

CALIFORNIA COASTAL COMMISSION

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**RECORD PACKET COPY****Tu 6a****STAFF REPORT AND RECOMMENDATION****ON CONSISTENCY DETERMINATION**

Consistency Determination No.	CD-074-01
Staff:	MPD-SF
File Date:	07/30/2001
60th Day:	09/28/2001
75th Day:	10/13/2001
Commission Meeting:	10/9/2001

FEDERAL AGENCY: U.S. Army Corps of Engineers

PROJECT
LOCATION:

Morro Bay Harbor and nearby beach and nearshore areas outside the harbor, Morro Bay, San Luis Obispo County (Exhibits 1-5)

PROJECT
DESCRIPTION:

5-Year Maintenance Dredging of existing navigation channels (Exhibits 2,3), with beach or nearshore disposal (Exhibits 1, 4, 5)

EXECUTIVE SUMMARY

The U.S. Army Corps of Engineers ("Corps") is proposing a Five-Year Maintenance Dredging Program to maintain existing navigation channels in Morro Bay. Up to approximately 836,000 cu. meters of sandy material would be dredged, with disposal to occur either surf-zone disposal north of the harbor or nearshore disposal south of the Harbor. The dredging program is similar to previous Commission-authorized Corps dredging and beach disposal projects at the harbor. As it has been previously, the major issue raised is the need to assure that dredging and disposal activities minimize impacts to sensitive habitat resources, primarily, snowy plovers and grunions. The Corps commits that any dredging occurring between March 1 and September 30 would be limited to nearshore disposal at the southern disposal site; therefore surf zone or on-beach disposal would not occur during the nesting/spawning season.

The dredge location, volume, and disposal sites are similar to previously approved dredge projects in Morro Bay, including consistency and negative determinations CD-39-86, CD-11-87, CD-29-90, and CD-44-93, ND-28-95, ND-29-96, ND-89-97, ND-20-98, ND-28-99, ND-85-98, and ND-064-01. The proposed project includes all the avoidance and mitigation measures that the Commission has previously found necessary to protect endangered, threatened and sensitive species (including the snowy plover, peregrine falcon, southern sea otter, and grunion), sand resources, hard rock substrate, and recreational resources. With these measures, the project is consistent with the dredging and marine resources policies (Sections 30230 and 30233) of the Coastal Act because it: (1) is an allowable use under Section 30233(a); (2) provides adequate mitigation measures to protect marine resources, water quality, and environmentally sensitive habitat areas; and (3) provides for beach replenishment of suitable sandy material as required by Section 30233(b). Finally, by replenishing public beaches and avoiding beach/surf-zone disposal during the peak recreational season, the project would improve recreation and is consistent with the public access and recreation policies (Sections 30210-30212) of the Coastal Act.

STAFF SUMMARY AND RECOMMENDATION:

I. **Project Description/History.** The Corps originally submitted a consistency determination for a six year dredging program for Morro Bay. This year was the first time the Corps had requested a six year authorization for Morro Bay. The Commission has concurred with Corps 6-year dredging programs for Oceanside (San Diego County), Channel Islands/Port Hueneme (Ventura County), and Santa Barbara. Because the Corps intended to commence the first year's dredging prior to the October Commission meeting, the Commission staff authorized this year's dredging as a negative determination (ND-064-01). Thus, the subject consistency determination would cover the remaining 5-year period (i.e., years 2002-2006).

The dredging would be similar to previously-authorized activities in past years, and would consist of maintenance dredging of existing navigation channels (the entrance/Main, Navy, and Morro channels and sand trap) (Exhibits 2 & 3), with nearshore or surf-zone disposal. The dredge volumes would be up to 836,000 cu. meters (1.1 million cu. yds.) per year. The dredging would be performed using a cutterhead hydraulic (pipeline) dredge, hopper or clamshell dredge (or a combination of dredge platforms) may also be used. Disposal of the predominantly sandy and clean material would be in nearshore or surfzone areas, either north of the harbor (surfzone disposal at Morro Strand State Beach), or south of the harbor (a nearshore area between one and two miles south of the harbor, offshore of Montana de Oro State Park (Exhibits 1, 4 & 5)). Water depths at the southern, nearshore disposal site would range from -20 ft. MLLW (mean lower low water) to -40 ft. MLLW (-6 m to -12 m). Any dredging occurring between March 1 and September 30 would be limited to nearshore disposal at the southern disposal site (to protect sensitive species). The project includes a temporary staging area near Morro Rock.

