

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT AND RECOMMENDATIONON CONSISTENCY DETERMINATION

Consistency Determination No.	CD-63-97
Staff:	MPD-SF
File Date:	5/12/97
45th Day:	6/26/97
60th Day:	7/11/97
Commission Meeting:	6/10-13/97

FEDERALAGENCY:**U.S. Army Corps of Engineers**DEVELOPMENTLOCATION:

Moss Landing Harbor, Moss Landing, Monterey County (Exhibits 1-4)

DEVELOPMENTDESCRIPTION:

Maintenance and repair of existing jetties (Exhibits 3-5)

SUBSTANTIVE FILEDOCUMENTS:

1. Consistency Determination No. CD-35-93, Corps Repairs, Monterey Breakwater

EXECUTIVE SUMMARY

The U.S. Army Corps of Engineers (Corps) has submitted a consistency determination for repairs to the north and south jetties at the entrance to Moss Landing Harbor in Monterey County. The repairs would restore the jetties to design heights and original conditions, through the replacement of armor stones that have been damaged or removed by storm events and wave action. No expansion or new fill of coastal waters is involved.

The project is required to serve coastal dependent boating uses in Moss Landing Harbor. Because it will not modify the design of the existing jetties, it will not adversely affect sand supply up or downcoast. The project is therefore consistent with the shoreline structures policy of the Coastal Act (Section 30235). Temporary impacts on recreation would occur during construction (scheduled for the peak summer month recreation season), as the jetties would be fenced during construction; however this impact is temporary and is offset by the project's benefits to recreational boating by maintaining the harbor mouth opening. The project is therefore consistent with the public access and recreation policies of the Coastal Act (Sections 30210-30212). The project is consistent with the marine resources and environmentally sensitive habitat policies of the Coastal Act (Sections 30230 and 30240), as the Corps has taken adequate measures to avoid affecting sensitive wildlife species that frequent the area, and because no new fill of open coastal waters will occur.

STAFF SUMMARY AND RECOMMENDATION:

I. Staff Summary:

A. Project Description. The Corps proposes to repair the north and south jetties at Moss Landing Harbor in the middle shoreline of Monterey Bay (Exhibits 1-4). The repairs would restore the jetties to design heights (up to + 12 ft. mean lower low water (MLLW)) (Exhibits 3-5). The repair work will be primarily replacement of armor stones that have been removed by storm events. The stones will be transported to the site either by truck or by barge; in either event a crane will be used to place the stones on the jetties. The existing footprints of the jetties will not be modified. All construction would occur above mean lower low water. Construction is proposed to commence July 21, 1997, and last approximately 60 days. Construction will not occur during weekends.

B. Status of Local Coastal Program. The standard of review for federal consistency certifications is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) of the affected area. If the LCP 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 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 Monterey County LCP has been certified by the Commission and has been incorporated into the California Coastal Management Program (CCMP).

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

II. Staff Recommendation:

The staff recommends that the Commission adopt the following motion:

MOTION. I move that the Commission concur with the Corps' consistency determination.

The staff recommends a YES vote on this motion. A majority vote in the affirmative will result in adoption of the following resolution:

Concurrence

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

III. Findings and Declarations:

The Commission finds and declares as follows:

A. Shoreline Structures. Section 30235 of the Coastal Act provides in part:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

This part of Section 30235 sets out a two-part test for shoreline structures, the first relating to the need for the project, and the second relating to sand supply effects. The Commission has not historically questioned either project need or effects on sand supply when proposed repair work does not entail a new or expanded footprint for an existing shoreline structure. In this case the proposed repairs would only maintain the existing jetties at historic design conditions. The Commission finds the repairs are needed to maintain boating uses at Moss Landing and would not modify the jetties' effects on shoreline sand supply. The Commission therefore finds that the project meets both of the above-cited tests of Section 30235 of the Coastal Act.

B. Public Access and Recreation. Sections 30210-30212 of the Coastal Act provide for the maximization of public access and recreation opportunities. These sections provide:

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Section 30210: 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 30212: (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence...

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

The project would have some effect on public access because the construction period will occur during the peak summer recreational period, and because the areas under construction will be temporarily off limits to the public. While public access on the jetties is not formally allowed, fishermen commonly access the jetties informally. At the same time, by repairing the jetties the project will, on an overall basis, benefit recreational boating, since continued boating depends on a protected entrance channel. For public safety reasons, the Corps will need to fence each jetty as it is undergoing construction. In order to reduce this access impact, the Corps has agreed that both jetties will not be fenced off at the same time. The Corps states:

Although the Corps' position is that the public should not be allowed on coastal structures due to the inherent danger from waves (signs are posted), fishermen still utilize the jetties at Moss Landing. Nevertheless, fishermen will still be able to access (at their own risk) the jetty that is not currently under construction, and adequate access will remain available to the beaches and dunes adjacent to the two jetties. ... Therefore, aesthetics and recreation impacts are expected to be minimal and insignificant.

