



PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

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APPLICATION FOR PERMIT
**Naval Maintenance Dredging of Approach Corridors at the mouth of
Chollas Creek and Piers 1-3, 7-8, and Piers 10-13 at Naval Base San
Diego (NBSD), San Diego, CA**

Public Notice/Application No.: SPL-2020-00646-RRS

Project: Naval Maintenance Dredging of Approach Corridors at the Mouth of Chollas Creek and Piers 1-3, 7-8, and Piers 10-13 at Naval Base San Diego (NBSD) with Upland disposal and Ocean Disposal of Dredged Material at the LA-5 Ocean Disposal Site (ODMDS)

Comment Period: December 17, 2020 through January 18, 2021

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

Applicant

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Location

Project location is shown in the attached public notice figures and is at the Naval Base San Diego (NBSD) in-bay approach corridors at Piers 1-3, 7-8, and Piers 10-13, located on the eastern side of San Diego Bay. Project approach corridors at NBSD are also located bay ward of the pierhead line of the above naval piers in San Diego bay within/near the city of San Diego, in San Diego County, CA (at: Latitude: 32.6871, Longitude -117.1337). The LA-5 ODMDS is in deep ocean waters southeast of the entrance of San Diego Bay within a circular ocean area with a 1000-meter buffer (NAD 27) at Latitude 117° 20.67' W, 32° 37' N.

Activity

The proposed action consists of maintenance dredging of up to 61,937 cubic yards (cy) to restore berthing and naval fleeting areas at NBSD within the approach corridors to naval piers 1-3, 7-8, and 10-13, and the mouth of Chollas Creek to previously dredged operational depths with upland disposal of unsuitable dredged material at nearby landfills (467 cy) and ocean disposal of suitable dredged material at LA-5 (61,937 cy). The combined area proposed for dredging work is approximately 11.44 acres with up to 5.0 acres of ocean disposal work at the ODMDS. (See attached drawings). 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 will be issued, issued with special conditions, or denied under Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act, and Section 103 of the Marine Protection, Research and Sanctuaries Act.

During the Coronavirus Health Emergency, Regulatory Program staff are teleworking. 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 is required to obtain water quality certification or waiver thereof, under Section 401 of the Clean Water Act from the California Regional Water Quality Control Board (Regional Board). Also note that there is a new EPA Section 401 water quality rule and valid Regional Guidance letter (RGL) 19-02 that affects compliance with Section 401 of the Clean Water Act. The Navy as the lead federal agency is processing the Section 401 water quality certification which requires any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers.

Coastal Zone Management (CZMA) - The Navy as the lead federal agency will comply with the CZMA and is processing the CZMA determination with the California Coastal Commission for a potential negative determination. The applicant will need to certify the proposed activity would comply with and would be conducted in a manner consistent with the CZMA. 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 Navy would seek concurrence from the California Coastal Commission that the project is consistent with the CZMA.

Essential Fish Habitat (EFH) - The Navy, as the lead Federal agency, has determined that the proposed action will adversely affect Essential Fish Habitat due to temporary, localized turbidity within the immediate vicinity of the dredging and disposal areas. The Navy will consult with National Marine Fisheries Services (NMFS) and provide documentation of consultation upon completion to the Corps. Therefore, formal consultation under Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) is required at this time and once it is completed by the Navy the Navy will submit to the Corps for review.

Cultural Resources- The Navy, as the lead federal agency, has determined that the proposed action can be approved with a finding of "No Adverse Effect", consistent with Stipulation 8B of the 2014 NBSD Programmatic Agreement and 36 CFR 800.5(b). The Navy as the lead federal agency

has provided cultural resource documentation for cultural resource compliance under the National Historic Preservation Act that was coordinated with the State Historic Preservation Office (SHPO) and tribal groups which the Corps will review under the National Historic Preservation Act.

Endangered Species (ESA)– The Navy, as the lead Federal agency, has determined that the proposed action may affect California least tern (*Sterna antillarum browni*; CLT) as the proposed dredging may occur during breeding season and the Navy will initiate consultation with the USFWS. The dredge footprints at NBSD are not designated as foraging or nesting areas per the ESA Memorandum of Understanding (MOU) between the Navy and the USFWS for CLT impacts. As the Navy is avoiding designated foraging areas, the Navy will request concurrence from the USFWS that the proposed action may affect but is not likely to adversely affect CLT. The Navy will provide documentation of consultation with the USFWS upon completion to the Corps.

The Navy, as the lead Federal agency, has completed a Biological Assessment (BA) and has initiated consultation with NMFS on November 2, 2020 and has determined that the proposed action may affect the green sea turtle (*Chelonia mydas*; GST), the blue whale (*Balaenoptera musculus*), the fin whale (*Balaenoptera physalus*), the western northern Pacific gray whale (*Eschrichtius robustus*), the sperm whale (*Plyseter microcephalus*), the humpback whale (*Megaptera novaeangliae*), and the Guadalupe fur seal (*Arctocephalus townsendi*). The Navy will consult with NMFS and provide documentation of ESA consultation resolution upon completion to the Corps.

