

CALIFORNIA COASTAL COMMISSION

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



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STAFF REPORT AND RECOMMENDATION

ON CONSISTENCY DETERMINATION

Consistency Determination No.	CD-015-05
Staff:	MPD-SF
File Date:	1/19/05
60th Day:	3/20/05
75th Day:	4/4/05
Commission Meeting:	3/16/05

FEDERAL AGENCY: U.S. Navy

DEVELOPMENT

LOCATION: West Cove, San Clemente Island, and Southern California Anti-Submarine Warfare Range, offshore of San Clemente Island (Exhibits 1-3)

DEVELOPMENT

DESCRIPTION: Cable and other equipment repair and replacement (Exhibits 2-6).

SUBSTANTIVE

FILE DOCUMENTS: See page 11.

EXECUTIVE SUMMARY

The U.S. Navy (Navy) has submitted a consistency determination for cable (and other equipment) repairs and replacement at the Southern California Anti-Submarine Warfare Range (SOAR), offshore of the western side of San Clemente Island. The proposal would consist of repairing and replacing damaged hydrophones, communications projectors and associated cables that connect the underwater range with the data processing facility at West Cove on the northwest side of the island. The Navy uses the underwater range to conduct underwater tests, training and battle simulations; the hydrophones track submerged vehicles, and the communications projectors (also called underwater telephones) communicate with submarines.

Primary issues raised by the project are impacts to western snowy plovers, kelp, nearshore hard bottom habitat, and commercial and recreational fishing. Snowy plovers do not nest at West Cove, and the project would be timed to avoid affecting plovers. The U.S. Fish and Wildlife Service concurs that plover impacts would be minimal, and the Navy will conduct pre-project monitoring to confirm the absence of plover nesting. The project would be confined to previously disturbed areas, and the cable would be diver-anchored to the hard bottom habitat to avoid significant impacts. The project is a relatively minor addition to an extensive existing cable and equipment array, and for the vast majority of the project area the project is located either in areas restricted from fishing or too deep to affect fishing (such as by snagging fishing equipment). The project has been realigned to minimize kelp impacts, and no location is available that would completely avoid kelp or hard bottom effects. The project is an allowable use under the Coastal Act as an incidental public service, is the least damaging feasible alternative, and provides adequate avoidance, minimization, and mitigation measures. Best Management Practices and revegetation efforts would be included on land, and no trenching is proposed offshore. The project is therefore consistent with the applicable marine resource, water quality, environmentally sensitive habitat, and commercial and recreational fishing policies (Sections 30230, 20331, 30233, 30234, 30234.5, and 30240) of the Coastal Act.

Public access is restricted at the island due to military security needs, and to the extent fishing is allowed off the island, the short construction period would not preclude fishing around the small area of the activity. The project is therefore consistent with the public access and recreation policies (Sections 30210 and 30212) of the Coastal Act.

STAFF SUMMARY AND RECOMMENDATION

I. STAFF SUMMARY:

A. Project Description. The U.S. Navy (Navy) has submitted a consistency determination for the repair and replacement of cable and other underwater equipment at the Southern California Anti-Submarine Warfare Range, offshore of the western side of San Clemente Island. The proposal would consist of repairing and replacing damaged hydrophones, communications projectors and associated cables that connect the underwater range with the data processing facility on the northwest side of the island (Exhibits 2-6). The Navy uses the underwater range to conduct underwater tests, training and battle simulations; the hydrophones track submerged vehicles, and the communications projectors (also called underwater telephones, or UWTs) communicate with submarines. Two existing hydrophone strings have been recently damaged, and several projectors have ceased working, reducing communications/tracking by over 50%, with what the Navy considers a "severe" impact to training. The project would include repairing:

- Failed projectors P1, P3, and P4 by overlaying with a new UWT Array;
- The nearshore amplifier at D Array and any adjacent cable breaks; and
- The nearshore amplifier at C Array and any adjacent cable breaks.

Cable diameters are ½ inch to 2 inches. The first half mile of cable from shore would include steel casing, which would be anchored to the seafloor where it crosses hard bottom substrate. Up to 100 anchors would be used. Divers would attach the anchors using underwater epoxy to attach one-inch diameter rods of the bottom, which the metal pipe would then be attached to. Sandbags would be placed under any suspended cables (e.g., where it passes over a boulder). On soft bottom habitat, the cable would be laid at the surface and would self bury. In areas shallower than 100 ft. in soft bottom habitat, divers would use a fluidizing nozzle to jet bury the cable.

Existing cables would be left in place for reuse. Damaged cables not reusable would be removed and disposed of onshore. The project also includes testing the equipment once it is replaced, and the project is scheduled for June 2005.

B. Related Commission Action. On June 15, 1995, the Commission concurred with a Navy consistency determination for the replacement of a damaged cable in the same beach/upland location as the beach component of the subject project (CD-20-95). In its review, the Commission determined that the activity was unlikely to adversely affect snowy plovers, but noted that the Navy had committed to reduce potential impacts to plovers through removal of exotic vegetation or studying beach enhancement concepts. The beach at West Cove was then, and is still, too narrow to accommodate plover nesting. The Commission also found that project was an allowable use under Section 30233(a) of the Coastal Act as an incidental public service, and, with the measures to avoid affecting snowy plovers, was the least damaging feasible alternative and included feasible mitigation measures, and was consistent with the public access policies (access to the area is legitimately restricted due to military security needs).

In reviewing other Navy ocean cables, on November 15, 1989, the Commission concurred with the Navy's consistency determination (CD-045-89) for construction of a "FOCUS" (Fiber Optic Communication Underwater System) project for installation of two fiber optic cable lines extending between Point Mugu and San Nicolas Island. No mitigation was required for this initial cable installation. On July 11, 2003, the Commission conditionally concurred with the Navy's proposed replacement of two sections of its FOCUS cables (CD-50-03). The Commission did not require mitigation for any hard bottom habitat or other biological impacts from the cables, and in fact the Commission did not oppose the Navy's commencement of the project. However the Commission was concern over the long-term disposition of the cable in the event it was no longer needed. The Commission requested the Navy to agree to remove the cable when no longer needed. The Navy agreed to return to the Commission at that future date and analyze the benefits versus impacts of removal; however the Navy did not agree to the first part of the Commission's condition requiring removal of the *existing* cable being replaced. The condition stated:

1. Cable Removal. After installation of the replacement FOCUS cable lines at San Nicolas Island and after the replacement cable lines are operational, the Navy will remove all portions of the bypassed FOCUS cable segments that are not grouted

extensively into rocky substrate to anchor them in place. Cable segments that sit on either rocky or sandy substrate, whether anchored (using bolts or other hardware) or not, must be removed within one year after the replacement FOCUS cable lines become operational. At that time, the Navy will submit to the Executive Director written confirmation and the necessary supporting materials (including, but not limited to, maps, diagrams, and written reports) that adequately document the removal of the bypassed FOCUS cable segments. In addition, prior to commencement of project construction, the Navy will submit to the Executive Director a written commitment to remove the proposed new FOCUS cable replacements when they reach the end of their operational life or are no longer used by the Navy.

Added to the condition was the Commission's clarification that:

However, for the proposed new FOCUS cables, the Navy can: (1) at a future date submit materials to the Commission which document that leaving the new cables in place on the ocean floor will be less harmful to the marine environment than removing them; and (2) based on that documentation, request that the Commission eliminate the measure to remove the new FOCUS cable segments when no longer used by the Navy.

The Navy did agree that for the *new* cable, it would return to the Commission at such time that the cable is not being used, with additional analysis to determine whether the new (but at that future date, non-operational) cables should be abandoned in place or removed. The Navy also agreed to continue the dialogue over the cable being replaced, including joining the Commission in informal mediation efforts with the Federal Consistency Coordinator in NOAA's Office of Ocean and Coastal Resource Management (OCRM) to attempt to resolve the disagreement over the existing cable. To date, no such mediation discussions have yet commenced.

