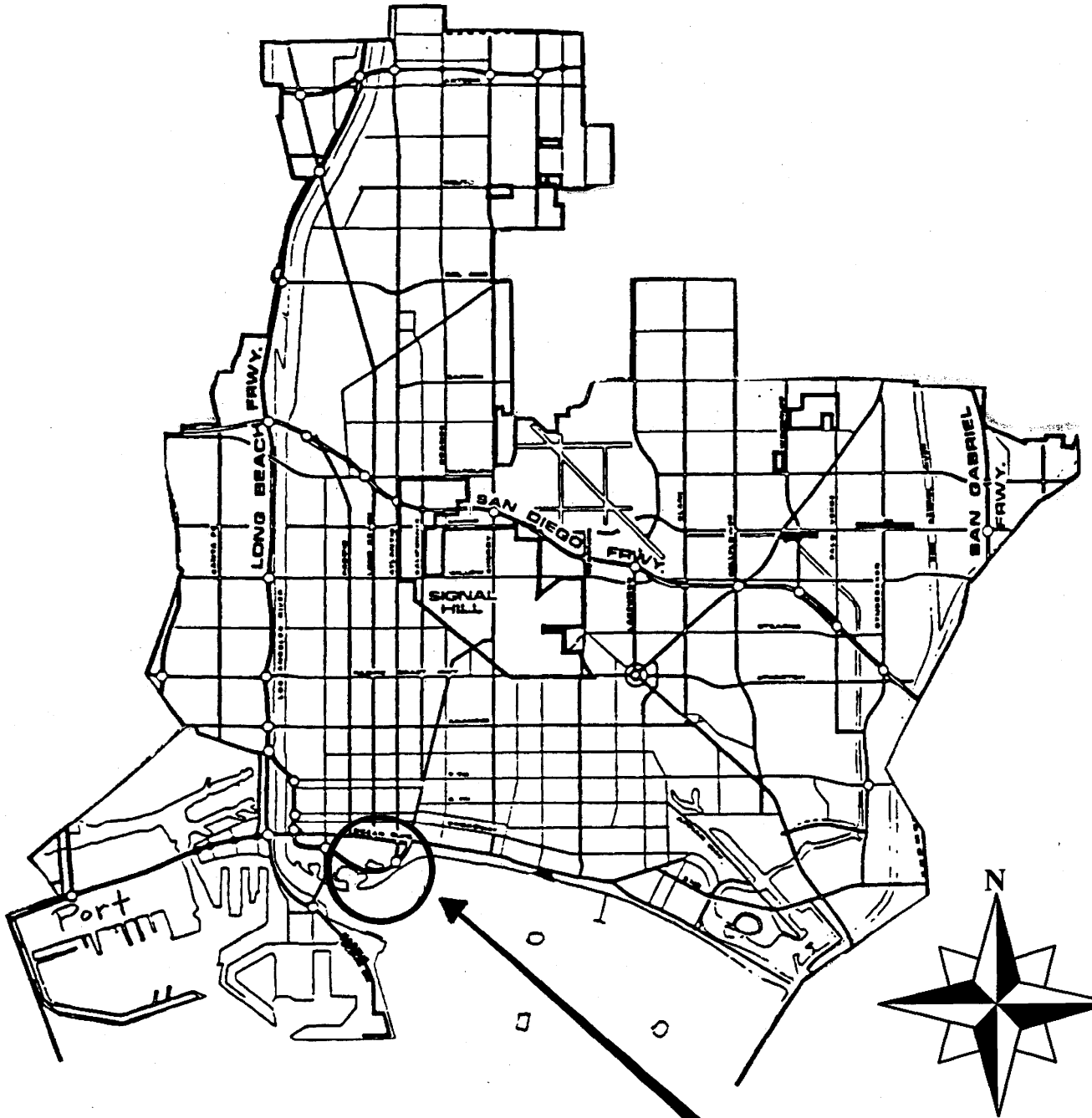
APPENDIX**SUBSTANTIVE FILE DOCUMENTS:**

1. City of Long Beach certified Local Coastal Program (LCP), July 22, 1980.
2. Coastal Development Permit 5-87-961 (Long Beach, Shoreline Village Public Dock).
3. Coastal Development Permit 5-93-145 (City of Long Beach, Seaport Village Dock).
4. Coastal Development Permit 5-04-233 (City of Long Beach, Rainbow Harbor Dock 9).
5. Coastal Development Permit 5-07-158 (City of Long Beach, Rainbow Harbor Dock 10).
6. California Regional Water Quality Control Board Section 401 Certification, File No. 07-064, 10/19/2007.
7. U.S. Army Corps of Engineers Permit Application, Corps File No. SPL-2007-546-KW.
8. Eelgrass & Caulerpa Survey at Dock 10 in Rainbow Harbor, by Tetra Tech, Inc. 3/15/2007.

