

Central Coast  
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## RECORD PACKET COPY

Filed: 11/17/95  
49th Day: 01/05/96  
180th Day: 05/15/96  
Staff: LO/cm  
Staff Report: 11/20/95 1723P  
Hearing Date: 12/12-15/95

### STAFF REPORT: PERMIT AMENDMENT

# TH 10c

APPLICATION NO.: 3-95-53-A

APPLICANT: CITY OF MONTEREY

AGENT: Les R. Turnbeaugh, Project Development Manager

PROJECT LOCATION: Monterey Marina, between Fisherman's Wharf (Wharf No. 1) and Wharf No. 2; and east of Wharf No. 2, Monterey Harbor, City of Monterey, Monterey County

#### DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:

Marina Replacement Project, including removal of 450 existing berths, replacement of existing creosoted pilings, installation of new concrete piers and 413 new berths; also, installation of 40 new permanent moorings with concrete anchors, east of Wharf No. 2, to accommodate a total of 453 vessels; included replacement of 148 existing pilings with 250 new non-creosoted piles.

#### DESCRIPTION OF AMENDMENT:

Expand project to include replacement of 32 deteriorated creosoted wooden pilings supporting Wharf No. 1 (Fisherman's Wharf), with up to 32 new ACZA-treated wooden piles. Also includes replacement of paving and unsound timbers on Wharf No. 1; and amendment of original Special Condition No. 4 to provide standards for hydraulic jet installation of piles.

LOCAL APPROVALS RECEIVED: City Council approvals, 6/22/94 and 5/2/95.  
CEQA - Negative Declaration for Marina Replacement granted 6/22/94; Exemption for additional piles, 11/20/95.

#### SUBSTANTIVE FILE DOCUMENTS:

- o (draft) Harbor Area Land Use Plan including the City's adopted Wharf Master Plan.
- o 3-89-7 and 3-94-36 Shake.
- o 3-93-12 Hyler.
- o 3-90-27 and 3-90-28 City of Monterey and Anthony Rappa.
- o 3-95-53 City of Monterey -- Marina replacement file.

SUMMARY OF STAFF RECOMMENDATION: The staff recommends that the Commission approve the proposed amendment, subject to conditions recommended (in part) by the Calif. Dept. of Fish and Game. The additional conditions are needed to protect water quality both within Monterey Harbor and, through mixing of waters, the adjacent Monterey Bay National Marine Sanctuary. The previously-adopted conditions regarding work in the marine environment are updated. As a result, better conformance with Coastal Act policies will be achieved.

The amendment will assure that Monterey's Wharf No. 1 (Fisherman's Wharf) project life will be extended. Accordingly, the wharf will continue to provide important navigational functions, public recreational access and scenic viewing opportunities.

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PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) objection is made to the Executive Director's determination of immateriality, or
- 3) the proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby approves the amendment to the coastal development permit, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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, is located seaward of the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions. (See attached Exhibit A.)

III. Special Conditions. (The already-adopted Special Conditions are listed in the original staff report, attached as Exhibit 5.)

1. Hazardous Materials Management. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the City shall submit the following for review and approval by the Executive Director:

- a. Updated Construction Phasing Plan. Such plan update or supplement shall include designation of a concrete washdown area and all the other elements specified in Special Condition No. 2 of the original permit.

- b. Environmental Monitoring Plan. This plan should be brief and readily understood. The plan will list the requirements for handling, transporting, application, storage and disposal of substances which pose a risk of contamination to the waters of Monterey Bay. The Plan shall, at a minimum, provide for conformance to the requirements listed in the following paragraph.

Where exposed wood surfaces, such as the cut edges of wharf decking, require coating with a wood preservative, extreme care shall be taken to preclude such materials from entering the waters of Monterey Bay. Similar extreme care shall be exercised with respect to replacement of the wharf's asphalt paving and other petroleum products or other construction materials which could potentially pose a hazard to marine life. The "Procedures for Concrete Work" contained in Special Condition No. 5 of the original permit shall be carefully observed during the placement of the new concrete pier footings.

This plan shall include provisions for a qualified environmental monitor to be present during removal and replacement of asphalt pavement, mixing and application of wood preservatives, and any other overwater operations involving the handling of hazardous materials. This monitor may be the same person as the sea otter observer required by the Corps of Engineers permit (Exhibit 2, attached). The plan shall specify the procedures by which the monitor will identify unsafe practices to the work crew, and for reporting and documenting any violations.

- c. Preconstruction Statement. The purpose of such statement is to affirm that the environmental monitor has reviewed the requirements of this permit and the approved Environmental Monitoring Plan with the construction contractor prior to commencement of work.
- d. Alternative Piling Specifications. Creosoted wooden pilings are specifically prohibited. In order to assure that the risk of introducing other toxic leachates is minimized, any substitutions for the proposed type of pile to be installed at Wharf No. 1 (ACZA-treated wooden piles) shall be subject to review and approval by the Executive Director, in consultation with the Calif. Dept. of Fish and Game and Monterey Bay National Marine Sanctuary staff.

UPON COMPLETION OF CONSTRUCTION, a post-construction compliance report shall be submitted to the Executive Director, confirming that the project has been completed in accordance with the approved plans, terms and conditions of this amended permit.

2. Updated Marine Environment Protection Measure. In order to avoid dispersal of contaminated bottom sediments into surrounding ocean waters, permittee shall avoid wherever feasible the use of hydraulic jets to install pilings. Where jetting can not be feasibly avoided (due to sediment composition, depth of pile, pile configuration, or similar factors), the Calif. Dept. of Fish and Game shall be consulted for a determination of recommended mitigation measures. It is anticipated that these recommended measures will include:

- a) the bottom sediment will be sampled by a qualified independent specialist within a one ft. radius of the proposed pile location, to an initial depth of 2 ft.;
- b) the sample will be tested for lead content; if the lead concentration is significantly greater than ambient harbor sediments, the contaminated sediment shall be removed from the pile hole by suction dredging; the excavated contaminated materials shall be carefully removed to an approved disposal site where there is no risk of re-entering ocean waters;
- c) the sediments at the bottom of the hole shall then be sampled again, and the testing and disposal procedure repeated until a point is reached where the sediment plume from the hydraulic jet would not be ejecting significantly elevated lead concentrations into the waters of the Bay.

Permittee shall conform with these recommendations, and any additional California Dept. of Fish and Game or Regional Water Quality Control Board recommendations which the Executive Director finds are necessary to minimize the dispersal of contaminated marine sediments; provided, if such additional recommendations require a material change to the project or a further relaxation of any of its terms and conditions of approval, the hydraulic installation of piles shall not proceed unless this permit is first amended accordingly.

This condition clarifies and amends the originally-adopted Special Condition No. 4 of this permit. This clarification and update is applicable to the entire permitted Marina Replacement Project, as hereby amended to include replacement pilings for Wharf No. 1.

3. Corps of Engineers Permit/Marine Sanctuary Review. Permittee shall be responsible for conformance with the Dept. of the Army, Corps of Engineers permit for the Wharf No. 1 "repair and maintenance" project including replacement of the 32 pilings, as a condition of this permit. The Corps permit (Exhibit 2, attached) contains a special condition for the protection of Monterey Harbor's resident Southern sea otter population.

# EXHIBIT- 1

## RECOMMENDED CONDITIONS

### STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

EXHIBIT NO. 1

APPLICATION NO.

