

MINUTE ITEM

This Calendar Item No. C42
was approved as Minute Item
No. 42 by the State Lands
Commission by a vote of 3
to 0 at its 3/1/95
meeting.

CALENDAR ITEM

C42

A 35, 37

S 18, 19

PRC 2881.9
PN 94-481-TW
Fossum
Stevens
03/01/95

CONSIDER THE APPROVAL AND EXECUTION OF A WAIVER, PURSUANT TO PUBLIC RESOURCES CODE SECTION 6301.7, ON BEHALF OF THE STATE OF CALIFORNIA, OF ANY CLAIM TO TITLE TO REAL PROPERTY WHICH WOULD OTHERWISE INURE TO THE STATE RESULTING FROM THE DEPOSIT OF FILL IN CERTAIN WATERS OF THE PACIFIC OCEAN, VENTURA COUNTY

Ventura Port District
1603 Anchors Way Drive
Ventura, CA 93001
Attn: Richard W. Parsons
General Manager

Department of the Army
Los Angeles District, Corps of Engineers
300 North Los Angeles Street
Los Angeles, CA 90012
Attn: Carl F. Enson, P.E.
Chief, Construction-Operations Division

The Ventura Port District and United States Army Corps of Engineers have requested that the State of California agree to waive any claim of title to property which might otherwise pass to the State resulting from the deposit of fill along certain beaches in Ventura County. The fill is sand dredged from the entrance to the Ventura Harbor and will be used as beach nourishment to replenish sand on Ventura's beaches north and south of the harbor entrance (see Exhibit B). The Corps of Engineers received a letter from the Office of the Solicitor, Department of the Interior, which informed the Corps that the disposal may affect the baseline from which the territorial sea is measured, thereby extending the location of California's 3-mile seaward ownership boundary pursuant to provisions of the Submerged Lands Act (43 U.S.C. Sections 1301-1315).

California and other states have opposed the Army Corps' conditioning of permits in coastal waters upon such a waiver. However, the United States Supreme Court held in U.S.v. Alaska, 118 L. Ed. 222 (1992) that the Corps has the legal authority to impose such a condition. Nevertheless, as discussed below, the public benefits accruing to the People of California from implementation of this project outweigh the potential loss and, given the United States refusal to issue the permit (PN 94-481-TW) without such a waiver, staff of the Commission recommends approving a waiver under the particular circumstances involved.

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The Commission has, on at least two prior occasions, agreed to waive its right to claim a new location of the offshore boundary resulting from a project filling coastal waters. In 1970, the SLC approved a waiver for a California Transportation Agency project involving filling of ocean waters for widening Highway 101 at Sea Cliff in Ventura County (Minute Item #57, meeting of January 7, 1970; lease - P 4402.9). The Legislature enacted Public Resources Code Section 6301.7 in 1969 specifically to address this problem. On August 25, 1983, the Commission again approved such a waiver by approval of Minute Item #16, involving the placement of a rock groin and beach fill by Chevron U.S.A., Inc. offshore at its El Segundo Marine Terminal (lease - P 5574.1). Public Resources Code Section 6301.7 was amended at that time to include projects in Los Angeles County in addition to Ventura County.

The Ventura Port District's project has specific public benefits that include the removal of shoaling hazards to both commercial and recreational vessels entering and leaving Ventura Harbor as well as adding much needed sand to Ventura County beaches. In fact the Commission's lease to the Port District (P 2881.9) requires that "...all sand reaching the structures shall be mechanically passed around the obstructions and released in the littoral sand stream." The structures and obstructions referred to above are the jetties and breakwaters authorized by lease - P 2881.9.

The waiver proposed for approval and transmittal to the Governor for his approval pursuant to Public Resources Code Section 6301.7 is attached as Exhibit C.

AB 884:
N/A

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a statutorily exempt project. The project is exempt because it involves the settlement of title and boundary problems.

