



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

PUBLIC NOTICE

PROJECT: Port of Oakland Maintenance Dredging Project

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1. INTRODUCTION: The Port of Oakland (Mr. Richard Sinkoff, Port of Oakland, Director of Environmental Programs and Planning, 530 Water Street, Oakland, California) has applied for a ten-year Department of the Army permit to carry out maintenance dredging at the Port of Oakland (Port) in the Oakland Outer, Middle, and Inner Harbors located in San Francisco Bay in the city of Oakland, Alameda County, California. The purpose of the proposed maintenance dredging project is to maintain safe navigational depths by restoring the original project design depths in the deepwater berths and marinas at the Port. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344), Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. PROPOSED PROJECT:

Project Site Location: The Port is located in the city of Oakland along the Oakland waterfront in Alameda County, California. There are 32 berths and 7 marinas within the Port's area proposed to be dredged over the life of the permit. These areas are located in the Oakland Outer, Middle, and Inner Harbors as shown on the attached maps and drawings (see Figures 2 - 8).

Project Site Description: The Port's facilities area comprises approximately 19 miles of shoreline within the city of Oakland. This area includes seaport landside facilities as shown on the attached

drawings. In addition to the landside area, the Port consists of subtidal areas in the Outer and Inner Harbors of the Oakland Estuary. The majority of the Port consists of highly urbanized and industrialized seaport facilities, but also includes seven recreational marinas. As shown in the attached drawings, the 32 deepwater berths and 7 marina sites to be included in the maintenance dredging program are part of the Oakland Outer, Middle, and Inner Harbors. Four of the marinas are owned by the Port, and three of the marinas are privately owned but have long-term agreements for Port-owned water area. The various berths and marinas that would be covered under Port's maintenance dredging program are all located in San Francisco Bay and contain habitat for native fish including federally listed species such as Chinook salmon, steelhead, and green sturgeon, and are considered essential fish habitat (EFH) by the National Marine Fisheries Service (See Section on Magnuson-Stevens Fishery Conservation and Management Act compliance below). The substrate within the proposed dredging areas at the Port consists primarily of recently deposited silt, sand, and clay. Submerged aquatic vegetation, specifically eelgrass, is not believed to be present within the proposed dredging areas along the waterfront.

Project Description: As shown in the attached drawings and table, 32 deepwater berths and 7 marina sites would be covered under the Port's maintenance dredging program. However, only 24 of the 32 deepwater berths would likely to be dredged during the life of the maintenance dredging permit. The Port determines its maintenance dredging schedule on an

annual basis based on hydrographic condition surveys. Although many of the berths are dredged regularly, the marinas are dredged infrequently.

As shown on the attached drawings and table, the Port plans to remove approximately 1,655,500 cubic yards (cy) of sediment from the Port's 182-acre (approximately) dredging area over the life of the permit. Of this total dredging volume, approximately 1,405,000 cy would come from the deepwater berths, approximately 100,000 cy would come from the marina areas, and 150,500 cy would be contingency volume (see Table 1). The design depths for the Port's marinas and berths range from -12 to -50 feet MLLW plus an additional 1 to 2-foot overdredge allowance (see Figures 3 - 10, and Table 1). The material would be removed using a clamshell dredge, or possibly an excavator dredge in certain circumstances. In addition, ancillary workboats and survey vessels, and 1000 to 5000 cubic yard barges would be used. Dredged material would be transported to the Alcatraz Island Dredged Material Disposal Site (SF-11), the San Pablo Bay Dredged Material Disposal Site (SF-10), the San Francisco Deep Ocean Disposal Site (SF-DODS), a permitted beneficial reuse site, or to an upland location outside Corps jurisdiction.

The Port proposes to incorporate underwater grading (knockdowns) of shoaled areas (shallow areas of mounded sediment) under the maintenance dredging program. Grading of underwater sediments through knockdown episodes is a technique to reduce shoals of sediment that interfere with vessel movements. Since shoals appear irregularly and unpredictably, knockdowns would be performed intermittently rather than routinely to supplement routine maintenance dredging episodes. The Port is applying for a maximum of four (4) knockdowns in any given year, with a maximum volume of 2,500 cy per knockdown event, a maximum of 5,000 cy per year, and a maximum total of 50,000 cy over the ten-year permit cycle. The Port last performed a knockdown of maintenance material in 2008.

