

CALIFORNIA COASTAL COMMISSION

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Commission Action:

W7f**STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER:** 5-04-200**APPLICANT:** Los Angeles County Beaches and Harbors**PROJECT LOCATION:** Marina Beach (Basin D), Marina del Rey

PROJECT DESCRIPTION: Installation of two water circulators with 55-inch diameter banana blade propellers and 4.6 Kilowatt electric motor, encased in a wire cage, at a depth of approximately 10 feet Mean Lower Low Water attached to an existing dock that will be modified for ADA compliance and improved boater access, within basin D.

LOCAL APPROVALS RECEIVED: Approval in Concept**SUBSTANTIVE FILE DOCUMENTS:** Marina Del Rey certified Local Coastal Plan, 1995.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission grant a permit for the proposed development with conditions regarding: 1) construction responsibilities and debris removal; 2) location of debris disposal site; 3) dock/float monitoring; 4) timing of project; 5) survey for Eelgrass; 6) U.S. Army Corps of Engineers final approval; and 7) assumption of risk for County of Los Angeles. As conditioned, the proposed development conforms with all applicable policies of the Coastal Act.

Staff Note: The Coastal Commission certified the Marina del Rey/La Ballona Land Use Plan in 1984. In 1986 after the City of Los Angeles annexed Playa Vista Areas B, C, and D, the Commission recertified the area that remained in the County's jurisdiction (The Marina del Rey proper and Area A Playa Vista). In 1990-1991, the Commission approved segmentation of the developed Marina del Rey portion of the County area and certified implementation ordinances that applied to that portion, deferring certification of zoning for Area A Playa Vista. Even after certification, the Commission retained jurisdiction over submerged lands (original jurisdiction) of Marina del Rey, which includes all areas seaward of the mean high tide line. In Marina del Rey, the Commission's original jurisdiction is generally demarcated by the marina's bulkhead. Therefore, development seaward of the bulkhead is within the Commission's original jurisdiction and the Commission retains permit authority.

The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The County's certified LCP is advisory in nature and may provide guidance for development.

STAFF RECOMMENDATION:

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION FOR 5-04-200:

Staff recommends that the Commission make the following motion and adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit #5-04-200 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the 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 THE PERMIT:

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California 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 alternative 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 term or 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

The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to inundation or dispersion in the waters of the marina;
- (b) Any and all debris resulting from construction activities shall be removed from the site within 10 days of completion of construction;
- (c) No machinery or construction materials not essential for project improvements shall be allowed at any time in the intertidal zone;
- (d) If turbid conditions are generated during construction, a silt curtain shall be utilized to control turbidity;
- (e) Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day;

- (f) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss; and
- (g) Reasonable and prudent measures shall be taken to prevent all discharge of fuel or oily waste from heavy machinery, pile drivers or construction equipment or power tools into the waters of the Marina del Rey. The applicant and the applicant's contractors shall have adequate equipment available to contain any such spill immediately.
- (h) The applicant shall inspect the site at the end of construction, or if construction is ongoing, at reasonable intervals, not less than every 90 days, to verify that debris, flotsam, and hazards to navigation have not been deposited in coastal waters, and shall maintain records of such inspections.

2. LOCATION OF DEBRIS DISPOSAL SITE

PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT, the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the disposal site of the demolition and construction debris resulting from the proposed project. Disposal shall occur at the approved disposal site. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

3. DOCK/PLASTIC FLOAT MONITORING

A. Inspection and Maintenance Program. The permittee shall exercise due diligence in periodically inspecting pilings installed under this permit, and shall immediately remove or undertake any repairs necessary to maintain the structural integrity of the plastic floats. ON A FIVE YEAR BASIS, following the date that the first dock with float is installed, the permittee shall conduct a dock inspection to ensure the integrity of the floats, and that all corrective actions have or will be immediately undertaken to maintain the integrity of the floats. The inspections shall be undertaken by boat, during periods of extreme low tides. All periodic reports shall be submitted to the Executive Director for review and approval. Alternatively, the permittee may submit a different timeline for the dock/float inspection program that ensures that the floats and/or structural integrity of the docks are properly maintained; the alternative timeline shall be reviewed and approved by the Executive Director PRIOR TO THE INSTALLATION OF DOCKS.

B. New Information. If federal or state regulatory agencies, through new or better scientific information, determine that environmentally less damaging materials or methods are available for float replacement, and are feasible to implement, the permittee shall, after consultation with the Executive Director, revise procedures or use alternative materials consistent with the new information. The substitution of non-plastic float materials may be authorized by the Executive Director.

4. TIMING OF PROJECT

In order to reduce impacts on the California least tern during nesting and foraging season, no construction activity which may generate noise or turbidity in the water column shall occur during the period commencing April 1 and ending September 15 of any year.

5. 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 applicant 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. Any off-site 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.

6. U.S. ARMY CORPS OF ENGINEERS APPROVAL

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director a copy of the final permit issued by U.S. Army Corps of Engineers, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the U.S. Army Corps of Engineers. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is required.

