



**US Army Corps
of Engineers®**

SPECIAL PUBLIC NOTICE

REQUEST TO MODIFY AN EXISTING RESTRICTED AREA IN SAN DIEGO BAY

LOS ANGELES DISTRICT

Public Notice/Application No.: 2001-00804-RLK
Comment Period: 1 April 2002 through 30 April 2002
Project Manager: Russell L. Kaiser (213-452-3293)

APPLICANT

Lieutenant Commander Jason T. Baltimore, Command Judge Advocate
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LOCATION. Pacific Ocean. In San Diego Bay, in the City of San Diego, San Diego County, California. Please see Figures 1, 2 and 3.

ACTIVITY. The Corps, at the request of the U. S. Navy, proposes to modify an existing restricted area for military operations involving naval vessels home-ported at Naval Base, San Diego. For more information see page 3 of this notice.

Interested parties are invited to provide their views on the proposed designation, which will become a part of the record and will be considered in the decision. This decision will be evaluated under Section 7 of the Rivers and Harbor Act of 1917. Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Branch
ATTN: CESPL-CO-R-200100804-RLK
P.O. Box 532711
Los Angeles, California 90053-2325

or alternatively to: rkaiser@spl.usace.army.com

EVALUATION FACTORS.

The decision to modify the existing designation will be based on an evaluation of the probable impact including cumulative impacts of the proposed restricted area modifications 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.

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 restricted area designation. Any comments received will be considered by the Corps of Engineers to determine if the area shall be established as a restricted area. 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

CWA - Water Quality. Not applicable. No discharge of fill or dredged material will be placed in Waters of the United States.

Coastal Zone Management Act (CZMA) – Coastal Resources. The U.S. Navy has certified that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management Program. The California Coastal Commission has concurred with the Navy's findings on the proposed action on November 15, 2001 (ND-099-01). The CCC has determined the proposed action to be consistent to the maximum extent practicable with CZMA.

Magnuson-Stevens Fishery Conservation and Management Act (Act) - Essential Fish Habitat (EFH). This notice initiates the EFH consultation requirements of the Act. As proposed, the existing restricted area would be modified to ensure no unauthorized vessels are permitted within a previous designated restricted area. This modification would not permit activities that would affect EFH. This authorization would not permit the discharge of dredged or fill material in waters of the United States. Prior to conducting any future activities in this area that could adversely impact EFH within the proposed "restricted" project area, the U.S. Navy shall coordinate with the Corps and the National Marine Fisheries Service (NMFS). If the Corps/NMFS determine, based on the data, future activities that would impact EFH resources, then the U.S. Navy will be responsible for mitigating such impacts. As all appropriate measures will be taken to avoid and minimize impacts on EFH, our initial determination is that the proposed activity will not have a substantial adverse impact on EFH or Federally managed fisheries in California waters under the Pacific Groundfish Fishery and the Coastal Pelagics Fishery Management Plans. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

Endangered Species Act (ESA) – Federal-Listed Species. Preliminary determinations indicate that the proposed modification 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.

National Historic Preservation Act (NHPA) - 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.

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

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 U.S. Navy has requested the Corps to establish a permanent restricted area on the waters along the northern shoreline of Naval Air Station North Island, as pursuant to Section 7 of the Rivers and Harbor Act of 1917, for the use, administration, and navigation of the navigable waters of the U.S. as public necessity may require for the protection of life and property. The proposed area is identified and delineated by the following points: Beginning at 32 deg. 42'55.0" N, 117 deg. 11'30.5" W (Point C); thence running easterly to 32 deg. 42'57.0" N, 117 deg. 11'22.5" W (Point C1); thence running easterly to 32 deg. 42'56.0" N, 117 deg. 11'19.0" W (Point C2); thence running southeasterly to 32 deg. 42'49.0" N, 117 deg. 11'08.5" W (Point C3); thence running southeasterly to 32 deg. 42'44.5" N, 117 deg. 11'06.5" W; thence running southerly to 32 deg. 42'40.0" N, 117 deg. 11'06.5" W (Point D1). Therefore, the U.S. Navy requests that the area enclosed by Points C, C1, C2, C3, C4 and ending at D1 be defined as a permanent restricted area. To close the area, it would adjoin with a proposed U.S. Navy security zone, which encompasses the area enclosed by points A, B, C, D1, E F and G, as shown on Figure 2. [The U.S. Navy has requested the U.S. Coast Guard to establish the security zone.] In total, the restricted area would encompass an area of 29.8 acres, and the security zone, 143.6 acres.

ADDITIONAL PROJECT INFORMATION.

Restricted Area. Restricted area, per 33 CFR 334.2(b), is defined as the water area for the purpose of prohibiting or limiting public access to the area. Restricted areas generally provide security for Government property and/or protection to the public from the risks of damage or injury arising from the Government's use of that area.

Background Information. Recently, the U.S. Navy has obtained all of the necessary permits to accommodate a third aircraft carrier and requested the Corps to establish a permanent restricted area to ensure the necessary safety and security zone is provided for the new carrier. In light of recent activities, concerning mainly the USS Cole incident, the U.S. Navy has requested the Corps to complete its review process on the project with an expedited schedule. The establishment of the restricted area is needed to ensure the physical protection of this third aircraft carrier at Naval Air Station North Island. The establishment of the restricted area is needed to prevent damage or injury to naval vessels and property from sabotage or other subversive acts, accidents, criminal actions, or other causes of similar nature, and to secure the interests of the United States also.

Statement for need of the security zones and restricted area in these areas. As a third aircraft carrier has been designated to homeport in San Diego Bay, the establishment of the restricted area is needed to ensure the physical protection of this third aircraft carrier at Naval Air Station North Island. The establishment of the restricted area is needed also to prevent damage or injury to naval vessels and property from sabotage or other subversive acts, accidents, criminal actions, or other causes of similar nature, and to secure the interests of the United States.

PROPOSED SPECIAL CONDITIONS. The Regulations for the restricted area are as follows:

- (1) The restricted area shall not be open to swimming, fishing, water-skiing, mooring or anchorage.
- (2) Seining, other fishing operations, and other activities not under the direction of the United States, which might foul underwater installations within the restricted area, are prohibited.
- (3) All tows entering the restricted area shall be streamed and shortened to the seaward of the area and towing appendages and catenaries shall not be dragged along the bottom while proceeding through the area.
- (4) All vessels entering the restricted area shall proceed across the area by the most direct route and without unnecessary delay.
- (5) No vessel or craft of any size shall lie-to or anchor in the restricted area at any time other than a vessel operated by or for the U.S. Navy, U.S. Coast Guard, other authorized military components, or other vessels authorized by Commander Naval Base, San Diego or his designee.
- (6) When security conditions dictate, Naval security forces may impose strict enforcement of stand-off distances within the restricted area. This enforcement will not prevent utilization of navigable channels, but will serve to control its use in order to protect vital National interests.
- (7) The Commanding Officer, Naval Base, San Diego Bay, California, and such agencies as he/she designees shall enforce the regulations in this section.

For additional information please call Russell Kaiser of my staff.
This public notice is issued by the Chief, Regulatory Branch.