



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

PROJECT: **Santa Cruz Harbor Maintenance Dredging**

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COMMENTS DUE DATE: June 17, 2011

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1. **INTRODUCTION:** The Santa Cruz Port District (Port District), through its Point of Contact Marian Olin (831- 475-6161) has applied for a ten-year Department of the Army permit to maintenance dredge Santa Cruz Harbor. The applicant is proposing to dredge a maximum of 3,110,000 cubic yards (cys) during the next ten years. The purpose of the proposed dredging is to maintain sufficient depths to continue operation of the harbor. The 46.5 acre Santa Cruz Harbor is located in Monterey Bay in the City of Santa Cruz, Santa Cruz County, California.

The applicant is proposing to dispose of the dredged material at one of the following sites: the nearshore disposal site (nearshore immediately east of the east jetty), the Off-Shore Moss Landing, Monterey Bay Disposal Site (SF-14), separately permitted wetlands restoration projects (such as the conceptual Elkhorn Slough Restoration project should it ever be permitted), or on an upland site located outside of U.S. Army Corps of Engineers (Corps) regulatory jurisdiction. During the past ten years the majority of the dredged material from Santa Cruz Harbor has been disposed at the nearshore disposal site, and it is anticipated that most of the dredged material will continue to be placed at the nearshore disposal site.

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.*), Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*), and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 U.S.C. § 1413 *et seq.*).

2. PROPOSED PROJECT:

Project Site Location: Santa Cruz Harbor (36°58'01" N and 122°00'10"W) is located at the mouth of Arana Gulch, adjacent to the northern edge of Monterey Bay. The project site is shown on Sheet 1 of 13 and the Santa Cruz California US Geological Service Quadrangle Map. It is located in the City of Santa Cruz, Santa Cruz County, California.

The Santa Cruz Harbor is divided into the entrance channel and an inner harbor. The entrance channel extends from beyond the southern edges of the jetties to the fuel dock. The entrance channel is shown in Sheet 2 of 13 of the attached drawings.

The inner harbor extends from the fuel dock to the culverts at the base of Arana Gulch. The inner harbor is subdivided into the north and south harbors. The south harbor contains the area between the fuel dock and the Murray Street Bridge. The south harbor is shown on Sheet 3 of 13. The north harbor contains the area between the Arana Gulch culverts and the Murray Street Bridge and is shown on Sheets 4 and 5 of 13.

Project Site Description: Historically the proposed project site, which is located at the mouth of Arana Gulch, was known as Woods Lagoon. Prior to construction of the harbor, the lagoon would breach during the winter and flow directly into Monterey Bay. In 1964, the current Harbor was constructed by the Corps and the Port District. Since 1964 annual dredging has kept the harbor open.

As shown on Sheet 10 of 12, a portion of the project site is a federal channel. The Corps last dredged the

federal channel in 1985. After that dredging episode, the Corps purchased a dredge with the Santa Cruz Port District and, the Santa Cruz Port District became responsible for maintenance dredging of the federal channel.

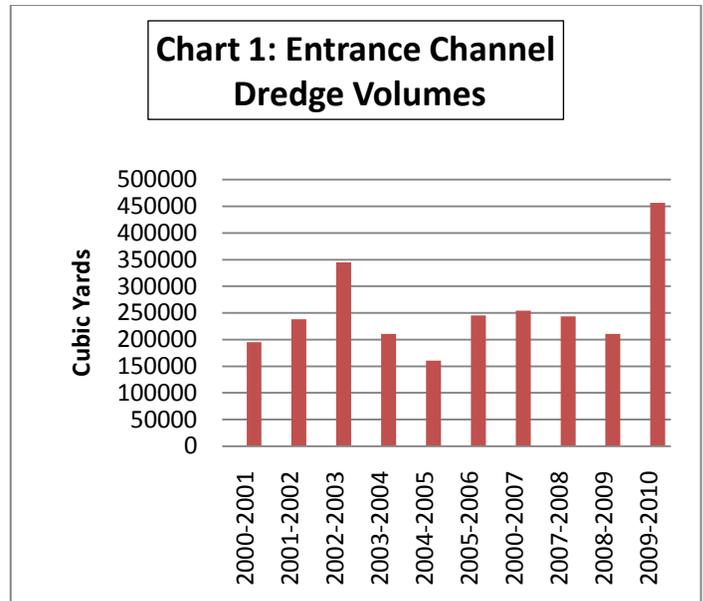
Project Description:

a. Entrance Harbor:

The entrance channel (see Sheet 2 of 13) material will usually be dredged by a hydraulic dredge. The applicant proposes to remove approximately 2,560,000 cubic yards (cys) of sandy sediments (80% sand or greater) from the approximately 20 acre entrance channel over the next ten years.

