

PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS LOS ANGELES DISTRICT

BUILDING STRONG®

APPLICATION FOR PERMIT RENEWAL Port of San Diego Regional General Permit (RGP) No. 72 renewal

Public Notice/Application No.: SPL-2019-00478-RRS

Project: Port of San Diego Regional General Permit Nos. 72 renewal

Comment Period: June 25, 2019 through July 26, 2019

Project Manager: Robert Smith; (760) 602-4831; Robert.R.Smith@usace.army.mil

Applicant

Eileen Maher (619) 686-6532 Port of San Diego Environmental Conservation 3165 Pacific Highway San Diego, California 92101

Contact

Eileen Maher (619) 686-6532 Port of San Diego Environmental Conservation 3165 Pacific Highway San Diego, California 92101

Location

Routine maintenance work under RGP 72 occurs at various locations in San Diego Bay and the Pacific Ocean per the attached permit drawings for piers, wharves, docks, as previously permitted under RGP No.72. The Port of San Diego is proposing to perform routine maintenance work at the following structures per the attached drawings referenced under each sheet as follows:

- a) Chula Vista Bayfront: Fishing Pier and Launching Ramp Floating Docks (Sheet 9);
- b) Coronado Bayfront: Ferry Landing Pier; Seawall, and Peohe's Floating Dock (Sheet 7);
- c) Imperial Beach: Imperial Beach Fishing Pier (Sheet 10):
- d) Harbor Island and Embarcadero Crescent: two seawalls, Dinghy Docks, Pier, Wharves, Grape St. Piers 1, 2, and 3 (formerly known as Chevron Pier) (Sheet 3);
- e) National City Marine Terminals and Bayfront: National City Marine Terminal Berths 24-1 through 24-5, 24-10 and 24-11, the Fishing Pier, Boat Launch Ramp Floating Docks, and Pepper Park Floating Dock (Sheet 8):
- f) Embarcadero Wharf: Embarcadero Wharf seawalls, B St. Pier; the Viewing Platform, Broadway Pier, Navy Pier (Sheet 4);
- g) Tuna Harbor and Embarcadero Marina Parks: Tuna Harbor Fleet Landing, Fish Unloading Pier, Tuna Harbor Pier, Fish Harbor Pier; Tuna Boat Berthing Facility, Overwater Structure, Seaport Village seawall, Embarcadero Marine Park North and South Piers (Sheet 5);
- h) Shelter Island Docks and piers: Driscoll's Wharf, Piers & Floating Docks (La Playa Piers), Shelter Island Viewing Platform, Boat Launch Breakwaters and Floating Docks, Fishing Pier & Floating Dock, Transient Vessel Dock, and Harbor Police Dock (Sheet 2);

i) Tenth Avenue Marine Terminal: Tenth Avenue Marine Terminal Berths 10-1 through 10-8, Seawall, Mole Pier, High Speed Ferry Dock, Crosby Street Berthing Pier, and Public Recreational Pier (Sheet 6).

Activity

Work to be covered under the renewed RGP No.72 would be at the above locations and include: routine maintenance of docks, wharves, piers, and piles on tidelands both in San Diego Bay and in the Pacific Ocean at the Imperial Beach Pier; like-for-like repair or replacement of damaged and broken wooden, concrete, and/or plastic pier and fender piles, as needed; and like-for-like repair or replacement of pier, decks, deck boards, blocks, camel logs, installation of marine fenders, and other ancillary items, as needed. No work approved under this permit would result in additional shading or overwater coverage. The previous Corps RGP 72 authorized approximately 60 Corps various RGP 72 actions over the last twelve years of RGP 72's duration since 2007. The work shall be done in association with the Port of San Diego Master Plan and the Regional General Permit Nos. 72 renewal application to the Corps (see attached drawings). For more information see Additional Project Information section below.

Interested parties are hereby notified an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). 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 supports the Corps' decision-making process. All comments received during the comment period become part of the record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied under Section 0 of the Rivers and Harbors Act. Comments should be mailed to:

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
ATTN: Robert Smith
Carlsbad Field Office
5900 La Place Ct., Suite 100
Carlsbad, CA 92008

Alternatively, comments can be sent electronically to: Robert.R.Smith@usace.army.mil

The mission of the U.S. Army 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, 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 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 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.

<u>Water Quality</u>- 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 any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance.

<u>Coastal Zone Management</u>- The applicant has certified the proposed activity would comply with and would be conducted in a manner 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 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. This project is located within the coastal zone and preliminary review indicates it would affect coastal zone resources. After a review of the comments received on this public notice and in consultation with the California Coastal Commission, the Corps will make a final determination of whether this project complies with the Coastal Zone Management Act after review of the comments received on this Public Notice.

