CALIFORNIA COASTAL COMMISSION
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W8a

Filed:	12/1/2011
49th Day:	1/19/2012
180th Day:	5/29/2012
Staff:	Charles Posner - LB
Staff Report:	12/22/2011
Hearing Date:	January 11, 2012
Commission Action:	

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-10-239

APPLICANT: City of Long Beach

AGENT: Joshua Burnam, Anchor QEA, L.P.

PROJECT LOCATION: 700 E. Shoreline Drive (Downtown Shoreline Marina), City of Long Beach, County of Los Angeles.

PROJECT DESCRIPTION: Remove the public fuel dock and replace it in the same location using four existing concrete piles, and install a new 20,000 gallon underground fuel storage tank in the marina parking lot. A 1000-foot long above-ground pipeline will be installed between the new double-walled fuel storage tank and the fuel dispensers on the new 105-foot long dock float, which includes a 380 square foot office/store with a public restroom.

LOCAL APPROVAL: City of Long Beach Department of Development Services, Approval in Concept, 2/4/2010.

SUMMARY OF STAFF RECOMMENDATION

A coastal development permit is required from the Commission because the proposed project is located within the Commission's area of original jurisdiction on submerged lands and filled tidelands. Staff is recommending **APPROVAL** of the coastal development permit with special conditions relating to the protection of water quality, public access, and marine resources.

The recommended conditions require the permittee to: a) implement best management practices during demolition and construction in order to minimize adverse impacts to marine habitat, b) implement post-construction best management practices in order to minimize the potential for accidental discharges during fueling and boating activities, c) comply with the requirements of the resource agencies, and d) assume the risks of the development. The applicant agrees with the recommendation. **See Page Two for the motion necessary to carry out the staff recommendation.**

SUBSTANTIVE FILE DOCUMENTS:

1. City of Long Beach certified Local Coastal Program (LCP), 7/22/1980.
2. Coastal Development Permit P-79-4249 (Downtown Shoreline Marina, Long Beach).
3. Coastal Development Permit Amendment 5-02-361-A (Downtown Shoreline Marina Rehabilitation Project, City of Long Beach).
4. Coastal Development Permit 5-09-092 (Avalon Fuel Pier, City of Avalon).
5. Coastal Development Permit 5-10-209 (Underground Fuel Tank Removal – Shoreline Marina, Long Beach).
6. U.S. Army Corps of Engineers Permit Application, Project No. SPL-2010-01001.
7. Eelgrass Survey Report for Long Beach Marina Fuel Dock, by Ecomarine Consulting, LLC, 10/14/2011.
8. Water Quality Management Plan for the Shoreline Marina Fuel Dock, by Pacific Coast Tank, September 2011.

STAFF NOTE: Pursuant to Section 30519 of the Coastal Act, development located within the Commission's area of original jurisdiction requires a coastal development permit from the Commission. The Commission's area of original jurisdiction includes tidelands, submerged lands, and public trust lands, whether filled or unfilled. The proposed project is situated on submerged lands and on filled tidelands within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development in its area of original jurisdiction is the Chapter 3 policies of the Coastal Act. The City of Long Beach certified LCP is advisory in nature and may provide guidance. The proposed project does not conflict with the City of Long Beach certified LCP.

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 the coastal development permit applications included on the consent calendar in accordance with the staff recommendations."*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. 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. 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 Compliance

The permitted use of the approved development is for 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. Protection of Marine Resources – Demolition and Construction

In order to minimize adverse environmental impacts and the unpermitted deposition, spill or discharge of any liquid or solid into coastal waters, the permittee shall implement the following demolition, staging, and construction best management practices and the specific best management practices set forth in the Water Quality Management Plan for the Shoreline Marina Fuel Dock, by Pacific Coast Tank (September 2011):

a. No pile driving equipment (e.g., impact hammers, vibratory hammers or any other pile driving hammers) shall be utilized.

b. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.

c. Netting, sandbags, tarps and/or other forms of barriers shall be installed between the water and work areas and equipment storage areas to prevent any unpermitted material from entering coastal waters.

d. Floating booms shall be maintained around the project site in order to capture floating debris during all demolition and construction phases.

e. Staging and storage of construction machinery and storage of debris shall not take place on any beach.

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

g. If turbid conditions are generated during demolition and construction, silt curtains shall be utilized to control turbidity.

h. The storage or stockpiling of soil, silt, other organic or earthen materials, or any materials and chemicals related to the construction shall not occur where such materials/chemicals could pass into coastal waters. Stockpiled fill shall be stabilized with geofabric covers or other appropriate cover.

i. Spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible. Disposal within the coastal zone shall require a coastal development permit.

j. Construction vehicles operating at the project site shall be inspected daily to ensure there are no leaking fluids. If there are leaking fluids, the construction vehicles shall be serviced immediately. Equipment and machinery shall be serviced, maintained and washed only in confined areas specifically designed to control runoff and prevent discharges into coastal waters. Thinners, oils or solvents shall not be discharged into sanitary or storm sewer systems.

k. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than fifty feet away from all storm drains, open ditches and surface waters.

l. All floatable debris and trash generated by construction activities within the project area shall be disposed of as soon as possible or at the end of each day.

m. All grading and excavation areas shall be properly covered and sandbags and/or ditches shall be used to prevent runoff from leaving the site, and measures to control erosion must be implemented at the end of each day's work.

n. In the event that lead-contaminated soils or other toxins or contaminated material are discovered on the site, such matter shall be stockpiled and transported off-site only in accordance with Department of Toxic Substances Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.

o. The permittee shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location. 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.

p. 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 shore or in the water, and that the project has not created any hazard to navigation.

The permittee shall include the requirements of this condition on all plans and contracts issued for the project. The permittee shall implement and carry out the project staging and construction plan during all demolition, staging, and construction activities.

3. Best Management Practices (BMP) Program

By acceptance of this permit, the applicant agrees that the water-borne berthing of boat(s) at the approved dock will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs and the specific best management practices set forth in the Water Quality Management Plan for the Shoreline Marina Fuel Dock, by Pacific Coast Tank (September 2011):

A. Boat Cleaning and Maintenance Measures:

1) In-water hull washing which does not occur by hand shall be prohibited.
2) In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints and debris.
3) 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.
4) The use of detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye shall be prohibited.
5) In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls is prohibited.

