

CALIFORNIA COASTAL COMMISSION

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**W13b**

March 29, 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 April 9-12, 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) §30519(b) and §30613, and where appeals of local government coastal development permit approvals are allowed pursuant to PRC §30603(a)(1) and (2) within the City of Oxnard.

MOTION

Staff recommends that the Commission adopt the following motion:

I move that, for the reasons stated in the Staff Recommendation dated March 29, 1996, the Commission hereby approve the revision proposed by staff to the City of Oxnard Post-LCP Certification Map.

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 §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. In addition to the retained permit jurisdiction, §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 exists, for example, on lands within 100 feet of streams or wetlands, 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 was initiated by staff to update the boundaries and correct a mapping error in*

the delineation of the areas of The Commission's permit and appeal jurisdiction in the affected areas shown in Exhibits 4a and 4b. This revision changes the landward extent of the Commission's appeal Jurisdiction only in the affected area shown in Exhibit 4a.

The Commission's administrative regulations (14 CCR §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 of the map by the Commission. Within these regulations is implicit the idea that, while the adopted map should portray the various jurisdiction boundaries with reasonable accuracy, it remains only a depiction, a cartographic representation and not a precise definition of the jurisdiction, and cannot be used on its own without field determination procedures to establish a precise boundary location where such precision is required or necessary. Conditions on the ground control permit and appeal jurisdiction boundary location regardless of how accurate the mapped boundary may be.

STAFF ANALYSIS

AREA 1:

Channel Islands Harbor/ Oxnard Shores

During the process of producing a digital version of the Commission's post-LCP certification permit and appeal jurisdiction map for the City of Oxnard, the need for minor revisions in the vicinities of Oxnard Shores and Channel Islands Harbor became apparent. The current adopted boundary needs revision to reflect changes in the location of the First Public Road and the dredging of approximately 6.1 acres in the upper harbor for waterfront residential development. Exhibit 4a shows the portion of the currently adopted post-LCP certification map for this area. Exhibit 7a shows the recommended changes. *This part of the revision was initiated by staff to update the map to reflect current conditions on the ground at each location.*

Permit Jurisdiction Revisions

In the upper Channel Islands Harbor portion of Area 1, approximately 6.1 acres located on the east side of the channel have been dredged for waterfront residential development. The areas now lying below the Mean High Tide Line (MHTL) are within the Commission's retained permit jurisdiction as depicted in Exhibit 7a.

Appeal Jurisdiction Revisions

In the upper Channel Islands Harbor portion of Area 1, lands within 300 feet of the MHTL of the above-mentioned dredged areas are within the Commission's appeal jurisdiction as depicted in Exhibit 7a.

In the Oxnard Shores portion of Area 1, the improvement of certain streets has caused changes in the location of the first public road paralleling the sea (FPR). Where the FPR previously followed Mandalay Beach Road it now follows Capri Way several hundred feet

to the west, the result being that the appeal boundary criterion is now 300 feet from the inland extent of the beach rather than the first public road. Where it previously followed Harbor Blvd., the FPR now follows Falkirk Avenue and Mandalay Beach Road, to Sunset Lane. As shown in Exhibit 7a, the result is a minor *decrease* in the Commission's appeal jurisdiction at this location.

AREA 2:
Ormond Beach

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 error in the previously adopted delineation of the Commission's permit and appeal jurisdiction. 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 U.S. Coast and Geodetic Survey topographic surveys that cover this coastal area. Because the overlap was not recognized when the Commission's jurisdiction was originally mapped, it was erroneously assumed that the two maps depicted separate areas that abutted one another. Accordingly, during the plotting process, the geographic features in the area of overlap were duplicated, one depiction being immediately downcoast from the other, resulting in a side-by-side representation as two "separate" areas of what was really a single 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 wetland boundaries showing the common area of T-576 and T-893 positioned correctly. In contrast to the Area 1 revisions which resulted from a change in location of a feature and/or change in a boundary criterion, *this part of the revision was initiated by staff to correct the above-mentioned error in the delineation of the Commission's permit jurisdiction boundary.*

Once the geographic features were positioned correctly, the staff reevaluated the proper location of Commission permit and appeal jurisdiction in light of the corrections made to the base map. Exhibit 7b 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.

Permit Jurisdiction Revisions

After LCP certification, the Commission's permit jurisdiction extends to tidelands, submerged lands, and public trust lands (PRC §30519(b)). This jurisdiction comprises (1) lands waterward of the present mean high tide line (tidelands and submerged lands) (14 CCR §13577(d), (e)) and (2) former tide or submerged lands that have been filled, reclaimed, or affected by artificial accretion and that the State either owns or in which it retains a sovereign title interest known as the "public trust easement" (14 CCR §13577(f)).

In remapping the Commission's permit jurisdiction in the marsh areas within the overlap area, the staff attempted to locate the mean high tide line as of January 1, 1977, the effective date of the Coastal Act.¹ Some marsh areas that have been filled since January 1, 1977, and that are no longer physically tidelands are shown as being within the Commission's permit jurisdiction. Such fill was placed without authorization and does not deprive the Commission of its jurisdiction under PRC Section 30519(b).

In remapping the Commission's permit jurisdiction in the vicinity of sandy beaches within the overlap area, both the existing mean high tide line and former locations of the mean high tide line were considered. It appears that the mean high tide line in this area has shifted seaward by beach sand replenishment undertaken by the Corps of Engineers. Prior to artificial sand replenishment being undertaken in the affected area by the Corps, the mean high tide line had eroded back to the area that is now the landward limit of beach sand. Although the mean high tide line appears now to have moved seaward in response to the sand replenishment efforts of the Corps, this artificially-caused accretion of beach sand may not have altered the landward extent of public title interests, that is, the landward limit of "public trust lands," which are within the Commission's retained permit jurisdiction (14 CCR §13577(f)). (See *State of Cal. ex rel. State Lands Com. v. Superior Court* (1995) 11 Cal.4th 50.) Accordingly, the area between the inland extent of the present beach and the "mean high tide line" as shown on U.S. Coast and Geodetic Survey topographic maps T-576 and T-893² has been shown as "Potential Public Trust," in keeping with similar designations made for other areas on the map of post-LCP certification Commission jurisdiction within the City of Oxnard.³

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.

¹ The staff did not assess these interior marsh areas for whether they were "public trust lands." Areas located within the exterior boundaries of a rancho are not normally subject to public fee title claims. (See *Summa Corp. v. California ex rel. Lands Comm'n* (1984) 466 U.S. 198.)

² In the past, for convenience, the Commission has simply adopted an early historic position of the mean high tide line, taken from nineteenth century U.S. Coast and Geodetic Survey topographic maps, and added the caveat that more precise locations of the boundary in such areas will require more intensive study of the particular area involved. Here, the mean high tide line from the early topographic map is now out in the water, apparently due to progressive erosion in this area. It therefore does not even roughly approximate the existing mean high tide line. Nor does it take into account the effect on the Commission's permit jurisdiction of the beach sand replenishment undertaken by the Corps of Engineers.

³ Given the elements of its retained permit jurisdiction, the Commission, in mapping its jurisdiction, must occasionally take into consideration the existence of public trust title claims that may be disputed. By mapping its jurisdiction, the Commission does not purport to resolve such title claims. Resolution of disputed public trust title claims is accomplished through negotiated agreements with the State Lands Commission or by quiet title litigation in the courts.

