

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE AND TDD (415) 904-5200



F 7b

STAFF REPORT AND RECOMMENDATION

ON CONSISTENCY CERTIFICATION

| | |
|---------------------------|-----------|
| Consistency Certification | CC-125-96 |
| Staff: | MPD-SF |
| File Date: | 10/4/96 |
| 3 Months: | 1/4/97 |
| 6 Months: | 4/4/97 |
| Hearing Date: | 2/7/97 |

APPLICANT:

PORT OF LOS ANGELES

DEVELOPMENT
LOCATION:

Various navigation channels, Los Angeles Harbor (Exhibit 3), and offshore disposal site LA-2, 6 miles southwest of Point Fermin, Los Angeles County (Exhibits 1-2)

DEVELOPMENT
DESCRIPTION:

Five year maintenance dredging program (100,000 cu. yds. annual maximum), with disposal at LA-2

SUBSTANTIVE
FILE DOCUMENTS:

See page 8.

EXECUTIVE SUMMARY

The Port of Los Angeles (POLA) has submitted a consistency certification for its proposed five-year maintenance dredging program. This program is the same as the one the Commission concurred with for the previous 5-year period, which has now expired (CC-112-92). Consistency review is necessary for disposal, in the event the Port needs to use the EPA-designated offshore ocean disposal site (LA-2). (The Port already has Commission authorization for the maintenance dredging itself, as well as for disposal at an authorized fill site.)

As was the case for the previous 5-year program, the Port seeks authorization to dispose a maximum of 100,000 cubic yards (cu. yds.) per year at LA-2, and a maximum of 500,000 total cu. yds. over the five-year period. As was the case

previously, prior to maintenance dredge disposal activity occurring in each year of the proposed dredging program, the Port has committed to submit to the Commission the specific details for the activity (e.g., dredge location, disposal volume, grain size analysis, EPA bioassay test results and analysis, and analysis of conformance with applicable "Green Book" standards for disposal at LA-2). The Port will submit this information no less than one month prior to the commencement of dredging activity, in order to give the Commission staff adequate time to review project details and to evaluate project conformance with the provisions of the Port's consistency certification and the standards established for the use of the LA-2 disposal site (see CD-63-90/CD-114-96). As long as the proposed dredged material disposal conforms with these measures and standards, no additional Commission action would be required. With these commitments, the Port's dredging program is consistent with the marine resources, water quality, and commercial fishing policies of the Coastal Act.

STAFF SUMMARY AND RECOMMENDATION:

I. STAFF SUMMARY

A. Project Description. The Port of Los Angeles proposes a five-year maintenance dredging program and seeks authorization of disposal of dredged material at LA-2, located 6 mi. southwest of Pt. Fermin (Exhibits 1 & 2). Channels to be dredged are the East Basin, Turning Basin, West Basin, Main Channel, West Channel, East Channel, Fish Harbor and the Outer Harbor through Angel's Gate (Exhibit 3). Only the disposal is the subject of this consistency certification, since maintenance dredging of existing navigation channels (to existing or previously authorized depths) is exempt from Commission review.

The dredging program includes a maximum of 100,000 cu. yds. of disposal per year at LA-2, with a maximum of 500,000 cu. yds. over the five-year period. The dredged material will meet EPA "Green Book" testing standards for disposal at LA-2. The Port will submit to the Commission the specific details and test results prior to disposal in each of the years of the proposed dredging program.

B. Status of Local Coastal Program. The standard of review for federal consistency determinations 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.

C. 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.

II. STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

Concurrence

The Commission hereby concurs with the consistency certification made by the Port of Los Angeles for the proposed project, finding that the project complies with and will be conducted in a manner consistent with the California Coastal Management Program.

Findings and Declarations:

The Commission finds and declares as follows:

A. Marine Resources/Commercial Fishing/Water Quality.

1. Coastal Act Policies

Sections 30230 and 30233 of the Coastal Act provide:

[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.

Section 30224 provides that:

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.

Section 30234 provides that:

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.

Section 30220 provides that:

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

Section 30255 provides that:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

Section 30701 provides, in part, that:

The Legislature finds and declares that:

(a) The ports of the State of California, including the Humboldt Bay Harbor, Recreation, and Conservation District, constitute one of the state's primary economic and coastal resources and are an essential element of the national maritime industry.

2. Commission Review of LA-2 Site Designation

In analyzing the Port's consistency certification, the Commission will rely heavily on the findings it adopted in reviewing the Port's previous 5-year maintenance dredging program (Exhibit 4), which are hereby incorporated by reference into these findings. The Commission will also rely on its review of EPA's consistency determination for the LA-2 site designation (CD-63-90), which the Commission originally authorized for a 5-year period, and which is currently before the Commission for an extension (now scheduled for the February 1997 Commission meeting (see CD-114-96)). The following discussion summarizes the main points from the previous Commission analyses:

... [T]he 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. ... [T]he 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.

... [D]redged 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, 30253, 30234, ... [and] 30705(c).... 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.

To address this concern, and because of the inadequacy of historic monitoring of the LA-2 site, the Commission negotiated with EPA to provide an initial 5-year authorization, at the end of which time EPA would bring back detailed monitoring results before the Commission would concur with further, long-term use of LA-2 (EPA's submittal for such extension is now pending). Regarding these impacts, the Commission found:

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.

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 and enforcing permit requirements; 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 site to a finite time and evaluating alternative disposal sites.

The updated information is before the Commission in CD-114-96, which is currently before the Commission for an extension (now scheduled for the February 1997 Commission meeting, on the same day as this subject consistency certification).

3. Alternatives

The alternatives analysis is the same as it was for the previous 5-year dredging program (CC-112-92). The excerpts below from the Commission's findings in CC-112-92 summarize this analysis:

The Port has 4 options for disposal of maintenance-dredged material: disposal at an EPA-approved ocean dump site (LA-2), disposal at an approved landfill, sidecast disposal, and beach replenishment. Maintenance dredging of existing navigation channels (to existing or previously authorized depths) is exempt from Commission review; however the disposal of this material may or may not trigger Commission review, depending on the type of disposal. Disposal at LA-2 triggers the need for the subject consistency certification, based on the fact that it needs a federal (Corps) permit amendment, and it potentially affects the coastal zone, as elaborated on by the Commission in reviewing CD-63-90.

