# PUBLIC NOTICE

**U.S. ARMY CORPS OF ENGINEERS** **BUILDING STRONG®**
**LOS ANGELES DISTRICT**

## APPLICATION FOR PERMIT
## 43 Linda Isle Maintenance Dredging Project

**Public Notice/Application No.:** SPL-2011-00463-SME
**Project:** 43 Linda Isle Maintenance Dredging Project
**Comment Period:** July 12, 2012 through August 11, 2012
**Project Manager:** Stephen Estes; 213-452-3660; Stephen.M.Estes@usace.army.mil

**Applicant**
Kent Green
Orange County Investments, LLC
441 West Plumb Lane
Reno, Nevada 89509
775-333-9100

**Contact**
Adam Gale
Anchor QEA
26300 La Alameda, Suite 240
Mission Viejo, California 92691
949-347-2780

**Location**
The proposed project would be located bayside of 43 Linda Isle, Newport Beach, Orange County, California within Newport Bay at approximately 33.61359; -117.90531 (Figure 1).

**Activity**
The proposed project would consist of maintenance dredging adjacent to an existing, private dock located bayside of 43 Linda Isle, Newport Beach, Orange County, California within Newport Bay (Figures 2-3). Approximately 3,411 cubic yards (CYs) of sediment would be mechanically dredged from a 0.55-acre area to restore the original design depth of -10 feet Mean Lower Low Water (MLLW) (plus two feet of allowable overdredge depth). The purpose of the proposed project is to restore and maintain safe navigation to the 43 Linda Isle Boat Dock. Dredged material would be transported via a bottom-dump scow for disposal at the LA-3 Ocean Dredged Material Disposal Site (ODMDS), a U.S. Environmental Protection Agency (EPA)-approved, open-ocean disposal site located offshore of Newport Beach. For more information, please see Page 3 of this Public Notice.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on Figures 1-3. The U.S. Army Corps of Engineers (Corps) invites you to review this Public Notice and provide views on the proposed work. By providing substantive, site-specific comments to the Corps Regulatory Division, you provide information that supports the Corps' decision-making process. All comments received during the comment period become part of the administrative record and will be considered in the permitting decision. This permit would be issued, issued with special conditions, or denied under section 404 of the Clean Water Act, section 10 of the Rivers and Harbors Act of 1899, and section 103 of the Marine Protection, Research, and Sanctuaries Act. Comments should be mailed to:

Stephen M. Estes
Regulatory Division
U.S. Army Corps of Engineers
915 Wilshire Boulevard
Los Angeles, California 90017

Alternatively, comments can be sent electronically to: Stephen.M.Estes@usace.army.mil.

The mission of the Corps Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible, and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Corps Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable waters and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state, and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

**Evaluation Factors**

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production, and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 Code of Federal Regulations (CFR) Part 230) as required by section 404(b)(1) of the Clean Water Act.

The Corps Regulatory Division is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the

impacts of this proposed activity. Any comments received will be considered by the Corps Regulatory Division to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**Preliminary Review of Selected Factors**

**EIS Determination**- A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

**Water Quality**- The applicant is required to obtain water quality certification, under section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires that any applicant for an individual section 404 permit provide proof of water quality certification to the Corps prior to permit issuance. For any proposed activity on Tribal land that is subject to section 404 jurisdiction, the applicant will be required to obtain water quality certification from EPA.

**Coastal Zone Management**- The applicant has certified that the proposed activity would comply with and would be conducted in a manner that is consistent with the approved State Coastal Zone Management Program. For those projects in or affecting the coastal zone, the Federal Coastal Zone Management Act requires that prior to issuing the Corps' authorization for the project, the applicant must obtain concurrence from the California Coastal Commission that the project is consistent with the State's Coastal Zone Management Plan. The District Engineer hereby requests the California Coastal Commission's concurrence or non-concurrence.

**Essential Fish Habitat**- Preliminary determinations indicate the proposed activity may adversely affect Essential Fish Habitat (EFH). Pursuant to section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Los Angeles District hereby requests initiation of EFH consultation with the National Marine Fisheries Service (NMFS) for the proposed project. This notice initiates the EFH consultation requirements of the MSA abbreviated consultation. In order to comply with the MSA, pursuant to 50 CFR §600.920(e)(3), I am providing, enclosing, or otherwise identifying the following information:

1. Description of the proposed action: Please see the project description on Page 5 of this Public Notice.

2. On-site inspection information: Please see baseline information on Page 5 of this Public Notice.

3. Analysis of the potential adverse effects on EFH: The proposed project would occur within EFH for various federally managed fish species within the Coastal Pelagic Species and Pacific Coast Groundfish Fishery Management Plans (FMP). In addition, the proposed project would result in direct impacts to estuarine habitat and eelgrass (*Zostera marina*), which are designated as habitat areas of particular concern for various federally managed fish species within the Pacific Coast Groundfish FMP.

   As described below, the proposed project would consist of the mechanical dredging of approximately 3,411 CYs of sediment from an approximately 0.55-acre area of estuarine habitat. This activity would be expected to cause a temporary increase in turbidity during construction.

Based on the results of the applicant's Sediment Analysis Report (SAR), dredged material would not be expected to introduce contaminants into the water column.

The proposed project would directly impact approximately 6.3 square meters of eelgrass through mechanical dredging (Figure 2). This eelgrass is present on the projected side slope of the project (Figure 3). It should be noted that the applicant's original proposal included direct impacts to approximately 61.3 square meters of eelgrass, which was subsequently reduced by approximately 90% due to comments received from the Southern California Dredged Material Management Team (SC-DMMT). The proposed impacts to eelgrass would reduce habitat for various fish and aquatic invertebrate species in Newport Bay.