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 U.S. EPA review of the material prepared by Dr. Sanders, undertaken by Thomas G. Yocom, EPA National Wetlands Expert, was examined as well. 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 Revisions

The appeal jurisdiction boundary in the City of Oxnard is shown in Exhibit 3. In correcting the mapping error, changes were made in the seaward location of the appeal jurisdiction. *However, no changes in the landward extent of the appeal jurisdiction occur in Area 2 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.

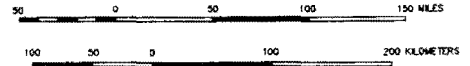
6. Ormond Beach Specific Plan Area
Areas of Potential Tidal Inundation
Scale: 1:9,600
Date: 3/92
Source: Douglas Hamilton, P.E.
7. City of Oxnard Local Coastal Program (Land Use Plan) Map
Ormond Beach Wetlands
Scale: 1:16,000 (approximate)
Date: 5/90
Source: CA Dept. of Fish and Game
8. City of Oxnard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

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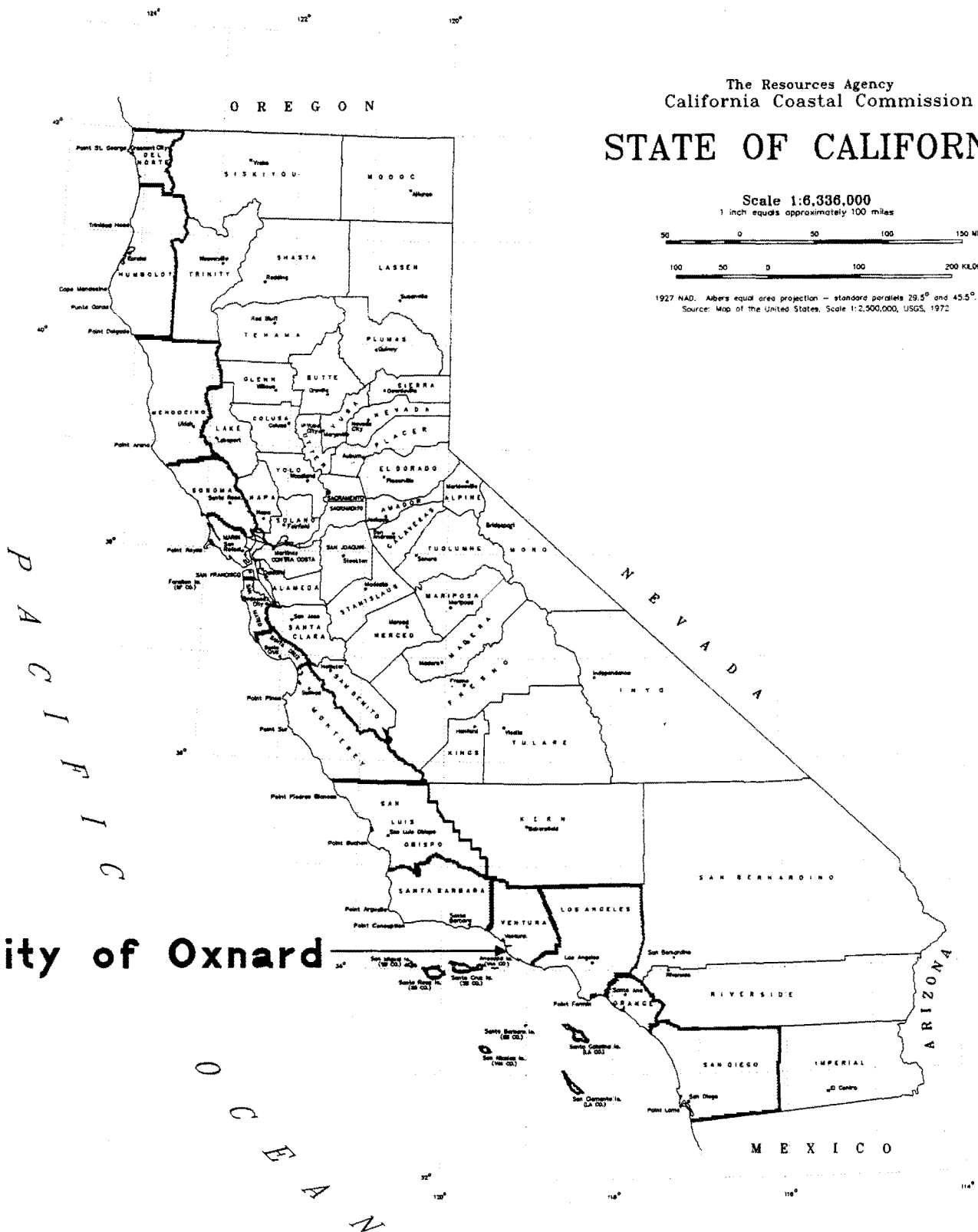
STATE OF CALIFORNIA

Scale 1:6,336,000

1 inch equals approximately 100 miles



1927 NAD, Albers equal area projection - standard parallels 29.5° and 45.5°
Source: Map of the United States, Scale 1:2,500,000, USGS, 1972



