

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT AND RECOMMENDATION**ON CONSISTENCY DETERMINATION**

Consistency Determination No. **CD-028-97**
Staff: JRR-SF
File Date: 3/7/97
45th Day: 4/21/97
60th Day: 5/6/97
Commission Meeting: 4/8/97

FEDERAL AGENCY: CORPS OF ENGINEERS**DEVELOPMENT****LOCATION:**

Surfside-Sunset Beaches, San Gabriel River to Newport Bay, Orange County (Exhibit 1)

DEVELOPMENT**DESCRIPTION:**

Extension of time to complete previously approved beach nourishment project

SUBSTANTIVE FILE DOCUMENTS:

1. CD-27-89, Corps of Engineers Consistency Determination for beach replenishment project at Sunset Surfside Beach, Orange County.
2. ND-58-95, Corps of Engineers Negative Determination for beach replenishment project at Sunset Surfside Beach, Orange County.

EXECUTIVE SUMMARY

The Corps of Engineers (Corps) has submitted a consistency determination for an extension of time for the previously approved (ND-58-95) beach nourishment project at Surfside-Sunset Beaches, Orange County. In 1995, the Commission concurred with a negative determination for the removal of 1.6 million cubic yards of sand from the offshore area and placement of that material on local beaches. The Commission staff concurred with that project because it was similar to a previously approved consistency determination (CD-27-89). The federal consistency regulations authorize negative determinations for activities that are the same as or similar to previously approved projects (15 CFR § 930.35(d)). The proposed project and the previously approved consistency determination provided for project completion by the end of March.

The Corps proposes to extend the beach nourishment project from the end of March to mid-June 1997. This time extension raises resource issues that the Commission did not previously evaluate. In its review of CD-27-89, the Commission found that the project was consistent with the access and recreation policies of the CCMP, in part, because the activity avoided the peak recreation season. The proposed modification allows for beach disposal during the period of increasing beach use. However, the Corps proposes to avoid recreation effects by limiting disposal activities to beaches owned by the Navy, which prevents public use of this beach for military security reasons. Additionally, the time extension has the potential to affect important biological resources. The California grunion begins its spawning season in late March and the California least tern, a state and federally listed endangered species, begins nesting in the area in early April. The Corps proposes to mitigate the impact by using single point discharge above mean higher high water and including measures to minimize turbidity. With these measures the project will not have significant effects on biological resources, and therefore, is consistent with the marine resource policies of the CCMP.

STAFF SUMMARY AND RECOMMENDATION:

I. Project Description.

The Corps has submitted a consistency determination for an extension of time for the previously approved (ND-58-95) beach nourishment project at Surfside-Sunset Beaches, Orange County. In 1995, the Commission concurred with a negative determination for the removal of 1.6 million cubic yards of sand from the offshore area and placement of that material on local beaches. The Corps proposed to complete the project by March 31, 1997. The current consistency determination will extend the completion date to mid-June, 1997.

II. 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) of the affected area. If the Commission certified the LCP and incorporated it into the CCMP, the LCP can provide guidance in applying Chapter 3 policies in light of local circumstances. If the Commission has not incorporated the LCP into the CCMP, it cannot guide the Commission's decision, but it can provide background information. The Commission has incorporated part of the Orange County and all the Huntington Beach LCPs into the CCMP. The Commission has not incorporated the Seal Beach and the Newport Beach LCPs into the CCMP.

III. 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.

IV. Staff Recommendation:

The staff recommends that the Commission adopt the following resolution:

A. 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. Access and Recreation Resources. Section 30210 of the Coastal Act provides that:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30220 of the Coastal Act 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.

The proposed project includes construction activities on the sandy beach. These activities include placement of pipeline and disposal of sand. The proposed extension allows for these activities to occur during the spring and early summer, when public use of these resources is increasing. Although the project will benefit recreation resources by increasing the amount of sand on the beach, the timing may have an adverse effect public use. The effects from the placement of sand on the beaches include the following: construction noise, the unaesthetic appearance of recently dredged sand, possible bad odors associated with the newly dredged material, and the pipeline interfering with vertical access to the shoreline. Additionally, because of potential safety concerns, the Corps will exclude the public from the disposal area during the operation.

