STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, GOVERNOR

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

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REVISED STAFF REPORT AND RECOMMENDATION

ON CONSISTENCY DETERMINATION

Consistency Determination No.	CD-50-00
Staff:	LJS-SF
File Date:	5/5/2000
45th Day:	6/19/2000
60th Day: extended through	7/14/2000
Commission Meeting:	7/13/2000

FEDERAL AGENCY: **CORPS OF ENGINEERS**

DEVELOPMENT LOCATION: Port of Los Angeles and LA-2 and/or LA-3 offshore dredge material disposal sites, Los Angeles County **(Exhibits 1-4)**.

DEVELOPMENT DESCRIPTION: Phased review of a channel deepening and landfill construction project in the Port of Los Angeles. The overall project would: (1) deepen the inner harbor channels at the POLA from –45 feet to –53 feet mean lower low water; (2) dispose approximately 4.2 million cubic yards of dredged material (including 600,000 cu.yds. of contaminated sediments) to create a 54-acre expansion of the Cabrillo Shallow Water Habitat Area, a 35-acre landfill in the Southwest Slip, and a 40-acre landfill at Pier 300; (3) place the contaminated sediments within the Southwest Slip and/or Pier 300 landfills; (4) dispose an additional 2.4 million cu.yds. of dredged material at the LA-2 and/or LA-3 ocean disposal sites; and (5) mitigate marine habitat losses from the proposed landfills by using mitigation credits held by the Port of Los Angeles in the Port's

outer harbor mitigation account and in the Port's share of the Bolsa Chica wetlands restoration account.

This consistency determination includes all project elements except for the disposal of contaminated sediments at the Southwest Slip and/or Pier 300, and the disposal of clean sediments at LA-2 and/or LA-3; these elements will be the subject of a second consistency determination to be submitted by the Corps of Engineers later this calendar year.

SUBSTANTIVE FILE DOCUMENTS:

1. Port of Los Angeles Port Master Plan (as amended).

2. Port of Los Angeles Port Master Plan Amendment No. 15 (Port Landfill Mitigation Credit Account/Bolsa Chica Wetlands Restoration, November 1995).

3. Consistency Determinations CD-57-92 and CD-2-97 (Corps of Engineers: Port of Los Angeles Deep Draft Navigation Improvement Project, Stages 1 and 2, respectively).

4. Negative Determinations ND- 103-97 and ND-25-99 (Corps of Engineers: Port of Los Angeles Deep Draft Navigation Improvement Stage 2 Project Modifications).

5. Consistency Determination CD-90-95 (U.S. Fish and Wildlife Service: Bolsa Chica Lowland Acquisition and Conceptual Wetland Restoration Plan).

EXECUTIVE SUMMARY

The Corps of Engineers has submitted the first of two consistency determinations for its proposed harbor deepening project in the Port of Los Angeles. The Corps proposes in the overall project to: (1) deepen the inner harbor channels from –45 feet to –53 feet mean lower low; (2) dispose approximately 4.2 million cubic yards of dredged material (including 600,000 cu.yds. of contaminated sediments) to create a 54-acre expansion of the Cabrillo Shallow Water Habitat Site, a 35-acre landfill in the Southwest Slip, a 40-acre landfill at Pier 300: (3) place the contaminated sediments within the Southwest Slip and/or Pier 300 landfills; (4) dispose an additional 2.4 million cu.yds. of dredged material at the LA-2 and/or LA-3 ocean disposal sites; and (5) mitigate marine habitat losses from the proposed landfills by using mitigation credits held by the Port of Los Angeles in the Port's outer harbor mitigation account and in the Port's share of the Bolsa Chica wetlands restoration account.

The Corps has agreed to a phased review of the proposed project pursuant to 15 C.F.R. Section 930.37(c), and will submit to the Commission later this calendar year (well in advance of the start of project construction in the spring of 2002) a second consistency determination that will address the final design decisions on the disposal of contaminated sediments at the Southwest

Slip and/or Pier 300 and the disposal of clean sediments at LA-2 and/or LA-3. The second consistency determination will incorporate final EPA review of sediment test results and review by the Contaminated Sediments Task Force of the proposed disposal of contaminated sediments. The Corps seeks this initial Commission concurrence with the first consistency determination in order to secure federal funding for the project. The Commission's determination (as outlined, below) that the proposed project is consistent with the California Coastal Management Program (CCMP) is predicated on the Corps' agreement to submit a subsequent consistency determination for final project design, and on the Commission's ability to determine at that time whether the project remains consistent with the resource protection policies of the CCMP.

The project is designed to improve cargo handling efficiency at the Port of Los Angeles by deepening channels to provide safe access to inner harbor berths for the largest vessels in the international container ship fleet. Dredging and disposal to create new landfills and mitigation areas within the Port of Los Angeles, and disposal at the LA-2 and/or LA-3 ocean disposal sites, are consistent with the dredge and fill policies of the CCMP (Sections 30705 and 30233 of the Coastal Act). Sediments were tested and, except for approximately 600,000 cu.yds. of contaminated sediments to be placed in confined disposal sites within new landfills, were found physically and chemically suitable for unconfined aquatic disposal. The project will generate minor, short-term effects on water quality and marine resources in the Port. However, environmental commitments and mitigation measures incorporated into the project make it consistent with the water quality and marine habitat protection policies of the CCMP (Sections 30705, 30706, and 30708 of the Coastal Act).

The project includes restrictions on dredging and fill operations designed to protect the endangered California least tern and California brown pelican from significant, adverse project impacts in shallow water foraging areas used by both species. Additional foraging areas will be created using dredge spoils, and contaminated harbor bottom sediments will be capped to protect existing and new foraging areas. The project is therefore consistent with the fish and wildlife resource and habitat protection policies of the CCMP (Sections 30706 and 30708 of the Coastal Act). Disposal of 4.2 million cu.yds. of dredged material to create new landfills at Pier 300 and the Southwest Slip and expand the Cabrillo Shallow Water Habitat area, and disposal of 2.4 million cu.yds. of material at the LA-2 and/or LA-3 ocean disposal sites are consistent with the sand supply policies of the CCMP (Sections 30706, 30708, and 30233 of the Coastal Act). Dredging and filling activities will generate only minor and short-term impacts on commercial and recreational fishing and boating within the Port and at the ocean disposal sites, and are consistent with the public recreation policies of the CCMP (Sections 30706, 30708, 30213, 30220, 30224, and 30234 of the Coastal Act).

STAFF SUMMARY AND RECOMMENDATION:

I. Staff Note.

A. Background. Since 1993 the Commission has concurred with numerous consistency determinations (CD-57-92 and CD-2-97), negative determinations (ND-103-97 and ND-25-99),

and Port Master Plan Amendments (POLA PMPA Nos. 12, 13, 15, 17, and 19) for construction of the Port of Los Angeles Deep Draft Navigation Improvement Project (DDNI), which includes channel deepening, landfill and terminal construction, and mitigation measures for impacts to marine habitat. The subject consistency determination is a further refinement of the original DDNI project; a port master plan amendment for the subject development is expected from the Port of Los Angeles in the fall of 2000, well before project construction is scheduled to commence in April 2002.

The subject consistency determination was initially heard by the Commission at its June 14, 2000, hearing in Santa Barbara. The hearing was continued to the July 13 Commission meeting in order to provide the Commission additional information on the need for the proposed Pier 300 landfill and potential water quality impacts on Cabrillo Beach due to the proposed expansion of the Cabrillo Shallow Water Habitat Area. Full review of these two project elements by the Commission's technical services staff will not occur until after completion of this staff recommendation due to scheduling constraints. An addendum to this report will be prepared and delivered to the Commission at the July 13 meeting.

B. Phased Review. As of June 22, 2000, the Corps of Engineers has yet to make final design decisions on two project elements: (1) the location for disposal of approximately 600,000 cu.yds. of contaminated project sediments (to be placed at proposed landfills at Pier 300 and/or the Southwest Slip); and (2) the disposal location for approximately 2.4 million cu.yds. of clean (but structurally unsuitable for landfills) dredged sediments (to be placed at the LA-2 and/or LA-3 ocean disposal sites). In addition, final U.S. EPA review of sediment testing results is not completed for an area of contaminated sediments, and the Contaminated Sediments Task Force (CSTF) is still reviewing proposed plans for disposal of all project contaminated sediments at the Pier 300 and/or Southwest Slip landfill sites. As a result, the Corps of Engineers agreed to a phased review of the proposed project pursuant to 15 C.F.R. Section 930.37(c), and will submit to the Commission later this calendar year (well in advance of the start of project construction in the spring of 2002) a consistency determination that will address the final design decisions on issues (1) and (2), above, and incorporate final EPA review of sediment test results and the review by the CSTF of the proposed disposal of contaminated sediments. The Corps seeks this initial Commission concurrence in order to secure federal funding for the project. The Commission's determination (as outlined, below) that the proposed project is consistent with the California Coastal Management Program (CCMP) is predicated on the Corps' agreement to submit a subsequent consistency determination for final project design, and on the Commission's ability to determine at that time whether the project remains consistent with the resource protection policies of the CCMP.

C. Standard of Review. The proposed harbor deepening project is examined for consistency with the policies of Chapter 8 of the Coastal Act because most of the development would occur within the jurisdictional boundary of the Port of Los Angeles; in addition, because the in-port developments are non-appealable there is no trigger for Chapter 3 policy review. However, the proposed disposal of dredged material at the LA-2 and/or LA-3 ocean disposal sites is examined for consistency with the Chapter 3 policies of the Coastal Act because the disposal sites are outside the Port boundary.

II. Project Description.

The proposed project is the first of two consistency determinations to be submitted by the Corps of Engineers for a phased Commission review of the Port of Los Angeles harbor deepening project, a further refinement of the previously-concurred with Deep Draft Navigation Improvement Project(CD-57-92 and CD-2-97). The Corps, in cooperation with the Port of Los Angeles, proposes to deepen the inner harbor channels within the Port from the existing –45 feet to –53 feet mean lower low water (MLLW) in order to accommodate the largest vessels in the international container ship fleet. The project would consist of dredging approximately 6.6 million cu.yds. of sediment over 670 acres of harbor bottom from the Los Angeles Main Channel, West Basin, East Channel, East Basin, and Cerritos Channel. While most of the sediment is clean and suitable for unconfined aquatic disposal, approximately 600,000 cu.yds. of contaminated sediment will be dredged from the West Basin and Reservation Point areas and placed within proposed landfills at the Southwest Slip and/or Pier 300 **(Exhibits 1-4)**.

Disposal of dredged material would occur at several locations. One million cu.yds. would be used to expand the existing Cabrillo Shallow Water Habitat (CSWH) site by approximately 54 acres. The dredged material would be supported by a new submerged dike on the north side, by the existing CSWH dike on the east side, and would slope down from its submerged elevation of –15 feet MLLW to the -20 foot MLLW contour on the west and south sides. The clean dredged material placed here would cap existing contaminated sediments present on the harbor bottom at this location, and the habitat value generated by this project element would add credits to the Port's existing Outer Harbor Mitigation Bank.

One and one-half million cu.yds. would be used to create a 40-acre landfill expansion at Pier 300. Dredged material would be placed behind a rock dike to a finished elevation of +15 feet MLLW, and the landfill would be used to construct an additional container terminal and berth. Approximately 1.7 million cu.yds. would be used to create a 35-acre landfill in the Southwest Slip. Dredged material would be placed behind a rock dike to a finished elevation of +15 feet MLLW. The finished landfill would cap contaminated sediments currently on the harbor bottom at this location and would be used as backland for container terminal storage (two bridges would be constructed across the remnant Southwest Slip channel to connect the new landfill with an existing container terminal). Both locations could be used as a confined aquatic disposal facility for approximately 600,000 cu.yds. of contaminated dredge material to be removed from the West Basin and Reservation Point.

Lastly, approximately 2.4 million cu.yds. of clean, fine-grained dredged material unsuitable for structural fill or beach replenishment would be disposed at LA-3 and/or LA-2 ocean disposal sites.

This first consistency determination includes all project elements except for the disposal of contaminated sediments at the Southwest Slip and/or Pier 300, and the disposal of clean sediments at LA-2 and/or LA-3; these elements will be the subject of a second consistency determination to be submitted by the Corps of Engineers later this calendar year.

III. Status of Local Coastal Program.

The standard of review for federal consistency determinations is the policies of Chapter 3 and Chapter 8 of the Coastal Act, and not the Local Coastal Program (LCP) of Port Master Plan (PMP) of the affected area. If the LCP or PMP has been certified by the Commission and incorporated into the CCMP, it can provide guidance in applying Chapter 3 and Chapter 8 policies in light of local circumstances. If the LCP or PMP has not been incorporated into the CCMP, it cannot be used to guide the Commission's decision, but it can be used as background information. The Port of Los Angeles PMP has been certified by the Commission and incorporated into the CCMP.

IV. Federal Agency's Consistency Determination.

The Corps of Engineers has determined the project 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 agree with consistency determination CD-50-00 that the project described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the California Coastal Management Program (CCMP).**

STAFF RECOMMENDATION:

*Staff recommends a **YES** vote on the motion. Passage of this motion will result in an agreement with the determination and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.*

RESOLUTION TO AGREE WITH CONSISTENCY DETERMINATION:

*The Commission hereby **agrees** with consistency determination CD-50-00 by the U.S. Army Corps of Engineers, on the grounds that the project described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the CCMP.*

VI. Findings and Declarations.

The Commission finds and declares as follows:

A. Dredging and Filling. Section 30705 of the Coastal Act provides the following in relevant part:

(a) Water areas may be diked, filled, or dredged when consistent with a certified port master plan only for the following:

(1) Such construction, deepening, widening, lengthening, or maintenance of ship channel approaches, ship channels, turning basins, berthing areas, and facilities as are required for the safety and the accommodation of commerce and vessels to be served by port facilities.

(2) New or expanded facilities or waterfront land for port-related facilities.

(3) New or expanded commercial fishing facilities or recreational boating facilities.

(4) Incidental public service purposes, including, but not limited to, burying cables or pipes or inspection of piers and maintenance of existing intake and outfall lines.

(5) Mineral extraction, including sand for restoring beaches, except in biologically sensitive areas.

(6) Restoration purposes or creation of new habitat areas.

(7) Nature study, mariculture, or similar resource-dependent activities.

(8) Minor fill for improving shoreline appearance or public access to the water.

(b) The design and location of new or expanded facilities shall, to the extent practicable, take advantage of existing water depths, water circulation, siltation patterns, and means available to reduce controllable sedimentation so as to diminish the need for future dredging.

. . .

(d) For water areas to be diked, filled, or dredged, the commission shall balance and consider socioeconomic and environmental factors.

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:

> *(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
>
> . . .
>
> *(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*

The proposed dredging and disposal activity within the Port of Los Angeles needs to be examined for consistency with Section 30705 of the Coastal Act, and the proposed disposal at LA-2 and/or LA-3 needs to be examined for consistency with Section 30233 of the Coastal Act. Under Section 30705, water areas may be dredged and filled when consistent with a port master plan and when the proposed project is an allowable use. Under Section 30233(a), dredging and filling of open waters is limited to those cases where the proposed project is an allowable use, where there is no feasible less environmentally damaging alternative, and where mitigation measures have been provided to minimize environmental impacts.

The dredging to deepen inner harbor channels, create new landfills at Pier 300 and the Southwest Slip, place contaminated sediments at one or both of the two proposed landfills, and expand the Cabrillo Shallow Water Habitat area in the Port of Los Angeles (POLA) are allowable uses under Section 30705(a)(1, 2, and 6). POLA port master plan amendments have been certified by the Commission over the past seven years in order to provide for the ongoing expansion of the port. A port master plan amendment for the proposed channel deepening, landfills, and terminal development is scheduled to be submitted by POLA to the Commission in the fall of 2000. The Commission typically reviews a Corps consistency determination for POLA navigation improvements concurrently with a port master plan amendment to incorporate into the master plan the new upland areas created, new channel depths, and new land and water uses. In this instance, however, the consistency determination precedes the plan amendment by several months due to the Corps' need to incorporate the project this summer into the 2000 Water Resources Development Act. The fact that project construction will not commence until April 2002 means that the Corps project would in theory be consistent by then with the port master plan. However, should the Commission **not** certify the upcoming plan amendment, then the Corps project could not go forward as the POLA would be unable to issue coastal development permits for any of the project elements due to inconsistency with the port master plan. In addition, the Commission will also be reviewing later this year a second consistency determination from the Corps for the final sediment disposal elements for the project. Commission concurrence with those elements will be required before any project construction could commence.

The disposal of dredged materials from the expansion of port facilities at the LA-2 and/or LA-3 ocean disposal sites is an allowable use under Section 30233(a)(1). Both proposed disposal locations are EPA-approved disposal sites, and disposal here is the least damaging alternative for disposal of the project's clean dredged materials, which are not suitable for beach replenishment due to grain size incompatibility. The project DEIS examined numerous disposal alternatives, but given the structural unsuitability of the subject 2.4 million cu.yds., ocean disposal was

determined to be the least environmentally damaging alternative. However, these sediments may possibly be used to cap contaminated sediments at the Palos Verdes shelf site if it becomes feasible to use fine-grained materials at that site. The final decision on the volume of clean dredged materials going to LA-2 and/or LA-3 will be incorporated into the second consistency determination for this project. At this time, however, the Commission finds that the material is clean and suitable for ocean disposal.

As discussed below, the project will have no significant impacts on coastal resources and no additional mitigation measures (beyond the measures already incorporated into the project by the Corps of Engineers) are necessary. Therefore, the Commission finds that the proposed project is consistent with the dredge and fill policies of the California Coastal Management Program (Sections 30705 and 30233 of the Coastal Act). This finding is based on the information submitted to date, which does not contain final project details regarding the volumes of contaminated sediments placed at the proposed landfills at Pier 300 and/or the Southwest Slip, and the volumes of clean dredged materials to be placed at the LA-2 and/or LA-3 ocean disposal sites. These details will follow and be the subject of subsequent federal consistency review by the Commission.

B. <u>Water Quality and Marine Resources.</u> Section 30705 of the Coastal Act provides in relevant part that:

. . .

(c) Dredging shall be planned, scheduled, and carried out to minimize disruption to fish and bird breeding and migrations, marine habitats, and water circulation. Bottom sediments or sediment elutriate shall be analyzed for toxicants prior to dredging or mining, and where water quality standards are met, dredge spoils may be deposited in open coastal water sites designated to minimize potential adverse impacts on marine organisms, or in confined coastal waters designated as fill sites by the master plan where such spoil can be isolated and contained, or in fill basins on upland sites. Dredge material shall not be transported from coastal waters into estuarine or fresh water areas for disposal.

(d) For water areas to be diked, filled, or dredged, the commission shall balance and consider socioeconomic and environmental factors.

Section 30706 of the Coastal Act provides that:

In addition to the other provisions of this chapter, the policies contained in this section shall govern filling seaward of the mean high tide line within the jurisdiction of ports:

(a) The water area to be filled shall be the minimum necessary to achieve the purpose of the fill.

(b) The nature, location, and extent of any fill, including the disposal of dredge spoils within an area designated for fill, shall minimize harmful effects to coastal resources, such as water quality, fish or wildlife resources, recreational resources, or sand transport systems, and shall minimize reductions of the volume, surface area, or circulation of water.

(c) The fill is constructed in accordance with sound safety standards which will afford reasonable protection to persons and property against the hazards of unstable geologic or soil conditions or of flood or storm waters.

(d) The fill is consistent with navigational safety.

Section 30708 of the Coastal Act provides that:

All port-related developments shall be located, designed, and constructed so as to:

(a) Minimize substantial adverse environmental impacts.

(b) Minimize potential traffic conflicts between vessels.

(c) Give highest priority to the use of existing land space within harbors for port purposes, including, but not limited to, navigational facilities, shipping industries, and necessary support and access facilities.

(d) Provide for other beneficial uses consistent with the public trust, including, but not limited to, recreation and wildlife habitat uses, to the extent feasible.

(e) Encourage rail service to port areas and multicompany use of facilities.

The project DEIS documents in great detail the existing water quality conditions and marine resources in the Port of Los Angeles and examines potential project impacts and associated mitigation measures. The DEIS states that the proposed project will include the following water quality protection measures:

A Section 401 (of the Clean Water Act) Certification from the RWQCB for dredging and filling activities that contains conditions including standard Waste Discharge Requirements (WDR).

Monitoring to ensure that return water flow from disposal of dredge material behind Pier 300 dikes meets the RWQCB requirements for settleable solids and toxic pollutants.

