

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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W13b**RECORD PACKET COPY**

Filed: 04/02/02
180th day: 09/29/02
Staff: SAM-SC
Staff report: 08/22/02
Hearing date: 09/11/02

STAFF REPORT: REGULAR CALENDAR

Application number3-01-102

Applicant.....Shepard Kett/Values Pacific

AgentMelanie Mayer Gideon

Project location.....7401 Sandholt Road, Moss Landing Harbor, Moss Landing, Monterey County, APN's 133-251-011 and 133-251-012 (Exhibits A, B, and C).

Project descriptionPlacement of 5,880 cubic yards of fill and a 1,750 cubic yard rip-rap revetment to replace and protect approximately 40 feet of land lost to erosion. The project also involves construction of a 267-foot long 10-foot wide pier¹, including the installation of 60 pier pilings.

Approvals Required.....US Army Corps of Engineers (USACOE or Corps) permit, and Moss Landing Harbor District construction permit.

File documents.....CCC Coastal Development Permit Application file 3-01-102; Geotechnical Investigation for Moss Landing Harbor Dredging Project Moss Landing Harbor, California (January 1996).

Recommendation.....Denial

Summary of Staff Recommendation:

The project proposes to reestablish land lost to erosion by placing 5,880 cubic yards of fill and constructing a 1,750 cubic yard rip-rap revetment, within inter-tidal areas of Moss Landing Harbor that are privately owned but subject to a public trust easement for navigation, commerce and fishing. The project also involves the construction of new 180-foot long 10-foot wide pier, which will connect to an existing 87-foot long pier that will be demolished and rebuilt. Staff recommends that the Commission **DENY** the coastal development permit because the project is inconsistent with Coastal Act standards that: limit the placement of fill and the construction of shoreline protective devices; protect the functional capacities of wetlands; and, require public access and recreation opportunities to be protected, maximized, and enhanced.

Coastal Act Section 30233 allows fill in very limited circumstances, such as for new or expanded port facilities and coastal-dependent industrial facilities where there is no feasible less environmentally

¹ The project proposes to rebuild an 87 foot long pier that is no longer attached to the land, and construct 187 feet of new pier to connect it the rebuilt pier to the fill area.



California Coastal Commission
September 11, 2002 Meeting in Los Angeles

Staff: S. Matraw Approved by: *SM*

damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects. The placement of fill must also maintain or enhance the functional capacity of wetlands. The proposed project is inconsistent with these requirements because the area of fill will not be used for port facilities or coastal dependent industries, and because less environmentally damaging alternatives would be available to accommodate such uses, should they be proposed in the future (e.g., alternatives that do not involve the filling of wetland areas subject to the public trust easement). The project is also inconsistent with Section 30233 because it does not include feasible mitigation available to minimize the adverse environmental impacts of the project and maintain the functional capacity of the wetland, such as mitigation to offset the loss of approximately 0.5 acre of aquatic habitat.

Coastal Act Section 30235 limits the placement of shoreline protection to those areas where existing structures or coastal dependent uses are at risk and requires such structures to be designed to eliminate or mitigate adverse impacts to local shoreline sand supply. In addition, Coastal Act Section 30253(2) states that new development shall neither create nor contribute significantly to the erosion, geologic instability of destruction of the site or surrounding areas. The proposed project is inconsistent with these requirements because there is no coastal dependent use occurring on, or proposed for the site, and there are no structures at risk; the limited structural development on the site (i.e., a metal warehouse and two small wooden buildings) are neither currently threatened by erosion nor substantial enough to warrant protection. Moreover, the applicant has not addressed, nor provided mitigation for, the proposed revetment's impacts on local sand supplies and the stability of adjacent shoreline areas.

Finally, the proposed project conflicts with the public access and recreation policies of the Coastal Act because it will place fill in an area over which the public has an easement for commerce, navigation and fishing. Currently, the public uses the area proposed to be filled for beach oriented recreation and fishing. The installation of fill and a rip rap revetment will interfere with the public's right of access to this area inconsistent with Coastal Act Section 30211, and will reduce areas available for water oriented recreation inconsistent with Section 30220.

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List of Exhibits

- A. Regional Location Map
- B. Project Vicinity Map
- C. Assessor's Parcel Map
- D. Site Plans
- E. Aerial Photos
- F. Harbor District Letter Dated 11/30/01
- G. Letter from Applicant's Representative Dated 02/05/02
- H. Letter from Applicant's Attorney Dated 08/09/02
- I. Boundary Determination

1. Staff Recommendation on Coastal Development Permit

The staff recommends that the Commission, after public hearing, **deny** the proposed project. Staff recommends a **NO** vote on the following motion:

MOTION: *I move that the Commission approve Coastal Development Permit No. 3-01-102 for the development proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT AMENDMENT:

The Commission hereby denies the proposed coastal development permit on the grounds that the development will not conform with the policies of Chapter 3 of the Coastal Act. Approval of the amendment would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the



amended development on the environment.

2. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Location

Moss Landing is a coastal community within unincorporated northern Monterey County. It is located near the middle of Monterey Bay between the cities of Santa Cruz (approximately 26 miles north) and Monterey (approximately 18 miles south), and between two river systems, the Pajaro River (approximately 1.5 miles north) and the Salinas River (approximately 4 miles south) (See Exhibit A for regional location map and Exhibit B for site vicinity map.). Moss Landing Harbor, one of only six harbors located along the Central Coast area, lies just west of Highway 1 in Moss Landing, at the mouth of Elkhorn Slough and at the head of the Monterey Submarine Canyon. Moss Landing is also adjacent to the Monterey Bay National Marine Sanctuary, the nation's eleventh and largest marine sanctuary, protecting marine resources that include the nation's most expansive kelp forests and one of North America's largest underwater canyons.

Moss Landing Harbor was created in 1947 when the US Army Corps of Engineers (USACOE) first dredged the mouth of Elkhorn Slough near the northern extent of the Old Salinas River mouth. The Harbor occupies a portion of the Old Salinas River channel paralleling the coast and separated from the ocean by sand spits and dunes. Permanent jetties placed along the north and south sides of the entrance provide year-round access to the Pacific Ocean. Inland of the Highway 1 Bridge is the Elkhorn Slough, watershed, a 4,000 acre coastal estuary whose tidal exchange flows through the Harbor.

The Harbor entrance and Elkhorn Slough channel essentially divides the Moss Landing Harbor into two parts, referred to as the North and South Harbor areas, respectively. The North Harbor area occupies a portion of the Old Salinas River near its confluence with Bennett Slough, and the South Harbor area occupies portions of both the Old Salinas River and the mouth of Moro Cojo Slough (Exhibit B). The project site is located at the northwestern end of the South Harbor area.

The site consists of two adjoining lots on the east side of Sandholdt Rd. (APNs 133-251-001 and 133-251-003) that are separated from the southern harbor mouth breakwater by a single intervening lot owned by the Moss Landing Harbor District (see Exhibit C). According to a survey conducted in 2001, most of Parcel 3 (which contains the damaged pier) is located below the mean high tide line. Ownership of the inter-tidal areas of this parcel has been addressed by the Monterey County Superior Court, in Case Number 80050, which states that the area of the proposed development is privately owned, but subject to an easement in favor of the public or commerce, navigation, and fishing (see Exhibit H). Development within this area is also subject to the review and approval of the Moss Landing Harbor District and the U.S. Army Corps of Engineers.

Structures on Parcel 1, which is located entirely above the mean high tide line, include a double height metal building with an attached one story wooden building, another one story wooden building and fencing (See Exhibit D). A letter from the applicant, dated 2/5/02, states that the site also includes a seawater well, and infrastructure such as piping and electrical and sewer service. There is currently no use of the site, coastal-dependent or otherwise, except perhaps for storage in the existing buildings.

B. Project Description

The applicant proposes to recreate land that has been lost to erosion by placing 5,880 cubic yards of fill and 1,750 cubic yards of rip-rap in areas below the mean high tide line. The proposed revetment will be roughly 340 ft. long, 25 ft. wide at its base, 5 ft. wide at its top, and approximately 6.8 feet in height. The base of the revetment is located approximately 100 feet away from the existing shoreline at its furthest point, and 40 feet at its closest point. The proposed fill will cover an area of 16,869 square feet, and the base of the revetment will cover approximately 8,500 square feet, resulting in a total loss of approximately 0.58 acres of inter-tidal/benthic habitats.

The project also proposes to demolish and rebuild an existing 87 foot-long pier that is no longer connected to the shoreline, and to construct 180 feet of new pier to complete its connection to the land. In total the pier would be 267 feet long and 10 feet wide, and have 60 pilings. Public access on the proposed pier is not included in the project description. The project will also need permit approval from the US Army Corps of Engineers (USACOE), and a construction permit from the Harbor District.

C. Standard of Review

The proposed project would take place within the Commission's coastal development permit jurisdiction, which includes existing and former (now filled) tidelands (see Exhibit I). The standard of review for new development in the Commission's jurisdiction area is the Chapter 3 policies of the Coastal Act.

D. Issue Analysis

1. Filling of Coastal Waters

a. Coastal Act Policies:

Coastal Act Section 30233 states:

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



(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

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

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

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

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

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

(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.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

For the purposes of this section, "commercial fishing facilities in Bodega Bay" means that not less than 80 percent of all boating facilities proposed to be developed or improved, where such improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.

(d) Erosion control and flood control facilities constructed on water courses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

b. Analysis:

Fill proposed as part of this project consists of the 1,750 cubic yards of rip-rap for shoreline protection, 5,880 cubic yards of sandy material to backfill behind the proposed seawall, and 60 pier pilings proposed to rebuild and restore an existing, damaged pier that does not currently connect to solid land. Filling of open coastal waters is permissible for certain purposes (e.g., for port and coastal dependent industrial facilities) where it is determined that there is no feasible less environmentally damaging alternative and where mitigation measures are provided to minimize adverse environmental effects.

There are three primary reasons why the proposed project is inconsistent with Coastal Act Policies regulating wetland fill. First, there is no existing or proposed use of the site that would allow for the fill within the limitations of Coastal Act Section 30233(a). It is recognized that the project site provides a prime location for coastal dependent industry and/or expanded port facilities, and is designated by the Monterey County LCP for such uses. However, the placement of fill cannot be found consistent with Section 30233(a), until such uses are either permitted or in existence. Furthermore, with respect to the fill associated with the proposed pier pilings, Section 30233(a) allows such fill for public recreational piers that provide public access and recreational opportunities. The pier proposed in this project does not include provision of public access, even though it is located on lands that are subject to a public trust easement for commerce, navigation, and fishing.

Second, the proposed placement of fill must be the least environmentally damaging alternative available to accommodate any of the limited purposes for which fill can be authorized. Lesser damaging alternatives for accommodating coastal dependent or port uses, such as those that do not involve a shoreline structure, and those that would avoid and minimize wetland fill, must be considered first. An effective analysis of such alternatives cannot occur until the applicant identifies the proposed use of the site.

Third, the proposed fill does not maintain the functional capacity of the affected wetland area. As previously noted, the project will result in the loss of approximately 0.58 acre of intertidal/wetland



habitat. To maintain the functional capacity of the wetland, the loss of such habitat areas must be avoided, for example, by placing shoreline protection above the mean high tide line. Where the loss of wetlands cannot be avoided, wetland impacts must be minimized and mitigated, for example through the use of a vertical structure such as a bulkhead that will impact less wetland area, and by creating and/or enhancing wetland areas as a means to offset wetland loss. The unmitigated and avoidable loss of wetland associated with the proposed project is therefore inconsistent with Section 30233(c) because it will diminish the functional capacity of the Old Salinas River channel.

The applicant claims that the proposed fill is allowable because Section 30233(a)(2) allows diking and filling for the purpose of "maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps." The applicant's representative's August 9, 2002 letter (See Exhibit H) states that erosion of the Values Pacific property is depositing sediment within the boat berthing and mooring areas of the harbor, and that as a result, the proposed fill and shoreline protection will maintain navigation channels and berthing areas. Contrary to this assertion, subsection (2) of 30233(a) is intended to allow harbor districts to dredge to maintain harbor facilities, not to allow private property owners to armor their shorelines and fill to reclaim eroded property. Additionally, the lack of pertinent geologic information about the patterns of erosion and deposition within the harbor makes it impossible to conclude that the proposed project will serve to maintain harbor channels. In fact, since the project has the potential to increase erosion of the property immediately to the north, or other unprotected sections of the harbor, it may exacerbate problems of sediment deposition within harbor areas.

