

## **Appendix E**

### **Bodega Bay Harbor Federal Navigation Channel Fiscal Year 2017 Maintenance Dredging**

#### **Response to Comments**

**July 2017**

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## Responses to Comments

### **1.0 U.S. Environmental Protection Agency (May 10, 2017)**

**Comment:** EPA concurs that ocean disposal is needed for at least the fine Inner Harbor dredged material from this project. However, discussions in the draft EA were unclear as to whether any of the sand to be dredged from the entrance channel up to survey line 100+00 might be proposed for placement at SF-DODS as opposed to being beneficially reused at SF-8.

**Response:** *Entrance channel sand up to survey line 100+00 will only be placed at SF-8.*

**Comment:** It was also unclear from discussions in the EA whether over-water double-handling of dredged material into larger scows would occur.

**Response:** *The final EA was updated to reflect prohibiting the use of over-water double-handling of sediment as an option in the project bid and contract documents. This position was clarified in an email to USEPA, dated April 27, 2017.*

### **2.0 California Department of Fish and Wildlife (May 12, 2017)**

**Comment:** Dredging reaches 2 and 3 appear to have the highest likelihood of potential impacts to eelgrass along and potentially within the channel based on the 2010 eelgrass survey. Pending the results of the 2017 pre-construction survey, the Department [California Department of Fish and Wildlife] may recommend further minimization measures, such as light monitoring or silt curtains to prevent shading from turbidity. Given that reaches 2 and 3 have a higher percentage of silty mud, and eelgrass may be closer to dredging activities [in this area], turbidity plumes could be more likely [to] impact eelgrass in those locations.

**Response:** *The EA discusses the use of an 'environmental bucket' as a best management practice (BMP) to minimize turbidity. An environmental bucket was also used in 2004 to minimize turbidity and light monitoring conducted during this time indicates that the environmental bucket was successful at minimizing turbidity. In addition, pre- and post-dredging surveys of eelgrass will be conducted to determine if the project adversely affects eelgrass. As discussed in the EA (page 30 in the EA) and Appendix B, the USACE prepared an Essential Fish Habitat Analysis (April 2017) and NMFS concurred with the analysis, issuing a Letter of Concurrence (July 5, 2017) which concluded "[t]he Corps proposes to use an environmental dredge clamshell bucket, for this project. As such, the increases in turbidity are expected to be minor and to dissipate relatively quickly with tidal*

*exchange. Thus adverse effects to eelgrass growth or fish feeding should be minimal” and that “...the proposed action includes adequate measures to avoid, minimize, mitigate, or otherwise offset the adverse effects to EFH.” Therefore, the USACE has determined that light monitoring or silt curtains to prevent shading from turbidity is not necessary.*

**Comment:** Has there been any analysis on the channel slope? The 2010 survey indicates eelgrass being near or within the channel. Has there been any discussion to determine if dredging to 12 feet could compromise the slope in these areas potentially removing or impacting eelgrass and eelgrass habitat? I believe in Morro Bay there has been discussion about buffer zones around eelgrass near the channel to avoid a situation where the channel edge is compromised allowing the channel edge to slide toward the center taking eelgrass and/or potential eelgrass habitat with it. Pending the results of the pre-construction survey, the Department recommends that USACE take this approach under consideration, if necessary, to avoid impacting eelgrass and eelgrass habitat along the channel edge.

**Response:** *The current channel slope is about 18 degrees, which is 3 feet horizontal for each foot vertical (3:1). This is a stable configuration, even with the bucket going down to 14 foot depth (which includes 2 feet of allowable overdepth). Dredging the channel is not expected to disturb or adversely impact the side slopes. Ultimately, the pre- and post-eelgrass surveys will capture if there are any direct or indirect impacts from dredging, such as side-slope sloughing, and careful analysis of those surveys will determine if any mitigation is necessary. Figures E-1 and E-2 show the extent of eelgrass growth (based upon the 2010 survey) in plan view between the channel boundary (toe of slope) and the boundary at the top of the side slope. In several areas, eelgrass is found on the side slopes—but never within the channel boundaries.*

**Comment:** In the event that eelgrass mitigation or removal and transplanting of eelgrass from the channel is necessary, consultants contracted to conduct the work will be required to have a valid Scientific Collection Permit (SCP) and Letter of Authorization from the Department. The two approvals will allow for the contractors to harvest and then transplant eelgrass within Bodega Bay. If the pre-construction survey indicates eelgrass will need to be relocated from the channel, the Department recommends that contractors for USACE start the SCP process as soon as possible as it can be a lengthy process at times.

