

PUBLIC NOTICE

US Army Corps of Engineers
Baltimore District
In Reply to Application Number
CENAB-OP-RMN(CNX MARINE TERMINALS
INC/DREDGING)04-60762-1

Comment Period: 11 June 2004 to 11 July 2004

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC ABOUT THE WORK DESCRIBED BELOW. AT THIS TIME, NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED.

The Baltimore District has received an application for a Department of the Army permit pursuant to Section 10 of the River and Harbor Act of 1899, and State authorization pursuant to the Tidal Wetlands Act and/or Nontidal Wetlands Protection Act, as described below:

APPLICANT: *CNX Marine Terminals, Inc.*
Attn: *Mr. Regis Peternel*
3800 Newgate Avenue
Baltimore, MD 21224

LOCATION: Patapsco River, Baltimore City, Maryland

WORK: The applicant proposes to mechanically dredge an approximately 90.5-acre area to 42 to 50 feet below mean low water at an existing marine terminal, and to deposit the approximately 1.8 million cubic yards of dredged material at an approved disposal site. The purpose of the project is to improve navigable access to the terminal. A permit for this project would authorize periodic maintenance dredging subject to the prior notification of the District Engineer.

Essential Fish Habitat (EFH) Assessment: The Magnuson-Stevens Fishery Conservation Act (MFFCA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), 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. The EFH designations within the Northeast Region (Maine to Virginia), dated March 1, 1999, include EFH for a number of species in various life stages. A review of the appropriate literature indicates that this waterway has EFH listed for a number of species in various life stages. A review of the appropriate literature indicates that this waterway has EFH listed for juvenile and adult windowpane flounder (*Scopthalmus aquosus*), summer flounder (*Paralichthys dentatus*), and bluefish (*Pomatomus saxitilis*); egg, larva, juvenile, and adult life stages of king mackerel (*Scomberomorus cavalla*), Spanish mackerel (*Scomberomorus maculatus*), cobia (*Rachycentron canadum*), and red drum (*Sciaenops ocellatus*). These are managed species under the MSFCMA. A preliminary assessment indicates that the proposed project would have minimal impact on EFH based on the impacts associated with the proposed dredging. The aforementioned species are not resident species, but could use the project area as a foraging area on a seasonal basis, primarily during the summer. The project has the potential to minimally adversely affect the managed species and/or their EFH quality and/or quantity, and their prey species. No EFH measures have been developed for this project. As the evaluation of this project continues, EFH measures may be developed.

All work is to be completed in accordance with the enclosed plan(s). If you have any questions concerning this matter, please contact *Mr. Jon Romeo* at (410) 962-6079.

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 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 and fiber production, 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 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.

The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act from the Maryland Department of the Environment. Any written comments concerning the work described above which relate to water quality certification must be received by the Standards and Certification Division Maryland Department of the Environment, Montgomery Park Business Center, 1800 Washington Boulevard, Suite 430, Baltimore, Maryland 21230-1708 within the comment period as specified above to receive consideration. Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the District Engineer, US Army Corps of Engineers, Baltimore District, PO Box 1715, Baltimore, Maryland 21203-1715, within the comment period as specified above to receive consideration. The 401 certifying agency has a statutory limit of one year to make its decision.

The applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with the Maryland Coastal Zone Program. This certification statement is available for inspection in the District Office; however, public comments relating to consistency must be received by the Coastal Zone Division, Maryland Department of the Environment, Montgomery Park Business Center, 1800 Washington Boulevard, Suite 430, Baltimore, Maryland, 21230-1708, within the comment period as specified above. It should be noted that CZ Division has a statutory limit of 6 months in which to make its consistency determination.

The applicant must obtain any State or local government permits which may be required.

