MINUTE ITEM
C20

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C 11/21/85
meeting.

CALENDAR ITEM

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W 23673 PRC 6921
Martinez

DREDGING PERMIT

APPLICANT: Bel Marin Keys Community Services District
4 Montego Key
Novato, California 94947

AGENT: M. H. Cheney
6630 Heartwood Drive
Oakland, California 94661

AREA, TYPE LAND AND LOCATION:
Tide and submerged lands in Novato Creek near Novato at Bel Marin Keys, Marin County.

PROPOSED LAND USE:
Dredge a maximum of 203,000 cubic yards of minerals other than oil, gas and geothermal to restore Novato Creek to a navigable depth of -5 feet MLLW. The dredged material will be disposed of on a privately owned upland site west of the Bel Marin Keys development.

TERMS OF THE PROPOSED PERMIT:
Initial Period: One year commencing December 1, 1985.

Royalty: $0.25 per cubic yard for material placed on the approved upland site.

APPLICANT STATUS:
The proposed disposal site, owned by the Leveroni family, is under agreement with the Bel Marin Keys Community Services District for the proposed use.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:
Filing and processing fees have been received.

STATUTORY AND OTHER REFERENCES:
A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.

B. Cal. Adm. Code: Title 2, Div. 3, Title 14, Div. 6.

AB 884: 04/02/86.

OTHER PERTINENT INFORMATION:
1. This activity involves lands identified as possessing significant environmental values pursuant to PRC 6370, et. seq. Based upon 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.

2. A Negative Declaration was prepared and adopted for this project by the County of Marin. The State Lands Commission staff has reviewed such document and believes that it complies with the requirements of the CEQA.

APPROVALS OBTAINED:
United States Army Corps of Engineers, County of Marin and State Water Quality Control Board.

EXHIBITS:
A. Vicinity Map.
B. Site Map.
C. County Environmental Document.
D. Permit.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT A NEGATIVE DECLARATION WAS PREPARED AND ADOPTED FOR THIS PROJECT BY THE COUNTY OF MARIN AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

2. DETERMINE THAT THE PROJECT AS APPROVED WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.

CALENDAR ITEM NO. C20 (CONT'D)

3. AUTHORIZE STAFF TO ISSUE TO BEL MARIN KEYS COMMUNITY SERVICES DISTRICT THE DREDGING PERMIT ON FILE IN THE OFFICES OF THE COMMISSION. SAID PERMIT SHALL ALLOW DREDGING A MAXIMUM VOLUME OF 203,000 CUBIC YARDS IN NOVATO CREEK NEAR NOVATO AT BEL MARIN KEYS AND DISPOSAL AT THE APPROVED UPLAND SITE. A ROYALTY OF $0.25 PER CUBIC YARD SHALL BE CHARGED FOR MATERIAL PLACED ON THE APPROVED PRIVATELY-OWNED UPLAND SITE. SUCH PERMITTED ACTIVITY IS CONTINGENT UPON APPLICANT'S COMPLIANCE WITH APPLICABLE PERMITS, RECOMMENDATIONS OR LIMITATIONS ISSUED BY FEDERAL, STATE AND LOCAL GOVERNMENT AGENCIES.

