STATE OF CALIFORNIA – THE RESOURCES AGENCY GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

TH 6b

STAFF REPORT AND RECOMMENDATION

ON CONSISTENCY DETERMINATION

Consistency Determination No.	**CD-022-99**
Staff:	JRR-SF
File Date:	3/8/99
45th Day:	4/22/99
60th Day extended to:	6/15/99
Commission Meeting:	6/10/99

FEDERAL AGENCY: CORPS OF ENGINEERS

DEVELOPMENT LOCATION: Marina del Rey (Exhibits 1-3), Dockweiler Beach & Redondo Beach (Exhibits 2, 4 & 5), and Port of Long Beach (Exhibits 6-8)

DEVELOPMENT DESCRIPTION: Maintenance dredging of up to 500,000 cu. meters of material with nearshore disposal of up to 150,000 cu. meters of clean sandy sediment at Dockweiler and Redondo Beaches, and disposal of up to 350,000 cu. meters of contaminated material at Pier E, Slip 2, in the Port of Long Beach

SUBSTANTIVE FILE DOCUMENTS:

1. Consistency Determinations for Corps of Engineers maintenance dredging of Marina del Rey: CD-057-86, CD-023-88, CD-031-91, CD-053-92, CD-068-94, CD-088-94, CD-002-98, and CD-012-98.

2. Negative Determinations ND-112-94 and ND-022-96; for Corps of Engineers maintenance dredging of Marina del Rey.
3. Consistency Determination CD-94-98 for Corps of Engineers maintenance dredging of Los Angeles River estuary with disposal at Slip 2, Pier E, Port of Long Beach.
4. Permit No. 5-96-231-A1 for placement of contaminated material dredged from Pier T at Slip 2, Pier E, Port of Long Beach.
1. Port Master Plan Amendment No. 12, certified on 10/13/98 designating Slip 2 Pier E, Port of Long Beach as a disposal site for contaminated dredge material.
5. Results of Physical and Chemical Analysis of sediments from Marina del Rey, California, February 1999.
6. Department of the Army, Los Angeles District Corps of Engineers, Draft Environmental Assessment, Marina del Rey Harbor Maintenance Dredging, Los Angeles County, California, March 1999.

EXECUTIVE SUMMARY

The U.S. Army Corps of Engineers (Corps) has submitted a consistency determination for maintenance dredging of the entrance and main channels of Marina del Rey Harbor, with nearshore disposal of clean sandy material at Dockweiler and Redondo Beache, and disposal of contaminated material at Pier E, Slip 2, at the Port of Long Beach. The Corps proposes to dredge up to 500,000 cubic meters of sediment from the north, south, and central navigation and entrance channels of the harbor. These areas will be dredged to project depths ranging from –6.1 to –7.6 meters below Mean Lower Low Water (MLLW). All of the beach suitable material (150,000 cu. meters) will be placed at nearshore sites adjacent to Dockweiler and Redondo Beach. Much of the material within the Marina del Rey channels are contaminated with heavy metals, pesticides, and other contaminants. This material (up to 350,000 cu. meters) is unsuitable for beach and ocean disposal and will be placed at Pier E, Slip 2, at the Port of Long Beach.

The proposed project is necessary to support recreational boating and public safety uses of Marina del Rey. The proposed project will not significantly affect water quality because of the monitoring and mitigation measures at the dredging site, and because the contaminated material will be placed at Pier E, Slip 2, behind dikes, and then covered with material dredged by the Port of Long Beach before the site is converted into a marine terminal. The proposed project will protect sand supply resources because suitable material dredged from Marina del Rey channels will be placed at two nearshore sites adjacent to Dockweiler and Redondo Beaches. These disposal sites are within the littoral system and material placed at these sites will nourish nearby beaches. Finally, the proposed project will avoid impacts to the California least tern, a federally listed endangered species. The Corps proposes to begin dredging after September 15, which is after the tern nesting season (April 1 through September 15). The project provides for

dredging 24 hours per day. Dredging during the night potentially affects roosting California brown pelicans, which are sensitive to nighttime disturbances. The Corps needs to dredge at night in order to complete the project during the time period of availability of the Pier E disposal site, in order to maximize use of that site. The Corps proposed to mitigate this potential impact by maintaining a minimum 120 ft. separation from the breakwater where the pelicans roost. The Corps will monitor night dredging impacts (both pre-project and during the dredging) on pelican behavior, and, if warranted, increase the buffer from the dredge so that the operation is a sufficient distance from the pelicans to avoid significant disturbance. The U.S. Fish and Wildlife Service disagreed with the Corps' determination that the monitoring and buffers will avoid impacts to the pelicans and snowy plovers. In the Service's review of the Corps' Biological Assessment, the Service recommended additional mitigation to reduce the harm to the pelicans and snowy plovers. That mitigation included placement of alternate night roosting areas and monitoring for presence of plovers. The Corps has not agreed to these mitigation measures and the Service is requesting additional review. Without complete evaluation of the endangered species issues the Commission does not have adequate information to review the project for consistency with the habitat policies of the California Coastal Management Program (CCMP).

STAFF SUMMARY AND RECOMMENDATION:

I. Staff Note: The Coastal Commission staff is recommending that the Commission object to the Corps' consistency determination for the proposed Marina del Rey maintenance dredging. The staff recommends that the Commission find that the Corps' consistency determination does not contain enough information to evaluate the project's impact on endangered species. The staff is working with the U.S. Fish and Wildlife Service and the Corps to resolve this issue. As of the publication of this recommendation this issue appears to be resolved, however, the Corps' consistency determination has not been modified to reflect that resolution. The staff believes that this issue will be fully resolved by the Commission meeting and, if appropriate, the staff will change its recommendation at that time.

The Commission staff is recommending that the Commission find that the project is consistent with the water quality policies of the Coastal Act even though there is a concern over increased turbidity caused by the dredging operation. Despite our recommendation, the staff is working with the concerned parties to resolve this issue. As of the publication of this report, no resolution has been reached. If the concerned parties reach an accord, the staff will present the issues at the hearing. Regardless of the resolution, staff is recommending that the Commission find that the project is consistent with the Water Quality Policies of the Coastal Act because of the water quality benefits from removing the contaminated sediment and placing it in the environmentally preferred disposal site.

II. Project Description.

The U.S. Army Corps of Engineers (Corps) has submitted a consistency determination for maintenance dredging of the entrance and main channels of Marina del Rey Harbor, with nearshore disposal of clean sandy material at Dockweiler and Redondo Beaches, and disposal of contaminated material at Pier E, Slip 2, at the Port of Long Beach. The Corps proposes to dredge up to 500,000 cubic meters of sediment from the north, south, and central navigation and entrance channels of the harbor. These areas will be dredged to channel design depths ranging from –6.1 to –7.6 meters below Mean Lower Low Water (MLLW). All of the beach suitable material (150,000 cu. meters, consisting of the top layers of Area 1, and approximately one-half of Area 2 (to -22 feet Mean Lower Low Water (MLLW)) will be placed at nearshore sites adjacent to Dockweiler and Redondo Beach. Much of the material within the Marina del Rey channels are contaminated with heavy metals, pesticides, and other contaminants. This material (up to 350,000 cu. meters, the remainder of Area 2 and Areas 3 -5) is unsuitable for beach and ocean disposal and will be placed at Pier E, Slip 2, at the Port of Long Beach "...as time, funding, and disposal site capacity allow."

In addition, the proposed dredge area was recently "amended" by the Corps to include:

> *... a shoal immediately adjacent to the north jetty, between the jetty and the federal navigation channel limits (see Figure 2)* [Exhibit 9]. *This shoal poses a potential hazard to navigation. The more imminent danger, however, is to people who attempt to use the unstable shoal as a beach during low tide, despite the presence of warning signs. This material has been tested and found to be suitable for beach replenishment, and will be taken to either Redondo or Dockweiler Beach.*

III. Status of Local Coastal Program.

The standard of review for federal consistency determinations is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) of the affected area. If the Commission certified the LCP and incorporated it into the CCMP, the LCP can provide guidance in applying Chapter 3 policies in light of local circumstances. If the Commission has not incorporated the LCP into the CCMP, it cannot guide the Commission's decision, but it can provide background information. The Commission has not incorporated the Los Angeles County LCP into the CCMP.

IV. Federal Agency's Consistency Determination.

The Corps of Engineers has determined the project to be consistent to the maximum extent practicable with the California Coastal Management Program.

V. Staff Recommendation:

The staff recommends that the Commission adopt the following motion:

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

The staff recommends a **NO** vote on this motion. Failure to receive a majority vote in the affirmative will result in adoption of the following resolution:

Objection

The Commission hereby **objects** to the consistency determination made by the Corps of Engineers for the proposed project, finding that the consistency determination does not contain enough information to determine if the project is consistent to the maximum extent practicable with the California Coastal Management Program.

VI. Necessary Information:

Section 930.42(b) of the federal consistency regulations (15 CFR Section 930.42(b)) requires that, if the Commission's objection is based on a lack of information, the Commission must identify the information necessary for it to assess the project's consistency with the CCMP. That section states that:

> *If the State agency's disagreement is based upon a finding that the Federal agency has failed to supply sufficient information (see Section 930.39(a)), the State agency's response must describe the nature of the information requested and the necessity of having such information to determine the consistency of the Federal activity with the management program.*

As described fully in the Sensitive Habitat section below, the Commission has found this consistency determination to lack the necessary information to determine if the proposed project is consistent with Section 30240 of the Coastal Act. In order to evaluate the project's consistency with the CCMP, the Commission needs the following information:

1. Completion of the formal consultation process pursuant to the requirements of the federal Endangered Species Act that documents that the project will not significantly affect western snowy plovers or California brown pelicans; or
2. Documentation, which is agreed to by the U.S. Fish and Wildlife Service, demonstrating that the proposed project will not affect the snowy plover or the brown pelican; or
3. Agreement to the recommendations described by the U.S. Fish and Wildlife Service in its letter dated May 6, 1999 (Exhibit 13), which will avoid impacts to the snowy plover and the brown pelican.

VII. Findings and Declarations:

The Commission finds and declares as follows:

A. Recreational Boating. Section 30220 of the Coastal Act provides that:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30224 of the Coastal Act provides, in part, that:

Increased recreational boating use of coastal waters shall be encouraged ....

