

PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

BUILDING STRONG®

APPLICATION FOR PERMIT City of Newport Beach/Orange County Harbor Island/Linda Isle Dredge Project

Public Notice/Application No.: SPL-2012-00248-JDG

Project: City of Newport Beach/Orange County Harbor Island/Linda Isle Dredge Project

Comment Period: May 10, 2012 through June 11, 2012

Project Manager: Jim Green; 213-452-3419; James.D.Green@usace.army.mil

Co-Applicants

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Irvine, California 92602
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Location

The proposed maintenance dredging project is located within an approximately 6.63-acre channel located between the southwest side of Linda Isle and Harbor Island at Newport Beach, California. A portion of the proposed dredge area is located on City of Newport Beach (City) -owned tidelands, while the remaining dredge area is located on tidelands owned by Orange County. Disposal of the dredged material determined suitable for unconfined ocean disposal would occur offshore at the LA-3 Ocean Dredged Material Disposal Site (ODMDS) near the City of Newport Beach, Orange County, California. Disposal of the dredged material determined unsuitable for unconfined ocean disposal would occur at either the Port of Long Beach's Middle Harbor Fill Site or at an approved upland disposal site.

Activity

The proposed work is to conduct maintenance dredging within an approximately 6.63-acre channel to restore and maintain safe navigation within the project area. The work would include mechanically dredging up to 65,000 cubic yards (cy) of sediment in order to restore the original design depth of -8.0 feet mean below mean lower low water (MLLW). The volume would include up to 41,000 cy of sediment to achieve the original project depth and up to 24,000 cy of allowed overdepth (based on 2 foot of overdepth allowance). A clamshell mounted on a barge would be utilized to accomplish the dredging. Up to 60,000 cy of the dredged material has been determined suitable for unconfined

ocean disposal and would be disposed of at the LA-3 ODMS, a U.S. Environmental Protection Agency (USEPA) –approved open-ocean disposal site located offshore of Newport Beach, using a bottom-dump barge. The remaining 5,000 cy of dredged material has been determined unsuitable for unconfined ocean disposal and would be disposed of at the Port of Long Beach’s Middle Harbor Fill Site or at an approved upland disposal site.

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 the attached drawings. We invite you to review today’s public notice and provide views on the proposed work. By providing substantive, site-specific comments to the Corps Regulatory Division, you provide information that support the Corps’ decision-making process. All comments received during the comment period become part of the record and will be considered in the decision. A permit will be issued, issued with special conditions, or denied under Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and Section 103 of the Marina Protection Act. Comments should be mailed to:

LOS ANGELES DISTRICT, CORPS OF ENGINEERS
ATTN: James D. Green (SPL-2012-00246-JDG)
Regulatory Division
P.O. BOX 532711
LOS ANGELES, CA 90053-2325

Alternatively, comments can be sent electronically to: James.D.Green@usace.army.mil

The mission of the Corps of Engineers 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 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 water 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 the 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 that may be reasonably expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that 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 USEPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers 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 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 Santa Ana Regional Water Quality Control Board (RWQCB). 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. The applicant has applied for 401 Water Quality Certification.

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 Applicant believes the project is exempt from requirements to obtain a Coastal Development Permit from the California Coastal Commission pursuant to Section 30610(c) of the California Coastal Act and as detailed in Section 13252(a)(2)(A) of the Commission's administrative regulations because the work entails maintenance dredging with disposal outside the Coastal Zone. Federal Coastal Zone Management Act consistency is being requested.

Cultural Resources The proposed work involves maintenance dredging to the original design depth of -8.0 feet below MLLW within the 6.63-acre dredge footprint of the existing channel. Dredging would not occur in previously undisturbed areas. The project would have no impact to cultural resources.

Endangered Species Federally listed endangered species potentially present in the project vicinity include the California least tern (*Sterna antillarum browni*). No individuals of this species have been recorded within the immediate project area and their potential presence is unlikely. As listed in the Department of Fish and Game California Diversity Database, California least terns nest on Tern and Skimmer islands in the northeast corner of Newport Bay, more than 3 miles from the project area. To prevent the potential for adverse effects to the foraging opportunities for the least tern, a silt curtain would be deployed around active dredging areas. Given this prevention measure, the short duration of the project, the small area of project impacts, and the distance from least tern breeding colonies, adverse effects to foraging are not anticipated. Thus, the Corps has determined that there would be no impact to the California least tern.

