

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT AND RECOMMENDATION
ON CONSISTENCY CERTIFICATION

W12b

Consistency Certification

No. CC-2-96

Staff:

LJS-SF

File Date:

January 3, 1996

3 Months:

April 3, 1996

6 Months:

July 3, 1996

Hearing Date:

February 7, 1996

APPLICANT: County of Orange

DEVELOPMENT
LOCATION:

Newport Dunes Marina in the City of Newport Beach, and the EPA designated LA-3 ocean disposal site five miles southwest of Newport Beach, Orange County (Exhibits 1 and 2).

DEVELOPMENT
DESCRIPTION:

Dredging of 85,000 cubic yards of sediment from the Newport Dunes Marina and disposal at the LA-3 ocean disposal site.

EXECUTIVE SUMMARY

The County of Orange submitted a consistency certification for dredging of 85,000 cubic yards of sediment and disposal at LA-3, an EPA recognized interim ocean disposal site. The dredged material will be removed from the Newport Dunes Marina and its access channels in order to eliminate shoals and return the marina to its design depth. The sediments, which are too fine-grained for beach or nearshore disposal, underwent full chemical and bioassay testing and have passed the "Green Book" test indicating that they are suitable for ocean disposal. The proposed project will not result in any significant adverse effects on the coastal zone and is consistent with the marine resources, water quality, commercial and recreational fishing, and public recreation policies of the California Coastal Management Program (Sections 30230, 30231, 30233, 30234, 30220, and 30224 of the Coastal Act).

STAFF SUMMARY AND RECOMMENDATION:

I. Project Description. The County of Orange, through its Environmental Management Agency, proposes to dredge 85,000 cubic yards of sediment from the Newport Dunes Marina and dispose the material at the EPA designated LA-3 ocean disposal site, located five miles southwest of Newport Beach at water depths ranging from 1345 to 1575 feet (Exhibits 1 and 2). Winter storms in early 1995 deposited significant amounts of sediment in the project area, and the shoals that developed severely restrict navigation into and out of the marina. The material will be hydraulically dredged from an approximately 20-acre area at the Newport Dunes Marina (including adjacent access channels and the only boat launching ramp in Newport Bay) in order to return those areas to their original design elevation of -8 mean lower low water (MLLW). Maintenance dredging is exempt from Commission permit requirements under Section 30610(c) of the Coastal Act, and in April 1995 the County received a formal exemption for the proposed dredging from the Commission's South Coast District Office. However, for purposes of federal consistency review, the Commission is reviewing both the dredging and disposal activities. The project will extend from March through June 1996.

II. Status of Local Coastal Program. The standard of review for federal consistency certifications is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) of the affected area. If the LCP has been certified by the Commission and incorporated into the CCMP, it can provide guidance in applying Chapter 3 policies in light of local circumstances. If the LCP has not been incorporated into the CCMP, it cannot be used to guide the Commission's decision, but it can be used as background information. The Newport Beach LCP has not been certified or incorporated into the CCMP.

III. Applicant's Consistency Certification. The County of Orange has certified that the proposed activity complies with California's approved coastal management program and will be conducted in a manner consistent with such program.

IV. Staff Recommendation:

The staff recommends that the Commission adopt the following resolution:

A. Concurrence.

The Commission hereby concurs with the consistency certification made by the County of Orange for the proposed dredged material disposal, finding that the project will comply with California's approved coastal management program and will be conducted in a manner consistent with such program.

V. Findings and Declarations:

The Commission finds and declares as follows:

A. Dredging The Coastal Act provides the following:

30230. Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the

biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

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

30233. (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

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

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

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

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

30234. Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

30234.5. The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

30220. Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

30224. Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

The proposed project involves the dredging and disposal of 85,000 cubic yards of sediment in open coastal waters, and as a result, the project must pass the allowable use, alternative, and mitigation tests of Section 30233 of the Coastal Act. In addition, Sections 30230 and 30231 require that the project maintain and protect marine resources and water quality. The proposed dredging and disposal of sediment from the Newport Dunes Marina is an allowable use under Section 30233(a)(2).

The Commission must also find that the proposed project is the least damaging feasible alternative. While dredging is the only viable alternative to removing the shoals and sediments, the County reviewed several alternatives to the proposed disposal at the LA-3 site. Those alternatives, and the reasons why they are not suitable for this project, are as follows:

Beach Replenishment: Sediments are too fine-grained.

Upland Disposal: High salt content makes sediments unacceptable for placement in landfills.

Ocean Disposal at LA-2: Greater distance from the dredge site in Newport Harbor would generate additional air quality impacts due to increased barge emissions.

Ocean Disposal at a Shallow Water Site: Greater impacts on the benthic community, kelp beds, offshore reefs, recreational boating, and commercial and recreational fishing.

Ocean Disposal at a Deep Water Site: Site is currently undisturbed and post-disposal recolonization of species would be slower due to lower overall abundance of species at this greater depth.