3-95-53-A

CITY OF MONTEREY

Standard Conditions



California Coastal Commission



DEPARTMENT OF THE ARMY  
 SAN FRANCISCO DISTRICT, CORPS OF ENGINEERS  
 211 MAIN STREET  
 SAN FRANCISCO, CALIFORNIA 94105-1905

NOV 14 1995

REPLY TO  
 ATTENTION OF:

RECEIVED  
 NOV 16 1995  
 CALIFORNIA  
 COASTAL COMMISSION  
 CENTRAL COAST AREA

Regulatory Branch

SUBJECT: File Number 21929S25

Mr. Les R. Turnbeaugh  
 City of Monterey, City Hall  
 Project Development and Construction Management  
 353 Camino El Estero  
 Monterey, California 93940-2452

Dear Mr. Turnbeaugh:

This is in reference to your submittal of November 7, 1995, concerning Department of the Army authorization to carry out repair and maintenance work on Wharf No. 1, City of Monterey, Monterey County, California. The repair and maintenance work applied for includes removal asphaltic concrete paving, replacement of deteriorated timber and other structural members, removal and replacement of 32 piles, and repavement of the wharf after completion of structural repairs.

Based on a review of the information you submitted, your project is authorized under 33 CFR 330 Appendix A, Department of the Army Nationwide Permit No. 3, Maintenance pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. Code 403).

This authorization will not be effective until Section 401 water quality certification or a waiver of certification has been obtained from the Central Coast Region Regional Water Quality Control Board and a coastal zone consistency concurrence from the California Coastal Commission. A copy of the certification(s) for the project should be submitted to the Corps to verify compliance.

To ensure compliance with the nationwide permit, the following special conditions shall be implemented:

This authorization will remain valid until January 22, 1997, at which time all nationwide permits are scheduled to be modified, reissued, or revoked. If you commence or are under contract to commence work before the date the nationwide permit is modified or revoked, you will have twelve months from the date of the modification or revocation to complete the project under the present conditions of this nationwide permit.

EXHIBIT NO. 2
APPLICATION NO. 3-95-53-A
CITY OF MONTEREY WHARF No. 1 REMB.
CORPS PERMIT

The project must be in compliance with the General Conditions cited in Enclosure 1 and all Special Conditions that may be specified above for the nationwide permit to remain valid. Non-compliance with any condition could cancel the nationwide permit authorization for your project, thereby requiring you to obtain an individual permit from the Corps. The nationwide permit authorization does not obviate the need to obtain other State or local approvals required by law.

In addition to the general conditions enclosed, the permittee shall abide by the following special condition regarding avoidance of adverse impacts to southern sea otters:

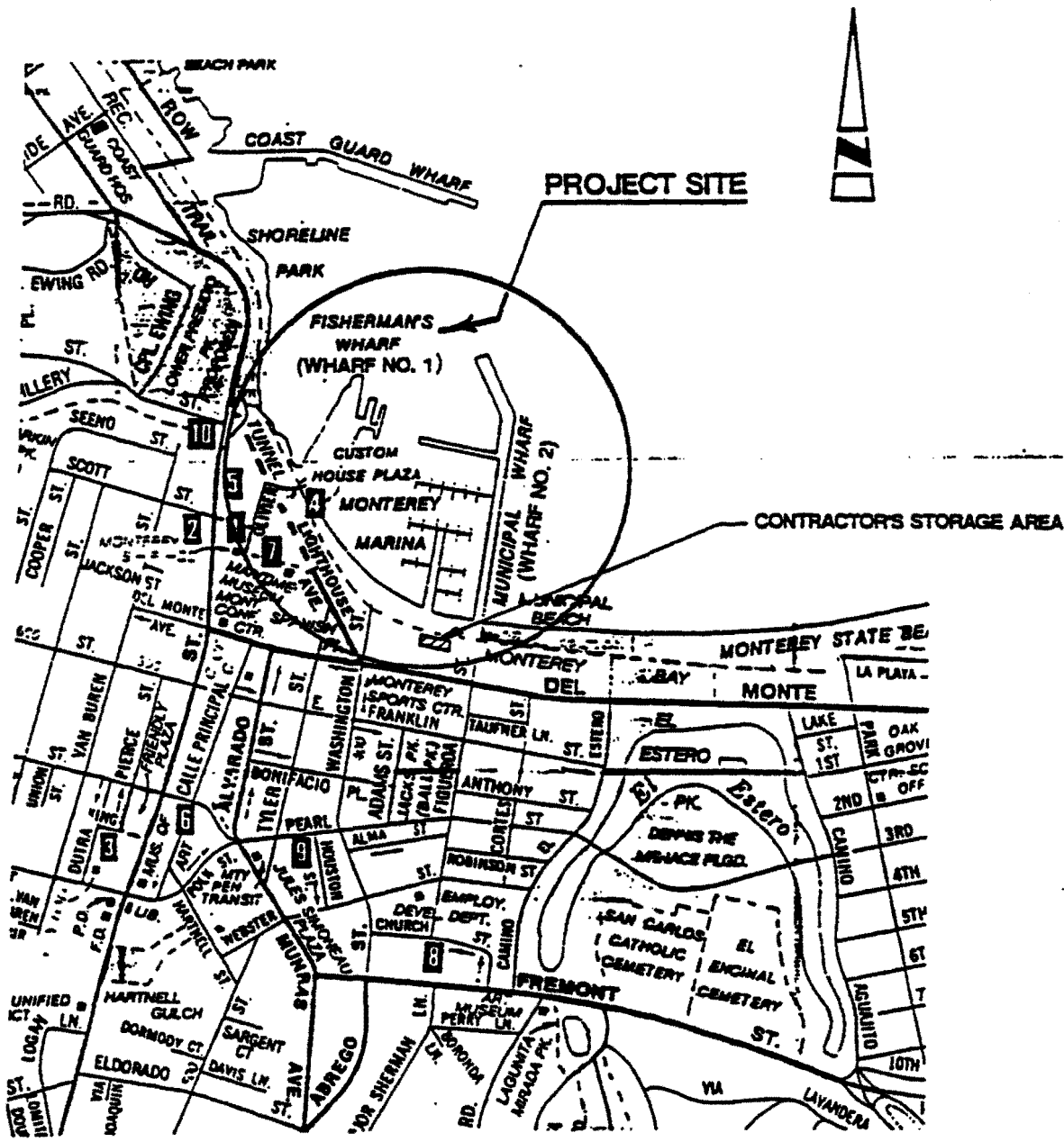
During repair and maintenance activities, when pile driving and other overwater operations are being carried out, the permittee shall ensure that an observer is on site to prevent adverse impacts to the federally listed southern sea otter (*Enhydra lutris nereis*). The observer shall be in close communication with a wildlife specialist familiar with sea otter behavior. Should sea otters be sighted near the project site during overwater operations, the wildlife specialist shall be contacted. All work shall cease until the wildlife specialist has determined the otters are no longer in the project vicinity. After work has been completed, the permittee shall prepare a report listing sea otter observations, and actions taken to avoid impacting the sea otters. The report shall include observation times and locations, and descriptions of the otters' behavior. Copies of the report shall be forwarded to the U. S. Fish and Wildlife Service, Ventura Field Office, 2493 Portola Road, Suite B, Ventura, California 93003.

You may refer all questions to Mark D'Avignon of our Regulatory Branch at 415-744-3324 Ext. 236. All correspondence should be addressed to the District Engineer, Attention: Regulatory Branch, referencing file number 21929S25.

