



California Regional Water Quality Control Board

San Diego Region



Linda S. Adams
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Arnold
Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

March 10, 2009

In reply refer to: WPS:08C-083:JEbsen

Certified Mail Number:
7008 1140 0002 4285 3568

Todd Roberts
Marine Group Boat Works
997 G Street
Chula Vista, CA 91910

File No.	08C-083
WDID:	9 000001857
<u>CIWQS</u>	
Place ID:	728997
Reg. Measure ID:	354866
Party ID:	27797
Person ID:	490729

Dear Mr. Roberts:

SUBJECT: Action on Request for Clean Water Act Section 401 Water Quality Certification for the Marine Group Boat Works Maintenance Dredging Water Quality Certification No. 08C-083

Enclosed find Clean Water Act Section 401 Water Quality Certification (Certification) with acknowledgment of enrollment under State Water Resources Control Board Order No. 2003-017 DWQ for Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have received State Water Quality Certification for the Marine Group Boat Works Dredging project. A description of the project and location can be found in the project information sheet and on location and site maps compiled by the California Regional Water Quality Control Board, San Diego Region (Regional Board), which are included as Attachments 1 through 4.

Any petition for reconsideration of this Certification must be filed with the State Water Resources Control Board within 30 days of certification action (23 CCR § 3867). If no petition is received, it will be assumed that you have accepted and will comply with all the conditions of this Certification.

Failure to comply with all conditions of this Certification may subject you to enforcement actions by the Regional Board including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to." In order to assist us in the processing of your correspondence please

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.

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6002/11/E

T. Roberts, Marine Group Boat Works - 2 -
401 Certification 08C-083

March 10, 2009

include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

If you have any questions regarding this notification, please contact Ms. Jody Ebsen directly at 858-636-3146 or by email via jebsen@waterboards.ca.gov.

Respectfully,



JOHN H. ROBERTUS
Executive Officer

Enclosure:

Clean Water Act Section 401 Water Quality Certification No. 08C-083 for Marine Group Boat Works Dredging project, with 4 attachments

cc: Refer to Attachment 2 of Certification 2 for Distribution List.



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Acting Secretary for
Environmental
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Action on Request for
Clean Water Act Section 401 Water Quality Certification
and Waste Discharge Requirements
for Discharge of Dredged and/or Fill Materials.

**PROJECT: Marine Group Boat Works Maintenance Dredging
Certification No. 08C-083, WDID No. 9 00001857**

**APPLICANT: Marine Group Boat Works
997 G Street
Chula Vista, CA 91910
Attention: Todd Roberts**

<i>CIWQS</i>	
Place ID:	728997
Reg. Measure ID:	354866
Party ID:	27797
Person ID:	490729

ACTION:

<input type="checkbox"/> Order for Low Impact Certification	<input type="checkbox"/> Order for Denial of Certification
<input checked="" type="checkbox"/> Order for Technically-conditioned Certification	<input type="checkbox"/> Waiver of Waste Discharge Requirements
<input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017 DWQ	<input type="checkbox"/> Enrollment in Isolated Waters Order No. 2004-004 DWQ

PROJECT DESCRIPTION:

The project is located in south San Diego Bay and consists of maintenance dredging of 10,000 cubic yard of sediment and the removal of 22 linear feet from the west end of the existing north breakwater to allow for mega yachts to use the facility.

STANDARD CONDITIONS:

The following three standard conditions apply to all certification actions, except as noted under Condition 3 for denials (Action 3).

