

CALIFORNIA COASTAL COMMISSION

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March 1, 1996

TO: CALIFORNIA COASTAL COMMISSIONERS

FROM: PETER M. DOUGLAS, EXECUTIVE DIRECTOR

SUBJECT: STAFF RECOMMENDATION ON REVISED MAP OF POST-LCP
CERTIFICATION JURISDICTION, CITY OF OXNARD
(for Commission consideration at its March 12-15, 1996 meeting)

This recommendation was developed by Jonathan Van Coops, Allyson Hitt, and Jayson Yap, Coastal Program Analysts, Mapping Program, working under the direction of Susan Hansch, Manager, Energy and Coastal Resources Division.

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the revised map (Exhibit 3) prepared by staff showing the areas where the Commission retains permit authority pursuant to Public Resources Code (PRC) Section 30519(b) and Section 30613, and where appeals of local government coastal development permit approvals are allowed pursuant to PRC Section 30603(a)(1) and (2) within the City of Oxnard.

BACKGROUND ON POST-LCP CERTIFICATION MAP PROCEDURES

After the Commission certifies a local government's LCP, permit authority within that jurisdiction is delegated to that local government. However, pursuant to Section 30519(b) of the Coastal Act, the Commission retains permit authority (with certain exceptions) after LCP certification over developments occurring on tidelands, submerged lands, and public trust lands. *This revision was initiated by staff to correct the delineation of the Commission's permit jurisdiction boundary in the affected area shown in Exhibit 4.*

In addition to the retained permit jurisdiction, Section 30603 of the Coastal Act defines certain areas and types of development for which approvals by the local government may be appealed to the Commission. Appeal jurisdiction is retained, for example, on lands within 100 feet of streams or wetlands, lands subject to the public trust, lands within 300 feet of the coastal bluffs, beaches, or estuaries, and lands between the sea and the first public road paralleling the sea. *This revision does not change the landward extent of the Commission's appeal jurisdiction in the affected area.*

The Commission's administrative regulations (14 CCR Section 13576) provide that a map portraying the areas of continuing Commission permit and appeal jurisdiction be adopted in conjunction with the final LCP certification. An update procedure is also described and provides the basis for revisions and readoption of the map by the Commission. Within these regulations is implicit the idea that, while the adopted map should portray the various jurisdiction boundaries as accurately as possible, it remains only a depiction, a cartographic representation and not a definition of the jurisdiction, and cannot be used on its own without field determination procedures to establish a precise boundary location. Conditions on the ground control permit and appeal jurisdiction boundary location regardless of how accurate the mapped boundary may be.

STAFF ANALYSIS

Background: City of Oxnard Coastal Zone Jurisdiction Boundaries

Oxnard, like many coastal cities, has a relatively narrow coastal zone, with the boundary located roughly 1000 yards from the Mean High Tide Line (MHTL) of the Pacific Ocean. Legislative boundary changes effective in 1980 (PRC Section 30164(c)) involved both landward and seaward shifts in the location of the Coastal Zone boundary in the City, and resulted in the line depicted in Exhibits 1 through 3. As shown in map Exhibit 3, the Commission's continuing permit and appeal areas are found primarily along the ocean shoreline, tidelands, and along the inland waterways and channels at Channel Islands Harbor and Mandalay Bay.¹ In the area of the proposed revision (shown in Exhibit 7), the Commission's continuing permit jurisdiction exists only on lands lying below the MHTL near the foot of Perkins Ave., its intersection with McWane Ave., Arnold Drive, and Hueneme Road.

Permit Jurisdiction Revisions

While processing a 1994 boundary determination request for an area in the Ormond Beach section of the City of Oxnard, the Commission staff discovered an oversight in the previously adopted delineation of the Commission's primary permit jurisdiction boundary. The current adopted boundary, which was based on the historical wetland boundary located inland of the beach in this area, was incorrectly transferred to the adopted map due to an unrecognized overlap in the original US Coast and Geodetic Survey Topographic surveys that cover this coastal area. Exhibit 5, a photocopy composite of parts of these historic maps (sheets T-576 (1855) and T-893 (1857)), shows the area fairly close to its last natural condition, and the initially unrecognized overlapping parts of each map. Exhibit 6 is a "computer-generated" overlay of these historical

¹ The Commission previously adopted a Post-LCP Certification permit and appeal jurisdiction map for the City of Oxnard on April 10, 1985. Following that adoption, revisions were made and adopted in July of 1985 to incorporate changes requested by the City pursuant to P.R.C. Section 30613. These first revisions allowed transfer of permit authority for the filled land areas within Mandalay Bay to the City of Oxnard. The properties involved were built-out, had infrastructure in place, and were designated for urban uses in the City's certified LCP. As with all permit authority transfers of this type, the areas affected remain in the Commission's appeal jurisdiction.

wetland boundaries showing the common area of T-576 and T-893 positioned correctly. In contrast to revisions resulting from a change in location of a feature or boundary criterion, *this revision was initiated by staff to correct this error in the delineation of the Commission's permit jurisdiction boundary.*

In order to correct this oversight in the permit boundary delineation, the staff examined the tidelands aspect² of the jurisdiction defined in P.R.C. Section 30519(b). Tidelands, the first component of the Commission's retained permit jurisdiction, is defined as lands lying between the lines of mean high tide and mean low tide (14 CCR Section 13577). The Mean High Tide Line (MHTL) is the landward tidelands boundary, an ambulatory boundary that moves with changes in the profile of a sandy beach. The MHTL is and has been used by the U.S. Supreme Court, the California Supreme Court, federal and state courts, the state legislature, state regulatory and administrative agencies, and local governments as the boundary between public tidelands and private uplands. Fluctuations in the MHTL caused by development activities occurring after January 1, 1977, do not change the boundary of the Commission's retained permit jurisdiction.³

