

CALIFORNIA COASTAL COMMISSION

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Commission Action:



Th6a

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-06-412

APPLICANT: Boy Scouts of America, Western Los Angeles County Council

AGENT: Greg Schem

PROJECT LOCATION: Camp Emerald Bay, Santa Catalina Island, Los Angeles County.

PROJECT DESCRIPTION: Remove two existing timber piers and docks, and replace with two new timber piers (a 192-foot long, fifteen-foot wide, L-shaped docking pier, and a 63-foot long, twelve-foot wide swimming pier platform), a 20'x 80' landing barge, and associated floating docks and gangways using a total of 59 untreated hardwood piles.

SUBSTANTIVE FILE DOCUMENTS:

1. Los Angeles County Santa Catalina Island certified Local Coastal Program (LCP).
2. Los Angeles County Local Coastal Development Permit No. 99-038 (Camp Emerald Bay Master Plan, SCI).
3. Coastal Development Permit 5-00-101 (Catalina Is. Yacht Club Pier, Avalon, SCI).
4. Coastal Development Permit 5-00-093 (Howlands Landing Pier, SCI).
5. Coastal Development Permit 5-03-151 (SCI Co. Moorings).
6. Coastal Development Permit 5-04-019 (Two Harbors Pier, SCI).
7. California Dept. of Fish & Game Letter for Emerald Bay Boy Scout Pier Facility, SCI, 2/5/2007 (Exhibit #7).
8. California State Lands Commission Lease No. 6442.1, 1/1/1997 (Amendment Pending).
9. U.S. Army Corps of Engineers Permit Application, Project No. 2006-02043-KW.
10. Eelgrass & Caulerpa Survey for Emerald Bay Pier Sites, by Marc Duncan, Pennington Marine Science Center, 10/16/2006.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending **APPROVAL** of the coastal development permit with special conditions relating to the protection of water quality, marine resources, and public access, and the applicant's assumption of risk. The applicant agrees with the recommendation. **See Page Two for the motion and resolution necessary to carry out the staff recommendation.**

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

MOTION: *"I move that the Commission approve with special conditions Coastal Development Permit 5-06-412 per the staff recommendation."*

Staff recommends a **YES** vote. Passage of the motion will result in **APPROVAL** of the coastal development permit application with special conditions, and adoption of the following resolution and findings, as set forth in this staff report or as modified by staff prior to the Commission's vote. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

I. Resolution: Approval with Conditions

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. 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. Permit Compliance

The permitted use of the approved development is for public recreation and boating-related uses only. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.

2. Construction Responsibilities and Debris Removal

By acceptance of this permit, the applicant agrees that the permitted development shall be conducted in a manner that protects water quality pursuant to the implementation of the following BMPs.

- A. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion. Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control sedimentation impacts to coastal waters during project staging, demolition and construction. BMPs shall include a pre-construction meeting to review procedural and BMP guidelines.
- B. Staging and storage of construction materials and machinery, and storage of debris, shall not occur within fifty feet of the high tide line.
- C. Demolition and construction activities are only permitted during daylight hours.
- D. Netting, tarps and/or other forms of barriers shall be installed between the water and the piers to prevent material from entering the Pacific Ocean.
- E. Any and all debris resulting from construction activities shall be removed from the beach and pier area on a daily basis and disposed of at an appropriate location.
- F. Machinery and construction materials not essential for the approved project are prohibited at all times in the subtidal and intertidal zones.
- G. Disturbance to the ocean bottom and intertidal areas shall be minimized. No jetting.
- H. The use of creosote treated wood is prohibited.
- I. Silt curtains will be utilized to control turbidity during placement of all piles.
- J. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day.
- K. Divers will recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- L. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.
- M. The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- N. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash or construction material has been left on the beach or in the water, and that the project has not created any hazard to navigation.

3. Best Management Practices (BMP) Program

By acceptance of this permit, the applicant agrees that the long-term water-borne berthing of boat(s) in the approved docks will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs.

A. Boat Cleaning and Maintenance Measures:

1. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints and debris.
2. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls is prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and only minimal amounts shall be used.
3. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.

B. Solid and Liquid Waste Management Measures:

All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits shall be disposed of in a proper manner and shall not at any time be disposed of in the water or gutter.

C. Petroleum Control Management Measures:

Oil absorbent materials should be examined at least once a year and replaced as necessary. The applicant shall recycle the materials, if possible, or dispose of them in accordance with hazardous waste disposal regulations. The boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. Boaters shall to use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas. Bilges shall be cleaned and maintained. The use of detergents or soaps that can be discharged by bilge pumps is prohibited.

- #### D. Nighttime lighting on the piers and in the docking and water areas shall be limited to only the illumination necessary for navigational safety. Nighttime noise shall not exceed normal conversation levels.

4. Caulerpa Taxifolia Pre-Construction Survey

- #### A. No earlier than ninety days nor later than thirty 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 ten 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 business days of completion of the survey, the applicant shall submit the survey for the review and approval of the Executive Director; and, to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043).
 - D. If *Caulerpa taxifolia* is found within the project or buffer areas, the 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.
5. Eelgrass Survey
- A. Pre Construction Eelgrass Survey. Prior to commencement of any development authorized under this coastal development permit, 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 Section 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 applicant 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 applicant 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.

6. Resource Agencies

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence that the California Regional Water Quality Control Board has authorized the proposed development. The permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

7. Public Access To and Along the Shoreline

The approved docking facilities shall be available for loading and unloading of persons, supplies and equipment by the general public. The applicant and the development shall not interfere with public access along the shoreline in the project area (except for the temporary disruptions that may occur during the completion of the permitted development).

8. Assumption of Risk

A. By acceptance of this permit, the applicant, on behalf of (1) itself; (2) its successors and assigns and (3) any other holder of the possessory interest in the development authorized by this permit, 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 agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and

approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (v).

- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a copy of a lease agreement, in a form and content acceptable to the Executive Director, between the applicant and the State of California acting through the State Lands Commission, incorporating all of the above terms of subsection A of this condition.

