

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071

**RECORD PACKET COPY****TH 4b**

Filed: April 23, 2004  
49th Day: June 11, 2004  
180th Day: October 20, 2004  
Staff: FSY-LB FSY  
Staff Report: May 20, 2004  
Hearing Date: June 9-11, 2004  
Commission Action:

**STAFF REPORT: CONSENT CALENDAR****APPLICATION NO.:** 5-03-396**APPLICANTS:** Helen & Katsumi Imoto & Flanders Family Limited Partnership**AGENT:** Swift Slip Dock & Pier Builders**PROJECT LOCATION:** 3500 & 3502 Marcus Avenue, City of Newport Beach (County of Orange)**PROJECT DESCRIPTION:** Demolition of existing bulkheads and construction of new bulkheads in the same location.

**LOCAL APPROVALS RECEIVED:** Approval-In-Concept No. 2324-2003 and Approval-In-Concept No. 2325-2003 from the City of Newport Beach Harbor Resources Division dated September 12, 2003; Letters from the California Regional Water Quality Control Board (RWQCB) dated October 1, 2003; Letters from the California Regional Water Quality Control Board (RWQCB) dated March 18, 2004; Updated Approval-In-Concept No. 2324-2003 and Updated Approval-In-Concept No. 2325-2003 from the City of Newport Beach Harbor Resources Division dated September 12, 2003; and Letter from the California Department of Fish & Game (DFG) dated April 12, 2004.

**SUMMARY OF STAFF RECOMMENDATION:**

The applicants are proposing the demolition and construction of a bulkhead in the same location. The subject sites are subject to tidal action, but not to direct wave attack because the sites are located within a protected channel of the Newport Harbor. The proposed new bulkheads are necessary to protect existing structures from tidal induced erosion and will have no new impacts upon shoreline sand supply because the devices will be located in the same location as the existing. The major issues before the Commission relate to the effect of the proposed development on marine resources and water quality. No eelgrass or *Caulerpa taxifolia* are located within the project area at this time.

Staff recommends the Commission **APPROVE** the proposed development with **three (3) Special Conditions**. **Special Condition No. 1** deals with construction responsibilities and debris removal. **Special Condition No. 2** assures that impacts to eelgrass are avoided and, if necessary, mitigated. **Special Condition No. 3** requires that a pre-construction survey for *Caulerpa taxifolia* be done and if its presence is discovered, the applicants shall not proceed with the project until 1) the applicants provide evidence to the Executive Director that all *Caulerpa taxifolia* within the project and/or buffer area has been eliminated or 2) the applicants have revised the project to avoid any contact with *Caulerpa taxifolia*.

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**SUBSTANTIVE FILE DOCUMENTS:** City of Newport Beach Certified Land Use Plan; Letter from the City of Newport Beach, Office of the Attorney to Mr. Flanders dated July 15, 2003; Eelgrass reporting surveys completed on September 10, 2003; *Caulerpa* reporting surveys completed on September 10, 2003; Letter from Commission staff to *Swift Slip Dock & Pier Builders* dated October 23, 2003; Fax from *Swift Slip Dock & Pier Builders* to Commission staff dated February 8, 2004; Letter from Commission staff to *Swift Slip Dock & Pier Builders* dated March 12, 2004; Letter from *Swift Slip Dock & Pier Builders* to Commission staff dated March 17, 2004; Letter from *William Simpson & Associates, Inc.* to *Swift Slip Dock & Pier Builders* dated February 26, 2004; and Letter from Commission staff to *Swift Slip Dock & Pier Builders* dated April 16, 2004.

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#### **LIST OF EXHIBITS**

1. Location Map
  2. Assessor's Parcel Map
  3. Plans for 3500 Marcus Avenue
  4. Plans for 3502 Marcus Avenue
  5. Letter from the California Department of Fish & Game dated April 12, 2004
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#### **STAFF RECOMMENDATION:**

**MOTION:** I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

#### **STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

#### **RESOLUTION:**

##### **I. APPROVAL WITH CONDITIONS**

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## II. 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 this permit is reported to the Commission. 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.

## III. SPECIAL CONDITIONS

### 1. Construction Responsibilities and Debris Removal

- A. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
- B. Any and all construction material will be removed from the site within 10 days of completion of construction.
- C. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone.
- D. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity.
- E. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day.
- F. Non-buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss.

