

CALIFORNIA COASTAL COMMISSION

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F 8a**STAFF REPORT AND RECOMMENDATION****ON CONSISTENCY CERTIFICATION**

Consistency Certification No.	CC-010-03
Staff	LJS-SF
File Date:	2/18/2003
3 Months:	5/18/2003
6 Months:	8/18/2003
Commission Meeting:	4/11/2003

APPLICANT: **Port of Long Beach****PROJECT
LOCATION:**

LA-2 ocean disposal site located six miles southwest of Point Fermin, Los Angeles County (Exhibit 1).

**PROJECT
DESCRIPTION:**

Five-year authorization for disposal of dredged material at LA-2 ocean disposal site resulting from maintenance dredging activities in the port, with a maximum annual disposal volume of 40,000 cu.yds. and a five-year limit of 200,000 cu.yds.

**FEDERAL
AGENCY AND
PERMIT:**

U.S. Army Corps of Engineers permit (Application No. 200300417-JLB), under Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 (33 U.S.C. 1413), and Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344).

**SUBSTANTIVE
FILE
DOCUMENTS:**

See page 9

EXECUTIVE SUMMARY

The Port of Long Beach has submitted a consistency certification for its proposed five-year program for disposal of dredged materials at the LA-2 ocean disposal site resulting from future maintenance dredging activities in the port. (Maintenance dredging is consistent with the certified port master plan and, according to Section 30719 of the Coastal Act, is therefore in conformance with the California Coastal Management Program.) While the proposed program is similar to disposal programs concurred with by the Commission in 1997 (CC-056-97) and 1992 (CC-112-92), there are two modifications incorporated in the current proposal. First, the Port proposes to double the annual limit on disposal volume at LA-2 from 20,000 cu.yds. to 40,000 cu.yds., and the cumulative five-year disposal limit from 100,000 cu.yds. to 200,000 cu.yds. Second, the Port outlines a more rigorous alternatives analysis for disposal of maintenance dredged material to ensure that placement of sediments at LA-2 would occur only if sediments could not be used in port landfill projects, placed at port upland disposal sites, used for beach replenishment, or placed within the POLB's Western Anchorage Dredged Material Beneficial Re-Use and Disposal Site in the outer harbor.

The Port has committed to submit to the Commission the specific details for LA-2 disposal activity (e.g., dredge location, disposal volume, grain size analysis, and analysis of conformance with applicable "Green Book" standards for disposal at LA-2). The Port will submit this information no less than one month prior to the commencement of dredging activity, in order to give the Commission staff adequate time to review project details and to evaluate project conformance with the standards established for the use of the LA-2 disposal site (see CD-114-96 and CD-063-90). As long as the proposed dredged material disposal conforms with these standards, no additional Commission action would be required. With these commitments, the Port's disposal program is consistent with the water quality, marine resources, dredging and filing, sand supply, commercial and recreational fishing, and port policies of the Coastal Act (Sections 30230, 30233, 30234.5, 30220, and 30701).

STAFF SUMMARY AND RECOMMENDATION:

I. Project Description. The Port of Long Beach ("Port") proposes to renew its five-year program for disposal of dredged material at the LA-2 ocean disposal site (located six miles southwest of Point Fermin) resulting from maintenance dredging activities in the port (Exhibit 1). The maintenance dredging would occur within existing navigation channels in the Port and extend down to previously authorized channel depths. Maintenance dredging is not an element of this consistency certification, but is consistent with the certified port master plan, and due to the provisions of Section 30719 of the Coastal Act, is in conformance with the California Coastal Management Program. The Commission previously concurred with Port of Long Beach consistency certifications for five-year maintenance dredging disposal programs at LA-2 in 1997 (CC-056-97) and in 1992 (CC-034-92). Both of those programs provided for disposal of a maximum of 20,000 cu.yds per year at LA-2 and a maximum of 100,000 cu.yds. over the five-

year period. The Port now seeks concurrence with a maximum of 40,000 cu.yds. of disposal per year at LA-2, with a maximum of 200,000 cu.yds. over the next five-year period.