The preferred alternative, the LA-3 ocean disposal site, is located on the slope of Newport Canyon at a depth of approximately 1500 feet five miles southwest of Newport Harbor. The site is situated at the foot of a submarine canyon and receives sediments from erosion and nearshore transport. USEPA recognized the LA-3 ocean site as an interim site for disposal of dredged material from the Newport Harbor. Deposition of dredged materials from Newport Harbor has altered the character of the approximately five square-mile LA-3 site. Site surveys indicate a localized reduction in infaunal density, diversity, and species richness in the benthic community, and a change in the sediment composition when compared to adjacent areas. Sediments at the site do not contain elevated levels of metals or hydrocarbons.

The LA-3 site is located in an area devoid of submerged relief and at a depth beyond most commercial bottom fishing. While a setline dory fishery exists in the general area of the LA-3 site, dredged material disposal has not adversely affected this fishery in the past, and there is no indication that continued disposal at LA-3 will generate adverse effects on this fishery. Likewise, there are no significant recreational fisheries in the area that could be affected by the project. The site is outside the designated vessel traffic approach lanes for the Ports of Los Angeles and Long Beach, and no significant affects on commercial shipping are generated by use of LA-3. Because disposal operations rarely occur on weekends and because LA-3 is outside the main travel route between Newport Harbor and Santa Catalina Island, use of LA-3 does not affect recreational boating in this area.

Although the disposal site is located five miles offshore, and thus outside the state's coastal zone, an adverse effect on marine habitat from dredged material disposal could affect the coastal zone. For instance, pelagic fish species that swim into and out of the coastal zone could be affected by dredged material disposal at LA-3. The primary concern regarding ocean disposal of dredged material is the presence and level of contamination in the sediments, and the impacts that any contaminants present could have on marine resources, including fisheries. The dredged sediments in Newport Dunes Marina were sampled and tested for physical and chemical characteristics in 1995. The October 1995 report, "Chemical Analysis and Toxicity Evaluation of Sediments Proposed for Dredging and Ocean Disposal, Newport Dunes Marina, Upper Newport Bay, CA" states that:

The Newport Dunes Marina composite sample was remarkably uncontaminated with metals...[I]n fact, concentration of most metals in the composite sample was lower than those in the LA3 reference sediment. [M]any of the organic constituents of concern were not present at detectable levels, and those that were detected were at low to moderate concentrations.

...

The absence of significant solid phase bioassay hits together with bioaccumulation of only a few contaminants suggests that the test sediments are good candidates for ocean disposal.

The County states that the dredged material meets EPA "Green Book" standards for ocean disposal at LA-3, that disposal activity will be performed in accordance with all Army Corps of Engineers permit conditions issued under Section 103 of the Marine Protection, Research, and Sanctuaries Act to assure compliance with environmental and safety regulations, and that the proposed sediment disposal will not generate any significant adverse effects on water quality, fisheries, or recreation at or adjacent to the LA-3 site and in the coastal zone. USEPA staff confirmed to Commission staff in January 1996 that the dredged materials are suitable for ocean disposal.

The Commission agrees with the County's finding that: (1) dredging will generate only minor and temporary effects on marine resources and recreational activity at Newport Dunes Marina; (2) disposal at LA-3 is the preferred alternative for dredged material disposal; and (3) that the effects from

