

**Burns Waterway Harbor  
Maintenance Dredging and Placement**

**Indiana**

**Environmental Assessment  
Attachment 5 – Agency and Public Comment**



U.S. Army Corps of Engineers  
Chicago District

March 2020

# Town of Ogden Dunes

115 Hillcrest Road  
Ogden Dunes, Indiana 46368  
219-762-4125



January 23, 2020

John T. Belcik  
Chicago District, United States Army Corps of Engineers  
231 S. LaSalle Street, Suite 1500  
Chicago, Illinois 60604  
SENT VIA EMAIL to [john.t.belcik@usace.army.mil](mailto:john.t.belcik@usace.army.mil)

Dear Mr. Belcik,

This letter is the Town of Ogden Dunes input in regard to your December 20, 2019 letter on the proposed dredging placement of clean littoral material from the Burns Waterway Harbor in Portage Township, Indiana.

## **Area Cause and Effect**

It is well documented by the U.S Army Corps of Engineers (USACE), National Park Service (NPS) and Indiana Department of Natural Resource (IDNR) that the Burns Waterway Harbor blocks the natural east to west littoral flow which has resulted in sand accretion to the east of the harbor and sand-starvation and erosion at the Portage Lakefront and the Ogden Dunes beach to the west of the harbor. The sand-starvation has *“left habitat in the parkland and sheet-pile seawalls at private properties vulnerable to significant storm damage.”*<sup>i</sup> (emphasis added). The erosion at Ogden Dunes has continued to move west over the years.

## **Prior on Beach Placement and Littoral flow**

Since the construction of the Burns Waterway Harbor the shoreline suffered from severe erosion in the mid-1980s and mid-1990s. It was partially restored by placement of sand directly on the beach of 126,000 CY in 1984/85 and 143,000 CY in 2000.<sup>ii</sup> A previous USACE Monitoring report found that, *“This material was placed during a time of extremely high water levels. It proved to be very effective at protecting the vulnerable East End of Reach 3.”*<sup>iii</sup> (emphasis added).

The material from the 2000 on beach placement at the Portage Lakefront has not been replenished and is now gone. The situation is again dire.

Recent USACE dredging have been placed near-shore at the east end of the near shore placement area. Based on observations, this material seems to flow to west and begins to provide beach nourishment in the middle of Ogden Dunes. It does not appear to significantly address the sand starvation issues at the Portage Lakefront or the east end of Ogden Dunes.

## **USACE Consent Decree**

The sand placed in front of the Portage Lakefront has been mobilized into the littoral flow and is now gone. We ask that the USACE follow the 1984 consent decree and seek to secure funding for on beach nourishment and place new dredging on the Portage Lakefront Beach.

## **Emergency Declarations**

The Town of Ogden Dunes and the City of Portage both declared emergencies in December 2019 and January 2020 along the shore due to the erosion and storm damage and ongoing dangerous conditions. The Portage pavilion structure has suffered failures and the Town of Ogden Dunes has suffered failure in a portion of the

sheet-pile wall. Placement of littoral material on the beach would help to reduce the impact of storms and the on-going sand starvation.

### **Lake Michigan Costal Program (LMCP)**

The LCMP identifies the Burns International Harbor Complex as a “total littoral barrier” and that the area immediately west of the Burns Small Boat Harbor has the highest erosion conditions to the shoreline in Indiana. The plan also has determined that this area does not fit into the ‘let nature take its course’ philosophy. We believe on beach nourishment on the Portage Beach is one mitigation approach that will be an improvement over the current approach by providing additional protection to the Portage Lakefront and the east end of Ogden Dunes.

### **Cultural and Social Resources**

Our understanding from the NPS is that the Portage Lakefront is one of the most visited sited in the Indiana Dunes National Park (IDNP). This site is an icon for the IDNP and the City of Portage and it has been closed repeatedly following the seating area collapse in 2018 and due to ongoing dangerous conditions. The pavilion is at risk of further loss if nothing is done. We believe on beach nourishment on the Portage Beach is one mitigation approach that will help to protect the pavilion for future generations.

### **Indiana Code**

In 2018, The Indiana General Assembly passed I.C. 14-29-3-3 requiring any sand that is dredged from the bed of Lake Michigan must be returned to the beach. It appears that much if not all the work areas will be from the bed of Lake Michigan and should be returned to the beach for the material that is not contaminated by IDEM standards.

### **Urgency and Desired Placement Location**

Give the dire situation at the Portage Lakefront and Ogden Dunes and for the reasons stated above, the Town of Ogden Dunes requests that the first zone for placement be on the beach at the Portage Beach. Once the Portage Beach placement area is full, we request the second zone for placement to be as much to the east as possible on the beach at the Ogden Dunes Beach. Given littoral flow, placing sand as much to the east as possible on the beach is desired since it will mobilize and move toward the west over time.

Sincerely,



Scott Lehmann  
Ogden Dunes Town Council

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i Burns Waterway Harbor, Indiana Shoreline Damage Mitigation Reconnaissance Study, US Army Corps of Engineers, December 2010, page 6.  
ii USACE sediment budget analysis, 2012, page 44.

# Town of Ogden Dunes

115 Hillcrest Road  
Ogden Dunes, Indiana 46368  
219-762-4125



April 8, 2020

John T. Belcik  
Chicago District, United States Army Corps of Engineers  
231 S. LaSalle Street, Suite 1500  
Chicago, Illinois 60604  
SENT VIA EMAIL to [john.t.belcik@usace.army.mil](mailto:john.t.belcik@usace.army.mil)

Dear Mr. Belcik,

This is the Town of Ogden Dunes response to your March 6, 2020 letter requesting comments on the proposed dredging placement of clean littoral material from the Burns Waterway Harbor in Portage Township, Indiana.

We were surprised to review the Environmental Assessment and find that the USACE concluded that offshore dredging placement does not work and yet the USACE plans to continue the practice and has concluded there is no significant impact on the environment.

The USACE conducted two site visits in March to Ogden Dunes to assess the damage caused by sand starvation and the ineffective beach nourishment approach. The damage at the Portage Lakefront and Ogden Dunes is not consistent with a FONSI. We ask that the USACE reconsider and find that sand must be placed on the beach.

## **Offshore dredging placement does not work**

The March 2020 USACE Environment Assessment finds that placing dredge material offshore is not effective.

### **“4.1.2 – No Deviation from Historical Activities**

Under the No Deviation Alternative, USACE would dredge clean littoral sands from the Burns Waterway Harbor Approach Channel and Dredge Maintenance Area and continue to place the materials in the near shore littoral area adjacent to Ogden and Portage beaches. ***This would allow commercial navigation to continue, but would not provide any materials to reduce ongoing beach and shoreline erosion occurring along the beaches at Ogden Dunes and Portage. Shoreline erosion would continue to affect those communities and their resources.***” Page 33, March 2020 USACE Environment Assessment (emphasis added).

The January 24, 2020 US Fish and Wildlife Service (USFWS) comment letter on USACE dredging placement location finds offshore placement is not effective.

“For approximately 25 years, various materials dredged from the Federal projects and from the NIPSCO BGS water intake have been placed on or near the beaches at Portage Lakefront Park and Ogden Dunes, but erosion has continued...

***Based upon the documents that we reviewed, it appears that this offshore sand placement does little to help the areas experiencing the most severe erosion... Therefore, we request that the clean sands be placed directly upon the Portage Lakefront Park beach, with any additional sands also placed on the Ogden Dunes beach.*** (emphasis added).

Ogden Dunes observations agree with the USACE and USFWS findings that the offshore placement of sand does little or nothing to address the severe erosion due to man-made sand starvation at the Portage Lakefront beach and the east portion of the Ogden Dunes beach.