For the proposed five-year program, the Port is making the same commitments it made during the previous program. The Port will: (1) submit to the Commission at least one month prior to commencement of maintenance dredging the specific details for disposal activities (e.g., dredge location, disposal volume, grain size analysis, and analysis of conformance with applicable "Green Book" standards for disposal at LA-2) in order to give the Commission staff adequate time to review project details and to evaluate project conformance with the standards established for the use of the LA-2 disposal site (see CD-114-96 and CD-063-90); (2) dispose at LA-2 only dredged materials that are clean (i.e., passing "Green Book" standards) and that are not sand and suitable for beach replenishment; and (3) not sidecast dredged materials without additional Commission authorization.

The Port did not dispose any maintenance dredged materials at LA-2 during the previous five year period. Instead, the Port reused the materials (or reserved them for future use) at the following locations:

1998	25,000 cu.yds. at Port landfills
1999	19,900 cu.yds. at Port landfills
2000	20,100 cu.yds. at Port landfills
2001	no maintenance dredging
2002	15,150 cu.yds. at Port landfills and 16,800 cu.yds. at the Western Anchorage Dredged Material Beneficial Re-Use and Disposal Site in the outer harbor (Exhibit 2).

The Port's proposed doubling of the annual and five-year cumulative limits on disposal volumes at LA-2 is not driven by the expectation that the Port will increase disposal volumes at LA-2. Instead, the Port plans to increase maintenance dredging during this period and expects that most of the dredged materials will continue to be re-used or reserved within the Port as in the previous five years. The increased disposal limit is proposed in order to maintain uniformity with the proposed dredging limit (both of which are contained within the proposed reauthorization of its Corps of Engineers maintenance dredging permit, 97000245-TJE) and to maintain the option of using LA-2 should it turn out to be the only feasible alternative site for dredged material disposal.

II. Status of Local Coastal Program. The standard of review for federal consistency certifications is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) or Port Master Plan (PMP) of the affected area. If the LCP or PMP has been certified by the Commission and incorporated into the California Coastal Management Program (CCMP), it can provide guidance in applying Chapter 3 policies in light of local circumstances. If the LCP or PMP has not been incorporated into the CCMP, it cannot be used to guide the Commission's decision, but it can be used as background information. The Port of Long Beach PMP has been incorporated into the CCMP.

III. Applicant's Consistency Certification. The Port of Long Beach has certified that the proposed activity complies with California's approved coastal management program and will be conducted in a manner consistent with such program.

IV. Staff Recommendation:

The staff recommends that the Commission adopt the following resolution:

Motion: I move that the Commission concur with the Port of Long Beach's consistency certification.

The staff recommends a **YES** vote on this motion. A majority vote in the affirmative will result in adoption of the following resolution:

Concurrence

The Commission hereby **concurs** with the consistency certification made by the Port of Long Beach for the proposed project, finding that the project is consistent with the California Coastal Management Program.

V. Findings and Declarations:

The Commission finds and declares as follows:

A. Marine Resources/Dredging/Commercial Fishing/Ports. The Coastal Act contains numerous policies addressing marine resource protection, dredging and disposal operations, and protection of coastal dependent, coastal related, and other water oriented activities, as follows:

Section 30230

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

Section 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where

feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(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.

...

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

Section 30234.5

The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

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.

Section 30701(a)

The Legislature finds and declares that:

The ports of the State of California, including the Humboldt Bay Harbor, Recreation, and Conservation District, constitute one of the state's primary economic and coastal resources and are an essential element of the national maritime industry.

1. Previous Commission Review of LA-2 Site Designation and Use. In analyzing the Port's consistency certification, the Commission will rely in part on: (1) the findings it adopted in reviewing the Port's previous five-year maintenance dredging disposal program (CC-056-97); and (2) the findings it adopted in reviewing EPA's consistency determinations for the LA-2 site designation (CD-114-96 and CD-063-90). These findings are hereby incorporated by reference into the subject findings. The following discussion summarizes the main points from these previous Commission analyses:

. . . [T]he designation of LA-2 was intended, for the most part, to support the dredging needs of the Ports of Los Angeles and Long Beach, its tenants (which include commercial and recreational fishing boats, ship building and repair, cargo transportation, and recreational boating), the U.S. Navy, the Corps of Engineers (Corps), and some of the recreational harbors in the area. . . . [T]he LA-2 site designation supported these coastal-dependent activities and was consistent to the maximum extent practicable with Coastal Act Sections 30220, 30224, 30234, 30255, 30260, and 30701.

