

PUBLIC NOTICE

**US Army Corps
of Engineers®**

APPLICATION FOR PERMIT

LOS ANGELES DISTRICT

Public Notice/Application No.: 200401911-RRS

Comment Period: 10/04/2004 through 10/27/2004

Project Manager: Robert Revo Smith Jr. P.E. (213) 452-3419 robert.r.smith@usace.army.mil

Applicant

Eileen M. Maher (619) 686-6254
Asst. Director, Env. Services
Recreation and Environmental Services
Port of San Diego
3165 Pacific Highway
San Diego, California 92101

Contact

See Applicant

Location

In San Diego Bay in San Diego, San Diego County, California
(at: lat:32-38-39.9840 lon:117-7-0.0120)

Activity

To perform maintenance dredging for Berths 24-10 and 24-11, National City Marine Terminal (see attached drawings). The Port of San Diego (Port) would like to perform maintenance dredging of 25,000 cubic yards of material and dispose of the material at the EPA approved Ocean Disposal dump-site, LA-5. The dredging will maintain the navigation depth of -35 feet Mean Lower Low Water (MLLW) plus a 1-foot overdredge (See attached drawings). For more information see page 3 of this 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 the attached drawing(s). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 (33 U.S.C. 1413), and Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344). Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Branch
ATTN: CESPL-CO-R-200401911-RRS
P.O. Box 532711
Los Angeles, California 90053-2325

Alternatively, comments can be sent electronically to: robert.r.smith@usace.army.mil

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 CFR 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 of Engineers 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 has obtained a 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 of Engineers 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 the U.S. Environmental Protection Agency.

Coastal Zone Management- The applicant 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.

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.

EFH Consultation- This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The Proposal would impact EFH utilized by six species of fish managed by the National Marine Fisheries Service (NMFS) under two Fishery Management Plans (FMPs), the Coastal Pelagics and Pacific Groundfish Management Plans. Four of the five fish managed under the Coastal Pelagics FMP represented in San Diego Bay include northern anchovy, Pacific sardine, Pacific mackerel,

and jack mackerel. The two species managed under the Pacific Groundfish FMP and found in San Diego Bay include the California scorpionfish and the English sole. Initial determinations indicate that the proposed action would not have a substantial adverse impact on EFH or federally managed fisheries in California Waters. Final determination relative to project completion impacts and the need for mitigation measures is subject to review by and coordination with NMFS.

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 Port proposes to perform maintenance dredging of 25,000 cubic yards of material to maintain the design depth of -35' MLLW plus a 1-foot overdredge, at the National City Marine Terminal Berths 24-10 & 24-11. The dredge sediment will be disposed of at the EPA approved Ocean Disposal Site LA-5. Berths 24-10 & 24-11 are 1675 feet long and dredging will take place 350 feet from the wharf face.

The construction schedule anticipates a November 2004 start date with completion 4 months later.

Basic Project Purpose- The basic project purpose for the proposed project is maintenance dredging which is a water dependent activity.

Overall Project Purpose- The overall project purpose for the proposed project is to perform maintenance dredging of Berths 24-10 and 24-11 at the National Marine Terminals.

The applicant proposes to dispose of the material at LA-5 and has performed testing under the approved *Dredged Material Sampling and Analysis Plan (SAP), Sampling and Tier III Analysis for Port of San Diego, National City Marine Terminal Maintenance Dredging – Berths 24-10 and 24-11* (MEC 2003). All testing and analyses were conducted in accordance with guidelines published in Evaluation of Dredged Material proposed for Ocean Disposal (OTM) and the Inland Testing Manual. Both the Corps and EPA have reviewed the SAP and have determined that the material is suitable for ocean disposal but not suitable for beach nourishment. EPA and the Corps have also agreed with the report that the material may be suitable for in-bay beneficial re-use, pending approval by the San Diego Regional Water Quality Control Board.

