

VENTURA PORT DISTRICT
BOARD COMMUNICATION

SPECIAL STANDARD AGENDA ITEM 1

Meeting Date: March 3, 2021

TO: Board of Port Commissioners
FROM: Brian D. Pendleton, General Manager
Todd Mitchell, Business Operations Manager
John Higgins, Harbormaster
SUBJECT: Declaration of Emergency Pursuant to Keys Stub Channel Dredging Needs and
Adoption of Resolution No. 3409

RECOMMENDATION:

That the Board of Port Commissioners take the following actions:

A) Pursuant to the Government Code, add consideration of Resolution 3409 to the agenda:

1. §54954.2 (b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.
2. §54954.2 (b)(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

B) Find, based upon the evidence presented below, the matter of the conditions of the Ventura Inner Harbor Stub Channel require emergency dredging and adopt Resolution No. 3409.

C) The Board hereby delegates to the District's General Manager the authority to:

1. take any action required to respond to the emergency;
2. submit any/all emergency permit applications and documents required to support this action's completion;
3. to procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts; and,
4. Request that the City of San Buenaventura Council to adopt a similar Declaration of Emergency.

SUMMARY:

Currently the Ventura Port District (District) and City of Ventura (City) are attempting to conduct needed Maintenance Dredging in order to address navigation and safety concerns within Ventura Harbor. The primary area of need is within the Stub Channel located at the confluence of the Ventura Harbor and the Arundell Barranca (Area A in Attachment 1). This is immediately adjacent to the Ventura Harbor Patrol Offices and Marina Park. The District, in conjunction with the City, reviewed all potential alternatives to conducting needed maintenance dredging activities that are currently constrained by permit special conditions. The intent has been to examine informal discretionary permit amendments of its various permits outside of pursuing emergency permits.

However, it has since been determined that a discretionary permit amendment would not be adequate for some regulatory agencies. Therefore, the District, the City, and their consultant (Rincon Consultants) are working with the US Army Corps of Engineers to obtain a Regional General Permit (RGP) 63 Emergency Permit and to then conduct emergency dredging of the Ventura Harbor Stub Channel. That permit is anticipated to be granted on or before March 5, 2021.

LONG-TERM GOALS:

- Goal 1: Safety & Navigation
 - Maintain and enhance a safe and navigable harbor
 - (a) Securing funding for dredging the Harbor entrance through the Army Corps of Engineers in coordination with agencies and our elected officials
 - (b) Dredging the Inner Harbor and preserving infrastructure;
 - (c) Providing superior Harbor Patrol, Maintenance, and related District services;
 - (d) Preserving and enhancing infrastructure, equipment, and facilities for a modernized, efficient and safe working harbor.
- Goal 2: Commercial & Recreational Boating & Fishing
 - Support and promote commercial and recreational boating and fishing

5-YEAR OBJECTIVES:

- Objective D: Harbor Dredging
 - Ensure that annual dredging occurs at the federal Harbor entrance and as needed in the inner Harbor
 - 3: Ventura Port District Dredging
- Objective E: Public and Civic Engagement Plan
 - Strengthen communication and further develop close working relationships with stakeholders, business partners, and civic leaders
 - 2: Collaborate with City, regional, state, and federal agency officials in pursuit of mutually beneficial projects, programs

BACKGROUND:

The Ventura Port District and the City share responsibility for maintaining access to the Ventura Keys through maintenance dredging of the Ventura Keys Stub Channel.

Bathymetric surveys in the northern portion of the Pierpont Basin and the Stub Channel which provides vessel access to the Ventura Keys indicate the need to perform maintenance dredging in those areas to maintain navigational safety.

Environmental permit conditions for the District's inner harbor dredging cannot be met at this time: in particular, the Santa Clara River mouth is not open and the Santa Clara River velocity is not greater than 100 cubic feet per second (as measured at the Victoria Avenue Bridge).

Over the past year, largely in part due to the COVID-19 pandemic, public recreational vessel usage (powered and unpowered) in Ventura Harbor has increased. As evidenced by the number of paddleboards and kayaks being launched from Marina Park, the District launch ramp, and the exceptional growth in rentals from Ventura Boat Rentals, the number of vessels operating within the Stub Channel (connecting to the Ventura Keys) has increased and resulted in congestion and groundings due to the shoaling of the south side of the channel.