7. ASSUMPTION-OF-RISK, WAIVER OF LIABILITY, AND INDEMNITY DEED RESTRICTION APPLICABLE TO COUNTY OF LOS ANGELES.

A. By acceptance of this permit, the applicant-lessor Los Angeles County Department of Beaches and Harbors acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant-lessor and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to include a provision in any subsequent lease of such property requiring the lessee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the terms of subsection A of the prior condition.

B. PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT, the landowner shall execute and record against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the landowner shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

IV. **FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

A. **Project Description and Location**

The applicant proposes the installation of two water circulators with 55-inch diameter banana blade propellers and 4.6 Kilowatt electric motor, encased in a wire cage, at a depth of approximately 10 feet Mean Lower Low Water, within Basin D (Marina Beach) to improve water quality within the basin where water contact recreation is allowed.

The two propeller blades will be mounted side by side beneath the existing small public boat dock that will be replaced with a newer dock. Power will be provided from the dock. The purpose of the circulators is to improve water quality within Basin D by improving water circulation to reduce high concentrations of pollutants. The circulators are part of the County's two part approach to address chronic bacterial contamination at Marina Beach. The first part involved redirecting local storm water runoff from Basin D into other Basins where water is not used for contact recreation.

The County will also modify the existing boat dock by removing the 64 foot long dock and installing a new 80 foot long dock with a low level water access platform for improved access by small boats (dinghy, kayaks, etc.). The dock surface area will increase from approximately 640 square feet to 2,754 square feet to compile with ADA requirements and improve access for small boat users.

Marina Beach (also known locally as Mother's Beach) is located in basin D of Marina del Rey. The beach is a man made sand beach with a shallow profile at the upper end of Basin D. The beach has a children's swim area, playground, picnic area and restrooms. Facilities for kayaks, canoes, and small sailboats are also provided.

The proposed dock and circulators are located between the Mean high tide line and the sea, therefore, it is within the Commission's original permit jurisdiction. Coastal permit authority within this area is solely with the Commission.

B. **Public Access and Recreation**

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and

recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30213 of the Coastal Act states:

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

Section 30224 of the Coastal Act states:

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Section 30234 of the Coastal Act states:

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.

Section 30252 of the Coastal Act states in part:

The location and amount of new development should maintain and enhance public access to the coast by. . . (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation. . .

The project is the installation of two water circulators and replacement of an existing public small boat launch dock in the public marina with a new dock meeting ADA requirements. The existing dock provides a public launching facility for small boats, such as kayaks, canoes, and small sailboats. The proposed project will replace an older dock and provide ADA access and improve access by creating a low-level platform to provide easier access to launch small crafts.

The circulators will be attached beneath the dock. The circulators will be located along the southeast side of the reconstructed dock and will not interfere with boater access or

recreational activities. The replacement dock will enhance recreational boating in the Marina del Rey harbor as a whole by providing easier access and use by boaters and providing a dock that meets ADA requirements. By replacing the existing dock with a new dock access to this recreational facility will be preserved consistent with the access policies of the Coastal Act. As proposed, the project will be consistent with Sections 30213, 30224, and 30234 of the Coastal Act.

C. Marine Resources

Section 30230 of the Coastal Act states:

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 of the Coastal Act states:

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 30240(b) of the Coastal Act 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 recreation areas.

The Commission has reviewed numerous reports concerning the impacts of chemical pollution and siltation on marine organisms and on coastal recreation. In addition, given the location of the proposed work within a marina supporting both sensitive species and recreational activities, there are concerns about how the work may be performed. In response to these concerns the Commission has begun to impose conditions on development to prevent siltation, spills and pollution as a result of development.

1. Water Quality and Construction Impacts

The proposed project is the replacement of existing small boat launch dock within an existing marina. Due to the proposed project's location on the water, the proposed work may have adverse impacts upon water quality and the marine environment.

The proposed project will involve installing large circulating fans and extending the existing dock and installing a new pile. The use of the circulators and driving of the pile could cause disturbance of the marina bottom, where turbidity could pose an impact to water quality. In addition, the project may include drilling and other construction activity over the water, and adjacent to the water, that may create debris that may fall or be washed into the water. In addition, the improper storage of construction equipment and materials during construction can contribute to water quality impacts.

The proposed circulating propellers may cause turbidity in the water column, which would affect foraging species ability to see food normally visible in the water. However, location of the fans will be in areas with water depths of approximately 10 feet. The propellers will be suspended above the marina bottom along the existing dock and will be approximately two feet above the marina floor. The propellers will turn at a speed of 55 RPM producing a primary flow rate of 29,100 gallons per minute. The velocity of the water would be approximately 4 feet/sec at the pump, dropping to .5 feet/sec at approx 200 feet from the blade. According to the negative declaration, the slow speed of the propellers will not cause any turbidity or erosion of the marina bottom and will not have any significant adverse impact to aquatic organisms.

The Commission finds it necessary to require the use of best management practices to minimize impacts upon water quality. In addition, the Commission finds it necessary to identify the following other construction related restrictions: all construction materials and equipment shall be stored landward of the bulkhead, on impervious surfaces only; all construction materials or waste shall be stored in a manner which prevents their movement via runoff, or any other means, into coastal waters; and that any and all construction equipment, materials and debris are removed from upland areas at the conclusion of construction.