Regarding alternatives, the Port states: "The proposed disposal of dredged material would be exercised upon the completion of an analysis of the available options for disposal under the Corps ... permit (sidecast, land disposal or at the LA-2 site)." The Port understands that to implement sidecasting it would need a Port Master Plan amendment. Disposal of the material at a landfill site within the Port and authorized by the Commission in an approved Port Master Plan or Plan Amendment would not entail the need for further Commission review. Sidecasting of the material (placement of dredged spoils in the harbor adjacent to the channels from which they were dredged) would require Commission review, as it would not be consistent with the Port Master Plan as certified by the Commission. ... Beach replenishment would, of course, be the preferred option where the material is suitable; however material dredged from channels in the Ports of L.A./Long Beach would normally not be suitable for beach replenishment.

4. Conclusion

In concurring with the site designation for LA-2, the Commission has inherently accepted disposal at the site for the past 5-year period to be consistent with the water quality and marine resource policies of the Coastal Act. The Port states that all dredged material will be tested in accordance with EPA requirements and the provisions established in the Commission's review of the designation of the LA-2 site.

The Port has agreed that it will notify the Commission staff when it conducts tests for disposal operations, and that the Commission staff will receive all copies of test results, as well as annual monitoring reports specifying the quantity of material to be disposed of at LA-2, the test results, evidence that the material has been disposed of at the proper location, and other relevant information. The Port will submit this information no less than one month prior to the commencement of dredging activity, in order to give the Commission staff adequate time to review project details and to evaluate project conformance with the provisions of the consistency certification and CD-63-90/CD-114-96. As long as the proposed dredged material disposal

conforms with these commitments (discussed in Exhibit 4), and assuming the Commission concurs with CD-114-96, the Commission finds that no additional Commission action would be required. If the Commission does not concur with CD-114-96, the site will not be available to the Port. In other words, Commission concurrence with this consistency certification is only valid as long as the Commission has authorized the continued designation of LA-2.

The Port has further agreed it will not sidecast material unless the Commission has certified a Port Master Plan Amendment for that type of disposal. With these commitments and assurances by the Port, and given the understanding that use of the site is tied to Commission concurrence with the designation and use of LA-2 as a dredge disposal site, the Commission concludes that the proposed 5-year dredging program is consistent with the applicable marine resource, water quality, and commercial and recreational fishing policies of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS:

1. Consistency Certification CC-112-92 (POLA 5-Year maintenance dredging program).
2. Consistency Certification CC-34-92 (POLB 5-Year maintenance dredging program).
3. Consistency Determination CD-63-90 (EPA, LA-2 Site Designation).
4. Consistency Determination CD-114-96 (EPA, Extension of LA-2 Site Designation).
5. "Site Management and Monitoring Results for the LA-2 Ocean Dredged Material Disposal Site," MEC Analytical Systems, Inc., Draft Final Report, September 1966.
6. Port Master Plan, Port of Los Angeles.