The amount of sediment removed from the channel annually depends on several factors including siltation rate and weather. During the previous ten years (see Chart 1) the volume of sediments dredged from the entrance channel annually has ranged from approximately 160,333 cys to 456,830 cys.

As shown on Sheet 2 of 12, the 100 foot wide center of the entrance channel ranges from a design depth of -20 feet mean lower low water (MLLW) plus two feet of overdepth near the mouth to -15 feet MLLW plus two feet of overdepth near the fuel dock . The two entrance channel shoulders (from the edge of 100 foot wide channel to the base of the jetties) are dredged to a design depth of -15 feet MLLW plus a two foot overdepth allowance near the mouth of the channel to -5 feet plus a two foot overdepth allowance near the fuel dock.



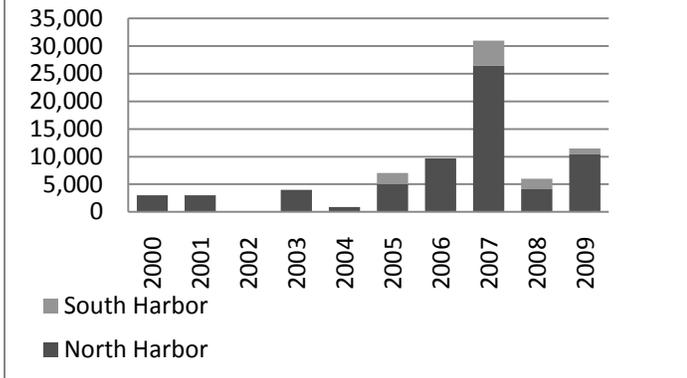
b. Inner Harbor:

The material would be dredged using either a clamshell (excavator) or hydraulic dredge. The applicant’s preferred disposal site for inner harbor material is the nearshore disposal site. The inner harbor is subdivided into 16.7 acre north harbor and the 18.4 acre south harbor.

The applicant proposes to dredge up to 550,000 cys from the inner harbor over the next ten years. The material dredged from the inner harbor generally has a higher content of finer grained (silts and clay) material than the entrance channel. The percentage of sand in the inner harbor sediments has ranged from 10% (90% silts and clays) to 98% (2% silts and clays).

Like the entrance channel, the amount of sediment removed from inner harbor varies. During the previous ten years (see Chart 2) the volume of sediments dredged from the inner harbor has ranged from 0 to 31,000 cys of sediments.

**Chart 2: Inner Harbor
Dredge Volumes**



As shown on Sheet 3 of 13, the design depth of central channel in the south harbor ranges from -15 feet MLLW plus two feet of overdepth near the launch ramp to -10 feet MLLW plus two feet of overdepth. The berthing areas of the south harbor are dredged to a design depth of -8 feet MLLW plus two feet of overdepth.

As shown on Sheets 4 and 5 of 13, the design depth of the central channel in the north harbor is -10 feet MLLW plus two feet of overdepth except immediately in front of the Arana Gulch culverts where the design depth is -16 feet MLLW plus two feet of overdepth. This deeper part of the channel serves as a sediment trap, as well as a navigational channel. The berthing areas of the north harbor are dredged to a design depth of -8 feet MLLW plus two feet of overdepth.

c. Disposal:

Prior to each dredging episode the Corps, the U.S. Environmental Protection Agency (EPA), National Oceanic and Atmospheric Administration Monterey Bay National Marine Sanctuary (Sanctuary), the Central Coast Regional Water Quality Control Board (RWQCB), and the California Coastal Commission (CCC) evaluate the sediments to be dredged for disposal or reuse suitability based on testing results.

The regulatory agencies agree to the proposed

disposal site for each dredging episode based on the physical (% of sand), biological and chemical properties of proposed dredged material. In accordance with the Inland Testing Manual¹, the level and types of testing required is based on the disposal site..

