

CALIFORNIA COASTAL COMMISSION

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Staff:	M. Revell-LB
Staff Report:	08/21/2015
Hearing Date:	09/09/2015

STAFF REPORT: CONSENT CALENDAR

Application No.:	5-14-1345
Applicant:	Los Angeles County Department of Beaches and Harbors
Location:	Venice Beach, Dockweiler State Beach, and Hermosa Beach, Los Angeles County.
Project Description:	Construction of 9 seasonal sand berms, for winter storm wave protection, and measuring approximately 15 feet high and varying in length from approximately 200 feet to 1,500 feet in length.
Staff Recommendation:	Approval with conditions

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing to construct nine seasonal sand berms for winter storm wave protection of existing public beach facilities along the coast of Los Angeles County. The berms will vary in length from approximately 200 feet to 1,500 feet. The berms will be located along 3 beaches, including Hermosa, Venice, and Dockweiler State Beach. The County has been constructing berms along these beaches for approximately 45 years, and received Coastal Development Permit 5-02-385 with subsequent renewals. The berms have been constructed adjacent to county facilities such as public restrooms, service maintenance yards, public parking lots, and a Recreational Vehicle Park. The proposed project raises issues regarding biological resources, including sensitive species and visual resources.

Staff is recommending **APPROVAL** of the proposed coastal development permit with **five Special Conditions**. The special conditions are: **1)** timing of construction; **2)** operational responsibilities; **3)** sensitive species monitoring; **4)** assumption of risk; and **5)** permit expiration, referencing all of the Special Conditions contained in this staff report.

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EXHIBITS

Exhibit 1 – Project Locations

Exhibit 2 -- Venice Beach Berm Locations

Exhibit 3 – Dockweiler State Beach Berm Locations

Exhibit 4 – Hermosa Beach Berm Locations.

I. MOTION AND RESOLUTION

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 of the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

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:

This permit is granted subject to the following 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 of 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:

This permit is granted subject to the following special conditions:

1. **Timing of Construction.** All project operations associated with berm construction, including construction, demolition, operation of equipment, sand removal and placement, or other construction, maintenance, material removal, or activities involving mechanized equipment shall be prohibited on any part of the beach in the project areas from Memorial Day in May to through Labor Day in September to avoid impact on public recreational use of the beach.
2. **Operational Responsibilities.** It shall be the applicant's responsibility to assure that the following occurs during project operations:
 - a) The sand berm shall be constructed in accordance with project plans, subject to the timing restrictions specified in Special Condition No. 1 above.
 - b) The sand berm shall be removed (lowered) prior to Memorial Day, subject to the timing restrictions specified in Special Condition No. 1 above.
 - c) The sand berm shall be graded/lowered to pre-existing beach contours to restore the shoreline and to facilitate recreational use.
 - d) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion.
 - e) Any and all debris resulting from construction activities shall be removed from the beach immediately.
 - f) Equipment shall not be in contact with coastal waters at any time.
3. **Sensitive Species Construction Monitoring**
 - A. The applicant shall retain the services of a qualified biologist or environmental resources specialist with appropriate qualifications acceptable to the Executive Director. The applicant shall provide the environmental monitor's qualifications for review by the Executive Director at least two (2) weeks prior to commencement of project activities. The environmental resource specialist shall conduct a visual survey of the project site, to determine presence and behavior of the Western snowy plover and/or the California least tern, prior to any excavation, construction, reconstruction, maintenance, or removal activities, associated with the sand berm. Prior to any project activities, the resource specialist shall examine the beach area to preclude impacts to the federally listed Western snowy plover and/or California Least Tern. No excavation, construction, reconstruction, maintenance, or removal activities shall occur until any and all Western snowy plovers have left the project area or its vicinity. In the event that the Western

snowy plover exhibit reproductive or nesting behavior, the environmental specialist shall require the applicant to cease work, and shall immediately notify the Executive Director and local resource agencies. Project activities shall resume only upon written approval of the Executive Director.