A knockdown episode is performed using either an I-beam towed by a tug boat, a clamshell bucket mounted on a dredge, or tug-controlled barge.

Dragging an I-beam over a shoaled area would flatten and redistribute any mounded sediments. Since a towed I-beam could potentially damage a wharf, a clamshell bucket would be used along the face of a wharf to scoop mounded sediment, raise it slightly from the bottom, and release it in a circular motion over a larger, deeper area within the berth. The end result of a knockdown episode would be the dispersal of the mound within the confines of the dredge area. Knockdown equipment is easier to mobilize and less costly to operate than full-scale dredging episodes, so knockdowns are suitable for small areas of shoaling.

As shown in Figure 10, the Port also proposes to implement advance maintenance dredging to increase the efficiency of maintenance dredging. Instead of dredging an entire berth to below the permitted depth, the Port proposes to excavate a trench within a portion of a berth to serve this purpose. This advance maintenance dredging approach would work in tandem with the Port's proposal to implement knockdowns on a regular, non-routine basis as part of maintenance dredging. An I-beam or other knockdown equipment could effectively move shoaled sediment to trenches, to be removed at a later date during regular maintenance dredging. Advance maintenance dredging would increase the efficiency of the Port's maintenance dredging program by reducing the frequency of dredging events and producing higher volumes of dredged material per episode. It would also assist the Port in financially supporting the beneficial reuse and ocean disposal goals of the Long-term Management Strategy for the Placement of Dredged Material in The San Francisco Bay Region (LTMS).

For advance maintenance dredging, the Port proposes to dredge a trough, or trench, in areas of selected berths to provide extra capacity for dredged material. These trenches would be approximately three feet deep, and would generally extend along the length of the berth approximately 20-30 feet from the wharf face. The width of the trenches would vary, but would likely be approximately half the width of the berth in most cases. The trench would ideally be located in an area in the berth that has a relatively high rate of sediment accumulation.

The Port proposes to initiate this advance maintenance strategy by dredging a pilot trench in Berth 30 and will monitor the success of this initial berth trench as required by the Dredged Material Management Office (DMMO). If the Port determines after the monitoring period, and the DMMO concurs, that the implementation of this advance maintenance strategy in conjunction with knockdowns results in increased efficiency of dredging, the Port will design further trenches to be excavated in other berths.

Prior to each dredging episode, the DMMO will evaluate the sediments to be dredged for disposal or reuse suitability. The DMMO includes representatives from the U.S. Environmental Protection Agency (EPA), San Francisco Bay Conservation and Development Commission (BCDC), San Francisco Bay Regional Water Quality Control Board (RWQCB), and the Corps. The DMMO is tasked with approving sampling and analysis plans in conformity with testing manuals, reviewing the test results and reaching consensus regarding a suitable disposition for the material.

Basic Project Purpose: The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by the Corps to determine whether the project is water dependent. Although the purpose of the proposed project, as stated above, is for restoring safe navigational depths in the deepwater berths and marina areas at the Port, for evaluation under Section 404 (b) (1) (Clean Water Act), the basic purpose of the proposed project is the disposal of dredged material.

Overall Project Purpose: The overall project purpose serves as the basis for the Section 404 (b) (1) alternatives analysis, which is required by the Corps to determine compliance with the U.S. Environmental Protection Agency's (EPA) Section 404 (b) (1) Guidelines for Specification of Disposal Site for Dredged and Fill Material (33 U.S.C. § 1344(b)), and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the

project, while allowing a reasonable range of alternatives to be analyzed. The overall project purpose for this proposed project is the disposal of dredged material from maintenance dredge projects in the San Francisco Bay Region consistent with the adopted LTMS (Long Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region) EIR/EIS and the LTMS Management Plan of 2001.