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 proposed action consists of maintenance dredging to restore berthing and fleeting areas aboard NBSD within the approach corridor to piers 1-3, 7-8, and 10-13, the mouth of Chollas Creek and Pier 10 to previously-dredged operational depths in association with Maintenance Dredging of Approach Corridors Mouth of Chollas Creek and Pier 10 Naval Base San Diego (NBSD) project. The dredged material will be clamshell dredged via a crane barge and then transported via barge to the Mole Pier (unsuitable material) and the suitable material will be towed to the LA-5 ODMDS via barge and discharged at the LA-5 ODMDS.

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 purpose and need for the proposed project is to perform maintenance dredging to return existing berthing and fleeting areas within NBSD, specifically the shoaled areas, to previous design depths to maintain safe operations and adequate berthing depths

for Navy assets. The overall project purpose for the proposed project is to perform maintenance dredging and adequate disposal to improve navigation at Naval Base San Diego.

Additional Project Information

Baseline information- The Navy has been recently performing maintenance dredging throughout San Diego Bay to return shoaled areas to previously dredged design depths at the NBSD piers. Bathymetry surveys were performed in 2018 at NBSD. These surveys were compared with current operational needs, design depths, and previous dredging data. The installation, along with assistance from Port Operations, identified shoaled areas within the Approach Corridors and Pier 10 that require maintenance dredging. The entire mouth of Chollas Creek does not currently meet the design depth, and therefore operational needs. Recently the Navy dredged the piers and now must dredge the approach channels into the NBSD pier areas that are adjacent to the Corps maintained federal channel area just west of NBSD. The existing areas to be dredged are deep-water bay open water areas disturbed by previous dredging, military vessel activities, anchoring, propeller wash, and pier construction and quay wall construction. No eelgrass or wetlands impacts are expected given the deep water. The Corps and EPA also have completed the suitability determination per the ocean testing manual for the upland landfill disposal of unsuitable material (467 cy) and the ocean disposal (61,470 cy) of the suitable material at the LA-5 ODMDS. Total dredging impacts total to 11.44 acres and ocean disposal impacts of 5 acres to navigable waters of the U.S. with no expected eelgrass or wetlands impacts.

Project description- The existing NBSD facility is a major military West Coast naval facility and the proposed NBSD maintenance dredging footprints are as follows: Approach Corridors - design depth is -37 ft. Mean Lower Low Water (MLLW) and current water depth ranges from approximately -35 ft. MLLW to design depth and the dredge footprint is 8.78 acres and length of combined footprints is approximately 3,550 linear. From the mouth of Chollas Creek the design depth is -30 ft. MLLW, and the current water depth ranges from approximately -20 ft. MLLW to design depth, and the dredge footprint is 2.17 acres and length of dredge footprint is 1,150 linear ft. For Pier 10 the design depth is -37 ft. MLLW with a current water depth ranging from approximately -36 ft. MLLW to design depth, dredge footprint is 0.49-acre, length of dredge footprint is approximately 1,100 linear ft. on either side of the pier. Also the project will require compliance with the Corps and EPA suitability determination per the ocean testing manual for the upland landfill disposal of unsuitable material (467 cy) and the ocean disposal (61,470 cy) of the suitable material at the LA-5 ODMDS per the final Sampling and Analysis Plan (SAPr). The unsuitable material shown within the polygon for MC-C1 per Table 1 (467 cy) as shown in Figure 3-1a of the SAPr will be disposed at an approved upland landfill. The suitable material (61,470 cy) shown in the approved SAP will be dredged and barge hauled to the LA-5 ODMDS for ocean disposal.

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: Since the project is a maintenance dredging activity then other various alternatives for the maintenance dredging that would avoid impacts were not evaluated due to onsite need to maintain operational depths at the military berthing facilities. For the disposal options the Corps has consulted under the OTM with EPA and the Navy regarding the volume and location for discharge of the material suitable for ocean disposal and the vast majority of the material was determined to be suitable for either ocean disposal or limited beneficial reuse and a very small amount must be

disposed of at an approved upland site. Also, with the implementation of the proposed measures (turbidity and water quality monitoring, use of a debris boom, monitor for listed species with work cessation, pre-construction contractor education, and spill kits), dredging and disposal activities would avoid impacts to listed species.

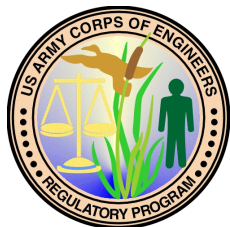
Minimization: The Contractor shall ensure no debris, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products, from construction shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the United States. Every reasonable and practical effort shall be employed to minimize any accidental release into waters of the U.S. Spill kits and cleanup materials will be present during construction, should there be an accidental spill or release of debris, construction materials, etc.

Compensation: The majority of the dredging will occur in unvegetated substrate that has been previously impacted by historic dredging, vessel groundings and propeller wash, and anchoring impacts and no mitigation is currently proposed except for CEMP compliance. Eelgrass monitoring, per CEMP, will occur and if any impacts do occur to eelgrass then the Navy will mitigate either using credits from their NEMS bank or providing other eelgrass mitigation per CEMP.

Proposed Special Conditions

No special conditions are proposed at this time.

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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