Essential Fish Habitat—Essential Fish Habitat (EFH), as defined by the Magnuson-Stevens Fishery Conservation and Management Act, occurs within the project area and EFH is affected by the proposed project. The Corps of Engineers preliminary determination indicates the proposed activity would adversely affect EFH. Pursuant to Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Los Angeles District hereby references our EFH consultation for the proposed project as this notice supplements the initiation of EFH consultation in our email dated June 12, 2019 to NOAA (with EFH Assessment) under the EFH consultation requirements of the Act. In order to comply with the Magnuson-Stevens Fishery Conservation and Management Act (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: See project description on page 6 of this public notice.
- 2. On-site inspection information: See baseline information on pages 5 and 6 of this public notice.
- 3. Analysis of the potential adverse effects on EFH: All work would include pre-construction surveys of the invasive plant *Caulerpa taxifolia*, eelgrass, and wetlands as is consistent with conditions outlined in the current RGP 72 and the California Eelgrass Mitigation Policy. Previous work had little to no impacts to any special aquatic sites and was coordinated with NMFS. The Corps has received an updated Essential Fish Habitat Assessment dated April 9, 2019 from the Port describing the minor and temporary impacts (turbidity, noise, and sediment disturbance) to EFH habitat and has deemed that the potential effects to EFH habitat are not substantial to the Coastal Pelagic Species and Pacific Groundfish Fishery Management Plans (FMPs). The Corps has processed over 60 permit actions under the previous RGP 72 over the last twelve years and the Port has monitored each action with the implementation of Best Management Practices (BMPs) and in all cases the temporary adverse effects of RGP 72 actions to the EFH FMPs and the EFH fish group species were managed to adequately reduce the adverse effects.
- 4. Proposed minimization, conservation, or mitigation measures: Measures include pier construction and pile jetting methods that reduced turbidity and sediment disturbance, silt curtains and debris netting, pile driving with soft start methods and monitoring, water quality monitoring, turbidity monitoring and measures like work cessation and plume controls if adverse turbidity is detected, and debris management. In all cases there was no discernable harmful substantial effects to the EFH FMPs or above EFH fish species in the project area.
- 5. Conclusions regarding effects of the proposed project on EFH: The Port's proposed measures have previously been used on over 60 Corps permit actions under the previous RGP 72 over the last twelve years and each action with the implementation of Best Management Practices (BMPs) has resulted in only minor and temporary effects and were not substantial to EFH resources. The Corps concludes

that the effects are minor and not substantial with the implementation of the BMPs and other measures proposed

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 the NOAA Fisheries. The Corps has transmitted a written EFH consultation request to NOAA Fisheries via an email dated June 12, 2019 to conclude the process and will review and adopt NOAA Fisheries conclusions per NOAA and Corps regulations as appropriate.

<u>Cultural Resources</u>- The latest version of the National Register of Historic Places has been consulted and there are no historic resources located in the project area. This review constitutes the extent of cultural resources investigations by the District Engineer, and he is otherwise unaware of the presence of such resources. The Permit area has been previously disturbed extensively by the construction of the piers, wharves, docks, and dredging in the RGP 72 project area. Pursuant to Appendix C (3)(b) in certain instances which includes this project, the nature, scope, and magnitude of the work, and/or structures to be permitted may be such that there is little likelihood that a historic property exists or may be affected. In such areas, historic properties that may have at one time existed within the permit area may be presumed to have been lost pursuant to Appendix C 3(b)(1) where areas have been extensively modified by previous work and there is little likelihood that a historic property exists or may be affected.

Endangered Species (ESA)- Preliminary determinations indicate the proposed activity would affect federally-listed endangered or threatened species, or their critical habitat based on previous ESA analysis. Therefore, formal consultation under Section 7 of the Endangered Species Act will need to occur and the Corps will be reinitiating Section 7 consultation with the U.S. Fish and Wildlife Service to supplement the existing conditions for ESA in the Corps permit. The project will avoid any direct impacts to the Federally-listed as endangered Western Snowy Plover (*Charadrius alexandrus nivosus nivosus*) or its designated critical habitat. Insofar as impacts to the California least tern (*Sterna antillarum browni;* CLT) the Corps has already adopted conditions to avoid the nesting season (April 1st to September 15th) with monitoring if work occurs in the CLT nesting season and USFWS coordination as needed. Also the Corps will be re-initiating Section 7 consultation with NMFS for the Federally listed as threatened green sea turtle (*Chelonia Mydas*; GST) that was previously done in 2007. Measures such as GST monitoring and work cessation or ramping down will occur as needed..

<u>Public Hearing</u>- 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

<u>Basic Project Purpose</u>- 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 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. The basic project purpose for the proposed project is navigation and vessel berthing. The project is water dependent.

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 perform routine maintenance on Port of San Diego pier, wharf, and dock structures within San Diego Bay and the Pacific Ocean off Imperial Beach, CA.

<u>Additional Project Information</u>

<u>Baseline information</u> The Port's letter dated April 15, 2019 requested renewal of RGP 72 and the Corps first issued RGP 72 on September 4, 2007, and renewed it again on November 20, 2014 for another five years or until November 20, 2019 when it expires. The Corps RGP 72 that was extended in 2014 covered all of the following structures below:

- a) Chula Vista Bayfront: Fishing Pier and Launching Ramp Floating Docks (Sheet 9);
- b) Coronado Bayfront: Ferry Landing Pier; Seawall, and Peohe's Floating Dock (Sheet 7);
- c) Imperial Beach: Imperial Beach Fishing Pier (Sheet 10);
- d) Harbor Island and Embarcadero Crescent: two seawalls, Dinghy Docks, Pier, Wharves, Grape St. Piers 1, 2, and 3 (formerly known as Chevron Pier) (Sheet 3);
- e) National City Marine Terminals and Bayfront: National City Marine Terminal Berths 24-1 through 24-5, 24-10 and 24-11, the Fishing Pier, Boat Launch Ramp Floating Docks, and Pepper Park Floating Dock (Sheet 8);
- f) Embarcadero Wharf: Embarcadero Wharf seawalls, B St. Pier; the Viewing Platform, Broadway Pier, Navy Pier (Sheet 4);
- g) Tuna Harbor and Embarcadero Marina Parks: Tuna Harbor Fleet Landing, Fish Unloading Pier, Tuna Harbor Pier, Fish Harbor Pier; Tuna Boat Berthing Facility, Overwater Structure, Seaport Village seawall, Embarcadero Marine Park North and South Piers (Sheet 5);
- h) Shelter Island Docks and piers: Driscoll's Wharf, Piers & Floating Docks (La Playa Piers), Shelter Island Viewing Platform, Boat Launch Breakwaters and Floating Docks, Fishing Pier & Floating Dock, Transient Vessel Dock, and Harbor Police Dock (Sheet 2);
- i) Tenth Avenue Marine Terminal: Tenth Avenue Marine Terminal Berths 10-1 through 10-8, Seawall, Mole Pier, High Speed Ferry Dock, Crosby Street Berthing Pier, and Public Recreational Pier (Sheet 6).

The above structures covered under RGP 72 are existing piers, wharves, docks, seawalls, and ancillary facilities that are located in San Diego Bay or the Pacific Ocean off Imperial Beach, in-water areas with depths from 10 ft. to 50 ft. MLLW in water that is too deep for eelgrass or wetlands. The pile-supported piers and wharves consist of pier and wharf deck structures with various types of piles including wood fender piles, concrete piles, square fender and structural piles, guide piles, octagonal piles, and plastic piles. The RGP 72 project areas generally support a sandy, rocky, and mucky substrate with some debris underneath the piers, docks, and wharves has and provides adjacent deep water access for large vessel berthing to each pier, dock, and wharf structure. Existing vessels that utilize these RGP 72 project areas include cargo ships, large cruise ships, commercial fishing, naval vessels, the Midway Foundation and Midway vessel, historic vessels, recreational vessels, and large sailing vessels. Some work would occur next to areas where there may be eelgrass or wetlands but generally these areas are avoided. The existing RGP 72 includes pre-construction surveys of *Caulerpa taxifolia* and eelgrass for all actions, as is consistent with conditions outlined in the current RGP 72 and the California Eelgrass Mitigation Policy.

The adjacent RGP 72 project areas within San Diego Bay and the Pacific Ocean off Imperial Beach have been dredged over many decades and are underlain by native Baypoint hard substrate geologic formations and adjacent to developed areas within San Diego Bay that include naval and

military facilities, marinas, boat ramps, cruise and cargo terminals, boat repair facilities, urban areas, downtown San Diego, a major airport, residential areas, and anchorages. Some areas adjacent to the piers and wharves do support eelgrass and wetlands but these areas are not within the project area and will be avoided. The baseline of the project areas within San Diego bay is also shown in the San Diego bay Integrated Natural Resource Management Plan as prepared by the Navy and the Port. The baseline area for RGP 72 work at Imperial Beach is in the beach areas of Imperial Beach in a coastal beach shoreline area that has received beach nourishment over many decades within the near shore environment it supports.

Project description- Routine work to be covered under the renewed RGP No.72 at the locations shown in the attached permit figures and identified in the Location section above and includes: routine maintenance of docks, wharves, piers, and piles on tidelands both in San Diego Bay and in the Pacific Ocean at the Imperial Beach Pier: like-for-like repair or replacement of damaged and broken wooden. concrete and/or plastic pier and fender piles, as needed; and like-for-like repair or replacement of pier, decks, deck boards, blocks, camel logs, installation of marine fenders, and other ancillary items, as needed. No work approved under this permit would result in additional shading or additional overwater coverage. Each item for each element shown in the attached drawings indicates the types and numbers of piles to be replaced. No dredging or beach nourishment or fill is proposed or allowed under RGP 72. The previous existing Corps RGP 72 authorized approximately 60 Corps various RGP maintenance actions over the twelve years and seeks renewal for the existing RGP 72 that is still in effect. The current estimate for the next five years of structural work impacts in, under, and over navigable waters regulated under Section 10 of the Rivers and Harbors Act is 1.6 acres of navigable waters (with no expected eelgrass or wetlands impacts). The projected work for the next five years is for the B St. Pier, Tuna Harbor Docs Nos. 2 and 3, Navy Pier, National City Marine Terminals Berths 24-3 and 24-11, and Tenth Avenue Marine Terminal Crosby Pier but other structures in the extended RGP 72 permit would still be covered as shown in the Port's application. The work shall be done in association with the Port of San Diego Master Plan and the RGP No. 72 renewal application to the Corps (see attached drawings).