Marina Del Rey is one of the larger recreational boat harbors on the West Coast. The land use plan (LUP) for Marina Del Rey describes the area as follows:

The primary use [of the harbor] is recreational boating for which the harbor was designed, providing 6,189 boat slips plus dry storage and launching. (Marina Del Rey LUP, p. I-1)

Shoaling of the entrance and main channels interferes with recreational boating at the Marina. The design depth of the Marina Del Rey's entrance channels is 20 feet below mean lower low water (MLLW). The Corps describes the current situation as follows:

Navigation safety in Marina del Rey Harbor has been impacted by shoaling at the jetties and the approach and entrance channels. Dredging is critical to maintaining the navigability of the harbor. If dredging does not occur, subsequent storms could carry enough sediment and debris from Ballona Creek and the ocean to close the harbor. Closure of the harbor would prevent thousands of recreational and commercial vessels from leaving or entering the port, and would preclude rescue operations by the Coast Guard stationed within the harbor.

The proposed project will remove shoaling in the harbor's channels. Additionally, the project includes dredging of contaminated sediment from the south channel. This channel has not been dredged for several years because the Corps lacked a suitable disposal alternative. As described fully below, the Port of Long Beach has provided the Corps with an environmentally and economically acceptable alternative for disposal of contaminated sediment allowing the south channel to be dredged. This dredging will significantly improve recreational boating. However, the proposed dredging could interfere with recreational boating during operation of the dredge. This impact will be temporary, lasting for the duration of the project, and is insignificant when compared to the benefit from removing the shoaling hazard. Therefore, the Commission finds the project consistent with the recreational boating policies of the CCMP.

B. Dredging and Filling. Section 30233 of the Coastal Act provides the following in relevant 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:*
>
> ...
>
> *(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
>
> ...
>
> *(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.*
>
> ...

The proposed maintenance dredging and disposal project needs to be examined for consistency with Section 30233 of the Coastal Act. Under Section 30233, dredging and filling of open waters, including disposal of dredge materials, is limited to those cases where the proposed project is an allowable use, is the least damaging alternative, and where mitigation measures have been provided to minimize environmental impacts. The disposal of dredged materials from the maintenance of navigation channels is an allowable use under Section 30233(a)(2). The proposed disposal locations are nearshore disposal sites (Dockweiler and Redondo Beaches) for material suitable for beach

replenishment and a Commission-approved disposal site for contaminated sediments, and are the least damaging alternatives for disposal of the dredged materials. As discussed below, mitigation measures have been incorporated into the project where necessary to protect coastal resources (such as least tern, grunion, snowy plover, and pelican habitat). Therefore, the Commission finds that the proposed project is consistent with the allowable use, alternatives, mitigation, and sand supply tests contained in the dredge and fill policy of the California Coastal Management Program (Section 30233 of the Coastal Act).

C. Water Quality and Marine Resources: Section 30230 of the Coastal Act states 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 states that:

> *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.*

The proposed project involves, in part, the disposal of suitable material at two nearshore sites adjacent to public beaches (Dockweiler and Redondo). The primary concerns regarding nearshore disposal of dredged material is the suitability of the material for sand replenishment and the presence and level of contamination in the sediments.

Analysis of the sediments proposed for nearshore disposal includes physical and chemical tests. These tests demonstrate that some of the proposed dredged material is chemically and physically suitable for beach replenishment. These areas include Area 1 top and bottom and half of the top of Area 2 nearest the north jetty (as represented by the top halves of test cores 4 and 7, Exhibit 3). The Corps has modified its project to limit beach

disposal to the areas identified above. Therefore, the beach disposal will not adversely affect water quality. While the disposal will result in minor, short-term impacts to existing nearshore habitat, the disposal area is regularly subject to active wave action and affected species will recolonize the area. The Commission previously found that these types of impacts are not significant when it concurred with other dredge material disposal operations at southern California nearshore disposal sites. In conclusion, the proposed disposal of clean dredge materials at the proposed nearshore areas at Dockweiler and Redondo beaches will not significantly affect coastal marine resources. Therefore, the Commission finds that the proposed project is consistent with the marine resources and water quality protection policies of the California Coastal Management Program (Sections 30230 and 30231 of the Coastal Act).

The proposed project also includes the dredging and disposal of contaminated sediment. The Corps (and EPA) determined these materials (the rest of Area 2 and Areas 3-5) to be unsuitable for nearshore, ocean or other unconfined aquatic disposal. The Corps proposes to place these sediments within the proposed Pier E/Slip 2 landfill in the Port of Long Beach. In reviewing Coastal Development Permit 5-96-231-A1 (October 1998) and Port Master Plan Amendment No. 12 (November 1998), the Commission approved the designation of the Pier E/Slip 2 landfill as a site for the placement of contaminated dredged sediments.

The proposed landfill disposal would allow contaminated dredge material to be beneficially re-used. The use of this material will not have significant environmental effects. The placement of contaminants will be adequately isolated from the marine environment by the rock dike closing off the slip, by the 100-foot buffer between the dike and the contaminants, and by the existing upland on the remaining three sides of the slip. In conclusion, this element of the project will minimize environmental effects by ensuring the removal of contaminated sediments from the marine environment and the permanent isolation of those sediments in the Pier E/Slip 2 landfill.

In commenting on the proposed project, Heal the Bay has raised concerns with the resuspension of contaminated sediment, which it believes would degrade the quality of the water column and increase the biological availability of the contaminants (Exhibit 10). As mitigation for this impact, Heal the Bay recommends the use of silt curtains down to bottom depths. Heal the Bay believes that these silt curtains should be a minimum best management practice for dredging of contaminated sediment. The Commission in the past has supported the use of silt curtains for dredging of contaminated sediment within Marina del Rey. In 1994, the Commission objected to a Corps consistency determination for maintenance dredging in Marina del Rey (CD-68-94) in part because the Corps did not agree to use silt curtains or other measures to reduce turbidity. The Commission later concurred with that same project (CD-88-94) after the Corps agreed to several mitigation measures including the use of silt curtains.

In this case, however, the use of silt curtains have limited value for protecting water quality resources and may result in preventing full use of the environmentally preferred disposal site. The proposed dredging will occur between September 16 and March, which is during the storm season. Silt curtains are less effective at controlling turbidity in rough sea conditions. Therefore, the benefit to water quality from that mitigation measure is limited. Additionally, the storm activity in the region will increase the flows from Ballona Creek and the discharges of contaminants from that source. Therefore, the background water quality during the dredging operation will be lower than the during the non-storm season.

Under most circumstances, even in consideration of the timing of this project, the Commission would consider silt curtains or other measures to minimize water quality impacts from the dredging. However, in the context of the environmental benefits from the dredging, the Commission believes that this project is consistent with the water quality policies of the Coastal Act. The proposed project allows for maintenance dredging of the south channel for the first time in several years. If completed, the project will restore the channel to its approved depth and place the contaminated material in a land-fill site within the Port of Long Beach where the sediment will be isolated from the marine environment with little risk to marine resources.

The Corps has responded to the request for silt curtains stating that they are infeasible because of the additional costs and resulting time delays. In most circumstances, the Commission would not accept these arguments as a basis for not protecting water quality resources. The Commission has, in the past, raised these issues and believes that the Corps should incorporate these mitigation measures into the project cost and timing. However, in this case, the Commission recognizes that the Corps proposed this project only because the disposal site became available. This project was not provided for in the Corps' budget for this year and the funding was limited to that amount that the Corps could find from other sources. (The Commission recognizes the Corps' attempt to address the environmental and economic concerns from disposal of contaminated sediment and appreciates its ability to find funds to allow this project to proceed.) With these limits on the total funding of the project, any costs associated from the dredging will result in reducing the amount of material dredged and placed at Pier E.

Additionally, the Corps maintains that the use of silt curtains will significantly slow down the dredging process. The silt curtains must be remove to allow the barge in and out of the area and must be relocated as the dredge moves to other parts of the channel. Normally, the Commission would find that these timing issues should have been taken into consideration during the project planning phase and is not a basis for not complying with the water quality policies of the Coastal Act. However, in this case, the Corps' project must occur within the window allowed for by the Port of Long Beach in order to

prevent the project from interfering with the Port's project. The timing restrictions make it difficult for the Corps to completely dredge the south channel. In order to complete the project, the Corps is proposing to dredge 24 hours per day. The additional delays caused by the manipulation of silt curtains would result in reduced dredging and disposal at the Pier E site.

Because of the additional costs and timing delays caused by the silt curtains, it is likely that the Corps would not completely dredge the contaminated material from the harbor. Therefore, the recreational boating issues caused by the existing shoals and the continued issues from disposal of contaminated sediment would not be resolved for the near future. It is possible that the Corps will be required to dredge this area in the near future raising new water quality issues and disposal site complications. However, the Port of Long Beach disposal site will not be available and the Corps would probably pursue another site that is not as protective of coastal resources as the proposed site. The Environmental Protection Agency has evaluated this issue and has reached conclusions similar to the Commission's (Exhibit 12). Therefore, in the context of the environmental benefits from the proposed project, the unexpected opportunity to utilize this disposal-site resource, and the limited value of silt curtains during the storm season, the Commission finds that the proposed project will protect water quality resources.

The Commission therefore concludes that the proposed dredging and disposal of contaminated sediments from Marina del Rey is consistent with the water quality and marine resource policies of the CCMP (Sections 30230 and 30231 of the Coastal Act).

D. Endangered Species. Section 30240 of the Coastal Act provides that:

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

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

The proposed project may affect three federally listed species: the western snowy plover (Charadrius alexandrinus nivosus), the California brown pelican (Pelecanus occidentalis californicus) and California least tern (Sterna antillarum browni). Several species of marine mammals and sea turtles may be transient visitors to the harbor and the LA-2 disposal site, but the project will not affect these species. In its environmental assessment, the Corps describes the habitat needs of the federally listed species as follows:

1. ***Western Snowy Plover*** *(Charadrius alexandrinus nivosus). The snowy plover is a small shorebird which has twelve subspecies worldwide. The pacific coast population of the western snowy plover (which is listed as threatened) is defined as those individuals that nest adjacent to or near tidal waters, and includes all nesting colonies on the mainland coast, peninsulas, offshore islands, adjacent bays, and estuaries. This subspecies breeds primarily on the coastal beaches from southern Baja California to southern Washington. Sand spits, dune-backed beaches, unvegetated beach strands, open areas around estuaries, and beaches at river mouths are the preferred coastal habitats. Nest sites typically occur in flat, open areas with sandy or saline substrates; vegetation and driftwood are usually present.*

Snowy plovers forage on invertebrates in wet sand and among surf cast kelp within the intertidal zone; in dry, sandy areas above the high tide; on salt pans; and along the edges of salt marshes and salt ponds.