Authority; P.R.C. 21080.11

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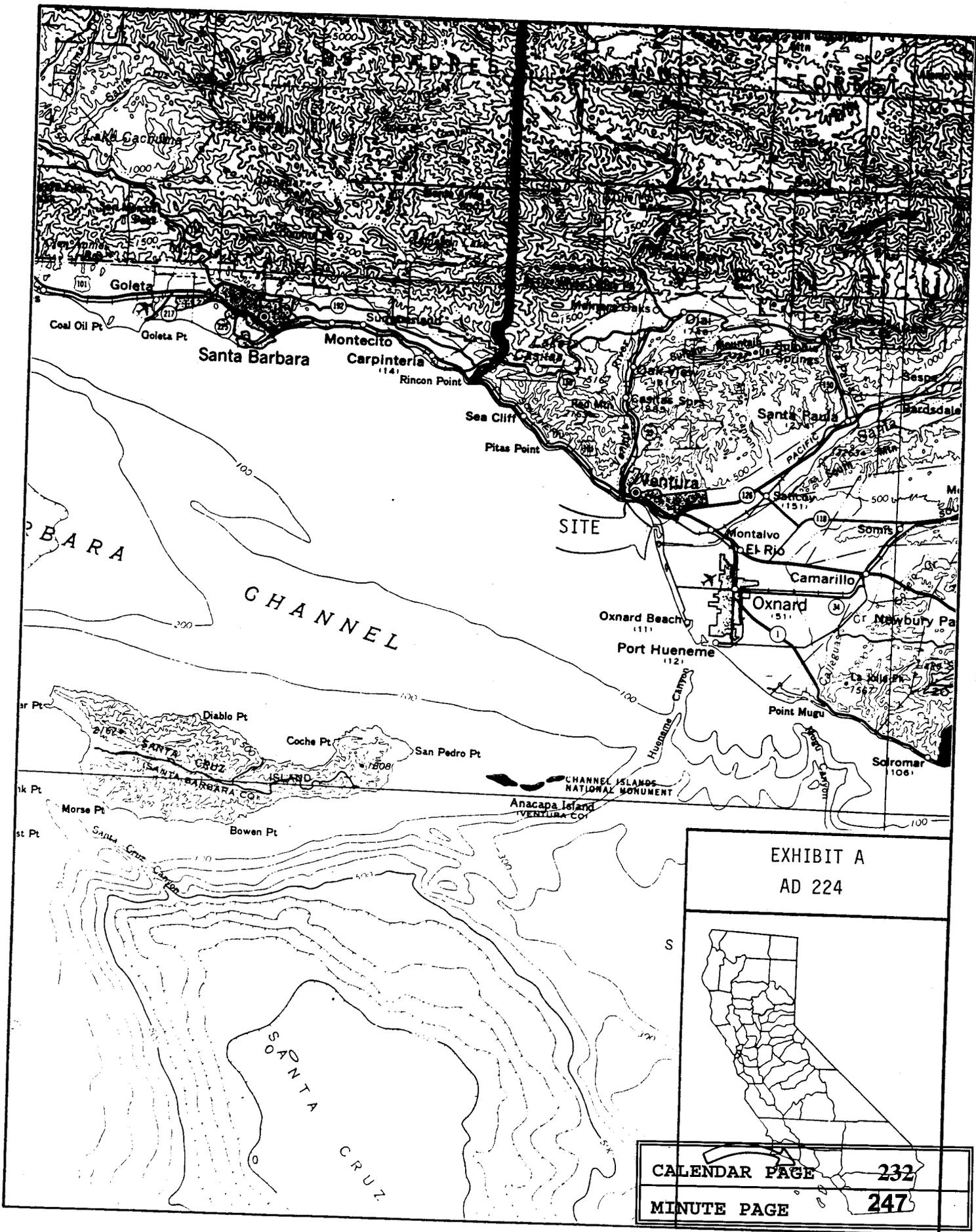
EXHIBITS:

- A. Location Map
- B. Site Map
- C. Waiver Agreement

IT IS RECOMMENDED THAT THE COMMISSION:

