



PUBLIC NOTICE

US Army Corps of Engineers, Honolulu District

Regulatory Office (CEPOH-RO)
Guam Field Office, Naval Base Guam
PSC 455, Box 188
FPO AP 96540

Public Notice Date: March 10, 2023
Expiration Date: April 9, 2023
Permit File Number: POH-2019-00074

FEDERAL PUBLIC NOTICE

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States as described below and shown on the attached drawings.

APPLICANT: Anthony Camacho, CNMI Department of Public Works, Caller Box 10007, Saipan, MP 96950

AGENT: John Gourley, Micronesian Environmental Services, Post Office Box 502802, Saipan, MP 96950

WATERWAY AND LOCATION OF THE PROPOSED WORK: In Saipan Lagoon at the west terminus of Chalan Hagoi, Lot No. 058 H 02, Susupe, Island of Saipan, Commonwealth of the Northern Mariana Islands (15.15142°N, 145.69949°E).

PROPOSED PROJECT: The applicant proposes to demolish and reconstruct Sugar Dock, conduct maintenance dredging, and construct a jetty in navigable waters of the U.S.

Dock demolition includes breaking up, dredging, and excavating 5,550 cubic yards of material (concrete, coral sand, and armor stone base) within 0.48-acres of marine waters to completely remove the existing dock structure and foundation. The material would be dewatered at an on-site, upland facility then hauled to either a temporary upland storage site for reuse, the Marpi Solid Waste facility, or another CNMI approved disposal site. Dock pieces of historical interest would be provided to the Historic Preservation Office.

Dock reconstruction includes discharging 9,105 cubic yards of fill material (dredged sand and/or clean fill from a local quarry, and large pre-cast concrete blocks) into 0.48-acres of navigable waters of the U.S. to reconstruct Sugar Dock in the same location and to the same dimensions. The culvert bank under the dock would be reconstructed 59 feet seaward of the current location of the culvert bank.

Maintenance dredging would remove 7,354 cubic yards of accreted sand to restore a -3 foot Mean Lower Low Water depth within a 0.68-acre area around the

existing boat ramp. Maintenance dredging would continue, as needed, over the next 10 years in the same area to ensure the ramp remains accessible to boats.

Jetty construction would discharge 306 cubic yards of material into 0.04-acres of navigable waters along the north side of the boat ramp. The construction material for the 152-foot long jetty would consist of clean fill, such as wire mesh gabions, concrete blocks, or non-woven fabric filled with sand, rocks, or other heavy non-toxic material. The top of the jetty would extend approximately 7-inches above the high tide.

All work would be performed in accordance with the enclosed plan (15 sheets), dated March 1, 2023.

PROJECT PURPOSE:

Applicant's Purpose: In brief, the Department of Public Work's (DPW's) stated purpose for the project is to remove a safety hazard posed by the deteriorated Sugar Dock, continue to provide an important public boat moorage, restore and maintain access to the public boat ramp, and reduce the frequency of maintenance work required to sustain these facilities.

Corps' *Basic Project* Purpose: public recreation and small vessel access

Corps' *Overall Project* Purpose (basis for the Corps' 404(b)(1) alternatives analysis): To remove a public safety hazard created by the deteriorated dock, continue to provide a public recreational platform, boat ramp, and boat moorage near the southwestern portion of the island, and reduce dredging frequency required to maintain public use at the boat ramp.

AVOIDANCE AND MINIMIZATION MEASURES: The applicant has proposed the following measures to avoid and minimize adverse environmental impacts:

- reconstructing the Sugar Dock to the same dimensions, basic design, and footprint as the existing dock to minimize new disturbance and retain the historical character of the structure;
- relocating the dock culverts further seaward to better facilitate sediment transport under the new dock structure and to reduce the rate of sand accretion in the boat ramp area;
- utilizing only the existing dock structure and roadways for heavy equipment operation where feasible to minimize new disturbance;
- if necessary for heavy crane support, constructing only temporary sand causeways (limited to within proposed dredged areas) to minimize new disturbance;

- limiting the dredge depth and area to dimensions that existed when the boat ramp was operational; and
- constructing a low-profile sand jetty within the proposed dredge area to capture or redirect sand transported with the longshore current to reduce the rate it fills in along the dock and around the boat ramp; minimizing the frequency of dredging required to maintain the boat ramp.

Additionally, the applicant proposes to implement best management practices (BMPs) to further avoid and minimize adverse impacts to waters of the U.S., federally listed threatened and endangered species, historic properties and other environmental resources. See “Additional Information” section at end of Public Notice for details regarding the applicant proposed BMPs.