4. Proposed minimization, conservation, or mitigation measures: As described above, the applicant has reduced to area of proposed, direct impacts to eelgrass from 61.3 square meters to 6.3 square meters. This eelgrass patch could not be fully avoided due to the need for dredging along that portion of the project site. Standard Best Management Practices (BMPs) would be required during construction. In addition, the applicant would deploy a silt curtain to contain entrained sediment within the project footprint and minimize indirect impacts to nearby eelgrass beds and other areas. Finally, the applicant has requested eligibility to be excluded from compensatory mitigation requirements according to Section 12.2 of the Southern California Eelgrass Mitigation Policy (SCEMP). No in-kind or out-of-kind compensatory mitigation has been proposed by the applicant.

5. Conclusions regarding effects of the proposed project on EFH: Based on the project description and EFH assessment provided by the applicant, the proposed project would result in disturbance of approximately 0.55 acre of substrate within lower Newport Bay, inclusive of approximately 6.3 square meters of eelgrass. Furthermore, the affected substrate would likely consist of soft-bottom sediments, with little or no hard rock substrate affected. The applicant revised the proposed project description to avoid direct impacts to approximately 90% of the eelgrass identified within their original project footprint. Therefore, it is my initial determination the proposed activity may adversely affect but would not have a substantial adverse impact on EFH or federally managed fisheries in California waters. My final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with NMFS. If I do not receive written comments (regular mail or e-mail) within the 30-day notification period, I will assume concurrence by NMFS that no mitigation measures are necessary.

**Cultural Resources**- The latest version of the National Register of Historic Places has been consulted and this site is not listed. This review constitutes the extent of cultural resources investigations by the District Engineer, and he is otherwise unaware of the presence of such resources.

**Endangered Species**- Preliminary determinations indicate that the proposed activity would not affect federally-listed endangered or threatened species, or their critical habitat. Therefore, formal consultation under section 7 of the Endangered Species Act does not appear to be required at this time.

**Public Hearing**- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

## Proposed Activity for Which a Permit is Required

**Basic Project Purpose**- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent (i.e., requires access, proximity to, or siting within the special aquatic site to fulfill its basic purpose). Establishment of the basic project purpose is necessary only when the proposed activity would result in a discharge of dredged or fill material into a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). Because no fills are proposed within special aquatic sites, identification of the basic project purpose is not necessary.

**Overall Project Purpose**- The overall project purpose serves as the basis for the Corps' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for the proposed project is to restore and maintain safe navigation to the 43 Linda Isle Boat Dock.

## Additional Project Information

**Baseline Information**- The proposed project site is located immediately west of Linda Isle in lower Newport Bay. A portion of the proposed dredged area is located in an area managed by the City of Newport Beach while the remainder comprises an area managed by the County of Orange. Over half of the proposed dredged area is located within the Federal navigation channel. Current depths within the project boundaries range from approximately -3 feet MLLW to -10 feet MLLW. According to the SAR, the project site consists of soft-bottomed sediments, with an average grain size of 12.6% sand, 66.6% silt, and 20.8% clay.

An eelgrass and Caulerpa (*Caulerpa taxifolia*) survey of the project site was conducted on October 8, 2010. Approximately 61.3 square meters of eelgrass was found within the original project footprint. To avoid impacts to eelgrass and in response to resource agency comments, the applicant reduced the footprint of proposed dredging to include direct impacts to 6.3 square meters of eelgrass. No Caulerpa was found within the survey area.

The applicant submitted a draft Sampling and Analysis Plan (SAP) to the SC-DMMT in May 2011 to determine the suitability of the proposed dredged material for ocean disposal at the LA-3 ODMDS. A final SAP was subsequently submitted to the SC-DMMT incorporating comments from various resource agencies. This final SAP was approved by EPA on July 7, 2011 and by the Corps on August 18, 2011. A full Tier III evaluation was conducted and a SAR was submitted to the SC-DMMT in January 2012. Based on the results of the SAR, the applicant recommended that sediment from the project site is suitable for disposal at the LA-3 ODMDS. EPA and the Corps agreed with this recommendation on January 25, 2012.

**Project Description**- The proposed project would consist of the mechanical dredging of approximately 3,411 CYs of sediment (1,967 CYs design and 1,444 CYs of allowable overdredge depth) using a clamshell dredge or similar mechanized equipment, temporarily impacting approximately 0.55 acre of navigable waters of the United States. The project footprint would be dredged to a design depth of -10 feet MLLW, plus two feet of overdredge depth allowance (one foot paid and one foot unpaid). Dredged sediment would be transported via a bottom-dump scow to the LA-3 ODMDS for ocean disposal. The proposed project is expected to take approximately two weeks to complete.

**Proposed Mitigation**- The proposed mitigation may change as a result of comments received in response to this Public Notice, the applicant's response to those comments, and/or the need for the project to comply with the 404(b)(1) Guidelines. In consideration of the above, the proposed mitigation sequence (avoidance/minimization/compensation) as applied to the proposed project is summarized below:

Avoidance: The applicant originally proposed to dredge approximately 3,900 CYs of sediment, directly impacting approximately 61.3 square meters of eelgrass. As described above, the applicant has revised the project description to avoid approximately 90% of the eelgrass present within the original project footprint. The applicant's revised project description proposes to dredge approximately 3,411 CYs of sediment, directly impacting approximately 6.3 square meters of eelgrass. According to information submitted by the applicant, no further avoidance could be achieved while still satisfying the overall project purpose of restoring and maintaining safe navigation to the 43 Linda Isle Boat Dock.

Minimization: Standard BMPs would be required during construction (see the proposed Special Conditions below). In addition, the applicant would deploy a silt curtain to reduce turbidity in areas outside of the project footprint.

Compensation: No compensatory mitigation has been proposed. The applicant has requested eligibility to be excluded from compensatory mitigation requirements according to Section 12.2 of the SCEMP.