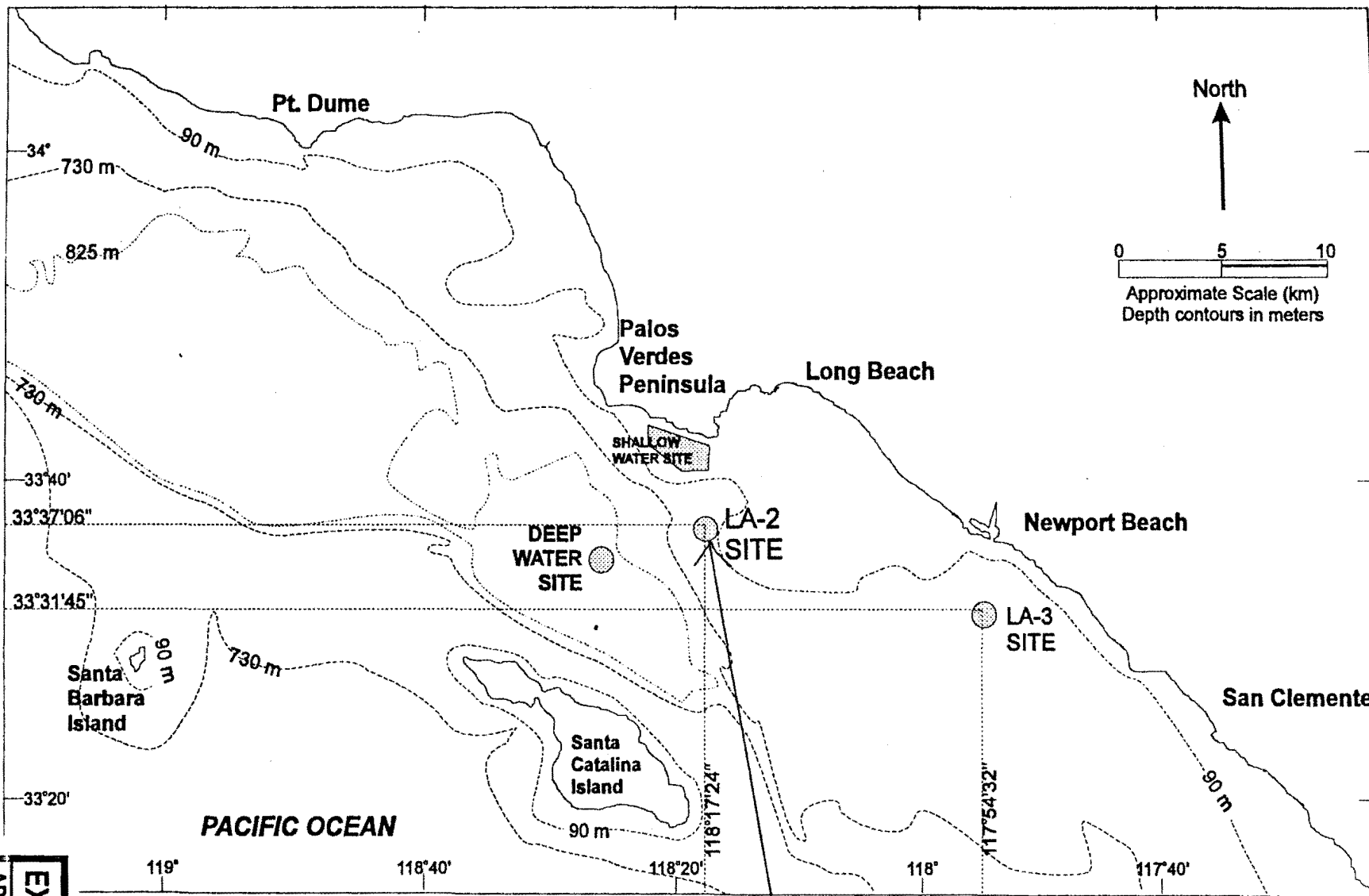


Figure 1. LA-2 Ocean Dredged Material Disposal Site Location Map.

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| EXHIBIT NO. 1 |
