CALIFORNIA COASTAL COMMISSION
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STAFF REPORT AND RECOMMENDATION

ON CONSISTENCY DETERMINATION

Consistency Determination No.	**CD-081-02**
Staff:	JRR-SF
File Date:	11/12/2002
60th Day:	1/11/2002
75th Day:	1/26/2002
Commission Meeting:	12/11/2002

FEDERAL AGENCY: U.S. Army Corps Of Engineers

DEVELOPMENT LOCATION: Lower Newport Bay, LA-3 (an Interim Ocean Disposal Site), and a nearshore area northwest of Newport Beach Pier, Orange County (Exhibit 1 and 2).

DEVELOPMENT DESCRIPTION: Maintenance dredging with ocean and nearshore disposal.

SUBSTANTIVE FILE DOCUMENTS:

(See Page 11)

EXECUTIVE SUMMARY

The Corps of Engineers submitted a consistency determination for its proposed maintenance dredging of lower Newport Bay. The Corps proposes to dispose of material dredged from the estuary at LA-3, an interim ocean disposal site, and at a nearshore site located northwest of the Newport Beach Pier.

Newport Bay Harbor is a heavily used recreational boating facility. Sediment has accumulated in the federal channels and could interfere with boating activities. The proposed dredging is necessary to protect navigational safety. Therefore, the project is consistent with the recreational boating policies of the California Coastal Management Program (CCMP), Sections 30220 and 30224 of the Coastal Act.

The Corps proposes to dredge 750,000 cubic meters (981,750 cubic yards) of sediment from the lower portion of the Newport Bay channels and dispose of that material at ocean and nearshore disposal sites. The Corps is in the process of evaluating the sediment's physical characteristics, chemistry, toxicity, and bioaccumulation potential. The chemical testing results

indicate that the material has elevated levels of heavy metals and DDT. However, the Corps has not completed the sediment bioassay or bioaccumulation tests. Without these tests, the Commission cannot determine if the project is consistent with the CCMP. In addition, although the consistency determination states that the area does not contain any *Caulerpa taxifolia*, it does not include any surveys for this invasive alga. Without this information, the consistency determination lacks sufficient information to determine if the project is consistent with the water quality and marine resource policies of the CCMP, Sections 30230 and 30231 of the Coastal Act.

The project area supports habitat for the California brown pelican and the California least tern, both of which are federally listed endangered species. The dredging may occur during the tern-nesting season, but the consistency determination does not evaluate this issue nor does it include mitigation for adverse effects to the tern. In addition, brown pelicans also forage in this area. Since the Corps has not evaluated the bioaccumulation potential of the proposed dredge material, the Commission cannot determine if the project will resuspend contaminants in a manner that would expose brown pelicans to DDT. Finally, although the Corps states that it will not dredge in or near eelgrass areas, the consistency determination does not include the eelgrass surveys, and thus there is inadequate information to evaluate the project's effect on eelgrass. Therefore, the Corps' consistency determination does not contain enough information to determine if the project is consistent with the ESHA policy of the CCMP, Section 30240 of the Coastal Act.

The Corps proposes to dispose of suitable sediment in an area that will support beach replenishment. However, the Corps' consistency determination does not include an evaluation of the physical characteristics of this sediment. Therefore, the consistency determination does not contain enough information to determine if the project is consistent with the sand supply policy of the CCMP, Section 30233(b) of the Coastal Act.

STAFF SUMMARY AND RECOMMENDATION

I. Project Description. The Corps proposes to dredge 750,000 cubic meters (981,750 cubic yards) of material within the authorized channels of lower Newport Bay and to dispose most of this material at LA-3, an interim ocean disposal site. In addition, approximately 50,000 cubic meters (65,450 cubic yards) are suitable for beach replenishment and Corps will place this material at a nearshore site, northwest of the Newport Beach Pier.

The Corps will use a cutterhead hydraulic dredge, hopper dredge, or mechanical dredge (barge-mounted cranes with clamshell or bucket) to implement this project. The Corps will allow the contractor to determine the type the type of dredge equipment to be used. The Corps has scheduled the dredging to occur between October 1, 2002, and March 15, 2003.