B. Solid and Liquid Waste Management Measures:

1) 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.
2) Containers for recyclables shall be provided on the dock and sited so that they are convenient for boaters.
3) All trash and separate containers for recyclables, oil wastes, fish wastes, etc. shall be clearly marked, have the capacity to handle all waste streams, and be sited on the dock so that they are convenient for boaters.
4) All solid waste, including sewage, shall be properly disposed of only at appropriately designated facilities.

C. Petroleum Control Management Measures:

BMPs shall be implemented to minimize the potential for accidental discharges during fueling activities. 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 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.

4. Conformance with the Requirements of the Resource Agencies

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. No changes to the approved development shall occur without a Commission amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is required.

5. Public Access To and Along the Shoreline

The permittee (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.

6. Assumption of Risk

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, and flooding; (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).

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The proposed project is the replacement of the fuel dock and the fuel storage and dispensing system at the Shoreline Marina in Downtown Long Beach (See Exhibits). The fuel dock serves recreational boaters in the City's 1,764-slip public downtown marina. The Shoreline Marina opened in 1982 and was rehabilitated a few years ago pursuant to Coastal Development Permit Amendment 5-02-361-A1 (City of Long Beach).

The existing 100-foot long, 1,580 square foot dock float (which supports a one-story structure that contains a fueling station, public restroom, a convenience store) will be removed and replaced in the same location using the four existing concrete piles which will remain in place (Exhibit #4). No new piles are proposed. A new 105-foot long, 2,068 square foot dock float, which includes a 380 square foot office/store with a public restroom, will be floated into place and attached to the four existing concrete piles (Exhibit #5). A new 82-foot long ADA-compliant gangway will be installed to replace the old gangway. The proposed dock has two double-hosed fuel dispensers (Exhibit #7, p.2). The small convenience store will stock small items frequently needed by small boat owners (e.g., charts, lines, oil, sparkplugs, snacks, beverages, sunscreen, etc.).

The proposed project also includes the installation of a new 20,000-gallon underground fuel storage tank in the marina parking lot (Exhibit #6). In order to connect the fuel dispensers on the new fuel dock to the new double-walled fuel storage tank, a 1000-foot long above-ground pipeline will be installed along the jetty (Exhibit #3). The old underground fuel tanks and pipelines were removed from the parking lot and jetty in 2010 pursuant to Coastal Development Permit 5-10-209 (City of Long Beach). The new pipeline will be comprised of two four-inch diameter stainless steel pipes mounted on the existing concrete supports that run along the jetty. The concrete pipeline supports range from six to 24 inches in height. All above ground piping will be separated from the jetty access road by an existing fence. The short segment of the pipeline that runs from the underground tanks seaward to the jetty (beneath the bike path) will be underground (Exhibit #6). All pipes will be double-walled and continuously monitored for leakage by a state-of-the-art leak detection system with positive shutdown for the dock-mounted fueling equipment.

The proposed project, which is expected to take about ten weeks to complete, is scheduled to be completed by June before the start of the busy summer season. The project staging area will be situated in the marina parking lot where the new underground tanks will be placed.

On October 11, 2011, marine biologists (Ecomarine Consulting, LLC) surveyed the project area and found no eelgrass (*Zostera marina*) or noxious algae (*Caulerpa taxifolia).* Deep water (-14 feet mean lower low water), low underwater light levels, and poor circulation beneath the existing dock contribute to low biological diversity. The proposed project has received the approval of the City of Long Beach. The applicant has received a preliminary approval from the U.S. Army Corps of Engineers (Project No. SPL-2010-01001), and has applied for a Section 401 Certification from the California Regional Water Quality Control Board.

Downtown Shoreline Marina, Long Beach (Microsoft 2011).

B. Marine Resources – Water Quality

The proposed project is located in coastal waters. The Coastal Act contains policies that address development in or near coastal waters. 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 30240 of the Coastal Act requires that the proposed project shall be sited and designed to prevent impacts which would significantly degrade environmentally sensitive habitat areas.

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 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 is the in-kind replacement of an existing public fuel dock. The new fuel facility is a similar size and in the same footprint as the facility being replaced (Exhibit #4). Four existing piles will remain in place to secure the new dock float. No new piles are proposed, and no disturbance of the sea bottom is proposed or permitted. The project site was surveyed in October 2011 and no eelgrass (*Zostera marina*) or noxious algae (*Caulerpa taxifolia)* was found (Eelgrass Survey Report for Long Beach Marina Fuel Dock, by Ecomarine Consulting, LLC). Therefore, the proposed project will not disturb any eelgrass.

Due to the project's location in and over coastal waters, it is necessary to ensure that demolition and construction activities will be carried out in a manner that will not adversely affect recreation, water quality or marine resources. The storage or placement of construction material, debris, or waste in a location where the materials could be discharged into coastal waters could result in an adverse effect on the marine environment. Ongoing fueling activities could also have adverse impacts if fuel is not adequately contained.

As part of the proposed project, the applicant has proposed specific best management practices (BMPs) to protect water quality and marine resources as required by Sections 30230, 30231 and 30240 of the Coastal Act. The proposed BMPs, set forth in the Water Quality Management Plan for the Shoreline Marina Fuel Dock, by Pacific Coast Tank, include provisions to prevent discharges into the water during demolition and construction, and also post-construction during the ongoing fueling operations that will be conducted at the new facility.

The applicant has incorporated special design element BMPs into the proposed fuel storage and dispensing system in order to minimize the potential for fuel spills, including the use of a double-walled underground fuel storage tank, double-walled connecting pipes, and a state-of-the-art leak detection system with positive shutdown for the dock-mounted fueling equipment. The specific best management practices for construction of the fueling system and the post-construction fueling activities are set forth in the Water Quality Management Plan for the Shoreline Marina Fuel Dock, by Pacific Coast Tank (September 2011), as follows:

Design Element BMPs-

The following structural BMPs, incorporated into the site's design, are in addition to the requirements of local, state and federal regulation:

- **Super Unleaded (91 octane) gasoline eliminated from the product lineup to minimize the project's foot print. As a result, 4,000 fewer gallons of hazardous material will be stored at the site. One fuel tank, 280 feet of underground pipe, 1,000 feet of aboveground pipe, and an on-dock fuel dispenser are also eliminated.**

- **Top of the line, Fibrelite tank-sump manhole covers reduce the probability of water ingress during heavy rainfall and allow easy cover removal for monthly sump inspections.**

