

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
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Filed: 8/27/98
49th Day: 10/15/98
180th Day: 2/23/99
270th Day: 5/24/99
Staff: MHC
Hearing Date: October 13-16, 1998

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO: 4-98-238
APPLICANT: The Cultured Abalone, Inc. AGENT: Richard Craig
PROJECT LOCATION: 9580 Dos Pueblos Canyon Road, Santa Barbara County

PROJECT DESCRIPTION: Extension of three existing 8 inch diameter ocean water intake pipelines by 350 feet and installation of two 18-inch diameter 1,700 feet long ocean water intake lines to serve an existing abalone rearing facility.

LOCAL APPROVALS RECEIVED: CUP 89-CP-53

SUBSTANTIAL FILE DOCUMENTS: Application 4-98-238; Coastal Development Permit 4-90-18

SUMMARY OF STAFF RECOMMENDATION: Staff recommends that the Commission find that the proposed project is consistent with the requirements of the Coastal Act with the addition of special conditions regarding agency review by the State Lands Commission and the U.S. Army Corps of Engineers, the assumption of risk for ocean related hazards, and coastal permitting requirements for future repair and replacement of the pipelines.

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 standard 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, is located between the sea and

the first public road nearest the shoreline, 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 development 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 development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development 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 development 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 or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its developments, 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 the 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

1. **State Lands Commission Review:** Prior to the issuance of the Coastal Development Permit, the applicant shall provide the Executive Director with a written determination from the State Lands Commission that: (a) no state lands are involved in the development; or (b) state lands are involved in the development, and all permits required by the State Lands Commission have been obtained; or (c) pending a final determination

of state lands involvement, an agreement has been made by the applicant with the State Lands Commission for the project to proceed without prejudice to the determination that state lands may be involved in the development.

2. **Applicant's Assumption of Risk:** Prior to the issuance of the Coastal Development Permit, the applicant as lessee shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazards from ocean waves, tides and currents, and that (b) the applicant hereby unconditionally waives any future claims of liability against the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens, which the Executive Director determines, may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to the Coastal Development Permit unless the Executive Director determines that no amendment is required.
3. **U.S. Army Corps of Engineers Review:** Prior to the commencement of construction of the development authorized by this permit, the applicant shall provide the Executive Director a copy of a U.S. Army Corps of Engineers permit, or letter of permission, or evidence that no U.S. Army Corps permit is necessary for the proposed project.
4. **Repair and Replacement Permit Requirement:** In the event that any of the pipelines are damaged or destroyed as a result of oceanographic or other natural conditions, the applicant shall obtain a regular Coastal Development Permit prior to replacing or repairing the intake and discharge lines. Such application shall be accompanied by an oceanographic and engineering report which assesses the causes of the damage suffered by the lines and presents alternative designs which would ensure the future stability of the pipelines

IV. Findings and Declarations

The Commission hereby finds and declares:

1. Project Location and Description

The proposed project is located seaward of the mean high tide-line opposite the mouth of Dos Pueblos Canyon approximately four miles west of the unincorporated community of Goleta. The proposed project is intended to serve an existing abalone rearing facility, which has been previously permitted by the Commission (CDP No. 4-90-18). The proposed project consist of the extension of three existing 8-inch diameter ocean water intake pipelines approximately

350 feet further seaward from their present ocean terminus, and the installation of two new 18-inch diameter pipelines extending approximately 1,700 feet seaward of the mean high tide-line. Both the extension of the existing lines and the installation of new lines would be within the existing previously approved pipeline corridor for the existing abalone facility. The two new 18-inch lines would require excavation across the beach and through the surface zone to bury the nearshore portion of the pipelines. The subtidal portion of the lines would be positioned on the ocean floor. The subtidal portions would be weighted down with concrete blocks attached by metal straps on ten-foot intervals along the pipeline. Both the extended and new lines will be made of polyethylene. (See Exhibits 1 through 3.)

