



US Army Corps
of Engineers

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

PROJECT: Harbor Bay Ferry Terminal Dock Dredging

NUMBER: 2009 – 00203S

DATE: June 23, 2010

RESPONSE REQUIRED BY: July 23, 2010

Regulatory Division
1455 Market Street
San Francisco, CA 94103-1398

PERMIT MANAGER: Mark D'Avignon; PHONE: (415) 503-6806; E-mail: mark.r.d'avignon@usace.army.mil

1. INTRODUCTION: The City of Alameda, 950 West Mall Square, Room 110, Alameda, California 94501 (Contact: Mr. Ernest Sanchez; Phone: (510) 749-5972), through its agent CLE Engineering, 250 Bel Marin Keys Boulevard, Suite 2F, Novato, California 94949, has applied for a permit modification to their existing ten-year Department of the Army permit, which currently authorizes the dredging of a total of approximately 50,000 cubic yards of material from two hazardous shallow areas adjacent to and within the Harbor Bay Ferry Terminal Access Channel located in San Francisco Bay, Alameda County, California. The proposed permit modification would be to allow dredging to occur at the docking area at the Harbor Bay Ferry Terminal located in the City of Alameda along the eastern shore of San Francisco Bay (See attached vicinity map.). The purpose of the proposed dredging at the Harbor Bay Ferry Terminal docking area is to deepen the area in order to provide safe access and maneuverability to ferries navigating to and from the terminal. This modification request 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 permit modification would allow the City of Alameda to remove approximately 5,150 cubic yards of sediment from an approximately 0.9-acre area at the docking area of the Harbor Bay Ferry Terminal. This additional dredging would be included in the current permit volume total of 50,000 cubic yards, and would not represent an increase in

the total permitted dredging volume. Existing depths range from -2 to -10 feet mean lower low water (MLLW) in the proposed dredging area adjacent to and within the access channel. The design depth for the proposed dredging area is -12 feet MLLW plus an additional 2-foot overdredge allowance. The material would be removed using a mechanical clamshell dredge and transported by barge to the Winter Island upland dredged material disposal site located at the confluence of the Sacramento and San Joaquin Rivers and Suisun Bay in Contra Costa County.

Prior to each dredging episode, 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, San Francisco Bay Conservation and Development Commission (BCDC), San Francisco Bay Regional Water Quality Control Board (RWQCB), and the U.S. Army Corps of Engineers (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 for the material.

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 Division, 1455 Market Street, San Francisco, California 94103-1398.

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 and critical habitat currently identified as potentially impacted by the proposed project include green sturgeon, chinook salmon and steelhead trout.

Please note that programmatic biological opinions (BOs) were issued by FWS (March 12, 1999) and NMFS (September 18, 1998) for the Long Term Management Strategy for the placement of dredged material in the San Francisco Bay region. As a result of the BOs there are allowable time frames to dredge to protect the habitat for threatened (and endangered) species and the species themselves per Section 7 of the Endangered Species Act of 1973, as amended. If the dredge work is conducted within these time frames, there is no need for consultation.

Federally-listed endangered adult winter-run chinook salmon (*Oncorhynchus tshawytscha*) 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, if the dredge

work is conducted from June 1 through November 30. If a permit is issued for this proposed project it will contain a condition that dredging is allowed only from June 1 through November 30 in any year, without consultation (pursuant to Section 7 of the ESA) with and approval from NMFS and the Corps.

Central Valley Spring-Run ESU chinook salmon (*Oncorhynchus tshawytscha*) were listed as threatened on September 16, 1999 (64 FR 50394). Spring-run chinook salmon typically migrate upstream through San Francisco Bay to spawning areas between March and July. Spawning usually occurs between late-August and early October with a peak in September. Juveniles travel downstream through San Francisco Bay in late fall to spring and then to the Pacific Ocean once they have undergone smoltification. Since impacts to the water column during disposal events would be short-term, localized and minor in magnitude, no potentially adverse effects to spring-run chinook salmon that may be near the disposal site are anticipated, if the dredge work is conducted from June 1 through November 30. If a permit is issued for this proposed project it will contain a condition that dredging is allowed only from June 1 through November 30 in any year, without consultation (pursuant to Section 7 of the ESA) with and approval from NMFS and the Corps.

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 to streams in the South Bay might be present in the proposed dredging area. If a permit is issued for this proposed project it will contain a condition that dredging is allowed only from June 1 through November 30 in any year, without consultation (pursuant to Section 7 of the ESA) with and approval from NMFS and the Corps.

Additionally, the Corps 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 Corps will condition the permit (if issued) so that dredging will be allowed only from March 1 through November 30 in any year.

California least tern (*Sterna antillarum brownii*) was classified as federally endangered in 1970, and therefore receive protection under the Endangered Species Act. The terns breed in the eastern part of the San Francisco Bay, from the Berkeley Marina to San Lorenzo Creek within one mile of the coastline. The dredging project is located within the breeding area of the California Least Tern. The permit will contain a condition that dredging is allowed only from August 1 through March 14.

On April 7, 2006, NMFS listed the North American green sturgeon (*Acipenser medirostris*) distinct population segment (DPS) south of the Eel River in California as threatened under the Endangered Species Act (71 FR 17757). The Corps and NMFS are currently consulting programmatically on green sturgeon and the LTMS program.

Magnuson-Stevens Fisheries Conservation and Management Act: This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The proposed dredging would impact approximately 0.9 acre of EFH possibly utilized by various species of groundfish such as shark, sole, and flounder. Our initial determination is that the proposed action could potentially have an adverse effect on EFH or federally managed fisheries in California waters. The proposed dredging area is located at the Harbor Bay Ferry Terminal dock in San Francisco Bay in the City of Alameda, Alameda County, California. The bottom sediments to be dredged during the proposed dredging activities are most likely composed mainly of silts and clays. It is presumed that fish species utilizing the area would be using it for feeding during a period of growth. When dredging occurs, the fish should be able to find ample and suitable foraging areas in and along the adjacent channel. As the infaunal community recovers in the dredged area, fish species will return to feed. The “Baywide Eelgrass Inventory of San Francisco Bay,” prepared

by Merkel and Associates, dated October 2004, depicts the area in close proximity (i.e. approximately 200 feet to the north, 800 feet to the south, and 1000 feet to the west) to the Harbor Bay Ferry Terminal dock as having extensive eelgrass beds present. Therefore, the Corps had determined there could be indirect adverse effects to eelgrass from the proposed dredging project. Our final determination relative to project impacts and the need for mitigation measures for EFH is subject to review by and coordination with NMFS.

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 or modified. The City of Alameda has provided the Corps with evidence that a valid request has been submitted to the San Francisco Bay Regional Water Quality Control Board for State water quality certification. No Corps permit modification will be granted until the City of Alameda 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: The City of Alameda has prepared an Integrated Alternatives Analysis, in accordance with 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)) for their dredging projects. However, since this proposed project would involve only upland placement of the dredged material at Winter Island, a

Section 404 (b) (1) Alternatives Analysis is not required for this project.

Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires an 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 or modified 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): The City of Alameda states that the Harbor Bay Ferry Terminal dock area has been previously dredged, therefore historic or archeological resources are not expected to occur in the project vicinity. 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 modify the 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.

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 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 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 Mark D'Avignon at the U.S. Army Corps of Engineers, San Francisco District, Operations and Readiness Division, 1455 Market Street, San Francisco, California 94103-1398. 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 Mark D'Avignon of our office at telephone number (415) 503-6806 or by E-mail at: mark.r.d'avignon@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.