- **Sub-grade fuel delivery spill buckets reduce the probability that fuel, overfilled during delivery, will escape containment and contaminate the area.**

- **A double-walled fiberglass tank, rather than a fiberglass over steel tank, will help prevent corrosion when buried in standing saltwater.**

- **Multiple normally-closed solenoid valves along the piping run compartmentalize the system and help minimize the total release-exposure associated with a single event.**

- **Ridged double-walled, marine-grade stainless steel, aboveground piping provides better impact protection and eliminates pooling, compared to flexible HDPE piping (the only other pipe type authorized by the state for this application).**

- **Fuel hose housed in product-tight, stainless steel structures contain drips from hose connections and nozzles.**

- **Leak monitoring system connected directly to the internet for remote monitoring and the fastest possible response to alarm events.**

In order to reduce the potential for construction related impacts on water quality or marine resources, the Commission imposes **Special Condition Two** requiring the permittee to implement specific best management practices (BMPs) during all demolition, staging, and construction activities. The special condition requires the appropriate storage and handling of construction equipment and materials (e.g., sand bagging, runoff diversions, and silt curtains) to minimize the potential of pollutants to enter coastal waters. The special condition also requires the permittee to implement the specific BMPs set forth in the Water Quality Management Plan for the Shoreline Marina Fuel Dock, by Pacific Coast Tank (September 2011) to minimize adverse environmental impacts, as follows:

Construction BMPs-

The following structural and non structural BMPs will be implemented to mitigate contaminated runoff during construction.

- Daily employee tailgate meeting agenda to include a review of water quality BMPs, the day's weather forecast, and any special weather-related procedures.

- All storm drains and potential runoff routes to be blocked with sandbags and filter cloth as needed to prevent debris and contaminated runoff from reaching the stormwater system or the ocean.

- Excavated soil to be stored in a purpose-build containment area. Containment area will be ringed with sandbags. Heavy duty plastic will cover the pavement and sandbags to create a bathtub-like containment area.

- Once excavated soil is placed in the containment area, cover it with a layer of heavy duty plastic sheeting.

- The general contractor shall designate one person as the Water Quality Officer. That person will be responsible for understanding and implementing all BMPs associated with water quality.

- The Water Quality Officer will review the BPMs at the daily tailgate meeting and conduct site inspections at the start and end of the day's work.

- All heavy equipment shall be inspected for oil and hydraulic fluid leaks upon arrival at the construction site. Equipment that appears in sub-par condition, in the opinion of the Water Quality Officer, shall be turned away or repaired prior to being put into service.

- All tractors and heavy equipment, when not in use, shall be parked over drip pans.

- Trucks leaving the construction site shall be inspected for cleanliness. Tires shall be clear of mud and excessive dirt. If the truck is hauling excavated soil, the load should be covered.

- The jobsite shall be cleaned daily. All dirt and trash shall be properly contained at the end of each work day.

- All slag and debris associated with welding the jetty piping shall be immediately gathered and properly disposed of.

- All environmentally sensitive operations shall be witnessed by a fire inspector.

- Lookouts shall be stationed at all pipe joints when pressurizing the fuel system for the first time.

Fuel Dock Operation BMPs-

The following structural and non-structural BMPs will be implemented to mitigate contaminated runoff and uphold water quality during operation.

- A 55 Gallon spill containment kit, containing absorbent pads, pillows, bulk material, and boom material, instructions, and Personal Protective Equipment will be located close to the tank.

- A reusable containment boom will be located near the tank to be used during fuel deliveries.

- A 55 Gallon spill containment kit, containing absorbent pads, pillows, bulk material, and boom material, instructions, and Personal Protective Equipment will be located on the fuel dock.

- Additional spill containment equipment, including a large boom and petroleum-only absorbent pads used for spills in the water will be stored on the dock.

- Each day, a facility employee shall inspect all aboveground piping and sumps. A log of the inspections shall be maintained onsite for at least one year.

- The Fuel Dock shall operate, and be monitored in accordance with the provisions of the California Water Resources Control Board-approved, City of Long Beach Underground Storage Tank Compliance Program, which provides detailed operating procedures and multiple layers of oversight. The program directive is available at: http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/longbeach_consentjudgement.pdf (Pages 34-80)

- A Long Beach City employee and member of the City of Long Beach UST Task Force shall conduct a 16-point, semi-weekly site inspection. The Inspection Checklist is included as Attachment 10.

- **As part of the UST Compliance Program, the fuel dock must be inspected, and certified as compliant, by the City's UST Project Manager within 30 days of starting operation. The Site Certification form is included as Attachment 11.**

- **The UST Compliance Program also requires blank Site Repair Tickets (SRTs) (Attachment 12) be conspicuously posted so that anyone (employee, customer, or passerby) can easily report a sub-standard condition to the City's UST Program Supervisor. The UST Program Supervisor will then immediately review the problem and issue a Corrective Action Report (CAR) (Attachment 13). Once the corrective action is complete, the site must again be inspected by the UST Project Manager and certified as compliant.**

- **All facility employees shall be trained annually in accordance with the City's UST Facility Employee Training Program (Attachment 14), which has been approved by the Long Beach CUPA.**

- **The fueling system shall be continuously monitored onsite by a facility employee and remotely by the UST Program Supervisor.**

- **Prior to delivering fuel, the delivery driver or a facility employee shall use the on-site containment boom to create a dike around the spill bucket in order to provide additional layer of containment in case of a delivery overfill.**

In order to minimize adverse environmental impacts from fueling activities, **Special Condition Three** requires the permittee to implement specific BMPs during the ongoing operation of the proposed fueling facility, including the specific "Fuel Dock Operation BMPs" (listed above) that are set forth in the Water Quality Management Plan for the Shoreline Marina Fuel Dock, by Pacific Coast Tank (September 2011).

Special Condition Four requires the permittee 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. As conditioned, the Commission finds that water quality, biological productivity and marine resources are protected as required by Sections 30230, 30231 and 30240 of the Coastal Act.

