SPECIAL PUBLIC NOTICE

US Army Corps of Engineers®

APPLICATION FOR ESTABLISHMENT OF A RESTRICTED NAVIGATION AREA

LOS ANGELES DISTRICT

Public Notice/Application No.: 200200664-MDC
Comment Period: January 22, 2003 through February 22, 2003
Project Manager: Mark D. Cohen

Applicant
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Commanding Officer (Code N44VP J.Danza)
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Location

The restricted area would include the waters of the U.S. within Port Hueneme Harbor inclusive of the ends of the two entrance jetties, as shown on the attached drawing.

Activity

The Corps, at the request of the U. S. Navy, proposes to establish a restricted area over Naval Base Ventura County's Port Hueneme Harbor, extending from the ends of the two Port Hueneme Harbor entrance jetties to the shoreline. No vessels or persons would be allowed to enter the restricted area without first obtaining permission from the Commanding Officer of Naval Base Ventura County. This restricted area would afford the U.S. Navy increased tracking and enforcement capabilities to protect its facilities and personnel from sea-borne threats. 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 River and Harbor Act of 1917. Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Branch
ATTN: CESPL-CO--200200664-MDC
P.O. Box 532711
Los Angeles, California 90053-2325

Alternatively, comments can be sent electronically to: mark.d.cohen@usace.army.mil

Evaluation Factors

The decision whether to establish the restricted area will be based on an evaluation of the probable impact including cumulative impacts of the proposed designation on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be 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.

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 designation. Any comments received will be considered by the Corps of Engineers to determine whether to establish the proposed restricted area or to modify it prior to establishment. To make this decision, comments are used to assess impacts on a variety of public interest factors. 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 designation.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for the proposed establishment of a restricted area.

Water Quality- The proposed action would not result in a discharge of dredged or fill material into waters of the U.S. Therefore, a water quality certification pursuant to Section 401 of the Clean Water Act is not required from the California Regional Water Quality Control Board.

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 restricted area would require that all vessels and persons entering the Port Hueneme Harbor entrance channel first notify and receive approval from the Commanding Officer of Naval Base Ventura County before proceeding past the ends of the two entrance jetties. The establishment of this restricted area would not be expected to affect EFH. This authorization would not permit the discharge of dredged or fill material in waters of the United States. Therefore, our initial determination is that the proposed activity would not have any 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.

Coastal Zone Management - The California Coastal Commission issued a concurrence with the Navy's Coastal Consistency Negative Determination for this proposed designation (ND-065-02).

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 designated 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

The U.S. Navy has requested that the Corps establish a restricted area over the waters of the U.S. within Port Hueneme Harbor, beginning at the ends of the two Port Hueneme Harbor entrance jetties and extending to the shoreline, pursuant to Section 7 of the River 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 restricted area would more specifically encompass the entirety of the waters of the U.S. of Port Hueneme Harbor, from the COLREGS (Collision Regulations) demarcation line, which is an approximately 1,500-foot-long imaginary line connecting the seaward limits or ends of the two entrance jetties (the seaward end of the northwestern jetty occurs at latitude 34°8'37.0" N., longitude 119°12'58.8" W., and the seaward end of the southeastern jetty occurs at latitude 34°8'34.8", longitude 119°12'43.2" W. (NAD83)), to the Harbor shoreline.

According to the U.S. Navy, the establishment of the proposed restricted area is required to prevent death or injury to naval personnel, damage or destruction of aircraft, facilities, or other property from terrorists, sabotage, or other subversive acts or criminal actions or other causes of similar nature. Operations and assets, such as the Naval Construction Battalion Center, Navy wharves, and transient and home-ported ships are vital to national security interests.

Additional Project Information.

Restricted Area. Restricted area, pursuant to federal regulations at 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.