| APPLICATION NO. CC-125-96 |
| Part of L.A. |

PROTECT SITE

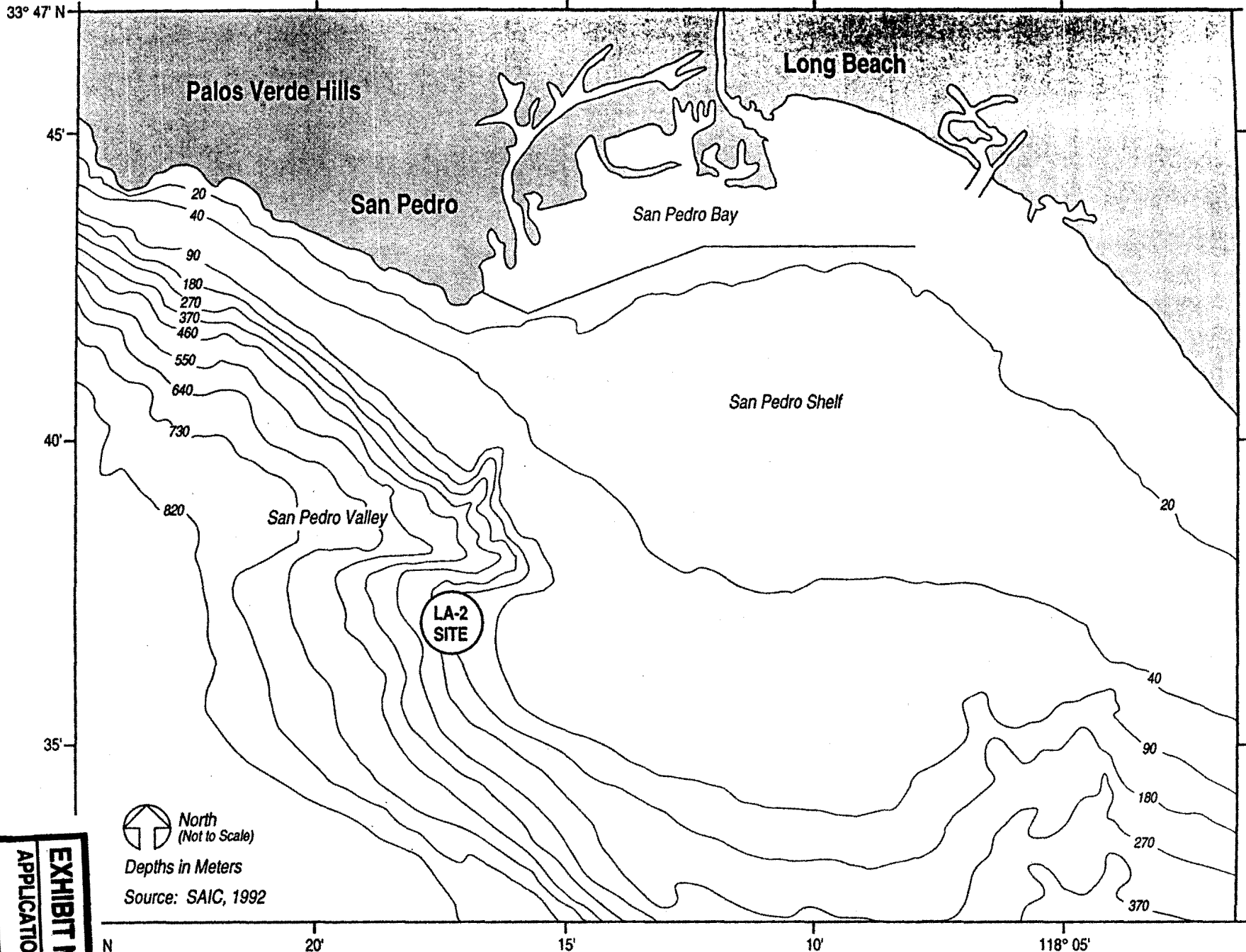
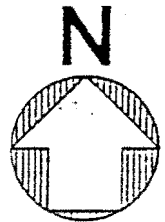
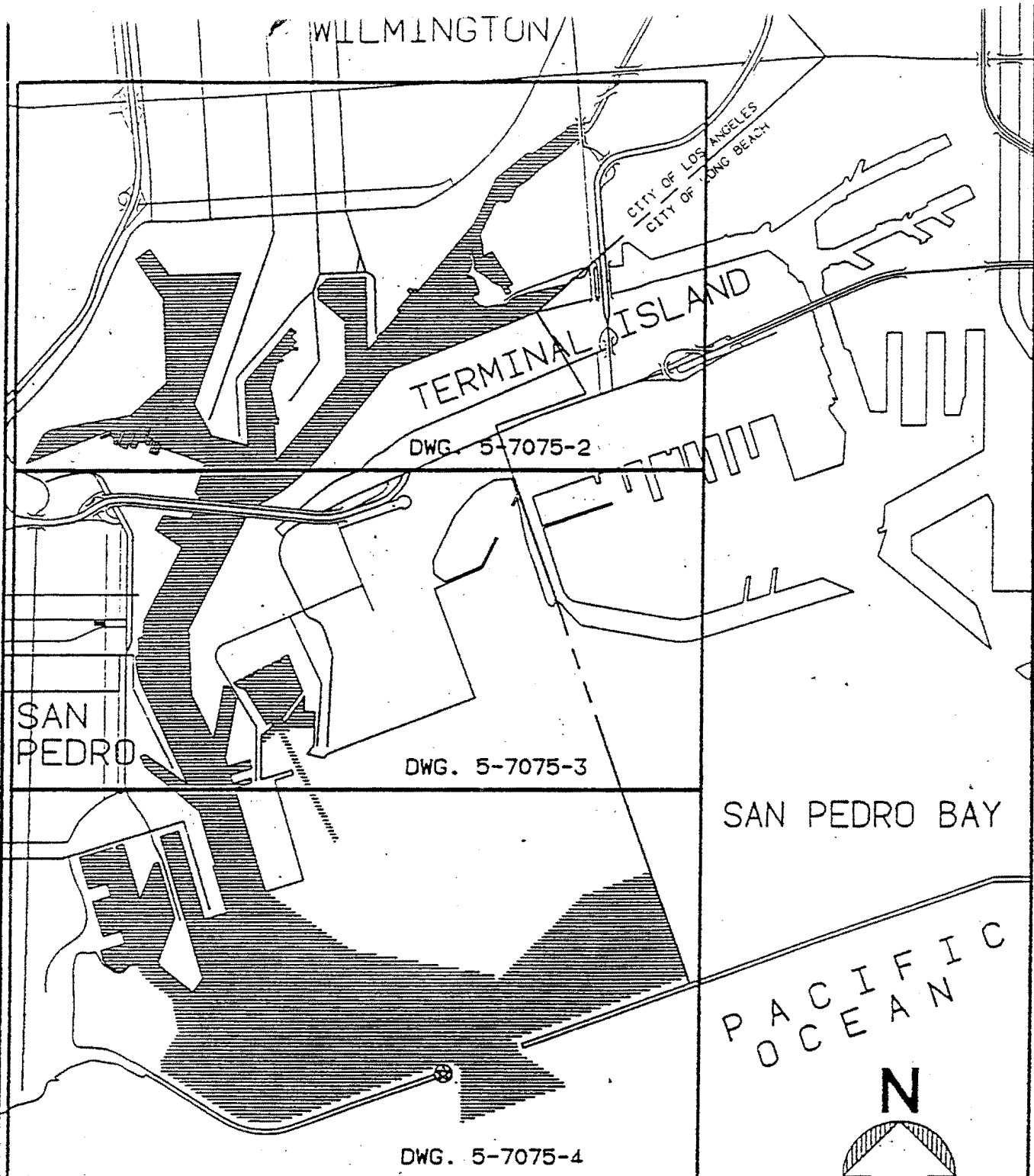


