

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT AND RECOMMENDATION
ON CONSISTENCY CERTIFICATION

W4c

Consistency Certification

No. CC-41-96

Staff:

LJS-SF

File Date:

April 5, 1996

3 Months:

July 5, 1996

6 Months:

October 5, 1996

Hearing Date:

May 8, 1996

APPLICANT: PORT OF LOS ANGELES

DEVELOPMENT
LOCATION:

EPA offshore disposal site LA-2, six miles southwest of Pt. Fermin (Exhibit 1)

DEVELOPMENT
DESCRIPTION:

Disposal of 480,000 cubic yards of dredged material at the LA-2 disposal site.

SUBSTANTIVE FILE DOCUMENTS:

1. Port of Los Angeles Port Master Plan (as amended through 1995).
2. Consistency Determination CD-63-90 (EPA; designation of LA-2 offshore disposal site).
3. Consistency Certification CC-112-92 (Port of Los Angeles; five-year maintenance dredging disposal program using the LA-2 offshore disposal site).
4. Consistency Certification CC-60-95 (Port of Long Beach; disposal of dredged material from Pier A project at LA-2 offshore disposal site).

EXECUTIVE SUMMARY:

The Port of Los Angeles has submitted a consistency certification for disposal of approximately 480,000 cubic yards of dredged material at the EPA-designated LA-2 offshore disposal site. The dredged material will be removed from the West Basin to widen and deepen the Basin's entrance channel. The sediments

underwent full chemical and bioassay testing and have passed the "Green Book" tests, indicating that they are suitable for ocean disposal. The proposed project will not result in any significant adverse effects on the coastal zone, and therefore the project is consistent with the marine resources, water quality, and commercial and recreational fishing policies of the California Coastal Management Program (Sections 30230, 30233, 30234, 30220, and 30224 of the Coastal Act).

When the Commission concurred with the site designation for LA-2, it was for a five-year time period lasting through January 1996, by which time EPA would submit the final site monitoring report and a consistency determination for permanent designation of the site (or for another finite period of time). However, due to unforeseen circumstances beyond the control of EPA (including agency budget cuts and the departure of key staff involved in the LA-2 monitoring project), the final monitoring report and consistency determination will not be submitted to the Commission until late summer 1996. The preliminary data prepared by EPA and reviewed by Commission staff indicated that dredge material disposal at LA-2 has not generated any significant adverse environmental effects on coastal resources, and that there are no apparent reasons why LA-2 cannot continue to receive dredged sediments that are suitable for ocean disposal.

STAFF SUMMARY AND RECOMMENDATION:

I. Project Description. The Port of Los Angeles proposes to dispose approximately 480,000 cubic yards of dredged material at the EPA LA-2 offshore disposal site (Exhibits 1 and 2). Approximately 600,000 cubic yards of material will be dredged from the Port's West Basin as a part of the West Basin entrance widening project. While the dredging and widening project is consistent with the port master plan, federal consistency review is required for the proposed transport and disposal of approximately 480,000 cubic yards of the dredged sediments at LA-2. Due to its high silt and clay content, this material is not suitable for beach or nearshore disposal nor as engineering fill for the under-construction Pier 400 landfill. The sediments underwent full chemical and bioassay testing; approximately 480,000 cubic yards are suitable for ocean disposal at LA-2 and the remaining 120,000 cubic yards identified as not suitable for ocean disposal will be disposed either at the Port's existing upland disposal site or a temporary upland disposal site in the Port. The project is scheduled to start in late 1996 and should take between three and six months to complete.

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) or Port Master Plan (PMP) of the affected area. If the LCP or PMP 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 or PMP 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 Port of Los Angeles PMP has been incorporated into the CCMP.

III. Applicant's Consistency Certification. The Port of Los Angeles 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 Port of Los Angeles for the proposed dredged material disposal, finding that the project will comply with the California 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. Marine Resources/Water Quality/Commercial and Recreational Fishing.