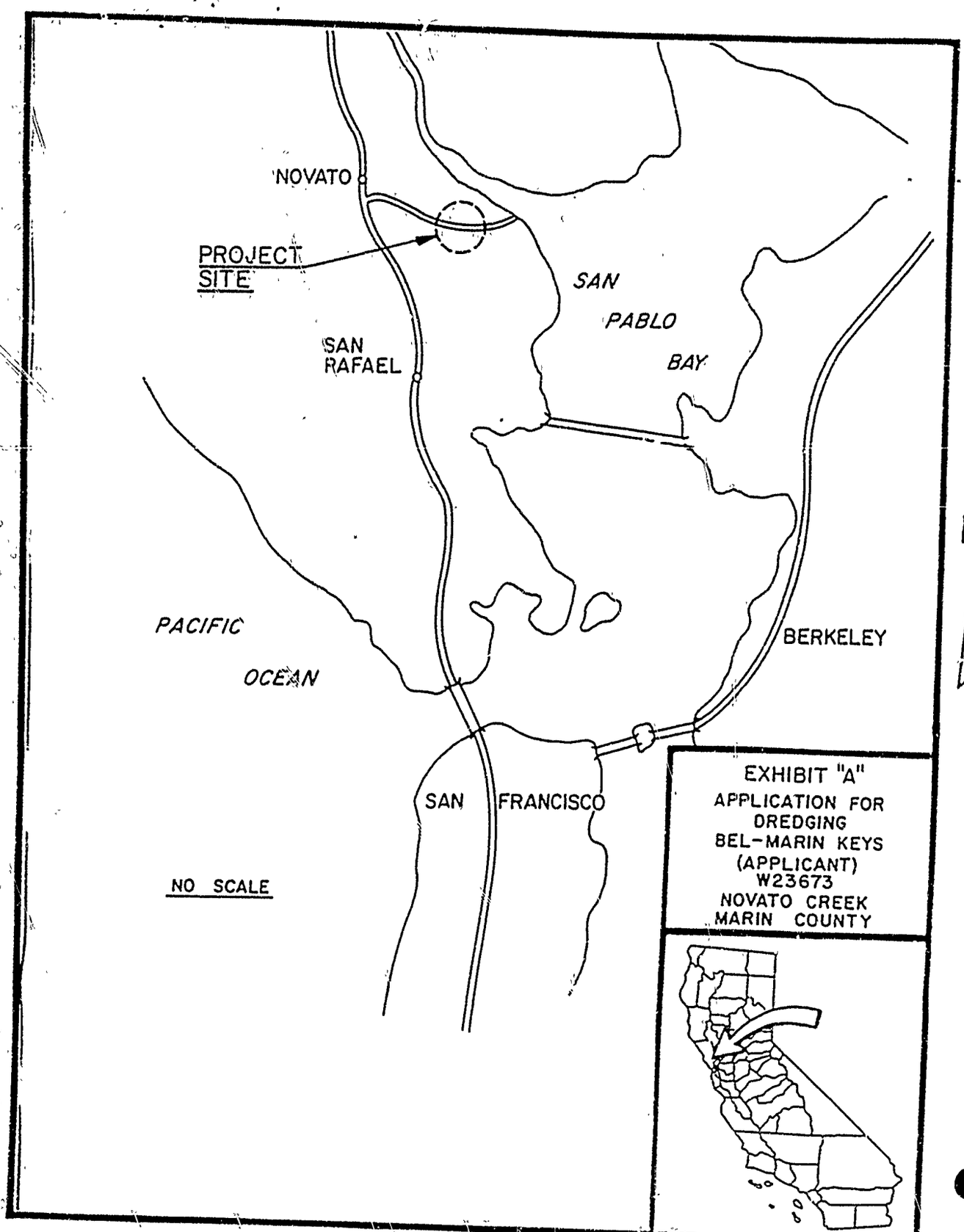

EXHIBIT "A"
APPLICATION FOR DREDGING
BEL-MARIN KEYS
(APPLICANT)
W23673
NOVATO CREEK
MARIN COUNTY

R.C. 10/95

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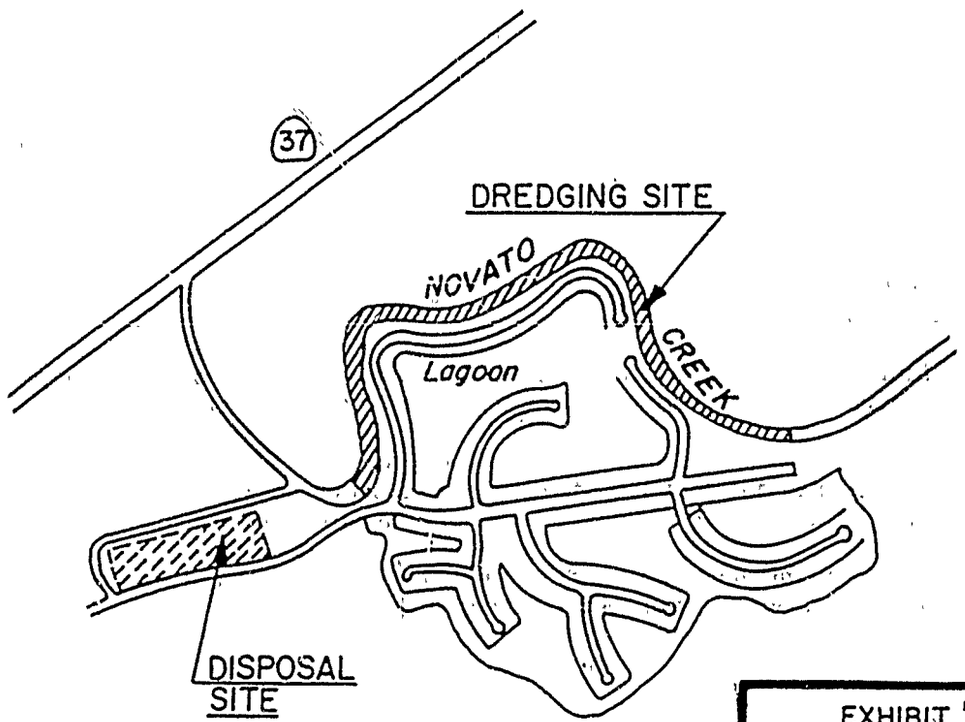

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EXHIBIT "B"
APPLICATION FOR
DREDGING
BEL-MARIN KEYS
(APPLICANT)
W23673
NOVATO CREEK
MARIN COUNTY

R.O. 10/85

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6. TIDELANDS PERMIT:
BEL MARIN KEYS COMMUNITY SERVICES DISTRICT

Hearing to consider Tideland Permit application by the Bel Marin Keys Community Services District to dredge a section of Novato Creek and deposit the spoils on the "Leveroni Property" fronting Bel Marin Keys Boulevard. The property is located at Bel Marin Keys, Novato, and is further identified as Assessor's Parcel Number 157-171-06. Prior to consideration of the Tideland Permit application, the Planning Commission will consider adoption of a Negative Declaration of Environmental Impact (a finding that the proposed project will not have a significant impact on the environment).

Chuck Murphy, Department of Public Works, presented the staff report. He concluded his presentation by recommending that the Commission approve this project subject to the findings and conditions.

In response to Commissioner Blackseth, Murphy stated that condition #7 allowed staff to require additional agreements or bonds for revegetation of the site if it was determined to be necessary.

Murphy stated, in response to Commissioner Fuchs, that this project had to be processed as fast as possible because work could not occur during rainy seasons.

Commissioner Evans stated that she did not feel the Negative Declaration was adequately explained and that the answer to the question on whether the project would be a part of a larger project involving a series of cumulative actions was not sufficient.

In response to Commissioner Evans, Riesenfeld stated that this area was in the Bayfront Conservation Zone, Agricultural Subzone zoned ARP-2.

Hearing was opened for public testimony.

Mike Cheney, CSD, clarified that they had agreed to pay the property owner $16,000 to put the land out of the production of hay and to put it back in.

Barbara Salzman expressed concern about the protection of wildlife and an old oak tree. She suggested that conditions be enforced to ensure protection of these.

Hearing was closed to public testimony.

In response to Commissioner Sands, Cheney stated that the Regional Water Board Permit required that wildlife be protected and the sides of the levees should be kept from being washed down into the creek.

Commissioner Sands suggested that the levee be designed so the old oak tree could be preserved and also expressed concern for safety on the disposal site.

In response to Commissioner Sands' concerns, Murphy stated that the permit would contain a condition for preserving the tree and that a fence would be put up to keep people and cattle away from the area for a period of one year.

Commissioner Garfien requested that finding #c be made by stating that the agricultural lands will be restored after dredging.

In response to Commissioner Evans, Riesenfeld asked that on the Initial Study, under F2, the answer be changed to a question mark because it was not clear. He also suggested that a sentence be added at the end of the MITIGATION paragraph stating the following:

"The current zoning ARP-2 BFC reflects Bayfront Conservation Zone status. Proposed continued use is for agricultural purposes. Any change in this use would require environmental review. No mitigation is proposed at this time."

M/s Blackseth/Fuchs: Move to adopt a Negative Declaration of Environmental Impact subject to the findings as listed herein. Motion carried 6-0. (Commissioner Sessi was absent).

M/s Blackseth/Sands: Move to approve the Tidelands Permit subject to the conditions listed herein. Motion passed 6-0. (Commissioner Sessi was absent.)

Findings:

a. The encroachment of the tidelands is the minimum necessary to achieve the purpose of the proposed work.

b. The proposed fill, excavation or construction will not unduly or unnecessarily:

i. Inhibit navitation - this is a navigational project itself.

ii. Inhibit access to publicly owned tidelands - there are no tidelands in close proximity.

iii. Cause or increase the likelihood of water pollution - Water Quality Control Board has requested that all discharge be on site. Minor disturbance will occur during dredging, but it will not be significant.

iv. Cause or increase the likelihood of flooding of adjoining lands - additional property is being set aside to provide for flood control areas.

v. Destroy or accelerate the destruction of habitats essential to species of fish, shellfish and other wildlife of substantial public benefit - dredging will be taking place in the water area and not in the area of marsh or grass, therefore disturbance to habitat will be minor.

vi. Interfere with or detract from the line of sight of the public toward the water, particularly on natural features of visual prominence - the levee walls will be of equal height so there will be no additional visual impacts

vii. Conflict with the scenic beauty of the shoreline due to height, bulk, form, color, materials, illumination or the extent and design - the height of the levee walls will not visually impact the area.

viii. Create a safety hazard in connection with settlement of fill or earthquakes - the area is agricultural and is not in an earthquake area.

ix. Diminish natural waterways by siltation, sedimentation or bank erosion - appropriate grading and landscaping measures will be instituted.

c. The proposal is in substantial harmony with any adopted county general plan or specific plan - the agricultural lands will be restored after dredging.

d. Public benefits will be created to offset some of the detriments which may be caused by the nature of the proposal; however, this finding is not required.

   i. Where the application covers lands wholly above elevation 7.5 feet mean lower low-water datum, or

   ii. Where the size or potential uses of the parcel are so limited that creation of a public benefit would be infeasible and where the amount and effect of fill, excavating or structures are minimal.

f. These public benefits may be realized through:

   i. Development of new recreational opportunities, or

   ii. Provision of new public access to the water, or

   iii. Enhancement of shoreline appearance, or

   iv. Establishment of water transportation, or

   v. Facilities of land or air transportation where all other alternatives have been exhausted, or

   vi. Construction of water-oriented industry or development of marine food supplies, or

   vii. Other benefits considered by the director of Public Works and/or the Planning Commission to be of comparable importance;

g. The proposed fill, excavation or construction will not adversely affect the existing public rights on the property - appropriate flood control areas are being substituted for this property.

Conditions:

1. No dredged material may be transported over County roads nor may the pipeline be within or across any County right-of-way.

2. The Erosion Control Plan shall be strictly adhered to and upon demand by the County any and all other erosion control measures shall be taken immediately.

3. Copies of the results of all effluent discharge testing shall be submitted to the County within one week of the completion of the test.

4. Prior to the placement of any dredging spoils, all necessary levee work shall be completed and certified in writing to the County by the applicant's engineer.

5. All mitigation measures contained in the Environmental Assessment shall be satisfied.

6. This permit shall not be valid unless and until the applicant meets all of the requirements of all agencies having jurisdiction over this project, including but not necessarily limited to, the U.S. Army Corps of Engineers, the State Lands Commission, the State Department of Fish and Game and the Marin County Flood Control and Water Conservation District.

7. Prior to the issuance of this permit, the Director of Public Works may require additional agreements and securities as he deems necessary, in order to assure compliance with various aspects of this permit.

8. Prior to the issuance of this permit, the applicant shall present a plan acceptable to the Director of Public Works, for meeting the requirements of the Sonoma-Marin Mosquito Abatement District as outlined in Attachment #6.