Sincerely,  
ORIGINAL SIGNED  
By  
Calvin C. Fong  
Calvin C. Fong  
Chief, Regulatory Branch

Enclosure

EXHIBIT 2  
3-95-53-A



**LOCATION MAP  
NTS**

PURPOSE: REPLACE MARINA DOCK SYSTEM

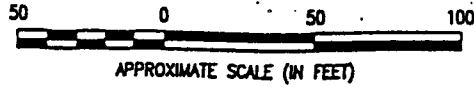
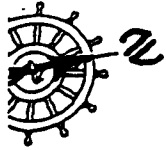
DATUM: MLLW  
 ADJACENT PROPERTY OWNERS:  
 1. CITY OF MONTEREY  
 2.  
 3.

EXHIBIT NO. <b>3</b>
APPLICATION NO. <b>3-95-53-A</b>
<b>WHARF No. 1</b>
<b>LOCATION MAP</b>

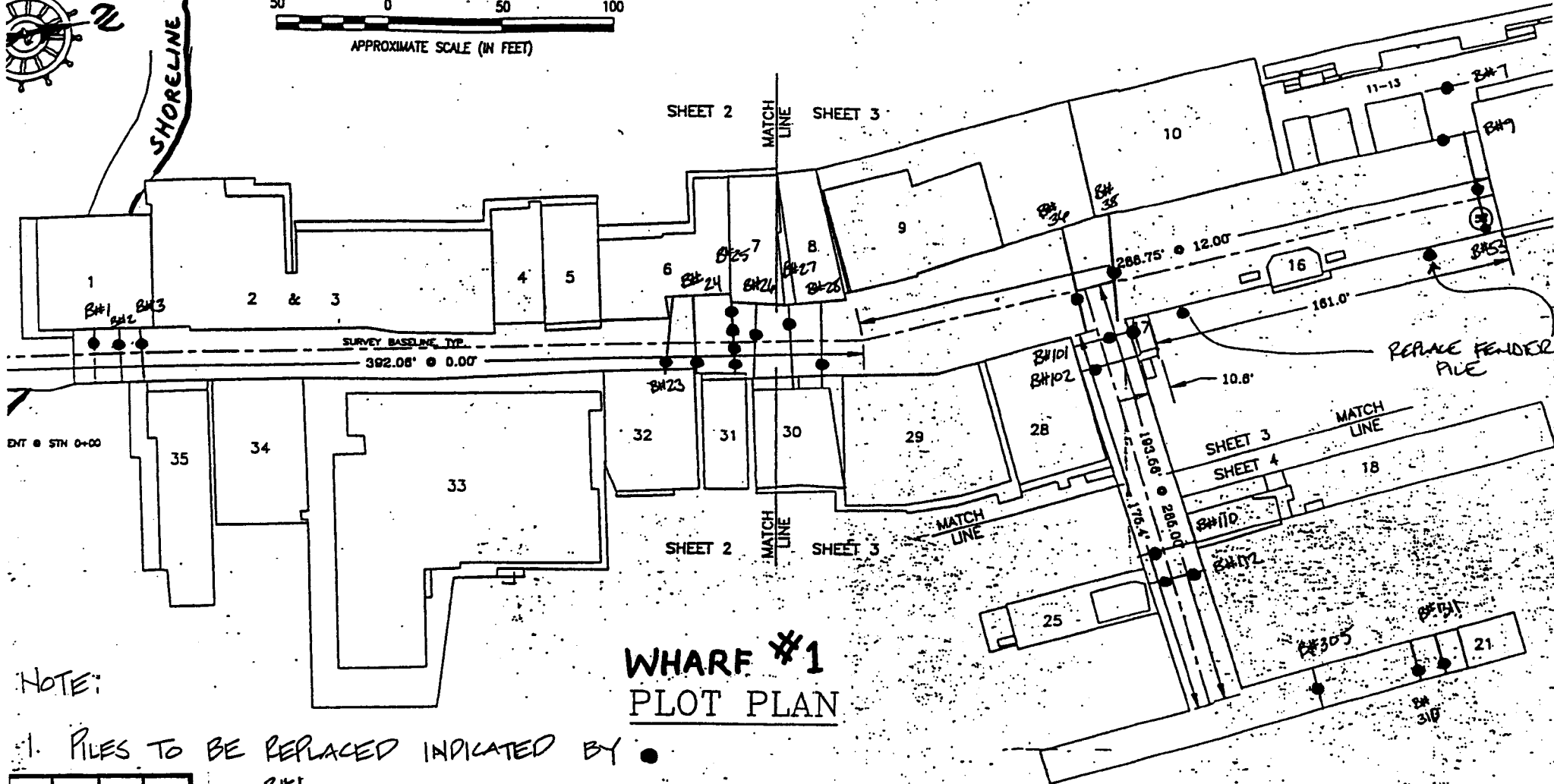
IN: MONTEREY BAY  
 AT: MONTEREY MARINA  
 COUNTY OF: MONTEREY, CA  
 APPLICATION BY: CITY OF MONTEREY  
 SHEET 2 OF 9 DATE 1-95



# HARBOR



SHORELINE



## WHARF #1 PLOT PLAN

NOTE:

- PILES TO BE REPLACED INDICATED BY ●  
— B#1

EXHIBIT NO.	4
APPLICATION NO.	3-95-53-A
SITE PLAN	
MONTEREY WHARF No. REHABILITATION	

JMS. (IN FEET)

### GENERAL NOTES

- PIER AND PILE LAYOUTS ARE BASED ON STRUCTURAL INSPECTION OF WHARF NO. 1 BY DON HELMERS ENGINEERING, CITY OF

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE  
725 FRONT STREET, STE. 300  
SANTA CRUZ, CA 95060  
(408) 427-4863  
HEARING IMPAIRED: (415) 904-5200

Filed: 06/23/95  
49th Day: 08/11/95  
180th Day: 12/20/95  
Staff: LO/cm  
Staff Report: 06/26/95 1700P  
Hearing Date: 07/14/95  
Commission Action:

**ADOPTED**STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 3-95-53

APPLICANT:

CITY OF MONTEREY

AGENTS: Tamara Campbell, Assoc. Planner  
Steve Scheiblaue, Harbormaster  
Bill Reichmuth, Public Works Director

PROJECT LOCATION:

Monterey Marina, between Fisherman's Wharf (Wharf No. 1) and Wharf No. 2; and east of Wharf No. 2, Monterey Harbor, City of Monterey, Monterey County

PROJECT DESCRIPTION:

Marina Replacement Project, including removal of 450 existing berths, replacement of existing creosated pilings, installation of new concrete piers and 413 new berths; also, installation of 40 new permanent moorings with concrete anchors, east of Wharf No. 2, to accommodate a total of 453 vessels.

Surface coverage: 59,000 sq. ft. (Marina docks)  
Pilings: 148 existing, 250 proposed  
Plan designation: Harbor

LOCAL APPROVALS RECEIVED: City Council approvals, 6/22/94 and 5/2/95.  
CEQA - Negative Declaration for Marina Replacement granted 6/22/94; Exemption for moorings, 5/16/95.

SUBSTANTIVE FILE DOCUMENTS:

- o Draft Harbor Area Land Use Plan including Wharf Master Plan.
- o P-640 City of Monterey (marina expansion, approved 5/6/74 by CCRC)
- o 3-89-7 and 3-94-36 Shake
- o 3-93-12 Hyler
- o 3-90-27 and 3-90-28 City of Monterey and Anthony Rappa
- o 3-82-126 City of Monterey (Breakwater Marina)

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission approve the proposed marina replacement and moorings, subject to the conditions below. Because the project comprises a physically expanded port facility for both commercial fishing and for recreational boating, the placement of new structural pilings and moorings is allowable under Coastal Act Sec. 30233. The navigational functions of Monterey Harbor will be improved and the project life of the Marina berthing will be extended by an estimated 40-50 years. With the addition of 40 new mooring points in the open waters of Monterey Bay east of Wharf No. 2, essentially the same overall vessel capacity will be maintained.

