

**CALIFORNIA COASTAL COMMISSION**

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# TH 15c

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Staff Report: 10/19/06  
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Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-06-160

**APPLICANT:** County of Los Angeles, Department of Public Works

**PROJECT LOCATION:** Throughout harbor area of Marina del Rey, immediately adjacent to seawall, Los Angeles County

**PROJECT DESCRIPTION:** Repair existing bulkhead and rock revetment by filling erosion voids in sea wall footing with grout and reconstruct rock revetment at 26 locations (approximately 1,590 linear feet) along the 7.2 mile linear length of seawall (Phase 1).

**LOCAL APPROVALS RECEIVED:**

**SUBSTANTIVE FILE DOCUMENTS:** Marina del Rey certified LCP (used as guidance only in this area of original certification).


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**SUMMARY OF STAFF RECOMMENDATION:**

The major issues of this staff report relate to construction and operation-- phase impacts of placing bulkhead enhancements in the marine environment. With conditions, the project will have no significant adverse construction phase impacts on water quality or marine habitat. In addition, due to the absence of eelgrass in the project area, there will be no adverse impacts upon sensitive marine habitats, as conditioned. However, the project will have permanent impacts upon soft bottom habitat that will be mitigated.

Staff recommends APPROVAL of the proposed development with special conditions which require: 1) conformance with specific construction responsibilities to avoid impacts upon water quality and marine resources; 2) preparation of a survey to confirm the absence of *Caulerpa taxifolia* in the project area prior to construction; 3) preparation of a pre-construction eelgrass survey to confirm the absence of eelgrass; 4) participate in a required soft bottom mitigation program prior to submittal of a coastal development permit for phase 2 of the seawall repair project; 5) U.S. Army Corps of Engineers approval; and 6) assumption of risk. As conditioned, the proposed development conforms with all applicable policies of the Coastal Act.

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**Staff Note:** The Coastal Commission ified 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.

## **I. STAFF RECOMMENDATION:**

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 5-06-160 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 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**

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

##### **A. Materials and Discharges and Debris**

- (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 harbor;
- (b) All debris and trash will be disposed in suitable trash containers on land at the end of each construction day;
- (c) Any and all debris resulting from construction activities shall be removed from the site within 10 days of completion of construction;
- (d) No machinery or construction materials not essential for project improvements shall be allowed at any time in the waters of Marina del Rey;
- (e) If turbid conditions are generated during construction, a silt curtain shall be utilized to control turbidity;
- (f) 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;
- (g) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss;
- (h) Discharge of any hazardous materials into Huntington Harbour is prohibited;
- (i) 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 Huntington Harbour. The applicant and the applicant's

contractors shall have adequate equipment available to contain any such spill immediately.

B. Identification of and Permitting for Land-based Staging areas

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall identify the location and extent of land based staging areas required for the project. As part of the identification, the applicant shall secure a valid coastal development permit to use the identified area for this purpose. The staging area(s) shall not adversely impact public access to a beach or public recreation facility.

2. **CAULERPA TAXIFOLIA PRE-CONSTRUCTION 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 applicant 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 applicant shall submit the survey:
  - 1. for the review and approval of the Executive Director; and
  - 2. to the Surveillance Subcommittee to 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 applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or 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 applicant has 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.

### **3. 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 applicant 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.

### **4. SOFT BOTTOM HABITAT MITIGATION PLAN**

With the acceptance of this permit the applicant agrees that prior to, or concurrent with, the County's submittal of a coastal development permit application to the Commission for Phase 2 bulkhead repair, or within two years from the date of issuance of this permit, whichever is earlier, the applicant shall submit, for the review and approval of the Executive Director, written evidence of participation in a mitigation program designed in consultation with, and approved by, the National Marine Fisheries Service, California Department of Fish and Game, United States Department of Army Corps, and the Coastal Commission's Executive Director. The mitigation program shall be in an area ecologically connected with Marina del Rey to mitigate the loss of soft bottom habitat from phase 1 of

the repair project with the substantial restoration of open water soft bottom or other tidally influenced wetland habitat at a ratio of 2:1 [mitigation : impact].

## **5. U.S. ARMY CORPS OF ENGINEERS APPROVAL**

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the permittee shall provide to the Executive Director a copy of the conditional permit/approval 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.

## **6. ASSUMPTION-OF-RISK, WAIVER OF LIABILITY, AND INDEMNITY DEED RESTRICTION.**

**A.** By acceptance of this permit, the applicant Los Angeles County Department Public Works 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 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 is proposing to repair approximately 1,590 linear feet (26 locations) of an existing 7.2 mile seawall within the Marina del Rey small craft harbor as Phase 1 of a planned four phase repair project (see Exhibit No. 2-5). The repairs include re-establishing the rock rip-rap slope adjacent to the seawall, installing PVC grout injection pipes, and filling existing voids behind the existing seawall with grout.

The new rock revetment will be constructed at a 2 to 1 slope, extending from the base of the seawall (elevation +1 MLLW) to the harbor bottom (elevation -10, varies), extending the toe of the existing rock revetment by 8 feet. The new revetment will be constructed on top of the existing revetment, and will include ½ ton armoring rock, smaller rock for backing, and filter fabric (see Exhibit No. 6). The new revetment will fill an additional 12,340 square feet (.28 acres) of area along the harbor bottom.

According to the applicant, repair along the entire seawall will be performed in four phases based on the presence and size of the voids, which present the greatest risk of seawall failure due to vertical instability. Project phasing will occur over a period of approximately five years, dependent on funding. Construction will be limited from September through March of any year to avoid any potential conflict with California least tern breeding and foraging in the vicinity of the Marina.

This permit application is limited to Phase I. Repair sites under Phase I were selected due to immediate risk. Once information has been compiled for the other voids and funding has been secured, the applicant will submit a new application or amendment to this permit application.

##### **B. Areawide Description**

Marina Del Rey covers approximately 807 acres of land and water in the County of Los Angeles (see Exhibit No. 1). Marina Del Rey is located between the coastal communities of Venice and Playa Del Rey. The Marina is owned by the County and operated by the Department of Beaches and Harbors.

The existing Marina began its development in 1962 when the dredging of the inland basin was completed. The primary use of the Marina is recreational boating. The marina provides

approximately 5,923 boating berths. Other boating facilities include transient docks, a public launching ramp, repair yards, charter and rental boats, harbor tours, and sailing instructions.

Along with the boating facilities the landside portion of the Marina is developed with multi-family residential projects, hotels, restaurants, commercial, retail and office development.

Within the Marina, most structural improvements have been made by private entrepreneurs, operating under long-term land leases. These leases were awarded by open competitive bids in the early and mid 1960's. The developers were required to construct improvements on unimproved parcels in conformance with authorized uses designated in their leases and pursuant to a master plan for the Marina. Most leases will expire after 2020.