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.

City of Long Beach



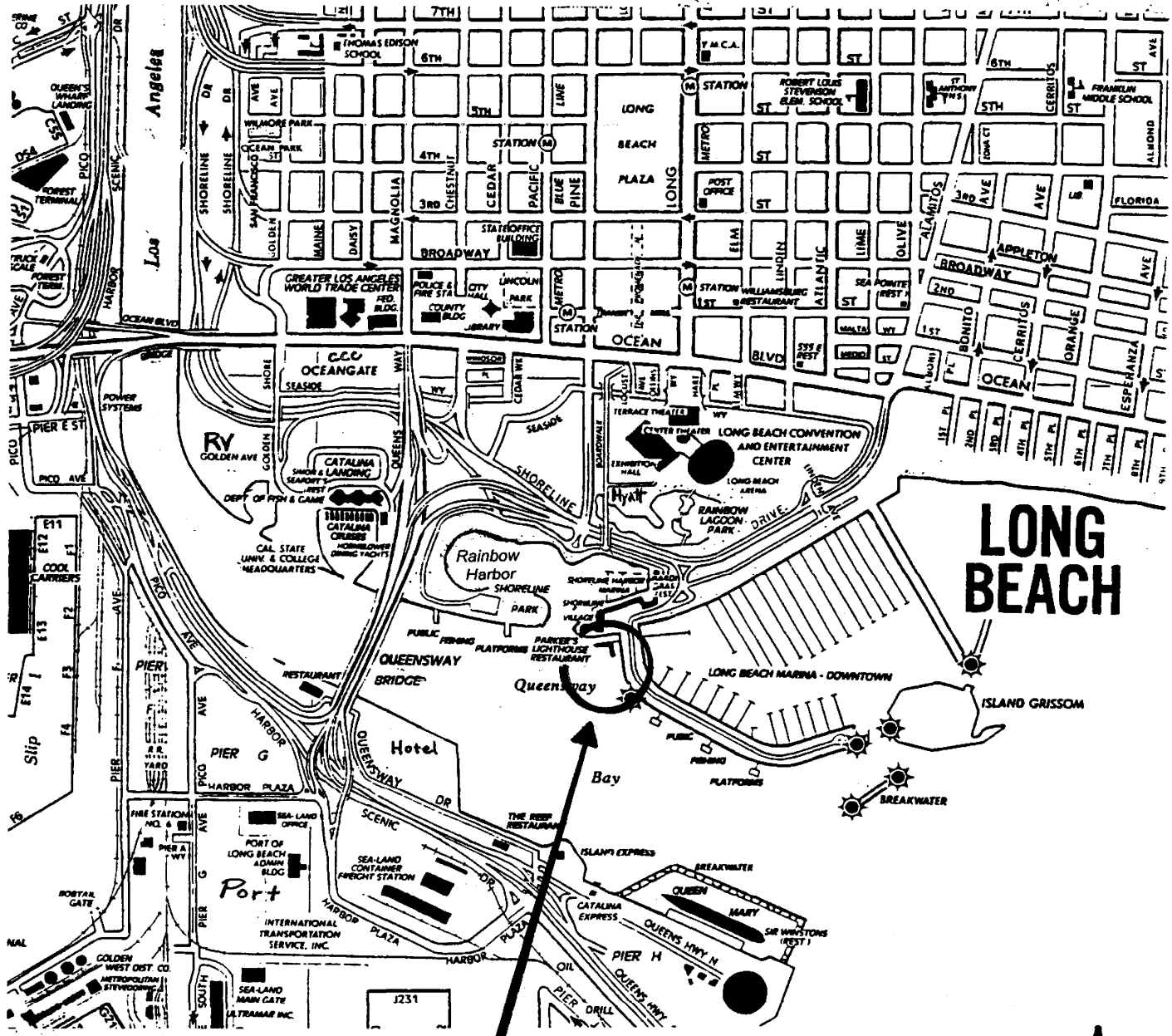
Rainbow Harbor
Project Site

