

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SAN CRUZ, CA 95060
760-27-4863
HEARING IMPAIRED: (415) 904-5200

W3a**RECORD PACKET COPY****ADMINISTRATIVE PERMIT NUMBER 3-98-103****Applicant** **City of Morro Bay, Harbor Department****Project location** West side of the Embarcadero north of Beach Street at the "City Dock," City of Morro Bay.**Project description** ... Repair of City-owned pier including replacement of 7 fender piles and 9158 square feet of decking.

Executive Director's Determination: The findings for this determination, and for any special conditions, appear on subsequent pages.

Note: Public Resources Code Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs. This permit will be reported to the Commission at the following time and place:

Wednesday, January 13, 1999 at 10 AM
Olympic Collection Banquet & Convention Center
11301 Olympic Blvd.
Los Angeles CA 90064
(310) 575-4585

IMPORTANT: Before you may proceed with development, the following must occur: Pursuant to Title 14 of the California Code of Regulations, Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, if applicable, we will send you a Notice of Administrative Permit Effectiveness. **Before you can obtain any local permits and proceed with development, you must have received both your administrative permit and the notice of permit effectiveness from this office.**

PETER DOUGLAS
Executive Director

By: **LEE OTTER**
District Chief Planner

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 on which the Commission voted on the application. 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.

SPECIAL CONDITIONS

1. Piling Materials.

This permit authorizes the use of creosote piles only if wrapped prior to installation in a watertight plastic sleeve in accordance with current industry standards. To prevent the introduction of toxins into the marine environment, the use of plastic wrapped creosote treated piles as replacement pilings shall conform to the following requirements:

a. Compliance with Fish and Game Guidelines

The use of plastic wrapped creosote treated pilings shall comply with the guidelines established by the Department of Fish and Game for the use of such materials (Exhibit 4).

b. Water Quality Review

PRIOR TO INITIAL INSTALLATION OF PLASTIC WRAPPED CREOSOTE TREATED PILINGS, the permittee shall submit, for Executive Director review and approval, written evidence that the State Water Resources Control Board or Regional Water Quality Control Board has reviewed and approved the use of such materials, or evidence that no such

approvals are required. In the instance that a Waste Discharge Requirement, Waiver, or Water Quality Certification (pursuant to Sections 13262, 13269(a), and 13160 of the Water Code, respectively) is not issued by the State Water Resources Control Board or a regional water quality control board after a public hearing for such activities, the permittee shall submit, for Executive Director review and approval, written evidence that the Department of Fish and Game has determined that the use of such materials at this specific harbor and in this particular circumstance is consistent with these guidelines **PRIOR TO THE INITIAL COMMENCEMENT OF PILING INSTALLATION.**

c. Piling Inspection and Repair Program

The permittee shall exercise due diligence in periodically inspecting plastic wrapped creosote treated pilings installed under this permit, and shall immediately undertake any repairs necessary to maintain the wrapping's watertight seal. **ON AN ANNUAL BASIS FOR ALL PLASTIC WRAPPED CREOSOTE TREATED PILES THAT MAY COME INTO CONTACT WITH BOATS, AND ON A BIENNIAL BASIS FOR THOSE THAT WILL NOT,** beginning one (and two years, as applicable) following the date that the first plastic wrapped creosote treated piling is installed, the permittee shall conduct a piling inspection to ensure the integrity of the plastic wrapping for all creosote treated pilings installed under this permit, and that all corrective actions have or will be immediately undertaken to maintain an effective watertight seal. The inspections shall be undertaken by boat, during periods of extreme low tides, and synchronized, where feasible, to precede the periods of maximum expected harbor occupancy. Alternatively, the permittee may submit a different timeline for the piling inspection program, that ensures that the structural integrity of the plastic wrapping is properly maintained; the alternative timeline shall be reviewed and approved by the Executive Director **PRIOR TO THE INSTALLATION OF PLASTIC WRAPPED CREOSOTE TREATED PILINGS.**

d. New Information

If federal or state regulatory agencies, through new or better scientific information, determine that environmentally less damaging materials or methods are available for piling replacement, and are feasible to implement, the permittee shall, after consultation with the Executive Director, revise procedures or use alternative materials consistent with the new information. The substitution of non-creosote treated piling materials may be authorized by the Executive Director. Other revisions, including use of unwrapped creosote piles, may require an amendment to this permit.