The Corps plans to dispose of approximately 700,000 cubic meters at LA-3. This site has been historically used for disposal of dredged material from upper Newport Bay and Newport Harbor. The LA-3 ocean disposal site is located approximately 4 miles southwest of the Newport Bay Harbor Entrance.

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 an LCP that the Commission has certified and incorporated into the CCMP provides development standards that are applicable to the project site, 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 certified the City of Newport Beach's LCP, and thus has not incorporated it 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.

A. Motion. I move that the Commission concur with consistency determination, CD-081-02, 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.

B. Staff Recommendation. Staff recommends a **NO** vote on the motion. Failure of this motion will result in an objection to the certification and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.

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

V. Lack of Information

Section 930.43(b) of the federal consistency regulations[1] requires that, if the Commission's objection is based on a lack of information, the Commission must identify the information necessary for it to assess the project's consistency with the CCMP. That section states that:

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

As described fully in the Water Quality, Marine Resources, Environmentally Sensitive Habitat (ESHA), and Sand Supply sections below, the Commission has found that this consistency determination lacks the necessary information to determine if the proposed project is consistent with Sections 30230, 30231, 30240, and 30233 of the Coastal Act. In order to

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[1] 15 CFR Section 930.43(b)

evaluate the project's consistency with the CCMP, the Commission needs the following information:

1. Bioassay and Bioaccumulation Test Results;
2. Survey for *Caulerpa taxifolia*;
3. Survey for Eelgrass;
4. Analysis of impacts from dredging during the least tern nesting season;
5. Sediment grain size analysis.

VI. Findings and Declarations

The Commission finds and declares as follows:

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

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

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

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

Shoaling of lower Newport Bay interferes with recreational boating within the bay. The design depth of the harbor's channels is 6.1 meters below mean lower low water (MLLW). In its consistency determination, the Corps describes the current situation as follows:

The project area encompasses approximately 82.2 hectares (203.1 acres) of Lower Newport Bay encompassing the federal navigation channels. Lower Newport Bay is a small craft harbor located in Orange County, California. Lower Newport Bay represents a significant recreational resource offering a wide range of boating recreation ranging from single person rowboats to larger sailing and motor vessels capable of trans-ocean navigation. Local beachfront communities support water-use recreational services. Maintenance dredging is necessary in order to remove approximately 750,000 cubic meters of sediment that have accumulated in the federal channels for navigational safety and to allow continued use of the bay for recreational activities. Failure to remove these sediments could result in adverse impacts to navigational safety resulting in loss of recreational boating opportunities.[2]

Newport Bay is an important recreational boating area. It attracts visitors from around the state and country who use its boating facilities. In the environmental assessment for the previous maintenance-dredging project in Newport Bay, the Corps described the boating resources as follows:

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[2] Draft Environmental Assessment for Lower Newport Bay Maintenance Dredging Project, Orange County California, November 2002, p. 6.

> *The area serves as a major vacation destination within Southern California and the Southwest. The Lower Bay, having an open-water area of about 600 acres, offers recreational opportunities to a wide range of boating enthusiasts; from single-person rowboats to large sailing and motor vessels that are capable of trans-ocean navigation. The local beach front communities also support water recreational services, with tourism as one of the most important land use activities in the regional area.*[3]

The proposed dredging will improve navigation within the lower Newport Bay, and thus supports and protects recreational boating. Therefore, the Commission finds that the proposed project is consistent with the recreational boating policies of the CCMP.