The Corps has also agreed to avoid construction during the periods of heaviest recreational use (i.e., weekends), which will reduce aesthetic impacts to recreation such as construction noise. As stated above, the Corps has also agreed to only fence off one jetty at a time, to assure the availability of at least one jetty at all times. With these measures, the Commission finds that the project will not significantly diminish the quality of the recreational experience in this area, that access impacts have been minimized to the extent feasible, that adequate access exists nearby, that public safety needs justify the temporary fencing, and that the project's overall benefits to recreation outweigh its short term impacts. The Commission therefore concludes that the project is consistent with the requirements of Sections 30210-30212 of the Coastal Act.

C. Habitat. The Coastal Act provides for the protection of marine resources and environmentally sensitive habitat, as follows:

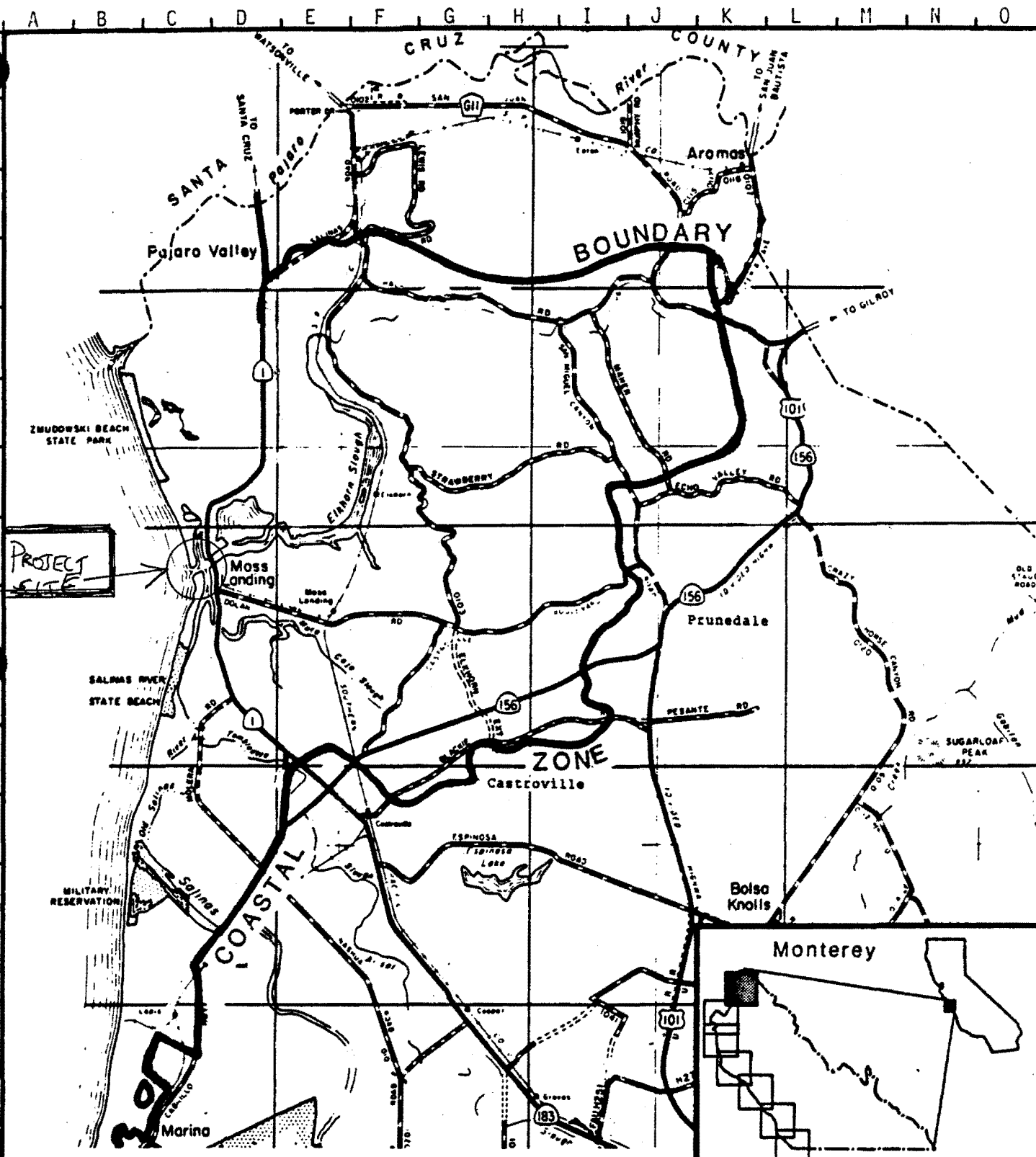
Section 30230. Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or

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.