Contaminated sediments will be placed and confined in the in-harbor disposal sites in such a manner that the contaminants cannot enter harbor waters after the fill is complete.

Monitoring to ensure that runoff from upland disposal sites meets RWQCB requirements for toxic contaminants and suspended sediments.

Water quality monitoring will be used, to the extent feasible, to design the Pier 300 fill so that water quality is minimally affected in the remaining shallow water habitat and the Seaplane Anchorage. Any reduction in water quality would require mitigation as described in section 3.4, Biota and Habitats.

Oil and sewer pipelines to be removed will be thoroughly cleaned prior to removal.

Water quality in the project area would be affected during dredge and fill operations, primarily increases in turbidity, decreases in dissolved oxygen, increases in nutrients, and increases in contaminants in the immediate vicinity of operations. These localized water column impacts will in turn affect fish and marine birds in the project area. However, any adverse effects will be limited due to the nature of the dredged materials, the short-term nature of the water column changes, and the ability of fish and birds to avoid the turbidity plumes generated by project operations. Extensive water quality monitoring during Stage 1 and 2 of the Pier 400 Deep Draft Navigation Improvement Project failed to detect any significant, adverse, long-term impacts to water quality in the outer harbor as a result of dredging or disposal activities, and none are anticipated for the similar inner and outer harbor operations included in the proposed project. While contaminants could be released into the water column during the proposed dredge and disposal activities that involve contaminated sediments in the West Basin and near Reservation Point, previous water quality monitoring efforts associated with both project and maintenance dredging in the Port of Los Angeles documented that substantial resuspension of contaminated sediments does not occur. The Corps reports in the DEIS that:

Because little contamination is present in the sediments to be dredged and because resuspension of sediments is expected to be low and in a small area, dredging in the inner harbor would not adversely affect water quality in terms of contaminants.

Removal of the contaminated sediments through dredging would improve the sediment quality in the harbor, a beneficial impact.

. . .

Removal of the top layer of sediment which, in some areas, contains accumulated contaminants and sediments deposited over time from numerous sources, including terrestrial inputs such as stormwater runoff and aerial deposition, would decrease the potential for bioaccumulation of contaminants in aquatic organisms. Placing the contaminated sediments in a landfill would, thus, provide an overall benefit to organisms in the harbor by removing a source of pollutants.

Capping a portion of the toxic hot spot adjacent to the Cabrillo Shallow Water Habitat area with clean sand and capping contaminated sediments in the Southwest Slip with a new landfill will prevent resuspension of the contaminated sediments and release of contaminants into the water

column at both locations. These project elements are considered long-term benefits and will improve water quality in the Port of Los Angeles.

Marine biological resources in the project area have been documented in a number of environmental documents prepared for the Deep Draft Navigation Improvement Project and subsequent modifications in the Port of Los Angeles, and are incorporated by reference in the subject project's DEIS. Habitats to be dredged are mainly deep, soft bottom areas and fill sites are deep and shallow soft bottom areas. Eelgrass has become established in shallow waters off Cabrillo Beach (54 acres), the Pier 300 shallow water area (18 acres), and the Seaplane Lagoon (9 acres)**(Exhibit 5)**. Sparse and low-quality pickleweed is found at isolated patches within the rip rap uplands of the Southwest Slip. Port waters serve as transient or permanent habitat for over 130 species of juvenile or adult fish. Species richness and diversity increase along a gradient from the Inner to the Outer Harbor.

Dredging would eliminate benthic organisms in and on the 670 acres of soft bottom habitat to be deepened. Newly exposed sediments would recolonize within five years based on past dredging operations in the Port, and therefore this adverse impact is not considered significant. Fish in the water column would be temporarily disturbed by project activities as a result of turbidity, noise, and vibration, and most would leave the immediate area of operations. Effects on fish populations are expected to be similar to those of previous harbor deepening and landfill projects and generate no significant, adverse impacts.

The Pier 300 landfill expansion would cause a loss of 40 acres of shallow water, soft bottom habitat that serves as a nursery for a number of fish species, contains eelgrass, and is a foraging area for the California least tern (see below). Mitigation will occur through the use of existing port mitigation credits as approved by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and California Department of Fish and Game. Loss of 0.4 acres of dense and 7.7 acres of sparse eelgrass will be replaced at a 1.2:1 ratio in the Pier 300 shallow water habitat area, Seaplane Lagoon, or Cabrillo Beach. The Southwest Slip landfill would cause a loss of 35 acres of soft bottom habitat and mitigation will occur similar to that for the Pier 300 landfill. The Port will salvage and transplant the sparse and low-quality 4,500 square feet of pickleweed here to either the Cabrillo Salt Marsh in the harbor or to an offsite location, as agreed to by the USFWS, NMFS, and CDFG. Expanding the Cabrillo Shallow Water ~~Habitat~~ area would convert 54 acres of deep soft bottom habitat to shallow soft bottom habitat. Colonization of the shallow fill is expected to result in a higher density of organisms as reflected in the recent surveys of the existing Cabrillo Shallow Water Habitat and nearby deep water habitat. Capping a part of the state-listed toxic hot spot near the Cabrillo Pier is a beneficial effect from the fill operation here. **Exhibit 9** provides a list of the mitigation measures to be used to limit adverse project impacts on marine resources.

In a June 8, 2000, letter to the Commission **(Exhibit 14)**, the environmental group Heal the Bay raised a concern regarding potential water quality impacts at Cabrillo Beach from the proposed expansion of the Cabrillo Shallow Water Habitat Area:

The Cabrillo Beach is a popular swimming area that routinely has the worst microbiological water quality in LA County and consistently receives an "F" on Heal the Bay's Beach Report Card during both dry and wet weather. In fact, State Health Department water contact standards are exceeded over 60% of the time during dry weather. This beach is listed on the SWRCB's 303(d) list as impaired for recreational water contact due to high fecal bacteria densities measured at the shoreline of this beach. The proposed expansion of the Cabrillo SWH will likely further reduce water circulation at this beach, and could cause even higher bacteria densities. Higher bacteria densities indicate higher health risk associated with swimming at the beach.

Heal the Bay also distributed a graph, "Cabrillo Beach - Exceedances Enterococcus," at the June 14 Commission meeting, which is attached to this report as **Exhibit 15**.

The Port of Los Angeles responded to this concern (and other Heal the Bay comments on the project) in a June 12, 2000, letter to the Commission **(Exhibit 16)** which states in part that:

Extensive sampling at the inner Cabrillo Beach are indicates that high levels of bacteria along the shoreline at this location, which is over one-quarter of a mile from the new Shallow Water Habitat, are likely caused by birds which roost on the beach.

Water quality indicators (including dissolved oxygen, transparency, and biological oxygen demand (BOD)) just off shore of Cabrillo Beach have, if anything, improved with construction of the Cabrillo Shallow Water Habitat.

Water quality and hydrodynamic specialists at the Corps' Waterways Experiment Station indicate that construction of the new shallow water will have no concentrating effect on the bacteria levels at the Inner Cabrillo Beach and may result in more water movement in the area.

In a separate response to Heal the Bay's comment letter to the Port of Los Angeles **(Exhibit 17)**, the Port states in part that:

The Inner Cabrillo Beach has had chronic high levels of bacteria, and unlike at least some beaches, these high levels occur during low runoff periods. Extensive sampling of the beach and infrastructure (storm drains and sewer lines) surrounding the beach have shown birds, which roost on the beach in large numbers, as the likely source of the high bacteria counts on the beach. While a strong current running along the beach might act to disperse bacteria, to our knowledge, there is no information that substantiates Heal the Bay's claim that "Poor water circulation in the beach area contributes to the high bacteria densities measures at this beach" or that construction of the existing Cabrillo Shallow Water Habitat has "been exacerbated by the Cabrillo SWH the Port constructed in the early 1990s."

. . .

Recent discussions with Dave Marke and Berry Bunch at the Waterways Experiment Station in Vicksburg indicated that expansion of the Cabrillo Shallow Water Habitat would not have any effect on the circulation in the shallow water adjacent to the Inner Cabrillo Beach. However, a reduction in water volume in this area of the harbor may increase tidal velocities, which could increase water exchange in the area. Expansion of the eelgrass in the area of Cabrillo Beach in recent years indicates that the water quality in the area is good, although the eelgrass itself may tend to reduce circulation between the eelgrass bed and the beach.

In conclusion, the Commission finds that the proposed harbor deepening project will generate only minor, short-term effects on water quality and marine resources in the Port of Los Angeles. Dredging and disposal activities will not result in any significant, adverse effects on the coastal zone due to the nature of the dredged materials, the location of the disposal sites, and the environmental commitments incorporated into the project. Therefore, the Commission finds that the proposed project is consistent with the water quality and marine habitat protection policies of the CCMP (Sections 30705, 30706, and 30708 of the Coastal Act). However, because of the phased review process for this project agreed to by the Corps of Engineers, the Commission will review the final project design for disposal of contaminated sediments at in-harbor sites later this calendar year in order to ensure that those project elements will not adversely affect water quality and marine resources in the harbor, and to ensure that the project remains consistent with the water quality and marine habitat protection policies of the CCMP.

C. **Environmentally Sensitive Habitat.** Sections 30706 and 30708 of the Coastal Act provide in relevant part that:

30706. *In addition to the other provisions of this chapter, the policies contained in this section shall govern filling seaward of the mean high tide line within the jurisdiction of ports:*

. . .

(b) The nature, location, and extent of any fill, including the disposal of dredge spoils within an area designated for fill, shall minimize harmful effects to coastal resources, such as water quality, fish or wildlife resources, recreational resources, or sand transport systems, and shall minimize reductions of the volume, surface area, or circulation of water. . . .

30708. *All port-related developments shall be located, designed, and constructed so as to:*

(a) Minimize substantial adverse environmental impacts.

. . .

(d) Provide for other beneficial uses consistent with the public trust, including, but not limited to, recreation and wildlife habitat uses, to the extent feasible. . . .

The proposed project could potentially affect marine habitat used by two federally endangered species, the California least tern and the California brown pelican. The Draft EIS for the project describes the habitat needs of, potential project impacts on, and associated mitigation measures for these species. While the least tern has nested on Pier 300 since the mid-1970s, since 1997 the only successful nesting has taken place on the newly-constructed Pier 400; in 1998 the Pier 300 site was decommissioned. Least tern nesting in the Port has been monitored since 1974 and the data indicate that harbor dredging projects that include measures to protect terns have not adversely affected tern nesting **(Exhibit 6)**. For the 1999 nesting season, one 15-acre site in the southeast corner of Pier 400 was designated as the tern nesting site and the entire southern portion of Pier 400 was identified as a tern management area where no construction would occur. Monitoring in 1999 showed that a majority of the terns nested in the management area (280 nests), at one location in the pier surcharge area (4 nests), and at two locations on the transportation corridor (83 nests). Least terns forage primarily over shallow water (less than 20 feet deep) in the outer harbor near Pier 300, Cabrillo Beach and salt marsh, the West Basin in the Port of Long Beach, and the Cabrillo Shallow Water Habitat Area. However, in recent years the terns have also foraged in deeper harbor waters south and east of the new Pier 400 landfill.

The California brown pelican resides in the harbor year round but its abundance is greatest during the period between July and November. The pelican prefers to roost on the harbor breakwater dikes and forages over open harbor waters for several species of fish.

The Corps states that the proposed dredging would have no significant adverse effects on endangered species. The inner harbor channels to be dredged are not considered significant foraging areas for least terns or brown pelicans, and, therefore, dredging and related turbidity in these areas are not expected to affect these species.

The proposed Pier 300 landfill would result in a permanent loss of shallow water habitat that is used by least terns as foraging habitat. The fill would also alter circulation in the remaining shallow water habitat in this area which could then cause a degradation of the habitat value that remains. Loss and degradation of shallow water habitat would be mitigated through use of existing port mitigation credits and the creation of additional shallow water habitat in the Outer Harbor. No turbidity will be allowed in the Pier 300 shallow water areas during the tern nesting season between April and September. With these mitigation measures, the USFWS determined that the proposed landfill would not adversely affect either the California least tern or California brown pelican.

The 35-acre Southwest Slip landfill would cause a permanent loss of soft bottom fish and bird habitat (some of currently contaminated) and would be mitigated through use of existing mitigation credits and/or the creation of additional credits in the Outer Harbor. However, this area is not used by least terns or brown pelicans and the landfill would not adversely affect either of these species.

Proposed expansion of the Cabrillo Shallow Water Habitat Area by 54 acres would convert deep water habitat to shallow water habitat at an elevation of approximately -15 feet MLLW. The expansion would also cap part of the State of California-listed toxic hot spot located near the Cabrillo Pier; this is considered a beneficial impact for protecting this foraging area used by terns and pelicans. Placement of fill material at this location will be timed to avoid the least tern nesting season and/or will be designed to assure that turbidity does not enter the existing shallow water area in order to avoid impacts to least tern foraging activity. Formation of additional shallow water habitat will benefit the least tern once its prey species become established in the new area. The Corps reports that based on surveys in August 1999, fish abundance and species composition were similar during the daytime at the Pier 300 and Cabrillo Shallow Water Habitat areas, five years after the Cabrillo habitat was created. Least tern foraging surveys in 1996, however, showed less use of the Cabrillo area relative to the Pier 300 area, which could be related to tern behavior rather than abundance of fish at the Cabrillo Habitat area.

The Port of Los Angeles develops mitigation plans for impacts to fish and wildlife species in coordination with the National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the California Department of Fish and Game through agreed-upon mitigation policies. **Exhibit 7** shows the estimated number of current mitigation credits available for use in the proposed project. **Exhibit 8** illustrates how those credits would be used in the proposed project. **Exhibit 9** illustrates the marine resources and endangered species mitigation measures to be used in the proposed project. **Exhibit 10** provides information on the mitigation monitoring program for the project. In addition, in its May 15, 2000, letter to the Corps of Engineers **(Exhibit 11)**, the U.S. Fish and Wildlife Service commented on the proposed project as follows:

> *We had produced a Biological Opinion (BO), for the Deep Draft Navigation Improvements Project in 1992 (1-6-92-F-25, September 24, 1992), addressing potential impacts to the California least tern (Sterna antillarum browni) and the California brown pelican (Pelecanus occidentalis californicus). Phases 1 and 2 of that project are nearly completed. The least tern, in particular, has been very well served by the actions of the local sponsor, Port of Los Angeles, who has acted in compliance with the nest management agreement, nest site monitoring, essential foraging area mitigation and protection, all requirements of the 1992 EIS and BO.*
>
> *We completed a Planning Aid Report in August of 1999, and a draft Fish and Wildlife Coordination Act Report (FWCAR) in January 2000, for the subject supplemental project and expect to complete a final FWCAR very soon. As your letter confirms, we have been in discussions, that is, informal consultation, with the Corps of Engineers and the local sponsor, the Port of Los Angeles since last year. By mutual design, the dSEIS includes agreed upon protection measures for the California least tern and acts as a Biological Assessment, as well.*
>
> *The project description components that would assure that the listed species, particularly the least tern, would not be adversely affected are listed on pages 3.4-20 through 23 of the dSEIS. In general, those elements include: protection and management of a designated nesting area pursuant to written agreement, through construction timing and monitoring*

protection of specifically designated essential shallow water foraging areas from degradation during construction, and offsetting, acre-for-acre and near the nesting site, of any loss of shallow water foraging area in advance of loss.

No other listed species may be affected by the proposed channel deepening and landfill construction project. Therefore, provided the project is implemented as described in the dSEIS, we concur that no listed species would be adversely affected by the project and Formal Consultation, pursuant to section 7 of the Endangered Species Act is not warranted. . . .

The National Marine Fisheries Service stated in its May 5, 2000, letter to the Port of Los Angeles **(Exhibit 12)** that:

The proposed project is located in an area identified as Essential Fish Habitat (EFH) for fish species federally managed under the Pacific Groundfish Fishery Management Plan and Coastal Pelagic Fishery Management Plan. Based on our review of the information contained in the DSEIS/DSEIR, NMFS believes that the proposed project, including implementation of the described mitigation, would not result in an adverse impact on EFH and other NMFS-trust fishery resources.

The California Department of Fish and Game stated in its May 16, 2000, letter to the Port of Los Angeles **(Exhibit 13)** that:

The DSEIS/DSEIR is adequate in its portrayal of impacts to fish and wildlife resources and habitats associated with the preferred project and alternatives. Therefore, the Department does not object to the adoption of the recommended plan alternative provided the described mitigation measures are implemented.

In a June 8, 2000, letter to the Commission **(Exhibit 14)**, the environmental group Heal the Bay raised a concern "about the use of dredged materials to fill in more of San Pedro Bay" and the need for the proposed Pier 300 landfill:

The expansion of Pier 300 will result in the permanent destruction of an estimated 20% of the preferred foraging habitat for the California least tern. The expansion of the Cabrillo Shallow Water Habitat (SWH) may not mitigate this loss.

. . .

To date, it does not appear the Port has considered project alternatives such as upland disposal of dredged materials; beneficial reuse of the dredged materials for products such as concrete; and a smaller-scale project which would generate less dredge material.

The Port of Los Angeles responded to Heal the Bay's concerns about the need for and alternatives to the project landfills in the Port's June 12, 2000, letter to the Commission **(Exhibit 16)** and in the Port's separate response to Heal the Bay's May 22, 2000, letter **(Exhibit 17)**. The

information contained in these response letters and in the project DSEIS/SEIR adequately documents: (1) the range of project alternatives considered; (2) the need for the Pier 300 landfill to support current and future cargo handling requirements at this container terminal; and (3) the conclusion that the proposed landfill will have no adverse effect on the foraging activity and population of California least terns.

In conclusion, the proposed dredging and filling of coastal waters in the Port of Los Angeles, and with the mitigation measures incorporated into the project to protect endangered species, will not significantly affect the endangered California least tern or California brown pelican. Therefore, the Commission finds that with the same considerations discussed in previous sections (i.e., subsequent review of final project design, in particular, dredge material disposal locations and design), the proposed project is consistent with the fish and wildlife resource and habitat protection policies of the CCMP (Sections 30706 and 30708 of the Coastal Act).

D. Sand Supply. Sections 30706 and 30708 of the Coastal Act provide in relevant part that:

> 30706. *In addition to the other provisions of this chapter, the policies contained in this section shall govern filling seaward of the mean high tide line within the jurisdiction of ports:*
>
> *(a) The water area to be filled shall be the minimum necessary to achieve the purpose of the fill.*
>
> *(b) The nature, location, and extent of any fill, including the disposal of dredge spoils within an area designated for fill, shall minimize harmful effects to coastal resources, such as water quality, fish or wildlife resources, recreational resources, or sand transport systems, and shall minimize reductions of the volume, surface area, or circulation of water.*
>
> 30708. *All port-related developments shall be located, designed, and constructed so as to:*
>
> *(a) Minimize substantial adverse environmental impacts.*
>
> . . .
>
> *(d) Provide for other beneficial uses consistent with the public trust, including, but not limited to, recreation and wildlife habitat uses, to the extent feasible. . . .*

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 Port of Los Angeles proposes to dispose up to 2.4 million cu.yds. of dredged material at LA-2 and/or LA-3, EPA-approved ocean dredge material disposal sites, the former located seven miles offshore from the Port of Los Angeles and the latter five miles offshore from Newport Beach. Dredged material placed at these sites would not be available for beach replenishment after disposal. Analysis indicates that the dredged material is not suitable for beach placement due to the predominately small grain size of the material. Since the material is predominately silt and clay, wave energy would move this relatively fine material off the beaches and out of the littoral system if the material were placed on the beach or in the nearshore zone. Therefore, the Commission finds that the 2.4 million cu.yds. of clean but structurally unsuitable dredged materials are also not suitable for beach replenishment, and that the proposed disposal of the 2.4 million cu.yds. of material at LA-2 and/or LA-3 is consistent with the sand supply policies of the California Coastal Management Program (Sections 30706, 30708, and 30233 of the Coastal Act). The volumes of clean dredged material to be placed at one or both of the ocean disposal sites will be finalized by the Corps of Engineers at a later date and will be a component of the previously-mentioned second consistency submittal for this project under the phased review process agreed to by the Corps of Engineers.

E. Recreation. The Coastal Act provides in the following sections that:

30213. *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. . . .*

30220. *Coastal areas suited for water-oriented recreational activities that cannot be readily provided at inland water areas shall be protected for such uses.*

30224. *Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.*

30234. *Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.*

30234.5. *The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.*

30706. *In addition to the other provisions of this chapter, the policies contained in this section shall govern filling seaward of the mean high tide line within the jurisdiction of ports:*

. . .