The Corps has designed the project in a manner to minimize the recreational impacts. The Corps' consistency determination describes these mitigation measures as follows:

To date, approximately 400,000 cy of sand have been placed on the downcoast portion of the project area beach. By mid-April, it is expected that the public beach use areas will be completed and only the inner areas near the east jetty will remain [Exhibit 2]. (This area is formally designated as a restriction area and for use only by the Seal Beach Naval Weapons Station; public access is not permitted in this restricted area.) It is estimated that approximately 600,000 cy of sand will be placed in this region. Although placement activities are expected to be complete by late May, activities are scheduled to occur between mid-April and mid-June 1997.

...

The proposed time extension will not cause a significant adverse impact on public access. Although access will need to be limited near the immediate construction area for safety reasons, construction will occur in a restricted area [Exhibit 2]. ... Where the pipe crosses over the public beach, sand ramps will be provided every 500 feet (or every public street accessing the beach) to allow easy access to the ocean. The overall project would not restrict existing access to coastal resources. The nourished area will provide a wider beach, more public access/use opportunities, and greater protection to shoreline facilities than are currently offered. The proposed project is, therefore, consistent to the maximum extent practicable with this policy section.

In summary, the Corps' mitigation for recreational effects includes scheduling the project such that the beach affected during the most of the extension period is a Navy owned beach that is excluded from public use. Additionally, the Corps will provide sand ramps over the pipeline so that it will not interfere with public access to the shoreline. With these measures, the Commission finds that the proposed time extension is consistent with the access and recreation policies of the CCMP.

B. Marine Resources. Section 30230 of the Coastal Act provides that:

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.

Section 30231 of the Coastal Act provides that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed project will extend the ending date of the Sunset-Surfside beach replenishment project to mid-June 1997. The proposed extension will allow disposal of sand on the beach, which will affect marine water quality, during nesting season of the California least tern, a state and federally listed endangered species, and during the spawning season of the California grunion, a unique fish species that lays its eggs on the sandy beach. Without mitigation, the proposed project would interfere with the least tern foraging by increasing turbidity in the marine environment. Additionally, the project would interfere with grunion spawning by increasing turbidity and by covering its spawning habitat, the area of beach above mean higher high tide line.

The Corps' project, however, includes measures to minimize the project's effect on these biological resources. The Corps describes these mitigation measures as follows:

Because unrestrained or unmitigated disposal activities will create turbidity in the nearshore water column, overall operations may affect the California least tern's foraging opportunities, specific measures have been developed and coordinated with the U.S. Fish and Wildlife Service to eliminate all potential impacts on the tern's foraging opportunities. These measures include:

- 1. Placing a temporary berm parallel to the shoreline at approximately MHHW, with a length varying between 300 and 500 feet and crest height of approximately 8 feet MLLW. The physical parameters of the berm will be adjusted in the field for maximum efficiency.*
- 2. Placing a temporary filtration system perpendicular to the berm as shown on [Exhibit 3]. (Filter fabric will be placed at a 50-foot interval over the last 200-feet of berm. Filter fabric will be positioned to stagger and cover 75 percent of the downstream flow.)*
- 3. Depositing beach sand landward of [the] temporary berm (above MHHW) and on [the] southern portion of project area, allowing return waters to flow along [the] temporary berm and through filtration system north to its ocean entry near the east jetty [Exhibit 3].*
- 4. Monitoring overall effectiveness of filtration system to reduce turbidity plumes as compared to pre-system setup conditions by visual observations.*
- 5. Photographing project area by air during peak discharge activities to document turbidity impact caused by construction and comparing aerial photographs taken in 1990 (without filtration system) and in 1997 (with filtration system in operation).*
- 6. Reviewing photo-documentation and turbidity observation data and summarizing findings in a report for submission to agencies.*

If turbidity reduction measures indicate severe migration of plume outside of surfzone, monitoring will be conducted to determine potential impact on California least tern foraging opportunities by providing a qualified biologist to record California least tern foraging behaviors during prime morning and evening foraging periods and monitoring turbidity conditions outside the surfzone (Appendix A).

