

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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Filed: September 18, 1998  
49th Day: November 6, 1998  
180th Day: March 17, 1999  
Staff: KFS-LB: *[Signature]*  
Staff Report: October 15, 1998  
Hearing Date: November 3-6, 1998  
Commission Action:

**STAFF REPORT: CONSENT CALENDAR****APPLICATION NUMBER:** 5-98-342**APPLICANT:** Orange County Council, Boy Scouts Association**AGENT:** Shellmaker Inc.  
Marine Consulting & Design**PROJECT LOCATION:** 1931 W. Pacific Coast Highway  
City of Newport Beach, Orange County

**PROJECT DESCRIPTION:** The applicant proposes to demolish and replace in the same configuration an existing approximately 218-foot long by 82-foot wide, 7 slip marina with auxiliary mooring space. This development includes the removal and replacement of a gangway, pilings, and dock floats. The gangway will be relocated and replaced with a smaller plank. Thirteen concrete guide piles will be removed and replaced by 16 new guide piles. The existing dock floats will be demolished and replaced in the present configuration.

**LOCAL APPROVALS RECEIVED:** Approval in Concept, City of Newport Beach Fire and Marine Department, dated July 1, 1998; Letter from County of Orange Public Facilities and Resources Department to applicant titled *Approval of Dock Plans...* dated September 30, 1998.

**OTHER AGENCY APPROVALS RECEIVED:** Letter of approval from California Regional Water Quality Control Board, Santa Ana Region...dated August 20, 1998; U.S. Army Corps of Engineers, Los Angeles District, Letter of Permission (LOP) Number 98-00673-JPL.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal development permit P-11-5-75-6524 (Boy Scouts of America, Orange County Council); P-3-24-78-3021 (Boy Scouts of America, Orange County Council, Amendment P-79-4919 (Boy Scouts of America, Orange County Council); 5-87-702 (Orange County Harbors, Beaches & Parks); 5-94-166 (Haseko Marine Development Inc.), 5-95-160 (The Irvine Company), 5-98-254 (California Recreation Company).

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the proposed development with two special conditions: 1) the applicant shall minimize land disturbing activities to sand and intertidal areas to protect water quality and the marine environment; and 2) the applicant shall dispose of construction debris at an Executive Director approved legal disposal site.

**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 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 development, 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**

**1. Construction Responsibilities and Debris Removal**

To protect water quality and the marine environment the applicant shall minimize disturbances to sand and intertidal areas. Disturbances shall be minimized by the following: (a) no local sand, cobbles, or shoreline rocks, shall be used for construction material; (b) storage of all construction materials and equipment landward of the beach, preferably on an impervious surface and in a manner which prevents their movement via runoff, or any other means, into coastal waters; (c) no machinery may be placed in the intertidal zone at any time; (d) removal of any and all construction equipment, materials and debris from upland and intertidal areas at the conclusion of construction.

**2. Location of Debris Disposal Site**

PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the disposal site of the demolition and construction debris resulting from the proposed project. Disposal shall occur at the approved disposal site. If the disposal site is located in the coastal zone a coastal development permit or an amendment to this permit shall be required before disposal can take place.

**IV. Findings and Declarations:**

The Commission hereby finds and declares:

**A. Project Description and Location**

The existing and proposed marina is part of a low-cost, visitor serving marine recreational facility located at 1931 W. Pacific Coast Highway, City of Newport Beach, Orange County (Exhibit 1). The facility is operated and used by the Boy Scouts of America, but is also open to the general public for youth and adult education classes. This facility is between the first public road and the sea and is a bayfront lot. The facility is located on upland property owned by the County of Orange and on tidelands granted to the County of Orange by a State of California Tideland Grant dated May 25, 1919. The subject property was leased in 1979 to the Orange County Council Boy Scouts of America, Inc. for thirty years. The proposed project will occur solely in those areas seaward of the existing bulkhead.

The applicant is proposing to remove an existing approximately 218-foot long by 82-foot wide, 7 slip marina with auxiliary mooring and construct a new 7 slip marina in the same configuration (Exhibit 2). This development includes the removal and replacement of pilings, dock floats, and a gangway. These structures are deteriorated and require replacement for continued safe use. One 4-foot by 28-foot ramp will be moved immediately east of the existing location and replaced by a 4-foot by 26-foot ramp. In addition, thirteen concrete guide piles will be removed and replaced and three new guide piles will be added. The three new guide piles are being added in

order to bring the project up to present engineering standards. The dock floats will be replaced in their present configuration. No dredging is proposed. In addition, the proposed replacement will not result in increased water coverage nor extend further bayward than the existing structure. Finally, an inspection performed by the City determined that no eelgrass would be impacted by the proposed project.