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. No fill of coastal waters is proposed. No new piles are proposed or permitted. Eelgrass beds will not be disturbed, as none have been found in the vicinity, and there is no bottom disturbance proposed or permitted. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

C. Public Access and Recreation

One of the basic goals stated in the Coastal Act is to maximize public access and recreation along the coast. The proposed project is conditioned to conform with the following Coastal Act policies which 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 30213 of the Coastal Act states:

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

Section 30224 of the Coastal Act states:

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

The proposed project involves the necessary replacement of a public fuel facility with no change in use. The proposed project will support increased recreational boating use of coastal waters, and a new public restroom will be provided (Exhibit #5). Only with the proposed project will the facility continue to be available for public use (it has been out of operation since the fuel tanks were removed in 2010) and continue to enhance public access and recreational boating opportunities. The proposed project, which supports recreational boating, is an allowable and encouraged marine related use, and is consistent with Section 30224 of the Coastal Act.

The public currently has access to shoreline along the jetty at the project site (Exhibit #3). The shoreline walkway and bike path run between the marina and the parking lot where the underground fuel tank will be installed. The proposed project will not interfere with public access along the shoreline, except for the temporary disruptions that may occur during the completion of the permitted development. The proposed project will take place during winter and spring when there are fewer visitors to the shoreline, which will further reduce any adverse impacts to access. **Special Condition Five** prohibits the permittee 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. Only as conditioned can the proposed project be found 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 is the in-kind replacement of an existing public fuel dock with no significant change to its current configuration. The existing one-story building on the dock will be replaced by a new one-story building of similar size (Exhibit #7, p.2). The design of the proposed building is low scale and visually compatible with the character of the surrounding area. Therefore, the proposed project will not block any existing public views or result in any significant change to visual resources, and 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:
>
> (l) 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 even though it is in a marina enclosed by rock jetties, the site is still susceptible to natural hazards. The Commission

routinely imposes conditions for assumption of risk in areas at high risk from hazards. **Special Condition Six** ensures that the permittee understands and assumes the potential hazards associated with development in or near the water.

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 City of Long Beach, the lead agency for CEQA, determined on February 5, 2010 that the proposed project is categorically exempt from CEQA pursuant to State Guidelines Section 15301, Class 1: Minor Alteration of Existing Public Facilities. Furthermore, 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 a) implementation of construction and debris removal responsibilities; b) implementation of best management practices to protect water quality and marine sources, c) conformance with post-construction best management practices; d) protection of public access; and e) the permittee's assumption of risk.

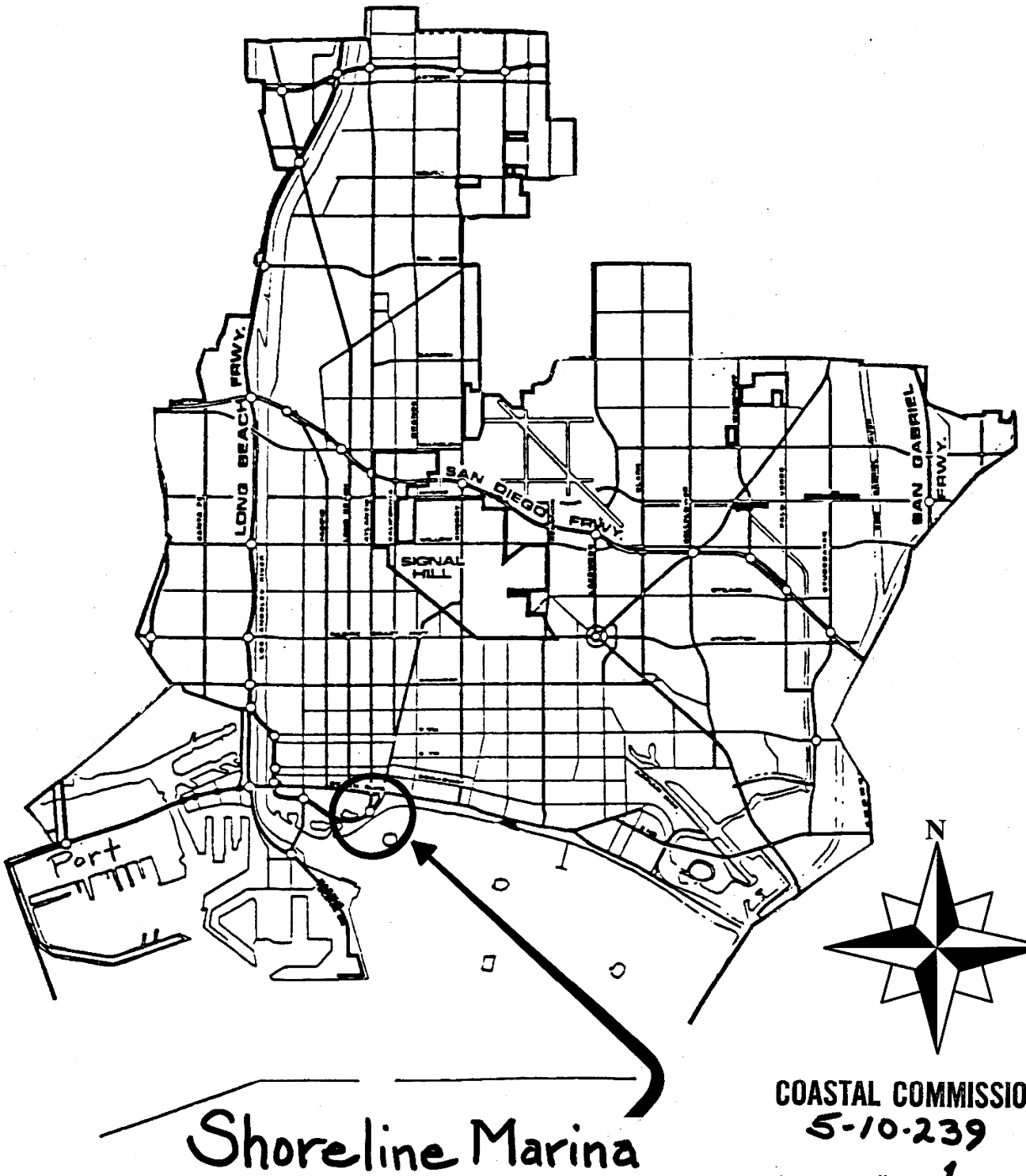
As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate 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 City of Long Beach certified LCP is advisory in nature and may provide guidance.

The Commission certified the City of Long Beach LCP on July 22, 1980. The certified LCP calls for a fuel dock at Subarea 11 of PD-6 where the Shoreline Marina and the proposed project are located. The project conforms to the two-story, 25-foot height limit. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and the certified LCP for the area.