If onsite biological monitor finds direct impact on foraging opportunities/behaviors of the California least tern, findings will be

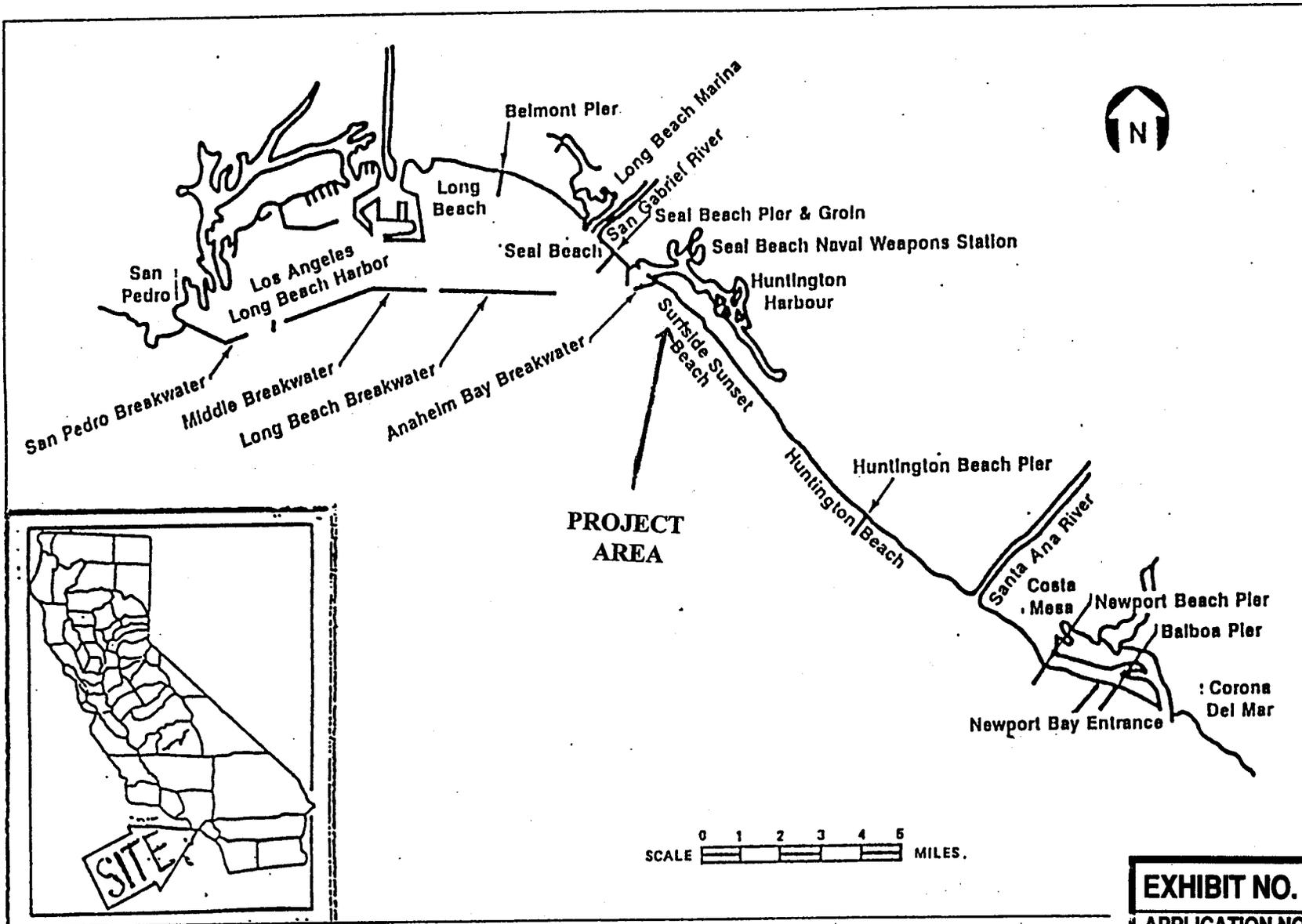
presented to the resource agencies. Resource agencies will review photo-documentation data and biological monitoring reports to determine significance of findings. If resource agencies determine a significant behavioral modification is caused by disposal activities (turbidity), then operations may be modified to occur between the following time periods:

- a. 2 hours after sunrise until 2 hours prior to sunset; and*
- b. 2 hours after sunset until 2 hours prior to sunrise.*

By implementing the previous measures, beach disposal activities are not anticipated to affect the California least terns' foraging opportunities/behavior.

7. Conducting a monitoring program prior to the Stage 11 (Beach Nourishment) Project to determine the long-term foraging behavior of the California least tern in the project area (April 15 to September 1), and if construction extends into the California least tern season, then monitoring will also be conducted that season to determine project impacts on foraging opportunities. A qualified biologist will monitor and document site conditions and foraging events on a weekly basis (1 day per week) over the identified seasons. Findings will be summarized on a seasonal basis in a report write-up for submission to resource agencies.