2. Water Quality Protection

PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION ACTIVITY THAT WILL DISTURB HARBOR SEDIMENTS (e.g., installation of pilings), the permittee shall submit, for Executive Director review and approval, a sediment testing program to detect the presence of any heavy metals, petroleum hydrocarbons, and any other organic chemical contaminants in the project vicinity. The permittee may include existing testing data for the area in order to narrow down any additional testing that may be required.

FOLLOWING EXECUTIVE DIRECTOR APPROVAL AND SUBSEQUENT IMPLEMENTATION OF THE TESTING PROGRAM, the permittee shall submit, for Executive Director review and approval, testing results, and proposed measures to mitigate

any significant risks to water quality that would likely result from the proposed activity. Typically, such measures would contain any contaminated sediments or petroleum hydrocarbons detected (e.g., use of a flexible skirt around the driven pile). This submittal shall be accompanied by written evidence that the Regional Water Quality Control Board has reviewed the testing results and approved the proposed construction work, or that no such approval is required.

3. Containment Requirements

Particular care shall be exercised to prevent foreign materials (e.g., construction scraps, wood preservatives, other chemicals, etc.) from entering state waters. Where additional wood preservatives must be applied to cut wood surfaces, the materials, where feasible, shall be treated at an onshore location to preclude the possibility of spills into state waters. In addition, appropriate measures shall be employed to prevent wood scraps or other floatable debris from being discarded into the marine environment. Suitable measures may include, but are not limited to:

- a. a floating containment boom around the area of active construction;
- b. a heavy duty mesh containment netting maintained below all work areas;
- c. briefing of work crews by the contractor on the importance of observing the appropriate precautions and reporting any accidental spills;
- d. appropriate penalty provisions in construction contracts to offset the cost of retrieving or cleaning up any foreign materials not properly contained.

Any foreign material entering the waters of the Morro Bay estuary shall be promptly removed and disposed of in an appropriate manner.

4. US Army Corps of Engineers Approval

PRIOR TO COMMENCEMENT OF PILING INSTALLATION, the permittee shall submit, for Executive Director review and approval, documentation of approval from the Corps of Engineers, or evidence that such approval is not required.

EXECUTIVE DIRECTOR'S DETERMINATION

The Executive Director hereby determines that the proposed development is a category of development which qualifies for approval by the Executive Director through the issuance of an administrative permit (Public Resources Code Section 30624). Subject to Standard and Special conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, is located seaward of the first through public road and is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act, will not prejudice the ability of the local government to implement its certified Local Coastal Program in conformity with the provisions of Chapter 3, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

The project is located in the harbor area of the City of Morro Bay seaward of the Embarcadero about one-quarter mile north of Beach Street, opposite the Duke Energy (former PG&E) power plant property. The City is proposing to replace seven existing fender pilings and approximately 9158 square feet of dock decking. All of the work will take place in or over the waters of the Morro Bay estuary. Bare creosote pilings have been shown to contribute polycyclic aromatic hydrocarbons (PAHs) to the marine environment. Toxicity studies undertaken by Geiger and Buikema (1982) revealed that the amount of creosote which dissolves or mobilizes in water, when diluted to a 33:1 ratio, would kill 50 percent of the aquatic invertebrates exposed, mostly within 24 hours. Wrapping the pilings in plastic provides a watertight seal, inhibiting the release of hydrocarbons from the creosote into the water. For that reason Special Condition 1 is attached to his permit. Special Condition 2 is to ensure that sediments that might be disturbed by pile driving are monitored for heavy metals, petroleum hydrocarbons, or other organic chemicals and that such substances are contained. Special Condition 3 is to ensure that material that may fall into the water from the work will be contained and properly disposed of. Special Condition 4 is to ensure that the work conforms to Corp of Engineers regulations.