The Arundell Barranca is a drainage canal that provides flood protection within Ventura protecting as much as \$62M in infrastructure from possible flood damage. However, it drains a large urban and agricultural area which discharges into the Ventura Harbor's Stub Channel. During peak storm events, the channel conveys high flow of water and tons of sediment into the harbor creating a shoal and hazard to navigation. Due to the material composition of the sediment, being ~70% fine grains, it is not suitable for placement on beaches according to the permitting agencies.

The District maintains permits with the US Army Corps of Engineers (Corps), the Los Angeles Regional Water Quality Control Board (Waterboard), the Ventura County Air Pollution Control

Board, and the California Coastal Commission (CCC) to conduct dredging of the Stub Channel to remove the material.

Although multiple methods and placement options exist within the permits, the most expedient and least impactful to the environment would be to employ Manson Construction (who are executing the federal dredging of the entrance channel at this time) to dredge the material with the equipment and dredge vessel currently at the harbor below the high tide line south of Surfer's Knoll.

REASONING FOR AN EMERGENCY DECLARATION

In consultation with the District Harbormaster, staff has determined that the inability to dredge the Stub Channel at this time poses an increasing risk of an incident where there could be a loss to life or property. The District and the City believe the risk warrants a declaration of emergency.

The District, in conjunction with the City, reviewed all potential alternatives to conducting needed maintenance dredging activities (which are currently constrained by permit special conditions associated with the Santa Clara River flow conditions), in order to address navigation and safety concerns within Ventura Harbor. The intent was to examine informal discretionary permit amendments of its various permits outside of pursuing emergency permits.

In initial conversations with the Corps, an agreeable process of amending the Corps' permit was chosen that included dredge volume limitations. The Corps issued a Permit Amendment Notification (Attachment B) on February 25, 2021 and notified the various other federal and state agencies.

On Monday March 1, 2021, the District and City engaged the LA Regional Water Quality Control Board (Waterboard) to investigate their discretionary latitude to amend the project's Waste Discharge Requirements (WDR) but the Waterboard, though generally agreeable, had no such discretion after consulting their legal counsel.

At that point, the District and City's only option for conducting the project's dredging, within the allowable time frame, was to apply for an emergency Regional General Permit (RGP) 63 through the Corps that provides a conduit for the Waterboard to approve the action. Following conversations with the Corps and Waterboard, the Corps was receptive to converting the Permit Amendment Notification to a formal RGP 63 request since the justification of the Permit Amendment Notification was due to emergency needs.

The Corps is in the process of issuing the project's RGP 63 approval by Friday March 5, 2021 close of business.

On the same day, District staff participated in an informal discussion with California Coastal Commission (CCC) staff who subsequently met with management and the Regional Director to inquire about the project's Coastal Development Permit (CDP) and the CCC's ability to provide discretionary amendments in line with those amenable to the Corps and Waterboard. On Tuesday, March 2, 2021, the CCC informed the District that no such discretionary action was available.

JUSTIFICATION FOR EXECUTING THE EMERGENCY DREDGING

In review of the Emergency Coastal Development Plan application, an emergency based on Public Resources Code 30611 is defined as:

“When immediate action by a person or public agency performing a public service is required to protect life and public property from imminent danger, or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by natural disaster, serious accident, or in other cases of emergency, the requirements of obtaining any permit under this division may be waived upon notification of the executive director of the commission of the type and location of the work within three days of the disaster or discovery of the danger, whichever occurs first. Nothing in this section authorizes permanent erection of structures valued at more than twenty-five thousand dollars (\$25,000).”

The District and City feel that the emergency maintenance dredging action meets the above code provisions by:

1. Protecting life and public property from imminent danger
2. Restoring services interrupted in other cases of emergency.

Additionally, by the fact that the Corps approves the District and City's RGP 63 application, the action is deemed an emergency by the Corps and has concurrence from notified federal and state agencies. Additionally, the proposed emergency dredging, and dredge placement activities are mostly consistent with permit conditions and remains the most expedited method, least impactful to sensitive resources, and minimizes impacts to public use of both the beach and navigable waters.

The CCC mentioned to District staff that the project's existing CDP allows for mechanical dredging and placement of material in nearshore waters at McGrath State Beach. While that action is allowed under the CDP, the EPA has challenged that activity and it remains an unresolved issue in an ongoing Corps permit amendment discussion. Additionally, mobilizing and conducting mechanical dredging causes increased impacts to both sensitive resources and to public use.