Project Impacts: The proposed maintenance dredging at the Port would result in the placement (i.e. discharge) of a total of approximately 1,655,500 cy of accumulated sediment at the various aforementioned dredged material disposal and placement sites over a ten-year period. There may be several dredging episodes completed in any given year at various berths and marina areas at the Port. Although the exact quantity of any future dredging episode is not possible to predict, it is expected approximately 100,000-150,000 cy of sediment would be dredged in an average year. However, in any given year the total dredging quantity could be more or less depending on the sedimentation rate within the proposed dredging footprints, and the Port's dredging schedule. It is anticipated the Port would not exceed the proposed total dredging volume of 1,655,500 cy over the life of the permit. The overall total proposed maintenance dredging footprint at the Port's facilities is approximately 182 acres. However, the typical annual maintenance dredging at the Port would only temporarily disturb a portion (i.e. approximately 20% percent) of the total proposed project footprint as the Port does not dredge all the berths and marina areas every year. Accordingly, it is estimated that approximately 36 acres of the substrate and associated benthic organisms (i.e. benthos) within the proposed maintenance dredging footprints along the Port's waterfront berths and marina areas would be temporarily disturbed on an annual basis. It is expected the substrate and benthos within the recently dredged areas would return to pre-dredging conditions relatively soon after dredging stops. Fish species utilizing the proposed dredging areas for feeding and protection from predators would be temporarily displaced by dredging activities, but would be able to find similar foraging opportunities

and protection from predators in the adjacent aquatic habitat in the Oakland Estuary and San Francisco Bay.

According to existing eelgrass survey maps, the berths and marinas at the Port are not known to contain stands of eelgrass, which is a submerged aquatic plant of ecological importance in San Francisco Bay and identified by the National Marine Fisheries Service (NMFS) as essential fish habitat (EFH) (See Section on the Magnuson-Stevens Fishery Conservation and Management Act below.). Therefore, removal of eelgrass beds due to dredging is not expected to occur. There are no known eelgrass beds in close proximity (i.e. within 45 meters) to the proposed dredging sites; therefore, indirect effects to eelgrass due to turbidity and siltation are not expected to occur from the proposed dredging activity.

The detrimental effects on erosion/sedimentation rates, substrate, water quality, fish habitat, air quality, and noise are all expected to be minor and short-term. No permanent negative effects such as undesired substrate alteration, decreased water quality, loss of fish habitat, decrease air quality, and noise pollution are anticipated. The beneficial effects on economics, employment, navigation, and the removal of any unacceptable levels of chemicals of concern are considered major and long-term.

3. STATE AND LOCAL APPROVALS:

Water Quality Certification: State water quality certification or a waiver is a prerequisite for the issuance of a Department of the Army Permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to Section 401 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1341 *et seq.*). The applicant is required to submit an application to the California Regional Water Quality Control Board (RWQCB) to obtain water quality certification for the project. No Department of the Army Permit will be issued until the applicant obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed if the RWQCB

fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act. Water quality issues should be directed to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612 by the close of the comment period.

Coastal Zone Management: Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c) *et seq.*), requires a non-federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Certification that indicates the activity conforms with the state's coastal zone management program. Generally, no federal license or permit will be granted until the appropriate state agency has issued a Consistency Certification or has waived its right to do so. Coastal zone management issues should be directed to the Executive Director, San Francisco Bay Conservation and Development Commission, 50 California Street, Suite 2600, San Francisco, California 94111, by the close of the Public Notice comment period.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act (NEPA): Upon review of the Department of the Army Permit application and other supporting documentation, the Corps has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of NEPA. At the conclusion of the public comment period, the Corps will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347), the Council on Environmental Quality's Regulations at 40 C.F.R. Parts 1500-1508, and the Corps Regulations at 33 C.F.R. Part 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from

regulated activities within the jurisdiction of the Corps and other non-regulated activities the Corps determines to be within its purview of federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Department of the Army Permit for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Regulatory Division.

Endangered Species Act (ESA): Section 7(a)(2) of the ESA of 1973, as amended (16 U.S.C. § 1531 *et seq.*), requires federal agencies to consult with either the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to insure actions authorized, funded, or undertaken by the agency are not likely to jeopardize the continued existence of any federally-listed species or result in the adverse modification of designated critical habitat. Based on this review, the Corps has made a preliminary determination that the following federally-listed species and designated critical habitat are present at the project location or in its vicinity, and may be affected by project implementation.