IV. **Findings and Declarations**

The Commission hereby finds and declares:

A. **Project Description**

The proposed project involves the removal of the existing pier and dock facilities at Emerald Bay on Santa Catalina Island, and the construction of two new piers and associated docks and floats (See Exhibits). The land and sea facilities at Emerald Bay are operated by the Boy Scouts of America (Camp Emerald Bay, Western Los Angeles County Council) under leases from the Santa Catalina Island Company (landowner) and State Lands Commission. The sixty-acre camp, which was established in 1925, has a 350 person capacity.

The existing aged pier and dock facilities, which will be completely disassembled and removed from the bay; consist of a main pier, a secondary pier, five floating docks and three gangways that connect the dock floats to the piers (Exhibit #3). All existing piles (56 timber piles) would be cut-off at the base and removed from the site, while some of the non-toxic materials salvaged from the existing piers could be re-used at the camp. The materials that are not recycled will be barged to the mainland and disposed of at a dump.

The proposed new facilities consist of two piers: a 192-foot long, fifteen-foot wide, L-shaped docking pier (Pier A: Exhibit #5), and a 63-foot long, twelve-foot wide swimming pier platform (Pier B: Exhibit #6). The two new piers will be supported by a total of 59 new untreated hardwood piles.¹ The new piles would be driven into the earth by drop hammer. No side jetting is being proposed, and no dredging is proposed. The proposed new floating docks consist of an 80'x 20' landing barge connected by a gangway to the end of Pier A, a large U-shaped dock connected by two gangways to the ends of both Piers A and B respectively, and a 20'x 20' floating swim platform anchored in the water area enclosed by the two piers and U-shaped floating dock (Exhibit #4).

Proposed Pier A, which will replace the larger existing pier, will provide primary access to the island for people (including the general public), equipment and supplies. Proposed Pier A is 192 feet long in order to extend out to deeper water where the large ferry boats must dock. Proposed Pier B, the smaller pier, will serve as a dock for the camp's rowboats and canoe fleets as well a swimming platform for the camp's intensive aquatic activities.

¹ The original project design proposed the use of 85 chemically-treated piles wrapped in polyethylene.

The applicant has located the proposed 60'x 100' project staging area about one hundred feet inland of the mean high tide line, immediately inland of the proposed swimming pier (Pier B). The applicant has agreed not to use any creosote treated timber in the project. No sewage pump-out or fuel facilities currently exist at Emerald Bay, and none are proposed as part of this project.

The east facing shoreline in the project area is comprised primarily of mud and sand. The two proposed piers will be constructed in the relatively shallow intertidal zone, while the proposed floating docks, attached to the piers by gangways, extend the development out into the deeper waters of the bay. The proposed pier decks are designed to be about nine feet higher than the mean high tide line.

The applicant has submitted two letters stating that eelgrass (*Zostera marina*) and noxious algae (*Caulerpa taxifolia*) is absent at the project site. On August 24, 2004, Dr. Kathy Ann Miller inspected the project area and found no eelgrass or noxious caulerpa algae. Dr. Miller wrote that the water area next to the piers is probably too shallow for eelgrass habitat. More recently, on October 16, 2006, Marc Duncan, Marine Science Director at Pennington Marine Science Center on Catalina Island, inspected the project site and also found no evidence of the existence of eelgrass or noxious caulerpa algae. No caulerpa has ever been reported in the waters off Catalina Island.

The proposed project has received the approval of the Los Angeles County Department of Regional Planning. The applicant is in the process of obtaining a Section 401 Certification from the California Regional Water Quality Control Board, and has already obtained a preliminary approval from the U.S. Army Corps of Engineers (Project No. 2006-02043-KW). The California Department of Fish and Game has reviewed the proposed project and has determined that it would not have a significant adverse effect on marine resources if artificial nighttime lighting and excess noise is limited (Exhibit #7).

B. Marine Resources

The Coastal Act contains policies that address development in or near coastal waters. The proposed project is located in and over the coastal waters of Emerald Bay at Santa Catalina Island (See Exhibits). The standard of review development proposed in coastal waters is the Chapter 3 policies of the Coastal Act, including the following marine resource policies. Sections 30230 and 30231 of the Coastal Act require the protection of biological productivity, public recreation and 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 of the Coastal Act, which protects sensitive habitat areas, states:

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

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The proposed project involves the removal of the existing pier and dock facilities at Emerald Bay, and the construction of two new piers and associated docks and floats (See Exhibits). A total of 56 timber piles will be removed, and 59 new untreated hardwood piles will be driven as part of the proposed development.

Underwater surveys of the project site in 2004 and 2006 indicate that no eelgrass beds will be affected by the proposed project, because no eelgrass beds exist where the proposed work is proposed. The California Department of Fish and Game (DFG) has reviewed the proposed project and issued a comment letter dated February 5, 2007, attached to this report as Exhibit #7. The DFG has concluded that the proposed project will not have a significant adverse effect on marine resources, provided that certain mitigation measures are implemented. The special conditions of this coastal development permit require the applicant to implement the mitigation methods necessary to avoid adverse impacts to coastal resources.

1. Construction Impacts to Water Quality and Habitat

The Commission recognizes that chemical pollution and siltation adversely affect water quality, biological productivity and coastal recreation. The proposed work is located within coastal waters that support both sensitive species and public recreational activities. Therefore, it is important that the work be performed in a manner that avoids or minimizes adverse impacts to water quality and marine resources. In order to minimize adverse construction impacts, the Commission imposes **Special Condition Two** to require the implementation of best management practices. Demolition and construction activities are only permitted during daylight hours in order to minimize disturbance of the adjacent sensitive habitat areas. The condition also requires the proper storage of construction materials and the recovery of any non-buoyant debris by divers as soon as possible after loss. Only as conditioned to protect the

marine habitat from adverse construction impacts does the proposed project comply with the marine resource and sensitive habitat provisions of the Coastal Act.