B. By February 25 of each year, the applicant shall obtain the seasonally predicted run schedule for the California grunion, as identified by the California Department of Fish and Game. In the event that excavation, construction, reconstruction, maintenance or removal activities will occur during the seasonally predicted run period and egg incubation period for the California grunion, then the resource specialist shall document any grunion spawning activity, and if grunion are present in any life stage, no excavation, construction, reconstruction, maintenance, or removal activities shall occur during the grunion spawning activity below the semilunar high tide mark.

C. The environmental specialist shall be present during the excavation, construction, reconstruction, maintenance, or removal activities, of the sand berms. The environmental resource specialist shall require the applicant to cease work should any breach in permit compliance occur or if any unforeseen sensitive habitat issues arise. The biological monitor(s) shall immediately notify the Executive Director if activities outside of the scope of Coastal Development Permit 5-14-1345 occur or if habitat is removed or impacted beyond the scope of the work indicated in Coastal Development Permit 5-14-1345. If significant impacts or damage occur to sensitive wildlife species, the applicant shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be processed as an amendment to this coastal development permit.

4. Assumption of Risk, Waiver of Liability and Indemnity Agreement

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

B. Prior to any conveyance of the property that is the subject of this coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the

use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

C. Prior to issuance of the coastal development permit, the 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.

5. Permit Expiration

All sand berms approved and constructed pursuant to CDP No. 5-14-1345 shall be removed prior to Memorial Day weekend of each year, unless further authorization has been granted under the Coastal Act. The approval of this project shall expire on Memorial Day 2020, with a provision for the expiration to be extended for additional time, with the approval of an amendment to this permit. Any construction, excavation, or sediment transport activities after the expiration permit approved under this permit will require the issuance of a new coastal development permit or an amendment to this permit.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT DESCRIPTION & LOCATION

The County of Los Angeles Department of Beaches and Harbors proposes to construct nine 15-foot high by 20-foot wide, seasonal winter sand berms at Venice Beach, Dockweiler State Beach, and Hermosa beach, varying in length from approximately 200 feet to 1,500 feet. The proposed winter berms would be constructed on the dry sand in each location.

Three berms will be constructed on Venice Beach. Two of the Venice Beach berms will be located seaward of the Washington Boulevard beach parking lot; one constructed on the north side of the Venice Pier, and the other constructed on the south side of the Venice Pier. The third berm will be located seaward of the Venice Boulevard beach parking lot (**Exhibit 2**). The berm located near Washington Boulevard on the north side of the Venice Pier will measure approximately 200 feet in length. The berm located near Washington Boulevard on the south side of the Venice Pier will measure approximately 700 feet in length. The Venice Boulevard berm will also measure approximately 700 feet in length.

Dockweiler State Beach will contain four berms (**Exhibit 3**). One berm will be located near the terminus of Culver Boulevard and will measure approximately 300 feet in length. The second berm will be located near the terminus of Imperial Highway, and will measure approximately 200 feet in length. The third berm will be located seaward of the Dockweiler Recreational Vehicle Park, and will measure approximately 1,500 feet in length. The fourth berm will be located seaward of the Dockweiler Youth Center, and will measure approximately 600 feet in length.

Hermosa Beach will have two berms located near the terminus of Pier Avenue; one constructed on the north side of the Hermosa Beach Pier, which will be 200 feet in length, and the other constructed on the south side of the pier, which will be 300 feet in length (**Exhibit 4**).

Each sand berm will require approximately 1,100 to 3,900 cubic yards of sand. Sand for the berms will be taken from the dry beach areas surrounding each berm. Because the beaches are broad, extending 200 to over 300 feet in width, sand can be taken from a large area surrounding each berm, where there will be no appreciable sand elevation change from the excavated areas. The sand used to construct the berms would be excavated from the dry beach areas surrounding each berm location. The berms would be constructed in early November to late December, depending on storm activity. After storm wave damage, the berms would be reconstructed back to the design profile. The nine sand berms will slope down to the existing beach at a constructed slope of approximately 1.5:1 (horizontal to vertical). The berms would be removed by mid-March. To ensure the construction and removal of these berms is conducted according to this schedule, staff is imposing **(Special Condition 1)**. The berms are intended to protect the County's beach facilities, such as restrooms, bike paths, parking lots, and maintenance yards, from severe winter storm wave uprush.