In reviewing several commercial fiber optic cable proposals in recent years, including CC-111-01/CDP E-01-029 (Tyco), CC-028-00/CDP E-99-011 (MCI WorldCom), and CC-110-00/CDP E-00-008 (Global West), the Commission adopted conditions requiring the cable companies to: post performance bonds to ensure condition compliance (in particular cable removal after the useful life of the cables has ended); bury cables 1 meter deep or to the maximum lesser depth feasible (except in hard bottom habitat); submit detailed location plans to affected fishermen (out to a depth of 1,800 meters); include trained wildlife monitors on the cable laying vessels and provide wildlife monitoring reports to the Commission; where burying is infeasible, place the cable as close as possible to the seafloor (including using ROVs to follow the operation and reposition the cable where feasible); survey the cable every 2 years and rebury exposed segments (out to a depth of 1,800 meters); when no longer being used, remove the cables in active fishing areas and any unburied cables at depths of less than 1000 meters when no longer being used; retrieve any fishing gear lost due to the presence of the cable; survey hard bottom areas and report any damage caused (out to 1200 meters); mitigate any hard bottom habitat effects through payments to a Department of Fish and Game artificial reef program; and compensate fishermen for any economic losses caused by the cable.

For all the above Navy and commercial cable projects, the Commission found the cables to be allowable uses under Section 30233(a) of the Coastal Act as an incidental public service. In four of the above six projects, the Commission also required/requested submittal of Horizontal Direction Drilling (HDD) plans for Commission staff review; however no HDD is proposed for the subject project.

Finally, the Navy is also in the process of preparing a programmatic assessment of the underwater submarine range activities. The Navy currently anticipates publishing a Draft Clemente Island Range Complex Environmental Impact Statement (EIS) later this year (September/October 2005). As it did for the its testing and training activities on the Point Mugu Sea Range (CD-2-01), to the north and west of the underwater submarine range, the Navy will submit a consistency determination to the Commission for the overall submarine range program analyzing coastal zone effects.

C. Status of Local Coastal Program. The standard of review for federal consistency determinations is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) of the affected area. If an LCP that the Commission has certified and incorporated into the California Coastal Management Program (CCMP) provides development standards that are applicable to the project site, the LCP can provide guidance in applying Chapter 3 policies in light of local circumstances. If the Commission has not incorporated the LCP into the CCMP, it cannot guide the Commission's decision, but it can provide background information. The County of Los Angeles LCP has not been certified by the Commission.

D. Federal Agency's Consistency Determination. The Navy has determined the project consistent to the maximum extent practicable with the California Coastal Management Program.

II. STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following motion:

MOTION: **I move that the Commission concur with consistency determination CD-015-05 that the project described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the California Coastal Management Program (CCMP).**

STAFF RECOMMENDATION:

Staff recommends a YES vote on the motion. Passage of this motion will result in an agreement with the determination and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.

RESOLUTION TO CONCUR WITH CONSISTENCY DETERMINATION:

The Commission hereby **concurs** with consistency determination CD-015-05 by the U.S. Navy on the grounds that the project described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the CCMP.

III. FINDINGS AND DECLARATIONS:

The Commission finds and declares as follows:

A. **Marine Resources/Coastal Waters/Environmentally Sensitive Habitat.** The Coastal Act provides:

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 30231: 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 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. ...

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities

Section 30240: (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) 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 recreation areas.

As noted on page 5, the Commission has previously found Navy communications cable repairs in coastal waters to be an allowable use under Section 30233(a) of the Coastal Act as an incidental public service. The primary habitat issues raised by the project are impacts to western snowy plovers, kelp, and nearshore hard bottom habitat.

The project's onshore ground disturbance associated with excavating the trench would occur within previously disturbed areas. The Navy would incorporate best management practices to minimize erosion, and would revegetate disturbed areas with native vegetation. The beach anchor and trench would be backfilled with original soils and revegetated. The major onshore sensitive resource issue is the potential for snowy plovers on the beach. San Clemente Island is not designated as critical habitat for snowy plovers; nevertheless the Navy has regularly surveyed the island for the presence of the plovers since 1994. Wintering and occasional spring-summer transient plover activities occur at West Cove (up to 5-10 wintering plovers have been seen at West Cove (Exhibit 9); however no plover nesting has been documented. Further, the beach width at West Cove, and in fact beach widths throughout the island, are too narrow to expect plover nesting. Moreover, the project scheduling (June/July) would minimize affects on wintering plovers.

In the previous Commission concurrence for Navy West Cove cable repairs (CD-90-95), the Navy committed to follow-up monitoring/studies (see page 3); the Navy now states:

Response: The Navy Region Southwest Natural Resources Office's records indicate that mitigation measures resulting from a cable repair project in 1995 led to sand replenishment on the upper portions West Cove beach in August 1996. A beach replenishment feasibility study was not conducted. WSP [western snowy plover] surveys conducted annually 1994-1997 and 2000 through 2004 indicate that WSP are precluded from establishing SCI as a nesting area because of high predator populations, and because all beaches on SCI are too small and/or are inundated with tides. San Nicolas Island and the San Diego Silver Strand support very high numbers of nesting WSP. SCI has not been recognized as either an important nesting or wintering area by the USFWS in the recent Federal Register notice of Critical Habitat designation for WSP.

Also in analyzing "lessons learned" from the previous project, the Navy states:

The Navy submitted a CD (CD-90-95) for a cable repair action at West Cove. As a result of consultation, the project was delayed until mid-August, with the believe that this would minimize impacts during WSP [western snowy plover] breeding season.

Since 1995, the Navy has collected WSP survey data that allow us to better understand WSP seasonal distribution and abundance and use patterns at SCI [San Clemente Island]. This data shows that June is the best month for this project on West Cove as the WSP is less likely to be present.

The Navy further states:

Observations of wintering WSP at West Cove ... indicated that WSPs will initially move away from temporary disturbances while remaining at West Cove. Additionally, from observations of banded birds, the Navy has considerable evidence of the movement of WSPs between SCI beaches Given the continuation of construction activities in WSP habitat at West Cove for several days, it is likely that WSPs, if present, would move to another SCI beach or avoid West Cove while the activity is occurring (personal communication, K. Brock). In any case, the interruption of resting or foraging would be brief and localized. No long-term alteration of the beach and strand habitat would occur. Therefore, the project is not likely to adversely affect the WSP.

In addition, the Navy agrees to confirmatory monitoring for any plover nests prior to construction; if any nests are found the Navy would stop work and notify the U.S. Fish and Wildlife Service and the Commission staff to determine appropriate avoidance or protection measures. The U.S. Fish and Wildlife Service concurs that, with this monitoring plover impacts would be minimal.

Concerning marine mammals and offshore impacts, no pinniped rookeries occur at West Cove. The Navy anticipates no marine mammal impacts offshore, as the short construction period would be a very small addition to its regularly scheduled activities including numerous ships and submarines in the area, and because the cable is would be too rigid to entangle a marine mammal. In conjunction with NOAA Fisheries, the Navy surveyed the offshore area for endangered white abalone; none are present along the project footprint.

No offshore trenching would occur, and the Navy has realigned the cable to minimize to the extent feasible impacts to kelp and hard bottom habitat (which occurs at depths between -32 and -82 ft.). Diver-placed anchors would assure that the cable would not sweep across the hard bottom habitat. The Navy estimates the hard bottom cable footprint at twice the cable width, plus one sq. ft. for each anchor strap, totaling approximately 1,900 sq. ft. (0.04 acres) of impact. This impact would be temporary, as the anchors and cable would be stable and provide substrate. The Navy does not believe the installation operation would detach any kelp plants, and while some minor near-surface impacts could occur, the kelp would quickly regrow. The Navy concludes: "As a result, the impact on the kelp bed and associated species is considered to be localized, short-term, and insignificant." The Navy further estimates soft bottom habitat impacts to total 0.6 acres in area and that these impacts would be temporary and insignificant.

In conclusion, the project: (a) is an allowable use under the Coastal Act as an incidental public service; (b) would be confined to previously disturbed areas; (c) would be scheduled to minimize plover impacts; (d) would minimize fishing impacts (see following section of this report); (e) has been realigned to minimize kelp impacts to the degree feasible, and no location is available or feasible that would completely avoid kelp or hard bottom effects; and (f) the cable would be diver-anchored to the hard bottom habitat to minimize kelp and hard bottom habitat impacts. The project is a relatively minor addition to an extensive existing cable and equipment array, and for the vast majority of the project area the project is located either in areas restricted from fishing or too deep to affect fishing (such as by snagging fishing equipment). There are several reasons why the types of extensive the extensive mitigation measures similar to those required of the fiber optic companies (listed on page 4) are not appropriate in this case, including that the project: (a) is a minor addition to an extensive existing cable array; (b) includes anchoring in rocky substrate; (c) is predominantly off limits to fishermen or too deep to snag fishing gear (see following section); and (d) does not raise issues of the applicant's financial solvency. The Commission therefore finds the project an allowable use, the least damaging feasible alternative, and provides adequate avoidance, minimization, and mitigation measures. The Commission therefore concludes that the project is consistent with the applicable marine resource, water quality, and environmentally sensitive habitat policies (Sections 30230, 20331, 30233, and 30240) of the Coastal Act.

