



# PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS  
LOS ANGELES DISTRICT

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**APPLICATION FOR PERMIT**  
**Naval Base Point Loma Pier 5000 South Side Inner Berth Dredging Project**

**Public Notice/Application No.:** SPL-2021-00310-RRS

**Project:** Naval Base Point Loma Pier 5000 South Side Inner (SSI) Berth Expansion Dredging Project

**Comment Period:** June 16, 2021 through July 16, 2021

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

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**Applicant**

CDR James Alger  
US Navy NBPL Public Works Officer  
4635 Pacific Highway  
Building 1  
San Diego, California 92110

**Contact**

Lisa Seneca  
Dept of Navy NAVFAC SYSCOM  
750 Pacific Highway 12th Floor  
San Diego, California 92132

**Location**

The project is located in north San Diego Bay at Naval Base Point Loma (NBPL) within the city of San Diego, in San Diego County, CA (at: Latitude 32.6891, Longitude -117.238083). The LA-5 Ocean Dredge Material Disposal Site (ODMDS) is located offshore of the mouth of San Diego bay approximately 5.2 miles from the project site.

**Activity**

To perform dredging with ocean disposal work at Naval Pier 5000 SSI Berth at Naval Base Point Loma. The project includes dredging work to increase water depth from -28 feet (ft.) MLLW (Mean Low Lower Mark) and -34 feet MLLW to the design depth of -36.6 feet MLLW plus a 2-foot overdredge allowance (to -38.6 feet MLLW). Approximately 6,365 cubic yards of sediment would be removed and subsequently placed off-site at the LA-5 Ocean Dredged Material Disposal Site (ODMDS). Dredging and sediment disposal at the LA-5 ODMDS will most likely involve a barge-mounted clamshell dredge, dump scow, and tugboat in association with the Naval Base Point Loma Pier 5000 South Side Inner (SSI) Berth Expansion Dredging Project (see attached drawings). For more information see Additional Project Information section below.

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## **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 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](mailto: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) 277-5552.**

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, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance. The Corps and EPA completed the suitability determination review on March 17, 2021 in compliance with the Ocean Disposal Manual (ODM) testing requirements for the dredged material disposal at LA-5. In accordance with the EPA 401 rule a pre-filing request was filed on May 3, 2021 and pre-filing mtg. was held on May 6, 2021.

**Coastal Zone Management Act (CZMA)**- The Navy is the lead federal agency for CZMA and is coordinating with the California Coastal Commission (CCC) for CZMA authorization and made a request for concurrence to the CCC in compliance with Section 930.35 of the National Oceanic and Atmospheric Administration (NOAA) Federal Consistency Regulations (15 CFR 930) per their letter dated May 17, 2021. The Navy has determined that the proposed action would have no effect to coastal resources for the reasons identified in the submittal to the CCC. The Corps will review the Navy's lead agency determination under CZMA regulations and review and adopt as necessary.

**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 within the proposed project area. The proposed project is located within an area designated as EFH for two Fishery Management Plans (FMPs): The Pacific Groundfish and Coastal Pelagics FMP's (Pacific

Fishery Management Council [PFMC] 1998a, 1998b). According to the Navy adverse impacts to EFH managed species are anticipated. Eelgrass is found at the proposed work site. Eelgrass surveys will be conducted prior to any in water work activities. The Corps will review the Navy's lead agency determination under EFH regulations and review and adopt as necessary.

**Cultural Resources**- The Navy is the lead agency for compliance with Section 106 of the National Historic Preservation Act and maintains that there will be no effect on historic properties since none exist within the project area. Implementation of the project would not affect any archaeological sites or other cultural resources, as defined under the Commanding Officer Naval Base Point Loma (CONBPL) Programmatic Agreement (PA) (CONBPL 2014). Consistent with Stipulation 6.A. of the CONBPL PA, the Area of Potential Effect (APE) is defined as the discrete site of the undertaking and any associated staging or laydown areas has accordingly made a determination of "no historic properties affected" for the proposed action. The Corps will review the Navy's determination per lead agency guidance and review and adopt as necessary.

**Endangered Species**- The Navy is the lead federal agency for ESA and is coordinating and consulting with NMFS per their letter dated April 1, 2021 for impacts to the federally-listed as endangered green sea turtle (*Chelonia mydas*; GST) and other federally listed whale species and the Guadalupe fur seal and the federally-listed as endangered California least tern (*Sterna antillarum browni*; CLT).. The Navy is requesting informal Section 7 consultation with NMFS regarding the project's potential to affect the green sea turtle (GST; *Chelonia mydas*), the blue whale (*Balaenoptera musculus*), the fin whale (*B. physalus*), the western northern Pacific gray whale (*Eschrichtius robustus*), the sperm whale (*Physeter macrocephalus*), humpback whale (*Megaptera novaeanglae*) and the Guadalupe fur seal (*Arctocephalus townsendi*). The proposed dredge footprint is in north San Diego Bay and placement of sediment would occur at the LA-5 ODMDS which may affect the above species.

The Navy has been in informal consultation with NOAA for GST due to effects from noise, turbidity, as implementation of the Proposed Action would result in temporary habitat disturbance from an increase in turbidity and underwater noise generated during dredging activities. Dredging activities would occur outside of the California least tern breeding season (April 1 – September 15) and may not consult with the USFWS due to a preliminary a determination from the Navy of no may affect for CLT since they are working outside the CLT season.

**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 maintenance dredging and adequate disposal to maintain existing use of the Navy Pier 5000 SSI Berth facility at NBPL in the city of San Diego, CA.

