STATE OF CALIFORNIA—THE RESOURCES AGENCY

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PETE WILSON, *Governor*

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

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STAFF REPORT AND RECOMMENDATION

ON CONSISTENCY DETERMINATION

Consistency Determination
No. CD-2-97
Staff: LJS-SF
File Date: January 6, 1997
45th Day: February 20, 1997
60th Day: March 6, 1997
Commission Meeting: Feb. 4-7, 1997

FEDERAL AGENCY: U.S. Army Corps of Engineers

DEVELOPMENT LOCATION: Port of Los Angeles and LA-2 Ocean Disposal Site, Los Angeles County (Exhibits 1-3)

DEVELOPMENT DESCRIPTION: Proposed modifications to Stage 2 of the Port of Los Angeles Pier 400 Deep Draft Navigation Improvement Project (CD-57-92, concurred with by the Commission in 1992), including ocean disposal at LA-2 of up to 1.5 million cubic yards of clean dredged sediment, an 86-acre expansion of the permanent shallow water habitat area, and potential construction of a 148-acre temporary shallow water area.

SUBSTANTIVE FILE DOCUMENTS:

1. CD-57-92 (Corps of Engineers; Port of Los Angeles Deep Draft Navigation Improvement Project).

2. Port of Los Angeles Port Master Plan (as amended through November 1996).

3. Final Supplement to the Final Environmental Impact Statement, Stage 2 Construction, Los Angeles Harbor Deepening, Los Angeles and Long Beach Harbors, San Pedro Bay, California (Corps of Engineers, November 1996).

4. Consistency Determinations CD-63-90 and CD-114-96 (EPA; designation of LA-2 offshore disposal site).

5. Consistency Certification CC-41-96 (Port of Los Angeles; disposal of dredged material from the West Basin at LA-2).

EXECUTIVE SUMMARY

The U.S.Army Corps of Engineers has submitted a consistency determination to modify Stage 2 of its previously concurred-with (CD-57-92) Deep Draft Navigation Improvement project in the Port of Los Angeles. The proposed changes include: (1) disposal of up to 1.5 million cubic yards of clean dredged sediments at the LA-2 ocean disposal site; (2) disposal of approximately 3.6 million cubic yards of clean dredged sediment to expand by 87 acres the under-construction 192-acre permanent shallow water habitat area inside the San Pedro Breakwater; and (3) potential construction of a 148-acre temporary shallow water area and the stockpiling of dredged sediments until such time as additional marine habitat mitigation is available and the 148-acre area can be filled with the stockpiled sediments. The sediments underwent chemical testing and are suitable for unconfined disposal at LA-2 and within the Port. The creation of additional shallow water areas within the Port will provide valuable foraging habitat for the endangered California least tern and other bird species. The proposed Stage 2 modifications will not result in any significant adverse effects on the coastal zone, and therefore the project is consistent with the marine resources, water quality, commercial and recreational fishing, and port development policies of the California Coastal Management Program (Sections 30230, 30233, 30224, 30234, 30220, 30255, 30701, 30705, 30706, and 30708 of the Coastal Act).

STAFF SUMMARY AND RECOMMENDATION:

I. Staff Note. The consistency determination submitted by the Corps of Engineers proposes modifications to consistency determination CD-57-92 (concurred with by the Commission in 1992) for Stage 2 deep draft navigation improvements and landfill construction in the Port of Los Angeles. The previous consistency determination called for the Corps to dredge in two stages approximately 48 million cubic yards of sediment to deepen existing and create new shipping channels and turning basins, and to use these sediments to construct 582 acres of new landfills in the outer harbor (Pier 400). The Federal project outlined in CD-57-92 included provisions for Commission action on two or more Port of Los Angeles port master plan amendments (for dredging, landfill and terminal construction, and mitigation measures) once the Port obtained adequate marine habitat mitigation for landfill stages.

Stage 1 of the project is under construction and will be completed in 1997. Mitigation for Stage 1 marine habitat losses is provided by newly-constructed shallow water habitat in the Port of Los Angeles and subtidal wetland restoration at Batiquitos Lagoon in San Diego County. Mitigation for Stage 2 marine resource impacts will be provided in part by credits remaining from the Batiquitos project and in part by credits from another mitigation project (or projects), possibly the Federal/State Bolsa Chica wetland restoration project in Orange County, should that project be implemented. However, as of January 17, 1996, there are no mitigation credits available from the Bolsa Chica project and as a result, there are inadequate mitigation credits to fully construct the Stage 2 landfill. Therefore, the Corps is proposing a partial landfill scenario for Stage 2 of the DDNI project should the mitigation credit shortfall persist.

II. Project Description. The Corps of Engineers proposes to modify Stage 2 of its previously concurred-with Deep Draft Navigation Improvement (DDNI) project in the Port of Los Angeles (CD-57-92)(Exhibits 3-6). The modifications would apply to Stage 2 construction as follows:

Disposal of up to 1.5 million cubic yards of clean dredged sediments at the LA-2 ocean disposal site (Exhibit 2).

Disposal of approximately 3.6 million cubic yards of clean dredged sediment to expand by 87 acres the under-construction 192-acre permanent shallow water habitat area inside the San Pedro Breakwater (Exhibit 5).

Potential construction of a 148-acre temporary shallow water area and the stockpiling of dredged sediments until such time as marine habitat mitigation is available and the 148-acre area can be filled with the stockpiled sediments.

Based on the Corps' latest engineering reports on the physical characteristics of sediments to be dredged as a part of Stage 2 of the DDNI project, it is necessary to locate alternative disposal sites for approximately 5.1 million cubic yards of clean, fine-grained sediments which are unsuitible for Pier 400 landfill construction. The Corps proposes to place up to 1.5 million c.y. at the LA-2 ocean disposal site, and use 3.6 million c.y. to create an 87-acre expansion to the under-construction 192-acre permanent shallow water habitat area inside the San Pedro breakwater.

Based on the current shortfall in mitigation credits necessary to construct the 310-acre Stage 2 landfill at Pier 400, and until such time as that shortfall is eliminated by either the implementation of the proposed Federal/State Bolsa Chica wetland restoraton project or some other coastal wetland restoration project, the Corps is proposing a modification to the construction of the Stage 2 landfill. Using all the available credits remaining from the Stage 1 project, the credits to be obtained from the expansion of the permanent shallow water habitat area, and the credits arising from the creation of rocky habitat from landfill dikes, the Corps calculates that a 162-acre portion of the landfill could be built.