<u>Proposed Mitigation</u>— 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 project occurs in deep water areas of San Diego Bay and the Pacific Ocean under the Imperial Beach pier and the work avoids impacts to any wetland or eelgrass areas. The adjacent RGP 72 project areas within San Diego Bay have been dredged over many decades and are underlain by native Baypoint hard substrate geologic formations and adjacent to developed areas within San Diego Bay that include naval and military facilities, marinas, boat ramps, cruise and cargo terminals, boat repair facilities, commercial fishing, downtown San Diego, a major airport, residential areas, and anchorages. Some areas adjacent to the piers and wharves do support eelgrass and wetlands but these areas are not within the project area and will be avoided. The baseline area for RGP 72 work at Imperial Beach Pier is over the sandy beach areas of Imperial Beach pier where there are no reefs or kelp or eelgrass and in a coastal beach shoreline area that has received beach nourishment over many decades.

Minimization: The Port's RGP 72 has minimization measures such as pile jetting techniques to avoid sediment disturbance, silt curtains and netting to control spillage, pile driving with soft start methods and monitoring to avoid impacts to, water quality monitoring, turbidity monitoring and measures like work cessation and plume controls if detected, and debris management.

Compensation: Currently activities authorized under RGP 72 have not resulted in any direct or indirect impacts to eelgrass or wetlands in the bay or ocean and no mitigation has been required as the work is largely structural repair work. Currently, no mitigation is proposed for the current RGP 72 renewal but if impacts do occur to aquatic resources mitigation will be required per CEMP and the Corps Mitigation Rule at 33 CFR 332 per the RGP 72 special conditions.

Proposed Special Conditions

For additional information please call Robert Smith of my staff at (760) 602-4831 or via e-mail at Robert.R.Smith@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.



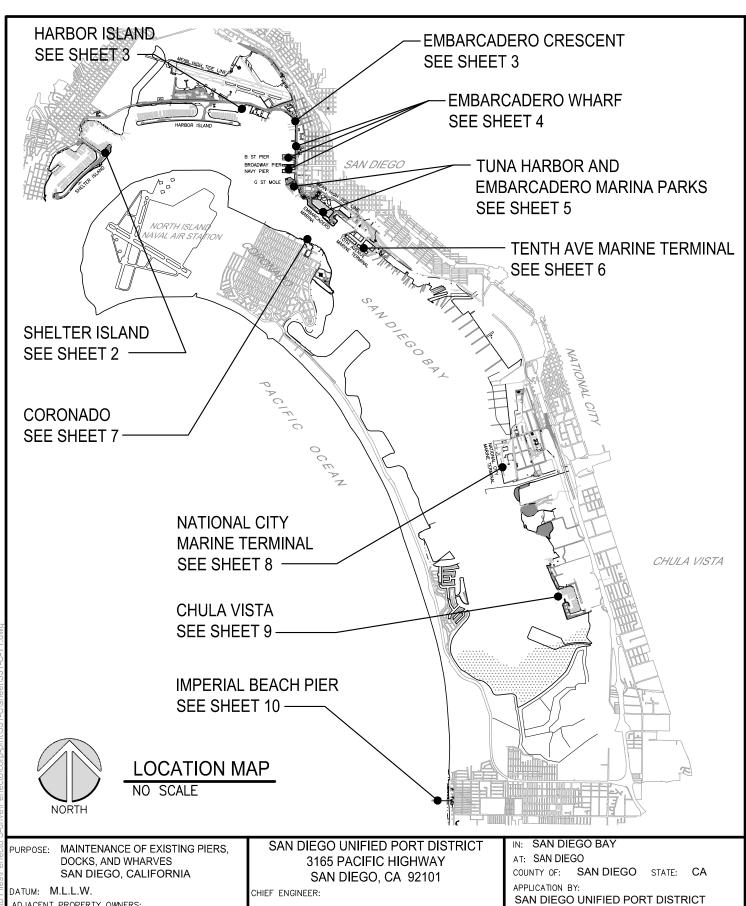
Regulatory Program Goals:

- 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.