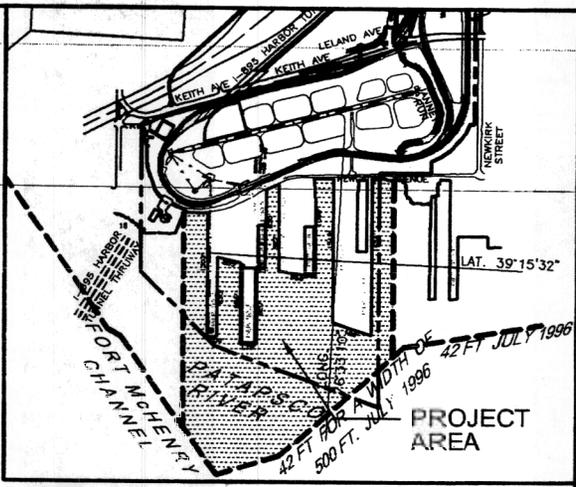
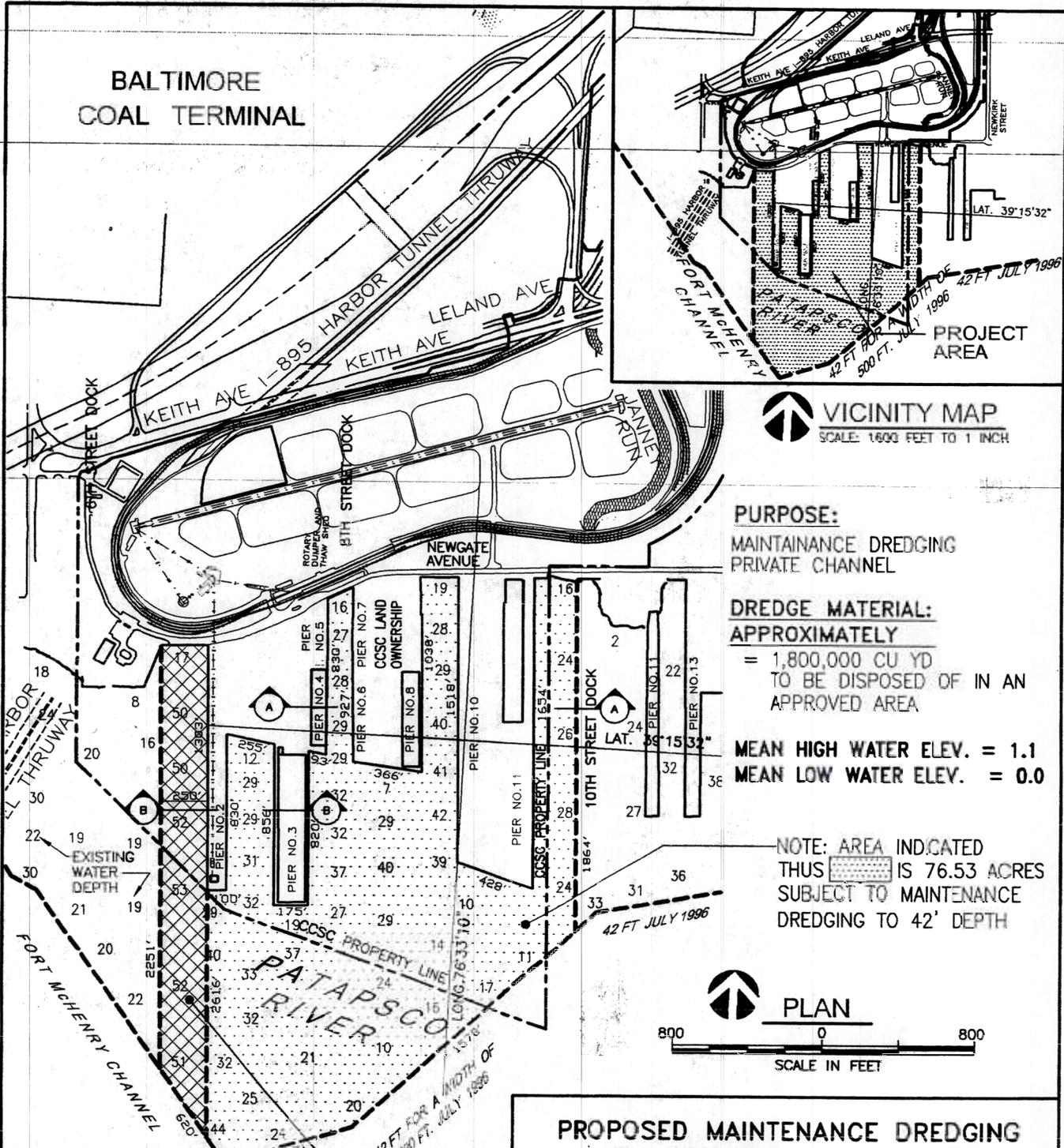
A preliminary review of this application indicates that the proposed work will not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

Review of the latest published version of the National Register of Historic Places indicates that no registered properties listed as eligible for inclusion therein are located at the site of the proposed work. Currently unknown archeological, scientific, prehistoric, or historical data may be lost or destroyed by the work to be accomplished under the requested permit.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act. Any person who has an interest which may be adversely affected by the issuance of this permit may request a public hearing. The request, which must be in writing, must be received by the District Engineer, US Army Corps of Engineers, Baltimore District, PO Box 1715, Baltimore, Maryland 21203-1715, within the comment period as specified as above to receive consideration. Also, it must clearly state forth the interest which may be adversely affected by this activity in the manner in which the interest may be adversely affected.

It is requested that you communicate the foregoing information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice.