### **Area Cause and Effect**

It is well documented by the U.S Army Corps of Engineers (USACE), National Park Service (NPS) and Indiana Department of Natural Resource (IDNR) that the Burns Waterway Harbor blocks the natural east to west littoral flow which has resulted in sand accretion to the east of the harbor and sand-starvation and erosion at the Portage Lakefront and the Ogden Dunes beach to the west of the harbor. The sand-starvation has *“left habitat in the parkland and sheet-pile seawalls at private properties vulnerable to significant storm damage.”*<sup>i</sup> (emphasis added). The erosion at the Portage Lakefront and Ogden Dunes has continued to move west over the years.

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### **Lake Michigan Coastal Program (LMCP)**

The LCMP identifies the Burns International Harbor Complex as a “total littoral barrier” and that the area immediately west of the Burns Small Boat Harbor has the highest erosion conditions to the shoreline in Indiana. The plan also has determined that this area does not fit into the ‘let nature take its course’ philosophy. We believe on beach nourishment on the Portage Beach is one mitigation approach that will be an improvement over the current approach by providing additional protection to the Portage Lakefront and the east end of Ogden Dunes.

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Sincerely,



Rodger Howell  
Beach Nourishment and Protection Committee  
Town of Ogden Dunes

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- i Burns Waterway Harbor, Indiana Shoreline Damage Mitigation Reconnaissance Study, US Army Corps of Engineers, December 2010, page 6.
  - ii USACE sediment budget analysis, 2012, page 44.
  - iii Burns Waterway Small Boat Harbor Monitoring Program, 5th Annual Report, November 1995, page 21.



April 9, 2020

Mr. John Belcik  
U.S. Army Corps of Engineers  
231 South LaSalle Street, Suite 1500  
Chicago, IL 60604  
SENT VIA EMAIL to [john.t.belcik@usace.army.mil](mailto:john.t.belcik@usace.army.mil)

Dear Mr. Belcik:

Save the Dunes Conservation Fund is providing the following feedback in response to your December 20, 2019 letter on the proposed dredging and disposition of sandy materials from the Burns Waterway Harbor in Portage, Indiana.

Save the Dunes was established in 1952 with a mission to preserve, protect and restore the Indiana dunes and all natural resources in Northwest Indiana's Lake Michigan Watershed for an enhanced quality of life. As a steward of the Indiana dunes, and a partner of the many parks and municipalities along the shoreline, we are thankful for the time and attention given to our organization's comments on this NEPA compliance.

Save the Dunes has no objection to the dredging proposed in the Burns Waterway Harbor. However we strongly urge that thorough testing be conducted to assure the removed sand is clean to IDEM standards before it is relocated. Regarding the placement of the clean, dredged sand, we requests that you choose to place the material directly on the Portage Lakefront and Ogden Dunes beaches, rather than pumping the sediment into the near shore area. This recommendation is to address the critical sand depletion on the Portage and Ogden Dunes beaches, which threatens the integrity of many buildings and homes.

Thank you again for the opportunity to provide comment on this matter. Should any questions arise during the review of these comments, please contact me at [katie@savedunes.org](mailto:katie@savedunes.org) or 219-879-3564 x128.

Sincerely,

A handwritten signature in black ink that reads "Katie E. Hobgood".

Katie Hobgood  
Program Director



# United States Department of the Interior

## NATIONAL PARK SERVICE

Indiana Dunes National Park  
1100 N. Mineral Springs Road  
Porter, Indiana 46304-1299

IN REPLY REFER TO:

January 22, 2020

N36(INDU)  
xL76

Mr. John Belcik  
U.S. Army Corps of Engineers  
231 South La Salle Street, Suite 1500  
Chicago, Illinois 60604

Dear Mr. Belcik:

In response to your request, Indiana Dunes National Park is providing feedback on the selection of alternatives for the dredging and disposition of sandy materials from the Burns Waterway Harbor. The proposed NEPA compliance will address the method of dredging (hydraulic, or mechanical) as well as the disposal of dredge spoils (nearshore or onshore).

Our comments have been prepared under the authority of the National Park Service Organic Act of 1916 (16 U.S.C. 123, and 4), The Federal Water Pollution Control Act or Clean Water Act (32 U.S.C. §§ 1251-1387), and the System Unit Resource Protection Act (54 U.S.C. 100721-100725) and are consistent with the intent of the National Environmental Policy Act of 1969.

We appreciate the Army Corps of Engineers (ACOE) soliciting our comment on this NEPA compliance. We understand that sand is continually accreting in the vicinity of the Burns Waterway Harbor threatening safe passage. Dredging at this location has occurred sporadically and we have no objection to its continuation. Given current lake levels, our concern is primarily the disposition of clean dredged sands.

In the past we have supported the placement of clean dredged materials off shore of Ogden Dunes in 8-12 feet of water but believe the intention of returning these materials back to the littoral system would be better served if placed directly on shore in front of Portage Lakefront and Riverwalk. The 2016 National Park Service Shoreline Restoration and Management Plan/Final Environmental Impact Statement (EIS) outlines this need and provides the necessary NEPA compliance for implementation. We strongly encourage the U.S. Army Corps of Engineers pursue their dredging of the Burns Waterway Harbor NEPA compliance consistent with Alternative C-1 of the NPS EIS: Beach Nourishment Via Dredged Sources, Annual Frequency. This alternative calls for the placement of clean dredged materials as beach nourishment onshore at the Portage Lakefront Beach.



Division of Historic Preservation & Archaeology-402 W. Washington Street, W274 Indianapolis, IN 46204-2739  
Phone 317-232-1646-Fax 317-232-0693 dhpa@dnr.IN.gov



January 27, 2020

John Belcik  
U.S. Army Corps of Engineers  
231 S. LaSalle Street, Suite 1500  
Chicago, Illinois 60604

Federal Agency: U.S. Army Corps of Engineers

Re: Project information regarding dredging and placement of clean material from the Burns Waterway Harbor  
(DHPA #24825)

Dear Mr. Belcik:

Pursuant to Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) and 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer ("Indiana SHPO") has conducted an analysis of the materials dated December 20, 2019 and received on December 26, 2019, for the above indicated project in Portage Township, Porter County, Indiana.

In terms of archaeology, there is a currently known archaeological site (a shipwreck, 12Pr640; see attached) within the proposed project area. This site will need to be avoided by project activities. Please provide documentation regarding the proposed avoidance measures regarding this site.

If any prehistoric or historic archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (Indiana Code 14-21-1-27 and 29) requires that the discovery must be reported to the Department of Natural Resources within two (2) business days. In that event, please call (317) 232-1646. Be advised that adherence to Indiana Code 14-21-1-27 and 29 does not obviate the need to adhere to applicable federal statutes and regulations, including but not limited to 36 C.F.R. 800.

In regard to buildings and structures, we have identified the following properties (per the *Indiana Historic Sites and Structures Inventory*) within the probable area of potential effects, and we believe that they may meet the criteria of eligibility for inclusion in the National Register of Historic Places:

House, Shore Drive (located three houses east of Cedar Trail; north side of Shore Drive), IHSSI Site # 127-704-11001

House, 86 Shore Drive, IHSSI Site # 127-704-11003

House, 114 Shore Drive, IHSSI Site # 127-704-11004

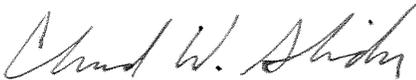
However, based on the information provided to our office, we do not believe that there will be any alterations to the characteristics of the above identified historic properties qualifying them for inclusion in or eligibility for the National Register (*see* 36 C.F.R. § 800.16[i]).

