

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

W15h



RECORD PACKET COPY

Filed: 11/27/00
180th day: 5/26/01
Staff: K. Cuffe
Staff report: 12/21/00
Hearing date: 01/10/01

**STAFF REPORT: REGULAR CALENDAR
APPLICATION NUMBER 3-00-152**

Application number 3-00-152, Moss Landing Marine Labs Small Boat Docks

Applicant..... San Jose University Foundation - Moss Landing Marine Labs

Agent Jim Stilwell, Moss Landing Harbor District

Project location 7539 Sandholdt Road, South Harbor, Moss Landing Harbor (APN 133-241-011), North Monterey County.

Project description Removal of three existing creosote pilings and 432 square feet of floating docks, and replacement with six inorganic arsenical pressure-treated wood (CCA, ACA, ACZA) and/or plastic pilings and 1,000 square feet of floating docks.

Approvals Required US Army Corps of Engineers (USACOE or Corps): Central Coast Regional Water Quality Control Board (RWQCB).

File documents CCC Coastal Development Permit Application, File Number 3-00-152.

Summary of Staff Recommendation:

The staff recommends that the Commission **approve, with conditions**, the proposed removal and replacement of Moss Landing Marine Laboratory small boat docks at Moss Landing Harbor. The project will increase the amount of dock space available for research vessels and small boats used for scientific and oceanographic research conducted by students, faculty, and independent researchers associated with the Moss Landing Marine Lab. The permit has been conditioned to protect water quality, marine resources, and public access as required by Chapter 3 policies of the Coastal Act.



California Coastal Commission

January 9-12 Meeting, Los Angeles, California

3-00-152 Staff Report: Regular Calendar

Moss Landing Marine Labs Small Boat Docks

Page 2

Staff Report Contents

1. Staff Recommendation on Coastal Development Permit 2

2. Conditions of Approval 3

 A. Standard Conditions 3

 B. Special Conditions..... 3

3. Recommended Findings and Declarations..... 5

 A. Project Location 5

 B. Project Description 6

 C. Other Agency Approvals 7

 D. Standard of Review 7

 E. Issues Discussion..... 7

 1. Marine Resources 7

 2. Public Access/Recreation 11

 F. Unpermitted Development 11

 G. LCP Planning Process 12

 H. California Environmental Quality Act (CEQA)..... 12

Exhibits

 A. Regional Location Map

 B. Aerial Photo of South Harbor and Project Vicinity

 C. APN Maps

 D. Project Plans

 E. Photos of Existing Docks

1. Staff Recommendation on Coastal Development Permit

The staff recommends that the Commission, after public hearing, **approve** the proposed project subject to the standard and special conditions below. Staff recommends a **YES** vote on the following motion:

Motion: *I move that the Commission approve Coastal Development Permit Amendment Number 3-00-152, subject to the conditions below and that the Commission adopt the following resolution:*

Approval with Conditions. *The Commission hereby grants a permit for the proposed development, as modified by the conditions below, on the grounds that the modified development is consistent with the requirements of Chapter 3 of the California Coastal Act of 1976 (Coastal Act), and will not prejudice the ability of the Monterey County to implement its certified local coastal program in conformance with Chapter 3 of the Coastal Act. The project is located between the sea and the first public road nearest the shoreline, is in conformance with the public access and recreation policies of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act*



(CEQA).

A yes vote would result in approval of the project as modified by the conditions below. The motion passes only by affirmative vote of a majority of the Commissioners present.

2. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Water Quality and Piling Material.** Pursuant to the coastal development permit application and to prevent the introduction of toxic materials into the marine environment, pilings shall be high-density polyethylene, concrete, or inorganic arsenical pressure-treated wood (CCA, ACA, or ACZA). The use of any other piling material or piling treatment, e.g., creosote treated wood, will require a coastal development permit amendment, in consultation with the California Department of Fish and Game and Regional Water Quality Control Board.
2. **Foreign Material Containment Requirements.** Particular care shall be exercised to prevent foreign materials (e.g., construction scraps, wood preservatives, other chemicals, etc.) from entering state waters. Where additional wood preservatives must be applied to cut wood surfaces, the materials, wherever feasible, shall be treated at an onshore location to preclude the possibility of spills into state waters. **UNLESS AN ALTERNATIVE CONTAINMENT PLAN IS APPROVED BY THE**



3-00-152 Staff Report: Regular Calendar

Moss Landing Marine Labs Small Boat Docks

Page 4

EXECUTIVE DIRECTOR, a floating containment boom shall be placed around all active portions of a construction site where wood scraps or other floatable debris could enter the water. Also, for any work on or beneath fixed wharf decks, heavy-duty mesh containment netting shall be maintained below all work areas where construction discards or other material could fall into the water. The floating boom and net shall be cleared daily or as often as necessary to prevent accumulation of debris. Contractors shall insure that work crews are carefully briefed on the importance of observing the appropriate precautions and reporting any accidental spills. Construction contracts shall contain appropriate penalty provisions, sufficient to offset the cost of retrieving or clean up of foreign materials not properly contained.

Piling installation shall be performed in accordance with Department of Fish and Game recommendations, and according to the method that results in the least disturbance of bottom sediments. When there is a significant risk of releasing toxic materials from bottom sediments, these recommendations may include a requirement that, where feasible, disturbed sediments must be contained with a flexible skirt surrounding the driven pile.

As evidence of condition compliance, the Harbor District shall submit a brief letter report with photo documentation describing the specific material containment measures taken during the piling removal and emplacement operations within 30 days of project completion.

3. **Procedures for Concrete Work.** If pile installation requires the pouring of concrete in, adjacent to, or over the water, the following methods shall be employed to prevent uncured concrete from entering the waters of the Bay:

- (a) Complete dewatering of the pour site, within a caisson or other barrier; the site to remain dewatered until the concrete is sufficiently cured to prevent any significant increase in the pH of adjacent waters; or,
- (b) the Tremie method, which involves placement of the form in water, inserting a plastic pipe down to the bottom of the form, and pumping concrete into the form so that the water is displaced towards the top of the form. If this method is selected, the displaced waters shall be pumped off and collected in a holding tank. The collected waters shall then be tested for pH, in accordance with the following California Department of Fish and Game recommendations. If the pH is greater than 8.5, the water will be neutralized with sulfuric acid until the pH is between 8.5 and 6.5. This pH-balanced water can then be returned to the sea. However, any solids that settle out during the pH balancing process shall not be discharged to the marine environment; or,
- (c) an alternative method, subject to review and approval by the Executive Director (in consultation with the California Department of Fish and Game) **PRIOR TO COMMENCEMENT OF WORK.**

In each case involving such concrete pours in or near the waters of the Bay, the permittee shall insure that a separate wash out area is provided for the concrete trucks and for tools. The wash out area(s) shall be designed and located so that there will be no chance of concrete slurry or contaminated water runoff to the adjacent waters of Monterey Bay.



3-00-152 Staff Report: Regular Calendar

Moss Landing Marine Labs Small Boat Docks

Page 5

4. **Water Quality Review.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT, the permittee shall submit to the Executive Director for review and approval any necessary approvals from the Regional Water Quality Control Board including any Section 401 water quality certification, or indication that no such approvals are required.
5. **Other Agency Approvals.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT, the permittee shall submit to the Executive Director for review and approval any necessary approvals from the US Army Corps of Engineers and Department of Fish and Game, or indication from each agency that no such approvals are required.
6. **Maintain Public Access.** DURING CONSTRUCTION, all temporary staging and parking associated with removal and emplacement of pilings and floating docks will be conducted from the Moss Landing Harbor District property in the south harbor or, if necessary from the parking lot of the Moss Landing Marine Labs Small Boat facility. If the permittee or the Harbor District deems additional temporary staging or parking space necessary, a revised site plan shall be submitted for Executive Director's review and approval. In any case, the permittee shall, to the maximum extent feasible, maintain opportunities for maximum public parking and shoreline access along Sandholdt Road during construction.

3. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Location

Moss Landing Harbor is one of six developed harbors located along the Central Coast, four of which border the Monterey Bay National Marine Sanctuary. Moss Landing Harbor is sited near the center of Monterey Bay about 80 miles south of San Francisco (Exhibit A). The harbor occupies a portion of the Old Salinas River channel paralleling the coast and separated from the ocean by sand dunes. Approximately 175 recreational boats and 200 commercial boats are berthed in the Harbor. The south harbor area is also home to several research vessels that support oceanographic research conducted by students, faculty, and scientists associated with the Moss Landing Marine Laboratory and Monterey Bay Aquarium Research Institute (Exhibit B). Upland uses include oceanographic and marine research facilities, commercial fishing and recreational boating operations, manufacturing and marine industrial facilities, and various visitor-serving commercial and recreational uses. Periodic winter stream flows continue to reach the harbor from the south via the Old Salinas River channel. Elkhorn Slough lies to the east of the Harbor, and is the largest intact tidal wetland system between San Francisco and San Diego.

The project is located at the Moss Landing Marine Labs Small Boat Facility, located at 7539 Sandholdt Road (APN 133-241-011) in Moss Landing (Exhibit C).



3-00-152 Staff Report: Regular Calendar

Moss Landing Marine Labs Small Boat Docks

Page 6

B. Project Description

The project proposes nearly doubling the size of the existing docks used by the Moss Landing Marine Lab Small Boat facility. As proposed, the project would remove three existing creosote pilings and 432 square feet of floating docks, and replace them with six inorganic arsenical pressure-treated wood (CCA, ACA, ACZA) and/or plastic pilings and 1,000 square foot of floating docks. (Exhibit D shows the existing and proposed dock and piling configurations.) Floating dock sections to be used have already been constructed of pressure treated wood and styrofoam floatation blocks, with galvanized steel strong points and connections. These floating dock sections are built in 6x20, 8x20 and 8x26 foot segments. Steel pile rings will hold the floats to the pilings. Photos of the existing small boat docks are shown in Exhibit E.

Moss Landing Marine Labs has authorized the Moss Landing Harbor District (District) to apply for the coastal development permit needed for this project, and it is assumed that the District shall either conduct the operations or contract the work to be done. A portion of this permit application is for after-the-fact construction that was conducted by the Moss Landing Harbor District. The District removed the three existing pilings that were used for the existing docks in order to assist with the dredging operations earlier this summer, and replaced the same three pilings and dock floats following dredging. With the replacement of these three pilings, the District also changed the dock configuration from a 3-section, 30-foot long "T" shaped dock configuration to a 3-section, 64-foot long straight line dock configuration (see Exhibit D2 (a) and (b)). The work to be completed includes installation of three additional pilings and the placement of seven floating dock sections in a 68-foot long "E" shaped configuration (see Exhibit D2 (c)).

The Moss Landing Harbor District (District) currently has a 5-year maintenance permit for repair and replacement of existing pilings (CDP 3-97-088), which requires submittal of final project plans prior to commencement of each episode of piling repair and approval. Since no project plans were submitted prior to the removal and replacement of the existing piers, and as the current application also involves an increase in the number of pilings (for a total of 6 pilings) and an increase in the amount of dock space (from 432 sf to 1,000 sf) located at the Moss Landing Marine Labs Small Boat Facility, staff determined that this project requires its own separate permit. As described below, pile installation will be performed in a manner similar to that described in the 5-year maintenance permit.

Pilings to be used are typically about 45 feet in length and about 14 inches in diameter. If wooden pilings are to be used, they shall be pressure treated to retard marine borers with a process approved by the California Department of Fish and Game. The District may substitute piles constructed of High Density Polyethylene or concrete for wooden piles, at its option, subject to notification of the Department of Fish and Game and the Executive Director of the Coastal Commission.

The staging area for the project will be from the Moss Landing Harbor District property in the south harbor. If required, any additional staging will occur from the Marine Lab Small Boat facility parking lot, located immediately west of and adjacent to the docks. Piles will be floated from the Harbor District property to the project site using a self-propelled marine vessel (or barge). As described above, the three



3-00-152 Staff Report: Regular Calendar

Moss Landing Marine Labs Small Boat Docks

Page 7

existing piles have already been removed and replaced. The three new pilings will be driven in place with the District's own pile driver, and the floating dock sections set into place. The work will be conducted during times that will not cause obstruction/disturbance to moving vessels, marine habitat or the public at large.

C. Other Agency Approvals

The State Lands Commission has reported that the project involves lands that have been granted to Moss Landing Harbor District and that no action is required on their part. The U.S. Army Corps of Engineers has indicated that as the project is an expansion of existing facilities, and since it will require filling of open coastal waters for placement of three additional pilings, the project will require a permit from the Corps. The Regional Water Quality Control Board is reviewing the proposal. The permit has been conditioned to require submittal of Regional Board approval, or an indication that no such approval is required, prior to commencement of piling replacement.

D. Standard of Review

The lands around Moss Landing Harbor are covered by the certified Monterey County Local Coastal Program. However, the piers and docks in the Harbor are located in State waters granted in trust to Moss Landing Harbor District. Therefore, the proposed project is within the Coastal Commission's original permit jurisdiction (Coastal Act Section 30519(b)) and the standard of review for the coastal development permit is the Coastal Act of 1976.

E. Issues Discussion

1. Marine Resources

The proposed development will be located in and over the open coastal waters of Moss Landing Harbor. According to the USACOE Public Notice 22026S27 (February 19, 1996) for Moss Landing Harbor Dredging Project, federally listed animal species that may occur in the vicinity of the project area include the endangered tidewater goby (*Eucyclogobius newberryi*), the California brown pelican (*Pelecanus occidentalis californicus*), and the threatened southern sea otter (*Enhydra lutris nereis*). In addition, the endangered coho salmon have been identified off the entrance to Moss Landing Harbor.

The inner harbor area is also adjacent to the Monterey Bay National Marine Sanctuary (MBNMS) so designated because of its environmentally sensitive habitats, recreational values, and other special natural resource attributes (MBNMS Designation Document, Article 11, 15 Code of Federal Regulation (CFR), Paragraph 944.2.)

To protect marine resources the Coastal Act strictly limits the type and extent of development in coastal waters. Maintenance of existing piers is a permitted use under Section 30233.

Section 30233 of the Coastal Act states in part:



3-00-152 Staff Report: Regular Calendar

Moss Landing Marine Labs Small Boat Docks

Page 8

(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-dependant industrial facilities, including commercial fishing facilities...

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

However, permitted development must be the least environmentally damaging alternative and mitigation measures must be provided to minimize adverse environmental effects. Water quality and the biological productivity of the marine environment are specifically protected by the Act under policies 30230 and 30231. Section 30240 provides for protection of environmentally sensitive habitat and Section 30232 provides for protection against spillage of hazardous substances.

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long term commercial, recreational, scientific, and educational purposes.

Section 30231 provides:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

In addition Section 30232 provides:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Coastal Act Section 30240 (b) states:

Development in areas adjacent to environmentally sensitive habitat areas and parks and



3-00-152 Staff Report: Regular Calendar

Moss Landing Marine Labs Small Boat Docks

Page 9

recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreational areas.

In addition, since the project includes development activities adjacent to MBNMS, an environmentally sensitive habitat, National Marine Sanctuary Regulations, 15 CFR Paragraph 944.5(a)(3) are relevant for interpreting Coastal Act Sections 30230, 30231, and 30240(b). This section of Sanctuary Regulations prohibits:

Discharging or depositing, from beyond the boundary of the Sanctuary, any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality...