(b) The nature, location, and extent of any fill, including the disposal of dredge spoils within an area designated for fill, shall minimize harmful effects to coastal resources, such as water quality, fish or wildlife resources, recreational resources, or sand transport systems, and shall minimize reductions of the volume, surface area, or circulation of water. . . .

30708. *All port-related developments shall be located, designed, and constructed so as to:*

(a) Minimize substantial adverse environmental impacts.

. . .

(c) Provide for other beneficial uses consistent with the public trust, including, but not limited to, recreation and wildlife habitat uses, to the extent feasible. . . .

The Commission must examine project consistency with recreational resources at the LA-2 and LA-3 ocean disposal sites and those located in the Port of Los Angeles. Regarding the former two sites, in the second consistency determination for this phased-review project that will be submitted by the Corps in the fall of 2000, the final volumes of clean dredged material to be placed at the LA-2 and LA-3 sites will be provided to the Commission. In this subject consistency determination, the Commission must determine whether the general use of the ocean disposal sites is consistent with the CCMP. In its 1997 review of the redesignation of the LA-2 ocean disposal site, the Commission examined the previous twenty years of disposal activity at LA-2 and adopted the following findings regarding commercial and recreational fishing at and near LA-2:

The Commission's interest in the effect of the use of the disposal site on benthic resources and on turbidity at and near LA-2 is generated by concern over the effect of the site on economically, recreationally, and biologically important fish species. It appears from the data presented so far that the designation of LA-2 has not affected fishery resources of the area. To provide further evidence of this conclusion, EPA conducted an analysis of recreational and commercial fish catch to determine if use of LA-2 has caused a noticeable reduction of fish catches as compared to trends of the region. Based on these studies, EPA concludes that dredged material disposal at LA-2 has not caused any significant effect on recreational and commercial fish catches.

With the Commission's 1997 concurrence in the redesignation of the LA-2 ocean disposal site, the proposed disposal of clean dredged material at LA-2 will not generate significant adverse effects on commercial or recreational fishing. The disposal site is located seven miles from

shore and disposal activities will not affect public access to or recreational use of the offshore area. Therefore, the Commission finds that proposed disposal at LA-2 is consistent with the commercial and recreational fishing and boating policies of the California Coastal Management Program (Sections 30234, 30234.5, 30220, and 30224 of the Coastal Act).

The LA-3 site is located in an area devoid of submerged relief and at a depth beyond most commercial bottom fishing. While a setline dory fishery exists in the general area of LA-3, dredged material disposal has not adversely affected this fishery in the past, and there is no indication that continued disposal at LA-3 will generate adverse effects on this fishery. Likewise, there are no significant recreational fisheries in the area that could be affected by the project. The site is outside the designated vessel traffic approach lanes for the Ports of Los Angeles and Long Beach, and no significant effects on commercial shipping are generated by use of LA-3. In addition, use of LA-3 will not affect recreational boating in the area. Therefore, the Commission finds that proposed disposal at LA-3 is consistent with the commercial and recreational fishing and boating policies of the California Coastal Management Program (Sections 30234, 30234.5, 30220, and 30224 of the Coastal Act).

The project activities within the Port of Los Angeles must be consistent with the recreational policies in Sections 30706 and 30708 of the Coastal Act. The proposed dredging and filling that would occur in the inner harbor channels, Pier 300, the Southwest Slip, and adjacent to the Cabrillo Shallow Water Habitat would not generate adverse effects on recreational activity in the Port. No existing public access or recreation areas will be eliminated or created by the proposed project. Dredging will not affect the existing commercial recreational facilities at Ports O' Call Village on the west side of the main channel. On-water recreational boating will be restricted in the immediate areas of active dredging and filling, and some inconvenience to recreational boaters traveling within the harbor may occur due to project activities, but these are not considered significant impacts. The proposed Pier 300 and Southwest Slip landfill sites are not recreation areas due to the existing cargo terminal and industrial activities that occur here; proposed landfills will not affect public access or recreation.

Construction of the expansion of the Cabrillo Shallow Water Habitat site could generate temporary effects on public recreation in adjacent waters. The DEIS states that:

> *Constructing the submerged dike at this site and disposing of dredged material would cause turbidity for about 1.5 months . . . To avoid conflicts with construction equipment and impacts to their operations from turbidity, and prior to construction of the Shallow Water Habitat, both bait barges would be located temporarily to an appropriate site within the Outer Los Angeles Harbor. After construction of the Shallow Water Habitat, both barges may need to be relocated to a more permanent and appropriate location in the Outer Los Angeles Harbor. The bait barges would continue to be accessible to fishing boats during and after construction and no significant recreational impacts would result from use of this site.*
>
> *Turbidity generated by construction also could adversely affect fishing opportunities at the nearby pier since the number of fish may decline. Since the possible impact to fishing*

would be short term, fishing would not be precluded at the pier, and opportunities to fish from shore are available elsewhere in the project area (e.g., the Port of Long Beach and the outer beach), this impact is not considered significant. Fish would be expected to return soon after construction ceased (i.e., within days or weeks). Long-term fishing opportunities may increase in the Port of Los Angeles due to the provision of more shallow water habitat, which attracts many different fish species . . . .

Construction activities could also temporarily disrupt recreational water sports in the vicinity of the Cabrillo Shallow Water Habitat Expansion Site. Disruption would be short term and insignificant.

The Commission agrees that project dredging and filling will generate only temporary and minor effects on recreational boating and fishing in the vicinity of dredge and fill operations. The Commission also finds that the proposed expansion of the Cabrillo Shallow Water Habitat Area will not cause a degradation in water quality or recreational opportunities at Cabrillo Beach. Therefore, the Commission finds that with the same considerations discussed in previous sections (i.e., subsequent review of final project design, in particular, dredge material disposal locations and design), proposed dredge and fill activities in the Port of Los Angeles are consistent with the commercial and recreational fishing and boating policies of the California Coastal Management Program (Sections 30706 and 30708 of the Coastal Act).

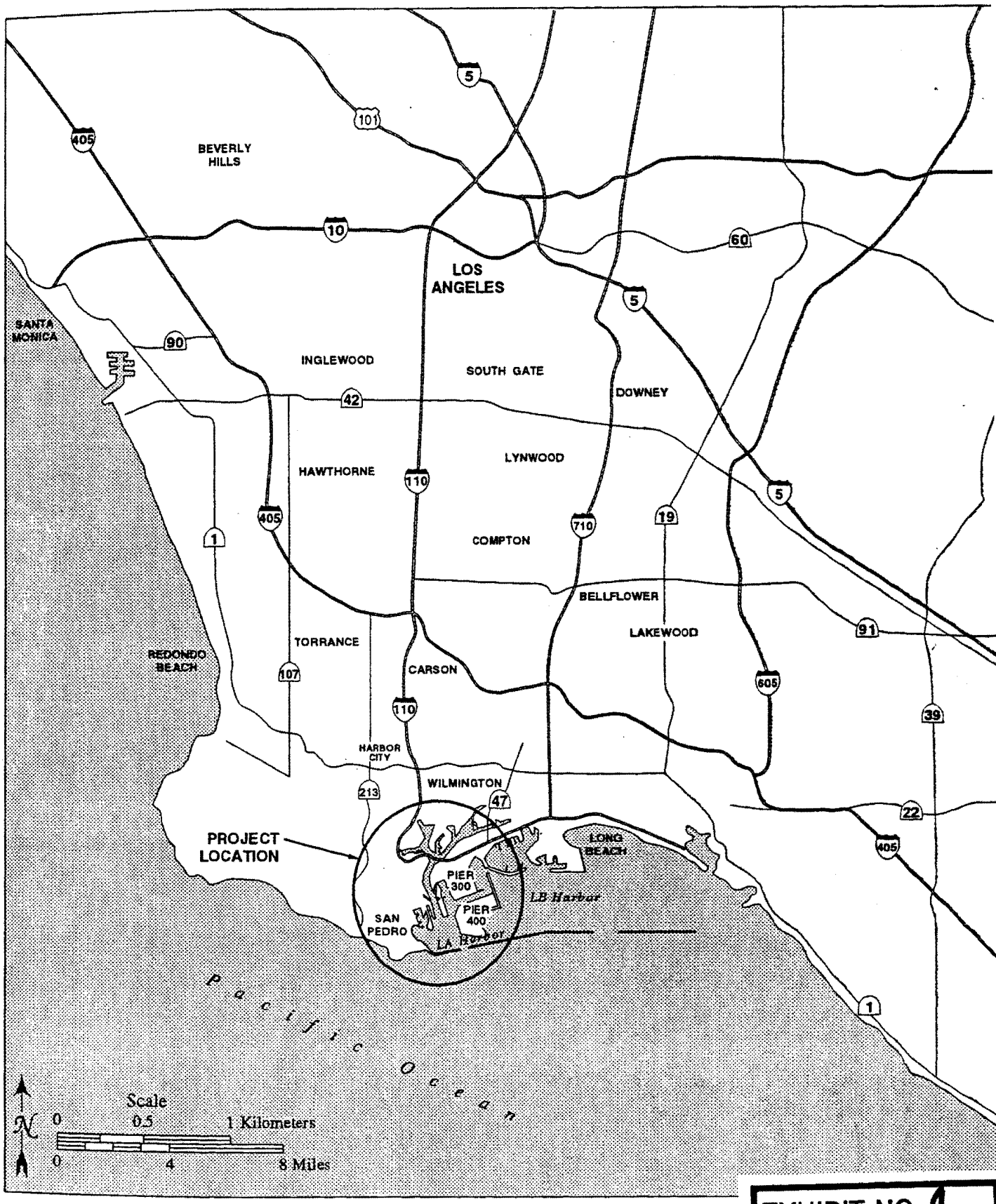


Figure ES-1. Project Location

EXHIBIT NO. 1
APPLICATION NO.
CD-50-00
California Coastal Commission

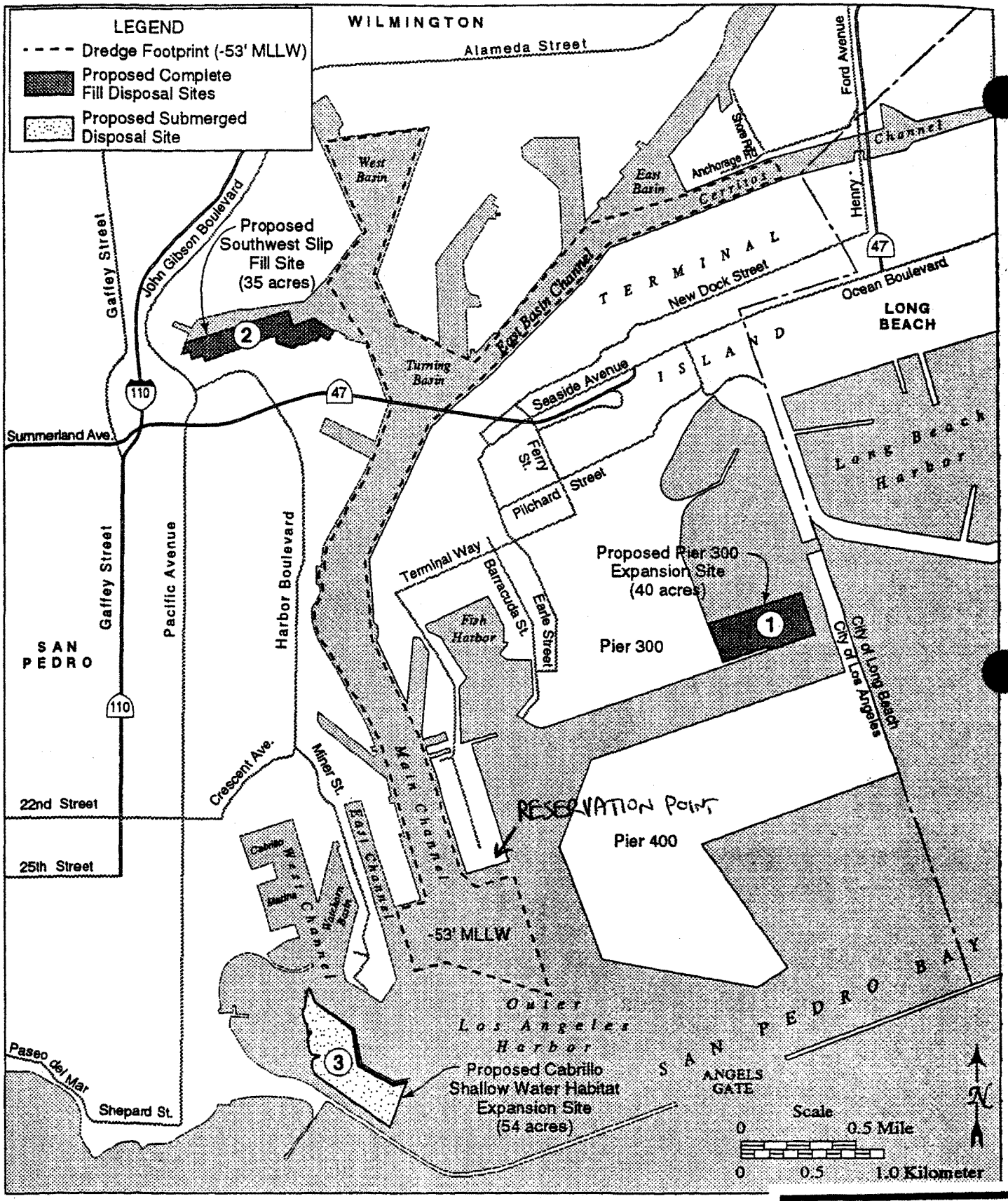


Figure 5-1. Recommended Plan (Modified NED Plan)

EXHIBIT NO. 2
APPLICATION NO.
CD-50-00
California Coastal Commission

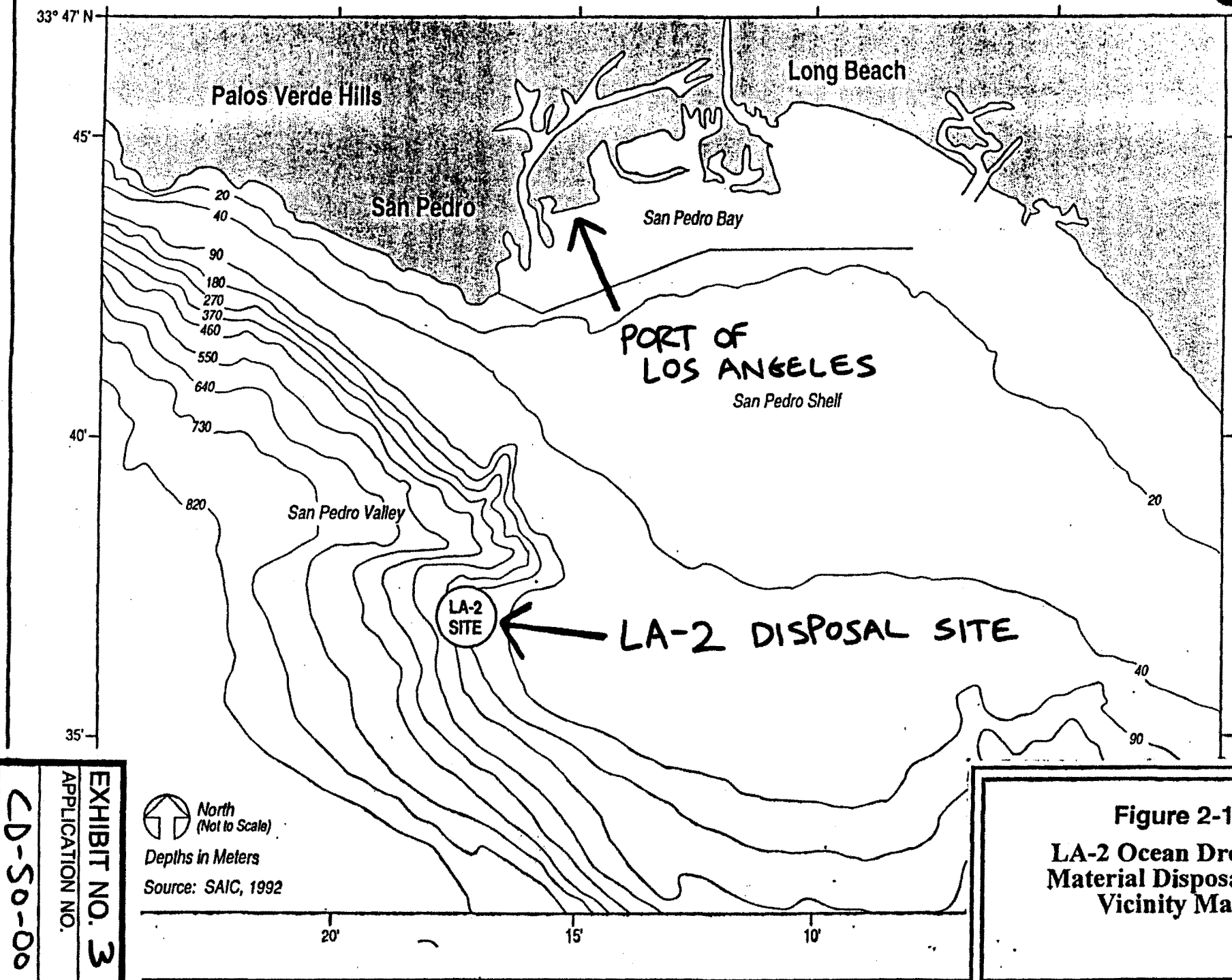
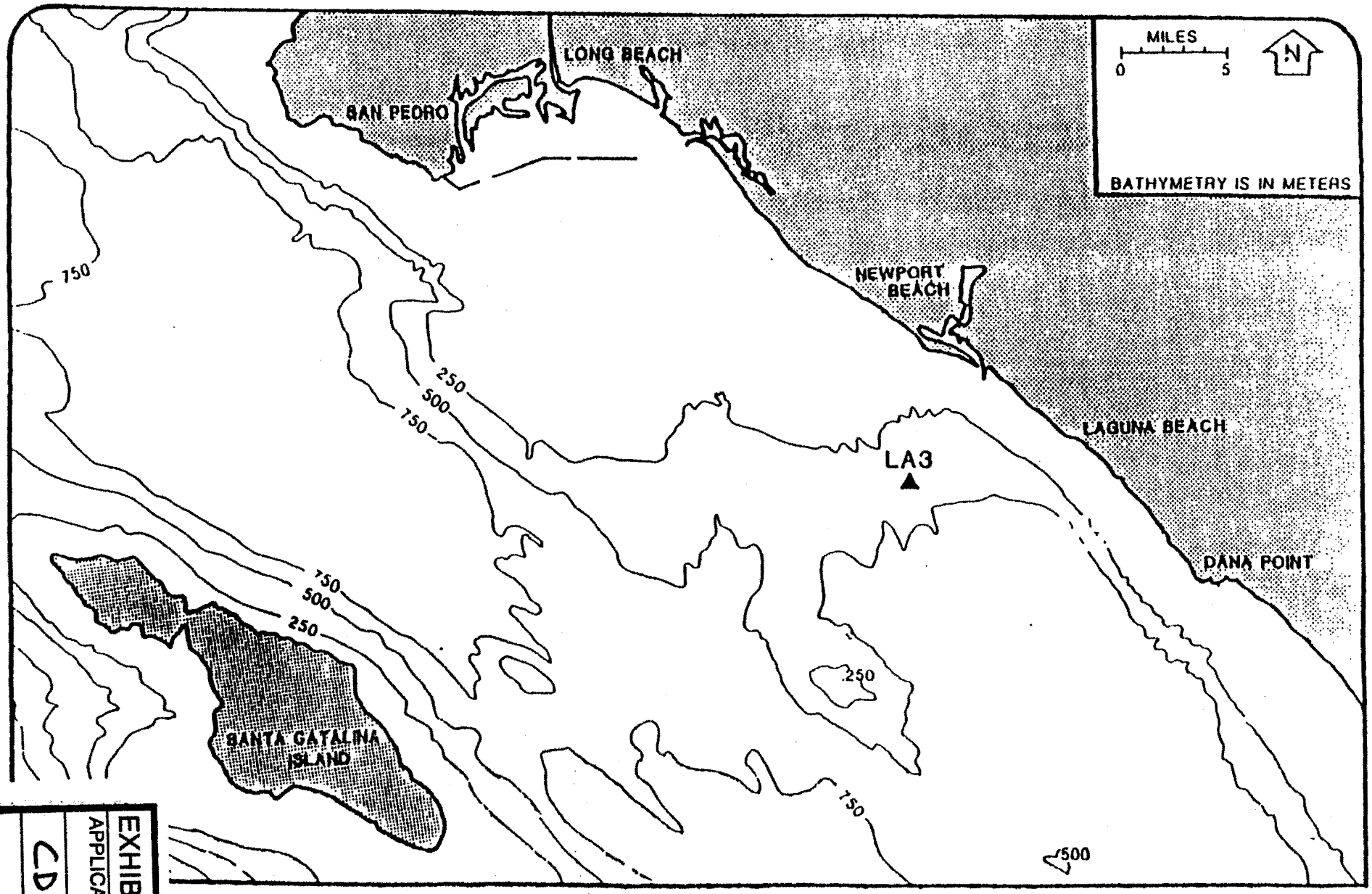


