



**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 Eureka Maintenance Dredging

PUBLIC NOTICE NUMBER: 1996-222150

PUBLIC NOTICE DATE: August 7, 2017

COMMENTS DUE DATE: August 22, 2017

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1. INTRODUCTION: The City of Eureka (The City) through its agent, Pacific Affiliates, 990 West Waterfront Drive, Eureka, California 95501 has applied to the U.S. Army Corps of Engineers (Corps), San Francisco District, for a 10-year Department of the Army Permit to dredge three facilities in Humboldt Bay: Eureka Small Boat Basin (SBB), Commercial Street Dock (CSD) and the US Coast Guard (USCG) Slip. The purpose of the proposed dredging is to return these facilities to safe navigable depths to ensure safe operations for vessels using these facilities. The dredged material would be disposed of at the Humboldt Open Ocean Disposal Site (HOODS). 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 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 Figure 1 of the attached drawings, all three facilities to be dredged are located in the City of Eureka, Humboldt County, California. The SBB (Figure 2) and Commercial Street Dock (Figure 4) are located along the Eureka waterfront on the southern shore of Humboldt Bay. The US Coast Guard Slip is located in the Woodley Island Marina at the end of Dock F (Figure 7). The disposal site, HOODS is located approximately 1.5 miles north west of the mouth of Humboldt Bay (see Figure 9 of the attached drawings).

Project Site Description: The SBB contains the

Eureka Public Marina. The public marina is a 150 slip facility accommodating vessels from 20 to 70 feet in length. The CSD dredge site is located east of the SBB. It located adjacent to a 650 foot commercial dock. Both the SBB and CSD are bounded on the south by parking lots and commercial buildings with some landscaping and approximately 250 feet of vegetated shoreline behind the eastern portion of the commercial dock.

Project Description: As shown in the attached drawings, the applicant plans to remove approximately 60,000 cubic yards (cys) of sediment during the initial episode and no more than 100,000 cys of sediment/year for ten years (maximum 1,000,000 cys) from the three facilities. The material would be removed using a clamshell dredge and removed by barge to HOODS. The table below provides the existing range of depths and proposed depths for each facility.

Facility	Dredge Area (Acres)	Design Depth (Mean Lower Low Water)	Approximate Existing Depths (Mean Lower Low Water)	
			Mean	Low
SBB	7.8	-8 + 1	3.5 to 11.5	
CSD	0.06	-14 + 1	11.5 to 17.8	
	0.16	-18 + 1		
USCG Slip	0.03	-15 + 1	4.5 to 9.0	

Prior to each dredging episode, the Corps and other Regulatory Agencies (US Environmental Protection

Agency, Regional Water Quality Control Board, and California Coastal Commission) will evaluate the sediments to be dredged for disposal or reuse suitability. Normally these agencies 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.

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. Therefore, the overall project purpose is the disposal of dredged material from the maintenance dredging at the SBB, the CSD and the USCG Slip.

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, safety and navigation, and of the removal of contaminants, are major and long term.

Proposed Mitigation: Compensatory mitigation for maintenance dredging is generally not required. The Corp's preliminary determination is that compensatory mitigation for the proposed dredging of the SBB, the CSD and the USCG slip not needed and will not be required.

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 Skyline Boulevard, Suite A, Santa Rosa, California 95403 by the close of the comment period.

Coastal Zone Management: The California Coastal Commission regulates dredging and dredged material placement or disposal under Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c) *et seq.* However, the California Coastal Commission has determined that no permit is required on July 14, 2017 due to the project's nature as a maintenance activity.

Coastal zone management issues should be directed to the District Manager, California Coastal

Commission, North Coast District Office, 1385 Eighth Street, Suite 130, Arcata, California 95501 by the close of the comment period.

Other Local Approvals: Additionally, the applicant has applied for a permit from the Humboldt Harbor, Recreation and Conservation District.

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: California coast Chinook salmon (*Oncorhynchus tshawytscha*), north coast steelhead trout (*Oncorhynchus mykiss*), southern Oregon northern California coast coho salmon (*Oncorhynchus kisutch*), North American green sturgeon (*Acipenser medirostris*), eulachon (*Thaleichthys pacificus*), and tidewater goby (*Eucyclogobius newberryi*) may be affected but are not likely to be adversely affected by the proposed dredging.

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. The proposed project is located within an area managed under the Pacific Groundfish, the Coastal Pelagic and/or the Pacific Coast Salmon FMPs. 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. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally managed fisheries in California waters.

This determination is based on the fact that the

marina has been dredged several times in the past, the disposal site has been used several times disposal of dredged sediments and, therefore, both sites are considered by the Corps to be disturbed and the proposed activity will result in no new impacts to EFH. 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 Humboldt Bay along the Eureka and Woodley Island shorelines. 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 affects on EFH. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with NMFS.

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.

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 City facilities have 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 demonstrate that the proposed disposal of the dredged material at

HOODS 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 94103-1398; 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 *Current Public Notices* tab on the US Army Corps of Engineers, S. F. District website:
<http://www.spn.usace.army.mil/Missions/Regulatory>.