City of Oxnard

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

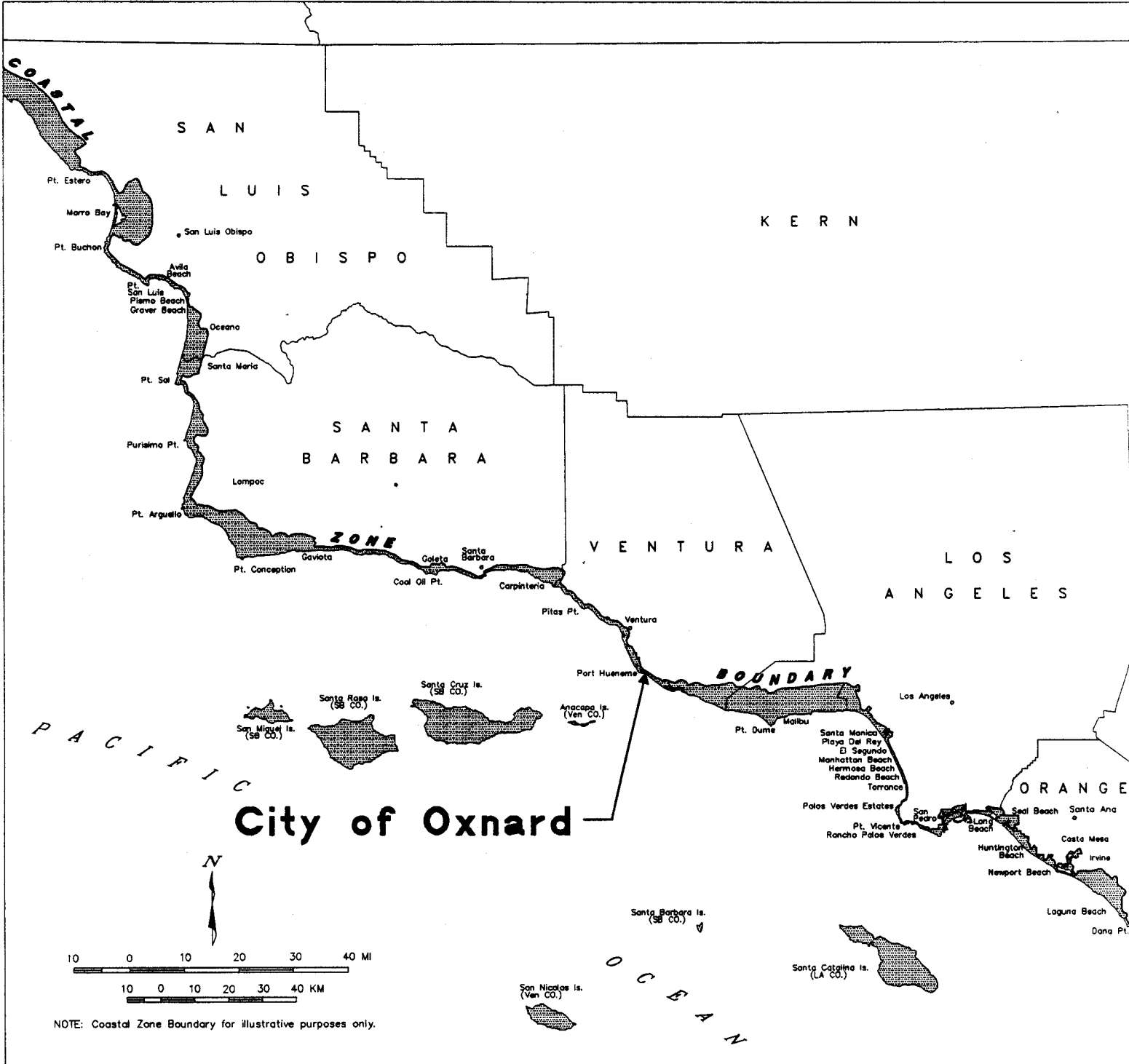
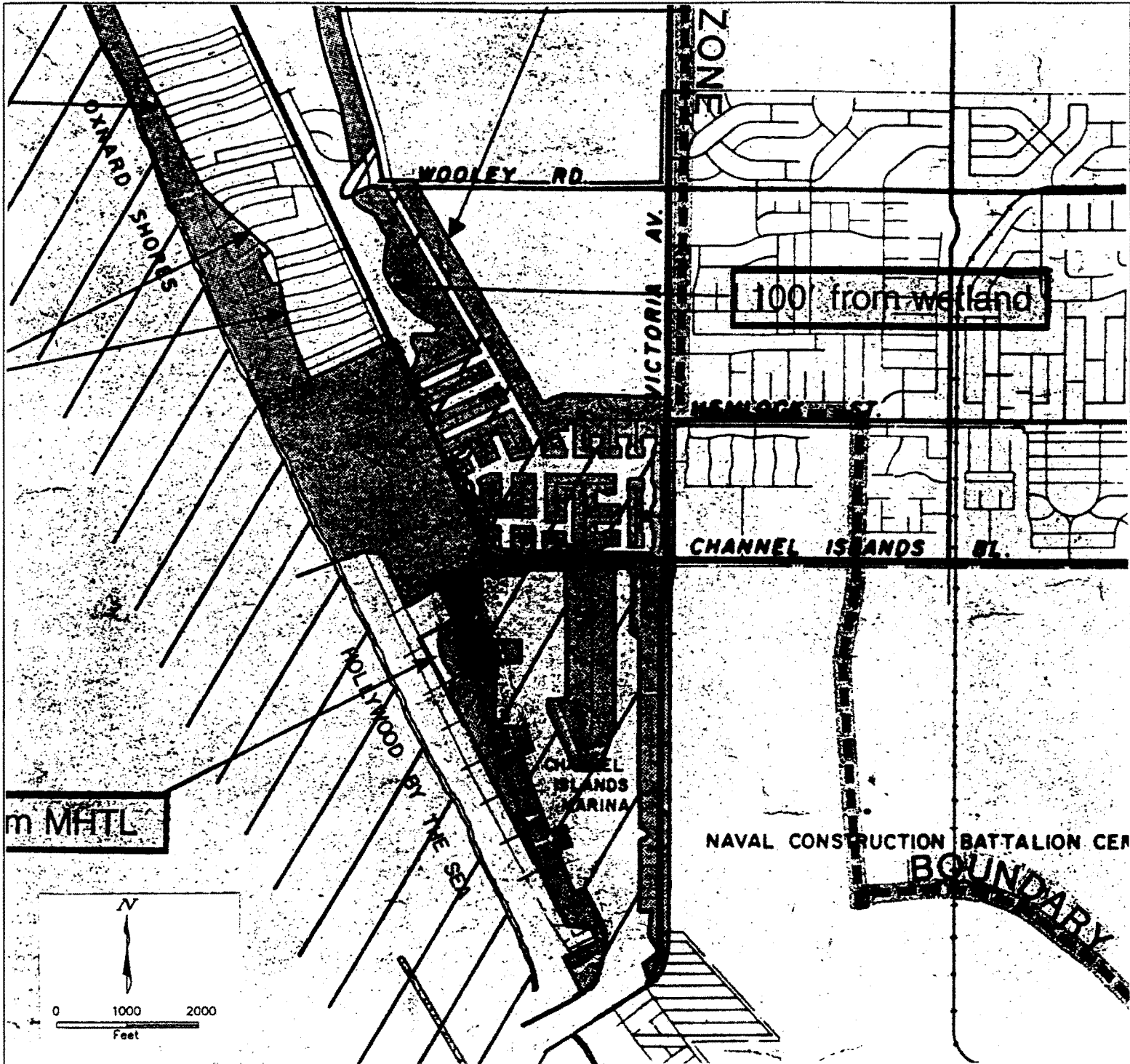
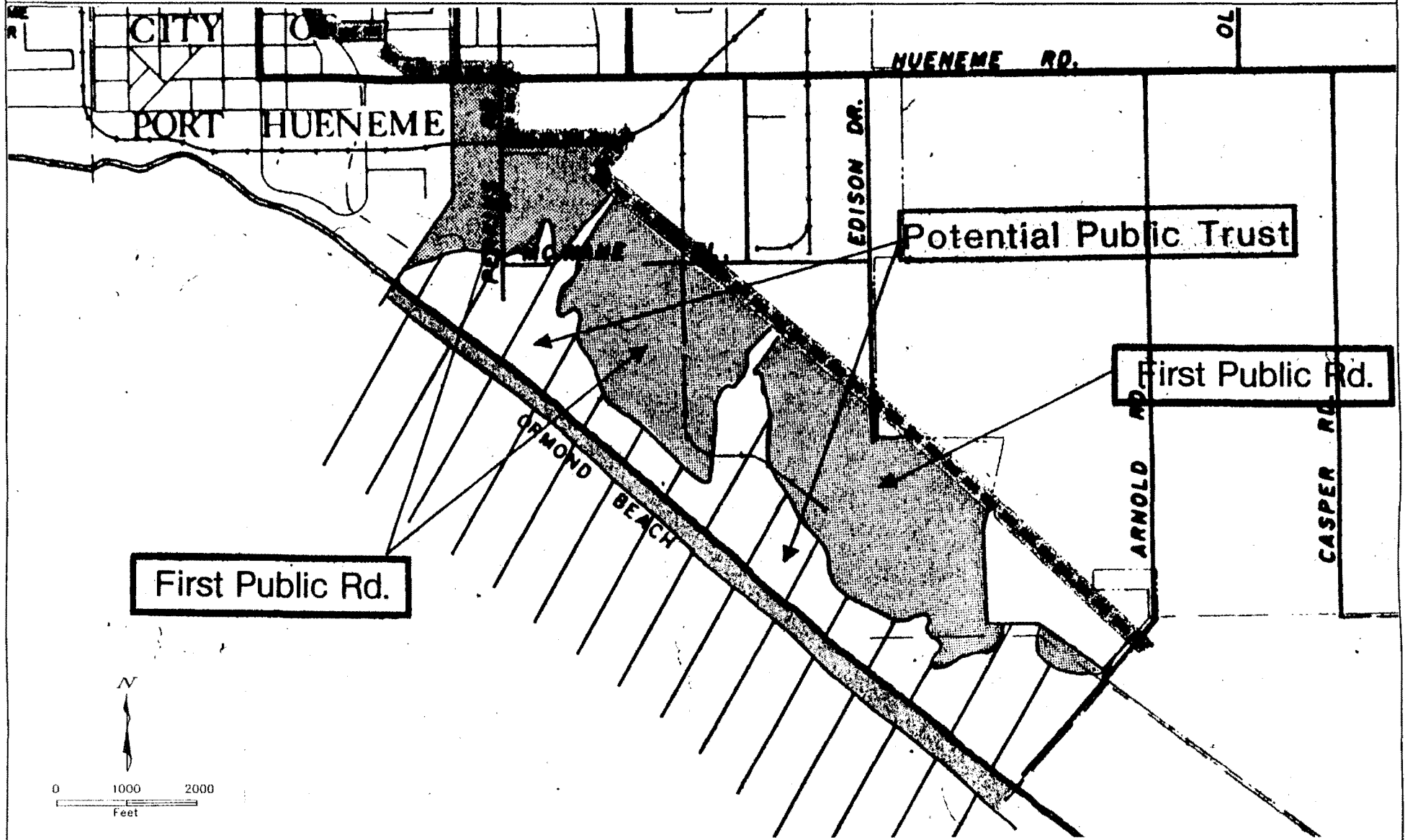