Snowy plovers occur year-round in coastal California. A population shift probably occurs where migrant, wintering birds augmenting or even replaces resident (breeding and non-breeding) birds in late August (Page et al, 1979). Plovers have not recently nested at Dockweiler or Redondo Beach, and Proposed Critical Habitat for this species does not include the project area.

2. ***California Brown Pelican (Pelecanus occidentalis californicus).*** *The California brown pelican is a frequent visitor of many coastal harbors and has been observed throughout the year, but is most conspicuous in the fall and winter following the breeding season on Anacapa and Santa Barbara Islands from January to March.*

Pelicans use the breakwaters in southern California extensively as a day-time roost; the Marina del Rey breakwater is also an important night (communal) roost site. Day-time roost requirements appear to be areas where birds can see far enough to detect predators and where birds have shelter from wind, waves, and the elements. Night or communal roosts are generally surrounded by water, provide protection from the elements, and have the capacity to support hundreds of birds (Jaques and Anderson, 1987).

From December 1991 through September 1993, surveys were conducted at Mugu Lagoon and other southern California pelican roost sites to

determine seasonal use, diurnal attendance patterns, and effects of human disturbances (Jaques, Strong, and Keeney, 1995). Compared to Mugu Lagoon, the Marina del Rey breakwater was found to be more consistently used as a night roost by large numbers of pelicans. Most surveys were conducted at dawn and dusk, in attempts to obtain peak counts. Numbers exceeded 1,000 birds during each survey from December 1991 to June 1992, peaking at 1,640 birds. Fewer disturbances were noted at detached breakwater roosts such as Marina del Rey, than at small estuaries which may be approached relatively closely by people and dogs (Jaques, Strong, and Keeney, 1995).

Brown pelicans are extremely tolerant of human activity at day-time roosts and are often seen roosting and loafing on breakwaters, piers, buoys, harbors, and wharves (U.S. Army Corps of Engineers, 1991). Birds are far less tolerant of any types of disturbances on night roosts, however, and are known to quickly flush from roost at the slightest disturbances. Jaques and Anderson (1987) noted that pelicans were more likely to abandon roosts when suddenly approached by people or animals on foot. Boats or windsurfers passing the night roost would simply result in a shuffling of birds within a short range.

3. ***California Least Tern (Sterna antillarum browni)***. *The California least tern migrates from Mexico and Central and South America to coastal south-central California to breed. During their stay in California, the birds forage for fish in the nearshore coastal waters and embayments. Most foraging occurs within two miles of breeding colonies (Massey and Atwood, 1982). A nesting colony is known to occur at Venice Beach, immediately north of the entrance to the Marina. The Venice Beach least tern nesting area is surrounded by a chain-link fence, in an attempt to protect the colony from small mammal predation and human disturbance. In the past, nesting also occurred on Dockweiler Beach, but that nesting area is no longer protected, and nesting has not occurred on that beach in recent years.*

The least tern's nest usually occurs in the open expanse of lightly colored sand or dirt or dried mud, next to lagoons or estuaries or on open sandy beaches. The nest generally consists of merely a small depression or scrape in the soil or sand, and is lined with pebbles or sea shell fragments. Nesting usually concludes by mid-August, with post-breeding groups still present into September (USFWS 1980).

Foraging behavior of least terns in the project area and other locations was studied for several years in the late 1970's and early 1980's. Reports

> *on foraging and nesting ecology include Atwood and Minsky (1983), Massey and Atwood (1983), and Massey and Atwood (1980). Massey and Atwood (1980) observed that the majority of feeding activity during courtship, incubation, and rearing of chicks occurred in nearshore ocean waters; an average of 7% of observed foraging activity from May through July of that year occurred within the harbor's entrance channel.*

According to the Corps, the western snowy plover does not nest on Redondo or Dockweiler Beach. In its environmental assessment, the Corps describes the potential plover impacts as follows:

> *The western snowy plover is not known to nest at Dockweiler or Redondo Beach, probably due to recreational use and beach maintenance in these areas. In addition, Redondo Beach is probably too narrow to support nesting plovers. Some individuals may occasionally rest or forage on these beaches, but they would avoid impacts. Birds may even be attracted to the disposal material, to feed on the benthic organisms dredged from the Harbor. The western snowy plover, therefore, is not expected to be affected by the proposed dredging and disposal activities.*

In its informal consultation, the U.S. Fish and Wildlife Service express possible concerns caused by beach disposal activities at Redondo Beach. The Service recommended that the Corps monitor the beach for plovers prior to beach disposal. If plovers are identified on the beach, the Service expects the Corps to consult with the Service and, if necessary, develop mitigation measures. The Corps has agreed to monitor, but does not believe that any future consultation is required. Neither the Corps nor the Service has provided documentation demonstrating impact or non-impact from beach disposal operations. Without this information, the Commission cannot determine if the project will adversely affect the plovers. Therefore, the Commission finds that the Corps' consistency determination does not contain enough information to assess the project's consistency with environmentally sensitive habitat policies of the CCMP.

Additionally, the proposed project has the potential to affect both the pelican and the tern, which forage in the Marina del Rey area and could be affected by increases in turbidity and resuspension of contaminated sediment. Because the Corps intends to begin dredging after September 15, and complete operations before the beginning of the tern-nesting season on April 1, the potential for significant adverse effects on least terns (as well as grunions) will be minimized. Pelicans, on the other hand, roost in Marina del Rey area during the time of year proposed for dredging. Additionally, the Corps proposes to dredge 24 hours per day. The night dredging could disturb the pelicans, which are sensitive to disturbance at night and which roost on the nearby detached breakwater. The Corps needs to dredge at night in order to complete the project during the time period of

availability of the Pier E disposal site, in order to maximize use of that site. However, the Corps has developed a monitoring and mitigation plan including measures to: (1) avoid any night dredging within 120' of the detached breakwater; (2) monitor pelican use for 4 nights prior to dredging and compare pelican counts with "during-project" conditions; (3) if monitoring reveals a 50% reduction in total numbers of birds, either through complete avoidance or roost abandonment, and if this reduction appears to be caused by dredge-related activities, then mitigation may be required (and the Corps will continue to monitor and states that "If there continues to be a significant decline from pre-project densities, mitigation will be required"); and (4) if mitigation is warranted:

> *Mitigation will consist of designating an area where night dredging would not be allowed. If necessary, this area will be expanded by 50' increments until either no impacts are noted, or night dredging is restricted to a minimum of 270' from the dredge. Given the narrow dredge area (most dredging will take place within 425' from the breakwater), and the importance of dredging a maximum quantity of contaminated sediment, it would not be practical to continue widening the restricted area.*

In analyzing the effects of these potential preclusion areas, the Corps states:

> *Designation of an area in which night dredging would not be allowed, would potentially affect the Corps' ability to remove all the contaminated sediment from this area. It is estimated that approximately 35,000 cubic meters of contaminated sediment has shoaled in the area between 120' and 270' from the breakwater. On an average, each 50-foot increment represents approximately 1/3 of this material. In a worst-case, restrictive dredging would result in all this material (or the same quantity of contaminated material in another area) remaining undredged.*

Pursuant to the requirements of the Endangered Species Act, the Corps has informally coordinated with the U.S. Fish and Wildlife Service. The Service, however, is requesting formal consultation pursuant to Section 7 of the Endangered Species Act because it believes that additional measures are needed to protect these endangered species (Exhibit 13). In lieu of formal consultation, the Service has suggested additional mitigation measures to avoid impacts to this species. However, the Corps believes that these measures are unnecessary. Because this issue has not been explored in the past and has not been fully analyzed through scientific studies or the formal consultation process, it is impossible for the Commission to fully evaluate the project for consistency with the habitat policies of the Coastal Act. The Commission unable to conclude that the proposed monitoring and mitigation measures are adequate to avoid significantly adverse effects on the brown pelican. Therefore, the Commission finds that the Corps'

consistency determination does not contain enough information to determine if the proposed project is consistent with the environmentally sensitive habitat protection policies of the California Coastal Management Program (Section 30240 of the Coastal Act).

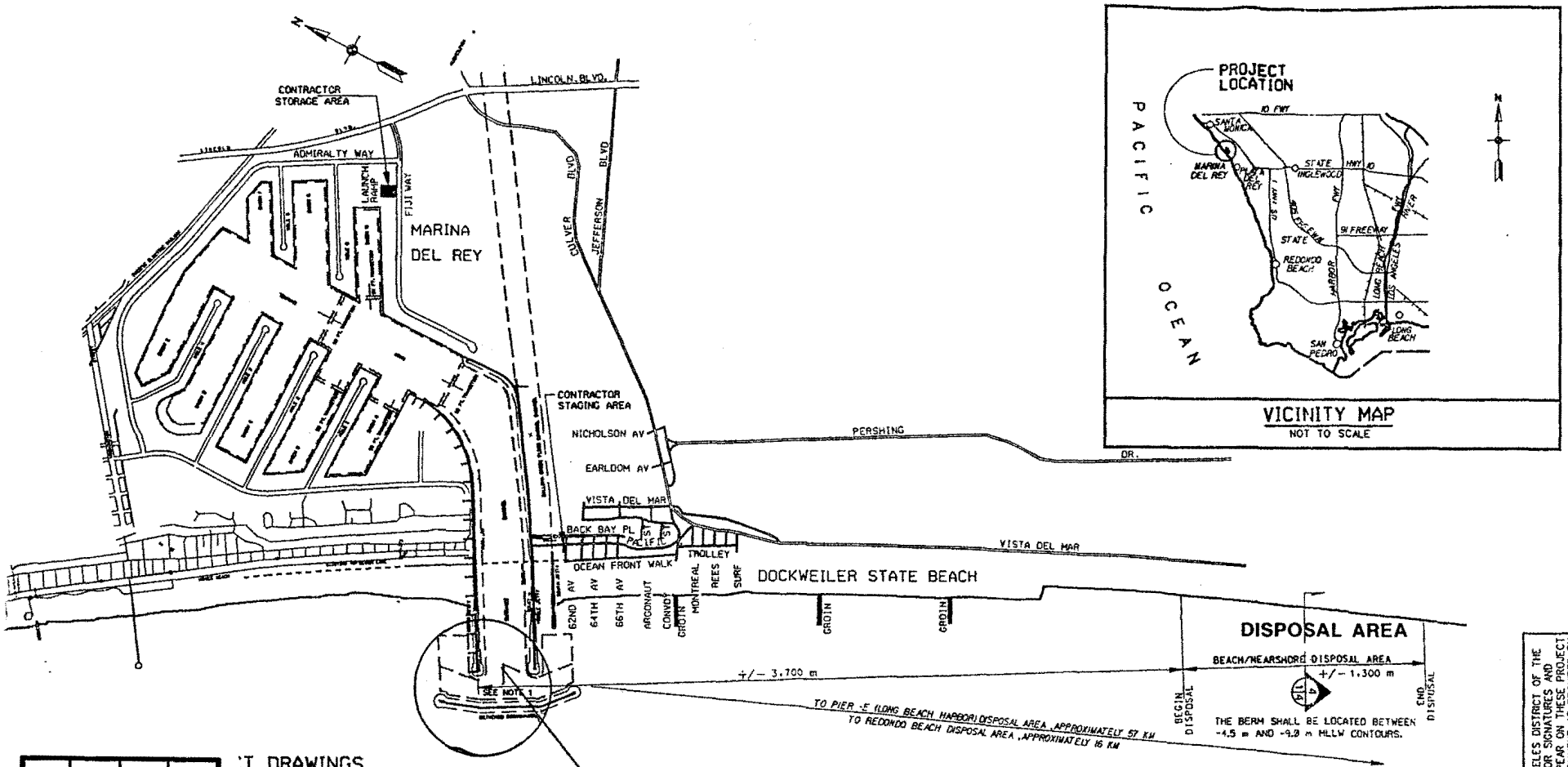
E. Sand Supply. Section 30233(b) of the Coastal Act provides that:

Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

The Corps of Engineers proposes to dispose approximately 150,000 cubic meters of clean dredged material (from Area 1 and the top half of Area 2 nearest the north jetty) at two different nearshore sites (at Dockweiler Beach and Redondo Beach). These disposal sites are adjacent to public beaches and material disposed of at these sites is suitable for beach nourishment. Grain size analysis indicates that the proposed dredge material is suitable for beach replenishment, and that the contaminated material not proposed to be used for beach replenishment is either physically and or chemically incompatible with the receiver beaches. As described above, that contaminated material will be disposed at Slip 2, Pier E. Since that material is unsuitable for sand replenishment, disposal at Slip 2 will not affect sand supply resources. Therefore, the Commission finds that the project is consistent with the sand supply policies of the CCMP (Section 30233 of the Coastal Act).

FIGURE 3

MAINTENANCE DREDGING
MARINA DEL REY, CALIFORNIA



VICINITY MAP
NOT TO SCALE

LOCATION MAP
NOT TO SCALE

:T DRAWINGS

ITLE	SHEET NO.
ION MAP, AND DRAWINGS	1
ND DREDGING PLAN	2
	3
	4
HARBOR DISPOSAL AREA	5
OSAL AREA	6
RATIONS	7
IN	8
IN	9
IN	10

NOTES:

1. SEE SHEET 2 FOR THE AREAS TO BE DREDGED.
2. SEE SHEET 4 FOR TYPICAL DISPOSAL SECTION.
3. SEE THE CONTRACTING OFFICER FOR THE LOCATION AND SIZE (AREA) OF THE CONTRACTOR STORAGE AREA.

THIS PROJECT WAS DESIGNED BY THE LOS ANGELES DISTRICT OF THE U.S. ARMY CORPS OF ENGINEERS. THE INITIALS OR SIGNATURES AND REGISTRATION DESIGNATIONS OF INDIVIDUALS APPEAR ON THESE PROJECT DOCUMENTS WITHIN THE SCOPE OF THEIR EMPLOYMENT AS REQUIRED BY ER 110-1-8152.

SIGNATURES AFFIXED HEREON INDICATE OFFICIAL RECOMMENDATION AND APPROVAL OF ALL THE DRAWINGS IN THIS SET.