The location of the fluctuating Mean High Tide Line is determined by establishing the intersection of the shore with the plane (elevation) of Mean High Tide as calculated by the National Geodetic Survey for a particular location. Surveys can be performed to establish MHTL or tidelands locations. The State Lands Commission, as administrator of California's ungranted tidelands, can and does perform such surveys. While field surveying can be very time consuming and costly, the staff believes a MHTL survey should be performed in the vicinity of the area affected by this map revision. However, until such time that a field survey of the area is performed, staff proposes that the boundary of the Commission's retained permit jurisdiction be revised according to an analysis of the best available information concerning the location of the MHTL on January 1, 1977.

To prepare the proposed revision of the Commission's retained permit jurisdiction, staff examined aerial photography, existing topographic surveys of the area, and thematic maps adopted as part of the City's certified LCP. A list of these materials is included as Attachment A. In addition to interpretation of the maps, staff performed stereoscopic interpretation of the vertical aerial photography to ascertain relative topography and to locate possible tidal channels, wetland vegetation, mud flats, and salt flats present in these images.

² This assessment does not evaluate or consider the applicability of the public trust as an additional basis for locating the Commission's jurisdictional boundary.

³ On the basis of its status as a tideland in 1977, the revised maps show a portion of a 28-acre parcel located just east of the Oxnard Industrial Drain and owned by the Halaco Engineering Co. as being within the Commission's retained permit jurisdiction. However, it should be noted that this parcel was the subject of a 1986 decision by the California Supreme Court (Halaco Engineering Co. v. So. Cent. Coast Regional Comm'n (1986) 42 Cal.3d 52), in which the court determined that the Commission lacked permit jurisdiction over the use of this parcel as the site for a settling pond and the deposition of waste material dredged from that pond. If it were demonstrated that the subject parcel lost its character as a tideland solely as a result of the activities sanctioned by the referenced decision, the maps would have to be further revised to adjust the jurisdictional designation for this parcel shown thereon.

Staff also reviewed the *South Ormond Beach Wetland Restoration and Management Plan* prepared for the City of Oxnard by Jones & Stokes Associates, Inc. (November 1994), the *Baseline Hydrologic Assessment for Ormond Beach Specific Plan Area* prepared for Impact Sciences, Inc. by Douglas Hamilton, P.E. (February 1992), and the *Delineation of "Waters of the United States" for a Portion of The Baldwin Company's Ormond Beach Project Site, Oxnard, CA*, prepared for the Baldwin Company by Dr. Dana R. Sanders, Sr. (April 1993). A July 1993 US EPA review of the material prepared by Dr. Sanders, undertaken by Thomas G. Yocom, EPA National Wetlands Expert, was examined as well. Exhibit 7 shows the portion of the City affected, and the proposed revisions to the Post LCP certification permit and appeal jurisdiction for the City of Oxnard. Copies of Exhibit 3, the full-size draft revised map, are available for review at the City of Oxnard and at the Coastal Commission's offices in San Francisco and Ventura.

Appeal Jurisdiction

The appeal jurisdiction boundary in the City of Oxnard is shown in Exhibit 3. *No changes in the landward extent of the appeal jurisdiction occur as a result of this revision.* The First Public Road paralleling the Sea (i.e., controlling boundary criterion in the affected area) is actually landward of the Coastal Zone Boundary in this part of the City, which results in an appeal area here that includes all of the City's coastal zone that is not in original permit jurisdiction.