B. Water Quality and Marine Resources. Section 30230 of the Coastal Act provides that:

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

Section 30231 of the Coastal Act provides that:

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

1. Sediment Quality. The proposed project includes disposal of dredged material at LA-3, an interim ocean disposal site. The federal Environmental Protection Agency's (EPA) technical guidance for determining the suitability of dredged material involves a tiered-testing procedure, which includes four levels of testing. Tiers I and II apply to existing or easily obtained information and require limited chemical testing to predict effects. If these predictions indicate that the dredged material has any potential for significant adverse effects, EPA will elevate the sediment analysis to a higher tier. Tiers III and IV use water column and benthic bioassay and bioaccumulation tests to determine effects on representative marine organisms. Specifically, EPA requires bioassay tests on suspended particulate and solid phases of the material before allowing the disposal (Tier III testing). (40 C.F.R. Section 227.6[c].) These tests allow EPA to evaluate the acute and chronic toxicity of the contaminated material on biological resources. EPA also requires measurements of the bioaccumulation potential of contaminants. The intent of that test is to determine if organisms

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[3] Final Environmental Assessment for Lower Newport Bay Maintenance Dredging Project, Orange County California, August 1998, p. 16.

are concentrating chemicals in their tissues to levels that might prove harmful to either themselves or their predators. Both the bioassay and the bioaccumulation tests measure the biological effect of contaminated dredge spoils. Although these tests are not precise predictors of environmental effects, they provide quantitative estimators of impacts. The Commission also uses the results from the EPA process to evaluate ocean disposal activities for consistency with the CCMP. These tests allow the Commission to determine if the dredging and disposal activities will adversely affect water quality or biological resources of the coastal zone.

In this case, the Corps has completed most of the sediment testing studies and has provided the Commission with bulk chemistry test results. The chemistry analysis indicates that some of the material proposed for ocean disposal has elevated levels of heavy metals and DDT. For testing purposes, the Corps divided the channel into four areas and the heavy metal and DDT levels for all four areas are elevated (Table 1). Some of these levels are above National Oceanic and Atmospheric Administration's (NOAA) ER-L (effects range low) and the ER-M (effects range median) levels.

Table 1

ANALYTE	UNITS	AREA 1	AREA 2	AREA 3	AREA 4	REFERENCE	ER-L	ER-M
Arsenic	mg/dry kg							
Cadmium	mg/dry kg							
Copper	mg/dry kg							
Mercury	mg/dry kg							
Nickel	mg/dry kg							
Total Detectable DDTs	ng/dry g							
2,4'-DDD	ng/dry g							
4,4'-DDD	ng/dry g							
4,4'-DDE	ng/dry g							
Bold Numbers Equal or Exceed the ER-L								
Bold and Underlined Numbers Equal or Exceed the ER-M								

If the levels of contaminants are higher than the ER-L, then it is **possible** that there will be a biological effect from the contaminants. If the levels are above the ER-M, then it is **likely** that there will be an adverse effect. Therefore, based on the NOAA guidance, it is possible that the material may have a biological effect. However, the Commission is reluctant to make a conclusion based on this information alone. The NOAA did not intend for its guidance to be a regulatory standard; rather it is a general benchmark to indicate possible concerns. To evaluate the effect of contaminants on marine resources and consistency with the water quality policies of the CCMP, the Commission relies on bioassay and bioaccumulation tests. In cases where chemical analysis of sediment indicates that the dredge material has elevated

levels of contaminants, the bioassay and bioaccumulation tests provide the Commission with insights on the biological effects from the dredging and disposal activities.

The Corps is in the process of conducting these tests, which are necessary before it can receive authorization to dispose of dredged material at LA-3. However, the results of these tests are not available. In light of the fact that the sediment chemistry indicates that there are elevated heavy metals and DDT in the sediment, the Commission cannot determine if the material would adversely affect biological resources without bioassay and bioaccumulation results. Therefore, the Commission finds that the consistency determination does not include all of the necessary sediment testing results for the Commission to determine if the project is consistent with the water quality policies of the CCMP.

2. **Caulerpa Taxifolia**. *Caulerpa taxifolia* is a green alga native to tropical waters that typically grows to small size and in limited patches. In the late 1970s, this species attracted attention as a fast-growing and decorative aquarium species that became popular in the saltwater aquarium trade. Around 1984, this species apparently escaped or was released from an aquarium into Mediterranean waters and rapidly spread from an initial patch of about one square yard to over two acres by 1989. By 1997, it blanketed more than 11,000 acres of the northern Mediterranean coastline and has recently been reported off northern Africa. In these areas, it has caused ecological and economic devastation by overgrowing and eliminating native seaweeds, sea grasses, reefs, and other communities. In June 2000, Merkel & Associates biologists were conducting research on transplanted eelgrass beds in Agua Hedionda Lagoon and discovered *Caulerpa taxifolia* growing in the lagoon. In July 2000, biologists subsequently identified the species in Huntington Harbor.[4] The alga poses a substantial threat to marine ecosystems in southern California, particularly to the extensive eelgrass meadows and other benthic environments.