Having processed numerous permits for dredging in Moss Landing Harbor, the Commission is familiar with the needs and challenges associated with harbor facility maintenance. The Commission is supportive of a comprehensive approach to understanding and addressing the erosion/deposition forces within the harbor. In contrast, this project is a piecemeal approach to addressing harbor maintenance and management needs. The project has not been accompanied by, or designed in accordance with, the geotechnical analyses needed to ensure that project complies with Coastal Act objectives of maintaining harbor facilities and preserving the functional capacity of the Old Salinas river channel and the Elkhorn Slough watershed. The development of an effective solution to the erosion and deposition problems affecting the harbor, which also carries out Coastal Act resource protection criteria, demands the participation of the Harbor District.

c. Conclusion:

The proposed fill is inconsistent with Section 30233 of the Coastal Act because it is not currently needed, nor the least environmentally damaging alternative available, to accommodate the limited uses for which the fill of open coastal waters is allowed. Moreover, the project has not been designed to protect the functional capacity of wetland areas, as it will result in the unmitigated loss of approximately 0.58 acre of inter-tidal/benthic habitat. As a result of these inconsistencies, the project must be denied.

2. Construction of Revetments and Seawalls

a. Coastal Act Policies

Section 30235. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

b. Analysis

The Kett property is zoned by the Monterey County LCP for coastal-dependent light industrial use and located within a harbor that supports commercial fishing, recreational boating, research vessels and an energy plant. However, there is no current use on the site, and there is no coastal-dependent use proposed for the site that warrants the construction of a shoreline protection device consistent with Coastal Act Section 30235.

Nor are there any structures on the site that are at imminent risk from erosion. Currently the site is vacant with the exception of a metal warehouse-type of building and two small one-story wooden buildings. The applicant states that a seawater well also exists on the site. The closest existing structure is located 215 feet from the top of bank, while the other wooden structure and the metal building are located 292.5 feet from the top of bank (See Exhibit D, page 1), and the applicant has not submitted any evidence or geotechnical analysis showing that the structures are at risk. As aerial photos of the site show (Exhibit E), erosion rates seem to have stabilized, as the shoreline has not receded a substantial amount from the 1993 shoreline. Assuming that the existing metal and wooden storage buildings are structures that could be protected, given proof of endangerment, there is still a less environmentally damaging alternative available to the property owner. These types of structures can be easily moved, thus providing a less environmentally damaging option to building a seawall. Coastal Act Section 30235 only allows seawalls where they are required, and in this instance they are not required. Additionally, this Section does not allow the construction of shoreline structures to protect vacant, unimproved property.

In a letter dated August 9, 2002 (attached as Exhibit H), the applicant asserts that Section 30235 is not applicable to the proposed project because the erosion of the Values Pacific property "cannot properly be described as a "natural shoreline process," but instead is the direct result of the reconstruction of the harbor entrance by the Army Core (sic) of Engineers several years ago." The applicant also notes that the structure is not on the shoreline of the ocean, but is located in the interior of the harbor.

Notwithstanding the potential that that erosion at this location may be partly influenced by man-made structures, erosion and sediment deposition within the harbor is part of the natural shoreline processes that is addressed by Section 30235. The Coastal Act does not distinguish shoreline areas within a harbor from other types of shorelines in its application of this policy. Thus, it is clear that Coastal Act Section



30253 is applicable to the proposed project.

In addition to the absence of a structure or use requiring protection, the project is inconsistent with Section 30235 because it not been accompanied by the technical analyses necessary to ensure that impact to local sand supplies will be avoided. The proposed revetment will alter a complex system of tidal flow, wave reflection, and erosion and sediment deposition, and has the potential to exacerbate erosion of adjacent property as well as diminish the amount of sand supplied to local beaches. In order to address the requirements of Coastal Act Sections 30235 and 30253(2), proposals for such development must be accompanied by scientific analyses of potential impacts to sand supplies and adjacent properties, along with specific mitigation measures to minimize any unavoidable impacts. Given the fact that the development application lacks this critical technical information, a permit cannot be approved consistent with Coastal Act Sections 30235 and Section 30253(2).

c. Conclusion

The proposed construction of a shoreline protection structure at the Kett property is inconsistent with Coastal Act Section 30235 because there is no current coastal-dependent use or existing structure threatened by erosion that warrants such a protective device. In addition, the proposed revetment poses adverse impacts to local sand supplies and the stability of adjacent properties that have not been adequately addressed, inconsistent with Coastal Act Sections 30235. The permit application must therefore be denied.

3. Hazards

a. Coastal Act Policies:

Coastal Act Sections 30253 states, in relevant part:

Section 30253. New development shall:

(2)Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

b. Analysis:

Section 30253 prohibits new development from creating or contributing significantly to erosion. This Section also prohibits new development that would require the construction of protective devices that alter natural shoreline processes. In this case, the proposed shoreline protection device will change wave and erosion patterns within the harbor, in a manner that may increase erosion of other property (e.g., the adjacent unprotected property to the north) and trigger the need for additional shoreline armoring. As previously noted, the project has not been accompanied by the geotechnical analyses needed to evaluate and avoid such impacts. As a result, the project is inconsistent with Coastal Act Section 30253(2) and

must be denied.

c. Conclusion:

The complex interactions of erosion and depositional forces within Moss Landing Harbor require that new shoreline structures that alter such processes be carefully designed and reviewed to prevent the creation of new, unanticipated problems. Due to the lack of project specific geotechnical data and analyses required to evaluate this important issue, the proposed project cannot be found consistent with Coastal Act Section 30253(2) and therefore must be denied. A comprehensive analysis of the way in which the proposed project will affect erosion and sediment deposition within the harbor is essential to address the requirements of Section 30253(2), as well as other Coastal Act requirements identified previously in this report.

4. Public Access and Recreation

a. Coastal Act Policies:

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea includes a specific finding that the development is in conformance with the public access and recreation policies of Chapter 3 of the Coastal Act. The proposed project is located seaward of the first public through road, State Highway Route 1.

Coastal Act Sections 30210 through 30213, 30220 and 30224 specifically protect public access and recreation. In particular:

30210: In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 4 of Article X of the California Constitution No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

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

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



b. Analysis:

Moss Landing Harbor provides public access and recreational opportunities of regional and Statewide significance. Boat launching and berthing facilities, two kayak rental companies, Elkhorn Slough and Monterey Bay tours are all available here. Fishing, harbor-side dining, nature observation and similar pursuits are available at the harbor, while beachcombing, shopping and camping are available at adjacent areas. Entry to the south spit beach is free, and many other opportunities such as boat launching and dining are within the affordable end of the range.

Currently, the shoreline at the project site supports a small beach that is accessible and used by the public at low tides for coastal recreation and water-oriented activities. As previously noted, the public's right to use this area for fishing, navigation and commerce has been confirmed in 1991 by the Superior Court in Case number 80050. Construction of a seawall and the placement of fill will result in the destruction of this beach area, and conflict with Section 4 of Article X of the California Constitution, which guarantees the right of the public to use and enjoy public tidelands. Additionally, after construction of the proposed revetment and reconstruction of the damaged pier, it is presumed that the public will no longer have access to this area, as there is nothing in the project description that includes provisions for public access. Therefore, because the project does not protect or encourage public access, and in fact eliminates a low cost opportunity for water oriented recreation, it is inconsistent with Coastal Act Sections 30210, 30213 and 30220 and therefore must be denied.

Additionally, the delivery of 1,750 cubic yards of rip rap for the seawall, and 5,880 cubic yards of fill, will require numerous truck trips on Highway 1, which is the principal artery for both commerce and recreational access in this region. The two-lane portion of the highway between Moss Landing and Castroville is already operating at full capacity during peak periods, and unless properly managed, truck traffic generated by the project could further impair the recreational capacity of Highway 1.

c. Conclusion:

The project is inconsistent with Coastal Act policies calling for public access and recreation opportunities to be protected and maximized because it will result in a loss of beach area that provides low-cost opportunities for water oriented recreation, and will interfere with the public's right to use this area, as confirmed by the Superior Court of the State of California in Case No. 80050. The project must therefore be denied.

5. 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.

In this instance CEQA does not apply. Public Resources Code Section 21080 outlines the application of CEQA to discretionary projects. Subsection 21080.b.5 states that CEQA shall not apply to "projects which a public agency rejects or disapproves", therefore in this instance CEQA requirements do not apply.