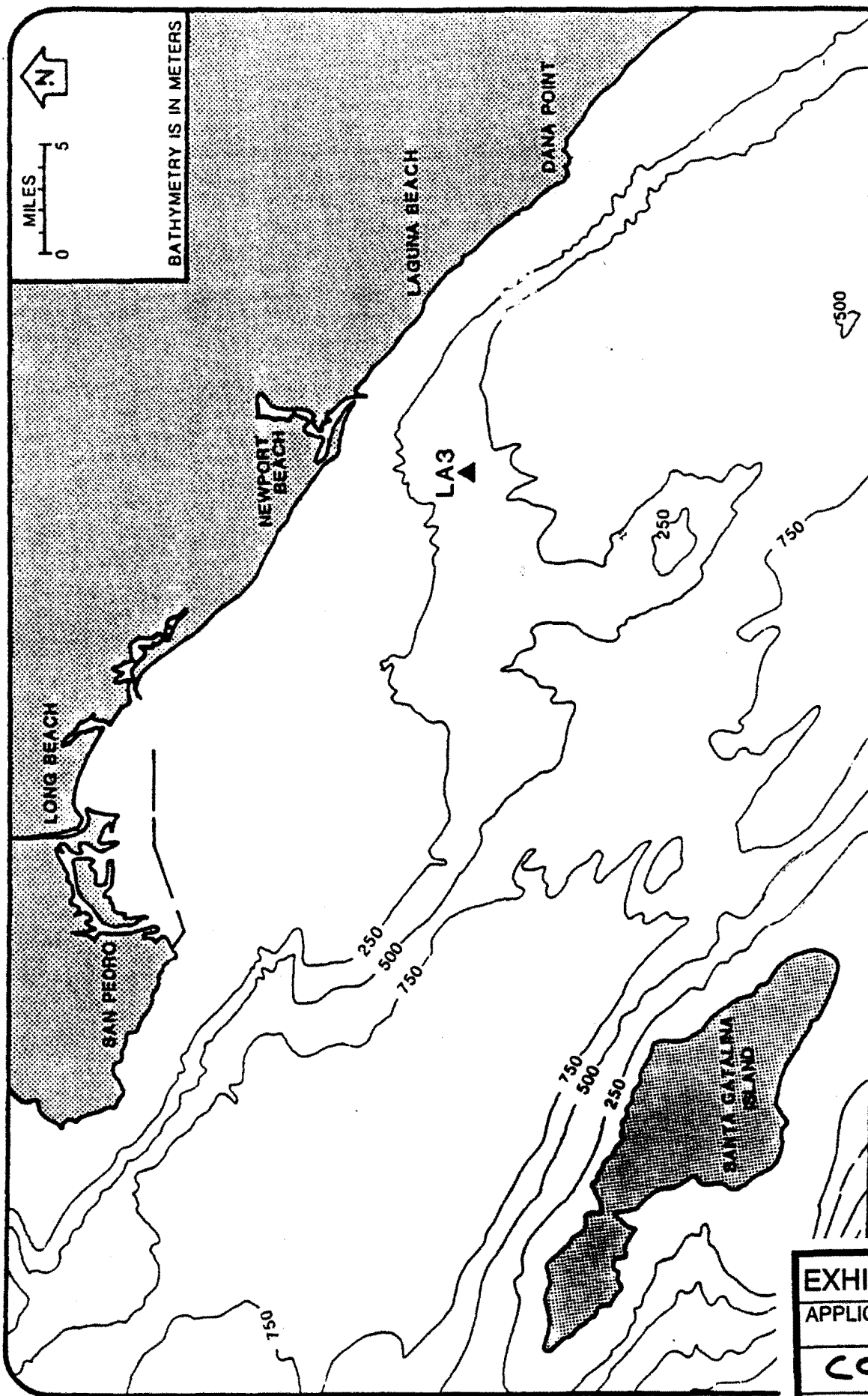
disposal at LA-3 on marine habitat, commercial and recreational fishing, and commercial and recreational boating are minor and temporary. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative.

Finally, the Commission must evaluate mitigation requirements for any significant adverse impacts generated by the project. The County examined the potential effects on marine resources and commercial and recreational fishing and boating from dredging and disposal of 85,000 cubic yards of dredged sediments at the LA-3 site and concluded that only minor and temporary impacts will occur. Newport Dunes Marina has been dredged in the past and the bottom sediments do not support any unique marine habitat. In addition, no eelgrass beds are within or adjacent to the dredging site. The disposal site consists of deep water habitat 1500 feet below the surface, which has been previously disturbed by the disposal of dredged material. This project will result in minor, short-term impacts to existing benthic habitat, but the disposal area will recolonize quickly. Turbidity increases will be localized and short-lived. The Commission previously found that these types of impacts are not significant when it concurred with previous dredge material disposal operations at LA-3 and at other southern California EPA-designated ocean disposal sites. In conclusion, the proposed dredging and filling of coastal waters will not significantly affect the marine environment or commercial and recreational fishing and boating at or adjacent to Newport Dunes Marina and the LA-3 disposal site, is an allowable use, is the least damaging feasible alternative, and does not require additional mitigation. Therefore, the Commission finds that the proposed project is consistent with the marine resource, commercial and recreational fishing, and commercial and recreational boating protection policies (Sections 30230, 30231, 30233, 30234, 30220, and 30224 of the Coastal Act) of the California Coastal Management Program.

B. Sand Supply. The Coastal Act provides for protection of sand supply in the littoral system. Specifically, Section 30233(b) of the Coastal Act provides, in part, that:

Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

As described above, the County proposes to dispose 85,000 cubic yards of dredged material at LA-3, an EPA-approved ocean dredge material disposal site four miles offshore from Newport Beach. Since this site is in approximately 1500 feet of water, the material would not be available for beach replenishment after disposal. Since the dredge spoils contain approximately 60 percent sand and 40 percent silt and clay, wave energy would move this relatively fine material off the beaches and out of the littoral system should the material be placed on the beach or in the nearshore zone. Therefore, the Commission finds that the dredged materials are not suitable for beach replenishment and that the proposed disposal at LA-3 is consistent with the sand supply policy (Section 30233(b) of the Coastal Act) of the CCMP.



BATHYMETRY IS IN METERS

LA-3 DISPOSAL SITE LOCATION MAP

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EXHIBIT NO. 2
APPLICATION NO.

CC-2-96