



US Army Corps
of Engineers

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

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DATE: November 14, 2001

RESPONSE REQUIRED BY: December 14, 2001

PERMIT MANAGER: Jim Delorey PHONE: 415-977-8441 james.r.delorey@usace.army.mil

1. INTRODUCTION: Kiewit Pacific Company through their agent, Ms. Mara Bresnick, Foxglove Environmental, P.O. Box 448, Meadow Vista, California 95722-0448, (530) 878-6510 has applied for a 10-year permit from the Department of the Army to conduct maintenance dredging, construct three piers, construct a new 300 foot bulkhead at the south end of the site, and construct a new "T" shaped pier at the north end of the Kiewit Pacific Construction site in Vallejo, Solano County, California. The purpose of the proposed work is to improve the existing industrial site for use as a general construction facility for handling and fabrication of materials and as a construction staging yard, to include deepening of the navigational channel adjacent to the site to allow moderate draft vessel docking. The site has been previously dredged in 1989 at the southern location and in 1999 at the northern location. 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 initially remove approximately 100,000 cubic yards of sediment from the 7.50-acre (approximately) site and remove approximately 200,000 cubic yards over the 10-year life of the permit. Existing depths in the dredge area range from about -1 foot mean lower low water (MLLW) to -15 feet MLLW. The design depth for the area is -13 feet MLLW plus an additional 2-foot overdepth allowance. The material would be

removed using a hydraulic dredge and removed by barge or pipeline to the San Pablo Bay Disposal Site (SF-10).

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 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. ENVIRONMENTAL FACTORS:

Endangered Species

Sacramento River Winter-Run Evolutionarily Significant Unit (ESU) chinook salmon

(*Oncorhynchus tshawytscha*) is listed as endangered (January 4, 1994, 59 FR 440). The ESU includes populations of winter-run chinook salmon in the Sacramento River and its tributaries in California. The disposal site is located within the designated critical habitat for Sacramento River Winter-Run ESU chinook salmon (58 FR 33212). Adult Sacramento River Winter-Run chinook salmon migrate through San Francisco Bay, San Pablo Bay, 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.

Central Valley Spring-Run ESU chinook salmon

(*Oncorhynchus tshawytscha*) is listed as threatened (September 16, 1999, 64 FR 50394). The ESU includes all naturally spawned populations of spring-run chinook salmon in the Sacramento River and its tributaries in California. The disposal site is located within the designated critical habitat for Central Valley Spring-Run chinook salmon (65 FR 7764). Adult Central Valley Spring-Run chinook salmon migrate through San Francisco Bay, San Pablo Bay, Suisun Bay, and Honker Bay, to spawning areas in the upper reaches of the river system during the spring. Juveniles travel downstream through San Francisco Bay to the Pacific Ocean in the late fall.

Central California Coast ESU steelhead

(*Oncorhynchus mykiss*) is listed as threatened (August 18, 1997, 62 FR 43937). The ESU includes all naturally spawned populations of steelhead (and their progeny) in California streams

from the Russian River to Aptos Creek, and the drainages of San Francisco and San Pablo Bays eastward to the Napa River (inclusive), excluding the Sacramento-San Joaquin River Basin. The dredging project and disposal site are located within designated critical habitat for Central California Coast ESU steelhead (65 FR 7764).

Central Valley California ESU steelhead

(*Oncorhynchus mykiss*) is listed as threatened (March 19, 1998, 63 FR 13347). The ESU 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. The disposal site is located within the designated critical habitat for Central Valley California ESU steelhead (65 FR 7764). All Central Valley steelhead are currently considered winter steelhead. Juvenile steelheads live in freshwater between one and four years and then become smolts and migrate to the sea from November through May.

There is concern that salmonids (both salmon and steelhead) migrating through the Bay might enter the disposal site. The movements of adult and juvenile salmonids through the Bay system are thought to be rapid during these migrations. Because impacts to the water column during disposal events would be short-term, localized and minor in magnitude, no potentially adverse effects to salmonids that may be near the disposal site are anticipated. If a permit is issued for this proposed project, it will contain a condition that no dredging is allowed from January 1 through May 31 without prior consultation (pursuant to Section 7 of the Endangered Species Act) with and approval from the National Marine Fisheries Service (NMFS) and the Corps of Engineers to protect the threatened and endangered salmonids

Sacramento splittail (*Pogonichthys*

macrolepidotus) is listed as threatened (February 8, 1999, 64 FR 5963). This native minnow is tolerant of brackish water and is known to occur in many of the tributaries to San Francisco Bay, including the Napa River. Splittail prefer dead-end sloughs; sloughs fed by freshwater sources; and larger, open tidal sloughs. Splittails are reported to be relatively common in Suisun Bay and Suisun Marsh, the Sacramento-San Joaquin Delta, and in the Napa and Petaluma Rivers. The primary concern for splittail populations is the loss of habitat attributable to migration barriers, loss of floodplain and tidal marsh to dike construction, and habitat draining over the last century. The species is likely present within the vicinity of the proposed project. If a permit is issued for this proposed project it will contain a condition that, in order to avoid adverse impacts to splittail, dredging is allowed only between August 1 and February 1 without consultation with and approval from the Corps and the U.S. Fish and Wildlife Service (USFWS).

Delta smelt (*Hypomesus transpacificus*) is listed as threatened (March 5, 1993, 58 FR 12854). Delta smelt occur in Suisun Bay and the Sacramento-San Joaquin River Estuary. This osmerid is an euryhaline (tolerant of a wide salinity range) species that spawns in fresh water. It is the only smelt endemic to California and the only true native estuarine species found in the Delta. Most spawning occurs in the dead-end sloughs and shallow edge-waters of channels in the western Delta. The primary threat for the delta smelt population is the large freshwater exports from the Sacramento and San Joaquin Rivers. Neither the project site nor the disposal site is located within the designated critical habitat for delta smelt (59 FR 65256). The species is unlikely to be present within the vicinity of the proposed project or disposal site. It is the Corps determination that this project is not likely to affect delta smelt or its critical habitat.

Habitat for Fish, Other Aquatic Organisms, and Wildlife - This notice initiates the Essential Fish

Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The proposal would impact approximately 7.50 acres at the project and 45.9 acres at the disposal site of EFH utilized by various species of: **Pacific Groundfish, Coastal Pelagics, and Pacific Coast Salmon**. Our initial determination is that the proposed actions 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. The Corps will be consulting with the NMFS on the effects of the proposed project on EFH.

Historic - Cultural Characteristics and Anticipated Changes

Given the site have 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. If any archaeological resources were encountered during the dredging operations, we 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.

5. EVALUATION OF ALTERNATIVES:

Evaluation of this activity's impacts includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. 1344(b)). An evaluation under the 404(b)(1) Guidelines indicates that the project is not water/wetland dependent. However, the applicant has submitted an Analysis of Alternatives for the project and it will be reviewed for compliance with the Guidelines. The applicant states that there are no practicable alternative for his project. The Analysis of Alternatives is available for review in our office. Evaluation of this activity's impacts includes

application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. 1344(b)). An evaluation was made by this office under the 404(b)(1) guidelines and it was determined that the proposed project is water dependent.

6. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit 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. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline 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 the 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 Jim Delorey of our office at telephone (415) 977-8441 or e-mail: james.r.delorey@usace.army.mil. Details on any changes of a minor nature which are made in the final permit action will be provided on request.