Figure 2-1

LA-2 Ocean Dredged Material Disposal Site Vicinity Map

EXHIBIT NO. 3
APPLICATION NO.
CD-50-00
California Coastal Commission



LA-3 DISPOSAL SITE LOCATION MAP

3/5

EXHIBIT NO. 4
APPLICATION NO.
CD-50-00

California Coastal Commission

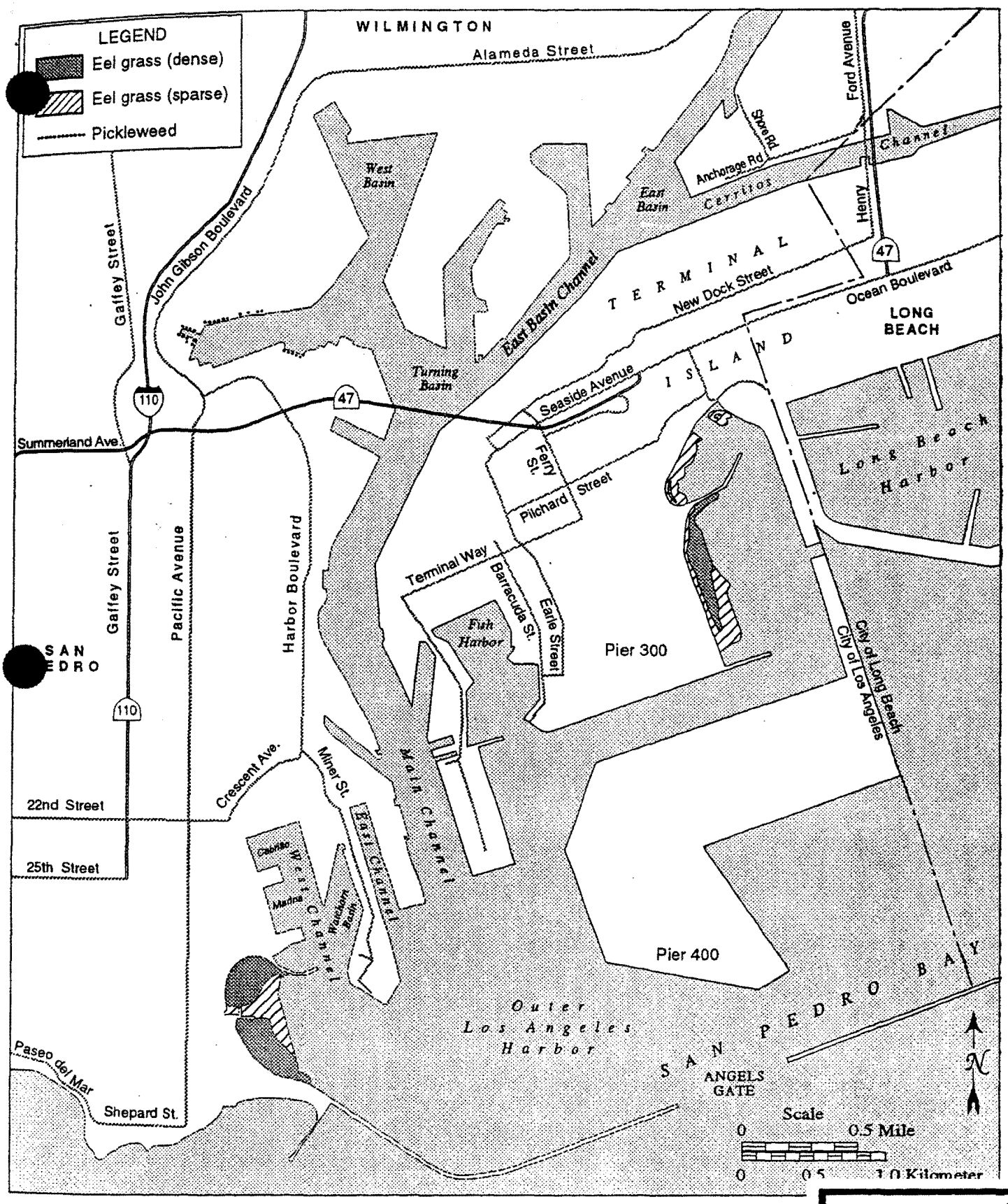
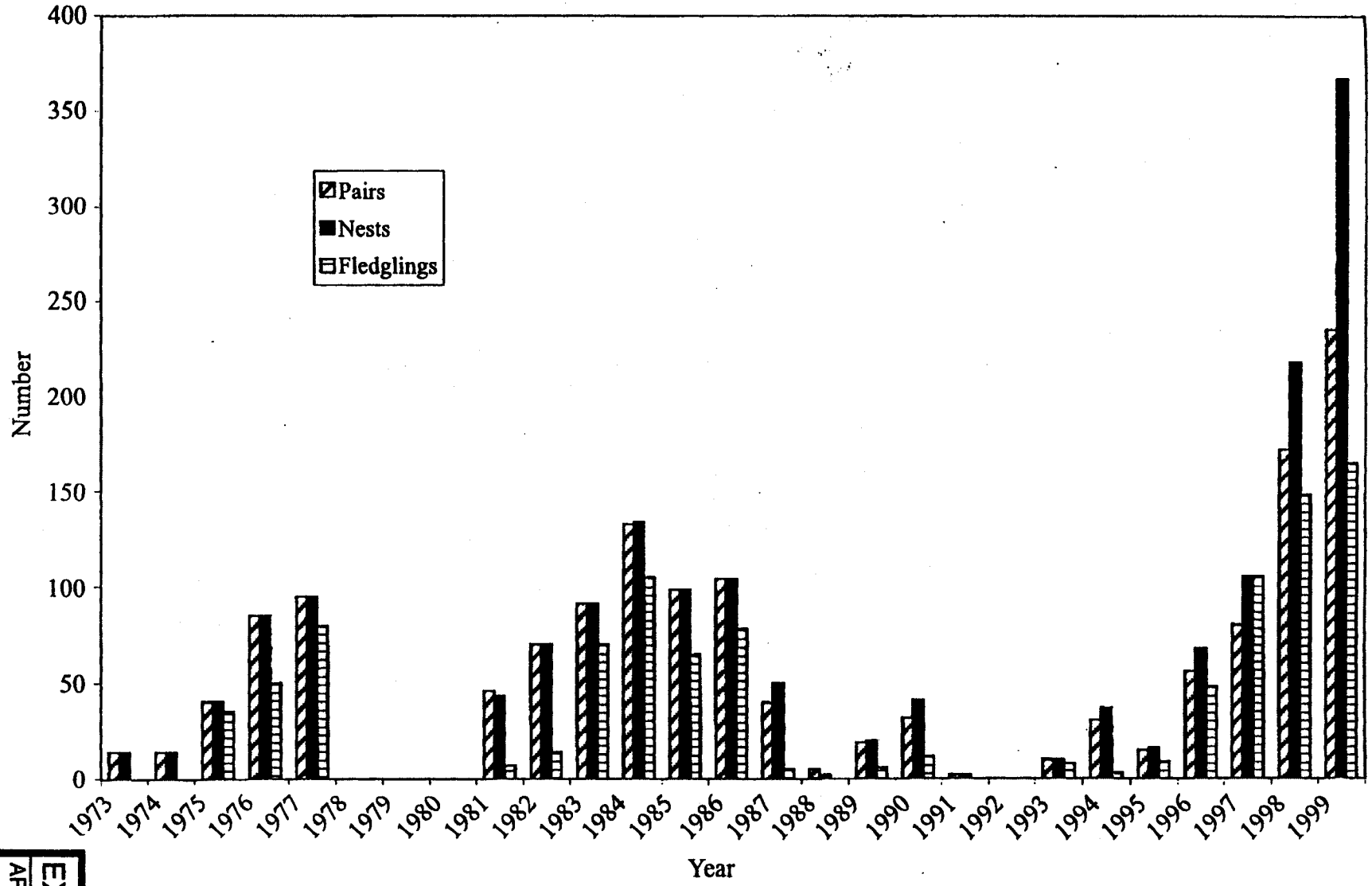


Figure 3.4-1. Locations of Eelgrass and Pickleweed

EXHIBIT NO. 5
APPLICATION NO.
CD-50-00
California Coastal Commission



2. California Least Tern Breeding at Los Angeles Harbor

EXHIBIT NO. 6
APPLICATION NO.
CD-50-00
California Coastal Commission

Table 3.4-3. Mitigation Available for Channel Deepening Project

Mitigation Bank	*Approximate Credits Available*[1]	*Value in Deep Outer Harbor*[2]	*Value in Shallow Outer Harbor*[2,3]	*Value in Inner Harbor Slips*[2]
Bolsa Chica Bank	70	70	~47	140
Outer Harbor Bank	46	46	~31	92
Inner Harbor Bank	6	n.a.	n.a.	6
Total		116	78	238

Notes:
1. Final values to be confirmed from as-built drawings for Pier 400 and the Cabrillo Shallow Water Habitat.
2. Value of credits is 1/1 for Outer Harbor deep habitat, 1/1.5 for Outer Harbor shallow habitat, and 1/0.5 for inner harbor; n.a. = not applicable.
3. The Pier 300 fill may require expenditure of credits for degradation of the remaining water area.

EXHIBIT NO. 7
APPLICATION NO.
CD-50-00
California Coastal Commission

Table 3.4-4. Biological Mitigation Requirements for Channel Deepening

Disposal Alternative	Depth (feet)	Disposal Sites: Pier 300 Acres	Pier 300 Value*	Pier 300 Credits	Southwest Slip Acres	Southwest Slip Value	Southwest Slip Credits	Cabrillo SWH Acres	Cabrillo SWH Value	Cabrillo SWH Credits	Total Credits	Credit Deficit**
-50'-1	50	-40	1.5	-77.5	-35	0.5	-17.5	54	0.5	27.0	-68.0	49.0
-50'-2	50	0	1.5	0.0	-35	0.5	-17.5	54	0.5	27.0	9.5	126.5
-50'-3	50	0	1.5	0.0	-35	0.5	-17.5	54	0.5	27.0	9.5	126.5
-50'-4	50	0	1.5	0.0	-35	0.5	-17.5	0	0.5	0.0	-17.5	99.5
-50'-5	50	-40	1.5	-77.5	0	0.5	0.0	54	0.5	27.0	-50.5	66.5
-50'-6	50	-80	1.5	-134.5	0	0.5	0.0	54	0.5	27.0	-107.5	9.5
-50'-7	50	na	1.5	na	na	0.5	na	na	0.5	na	na	na
-53'-1	53	-80	1.5	-134.5	-35	0.5	-17.5	54	0.5	27.0	-125.0	-8.0
-53'-2[a]	55	-40	1.5	-77.5	-35	0.5	-17.5	54	0.5	27.0	-68.0	49.0
-53'-3	53	0	1.5	0.0	-35	0.5	-17.5	54	0.5	27.0	9.5	126.5
-53'-4	53	0	1.5	0.0	-35	0.5	-17.5	0	0.5	0.0	-17.5	99.5
-53'-5	53	-80	1.5	-134.5	0	0.5	0.0	54	0.5	27.0	-107.5	9.5
-53'-6	53	-40	1.5	-77.5	0	0.5	0.0	0	0.5	0.0	-77.5	39.5
-53'-7[a]	53	0	1.5	0.0	-35	0.5	-17.5	0	0.5	0.0	-17.5	99.5
-53'-8	53	0	1.5	0.0	-75	0.5	-37.5	0	0.5	0.0	-37.5	79.5
-55'-1	55	-80	1.5	-134.5	-35	0.5	-17.5	54	0.5	27.0	-125.0	-8.0
-55'-2	55	-40	1.5	-77.5	-35	0.5	-17.5	54	0.5	27.0	-68.0	49.0
-55'-3	55	0	1.5	0.0	-35	0.5	-17.5	54	0.5	27.0	9.5	126.5
-55'-4	55	0	1.5	0.0	-35	0.5	-17.5	0	0.5	0.0	-17.5	99.5
-55'-5	55	-80	1.5	-134.5	0	0.5	0.0	54	0.5	27.0	-107.5	9.5
-55'-6	55	-40	1.5	-77.5	0	0.5	0.0	0	0.5	0.0	-77.5	39.5
-55'-7	55	0	1.5	0.0	-75	0.5	-37.5	54	0.5	27.0	-10.5	106.5

Notes:
* For a 40-acre fill, the value is 1.5 of water area lost plus a up to a 5% degradation of the remaining shallow water (~233 acres). For an 80-acre fill, the value of 1.5 and 5% degradation of remaining shallow water area (~193 acres) would need to be reviewed by resource agencies prior to permit issuance or construction. Value of 1.5 assumes the Pier 400 access corridor is open. The value would be 1.125 with it closed (LAHD 1999).
** Based on a projected balance of 116 credits in the Port's mitigation banks (Bolsa = 70; Outer Harbor = 46).
a. Alternative -53'-2 is the Modified NED Plan and the Preferred Alternative. Alternative -53'-7 is the NED Plan.

PROPOSED PROJECT

EXHIBIT NO.
APPLICATION NO.
CD-50-00
California Coastal Commission

Mitigation Measures

The following measures are adapted from and supplement measures approved for the Deep Draft Navigation Improvement Project. New measures are added as appropriate.

General Marine Resources

BIO-1 The LAHD shall provide off-site or on-site compensation for loss of general marine resources including approximately 40 or 80 acres of shallow water Outer Harbor habitat and/or 35 or 75 acres of inner harbor habitat in excess of the mitigation credits available in existing mitigation banks. Neither the LAHD nor the USACE shall begin construction of any fill prior to providing mitigation acceptable to the resource agencies (USFWS, NMFS, CDFG), as described herein, adequate to compensate for marine resource impacts associated with fill construction. Implementation of mitigation measures shall occur prior to or concurrent with any construction of the proposed project in Los Angeles Harbor.

a. The LAHD shall apply credits available in existing mitigation banks to compensate for loss of fish and wildlife habitat due to construction of fill at the Southwest Slip Site and Pier 300 Expansion Site.

b. The LAHD shall continue to pursue implementation of wetlands restoration projects at: (i) Bolsa Chica Future Full Tidal, (ii) Ballona Wetlands Parcel A/C, (iii) Santa Ana River Mouth, or (iv) Ormond Beach to make up any mitigation shortfall after exhausting existing mitigation banks.

c. If these wetlands are determined to be infeasible or in aggregate do not provide adequate mitigation above that required for the approved project, then other coastal wetlands shall be considered/ substituted in the Southern California Bight, including but not limited to Huntington Beach Wetlands, Tijuana River, San Elijo Lagoon, Mugu Lagoon, Buena Vista Lagoon or others. Such mitigation, including acquisition of lands and interests, shall be undertaken before or concurrent with any construction of any portion of the project not otherwise adequately mitigated. These opportunities identified above will be established through Memoranda of Agreements (MOAs) with the concerned resource agencies taking into account provisions identified in "d" below.

d. Should no feasible coastal wetlands restoration projects identified above be available at the time of Port Master Plan Amendment certification or Department of Army Permit (if applicable) to the Port, then the USFWS, NMFS, CDFG may allow the Port to implement an alternative mitigation measure, such as an Artificial Reef Project(s) in the Los Angeles coastal area under the provisions specified below:

- *Artificial Reefs Research.* Upon signature by the appropriate parties to an MOA, the LAHD shall participate in developing an artificial reef program to continue the work previously compiled in conjunction with the Port of Long Beach and NMFS. The purpose of this research is to help confirm the habitat value/ productivity of artificial reefs and their value as mitigation for Port fills. The design (including size) and monitoring program shall be in conformance with agency requirements. The LAHD will receive credit for construction of the reef at a mutually agreeable ratio. Following completion of the project the value of the reef would be recalculated in accordance with the established MOA.
- *Future Artificial Reef Implementation Program.* If, based on the studies identified above or other information that may come available in the future, the USFWS, NMFS and CDFG determine reefs are suitable mitigation, and if wetlands are not available or it is determined that reef construction in conjunction with a coastal wetlands restoration program is appropriate, then the LAHD shall implement an artificial reef program. This

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program will be established through MOAs with the resource agencies taking into account provisions identified below.

This program shall include construction of one or more quarry rock reefs or other suitable materials at an initial tradeoff ratio to be determined by the signatories to a prerequisite reef MOA based on data available at the time. Location of reef placement would be limited in the north at Pt. Dume and in the south at Dana Point. Priority areas for siting of artificial reefs shall be in Santa Monica Bay, off the Palos Verdes Peninsula, and south of the Los Angeles Harbors in the "Huntington Flats" area.

e. The LAHD shall establish new or modify existing MOAs to be submitted for approval by the California Coastal Commission and Board of Harbor Commissioners prior to or concurrent with the issuance of an Department of Army Permit by the USACE, Port Master Plan Amendment certification, Coastal Development Permit, or publication of bids for construction of any fill by the USACE or LAHD beyond the amount present in existing mitigation banks or created through project implementation. Such MOAs, together with other mitigation measures shall result in implementation of mitigation projects to compensate for all marine resource impacts of the proposed project. The MOAs shall include, at a minimum, the following:

- Signatures by representatives of the LAHD, USFWS, NMFS and CDFG and other parties as appropriate.
- A completed evaluation of the habitat values of the project impact site before and after the project and a completed evaluation of probable habitat values before and after implementation of the mitigation project(s). These values will be used to determine the appropriate relationship of acres of habitat filled in the Port.
- A plan for the proposed mitigation with sufficient acreage either alone or in concert with other wetlands restoration projects to provide compensation for proposed project impacts.
- Provisions for the monitoring and long-term maintenance of habitat values at the mitigation site(s).
- Provision that any lands upon which mitigation for LAHD/USACE projects is to occur must be dedicated to ensure management of fish and wildlife values in perpetuity by an entity acceptable to USFWS, NMFS, and CDFG, prior to release of any credits to the LAHD/USACE.
- Commitments to initiate the mitigation work prior to or concurrent with initiation of any proposed construction activity resulting in permanent loss of fish and wildlife habitat (i.e. construction of new land).
- Provision that excess credits may be used by the LAHD for future harbor fills or sold to other Port authorities in Southern California or other approved coastal, water-dependent uses, for compensation of impacts to marine resources. These credits may not be used by other parties for any developments occurring in any federal jurisdictional wetlands.
- Provision that the appropriate CEQA and NEPA analyses and documentation be executed for the mitigation project(s).

BIO-2 Eelgrass in the Pier 300 Shallow Water Habitat lost due to construction of the Pier 300 Expansion Site shall be replaced within the harbor in accordance with the NMFS guidance document. Locations identified for relocation include excavation at the Pier 300 Shallow Water Habitat accreted area, or creating appropriate depths through deposit of dredge or other acceptable material along the margins of any new land created through the Pier 300 Expansion, or in the Cabrillo Beach area. Material should be coarse-grained, as available.

EX. 9 CONT.

BIO-3 Pickleweed in areas of the Southwest Slip to be filled shall be salvaged prior to filling and replanted in suitable habitat in the harbor or off site.

Endangered Species Measures

BIO-4 The construction of new fill in the Pier 300 Shallow Water Habitat shall be designed, to the extent possible, taking into account results of modeling to determine water quality in the Seaplane Lagoon and in the remaining Pier 300 Shallow Water Habitat.

BIO-5 For the purposes of maintaining shallow water for least tern foraging, the LAHD shall replace up to the 80-acre loss of shallow water at the Pier 300 Expansion Site with 80 acres of shallow water created/available at the Cabrillo Shallow Water Habitat through provisions of the Port of Los Angeles Outer Harbor Mitigation Bank Agreement and/or this project. Construction of shallow water habitat as replacement feeding areas for the least tern shall be concluded prior to the least tern nesting season in which the habitat loss occurs and shall be capped with sand material.

