

**CALENDAR ITEM
C115**

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06/23/11
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**CONSIDER THREE RELATED LAND EXCHANGE AGREEMENTS
TO RELOCATE CERTAIN EASEMENTS LOCATED AT BERTH 200,
WITHIN THE WILMINGTON DISTRICT OF THE PORT OF LOS ANGELES,
LOS ANGELES COUNTY, PURSUANT TO CHAPTER 651, STATUTES OF 1929,
AS AMENDED BY CHAPTER 926, STATUTES OF 1979**

PARTIES

State Lands Commission

Port of Los Angeles

City of Long Beach

Ultramar, Inc.

Air Products and Chemicals, Inc.

INTRODUCTION

The City of Los Angeles ("City"), acting by and through the Port of Los Angeles ("POLA"), has requested that the State of California, acting by and through the State Lands Commission ("Commission") consider three related exchange agreements ("Exchange Agreements") to relocate certain surface and use easements within the Berth 200 area. The first Exchange Agreement ("Long Beach Agreement") is between the Commission, the POLA and the City of Long Beach ("Long Beach"). The second Exchange Agreement ("Ultramar Agreement") involves the Commission, the POLA and Ultramar, Inc. ("Ultramar"); and the third Exchange Agreement ("Air Products Agreement") is between the Commission, the POLA and Air Products and Chemicals, Inc. ("Air Products"). The purpose of these Exchange Agreements is to facilitate the relocation of the Pier A rail yard to the Berth 200 area by relocating certain surface and use rights within the same area of the Wilmington District of the Port of Los Angeles.

BACKGROUND

The City, acting by and through the POLA, is the trustee of certain tide and submerged lands with the City of Los Angeles granted to it by the Legislature by Chapter 656, Statutes of 1911, as amended by Chapter 115, Statutes of 1917, Chapter 768, Statutes

of 1921; and Chapter 651, Statutes of 1929, as amended by Chapter 443, Statutes of 1951, Chapter 1046, Statutes of 1970, Chapter 926, Statutes of 1979, Chapter 923, Statutes of 1985, Chapter 1130, Statutes of 2002 (“Granting Statutes”).

In 1969, the City filed a quiet title action to resolve disputes over ownership of more than 225 acres of land in the Wilmington District of the City of Los Angeles lying west of Henry Ford Avenue in the general vicinity of the Consolidated Channel. In the action, *City of Los Angeles v. Los Angeles & Salt Lake Railroad Co. et al.* (Los Angeles Superior Court Case # 961846), the City of Los Angeles alleged that the subject property consisted of sovereign tide or submerged land and was thus owned by the City as trustee of the State of California pursuant to the Granting Statutes. Union Pacific Corporation’s subsidiaries, Union Pacific Land Resources and Champlin Petroleum, which had used the property for oil field operations and other purposes for more than 40 years, traced their claim of title back to a Spanish land grant.

In 1980, the quiet title action was resolved by a settlement between Union Pacific Land Resources Corporation, Champlin Petroleum Company, the City, and the State of California, acting by and through the Commission. The settlement is referred to as the “Condock I Settlement” and was recorded on March 31, 1980 as instrument no. 80-325180 by the County Recorder of Los Angeles County. The Commission approved the settlement on March 18, 1980 (Minute Item #18), pursuant to the Chapter 651, Statutes of 1929 as amended by Chapter 926, Statutes of 1979.

The Commission and the City exchanged certain properties with Union Pacific to effectuate the settlement. The major terms of the Condock I Settlement were:

- i. The City and the Commission acquired from Union Pacific and its subsidiaries (collectively “Union Pacific”) title to the surface estate in approximately 80 acres lying north of the Consolidated Channel and 5.25 acres lying south of the Consolidated Channel with Union Pacific reserving and retaining the underlying mineral interests, and reserving precisely defined surface entry and use rights to serve continuing oil operations;
- ii. The City and the Commission acquired from Union Pacific fee title to the approximately 40 acres of water area of the Consolidated Channel subject to permanent navigation rights retained by Union Pacific for the benefit of its property lying south of the Channel;
- iii. Union Pacific was granted a 50-year subsurface mineral lease for the approximately 40-acre area underlying the Consolidated Channel, without any right of surface entry;
- iv. Fee title to both surface and minerals, free of the public trust, to approximately 120 acres of land south of the Consolidated Channel known as the “Western Peninsula” was confirmed in Union Pacific;

v. The City paid to Union Pacific the sum of \$6,000,000.

Most of these transactions were accomplished by means of the *Conveyance by Union Pacific Land Resources Corporation and Champlin Petroleum Company to City of Los Angeles and State of California*, which was recorded on March 31, 1980 as instrument no. 80-325185 by the County Recorder of Los Angeles County which is hereinafter referred to as the "Condock Conveyance".

In 1994, the City of Long Beach acquired the surface entry and use rights reserved by Union Pacific in the Condock Conveyance as evidenced by paragraph 19 of Annex II of the *Conveyance from Union Pacific Land Resources Company and Union Pacific Resources Company to the City of Long Beach* which was recorded on March 22, 1994 as instrument no. 94-559636 by the County Recorder of Los Angeles County. Union Pacific conveyed a portion of the permanent utility and pipeline easement to Ultramar in 1989. Air Products obtained another portion of the permanent utility and pipeline easement from Ultramar in 2008.