Attachment A: Aerial Photography and Map Source Materials**Photography**

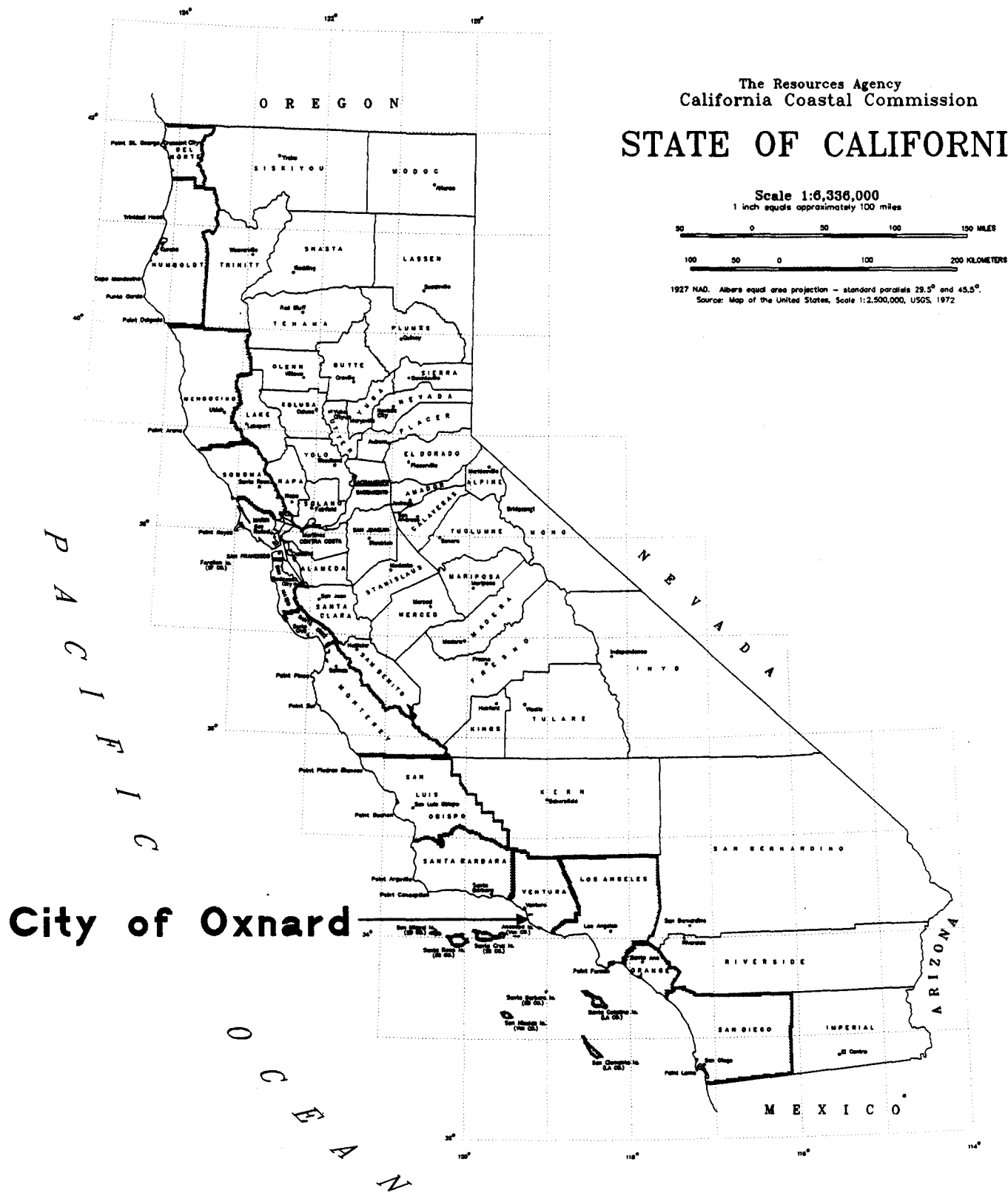
1. National Geodetic Survey (NGS) vertical aerial photography
Flight line S-301, frames 464-465
Nominal scale 1:24,000
Film type: Color negative
Date: 2/28/94
2. Environmental Air Force oblique aerial photography
No scale
Film type: Panchromatic
Date: 9/27/94
3. Environmental Air Force oblique aerial photography
No scale
Film type: Color negative
Date: 9/27/94
4. CA Dept. of Boating and Waterways (CDBW) vertical aerial photography
Flight line 65, frames 9-10
Nominal scale 1:12,000
Film type: Color negative
Date: 6/9/93
5. CDBW vertical aerial photography
Flight line 65, frames 282 and 283
Nominal scale 1:12,000
Film type: Color negative
Date: 3/17/87
6. CA Dept. of Water Resources oblique aerial photography
Flight Line 5, frames 203-205
No scale
Film Type: Color positive
Date: 6/87
7. CA Dept. of Navigation and Ocean Development (CDNOD) vertical aerial photography
Flight Line 35, frames 138-140
Nominal Scale 1:12,000
Film Type: Color negative
Date: 3/13/78

8. National Aeronautic and Space Administration (NASA) vertical aerial photography
Flight Line 007, frame 71
Nominal scale 1:32,500
Film Type: Color positive, Color infrared
Date: 1/13/77
9. CDNOD vertical aerial photography
Flight Line 76-2, frames 180-181
Nominal Scale 1:12,000
Film Type: Panchromatic
Date: 5/21/70