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a

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6002 / 11 / 5

Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. The validity of any non-denial certification action (Actions 1 and 2) must be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

ADDITIONAL CONDITIONS:

In addition to the three standard conditions, the Marine Group Boat Works must satisfy the following:

A. GENERAL CONDITIONS:

1. Marine Group Boat Works must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the California Regional Water Quality Control Board, San Diego Region (Regional Board), to support this 401 Water Quality Certification and all subsequent submittals required as part of this certification and as described in Attachment 1. The conditions within this certification must supersede conflicting provisions within such plans submitted prior to the certification action. Any modifications thereto, would require notification to the Regional Board and reevaluation for individual Waste Discharge Requirements and/or certification amendment.
2. During construction, Marine Group Boat Works must maintain a copy of this certification at the project site so as to be available at all times to site personnel and agencies.
3. Marine Group Boat Works must permit the Regional Board or its authorized representative at all times, upon presentation of credentials:
 - a. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 - b. Access to copy any records required to be kept under the terms and conditions of this certification.
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this certification.
 - d. Sampling of any discharge or surface water covered by this Order.
4. Marine Group Boat Works must notify the Regional Board within 24 hours of any unauthorized discharge, including hazardous or toxic materials, to waters of the U.S. and/or State; measures that were implemented to stop and contain the discharge; measures implemented to clean-up the discharge; the

volume and type of materials discharged and recovered; and additional best management practice (BMPs) or other measures that will be implemented to prevent future discharges.

5. Marine Group Boat Works must, at all times, maintain appropriate types and sufficient quantities of materials onsite to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the U.S. and/or State.
6. This Certification is not transferable to any person except after notice to the Executive Officer of the Regional Board. Marine Group Boat Works must notify the Regional Board of any change in ownership of the project area. Notification must include, but not be limited to, a statement that the property owner has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands the permit requirements and must implement them; the seller and purchaser must sign and date the notification. The notification for transfer of mitigation responsibility shall include a signed statement from the new party demonstrating acceptance and understanding of the responsibility to meet the mitigation conditions and applicable requirements of the Certification. Notification must be provided within **10 days** of the sale of the property.
7. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
8. In response to a suspected violation of any condition of this certification, the Regional Board may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate, provided that the burden, including costs, of the reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
9. In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

B. PROJECT CONDITIONS:

1. Prior to the start of the project, Marine Group Boat Works must educate all personnel on the requirements in this certification, pollution prevention measures, spill response, and BMP implementation and maintenance.
2. Marine Group Boat Works must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ, Statewide General Waste Discharge Requirements for discharges of dredged or fill material that have received State Water Quality Certification. These General Waste Discharge Requirements are accessible at:
http://www.waterboards.ca.gov/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.
3. To address water quality issues during the project performed under this certification Marine Group Boat Works shall prepare and follow an adequate Stormwater Pollution Prevention and Best Management Plan (SWPPP). The SWPPP should identify appropriate best management practices to be used for containment and capture of debris generated during breakwater removal activities, storage of materials, and other aspects of the project that could potentially result in discharges to San Diego Bay or the Pacific Ocean.
4. A continuous, floating silt curtain shall be installed around the existing eelgrass beds and in the work area prior to the start of all in-water activities to prevent the transport of any debris or turbidity outside the dredging area. The silt curtain shall completely encompass the area of dredging and breakwater removal. Dredging activities shall be confined to the areas depicted in Figure 1 of *Sediment Sampling and Analysis Plan for Sediment Characterizations Marine Group, Inc.*, WSSI, June 19, 2008.
5. During dredging activities qualitative (visual) turbidity monitoring by an observer from a high vantage point must be conducted to ensure water quality objectives for turbidity are not observed outside the silt curtain. If turbidity limits are exceeded, dredging activities shall be stopped and additional BMPs implemented for turbidity containment. Following implementation of additional BMPs, turbidity monitoring shall resume to ensure the effectiveness of the additional BMPs.
6. Dredge material will be loaded on to a flat barge. The barge will be ballasted so that drainage water goes into a silt curtain retained area. After draining, material will be loaded directly to trucks for delivery to Otay Landfill for disposal.
7. The removal project has potential to discharge debris or materials into San Diego Bay or the Pacific Ocean. Catch devices and/or sheeting shall be

utilized to capture and contain debris and materials that will be generated by this project. If a barge is used as a work area, debris and loose materials shall be captured on-board the barge. All captured material shall be disposed of properly.

8. All debris generated from this project shall be prevented from entering San Diego Bay. Any debris discharged into the Bay shall be collected and removed from the bay and disposed of properly.
9. Substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each project activity involving hazardous materials.