At this time, it would be appropriate for the U.S. Army Corps of Engineers to analyze the information that has been gathered from the Indiana SHPO, the general public, and any other consulting parties and make the necessary determinations and findings. Please refer to the following comments for guidance:

- 1) If the U.S. Army Corps of Engineers believes that a determination of “no historic properties affected” accurately reflects its assessment, then it shall provide documentation of its finding as set forth in 36 C.F.R. § 800.11 to the Indiana SHPO, notify all consulting parties, and make the documentation available for public inspection (36 C.F.R. §§ 800.4[d][1] and 800.2[d][2]).
- 2) If, on the other hand, the U.S. Army Corps of Engineers finds that an historic property may be affected, then it shall notify the Indiana SHPO, the public and all consulting parties of its finding and seek views on effects in accordance with 36 C.F.R. §§ 800.4(d)(2) and 800.2(d)(2). Thereafter, the U.S. Army Corps of Engineers may proceed to apply the criteria of adverse effect and determine whether the project will result in a “no adverse effect” or an “adverse effect” in accordance with 36 C.F.R. § 800.5.

*A copy of the revised 36 C.F.R. Part 800 that went into effect on August 5, 2004, may be found on the Internet at [www.achp.gov](http://www.achp.gov) for your reference. If you have questions about archaeological issues please contact Amy Johnson at (317) 232-6982 or [ajohnson@dnr.IN.gov](mailto:ajohnson@dnr.IN.gov). If you have questions about buildings or structures please contact Chad Slider at (317) 234-5366 or [cslider@dnr.IN.gov](mailto:cslider@dnr.IN.gov). Additionally, in all future correspondence regarding the above indicated project, please refer to DHPA #24825.*

Very truly yours,



Beth K. McCord  
Deputy State Historic Preservation Officer

BKM:CWS:ALJ:aj

emc: John Belcik, USACE

Enclosure (1)

Division of Historic Preservation & Archaeology 402 W. Washington Street, W274 Indianapolis, IN 46204-2739  
Phone 317-232-1646 Fax 317-232-0693 dhpa@dnr.IN.gov



March 20, 2020

Susanne Davis  
US Army Corps of Engineers  
231 South LA Salle Street, Suite 1500  
Chicago, Illinois 60604

Federal Agency: US Army Corps of Engineers and National Park Service

Re: Environmental assessment regarding dredging and placement of clean material from the Burns Waterway Harbor (DHPA #24825)

Dear Ms. Davis:

Pursuant to Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) and 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer ("Indiana SHPO") has conducted an analysis of the materials received on March 9, 2020, for the above indicated project near Ogden Dunes, in Portage Township, Porter County, Indiana.

Thank you for the Environmental Assessment. All concerns regarding cultural resources have been addressed in the EA. No archaeological investigations appear necessary.

If any prehistoric or historic archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (Indiana Code 14-21-1-27 and 29) requires that the discovery must be reported to the Department of Natural Resources within two (2) business days. In that event, please call (317) 232-1646. Be advised that adherence to Indiana Code 14-21-1-27 and 29 does not obviate the need to adhere to applicable federal statutes and regulations, including but not limited to 36 C.F.R. 800.

If you have questions about archaeological issues please contact Cathy Draeger-Williams at (317) 234-3791 or [cdraeger-williams@dnr.IN.gov](mailto:cdraeger-williams@dnr.IN.gov). Additionally, in all future correspondence regarding the above indicated project, please refer to DHPA #24825.

Very truly yours,

Beth K. McCord  
Deputy State Historic Preservation Officer

BKM:CDW:cdw

emc: John Belcik, USACE  
Susanne Davis, USACE  
Paul Labovitz, NPS  
Dan Plath, NPS  
Judith Collins, NPS  
Jay Sturdevant, NPS



# Miami Tribe of Oklahoma

3410 P St. NW, Miami, OK 74354 • P.O. Box 1326, Miami, OK 74355  
Ph: (918) 541-1300 • Fax: (918) 542-7260  
[www.miamination.com](http://www.miamination.com)



Via email: [john.t.belcik@usace.army.mil](mailto:john.t.belcik@usace.army.mil)

January 9, 2020

Mr. John Belcik  
U.S. Army Corps of Engineers  
231 South LaSalle Street, Suite 1500  
Chicago, IL 60604

Re: Burns Waterway Harbor dredging and disposal, Portage Township, Porter County, Indiana –  
Comments of the Miami Tribe of Oklahoma

Dear Mr. Belcik:

Aya, kikwehsitoole – I show you respect. My name is Diane Hunter, and I am the Tribal Historic Preservation Officer for the Federally Recognized Miami Tribe of Oklahoma. In this capacity, I am the Miami Tribe's point of contact for all Section 106 issues.

The Miami Tribe offers no objection to the above-mentioned project at this time, as we are not currently aware of existing documentation directly linking a specific Miami cultural or historic site to the project site. However, as this project is within the aboriginal homelands of the Miami Tribe, if any human remains or Native American cultural items falling under the Native American Graves Protection and Repatriation Act (NAGPRA) or archaeological evidence is discovered during any phase of this project, the Miami Tribe requests immediate consultation with the entity of jurisdiction for the location of discovery. In such a case, please contact me at 918-541-8966 or by email at [dhunter@miamination.com](mailto:dhunter@miamination.com) to initiate consultation.

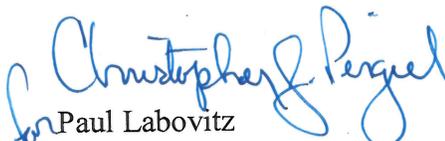
The Miami Tribe accepts the invitation to serve as a consulting party to the proposed project. In my capacity as Tribal Historic Preservation Officer I am the point of contact for consultation.

Respectfully,

Diane Hunter  
Tribal Historic Preservation Officer

We are available to assist the U.S. Army Corps of Engineers in obtaining the necessary NPS Special Use Permit if this is an option. If you have questions, please contact my office or Resource Management Chief, Dan Plath at [daniel\\_plath@nps.gov](mailto:daniel_plath@nps.gov).

Sincerely,

  
for Paul Labovitz  
Superintendent

bcc:  
Resource Management Chief  
Natural Resources Branch Chief  
Environmental Protection Specialist



Pokégnek Bodéwadmik • Pokagon Band of Potawatomi  
Department of Language and Culture

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59291 Indian Lake Road • Dowagiac, MI 49047 • [www.PokagonBand-nsn.gov](http://www.PokagonBand-nsn.gov)  
(269) 462-4316 • (269) 782-2499 fax

1/08/2020

John Belcik  
U.S. Army Corps of Engineers  
231 South La Salle Street, Suite 1500  
Chicago, IL 60604  
Phone: 312-846-5595  
Email: [John.t.belcik@usace.army.mil](mailto:John.t.belcik@usace.army.mil)

**Burns Waterway Harbor in Portage Township, Indiana**

Dear Responsible Party:

Migweth for contacting me regarding these projects. As THPO, I am responsible for handling Section 106 Consultations on behalf of the tribe. I am writing to inform you that after reviewing the details for the project referenced above, I have made the determination that there will be **No Historic Properties in Area of Potential Effects (APE)** significant to the Pokagon Band of Potawatomi Indians. However, if any archaeological resources are uncovered during this undertaking, please stop work and contact me immediately. Should you have any other questions, please don't hesitate to contact me at your earliest convenience.

