

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
2000 Ocean Gate, Suite 1000
Newport Beach, CA 90802-4302
(562) 590-5071



TU 4C

Filed:	August 6, 1998
49th Day:	Sept. 24, 1998
180th Day:	Feb. 2, 1999
Staff:	SFR-LB <i>JA</i>
Staff Report:	Sept 24, 1998
Hearing Date:	Oct. 13-16, 1998
Commission Action:	

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-98-254

APPLICANT: California Recreation Company **AGENT:** Cash & Associates
(The Irvine Company)

PROJECT LOCATION: 2570 Bayshore Drive, Newport Beach, County of Orange

PROJECT DESCRIPTION: Reconstruction of 84 slips in a 130 slip marina. The new boat slips will use a wood deck and framing system utilizing a combination of concrete pontoons and plastic polyethylene pontoons. The total number of boat slips will remain at 130 and the configuration of the marina will remain the same.

LOCAL APPROVALS RECEIVED: Approval in Concept dated June 15, 1998 from the Fire and Marine Department of the City of Newport Beach.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach certified Land Use Plan. Coastal Development Permit: 5-95-160 (The Irvine Company), California Regional Water Quality Control Board "Waiver of Waste Water Discharge Requirements and Water Quality Certification for the Proposed Dock Replacement" (August 14, 1998).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the project as proposed. The project is the repair of an existing marina. The total number of boat slips and the configuration of the marina will remain the same.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby **GRANTS** a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and construction shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application, or in the case of administrative permits, the date on which the permit is reported to the Commission. Construction shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

None

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description and Location

The project site is located at 2570 Bayshore Drive which is located on Newport Harbor in the City of Newport (Exhibit 1). The project site is currently used as a 130 slip marina. The proposed project would result in the reconstruction of 84 slips. Some of the boat slips were damaged by two storms during 1997 and 1998. The new boat slips will use a wood deck and framing system utilizing a combination of concrete pontoons and plastic polyethylene pontoons. The total number of boat slips will remain at 130 and the configuration of the marina will remain the same.

Through coastal development permit 5-95-160 (The Irvine Company) the Commission approved the reconstruction of 48 slips, the addition of an ADA compliant gangway, float support, and the addition of 8 new guidepiles. This work was completed three years ago. The Commission on the project authorized through 5-95-160 imposed no special conditions.

A. Marine Resources

The proposed project involves the reconstruction of 84 slips of a 130 slip marina. Because of its location, on the water, the proposed work may have adverse impacts on water quality and the marine environment. Section 30230 of the Coastal Act states:

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

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(California Recreation Company)

populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

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.

To assure that the project would not adversely affect the marine environment, the applicant submitted the project to the California Regional Water Quality Control Board for their review and approval. In certifying the project, the California Regional Water Quality Control Board noted that the project would not impact any vegetation, that it would not affect any state or federally listed endangered or threatened species, or critical habitat, and that the demolished docks will be taken to an inland disposal site (Exhibit 3). The U.S. Army Corps of Engineers through a preliminary "Letter of Permission" (LOP) (Exhibit 4) describing anticipated project impacts noted that the project would temporarily affect 1.5 acres of water through the construction activity necessary to remove and replace the 84 boat slips. The project would not require any dredging or filling of coastal waters and that there would be no impact to eelgrass or other sensitive coastal resources. Additionally, coastal development permit 5-95-160 issued by the Commission did not identify any coastal resources at risk.

The project site currently contains an operating 130 slip marina. The proposed reconstruction of 84 slips will not have an adverse impact on the marine environment due to the fact that there are no sensitive resources located on the project site, the project has been reviewed by the California Regional Water Quality Control Board, and the reconstructed marina will occupy the same footprint as the existing marina. For the reasons stated above, the Commission finds that the proposed project is consistent with Sections 30230 and 30231 of the Coastal Act regarding the maintenance of marine resources, water quality, and biological productivity.

C. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the

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local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan was certified on May 19, 1982. The project is consistent with the Chapter 3 policies of the Coastal Act. The proposed development will not prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The project is located in an existing marina in an urbanized area. Development already exists on the subject site. The project site does not contain any known sensitive marine resources, therefore the impacts arising from the proposed project will be minimal. The project as proposed is the least environmentally damaging alternative. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

**FIRE & MARINE DEPT.
CITY OF NEWPORT BEACH**

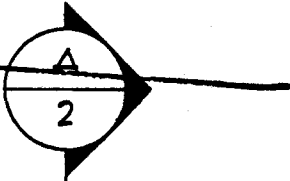
Tony Melton
6/15/98

South Coast District Office

APPROVED **5-98-254**
Permit No.

By: _____

EFFECTIVE
Date: _____



RECEIVED

JUN 25 1998

CALIFORNIA
COASTAL COMMISSION

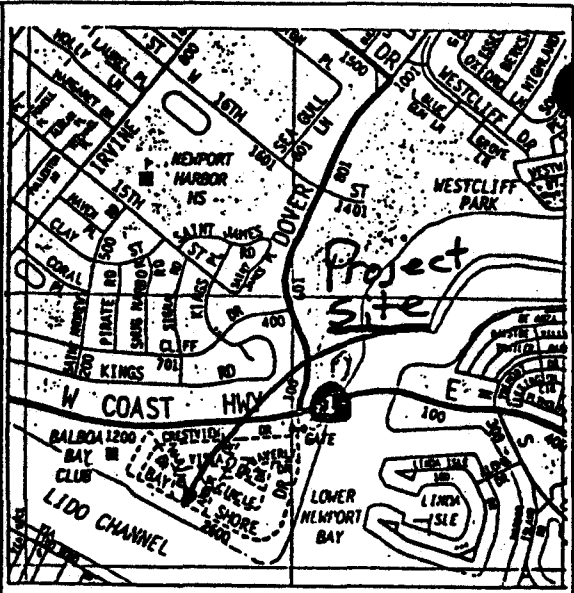
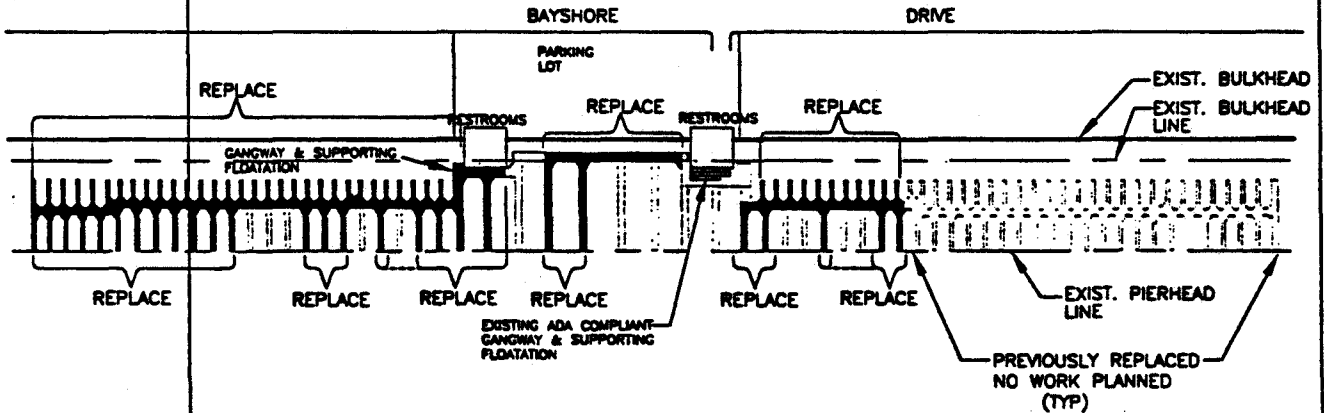


