CALIFORNIA COASTAL COMMISSION
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W13h

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COASTAL DEVELOPMENT PERMIT APPLICATION

Application number.....**3-02-047 Monterey Harbor Five-year Operations & Maintenance**

Applicant.....City of Monterey, represented by Steve Scheiblauer, City Harbormaster

Project location.....Municipal Wharf I & II, Monterey Harbor

Project description.....Monterey Harbor five-year operations and maintenance program, including: improvements to Coast Guard pier launch ramp area; dredging of up to 10,000 cubic yards over the five year period; repairs to Wharfs 1 and 2 including piling replacement; and installation of equipment that provides wheelchair access to boats.

Local approval.....Resolution No. 02-150 authorizes the five-year operations and maintenance project.

File documents.....Application No. 3-02-047; Coastal Development Permits No. 3-96-089, 3-96-089A, 3-96-089-A1, 3-96-089-A2, Monterey Harbor Land Use Plan.

Staff recommendation ...**Approval with Conditions**

Summary: The Applicant proposes to undertake development activities associated with routine harbor maintenance during the five-year operations and maintenance program for the 2002 - 2007 time period. These activities include: reconfiguring the Coast Guard Area Launch Ramp to allow a device which will allow for accessibility by the handicapped, including wheelchair access to vessels; conducting harbor dredging to maintain adequate access depths within the harbor area; conducting necessary repairs and/or replacements of pilings on Wharf 1 and add wake-baffling structures; repairing or replacing failing fender and bearing piles and resurface up to 75 concrete piles on Wharf 2; and, conducting routine maintenance activities of wharf decking and support beams for Wharf 2 during the five-year time period. The applicant proposes to use only pre-stressed concrete pilings.

Potential impacts of the proposed development include the discharge of harmful materials to the marine environment, thereby reducing water quality and harming marine life. For example, disposal of dredge spoils has the potential to make contaminants (i.e., lead) contained in harbor sediments bioavailable, resulting in adverse impacts to the biological productivity of the marine environment. Similarly, installation of piles has the potential to stir up sediments on the ocean floor. This increase in turbidity adversely affects marine resources by reducing the amount of light penetration, diminishing water

quality, and burying living organisms. In addition, the presence of lead and other contaminants in harbor sediments become more bioavailable when suspended in the water column. The pH of marine water becomes elevated if it comes in contact with uncured concrete. Elevated pH levels can be toxic to marine life.

The proposed development activities are located entirely within the Coastal Commission's permit jurisdiction. Thus, the standard of review is the Chapter 3 policies of the California Coastal Act. With respect to Coastal Act requirements that projects involving the dredging or filling of coastal waters provide measures to minimize adverse environmental effects (Coastal Act Section 30233), and that marine resources and the biological productivity of coastal waters be maintained (Coastal Act Sections 30230 and 30231), the project has been designed in a manner which strives to avoid or reduce adverse impacts on such resources. Measures that have been incorporated into the project design in order to reduce impacts to marine resources include sea otter monitoring, replacement of creosote coated pilings with non-toxic piles, containment of concrete through the use of the "tremie" method, and avoidance of jetting during piling installation to minimize turbidity.

Nevertheless, additional measures are needed to minimize project impacts on marine resources and the biological productivity of coastal waters. Staff therefore recommends that the Commission **approve** the proposed development subject to conditions that:

- Require Executive Director review and approval of final project plans for each element of the project. This will ensure that construction activities will be conducted in a manner that minimizes adverse impacts to the marine environment.

- Allow dredge spoils to be deposited above the mean high tide line of Del Monte Beach only if dredged material has been determined to be suitable for such purposes and beach disposal has been approved by other relevant state and federal agencies.

- Require that piling installation be performed in accordance with Department of Fish and Game recommendations, and according to the method that results in the least disturbance of bottom sediments. Where feasible, disturbed sediments must be contained with a flexible skirt surrounding the driven pile.

- Specify procedures for concrete work designed to eliminate the possibility of marine water coming into contact with uncured concrete.

As conditioned by this permit, the project will be consistent with Coastal Act policies regarding Marine Resources and Public Access and will adequately mitigate potential adverse environmental impacts.

Staff Report Contents

I. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number 3-02-047 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the

following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the amended development on the environment.

II. Conditions of Approval

A.Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Final Project Plans.** PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OF EACH RESPECTIVE ELEMENT OF THE OPERATIONS AND MAINTENANCE PROGRAM, as identified in the list set forth in Section III A (3), on pages 8 and 9, the permittee shall submit, for

Executive Director review and approval, final project plans for that component of the plan. Final plans shall identify the exact design and location of the development, materials to be used, and the disposal area for removed or demolished materials. Final plans for each component of the operations and maintenance program shall also be accompanied by a construction phasing plan, for Executive Director review and approval, which consists of a written description and supporting graphics outlining phasing and construction sequence; seasonal considerations; and location of equipment staging areas, employee restrooms, employee parking, temporary security fencing, concrete washdown facility, and any similar elements which would affect ocean water quality or public access to the shoreline. To the maximum extent feasible, construction phasing shall maintain opportunities for public parking and for shoreline access during construction.

Minor repair and maintenance activities included within the operations and maintenance plan (e.g., the replacement of a single piling), however, do not require the submission of a final plan; in these cases, the permittee shall notify the Executive Director of the repair and maintenance activity proposed to be undertaken PRIOR TO THE COMMENCEMENT OF CONSTRUCTION for a determination if the submission of any additional information may be needed.

2. **Dredging Requirements.** This permit includes approval of a five-year program of harbor maintenance dredging and sediment disposal, through September 11, 2007. Suitable dredge material (at least 80% sand and meeting EPA standards for ocean disposal) shall be deposited above the mean high tide line of Del Monte Beach for beach nourishment purposes. Dredge spoils not suitable for beach disposal shall be disposed of at an upland location approved by the Executive Director (if within the coastal zone).

PRIOR TO THE COMMENCEMENT OF EACH DREDGING EPISODE, the permittee shall submit for Executive Director review and approval, a detailed dredging plan, including maps which identify the specific areas of dredging (including the toe and top of side slopes, project depth, overdredge depth, and the quantity of material to be dredged), and any sediment testing reports. Dredging plans shall be accompanied by written evidence that the necessary approvals by the following agencies have been secured for the proposed dredging operation (including spoils disposal) or that no such approvals are required: U.S. Army Corps of Engineers, Monterey Bay National Marine Sanctuary, Central Coast Regional Water Quality Control Board, Department of Fish and Game, and Monterey County Health Department.

3. **Containment Requirements.** Particular care shall be exercised to prevent foreign materials (e.g., construction scraps, wood preservatives, other chemicals, etc.) from entering state waters. Where additional wood preservatives must be applied to cut wood surfaces, the materials, wherever feasible, shall be treated at an onshore location to preclude the possibility of spills into state waters. A floating containment boom shall be placed around all active portions of a construction site where wood scraps or other floatable debris could enter the water. Also, for any work on or beneath fixed wharf decks, heavy-duty mesh containment netting shall be maintained

below all work areas where construction discards or other material could fall into the water. The floating boom and net shall be cleared daily or as often as necessary to prevent accumulation of debris. Contractors shall insure that work crews are carefully briefed on the importance of observing the appropriate precautions and reporting any accidental spills. Construction contracts shall contain appropriate penalty provisions, sufficient to offset the cost of retrieving or clean up of foreign materials not properly contained.

4. **Piling Installation Requirements.** Piling installation shall be performed in accordance with Department of Fish and Game recommendations (Exhibit C, attached). Generally, the new pilings shall be installed according to the method that results in the least disturbance of bottom sediments. Where feasible, disturbed sediments shall be contained with a flexible skirt surrounding the driven pile. The installation contract and/or specifications shall incorporate the applicable portions of the containment requirements of Special Condition 3 above.