### 2. Pre-Construction Eelgrass Survey

- A. **Pre Construction Eelgrass Survey.** A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the "Southern

California Eelgrass Mitigation Policy" Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicants shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area, which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

- B. Post Construction Eelgrass Survey.** If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within one month after the conclusion of construction, the applicants shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicants shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicants shall replace the impacted eelgrass at a minimum 1.2:1 ratio on-site, or at another location, in accordance with the Southern California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1 (mitigation:impact). The exceptions to the required 1.2:1 mitigation ratio found within SCEMP shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

**3. Pre-construction *Caulerpa Taxifolia* Survey**

- A.** Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the "project"), the applicants shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B.** The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- C.** Within five (5) business days of completion of the survey, the applicants shall submit the survey:
- (1) for the review and approval of the Executive Director; and
  - (2) to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted

through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043).

- D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicants shall not proceed with the project until 1) the applicants provide evidence to the Executive Director that all *C. taxifolia* discovered within the project and buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicants have revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

#### IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. **PROJECT LOCATION, DESCRIPTION & PRIOR COMMISSION ACTION**

1. Project Location and Description

The proposed project is located on bayfront lots fronting Newport Bay at 3500-3502 Marcus Avenue in the City of Newport Beach, County of Orange (Exhibits #1-2). Northeast of the projects sites is Newport Bay; Southwest of the project sites is Marcus Avenue; Northwest of the project sites are existing residential structures on bulkheaded lots; and Southeast of the project site is the 35<sup>th</sup> Street, street end and existing residential structures on bulkheaded lots. The project sites are located in a residential area where the homes fronting Newport Bay are located on bulkheaded lots. Site conditions on the bayward side of the sites include existing bulkheads, piers and docks.

The applicants wish to replace the bulkheads in the same location as they have deteriorated to the point that it needs to be replaced. Originally, the applicants proposed to repair the existing bulkheads by installing corrugated interlocking fiberglass along the length of the existing bulkheads. They have since revised their proposed project to consist of replacing the bulkheads in the same location. The applicants state that for forty years the seawalls has been puttied and patched with plywood to hold back the flooding waters. These feeble repairs are no longer acceptable to the City. In addition, a letter dated February 26, 2004 from *William Simpson & Associates, Inc. to Swift Slip Dock & Pier Builders* states that due to the aggressive environment and the age of the seawalls, which are composed of wood studs covered with plywood, continuous concrete coping and C.M.U. screen walls on top of the coping, the wooden section of the seawalls are significantly deteriorated and partially failed. Furthermore, the letter states: "*The patios behind the seawalls have signs of settlement which is probably due to the loss of sand behind the walls along with the bowed-out concrete coping. When the walls fail, the run off of sand behind them into the bay will affect the stability of the soil supporting the existing residences. The building foundations will suffer damage as the sand continues to erode. Furthermore, the sand runoff may encroach into portions of the adjacent street. In addition, the neighboring properties may sustain subsequent damage.*"

The project does not include work upon the existing docks and piers. The applicants state that no dewatering is necessary for the proposed project.

Public access to the bay is available adjacent to the project sites at the 35<sup>th</sup> Street, street end.

The project consists of the demolition of the existing bulkheads and construction and installation of new 58 foot (total) long concrete sheetpile (3500 Marcus Avenue = 29 foot long and 3502 Marcus Avenue = 29 foot long) bulkhead in the same location designed to meet the minimum elevation requirements established by the City of Newport Beach (typically +9.0 feet, MLLW for Newport Harbor); continuous coping; and steel tiebacks with concrete deadmen (3502 Marcus Avenue) or helical anchors (3500 Marcus Avenue) (Exhibits #3-4). In addition, a new 3-foot high guardrail will be located on top of the new bulkhead (Exhibits #3-4).

The proposed project consists of demolition of an existing bulkheads and construction of new bulkheads in the same location (Exhibits #3-4). The existing bulkheads are located along the Northeastern portion of the property and are 58 feet in length total. The existing and re-constructed bulkheads are necessary to protect the existing development including off-site development on adjacent lots. The new walls will be placed in the same location and will be flush with and be sealed to the neighbors' existing seawalls at each end. The new bulkhead height will be at +9 above Mean Low Lower Water to meet present City of Newport Beach engineering standards.