2. Post Construction Water Quality and Habitat Protection Plan

The Coastal Act requirements to protect the biological productivity and quality of coastal waters do not end after the proposed project is constructed. The proposed development must also be maintained in a manner that sustains water quality and marine habitat. In order to reduce water pollution in the project site that may result from day-to-day boating activities, and to protect adjacent sensitive habitat areas from adverse impacts caused by nighttime lighting, the Commission imposes **Special Condition Three** requiring the applicant to implement a water quality management plan for daily boating operations and to restrict nighttime lighting to only that necessary for navigational safety. The water quality management provisions address the cleaning, fueling, lubricating and maintenance of vessels in the water and comply with the Commission's water quality requirements marina development. Only as conditioned to protect the marine habitat from adverse water quality and lighting impacts does the proposed project comply with the marine resource and sensitive habitat provisions of the Coastal Act.

3. Sensitive Species Impacts – Toxic Algae

A non-native and invasive aquatic plant species, *Caulerpa taxifolia* (herein *C. taxifolia*), has been discovered in parts of Southern California. *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 Sea. From an initial infestation of about one square yard it grew to cover about two acres by 1989, and by 1997, blanketed about ten thousand 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 Sea, it grows on sand, mud and rock surfaces from the very shallow subtidal to about 250 feet 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 Sea has had serious negative economic and social consequences because of impacts to tourism, recreational diving and the commercial fishing industry.

Because of the grave risk to native habitats *C. taxifolia* was designated a prohibited species in the United States in 1999 under the Federal Noxious Weed Act. In 2001, AB 1334 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*.

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 Harbor in Orange County. Genetic studies show that this is the same clone as that released in the Mediterranean. Other infestations may occur. 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 all shallow water marine habitats in California are at risk of infestation.

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 locate and completely eradicate all *C. taxifolia* infestations.

So far, *C. taxifolia* has not been found anywhere in the Catalina Island area. However, to ensure that *C. taxifolia* is not present in the project area before the permitted project commences, **Special Condition Four** requires the applicant to survey the project area for *C. taxifolia* no earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any development authorized under this coastal development permit. Only as conditioned does the Commission find that the proposed project conforms with the marine resource and sensitive habitat provisions of the Coastal Act.

4. Sensitive Species Impacts – Eelgrass

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 (DFG). 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.

The project site was surveyed for eelgrass in August 2004 and October 2006 and no eelgrass beds were found. Therefore, the proposed project is not expected to adversely impact any eelgrass beds. However, eelgrass may have grown within the project area between the time the survey was conducted in 2006 and commencement of construction. In order to ensure that the development does not impact any eelgrass beds, the Commission requires the applicant to conduct another eelgrass survey before the work commences and during the active growth phase for the vegetation that occurs March through October. Therefore, **Special Condition Five** requires the applicant to survey the project site again during the active growth phase no earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any development authorized under this coastal development permit. If any eelgrass is found that would be impacted by the proposed project, the applicant is required to apply for an amendment to this coastal development permit. If eelgrass is present in the project area, adverse impacts from the proposed project could result and measures to avoid or minimize such potential impacts must be in place in order for the project to conform with the Southern California Eelgrass Mitigation Policy and Section 30230 of the Coastal Act. Only as conditioned does the Commission find that the proposed project conforms with the marine resource and sensitive habitat provisions of the Coastal Act.

5. Fill of Coastal Waters

The proposed project includes the placement of 59 untreated hardwood piles to support the two proposed piers (Exhibits #5&6). The proposed piles constitute fill in coastal waters. Section 30233(a) of the Coastal Act addresses fill of open coastal waters as follows:

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.

Section 30233(a) of the Coastal Act limits the fill of open coastal water to specific, enumerated uses and also requires that any project which results in fill of open coastal waters provide adequate mitigation and that the project be the least environmentally damaging alternative. The fill for the proposed development consistent with the requirements of Section 30233 (a), as follows:

Allowable Use - Section 30233(a)(4) of the Coastal Act allows fill of open coastal waters for new or expanded boating facilities that provide public access and recreational opportunities. The proposed project (new piers) provides public access and recreational opportunities, and constitutes an allowable use under Section 30233(a)(4).

Least Environmentally Damaging Alternative – The proposed project will result in the replacement of two old piers that support public access and recreation with two new piers. A total of 56 timber piles will be removed, and 59 new untreated hardwood piles will be driven as part of the proposed development. The original project design proposed the use of 85 chemically-treated piles wrapped in polyethylene, but the project was revised in order to reduce the number of piles and avoid the use of chemically-treated timber piles. The currently proposed project will use the minimum number and size of piles necessary to adequately support and secure the piers. Thus, the amount of fill needed to support the proposed allowable use is minimized. Also, the piles will be installed using a drop hammer, without side jetting, in order to reduce turbidity and disturbance of the sea bottom. Debris booms and silt curtains will be utilized to reduce turbidity during demolition and construction. Therefore, the project, as conditioned, is the least environmentally damaging alternative.

Adequate Mitigation - Section 30233 also requires that any project which results in fill of open coastal waters also provide adequate mitigation. Placement of the proposed piles in conjunction with the proposed project will displace bottom habitat, although a survey of the project site found no eelgrass. However, the pilings will provide new vertical habitat for marine organisms such as mussels, barnacles, limpets, littorine snails, red and brown seaweed, surfgrass, anemones, and polychaetes. Thus, adequate mitigation is provided by the proposed project in that the loss of bottom habitat is offset by the fact that the pilings themselves will provide new vertical intertidal habitat for marine organisms.

For the reasons discussed above, the Commission finds that the project, as conditioned, is consistent with Section 30233 of the Coastal Act.

In addition, **Special Condition Six** requires the permittees to comply with all permit requirements and mitigation measures of the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Only as conditioned will the proposed project ensure that marine resources and water quality be protected as required by Sections 30230 and 30231 of the Coastal Act.

The Commission also finds that the project, as conditioned, is consistent with Section 30240 of the Coastal Act because the proposed development has been sited and designed to prevent impacts which would significantly degrade sensitive habitat areas, and will be compatible with the continuance of such habitat areas.

C. Recreation and Public Access

One of the basic goals stated in the Coastal Act is to maximize public access and recreation along the coast. The proposed project, as conditioned, will conform with the following Coastal Act policies that protect and encourage public access and recreational use of coastal areas.

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 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30213 of the Coastal Act states, in part:

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

As stated in the above public access policies, the Coastal Act requires that maximum access and recreational opportunities be provided for all people. The Coastal Act also protects the public's right to access the sea and encourages the development of recreational facilities.

