



US Army Corps
of Engineers®
San Francisco District

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

PROJECT: WesPac Energy Pittsburg Marine Terminal infrastructure improvements

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1. INTRODUCTION: WesPac Energy--Pittsburg LLC, through its agent TRC, 2300 Clayton Rd, Suite 610, Concord, CA 94520 (POC: Jonathan Scheiner, 925-688-2473) has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to conduct work in navigable waters of the U.S. to modernize and reactivate existing oil storage and transfer facilities located at the GenOn (formerly Mirant) Pittsburg Generating Station. This Department of the Army permit application is being processed pursuant to the provisions of 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 GenOn Pittsburg Generating Station is located at 696 West 10th St in the city of Pittsburg, Contra Costa County, California. The site is along the south shore of Suisun Bay just west of New York Point, Riverview Park, and the Pittsburg Marina (figure 1).

Project Site Description: The proposed project encompasses currently inactive facilities (marine terminal, storage tanks, pipelines, and ancillary equipment) formerly used to store and supply fuel oil to the GenOn Pittsburg Generating Station prior to 1997. The offshore portion of the project area includes approximately 39 acres of Suisun Bay surrounding the inactive marine terminal, which consists of a 1,070-foot long wharf structure, connected to shore by a 650-foot long trestle (figure

2). The onshore portion consists of approximately 125 acres of developed industrial lands surrounding the inactive tank farms on the eastern and southern portions of the GenOn property (figure 3), as well as the proposed alignment of a new pipeline that will extend off the southwest corner of the property and run between Willow Pass Road and N Parkside Drive (figure 4). Primary onshore features include the East Tank Farm consisting of six 162,000-barrel tanks, and the South Tank Farm consisting of nine 500,000-barrel tanks, one 54,000-barrel tank, and a 13-acre detention basin. The southwest part of the project area is bordered by Willow Creek and a large complex of wetlands, some of which extend in a narrow strip across the South Tank Farm. In addition the proposed new pipeline would run near or across two wetland ditches/swales fed by runoff from Willow Pass Road and surrounding development (figure 5).

Project Description: As shown in the attached drawings, the applicant proposes to repair, upgrade, or replace existing facilities to meet the State of California's Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS), and repurpose the facilities to receive crude oil and partially refined crude oil from marine vessels or pipelines, store the oil in the existing storage tanks, and then transfer the oil to nearby refineries via existing pipelines. Project components include: (1) the marine terminal; (2) the onshore storage terminal, including both the East and South Tank Farms; (3) the existing pipeline connection to the Shell San Pablo Bay Pipeline and a

proposed new pipeline connection to the Chevron KLM Pipeline; and (4) new ancillary facilities including an office and control building, pumping station, warehouse, and substation. Connection to the KLM pipeline will require 0.70 mile of new underground pipeline, which will be constructed to avoid impacts to adjacent wetlands. The applicant also proposes to dredge around the marine terminal, and this work will be permitted by USACE separately as described in a previous Public Notice dated July 27, 2012.

Structural work on the marine terminal would be subject to USACE jurisdiction and would include the following:

Access (Roadway) Trestle: This existing 650-foot long feature will receive structural repairs including installation of fiberglass sleeves around existing timber piles

Pipeline Trestle: A new 650-foot long pipeline trestle will be installed adjacent to the east side of the access trestle. The pipeline trestle would be approximately 25 feet wide and would be supported by thirty 24 to 30-inch steel piles.

Main Unloading Platform: The existing timber and concrete unloading platform is approximately 50 feet by 100 feet and will be demolished and replaced. The new concrete platform would be approximately 45 feet by 100 feet and supported by fifteen 36-inch steel piles.

Gangway Tower: A new gangway tower would be constructed to provide access for boarding and disembarking safely between the berth and vessels. The gangway tower will be situated on an approximately 15-foot by 30-foot concrete platform connected by a walkway to the unloading platform. The platform will be supported by three 24 to 36-inch steel piles.

Breasting Dolphins: The marine terminal is currently equipped with four breasting dolphins comprised of concrete decks, multiple steel piles, cell fenders, fender panels, and restraint chains. All four breasting dolphins would be demolished and replaced with new breasting dolphins approximately the same size (dolphins 6, 7, 8, and 9 on the New Structure Plan drawing). Each of the four new breasting dolphins

will be supported by a single 84-inch steel monopole and connected to the wharf by a walkway.