Please note that programmatic biological opinions (BOs) were issued by USFWS (March 12, 1999) and NMFS (September 18, 1998) for the LTMS. As a result of the BOs there are allowable time frames to dredge to protect the habitat for threatened (and endangered) species and the species themselves per Section 7 of the Endangered Species Act of 1973, as amended (ESA). If the proposed maintenance dredging work at the Port is conducted within those time frames, there is no need for endangered species consultation.

Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*) were federally-listed as endangered on January 4, 1994 (59 Fed. Reg.442). Adult winter-run Chinook salmon migrate through San Francisco Bay, as well as Suisun Bay and Honker Bay, to spawning areas in the upper Sacramento River during the late fall and early winter. Juveniles travel downstream through San Francisco Bay to the Pacific

Ocean in the late fall as well. The movements of adult and juvenile salmon through the Bay system are thought to be rapid during these migrations. Since impacts to the water column during disposal events would be short-term, localized and minor in magnitude, no potentially adverse effects to winter-run Chinook salmon that may be near the disposal site are anticipated, if the dredge work is conducted from June 1 through November 30. If a permit is issued for this proposed project it will contain a condition that dredging is allowed only from June 1 through November 30 in any year, without consultation (pursuant to Section 7 of the ESA) with and approval from NMFS and the Corps.

Central Valley Spring-Run ESU Chinook salmon (*Oncorhynchus tshawytscha*) were listed as threatened on September 16, 1999 (64 FR 50394). Spring-run chinook salmon typically migrate upstream through San Francisco Bay to spawning areas between March and July. Spawning usually occurs between late-August and early October with a peak in September. Juveniles travel downstream through San Francisco Bay in late fall to spring and then to the Pacific Ocean once they have undergone smoltification. Since impacts to the water column during disposal events would be short-term, localized and minor in magnitude, no potentially adverse effects to spring-run chinook salmon that may be near the disposal site are anticipated, if the dredge work is conducted from June 1 through November 30. If a permit is issued for this proposed project it would contain a condition that dredging is allowed only from June 1 through November 30 in any year, without consultation (pursuant to Section 7 of the ESA) with and approval from NMFS and the Corps

The Central California populations of steelhead trout (*Oncorhynchus mykiss*) were federally listed as threatened in August 1997. The steelhead that occur in San Francisco Bay are included in this distinct population segment and therefore receive protection under the Endangered Species Act. There is concern that steelhead migrating through the Bay to streams in the South Bay might enter the Port's berths and approach areas during dredging operations. If a permit is issued for this proposed project, it may contain a

condition that dredging is allowed only from June 1 through November 30 to avoid the peak migration period for steelhead.

On July 6, 2006, NMFS listed the North American green sturgeon (*Acipenser medirostris*) south of the Eel River in California as threatened under the Endangered Species Act (71 Fed. Reg. 17757). The Corps has initiated consultation per Section 7 of the ESA regarding this species. If a permit is issued for this proposed project it will contain any special conditions resulting from that consultation.

California least tern (*Sterna antillarum browni*) was federally classified as endangered in 1970, and therefore receives protection under the ESA. The terns breed in the eastern part of the San Francisco Bay, from the Berkeley Marina to San Lorenzo Creek within one mile of the coastline. The dredging project is located within the breeding area of the California Least Tern. A permit (if issued) will contain a condition that dredging is allowed only from August 1 through March 14.

Additionally, the Corps has concerns regarding potential impacts to Pacific herring during its annual spawning season. The proposed maintenance dredging will occur within the traditional Pacific herring spawning grounds. As a result, the Corps will condition the permit (if issued) so that dredging will be allowed only from March 1 through November 30 in any year.

Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA): Section 305(b)(2) of the MSFCMA of 1966, as amended (16 U.S.C. § 1801 *et seq.*), requires federal agencies to consult with the National Marine Fisheries Service (NMFS) on all proposed actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. EFH is designated only for those species managed under a Federal Fisheries Management Plan (FMP), such as the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, and the *Pacific Coast Salmon FMP*. As the

federal lead agency for this project, the Corps has conducted a review of digital maps prepared by NMFS depicting EFH to determine the presence or absence of EFH in the project area. Based on this review, the Corps has made a preliminary determination that EFH is present at the proposed project location and in its vicinity. The proposed project is located within an area managed under the Pacific Groundfish, the Coastal Pelagic and/or the Pacific Coast Salmon FMPs.