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 30224 of the Coastal Act states that recreational boating activities should be encouraged. Section 30234 of the Coastal Act states that recreational boating facilities shall be protected and upgraded. The proposed project, located within coastal waters and also between the nearest public road and the sea, involves the replacement of the existing recreational boating facilities at Emerald Bay.

Currently, the sandy beach at Emerald Bay is identified in the certified County of Los Angeles Local Coastal Program (LCP) for Santa Catalina Island as a recreation area that is open to the general public. The certified LCP states that the beach is “open to general public and used primarily for small boat-to-boat camping and day recreation beach during fair weather” (LCP p.II-129). Existing recreational activities at the project site include camping, boating, hiking, snorkeling, diving and swimming.

The applicant has agreed to continue to allow the general public to use the camp’s docking facilities for loading and unloading purposes. **Special Condition Seven** prohibits the applicant and the development from interfering with public access along the shoreline in the project area, except for the temporary disruptions that may occur during the completion of the permitted development. Therefore, the Commission finds that the proposed project, as conditioned, will enhance public access and recreational boating at Emerald Bay and is consistent with the public access and recreation policies of the Coastal Act.

D. Visual Resources

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

Section 30251 of the Coastal Act requires that the scenic and visual resources of coastal areas be considered and protected as a resource of public importance. In addition, public views to and along the ocean and scenic coastal areas shall be protected. The proposed project would

replace two old piers with two new piers with attached floating docks. The proposed new development is in the same location as the old piers and is similar in size and appearance. Therefore, the proposed project will not result in any significant change to the visual quality of Emerald Bay and will not have any adverse impacts on public views. Therefore, the proposed project is consistent with Section 30251 of the Coastal Act.

E. Hazards

The Coastal Act states that new development must minimize risks to life and property and not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

Section 30253 of the Coastal Act states, in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed project will not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. However, no development in the water can be guaranteed to be safe from hazard. All development located in or near the ocean have the potential for damage caused by wave energy, floods, seismic events, storms and erosion.

The proposed project is located in the Pacific Ocean and is susceptible to natural hazards. The Commission routinely imposes conditions for assumption of risk in areas at high risk from hazards. **Special Condition Eight** ensures that the permittee understands and assumes the potential hazards associated with development in or near the water. Such knowledge is the first step towards the minimization of risks to life and property.

Due to the development's location in the ocean, the proposed work will take place on State owned lands, and the applicant has obtained preliminary permission from the State Lands Commission staff for the proposed replacement of the existing pier and dock facilities. The State Lands Commission is scheduled to amend the applicant's lease at its next meeting to specifically allow the proposed development. **Special Condition Eight** requires the applicant to amend its lease with the State Lands Commission to incorporate the terms of the condition, prior to the issuance of the coastal development permit.

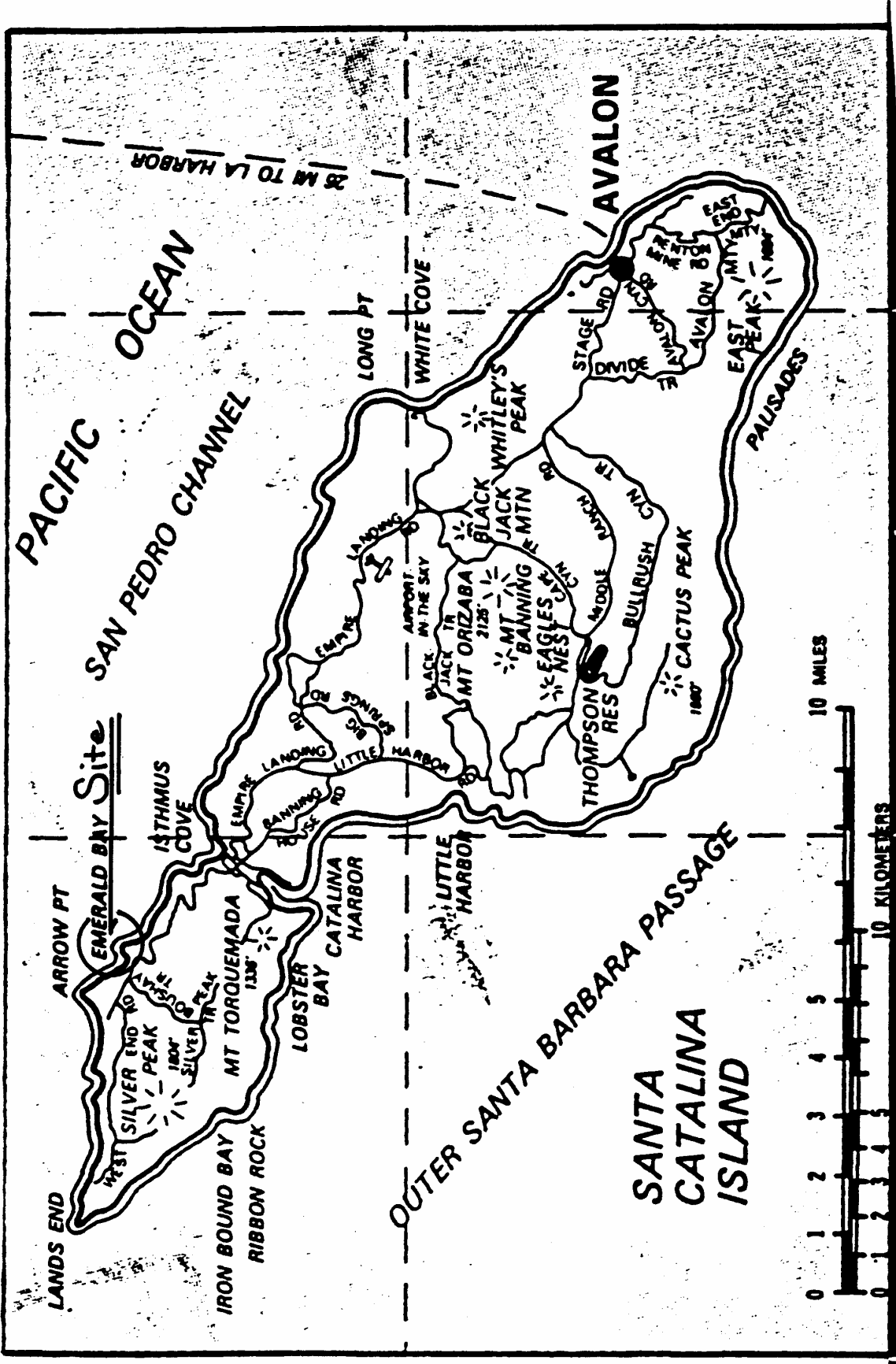
F. California Environmental Quality Act (CEQA)