BIO-6 Unless specifically allowed by the CDFG and USFWS, the LAHD/USACE shall not allow turbidity from dredge and fill activities to extend into shallow water during the April-to-September breeding season of the California least tern. This requirement shall be monitored as provided for in Measure BIO-8 below and shall be based on visually observed differences between ambient surface water conditions and any dredging turbidity plume.

BIO-7 Unless approved otherwise by the CDFG and USFWS, the LAHD/USACE shall ensure that no impact pile driving shall be allowed in the Pier 300 Shallow Water Habitat during the April-to-September breeding season of the California least tern.

BIO-8 The LAHD/USACE shall provide a qualified least tern biologist, acceptable to the USFWS and CDFG and approved by USACE, to monitor and manage the least tern colony during the nesting season. This program shall be carried out for up to one year following construction of the last element of the Port of Los Angeles Channel Deepening Project. The biologist shall coordinate with the agencies pursuant to the existing least tern MOA and shall:

a. Monitor nesting and fledgling success of the least tern colony and provide an annual report in the format provided in previous years.

b. Provide an education program for construction crews regarding the identity of the least tern and their nests, restricted areas and activities, actions to be taken if least terns are found outside the designated least tern nesting sites, and any other pertinent requirements.

c. Assist the USFWS and CDFG in predator control, as required, prior to and during the least tern nesting season during the construction period.

d. Visually monitor and report to the dredging contractor or LAHD/USACE contract manager and CDFG/USFWS any turbidity from project dredging which enters the shallow water habitat area to the east of Pier 300.

BIO-9 If California least tern or other protected species nests are found outside the designated nesting sites during construction, then all work in the immediate area shall be halted, and the least tern biologist shall be notified immediately. An appropriate buffer zone around the nest(s) and protection shall be specified by the biologist in coordination with CDFG and USFWS.

BIO-10 The LAHD shall investigate the removal of all or a portion of the existing rocky-dike groin in the Seaplane Lagoon should this removal not occur as a result of a re-

EX. 9 CONT.

lated project, the Pier 400 Container Terminal Project. The value of this removal shall be documented in water quality modeling studies with results to be submitted to the concerned resource agencies.

BIO-11 No construction staging area shall be located within 200 feet of the identified least tern site during the April-to-September least tern nesting season.

3.4.8 *Significant Unavoidable Adverse Impacts*

No unavoidable significant impacts would occur.

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3.4.9 Mitigation Monitoring Program

Potentially Significant Adverse Impacts	*Mitigation Measures*	*Significance After Mitigation*	*Mitigation Program Responsibility/ Report Recipient*	*Frequency*
General Marine Resources				
Placement of dredge material would result in a loss of 40 or 80 acres of soft bottom and water-column habitat in the Pier 300 Expansion Site and 35 or 75 acres in the Southwest Slip Fill Site.	BIO-1 Compensate for loss of marine resources at Pier 300 Expansion Site and Southwest Slip through use of existing or new mitigation banks.	Not significant	LAHD/USACE	Prior to or concurrent with project.
Loss of about 24 acres of eelgrass for 80-acre fill or 8 acres of eelgrass for 40-acre fill at Pier 300 Expansion Site.	BIO-2 Replace eelgrass lost at Pier 300 Expansion Site within the harbor in accordance with the NMFS guidance document.	Not significant	LAHD	Prior to or after fill placement.
Loss of 31.5 m^2 of pickleweed for 35-acre fill or 448.4 m^2 of pickleweed for 75-acre fill at Southwest Slip Fill Site.	BIO-3 Pickleweed lost at Southwest Slip shall be salvaged and replanted in the harbor or off site.	Not significant	LAHD	Prior to fill placement.
Endangered Species				
Pier 300 Expansion Site fill could alter water circulation and water quality.	BIO-4 Design Pier 300 Expansion using water quality modeling.	Not significant	LAHD/USACE	Prior to Pier 300 Expansion construction.
Pier 300 Expansion Site fill would remove 40 or 80 acres of shallow water habitat.	BIO-5 Replace shallow water lost at Pier 300 Expansion Site within harbor at 1:1.	Not significant	LAHD	Prior to Pier 300 Expansion construction.
Placement of dredge material in Pier 300 Expansion Site would cause short-term turbidity.	BIO-6 Prohibit turbidity from dredge and fill activities to extend into shallow water during the California least tern breeding season, unless determined otherwise by USFWS and CDFG.	Not significant	Contractor/USACE	During disposal activities at Pier 300 site.
Wharf construction at Pier 300 Expansion Site could affect least tern nesting and foraging.	BIO-7 Prohibit impact pile driving in Shallow Water Habitat during the breeding season of the California least tern unless determined otherwise by USFWS and CDFG.	Not significant	LAHD	During wharf construction.
Disposal of dredge material at sites in harbor could affect least tern foraging.	BIO-8 Provide a qualified least tern biologist to monitor and manage the least tern colony during the nesting season.	Not significant	LAHD	During disposal activities in harbor.

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Potentially Significant Adverse Impacts	*Mitigation Measures*	*Significance After Mitigation*	*Mitigation Program Responsibility/ Report Recipient*	*Frequency*
Placement of dredge material on Pier 400 upland disposal site could affect least terns nesting outside the designated sites.	BIO-9 If California least tern or other protected species nests are found outside the designated nesting sites during construction, work in the immediate area of nesting shall be halted, and the least tern biologist shall be notified immediately.	Not significant	Contractor/USACE	During disposal activities at Pier 400 Upland site.
Placement of dredge material at Pier 300 Expansion Site could alter water circulation and water quality.	BIO-10 Model the removal of all or a portion of the existing groin in the Seaplane Lagoon and remove if modeling shows benefit to water quality and if not previously removed.	Not significant	LAHD/USACE	Prior to disposal activities at the site.
Placement of dredge material on Pier 400 Upland disposal site could affect least tern nesting.	BIO-11 No construction staging area shall be located within 200 feet of the designated least tern site during the least tern nesting season.	Not significant	LAHD	During placement of dredge material on Pier 400 Upland site.

EX.10 CONT.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Fish and Wildlife Office
2730 Loker Avenue West
Carlsbad, California 92008

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CALIFORNIA
COASTAL COMMISSION

MAY 15 2000

Mr. Robert Koplin
Chief, Planning Division
Corps of Engineers, Los Angeles Dist.
P.O. Box 532711
Los Angeles, California
90053-2325

Attn: Larry Smith, Environmental Resources Branch

Re: Los Angeles Harbor Channel Deepening Project

Dear Mr. Koplin:

This letter responds to your letter, dated April 17, 2000, on the referenced subject. Your letter indicates that the subject project and its draft supplemental Environmental Impact Statement (dSEIS, April 2000) supplements the Deep Draft Navigation Improvements Project EIS completed in 1992. Your letter seeks our concurrence with your view that the subject supplemental project would not adversely affect listed species and Formal Consultation, pursuant to section 7 of the Endangered Species Act, is not warranted.

The currently proposed supplemental project alternative (53-2) would deepen the Los Angeles Harbor main channel to -53' MLLW, generating about 6.6 million cubic yards (mcy) of dredge spoil. About 1.5 mcy would be used to construct a new 40-acre landfill next to Pier 300, within an existing shallow water area; 1.7 mcy would be used to construct a 35-acre landfill along the Southwest Slip; 1.0 mcy would be used to expand the Cabrillo Shallow Water Habitat by 54 acres; and 2.4 mcy would be disposed of at an approved offshore deepwater disposal site.

We had produced a Biological Opinion (BO), for the Deep Draft Navigation Improvements Project in 1992 (1-6-92-F-25, September 24, 1992), addressing potential impacts to the California least tern (*Sterna antillarum browni*) and the California brown pelican (*Pelecanus occidentalis californicus*). Phases 1 and 2 of that project are nearly completed. The least tern, in particular, has been very well served by the actions of the local sponsor, Port of Los Angeles, who has acted in compliance with the nest site management agreement, nest site monitoring, essential foraging area mitigation and protection, all requirements of the 1992 EIS and BO.

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California Coastal Commission

We completed a Planning Aid Report in August of 1999, and a draft Fish and Wildlife Coordination Act Report (FWCAR) in January 2000, for the subject supplemental project and expect to complete a Final FWCAR very soon. As your letter confirms, we have been in discussions, that is, informal consultation, with the Corps of Engineers and the local sponsor, the Port of Los Angeles since last year. By mutual design, the dSEIS includes agreed upon protection measures for the California least tern and acts as a Biological Assessment, as well.

The project description components that would assure that the listed species, particularly the least tern, would not be adversely affected are listed on pages 3.4-20 through 23 of the dSEIS. In general, those elements include: protection and management of a designated nesting area pursuant to a written agreement, through construction timing and monitoring protection of specifically designated essential shallow water foraging areas from degradation during construction, and offsetting, acre-for-acre and near the nesting site, of any loss of shallow water foraging area in advance of loss.

No other listed species may be affected by the proposed channel deepening and landfill construction project. Therefore, provided the project is implemented as described in the dSEIS, we concur that no listed species would be adversely affected by the project and Formal Consultation, pursuant to section 7 of the Endangered Species Act is not warranted. Our representative remains Mr. Jack Fancher who may be reached at (760) 431-9440, email jack_fancher@fws.gov.

Sincerely,

Andrew R. Yuen

Andrew R. Yuen
Deputy Field Supervisor

1-6-00-I-50

cc: NMFS, Long Beach (Bob Hoffman)
CDFG, San Diego (Marilyn Fluharty)
✓CCC, San Francisco (Jim Raives)
Port of LA, San Pedro (Ralph Appy)

EX. 11 CONT.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

MAY - 5 2000

F/SWR4:RSH

W 14a

Mr. Donald W. Rice
Director of Environmental Management
Port of Los Angeles
425 S. Pacos Verde Street
San Pedro, California 90733-0151

Dear Mr. Rice:

Thank you for the opportunity to review the Draft Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report (DSEIS/DSEIR) for the Port of Los Angeles Channel Deepening Project.

The recommended plan consists of deepening the channels and turning basins to a depth of -53 ft. MLLW. Disposal of dredged material would occur at the Southwest Slip to create 35 acres of fill, at the Pier 300 Expansion Site to create 40 acres of fill, at the Cabrillo Shallow Water Habitat to create 54 acres of shallow water habitat, and approximately 2.4 million cubic yards at the LA2 or LA3 ocean disposal site.

This letter is provided in accordance with the Fish and Wildlife Coordination Act and PL 94-265 - the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA).

The proposed project is located in an area identified as Essential Fish Habitat (EFH) for fish species federally managed under the Pacific Groundfish Fishery Management Plan and Coastal Pelagic Fishery Management Plan. Based on our review of the information contained in the DSEIS/DSEIR, NMFS believes that the proposed project, including implementation of the described mitigation, would not result in an adverse impact on EFH and other NMFS-trust fishery resources.

In view of the above, we do not believe further EFH Conservation Recommendations are necessary. Please be advised that regulations (50 CFR Sections 600.920) to implement the EFH provisions of the MSFCMA require the Federal action agency, in

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California Coastal Commission

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this case the Corps of Engineers, to provide a written response to this letter within 30 days of its receipt and at least 10 days prior to final approval of the action. A preliminary response is acceptable if final action cannot be completed within 30 days. Their final response must include a description of measures to be required to avoid, mitigate, or offset the adverse impacts of the activity. If their response is inconsistent with our EFH Conservation Recommendations, they must provide an explanation of the reasons for not implementing those recommendations.

Thank you for your consideration of our recommendations. Should you have any questions, please contact Mr. Robert Hoffman at 562-980-4043 or via email at: bob.hoffman@noaa.gov.

Sincerely,

for J J Slawson

Rodney R. McInnis
Acting Regional Administrator

cc:
USFWS - Carlsbad (Jack Fancher)
CDFG - San Diego (Marilyn Fluharty)
POLA - Ralph Appy

STATE OF CALIFORNIA—THE RESOURCES AGENCY

GRAY DAVIS, Governor

DEPARTMENT OF FISH AND GAME
MARINE REGION
20 LOWER RAGSDALE DRIVE, SUITE 100
MONTEREY, CA 93940
(831) 649-2870

W 14a

May 16, 2000

Mr. Donald W. Rice
Director of Environmental Management
Los Angeles Harbor Department
425 S. Palos Verdes Street
San Pedro, California 90733-0151

Dear Mr. Rice:

Department of Fish and Game (Department) personnel have reviewed the Draft Supplemental Environmental Impact Statement/Report (DEIS/DEIR) for the Port of Los Angeles Channel Deepening Project, SCH No. 990809-102. The proposed project would deepen the Inner Harbor navigation channels of the Port of Los Angeles to accommodate modern container vessels and would maximize the beneficial uses of dredge material. Approximately 3.9 to 8.5 million cubic yards of material would be dredged from the Main Channel, West Basin, East Channel, East Basin, and Cerritos Channel. Dredge depths of -50, -53, and -55 feet Mean Lower Low Water (MLLW) are being considered. The amount of dredge material would depend on the approved project depth. Optional disposal sites include the Pier 300 Expansion Site, Pier 400 Submerged Storage Site, Pier 400 Upland Site, Southwest Slip Fill Site, Cabrillo Shallow Water Habitat Expansion Site, an approved upland disposal site, and ocean disposal at the federally approved LA-2 and LA-3 sites. The recommended plan alternative would deepen the channels and turning basins to a depth of -53 feet MLLW with a 2-foot over-dredge. Dredge material would be used to construct a 40-acre landfill at Pier 300 and a 35-acre landfill and confined disposal facility in the Southwest Slip. Additionally, 54 acres of dredge material would be placed in the Cabrillo Shallow Water Habitat Expansion Site.

The DEIS/DEIR is adequate in its portrayal of impacts to fish and wildlife resources and habitats associated with the preferred project and alternatives. Therefore, the Department does not object to the adoption of the recommended plan alternative provided the described mitigation measures are implemented.

As always, Department personnel are available to discuss our comments, concerns, and recommendations in greater detail. To arrange for a discussion, please contact Ms. Marilyn

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Fluharty, Environmental Specialist, California Department of Fish and Game, 4949 Viewridge Avenue, San Diego, CA 92123, telephone (858) 467-4231.

Sincerely,

Robert N. Tasto, Supervisor
Project Review and Water Quality Program
Marine Region

cc: Ms. Marilyn Fluharty
Department of Fish and Game
San Diego, California

Mr. Robert Hoffman
National Marine Fisheries Service
Long Beach, California

Mr. Jack Fancher
U.S. Fish and Wildlife Service
Carlsbad, California

Heal the Bay

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CALIFORNIA
COASTAL COMMISSION

htb@healthebay.org
www.healthebay.org

June 8, 2000

Chairwoman Sara Wan and Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RE: Consistency Determination No. CD-50-00: Port of Los Angeles's Channel Deepening Project – Phase I

Dear Chairwoman Wan and Commissioners:

Heal the Bay is a nonprofit environmental organization with over 10,000 members dedicated to making the coastal waters of Southern California safe and healthy for people and marine life. We have advocated for cleaner waters in San Pedro Bay and the Port of Los Angeles for over ten years. Currently, Heal the Bay actively participates on the Contaminated Sediments Task Force (CSTF), working closely with the various regulatory agencies, resources agencies and the Ports to develop environmentally-sound management practices for dredged materials. In addition, we continue to advocate for protection of the California least tern and other coastal endangered species.

Heal the Bay has significant concerns regarding the draft EIR/EIS for the Port of LA's Channel Deepening Project. We submitted our concerns and comments to the Port on May 22, 2000. Since we have not yet received a response to our comments, many of the concerns we have regarding the CCC staff's consistency determination are the same or similar to the comments submitted on the draft EIS/EIR.

Heal the Bay is once again disappointed that the Coastal Commission was asked to make a consistency determination on a project that has not completed CEQA/NEPA review and has not been reviewed by the Los Angeles Regional Contaminated Sediments Task Force (CSTF). As you may recall, the task force was created after very similar circumstances involving both Port of LA and Port of Long Beach. Since the CSTF was created, all major projects except this one have been reviewed by at least one CSTF committee. Heal the Bay requests for the Coastal Commission to deny the consistency determination until such time as the EIS/EIR is finalized and the project has been reviewed by the CSTF.

Heal the Bay is not opposed to a channeling deepening project at the Port of LA, however, we have serious concerns about the use of dredged materials to fill in more of San Pedro Bay. Landfill construction results in permanent destruction of nearshore marine biological resources. We don't believe the preferred project alternative chosen by the Port which includes expansion of the Cabrillo Shallow Water Habitat, landfill in the Southwest Slip, and expansion of Pier 300, is the most environmentally-sound project

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alternative. Specifically, Heal the Bay does not believe the proposed landfills meet the requirements of Section 30706 (b) of the Coastal Act. This section provides that "The nature, location, and extent of any fill, *including the disposal of dredge spoils within an area designated for fill*, shall *minimize* harmful effects to coastal resources, such as water quality, fish or wildlife resources, recreational resources, or sand transport systems, and shall minimize reduction of the volume, surface area, or circulation of water." Our specific concerns are summarized below[1].

1. **The expansion of Pier 300 will result in the permanent destruction of an estimated 20% of the preferred foraging habitat for the California least tern[2]. The expansion of the Cabrillo Shallow Water Habitat (SWH) may not mitigate this loss.**

   The least tern monitoring data summarized in the EIR clearly indicates foraging habitat at the Cabrillo SWH is not used by least terns at nearly the same rate they use the Pier 300 SWH. According to the draft EIR, foraging studies have been conducted in the Port since the early 1980s. The Cabrillo SWH has been used to varying degrees for foraging, but the least tern has preferred areas around Pier 400, and particularly Pier 300. Over the past three years, foraging has greatly increased in the Pier 300 SWH. In 1999, the EIR states least tern foraging was again "very high" in the Pier 300 SWH, particularly in the vicinity immediately adjacent to the pier. During this same time period, the number of least tern pairs and nests dramatically increased in the Port, rising more than 4-fold from 1996 to 1999.

   Mitigation for the destroyed least tern foraging habitat may not be possible through the construction of more Cabrillo SWH because the least terns currently do not prefer the Cabrillo SWH for foraging. The EIR states the least tern's preference for Pier 300 SWH is probably due to an increase in prey in the Pier 300 area and Pier 300's proximity to the preferred nesting area on Pier 400. (According to the EIR, virtually all the least tern breeding and nesting occurs on Pier 400.) Recently, the least tern data has shown great improvements in the least tern population at the Port. In fact, the Port of LA is critical habitat to the least tern population in LA and Orange County, producing 19% of the total number of least tern fledging and the highest number of fledglings per pair in 1998. We are concerned destruction and disruption of the preferred foraging area at the Pier 300 SWH may result in a loss of the gains made in the number of least tern pairs and nests in the Port over the past three years.

   Directly related to impacts on the least tern, the Port's EIR did not include sufficient information on the water circulation impacts caused by the proposed Pier 300 expansion. The 40-acre expansion would result in a 14.5% loss of SWH. This loss could be compounded by potential reductions in water circulation and water quality in

[1] Heal the Bay understands the CCC is providing a "phased review" of this project and the issues regarding dredging operations, landfilling operations, and contaminated sediment testing and placement in landfills will be addressed in the second phase of the review. Therefore, we did not include in this letter our concerns regarding how the dredging and landfilling operations will be conducted.

[2] The EIR assumes an additional 5% loss of SWH due to poor water circulation. Thus, 20% of preferred least tern habitat could be permanently lost due to the 40-acre Pier 300 expansion proposed.

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the remaining SWH, which, in turn, could impact the density of least tern prey in the preferred foraging area. The CCC staff report states the fill would alter the circulation in the remaining SWH which could cause a degradation of the remaining habitat, but how this degradation would affect least tern foraging was not discussed. The Port's EIR briefly states modeling of water circulation and water quality had been conducted, but the results as they relate to least tern foraging were not discussed.