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EXHIBIT # 1

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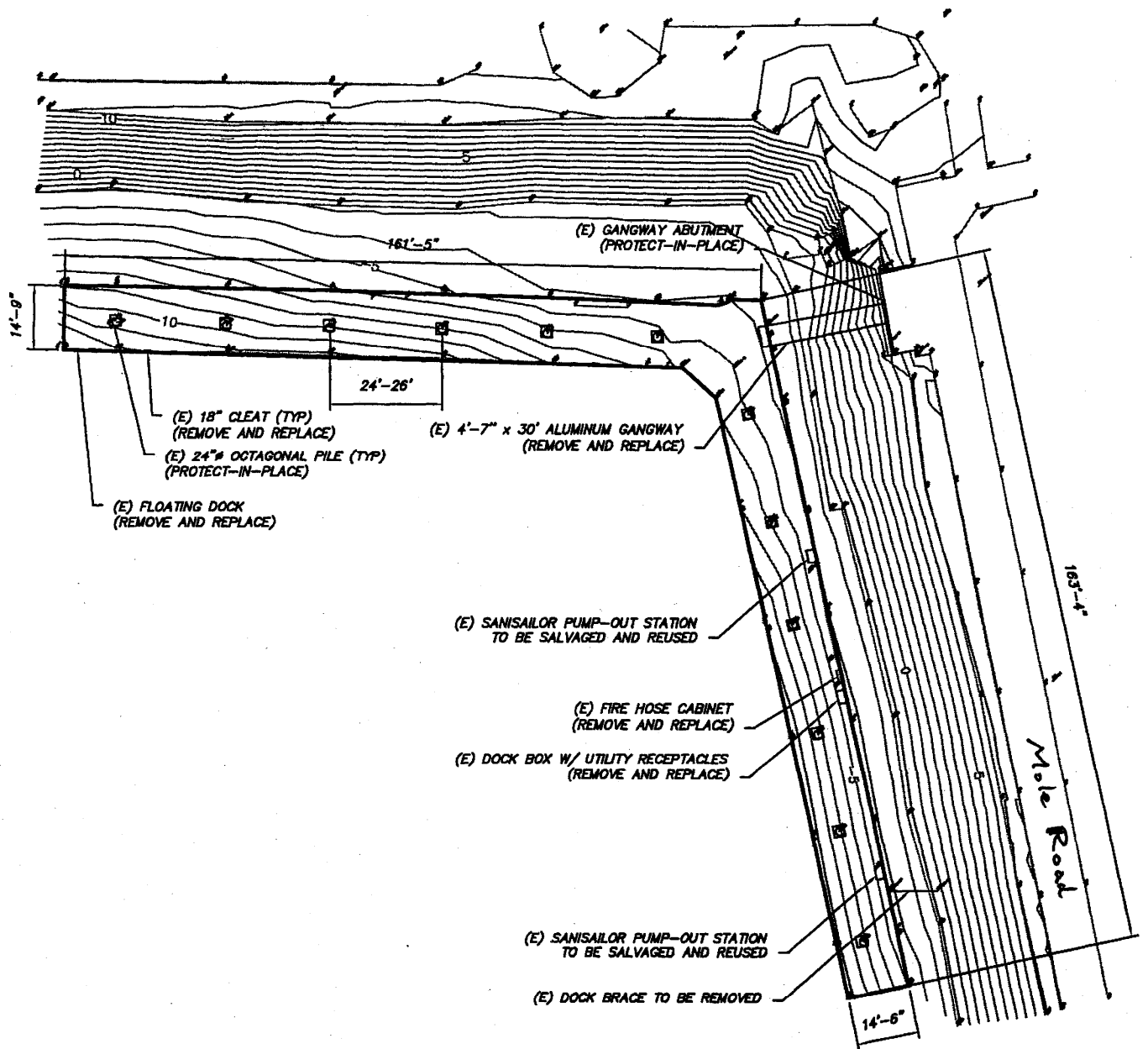