Maps

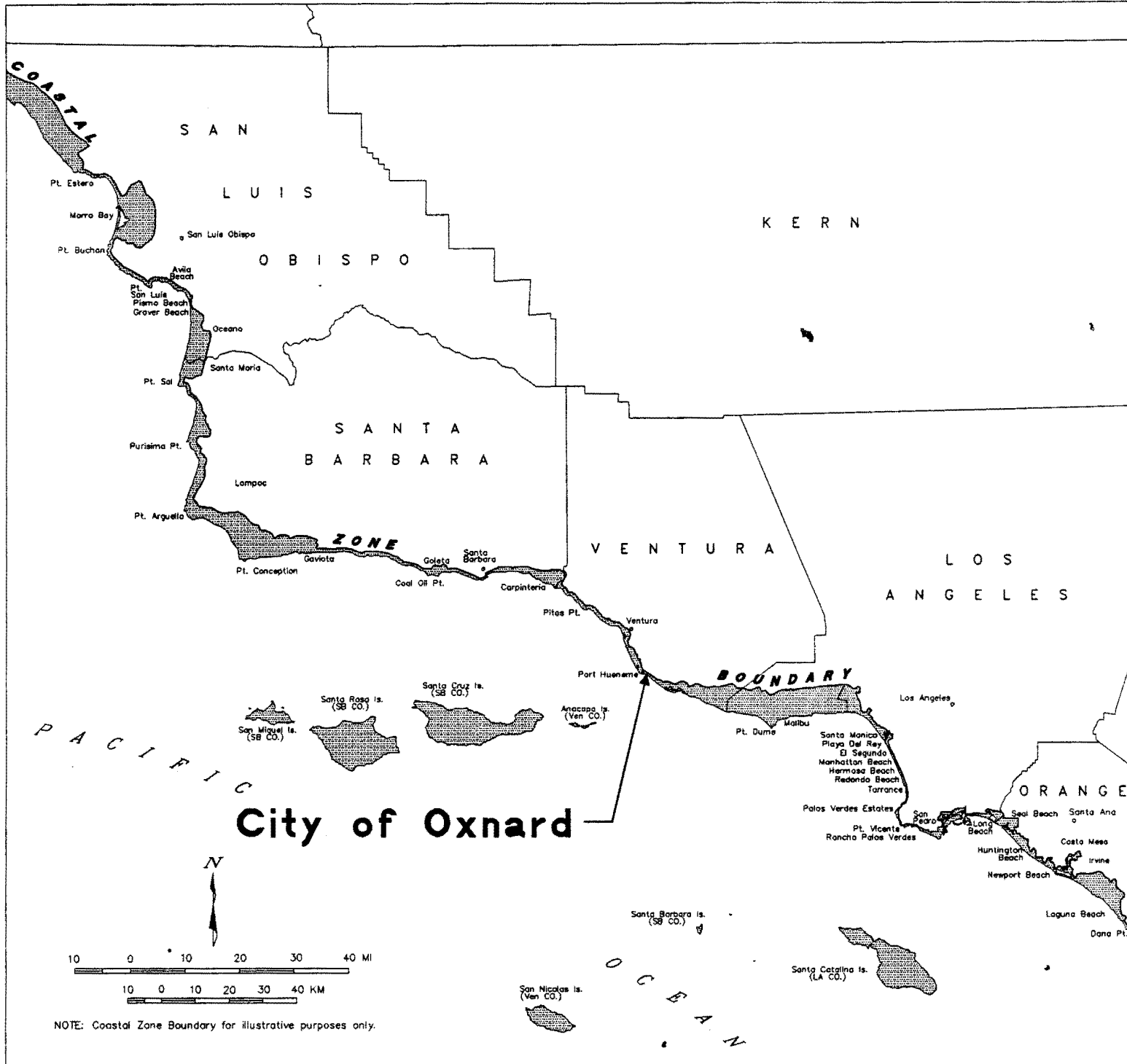
1. Ventura County Department of Public Works Topographic Map
Scale: 1:2,400
Date: 12/9/75 (source photography)
Source: Toups Engineering, Inc.
2. City of Oxnard Topographic Map
Scale: 1:4,800
Date: 1/67, 12/68 (source photography)
Source: Western Aerial Surveys
3. U.S. Army Corps of Engineers Waters of the United States, Ormond Beach Study Area
Scale: 1:2,400
Date: unknown
Source: unknown
4. Ormond Beach Wetlands Vegetation Map
Scale: 1:2,400
Date: 11/20/85
Source: McClelland Engineers
5. Ormond Beach Specific Plan Area
Drainage Patterns
Scale: 1:4,800
Date: 2/92
Source: Douglas Hamilton, P.E.

6. Ormond Beach Specific Plan Area
Areas of Potential Tidal Inundation
Scale: 1:9,600
Date: 3/92
Source: Douglas Hamilton, P.E.
7. City of Oxnard Local Coastal Program (Land Use Plan) Map
Ormond Beach Wetlands
Scale: 1:16,000 (approximate)
Date: 5/90
Source: CA Dept of Fish and Game
8. City of Oxnard Local Coastal Program (Land Use Plan) Map
Sensitive Habitats
Scale: 1:50,000 (approximate)
Date: 5/90
Source: CA Dept of Fish and Game



The Resources Agency
California Coastal Commission

South Central Coast Area Coastal Zone Location Map Showing Regional Setting of City of Oxnard