Mechanical dredging would:

1. Increase air quality emissions on an order of 5 to 10 times both for mobilization and dredging over that of utilizing Manson's H.R. Morris, currently within Ventura Harbor;
2. Increase turbidity impacts at both the dredge and disposal sites;
3. Increase the number days by 3 to 4 times that areas within the inner harbor would restrict navigation and public use; and,
4. Would not be acceptable to other regulatory agencies due to current regulatory concerns.

The District's General Manager therefore is recommending to the Board of Commissioners that it declare a District Emergency specific to the dredging of the Ventura Stub Channel and requests the City do the same. In light of the information and actions provided by the District, City, and Corps, the CCC is urged to support the District and City's pursuit of an Emergency CDP.

The Declaration of Emergency would provide the General Manager the authority to:

1. take any action required to respond to the emergency;
2. submit any/all emergency permit applications and documents required to support this action's completion; and,
3. to procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.

FISCAL IMPACT:

The 2021 inner harbor/stub channel dredging contract with Manson Construction has previously been awarded by the Board of Commissioners. The anticipated volume of material to be dredged is being reduced to the minimum necessary to address the emergency. Manson's dredge will be on standby while awaiting all permitting authority at an additional cost of \$25,000. The total cost of the emergency dredging is expected to be approximately \$200,000, with approximately \$150,000 being the District's anticipated portion. The funds for that expenditure are available in the District's Dredging Reserve and was an anticipated expense in FY20-21. The City's pro-rata share is expected to be about \$50,000.

ATTACHMENTS:

Attachment 1: Map of area

Attachment 2: Aerial image of shoaling at the Stub Channel and Arundell Barranca

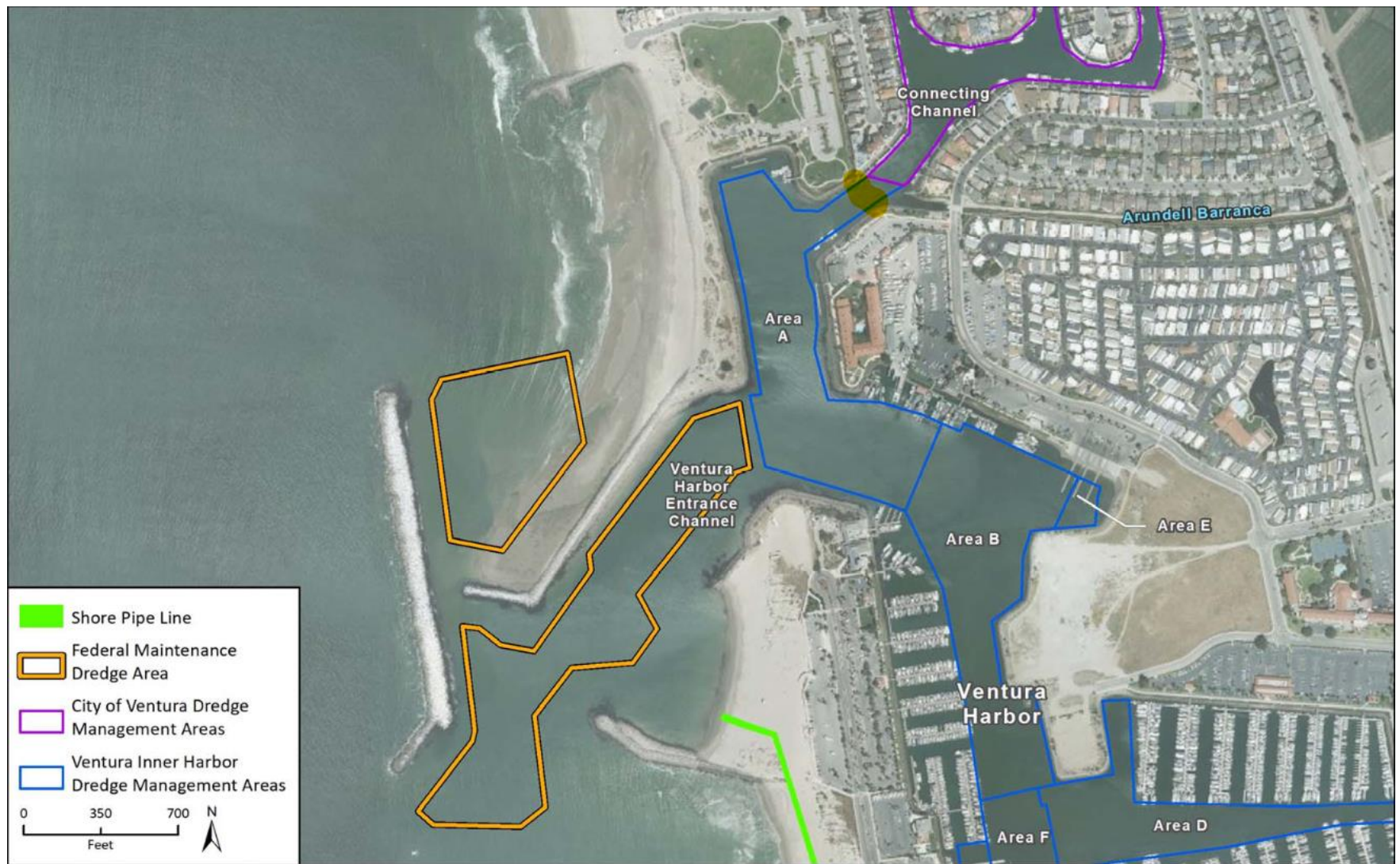
Attachment 3: Bathymetric survey (soundings chart) of the Stub Channel