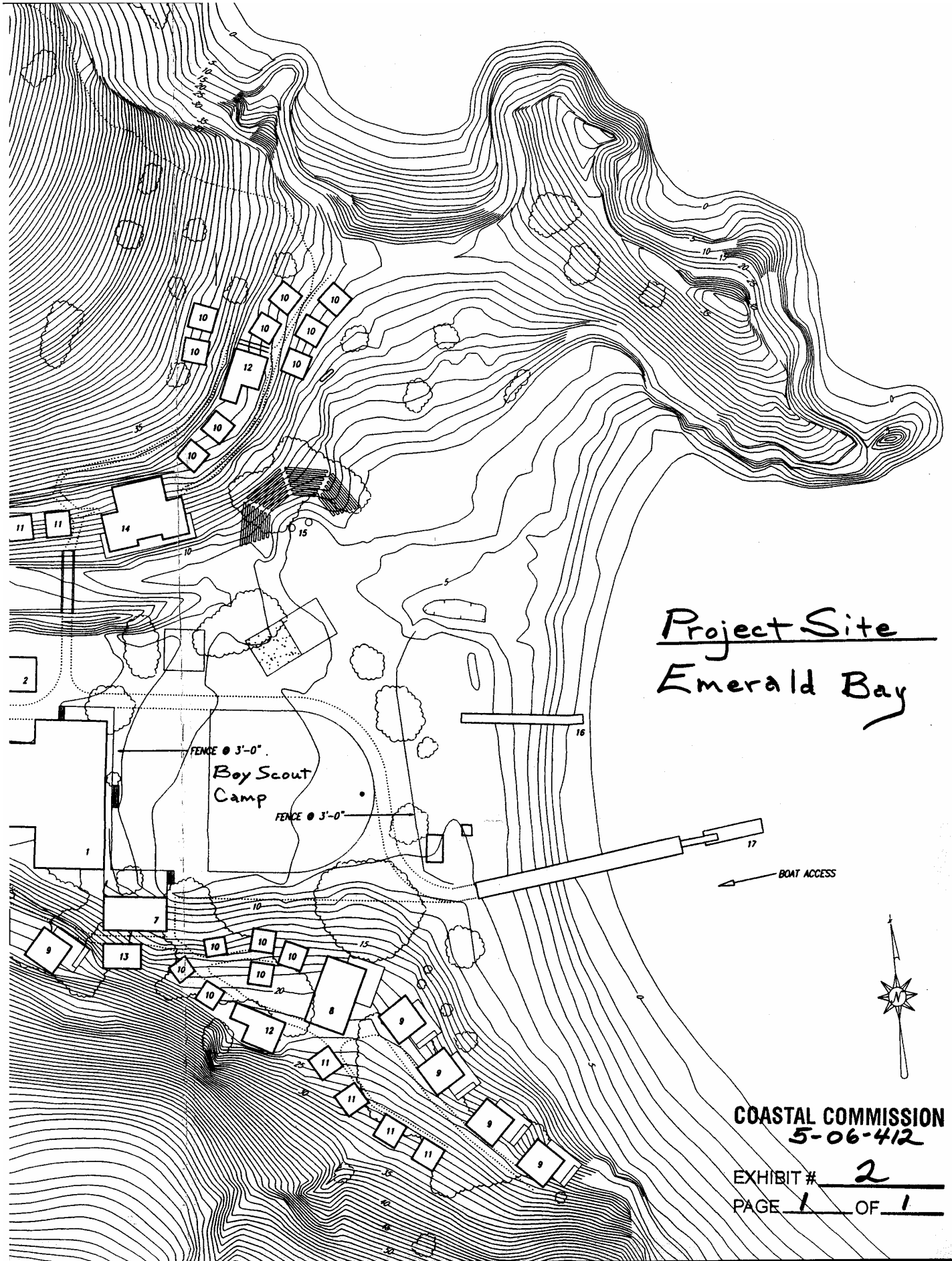
Section 13096 of the California Code of Regulations requires Commission approval of coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental 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.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require the applicant to: a) conduct a pre-construction eelgrass survey in order to avoid unmitigated impacts to sensitive habitat; b) implement demolition/construction BMPs; c) conform with post-construction best management practices related to maintenance of boats, docks and piers; d) protect public access opportunities; and e) assume the risks of the development. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

G. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP) which conforms with Chapter 3 policies of the Coastal Act. A coastal development permit is required from the Commission for the proposed development because it is located within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The County of Los Angeles certified LCP for Santa Catalina Island is advisory in nature and may provide guidance. The Commission certified the Los Angeles County LCP for Santa Catalina Island on January 9, 1990. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.