C. BAY PHOTO DOCUMENTATION PROCEDURE:

1. Marine Group Boat Works must conduct photo documentation of the project site, including all areas of temporary impact, prior to and after project construction. This information must be submitted to the Regional Board in a post-construction report.

D. REPORTING:

1. Pre- and post-construction eelgrass surveys shall be conducted by a qualified biologist in accordance with the Southern California Eelgrass Mitigation Policy (SCEMP) and provided to the Regional Board. A pre-construction eelgrass survey shall be conducted prior to the start of construction by a qualified biologist in accordance with the SCEMP and provided to the Regional Board. A post-construction eelgrass survey shall be conducted within 30 days of project completion by a qualified biologist in accordance with the SCEMP and provided to the Regional Board not later than with the final project report. The report must indicate whether or not impacts to eelgrass occurred.
2. If eelgrass impacts occur, Marine Group Boat Works shall provide eelgrass mitigation in accordance with the SCEMP for significant eelgrass impacts identified by the post-construction survey at a 1.2:1 replacement ratio. A map of the impacted areas shall include the footprint of the floats and boats, potential shading impacts, and any areas with damage from construction work or equipment. A mitigation plan and mitigation monitoring plan shall follow SCEMP protocols and be reported to the Regional Board within 60 days of project completion, if necessary.

3. *Caulerpa taxifolia* surveys shall be conducted prior to the start of construction, in accordance with the latest version of the *Caulerpa* Control Protocol, to ensure that the proposed project does not result in the inadvertent spread of the invasive species. If *Caulerpa* is identified, Marine Group Boat Works shall follow the *Caulerpa* Control Protocol and notify the Regional Board.
4. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the Regional Board for failure to furnish requested information pursuant to CWC section 13268.
5. All reports and information submitted to the Regional Board must be submitted in both hardcopy and electronic format. The preferred electronic format for each report submission is one file in PDF format that is also Optical Character Recognition (OCR) capable.
6. Marine Group Boat Works must submit a report to the Regional Board within 30 days of completion of the project. The report should include as-built drawings no bigger than 11" x 17", and photos of the completed project including any post-construction BMPs. The report may include the post-eelgrass survey if they have not already been submitted to the Regional Board by separate cover.
7. All applications, reports, or information submitted to the Regional Board must be signed and certified as follows:
 - a. For a corporation, by a responsible corporate officer of at least the level of vice president.
 - b. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - c. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
8. A duly authorized representative of a person designated in Items 4.a. through 4.c. above may sign documents if:
 - a. The authorization is made in writing by a person described in Items 4.a. through 4.c. above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c. The written authorization is submitted to the Regional Board Executive Officer.
9. All applications, reports, or information submitted to the Regional Board must be signed and certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

10. Marine Group Boat Works must submit reports required under this certification, or other information required by the Regional Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification; Project No. 08C-083
9174 Sky Park Court, Suite 100
San Diego, California 92123

6. Required Reports: The following list summarizes the reports, excluding spill notifications and emergency situations, required per the conditions of this Certification to be submitted to the Regional Board.

Report Topic	Certification Condition	Due Date(s)
Change of Ownership & Responsibility Notification	A.6	Within 10 Days of the sale of property
Eelgrass Surveys	D.1	Prior to construction and within 30 days of project completion
Eelgrass Mitigation Plan	D.2	If necessary, within 60 days of project completion
Final Project Report	D.6	Within 30 days of projection completion

PUBLIC NOTIFICATION OF PROJECT APPLICATION:

On November 7, 2008, receipt of the project application was posted on the Regional Board web site to serve as appropriate notification to the public.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Jody Ebsen
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
(858)636-3146
jebsen@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the Marine Group Boat Works Maintenance Dredging Project No. 08C-083 will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017 DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the Regional Board may issue waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).