**Proposed Special Conditions**

The following list is comprised of proposed permit Special Conditions, which are required of similar types of projects:

1. Prior to each maintenance dredging event, a pre-project eelgrass survey would be conducted in accordance with the SCEMP (http://swr.nmfs.noaa.gov/hcd/policies/EELPOLrev11_final.pdf). If the pre-project survey demonstrates eelgrass presence within the project vicinity, a post-project survey would be conducted in accordance with the SCEMP to determine whether compensatory mitigation for impacts to eelgrass would be required.

2. A pre-construction survey of the project area for Caulerpa would be conducted in accordance with the Caulerpa Control Protocol (http://swr.nmfs.noaa.gov/hcd/caulerpa/ccp.pdf) not earlier than 90 calendar days prior to planned construction and not later than 30 calendar days prior to construction. The results of that survey would be submitted to the Corps Regulatory Division, NMFS, and the California Department of Fish and Game (CDFG) at least 15 calendar days prior to initiation of work in navigable waters. In the event that Caulerpa is detected within the project area, the permittee would not commence work until such time as the infestation has been isolated, treated, and the risk of spread is eliminated as confirmed in writing by the Corps Regulatory Division, in consultation with NMFS and CDFG.

3. For this permit, the term dredging operations would mean: navigation of the dredging vessel at the dredging site, excavation of dredged material within the project boundaries, and placement of dredged material into a hopper dredge, disposal barge, or scow.

4. Dredging authorized in this permit would be limited to the areas defined in Figures 2-3 only. No more than 3,411 CYs of dredged material would be authorized for dredging from the 43 Linda Isle

project site by the permittee. No dredging would be authorized in any other location under this permit. This permit would not authorize the placement or removal of buoys.

5. For this permit, the maximum dredging design depth (also known as the project depth or grade) would be -10 feet MLLW, with a maximum allowable overdredge depth of -2 feet MLLW. No dredging would occur deeper than -12 feet MLLW (dredging design depth plus overdredge depth) or outside the project boundaries (Figure 2).

6. The permittee would be prohibited from dredging or disposing of material in navigable waters of the United States that has not been tested and determined by the Corps Regulatory Division, in consultation with EPA Region IX, to be both clean and suitable for disposal in ocean waters. Re-testing of previously tested or dredged areas would be required after three years from the date of sediment sampling. This time limit is subject to shortening given the occurrence of any event that may cause previously determined clean material to become suspect, at the discretion of the Corps Regulatory Division. Prior to each dredging episode, the permittee must demonstrate that the proposed dredged materials are chemically and physically suitable for disposal in ocean waters according to the provisions of the Inland Testing Manual or Ocean Disposal Manual, as appropriate. If the material does not meet the physical and chemical criteria for unconfined disposal in ocean waters, the dredged material shall be disposed in an upland disposal area. The permittee would submit to the Corps Regulatory Division and EPA a draft SAP. Sampling would not commence until the SAP is approved, in writing, by the Corps Regulatory Division, in consultation with EPA.

7. At least 15 calendar days before initiation of any dredging operations authorized by the permit, the permittee would send a dredging and disposal operations plan to the Corps Regulatory Division and EPA with the following information:

   a) A list of the names, addresses and telephone numbers of the permittee's project manager, the contractor's project manager, the dredging operations inspector, the disposal operations inspector and the captain of each tug boat, hopper dredge, or other form of vehicle used to transport dredged material to the designated disposal site.

   b) A list of all vessels, major dredging equipment, and electronic positioning systems or navigation equipment that will be used for dredging and disposal operations, including the capacity, load level, and acceptable operating sea conditions for each hopper dredge, disposal barge, or scow to assure compliance with special conditions on dredging and disposal operations.

   c) The results of a detailed analysis of all material to be dredged pursuant to an approved SAP.

   d) A detailed description of the dredging and disposal operations authorized by the permit. Description of the dredging and disposal operations would include, at a minimum, the following:

      i. Dredging and disposal procedures for 3,411 CYs of dredged material determined by the Corps and EPA Region IX to be unsuitable for ocean disposal.
      ii. Dredging and disposal procedures for 3,411 CYs to be dredged from the project site.
      iii. A schedule showing when the dredging project is planned to begin and end.

   e) A pre-dredging bathymetric condition survey (presented as a large format plan view drawing), taken within 30 days before the dredging begins, accurate to 0.5-foot with the exact location of

all soundings clearly defined on the survey chart. The pre-dredge survey chart would be prepared showing the following information:

i. The entire dredging area, the toe and top of all side-slopes and typical cross-sections of the dredging areas. To ensure that the entire area is surveyed, the pre-dredge condition survey should cover an area at least 50 feet outside the top of the side-slope or the boundary of the dredging area, unless obstructions are encountered.
ii. The dredging design depth, overdredge depth, and the side-slope ratio.
iii. The total quantity of dredged material to be removed from the dredging areas and the side-slope areas.
iv. Areas shallower than the dredging design depth would be shaded green, areas between the dredging design depth and overdredge depth would be shaded yellow, and areas below overdredge depth that will not be dredged would be shaded blue. If these areas are not clearly shown, the Corps may request additional information.
v. The pre-dredging survey chart would be signed by the permittee to certify that the data are accurate and that the survey was completed within 30 days before the proposed dredging start date.

f) A debris management plan to prevent disposal of large debris at all disposal locations. The debris management plan would include: sources and expected types of debris, debris separation and retrieval methods, and debris disposal methods.

8. The permittee would not commence dredging operations unless and until the permittee receives a Notice to Proceed, in writing, from the Corps Regulatory Division.

9. The permittee would maintain a copy of the Corps permit on all vessels used to dredge, transport, and dispose of dredged material authorized under the permit.

