



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>

September 10, 2009

Certified Mail – Return Receipt Requested
Article Number: 7007 0710 000 5763 4724

In reply refer to:
739283jebesen

Eileen Maher
San Diego Unified Port District
3165 Pacific Highway
San Diego, CA 92101

Dear Ms. Maher:

SUBJECT: Action on Request for Clean Water Act Section 401 Water Quality Certification for the Fender Pile Replacement Navy Pier 11A Project, Water Quality Certification No. 09C-044

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 Fender Pile Replacement Navy Pier 11A 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.

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>.

Recycled Paper



0000410

E. Maher
San Diego Unified Port District
401 Certification 09C-044

- 2 -

September 10, 2009

In the subject line of any response, please include the requested "In reply refer to:" information located in the heading of this letter. If you have any questions regarding this notification, please contact Ms. Jody Ebsen directly at 858-636-3146 or by email via jebesen@waterboards.ca.gov.

Respectfully,



JOHN H. ROBERTUS
Executive Officer

Enclosure:

Clean Water Act Section 401 Water Quality Certification No. 09C-044 for the Fender Pile Replacement Navy Pier 11A project, with 4 attachments

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

File No.	09C-044
WDID:	9 000001935
<i>C/WQS</i>	
Reg. Measure ID:	366830
Place ID:	739283
Party ID:	281794
Person ID:	102127



Linda S. Adams
Acting Secretary for
Environmental
Protection

California Regional Water Quality Control Board San Diego Region



Arnold
Schwarzenegger
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[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

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: Fender Pile Replacement Navy Pier 11A
Certification No. 09C-044 WDID No. 9000001935

APPLICANT: Eileen Maher
San Diego Unified Port District
P.O. Box 120488
San Diego, CA 92112-0488

File No.	09C-044
WDID:	9 000001935
<u>CIWQS</u>	
Reg. Measure ID:	366830
Place ID:	739283
Party ID:	281794
Person ID:	102127

ACTION:

<input checked="" type="checkbox"/> Order for Low Impact Certification	<input type="checkbox"/> Order for Denial of Certification
<input 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 to install 20 fender piles to protect the pier from damage that can be caused by large cruise ships on Navy Pier 11A in San Diego. It involves placing groups of 5 piles in 4 different locations along the pier face. The pile groupings will be spaced 125 feet apart and the individual piles will be installed a minimum of 12 inches apart..

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).

California Environmental Protection Agency

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Recycled Paper



000001935

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 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 San Diego Unified Port District must satisfy the following:

A. GENERAL CONDITIONS:

1. The San Diego Unified Port District 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 (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, the San Diego Unified Port District 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. San Diego Unified Port District 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. The San Diego Unified Port District 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. The San Diego Unified Port District 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. San Diego Unified Port District 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, and annually thereafter, the San Diego Unified Port District must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response, and BMP implementation and maintenance.
2. San Diego Unified Port District 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 Requirement are accessible at:
http://www.waterboards.ca.gov/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.
3. 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.
4. Substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil 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. San Diego Unified Port District must conduct photo documentation of the project site, including all areas of impact, prior to, during and after project construction. The photo documentation must be included in final report.

D. REPORTING:

1. 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.
2. 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

3. San Diego Unified Port District 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 the photo documentation of the completed project.
4. 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."

5. San Diego Unified Port District 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. 09C-001
 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)
Complete Report	D3	Within 30 days of project completion

PUBLIC NOTIFICATION OF PROJECT APPLICATION:

On June 15, 2009, 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) 6363146
jebsen@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the Structural Upgrades to Broadway Pier (Project No. 09C-044) 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 Board's Water Quality Control Plan (Basin Plan).



JOHN H. ROBERTUS
Executive Officer
Regional Water Quality Control Board

9/10/2009
Date

Attachments:

1. Project Information
2. Distribution List
3. Location and Site Maps
4. Site Designs

**ATTACHMENT 1
PROJECT INFORMATION**

Applicant: ✓ San Diego Unified Port District
 Attention: Eileen Maher
 3165 Pacific Highway
 San Diego, CA 92101
 Telephone: 619-686-6254
 Facsimile: 619-686-6467
 Email: emaher@portofsandiego.org

Project Name: ✓ Fender Pile Replacement Navy Pier 11A

Project Location: ✓ Navy Pier 11A west of Harbor Drive in San Diego

Type of Project: ✓ Upgrades to existing pier.