### **C. Shoreline Protective Devices**

Section 30235 of the Coastal Act states:

*Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

Marina del Rey was constructed in 1960 and encompasses approximately 354 acres. The marina has 7.2 miles of vertical seawall with a rock revetment located seaward of the seawall.

The proposed development involves constructing a new rock revetment in front of the existing seawall to protect the existing seawall. The existing seawall consists of three types of seawall construction-- pile supported and non-pile supported gravity seawall, and wood pile supported seawall. According to the applicant, due to pre-existing soil characteristics beneath the seawall (and Marina area in general), normal tidal action, wave action from boats and storms, and consolidation, have caused the soils beneath the seawall, to be flushed out from under the wall footings, leaving voids beneath the footings of the seawall. These voids cause vertical instability of the seawall, and according to the applicant if protective measures are not implemented, damage to the bulkhead could result, leading to failure of the bulkhead and damage to the marina's small craft harbor and to development located landward of the bulkhead. The proposed development is designed to prevent erosion below the footing, to protect the piles, and to protect the existing bulkhead.

The proposed project involves the fill of coastal waters in the form of additional rock and filter fabric. The new rock revetment will extend eight feet beyond the toe of the existing rock revetment and fill 12,340 square feet (.28 acres) of additional soft bottom area along the harbor. The purpose of the proposed fill is to protect the existing bulkhead which forms



the small craft harbor. The new revetment is extending beyond the toe of the existing revetment because the original revetment was not adequate to protect the seawall from undermining, and new wall will help avoid continuous repair work.

Section 30235 of the Coastal Act requires the Commission to approve seawalls and other similar structures provided that such structures are for the purpose of protecting existing structures and provided that the structures are designed to eliminate or mitigate adverse impacts on local shoreline sand supply. The proposed reinforcement of the existing seawall is the type of structure described in Section 30235 because it is a protective device that minimizes shoreline erosion (a natural shoreline process) and is for the purpose of protecting an existing structure (marina seawall and development located landward of the bulkhead).

In addition, the proposed project is occurring within an urban harbor at a location isolated from the nearest open coastal shoreline and longshore littoral sand transport mechanisms. The proposed rock revetment has been designed to minimize the amount of fill of coastal waters and to minimize the amount of soft harbor bottom covered which may contribute to shoreline sand supply. Therefore, in this case, by minimizing the area of soft bay bottom covered, the proposed project mitigates adverse impacts on local shoreline sand supply. Accordingly, the proposed project is approvable under section 30235 of the Coastal Act and section 30233 of the Coastal Act.

The applicant's coastal engineer indicates that the proposed project is the least environmentally damaging feasible alternative. Section 30108 of the Coastal Act states that "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. Alternatives considered were: 1) replacing the existing bulkhead and; 2) installation of driven sheet piles; 3) repair of seawall sections as they become damaged (do nothing alternative).

The replacement of the existing seawall with a new seawall was not considered a viable option because of existing seawall is retaining existing landside development and shoring for landside development would not be practical. Furthermore, because of the existing piles below the existing wall, there would be design difficulties and soil erosion behind the seawall will continue to be an issue. The cost of replacing the existing bulkhead due to the extensive amount of work would also be prohibitive. And this alternative would also

The use of driven sheet piles was not pursued because it was determined that this method was not as effective as rock and filter fabric in preventing the transport of soil beneath the seawall. Furthermore, the placement of sheet piles would conflict with areas where there are existing batter and vertical piles that would prevent pile driving; existing rock would need to be removed causing turbidity problems; excavation of existing rock has the potential to increase soil migration from behind the wall into the marina; and access for pile driving equipment is problematic due to existing development.

The third alternative, repair of the wall as they become damaged, was not considered a possible alternative because this option would require periodic monitoring. If the monitoring failed to provide adequate assessment of the conditions, a partial failure of the bulkhead may result. If the bulkhead were to partially fail, the impact on the marine environment would be increased over the proposed project's impacts due to post-failure replacement or repair of the bulkhead and foundations. In addition, bulkhead failure would not protect the existing docks and boats adjacent to the bulkhead and landside development. The "do-nothing" alternative could ultimately lead to damage of piles, thus, it would not achieve avoidance of the impact, but rather delay. Furthermore, if no action is taken until damage to the seawall has actually occurred, the repair necessary at that time would be much more extensive than that proposed, and would create a substantial increase in the disturbance to the marine environment, including a multi-fold increase in the quantity of fill necessary to stabilize the site and protect existing landside and waterside development.

In addition, if the bulkhead were allowed to fail, it would collapse into the harbor. Debris from the collapsed bulkhead would likely fall upon marine habitat resulting in impacts upon that habitat. In addition, sediment released from behind the collapsed bulkhead would enter the water column causing turbidity. Furthermore, debris from the collapsed bulkhead would result in the fill of coastal waters, covering soft bottom habitat. The proposed project would have less impact than the no project alternative because any permanent impacts upon soft bottom habitat will be controlled and mitigated under the proposed project while such impacts from the no project alternative would be uncontrolled and much more extensive. Consequently the "do nothing" alternative was not pursued.

The proposed bulkhead reinforcement is necessary to protect the existing bulkhead, waterside improvements, and landside development. In addition, the proposed development mitigates adverse impacts upon shoreline sand supply and is the least environmentally damaging feasible alternative. Therefore, the Commission finds that the proposed project is consistent with Section 30235 of the Coastal Act.

#### **D. Marine Habitat**

Section 30230 of the Coastal Act requires that marine resources shall be maintained, enhanced, and where feasible, restored. 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.*

#### 1. Soft Bottom Habitat

The proposed development is occurring in the waters of Marina del Rey. The proposed development area is entirely submerged. The proposed repair to the existing seawall and rock revetment will result in the permanent coverage of approximately 12,340 square feet (.28 acres) of soft bottom habitat and associated benthic (bottom-dwelling) organisms.

According to a report prepared for the County, sampling that has been conducted over 25 years indicate that the dominant types of benthic infauna in Marina del Rey include nematodes (round worms), and several species of polychaete worms typical of coastal embayments. Less common are mollusks, crustaceans, and echinoderm species. These organisms are believed to be less abundant due to their sensitivity to elevated levels of contaminants found in the sediments.

Other marine resources that could be impacted by the development is Eelgrass (*Rupia 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). However, based on surveys that were conducted at each of the proposed sites, eelgrass has not been found. In fact, other surveys conducted throughout the harbor, eelgrass has never been found.