B. Public Access/Fishing. Section 30210 of the Coastal Act provides:

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

Section 30212 provides in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources....

Section 30220 provides:

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

In addition, aside from the commercial fishing protection afforded under Section 30230, quoted above on page 6, Sections 30234 and 30234.5 underscore the need to protect commercial and recreational fishing opportunities:

30234. *Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.*

30234.5. *The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.*

The Navy maintains that the project is consistent with the public access, recreation, and fishing policies of the Coastal Act, stating that access on the island has historically been restricted due to military security needs, and that most of the offshore area where cables and equipment could conflict with fishing efforts are also restricted for military security and public safety. Exhibit 10 shows the various restricted areas offshore of the island. The Navy states:

The existing Safety Zone in waters adjacent to San Clemente Island off West Cove prohibits anchorage and fishing but allows the passage of vessels. The Restricted Area off West Cove prohibits anchorage, and the Danger Zone restricts certain activities when announced by the Navy (see Figure 5 [Exhibit 10] for locations). Not all of the repairs occur within these special designation areas; however the standard SCORE [Southern California Offshore Range] protocol of publishing descriptions of Navy activities in the Notice to Mariners, and the use of marine radio channels for communicating with approaching vessels will ensure that vessels transiting through the area avoid the cable repair locations while actions are underway. SCORE maintains a public information internet website¹ to allow mariners to research scheduled activities. During the cable installation period, passing vessels will be asked to remain seaward of the cable installation ship and diver boats to avoid entanglement with cable components and for the safety of the divers.

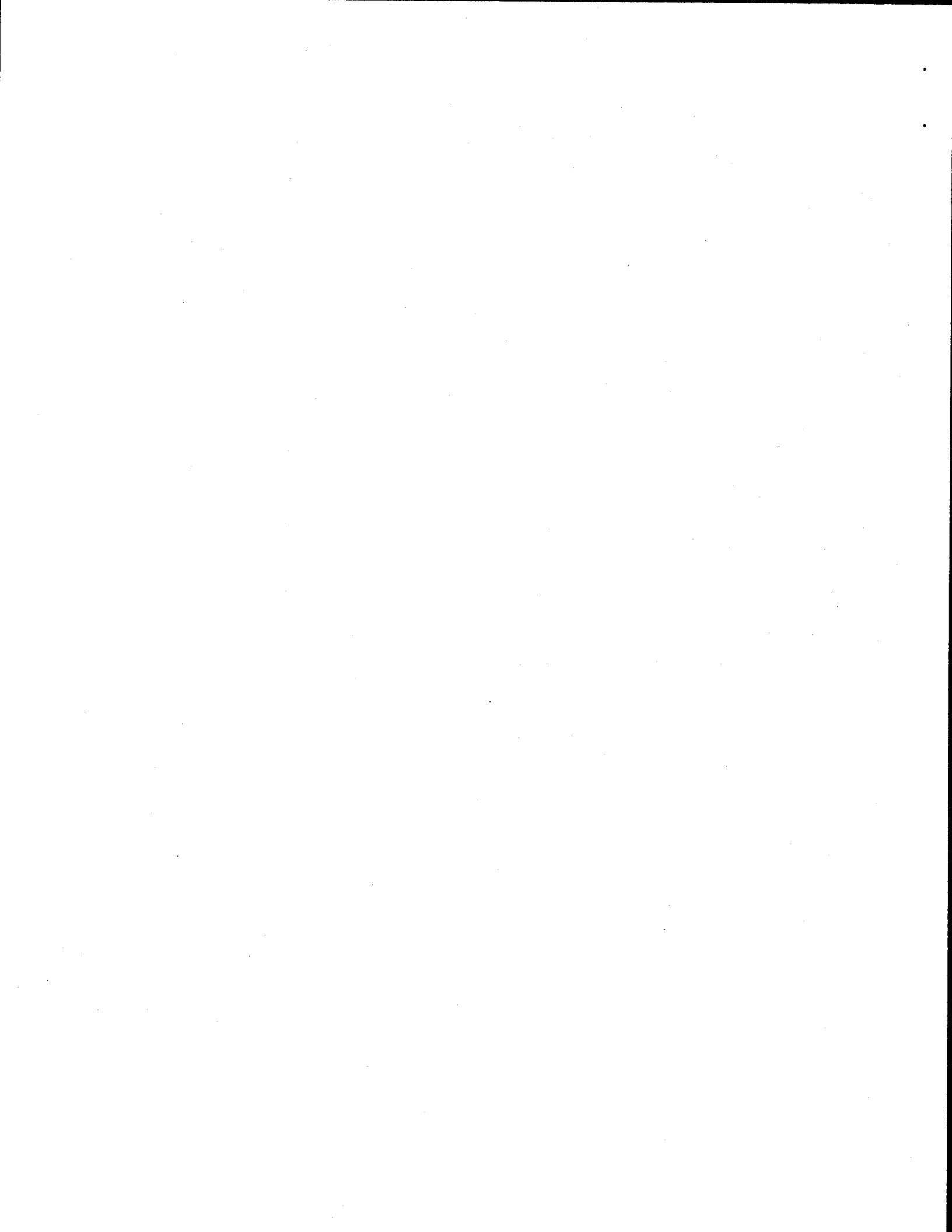
The Navy further states that for the 3-week offshore repair period the Navy would not preclude fishing vessels nearby, and that it would post a Notice to Mariners for the activities. As it has found in reviewing previous onshore and offshore Navy proposals at San Clemente Island, the Commission finds that the existing military restrictions are necessary and consistent with Coastal Act policies. As discussed on page 9 above, the Commission further finds that the types of fisheries protection and compensation requirements imposed on fiber optic cable laying applicants (see page 4) are not warranted in that the area already contains an extensive array of Navy cables, the areas where cables might snag trawling gear are predominantly either too deep for bottom trawling, or in shallower waters, are already off limits to active fishing.

¹ <http://www.scisland.org> [footnote added to quote]

The Commission therefore agrees with the Navy and concludes that the project is consistent with the public access, recreation, and fishing policies (Sections 30210, 30212, 30220, 30234, and 30234.5) of the Coastal Act.

IV. SUBSTANTIVE FILE DOCUMENTS:

1. Consistency Determination CD-20-95, Navy San Clemente Island Cable Repair.
2. Consistency Determination CD-2-01, Navy Point Mugu Sea Range testing and training activities.
3. Consistency Determinations CD-045-89 and CD-50-03, Navy FOCUS Cable and Cable repairs, San Nicolas Island.
4. Consistency Certification CC-111-01/CDP E-01-029, Tyco Fiber Optic Cable, offshore of Los Angeles County.
5. Consistency Certification CC-028-00/CDP E-99-011, MFSGlobenet/MCI WorldCom Fiber Optic Cable, offshore of San Luis Obispo County.
6. Consistency Certification CC-110-00/CDP E-00-008, Global West Fiber Optic Cable, offshore of San Luis Obispo, Los Angeles, and San Diego Counties.