The two new 18-inch pipelines will be installed first, with the extension of the three existing 8-inch pipelines occurring within one year of the installation of the 18-inch pipelines. Both the 18-inch and the 8-inch pipelines will be preconstructed and capped off on land. A barge will then pull the pipelines offshore with a winch while the concrete anchors are attached to the pipelines in a private parking area near the beach. The anchors will be slid across the beach on temporary steel pipe rails. The new pipelines and anchors will float on the surface of the ocean until they are pulled out to their full length, and then sunk into position on the ocean floor by removing the caps and flooding the pipelines with water. The installation of the new and extended pipelines will each take approximately one or two days to complete.

2. Coastal Issues

a. Aquaculture

Coastal Action Section 30222.5 provides that:

Ocean front land that is suitable for coastal dependent aquaculture shall be protected for that use, and proposals for aquaculture facilities located on those sites shall be given priority, except over other coastal dependent developments or uses.

The Commission has previously approved the installation of two ocean water intake lines to service the development of an abalone rearing facility on an 1.1 acre on-shore site located approximately 1000 feet from the shoreline (CDP No. 4-90-18). The inland portion of the abalone rearing facility falls within the original coastal permitting jurisdiction of the County of Santa Barbara, and also within the coastal appeals jurisdiction of the Commission. The portion of the original and proposed project seaward of the mean high-tide falls within the retained original coastal permitting jurisdiction of the Commission.

The proposed extension of the three originally permitted and proposed two new ocean water intake lines will serve an aquaculture operation located on ocean fronting lands, and is therefore consistent with the use of ocean fronting lands for coastal dependent uses, including

aquaculture, specified in Coastal Act Section 30222.5. The purpose of the proposed extension and lengthier new lines into deeper water is to tap cooler water for the abalone rearing operation and to reduce potential damage to the terminal ends of the ocean water intake pipelines.

The Commission therefore finds that the proposed development, as proposed, is consistent with the priority uses established by Coastal Act Section 30222.5.

b. Dredging/Filling Open Coastal Waters

Coastal Act Section 30233(a) provides, in part, that:

- (a) The diking, filling, or dredging of open coastal waters . . . shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where mitigation measures have been provided to minimize environmental effects, and shall be limited [in part] to the following:

- (8) Nature study, aquaculture, or similar resource dependent activities.

The proposed project would involve the extension of three existing 8-inch diameter ocean water intake lines approximately 350 feet further seaward than the present terminus, and the installation of two 18-inch ocean water intake lines extending seaward approximately 1,700 feet from the mean high tide-line. The existing lines have been buried in a three foot deep trench from an existing headwall (situated approximately 175 feet landward of the mean high-tide line) out to a point between 2 and 3 feet below the mean lower low water (MLLW) line in the intertidal zone, and currently extend to a point 700 feet seaward of the mean high-tide line. The two proposed 18 inch lines would be installed along side of the existing three 8 inch lines and would also be buried in a three foot deep trench extending from the existing headwall out to a point between 2 and 3 feet below the mean lower low water line (MLLW).

All of the ocean water intake pipelines would be anchored to the ocean floor beyond the intertidal zone with 24 x 31x 72 inch concrete blocks strapped to the pipelines at ten-foot intervals. The dredging and deposition of material in the open coastal waters associated with the installation of off-shore ocean water intake lines to service an on-shore abalone rearing facility is consistent with the permitted dredging and filling activities identified in the Coastal Act Section 30233. (A)(8). (See additional findings below regarding environmentally sensitive marine habitats.)

To undertake the project, however, the applicant must demonstrate a legal interest in the state tide lands upon with the project would be constructed. Further, to ensure consistency with the Coastal Act requirements and applicable federal requirements, the applicant must demonstrate

evidence of having received any necessary permits from the U.S. Army Corps of Engineers prior to commencement of construction of the project.

Special Condition # 1 requires that the applicant obtain a written determination from the State Lands Commission that (a) no state lands are involved, in the development; or (b) if state lands are involved, all permits required by the State Lands Commission have been obtained; or (c) pending a final determination of state lands involvement, an agreement has been made by the applicant with the State Lands Commission for the project to proceed without prejudice to the determination whether state land may be involved.

Special Condition # 3 requires that prior to the commencement of construction of the project, the applicant obtain a U.S. Army Corps of Engineers permit, or evidence that no U.S. Army Corps permit is necessary for the proposed project.

