



PUBLIC NOTICE

**U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT**

BUILDING STRONG®

**APPLICATION FOR PERMIT
BAE Pride of San Diego Dry Dock Dredging and Ocean Disposal Project**

Public Notice/Application No.: SPL-2020-00731-RRS

Project: BAE Pride of San Diego Dry Dock Dredging and Ocean Disposal Project

Comment Period: October 17, 2022, through November 2, 2022

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

Applicant

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Location

The proposed work would take place within the BAE Systems San Diego Ship Repair Inc. (BAE Systems) shipyard and leasehold in the BAE industrial shipyard area along the eastern shore area just southwest of the Building 13 Wharf and POSD Ramp Wharf Area (See Figure 1) in San Diego Bay, in the City of San Diego (City), San Diego County, California (See Figure 1) at Latitude: 32.692449 N, Longitude: -117.146548 W. Ocean disposal of the suitable dredged material will occur at the LA-5 ocean dredged material disposal site (LA-5 ODMDS) in the Pacific Ocean, CA 32 36.83' N, -117 20.67' W. Upland disposal of the unsuitable material will occur at a local landfill.

Activity

The U.S. Army Corps of Engineers (Corps) has previously issued a 30-day public notice on February 17, 2021, to March 18, 2021, and received new information that the dimensions of the project have changed and is therefore reissuing a public notice accounting for the increase in dredging impacts from the revised project. The proposed revised project would still include dredging of approximately 35,100 cubic yards (cy) of sediment material to extend the Pride of San Diego (POSD) Dry Dock sump to the north with ocean disposal of suitable dredged material and upland disposal of unsuitable dredged material. Extending the sump to the north will eliminate or reduce the need to relocate any vessel moored at the nearby Pier 3 North during the POSD Dry Dock docking and undocking activities. Implementation of the proposed project would not change or expand the existing use. Dredging at the POSD Dry Dock would not exceed a depth of -70 feet mean lower low water, plus 2 feet of over-dredge allowance (1 foot paid and 1 foot unpaid), consistent with depths currently present in the rest of the POSD Dry Dock sump.

Dredged material ocean disposal has been approved in a Sampling and Analysis Plan (SAPr) as suitable for ocean disposal by the Corps, Environmental Protection Agency (EPA), U.S. Fish and

Wildlife Service (USFWS), and the California Regional Water Quality Control Board – San Diego Region (CRWQCB) with up to 30,800 cy deemed suitable for ocean disposal and proposed to be transported to LA-5 ODMDS. Dredged material of up to 4,300 cy deemed unsuitable for ocean disposal would be taken to an upland source. A portion of the dredging would extend outside of the U.S. Pierhead line shown in Figure 1 but the dredging is 150-200 feet from the Corps Federal channel within San Diego Bay. Note that the Pierhead Line documents whether the project falls under California Coastal Commission authority or the Port of San Diego for Coastal Zone Management Act (CZMA) compliance (or both). Sediment from the POSD Dry Dock would be disposed at the U.S. Environmental Protection Agency designated LA-5 offshore disposal site and at an approved upland landfill outside the Coastal Zone.

The revised project would result in 2.32 acres of dredging impacts (previously was 1.9 acres of dredging impacts) with ocean disposal impacts to waters of the United States and deep-water ocean areas with any eelgrass impacts to be mitigated in accordance with the California Eelgrass Mitigation Policy (CEMP). For more information, see the 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 10 of the Rivers and Harbors Act and Section 103 of the Marine Protection, Research and Sanctuaries Act and Section 10 of the Rivers and Harbors.

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, under Section 401 of the Clean Water Act (401 WQC), from CRWQCB. The applicant has indicated they have applied for 401 WQC with the CRWQCB. On October 15, 2020 – BAE Systems submitted a request to the CRWQCB for pre-app meeting (EPA 401 rule). The application was submitted more than 30 days after BAE Systems made a pre-filing meeting request, which was received by the San Diego Water Board on October 15, 2020. The November 2020 application submitted by BAE Systems was deemed incomplete by the CRWQCB. The San Diego Water Board provided comments on the application and requested information needed to satisfy complete 401 WQC application requirements to BAE Systems and its consultant on several occasions to obtain the information needed to process the application. BAE Systems failed to submit the requested CRWQCB information needed to

complete the application within the reasonable time period established by the U.S. Army Corps of Engineers (USACE or Corps).