Construction of the each berm will take approximately 2 to 5 days to complete, depending on the size of the berm. A front-end loader would grade and shape the berm in accordance with project plans. Construction equipment is stored in existing beach maintenance facilities; therefore, construction staging areas will not be necessary. Periodic reconstruction of a portion(s) of the berm requires pushing sand from the beach back onto the berm with excavators/bulldozers during the low tide periods following the erosion of the berm. Based on past berm construction experience, the County does not anticipate that sufficient damage will occur that would completely destroy the berms or necessitate complete reconstruction. Damage to the berm is caused by waves removing the sand from the berm and spreading it over the beach in front of the berm or washing it out to sea. Based on past berm construction, the applicant estimates two reconstruction episodes to maintain the berms will be required during each winter season.

Section 30235 of the Coastal Act allows for the construction of a shoreline protective device when necessary to protect existing development or to protect a coastal dependent use. In addition, Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property.

Although the public views of the ocean will be blocked from behind the berms from the adjacent parking lot, bike path, or pedestrian promenade, these impacts will be temporary. Public coastal views will still be available up and down the coast of the berms, and from the top of the berms. Public access to the ocean will continue to be available up and down the coast from the berm locations, and the public is allowed to climb over the berms to access the coast as well.

According to the County, the County has been constructing berms for storm wave protection on these beaches since approximately the 1970's. In 2003, the Commission approved Coastal Development Permit No. 5-02-385 for the construction of five sand berms for winter storm wave protection of similar size on the same beaches that are the subject of this staff report, which expired three years after issuance. The Commission subsequently approved seven amendments to Coastal Development Permit No. 5-02-385 from 2004 to 2011, for proposed sand berms that were of the same size and in the same locations as those approved in the original permit. Commission staff decided to issue a new coastal development permit for these proposed sand berms because this most recent application increased the number of berms to nine, and will vary in length from previous approvals.

Impacts to the sand donor sites will be minimal, short-term, and imperceptible over time. Impacts will consist of a temporary lowering of the surface elevation of the areas by approximately one foot from the existing elevation. No long-term changes are expected because sand from upcoast will be delivered to the area over time and replace sand removed for the project. Also, the quantity of sand removed for the project is relatively small compared to the sand volumes being naturally transported through the area by longshore currents, and the change in beach elevations will therefore not be significant or sufficiently long-term to cause discernible impacts.

Based on the information submitted by The Los Angeles County Department of Beaches and Harbors, the proposed development is located in an area of the Coastal Zone that has been identified as subject to potential hazards from wave action during the winter storm season. Although the proposed project will increase the stability of the developed portions of the subject site in relation to wave caused erosion, there remains some inherent risk to development on such sites. The Coastal Act recognizes that certain types of development, such as the proposed project to protect existing park facilities from storm waves, 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 individual's right to use his property. As such, the Commission finds that due to the unforeseen possibility of liquefaction, storm waves, surges, erosion, and flooding, the applicant shall assume these risks as a condition of approval. Therefore, **Special Condition 4** 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.

In addition, the proposed project will involve on average approximately 4,400 cubic yards of sand and the use of construction equipment on a sandy beach. As such, the proposed project has the potential to generate debris and/or presence of equipment and materials that could be subject to tidal action on the beach. The presence of construction equipment, building materials, and excavated materials 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. In addition, such discharge to the marine environment would result in adverse effects to offshore habitat from increased turbidity caused by erosion and siltation of coastal waters. Therefore, in order to ensure that adverse effects to the marine environment are minimized, **Special Condition 2** requires the applicant to ensure that no stockpiling of sand or construction materials shall occur on the beach seaward of the proposed berm locations and that any and all debris resulting from the construction period shall be immediately removed from the sandy beach.