10. To ensure navigational safety, the permittee would provide appropriate notifications to the U.S. Coast Guard (USCG) as described below:

Commander, 11th Coast Guard District (dpw)
Telephone: 510-437-2980
E-mail: d11LNM@uscg.mil
Website: http://www.uscg.mil/dp/lnmrequest.asp

USCG, Sector LA-LB (COTP)
Telephone: 310-521-3860
E-mail: john.p.hennigan@uscg.mil

a) The permittee would notify the USCG, Commander, 11th Coast Guard District (dpw) and the USCG, Sector LA-LB (COTP) (contact information shown above) not less than 15 calendar days prior to commencing work and as project information changes. The notification shall be provided by e-mail with at least the following information, transmitted as an attached Word or PDF file:

i. Project description including the type of operation (i.e. dredging, diving, construction, etc);
ii. Location of operation, including Latitude/Longitude (NAD 83);
iii. Work start and completion dates and the expected duration of operations. The USCG needs to be notified if these dates change;
iv. Vessels involved in the operation (name, size and type);

v. VHF-FM radio frequencies monitored by vessels on scene;
vi. Point of contact and 24-hour phone number;
vii. Potential hazards to navigation;
viii. Chart number for the area of operation; and
ix. The Corps Regulatory Division recommends the following language be used in the LNM: "Mariners are urged to transit at their slowest safe speed to minimize wake, and proceed with caution after passing arrangements have been made."

b) The permittee and its contractor(s) would not remove, relocate, obstruct, willfully damage, make fast to, or interfere with any aids to navigation defined at 33 CFR chapter I, subchapter C, part 66. The permittee would ensure its contractor notifies the Eleventh Coast Guard District in writing, with a copy to the Corps Regulatory Division, not less than 30 calendar days in advance of operating any equipment adjacent to any aids to navigation that requires relocation or removal. Should any Federal aids to navigation be affected by this project, the permittee would submit a request, in writing, to the Corps Regulatory Division as well as the USCG, Aids to Navigation office (contact information provided above). The permittee and its contractor would be prohibited from relocating or removing any aids to navigation until authorized to do so by the Corps Regulatory Division and the USCG.

c) Should the permittee determine the work requires the temporary placement and use of private aids to navigation in navigable waters of the United States, the permittee would submit a request in writing to the Corps Regulatory Division as well as the USCG, Aids to Navigation office (contact information provided above). The permittee would be prohibited from establishing private aids to navigation in navigable waters of the United States until authorized to do so by the Corps Regulatory Division and the USCG.

d) The COTP may modify the deployment of marine construction equipment or mooring systems to safeguard navigation during project construction. The permittee would direct questions concerning lighting, equipment placement, and mooring to the appropriate COTP.

11. The permittee would ensure that the captain of any hopper dredge, tug or other vessel used in the dredging and disposal operations, is a licensed operator under USCG regulations and follows the Inland and Ocean Rules of Navigation or the USCG Vessel Traffic Control Service. All such vessels, hopper dredges or disposal barges or scows, would have the proper day shapes, operating marine band radio, and other appropriate navigational aids.

12. The permittee's contractor(s) and the captain of any dredge covered by this permit would monitor VHF-FM channels 13 and 16 while conducting dredging operations.

13. Upon request, the permittee and its contractor(s) would allow inspectors from the Corps Regulatory Division, EPA, and/or the USCG to inspect all phases of the dredging and disposal operations.

14. Upon request, the permittee and its contractor(s) retained to perform work authorized by the permit or to monitor compliance with this permit would make available to inspectors from the Corps Regulatory Division, EPA, and(or) the USCG the following: dredging and disposal operations inspectors' logs, the vessel track plots and all disposal vessel logs or records, any analyses of the characteristics of dredged material, or any other documents related to dredging and disposal operations.

15. The permitted activity would not interfere with the public's right to free navigation on all navigable waters of the United States.

16. If a violation of any permit condition occurs, the violation would be reported by the permittee to the Corps Regulatory Division within 24 hours. If the permittee retains any contractors to perform any activity authorized by this permit, the permittee would instruct all such contractors that notice of any violations must be reported to the permittee immediately.

17. When using a hopper dredge, water flowing through the weirs would not exceed 10 minutes during dredging operations. The level that a hopper dredge can be filled would not exceed the load line to prevent any dredged material or water from spilling over the sides at the dredging site or during transit from the dredging site to the disposal site. No hopper dredge would be filled above this predetermined level. Before each hopper dredge is transported to the disposal site, the dredging site inspector would certify that it is filled correctly.

18. When using a disposal barge or scow, no water would be allowed to flow over the sides. The level that a disposal barge or scow can be filled would not exceed the load line to prevent any dredged material or water from spilling over the sides at the dredging site. No disposal barge or scow would be filled above this predetermined level. Before each disposal barge or scow is transported to the disposal site, the dredging site inspector would certify that it is filled correctly.

19. The permittee would use an electronic positioning system to navigate at the dredging site. The electronic positioning system would have a minimum accuracy and precision of +/- 10 feet (3 meters). If the electronic positioning system fails or navigation problems are detected, all dredging operations would cease until the failure or navigation problems are corrected. Any navigation problems and corrective measures would be described in the post-dredging completion report per Special Condition 20.