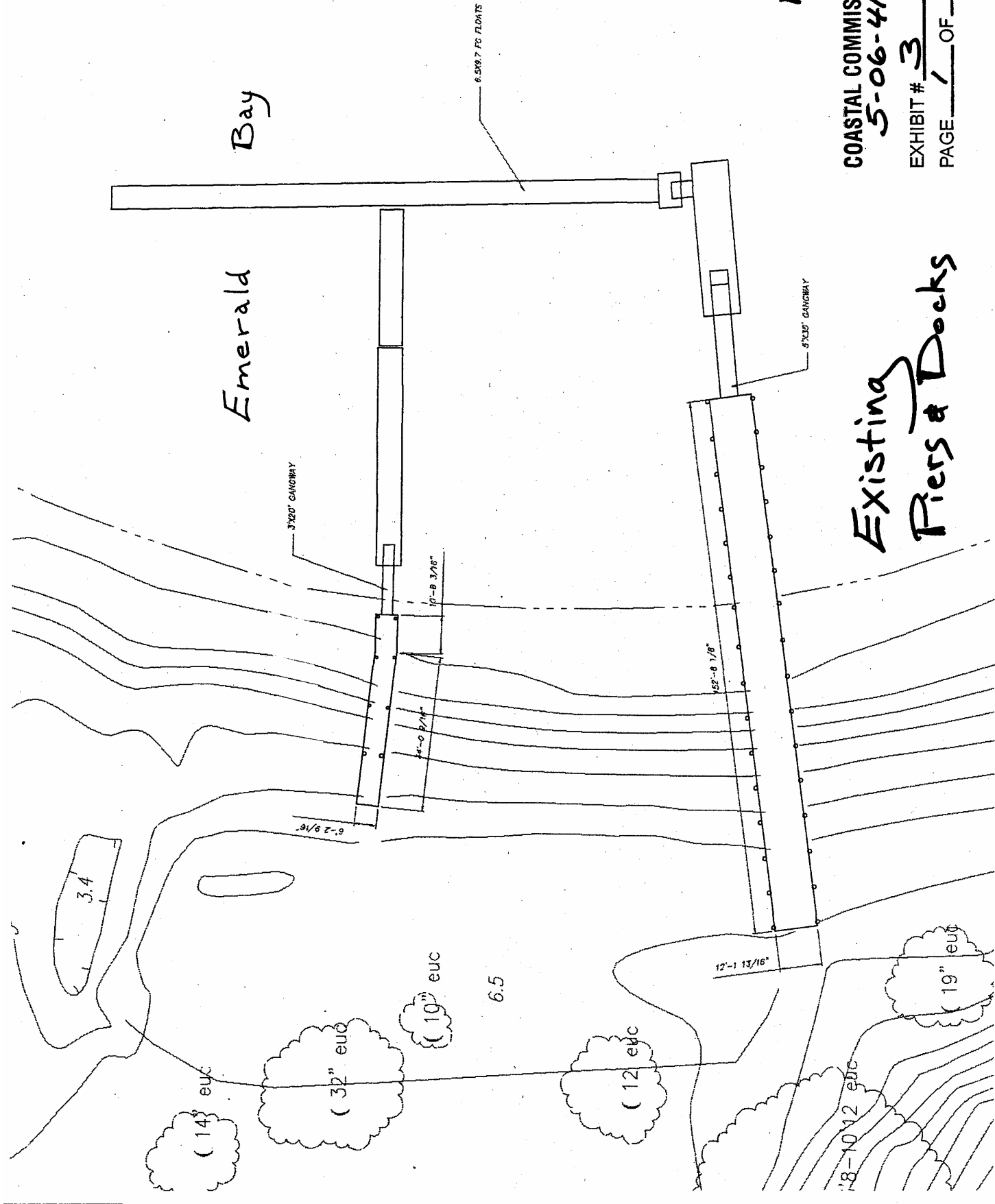




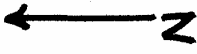
Project Site
Emerald Bay

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5-06-412

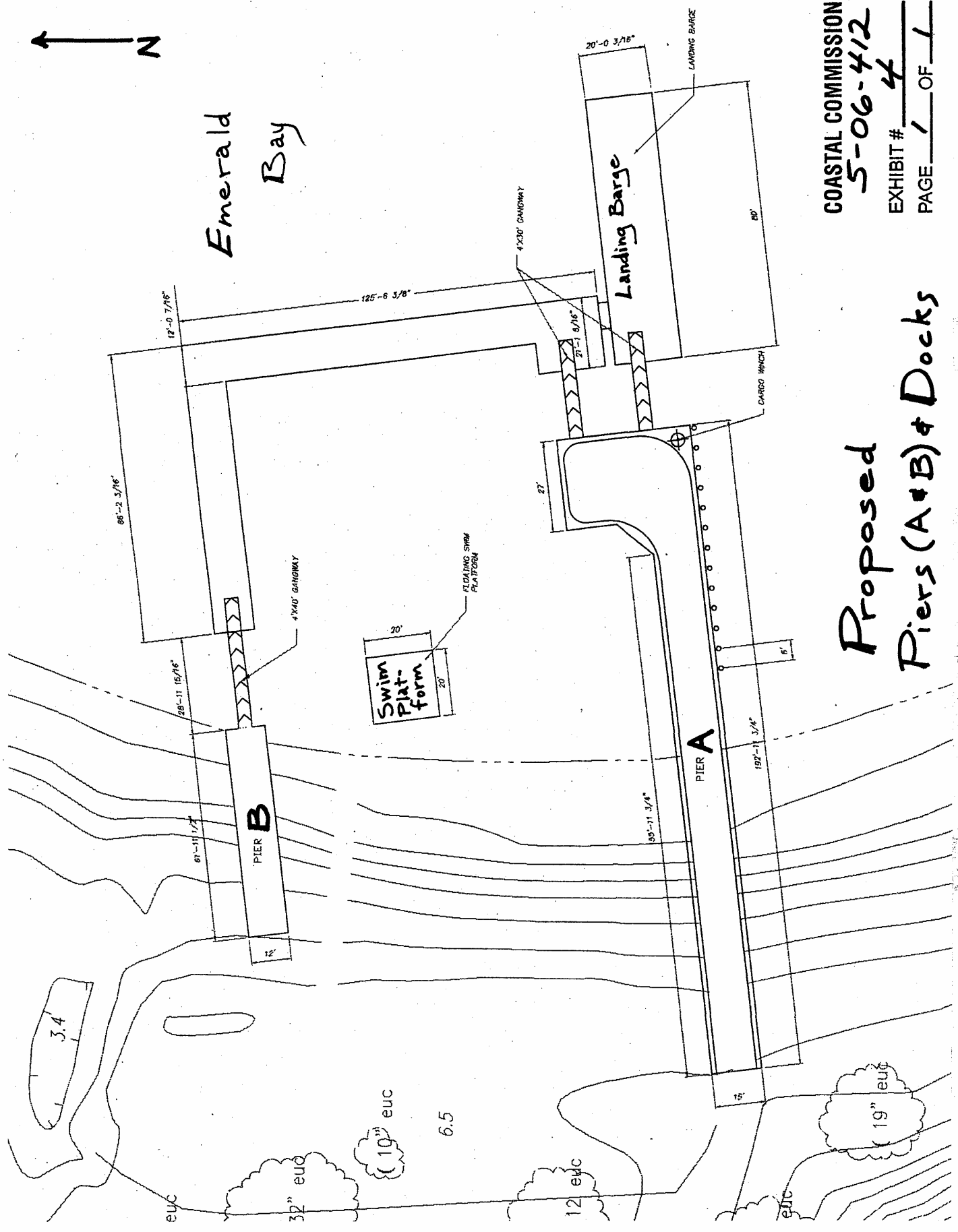