Attachment 4: US Army Corps of Engineers Permit Amendment Notification – February 26, 2021

Attachment 5: EPA Concurrence

Attachment 6: Resolution No. 3409

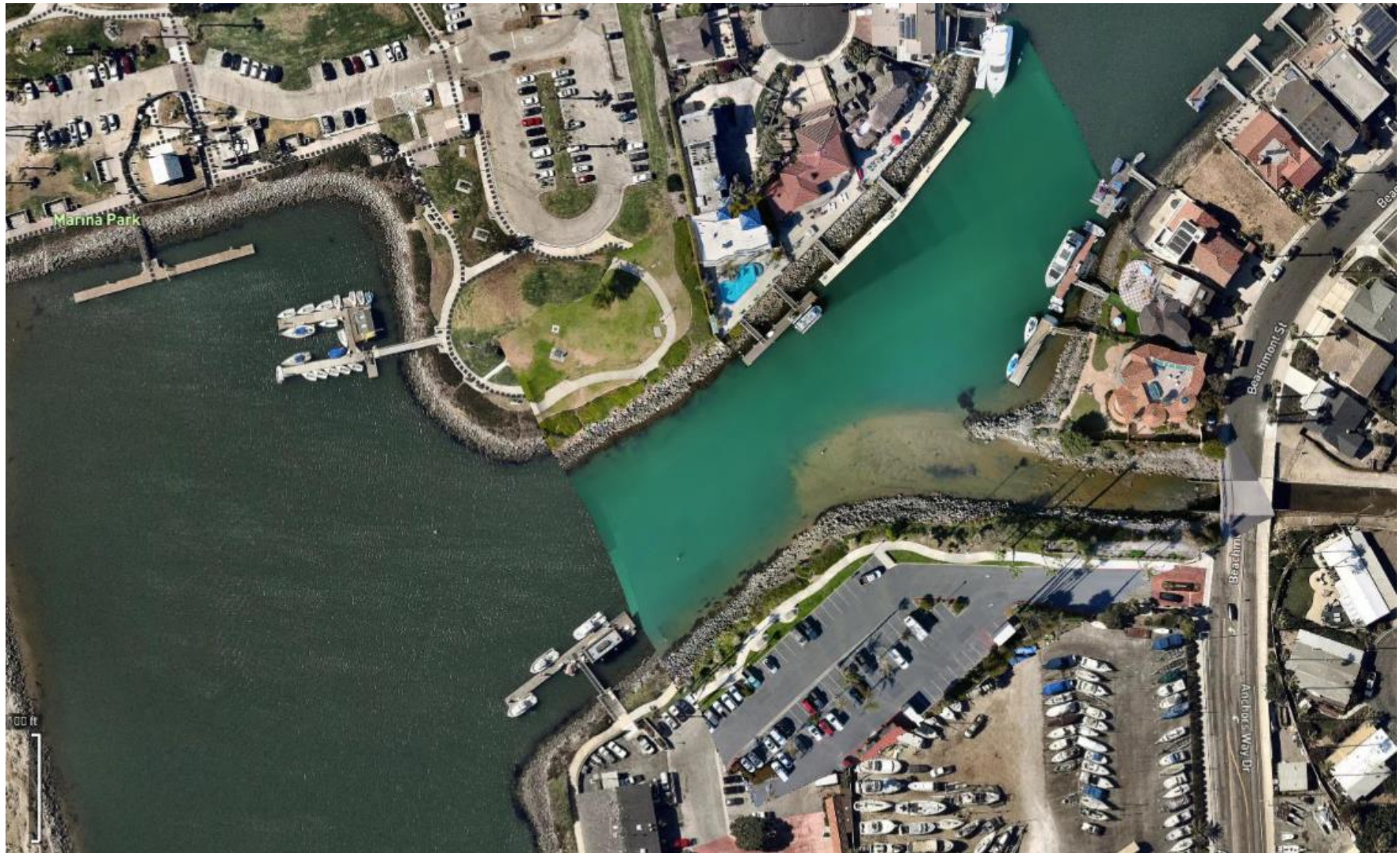
Attachment 1: Map of area



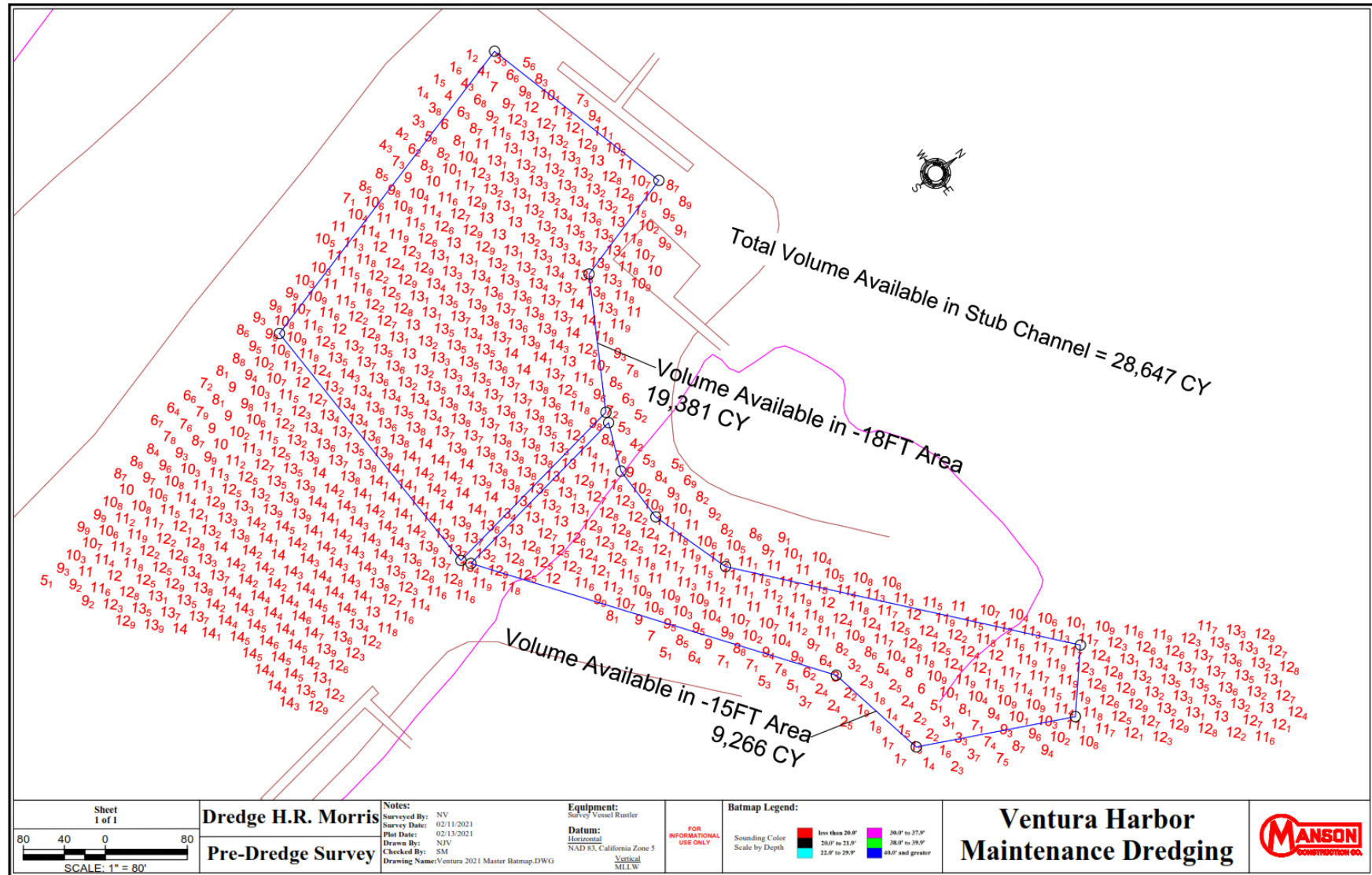
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Fig. 3 Dredge Areas Zoomed