In past projects that included filling of coastal waters and impacts to soft bottom habitat, the Commission has consistently required mitigation. The applicant has not proposed mitigation to offset the permanent loss of the .28 acres of soft bottom habitat. Mitigation would generally be required as a condition by the Army Corps, in consultation with National Marine Fisheries Service and the California Department of Fish and Game, however, at this time the Army Corps is still reviewing the entire project (phase 1 through 4) and because of the critical nature of phase 1 and small area it involves, the Army Corps, in consultation with National Marine Fisheries Service, decided to allow phase 1 to go forward prior to developing mitigation for all four phases. In discussions with National Marine Fisheries Service, a preliminary mitigation option that was suggested was the planting of eelgrass to enhance the soft bottom habitat in Marina del Rey. However, in other similar projects that required filling of coastal waters, the Commission has consistently required that impacts be mitigated with replacement or enhancement of similar habitat at a ratio of 2:1 (mitigation to impact). Since the impacted area is soft bottom

habitat, the planting of eelgrass, within the existing marina, without creating new soft bottom habitat will not mitigate the loss of soft bottom habitat and is not considered adequate mitigation.

Similar projects in other areas, such as in Huntington Harbour in Orange County, did include mitigation for loss of soft bottom habitat. The mitigation proposed in conjunction with previous bulkhead reinforcement projects provided replacement of soft bottom habitat at a 2:1 ratio (mitigation to impact). A higher mitigation ratio, such as 4:1, is not required for this project, as in the other projects, due to the low habitat value of the impact area.

On-site mitigation or mitigation within the harbor of Marina del Rey may not be feasible because the impact area is a bulkheaded harbor area where there are no opportunities to create new soft bottom habitat. The Commission has consistently required that mitigation sites be located in the same area or area that is ecologically connected. A possible mitigation site that is ecologically connected to the Marina includes the Ballona Wetlands located to the south of the Marina. The core area of the Ballona Wetlands property (consisting of 483 acres) was acquired in December 2003 from Playa Vista Development Corporation. Additionally, an approximately 70-acre area, known commonly as "Area C", was transferred to the Department from the State Controllers Office in September 2004. The State Controller's Office was empowered under legislation (SB 666, Feb. 2003) to transfer the property it originally received from the Howard Hughes Inheritance Tax Security Trust in 1984 to another State Agency. This transfer to the Department of Fish and Game (DFG) was approved by the Wildlife Conservation Board in 2003. The total acreage now owned in Fee Title by the Wildlife Conservation Board/DFG is 553 acres. It is proposed that the entire 553 acres be designated an Ecological Reserve. The primary management objective for this property is the preservation and enhancement of coastal salt marsh and freshwater marsh habitat and associated species. Other objectives include preservation and restoration of habitats supporting other species, protection of sensitive species, providing for appropriate public access and use, and assuring continued movement of wildlife between the state property and publicly owned lands in the vicinity of the wetlands. The property supports important species including the state listed endangered Belding's savannah sparrow.

The impact site and the Ballona Wetlands' future restoration site are geographically close, share the same watershed, and are part of the same ecological system. Future restoration of the wetlands within the Ballona Wetlands area would increase the function and value of the habitat within the reserve.

The habitat to be impacted at the subject site consists of soft bottom containing amphipods and hydroids. These species are common to soft bottom habitat throughout the harbor. No sensitive wildlife species are known to occur within this habitat area. Meanwhile, the wetland habitat restoration would occur in an area known to be high in plant and animal species diversity. Therefore, the restoration of habitat at Ballona Wetlands would be beneficial to a wide variety of wildlife. Any restored wetland habitat in a bulkheaded harbor area similar to the impact area would not be expected to attract the diversity and abundance of wildlife that the off-site restoration would. A high probability of successful

restoration would be expected at the Ballona Wetlands because the project would restore former and degraded wetland areas. Although the California Coastal Conservancy, who is involved in developing a restoration plan for Ballona Wetlands, has expressed interest in accepting in-lieu fees to assist in funding restoration, at this time such a program has not been established and a restoration plan has not been completed. The Department of Fish and Game and the California Coastal Conservancy are only in the preliminary planning stages for the restoration of the site. Therefore, it is premature to designate Ballona Wetlands as a mitigation site at this time. However, because of the critical state of seawall areas designated under Phase 1, the County has indicated that repair work needs to be done immediately to prevent the collapse of the bulkhead and damage to the development inland of the bulkhead and boat docks within the water.

To develop mitigation in consultation with the other resource agencies involved in review of the project would delay this project and create a potential hazard and jeopardize existing development. As stated, National Marine Fisheries has indicated, to allow Phase 1 to be implemented, mitigation will not be required at this time to allow Phase 1 to go forward. However, prior to approval of Phase 2 through 4, Phase 1 mitigation will be required along with mitigation for the other phases.

Based on the critical need for the repair work, and discussions with national Marine Fisheries, required mitigation for Phase 1 should be deferred to a later date to allow the applicant to do the needed repairs under Phase 1. Once mitigation has been developed and approved by the Army Corps of Engineers, National Marine Fisheries Service, Department of Fish and Game, and the Coastal Commission, the applicant shall be required to implement the mitigation for Phase 1. Therefore, as a condition (Special Condition No. 4) of this permit the applicant shall, prior to, or concurrent with, the County's submittal of a coastal development permit application to the Commission for Phase 2 seawall repair, or within two years from the date of issuance of this permit, whichever is earlier, the applicant shall submit, for the review and approval of the Executive Director, written evidence of participation in a mitigation program designed in consultation with, and approved by, the National Marine Fisheries Service, California Department of Fish and Game, United States Department of Army Corps, and the Coastal Commission's Executive Director. The mitigation program shall be in an area ecologically connected with Marina del Rey to mitigate the loss of soft bottom habitat with the substantial restoration of open water soft bottom or other tidally influenced wetland habitat at a ratio of 2:1 (mitigation: impact).

Only as conditioned to provide mitigation to offset the loss of soft bottom habitat can the proposed project be found consistent with Section 30235 of the Coastal Act regarding fill of coastal waters.

## 2. Water Quality and Construction Impacts

The proposed project involves the reinforcement of an existing seawall by placing rock over the existing rock and extending onto the soft marine bottom. Due to the proposed project's

location in the water, the proposed work may have adverse impacts upon water quality and the marine environment.

The applicant has submitted a Pre-Construction marine impact report, prepared by Coastal Resources Management, dated May 23, 2006. The report identifies potential impacts to water quality arising from the proposed project. The potential adverse impact to water quality identified in the report include accidental spills, disposing of debris in the water, and wash downs. Resuspended sediments will have a potential to reduce water clarity and decrease ambient dissolved oxygen concentrations in the water column during the revetment construction if the sediments are anoxic. The report recommends the Best Management Practices, such as the use of silt fences and debris booms. The filter fabric and rock will cover the void openings and injecting the grout through a PVC pipe directly into the voids will prevent the grout from being released into marina waters. Straw waddles will be used on the landside to prevent runoff.

In addition, the improper storage of construction equipment and materials during construction can contribute to adverse water quality impacts; therefore, 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 project site and discarded or stored in an appropriate manner at the conclusion of construction. 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. Thus, to assure that adverse impacts to water quality are minimized, the Commission imposes Special Condition No. 1 which requires the applicant to utilize best management practices including those described above. The special condition will help supplement the applicant's water quality program and ensure that the applicant's program is consistent with the Commission's water quality requirements for development in the water.