**Response:** *The survey contractor for USACE, Merkel & Associates, Inc., currently possesses a valid “institutional” SCP from the Department. If and when the time comes, and it is determined that transplanting eelgrass will be needed for mitigation, Merkel can relatively quickly upgrade this SCP by specifically including the Bodega Harbor 2017 maintenance dredging as an approved SCP project, and similarly obtain a Letter of Authorization from the Department (pers. comm. Keith Merkel, May 30, 2017). In the case where a different contractor is used to transplant eelgrass, the respective contract will*

include all requirements that must be obtained prior to conducting the work.

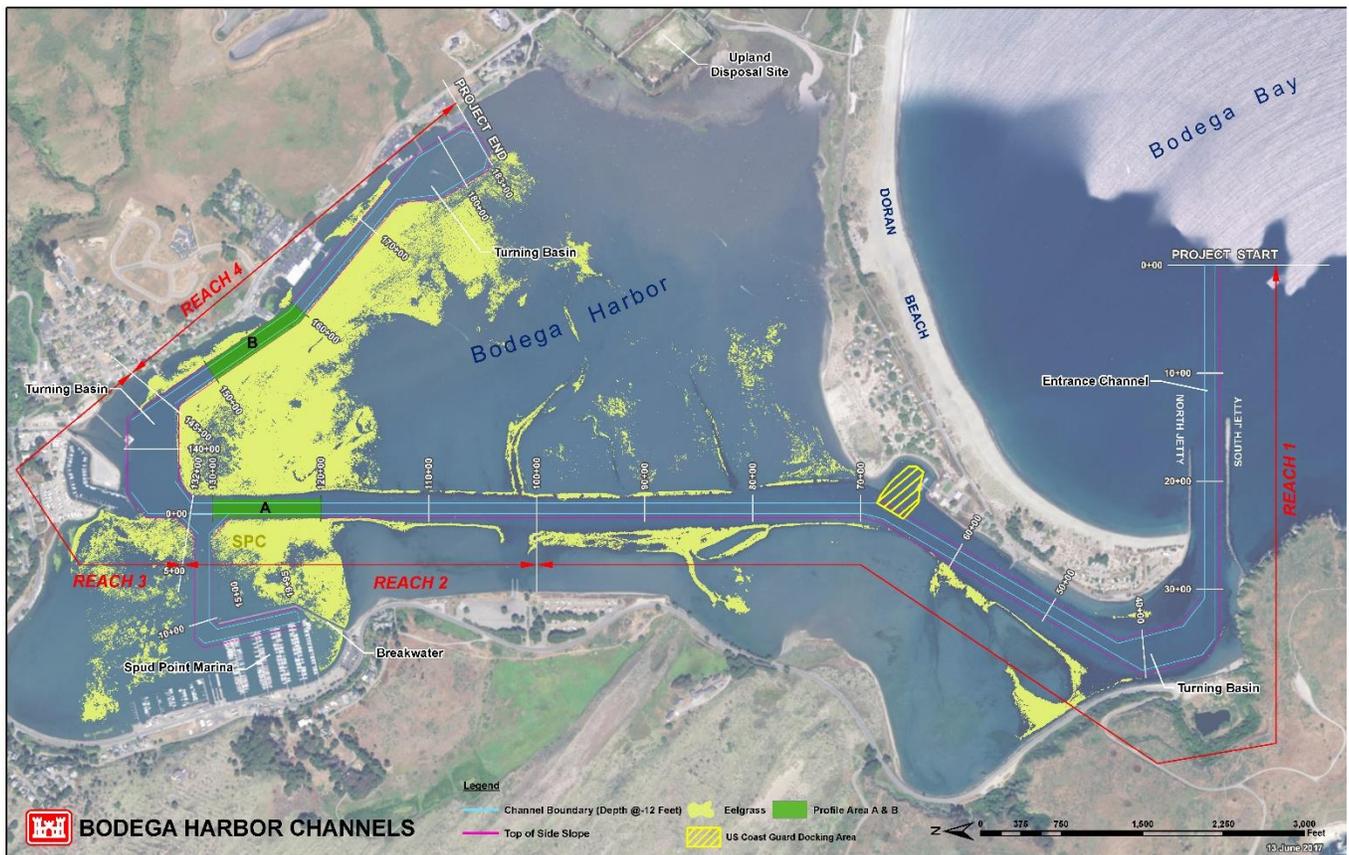


Figure E-1. Plan view of eelgrass in Bodega Harbor showing locations of profiles A, B.