On November 16, 2020, BAE Systems submitted a Section 401 application to the Water Board (in compliance with 30 days wait period). On December 16, 2020 – CRWQCB issued a notice of incomplete application and on December 23, 2020 - BAE Systems submitted a response to RWQCB Notice of Incomplete application. On February 5, 2021, Mr. Robert Smith of USACE notified BAE Systems and the San Diego Water Board that the reasonable period of time to approve or deny certification was established to be March 23, 2021.

On March 8, 2021, the San Diego Water Board requested an extension of the reasonable period of time. The U.S. Army Corps of Engineers may extend this period for up to 1 year. USACE approved a 30-day extension that expired on April 22, 2021. For the reasons set forth in their letter the San Diego Water Board issued a 401 WQC denial without prejudice of CWA section 401 Water Quality Certification for the Project in their letter dated April 21, 2021. 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.

Coastal Zone Management- 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 and the Port of San Diego Master Plan and Coastal Development Permit (CDP). 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 via the Port of San Diego through their CDP that the project is consistent with the State's Coastal Zone Management Plan. This project is located inside 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 Port of San Diego under their CDP, the Corps will make a final determination of whether this project affects coastal zone resources.

Essential Fish Habitat- Essential Fish Habitat (EFH), as defined by the Magnuson-Stevens Fishery Conservation and Management Act (MSA), occurs within the project area and EFH is affected by the proposed project. The Corps' preliminary determination indicates the proposed activity may adversely affect EFH. The project may have adverse effects (temporary increases in sediment suspension, turbidity, and bottom disturbance, and vessel and equipment impacts) to the surrounding bay and the adjacent waters of the United States at the BAE Systems shipyard. The Corps consulted with the NMFS in reference to the EFH impacts to both Coastal Pelagic and Pacific Coast Groundfish fishery management plans. The Corps has received a Biological Assessment (BA) for BAE Systems San Diego Ship Repair Inc. Pride of San Diego Dry Dock Dredging Project and an EFH assessment (prepared the consultant, Anchor QEA, titled the Essential Fish Habitat Analysis for BAE Systems San Diego Ship Repair Inc and both are dated November 12, 2020). The BA also has Biological Resource Best Management Practices, Dredging Best Management Practices, and General Best Management Practices that will help avoid and minimize impacts to EFH and federally listed as endangered species.

Proposed minimization, conservation, or mitigation measures: The project will use turbidity monitoring and Section 401 water quality protection measures. Best Management Practices (BMPs) will be used, such as using barriers around staging areas to prevent debris from entering the water, using floating booms around the proposed project area to capture floating debris, water quality monitoring during dredging, and employing established construction BMPs. The proposed project would avoid and minimize any impacts to the EFH resources. Conclusions regarding effects of the proposed project on EFH: Based on the project description and EFH information provided by the applicant, the

proposed project would not be expected to have a substantial adverse impact on EFH or federally managed fisheries in California waters. Although localized short-term impacts might occur during the activities described above, impacts would be short lived and would not significantly impact existing biotic resources. Therefore, the Corps initial determination was that the proposed activity would result in temporary and minimal impacts to EFH. Our final determination relative to project impacts and the need for mitigation measures was subject to review by and coordination with NMFS during the EFH consultation.

Based on the above and attached information, specifically the project increases in sediment suspension, noise, and turbidity from dredging would have minor adverse impacts to EFH and deep-water habitats at the BAE shipyard site which is adjacent to the project dredging areas. The Corps has determined that with the proposed BMPs the project would not result in substantial but minor adverse effects to EFH. Therefore, pursuant to Section 305(b)(2) of the MSA, the Corps requested initiation of EFH consultation for the proposed project with NMFS that the project would adversely affect EFH resources in our letter dated July 9, 2021, to NMFS. The Corps then received NMFS's emails dated September 21, 2021, and November 29, 2021, from Eric Chavez and NMFS concluded that, as long as the conservation measures and BMPs shown in our letter and the Biological Assessment are implemented, NMFS had no additional EFH Conservation Recommendations to provide at this time. Also, the Corps completed an Essential Fish Habitat consultation between NMFS and the Corps was completed in September 2021 and can be found in NMFS Environmental Consultation Organizer (ECO) with the following identifier: WCRO-2021-01815 as stated in NMFS's letter to the Corps dated March 9, 2022.