The proposed development is intended to expand a coastal dependent port facility used for nature study (marine and oceanographic study and research). Therefore, it meets the test for being a permitted use of coastal waters under Section 30233(a)(1)(8). As proposed, the project will use the Harbor District property or existing Moss Landing Marine Labs onshore small boat facility for staging, storing and transporting materials. A District workboat will be used to convey the pilings to the installation sites and assist with pile removal and/or placement. While the project doubles the size of the existing boat docks, the project provides a modest increase in docking facilities within an existing developed area and has used the minimal area necessary to accommodate the proposed improvements. In making use of the existing pilings and expanding within an existing developed area, rather than install additional facilities in a new location within the harbor, the project as proposed is the least environmentally damaging alternative.

The proposed development has the potential to impact water quality by increased turbidity and resuspension of fine-grained sediments, the use of toxic materials, and spilling of hazardous substances, therefore mitigation measures for protecting water quality and foreign material containment have been included, as described below.

Water Quality: Agricultural runoff and the by-products of boating and industrial uses have affected water quality in Moss Landing Harbor. Major concerns have been raised through the years regarding pesticides, heavy metal, and other toxic materials. DDT, toxaphene, dieldrin, endrin, aldrin, and endosulfan were found in sediment testing for the harbor's dredging projects. These compounds are insoluble in water but highly soluble in lipids or animal fatty tissue where they tend to concentrate through bioaccumulation.

Because of the low water solubility of DDT (0.0012 ppm) and its strong adsorption to fine-grained soil particles, contamination of the aquatic environment by DDT and its metabolites is primarily associated with aquatic sediments. Metals are also insoluble in water, and have also been found in harbor bottom sediments. Hence, the contaminants of concern are not in the water column, but in harbor bottom sediments. Since the contaminants of concern are included in harbor bottom sediments, turbidity and resuspension of bottom sediments are the major issues related to water quality concerns.

Pile Driving and Removal: The installation of piles has the potential to stir up bottom sediments in the



3-00-152 Staff Report: Regular Calendar

Moss Landing Marine Labs Small Boat Docks

Page 10

harbor. The increase in turbidity associated with this activity can adversely affect marine resources by reducing the amount of light penetration, diminishing water quality, and burying living organisms. In addition, any contaminants in harbor sediments can become more bio-available when suspended in the water column.

The applicant proposes that to minimize turbidity, each pile will be extracted vertically or, if this method does not work, the piles will be broken or cut at the project level plus the allowed over cut (of 2 feet), with the stubs remaining in place. Any debris caused from the break or cut will be skimmed and collected to prevent hazards within the waterway. In addition, for the five-year piling repair and maintenance program at Moss Landing Harbor, and for similar work at Monterey Harbor, the California Department of Fish and Game has recommended that, where feasible, disturbed sediments should be contained with a flexible skirt surrounding the driven pile. Special Condition 3 requires the use of a flexible skirt in Moss Landing Harbor consistent with California Department of Fish and Game recommendations.

Concrete: The pH of marine water becomes elevated if it comes in contact with uncured concrete. Elevated pH levels can be toxic to marine life. Special Condition 4 specifies procedures for concrete work designed to eliminate the possibility of marine water coming into contact with uncured concrete.

Preservatives: Preservatives used to treat pilings can have deleterious effects on water quality. Creosote-treated pilings leach into the surrounding waters and can be toxic to marine life. Department of Fish and Game marine biologists have, in the past, opposed use of creosote-treated wood products in State waters; however, recent correspondence from the Department indicates that this issue is still unsettled. The applicant does not propose the use of creosote-treated piles but will use arsenic-treated wooden or plastic piles. According to the Department of Fish and Game the arsenic-treated piles do not significantly leach into the marine environment. The Environmental Protection Agency has approved the use of arsenic-treated pilings. The permit has been conditioned to require that only concrete, plastic and arsenic-treated piles are allowed. As conditioned, any change in piling material or piling treatment, e.g., the use of creosote, will require a coastal development permit amendment.

Regional Water Quality Control Board: The applicant has applied to the Regional Water Quality Control Board for their review. The coastal development permit has been conditioned for submittal of the RWQCB approval or evidence that no approval is required prior to commencement of the piling removal and new pile driving.

As conditioned the coastal development permit will provide for (1) containment of construction debris and precautionary requirements for contractors regarding accidental spills, (2) procedures for concrete work, (3) use of pilings that are non-toxic and (4) review by the Regional Water Quality Control Board.

These measures will minimize the risk of water quality degradation and impacts on marine resources in the harbor and in the adjacent Monterey Bay National Marine Sanctuary. Therefore, as conditioned, the proposed development is consistent with the Marine Resource policies of Chapter 3 of the Coastal Act and Coastal Act Policy 30240, which protects environmentally sensitive habitat.



2. Public Access/Recreation

Sections 30210-14 of the Coastal Act provide for maximizing public access to the coast. The Harbor facilities provide both pedestrian and boating access. The Harbor District will stage the boat dock removal and replacement project from the Harbor District property in the south harbor and, if necessary, the Moss Landing Small Boat facility parking lot adjacent to the project site. In either case, the project will not require any encroachment of public parking along Sandholdt Road in the vicinity of the site. The new, expanded dock area will extend approximately 38 feet further east into the Harbor than the original "T" shaped dock configuration, but will not encroach on the main navigation channel or recreational waterways in the Harbor. The Harbor District indicates that construction will occur during times that will minimize obstruction/disturbance to moving vessels and to the public at large.

The Harbor, and hence the project, is located between the sea and the first public through road nearest the shoreline. The proposed piling maintenance program is not expected to have any significant impacts on existing public pedestrian access and minimal impact on vehicular and boating access to the shoreline. The project is located within the south harbor area, which is managed by the Harbor District mainly for berthing of commercial fishing, research and marine service vessels (eg., tugs and Harbor District vessels). Expansion of the small boat docks at the Moss Landing Marine Lab is designed to provide increased opportunities for berthing of small boats and research vessels used for marine and oceanographic research and study. Section 30234 requires protection of commercial fishing and recreational boating facilities in coastal waters. The project as proposed does not reduce any existing commercial fishing or recreational boating opportunities currently available in the Moss Landing Harbor, and would not adversely impact recreational boat use or access in the Harbor. Additionally, while the Moss Landing Small Boat Facility and docks are and shall remain gated and therefore not open to the general public, there is a variety of other public coastal access opportunities available in and around the Harbor.

To ensure that the project does not impact public access to the shoreline, the permit has been conditioned to provide all construction related parking and staging requirements on District property or on site. If this is not feasible, the permittee shall be required to submit final plans for review and approval by the Executive Director that indicate where temporary staging and parking areas to be used during construction will be located. The permittee is also required to maintain, to the maximum extent feasible, public parking and shoreline access along Sandholdt Road during construction.

Therefore, as conditioned, the proposed development will protect public pedestrian access, commercial fishing and recreational boating access and opportunities and so is consistent with the public access and recreation policies of the Coastal Act.

F. Unpermitted Development

The applicant has already removed the three pilings that had been used for the "T" shaped boat dock configuration and reset the same pilings into a new and longer "T" shaped configuration in the same general vicinity of the existing Moss Landing Small Boat Facility. While the Harbor District does have a five-year piling removal and replacement permit in force, they did not comply with the special



3-00-152 Staff Report: Regular Calendar

Moss Landing Marine Labs Small Boat Docks

Page 12

conditions of that permit which require final plans be submitted for review and approval prior to each episode of piling repair and maintenance.

Although unpermitted development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon Chapter 3 policies of the Coastal Act. Action on the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

G. LCP Planning Process

The lands around Moss Landing are covered by the certified Monterey County Local Coastal Program that includes the North County Land Use Plan. However, the piers and docks in the Harbor are located in State waters granted in trust to Moss Landing Harbor District. Therefore, the proposed project is within the Coastal Commission's original jurisdiction (Coastal Act Section 30519(b)) and the standard of review for the coastal development permit is the Coastal Act of 1976. Chapter 5 of the North Monterey County Land Use Plan (LUP), certified by the Commission in June 1982, complements the Coastal Act by providing area-specific interpretive guidance for the Moss Landing Community. The North County LUP has numerous policies that provide for the maintenance and enhancement of the commercial, recreational, and research boating facilities that share use of the harbor.

H. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effects that the activity may have on the environment.

Moss Landing Harbor District, as the lead agency for California Environmental Quality Act review, determined that the proposed removal and replacement of pilings and floating docks is Categorical Exempt, under Paragraph 15301, Existing Facilities, Class 1; 15301(d) Class 2; and 15304(g) Class 4. The Harbor District filed a Notice of Exemption on March 6, 2000.

Beyond this, the Secretary of Resources has certified the Coastal Commission's review and analysis of land use proposals as being the functional equivalent of environmental review under CEQA. In the course of application review potential environmental impacts were identified and are discussed in this staff report. These include, but are not limited to, potential water quality impacts, and potential for impacts to public access. Appropriate measures have been identified to avoid or mitigate such impacts, and are incorporated in the conditions attached to this permit. Accordingly, the Commission finds that as conditioned by this permit, the proposed project will not have any significant adverse effects on the environment within the meaning of CEQA.



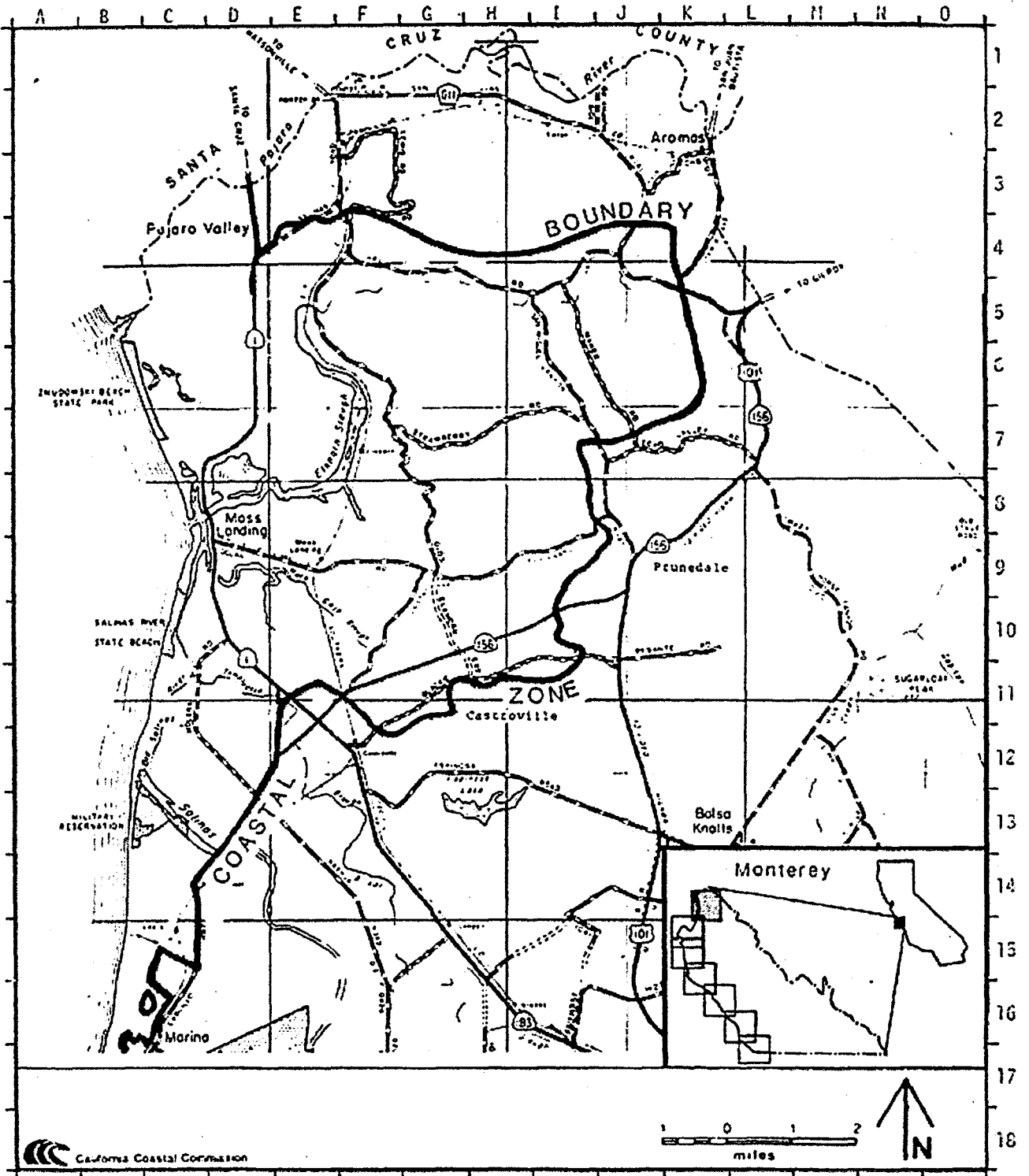


EXHIBIT A
 Regional Location Map
 3-00-152
 Moss Landing Marine Labs
 Small Boat Docks



SAUNAS RIVER STATE BEACH

MOSS LANDING
MARINE LABS
SMALL BOAT
FACILITY

HARBOR
DISTRICT

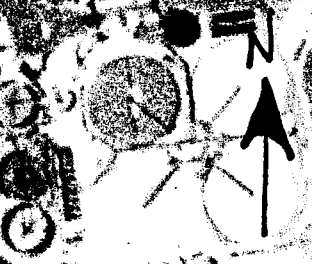
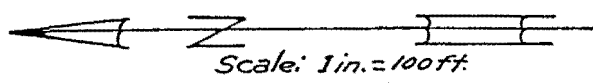


EXHIBIT NO. B
APPLICATION NO. 3-00-152
Moss Landing Marine Labs Small Boat Dock
Aerial Photo California Coastal Commission