In addition, demolition of the existing dock will generate debris that will need to be disposed of off-site. Since the applicant has not identified a disposal site and in order to prevent impacts to coastal waters that could occur if such debris were not properly disposed, the Commission imposes a special condition which requires that all demolition debris be disposed of at a legal site approved by the Executive Director. Choice of a site within the coastal zone shall require an amendment to this permit or a new coastal development permit.

The proposed project will maintain the present use and is not expected to create additional adverse impacts on marine resources. However, the Commission finds it necessary to identify the permittee's responsibilities regarding construction and the utilization of best

management practices and has conditioned the project accordingly. Therefore, only as conditioned does the Commission find that the proposed project conforms with Sections 30230, 30231 and 30240(b) of the Coastal Act.

a. Plastic Floats

The proposed dock replacement will include the use of polyethylene floats filled with polystyrene. Commission staff is concerned about the use of plastic in the marine environment due to the possible deterioration of the plastic floats and subsequent increase in marine debris. In a leach test of recycled plastic composite containing polyethylene, polypropylene, polystyrene, polyvinyl chloride, and other plastics, only minor amounts of copper, iron, and zinc leached from the plastic. None of the contaminants had a concentration significant enough to have any adverse effects on the marine environment. However, the Commission staff is concerned about the potential to add plastic debris to the marine environment due to cracking, peeling, and sloughing. Since plastic is an inorganic material, it does not biodegrade, but rather continually breakdown into ever-smaller pieces which can adversely effect the marine environment.

The presence of plastics in the coastal and ocean environment is both widespread and harmful to human and marine life. An article, written by Jose G.B. Derraik, entitled "The Pollution of the Marine Environment by Plastic Debris: A Review," reviews much of the literature published on the topic of deleterious effects of plastic debris on the marine environment. The article states:

The literature on marine debris leaves no doubt that plastics make-up most of the marine litter worldwide.¹

In support of this statement, the article includes a table that presents figures on the proportion of plastics among marine debris around the world. In most of the locations listed on the table, plastics represented more than 50 percent of the total marine debris found.² In other studies, the percentage is even higher.

Existing studies clearly demonstrate that plastic debris creates problems for marine life. Plastic marine debris affects at least 267 species worldwide, including 86% of all sea turtle species, 44% of all sea bird species, and 43% of marine mammal species.³ For example, plastics cause significant adverse impacts in seabirds, when birds mistakenly ingest the plastic debris. A study performed in 1988, concluded that seabirds consuming large amounts of plastics reduced their food consumption, which limited their ability to lay down fat deposits and in turn reduced fitness. In addition, ingesting plastics can block gastric

¹ Derraik, Jose. "The Pollution of the Marine Environment by Plastic Debris; A Review", Marine Pollution Bulletin, 44: 842-852, 2002.

² Ibid.

³ Laist, D. W. "Impacts of Marine Debris: Entanglement of Marine Life in Marine Debris Including a Comprehensive List of Species with Entanglement and Ingestion Records", Coe, J.M., Rogers, D.B. (Eds.)

enzyme secretion, diminish feeding stimulus, lower steroid hormone levels, delay ovulation, and cause reproductive failures.⁴

Plastic debris that has settled on the seabed floor also harms the biological productivity of coastal waters. In Derriak's article, he states:

*The accumulations of such [plastic] debris can inhibit gas exchange between the overlying waters and the pore waters of the sediments, and the resulting hypoxia or anoxia in the benthos can interfere with the normal ecosystem functioning, and alter the make-up of life on the sea floor. Moreover, as for pelagic organisms, benthic biota is likewise subjected to entanglement and ingestion hazards.*⁵

There are no examples that staff can identify that document the deterioration rate of plastic floats. The standard manufacturer's warranty for plastic floats, ranges from 10 to 12 years. The warranties are against cracking, peeling, sloughing and deterioration from ultraviolet rays. Marina operators indicate that plastic floats will last as long as 20 years before they need to be replaced. To extend the life of the floats, plastic that is used in the manufacturing of dock floats contains stabilizers that are intended to protect it from degradation that may result from UV exposure. Furthermore, the plastic floats are located underneath the docks which further reduces exposure to ultraviolet (UV) radiation.

Notwithstanding the protection provided by the stabilizers and dock shading, the potential does exist that the plastic would degrade over time. If the plastic were to become brittle, they may splinter or chip upon impact and would introduce plastic debris into the coastal waters, and thus would adversely affect water quality resources. However, unlike pilings and fenders that may use plastic for protection, and are constantly subject to abrasive forces from boats and ships, the potential for impact and damage to the dock floats is nominal. Due to the location of the floats underneath the docks the floats are protected by the docks from boater impact. Furthermore, according to various marina operators, although boating accidents with docks do occur, damage to floats is rare since floats are buffered from boat contact by the docks and floats move with any movement of the docks.