DEPARTMENT OF THE ARMY LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS

Carlsbad Field Office 5900 La Place Ct., Suite 100 Carlsbad, CA 92008

WWW.SPL.USACE.ARMY.MIL/MISSIONS/REGULATORY



ERNIE MEDINA

DRAWN BY: P DE OCAMPO CHECKED BY: D. BEACH

SHEET 1 OF 10

DWG NO: 331-C

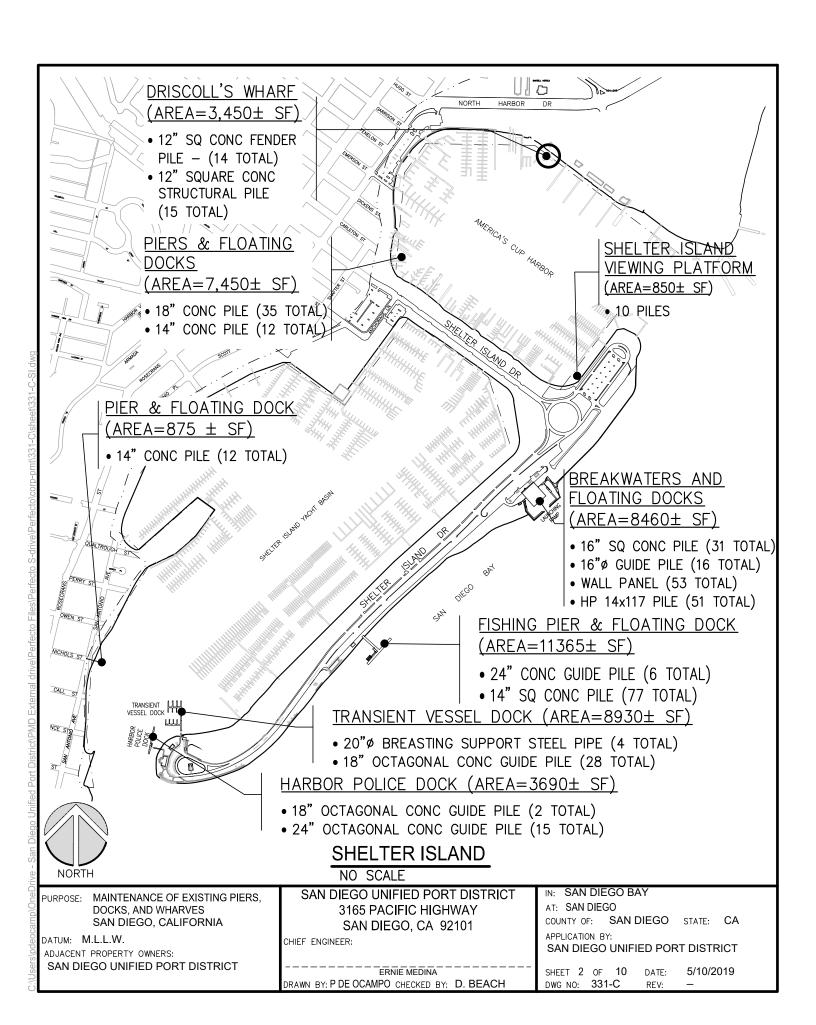