Additional Project Information

Proposed Special Conditions

1. Prior to the onset of the authorized activity, the permittee shall implement a contractor education program to ensure that all onsite personnel are informed of the biologically sensitive resources associated with the project site and compliance with all the general and special conditions herein. The permittee shall provide all onsite personnel a copy of this permit, and require all onsite personnel to read, understand, and agree to this authorization in its entirety prior to initiation of the authorized activity.
2. The permittee shall post a copy of this permit onsite including all general and special conditions herein at all times during the authorized activity.
3. The permittee is not authorized to conduct activities that shall cause any Corps jurisdictional waters of the U.S. to be filled beyond this authorized activity.

4. The permittee shall allow Corps representatives to inspect the authorized activity at any time deemed necessary to ensure compliance with all the general and special conditions herein.
5. The permittee shall have a qualified inspector onsite during all dredging operations. The inspector shall ensure that all permit conditions are obeyed.
6. The permittee shall ensure that all vessel operators have a marine band radio, monitor Channel 16, and follow navigation rules (rules of the road) at all times. The permitted shall not interfere with the public's right to free navigation on all navigable waters of the U.S.
7. The permittee shall mark with buoys any underwater cables or anchoring systems for vessels involved with the project proposed herein. The permittee must install and maintain, at your expense, any safety lights and signals prescribed by the U.S. Coast Guard through regulations or otherwise on your authorized facilities.
8. All water-based operations authorized in here shall be limited to the areas defined in this permit. No more than approximately 25,000 cy of material shall be dredged. The maximum dredging design depth within the designated dredge area will be -35 feet MLLW plus a 1-foot overdredge allowance.
9. Within 30 - 90 days prior to the commencement of this project the permittee shall conduct a survey for the presence of *Caulerpa taxifolia* in the immediate vicinity of the dredge site. A certified biologist shall conduct this survey per the *Caulerpa* Policy. The results of this survey shall be provided to U.S. Army Corps of Engineers; Regulatory Branch; Mr. Robert R. Smith, 16885 West Bernardo Road, St. 300A, San Diego, CA 92127; to Mr. Robert S. Hoffman, National Marine Fisheries Service, Habitat Conservation Division, 501 W. Ocean Boulevard, Suite 4200, Long Beach, California, 90802-4213 and to Mr. Bill Paznokas, California Department of Fish & Game, 4949 View Ridge Ave., San Diego, California 92123.
10. The use of silt curtains around all dredge and construction vessels during dredging operations during the nesting season for the California least tern from April 1 to September 15th, will be required to minimize turbidity. Dredging activities will be slowed or stopped if any plume is visible outside the silt curtain. Once the plume dissipates regular dredging activities can continue
11. The permittee shall conduct eelgrass (*zostera marina*) surveys prior to commencement of any work and after project completion, in order to assess project-related impacts to this habitat. The surveys shall be consistent with the *Southern California Eelgrass Mitigation Policy* (adopted by federal and state resource agencies dated July 31, 1991). The reports of the eelgrass survey shall be sent to the resources agencies, including the California Department of Fish and Game, the National Marine Fisheries Service, and the U.S. Fish & Wildlife Service, as well as to the Army Corps of Engineers. If based on the post construction survey mitigation is required, a consultant with experience in eelgrass restoration shall oversee the planting of the eelgrass onsite.
12. Best Management Practices will be used around existing surface storm drains to prevent any contaminants from entering San Diego Bay.
13. Landside maintenance of construction vehicles and any petroleum storage facilities need to be located at least 100 feet from the edge of San Diego Bay and from any storm drain inlet.
14. Operational nighttime lighting of any equipment shall be directed toward the shoreline and not to toward the Sweetwater Flood Control Channel or the D Street Fill.
15. The permittee shall notify the United States Coast Guard Marine Safety Office at (619) 683-6492 at least two weeks prior to the start of construction activity. This will allow time to publish the pertinent information on the local notice to mariners. The notification shall include the following information:

- a. The location of the worksite;
- b. The size and type of equipment used at the site;
- c. Name and radio call signals for working vessels if applicable;
- d. Telephone number for on-site contact with project engineers/managers;
- e. The schedule for completing the project.

