



US Army Corps
of Engineers®
Buffalo District

FACT SHEET

October 2012

Cleveland-Cuyahoga Port Authority, Department of the Army Permit Processing No. 1999-01471(4)

Section 10 of the Rivers and Harbors Act
Regulatory

Location

- Cleveland Harbor, City of Cleveland, Cuyahoga County, Ohio

Project Description

- Proposed dredging of 15,000 cubic yards of material for access to the Cleveland Bulk Terminal

Congressional Interests

- Representative Marcia Fudge D-OH-11
- Representative Dennis Kucinich D-OH-10
- Senator Rob Portman R-OH
- Senator Sherrod Brown D-OH

Project Sponsor/Customer

- Cleveland-Cuyahoga Port Authority

Project Manager

- Mark Scalabrino, (716) 879-4327

Current Status

The Corps circulated a near final draft Memorandum of Agreement (MOA) to the consulting parties on 3 August 2012 for a 14 day comment period. The draft MOA would require that a bucket and leg from a Hulett ore unloader be relocated to the Great Lakes Science Center and incorporated into a museum display in the steamship William G. Mather. The MOA would also require the Cleveland-Cuyahoga County Port Authority to convene a working group for the purpose of formulating a plan for public display of the second Hulett ore unloader. Comments received from consulting parties pertained primarily to the sequencing of events and order of preference of the mitigation requirements.

Issues

Historic properties

Path Forward

A teleconference with the signatories to discuss the draft MOA will be scheduled. The draft MOA may require revision following this meeting to address the concerns of the consulting parties. The Section 106 consultation process will conclude when the Corps, Ohio Historic Preservation Office, Advisory Council on Historic Preservation (ACHP), and applicant sign an MOA. After the MOA is signed, the Corps can complete its environmental assessment and make a final permit decision.

Background

The Cleveland-Cuyahoga Port Authority submitted an application to dredge approximately 15,000 cubic yards of material from an area adjacent to the Cleveland Bulk Terminal dock face in Cleveland Harbor. The Cleveland Bulk Terminal is a property listed in the National Register of Historic Places. The Buffalo District issued a permit for this project in 1999; however, the permit was subsequently revoked as a result of the U.S. District Court's decision which found procedural errors in the evaluation of impacts to historic properties. Historic properties include the Hulett cargo unloaders, the power house, the machine shop and the shunt engines. All items were destroyed or removed from the property except for two of the four Huletts which were dismantled and stored. The "Save the Huletts" organization is dedicated to the preservation and reassembling of the Hulett cargo unloaders and has been very active in this matter. The current application is a re-submittal of the previous dredging proposal. A public notice for this application was published on 3 March 2006, and expired on 1 April 2006. The Buffalo District determined that the proposed dredging is part of a larger expansion project at the Cleveland Bulk Terminal and that the expansion has had an adverse effect on historic properties. Several historic preservation societies

responded to the public notice and requested consulting party status pursuant to Section 106 of the National Historic Preservation Act (NHPA). As a result, the project is being coordinated with the consulting parties in order to resolve adverse effects to historic properties before a final permit decision is made. The ACHP determined that it will participate in the consultation process, and further recommended that the Corps determine if Section 110(k) NHPA applies to this undertaking. Section 110(k) prohibits a Federal agency from granting a permit to an applicant who has significantly adversely affected a historic property with the intent to avoid Section 106 NHPA consultation. A meeting was held with the applicant on 18 December 2006 to discuss the consultation process and possible mitigation measures for the historic properties. Another meeting was held on 21 February 2007 to further discuss mitigation possibilities with the applicant and the consulting parties. On 8 June 2007, the Corps determined that Section 110(k) applies to this undertaking; however, the Corps recommended that Section 106 consultation continue with the development of a MOA to resolve adverse effects to the historic properties. This determination was sent to the ACHP for their concurrence. In a letter dated 6 August 2007, ACHP responded that they concur with the Corps' 110(k) NHPA determination; however, the ACHP did not necessarily agree with, but respected, the Corps' decision to continue with the historic properties consultation process. An additional consulting party meeting was held on 12 October 2007 to further discuss mitigation measures for the historic properties and several proposed Memoranda of Agreement. The applicant did not submit the draft MOA, which they had agreed to do during a 12 October 2007 meeting, until 15 June 2010. The Corps forwarded the draft MOA to consulting parties on 15 July 2010 and requested comments by 20 August 2010. The Corps conducted a consulting parties meeting on 4 November 2010 to discuss the historic properties mitigation options outlined in the Port Authority's 15 June 2010 submittal. Of the options discussed, the Port Authority's proposal to permanently display the leg and bucket from one Hulett in the cargo hold of the Great Lakes Science Center's steamship William G. Mather appears to hold the greatest potential for implementation. The Corps completed a draft Section 106 consultation summary document and distributed it to the consulting parties on 22 July 2011. The summary document recommended that the proposal to incorporate a "bucket" and "leg" from one of the Hulett's ore unloaders at the Great Lakes Science Center be included in the MOA. The Corps circulated a draft MOA on 8 February 2012, conducted a consulting party meeting on 22 March 2012, and circulated another draft MOA on 27 April 2012 to further evaluate this option.



Photo Credit: Jerry Mann