An alternative to plastic floats is cement floats. Cement floats consist of a plastic core encased in a cement shell. The plastic filled core is generally polystyrene, which is also used in plastic floats. According to dock operators, cement floats, because of their rigidity, tend to crack more easily than plastic floats, which can allow the plastic core material to escape into the marine environment. With plastic floats the shell is more resilient and does not crack as readily as cement. Furthermore, the polystyrene core is thermally bonded to the shell, whereas with cement it is not. Therefore, in the event the plastic shell cracks, the core material is less likely to escape into the environment.

⁴ Derraik, Jose. "The Pollution of the Marine Environment by Plastic Debris; A Review", Marine Pollution Bulletin, 44: 842-852, 2002.

⁵ibid.

However, because of the potential of plastic from the shell, or core, entering into the marine environment due to damage or degradation, the floats must be monitored to ensure that the floats are maintained in an environmentally save operating condition and replaced when damage or degradation has occurred. To minimize the potential of plastic from the floats from entering the water due to damage or deterioration of the floats, Special Condition No. 3 requires that all floats must be carefully monitored at least every five years. If monitoring confirms that the use of plastic floats is damaging marine resources, the use of such materials should be stopped, as more environmentally friendly products are developed.

2. Sensitive Species Impacts

According to EIR's that have been done for various projects in the Marina area, there are no special status benthic invertebrate, fish, insects, reptiles or mammals occurring in the marine portions of the project site. However, special status birds were observed or are expected to utilize open water habitat present in the marina and on the project site. Such birds include the California Brown Pelican, Peregrine falcon, Great blue heron, and the California Least Tern.

While there has been some nesting habitat identified in trees in the Bird Sanctuary and along one mole that is located adjacent to identified wetlands in the Playa Vista area, with these two exceptions, there is little suitable breeding or nesting habitat for birds or mammals available within the Marina del Rey. However, the California least tern (*Sterna antillarum brownii*) nests at nearby Venice Beach. Least terns feed on small fish directly under the water surface. They have been observed to use all portions of the Marina del Rey harbor for foraging. Construction activity, such as pile driving, may cause turbidity in the water column which would affect foraging species ability to see food normally visible in the water. In addition, pile driving would generate noise in the water column that would disturb fish and other species normally present upon which foraging least terns would normally feed.

The location and slow speed of the circulators will not have a significant impact on any marine life. As stated, the velocity of the water would be approximately 4 feet/sec at the pump, dropping to .5 feet/sec at approx 200 feet from the blade. According to the negative declaration, the slow speed of the propellers will not cause any significant adverse impact to aquatic organisms.

The Department of Fish and Game has indicated in past permit projects that proposed pile driving activity would not have a significant adverse effect on existing marine resources and habitats provided no open water activities that have the potential to create water turbidity or excessive noise and vibration (e.g. pile driving) occur during the tern season and the use of silt curtains are implemented. The Department of Fish and Game and U.S. Army Corps of Engineers concurs with the applicant's construction activity restriction between April 1 through September 15, in order to avoid adverse impacts to the tern's foraging.

Therefore, in order to ensure that adverse impacts are avoided, the Commission finds that it is necessary to impose a condition which prohibits pile driving activity, between April 1 and September 15 of any year during which construction occurs, that would impact foraging species in the area. Construction activity that does not create turbidity or excessive noise, such as float assembly, is permitted during this time. Evidence of final approval from the U.S. Army Corps of Engineers will pinpoint for the Commission whether such approvals have any effect upon this coastal development permit approval.

Other marine resources that could be impacted by the development is Eelgrass (*Ruppia maritima*). Eelgrass is considered worthy of protection because it functions as important habitat for a variety of fish and other wildlife, according to the Southern California Eelgrass Mitigation Policy (SCEMP) adopted by the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Game (CDFG). The applicant has not submitted an eelgrass survey. Therefore, the Commission imposes Special Condition No. 5 which requires that a current pre-construction eelgrass survey be conducted within the boundaries of the proposed project be undertaken during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed within 120 days prior to the beginning of construction and shall be valid until the next period of active growth. The pre-construction survey will identify any eelgrass beds which could be impacted and which must be avoided. 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. An amendment or new permit is required in order to address any eelgrass impacts. In addition, if there are any impacts upon eelgrass, the applicant will be required to prepare appropriate surveys and mitigation plans in consultation with the California Department of Fish & Game and in conformance with the *Southern California Eelgrass Mitigation Policy*.

As conditioned, the Commission finds that the proposed project would eliminate significant adverse impacts to marine resources and sensitive species such as the least tern. Therefore, the Commission finds that, as conditioned, the proposed project is consistent with Sections 30230, 30231 and 30240(b) of the Coastal Act.

3. Fill of Coastal Waters and Loss of Marine Habitat

The proposed project will involve the installation of one new dock pile in open coastal waters. The pile constitutes fill of open coastal waters. More specifically, the proposed piling will have a total fill area of approximately 2 square feet. Under Section 30233 of the Coastal Act, fill of open coastal waters is only allowed when several criteria are met, including (a) the project must fall within one of the use categories specified; (b) the proposed project must be the least environmentally damaging alternative; and (c) feasible mitigation measures to minimize adverse environmental effects must be provided. Section 30233 of the Coastal Act states, in part:

(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...