16. The permittee can conduct in-water based activities on a 24-hour basis, unless restricted by local ordinance.

17. Prior to commencement of dredging activities, the permittee shall submit to Robert R. Smith at the above address) the following information for review and approval:

a. **Dredging Operation Plan:** Submit, for approval by this office, no earlier than 60 calendar days and no later than 20 calendar days before the proposed commencement of dredging, a plan which includes the following: **Corps permit number**, a copy of the dredging contract or description of the work under which the contractor will do the permitted work; name and telephone numbers of the dredging contractor's representative on site; dredging start and completion dates; names of vessel; dump scow numbers or identification; bin or barge capacities; identification of work as either maintenance dredging or new dredging; quantity of material to be removed; dredging design depth and typical cross section including over depth; and date of last dredging episode and design depth. The dredging Operational Plan shall also provide the following information:

- 1) The controls being established to insure that dredging operations occur within the limits defined by the channel dimensions and typical channel section. The horizontal and vertical positioning systems being utilized must be indicated as noted in No.2 below.
- 2) Method of determining electronic positioning of dredge and dump scow during entire dredging operation at dredge site and during disposal at the ocean disposal dump site LA-5.
- 3) Specifications for a silt curtain and a map indicating the area around all vessels and barges where the silt curtain will be installed.

Please note that failure to provide all of the above information may result in delays to your project. When your dredge operation plan has been approved, you will receive a written authorization to commence with your project.

b. **Pre-Dredge Survey:** Submit no earlier than 60 calendar days and no later than 20 calendar days before commencement of dredging, a bathymetric survey with accuracy to one-tenth foot which delineates the following: areas to be dredged with over depth allowances; existing depths; estimated quantities to be dredged for the project; and estimated quantities for over depth. **All surveys shall be accomplished by a licensed surveyor and signed by the permittee to certify their accuracy. Please include the Corps permit number.**

Please note that failure to provide all the above information may result in delays to your project.

c. **Solid Debris Management Plan:** Submit no earlier than 60 calendar days and no later than 20 calendar days before commencement of work, a plan which describes measures to ensure that solid debris generated during any authorized demolition or construction operation is retained and properly disposed of in

areas not under Corps jurisdiction. At a minimum, the plan shall include the following: source and expected type of debris; debris retrieval method; **Corps permit number**; disposal method and site; schedule of disposal operations; and debris containment method to be used, if floatable debris is involved.

Please note that failure to provide all the above information may result in delays to your project.

18. Dredged material shall not be leaked or spilled from disposal vessels during transit to LA-5. Transportation of dredged material to LA-5 shall only be allowed 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 in transit to the LA-5. No disposal vessel trips shall be initiated when the National Weather Service has issued a gale warning for local waters during the time period necessary to complete dumping operations.

19) Surface Disposal Zone (SDZ): When dredged material is discharged within LA-5, 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 (306 meters) from the center of the disposal site at latitude 32 36.50'N; longitude 117 20.40'W (NAD 1927).

20) No more than one disposal vessel may be present within the LA-5 SDZ at any time.

21) The primary disposal tracking system for recording ocean disposal operations data shall be disposal vessel- (e.g., scow-) based. An appropriate Global Positioning System (GPS) shall 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-5 disposal site boundary, and at a maximum 10-second interval while inside the LA-5 disposal site boundary. This system must also indicate and record the time and location of the beginning and end of each disposal event (e.g., the opening and closing of the hull doors of the disposal vessel). 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-5 disposal site and its SDZ, superimposed on the appropriate NOS chart, so that the operator can confirm proper position within the SDZ before discharging the dredged material. Commercial web-based, near real-time tracking and monitoring systems are available that satisfy these requirements, and EPA encourages their use.

22) If the primary disposal tracking system fails during transit, 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 ("lay back"), the estimated scow position would be within the SDZ [i.e., within 1,000 feet of the center of the disposal site]. 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. Further disposal operations using a disposal vessel whose navigation tracking system fails must cease until those primary disposal-tracking capabilities are restored.

23) The permittee shall complete an EPA- and USACE-approved Scow Certification Checklist that documents: 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; the time that each disposal vessel departs for, arrives at and returns from LA-5; the exact coordinates and time of each disposal; and the volume of material disposed at LA-5 during each disposal trip. The permittee's proposed Scow Certification Checklist must be approved prior to the commencement of any ocean disposal operations.