Sincerely,

Matthew J.N. Bussler  
Tribal Historic Preservation Officer  
Pokagon Band of Potawatomi Indians  
Office: (269) 462-4316  
Cell: (269) 519-0838  
[Matthew.Bussler@Pokagonband-nsn.gov](mailto:Matthew.Bussler@Pokagonband-nsn.gov)



## Pokégnek Bodéwadmik

POKAGON BAND OF POTAWATOMI  
LANGUAGE & CULTURE

3/16/2020

John Belcik  
U.S. Army Corps of Engineers  
231 South La Salle Street, Suite 1500  
Chicago, IL 60604  
Phone: 312-846-5595  
Email: [John.t.belcik@usace.army.mil](mailto:John.t.belcik@usace.army.mil)

### **USACE - Burns Waterway Harbor Maintenance Dredging and Placement - Portage Beach and Ogden Dunes, IN**

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Matthew J.N. Bussler  
Tribal Historic Preservation Officer  
Pokagon Band of Potawatomi Indians  
Office: (269) 462-4316  
Cell: (269) 519-0838  
[Matthew.Bussler@Pokagonband-nsn.gov](mailto:Matthew.Bussler@Pokagonband-nsn.gov)

**From:** [Douglas Taylor](#)  
**To:** [Belcik, John T CIV USARMY CELRC \(USA\)](#)  
**Subject:** [Non-DoD Source] Burns Waterway Harbor - Portage Township, IN  
**Date:** Monday, May 4, 2020 2:22:33 PM  
**Attachments:** [image001.png](#)

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Greetings,

Ref: Burns Waterway Harbor - Portage Township, IN

Thank you for including the Nottawaseppi Huron Band of the Potawatomi in your consultation process. From the description of your proposed project, it appears that this project is outside of the Tribes Historical area of interest. It does not appear as if any cultural or religious concerns of the Tribe's will be affected. We therefore have no objection to the project.

Very Respectfully  
Douglas R. Taylor

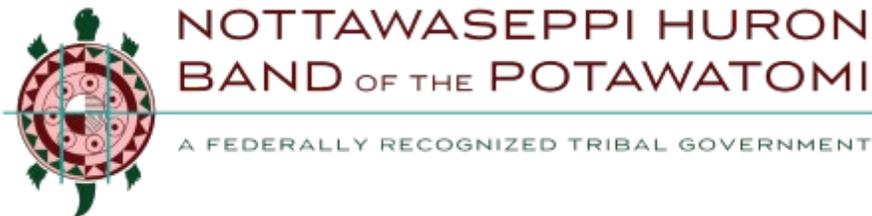
Douglas R. Taylor | [Tribal Historic Preservation Officer \(THPO\)](#)

**Pine Creek Indian Reservation**

**1301 T Drive S, Fulton, MI 49052**

o: 269-704-8347 | c: 269-419-9434 | f: 269-729-5920

[Douglas.Taylor@nhbp-nsn.gov](mailto:Douglas.Taylor@nhbp-nsn.gov) | [Blockedwww.nhbpi.com](http://Blockedwww.nhbpi.com)



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Senator Karen Tallian  
Minority Caucus Chair  
200 West Washington Street  
Indianapolis, Indiana 46204  
(317) 232-9847  
[s4@iga.in.gov](mailto:s4@iga.in.gov)

Committees:  
Appropriations, RMM  
Environmental Affairs  
Pensions and Labor  
Rules and Legislative Procedure  
Corrections and Criminal Law

January 15, 2020

John Belcik  
U.S. Army Corps of Engineers  
231 South La Salle Street, Suite 1500  
Chicago, Illinois 60604

Dear Mr. Belcik

re: Proposed Dredging of Burns Harbor

I write to you today with comments from my office as a State Senator; on behalf of my constituents in Portage and Ogden Dunes. I also write from my own personal knowledge as a resident of Ogden Dunes since 1973.

The Northwest Indiana shoreline is at emergency status.

Property has already been destroyed over the past couple of years, and more damage is expected. The path to the beach at the Portage Lakefront, along with the viewing platform, has collapsed and fallen into the lake. Seawalls are failing or in imminent danger of failure at Ogden Dunes. The breach of the dune at the Portage lakefront obviously threatens the actual pavilion itself. The immediate danger is self-evident and need not be fully itemized here.

The causes of this problem are well known.

It is true that lake levels are at near-historic highs right now, and that some of that is cyclical. However, well prior to this rise in lake level, the man-made, non-natural causes of erosion have produced on-going erosion at the Portage/ Ogden Dunes beaches which has made the area vulnerable to accelerated storm damage which as occurred of the last several years.

- “Since the construction of the Burns Waterway Harbor Breakwater and its associated structures, sediment has been accumulating to the east of the harbor and the shoreline west of the harbor has experienced erosion...Erosion has deteriorated the shoreline west of the Harbor at the IDNL and the community of Ogden Dunes. This process has *left habitat in the parkland and sheet-pile seawalls at private properties vulnerable to significant storm damage.*” (emphasis added)<sup>i</sup>

In short, the construction of the structures appurtenant to Arcelor-Mittal Steel, the Port of Indiana, and the small boat harbor at Burns Waterway, have all significantly contributed to this erosion. The mechanism whereby the littoral drift of sand is stopped or hindered by these structures, and produces down-drift erosion, was well know before the structure were built and the impact has be validated in multiple studies.

John Belcik  
January 15, 2020  
Page two

- In the design document for the Port in 1960, the USACE found: “Impoundment of the littoral drift by the harbor would result in accretion to the shore east of the harbor and progressive erosion of the shore west of the harbor”<sup>ii</sup>
- The USACE, Great Lakes Region, National Shoreline Management Study, February 2017 confirms what numerous previous studies have found dating back to the 1960s which is “*the Burns Waterway Harbor in Portage have disrupted sediment littoral flow from Michigan shorelines to ... the Ogden Dunes reach.*” (emphasis added)<sup>iii</sup>.

#### Lake Michigan Costal Program (LMCP)

The LMCP is the State of Indiana Costal Program Document that is approved under the Coastal Zone Management Act. It LMCP identifies the Burns International Harbor Complex as a “total littoral barrier (page 373). The document also identifies the Ogden Dunes frontage as being in a High Erosion Zone (page 380) which is caused by the Burns International Harbor Complex (page 662). Furthermore, the LCMP found additional erosion has adversely affected the shoreline, and does not fit into the ‘let nature take its course’ philosophy.

#### USACE Consent Decree

In 1984, the USACE entered a consent decree to secure funding for beach nourishment mitigation when the sand previously placed by the USACE had eroded. Clearly, the sand from the prior on beach nourishment as eroded.

#### Prior dredging of Burns Waterway

Around the year 2000, sand was dredged from the Burns Harbor waterway and slurry-pumped 24/7 for some weeks. Approximately 143,000 cubic yards was pumped and I personally watched as this sand replenished the beach all up and down the Portage/Ogden Dunes lakefront. This sand replacement lasted for several years.

The USACE has found stand placement at the Portage Lakefront to be beneficial at the site, even when lake levels are high in prior studies.

- “To mitigate against any adverse effects due to the construction of the Burns Small Boat Barbor, the detailed project report proposed an nourishment volume of 125,100 cubic yards.... Overall, at total of 126,400 cubic yards of material was placed in the nourishment stockpile....*This material was placed during a time of extremely high water levels. It proved to be very effective and protecting the vulnerable East End of Reach 3.*”<sup>iv</sup> (Emphasis added).

#### Indiana Code

In 2018, The Indiana General Assembly passed legislation requiring any sand that is dredged from the bed of Lake Michigan must be returned to the beach. This language can be found in I.C. 14-29-3-3. Although it is unclear exactly whether the mouth of the Burns Waterway would qualify, it is clear that the legislative intent is that dredged sand in this ecosystem be kept within the system.

John Belcik  
January 15, 2020  
Page three

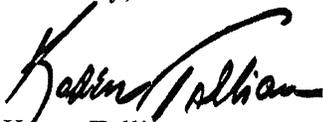
Current needs are critical

For these reasons, it is imperative that sand dredged from the Waterway be placed back into the Portage/Ogden Dunes beach area and be placed as far east as possible. This should not be a problem if the dredging method is a slurry/pump system with the pipe located at the east end.

This of course assumes that the sand is not contaminated by IDEM standards. Serious environmental concerns would be created if homes on the Ogden Dunes lakeshore have their steel walls and septic fields falling into Lake Michigan.

This piece of lakeshore is in clear and present danger. We need this sand.