ORIGINAL STAFF RPT.  
FOR 3-95-53

EXHIBIT NO. 5  
APPLICATION NO.  
3-95-53-A  
CITY OF MONTEREY

Because the amount of berthing/mooring will stay the same (450/453 spaces), there will be no new impact on parking or traffic congestion. Potential impacts on marine resources are addressed by conditions providing for containment of debris, and for protection of water quality (particularly in regard to lead-contaminated bottom sediments). Displacement impacts on marine habitat by the new pilings will be negligible. More than 100 creosated wood pilings will be removed, and replaced with modern, non-toxic concrete piles. Increased firm substrate (on pilings and concrete mooring anchors) and sheltering effects are expected to yield a net increase in species diversity.

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STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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, is located seaward of the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions. See Exhibit A.

III. Special Conditions.

1. Final Project Plans. PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit detailed final project plans for the Executive Director's review and approval. Such plans shall include a combined total of 453 berthing and mooring spaces, with layout conforming to U.S. Coast Guard and Calif. Dept. of Boating and Waterways standards. The proposed reuse, or disposal site, for the removed creosated wooden piles, if within the Coastal Zone, shall be specified. The dinghy dock(s) to serve the new moorings shall be identified; and, the final plans shall also include specifications for the mooring gear (ground tackle), along with an inspection program and other measures designed to minimize the risk of vessel beachings during winter storm events.

2. Construction Phasing Plan. PRIOR TO COMMENCEMENT OF CONSTRUCTION, permittee shall provide, for review and approval by the Executive Director, a written plan and supporting graphics outlining phasing and construction sequence; seasonal considerations; and location of equipment staging areas, employee restrooms, employee parking, temporary security fencing, concrete washdown facility, and any similar elements which would affect ocean water

III. Special Conditions. (Continued)

quality or public access to the shoreline. To the maximum extent feasible, such phasing plan shall maintain opportunities for public parking and for shoreline access during construction.

3. Containment Requirements. Particular care shall be exercised to prevent foreign materials (e.g., construction scraps, discarded piers, wood preservatives, other chemicals, etc.) from entering the water. Where additional wood preservatives must be applied to cut wood surfaces, the materials shall wherever feasible be treated at an onshore location to preclude the possibility of spills into Bay waters. UNLESS AN ALTERNATIVE CONTAINMENT PLAN IS APPROVED BY THE EXECUTIVE DIRECTOR, a floating containment boom shall be placed around all active portions of the construction site where wood scraps or other floatable debris could enter the water. Also, for any work on or beneath fixed wharf decks, heavy duty mesh containment netting shall be maintained below all work areas where construction discards or other material could fall into the water. The floating boom and net shall be cleared daily or as often as necessary to prevent accumulation of debris.

4. Installation Contract Requirements. Piling installation shall be performed in accordance with Dept. of Fish and Game recommendations (Exhibit I, attached). Generally, the new pilings will be installed according to the method that results in the least disturbance of bottom sediments. Where feasible, disturbed sediments will be contained within a flexible skirt surrounding the driven pile. The installation contract and/or specifications shall incorporate the applicable portions of the containment requirements in Special Condition No. 3 above; and, the installation contractor shall insure that the work crew is carefully briefed on the importance of observing the appropriate precautions and reporting any accidental spills. The installation contract shall contain appropriate penalty provisions, sufficient to offset the costs of retrieving or clean up of foreign materials not properly contained.

5. Procedures for Concrete Work. If pier installation or any other portion of the project requires pouring of concrete in, adjacent to or over the water, the following methods shall be employed to prevent uncured concrete from entering the waters of the Bay:

- a. Complete dewatering of the pour site, within a cassion or other barrier; the site to remain dewatered until the concrete is sufficiently cured to prevent any significant increase in the pH of adjacent waters; or,
- b. The tremie method, which involves placement of the form in water, inserting a plastic pipe down to the bottom of the form, and pumping concrete into the form so that the water is displaced towards the top of the form. If this method is selected, the displaced waters shall be pumped off and collected in a holding tank. The collected waters shall then be tested for pH, in accordance with the following California Dept. of Fish and Game recommendations. If the pH is

III. Special Conditions. (Continued)

greater than 8.5, the water will be neutralized with sulfuric acid until the pH is between 8.5 and 6.5. This pH-balanced water can then be returned to the sea. However, any solids that settle out during the pH balancing process shall not be discharged to the marine environment; or,

- c. An alternative method, subject to review and approval by the Executive Director (in consultation with the California Dept. of Fish and Game) PRIOR TO COMMENCEMENT OF WORK.

In each case involving such concrete pours in or near the waters of the Bay, permittee shall insure that a separate wash out area is provided for the concrete trucks and for tools. The wash out area(s) shall be designed and located so that there will be no chance of concrete slurry or contaminated water runoff to the adjacent waters of Monterey Bay.

6. Water Quality Review. Permittee shall be responsible for obtaining any necessary approvals from the Regional Water Quality Control Board, including any Section 401 water quality certification or waiver which may be required. PRIOR TO COMMENCEMENT OF CONSTRUCTION, permittee shall provide written evidence that the Regional Water Quality Control Board (RWQCB) has reviewed the proposed in-water work, and has determined either: a) that the disturbances of lead-contaminated harbor sediments are not expected to be extensive enough to cause such lead to become significantly bioavailable; or, b) that because of the site's proximity to the former lead slag deposit, a water quality monitoring program acceptable to California Department of Fish and Game and Regional Water Quality Control Board has been prepared. Such monitoring program shall cover the entire time period during which bottom sediments are being disturbed by pile driving or other operations; shall specify a threshold for shutting down operations such that no significant increase in the bioavailability of lead will result; and shall be subject to review and approval by the Coastal Commission Executive Director PRIOR TO COMMENCEMENT OF WORK.

7. Berthing/Mooring Allocation Plan. PRIOR TO DEMOLITION OF EXISTING BERTHING OR INSTALLATION OF NEW MOORINGS, permittee shall submit for review and approval by the Executive Director, a berthing and mooring allocation plan which provides for the following:

- a. Temporary accommodation of vessels displaced from existing slips or mooring points during the construction period; such arrangements should be identified according to location and capacity, and correlated to construction phase and season as applicable; written confirmation shall be submitted to indicate that all existing berth holders (lessees) have been notified in writing of the availability of such temporary accommodations.

III. Special Conditions. (Continued)

- b. To the degree feasible, the allocation of berths and mooring facilities shall be consistent with the goal of maintaining a 1:1 ratio between commercial fishing and recreational boats. Accordingly, the permitted berthing spaces shall be made available as follows: 1) first, to current berth holders in the Monterey Marina; 2) as vacancies occur, then to the next eligible person on the Monterey Harbormaster's Marina waiting list; 3) then, any other commercially licensed vessels; and 4) any remaining spaces will be available to the general boating public.
- c. Likewise, in order to maintain, to the degree feasible, the 1:1 recreational-commercial ratio, the permitted mooring facilities shall be made available as follows: 1) to public agency vessels and vessels currently moored east of Wharf No. 2; 2) then, to vessels displaced from the Monterey Marina by this project; 3) next, to the Harbormaster's waiting list; 4) then, other commercially licensed vessels; and, 5) remaining moorings will be available for the general boating public. In order to minimize the risk of illegal holding tank discharges into Sanctuary waters, no liveaboards will be allowed.
- d. Written confirmation shall be provided to demonstrate that any berth holders permanently displaced from the Monterey Marina, have been notified in writing of their priority eligibility for the new moorings.

