U.S. ARMY CORPS OF ENGINEERS, NEAH BAY SECTION 107 NAVIGATION IMPROVEMENT PROJECT NEAH BAY, WASHINGTON, WASHINGTON

Interested parties are hereby notified that the U.S. Army Corps of Engineers, Seattle District (USACE) plans to dredge an entrance channel into Neah Bay, Clallam County, Washington. The dredging and disposal operation is described below, and the location of the proposed dredging is shown on the attached figures. USACE has prepared, pursuant to the National Environmental Policy Act, a draft Feasibility Report/Environmental Assessment (FR/EA) and draft Finding of No Significant Impact to address the potential environmental impacts associated with the proposed action. The purpose of this Public Notice is to solicit comments from interested persons, groups, and agencies on USACE’s proposal for dredging and disposal of dredged material into the waters of the U.S.

This Public Notice is being issued under Section 404 of the Clean Water Act and in accordance with rules and regulations published as 33 CFR 335 “Operation and Maintenance of Army Corps of Engineers Civil Works Projects Involving the Discharge of Dredged or Fill Material into Waters of the U.S. or Ocean Waters”; 33 CFR 336 “Factors to be Considered in Evaluation of Army Corps of Engineers Dredging Projects Involving the Discharge of Dredged Material into Waters of the U.S. and Ocean Waters”; 33 CFR 337 “Practice and Procedure”; and 33 CFR 338 “Other Corps Activities Involving the Discharge of Dredged Material or Fill into Waters of the U.S.”

AUTHORITY
This project is authorized under the Continuing Authorities Program, section 107 of the River and Harbor Act of 1960, 33 USC 577, as amended, which provides authority for USACE to partner with non-federal sponsors to construct small river and harbor improvement projects “which will result in substantial benefits to navigation and which can be operated consistently with appropriate and economic use of the waters of the Nation for other purposes, when in the opinion of the Chief of Engineers such work is advisable, if the benefits are in excess of the cost.”

LOCATION
Neah Bay, part of the Makah Indian Reservation (also known as the Makah Reservation), is located on the northwest tip of the Olympic Peninsula in Clallam County, Washington (Figure 1). Neah Bay is a protected, semi-enclosed waterway connected to the Strait of Juan de Fuca. The following four Federal projects are present within the study area: (1) an outer breakwater built by USACE in 1944, (2) a revetment running from the U.S. Coast Guard station to the Agency Creek Confluence built in the 1960’s, (3) an inner breakwater, and (4) an entrance
channel to the marina built in 1996. After the construction of the inner breakwater the Tribe constructed the marina facility behind the breakwater. The marina is primarily used for commercial and recreational fishing vessels. The study area includes the natural navigation channel that enters Neah Bay on the eastern edge of the Bay and the dredged material placement area along the southern shoreline between the USCG dock and the “old tribal fish processing” dock (Figure 2).

**PROPOSED PROJECT**
If the recommended plan is implemented, USACE will dredge up to 36,000 cubic yards of material from the entrance channel and place it along the shoreline to the south of the channel (Figure 3). Material placement is considered a beneficial use as it will restore beach and intertidal habitat to an area that is currently subtidal due to substantial downgrading caused by shoreline armoring and lack of sediment input from tributary streams that have been cut off by roads. Dredging will be done with a hydraulic dredge during the designated work window of 16 July through 15 February. The dredge material is expected to be suitable for beneficial use/unconfined aquatic disposal based on the project’s remote location and low development in the area. USACE’s Dredge Materials Management Program (DMMP) determined that subsequent sampling and testing of material will be required to determine suitability of the material in accordance with DMMP standards. The DMMP recommends that minimal grain size/total organic carbon sampling be done to confirm exclusion from more rigorous testing. This will be done during the project engineering and design (PED) phase. USACE will follow the DMMP process to see if further testing of the sediment is warranted. If testing indicates the sediment is not suitable for beneficial use, then other disposal options will be evaluated. USACE does not anticipate that maintenance dredging will be needed after the initial channel deepening because Neah Bay is a closed system with little to no sediment input.