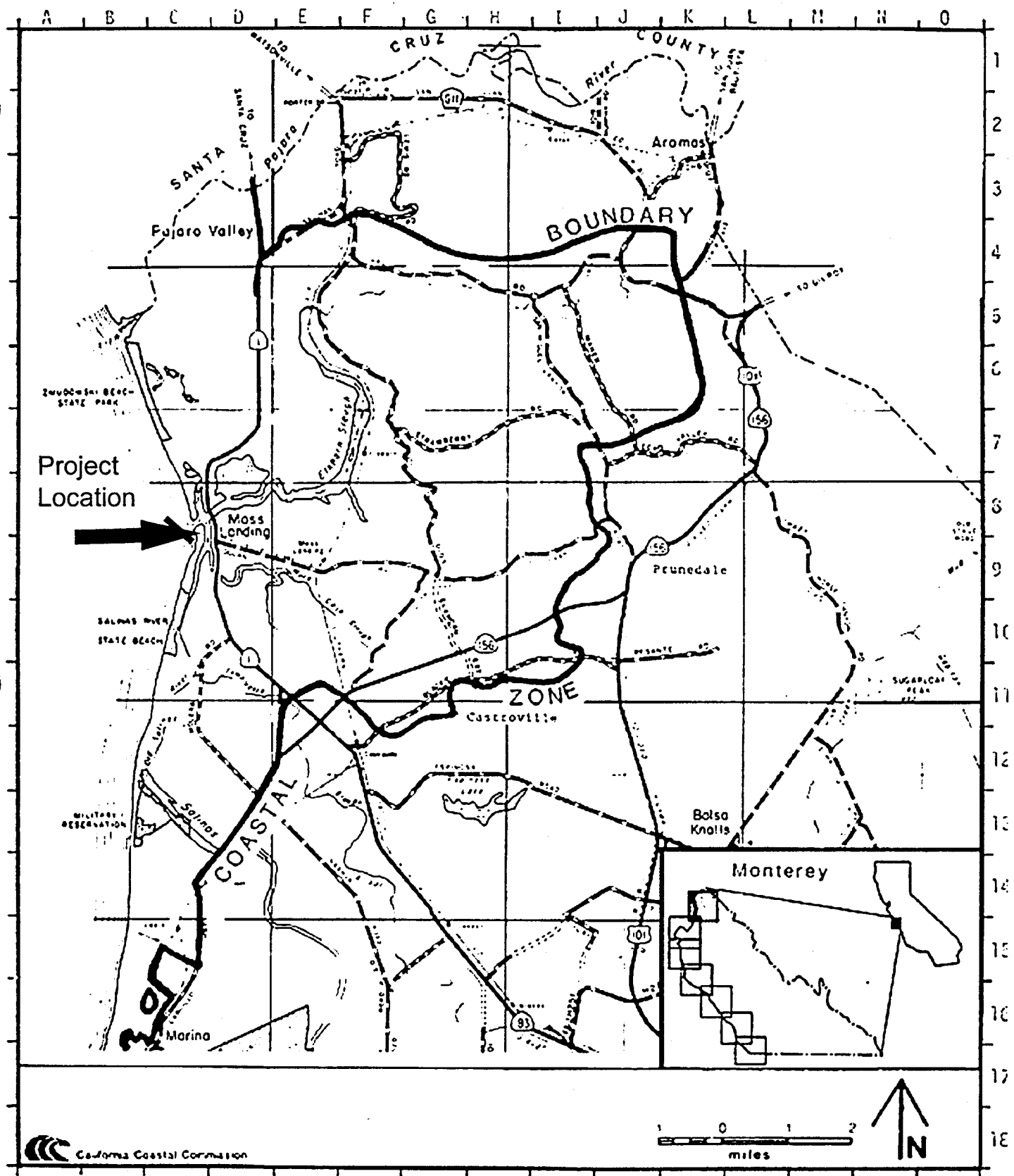


Exhibit A
Regional Location Map
Values Pacific/Kett
3-01-102

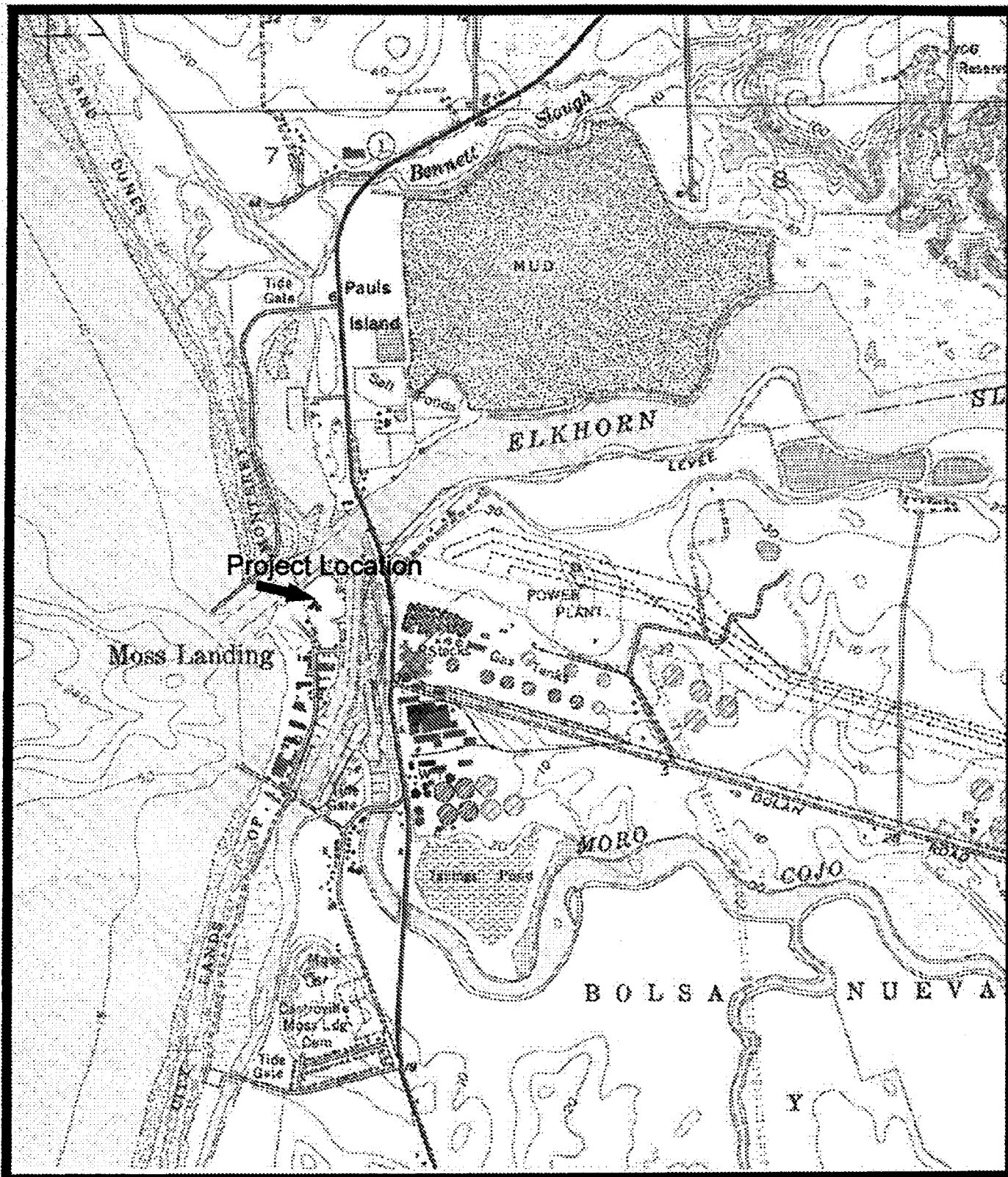
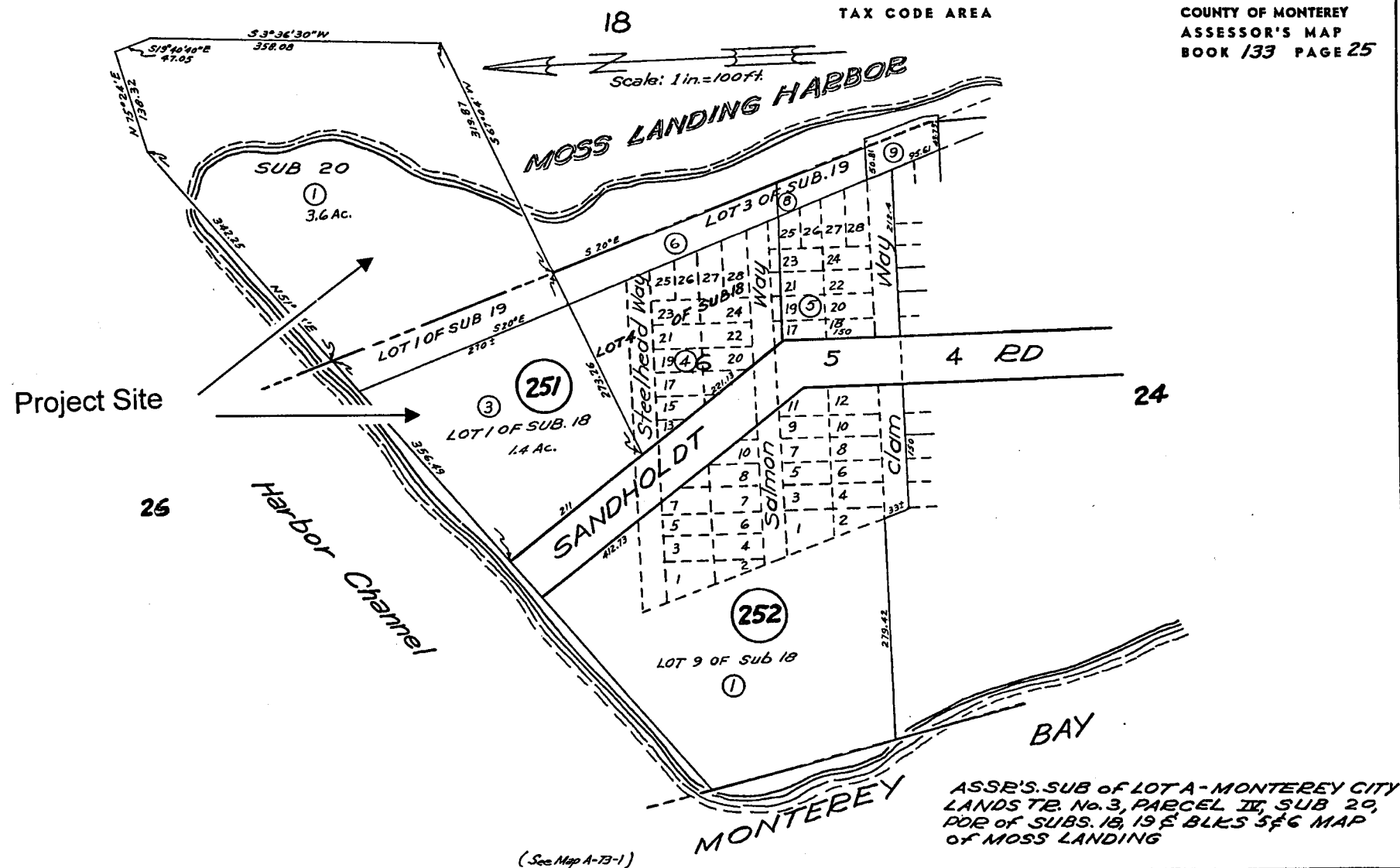
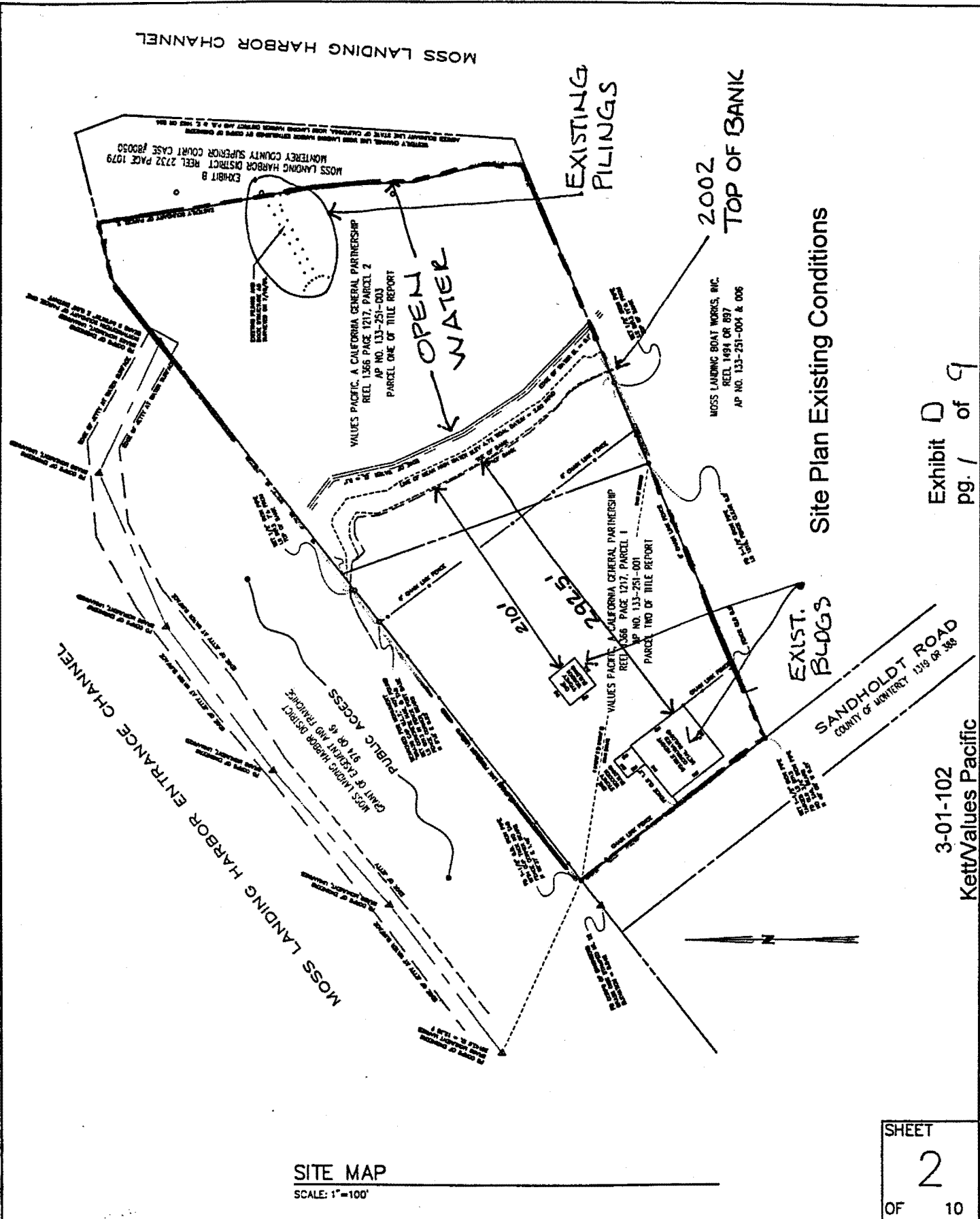


Exhibit B
Project Vicinity Map
Values Pacific/Kett
3-01-102





BOWMAN & WILLIAMS
CONSULTING CIVIL ENGINEERS

1011 CEDAR STREET SANTA CRUZ CA 426-3560

SCALE N.T.S.

DATE SEPTEMBER 18, 2001

DRAWN BCS

JOB NO. 21247

DWG NAME 21247CVR-1

FILE NO. 21247

MOSS LANDING HARBOR ENTRANCE CHANNEL

PROPOSED
REVETMENT

MOSS LANDING HARBOR DISTRICT
GRANT OR EASEMENT AND FRANCHISE
974 OR 46

VALUES PACIFIC, A CALIFORNIA GENERAL
PARTNERSHIP
INVESTMENT, LTD AP NO. 133-251-003

EASTERLY BOUNDARY
OF PARCEL 2
EXHIBIT B
MOSS LANDING HARBOR DISTRICT
MONTEREY COUNTY SUPERIOR COURT CASE #0030

WESTERLY CHANNEL LINE MOSS LANDING HARBOR
ESTABLISHED BY CORPS OF ENGINEERS AGREED BOUNDARY
LINE STATE OF CALIFORNIA, MOSS LANDING HARBOR DISTRICT
AND P.G. & E 1653 OR 524
MOSS LANDING HARBOR CHANNEL

PROPOSED
FILL

PROPOSED
PIER

VALUES PACIFIC, A CALIFORNIA
GENERAL PARTNERSHIP
AP NO. 133 251-001

MOSS LANDING BOAT WORKS INC.
REEL 194 OR 897
AP NO. 133-251-004 & 006

SANDHOLDT ROAD
COUNTY OF MONTEREY 1319 OR 388

SEE SHEET 4

SEE SHEET 3

Site Plan Proposed

3-01-102

Kett/Values Pacific

Shoreline Protection and Fill

Exhibit D
pg. 2 of 9

DRAWING KEYPLAN

SCALE: 1"=150'