Section 30240. (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas ... shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Several sensitive wildlife species occur in the greater project vicinity; however none will be adversely affected by the project. The Corps has consulted with the U.S. Fish and Wildlife Service, which has not raised any concerns over effects on sensitive species. The existing jetties' footprint is not being expanded; therefore, issues associated with new fill such as benthic habitat impacts are not raised. In addition, construction will be limited to above the water line. Consequently, no effects on water quality or intertidal habitat would result from the project. While snowy plovers nest in the greater project area, the project impacts will be site specific and will be too far removed from any nesting areas to affect snowy plovers. Pelicans and sea otters are present in the project vicinity; however neither of these species depends on the breakwater for resting or feeding and both species are easily able to avoid this type of temporary repair project. The Commission expressed concerns during the Corps' repair of the Monterey breakwater (CD-35-93) because the Corps needed to temporarily remove sea lions that hauled out on the breakwater. However sea lions do not haul out on the Moss Landing jetties. For these reasons, the Commission concludes that the project will not adversely affect any marine resources or environmentally sensitive habitat, and is therefore consistent with Sections 30230 and 30240 of the Coastal Act.



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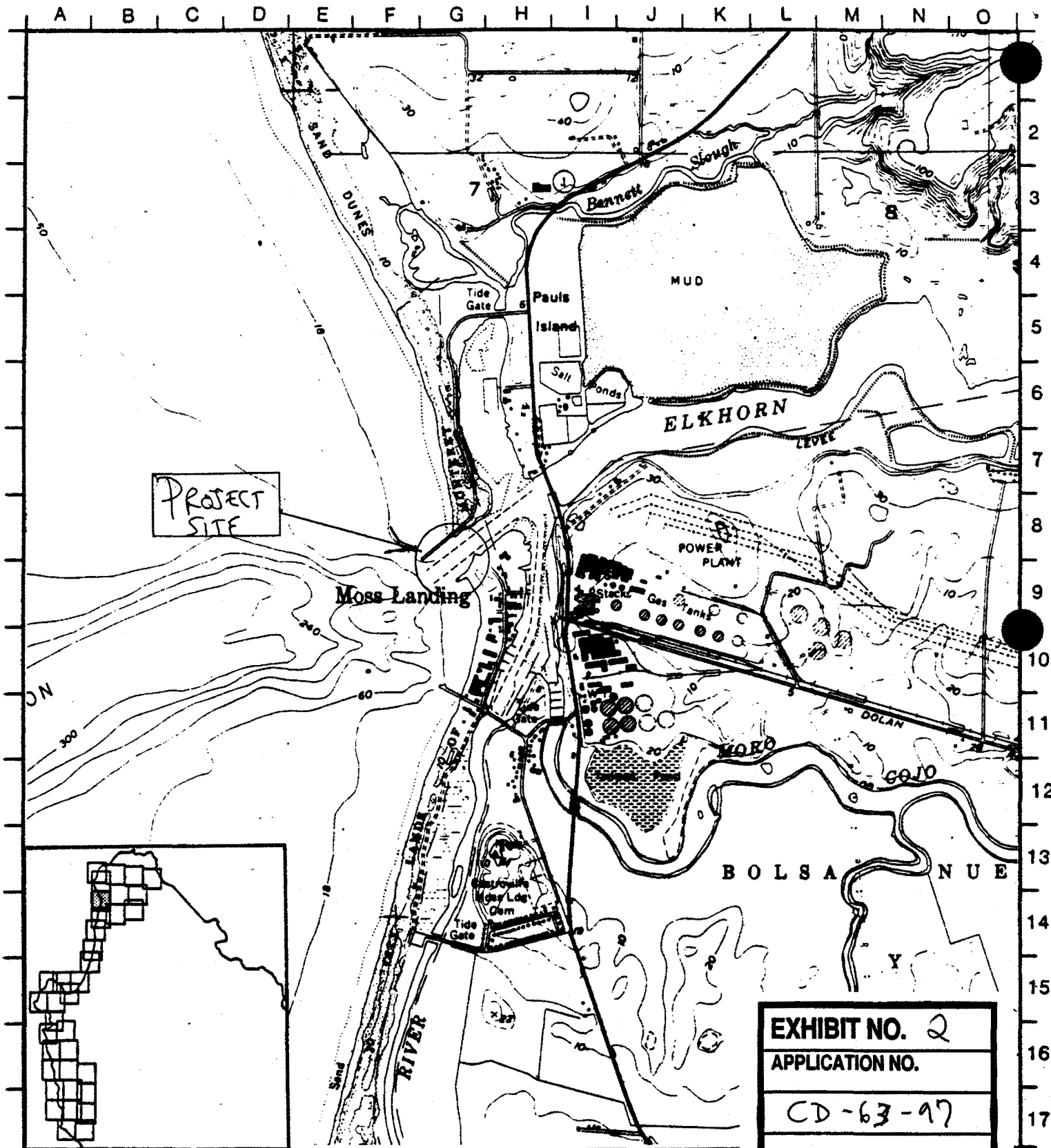
LOCATION MAP