1. Coastal Act Policies. 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.

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.

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.

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.

2. Water Quality and Commercial and Recreational Fishing. In analyzing the consistency certification submitted by the Port of Los Angeles, the Commission will rely heavily on the findings it adopted in reviewing EPA's LA-2 site designation consistency determination (CD-63-90), since those findings addressed the coastal resource protection issues raised by disposal of dredged material at LA-2. Consequently, the remainder of the findings in this section on water quality and commercial and recreational fishing rely heavily on (and quote extensively from) those findings.

In reviewing CD-63-90, the Commission noted that the designation of LA-2 was intended, for the most part, to support the dredging needs of the Ports of Los Angeles and Long Beach, its tenants (which include commercial and recreational fishing boats, ship building and repair, cargo transportation, and recreational boating), the U.S. Navy, the Corps of Engineers (Corps), and some of the recreational harbors in the area. As cited above, the Coastal Act supports and encourages protection of many of those uses.

The LA-2 site had been previously designated an interim dredged material disposal site between 1977 and 1988. After that interim designation lapsed, all dredge disposal activities at LA-2 ceased. Dredging is necessary to maintain coastal-dependent activities including commercial and sports fishing, recreational boating, and port-related activities. The Commission found that the LA-2 site designation supported these coastal-dependent activities and was consistent to the maximum extent practicable with Coastal Act Sections 30220, 30224, 30234, 30255, 30260, and 30701.

At the same time, the proposed dredged material disposal has the potential to adversely affect marine species, including those that are recreationally and commercially valuable. The Coastal Act provides for the protection of these

resources, as discussed in the above quoted provisions of Sections 30230, 30234, as well as Section 30705(c), which provides, in part, that: "... dredge spoils may be deposited in open coastal water sites designated to minimize potential adverse impacts on marine organisms ..."[Emphasis added.] Thus, while supporting the need for dredging, the Commission was concerned about the impact of the proposed designation on recreational and commercial fishing resources of the coastal zone. Even though the LA-2 site is located in an area that is valuable for commercial and recreational fishing, it was used for dredged material disposal for 11 years without apparently reducing fishing values. Despite the lack of historic conflict, the Commission was concerned about potential impacts to fishing resources. Regarding these impacts, the Commission found:

...that evidence does not conclusively show that dredged material disposal will not affect fishing resources. The information about fishing productivity is at a rather general scale; fish blocks are approximately eight by ten miles. Thus, these blocks do not provide specific enough information to make conclusions regarding resource impacts to area near the disposal site. Even if the fish block information was specific enough to assess the fishing impact, most of the data included in the [EPA's] EIS and consistency determination was collected while LA-2 was an active site. Thus, it is conceivable that the area was more productive prior to interim designation of LA-2. Therefore, the fish block data is too general to conclude that turbidity caused by dredged material disposal will not affect fishing values of the area near LA-2. Without site specific turbidity analysis, there is not enough information for the Commission to conclude that the project's effect on fisheries is consistent with the CCMP.

The Commission notes that there are some fishermen that are concerned about reduced productivity potentially caused by dredged material disposal at the site. Some of the people opposed to the proposed LA-2 site, have argued that the selection of the deep water site, an alternative considered in the EIS, would be less damaging to commercial and recreational fishing. [However the Commission notes that the] ...disposal of dredged material at the deep water site has the potential of depleting all dissolved oxygen at and near the site. This anoxic condition could eliminate all habitat values at the deep water site and could have long term implications because the lack of water circulation and naturally low oxygen levels would significantly lengthen the amount of time that it would take for the oxygen levels to return to normal conditions. Therefore, disposal of dredged materials at the deep water site could create a dead zone within the San Pedro Basin, and thus, based on the information available at this time, the Commission agrees that the deep water site would be a more environmentally damaging alternative.