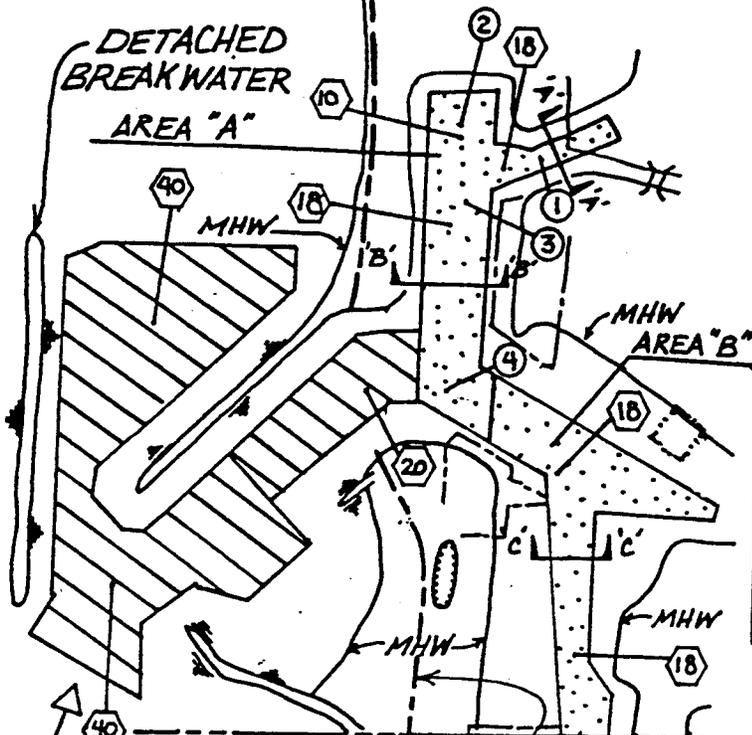
1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. SECTION 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS;
2. FIND THAT WITH RESPECT TO THE PROPOSED WAIVER AGREEMENT:
 - (a) THE BENEFITS FROM THE PROJECT OUTWEIGH THE POTENTIAL LOSS OF ADDITIONAL OFFSHORE LANDS.
 - (b) THE AGREEMENT IS IN THE BEST INTERESTS OF THE PUBLIC AND THE STATE.
3. AUTHORIZE THE APPROVAL, EXECUTION AND TRANSFER TO THE GOVERNOR FOR HIS APPROVAL OF THAT CERTAIN WAIVER AGREEMENT ENTITLED "AN AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND THE UNITED STATES OF AMERICA" ATTACHED HERETO AS EXHIBIT "C".