The POLA now desires to construct a rail yard in the vicinity of Berth 200 in the Port of Los Angeles, which area is burdened by the surface entry and use rights Long Beach acquired as successors to Union Pacific's rights in the Condock I Settlement. More than 30 years have passed since execution of the Condock Conveyance. The technology of oil drilling and production has advanced and many of the wells and appurtenant facilities in use at the time of the Condock Conveyance are no longer in use and/or are no longer needed and have been abandoned by Long Beach or its predecessor. Long Beach, Ultramar and Air Products have agreed to relocate their easements within the Berth 200 area.

POLA holds the Berth 200 area as sovereign lands in trust and is prohibited by the State Constitution and the Granting Statutes from conveying any land interests, including easement interests, in perpetuity. Therefore, an exchange of easements, with the Commission facilitating the conveyances, is necessary to relocate the subject easements and effectively terminate any sovereign public trust interest on the relocated easements and impress the public trust on the existing easements that POLA will be receiving through the exchange.

PROPOSED EXCHANGE AGREEMENTS

Currently, POLA holds the Berth 200 area as sovereign lands, in trust, pursuant to the Granting Statutes, but the surface easements located within the Berth 200 area owned by Long Beach, Ultramar and Air Products are free of the trust pursuant to the Condock I Settlement. POLA desires to relocate those existing easements within the Berth 200 area so that it may build a rail yard to implement on-dock rail usage at the TraPac terminal at Berth 200.

First, Long Beach, Ultramar and Air Products will quitclaim their entire interests in the existing easements collectively referred to as the Public Trust Easements and depicted on Exhibit B, to the Commission who will quitclaim them in trust to POLA, subject to the

Granting Statutes. In exchange, POLA will grant to the Commission reciprocal relocated easements collectively referred to as the Trust Termination Easements and depicted on Exhibit C. The Commission will quitclaim the Trust Termination Easements to Long Beach, Ultramar and Air Products respectively, free of any public trust interests.

The land underlying the Trust Termination Easements has been filled and reclaimed, is cut off from water access, and is no longer needed for trust purposes. The land underlying the Trust Termination Easements constitutes a relatively small portion of the filled and unfilled tidelands within that have been granted to the POLA.

Below is a summary of the easements that will be exchanged in each of the three Exchange Agreements:

LONG BEACH

Long Beach's current surface and use easements will be exchanged for relocated easements which include:

- Surface Use Rights for Present Facilities. There are approximately 30 abandoned oil wells and eight active wells owned by Long Beach shown on Exhibit B. Long Beach will quitclaim its general right of access to the surface of the land in exchange for POLA granting surface right easements to the eight active wells.
- Future Drilling Areas. Long Beach owns the surface rights to several areas totaling approximately 548,000 square feet at Berth 200 which are reserved for future drilling. POLA will grant new areas shown on Exhibit C, which will encompass a smaller overall area of approximately 325,000 square feet. Due to advancements in technology, a 1:1 replacement is not necessary.
- Right to Designate Work Areas. Long Beach has the ability to designate work areas on all the existing wells described above. However, work areas are only required for active wells. Long Beach will quitclaim its general right to establish work areas surrounding all wells in exchange for POLA granting Long Beach the right to designate work areas surrounding the active wells.
- Pipelines and Wireline Easement. Long Beach has the general right to construct, maintain, use and replace pipelines and utility lines within the land at Berth 200. Long Beach will quitclaim this easement in exchange for the right to construct, maintain, use and replace pipelines and wires in a specific corridor as shown on Exhibit C.
- Access Rights. Long Beach has the right to enter upon and use the land at Berth 200. Long Beach will quitclaim this general access right in exchange for POLA providing access to future drilling areas described above and shown on Exhibit C.
- Railroad Easement. Long Beach will quitclaim its railroad easement to POLA and State and will not receive a relocated railroad easement.

- Permanent Pipeline and Utility Corridor Easement. Long Beach no longer requires this corridor so it will quitclaim its easement in the existing permanent pipeline and utility corridor to POLA and the State and will not be receiving a relocated pipeline corridor easement.

ULTRAMAR

Ultramar currently has a Permanent Pipeline and Utility Corridor Easement which will be quitclaimed to POLA and the State in exchange for a relocated Permanent Pipeline and Utility Corridor Easement.

AIR PRODUCTS

Air Products currently has a Permanent Pipeline and Utility Corridor Easement which will be quitclaimed to POLA and the State in exchange for a relocated Permanent Pipeline and Utility Corridor Easement.

Both Ultramar and Air Products existing Permanent Pipeline and Utility Corridor Easements are located in the same location and are depicted on Exhibit B. The relocated Permanent Pipeline and Utility Corridor Easements are depicted on Exhibit C.

LEGAL REQUIREMENTS

Pursuant to the Chapter 651, Statutes of 1929, as amended by Chapter 926, Statutes of 1979, whenever it shall appear expedient to the City and in the best interests of the State for purposes set out in the Granting Statutes, and it appears no substantial interference with the trust uses and purposes will ensue, the City may exchange lands of equal or greater value located within the Wilmington District effective upon Commission approval and findings of equal or greater value.