Exhibit 3 is the full-size draft revised post-LCP Certification map. Copies of the map are available for review at the City of Oxnard and at Coastal Commission offices in San Francisco and Ventura.

Portion of Existing Post-LCP Certification Map Showing Area
of Proposed Permit and Appeal Jurisdiction Boundary Changes
Area 1: Channel Islands Harbor/Oxnard Shores

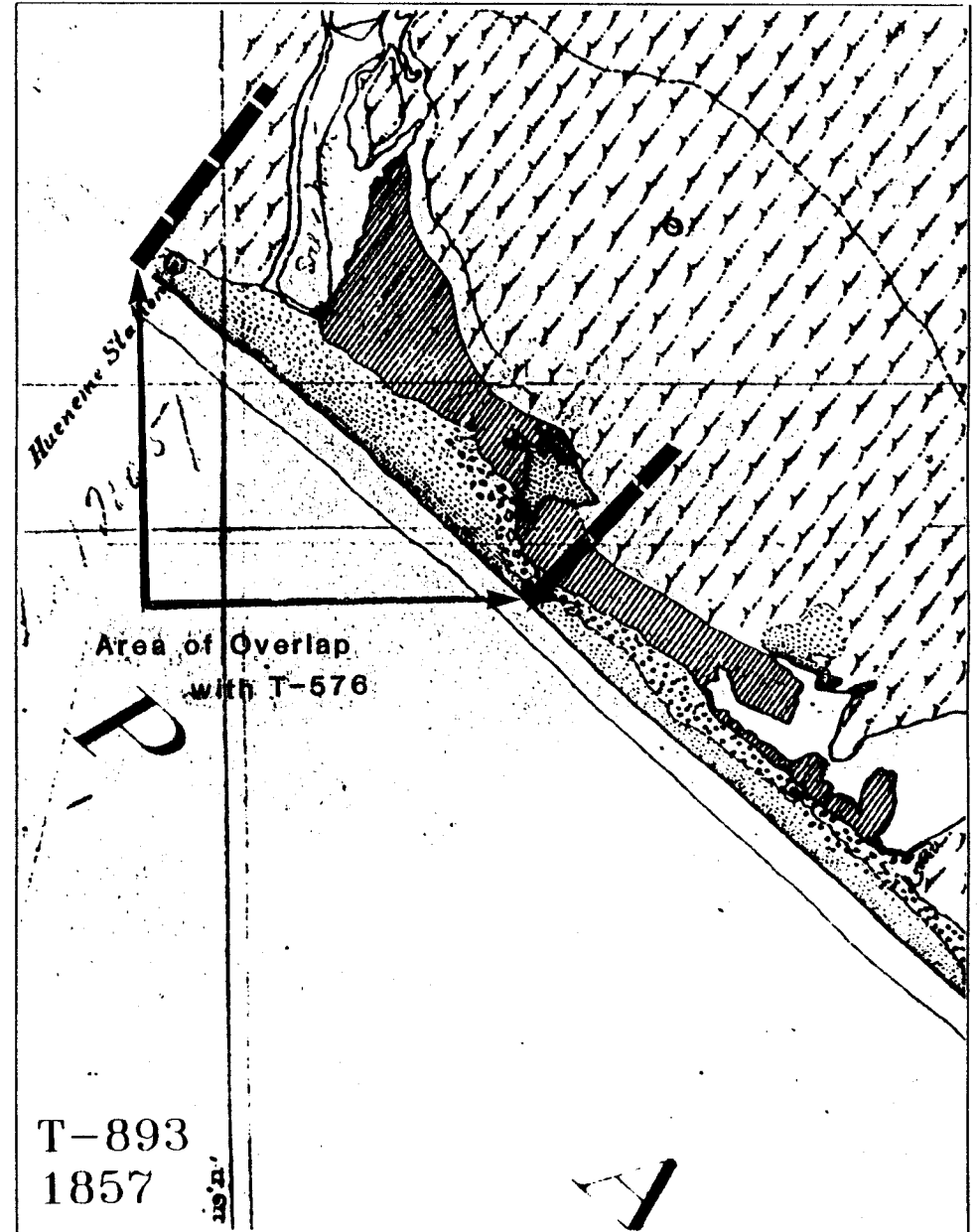
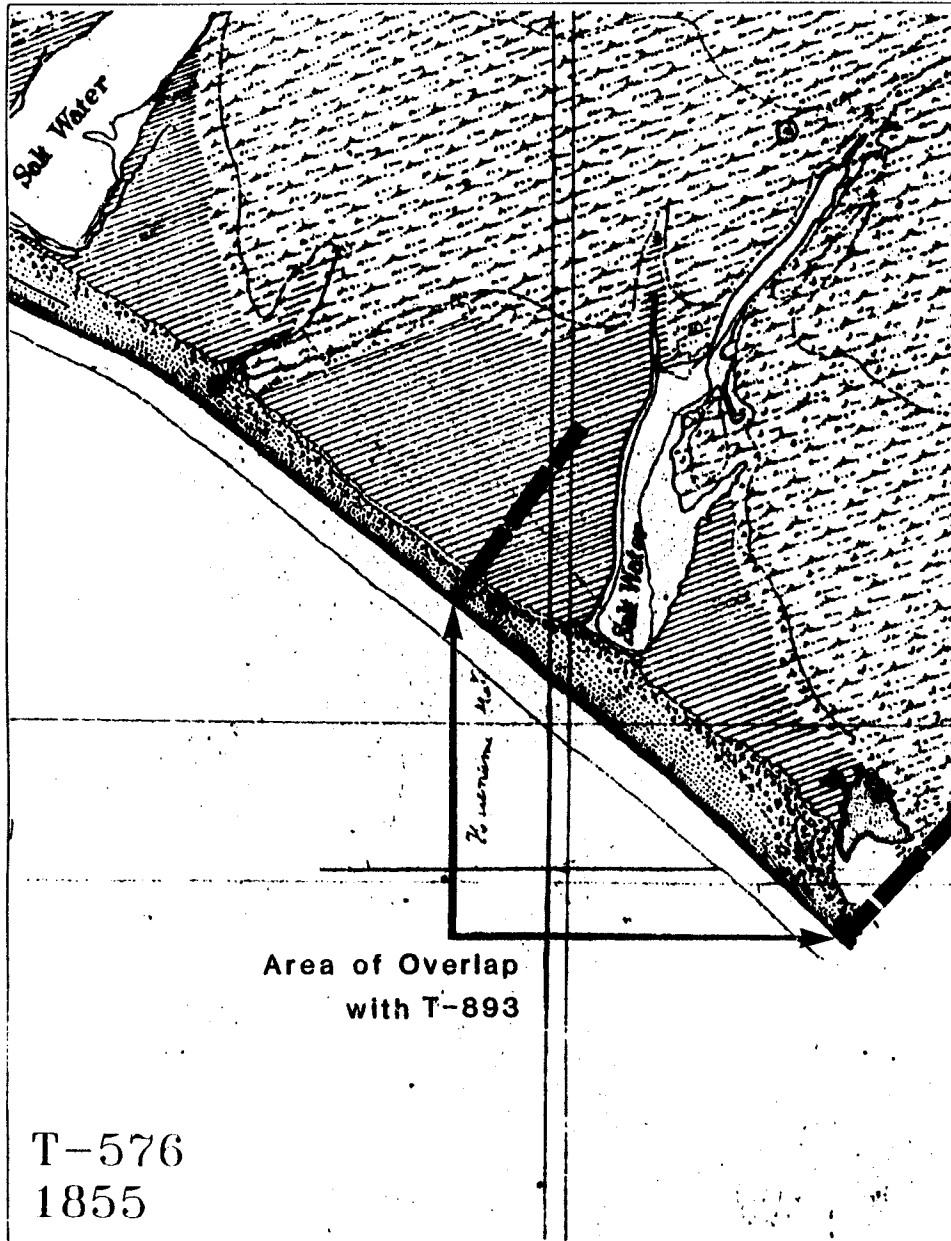