**B. Previous Commission Action on Site**

**Coastal Development Permit P-11-5-75-6524**

On February 18, 1976 the Commission approved the demolition of existing structures including buildings, boat docks, piers and pilings. The new proposed development included a new concrete bulkhead, dredging seaward of the bulkhead, and fill behind the bulkhead with the dredged material, resulting in the cover of an existing intertidal area. In addition, new concrete pilings, piers, docks, a 2-story recreational, educational and storage facility, a swimming pool, and 34 parking spaces were proposed.

The staff report explored issues related to dredging and filling and the elimination of a small beach and intertidal area, public accessibility to boat slips, public views; pedestrian access, and approval of the project by other agencies. Concerns were raised regarding dredging, filling and public access and resulted in the following prior to permit issuance special conditions: 1) applicant was to agree to include a condition in the lease providing for non-discriminatory public access across the property; 2) applicant was to submit a signed and notarized statement agreeing to either use a solar heating system only, for the swimming pool or to have an unheated swimming pool; and 3) the permit was not be issued until the County of Orange had signed a 30 year lease.

**Coastal Development Permit P-3-24-78-3021**

On May 26, 1977 permit P-11-5-75-6524 expired. The applicant reapplied for a permit which became effective April 17, 1978. The proposed project was identical to P-11-5-75-6524 except for the elimination of the proposed swimming pool from the project description. In order to preserve public benefits gained through the proposed development the following special condition was implemented: "Prior to issuance of permit, applicant shall submit a 30-year lease for the project site, executed by the County of Orange which contains a condition which provides for nondiscriminatory public access across the property for the duration of the lease."

**Coastal Development Permit Amendment P-79-4919**

April 10, 1979 the Commission approved a coastal development permit amendment to P-3-24-78-3021. The applicant amended the proposed project to change the previously approved dock configuration to the configuration now present. The special condition implemented under permit P-3-24-78-3021 was restated as a condition of this permit amendment. No additional special conditions were added. The facility is presently operating under this permit.

Coastal Development Permit - De Minimis Waiver 5-87-702

The applicant proposed the addition of a 1,372 sq. ft. one-story boathouse and a 300 foot long retaining wall with benches to the existing development. This waiver was approved October 16, 1987.

**C. Marine Resources**

Water Quality and Construction Impacts

Due to the proposed project's location on the water, the proposed work may have adverse impacts upon 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 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.*

In order to assess impacts upon water quality, the proposed project was submitted to the California Regional Water Quality Control Board (RWQCB) for their review and approval. The RWQCB determined that water quality would not be affected by the proposed project if standard construction practices were utilized. Since construction of the proposed project will require the use of heavy machinery and require the stockpiling of construction materials the Commission finds it necessary to identify, at minimum, the permittee's responsibilities regarding project construction. In order to protect the marine environment from degradation, special condition number one requires that no local sand, cobbles, or shoreline rocks be used for construction material, that all construction materials and equipment are stored landward of the bulkhead, on impervious surfaces only, that all construction materials or waste are stored in a manner which prevents their movement via runoff, or any other means, into coastal waters, that no machinery may be placed in the intertidal zone at any

time, and that any and all construction equipment, materials and debris are removed from upland and intertidal areas at the conclusion of construction. In addition, demolition of existing structures will generate debris that will not be recycled into the proposed development. Since the applicant has not identified a disposal site and in order to prevent impacts to coastal waters, special condition number two requires that all demolition debris be disposed of at a legal site approved by the Executive Director. Choice of a site within the coastal zone shall require an amendment to this permit or a new permit.

The proposed project will maintain the present use and is not expected to create additional adverse impacts on marine resources. Additionally, the Regional Water Quality Control Board has reviewed the project and determined that no significant adverse effects will occur upon water quality as a result of the project. However, the Commission finds it necessary to identify the permittee's responsibilities regarding construction and has conditioned the project accordingly. Therefore, only as conditioned does the Commission find that the proposed project conforms with the water quality and marine resource provisions of Sections 30230 and 30231 of the Coastal Act.