Need for Project: To accommodate large cruise ships and provide for deep water berthing on the north side of Navy Pier 11A in San Diego. Original wooden fender piles that were damaged were removed by the U.S. Navy in the 1990s prior to the pier being transferred to San Diego Unified Port District.

Project Description: ✓ The project is to install 20 fender piles for pier protection on Navy Pier 11A in San Diego. Groups of 5 piles in 4 different locations will be placed along the pier face. The pile groupings will be spaced 125 feet apart and the individual piles will be installed a minimum of 12 inches apart.

Federal Agency/Permit: ✓ U.S. Army Corps of Engineers, Nationwide #3 , Kari Coler

Other Required Regulatory Approvals: ✓ San Diego Unified Port District, Coastal Development Permit, Categorical Determination – Excluded Development under section 8.a(10) and b.(3).

California Environmental Quality Act (CEQA) Compliance: ✓ Fender Pile Replacement North Side of Navy Pier California Environmental Quality Act (CEQA) Determination, Categorical Exemptions sections 15301 (class 1) 15302 (class 2), June 5, 2009, San Diego Unified Port District.

Receiving Water: ✓ San Diego Bay

Affected Waters of the United States/State: Ocean

Dredge Volume: N/A

Compensatory Mitigation: ✓ Permanent impacts are less than significant, therefore no compensatory mitigation is proposed. Minor localized temporary impacts from increased turbidity resulting from the projects may occur.

Public Notice: On June 15, 2009, receipt of the project application was posted on the Regional Board web site to serve as appropriate notification to the public.

Fees: Total Due: \$640.00
Total Paid: \$640.00 (check No. 125276)

CIWQS: Regulatory Measure ID: 366830
Place ID: 739283
Party ID: 281794

**ATTACHMENT 2
DISTRIBUTION LIST**

Ms. Kari Coler
U.S. Army Corps of Engineers, Regulatory Branch
San Diego Field Office
6010 Hidden Valley Rd, Ste 105
Carlsbad, California 92011

Via email:

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

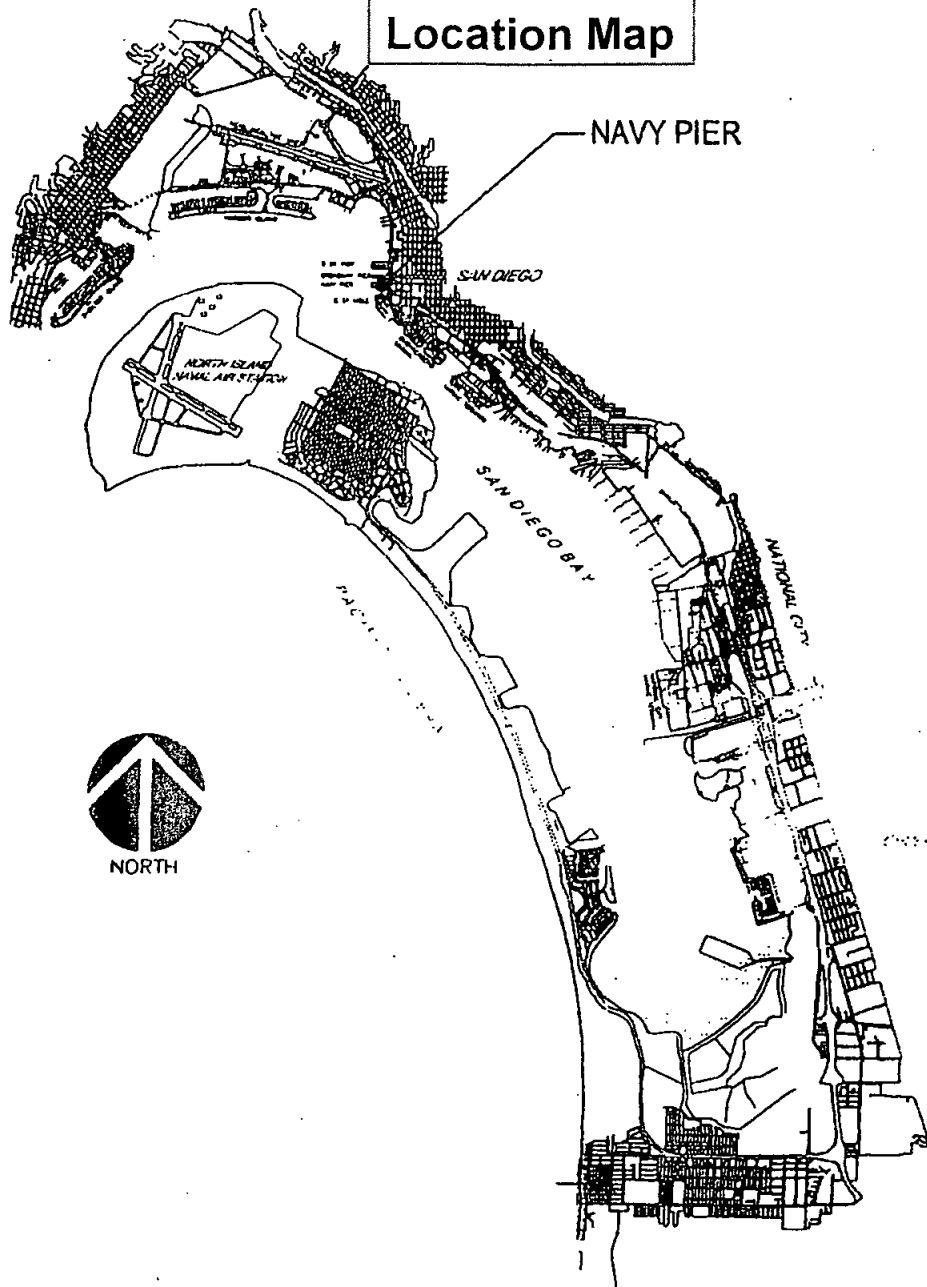
U.S. Environmental Protection Agency, Region 9
Wetlands Regulatory Office
R9-WTR8-Mailbox@epa.gov

Kathleen Brubaker
U.S. Department of the Interior
Fish and Wildlife Service
kathleen_brubaker@fws.gov

David Zoutendyk
U.S. Department of the Interior
Fish and Wildlife Service
david_zoutendyk@fws.gov

**ATTACHMENT 3
LOCATION AND SITE MAPS**

**Attachment 3
Location Map**



**LOCATION MAP
NAVY PIER NORTH BERTH FENDER PILE REPLACEMENT
NO SCALE**

PURPOSE: FENDER PILE REPLACEMENT
SAN DIEGO, CALIFORNIA

DATUM: M.L.L.W.

ADJACENT PROPERTY OWNERS:
SAN DIEGO UNIFIED PORT DISTRICT

SAN DIEGO UNIFIED PORT DISTRICT
3165 PACIFIC HIGHWAY
SAN DIEGO, CA 92101

DIRECTOR, ENGINEERING/CONSTRUCTION

B.S.