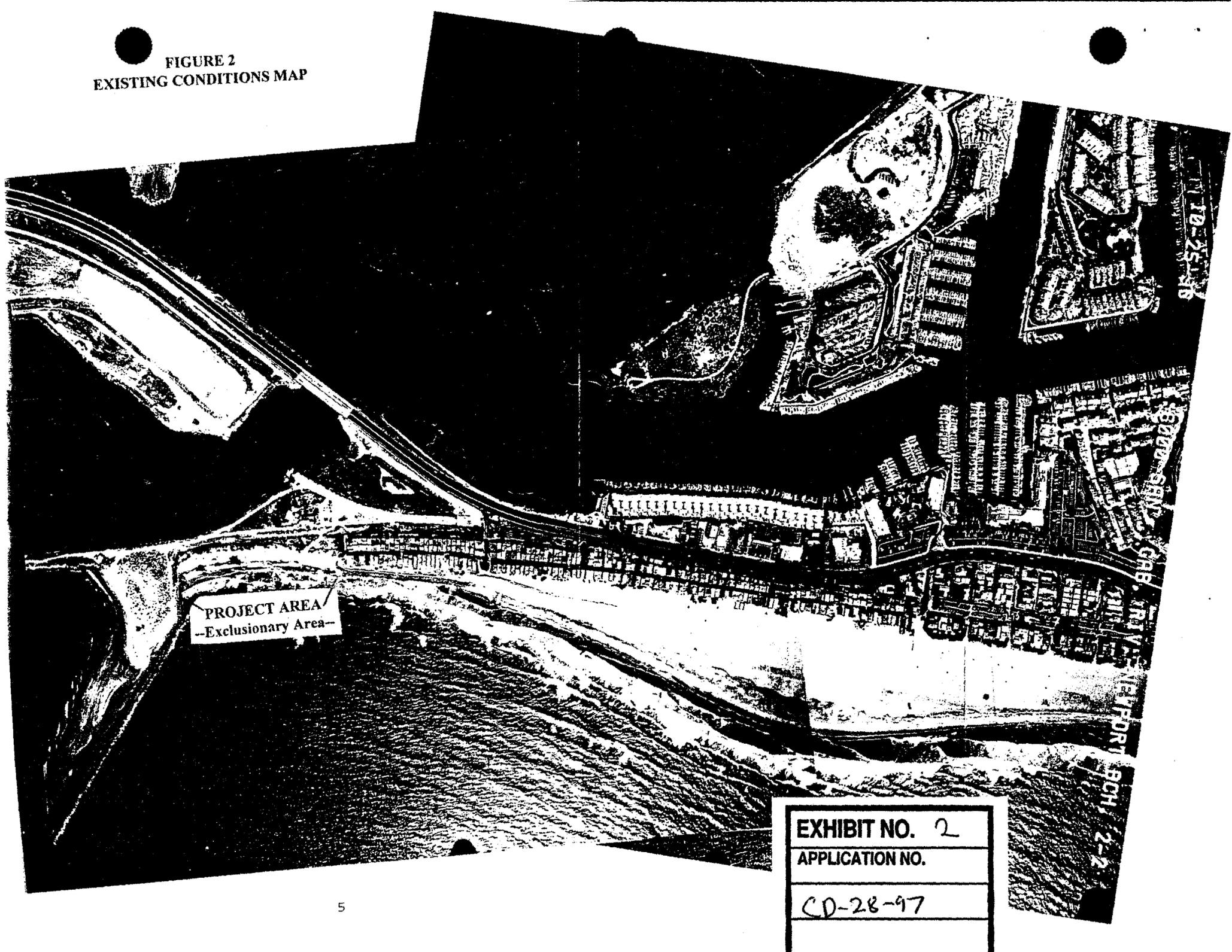
It appears that the mitigation measures proposed by the Corps will avoid effects on both the least tern and the grunion. Additionally, the Corps' monitoring will provide information on the effectiveness of the mitigation measures. Finally, if monitoring indicates adverse effects to these species, the Corps proposes remedial actions to eliminate ongoing adverse effects. With these measures, the Commission finds that the proposed project will avoid significant effects on the least tern and grunion. In conclusion the Commission finds that the proposed project is consistent with the marine resource policies of the CCMP.