#### Fill of Coastal Waters and Loss of Marine Habitat

The proposed project will increase the number of concrete guide piles from 13 to 16. This addition of three guide piles constitute fill of coastal waters. Under Section 30233 of the Coastal Act, fill of coastal waters is only allowed when several criteria are met, including (a) the project must fall within one of the use categories specified; (b) the proposed project must be the least environmentally damaging alternative; and (c) feasible mitigation measures to minimize adverse environmental effects must be provided. Section 30233 of the Coastal Act states, in part:

*(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:*

*(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*

The proposed project meets the first criteria because it is the replacement of an existing boating facility. A boating facility is an allowable use under Section 30233 of the Coastal Act.

Next, the proposed project is the replacement of a boating marina in the same existing configuration. Alternatives to the proposed project include no project or a change to the existing configuration.

Under the no project alternative, the applicant could only pursue simple maintenance repair activity. However, simple maintenance repair could not feasibly repair the docks, nor bring them up to present engineering and safety standards. Simple maintenance would only prevent further deterioration of the docks. In addition, marine habitat would not significantly benefit from the no project alternative since this alternative would necessitate that the structure remain in place. Continued, safe use of the facility, by anyone, for marine recreational purposes would be precluded without replacement of the dock system. Therefore, the dock system must be replaced.

The second alternative, replacement of the dock system in a new configuration, would result in significant changes to the existing guide piling layout. As a result, the shadow or shading pattern cast by the docks would be altered. Changes to the piling layout would increase impacts to soft bottom habitat, while changes to the shading pattern could affect subsurface vegetation already adapted to the existing pattern.

Under the proposed alternative, the dock layout remains the same and thirteen guide pilings remain in the present configuration. Three more guide piles will be added to bring the dock up to present engineering standards. An eelgrass inspection performed by the City of Newport Beach determined that eelgrass will not be affected by either the replaced structures or the proposed three additional guide pilings. Furthermore, the U.S. Army Corps of Engineers has issued a *Letter of Permission* (LOP) which states that no additional waters of the United States will be covered as a result of the proposed project. It should be noted, though, that the installation of the additional pilings will result in the elimination of approximately three square feet of soft bottom habitat. However, the proposed project is self-mitigating since the guide pilings provide a vertical substrate for mollusks and other marine organisms, where no such habitat naturally exists. Therefore, the proposed project will result in the replacement of three square feet of soft bottom habitat with more than three square feet of vertical substrate.

The City of Newport Beach and the U.S. Army Corps of Engineers have concluded that the proposed project will not adversely affect the marine environment. In addition, the proposed project will maintain the present, preferred use under Section 30233 of the Coastal Act, is the least environmentally damaging alternative, and does provide feasible mitigation measures. Therefore, the Commission finds the proposed project is consistent with Section 30233 of the Coastal Act.

#### **D. Land Use Plan**

Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan was effectively certified on May 19, 1982. The proposed development is consistent with the policies of the certified Land Use Plan.