9. Design of the levees shall incorporate all feasible measures to save the existing oak tree on site.

Chairman Evans informed all interested parties that this action was subject to appeal to the Board of Supervisors within five (5) working days.

NOVATO CREEK DREDGE DISPOSAL SITE

ENVIRONMENTAL ASSESSMENT

prepared for

Marin County
Planning Department

Marin Civic Center
San Raphael, CA 94930

prepared by

Environmental Science Associates (ESA)
in association with Nancy Olmsted, Terrestrial Biologist
September 23, 1985

ESA

NOVATO CREEK DREDGE DISPOSAL SITE

ENVIRONMENTAL ASSESSMENT
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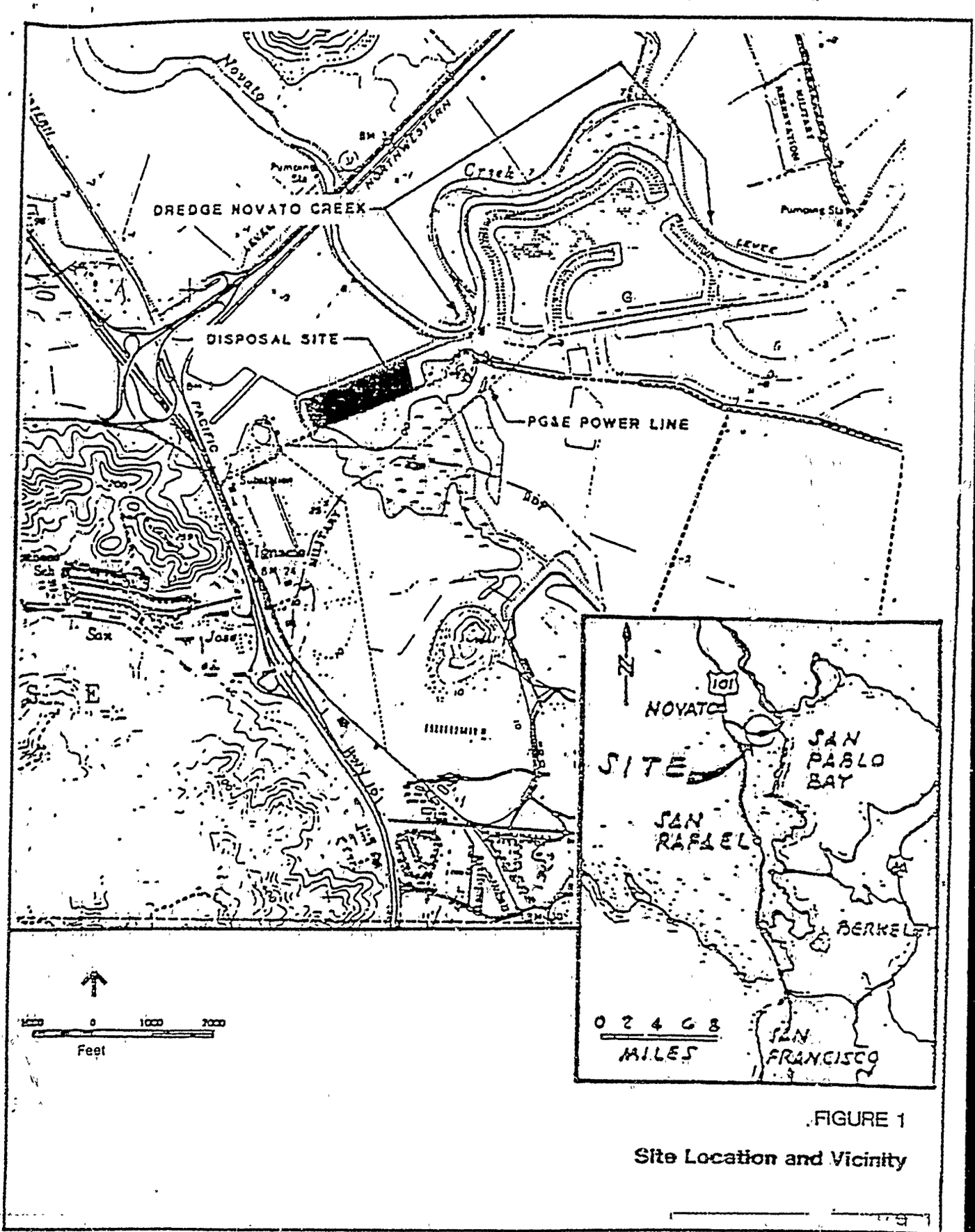


FIGURE 1

Site Location and Vicinity

I. INTRODUCTION

A. SCOPE AND PURPOSE

The Bel Marin Keys Community Services District has applied to the Department of the Army Corps of Engineers (Corps) for authorization to dredge in Novato Creek (Public Notice No. 16058N33). The Corps has assessed the environmental impact of the proposal in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190). The proposal includes disposal of the dredged material on a site that is within the boundaries of the diked bay marshland/agricultural sub-zone of the Bayfront Conservation (BFC) District (as defined in Marin County Zoning Ordinance and described in the Marin Countywide Plan). This Environmental Assessment has been prepared by ESA in accordance with BFC District regulations on activities within the District and specific requirements and standards set forth in Marin County Zoning Ordinance Chapter 22.50.

The purpose of this Environmental Assessment (EA) is to describe the capability and constraints of land and water areas that would be directly or indirectly affected by the dredge material disposal aspect of the project as proposed by Bel Marin Keys Community Services District. The EA will be used by the County to determine the permitted or conditional uses of the site and specific regulations (conditions) under which the dredge disposal aspect of the project can be implemented.

The existing environmental conditions of the site are discussed as they apply to the proposed disposal action and the design standards of the BFC District (Ch. 22.50.050). Project impacts and constraints will be assessed for each environmental element. Recommended mitigation/conditions and standards will be outlined for each of the impacts identified.

B. PROJECT DESCRIPTION

The applicant proposes to dispose of material that will be dredged from 1.6 miles along Novato Creek (Figure 2). The disposal site lies just west of Bel Marin Keys (BMK) and just north of the Bel Marin Keys Blvd. (Figure 1). The capacity of the site is 180,000 cy. Approximatly 120,000 cy of material will be disposed of over a four month period (B. Van Blaricom, M. Cheney, 1985).

The approximately 950,000 sq. ft. (22 acres) site is bordered by Bel Marin Keys Blvd. to the south, San Jose Slough to the west and the north, and the lawn area of a large residence to the east (Figure 2). A barbed wire fence exists on the south and east sides and the fencing will be extended around the entire perimeter of the site prior to constructon of the retention levees. Site preparation activities include raising the existing levees to accomodate fill to the +10 ft. means sea level (msl); final levee height required will be over +10 ft. msl. The existing levee adjacent to San Jose Slough averages +6.7 ft. msl and the Bel Marin Keys Blvd. right-of-way elevation is approximately +9.2 ft. msl. The existing levees will be raised from one to four feet to create a levee of equal height around the entire site and to accomodate the fill to a +10 ft. msl elevation. Other construction activities entail a north to south levee which will bissect the site, creating separate settling ponds. A weir installed at the west end of the site will discharge clarified effluent back into Novato Creek via San Jose Slough (M. Cheney, 1985).

The proposal is for "one-time" disposal on the site over a four month period. The first half of the site will be filled and allowed to drain. While the material is consolidating, the other half of the site will be used for disposal. The water quality of the dredge slurry effluent discharge will be monitored regularly to check possible contaminant levels (M. Cheney, 1985).

Following a four month disposal period and the appropriate time for consolidation and surface drying, the site will be reseeded with oat hay seed by the property owner.

