



SAN FRANCISCO DISTRICT

PUBLIC NOTICE

US Army Corps
of Engineers

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

NUMBER: 25764N

DATE: November 9, 2001

RESPONSE REQUIRED BY: December 10, 2001

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

1. **INTRODUCTION:** Loch Lomond Marina (through its agent, Mr. Les Shorter of Western Dock Enterprises, P.O. Box 4669, Petaluma, California 94955-4669), has applied for a ten-year Department of the Army permit to maintenance dredge the Loch Lomond Marina in San Rafael, Marin County, California. The purpose of the proposed dredging is to return the marina basin and entrance channel to their originally permitted depths to allow safe navigational depths for recreational boats. The marina (basin 1) was originally dredged in 1958 and basin 2 was originally dredged in 1965. 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 91,000 cubic yards of sediment from the 23.9-acre (approximately) marina basin and entrance channel. Of this total about 28,200 cubic yards will be from the entrance channel and the remainder (about 62,800 cubic yards) from the marina. Over the ten year life of the permit approximately 297,700 cubic yards will be dredged and disposed. Existing depths in the dredge area are about -5.5 feet mean lower low water (MLLW). The design depth for the area is -8 feet MLLW plus an additional 2-foot overdepth allowance. The material would be removed using a clamshell and removed by barge to the San Pablo Bay Disposal Site (SF-10).

Prior to each subsequent dredge episode, the

sediments to be dredged will be evaluated for agency approval of aquatic disposal.

3. **STATE APPROVALS:** Under Section 401 of the Clean Water Act (33 U.S.C. 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 94612-1413, 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 and Threatened Species

Sacramento River Winter-Run Evolutionarily Significant Unit (ESU) chinook salmon (*Oncorhynchus tshawytscha*) are 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*) are 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. 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 (both salmon and steelhead) 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).

Central California Coast ESU coho salmon (*Oncorhynchus kisutch*) are listed as threatened (October 31, 1996, 61 FR 56138). The ESU includes all naturally spawned populations of coho salmon from Punta Gorda in northern California, south to and including the San Lorenzo river in central California, as well as populations in tributaries to San Francisco Bay, excluding the

Sacramento-San Joaquin River system. The dredging project does not appear to be located within designated critical habitat for Central California Coast ESU coho salmon (64 FR 24049). NMFS in its biological opinion dated September 18, 1998 for the *Long-Term Management Strategy (LTMS) for the Placement of Dredged Material in the San Francisco Bay Region* 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 has undergone further review and was again revised in the *LTMS Management Plan 2001*, published in July 2001 (now re-labeled Appendix F). This appendix excludes the San Rafael Canal as an area of concern for the coho salmon. No potential adverse effects to coho salmon are anticipated.

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 Service. 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 marina and entrance channel 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)). 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. 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 to reach this office within the comment period specified on page one of this notice. Comments should be sent to: Mr. Jim Delorey, 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 that are made in the final permit action will be provided on request.