5. **Procedures for Concrete Work.** If pile installation, or any other portion of the operations and maintenance program, requires the pouring of concrete in, adjacent to, or over the water, the following methods shall be employed to prevent uncured concrete from entering the waters of the Bay:

   a. Complete dewatering of the pour site, within a cassion or other barrier; the site to remain dewatered until the concrete is sufficiently cured to prevent any significant increase in the pH of adjacent waters; or,

   b. the tremie method, which involves placement of the form in water, inserting a plastic pipe down to the bottom of the form, and pumping concrete into the form so that the water is displaced towards the top of the form. If this method is selected, the displaced waters shall be pumped off and collected in a holding tank. The collected waters shall then be tested for pH, in accordance with the following California Department of Fish and Game recommendations. If the pH is greater than 8.5, the water will be neutralized with sulfuric acid until the pH is between 8.5 and 6.5. This pH-balanced water can then be returned to the sea. However, any solids that settle out during the pH balancing process shall not be discharged to the marine environment; or,

   c. an alternative method, subject to review and approval by the Executive Director (in consultation with the California Department of Fish and Game) PRIOR TO THE COMMENCEMENT OF WORK.

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

6. **Water Quality Review.** Permittee shall be responsible for obtaining any necessary approvals from the Regional Water Quality Control Board, including any Section 401 water quality certification or waiver, which may be required. PRIOR TO THE COMMENCEMENT OF PILE INSTALLATION, DREDGING, OR IN-WATER CONSTRUCTION, permittee shall provide written evidence that the Regional Water Quality Control Board (RWQCB) has reviewed and approved the proposed work, or that no such approvals are needed.

7. **Other Agency Approvals**. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OF A SPECIFIC ELEMENT OF THE OPERATIONS AND MAINTENANCE PROGRAM, the permittee shall submit, for Executive Director review and approval, documentation from the U.S. Department of the Army, Corps of Engineers, that the project has been reviewed for conformance with Federal agency requirements, including U.S. Coast Guard requirements, and, if applicable Monterey Bay National Marine Sanctuary regulations; and, that the project is permitted or that no Corps, Coast Guard, or Sanctuary permits are necessary.

8. **Additional Harbor Improvements**. Additional development activities beyond those specified in this approval shall be submitted for a determination of the appropriate coastal development permit requirements (i.e., a separate Coastal Development permit, amendment to this permit, or waiver).

III. Recommended Findings and Declarations

The Commission finds and declares as follows:

A.Project Description and Background

1. Background and Purpose

From the earliest days of California recorded history, Monterey Harbor has been a pivotal port of call and a welcome refuge for mariners. In its current configuration, major components include the Coast Guard Breakwater, tourist-oriented Fisherman's Wharf (Wharf No. 1), commercial fishing-oriented Wharf No. 2, launch ramps, and mooring and berthing facilities, including existing space for approximately 450 vessels within the Monterey Marina (see Exhibit E for locations).

Due to the age of harbor facilities, and the corrosive nature of the marine environment, harbor facilities are in need of constant repair and maintenance. In addition, high levels of public and commercial use of harbor facilities demand that the design of these facilities be well thought out, and where possible, improved, in order to accommodate the numbers of recreational boaters, commercial fisherman, and tourists that utilize harbor facilities. Coastal Act Sections 30234 calls for the protection of such facilities, as well as upgrading such facilities where feasible.

As a result, the City of Monterey has prepared an operations and maintenance program which comprises

the repair, maintenance, and improvement projects that are proposed to be undertaken over the next five years. The packaging of all of these development activities into one permit application has been encouraged by the Commission staff, and well received by the City, as a means of efficiently processing the routine development activities associated with the operation of a major port facility. Special conditions have been attached to this permit to ensure that these activities will not have an adverse impact on coastal resources from both an individual and cumulative standpoint, consistent with the Chapter 3 policies of the California Coastal Act of 1976.

2. Project Location

The site of the proposed development is Wharf 1, Wharf 2, and areas within and adjacent to Monterey Harbor in the City of Monterey. Please see Exhibit E.

3. Project Description

1. **Coast Guard Pier Launch Ramp Upgrade:** Install an additional 24' x 65' staging float to accommodate a wheelchair loading device that will enable persons to board a vessel while in the confines of a wheelchair and maximize public use of the City boat launch ramp near the U.S. Coast Guard Station (Exhibit B). This float will be secured with two new pilings (previously installed as authorized by De Minimus Waiver No. 3-96-103-DM), and a separate access ramp to this staging float will be provided from the southern side of the adjacent rest rooms. Coast Guard Pier improvements also include extension of the fuel pier. This element of the operations and maintenance program is anticipated to be completed during the five-year permit period, and requires approval by the U.S. Army Corps of Engineers.

2. **Harbor Dredging**: Conduct necessary harbor dredging for maintaining adequate access depths within the harbor area, not to exceed 10,000 cubic yards during the five-year permit period. Dredged materials are to be properly discharged onto the neighboring beach, above the mean high tide line, or if unsuitable for beach disposal, to another designated and approved upland site. Dredge spoils will be decanted in a temporary sediment settling basin, constructed with "K-rails" (highway barriers) and lined with filter fabric, located on the parking lot adjacent to the public restrooms on the east side of Wharf No. 2 (Exhibit F). After the dredge spoils have been sufficiently dried, they will be trucked to the Marina Regional Landfill.

3. **Wharf No. 1 Piling Replacement**: Approximately 20 pilings within the City owned section of Wharf No. 1 (Fisherman's Wharf) will be replaced with AZCA treated, concrete, plastic coated, or steel pilings. Concrete footings for these piles will be installed using the tremie method. Additional cap and stringer work on topside may also be required. Piling replacement operations are scheduled to be undertaken throughout the five-year timeframe of this permit.

4. **Wharf No. 1 Wake-Baffling**: 300 square feet (maximum) of vertical wood stringers or similar like wood structures will be installed along Wharf No. 1, immediately opposite to the harbor entrance (Exhibit I). The purpose of these stringers is to prevent heavy surge and boat wake problems, which adversely affect passenger-loading operations in this area. Installation of the wake-baffling will take place during the five-year time period.

5. **Wharf No. 2 Fender, Bearing, & Concrete Pile Maintenance**: Repair and replace failing fender and bearing piles around Wharf No. 2. Piles currently used as a fender line, will be replaced with concrete pilings; bearing piles shall also consist of wood or concrete. The exact number of piles to be replaced will be determined by a engineering survey to be conducted this year. Up to 75 of the concrete piles used to support Wharf No. 2 will be repaired by resurfacing spauled sections.

6. **Wharf No. 2 Fender-Line Maintenance**: Repair and maintenance of stringers and cap rails, which serve as structural components of the fender piles of Wharf No. 2.

7. **Wharf No. 2 Routine Maintenance**: Over the five-year period of the operations and maintenance program, up to 5,000 square feet of Wharf No. 2 decking will be subject to routine repairs.

In order to minimize the impact that the above development activities will have on marine resources, the applicant has proposed the following:

- **Sea Otter Monitoring**. All job site employees, City staff, and inspectors will monitor for the presence of sea otters. If detected within 100 feet of a work site, work will cease and Dr. Tom Williams, veterinarian for the Monterey Bay Aquarium will be contacted to manage the situation.
- **Water Quality Protection**. In order to avoid and/or reduce the turbidity caused by the installation of pilings, the tremie method, involving the use of forms to funnel the concrete to the base of the pilings, will be used. The use of high-pressure water jets to move silt/sand during piling installation will be avoided wherever possible. All pilings to be installed will be creosote free; existing creosote coated pilings to be removed will be properly disposed of at a suitable landfill.

B. Issue Analysis

1. Marine Resources

Several Coastal Act sections protecting marine resources apply to the subject project. In particular:

Section 30230 ***Marine resources; maintenance*** *– 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 ***Biological Productivity; water quality*** *– 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.*

Section 30232 ***Oil and hazardous substance spills*** *– Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

Section 30233 ***Diking, filling or dredging; continued movement of sediment and nutrients*** *–*

(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.

(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.

(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.

Development in Open Coastal Waters

Components of the operations and maintenance program involve both dredging and filling (through the installation of pilings and mooring blocks) in open coastal waters. Section 30233(a)(4) of the Coastal Act allows such activities for new or expanded boating facilities "where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects."

Available alternatives include the no project alternative, or a revised operation and maintenance program involving the reduction or relocation of the proposed development activities. The no project alternative is not considered feasible because it will not maintain facilities used by recreational boaters and commercial fishermen, as required by Coastal Act Section 30234. Similarly, a reduced or relocated project would not adequately maintain existing boating facilities, or enhance their usability by the public and commercial fishing industry, and would therefore conflict with the objectives contained in Coastal Act Section 30234. As discussed below, mitigation measures to avoid and reduce adverse impacts on coastal resources are both proposed as a component of the project, and required as conditions of project approval. Therefore, the proposed project, as conditioned by this permit, is considered the least environmentally damaging feasible alternative available.