Sincerely,



Karen Tallian  
Indiana State Senator  
Senate District 4

- 
- i Burns Waterway Harbor, Indiana Shoreline Damage Mitigation Reconnaissance Study, US Army Corps of Engineers, December 2010, page 6.
  - ii Burns Waterway Harbor Plan, USACE, October 1960, section 52, page 16.
  - iii The U.S. Army Corps of Engineers, Great Lakes Region, National Shoreline Management Study, February 2017, page 11.
  - iv Burn Waterway Small Boat Harbor Monitoring Program, 5th Annual Report, November 1995, page 21.



Lake Michigan Coastal Program  
Indiana Department of Natural Resources  
Dunes State Park Annex Office  
1600 North 25 East  
Chesterton, IN 46304



21 January 2020

John Belcik  
U.S. Army Corps of Engineers  
231 South LaSalle Street, Suite 1500  
Chicago, IL 60604

Re: Burns Waterway Harbor NEPA Comments

Dear Mr. Belcik:

This letter is in regard to the letter dated 20 December 2019 regarding the preparation of a National Environmental Policy Act (NEPA) document by the U.S. Army Corps of Engineers for their proposed dredging activities in Burns Harbor Waterway in 2021. We offer the following the following comments for your consideration:

- Please note that IC 14-29-3-3, *Conditions of permit; removal of sand from Lake Michigan prohibited*, of the State of Indiana statute states:
  - (8) Except as provided in subsections (c) and (d), if the permittee takes sand from the bed or from under the bed of Lake Michigan, the sand may only be deposited on the beach of Lake Michigan and may not be removed to any other place or used for any other purpose.
  - (b) The department may also prescribe other reasonable conditions in the permit that are in the best interests of the state.
  - (c) A permittee that, in accordance with permit conditions, dredges not more than ten (10) cubic yards of sand from the bed or from under the bed of Lake Michigan within a period of thirty (30) days is exempt from subsection (a)(8) with respect to that quantity of sand.
  - (d) Notwithstanding subsection (a)(8), if the director determines that sand taken from the bed or from under the bed of Lake Michigan contains a toxic material (as defined in IC 13-11-2-233) or a substance that is potentially harmful to human health or to the environment, the sand shall be disposed of in a manner consistent with IC 13-22.
- This project would be subject for a Federal Consistency Determination by the Indiana Department of Natural Resources Lake Michigan Coastal Program. More details regarding the Federal Consistency review process can be found at:  
<https://www.in.gov/dnr/lakemich/6041.htm>.

Thank you for the opportunity to provide comment on this matter. We appreciate your consideration.

Sincerely,

Kathryn Vallis  
Coastal Resources Planner  
Lake Michigan Coastal Program  
Indiana Department of Natural Resources



**DEPARTMENT OF THE ARMY**  
CORPS OF ENGINEERS, CHICAGO DISTRICT  
231 SOUTH LA SALLE STREET, SUITE 1500  
CHICAGO IL 60604

May 16, 2019

Technical Services Division  
Design Branch

Lake Michigan Coastal Program  
Indiana Department of Natural Resources  
Indiana Dunes State Park Annex Office  
1600 North 25 East  
Chesterton, Indiana 46304

Dear Sir or Madam:

The U.S. Army Corps of Engineers, Chicago District requests a General Federal Consistency Determination for periodic dredging of Burns Waterway Harbor. The proposed activity complies with the Indiana Coastal Zone Management Program and will be conducted in a manner consistent with such policies. Since this is an on-going maintenance project for a Federal Navigation Channel, the Chicago District requests a General Federal Consistency Determination for the life of the project. If dredging or placement areas change in the future, the Chicago District will request a new Determination.

Burns Waterway Harbor is dredged nearly annually, either mechanically or hydraulically. Dredged material from the Approach Channel and Outer Harbor is placed within the littoral zone, or potentially onshore, of Ogden Dunes from the breakwater at Burns Small Boat Harbor extending west. Dredged material from the East and West Arms is not suitable for nearshore placement or beach nourishment and is placed in Lake Michigan approximately 1 mile offshore in greater than 50 feet of water. See attached figure for locations.

The quantity and timing of dredging is dependent on shoaling and funding. Therefore, the boundaries shown on the figure show the extent possible over the life of the project. The most recent permits for this project are IDEM 2014-110-64-MTM-A and IN DNR LM-188. Permits are renewed as needed to continue to complete the work. Questions regarding the project may be directed to Ms. Margaret Dove at (312) 846-5502 or [margaret.a.dove@usace.army.mil](mailto:margaret.a.dove@usace.army.mil).

Sincerely,

A handwritten signature in cursive script that reads "Joel Schmidt".

Joel Schmidt  
Chief, Hydraulics & Environmental  
Engineering Section

Burns Waterway Harbor Dredging and Placement

Project Site Map



Lake Michigan Coastal Program  
Indiana Department of Natural Resources  
Dunes State Park Annex Office  
1600 North 25 East  
Chesterton, IN 46304

01 July 2019

Joel Schmidt  
Department of the Army  
Corps of Engineers, Chicago District  
231 South La Salle Street, Suite 1500  
Chicago IL, 60604

Re: Federal Consistency Determination – Burns Waterway Harbor Dredging Project

Dear Mr. Schmidt:

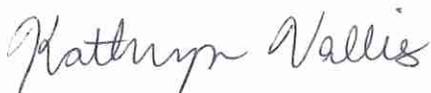
This letter is in regards to the letter dated 16 May 2019, requesting a Federal Consistency Determination for the Burns Waterway Harbor Dredging Project (DNR #ER-21569).

We have found in our **Final** determination that this project is consistent with the laws of the State of Indiana. This determination indicates that the project as stated conforms to applicable state laws. The reviewers recommend that you closely review and follow the instructions in the comments listed on ER-21569, Indiana Department of Natural Resources Division of Fish and Wildlife Early Coordination / Environmental Assessment.

Please note that this does not relieve you of the requirement to obtain any applicable local, state, or federal permits.

Should you have any questions regarding this determination please feel free to contact me either via email at [kvallis@dnr.IN.gov](mailto:kvallis@dnr.IN.gov) or via phone at 219-926-9757.

Sincerely,



Kathryn Vallis  
Coastal Resources Planner  
Lake Michigan Coastal Program  
Indiana Department of Natural Resources

State of Indiana  
DEPARTMENT OF NATURAL RESOURCES  
Division of Fish and Wildlife  
Early Coordination/Environmental Assessment

DNR #: ER-21569

Request Received: May 23, 2019

**Requestor:** Indiana Department of Natural Resources  
Lake Michigan Coastal Program  
Kathryn Vallis  
Indiana Dunes State Park  
1600 North 25 East  
Chesterton, IN 46304

**Project:** Periodic dredging of Burns Waterway Harbor, and material placement along Ogden Dunes beach or about 1 mile offshore in deep water, Lake Michigan  
\*\*for Federal Consistency review\*\*

**County/Site info:** Porter

The Indiana Department of Natural Resources has reviewed the above referenced project per your request. Our agency offers the following comments for your information and in accordance with the National Environmental Policy Act of 1969.

If our agency has regulatory jurisdiction over the project, the recommendations contained in this letter may become requirements of any permit issued. If we do not have permitting authority, all recommendations are voluntary.

**Regulatory Assessment:** Formal approval by the Department of Natural Resources under the regulatory programs administered by the Division of Water is not required for this project.

**Natural Heritage Database:** The Natural Heritage Program's data have been checked. The natural community and species below have been documented within 1/2 mile of the project area. The Division of Nature Preserves does not foresee any impacts to the community or plant species as a result of this project.