2. **The potential increase in risk to public health at Cabrillo Beach due to the reduction in water circulation that may be caused by the expansion of the Cabrillo SWH was not considered in the staff's consistency determination or the Port's EIR.**

   The Cabrillo beach is a popular swimming area that routinely has the worst microbiological water quality in LA County and consistently receives an 'F' on Heal the Bay's Beach Report Card during both dry and wet weather. In fact, State Health Department water contact standards are exceeded over 60% of the time during dry weather. This beach is listed on the SWRCB's 303(d) list as impaired for recreational water contact due to high fecal bacteria densities. Poor water circulation in the beach area contributes to the high bacteria densities measured at the shoreline of this beach. The proposed expansion of the Cabrillo SWH will likely further reduce water circulation at this beach, and could cause even higher bacteria densities. Higher bacteria densities indicate higher health risk associated with swimming at the beach.

3. **Creating a 75-acre landfill at the Southwest Slip is the fill alternative that minimizes harmful effects to coastal resources, as required by Section 30706 of the California Coastal Act.**

   If the Port must fill portions of San Pedro Bay, why can't a larger, 75-acre landfill at the Southwest Slip be constructed in lieu of the Pier 300 expansion landfill and the expansion of the Cabrillo SWH? Based on the impact analysis provided in the draft EIR, this alternative is the most environmentally-sound *landfill* alternative. The EIR/EIS does not even designate this alternative as the environmentally superior alternative that still achieves the Port's goals.

   Filling in all of the Southwest Slip with a 75-acre landfill was an alternative the Port briefly proposed in the EIR, but did not fully analyze. The Southwest Slip currently provides far less biological resources compared to that of the Pier 300 expansion area. The 40-acre Pier 300 expansion would result in destruction of 40 acres of SWH, 8.1 acres of eelgrass, and approximately 20% of the preferred least tern foraging area. In addition, the Pier 300 SWH has the highest diversity of benthic invertebrates in the Port area (draft EIR). Not only would the Pier 300 expansion destroy these biological resources, it will also impact water circulation in the remaining SWH in the Pier 300 area.

   Although filling the Southwest Slip would result in loss of soft-bottom habitat, water column habitat and limited pickleweed stands, the loss would be less significant than

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that caused by the Pier 300 expansion. Water column species richness and diversity increases along a gradient from the inner harbor to the outer harbor. Thus, the Southwest Slip supports fewer and less dense populations of water column species relative to Pier 300. In addition, the Southwest Slip supports a relatively low density of benthic infauna communities and the sparse pickleweed stands supported at the Slip can be transplanted to another area. Finally, and perhaps most importantly, the Southwest Slip does not support least tern foraging.

The Port introduces the idea of the 75-acre Southwest Slip landfill, but then provides unclear and differing reasons why this alternative was not fully considered. The EIR first indicated the 75-acre landfill could accept up to 6.0 mcy of material, then later, stated only 1.7 mcy of dredged material from the channel deepening could be accepted by the landfill. The EIR provided no explanation for why a much larger portion of the 6.0 mcy could not be dredged material from the deepening project. The EIR indicates a significant fraction of the dredged material will be coarse sand, which is the preferred material for landfills. In addition, as we've seen in the Port of Long Beaches recent slip fill project, a significant fraction of landfill material can be fine-grained material, which is placed in the bottom of the landfill. Based on the data in the EIR, it is feasible for a substantial portion of the total 6.6 mcy of dredged material could be disposed of as fill material in the Southwest Slip.

The EIR also stated the 75-acre landfill could not be completed at this time because it requires the relocation of the GATX facility. Why can't the GATX facility be relocated for the deepening project, a project that has an estimated average National Economic Development benefit of $42,334,000 per year with a benefit to cost ratio of 4.72?[3] Is the Port imposing an artificial deadline on the channel deepening project at the expense of the biological resources in the harbor? After all, many of the deep-draft ships this project will accommodate are currently in the planning phase only. Is it feasible to take the time to relocate GATX?

Clearly, the long-term, permanent impacts to biological resources in the Port will be significantly less if the 75-acre Southwest Slip landfill is the *only* landfill constructed during this project.

Since the proposed project may permanently destroy preferred least tern foraging habitat, may degrade the water quality at Cabrillo Beach and does not include the fill alternative that minimizes the harmful effects to coastal resources, we believe the proposed project is not consistent with the California Coastal Act. Furthermore, based on the draft EIR and the CCC staff report, it is not clear that the Port has considered other alternatives that do not call for landfills in San Pedro Bay. Specifically, we have the following questions:

Has the Port considered deepening smaller portions of the Port which would reduce the amount of dredged materials generated?

[3] Feasibility Study Main Report, U.S. Army Corps of Engineers, April 2000.

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The EIR did not consider dredging smaller portions of the Port. Has the Port considered alternatives in which deep-draft vessels are serviced in limited portions of the Port? For example, why can't the project objectives be realized by servicing deep-draft vessels at only Piers 300 and 400?

Has the Port adequately pursue the alternative to use other West Coast Ports for some of the deep-draft vessels? The EIR states that improvements would be needed at other West Coast ports to handle deep-draft vessels and the resulting impacts would be similar to the impacts incurred at the Port of LA. No information to back up this assumption was provided. Given the fact that each Port has a unique combination of facilities and biological resources, it is not obvious that the impacts to biological resources and water quality would be the same if the project or a portion of the project were completed at another Port. What if the Port of LA serviced a portion of the deep-draft traffic at Piers 300 and 400 and other West Coast Ports serviced the remaining traffic?

The EIR states that improvements are *already* underway to service deep-draft boats at other West Coast Ports. If these improvements are indeed already being implemented, why should further degradation to our coastal waters be incurred at the Port of LA to provide redundant services for deep-draft vessels? Based on the information provided in the EIR, it is not clear the Port of LA's channeling deepening project must be completed at the proposed scale.

Has the Port considered disposal alternatives such as upland disposal or other types of beneficial reuse that do not result in permanent destruction of nearshore habitat?

The EIR for the project did not consider upland disposal sites for the dredged materials. Instead, upland disposal sites were considered only for contaminated sediments. What is the capacity of the Port's Anchorage Road site for accepting dredged materials? What investigation has the Port pursued to identify other upland disposal sites? Clearly, upland disposal is a feasible alternative to San Pedro Bay landfilling that could result in substantially fewer impacts to biological resources.

Has the Port considered sediment beneficial reuse aside from landfilling? With such a large amount of sediment being produced, reuse options such as concrete stabilization should be considered. The impacts to biological resources in the Port would be greatly reduced if the sediments were treated and reused instead of used as coastal landfill material, which permanently displace near-shore ocean resources. Although reuse options are more expensive then ocean disposal, this large project could benefit from economy-of-scale. In addition, a treatment and reuse facility could provide regional benefits by accepting dredged materials from other projects and from future Port of LA projects.

In summary, it appears the Port's desire for more terminal space and less expensive disposal of the dredged material has led to a project proposal that relies on landfilling

EX.14

portions of San Pedro Bay that will result in negative impacts to the coastal resources in San Pedro Bay. Although the Feasibility Study for the channel deepening project completed by the U.S. Army Corp. of Engineers concluded the alternative that maximizes economic benefit to the nation (the National Economic Development (NED) plan) is one that did not include the Pier 300 expansion, the Los Angeles Harbor Department chose a project alternative which includes the Pier 300 expansion because it would create two landfills for expanded terminal operations (draft EIR). To date, it does not appear the Port has considered project alternatives such as upland disposal of dredged materials; beneficial reuse of the dredged materials for products such as concrete; and a smaller-scale project which would generate less dredge material.

Furthermore, the location of the landfills in the proposed project may have significant negative impacts to the least tern foraging habitat and the recreational water use at Cabrillo Beach. Heal the Bay believes that if a portion of San Pedro Bay is filled in as a result of this project, the 75-acre landfill of Southwest Slip is the less environmentally-damaging, landfill alternative. The Port of Los Angeles has already filled over 500 acres of near-shore habitat in San Pedro Bay in the last decade. The proposed dredging project moves the area one step closer to the near elimination of the Los Angeles portion of San Pedro Bay at substantial and unmitigatable costs.

Sincerely,

Mitzy Taggart

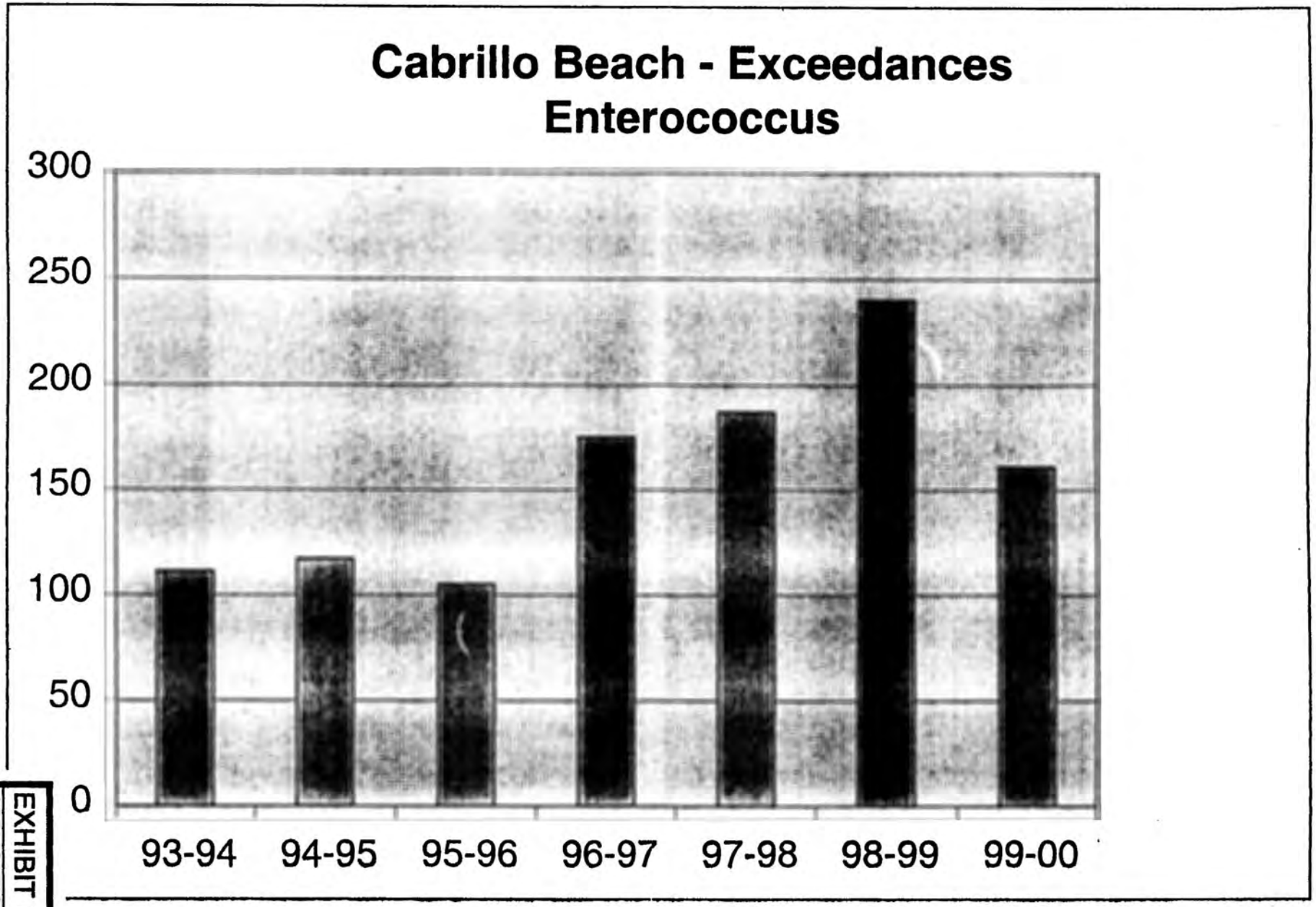
Mitzy Taggart
Staff Scientist

Mark Gold

Mark Gold, D.Env.
Executive Director

EX. 14

W14a



SOURCE: HEAL THE BAY

EXHIBIT NO. 15
APPLICATION NO.
CD-50-00

June 12, 2000

RECEIVED
JUN 12 2000
CALIFORNIA
COASTAL COMMISSION

Mr. Peter Douglas
Executive Director
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Dear Mr. Douglas:

SUBJECT: PORT OF LOS ANGELES CHANNEL DEEPENING PROJECT CONSISTENCY DETERMINATION

I am writing in support of the U.S. Army Corps of Engineer's Consistency Determination for the proposed Port of Los Angeles Channel Deepening Project Feasibility Study and to provide supplemental information (attached) on the project. Coastal Commission concurrence on this Consistency Determination will allow for federal assistance to the Port aimed at accommodating international commerce in an efficient and environmentally responsible manner.

Concurrence with the Consistency Determination will provide federal assistance in the funding of important channel improvements to accommodate the efficient handling of international commerce at the Port of Los Angeles. Analysis of the world's fleet, as documented in the Corps' Feasibility Study, indicates that Inner Harbor channels at the Port are not deep enough to accommodate existing and future generation container ships. Presently, the Port's Inner Harbor channels which serve five of our seven major container terminals, are at –45 feet while some existing and planned ships will require a depth of –53 ft. Even at present, some ships coming to the Port are constrained by existing channel depths and must arrive and depart partially loaded. Recent cargo projections also show that Pacific Rim trade will continue to expand, especially with China, and there will be a need by all West Coast Ports to improve their cargo handling efficiency through improved channels and improved on-shore cargo handling facilities to accommodate international commerce. It is therefore imperative that we utilize the dredge materials removed from the channels to enhance container terminal efficiency.

The Port has a strong history of environmental sensitivity and has contributed significantly towards the restoration of coastal wetlands, towards protection of the California least tern and towards the removal of contaminated sediments from the harbor channels. All aspects of this project have been thoroughly coordinated with U.S. Fish and Wildlife Service, National Marine Fisheries Service and the California Department of Fish and Game, and we invite you to contact these agencies to confirm

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CD-50-00

our progressive approach to habitat protection. We are also active participants in the Contaminated Sediment Task Force (CSTF), which is co-chaired by your agency, to resolve regional contaminated sediment issues. The contaminated sediment issues associated with this project will be reviewed by the Interim Advisory Committee of the CSTF.

In summary, the Channel Deepening Project is an environmentally responsible program needed to accommodate existing and planned deep draft container ships in the world fleet and will help accommodate efficient cargo handling at the Port of Los Angeles. The Commission's concurrence on the Corps' Consistency Determination will help obtain federal assistance to the Port, and fulfill the Port's mandate to accommodate maritime commerce pursuant to Chapter 8 of the California Coastal Act.

Please distribute the attached supplemental information to the Commissioners, and feel free to call me directly at (310) 732-3440 should you have any questions regarding this information.

Sincerely,

LARRY KELLER
Executive Director

LK:RGA

Attachment

PORT OF LOS ANGELES CHANNEL DEEPENING PROJECT FACT SHEET

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1. THERE IS A JUSTIFIED NEED TO DEEPEN ALL CHANNELS TO -53 FEET AND CREATE ADDITIONAL LAND UTILIZING THE DREDGE MATERIAL.

2. A LARGE RANGE OF PROJECT ALTERNATIVES HAVE BEEN EXAMINED AND COORDINATED WITH THE PUBLIC

3. THE PROJECT WAS THOROUGHLY COORDINATED WITH THE RESOURCE AGENCIES AND WILL NOT CREATE UNMITIGATED IMPACTS OR CAUSE HARM TO THE ENDANGERED LEAST TERN

4. THE PROJECT WILL NOT RESULT IN ANY EFFECT ON THE BACTERIA LEVELS AT INNER CABRILLO BEACH

5. DREDGING OF CONTAMINATED SEDIMENT IS A BENEFICIAL ELEMENT OF THE PROJECT AND SIMILAR TO THAT RECENTLY APPROVED FOR THE PORT OF LONG BEACH PIER E PROJECT

6. CONTAMINATED SEDIMENT ISSUES WILL BE COORDINATED WITH THE INTERIM ADVISORY COMMITTEE OF THE CONTAMINATED SEDIMENT TASK FORCE

EX.16

PORT OF LOS ANGELES Fax:310-547-4643 Jun 12 2000 15:22 P.04

1. **THERE IS A JUSTIFIED NEED TO DEEPEN ALL CHANNELS TO –53 FEET AND CREATE ADDITIONAL LAND UTILIZING THE DREDGE MATERIAL.**

- Dredging the main channel to 53 feet will generate millions of dollars in transportation cost savings annually and help keep costs down for U.S. consumers and exporters. The USACE estimates that the proposed project will achieve net transportation cost savings of savings of $41.9 million. As a result, exporters can compete better in foreign markets, and consumers and import manufacturers can buy inbound finished and intermediate goods at a lower price.

- The proposed main channel depth of - 53 feet is necessary to respond to current trends in shipbuilding and the existing world fleet. Major ship builders now offer standard hull designs with a design draft of 47.6 feet which requires a channel depth of – 53 ft for safety reasons and tides. In addition four steamship companies which call at various terminals at the Port have ordered vessels requiring –53 feet. A number of container ships in the Pacific fleet already require this draft and have called light-loaded at the Port of Los Angeles.

- Other world-class ports have channel depths of – 53 feet or are planning to develop them. Vancouver and Yantian (China) have channels that accommodate the new vessels. The ports of Yokohama and Kobe (Japan), Singapore and Laem Chabang (Tailand) are planning to construct channels and multiple container ship berths with water depths of 16 meters. Additionally, the Port of Long Beach is designing all of their new container wharves to allow for future depths of - 55 feet.

- Dredging the main channel to - 53 feet will allow for the creation of landfill that is needed to accommodate higher projected container cargo growth. When the California Coastal Commission approved the 585-acre Pier 400 landfill by certifying Port Master Plan amendments 12 and 17, container projections at that time totaled 11.7 million TEUs (~containers) for all of San Pedro Bay for the year 2020. The most recent cargo projections completed jointly by the Ports of Los Angeles and Long Beach in 1998 show that **each** port can expect to handle this amount of container cargo by 2020.

- The Port, in attempting to minimize its need for more land has been upgrading existing facilities to their highest possible capacities. These efficiencies include increasing existing backland areas, modifying the gates into container facilities to facilitate truck and rail access, implementing roadway improvements in the Port area to facilitate and separate road and rail access, implementing rail facilities at the Port to help move cargo in and out efficiently and implementation of the Alameda Corridor Project. Deepening of the channels is another proposed efficiency which allow larger and fewer vessels to transit the Port.

- Terminal operators can handle container cargo more efficiently with the additional landfills generated by main channel dredging. Due to the large local population,

EX. 16

projected cargo will continue to flow through the port. Without additional terminal space, container-handling costs will increase, and environmental impacts associated with air emissions and traffic will increase as a result of inefficient double handling of cargo. Conservatively this could add $7-8 million annually to the cost of moving the 260,000 containers projected for the proposed landfills.

2. A LARGE RANGE OF PROJECT ALTERNATIVES HAVE BEEN EXAMINED AND COORDINATED WITH THE PUBLIC

- Environmental documentation and Feasibility Study included evaluation of four alternatives to dredging the channel, five different dredge depths and nine disposal sites combined in 21 different ways. In addition this documentation supplements the Deep Draft Navigation Project which contained a large number of project alternatives. No other alternatives were recommended for consideration during the public scoping process for this project.

- Deepening of only a portion of the Port channels to service just a few terminals would not allow the Port to realize the cargo handling efficiencies identified through the master planning previously approved in the Deep Draft Navigation Project and Master Plan Amendment Nos. 12 and 17. All seven major container terminals at the Port (including the five located in the Inner Harbor) need to realize cargo handling efficiencies that can be achieved by deepening of the Inner Harbor Channels.

- Use of other west coast container ports to handle this cargo is not feasible because these other ports will also be receiving their own share of increased cargo volumes. This alternative also does not accommodate the large load center at the Port of Los Angeles as a result of the large population in the five county area. Other container Ports (e.g. Oakland) also have valuable coastal resources that are being affected by their own improvement plans.

- Use of the dredge material to create usable materials (structural material, soil, etc.) at an upland site is not feasible and does not meet the cargo handling needs of the Port. Utilizing data presented to the Contaminated Sediment Task Force, disposal of material in this manner would increase dredge material disposal from approximately $80 to $297 million dollars without any known market for the material.

- A 75-acre fill at the Southwest Slip is not feasible at this time and would be needed in addition to the 40-acre fill adjacent to Pier 300. A larger fill at the Southwest Slip would not benefit cargo handling at the Pier 300 facility.

- The Port's upland disposal site has only limited capacity (90,000 cubic yards) which is being saved for placement of contaminated sediment from planned maintenance dredging.