Site Vicinity

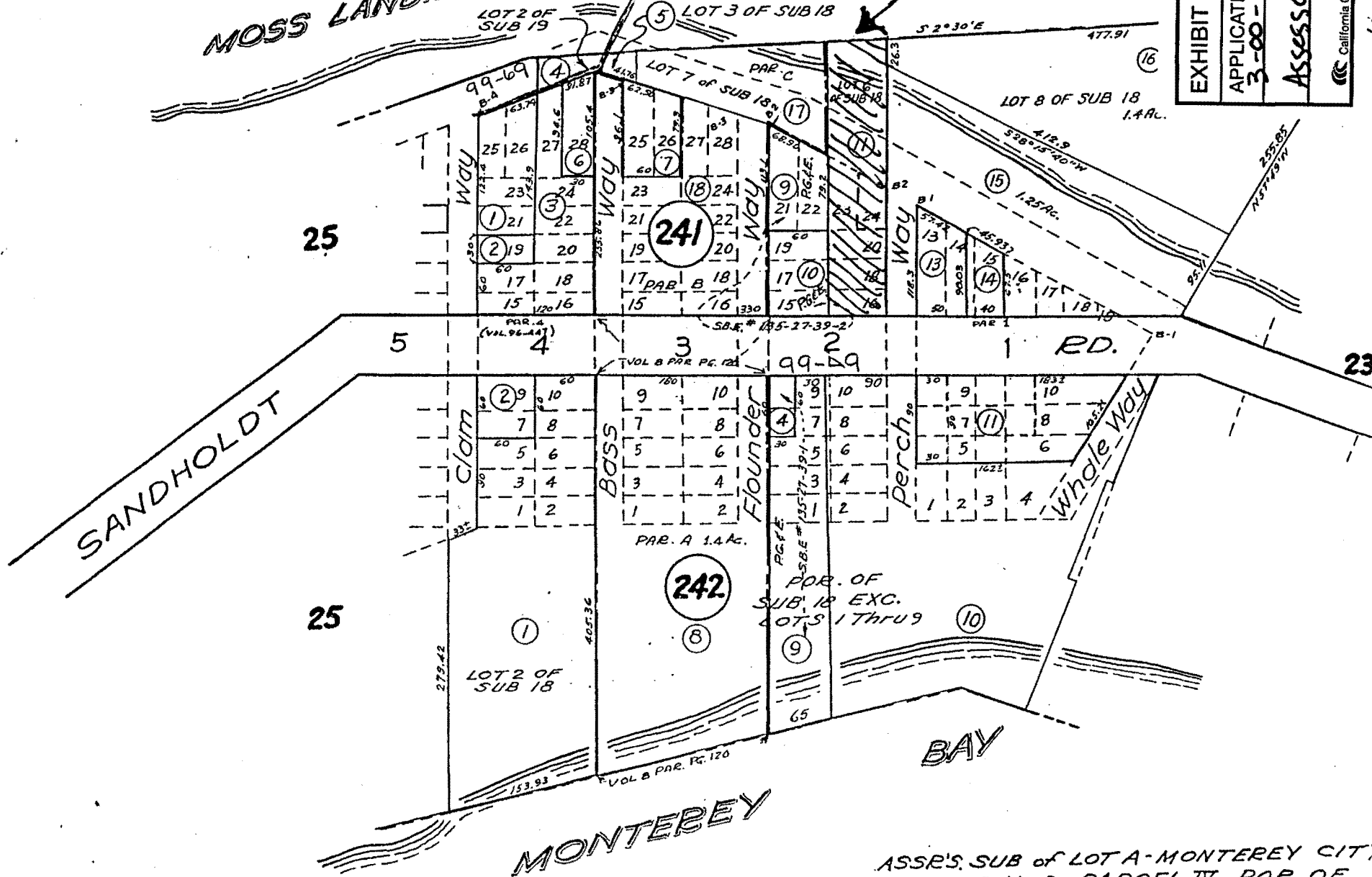


Scale: 1 in. = 100 ft.

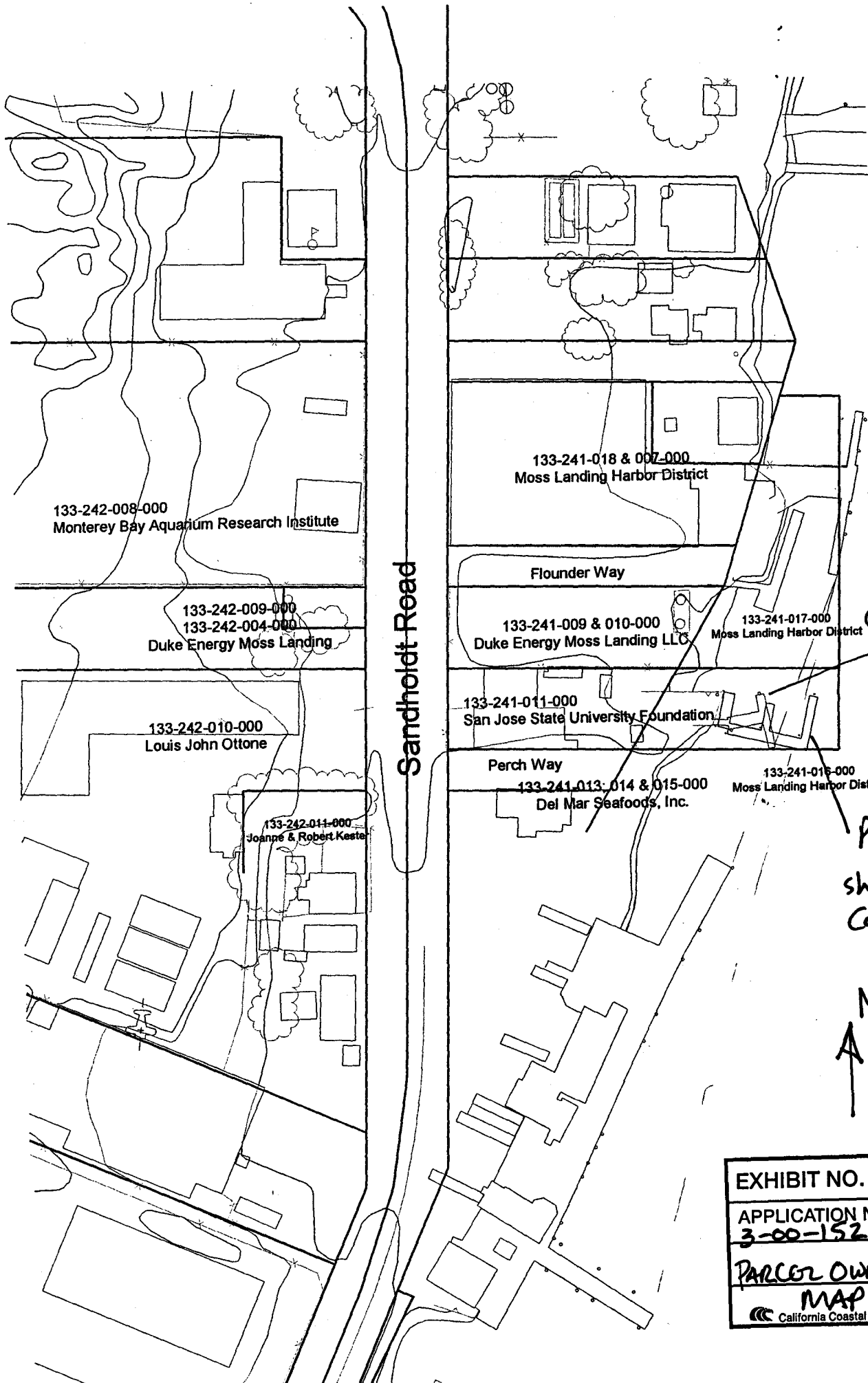
MOSS LANDING HARBOR

PROJECT LOCATION

EXHIBIT NO. C 142
APPLICATION NO. 3-00-152
ASSESSOR'S MAP
California Coastal Commission



ASSR'S. SUB of LOT A - MONTEREY CITY, LANDS TR. No. 3 PARCEL II, POR. OF SUB 18, 19 & BLKS 1 THRU 4 MOSS LANDING



133-242-008-000
Monterey Bay Aquarium Research Institute

133-242-009-000
133-242-004-000
Duke Energy Moss Landing

133-242-010-000
Louis John Ottone

133-242-011-000
Joanne & Robert Kester

Sandholdt Road

133-241-018 & 007-000
Moss Landing Harbor District

Flounder Way

133-241-009 & 010-000
Duke Energy Moss Landing LLC

133-241-017-000
Moss Landing Harbor District

133-241-011-000
San Jose State University Foundation

Perch Way

133-241-013, 014 & 015-000
Del Mar Seafoods, Inc.