SHEET
3
OF 10

BOWMAN & WILLIAMS
CONSULTING CIVIL ENGINEERS
1011 CEDAR STREET SANTA CRUZ CA 426-3560

SCALE 1"= 150'	JOB NO. 21247
DATE SEPTEMBER 18, 2001	DWG NAME ARMYCORP
DRAWN DMR/BCS	FILE NO. 21247

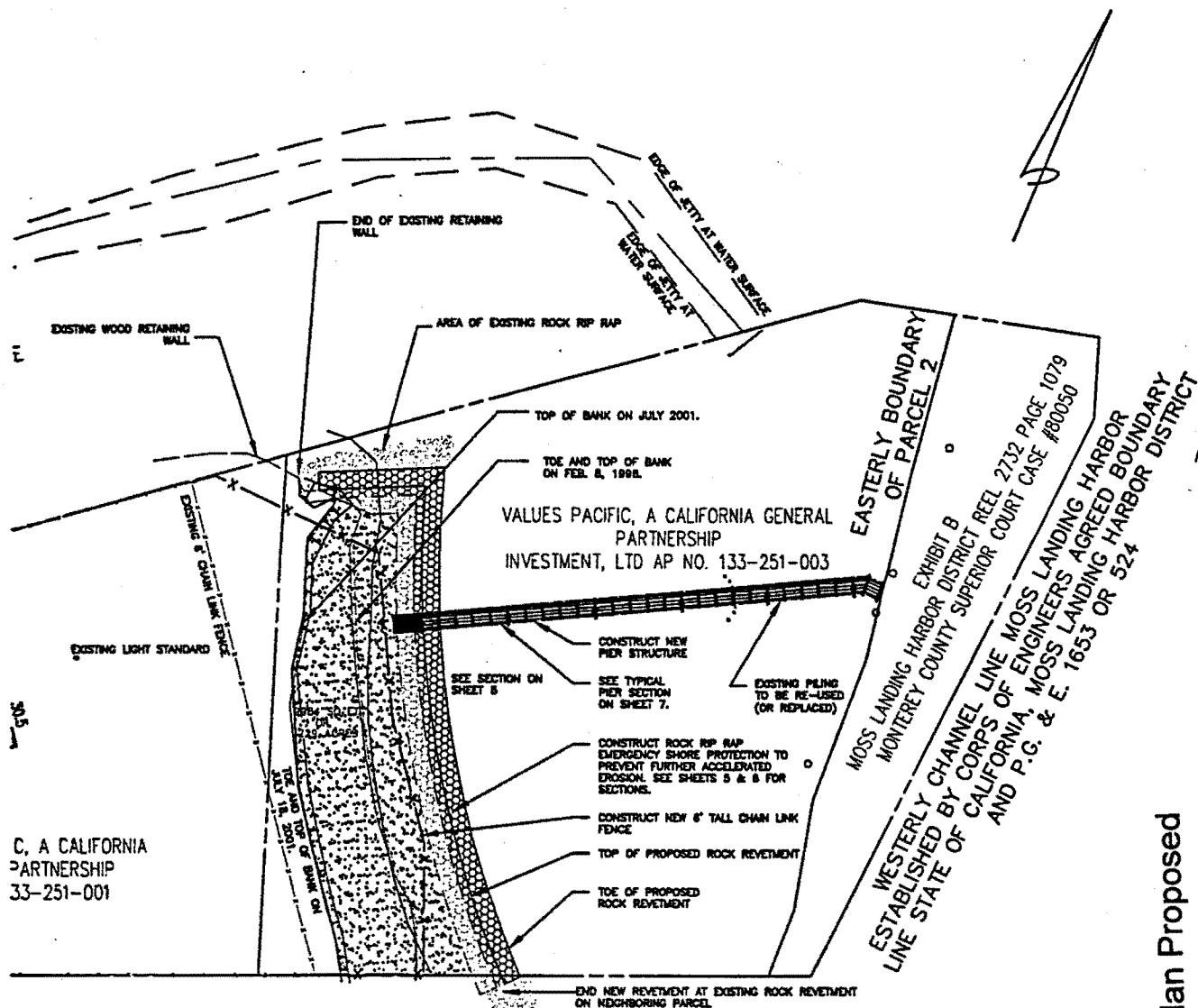


Exhibit D
pg. 3 of 9

Site Plan Proposed

3-01-102

Kett/Values Pacific

Shoreline Protection and

PROJECT STATISTICS:

ROCK REVETMENT BANK REPAIR:
2,480 TONS OF QUARRY STONE
(340 LF)
1,760 CUBIC YARDS
CLEAN SAND FILL BEHIND REVETMENT:
5,880 YARDS
(OR CLEAN HARBOR DREDGE SANDS)
FILL AREA = 16,869 SQ. FEET

PLAN VIEW: PIER STRUCTURE & BANK REPAIR

SCALE: 1"=100'

SHEET

4

OF 10

BOWMAN & WILLIAMS
CONSULTING CIVIL ENGINEERS

1011 CEDAR STREET SANTA CRUZ CA 426-3560

SCALE 1"=100'

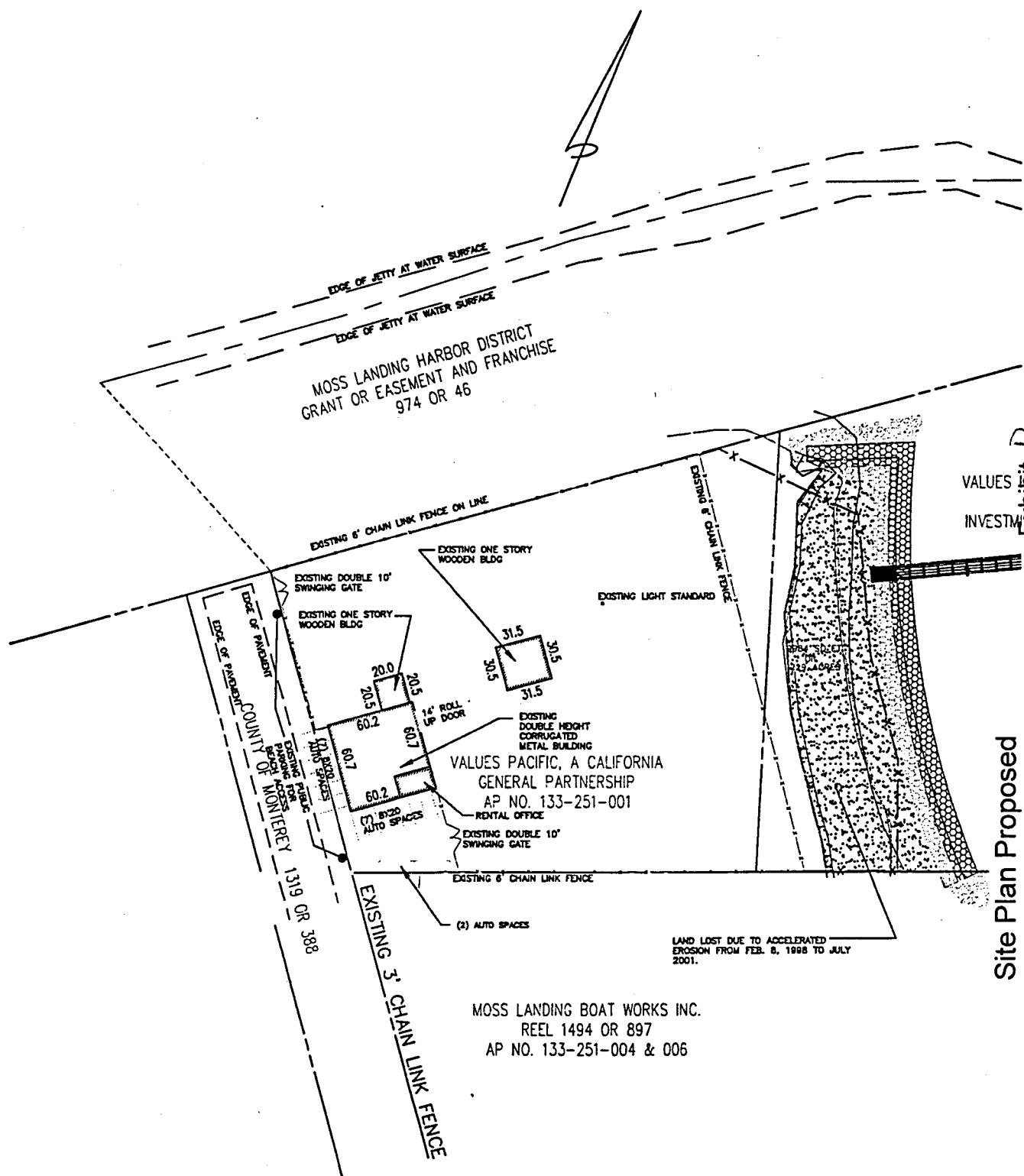
DATE SEPTEMBER 18, 2001

DRAWN BCS

JOB NO. 21247

DWG NAME ARMYCORPS

FILE NO. 21247



PLAN VIEW: EXISTING SITE

SCALE: 1"=100'

SHEET
5
OF 10

BOWMAN & WILLIAMS
CONSULTING CIVIL ENGINEERS

1011 CEDAR STREET SANTA CRUZ CA 426-3560

SCALE 1"=100'

DATE SEPTEMBER 18, 2001

DRAWN DMR/BCS

JOB NO. 21247

DWG NAME ARMYCORPS

FILE NO. 21247

Site Plan Proposed

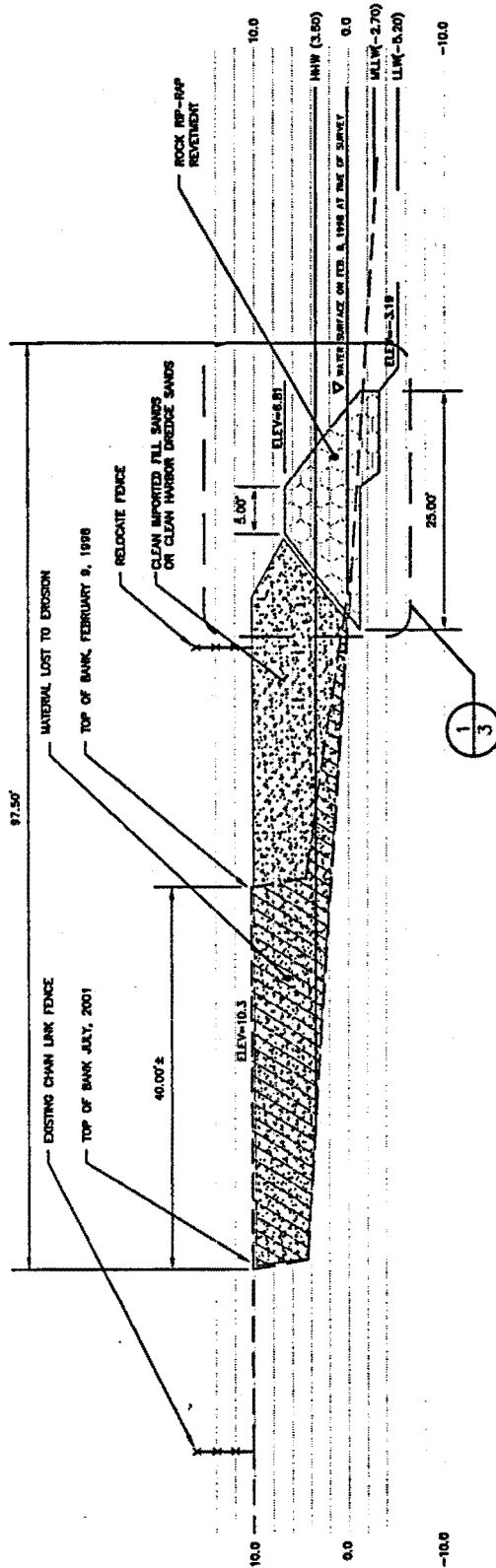
3-01-102

Kett/Values Pacific

Shoreline Protection and Fill

VALUES
INVEST

Exhibit D
pg. 4 of 9



NOTE: USING A VOID RATIO OF 30% AND ASSUMING THAT 340 LF OF SUCH A REVELTMENT WILL BE REQUIRED, THE REQUIRED QUANTITY OF ROCK IS 2,400 TONS

CROSS - SECTION

REVELTMENT AND FILL SECTION

SCALE: 1"=20'

SHEET
6
OF 10

BOWMAN & WILLIAMS

CONSULTING CIVIL ENGINEERS

1011 CEDAR STREET SANTA CRUZ CA 426-3560

SCALE 1"=20'