Attachment 2: Aerial image of shoaling at the Stub Channel and Arundell Barranca



Attachment 3: Bathymetric survey (soundings chart) of the Stub Channel



(soundings shown in feet w/decimal subscript, e.g. 14₄ = 14.4' depth below Mean Lower Low Water)



AGENCY NOTIFICATION

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

BUILDING STRONG®

PERMIT AMENDMENT NOTIFICATION

Application No.: SPL-2011-001154-GLH

Project Name: Ventura Harbor Maintenance Dredging (RGP 24)

Deadline to provide intent to comment: March 4, 2021

Location: In the Ventura Harbor and adjacent beaches, in the City and County of Ventura, CA
(34.249955° latitude, -119.266418° longitude).

Contact: Jerry Hidalgo

Phone: (805) 585-2145

Email: Gerardo.L.Hidalgo@usace.army.mil

The U.S. Army Corps of Engineers (Corps), Los Angeles District, Regulatory Division received permit amendment request on February 19, 2021. Please review the attached materials and notify the Corps by 12:00 PM March 4, 2021 if you intend to provide substantive, site-specific comments on the proposed amendment. Please refer to file number SPL-2011-001154-GLH in your response. 4 Pages to Follow

AGENCY	Attention	E-mail
CCC/CZMA	Cassidy Teufel	cassidy.teufel@coastal.ca.gov
CCC (LA, VEN, SB)	Steve Hudson	Steve.Hudson@coastal.ca.gov
CCC (LA, VEN, SB)	Barbara Carey	Barbara.Carey@coastal.ca.gov
CCC (LA, VEN, SB)	Jacqueline Phelps	jacqueline.phelps@coastal.ca.gov
CCC (LA, VEN, SB)	Walt Deppe	walt.deppe@coastal.ca.gov
CDFW, Coastal/marine	Loni Adams	loni.adams@wildlife.ca.gov
CDFW, Coastal/marine	Eric Wilkins	eric.wilkins@wildlife.ca.gov
State Lands Commission	Ken Foster	Kenneth.Foster@slc.ca.gov
NMFS _m (OC to SLO) ¹	Bryant Chesney	Bryant.Chesney@noaa.gov
NMFS _s (LA, VEN, SLO)	Jay Ogawa	jay.ogawa@noaa.gov
NMFS _s (SB, SLO)	Darren Brumback	Darren.Brumback@noaa.gov
RWQCB, LA	Valerie Carrillo-Zara	Valerie.CarrilloZara@waterboards.ca.gov
RWQCB, LA	Celine Gallon	Celine.Gallon@waterboard.ca.gov
RWQCB, LA	Serena Stumpf	Serena.Stumpf@waterboards.ca.gov
RWQCB, LA	Emily Duncan	Emily.Duncan@waterboards.ca.gov
U.S. FWS, Ventura	Chris Dellith	Chris_Dellith@fws.gov
U.S. EPA	Sam Ziegler	ziegler.sam@epa.gov

¹ NOTE for NMFS: m = marine, s = steelhead

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

60 South California Street, Suite 201

Ventura, California 93001-2598

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U.S. EPA
U.S. EPA
U.S. EPA

Elizabeth Goldman
Melissa Scianni
Sarvy Mahdavi

goldmann.elizabeth@epa.gov
scianni.melissa@epa.gov
mahdavi.sarvy@epa.gov

APPLICANT NAME: Ventura Port District, Richard Parsons

WATERWAY NAME: Ventura Harbor, Stub Channel, Pacific Ocean

BRIEF DESCRIPTION OF PROPOSED WORK:

The Ventura Harbor Maintenance Dredging permit (RGP 24) approved on February 1, 2018 authorizes the Ventura Port District (District) to conduct maintenance dredging of the Ventura Harbor and placement of the dredge material near the mouth of the Santa Clara River under specific situations. Specifically, the permit is conditioned such that dredged material is only allowed to be placed below the mean high water line near the Santa Clara River mouth when the river mouth is open and flowing at a minimum rate of 100 cubic feet per second. Recent experience with the permit's special conditions have led the District to request modifying the permit special conditions to allow the deposition of the dredge material from the inner harbor regardless of the rate of flow in the Santa Clara River and/or the condition of the river mouth provided that this activity is accomplished concurrently with the USACE's annual maintenance dredging of the Ventura Harbor Federal Channel.