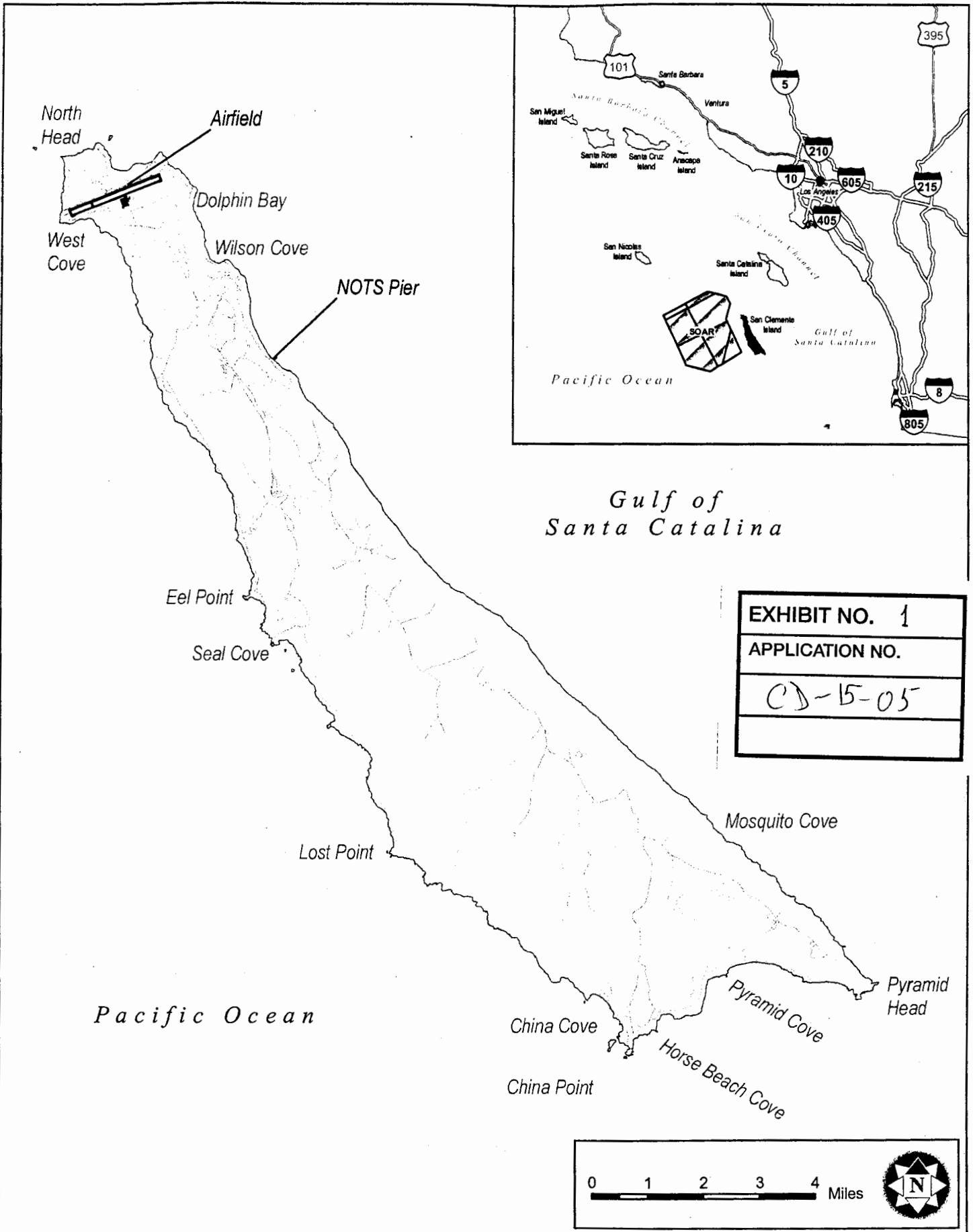
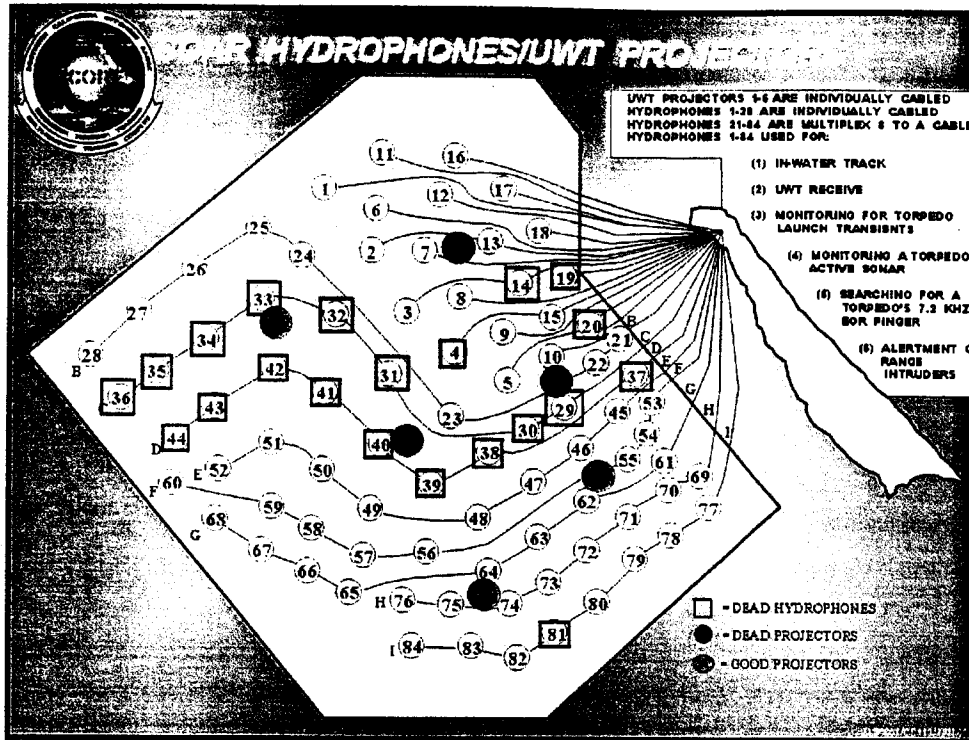
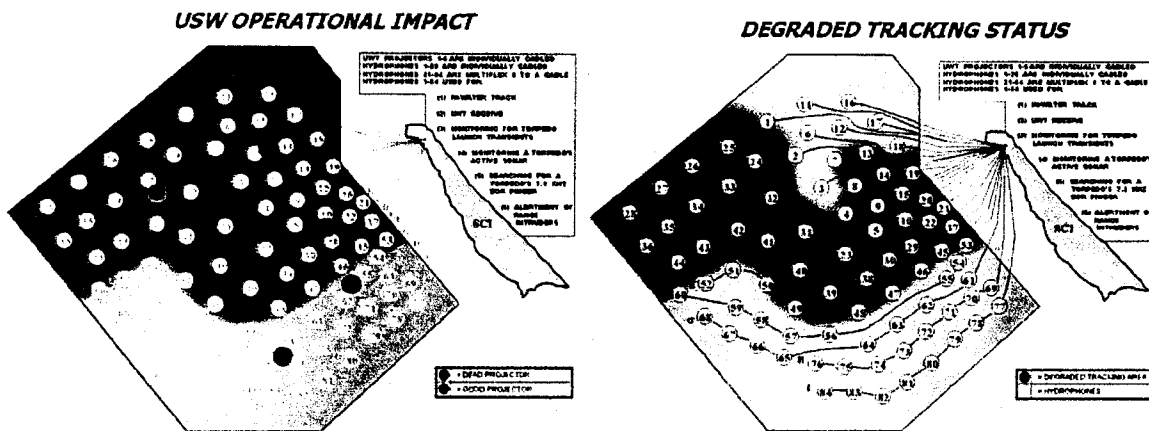


Figure 1
Regional Location, San Clemente Island

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Inoperable Hydrophones and Projectors



Degraded Undersea Warfare Operations and Tracking Capabilities (shown in red)