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, who is otherwise unaware of the presence of such resources.

Endangered Species- Preliminary determinations indicate the proposed activity would affect federally-listed endangered or threatened species, or their critical habitat. Therefore, formal consultation under Section 7 of the Endangered Species Act s time did occur with NMFS. The federally listed as endangered species green sea turtle (*Chelonia mydas*; GST does transit from south San Diego Bay to the Pacific Ocean. The Corps consulted with the National Marine Fisheries Service (NMFS) in our letter dated July 9, 2021, to NMFS and the Corps determined that the threatened East Pacific distinct population segment (DPS) green sea turtles (*Chelonia mydas*; GST) may be affected, but were unlikely to be adversely affected, by the associated project activities (NLAA determination). NMFS agreed with the NLAA determination, and the Corps received an ESA Section 7(a)(2) Concurrence letter dated March 9, 2022, from NMFS.

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 conduct maintenance dredging and disposal to maintain existing use of the BAE POSD dry dock facility at the BAE shipyard, in the city of San Diego, CA.

Additional Project Information

Baseline information- The BAE shipyard site has been used as a ship/boat repair, alteration, and overhaul facility since the early 1900s. The site includes approximately 39.6 acres of tidelands (23 acres on land and 16.6 acres offshore). The BAE Systems shipyard includes offices; buildings for blasting, painting, and other production activities; and three piers and two floating dry docks. Dredging is proposed to extend the POSD Dry Dock sump to the north. The purpose of the proposed action is to maintain existing drydock operations at the POSD Dry Dock at the BAE Systems shipyard in San Diego, California. The shipyard operates two dry docks, including the POSD and Pride of California (located at Pier 1 North). Dredging is proposed to extend the POSD Dry Dock sump to the north. Currently, the POSD Dry Dock needs to be moved away from its mooring in order to submerge and receive a vessel. Based on this design, if larger wide-body ships are moored at Pier 3 North, the POSD Dry Dock cannot be moved for submergence. Extending the sump to the north will eliminate or reduce the need to move the vessel moored at Pier 3 North wet berth during the POSD Dry Dock docking and undocking evolutions. The proposed dredging is not expected to increase the number of vessels serviced because no new berthing space would be provided.

In reference to compliance with the Ocean Testing Manual (OTM) the Corps, EPA, the USFWS, and the California Regional Water Quality Control Board – San Diego (CRWQCB) has reviewed the attached revised BAE POSD Sediment Analysis Report (SAR or SAPr) dated December 16, 2020 (SAPr) and provided concurrence of the SAPr in December 2020 with the revised Figure 7 in the attached report which has been updated to show the coordinates at the intersection points between the dredge units POSD-DU1A, POSD-DU1B, and POSD-DU2. Based on the OTM review the Corps and EPA approved the suitability determination below in accordance with the SAPr and the emails below that responds to comments from the Corps (email from Adam Gale from dated 12-15-20 from Anchor QEA) and the Corps email dated 12-11-20 and EPA's comments in an email dated 12-10-20. Also note this includes the USFWS and Regional Board's coordination. Based on the approved suitability determination 4,300 cy (approximate top 3 ft. of upper unsuitable layer of cores DU1B and DU2) as shown in the SAPr was deemed unsuitable for ocean disposal and would be taken to a upland disposal area and 30,800 cy (per Table 21 and 22 of the SAPr) and would be disposed to the LA-5 ODMDS and was deemed suitable for ocean disposal in emails dated December 11, 2020 from the Corps and EPA with coordination with the Regional Board and the USFWS.