In discussion with the District, vessels are currently experiencing soft groundings in the Stub Channel within the Harbor on a frequency of 3-4 times per month with increasing frequency. In addition, the Harbor Patrol stated that about 4-7 hard groundings have occurred over the last 6-9 months in the Stub Channel that have caused damage to vessels and/or required towing assistance from the Harbor Patrol or tow boat to safely free the vessels.

With the increased use of the Harbor's waterways both within the Stub Channel and adjacent turning basin by various size vessels, kayaks, paddle boards, and other users the Harbor Master believes it is only a matter of time before an injury occurs. Additionally, the grounding of small vessels in the channel typically results in individuals entering the water to try to free their vessel after grounding resulting in unsafe and ill equipped actions taking place in proximity of vessel propellers and front of the vessels.

In consideration of the urgent situation, the Corps is considering allowing a one-time modification and notice to proceed under RGP 24 to authorize the District to dredge approximately 9,200 cubic yards in the Stub Channel during the same time frame (concurrently or immediately afterward) the USACE is conducting Federal Maintenance Dredging. This may occur whether or not the lagoon mouth is open and flowing at a rate of 100 cfs. The USACE Federal Maintenance Dredging is currently dredging and conducting beach placement of nearly 600,000 cubic yards of sandy material through their actions.

Material within the Stub Channel consists of predominantly silt and clay (75.6%) and is consistent with the sediment grain size discharged from the Santa Clara River (79% silts and clays) (R.P. Williams 1978). Sediment testing results from November 2018 found concentrations of copper and nickel above the effects range low (ERL) but below the effects range median (ERM) which is consistent with levels reported in 2012 and 2015. The pesticide DDT and its derivatives DDD and DDE were detected well below the allowable ERM thresholds and were

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consistent with concentrations reported in 2009, 2012 and 2015. It is the conclusion that the chemical concentrations measured in the Stub Channel are not considered substantial and no substantial impact is expected to occur from the deposition of the proposed dredge material to waters offshore of the Santa Clara River mouth.

The Corps respectfully requests comments on the proposed one-time allowance of placement of approximately 9,200 cubic yards from the Ventura Harbor near the Santa Clara River mouth when the river mouth is closed.

ADDITIONAL INFORMATION: A recent bathymetric survey of the Stub Channel is included with this notification. The Sediment and Analysis Reports for the Ventura Harbor are available upon request. This is an active situation and the scope of activities may change accordingly.



Regulatory Program Goals:

- To provide strong protection of the Nation's aquatic environment, including wetlands.
- To ensure that 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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Attachment 5: EPA Concurrence

From: Scianni, Melissa <Scianni.Melissa@epa.gov>

Sent: Tuesday, March 2, 2021 12:20 PM

To: Hidalgo, Gerardo L CIV USARMY CESPL (USA) <Gerardo.L.Hidalgo@usace.army.mil>; cassidy.teufel@coastal.ca.gov; steve.hudson@coastal.ca.gov; Carey, Barbara@Coastal (Barbara.Carey@coastal.ca.gov) <Barbara.Carey@coastal.ca.gov>; jacqueline.phelps@coastal.ca.gov; walt.deppe@coastal.ca.gov; loni.adams@wildlife.ca.gov; eric.wilkins@wildlife.ca.gov; kenneth.foster@slc.ca.gov; Bryant.Chesney@noaa.gov; Jay Ogawa - NOAA Federal <jay.ogawa@noaa.gov>; 'Darren Brumback - NOAA Federal' <darren.brumbach@noaa.gov>; Valerie Carrillo-Zara - RWQCB (Valerie.CarrilloZara@waterboards.ca.gov) <Valerie.CarrilloZara@waterboards.ca.gov>; Celine.Gallon@waterboards.ca.gov; Stumpf, Serena@Waterboards <Serena.Stumpf@Waterboards.ca.gov>; Emily.Duncan@waterboards.ca.gov; Dellith, Chris <chris_dellith@fws.gov>; Ziegler, Sam <Ziegler.Sam@epa.gov>; Goldmann, Elizabeth <Goldmann.Elizabeth@epa.gov>; Mahdavi, Sarvy <Mahdavi.Sarvy@epa.gov>

Cc: rwpdredging@hotmail.com; Derek Lerma <dlerma@rinconconsultants.com>; Szijj, Antal J CIV USARMY CESPL (USA) <Antal.J.Szijj@usace.army.mil>