8. Removal of Abandoned Moorings East of Wharf No. 2. PRIOR TO OR IMMEDIATELY UPON OCCUPANCY OF THE NEW MOORINGS, all non-permitted mooring gear (i.e., chains and floats) shall be removed. Existing concrete anchor blocks may be abandoned in place where, in consultation with the California Dept. of Fish and Game and the Monterey Bay National Marine Sanctuary, the Executive Director determines that such mooring anchor would constitute desirable fish habitat or substrate for other marine species. Otherwise, abandoned mooring anchor blocks shall also be removed. The disposal site and removal method shall be identified for such abandoned anchor blocks, and shall be subject to review and approval by the Executive Director PRIOR TO REMOVAL.

9. Removal of Non-permitted Moorings within Harbor. PRIOR TO OR IMMEDIATELY UPON OCCUPANCY OF THE NEW MOORINGS, permittee shall submit a diagram showing all moorings within the Monterey Harbor. Any moorings found to be inconsistent with the terms of prior coastal development permits, or which appear to have been installed in violation of the requirement to obtain a coastal development permit, shall be identified.

Accordingly, the project as amended will assure continued public access, and conforms with Coastal Act Sections 30210 and 30220-30222 regarding public access and recreation. And, the project will assure the continued provision of lower cost visitor and recreational facilities, consistent with Coastal Act Section 30213.

### 3. Marine Resources Protection.

The permit as originally approved contained a detailed analysis of potential marine resource impacts resulting from both piling installation and from marine habitat displacement. Impacts on both the inner harbor area and the adjacent waters of the Monterey Bay National Marine Sanctuary (MBNMS) were considered, and addressed by mitigating conditions (see Exhibit 5, attached).

This amendment presents similar potential benefits and impacts, in a cumulative sense, in that: a) 32 more creosoted piles will be extracted from Monterey Harbor, in addition to the 148 already approved for removal, with a corresponding reduction in toxic leachates in the marine environment; and, b) up to 32 new replacement piles will be driven into the Harbor bottom, adding to the disturbance of bottom sediments already resulting from the 250 piles previously approved. In addition, the amendment has the potential for additional impacts resulting from accidental spills of wood preservative or asphalt paving materials incidental to the rehabilitation of the Wharf No. 1 structure.

The project plans show that at least some of the new pilings will require concrete footings. Special Condition No. 5 of the original permit contains detailed requirements for use of the Tremie Method or other procedures as needed to mitigate the impacts of concrete pours in ocean waters. And, it is now recognized that although the Calif. Dept. of Fish and Game strongly recommended against the use of the hydraulic jet method of piling installation (see letter labeled as Exhibit I, part of Exhibit 5, attached), standards for the use of this method may be necessary. In event ordinary pile driving methods unavoidably must be supplemented with some form of hydraulic action, mitigating measures are needed to preclude any significant impact to Monterey Bay waters.

The disturbance of lead-contaminated bottom sediments remains a particular concern in Monterey Harbor. Lead is a toxic heavy metal which is harmful to marine life, especially when it becomes concentrated at the higher levels of the food chain. Monterey Harbor has localized concentrations of elevated lead levels, in part because of now-discontinued dumping activities associated with the old railroad bed adjacent to the harbor. Although the portion of the harbor within the Coast Guard Breakwater is not part of the Monterey Bay National Marine Sanctuary, contaminants suspended in the ambient waters of the harbor have the potential to mix with the protected waters of the Sanctuary, further offshore. Accordingly, this project, like similar projects in the Monterey Harbor, was thoroughly conditioned to minimize the risk of water contamination (see Special Conditions 1 through 6 of the permit as originally approved, attached as Exhibit 5).

Since the Marina Replacement Project was approved earlier in 1995, a review of evolving construction techniques (including substitutes for creosoted timbers and hydraulic jet installation of pilings) reveals the need for more detailed standards. The City has asked for clarification regarding the hydraulic jet technique, which may be necessary for the completion of the main portion of the Marina Replacement Project. And, this amendment will involve replacement of over-water asphalt, application of wood preservatives, and placement of concrete footings, not previously specified for the Marina Replacement Project. In response, Commission staff consulted the California Dept. of Fish and Game, and the Corps of Engineers. The Calif. Dept. of Fish and Game staff has made preliminary recommendations for instances where hydraulic jetting is unavoidable. These recommendations include sampling and testing the site of the proposed pile, and suction dredging of contaminated sediments from the site prior to hydraulic pile installation (D. Johnson, by phone, 11/20/95). And, the Corps permit for the Wharf No. 1 rehabilitation project incorporates a condition requiring an observer to be present during pile driving and other over-water operations, in order to prevent adverse impacts to the federally-listed Southern sea otter (see Exhibit 2, attached).

Therefore, this amendment has been conditioned to incorporate these recommendations and requirements and to make the conditions fully consistent with other approved projects in the Monterey Harbor area. The additional language specifically prohibits creosoted pilings, consistent with the City's intent to use pilings treated with alternate materials acceptable to Calif. Dept. of Fish and Game, and provides for review of any alternate materials which may be proposed; requires extreme caution in the over-water handling of wood preservatives and asphalt, including the submission of an Environmental Monitoring Plan which provides for a qualified environmental monitor to be present; provides standards for hydraulic jetting in event this technology must unavoidably be used to supplement ordinary pile driving; and provides for permit coordination with the Corps of Engineers, as well as for consultation with the Calif. Dept. of Fish and Game, Regional Water Quality Control Board, and Monterey Bay National Marine Sanctuary staff. In order to avoid duplication, the sea otter observer required by the Corps permit is specifically allowed (if qualified) to also perform as the environmental monitor.

The overall consideration and purpose of the added conditions is to protect the waters of Monterey Bay from contamination, and to assure that the new pilings will be installed according to the method that results in the least mixing of contaminated bottom sediments with the waters of the Bay. These additional conditions are coupled with the originally adopted conditions. These original conditions require: conformance with California Department of Fish and Game recommendations; water quality review by the Regional Water Quality Control Board, and if need be, implementation of a water quality monitoring program; containment of construction debris by a floating boom, netting, or comparable measures; identification of contractor responsibility for prevention and cleanup of accidental spills; identification of procedures for concrete work within Bay waters, as needed to avoid alterations of



seawater pH harmful to marine life; coordinated review by the Corps of Engineers and MBNMS; and separate coastal permit review for any future additional pilings. Accordingly, as further conditioned to update the permit conditions with respect to water quality and to provide for coordination between permits, the project as amended will be consistent with Coastal Act Sections 30230-30232 and 30240 regarding the protection of the marine environment.

#### 4. Scenic Resources.

The Wharf's rustic assemblage of structures comprises one of the Monterey Peninsula's most popular scenic attractions. The City's objective is to assure that any new construction conforms to the architectural character of Fisherman's Wharf.

This project will utilize wooden piles (with more benign preservatives) to replace the original creosoted wood pilings. This use of wood pilings, rather than concrete or steel, will help to preserve the Wharf's rustic character. Accordingly, as amended, the project remains consistent with Coastal Act Section 30251 regarding protection of scenic resources.

#### 5. CEQA/LCP.

A Negative Declaration was adopted by the City for the overall Marina Replacement Project, but did not specifically include this Wharf No. 1 project. A separate CEQA categorical exemption was issued Nov. 20, 1995, for repair and maintenance on Wharf No. 1. The City's Land Use Plan for its Harbor segment has been revised, but at the request of the City is not presently under consideration by the Coastal Commission. In other respects, the previously-adopted Finding 6 remains applicable regarding the California Environmental Quality Act and the status of the Local Coastal Program (see Exhibit 5, attached).