Project description- BAE Systems San Diego Ship Repair Inc. (BAE Systems) is proposing to conduct dredging of approximately 35,100 cubic yards alongside the Pride of San Diego (POSD) Dry Dock at the BAE Systems shipyard in San Diego, California (Figures 1 through 5). The shipyard operates two dry docks, including the POSD and Pride of California (located at Pier 1 North). The site has been used as a ship and boat repair, alteration, and overhaul facility since the early 1900s.

Dredging is proposed to extend the POSD Dry Dock sump to the north. Currently, the POSD Dry Dock needs to be moved away from its mooring in order to submerge and receive a vessel. Based on this design, if larger wide-body ships are moored at Pier 3 North, the POSD Dry Dock cannot be moved for submergence. Extending the sump to the north will eliminate or reduce the need to move the vessel moored at Pier 3 North wet berth during the POSD Dry Dock docking and undocking activities. Suitable sediment (30,800 cy) from the POSD Dry Dock project area as described in the Corps and EPA suitability determination dated December 16, 2021, would be barge hauled and disposed at the offshore USEPA-designated LA-5 offshore disposal site and unsuitable material (4,300 cy) would be disposed at an approved upland landfill disposal site outside the Coastal Zone. The Corps has also received the EPA LA-5 ODMS site use conditions from EPA.

During dredging, two floating silt curtains will be maintained around the proposed action site to minimize turbidity outside the dredging area. The double silt curtain will encircle the entire dredge area and dredge swing radius and will be maintained by the contractor through the duration of dredging to minimize gaps and dislocations. Silt curtains will be weighted with ballast weights or rods affixed to the base of the silt curtain fabric. Decant water will be pumped back into the Bay from the scow and within the enclosed double silt curtain. Silt curtains will be made of a material that is unlikely to entangle any marine animals (i.e., reinforced impermeable polycarbonate vinyl fabric), installed in a manner in which a sea turtle or marine mammal cannot become easily entangled (i.e., stretched out tightly with very little slack), installed with the minimum extent of curtain needed, inspected daily to ensure proper integrity and for the presence of entangled or entrapped protected species, and removed immediately upon project completion.

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 shipyard drydock facilities. For the disposal options the Corps has consulted under the OTM with EPA and BAE Systems 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 ocean disposal 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 turbidity, monitor for listed species with work cessation, pre-construction contractor education, and spill kits), dredging and disposal activities would avoid impacts to listed species. Also, since the project will not discharge fill under Section 404 of the Clean Water Act then no Section 404(b)(1) alternatives analysis is required.

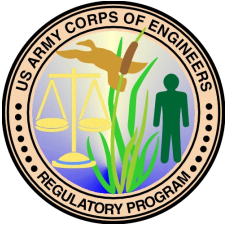
Minimization: Permittee shall ensure no debris, sawdust, rubbish, cement, or concrete washings thereof, oil or petroleum products, from construction shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the United States. Every reasonable and practical 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: All the dredging will occur in unvegetated deep-water 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 BAE Systems will mitigate per CEMP.

Proposed Special Conditions

There will be special conditions that will be developed during the permit review process.