C. RELATIONSHIP TO OTHER ENVIRONMENTAL REGULATIONS AND STATUTES

Since the project falls within the Bayfront Conservation Zone of Marin County Countywide Plan, an environmental assessment is required by Marin County Zoning Ordinance to provide a tool for assessing the proposal. This EA assumes compliance with other environmental regulations and policies. Such regulations include:

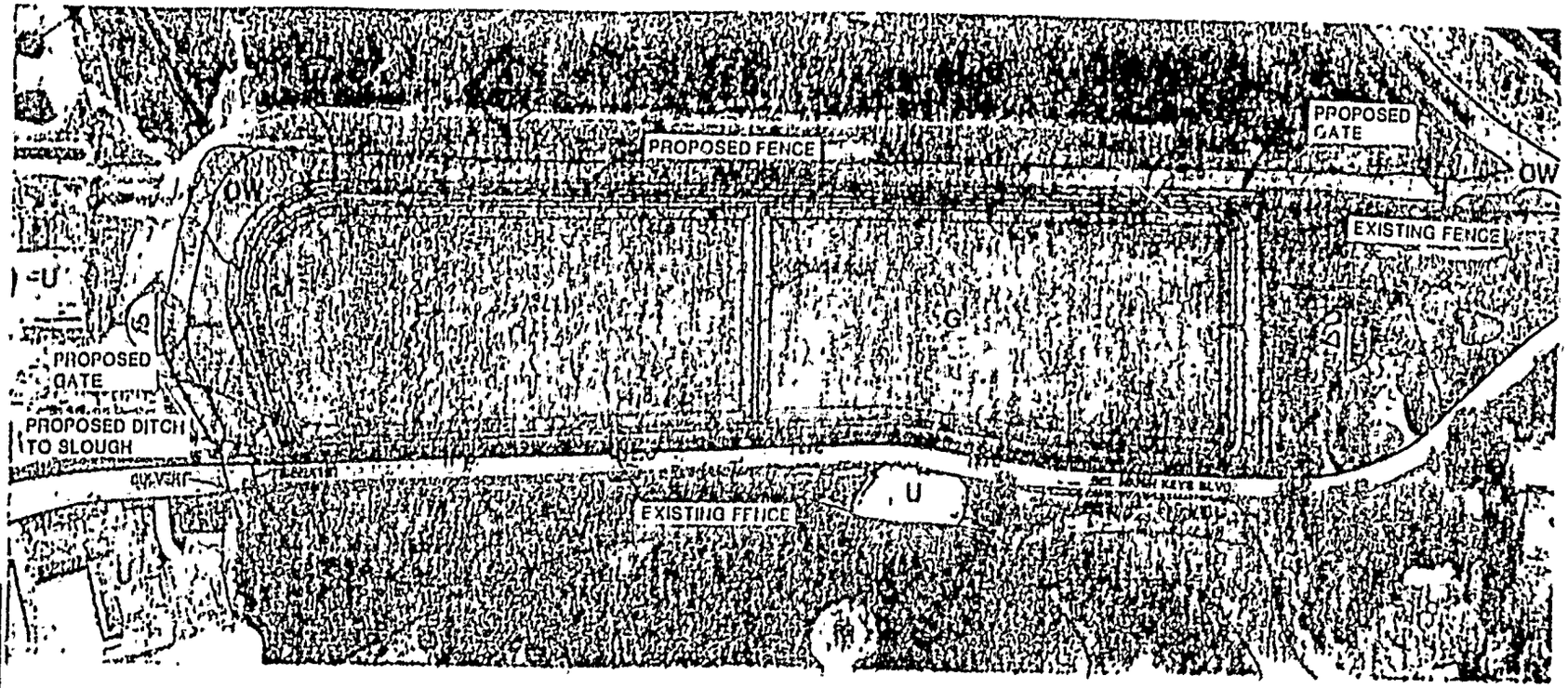
- o National Environmental Policy Act of 1969 (Public Law 91-190)
- o Section 404 of the Clean Water Act
- o Section 10 of the Rivers and Harbor Act of 1899 (33 CFR 403)
- o Sections, 301, 302, 303, 306, 307, of the Clean Water Act for Water Quality Certification
- o Marin County Grading Ordinance.

II. METHODS

Existing literature was reviewed and appropriate information was extracted for this report. The Bel Marin Keys EIR/EIS (Torrey and Torrey, 1982) and the Marin County Flood Control District EIR for the Novato Creek Flood Control Project (Earthmetrics, 1982) were used as a source for wildlife, geology, soils, and seismic information. Project drawings and specifications were provided by URS/John A. Blume & Associates, and the description of project activities were supplied by the Bel Marin Keys Community Services District agent, Mr. Michael H. Cheney.

The County of Marin was contacted for information regarding the hydrology, flood potential, land use, recreation, aesthetics, and environmental quality aspects of the proposal. Personal contracts are listed in the references section of this report.

Field observations were made in September, 1985 to ground truth the site map (scale: 1 in. = 200 ft.) which was prepared from the URS/John A. Blume Associates plan. Black and white photographs of the environmental setting and the adjacent land uses were taken during the field reconnaissance to aide in the assessment of the aesthetic impact of the proposal.



HABITAT TYPES

OW - Open water, sloughs and ponds
F - Mudflat
H - Emergent marsh
G - Grassland
R - Residential, lawns and woodland
U - Urban: commercial, industrial and parking
X - Oak tree

0 400 FEET

FIGURE 2

Site Plan and Habitat Types

SOURCE: Environmental Science Associates,and URS/John A. Blume & Associates, 1985.

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III. ENVIRONMENTAL SETTING, IMPACTS, AND RECOMMENDED MITIGATIONS

A. HABITATS

Environmental Setting

The dredged material disposal site (DMDS) is a flat (mean elevation = 2.5 ft. msl) pasture that was used for grazing cattle until September, 1985. The cattle were moved to an adjacent site, but the vegetation has been heavily grazed. The productivity of the site is low as it is almost a monotypic stand of oat grass (Avena fatua). The few associated species cover less than 10% of the site and include star thistle (Centraurea solsticialis), bird's foot trefoil (Lotus nuttallianus), and cardoon (Cynara cardunculus) (see Appendix A). There is no wetland vegetation on the DMDS and only one tree on the far west edge adjacent to the slough, a live oak (Quercus agrifolia) (Figure 2).

Wildlife observed on-site include flocks of blackbirds, black tailed jack rabbit, a male deer, and a ground squirrel. The site provides cover, food, and burrows for a variety of small mammals which in turn provide food resources for a variety of raptors that use the adjacent wooded habitats. A bird census of similar habitat on the nearby Bel Marin Keys development (Madrone Associates, 1981) revealed high use of the habitat by passerine birds and doves and some roosting by killdeer, a "shorebird" often found in open, dry areas adjacent to water areas. The proposed action does not encroach on any sensitive habitats or habitats for rare and endangered species (DFG, 1985). Adjacent habitats include open water slough on the west and north sides, residential to the east, and the right-of-way for Bel Marin Keys Blvd., and a freshwater emergent marsh to the south. The vegetation and wildlife resources of each of these areas will be described below in terms of their relationship to the proposed DMDS site.

San Jose Slough (below mean seal level) is partially separated from open waters south of the site by a tide gate on the south side of Bel Marin Keys Blvd. the slough surrounds the DMDS on two sides (Figure 2). The mudflats and open water of the slough are used by a variety of shorebirds for feeding and preening. Four sandpipers, 10 white-rumped sandpipers, four killdeer, and one willet were observed on-site in September. The slough flows through another tide gate and adjoins Novato Creek approximately 200 ft. east of the DMDS; it provides flood water storage capacity especially during high storm tides events (R. Carlsen, Marin County Public Works Department, 1985).

Residental lawns and trees grow to the east of the site; a barbed-wire fence separates the two areas. The residence is situated on a hill (elev. +27 ft. msl) which sets it apart from the DMDS, although the house is visible from the site. The trees provide perch sites for great blue heron and egrets that use the adjacent marsh habitat and raptors such as hawks and kites that use the pastures throughout the area (Figure 2). The shrubbery of the residence provide cover and food for songbirds small mammals, and deer that are present in the area.

Bel Marin Key Boulevard Right-of-Way is lined with a variety of roadside weedy plant species; star thistle is the most common plant. The roadway acts as a levee for the south side of the DMDS parcel (elev. +9.2 ft. msl). Although it is not a decisive barrier for wildlife movement between the marsh to the south and the DMDS site, numerous deer "roadkills" occur in the fall mating season of these animals (Marin County Humane Society, 1985).

