



US Army Corps
of Engineers

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: 26295N DATE: May, 14, 2002
RESPONSE REQUIRED BY: May 29, 2002

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

PERMIT MANAGER: Clyde Davis

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1. **INTRODUCTION:** Mr. Nick Tarlson, 225 West End Avenue, San Rafael, CA 94901, on behalf of the Marin Council of the Boy Scouts of America, has applied for a ten-year Department of the Army permit to conduct maintenance dredging at the Larkspur Sea Base on the north side of Corte Madera Creek located adjacent to San Francisco Bay in the City of Larkspur, 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 600 cubic yards (cys) of sediments from the slip and dock area in an initial episode and a total of approximately 6,000 cys over the life of the permit. The area to be dredged covers approximately 0.05 acre. Existing depths in the area average approximately -2.0 feet Mean Lower Low Water (MLLW). The design depth for the slip would be -8 feet MLLW plus an additional two-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 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 obtained a valid State water quality certification from the San Francisco Bay Regional Water Quality Board.

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 has obtained a permit from BCDC.

4. ENVIRONMENTAL REVIEW:

National Environmental Policy Act of 1969 (NEPA): At the conclusion of the public comment period, the USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), the Council on Environmental Quality's Regulations at 40 CFR 1500-1508, and USACE Regulations at 33 CFR 230 and 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of the USACE and other non-regulated activities the USACE 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.

Endangered Species Act of 1973 (ESA):
Endangered and Threatened Species

Threatened and Endangered Species - The National Marine Fisheries Service has indicated that the following listed species may occur in the project area:

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).

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. Critical habitat for Sacramento River Winter-Run ESU chinook salmon is designated in 58 FR 33212, on June 16, 1993. 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. Critical habitat for

Central Valley Spring-Run chinook salmon is designated in 65 FR 7764, on February 16, 2000. 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 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.

Central California Coast ESU coho salmon (*Oncorhynchus kisutch*) is listed as threatened (October 31, 1996, 61 FR 56138). 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 September 18, 1998 for the *Long Term Management Strategy for bay Area Dredged Material (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. This appendix includes the Corte Madera Creek as an area of concern for the coho salmon.

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 November 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.

The USACE has concerns regarding potential impacts to Pacific herring during its annual spawning season. The proposed maintenance dredging will occur within the traditional Pacific herring spawning grounds. As a result, the USACE will condition the permit (if issued) so that dredging will not be allowed during the peak of the spawning season from December 1 through March 1.

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 0.05 acres of EFH utilized by various species of **Pacific Groundfish, Coastal Pelagics** and **Pacific Coast Salmon**. 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.

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. Clyde Davis, Regulatory Branch. It is Corps policy to forward any such comments that 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. Clyde Davis of our office at telephone (415) 977-8449 or by e-mail at cdavis@spd.usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided on request.