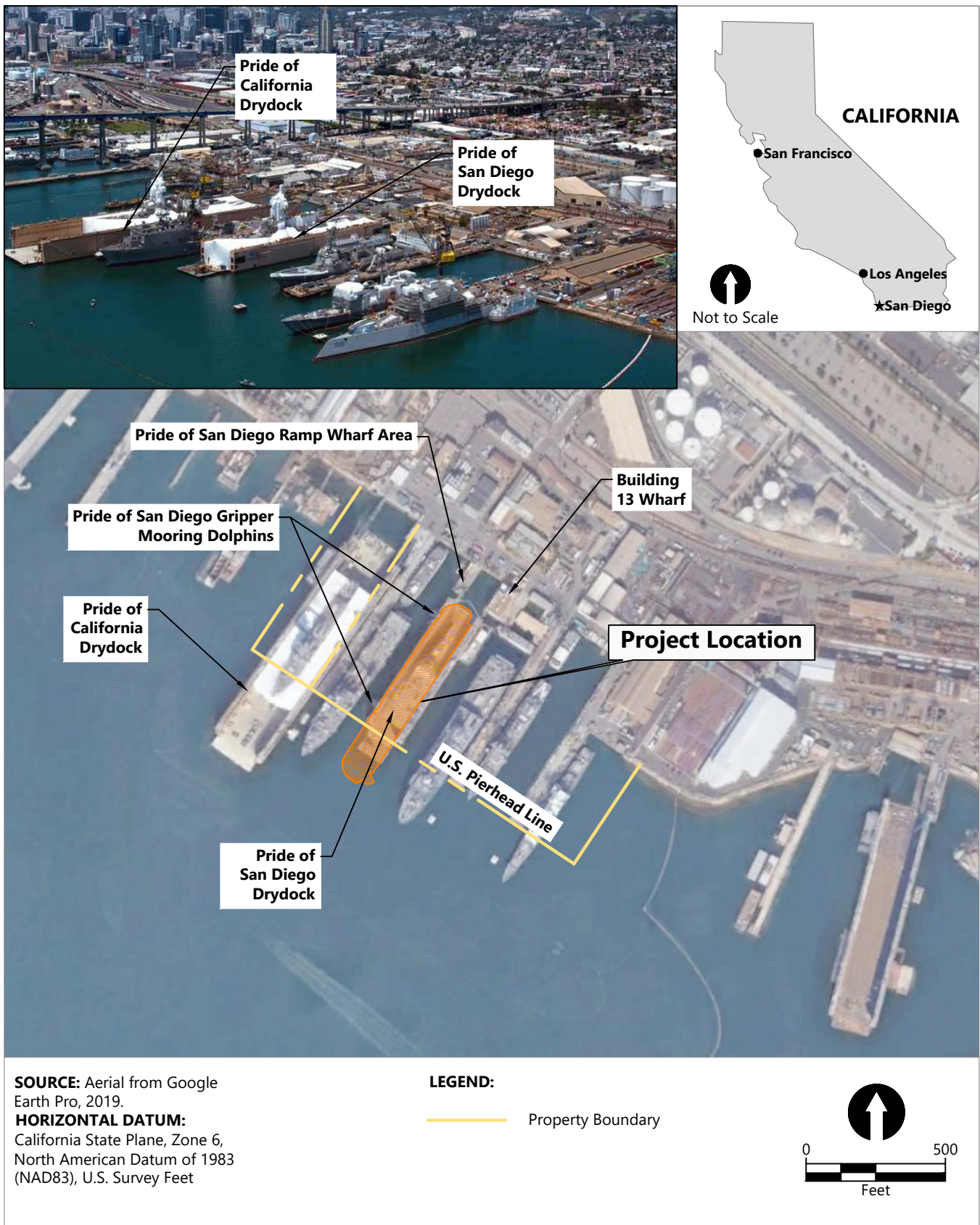
For additional information please call Robert Smith of my staff at (760) 602-4831 or via e-mail at Robert.R.Smith@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.