Essential Fish Habitat The project site is located within a general area designated as Essential Fish Habitat (EFH) by two Fisheries Management Plans (FMPs): the Coastal Pelagic Species and the Pacific Coast Groundfish FMPs. Newport Bay is also considered estuarine habitat, which is considered a Habitat Area of Particular Concern (HAPC) for EFH. Potential dredging-related impacts to EFH would be temporary with minor increases in turbidity in the immediate vicinity of active dredging during construction. Dredging may temporarily remove benthic infauna from the dredged area but overall fish and benthic biota at the site is sparse, and infaunal communities would rapidly recolonize following dredging. Silt curtains would be deployed around the dredge area during construction to prevent any off-site migration of turbidity. Because of the temporary nature of the disturbance, the localized area of construction, and the use of best management practices (BMPs; such as silt curtains), dredging would have minimal impacts to EFH and species managed under the Coastal Pelagic Species and the Pacific Coast Groundfish FMPs.

Eelgrass and other habitats present within Newport Bay are considered HAPCs for EFH. An eelgrass survey was conducted in March 2012. The depth within the vicinity of the project area ranges from approximately -6.0 feet MLLW at the inshore sides of the existing docks to approximately -17.5 feet MLLW at the outer extent of the project area within the navigational channel. Approximately 20,267 square feet of eelgrass was identified within the proposed dredge footprint. The preponderance of eelgrass was identified in the western extent of the dredge footprint adjacent to the navigational channel (Figure 2).

If required, additional pre-construction surveys will be conducted for eelgrass and *Caulerpa taxifolia* within 60 days of construction, as required by the Southern California Eelgrass Management Policy (SCEMP; Revision 11) and the *Caulerpa* Control Plan. No *Caulerpa taxifolia* was identified during the March 2012 survey.

The City and County are developing an eelgrass mitigation approach in coordination with the Lower Newport Bay Federal Dredging Program to mitigate impacts to eelgrass in coordination with the Corps' eelgrass mitigation plan. Impacted eelgrass would be mitigated for at an existing site within Newport Bay consistent with the ratio and monitoring requirements stipulated in the SCEMP. The City and County will retain responsibility of the success of their portion of the mitigation area to ensure that impacts resulting from this maintenance dredging project will be mitigated for accordingly, regardless of the eelgrass mitigation outcomes of the Lower Newport Bay Federal Dredging Program. A detailed

eelgrass mitigation plan is currently being developed as part of the operations and maintenance dredging program and will be submitted to the resource agencies for approval for this proposed project prior to permit issuance.

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

The proposed work requiring a Department of the Army Permit is the maintenance dredging of sediments within an approximately 6.63-acre area of the navigation channel and disposal of the dredged material at the LA-3 ODMDS.

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 or 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 discharge dredged or fill material in to a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). Because no discharge of dredge or fill material is proposed within special aquatic sites, identification of the basic project purpose is not necessary. The project is water dependent.

Overall Project Purpose The overall project purpose serves as the basis for the Corps' NEPA and 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 of the proposed work is to restore and maintain safe navigation within the project area by removing excess sediments.

Additional Project Information

Alternatives Information The applicant has considered several alternatives to the proposed project. This includes the no Federal action alternative, reduced dredge volume, alternative dredging methods, and alternative disposal/reuse options. Because the overall project purpose is restore the navigable capacity of the channel by removing excess sediments at this specific location, off-site dredging alternatives are not practicable and were not considered. The following is a brief description of possible no action and on-site alternatives.

No Federal Action: With the no Federal action alternative (i.e., no permit issued by the Corps), temporary impacts associated with dredging operations would not occur. The existing sediment above the -8.0 foot (MLLW) design depth proposed for removal would remain and improvements to the navigable capacity of the project area would not occur under this alternative.