If *Caulerpa taxifolia* is present, any project that disturbs the bottom could cause its spread by dispersing viable tissue fragments. The proposed project will disturb the harbor bottom by dredging and other submerged areas through the placement of sand for beach nourishment. These activities could cause the dispersal of *Caulerpa taxifolia* through fragmentation and redistribution of sediment. The Commission now routinely requires surveys for *Caulerpa taxifolia* before it allows activities to occur within the estuaries and harbors of southern California. According to the Corps, the City of Newport Beach surveyed Lower Newport Bay for *Caulerpa taxifolia* and it did not find any within the bay. However, the Corps did not provide the Commission staff with the survey report or any description of the methodology used to conduct the survey. With respect to coastal development permit matters, the Commission has adopted a specific protocol for conducting *Caulerpa taxifolia* surveys. The Corps did not provide any documentation that would allow the Commission to conclude that the City's survey is consistent with the Commission's protocol, and thus the Commission is unable to determine if the survey is adequate to conclusively demonstrate that the dredge site is free of *Caulerpa taxifolia*.

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[4] Updated Caulerpa Taxifolia Rapid Response and Eradication Program, California Coastal Conservancy (2002)

3. **Conclusion.** As described above, the Corps' consistency determination for the proposed lower Newport Bay maintenance dredging project does not fully evaluate the project's consistency with the water quality and marine resource policies of the CCMP. Specifically, the submittal does not include the necessary sediment toxicity and bioaccumulation tests. In addition, the consistency determination does not include a survey for *Caulerpa taxifolia*. Therefore, the Commission finds that the consistency determination does not contain enough information to determine if the project is consistent with the water quality and marine resource policies of the CCMP.

C. Environmentally Sensitive Habitat Areas. Section 30240 of the Coastal Act provides that:

> *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
>
> *(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

1. Endangered Species. The proposed project potentially affects habitat for two federally listed species. These species include California brown pelican (*Pelecanus occidentalis californicus*) and California least tern (*Sterna antillarum browni*). In its environmental assessment, the Corps describes the habitat needs of the federally listed species as follows:

> *California brown pelican. The federally listed California brown pelican is a year-round resident of the southern California coastline. The brown pelican feeds primarily on surface-feeding fish in the nearshore waters. The species is very tolerant of human activity and utilizes various shoreline structures such as piers, breakwaters, groins, and buoys for roosting. The brown pelican is relatively common in nearshore waters. Activities of the brown pelican are restricted to feeding, over-flying, and temporary resting.*
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> *California least tern. The California least tern is present in small numbers from mid-April to mid-September. The California least tern forage near the disposal site, primarily on surface fishes such as topsmelt and anchovies. A nesting colony is located in the Upper Newport Bay Ecological Reserve approximately 3.8 miles from the dredging areas.*[5]

Both of the California least tern and the California brown pelican forage in the lower Newport Bay and could be affected by increases in turbidity and resuspension of contaminated sediment. However, with respect to the least tern, the Corps proposes to conduct the dredging between October 1 and March 15 to avoid the least tern-nesting season. However, the consistency determination acknowledges that the Corps may extend the dredging beyond

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[5] Environmental Assessment, p. 11.

March 15, but the consistency determination does not include an analysis of impacts to tern foraging should dredging to occur during the nesting season. The Corps proposes to develop mitigation measures in consultation with the U.S. Fish and Wildlife Service. In specific circumstances, the Commission has authorized dredging during tern nesting season provided that the dredging is not near a nesting site and when there is adequate mitigation to prevent significant effects on tern foraging. In this case, the Corps' consistency determination does not provide an adequate discussion of impacts to terns from dredging during the nesting season. Specifically, the consistency determination does not provide any analysis of the value of the dredging area for tern foraging or mitigation measures to minimize impacts. Without this analysis the Commission cannot evaluate the project to determine if it will adversely affect the least tern or whether the project is consistent with the ESHA policy of the CCMP.