BRIAN STUP
DRAWN BY: BG CHECKED BY: R.S. AUSTIN

IN: SAN DIEGO BAY
AT: SAN DIEGO
COUNTY OF: SAN DIEGO STATE: CA

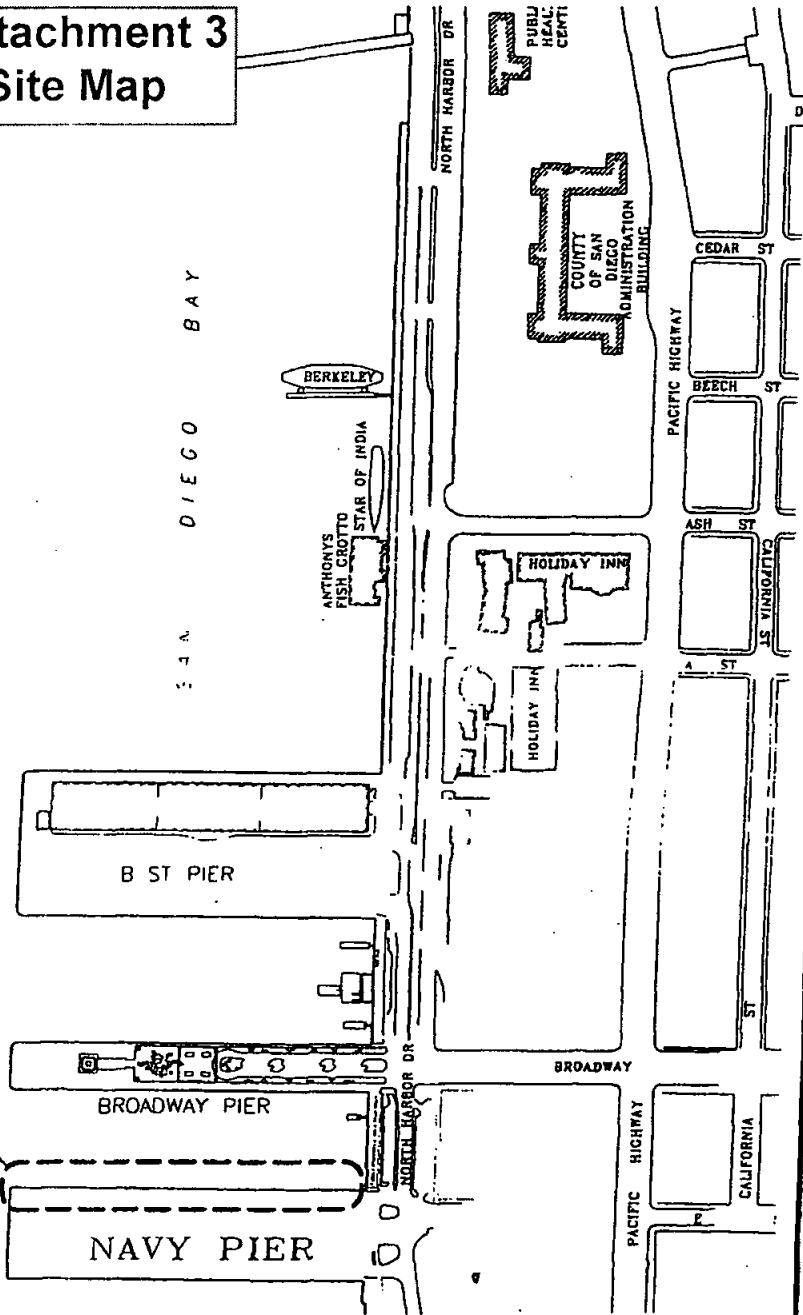
APPLICATION BY:
SAN DIEGO UNIFIED PORT DISTRICT

SHEET 1 OF 5 DATE: 6-4-2009
DWG NO: 329-C REV: *01*

**Attachment 3
Site Map**



SITE



NAVY PIER NORTH BERTH FENDER PILE REPLACEMENT

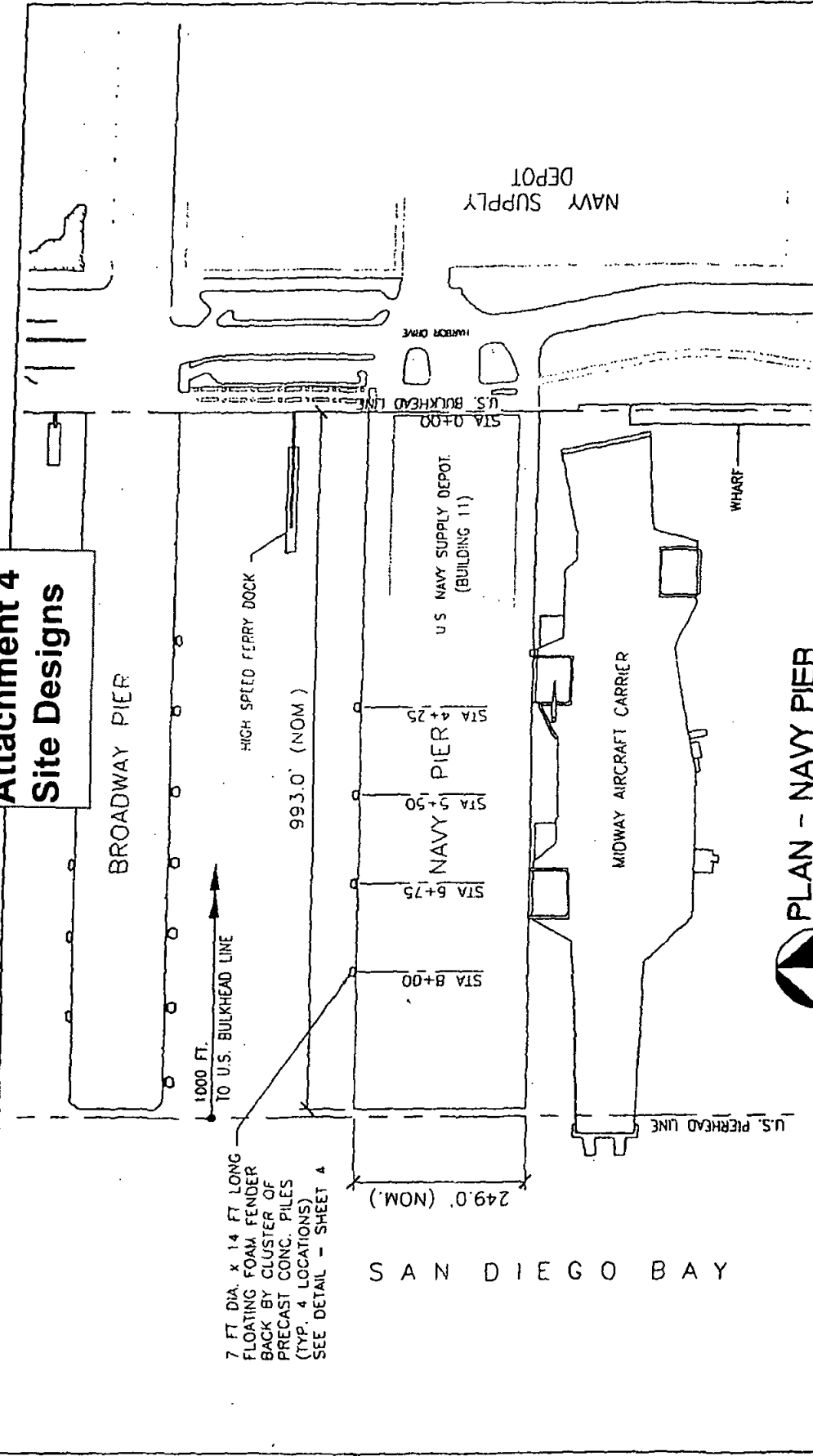
NO SCALE

<p>PURPOSE: FENDER PILE REPLACEMENT SAN DIEGO, CALIFORNIA</p>	<p>SAN DIEGO UNIFIED PORT DISTRICT 3165 PACIFIC HIGHWAY SAN DIEGO, CA 92101</p>	<p>IN: SAN DIEGO BAY AT: SAN DIEGO COUNTY OF: SAN DIEGO STATE: CA</p>
<p>DATUM: M.L.L.W. ADJACENT PROPERTY OWNERS: SAN DIEGO UNIFIED PORT DISTRICT</p>	<p>DIRECTOR, ENGINEERING/CONSTRUCTION <i>[Signature]</i> BRIAN STUP DRAWN BY: BG CHECKED BY: R.S. AUSTIN</p>	<p>APPLICATION BY: SAN DIEGO UNIFIED PORT DISTRICT SHEET 2 OF 5 DATE: 6-4-2009 DWG NO: 329-C REV: -</p>