Portion of Existing Post-LCP Certification Map Showing Area
of Proposed Permit and Appeal Jurisdiction Boundary Changes
Area 2: Ormond Beach

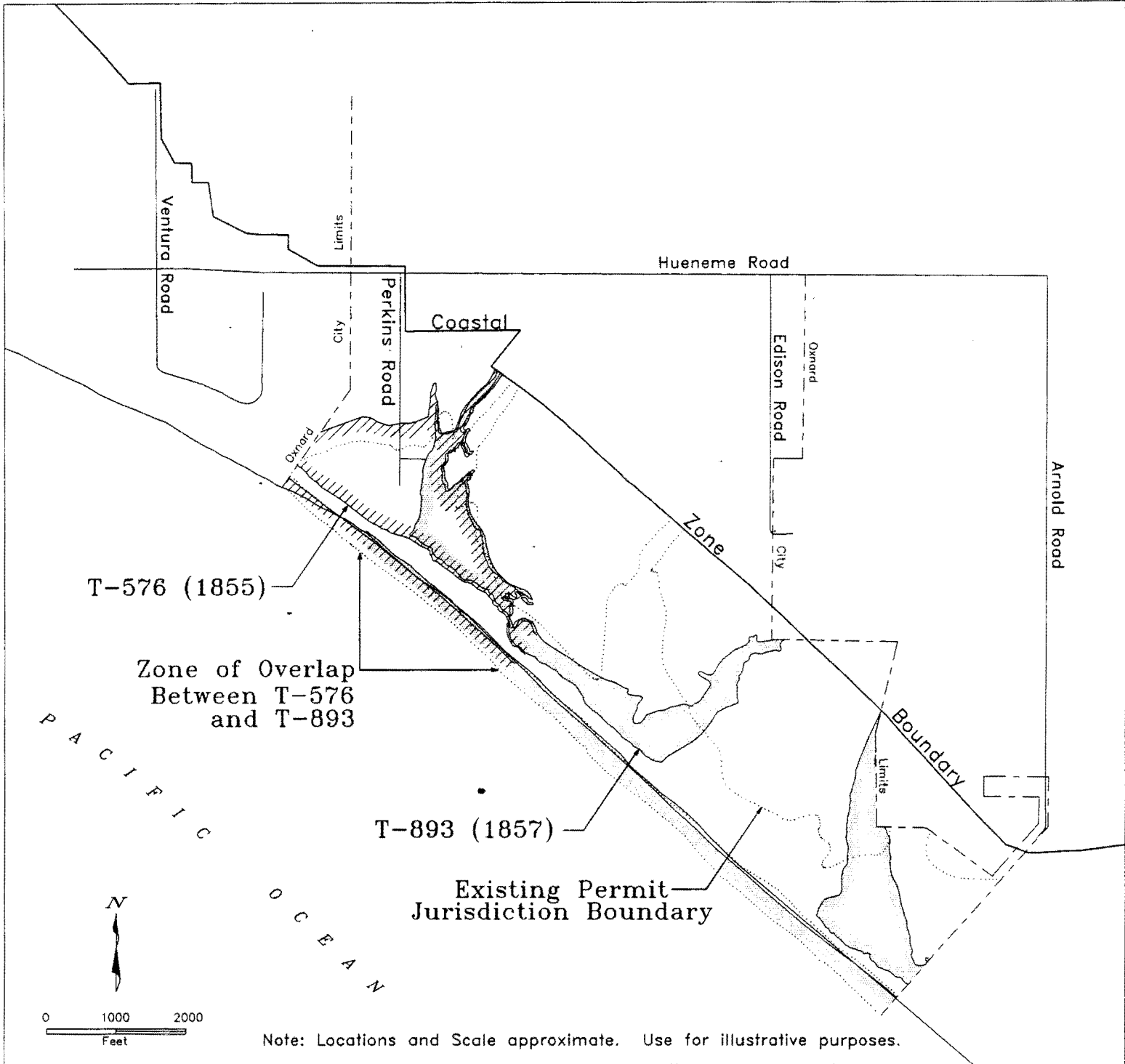


Portions of USC&GS Historical Topographic Surveys Showing Zone of Overlap

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

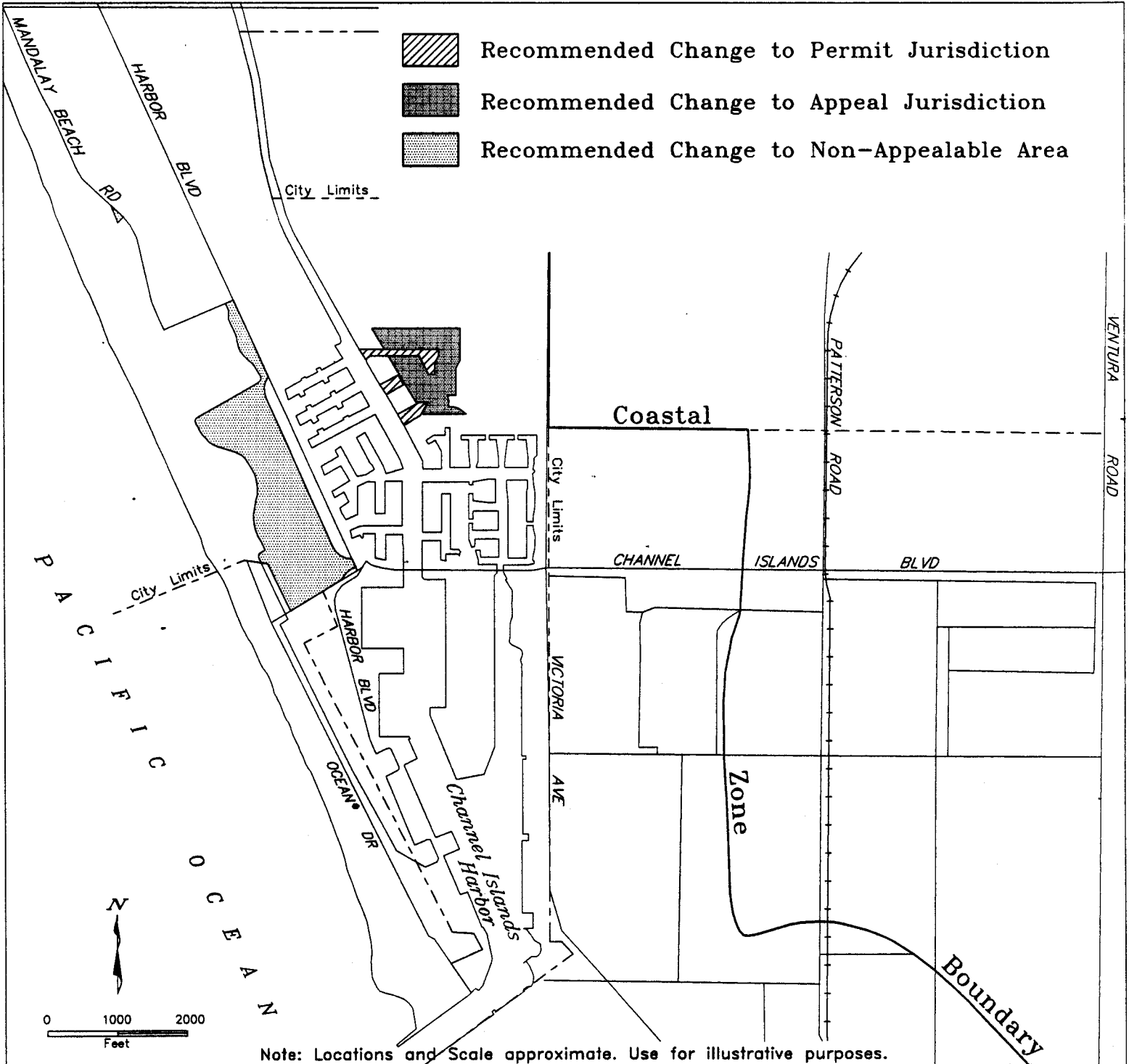


Computer-generated Overlay of Boundaries from USC&GS Historical Topographic Surveys showing Areas of Overlap