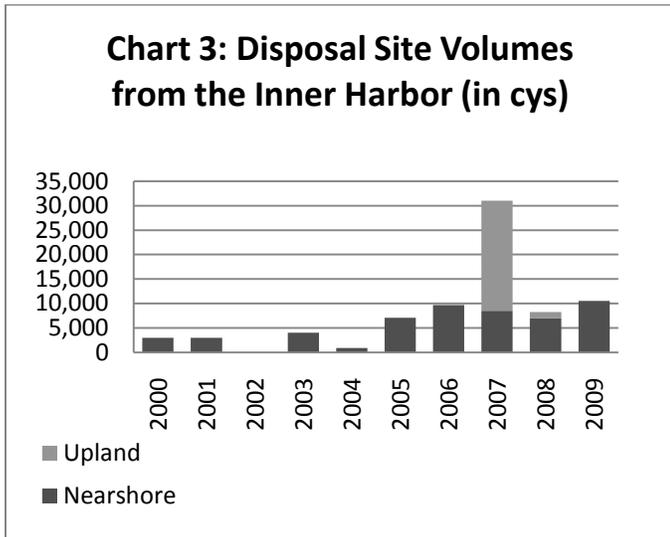
Based on the testing results, the applicant proposes a disposal site and then works with the regulatory agencies until there is agreement about the disposal site. Normally the Port District proposes to dispose of all of the material dredged from the entrance channel at the nearshore disposal site. Should the entrance channel material ever be less than 80% sand, disposal options would have to be discussed with the regulatory agencies, prior to disposal. Material dredged from the entrance channel is usually (approximately 98% of the time) placed in the nearshore under the water. However, occasionally, the applicant may dispose of material directly on the beach if the material is free from organic matter (i.e. kelp) or if severe storms threaten 7th Avenue or East Cliff Drive to protect these areas (see Sheet 11 of 13).

If the material dredged from the inner harbor is more than 80% sand, then the applicant proposes to dispose of up to 20,000 cys of the material in the nearshore disposal area and the remainder at another site. If the material to be dredged from the inner harbor is less than 80% sand then the applicant proposes to dispose of up to 10,000 cys of silts and clays and up to 10,000 cys of sandy material (totaling up to 20,000 cys) in the nearshore disposal area at a rate not to exceed 550 cys of silt and clay per day.

Additionally, the applicant proposes to dispose of up to 35,000 cys annually of material dredged from the inner harbor at an upland site, a permitted wetland site (such as the conceptual Elkhorn Slough Restoration project should it ever be permitted), or SF-14 (see Sheet 13 of 13). No material from Santa Cruz Harbor has been disposed of at SF-14 during the past ten years.

¹ Evaluation of Dredged Material Proposed for Discharge in Waters of the U.S. – Testing Manual (Inland Testing Manual). February 1998. Environmental Protection Agency, Office of Water and Department of the Army, United States Army Corps of Engineers

Chart 3 shows the disposal site volumes for the past ten years.



d. Timing Restrictions:

To protect the Arana Gulch steelhead run and to minimize impacts to recreation in the nearshore disposal area, the regulatory agencies have established the following time restrictions for use of the nearshore disposal site:

- Disposal of material from the entrance channel and the south harbor is limited to between November 1st and April 30th. If the material from the north harbor is greater than 80% sand then disposal is still limited to between November 1st and April 30th.
- If the material from the north harbor is less than 80% sand, then disposal is limited to between October 1st and February 28th.

If any other disposal site (including upland sites) is being used:

- Dredging in the entrance channel can only occur between November 1st and April 30th.
- Dredging of the inner harbor (comprised of the south and north harbors) can only occur between July 1st and April 30th.

Project Purpose: The purpose of the proposed dredging is to return the facility to its originally

permitted depth to allow safe navigational depths for recreational and commercial boats. Dredging is regulated under Section 10 of the Rivers and Harbors Act.

After dredging, sediments have to be disposed. Disposal of dredged material in Corps jurisdiction is regulated under Section 404 of the Clean Water Act and 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)) commonly referred to as the 404(b)(1) guidelines. Application of the 404(b)(1) guidelines includes development of the basic and overall project purpose statements. Since dredging is not regulated under Section 404 of the Clean Water Act, dredging is not included in the formulation of the Basic and Overall Purpose Statements and only disposal of dredged material is considered.

Basic Project Purpose: In accordance with the 404(b)(1) guidelines, the basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by the Corps to determine whether the project is water dependent. The basic purpose of the project is the disposal of dredged material, which is not water dependant.

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 dispose of dredged material in an economically and environmentally appropriate manner.

Project Impacts: The detrimental effects on erosion/sedimentation rates, substrate, water quality, fish habitat, air quality, and noise are all expected to be minor and short term. No permanent negative effects such as undesired substrate alteration, decreased water quality, loss of fish habitat, decrease air quality, and noise pollution are anticipated. The

beneficial effects on economics, employment, recreation and removal of contaminants are major and long term. The beneficial effect on navigation is major and short term.

Project Alternatives: An evaluation has been made by this office under the guidelines and it was determined that the proposed disposal of dredged material is not water or wetland dependent. The applicant has not submitted an Analysis of Alternatives and has been informed that such an Analysis is required and will be reviewed for compliance with the guidelines.

If no dredging were to occur then sediments would accumulate in the entrance channel and the inner harbor, which would make navigation increasingly difficult and would eventually render the facility inaccessible by boat. Should the facility become unnavigable, its' function as a State designated Harbor of Refuge would either be lost or have to be replaced.