The Corps has performed maintenance dredging nine times since 1990. The last four dredge episodes involved dredge volumes between 84,000 cu. m. and 445,000 cu. m. Disposal the last four times consisted of nearshore disposal at the (currently proposed) southern disposal site.

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

III. Federal Agency's Consistency Determination. The Corps of Engineers has determined the project to be consistent to the maximum extent practicable with the California Coastal Management Program.

IV. Staff Recommendation: The staff recommends that the Commission adopt the following motion:

MOTION: I move that the Commission **concur** with consistency determination CD-074-01 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 a concurrence 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 CONCUR WITH CONSISTENCY DETERMINATION:

The Commission hereby **concurs** with the consistency determination by the Corps, 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.

V. **Findings and Declarations:**

The Commission finds and declares as follows:

A. **Dredging, Sand Supply, and Marine Resources.** The Coastal Act provides:

Section 30230. 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. 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....

Section 30233. (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following: ...

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps. ...

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

Section 30240. (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

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

Section 30233(a) of the Coastal Act imposes a three-part test on dredging and filling projects: (1) the allowable use test; (2) an alternatives test; and (3) a mitigation test. The use of the proposed sites for dredging and disposal have previously been authorized by the Commission through the federal consistency process (see ND-064-01, ND-28-99, ND-20-98, ND-85-98, ND-89-97, ND-29-96, ND-28-95, ND-44-93, CD-81-91, CD-55-90, CD-29-90, CD-11-87, CD-39-86, and CD-58-84). In these decisions the Commission has found that Corps maintenance dredging in Morro Bay complies with these tests because: (1) maintenance dredging of existing channels is an allowable use under Section 30233(a)(2); (2) when the material is suitable for beach disposal there is no less damaging feasible alternative; and (3) with the mitigation measures addressing environmentally sensitive habitat needs, temporary disruption of the marine environment from dredging and disposal does not require additional mitigation.

To assure the material's suitability for ocean disposal, the Corps analyzed the physical and chemical characteristics of the dredged sediments. The Corps' environmental assessment states that:

Physical and chemical testing was performed in all three channels in 1993. The sand trap, which is adjacent to the entrance/main channel, was tested for physical and chemical parameters in 1995. In 1997, physical/mechanical testing was performed to re-establish compatibility of this littoral material with the proposed disposal sites. ... Physical testing confirmed that sediments were composed predominantly of sand, with at least 90 percent retained on a No. 200 sieve screen. ... In 1999, sediments and seawater were collected at three stations along the center of the Main, Navy, and Morro Channels (Coats and Imarnaura 1999). A standard elutriate test was used to predict the release of dissolved contaminants to the water column resulting from open water disposal of the dredged material. Dissolved trace metal concentrations were below detection limits in all of the samples. Chemical analysis performed in 1993 and 1995 also indicated that the material to be dredged was relatively clean, and free from pollutants.¹

In addition, the Corps has recently tested sediment from Morro Bay harbor to determine its physical and chemical characteristics. The data indicate that the sediment is predominately clean sand similar to sediment dredged in the previous projects. The Environmental Protection Agency (EPA) has reviewed this sediment data and has concluded that the material is "physically and chemically suitable for beneficial aquatic disposal as beach nourishment materials."²

¹ Draft Environmental assessment, Morro Bay Harbor Dredging, 6/2001, p. 9.

² EPA memo, 8/14/01

As with past maintenance dredging projects at Morro Bay, disposal operations occurring between March 1 and September 30 annually will be restricted to the nearshore area (in waters seaward of the surf break between the -20 and -40 foot mean lower low water contour line) to avoid impacts to the nesting activities of the endangered Western snowy plover. This measure will also protect grunions, as well as minimize effects on recreational beach use.

Concerning sand supply, Section 30233(b) (quoted above) provides, in part, that where dredge material is suitable, it should be used to replenishment beaches or be placed within littoral sand systems. Physical testing by the Corps has re-established the compatibility of this littoral material with the proposed disposal sites, and confirmed that it is composed of at least 80% sand. Thus, the material proposed is suitable for beach replenishment. Disposal at either the nearshore or surf zone disposal sites would result in the retention of the material within the littoral system. Therefore, the Commission finds that the proposed surf zone or nearshore disposal is consistent with the sand supply policy (Section 30233(b)) of the Coastal Act.

