

CALIFORNIA COASTAL COMMISSION

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January 18, 2002

RECORD PACKET COPY**Th. 8b**

TO: CALIFORNIA COASTAL COMMISSIONERS

FROM: PETER M. DOUGLAS, EXECUTIVE DIRECTOR

**SUBJECT: STAFF RECOMMENDATION ON MAP OF POST-LCP
CERTIFICATION JURISDICTION, CITY OF ENCINITAS**
(for Commission consideration at its February 5-8, 2002 meeting)

This recommendation was developed by Jonathan Van Coops and Darryl Rance, Coastal Program Analysts, Mapping/GIS Unit, working under the direction of Susan Hansch, Chief Deputy Director and Manager - Technical Services Division.

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the map prepared by staff showing the areas where the Commission retains permit authority pursuant to Public Resources Code Section 30519(b) and Section 30613, and where appeals of local government coastal development permit approvals are allowed pursuant to P.R.C. Section 30603(a)(1) and (2) within the City of Encinitas.

MOTION

Staff recommends that the Commission adopt the following motion:

I move that, for the reasons stated in the staff report and recommendation dated January 18, 2002, the Commission approve the Post-LCP Certification Map prepared by staff for the City of Encinitas.

BACKGROUND

After an LCP certification becomes effective, which for Encinitas occurred in May of 1995, permit authority within that jurisdiction is largely delegated to the local government. However, pursuant to Section 30519 of the Coastal Act, the Commission retains permit authority (with certain exceptions) after LCP certification over developments occurring on tidelands, submerged lands, and public trust lands. As provided in Section 30613 of the Coastal Act, local jurisdictions can request that primary permit authority for areas potentially subject to the public trust but which are filled, developed, and committed to urban uses be transferred to the local government's jurisdiction. The City of Encinitas has *not* made such a request as of this date.

In addition to the retained permit jurisdiction, Section 30603 of the Coastal Act defines certain areas and types of development for which approvals by the local government may be appealed to the Commission. Appeal jurisdiction is retained, for example, on lands within 100 feet of streams or wetlands, lands subject to the public trust, lands within 300 feet of the coastal bluffs, beaches, or estuaries, and lands between the sea and the first public road paralleling the sea. (See also Section 13577 of the Commission's regulations.)

The Commission's administrative regulations (Section 13576) also provide that a map portraying the areas of continuing Commission jurisdiction is to be adopted in conjunction with the final LCP certification. Within these regulations is implicit that, while the adopted map should portray the various jurisdictional boundaries with reasonable accuracy, it remains only a cartographic representation, and not a precise definition of the jurisdiction. These maps may be updated from time to time when there are changed circumstances or where additional information becomes available indicating that the mapped boundaries do not reflect the jurisdictional criteria established in the Coastal Act and the Commission's implementing regulations. Additionally, where the boundaries are inaccurate, the Commission may assert jurisdiction as appropriate regardless of the boundaries depicted on the map.

Pursuant to Section 13576, each map includes the following statement: "This map has been prepared to show where the California Coastal Commission retains permit and appeal jurisdiction pursuant to Public Resources Code Sections 30519(b), 30603(a)(1) and (a)(2) and 30600.5(d). In addition, development may also be appealable pursuant to Public Resources Code Section 30603(a)(3), (a)(4), and (a)(5). If questions arise concerning the precise location of the boundary of any area defined in the above sections, the matter should be referred to the local government and/or the Executive Director of the Commission for clarification and information. This plat may be updated where appropriate and may not include all lands where permit and appeal jurisdiction is retained by the Commission."

STAFF ANALYSIS

The Commission's post-LCP certification permit and appeal jurisdiction within the City of Encinitas presents no significant areas of controversy at this time. While the Coastal Zone does extend inland up to about three miles in this part of San Diego County, the Commission's continuing permit and appeal jurisdiction areas are generally found along the immediate shoreline and adjacent to lagoons, wetlands, and intermittent streams within the City (See Exhibits 1 and 2). Precise determinations may be made in conjunction with the accompanying maps in the field if necessary, using the procedures set forth in the Commission's administrative regulations (Title 14, California Administrative Code Section 13577).

The City of Encinitas incorporated in 1986 and has subsequently made several minor (i.e., small in area) annexations in three locations. These additions are all in the range of two to three acres in size, and entirely within the Coastal Zone portion of the City, which includes everything west of El Camino Real and southwest of Encinitas Boulevard. Two of these small areas are entirely within the continuing permit jurisdiction area of the Coastal Commission or within appeal zones, while the third is only partly within the appeal zone.