Figure 2 Degraded Capabilities at SOAR

EXHIBIT NO. 2
APPLICATION NO.
CD-15-05

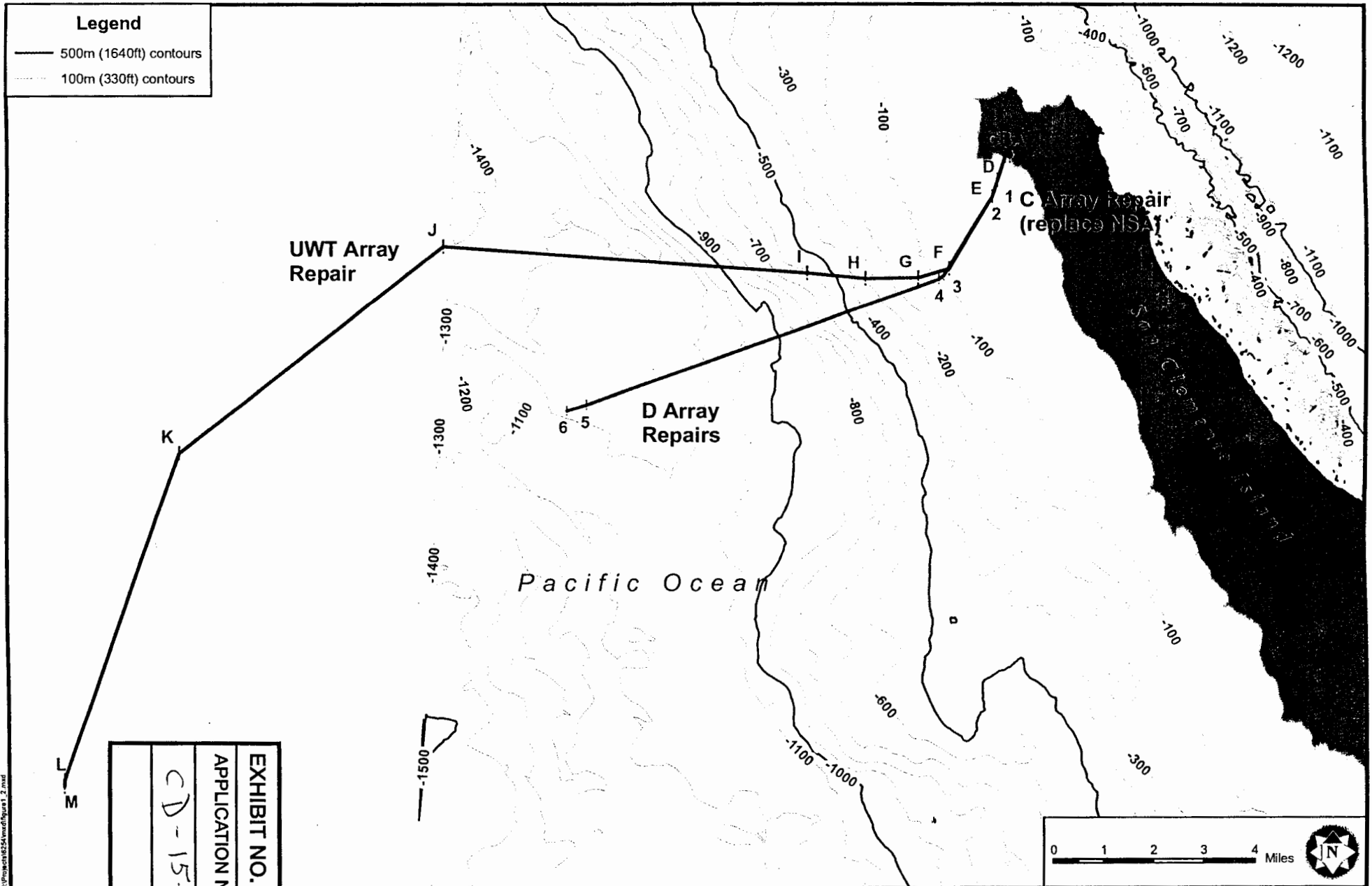


Figure 3
Location of Proposed Repairs for UWT Array, D Array and C Array

OPTION A

OPTION B

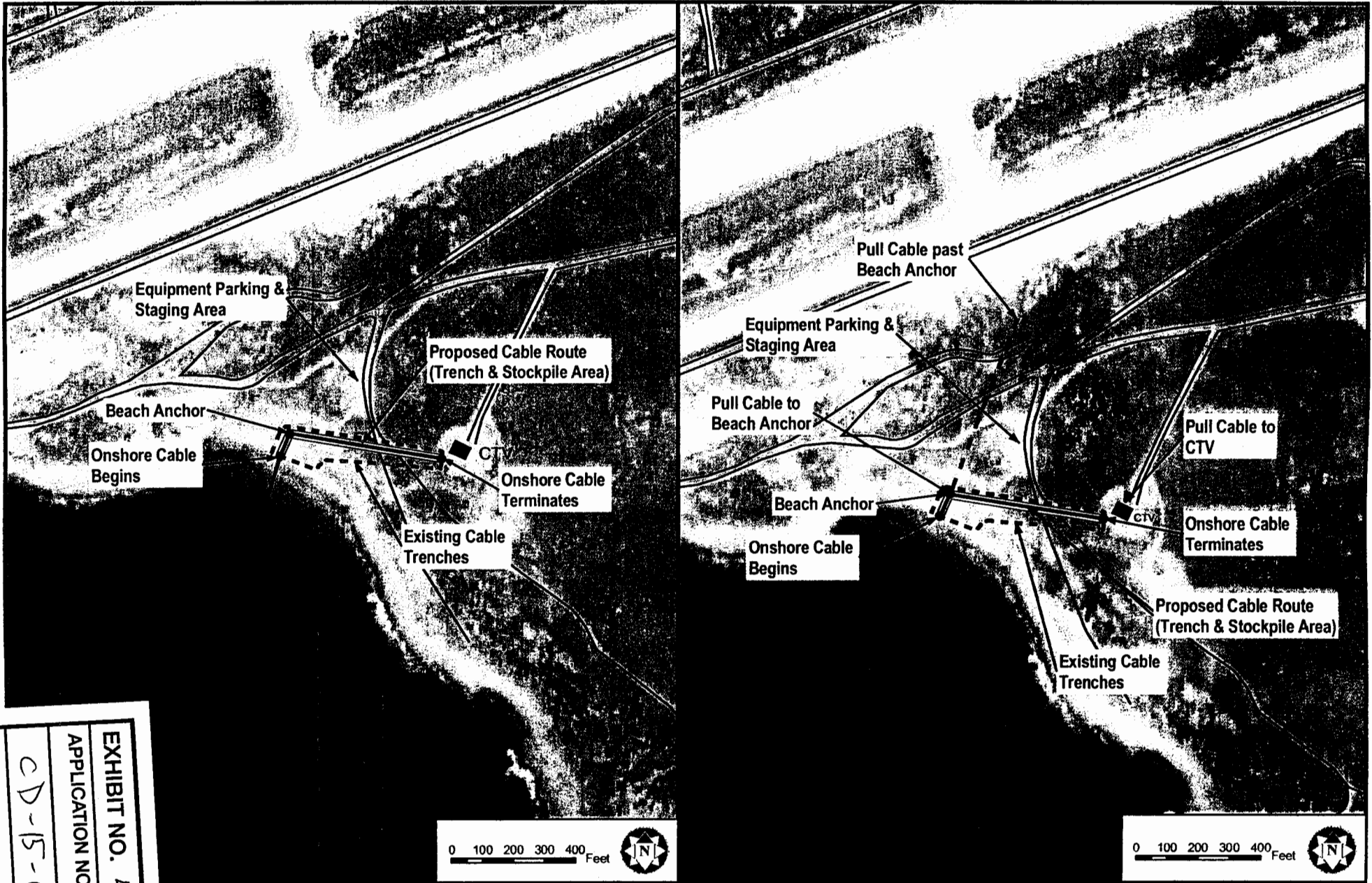






EXHIBIT NO. 4
APPLICATION NO.
CD-15-05

Figure 4a
Proposed UWT Onshore Cable Routes
Option A and B

- Legend**
-  Cable
 -  Existing Buried Cables
 -  Ground Disturbance (25-ft width)
 -  Construction Area (limited foot and vehicle traffic only)