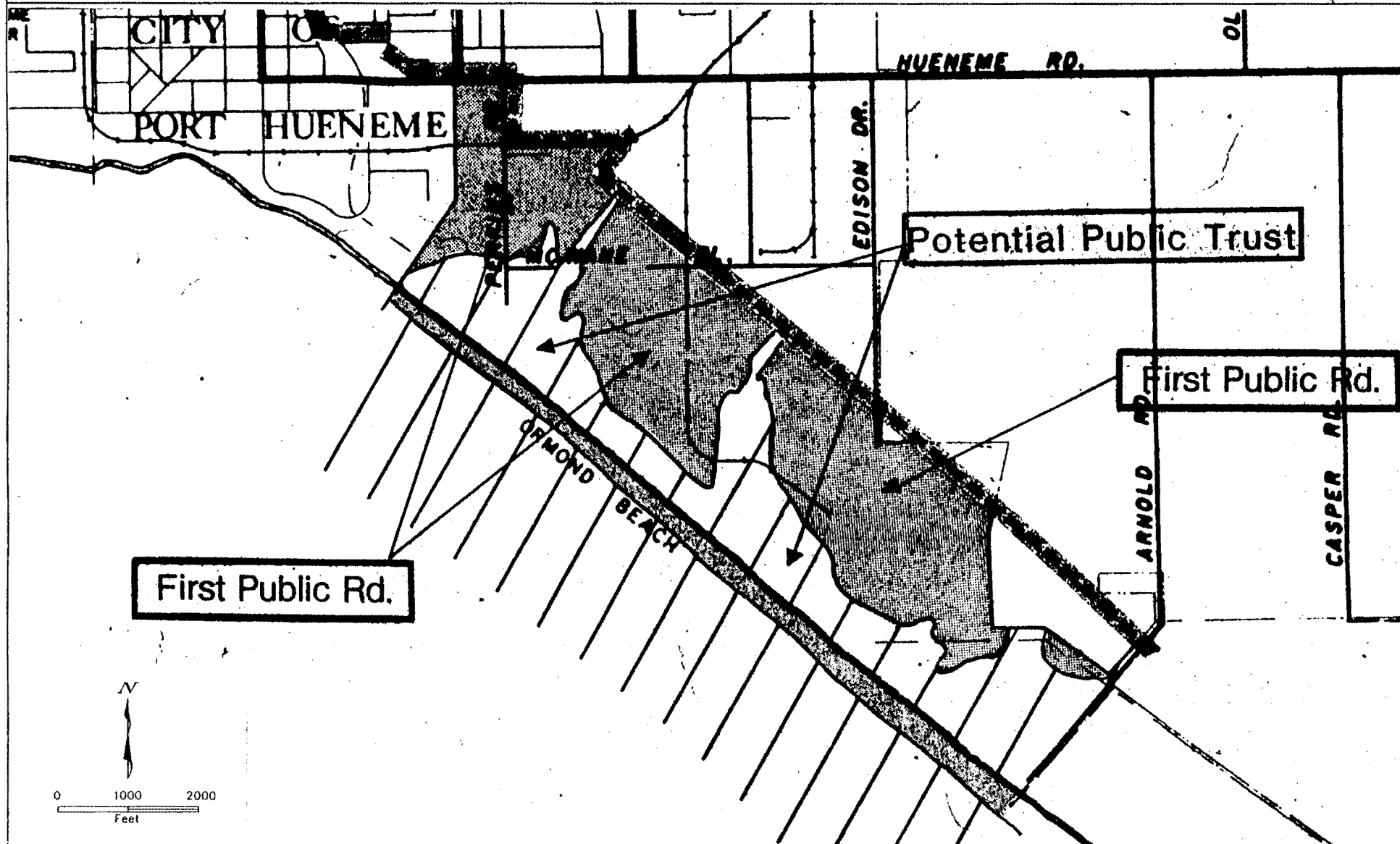


CITY OF OXNARD - Post-LCP Certification Map Revision

Exhibit 2

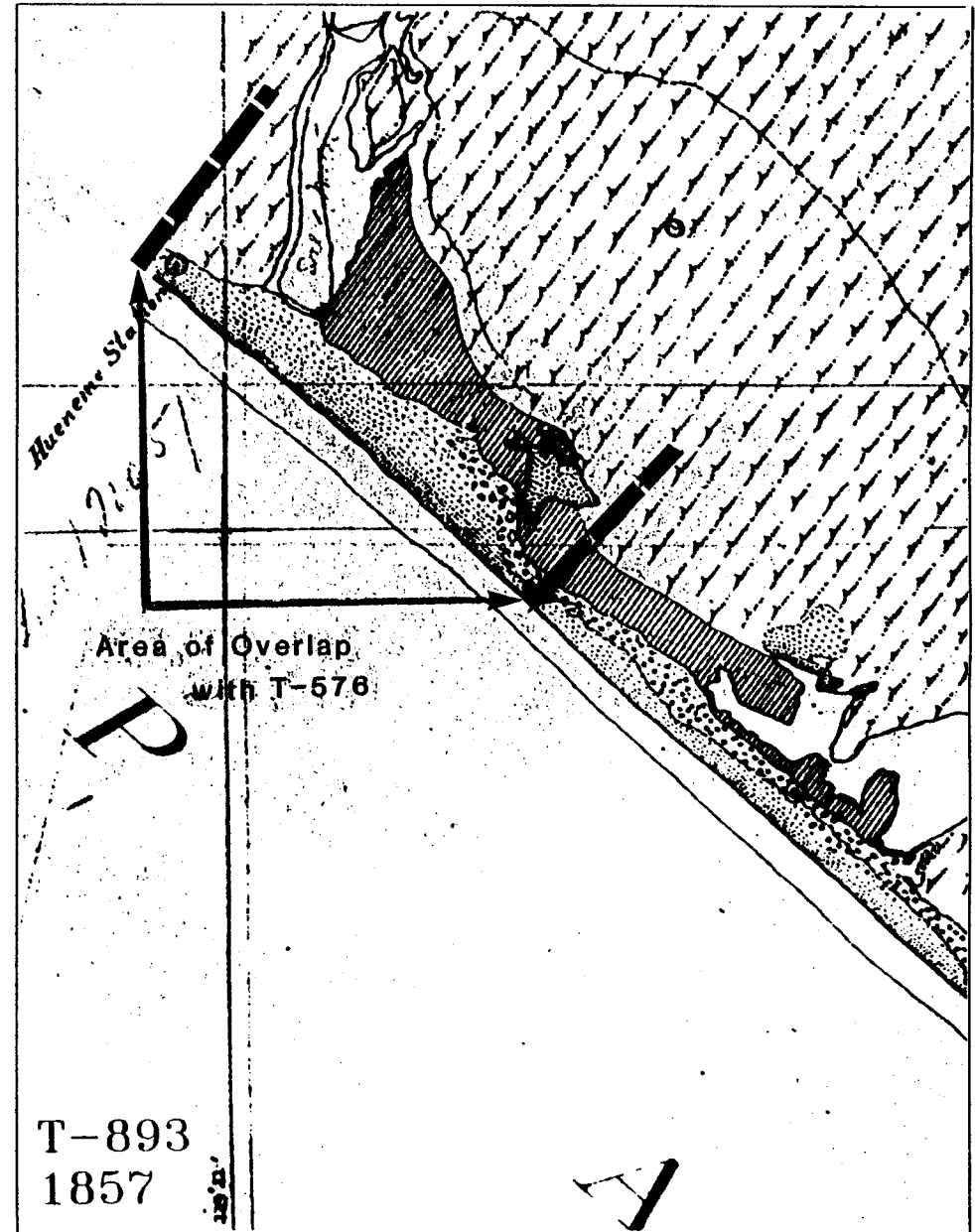
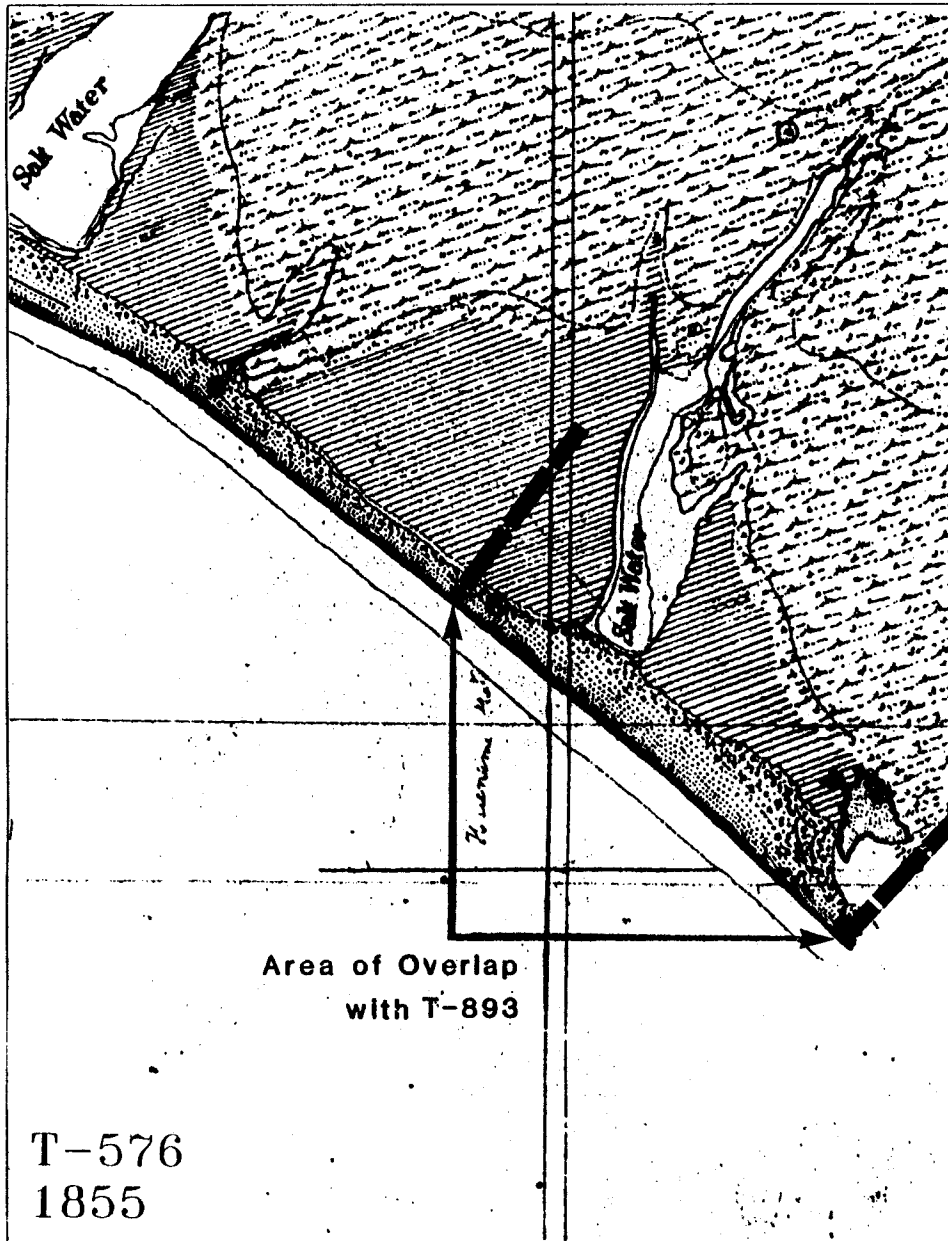
Exhibit 3 is the full-size draft revised post-LCP Certification map. Copies of the map are available for review at the City of Oxnard and at Coastal Commission offices in San Francisco and Ventura.

Portion of Existing Post-LCP Certification Map Showing Area of Proposed Permit Jurisdiction Boundary Change