The City of Newport Beach Harbor Resources Division for eelgrass has surveyed the site and no eelgrass was discovered within 15 feet of the project area. The site has also been surveyed for *Caulerpa taxifolia* and none was found. These eelgrass and *Caulerpa taxifolia* surveys are valid for a limited period of time (until the next growing season for eelgrass, typically March through October, and 90 days for *Caulerpa taxifolia*). Based on these criteria, the eelgrass survey and *Caulerpa taxifolia* survey, which were performed in September 2003, are no longer valid. Thus prior to commencement of construction, an up to date eelgrass and *Caulerpa taxifolia* survey must be undertaken. If any eelgrass or *Caulerpa taxifolia* are found on the project site, Special Conditions No. 2 and No. 3 identify the procedures necessary to be completed prior to beginning any construction. The proposed project has received an approval in concept from the City of Newport Beach Harbor Resources Division. The Regional Water Quality Control Board (RWQCB) has determined that the proposed project will not adversely impact water quality if standard construction methods and materials are used. The applicant has applied for a permit from the U.S. Army Corps of Engineers.

## 2. Prior Commission Actions at Subject Site

On September 17, 1973 the Commission approved Coastal Development Permit #P-6-20-73-1292-(Culver) for the construction of a new bulkhead on the bulkhead line (15 feet bayward of the existing seawall) located at 3502 Marcus Avenue in the City of Newport Beach, CA. No Special Conditions were imposed. The permit was issued, however the permit expired and no work was done.

On August 24, 1982, the Commission approved Coastal Development Permits 5-82-311-(Flanders; 5-82-312-(Rhinesmith); and 5-82-315-(Bell) for replacement of three (3) adjacent existing wooden bulkheads with precast concrete bulkheads along a new alignment extending 3-feet bayward in Lower Newport Bay with backfill of 17 cubic yards on each lot. The major issue was fill of open coastal waters. One (1) Special Condition was imposed which required that prior to issuance of a permit, the applicants shall submit revised plans for the bulkhead replacements which show that no permanent structures bayward of the existing bulkhead alignment. This Special Condition was never completed. Therefore, no permit was ever issued.

**B. WATER QUALITY**

The proposed work will be occurring on, within, or adjacent to coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters. To reduce the potential for post-construction impacts to water quality the Commission requires the continued use and maintenance of post construction BMPs. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

**C. MARINE RESOURCES**

The proposed development is the replacement of an existing bulkhead in the same location or landward of the existing bulkhead that is necessary to protect an existing structure. The proposed development will not result in the additional fill of coastal waters as the new bulkhead will be located either in the same location or landward of the existing bulkhead. In the event that the bulkhead is being reconstructed in the same location, it is infeasible to relocate the new bulkhead further landward. The proposed development has been conditioned to minimize adverse effects on the marine environment by avoiding or mitigating impacts upon sensitive marine resources, such as eelgrass, and to avoid contributing to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. As conditioned, the project will not significantly adversely impact eelgrass beds and will not contribute to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. Further, as proposed and conditioned, the project conforms with Sections 30233 and 30235 of the Coastal Act.

**D. PUBLIC ACCESS**

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act

**E. LOCAL COASTAL PROGRAM**

The LUP for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on January 9, 1990. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

**F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



EXHIBIT # 1  
PAGE 1 OF 1

# COASTAL COMMISSION

**PACIFIC**  
**COAST**

OCEAN

3500 & 3502 Marcu

1 SPINNING RUN  
2 BONSPRITE LN  
3 CATAPPAH CT  
4 CLIPPER CT  
5 REGATTA RUN

SEE A E2

1 ABLE LN  
2 BROOKHAVEN CIR  
3 BAY CREST CIR  
4 CARIBBEAN LN  
5 CENTAL COMPLEX CIR  
6 SEAGRASS DR  
7 SEASPRITE CIR

NEWPORT  
BEACH

Site:

477

SEE MAP

423-3

[illegible]