Mooring Dolphins: There are four primary mooring dolphins at the existing marine terminal (dolphins 1, 2, 3, and 4 on the New Structure Plan drawing), each consisting of steel piles supporting a concrete deck. Existing piles on all four mooring dolphins would be wrapped with a Stac Splash Pro System. Mooring dolphins 1, 2, and 4 would be strengthened by the installation of extra piles for additional support (a total of 14 new 24-inch steel piles). The locations, elevations, and deck plan areas of all of the mooring dolphins would remain approximately the same.

Access Platforms and Boom Reels: There are two access platforms adjacent to the unloading platform: the east access platform and the west access platform. The west access platform would be demolished to accommodate new structures and the east access platform would remain. Aluminum walkways will be installed to provide access between the breasting dolphins. Concrete walkway landings on steel monopiles will support the walkways. Two additional platforms will be installed to provide storage for spill boom reels. One will be located at the eastern upstream end of the dock and the other at the western downstream end. Each platform will be approximately 15 feet by 28 feet in plan and will consist of precast concrete decks supported by a single 48-inch steel monopile. The elevation of the platforms will match the adjacent existing mooring dolphins.

Piles: Piles requiring removal would be removed to the tip, if possible, and at a minimum cut or broken at or just below the mudline. New steel pipe piles would be installed using a vibratory hammer, although an impact hammer may also be used depending on seafloor conditions.

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. Note that the determination of water dependency only applies if the project would result in a discharge of fill pursuant to Section 404 of the Clean Water Act. The basic project purpose is to establish a marine oil terminal.

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. Note that a Section 404(b)(1) alternatives analysis is required only if the project would result in a discharge of fill pursuant to Section 404 of the Clean Water Act. The overall project purpose is establishment of a new marine oil terminal in the San Francisco Bay Area to meet increasing demand for more crude oil receiving and storage capacity in this region.

Project Impacts: Work on the wharf portion of the marine terminal would include demolition of existing wharf components and construction of new components within roughly the same footprint, with a slight increase in total surface area. Construction of a new pipeway trestle parallel to the existing access trestle would add an additional 13,000 square feet to the total surface area. In-water work would include removal of an unspecified number of existing piles and installation of approximately 92 new piles.

Proposed Mitigation: The applicant intends to avoid any impacts to jurisdictional wetlands and therefore no mitigation is proposed.

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 intends to submit 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, 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. 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.

Other Local Approvals: The project is subject to review by the State Lands Commission for consistency with the Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) (Title 24, California Code of Regulations, Part 2, California Building Code, Chapter 31F). Additionally, the applicant intends to apply for a tidelands lease agreement with the City of Pittsburg, and a Streambed Alteration Agreement with the California Department of Fish and Game.

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 document 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. Based on this review, USACE 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. Suisun Bay contains Chinook salmon (*Oncorhynchus tshawytscha*), steelhead (*O. mykiss*), green sturgeon (*Acipenser medirostris*), delta smelt (*Hypomesus transpacificus*), and designated critical habitat for all four species. USACE will initiate formal consultation with USFWS and NMFS pursuant to Section 7(a) of the ESA to address project related impacts to these species and their designated critical habitat. Any required consultation must be concluded prior to the

issuance of a Department of the Army Permit for the project.

For onshore portions of the project, the applicant will seek permit coverage under the East Contra Costa County (ECCC) Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). The ECCC HCP/NCCP would enable portions of the project not subject to USACE jurisdiction to be covered by the plan's USFWS ESA 10(a)(1)(B) Permit and CDFG NCCP permit as administered by the City of Pittsburg.

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 preliminary determination that EFH managed under the Pacific Groundfish, the Coastal Pelagic and/or the Pacific Coast Salmon FMP is present at the project location or in its vicinity, and that the critical elements of EFH may be adversely affected by project implementation. To address project related impacts to EFH, USACE will initiate consultation with NMFS, pursuant to Section 305(5)(b)(2) of MSFCMA. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

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 MPRSA. 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, by the close of the comment period.

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. 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)). Since the project as proposed does not entail the discharge of dredged or fill material into waters of the United States, application of the Guidelines will not be required.

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 Greg Brown, 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 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 US Army Corps of Engineers, San Francisco District website: <http://www.spn.usace.army.mil/regulatory/>.