. . . [D]redged material disposal has the potential to adversely affect marine species, including those that are recreationally and commercially valuable. The Coastal Act provides for the protection of these resources, as discussed in the above-quoted provisions of Sections 30230, 30253, 30234 . . . [and] 30705(c) Thus, while supporting the need for dredging, the Commission was concerned about the impact of the proposed designation on recreational and commercial fishing resources of the coastal zone. Even though the LA-2 site is located in an area that is valuable for commercial and recreational fishing, it was used for dredged material disposal for 11 years without apparently reducing fishing values. Despite the lack of historic conflict, the Commission was concerned about potential impacts to fishing resources.

To address this concern, and because of the inadequacy of historic monitoring of the LA-2 site, the Commission negotiated with EPA to provide an initial five-year authorization, at the end of which time EPA would bring back detailed monitoring results before the Commission would concur with further, long-term use of LA-2. EPA complied with this agreement and subsequently brought a consistency determination to the Commission for the permanent site designation (CD-114-96) along with the monitoring results it had compiled. In concurring on February 7, 1997, with this consistency determination, the Commission found that:

In conclusion, the Commission's evaluation of the final monitoring plan indicates that the effect from designation and use of LA-2 on fishery resources is not significant. The Commission bases its conclusion on an evaluation of physical oceanography, benthic resources, and fish catches near LA-2. Therefore, the Commission finds that the continued use of LA-2 is consistent with the fishery policies of the CCMP.

Finally, the Commission noted in reviewing the original designation of LA-2 that if the ongoing monitoring program showed adverse environmental impacts, EPA would implement management directives to reduce the impacts. EPA's options for such measures consist of:

. . . regulating the quantities and types of material and times, rates, and methods of disposing material and enforcing permit requirements; implementing changes in site use. Examples of this last measure include: limiting the amount of dredged material disposal at the site; reconfiguring site boundaries; restricting disposal to specific locations within the dump site; re-evaluating bioaccumulation testing and analytical procedures; restricting

timing of disposal; and limiting designation of site to a finite time and evaluating alternative disposal sites.

These management measures remain available should future monitoring indicate that any adverse effects are occurring. EPA reported to Commission staff in March 2003 that monitoring during the previous five years indicated no adverse effects on marine resources are occurring at LA-2. EPA also stated that while beneficial reuse of maintenance dredged materials from the Port will continue during the next five-year period, doubling the annual disposal limit at LA-2 and placing that total volume of material at LA-2 would likely not adversely affect marine resources. EPA will continue to monitor marine resource conditions at LA-2 as a part of its management plan for that site during the upcoming five-year period.

2. Current Proposal. The proposed disposal program involves filling within coastal waters and therefore triggers the three-part test of Section 30233(a): (1) the project must be one of the eight enumerated allowable uses; (2) the project must be the least damaging feasible alternative; and (3) the project must include feasible mitigation measures to minimize adverse environmental effects. The proposed dredged material disposal program is an allowable use under Section 30233(a)(2). The project will facilitate the maintenance of authorized navigation channels, turning basins, and vessel berthing areas in the Port by providing for disposal of dredged material at the EPA-designated LA-2 ocean disposal site.

The second test required by Section 30233 centers on project alternatives. The alternatives analysis contained in the previous five-year disposal program (CC-056-97) provides a useful background for the subject proposal:

The Port has four options for disposal of maintenance-dredged material: disposal at an EPA-approved ocean dump site (LA-20), disposal at an approved landfill, sidecast disposal, and beach replenishment. Maintenance dredging of existing navigation channels (to existing or previously authorized depths) is exempt from Commission review; however the disposal of this material may or may not trigger Commission review, depending on the type of disposal. Disposal at LA-2 triggers the need for subject consistency certification, based on the fact that it needs a federal (Corps) permit, and it potentially affects the coastal zone, as elaborated on by the Commission in reviewing CD-63-90. . . . [In that consistency determination, the Commission found:]

One of the more significant limitations on dredging is the problem associated with disposal of the dredged material. However, in the Los Angeles area there are several options for disposal of dredge spoils. In the past, much of the material dredged from channels in the Ports of Los Angeles and Long Beach has been used as fill for port expansion, and this use, most likely, will continue in the future. Additionally, some of the material dredged in this area of Southern California is used for beach replenishment. Even though there appear to be feasible options for dredged material disposal, an ocean disposal site is necessary because among other considerations, it is

not always feasible to use dredged material for port expansion or beach replenishment. The grain size of the material may not be suitable for those uses, and port expansion activities may not coincide with dredging activities. Therefore, an ocean dredged material disposal site is needed to support dredging activities necessary for coastal dependent uses such as transportation of cargo, commercial and sports fishing, recreational boating, and other port-related activities. Therefore, the Commission finds that the proposed designation will support high priority uses protected by the CCMP.