Project Site

Dock 10



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 EXHIBIT # 2
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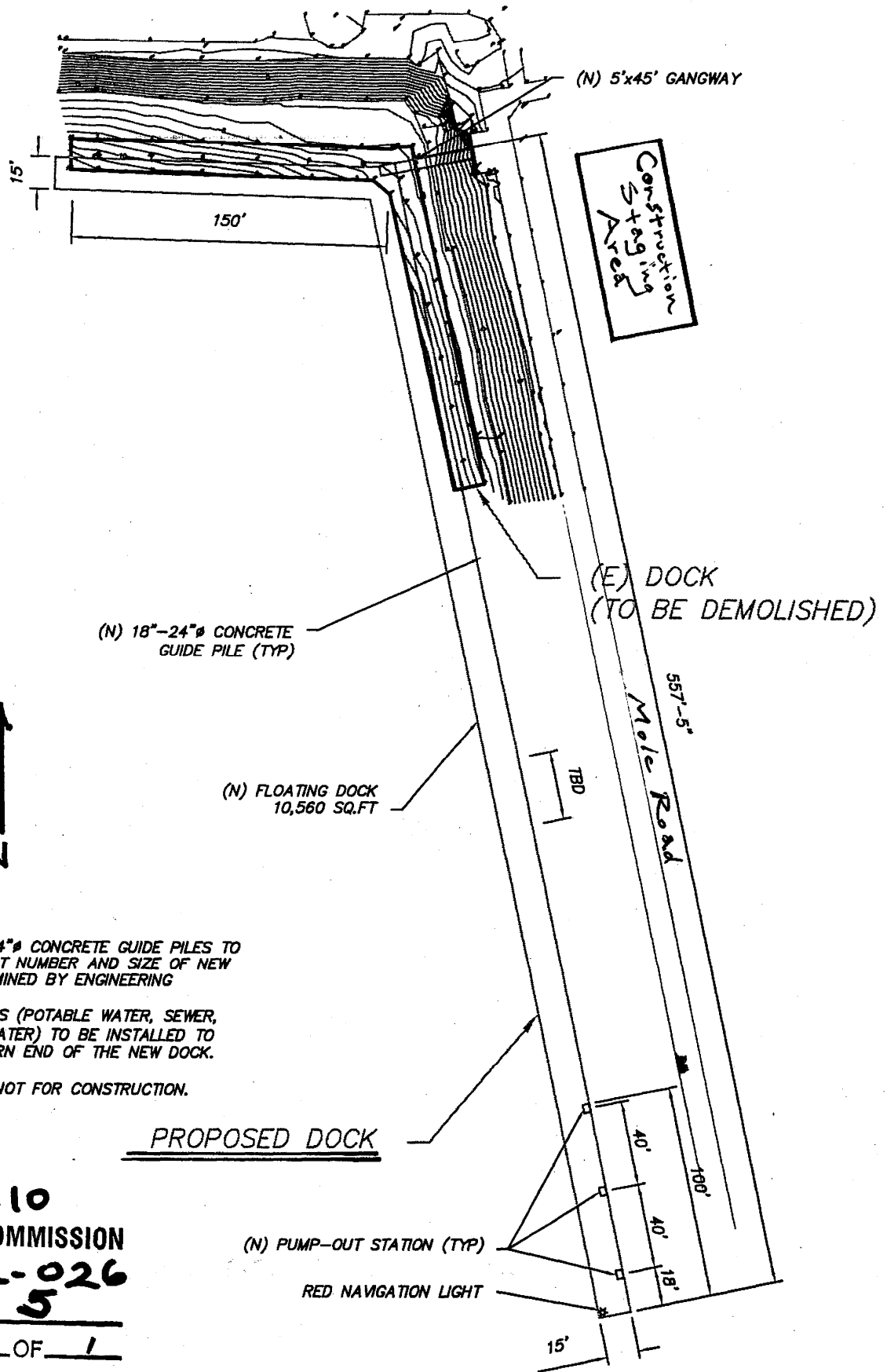
Dock 10
EXISTING DOCK LAYOUT