The applicant is proposing to dispose of the dredged material at one of the following sites: the nearshore disposal site, SF-14, separately permitted wetlands restoration projects or on an upland site (outside Corps jurisdiction).

During the past ten years all the material dredged from the entrance channel has been disposed at the nearshore site. The nearshore site has also been the disposal site for the majority of the material from the inner harbor. Continued use of the nearshore disposal site is expected. The nearshore disposal site currently in use is shown on Sheet 11 of 13. If all the necessary permissions can be obtained, the applicant would like to expand the nearshore disposal area, to the area shown on Sheet 12 of 13.

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.*). The applicant has recently submitted an application to the California Regional Water Quality Control Board (RWQCB) to obtain water quality certification for the project. 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, Central Coast Region, 895 Aerovista Place, Suite 101, San Luis Obispo, California 93401 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 Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Determination 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 Determination 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 Certification from the California Coastal Commission to comply with this requirement.

Coastal zone management issues should be directed to the District Manager, California Coastal Commission, Central Coast District Office, 725 Front Street, Suite 300, Santa Cruz, California 95060-4508, 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, the Corps 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, the Corps 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 Corps 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 the Corps and other non-regulated activities which the Corps 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, the Corps 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, the Corps has made a preliminary 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.

Central California populations of steelhead trout (*Oncorhynchus mykiss*) were federally classified as threatened in August 1997. The steelhead runs that occur in Monterey Bay are included in this ESU (evolutionarily significant unit) and therefore receive protection under the Endangered Species Act. There is concern that steelhead migrating from the Bay through the Harbor to reach Arana Gulch might be impacted by the proposed dredging. Before issuing a permit, the Corps will consult with NMFS to determine if the proposed work widows (see project description above) are adequate to protect steelhead. To address project related impacts to these species to steelhead and the Corps will initiate informal consultation with NMFS, pursuant to Section 7(a) of the Act.

Additionally, the proposed project could affect the federally endangered California least tern (*Sterna antillarum browni*) and the federally threatened southern sea otter (*Enhydra lutris nereis*) and western snowy plover (*Charadrius alexandrinus nivosus*). The proposed dredging and disposal appear to be covered by the August 29, 1997 USFWS Programmatic Consultation and Conference for Listed Coastal Species, Ventura, Santa Barbara, San Luis Obispo, Monterey, and Santa Cruz Counties, California (1-8-96-F-11).

Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project. As the Federal lead agency for this project, the Corps will be responsible for determining the presence or absence of Federally-listed species and designated critical habitat, and the need to conduct consultation. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, the Corps will obtain all necessary supporting documentation from the applicant concerning the consultation process. Any required consultation must be concluded prior to the issuance

of a Department of the Army Permit for the project.

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, the Corps 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, the Corps has made a *preliminary* determination that EFH is present at the project location or in its vicinity, and that the critical elements of EFH would not be substantially impacted by project implementation.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The proposal would impact approximately 46.5 acres of EFH utilized by various species of sole, shark and rockfish. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries in California waters. This determination is based on the fact that the project site has been dredged annually in the past, the nearshore and aquatic disposal sites have been used previously for disposal of dredged material and, therefore, both sites are considered by the Corps to be disturbed and the proposed activity will result in no new impacts to EFH. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with NMFS. The recently-deposited bottom sediments to be dredged during maintenance dredge activities are composed mainly of sand. 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 area. As the infaunal community recovers in the dredged area, fish species will return to feed.

Kelp plants are not thought to be established in the project site or the nearshore disposal site. However, parts of kelp plants are often washed into and mixed with the sediments of the entrance channel. The applicant is in the process of completing a three year study to determine if the proposed dredging has an impact on nearby kelp beds. The results from this study will be made available to the Corps and NMFS.

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. The Monterey Bay National Marine Sanctuary was designated in 1992. 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. Since the disposal of dredge material at the nearshore site occurs in sanctuary waters or may affect sanctuary resources, the applicant has applied for certification or a permit from the Secretary of Commerce, or his designee, to comply with this requirement.

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 NHPA 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.

Because the project site has been previously dredged, 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.

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 that disposal of dredged material into waters of the United States is not 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 less environmentally damaging practicable alternative to the disposal of the dredged material that does not require the discharge of dredged or fill material into special aquatic sites.

The applicant has been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines to determine if the project is the least environmentally damaging practicable alternative.

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: The Corps 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 the Corps 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 Debra A. O’Leary, U.S. Army Corps of Engineers, San Francisco District, Operations and Readiness Division, 1455 Market Street, San Francisco, California 94103-1398; comment letters should cite the project name, applicant name, and public notice number to facilitate

review by the 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 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 U.S. Army Corps of Engineers, SF District website: <http://www.spn.usace.army.mil/regulatory/>.