**ATTACHMENT 4
SITE DESIGNS**

9 1 7 4 / 2 0 0 9

Attachment 4 Site Designs

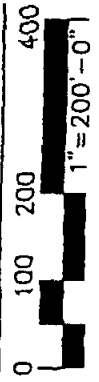


7 FT DIA. x 14 FT LONG
FLOATING FOAM FENDER
BACK BY CLUSTER OF
PRECAST CONC. PILES
(TYP. 4 LOCATIONS)
SEE DETAIL - SHEET 4



PLAN - NAVY PIER

GRAPHIC SCALES:



PURPOSE: NAVY PIER NORTH BERTH
FENDER REPLACEMENT

DATE: M.L.L.W.

ADJACENT PROPERTY OWNERS:
SAN DIEGO UNIFIED PORT DISTRICT

SAN DIEGO UNIFIED PORT DISTRICT
3165 PACIFIC HIGHWAY
SAN DIEGO, CA 92101

DIRECTOR OF ENGINEERING/CONSTRUCTION
B.S.F.
BLAIR STUP

DRAWN BY: TEG CHECKED BY: JVP

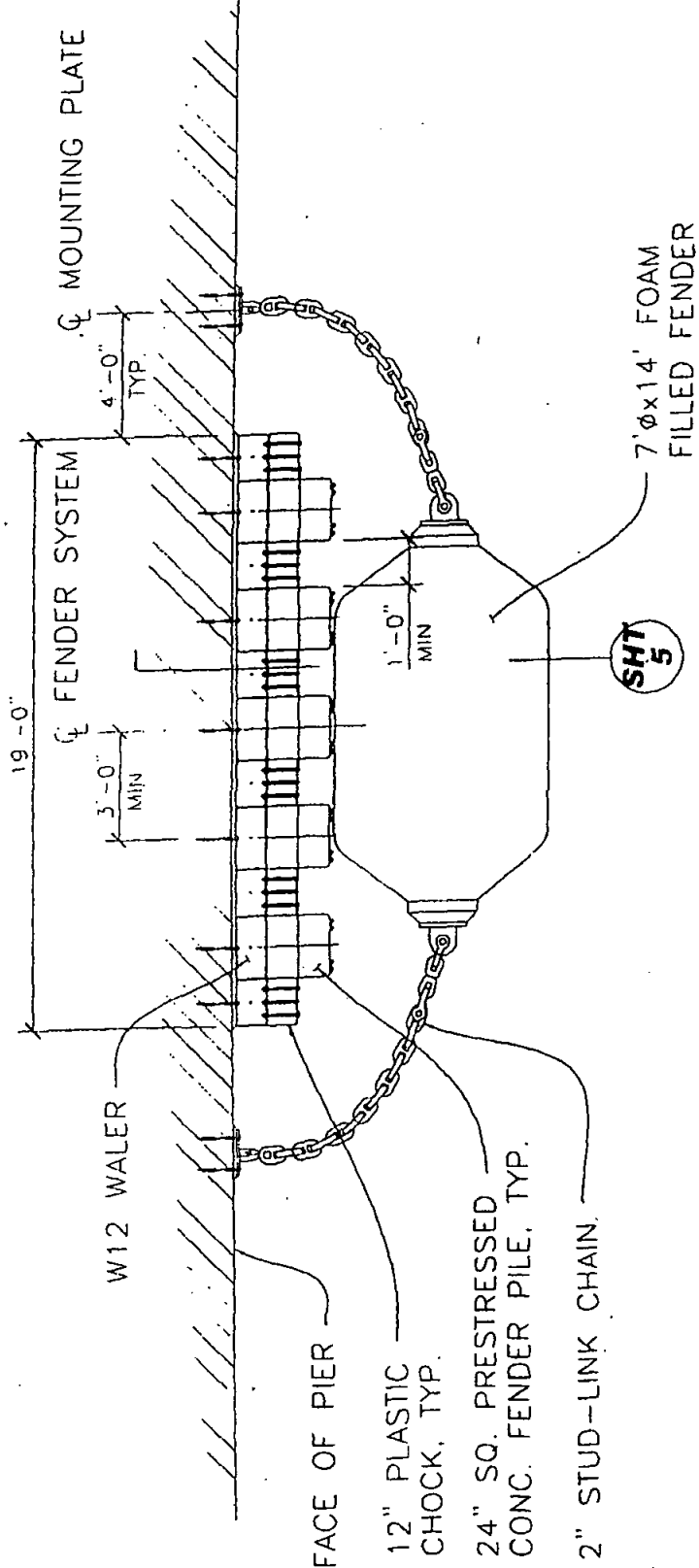
IN: NAVY PIER
AT: SAN DIEGO
COUNTY OF: SAN DIEGO STATE: CA

APPLICATION BY:
SAN DIEGO UNIFIED PORT DISTRICT

SHEET 3 OF 5 DATE: 06-04-09
DWG NO: 329-C REV: -

9 1 7 4 / 2 0 0 9

**Attachment 4
Site Designs**



PLAN - PRIMARY FENDER

TIDE INFORMATION:

- EHT ----- +8.0 FT
- MHHW ----- +5.4 FT
- MLLW ----- +0.0 FT
- ELT ----- -2.18 FT

PURPOSE: NAVY PIER NORTH BERTH
FENDER REPLACEMENT

DATUM: M.L.L.W.
ADJACENT PROPERTY OWNERS:
SAN DIEGO UNIFIED PORT DISTRICT

SAN DIEGO UNIFIED PORT DISTRICT
3165 PACIFIC HIGHWAY
SAN DIEGO, CA 92101

DIRECTOR OF ENGINEERING/CONSTRUCTION

BSE
BRIG STUP

DRAWN BY: TEG. CHECKED BY: JVP

IN: NAVY PIER
AT: SAN DIEGO
COUNTY OF: SAN DIEGO STATE: CA

APPLICATION BY:
SAN DIEGO UNIFIED PORT DISTRICT

SHEET 4 OF 5 DATE: 06-04-09
DWG NO: 329-C REV: -

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:</p> <p style="font-size: 1.2em;">EILEEN MAHER United Port of SAN Diego 3165 Pacific Hwy SAN DIEGO CA 92101</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 (Transfer from service label)</p>	<p style="font-size: 1.2em;">7007 0710 0000 5763 4724</p>