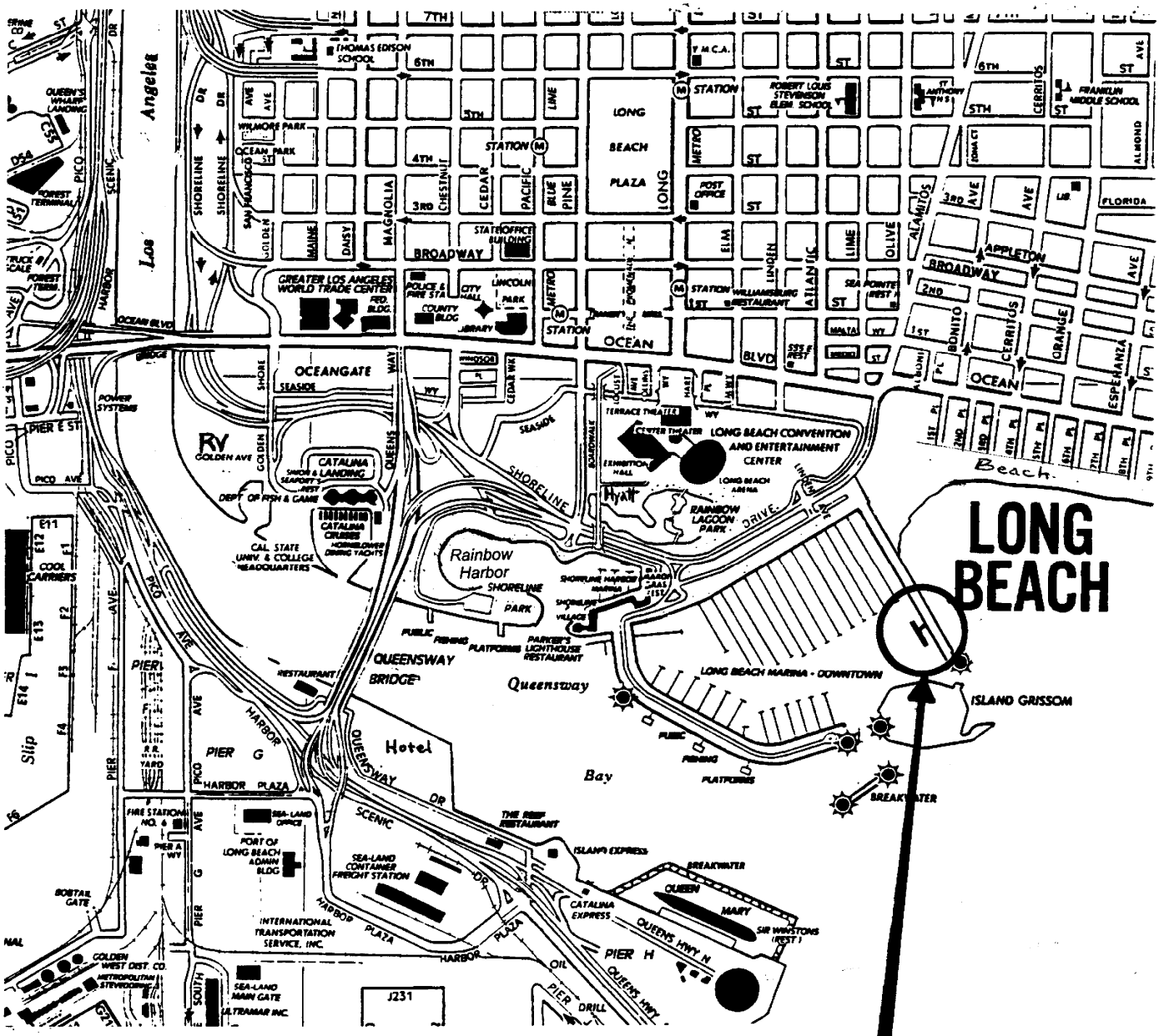
City of Long Beach



COASTAL COMMISSION
5-10-239

EXHIBIT # 1

PAGE 1 OF 1

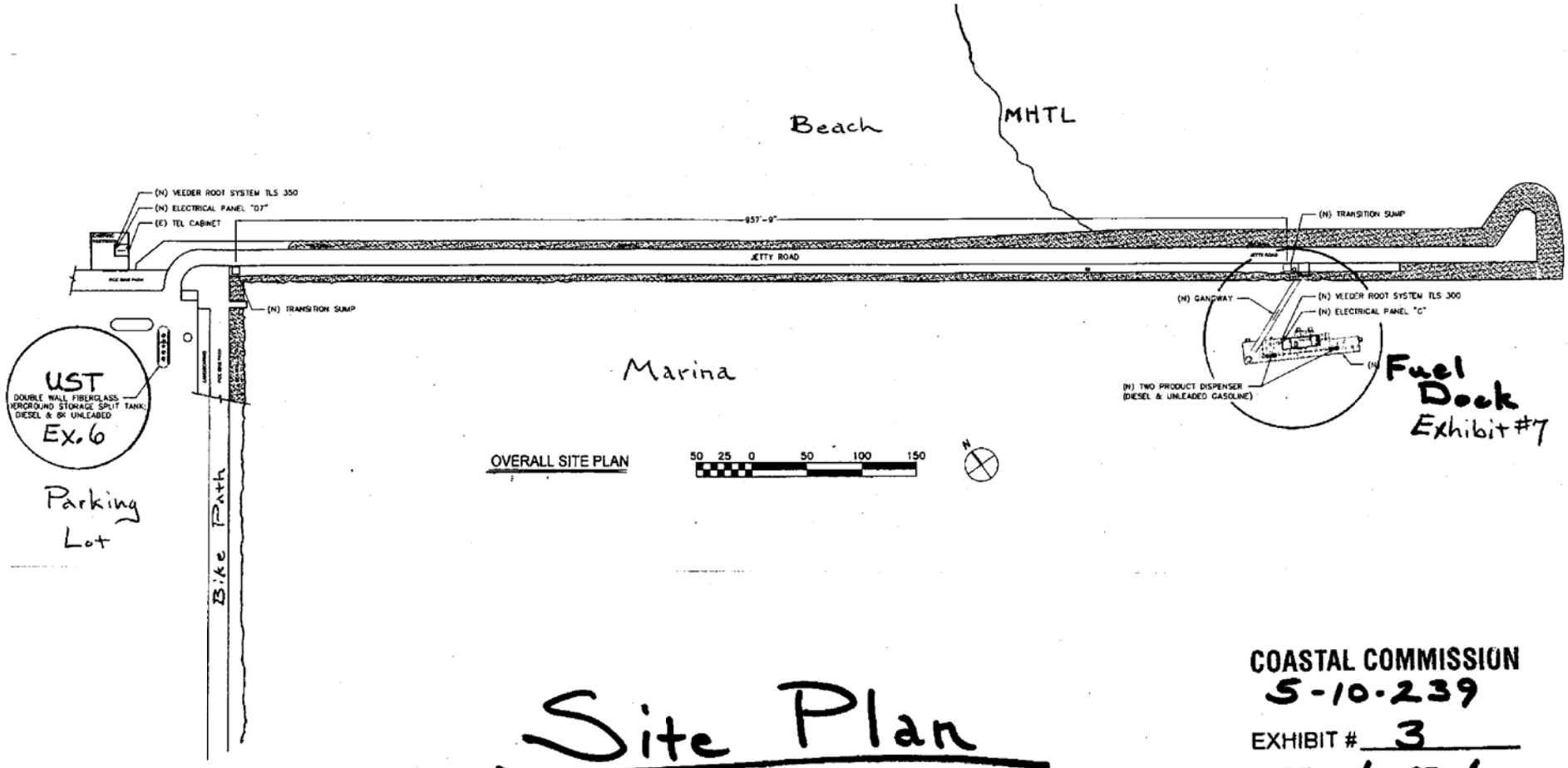


Project Site:

Fuel Dock