- A.** The land underlying the Trust Termination Easements has been improved, filled, and reclaimed, and has thereby been excluded from the public channels and the Trust Termination Easements are no longer available, useful or susceptible of being used for navigation, fishing or for other trust uses and purposes and are no longer in fact tidelands or submerged lands and any and all public trust interest or state sovereign title existing solely within the Trust Termination Easements will be terminated. The land underlying the Trust Termination Easements constitutes a relatively small portion of the filled and unfilled tidelands within the City that have been granted to City.
- B.** The exchanges provided for in these Exchange Agreements are in the best interests of the State.
- C.** The monetary value of the Public Trust Easements received by the State in trust pursuant to the exchanges provided for in these Exchange Agreements are equal to or greater than that of the Trust Termination Easements given by the State in the exchanges provided for in these Exchange Agreements.

- D. The Public Trust Easements to be conveyed to the State and subsequently conveyed to the City, in trust, pursuant to these Exchange Agreements are to be accepted as having the legal character of tide and submerged lands, to be held by the City for the benefit of the people of the State of California for public trust purposes, pursuant to the Granting Statutes.

STAFF ANALYSIS

Commission staff has reviewed and analyzed in-house documents and the information submitted for the three proposed Exchange Agreements. The Parties have conducted independent studies and evaluations of the monetary value of the property interests that are the subject of these Exchange Agreements. The State's independent evaluation of the monetary value of property interests that are the subject of these Exchange Agreements has shown that the monetary value of the Public Trust Easements is equal to or greater than the monetary value of the Trust Termination Easements.

POLA must relocate the Pier A rail yard to the Berth 200 area, which will ultimately allow for implementation of on-dock rail usage at the TraPac terminal. The current location of surface easements interferes with the development of a rail yard at Berth 200. The Exchange Agreements are in the best interests of the State because they allow for rail yard development at Berth 200 and facilitate the implementation of on-dock rail usage at the TraPac terminal, which will increase cargo throughput and reduce the need for trucks to transfer cargo within the immediate area. In addition, these agreements provide the Commission with protection from hazardous material liability. Further, through these Exchange Agreements, POLA is eligible to receive approximately \$65 million in state and federal grants for the rail yard development.

STAFF RECOMMENDATION

As described in the preceding paragraphs, the facts support each of the necessary findings the Commission must make. Commission staff and the Attorney General's Office have reviewed the three proposed Exchange Agreements and believe all necessary legal elements have been met. Staff therefore recommends that the Commission approve the three proposed Exchange Agreements and authorize their execution and the execution and recordation of all documents necessary to implement them.

OTHER PERTINENT INFORMATION

1. The State, acting by and through the Commission, is authorized under Division 6 of the Public Resources Code, and specifically pursuant to Chapter 651, Statutes of 1929 as amended by Chapter 926, Statutes of 1979, to enter into the Long Beach, Ultramar, and Air Products Exchange Agreements.
2. It is anticipated that the Los Angeles Board of Harbor Commissioners will consider these Exchange Agreements on July 7, 2011. POLA staff has represented that it will recommend approval of the Exchange Agreements.
3. It is anticipated that the Los Angeles City Council will consider the Exchange Agreements in July 2011.

4. The Long Beach City Council approved the Long Beach agreement on May 17, 2011.
5. The Final Environmental Impact Report ("EIR") on the Berth 136-147 Container Terminal Project (SCH# 2003104005) was approved by the Los Angeles Harbor Department on December 6, 2007.
6. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt by statute from the requirements of CEQA. The project is exempt because it involves settlement of title and boundary problems.

Authority: Public Resources Code section 21080.11 and Title 14, California Code of Regulations, section 15061, subd. (b)(1).

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370, et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS

- A. Location and Site map
- B. Plat Showing Existing Easements (Public Trust Easements)
- C. Plat Showing Relocated Easements (Trust Termination Easements)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Long Beach, Ultramar and Air Products Exchange Agreements:

Find that the activity is exempt from the requirements of CEQA as a statutorily exempt project pursuant to Public Resources Code section 21080.11, settlement of title and boundary problems and to exchanges or leases in connection with those settlements.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370, et seq.