According to the Department of Fish and Game, species of potential concern in the areas of the berms include the federally threatened Western snowy plover (*Charadrius alexandrinus nivosus*), the state and federally endangered California least tern (*Sterna antillarum brownii*), and California grunion (*Leuresthes tenuis*). In order to ensure that excavation, construction, maintenance, or removal of the proposed sand berms does not adversely affect the Snowy plovers, California least tern, or California grunion, **Special Condition 3** requires a qualified resource specialist to examine the beach area immediately prior to excavation or berm construction, maintenance, and lowering

activities, to identify the presence of these species in order to preclude potential adverse impacts to them. As a result, the resource specialist shall ensure that prior to any excavation, construction, maintenance, or removal activities, that there are no Western snowy plovers or California least terns in the project area or its vicinity. The monitor shall ensure that project activities do not commence until these birds have left the project area or its vicinity.

Furthermore, the Commission finds it necessary to limit the project term under **Special Condition 5** to expire on Memorial Day 2020, with a provision for the expiration to be extended for five more years with the approval of an amendment to this permit. Additionally, to ensure that the deposition of material does not create detrimental impacts to beach slope, or subsequently to natural processes of erosion, **Special Condition 2** requires the applicant to re-grade the deposition area to pre-existing beach contours prior to Memorial Day.

As conditioned, the Commission finds that the proposed project is consistent with Coastal Act Sections 30235 and 30253.

B. WATER QUALITY/MARINE RESOURCES

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include the appropriate management of equipment. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

C. BIOLOGICAL RESOURCES

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. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

D. VISUAL RESOURCES

As proposed, the development is located within an existing developed area and is compatible with the character and scale of the surrounding area. As conditioned, the project will not disrupt public coastal views. Therefore, the Commission finds that the development conforms with Sections 30250, 30251, and 30252 of the Coastal Act.

E. HAZARDS

Development adjacent to the ocean is inherently hazardous. To minimize risks to life and property, the development has been conditioned to: require that the applicant assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in hazardous locations.

F. PUBLIC ACCESS

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

G. LOCAL COASTAL PROGRAM (LCP)

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (LCP), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The proposed project site is located in three separate planning areas within two local government jurisdictions (City of Los Angeles, and City of Hermosa Beach). Of the two separate beach areas proposed for development by this permit the areas with a certified Land Use Plan or Local Coastal Plan is Venice Beach, and Hermosa Beach. Both have certified Land Use Plans.

As conditioned, the project will not adversely impact coastal resources or access. The Commission, therefore, finds that the proposed project, as conditioned, will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the Cities to prepare Local Coastal Programs consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that 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 can be found consistent with the requirements of the Coastal Act to conform to CEQA.

