SAN FRANCISCO DISTRICT

US Army Corps of Engineers

PUBLIC NOTICE

NUMBER: 24518N DATE: March 29, 2000
RESPONSE REQUIRED BY: April 28, 2000

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

PERMIT MANAGER: Rob Lawrence PHONE: (415) 977-8447;
E-mail: rlawrence@smtp.spd.usace.army.mil

1. **INTRODUCTION:** Mr. Steve Gilley, 17 Sorrento Way, San Rafael, California 94901, has applied for a ten-year Department of the Army permit to conduct maintenance dredging at his residence located along San Rafael Creek, San Rafael, Marin County, California. The purpose is to return the area to its permitted depth in order to allow for safe navigation of recreational craft. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

2. **PROJECT DESCRIPTION:** As shown in the attached drawings, the applicant plans to remove approximately 740 cubic yards (cys) of sediments from the dock area in an initial episode and a total of approximately 7,400 cys over the life of the permit. The dock area to be dredged covers approximately 0.2 acre. Existing depths in the area average approximately -4.7 feet Mean Lower Low Water (MLLW). The design depth for the area would be -6 feet MLLW plus an additional one-foot overdredge allowance. The material would be removed using clamshell dredge equipment. Dredged material would be placed in dump scows and disposed at the San Pablo Bay Disposal Site (SF-10).

The sediment for each subsequent dredge episode will be subject to sampling and testing for agency approval of aquatic disposal.

3. **STATE APPROVALS:** Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification or waiver before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the San Francisco Bay Regional Water Quality Board. No Corps permit will be granted until the applicant obtains the required certification or waiver. A waiver shall be explicit, or it will be deemed to have occurred if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write 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 of this public notice.

The project is in the jurisdictional purview of the San Francisco Bay Conservation and Development Commission (BCDC). The applicant will be required to obtain a permit from BCDC after the RWQCB has made a determination of water quality certification for this project.

4. **PRELIMINARY ENVIRONMENTAL ASSESSMENT:** The Corps of Engineers has assessed the environmental impacts of the action proposed in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), and pursuant to Council on Environmental Quality's Regulations, 40 CFR

1500-1508, and Corps of Engineers' Regulations, 33 CFR 230 and 325, Appendix B. Unless otherwise stated, the Preliminary Environmental Assessment describes only the impacts (direct, indirect, and cumulative) resulting from activities within the jurisdiction of the Corps of Engineers.

The Preliminary Environmental Assessment resulted in the following findings:

a. IMPACTS ON THE AQUATIC ECOSYSTEM

(1) PHYSICAL/CHEMICAL CHARACTERISTICS AND ANTICIPATED CHANGES

Substrate - The dock area to be dredged covers an area of approximately 0.2 acres. The existing depth in the dredge area averages approximately -4.7 feet MLLW. The design depth will be -6 feet MLLW, plus a one-foot overdredge allowance. Sediments are composed of silts and clays, which is typical of sediments in the general area. Proposed dredging work would initially remove approximately 740 cubic yards of sediment and approximately 7,400 over the life of the permit lowering substrate elevations to a design depth of -6 feet plus a one-foot overdepth allowance. Since the natural processes of sediment loss, transport and accretion may cause similar disturbances to the substrate, the associated effects of dredging operations on substrate conditions would be adverse but short-term and minor in magnitude. Dredged material would be disposed at the San Pablo Bay Disposal Site and could result in altering existing substrate with a layer of newly deposited sediments. SF-10 is primarily a dispersive disposal site, with less than 40% of the deposited sediments retained. The associated effects of disposal operations on substrate conditions would be averse but short-term and minor in magnitude.

Erosion/Sedimentation Rate - Dredging work would result in localized sloughing of sediment along the side slopes and portions of the dock area, increasing the rate of erosion and sedimentation until a stable angle of repose was attained. Considering the excavation depth and volume of dredged material to be removed, the associated effects of dredging operations on erosion and sedimentation rates would be adverse but short-term and minor in magnitude.

Water Quality - Dredging and disposal operations may affect water quality variables such as dissolved oxygen (DO), pH, salinity, total suspended solids (TSS), and turbidity. Turbidity near the dredging and disposal sites would increase because of additional TSS in the water column. DO levels in the water column would decrease during disposal events due to increased turbidity. Since ambient water quality conditions recur shortly after each dredging event, the associated effects of dredging and disposal operations on these water quality variables would be adverse but short-term and minor in magnitude.