Access will not be affected by the work because other portions of the pier will be open during the replacement work and it will still be possible to walk along the waterfront. The goal of the work is to upgrade the unloading, processing, and marketing of the catch of the commercial fishing industry.

As conditioned, the project is consistent with the Coastal Act, including Sections 30210 et seq. (access), 30230 et seq. (protection of the marine environment), and 30234 and 30234.5 (commercial fishing). Additionally, the project is consistent with the City's certified LCP, which in this case is useful for interpretive guidance.

California Environmental Quality Act

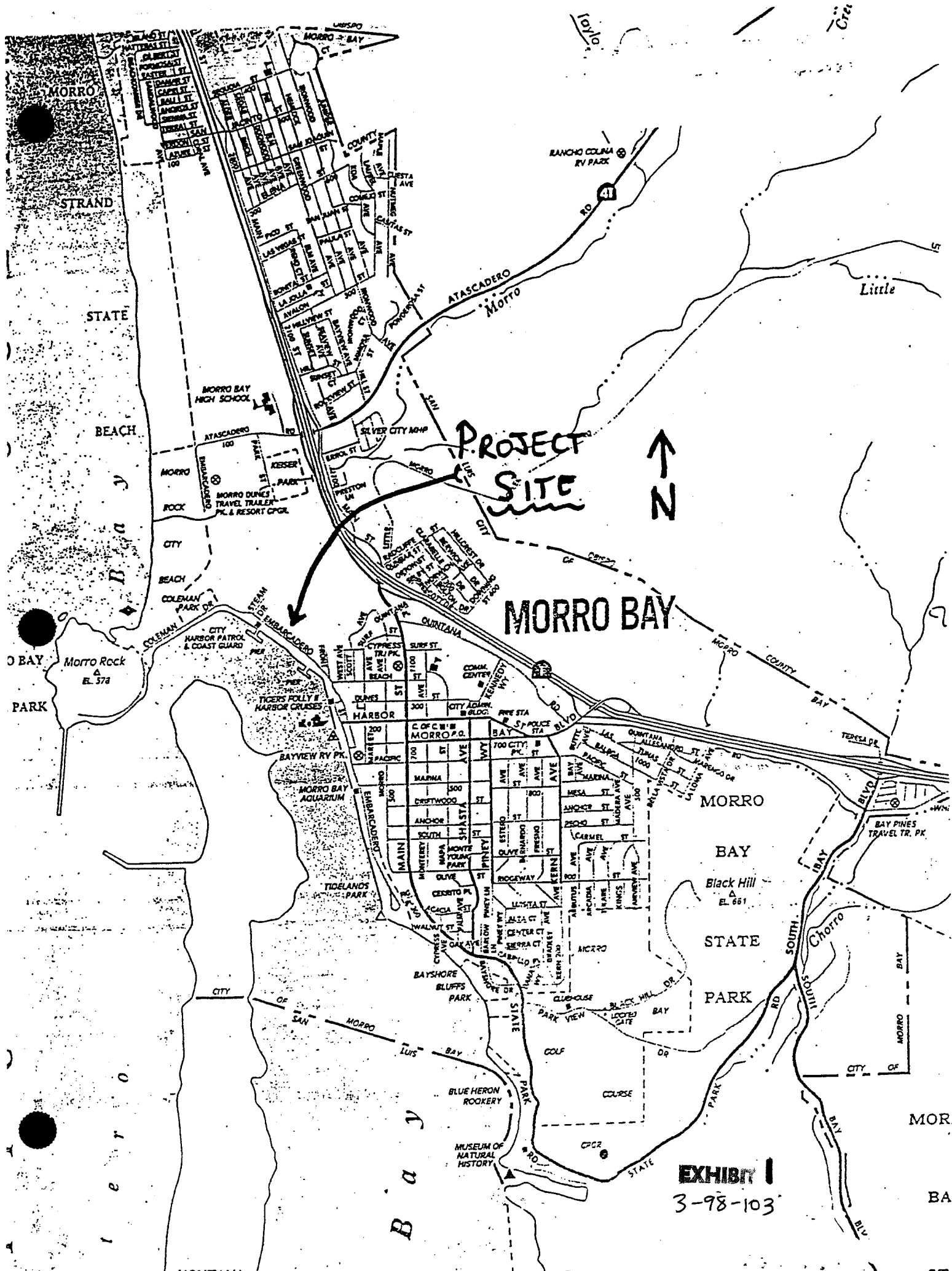
Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the proposal to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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 City of Morro found the project to be exempt from CEQA review because it is repair and maintenance. The Executive Director finds that the proposed project, as conditioned to provide additional water quality protection measures, will not have any significant unmitigated adverse effects on the environment.