EXHIBIT No. 1

Application Number:
5-98-254

Location Map

California Coastal
Commission



BAYSHORE MARINA

2570 BAYSHORE DRIVE
NEWPORT BEACH, CALIF.



PURPOSE: Return dock to a functional useable dock structure

Datum: MLLW = 0

Adj. Property Owners:

1. See Attached List
- 2.
- 3.

PLAN VIEW

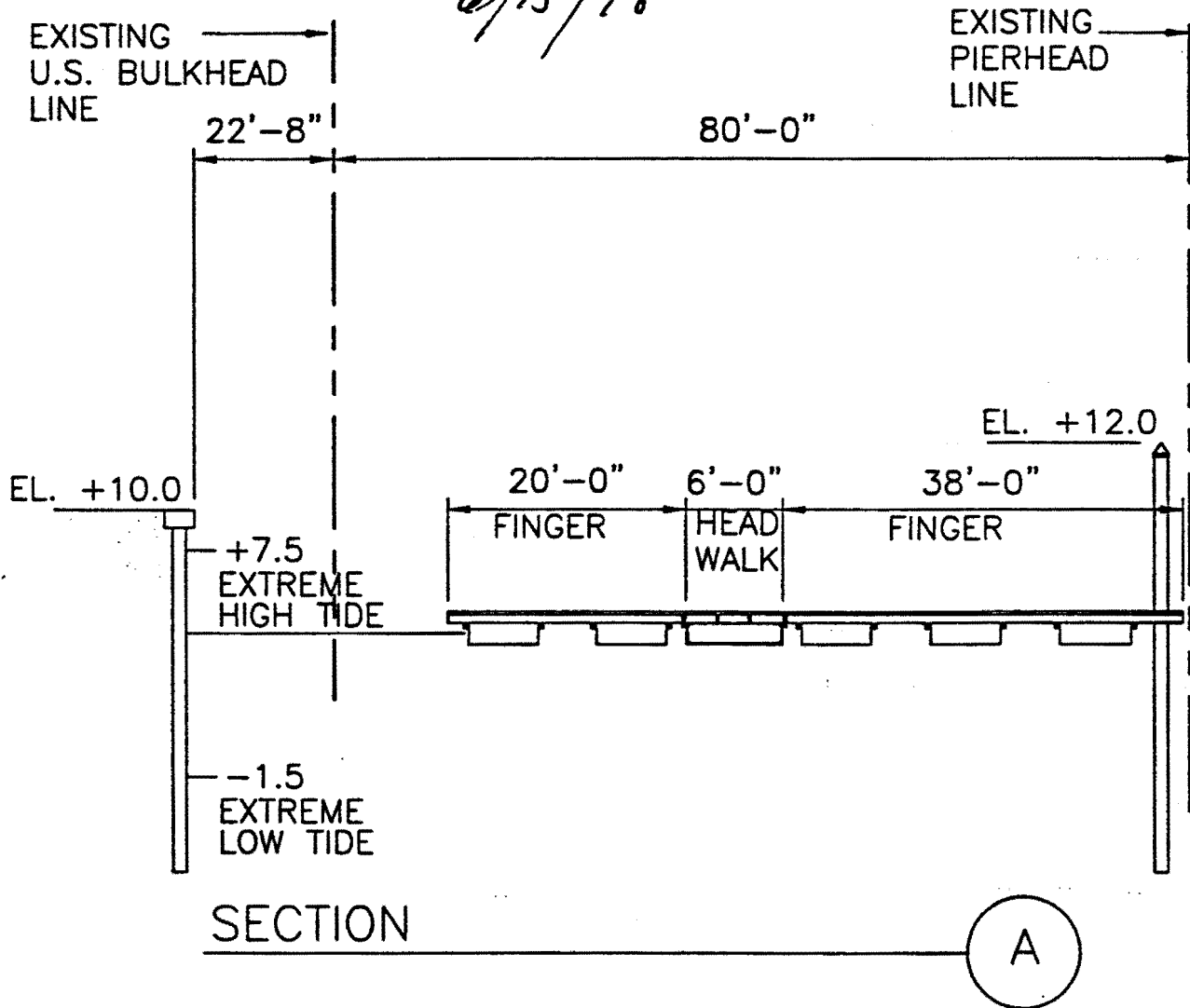
California Recreation Co.
dba the Irvine Co.
2570 Bayshore Dr.
Newport Beach, Ca