### 3. Caulerpa taxifolia

*Caulerpa taxifolia* (herein *C. taxifolia*) is a tropical green marine alga that is popular in the aquarium trade because of its attractive appearance and hardy nature. In 1984, this seaweed was introduced into the northern Mediterranean. From an initial infestation of about 1 square yard it grew to cover about 2 acres by 1989, and by 1997, blanketed about 10,000 acres along the coasts of France and Italy. Genetic studies demonstrated that those populations were from the same clone, possibly originating from a single introduction. This seaweed spreads asexually from fragments and creates a dense monoculture displacing native plant and animal species. In the Mediterranean, it grows on sand, mud and rock surfaces from the very shallow subtidal to about 250 ft depth. Because of toxins in its tissues, *C. taxifolia* is not eaten by herbivores in areas where it has invaded. The infestation in the Mediterranean has had serious negative economic and social consequences because of impacts to tourism, recreational diving, and commercial fishing.

Because of the grave risk to native habitats, in 1999, *C. taxifolia* was designated a prohibited species in the United States under the Federal Noxious Weed Act. In addition, in September 2001 the Governor signed into law AB 1334 which made it illegal in California for any person to sell, possess, import, transport, transfer, release alive in the state, or give away without consideration various *Caulerpa* species including *C. taxifolia*.

*C. taxifolia* has not been found in any area of Marina del Rey. However, in June 2000, *C. taxifolia* was discovered in Aqua Hedionda Lagoon in San Diego County, and in August of that year an infestation was discovered in Huntington Harbour in Orange County. Genetic studies show that this is the same clone as that released in the Mediterranean. Other infestations are likely. Although a tropical species, *C. taxifolia* has been shown to tolerate water temperatures down to at least 50°F. Although warmer southern California habitats are most vulnerable, until better information is available, it must be assumed that the whole California coast is at risk. All shallow marine habitats could be impacted.

In response to the threat that *C. taxifolia* poses to California's marine environment, the Southern California *Caulerpa* Action Team, SCCAT, was established to respond quickly and effectively to the discovery of *C. taxifolia* infestations in Southern California. The group consists of representatives from several state, federal, local and private entities. The goal of SCCAT is to completely eradicate all *C. taxifolia* infestations.

A *C. taxifolia* survey was included in the Pre-Construction Marine Biological Survey Assessment prepared by Coastal Resources Management, survey dates May 10<sup>th</sup>-11<sup>th</sup>, 2006, and submitted with the application. The survey found that no *C. taxifolia* exists within the project area. However, in order to ensure that *C. taxifolia* has not established within the project area in the interim, Special Condition No. 2 is imposed, which requires a survey be conducted no earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit.

#### 4. Eel Grass

Eelgrass (*Zostera marina*) is an aquatic plant consisting of tough cellulose leaves which grows in dense beds in shallow, subtidal or intertidal unconsolidated sediments. Eelgrass is considered worthy of protection because it functions as important habitat and foraging area 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). For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds.

An eelgrass survey was prepared by Coastal Resources Management as part of the Pre-Construction Biological Survey Assessment on May 23, 2006 and submitted with the application. The survey found no eelgrass within the project vicinity. Due to the ephemeral nature of eelgrass, however, an eelgrass certification is only valid until the next

period of active growth. Even though the eelgrass inspection indicates that no eelgrass is present, and therefore eelgrass will not be impacted by the proposed project, eelgrass may have established within the project area between the time the survey was conducted and commencement of construction. If eelgrass is present in the project area, adverse impacts from the proposed project could result. Therefore, measures to avoid or minimize such potential impacts must be in place in order for the project to be found consistent with Section 30230 of the Coastal Act. Therefore, the Commission imposes Special Condition No. 3 which requires that a current pre-construction eelgrass survey be conducted within the boundaries of the proposed project 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 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*.

#### 5. Least tern

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 may cause turbidity in the water column which would affect foraging species ability to see food normally visible in the water. In addition, construction activity using heavy equipment could generate noise in the water column that would disturb fish and other species normally present upon which foraging least terns would normally feed.

The Department of Fish and Game has indicated in past permit projects that construction 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 applicant is proposing to restrict construction activity to September through March, in order to avoid adverse impacts to the tern's foraging, consistent with the Department of Fish and Game restrictions.

Therefore, the Commission finds that the project as proposed would not have an adverse impact on foraging species in the area. Evidence of final or conditional approval for Phase 1 construction 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. Therefore, the Commission imposes a special condition which requires that the applicant submit evidence of approval from the U.S. Army Corps of Engineers prior to commencement of construction.



**E. Public Access**

Section 30212 of the Coastal Act states in relevant 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:*

*(2) adequate access exists nearby, or,*

*(b) For purposes of this section, "new development" does not include:*

*(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.*

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.*

The proposed development involves repair to an existing rock revetment in support of the existing vertical seawall. The project will result in seaward encroachment of the revetment. Therefore, the proposed project is considered new development for the purposes of Coastal Act section 30212. However, the proposed project would be underwater and seaward of the vertical seawall. There is no beach area which provides lateral public access on-site upon which the proposed project would encroach. Further, there is no beach area off-site which provides public access that could be eroded as a result of changes in shoreline processes due to the proposed project. Therefore, the Commission finds that no public access is necessary with the proposed development and that the proposed project is consistent with section 30212 of the Coastal Act.

Most of the construction work will be done from the waterside by barge with equipment needed for mixing and pumping the grout done on the landside. Waterside construction activity may require boats within or immediately adjacent to the site to be temporarily relocated. And due to temporary placement of construction equipment along the promenade, will require pedestrian access to be diverted around the repair locations. Construction at each repair site will take approximately three to four days. There will be no permanent impacts to boating or pedestrian access within the Marina. The repairs to the seawall will protect the exiting boating facilities and pedestrian access along the bulkhead. Therefore, the Commission finds that the proposed project is consistent with section 30213 of the Coastal Act.

**F. 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 revised 1995 LCP represented a major change in the county's approach to Marina del Rey development. Abandoning the bowl concept, which limited height on moles and next to the water, the County presented the Commission with a redevelopment plan that allowed greatly increased heights if and when developers provided view corridors over no less than 20% of the parcel. Increased height would be contingent on the provision of increased views. Secondly, the County agreed that at the time of renegotiations on of the leases, the lessees would be required to reserve a 18 foot wide promenade /fire road along the water that would be open to the public.

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 the chapter three policies 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. The Commission, therefore, finds that the proposed project will be consistent with the Chapter 3 policies of the Coastal Act.

**G. 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 marine resources, water quality, and boater and pedestrian access. 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.