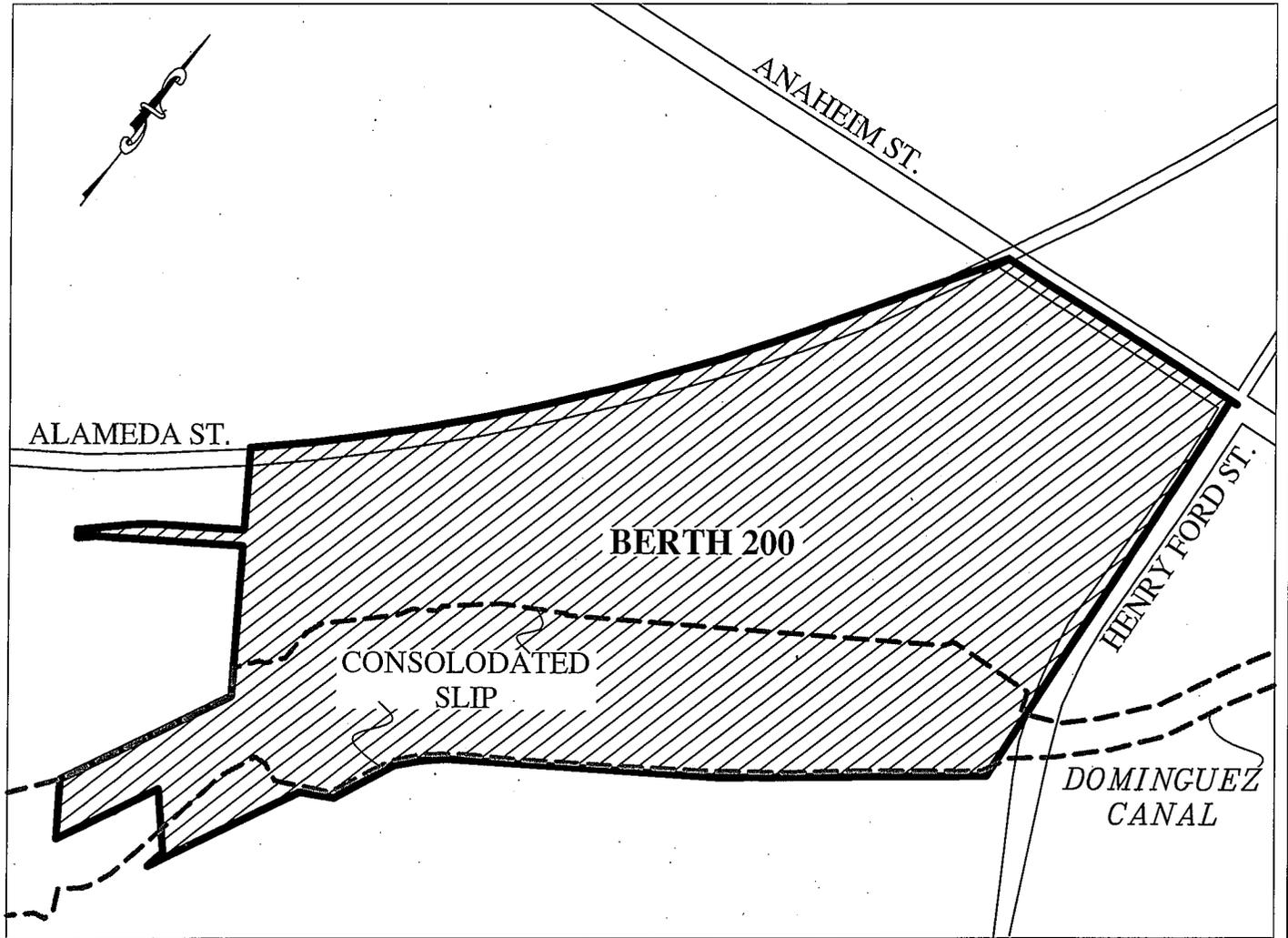
AUTHORIZATION:

1. Based upon the foregoing, the information contained in the Commission's files and presented at the public meeting on the Long Beach, Ultramar and Air Products Exchange Agreements, find, upon the close of escrow, that with respect to the Long Beach, Ultramar and Air Products Exchange Agreements:
 - A. The land underlying the Trust Termination Easements has been improved, filled, and reclaimed, and have thereby been excluded from the public channels and the Trust Termination Easements are no longer available, useful or susceptible of being used for navigation, fishing or for other trust uses and purposes and are no longer in fact tidelands or submerged lands and any and all public trust interest or state sovereign title existing solely within the Trust Termination Easements will be terminated. The land underlying the Trust Termination Easements constitutes a relatively small portion of the filled and unfilled tidelands within the City of Los Angeles that have been granted to the City of Los Angeles.
 - B. The monetary value of the Public Trust Easements received by the State in trust pursuant to the exchange provided for in these Long Beach, Ultramar and Air Products Exchange Agreements are equal to or greater than that of the Trust Termination Easements given by the State in the exchange provided for in these Long Beach, Ultramar and Air Products Exchange Agreements.
 - C. The Public Trust Easements to be conveyed to the State and subsequently conveyed to the City, in trust, pursuant to these Long Beach, Ultramar and Air Products Exchange Agreements are to be accepted as having the legal character of tide and submerged lands, to be held by the City for the benefit of the people of the State of California for public trust purposes, pursuant to the Granting Statutes.
 - D. The Long Beach, Ultramar and Air Products Exchange Agreements are otherwise in the best interest of the statewide public.
2. Approve and authorize the execution, acknowledgment, and recordation of the Long Beach, Ultramar and Air Products Exchange Agreements and associated deeds and acceptances by the Commission's Executive Officer on behalf of the California State Lands Commission, in substantially the form of the copies of such agreements on file in the Sacramento Office of the Commission.

3. Authorize and direct staff of the Commission and/or the California Attorney General to take all necessary or appropriate action on behalf of the Commission, including the execution, acknowledgement, acceptance and recordation of all documents as may be necessary or convenient to carry out the Long Beach, Ultramar and Air Products Exchange Agreements; and to appear on behalf of the Commission in any legal proceeding relating to the subject matter of the Long Beach, Ultramar, and Air Products Exchange Agreements.