**Comment:** Being that the pre-construction survey has yet to take place, the Department would appreciate the opportunity to review and comment on the pre-construction survey prior to dredging commencing in 2017.

**Response:** *USACE will provide the Department with copies of the pre- and post-construction eelgrass surveys as soon as they are released to us, and the Department will then have an opportunity to review and comment on them. The pre-survey is expected about two weeks prior to mobilization of equipment and the commencement of dredging.*

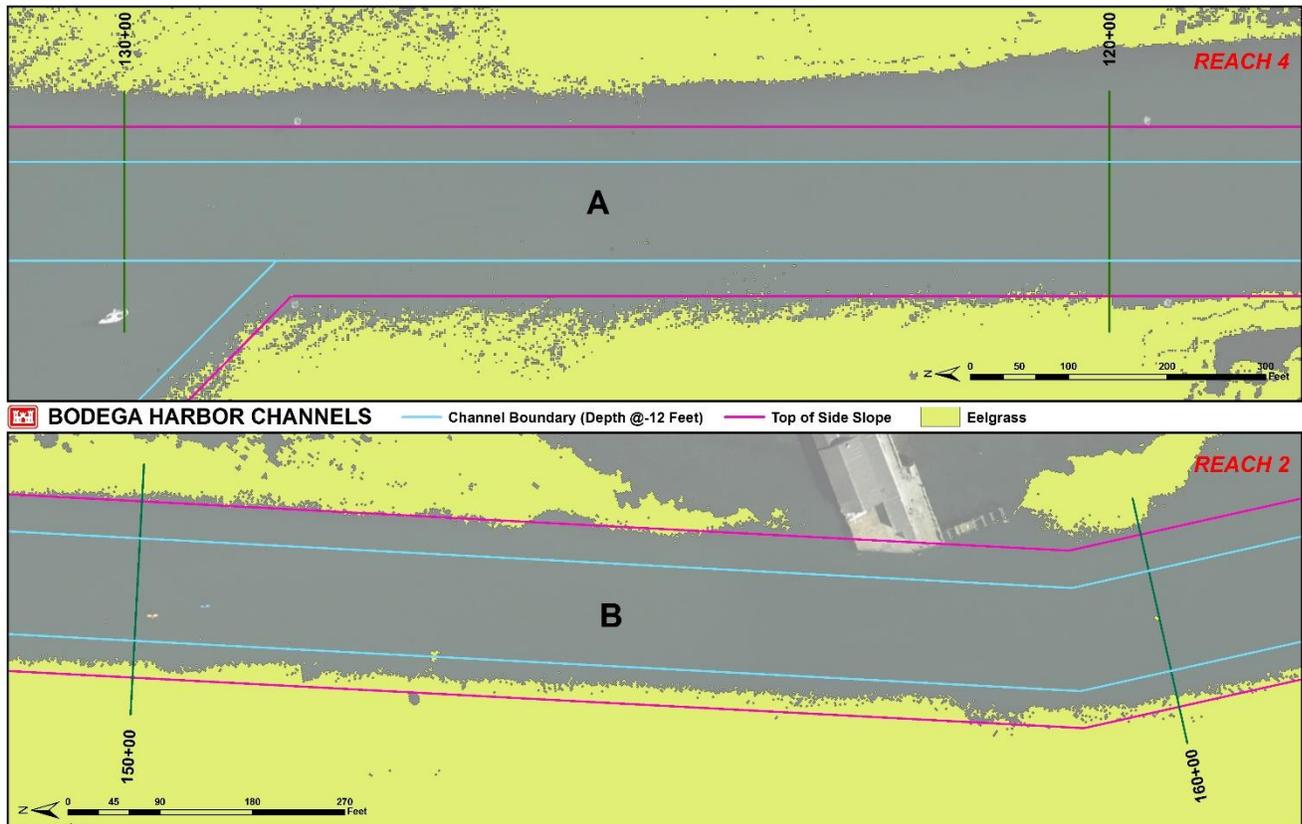


Figure E-2. Profiles of eelgrass growth near the Bodega Harbor federal channels.

