



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: City of Napa's Upper Napa River Federal Navigation Channel
Maintenance Dredging

PUBLIC NOTICE NUMBER: 2013-00117N

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COMMENTS DUE DATE: July 17, 2015

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1. **INTRODUCTION:** The City of Napa (City), 1600 First Street, Napa, California 94559 (contact: Eric Vandeburg; phone: (707) 257-9645), through its agent Mr. Jeff Cotsifas, Pacific EcoRisk, 2250 Cordelia Road, Fairfield, California, 94534 (phone: (707) 207-7761) has applied to the U.S. Army Corps of Engineers (Corps), San Francisco District, for a 10-year Department of the Army Permit to carry out maintenance dredging of accumulated sediment, with subsequent aquatic and upland disposal as appropriate, in the Napa River within the Upper Napa River Federal Navigation Channel (Federal Channel) from approximately 80 feet south of the Third Street Bridge to just south of the John F. Kennedy Memorial Park in the city of Napa, Napa County, California. The purpose of the proposed maintenance dredging is to return the Federal Channel to its authorized design depth to allow safe navigational depths for public boaters navigating the Napa River via the Federal Channel. This Department of the Army Permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*) and Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*).

2. PROPOSED PROJECT:

Project Site Location: As shown in the attached proposed-project plans and drawings, the proposed dredging area within the Federal Channel is located in the Napa River in the city Napa from the Third

Street Bridge to the north and to John F. Kennedy Memorial Park to the south.

Project Site Description: The proposed project site is located in the Napa River within the confines of the Federal Channel. The entire Napa River Federal Channel begins at the City's 3rd Street Bridge and continues to Knights Island located just north of Highway 37 and the Mare Island Strait; however, the City is only proposing to dredge within the Upper Federal Channel. The Napa River is habitat for native fish including federally listed species such as steelhead, and green sturgeon, and is considered essential fish habitat (EFH) by the National Marine Fisheries Service (See Section on the Magnuson-Stevens Fishery Conservation and Management Act below.). The substrate within the proposed dredging footprint consists primarily of sand, silt and clay (~ 95%), but there is also gravel present with the substrate in certain locations within the Federal Channel. Submerged aquatic vegetation, specifically eelgrass, is not believed to be present within the proposed dredging footprint.

Project Description: As shown in the attached drawings, the applicant plans to remove approximately 50,000 cubic yards (cys) of sediment from shoaled areas within the Federal Channel in an initial episode and a total of approximately 100,000 cys over the life of the permit. Existing depths in the Federal Channel range from -0.3 to -15.7 feet mean lower low water (MLLW). The proposed project would involve

dredging shallow areas within the Federal Channel to the design depth of -10 feet MLLW with a 2-foot over dredge allowance. Dredging would be carried out using a mechanical clamshell dredge. Dredged material would be loaded into dredge scows and placed off-site at the Napa Upland Dredged Material Disposal Facility (a.k.a. Imola Avenue Dredged Material Disposal Site) an existing upland dredged material placement facility owned by the Napa County Flood Control and Water Conservation District (District) located along the easterly side of the Napa River, north of Imola Avenue and southeast of where Tulocay Creek enters the Napa River. This dredged material placement site was specifically constructed to accept dredged materials from Corps' Federal Channel Operations and Maintenance (O&M) dredging activities, and has previously received dredged material as part of the Corps' O&M dredging program. Dredged material from the proposed project would be offloaded from dredge scows via a pump system that will draw water from the Napa River to slurry sediment within the barge. The sediment slurry will then be piped a distance of approximately 1,000 feet directly into the Imola Avenue Dredge Material Disposal Site.

If the dredged material grain size is determined to be too large to be disposed in the Imola Avenue Dredge Material Disposal Site, then the material may be placed at an alternative approved location such as the Cullinan Ranch Restoration Program or Winter Island. Both of these sites are approved beneficial reuse sites and routinely accept dredged materials that meet site-specific acceptance requirements.

Prior to each dredging episode, the Dredge Material Management Office (DMMO) will evaluate the sediments to be dredged for disposal or reuse suitability. The DMMO includes representatives from the U.S. Environmental Protection Agency, San Francisco Bay Conservation and Development Commission (BCDC), San Francisco Bay Regional Water Quality Control Board (RWQCB), and the U.S. Army Corps of Engineers. 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.