Reduced Dredge Volume: Reducing the volume of dredging would proportionally lessen the degree of temporary impacts. However, as with the no federal action alternative, accumulated sediment would remain within the project area and continue to impair navigation.

Alternative Dredging Methods: Hydraulic dredging would be an alternative to mechanical dredging with a clamshell bucket. A hydraulic dredge consists of a large suction pipe mounted on a barge and supported and moved about by a boom; a mechanical agitator or cutterhead, which churns up earth in front of the pipe; and centrifugal pumps mounted on a dredge to suction water and loose solids. Using a hydraulic dredge, compatible material would be excavated and pumped through a temporary

pipeline to a nearshore disposal site. With hydraulic dredging, barge transport of sediment is not needed. Barge transport impacts are therefore avoided. However, at this time a dredged material disposal site does not exist within a manageable distance from the project area. The LA-3 ODMDS and the Port of Long Beach's Middle Harbor Fill Site are too far from the dredge site and not considered practicable disposal alternatives for hydraulic dredging methods. Hydraulic dredging would require identification or creation of a suitable disposal site nearby, such as a confined aquatic disposal (CAD) site, or upland disposal. In addition, hydraulic dredging produces a high volume of excess water with the sediment requiring disposal or management. Hydraulic dredging is also less precise than mechanical dredging. Precise dredging along the shoreline and in close proximity to in-water structures is more readily accomplished through mechanical dredging.

Alternative Disposal/Reuse Options: Under this alternative, sediments would be dredged, barged to an offloading area, dewatered and dried, and transported to a mine or landfill for disposal. Marine dredging projects utilizing upland landfills and disposal sites are typically required to use private landfills, which is costly. The costs for landfill disposal can be high ranging between \$100 and \$250 per cubic yard. In addition, upland disposal would require the use of a large upland area adjacent to Lower Newport Bay for dewatering of the sediment prior to loading into trucks for transportation to a landfill. Trucking the sediment would result in an increase in traffic of heavy trucks on surface streets and through residential areas for the duration of the project, which could adversely affect traffic and air quality.

Proposed Mitigation Approximately 20,267 square feet of eelgrass was identified within the proposed dredge footprint. The preponderance of eelgrass was identified in the western extent of the dredge footprint adjacent to the navigational channel. The City and County are developing an eelgrass mitigation approach in coordination with the Lower Newport Bay Federal Dredging Program to mitigate impacts to eelgrass in coordination with the Corps' eelgrass mitigation plan. Impacted eelgrass would be mitigated for at an existing site within Newport Bay consistent with the ratio and monitoring requirements stipulated in the SCEMP. The City and County will retain responsibility of the success of their portion of the mitigation area to ensure that impacts resulting from this maintenance dredging project will be mitigated for accordingly, regardless of the eelgrass mitigation outcomes of the Lower Newport Bay Federal Dredging Program. A detailed eelgrass mitigation plan is currently being developed as part of the operations and maintenance dredging program and will be submitted to the resource agencies for approval for this proposed project prior to a permit decision.

Proposed Special Conditions

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

Construction BMPs, such as contractor education on the terms and conditions of the permits, trash and debris control, and control of equipment staging and maintenance areas, will be applied to further minimize temporary, construction-related impacts.

Dredging may result in temporary, minor water quality impacts due to re-suspension of some sediment in the immediate vicinity of the dredging. Water quality BMPs and monitoring will be implemented at the site, such as:

- Encompassing the dredge and disposal scows in a continuous floating silt curtain
- Monitoring for changes in dissolved oxygen (DO), pH, and turbidity as a result of dredging

activities

- Stopping project until proper avoidance or minimization measures can be met, if DO, pH, or turbidity are measured outside of the acceptable range as a result of project activities
- Inspecting dredged material disposal scows to ensure proper loading and leakage avoidance during transport
- Using a trash boom
- Implementing daily site inspections (performed by the construction manager)
- Implementing a contractor education program

The Corps may incorporate additional standard dredging and special conditions, as appropriate. Transport to and disposal of dredged material at the LA-3 ODMDs has received a Federal Consistency Determination, and no impacts to water quality from these activities are expected.

