



US Army Corps  
of Engineers®  
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division  
1455 Market Street, 16<sup>th</sup> Floor  
San Francisco, CA 94103-1398

# PUBLIC NOTICE

PROJECT: RGP for Port of San Francisco's Waterfront Maintenance and Repair Activities

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1. **INTRODUCTION:** The Port of San Francisco (POC: Carol Bach: 415-274-0568, Pier 1, The Embarcadero, San Francisco, California) has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to carry out the maintenance, repair, and replacement of the Port of San Francisco's existing in-water structures and shoreline protection. This Department of the Army permit application is being processed pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*) and Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*).

## 2. PROPOSED PROJECT:

**Project Site Location:** As shown in Figure 1 and Figure 2, the project site is located within the Port of San Francisco's (Port) southern waterfront. The northern terminus of the project area is located at Pier 40, The Embarcadero, San Francisco, California. The southern terminus of the project area is located at Pier 96, Cargo Way, San Francisco, California.

**Project Site Description:** The proposed project site includes approximately 3.5 miles of the Port's southern waterfront consisting of existing piles, over-water wharf and pier areas, submerged debris, soft-bottom substrates and the open waters of San Francisco Bay. Many of the existing structures are old and dilapidated and contain creosote-treated piles that are associated with adverse effects on water quality and aquatic biota. The land portion the project area consists of Bay fill dominated by paved surfaces and port facilities. The project area is in the Central San Francisco Bay watershed. Current and wave patterns exhibited in the work area are largely

generated by the tides interacting with bottom and shoreline configurations.

**Project Description:** In accordance with the attached plans, proposed activities consist of maintenance, repair and replacement activities for the Port's facilities along approximately 3.5 miles of southern shoreline. The proposed activities are restricted to repairing, replacing, or removing existing aging shoreline infrastructure and navigational equipment on an as-need basis. The work includes routine repair and maintenance as well as the repair, rehabilitation, or replacement of structures or fills recently damaged or destroyed by discrete events such as storms, floods, fire, or collisions.

The types of maintenance and repair intended to be covered by the proposed Regional General Permit (RGP) would continue a program of maintenance activities necessary to maintain current Port facilities and uses to comply with Port Building Code requirements, maintain public safety, and/or keep facilities in a state of good repair. The project scope includes required implementation of best management practices (BMPs) established by the Regional Water Quality Control Board (RWQCB) and the resource agencies to protect water quality and biological resources, and historic resource evaluations to ensure work is consistent with Secretary of Interior Historic Preservation Standards.

Proposed maintenance activities include the repair, rehabilitation, restoration or replacement of any previously authorized structure or fill, such as the following:

- 1) Existing banks (including unarmored and armored shorelines), seawalls, dikes, and existing riprap,

provided that the activity meets the terms and conditions of NWP 3 *Maintenance* (up to 500 linear feet of existing structures/year).

- 2) Existing navigation aids and regulatory markers approved by and installed in accordance with the requirements of the U.S. Coast Guard (up to 5/year comprising of 1 cy/year).
- 3) Existing wooden piles, typically 12” diameter (no concrete or steel piles (up to 1,000 piles/year).
- 4) Existing piers, wharves, fenders, dolphins, whales (including under-pier structures such as joists, stringers, and pipelines/utilities attached to pier under deck), pier aprons (including bull rails, kickboards, pavement), and minor coring of pier decks (to install related structures) (approximately 1000,000 square feet/year).
- 5) Existing fencing (up to 100 square feet/year).
- 6) Existing bulkheads (up to 300 square feet/year).
- 7) Existing docking facilities (including docks, piers, gangways, etc.) including replacement or reconfiguration of existing docking facilities (approximately 150,000 square feet/year).
- 8) Existing bollards, cranes, pier canopies, and other small appendages (including ladders, fenders, and camels) (up to 50 small appendages/year).

Proposed debris removal activities include the permanent removal of existing piles (including fender piles) and associated structures such as decks, piers, stringers, beams, girders, etc. (approximately 54,00 square feet/year).

**Basic Project Purpose and Overall Project Purpose:** The Port has jurisdiction over seven (7) miles of shoreline along the northern and eastern edge of the City of San Francisco. Most of the buildings, piers and supporting infrastructure are over 75 years old. As a result, the Port has a large and growing backlog of needed maintenance and repairs. If rehabilitation and replacement of these existing shoreline structures are not addressed, many of these existing structures will continue to degrade and eventually fall into the Bay. In order to maintain navigational and recreational safety, protect and improve water quality, and improve shoreline access and

appearance, these regular maintenance and repair activities need to be performed on an ongoing basis.

The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by USACE to determine whether the project is water dependent. The basic project purpose is to maintain and repair the Port of San Francisco’s waterfront structures.

**Project Impacts:** The proposed activities will be conducted from land if possible; however, the Port typically cannot conduct maintenance and repairs, of the Port’s in-water structures and facilities from land. Therefore, marine-based equipment will be used for the majority of the proposed activities. Maximum duration of in-water work for individual repair projects is anticipated to be three (3) days. Land-based and marine-based activities will be conducted using different types of equipment, with minor variations as needed for specific tasks.

Land-based work will be performed using conventional earthwork equipment such as an excavator, a side-dump truck, a mobile crane, a forklift, a small front-end loader, asphalt equipment, and various small construction tools such as pneumatic tools, welding tools, hammers, saws and drills.