24) The permittee shall provide initial notification of any potential or actual violations of the above Ocean Disposal Special Conditions to the District Engineer and the Regional Administrator within 24 hours of discovering such a situation. (This notification requirement is in addition to the monthly report required below.) Timely identification and reporting of potential problems can be facilitated by use of a near real-time web-based tracking and monitoring system. However, whether or not such a system is used, it is the permittee's

responsibility to initially report any apparent problems within 24 hours.

25) The permittee shall 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 shall be compiled, and provided in reports to both EPA and USACE at a minimum for each month during which ocean disposal operations occur. These reports shall include the automatically-recorded electronic navigation tracking and disposal vessel draft data on CD-ROM (or other media approved by EPA and USACE), as well as hard copy reproductions of the Scow Certification Checklists and printouts listed above. The reports shall also include a cover letter describing any problems complying with these Ocean Disposal Special Conditions, the cause(s) of the problems, any steps taken to rectify the problems, and whether the problems occurred on subsequent disposal trips.

26) Following the completion of ocean disposal operations, the permittee shall submit to the District Engineer and Regional Administrator a completion letter summarizing the total number of disposal trips and the overall (in-situ) volume of material disposed at LA-5 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.

27. Post-Dredge Survey: Submit, within 15 days of the last dredging activity (last is defined as that activity after which no further activity occurs for 15 calendar days), a bathymetric survey with accuracy to one-tenth foot which delineates the areas dredged and the dredged depths. **Also, include the Corps permit number, dates of dredging commencement and completion, actual quantities dredged for the project, and actual quantities of over depth dredging.** The permittee shall substantiate the total quantity dredged by including calculations used to determine the volume difference (in cubic yards) between the Pre- and Post- Dredge Surveys and explain any variation in quantities greater than 15% beyond estimated quantities. **All surveys shall be accomplished by a licensed surveyor and signed by the permittee to certify their accuracy.** A copy of the post dredge survey should be sent to the National Ocean Service for chart updating: NOAA/National Ocean Service, Map and Chart Branch, (Attention: N/CG2211), SSMC3, Room 6211, 1315 East-West Highway, Silver Spring, Maryland 20910.

