

CALIFORNIA COASTAL COMMISSION

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Staff: D. Christensen
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Hearing Date: 11/3/11



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-11-004

APPLICANT: California Department of Parks and Recreation

PROJECT LOCATION: Malibu Pier, 23000 Pacific Coast Highway, City of Malibu
(Los Angeles County)

PROJECT DESCRIPTION: Conduct pier repair and maintenance activities consisting of replacing missing or damaged support piles, structural framing members, decking, and minor repairs to concessionaire structures on the pier. Maintenance and repairs will not expand existing development beyond its existing permitted configuration and specifications. The maintenance work will not necessitate closure of public access to the pier.

SUBSTANTIVE FILE DOCUMENTS: "Malibu Pier Structure Evaluation," by Bluewater Design Group, dated December 2009.

MOTION & RESOLUTION: *Page 3*

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends **approval** of the proposed project with **six (6) special conditions** regarding Permit Term, Construction Responsibilities and Debris Removal, Piling Materials, Project Timing and Public Access, Required Approvals, and Assumption of Risk. Even though there is a certified local coastal program in place for the City of Malibu, the proposed repair and maintenance activities are located within areas subject to tidal action and therefore within the Coastal Commission's retained permit jurisdiction. Thus, the standard of review is the Chapter 3 policies of the California Coastal Act. In addition, the policies of the certified Malibu Local Coastal Program (LCP) serve as guidance.

Commission staff recommends approval of the permit with conditions to prevent impacts to water quality and the marine environment, and to minimize interference with public access during project construction. The proposed fill (replacement of missing or damaged pilings) is specified as an allowable use under Coastal Act Section 30233(a)(4) (i.e., recreational piers providing public access and recreational activities)

when adverse effects to the marine environment are minimized. Due to the location of the pier directly above the waters of the Pacific Ocean, the potential exists for construction debris and materials to fall or be discharged into the marine environment. To protect water quality and prevent these materials from entering the ocean during the project, staff recommends Special Condition 2 to require the applicant to implement best management practices during construction activities. To prevent the introduction of toxins and debris into the marine environment, Special Condition 3 specifies the type of piling materials that are acceptable and requires the applicant to exercise due diligence in periodically inspecting pilings and promptly undertaking any repairs necessary to maintain the wrapping and/or structural integrity of the pilings for the term of this permit. While the proposed preservatives for the piling materials are the feasible treatments that best minimize impacts to marine life at this time, it is possible that new information will become available in the future indicating that there are environmentally superior, feasible alternative pile materials or preservatives. Therefore, staff recommends Special Condition 1 to limit the term of the permit to ten (10) years so that the Commission can assess the potential impacts of the pier repair materials prior to further continuation of repair and maintenance activities.

In addition, in order to ensure that the proposed project is consistent with all CDFG and other agency regulations, staff recommends Special Condition 5 to require that the applicant obtain and provide evidence to the Executive Director of all necessary approvals from the CDFG, United States Army Corps of Engineers, and/or the Regional Water Quality Control Board prior to commencement of construction, or evidence that notice has been provided to such agencies and no permit is required. As conditioned, the proposed project would protect the biological productivity and the quality of coastal waters in conformity with Section 30230, 30231, 30233, and 30240 of the Coastal Act.

In order to ensure that impacts to public access and recreation are minimized to the maximum extent possible, staff recommends Special Condition 4, which requires that the applicant undertake construction activities only during weekdays and non-holidays after Labor Day and before Memorial Day each year. Special Condition 4 is necessary to ensure that public access to the pier and public parking is only impacted in the non-summer months, when the pier receives fewer visitors. Thus, impacts to public access during peak use hours will be avoided, and impacts to public access during non-peak use hours will be minimal. As conditioned, the proposed project would protect public access to the beach and pier throughout project construction, consistent with Coastal Act Sections 30210 through 30214, 30220, and 30221.

EXHIBITS

- Exhibit 1. Vicinity Map
- Exhibit 2. Proposed Pier Pile Replacement Plans
- Exhibit 3. Proposed Construction Staging Area
- Exhibit 4. Aerial View

I. STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-11-004 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 on which the Commission voted on the application. 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 Term**

The proposed development is authorized for a period of ten (10) years, commencing upon the date of Commission approval of Coastal Development Permit No. 4-11-004. After the authorization for the development expires, continued pier repair and maintenance activities will require the issuance of a new coastal development permit or an amendment to this coastal development permit.