A) NATURAL COMMUNITY: Panne Wetland

B) PLANTS:

1. Dune Thistle (*Cirsium pitcheri*), state endangered
2. Seaside Spurge (*Chamaesyce polygonifolia*), state threatened
3. Capitate Spike-rush (*Eleocharis geniculata*), state threatened
4. Sand-heather (*Hudsonia tomentosa*), state threatened
5. Rushlike Aster (*Symphotrichum boreale*), state threatened
6. Bearberry (*Arctostaphylos uva-ursi*), state rare
7. Ebony Sedge (*Carex eburnea*), state rare
8. Ground Juniper (*Juniperus communis* var. *depressa*), state rare
9. Jack Pine (*Pinus banksiana*), state rare
10. Eastern White Pine (*Pinus strobus*), state rare
11. Black-fruit Mountain-ricegrass (*Piptatherum racemosum*), state rare
12. Eastern Jointweed (*Polygonella articulata*), state rare

C) INSECTS:

1. Pyralid Moth (*Pyla arenaeola*), state endangered
2. Band-winged Meadowhawk (*Sympetrum semicinctum*), state rare
3. Mottled Duskywing (*Erynnis martialis*), state watch list

D) FISH:

1. Lake Sturgeon (*Acipenser fulvescens*), state endangered
2. Longnose Dace (*Rhinichthys cataractae*), state special concern

E) BIRDS:

1. American Bittern (*Botaurus lentiginosus*), state endangered
2. Least Bittern (*Ixobrychus exilis*), state endangered

**THIS IS NOT A PERMIT**

**State of Indiana  
DEPARTMENT OF NATURAL RESOURCES  
Division of Fish and Wildlife  
Early Coordination/Environmental Assessment**

---

3. Peregrine Falcon (*Falco peregrinus*), state special concern

**Fish & Wildlife Comments:** We do not foresee any impacts to the bird species above as a result of this project.

To minimize impacts to potential habitat for Longnose Dace and Lake Sturgeon, avoid dumping dredged material in areas along the littoral zone at Ogden Dunes with rocky substrate.

Should any fish mortality be observed, which includes all life stages, all dredging activity must be halted and Indiana's Division of Law Enforcement must be contacted at 219-879-5710 to investigate and file the necessary report. If dead or dying lake sturgeon are observed during the project, cease work and notify the Lake Michigan Biologist (219-874-6824) as soon as possible.

The additional measures listed below should be implemented to avoid, minimize, or compensate for impacts to fish, wildlife, and botanical resources:

1. Minimize the movement of resuspended bottom sediment from the immediate project area
2. No dredging shall be conducted between April 1 and June 30 or between October 16 and March 1, all dates inclusive.

**Contact Staff:**

Christie L. Stanifer, Environ. Coordinator, Fish & Wildlife  
Our agency appreciates this opportunity to be of service. Please contact the above staff member at (317) 232-4080 if we can be of further assistance.



Christie L. Stanifer  
Environ. Coordinator  
Division of Fish and Wildlife

**Date:** June 21, 2019



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JAN 1 0 2020

REPLY TO THE ATTENTION OF:

RM-19J

John Belcik  
U.S. Army Corps of Engineers – Chicago District  
231 South LaSalle Street, Suite 1500  
Chicago, Illinois 60604

**RE: EPA scoping comments – Burns Waterway Harbor dredging and material placement;  
Porter County, Indiana**

Dear Mr. Belcik:

The U.S. Environmental Protection Agency has reviewed U.S. Army Corps of Engineers (USACE) correspondence dated December 20, 2019, requesting scoping comments on the proposed Burns Waterway Harbor (Harbor) dredging and material placement project in Porter County, Indiana. This letter provides our comments on the proposal, pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

EPA is cognizant that Lake Michigan shoreline modifications along the Indiana coast have been a concern for USACE, the National Park Service (NPS), the Indiana Department of Natural Resources (IDNR), the Town of Ogden Dunes, and other entities since at least the 1960s. Burns Waterway Harbor is a federally-maintained deep draft commercial harbor and is located within a longshore littoral drift system that results in the net westward movement of sediment and sand. The Harbor acts as a nearly complete barrier to the natural westward movement of sand and sediment. This has led to sand-starved conditions west of the Burns Harbor Waterway, particularly within the shoreline of the Town of Ogden Dunes and NPS property immediately west of the Harbor and east of Ogden Dunes.

According to USACE's 2012 "*Sediment Budget for the Indiana Shore from Michigan City Harbor to Burns Waterway Harbor*" (Report), dredged sand from the Burns Waterway Harbor and adjacent bulkheads has previously been placed west of Portage/Burns Waterway (Burns Ditch) in both shallow waters offshore of the town of Ogden Dunes and directly on the beach at the NPS Portage Lakefront Park property.

The scoping document states that USACE now plans to assess both the dredging of sandy material from the Harbor approach channel and maintenance areas and placement of material at up to three potential locations. We offer the following comments as the Draft EA is developed.

### SEDIMENT TESTING

- The Draft EA should discuss what sediment testing has been/will be undertaken. The EA should describe, particularly if near-shore disposal is selected, how state water quality standards will be met. During the design phase, and prior to final design and permitting, sediment testing and characterization should be completed. Direct communication with the Indiana Department of Environmental Management (IDEM) regarding effluent testing and compliance requirements should be initiated.

### DREDGING, SAND BYPASS AND LONG-TERM SOLUTIONS

- USACE was aware of potential littoral disruptions in the project area before the Harbor was built, and USACE studies warned of sediment issues. The 2012 USACE Report recommended that a study be conducted to identify plans to mitigate for the impacts of federal navigation structures on the shoreline east and west of the Harbor. This recommendation included the important element of implementing Regional Sediment Management along the Lake Michigan shoreline. The Draft EA should discuss efforts USACE has undertaken in the past decade to address the issues caused by the Harbor's construction. Long term solutions should be discussed, such as whether a sand bypass system has ever been considered, and if so, the results of that consideration.
- Should near shore placement be selected, we recommend, during barge transport (assumed), that the barge attempt to release the dredged material as close into shore as feasible, so that the sand is most accessible to wave action and downdrift (westward) transport.

### COORDINATION WITH AFFECTED PARTIES

- The Draft EA should discuss coordination and planning undertaken with the town of Ogden Dunes as well as the NPS to prioritize and select the placement sites(s).

Thank you for the opportunity to provide scoping comments on this project. Please send us a copy of the Draft Environmental Assessment once issued. If you have any questions about this letter, please contact the project lead, Ms. Liz Pelloso, PWS, at 312-886-7425 or via email at [pelloso.elizabeth@epa.gov](mailto:pelloso.elizabeth@epa.gov).

Sincerely,



Kenneth A. Westlake, Deputy Director  
Tribal and Multimedia Programs Office

cc (via email):

Liz McCloskey, USFWS-Chesterton  
Paul Leffler, USACE-Chicago District  
Dan Plath, NPS-Indiana Dunes National Park  
Marty Maupin, IDEM-401 WQC  
Michael Spinar, IDEM-Northwest Regional Office  
Christie Stanifer, IDNR-Division of Fish and Wildlife



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

**April 7, 2020**

REPLY TO THE ATTENTION OF:  
Mail Code RM-19J

John Belcik  
U.S. Army Corps of Engineers – Chicago District  
231 South LaSalle Street, Suite 1500  
Chicago, Illinois 60604

**RE: EPA comments – Burns Waterway Harbor dredging and material placement Draft Environmental Assessment; Porter County, Indiana**

Dear Mr. Belcik:

The U.S. Environmental Protection Agency has reviewed the Draft Environmental Assessment (Draft EA) prepared for the Burns Waterway Harbor Maintenance Dredging and Placement project in Porter County, Indiana. This letter provides our comments on the Draft EA, pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

According to the Draft EA, the proposed placement plan would include a combination of placement on both the Portage beach and the Odgen Dunes beach and within the littoral, near shore area (<5-feet of water) depending on available placement material and needs of the municipal beaches. If there is insufficient material, funding, or need for material, then the dredged material will be placed only at the near shore placement location adjacent to the beaches. EPA finds that the EA adequately addresses the likely environmental impacts of the proposed action. We support USACE's plan to place the sand on or in shallow water adjacent to the beaches.