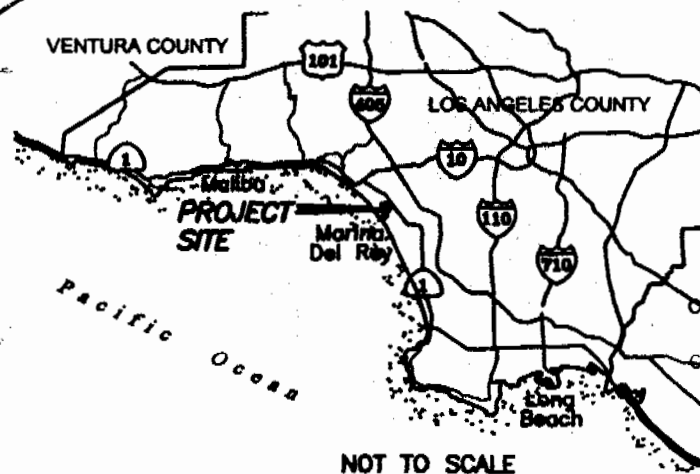
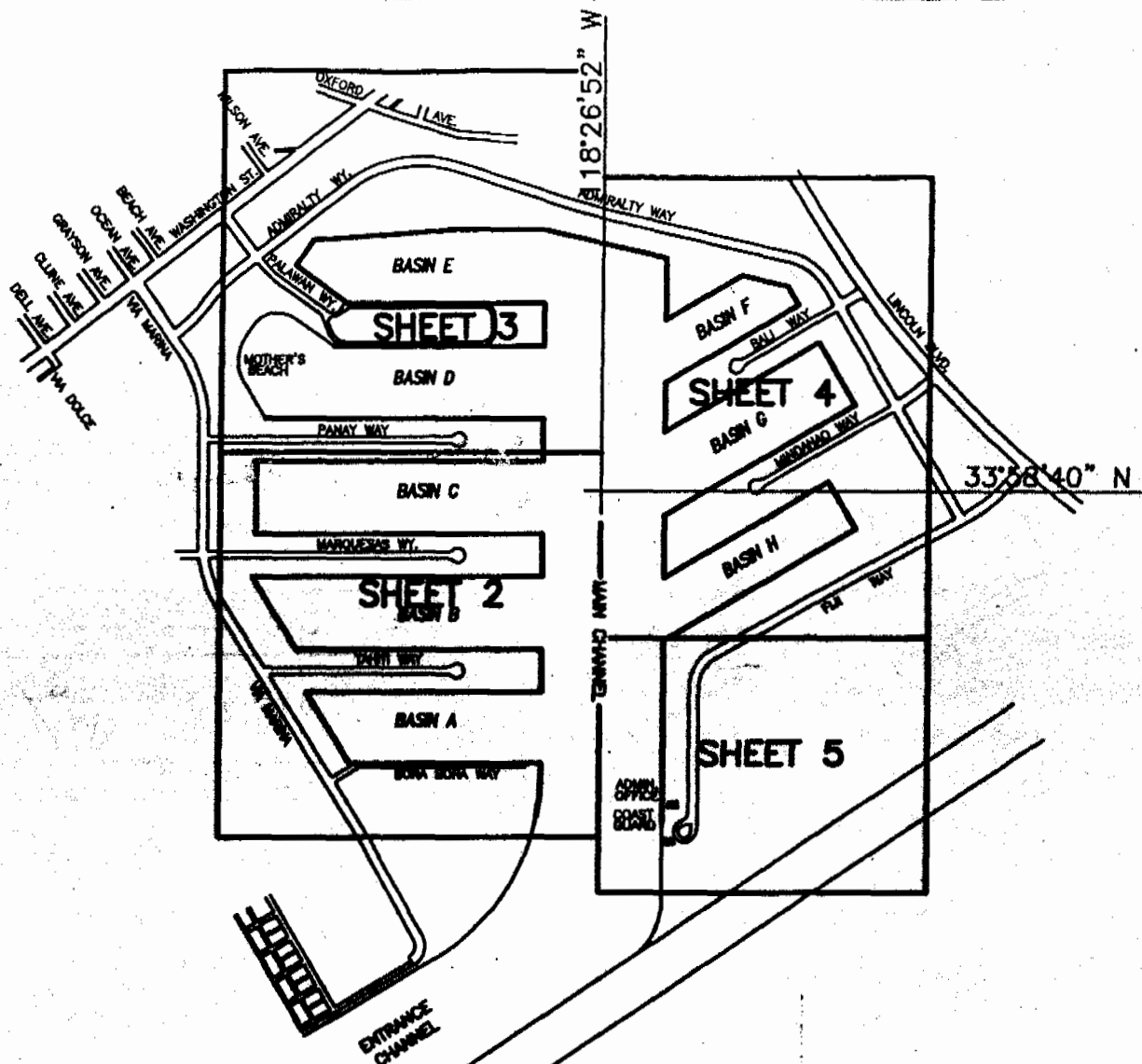


EXHIBIT NO. 1

Application Number

5-00-160

Vicinity Map

California Coastal Commission

UNDER

# VICINITY MAP



COUNTY OF LOS ANGELES  
DEPT. OF BEACHES & HARBORS  
13837 FIJI WAY  
MARINA DEL REY, CA. 90292

IN: MARINA DEL REY  
AT: MARINA DEL REY  
COUNTY OF: LOS ANGELES  
APPLICATION BY: CO. OF LOS ANGELES  
DEPT. OF BEACHES & HARBORS  
SHEET 1 OF 9 APRIL 12, 2006