With respect to the brown pelican, it also forages in Newport Bay and other nearby areas and is present for most of the year. The Commission is also concerned that the proposed project could affect this species. The primary concern is that the project could result in resuspension of contaminated sediment making the pollutants more available to fish that are preyed upon by the pelican. The resuspension of contaminants may be a significant issue. One of the elevated chemicals within this sediment is DDT, which biologists have identified as a chemical that is one of the primary factors that lead to the endangered status of the brown pelican. This chemical accumulates in the tissues of the pelican and is responsible for adverse effects to pelican reproduction. As described above, the Corps has not completed toxicity or bioaccumulation studies of the dredge material. The bioaccumulation studies are especially important for determining if the project will adversely affect brown pelicans. Without this information, the Commission cannot determine if the project will adversely affect the pelican and whether the project is consistent with the ESHA policy of the CCMP.

2. <u>Eelgrass</u>. Newport Bay supports several areas of eelgrass habitat. Eelgrass is a sensitive marine resource because it functions as a nursery area for invertebrates and fish, provides foraging habitat for the California least tern, and provides food and shelter for many marine species. The City of Newport Beach describes the extent of eelgrass beds in Newport Bay as follows:

> *Eelgrass grows extensively within the Harbor Entrance Channel, where it covers several acres of underwater sand bottom habitat. Other sections of Newport Bay that currently supports extensive eelgrass beds include the eastern shoreline of the Bay between Carnation Cove to the Coast Guard Base, Balboa Island (and in the grand Canal), along the eastern end of the Balboa Peninsula, around its perimeter. Some of the eelgrass currently growing in Newport Harbor is the result of previous eelgrass transplants, conducted in the Entrance Channel in the early 1980s, and in the Grand Canal in 1999. These transplant programs were conducted as mitigation for Newport Harbor projects that resulted in the loss of eelgrass habitat.*
>
> *Eelgrass is currently expanding its distribution in Newport Harbor and in Upper Newport Bay. Locations where smaller beds have become established within the last few years include the southern edge of the Bayshores development, a shoal immediately south of the coast Highway Bridge near Swales Marina, and on the north side of Lido Reach between the Bayshores community west to the Balboa Bay Club (CRM 2001). Recent observations in July 2002 (Coastal Resources Management and Chambers Group, Inc.*

pers. observation) indicate eelgrass is recolonizing shallow subtidal habitat. Upper Newport Bay between the Coast Highway Bridge and Dover Shores along both sides of the Main Channel after a long-term absence. ...[6]

The Corps proposes to avoid impacts to eelgrass by maintaining a buffer of 15 meters (50 feet) between the dredging area and any eelgrass beds. Although this buffer is sufficient enough to ensure that maintenance dredging will not directly or indirectly affect eelgrass, the Commission is concerned with the level of information provided by the Corps in analyzing this issue. Specifically, the Corps' consistency determination includes a short excerpt of the eelgrass study that generally describes the location of the eelgrass beds. However, the consistency determination does not include the actual survey, which is not yet available. Thus the Commission cannot evaluate the survey to determine if the methodology is adequate to identify all of the eelgrass areas potentially affected by the project. Also, the consistency determination does not include an overlay of the dredging areas over the eelgrass maps and identify the limits of the dredging to confirm that the project will be consistent with the Corps proposed mitigation to avoid eelgrass areas. This information is necessary for the Commission to fully evaluate the project's effects on eelgrass resources and its consistency with the ESHA policy of the CCMP.