20. The permittee would submit a post-dredging completion report to the Corps Regulatory Division within 30 calendar days after completion of each dredging project to document compliance with all general and Special Conditions defined in this permit. The report would include all information collected by the permittee, the dredging operations inspector and the disposal operations inspector or the disposal vessel captain as required by the Special Conditions of this permit. The report would indicate whether all general and Special Conditions were met. Any violations of the permit would be explained in detail. The report would further include the following information:

    a) Permit and project number.
    b) Start date and completion date of dredging and disposal operations.
    c) Total cubic yards disposed at LA-3.
    d) Mode of dredging.
    e) Mode of transportation.
    f) Form of dredged material.
    g) Frequency of disposal and plots of all trips to LA-3.
    h) Tug boat or other disposal vessel logs documenting contact with the USCG before each trip to the LA-3 ODMDS.
    i) Percent sand, silt and clay in dredged material.
    j) A certified report from the dredging site inspector indicating all general and special permit conditions were met. Any violations of the permit wouldl be explained in detail.
    k) A detailed post-dredging hydrographic survey of the dredging area. The survey would show areas above the dredging design depth shaded green, areas between the dredging design depth and overdredge depth shaded yellow, areas below overdredged depth that were not

dredged or areas that were deeper than the overdredge depth before the project began as indicated on the pre-dredging survey shaded blue, and areas dredged below the overdredge depth or outside the project boundaries shaded red. The methods used to prepare the post-dredging survey would be the same methods used in the pre-dredging condition survey. The survey would be signed by the permittee certifying that the data are accurate.

l) The post-dredging report would be signed by a duly authorized representative of the permittee. The permittee's representative would make the following certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

21. For this permit, the term disposal operations would mean: the transportation of dredged material from the dredging site to the LA-3 ODMDS, proper disposal of dredged material at the central disposal area within the LA-3 ODMDS, and transportation of the hopper dredge or disposal barge or scow back to the dredging site.

22. The ocean disposal sites are demarcated as circles with the center coordinates and radii listed below:

    LA-2: 33 degrees 37.10 minutes North Latitude, 118 degrees 17.40 minutes West Latitude (NAD 1983), circular site with radius of 3,000 feet.

    LA-3: 33 degrees 31.00 minutes North Latitude, 117 degrees 53.50 minutes West Longitude (NAD 1983), circular site with radius of 3,000 feet.

    LA-5: 32 degrees 36.83 minutes North Latitude, 117 degrees 20.67 minutes West Longitude (NAD 1927), circular site with radius of 3,000 feet.

23. No more than 3,411 CYs of dredged material excavated at the location defined in Special Condition 4 would be authorized for disposal at the LA-3 ODMDS.

24. Prior to commencement of any ocean disposal operations, the permittee would submit a Scow Certification Checklist to EPA and the Corps Regulatory Division for review and approval. The Scow Certification Checklist shall document: the amount of material dredged and loaded into each barge for disposal; the location from which the material in each barge was dredged; the weather report for and sea state conditions anticipated during the transit period; and the time that each disposal vessel is expected to depart for, arrive at, and return from the LA-3 ODMDS.

25. The permittee would notify the USCG by radio on VHF-FM channel 16 or by telephone at least four hours before departing for each disposal site. The notification shall include:

    a) Name of permittee.
    b) Corps permit number.
    c) Name and identification of vessels (tug boat, hopper dredged or disposal barge or scow) employed in the disposal operation.
    d) Loading location of the material to be disposed.
    e) Material to be disposed.
    f) Time of departure from the dredging site.
    g) Estimated time of arrival at the ocean disposal site and estimated time of departure from the ocean disposal site.

h) Estimated time or arrival at dredging site after the disposal operation is completed.

26. The permittee would ensure dredged material is not leaked or spilled from the disposal vessel(s) during transit to the LA-3 ODMDS. The permittee would transport dredged material to the LA-3 ODMDS only when weather and sea state conditions will not interfere with safe transportation and will not create risk of spillage, leak or other loss of dredged material during transit. No disposal vessel trips would be initiated when the National Weather Service has issued a gale warning for local waters during the time period necessary to complete disposal operations.

27. When dredged material is discharged by the permittee at the LA-3 ODMDS, no portion of the vessel from which the materials are to be released (e.g. hopper dredge or towed barge) may be further than 1,000 feet (305 meters) from the center of the disposal site (the "surface disposal zone" or "SDZ").

28. No more than one disposal vessel may be present within the LA-3 ODMDS SDZ at any time.

29. The captain of any tug boat or other vessel covered by this permit would monitor VHF-FM channel 16 while conducting disposal operations.

30. The primary disposal tracking system for recording ocean disposal operations data would be disposal vessel (e.g., scow) based. An appropriate Global Positioning System (GPS) would be used to indicate the position of the disposal vessel with a minimum accuracy of 10 feet during all transportation and disposal operations. This primary disposal tracking system must indicate and automatically record both the position and the draft of the disposal vessel at a maximum 1-minute interval while outside the LA-3 ODMDS boundary, and at a maximum 15-second interval while inside the LA-3 ODMDS boundary. This system must also indicate and record the time and location of each disposal event (e.g., the discharge phase). Finally, the primary system must include a real-time display, in the wheelhouse or otherwise for the helmsman, of the position of the disposal vessel relative to the boundaries of the LA-3 ODMDS and its SDZ, superimposed on the appropriate National Oceanic Service navigational chart, so that the operator can confirm proper position within the SDZ before disposing the dredged material.

31. Data recorded from the primary disposal tracking system must be posted by a third party contractor on a near-real time basis to a World Wide Web (Internet) site accessible at a minimum by EPA, the Corps Regulatory Division, the permittee, the prime dredging contractor, and any independent inspector. The Internet site would be provided to the Corps Regulatory Division and EPA prior to commencement of disposal operations. The Internet site must be searchable by disposal trip number and date, and at a minimum for each disposal trip it must provide a visual display of: the disposal vessel transit route to LA-3 ODMDS; the beginning and ending locations of the disposal event; and the disposal vessel draft throughout the transit. The requirement for posting this information on the Internet is independent from the hard-copy reporting requirements listed in Special Condition 34 below. The third-party system must also generate and distribute "e-mail alerts" regarding any degree of apparent dumping outside the SDZ of the LA-3 ODMDS, and regarding any apparent substantial leakage/spillage or other loss of material en route to the LA-3 ODMDS. Substantial leakage/spillage or other loss for this permit is defined as an apparent loss of draft of one foot or more between the time that the disposal vessel begins the trip to LA-3 and the time of actual disposal. E-mail alerts for any disposal trip must be sent within 24 hours of the end of that trip, at a minimum to EPA, the Corps Regulatory Division, the permittee, and the prime dredging contractor.