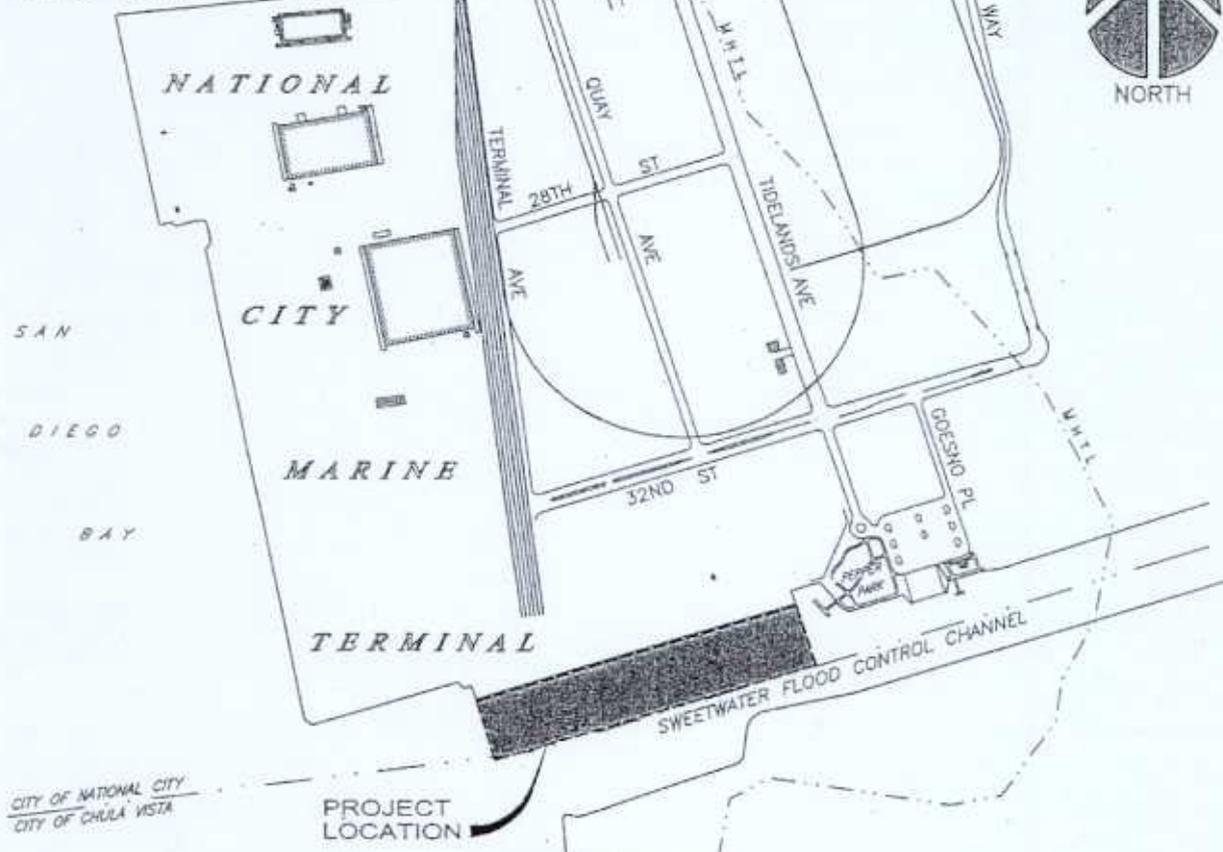
28. **The permittee or dredge contractor shall inform this office when the dredging activity actually commences, is suspended (suspension is when the dredge contractor leaves the dredge site for more than 48 hours for reasons other than equipment maintenance), is restarted and the actual date of completion. Each notification should include the Corps permit number.** The information can be sent, to the attention: Robert R. Smith, in writing to the Corps of Engineers, Regulatory Branch, 16885 West Bernardo Road, St. 300A, San Diego, CA 92127 at the above address (see Special Condition 7); faxed to (858)674- 5388; or via telephone message at (858) 674-6784.

29. The permittee shall allow the dredging area and equipment to be inspected by the Corps staff upon request.

For additional information please call Robert Revo Smith Jr. of my staff at (213) 452-3419. This public notice is issued by the Chief, Regulatory Branch.