COASTAL COMMISSION
5-10-239
EXHIBIT # 2
PAGE 1 OF 1

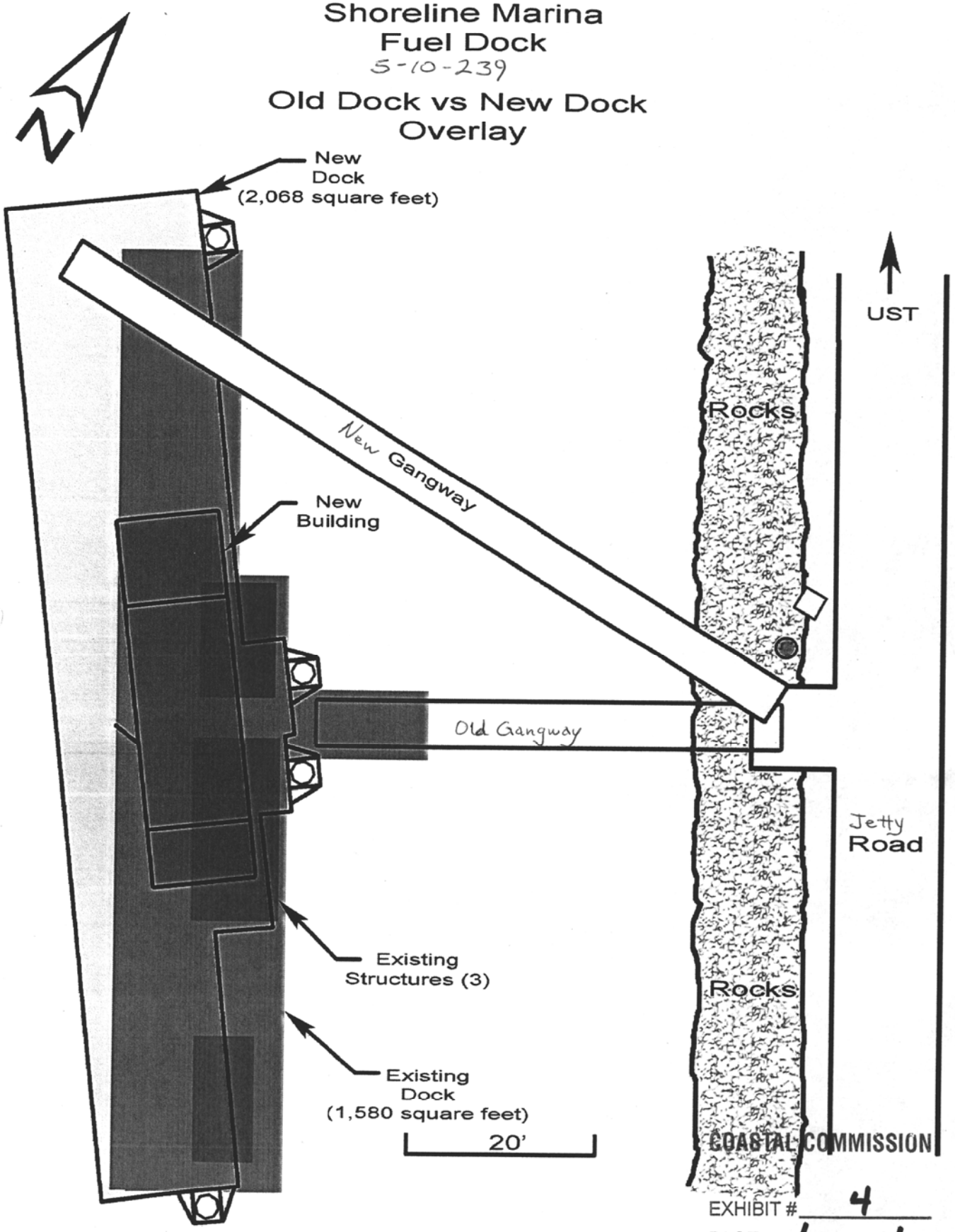
DOWNTOWN SHORELINE MARINA FUEL FACILITY
700 E. SHORELINE DRIVE, LONG BEACH, CA 90802