Figure 2. LA-2 Ocean Dredged Material Disposal Site Vicinity Map.

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| EXHIBIT NO. 2 |
| APPLICATION NO. CC-125-96 |
| POLA |



SCALE IN FEET

REV. \triangle - UPDATED 5/10/90 RAE MW *RAE*


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| SCALE AS SHOWN | DATE | RECOMMENDED FOR APPROVAL | |
| DRAWN McCanna | LWS | CHIEF OF DESIGNS | |
| CHECKED J. I. | | <i>A. S. Birkholz</i> | |
| DESIGNED | | | |
| ENGR/ARCH | | ASSISTANT CHIEF HARBOR ENGINEER | APPROVED |
| P.W.C. | | | 4/21/87. I |
| | | <i>F. H.</i> CHIEF | Figure 1 |

| |
|------------------------|
| EXHIBIT NO. 3 |
| APPLICATION NO. |
| CC-125-96 |
| POLA |

NOTE:

ALL MAINTENANCE DREDGING LIMITED TO BOTTOM ELEVATIONS SHOWN HEREON.

LEGEND

 AREAS OF MAINTENANCE DREDGING


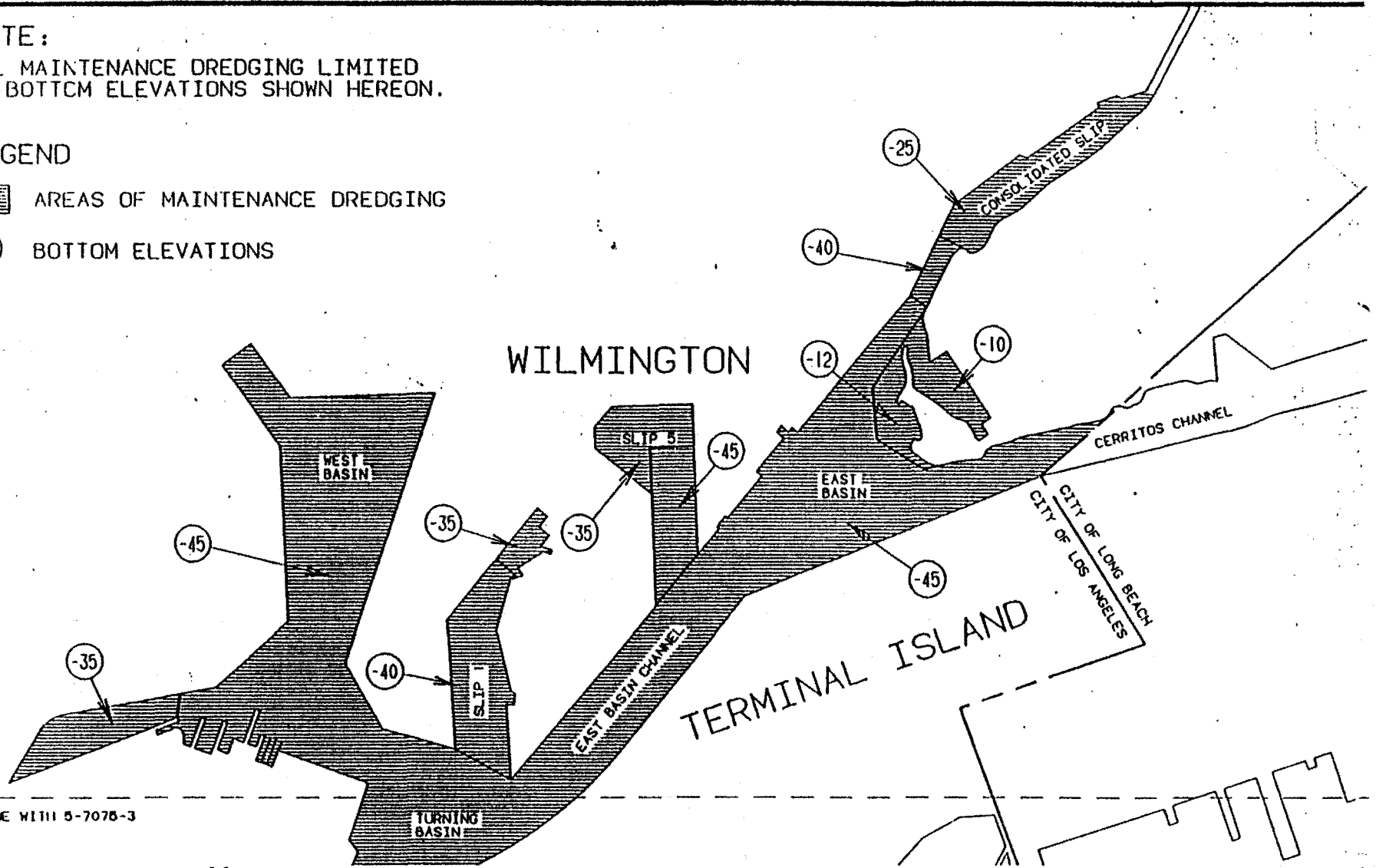
 BOTTOM ELEVATIONS

Figure 2



MATCH LINE WITH 5-7075-3



REV.  - UPDATED 5/10/90

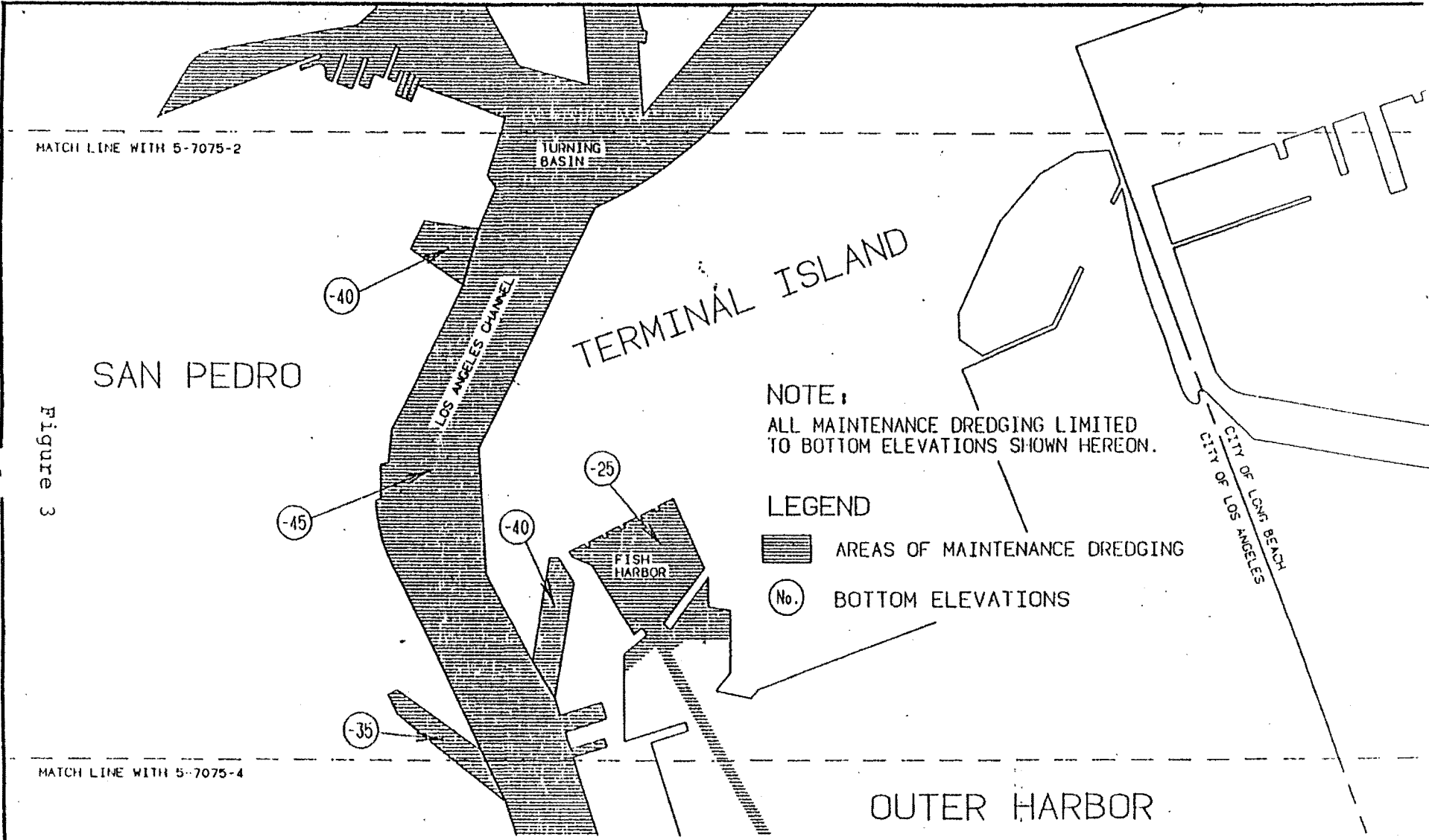
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| SCALE AS SHOWN | DATE | RECOMMENDED FOR APPROVAL |
| DRAWN McConne | 4/1/87 | CHIEF OF DESIGN |
| CHECKED J. I. | | <i>A. L. Birkhahn</i> |
| DESIGNED | | ASSISTANT CHIEF HARBOR ENGINEER |
| ENGR/ARCH | | APPROVED |
| R.W.D. | | <i>L. J. McManis</i> 4/21/87 CHIEF HARBOR ENGINEER |