NO SCALE

SITE



Wilmington District, Port of Los Angeles

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

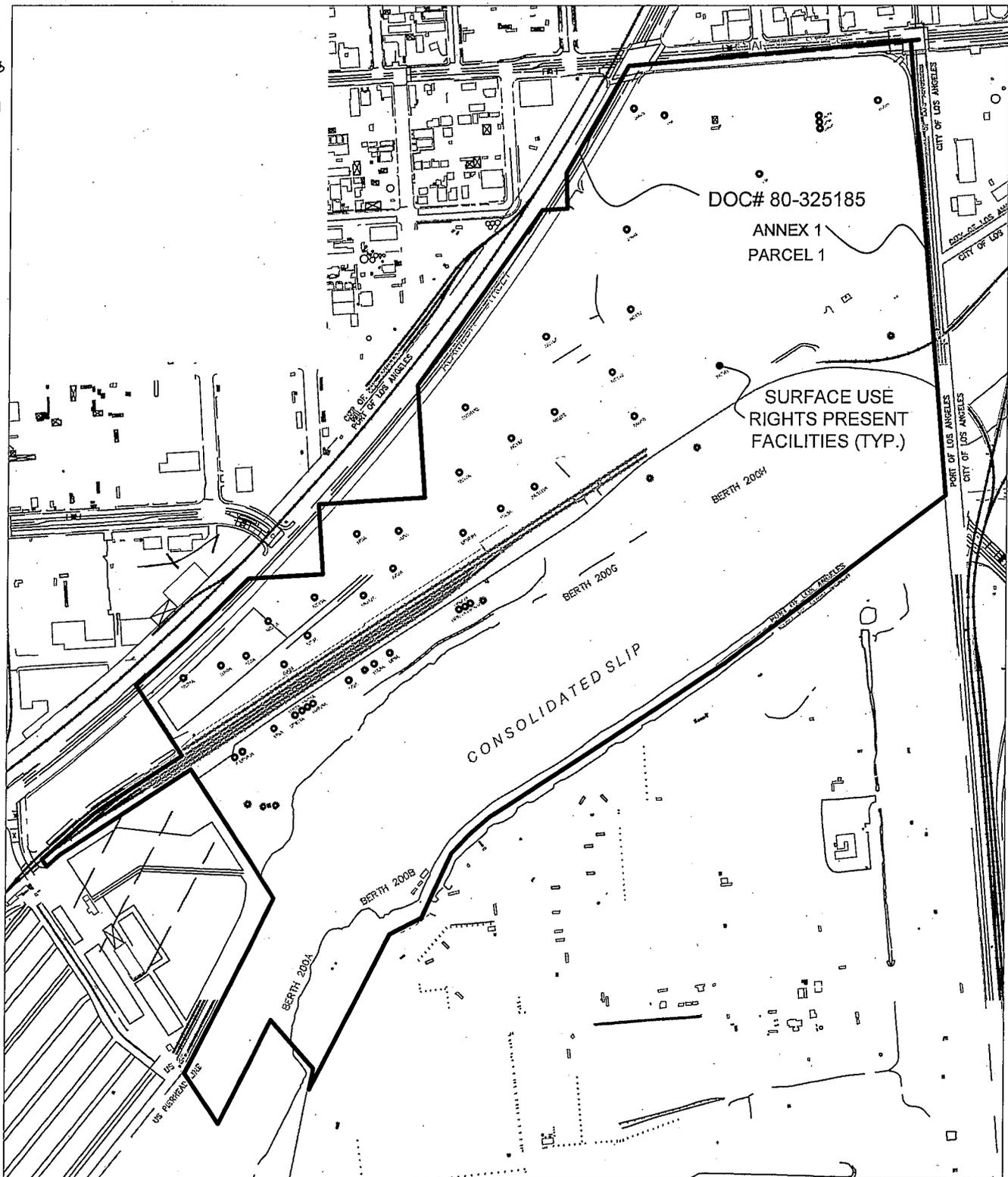
This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit A

