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Newport Dredging Project and Confined Aquatic Disposal (CAD) Facility Put On Hold as Environmental Impact Is Reconsidered

The U.S. Army Corps is considering reevaluating the project's environmental impacts after Orange County Coastkeeper filed a lawsuit challenging its previous reviews.

Newport Beach, June 5, 2023 -- The United States Army Corps of Engineers (the Corps) has halted the dredging of Lower Newport Bay and construction authorization for the City of Newport Beach's (the City's) Confined Aquatic Disposal (CAD) facility. The Corps put these actions on hold after Orange County Coastkeeper (Coastkeeper) [filed a lawsuit](#) challenging the Corps' failure to fully analyze these actions under the National Environmental Policy Act (NEPA) and Endangered Species Act (ESA).

Initially, the Corps was required to respond to the lawsuit by June 16, 2023. However, to allow the Corps additional time to consider revisiting its NEPA and ESA compliance, the parties agreed to extend that deadline to July 12, 2023, with the Corps agreeing to temporarily halt dredging activities and authorization to construct the CAD facility. The parties filed the stipulation memorializing their agreement in the United States District Court on May 31, 2023.

The postponed project is a collaborative effort between the Corps and the City. As the project currently stands, the Corps will dredge the federal channels in Newport Bay to address underwater sediment buildup that could eventually impact vessel navigability. Then, dredged material deemed unsuitable for open ocean disposal due to elevated levels of contaminants such as mercury and polychlorinated biphenyls (PCBs) would be permanently stored in a CAD facility constructed by the City within Lower Newport Bay. At the CAD, this contaminated sediment would be covered with additional layers of less polluted sediment to try and prevent it from reentering the wider environment.

Coastkeeper believes that further environmental review of the proposed dredging and CAD facility construction would result in a revised plan that would better consider the health of the coastal ecosystem.

“Our goal is not to stall the channel's necessary dredging or demand the contaminated material be disposed of outside Newport Bay,” **said Garry Brown, Founder and President of Orange County Coastkeeper.** “However, the project in its current state is not thorough enough to ensure the safety of Newport's waters, wildlife, and human population. We hope this extension gives the Corps the time to research and realize the project's need for additional environmental review.”

Under the ESA, the Corps was obligated to consult with National Oceanic and Atmospheric Administration Fisheries (also known as NOAA Fisheries or the National Marine Fisheries

Service) and the U.S. Fish and Wildlife Service (FWS) about the project's effects on certain protected species. NOAA Fisheries contacted the Corps on April 13, 2022, regarding its concerns over the project's potential impacts on green sea turtles, a species present in many Southern California waterways rich in seagrass, like Newport Bay. NOAA Fisheries' concerns were never addressed. It is Coastkeeper's understanding that FWS has not had the opportunity to provide its input at all.

Through the NEPA public comment process, Coastkeeper notified the Corps of its failure to adequately consider, among other things:

1. Project alternatives, such as remediation.
2. A thicker interim cap layer to better protect against the escape of toxic pollutants.
3. Impacts on marine mammals, including dolphin species known to enter Newport Bay.

The Corps did not consider these comments before drafting its final Environmental Assessment and Finding of No Significant Impact and approving the project.

Coastkeeper eagerly awaits the Corps' decision on whether or not to revisit the project's ESA and NEPA compliance. For the safety of California's coastal waters, Coastkeeper is hopeful that the Corps will reconsider the environmental impacts of its dredging project and CAD facility construction. If the Corps decides not to conduct additional environmental review, Coastkeeper will proceed with its litigation.

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ABOUT ORANGE COUNTY COASTKEEPER: Orange County Coastkeeper is a member of [Waterkeeper Alliance](#), which supports over 350 different independent programs across 47 countries. Founded in 1999, the mission of Coastkeeper is to protect swimmable, drinkable, fishable water and promote watershed resilience throughout our region. Coastkeeper is a nonprofit clean water organization that serves as a proactive steward of our fresh- and saltwater ecosystems. Coastkeeper addresses water issues impacting Riverside and San Bernardino counties through our Inland Empire Waterkeeper and Coachella Valley Waterkeeper programs. We work collaboratively with diverse groups in the public and private sectors to achieve healthy, accessible, and sustainable water resources for the region. We implement innovative, effective programs in education, advocacy, restoration, research, enforcement, and conservation. For more information, visit www.coastkeeper.org or call 714-850-1965.