EXHIBIT # 2
PAGE 1 OF 1



Existing
Piers & Docks

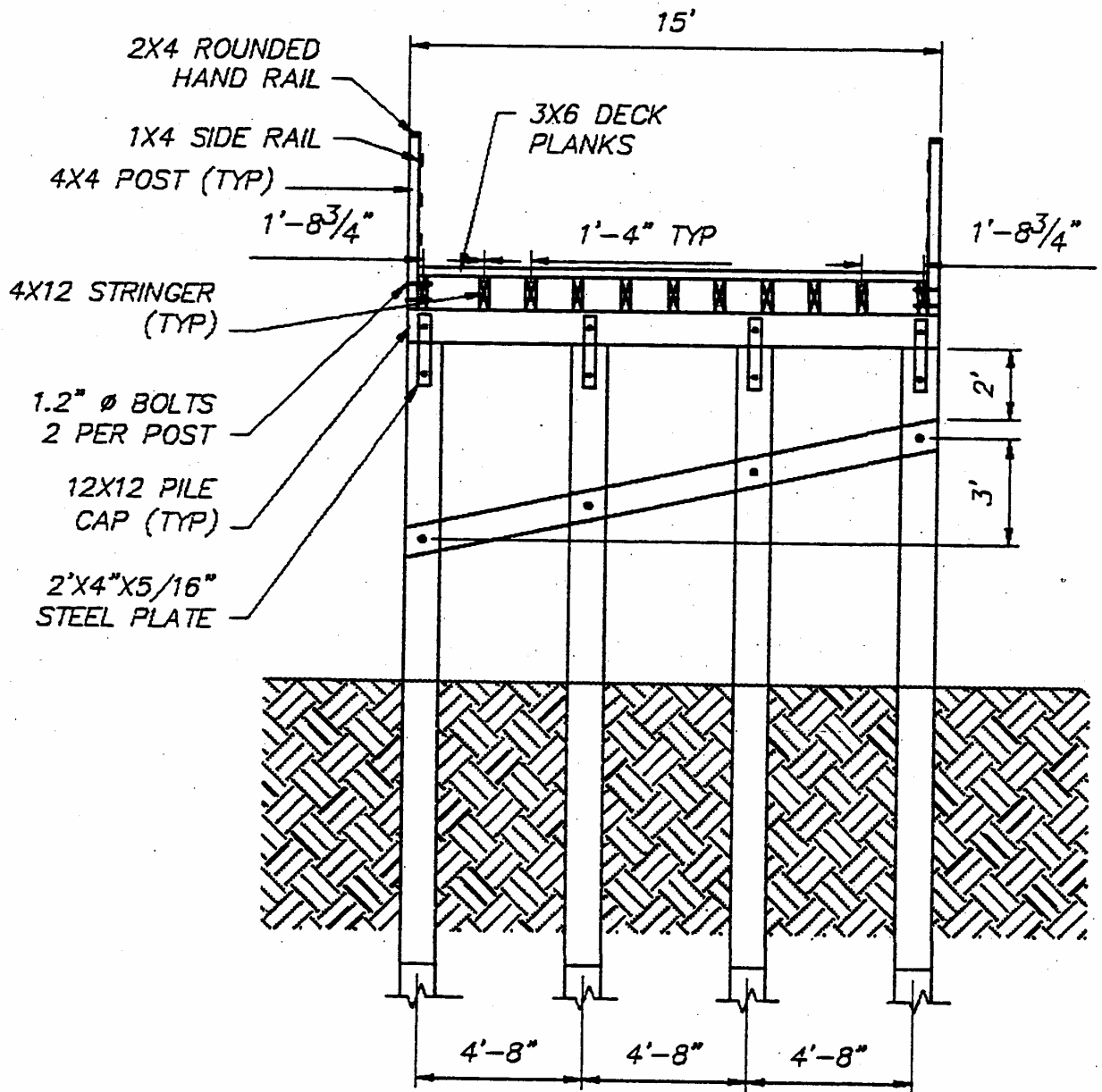


Emerald Bay



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 5-06-412
 EXHIBIT # 4
 PAGE 1 OF 1