### 3.0 North Coast RWQCB (May 17, 2017)

**Comment:** In July 2004, USACE produced an Environmental Assessment (EA). From section 8.9 of this EA, “The proposed action for the Bodega Bay Harbor and Federal channel maintenance dredging project is not exempt from Section 401(1)(a) of the Clean Water Act, which applies to dredging activities and requires certification that the permitted project complies with the state water quality standards for actions within waters of the state. The Clean Water Act requires the district Engineer to obtain state water quality certification or waiver for the discharge of dredged material in section 401 waters. This will be obtained from the North Coast Regional Water Quality Control Board (NCRWQCB) prior to commencement of dredging activities within Bodega Harbor.” USACE did indeed apply for a 401/ Waste Discharge Requirements (WDR) from the North Coast office in April 2004 and the water quality certification (WQC) was issued to USACE on June 28, 2004. The NCRWQCB acknowledged the measures to minimize impacts to water quality, including the use of an “environmental bucket” clamshell dredge to remove the material to reduce the possibility of increasing turbidity. Additionally, turbidity measurements were collected and reported at a point of compliance no more than 75 feet from the active dredging. Results show that there was

only one instance where turbidity was elevated to 23% above background. USACE complied with the NCRWQCB Basin Plan narrative objective of no greater than 20% above background and in the one instance of exceedance they ceased operations until levels normalized achieving compliance with this objective.

**Response:** *USACE did apply for and it received a 401 water quality certification for the 2004 dredging event. Upon review of the proposed project, we have determined that the 2017 project does not propose to place dredged material in waters of the United States that are within the jurisdiction of the NCRWQCB; thus, there is no 404 action that necessitates a Clean Water Act section 401 permit. We appreciate the water board recounting the efficacy of the “environmental bucket” as a best management practice in this comment.*

**Comment:** Reference the Draft EA/FONSI dated April 2017. Within the “Environmental Compliance” section of the document, USACE discusses the Clean Water Act: “Reduction of pollutants in discharges into waters of the U.S. is mandated by the Clean Water Act of 1972 (CWA), and such activities must also comply with section 401 of the CWA of 1977, as amended (33 U.S.C. § 1251 et seq.). Regulatory control of water quality is delegated to local Regional Water Quality Control Boards (RWQCBs). Those boards issue discharge permits that set limits on specifically monitored USEPA-determined water pollutants. Material placed within the 3-mile zone of SF-8 will require a CWA section 404(b)(1) analysis and a section 401 WQC. The San Francisco Bay RWQCB is the RWQCB with Section 401 CWA regulatory authority over SF-8. The USACE is in the process of preparing a 404(b)(1) certification and obtaining appropriate authorization from the RWQCB. The final EA will be updated as necessary to include any water quality requirements of the WQC.” The 2017 EA/FONSI seems to interpret very similar activity [as the 2004 EA] to not require a North Coast permit—this seems inconsistent.

**Response:** *USACE is in the process of obtaining a 401 water quality certification from the San Francisco Regional Water Quality Control Board for its disposal of dredged material inside the 3-mile limit in the easternmost portion of SF-8, which is considered a water of the United State and a 404 action.*

**Comment:** Within the 2017 EA/FONSI, USACE discusses using the “environmental bucket,” which minimized turbidity impacts at the dredge site in 2004. We would support the use of this practice on this proposed [2017] project given its proven effectiveness for turbidity control in 2004.

**Response:** *Comment noted.*

**Comment:** The 2017 EA/FONSI states that USACE will comply with the California Eelgrass Mitigation Policy and Implementing Guidelines (NOAA Fisheries 2014) by doing pre- and post-construction surveys, and mitigate by transplanting eelgrass if necessary. The NCRWQCB concurs with this approach to avoid, minimize, and mitigate if necessary impacts to eelgrass.

**Response:** *Comment noted. Please also note the NMFS’ EFH Letter of Concurrence in Appendix B of the final EA. Following dredging, USACE and NMFS will review the pre- and post-dredge eelgrass surveys to determine if eelgrass was adversely affected by the project. Should adverse impacts occur, the USACE will work with NMFS to determine the appropriate mitigation (see pg. 31 of the EA, and pgs. 11-14 of EFH Assessment).*

**Comment:** The NCRWQCB typically receives applications for, and issues CWA section 401 WQC and/or WDR for similar projects authorized under a federal permit, typically CWA section 404 and/or the Rivers and Harbors Act. The 2017 EA/FONSI, section 1.3 states that the Bodega Bay Harbor federal navigation channel was authorized by the Rivers and Harbors Act of 1938. Additionally, section 3.3 describes potential discharges due to dredging activities that may cause increased turbidity in the surrounding waters that may release constituents of concern, though proposed to be less than significant. The dredging, handling and transport of dredged material has the potential of a discharge or threat of a discharge that may exceed water quality objectives and/or impact beneficial uses, therefore the need for submittal of [an] application for 401 and/or WDR from the NCRWQCB.