In the event that mitigation credits to build the entire 310-acre landfill are not available at the start of Stage 2 construction, the Corps proposes to implement a "Partial Landfill with Material Stockpiling Alternative" as follows (Exhibit 6):

Under this alternative, the eastern 162 acres of Pier 400 would be filled to +34 feet MLLW and the western 148 acres would be temporarily filled to -5 feet MLLW. [These two areas would accommodate all the Stage 2 dredged materials. Should additional mitigation credits allow the Port to complete the Stage 2 landfill in the future, the 4.4 million cubic yards of stockpiled material would be transferred into the shallow water area to complete the landfill.] To separate each section of fill, a sand dike would be constructed between each section. The perimeter rock/sand dike would be constructed to +15 feet MLLW with a 1,000 foot opening on the western edge for water exchange. The submerged western portion would

> remain minimally at the -5 feet MLLW contour for a period of at least 6 months for biological benefits (see Section 2.1.2 of the FSFEIS). This area would eventually be filled to +15 feet MLLW for completion of the Federal Project. However, fill to +15 feet MLLW would not be permitted until additional mitigation credits are identified and evaluated, pursuant to NEPA. In addition, construction activities would not occur in the temporary shallow water area during the California least tern breeding season.

The proposed modifications to the project contained within CD-57-92 do not, however, affect the commitments made by the Corps regarding implementation of the Federal Project and the Project's relationship with the Port of Los Angeles' port master plan. The adopted findings for CD-57-92 state in part that:

> The proposed Corps project cannot be implemented without subsequent actions by the Port of Los Angeles and the Commission, because the proposed landfills are not presently incorporated in nor consistent with the certified port master plan. The Port must submit and the Commission must certify port master plan amendments that incorporate the proposed landfills and terminal facilities into the port master plan. Subsequent to these certifications, the Port could then issue coastal development permits for landfill and terminal construction. As a result, a critical component of the consistency determination [CD-57-92] is the following acknowledgement that the Corps' proposed landfill construction is dependent upon the Port securing Commission approval of amendments to the port master plan:
>
> > Landfill construction would require amendments to the Port Master Plan for the Port of Los Angeles. The Port will submit a Master Plan amendment to the California Coastal Commission only for those portions of the Federal Project for which there is adequate biological mitigation (see Appendix B). Any Port Master Plan amendment submitted to the Commission will be preceeded by or will be submitted concurrent with an interagency Memorandum of Agreement (MOA) for a marine resource mitigation project, the implementation of which will compensate for the marine resource impacts associated with the area of the harbor waters to be filled. The proposed Federal Project is consistent with the proposed Port Master Plan amendments. Upon Coastal Commission certification of the amendments, the Federal Project will conform with the Port Master Plan.

In its CD-2-97 submittal, the Corps states that:

> ...this Consistency Determination will not become effective until the California Coastal Commission (CCC) certifies the Port of Los Angeles' (POLA) upcoming Port Master Plan Amendment for Stage 2 construction efforts. The Corps will continue to adhere to agreement conditions presented in CD-57-92 (i.e. Section B - Project Description) for implementing the Stage 2 efforts in conjunction with certification of the POLA Port Master Plan Amendments for the Deep Draft Navigation Improvements project.

This commitment is necessary because the Port of Los Angeles does not yet have the ability under the Coastal Act to construct any Stage 2 facilities. The Port intends to submit to the Commission a port master plan amendment (tentatively scheduled for the April 1997 meeting in Huntington Beach) for the Stage 2 landfill. The amendment will provide for both the "total landfill" and "partial landfill" scenarios, with implementation by the Port depending on the availability of mitigation credits. As a result, the proposed modifications to the Federal DDNI project do not affect the findings adopted by the Commission in 1992 regarding the DDNI project's consistency with the applicable Chapter 8 policies of the Coastal Act dealing with the certified port master plan.

The Corps also provided in its submittal an updated accounting of Port mitigation credits associated with the DDNI project, based on existing credits, the potential for obtaining credits from the Bolsa Chica restoration project, and the "total landfill" and "partial landfill" scenarios (Exhibit 7). In summary, the Port currently has 113.2 credits (in acres; all following references to credits are in acres) banked from the Stage 1 project (the Stage 1 landfill certified in the Port of Los Angeles' PMPA No. 12 would have used all the credits from the Batiquitos Lagoon restoration project, but the Port, for engineering reasons, only built a portion of the landfill authorized in PMPA 12). Construction of the 86.8-acre expansion to the permanent shallow water habitat and the 16.4 acres of Pier 400 underwater rock dikes will generate an additional 154.8 mitigation credits (based on the existing interagency resource agreement that a factor of 1.5 should be used to calculate mitigation credits obtained by the creation of shallow water habitat from deep water areas in the Port). Therefore, the Port would have a total of 268 mitigation credits (86.8 + 16.4 = 103.2; 103.2 X 1.5 = 154.8; 154.8 + 113.2 = 268). These credits would then be used as follows: 16.4 credits to mitigate for deep water habitat lost to dike construction; 86.8 acres to mitigate for deep water habitat lost to construction of the permanent shallow water habitat area; 162 acres for deep water habitat lost to Stage 2 landfill construction; and 2.8 credits remaining. Should the Port eventually receive the 227 credits from the Bolsa Chica project, it would then have a total of 229.8 credits, could then construct the remaining 148 acres of the Stage 2 landfill, and end up with 81.8 credits that could be used as mitigation for future port landfills. The Commission agrees with this current and projected mitigation credit account contained in the consistency determination and finds it consistent with Commission records.

III. Status of Local Coastal Program. The standard of review for federal consistency determinations is the policies of Chapter 3 and Chapter 8 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 and Chapter 8 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 certified by the Commission and incorporated into the CCMP.

IV. Federal Agency's Consistency Determination. The Corps of Engineers has determined the project to be consistent to the maximum extent practicable with the California Coastal Management Program.

V. Staff Recommendation:

The staff recommends that the Commission adopt the following resolution:

CONCURRENCE.

The Commission hereby concurs with the consistency determination made by the Corps of Engineers for the proposed project, finding that the project is consistent to the maximum extent practicable with the California Coastal Management Program.

VI. Findings and Declarations:

The Commission finds and declares as follows:

A. Ocean Disposal of Dredged Sediments: 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.

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

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

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.

30255. 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.

30701. 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. Water Quality and Commercial and Recreational Fishing. In analyzing the consistency determination submitted by the Corps of Engineers for disposal of dredged material at the LA-2 disposal site (Exhibit 2), 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. 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 <u>designated to minimize potential adverse impacts on marine organisms</u> ...."[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.
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> 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.
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> 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 oceangraphic conditions at the deep water site. On an annual basis, the EPA will inform the Commission of any results and progess 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 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.

EPA submitted a draft site management/monitoring report to Commission staff in August 1994. The final monitoring report was submitted to the Commission in 1996 and a consistency determination for redesignation of the LA-2 site is tentatively scheduled for the Commission's February 1997 meeting (see CD-114-96).

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 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 in reviewing CD-63-90 that:

> 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 polices 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 contaminates 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. 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 disposal of dredged material meeting applicable water quality testing requirements.