133-241-016-000
Moss Landing Harbor District

*Original
T-shaped
Configuration*

*Proposed
"E"
shaped
Configuration*



EXHIBIT NO. <i>C 2022</i>
APPLICATION NO. <i>3-00-152</i>
<i>PARCEL OWNERSHIP</i> MAP
California Coastal Commission

Sandholdt Road

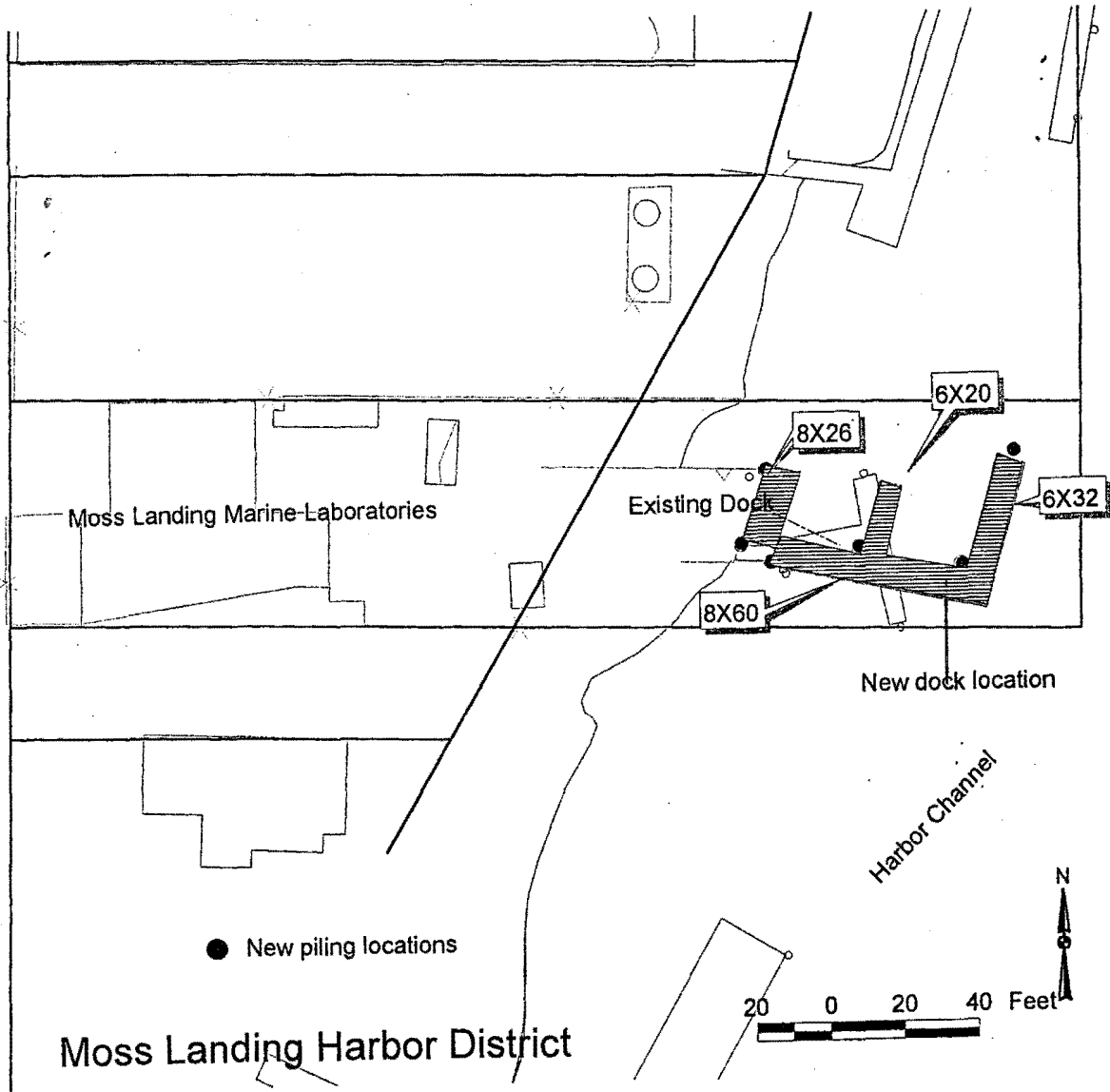
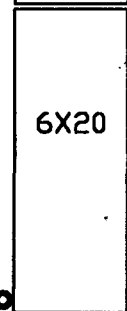
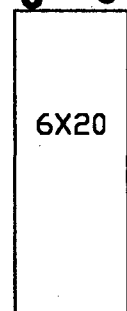
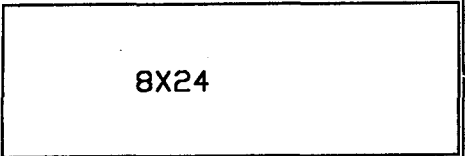
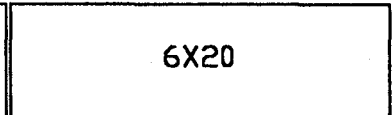
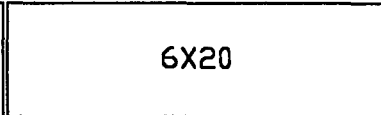
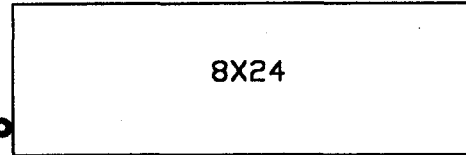
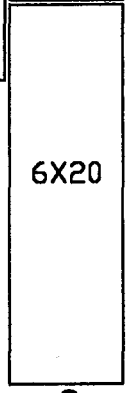
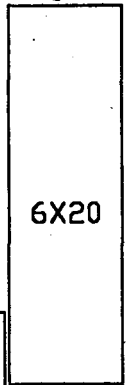


EXHIBIT NO. D 1 of 2
APPLICATION NO. 3-00-152
SITE PLANS
California Coastal Commission

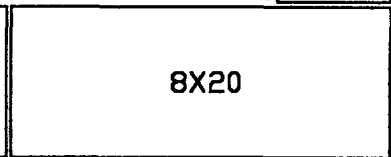
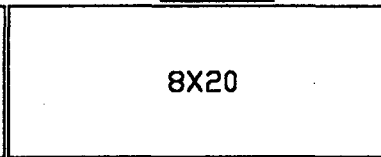
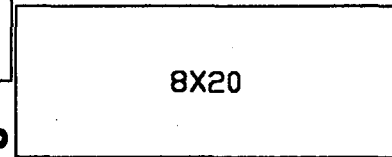
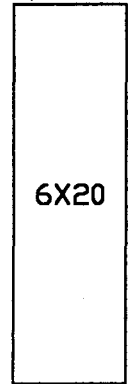
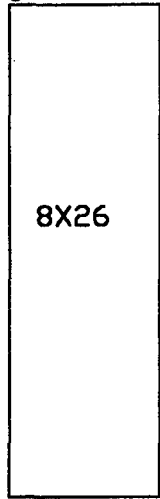
(B)

Floating dock and piling configuration after dredging



(C)

Proposed dock and piling configuration



(A)

Floating dock and piling configuration prior to dredging

 California Coastal Commission	SITE PLANS
	APPLICATION NO. 3-00-152
	EXHIBIT NO. D 242