Protection of Marine Resources

With respect to Coastal Act requirements that mitigation measures be provided to minimize adverse environmental effects (Coastal Act Section 30233), and that marine resources and the biological productivity of coastal waters be maintained (Coastal Act Sections 30230 and 30231), the project has been designed in a manner which strives to avoid or reduce adverse impacts on such resources. Measures that have been incorporated into the project design in order to reduce impacts to marine resources include sea otter monitoring, replacement of creosote coated pilings with non-toxic piles, containment of concrete through the use of the "tremie" method, and avoidance of jetting during piling installation to minimize turbidity (see page 7 of this staff report for a more detailed description of these measures).

Nevertheless, additional measures that will minimize project impacts on marine resource and the biological productivity of coastal waters are available, and are required to be implemented by the conditions of project approval. The potential impacts, and the measures required by the conditions of this permit to avoid such impacts, are summarized in the following table:

Potential Impacts	Required Mitigation Measures
Construction activities, equipment, and staging and wash down areas have the potential to result in the discharge of harmful materials to the marine environment, thereby reducing water quality, and harming marine life.	Special Condition 1 requires Executive Director review and approval of construction phasing plans for each element of the project. This will ensure that construction activities will be conducted in a manner, which minimizes adverse impacts to the marine environment.
The disposal of dredge spoils has the potential to make contaminants (i.e., lead) contained in harbor sediments bioavailable, resulting in adverse impacts to the biological productivity of the marine environment.	Special Condition 2 allows dredge spoils to be deposited above the mean high tide line of Del Monte Beach only if dredged material has been determined to be suitable for such purposes and beach disposal has been approved by other relevant state and federal agencies.
The installation of piles has the potential to stir up sediments on the ocean floor. This increase in turbidity adversely affects marine resources by reducing the amount of light penetration, diminishing water quality, and burying living organisms. In addition, the presence of lead and other contaminants in harbor sediments become more bioavailable when suspended in the water column.	Special Condition 4 requires that piling installation be performed in accordance with Department of Fish and Game recommendations, and according to the method that results in the least disturbance of bottom sediments. Where feasible, disturbed sediments must be contained with a flexible skirt surrounding the driven pile.
The pH of marine water becomes elevated if it comes in contact with uncured concrete. Elevated pH levels can be toxic to marine life.	Special Condition 5 specifies procedures for concrete work designed to eliminate the possibility of marine water coming into contact with uncured concrete.

Containment of Hazardous Materials

Coastal Act Section 30232 requires that development provide protection against the spillage of crude oil, gas, petroleum products, or hazardous substances. The subject project includes development activities which involve the use and transport of materials hazardous to marine resources, including concrete, asphalt, wood preservatives, and contaminated dredge spoils, as well as fluids and oils associated with mechanized equipment.

In order to ensure that the hazardous substances associated with the proposed development activities are adequately contained, consistent with Coastal Act standards, Special Condition 3 requires particular care to be exercised in order to prevent foreign materials from entering the water. Specifically, it requires that:

- the application of wood preservatives be undertaken at an onshore location, whenever feasible, to preclude the possibility of spills into Bay waters;
- a floating containment boom be placed around all active portions of a construction site where wood scraps or other floatable debris could enter the water;
- for any work on or beneath fixed wharf decks, heavy duty mesh containment netting shall be maintained below all work areas where construction discards or other material could fall into the water. The floating boom and net shall be cleared daily or as often as necessary to prevent accumulation of debris; and,
- project contractors insure that the work crews are carefully briefed on the importance of observing the appropriate precautions and reporting any accidental spills.

In addition, Special Condition 4 requires that construction contracts contain appropriate penalty provisions, sufficient to offset the cost of retrieving or clean up of foreign materials not properly contained. Also, special conditions 1,2,4, and 5 attached to this permit require that construction activities, piling installation, cement work, dredging and dredge spoils disposal take place in a manner which avoids, to the greatest extent feasible, the discharge of hazardous materials into the marine environment.

Dredging and Dredge Spoils Disposal

Section 30233 of the Coastal Act allows for the dredging of harbor waters in order to maintain depths necessary for navigation where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects. Accordingly, 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.

In this case, the proposed project includes maintenance dredging of harbor areas, in an amount not to exceed 10,000 cubic yards during the five-year permit period. The applicant proposes to use a "Toyo" pump for the removal of harbor bottom sediments. This type of pump, which is typically used for sand and gravel mining, has a higher ratio of sand to water than typical suction dredges, and also creates less turbidity in the water when being used. Sediments will be transported directly from the pump to the decanting basin, located on the east side of Wharf No. 2, north of the rest room facility (Exhibit F) through a pipe.

The 24' x 100' decanting basin will be constructed using "K-rail", which is 5' x 20' concrete barriers reinforced with tie rods, typically used as highway barriers. The basin will be lined with filter fabric, and surrounded with sandbags in a manner, which allows for the flow of the decanted water to the upper portion of Del Monte Beach. When the basin is filled with dredged materials, dredging will stop, and the spoils will be allowed to dry out using this decanting method, until dry enough to be trucked to the

upland disposal site (Marina landfill). This procedure will continue until the desired marina depths have been achieved.

The primary Coastal Act issues raised by the proposed dredging operation are: whether or not this method will avoid significant disruption to marine and wildlife habitats and water circulation; and, project consistency with the requirement that dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

As proposed, the dredging component of the operations and maintenance program will utilize a dredge pump, which causes the least amount of turbidity and disruption to the ocean floor, and has the highest ratio of sand to water. This will minimize impacts to marine and wildlife habitats and water circulation during dredging, consistent with Coastal Act requirements.

With respect to the disposal of the dredge spoils, Special Condition 2 authorizes the placement of dredged materials above the mean high tide line of Del Monte Beach only if such material has been determined to be consistent with EPA standards for ocean disposal and is at least 80% sand. Otherwise, dredged materials are required to be disposed of at an upland location approved by the Executive Director if within the coastal zone. In either case, specific dredging operation plans (including spoils disposal plans) for each dredging episode must be submitted for Executive Director review and approval, and accompanied by the necessary approvals from other relevant federal, state, and local agencies. This will ensure that the dredging component of the operations and maintenance program takes place consistent with Coastal Act standards.

Water Quality

Coastal Act section 30231 specifies that the biological productivity and the quality of coastal waters, appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored. The subject project has the potential to adversely affect water quality through the discharge of harmful materials and disturbance of contaminated sediments.

As previously addressed by this staff report, construction activities associated with the project have the potential to adversely affect water quality. Therefore, special conditions have been attached to this permit that will minimize, to the greatest extent feasible, the impact of construction operations on water quality and marine resources. The remaining water quality issue that must be addressed is the potential impact of the water that will be decanted from the dredge spoils on the water quality of the Bay.

Due to the documented presence of lead and other contaminants within harbor sediments, the water that will be discharged through the dredge spoil decanting pen may provide a vehicle for the contaminants to enter bay waters. This is unlikely, however, due to the fact that contaminants such as lead bind to sediments, as opposed to being soluble within water. Therefore it is not expected that the contaminants will be suspended within the runoff from the decanting basin, but will settle to the bottom of the decanting basin and be disposed of in the landfill with the rest of the dredge spoils. In addition, the

runoff from the decanting basin will be directed to the upper portion of Del Monte Beach adjacent to the harbor parking lot, this runoff will not be discharged directly into the marine environment, but will percolate through the sand, which will provide for additional filtration.

Nonetheless, in order to ensure that the proposed method of dredge spoil disposal, especially the decanting operation, is consistent with Federal, State, and Local regulations regarding the protection of water quality, Special Condition 2 requires that the submission of specific dredge plans, for each dredging episode to be undertaken over the five-year period, be accompanied by written evidence that the U.S. Army Corps of Engineers, Central Coast Regional Water Quality Control Board, Department of Fish and Game, and Monterey County Health Department has reviewed and approved the proposed dredging operation, or that no such approval is required. In addition, Special Condition 6 identifies that the permittee is responsible for obtaining any necessary approvals from the Regional Water Quality Control Board for all work proposed under the operations and maintenance plan prior to the commencement of construction.