Under the original Deep Draft Navigation Improvement (DDNI) project concurred with by the Commission in CD-57-92, all dredged materials were to be placed in the Pier 400 landfill or the permanent shallow water habitat area inside the San Pedro Breakwater. However, based on the Corps of Engineers' latest engineering designs for Stage 2 dredging and filling operations, approximately 5.1 million cubic yards of dredged material (Malaga mudstones (92 percent fines) and paleochannel materials (90 percent fines)) cannot be placed in the Pier 400 landfill due to the unsuitable engineering characteristics of the fine-grained sediments. Approximately 3.6 million cubic yards of material will be used to create an 86-acre extension to the under-construction permanent shallow water habitat, and up to 1.5 million c.y. of material are proposed for disposal at LA-2. The Corps states that:

> The Stage 2 materials proposed for LA-2 disposal is virgin material. This material was chemically tested and analyzed for completion of the FEIS/FEIR for the DDNI project, and was determined to be clean. Because these materials have just been recently uncovered by Stage 1 activities and no recent significant events have occurred in the region, no additional sediment testing is warranted for Stage 2 activities. Approximately 400,000 to 500,000 cubic yards of material may be disposed of on an annual basis (per calendar year) at LA-2.

The Commission finds that the sediments to be dredged are suitable for ocean disposal at LA-2. However, the Commission continues to encourage the Corps of Engineers to minimize the volume of material proposed for disposal at LA-2 and to investigate other potential reuse alternatives for portions of the 1.5 million cubic yards targeted for LA-2. Nevertheless, disposal of dredged sediments at the LA-2 site will not generate any significant adverse impacts on water quality or fisheries at or adjacent to LA-2. The Corps states that disposal activity will be performed in accordance with Section 103 of the Marine Protection, Research, and Sanctuaries Act to assure compliance with environmental and safety regulations. 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 up to 500,000 cubic yards per year for three years of dredged sediment suitable for ocean disposal in open coastal waters at the LA-2 offshore disposal site. 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 deep draft navigation areas in the Port of Los

Angeles is an allowable use under Section 30233(a)(1). The Commission must next find that the proposed disposal at LA-2 is the least damaging feasible alternative. The Corps identified five disposal options for the dredged material unsuitable for placement in the Pier 400 landfill:

1. LA-2 ocean disposal site. This site is located approximately 7 miles south-southwest of the Port of Los Angeles , and is used by a number of southern California entities to dispose of uncontaminated dredged material. Because of the heavy demands on the site compared to the quantities considered during the certification process, the regulatory agencies have indicated that only in exceptional circumstances will any one project be permitted to dispose of more than 500,000 cubic yards at LA-2.

2. Permanent shallow water habitat. The permanent shallow water habitat area now under construction inside the San Pedro Breakwater would be expanded by an additional 86 acres by placing approximately 3.6 million cubic yards of dredged materials unsuitable for Pier 400 construction. Materials would include clean, fine-grained sands, siltstone, and mudstone. Although the mudstone and paleochannel materials targeteed for LA-2 are suitable for placement at the shallow water habitat expansion site, this alternative was dismissed due to a lack of additional capacity at the site.

3. Beach Nourishment. The results of material testing indicate the proposed sediments consist of a high percentage of fine-grained sediments (90 percent fine sands, silts, and mudsone); these are not likely to be suitable for beach nourishment based on the Corps' sediment grain size compatibility guidelines which state that the percent of "fines" in a composite sediment sample from the dredge site must be within 10 percent of the percent of fines at the receiving beach to be suitable for beach nourishment. Therefore, this alternative was dismissed from further consideration.

4. Sidecasting. This alternative was preliminarily discussed with U.S. EPA staff. It was determined that a site-specific EIS would be required to further analyze this action, pursuant with the Ocean Dumping Act. To further assess this alternative, additional information (i.e., engineering and environmental analyses) would be required to fully document impacts. Based on the additional documentation processes, and time and money requirements, this alternative was dismissed from further consideration.

5. Main Channel Deepening From Stage 1. For Stage 1, approximately 700,000 cubic yards of material were dredged in the main channel inside of Angels's Gate for sand mining purposes. This site was deepened from -81 feet mean lower low water (MLLW) to -90 feet MLLW. Although the proposed LA-2 sediments could be placed in this site, an additional 700,000 cubic yards of dredged sediments from Stage 2 not structurally suitable for the Pier 400 landfill are likely to be placed here. Prior to material disposal at this site, appropriate environmental documentation will be prepared pursuant to NEPA and in coordination with EPA. Like the permanent shallow water expansion site, this alternative was also dismissed from further consideration due to a lack of space.

6. Other Potential Beneficial Uses. Potential end uses for dredged material from this project also include allowing other entities to use some or all of the material for beneficial purposes. Such projects would require separate permitting and environmental review. Beyond those discussed in this document, there are currently no such proposals for beneficial use projects. If additional proposals for beneficial use projects for this dredged material are made during the environmental review process, they will be disclosed to the public and discussed in the Finding of No Significant Impact record. However, analysis of the environmentalimpacts of other beneficial use projects that do not require action by the Corps would be beyond the scope of the Proposed Action. The analysis of the environmental impacts of such an action would be the responsibility of the federal,state, or local agency proposing the action.

The Corps intends to use the designated LA-2 ocean disposal site to dispose of up to 500,000 cubic yards of clean dredged sediment per year between 1997 and 1999. A net result of maximizing the available capacity of other in-water disposal sites in the Port of Los Angeles is that the subject proposal meets the objective of limiting single-project disposal volumes at LA-2 to a maximum of 500,000 cubic yards. The Corps is continuing to investigate other possible uses for the material slated for disposal at LA-2 in an effort to further minimize that disposal volume. At this time, however, due to physical sediment characteristics and capacity constraints at the feasible in-water disposal sites, it appears that these other disposal sites will be unable to accommodate the subject 1.5 million cubic yards of sediment associated with the Stage 2 project, and that the LA-2 site is the least environmentally damaging feasible alternative. The Commission agrees with: (1) the Corps' determination that given the maximized use of other disposal sites, LA-2 is the preferred site for annual disposal of up to 500,000 cubic-yards of clean dredged sediments; and (2) the Corps' determination 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 dredging and disposal 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 Corps examined the potential effects on marine resources from annual disposal of 500,000 cubic yards of clean dredged sediments at the LA-2 site for a three-year period 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 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, and do not trigger mitigation requirements, 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 of the

California Coastal Management Program (Sections 30230, 30233, 30234, 30220, 30224, 30255, and 30701 of the Coastal Act). This finding assumes that the Corps the understands that use of the site is tied to Commission concurrence with the designation and use of LA-2 as a dredge disposal site.

B. Marine Resources. The Coastal Act provides the following for dredging and filling within the Port of Los Angeles:

Section 30705.

(a) Water areas may be diked, filled, or dredged when consistent with a certified port master plan only for the following:

...

(6) Restoration purposes or creation of new habitat areas...

(b) The design and location of new or expanded facilities shall, to the extent practicable, take advantage of existing water depths, water circulation, siltation patterns, and means available to reduce controllable sedimentation so as to diminish the need for future dredging.