The suitability of the proposed dredged material for aquatic disposal in the San Francisco Bay complex was evaluated by the Dredged Material Management Office (DMMO), an interagency group consisting of representatives from the Corps of Engineers, U.S. Environmental Protection Agency, San Francisco Regional Water Quality Control Board, San Francisco Bay Conservation and Development Commission and the State Lands Commission. The DMMO considered a request for a Tier I exclusion from chemical and biological tests for the initial episode. Based on an examination of previous test results from the same general area, the DMMO determined that a Tier I exclusion is appropriate for the material proposed for the initial dredge episode.

Prior to each subsequent maintenance dredge episode that is proposed for disposal at SF-10, the suitability of the proposed dredge material for aquatic disposal will be evaluated by the interagency group. The group will consider the necessity of chemical and biological tests. If testing is necessary, tests will be conducted according to guidelines within the testing manual entitled "Evaluation of Dredged Material Proposed for Discharge in Waters of the U.S. - Testing Manual" (the inland testing manual or ITM), published in February 1998, by U.S. Environmental Protection Agency, U.S. Army Corps of Engineers. The group

will reach a consensus opinion as to whether or not the proposed dredge material is suitable for aquatic disposal at SF-10.

(2) BIOLOGICAL CHARACTERISTICS AND ANTICIPATED CHANGES

Endangered Species - Federally-listed threatened adult winter-run chinook salmon (Oncorhynchus tschwytscha) 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.

Central California populations of steelhead trout (Oncorhynchus mykiss) were classified as Federally threatened in August 1997. The steelhead that occur in San Francisco Bay are included in this ESU (evolutionarily significant unit) and therefore receive protection under the Endangered Species Act. There is concern that steelhead migrating through the Bay and into streams in the North Bay might enter San Rafael Creek. If a permit is issued for this proposed project it will contain a condition that dredging is allowed only between June 1 and November 30 in any year.

Habitat for Fish, Other Aquatic Organisms, and Wildlife - The initial removal of approximately 740 cubic yards of sediment and approximately 7,400 cys over the life of the permit from the dock area could have short-term, adverse impacts on fishes and fish habitat by temporarily increasing TSS in the water column, and possibly decreasing DO levels during dredging operations. However, conditions in the water column at the dredging site would likely return to pre-dredge conditions shortly after completion of the dredging operations. The removal of bottom sediments could also result in the removal of benthic organisms from the dock area.

Disposal of the dredged material at SF-10 could have short-term, adverse impacts on fishes and fish habitat. These impacts could be localized with increased turbidity due to additional TSS in the water column and decreased DO levels. Water column impacts due to dredged material disposal events at SF-10 are generally temporary and conditions usually return within minutes to hours following disposal. Therefore, these impacts are likely to be minor.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The proposal would impact approximately 0.8 acre of EFH utilized by various fish species. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries in California waters. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

b. IMPACTS ON RESOURCES OUTSIDE THE AQUATIC ECOSYSTEM

(1) PHYSICAL CHARACTERISTICS AND ANTICIPATED CHANGES

Air Quality - A conformity determination (Clean Air Act Section 176[c] [42 USC Section 7506(c)]) is not required for maintenance dredging and disposal at an approved disposal site consistent with 40 CFR 51.853(c)(2)(ix).

Noise Conditions - Short-term, adverse impacts on noise conditions in the local area could be expected from the operation of dredging equipment, with an expected increase in ambient noise levels.

(2) SOCIOECONOMIC CHARACTERISTICS AND ANTICIPATED CHANGES

Aesthetic Quality - The maintenance

dredging and disposal operations would have short-term, adverse impacts on visual resources in the Bay. However, since dredging equipment and barges are frequently seen vessels on San Francisco and San Pablo Bays, the impact would likely be minor. The disposal of dredged material at SF-10, and the resultant turbidity plume following each disposal event would have short-term, adverse impacts on the visual resources in the area. However, turbidity plumes associated with disposal events generally last only minutes to hours. Therefore, this impact is considered to be minimal.

Recreational Opportunities - Disposal of dredged material at San Pablo Bay could have short-term, adverse impacts on recreationists using the area for boating and other activities. However, any such conflicts during disposal events are likely to be minor.