(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...

The proposed installation of the dock pile meets the first criteria because it is the replacement of an existing public boating facility. Fill of open coastal waters for the construction of a public boating facility is an allowable use under Section 30233(a)(4) of the Coastal Act.

Next, the proposed project is the replacement of a boating facility in a different configuration. Alternatives to the proposed project include no project, no change to the existing configuration, or a change to the proposed configuration.

Under the no project alternative, the applicant could only pursue simple maintenance repair activity. However, simple maintenance repair could not provide ADA requirements, nor bring them up to present engineering and safety standards. In addition, marine habitat would not significantly benefit from the no project alternative since this alternative would necessitate that the structure remain in place. Continued, safe use of the facility for marine recreational purposes would be precluded without replacement of the dock system.

The second alternative, replacement of the project in the same configuration would not reduce the number of pilings required. To meet ADA requirements and improved boater access, modern engineering standards would require a larger dock and increase in the number of pilings.

Under the proposed alternative, the dock and guide piling layout is changing from the existing layout. However, the number of proposed pilings is the minimum necessary to adhere to present engineering standards. Furthermore, it should be noted that the installation of the new piling will result in temporary disturbance to the existing vertical substrate. The guide piling provides a vertical substrate for mollusks and other marine organisms. The proposed project will increase the quantity of vertical substrate upon which mollusks and other marine organisms may settle. Therefore, no long-term impact will occur to this habitat. Therefore, the proposed project is the least environmentally damaging, feasible alternative, and includes feasible mitigation measures, such as limiting pile driving to avoid critical periods and construction measures to limit turbidity, to minimize adverse environmental effects. The proposed project will result in the fill of open coastal waters for a boating facility, which is an allowable use under Section 30233 of the Coastal

Act. In addition, the proposed project is the least environmentally damaging alternative, and does provide feasible mitigation measures. Therefore, the Commission finds the proposed project is consistent with Section 30233 of the Coastal Act.

D. Hazards

Section 30253 of the Coastal Act provides in part:

New Development shall:

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazards...*

The proposed dock will be designed in accordance with the County's building code for docks to ensure structural integrity. However, because of its location, the dock and circulators are potentially subject to the effects of tsunamis and seiches. The LCP indicates that Marina del Rey has sustained only minor damage in the past due to tsunami and seiches because of special design standards embodied in the moles, docks and breakwater. However, there remains the potential for damage from wave and tidal action. Therefore, the Commission finds that the applicant must also assume the risk of developing in an area where an extraordinary potential for damage from wave and tidal action exists as an inherent risk to life and property, waiving the Commission's liability for damage that may occur as result of such hazards. This is necessary because the design is a result of a study for which the applicant and its engineer are responsible. Wave hazards cannot be predicted with certainty, so the applicant and future owners must be put on notice that the Coastal Commission is not liable for damages resulting from wave and tidal action.

E. Local Coastal Program

In 1984, the Commission certified the County's Land Use Plan portion of the Marina del Rey/Ballona segment of the County of Los Angeles Local Coastal Program. Subsequent to the Commission's certification, the City of Los Angeles annexed over 525 acres of undeveloped land, which was a portion of the County's LCP area located south of Ballona Creek and east of Lincoln Boulevard (known as Area B and C). Subsequent to the City's annexation, the City submitted the identical Land Use Plan (the Playa Vista segment of the City's Local Coastal Program) covering the City's portion of the original County LCP area. The Commission certified the Land Use Plan Amendment for the annexed area with suggested modifications on December 9, 1986. The County also resubmitted those portions of their previously certified LUP that applied to areas still under County jurisdiction, including the area known as Area "A" and the existing marina. The Commission certified the County of Los Angeles' revised Marina del Rey Land Use Plan on December 9, 1986.

On September 12, 1990, the Commission certified an Implementation Program pertaining to the existing marina, with suggested modifications. The undeveloped area in the County, Playa Vista Area "A" was segmented from the marina and no ordinances were certified for the

area. After accepting the suggested modifications, the Commission effectively certified the Marina del Rey LCP and the County assumed permit-issuing authority.

In 1995, the County submitted an amendment to the LCP. In May 1995, the Commission certified the LCPA with suggested modifications. The County accepted the modifications and the LCP was effectively certified.