2. **Construction Responsibilities and Debris Removal**

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

- a. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion;
- b. Any and all debris resulting from construction activities shall be removed from the pier and beach area on a daily basis and disposed of at an appropriate location;
- c. Disturbance to the ocean bottom and intertidal areas shall be minimized;
- d. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material;
- e. Staging and storage of construction machinery and storage of debris shall only take place in the approved staging area and trash bin location;
- f. Any accidental spills of construction equipment fluids shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible;
- g. Any construction materials, oils or liquid chemicals or other waste shall not be stored where it is subject to wave erosion and dispersion into coastal waters;
- h. 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;
- i. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
- j. Netting, tarps and/or other forms of barriers shall be installed between the water and the work areas to prevent any unpermitted material from entering the Pacific Ocean;

- k. Machinery or construction materials not essential for project improvements are prohibited at all times in the subtidal or intertidal zones.

3. Piling Materials

The use of creosote treated wood (or similar petroleum-derived products) is prohibited. Pilings treated with Ammoniacal Copper Arsenate (ACA), Ammoniacal Zinc Arsenate (ACZA) or Chromated Copper Arsenate (CCA) shall be used only if wrapped or coated prior to installation with a water-tight plastic sleeve, or similar sealant. To prevent the introduction of toxins and debris into the marine environment, the permittee shall exercise due diligence in periodically inspecting pilings to be repaired under this permit, and shall immediately undertake any repairs necessary to maintain the wrapping and/or structural integrity of the pilings for the term of this permit.

4. Project Timing and Public Access

By acceptance of this permit, the applicant acknowledges and agrees that no construction activities or staging shall be undertaken during the peak visitor season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year, and no construction activities shall be undertaken during weekend days or public holidays. The Executive Director may extend the time allowed to complete authorized activities upon a showing of good cause.

Construction staging within the parking lot area delineated on Exhibit 3 shall be limited to the minimum area necessary for approved construction activities, and shall be gradually reduced in size as less materials and equipment are necessary, and completely removed before Memorial Day weekend of each year.

5. Required Approvals

Prior to commencement of construction, the applicant agrees to obtain, and provide evidence to the Executive Director, of all other State or Federal permits that may be necessary for construction of the proposed development (including permits from California Department of Fish & Game, California Regional Water Quality Control Board, and the United States Army Corps of Engineers) and/or evidence that notice has been provided to such agencies and no permit is required. No changes to the Coastal Commission approved plans that may be required by the above-stated resource agencies shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

6. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding, fire, 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; and (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.

Prior to issuance of the Coastal Development Permit, the applicant 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 as follows:

A. Project Description and Background

The Malibu Pier is a 780 foot long wooden pier that extends into the Pacific Ocean at the south end of Malibu Lagoon State Beach. The pier is part of Malibu Lagoon State Beach that is owned by the State of California, and is used by the public for fishing and other recreational purposes (Exhibit 1). The Malibu Pier is a historic structure (originally constructed in the early 1900's) that was designated a California Point of Historical Interest in 1985.

The pier's land end platform is approximately 120 feet wide and includes two of four 1945-built historic wood-frame pier structures: a restaurant, bar, and food preparation/storage facility. The pier's seaward platform is approximately 120 feet wide and includes the two other buildings: a bait/tackle and gift shop and a restaurant. The wooden pier is constructed with 41 pile bents (rows of piles) and is configured in three basic segments. Bents 1 through 6 form the abutment to the shore and support the land-side buildings and restaurants. Bents 7 through 33 form the main walkway of the pier. Bents 34 through 41 form the seaward platform supporting the two buildings, and a gangway ramp/landing and crane hoist for access to the charter boats and a Los Angeles County Lifeguard boat (Exhibit 4). A sport fishing and whale watching operation offers boat trips seasonally that departs from the Malibu Pier. In addition, Los Angeles County lifeguards utilize the pier landing for rescue boat access.

All of the pier's existing piles and structural framing members consist of timber. The existing timber piles are all chemically treated and a significant number of the timber piles have been wrapped with a fiberglass coating. There are currently fourteen missing or damaged pier piles that need to be replaced. Approximately seventeen other pier piles have been identified as potentially needing repair within the next three years. In addition, structural members in the area of the landing and a damaged pile need to be

replaced. California Department of Parks and Recreation ("State Parks") is proposing to conduct on-going pier repair and maintenance activities to replace the missing or damaged support piles, and to repair and replace other piles, decking, stringers, pile caps, and cross braces as needed, including minor repairs to concessionaire structures on top of the pier (Exhibit 2). Proposed repairs will not expand existing development past its existing permitted configuration and specifications and the historical integrity of the pier will be preserved. State Parks proposes to use piles that will be treated with Ammoniacal Zinc Arsenate (ACZA) preservative and the treated wood piles will be wrapped with a fiberglass and epoxy resin composite. No other pier components will be wrapped, as the piles are the only portion of the pier subject to constant submersion.