(c) Dredging shall be planned, scheduled, and carried out to minimize disruption to fish and bird breeding and migrations, marine habitats, and water circulation. Bottom sediments or sediment elutriate shall be analyzed for toxicants prior to dredging or mining, and where water quality standards are met, dredge spoils may be deposited in open coastal water sites designated to minimize potential adverse impacts on marine organisms, or in confined coastal waters designated as fill sites by the master plan where such spoil can be isolated and contained, or in fill basins on upland sites. Dredge material shall not be transported from coastal waters into estuarine or fresh water areas for disposal.

(d) For water areas to be diked, filled, or dredged, the commission shall balance and consider socioeconomic and environmental factors.

Section 30706. In addition to the other provisions of this chapter, the policies contained in this section shall govern filling seaward of the mean high tide line within the jurisdiction of ports:

(a) The water area to be filled shall be the minimum necessary to achieve the purpose of the fill.

(b) The nature, location, and extent of any fill, including the disposal of dredge spoils within an area designated for fill, shall minimize harmful effects to coastal resources, such as water quality, fish or wildlife resources, recreational resources, or sand transport systems, and shall minimize reductions of the volume, surface area, or circulation of water.

(c) The fill is constructed in accordance with sound safety standards which will afford reasonable protection to persons and property against the hazards of unstable geologic or soil conditions or of flood or storm waters.

(d) The fill is consistent with navigational safety.

Section 30708. All port-related developments shall be located, designed, and constructed so as to:

(a) Minimize substantial adverse environmental impacts.

(b) Minimize potential traffic conflicts between vessels.

(c) Give highest priority to the use of existing land space within harbors for port purposes, including, but not limited to, navigational facilities, shipping industries, and necessary support and access facilities.

(d) Provide for other beneficial uses consistent with the public trust, including, but not limited to, recreation and wildlife habitat uses, to the extent feasible.

(e) Encourage rail service to port areas and multi-company use of facilities.

The proposed modifications to the Pier 400 DDNI project (CD-57-92) that must be examined for consistency with the above Chapter 8 policies are the expanded permanent shallow water habitat area and the creation of the temporary shallow water area under the partial landfill build-out scenario (Exhibits 5 and 6). (Newly proposed disposal operations at LA-2 were reviewed in the previous section of this report.) All other components of the Pier 400 DDNI project (including dredging, landfill construction, and marine resource mitigation strategies) were reviewed and approved by the Commission in CD-57-92.

The Corps states in its consistency determination that:

> Soft bottom habitat makes up most of San Pedro Bay, accounting for approximately 10,340 total acres in the Outer Harbor (Corps and POLAHD, 1992). Approximately 10 percent are in water less than 20 feet in depth. Soft bottom habitat supports organisms that burrow within the substrate and those that live on the surface of the substrate....Several species of fish also spend much of their time on the bottom, including halibut and other flat fishes....Studies of Los Angeles Harbor identified several distinct fish community types, with pelagic fishes most abundant in shallow, in-shore areas.
>
> In terms of overall use by birds and significance to special-status species, shallow water foraging habitat has been identified as providing significant value to birds. Shallow water habitat is used for foraging by loons, grebes, cormorants, pelicans, diving ducks, gulls, and terns. The California least tern, a State- and Federally-listed endangered species, forages in waters less than 20 feet deep (MEC Analytical Services, 1988).
>
> To offset a portion of Stage 1 construction impacts, the Cabrillo shallow water habitat was created. The habitat area was planned to cover 136 acres. The actual size of the habitat is now 192 acres. At completion

> of Stage 1, the Cabrillo shallow water habitat will exist at approximately -15 feet MLLW. As part of Stage 2 mitigation, the Cabrillo shallow water habitat would be expanded an additional 86.8 acres.

It should be noted that the proposed 86.8-acre expansion of the permanent shallow water habitat (PSWH) area will be comprised of approximately 3.6 million cubic yards of clean, fine-grained dredged sediments just recently uncovered by Stage 1 dredging operations. The PSWH expansion area will not be used as a confined aquatic disposal (CAD) site (as was a portion of the existing PSWH), but instead will serve only as additional shallow water foraging area for the endangered California least tern and other foraging bird species.

The proposed 148-acre temporary shallow water habitat area at Pier 400 that would be constructed under the "partial landfill scenario" would provide additional foraging habitat for the California least tern by replacing existing deep water habitat of lower comparative biological value. Filling to +15 feet MLLW of this temporary habitat at some future date would not be allowed during the least tern breeding season, and could not occur until additional landfill mitigation credits are available. Neither the Corps or the Port would receive mitigation credits for the creation of this temporary habitat, nor would they be held to a greater mitigation requirement when the future shallow water (but currently deep water) habitat is eventually filled to +15 feet MLLW.

The Corps states in its consistency determination that the proposed modifications:

> ... may disrupt water areas near the least tern nesting site which are used seasonally for feeding on small fish by the California least tern. This includes possible degradation of shallow water area east of Pier 300 associated with the Partial Landfill alternative. As noted earlier, specific measures have been incorporated into the project to prevent impacts that would degrade successful use of the nesting area by the least tern. These include replacement of affected shallow water areas prior to the least tern nesting season, restricting dredge and fill activities immediately adjacent to the existing shallow water habitat to the east of Pier 300 during periods when least terns are not nesting on Pier 300, and prohibiting future fill of the temporary shallow water area under the Partial Landfill alternative during the least tern breeding period....

Impacts to marine resources, habitat, and water quality from the placement of dredged materials at the PSWH expansion area and at the temporary shallow water area at Pier 400 would be temporary in nature, and primarily limited to an increase in turbidity and a loss of benthic organisms. The Commission previously found in its adopted findings for CD-57-92 that these impacts will be minimized by mitigation measures incorporated into the existing DDNI project (i.e., use of silt curtains and other means to localize turbidity, control of return water flow from disposal of dredged materials behind dikes, control of runoff from unimproved land areas, the development of spill

contingency plans during construction). The Corps will adhere to the same water quality protection measures for the proposed modifications that are currently attached to the DDNI project.

The expansion area is an allowable use under Section 30705(a)(6), and prior to its construction the Port of Los Angeles will seek certification of a port master plan amendment that will designate the area as a fill site. The expansion area is the minimum size necessary to accommodate the fine-grained sediments unsuitable for placement in the Pier 400 landfill and to minimize disposal volumes at LA-2. Staff from the U.S. Fish and Wildlife Service reported to Commission staff that the creation of the PSWH expansion site and the temporary shallow water area at Pier 400 would provide valuable foraging habitat for the least tern, and that the construction of both features is designed to minimize adverse impacts on marine resources. The development of the "partial landfill scenario" to allow the construction of at least a portion of the Stage 2 landfill is consistent with the priority port uses provided for in Section 30708 of the Coastal Act, and the creation of additional permanent shallow water habitat areas and temporary shallow water areas provides for the wildlife habitat beneficial use listed in Section 30708.