W 26479
PORT OF LOS ANGELES
G05-04
LOS ANGELES COUNTY



MJF 6/09/11



NOT TO SCALE

EXHIBIT B-1

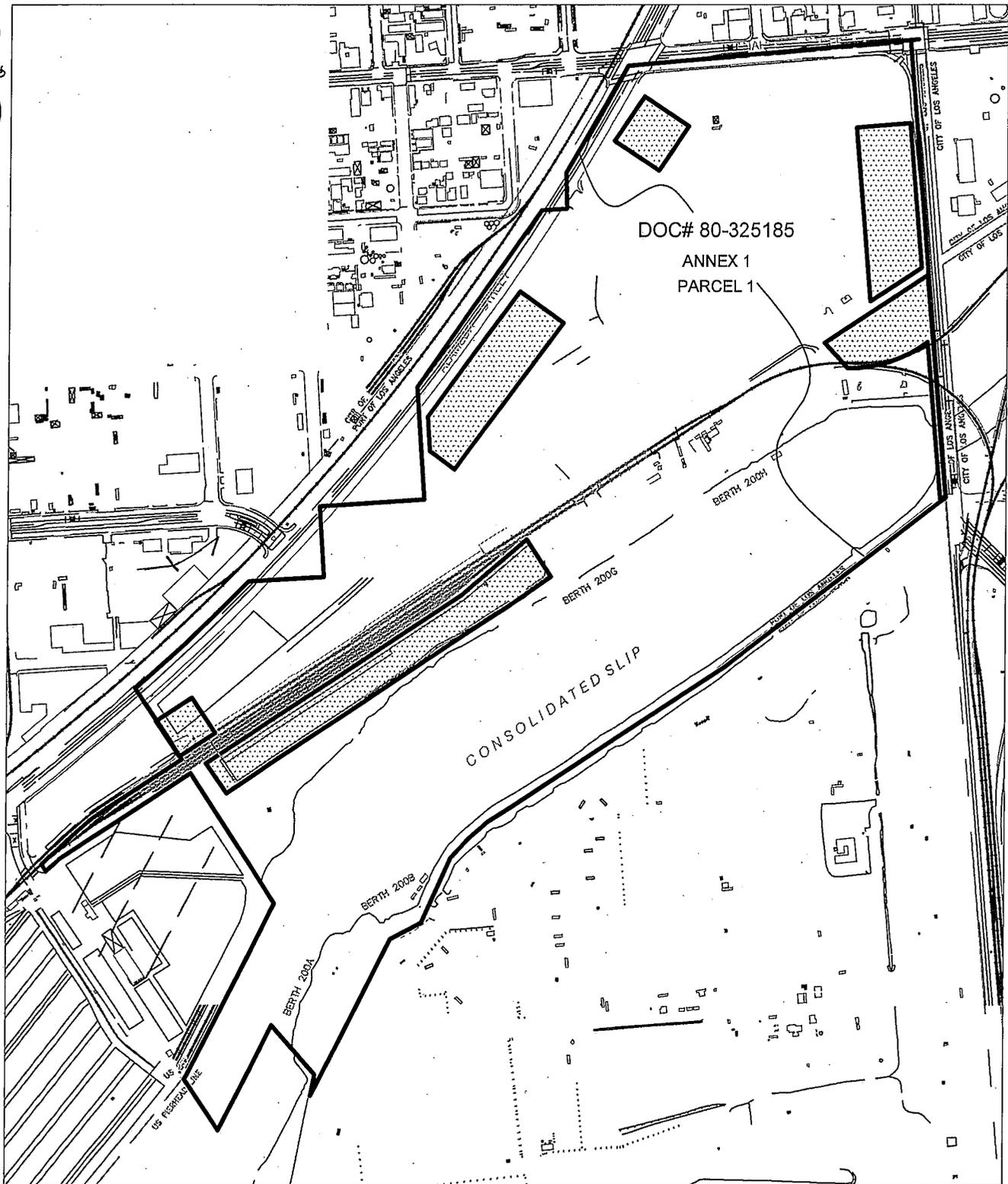
PUBLIC TRUST EASEMENTS - CITY OF LONG BEACH

MJF 6/15/11

Existing Surface Use Rights Present
Facilities And Work Areas
Port of Los Angeles