Proposed Replacement of Docks

IN: Lido Channel
AT: Newport Beach
County of O.C. State: CA.
Application By: Cal. Rec.
Sheet 1 of 2 Date: 6/8/98

**FIRE & MARINE DEPT.
CITY OF NEWPORT BEACH**

Tony Muly
6/15/98



PURPOSE:

Datum: MLLW = 0
Adj. Property Owners:
1. See Attached List
2.
3.

EXHIBIT No.

Application Number:

5-98-254

Plan Detail



California Coastal
Commission

Proposed

IN:
AT:
County of O.C. State: CA.
Application By:
Sheet 2 of 2 Date: 6/8/98



Peter M. Rooney
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

Santa Ana Region


Internet Address: <http://www.swrcb.ca.gov>
3737 Main Street, Suite 500, Riverside, California 92501-3339
Phone (909) 782-4130 FAX (909) 781-6288



Pete Wilson
Governor

August 14, 1998

Mr. Daryl Landrum
California Recreation Company
dba The Irvine Company
1137 Bayside Drive
Corona Del Mar, CA 92625

EXHIBIT No. 3
Application Number: 5-98-254
RWQCB Letter
 California Coastal Commission

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AUG 17 1998
CALIFORNIA
COASTAL COMMISSION

WAIVER OF WASTE DISCHARGE REQUIREMENTS AND WATER QUALITY CERTIFICATION FOR THE PROPOSED DOCK REPLACEMENT, CITY OF NEWPORT BEACH, ORANGE COUNTY (NO ACOE REFERENCE NUMBER)

Dear Mr. Landrum:

On June 26, 1998, we received a transmittal dated June 16, 1998 from your agent, Cash & Associates, for the above-referenced project. The filing fee was received by our office on July 1, 1998. We received all requested materials for a complete application as of July 1, 1998.

This letter responds to your request for certification, pursuant to Clean Water Act Section 401, that the proposed project described below will not violate State water quality standards:

- 1. Project description:** You are proposing to replace a portion of a marina that was severely damaged by two storms during 1997 and 1998. The project consists of demolishing the existing damaged docks and replacement with new ones. The removed docks will be taken to an approved inland disposal site.
- 2. Receiving water:** Lower Newport Bay
- 3. Fill area:** Ocean 0.3 acres of permanent impact. The work is being conducted within the footprint of the existing seawall.
No wetlands will be impacted.
- 4. Dredge volume:** None
- 5. Federal permit:** The U.S. Army Corps of Engineers has not yet made a determination on your application.
- 6. Compensatory mitigation:** None

There is no vegetation in the project area. The proposed project is not expected to impact state- or federally-listed endangered or threatened species or their critical habitat.

California Environmental Protection Agency

Mr. Daryl Landrum
The Irvine Company
August 14, 1998

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You have submitted an application for a nationwide permit to the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act and have filed for a Coastal Development Permit from the California Coastal Commission. The proposed construction activities are exempt from the requirements of CEQA under Section 15301.

Resolution No. 96-9 (copy enclosed) provides that waste discharge requirements for certain types of discharges are waived provided that criteria and conditions specified in the Resolution are met. Provided that the criteria and conditions for Minor Stream Channel Alterations specified on page 3 (of Attachment "A" to the Resolution) and the general conditions specified on page 4 are met, waste discharge requirements are waived for this project.

Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. This is equivalent to waiver of water quality certification. Although we anticipate no further regulatory involvement, if the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, we may formulate Waste Discharge Requirements.

Should there be any questions, please contact Hope Smythe at (909) 782-4493 or Linda Garcia at (909) 782-4469.