In conclusion, the proposed filling of coastal waters at the PSWH expansion site and at the temporary shallow water area at Pier 400 will not significantly affect the marine environment within the Port of Los Angeles and adjacent ocean waters, is an allowable use, and is designed to minimize adverse impacts to marine resources. Therefore, the Commission finds that the proposed project is consistent with the marine resource protection policies of the California Coastal Management Program (Sections 30705, 30706, and 30708 of the Coastal Act).

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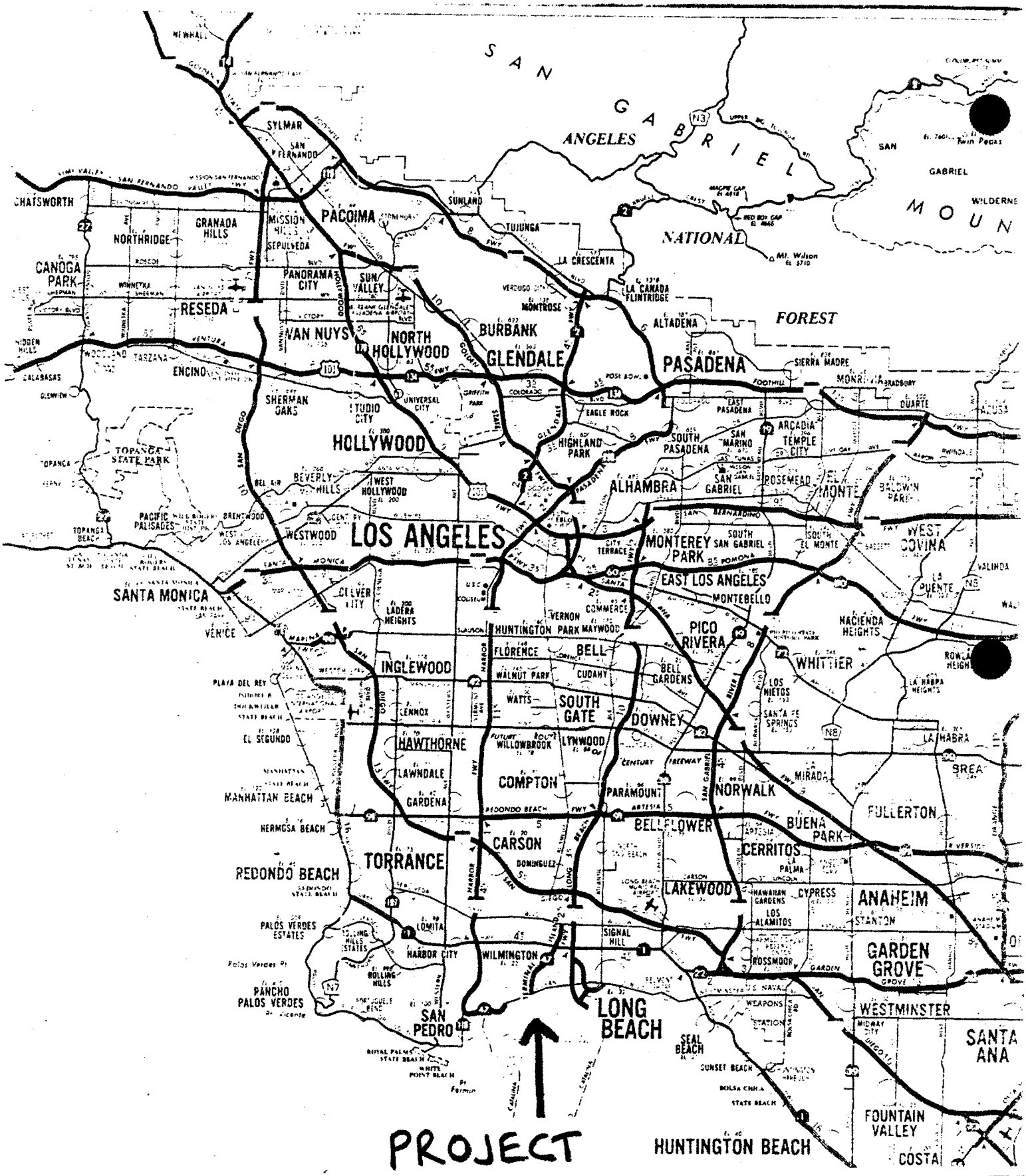

EXHIBIT NO.