Permit Jurisdiction

The Commission's continuing permit jurisdiction in the City of Encinitas is delineated so as to include lands lying below Mean High Tide Line (MHTL), and within public trust lands located at Batiquitos and San Elijo Lagoons. The sources for the permit boundary as depicted on the post LCP Certification map are maps 155 and 156 from the 1:24,000 scale set showing potential tidelands trust areas prepared for the Commission by the State Lands Commission staff. These maps are used wherever the public trust component is the controlling boundary criterion, however, given the complexity involved in precisely mapping potential public trust boundaries, it is apparent the delineation may not include all areas subject to the trust. Questions regarding the exact location and extent of public trust lands are referred to the State Lands Commission for determination.

Appeal Jurisdiction

The appeal jurisdiction boundary in the City of Encinitas is based on the criteria of the first public road (FPR), various landform features including coastal bluffs and streams, the Mean High Tide Line (MHTL), and the location of wetlands. Along the shoreline of the ocean, the appeal jurisdiction boundary generally follows the First Public Road, except where the road is situated closer than 300 feet inland from the bluff top. In these locations the boundary is 300 feet from the top of the bluff. Farther inland, appeal areas are found along coastal streams, where the boundaries include lands within 100 feet of the streams. Adjacent to the north side of San Elijo lagoon, where the first public road (Manchester Ave.) is situated closer than 300 feet from the MHTL, the appeal jurisdiction includes the area within 300 feet from the MHTL, which is the greater inland distance. East of Highway 5, where the first public road is farther inland than 300 feet from the MHTL, and again the controlling boundary criterion, Manchester Ave. and Rancho Santa Fe Rd. form the boundary of the appeal jurisdiction.

First Public Road

The route designated as the First Public Road (FPR) in the City of Encinitas conforms to the criteria set forth in the Commission's regulations. From the northern city boundary it follows 1st Street south to Grandview Street, west on Grandview Street to Neptune Avenue, South on Neptune Avenue to Sylvia Street, East on Sylvia Street to 4th Street, south on 4th Street to B Street, east on B Street to 3rd Street, south on 3rd Street to C Street, west on C Street to 4th Street, south on 4th Street to McNeill Avenue, east on McNeill Avenue to 3rd Street, south on 3rd Street to F Street, west on F Street to 4th Street, South on 4th Street to H Street, east on H Street to 3rd Street, south on 3rd Street to K street, east on K Street to 1st Street, and south on 1st Street to Chesterfield Dr., east on Chesterfield Dr. to San Elijo Ave., South on San Elijo Ave. to Manchester Ave., east on Manchester Ave. to Rancho Santa Fe Rd., southeast on Rancho Santa Fe Rd. to La Bajada, southeast on La Bajada to La Noria, southwest on La Noria to El Camino Real, and south on El Camino Real to the southern city boundary .

In some areas a parcel is bisected by the appeal jurisdiction boundary. All development proposed within the appeal area defined as appealable is subject to the Commission's jurisdiction. In addition, if a development is proposed partly on the portion of a parcel defined as appealable and partly on the remainder of the parcel, then the entire development is subject to the Commission jurisdiction to the extent that it has an impact that is inseparable from the impact of the portion of the development being reviewed within the appeal area.

NOTE: Due to the cost of reproduction, the large scale map Exhibit 3, normally mailed to Coastal Commissioners and other interested persons, has not been included with the staff report. Copies of the full-size 1:15,000 scale map are available for review at the City of Encinitas, at Coastal Commission offices in San Francisco and San Diego, and at the Commission meeting in San Diego.