Monterey Bay National Marine Sanctuary

Coastal Act Section 30240 (b) states:

> *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 recreational areas.*

The proposed development will be located in and over the open coastal waters of Monterey Bay. Except for the inner harbor area west of Wharf No. 2, most of Monterey Bay is included within the Monterey Bay National Marine Sanctuary (MBNMS), designated because of its environmentally sensitive habitats, recreational values, and other special attributes.

The bulk of this project lies within the inner Monterey Harbor, which according to Article II of the MBNMS Designation Document, is <u>not</u> included within the within the Sanctuary boundary (15 CFR Part 944, Sec. 944.2). However, because the project includes development activities <u>adjacent to</u> the MBNMS, Coastal Act Section 30240(b) applies. To help determine conformance with this Coastal Act Section, it is useful to examine Federal Regulations regarding activities from beyond the Sanctuary boundary. 15 CFR Sec. 944.5(a)(3) prohibits:

> *(3) Discharging or depositing, from beyond the boundary of the Sanctuary, any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality....*

As conditioned, this permit provides for containment of construction debris, precautionary requirements for contractors regarding accidental spills, water quality review regarding the disposal of dredge spoils, and Corps of Engineers and Regional Water Quality Control Board permit coordination. A Memorandum of Agreement establishing the Water Quality Protection Program as a component of the MBNMS requires the Regional Water Quality Control Board to consider the Sanctuary staff's input

when determining requirements for discharges to surface waters. These measures will minimize the risk of prohibited materials from entering the Sanctuary, and will therefore provide for conformance with Coastal Act Section 30240(b).

Conclusion

The subject project represents a comprehensive program for operations and maintenance activities necessary to maintain and improve facilities for recreational boating and commercial fishing. Because there are no feasible less environmentally damaging alternatives available to adequately maintain, and appropriately improve, existing harbor facilities; and, because feasible mitigation measures will be provided to minimize adverse environmental effects, the five-year operations and maintenance program, as conditioned, is consistent with Coastal Act provisions protecting Marine Resources.

2. Public Access

Coastal Act Section 30220 protects coastal areas for water oriented recreational activities; and, Section 30252 of the Act states:

> *The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

The Coastal Act provides that certain kinds of uses be given priority in the coastal zone. Some of these uses are dependent on a coastal location, e.g., commercial and recreational boating and fishing and other water oriented activities. Others are closely related to coastal dependent uses and activities (e.g., their support facilities). Other uses, such as restaurants, are not coastally related and do not require a shoreline or over-water location though they may serve visitors to the coast. Where public facilities are limited, priority uses must be accommodated first.

Therefore, coastally dependent boating and fishing industries and concessions have first priority for the limited public facilities within Monterey City harbor. Inadequate parking and circulation for these uses is not disputed. Competition for parking is acute. The uncertified Land Use Plan for this area states:

During the peak summer months and on weekends during the rest of the year, all facilities are heavily utilized. Parking directly around the marina area is often fully utilized.

Demand for the parking facilities around the marina area is primarily generated by visitors to

Fisherman's Wharf. On weekends around the marina, persons having business on their boats often have difficulty finding a place to park, especially those with tools or supplies who have need to park close to the entrance gate.

Users of Monterey Beach also often experience a shortage of parking around the entrance to Wharf No. 2 on peak weekends. Many users of the beach presently park on the Southern Pacific Property on the east side of Figueroa Street. The Southern Pacific property is not marked or designated for public parking, and all parking is on an informal basis as space permits. The area around the entrance to Wharf No. 2 is especially congested when there are special events on Monterey Beach such as the multi-hull sailing races." (LUP, p.II-D-3).

In this case, there will be no significant increase in the number of vessels using the harbor. Therefore, no increase in parking demand is anticipated. Nevertheless, construction operations have the potential to temporarily reduce public parking. Therefore, the permit is conditioned to require submittal of construction phasing plans in order to, among other things, minimize the obstruction of priority parking areas during the construction periods.

As conditioned, the project will not substantially interfere with public access nor generate any additional parking demand, and is therefore consistent with Sections 30220 and 30252 of the Coastal Act regarding public access and parking.

3. California Environmental Quality Act (CEQA)

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

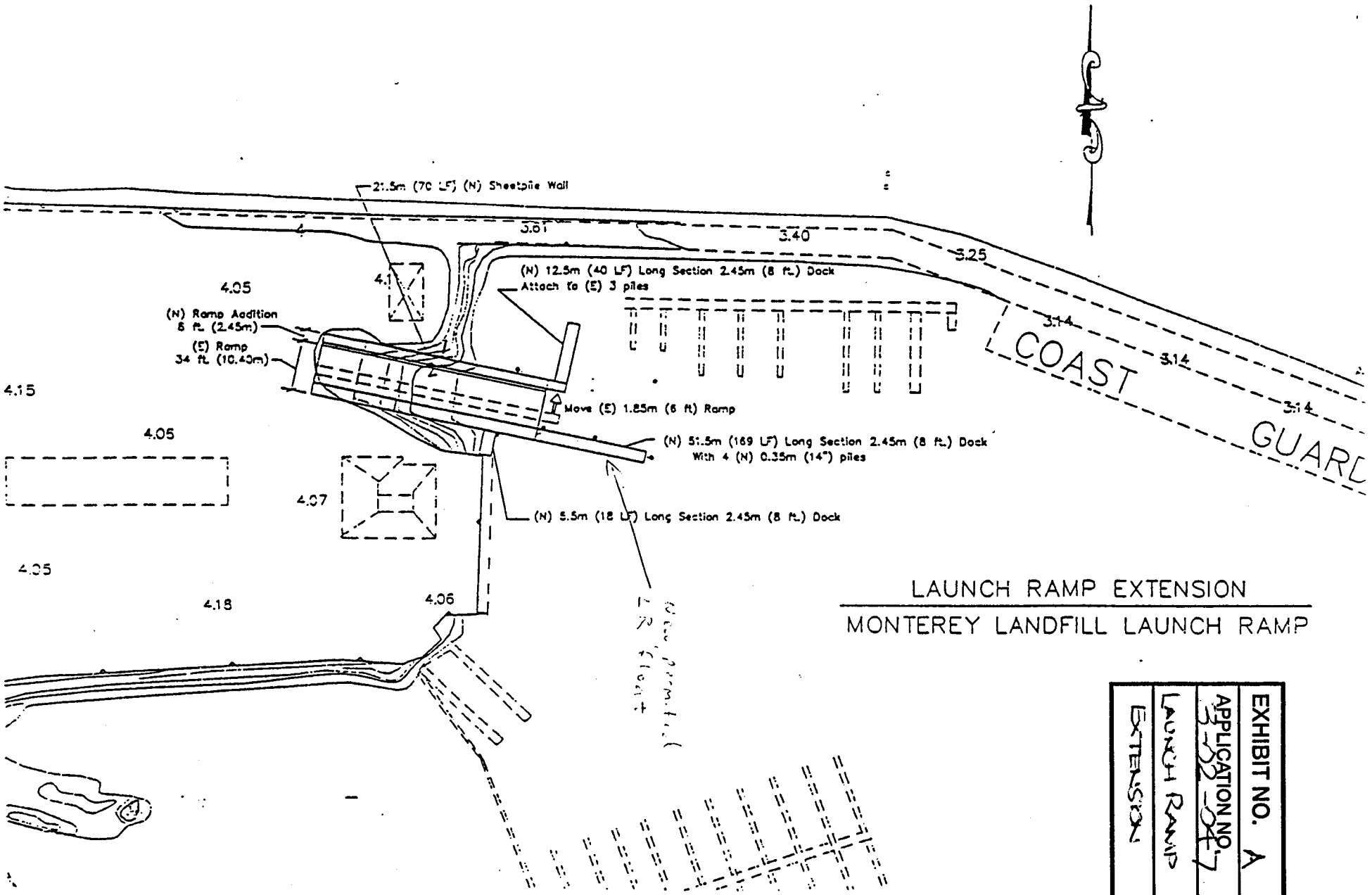
The City of Monterey previously determined that the subject project is categorically exempt from the California Environmental Quality Act. However, potential adverse affects to environmental resources were identified during the analysis of this permit application, as detailed in this staff report, which is incorporated in its entirety into this finding. These potentially negative environmental impacts are mitigated through the conditions attached to this permit. Accordingly, this project, as conditioned, will not have a significant adverse impact on the environment within the meaning of the California Environmental Quality Act.