County of Monterey

EXHIBIT NO. 1
APPLICATION NO.
CD-63-97

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PROJECT SITE

Moss Landing

ELKHORN

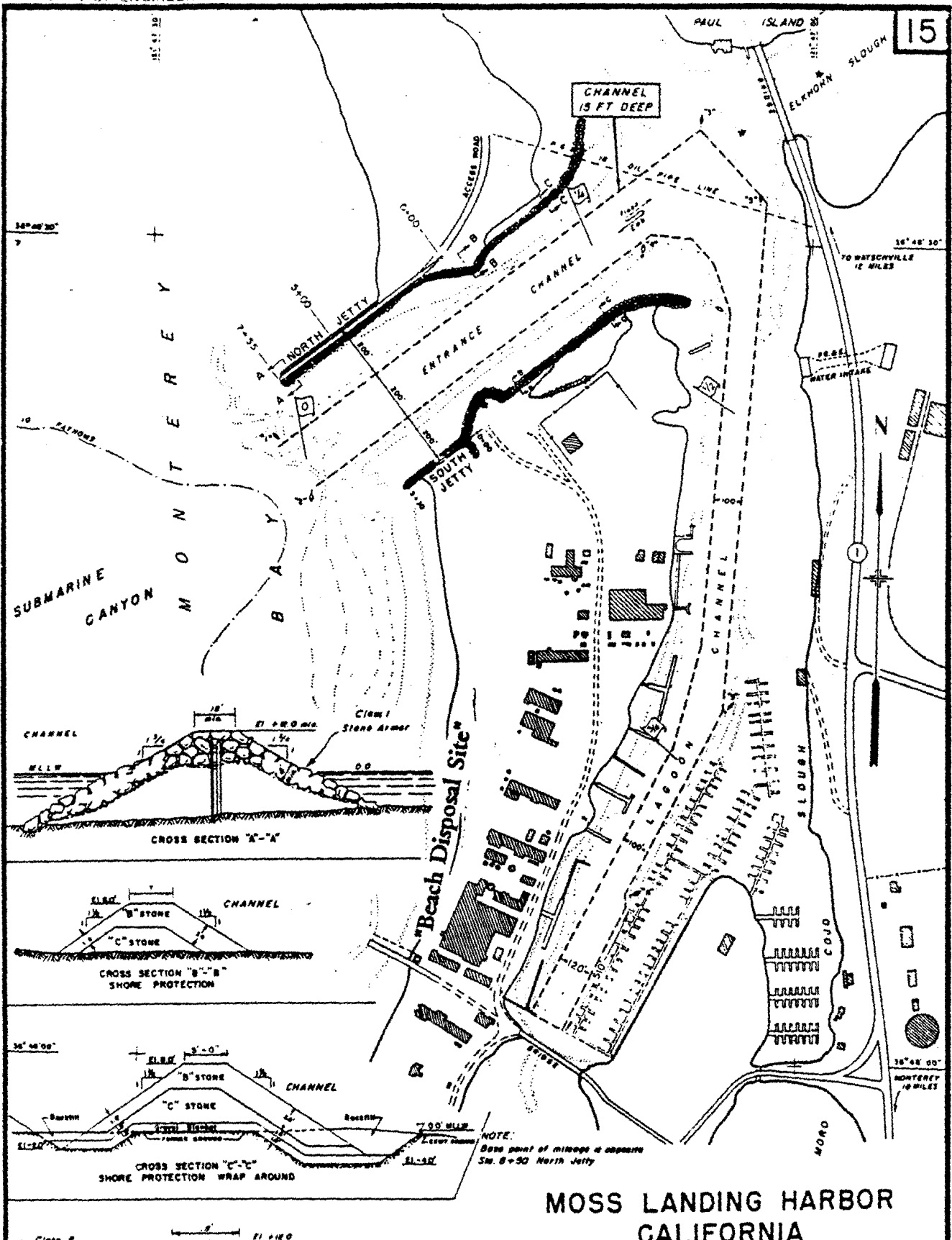
POWER PLANT