In the case of LA-2, the best way to gather the needed information is to study disposal activities at the site. Since there is no clear historic conflict between disposal activities and fishing, the Commission believes that a temporary approval of the dredged material disposal site with a monitoring program will allow for further analysis of the impacts from dredged material disposal without significantly risking fishing resources.

The EPA has agreed ... to modify its consistency determination so that it is only valid for five years. During that period, EPA will monitor dredged material disposal activities at the site ... and continue to evaluate both the deep water site and the shallow water site as alternative disposal sites. As part of the evaluation of the deep water alternative, EPA agreed to model oceanographic conditions at the deep water site. On an annual basis, the EPA will inform the Commission of any results and progress of its data gathering. After three years, the EPA will submit to the Commission for its review, during a public hearing, an analysis of the monitoring results, turbidity plume modeling using project specific current and grain size data, and alternative site evaluations. If that analysis produces evidence that the disposal activities are significantly affecting fishing values, EPA will begin the process for selecting a new site or, if possible, manage disposal activities at the site to minimize or avoid impacts to coastal zone resources. After five years, the EPA will submit a new consistency determination for the designation of LA-2. That consistency determination will contain results from five years of monitoring, plume modeling, and alternative site evaluations. In addition, the Commission will be able to regularly evaluate the results of EPA's data gathering through its consistency review of disposal activities at the site. Through its review authority, the Commission can work with the COE [Corps], EPA, and any permit applicants to develop necessary mitigation of impacts revealed through the monitoring process. In addition, the Commission notes that if the disposal activities have coastal zone impacts substantially different than anticipated, a new consistency determination could be required, pursuant to 15 CFR Section 930.44(b), prior to the end of the five year period.

In partial fulfillment of the commitments referred to in the previous paragraph, EPA submitted to the Commission staff the results of current meter studies and physical oceanographic studies (for both the LA-2 and LA-5 sites). Regarding EPA's commitment for a more extensive report in the third year of the five-year designation, EPA states:

The three-year site monitoring program sponsored by EPA Region IX at the ocean disposal sites is progressing well. Region IX has a Cooperative Agreement with a non-profit consortium in Monterey, named CIRIOS, to evaluate 10 years of satellite imagery in the Southern California Bight. This analysis will provide information on surface current movements that influence the LA-2 and LA-5 sites. We hope to analyze California Department of Fish and Game fish block data this year as the last step to compile information for the report that EPA Region IX must submit to the Commission in March 1994.

EPA submitted a draft site management/monitoring report to Commission staff in August 1994. At that time, EPA anticipated that a final version of this monitoring report would be available to the Commission by the end of summer 1995. However, release of that report is now expected in summer 1996 (see further discussion of this issue on page 7, below).

The Commission also noted in reviewing the designation of LA-2 that if the ongoing monitoring program showed adverse environmental impacts, EPA would implement management directives to reduce the impacts. Options for such

measures consist of: regulating the quantities and types of material and times, rates, and methods of disposing material; enforcing permit requirements; and implementing changes in site use. Examples of this last measure (site use changes) include: limiting the amount of dredged material disposal at the site; reconfiguring site boundaries; restricting disposal to specific locations within the dump site; re-evaluating bioaccumulation testing and analytical procedures; restricting timing of disposal; and limiting designation of the site to a finite time and evaluating alternative disposal sites. The Commission further noted that EPA was working with the Corps to develop a permit condition that requires the use of precise navigation equipment to determine the center of the disposal site and reporting that information to the Corps, and that local fishermen would be used to spot and document errant dumping activities.