This project falls within the Harbor area segment of the Monterey City Local Coastal Program Land Use Plan. This plan was heard and approved with modifications by the Coastal Commission on May 12, 1987. The Monterey City Council did not concur with the modifications adopted by the Commission, and the Harbor Area Land Use Plan has not been resubmitted for Commission consideration. Nevertheless, the subject project is in general conformance with the draft Harbor Land Use Plan and

with the City's Wharf Master Plan, an element of the Land Use Plan.

As conditioned, the proposed development will not have any significant impact on coastal resources, is consistent with the policies of Chapter 3 of the Coastal Act, and will therefore not prejudice the ability of the City of Monterey to prepare and implement a Local Coastal Program consistent with the Chapter 3 policies of the Coastal Act of 1976.

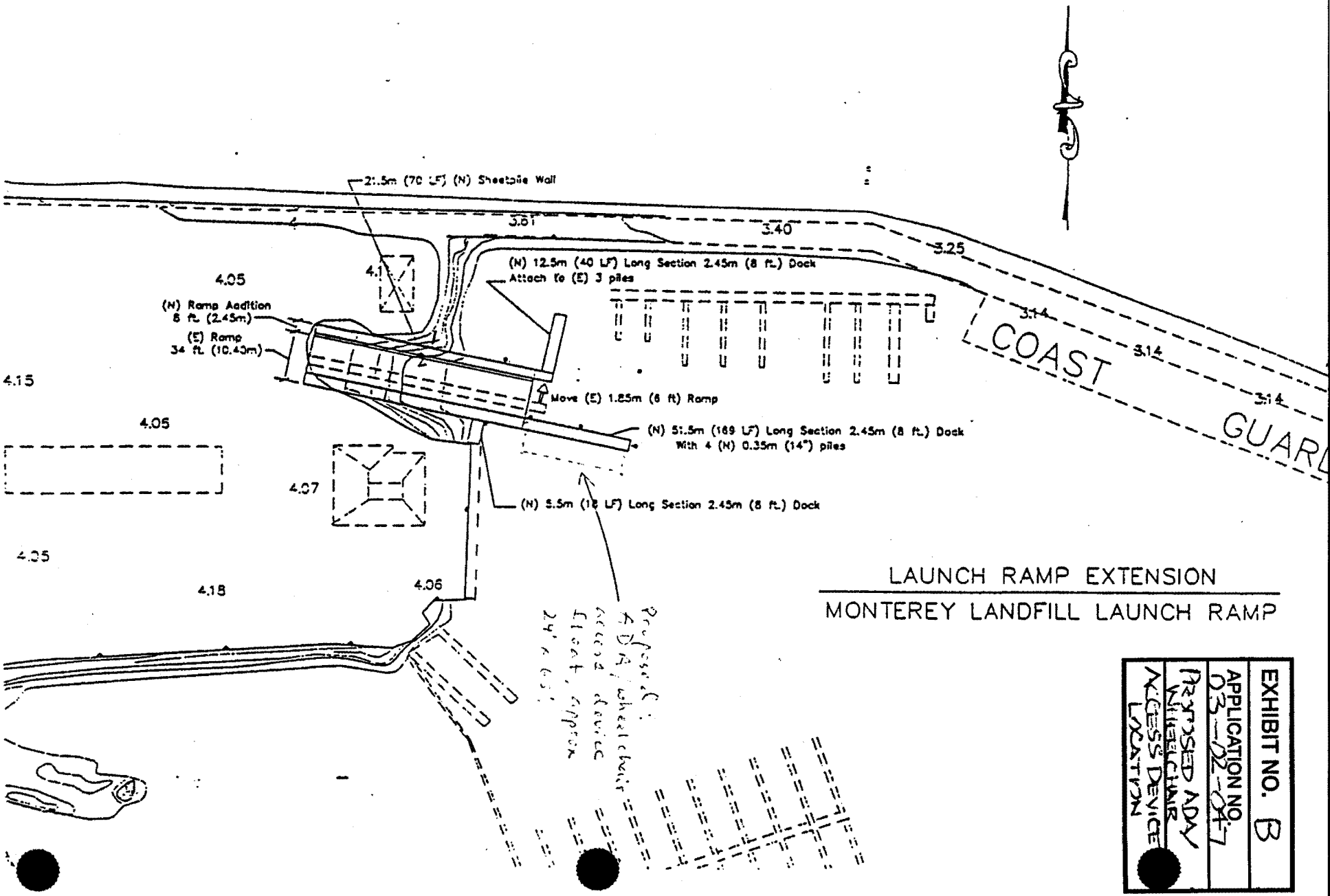
The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate mitigations to address adverse impacts to said resources. Accordingly, the project is being approved subject to conditions, which implement the mitigating actions required of the Applicant by the Commission (see Special Conditions). As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.



LAUNCH RAMP EXTENSION

MONTEREY LANDFILL LAUNCH RAMP

EXHIBIT NO. A
APPLICATION NO. 3-92-047
LAUNCH RAMP EXTENSION



LAUNCH RAMP EXTENSION

MONTEREY LANDFILL LAUNCH RAMP

EXHIBIT NO. B

APPLICATION NO. 3-02-047

PROPOSED ADA WHEELCHAIR ACCESS DEVICE LOCATION

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, Governor

DEPARTMENT OF FISH AND GAME
NINTH STREET
BOX 944209
SACRAMENTO, CA 94244-2090

November 17, 1994

Ms. Carol Foulkes, Associate Planner
City of Monterey Community
Development Department
City Hall
Monterey, California 93940

Dear Ms. Foulkes:

The Department of Fish and Game has reviewed the Negative Declaration for the replacement of the existing 412-berth boat dock/marina system in Monterey Harbor as part of the documentation included in your request for consultation under the California Endangered Species Act (CESA). The Department has attended the two public meetings (May 12 and 31, 1994) where the replacement project was discussed. The project proposes to replace the existing wood dock system with a concrete system that is prefabricated offsite and moved into place using a crane and barge. The existing docking system has 148 pilings (115 wooden, 33 concrete). The new docking system will have 250 new concrete pilings. The project start date is Spring 1995.

CESA states that it is the policy of the State that State agencies should not approve projects as proposed which would jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat which would prevent jeopardy. The Department has had informal discussions with you regarding which species could potentially be found in the construction area and may be affected by construction activities. State-listed species that may be affected by the proposed project include the California brown pelican (Pelicans occidentalis californicus) and the Guadalupe fur seal (Artocephalus townsendi). The endangered marbled murrelet is not expected to occur in the area as its known habitats are located in the following areas: 1) northern Santa Cruz and southern San Mateo counties; 2) south central Humboldt county; and 3) northern Humboldt and Del Norte counties to the Oregon border. There are no listed plant species known to occur in the project or staging areas.

EXHIBIT NO. C
APPLICATION NO. 3-02-047
DFG RECOMMENDATIONS

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The Guadalupe fur seal is a rare visitor to the Monterey Bay area. Its historic range was from Isla Revilla Gigedo, Mexico (18° North) to the Farallon Islands, California (37° North). Only on rare occasions are they seen north of the Channel Islands in southern California. The seal has a pelagic distribution most of the year. One siting on the Coast Guard breakwater occurred in 1993 and no documented sitings have occurred since. It is not expected that the Guadalupe fur seal will be affected by the proposed project.

The California brown pelican is a common inhabitant of the Monterey Harbor and Bay. It feeds on surface schooling fishes such as the Pacific mackerel, Pacific sardine, and northern anchovy. Breeding in the Monterey county area has not occurred since 1959. Adverse impacts to pelicans include: development, pesticides poisons, contaminants, human disturbance, and disease (Annual Report on the Status of California State Listed Threatened and Endangered Animals and Plants, 1994). Laboratory analysis of dredge materials sampled during the 1993 dredging of the Monterey Harbor found high levels of lead still remained in the area. Lead is known to bioconcentrate in marine species used by the pelicans as food. The removal of wooden pilings and subsequent replacement of concrete pilings has the potential to suspend lead contaminated sediments releasing deleterious levels of lead which then could become bioavailable to pelicans through ingestion of prey items.

The Department requests that the following reasonable and prudent alternatives be stipulated and implemented to mitigate or alleviate the impacts associated with this proposed project.