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SI SHEET 5



SEE SHEET 2

PLAN

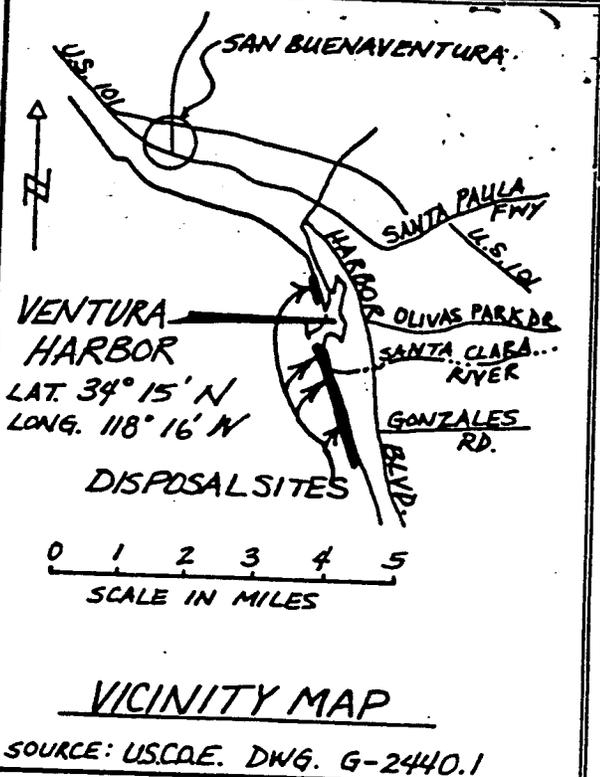
800 400 0 800

PURPOSE: MAINTENANCE OF HARBOR DEPTHS
 DATUM: MEAN LOWER LOW WATER

LEGEND

- OR DREDGING LIMITS
- PROJECT DEPTH
- SOIL SAMPLE LOCATION
- SAND DUNES

- Federal Project boundaries
- Inner harbor



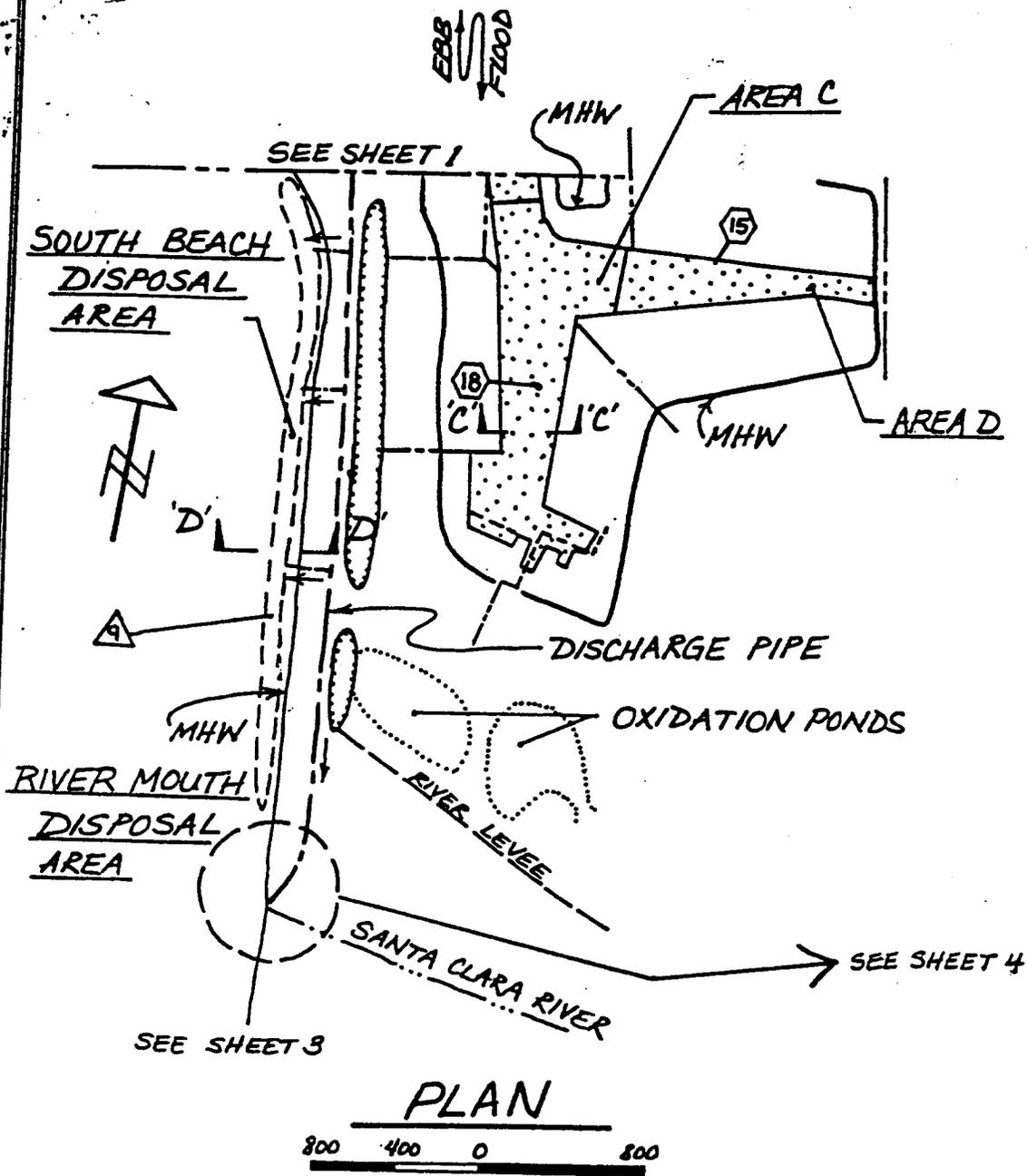
Applied Environmental
 Technologies, Inc.
 0062-15 03-22-94

