



# PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS  
LOS ANGELES DISTRICT

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**APPLICATION FOR PERMIT**  
**Southwestern Yacht Club Maintenance Dredging Project**

**Public Notice/Application No.:** SPL-2019-00566-RRS

**Project:** Southwestern Yacht Club Maintenance Dredging Project

**Comment Period:** December 2, 2019 through January 3, 2020

**Project Manager:** Robert R. Smith Jr.; (760) 602-4831; [robert.r.smith@usace.army.mil](mailto:robert.r.smith@usace.army.mil)

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**Applicant**

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**Contact**

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**Location**

The dredging and beach nourishment project is located at the Southwest Yacht Club in the Shelter Island Yacht Basin in San Diego Bay, in the City of San Diego, California. The location for the beach nourishment is lat/long: 32°42'32"N, --117°14'13"W and the dredging location is at 32°42'48"N, --117°14'05"W.

**Activity**

To dredge 2,000 cubic yards per year, on an annual basis, such that access to boaters can be returned to the Southwestern Yacht Club's (SWYC) Hoist and Junior Sailing Area within Shelter Island in northern San Diego bay and to enable beneficial reuse of the dredge material for beach nourishment at the near shore area at La Playa/Kellogg Beach located at Shelter Island (see attached map and drawings). For more information see Additional Project Information section below.

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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 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Comments should be mailed to:

DEPARTMENT OF THE ARMY  
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
REGULATORY DIVISION  
ATTN: Robert R. Smith Jr. (Corps File No. SPL-2019-00566)  
5900 La Place Court, Suite 100  
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Alternatively, comments can be sent electronically to: [robert.r.smith@usace.army.mil](mailto: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 waters 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 project.

**Water Quality**- Under Section 401 of the Clean Water Act, the applicant is required to obtain a water quality certification from the California Regional Water Quality Control Board (Water Board). 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 recently submitted an application to the Water Board to obtain water quality certification for the project.

**Coastal Zone Management**- For those projects in or affecting the coastal zone, the federal Coastal Zone Management Act (CZMA) requires an applicant to obtain concurrence from the California Coastal Commission that the project is consistent with the State's Coastal Zone Management Plan prior to issuance of a Corps permit. Since the project occurs in the coastal zone or may affect coastal zone resources, the applicant has applied for a Consistency Determination that the project is consistent with the Port of San Diego's Port Master Plan Coastal Development Permit.

**Essential Fish Habitat (EFH)**- The Corps of Engineers has determined the proposed activity may adversely affect an EFH habitat area of particular concern (HAPC), eelgrass (*Zostera marina*) and federally managed fisheries in the Pacific Groundfish and Coastal Pelagics Management Plans. Pursuant to Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Corps will conduct EFH consultation for the proposed project with the NOAA Fisheries separately from this public notice. In order to comply with the MSA, pursuant to 50 CFR 600.920(e)(3), the following information has been identified:

1. Description of the proposed action: See project description below.
2. On-site review information: See baseline information below.
3. Analysis of the potential adverse effects on EFH and managed fisheries: Based on past surveys, no eelgrass occurs within the proposed dredging or beach nourishment areas. However, the proximity of eelgrass to the dredging site could result in potential adverse effects. Impacts to fish habitat resulting from the proposed project would be temporary and limited to the maintenance dredging activities. No permanent damage to or loss of marine habitats is anticipated.
4. Applicant-proposed minimization, conservation, or mitigation measures have been proposed to reduce adverse effects on EFH and managed fisheries; the Corps does not have ongoing federal control and responsibility over operational measures:
  - Pre-construction survey of the project area before each dredge episode for *Caulerpa taxifolia*.
  - Pre-construction survey of the project area before each dredge episode for eelgrass (*Zostera marina*).
  - Eelgrass maps should be provided to the dredge contractor in order to provide them with information beneficial to avoiding impacts to eelgrass in areas adjacent to the dredge and beach nourishment areas.
  - Conduct post-construction eelgrass monitoring survey.

5. Conclusions regarding effects of the proposed project on EFH and managed fisheries: Implementation of the project could result in temporary adverse impacts associated with dredging activities. However, implementation of the applicant-proposed mitigation measures is expected to reduce potential impacts on EFH and managed fisheries to negligible levels.

In light of the applicant-proposed mitigation measures, it is the Corps' initial determination the proposed project may adversely affect but would not have a substantial adverse impact on EFH or managed fisheries in California waters. A final determination and the need for additional mitigation measures will be made during consultation with the NOAA Fisheries.

**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. Per Appendix C regulations the Corps will have to make a cultural resource determination and our preliminary determination is that due to prior dredging, vessel activities, that there is little likelihood that any cultural resources would be impacted. 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 and Marine Mammal Protection Act**- Preliminary determinations indicate the proposed project will have no effect on federally listed endangered or threatened species and marine mammals. The project would have no adverse modification on designated critical habitat because no critical habitat occurs in the project area. Preliminary determinations indicate the proposed activity would not affect the federally-listed endangered green sea turtle (*Chelonia mydas*; GST) with no impacts to designated critical habitat based on previous ESA analysis done in 2016. 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 would adopt 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. There is no designated critical habitat for GST or CLT within the project area.