**BALTIMORE
COAL TERMINAL**



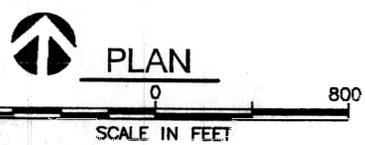
VICINITY MAP
SCALE: 1600 FEET TO 1 INCH

PURPOSE:
MAINTAINANCE DREDGING
PRIVATE CHANNEL

DREDGE MATERIAL:
APPROXIMATELY
= 1,800,000 CU YD
TO BE DISPOSED OF IN AN
APPROVED AREA

MEAN HIGH WATER ELEV. = 1.1
MEAN LOW WATER ELEV. = 0.0

**NOTE: AREA INDICATED
THUS [stippled box] IS 76.53 ACRES
SUBJECT TO MAINTENANCE
DREDGING TO 42' DEPTH**

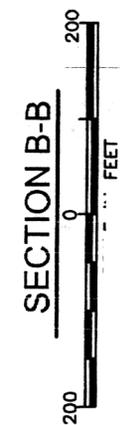
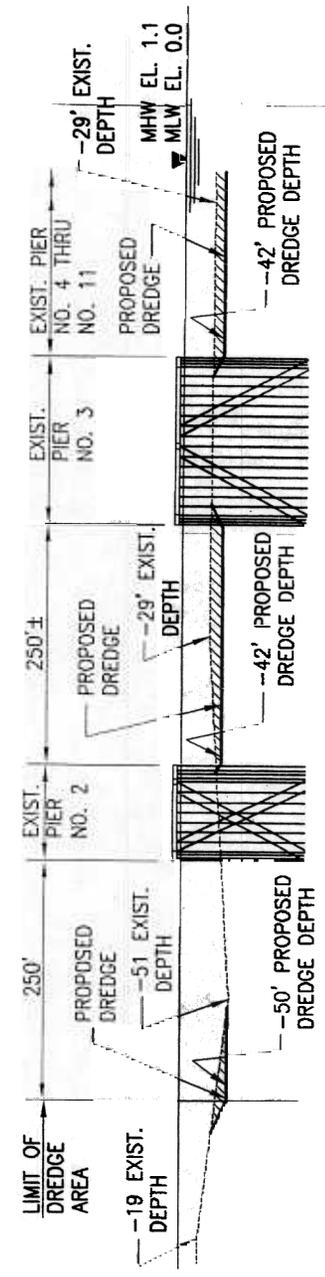
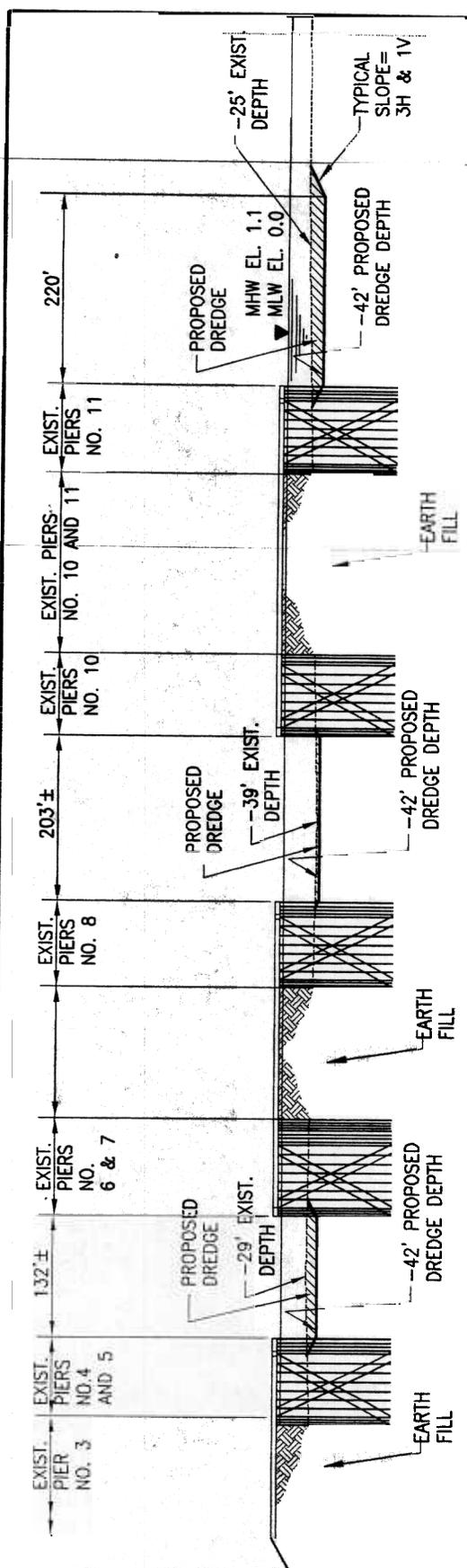


**NOTE: AREA INDICATED
THUS [hatched box] IS 13.95 ACRES
SUBJECT TO MAINTENANCE
DREDGING TO 50' DEPTH**

CENTURY ENGINEERING, INC.
CONSULTING ENGINEERS - PLANNERS
32 WEST ROAD
TOWSON, MARYLAND 21204

**PROPOSED MAINTENANCE DREDGING
FOR CNX MARINE TERMINALS
IN PATAPSCO RIVER
BALTIMORE CITY MARYLAND**

APPLICATION BY CNX MARINE TERMINALS
3800 NEWGATE AVENUE BALTIMORE, MD 21224
SHEET 1 OF 2 #24057.01 DATE: 5-12-04



**PROPOSED MAINTENANCE DREDGING
FOR CNX MARINE TERMINALS
IN PATAPSCO RIVER
BALTIMORE CITY**

MARYLAND

APPLICATION BY CNX MARINE TERMINALS
3800 NEWGATE AVENUE

BALTIMORE, MD 21224