As noted previously in this report, during the previous five years the Port has successfully re-used or conserved all its maintenance-dredged materials and avoided transporting and disposing any materials to the LA-2 ocean disposal site. In its consistency certification for the proposed five-year disposal program, the Port states that use of the LA-2 site would occur only if other alternatives are found to be infeasible:

Three alternatives to ocean disposal of the dredged material will be evaluated for each [maintenance dredging] project. We also propose to use similar disposal alternatives to the ones previously permitted. Disposal options would be based on the findings of sediment sampling conducted for each dredge operation and the suitability of the material for beneficial re-use. The proposed alternatives could include: (1) a Port landfill project; (2) a Port upland disposal site; and (3) the Port's Western Anchorage Dredged Material Beneficial Re-Use and Disposal Site. The LA-2 disposal site would only be used if the proposed sediments being dredged could not be used as fill material within the Port and were suitable for ocean disposal. If the dredged material does not meet EPA test requirements for ocean disposal, a suitable land disposal site will be used.

The Commission concludes that use of the LA-2 ocean disposal site will only occur if other alternative disposal sites are determined to be infeasible, and that the proposed disposal program meets the alternatives test of Section 30233(a).

Disposal of dredged materials affects water quality and marine habitat and resources temporarily through turbidity, increases in suspended solids, and decreases in dissolved oxygen and light penetration. However, these impacts are temporary and usually considered insignificant, especially when the dredged material is classified as suitable for unconfined aquatic disposal. Monitoring of the LA-2 has shown that dredged material disposal has not adversely affected marine resources or commercial and recreational fishing. For this reason, the Commission has previously determined that additional mitigation measures are not necessary for disposal activities at this location. As a result, the proposed disposal program meets the mitigation test of Section 30233(a).

In addition, and in an effort to ensure adequate protection of marine resources at and adjacent to the LA-2 site, EPA and the Corps of Engineers have attached several conditions to the Port's reauthorized dredging and disposal permit, including the need to "demonstrate an exhaustive search for alternative disposal sites" prior to using LA-2, Tier I and II analysis of all dredged

materials, preparation of a debris management plan, the use of an electronic positioning system during disposal operations, and preparation of a post-dredging and disposal report.

In conclusion, the Commission finds that the project is an allowable use under Section 30233(a), is the least environmentally damaging feasible alternative, and needs no additional mitigation measures to protect marine resources and water quality. Therefore, the Commission finds that the proposed five-year disposal program is consistent with the water quality, marine resource, dredging and filling, and commercial and recreational fishing policies of the Coastal Act (Sections 30230, 30233, 30234.5, and 30220).

B. Sand Resources. As stated in the previous discussion above, Section 30233(b) of the Coastal Act provides, in part, that where dredged material is suitable, it should be used to replenish beaches or be placed within littoral sand systems. As further stated above, the Commission's retention of project-by-project test results will enable the Commission to assure that any material suitable for beach disposal will not be disposed of at LA-2. The Commission therefore finds that the Port's proposed dredged material disposal program is consistent with the Section 30233(b) sand resource policy of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS

1. Consistency Certification CC-056-97 (POLB 5-year maintenance dredging program).
2. Consistency Certification CC-034-92 (POLB 5-year maintenance dredging program).
3. Consistency Certification CC-125-96 (POLA 5-year maintenance dredging program).
4. Consistency Certification CC-112-92 (POLA 5-year maintenance dredging program).
5. Consistency Determination CD-114-96 (EPA permanent LA-2 site designation).
6. Consistency Determination CD-063-90 (EPA interim LA-2 site designation).
7. "Site Management and Monitoring Results for the LA-2 Ocean Dredged Material Disposal Site," MEC Analytical Systems, Inc., Draft Final Report, September 1996.
8. Port Master Plan, Port of Long Beach.