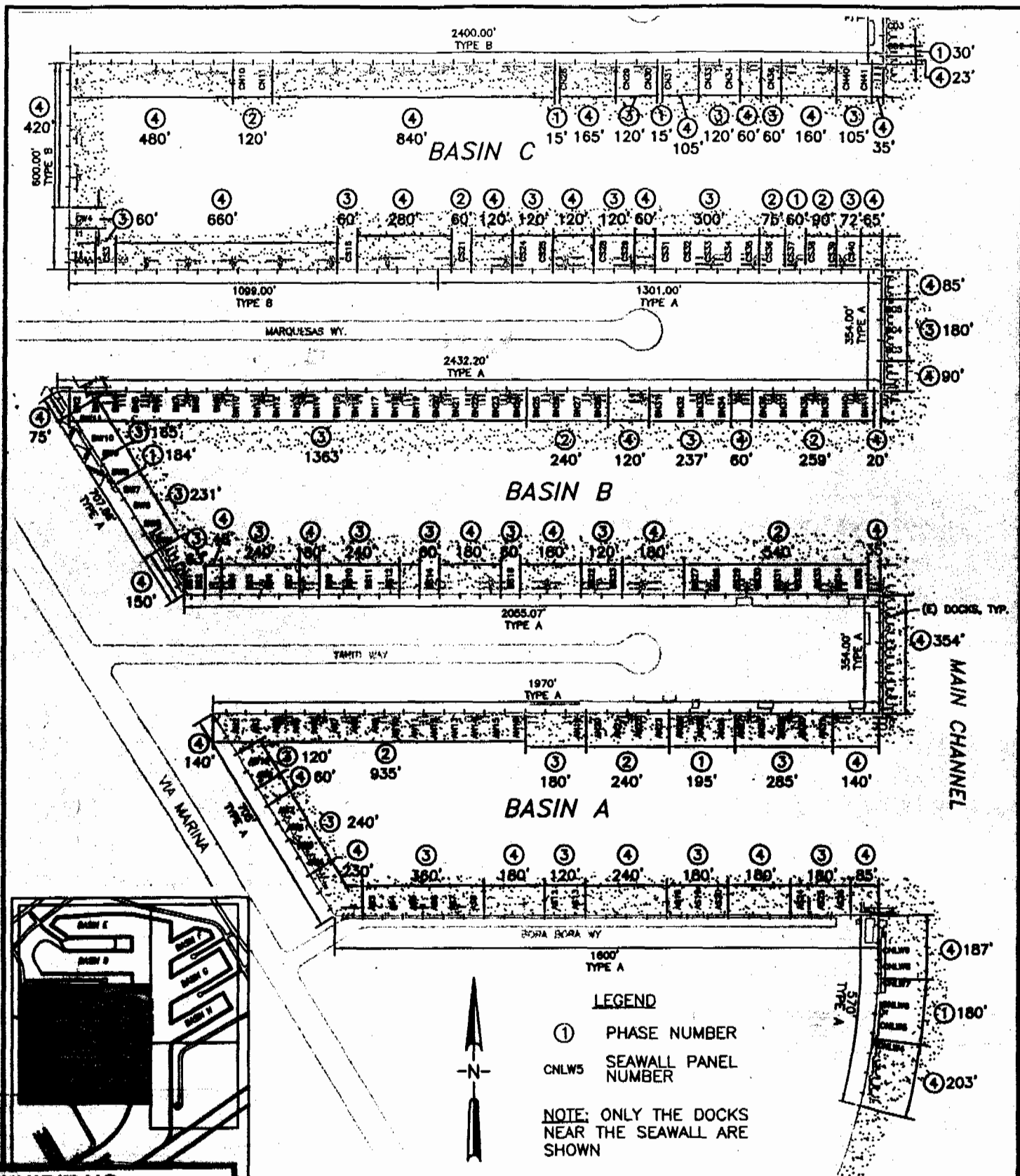


EXHIBIT NO. 2

Application Number

Repair Plan  
Phases 1-4

California Coastal Commission

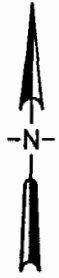
NDER

## REPAIR PLAN



COUNTY OF LOS ANGELES  
DEPT. OF BEACHES & HARBORS  
13837 FIJI WAY  
MARINA DEL REY, CA. 90292

IN: MARINA DEL REY  
AT: MARINA DEL REY  
COUNTY OF: LOS ANGELES  
APPLICATION BY: CO. OF LOS ANGELES  
DEPT. OF BEACHES & HARBORS  
SHEET 2 OF 9 APRIL 12, 2006



# LEGEND

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- CNLW5 SEAWALL PANEL NUMBER

NOTE: ONLY THE DOCKS NEAR THE SEAWALL ARE SHOWN

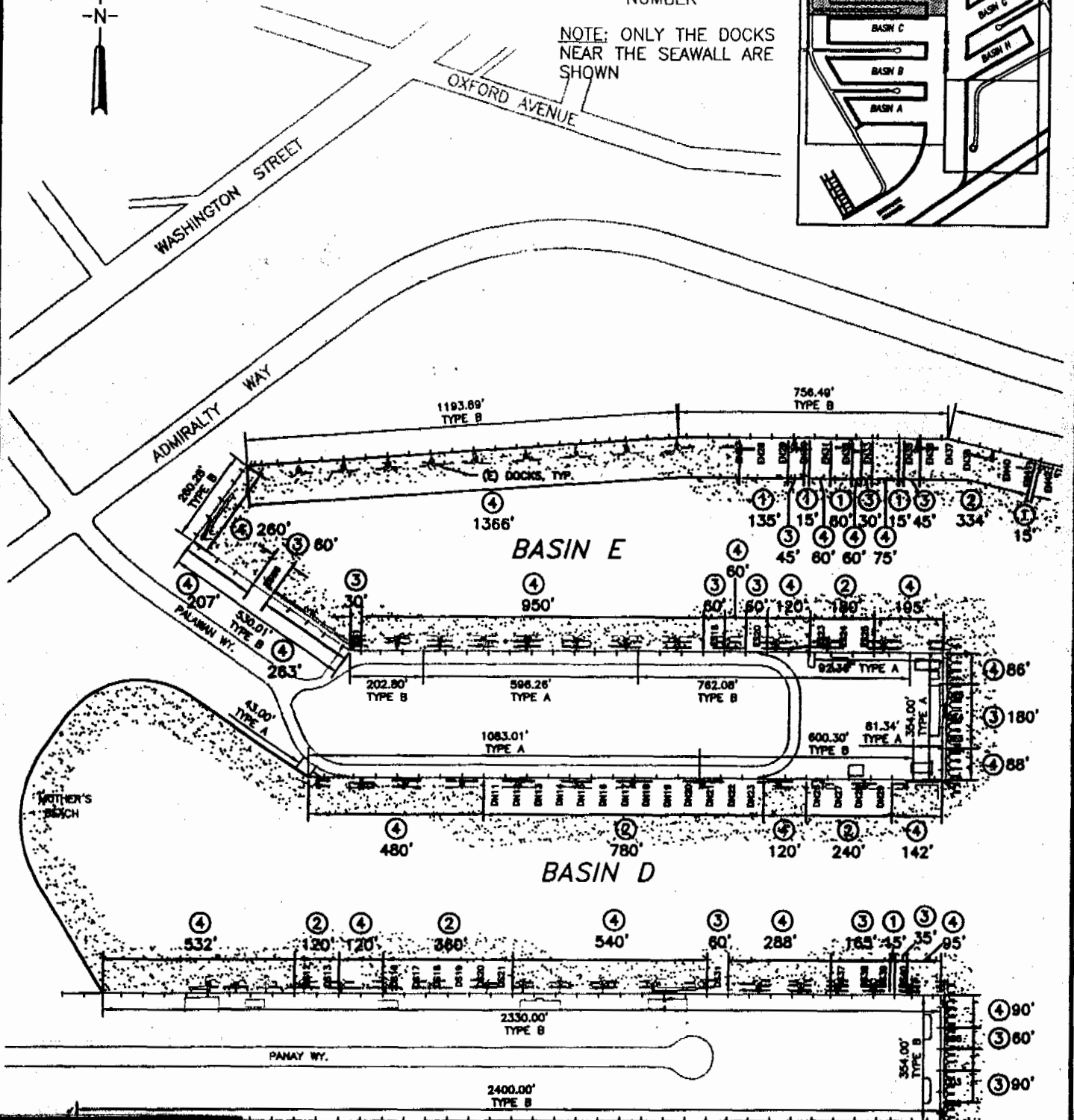
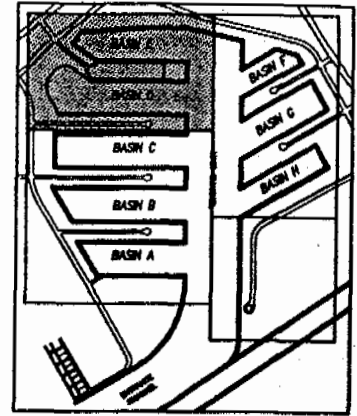