PROPOSED DREDGING AND DISPOSAL
 VENTURA HARBOR

County: Ventura State: California
 Appl. by: Ventura Port District

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 5487



Applied Environmental
Technologies, Inc.
0062-15 03-24-94

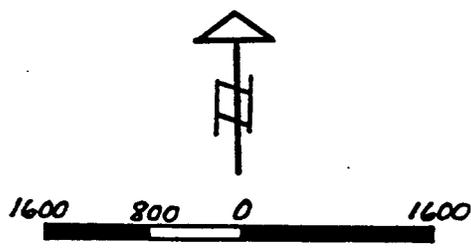
PROPOSED DREDGING AND DISPOSAL
VENTURA HARBOR

County: Ventura State: California
Appl. by: Ventura Port District

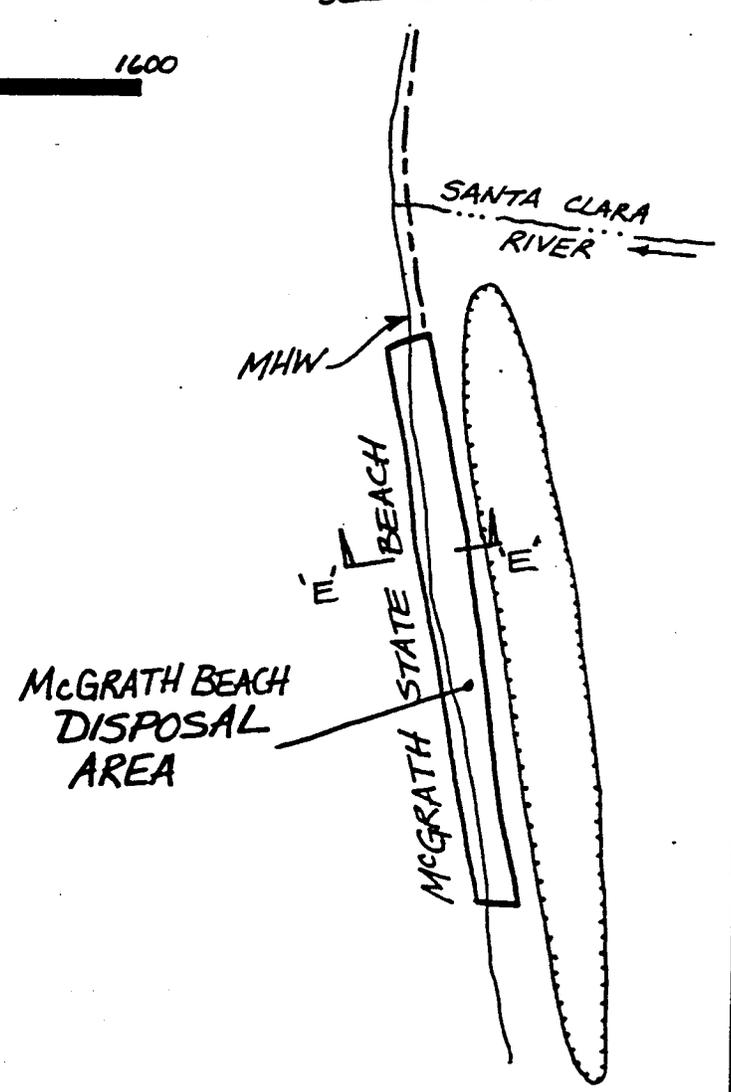
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SEE SHEET 2



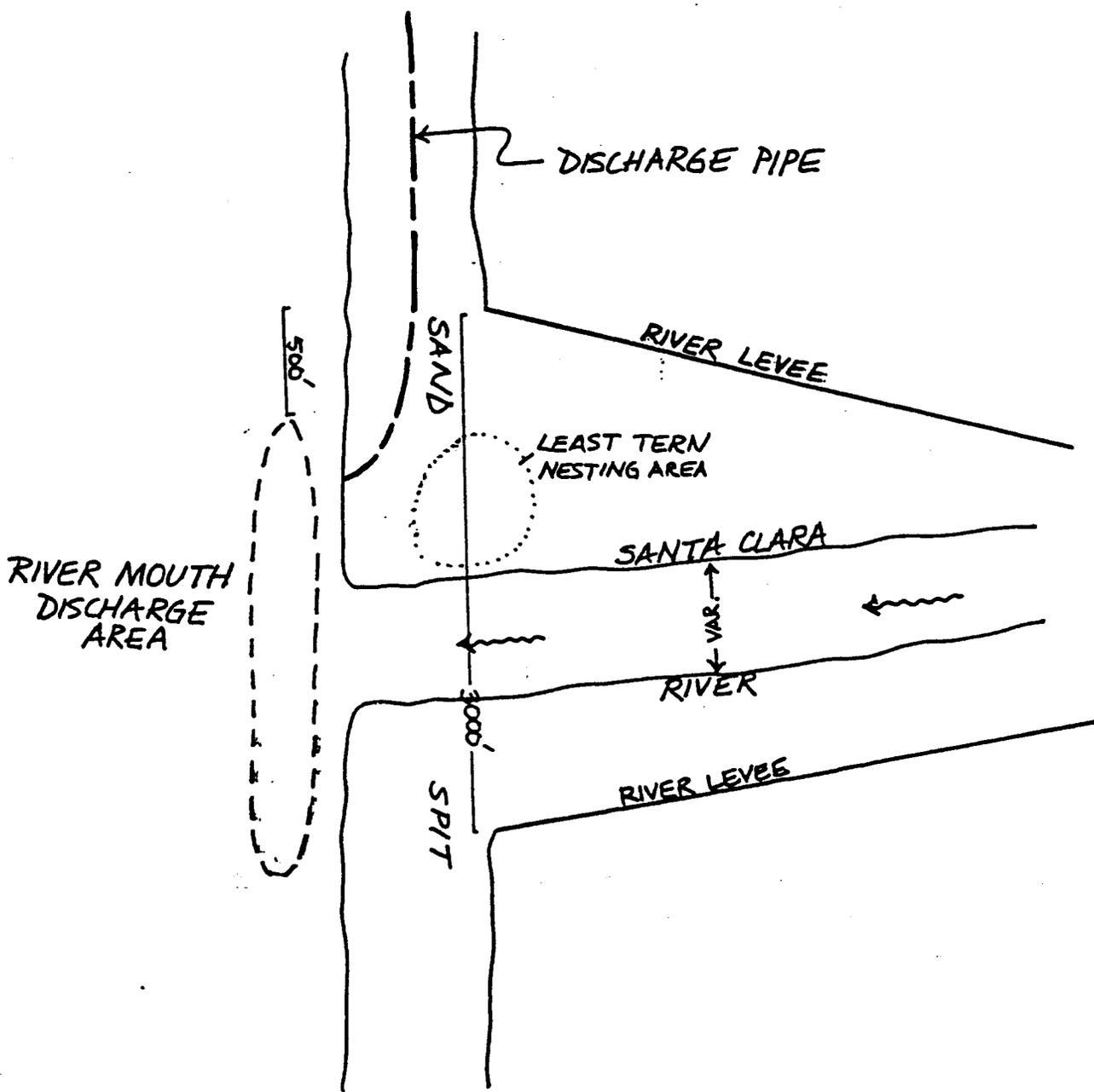
Applied Environmental
Technologies, Inc.
0062-15 03-24-94

