



PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

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APPLICATION FOR PERMIT NASSCO Facility Maintenance Permit – Dredging Modification

Public Notice/Application No.: SPL-2020-00418-RRS

Project: NASSCO Facility Maintenance Permit - Dredging Modification

Comment Period: March 15, 2022, through April 14, 2022

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

Applicant

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Location

The proposed permit modification work to the existing Corps permit is over a 52.3-acre area (See attached Figures 1-3) that is located within the General Dynamics-NASSCO (NASSCO) shipyard and leasehold on the eastern side of San Diego Bay, in the City of San Diego (City), San Diego County, California at Latitude: 32.686312 N and Longitude: -177.135972 W.

Activity

Proposed work for the proposed permit modification to the existing permit is for increased annual maintenance dredging (clamshell dredging, vessel activities, anchoring, upland disposal of dredged material) over a 52.3-acre permit area and to increase the dredging from 1.9 acres to 5.2 acres as shown in Table 1 of the existing permit to be modified. Dredged material disposal would be done with upland disposal of the dredged material within associated sediment management areas within the NASSCO project area previously permitted. The initial project under the proposed increased dredging modification is for the drydock sump area within the shipyard leasehold area. No other changes are proposed to the original permit such as volume, overall permit area, and depths with the existing permit for the NASSCO Facility Maintenance Permit (Nos. 2020-00418-RRS). For more information see Additional Project Information section below.

Submittal of Public Comments

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 modification will be issued, issued with special conditions, or denied under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act.

Please do not mail hard copy documents, including comments to any Regulatory staff. Instead, your comments should be submitted electronically to: Robert.R.Smith@usace.army.mil. Should you have any questions or concerns about the Corps' proposed action or our comment period, you may contact Robert Smith directly at (760) 602-4831.

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 an environmental impact statement is not required for the proposed work.

Water Quality- The applicant has received a water quality certification (Certification Nos. R9-2021-0130:860616; dated June 2, 2021) and has indicated they have applied for a Section 401 water quality certification amendment to this certification. The permittee is required to obtain water quality certification or waiver, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board – San Diego Region. 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. Also the Corps is requesting whether the proposed modification would adversely affect any neighboring jurisdiction determination for the proposed project from EPA.

Coastal Zone Management Act (CZMA)- The permittee has obtained CZMA compliance from the Port of San Diego for the existing permit and has certified the proposed activity would comply with and would be conducted in a manner consistent with the approved State Coastal Zone Management Program. This project is located inside the coastal zone and preliminary review indicates it would affect coastal zone resources. The project modification is to be processed under the Port of San Diego's Master Plan process and the Port's Coastal Development Permit (CDP) if applicable.

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 completed EFH determination for the existing permit indicates the proposed activity would adversely affect EFH and the Corps has already completed the EFH consultation with NMFS under the existing permit. Therefore, formal consultation under Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) may not be required at this time but the Corps hereby requests NMFS comments as appropriate for the proposed modification.

Cultural Resources- The latest version of the National Register of Historic Places has been consulted under the existing permit processing and the proposed dredging sites were not listed. This review constitutes the extent of cultural resources investigations by the District Engineer, who is otherwise unaware of the presence of such resources. The Corps has made a No Potential to Cause

Effects determination under the prior permitted dredging and other pier and berth repair activities of the shipyard which would cover the proposed increase in annual dredging under Section 106 of the National Historic Preservation Act.

Endangered Species Act (ESA)- The Corps had previously consulted under ESA with NMFS for impacts to listed species as the proposed project would affect federally listed endangered or threatened species, or their critical habitat which included dredging effects to the federally listed as endangered green sea turtles (*Chelonia mydas*; GST). Impacts to biological characteristics include impacts (clamshell dredging, vessel strikes, propeller wash, anchoring, turbidity) to the federally listed as endangered green sea turtle (*Chelonia mydas*; GST), marine mammals, aquatic organisms, and EFH resources which are avoided and minimized by the implementation of the avoidance and minimization measures shown in Section 3.3.1 and the Biological Assessment and the Corps ESA/EFH/MMPA consultation done with NMFS and concluded with the letter from NMFS to the Corps dated January 21, 2021, which was implemented as a special condition of the existing Corps permit.

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

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. The basic project purpose for the proposed project is navigation. 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 increased annual maintenance dredging at the NASSCO shipyard.

Additional Project Information

Baseline information-The NASSCO shipyard is a full-service ship construction, modification, repair, and maintenance facility that spans 126 acres of tidelands property (80 acres on land and 46 acres offshore), located in San Diego Bay (Bay), San Diego, California. The shipyard has served the U.S. Navy and commercial customers since at least 1960. Current site features include office buildings, warehouses, shops, steel fabrication facilities, a floating drydock, a graving dock, two shipbuilding ways, and five piers, providing 12 berthing spaces. Facility maintenance and operational needs occur unexpectedly and frequently, including the need for increased maintenance dredging on a larger annual basis.