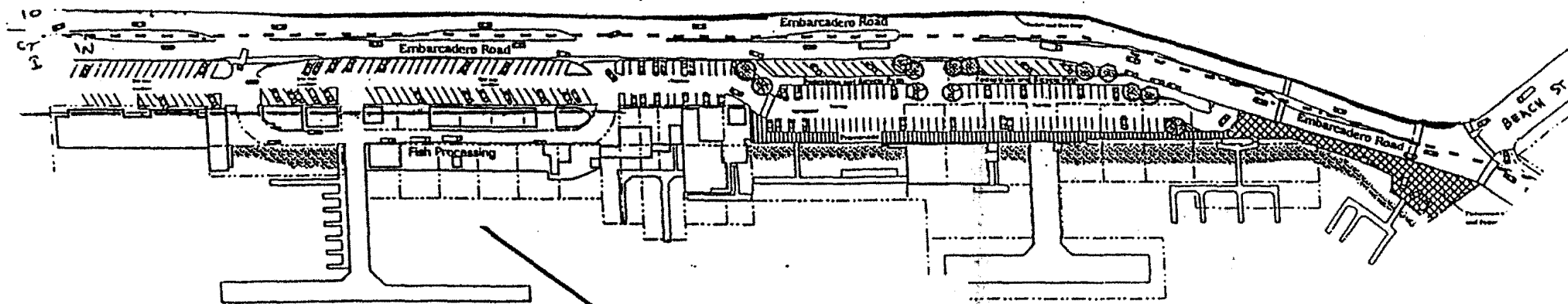
Acknowledgment of Permit Receipt/Acceptance of Contents

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's signature







Date of signing

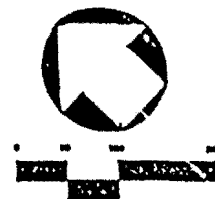




Project Site

Legend

-  Pedestrian and Bicycle Path
-  Landscape Area
-  Marine Recycling Area
-  Revetment
-  Promenade
-  Fishermen's Loading and Pedestrian Area