EXHIBIT 1

The Resources Agency
California Coastal Commission

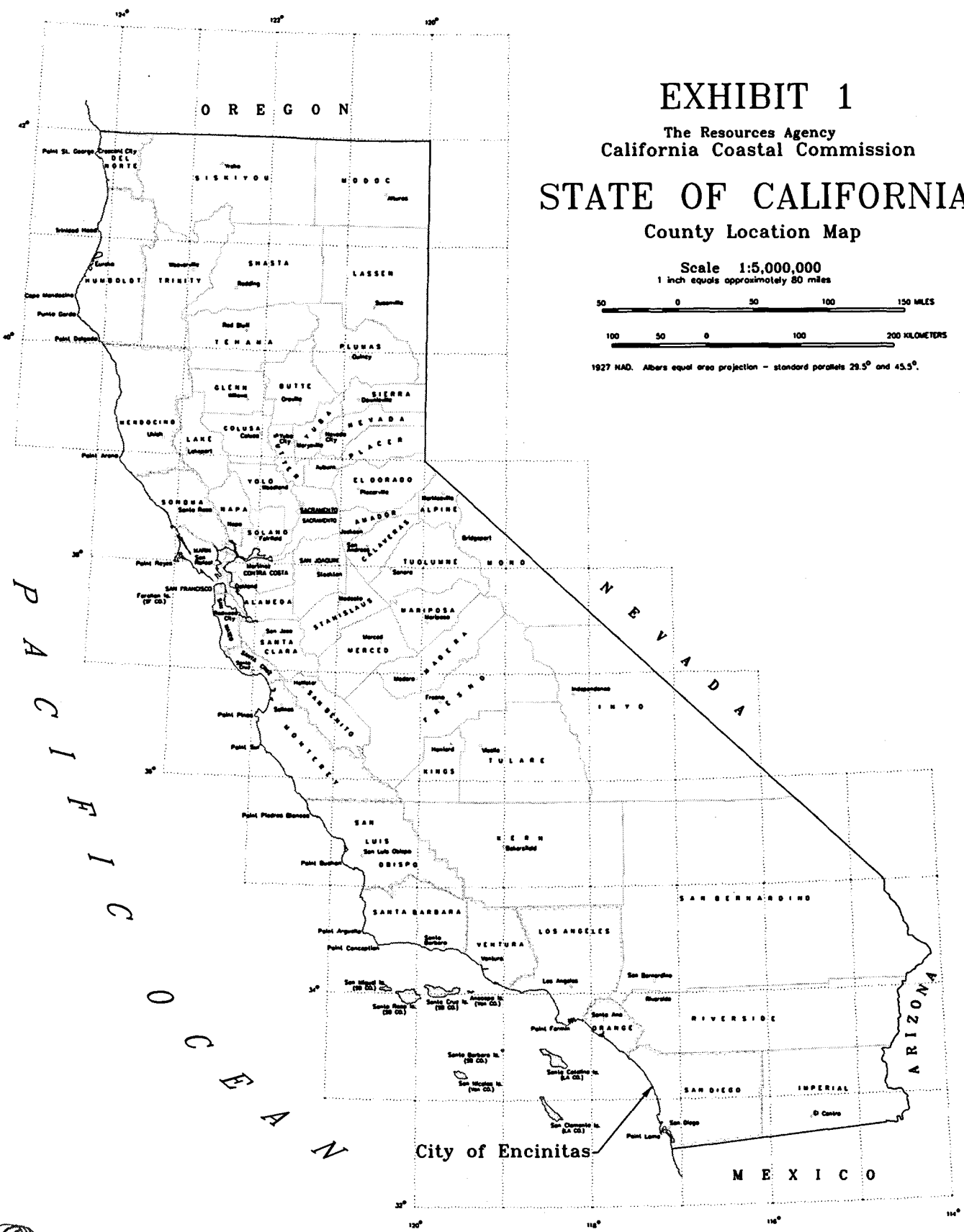
STATE OF CALIFORNIA County Location Map

Scale 1:5,000,000
1 inch equals approximately 80 miles

50 0 50 100 150 MILES

100 50 0 100 200 KILOMETERS

1927 NAD. Albers equal area projection - standard parallels 29.5° and 45.5°.





Base Map Source: USGS 1:24,000, 1982

Location approximate. For illustrative purposes only.

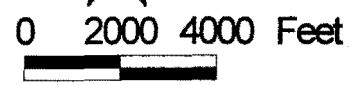
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Location Map City of Encinitas

----- Approximate Location
of City Boundary



Exhibit 2



Post-LCP Certification
Permit and Appeal Jurisdiction
City of Encinitas

— Coastal Zone Boundary

- - - City Boundary

▨ Permit Jurisdiction

This area includes only lands below the mean high tide line and lands where the public trust may exist.

■ Appeal Jurisdiction

This area includes lands between the sea and the designated first public road paralleling the sea or 300' from the inland extent of any beach or of the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 100' of streams and wetlands and lands within 300' of the top of the seaward face of any coastal bluff.