Regarding testing for water quality impacts, the Commission found:

Section 30231 of the Coastal Act emphasizes the protection of biological productivity and optimum populations of marine organisms. EPA's bioassay and bioaccumulation test requirements will be a part of the Commission's evaluation of the biological effects from the disposal activities when it evaluates specific disposal projects for consistency with the biological resource protection policies of the CCMP. In order to ensure consistency with the water quality policies of the CCMP, EPA agreed to modify the project by evaluating all proposed dredging projects received after January 9, 1991 using the procedures defined in the newest version of the Ocean Dumping Implementation Manual, which are the most comprehensive procedures for testing water quality impacts from disposal. Thus, the standards used by EPA will enable the agency to minimize the biological impacts from placement of contaminants at the disposal and will enable the Commission during case-by-case review of such projects to verify whether these standards will be met. Therefore, the Commission finds that its future review will enable it to assure that the water quality impacts associated with the transportation and disposal of dredge spoils at LA-2 will be consistent to the maximum extent practicable with the water quality protection policies of the CCMP.

The Port of Los Angeles reports that the proposed dredged material from the West Basin project site was sampled and tested in accordance with EPA standards and the provisions established in the Commission's review of the designation of the LA-2 site. The consistency certification states that:

The West Basin dredging site has been sampled and analyzed for toxicants. The findings of the sampling and analysis indicated that approximately 120,000 cubic yards of material are unsuitable for ocean disposal. The remaining 480,000 cubic yards have been found to be suitable for ocean disposal by EPA.

The Port additionally states 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.

Because commercial or recreational fishing continued at the site during the historic disposal activities, and because the commitments and studies promised

by EPA would enable more detailed evaluation of the activities, the Commission concluded that the temporary designation of LA-2 in order to gather information on potential coastal zone effect was consistent to the maximum practicable with the commercial and recreational fishery resource policies of the CCMP. In concurring with the site designation for LA-2, the Commission has inherently accepted, and found consistent with the Coastal Act, use of that site through January 1996 for disposal of dredged material meeting applicable water quality testing requirements.

When the Commission concurred with the site designation for LA-2, it was for a five-year time period lasting through January 1996, by which time EPA would submit the final site monitoring report and a consistency determination for permanent designation of the site (or for another finite period of time). However, due to unforeseen circumstances beyond the control of EPA (including agency budget cuts and the departure of key staff involved in the LA-2 monitoring project), the final monitoring report and consistency determination will not be submitted to the Commission until late summer 1996. The preliminary data prepared by EPA and reviewed by Commission staff indicated that dredge material disposal at LA-2 has not generated any significant adverse environmental effects on coastal resources, and that there are no apparent reasons why LA-2 cannot continue to receive dredged sediments that are suitable for ocean disposal.

There is one new factor that will need to be examined by EPA, the Corps of Engineers, the Ports of Los Angeles and Long Beach, and the Commission. The environmental documentation supporting the initial LA-2 site designation was based in part on an expected annual disposal volume of approximately 250,000 cubic yards. Little if any dredged material was disposed at LA-2 during the first several years after the Commission's concurrence with the site designation. However, in 1995 the Commission concurred with three dredge material disposal projects at LA-2 proposed by the Ports of Los Angeles and Long Beach. The total expected disposal volume is approximately 685,000 cubic yards. In addition, in 1996 the Commission will review additional LA-2 disposal projects submitted by the ports and possibly the Corps and Navy. In recent meetings between Commission, EPA, and port staffs, the need for and scope of additional analysis to support these increased disposal volumes at LA-2 was discussed. The Commission staff is confident that a consensus agreement on how best to successfully resolve this issue will be forthcoming this summer. However, EPA staff believes that in the interim period continued use of LA-2, even at these higher than anticipated disposal rates, will not generate significant adverse effects on marine resources at or adjacent to the site. At this time, the Commission agrees with EPA's interim conclusion.

In conclusion, disposal of dredged sediments from West Basin at the LA-2 site will not generate any significant adverse impacts on water quality or fisheries at or adjacent to LA-2. Therefore, the Commission finds that the proposed activity will be consistent with the marine resource, water quality, and commercial and recreational fishing policies of the CCMP.