EX. 16

- Placement of contaminated sediment from the Channel Deepening Project into the confined disposal facility created by the 35-acre fill at the Southwest Slip is an environmental benefit and similar to a project recently approved by the Commission for the Port of Long Beach.

3. **THE PROJECT WAS THOROUGHLY COORDINATED WITH THE RESOURCE AGENCIES AND WILL NOT CREATE UNMITIGATED IMPACTS OR CAUSE HARM TO THE ENDANGERED LEAST TERN**

- The project was subject to no fewer then five coordination meeting with U.S. Fish and Wildlife Service, National Marine Fisheries Service and the California Department of Fish and Game. Letters substantiating agency concurrence with the Recommended Plan are attached.

- Loss of marine habitat is being totally mitigated through on-site creation of shallow water associated with the Cabrillo Shallow Water Habitat and on- and off-site mitigation available in mitigation banks previously approved by the Coastal Commission (e.g. Bolsa Chica and Outer Harbor Mitigation Bank). The Port has expended over $100,000 million dollars to ensure availability of off-site mitigation alone for these needed fills at the Port.

- Extensive water quality modeling of the 40-acre Pier 300 expansion area was conducted by the Corps Waterways Experiment Station in coordination with the resource agencies. No degradation of water quality was identified.

- Lost foraging habitat for the California least tern is being replaced at the Cabrillo Shallow Water Habitat within approximately one mile of the designated tern nesting site, in a manner previously approved for the Deep Draft/Pier 400 Project and Master Plan Amendments 12 and 17. Protective measures identified in that documentation, which have resulted in amazing tern nesting success during Pier 400 construction, have been adopted for this project. There is over 500 acres of shallow water available for tern foraging. Locations of tern foraging are variable from year to year In 1999 a significant amount of feeding by the least tern occurred in deep water to the East of Pier 400. This year foraging initially occurred in the Pier 300 area but now has shifted to outside the breakwater.

- A no-jeopardy opinion for the least tern has been obtained from the U.S. Fish and Wildlife Service.

4. CONSTRUCTION OF THE NEW SHALLOW WATER HABITAT WILL NOT RESULT IN ANY EFFECT ON THE BACTERIA LEVELS AT INNER CABRILLO BEACH

- Extensive sampling at the Inner Cabrillo Beach area indicate that high levels of bacteria along the shoreline at this location, which is over one-quarter of a mile from the the new Shallow Water Habitat, are likely caused by birds which roost on the beach.

- Water quality indicators (including disolved oxygen, transparency, and biological oxygen demand (BOD)) just off shore of Cabrillo Beach have, if anything, improved with construction of the Cabrillo Shallow Water Habitat.

- Water quality and hydrodynamic specialists at the Corps' Waterways Experiment Station indicate that construction of the new shallow water will have no concentrating effect on the bacteria levels at the Inner Cabrillo Beach and may result in more water movement in the area.

5. DREDGING OF CONTAMINATED SEDIMENT IS A BENEFICIAL ELEMENT OF THE PROJECT AND SIMILAR TO THAT RECENTLY APPROVED FOR THE PORT OF LONG BEACH PIER E PROJECT

- The project area sediments have been the subject of extensive sampling and analysis which was coordinated with the U.S. Environmental Protection Agency. Some additional sampling is required which will be coordinated with U.S. Environmental Protection Agency and reviewed by the Interim Advisory Committee of the Contaminated Sediment Task Force (CSTF).

- All dredging activities are subject to discharge requirements (certification) of the Regional Water Quality Control Board.

- While dredging may result in some resuspension of contaminants bound to the fine sediments, leaving the sediments in place results in a long term opportunity for resuspension as well.

- There is no evidence that hydraulic dredges are <u>always</u> better for removal of contaminants. While they may result in less suspension of sediments at the cutter head, they may result in more turbidity at the end of the discharge pipe. Hydraulic dredges are not feasible for use in some project conditions (e.g. adjacent to unprotected wharves).

- Removal of contaminated sediments encountered during dredging will be permanently confined in a landfill as was recently unanimously approved by the Coastal Commission for the Port of Long Beach Pier E Project.

EX. 16

- Contaminants present in the sediments at the proposed Cabrillo Shallow Water Habitat site and at the proposed Southwest Slip site will be permanently capped.

- The project continues the long term benefits that Port dredging and filling projects have had in removing historic sediment contamination from harbor sediments.

6. CONTAMINATED SEDIMENT ISSUES WILL BE COORDINATED WITH THE INTERIM ADVISORY COMMITTEE OF THE CONTAMINATED SEDIMENT TASK FORCE

- The Interim Advisory Committee of the CSTF, which was established to resolve issues associated with the disposal of contaminated sediment, will review the proposed project.

- The Port is an active participant in the Contaminated Sediment Task Force and actually took the lead in writing the document that established the Interim Advisory Committee.

EX. 16

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

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JUN 12 2000
CALIFORNIA
COASTAL COMMISSION

RECEIVED
MAY 23 2000
Environmental Mgmt.
L.A. Harbor Dept.
City of L.A.

May 22, 2000

Mr. Donald W. Rice
Director of Environmental Management
Los Angeles Harbor Department
425 South Palos Verdes Street
San Pedro, CA 90733-0151

Sent Via Fax

RE: Draft Supplemental EIS/EIR for the Port of Los Angeles Channel Deepening Project

Dear Mr. Rice:

Heal the Bay is a nonprofit environmental organization with over 10,000 members dedicated to making the coastal waters of Southern California safe and healthy for people and marine life. We have advocated for cleaner waters in both the Port of Los Angeles and the Port of Long Beach for over ten years. Currently, Heal the Bay actively participates on the Contaminated Sediments Task Force (CSTF), working closely with the various regulatory agencies, resources agencies and the Ports to develop environmentally-sound management practices for dredged materials. In addition, we continue to advocate for protection of the California least tern and other coastal endangered species. Drawing on our 10 years of experience, Heal the Bay submits the following comments and concerns regarding the EIR for the proposed Port of LA channel deepening project:

1. **The EIR does not adequately consider all dredging alternatives as required by the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).**

HB-1

- Why isn't the alternative to deepen only a portion of the Port considered in the EIR? The EIR only included alternatives based on different dredging *depths* throughout the Port, but did not consider different dredging footprints. The EIR should consider alternatives in which deep-draft vessels are serviced in limited portions of the Port. For example, why can't the project objectives be realized by servicing deep-draft vessels at only Piers 300 and 400?

HB-2

- The EIR did not adequately pursue the alternative to use other West Coast Ports. The EIR states that improvements would be needed at other West Coast ports to handle deep-draft vessels and the resulting impacts would be similar to the impacts incurred at the Port of LA (page 1-19). No information

EXHIBIT NO. 17
APPLICATION NO.
CD-50.00

Earth Share

HB-2

HB-3

to back up this assumption was provided. Given the fact that each Port has a unique combination of facilities and biological resources, it is not obvious that the impacts to biological resources and water quality would be the same if the project or a portion of the project was completed at another Port. What if the Port of LA serviced a portion of the deep-draft traffic at Piers 300 and 400 and other West Coast Ports serviced the remaining traffic?

HB-4

In table 5.1-2, the EIR states that improvements are *already* underway to service deep-draft boats at other West Coast Ports. If these improvements are indeed already being implemented, why should further degradation to our coastal waters be incurred at the Port of LA to provide redundant services for deep-draft vessels?

HB-5

The EIR should provide a detailed analysis of other Ports' abilities to handle deep-draft vessels including on-going efforts to construct facility improvements. Based on the information provided in the EIR, it is not clear the Port of LA's channeling deepening project must be completed at the proposed scale.

HB-6

2. The EIR does not adequately consider all disposal alternatives as required by NEPA and CEQA.

HB-7

- Why weren't upland disposal sites such as Anchorage Road considered in any of the project alternatives? According to table 1.5-3 on page 1-14, upland disposal sites are considered only for contaminated sediments that can't be used as fill material. In table 5.1-2, the EIR states the capacity at the Port's Anchorage Road site is limited. How much capacity does this site have? Why limit this site to disposal of contaminated sediments? What about other potential upland sites in the coastal area? What investigation has the Port pursued to identify other upland disposal sites? Clearly, upland disposal is a feasible alternative to landfilling that would result in substantially fewer impacts to biological resources.

HB-8

- Why weren't other types of sediment beneficial reuse options considered aside from landfilling? With such a large amount of sediment being produced, reuse options such as concrete stabilization should be considered. The impacts to biological resources in the Port would be greatly reduced if the sediments were treated and reused instead of used as landfill material, which permanently displace near-shore ocean resources. Although reuse options are more expensive then ocean disposal, this large project could benefit from economy-of-scale. In addition, a treatment and reuse facility could provide regional benefits by accepting dredged materials from other projects and from future Port of LA projects.

HB-9

3. The EIR does not adequately consider a significant impact of the Pier 300 expansion: permanent loss of preferred foraging habitat for the California least

Ex.17

HB-9

tern at the existing Pier 300 shallow water habitat (SWH). Although the preferred project includes construction of mitigation SWH in the Cabrillo area, least tern monitoring data summarized in the EIR clearly indicates foraging habitat at the Cabrillo SWH is not used by least terns at nearly the same rate they use the Pier 300 SWH. According to the EIR, foraging studies have been conducted in the Port since the early 1980s. The Cabrillo area has been used to varying degrees for foraging, but the least tern has preferred areas around Pier 400, and particularly Pier 300. Over the past three years, foraging has greatly increased in the Pier 300 SWH. In 1999, the EIR states least tern foraging was again "very high" in the Pier 300 SWH, particularly in the vicinity immediately adjacent to the pier. During this same time period, the number of least tern pairs and nests dramatically increased in the Port, rising more than 4-fold from 1996 to 1999 (Figure 3.4-2, page 3.4-7).

HB-10

Mitigation for the destroyed least tern foraging habitat may not be possible through the construction of more Cabrillo SWH because the least terns currently do not prefer the Cabrillo SWH for foraging. The EIR states the least tern's preference for Pier 300 SWH is probably due to an increase in prey in the Pier 300 area and Pier 300's proximity to the preferred nesting area on Pier 400. (According to the EIR, virtually all the least tern breeding and nesting occurs on Pier 400.) The Cabrillo SWH is more than 1 mile away from Pier 400, the usual radius from the nesting area the least tern will use for foraging. Destruction and disruption of the preferred foraging area at the Pier 300 SWH may result in a loss of all the gains made in the number of least tern pairs and nests in the Port over the past three years. For over a decade, this population has had to suffer through one major modification in the nesting and foraging area after another.

HB-11

Directly related to impacts on the least tern, the EIR did not include sufficient information on the water circulation impacts caused by the proposed Pier 300 expansion. The 40-acre expansion would result in a 14.5% loss of SWH and the 80-acre expansion would result in a 29% loss of the SWH. This loss could be compounded by potential reductions in water circulation and water quality in the remaining SWH, which, in turn, could impact the density of least tern prey in the preferred foraging area. The draft EIR briefly states modeling of water circulation and water quality had been conducted, but the results as they relate to least tern foraging were not discussed. The EIR does assume an additional 5% loss of SWH due to poor water circulation (page 3.4-12). Thus, 20% of preferred least tern habitat could be permanently lost due to the 40-acre Pier 300 expansion proposed in the preferred project alternative. This is clearly unacceptable.

HB-12

The destruction of the Pier 300 foraging area for the least tern is a permanent impact that will not be mitigated by the proposed Cabrillo SWH. The Port of LA is critical habitat to the least tern population in LA and Orange County, producing 19 percent of the total number of least tern fledging and the highest number of fledglings per pair in 1998 (draft EIR, page 3.4-8). Heal the Bay believes any project alternative that includes the Pier 300 expansion is not an environmentally-sound alternative.

EX. 17

4. **The EIR does not adequately consider alternative 53-8, creation of the 75-acre landfill at the Southwest Slip.**

HB-13

Based on the impact analysis provided in the EIR, alternative 53-8 may be the most environmentally-sound alternative analyzed. The Southwest Slip currently provides far less biological resources compared to that of the Pier 300 expansion area. The 40-acre Pier 300 expansion would result in destruction of 40 acres of SWH, 8.1 acres of eel grass, and approximately 20% of the preferred least tern foraging area. In addition, the Pier 300 SWH has the highest diversity of benthic invertebrates in the Port area (page 3.4-1). Not only would Pier 300 expansion destroy these biological resources, it will also impact water circulation in the remaining SWH in the Pier 300 area. Although filling the Southwest Slip would result in loss of soft-bottom habitat, water column habitat and limited pickleweed stands, the loss would be less significant than that caused by the Pier 300 expansion. The EIR states that water column species richness and diversity increases along a gradient from the inner harbor to the outer harbor. Thus, the Southwest Slip supports fewer and less dense populations of water column species relative to Pier 300. In addition, the Southwest Slip supports a relatively low density of benthic infauna communities and the sparse pickleweed stands supported at the Slip can be transplanted to another area. Finally, and perhaps most importantly, the Southwest Slip does not support least tern foraging.

HB-14

HB-15

The EIR introduces alternative 53-8, the 75-acre Southwest Slip landfill, but then provides unclear and differing reasons why this alternative can not be considered. The EIR states the 75-acre landfill can accept up to 6.0 mcy of material (page 1-10). Later, the EIR states only 1.7 mcy of dredged material from the channel deepening could be accepted by the landfill and the remaining fill material would come from other sources after the deepening project was complete (Table 1.5-3, page 1-14). The EIR provided no explanation for why a much larger portion of the 6.0 mcy could not be dredged material from the deepening project. Based on figure 3.2-1, it appears a significant fraction of the dredged material will be coarse sand, which is the preferred material for landfills. In addition, as we've seen in the Port of Long Beaches recent slip fill project, a significant fraction of landfill material can be fine-grained material, which is placed in the bottom of the landfill. Based on the data in the EIR, it is feasible for a substantial portion (if not all – based on a more realistic assessment of dredging need) of the total 6.6 mcy of dredged material could be disposed of as fill material in the Southwest Slip.

HB-16

Section 5.0 of the EIR states the 75-acre landfill can not be completed at this time because it requires the relocation of the GATX facility. Why can't the GATX facility be relocated for the deepening project, a project that has an estimated average National Economic Development benefit of $42,334,000 per year with a benefit to cost ratio of 4.72 (page iii, Feasibility Study Main Report)? Is the Port imposing an artificial deadline on the channel deepening project at the expense of the biological resources in the harbor? After all, many of the deep-draft ships this project will accommodate are currently in the planning phase only. Is it feasible to take the time to relocate GATX?

-EX.17

HB-17 Clearly, the long-term, permanent impacts to biological resources in the Port will be significantly less if the 75-acre Southwest Slip landfill is the *only* landfill constructed during this project. We believe section 5.4 of the EIR, in which the environmentally preferred alternative is chosen, is incomplete because this alternative was not considered. Of the alternatives considered in the EIR, the 75-acre Southwest Slip is the clear-cut choice for the environmentally preferred alternative that the EIR states is lacking (page 50-10).

HB-18 5. **The likely and permanent impact due to expansion of the Cabrillo SWH was not discussed: public health and safety impacts caused by the reduction of water circulation at the inner Cabrillo beach area.** This popular swimming area routinely has the worse microbiological water quality in LA county and consistently receives an 'F' on Heal the Bay's Beach Report Card. Also, the beach is listed on the SWRCB's 303(d) list as impaired for recreational water contact due to high fecal bacteria densities. Poor water circulation in the beach area contributes to the high bacteria densities measured at this beach. High indicator bacteria densities are found nearly 70% of the time at this beach. The proposed expansion of the Cabrillo SWH will further reduce water circulation, and thus, result in even higher bacteria densities at this beach. In fact, the low water circulation and subsequent poor water quality we see at Cabrillo beach have been exacerbated by the Cabrillo SWH the Port constructed in the early 1990s. Clearly, the mixed beneficial uses of recreation water contact and marine life habitat have not been analyzed in the EIR.

HB-19 6. **The EIR does not provide adequate mitigation from the impacts of dredging and then landfilling of contaminated sediments.** Dredging contaminated sediments can result in the reintroduction of contaminants into the water column. Once resuspended in the water column, tidally-driven water currents can pull these contaminants away from the dredging site and redistribute the pollutants in downstream areas of the harbor. The EIR states previous water quality monitoring during dredging has indicated "substantial resuspension of contaminated *sediments* does not occur" (page 3.3-7). However, our experience as a member of the CSTF has made it clear that adequate data is not available to conclude significant resuspension of *contaminants* does not occur during dredging or landfilling operations. We recommend the following mitigation measures:

HB-20 - Hydraulic dredging should be required for the dredging of all contaminated sediments. Hydraulic dredging results in much less turbidity and the potential for contaminant resuspension is greatly diminished. Ironically, the EIR proposed hydraulic dredging for clean sediment and clamshell dredging for contaminated material.

HB-21 - Silt curtains should be deployed during the placement of contaminated sediments into landfills. This control technique worked well for the Port of Long Beach's recent slip fill project in reducing sediment and contaminant loss as the fill material was placed into the slip.

EX. 17

HB-22

7. **The EIR should include a summary of the data used to estimate the volume of contaminated sediments and the total dredged material volume.** The EIR contains very little information on how these estimates were derived. Clearly, the impacts caused by the project are a function of the amount of dredged material produced and the amount that is contaminated. With the limited amount of information provided in the EIR, it is impossible for the reader to determine if the volume estimates and the subsequent impacts are realistic.

HB-23

In summary, it appears the Port's desire for more terminal space has led to an inequitable and incomplete analyses of a set of alternatives that failed to include upland disposal of dredged materials; beneficial reuse of the dredged materials for products such as concrete; and a smaller-scale project which would generate less dredge material. In fact, the Feasibility Study for the channel deepening project completed by the U.S. Army Corp. of Engineers concluded the alternative that maximizes economic benefit to the nation (the National Economic Development (NED) plan) is one that did not include the Pier 300 expansion. The Los Angeles Harbor Department chose a modified NED which includes the Pier 300 expansion because it would create two landfills for expanded terminal operations (page 5-11 of the EIR). In other words, destruction of near-shore ocean habitat is proposed solely for the economic gain of the Port over a plan to maximize economic gain for the nation. To mitigate the loss of habitat due to landfilling, the EIR appears to give favorable consideration to alternatives that include expansion of the Cabrillo SWH and did not consider all the impacts of this alternative.

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Heal the Bay is disappointed with the current set of alternatives considered in the EIR and the incomplete analyses of significant impacts including loss of preferred least tern foraging habitat and human health impacts at Cabrillo Beach. We hope the Port will fairly evaluate upland disposal and beneficial reuse options that do not result in the permanent destruction of near-shore ocean habitat in the final EIR. At minimum, we urge the Port to evaluate the 75-acre landfill of Southwest slip, as this alternative is the less environmentally-damaging, landfill alternative. The Port of Los Angeles has already destroyed over 500 acres of near-shore habitat in San Pedro Bay in the last decade. The proposed dredging project moves the area one step closer to the total elimination of the Los Angeles portion of San Pedro Bay at substantial and unmitigatable costs.

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Sincerely,

Mitzy Taggart
Staff Scientist

Mark Gold (MT)
Mark Gold
Executive Director

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Response to Heal the Bay comments on the Port of Los Angeles Channel Deepening Project Draft Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report (SEIS/SEIR).

HB-1. CEQA and NEPA both require an EIR/EIS to describe a range of reasonable alternatives to the project which would feasibly attain most of the basic objectives of the project (CEQA Section 15126.6 and NEPA 40 CFR 1502.14). The SEIS/SEIR adequately considers a large range of dredging alternatives as required by NEPA and CEQA and supplements the alternatives analysis contained in the Deep Draft Navigation. The alternatives analysis looked at four alternatives to deepening of the channel, five different dredge depths, and nine disposal sites combined in 21 different ways with the dredge depths (see SEIS/SEIR Table 5.1-2). We received no requests from Heal the Bay for analysis of additional alternatives during the scoping phase of this environmental process.

An alternative to only deepen a portion of the Port does not maximize the efficient use of the Harbor since this would not allow container vessels to call at many of the container terminals in the Inner Harbor. The document did address this issue in an Incremental Dredging alternative (page 1-21 of the DSEIS/R) which was eliminated because it would not allow maximum efficiency at the Inner Harbor container terminals (five of the seven major container terminals at the port are located in the Inner Harbor). In order to meet projected cargo demands, all container terminals at the Port will need to be operating at full capacity (See FS page 3-11) which includes use of design vessels at these terminals. In addition, the shifting of alliances, terminal occupancy shifts, long term terminal lease agreements and ship ownership make it infeasible to allocate all design vessels to Pier 300/400.