Project Impacts: The proposed maintenance dredging of the Federal Channel would result in the placement (i.e. discharge) of approximately 100,000 cubic yards of sediment (i.e. dredged material) over the life of the permit and 50,000 cubic yards in the initial dredging episode into either the Imola Avenue Dredged Material Placement site or to a beneficial reuse site such as Cullinan Ranch. The proposed project would temporarily disturb up to 34 acres of the substrate and associated benthic organisms (i.e. benthos) within the Federal Channel. However, it is expected the substrate and benthos would return to pre-dredging conditions relatively soon after dredging stops. Fish species utilizing the Federal Channel 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 adjacent aquatic habitat in the Napa River.

According to existing eelgrass survey maps, the Federal Channel is 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 site, 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 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. The proposed Federal Channel dredging area for this project is not within the jurisdiction of the San Francisco Bay Conservation and Development

Commission (BCDC); however, Cullinan Ranch and Winter Island, potential dredged material placement and beneficial reuse sites for this project, are within BCDC jurisdiction and have been previously permitted.

Coastal zone management issues should be directed to the Executive Director, San Francisco Bay Conservation and Development Commission, 455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102, 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 dredge work is conducted within those time frames, there is no need for endangered species consultation.

Central California populations of steelhead trout (*Oncorhynchus mykiss*) were federally classified 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 North Bay, including the Napa River, might enter the Federal Channel dredging area. Since impacts to the water column during disposal events would be short-term, localized and minor in magnitude, no potentially adverse effects to steelhead that may be near the disposal site are anticipated if the dredge work is conducted within the permitted work window.

Delta smelt (*Hypomesus transpacificus*) was listed as a threatened species on March 5, 1993 (58 FR 12854) and critical habitat for delta smelt was designated on December 19, 1994. Delta smelt are a relatively small (60-70 mm), slender bodied fish that are endemic to the upper Sacramento-San Joaquin

estuary. They occur in the Sacramento-San Joaquin Delta below Isleton on the Sacramento River, below Mosdale on the San Joaquin River and in Suisun Bay. They move into freshwater when spawning, which can occur in the Sacramento River, the Delta, Montezuma Slough, Suisun Bay, Suisun Marsh, Carquinez Strait, Napa River, and San Pablo Bay. The Corps will consult under Section 7 of the Endangered Species Act with the FWS on adverse effects to delta smelt by the proposed project. Depending on the outcome of the consultation for this proposed project, any Corps permit issued may include a condition that the work shall be restricted to the work window of August 1 through October 15 to minimize the effects to delta smelt.

If a permit is issued for this proposed project, it will contain a condition that dredging is allowed only from August 1 through October 15 in any year, without consultation (pursuant to Section 7 of the ESA) with and approval from NMFS and the Corps. The August 1 through October 15 work window is the most restrictive work window for the Mare Island Strait. It is based on the LTMS work window for steelhead in that area, and would also provide protection for federally-listed delta smelt.

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.

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 project location or in its vicinity, and that the critical elements of EFH may be adversely affected by project implementation. 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 NMFS completed a programmatic EFH consultation on June 9, 2011 for maintenance dredging. One of NMFS's key concerns with dredging is potential impacts to eelgrass beds. The "Baywide Eelgrass Inventory of San Francisco Bay," prepared by Merkel and Associates, dated October 2004, does not show the area in and around the Federal Channel as having any eelgrass beds. Therefore, eelgrass is not expected to be established in this area and the Corps does not anticipate that the proposed dredging would affect eelgrass. Therefore, eelgrass minimization measures are not required.

The recently-deposited bottom sediments to be dredged during maintenance dredge activities are composed mainly of sand, silts and clays (mud) with a small percentage of gravel present in certain locations. 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 and along the Napa River. As the infaunal community recovers in the dredged area, fish species will return to feed. Therefore, the proposed dredging is expected to have only short-term, minor adverse effects on EFH.

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 Federal Channel has 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 proposed project would involve placement of dredged material at an approved upland dredged material disposal site, and, if necessary, at permitted beneficial reuse sites. Because there is no aquatic disposal of dredge material proposed, the project is in compliance with the Section 404(b)(1) Guidelines.

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>.