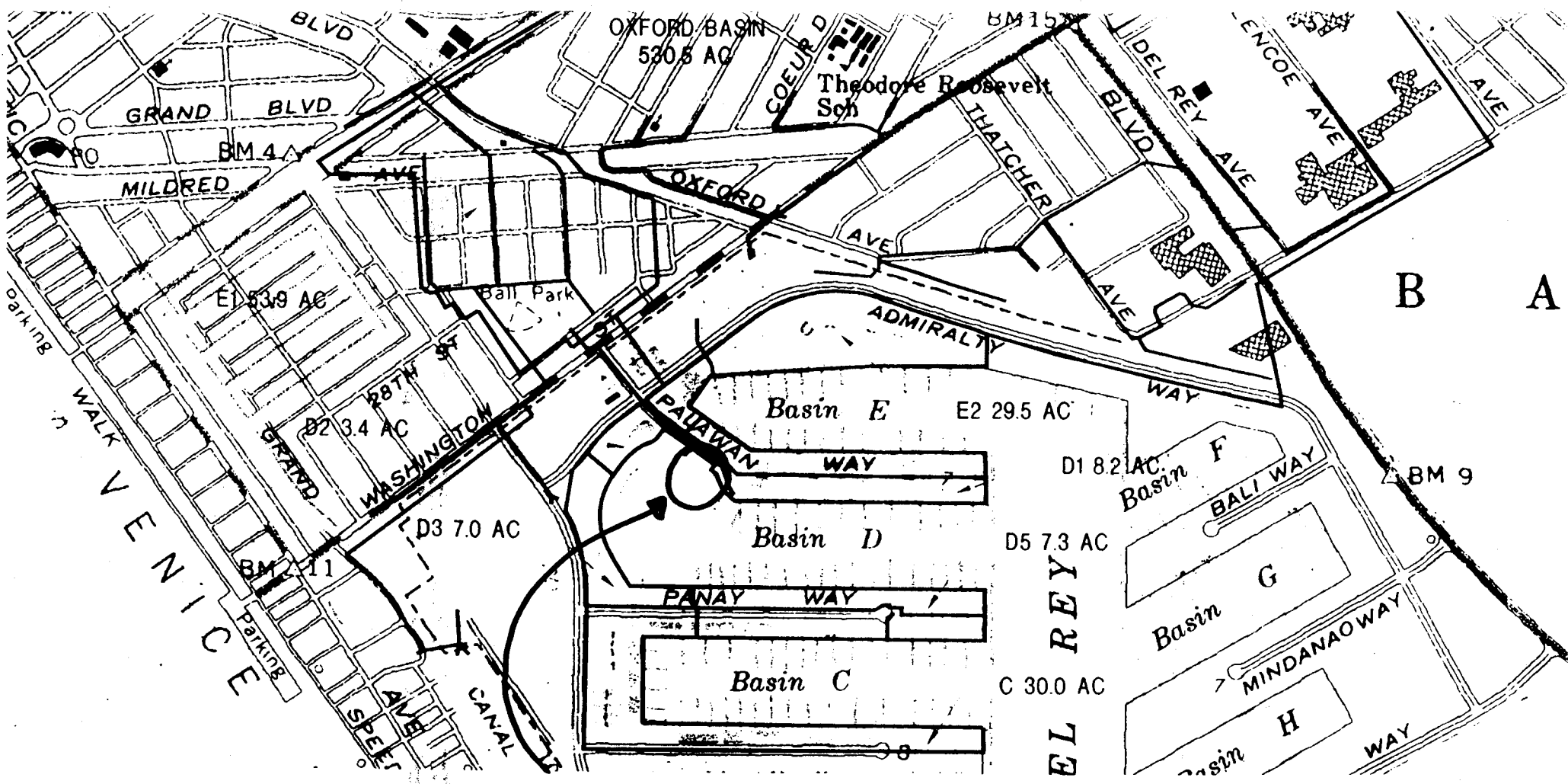
The certified LCP designates the proposed site as "Water". Under the "Water" category of the LCP the permitted uses are recreational uses, wet boat slips, docking and fueling of boats, flood control and light marine commercial. The proposed use is a permitted use. However, the proposed development is located seaward of the mean high tide and is within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The County's certified LCP is advisory in nature and may provide guidance for development. As stated in the preceding sections, as conditioned, the project will not adversely impact coastal and marine resources or coastal access and is consistent with the certified LCP. The Commission, therefore, finds that the proposed project will be consistent with the Chapter 3 policies of the Coastal Act.

F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (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.

Potential impacts are to boater access, marine resources, water quality and the visual resources of the area. As conditioned, all potential adverse impacts have been adequately mitigated. As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.