The proposed repair and maintenance work would be phased so as to not necessitate closure of public access to the pier at any time. Specific work zones would be fenced off in such a way that pedestrians would be able to pass by the work area and continue to the end of the pier. The replacement of piles would be conducted from the pier with a pile driver crane that is delivered in parts and re-assembled on the pier. A portion of the parking lot downcoast of the pier would be temporarily used for the delivery and storage of piles and equipment (Exhibit 3).

B. Permit Authority, Extraordinary Methods of Repair and Maintenance

Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements the repair or maintenance of structures that does not result in an addition to, or enlargement or expansion of the structure being repaired or maintained. However, the Commission retains authority to review certain extraordinary methods of repair and maintenance of existing structures that involve a risk of substantial adverse environmental impact as enumerated in Section 13252 of the Commission regulations.

Section 30610 of the Coastal Act provides, in relevant part:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas: . . .

(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.

Section 13252 of the Commission regulations provides, in relevant part:

(a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:

. . .

- (3) *Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:*

...

- (A) *The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand, or other beach materials or any other forms of solid materials;*

- (B) *The presence, whether temporary or permanent, of mechanized equipment or construction materials.*

[Emphasis added]

The proposed project involves repair work to the Malibu Pier that will not result in an addition to, or enlargement or expansion of, the pier or the structures on the pier. However, Section 13252 of the Commission's regulations requires a coastal development permit for certain extraordinary methods of repair and maintenance enumerated in the regulation. The proposed development involves repair and maintenance work to a structure located within 20 feet of coastal waters and the work will include the presence of both mechanized equipment and construction materials. The proposed repair and maintenance work therefore requires a coastal development permit under Section 13252(a)(1) of the Commission's regulations.

Even though there is a certified local coastal program in place for the City of Malibu, the proposed repair and maintenance activities are located within areas subject to tidal action and are therefore within the Coastal Commission's permit jurisdiction. Thus, the standard of review is the Chapter 3 policies of the California Coastal Act. The policies of the certified Malibu Local Coastal Program (LCP) additionally serve as guidance.

C. Public Access

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 30212 of the Coastal Act states (in part):

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

Section 30214 of the Coastal Act states (in part):

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

...

(2) The capacity of the site to sustain use and at what level of intensity.

Section 30220 of the Coastal Act states:

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

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Coastal Act Sections 30210 through 30214 mandate that maximum access and recreational opportunities shall be provided, and that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, and that maximum access shall be provided for all people consistent with public safety needs, the need to protect public rights, the rights of private property owners, and the need to protect natural resource areas from overuse. Sections 30220 and 30221 of the Coastal Act require that coastal areas suited for coastal recreational activities that cannot be provided at inland water areas be protected.

The historic Malibu Pier, located at Malibu Lagoon State Beach, is a popular recreational facility for residents and visitors to the City of Malibu. The pier contains visitor-serving commercial and recreation uses including a restaurants, gift and bait shop, and sport fishing and whale watching excursions. These facilities will remain open throughout proposed construction periods. The proposed repair and maintenance work would be phased so as to not necessitate closure of public access to the pier at any time. Specific work zones would be fenced off in such a way that pedestrians would be able to pass by the work area and continue to the end of the pier. The replacement of piles would be conducted from the pier with a pile driver crane that is delivered in parts and re-assembled on the pier. A portion of the parking lot downcoast of the pier would be temporarily used for the delivery and storage of piles and equipment.

In order to ensure that impacts to public access and recreation are minimized to the maximum extent possible, **Special Condition Four (4)** requires the applicant to agree, by acceptance of this permit, to undertake construction activities only during weekdays

and non-holidays after Labor Day and before Memorial Day each year. Special Condition 4 is necessary to ensure that public access to the pier and public parking is only impacted in the non-summer months, when the pier receives fewer visitors. Thus, impacts to public access during peak use hours will be avoided, and impacts to public access during non-peak use hours will be minimal. As conditioned, the proposed project construction phasing and staging areas will protect public access to the pier, consistent with Coastal Act Sections 30210 through 30214. The proposed project is intended to support the type of coastal dependent recreation facility that is permitted in open coastal waters.

The Commission finds that, as conditioned, the proposed project will minimize adverse effects to public access and recreation during construction phases. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Sections 30210, 30211, 30212, 30214, 30220, and 30221 of the Coastal Act.