32. If the primary disposal tracking system fails during transit to the LA-3 ODMDS, the navigation system on the towing vessel (tug, if any), meeting the minimum accuracy requirement listed above, may be used to complete the disposal trip by maneuvering the towing vessel so that, given the compass heading and tow cable length to the scow (layback), the estimated scow position would be within the SDZ of the LA-3 ODMDS. In such cases, the towing vessel's position, and the tow cable length and compass heading to the disposal vessel, must be recorded and reported. The permittee would halt further disposal operations using a disposal vessel whose navigation tracking system fails until those primary disposal tracking capabilities are restored.

33. The permittee would report any anticipated, potential, or actual variances from compliance with the general and Special Conditions of this permit to EPA and the Corps Regulatory Division within 24 hours of discovering such a situation. An operational "e-mail alert" system, as described in Special Condition 31 above, will be considered as fulfilling this 24-hour notification requirement. In addition, the permittee would prepare and submit a detailed report of any such compliance problems with the monthly hard-copy reports described below.

34. The permittee would collect, for each ocean disposal trip, both automatically-recorded electronic data and printouts from the primary disposal tracking system showing transit routes, disposal vessel draft readings, disposal coordinates, and the time and position of the disposal vessel when dumping was commenced and completed. These daily records would be compiled, and provided in reports to both EPA and the Corps Regulatory Division at a minimum for each month during which ocean disposal operations occur. These reports would include the automatically-recorded electronic navigation tracking and disposal vessel draft data on CD ROM (or other media approved by EPA and the Corps), as well as hard copy reproductions of the Scow Certification Checklists and printouts listed above. The reports would also include a cover letter describing any problems complying with the general and Special Conditions of this permit, the cause(s) of the problems, any steps taken to rectify the problems, and whether the problems occurred on subsequent disposal trips.

35. Following the completion of ocean disposal operations, the permittee would submit to EPA and the Corps Regulatory Division a completion letter summarizing the total number of disposal trips and the overall (in situ) volume of material disposed at the LA-3 ODMDS for the project, and whether any of this dredged material was excavated from outside the areas authorized for ocean disposal or was dredged deeper than authorized by the permit.

36. Within 30 calendar days of completion of the project authorized by this permit, the permittee would conduct a post-project survey indicating changes to structures and other features in navigable waters. The permittee would forward a copy of the survey to the Corps Regulatory Division and to the National Oceanic and Atmospheric Service for chart updating: Gerald E Wheaton, NOAA, Regional Manager, West Coast and Pacific Ocean, DOD Center Monterey Bay, Room 5082, Seaside, CA 93955-6711.

37. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps Regulatory Division, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

38. Pursuant to 36 CFR §800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the permittee would notify the Corps' Archeology Staff within 24 hours (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861). The permittee would immediately suspend all work in any area(s) where potential cultural resources are discovered. The permittee would not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 CFR §800.13.

For additional information, please call Stephen Estes at 213-452-3660 or via e-mail at Stephen.M.Estes@usace.army.mil. This Public Notice is issued by the Chief, Regulatory Division.

*Regulatory Program Goals:*

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

**U.S. ARMY CORPS OF ENGINEERS – LOS ANGELES DISTRICT**
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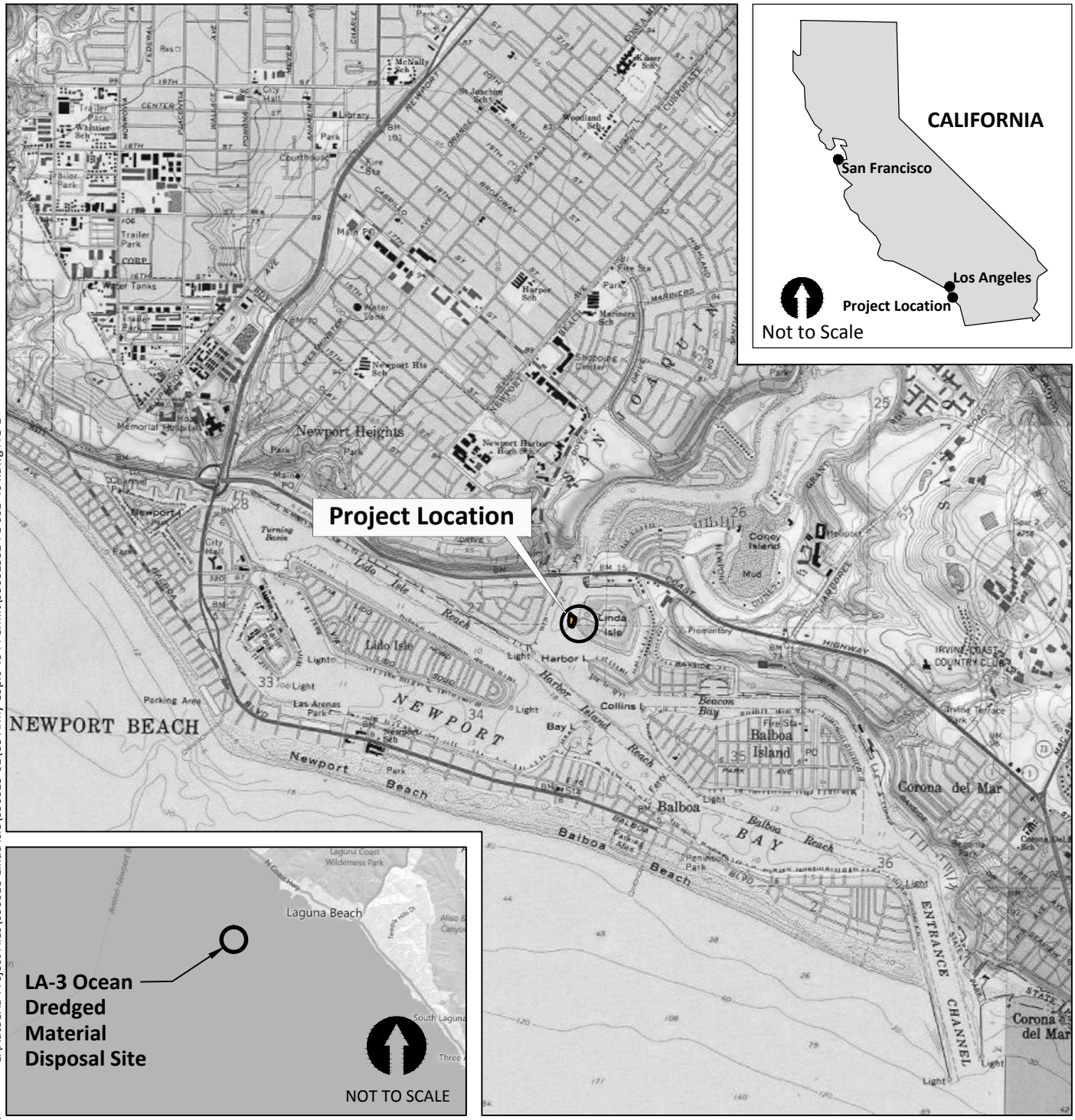