U.S. ARMY ENGINEER DISTRICT
LOS ANGELES
CORPS OF ENGINEERS

DESIGNED BY: HPR, SPM
DRAWN BY: HPR, SPM
CHECKED BY: ATS

MAINTENANCE DREDGING
MARINA DEL REY
LOS ANGELES COUNTY, CALIFORNIA

VICINITY MAP LOCATION MAP

EXHIBIT NO. 1
APPLICATION NO.
CD-22-99

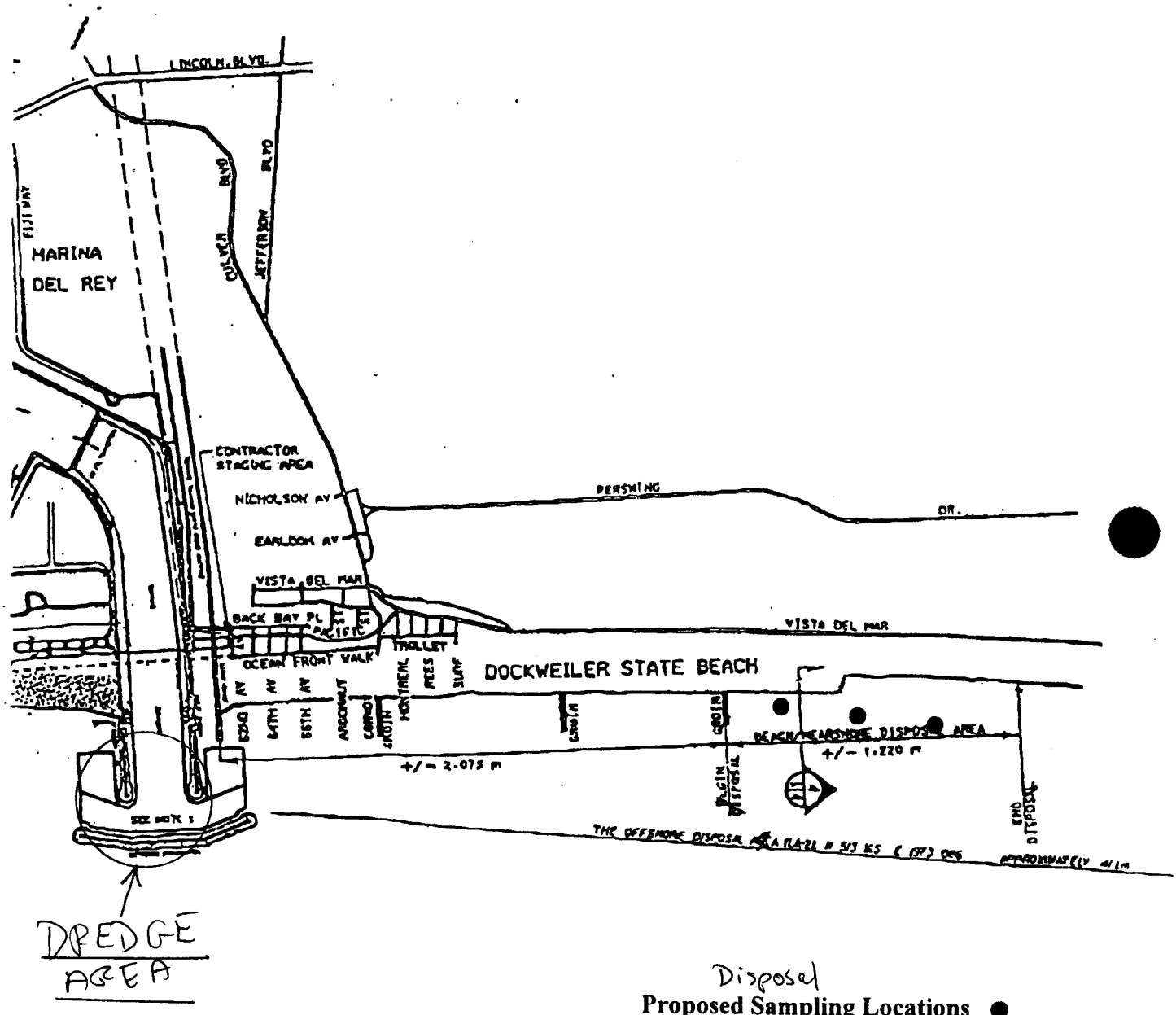


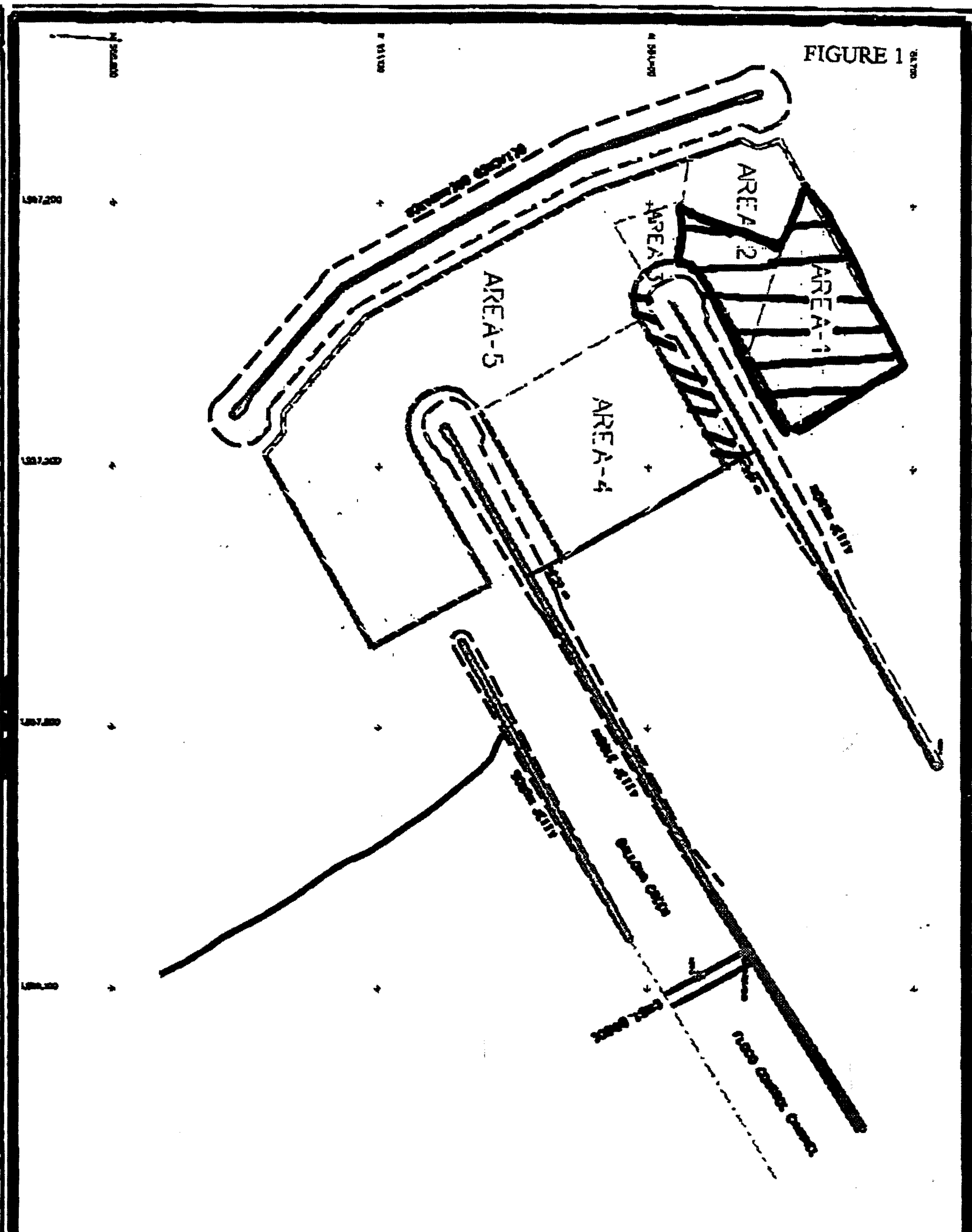
Figure 2

Sampling Locations at Dockweiler Beach

Marina del Rey, Army Corps of Engineers, Los Angeles

EXHIBIT NO. 2
APPLICATION NO.
CD-22-99

FIGURE 1



SLIP 2

BEACH COMPATIBLE

EXHIBIT NO.	3
APPLICATION NO.	
CD-22-99	

FIGURE 4
Redondo Beach Disposal Site

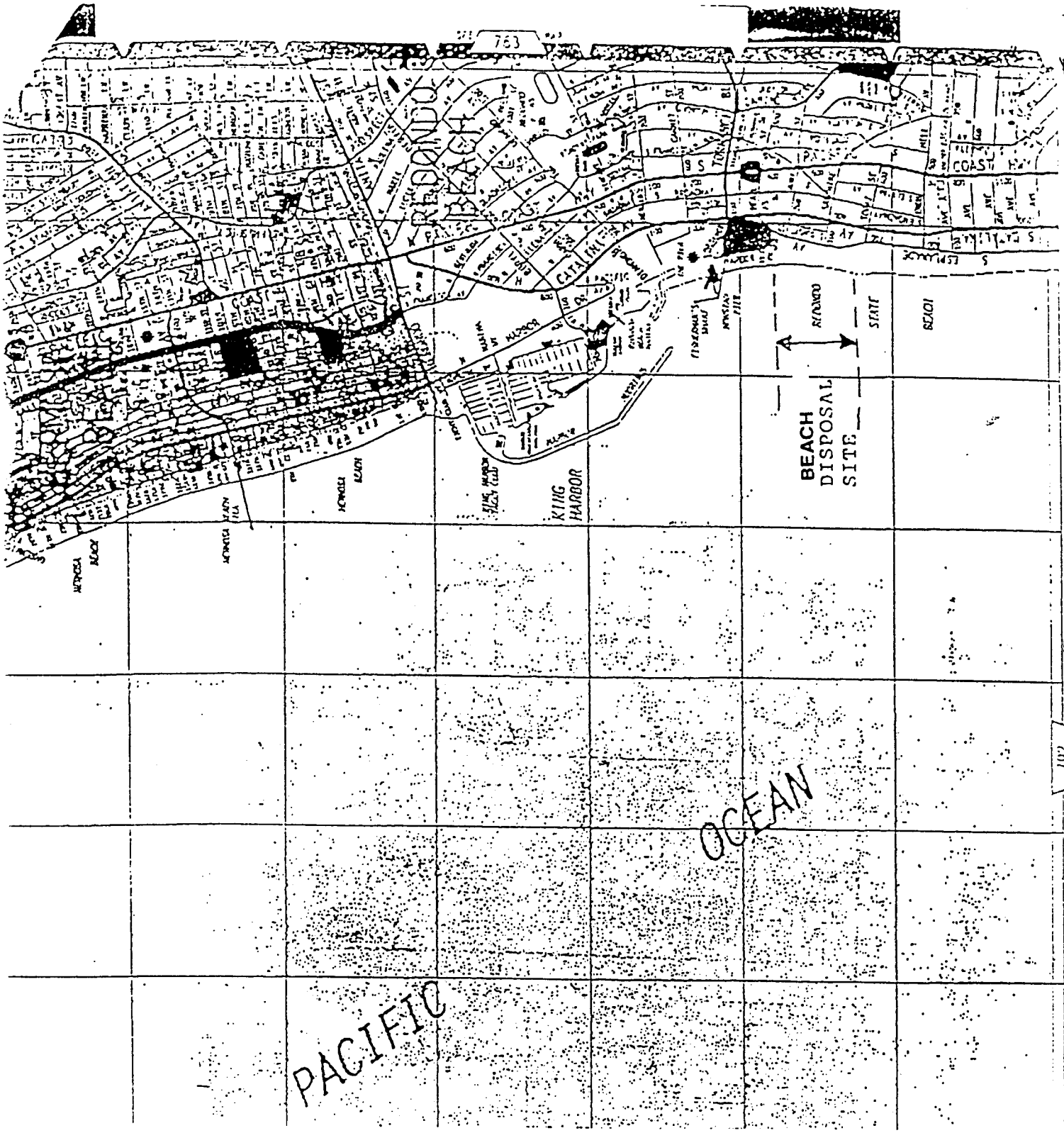
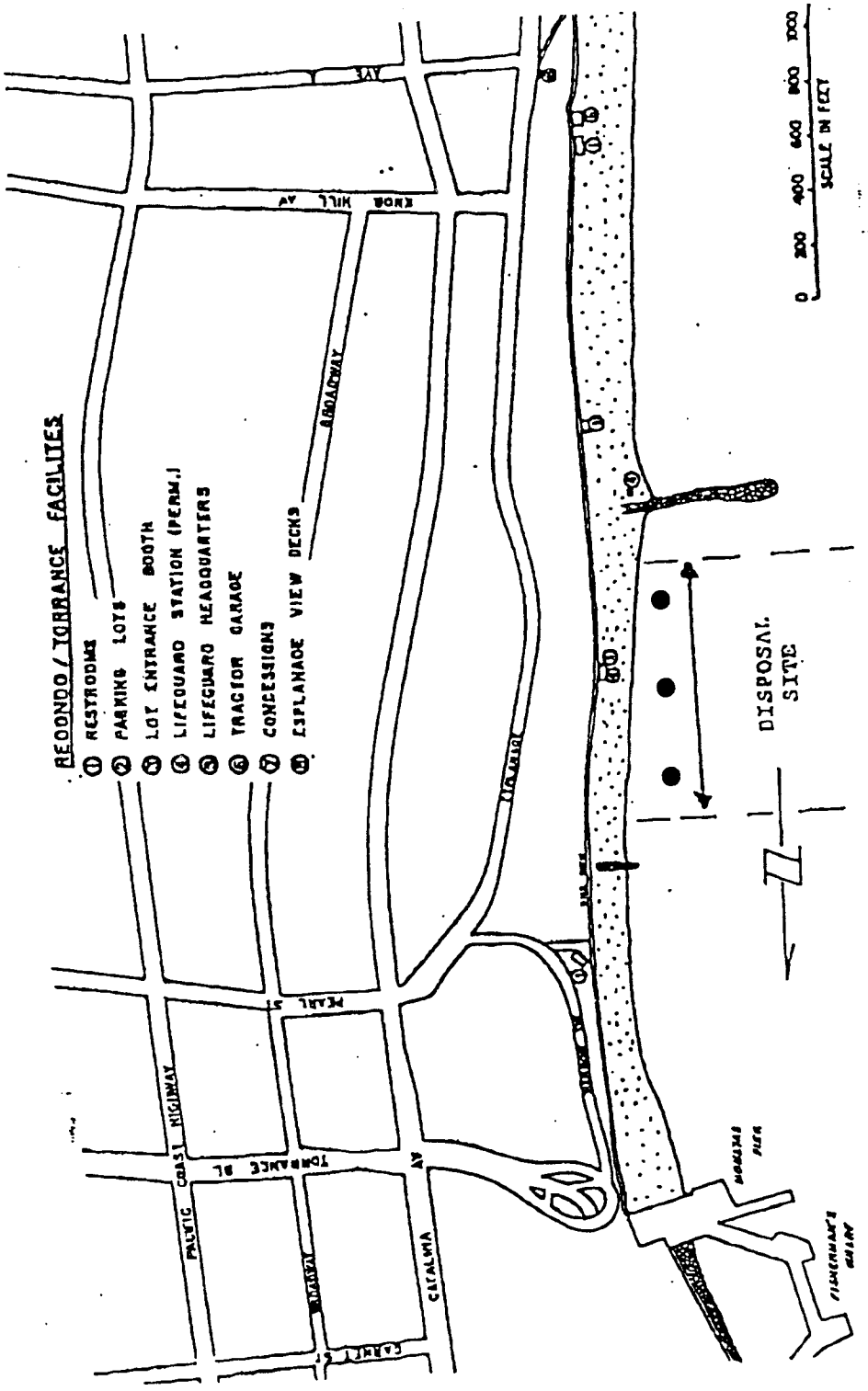