3. Dredging and Disposal. The proposed project involves disposal of 480,000 cubic yards of dredged sediment in open coastal waters at the LA-2 offshore disposal site, and as a result, the project must pass the allowable

use, alternative, and mitigation tests of Section 30233 of the Coastal Act. The proposed disposal of dredged material from the West Basin navigation and berthing area in the Port of Los Angeles is an allowable use under Section 30233(a)(1)(see page 3, above). The Commission must next find that the proposed disposal at LA-2 is the least damaging feasible alternative. The Port did review several alternatives to the proposed fill disposal at the LA-2 site. Those alternatives, and the reasons why they are not suitable for this project, are as follows:

Sidecasting: Only suitable for very small quantities of material (less than 5,000 cubic yards).

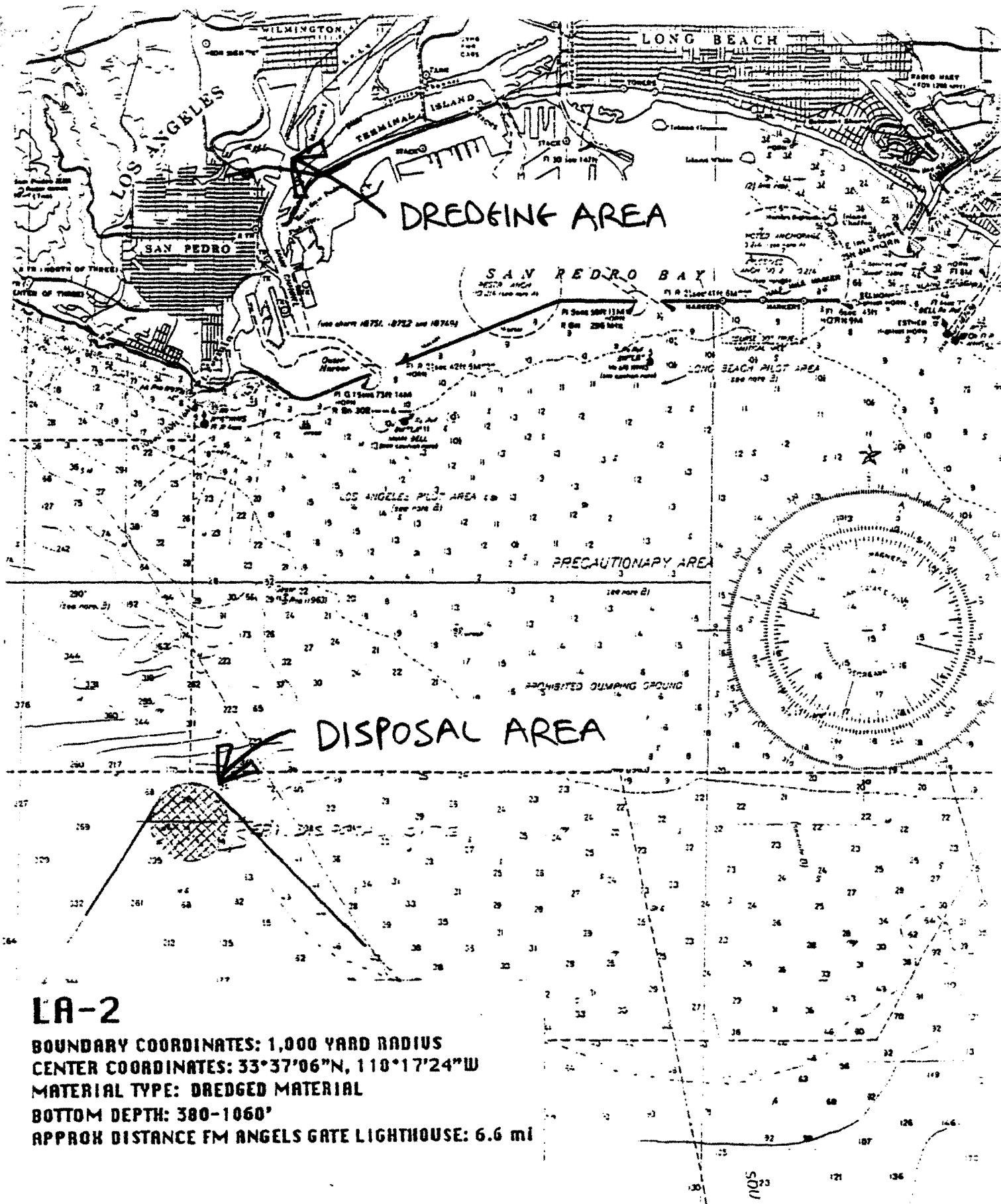
Beach or Nearshore Disposal: Requires very sandy material, whereas analysis of the material to be dredged has indicated that the sediments in the project area are at least 50 percent silt and clay, and thus unsuitable for beach replenishment.