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
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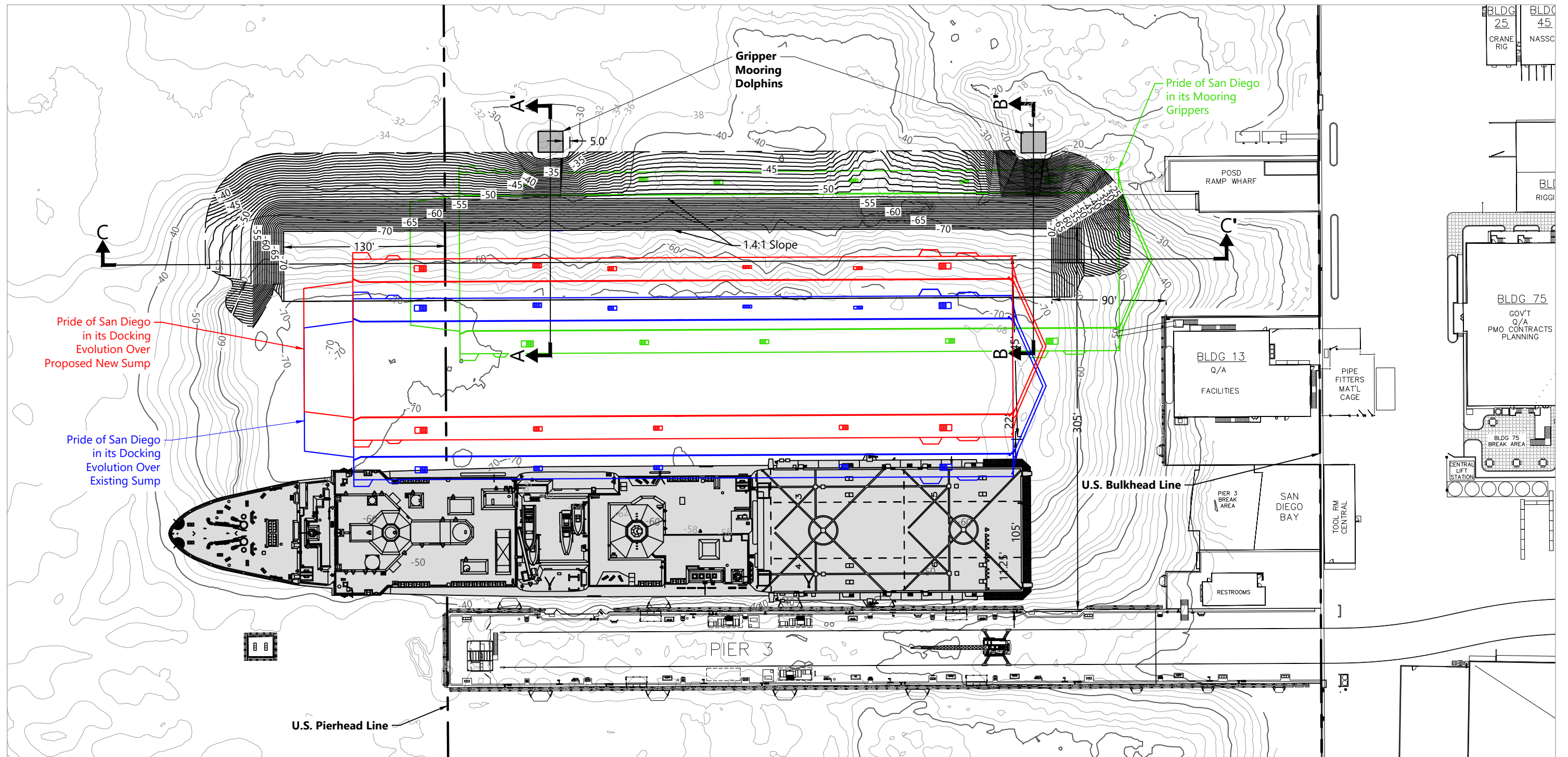


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**Figure 1
Vicinity Map**

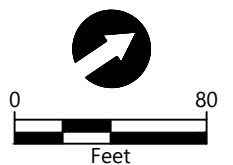
Permit Application Supplement
 Pride of San Diego Dry Dock Dredging Project



SOURCE: Bathymetric Data from CLE Engineering Survey dated February 12, 2017 supplemented with eTrac inc. Survey dated February, 2016, and CLE Engineering data from 2010.
HORIZONTAL DATUM: California State Plane, Zone 6, North American Datum of 1983 (NAD83), U.S. Survey Feet
VERTICAL DATUM: Mean Lower Low Water (MLLW)

LEGEND:

- 50— Design Contours (5 feet)
- 50— Existing Contours (5 feet)