For additional information please call Jim Green of my staff at 213-452-3296 or via e-mail at James.D.Green@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.

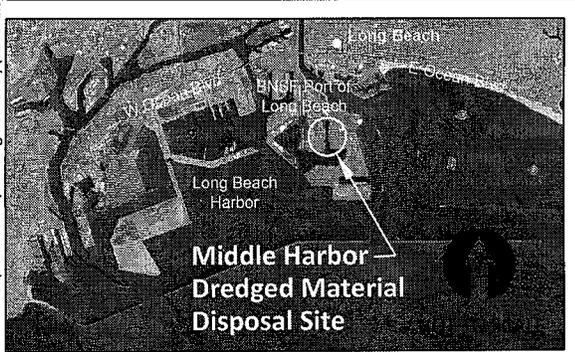
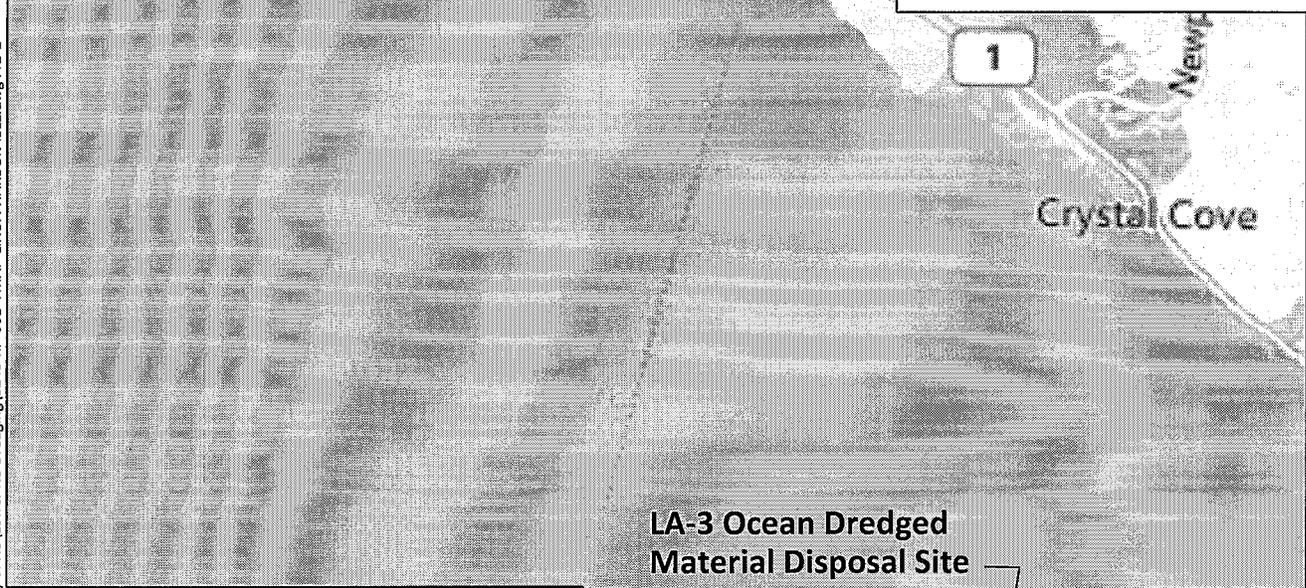


Regulatory Program Goals:

- 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.

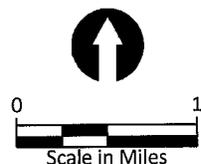
U.S. ARMY CORPS OF ENGINEERS – LOS ANGELES DISTRICT
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325
WWW.SPL.USACE.ARMY.MIL

C:\MIP ACAD\Working Remotely\0243-City of NB\Lower NB Dredging\0243-RP-001-VMAP-LINDA-HARBOR-ISLE.dwg FIG-1



SOURCE: Image prepared from USGS data.
HORIZONTAL DATUM: California State Plane, Zone 6, NAD83.
VERTICAL DATUM: Mean Lower Low Water (MLLW). = 0.0' N.O.S. Datum

Approximate Project Location:
33° 36.689', 117° 54.077'