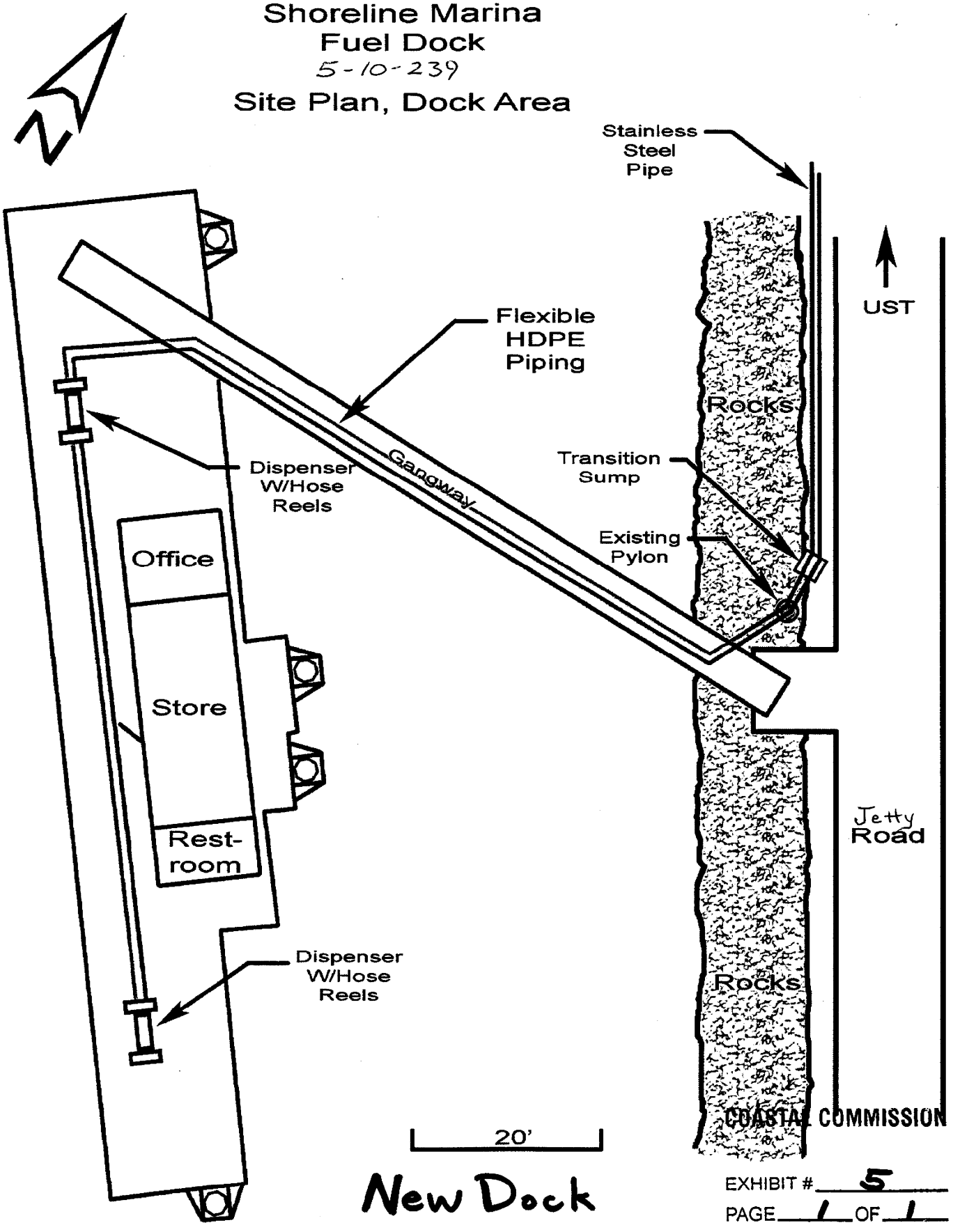
Site Plan

COASTAL COMMISSION
5-10-239
EXHIBIT # 3
PAGE 1 OF 1

Shoreline Marina
Fuel Dock
5-10-239
Old Dock vs New Dock Overlay



Shoreline Marina
Fuel Dock
5-10-239
Site Plan, Dock Area



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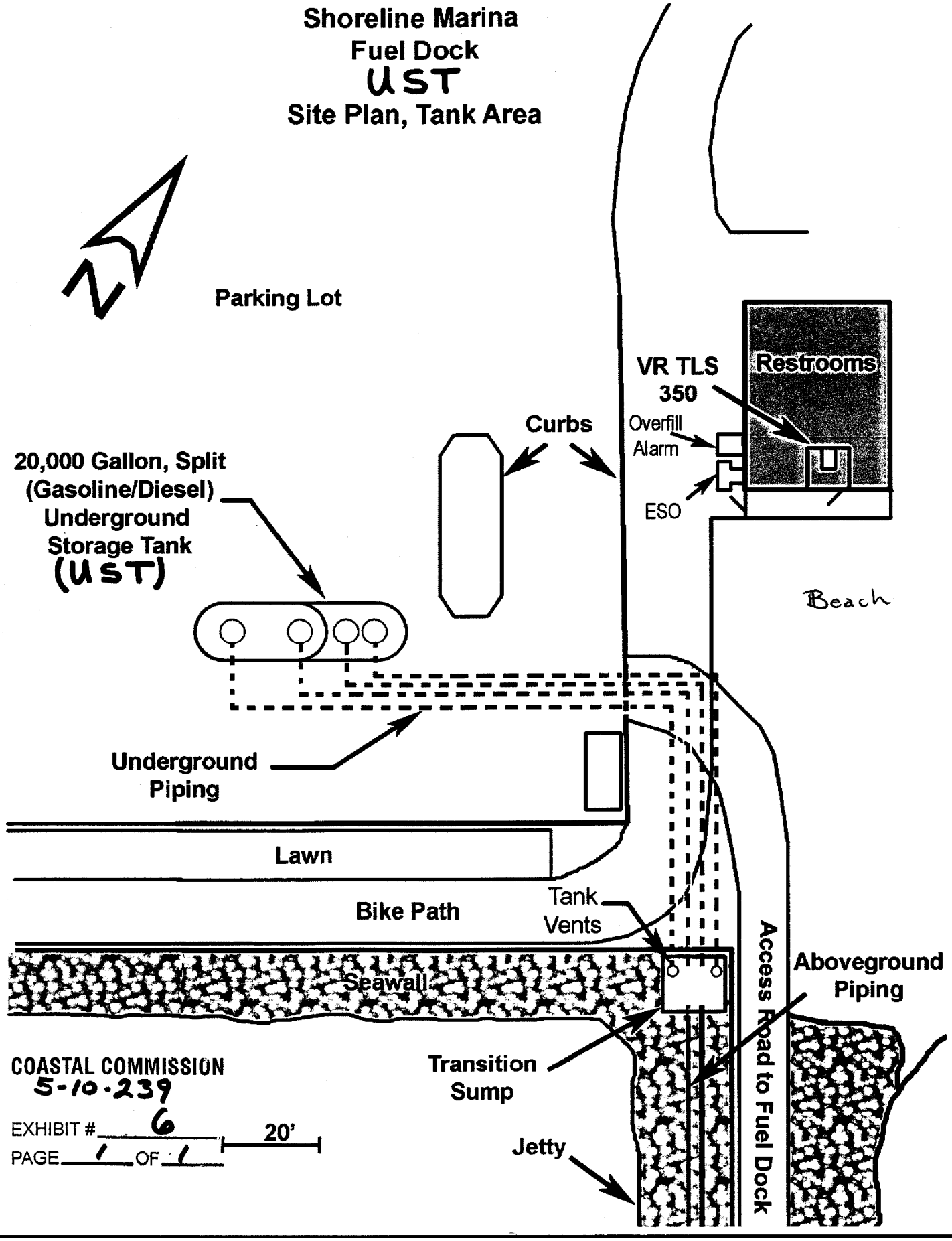