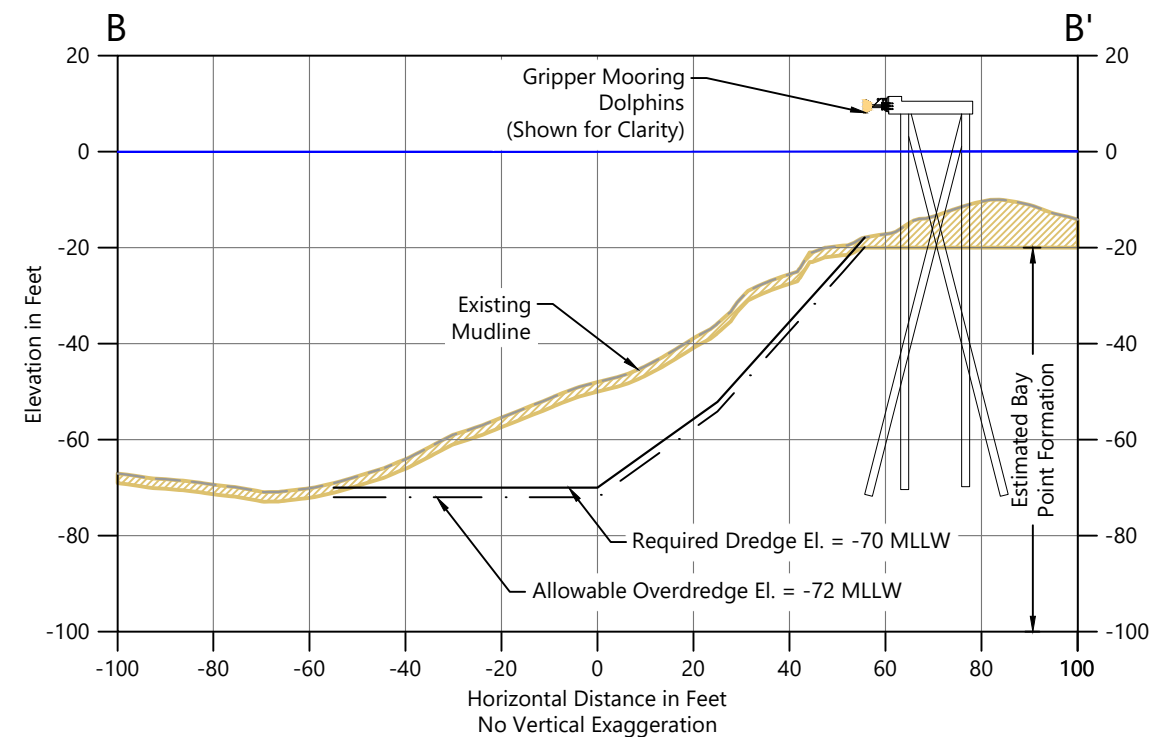
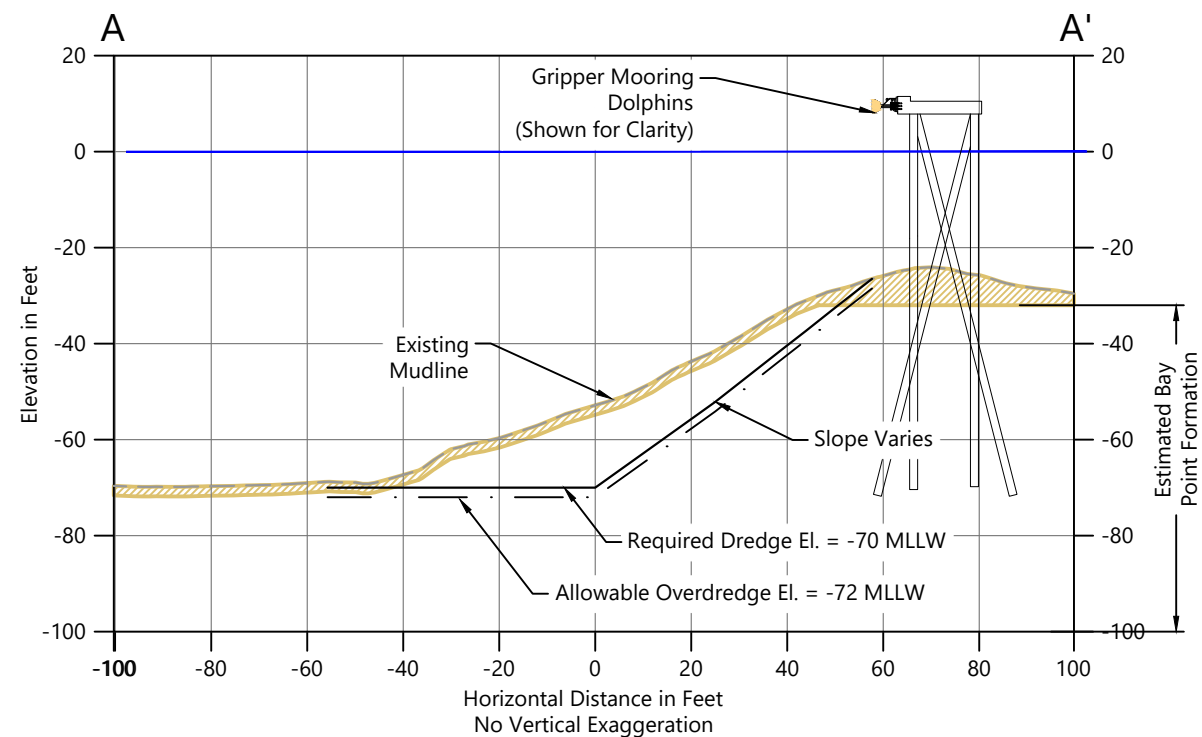