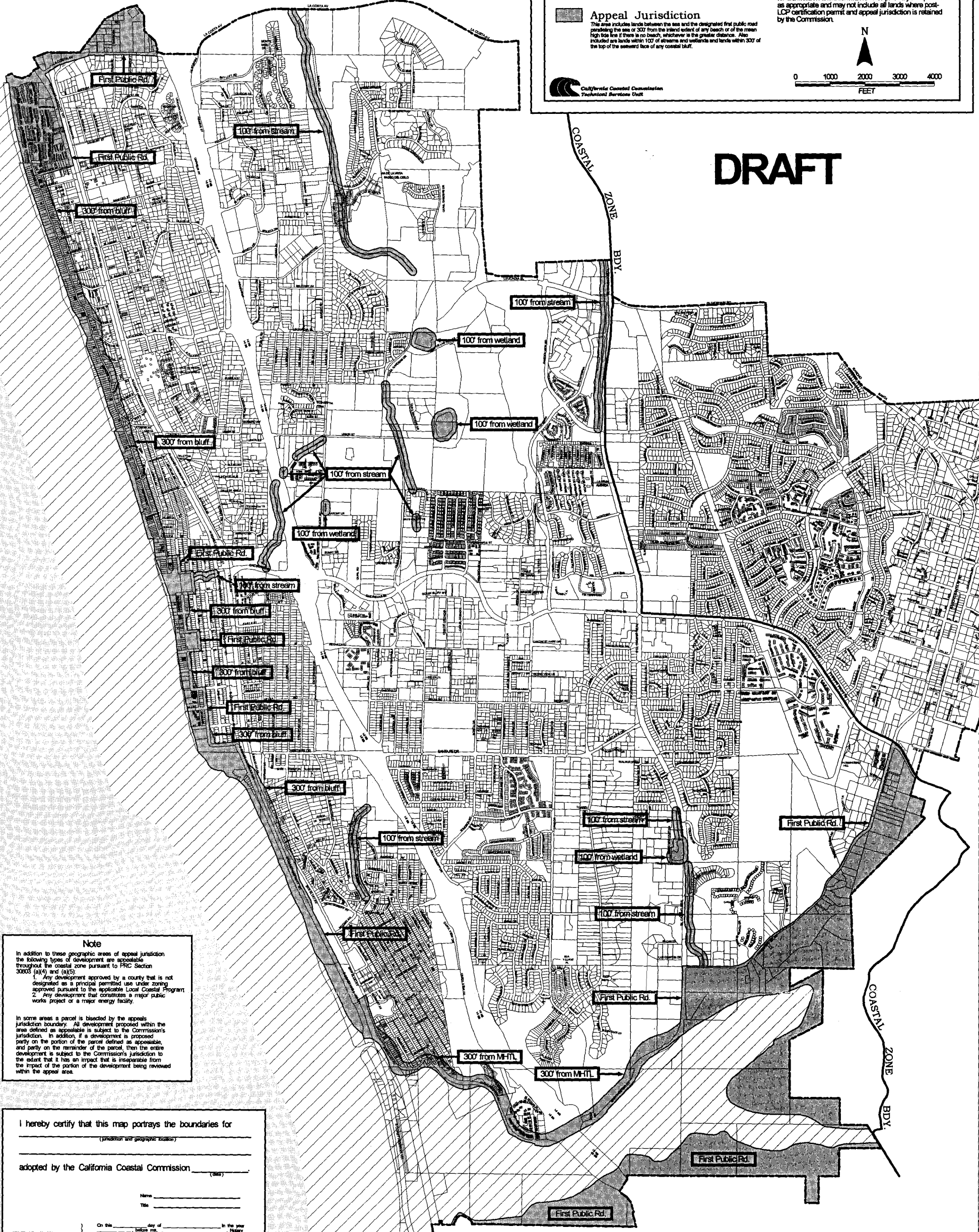
This map has been prepared to show where the California Coastal Commission retains post-LCP certification permit and appeal jurisdiction pursuant to P.R.C. § 30519(b), and § 30603(a) 1 and (a)(2). In addition, developments may also be appealable pursuant to P.R.C. § 30603(a)(3), (a)(4) and (a)(5). If questions arise concerning the precise location of the boundary of any area defined in the above sections, the matter should be referred to the local government and/or the Executive Director of the Commission for clarification and information. This plot may be updated as appropriate and may not include all lands where post-LCP certification permit and appeal jurisdiction is retained by the Commission.

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California Coastal Commission
Technical Services Unit

DRAFT



Note

In addition to these geographic areas of appeal jurisdiction the following types of development are appealable throughout the coastal zone pursuant to P.R.C. Section 30603 (a)(4) and (a)(5):
1. Any development approved by a county that is not designated as a principal permitted use under zoning approved pursuant to the applicable Local Coastal Program.
2. Any development that constitutes a major public works project or a major energy facility.

In some areas a parcel is bisected by the appeals jurisdiction boundary. All development proposed within the area defined as appealable is subject to the Commission's jurisdiction. In addition, if a development is proposed partly on the portion of the parcel defined as appealable, and partly on the remainder of the parcel, then the entire development is subject to the Commission's jurisdiction to the extent that it has an impact that is inseparable from the impact of the portion of the development being reviewed within the appeal area.

I hereby certify that this map portrays the boundaries for _____
(jurisdiction and geographic location)

adopted by the California Coastal Commission _____ (date)

Name _____
Title _____

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

On this _____ day of _____ in the year _____, 2005, I, _____, Notary Public, personally knew to me (or proved to me on the basis of satisfactory evidence) to be the authorized representative of the California Coastal Commission and the person whose name is subscribed to this instrument and acknowledged that he executed the same for the purposes and consideration therein expressed.
IN WITNESS THEREOF I have hereunto set my hand and official seal.

Notary Public

DRAFT

Exhibit 3