### EXHIBITS

1. Standard Conditions.
2. Corps of Engineers Permit.
3. Location Map.
4. Site Plan -- location of additional replacement pilings.
5. Adopted Findings and Conditions for CDP 3-95-53 (Staff Report of 6/26/95); includes Exhibit I, Dept. of Fish & Game letter (other original exhibits omitted).

mooring opportunities for commercial fishing vessels, and to maintain the historic 1:1 ratio to the extent feasible. Accordingly, priority is specified for existing vessels berthed or moored in the project area; and, when vacancies occur, for those with specific waiting list rights and commercially licensed fishing boats, ahead of other vessels.

All of the project constitutes "coastally dependent development." While the project involves placement of pilings, floating docks, and concrete mooring anchors in coastal waters, such "fill" is allowable under Section 30233 because it is for the exclusive purpose of providing "new" boating and port facilities, for both recreational boating and commercial fishing uses. The new facilities will replace existing degraded and substandard facilities, and will not interfere with the commercial fishing industry. Therefore, the project as conditioned is consistent with the above-cited Coastal Act Sections 30224, 30233, 30234, and 30255.

### 3. Marine Resources.

Several Coastal Act sections apply. In particular, Section 30230 states:

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 states:

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.

To protect to the greatest degree possible the natural marine habitat and shoreline processes, the Coastal Act strictly regulates the kinds of development in coastal waters.

Section 30233 of the Coastal Act states in part:

(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:

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

(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. ...

a. Development In Open Coastal Waters. As noted in Finding 2 above, the proposed project represents a type of development for which "filling" of open coastal waters may be considered. However, such "filling" is permitted (Section 30233(a)(4)) only when there is "no feasible less environmentally damaging alternative" (Section 30233(a)).

In this instance, the project comprises a public (i.e., City-owned) recreational development, the Monterey Marina; and, additional City-owned granted tidelands now used for informal mooring on the east side of Wharf No. 2. The "fill" component will be limited to the slightly increased floating dock widths, the increased number of piles (148 existing vs. 250 proposed), and the 40 mooring anchors. Accordingly, because the project represents a (physically) expanded port or boating facility, new structural pilings may be considered, if adverse impacts are mitigated and there is no feasible less environmentally damaging alternative.

b. Alternatives. The project alternatives include: no project; reduced capacity (no new moorings); and alternate locations. The no-project alternative is rejected because it would result in the decline and loss of berthing capacity in the Monterey Marina, as existing components reach the eventual point of failure. Omission of the east moorings portion of the project is undesirable because there would be a net loss of capacity, and some boats could be permanently displaced. Other locations in the Harbor are less feasible, particularly because of potential visual resource and navigational impacts. Therefore, the design as proposed is the least environmentally-damaging feasible alternative which will meet the project objectives.

c. Marine Habitat Impacts -- Water Quality. The proposed project will result in both direct and indirect impacts on the marine habitat of Monterey Harbor. This habitat is important both from a localized perspective (crabbing and wildlife observation by visitors to the wharf) and in the larger context of

the entire Monterey Bay ecosystem. The Harbor provides sheltered nursery and living space for various marine algae, invertebrates, numerous fish species and California sea lions, which each contribute to the food chain in the outer waters of the Bay. The Harbor also represents a resting and feeding place for gulls and the California Brown pelican, as well as the occasional Harbor seal and sea otter.

The project's direct habitat impacts would first result from pile-driving activities. These impacts would include temporarily increased turbidity and possible lead contamination resulting from the disturbance of sediments on the harbor bottom (discussed in detail in a following section below). Another temporary impact would result from localized pH changes if any wet concrete comes into contact with seawater. Such alterations of water acidity can be toxic for some species. If standard steel jackets are utilized, concrete will be used to fill the hollow pilings, and there is a possibility that concrete footings might be needed (none is proposed, but the possibility exists that concrete pier footings would be called for in event the pilings hit a buried rock surface hidden by bottom sediments). This potential impact can be mitigated through use of pre-cast concrete piles or specific concrete pouring techniques, such as the tremie method. These measures are listed in Special Condition No. 4 of this permit, consistent with California Department of Fish and Game recommendations.

Another direct impact typical of wharf construction is seepage of wood preservative contaminants from wooden pilings, generally creosote. The California Department of Fish and Game recommends that in such marine habitat areas, water contact with creosoted timbers be avoided because of toxic effects on marine life (see Exhibit I). In this case, the project design (replacement of 148 creosote-treated wood pilings with new concrete pilings) will completely obviate such concerns.

d. Marine Habitat Displacements and Mitigation. Direct permanent impacts will result from displacement of habitat area for bottom dwelling species such as Starry-eyed flounder, skates, rays and Moon snails. However, apart from a minor unspecified area to be covered by the 40 mooring anchors, this "fill" impact will be extremely minor, limited to the cross-sectional area of the 102 additional pilings (102 pilings x assumed maximum piling radius 10" squared x pi = approx. 204 sq. ft. of bottom habitat). Likewise, the vertical columns of water occupied by the pilings will be displaced. This impact is similarly insignificant (102 pilings x assumed piling cross-section of 2 sq. ft. x assumed average water depth of 10 ft. = 2,040 cubic feet of water displacement).

These minor habitat displacements can be compared to the increased species diversity and productivity resulting from the added solid substrate represented by the surface area of the new pilings. The available new surface area will be about 4,590 sq. ft. (102 pilings x assumed average diameter 18" x pi x assumed average water depth of 10 ft. = 4,590 sq. ft. of new solid surface).

Additional biologic effects will result from inserting contrasting substrates (growing surfaces) into the harbor waters, and from the shading/sheltering effects of the additional area of floating docks. There is little overlap between those species which are adapted to bottom-dwelling in loose sediments, and those which attach themselves to, or lurk around, pilings. Mussels, barnacles, anenomes, starfish, algae all encrust pilings, but are not usually resident on harbor sediments. And, concentrations of some species of rockfish and juvenile deep-water species may be found in the sheltered area under the wharf and behind the pilings. Accordingly, the number of species on the specific site would be expected to at least double (Hedgpeth, et al). Therefore, while the substitution of artificial substrates can not be considered a direct mitigation for displaced bottom habitat, the actual biologic effect would be an increase in both biodiversity and biomass productivity.

On the other hand, if the new pilings are sealed with a polyethylene coating, perhaps the expected rate or amount of marine life attachment may be impaired. Barnacles, algae and other marine life have been observed to attach to polyethylene ropes suspended in the harbor (staff obs.), so it is still reasonable to assume at least a modest biodiversity benefit on the plastic surface. Thus, especially considering the additional fish species/numbers that will be attracted by the shading/sheltering effects, no net loss of marine habitat values is expected.

e. Shading Effects. As is presently the case, the proposed replacement marina docks will cast a deep shadow over the harbor waters below. If there were eelgrass or kelp at this location, photosynthesis would be impaired and an adverse impact would result. However, staff has observed no such sunlight-dependent species from the wharf deck, except for marine algae attached to existing pilings.

Therefore, it can be expected that the shading/sheltering effect will be positive, especially for various fish species as detailed above. (This circumstance can be readily distinguished from the adverse shading effects that would result from placing a barrier between the sun and any rooted plantlife. For example, a bridge spanning wetland vegetation under most circumstances would cast a shadow, measurably impair photosynthesis, and therefore produce an adverse impact.)

f. Turbidity and Contaminated Sediments. The issue of lead contaminants in the harbor's bottom sediments has been addressed by the California Department of Fish and Game, and the Regional Water Quality Control Board. The proposed project includes the extraction of 148 old pilings and the placement of 250 new pilings, which, to some degree, will disturb these bottom sediments.