LOS ANGELES HARBOR - MAINTENANCE DREDGING PROJECTS - LIMITS

DRAWING NUMBER
5-7075-2

EX 2 P 2

4





MATCH LINE WITH 5-7075-2

SAN PEDRO

TERMINAL ISLAND

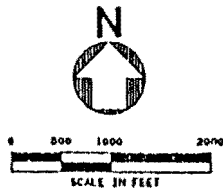
NOTE:
ALL MAINTENANCE DREDGING LIMITED
TO BOTTOM ELEVATIONS SHOWN HEREON.

LEGEND
 AREAS OF MAINTENANCE DREDGING
 BOTTOM ELEVATIONS

CITY OF LONG BEACH
CITY OF LOS ANGELES

OUTER HARBOR

MATCH LINE WITH 5-7075-4



| | | |
|-------------------|--------|------------------------------------|
| SCALE AS SHOWN | DATE | RECOMMENDED FOR APPROVAL |
| DRAWN McConne | 1/9/81 | CHIEF OF DESIGNS |
| CHECKED <i>si</i> | | <i>W. B. ...</i> |
| DESIGNED | | |
| ENGR/ARCH | | ASSISTANT CHIEF HARBOR ENGINEER |
| <i>L.D.</i> | | |

LOS ANGELES HARBOR - MAINTENANCE DREDGING
PROJECTS - LIMITS

APPROVED
F. W. ...
CHIEF HARBOR ENGINEER

WORLDPORT LA
ENGINEERING DIVISION P. O. BOX 151 SAN PEDRO, CALIF

DRAWING NUMBER
5-7075-3

Figure 3



5

EX 3 P. 3

MATCH LINE WITH 5-5075-3

SAN PEDRO

NOTE:
ALL MAINTENANCE DREDGING LIMITED TO BOTTOM ELEVATIONS SHOWN HEREON.

LEGEND
 AREAS OF MAINTENANCE DREDGING
 BOTTOM ELEVATIONS

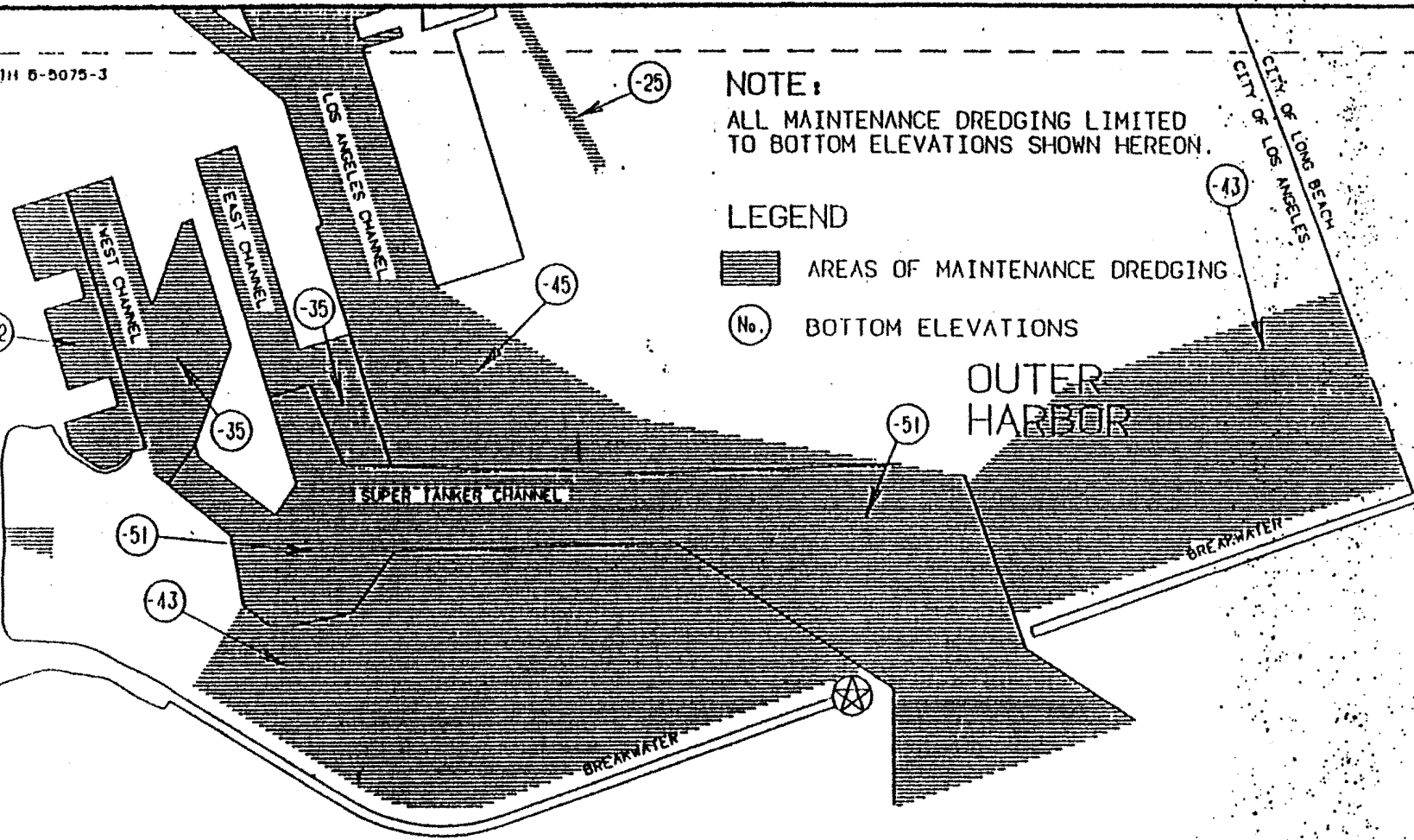
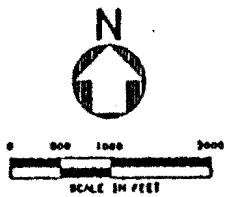