The applicant did not propose compensatory mitigation for the project.

AUTHORITY: A Department of the Army permit is required pursuant to:

- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) - To perform work in or affecting navigable waters of the United States.
- Section 404 of the Clean Water Act (33 U.S.C. 1344) - Discharge dredged or fill material into waters of the United States. The Corps’ public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413) - Transport dredged material for the purpose of dumping it into ocean waters. The Corps’ public interest review will consider the criteria established under authority of Section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (40 CFR Parts 220 to 229), as appropriate.

WATER QUALITY CERTIFICATION: The proposed action will result in a discharge of dredged or fill material into a water of the U.S. and will require authorization from the Corps in accordance to Section 404 of the Clean Water Act of 1972 (CWA). Under Section 401 of the CWA (Public Law 95-217), the Corps may not issue a permit for the described work until the applicant obtains a certification, or waiver of certification, from the CNMI Division of Environmental Quality. The applicant applied for a Water Quality Certificate on February 21, 2023.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: The proposed activity may affect land or water uses in the Coastal Zone. Under Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), the Corps may not issue a permit for the described work until the applicant obtains a Federal Consistency Concurrence from the CNMI Division of Coastal Resources Management.

HISTORIC PROPERTIES: Pursuant to Section 106 of the National Historic Preservation Act (NHPA), the Corps’ assessment of the project leads us to a preliminary determination that the proposed action might have the potential to cause

effects to historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. Therefore, consultation with the CNMI Historic Preservation Office (HPO) will be conducted independently and in conjunction with this public notice. The applicant is currently engaged with the HPO director and GUMA Architects to conduct archaeological documentation of the dock structure.

ENDANGERED SPECIES: Pursuant to Section 7 of the Endangered Species Act (ESA), federal agencies must consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS) on any action that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered or any designated critical habitat. Based on the project location, the following protected species have the potential to occur near the project location:

Green Sea Turtle, Central West Pacific DPS, (*Chelonia mydas*), Threatened
Hawksbill Turtle (*Eretmochelys imbricata*), Endangered
Scalloped hammerhead shark, Indo-West Pacific DPS, (*Sphyrna lewini*), Threatened
Unnamed coral, (*Acropora globiceps*), Threatened

Preliminary indications are the described activity may affect an endangered or threatened species or its critical habitat. Consultation under Section 7 of the Endangered Species Act of 1973 (87 Stat. 844) will be initiated. A permit for the proposed activity will not be issued until the consultation process is completed.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to The Magnuson-Stevens Fishery Conservation and Management Act (MSA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), which requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect EFH. Preliminary determinations indicate that the described activity will have an adverse effect on EFH. Consultation under MSA is required for the described activity.

FEDERAL EVALUATION OF APPLICATION: 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; among those are wetlands, conservation, economics, aesthetics, general environmental concerns, land use, historic properties, fish and wildlife values, flood hazards, floodplain values, navigation, safety, recreation, shoreline erosion and accretion, water supply and conservation, water quality, energy needs, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

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 evaluate the direct, indirect, and cumulative 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.

PUBLIC HEARING: Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. 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 hearings shall state clearly and concisely, the reasons and rationale for holding a public hearing. The District Commander will then decide if a hearing should be held.

COMMENT AND REVIEW PERIOD: Comments on this Public Notice should be made in writing via conventional mail or e-mail to CEPOH-RO@usace.army.mil and Jason.D.Brewer@usace.army.mil, with the project number POH-2019-00074 in the subject heading. Comments will be made part of the project record and will be considered in determining whether it would be in the public interest to authorize this proposal. Conventional mail comments should be sent to

U.S. Army Corps of Engineers, Honolulu District
Guam Regulatory Field Office, Attn: Jason Brewer
PSC 455, Box 188
FPO AP, 96540

In order to be accepted, all comments whether conventional mail or e-mail should be received by the close of business of the expiration date of this Public Notice.

PRIVACY & CONFIDENTIALITY: It should be noted that materials submitted as part of the permit application become part of the public record and are thus available to the general public under the procedures of the Freedom of Information Act (FOIA). Submissions should not include any information that the submitter seeks to preserve as confidential.

If you have any questions about this project or the permit process, please contact Jason Brewer by telephone: 808-835-4056, or email Jason.D.Brewer@usace.army.mil.