In the late 1970's higher than expected lead levels were measured in the Pacific Grove/Monterey Bay waters. Ultimately surveys located a "lead slag" heap near the Coast Guard breakwater. The slag heap was removed in 1991/1992 (CDP #3-91-86 Southern Pacific Transportation Company), preventing additional contamination of harbor sediments.

The proposed development includes work in and around harbor waters and the activity could increase turbidity during the time of construction. The proposed in-water work includes placement of 250 new concrete piles. It is expected that the suspended sediments would be quickly dispersed by wave action beyond the wharf, and would quickly resettle after in-water operations cease on the site.

Though the work will not take place in areas identified as containing elevated lead levels, marine sediments are mobile. Therefore, water quality impacts from the placement of pilings remain a concern. In a similar recent case within Monterey Harbor (CDP 3-92-67 City of Monterey-Yellow Boat Dock, approximately 500 yards distant from the lead contamination source) the Department of Fish and Game (CDFG) reviewed the proposal with the City and determined that a drop-hammer pile driver will minimize disturbance of "sediments to an extent that such lead" will not "become bioavailable." The Regional Water Quality Control Board (RWQCB) concurred. The California Department of Fish and Game made the same recommendation for this proposed project (see Exhibit I) and other nearby projects approved by the Commission (3-93-12 Hyler; 3-94-36 Shake).

g. Monterey Bay National Marine Sanctuary (MBNMS). Coastal Act Section 30240(b) requires:

Section 30240.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The proposed development will be located in and over the open coastal waters of Monterey Bay. Except for the inner harbor area west of Wharf No. 2, most of Monterey Bay is included within the MBNMS, designated because of its environmentally sensitive habitats, recreational values and other special attributes. Federal Regulations prohibit any drilling into, or constructing any structure "... on the seabed of the Sanctuary, except as an incidental result of ... (v) construction, repair, replacement or rehabilitation of docks or piers." (15 CFR Part 944, Sec. 944.5(a)(5)) The 40 new moorings will be located east of Wharf No. 2, within MBNMS waters.

However, the bulk of this project lies within the inner Monterey Harbor, which according to Article II of the MBNMS Designation Document, is not included within the Sanctuary boundary (15 CFR Part 944, Sec. 944.2). Therefore, because the inner harbor area is adjacent to the MBNMS, Coastal Act Section

30240(b) applies the Marina berthing portion of the project. To help determine conformance with this Coastal Act Section, it is useful to examine Federal Regulations regarding activities from beyond the Sanctuary boundary. Specifically, 15 CFR Sec. 944.5(a)(3) prohibits:

(3) Discharging or depositing, from beyond the boundary of the Sanctuary, any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality ...

As conditioned, this permit provides for containment of construction debris, special precautionary requirements for contractors regarding accidental spills, special water quality review regarding lead-contaminated harbor sediments, and Corps of Engineers and Sanctuary permit coordination. Also, liveboards are prohibited in the new moorings, which are within the MBNMS boundary. These measures will minimize the risk of prohibited materials entering the Sanctuary, and will therefore provide for conformance with Coastal Act Sec. 30240(b).

h. Conclusion. The project represents an appropriate physical expansion of an existing public boating facility. Because there are no feasible less environmentally damaging alternatives to adequately accommodate the 450 vessels now berthed in the Monterey Marina; and because feasible mitigation measures will be provided to minimize adverse environmental effects, the placement of new structural pilings in the open coastal waters of Monterey Harbor (and placement of mooring anchors east of Wharf No. 2) constitutes an allowable type of use under Coastal Act Section 30233.

The marine habitat displacement impacts will be negligible. Submerged habitat surface areas and sheltering effects, offered by the added pilings and concrete mooring anchors, are expected to increase biodiversity .

While it appears unlikely that abnormal levels of lead residues will be released by the proposed work, caution is nonetheless warranted. Accordingly, this permit is conditioned to provide for conformance with California Department of Fish and Game recommendations for methods of piling placement; and, to provide for water quality review by the Department of Fish and Game and Regional Water Quality Control Board, and if need be, implementation of a water quality monitoring program. Additional conditions require containment of construction debris by a floating boom, netting, or comparable measures; identification of contractor responsibility for prevention and cleanup of accidental spills; identification of procedures for concrete work within Bay waters, as needed to avoid alterations of seawater pH harmful to marine life; coordinated review by the Corps of Engineers and MBNMS; and separate coastal permit review for any future additional pilings. Accordingly, as conditioned, the proposed development is consistent with the above-cited marine resource policies of the Coastal Act.

#### 4. Public Access/Parking.

Coastal Act Section 30220 protects coastal areas for water oriented recreational activities; and, Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The Coastal Act provides that certain kinds of uses be given priority in the coastal zone. Some of these uses are dependent on a coastal location, e.g., commercial and recreational boating and fishing and other water oriented activities. Others are closely related to coastal dependent uses and activities, e.g. their support facilities. Other uses, such as restaurants, are not coastally related and do not require a shoreline or over-water location though they may serve visitors to the coast. Where public facilities are limited, priority uses must be served first.

The Monterey City marina and wharves need to provide first for the coastally dependent boating and fishing industries and concessions. Inadequate parking and circulation for these uses is not disputed. Competition for parking is acute. The Land Use Plan states on p. II-D-3 that:

During the peak summer months and on weekends during the rest of the year, all facilities are heavily utilized. Parking directly around the marina area is often fully utilized.

Demand for the parking facilities around the marina area is primarily generated by visitors to Fisherman's Wharf. On weekends around the marina, persons having business on their boats often have difficulty finding a place to park, especially those with tools or supplies who have need to park close to the entrance gate.

Users of Monterey Beach also often experience a shortage of parking around the entrance to Wharf No. 2 on peak weekends. Many users of the beach presently park on the Southern Pacific Property on the east side of



Figueroa Street. The Southern Pacific property is not marked or designated for public parking, and all parking is on an informal basis as space permits. The area around the entrance to Wharf No. 2 is especially congested when there are special events on Monterey Beach such as the multi-hull sailing races." (LUP, p. II-D-3)

In this case, there will be no significant increase in the number of vessels using the harbor. Therefore, no increase in parking demand is anticipated. And, all parking attributable to this project will be coastally-related. Therefore, no parking mitigation plan is warranted; and, the permit is conditioned to require submittal of a construction phasing plan in order to, among other things, minimize obstruction of priority parking areas during the construction period.

As conditioned by this approval to submit such construction phasing plans, the project will not substantially interfere with public access nor generate any additional parking demand, and is therefore consistent with Sections 30220 and 30252 of the Coastal Act regarding public recreational access and parking.

#### 5. Regulation of Coastal-Dependent Uses (Non-permitted Moorings).

Coastal Act Section 30255 requires that coastal-dependent developments shall have priority over other developments on or near the shoreline. Accordingly, each new project within Monterey Harbor must be evaluated for its impact on harbor capacity and navigation. Coastal Act Section 30234 specifically requires that facilities serving the commercial fishing and recreational boating industries shall be protected. Monterey Harbor continues its historic role as a shelter for both commercial and recreational craft. Increasingly, substantial numbers of small human-powered private and rental recreational watercraft (mostly kayaks) make use of the harbor as well.