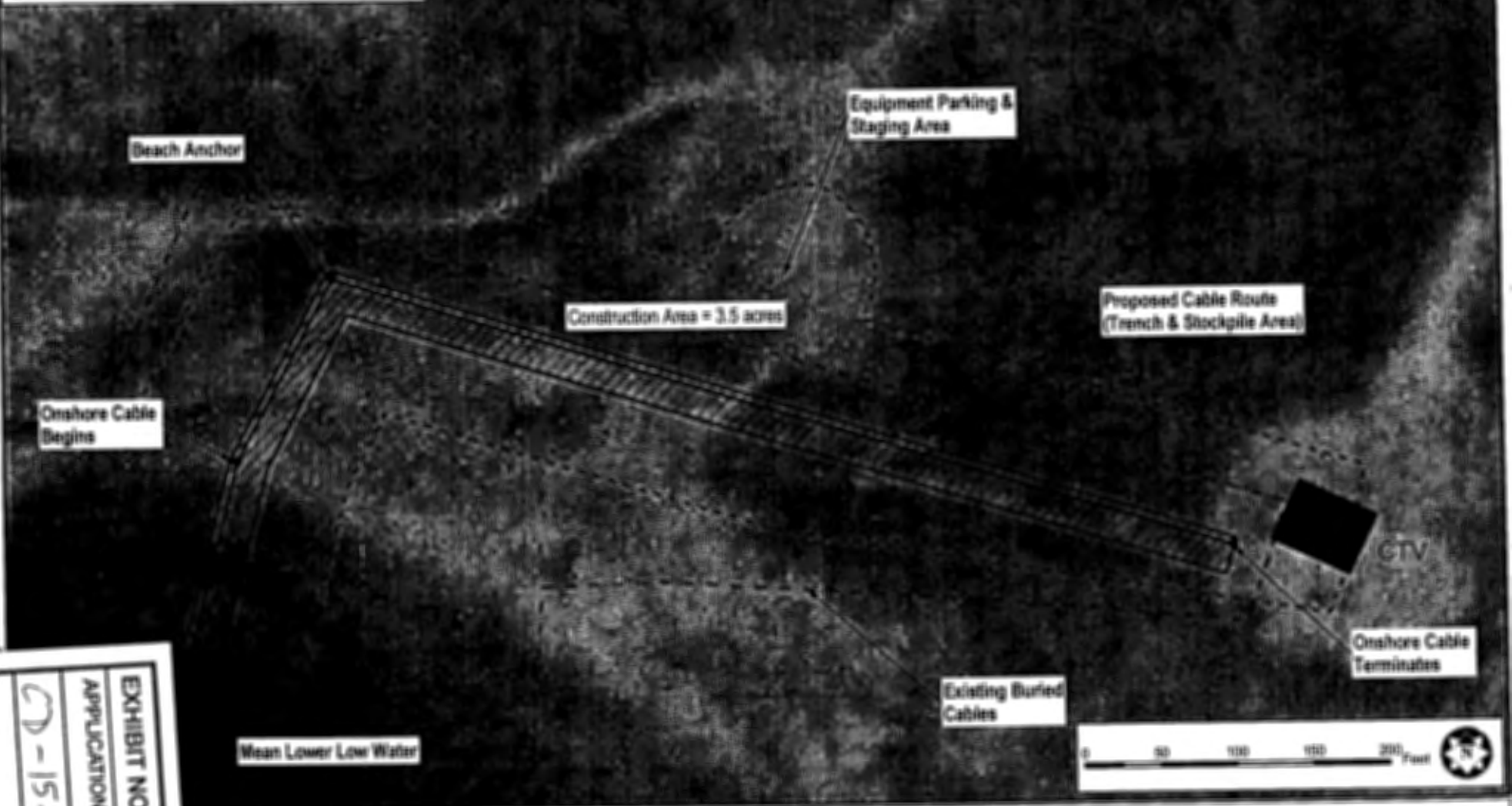


EXHIBIT NO. 5
 APPLICATION NO. CD-15-05

Figure 4a
Onshore UWT – Proposed Footprint

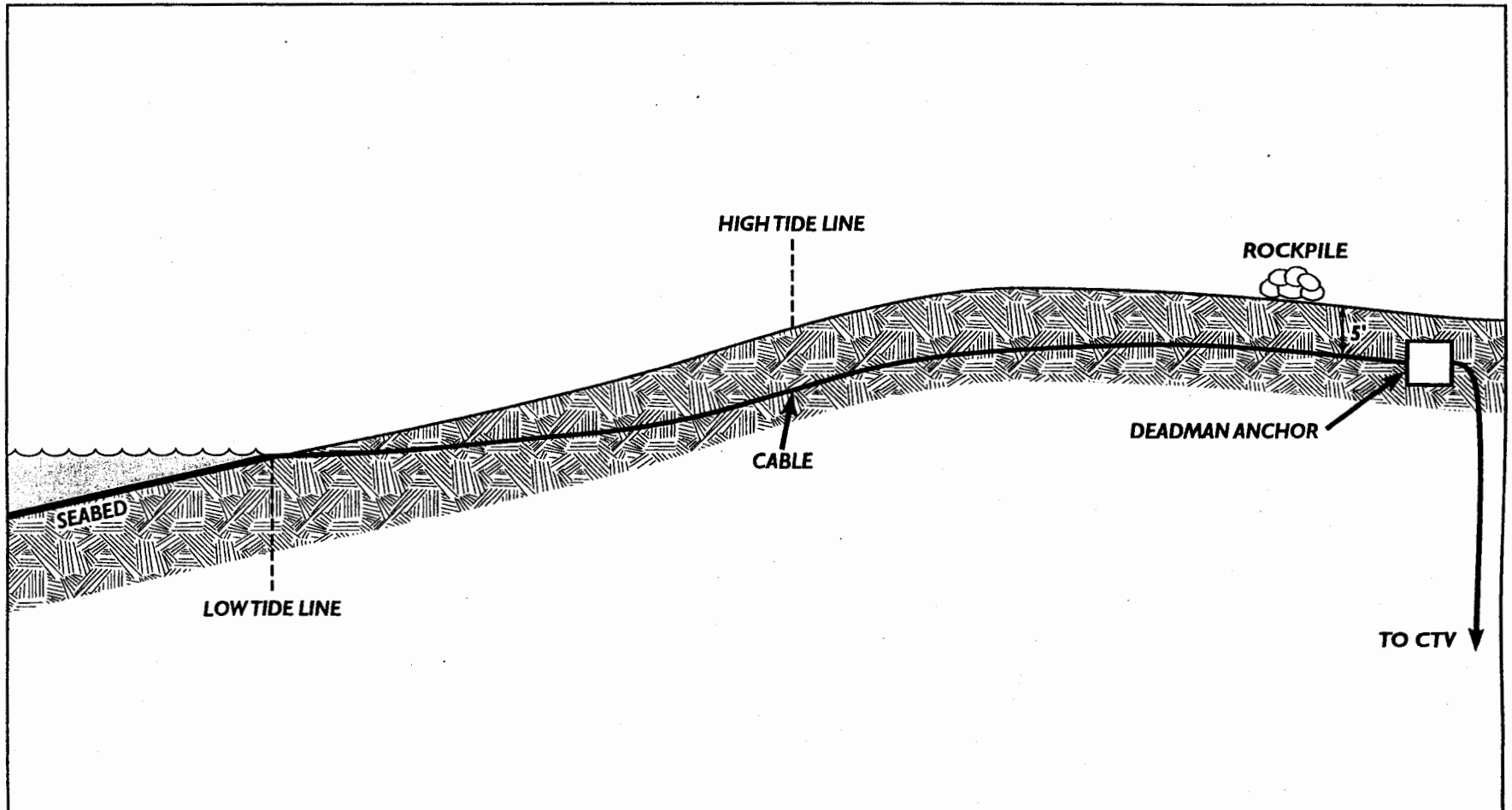


Figure 4b
 Profile of Proposed UWT Onshore Cable Route

EXHIBIT NO. 6
APPLICATION NO.
CD-15-05

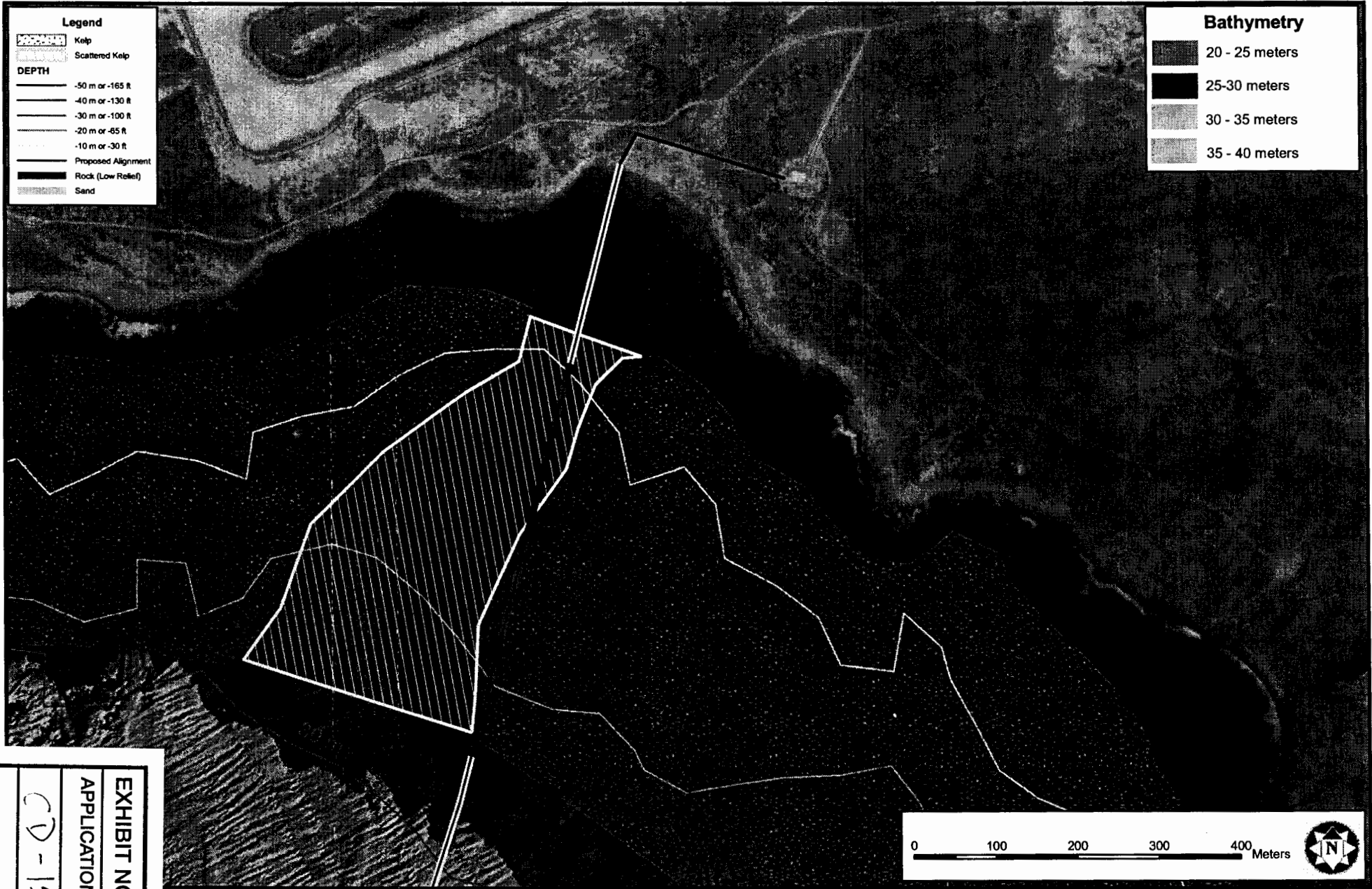
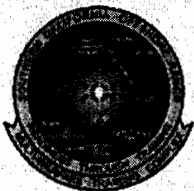
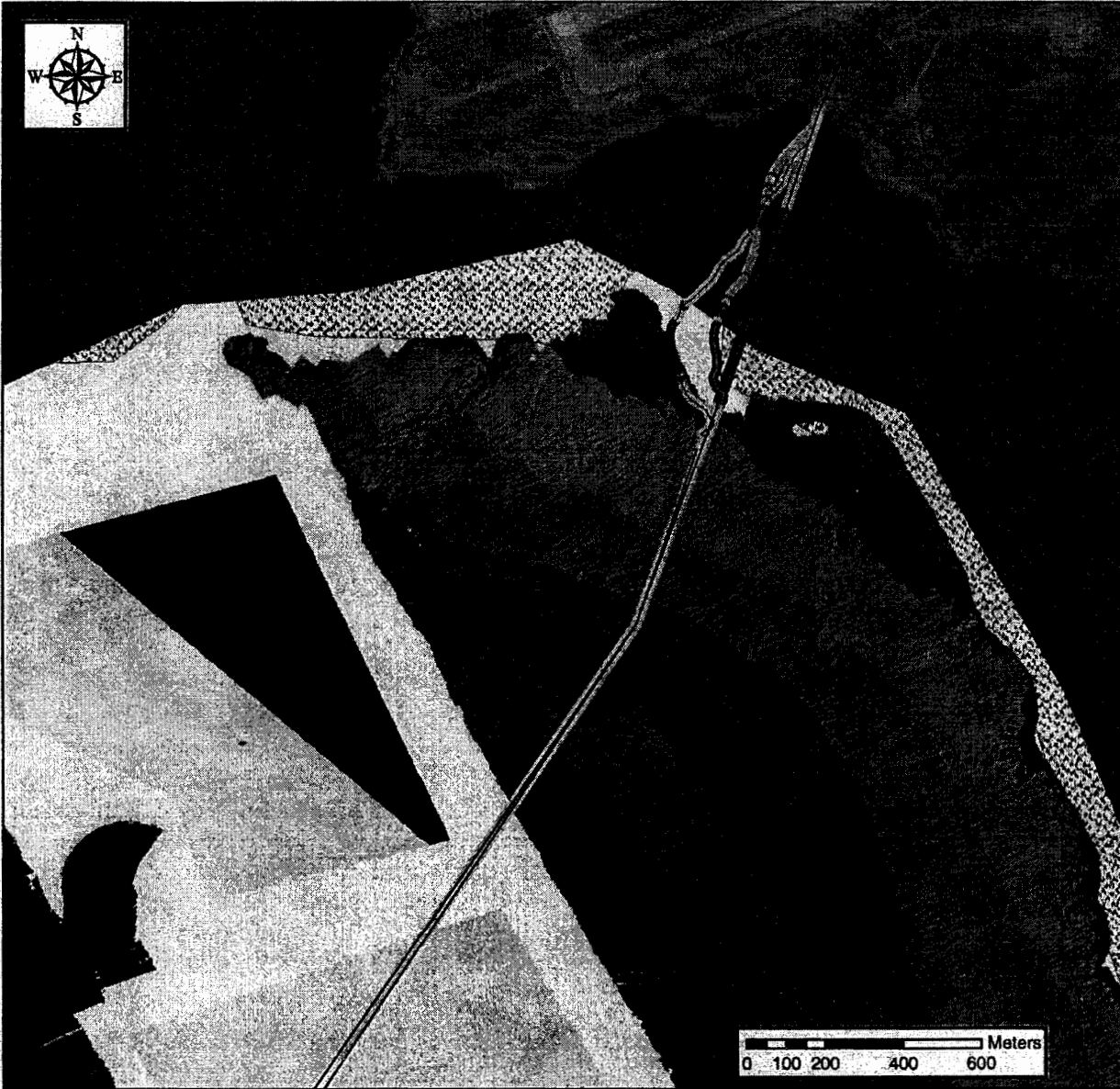


Figure 4d
Proposed UWT Nearshore Cable Route

SOAR Cable Single Beam Sonar Survey December 14, 2004



Substrate

- Reef
- Sand

Cable Alignment

- Proposed Alignment
- Alternate Alignment 1
- Alternate Alignment 2

- Kelp Canopy 2000