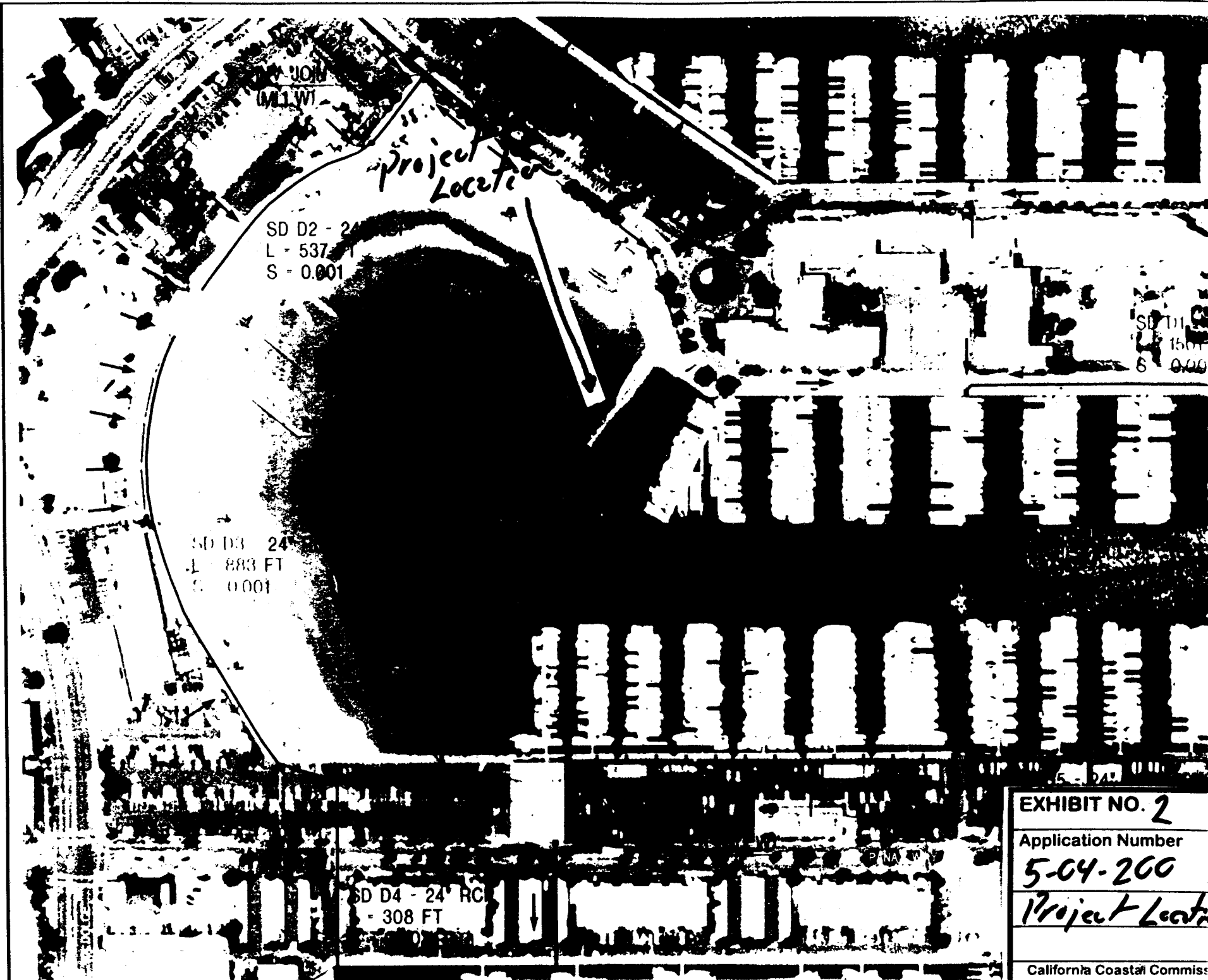
Project Location FIGURE 5

PRELIMINARY

DATE: JANUARY 23, 2014
VERSION: 1

RAIN
BOUNDARY

EXHIBIT NO. 1
Application Number 504-200
<i>Vicinity Map</i>
California Coastal Commission



SD D1
150'
6 0.00'