D. Coastal 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 30233(a) of the Coastal Act states in part:

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 30240 of the Coastal Act states:

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

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

Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. In addition, Section 30231 requires that the biological productivity and quality of coastal waters be maintained. Section 30233 limits development in open coastal waters to boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities. Finally, Section 30240 states that only development that is resource dependent may be allowed within environmentally sensitive habitat areas and requires development to be sited and designed to prevent impacts on environmentally sensitive habitat areas, parks, and recreation areas.

California Department of Parks and Recreation ("State Parks") is proposing to conduct on-going pier repair and maintenance activities to replace the missing or damaged support piles, and to repair and replace other piles, decking, stringers, pile caps, and cross braces as needed, including minor repairs to concessionaire structures on top of the pier. Proposed repairs will not expand existing development past its existing permitted configuration and specifications and the historical integrity of the pier will be preserved. State Parks proposes to use piles that will be treated with Ammoniacal Zinc Arsenate (ACZA) preservative and the treated wood piles will be wrapped with a fiberglass and epoxy resin composite. No other pier components will be wrapped, as the piles are the only portion of the pier subject to constant submersion.

The proposed pile replacement portion of the project does constitute "fill" within the meaning of Section 30233 of the Coastal Act. However, the replacement is "in-kind" in that the new piles will be comprised of the same material as the existing piles and will occupy the same area as the existing piles. Furthermore, the Commission notes that the proposed fill (replacement of existing pilings) is specified as an allowable use under Coastal Act Section 30233(a)(4) (i.e., recreational piers providing public access and recreational activities) when adverse effects to the marine environment are minimized.

Malibu Pier is a historic wooden structure that is a designated California Point of Historical Interest. As such, the use of timber piles is proposed to preserve the historic character of the pier. State Parks proposes to use timber piles that will be treated with

Ammoniacal Zinc Arsenate (ACZA) preservative and wrapped with a fiberglass and epoxy resin composite. The Commission's Water Quality staff has reviewed the proposed pile treatment and recommends that the Commission approve the use of ACZA wood treatment with fiberglass wrap for the piles because ACZA is the least toxic treatment for wood piles currently available and the wrap is durable to protect the piles in this environment. In addition, the California Department of Fish and Game have approved the use of Ammoniacal Copper Arsenate (ACA), Ammoniacal Zinc Arsenate (ACZA) or Chromated Copper Arsenate (CCA) treated piles for similar pier projects. The California Department of Fish and Game no longer allows the use of creosote treated timber piles.

To ensure that the piling materials used for the proposed project are consistent with the recommendations of the Commission's Water Quality staff and California Department of Fish and Game to prevent the introduction of toxins into the marine environment, **Special Condition Three (3)** is required, which specifies that the use of creosote treated wood (or similar petroleum-derived products) is prohibited, and pilings treated with ACA, ACZA, or CCA shall be used only if wrapped or coated prior to installation with a water-tight plastic sleeve, or similar sealant. However, there is the potential for degradation of the proposed fiberglass wrapping to occur through collision or abrasion, which can result in the release of marine debris. To prevent the introduction of debris into the marine environment, **Special Condition 3** also requires that the permittee exercise due diligence in periodically inspecting pilings to be replaced under this permit, and shall immediately undertake any repairs necessary to maintain the wrapping and/or structural integrity of the pilings for the term of this permit.

While the proposed preservatives for the piling materials are the feasible treatments that best minimize impacts to marine life at this time, it is possible that new information will become available in the future indicating that there are environmentally superior, feasible alternative pile materials or preservatives. Therefore, the Commission finds it necessary to impose **Special Condition One (1)** to limit the term of the permit to ten (10) years so that the Commission can assess the potential impacts of the pier repair materials prior to further continuation of repair and maintenance activities.

The proposed project has been designed in a manner to minimize adverse effects to the coastal and marine resources on and adjacent to the subject site. However, the proposed project may result in potential adverse effects to surrounding habitat due to unintentional disturbance from construction equipment, materials, and/or debris. Construction activities associated with the proposed project could result in the generation of debris and/or presence of equipment, materials and hazardous substances that could be subject to run-off and wind dispersion into the marine environment. The presence of construction equipment, building materials, and debris on the subject site could pose hazards to sensitive marine organisms if construction site materials were discharged into the marine environment or left inappropriately on the project site. In addition, such potential discharges and disturbances to the marine environment could result in adverse effects to offshore habitat from increased turbidity and pollutants of coastal waters. To protect marine resources and coastal water quality

and to ensure that construction related adverse effects to the marine environment are minimized, the Commission imposes **Special Condition Two (2)**, which requires that the applicant implement construction best management practices, including safe use, storage, and disposal of construction materials and debris.