3. **Conclusion.** The consistency determination does not evaluate the project's effect on terns if dredging were to occur during their nesting season or mitigation for those effects. Additionally, the consistency determination does not include bioassay and bioaccumulation test results and the Commission cannot determine if the dredging will adversely affect brown pelicans. Finally, the consistency determination does not provide an adequate analysis of the eelgrass resources or the project's effects on those resources. Therefore, the Commission finds that the Corps' consistency determination does not contain enough information to determine if the project is consistent with the ESHA policy of the CCMP.

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

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

The Corps proposes to dispose of most of the material dredged from Newport Bay at LA-3. Material disposed of at this site is outside of the littoral system and will not support sand supply to coastal beaches. The Commission does not usually consider the use of dredge material for beach replenishment unless the material is greater than 80 percent sand and is compatible with the receiver beach. In its consistency determination, the Corps states that approximately 50,000 cubic meters of material is suitable for beach disposal and it proposes to place this material into the nearshore environment offshore of Newport Beach northwest of the Newport Beach Pier. However, the Corps' consistency determination does not include any data documenting the grain size of this dredge material. This information is important for two

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[6] Coastal Resources Management and Chambers Group, Inc. 2002. Section 3.3 Sensitive Marine Species in: City of Newport Beach, Ca. Local Coastal Plan Biological Appendix. Prepared for the City of Newport Beach Planning Department. November 2002, from excerpt in environmental assessment.

reasons. First, it is necessary for the Commission to determine that all suitable material will be used for beach replenishment purposes. Second, it is necessary for the Commission to determine that none of the material placed at the nearshore is too fine for beach replenishment purposes, which could result in adverse impacts to marine resources. Therefore, the Commission finds that the consistency determination does not contain enough information to determine if the proposed project is consistent with the sand supply policy of the CCMP.

E. **Dredging**. Section 30233(a) of the Coastal Act provides, in part, that:

(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.

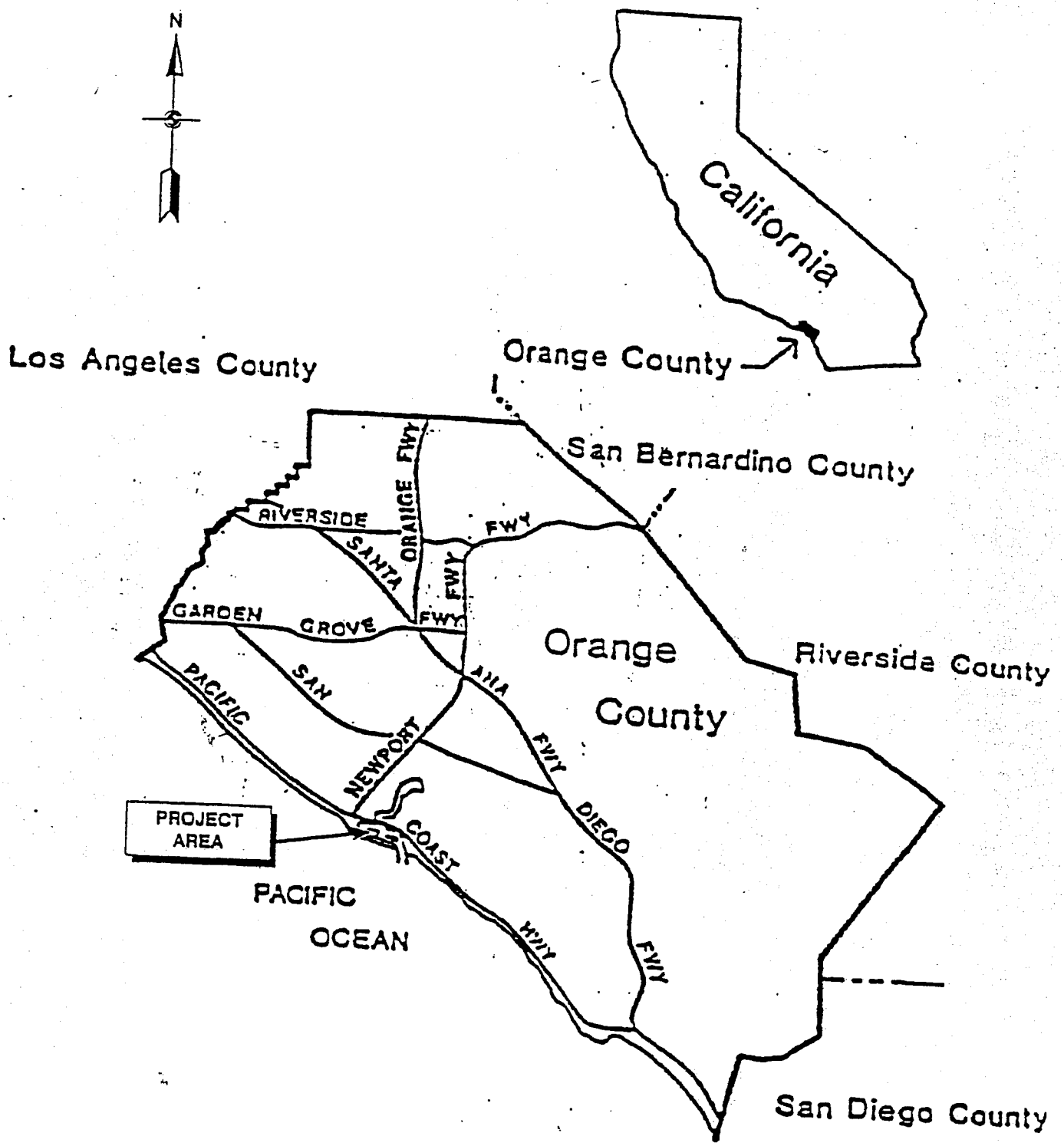
Section 30233(a) of the Coastal Act imposes a three-part test on dredging and filling projects: (1) an allowable use test; (2) an alternatives test; and (3) a mitigation test. The project complies with the first test because maintenance dredging of existing navigation channels is an allowable use for dredging and filling. With respect to the alternative and mitigation tests, the consistency determination does not contain enough information to determine if the project is consistent with the water quality, marine resource, ESHA, and sand supply policies of the CCMP. Therefore, the Commission cannot determine if the project is the least environmentally damaging feasible alternative or if the project includes adequate mitigation. Therefore, for the reasons described above, the Commission cannot determine if the project is consistent with the dredge and fill policy of the CCMP.