**PROJECT PURPOSE**
The study investigates transportation cost savings opportunities in Neah Bay that could result in National Economic Development (NED) benefits consistent with protecting the natural environment. The current Neah Bay fleet consists of vessels of drafts ranging from shallower draft (8-foot) fishing vessels to deeper draft (17.5 feet) emergency response vessels. Depending on the wave and wind conditions, emergency vessels with drafts greater than 15 feet need to leave the Neah Bay basin to maintain emergency response readiness when tides get below + 0.5-1 feet MLLW, which currently happens approximately 200 days a year. Under RCW 88.46.135 the State of Washington requires that an emergency rescue tug be permanently stationed at Neah Bay. The scope of the study is restricted geographically to Neah Bay due to this requirement and its proximity to the entrance of the Strait of Juan de Fuca, which makes it optimal for timely response to distressed vessels and oil spills.

**ENVIRONMENTAL AND CULTURAL RESOURCES COMPLIANCE**
A Draft FR/EA and Clean Water Act, Section 404(b)(1) Analysis have been prepared for this action and are posted online under the name “Neah Bay Navigation Improvement Project” at the following website:

http://www.nws.usace.army.mil/Missions/Environmental/Environmental-Documents/.

The public comment period for the Draft FR/EA is concurrent with the comment period for this Public Notice. Once complete, the Final FR/EA will be posted and available on the Seattle District website listed above.

USACE has prepared a Biological Assessment (BA) for the project that evaluates potential effects to threatened and endangered species pursuant to Section 7(a)(2) of the ESA. USACE has determined that the proposed work has the potential to affect several species and formal consultation under Section 7 of the Act was requested. The BA was submitted to the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) on 4 April 2018. USACE received a letter of concurrence from the USFWS for species under their jurisdiction on June 21, 2018. USACE received a Biological Opinion (BiOp) from NMFS for species under their jurisdiction on March 29, 2019. NMFS did not agree with USACE’s determinations for Puget Sound Chinook and steelhead, and Hood Canal summer chum; and they determined the action was “likely to adversely affect” these species. The BiOp issued an incidental take statement, and reasonable and prudent measures with associated terms and conditions to minimize take. USACE will comply with all the terms and conditions.

An essential fish habitat (EFH) determination for the dredging and placement of materials for the Neah Bay channel deepening is included in the Biological Assessment submitted to NMFS. USACE has made a determination that the action may adversely affect EFH. USACE received a concurrence with its determination from NMFS on March 29, 2019 which included recommended conservation measures to minimize and/or avoid adverse impacts to EFH into the project design and construction methods to the extent practicable. USACE will incorporate five of the recommended conservation measures issued by NMFS to reduce potential impacts to EFH. USACE will not incorporate a sixth conservation measure to conduct annual monitoring of submerged aquatic vegetation and forage fish due to the labor intensity and cost of collecting such data.

USACE has been coordinating with the USFWS regarding the proposed action to comply with Fish and Wildlife Coordination Act (FWCA). USFWS has determined that a planning aid letter/memo is sufficient to meet the requirements of FWCA. USACE received a draft PAL on April 19, 2019, attached in Appendix D of the draft FR/EA. USACE has responded to the recommendations and/or minimization measures in the draft PAL. These responses can be found in section 6.6 of the FR/EA.

Any project that involves placing dredged or fill material in waters of the United States or wetlands, or mechanized clearing of wetlands requires a water quality certification under section 401 of the Clean Water Act (CWA) from the state agency as delegated by the U.S. Environmental Protection Agency (EPA). For Neah Bay, the EPA has determined that the delegated authority is the Makah Tribe for portions of the project that fall above Mean Low
Water (MLW) and Washington Department of Ecology (WDOE) for the portions of the project that fall below MLW. USACE has coordinated with both the Makah Tribe and WDOE, and will obtain a water quality certification (WQC) with both entities prior to construction when the project is at a higher level of design (typically 65%). USACE prepared a 404(b)(1) evaluation to document findings regarding this project pursuant to Section 404 of the CWA, attached in Appendix D of the FR/EA. No wetlands would be affected by the project. USACE has determined that the proposed work is consistent to the maximum extent practicable with the enforceable policies of the approved Washington Coastal Zone Management Program and will provide this determination to Ecology for their review. The Coastal Zone Management Act Consistency Determination is in appendix D of the draft FR/EA.