84

WINTERWAY  
THE END ALTO

IN WATERWAY THE MATTO

EXHIBIT #

PAGE 1 OF

## COASTAL COMMISSION

MARCH 1984

LAKE TRACT

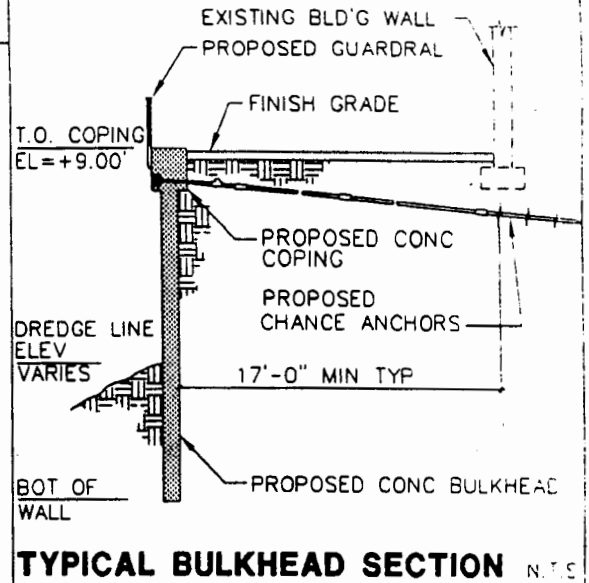
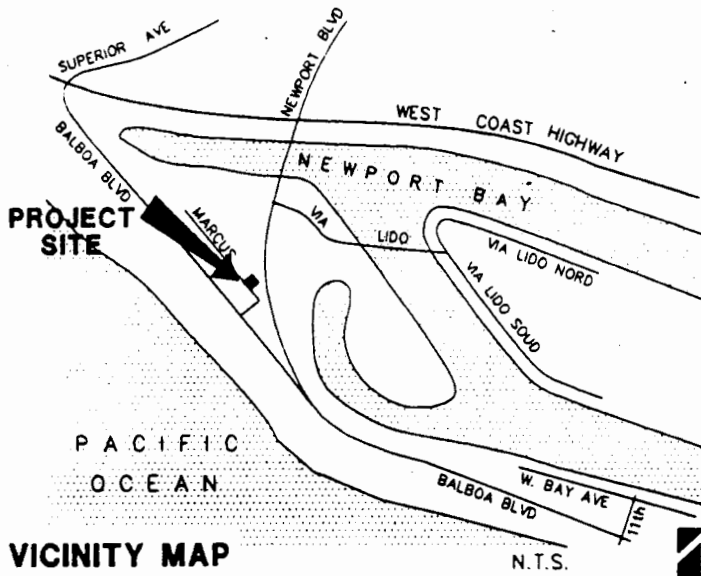
## CANAL SECTION