**SOURCE**: Image prepared from USGS data.
**HORIZONTAL DATUM**: California State Plane, Zone 6, NAD83.
**VERTICAL DATUM**: Mean Lower Low Water (MLLW).

Approximate Project Location:
33° 36.820', 117° 54.300'

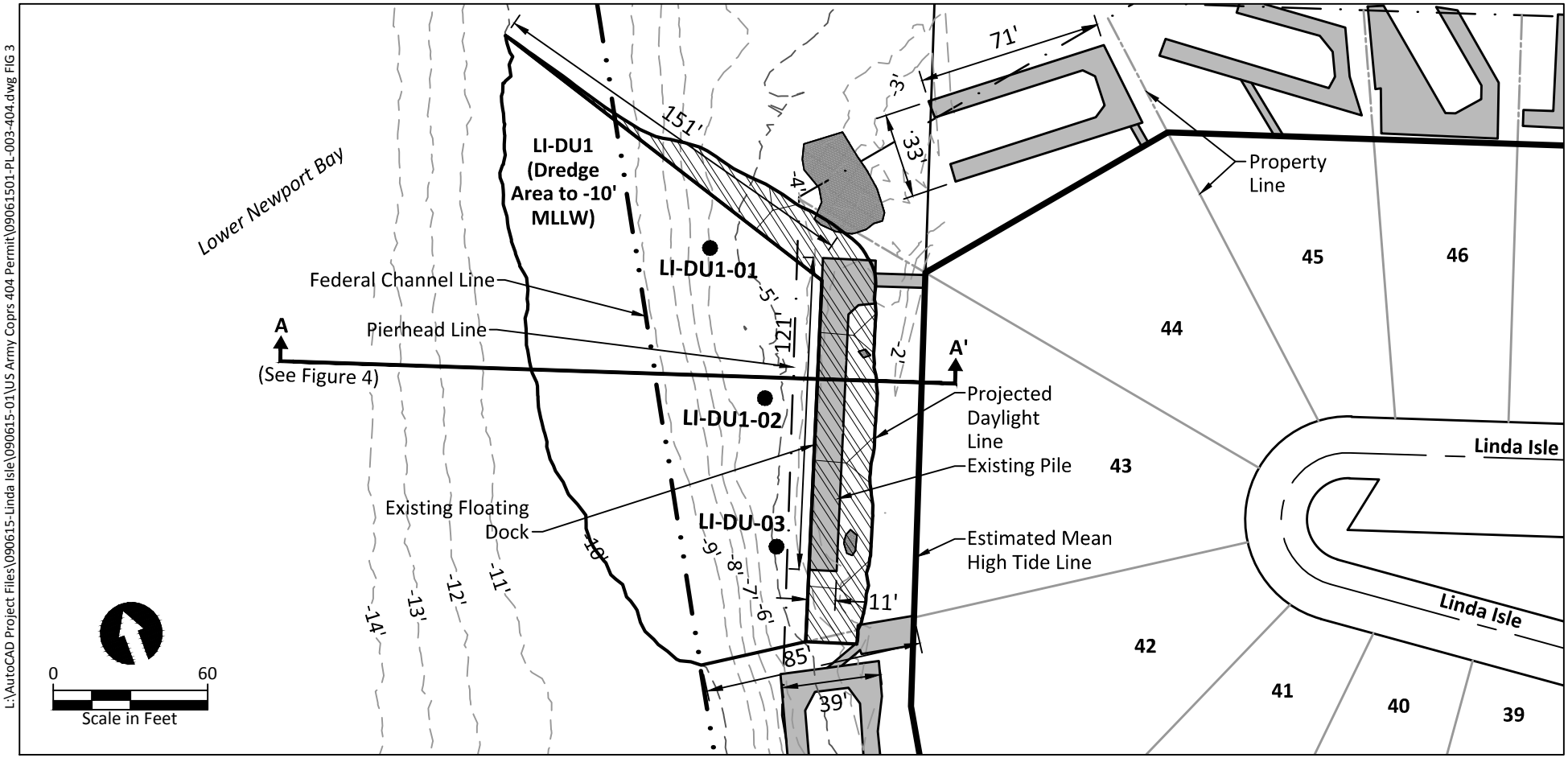
0 3000
Scale in Feet

L:\AutoCAD Project Files\090615-Linda Isle\090615-01\US Army Corps 404 Permit\09061501-PL-001-404.dwg FIG-1

Apr 25, 2012 10:36am mpratschner

ANCHOR QEA

**Figure 1**
Vicinity Map
43 Linda Isle Maintenance Dredging




**SOURCE**: Drawing prepared from City of Newport Beach base maps and Gahagan & Bryant Associates, Inc.'s October 2010 bathymetry survey.
**HORIZONTAL DATUM**: California State Plane, Zone 6, NAD83.
**VERTICAL DATUM**: mean lower low water (MLLW).

