



US Army Corps
of Engineers

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: 27625S Dredging – Shore Terminals, Martinez

DATE: October 20, 2003

RESPONSE REQUIRED BY: November 5, 2003

Regulatory Branch
333 Market Street

San Francisco, CA 94105-2197

PERMIT MANAGER: Clyde Davis

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1. **INTRODUCTION:** Shore Terminals LLC (through its agent, M.H. Cheney, 6630 Heartwood Drive, Oakland, California, 94606) has applied for a ten-year Department of the Army permit to maintenance dredge Shore Terminals near Martinez, Contra Costa County, California. The purpose of the proposed dredging is to maintain safe, navigable depths for tankers taken into the berth. 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 initially remove approximately 3,000 cubic yards (cy) of sediment from the berth area and a total of approximately 10,000 cy/yr of periodic maintenance dredging over the life of the permit. Shore Terminals plans to restore berth depths from -35ft to -38 ft plus 2 ft overdraft. The material would be removed using a clamshell and shipped by barge to the Carquinez Disposal Site (SF-9).

Prior to each dredge episode, the Dredge Material Management Office (DMMO) will evaluate the sediments-to-be-dredged for aquatic disposal or reuse suitability. The DMMO includes representatives from the U.S. Environmental Protection Agency (EPA), 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. The DMMO is tasked with approving sampling and analysis plans in conformity with testing manuals, reviewing 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 before a Corps permit may be issued. The applicant received certification from the San Francisco Bay Regional Water Quality Control Board in an explicit letter dated September 17, 2003 (File No. 2118.03).

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 in the jurisdictional purview of the San Francisco Bay Conservation and Development Commission (BCDC). The applicant will be required to obtain a permit from BCDC, which is needed after the RWQCB has issued a water quality certification for the project.

4. **PRELIMINARY 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 Preliminary 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 Preliminary 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 – **Winter-run chinook salmon** (*Oncorhynchus tshawytscha*) are federally listed as endangered (January 4, 1994, 59 FR 440). Adult winter-run chinook salmon 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. There is concern that returning juvenile winter-run Chinook salmon could swim into trouble with the dredging and disposal operations. 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 and with approval from the National Oceanic and Atmospheric Administration (NOAA) Fisheries and the Corps of Engineers.

The **Central California Coast** and **Central Valley** evolutionarily significant unit (ESU) populations of **steelhead** trout (*Oncorhynchus mykiss*) are federally listed as threatened (August 18, 1997, 62 FR 43937 and March 19, 1998, 63 FR 13347, respectively). The steelhead that occur in San Francisco Bay are included in these ESUs and therefore receive protection under the Endangered Species Act. There is concern that the steelhead migrating through Carquinez Strait and Suisun Bay might enter the dredging and disposal sites. If a permit is issued, dredging will be allowed June 1—November 30 without prior consultation and approval from NOAA Fisheries and the Corps of Engineers.

Longfin Smelt (*Spirinchus thaleichthys*) is a species of concern. This anadromous species can be found in San Francisco Bay. During breeding season, the smelt migrate to the fresher waters of Montezuma Slough, Suisun Bay and the lower reaches of the Sacramento and San Joaquin Rivers.

Spawning occurs between December and June. In order to protect this species, no dredging will be conducted outside of the window of Sept 1- November 30 without consultation and approval from the US Fish and Wildlife Service, as stated in the Biological Opinion for the Long Term Management Strategy (LTMS) Management Plan.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The proposal would impact 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)).

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.

clyde.r.davis@usace.army.mil. Details on any changes of a minor nature, which 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 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