Planning and Building Department
City of Morro Bay
Drawn By Mauricio Argente

EXHIBIT 2

3-98-103

NOTE: BLDG. OVERLAPS LEASE SITE

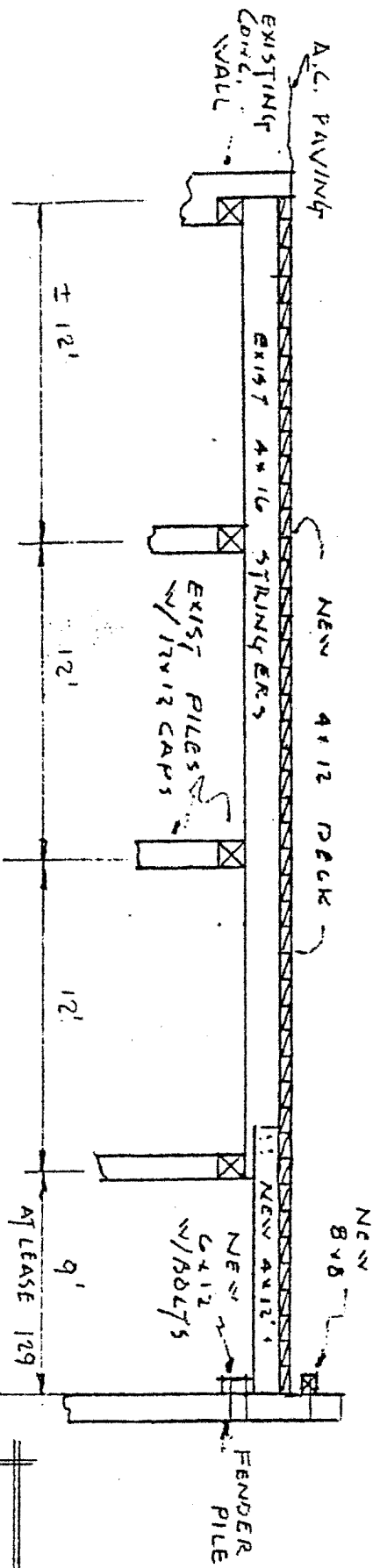
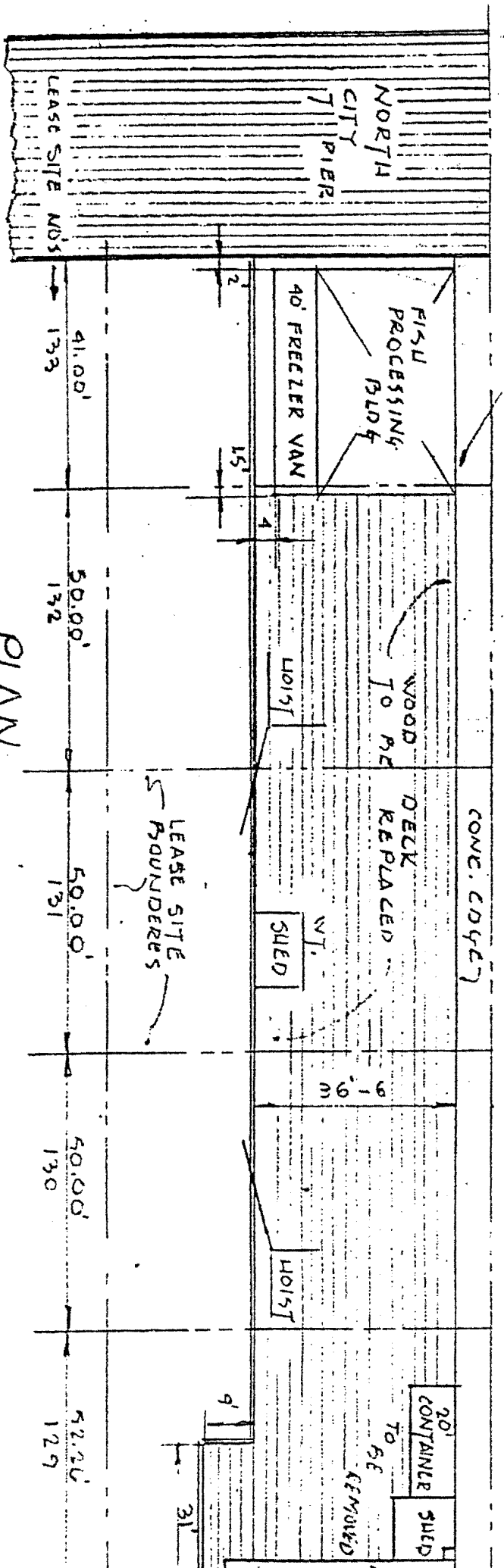