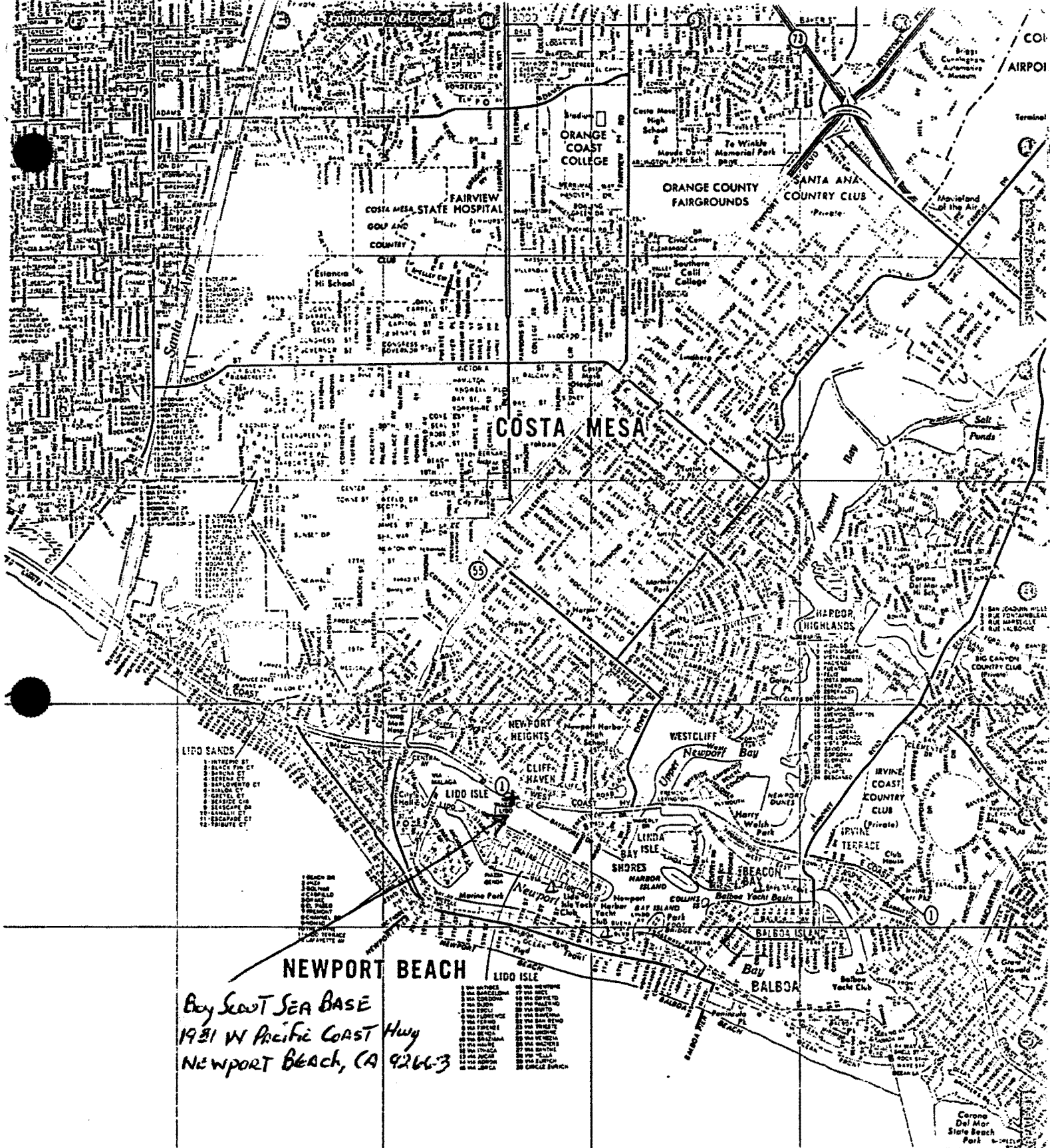
Therefore, the Commission finds that approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program (Implementation Plan) for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

**E. 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 harbor 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. In addition, the proposed development has been conditioned, as follows, to assure the proposed project is consistent with the resource protection policies of the Coastal Act: restrictions on the placement of construction materials and use of on-site resources as construction material and restriction of material disposal to a land facility. As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is the least environmentally damaging feasible alternative and is consistent with CEQA and the policies of the Coastal Act.





