



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

PUBLIC NOTICE

PROJECT: Bayfront at Mission Bay Shoreline Protection Project

PUBLIC NOTICE NUMBER: 2009-00474S

PUBLIC NOTICE DATE: February-1-2011

COMMENTS DUE DATE: March-2-2011

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1. **INTRODUCTION:** The Port of San Francisco has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to discharge fill material into jurisdictional waters of the United States associated with shoreline stabilization work, located in the City of San Francisco, San Francisco County, California. This Department of the Army permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*) and Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*)

2. PROPOSED PROJECT:

Project Site Location: The project is located along the shoreline of Mission Bay, near the intersection of 16th Street and Terry A. Francois Boulevard, in the vicinity of former piers 64 and 66, in the City of San Francisco, San Francisco County, California. (See Figures 1 and 2)

Project Site Description: The project site is located along the Mission Bay, an urbanized shoreline within the City of San Francisco, in an area that historically contained bulk petroleum facilities. Investigations in the 1990s revealed subsurface petroleum contamination resulting in remedial activities in 2001, 2005 and 2006. The existing shoreline at the project site is comprised of a 400-foot long concrete seawall, remnants of Pier 64 including concrete fill and corroded steel columns, creosote treated wood embankments and piers, concrete deck structures, loose asphalts and rip rap. The site is currently mostly vacant.

Project Description: As shown in the attached drawings (Figures 3a through 3d), the applicant proposes to stabilize approximately 1,200 feet of the shoreline

extending from Pier 54 to Pier 64 in the Mission Bay area of San Francisco. Initial project measures include the demolition and excavation of approximately 2,400 cubic yards of existing debris and shoreline structures along the entire length of the proposed project. Following measures include the grading of the shoreline, installation of approximately 3,300 cubic yards of crushed concrete sub-base, and installation of geotextile fabric over the sub base followed by the installation of 800 cubic yards of bedding stone and armor stone. The crushed concrete sub base will be generated onsite from existing debris material. Unsuitable material will be disposed of at an approved facility. The project also proposes to conduct grout stabilization of the existing seawall and placement of clean fill over new structures to return the site to original grade. The total construction area is approximately 48,500 square feet in area along 1,200 feet of the shoreline. Project construction is expected to last 3 months.

Basic Project Purpose: The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by USACE to determine whether the project is water dependent. The basic project purpose is to stabilize approximately 1,200 feet of shoreline of Mission Bay extending from Pier 54 to Pier 64.

Overall Project Purpose: The overall project purpose serves as the basis for the Section 404(b)(1) alternatives analysis, and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, while allowing a reasonable range of alternatives to be analyzed. The overall project purpose is to stabilize the existing shoreline from further erosion and to remove dilapidated and corroded structures and debris from the

shoreline. The proposed project is ancillary to the construction of a park associated with the redevelopment of the Mission Bay area of San Francisco.

Project Impacts: The project will result in the placement of 26,000 square feet of material below the plane of Mean High Water (MHW). This fill represents a net increase in fill of 2,300 square feet above existing fill amounts. The project site is comprised of a degraded benthic and intertidal habitat due caused by historic land uses and the site. There are no wetlands, mudflats, or eel grass beds at the site.

Proposed Mitigation: To minimize impacts to jurisdictional waters, habitat and natural resources the applicant proposes to implement various minimization measures. To prevent dispersal of sediments during construction silt curtains will be installed around the perimeter of the construction site. A Spill Prevention and Control Plan is also proposed to address the potential release of petroleum hydrocarbons. No compensatory mitigation is being required as there is no loss of wetlands and impacts to waters of the U.S. are being minimized through the proposed measures.

Project Alternatives: The applicant has provided a description and analysis of a variety of project alternatives. Alternatives include a rock revetment with existing seawall toe stabilization alternative, a soldier pile wall alternative, and a sheetpile wall alternative. The rock revetment alternative involves the excavation and demolition of existing structures, installation of geotextile fabric and bedding and armor stone. Of the proposed alternatives, this alternative involves the least net fill into jurisdictional waters of the U.S. and is most consistent with existing adjacent areas. The soldier pile wall alternative involves the driving of soldier piles (H piles) and sliding reinforced concrete panels between them. This alternative requires backfill behind the wall resulting in higher total fill amounts in jurisdictional waters in comparison to the revetment alternative. The steel sheetpile alternative involves the driving of vertical steel section sheetpile. This alternative requires the backfill behind the sheetpile resulting in higher total fill amounts in jurisdictional waters in comparison to the revetment alternative.

3. STATE AND LOCAL APPROVALS:

Water Quality Certification: State water quality certification or a waiver is a prerequisite for the issuance of a Department of the Army Permit to conduct any

activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to Section 401 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1341 *et seq.*). No Department of the Army Permit will be issued until the applicant obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed, if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act.

Water quality issues should be directed 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.

Coastal Zone Management: Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c) *et seq.*), requires a non-Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Certification that indicates the activity conforms with the State's coastal zone management program. Generally, no federal license or permit will be granted until the appropriate State agency has issued a Consistency Certification or has waived its right to do so. Since the project occurs in the coastal zone or may affect coastal zone resources, the applicant has applied for a Consistency Determination from the San Francisco Bay Conservation and Development Commission to comply with this requirement.