Sincerely,

Joanne G. Schneid
for GERARD J. THIBEAULT
Executive Officer

Attachment

cc (with attachment):

Cash & Associates - Randy H. Mason

cc (w/out attachment):

U.S. Environmental Protection Agency, Wetlands and Sediment Management Section - Jerry Bock
(WTR-10)

U.S. Army Corps of Engineers, Los Angeles District - Vicky White

U.S. Fish and Wildlife Service - Martin Kenney

State Water Resources Control Board, OCC - Ted Cobb

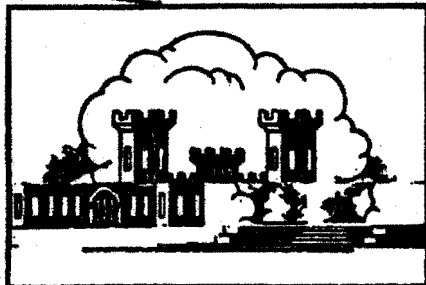
State Water Resources Control Board, DWQ-Nonpoint Source Certification and Loans Unit -
William R. Campbell, Chief

California Department of Fish and Game, Long Beach - Terri Dickerson

California Coastal Commission - Meg Vaughn

LCG:\data\401\landrum.401

California Environmental Protection Agency



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AUG 18 1998

LOS ANGELES DISTRICT CALIFORNIA
U.S. ARMY CORPS OF ENGINEERS COASTAL COMMISSION

EXHIBIT No. 4

Application Number:

5-98-254

ACOE LOP

California Coastal
Commission

LOP-FACSIMILE TRANSMITTAL

US ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT--SPLCO-R
P.O. BOX 532711
LOS ANGELES, CA 90053-2325

DISTRICT CONTACT:
Name: Vicki A. White
Phone: (213) 452-3414
FAX: (213) 452-4196

DATE INITIATED: August 5, 1998 Please review the LOP materials and provide substantive, site-specific comments to the District on or before August 20, 1998. If no comments are received by this date, the District assumes compliance with 33 CFR Part 325.2(e)(1).

AGENCY:

	<u>FAX number</u>	<u>Attn:</u>
[X] California Department of Fish and Game	619-467-4299	M. Fluharty
[X] U.S. Environmental Protection Agency	415-744-1078	R. Tuden
[X] U.S. Fish and Wildlife Service	760-431-9624	J. Bartel
[X] National Marine Fisheries Service	562-980-4092	B. Hoffman
[X] U.S. Coast Guard	562-980-4427	Lt. R. Collier
[X] California Coastal Commission	415-904-5400	J. Raives

LOP NUMBER 98-00604-VAW

APPLICANT NAME: California Recreation Company

AGENT NAME: Cash & Associates

WATERWAY NAME: Lower Newport Bay, Lido Channel

LOCATION: The proposed work is located at the Bayshore Marina, 2570 Bayshore Drive, in the City of Newport Beach, Orange County, California (see attached).

BRIEF DESCRIPTION OF PROPOSED WORK: The applicant proposes to temporarily impact 1.5 acres of waters of the U.S. to replace portions of the dock structure at the Bayshore Marina in-like-kind and dimensions (see attached). The existing dock structure, including the dimensions of the fingers, consists of an area of approximately 841 linear feet by 65 feet wide. The surface area of the dock is 19,750 sq. ft. The proposed work would return the dock into a functional, useable structure following the damage that occurred during the storms of 1997/1998. The project would not require any dredging or filling of waters of the U.S.; all work would be conducted from small work boats and would not require the use of a barge.

AREA OF WATERS SUBJECT TO LOSS AS A RESULT OF PROPOSED WORK: The proposed work would result in temporary impacts to 1.5 acres of waters of the U.S. Since the dock would be replaced in-like kind and dimensions, the proposed work would not increase the coverage area of navigable waters of the U.S. There would be no impact to eelgrass or other sensitive coastal resources.