**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 a public hearing is needed.

### **Proposed Activity for Which a Permit is Required**

**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 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.

**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 conduct maintenance dredging of the Southwestern Yacht Club's (SWYC) Hoist and Junior Sailing Area to return access to boaters and to enable beneficial reuse beach nourishment of the dredged material at the near shore area at La Playa Beach.

### **Additional Project Information**

#### **Baseline information-**

The proposed project dredge site is located within a recreational marina and consists of an accreted sand shoal that is distributed around piles and over a dredged basin floor. The area to be dredged consists of a clean sandy shoal that has migrated along the La Playa shoreline into the SWYC marina. The dredge area is characterized by this active sand shoal, which extends from the rubble armored bank to a precipitous dropping slope that extends to the dredged basin floor of the marina. At the steep toe of the sand shoal, the bottom transitions to a soft mud and silt environment. This bottom extends outward through the marina and is the dominant habitat within the Shelter Island Yacht Basin. Past surveys have revealed one small patch of eelgrass totaling 1.5 square meters on the mud bottom approximately 50 feet to the east of the dredging footprint. Additionally, there are two square concrete piles within the dredge area.

The La Playa Beach nourishment area is located to the southwest of the dredge site and is at the head of the littoral cell that feeds the dredge area within the SWYC. The area is characterized by an active sand beach that has not been noted to support substantial macrofauna or flora. Past surveys have identified a fringing bed of eelgrass (approximately 3.6 square meters in size) between the SWYC marina and the eastern edge of proposed beach nourishment, outside of the sand replenishment area.

#### **Project description-**

The project proposes annual maintenance dredging of up to 2,000 cubic yards (cy) of material over the next ten years (for a total of 20,000 cubic yards) to a -5 foot depth (includes over-depth) Mean Lower Low Water (MLLW) of the Hoist and Sailing Area (Junior Sailors Program small boat launch hoist and dock area). The maintenance dredging area would be approximately 0.15 acre in size. The dredged material would be used for beneficial reuse at La Playa Beach.

Material would be removed by the SWYC by a long reach excavator with a 1 cy bucket that would be located on a spud barge. Material would be loaded onto a second ramp barge with a capacity of 400 cy. Once full, the material barge would be pushed to La Playa Beach, the ramp would be lowered and a Caterpillar 922 wheel loader type piece of equipment with a 2.5 cy bucket would spread the material along the near shore areas at La Playa Beach located at the foot of Kellogg Street. The material would be spread to match the existing contours and shoreline. All dredging operations would be from the water, and no landside work would be required. As such, no dredged material would be transferred by truck.

Based upon the previous U.S. Army Corps of Engineers (Corps) authorization of this proposed dredge activity and confirmed current conditions, the dredge material is suitable for beneficial reuse and meets the Tier 1 Exclusionary Criteria of the Inland Testing Material Manual. Pursuant to the Corps' requirements, additional tiered testing is not required. Thus, like the previous dredge episode, the proposed dredge activity will not require testing of the material to be dredged because it is primarily composed of sand, an inert material, and testing of the material is not be required pursuant to the Evaluation of Dredged Material Proposed for Discharge in Waters of the U.S. – Testing Manual,

known as the Inland Testing Manual (ITM). The ITM states material may be excluded from testing "...where it is composed primarily of sand, gravel, or other naturally occurring inert material...in coastal areas with shifting bars and channels." [40 CFR §230.60(a)] Such material is unlikely to be a "carrier of contamination," especially when it is isolated from sources of pollution.

#### Applicant-proposed mitigation–

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 EFH consultation and/or other effects to aquatic resources. In consideration of the above, the proposed mitigation sequence (avoidance/minimization/ compensation), as applied to the proposed project is summarized below:

#### **Avoidance and Minimization Measures:**

The proposed project has been designed to avoid and minimize direct and indirect impacts to waters of the U.S. to the maximum extent practicable through implementation of the following applicant-proposed measures.