Recreational Fishing - See Recreational Opportunities.

(4) HISTORIC - CULTURAL CHARACTERISTICS AND ANTICIPATED CHANGES

Given the dock area has been previously dredged to depths equal to those requested in the subject permit application, it is unlikely any historic properties are present at the proposed dredging site. However, if any archaeological resources were encountered during the dredging operations, the Corps of Engineers would consult with the State Historic Preservation Officer pursuant to Section 106 of the National Historic Preservation Act and take into account any project effects on such properties.

c. SUMMARY OF INDIRECT IMPACTS

None have been identified.

d. SUMMARY OF CUMULATIVE IMPACTS

The maintenance dredging of the dock area and the disposal of dredged material at the San Pablo Bay Disposal Site would cumulatively contribute to the resuspension of sediments in the San Francisco Bay system. The contribution of approximately 740 cubic yards of sediment, initially, and approximately 7,400 cys over the life of the permit to this process probably represents a minimal, adverse impact.

e. CONCLUSIONS AND RECOMMENDATIONS

Based on an analysis of the above identified impacts, a preliminary determination has been made that it will not be necessary to prepare an Environmental Impact Statement (EIS) for subject permit application. The Environmental Assessment for the proposed action, however, has not yet been finalized and this preliminary determination may be reconsidered if additional information is developed.

5. **EVALUATION OF ALTERNATIVES**: Evaluation of this activity's impacts will include application of 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)).

6. **PUBLIC INTEREST EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are 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.

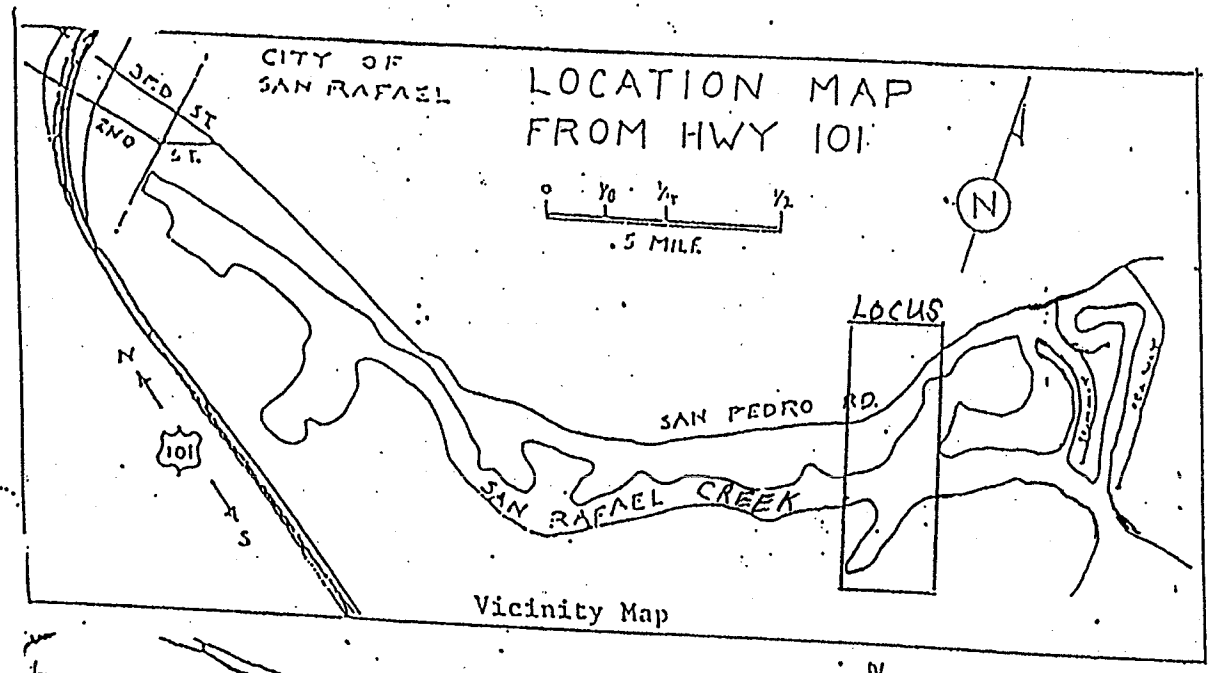
7. **CONSIDERATION OF COMMENTS:** The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

8. **SUBMISSION OF COMMENTS:** Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this notice and should be forwarded so as to reach this office within the comment period specified on page one of this notice. Comments should be sent to: Mr. Rob Lawrence, Regulatory Branch. It is Corps policy to forward any such comments which include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose address is indicated in the first paragraph of this notice, or by contacting Mr. Rob Lawrence of our office at telephone (415) 977-8447 or by e-mail at rlawrence@smtp.spd.usace.army.mil. Details on any changes of a minor nature which are made in the final permit action will be provided on request.