JOHN H. ROBERTUS
Executive Officer
Regional Water Quality Control Board

3/10/2009
Date

Attachments: 1. Project Information
 2. Distribution List
 3. Location Map
 4. Site Map

**ATTACHMENT 1
PROJECT INFORMATION**

Applicant: Marine Group Boat Works
Attention: Todd Roberts
997 G Street
Chula Vista, CA 91910
Telephone: 619-427-6783
Facsimile: 619-427-6784
Email: todd@marinegroupbw.com

Applicant Representatives: WSSI
Attention: Richard Mann
2726 Shelter Island Drive
San Diego, CA 92106
Telephone: 800-818-1020
Facsimile: 800-818-1115
Email: mail@wssica.com

Project Name: ✓ Maintenance Dredging

Project Location: 997 G Street, Chula Vista

Type of Project: ✓ Dredging in South San Diego Bay

Need for Project: ✓ Maintenance of boat yard

Project Description: ✓ Dredging of 10,000 cubic yards of sediment and removal of 22 linear feet of existing north breakwater to allow mega yachts to use the facility. The dredged material will be disposed at Otay Landfill.

Federal Agency/Permit: ✓ U.S. Army Corps of Engineers §404, Individual Permit, Robert Smith

Other Required Regulatory Approvals: ✓ Port of San Diego, Project Approval, Ryan Donald

California Environmental Quality Act (CEQA) Compliance: ✓ California Environmental Quality Act (CEQA) Determination Regarding the Proposed Marine Group Maintenance Dredging and Breakwater Removal Project, March 6, 2009, San Diego Unified Port District, Categorical Exemption (Class 1).

Receiving Water: ✓ South San Diego Bay

Affected Waters of the United States/State: ✓ Temporary: Ocean

Dredge Volume: ✓ 10,000 cubic yards

Related Projects
Implemented/to be
Implemented by the
Applicant(s):

N/A

Compensatory
Mitigation:

Temporary impacts will be restored to pre-existing conditions,
therefore no compensatory mitigation is proposed. Monitoring of
nearby eelgrass beds will be performed, no impacts are anticipated.
However, any impacts that occur will be mitigated as described in
Southern California Eelgrass Mitigation Policy, National Marine
Fisheries Service.

Public Notice:

On November 7, 2008, receipt of the project application was posted
on the Regional Board web site to serve as appropriate notification
to the public.

Fees:

Total Due: \$1,660.00
Total Paid: \$ 500.00 (check No. 23886)
\$1,160.00 (check No. 24377)

CIWQS:

Regulatory Measure ID: 354866
Place ID: 728997
Party ID: 27797

**ATTACHMENT 2
DISTRIBUTION LIST**

Mr. Robert Smith
U.S. Army Corps of Engineers, Regulatory Branch
San Diego Field Office
6010 Hidden Valley Rd, Ste 105
Carlsbad, California 92011

Ms. Kelly Fisher
California Department of Fish and Game
South Coast Region
Habitat Conservation Planning – South
4949 Viewridge Avenue
San Diego, CA 92123

Via email:

State Water Resources Control Board, Division of Water Quality
401 Water Quality Certification and Wetlands Unit
Stateboard401@waterboards.ca.gov

U.S. Environmental Protection Agency, Region 9
Wetlands Regulatory Office
R9-WTR8-Mailbox@epa.gov

Ms. Sally Brown
U.S. Department of the Interior
Fish and Wildlife Service
Sally_Brown@fws.gov