EXHIBIT NO. 3
Application Number <i>Repair Plan</i>
<i>Phases 1-4</i>
California Coastal Commission

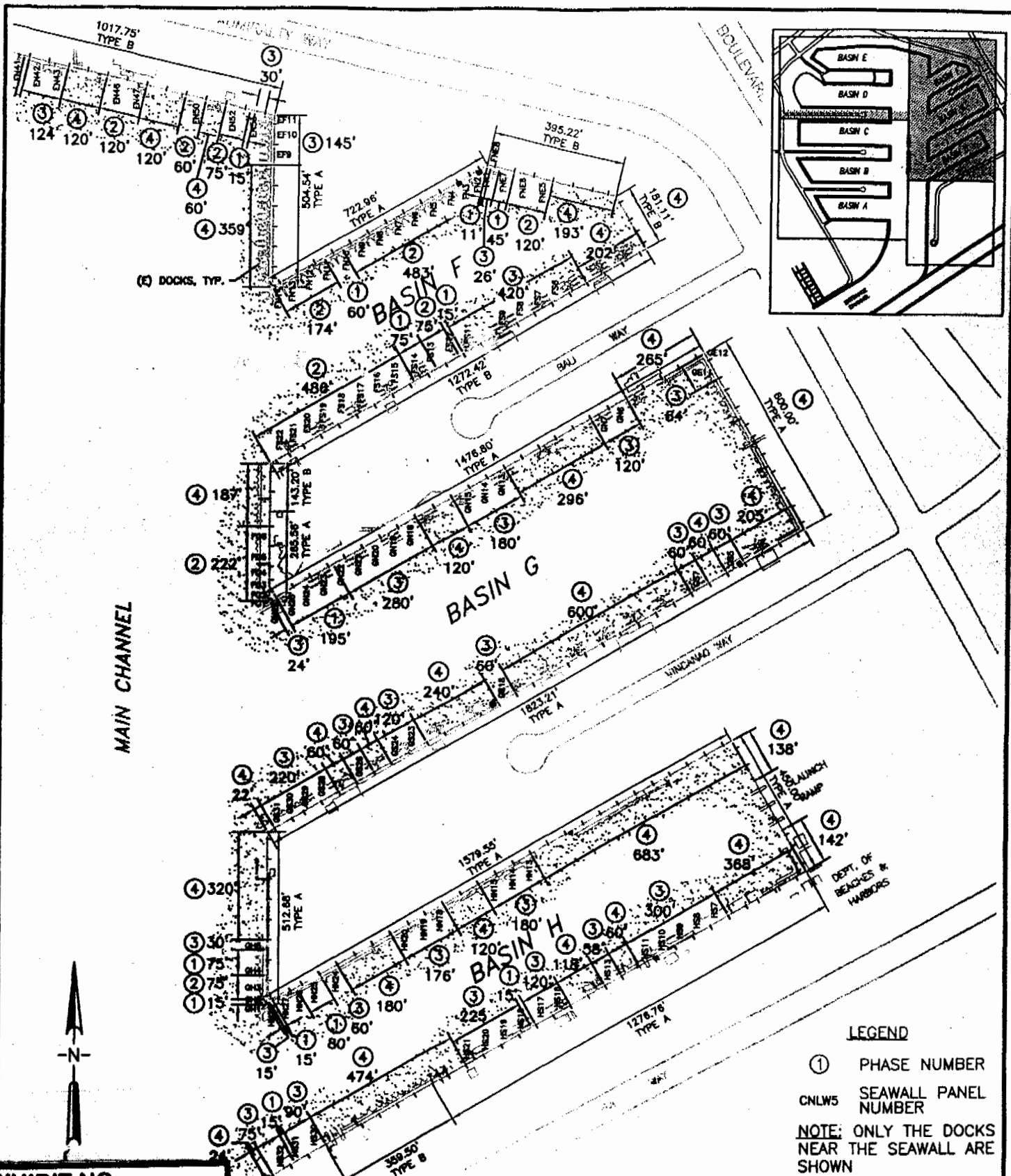
UNDER

## REPAIR PLAN



COUNTY OF LOS ANGELES  
DEPT. OF BEACHES & HARBORS  
13837 FIJI WAY  
MARINA DEL REY, CA. 90292

IN: MARINA DEL REY  
AT: MARINA DEL REY  
COUNTY OF: LOS ANGELES  
APPLICATION BY: CO. OF LOS ANGELES  
DEPT. OF BEACHES & HARBORS  
SHEET 3 OF 9 APRIL 12, 2006