HB-2. The use of other west coast Ports is discussed in section 1.6 of the Channel Deepening Draft SEIS/SEIR and the previous discussion of this issue in the Deep Draft Navigation Project (COE and LAHD 1992). Generally, increased cargo handling is anticipated at all west coast ports (see WEFA 1987 and Mercer 1998) that handle containerized cargo, even with this project, and therefore the Port of Los Angeles is only receiving a portion of the west coast cargo. To operate efficiently, the existing facilities/tenants at the Port will require facilities that allow the newest generation of cargo vessels to arrive fully loaded. As pointed out in HB-1 above, it is not feasible to have design vessels only call at Pier 300 and 400. Major diversion of cargo to other ports that do not have the load center of the Ports of Los Angeles/Long Beach, could also result in back haul of cargo to the 15 million people living in the Los Angeles region; this has significant traffic, air, and cost implications. Other west coast ports (most notably Oakland in San Francisco Bay and Seattle/Tacoma in the Puget Sound) are also located in areas with valuable

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biological resources including significant estuarine habitats, vegetated wetlands and threatened and endangered species (e.g., recently listed salmonids). A recent project to just deepen channels in Oakland required resolution of major environmental issues associated with the dredging. In addition, the overall land use planning associated with the Deep Draft Project included the existing location of container terminals in the Inner Harbor and the need to improve efficiencies at these terminals. This planning effort was approved by the California Coastal Commission through Master Plan Amendment 12 and 17.

HB-3. As noted in HB-1 and HB-2 above, even with facility improvements at other ports, the amount of cargo coming through all west coast ports will be increasing. The Ports of Los Angeles/Long Beach will be receiving only a share of this cargo. It should also be noted that Chapter 8 of the California Coastal Act specifically identifies the Port as one of California's "primary economic and coastal resources and an essential element of the national maritime industry."

HB-4. As discussed in response HB-2 above, increased cargo handling is anticipated at all west coast ports. Therefore, the improvements proposed through the Channel Deepening Project are not redundant.

HB-5. As indicated in HB-2 –4, even with improvements at other Ports, the Port of Los Angeles will still need to make improvements to realize cargo handling efficiencies and to accommodate its share of forecasted cargo. The channel dimensions identified here and therefore the dredge volumes, are justified in the Feasibility Study as those required to accommodate existing and anticipated container vessels in the world fleet.

HB-6. CEQA and NEPA both require an EIR/EIS to describe a range of reasonable alternatives to the project which would feasibly attain most of the basic objectives of the project (CEQA Section 15126.6 and NEPA 40 CFR 1502.14) which is to accommodate container vessels and cargo at the Port. The beneficial use of dredge material in the context of this project is a use that would further this purpose (i.e., create cargo handling efficiencies). The SEIS/EIR adequately considers a large range of disposal alternatives as required by NEPA and CEQA and supplements the alternatives analysis contained in the Deep Draft Navigation Project. The alternatives analysis looked at four alternatives to deepening of the channel, five different dredge depths, and nine disposal sites combined in 21 different ways with the dredge depths (see SEIS/SEIR Table 5.1-2).

HB-7. Upland disposal sites were considered in the instance where the material is contaminated (i.e., at Anchorage Road) and where there is a feasible beneficial use. Anchorage Road is the Port of Los Angeles/Long Beach's only site available for the disposal of contaminated maintenance dredge

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material and presently has a capacity of approximately 90,000 cubic yards. Approximately 40,000 cubic yards of this space will be taken up by maintenance dredging projects planned over the next two years. Since the space would not handle the contaminated material from the Channel Deepening Project it certainly could not handle the 6.1 million cubic yards of clean material. Upland disposal of clean material is not considered a feasible alternative to landfilling as indicated in HB-8 below. All other areas of the Port area are presently needed/used for cargo terminals. A previous proposal by the Port of Los Angeles to use Pier 400 as a disposal site has been eliminated because the site is presently unavailable due to construction of a container terminal at this location. While the Port is unaware of any other upland disposal site that would accept saline sediments, much of which is nonstructural in nature, there is a bona fide need by the Port to increase its ability to accommodate cargo by constructing new land. Construction of fill using coarse grain sediments is in the Port of Los Angeles' perspective is a beneficial use of this material that would be used to provide terminals to accommodate maritime trade, and minimizes the amount of material that needs to be disposed of at an ocean disposal site. Effects on biological resources have been coordinated with the U.S. Fish and Wildlife Service, National Marine Fisheries Service and the California Department of Fish and Game, and are entirely mitigated.

HB-8. While construction of new land does result in the loss of marine habitat, this disposal is a justified, mitigated, cost effective and beneficial use of dredge material to accommodate and increase efficiency of cargo handling at the Port of Los Angeles. Even with economies of scale the cost to make this material available for other uses (e.g. building materials) is very expensive Present costs per cubic yard for disposal of material is $6 to $11 for disposal at LA-3, $3 to $7 for disposal at an in-bay disposal site and $20 to $25 for disposal of contaminate sediment to our Anchorage Road site. Assuming there was a market for materials produced and a location where these products could be treated/prepared, the least expensive (for instance sediment stabilization) would cost an additional $20 a cubic yard to our existing upland disposal costs (i.e., $40 to $45 per cubic yard). As a comparison, clean dirt from the Alameda Corridor is being sold for approximately $5 to $6 per cubic yard which might represent a reasonable sale price of stabilized sediment sold on the Los Angeles market. Disposal of project materials to an upland site might therefore cost approximately $297 million dollars whereas the disposal of materials for the Recommended Plan will cost approximately $80 million. In addition, dredging is a sporadic activity at the Port, and large quantities of material would not be available at all times. As Heal the Bay is aware, the Los Angeles Contaminated Sediment Task Force is examining the beneficial reuse of sediment in the context of utilization of contaminated sediment and has not made any recommendations in this regard. As indicated above, clean, structurally good sediment will continue to be a valuable resource to the Port in the construction of new terminals necessary to accommodate maritime

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commerce. As long as there is a need for increased cargo handling efficiencies, the Port will continue to utilize dredge material for construction of new land even if other beneficial resuses prove to be more cost effective/available.

HB-9. The SEIS/SEIR adequately considers impacts to the California least tern. Section 3.4 of the SEIS/SEIR contains a thorough discussion of the environmental setting and potential effects on the least tern. In addition, this project has been coordinated with the U.S. Fish and Wildlife Service who has determined that the proposed activity would not jeopardize the California least tern While the least tern frequently uses the Pier 300 Shallow Water Habitat for foraging, this does not mean that replacement of 40 acres of this area at the Cabrillo Shallow Water Habitat would have any effect on the least tern reproductive biology. Data collected in 1988 on tern foraging indicated that birds foraged predominantly to the south of Pier 300 followed by just outside the breakwater and in the Port of Long Beach. Last year, the birds also foraged predominantly in deep water to the East of Pier 400. This year birds foraged initially in the Pier 300 Shallow Water Habitat and in the Port of Long Beach but more recently have moved off shore to feed. In past years, the birds also foraged at Machado Lake; this has ceased in recent years Thus, the birds use different locations in different years, probably based on the local abundance of forage fish. In addition, recent sampling of the Cabrillo Shallow Water Habitat shows the presence of high numbers of small fish (particularly northern anchovy) in this area (MEC 1999) and tern foraging in this area has increased since foraging studies conducted in 1988. Therefore, creation of this area provides an alternative site for the terns to forage. Taking into account the variability of tern foraging over the years, the over 500 acres of shallow water presently available to the least tern at a variety of locations and the increase in usage of the new shallow water, there is no reason to conclude that construction of the 40-acre fill site adjacent to Pier 300 will adversely affect the least tern.

HB-10. As noted in response HB-9 above, the U.S. Fish and Wildlife Service has reviewed the analysis in the SEIS/SEIR and measures to protect the least tern, and determined that the proposed project would not jeopardize the least tern. In addition, the foraging area adjacent to Pier 300 has remained relatively unchanged over the past decade, while the number of breeding pairs has increased considerably in the last two years, This is due to a number of factors including the availability of nesting habitat on Pier 400, Port management of the site in coordination with USFWS, relocation of birds from other nesting colonies and macro-environmental factors. Adequate foraging areas for the terns would remain even with the proposed Pier 300 fill (see HB-9 above). The Pier 300 Shallow Water Habitat is presently more then one mile from the designated nesting site and is still utilized by the least tern. The Cabrillo Shallow Water Habitat is within a mile of the designated least tern nesting site The major successes of the tern nesting at the Port have

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occurred during major Port improvement projects (i.e. the Harbor Deepening Project in the mid 1980s and the recently completed Deep Draft/Pier 400 project).

HB-11. The water quality and circulation impacts as discussed in the Oceanography and Water Quality section of the SEIS/SEIR found no significant impacts based on the modeling results. This water quality analysis is extensive and was reviewed by the resource agencies in arriving at the proposed mitigation and habitat replacement determinations. Even so, the assumption of a 5% loss of shallow water habitat due to water quality was arbitrarily assumed as a worst case scenario and is not substantiated by the water quality modeling results which showed no change in water quality parameters as a result of constructing the 40-acre Pier 300 fill. The 80-acre fill is not being considered at this time. The 5% reduction in habitat value is unlikely to occur as a result of the proposed project, but was included as a conservative measure for overall marine resources. It does not relate to a reduction in a reduction in the abundance of common prey species, the topsmelt and northern anchovy. Both of these species are found in high numbers in the Pier 300 Shallow Water Habitat and are not expected to be reduced in number following project implementation. There will be no loss of foraging habitat or foraging habitat value as a result of the project.

HB-12. Placing fill in the Pier 300 Shallow Water Habitat is a permanent impact as identified in the SEIS/SEIR, but this area is being replaced at the Cabrillo Shallow Water Habitat as agreed to by the U.S. Fish and Wildlife Service and the California Department of Fish and Game. The high rate of fledglings per pair in the Port of Los Angeles in 1998 is due to a variety of factors, including the excellent management of the nesting activity by the Port in coordination with the U.S. Fish and Wildlife Service. Forage fish availability in the Harbor area in general is also important, and is related to many environmental and biological factors, not just the size of the Pier 300 Shallow Water Habitat. In 1999 the fledging rate was not as high as in 1998 under seemingly very similar circumstances.

HB-13. The 75-acre fill in Southwest Slip is included for later consideration and is not available at this time because it cannot be implemented within the Channel Deepening Project schedule as described in section 5.1 of the SEIS/SEIR and because it would not accommodate cargo increases at Pier 300. As indicated in HB-9-12, all impacts associated with the Pier 300 fill have been mitigated with the amount of habitat replacement being commensurate with the habitat lost. The higher value of the Pier 300 Shallow Water Habitat is taken into consideration in developing the appropriate mitigation (see SEIS/SEIR Table 3.4-4).

HB-14. Page 1-10 of the SEIS/SEIR is quite clear on the amount of dredge material that could be placed at the Southwest Slip. The 35-acre fill that is part of the

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Recommended Plan could accept approximately 1.7 million cubic yards of material that would come from the Channel Deepening Project. If the fill was expanded to 75 acres in the future, it could accept a total of 6.0 million cubic yards. Since the 75-acre fill will be constructed in the future, the fill material for this effort must come from some other source.

HB-15. The slip fill recently constructed did include a component of fines from the Port of Long Beach's own dredging as well as fine material from the Los Angeles River. Marina Del Rey material was more coarse-grained. It is the intention to place fine materials at the Southwest Slip associated with the placement of contaminated sediments. However, the proportion of fines acceptable is based on site-specific requirements (seismic requirements, future facility requirements, underlying geology, space available, containment structures, dewatering techniques, etc.). Under any circumstance coarse grained material is the preferred material and this design consideration cannot be compromised. As indicted in HB-13 and 14, construction of the fill at the Southwest Slip would not serve the needs of the Pier 300 facility. The Port tenants will need additional cargo handling capabilities at both these locations.

HB-16. The GATX lease presently extends until the year 2013. Even if there were a negotiated termination of the lease, it would not be feasible to decommission and/or relocate the facility in the time period required by the Channel Deepening Project. There are presently ships in the world fleet that are calling partially loaded or could be calling at the Port of Los Angeles fully loaded if the channel to all of the container terminals was at -53 feet, and therefore, the timeframe required is not unrealistic or artificial (See FS page 3-11). As indicated elsewhere, implementation of the 75-acre fill is needed in addition to the 40-acre fill at the Pier 300 site is not being considered at this time, and would not help the Pier 300 facility with its need for the efficient transfer of cargo.

HB-17. With the proposed mitigation, there are no long-term permanent impacts to biological resources. In fact the construction of the Cabrillo Shallow Water Habitat and Southwest Slip fill will be a benefit by covering areas of the harbor that have elevated levels of some contaminants. Section 5 of the SEIS/SEIR is complete. Since the construction of the 75-acre fill (alternative –53-8') cannot be conducted in the time frame of the federal project, it cannot be considered a feasible alternative at this time (see HB-16 above). Implantation of this alternative (i.e. –53-8') would not accommodate needed cargo handling efficiencies at the Pier 300 site.

HB-18. The effects of construction of the Cabrillo Shallow Water Habitat were adequately addressed in the SEIS/SEIR regarding effects on recreational uses and biological resources in the harbor (see sections 3.4 and 3.10) relative to those issues identified in the Notice of Intent/Preparation for the Draft

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SEIS/SEIR. The Inner Cabrillo Beach has had chronic high levels of bacteria, and unlike at least some beaches, these high levels occur during low runoff periods. Extensive sampling of the beach and infrastructure (storm drains and sewer lines) surrounding the beach have shown birds, which roost on the beach in large numbers, as the likely source of the high bacteria counts on the beach. While a strong current running along the beach might act to disperse bacteria, to our knowledge, there is no information that substantiates Heal the Bay's claim that "Poor water circulation in the beach area contributes to the high bacteria densities measured at this beach" or that construction of the existing Cabrillo Shallow Water Habitat has "been exacerbated by the Cabrillo SWH the Port constructed in the early 1990s."

Water quality data in the following table show that dissolved oxygen, BOD, and water clarity (trans.) have not decreased, and may even have increased, after construction of the Cabrillo Shallow Water Habitat.

Comparison of Water Quality Parameters at Station LA05* Before (1991-1993) and After (1999) Construction of the Cabrillo Shallow Water Habitat

Year	*Trans.*** *(ft)*	*DO*** *(mg/L)*	*BOD*** *(mg/L)*	*Temp.*** *(°C)*
1991	6.2 (4.0-8.0)	8.3 (6.7-10.0)	2.1 (0.0-8.0)	15.6 (13.4-17.8)
1992	7.8 (5.0-12.0)	7.3 (5.9-8.8)	1.3 (0.0-2.9)	17.9 (13.4-20.9)
1993	9.1 (5.0-13.0)	7.4 (6.1-8.1)	1.9 (0.3-4.0)	17.4 (14.2-20.0)
1999	9.7 (8.0-12.0)	7.6 (6.9-9.1)	1.3 (0.6-2.5)	16.1 (14.1-18.1)

*Station LA05 is located approx. 1,000 feet east of Inner Cabrillo Beach.
**Mean and (range) for samples taken each month of the year.

Recent discussions with Dave Marke and Berry Bunch at the Waterways Experiment Station in Vicksburg indicated that expansion of the Cabrillo Shallow Water Habitat would have not have any effect on the circulation in the shallow water adjacent to the Inner Cabrillo Beach. However, a reduction in water volume in this area of the harbor may increase tidal velocities, which could increase water exchange in the area. Expansion of the eel grass in the area of Cabrillo Beach in recent years indicates that the water quality in the area is good, although the eelgrass itself may tend to reduce circulation between the eelgrass bed and the beach.

HB-19. Contaminants are generally tightly adsorbed to the sediment particles, or trapped between particles, and are not released to the water column as shown by elutriate tests. Also being a participant in the Contaminated Sediment Task Force, we are unaware of data that may be available to Heal the Bay that shows there is substantial resuspension of contaminated sediments. It should be noted, that leaving contaminated sediments on the bottom over the long term also creates opportunity for resuspension (e.g. from normal currents of propeller wash from ships) and an even greater opportunity for

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bioaccumulation. Removal of this material to an upland or confined disposal facility or capping in place represent beneficial aspects of Port dredging.

HB-20. Hydraulic dredging is not necessarily the best way to remove contaminated sediment. While turbidity/resuspension may be reduced at the cutter head, there may be increased turbidity at the discharge end of the pipe, depending on where the material is being disposed of. While a clamshell dredge may have more turbidity at the dredge site, the dumping of the material from a bottom dump barge (especially in a shallow area) may result in less resuspension at the disposal site. There are also practical considerations that need to be taken into account when determining the equipment to be used during dredging. For instance, some locations do not lend themselves to hydraulic dredging such as near the base of pilings that support wharves or, to remove hard material. Upland disposal in a confined location is also difficult due to the difficulty of dealing with large amounts of return water. To our knowledge, the Contaminated Sediment Task Force has not yet arrived at appropriate Best Management Practices (BMPs) that would recommend the use of hydraulic dredges for removal of contaminated sediments.

HB-21. Use of silt curtains appears to work in some locations and may have been effective at the Port of Long Beach. In areas of significant currents of great depth, silt curtains tend to be more difficult to deploy and less reliable in containing turbidity. Their use will be considered during the design process for the proposed project and used where appropriate. The methodology for placement of the material would be discussed with the members of the Interim Advisory Committee of the Contaminated Sediment Task Force which Heal the Bay attends.

HB-22. The estimate of contaminated material to be removed is based on a calculation of the quantities of material present in areas where contaminated sediments were identified and is conservative (an overestimate). It therefore represents an adequate information base for the purposes of a NEPA/CEQA evaluation. We concur that the project impacts may be related to the amount of contaminated material but that these impacts (removal of contaminants) are largely beneficial. A great deal of data on contaminants in the project area was collected under the guidance of U.S. EPA and serves as a basis for this analysis (see Fugro West 19 __ listed in the reference section of the SEIS/SEIR). In discussions with the U.S. EPA, the additional sampling that may be required for this project in some limited locations will be discussed before the Interim Advisory Committee of the Contaminated Sediment Task Force.

HB-23. See responses to HB-6 and 7 above. It is true that Port tenants require additional terminal space and this is justified in light of the cargo forecast conducted by the San Pedro Bay ports (Mercer 1998). However, as indicated

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in Responses HB-1 – HB-8, the alternatives to this project are adequate and were scoped out during a Notice of Intent/Notice of Preparation (which was sent to Heal the Bay) and a public meeting prior to preparation of the Draft SEIR/SEIS.

HB-24. The NED plan is the plan that optimizes the transportation savings of the channel deepening at the least cost to the federal government and has no relationship to which alternative is necessarily the least environmentally damaging or the project that is the most feasible for implementation by the local sponsor. For the Pier 400 project, the NED Plan was to dispose of nearly 50 million cubic yards to an Ocean Disposal Site because this was the least cost to the federal government in accordance with their feasibility study guidelines. This clearly was an unacceptable plan from the Port's perspective. The present disposal options will allow creation of needed cargo terminals and minimize the amount of material to be disposed of at an Ocean Disposal site.

HB-25. In accordance with the Port's mandate to accommodate maritime commerce pursuant to the California Coastal Act, the Locally Preferred Plan (and Recommended Plan) does include additional fill. The Locally Preferred Plan does not provide for economic gain of the Port over the federal plan because the federal government does not pay for any costs above those identified for the NED Plan.

HB-26. As indicated above, the alternatives analysis and analysis of impacts of the proposed project is complete and was carried out in accordance with NEPA and CEQA. There will be no significant, unmitigated effects to the least tern foraging or human health at Cabrillo Beach. Upland disposal sites are not feasible or appropriate use of dredge material in light of the demand for the Port to accommodate the ever increasing amounts of cargo coming through the Port. The permanent loss of marine habitat resulting from the project has been mitigated to insignificance through the use of approved Port mitigation banks and expansion of the Cabrillo Shallow Water Habitat. The 75-acre landfill is not immediately available to the Port and would not replace additional cargo handling facilities needed at Pier 300. In the last decade, the Port has not filled any water areas that were not totally mitigated through on- or off-site mitigation projects in accordance with federal and state requirements. The Port of Los Angeles represents one of the six locations identified in the California Coastal Act as locations where maritime commerce is to occur. The filling of these waters to accommodate this trade is an allowable use when furthers the purpose and objectives established through the Deep Draft Navigation Project and established in the California Coastal Act.

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