### **Additional Project Information**

Baseline information- The proposed dredging is necessary to accommodate future ship berthing and create more berthing flexibility at Pier 5000. The Navy prepared a draft environmental assessment dated May 21, 2021. The dredge footprint is in a heavily used maritime industrial area and lacks eelgrass or other habitat features and the nearest known eelgrass patches are approximately 765 feet to the southeast and 960 feet to the north of the closest point of the project area. The project footprint was previously occupied by a floating dock. After review by Navy facility planners, it was determined the floating dock would be removed and disposed of offsite. Based on the proposed dredge depth (-11.2 meters [-36.6 feet] MLLW) and continuity with the Pier 5000/5002 Inner Berths footprint the Navy has undergone ODM consultation with the Corps and the EPA regarding bulk sediment sampling and testing within the berthing areas described above to support disposal of the dredge material. Sediment cores were collected and based on bulk sediment testing, the dredged material was determined to be suitable for ocean disposal at the LA-5 ODMDS (SUAD) but not for nearshore disposal, specifically by the Corps and EPA on March 17, 2021.

Bathymetry surveys were performed and compared to current operational needs, design depths, and previous dredging data. The NBPL Pier 5000 SSI berth area and inboard areas were shown to not meet the previous design depths and operational requirements. The completion of this project would further the Navy's ability to train and equip combat-capable naval forces ready to deploy worldwide. Current depth conditions at the Pier 5000 SSI Berth areas do not meet these clearance requirements.

Project description- The proposed project would dredge per the attached public notice figures approximately 6,365 cubic yards of San Diego Bay bottom material to a depth of -38.6 feet mean lower low water (MLLW) (including the 2 foot over dredge allowance) over approximately 10 days, to support continued Navy submarine fleet operations at Naval Base Point Loma. Due to the accumulation of sediments within existing berthing areas at NBPL, specifically the inshore areas, maintenance dredging is proposed. The approximately 6,365 cy of proposed dredged material was approved for placement by the USACE and USEPA at the LA-5 ODMDS. The Navy is proposing to dispose of the dredged material at the LA-5 ODMDS and the Corps and EPA have approved the ODM compliance per the Corps and EPA suitability determination. The round-trip duration from the dredging site the placement area would be approximately 10 to 12 hours. Barges would be equipped with electronic tracking devices to document that material releases occurred within the disposal site boundaries.

Dredging and disposal activities would take an estimated 10 days to complete and would occur outside of the California least tern nesting season. Dredging would be completed using a barge-mounted clamshell or backhoe dredge. Dredging activities could occur during daylight hours, based on site-specific conditions. Consistent with a recent dredging project at NBPL in 2016, the average daily dredging and disposal production rate is expected to be approximately 1,350 cy. A conservative estimate of 20 workers would be required for the duration of dredging activities to transport, set up, and operate the dredging equipment and sediment transport tugs and barges to the LA-5 ODMDS. Barges used for in-water sediment transport would be equipped with electronic tracking devices to document that material releases occurred within approved disposal site boundaries, as specified in the dredging permit. Dredging impacts to shallow subtidal areas at NBPL total 0.44 acres of subtidal substrate as shown in the permit figures with approximately 1-2 acres of deep ocean disposal impacts

at the LA-5 ODMDS. The LA-5 ODMDS is a designated offshore open-water disposal site located on the ridged slope of the continental shelf at a depth of approximately 600 feet, 5.4 nautical miles from Point Loma, off the San Diego Coast. One tug/barge would be loaded with material at the dredge site, while the other is disposing of sediment at LA-5 ODMDS, ensuring that dredging can be completed in a timely manner while complying with LA-5 restrictions prohibiting more than one barge onsite at a time. Round trip from the Pier 5000 project site to LA-5 ODMDS is expected to take about 10 to 12 hours. The ocean disposal of dredged sediment is regulated under Section 103 of the MPRSA and disposal operations would need to comply with EPA LA-5 ODMDS site use conditions which the Corps will be requesting from EPA.

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:** Because the proposed dredging area is uniquely located in an area that is contiguous with the existing maintenance dredging footprint, the Navy submitted a draft alternatives analysis for various alternatives for the proposed Project that were the Preferred Alternative, a Reduced Dredging Footprint Alternative, and the No Action Alternative at the same location. Since the project is a dredging activity then other various alternatives for the dredging were considered including a reduced dredging footprint that would avoid impacts that were evaluated due to onsite need to maintain operational depths at the naval facilities. For the disposal options the Corps has consulted under the ODM with EPA regarding the volume and location for discharge of the material suitable for ocean disposal and most of the material was determined to be suitable for ocean disposal but not for nearshore disposal. Also, with the implementation of the proposed measures (turbidity and water quality monitoring, use of turbidity curtains or booms, monitor for listed species with work cessation, pre-construction contractor education, and spill kits), dredging and disposal activities would avoid impacts to listed species to the maximum extent practicable.

**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. 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 shallow to mid deep-water water substrate that has been previously impacted by historic dredging and pier construction and pile removal, vessel groundings, propeller wash, and anchoring impacts and no mitigation is currently proposed except for compliance with the California Eelgrass Mitigation Policy (CEMP). Eelgrass monitoring, per CEMP, will occur and if any impacts do occur to eelgrass then the Navy will utilize their existing eelgrass bank to mitigate the impacts.

### **Proposed Special Conditions**

The Corps has not proposed any special conditions at this time. For additional information please call Robert Smith of my staff at (760) 277-5552 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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