EXHIBIT NO. 4
APPLICATION NO.
CD-22-99



Proposed Sampling Locations ●

Figure 3

Sampling Locations at Redondo Beach

EXHIBIT NO. 5
APPLICATION NO.
CD-22-99

FIGURE 6
Slip 2 Disposal Si

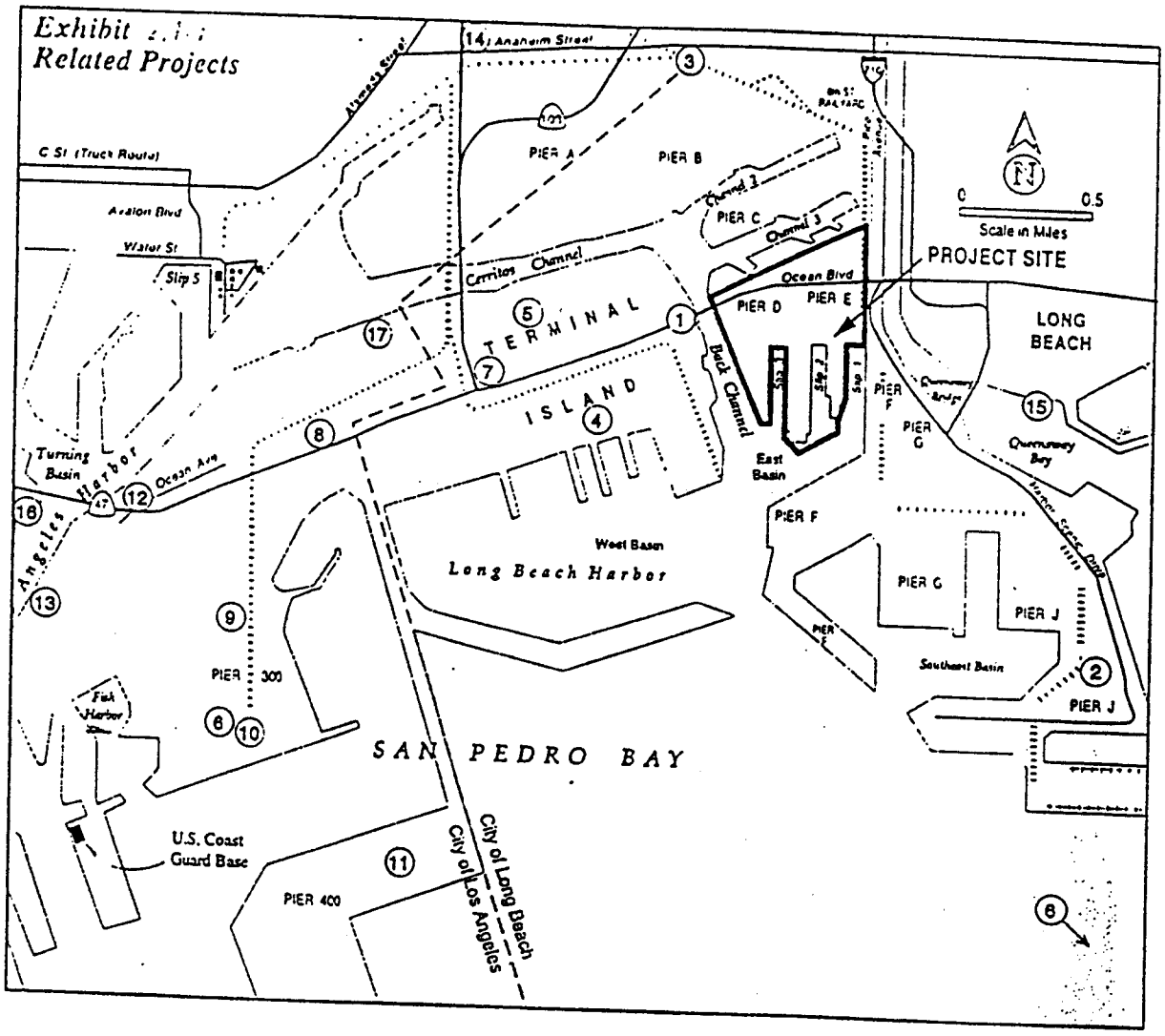


EXHIBIT NO. 6
APPLICATION NO.
CD-22-99

FIGURE 7

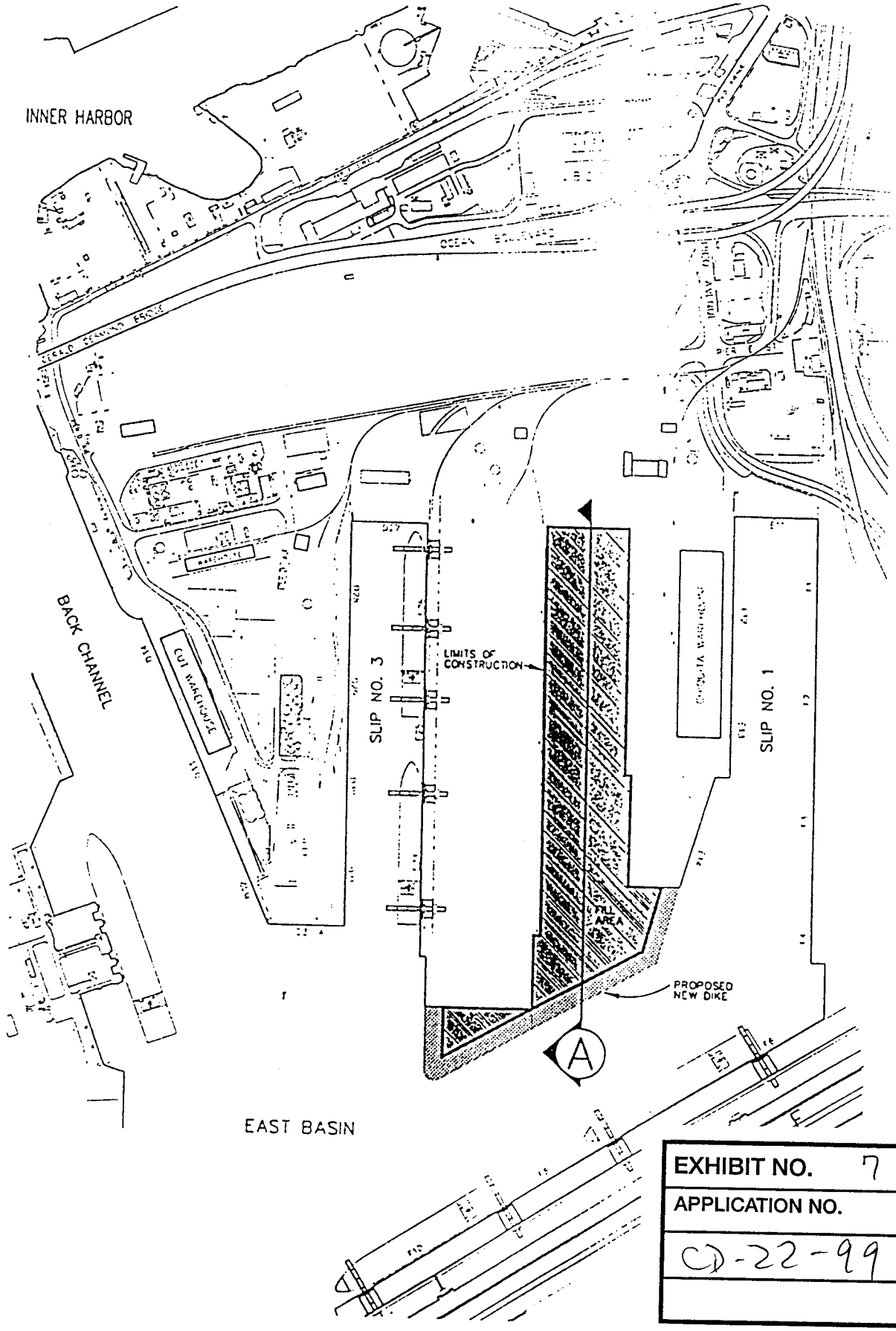
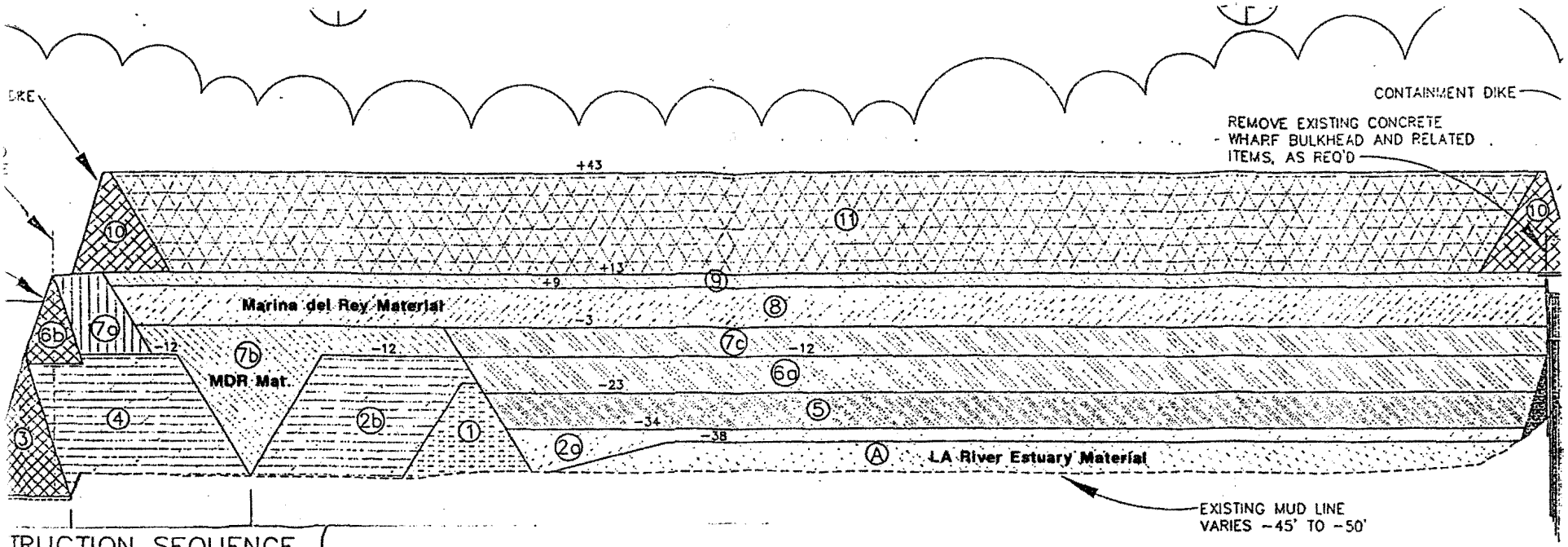


EXHIBIT NO. 7
APPLICATION NO.
CD-22-99

THE PORT OF LONG BEACH

PER E MARINE TERMINAL
SLP NO. 2 DISPOSAL AREA
SITE PLAN

FIGURE 8



TRUCTION SEQUENCE

IVER MATERIAL, BY OTHERS
IKE FROM WHARF EXCAVATION
ROM SLIP 2
IAL FROM WHARF EXCAVATION
NENT ROCK DIKE
AL FROM WHARF EXCAVATION
MATERIAL FROM AREA II
& B MATERIAL
NENT ROCK DIKE

⚠7a. TIER C+ MATERIAL
⚠7b. TIER C PLUS MARINA DEL REY MATERIAL
⚠7c. TIER A & B MATERIAL

8. TIER C PLUS MARINA DEL REY MATERIAL
9. IMPORTED LAND BASED SANDY MATERIAL
10. IMPORTED FILL MATERIAL
11. SURCHARGE–SUITABLE HYDRAULIC DREDGE MATERIAL

⚠ NOTES–

1. MARINA DEL REY MATERIAL EQUALS 300,000c.m. MAX.
2. IT IS THE INTENT OF THE DISPOSAL PLAN TO LAYER THE MATERIALS AS SHOWN. A DIFFERENCE OF FOUR (4) FEET BETWEEN THE HIGH AND LOW POINTS OF EACH MATERIAL LEVEL IS ACCEPTABLE, EXCEPT THAT MATERIALS SHALL NOT OVERFLOW ADJACENT MATERIAL FROM NORTH TO SOUTH.