Bathymetry (Meters)

- 25-30
- 30-40
- 40-45
- 45-50
- 50-55
- 55-60
- 60-65

EXHIBIT NO.	8
APPLICATION NO.	
	CD-15-05

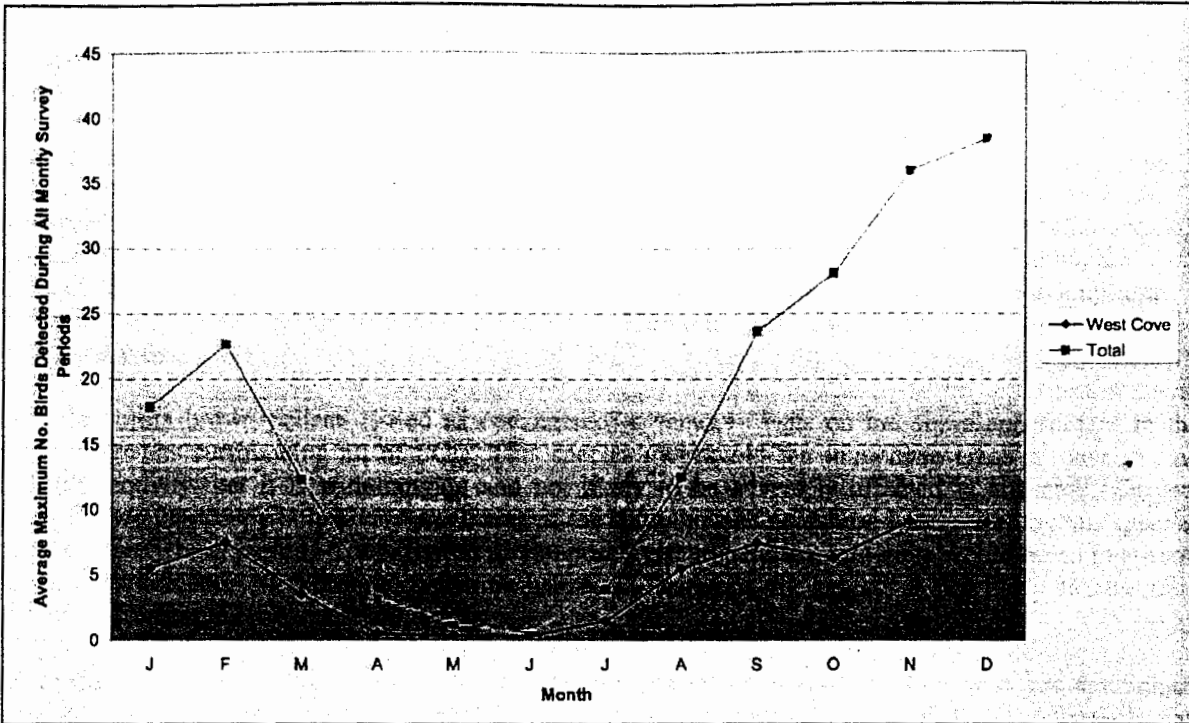


Figure 7 Average Western Snowy Plover Presence at West Cove Beach, SCI 1994-1997 and 2000-2004

The project is scheduled to occur in June, when WSP are rarely on the island. The last four years of survey data for West Cove show that no WSP were sighted during the month of June.¹

Based on these historical data, WSP is expected to be rare to absent at West Cove during the 6 days of activity within the beach and strand habitat of the species.