The proposed project therefore involves only dredging and filling for the purposes accommodating one of the permitted uses (i.e., aquaculture) enumerated in Coastal Act Section 30233((a)(8), and only in a manner which is the least environmentally damaging. (See additional findings below regarding environmentally sensitive marine habitats.)

The Commission therefore finds that the proposed development, as conditioned, is consistent with the requirements of Coastal Act Section 30233(a)(b).

c. Coastal Hazards

Coastal Act Section 30253 provides, in part, that:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

As noted above, the proposed project would involve a 350 foot extension of three 8-inch ocean water intake lines and the installation of two new 18-inch ocean water intake lines out to a distance of 1,700 feet seaward of the mean high-tide line. The pipelines would consist of flexible polyethylene material and be buried in a 3 foot deep trench extending from the existing headwall situated approximately 175 feet landward of the mean high tide line out to a point between 2 and 3 feet below mean lower low water (MLLW). The pipelines would be anchored to the ocean floor beyond the intertidal zone with concrete anchors (consisting of 24 x 31 x 72

inch concrete blocks) fastened to the pipeline by metal straps at ten foot intervals. (See Exhibit 3.)

The proposed 350 foot extension of the three existing 8 inch lines and the installation of the two new 18-inch lines out to a distance 1,700 feet seaward of the mean high tide-line is intended to place the ocean water intakes at the seaward terminus beyond the influence of storm generated waves and littoral currents. Additionally, the proposed design utilizing polyethylene and weighted concrete blocks is intended to provide a combination of stability and flexibility. The portion of the pipelines buried in the intertidal zone will be protected from normal wave and tidal action. However, unusually large winter storms could generate scour, which has the potential to expose portions of the pipelines, thus subjecting them to movement and possible rupture. Additionally, that portion of the line seaward of the point 2 to 3 feet below lower mean lower water level would be subject to regular wave surge and littoral currents. While extending the existing pipelines and placing the ends of the new pipelines further seaward than the original pipelines reduce the potential damage to the intakes at the seaward terminus of the pipelines, the pipelines nevertheless remain subject to potentially damaging ocean forces. These forces have the potential to erode the sand and cobble base upon which portions of the pipelines would be placed and therefore to cause the line to move and or rupture.

Special Condition #2 requires that the applicant acknowledge that (a) the site may be subject to extraordinary hazards from ocean waves and tides and that (b) the applicant waives any future claims of liability against the Commission or its successors in interests for damage from such hazards.

Finally, Special Condition #4 requires that in the event that the pipelines are damaged or destroyed as a result of oceanographic or other natural conditions, the applicant shall obtain a regular Coastal Development Permit prior to replacing or repairing the lines. Such application must be accompanied by an oceanographic and engineering report, which assesses the causes of the damage suffered by the lines, and presents alternative designs, which would ensure the future stability of the lines.

The Commission therefore finds that the proposed development, as conditioned, is consistent with and adequate to carry out the requirements of Coastal Act Section 30253.

d. Environmentally Sensitive/Marine Resources

Coastal Section 30230 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, in part, that:

The biological productivity and the quality of coastal waters . . . appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained . . .

Section 30233 of the Coastal Act provides, in part, that:

The diking, filling, or dredging of . . . wetlands shall be permitted in accordance with 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 [uses noted above under this section].

The proposed new and existing pipelines will be routed through the intertidal and nearshore waters. The substrate of the intertidal area is composed primarily of cobble, which is seasonally overlain with sandy sediments, while the nearshore area substrate is a mixture of cobble and sand. Additionally, there is some stable hard substrate occurring further west (up-coast) of the project site. During the winter months exposed cobbles extend from an existing headwall seaward approximately 150 feet; beyond this point the substrate is primarily sand for an additional 550 feet seaward. A narrow exposed rock out-crop occurs approximately 100 feet beyond the seaward terminus of the existing pipelines. Small stands of kelp (*Macrocystis pyrifera*, *Egrecia menziesii*) and surfgrass (*Phyllospadix spp.*) exist within the vicinity of the project offshore. (See Exhibit 5.)

The three existing 8-inch pipelines would be extended 350 through the nearshore area to a point approximately 1,050 feet seaward of the mean high-tide line, terminating in about 30 feet of water. The two new 18-inch pipelines would be extended through the intertidal and nearshore area to a point approximately 1,700 feet seaward of the mean high-tide line, terminating in about 45 feet of water. The seaward terminus of all five of the intake lines would be perforated with one-inch maximum diameter holes to filter out marine organisms.