1. All concrete pilings are to be driven in place with a pile driver. No hydraulic jets will be used to place pilings.

2. All pilings removed that are creosote coated will be disposed of at an appropriate upland location where they will not enter State waters.

3. Should the steelhead become a State-listed species prior to or during the construction period, contact the Department to determine if additional reasonable and prudent measures are needed.

EXHIBIT NO. C, p. 2
APPLICATION NO. 3-02-047
DFG RECOMMENDATIONS

Thank you for the opportunity to provide input into the project. Questions should be addressed to Ms. Deborah Johnston, Environmental Specialist, Department of Fish and Game, 20 Lower Ragsdale Drive, Suite 100, Monterey, California 93904, telephone (408) 649-7141.

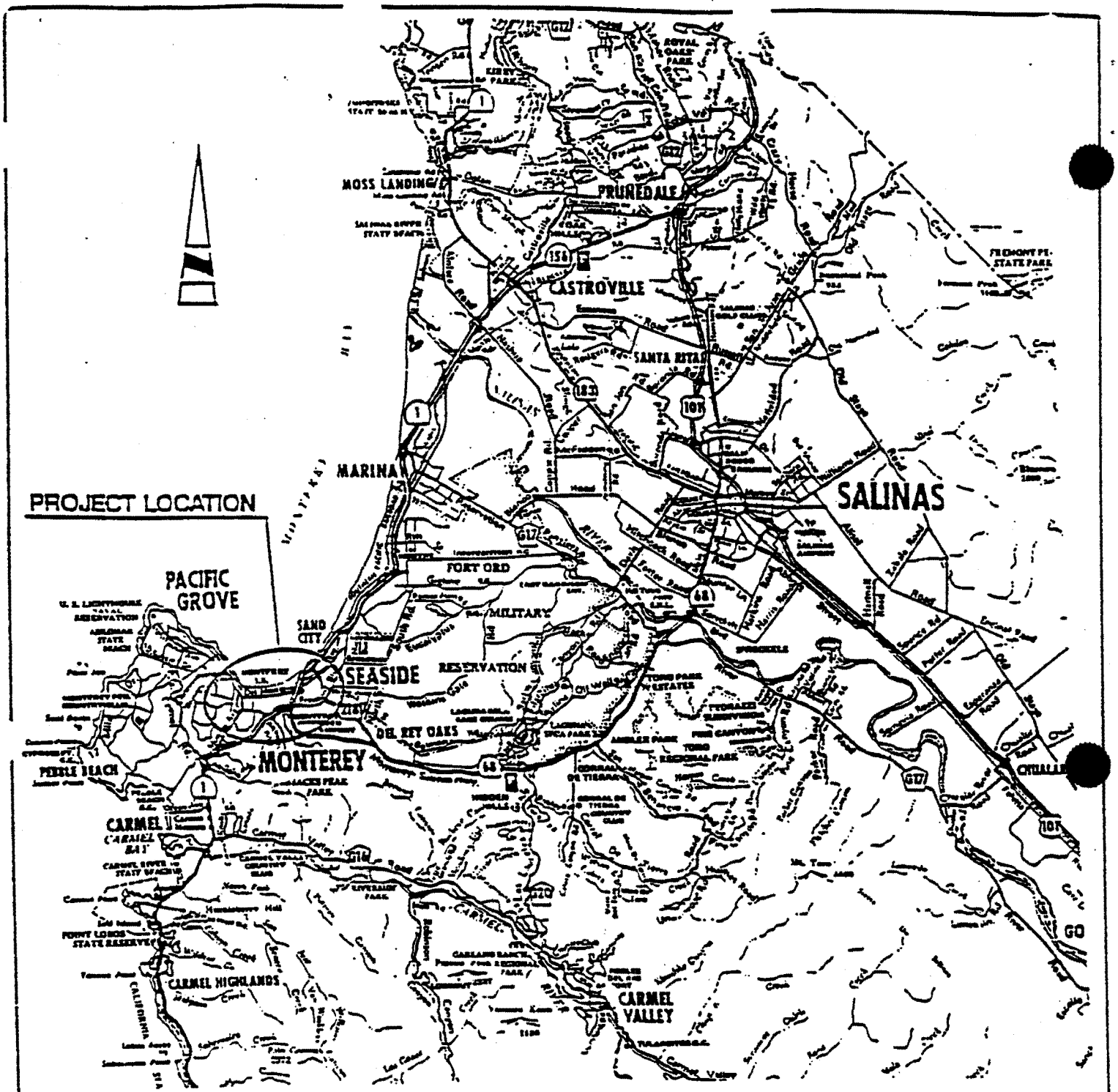
Sincerely,

John Turner, Chief
Environmental Services Division

cc: Ms. Deborah Johnston
Department of Fish and Game
Monterey

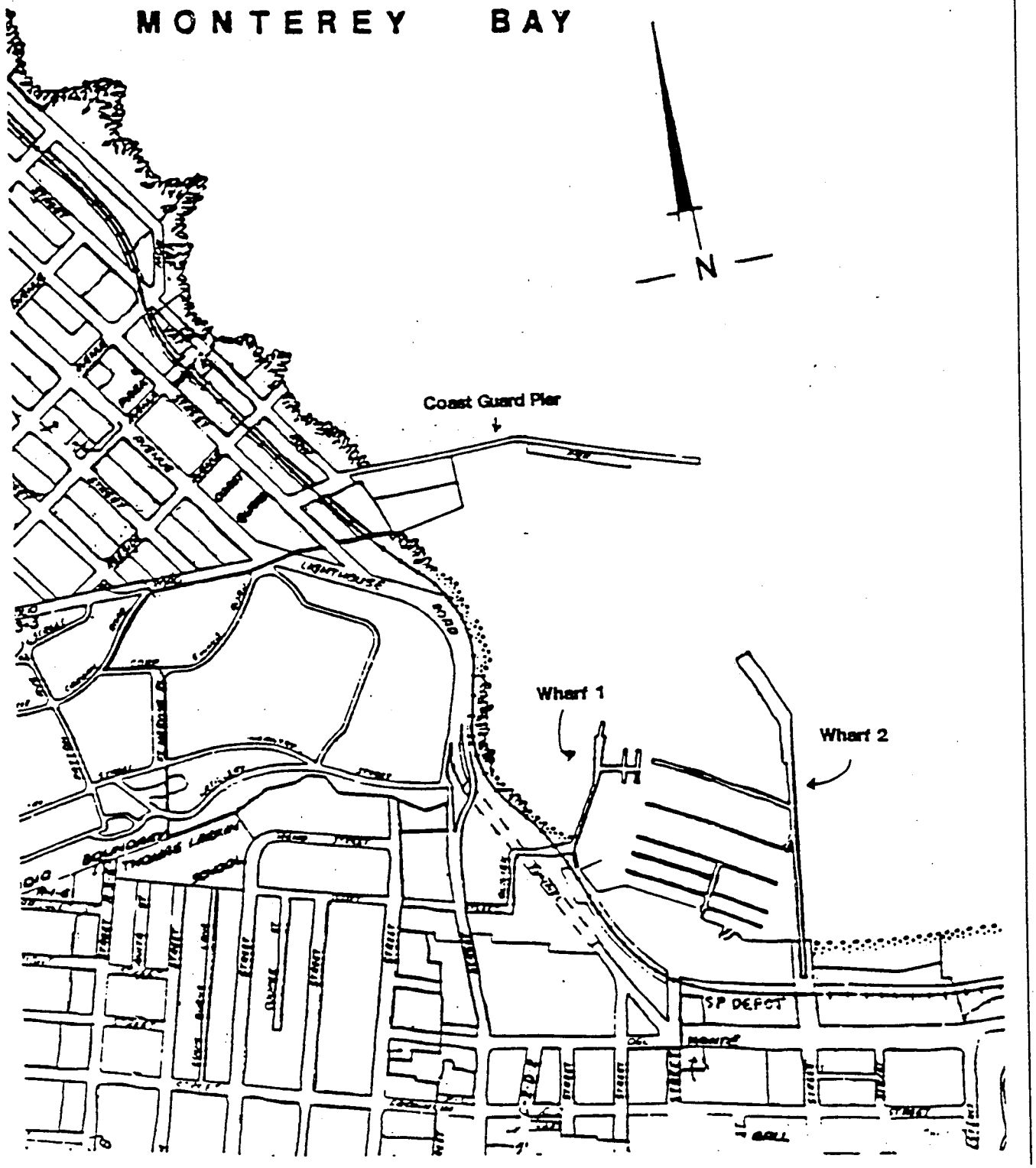
Mr. Les Strnad
California Coastal Commission
Santa Cruz