CALIFORNIA STATE
LANDS COMMISSION





NOT TO SCALE

EXHIBIT B-2

PUBLIC TRUST EASEMENTS - CITY OF LONG BEACH

MJF 6/15/11

Existing Future Drill Areas
Port of Los Angeles

CALIFORNIA STATE
LANDS COMMISSION



*PIPELINE AND WIRELINE
ACCESS EASEMENT OVER
ENTIRE PARCEL

DOC# 80-325185

ANNEX 1
PARCEL 1

PERMANENT PIPELINE AND UTILITY CORRIDOR

RAIL EASEMENT

CONSOLIDATED SLIP

BERTH 2004

BERTH 2003

BERTH 2005

BERTH 2004

NOT TO SCALE

EXHIBIT B-3

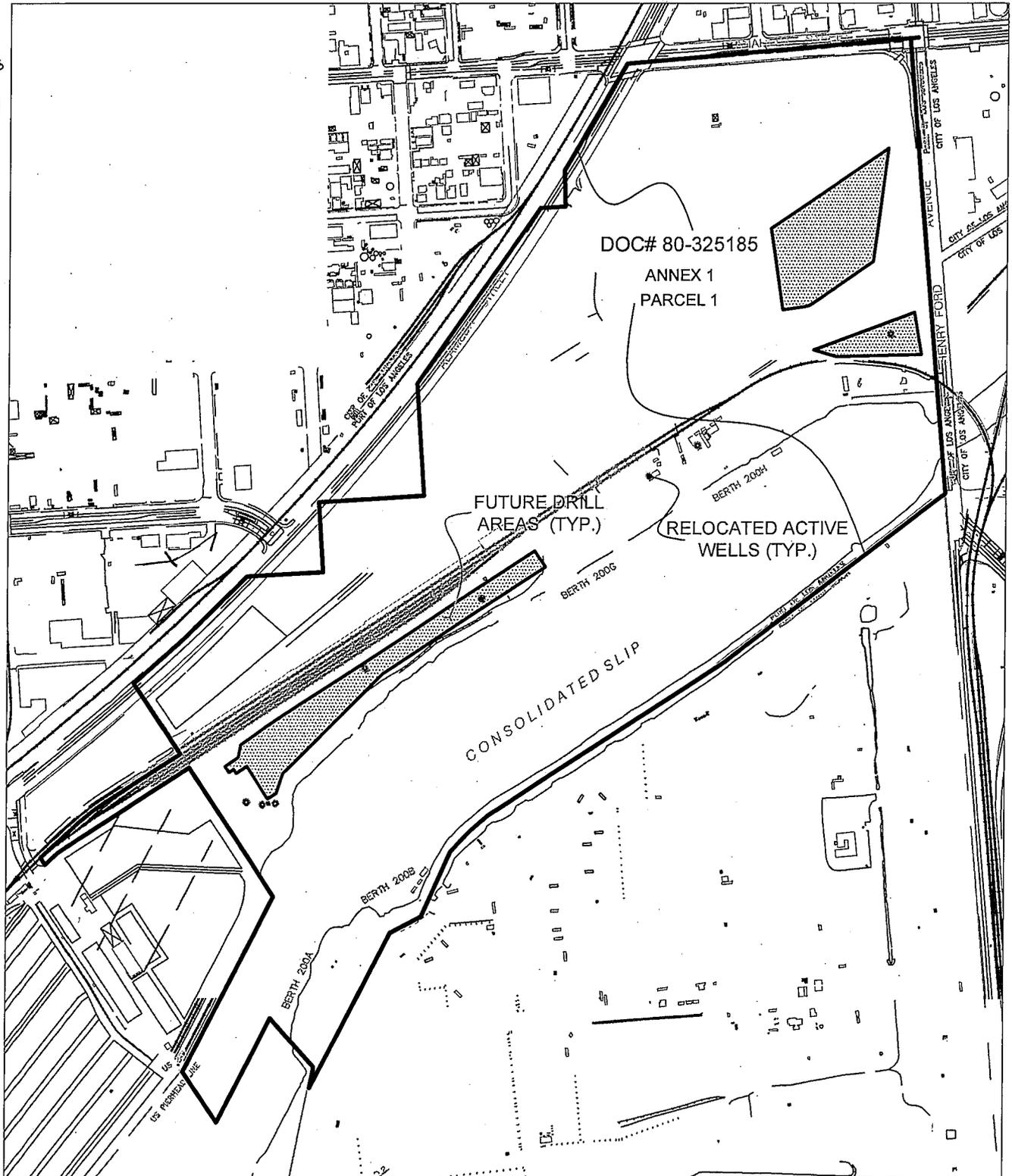
PUBLIC TRUST EASEMENTS - CITY OF LONG BEACH, ULTRAMAR AND AIR PRODUCTS

MJF 6/15/11

Existing Pipeline, Wireline, Rail and
Permanent Pipeline and Utility Corridor
Port of Los Angeles

CALIFORNIA STATE
LANDS COMMISSION





NOT TO SCALE

EXHIBIT C-1

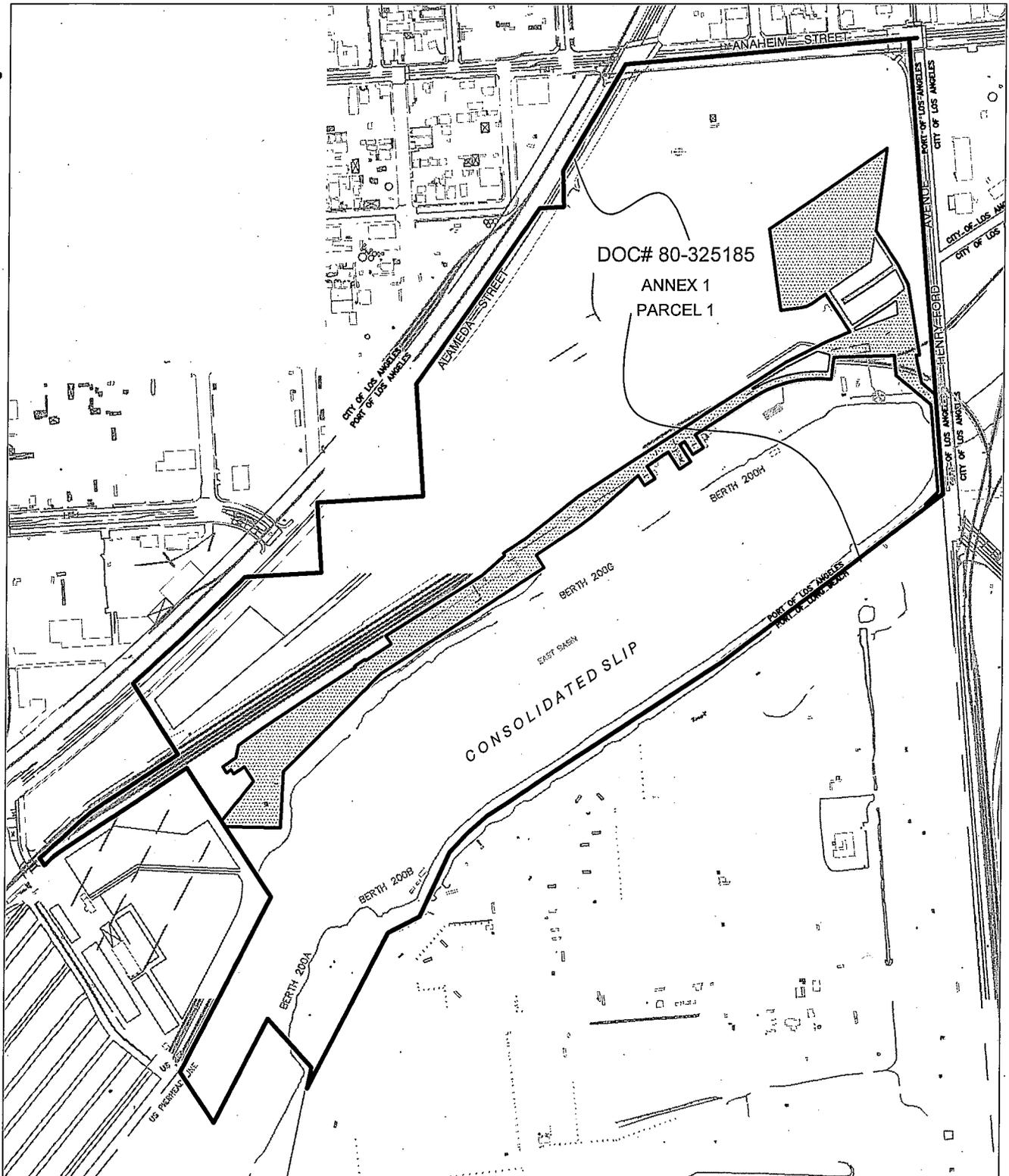
TRUST TERMINATION EASEMENTS - CITY OF LONG BEACH

MJF 6/15/11

Relocated Active Wells, Future Drilling Areas, and Work Areas
Port of Los Angeles