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CD-2-97

California Coastal Commission

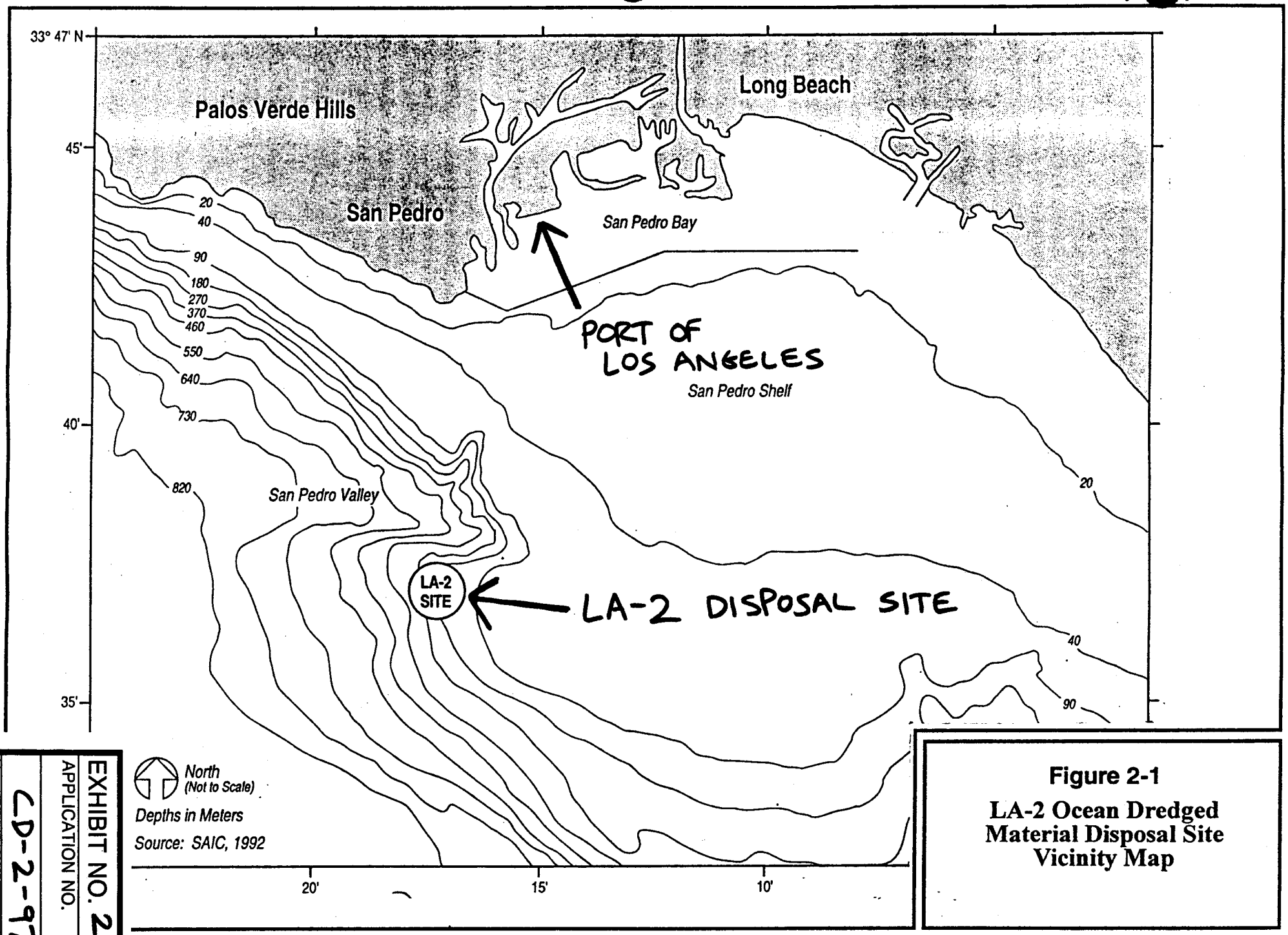

Figure 2-1

LA-2 Ocean Dredged Material Disposal Site Vicinity Map

EXHIBIT NO. 2
APPLICATION NO.
CD-2-97
California Coastal Commission

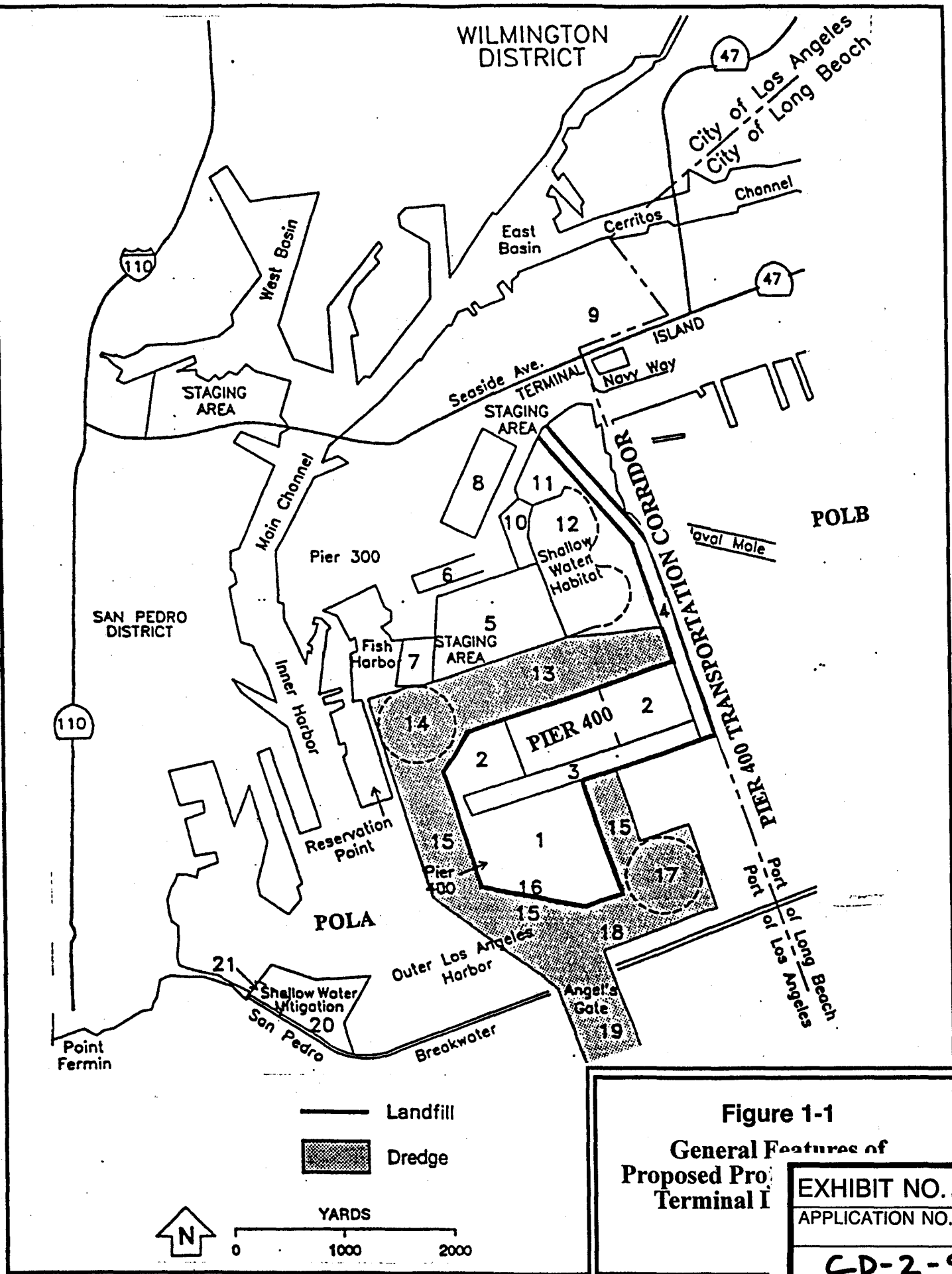

Figure 1-1

General Features of Proposed Pro Terminal I

EXHIBIT NO. 3
APPLICATION NO.
CD-2-97
California Coastal Commission

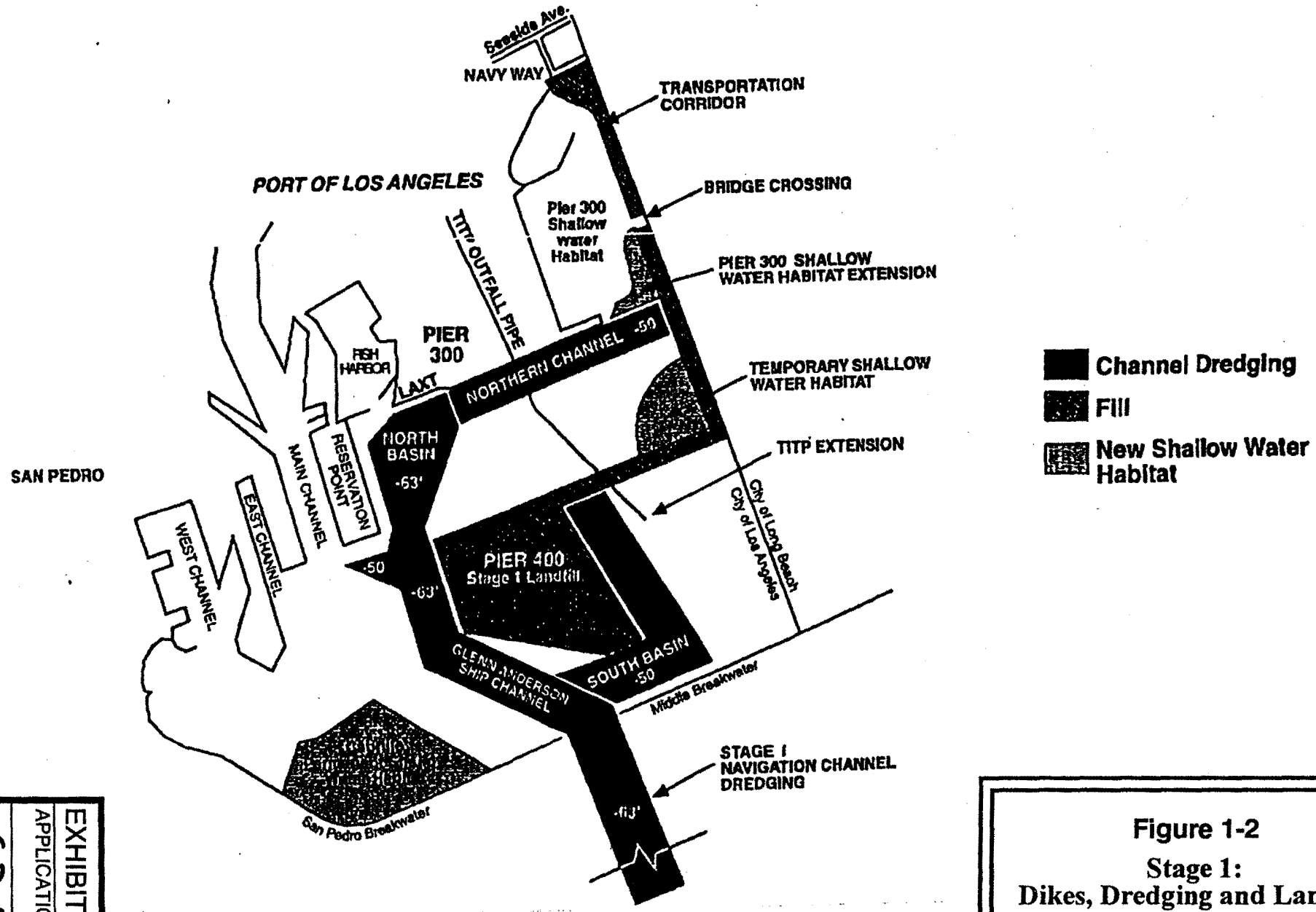

Figure 1-2
Stage 1:
Dikes, Dredging and Landfill

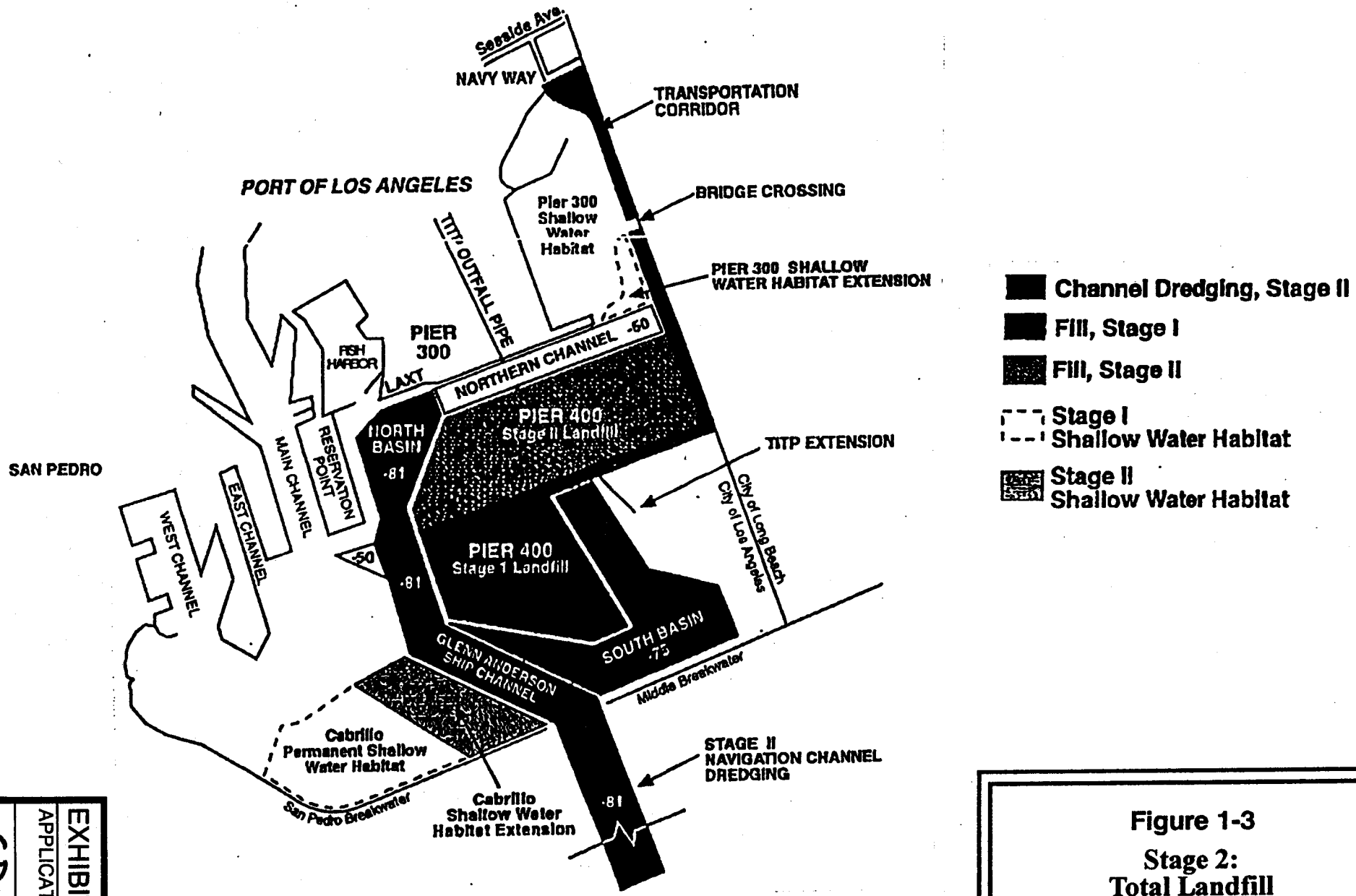

Figure 1-3

Stage 2: Total Landfill

EXHIBIT NO. 5
APPLICATION NO.
CD-2-97
California Coastal Commission

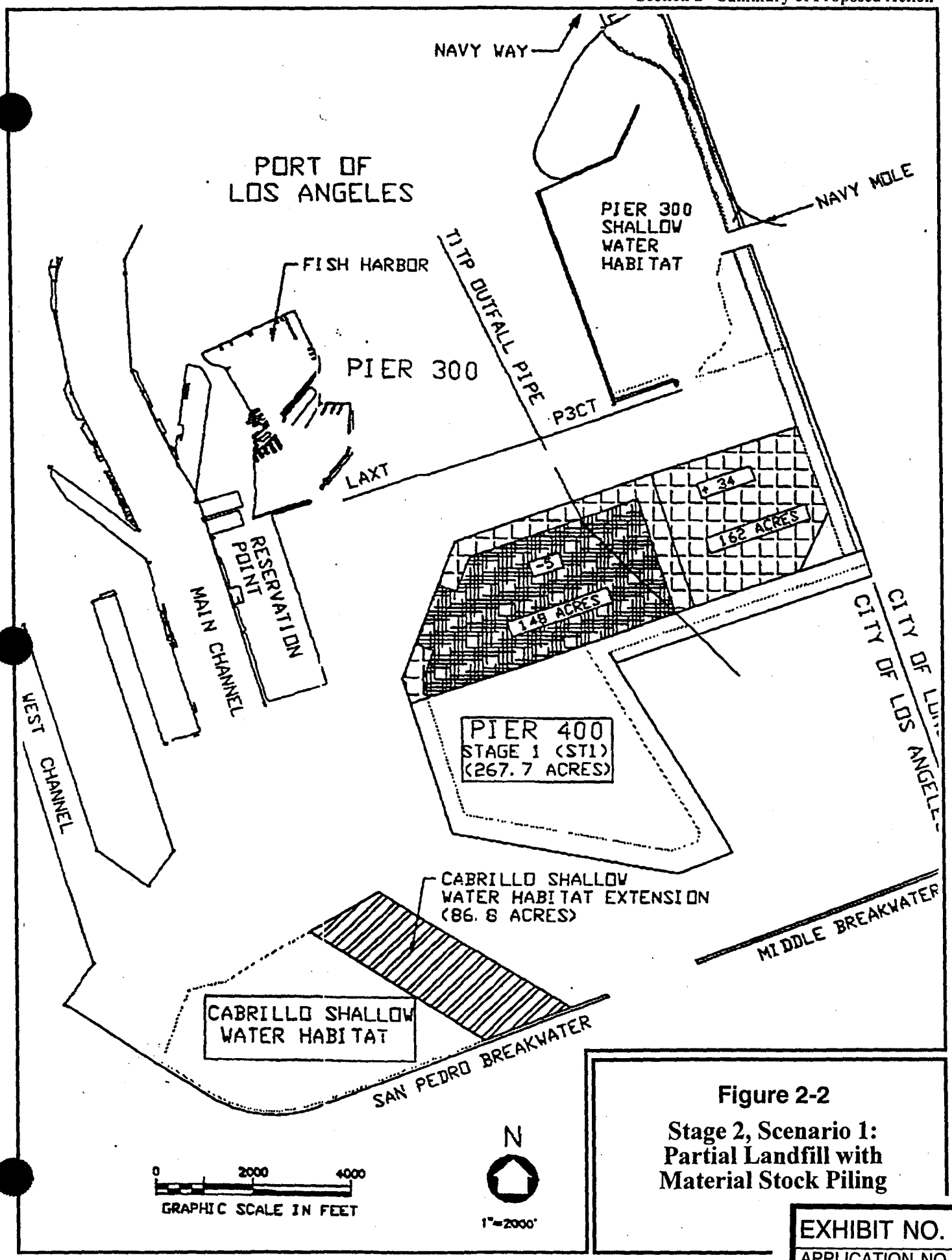

Figure 2-2

Stage 2, Scenario 1: Partial Landfill with Material Stock Piling

EXHIBIT NO. 6
APPLICATION NO.
CD-2-97

Table 2-1 DDNI Project, Stage 2 Summary of Construction Losses and Mitigation Gains in Acres and Habitat Units

ACTIVITY	IMPACT	ACRES		VALUE	HABITAT UNITS	
		Full Landfill Alt.	Partial Landfill Alt.		Full Landfill Alt.	Partial Landfill Alt.
LANDFILL ACTIVITIES (Construction Losses)						
Pier 400 Landfill	Landfill in deep water	-310	-162	1	-310	-162
POTENTIAL MITIGATION PROJECTS						