No cultural resources have been identified within either the navigation channel, turning basin or beach nourishment area. USACE has consulted with the Tribal Historic Preservation Officer (THPO) of the Makah Indian Tribe. The Makah Tribe has assumed the responsibilities of Section 106 on Tribal land. On April 5, 2018 USACE sent a letter to the THPO for the Makah Indian Tribe. The letter described the project and provided USACE’s determination of finding of no historic properties affected for the project (Appendix D of the draft FR/EA). Prior to sending the letter a phone conversation occurred with the THPO. The THPO stated that she was aware of the project and that emailing the consultation letter would be preferred. To date no comment has been received from the THPO.

PUBLIC INTEREST EVALUATION
The decision to proceed with this disposal of dredged material will be preceded by a determination of whether the proposed activity would be in the public interest. All factors which may be relevant to the proposal’s public interest will be considered; among those are navigation and the Federal standard for dredged material disposal; water quality; coastal zone consistency; wetlands; endangered species; historic resources; scenic and recreation values; fish and wildlife; marine sanctuaries; applicable state/regional/local land use classifications, determinations, and/or policies; conservation; economics; shoreline erosion and accretion; safety; and considerations of property ownership.

As a foundation for its public interest determination USACE will consider, on an equal basis, all alternatives that are both reasonable and practicable, i.e., available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. USACE typically selects the alternative that represents the least costly alternative, constituting the discharge of dredged or fill material into waters of the United States in the least costly manner and at the least costly and most practicable location, that is consistent with sound engineering practices, and that meets the environmental standards established by the Clean Water Act, Section 404(b)(1) evaluation process.

PUBLIC HEARING
Any person may request, in writing and within the comment period specified in this Public Notice, that a public hearing be held to consider this proposal. Requests for a public hearing must clearly set forth the following: the interest that may be affected, the manner in which the interest may be affected by this activity, and the particular reason for holding a public hearing regarding this activity.
COMMENT AND REVIEW PERIOD
USACE is soliciting comments from the public; Native American Nations or tribal governments; Federal, State, and local agencies and officials; and other interested parties to consider and evaluate the effects of this activity. To make this decision, comments are used to assess impacts on ESA-listed species, historic properties, water quality, general environmental effects, and other public interest factors listed above. The proposed discharge will be evaluated for compliance with guidelines promulgated by the EPA under authority of Section 404(b)(1) of the Clean Water Act. Comments will also be considered in determining whether it would be in the public interest to proceed with the proposed project. USACE will consider all submissions received before the expiration date of this notice. The nature or scope of the proposal may be changed upon consideration of the comments received. USACE will initiate an Environmental Impact Statement (EIS), and afford the appropriate public participation opportunities attendant to an EIS, if significant effects on the quality of the human environment are identified and cannot be mitigated.

Conventional mail or e-mail comments on this Public Notice will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize this proposal. Submitted comments should include the public notice number on the subject line. The comment must include the commentator’s name, address, and phone number. All comments whether conventional mail or e-mail must reach this office no later than the expiration date of this public notice to ensure consideration. The nature or scope of the proposal may be changed upon consideration of the comments received.

Requests for additional information should be directed to Mr. Daryl Downing, Project Manager at (206) 764-3350 or via email at Daryl.S.Downing@usace.army.mil.

All e-mail comments should be sent to Chemine.R.Jackels@usace.army.mil. Conventional mail comments should be sent to: Mrs. Chemine Jackels (CENWS-PMP-E), U.S. Army Corps of Engineers, Post office Box 3755, Seattle, Washington 98124-3755. All comments received will become part of the administrative record and are subject to public release under the Freedom of Information Act including any personally identifiable information that is submitted such as names, phone numbers, and addresses.
Figure 1. Vicinity Map of Neah Bay
Figure 2. Study area with Navigation Features
Figure 3. Proposed Dredging and Placement Footprint