In conclusion, with the avoidance and mitigation measures discussed above, the Commission concludes that the project is consistent with the dredging, habitat, water quality, marine resources, and sand supply policies of the Coastal Act because it: (1) is an allowable use under Section 30233(a); (2) represents the least damaging feasible alternative; (3) includes adequate mitigation measures to protect marine resources and environmentally sensitive habitat; and (4) provides for beach nourishment. The Commission therefore finds the proposed project consistent with Sections 30230, 30231, 30233 and 30240 of the Coastal Act.

B. Public Access and Recreation. Sections 30210-30212 and 30234 of the Coastal Act provide for the maximization of public access and recreation opportunities and the protection of recreational (and other) boating facilities. The proposed project will enhance access and recreation both at the dredging site, by maintaining channels needed for boating, and, at the disposal site, by replenishing beaches used for recreation. Furthermore, disposal operations will not occur at the surfzone disposal site at Morro Strand State Beach during the peak recreational season. Therefore, while some access and recreation impacts will occur, such as public use restrictions within the dredging area and the immediate disposal area, and while the pipeline across the beaches will to a minor degree diminish recreation, these recreational impacts have been minimized and are short term. Overall, the project will improve access and recreation opportunities. The Commission therefore finds the project consistent with the applicable public access and recreation policies (Sections 30210-30212 and 30234) of the Coastal Act.

C. Previous Commission Reviews. The Commission has reviewed a number of consistency and negative determinations for dredging and disposal at Morro Bay, including consistency determinations CD-39-86, CD-11-87, CD-29-90, and CD-44-93, and negative determinations include ND-28-95, ND-29-96, ND-89-97, ND-28-99, and just recently, ND-064-01. Dredge location, volumes, and disposal sites for the subject consistency determination are similar to those previously authorized dredging projects in Morro Bay. The subject project

includes the avoidance and mitigation measures that the Commission previously found necessary to protect endangered, threatened, and sensitive species, sand supply, and recreational resources.

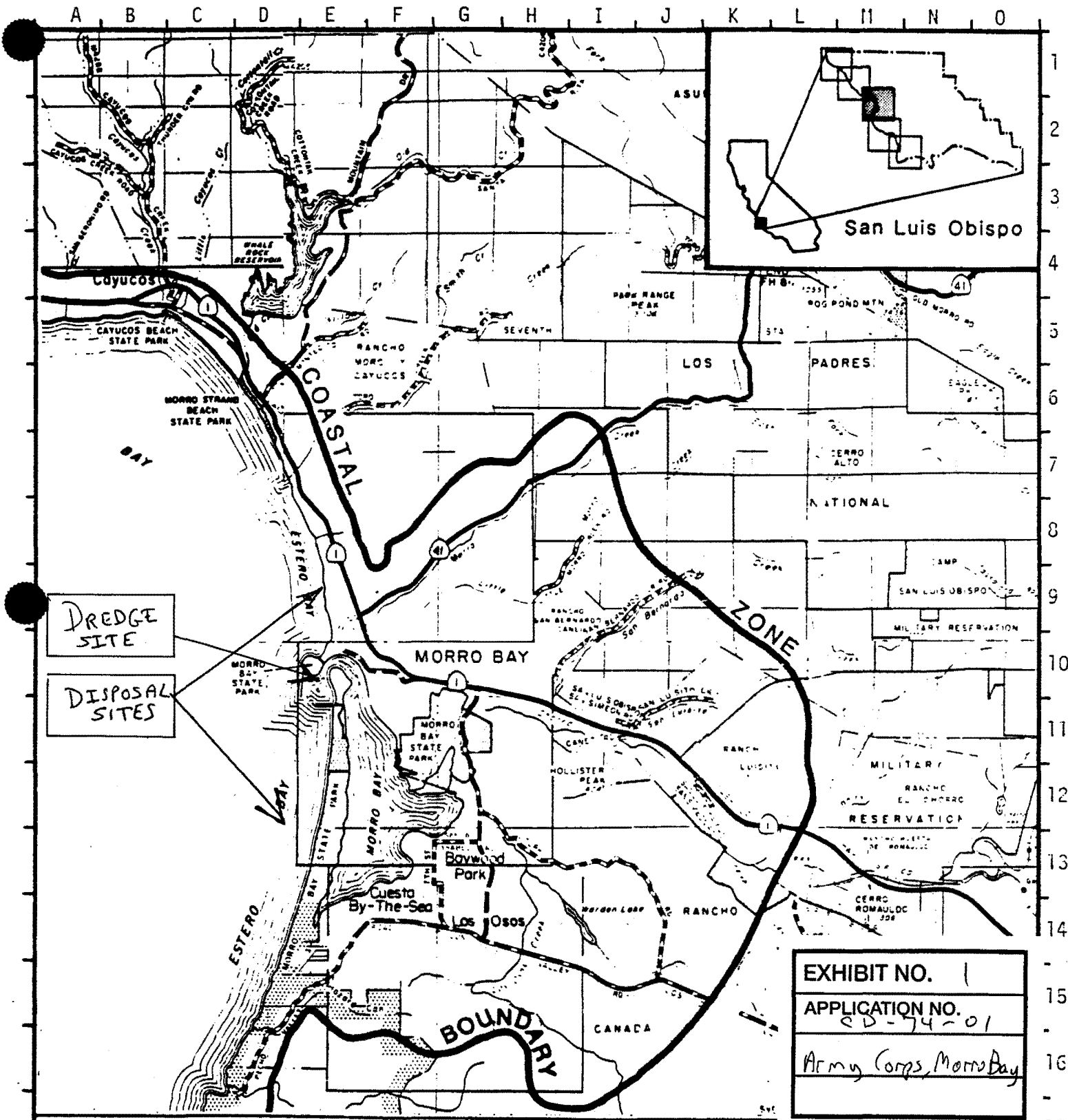
In CD-44-93 the Commission was concerned over a nearshore disposal site proposed north of Morro Bay, which was located near a reference site used to monitor the Morro Bay sewage outfall. The Corps modified its consistency determination to eliminate that disposal site. The Commission was also concerned about whether the nearshore disposal site that was used would retain the material within the littoral system. The Corps monitored the nearshore site and established that the material was being maintained within the littoral system. The Commission was also concerned about effects on snowy plover nesting and the fact that while dredging was proposed outside the nesting season, the Corps often extended the completion date. The Corps revised the project to avoid any beach disposal during the nesting season.