Work within the water will be performed using a suite of construction equipment staged on a pile driving barge and operated by a pile crew. Pile drivers may also work from a pile barge for some repairs. For any given repair and/or replacement project, the barge may have on board: a crane, a forklift, an excavator, a small front-end loader, and various small construction tools such as pneumatic tools, welding tools, hammers, saws and drills. In addition, there may be a secondary barge used for delivery and disposal of supplies. At all times, there would be an additional crew and small vessel navigating around the construction site cleaning up fallen debris from the water. Closed debris containment booms, floating debris screens, and/or absorbent booms will be positioned beneath and alongside work areas whenever possible.

Project implementation could result in temporary, construction-related impacts to hydrology and/or water quality. These could result from construction activities above and near the Bay, construction activities within the Bay, and fill (including piles) to be replaced, repaired, and/or permanently removed within the Bay, all of which would be associated with necessary maintenance and

repair of the Port's existing facilities and infrastructure. Temporary construction activities could include staging, utility line installation, permanent pier removal, and pile work. All of these short-term construction activities have the potential to result in increased turbidity, runoff, spills, or other accidental discharges into the Bay, during construction activities only. However, implementation of the proposed best management practices (BMPs) is expected to avoid or minimize these potential impacts. Furthermore, the Port's proposed activities are focused in the repair, rehabilitation, replacement, or permanent removal of deteriorating structures and fill along the 3 ½ miles of Port of San Francisco's Southern Waterfront area. As such, these activities are intended to reduce potential sources of containments (such as creosote from aging wood piles) and removing large debris from the Bay.

Existing over-water structures will be replaced/repared, with no expansion; other deteriorating structures may be removed permanently. Therefore, the Port anticipates a net reduction in the area of over-water structures with project implementation, and thus a net reduction in shading impacts.

**Proposed Mitigation:** The Port's expectation is that the proposed activities would result in a net reduction of fill, a net removal of navigational obstructions and overwater structures/shading, and a net overall environmental benefit by removing aged structures, including creosote-treated piles, and preventing dilapidated structures from falling into the Bay. With the implementation of the appropriate avoidance and minimization measures and construction BMPs to address all potential temporary impacts, no unavoidable permanent impacts are anticipated. Therefore, no compensatory mitigation is proposed at this time.

**Project Alternatives:** Because the Port is proposing to maintain existing waterfront shoreline structures, off-site alternatives (other locations) would not satisfy the project's objectives, and therefore will not be considered. Instead, the Port's consideration of practicable alternatives focuses on on-site alternatives in design, configuration, materials, and construction methodology.

The Port has considered alternatives for replacement of wood piles in light of NOAA's 2009 guidelines for use of treated wood in aquatic environments. The proposed pile material is wrapped, preservative-treated douglas fir. The preferred alternative was selected over the other alternative pile materials because it was considered the alternative that would best address durability and

structural strength, economic, and engineering issues with the least environmental impact and most successful outcome.

### 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 has submitted 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. Since the project occurs in the coastal zone or may affect coastal zone resources, the applicant has applied for a Consistency Determination from the San Francisco Bay Conservation and Development Commission to comply with this requirement.

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 comment period.

**Other Local Approvals:** The applicant has applied for the following additional governmental authorizations

#### 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, USACE 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, USACE 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 USACE 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 USACE and other non-regulated activities USACE 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 ensure 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. As the Federal lead agency for this project, USACE has conducted a review of the California Natural Diversity Data Base, digital maps prepared by USFWS and NMFS depicting critical habitat, and other information provided by the applicant, to determine the presence or absence of such species and critical habitat in the project area. Based on this review, USACE has made a preliminary determination that the following Federally-listed species and designated critical habitat are present at the project location:

- California's Ridgway's rail (*Rallus longirostris obsoletus*)
- California least tern (*Sterna antillarum browni*)
- Longfin smelt (*Spirinchus thaleichthys*)
- California sea-blite (*Suaeda californica*)
- Green sturgeon (*Acipenser medirostris*)
- Steelhead, central California coast evolutionary significant unit (ESU) (*Oncorhynchus mykiss*)
- Steelhead, California central valley ESU (*Oncorhynchus mykiss*)
- Chinook salmon, central valley (Sacramento) spring-run (*Oncorhynchus tshawytscha*) and designated critical habitat are present at the project location.

To address project related impacts to these species and designated critical habitat, USACE will initiate formal consultation with USFWS and NMFS, pursuant to Section 7(a) of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

**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 USACE 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. To address project related impacts to EFH, the USACE will initiate consultation with NMFS, pursuant to Section 305(5)(b)(2) of the Act. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process. Any required consultation must be

concluded prior to the issuance of a Department of the Army Permit for the project.

**Marine Protection, Research, and Sanctuaries Act (MPRSA):** Section 302 of the MPRS of 1972, as amended (16 U.S.C. § 1432 *et seq.*), authorizes the Secretary of Commerce, in part, to designate areas of ocean waters, such as the Cordell Bank, Gulf of the Farallones, and Monterey Bay, as National Marine Sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the Act. No Department of the Army Permit will be issued until the applicant obtains the required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project would not likely affect sanctuary resources. This presumption of effect, however, remains subject to a final determination by the Secretary of Commerce, or his designee.

**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 Act 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. As the Federal lead agency for this project, the USACE will be responsible for determining the presence or absence of historic properties or archaeological resources, and the need to conduct consultation. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until USACE 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.

**6. PUBLIC INTEREST EVALUTION:** 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:** USACE 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 USACE 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 Janelle Leeson, San Francisco District, Regulatory Division, 1455 Market Street, 16<sup>th</sup> Floor, San Francisco, California 94103-13978; comment letters should cite the project name, applicant name, and public notice number to facilitate review by the Regulatory 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 Regulatory 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* page on the USACE San Francisco District website:

<http://www.spn.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>.