Appendix A - Substantive File Documents

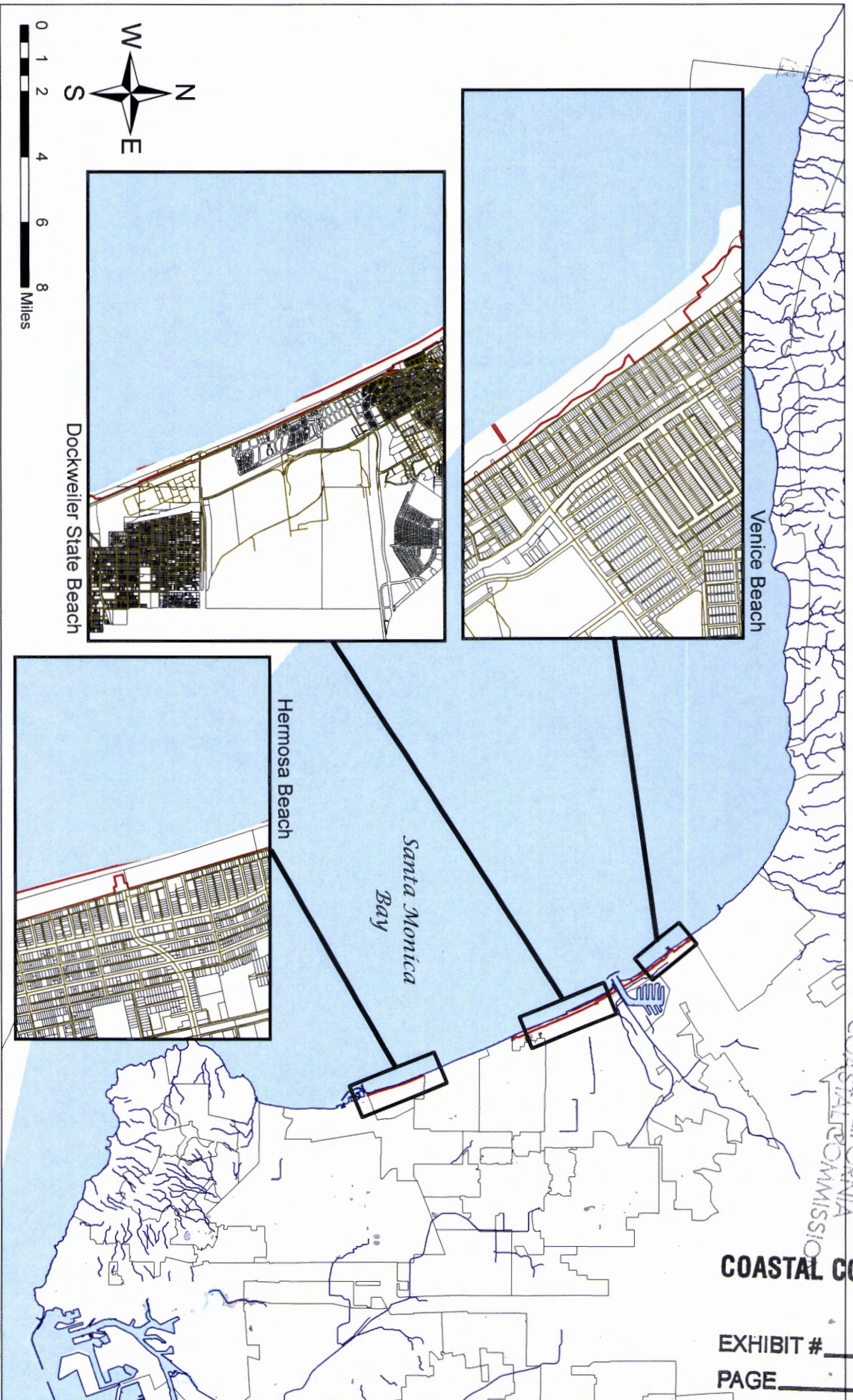
- Coastal Development Permit No. 5-02-385
- Western Snowy plover Surveys and Monitoring for San Berm Installation and Removal at Five Beaches in Los Angeles County, California, conducted by Rincon, 3/18/14.

Berm Location Map

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EXHIBIT # 1
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Map June 2014, Department of Beaches and Harbors, Planning Division.

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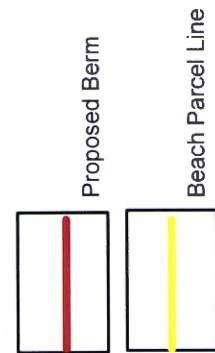
COASTAL CALIFORNIA



Venice Beach Berm Areas

Legend

- Berm Dimensions
 A) 700 feet (3,890 cu.yds.) [approx.]
 B) 200 feet (1,111 cu.yds.) [approx.]
 C) 700 feet (3,890 cu.yds.) [approx.]