MLHD

DRAWN BY: FRANCES_HUSTON

DWG NO. 01	FILE NAME: LSG-01	CHECKED BY:	REV
SCALE 1-1	DATE: 11-07-00	SIZE A	SHEET 1

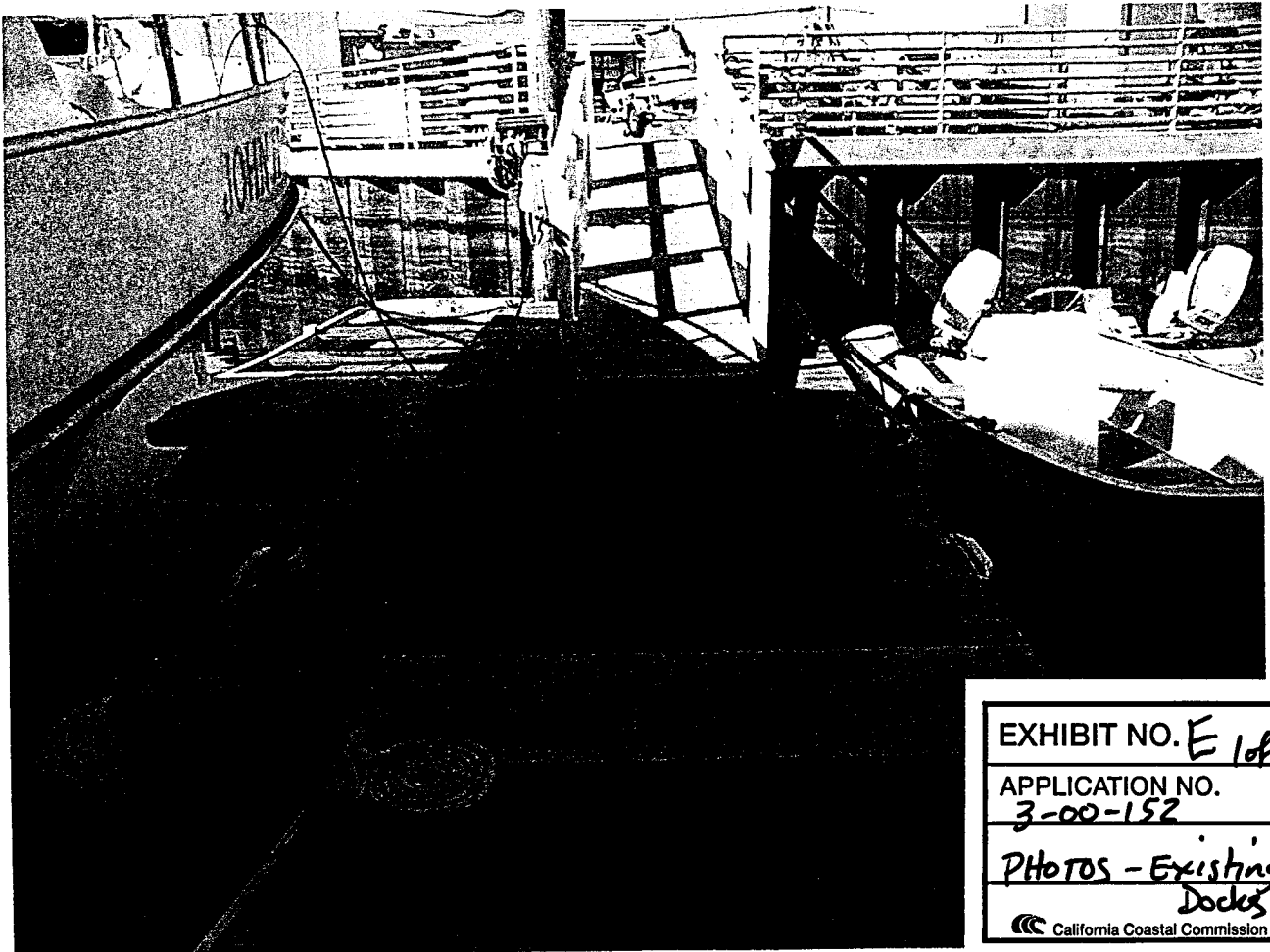
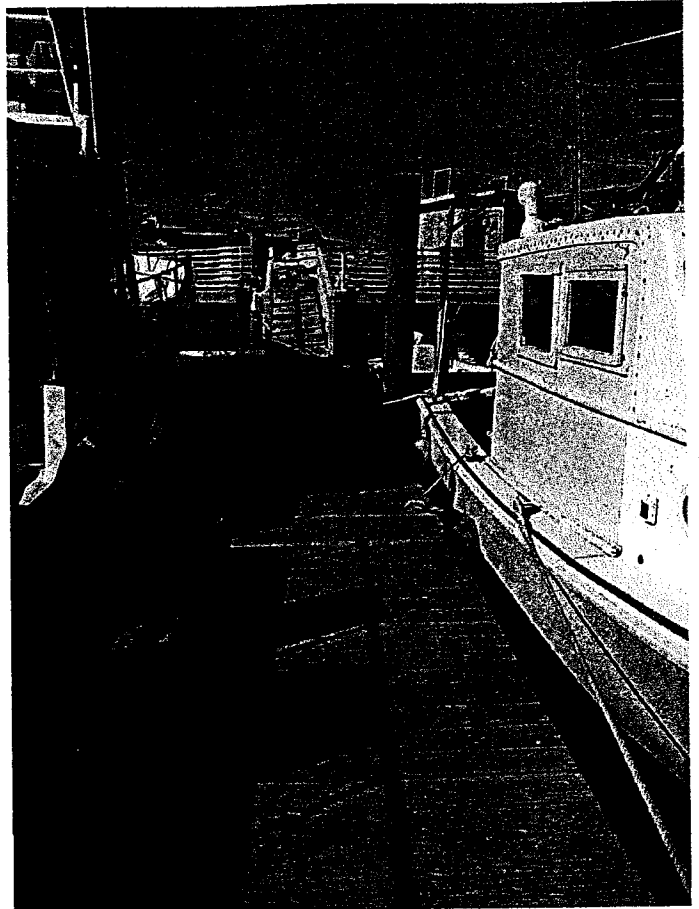
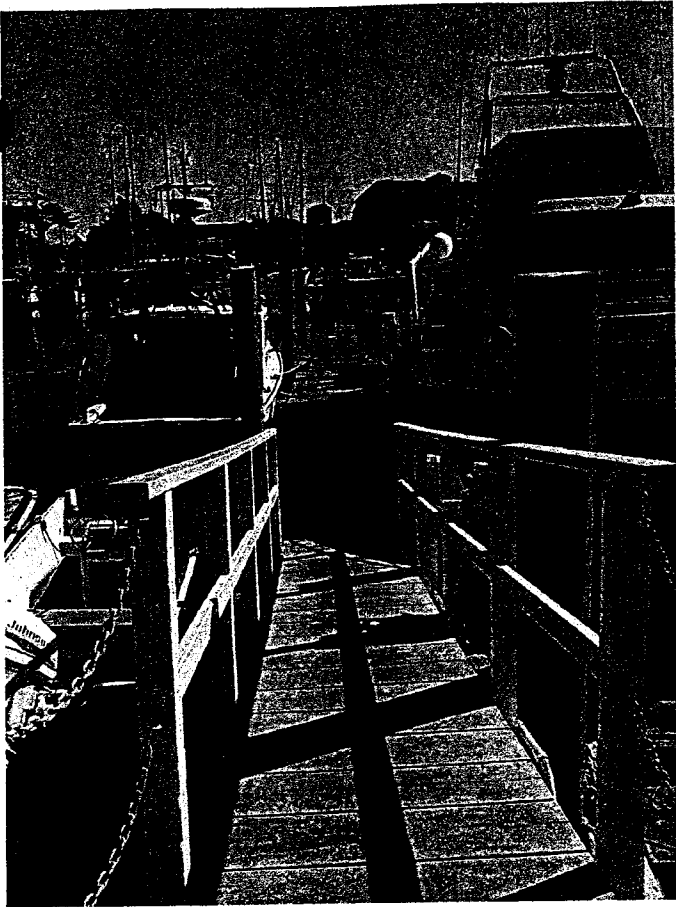


EXHIBIT NO. E 1 of 3
APPLICATION NO.
3-00-152
PHOTOS - Existing
Docks
California Coastal Commission