**Response:** *33 CFR 323.2(d)(3) provides that Section 404 authorization is not required for the following (ii): “[i]ncidental movement of dredged material occurring during normal dredging operations defined as dredging for navigation in navigable waters of the United States . . .” As discussed above, the project does not propose to place dredged material in waters of the United States within the jurisdiction of the NCRWQCB. However, dredged material will be placed in waters of the United States that are within the San Francisco RWQCB; thus, the USACE will work with the San Francisco RWQCB to obtain section 401 water quality certification for the project.*

#### 4.0 Greater Farallones National Marine Sanctuary (May 17, 2017)

**Comment:** The FONSI notes that for shallow draft projects, such as Bodega Bay Harbor, oceangoing scows may be prevented, because of limiting depths, from entering the bay and, therefore, cannot be loaded at the dredge site. The FONSI states that it is expected that the dredged material would be dredged into smaller barges and then re-handled into the larger barges outside of the bay before undertaking the 65-nautical mile journey to the disposal site. Concerns were expressed by USEPA (Brian Ross email dated April 24, 2017) about possible double-handling of sediment into larger scows for transport to either SF-DODS or SF-8, and the consequent inadvertent spillage of sediment during the double-handling process, which would be considered an unauthorized ocean discharge. Any inadvertent spillage that would occur from either double-handling or overfilling scows would also be considered a prohibited activity through the regulations of the [Greater Farallones National Marine] Sanctuary if it occurs in the Sanctuary. Our jurisdiction includes Bodega Bay, but not Bodega Harbor. Any dredged material spillage would be considered an unlawful discharge or deposit of any material or other matter from within or into the Sanctuary [15 CFR 922.82(a)(2)].

**Response:** *The final EA was updated to reflect that there will be no double-handling of sediment and that the scows cannot be filled to more than 80 percent of normal capacity. In addition, the specific conditions set by USEPA for use of the SF-DODS and SF-8 disposal sites are included in the final EA.*

**Comment:** We were copied on the USACE response to USEPA concerns regarding double-handling. It was subsequently stated that USACE will address this concern by placing language into the contract prohibiting the double-handling of dredged material. We support this action along with USACE placing other conditions in the contract that limit the loading of the scows past any capacity that would cause inadvertent spills. Increasing the risk of spills in sanctuaries can jeopardize both pelagic and benthic habitat. Limiting the scow fill ratio based on sea state and weather are critical components to any dredged material disposal project that transits through the Sanctuary. We have been, and will continue to be, vigilant about reporting any spilling or leaking events to [the] NOAA Office of Law Enforcement.

**Response:** *Comment noted. See response above.*

**Comment:** The Sanctuary encourages beneficial reuse of available, non-polluted sediment resources whenever practicable. It is disappointing that large volumes of clean, non-polluted sediment continues to go to the ocean. We would like to work with you to figure out ways to minimize ocean disposal and increase beneficial reuse of sediment such as working with, or advocating to, state and local governments and ports to reduce ocean disposal of dredged material. For example, we are hopeful that the new measure AA funding could potentially help fund incremental costs incurred by choosing projects that send sediment for beneficial reuse, and we could support and encourage LTMS committee actions that would encourage the use of measure AA funding.

**Response:** *USACE concurs that greater beneficial reuse of clean, sandy sediment should occur—so long as there are viable beneficial reuse sites that can be economically justified.*

## **5.0 Federated Indians of Graton Rancheria (June 27, 2017)**

**Comment:** The Federated Indians of Graton Rancheria (FIGR) has received your project notification, and has reviewed your project and concluded that the project may impact Tribal Cultural Resources. Due to the location of the project's area of potential effect (APE) and the proximity to a site, there is a possibility for an inadvertent discovery of cultural resources, both prehistoric and historic. The project should have a notification provision to contact the FIGR Tribal Heritage Preservation Officer (THPO) if cultural resources are encountered during any ground disturbing activities.