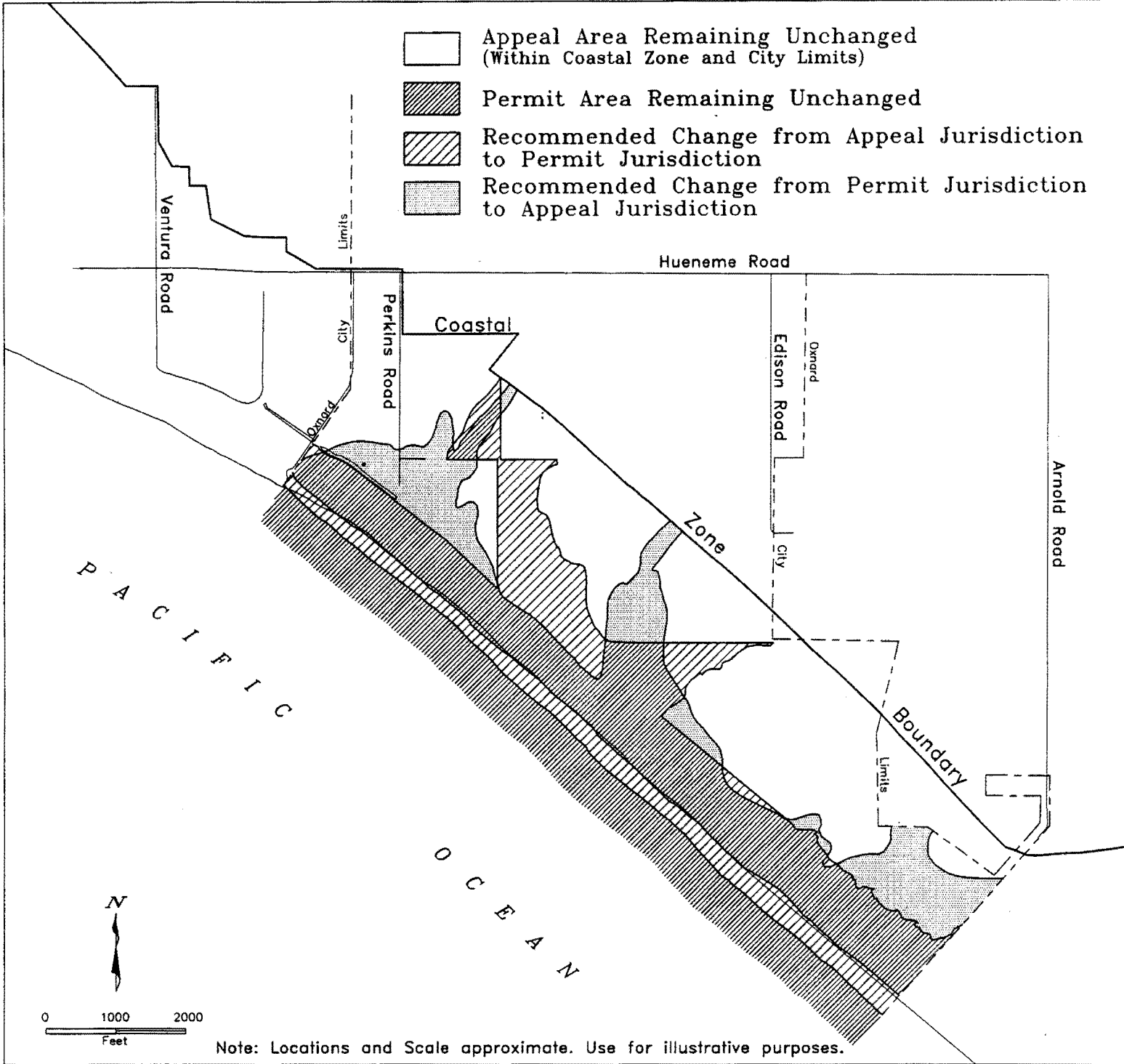


Areas Affected by Permit Jurisdiction Boundary Revisions

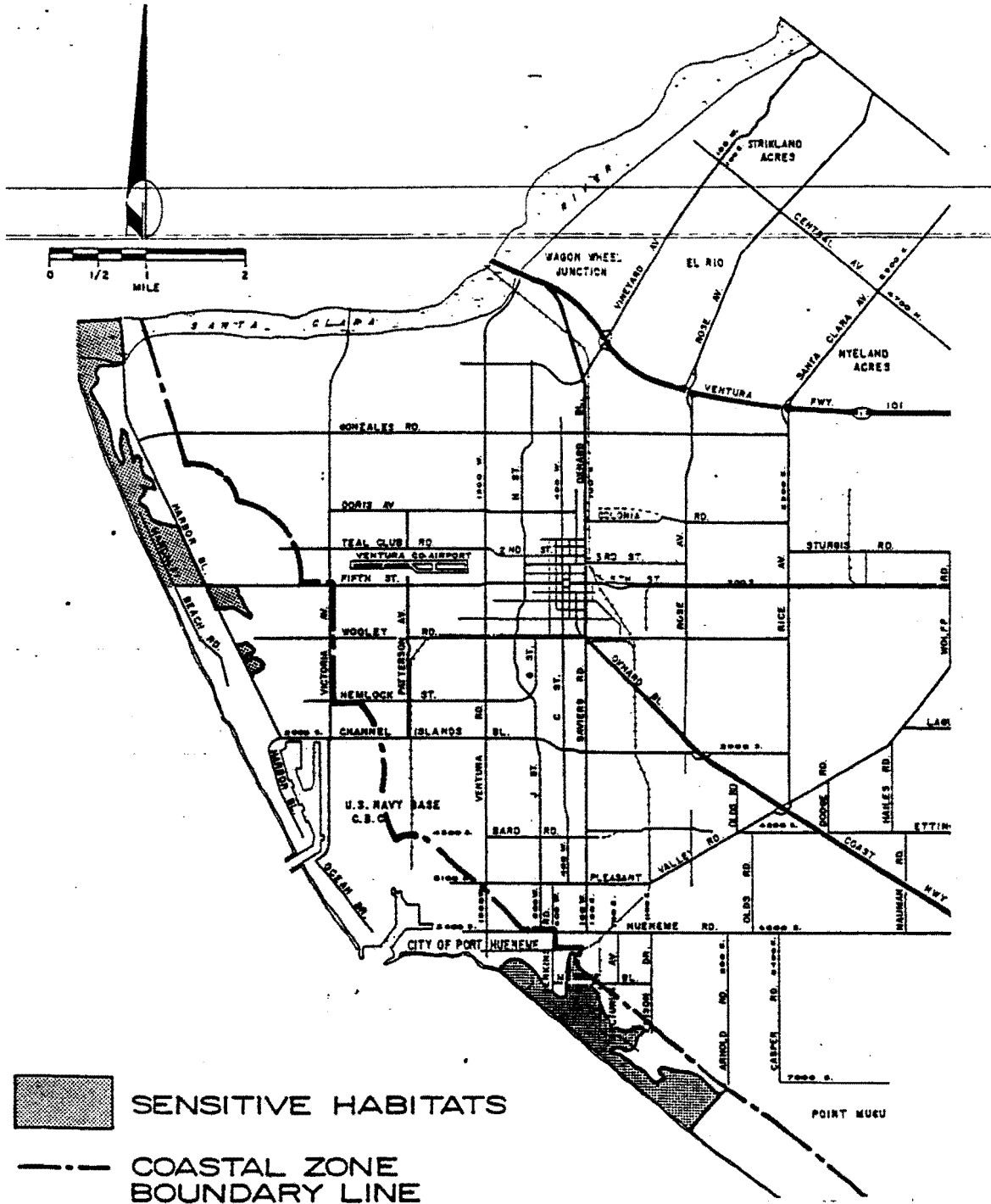
Area 1: Channel Islands Harbor/Oxnard Shores