**LEGEND**:

- Eelgrass
- LI-DU1 (Dredge Area to -10' MLLW)
- Projected Side Slope
- Property Line
- Projected Property Line
- Estimated Mean High Tide Line
- Existing Floating Dock/Gangway
- Federal Channel Line
- Pierhead Line

L:\AutoCAD Project Files\090615-Linda Isle\090615-01\US Army Coprs 404 Permit\09061501-PL-003-404.dwg FIG 3

May 01, 2012 8:27am mpratschner

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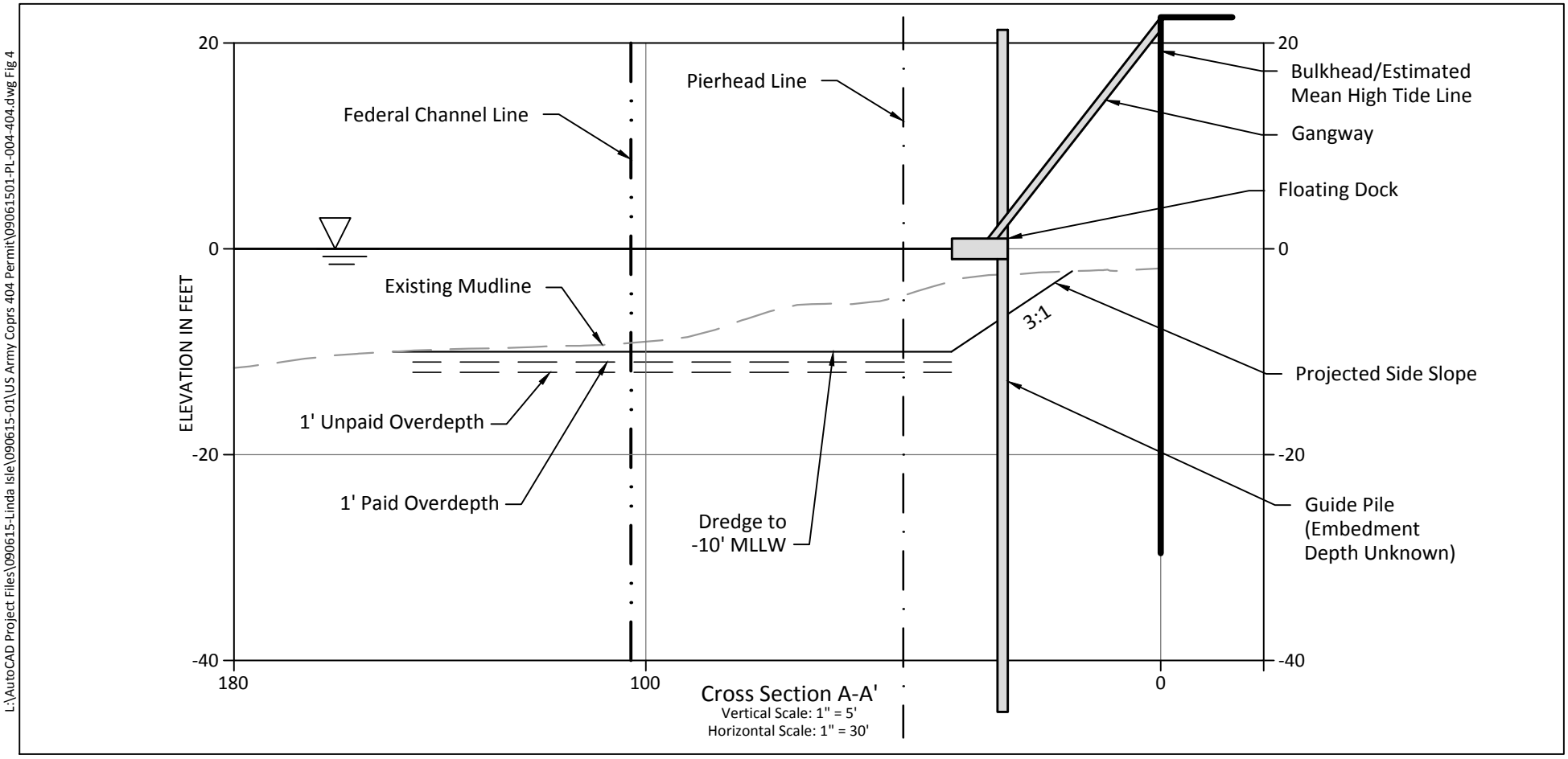
**Figure 2**
Dredge Area and Sampling Locations
43 Linda Isle Maintenance Dredging




**SOURCE**: Drawing prepared from City of Newport Beach base maps and Gahagan & Bryant Associates, Inc.'s October 2010 bathymetry survey.
**HORIZONTAL DATUM**: California State Plane, Zone 6, NAD83.
**VERTICAL DATUM**: mean lower low water (MLLW).

0 30
Scale in Feet

L:\AutoCAD Project Files\090615-Linda Isle\090615-01\US Army Coprs 404 Permit\09061501-PL-004-404.dwg Fig 4

Apr 25, 2012 4:22pm mpratschner

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**Figure 3**
Cross Section
43 Linda Isle Maintenance Dredging