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Figure 2
Conceptual Dredge Design at Pride of San Diego Dry Dock

Permit Application Supplement
 Pride of San Diego Dry Dock Dredging Project




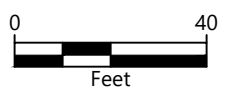
NOTE: Estimated depth to Bay Point Formation based on sediment coring field program.

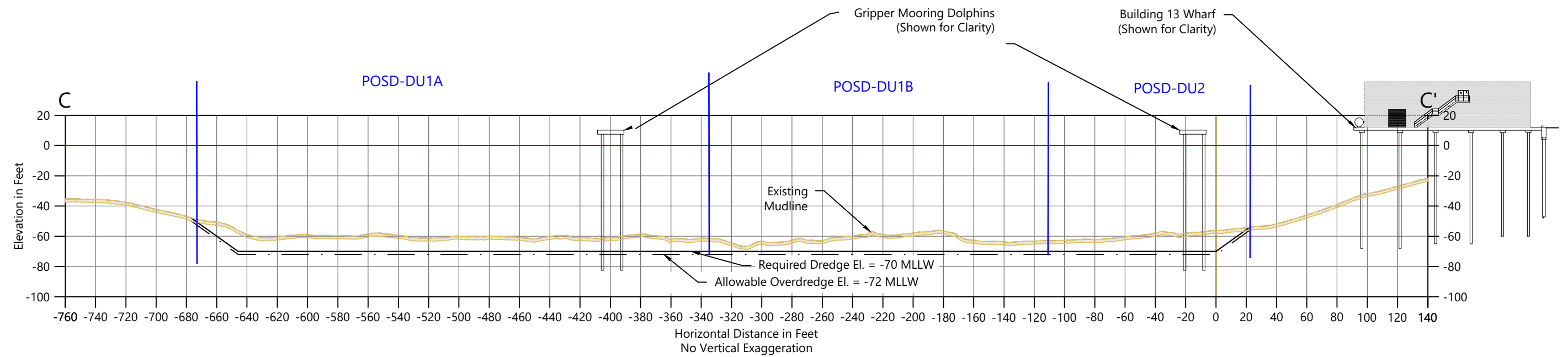
SOURCE: Bathymetric Data from CLE Engineering Survey dated February 12, 2017 supplemented with eTrac inc. Survey dated February, 2016, and CLE Engineering data from 2010.

HORIZONTAL DATUM: California State Plane, Zone 6, North American Datum of 1983 (NAD83), U.S. Survey Feet
VERTICAL DATUM: Mean Lower Low Water (MLLW)

LEGEND:

 Recent Bay Deposits (Approximate)







SOURCE: Bathymetric Data from CLE Engineering Survey dated February 12, 2017 supplemented with eTrac inc. Survey dated February, 2016, and CLE Engineering data from 2010.

HORIZONTAL DATUM: California State Plane, Zone 6, North American Datum of 1983 (NAD83), U.S. Survey Feet
VERTICAL DATUM: Mean Lower Low Water (MLLW)

LEGEND:

 Recent Bay Deposits (Approximate)

 POSD-DU2 Dredge Unit Identification (see Figure 5)