VICINITY MAP
SCALE AS SHOWN



LOCATION MAP
NO SCALE

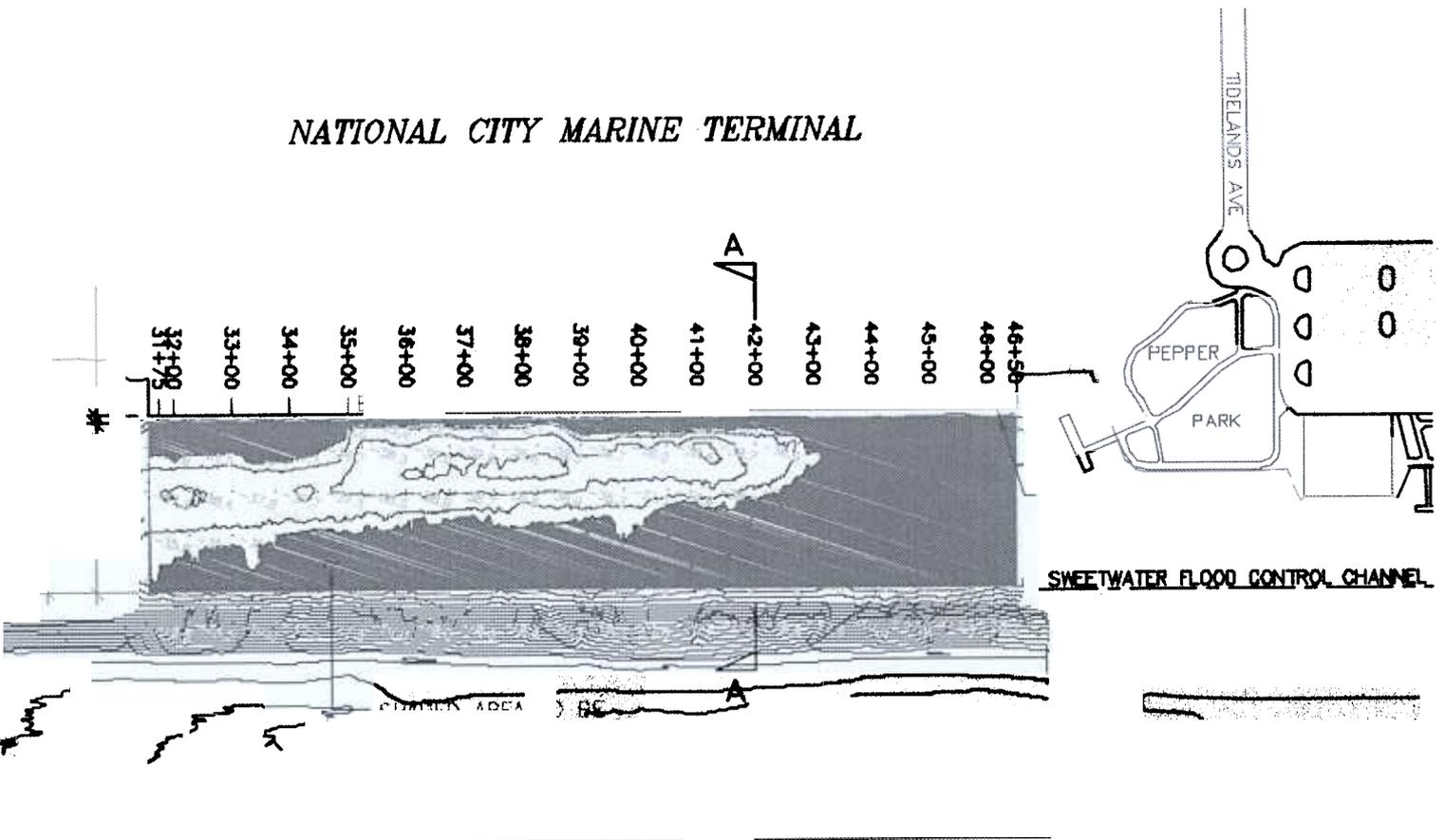
PURPOSE: MAINTENANCE DREDGING FOR BERTHS 24-10 AND 24-11 NATIONAL CITY MARINE TERMINAL
 DATUM: M.L.L.W.
 ADJACENT PROPERTY OWNERS: SAN DIEGO UNIFIED PORT DISTRICT

SAN DIEGO UNIFIED PORT DISTRICT
 3165 PACIFIC HIGHWAY
 SAN DIEGO, CA 92101
 ASST. DIRECTOR OF ENGINEERING:
 E. JAVIER SAUNDERS
 DRAWN BY: PMD CHECKED BY: A. S. PE

IN: SAN DIEGO BAY
 AT: SAN DIEGO
 COUNTY OF: SAN DIEGO STATE: CA
 APPLICATION BY: SAN DIEGO UNIFIED PORT DISTRICT
 SHEET 1 OF 3 DATE: ---
 DWG NO: 312-C REV: ---

I:\CADD\pmd\pmd\pmd\312-C\312-C.dwg, 01/26/04 PM

NATIONAL CITY MARINE TERMINAL



SCALE: 300'