VII. Substantive File Documents

1. Draft Environmental Assessment, Maintenance Dredging at Lower Newport Bay Harbor, Orange County, California, U.S. Army Corps of Engineers, Los Angeles District, November 2002.

2. Final Environmental Assessment, Maintenance Dredging at Lower Newport Bay Harbor, Orange County, California, U.S. Army Corps of Engineers, Los Angeles District, August 1998.

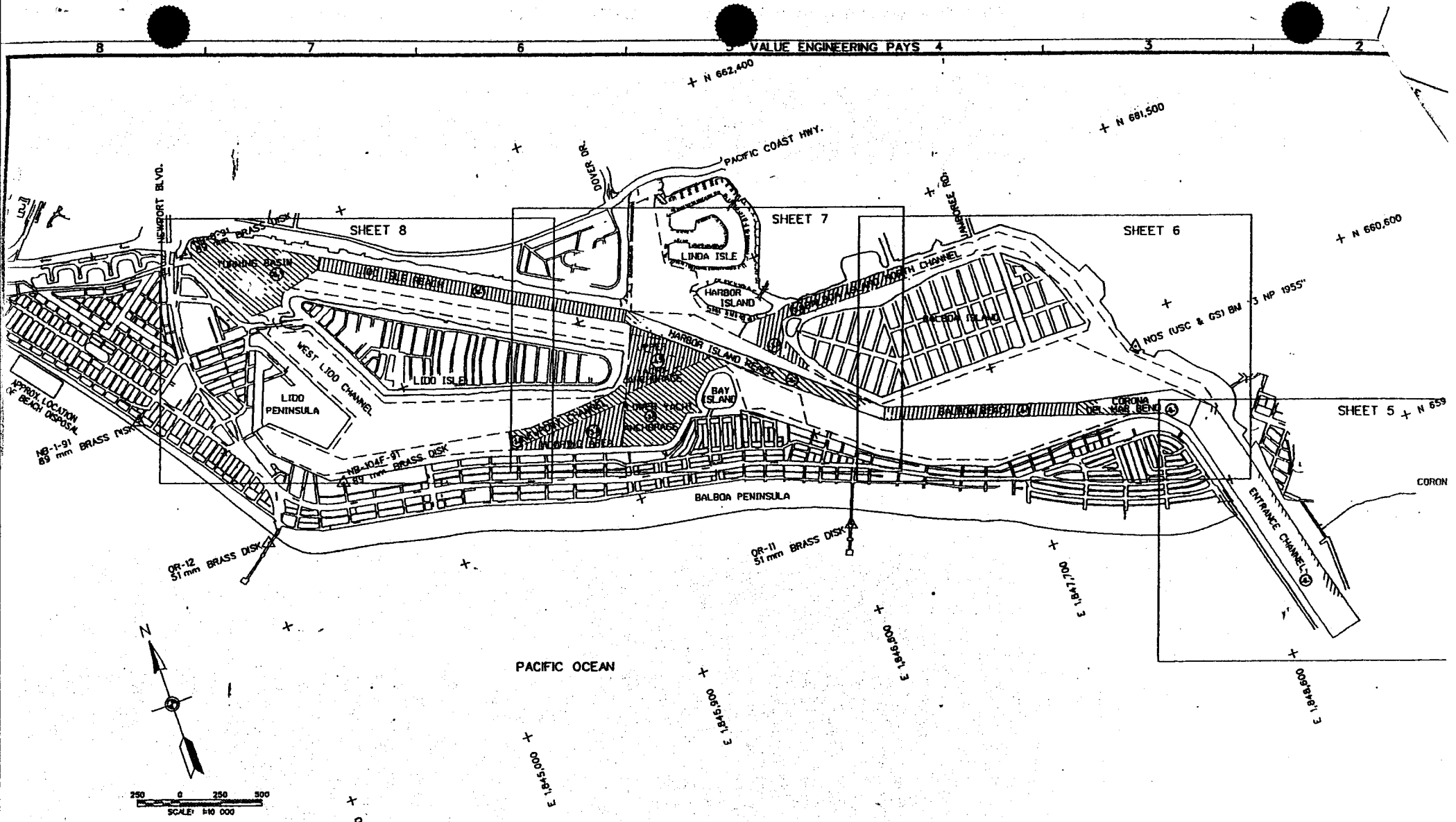
3. CD-093-98, Corps of Engineers, Newport Bay, Maintenance Dredging with Ocean Disposal.



SOURCE: CORI
NOT TO SCALE

EXHIBIT NO. 1
APPLICATION NO. CD-081-02

Project Location



LEGEND:

- CONTROL STATION
- (-8.1) PROJECT DEPTH
- DREDGE AREA

NOTES:

1. COORDINATES ARE BASED ON THE LAMBERT CONFORMAL PROJECTION FOR ZONE VI, STATE OF CALIFORNIA (SPCS83 - METERS).
2. VERTICAL DATUM IS MEAN LOWER LOW WATER (MLLW, EL. - 0.00 MET
3. TIDAL BENCH MARK IS A STANDARD NOS (USC&GS) SURVEY DISK, STA "3 NP 1955", SET IN THE CONCRETE SEA WALL ON THE ORANGE CO HARBOR DISTRICT OFFICE GROUNDS, 69 m NW OF BENCH MARK "2 21.3 m NW OF THE WEST CORNER OF THE SHERIFF HARBOR PATR 13.7 m SW OF THE SW WALL OF A SHOP BUILDING, AND 1.1 m SE CHAIN LINK FENCE, EL. - 3.36 m MLLW, BASED ON TIDAL EPOCH 19
4. SEE SHEET 4 FOR SURVEY CONTROLS AND LIST OF COORDINATES.
5. ALL DIMENSIONS GIVEN ARE IN METERS UNLESS OTHERWISE INDICATED.

EXHIBIT NO. 2

APPLICATION NO. CD-081-02

California Coastal Commission

Project Area