DRAWN ALG DATE 11/98
DESIGNED JDM P.E. NO. C-36820
PROJ. MGR. JDM P.E. NO. C-36820
SECT. HEAD RRR P.E. NO. C-17747

ASS'T CHIEF HARBOR ENGR. P.E. NO. C-56108
CHIEF HARBOR ENGINEER P.E. NO. C-24528

THE PORT OF LONG BEAC
925 HARBOR PLAZA P.O. BOX 570 LONG BEACH CALIFORNIA 90801 TEL. (562) 437

EXHIBIT NO. 8
APPLICATION NO. CD-22-99

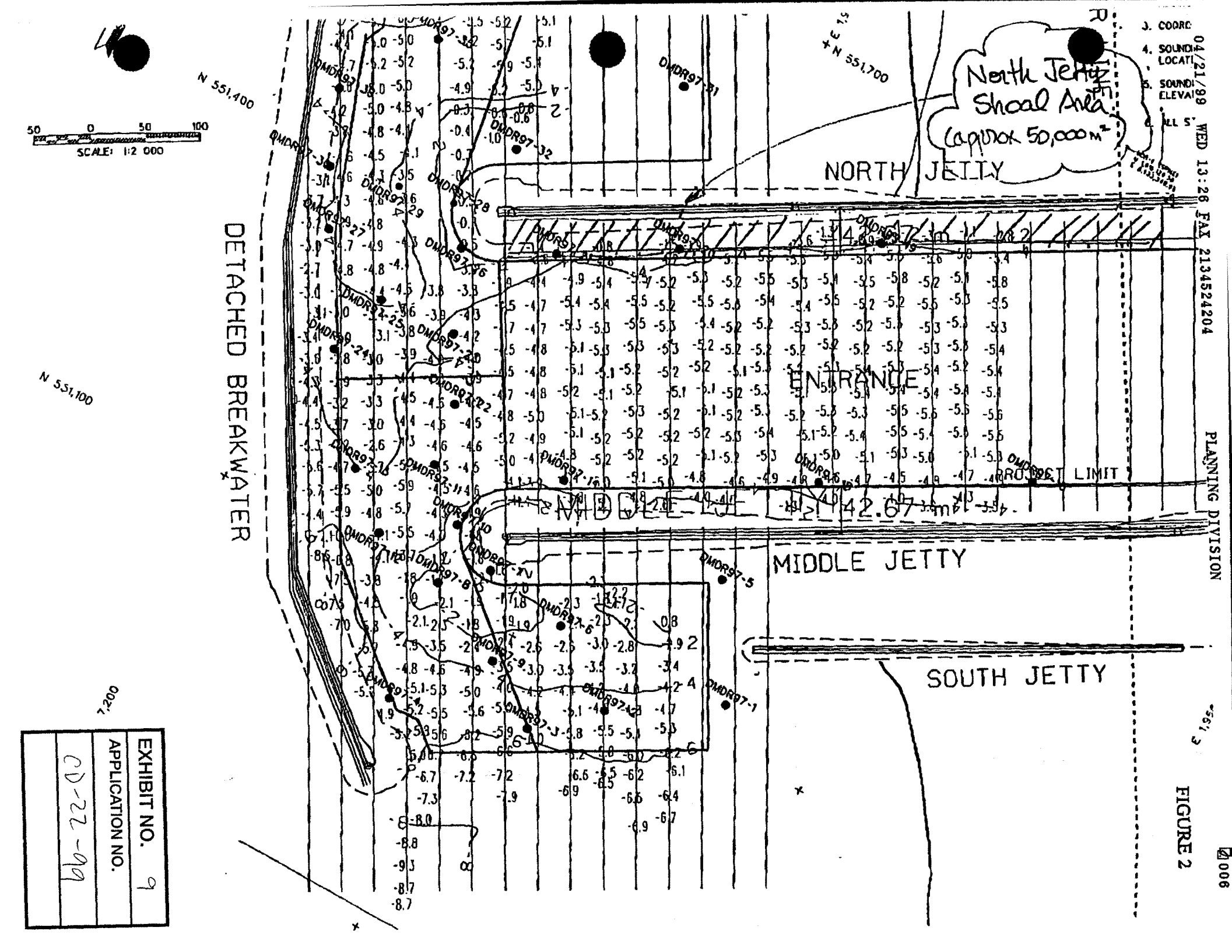


FIGURE 2

EXHIBIT NO. 9
APPLICATION NO. CD-22-99

Heal the Bay

2701 Ocean Park Blvd., Suite 150
Santa Monica CA 90405
310.581.4188 fax 310.581.4195
htb@healthebay.org
www.healthebay.org

Tu 6a

May 7, 1999

Chairman Peter Douglas and Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Via Fax

RE: Dredging at Marina Del Rey – Consistency Determination CD-022-99

Dear Chairman Douglas:

Heal the Bay has reviewed the Staff Report and Recommendation on Consistency Determination for the Marina Del Rey (MDR) dredging project. In general, we support this project. The disposal of MDR's contaminated sediments into the Pier E – Slip 2 landfill at the Port of Long Beach is a more environmentally-sound disposal option than other potential options. As an active member of the Contaminated Sediments Task Force (CSTF), we appreciate the efforts made by the Port of Long Beach, Los Angeles County's Beaches and Harbors, and the Army Corps. of Engineers (ACE) to coordinate their projects to make this disposal option available. Additionally, we appreciate the efforts put forth by the ACE throughout the planning of this project to respond to many of our questions and concerns.

However, Heal the Bay still has one serious concern about the dredging which we raised to the ACE in a letter dated April 2, 1999. The ACE does not intend to use silt curtains during the dredging of MDR's sediment. Silt curtains should be used to reduce the area impacted by resuspended material. As indicated in the ACE's Environmental Assessment for this project, significant impacts from turbidity can be observed up to at least 100 meters from the site of actual dredging.

ACE states silt curtains are not necessary at MDR because the MDR sediments are largely comprised of larger-grained sand which are not as easily suspended and will settle more quickly than fine sediments, thereby limiting the turbidity plume. Although turbidity is a concern, the greatest potential environmental impact of the MDR dredging is the resuspension and mobilization of contaminants. As indicated in the ACE's sampling data, a large majority of the MDR sediments contain levels of contaminants including pesticides and metals at concentrations unsafe for ocean disposal. In fact, portions of the sediment contain DDT, lead, chlordane and dieldrin above the Effect Range Medium (ERM), a guidance concentration above which a toxicity effects are probable.

EXHIBIT NO. 10

APPLICATION NO. CD-22-99

California Coastal Commission

Dredging at MDR will resuspend sediment, particularly the finer-grained materials which carry much of the contamination. Once suspended, these finer-grained materials will remain in the water column longer and will be transported further from the dredging operation. The potential impact from these resuspended contaminants is significant. Environmental resources at risk include productive fish habitat, shallow water habitat and local bird populations including the brown pelican.

Silt curtains will help mitigate the negative impact of contaminant resuspension by limiting the transport of contaminants from the dredge area. Currently the ACE is not proposing any other mitigation of contaminant transport. Silt curtains are particularly necessary for this dredging event since the ACE states the more environmentally-sound clamshell dredge, which seals up to reduce the amount of sediment lost from the bucket, can not be used in Marina Del Rey because the sediments are too compacted.

Historically, when the ACE uses silt curtains, the curtains usually hang to a depth of five feet. We recommend they use silt curtains that hang to project depth which will greatly increase the effectiveness of the silt curtains.

The use of silt curtains have been an on-going issue with the ACE for over ten years. Once again, it appears cost reduction is a higher priority at the ACE than environmental protection.

Sincerely,

Mark Gold, D. Env.
Executive Director

Mitzy Taggart
Staff Scientist

30 April 1999

TO: CDFG (Marilyn Fluharty), Heal The Bay (Mitzy Taggart)

CC: EPA, CCC, L.A. County Dept. Of Beaches and Harbors

SUBJECT: Marina del Rey Maintenance Dredging

I know you've requested the use of silt curtains as a precautionary measure, even if no turbidity plume is evident, but there are several reasons why we feel this is not appropriate:
- First, the material to be dredged is predominantly sand, and is not expected to form a large turbidity plume. As I recall, last year's monitoring showed few instances where turbidity was a problem. In any case, most suspended sediment would settle within a few hours.
- When pockets of siltier material are dredged, suspended sediments could still be carried along the bottom of the water column, underneath the silt curtain. (A silt curtain long enough to extend throughout the water column would probably be prohibitively expensive, and very difficult to maneuver.) Silt curtains are most useful for reducing surface turbidity, especially during least tern season.
- In order for the dredge to operate with any degree of efficiency, the silt curtain would be deployed some distance from the dredge; at least 100 feet away, I would imagine. Most turbidity would dissipate in that distance.
- According to Steven John, the material is not excessively contaminated, and does not warrant extreme measures to ensure no migration of sediment particles. Also, there are no pristine, high quality habitats surrounding the dredge site, and any redeposition of contaminated material in "clean" areas would not significantly change the overall sediment quality in those areas.
- As stated in the attached memo, silt curtains are expensive (at least $100,000), slow down operations, and can create navigation hazards. Funds used for monitoring and mitigation measures, including silt curtains, would be taken from the project budget. Less money would then be available for dredging, and less material would be dredged. Despite the expense, the contractor would still be instructed to deploy silt curtains or use other measures to reduce turbidity if turbidity becomes a problem. However, as a precautionary measure, it's full-time use is not warranted in this case.