PROPOSED DREDGING AND DISPOSAL
VENTURA HARBOR

County: Ventura State: California
Appl. by: Ventura Port District

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Applied Environmental
Technologies, Inc.
0062-15 03-22-94

PROPOSED DREDGING AND DISPOSAL
VENTURA HARBOR

County: Ventura State: California
Appl. by: Ventura Polynuclear

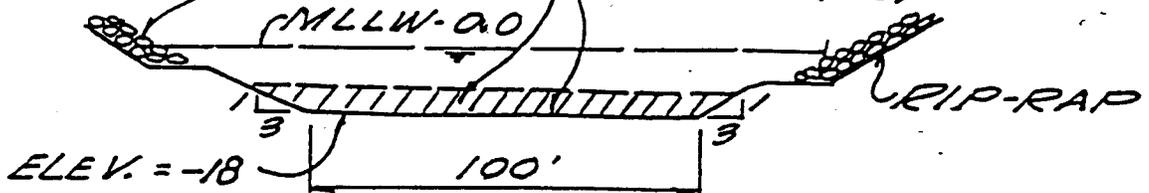
CALENDAR PAGE
MONTHLY PAGE

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OF 7
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MATERIAL TO BE REMOVED

RIP-RAP

ORIGINAL DREDGE DEPTH (-18)

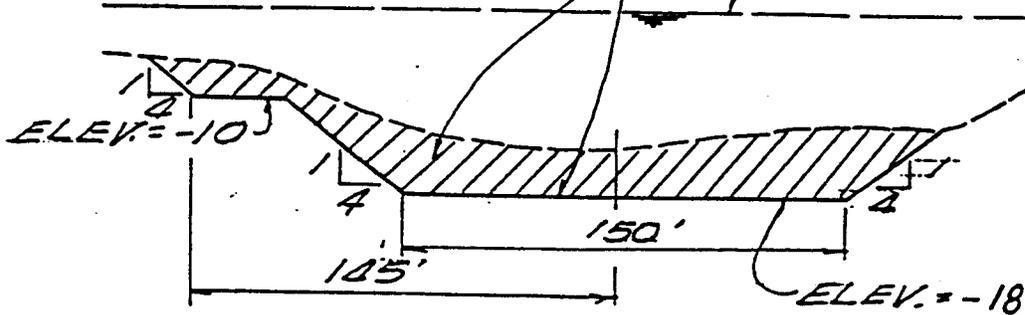


SECTION A-A
NO SCALE

MATERIAL TO BE REMOVED

ORIGINAL DREDGE DEPTH (-18)

MLLW = 0.0



SECTION B-B
NO SCALE

MLLW = 0.0

MATERIAL TO BE REMOVED
ORIGINAL DREDGE DEPTH (-18)

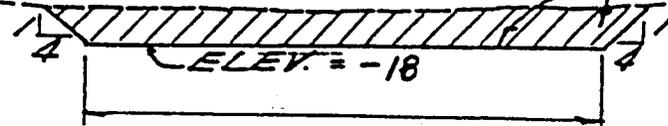
DISPOSAL
AREA I

MHW

+10

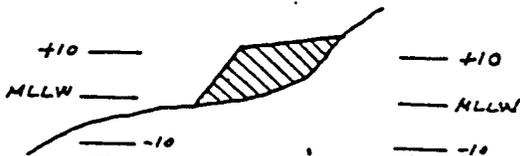
MLLW
0

-10



SECTION C-C
NO SCALE

SECTION D-D
NO SCALE



SECTION E-E
NO SCALE

Applied Environmental
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0062-15 03-22-94