The Navy Region Southwest, Natural Resources Office, will be staking the boundaries of avoidance areas to minimize movement of construction vehicles or personnel outside the defined 150-ft (50-m) buffer established for construction actions. Ground disturbance associated with construction would occur within a 25-ft (~8 m) wide corridor through this area. Incidental foot or vehicular traffic outside of the required construction corridor would be minimized, consistent with SCI natural resources management practices. All vehicle and equipment parking would occur inland of the areas used by WSP, on the compacted/gravel parking area and on existing roads.

The upper beach area in the vicinity of the cable corridor and deadman anchor has been used as a daytime roost by wintering plovers in the past (Foster and Copper 2003a-c). Intertidal to above-tidal foraging and resting habitat extends approximately 200 ft (60 m) to the northwest, and approximately 300 ft (90 m) to

¹ The Navy submitted a CD (CD-20-95) in 1995 for a cable repair action at West Cove. As a result of consultation, the project was delayed until mid-August, with the belief that this would minimize impacts during WSP breeding season. Since 1995, the Navy has collected WSP survey data that allow us to better understand WSP seasonal distribution and abundance and use patterns at SCI. This data shows that June is the best month for this project at West Cove as the WSP is less likely to be present.

EXHIBIT NO. 9
APPLICATION NO.
CD-15-05

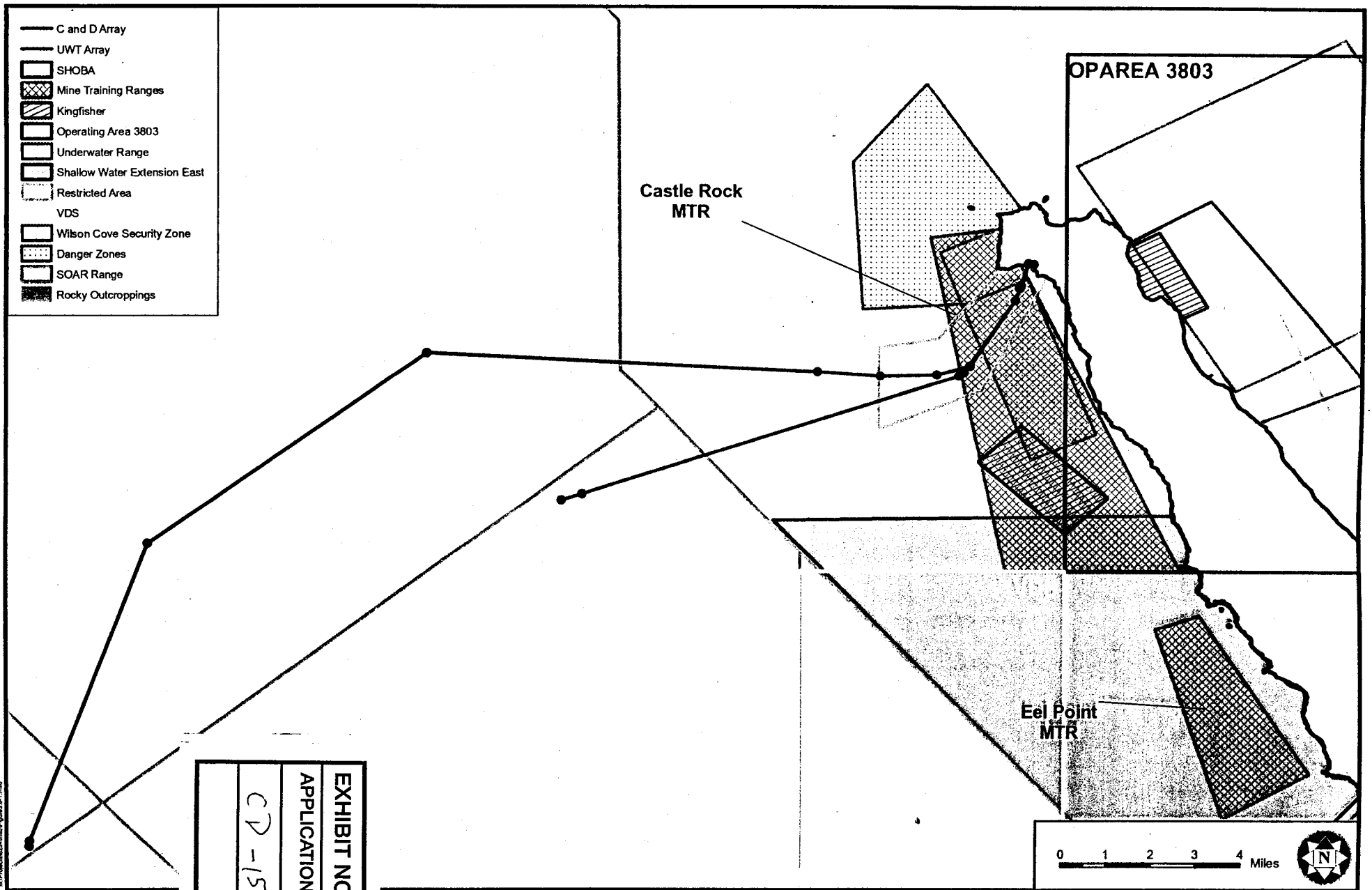


Figure 5
San Clemente Island
Offshore Ranges and Safety Zones

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
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February 28, 2005

TO: Coastal Commissioners and Interested Parties

FROM: Elizabeth Fuchs, Manager, Statewide Planning and Federal Consistency Division
Mark Delaplaine, Federal Consistency Supervisor

SUBJECT: Addendum (minor wording changes) to Staff Recommendation for CD-015-05 (Navy, San Clemente Island)

The Commission staff proposes several minor wording changes for the staff recommendation for consistency determination CD-015-05, the U.S. Navy proposal for repairing and replacing underwater communications cables off San Clements Island. Proposed new language is shown in underline text; language to be deleted is shown in ~~strikeout text~~.

Project Description, page 3, top paragraph – change “of” to “to”:

Divers would attach the anchors using underwater epoxy to attach one-inch diameter rods ~~o~~to the bottom, which the metal pipe would then be attached to.

Related Commission Action, page 3, top paragraph – add “ed” to “concern”:

However the Commission was concerned over the long-term disposition of the cable in the event it was no longer needed.

Related Commission Action, page 5, second paragraph – date change:

The Navy currently anticipates publishing a Draft Clemente Island Range Complex Environmental Impact Statement (EIS) later this year (~~September/October 2005~~November 2005).

Marine Resources/Coastal Waters/Environmentally Sensitive Habitat, page 7, third paragraph – date change:

Moreover, the project scheduling (~~June/July~~August) would minimize affects on wintering plovers.

Marine Resources/Coastal Waters/Environmentally Sensitive Habitat, page 8, fifth paragraph – remove redundant verb:

The Navy anticipates no marine mammal impacts offshore, as the short construction period would be a very small addition to its regularly scheduled activities including numerous ships and submarines in the area, and because the cable is ~~would be~~ too rigid to entangle a marine mammal.

Marine Resources/Coastal Waters/Environmentally Sensitive Habitat, page 9, first paragraph – remove redundant words:

There are several reasons why the types of extensive ~~the extensive~~ mitigation measures similar to those required of the fiber optic companies (listed on page 4) are not appropriate in this case, including that the project: (a) is a minor addition to an extensive existing cable array; (b) includes anchoring in rocky substrate; (c) is predominantly off limits to fishermen or too deep to snag fishing gear (see following section); and (d) does not raise issues of the applicant's financial solvency.