Coastal zone management issues should be directed to the Executive Director, San Francisco Bay Conservation and Development Commission, 50 California Street, Suite 2600, San Francisco, California 94111, by the close of the comment period.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act (NEPA): Upon review of the Department of the Army permit application and other supporting documentation, USACE has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of NEPA. At the conclusion of the public comment period, USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§

4321-4347), the Council on Environmental Quality's Regulations at 40 C.F.R. Parts 1500-1508, and USACE Regulations at 33 C.F.R. Part 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of USACE and other non-regulated activities 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. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Regulatory Division.

Endangered Species Act (ESA): Section 7(a)(2) of the ESA of 1973, as amended (16 U.S.C. § 1531 *et seq.*), requires Federal agencies to consult with either the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to insure actions authorized, funded, or undertaken by the agency are not likely to jeopardize the continued existence of any Federally-listed species or result in the adverse modification of designated critical habitat. As the Federal lead agency for this project, USACE has conducted a review of the California Natural Diversity Data Base, digital maps prepared by USFWS and NMFS depicting critical habitat, and other information provided by the applicant, to determine the presence or absence of such species and critical habitat in the project area. Based on this review, USACE has made a determination that the following Federally-listed species and designated critical habitat are present at the project location or in its vicinity, and may be affected by project implementation. The project area contains Federally-listed threatened steelhead trout (*Oncorhynchus mykiss*) and threatened green sturgeon (*Acipenser medirostris*). Critical habitat in the project area has been designated for Central California Coast steelhead and North American green sturgeon. The overall project could potentially impact listed species and critical habitat through increases in turbidity and releases of contaminants. To address project related impacts to these species and designated critical habitat, USACE has conducted an informal consultation with NMFS, pursuant to Section 7(a) of the Act. NMFS has determined the project is not likely to adversely affect listed species and critical habitat. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process.

Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA): Section 305(b)(2) of the MSFCMA of 1966, as amended (16 U.S.C. § 1801 *et seq.*), requires Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all proposed actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. EFH is designated only for those species managed under a Federal Fisheries Management Plan (FMP), such as the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, and the *Pacific Coast Salmon FMP*. As the Federal lead agency for this project, USACE has conducted a review of digital maps prepared by NMFS depicting EFH to determine the presence or absence of EFH in the project area. Based on this review, USACE has made a determination that EFH is present at the project location or in its vicinity, and that the critical elements of EFH may be adversely affected by project implementation. The proposed project may affect the Pacific Groundfish FMP, Coastal Pelagics FMP and the Pacific Salmon FMP through turbidity/ siltation effects, release of contaminants and removal of hard substrate. To address project related impacts to EFH, USACE has conducted a consultation with NMFS, pursuant to Section 305(5)(b)(2) of the Act. NMFS has determined the project contains adequate measures to avoid, minimize, mitigate, or offset adverse effects to EFH. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process.

Marine Protection, Research, and Sanctuaries Act (MPRSA): Section 302 of the MPRSA of 1972, as amended (16 U.S.C. § 1432 *et seq.*), authorizes the Secretary of Commerce, in part, to designate areas of ocean waters, such as the Cordell Bank, Gulf of the Farallones, and Monterey Bay, as National Marine Sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the Act. No Department of the Army Permit will be issued until the applicant obtains the required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project would not likely affect sanctuary resources. This presumption of effect, however, remains subject to a final determination

by the Secretary of Commerce, or his designee.

National Historic Preservation Act (NHPA): Section 106 of the NHPA of 1966, as amended (16 U.S.C. § 470 *et seq.*), requires Federal agencies to consult with the appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places*. Section 106 of the Act further requires Federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance. As the Federal lead agency for this undertaking, USACE has conducted a review of latest published version of the *National Register of Historic Places*, survey information on file with various city and county municipalities, and other information provided by the applicant, to determine the presence or absence of historic and archaeological resources within the permit area. Based on this review, USACE has made a *preliminary* determination that historic or archaeological resources are not likely to be present in the permit area, and that the project either has no potential to cause effects to these resources or has no effect to these resources. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, and Native American Nations or other tribal governments. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until USACE concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with 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)). An evaluation pursuant to the Guidelines indicates the project is dependent on location in or proximity to waters of the United States to achieve the basic project purpose. This conclusion raises the (rebuttable) presumption of the availability of a

practicable alternative to the project that would result in less adverse impact to the aquatic ecosystem, while not causing other major adverse environmental consequences. The applicant has submitted an analysis of project alternatives which is being reviewed by USACE.

6. PUBLIC INTEREST EVALUTION: The decision on whether to issue a Department of the Army Permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the project and its intended use on the public interest. Evaluation of the probable impacts requires a careful weighing of the public interest factors relevant in each particular case. The benefits that may accrue from the project must be balanced against any reasonably foreseeable detriments of project implementation. The decision on permit issuance will, therefore, reflect the national concern for both protection and utilization of important resources. Public interest factors which may be relevant to the decision process include 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: USACE is soliciting comments from the public; Federal, State and local agencies and officials; Native American Nations or other tribal governments; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by USACE will be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army Permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental or public interest factors addressed in a final environmental assessment or environmental impact statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the project.

8. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to Kyle Dahl, San Francisco District, Regulatory Division, 1455 Market Street, 16th Floor, San Francisco, California 94103-13978; comment letters should cite the project name, applicant name, and public notice number to facilitate review by the Regulatory Permit Manager. Comments may include a request for a

public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. Additional project information or details on any subsequent project modifications of a minor nature may be obtained from the applicant and/or agent, or by contacting the Regulatory Permit Manager by telephone or e-mail cited in the public notice letterhead. An electronic version of this public notice may be viewed under the *Current Public Notices* tab on the USACE website: <http://www.spn.usace.army.mil/regulatory/>.