The Corps and EPA completed a programmatic EFH consultation with NMFS on June 9, 2011 for potential adverse effects upon EFH from maintenance dredging projects in San Francisco Bay covered under the Long Term Management Strategy (LTMS) Program. The programmatic EFH consultation resulted in Programmatic EFH Conservation Recommendations and Conservation Measures that the above-referenced regulatory and resource agencies agreed upon to reduce adverse effects to EFH from maintenance dredging projects in San Francisco Bay. The proposed project qualifies for coverage under the Programmatic EFH consultation and would be required to implement any applicable programmatic EFH Conservation Recommendations and Measures.

In a typical year, the proposed maintenance dredging at the Port's berths and marina areas would impact approximately 36 acres of EFH utilized by various species of sole, shark and rockfish. The Corps' initial determination is that the proposed maintenance dredging at the Port would not result in new impacts to EFH. This determination is based on the fact that the Port's maintenance dredging footprint has been dredged numerous times in the past and, therefore, is considered by the Corps to be disturbed. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with NMFS. The Port's berths and marinas are located along the waterfront in the city of Oakland, Alameda County, California. The recently-deposited bottom sediments to be dredged during maintenance dredge activities are composed mainly of silts and clays (mud). It is presumed that fish species utilizing the area would be using it for feeding during a period of growth. When dredging

occurs, the fish should be able to find ample and suitable foraging areas in adjacent aquatic habitat within the Oakland Estuary and San Francisco Bay. As the infaunal community recovers in the dredged area, fish species will return to feed. The “Baywide Eelgrass Inventory of San Francisco Bay,” prepared by Merkel and Associates, dated October 2004, does not show the areas to be dredged at Port as having any eelgrass beds. Eelgrass is not expected to be established in the boat basins or within close proximity, therefore, adverse effects, both direct and indirect, are not expected to occur.

National Historic Preservation Act (NHPA): Section 106 of the NHPA of 1966, as amended (16 U.S.C. § 470 *et seq.*), requires federal agencies to consult with the appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places*. Section 106 of the NHPA further requires federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance.

Because the Port’s berths and marina areas have been previously dredged, historic or archeological resources are not expected to occur in the proposed project vicinity. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until the Corps concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section

404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the disposal of dredged material is not dependent on location in or proximity to waters of the United States to achieve the basic project purpose. This conclusion raises the (rebuttable) presumption of the availability of a less environmentally damaging practicable alternative to the project that does not require the discharge of dredged or fill material into waters of the U.S. The applicant has been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines to determine if the project is the least environmentally damaging practicable alternative.

6. PUBLIC INTEREST EVALUATION: The decision on whether to issue a Department of the Army Permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the project and its intended use on the public interest. Evaluation of the probable impacts requires a careful weighing of the public interest factors relevant in each particular case. The benefits that may accrue from the project must be balanced against any reasonably foreseeable detriments of project implementation. The decision on permit issuance will, therefore, reflect the national concern for both protection and utilization of important resources. Public interest factors which may be relevant to the decision process include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

7. CONSIDERATION OF COMMENTS: The Corps is soliciting comments from the public; federal, state and local agencies and officials; Native American Nations or other tribal governments; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by the Corps will be considered in the decision on whether to issue, modify, condition, or

deny a Department of the Army Permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental or public interest factors addressed in a final environmental assessment or environmental impact statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the project.

8. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to Mr. Mark D'Avignon, Operations and Readiness Division, 1455 Market Street, 16th Floor, San Francisco, California 94103-1398; comment letters should cite the project name, applicant name, and public notice number to facilitate review by the Permit Manager. Comments may include a request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. Additional project information or details on any subsequent project modifications of a minor nature may be obtained from the applicant and/or agent, or by contacting the Permit Manager by telephone or e-mail cited in the public notice letterhead. An electronic version of this public notice may be viewed under the *Public Notices* link on the U.S. Army Corps of Engineers, S.F. District website: <http://www.spn.usace.army.mil/Missions/Regulatory>.