Areas Affected by Permit Jurisdiction Boundary Revisions Area 2: Ormond Beach

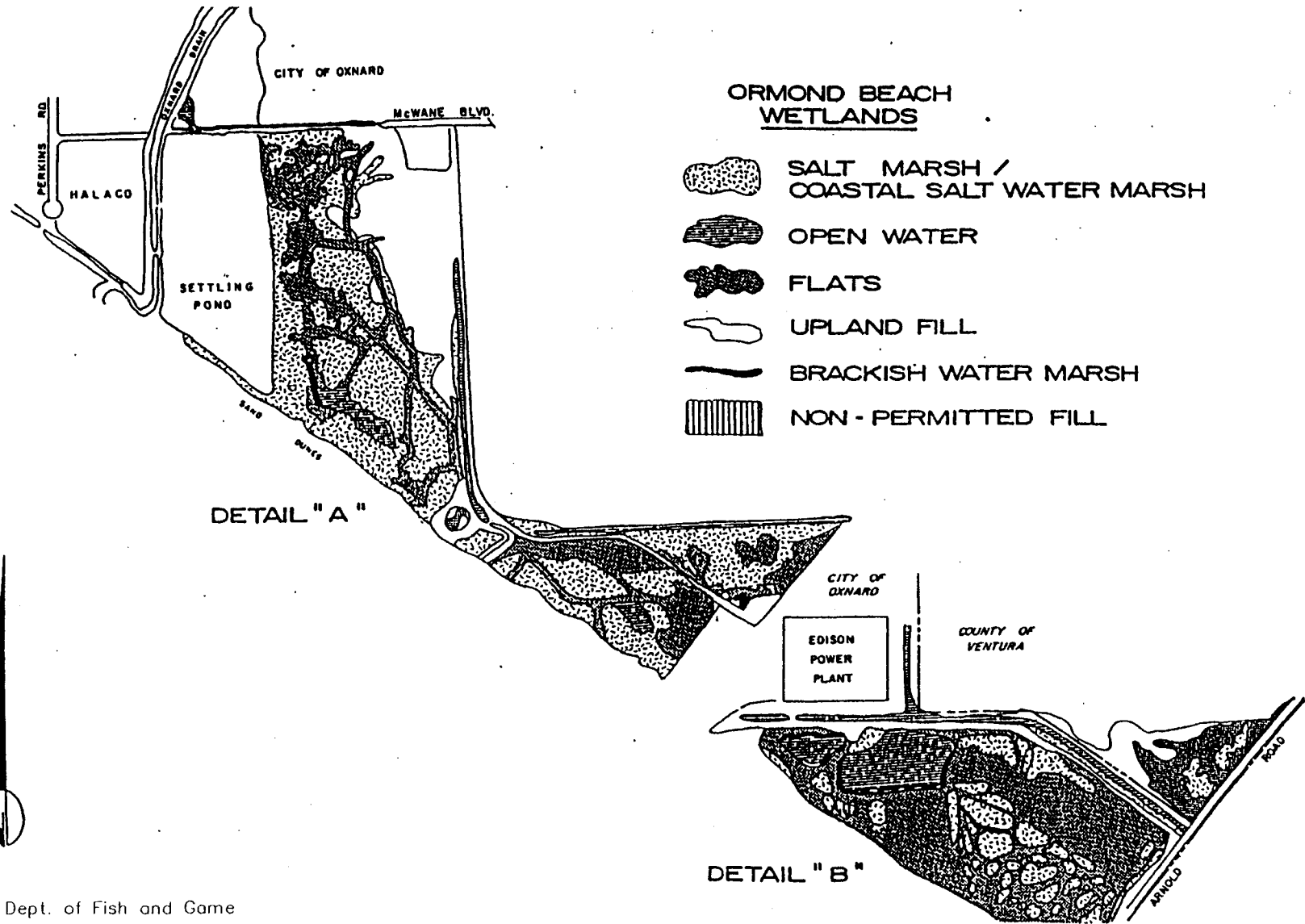


Portion of Map Exhibit From
City of Oxnard's Coastal Land Use Plan, 1982
Adopted by the Coastal Commission 1985