Attachment 3
Project Location

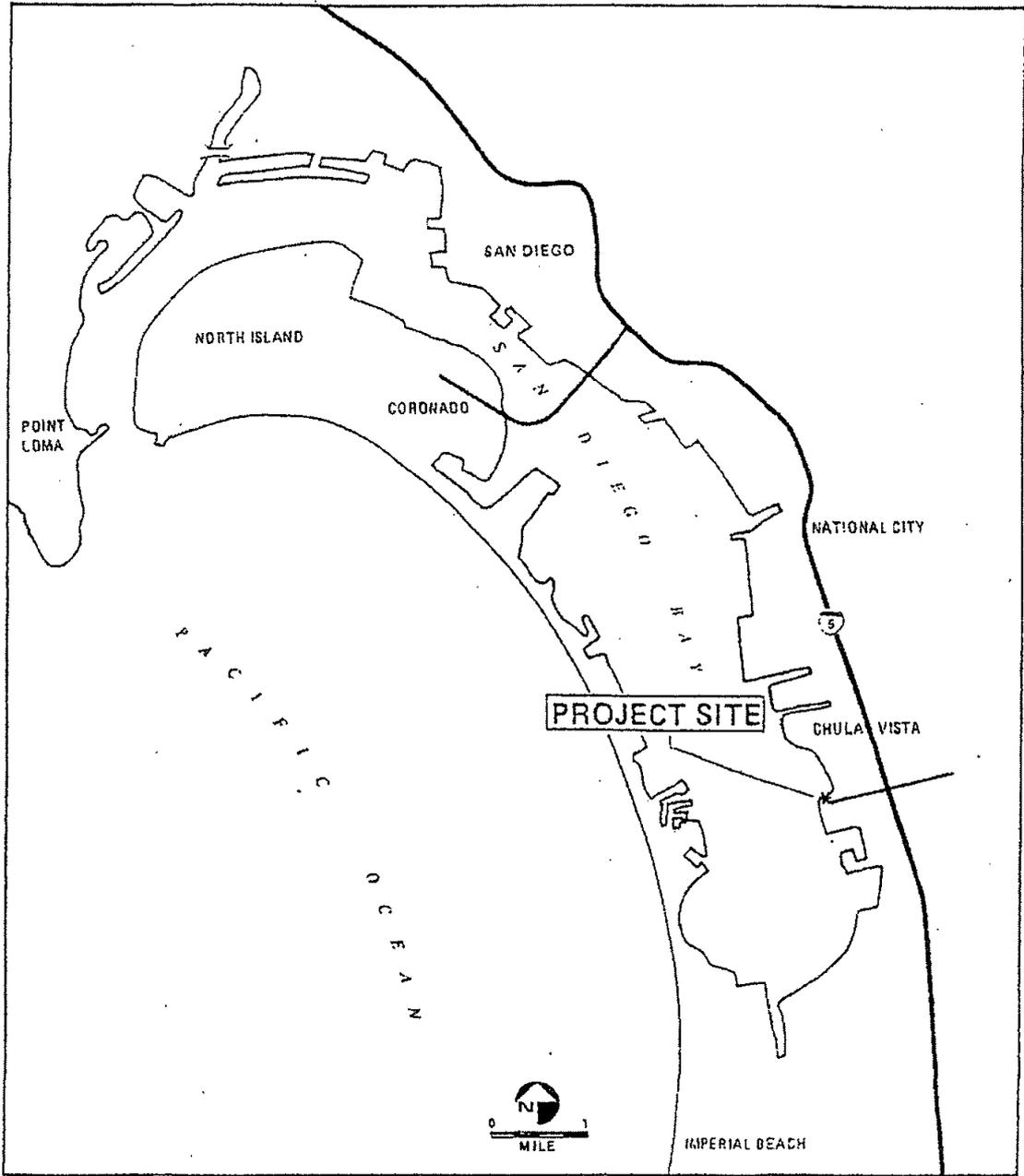
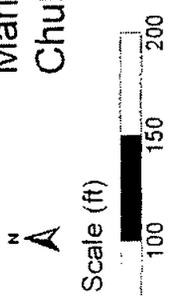