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EXHIBIT 2
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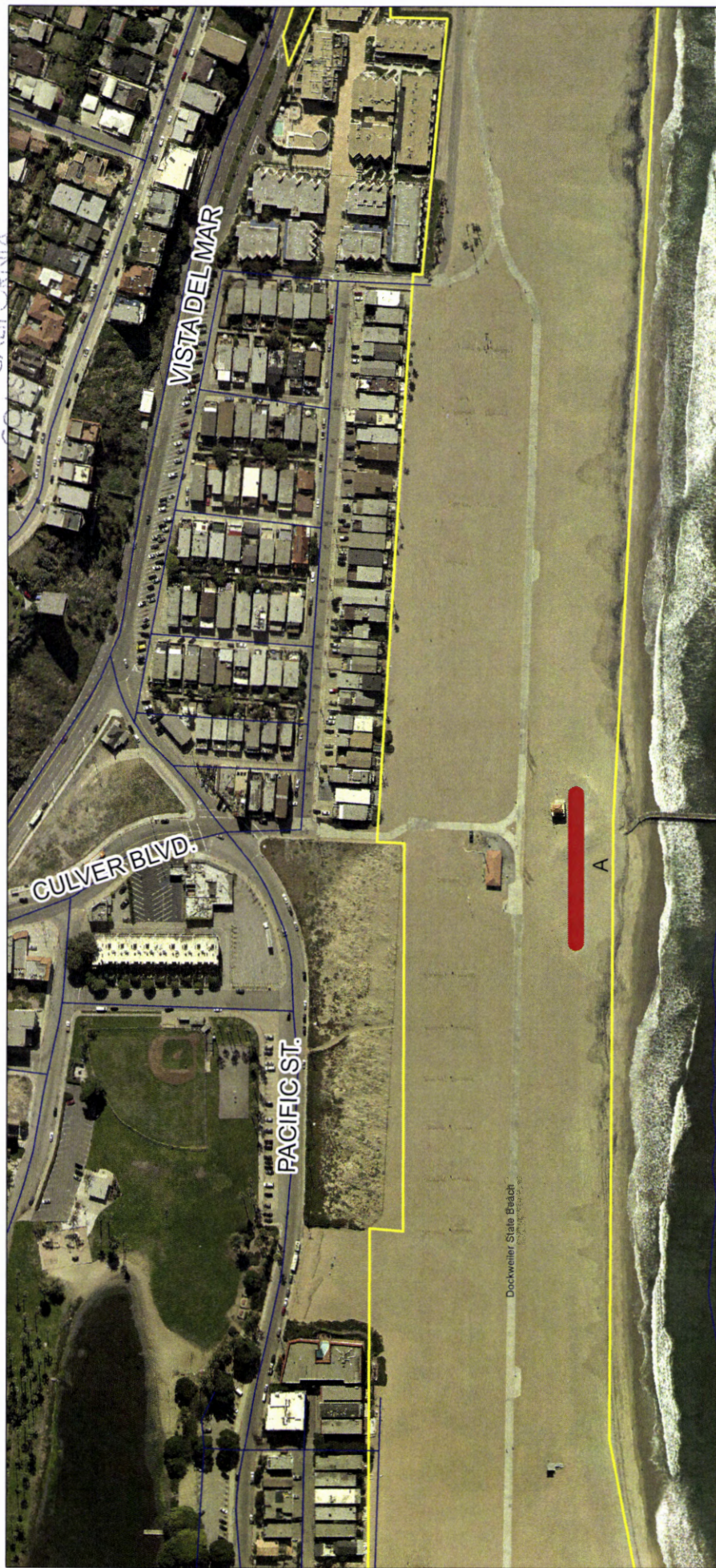


Map June 2014, Department of Beaches and Harbors, Planning Division.

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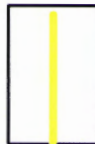


Dockweiler State Beach Culver Blvd. Berm Area

Legend



Berm Dimensions
A) 300 feet (1,667 cu.yds.) [approx.]



