



US Army Corps  
of Engineers

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

NUMBER: 26655S Dredging – Paradise Cay Yacht Harbor

DATE: April 14, 2003

RESPONSE REQUIRED BY: May 14, 2003

Regulatory Branch  
333 Market Street

San Francisco, CA 94105-2197

PERMIT MANAGER: Clyde Davis

PHONE: (415) 977-8449;

E-mail: clyde.r.davis@usace.army.mil

1. **INTRODUCTION:** The Paradise Cay Yacht Harbor (through its agent, Mr. Tom Moseley of Salt River Construction, 167 Trinidad Drive, Tiburon, California, 94920) has applied for a ten-year Department of the Army permit to maintenance dredge the Paradise Cay Yacht Harbor near Tiburon, Marin County, California. The purpose of the proposed dredging is to return the marina basin to its originally permitted depth to allow safe navigational depths for recreational boats. 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. **PROJECT DESCRIPTION:** As shown in the attached drawings, the applicant plans to remove approximately 50,000 cubic yards (cy) of sediment from the 9.2-acre (approximately) marina basin and a total of approximately 84,000 cy over the life of the permit. Existing depths range from -4.7 to -6.5 feet mean lower low water (MLLW) in the entrance channel and -1.5 to -5.0 feet MLLW in the marina basin. The design depth for the whole marina and the entrance channel is -9 feet MLLW plus an additional 1-foot overdredge allowance. The material would be removed using a clamshell or hydraulic dredge and removed by barge to the Alcatraz Disposal Site (SF-11).

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. **STATE APPROVALS:** Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification or waiver 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 certification. A waiver shall be explicit, or it will be deemed to have occurred 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.

The project is within the jurisdictional purview of the BCDC. The applicant will be required to obtain a permit from BCDC after the RWQCB has made a

determination of water quality certification for this project.

**4. ENVIRONMENTAL ASSESSMENT:** The Corps of Engineers will assess the environmental impacts of the proposed project in accordance with the requirements of the National Environmental Policy Act (42 U.S.C. 4371 et. seq.), and pursuant to Council on Environmental Quality's Regulations 40 CFR 1500-1508, and USACE Regulations 33 CFR 230 and 325, Appendix B. Unless otherwise stated, this Environmental Assessment describes only the impacts (direct, indirect, and cumulative) resulting from activities within the jurisdiction of the Corps of Engineers. The documents used in the preparation of this Environmental Assessment are on file in the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California.

Endangered Species - 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.

The evolutionarily significant units (ESU) of Central California populations of steelhead trout (*Oncorhynchus mykiss*) were federally listed as threatened in August 1997. The steelhead that occur in San Francisco Bay are included in this ESU and therefore receive protection under the Endangered Species Act. There is concern that steelhead migrating through the Bay to streams in the North or South Bay might enter the marina or the disposal site. If a permit is issued for this proposed project, it will contain a condition that dredging is allowed only between June 1 and November 30 without prior

consultation with and approval from the National Oceanic and Atmospheric Administration (NOAA) Fisheries and the Corps of Engineers.

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 not be allowed during the peak of the spawning season.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The proposal would impact approximately 2.7 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. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NOAA Fisheries.

**5. EVALUATION OF ALTERNATIVES:** Evaluation of this activity's impact on the public interest will also include application of 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)). In particular, alternative disposal sites and beneficial reuses will be considered by the applicant to conform to the *Management Plan 2001*, Long Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay, dated July 2001.

**6. PUBLIC INTEREST EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a

proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are 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.

comment period of this 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 address is indicated in the first paragraph of this Notice, or by contacting Mr. Clyde Davis of our office at telephone (415) 977-8449 or by e-mail at [clyde.r.davis@usace.army.mil](mailto:clyde.r.davis@usace.army.mil). Details on any changes of a minor nature that are made in the final permit action will be provided on request.

**7. 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 of Engineers to determine whether to issue, modify, 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 of the proposed activity.

**8. SUBMISSION OF COMMENTS:** Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this Notice and should be forwarded so as to reach this office within the comment period specified on page one of this Notice. Comments should be sent to: Mr. Clyde Davis, Regulatory Branch. It is 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