Emergent marsh habitat lies immediately to the south of the Bel Marin Keys Blvd. The area is characterized by open water sloughs lined with emergent wetland vegetation: cattail (Typha latifolia), three square sedge (Scirpus olneyi), umbrella sedge (Cyperus eragrostis), and water plantain (Alisma plantago-aquatica). At slightly higher elevations beyond the water's edge, there is dense cover of salt grass (Distichlis spicata) and perennial pickleweed (Salicornia virginiana). The habitat provides food and other resources for a variety of waterfowl, herons, egrets, and other carnivorous birds. A pair of great blue herons were observed perching in a eucalyptus tree on the west end of the site; several common egrets and a Forster's tern were feeding the site in September, 1985.

Project Impacts

The proposed DMDS will temporarily eliminate about 22 acres of pasture habitat and the associated wildlife resources. The habitat is relatively low value in itself, but the proximity of the site to adjacent wetland habitats increases its value for some wildlife, particularly as a source of small prey species for raptors. The loss of habitat value will continue for at least one year, or until the site is reseeded and develops herbaceous plant cover. The potential exists to spill soils into San Jose Slough during construction of the levee and/or placement of dredge materials.

Recommended Conditions/Mitigations

The site should be reseeded with wild oats or a suitable feed mixture as soon as the surface material is dry enough for seeding. The property owner has acknowleged that he will be responsible for the reseeding effort. During construction of levees, and pumping of dredge slurry, every effort should be made to avoid spilling loose fill or dredge slurry into San Jose Slough.

B. ACCESS AND RECREATION

There are two wooden gates in the fence along Bel Marin Keys Blvd. which provide access to the site (Figure 2). There are no recreational values to the DMDS; it is privately owned pastureland. The adjacent slough and wetland areas are used for bird-watching, fishing, and relaxing. (Marin County Humane Society, 1985).

Project Impacts

The project will inhibit access to the DMDS until the area is restored (about two years). The proposed action should not affect public access or recreation in the wetland areas adjacent to the site.

Recommended Conditions/Mitigations

The site should be closed to access to prevent human or animal intrusion and accidents in the dredge sludge. During construction and for several seasons post-construction, the site should be isolated until the vegetative habitat has successfully re-established, at which time it would be protected from trespass under typical posting.

C. BUILDINGS

Environmental Setting, Impacts, and Mitigations

There are no buildings present nor proposed on the site; therefore, this design feature is not directly applicable. After the site is filled and consolidated, however, the new elevation will be sufficiently high to support structures, with appropriate engineering.

Should buildings be proposed on the site in the future, additional environmental review would be required and a buffer would be established between structures and San Jose Slough.

D. UTILITIES

Environmental Setting

The only utility on the site is a Novato Sewer District force main that runs along the east side of the site. The pipeline runs approximately 12 feet to the west of the (inside) the fenceline.

Project Impacts

The construction of the east end levee would be in the same general vicinity as the sewer force main. The site plans show that the force main area would be avoided during construction of the retention levees and dredged material disposal.

Recommended Conditions/Mitigations

The sewer force main area should be avoided during construction of the east levee, so that the pipeline is not buried or disturbed in any way.

E. ENVIRONMENTAL QUALITY

Environmental Setting

The County guidelines for environmental quality discuss the issue of mitigation for the advers impacts associated with any development within the BFC Zone. The water quality and location of discharge of effluent from the proposed DMDS are the two major considerations for environmental quality.

Project Impacts

The proposed action would cause high concentrations of suspended sediment on the DMDS. In order to decant the effluent from the sludge, the effluent would be retained and clarified within the retention levees prior to discharge over a weir to the waterway (M. Cheney, 1985).

Recommended Conditions/Mitigations

The guidelines and requirements for Water Quality Certification (Sections, 301, 302, 303, 306, and 307, Clean Water Act) should be adhered to, pursuant to Corps Public Notice No. 16058N33, in order to prevent adverse affects on environmental quality.

F. DIKING, FILLING, AND DREDGING

Environmental Setting

The study site has been used for dredged material disposal in the past, although this is not evident, since grassland has reestablished as the present habitat (Repair, Marin County Public Works, 1985).

The site lies within the BFC District tidelands and diked bay marshland/agricultural subzone. This subzone includes historic bay marshlands (as determined by Nichols and Wright [USGS], 1971). These former marshlands have been previously diked off from tidal action and, in this case, partially filled and converted to agricultural uses. The purpose of this subzone, with respect to this project, is to define areas in which it is possible to foster the continuation of agriculture or, if that ceases, to consider the feasibility of returning undeveloped, unfilled former marshes to more productive wildlife habitat by restoration. This subzone includes a one hundred-foot band landward or undeveloped lands, within which a flexible buffer can be delineated on a case-by-case basis.

Project Impacts

Approximately 120,000 cy of dredged material will be taken from Novato Creek and placed on the site. The disposal area will be divided into two settling ponds; therefore, disposal of the material will alternate from one pond to the other until the full capacity of the two ponds is used. The full site capacity is 180,000 cy and the entire basin will have to be used to accommodate the sediments prior to consolidation (Van Blaracom, 1985).

After the site is filled, its agricultural use will be restored. The filling will permanently eliminate the future option of restoring the site to a more productive (bayland) habitat, if agricultural use were to cease. Because the site is already partially filled, thus already restricting any future opportunity to "restore" it to a more productive bayland habitat, the proposed filling of the site is not considered a significant change from its present partially filled condition.

Recommended Conditions/Mitigations

The procedures and timing for levee construction, dredging, and filling of the DMDS should be carefully reviewed by the Marin County Flood Control District. They should be consulted for suggestions on conditions for filling within the diked marshland zone on sites larger than 0.5 acre.

G. AESTHETIC AND SCENIC QUALITY POLICIES

Environmental Setting

The DMDS lies about 0.5 miles east of Highway 101 and the Northern Pacific railroad track, about 0.5 miles southeast of Highway 37, and immediately north of Bel Marin Keys Blvd. The adjacent land uses are pasture, residential, commercial, and open space (Figure 1). The grassland site lies in a lowland pocket between San Jose Slough (Figure 3) and pastures on the north and west (Figure 4), Bel Marin Keys Blvd. and wetlands to the south (Figure 5), and the lawns and woods of a residence to the east (Figure 6). There are no views or visual access to either bayfront or tidal creeks or nearby wetlands from the site because of the Bel Marin Keys Blvd. right-of-way levee (+12.0 ft. msl)..