In addition, in order to ensure that the proposed project is consistent with all CDFG and other agency regulations, **Special Condition Five (5)** requires the applicant to agree to obtain and provide evidence to the Executive Director of all necessary approvals from the CDFG, United States Army Corps of Engineers, and/or the Regional Water Quality Control Board prior to commencement of construction, or evidence that notice has been provided to such agencies and no permit is required.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, 30233, and 30240 of the Coastal Act.

E. Hazards

Section 30253 of the Coastal Act states, in part, that 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.*

Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property. The Malibu Pier, like all wood piers along the California coast, is subject to a variety of hazardous conditions, including high waves and periodic fires.

Although the proposed project will maintain the stability of the pier structure and reduce the risks to life and property from hazards through the timely repair and maintenance of the structure, there remains some inherent risk to development in the marine environment. The Coastal Act recognizes that certain types of development, such as the proposed project to maintain a recreational pier structure, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the owner's property rights. As such, the Commission finds that due to the unforeseen possibility of liquefaction, storm waves, surges, erosion, fire, and flooding, the applicant shall assume these risks as a condition of approval.

Therefore, **Special Condition Six (6)** requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. The applicant's assumption of risk will demonstrate that

the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development.

As the project site is located in an area which is periodically subject to waves, storm surge, fire, and flooding, which has the potential to cause damage to structures or injury to those frequenting the area, it is necessary to indemnify the Commission or any of its agents or representatives against any claims of liability arising from the permitted development. **Special Condition Six (6)** requires that the applicant submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, and expenses of liability arising out of the acquisition, design, construction operation, maintenance, existence, or failure of the permitted project.

As noted above, the proposed pier repair and maintenance project will involve the use of heavy equipment on the pier for replacing missing or damaged timber piles. Although the applicant has stated that no equipment, debris, or materials will be stored or disposed of on the beach or in the coastal waters, the proposed project has the potential to generate debris and the presence of equipment and materials that could be subject to tidal action on the beach. The presence of construction equipment, building materials, and debris on the subject site could pose hazards to beachgoers or swimmers if construction site materials were discharged into the marine environment or left inappropriately or unsafely exposed on the project site. Therefore, in order to ensure that potential hazards are minimized, **Special Condition Two (2)** requires implementation of construction best management practices including safe use, storage, and disposal of construction materials and debris.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253.

F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a 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 that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as

special conditions. The following special conditions are required to assure the project's consistency with Section 13096 of the California Code of Regulations:

Special Conditions 1 through 6

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

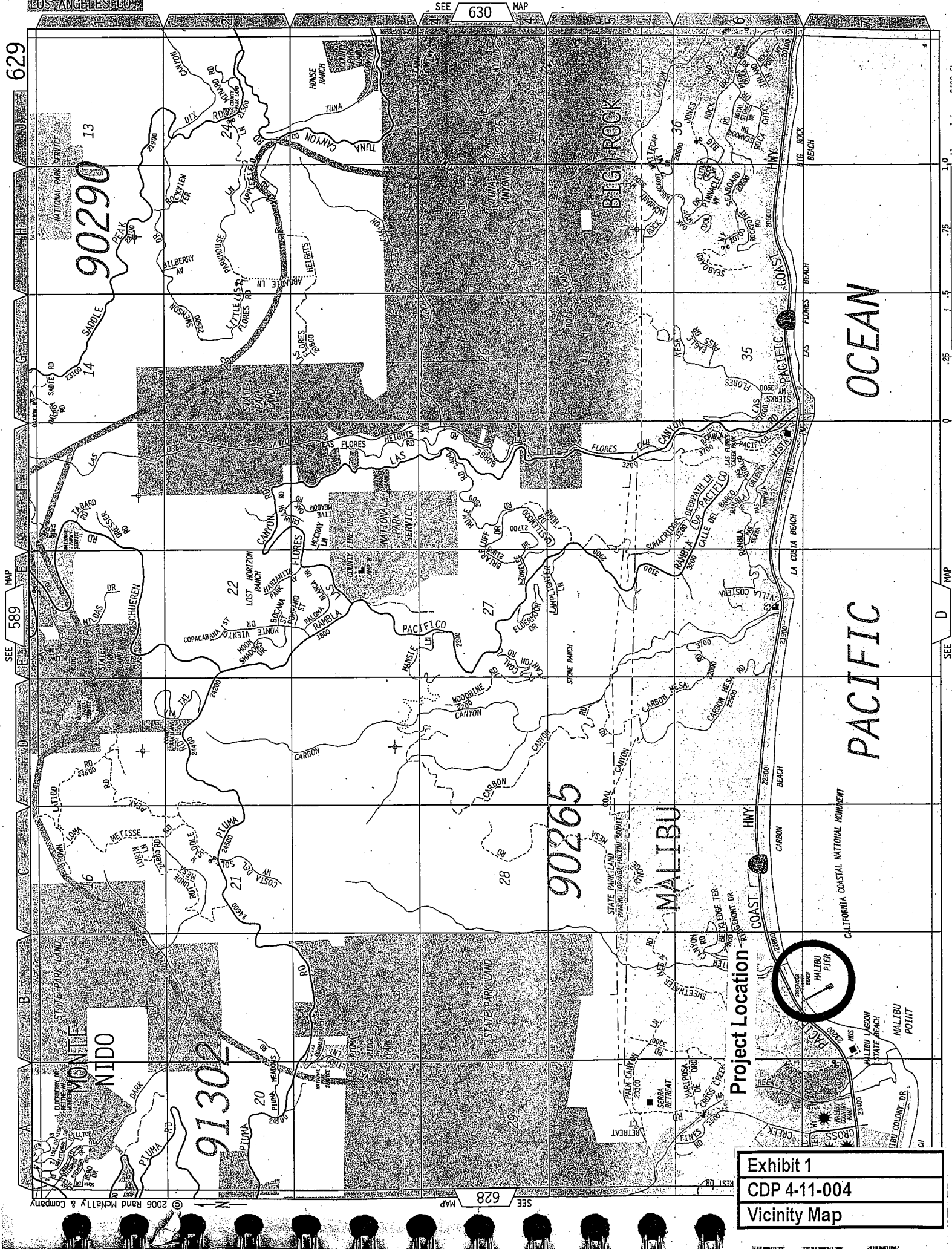
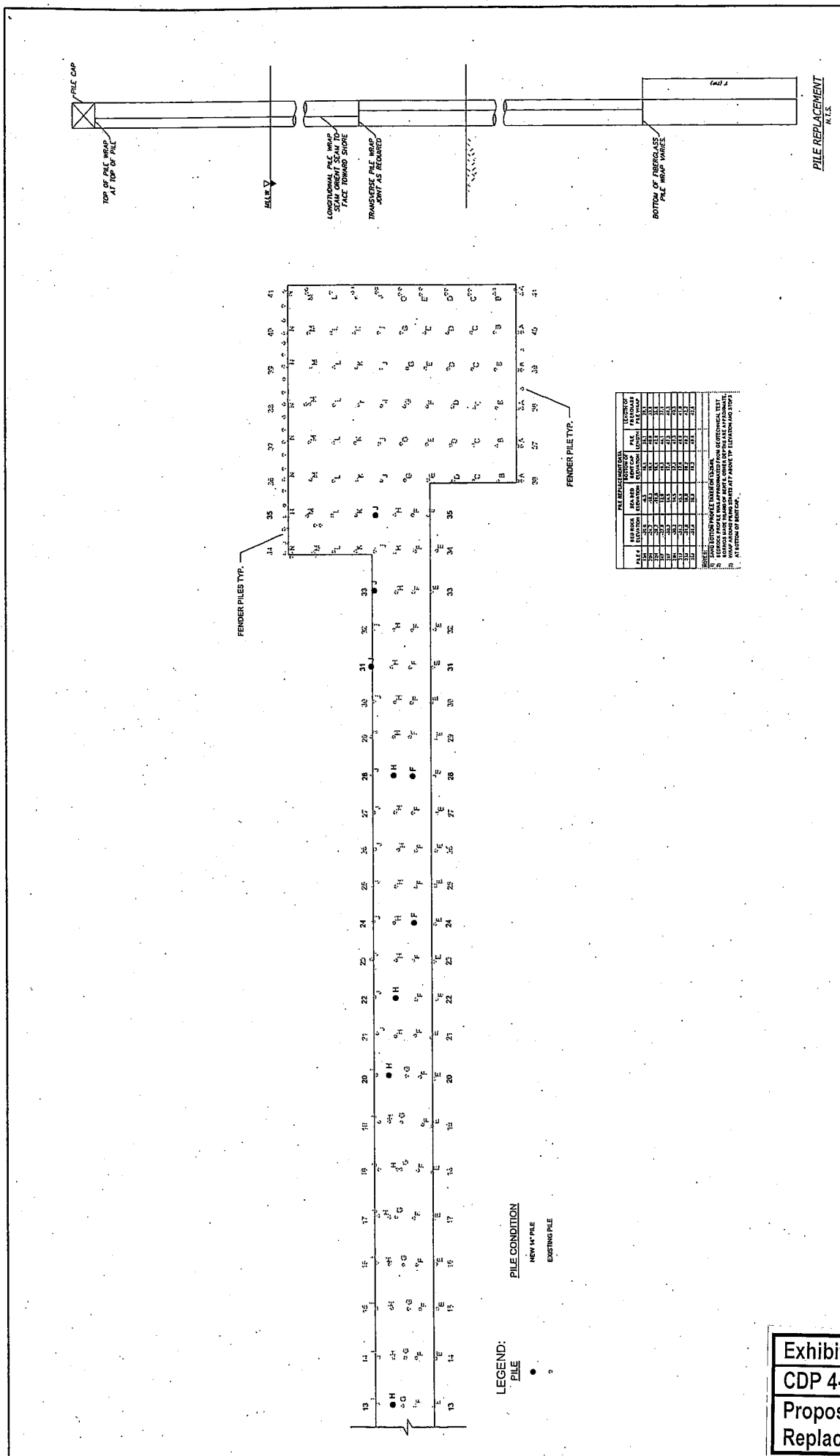