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EXHIBIT # 4

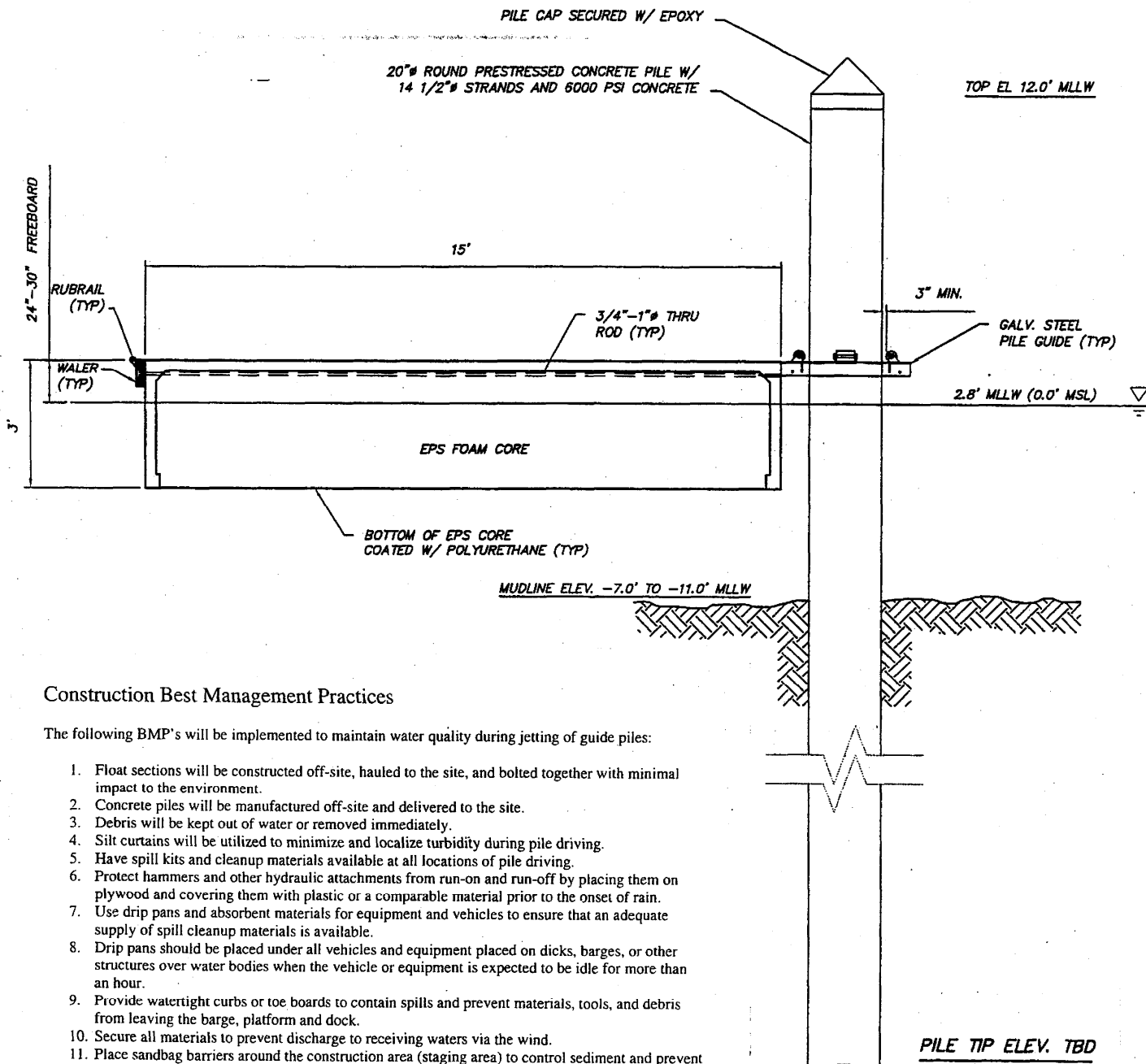
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NOTES:

- 1) 8-12 NEW 18"-24" Ø CONCRETE GUIDE PILES TO BE INSTALLED. EXACT NUMBER AND SIZE OF NEW PILES TO BE DETERMINED BY ENGINEERING ANALYSIS.
- 2) NEW UTILITY LINES (POTABLE WATER, SEWER, ELECTRICITY, FIRE WATER) TO BE INSTALLED TO REACH THE SOUTHERN END OF THE NEW DOCK.
- 3) (N) = NEW
- 4) CONCEPT ONLY. NOT FOR CONSTRUCTION.

Dock 10
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 EXHIBIT # 5
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Construction Best Management Practices

The following BMP's will be implemented to maintain water quality during jetting of guide piles:

1. Float sections will be constructed off-site, hauled to the site, and bolted together with minimal impact to the environment.
2. Concrete piles will be manufactured off-site and delivered to the site.
3. Debris will be kept out of water or removed immediately.
4. Silt curtains will be utilized to minimize and localize turbidity during pile driving.
5. Have spill kits and cleanup materials available at all locations of pile driving.
6. Protect hammers and other hydraulic attachments from run-on and run-off by placing them on plywood and covering them with plastic or a comparable material prior to the onset of rain.
7. Use drip pans and absorbent materials for equipment and vehicles to ensure that an adequate supply of spill cleanup materials is available.
8. Drip pans should be placed under all vehicles and equipment placed on docks, barges, or other structures over water bodies when the vehicle or equipment is expected to be idle for more than an hour.
9. Provide watertight curbs or toe boards to contain spills and prevent materials, tools, and debris from leaving the barge, platform and dock.
10. Secure all materials to prevent discharge to receiving waters via the wind.
11. Place sandbag barriers around the construction area (staging area) to control sediment and prevent run-off.
12. Ensure that employees and subcontractors implement the appropriate measures for storage and use of materials and equipment.

DOCK ELEVATION

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EXHIBIT # 6

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