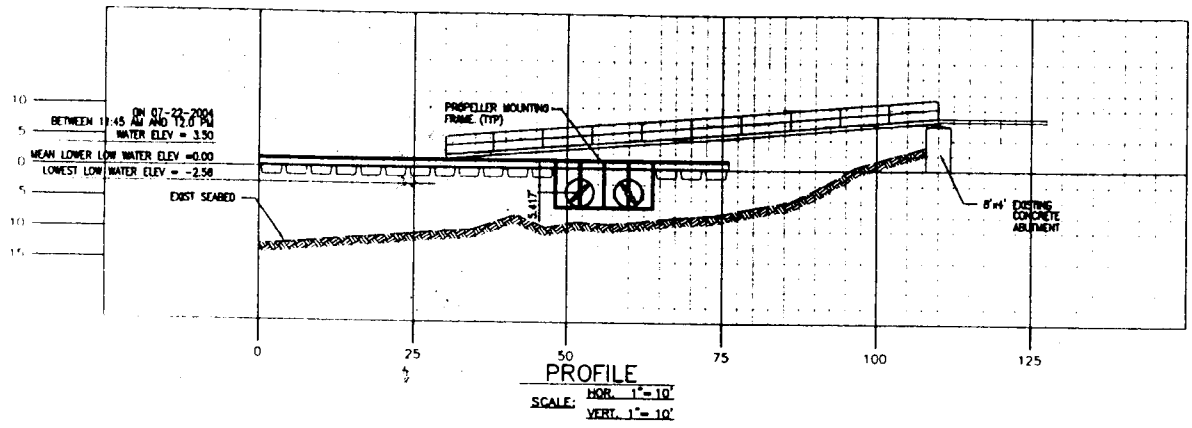
Project Location

SD D2 - 24
L - 537
S - 0.001

SD D3 - 24
L - 883 FT
S - 0.001

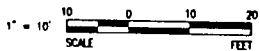
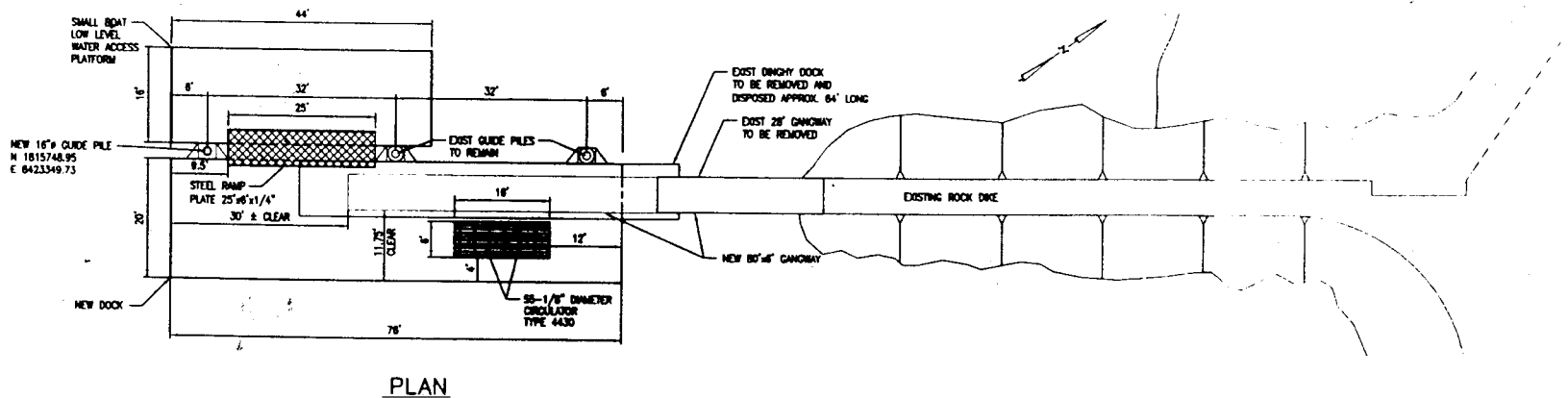
SD D4 - 24' RC
L - 308 FT

EXHIBIT NO. 2
Application Number
5-04-200
Project Location
California Coastal Commission



HIGHEST HIGH WATER OBSERVED	7.54
MEAN HIGHER HIGH WATER	+5.43
U.S. COAST & GEOD. SURVEY MEAN SEA LEVEL HARBOR DEPARTMENT	+2.80
U.S. COAST & GEOD. SURVEY MEAN LOWER LOW WATER CORPS OF ENGRS - U.S. ARMY	0.00
LOWEST LOW WATER OBSERVED	-2.56

REFERENCE DATUM



PLANS PREPARED BY:
DMJM HARRIS
999 TOWN & COUNTRY ROAD
ORANGE, CALIFORNIA 92668
(714) 567-2400

DATE	MR	DESCRIPTION

PERMIT

COUNTY OF MARIN

IM

MAR

EXHIBIT NO. 3

Application Number
5-04-200

Dock Plans

Figure 9. Water Circulator and New Dock, Side View

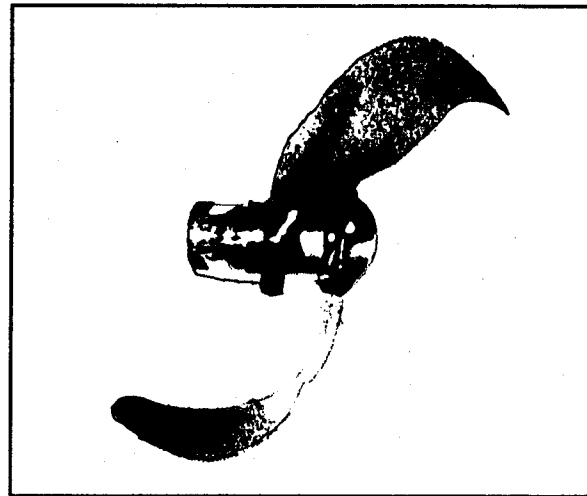
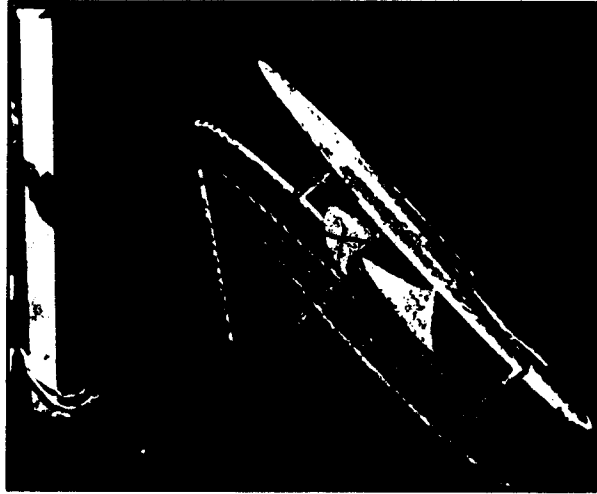



Figure 7. Submersible Banana Bladed Pumps

EXHIBIT NO. 4
APPLICATION NO. 5-04-200
Water Circulator
 California Coastal Commission