Beach Parcel Line



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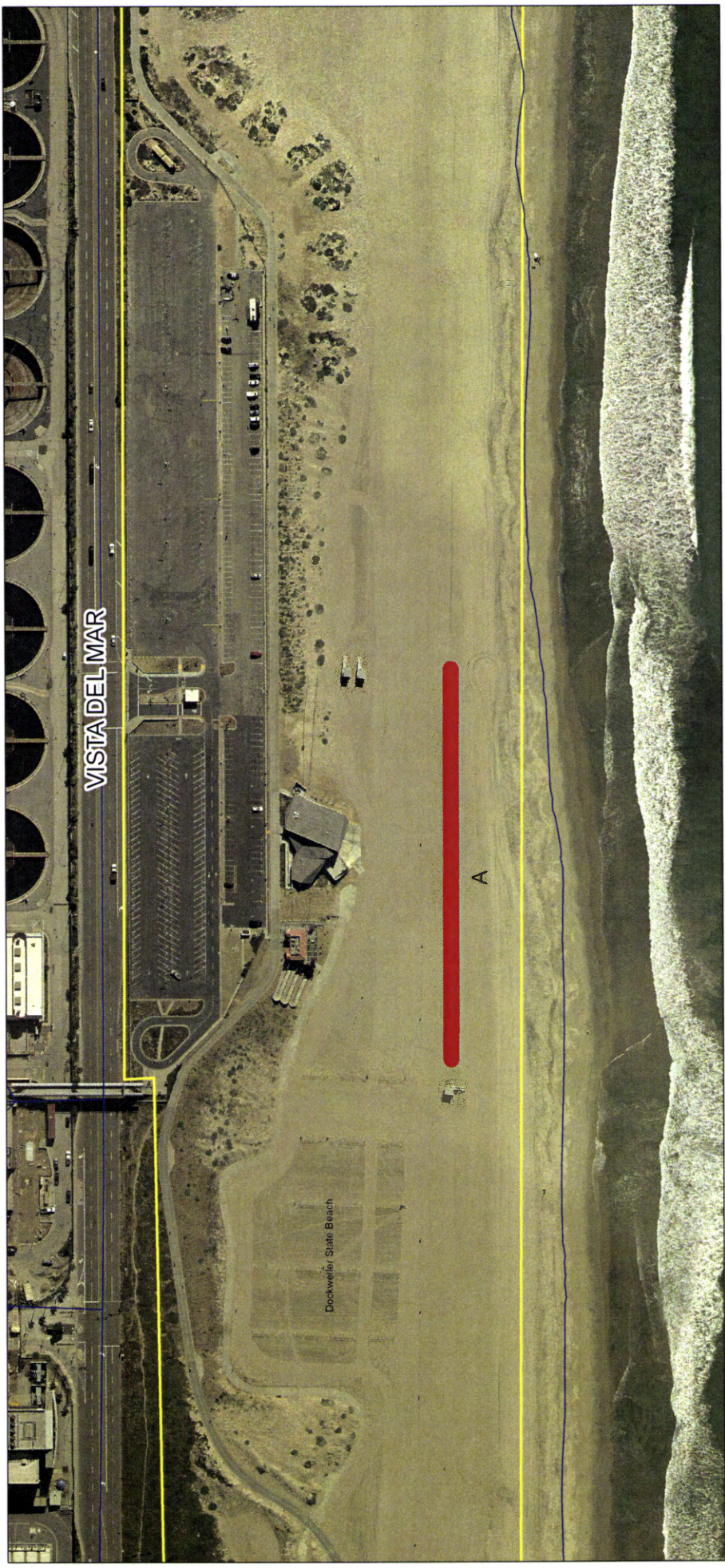
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Map June 2014, Department of Beaches and Harbors, Planning Division.

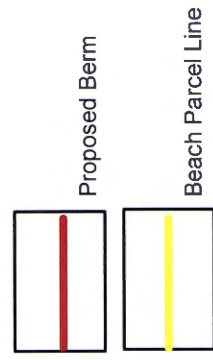
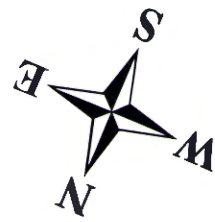
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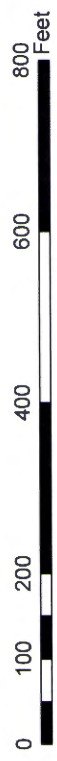