EXHIBIT 3
3-98-103

CITY
LEASE SITES

Joe

DEPARTMENT OF FISH AND GAME

14 MINTH STREET

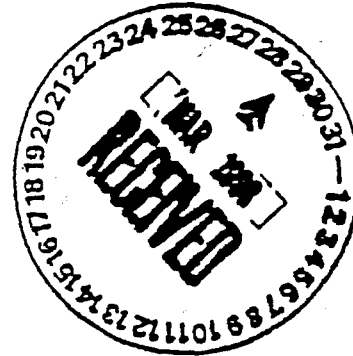
BOX 944207

SAN FRANCISCO, CA 94244-2090

(415) 633-7667



March 25, 1996



Mr. Jay K. Elder, Harbor Manager
Port San Luis Harbor District
P. O. Box 249
Avila Beach, California 93424

Dear Mr. Elder:

Thank you for your March 8, 1996 letter requesting information on the Department of Fish and Game's (DFG) policy regarding the use of creosote-treated wood products in marine waters. I have attached a copy of the DFG's guidance letter on this subject, dated March 8, 1994.

As you can see, the DFG has taken a position against the use of creosote-treated wood products in State waters. However, the DFG is very much aware of the difficulties this creates for users such as the Port San Luis Harbor District. To partially address these, the DFG will accept use of plastic-wrapped, creosote-treated wood products in marine waters of the State under the following conditions and situations:

1. For new projects that were designed or approved prior to DFG's guidance letter. This will help prevent hardships that would otherwise be caused by the need to re-engineer projects that originally contemplated using creosote-treated wood products.
2. For repair of existing projects constructed using wood products. This will help prevent hardships that would otherwise be caused by a need to redesign or replace existing structures if wood could not be used for repair work.
3. Where the use of plastic-wrapped creosote pilings is restricted to marine waters.
4. Where measures are taken to prevent damage to the plastic wrap from boat use. These measures may include installation of rub strips or bumpers.
5. Where measures are taken to prevent creosote from dripping over the top of plastic wrapping into State waters. These measures may include wrapping pilings to the top or installing collars to prevent dripping.
6. Where the plastic wrapping is sealed at all joints to prevent leakage.

EXHIBIT 4

3-98-103

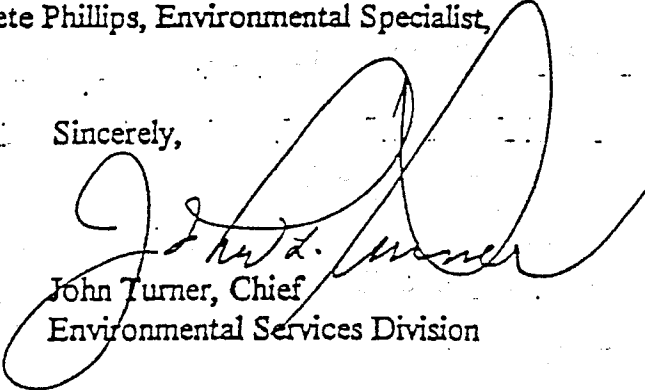
Mr. Jay K. Elder
March 25, 1996
Page Two

7. Where the plastic material is expected to maintain its integrity for at least ten years, and where plastic wrappings that develop holes or leaks are repaired or replaced in a timely manner.

Please note that this letter relates only to issues of concern to the DFG under Section 5650 of the Fish and Game Code. The use of creosote, as set forth in this letter, may be subject to other regulations administered by other agencies.

I hope this response addresses your questions on the use of creosote. If you would like to discuss this subject further, please contact Mr. Pete Phillips, Environmental Specialist, (916) 653-9714, or at the letterhead address.

Sincerely,



John Turner, Chief
Environmental Services Division

Attachment

cc: Mr. Pete Phillips
Department of Fish and Game
Sacramento

EXHIBIT 4, 2

3-98-103