The EA states on page 37, "*Before placement, a survey of the placement area for the [Federally-endangered Pitcher's Thistle] thistle will be conducted to determine where individual plants are located. Plants will be marked if they have the potential to be impacted by placement operations. Marking will serve as a way to indicate areas to avoid direct placement and potential smothering of the species.*" We recommend that USACE add this commitment to the NEPA decision document for this project.

Thank you for the opportunity to review and comment on this Draft EA. *Please send us a copy of the signed decision document for this project.* If you have any questions about this letter, please contact the lead NEPA reviewer, Ms. Liz Pelloso, PWS, at 312-886-7425 or via email at [pelloso.elizabeth@epa.gov](mailto:pelloso.elizabeth@epa.gov).

Sincerely,

Kenneth A. Westlake, Deputy Director  
Tribal and Multimedia Programs Office

cc (via email):

Liz McCloskey, USFWS-Chesterton  
Paul Leffler, USACE-Chicago District  
Dan Plath, NPS-Indiana Dunes National Park  
Marty Maupin, IDEM-401 WQC  
Michael Spinar, IDEM-Northwest Regional Office  
Christie Stanifer, IDNR-Division of Fish and Wildlife



# United States Department of the Interior Fish and Wildlife Service



Indiana Field Office (ES)  
620 South Walker Street  
Bloomington, IN 47403-2121  
Phone: (812) 334-4261 Fax: (812) 334-4273

January 24, 2020

Mrs. Susanne J. Davis  
Chief of Planning Branch  
U.S. Army Corps of Engineers  
Chicago District  
231 South LaSalle Street, Suite 1500  
Chicago, Illinois 60604

Attn: John Belcik, Project Manager, Environmental Formulation Section

Dear Mrs. Davis:

This responds to your December 20, 2019 letter requesting our comments on the proposed dredging of the Burns Waterway Harbor/Burns International Harbor/Port of Indiana approach channel and maintenance areas and the placement of the material to the west of the Harbor along the Portage Lakefront Park and/or Ogden Dunes beach in Porter County, Indiana.

These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et. seq.) and are consistent with the intent of the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and the U. S. Fish and Wildlife Service's Mitigation Policy.

Burns Waterway Harbor is a federally-maintained commercial harbor at the south end of Lake Michigan in the Town of Burns Harbor, Porter County. The Harbor was authorized by the River and Harbor Act of 1965 and was constructed by 1970. During the same time period, Bethlehem Steel (now Arcelor-Mittal Steel) was authorized by the U.S. Army Corps of Engineers (USACE) to construct a bulkheaded lakefill of about 300 acres; this private bulkhead provides part of the protection for the Federal Channel. National Steel (now U.S. Steel) received a USACE permit in 1961 to construct bulkheads to encompass about 225 acres extending into Lake Michigan west of what became Burns Waterway Harbor, but the only portion that was completed is a jetty at the east side of the mouth of Burns Waterway/Ditch, which was later incorporated into the design of the Burns Waterway Small Boat Harbor.

The Federal approach channel extends lakeward from the east arm of the inner harbor and is authorized at 30 feet deep and 400 feet wide for a length of about 1.25 miles. The maintenance dredge area is north and south of the Federal approach channel, with the majority being to the south to the Arcelor-Mittal Steel bulkhead. Your letter does not provide an estimate of the amount of sand to be dredged or the time period of the dredging.

The 3 potential disposal areas for the dredged sand are between about 2.25 and 2.75 miles southwest of the Federal Channel, west of the Burns Waterway Small Boat Harbor. Portage Lakefront Park, a component of the Indiana Dunes National Park (INDU), is located between the Small Boat Harbor western breakwater and the Town of Ogden Dunes. The Ogden Dunes public beach extends west about 1 mile between Portage Lakefront Park and INDU's West Beach. The Near Shore Placement Area is along the littoral area of Lake Michigan between the Small Boat Harbor western breakwater and West Beach, although the depth of this area and its distance from the current shoreline is not indicated in your letter.

When construction of the industrial area associated with Burns Waterway Harbor began about 1960, it was already known that net sediment/sand transport between Michigan City Harbor to the northeast and Gary Harbor to the southwest is from northeast to southwest. The Michigan City Harbor had been in existence for about 100 years, in various conformations, and had been affecting down-drift sand movements throughout that time period. Although we do not know the particulars of the USACE-authorized the National Steel bulkhead permit in 1961, or what requirements might have been included addressing sand movement, the 1963 USACE report on the proposed Burns Waterway Harbor considered its presence as justification that the Harbor would not further adversely affect littoral sand movement:

52. Shoreline Changes – As described in paragraph 22, Midwest [National] Steel Corporation has been issued a Department of the Army permit to construct a bulkhead with fill adjacent to the considered Burns Waterway Harbor. The fill would extend 2,500 feet into Lake Michigan for a distance of 4,120 feet along shore, containing about 225 acres. The fill will be enclosed by bulkheads. The easterly bulkhead is on the same line as the inner 2,500 foot of the proposed shore connection [of the Harbor]. This bulkhead and fill, extending into Lake Michigan for a distance for about 0.5 mile, will intercept the movement of littoral drift along shore. The further extension into Lake Michigan of the proposed [Harbor] breakwater will have no additional appreciable effect in intercepting such littoral drift. It is therefore considered that the proposed structures for Burns Waterway Harbor would have no adverse effect on the shoreline of Lake Michigan. *Great Lakes Harbor Study – Interim Report on Burns Waterway Harbor, Indiana. USACE 1963.*

The 1983 USACE report on the proposed construction of a small boat harbor at the mouth of Burns Waterway/Ditch (*Burns Waterway Small Boat Harbor, Indiana – Final Detailed Project Report, Main Report, and Final Environmental Impact Statement. Chicago District USACE. February 1983*) acknowledges that the industrial complex associated with Burns Waterway Harbor had cut off littoral sand drift from the northeast and U.S. Steel's Gary Harbor had cut off drift from the west. The result was significant shoreline erosion west of the mouth of Burns Waterway/Ditch, the area that is now known as Portage Lakefront Park. However, it also

indicated that the Small Boat Harbor “will not intercept littoral materials coming from the east and cause an increase in the net erosion occurring westward because the existing Burns Waterway Harbor complex acts as a total barrier to the westward movement of littoral materials.” The document also states that a review of aerial photographs of the area showed that between 1967 and 1981, the dunes immediately west of the mouth of Burns Waterway/Ditch had receded about 300 feet, or about 20 feet per year, “during a period of record high lake levels,” but that comparison of photographs between 1978 and 1981 seemed to indicate that the “shoreline has stabilized.”

The high lake levels continued through the 1980’s, with a record high in October 1986. That same high level was again recorded in July 2019, after record lows in January 2013. A study of shoreline changes was conducted in 2010, with comparisons between 1951-52 conditions and those of 2010, as part of INDU’s *Shoreline Restoration and Management Plan/Environmental Impact Statement*, which was finalized in 2014. This study determined that the average erosion rate at Portage Lakefront Park was 3.9 feet/year over that approximate 60 year period. However, the aerial photographs show that the 1951-52 and 1971 shorelines were almost identical, with the erosion occurring between 1971 and 2010; therefore the erosion actually occurred over about 40 years instead of 60 years, which is approximately 6 feet/year. It is possible that there was some stabilization when Lake Michigan levels were more normal and when beach nourishment occurred in 1985 and 2000. However, a severe winter storm in March 1998 eroded about 40 feet of the dune-bluff at what is now Portage Lakefront Park. We are not aware of detailed erosion studies since 2010, but facilities constructed about 2008 at the site have since fallen into the lake, and erosion has been particularly severe during the current 2019-2020 winter, with continuing very high lake levels.