Dockweiler State Beach Youth Center Berm Area



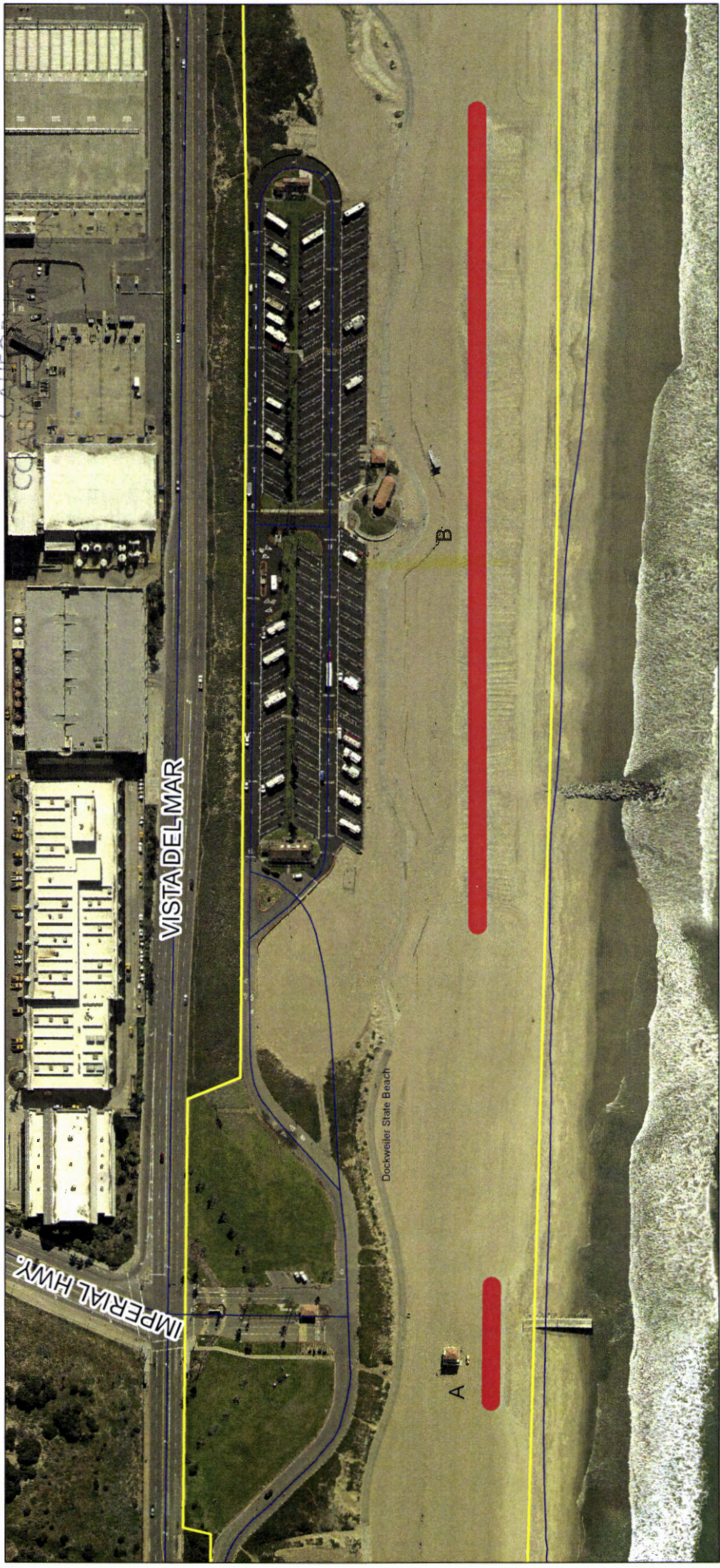
Legend
Berm Dimensions
(600 feet (3,334 cu yds.) [approx.]

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Map June 2014, Department of Beaches and Harbors, Planning Division.

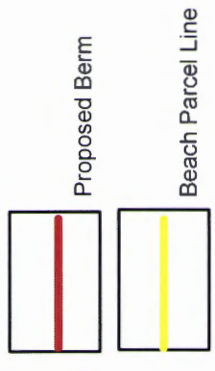
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Dockweiler State Beach RV Lot Berm Area

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Proposed Berm
Beach Parcel Line



Map June 2014, Department of Beaches and Harbors, Planning Division.

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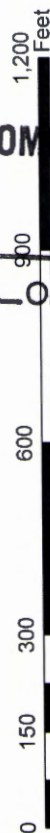
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Map June 2014, Department of Beaches and Harbors, Planning Division

Hermosa Beach
Pier Berm Area

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