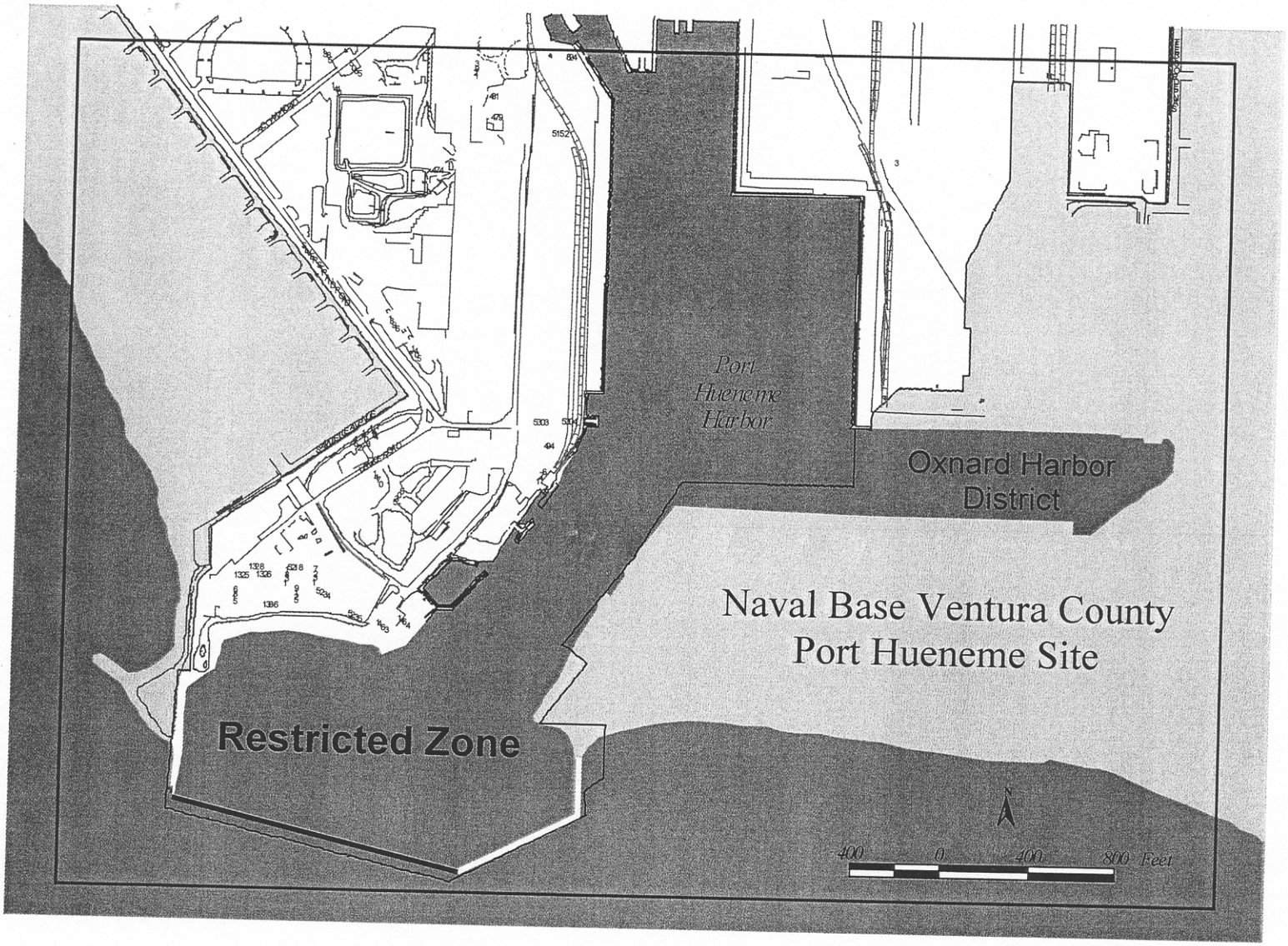
Background Information. According to Oxnard Harbor District staff, more informal advanced notification procedures similar to those proposed by the U.S. Navy have been in place for quite some time. In addition, pursuant to 33 CFR 165, the U.S. Coast Guard has extended until June 15, 2003 a temporary security zone that imposes advanced notification requirements for all vessels entering Port Hueneme Harbor. The U.S. Coast Guard extended the effective period of the temporary security zone to continue protecting U.S. Navy vessels and facilities at Port Hueneme Harbor from vessel-borne threats until a permanent restricted area is established. The proposed restricted area would permanently establish formal advanced notification procedures for all vessels and persons seeking to enter Port Hueneme Harbor landward of the seaward limits or ends of the two entrance jetties. Moreover, the U.S. Navy would be afforded more enforcement capability to meet its security needs within the defined area. Pursuant to Section 7 of the River and Harbor Act of 1917, restricted area violations are considered misdemeanors and if convicted, violators are punishable by a fine not to exceed $500 or by imprisonment not to exceed 6 months. However, pursuant to 18 U.S.C. 3571, felony convictions for violations of federal law can be subject to an alternative maximum fine of $250,000 against individuals and $500,000 against organizations.

Statement for need of the restricted area. The U.S. Navy has stated that the establishment of the restricted area is needed to prevent death or injury to naval personnel, damage or destruction of aircraft, facilities, or property from terrorists, sabotage or other subversive acts or criminal actions or other causes of similar nature. Operations and assets such as the Naval Construction Battalion Center, Navy wharves, and transient and home-ported ships are vital to national security interests. Port Hueneme Harbor has several vital facilities near the shoreline, as well as other on-base assets that could be penetrated from a sea-borne threat. The restricted area would provide a buffer zone in which the appropriate law enforcement could identify and intercept intruders before they reach the shore.

PROPOSED RULE. The Regulation for the restricted area is proposed as follows:

No vessels or persons may enter the restricted area unless permission is obtained in advance from the Commanding Officer of Naval Base Ventura County. Commercial vessels that are required to make Advanced Notifications of Arrival shall continue to do so. All vessels must obtain clearance from "Control 1" over marine radio channel 06 VHF-FM prior to crossing the COLREGS demarcation line. Vessels without marine radio capability must obtain clearance in advance by contacting "Control 1" via telephone at (805) 982-3938 prior to crossing the COLREGS demarcation line. The COLREGS (Collision Regulations) demarcation line is defined as an imaginary line approximately 1,500 feet in length connecting the seaward limits or ends of the two Port Hueneme Harbor entrance jetties, with the northwestern jetty end occurring at latitude 34°8'37.0" N., longitude 119°12'58.8" W., and the southeastern jetty end occurring at latitude 34°8'34.8" N., longitude 119°12'43.2" W. (NAD83).

For additional information please call Mark D. Cohen of my staff at (213) 452-3413. This public notice is issued by the Chief, Regulatory Branch.


Port Hueneme Harbor
Oxnard Harbor District
Naval Base Ventura County
Port Hueneme Site
Restricted Zone
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