To address these needs, NASSCO has been issued a 5-year Corps general maintenance permit that

covers various in-water and overwater maintenance and repair activities. Per the existing permit facility-wide maintenance dredging shall not exceed depths of -37 feet mean lower low water (MLLW), with 2 feet of allowable overdredge. Within the dry-dock sump area, dredging shall not exceed depths of -55 feet MLLW, with 2 feet of allowable overdredge. This is consistent with current depths and supported by the pre-dredge surveys and designs prepared in 1998 and more recently in 2021. NASSCO is authorized to conduct maintenance and improvement work per the permit Summary and Detailed Description and as shown in Table 1 of the existing Corps permit and permit drawings. The project description is also authorized per future drawings to be approved by the Corps per the existing permit drawings and permit special conditions. Authorized work under the existing permit also includes various structural pier maintenance and improvement activities and maintenance dredging that would be conducted over a five-year permit duration per Table 1 of the existing permit. The existing permit annual maximum dredge volume would not exceed 50,000 cubic yards (cy) per year and 250,000 cy total under the 5-year permit within the areas as already permitted,

Additional Information: The proposed modification would allow an increased dredging area of 5.2 acres annually and this additional annual area of dredging would sum to 20.8 acres over four years given the Corps permit expires February 25, 2026. The additional annual areas to be dredged would be shown in drawings to be submitted and approved by the Corps and Table 1 of the existing permit. The first proposed action under the proposed modification would be the NASSCO shipyard drydock sump area which encompasses a proposed dredging area of 3.52 acres shown in Figure 2. Also, Table 1 of the existing permit would be updated under the proposed modification for the increased annual dredging. Note that all dredging and upland disposal would still occur at the approved berths and piers at NASSCO with upland disposal at two sediment management areas at Berths 2 and Pier 12 (SMAs). The dredged material would continue to be rehandled by barge at the SMAs and continue to be truck-hauled to an approved landfill.

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 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 proposed project does not include any new dredging over than what is approved in the existing permit. The existing permit complied with the Section 404(b)(1) guidelines during the previous permit. The project dredging work to date for pier and dredging work has avoided eelgrass, wetlands, and shallow subtidal habitat per the existing permit conditions and compliance reports received by the Corps to date. The proposed modification is to allow an increase in the annual amount of dredging to reestablish depths within the leasehold areas to previously authorized conditions. The increase in maintenance dredging on an annual basis will restore depths over a large area that will thereby further restore circulation throughout the shipyard and remove unsuitable dredged material from the bay above levels previously permitted.

Minimization: The applicant proposed the following BMPs that shall be used to minimize any potential impacts to the waters of the United States:

General BMPs are as follows:

- The contractor will fully understand and adhere to the terms and conditions of approvals and permits obtained as well as all project BMPs.
- All construction activities will occur within the designated project footprint.
- Disturbance to the ocean bottom and intertidal areas will be minimized.
- Netting, sandbags, tarps, or other forms of barriers will be placed around staging areas to

prevent debris from entering the water.

- All construction-related equipment will be inspected daily and maintained in good working order to minimize the potential for hazardous waste spills. Current hazardous material spill prevention and cleanup plans will be maintained on site. Machinery or materials not essential for construction will be prohibited from subtidal or intertidal zones at all times. Hammers and other hydraulic attachments will be placed on plywood and covered with plastic or a comparable material prior to the onset of rain to prevent run-on and runoff.
- Floating booms will be maintained around the project area to capture floating debris. Divers will recover non-buoyant debris from the Bay bottom within 72 hours of known condition. All debris and trash will be collected and disposed of in appropriate waste containers by the end of each construction day. Discharge of hazardous materials into the project site will be prohibited.
- Following project completion, the project area will be inspected to ensure that no construction debris, trash, or materials remain and that the project has not created any hazards to navigation.
- All debris and trash will be collected and disposed of in appropriate waste containers by the end of each construction day.
- Discharge of hazardous materials into the project site will be prohibited.

Water quality BMPs are as follows: During maintenance dredging, two floating silt curtains will be maintained around the project site to minimize turbidity outside the dredging area. Note that this is a requirement specific to maintenance dredging. Water quality monitoring will be conducted during the first week of maintenance dredging until 3 consecutive days of compliance are witnessed. Thereafter, water quality monitoring will be conducted once per week during dredging and upland disposal activities.

Compensation: An eelgrass survey was conducted on June 12, 2018, and post-construction surveys were done for more recent work done in 2021. At the time of the baseline eelgrass survey, eelgrass was observed in small beds and patches along the shoreline throughout the project site. The eelgrass survey identifies eelgrass spatial distribution (which extends 5 meters beyond vegetated cover of eelgrass) as extending under portions of several piers at the site. The proposed project would adhere to requirements of the California Eelgrass Mitigation Policy and Caulerpa Control Protocol (CEMP; NOAA 2014) if there are any impacts to eelgrass.

Proposed Special Conditions

No additional special conditions are proposed as this time over what is currently permitted in the previous permit issued to NASSCO.

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.

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