As noted above, the two new ocean water intake lines would be buried in a 3 foot deep trench, extending from an existing headwall situated approximately 175 feet landward of the mean high tide line out to a point between 2 and 3 feet below mean lower low water (MLLW). The pipelines would be anchored to the ocean floor beyond the intertidal zone with concrete anchors (consisting of 24 x 31 x 72 inch concrete blocks) fastened to the pipeline by metal straps at ten foot intervals. The two new pipelines would cross cobbles

seasonally covered with sand, but would not cross any subtidal rock outcrops, and would terminate short of any reef structures. The route of the pipelines would not impact any kelp or surfgrass habitats. (See Exhibit 5.)

Cobble boulder fields are an important marine habitat in southern California because they provide stable substrate upon which marine macrophytes and invertebrates can attach. Hard substrate habitats (whether in the form of cobble or rock outcrops) is uncommon in comparison with sandy beach habitat in southern California. The biological community associated with the hard marine substrate in southern California is generally much richer than that associated with sandy beaches.

The installation of the two new pipelines would cause temporary disruption of the benthic habitat (both sand and cobble substrate), and result in the temporary loss of some sessile marine plants and animals. While the natural recovery of these species would be relatively quick, repeated disturbance of the substrate to accommodate repairs or replacement would increase impacts to benthic organisms. In order to minimize the impacts to intertidal and subtidal marine habitats it may be necessary to incorporate additional mitigation measures into any repair or replacement project, and to reduce the likelihood of frequent repairs through alternative designs.

Special Condition #4 requires that in the event any of the pipelines are damaged or destroyed as a result of oceanographic or other natural conditions, the applicant shall obtain a regular Coastal Development Permit prior to replacing or repairing the intake and discharge lines. Such application shall be accompanied by an oceanographic and engineering report, which assesses the causes of the damage suffered by the lines and presents alternative designs, which would ensure the future stability of the pipelines.

At maximum build-out, the ocean water intake lines would transport up to 1,800 gallons of seawater per minute (an increase of 600 gallons per minute over the existing three 8 inch pipelines). The discharge of the seawater would contain metabolic and waste products from the rearing abalone and small pieces of kelp not consumed by the rearing abalone. The current rearing facilities are periodically cleaned with a 5 percent solution of sodium hypochlorite, which is neutralized with sodium thiosulfate and diluted prior to the discharge to the ocean. Additionally, medicines are occasionally introduced into the ocean discharge (e.g., Bezocaine, GABA, Penicillin, Rifampicin, Streptomycin, and Tri-Hydroxymethyl-aminomethane) as part of the abalone rearing operation.

The ocean water discharge for the previously approved abalone rearing facility received a NPDES waste discharge permit from the Regional Water Quality Control Board (Central Coast Region). The applicant has received a waiver from the Regional Water Quality Control Board for the proposed addition of two new ocean water intake lines which would

result in an increase (from 1,200 to 1,800 gallons per minute) of waste discharge from the abalone rearing facility.

The Commission therefore finds that the proposed development, as conditioned is consistent with and is adequate to carry out the requirements of Coastal Act Sections 30230, 30231, and 30233.

e. Public Access

Sections 30210 and 30212 of the Coastal Act provides that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, and that maximum access shall be provided for all people consistent with public safety needs, the need to protect public rights, the rights of private property owners, and the need to protect natural resource areas from overuse.

The abalone rearing facility is situated approximately 200 feet east of Dos Pueblos Creek on the 2,808-acre Rancho Los Dos Pueblos. The Dos Pueblos ranch extends from the foothills of the Santa Ynez Mountains to the Pacific Ocean. The abalone-rearing site is within 1000 feet of the shoreline and is served by an established private access road off a public frontage road. Neither the ranch nor the abalone rearing facility affords any opportunity for public access to this portion of the Gaviota coast. The nearest public access is approximately 2 miles to the east at the west end of the Sandpiper Golf Course. There are additional public access opportunities along the Gaviota coast to the west at the three State Parks, Refugio, El Capitan, and Gaviota.