Pacific

Ocean RECEIVED

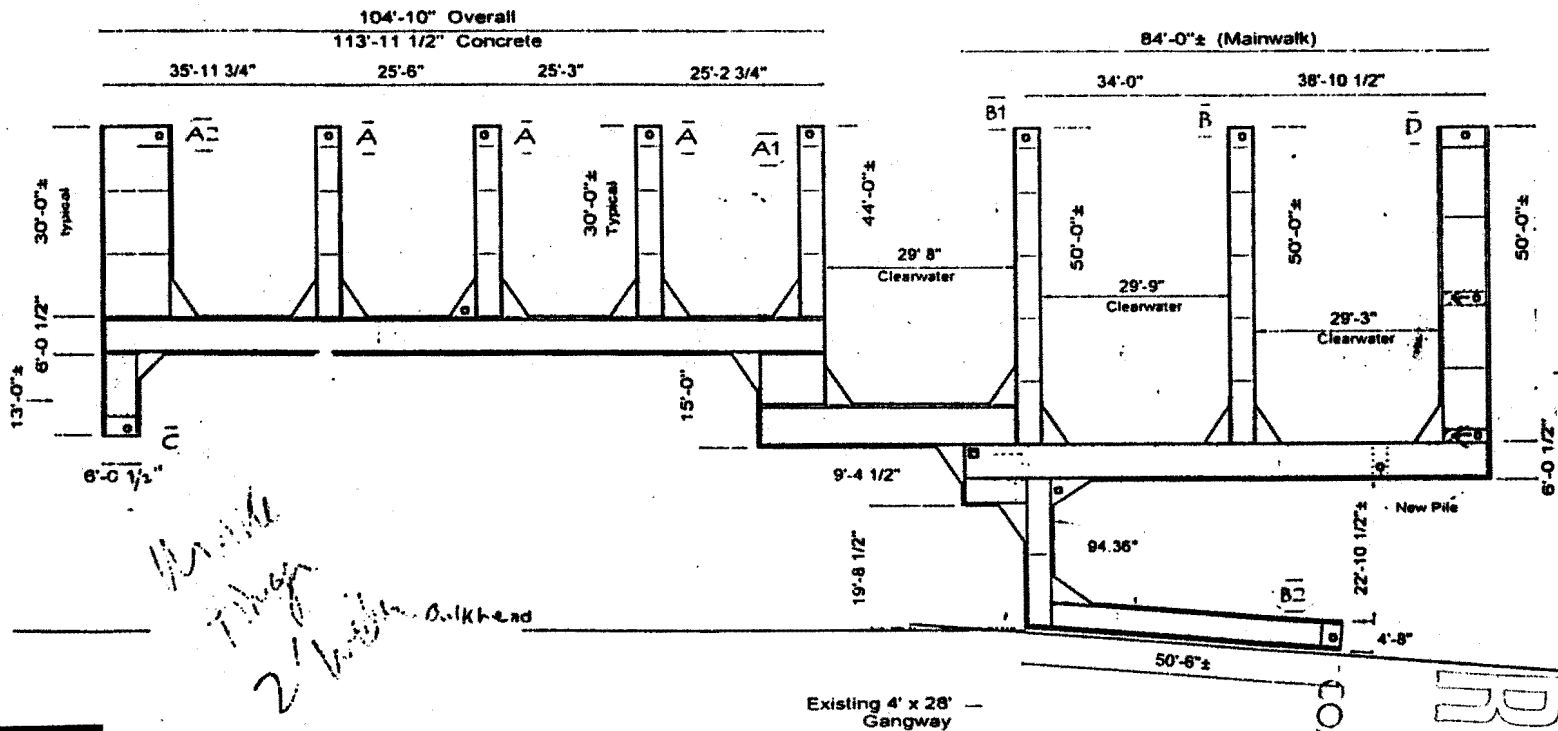
AUG 18 1996

CALIFORNIA COASTAL COMMS

<b>EXHIBIT No. 1</b>
Application Number: <b>5-98-342</b>
California Coastal Commission

# Boy Scout Sea Base

SCALE: 1" = 20'-0"



*Handwritten notes:*  
 2 1/2" high Bulkhead  
 2 1/2" high Bulkhead

*Handwritten notes:*  
 3 piles  
 Piles  
 subtract!

**Bellingham MARINE**  
 Innovative harbor and waterfront solutions

**UNIFLOAT**  
 precision engineered flotation systems

Information and/or instructions for use of this system may be found in the UNIFLOAT Manual, etc.

Layout  
 No. 034  
 Filename: Layout.Ca

Revisions:

Checked By:

Drawn by: D. DeCaro  
 Scale: 1" = 20'-0"  
 Date: 13 August 1998  
 Sheet: 1 of

The structural system shown on these drawings, including member sizes, load and connections has been reviewed by a Registered Professional Engineer under my supervision. No other aspects of the design, including but not limited to, use, safety, mechanics, electrical, quantities, cut lengths and etc. has been included in this review.

**NOTES:**

- UNIFLOAT® SYSTEM SHOWN.
- ALL MAINWALKS ARE 6'-0 1/2" wide- typ. (except as noted)
- PILE LOCATIONS SHOWN ARE EXISTING, EXCEPT WHERE NOTED. ALL PILES ARE 12"Ø, 3/8" WALL STEEL PIPE (43' LONG)- NEW PILES ARE TO MATCH EXISTING.
- FINGER LOCATIONS ARE BASED ON BEST FIT TO EXISTING PILES. FINGERS MAY BE MOVED IN 3" INCREMENTS TO ACCOMMODATE SLIP WIDTH ADJUSTMENT.

**EXHIBIT NO.**

Application Number:  
**5-98-342**

California Coastal Commission

**RECEIVED**  
 OCT 7 1998  
 CALIFORNIA COASTAL COMMISSION