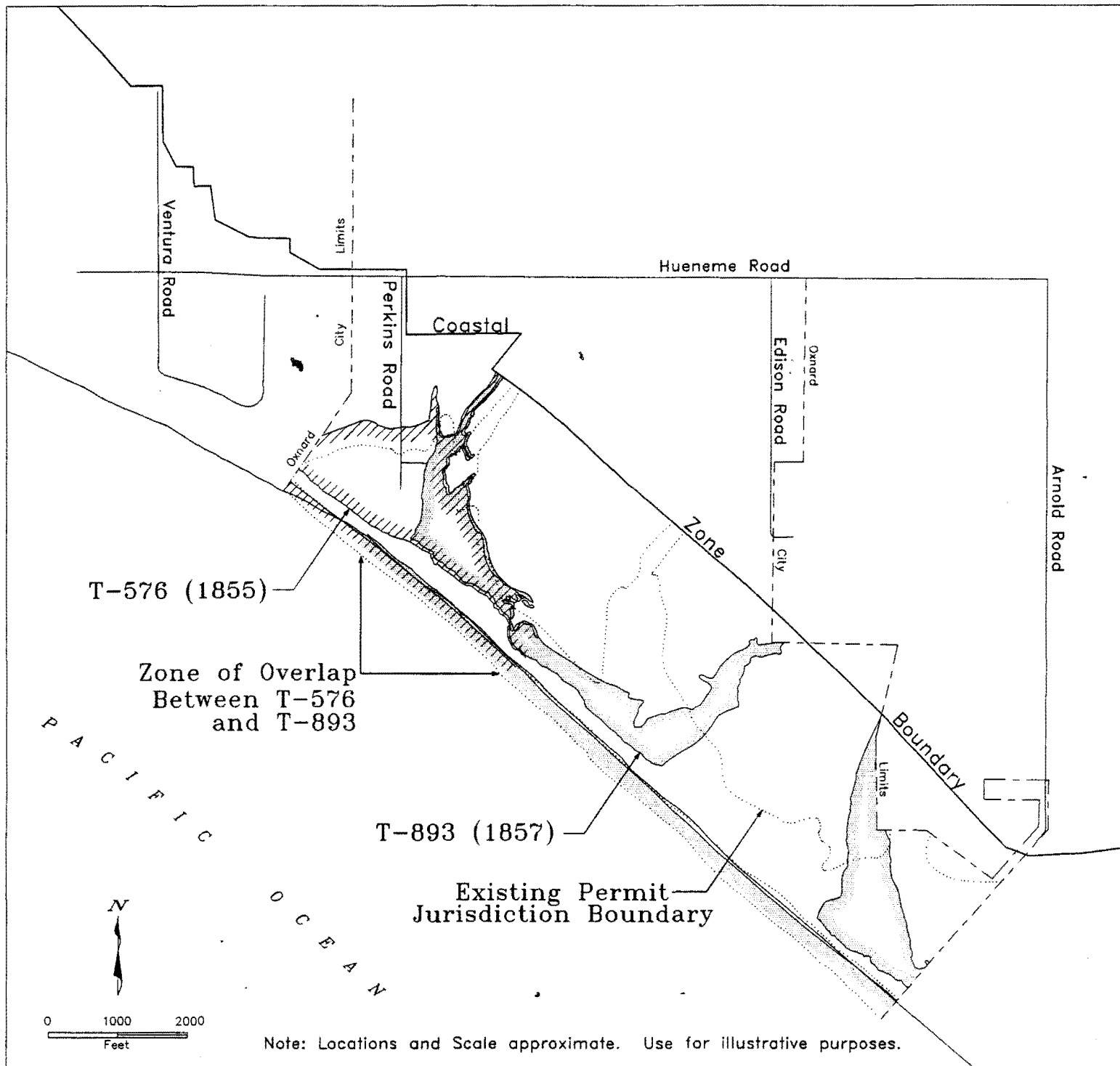


Portions of USC&GS Historical Topographic Surveys Showing Zone of Overlap

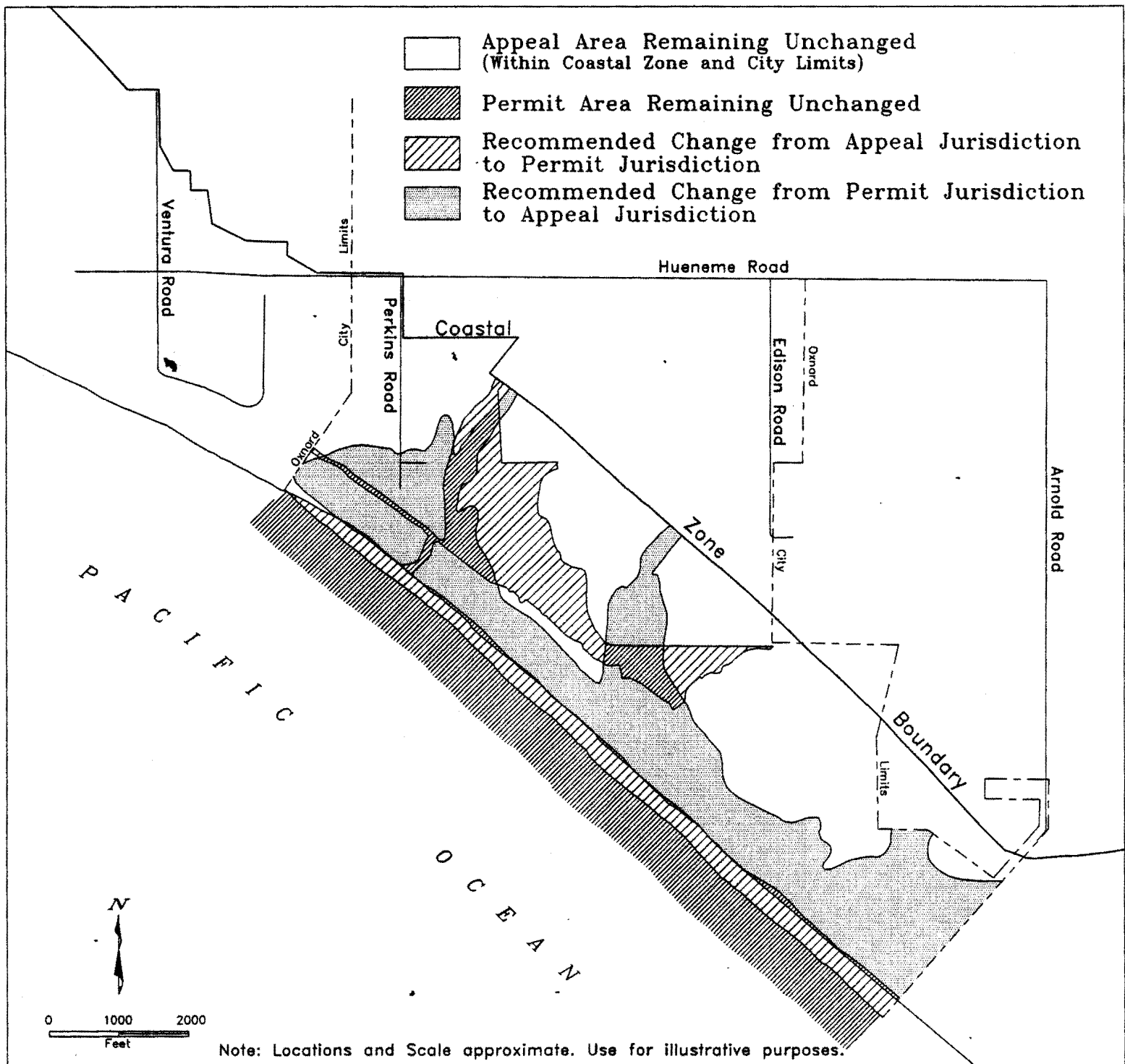
NOTE: Reduced from original scale of 1:10,000