DATE SEPTEMBER 18, 2001

DRAWN BCS

JOB NO. 21247

DWG NAME ARMYCORPS

FILE NO. 21247

Site Plan Proposed

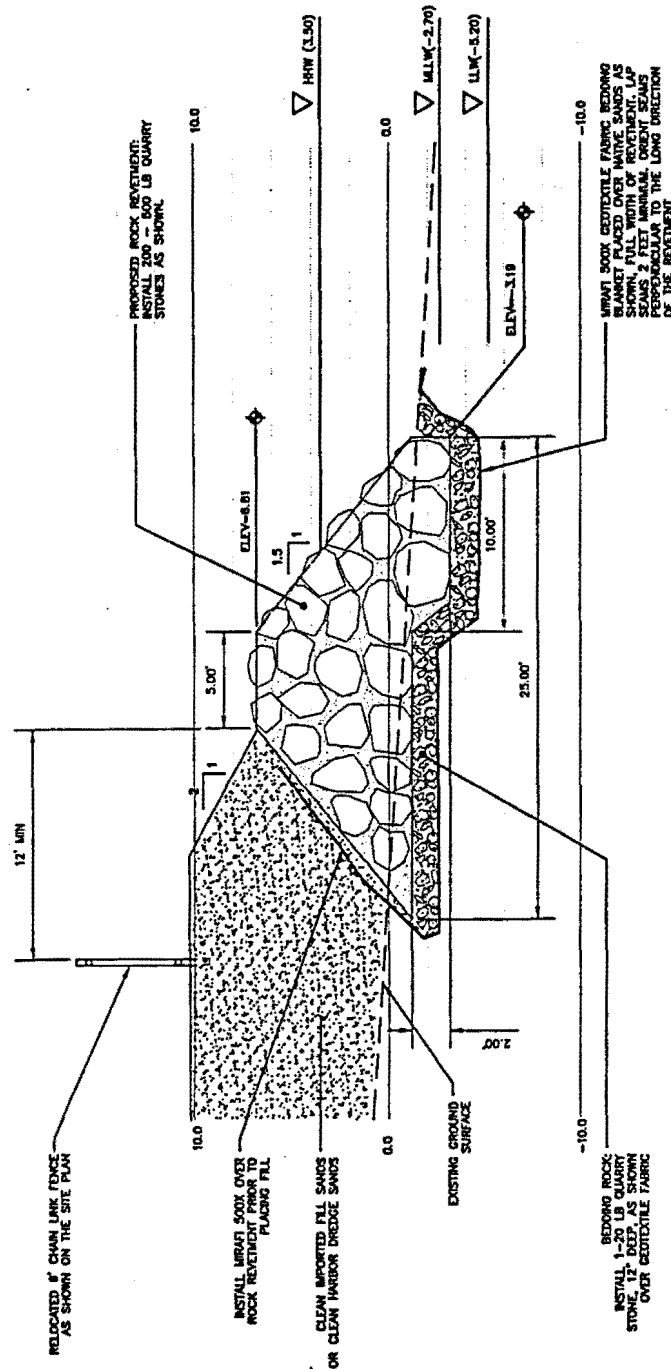
Rock Revetment and Fill

3-01-102

Kett/Values Pacific

Shoreline Protection and

Exhibit D
pg. 5 of 9



CROSS-SECTION

TYPICAL REVETMENT SECTION

SCALE: 1"=10'

SCALE: 1"=20'

Site Plan Proposed
Rock Revetment

3-01-102

Kett/Values Pacific

Shoreline Protection and Fill

SHEET

7

OF 10

BOWMAN & WILLIAMS
CONSULTING CIVIL ENGINEERS
1011 CEDAR STREET SANTA CRUZ CA 426-3560

SCALE 1"=10'

DATE SEPTEMBER 18, 2001

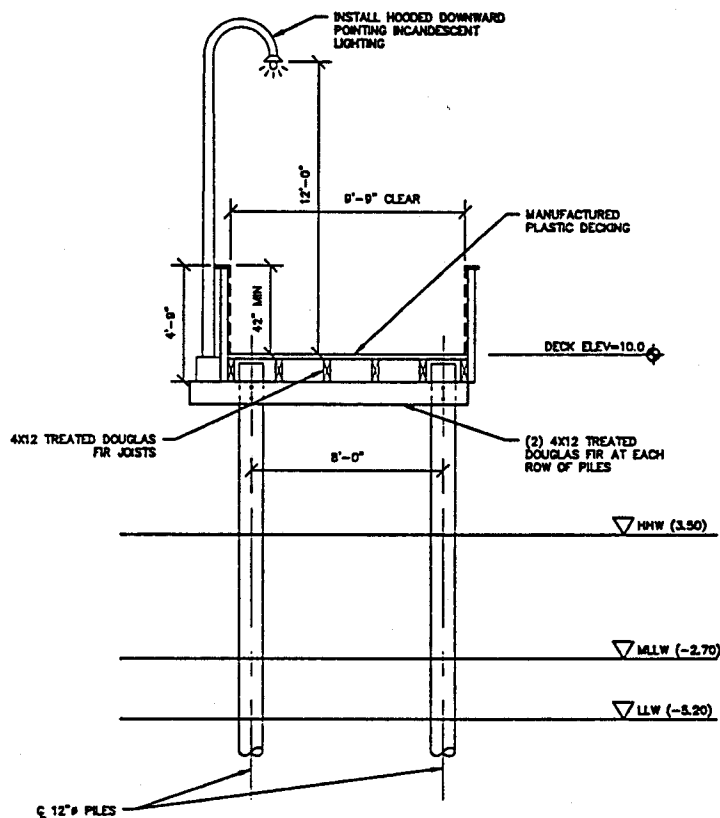
DRAWN BCS

JOB NO. 21247

DWG NAME ARMYCORPS

FILE NO. 21247

Exhibit D
pg. 6 of 9



TYPICAL PIER SECTION

SCALE: 1/8"=1'-0"

Exhibit D of 9
pg. 7

Site Plan Proposed Pier Construction

3-01-102

Kett/Values Pacific

Shoreline Protection and Erosion Control

SHEET

00

OF 10

BOWMAN & WILLIAMS

CONSULTING CIVIL ENGINEERS

1011 CEDAR STREET SANTA CRUZ CA 426-3560

SCALE 1/8"=1'-0"

DATE SEPTEMBER 18, 2001

DRAWN DMR/BCS

JOB NO. 21247

DWG NAME ARMYCORPS

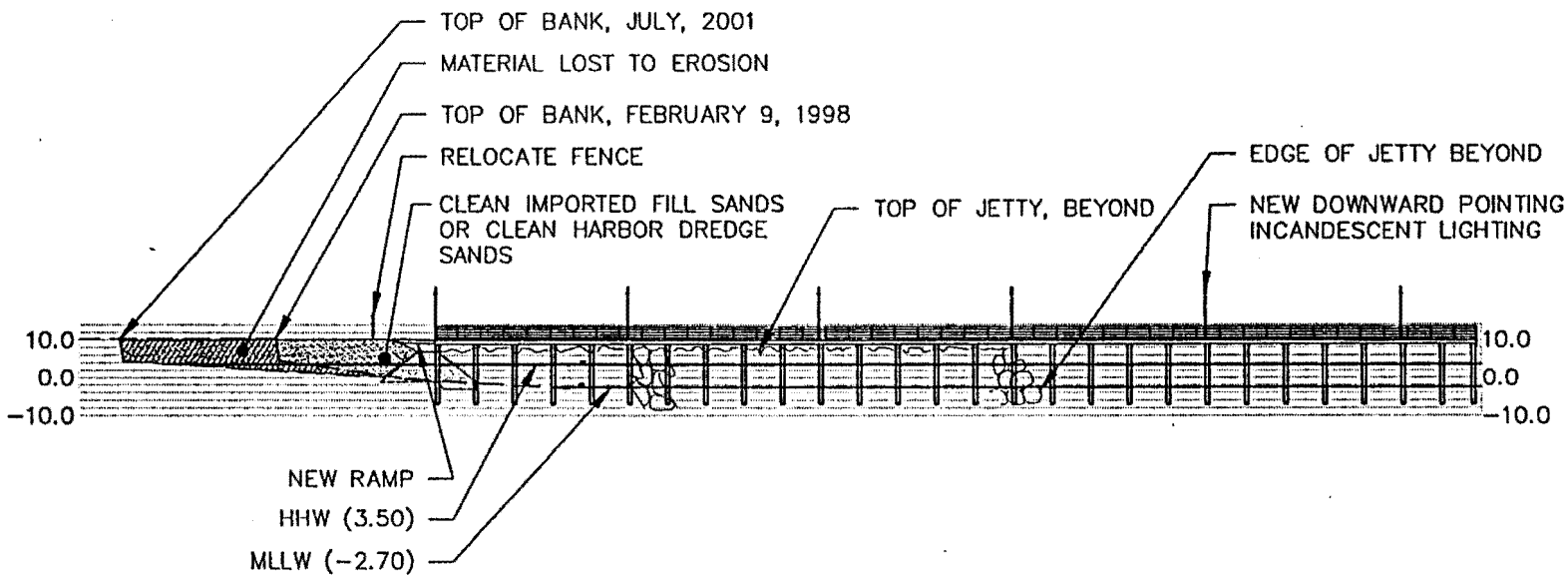
FILE NO. 21247

BOWMAN & WILLIAMS
CONSULTING CIVIL ENGINEERS
1011 CEDAR STREET SANTA CRUZ CA 426-3560

SCALE 1"=50'
DATE SEPTEMBER 18, 2001
DRAWN BCS

JOB NO. 21247
DWG NAME ARMYCORPS
FILE NO. 21247

PIER ELEVATION (AS VIEWED LOOKING NORTH)
SCALE 1"=50'



Site Plan Proposed Pier Construction

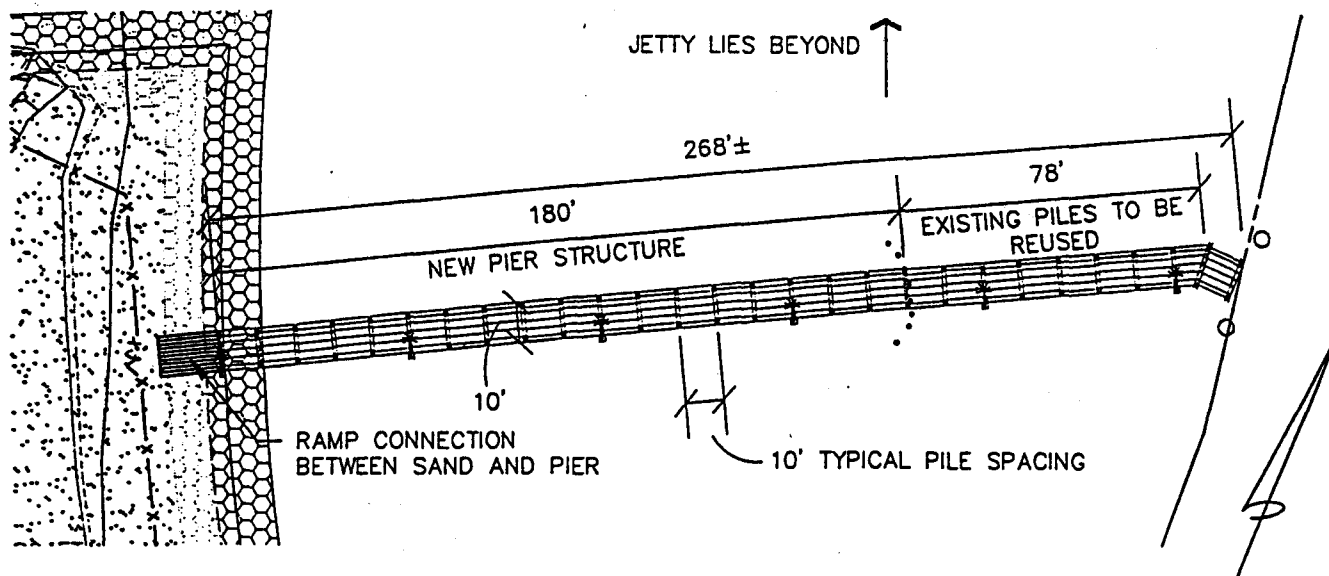
3-01-102

Kett/Values Pacific

Shoreline Protection and Fill

Exhibit D
pg. 8 of 9

SHEET
9
OF 10



PLAN VIEW: RESURRECTED PIER STRUCTURE

SCALE: 1"=50'

LEGEND

- EXISTING PILING TO BE RE-USED (OR REPLACED)
- NEW PILING

PROJECT STATISTICS

PILING MATERIAL

EITHER HIGH DENSITY PLASTIC, STEEL, OR
PRECAST CONCRETE DRIVEN PILES

PIER STRUCTURE

2666 SQUARE FEET

DECKING MATERIAL

TREX OR EQUIVALENT PLASTIC DECKING
DECK FRAMING: PRESERVATIVE TREATED
DOUGLAS FIR

ESTIMATED NUMBER OF PILINGS = 60

Site Plan Proposed Pier Construction

3-01-102

Kett/Values Pacific

Shoreline Protection and Fill

Exhibit D
pg. 9 of 9

SHEET

10

OF 10

BOWMAN & WILLIAMS
CONSULTING CIVIL ENGINEERS

1011 CEDAR STREET SANTA CRUZ CA 426-3560

SCALE 1"=50'