Maintenance Dredging
Sorrento Way
San Rafael Creek
San Rafael
Marin County, Ca.

Steven Gilley

Sheet 1 of 2



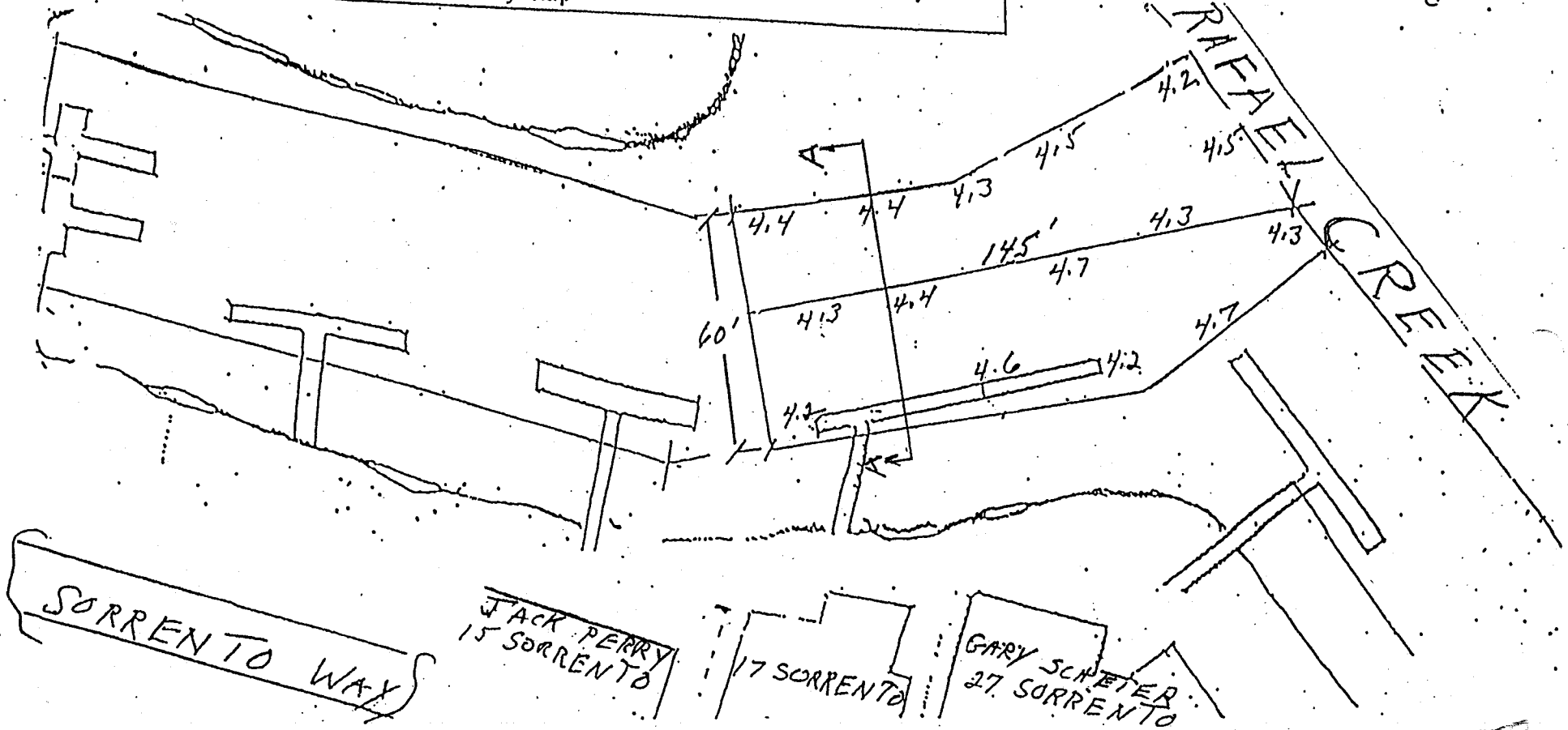
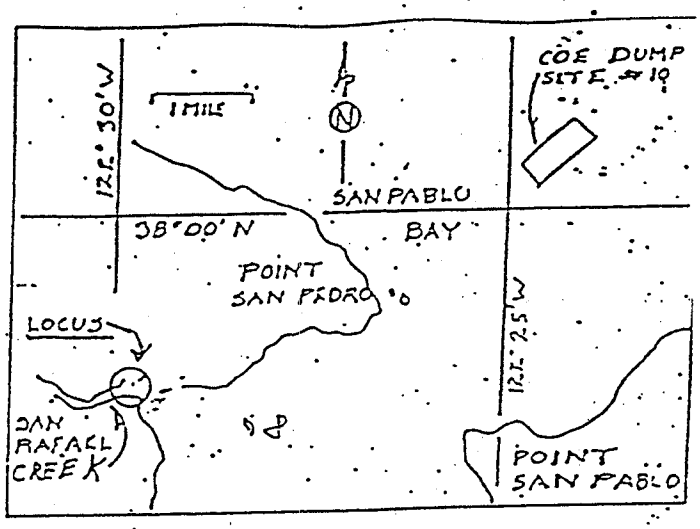
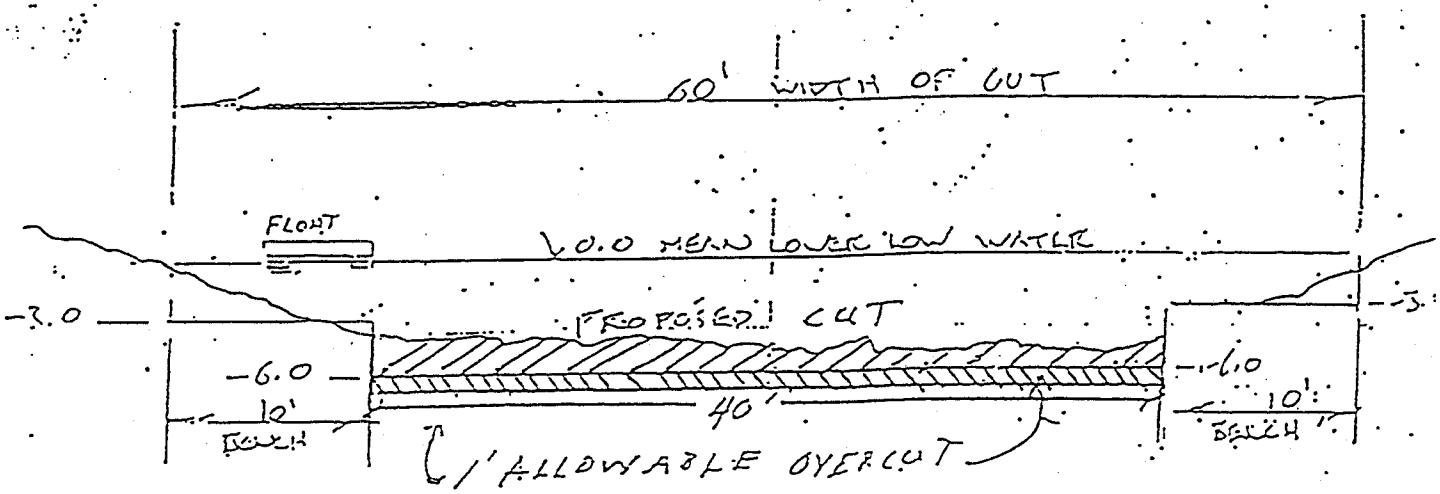


EXHIBIT D



VICINITY MAP OF PROPOSED WORK SITE SHOWING ITS RELATIONSHIP TO THE COE DUMP SITE #10 AND SAN PABLO BAY



A-A TYPICAL SECTION

1"=10'

740 CUBIC YARDS

Maintenance Dredging
Sorrento Way
San Rafael Creek
San Rafael
Marin County, Ca.

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Sheet 2 of 2