Exhibit 1

CDP 4-11-004

Vicinity Map



CLIENT

**J PIER
ACEMENT**

**MALIBU PIER PARTNERS
SAN FRANCISCO, CA**

**SITE PLAN &
GENERAL NOTES**

**2500 Via Caliente Marina, Suite 200
San Pedro, CA 90731
Tel: 310 548 3122
Fax: 310 548 1924**

DESIGN GROUP
Planning and Engineering Services
For Marine and Waterfront Revitalization

PROFESSIONAL ENGINEER
No. C 50019
EXP. 5/2011
CIVIL

AS NOTED

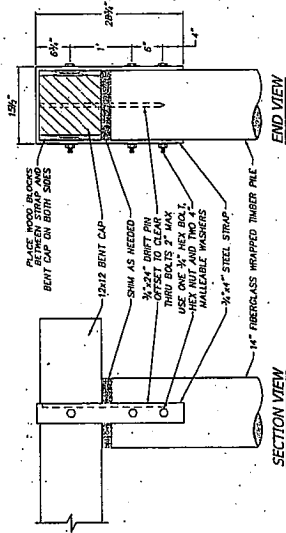
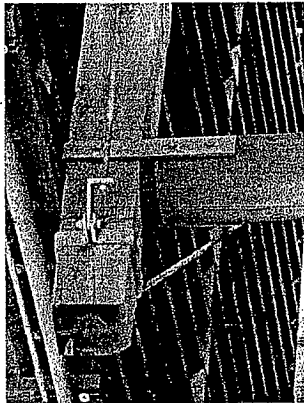
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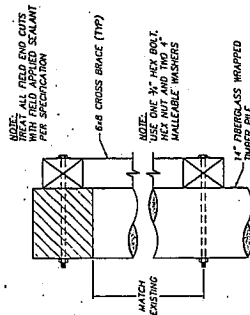
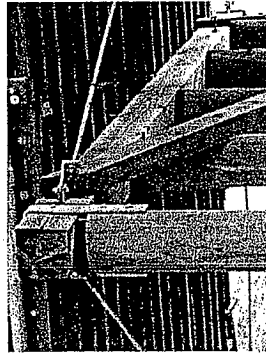
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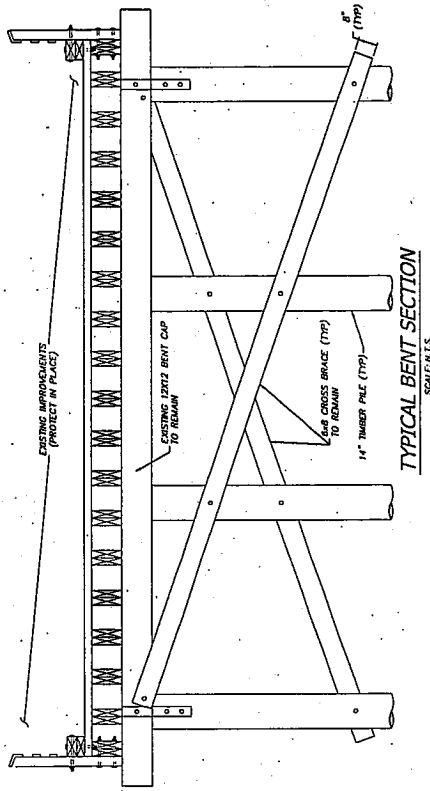
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BENT CAP TO PILING CONNECTION DETAIL
SCALE: 1" = 1'