In ND-28-99 the Commission staff reviewed a negative determination for a three-year dredging period, with nearshore and/or surf zone disposal of existing channels within Morro Bay Harbor. Similar to the subject proposal, any disposal operations occurring during the March-September period were to be restricted to the same nearshore site as the subject proposal.

VI. SUBSTANTIVE FILE DOCUMENTS:

1. Corps of Engineers Consistency Determinations, Morro Bay Dredging: ND-064-01, ND-28-99, ND-20-98, ND-85-98, ND-89-97, ND-29-96, ND-28-95, ND-44-93, CD-81-91, CD-55-90, CD-29-90, CD-11-87, CD-39-86, CD-58-84.
2. Draft Environmental Assessment, Morro Bay Harbor, Six-Year Maintenance Dredging Program, U.S. Army Corps of Engineers, June 2001.
3. Chemical Evaluation of Sediments Proposed for Dredging in Morro Bay Harbor, Morro Bay, California, U.S. Army Corps of Engineers, August 8, 2001.
4. Evaluation of Dredged Material Proposed for Ocean Disposal, Testing Manual, 1991 EPA/Corps ("Green Book").





DREDGE SITE

DISPOSAL SITES

EXHIBIT NO.	1
APPLICATION NO.	CD-74-01
<i>Army Corps, Morro Bay</i>	

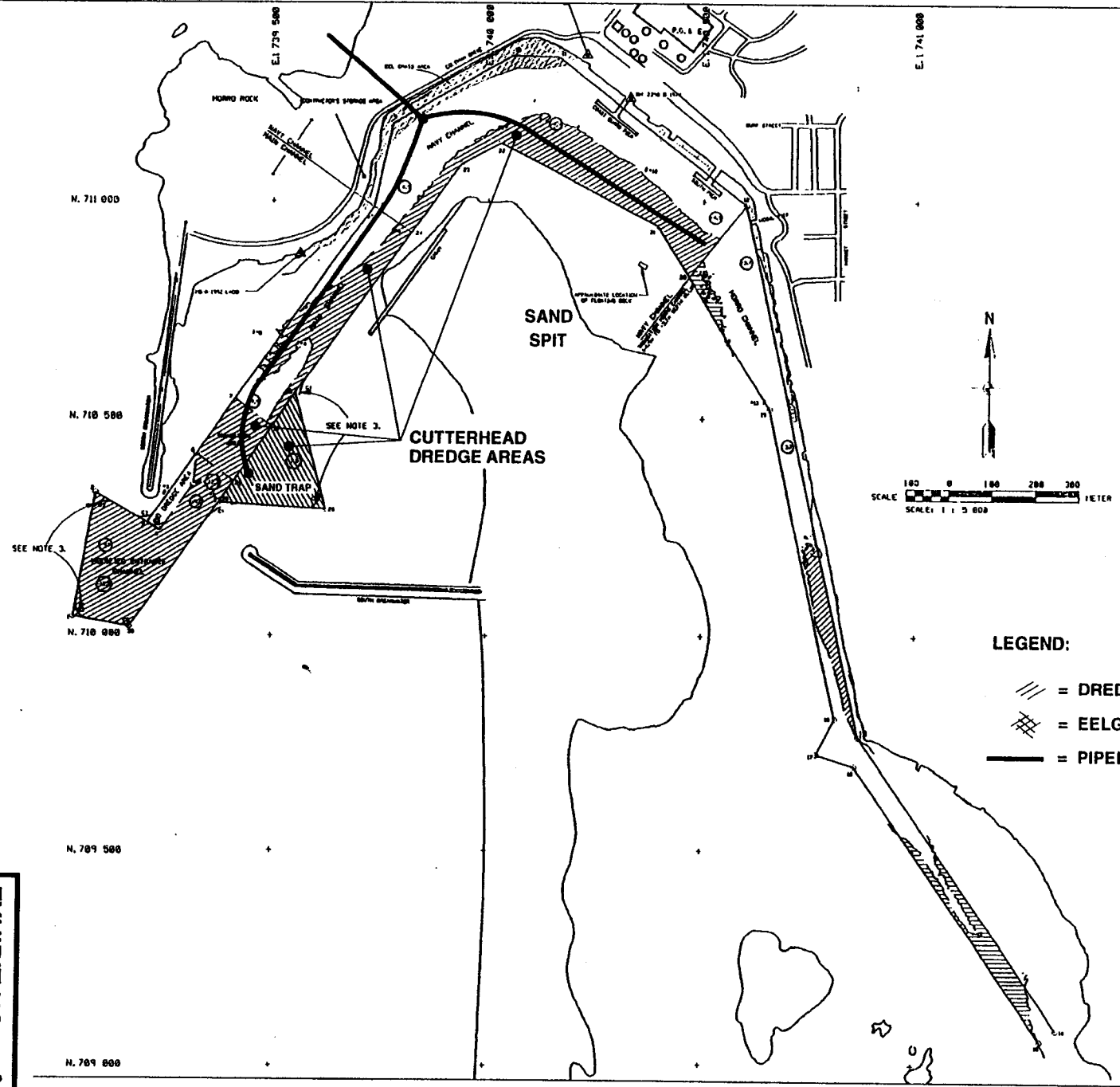
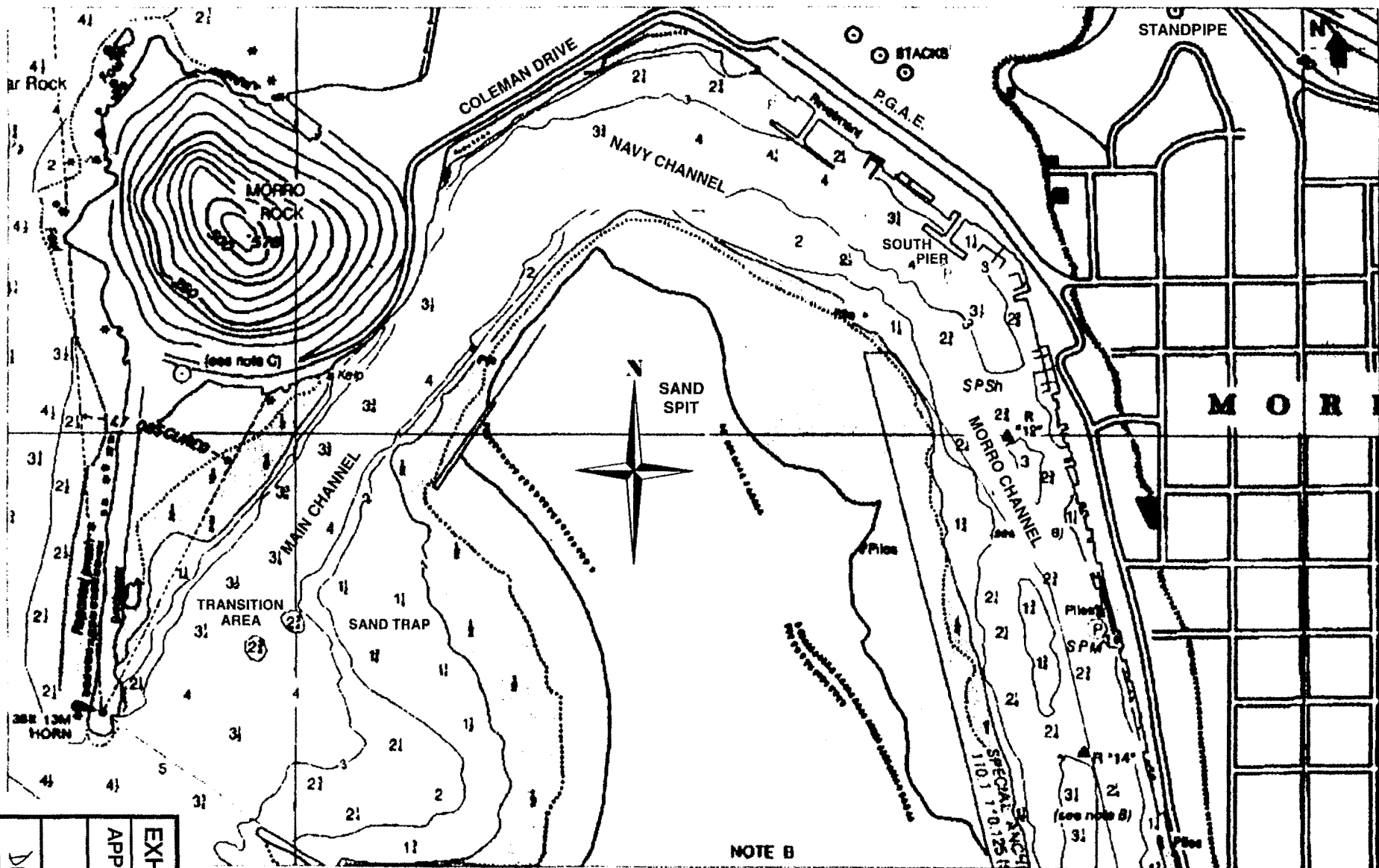