Both Burns Waterway Harbor/Port of Indiana and the Burns Waterway Small Boat Harbor have been periodically dredged, as has the water intake structure for the now-closed Bailey Generating Station (BGS) east of Burns Waterway Harbor, with some of the dredged material being used as nourishment for Portage Lakefront Park and the Ogden Dunes beach. Sand was placed along the beaches during the initial construction of the Small Boat Harbor in 1985, and when it was dredged in 2000 the material was placed directly on the Portage Lakefront Park beach. This 2000 material was polluted with nutrients (primarily ammonia), which caused the growth of weeds at the expense of native vegetation and required control by INDU. We are not aware of additional dredged materials being placed directly on the beach since that time; materials dredged from the Small Boat Harbor area have instead been placed offshore the Portage Lakefront Park and Ogden Dunes beaches to hopefully naturally replenish the beaches through littoral drift.

The Northern Indiana Public Service Company (NIPSCO), owner of BGS, used to dredge as needed around their Lake Michigan cooling water intake, with open lake disposal. However, between 1986 and 2000, when dredging stopped, NIPSCO placed the sand offshore both Beverly Shores to the east and Ogden Dunes to the west. In 2006, the USACE took over the water intake dredging, in addition to the dredging of the Federal Channel of Burn Waterway Harbor. Since that time, the sand from both sources has been placed offshore Portage Lakefront Park and Ogden Dunes, apparently within about 1,500 lakeward of the beaches. BGS ceased operations on May 31, 2018, so the water intake is no longer in use.

The Chicago District USACE's December 2010 report *Burns Waterway Harbor, Indiana Shoreline Damage Mitigation Reconnaissance Study*, states that between 2006 and 2010, the USACE dredged an annual average of 120,000 cubic yards of sand from around the BGS water intake structure and deposited the material offshore Portage Lakefront Park and Ogden Dunes. In 2007 and 2008, Burns Waterway Harbor Federal Channel required dredging to maintain the authorized depths and over 150,000 cubic yards of material were removed, although that material was apparently placed within an open-lake site.

An August 2012 report by the USACE Engineer Research and Development Center, *Sediment Budget for the Indiana Shore from Michigan City Harbor to Burns Waterway Harbor*, indicates that an average of 73,000 cubic yards/year of sand had been dredged primarily from the BGS water intake and placed offshore Portage Lakefront Park and Ogden Dunes between 1985 and 2009. It also evaluated how much sand had accreted east of the Burns Waterway Harbor industrial area since construction during the 1960's, and determined that a much greater volume of sand needs to be removed from the east and moved to the west in order to restore the natural littoral drift that would have occurred without the manmade structures at the site: "Full bypassing needs to be about three times the amount previously placed at Ogden Dunes if it is to match the longshore transport value of 194,000 yd<sup>3</sup>/year."

In the past, the Indiana Department of Environmental Management (IDEM) has required testing of sediments in Burns Waterway Harbor prior to dredging to determine whether or not they are safe for use as beach nourishment. Ammonia has been an issue, just as it has been for material dredged from the Burns Waterway Small Boat Harbor. Since much of the area proposed for dredging is essentially within the open waters of Lake Michigan, it is likely to be sand, which is unlikely to adsorb pollutants. However, the maintenance dredge area closer to the Arcelor-Mittal bulkhead and the area closer to the inner harbor could be of concern.

Based upon this discussion and these concerns, the U.S. Fish and Wildlife Service requests that the following issues be addressed by the proposed National Environment Policy Act document being prepared for this proposed project:

For approximately 25 years, various materials dredged from the Federal projects and from the NIPSCO BGS water intake have been placed on or near the beaches at Portage Lakefront Park and Ogden Dunes, but erosion has continued. The USACE needs to carefully examine the value of continuing to place the dredged sands approximately 1,500 feet offshore, with the hope that the littoral drift will carry the material to the beaches. Based upon the documents that we reviewed, it appears that this offshore sand placement does little to help the areas experiencing the most severe erosion, although it likely helps stabilize West Beach and other beaches further to the west. Therefore, we request that the clean sands be placed directly upon the Portage Lakefront Park beach, with any additional sands also placed on the Ogden Dunes beach.

The EA needs to address the quality of the sediments/sands and the need for testing for various contaminants, with ammonia being of particular concern. Only certified clean sands can be placed on the beaches.

## ENDANGERED SPECIES

The proposed project is within the range of the Federally endangered Indiana bat (*Myotis sodalis*), piping plover (*Charadrius melodus*), and Karner blue butterfly (*Lycaeides melissa samuelis*), and the threatened northern long-eared bat (*Myotis septentrionalis*), eastern massasauga rattlesnake (*Sistrurus catenatus*), and Pitcher's thistle (*Cirsium pitcheri*).

There is no habitat for the 2 bats, the Karner blue butterfly, or the eastern massasauga within the proposed project area, including the proposed dredging area and placement sites. There is designated Critical Habitat for the piping plover along the INDU beach east from the NIPSCO property line; it is likely that the proposed dredge area is far enough into Lake Michigan to not impact this habitat, but that will need to be determined through the EA process. There is a population of Pitcher's thistle on the dunes landward of the Portage Lakefront Park beach; we do not know the current status of this population in relation to the recent severe erosion that has occurred at the site during the 2019-20 winter storms. Therefore, the EA will need to evaluate the condition and location of this population and the benefits to be derived by sand augmentation.

These endangered species comments constitute informal consultation only. They do not fulfill the requirements of Section 7 of the Endangered Species Act of 1973, as amended.

We appreciate the opportunity to comment at this early stage of project planning. For further discussion, please contact Elizabeth McCloskey at (219) 983-9753 or [elizabeth\\_mccloskey@fws.gov](mailto:elizabeth_mccloskey@fws.gov).

Sincerely yours,

/s/ *Elizabeth S. McCloskey*

for Scott E. Pruitt  
Supervisor

Sent via email January 24, 2020; no hard copy to follow.

cc: Paul Labovitz, Superintendent, Indiana Dunes National Park, Porter, IN  
Dan Plath, Resources Management Chief, Indiana Dunes National Park, Porter, IN  
Liz Pelloso, USEPA, NEPA Team, Tribal and Multimedia Programs Office, Chicago, IL  
Paul Leffler, USACE, Chicago District, Regulatory Branch, Chicago, IL  
Christie Stanifer, Environmental Coordinator, Division of Fish and Wildlife, Indianapolis, IN  
Marty Maupin, IDEM, Office of Water Management, Indianapolis, IN



# United States Department of the Interior

## Fish and Wildlife Service



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March 30, 2020

Mrs. Susanne J. Davis  
Chief of Planning Branch  
U.S. Army Corps of Engineers  
231 South LaSalle Street, Suite 1500  
Chicago, Illinois 60604

Attn: Mr. John Belcik, Environmental Formulation Section

Dear Mrs. Davis:

The U.S. Fish and Wildlife Service has reviewed the Environmental Assessment and Attachments for the proposed Burns Waterway Harbor Maintenance Dredging and Placement Project, Burns Harbor, Porter County, Indiana. We believe the EA adequately addresses the likely environmental impacts of the proposed action and support the plan to place the sand on or in shallow water adjacent to the beaches.

The plan to locate and avoid the Federally threatened Pitcher's thistle (*Cirsium pitcheri*) should be adequately protective of this species. Therefore, we concur with the determination that the project is not likely to adversely affect this or other Federally listed species. This precludes the need for further consultation on this project as required under Section 7 of the Endangered Species Act of 1973, as amended. However, should new information arise pertaining to project plans or a revised species list be published, please contact us for further consultation.

For further discussion, please contact Elizabeth McCloskey at (219) 983-9753 or [elizabeth\\_mccloskey@fws.gov](mailto:elizabeth_mccloskey@fws.gov).

Sincerely yours,

/s/ *Elizabeth S. McCloskey*

for Scott E. Pruitt  
Supervisor

Sent via email March 30, 2020; no hard copy to follow.