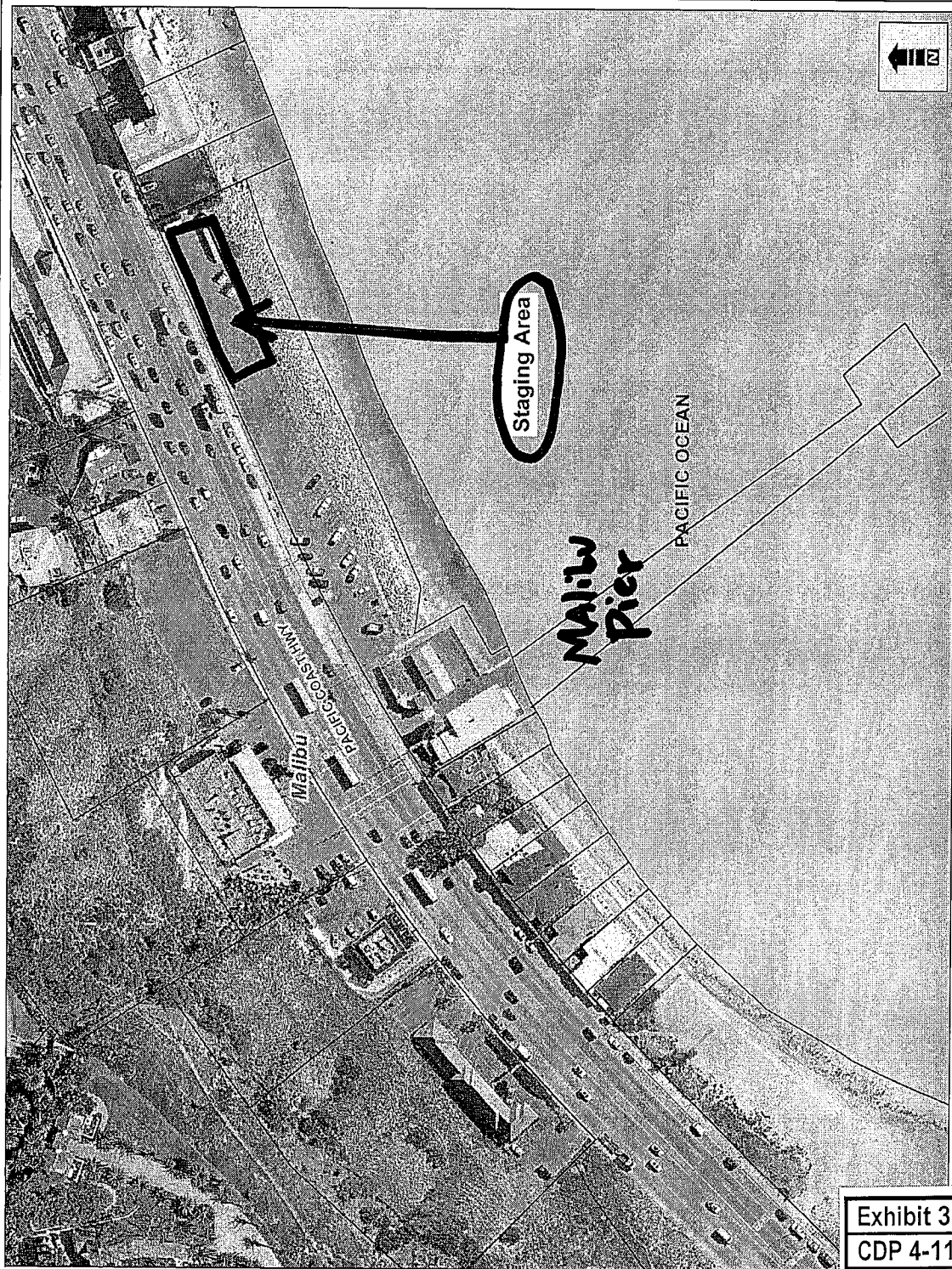


CROSS BRACE CONNECTION DETAIL
SCALE: 1" = 1'



TYPICAL BENT SECTION
SCALE: 1/8" = 1'

PROJECT	MALIBU PIER PILE REPLACEMENT		CLIENT	MALIBU PIER PARTNERS SAN FRANCISCO, CA		<div><div><div><div><div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div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Adelman, California
Coastal Records Project,
www.Californiacoastline.org

Malibu Pier

Exhibit 4
CDP 4-11-004
Aerial View