PARCEL MAP, P. M. 278-17

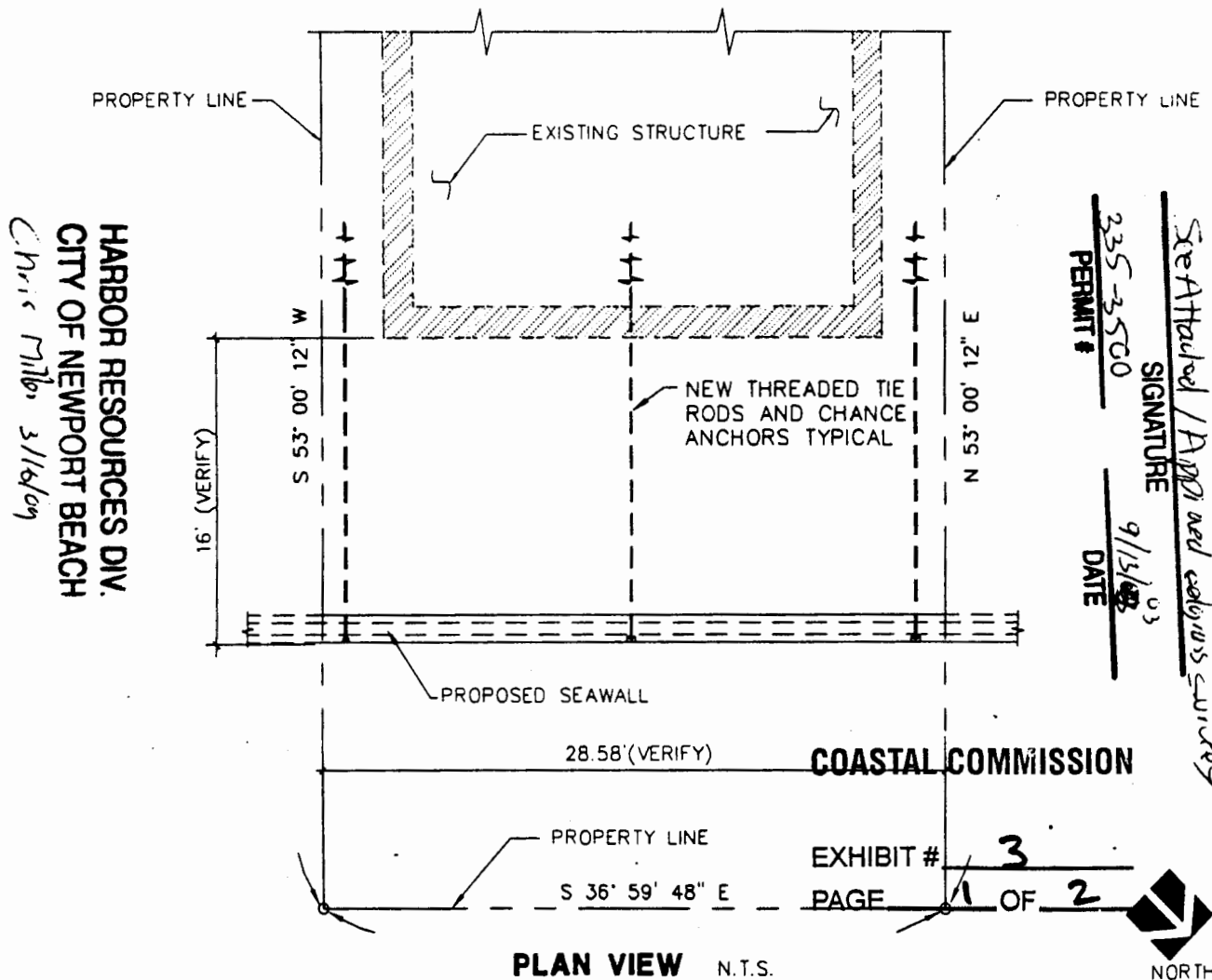
NOTE - ASSESSOR'S BLOCK &  
PARCEL NUMBERS  
SHOWN IN CIRCLES

ASSESSOR'S MAP  
BOOK 423 PAGE 37  
COUNTY OF ORANGE

# CITY OF NEWPORT BEACH



SOUNDINGS ARE EXPECTED IN FEET AND DENOTE ELEVATIONS BASED ON MEAN LOWER LOW WATER.



HARBOR RESOURCES DIV.  
CITY OF NEWPORT BEACH  
Chris Miller 3/16/09

**EEL GRASS INSPECTION**  
☒ NO EEL GRASS WITHIN 15' OF PROJECT  
☐ EEL GRASS IN THE PROJECT AREA  
See Attached / App and edgess survey  
335-3500  
PERMIT #  
SIGNATURE  
DATE 9/15/03

**COASTAL COMMISSION**

EXHIBIT # 3  
PAGE 1 OF 2



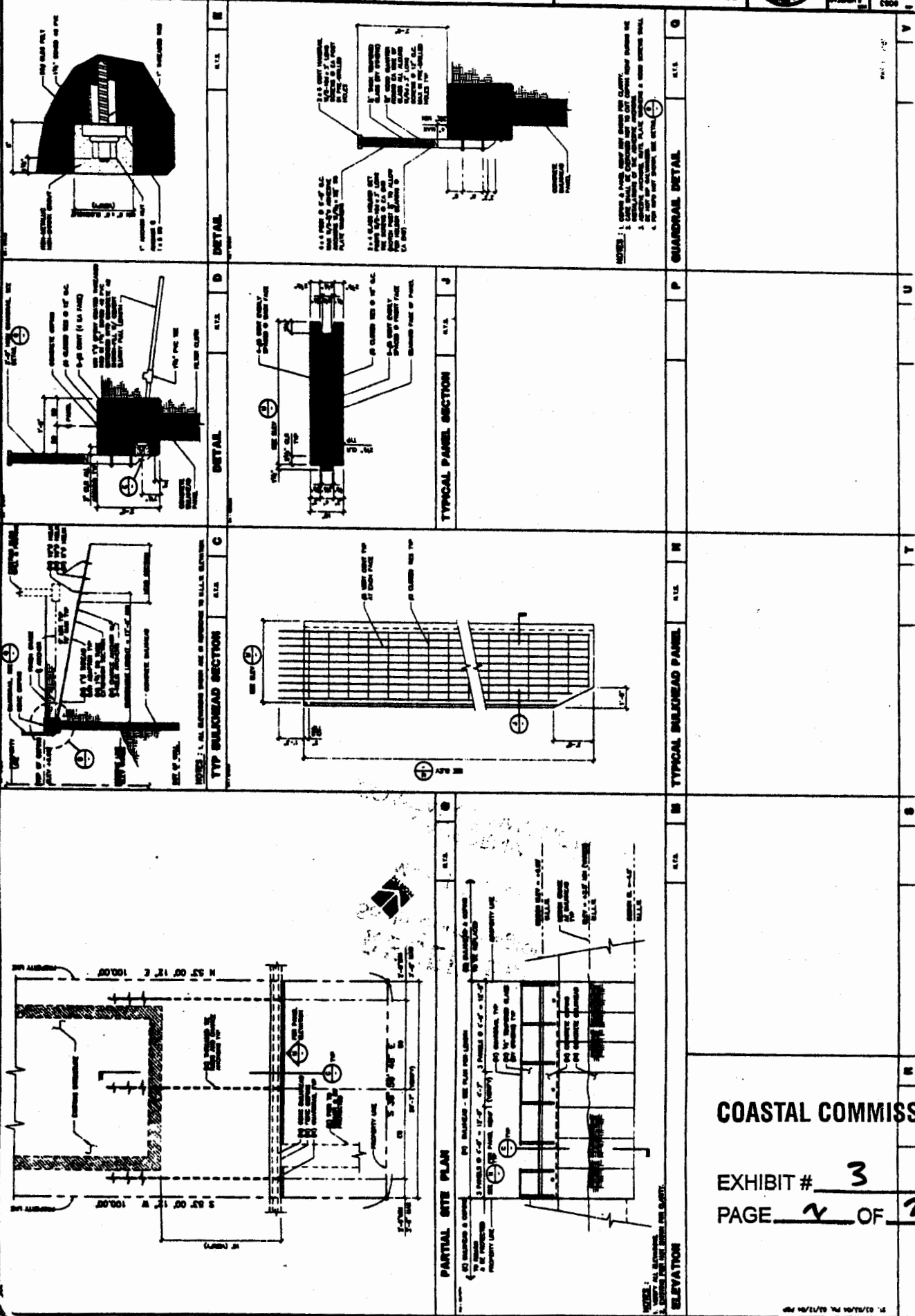
APPLICANTS NAME : SWIFT SLIP DOCK & PIER BUILDERS	LOT	BLOCK
JOB ADDRESS : 3500 MARCUS AVENUE NEWPORT BEACH, CA 92663	CONTRACTOR : SWIFT SLIP DOCK & PIER BUILDERS 2027 PLACENTIA AVE. COSTA MESA, CA 92627	DATE 03/12/04