PROPOSED DREDGING AND DISPOSAL
VENTURA HARBOR

County: Ventura State: California
Appl. by: Ventura Port District

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GROIN NO. 4

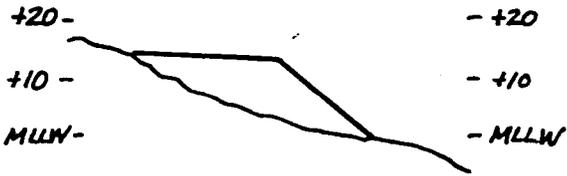
GROIN NO. 3

GROIN NO. 2

GROIN NO. 1

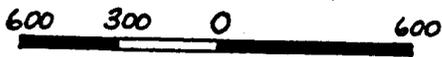
PIERPONT BEACH DISPOSAL AREA

VENTURA HARBOR



TYPICAL SECTION

NO SCALE



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0062-15 03-24-94

PROPOSED DREDGING AND DISPOSAL
VENTURA HARBOR

County: Ventura State: California
Appl. by: Ventura Port District

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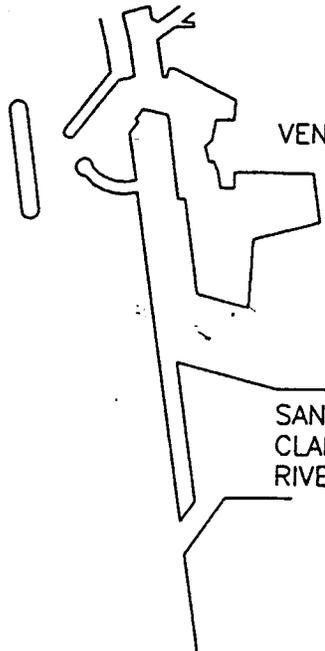
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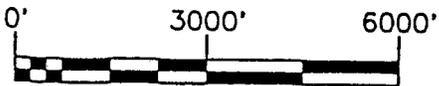
7 FATHOM LINE



VENTURA HARBOR

SANTA CLARA RIVER

x OFFSHORE SAMPLE LOCATION



Applied Environmental Technologies Inc.

OFFSHORE SAMPLE LOCATIONS

VENTURA PORT DISTRICT
VENTURA HARBOR

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7254

PROJECT NUMBER 0062-15

03-22-94

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:
STATE OF CALIFORNIA
State Lands Commission
1807 13th Street
Sacramento, CA 95814
Attn: Curtis L. Fossum
Telephone: (916) 323-8489

STATE OF CALIFORNIA-OFFICIAL
BUSINESS - Document entitled
to free recordation Pursuant
to Government Code § 27383

EXHIBIT "C"

NO TAX DUE -0-
SLC No. P 2881.9
AD 224

SPACE ABOVE THIS LINE FOR RECORDER'S USE

AGREEMENT BETWEEN THE STATE OF CALIFORNIA
AND THE UNITED STATES OF AMERICA

Pursuant to Section 6301.7 of the Public Resources Code

WHEREAS, by virtue of its sovereignty the State of California is the owner of certain tidelands and submerged lands within the State;

WHEREAS, the State Lands Commission, pursuant to Section 6301 of the Public Resources Code:

" . . . has exclusive jurisdiction over all ungranted tidelands and submerged lands owned by the State";

WHEREAS, Section 6301.7 of the Public Resources Code provides:

"The commission may negotiate with, and with the approval of the Governor may enter into agreements with, the United States, or any official, agency, licensee, permittee, or lessee thereof, concerning the effect, if any, of any then existing or proposed or projected fill, dredging, or construction operations or other activities on or adjacent to tide and submerged lands within the County of Los Angeles or Ventura upon the boundary between state-owned submerged lands and the outer continental shelf lands under the jurisdiction of the United States, or concerning the location of that boundary. The agreements may include, but are not limited to, a waiver on behalf of the State of California of any state-owned submerged lands which would otherwise inure to the state as a result of any such fill, dredging, or construction operations, or other activities. The commission shall, before entering into any such agreement, find that such agreement is in the public interest.";