**Response:** *The final EA includes the following language: “[i]f during excavation or other construction activities any previously unidentified or unanticipated historical, archaeological, and cultural resources are discovered or found, all activities that may damage or alter such resources will be temporarily suspended. Resources covered by this paragraph include but are not limited to: any human skeletal remains or burials; artifacts; shell, midden, bone, charcoal, or other deposits; rock or coral alignments, pavings, wall, or other constructed features; and any indication of agricultural or other human activities. Upon such discovery or find, immediately notify the Contracting Officer so that the appropriate authorities may be notified and a determination made as to their significance and what, if any, special disposition of the finds should be made. Cease all activities that may result in impact to or the destruction of these resources. Secure the area and prevent employees or other persons from trespassing on, removing, or otherwise disturbing such resources.” The project will comply with this language.*

## Wiechmann, Mark J CIV USARMY CESPAN (US)

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**From:** Ross, Brian <Ross.Brian@epa.gov>  
**Sent:** Wednesday, May 10, 2017 4:08 PM  
**To:** Wiechmann, Mark J CIV USARMY CESPAN (US)  
**Cc:** Burton Evans, Jessica L CIV USARMY CESPAN (US); Mull, Peter A CIV USARMY CESPAN (US); Ota, Allan; Siu, Jennifer; Capilla, Morgan; Prijatelj, Jean; Larry Simon (larry.simon@coastal.ca.gov); Maria.Brown@noaa.gov; karen.reyna@noaa.gov; Ota, Allan; Beth Christian; Brenda Goeden; Conner, Craig S CIV USARMY CESPAN (US); Siu, Jennifer; Mazza, James C CIV USARMY CESPAN (US); Naomi Feger  
**Subject:** [Non-DoD Source] EPA conditional ocean disposal concurrence for USACE Bodega Harbor 2017 Maintenance Dredging

-- This message is best viewed in HTML format --

Good day Mark et al.,

The purpose of this message is to transmit EPA's conditional concurrence for ocean disposal of material proposed to be dredged during USACE's 2017 Bodega Harbor Maintenance Dredging project. For FY-17, USACE proposed to dredge approximately 110,000 cy of accumulated sediment from the Federal Channels serving Bodega Harbor. The sediment would be ocean disposed at two locations depending sediment characteristics: approximately 40,000 cy of sand from the entrance channel up to survey line 100+00 will be placed at the easternmost portion of SF-8, and the remaining approximately 70,000 cy of finer sediment from the inner Harbor channels will be placed at the San Francisco Deep Ocean Disposal Site (SF-DODS). Our comments are provided pursuant to EPA's authority and responsibility under the Marine Protection, Research and Sanctuaries Act and its related Ocean Dumping regulations at 40 CFR 220-227, as well as our authority and responsibility under the Clean Water Act and its related regulations at 40 CFR 230.

The Bodega Harbor Federal Channel sediments were comprehensively tested in accordance with an EPA-approved Sampling and Analysis Plan (draft SAP June, 2015 with EPA comments July 27, 2015; revised SAP August 26, 2015 with EPA approval dated September 16, 2015). The test results are presented in the "Final Bodega Bay Harbor Federal Navigation Channel Operations and Maintenance Dredging Sampling and Analysis Report" dated November 21, 2016. On December 28, 2016 EPA transmitted our suitability determination, confirming that all of the material proposed to be dredged for the project was suitable for unconfined ocean disposal at SF-8 and SF-DODS depending on grain size.

In addition to the SAP and sediment testing results report, EPA reviewed the April, 2017 draft Environmental Assessment (EA) for the project. The EA documented that historic alternative disposal sites for Bodega Harbor dredged material were no longer available. EPA concurs that ocean disposal is needed for at least the fine inner Harbor dredged material from this project. However, discussions in the draft EA were unclear as to whether any of the sand to be dredged from the entrance channel up to survey line 100+00, might be proposed for placement at SF-DODS as opposed to being beneficially reused at SF-8. It was also unclear from discussions in the EA whether over-water double handling of dredged material into larger scows would occur. In response to EPA questions on these topics, USACE clarified (email

dated April 27, 2017) that over-water double handling would in fact not be included as an option in the project bid and contract documents, and that entrance channel sand up to survey line 100+00 would in fact only be reused at SF-8.

Based on all the available information, EPA hereby concurs that up to approximately 70,000 cy of suitable fine sediment from the inner Bodega Harbor Federal Channels may be ocean disposed at SF-DODS, provided that the attached mandatory SF-DODS site use conditions are fully incorporated into the project approval and contract documents. EPA also concurs that up to approximately 40,000 cy of predominately sand to be dredged from the Bodega Harbor entrance channel, up to survey line 100+00, be beneficially reused in the easternmost portion of SF-8, provided that the attached SF-8 site use conditions are also fully incorporated into the project approval and contract documents.

We appreciate the close coordination between our offices on this project. If there are any questions about these comments, or about EPA's site use conditions for SF-DODS or SF-8, please feel free to contact me directly.