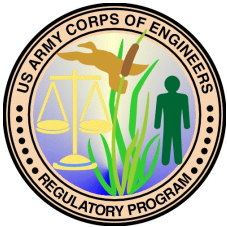
- All equipment shall be washed prior to transport to the project site, and shall be free of sediment, debris, and foreign material. All equipment using gas, oil, hydraulic fluid, or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. Stationary equipment shall be positioned over drip pans or other types of containment.
- Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States or State or placed in locations that may be subjected to storm water runoff flows.
- Except as authorized in the required permits and Certifications, substances hazardous to aquatic life including, but not limited to, petroleum products, unused cement, and coating material, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs shall be implemented to prevent such discharges during each activity involving hazardous materials.
- Limits of disturbances to the waters of the United States and/or State shall be clearly defined using highly visible markers such as flag markers, construction fencing, or slit barriers prior to the commencement of construction activities within those areas.
- All areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge of pollutants to water of the United States and/or State shall be restored. Restoration shall include grading of disturbed areas to pre-project contours and re-vegetation with native species. All necessary BMPs shall be implemented to control erosion and runoff from areas associated with the project.
- A safety flag perimeter of the beach nourishment area during disposal activities shall be deployed and the premises shall be monitored to protect the general public from construction hazards and equipment.
- The volume of sediment dredged at the Southwestern Yacht Club shall not exceed 2,000 cys of sediment annually (total of 20,000 cy under this authorization). The volume of dredged sediment shall be designated for beneficial reuse at the nearshore disposal location at La Playa Beach. No ocean disposal of dredged material shall occur.
- No creosote treated pilings shall be placed in navigable waters.
- A silt curtain shall be deployed at a continuous length and maintained fully surrounding active dredging, loading, and/or desilting discharges in conformance with the following requirements:

- The silt curtains shall restrict the surface visible turbidity plume or surface debris to the area of construction and dredging and must control and contain the migration of re-suspended sediments or debris at the water surface and at depth;
- Dredging shall be conducted in accordance with the following best management practices:
  - Dredging shall be conducted to remove dredge material and not stockpile material on the floor of Shelter Island Yacht Basin or San Diego Bay.
  - The drop height from the clamshell bucket shall be controlled to prevent splashing or sloshing of dredged material back into waters.
  - The swing radius of unloading equipment shall be controlled to prevent spillage of dredged sediments back into the water.
  - Excess water from dredged sediment classified as nonhazardous shall be decanted and discharged back into waters within the confines of the silt curtains.
  - Dredged material placed onto a secondary ramp barge shall not be filled to a point that overflow or spillage could occur. The secondary ramp barge shall be marked in such a way to allow the operator to visually identify the maximum load point.
  - Load-controlled boat movement, line attachment, and/or horsepower requirements of tugs and support boats shall be specified to avoid re-suspension of sediment. Such measures may include speed restrictions, establishment of off-limit areas, and use of shallow draft vessels.
- Dredged materials determined by the Corps and US Environmental Protection Agency (EPA) to be suitable for beneficial reuse at the nearshore location of La Playa Beach shall be placed in accordance with the following in order to ensure protection of sensitive resources and water quality outside of the placement site:
  - Sediment shall be transported to the placement area in a way that prevents the discharge of material.
  - Disposal operations and areas of excess turbidity associated with beach nourishment shall be visually monitored.
  - Visual monitoring of sediment movement and turbidity levels shall be performed during and after sediment placement.
- An on-site qualified biologist shall be designated to monitor construction activities within or adjacent to waters of the United States and/or State to ensure compliance with the permit and Certification requirements. The biologist shall be given the authority to stop all work on-site if a violation occurs or has the potential to occur. Records and field notes of the biologist's activities shall be kept on-site and made available to review.
- Prior to each maintenance dredging event, a pre-construction eelgrass survey shall be completed in accordance with the requirements of the *California Eelgrass Mitigation Policy* (CEMP) (<http://swr.nmfs.noaa.gov/hcd/eelpol/htm>) by a qualified biologist, prior to initiation of construction activities on the site. This survey must include both aerial and density characterization of the beds. If eelgrass is found during the pre-dredging survey, a post-dredging survey must be performed by a qualified biologist within 30 days following project completion to quantify any unanticipated losses to eelgrass habitat. Impacts must then be determined from a comparison of pre- and post- dredging survey results. Impacts to eelgrass, if any, must be mitigated through conformance with the CEMP, which defines the mitigation ratio and other requirements to achieve mitigation for significant eelgrass impacts. If required following the post-dredging survey, the CEMP defined mitigation plan shall be developed; submitted and approved by the San Diego Water Board, Corps, and National Marine Fisheries Service; and implemented to offset losses to eelgrass.
- The dredge material used for nearshore beach nourishment must have at least 75 percent sand and no more than 15 percent difference in sand composition from the receiving beach, and must not have a significant chemical contamination. The project shall not impact the aesthetic characteristics of the receiving beaches and/or adjacent ocean waters.

- The dredged material deposited nearshore of the beach shall be free of trash and debris.
- Post-construction discharges shall not cause or contribute to on-site or off-site erosion or damage to properties.

**Compensation:** If the pre-project survey demonstrates eelgrass presence within the project vicinity, a post-project survey shall be conducted and impacts to eelgrass mitigated in accordance with CEMP. If compensatory mitigation for eelgrass impacts is required, the construction of proposed mitigation shall be completed no later than 9 months following the earliest time of either the direct impact to eelgrass beds or as directed in accordance with CEMP. Delays in implementing mitigation shall be compensated for by an increased mitigation implementation of 10% of the cumulative compensatory mitigation for each month of the delay.

For additional information please contact Robert R. Smith of my staff at (760) 602-4831 or via e-mail at [robert.r.smith@usace.army.mil](mailto: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.

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**DEPARTMENT OF THE ARMY**  
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