PURPOSE: MAINTENANCE DREDGING FOR BERTHS 24-10 AND 24-11 NATIONAL CITY MARINE TERMINAL

SAN DIEGO UNIFIED PORT DISTRICT

IN SAN DIEGO BAY

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

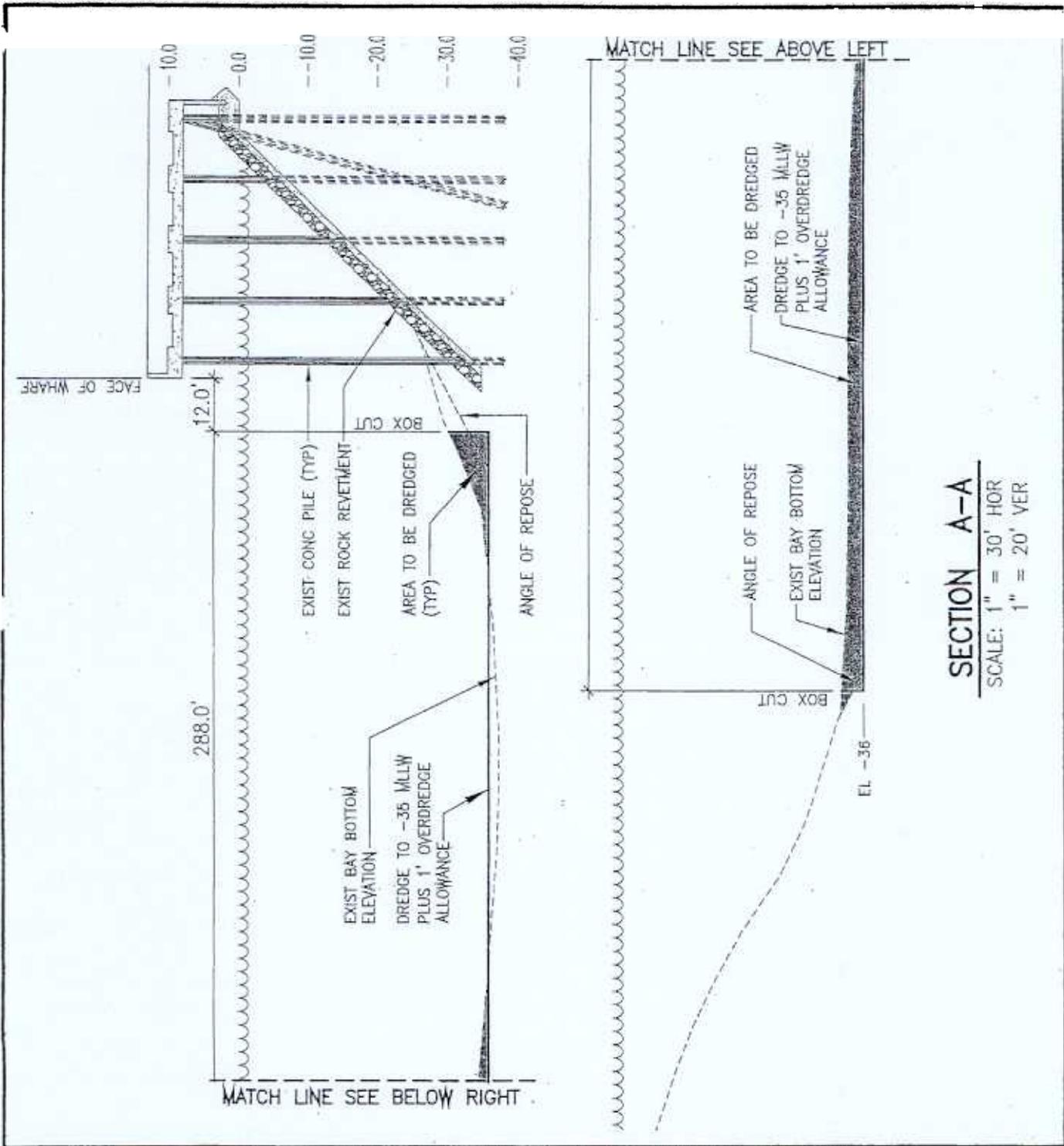
ASST. DIRECTOR OF ENGINEERING:

APPLICATION BY: SAN DIEGO UNIFIED PORT DISTRICT

DRAWN BY: E. JAVIER SAUNDERS
CHECKED BY: A.

SHEET 2 OF 3
DMC NO. 312-C

DATE:
REV:



PURPOSE: MAINTENANCE DREDGING FOR BERTHS 24-10 AND 24-11 NATIONAL CITY MARINE TERMINAL

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

ASST. DIRECTOR OF ENGINEERING:
E. JAVIER SAUNDERS

DRAWN BY: PMD CHECKED BY: A. S. PE

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

APPLICATION BY:
SAN DIEGO UNIFIED PORT DISTRICT

SHEET 3 OF 3 DATE:
DWG NO: 312-C REV: -