Subject: [EXT] RE: Ventura Harbor Maintenance Dredging (SPL-2011-001154) RGP 24 Proposed Permit Amendment Notification

Jerry,

We have reviewed your agency notification for the proposed modification of the Ventura Harbor Maintenance Dredging permit. The proposed modification would allow one time disposal of up to 9,200 cy of fine grained material in the nearshore at the Santa Clara River mouth when the river mouth is not open or flowing greater than 100 cfs, as is otherwise required under the existing permit. The Port District identified several boat groundings that have occurred due to shoaling and has therefore asked for authorization to conduct dredging and disposal while dredging equipment that is currently maintaining the Federal channel remains available. The material was tested in 2018 and DMMT determined it was suitable for unconfined aquatic disposal based on testing conducted under the ITM.

If the Corps determines the situation represents an imminent threat to life or property demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property or essential public services and requires immediate attention, then EPA would not object to the proposed one time disposal since we are working with the Corps on a long-term solution for placement of fine grained material from Ventura Harbor. However, our lack of objection to this one-time action does not change our position on placement of fine grained material in the nearshore or the need for our agencies to continue working together on this issue.

Thank you for your continued coordination on this project and we look forward to continuing our discussions.

Regards,
Melissa

Melissa Scianni
Wetlands Office
US EPA, Region IX, Southern CA Field Office
600 Wilshire Blvd, Suite 940
Los Angeles, CA 90017
(213) 244-1817



RESOLUTION NO. 3409

**RESOLUTION OF THE BOARD OF PORT COMMISSIONERS
OF THE VENTURA PORT DISTRICT DECLARING AN EMERGENCY AND
AUTHORIZING THE GENERAL MANAGER TO
PURSUE AN EMERGENCY DREDGING PERMIT**

WHEREAS, the Ventura Port District has the authority under the Public Contract Code (§20751.1) and the Public Resources Code (§30611) to declare an emergency condition where immediate action is necessary to protect life, health or property, and to restore services subject to interruption in the event of another emergency;

WHEREAS, dredging in portions of the Ventura Harbor are necessary to maintain safe navigability;

WHEREAS, in consultation with the District Harbormaster, staff has determined that the inability to dredge the Stub Channel (the confluence of the inner Ventura Harbor and the Arundell Barranca) at this time poses an increasing risk of an incident where there could be an injury or loss to life or property. The District and the City of San Buenaventura believe the risk warrants the declaration of emergency;

WHEREAS, the Public Contract Code and the District's Procurement and Purchasing Policy provide that, where an emergency condition exists, the General Manager is authorized to expend necessary funds and take such action as may be necessary to prevent or mitigate the loss or impairment of life, health, and property without the need for competitive bidding or subsequent Board approval, where applicable.

NOW, THEREFORE, BE IT RESOLVED that the Board of Port Commissioners DECLARES, DETERMINES, and ORDERS as follows:

1. Due to the need to maintain safe, navigable water in and about the Ventura Harbor, and the inability to conduct dredging operations under current permit conditions, and the availability of dredging equipment only for the next several days, the Board finds that an emergency condition exists.

ATTACHMENT 6

2. The District determines that the public interest and necessity demand the immediate expenditure of public money to safeguard the public and District property from the dangers posed by the current limited navigability of the Stub Channel.
3. The Board hereby delegates to Brian D. Pendleton, the District General Manager, the authority to: 1) take any action required to respond to the emergency, 2) submit any/all emergency permit applications and documents required to support this action's completion, 3) to procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts, and 4) request that the City of San Buenaventura Council to adopt a similar Declaration of Emergency.
4. for the immediate application for an Emergency Permit from the U.S. Army Corps of Engineers to conduct dredging operations.
5. The General Manager shall report to the Board of Port Commissioners at its next regularly scheduled meeting of the Board of the actions to respond to the emergency.

PASSED, APPROVED AND ADOPTED the 3rd day of March 2021, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

ATTEST:

Chris Stephens, Chairman

Brian Brennan, Secretary

ATTACHMENT 6

STATE OF CALIFORNIA)
COUNTY OF VENTURA)ss.
CITY OF SAN BUENAVENTURA)

I, Brian Brennan, Secretary of the Ventura Port District, a public corporation, do hereby certify that the above and foregoing Resolution was duly passed and adopted by the Board of Port Commissioners of said District at a meeting thereof held on the 3rd day of March 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said District this 3rd day of March 2021.

Brian Brennan, Secretary