**WILLIAM SIMPSON & ASSOCIATES, INC.**  
 CONSULTING STRUCTURAL ENGINEERS  
 3600 MARCUS AVE.  
 NEWPORT BEACH, CA 92660  
 PARTIAL SITE PLAN, ELEVATION & DETAILS

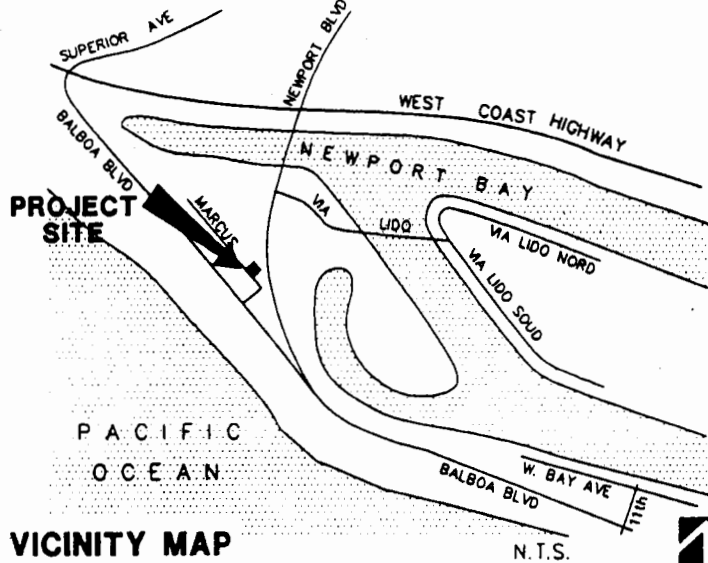
**PROPOSED SEAWALL REPLACEMENT**  
 2027 PLACENTIA AVENUE  
 COSTA MESA, CA 92627  
 SWIFT SLIP DOCK & PIER BUILDERS

NO.	REVISION	DATE
1	ISSUED FOR PERMIT	02/13/04
2	REVISED TO REFLECT COMMENTS	03/01/04
3	REVISED TO REFLECT COMMENTS	03/01/04
4	REVISED TO REFLECT COMMENTS	03/01/04
5	REVISED TO REFLECT COMMENTS	03/01/04