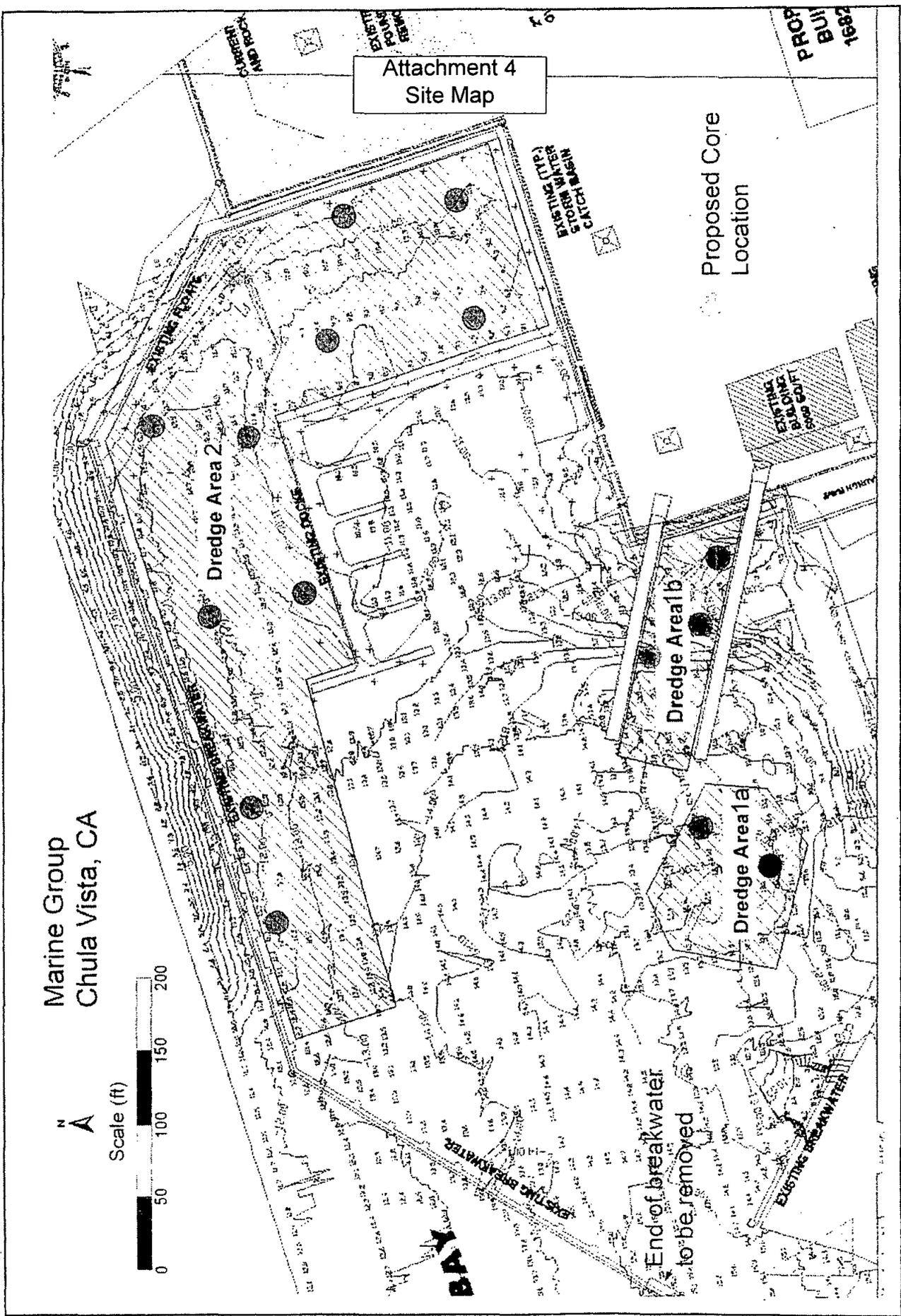
Figure 1. Project Site Location

FIGURE
1

Marine Group
Chula Vista, CA



Attachment 4
Site Map



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee X</p> <p>B. Received by (Printed Name) C. Date of Delivery</p>
<p>1. Article Addressed to: Todd Roberts MARINE GROUP BOAT WORKS 997 G Street Chula Vista, CA 91910</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number 7008 1140 0002 4285 3568 (Transfer from service label)</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
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Postage \$ 93 Certified Fee Return Receipt Fee (Endorsement Required) Restricted Delivery Fee (Endorsement Required) Total Postage & Fees \$5.83	Postmark Here
<p>Sent To Todd Roberts, MARINE GROUP BOAT WORKS Street, Apt. No., or PO Box No. 997 G Street City, State, ZIP+4 CHULA VISTA CA 91910</p>	
<p>PS Form 3800, August 2006 See Reverse for Instructions</p>	