EXHIBIT NO. C, p.3
APPLICATION NO. 3-02-047
DFG
RECOMMENDATIONS



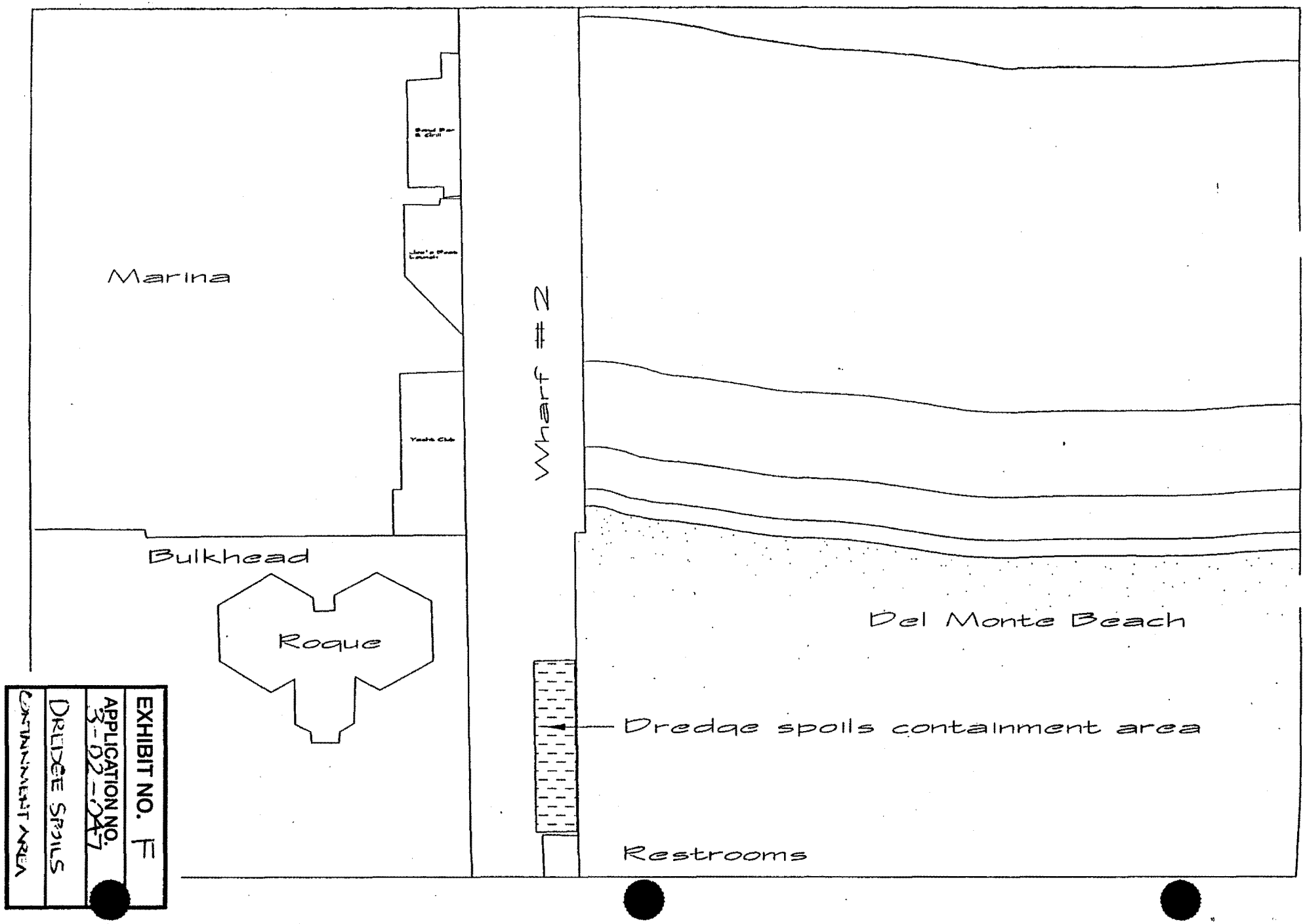
VICINITY MAP

EXHIBIT NO. D
APPLICATION NO. 3-02-047
VICINITY MAP



Location Map

EXHIBIT NO. E
APPLICATION NO. 3-02-047
LOCATION MAP


Marina
Wharf # 2
Bulkhead
Roque
Del Monte Beach
Dredge spoils containment area
Restrooms
EXHIBIT NO. F
APPLICATION NO. 3-02-047
DREDGE SPOILS CONTAINMENT AREA

