



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: Crescent City Harbor Maintenance Dredging

PUBLIC NOTICE NUMBER: 2011-00389N

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COMMENTS DUE DATE: May 2, 2016

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1. **INTRODUCTION:** The Crescent City Harbor District through its agent, Stover Engineering (POC Jonathon Olson, P.O. Box 783 – 711H Street, Crescent City California 95531 has applied to the U.S. Army Corps of Engineers San Francisco District (Corps), for a 10-year Department of the Army Permit to maintain navigable depths in Crescent Harbor by maintenance dredging. The purpose of the proposed dredging is to return the Outer and Inner Harbors to their originally permitted depth to provide safe navigational depths for recreational and fishing vessels, and to maintain the harbors at those depths. After dredging the sediment would be placed at an approved disposal site or beneficially reused. 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.*), Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*) and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 U.S.C. § 1413 *et seq.*).

2. PROPOSED PROJECT:

Project Site Location: As shown on Sheet 1, Crescent City Harbor is located in Crescent City, Del Norte County, California. The Crescent City Harbor is divided into the Inner Harbor and the Outer Harbor.

The disposal and beneficial reuse sites which are being considered include the Whaler Island Groin Site, the Crescent City Dredge Ponds, Humboldt

Open Ocean Disposal Site (HOODS) and the Chetco Site. The Whaler Island Groin site is located approximately 0.5 miles southeast of the dredge site. The Crescent City Dredge Ponds are located approximately 0.2 miles northwest of the project site. HOODS is located approximately 65 miles south of project site. The Chetco Site is located approximately 20 miles north of the project site.

Project Description: As shown in the attached drawings, the applicant plans to remove approximately 1,500,000 cubic yards (cys) of sediment from the approximately 75.6-acre dredge areas over the 10-year life of the permit. The design depth of the Crescent City Harbor ranges from -10 feet to -15 feet mean lower low water (MLLW) plus an additional 2-foot overdredge allowance. The material would be removed using a clamshell or hydraulic dredge then barged or piped to a disposal or beneficial reuse site.

As shown on Sheet 3, the Inner Harbor is comprised of dredge areas 1 and 2. It is a rectangular 18 acre open water area with parking spaces along three sides. The applicant proposes to dredge the Inner Harbor to a depth of -12 feet MLLW plus 2 feet of overdepth.

As shown on Sheet 4, the Outer Harbor is comprised of dredge areas 3, 4, and 5. Area 3 is 17.3 acres. North of the Federal Channel would be maintained at a depth of -12 feet MLLW plus 2 feet of overdepth and south of Federal Channel would be maintained at - 15 feet MLLW plus 2 feet of overdepth. Area 4 is 17.9 acres in area and would be

maintained at a depth of -15 feet MLLW plus 2 feet of overdepth. Area 5 is 22.4 acres in area and would be maintained at a depth of -10 feet MLLW plus 2 feet of overdepth except the northern most portion which would be maintained at -15 feet MLLW plus 2 feet of overdepth.

Prior to each dredging episode, the Corps will evaluate the sediments to be dredged for disposal or reuse suitability and coordinate the results of the review with other interested regulatory agencies. Sampling and Analysis plans would be reviewed for conformity with testing manuals. Then after testing is completed the Corps and other regulatory agencies will evaluate the results to determine if the proposed disposal site or reuse is suitable.

After dredging the sediment would be disposed of at an approved site or beneficially reused. Possible sites include: 1. The Whaler Island Groin, 2. The Crescent City Dredge Ponds, 3. The Humboldt Open Ocean Disposal Site (HOODS), the Chetco Site, or other disposal or beneficial reuse sites should they become available.

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 project, as stated above, is for safe navigational depths, for consideration in Section 404(b)(1) (Clean Water Act), the basic purpose of the 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, 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.

Project Impacts: 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, removal of contaminants, and navigation are major and long term.

Proposed Mitigation: Generally mitigation is not required for maintenance dredging.

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 recently 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, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403 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 District Manager, California Coastal Commission, North Coast District Office, 710 E Street, Suite 200, Eureka, California 95501 by the close of the comment period.

Other Local Approvals: The Corps is not aware of any requirements to obtain additional permits or authorizations for the proposed dredging.

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 will consult with NMFS for the following species.

Southern Oregon/Northern California Coast coho salmon (*Oncorhynchus kitsutch*) was listed as threatened in 1997 (62 FR 24588; May 6, 1997), and that status was reaffirmed in 2005 (Good et al. 2005) and 2011 (Ly and Ruddy 2011). Juvenile coho salmon may migrate through Crescent City Harbor with peak abundance likely occurring in April and decreasing through June. Adult coho might be present from November through January with peak abundance occurring in December. Since the Harbor would like to dredge and dispose the material from July through October, it is unlikely that coho salmon would be present during the dredging.

The southern distinct population segment (DPS) of North American green sturgeon (*Acipenser medirostris*) was listed as threatened in 2006. It is believed that fish in this DPS exclusively spawn and rear in the Sacramento River. Therefore, only adults could be in the project area.

HOODS is within the designated critical habitat for green sturgeon. Disposal of the dredged material at HOODS is expected to have a minor effect on the migratory corridor and critical habitat given the relatively small size of HOODS (1 square nautical mile) to available habitat in the Pacific Ocean.

Stellar sea lions (*Eumetopias jubatus*) were listed as threatened throughout its range on December 1990. During a status review in 1997, the threatened status of eastern DPS was reaffirmed. Stellar sea lion critical habitat is approximately 50 miles north. While the Harbor is in stellar sea lion range and it is possible that stellar sea lions could transit through the Harbor, according to the California Natural Diversity Database

no stellar sea lions have been observed in the Harbor.

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.

This public notice initiates the EFH consultation requirements of the MSFCMA. The proposed project would impact approximately 57.6 acres of EFH utilized by various species of sole, shark and rockfish. Our initial determination is that the proposed action would have a minor to moderate adverse impact on EFH or federally managed fisheries in California waters. This determination is based on the fact that the dredge site has been dredged several times in the past, the disposal site has been used since 1995 and, therefore, both sites are considered by the Corps to be disturbed and the proposed activity will result in no new impacts to EFH. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with NMFS. The recently-deposited bottom sediments to be dredged during maintenance dredge activities are composed mainly (approximately 80%) of sand. 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 adjacent harbor. As the infaunal community recovers in the dredged area, fish species will return to feed.

This 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 MPRSA 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 MPRSA. 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 the Corps 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, by the close of the comment period.

HOODS is managed by the EPA under Section 102 of MPRSA (33 U.S.C. §§ 1401-1445). The Corps will continue to work with EPA to insure that the proposed disposal is in compliance with the MPRSA.

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 harbor has been previously dredged, historic or archeological resources are not expected to occur in the 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 Debra O'Leary, San Francisco District, Operations and Readiness Division, 1455 Market Street, 16th Floor, San Francisco, California 94103; 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 *Current Public Notices* tab on the US Army Corps of Engineers, San Francisco District website:
<http://www.spn.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>