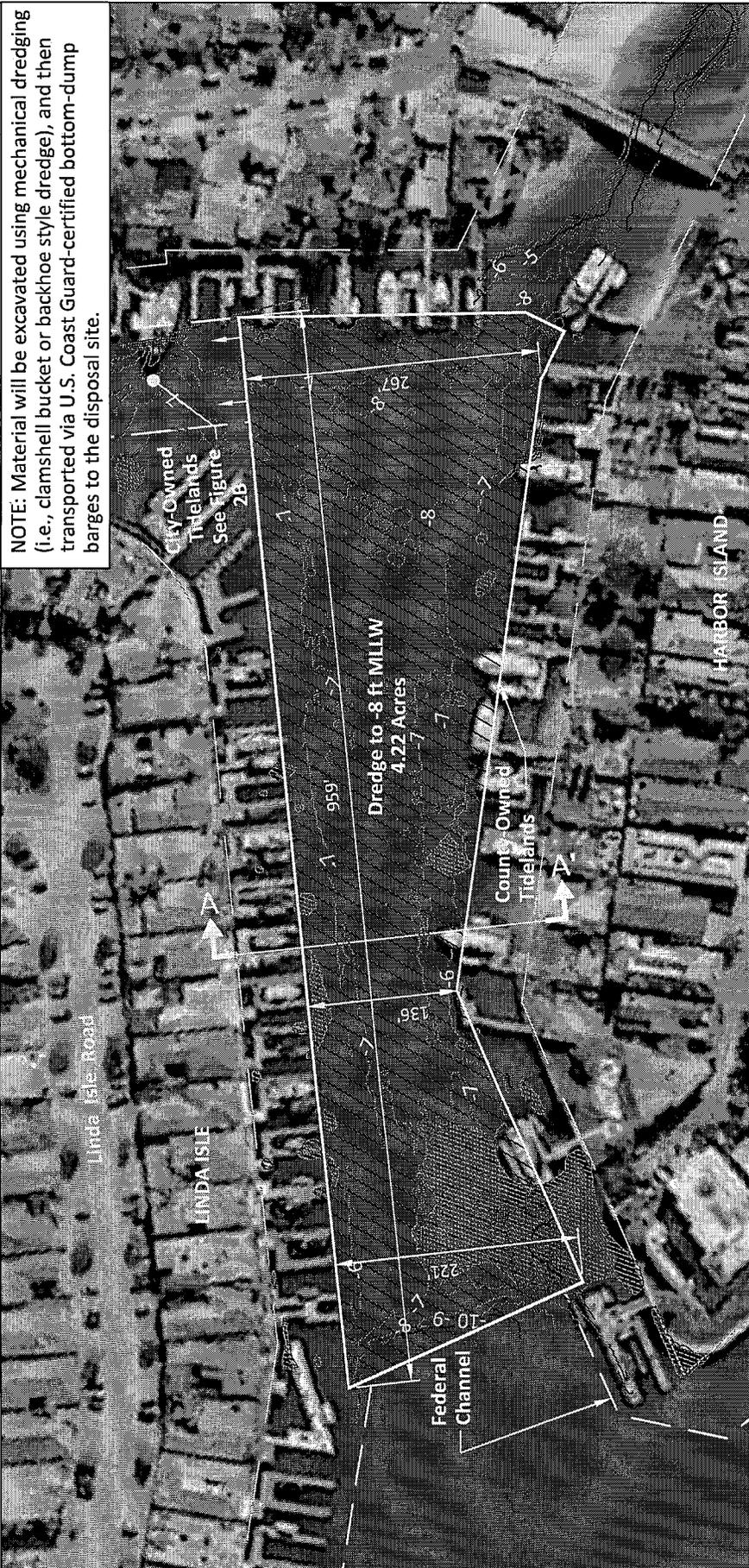
SPL-2012-00248

Applic. By: City Newport Beach / Orange County
Proposed: Dredging & Disposal
30 Apr 2012
City/County Linda Isle/Harbor Island Maintenance Dredging

Figure 1 of 5
Vicinity Map



NOTE: Material will be excavated using mechanical dredging (i.e., clamshell bucket or backhoe style dredge), and then transported via U.S. Coast Guard-certified bottom-dump barges to the disposal site.