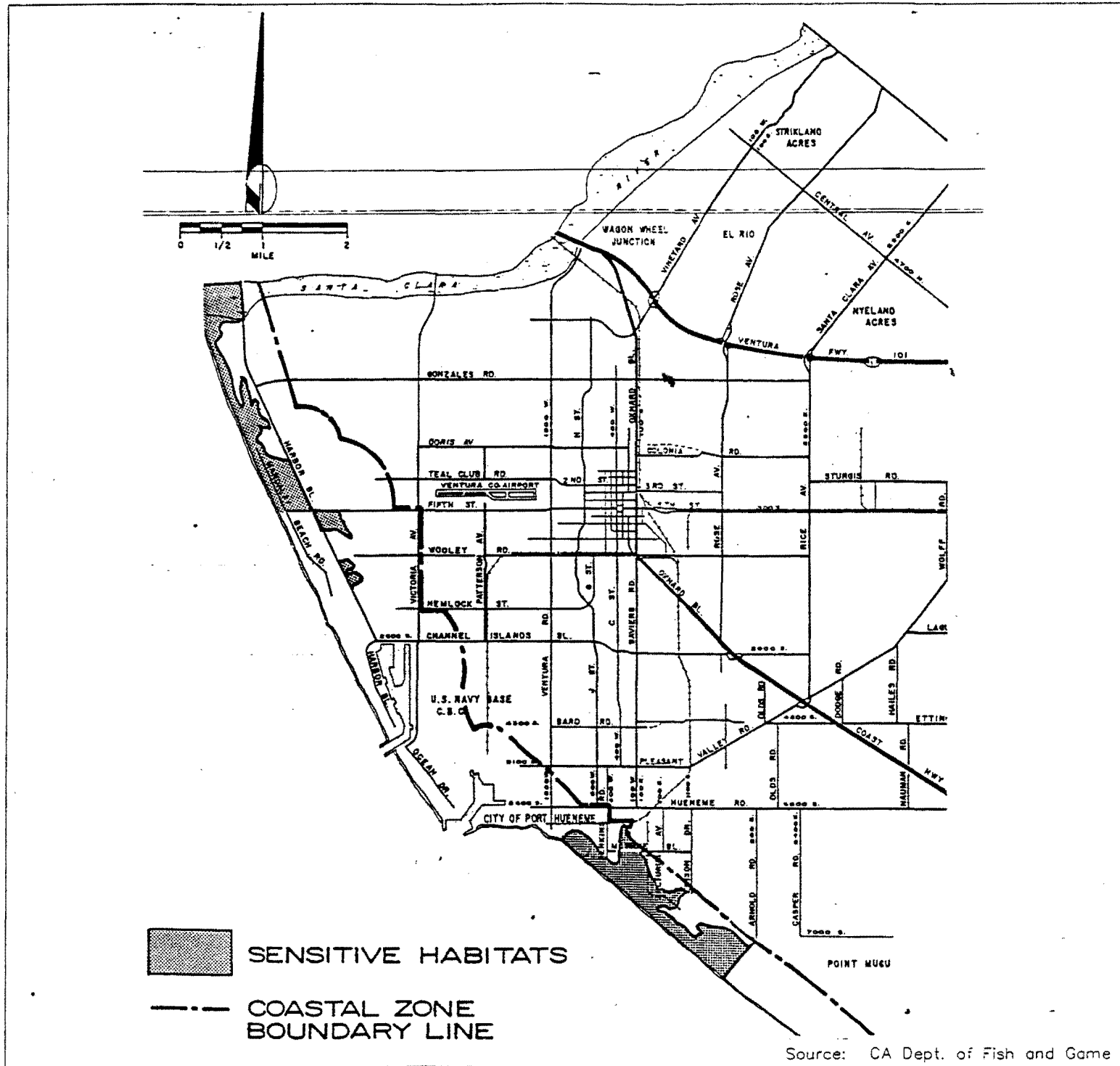
Computer-generated Overlay of Boundaries from USC&GS Historical Topographic Surveys showing Areas of Overlap



Areas Affected by Permit Jurisdiction Boundary Revisions



Portion of Map Exhibit From
City of Oxnard's Coastal Land Use Plan, 1982
Adopted by the Coastal Commission 1985



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City of Oxnard's Coastal Land Use Plan, 1982
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