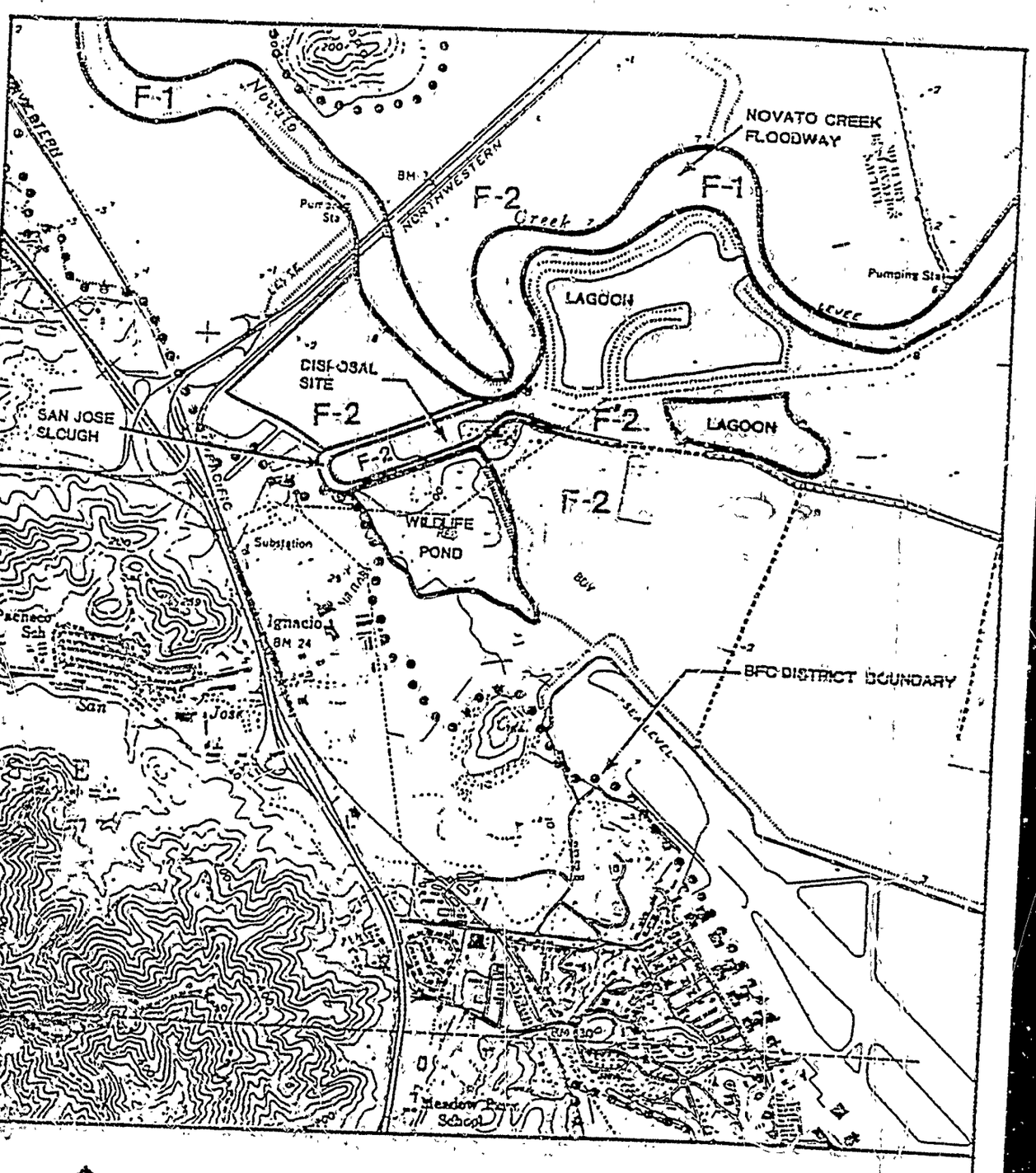

FIGURE 3

Bayfront Conservation District Boundary
(Marin Zoning Code Section 22.50)

Floodway (F-1 and F-2) Boundaries
(Marin Co. Flood Control District)

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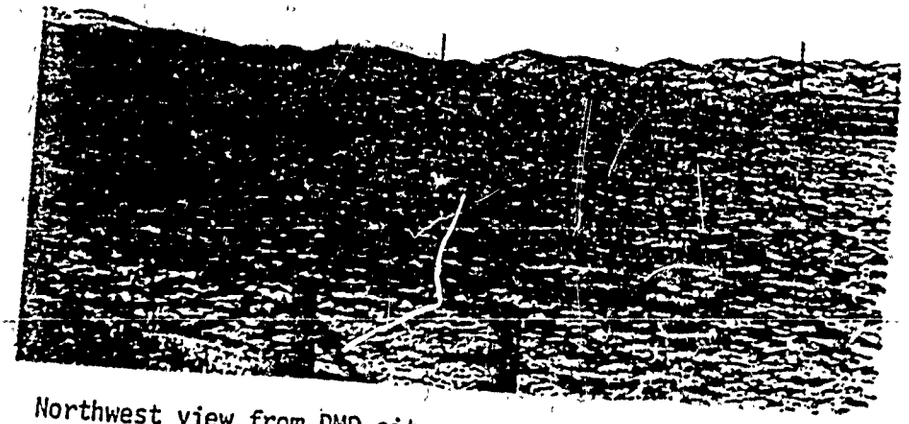
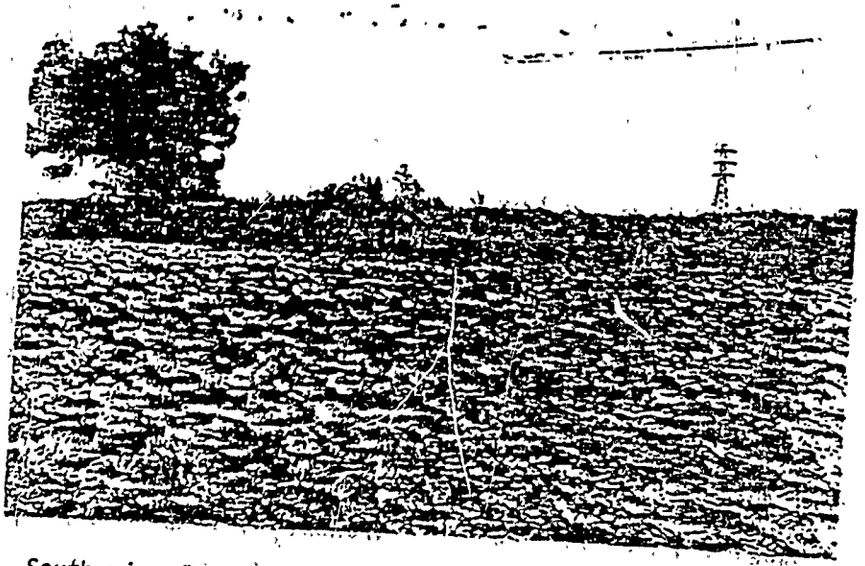


Northwest view from DMD site

Northeast view from DMD site

FIGURE 4

Southeast view from Bel Marin Keys Blvd.



South view from DMD site

FIGURE 5

Project Impacts

The levees surrounding the site would be raised from one to four feet above the existing elevation; this action would not significantly alter the aesthetics of the site since there are existing levees and fence around the site now. Placement of the dredged material would change the appearance of the site for one to two years following construction of the project. The site is most visible from the higher elevation areas or the office building on the opposite side of the Bel Marin Keys Blvd. The vistas of water and shoreline would not be significantly affected by the development.

Recommended Conditions/Mitigations

The retention levees should be restricted to the height required for the sediment confinement, to minimize aesthetic impacts. The site should be reseeded as soon as possible to reestablish the grassland habitat.

H. PROTECTION FROM GEOLOGIC, FLOODING, AND OTHER HAZARDS

Geologic and Seismic Hazards. The geology, soils, and seismicity of the site were investigated during the preparation of the Bel Marin Keys development EIR (Torrey and Torrey, 1982). There are several faults in the vicinity and the principal seismic hazards that could occur in the area are groundshaking and lurching from earthquakes. The potential for more intense activities such as liquefaction, tsunami, and ground rupture is low to nil because there are no active faults in the area.

Soils on-site are primarily Bay Mud, a highly compressible clayey silt containing lenses of peak deposits. This material is underlain by older alluvium and dense sands and stiff clays.

Flood Hazards. The DMDS lies within the secondary floodway zone, designated F-2 in Chapter 22.95 of the Marin Countywide Plan (Marin County Pubic Works Department, 1985). This area is defined as the "portion of a natural floodway between the limits of the primary floodway zone and the limits of the floodplain where inundation may occur, but where depths and velocities are generally low". Permission to use the site requires an agreement between the landowner and the Marin County Flood Control District which includes a number of provisions that apply to the proposed action (Marin County Administrative Code Section 22.95.030).

No leveeing, diking, filling, or other activity will be permitted which would reduce the ponding area and capacity of any parcel of land within an F-2 district. Exceptions would be made for placement in specific encroachment areas or up to a specified percentage of the ponding capacity of each parcel, as shown on the assessor's records, provided that the remaining area of each parcel is held as a ponding area to absorb the overflow of the primary floodway. The proposed site is a designated encroachment area and subject to a number of provisions prior to site development (Carlsen, Marin County Public Works, 1985).