=====

Brian Ross

Dredging & Sediment Management Team, WTR-2-4

U.S. Environmental Protection Agency, Region 9

75 Hawthorne Street

San Francisco, CA 94105

415-972-3475

ross.brian@epa.gov

Note: I cannot receive e-mail attachments greater than about 20 MB.

Please contact me in advance to make arrangements to share larger files.

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-----Original Message-----

From: Wiechmann, Mark J CIV USARMY CESP (US) [mailto:Mark.J.Wiechmann@usace.army.mil]

Sent: Thursday, April 27, 2017 5:59 PM

To: Ross, Brian <Ross.Brian@epa.gov>; Ota, Allan <Ota.Allan@epa.gov>; Siu, Jennifer <Siu.Jennifer@epa.gov>; Capilla, Morgan <capilla.morgan@epa.gov>; Prijatel, Jean <PRIJATEL.JEAN@EPA.GOV>

Cc: Burton Evans, Jessica L CIV USARMY CESP (US) <Jessica.L.BurtonEvans@usace.army.mil>; Mull, Peter A CIV USARMY CESP (US) <Peter.Mull@usace.army.mil>

Subject: Bodega Harbor 2017 Maintenance Dredging

With attachment this time...

Mr. Brian Ross

Dredging and Sediment Management Team

U.S. Environmental Protection Agency, Region 9

75 Hawthorne Street, WTR-2-4

San Francisco, California 94105

Dear Mr. Ross:

The U. S. Army Corps of Engineers, San Francisco District (USACE) is preparing for maintenance dredging of the federal channels at Bodega Harbor, located in Sonoma County. Historically, Bodega Harbor has been maintained on a 12-13 year cycle. The purpose of this project is to provide continued safe, unobstructed navigation of the channel. We're submitting this letter in compliance with the Marine Protection, Research, and Sanctuaries Act of 1972.

In support of this project, a Notice of Availability letter - concerning the draft Environmental Assessment (EA) and draft Finding of No Significant Impact (FONSI) - were sent out to you on April 19, 2017. All comments must be mailed prior to the close of the comment period on May 18, 2017. Again, these documents can be accessed at:

Blocked<http://www.spn.usace.army.mil/Missions/Projects-and-Programs/Projects-by-Category/Projects-for-Navigable-Waterways/Bodega-Bay/>

The final Sediment Analysis Report, Operations and Maintenance Dredging, Bodega Bay Harbor Federal Channel[s], Bodega Bay, California, was transmitted to you for your review and comment on November 21, 2016. Grain size and chemical analysis shows that the shoaled sediment within the entrance channel (Reach 1 [0+00 to 70+00] = 28,924 CY), is predominantly clean sand, and elsewhere along the harbor channel (Reach 2 [70+00 to 132+00] = 2,996 CY; Reach 3 [132+00 to 183+02] = 69,067 CY; Spudpoint Marina [0+00 to 19+95] = 3,661 CY), the shoaling consists of sand and silt in varying proportions. With composite samples testing below applicable human health and ecological screening levels, this material would be appropriate for disposal at SF-DODS. The benthic test results indicated that disposal would not result in significant toxicity, and the sediment elutriate test results indicated that disposal would not exceed the LPC,

thus meeting water quality objectives. On December 28, 2016 you sent an email to Roxanne Grillo stating that all of the material projected to be dredged (including allowable overdepth) is suitable for unconfined aquatic disposal at SF-DODS. With regard to the predominantly (>80%) sandy material from the entrance channel, we have a permit request in with the SF Bay Regional Water Quality Control Board to place this material within the easternmost sliver of SF-8 for beneficial reuse.

Historically, there have been two other disposal options used: The Old Airport Dredge Ponds upland site (used for every maintenance episode through 1992), and Doran Beach (used twice-in 1969 and again in 1981). The "Old Airport" site is not available for further disposal because capacity, which is limited, is primarily reserved for the sponsor's (County of Sonoma Regional Parks Department) future dredging of the local marina. In order to use the Old Airport site for disposal, major rehabilitation of the site would be necessary. In 2004, only minimal efforts were made. The Doran Beach site is not available because it has been designated by the USFWS as critical habitat for the federally listed Western Snowy Plover.

Concerns have been expressed by USEPA (Brian Ross email dated April 24, 2017) about possible double-handling of sediment into larger scows for transport to either SF-DODS or SF-8, and the consequent inadvertent spillage of sediment during the double-handling process, which would be considered an unauthorized ocean discharge. USACE will address this concern by placing language into the contract prohibiting the double-handling of dredged material.