The proposed project is on the ocean side of U.S. Highway 101, which is the first road paralleling the ocean in this area, and seaward of the mean high-tide line. The proposed project would involve working from a barge to install the extended and new ocean water intake pipelines. A small private parking lot serving the existing abalone rearing facility would be used as a staging area. The extension and installation of all of the pipelines is expected to take two to four days.

The proposed pipeline extension and installation will not intensify or modify the use of the existing facility in a manner which would interfere with any existing public access opportunities, and will not interfere with any marine related activities in the nearshore waters within the vicinity of the project site.

The Commission therefore finds that the project as proposed and conditioned is consistent with Sections 30210 through 30212 of the Coastal Act.

3. LCP/CEQA

The proposed site lies within the County of Santa Barbara, but falls within the Commission's area of retained original permit jurisdiction because it is located on potential state tidelands or is below the mean high-tide. The Commission has certified the Local Coastal Program for the County of Santa Barbara (Land Use Plan and Implementation Ordinances) which contains policies for regulating development and protection of coastal resources, including the protection of environmentally sensitive habitats.

Section 13096 of the Commission's Code of Regulations requires the Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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 effects, which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the resource protection policies of the Coastal Act. The mitigation measures, which are part of the project description, as well as those contained in the special conditions, will minimize any adverse environmental effects. As conditioned, there are no feasible alternatives or measures available which would substantially lessen any significant adverse effects, which the activity may have on the environment.

Therefore, the Commission finds that the proposed project, as conditioned, to mitigate any identified effects, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act and conform to CEQA.