DATE SEPTEMBER 18, 2001

DRAWN DMR/BCS

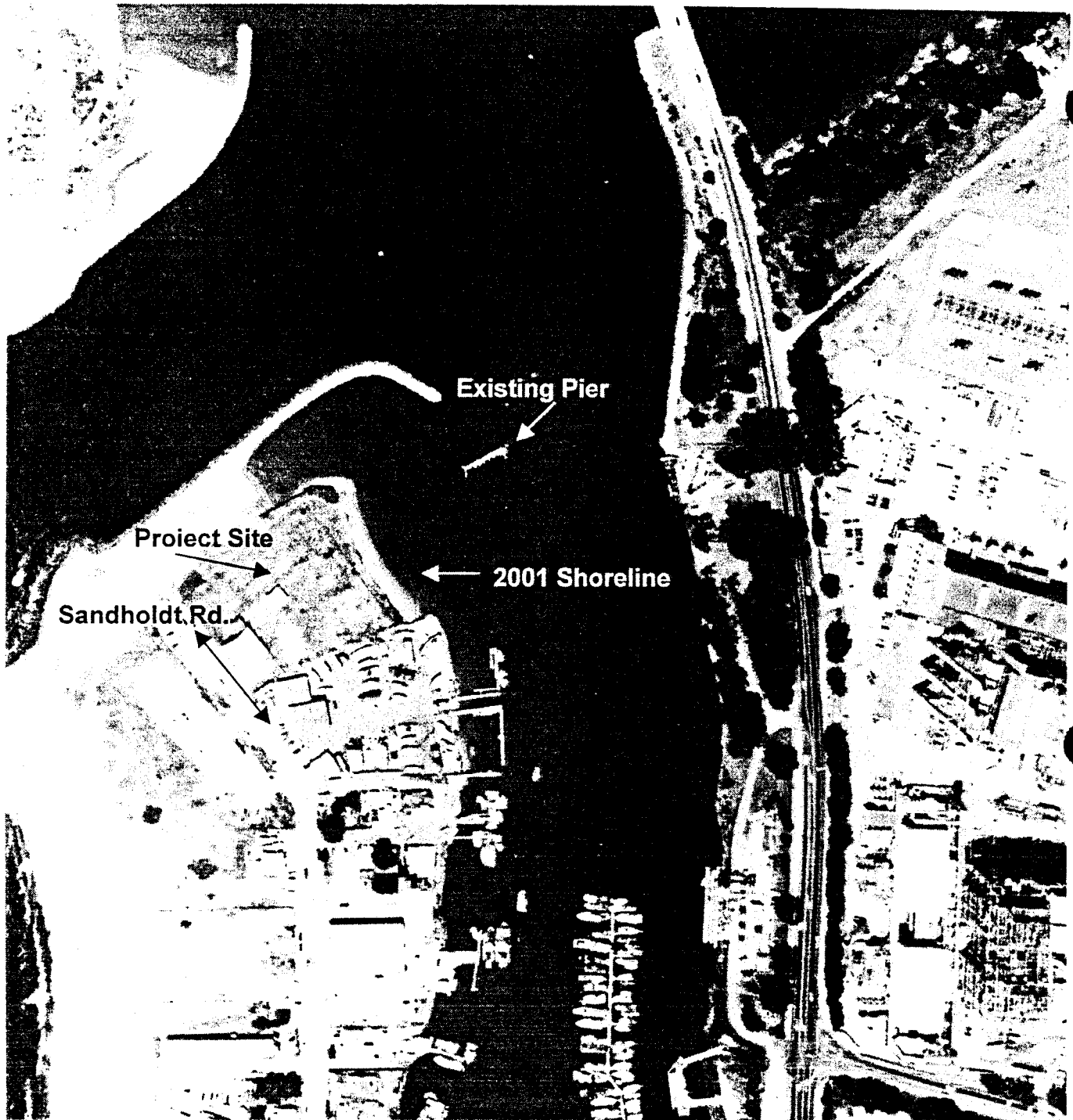
JOB NO. 21247

DWG NAME ARMYCORPS

FILE NO. 21247



3-01-102
Values Pacific/Kett
Exhibit E
Page 1 of 2
1993 Aerial Photo



3-01-102
ValuesPacific/Kett
Exhibit E
Page 2 of 2
2001 Aerial Photo



BOARD OF COMMISSIONERS

Jack Compton
Dennis Germany
Russell Jeffries
Margaret Shurtel, Ph.D.
Thomas Villa

7881 SANDHOLDT ROAD
MOSS LANDING, CA 95039

TELEPHONE - 831.633.5417
FACSIMILE - 831.633.4537

Interim General Manager
Linda G. Hopling, Esq.
Francine
McQuarrie

November 30, 2001

Melanie Mayer Consulting
P.O. Box 570
Moss Landing, CA 95039

Dear Melanie:

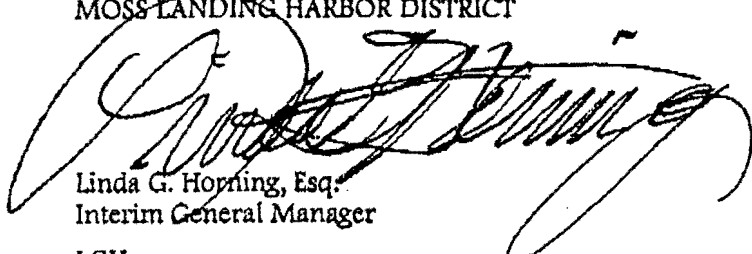
Regarding your October 11, 2001 letter notifying the Moss Landing Harbor District of your client's intention to make repairs to its damaged pier and to place rip rock revetment to protect the shoreline, please be advised that pursuant to section 26.300 of the Moss Landing Harbor Ordinance Code, a Construction Permit will be required.

I also noticed that your previous correspondence is addressed to P.O. Box 10. Please be advised that the Moss Landing Harbor District no longer has a P.O. Box. The Post Office has asked us to notify correspondents of our correct address.

Thank you for contacting the Harbor District regarding this matter and if you have any questions please don't hesitate to call me at 831.633.5417.

Sincerely,

MOSS LANDING HARBOR DISTRICT


Linda G. Hopling, Esq.
Interim General Manager

LGH:sa

C: Board of Harbor Commissioners

Post-It* Fax Note 7671

Date	7-10	# of pages	1
To	Stefhanus Mather	From	Linda G.
Co./Dept.	CCC	Co.	MLHD
Phone #	RE-KETT	Phone #	633.5417
Fax #	427.4877	Fax #	633.4537

NOV 30, 2001 LHR PER YOUR REQUEST

RECEIVED
JUL 10 2002
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

SERVING COMMERCIAL FISHING SINCE 1947

3-01-102

Kett/Values Pacific
Shoreline Protection and Fill

Exhibit F
pg. 1 of 1

*Coastal Permits, Project Management
Environmental Planning*

RECEIVED

FEB 07 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Feb. 5, 2002

Stephanie Mattraw
California Coastal Commission
Central Coast
725 Front St. Suite 300
Santa Cruz, CA 95060

re: Values Pacific, appl. # 3-01-102

Dear Stephanie,

Thank you for discussing this project with me this afternoon. I am writing in response to the CCC letter from Rich Hyman dated November 13, 2001. I will respond to the letter items in the same order.

1. We feel there is adequate evidence that this needs to be processed as an emergency as the property is eroding at an alarming rate and immediate action is needed to stop damage and loss of the property. This particular rate of erosion has only occurred over the timeframe since the jetty repair. Furthermore, the lost shoreline is impacting neighboring properties including exacerbating the dredging demand at Gravelle's Boat yard (please see enclosed letter sent to the Moss Landing Harbor District dated 1/28/02). We believe that the Values Pacific problem needs an immediate emergency response and high priority processing.

However, we realize that this will still require a full permit. and we wish to proceed with this permit immediately as well.

2. As we discussed, we are requesting your assistance to determine the correct fees for the permit application. We will send a check for the correct fees as soon as the amount is set.

3. Please see a copy of the geotechnical report enclosed.

4. There are a number of possible sources of fill sand including from Granite Rock in Aromas and local development project sites. The specific source is not identified at this time. Some of the fill could come from the Gravelle location as it is the same material lost from the property. We understand that any fill will need to be tested and must meet quality standards.

5. The site includes three buildings on site and a seawater well. There is infrastructure such as piping and electrical, sewer service, and there is the remnants of the pier. This site was historically used for oyster aquaculture in

raceways and as a base for oysters to be out-planted in Elkhorn Slough at lease sites and out-planted in Tomales Bay at lease sites. There currently is not aquaculture activity at the site, however aquaculture interests have inquired about leasing the site. The potential aquaculture uses include abalone, salmon, and oyster mariculture. The rebuilt pier will serve aquaculture operations and other site operations for loading and unloading.

6. Do you have the results of the boundary determination by CCC?

7. We have submitted a copy of the project plans and a jurisdiction determination request to Monterey County. The request was dated October 2001 and was addressed to Scott Hennessey.

Sincerely,

Melanie Mayer Gideon
Melanie Mayer Gideon

cc: S. Kett

NEWMAN, MARCUS & CLARENBACH, LLP

EDWARD W. NEWMAN
HOWARD S. MARCUS (1941-1998)
SARA CLARENBACH

ATTORNEYS
331 CAPITOLA AVENUE
SUITE K
CAPITOLA, CA 95010

AREA CODE 831
TELEPHONE 476-1422
TELEFAX 476-1422

RECEIVED

August 9, 2002

AUG 09 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

California Coastal Commission
Attn: Steve Monowitz, Acting Permit Supervisor
Central Coast District Office
725 Front Street, Ste. 200
Santa Cruz, CA 95060

Via Fax to: 427-4877 and U.S. Mail

Re: Application No. 3-01-102
Values Pacific

Dear Mr. Monowitz,

I represent Values Pacific, owner of property referred to as 7401 Sandholdt Road, Moss Landing, CA, and the applicant in connection with the above-referenced Coastal Development Permit Application. We appreciate the opportunity to provide additional information relative to the issues raised in your July 9, 2002 letter to Melanie Mayor-Gideon regarding the subject application.

First, with regard to the coastal dependent use requirement of Public Resources Code Section 30235, I have confirmed with Melanie Mayor-Gideon that the North Monterey County Land Use Plan already restricts the subject property to coastal dependent uses. Since the property is thus limited to coastal dependent uses, it would appear that both the language and the intent of Section 30235 are satisfied. In addition, the existing structure on the Values Pacific property will certainly be lost if the present erosion is allowed to continue unabated. The same holds true ultimately for Sandholdt Road itself. Section 30235 by its terms specifically authorizes shoreline construction to protect existing structures in danger from erosion.

Perhaps most important in connection with the issue of compliance with Section 30235, is to note that the section is intended to apply to construction that "alters natural shoreline processes." The Coastal Commission and staff should be aware that the severe erosion now occurring to the Values Pacific property cannot properly be described as a "natural shoreline process," but instead is the direct result of the reconstruction of the harbor entrance by the Army Core of Engineers several years ago. At that time the Army Core of Engineers "reamored" the channel, causing the erosion activity which has made the permit application necessary. It is also important to point out that the shoreline in question is not ocean front, but is an interior harbor location.

3-01-102
Kett/Values Pacific
Shoreline Protection and Fill

Exhibit H
pg. / of 11

August 9, 2002
California Coastal Commission
Steve Monowitz
Page 2

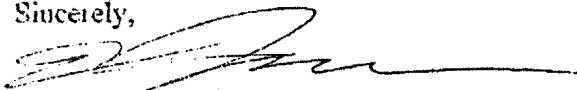
Second, in your reference to Public Resources Code Section 30233, you point out that diking and filling of open coastal waters is permitted to facilitate new or expanded port, energy, and coastal dependant industrial facilities. Assuming the interior harbor area in question meets the definition of "open coastal waters" for purposes of Section 30233 in the first place, it should be noted that that section also permits diking and filling for the purpose of "maintaining existing, or restoring previously dredged, depths and existing navigation channels, turning basins, vessel berthing and mooring areas, and boat launching ramps." In fact that is exactly the situation here in that the erosion of the Values Pacific property is filling the boat berthing and mooring areas in the harbor, including in particular adjacent property owned and operated by Ronald Gravelle, d.b.a Gravelle's Boat Yard. A copy of my January 28, 2002 letter regarding that situation is attached.

Third, you reference the Public Resources Code sections related to various geotechnical issues pertaining to the proposed project. Values Pacific is prepared to obtain the necessary geotechnical reports, and address the issues you raised, as a condition of the Coastal Development Permit.

Fourth, we would like to clarify that the proposed project is entirely on property owned by Values Pacific and not on any public trust lands managed by either the Moss Landing Harbor district or the California State Lands Commission. Attached in this regard is a copy of the Judgement After Trial by Court filed on October 23, 1991 in Monterey County Superior Court Case No. 80050 entitled *Moss Landing Investment, A California Limited Partnership vs. Moss Landing Harbor District State of California, and State Lands Commission*. Moss Landing Investment was Values Pacific's predecessor with regard to the subject property. The lawsuit in question addressed the waterward boundary of the subject property, and the judgment confirmed the position of Moss Landing Investment that its property extended beyond the existing pier. The judgment provides in essence that Moss Landing Investment is the owner of free title to the land on which the current project will take place, free and clear of any claims of Moss Landing Harbor District, the State of California, or the State Lands Commission.