SOURCE: Basemap from Bing maps. Bathymetric contours from U.S. Army Corps of Engineers survey dated May 2010. Eelgrass survey performed on March 16, 2012, by PESCI.

HORIZONTAL DATUM: California State Plane, Zone 6, NAD83.

VERTICAL DATUM: Mean Lower Low Water (MLLW).

Approximate Clean Dredge Volume - 35,000 cubic yards

LEGEND:

- Proposed Dredge Area
- Area of Eelgrass
- County-Owned Tidelands
- County-Owned Tidelands
- Mean High Water

Scale in Feet

0 140

SPL -2012 -00248



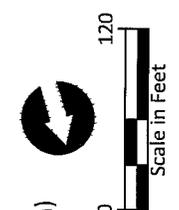
NOTE: Material will be excavated using mechanical dredging (i.e., clamshell bucket or backhoe style dredge), and then transported via U.S. Coast Guard-certified bottom-dump barges to the disposal site.

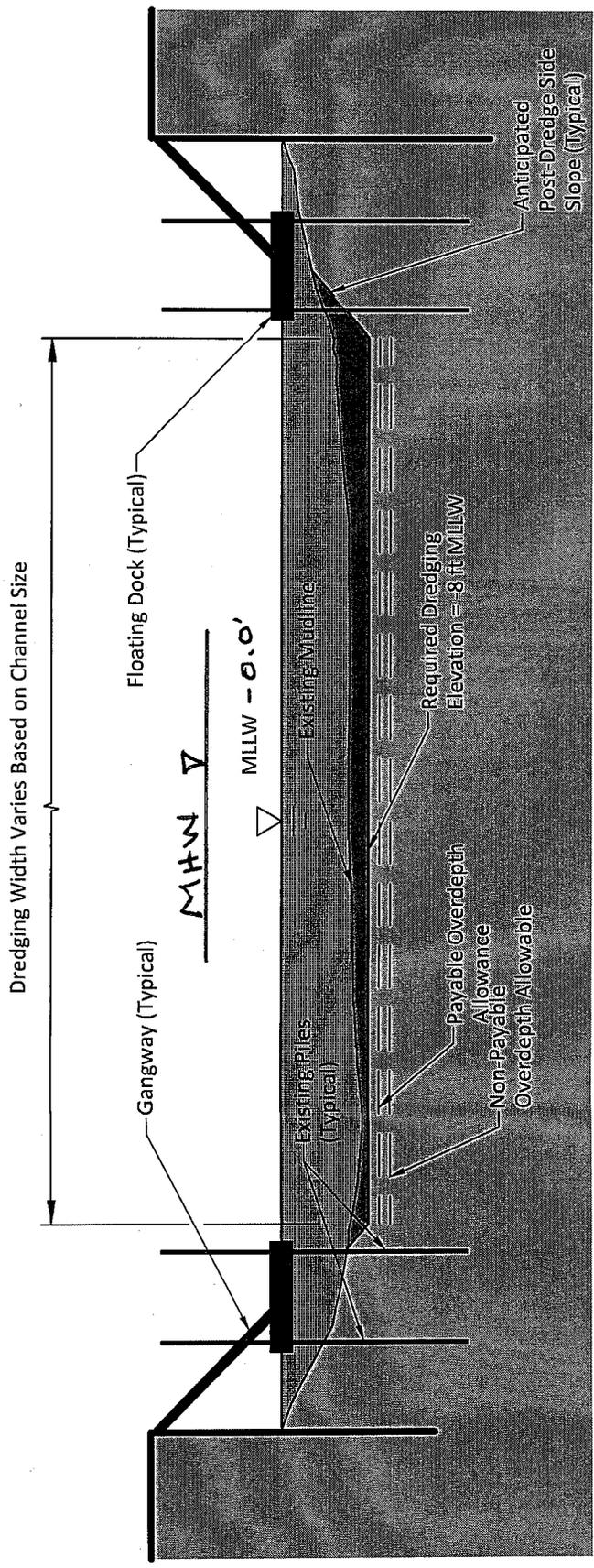


SOURCE: Basemap from Bing maps. Bathymetric contours from U.S. Army Corps of Engineers survey dated May 2010. Eelgrass survey performed on March 16, 2012, by PESCI.
HORIZONTAL DATUM: California State Plane, Zone 6, NAD83.
VERTICAL DATUM: Mean Lower Low Water (MLLW).
 Approximate Clean Dredge Volume - 25,000 cubic yards
 Approximate Contaminated Dredge Volume - 5,000 cubic yards