Leah Fisher
Chief, Regulatory Branch

ADDITIONAL INFORMATION: Applicant Proposed BMPs:

1. All objects will be lowered to the seafloor (or installed) in a controlled manner.
2. Project staff will maintain control of construction equipment and materials to prevent dropping materials or other items to the bottom.
3. All vessels will operate at 'no wake' speeds at all times while in water depths where the draft of the vessel provides less than a 2-meter (6 foot) clearance. All vessels will follow deep-water routes (e.g., marked channels) whenever possible.
4. Markers and posts, whether attached to the substrate or mounted to a cinderblock, will only be attached to sandy bottoms or non-living hard substrates to the greatest possible extent. Attachments and tethers will be as short as possible to avoid potential entanglement hazards.
5. With respect to authorizing in-water construction during recognized mass coral spawning events, the applicant proposes to follow the guidelines promulgated in the CNMI Water Quality Certification regulations.
6. Project personnel and contractors will be informed about the presence of endangered species on-site by a qualified biologist.
7. Constant vigilance shall be kept for the presence of ESA-listed species during all aspects of the permitted action.
8. A responsible party, i.e., permittee/site manager/project supervisor, shall designate a competent observer to search/monitor work sites and the areas adjacent to the authorized work area for ESA-listed species.
9. Searches shall be made prior to the start of work each day, including prior to resumption of work following any break of more than one-half hour.
10. All in-water work will be postponed or halted when ESA-listed marine species are within 50 yards of the proposed work and will only begin/resume after the animals have voluntarily departed the area.
11. Project-related personnel shall NOT attempt to disturb, touch, ride, feed, or otherwise intentionally interact with any protected species.
12. Turbidity and sediment from project-related work shall be minimized and contained to the immediate vicinity of the project through the appropriate use of effective sediment containment devices and the curtailment of work during adverse tidal and weather conditions. All silt fences, curtains, and other structures shall be installed properly and maintained in a functioning manner for the life of the construction period and until the impact area is permanently stabilized, self-sustaining, and/or turbidity levels, elevated due to construction, return to ambient levels.
13. Project-related materials and equipment placed in the water will be free of pollutants. The project manager or heavy equipment operators will perform daily pre-work equipment inspections for leaks. All heavy equipment operations will be postponed or halted should a leak be detected and will not proceed until the leak is repaired and equipment cleaned.
14. Appropriate materials to contain and clean potential spills will be stored at the work site and be readily available.

15. Hazardous materials will be properly stored, used, labeled, transported, and disposed.
16. Fueling of land-based vehicles and equipment will take place away from the water, preferably over an impervious surface. Fueling of outboard vessels will be done at land-based gas stations.
17. Fueling of project-related vehicles and equipment will take place away from the aquatic environment and a contingency plan to control petroleum products accidentally spilled during the project will be developed. Absorbent pads and containment booms shall be stored on-site, if appropriate, to facilitate the clean-up of accidental petroleum releases.
18. All construction materials (e.g., rock and concrete blocks, etc.) will be clean and free from containments prior to placing in the marine environment.
19. No project-related materials (fill, revetment rock, pipe, etc.) should be stockpiled in the water (intertidal zone, seagrass beds). This does not include the construction of temporary causeways for construction purposes.
20. The work shall be discontinued during flooding, intense rainfall, storm surge, or high surf conditions where runoff and turbidity cannot be controlled.
21. Heavy equipment will be used from shore or on a temporary construction causeway, not below the High Tide Line.
22. Project-related materials and equipment placed in the water will be free of pollutants. The project manager or heavy equipment operators will perform daily pre-work equipment inspections for leaks. All heavy equipment operations will be postponed or halted should a leak be detected and will not proceed until the leak is repaired and equipment cleaned.
23. Sediment control measures will be installed before work commences. These include land-based silt fences, in-water turbidity curtains, and temporary dewatering basins.
24. With the exception of the actual excavation and dredging equipment apparatus (e.g. clamshell buckets, or the scoop and articulated arm of a backhoe, hydraulic head, etc.), heavy equipment will be operated from above and out of the water. Temporary causeways will be permitted.
25. Construction and demolition debris and green waste will be disposed of at a CNMI Government-approved upland site.
26. The dredge sand material will be temporarily stored at a CNMI Government approved upland site until such time as the Government can decide on how it will be used. The site will be identified during the permit review process by the government.
27. The contractor will prevent litter/trash from the construction site from entering water.
28. All project-related materials (e.g., fill, concrete blocks, rocks, structures, etc.) and equipment (e.g., dredges, backhoes, etc.) authorized to be used or placed in Saipan Lagoon, must be free of invasive plant and animal species.
29. A storm plan will be developed for this effort and implemented.
30. Project structures will be removed once no longer in use.