BOLSA NUE

EXHIBIT NO. 2
APPLICATION NO.
CD-63-97



California Coastal Commission



MOSS LANDING HARBOR CALIFORNIA

Figure 1

EXHIBIT NO. 3
APPLICATION NO.
CD-63-97

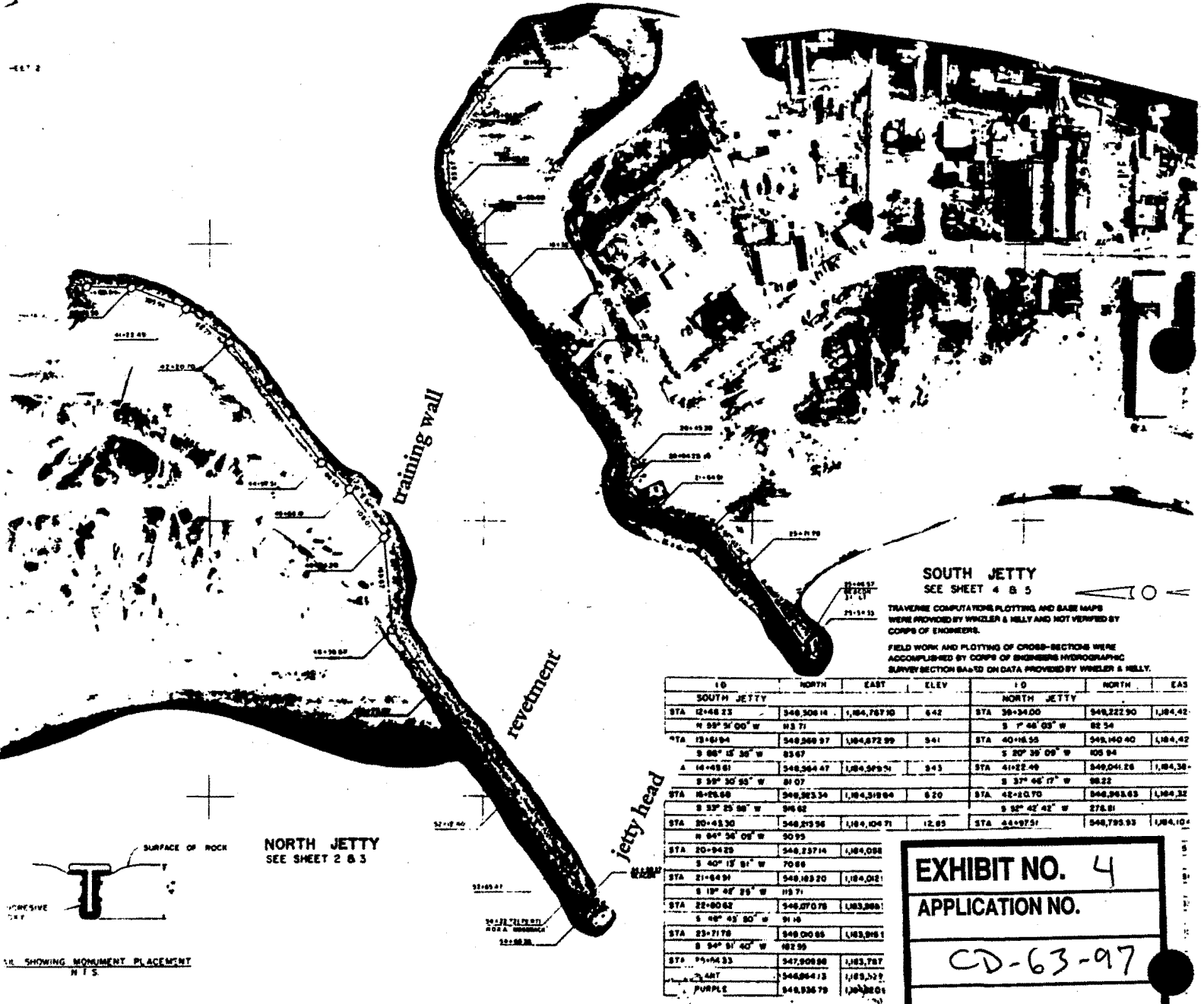