The landowner and the appropriate public agency (e.g., Marin County Flood Control) are required to enter into an agreement to provide flood water storage capacity on another site (i.e., floodway convenant) or a percentage of the identified site that would serve as ponding and overflow area. The floodway convenant can not be sited on a Flood Control District lands and it must provide three times the capacity (Carlsen, MCPWD, 1985). A covenant area should be established with three times the capacity as the site being affected by the development (Carlsen, MCPWD, 1985).

Project Impacts

Geology and Seismic Hazards. The potential for groundshaking and lurching during earthquake events should not significantly affect the proposed action. There would be some settlement and compression of Bay Mud and the fill material following placement of the fill for the levees and the DMDS. This settlement factor has been compensated in the design of the levees and total required storage capacity of the DMDS (Van Blaricom, 1985).

Flood Hazards. The proposed action would raise the existing levees on the DMDS to above +10 ft. msl and fill about 22 acres of land in the secondary floodway zone (F-2) of Novato Creek - Marin County. The site would be filled to +10 ft. msl from +2.5 ft. effectively eliminating approximately 88 acre feet of flood capacity in the secondary floodway zone.

Recommended Conditions/Mitigations

Geology and Seismic Hazards. No mitigation should be required for potential seismic hazards on the site. Projected settlement and compression of soils will require a specific elevation for constructing the levees to allow for future settlement. Settlement rates should be established prior to construction so that the levees are not built higher than necessary (see Flood Hazard).

Flood Hazard. The proponent should consult with the Marin County Flood Control District and the Marin Municipal Water District for their recommendations and specifications about filling or levee construction within the F-2 zone. The Marin County Flood Control District owns some of the land near the site; therefore, those areas are not available for mitigation. The terms and conditions of a floodway convenant should be agreed to by both parties prior to construction.

I. AGRICULTURAL USES

Environmental Setting

The site has been used for grazing cattle; the predominant vegetation is oat hay, a common feed for dairy cows. No cultivation, irrigation, or pesticide, insecticide use has been made on the site in the recent past and none is proposed.

Project Impacts

The proposed action will temporarily eliminate 22 acres of dairy cattle pasture from the area. Following four months construction, reseeding, and consolidation, the site should be completely restored to the present use, at a somewhat higher elevation.

Recommended Conditions/Mitigations

The site should be reseeded and irrigation provided to aid in reestablishment of the vegetation as soon as possible following dredged material disposal. The draining and consolidation of the site may take one to three years; however, seeding should be done as soon as the soil has drained sufficiently for replanting.

J. CULTURAL RESOURCES

Environmental Setting, Impacts, and Conditions/Mitigations

A number of archaeological sites are recorded and have been extensively investigated in the Novato area, notably in upper reaches of Pacheco and Novato Creeks. No sites are recorded in the immediate vicinity of the project site. Previous filling of the site has obscured any surface evidence of artifacts or other signs of prehistoric settlement. The project will add additional fill but will not place any structures. If in the course of disturbance - construction of levees and placement of dredge slurry - artifacts are revealed, the County Planning Department should be immediately notified for appropriate action.

IV. SUMMARY

The impacts of the proposed dredged material disposal on a maintenance DMDS site in the Novato tidelands include:

- o temporary loss of 22 acres of grassland habitat and the terrestrial wildlife resources associated with the habitat
- o temporary loss of agricultural pasture land for the time of construction and post-construction until habitat restoration
- o permanent loss of 89 acre feet of flood water storage capacity within the tideland subzone of the BFC district.
- o permanent loss of opportunity to restore partially filled area to more productive bayland habitat.

Cumulative impact is associated will filling the site, when the project is viewed in the context of other projects, past and pending. The Bel Marin Keys Industrial Park initiated filling of diked baylands in the vicinity more than a decade ago. These filled lands are now almost completely built out. To the east, the development of Bel Marin Keys Units 1-3 spans more than two decades, with more recent filling and lagoon excavation for Unit 4. Extensive filling is proposed for future development of the community, pending environmental and planning review.

Fill of the project site by placing dredge spoils serves as an incremental addition to a process that has been underway for many years. In two respects, however, the fill is not significant as a cumulative impact: 1) the site is already partially filled, and thus is less "valuable" than similar unfilled, diked lands nearby; and 2) the site occurs on the most landward margin of the diked historic baylands and shows stronger evidence of terrestrial affinities than wetland. Its flood control valve, similarly, is less than adjacent unfilled agricultural lands.

V. REFERENCES

Publications

Marin County Planning Department, 19__. Countywide Plan of Marin County.

Munz, Philip A. and David D. Keck, 1959. A California Flora, University of California Press, Berkeley and Los Angeles, Ca.

Ransome, Jay Ellis, 1981. Harper & Row Complete Field Guide to North American Wildlife, Western Edition, New York, NY.

Torrey & Torrey, Inc., 1982. Bel Marin Key Unit 5 DEIR/DEIS for the Marin County Planning Department and the U.S. Army Corps of Engineers, San Francisco, CA.

Personal Communication

California Department of Fish and Game.

Carlsen, Richard, Flood Engineer, Marin County Public Works Department, San Rafael, CA.

Cheney, Michael, Bel Marin Community Services District, Novato, Ca.

Dughi, Gary, Natural Resource Manager, Earthmetrics, Burlingame, Ca. (consultation regarding nearby Bel Marin Development).

Marin County Humane Society.

Repair, Romain, Project Flood Engineer, Marin County Public Works Department, San Rafael, CA.

Stump, Charles, Environmental Planner, Marin County Planning Department, San Rafael, CA.

Vail Blaricom, Robert, Project Engineer, URS/John A. Blume & Associates, Engineers, San Francisco, CA.

STATE OF CALIFORNIA — GEORGE DEUKMEJIAN, Governor

STATE LANDS COMMISSION
1807 13TH STREET
SACRAMENTO, CALIFORNIA 95814

"D"

October 30, 1985

File Ref: W 23673

Bel Marin Keys Community
Services District
4 Montego
Novato, California 94947

Gentlemen:

Pursuant to your application dated September 3, 1985, and by the authorization of the State Lands Commission on November 21, 1985 you are hereby granted permission to dredge, during the term of the permit, a maximum of 203,000 cubic yards of sand, silt, clay and gravel, excluding all other minerals, including but not limited to, oil, gas and geothermal from an area of tide and submerged lands in Novato Creek at Bel Marin Keys, Marin County, as designated in Exhibits "A" and "B", attached hereto, which are by this reference expressly made a part hereof. Said permission includes the right to deposit dredge spoils at the privately-owned "Leveroni" uplant site west of the Bel Marin Keys Development.

A royalty of $0.25 per cubic yard shall be paid for material placed at the approved private property or used for any private or commercial benefit. Said permission is given on the condition that all dredging and spoils deposition shall be done in accordance with all applicable Federal, State and local government laws, rules and regulations. Said permission shall be effective from December 1, 1985 through November 30, 1986.

It is hereby agreed that the operations authorized under this permit shall be performed with diligence, in a good and workmanlike manner, and with the use of due care and safety precautions.

It is further agreed that you shall submit copies of reports or contracts with the dredging operator substantiating the volume of materials dredged and any royalties due to the Commission on a quarterly basis, on forms supplied by the Commission (Form 30.9 NC). It is agreed that you shall submit said forms on or before the fifteenth (15th) day of the month following the end of each permit quarter, together with payment

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for the royalty due on the volume removed during that quarter. The first permit quarter shall be the first three months following the effective date of this permit, and every three-month period thereafter shall be a permit quarter.

It is hereby agreed that, pursuant to Public Resources Code Section 6224, any installments of royalty accruing under the provisions of this permit that are not paid when due shall be subject to a five percent (5%) penalty and shall bear interest at the rate of one and one-half percent (1-1/2%) per month from the date when the same was payable by the terms hereof.

It is agreed that you shall furnish the Commission with copies of final surveys or copies of any other computations used as a basis to verify dredge volumes within twenty-five (25) days of completion of the activity authorized hereunder.