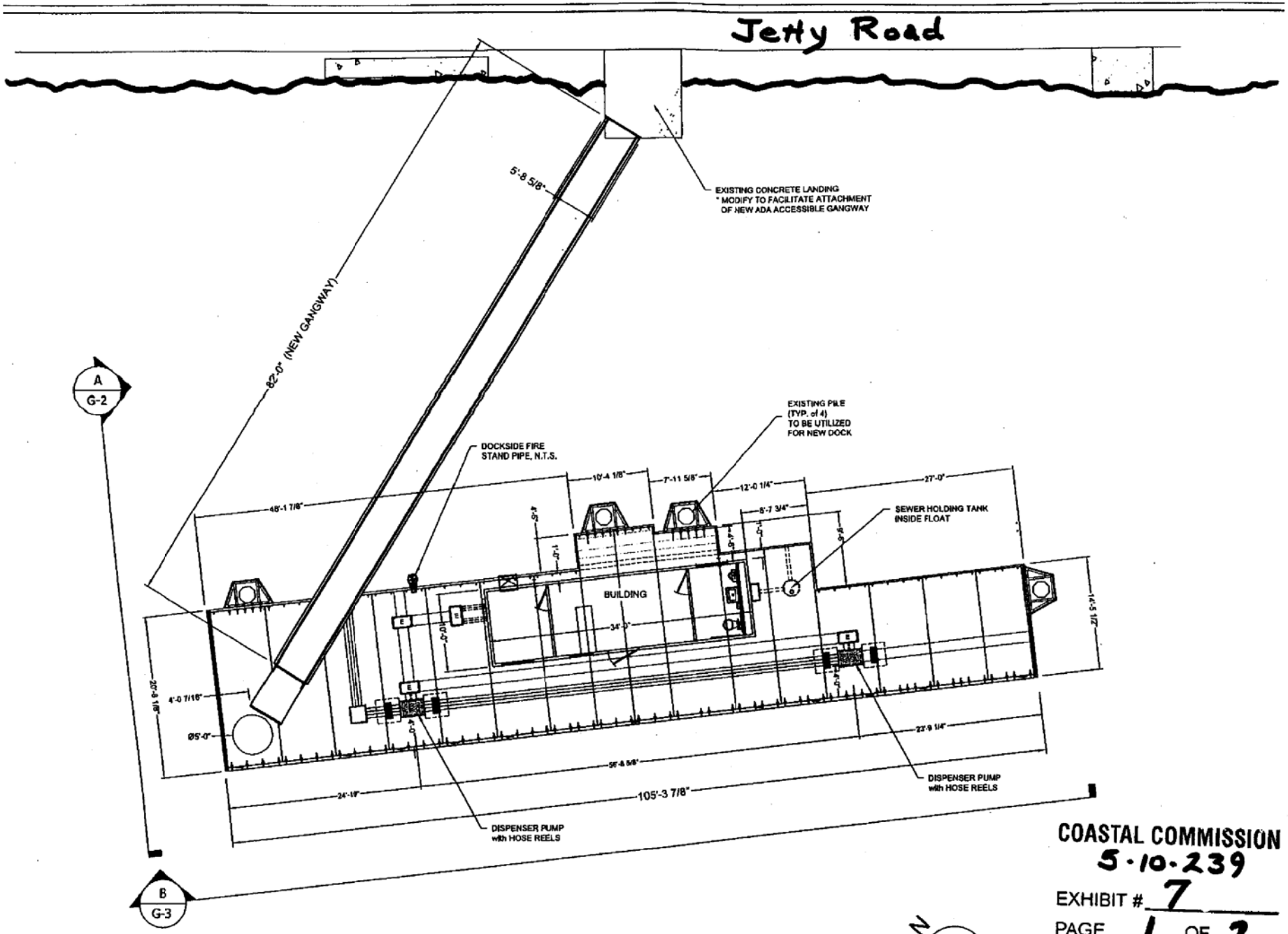
PAGE 1 OF 1



COASTAL COMMISSION
5-10-239
EXHIBIT # 6
PAGE 1 OF 1

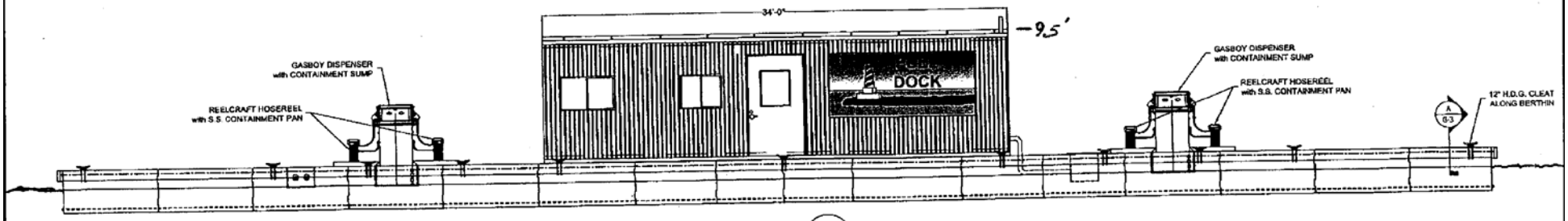


OVERALL NEW FUEL DOCK PLAN

8 4 0 8 16 24

N

COASTAL COMMISSION
5-10-239
EXHIBIT # 7
PAGE 1 OF 2



NEW DOCK SOUTH ELEVATION (B / G-2)

SECTION B

4 2 0 4 8 12

COASTAL COMMISSION
5-10-239
EXHIBIT # 7
PAGE 2 OF 2