Figure 2. North and South Jetty, Moss Landing Harbor

EXHIBIT NO. 4
APPLICATION NO.
CD-63-97

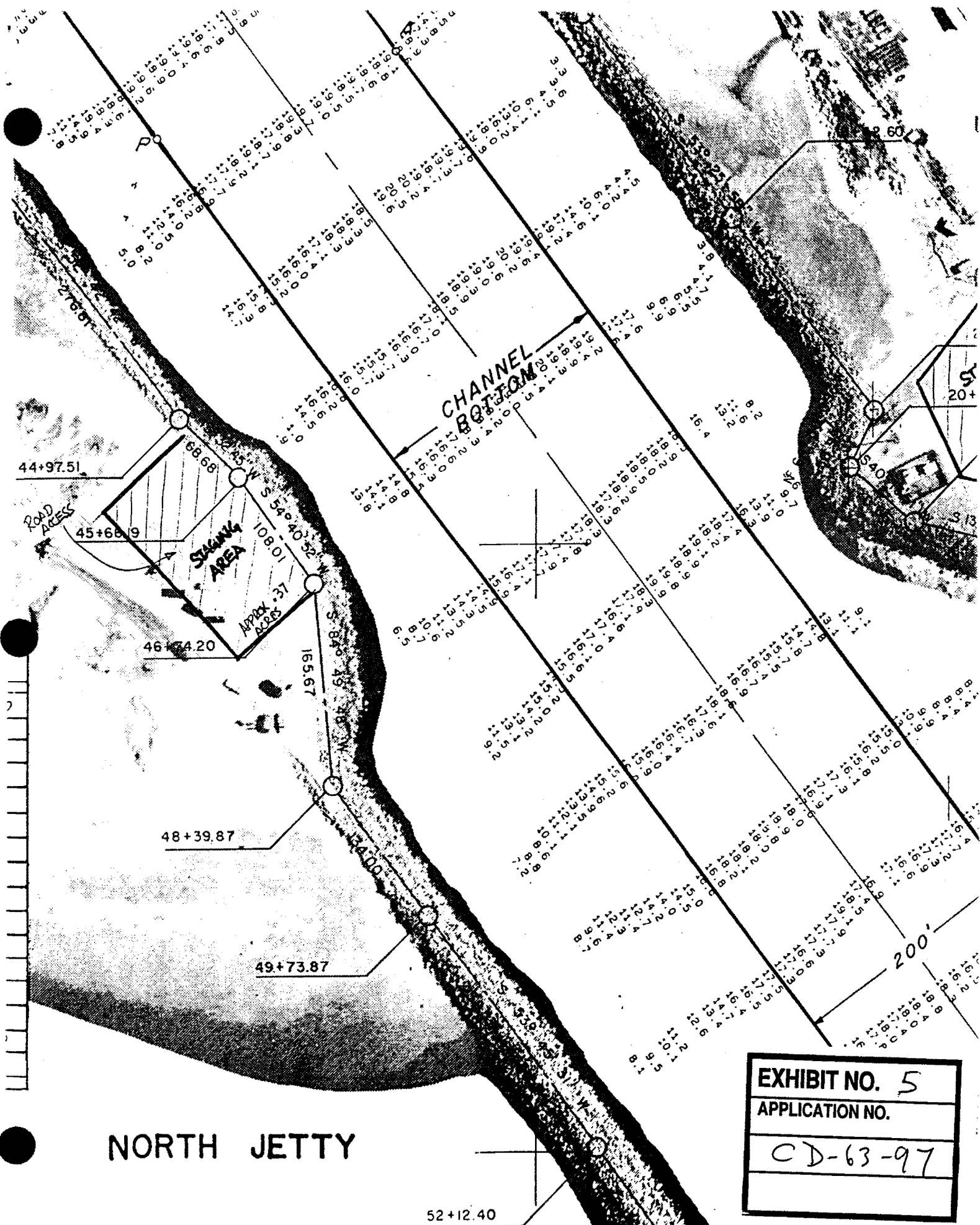


Figure 3. Staging Areas for Moss Landing O&M Jetty Repair Project