CALIFORNIA STATE
LANDS COMMISSION





NOT TO SCALE

EXHIBIT C-2

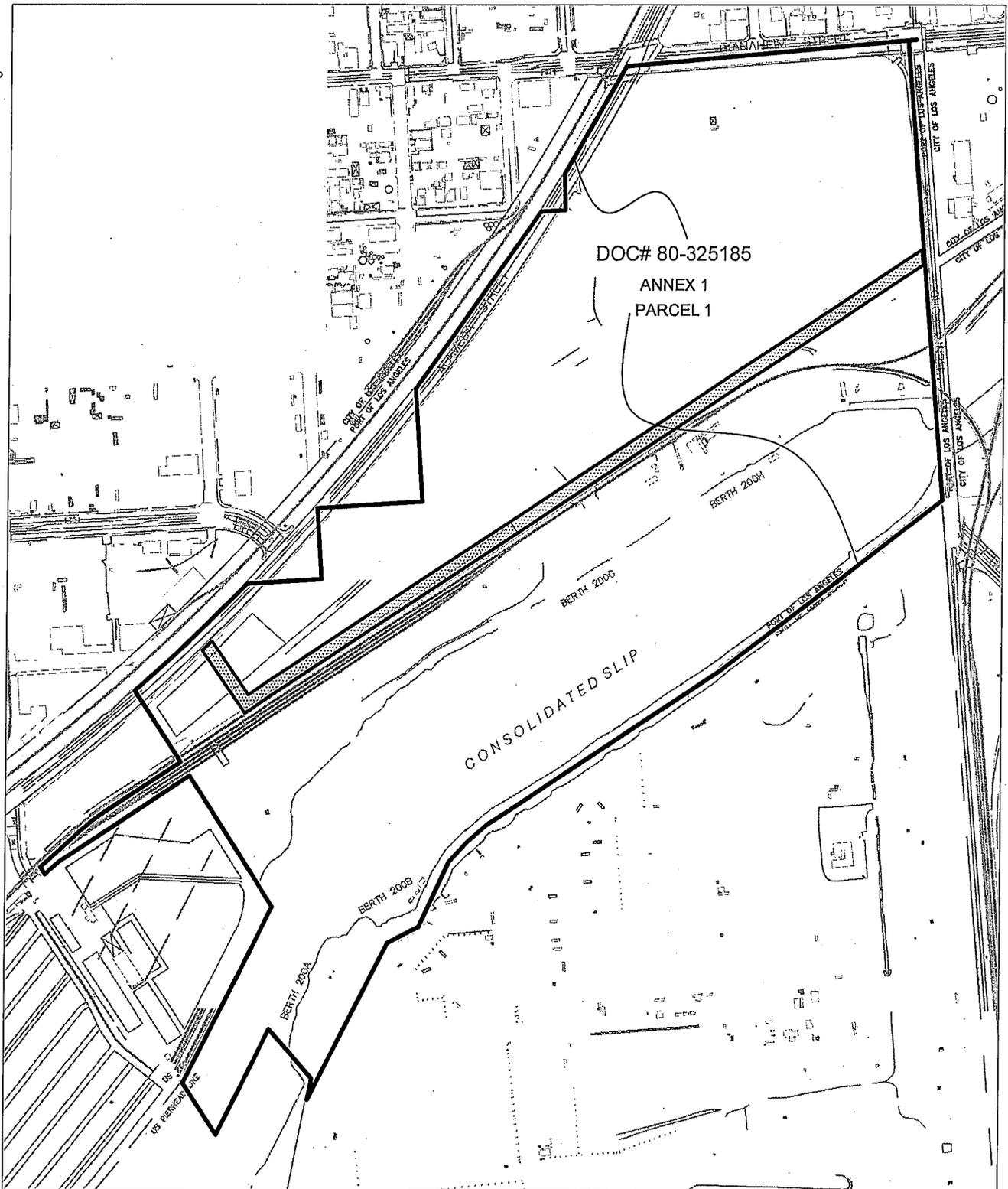
TRUST TERMINATION EASEMENTS - CITY OF LONG BEACH

MJF 6/15/11

Relocated Pipeline and
Wireline Easements
Port of Los Angeles

CALIFORNIA STATE
LANDS COMMISSION





NOT TO SCALE

EXHIBIT C-3

TRUST TERMINATION EASEMENTS - ULTRAMAR AND AIR PRODUCTS

MJF 6/15/11

Relocated Permanent Pipeline and
Utility Corridor
Port of Los Angeles

CALIFORNIA STATE
LANDS COMMISSION