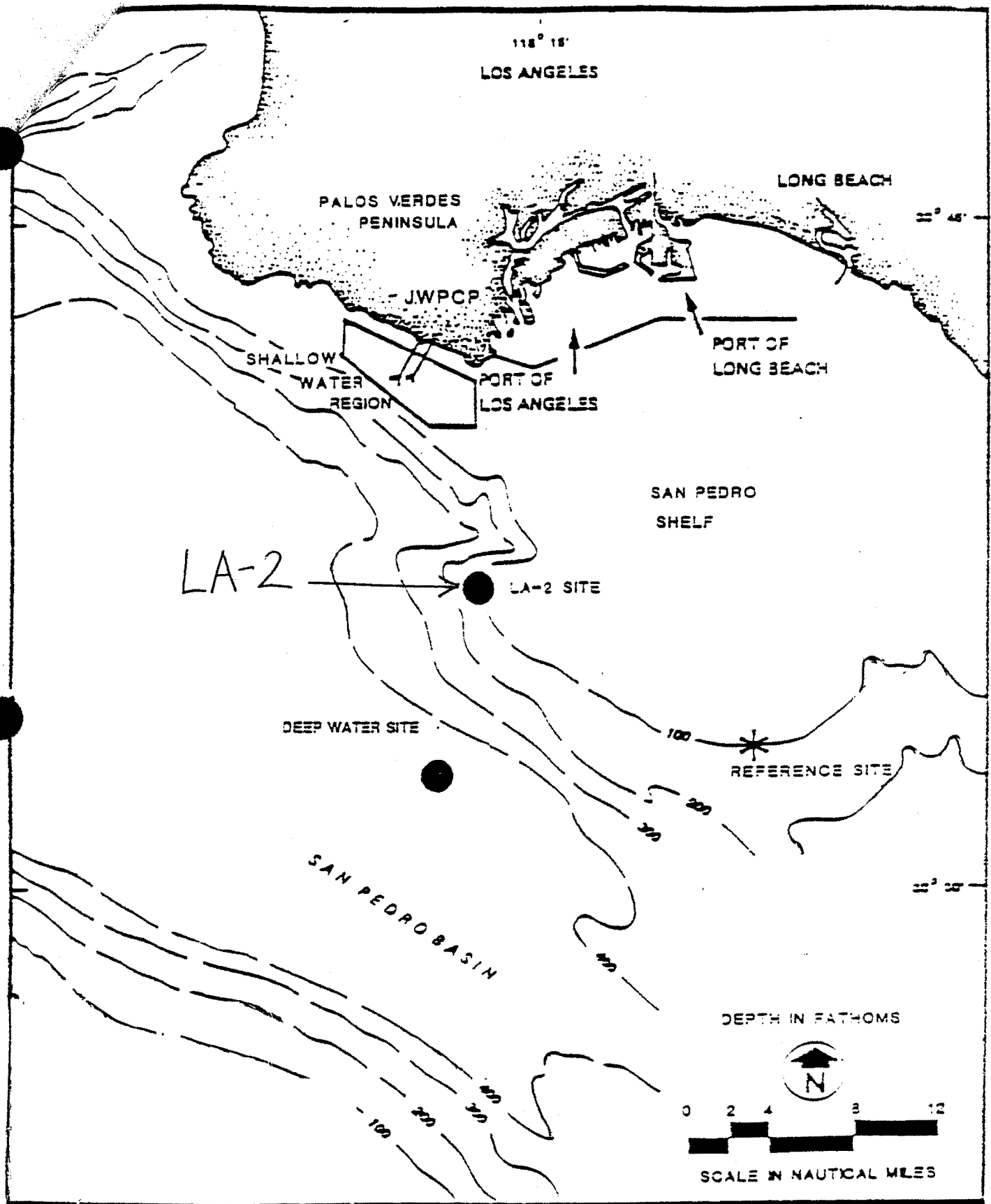
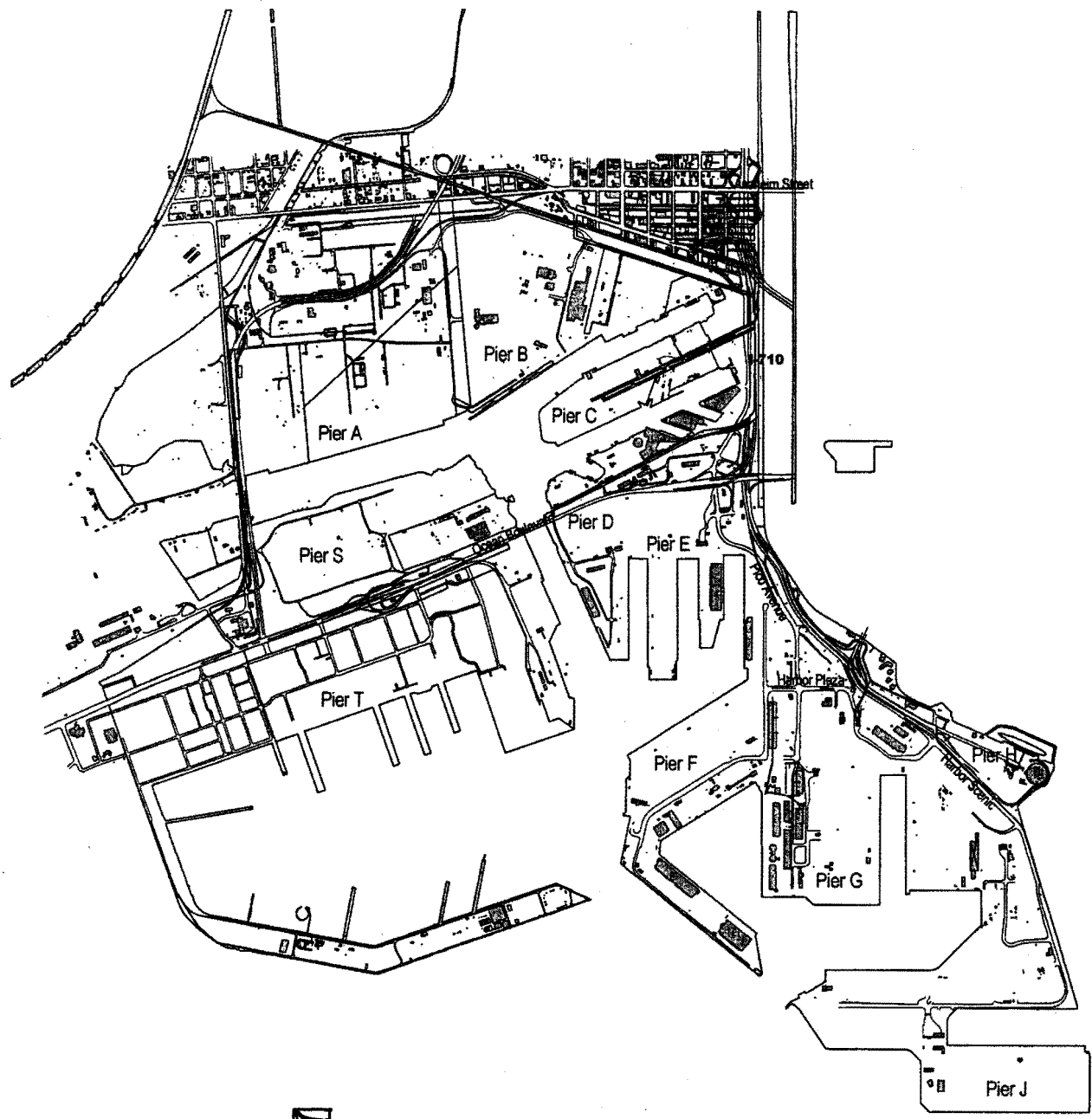


FIGURE 1-1. MAP OF THE PROJECT AREA

JWPCP: LOS ANGELES COUNTY JOINT WATER POLLUTION CONTROL PROJECT

EXHIBIT NO. 1
APPLICATION NO.
CC-010-03
California Coastal Commission



WESTERN ANCHORAGE
DISPOSAL SITE

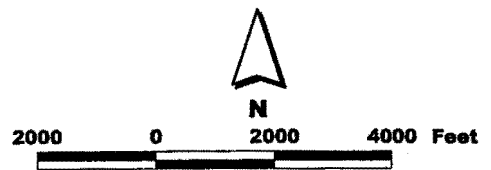



EXHIBIT NO. 2
APPLICATION NO.
CC-010-03
 California Coastal Commission