*Proposed
 Piers (A & B) & Docks*



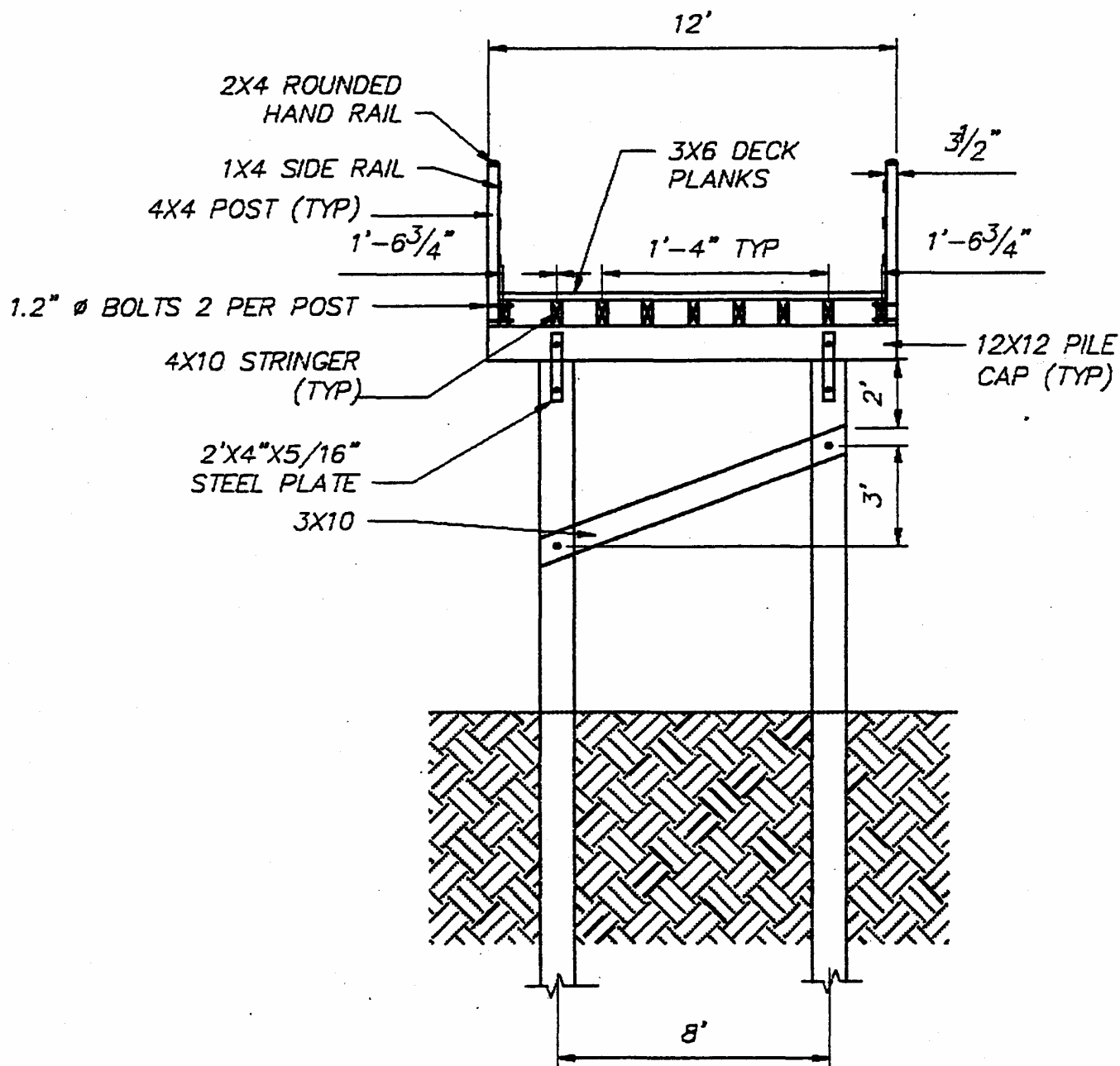
Proposed Pier A Section

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EXHIBIT # 5

PAGE 2 OF 2



Proposed Pier B

SECTION VIEW



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POSNER
South Coast Region

FEB 9 2007

CALIFORNIA
COASTAL COMMISSION

February 5, 2007

Charles Posner
Coastal Program Analyst
California Coastal Commission
200 OceanGate, Suite 1000
Long Beach, CA 90802

Re: Camp Emerald Bay Boy Scout Pier Facility

Dear Mr. Posner:

Department of Fish and Game (Department) staff were recently contacted by Mr. Greg Schem, Harbor Real Estate Group, concerning the Boy Scouts of America pier project at Camp Emerald Bay near Two Harbors on Santa Catalina Island, Los Angeles County, California, Coastal Development Permit (CDP) Application No. 5-06-412. The proposed project would remove the existing pier facility (a main pier, one secondary pier, three gangways, and five floating docks) and construct a new pier facility. The new structure would consist of an L-shaped 12 foot by 150-foot long swimming pier, a 20 foot by 20 foot floating platform, an L-shaped 15 foot by 180 -foot long docking pier, a U-shaped 12 foot by 150 foot floating dock, a 20 foot by 80 foot landing barge, and three gangways. The new facility would be 3,500 square feet larger than the old facility. Construction would involve placement of 61 14-inch diameter timber piles. The piles would either be treated Douglas fir wrapped in plastic or untreated hardwood piles. An October 16, 2006, biological survey did not find any eelgrass habitat (*Zostera marina*) or *Caulerpa taxifolia* within the project vicinity. We have the following comments concerning the proposed project.

The Department has a position of not approving the placement of creosote-treated wood products (e.g., pilings) in waters of the State. The compounds of greatest concern in creosote treated pilings and other wood products are polynuclear aromatic hydrocarbons (PAHs), which have been shown to leach into the aquatic environment. Exposure to elevated levels of PAHs is deleterious to marine life and, as such, is of concern to the Department. However, it is our understanding that the wrapped piles or other wooden elements will not be treated with creosote.

The Department is also concerned about any increased artificial night lighting that may be associated with the new pier facility. Artificial lighting generally threatens wildlife by disrupting biological rhythms and otherwise interfering with

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EXHIBIT # 7

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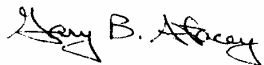
Charles Posner
Page 2
February 5, 2007

the behavior of nocturnal animals. Nocturnal and migrating birds, migrating bats, sea turtles, fish, and insects are particularly impacted by artificial night lighting. In particular, we are concerned about the Xantus's murrelet (*Synthliboramphus hypoleucus*), a State listed threatened species. Xantus's murrelets are small birds (in the Alcidae family) that nest on Catalina Island from February through mid-July, although they may visit the breeding sites starting in January. Although Xantus's murrelets do not nest at the project site, they are found on the south side of the island between Black Point and Lobster Point. Accordingly, we recommend best management practices of limiting night-time lighting to only those necessary for navigational safety, limiting night-time transits, and limiting night-time noise to normal conversation.

In conclusion, the Department believes that the proposed project, as described above, would not have a significant adverse effect on existing marine resources and habitats within the area provided our concerns are taken into consideration. We reserve the right to modify or change the above determination based on additional findings or other pertinent information concerning the above mentioned project.

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

Sincerely,



Gary B. Stacey
Regional Manager
Marine Region

cc: Bryant Chesney
National Marine Fisheries Service
501 West Ocean Blvd, Suite 4200
Long Beach, CA 90802-4213

Greg Schem
c/o The Boat Yard
13555 Fiji Way
Marina del Rey, CA 90292

Marilyn Fluharty
Department of Fish and Game
San Diego, California

COASTAL COMMISSION

5-06-412

EXHIBIT # 7

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