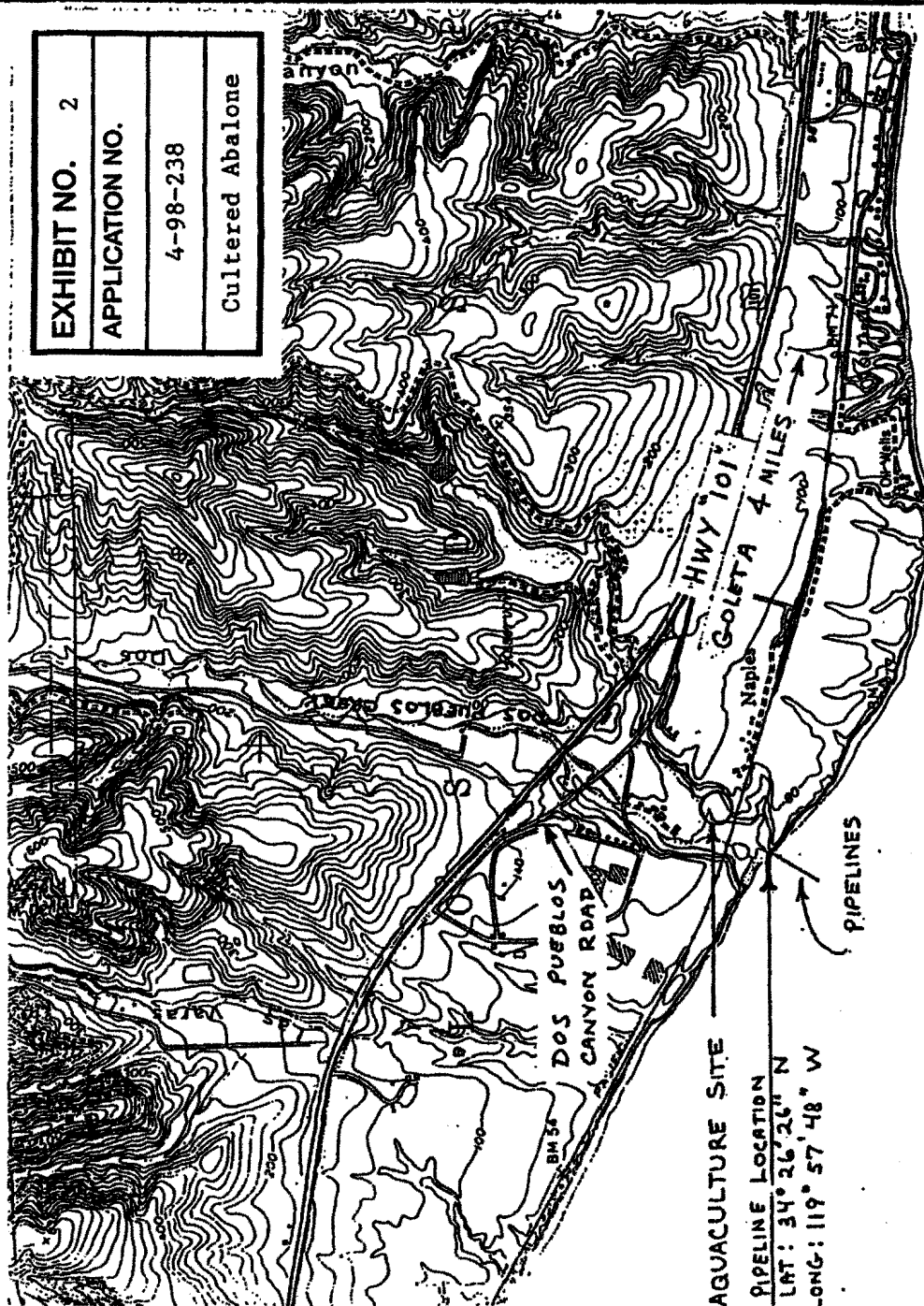
MHC

EXHIBIT NO. 2

APPLICATION NO.

4-98-238

Cultured Abalone



PACIFIC OCEAN

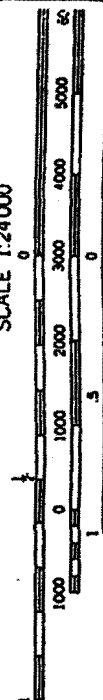
FROM: U.S. GEOLOGICAL SURVEY
Dos Pueblos Canyon, Calif. Quadrangle

VICINITY MAP

Proposed seawater pipelines for aquaculture facility
IN: Pacific Ocean
AT: Mouth of Dos Pueblos Creek
COUNTY: Santa Barbara STATE: Calif.
APPLICANT: The Cultured Abalone, Inc.
ADJACENT PROPERTY OWNER: Rudolf P. Schulte
APH: 79-160-1, -14, -15, and -23