EXHIBIT NO. 2
APPLICATION NO.
CD-74-01
DREDGE SITES

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NOTE B

EXHIBIT NO. 3
APPLICATION NO. 01-74-01
DREDGE SITES

MORRO BAY HARBOR Figure 2

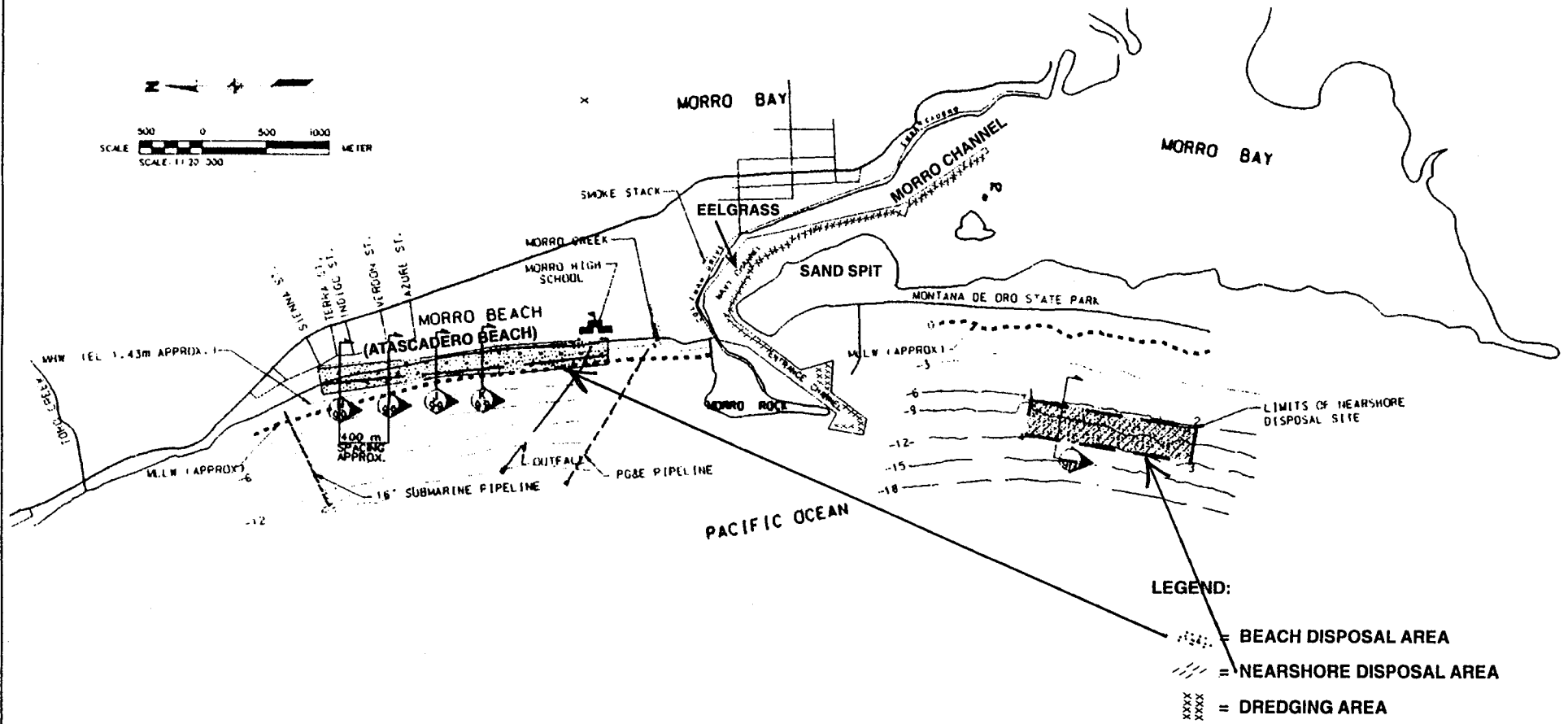
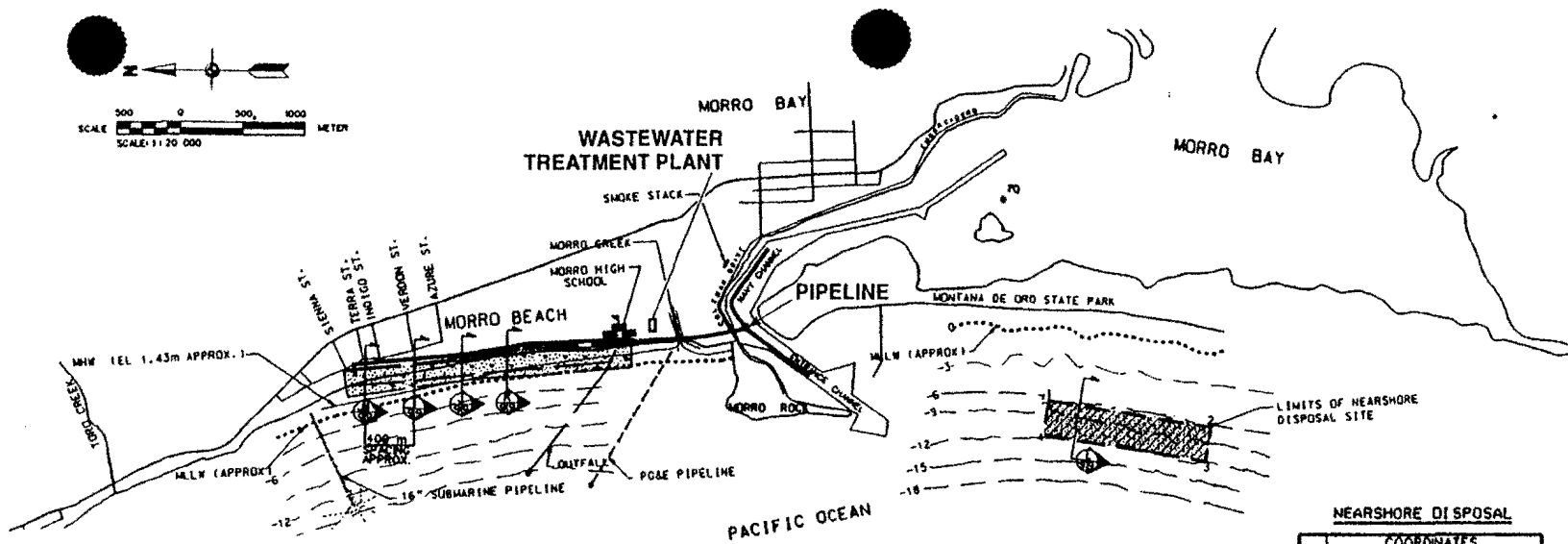
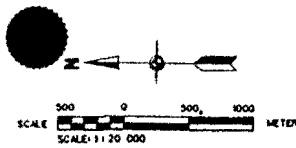