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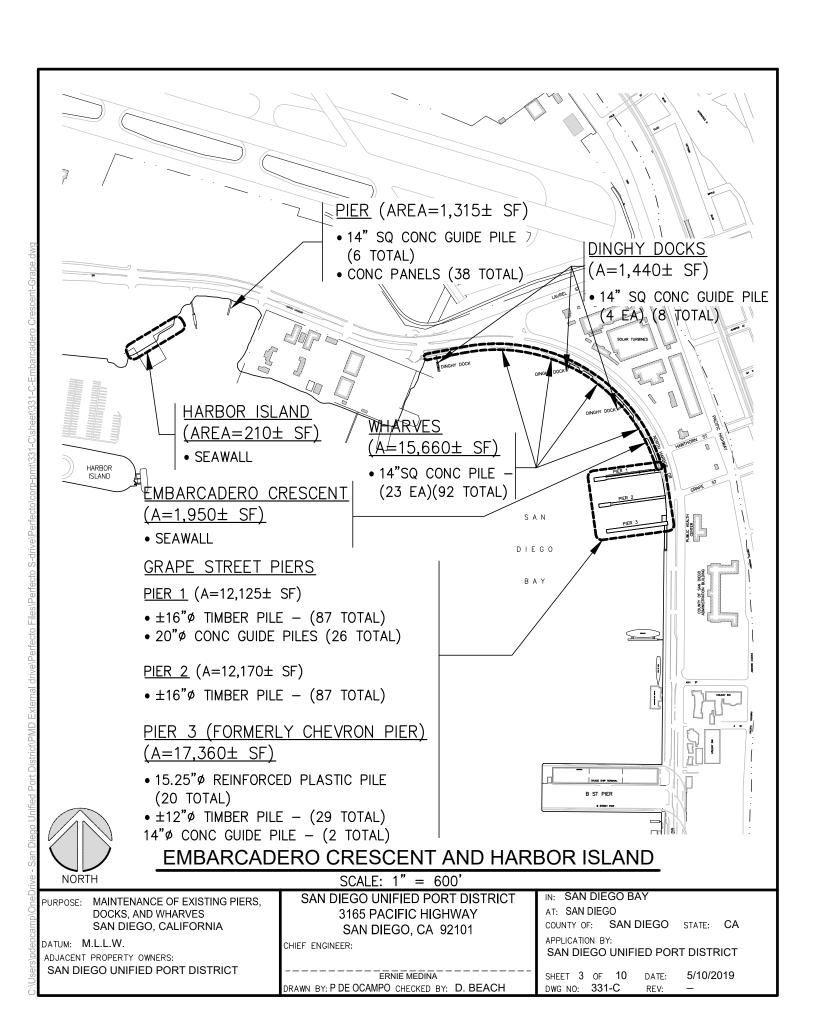
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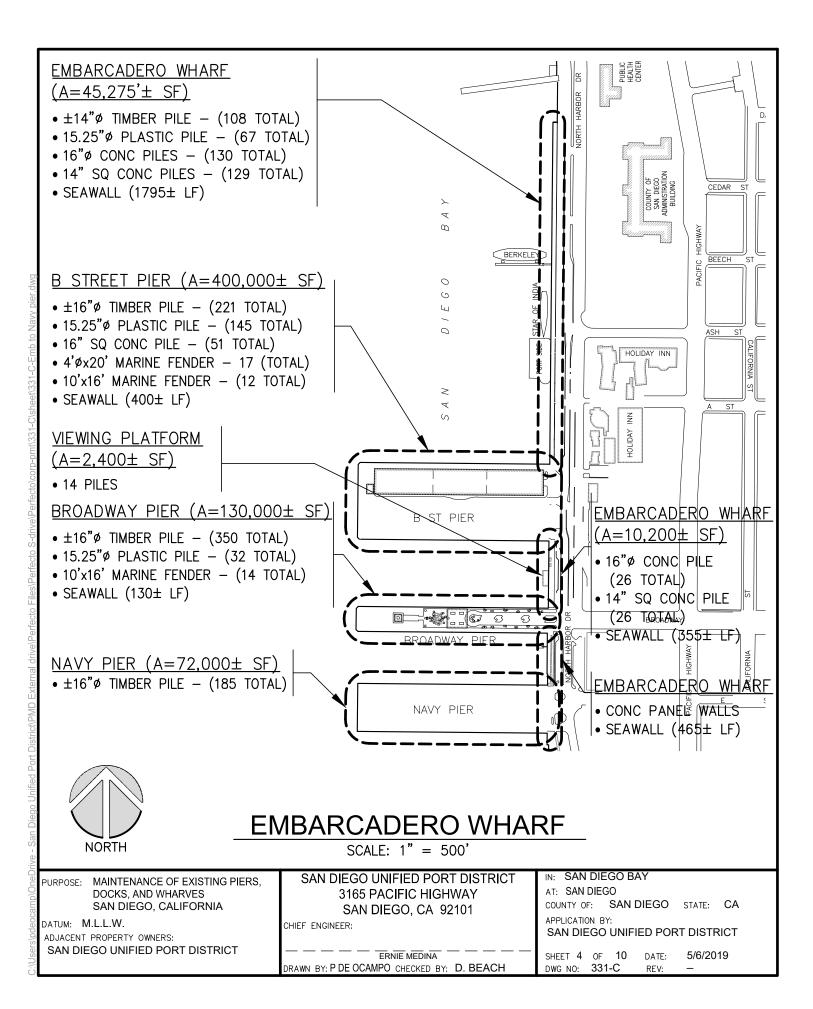
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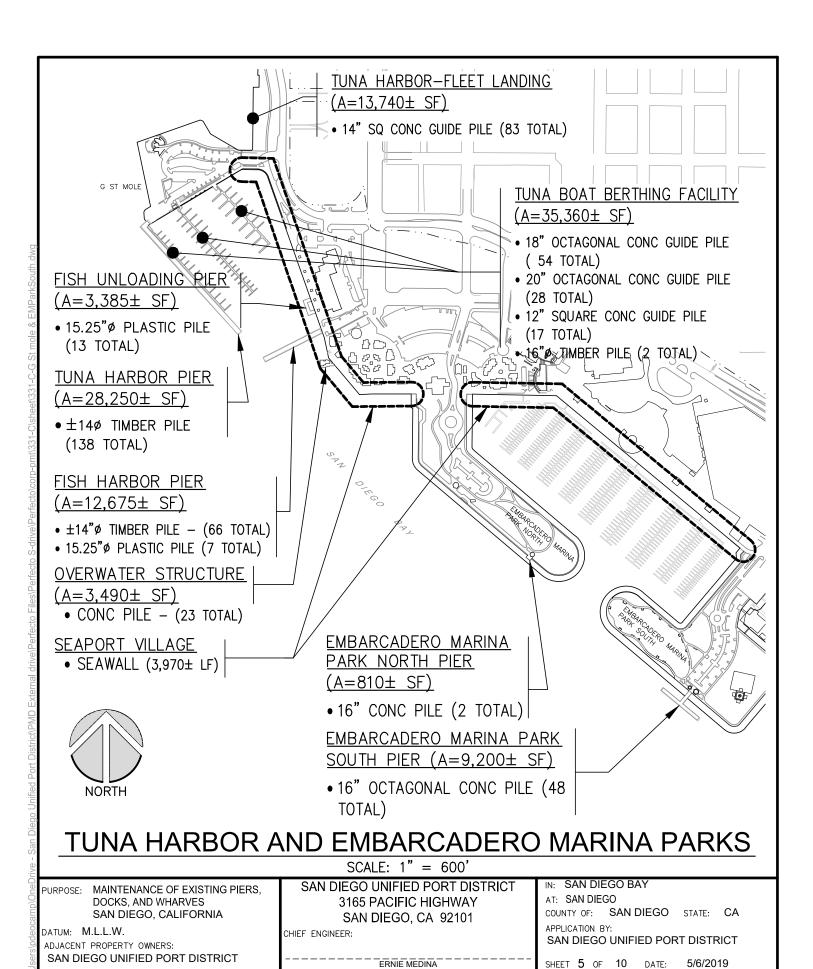
ADJACENT PROPERTY OWNERS:

SAN DIEGO UNIFIED PORT DISTRICT



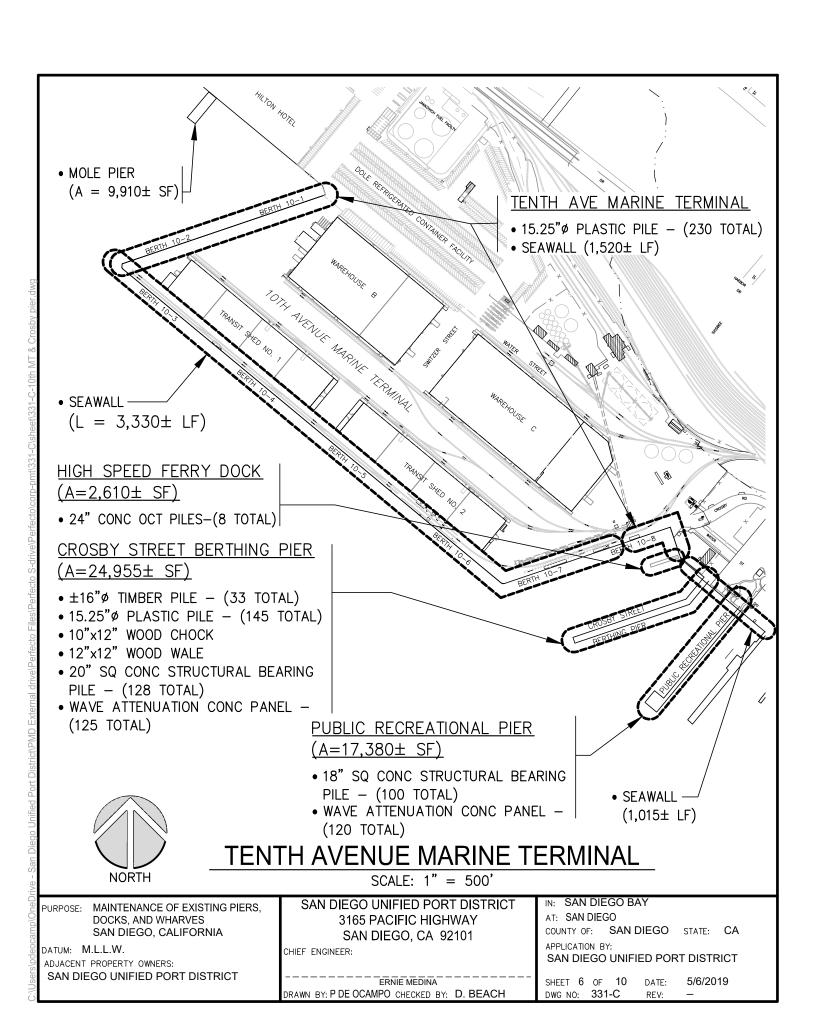


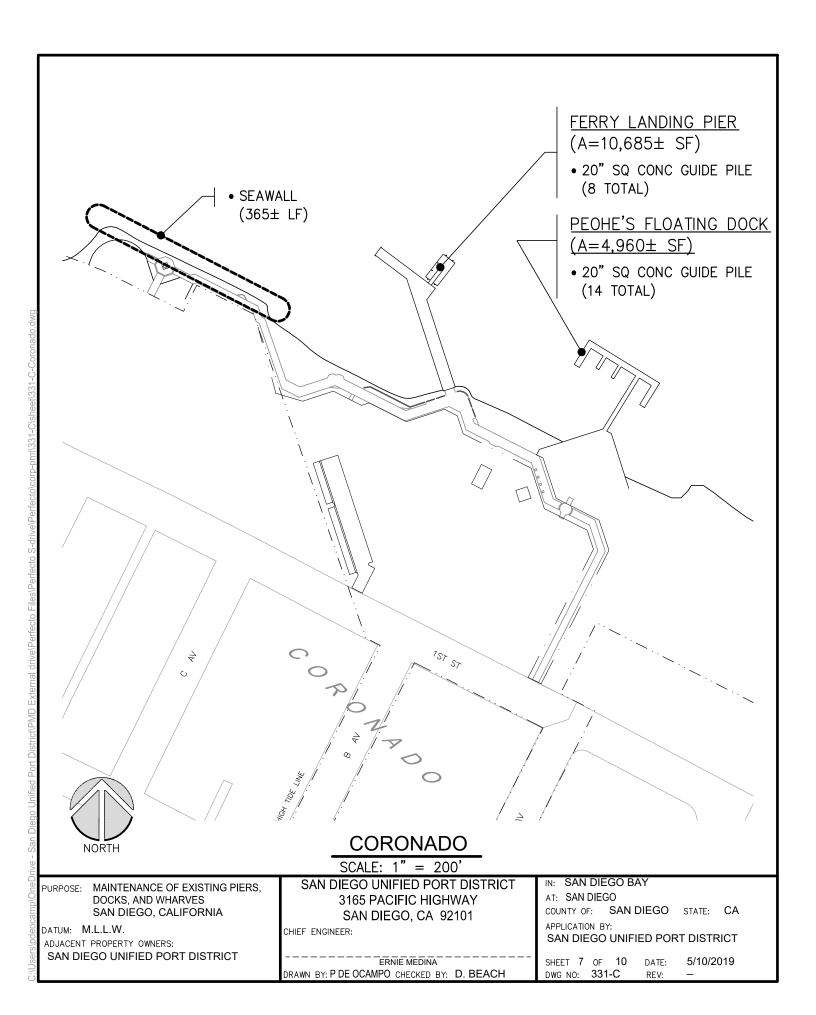


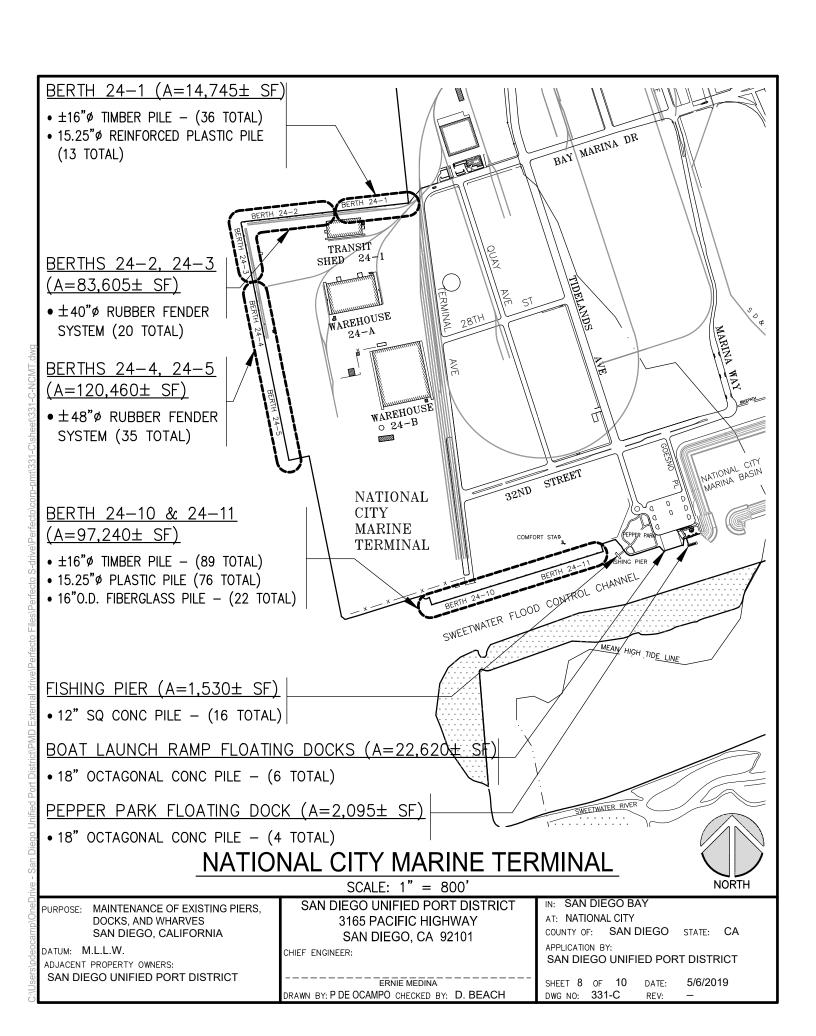


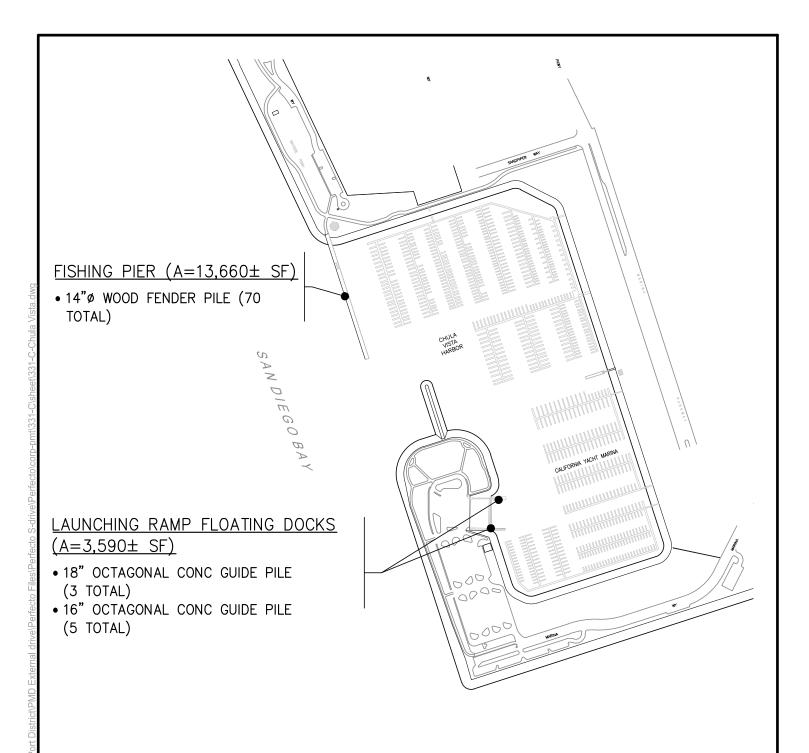
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DWG NO: 331-C











CHULA VISTA

SCALE: 1" = 500

PURPOSE: MAINTENANCE OF EXISTING PIERS, DOCKS, AND WHARVES SAN DIEGO, CALIFORNIA

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

CHIEF ENGINEER:

ERNIE MEDINA DRAWN BY: P DE OCAMPO CHECKED BY: D. BEACH IN: SAN DIEGO BAY

AT: CHULA VISTA

COUNTY OF: SAN DIEGO STATE: CA APPLICATION BY:

SAN DIEGO UNIFIED PORT DISTRICT

SHEET 9 OF 10 DATE: 5/6/2019 DWG NO: 331-C