WHEREAS, the Ventura Port District and the United States Army Corps of Engineers have requested that the State of California, acting by and through the State Lands Commission and Governor, waive any claims of potential property interests which might otherwise inure to the State resulting from beach replenishment activities along the shore of the Pacific Ocean associated with the Ventura Port District's maintenance dredging project PN 94-481-TW;

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WHEREAS, this project will entail the placement of approximately 3,250,000 cubic yards of fill along a nearly two-mile stretch of tide and submerged lands along the coast, both north and south of the entrance to Ventura Harbor, as shown on sheets 1 through 7 of PN 94-481-TW on file in the office of the State Lands Commission, thereby creating a substantial public benefit;

WHEREAS, regulations at 33 CFR 320.4 (f) require that applications for structures or work affecting coastal waters be reviewed by the Office of the Solicitor, Department of the Interior, to determine the effects of the proposed project on the outer continental rights of the United States;

WHEREAS, the Solicitor informed the Corps of Engineers that the proposed fill may affect the baseline from which the three-mile territorial sea is measured thereby extending California's seaward ownership boundary under the Submerged Lands Act (43 U.S.C. §§ 1301-1315);

WHEREAS, the United States Supreme Court in a Supplemental Decree in *United States v. California* (Original No. 5) entered on January 31, 1966, decreed that the offshore ownership of the State boundary is located three geographical miles seaward from the nearest point or points on the "coast line" and that the term "coast line" means in part: (1) the line of mean lower low water on the mainland; (2) that line as heretofore or hereafter modified by natural or artificial means; and (3) the outermost permanent harbor works that form an integral part of the harbor system within the meaning of Article 8 of the Convention on the Territorial Sea and the Contiguous Zone, T.I.A.S. No. 5639;

WHEREAS, the State of California maintains that in the area of the proposed fill the offshore ownership boundary of the State is located three geographical miles from structures which qualify as outermost harbor works within the meaning of the Convention, while the United States contends that the offshore ownership boundary of the State in the area of the proposed fill is located three geographical miles from the line of mean lower low water and that the proposed fill could correspondingly move the offshore boundary seaward which in turn could cause jurisdiction over submerged lands previously held by the United States to be relinquished to the State of California, and to which the United States objects;

WHEREAS, such objection may be removed if the State of California agrees, pursuant to the authority of Public Resources Code Section 6301.7, to waive any change in the boundary

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between State-owned submerged lands and outer continental shelf lands of the United States caused by the fill proposed by this project;

WHEREAS, the State Lands Commission, by Minute Item #42, at its regularly scheduled meeting on March 1, 1995, found and resolved:

"that with respect to the proposed waiver agreement: A. The benefits from the project outweigh the potential loss of additional offshore lands. B. The agreement is in the best interests of the public and the State."

NOW, THEREFORE, by virtue of Section 6301.7 of the Public Resources Code, the State by and through the State Lands Commission and with the approval of the Governor waives on behalf of the State of California its claim, for the purpose of determining the boundary between state-owned submerged lands and the outer continental shelf lands under the jurisdiction of the United States or concerning the location of that boundary, to any State-owned tide and submerged lands which would otherwise inure to the State as a result of the deposition of fill on tide and submerged lands of the Pacific Ocean in Ventura County as shown on sheets 1 through 7 of PN 94-481-TW on file in the office of the State Lands Commission. This waiver shall be effective upon:

- a. Receipt of written notification from the Bureau of Land Management, U. S. Department of the Interior, or other appropriate federal agency that the United States withdraw its objections to the fill.
- b. Receipt of authorization for the fill from the United States Government.

This agreement is solely a waiver of the effect, if any, of the placement of the fill proposed in PN 94-481-TW as shown on sheets 1 through 7, thereof, on file in the office of the State Lands Commission, on the offshore ownership boundary of the State of California and is in no way an agreement as to the location of that boundary by either the State of California or the United States.

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Accepted:

UNITED STATES OF AMERICA

By _____

DATE _____

APPROVED AS TO FORM:

Daniel E. Lungren
California Attorney General

By: _____
Jan Stevens
Assistant Attorney General

STATE OF CALIFORNIA
acting by and through
STATE LANDS COMMISSION

By _____
ROBERT C. HIGHT
Executive Officer

DATE _____

IN APPROVAL WHEREOF, I,
PETE WILSON

Governor of the State of California have set my hand and caused the Seal of the State of California to be hereunto affixed pursuant to Section 6301.7 of the Public Resources Code of the State of California. Given under my hand at the City of Sacramento, this, the _____ day of _____, in the year of our Lord one thousand nine hundred and ninety-five.

Attest:

Secretary of State

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