Cabrillo Shallow Water Habitat Expansion (Onsite)	Gain in shallow water Loss in deep water	+86.8 -86.8	+86.8 -86.8	1.5 1.0	+130.2 -86.8	+130.2 -86.8
Rocky Habitat Creation, Pier 400 Dikes (Onsite)	Gain of rocky shallow water Loss of deep water	+16.4 -16.4	+16.4 -16.4	1.5 1.0	+24.6 -16.4	+24.6 -16.4
Bolsa Chica Wetland Restoration (Offsite)	Restored coastal embayment	172	0	1.32	+227	0
SUMMARY						
Habitat Units Loss					-413.2	-265.2
Habitat Units Gained					+381.8	+154.8
Banked Habitat Units from Stage 1 (see Section 1.1.1 of FSFEIS)					+113.2	+113.2
Net Change in Habitats Units					+81.8	+2.8

Notes: Values as presented in Biological Mitigation Plan of FEIS/FEIR DDNI (1992).
(+): Habitat Gain and (-): Habitat Loss.
Pier 400 rocky values generated between -4.8 and -20 feet MLW (Section 3.3.2, FSFEIS).

Stage 2 materials proposed for LA-2 disposal is virgin material. This material was chemically tested and analyzed for completion of the FEIS/FEIR for the DDNI project, and was determined to be clean. Because these materials have just been recently uncovered by Stage 1 activities and no recent significant events have occurred in the region, no additional sediment testing is warranted for Stage 2 activities. Approximately 400,000 to 500,000 cubic yards of material may be disposed of on an annual basis (per calendar year) at LA-2.

In the event that additional disposal sites become available for material placement over the life of the project, these additional sites will be considered upon request for use at that time. As additional information becomes available (i.e., other related environmental documentation and documents), it will be coordinated with EPA for concurrence on disposal.

2.1.2 Total Landfill Alternative

This landfill alternative was proposed as part of the original project analyzed in the FEIS/FEIR for the DDNI project that was subsequently approved by the Coastal Commission in 1992. Under the Total Landfill alternative, a 310 acre area of Pier 400 would be filled to a height of +15 feet mean lower low water (MLLW) (see Figure 1-3). As a design refinement, 1.2 to 1.5 million cubic yards of dredge material may be disposed of at LA-2, an EPA-designated ocean disposal site.

Mitigation projects proposed for this landfill alternative are summarized below. Implementation of mitigation projects would be done in accordance with the General Marine Resource Mitigation Measures stipulated in the FEIS/FEIR for the DDNI project (see Section 4D of FEIS/FEIR, pgs 4D 37) which states:

EXHIBIT NO. 7
APPLICATION NO.
CD-2-97
California Coastal Commission