Portion of Map Exhibit From City of Oxnard's Coastal Land Use Plan, 1982

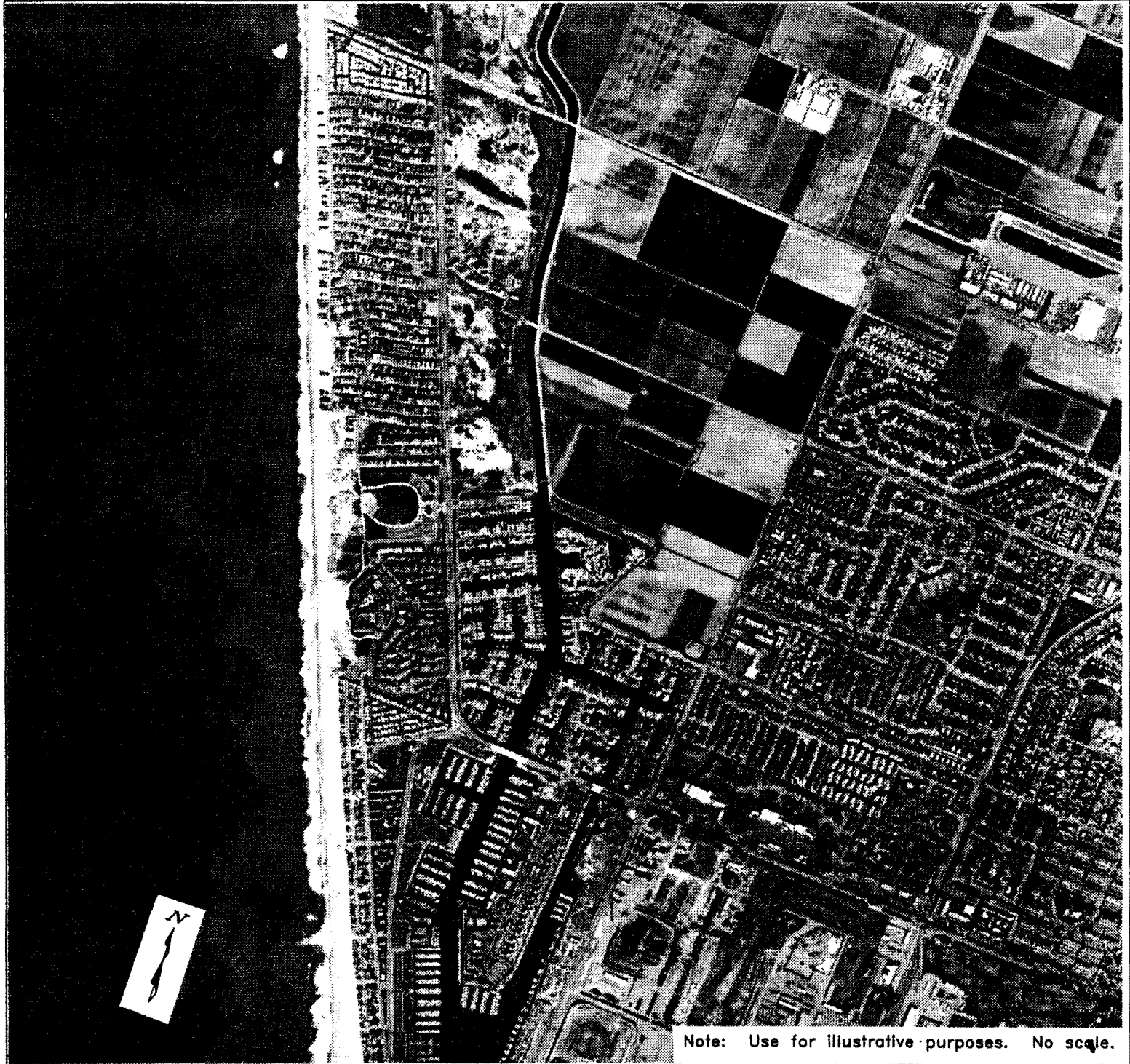
Adopted by the Coastal Commission 1985



Source: CA Dept. of Fish and Game

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1994 Aerial Photograph Area 1: Channel Islands Harbor/Oxnard Shores



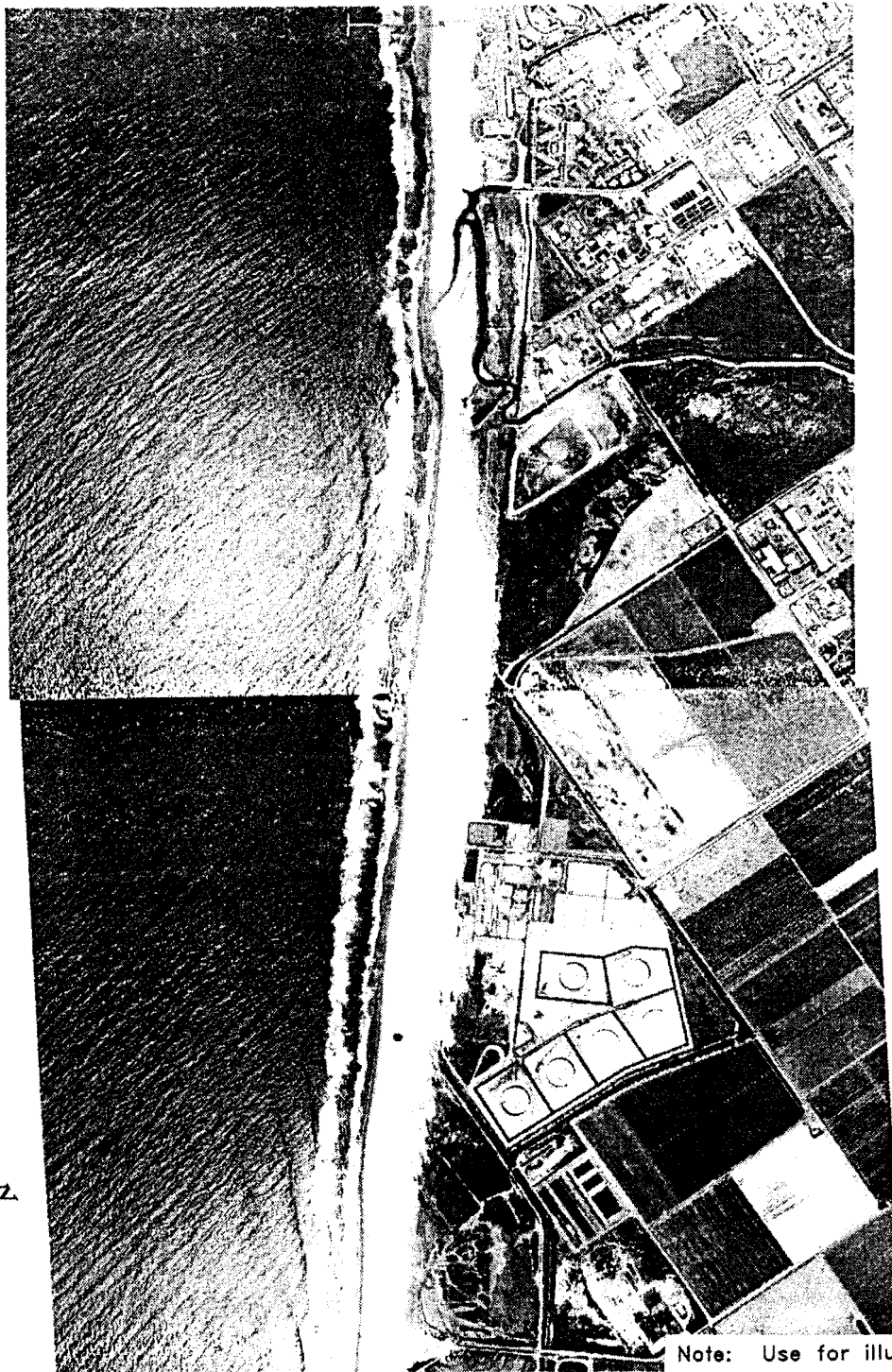
Note: Use for illustrative purposes. No scale.

CITY OF OXNARD - Post-LCP Certification Map Revision

Exhibit 9a

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1993 Aerial Photograph Area 2: Ormond Beach



Note: Use for illustrative purposes. No scale.

CITY OF OXNARD - Post-LCP Certification Map Revision

Exhibit 9b