It is agreed that you shall indemnify, save harmless and, at the option of the State of California, defend said State, its officers, agents and employees, against any and all claims, demands, causes of action, or liability of any kind which may be asserted against or imposed upon the State of California or any of its officers, agents or employees by any third person or entity, arising out of or connected with the issuance of this permit, operations hereunder, or the use by you or your agents, employees or contractors, of the above described lands.

Without limiting the generality of the foregoing, such indemnification shall include any claim, demand, cause of action or liability of any kind asserted against or impounded upon the State of California or any of its officers, agents or employees arising out of or connected with any alleged or actual violation by you, your agents, employees or contractors of the property or contractual rights of any third person or entity. It is agreed that you shall at the option of the Commission procure and maintain liability insurance for the benefit of the State in an amount satisfactory to the Commission.

You agree to comply with the terms and conditions hereof, and you further agree that any violation thereof shall constitute grounds for termination of this permit and shall allow the Commission to pursue any other remedy available to it under the law. It is further agreed that this permit may be suspended, modified or terminated whenever the State Lands Commission deems such action to be in the best interests of the State, and that no such action by the Commission shall be deemed

to be a basis for any claim or cause of action for damages against the State or any officer, employee or agency thereof.

STATE OF CALIFORNIA
STATE LANDS COMMISSION

W. M. THOMPSON, Chief
Extractive Development Program

DATE

ACCEPTED:

BY

TITLE

DATE

Mailed in Triplicate

Attachments: EXHIBITS "A" and "B"

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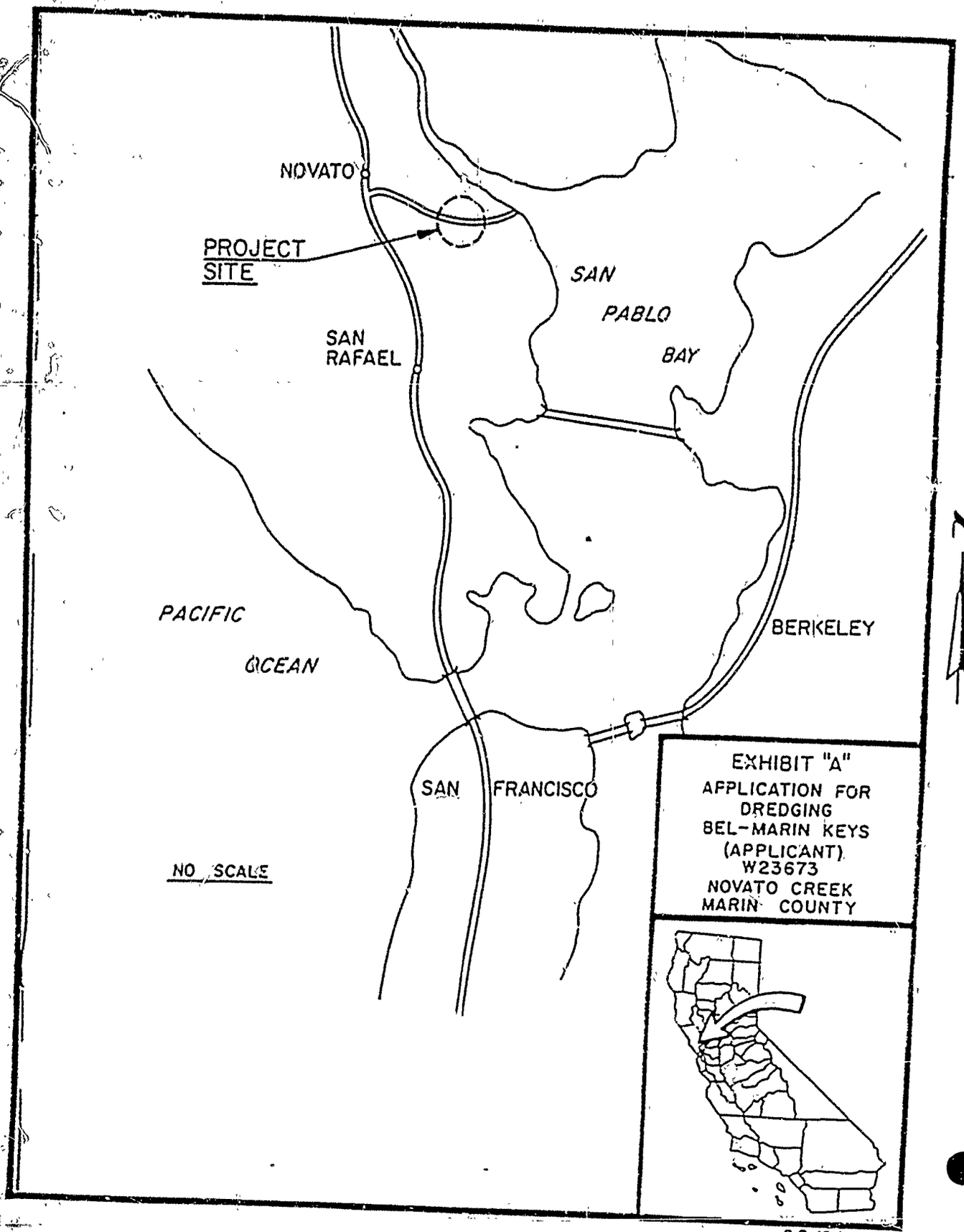

EXHIBIT "A"
APPLICATION FOR DREDGING
BEL-MARIN KEYS
(APPLICANT)
W23673
NOVATO CREEK
MARIN COUNTY

R.O. 10/85

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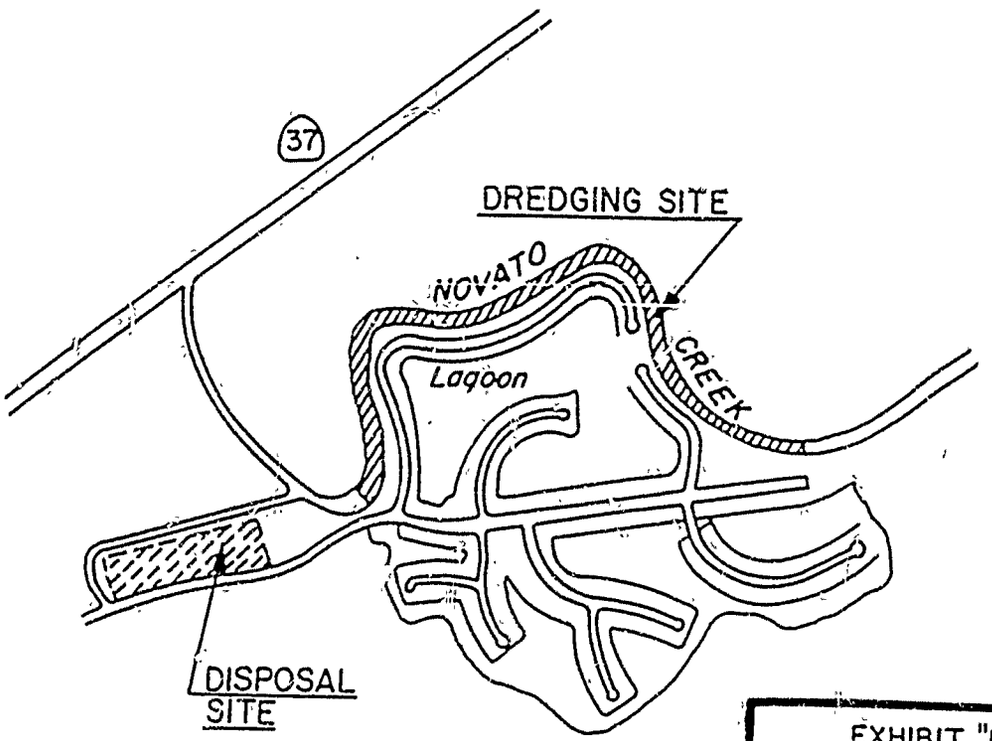

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EXHIBIT "B"
APPLICATION FOR
DREDGING
BEL-MARIN KEYS
(APPLICANT)
W23673
NOVATO CREEK
MARIN COUNTY

R.O. 10/83

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