PROJECT LOCATION MAP

FIGURE 1

FIGURE 2
EXISTING CONDITIONS MAP



PROJECT AREA
--Exclusionary Area--

EXHIBIT NO. 2
APPLICATION NO.
CD-28-97

FIGURE 3
PROPOSED MITIGATION MEASURES/SITE LOCATION MAP

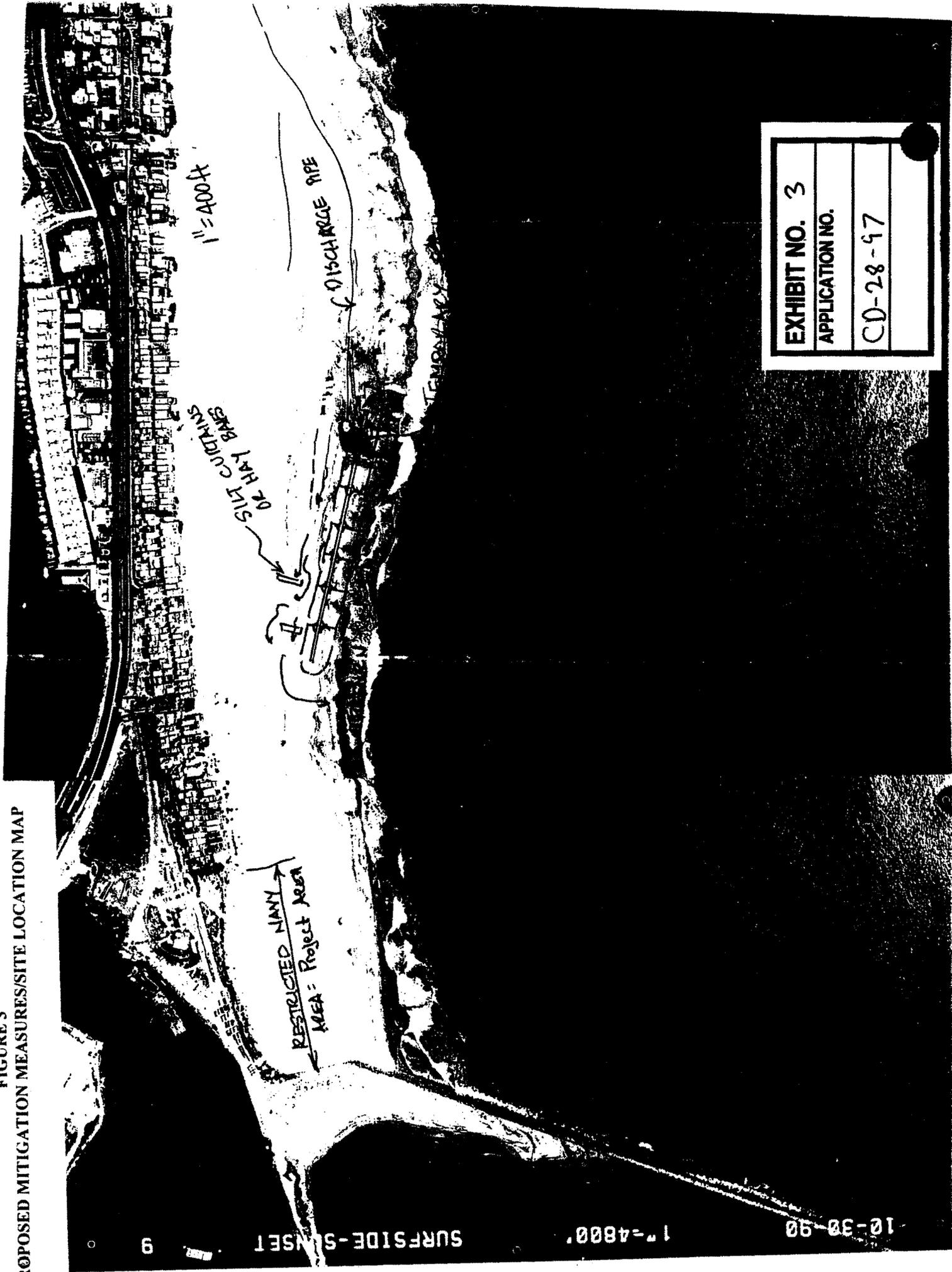


EXHIBIT NO. 3

APPLICATION NO.

CD-28-97