57°30' 1729 1730

SCALE 1:24000



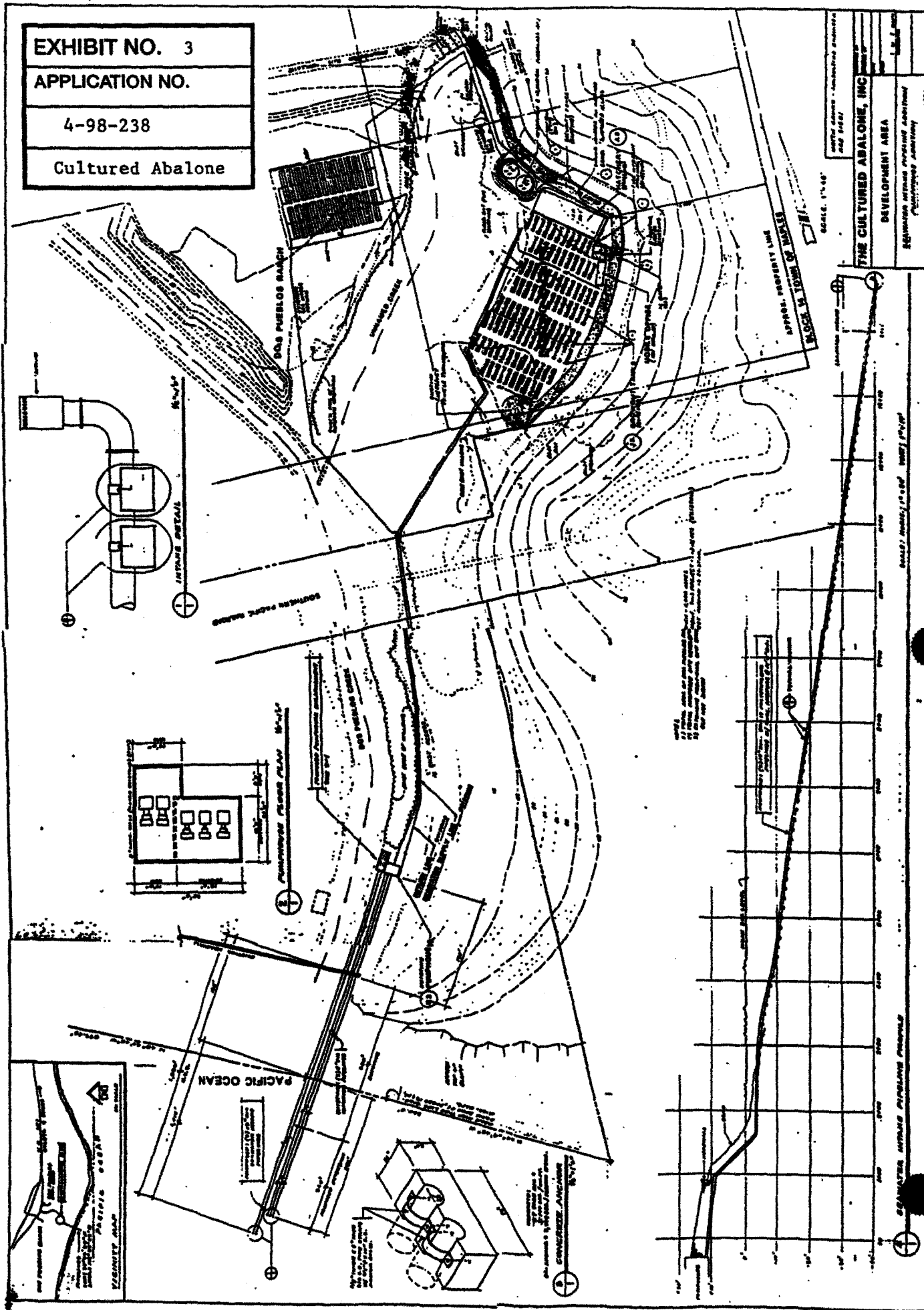
CONTOUR INTERVAL 20 FEET

NATIONAL GEODETIC VERTICAL DATUM OF 1929
SHORELINE SHOWN REPRESENTS THE APPROXIMATE LINE OF MEAN HIGH WATER
THE AVERAGE RANGE OF TIDE IS APPROXIMATELY 4 FEET

APPLICATION NO.

4-98-238

Cultured Abalone



ORIGINAL OCEAN INTAKE PIPELINES (1990)

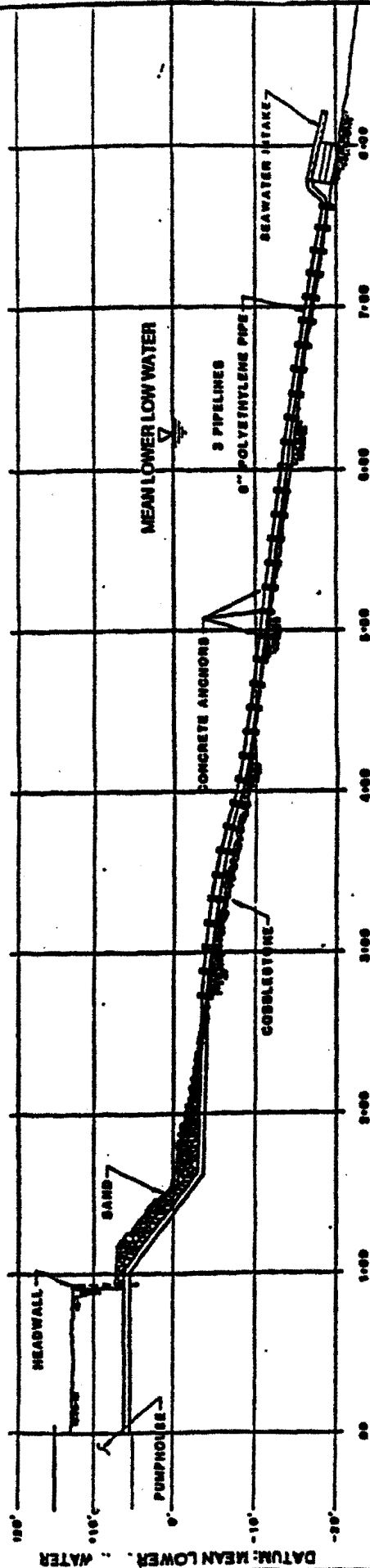


EXHIBIT NO. 4

APPLICATION NO.