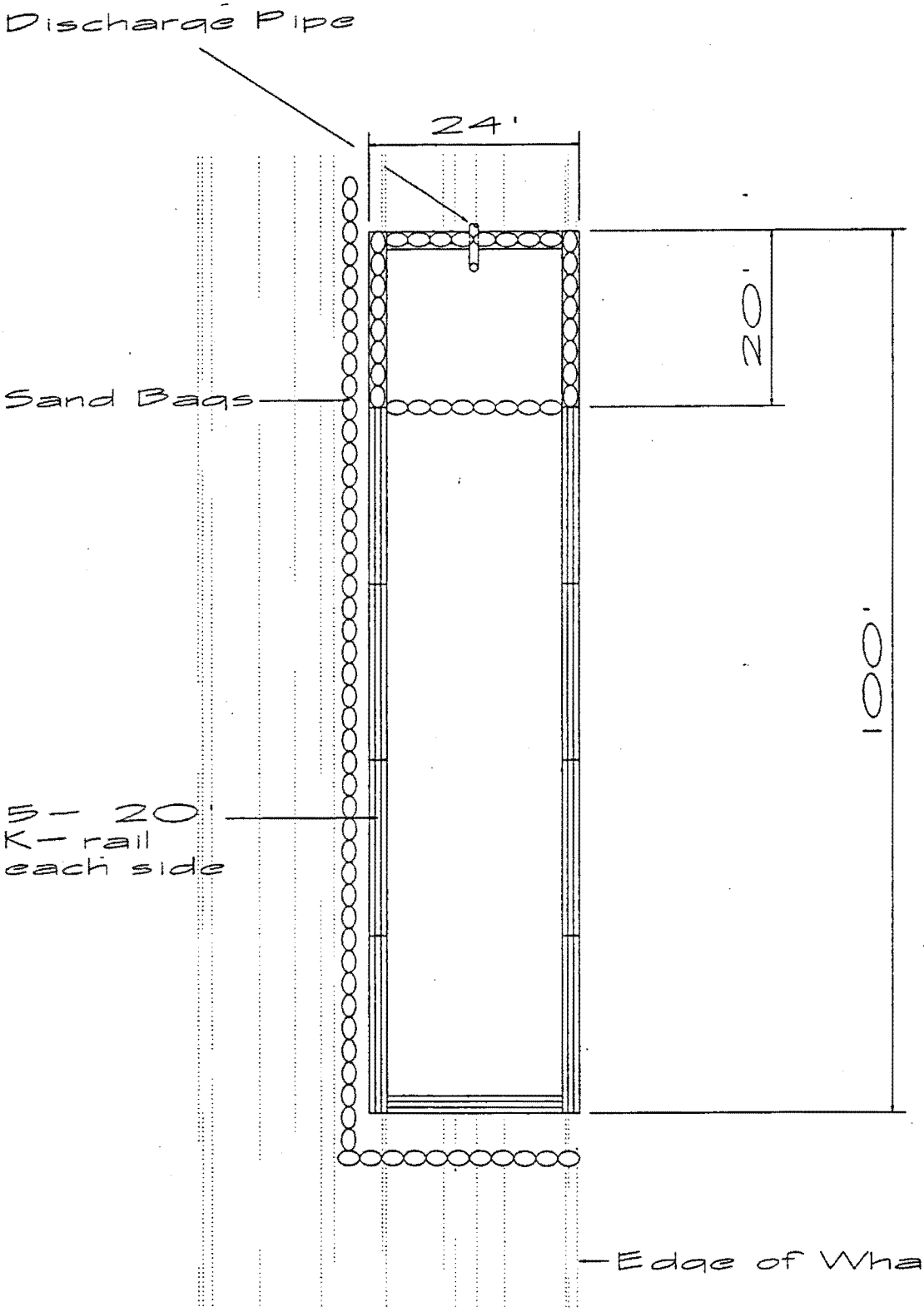
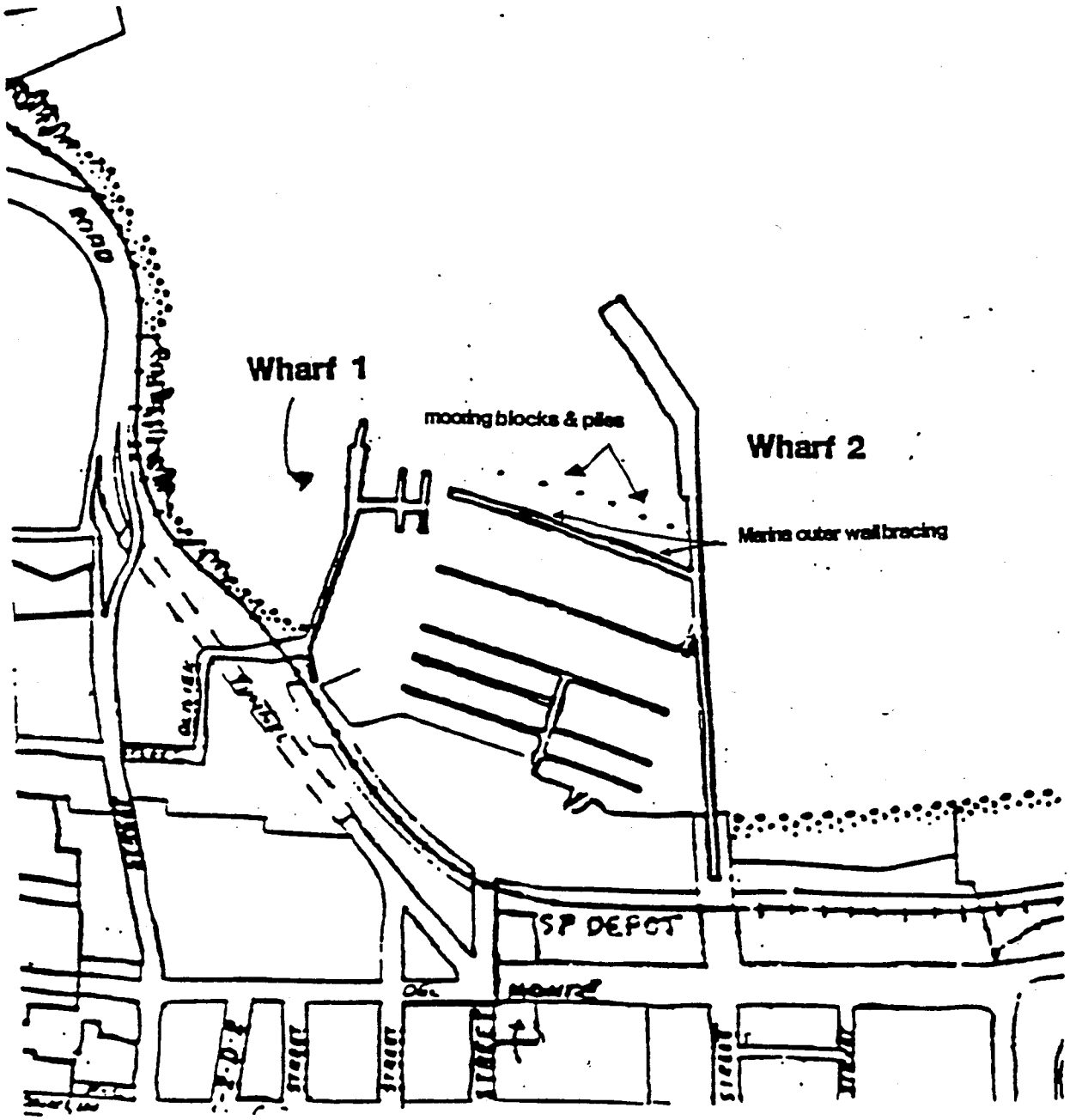


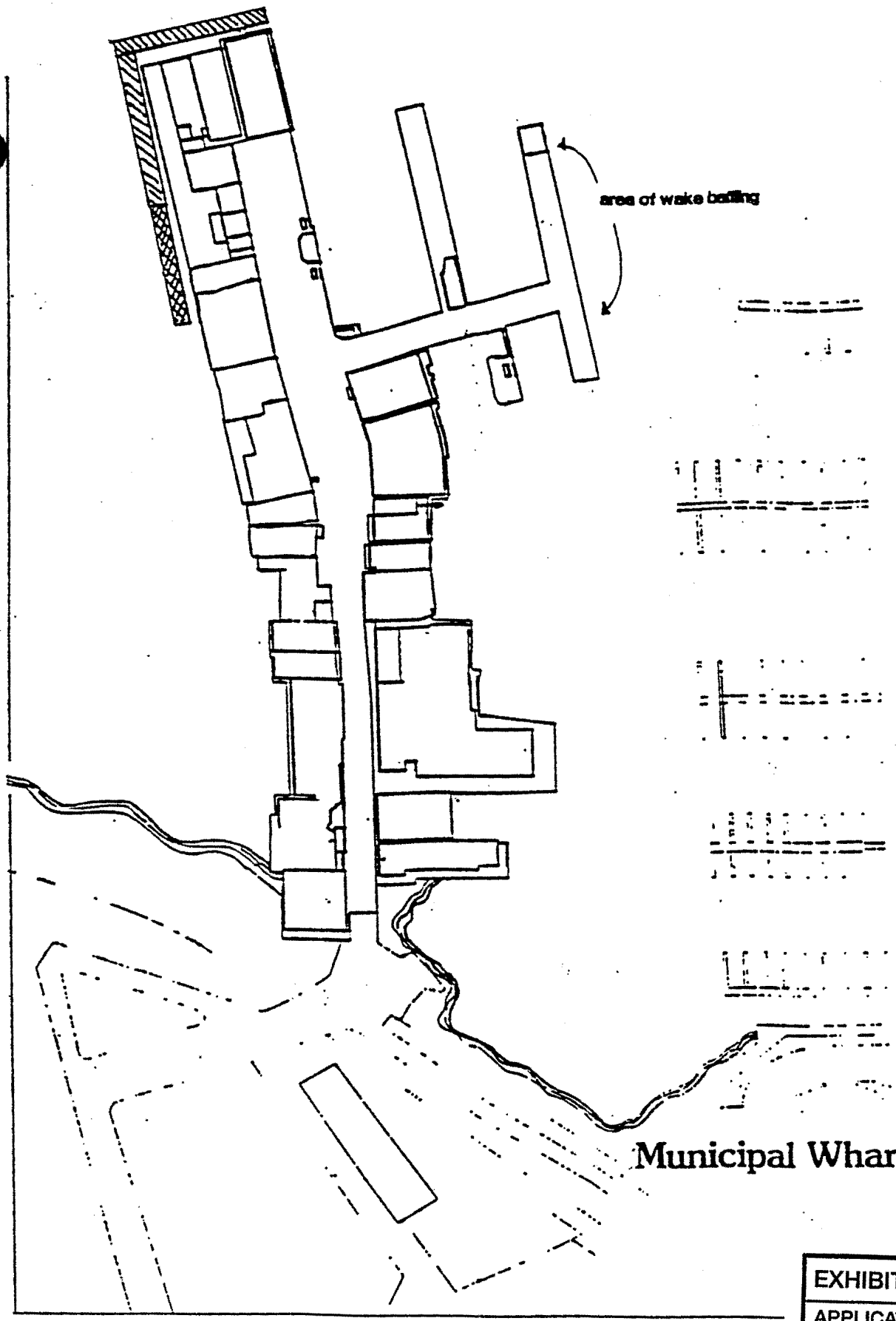
EXHIBIT NO. F, p. 2
APPLICATION NO. 3-02-047
DREDGE SPOILS
DECANTING BASIN



Municipal Wharf No. 2

EXHIBIT NO. 6
APPLICATION NO. 3-02-047
OUTER WALL
PILES/BRACING

Marina 5-Year Maintenance Program



Municipal Wharf No. 1

EXHIBIT NO. H
APPLICATION NO. 3-02-047
WHARF NO. 1
WAKE BAFFLING