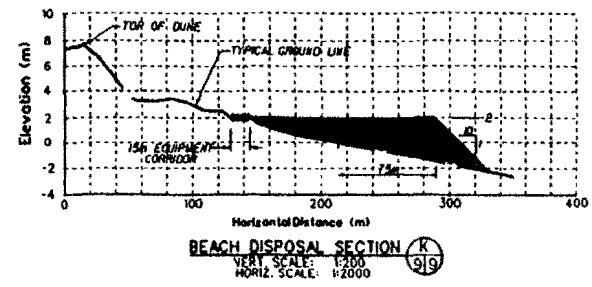
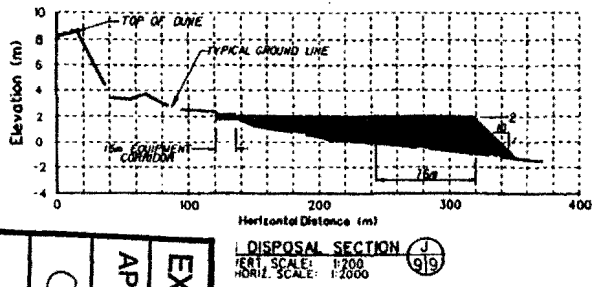
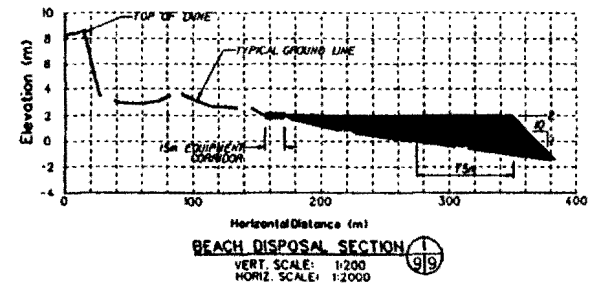
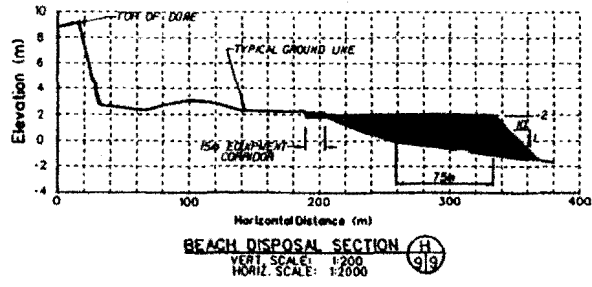
EXHIBIT NO.	4
APPLICATION NO.	CD-74-01
DISPOSAL SITES	

PROJECT LOCATION
Figure 3



NEARSHORE DISPOSAL

PT.	COORDINATES	
	EASTING	NORTHING
1	739 335.83	788 786.28
2	739 114.37	787 387.88
3	738 837.34	787 434.16
4	739 858.88	788 752.64



NOTES:

1. BEACH DISPOSAL SHALL BE WITHIN THE SURFZONE.
2. CONSTRUCTION EQUIPMENT MUST STAY WITHIN 15-METER CORRIDOR, EXTENDING FROM -2 METERS (MLW) TO 15 METERS LANDWARD.
3. SOUTH NEARSHORE DISPOSAL AREA. THE DREDGE MATERIAL SHALL BE DISPOSED IN WATER DEPTHS BETWEEN -6 AND -12 METERS MLLW.

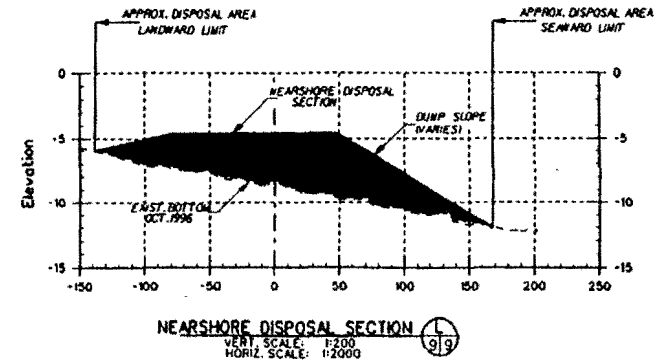


EXHIBIT NO. 5
 APPLICATION NO.
 CD-74-01

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DISPOSAL PLAN
 Figure 5