Landfill Disposal: Dredged marine sediments cannot be taken to inland landfills because the Los Angeles Regional Water Quality Control Board has indicated that their high salt content makes them unacceptable.

Port Landfill Disposal: Not possible because the material to be dredged is geotechnically unsuitable for engineering fill at the under-construction Pier 400 landfill. However, the approximately 120,000 cubic yards of contaminated dredged material from the West Basin will be placed at the Port's designated upland disposal site on Anchorage Road or on a temporary basis at the former Todd Shipyard and/or Chevron sites adjacent to the West Basin.

The Commission agrees with the Port's evaluation of the project disposal alternatives, with the Port's determination that disposal at LA-2 is the preferred alternative for dredged material disposal, and that, as described below and in the previous section of this report on the designation of the LA-2 disposal site, the environmental effects from the disposal of dredged sediments at LA-2 are minor. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative.

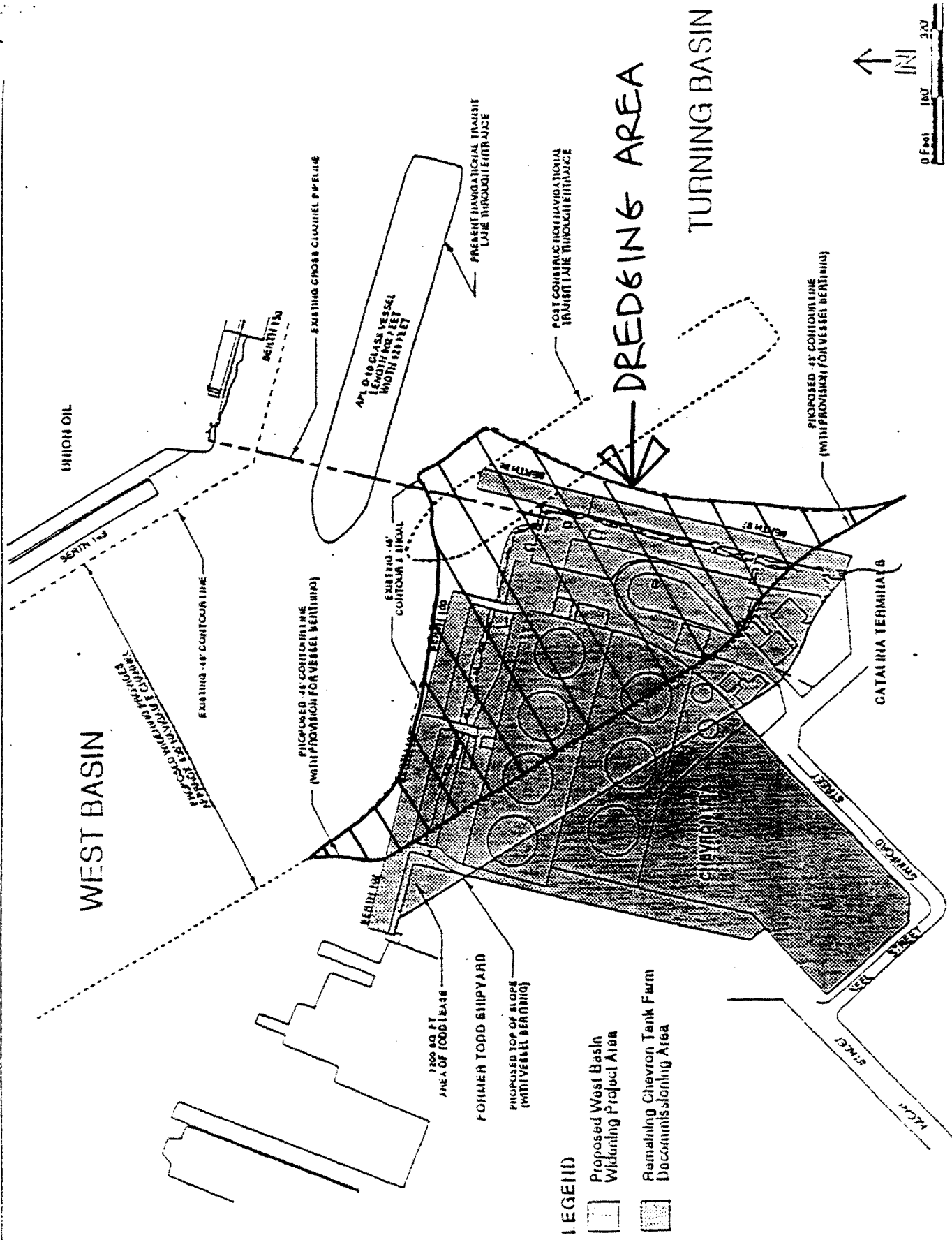
Finally, the Commission must evaluate any mitigation requirements generated by the project. The Port of Los Angeles examined the potential effects on marine resources from disposal of 480,000 cubic yards of dredged sediments at the LA-2 site and concluded that only minor and temporary impacts will occur. The disposal site consists of deep water habitat 600 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 marine resources at the disposal areas 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 the designation of LA-2. In conclusion, the proposed filling of coastal waters will not significantly affect the marine environment at LA-2, 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 filling and marine resource protection policies (Sections 30230, 30233, 30234, 30220, and 30224 of the Coastal Act) of the California Coastal Management Program.