**LEGEND**

- ① PHASE NUMBER
- CNLW5 SEAWALL PANEL NUMBER

**NOTE:** ONLY THE DOCKS NEAR THE SEAWALL ARE SHOWN

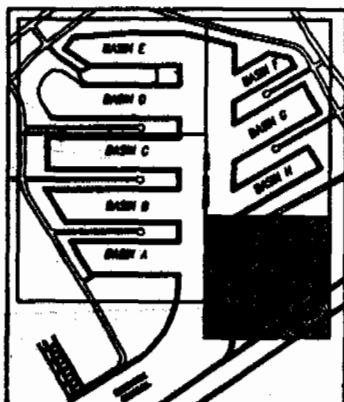
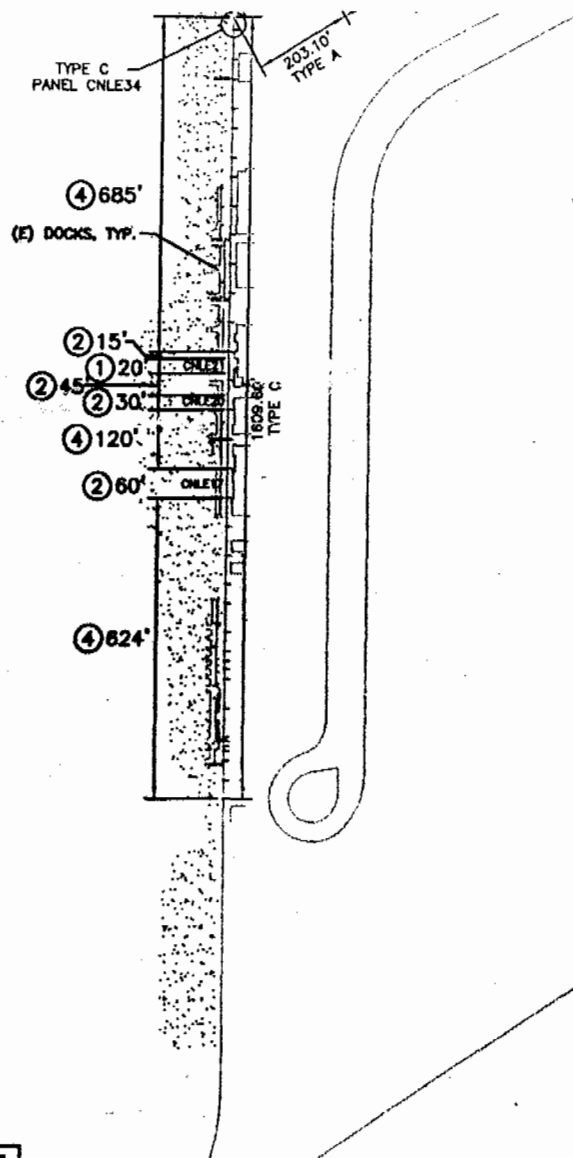
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<b>Application Number</b>	5-06-160
<b>Repair Plan</b>	Phases 1-4
<b>California Coastal Commission</b>	

**REPAIR PLAN**



COUNTY OF LOS ANGELES  
DEPT. OF BEACHES & HARBORS  
13837 FIJI WAY  
MARINA DEL REY, CA. 90292

IN: MARINA DEL REY  
AT: MARINA DEL REY  
COUNTY OF: LOS ANGELES  
APPLICATION BY: CO. OF LOS ANGELES  
DEPT. OF BEACHES & HARBORS  
SHEET 4 OF 9      APRIL 12, 2006

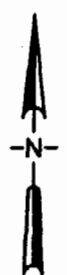


**LEGEND**

① PHASE NUMBER

CNLW5 SEAWALL PANEL NUMBER

**NOTE:** ONLY THE DOCKS NEAR THE SEAWALL ARE SHOWN



**EXHIBIT NO.** 5

**Application Number**  
5-CC-160

*Repair Plan*  
*Phases 1-4*

California Coastal Commission

NDER

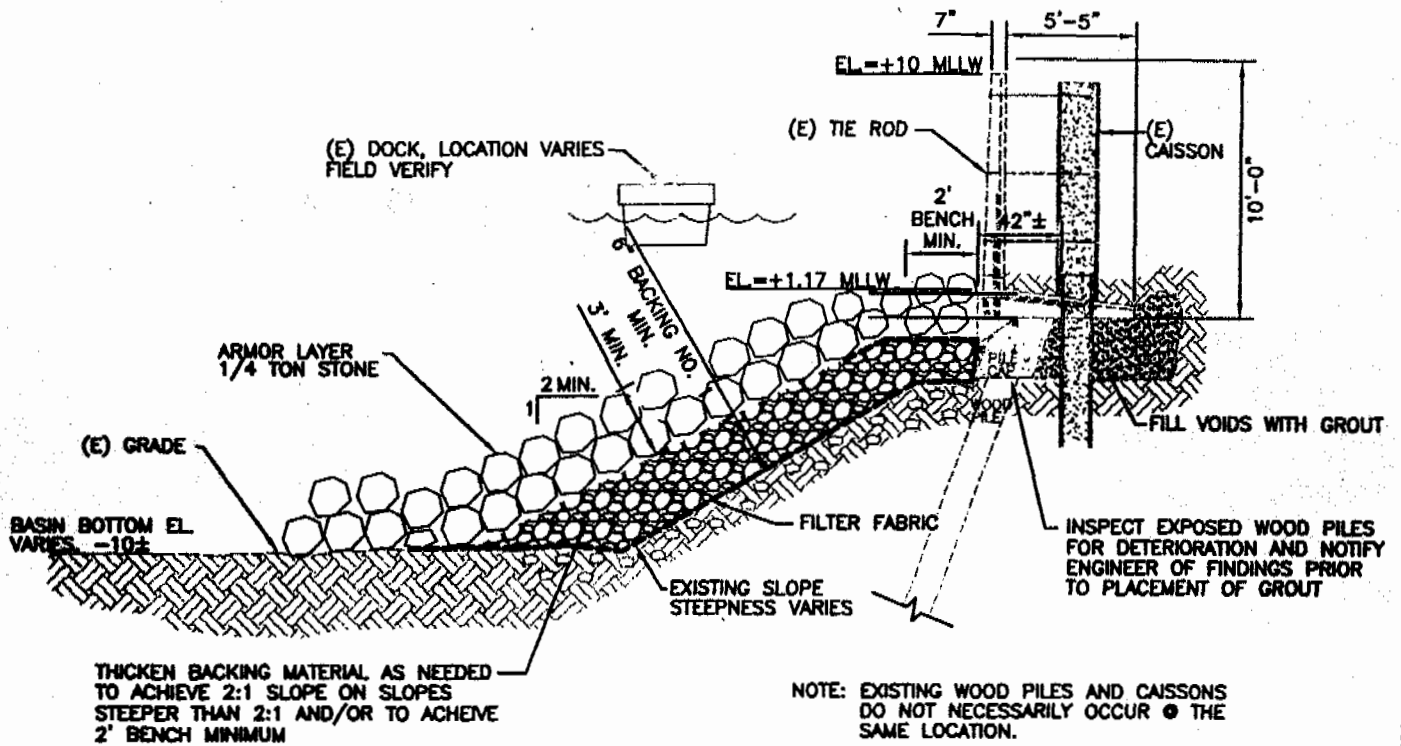
# REPAIR PLAN



COUNTY OF LOS ANGELES  
DEPT. OF BEACHES & HARBORS  
13837 FIJI WAY  
MARINA DEL REY, CA. 90292

IN: MARINA DEL REY  
AT: MARINA DEL REY  
COUNTY OF: LOS ANGELES  
APPLICATION BY: CO. OF LOS ANGELES  
DEPT. OF BEACHES & HARBORS  
SHEET 5 OF 9 APRIL 12, 2006





## VOID REPAIR AT WALL TYPE A PILE SUPPORTED SEAWALL

EXHIBIT NO.

6

Application Number

5-CC-160

SECTION

California Coastal Commission

UNDER

### SECTION A



COUNTY OF LOS ANGELES  
DEPT. OF BEACHES & HARBORS  
13837 FIJI WAY  
MARINA DEL REY, CA. 90292

IN: MARINA DEL REY  
AT: MARINA DEL REY  
COUNTY OF: LOS ANGELES  
APPLICATION BY: CO. OF LOS ANGELES  
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SHEET 6 OF 9 APRIL 12, 2006