



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: Oyster Point Marina – South San Francisco Ferry Terminal

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1. INTRODUCTION: San Francisco Water Emergency Transportation Authority (WETA) and the San Mateo Harbor District through its agent, Foth - CLE Engineering Group (POC: Wendy Rocha, Foth - CLE Engineering Group, 10 Commercial Blvd, Suite 100, Novato, CA 94949) have 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 at the Oyster Point Marina and South San Francisco Ferry Terminal. The purpose of the proposed dredging is to return the marina and ferry terminal basin to its originally permitted depth to allow safe navigational depths for recreational and commercial boats. 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.*) 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 in the attached proposed project plans and drawings, Oyster Point Marina is located in South San Francisco, San Mateo County along the west shore of San Francisco Bay. The approximate center point of the project site is located at Latitude 37°39'48.03"N, Longitude 122°22'38.56"W.

Project Site Description: The South San Francisco Ferry Terminal is located within the east basin of the Oyster Point Marina. The 29-acre Marina is protected by several breakwaters to the north and surrounded by parking lots on the southern shore line. The Marina accommodates 455 berths for recreational and commercial vessels in addition to the ferry service.

Project Description: As shown in the attached drawings, the applicant plans to remove approximately 36,302 cubic yards (cys) of sediment from the 7.21-acre (approximately) South San Francisco Ferry Terminal and the east basin entrance channel in an initial episode and a total of 200,000 cys of sediment from the 29-acre Oyster Point Marina and South San Francisco Ferry Terminal over the life of the permit. Existing depths range from -6 to -14 feet mean lower low water (MLLW) in the entrance channel and -1.5 to -5.0 feet MLLW in the marina basin. The design depth for the Oyster Point Marina is -8 feet MLLW plus an additional 2-foot overdredge allowance. The design depth for the majority of the San Francisco Ferry Terminal and entrance channel is -10 feet MLLW plus an additional 2-foot overdredge allowance. The berthing area within the South San Francisco Ferry Terminal has a design depth of -12 feet MLLW plus an additional 2-foot overdredge allowance (see Sheet 4 of the attached plans). The material would be removed using a clamshell or hydraulic dredge and removed by barge to the Alcatraz Disposal Site (SF-11), the San Francisco Deep Ocean Disposal Site (SF-DODS), or to a beneficial reuse site. Additionally, two cluster piles would be installed at the entrance of the east basin channel, adjacent to the concrete breakwaters in order to

protect passing ferry vessels. The cluster piles would consist of two (2) three-pile clusters composed of 90-foot long, 18-inch diameter, Douglas fir timbers driven at the entrance of the concrete breakwaters with a vibratory hammer. The Douglas fir timbers would be treated with a State of California (ACQ) approved treatment.

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 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 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. The overall project purpose 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 LTMS Management Plan of 2001.

Project Impacts: The proposed maintenance dredging of the Oyster Point Marina and South San Francisco Ferry Terminal would result in the placement of approximately 200,000 cys of sediment (i.e. dredged material) over the life of the 10-year permit. The proposed project would temporarily disturb up to 29 acres of the substrate and associated benthic organisms within the Oyster Point Marina and South San Francisco Ferry Terminal.

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: The proposed maintenance dredging would not result in a permanent loss of waters of the United States. Temporary impacts to aquatic resources would be mitigated by proposed minimization and avoidance measures, including conducting work only within the permitted environmental work window. Therefore, no compensatory mitigation is proposed or 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, 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, 455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102, by the close of the 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.

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.

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.

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 might enter the Oyster Point Marina.

The Central Valley California Distinct Population Segment (DPS) steelhead (*Oncorhynchus mykiss*) was federally-listed as threatened on March 19, 1998 (63 FR 13347), and were reconfirmed as threatened on January 5, 2006 (71 FR 834). Critical habitat for central valley California steelhead was designated on September 2, 2005 (70 FR 52488). The DPS includes all naturally spawned populations of steelhead (and their progeny) in the Sacramento and San Joaquin Rivers and their tributaries. Excluded are steelhead from San Francisco and San Pablo Bays and their tributaries. All Central Valley steelhead are currently considered winter steelhead. Juvenile steelheads live in freshwater between one and four years, then become smolts and migrate to the sea from November through May. To protect the Central Valley steelhead, dredging shall only occur from June 1 through November 30.

Central California Coast ESU coho salmon (*Oncorhynchus kisutch*) was federally classified as

threatened in October 1996. The dredging project is located within designated critical habitat for Central California Coast coho salmon (May 5, 1999, 64 FR 24049). However, the NMFS in its biological opinion dated July 9, 2015 for the LTMS approved Appendix J of the final Environmental Impact Statement. This Appendix was revised (to correct typographical errors) and re-published in the Record of Decision in July 1999. The Appendix (now re-labeled Appendix F) has undergone further review and was again revised in the *LTMS Management Plan 2001*, published in July 2001. No potential adverse effects to coho salmon are anticipated, however, because the dredging will be performed during the window from June 1 through November 30.

The North American green sturgeon (*Acipenser medirostris*) was listed as threatened under the Endangered Species Act on July 6, 2006 (71 Fed. Reg. 17757). Critical habitat for the North American green sturgeon includes the Sacramento River, lower Feather River, lower Yuba River, Sacramento-San Joaquin Delta, Suisun Bay, San Pablo Bay, San Francisco Bay, and Humboldt Bay in California and was designated on October 9, 2009 (74 FR 52300). The southern DPS consists of populations originating from coastal watersheds south of the Eel River with spawning confirmed in the Sacramento River system. Adult green sturgeon must travel through the San Francisco Estuary to pass between the ocean and the Upper Sacramento River Basin spawning area. Additionally, the San Francisco Estuary provides important rearing and holding areas for juvenile and sub-adult green sturgeon. To protect the North American green sturgeon, dredging shall only occur 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. Dredging outside this environmental work window would require consultation with the National Marine Fisheries Service (NMFS) (pursuant to Section 7 of the Endangered Species Act) and approval from the NMFS and the U.S. Army Corps of Engineers.

Please note that programmatic biological opinions (BOs) were issued by USFWS (March 12, 1999) and NMFS (July 9, 2015) 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. If the dredge work is conducted within those time frames, there is no need for 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 Oyster Point Marina 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 (approximately 95%) 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 and along the Oyster Point Marina. 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.

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 Oyster Point Marina 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 submitted an analysis of project alternatives which is being reviewed by the Corps for compliance with the Guidelines to determine if the project is the least environmentally damaging practicable alternative.

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: 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 Jessica Vargas, 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>.