LEGEND:

- Proposed Dredge Area
- Area of Eelgrass
- City-Owned Tidelands (Contaminated)
- City-Owned Tidelands (Clean)
- Mean High Water



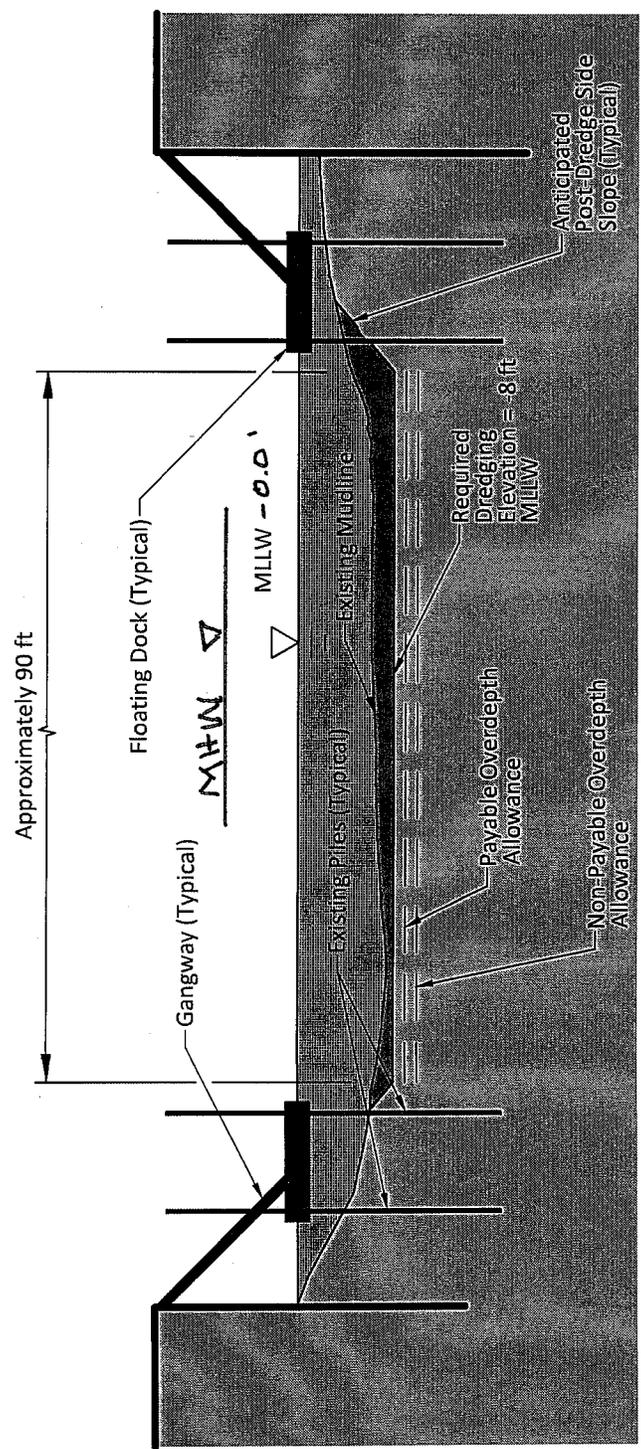


HORIZONTAL DATUM: California State Plane, Zone 6, NAD83.
 VERTICAL DATUM: Mean Lower Low Water (MLLW).



NOT TO SCALE





HORIZONTAL DATUM: California State Plane, Zone 6, NAD83.
 VERTICAL DATUM: Mean Lower Low Water (MLLW).



NOT TO SCALE