LA-2

**BOUNDARY COORDINATES: 1,000 YARD RADIUS
 CENTER COORDINATES: 33°37'06"N, 110°17'24"W
 MATERIAL TYPE: DREDGED MATERIAL
 BOTTOM DEPTH: 380-1060'
 APPROX DISTANCE FM ANGELS GATE LIGHTHOUSE: 6.6 mi**

EXHIBIT NO. 1
APPLICATION NO.
CC-41-96
California Coastal Commission



WEST BASIN

TURNING BASIN

DREDGING AREA

UNION OIL

SEATH 1-13

EXISTING 48' CONTOUR LINE

PROPOSED 45' CONTOUR LINE (NO IMPROVISH FOR VESSEL BERTHING)

EXISTING 48' CONTOUR LINE

1200 80 FT AREA OF FOOTBASE

FORMER TODD SHIPYARD

PROPOSED TOP OF SLOPE (WITH VESSEL BERTHING)

APPROXIMATE CLASS VESSEL LENGTH FOR WEST BERTHING



PRESENT NAVIGATIONAL TRANSIT LANE THROUGH ENTRANCE

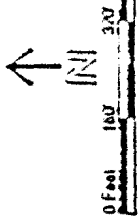
POST CONSTRUCTION NAVIGATIONAL TRANSIT LANE THROUGH ENTRANCE

PROPOSED 45' CONTOUR LINE (WITH IMPROVISH FOR VESSEL BERTHING)

CATALINA TERMINAL B

LEGEND

-  Proposed West Basin Widening Project Area
-  Remaining Chevron Tank Farm Decommissioning Area



PROPOSED WEST BASIN WIDENING AND DECOMMISSIONING PROJECT AREAS

EXHIBIT NO. 2
APPLICATION NO.
CC-41-96