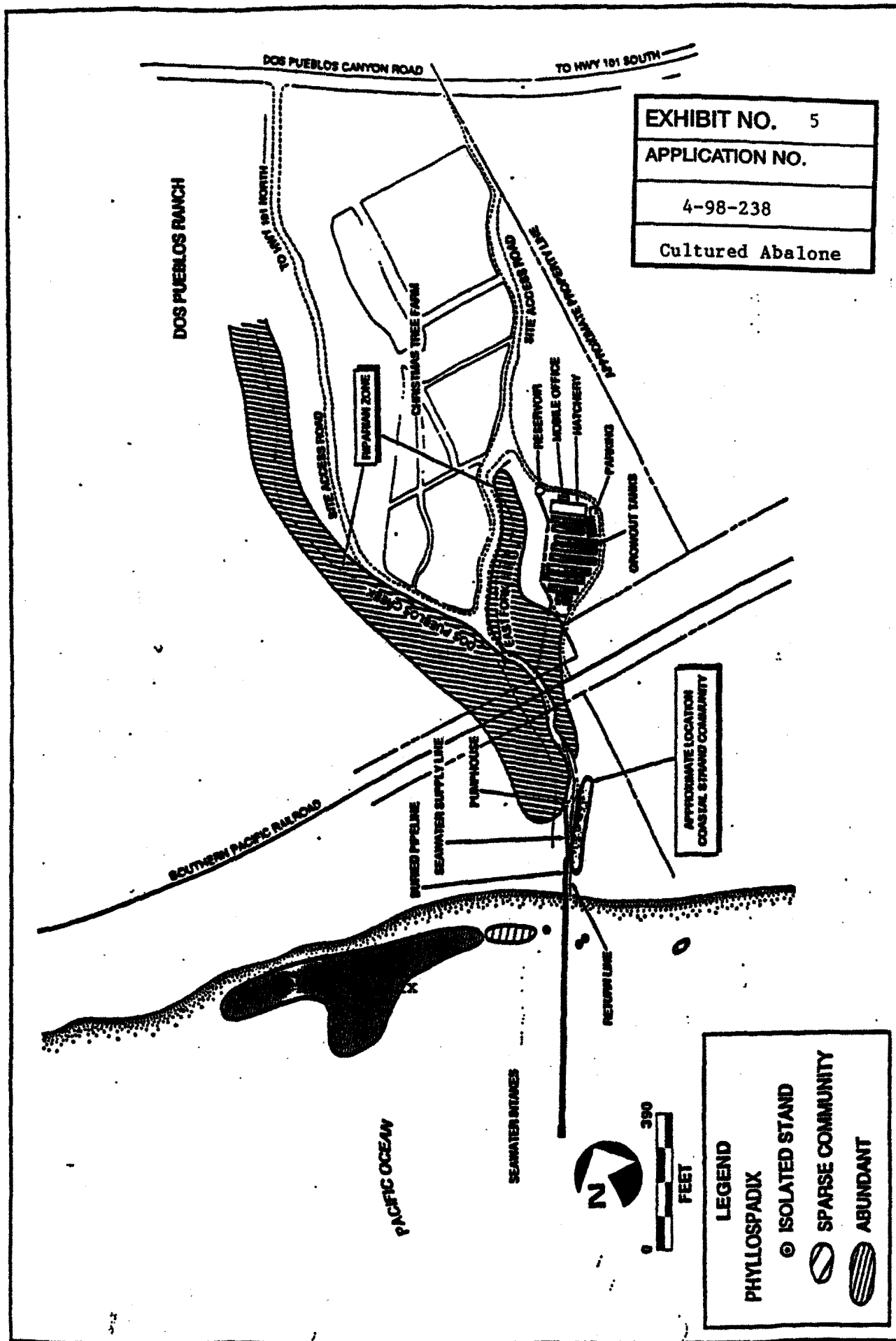
4-98-238

Cultured Abalone

FIGURE

3

Seawater Intake Pipeline Profile



FIGURE

5

Biological Resources