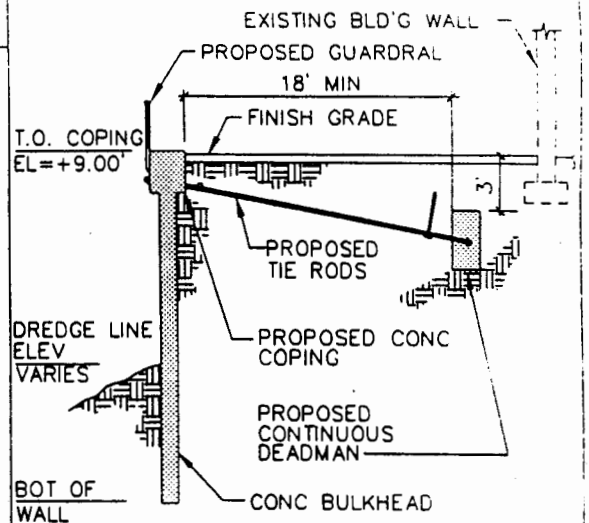
**COASTAL COMMISSION**  
 EXHIBIT # 3  
 PAGE 2 OF 2

# CITY OF NEWPORT BEACH



## VICINITY MAP

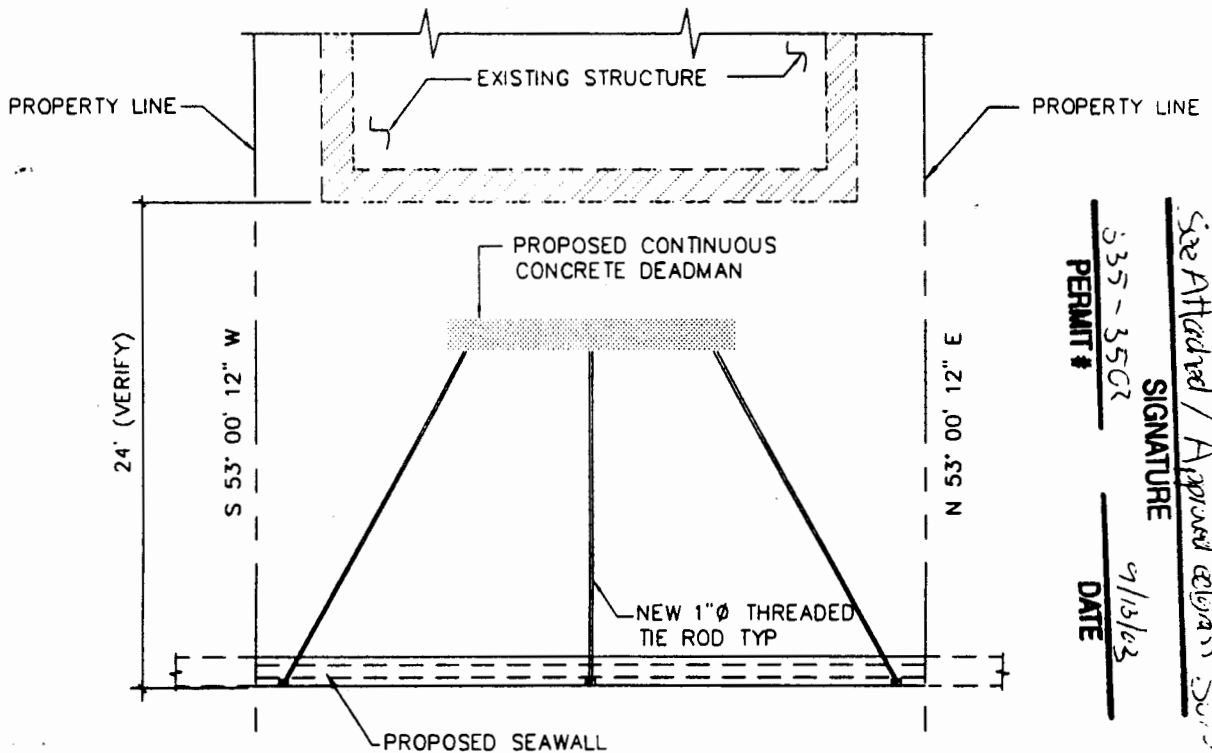
NEWPORT BEACH, CALIFORNIA



## TYPICAL BULKHEAD SECTION

N.T.S.

SOUNDINGS ARE EXPECTED IN FEET AND DENOTE ELEVATIONS BASED ON MEAN LOWER LOW WATER.



## PLAN VIEW

N.T.S.