If you have any questions, please call me at (213) 452-3863. I'll be out of the office the week of May 3rd, but I'll be checking my voice mail. Thank you.

Hayley Lovan

Hayley Lovan

EXHIBIT NO. 11

APPLICATION NO. CD-22-99

California Coastal Commission

Lovan, Hayley J SPL

From: Pomerantz, Dan S SPL
Sent: Thursday, April 22, 1999 6:18 AM
To: Lovan, Hayley J SPL
Subject: FW: MDR Silt Curtains

FYI,

—Original Message—
From: Ryan, Joseph A SPL
Sent: Wednesday, April 21, 1999 4:27 PM
To: Pomerantz, Dan S SPL
Cc: Chang, Mohammed N SPL; Shak, Arthur T SPL
Subject: RE: MDR Silt Curtains

Dan,

I gave Tim Hanson of Manson Construction a call regarding silt curtains.

Silt curtain purchase cost: $20 per foot of length for a 5 ft deep curtain. Assume length required will vary from 3500 ft to 6000 ft depending on job. Say $100,000 to purchase silt curtain. Assume curtain needs to be purchased for every job.

Silt curtain tenders and workboat: $150/hour ($3600/day)

Navigation Hazard: The silt curtain has to be deployed outside of the anchor wires, necessitating a large area covered by the curtain. This creates problems regarding boat traffic and can create a real hazard to navigation..

The silt curtain has to be maneuvered every time a work scow is moved alongside the clamshell. The workboats and tugs run the risk of becoming fouled in the silt curtain. A big environmental problem would be encountered if a tug lost power (due to fouling) and ran up on a jetty or breakwater.

Tim's experiences with silt curtains are that silt curtains create navigation hazards, and their environmental benefits are questionable.

Joe x3679

—Original Message—
From: Pomerantz, Dan S SPL
Sent: Wednesday, April 21, 1999 3:16 PM
To: Ryan, Joseph A SPL
Cc: Chang, Mohammed N SPL; Shak, Arthur T SPL
Subject: MDR Silt Curtains

Joe,

Hayley tells me more and more agencies would like us to use silt curtains all the time when dredging contaminated material at MDR. Right now, I believe, the specs say that we will monitor and only use silt curtains if turbidity levels are above a certain threshold. How much extra would it cost to have silt curtains there all the time? Thanks.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

May 17, 1999

MEMORANDUM

SUBJECT: Marina del Rey Harbor Maintenance Dredging
FROM: Steven John, U.S. Environmental Protection Agency
TO: James Raives, California Coastal Commission

As you are aware, the U.S. Army Corps of Engineers has proposed a maintenance dredging project at Marina del Rey Harbor. By fortunate turn of circumstances, coordination through the Los Angeles Contaminated Sediments Task Force, and cooperation by the Port of Long Beach (POLB), an opportunity exists to remove sediments from Marina del Rey that are not suitable for ocean or aquatic disposal and confine them in the POLB Slip 2 fill project. In response to the Commission's Consistency Determination (CD-022-99) the issue of employing silt curtains to control turbidity at the Marina del Rey dredged site has been raised. EPA, in its review of the proposed project, has the following comments on the silt curtain issue:

- The proposed project has been timed to correspond to periods where foraging by endangered species that could be affected by turbidity has been avoided. Therefore, silt curtains would not be needed to avoid impacts to endangered species;

- The proposed dredged materials at Marina del Rey, while not suitable for ocean or unconfined aquatic disposal, are not contaminated to such a high level as to be considered hazardous materials;

- Sediment inputs from Ballona Creek have spread contaminated materials outside the scope of the Corps proposed dredging project. Settling of sediments suspended during the dredging operation will likely be in areas of sediments with similar elevated levels of contamination;

- Flows from Ballona Creek that are possible during the time of the dredging operation would result in an elevated level of background turbidity from sediments that are similar to the material to be removed by the proposed Corps dredging operation. Turbidity impacts from the Corps dredging operation would likely make an insignificant contribution to the overall turbidity of these waters;

- Employing silt curtains will likely result in a substantial slowing of the Corps dredging operation. Given the limited window of opportunity for disposing of these materials at the POLB disposal site, slowing of the dredging operation will result in reduced dredged material volumes being removed from Marina del Rey.

In recognition of the unique circumstances of this proposed dredging operation at Marina del Rey, EPA believes any potential environmental benefit from utilizing silt curtains is outweighed by the substantial long term environmental benefit gained from maximizing removal and confined disposal of the contaminated sediments. EPA does not believe the need for silt curtains has been demonstrated for this particular dredging operation. However, EPA does recommends that the Corps employ a series of best management practices to ensure that the proposed dredging operation would be conducted in as environmentally sound manner as is practicable. These measures should include, but are not limited to, enhanced water quality monitoring, including frequent measures for turbidity and chemical evaluation of water quality in the dredge area, and reducing turbidity associated with water draining from the clamshell dredge bucket by holding the bucket near the surface while draining occurs. EPA encourages the Corps to work with its Waterways Experiment Station on identifying any other practicable operational control measures that can be utilized for this project to minimize dredging impacts.

Thank you for the opportunity to comment on the issue of utilizing silt curtains for the Corps Marina del Rey maintenance dredging operation. Please contact me at 213/452-3806 or e-mail at john.steven@epamail.epa.gov if you have any questions about EPA's comments.

cc (by e-mail): Corps
RWQCB
FWS
NMFS
Heal the Bay

United States Department of the Interior
Fish and Wildlife Service
Ecological Services
Carlsbad Fish and Wildlife Office
2730 Loker Avenue West
Carlsbad, California 92008

MAY 0 6 1999

Tu 6a

Colonel John P. Carroll
District Engineer, Los Angeles District
U.S. Army Corps of Engineers
P.O. Box 532711
Los Angeles, California 90053-2325

Attn: Hayley Lovan, Environmental Resources Branch

Re: Marina del Rey Harbor Maintenance Dredging, Marina del Rey, Los Angeles County, California (1-6-99-I-042) (FP/COE-042)

Dear Colonel Carroll:

We have reviewed the Biological assessment dated April 1999, which was transmitted by letter dated April 15, 1999, for the referenced project. Three federally listed birds, the endangered California least tern (*Sterna antillarum browni*, "tern"), endangered brown pelican (*Pelecanus occidentalis californicus*, "pelican"), and threatened western snowy plover (*Charadrius alexandrinus nivosus*, "plover"), were identified as occurring in the project area.

The proposed dredging of Marina del Rey and disposal of sediments at Pier E, Slip 2 in the Port of Long Beach will commence after September 15, 1999, and terminate prior to March 15, 2000. This time frame eliminates any adverse impacts to the tern. The disposal of uncontaminated sediments offshore will eliminate any adverse impacts to the plover. However, the potential for adverse impacts to the plover exists when the sediment disposed of offshore is piped to shore for beach nourishment. Surveys will have to be conducted for the presence or absence of plover in the disposal area. The tern will not be addressed any further.

The potential exists for harassment of the pelican due to night dredging at Marina del Rey. Night roosts are scarce in southern California, so those existing suitable night roosts are occupied and critical for the pelican. Brown pelicans are considerably more sensitive to disturbances at night because of their reduced visibility of potential predators, therefore, flush more frequently due to slight disturbances. The Marina del Rey breakwater is more consistently used as a night roost by large numbers of brown pelicans than other night roosts in southern California. Numbers exceeded 1,000 during each survey from December 1991 to June 1992, peaking at 1,640.

EXHIBIT NO. 13
APPLICATION NO. CD-22-99

California Coastal Commission

The Army Corps of Engineers (Corps) and the Los Angeles County Department of Beaches and Harbors have a great opportunity to remove contaminated sediments from Marina del Rey Harbor and channel in cooperation with the Port of Long Beach. This opportunity should not be missed. The monitoring and mitigation measures proposed by the Corps do not adequately protect the pelican from harassment at night. We are supportive of this project and make the following recommendations to allow the commencement of the project without constraints to normal dredging operations and provide adequate protection for the pelican from harassment during maintenance dredging at night. Implementation of these recommendations would most likely negate the need for formal consultation pursuant to section 7 of the Endangered Species Act of 1973, as amended.

The following recommendations are meant to mitigate for harassment impacts to the brown pelican and to ensure western snowy plover surveys are conducted prior to disposal of sediment on the beach.

1. Floats and/or barges shall be temporarily anchored inside Marina del Rey Harbor to provide temporary night roosts during the maintenance dredging operation. These night roosts would be surrounded by water, provide protection from the elements, and have the capacity to support numerous brown pelicans.

2. These floats and/or barges shall be temporarily anchored by August 15, 1999, in order for the brown pelicans to locate and acclimate to their presence for use as night roosts. These floats and/or barges shall be signed as a temporary brown pelican night roost and off limits for docking, mooring, people, etc.

3. These floats and/or barges shall have adequate surface area to support up to 500 pelicans. This is approximately the level of reduction of brown pelican use of the Marina del Rey breakwater proposed by the Corps before mitigation "may be required." Even though harassment of the pelican will occur during the dredging operation, the floats and/or barges provide temporary alternative night roosts near the project area as opposed to the Los Angeles/Long Beach Harbor breakwater, many miles to the south.

4. These floats and/or barges shall remain in place until completion of the maintenance dredging project at Marina del Rey.

5. Surveys shall be conducted for the western snowy plover for presence or absence prior to sediment being placed on the beach from the temporary offshore disposal site.

In conclusion, this dredging and disposal opportunity is too important to lose. Any constraints placed on the dredging operation itself would be undesirable. However, the monitoring and mitigation measures proposed by the Corps present that possibility and do not adequately protect the brown pelican from harassment. Our recommendations offer no constraints to the dredging operation itself and provides suitable mitigation measures for the brown pelican by providing them a temporary alternative night roost site free of harassment near the project area.

If you have any questions, please feel free to contact John Hanlon, Chief, Branch of Federal Projects, at (760) 431-9440.

Sincerely,

Jim A. Bartel
Assistant Field Supervisor

cc: CDFG, San Diego, CA (Attn: Marilyn Fluharty)
NMFS, Long Beach, CA (Attn: Bob Hoffman)
EPA, Los Angeles, CA (Attn: Steven John)
CCC, San Francisco, CA (Attn: Jaimes Raives, Mark Delaplaine)
CCC, Long Beach, CA (Attn: Lauma Jurkevics)
RWQCB, Monterey Park, CA (Attn: Michael Lyons)
LACDBH, Marina del Rey, CA (Attn: Dean Smith)