The larger vessels are generally moored in the area between Wharf No. 1 and the Breakwater (see Exhibits C and F). Their mooring points are sufficiently distant from the wharf that, as the vessels swing on their moorings, no collisions with the wharf occur. Over the years, increases in the number of berthing slips have been granted (CDP's P-640 in 1974; 3-82-126 in 1982) for a total of 122 new berths. CDP 3-82-126 indicated a corresponding reduction of 23 mooring spaces within the harbor. Commission staff conducted a count of moored vessels c. 1979. Since then, the number of moored vessels appears to have substantially increased. However, no CDP's have been requested or granted for any such additional moorings.

Now, because suitable inner harbor mooring areas are essentially full to capacity, there is not enough room to accommodate vessels permanently displaced by the Marina Replacement Project. Therefore, it is essential to include the 40 new moorings east of Wharf No. 2, outside the protected waters of the inner harbor, as part of this project. It is also essential that the existing non-permitted moorings be addressed as well, not only because such moorings are developments requiring CDP's, but also because their potential

for direct and indirect resource impacts. Examples of potential direct impacts include interference with navigation and displacement of legitimate harbor capacity. Indirect and cumulative impacts result from intensification of use; examples include increased risk of fuel leak impacts and sewage holding tank leaks, cumulative impacts on parking and traffic congestion, increased burden on sewage pump-out stations, etc.

The issue of non-permitted moorings is addressed by the conditions attached to this permit, which require the City to identify the location and number of all known moorings. This will provide baseline data for appropriate remediation measures, which could include a coastal development permit (CDP) application by the City for a comprehensive mooring plan for the entire harbor. As conditioned to proceed towards resolution of this issue, approval of the 40 new moorings will not, over the long run, indirectly add to the cumulative impacts of harbor intensification.

Therefore, the project will not adversely impact the capacity or navigational function of the Harbor, and will be consistent with Coastal Act Section 30234 regarding coastally-dependent boating facilities.

#### 6. CEQA/LCP.

The City conducted an Initial Study pursuant to California Environmental Quality Act (CEQA) requirements, and adopted a Negative Declaration for the development. The moorings were handled separately; a CEQA Exemption was granted on May 16, 1995. However, additional concerns were identified during the analysis of this permit application concerning development in open coastal waters, potential lead contamination and other issues. These potential negative environmental effects are mitigated through the conditions attached to this permit, as necessary to avoid any significant adverse impacts on the environment. Accordingly, CEQA requirements are met.

The Monterey City Local Coastal Program Land Use Plan has been segmented. The project falls within the Harbor area segment. The Harbor Land Use Plan was heard and approved with modifications by the Commission on May 12, 1987. The Monterey City Council identified seven policies they did not concur with and adopted alternative policies which are part of a resubmittal initially received by the Commission in April, 1992, and, with further revisions, in late January 1993. The project is in general conformance to the draft Harbor Land Use Plan and to the City's Wharf Master Plan, an element of the Land Use Plan. At the request of the City, the resubmitted Harbor area Land Use Plan has not been scheduled for hearing, pending possible modifications.

As conditioned, the proposed development will not have any significant impact on coastal resources, is consistent with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the City of Monterey to prepare and implement a Local Coastal Program consistent with the Coastal Act policies.

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EXHIBITS

- \* {
- A. Standard Conditions.
  - B. Regional Map.
  - C. Location Map.
  - D. Site Plan -- existing Monterey Marina berthing.
  - E. Site Plan -- proposed Monterey Marina berthing.
  - F. Location Chart -- East Moorings area.
  - G. Proposed Mooring Plan.
  - H. City of Monterey Letter.
  - I. Department of Fish & Game Letter.

\* For brevity, omitted.

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**EXHIBIT 5**

## DEPARTMENT OF FISH AND GAME

1416 NINTH STREET  
P.O. BOX 944209  
SACRAMENTO, CA 94244-2090



November 17, 1994

Ms. Carol Foulkes, Associate Planner  
City of Monterey Community  
Development Department  
City Hall  
Monterey, California 93940

Dear Ms. Foulkes:

The Department of Fish and Game has reviewed the Negative Declaration for the replacement of the existing 412-berth boat dock/marina system in Monterey Harbor as part of the documentation included in your request for consultation under the California Endangered Species Act (CESA). The Department has attended the two public meetings (May 12 and 31, 1994) where the replacement project was discussed. The project proposes to replace the existing wood dock system with a concrete system that is prefabricated offsite and moved into place using a crane and barge. The existing docking system has 148 pilings (115 wooden, 33 concrete). The new docking system will have 250 new concrete pilings. The project start date is Spring 1995.

CESA states that it is the policy of the State that State agencies should not approve projects as proposed which would jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat which would prevent jeopardy. The Department has had informal discussions with you regarding which species could potentially be found in the construction area and may be affected by construction activities. State-listed species that may be affected by the proposed project include the California brown pelican (Pelicans occidentalis californicus) and the Guadalupe fur seal (Arctocephalus townsendi). The endangered marbled murrelet is not expected to occur in the area as its known habitats are located in the following areas: 1) northern Santa Cruz and southern San Mateo counties; 2) south central Humboldt county; and 3) northern Humboldt and Del Norte counties to the Oregon border. There are no listed plant species known to occur in the project or staging areas.

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EXHIBIT I

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Ms. Carol Foulkes  
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The Guadalupe fur seal is a rare visitor to the Monterey Bay area. Its historic range was from Isla Revilla Gigedo, Mexico (18° North) to the Farallon Islands, California (37° North). Only on rare occasions are they seen north of the Channel Islands in southern California. The seal has a pelagic distribution most of the year. One siting on the Coast Guard breakwater occurred in 1993 and no documented sitings have occurred since. It is not expected that the Guadalupe fur seal will be affected by the proposed project.

The California brown pelican is a common inhabitant of the Monterey Harbor and Bay. It feeds on surface schooling fishes such as the Pacific mackerel, Pacific sardine, and northern anchovy. Breeding in the Monterey county area has not occurred since 1959. Adverse impacts to pelicans include: development, pesticides poisons, contaminants, human disturbance, and disease (Annual Report on the Status of California State Listed Threatened and Endangered Animals and Plants, 1994). Laboratory analysis of dredge materials sampled during the 1993 dredging of the Monterey Harbor found high levels of lead still remained in the area. Lead is known to bioconcentrate in marine species used by the pelicans as food. The removal of wooden pilings and subsequent replacement of concrete pilings has the potential to suspend lead contaminated sediments releasing deleterious levels of lead which then could become bioavailable to pelicans through ingestion of prey items.

The Department requests that the following reasonable and prudent alternatives be stipulated and implemented to mitigate or alleviate the impacts associated with this proposed project.

1. All concrete pilings are to be driven in place with a pile driver. No hydraulic jets will be used to place pilings.
2. All pilings removed that are creosote coated will be disposed of at an appropriate upland location where they will not enter State waters.
3. Should the steelhead become a State-listed species prior to or during the construction period, contact the Department to determine if additional reasonable and prudent measures are needed.

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(cont)

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Thank you for the opportunity to provide input into the project. Questions should be addressed to Ms. Deborah Johnston, Environmental Specialist, Department of Fish and Game, 20 Lower Ragsdale Drive, Suite 100, Monterey, California 93904, telephone (408) 649-7141.

Sincerely,



John Turner, Chief  
Environmental Services Division

cc: Ms. Deborah Johnston  
Department of Fish and Game  
Monterey

Mr. Les Strnad  
California Coastal Commission  
Santa Cruz

3-95-53

EXHIBIT I

(last page)

3-95-53-A EXHIBIT 5