Figure 4

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EX. 3

P. 4



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|--------------------------|--------|---|---|---|
| SCALE AS SHOWN | DATE | RECOMMENDED FOR APPROVAL | LOS ANGELES HARBOR - MAINTENANCE DREDGING PROJECTS - LIMITS | |
| DRAWN McCanna | 1/9/51 | CHIEF OF DESIGNS <i>A. L. Birkenbeck</i> | | |
| CHECKED <i>di</i> | | DESIGNED | APPROVED <i>J. W. Johnson</i> CHIEF HARBOR ENGINEER | WORLDPORT LA ENGINEERING DIVISION P O BOX 181 SAN PEDRO, CALIF |
| ENGR/ARCH <i>(di)</i> | | ASSISTANT CHIEF HARBOR ENGINEER | DRAWING NUMBER 5-7075-4 | |

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE AND TDD (415) 904-5200

Tu 10a



8-0, 2/16/93, San Diego

STAFF REPORT AND RECOMMENDATIONON CONSISTENCY CERTIFICATION

Consistency Certification

No. CC-112-92

Staff:

MPD-SF

File Date:

12/18/92

3 Months:

3/17/93

6 Months:

6/17/93

Hearing Date:

2/16/93

APPLICANT:

PORT OF LOS ANGELES

DEVELOPMENT
LOCATION:

Various navigation channels, Los Angeles Harbor, and offshore disposal site LA-2, 6 miles southwest of Point Fermin, Los Angeles County (Exhibits 1 & 2)

DEVELOPMENT
DESCRIPTION:

Five year maintenance dredging program (100,000 cu. yds. total); disposal at LA-2.

SUBSTANTIVE FILE DOCUMENTS:

1. Consistency Certification CC-34-92
2. Consistency Determination CD-63-90
3. Port Master Plan, Port of Los Angeles
4. U.S. Army Corps of Engineers Permit 90-457-SS (pursuant to Section 404 (Clean Water Act) and Section 10 (Rivers and Harbors Act))

EXECUTIVE SUMMARY:

The Port of Los Angeles has submitted a consistency certification for its proposed five-year maintenance dredging program. This program is similar in nature, although larger in the amount of dredging, to the Port of Long Beach's 100,000 cu. yd. 5-year maintenance dredging program, with which the Commission concurred on June 10, 1992 (CC-34-92). The Port of Los Angeles is submitting this consistency certification to provide it with the option of using ocean disposal. The Port already has Corps and Commission authorization for the maintenance dredging, and for disposal at an authorized fill site. The Port is seeking an amendment to its Corps permit to authorize disposal at LA-2.

| | |
|-----------------|---|
| EXHIBIT NO. | 4 |
| APPLICATION NO. | |
| CC-125-96 | |

No actual disposal at LA-2 is proposed at this time. Nevertheless, the Port seeks authorization to dispose a maximum of 100,000 cubic yards (cu. yds.) per year at LA-2, and a maximum of 500,000 total cu. yds. over the five-year period. As did the Port of Long Beach, the Port of Los Angeles has committed to submit to the Commission the specific details (e.g., dredge location, disposal volume, grain size analysis, EPA bioassay test results and analysis, analysis of conformance with provisions contained in EPA's consistency determination (CD-63-90) for the LA-2 site designation) prior to maintenance dredge disposal activity in each of the years of the proposed dredging program, including assurances that the material will meet EPA "Green Book" standards for disposal at LA-2. The Port will submit this information no less than one month prior to the commencement of dredging activity, in order to give the Commission staff adequate time to review project details and to evaluate project conformance with the provisions of the Port's consistency certification and CD-63-90. As long as the proposed dredged material disposal conforms with these measures no additional Commission action would be required. With these assurances, the Port's dredging program is consistent with the marine resources, water quality, and commercial fishing policies of the Coastal Act.

Also, as was the case with the Port of Long Beach, the Port of Los Angeles' five year Corps permit similarly expires one year after the expiration of EPA's five year designation. Thus, as the Commission found in authorizing the Port of Long Beach's program, concurrence with this consistency certification is only valid through January 1996; any proposed ocean disposal at LA-2 after that date is not authorized unless the Commission has concurred with a consistency determination submitted by EPA for the re-designation of LA-2.

STAFF SUMMARY AND RECOMMENDATION:

I. STAFF SUMMARY

A. Project Description. The Port of Los Angeles proposes a five-year maintenance dredging disposal program at LA-2, located 6 mi. southwest of Pt. Fermin (Exhibit 1). Channels to be dredged are the East Basin, Turning Basin, West Basin, Main Channel, West Channel, East Channel, Fish Harbor and the Outer Harbor through Angel's Gate (Exhibit 2). As discussed on page 8-9 of this report, the dredging itself is exempt from Commission review; it is the disposal that is the subject of this consistency certification. The program includes a maximum of 100,000 cu. yds. of disposal per year at LA-2, a maximum of 500,000 cu. yds. over the five-year period. The dredged material will meet EPA "Green Book" testing standards for disposal at LA-2. The Port will submit to the Commission the specific details and test results prior to disposal in each of the years of the proposed dredging program.

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EX 4 P 2

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The Commission finds and declares as follows:

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[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.

EX 4 P3

(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.

Section 30224 provides that:

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.

Section 30234 provides that:

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.