I hope the foregoing information is helpful to you for purposes of reconsidering the staff's recommendation with respect to the above-referenced project. Please let me know if you need any clarification, or if I can provide any additional information.

Sincerely,



EDWARD W. NEWMAN

Attorney at Law

EWN/zz

cc: Clients

Melanie Mayor-Gideon

H:\newvalues\incl\tr\coastal comm

NEWMAN, MARCUS & CLARENBACH, LLP

EDWARD W. NEWMAN
HOWARD S. MARCUS (1941-1998)
SARA CLARENBACH

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331 CAPITOLA AVENUE
SUITE K
CAPITOLA, CA 95010

AREA CODE 831
TELEPHONE 476-6322
TELEFAX 476-1422
E-MAIL nmcl@att.net

January 28, 2002

Paul D. Gullion, Esq.
512 Pajaro Street, Ste. 12
Sanas, CA 93901

Re: Moss Landing Harbor District/Gravelle

Dear Mr. Gullion,

I am writing on behalf of Ronald Gravelle d.b.a. Gravelles' Boat Yard, regarding his agreement with the Moss Landing Harbor District and the State of California. If you are no longer representing the Moss Landing Harbor District, please let me know so that I may contact the District directly.

On January 23, 1991, the District entered into a Guaranteed Rights Agreement with my client concerning his property at 7501 Sandholdt Road in Moss Landing. In conjunction with the Guaranteed Rights Agreement, the parties also executed a Compromise Settlement and Boundary Agreement, recorded on January 24, 1992 in Reel 2747, Page 128, Monterey County Records. The Compromise Settlement and Boundary Agreement was incorporated in a Judgment and Decree Quieting Title in Monterey County Superior Court Case No. 79913, filed on November 6, 1991.

Paragraph 6 of the Compromise Settlement and Boundary Agreement requires the District to dredge the area shown on Exhibit E to the Agreement. That is an area used in connection with the operation of Gravelles' Boat Yard, and the dredging requirement presumably was intended to allow Gravelles' Boat Yard to continue to operate efficiently. The District has not been in compliance with such requirement for some time, causing substantial damage to my clients' business.

The problem as I understand it is being made considerably worse by accelerated erosion of the property owned by Values Pacific at 7401 Sandholdt Road, a situation which the owners of that property are attempting to address by means of an application to the California Coastal Commission for approval of an emergency shoreline protection project.

H:\newn\gravelle\tr\gull.wpd

Paul D. Gullion
January 28, 2002
Page 2

This letter is intended as written notice to the District of its breach of the Compromise Settlement and Boundary Agreement and a demand that it fulfill its dredging obligation under that Agreement. At this point, the extent to which District's breach excuses performance under the Compromise Settlement and Boundary Agreement and the Guaranteed Rights Agreement by my client needs to be considered. In addition, should the District's breach continue, my client will need to be compensated for the loss of business and other damage suffered.

Please contact us as soon as possible as to the District's intentions with regard to its dredging obligation.

Sincerely,

EDWARD W. NEWMAN
Attorney at Law

EWN/cz

cc: Clients
Values Pacific

H:\ewng\traveller\trigull.wpd

FILED

OCT 23 1991

ERNEST A. MAGGINI
MONTEREY COUNTY CLERK
DEPUTY

OCT 23 1991
ERNEST A. MAGGINI
MONTEREY COUNTY CLERK
DEPUTY

Recording requested by and
when recorded return to:

ENTERED

NEWMAN & MARCUS
A Law Corporation
331 Capitola Ave., P.O. Box 625
Capitola, CA 95010
Telephone 408/476-6622

Attorneys for Plaintiff Moss Landing Investment, a California
Limited Partnership

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MONTEREY

MOSS LANDING INVESTMENT, a
California Limited Partnership,

Plaintiff,

vs.

MOSS LANDING HARBOR DISTRICT,
STATE OF CALIFORNIA, STATE LANDS
COMMISSION, and DOES I-X,

Defendants.

CASE NO. 80050

JUDGMENT AFTER TRIAL BY COURT

This cause came on regularly for non-jury trial on April 16,
1991, and May 10, 1991, before Honorable Richard M. Silver. Plain-
tiff was represented by Edward W. Newman of Newman & Marcus, a law
Corporation, defendant Moss Landing Harbor District was represented
by Paul D. Gullion of Abramson, Church & Stave, and defendants State
of California and State Lands Commission were represented by Pacific

3-01-102

Kett/Values Pacific
Shoreline Protection and Fill

Exhibit H
pg. 5 of 11

1 cia S. Peterson, Deputy Attorney General. The court having received
2 evidence and argument from all parties, having taken the matter
3 under submission, and issued its intended decision on June 27, 1991,
4 and good cause appearing therefor;

5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiff
6 Moss Landing Investment, a California Limited Partnership, is the
7 owner, free and clear of any claims of defendant Moss Landing Harbor
8 District, the State of California, and the State Lands Commission,
9 of fee title to the real property situated in the County of Monterey,
10 ey, State of California, generally as shown on attached Exhibit "A",
11 and more particularly described as follows:

12 PARCEL 1:

13 BEGINNING at a 1-1/2" diameter iron pipe standing in the
14 third course of the Meander of said Monterey City Lands Tract
15 No. 3 as patented, from which the angle point formed by
16 Meander courses numbered "3" and "4" in said Patent bears
17 along said course No. 3, S. 20 degrees E., 477.93 feet distant
18 and from which 1-1/2" diameter iron pipe the northeast
19 corner of that certain 1.157 acre tract of land designated as
"Parcel Six", in that certain deed from William Sandholdt to
Minnie Sandholdt, dated December 23, 1926, and recorded in
Volume 96 of Official Records at page 447, Monterey County
Records, Bears S. 6 degrees 15-1/2' W., 110.47 feet distant
and running thence from said place of beginning along said
third Meander course

20 (1) N. 20 degrees W., 298.22 feet to a point in the south-
21 easterly boundary of the entrance channel to Moss Landing
22 Harbor as said channel is described in "Grant of Easements
23 and Franchise" between Moss Landing Harbor District and
24 Wilbur C. Sandholdt, et al., dated October 23, 1945, and
25 recorded in Volume 974 of Official Records, at page 46,
26 Monterey County Records; thence leave said Meander course and
27 running along said southeasterly boundary

28 (2) S. 51 degrees 54' W., 356.49 feet, at 53.91 feet a brass
capped monument marked "M.L.7", 356.49 feet to a 1-1/2"
diameter iron pipe; thence leave said southeasterly boundary
and running

(3) S. 38 degrees 06' E., 212.0 feet to a 1-1/2" diameter
iron pipe; thence

(4) N. 67 degrees 04' E., 273.26 feet to the place of beginning.

Courses all true.

PARCEL 2:

BEGINNING at a 1-1/2" diameter iron pipe standing in the third course of the Meander of said Monterey City Lands Tract No. 3, as patented, from which the angle point formed by Meander courses numbered "3" and "4" in said Patent bears along said course No. 3, South 20 degrees East, 477.68 feet distant, and from which 1-1/2" diameter iron pipe the northeast corner of that certain 1.157 acre tract of land designated as "Parcel Six" in that certain deed from William Sandholdt to Minnie Sandholdt, dated December 23, 1938, recorded in Book 96 of Official Records, at page 447, Monterey County Records, Bears South 6 degrees 15-1/2 minutes West, 110.47 feet distant; and running thence from said place of beginning along said third Meander course

(1) North 20 degrees West, 298.22 feet to a point in the southeasterly boundary of the entrance channel to Moss Landing Harbor, as said channel is described in "Grant of Easements and Franchise" between Moss Landing Harbor District and Wilbur C. Sandholdt, et al., dated October 23, 1945, recorded in Volume 974 of Official Records at page 46, Monterey County Records; thence leave said Meander course and running along said southeasterly boundary

(2) North 51 degrees 54 minutes East, 342.25 feet to a brass capped monument marked "M.L.6"; thence leave said southeasterly boundary and running

(3) North 75 degrees 24 minutes East, 54.56 feet to a point located South 75 degrees 24 minutes West, 83.76 feet from a point in the westerly channel line of Moss Landing Harbor, as said channel line is established by the Army Corps of Engineers; thence

(4) South 7 degrees 55 minutes 22 seconds East, 93.70 feet; thence

(5) South 9 degrees 36 minutes 37 seconds East, 111.00 feet; thence

(6) South 2 degrees 30 minutes 22 seconds East, 87.00 feet; thence

(7) South 13 degrees 30 minutes 22 seconds East, 64.35 feet; thence

(8) South 1 degree 50 minutes 52 seconds East, 38.32 feet to a point which bears North 67 degrees 04 minutes East 294.97 feet from the Point of Beginning; thence

1 (9) South 67 degrees 04 minutes West, 294.974 feet; at 13.21
2 feet a 2x3 redwood post, at 142.77 feet a 1-1/2" diameter
iron pipe; 294.97 feet to the PLACE OF BEGINNING.

3 Containing 2.68 acres more or less.

4 Basis of Bearing for the description of Parcel 2 are based
5 upon Reel 1366 of Official Records, page 861 as recorded in
the Office of the Monterey County Recorder, and notes
6 "COURSES ALL TRUE."

7 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, notwith-
8 standing the foregoing, Moss Landing Investment's ownership of the
9 lands described above that are below the current mean high water
10 line and navigable are subject to an easement as provided by law in
11 favor of the public for commerce, navigation, and fishing.

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Moss
13 Landing Harbor District is the owner in fee, subject to the public
14 trust for commerce, navigation, and fisheries, and pursuant to the
15 terms, conditions and reservations of 1947 Stats., Ch. 1990, as
16 amended, of the property described in Exhibit "B"; and that the
17 State of California, acting by and through the State Lands Commis-
18 sion, owns the residual rights described in 1947 Stats., Ch. 1990,
19 as amended, to the property described in Exhibit "B".

20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff
21 Moss Landing Investment shall recover costs of suit herein, to be
22 divided equally between defendant Moss Landing Harbor District and
23 defendants State of California and State Lands Commission.

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this judg-
25 ment shall be binding and conclusive on defendants Moss Landing
26 Harbor District, State of California, and State Lands Commission,
27 and, pursuant to California Code of Civil Procedure Section 764.030,
28 all persons who were not parties to the action who have any claim

3-01-102

Kett/Values Pacific
Shoreline Protection and Fill

Exhibit H
pg. 8 of 11

1 the property which was not of record at the time this judgment is
2 recorded.

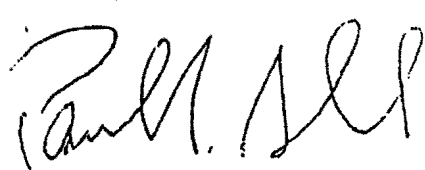
3 DATED: OCT 23 1991

RICHARD M. SILVER

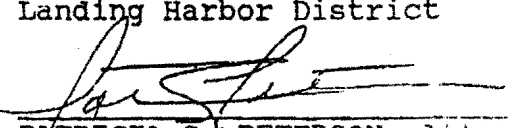
JUDGE OF THE SUPERIOR COURT

5
6
7 Approved as to form.

8 DATED: Oct 10, 1991


PAUL D. GULLION, Attorney for Moss
Landing Harbor District

9
10
11 DATED: Oct. 15, 1991


PATRICIA S. PETERSON, Attorney for
State of California and State Lands
Commission

12
13
14
15
16
17
18
19
20 PLDG, MOSS-LND.JUD; 10/4/91

N. 75° 24' E.
54.56'



ORIGINAL
LIMITS OF
PARCEL 2

PARCEL 2
2.68 Acres

S. 7° 55' 22" E
93.70'

S. 9° 36' 37" E
111.00'

S. 2° 30' 22" E
87.00'

S. 13° 30' 22" E
64.35'

S. 1° 50' 52" E
38.52'

S. 67° 04' W.
294.57'

N. 20° W. 298.22'

P.O.B.

