



US Army Corps  
of Engineers

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

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

NUMBER: 28698S      DATE: April 26, 2004  
RESPONSE REQUIRED BY: May 26, 2004

PERMIT MANAGER: Bob Quebedeaux

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1. **INTRODUCTION:** The Port of Oakland (contact: Marucia Britto, 530 Water Street, Oakland, CA 94607, (510) 627-1104) has applied for a U.S. Army, Corps of Engineers (Corps) permit to commence the Wharf and Embankment Strengthening Program (WESP) and Berth Deepening at Berths 22, 23, 24, 25, 26, 30 (Outer Harbor) and Berths 67 and 68 (Inner Harbor). (Note: No additional WESP work permit is needed at Berth 22 since Berth 22 embankment and wharf is already permitted (Corps File #27019S) and is currently being reconstructed). 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. PROPOSED PROJECT:

**Project Site:** The proposed project will be located at wharves, embankments and berths (Berths 22, 23, 24, 25, 26, 30, 67 and 68) in marine terminals located along Maritime and 7<sup>th</sup> Streets in the Oakland Outer Harbor and in the Charles P. Howard Terminal located at 1 Market Street in the Inner Harbor, City of Oakland, Alameda County, California 94607 (see attached Figures 1-3).

**Project Description:** As shown in the attached Figures 4-6, the applicant plans to commence its WESP, consisting of three main parts: stabilization of embankments, structural modifications to the wharves and berth deepening, as explained below:

- **Stabilization of embankments** is necessary

to allow for the deepening of the berths from their current depth of -42 feet or -46 feet Mean Lower Low Water (MLLW) to a new depth of -50 feet MLLW (plus an allowance of up to 2 feet of overdepth to allow for the tolerance of dredge equipment). Sheet pile walls will be installed at the toe of the embankments to maintain the stability of the embankments for post-dredge conditions.

- **Structural modification to the wharves** is designed to maintain existing seismic stability for post-deepening conditions and increase static capacities for crane and mooring loads. New piles will be driven to increase the capacity of the waterside crane girders. At some terminals, wooden fender pile systems are in place. These fender systems will be removed to provide clearance for sheet pile installation. After installation, new elastomeric unit fenders will be attached. Existing bollards would be upgraded and replaced to accommodate newer, larger vessels.
- **Berth Deepening** is necessary to accommodate larger post-Panamax vessels. The Port proposes to deepen the berths to a new depth of -50 feet MLLW (plus an allowance of up to 2 feet of overdepth to allow for the tolerance of dredge equipment). The berth deepening is an integral element of the Port of Oakland Harbor Navigation Improvement (-50 foot) Project.

**Dredging Disposal:** 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 (EPA), 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 of the material.

**Purpose and Need:** The basic purpose of this project is to perform structural modification to the wharves, deepen the berths and stabilize the embankments. The overall purpose of this project is to provide the berths with adequate structural performance in case of a seismic event and to deepen the berths to modernize the Port's maritime facilities and accommodate larger (post-Panamax) vessels, which constitute the current fleet of vessels used by shipping companies.

**Impact:** The applicant plans to remove up to 289,300 cubic yards (cy) of sediment. The estimated future maintenance dredging required annually is up to 70,970 cy of sediment. The proposed method of dredging would be utilizing a clamshell dredge (environmental bucket for unconsolidated mud). The Port proposes to transport unconsolidated berth deepening material from Berths 67-68 to the Berth 10 rehandling facility (for upland disposal) and beneficially reuse the remainder of deepening material at the Oakland Middle Harbor Enhancement Area (MHEA), contingent upon final approval by DMMO.

**Mitigation:** The applicant has proposed to avoid impact to salmonids, use debris containment boom around all demolition and excavation activities and to take measures to dampen noise impacts to aquatic

resources to a level less than or equal to 180dB (peak) as measured 10 meters from the pile driving activity, and approximately 3 meters below the water surface. In addition, a qualified observer will be present on-site during all dredging operations near potential herring spawning areas between December 1 and March 1. If spawning is observed within 200 meters of the work site, all dredging related activities will be stopped in the area for 2 weeks.

### **3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:**

**National Environmental Policy Act of 1969 (NEPA):** The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations, 40 C.F.R. Part 1500-1508, and Corps' Regulations, 33 C.F.R. Part 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197.

**Endangered Species Act of 1973 (ESA):** Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. Species that may occur in the project area include the California brown pelican and the California least tern, however the project area is not designated critical habitat for these species. In addition, Sacramento River winter-run and Central Valley spring-run Chinook salmon, and Central California Coast and Central Valley

steelhead are listed as threatened or endangered in central San Francisco Bay. The project area is not critical habitat for these species but may or may not be located in any migratory path. Past sampling activities in the project area have not captured any of the listed species.

**Magnuson-Stevens Fisheries Conservation and Management Act:** NMFS and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act. Coordination with the NMFS in regard to EFH will be initiated concurrently with the ESA consultation, if necessary.

**Clean Water Act of 1972 (CWA):**

**a. Water Quality:** Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification 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 Control Board. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification 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.

**b. Alternatives:** Evaluation of this proposed activity's impact 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. Section 1344(b)). The applicant states that there is no practicable alternative for his project. An evaluation has been made by this office under the guidelines and it was determined that the proposed project is water dependent.

**Coastal Zone Management Act of 1972 (CZMA):** Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project will comply with the State's Coastal Zone Management Program, if applicable. No Corps permit will be issued until the State has concurred with the applicant's certification. Coastal development issues should be directed to the San Francisco Bay Conservation and Development Commission (BCDC), 50 California Street, Suite 2600, San Francisco, California 94111.

**National Historic Preservation Act of 1966 (NHPA):** Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. The Port of Oakland states that the "Port of Oakland Emergency Plan of Action For Discoveries of Unknown Historic or Archaeological Resources" will be implemented as deemed appropriate. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

**4. PUBLIC INTEREST EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the

public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historical 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.

Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. It is the 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 Public 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 name and address are indicated in the first paragraph of this Public Notice or by contacting Bob Quebedeaux of our office at telephone 415-977-8446 or E-mail: bob.d.quebedeaux@spd02.usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.

**5. 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 to determine whether to issue, 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 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 in the proposed activity.

**6. SUBMISSION OF COMMENTS:** Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S.