Section 30220 provides that:

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

Section 30255 provides that:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

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Section 30701 provides, in part, that:

The Legislature finds and declares that:

(a) The ports of the State of California, including the Humboldt Bay Harbor, Recreation, and Conservation District, constitute one of the state's primary economic and coastal resources and are an essential element of the national maritime industry.

2. Issue Summary/Commission Review of LA-2 Site Designation

In analyzing the Port's consistency certification, 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 at LA-2. Consequently, the remainder of these findings 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 discussed in the above quoted Coastal Act Sections, 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. The 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, 30253, 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

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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 of 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.

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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 recently submitted to the Commission staff the results of current meter studies and physical oceanographic studies (for both the LA-2 and LA-5 sites). Despite two years elapsing since the Commission's concurrence with the LA-2 designation, disposal at the site only recently commenced. On December 10, 1992, the Port of Long Beach began disposal at the LA-2 site. Thus, since disposal at the site has only recently commenced, EPA has not included in its annual reports the monitoring of disposal activities themselves. Regarding EPA's commitment for a more extensive report in the third year of the 5 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.

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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 and enforcing permit requirements; 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 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.

Finally, 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.

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3. Alternatives

The Port has 4 options for disposal of maintenance-dredged material: disposal at an EPA-approved ocean dump site (LA-2); disposal at an approved landfill, sidecast disposal, and beach replenishment. Maintenance dredging of existing navigation channels (to existing or previously authorized depths) is exempt from Commission review; however the disposal of this material may or may not trigger Commission review, depending on the type of disposal. Disposal at LA-2 triggers the need for the subject consistency certification, based on the fact that it needs a federal (Corps) permit amendment, and it potentially affects the coastal zone, as elaborated on by the Commission in reviewing CD-63-90. As discussed above, the Commission found that dredging and disposal activities affecting the coastal zone would be subject to separate consistency review by the Commission. The Commission also found:

One of the more significant limitation on dredging is the problems associated with disposal of the dredged material. However, in the Los Angeles area there are several options for disposal of dredge spoils. In the past, much of the material dredged from channels in the Ports of Los Angeles and Long Beach has been used as fill for port expansion, and this use, most likely, will continue in the future. Additionally, some of the material dredged in this area of Southern California is used for beach replenishment. Even though there appear to be feasible options for dredged material disposal, an ocean disposal site is necessary because, among other considerations, it is not always feasible to use dredged material for port expansion or beach replenishment; the grain size of the material may not be suitable for those uses, and a port expansion activities may not coincide with dredging activities. Therefore, an ocean dredged material disposal site is needed to support dredging activities necessary for coastal dependent uses such as transportation of cargo, commercial and sports fishing, recreational boating, and other port related activities. Therefore, the Commission finds that the proposed designation will support high priority uses protected by the CCMP.

Regarding alternatives, the Port states: "The proposed disposal of dredged material would be exercised upon the completion of an analysis of the available options for disposal under the Corps ... permit (sidecast, land disposal or at the LA-2 site)." The Port understands that to implement sidecasting it would need a Port Master Plan amendment. Disposal of the material at a landfill site within the Port and authorized by the Commission in an approved Port Master Plan or Plan Amendment would not entail the need for further Commission review. Sidecasting of the material (placement of dredged spoils in the harbor adjacent to the channels from which they were dredged) would require Commission review, as it would not be consistent with the Port Master Plan as certified by the Commission. (See letter to Port of Long Beach, from Tom Crandall, CCC, dated April 8, 1992) (Exhibit 3). The proper forum for review of that alternative would be a Port Master Plan amendment. Beach replenishment would, of course, be the preferred option

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where the material is suitable; however material dredged from channels in the Ports of L.A./Long Beach would normally not be suitable for beach replenishment. The Port states: "The use of maintenance dredged material for use as beach replenishment is infeasible due to the high silt/clay composition of sediments within the Port."

4. Conclusion

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 for the next 5 years for dredge disposal material meeting applicable water quality testing requirements. The Port states that all dredged material will be tested in accordance with EPA requirements and the provisions established in the Commission's review of the designation of the LA-2 site. The Port states:

The disposal of maintenance dredged material will adhere to all EPA testing and site management requirements as identified in the consistency determination for the site designation (CD-63-90).

The Port has agreed that it will notify the Commission staff when it conducts tests for disposal operations, and that the Commission staff will receive all copies of test results, as well as annual monitoring reports specifying the quantity of material to be disposed of at LA-2, the test results, evidence that the material has been disposed of at the proper location, and other relevant information. The Port will submit this information no less than one month prior to the commencement of dredging activity, in order to give the Commission staff adequate time to review project details and to evaluate project conformance with the provisions of the consistency certification and CD-63-90. As long as the proposed dredged material disposal conforms with these commitments, the Commission finds that no additional Commission action would be required. At the same time the Commission also notes, as stated in its April 8, 1992 letter, to the Port of Long Beach (Exhibit 3), that:

... the Commission's concurrence with the designation of ... LA-2 ... was limited to five years, and will expire approximately at the end of the fourth year of your proposed maintenance dredge program. Redesignation of the LA-2 site will be necessary prior to disposal at LA-2 during the fifth year of your proposed maintenance dredging program.

Also as was the case with the Port of Long Beach, the Port of Los Angeles' five year Corps permit similarly expires one year after the expiration of EPA's five year designation. Thus, as the Commission found in authorizing the Port of Long Beach's program, concurrence with this consistency certification is only valid through January 1996; any proposed ocean disposal at LA-2 after that date is not authorized unless the Commission has concurred with a consistency determination submitted by EPA for the re-designation of LA-2.

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The Port has further agreed it will not sidecast material unless the Commission has certified a Port Master Plan Amendment for that type of disposal. With these commitments and assurances by the Port, and given the findings (cited above) concurring with the designation and use of LA-2 as a 5-year dredge disposal site, the Commission concludes that the proposed 5-year dredging program is consistent with the applicable marine resource, water quality, and commercial and recreational fishing policies of the Coastal Act.

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