## COASTAL COMMISSION

EXHIBIT # 4  
PAGE 1 OF 2



EEL GRASS INSPECTION

☒ NO EEL GRASS WITHIN 15' OF PROJECT  
☐ EEL GRASS IN THE PROJECT AREA

See Attached / Approved plans Survey  
335-3502  
PERMIT #  
SIGNATURE  
DATE 9/13/03

HARBOR RESOURCES DIV.  
CITY OF NEWPORT BEACH

Chris M. 3/15/03

APPLICANTS NAME : SWIFT SLIP DOCK & PIER BUILDERS

LOT

BLOCK

JOB ADDRESS : 3502 MARCUS AVENUE  
NEWPORT BEACH, CA 92663

CONTRACTOR : SWIFT SLIP DOCK  
& PIER BUILDERS  
2027 PLACENTIA AVE.  
COSTA MESA, CA 92627

DATE  
03/12/04

WILLIAM SIMPSON & ASSOCIATES, INC.  
CONSULTING STRUCTURAL ENGINEERS  
2225 JEFFERSON AVENUE  
ANN ARBOR MI 48106-1508  
734/769-1400 (404) 769-1400

PROPOSED SEAWALL REPLACEMENT  
3502 MARCUS AVE  
NEWPORT BEACH, CA 92663  
ESTABLISH DATE OF THE ELEVATION SURVEY

SWIFT SLIP DOCK & PIER BUILDERS  
2027 PLACENTIA AVENUE  
COSTA MESA, CA 92627

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EXHIBIT # 4  
PAGE 2 OF 2

**NOTES:**

1. CARRY A PENCIL WITH YOU FOR CLARITY.
2. CASE SHALL BE CONSIDERED NOT YET CLOSING UNTIL ALL THE NECESSARY DOCUMENTS ARE RECEIVED.
3. ADDRESSING AND/OR MAIL PLAYS SUBJECTS & WORKS SHOULD BE

[illegible]**DETAIL**

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## SECTION

3

**TYPICAL PANEL SECTION**

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1. **THESE ARE THE TERMS AND CONDITIONS OF THE SALE:**

4

Technical drawing of a rectangular object, likely a component or part, with dimensions and labels. The drawing includes a top view and a side view. The top view shows a rectangle with dimensions 100 (width) and 150 (height). The side view shows a rectangle with dimensions 100 (width) and 150 (height). The drawing includes a circular feature on the left side, labeled '100' and '150'. The drawing is labeled with '100' and '150' at the bottom. The drawing is labeled with '100' and '150' at the bottom.

② 701.20 IS "TAKEN FROM THE RECORDS OF THE  
FEDERAL BUREAU OF INVESTIGATION"  
DATE: 3/1/74

## PARTIAL SITE PLAN

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**Abstract**

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100-443886-100

State of California

**M e m o r a n d u m**

**To :** Mr. Fermie Sy  
California Coastal Commission  
South Coast Area  
200 Oceangate Avenue, 10<sup>th</sup> Floor  
Long Beach, California 90802-4325

**Date :** April 12, 2004

**From :** **ERIC J. LARSON**   
Department of Fish and Game-Marine Region

**Subject :** Replacement Seawall at 3500 and 3502 Marcus Avenue, City of Newport Beach, Orange County

Department of Fish and Game (Department) staff were recently contacted by Ms. Beth Swift, Swift Slip Dock and Pier Builders, to provide comments on a proposed project at 3500 and 3502 Marcus Avenue, Newport Beach, California, Coastal Development Permit (CDP) No. 5-03-396 (applicants Imoto and Flanders). The proposed project will upgrade and replace a seawall at the above mentioned residences in order to comply with City codes. It is our understanding that upgrades to the seawall will not result in any loss of marine habitat as the seawall will maintain its current footprint. An eelgrass survey found no eelgrass within 15 feet of the project area and a *Caulerpa taxifolia* survey found no algae present.

Based on our current understanding of the project, we believe the activities associated with the proposed project would not have a significant adverse effect on existing marine resources and habitats within the area, and we would concur with the issuance of a CDP. The Department reserves the right to modify or change the above determination based on additional findings or other pertinent information concerning the above mentioned project.

As always, Department personnel are available to discuss our comments, concerns, and recommendations in greater detail. To arrange for a discussion please contact Ms. Marilyn Fluharty, Environmental Scientist, California Department of Fish and Game, 4949 Viewridge Avenue, San Diego, CA 92123, telephone (858) 467-4231.

cc: Ms. Marilyn Fluharty  
Department of Fish and Game  
4949 Viewridge Avenue  
San Diego, CA 92123

Ms. Beth Swift  
Swift Slip Dock and Pier Builders, Inc.  
2027 Placentia Avenue  
Costa Mesa, CA 92627

**COASTAL COMMISSION**

EXHIBIT # 5  
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