<p>PS Form 3811, February 2004</p>	<p>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
CERTIFIED MAIL™



7007 0710 0000 5763 4724
 7007 0710 0000 5763 4724

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)											
For delivery information visit our website at www.usps.com											
OFFICIAL USE											
<table border="1"> <tr> <td>Postage</td> <td>\$</td> </tr> <tr> <td>Certified Fee</td> <td></td> </tr> <tr> <td>Return Receipt Fee (Endorsement Required)</td> <td></td> </tr> <tr> <td>Restricted Delivery Fee (Endorsement Required)</td> <td></td> </tr> <tr> <td>Total Postage & Fees</td> <td>\$</td> </tr> </table>	Postage	\$	Certified Fee		Return Receipt Fee (Endorsement Required)		Restricted Delivery Fee (Endorsement Required)		Total Postage & Fees	\$	Postmark Here
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<table border="1"> <tr> <td colspan="2">Sent To</td> </tr> <tr> <td colspan="2">Eileen MAHER, Unified Port of San Diego</td> </tr> <tr> <td>Street, Apt. No., or PO Box No.</td> <td>3165 Pacific Hwy</td> </tr> <tr> <td>City, State, ZIP+4</td> <td>SAN DIEGO CA 92101</td> </tr> </table>		Sent To		Eileen MAHER, Unified Port of San Diego		Street, Apt. No., or PO Box No.	3165 Pacific Hwy	City, State, ZIP+4	SAN DIEGO CA 92101		
Sent To											
Eileen MAHER, Unified Port of San Diego											
Street, Apt. No., or PO Box No.	3165 Pacific Hwy										
City, State, ZIP+4	SAN DIEGO CA 92101										
PS Form 3800, August 2006	See Reverse for Instructions										