PARCEL 1

MOSS LANDING INVESTMENTS

1945 - 4.0 LINE
9/91 1"=100'

EXHIBIT B

Parcel of Sovereign Land within the bed of the Old Salinas River,
at Moss Landing, Monterey County, State of California, described as follows:

COMMENCING at a 1-1/2 inch diameter iron pipe standing in the third course of the Meander of Monterey City Lands Tract 3 as patented, and from which the angle point formed by Meander course numbered "3" and "4" in said patent bears along said Course No. 3, South 20 degrees East, 477.63 feet distant, and from which 1-1/2" diameter iron pipe the northeast corner of that certain 1.157 acre tract of land designated as "Parcel Six" in that certain deed from William Sandholdt to Minnie Sandholdt, dated December 23, 1926, recorded in Book 96 of Official Records, at page 447, Monterey County Records, bears South 6 degrees 15-1/2 minutes West, 110.47 feet distant; thence along said meander course North 20 degrees West, 298.22 feet to a point in the southeasterly boundary of the entrance channel to Moss Landing Harbor, as said channel is described in "Grant of Easements and Franchise" between Moss Landing Harbor District and Wilbur C. Sandholdt, et al., dated October 23, 1945, recorded in Volume 974 of Official Records at page 46 Monterey County Records; thence leave said Meander course and along said southeasterly boundary, North 51 degrees 54 minutes East, 342.25 feet to a brass capped monument marked "M.L.6"; thence leave said southeasterly boundary, North 75 degrees 24 minutes East, 54.56 feet to a point located South 75 degrees 24 minutes West 83.76 feet from a point in the westerly channel line of Moss Landing Harbor, as said channel line is established by the Army Corps of Engineers; the TRUE POINT OF BEGINNING; thence

1. South 7 degrees 55 minutes 22 seconds East, 93.70 feet; thence
2. South 9 degrees 36 minutes 37 seconds East, 111.00 feet; thence
3. South 2 degrees 30 minutes 22 seconds East, 87.00 feet; thence
4. South 13 degrees 30 minutes 22 seconds East, 64.35 feet; thence
5. South 1 degree 50 minutes 52 seconds East, 38.52 feet to a point which bears North 67 degrees 04 minutes East from the aforementioned 1-1/2 inch diameter iron pipe standing in the third course of the Meander of Monterey City Lands Tract 3 as patented; thence
6. North 67 degrees 04 minutes East to the intersection with the boundary line described in the boundary line agreement between the State of California, the Moss Landing Harbor District and Pacific Gas and Electric Company, a California Corporation, dated June 21, 1955, and recorded in Book 1653 Official Records at page 528, of said County; thence
7. Northerly along said agreed boundary line, to the intersection with a line bearing North 75 degrees 24 minutes East from the Point of Beginning; thence
8. South 75 degrees 24 minutes West to the POINT OF BEGINNING.

END OF DESCRIPTION

Revised 9-10-91, by State Lands Commission
Boundary Investigation Unit 4, supervised by R.D. La Force

EXHIBIT B, PAGE 1 OF 1

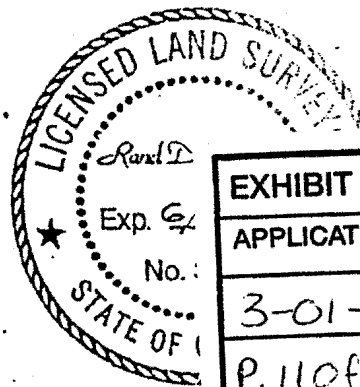


EXHIBIT NO. <u>H</u>
APPLICATION NO.
<u>3-01-102</u>
<u>P. 110 of 11</u>

CALIFORNIA COASTAL COMMISSION

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

RECEIVED

AUG 22 2002

Memorandum

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

August 16, 2002

To: Stephanie Mattraw, CCC-Central Coast

From: Darryl Rance, GIS/Mapping Program *DR*

Cc: Charles Lester, CCC-Central Coast

Subject: Coastal Zone Boundary Determination No. 33-2002, APNs 133-251-011 & 012, Monterey County.

You have requested that we provide you with a coastal zone boundary determination for a revetment and backfill project located at Monterey County APNs 133-251-011 & 012. Enclosed is a copy of a portion of Coastal Zone Boundary Map No. 76 (Moss Landing Quadrangle) with the approximate location of the subject property indicated. See Exhibit 1. Also included is a site plan exhibit that depicts the subject property with the Coastal Commission's permit jurisdiction identified. See Exhibit 2.

Based on the information provided and available in our office, Monterey County APNs 133-251-011 & 012 are located entirely within the Coastal Zone and appear to be bisected by the Coastal Commission permit jurisdiction boundary in the manner indicated on Exhibit No. 2. However, the entire revetment and backfill project that is proposed on Monterey County APNs 133-251-011 & 012 appears to be located within the Coastal Commission's permit jurisdiction and would require coastal development permit authorization from the Commission. The Coastal Commission's permit jurisdiction is based on the existence of tidelands, submerged lands and public trust lands. The information available indicates that the revetment and backfill project appears to be located, in part, on tidelands, submerged lands and land that may be subject to the public trust. Based on this information the Coastal Commission is asserting jurisdiction over the entire revetment and backfill project proposed on Monterey County APNs 133-251-011 & 012 as shown on Exhibit 2.

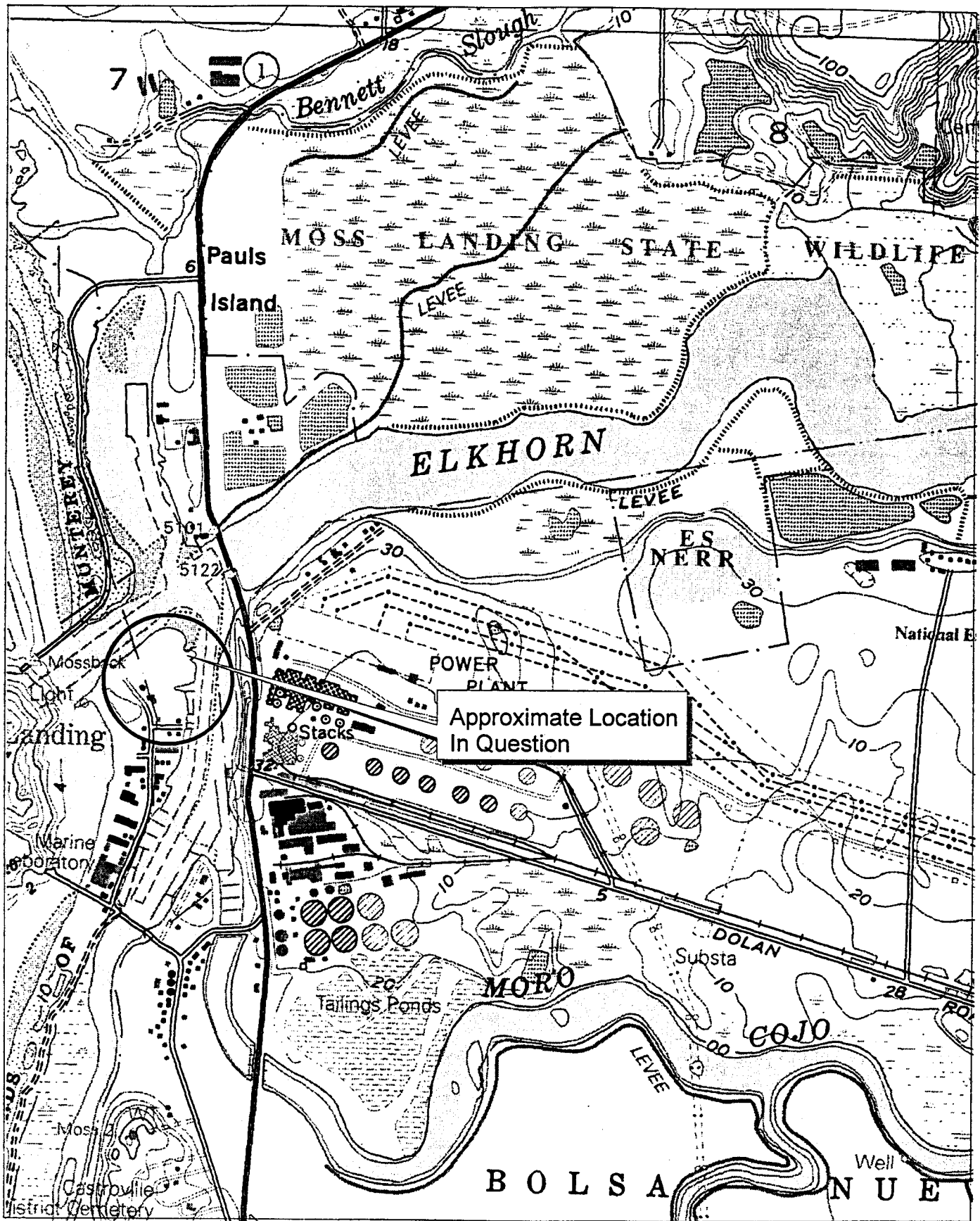
Development activities that are located upland from the revetment and backfill project would require coastal development permit authorization from the County. Any decision by the County to approve a coastal development permit on the subject property could be appealed to the Coastal Commission.

Please contact me at (415) 904-5335 if you have any questions regarding this determination.

Enclosures

3-01-102
Kett/Values Pacific
Shoreline Protection and Fill

Exhibit *I*
pg. 1 of *3*



BD No. 33-2002
 APN 133-251-011 & 012
 Monterey County

Portion of Coastal Zone
 Boundary Map No. 76
 (Moss Landing Quadrangle)

3-01-102

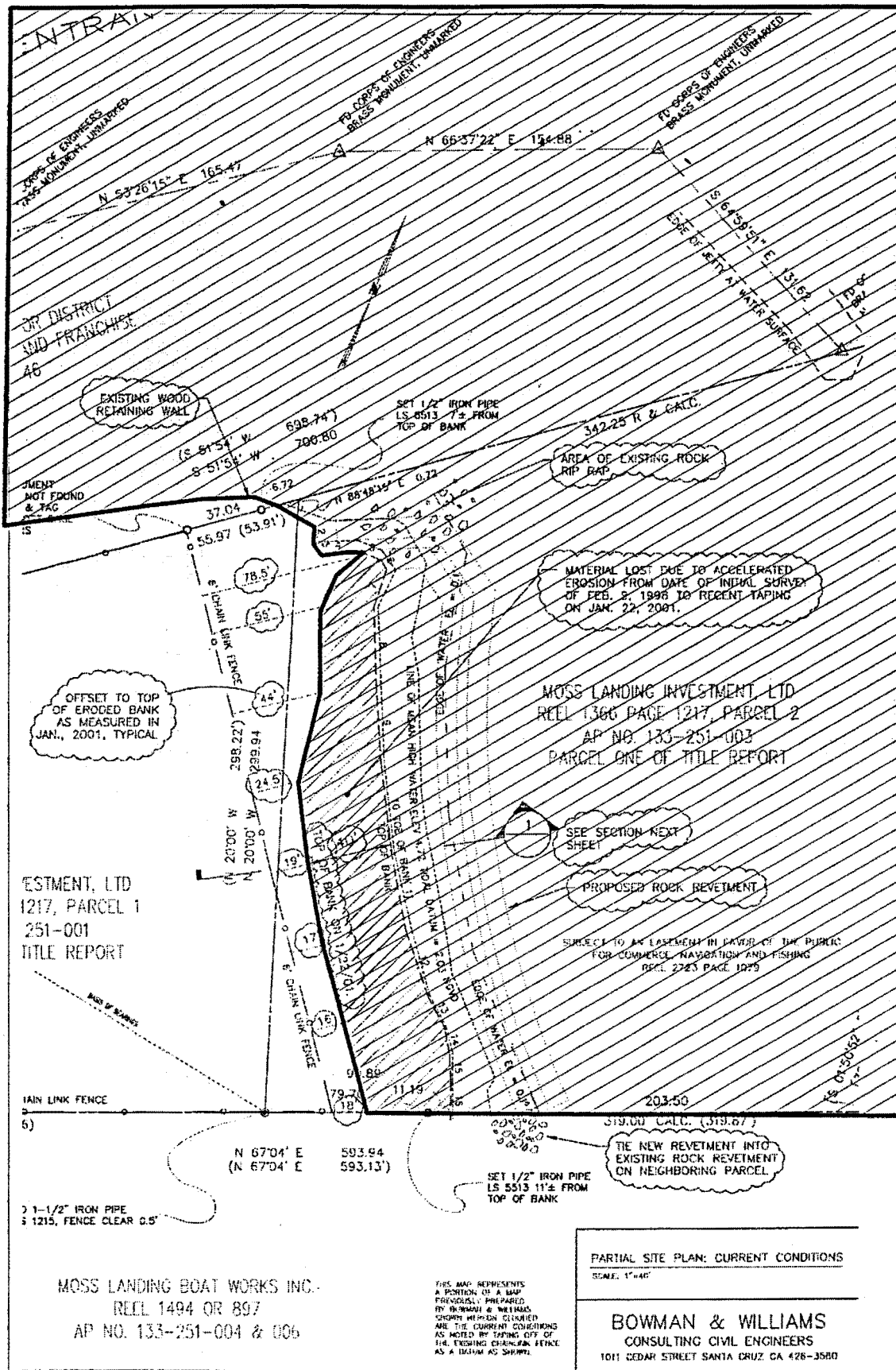
Kett/Values Pacific
 Shoreline Protection and Fill



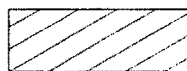
Exhibit I

Exhibit 1 of 3

DAR, 08/2002



BD No. 33-2002
APN 133-251-011 & 012
Monterey County



Coastal Commission Permit Jurisdiction
3-01-102
Kett/Values Pacific
Shoreline Protection and Fill

Exhibit I
pg. 3 of 3
Exhibit 2
DAR, 06/2002