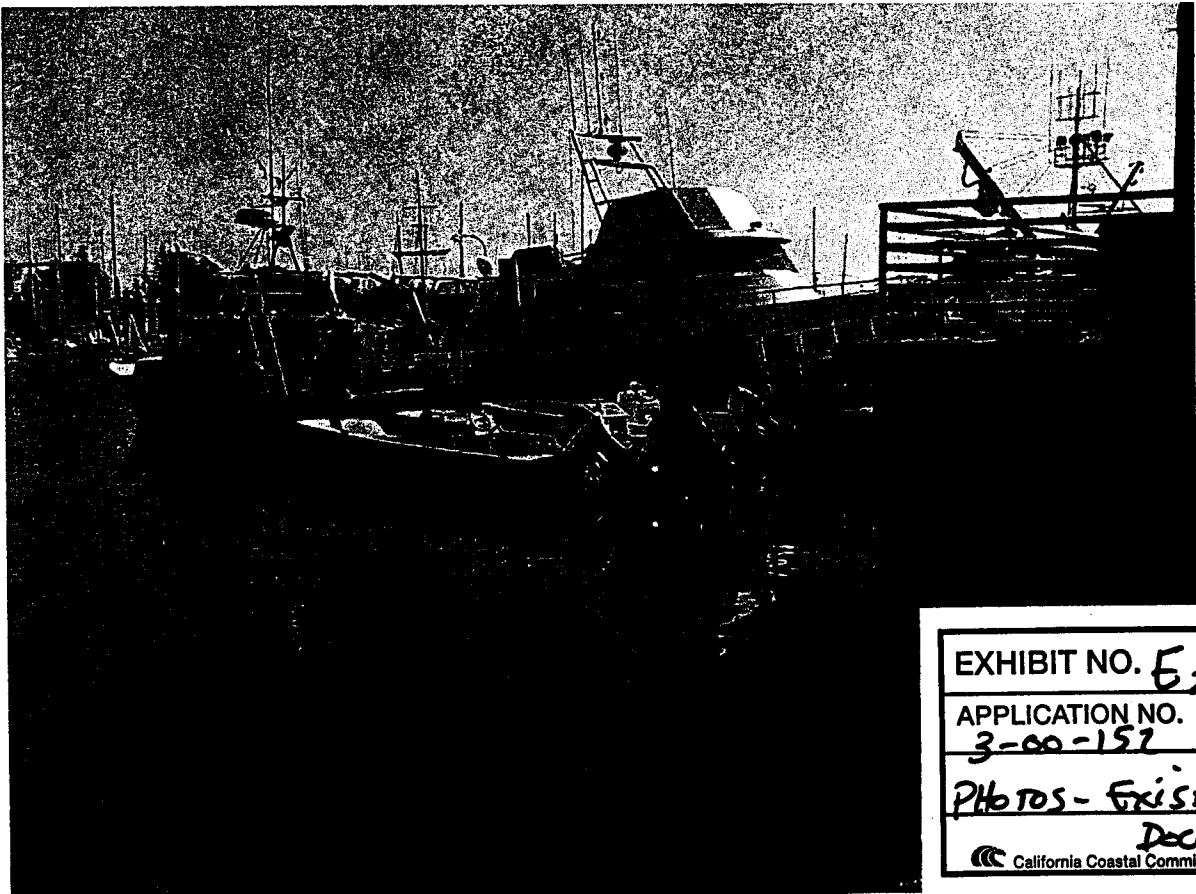
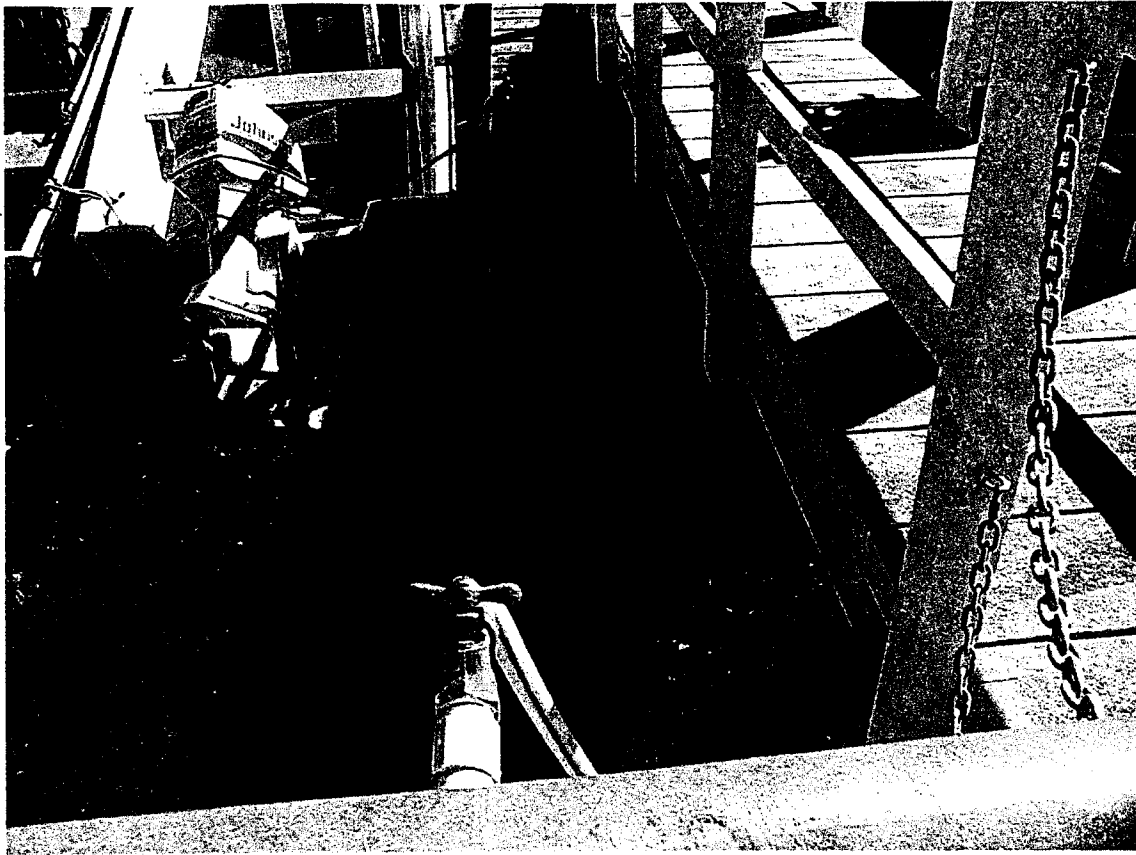



EXHIBIT NO. E243
APPLICATION NO. 3-00-157
PHOTOS - Existing Decks
 California Coastal Commission

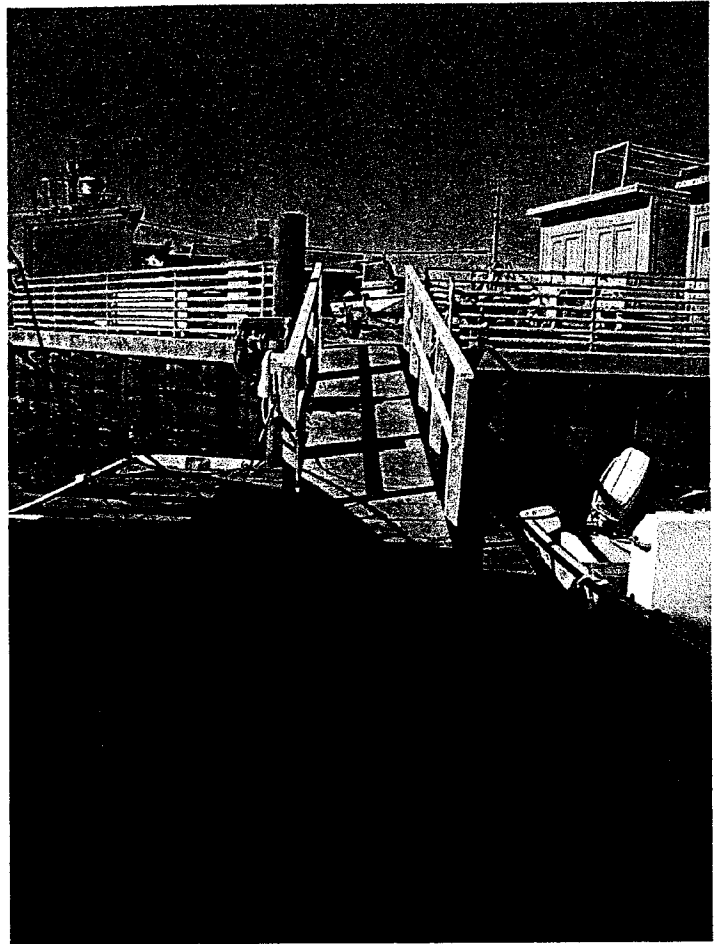



EXHIBIT NO. E 30f3
APPLICATION NO. 3-00-152
PHOTOS - Existing Docks
 California Coastal Commission