Please address any comments to Dr. Mark Wiechmann at the address above or by e-mail at [mark.j.wiechmann@usace.army.mil](mailto:mark.j.wiechmann@usace.army.mil) <<mailto:mark.j.wiechmann@usace.army.mil>> . Dr. Wiechmann can also be reached by phone at (415) 503-6846.

Sincerely,

/s/

Jessica BurtonEvans

Chief, Environmental Section B

## Wiechmann, Mark J CIV USARMY CESP (US)

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**From:** Falcone, Gil@Waterboards <Gil.Falcone@waterboards.ca.gov>  
**Sent:** Wednesday, May 17, 2017 1:45 PM  
**To:** Wiechmann, Mark J CIV USARMY CESP (US)  
**Cc:** Burton Evans, Jessica L CIV USARMY CESP (US); Bargsten, Stephen@Waterboards  
**Subject:** [Non-DoD Source] RE: Draft Environmental Assessment and Draft Finding of No Significant Impacts for Bodega Bay Maintenance Dredging in Sonoma Count, California  
**Attachments:** 401bodegabaydredge2004.pdf

Dear Dr. Weichmann,

Thank you for the opportunity to comment on the draft EA/FONSI. The North Coast Regional Water Board regulated maintenance dredging of the Bodega Harbor federal channels through a Water Quality Certification and Waste Discharge Requirements issued to the U.S. Army Corps on June 28, 2004. Upon review of the proposed activities in the April 2017 draft EA/FONSI it appears to include very similar activities, however, the 2017 document does not include the North Coast Regional Water Board as a permitting regulatory agency. We would request an application for Clean Water Act section 401 and or Waste Discharge Requirements (WDRs) for these activities as they are proposed in the draft EA/FONSI document and would be consistent with the Army Corps' past permitting for this activity at this location.

The following are our comments regarding the project and past permitting:

In 2004:

The Army Corps produced a Draft and then Final Environmental Assessment / Biological Assessment in July 2004.

Within this document in section 8.9, "The proposed action for the Bodega Bay Harbor & Federal Channel Maintenance Dredging Project is not exempt from Section 401(1)(a) of the Clean Water Act, which applies to dredging activities and requires certification that the permitted project complies with the state water quality standards for actions within waters of the state. The Clean Water Act requires the District Engineer to obtain state water quality certification or waiver for the discharge of dredged material in section 401 waters. This will be obtained from the North Coast Regional Water Quality Control Board prior to commencement of dredging activities within Bodega Harbor." The Army Corps states that they will not get a 401 from SF regional board since the disposal site is outside their jurisdiction.

The Army Corps did indeed apply for a 401 / WDRs from our office in April 2004 and the certification was issued to the Army Corps on June 28, 2004. The Regional Water Board acknowledged the measures to minimize impacts to water quality including the use of an "environmental bucket" clamshell dredge to remove the material to reduce the possibility of increasing turbidity. Additionally, turbidity measurements were collected and reported at a point of compliance no more than 75ft. from the active dredging. Results show that there was only one instance where turbidity was elevated to 23% above background. The Army Corps complied with the North Coast Regional Water Board Basin Plan narrative objective of no greater than 20% above background and in the one instance of exceedance they ceased operations until levels normalized achieving compliance with this objective.

In 2017

The Army Corps produced a DRAFT EA/FONSI, April 2017

Within the "environmental Compliance" section of the document the Army Corps discusses the Clean Water Act: "Clean Water Act

Reduction of pollutants in discharges into waters of the U.S. is mandated by the Clean Water Act of 1972 (CWA), and such activities must also comply with section 401 of the CWA of 1977, as amended, (33 U.S.C. § 1251 et seq.). Regulatory control of water quality is delegated to local Regional Water Quality Control Boards (RWQCBs). Those boards issue

discharge permits that set limits on specifically monitored USEPA-determined water pollutants. Material placed within the 3-mile zone of SF-8 will require a CWA Section 404(b)(1) analysis and a Section 401 Water Quality Certification. The San Francisco Bay Regional Water Quality Control Board is the Regional Water Board with Section 401 CWA regulatory authority over SF-8. The USACE is in the process of preparing a 404(b)(1) certification and obtaining appropriate authorization from the Regional Water Board. The final EA will be updated, as necessary, to include any water quality requirements of the WQC."

The 2017 EA/FONSI seems to interpret the very similar activity to not require a North Coast permit, this seems inconsistent.

Within the 2017 EA/FONSI the Army Corps discuss using the "environmental bucket" which minimized turbidity impacts at the dredge site in 2004, we would support the use of this practice on this proposed project given its proven effectiveness for turbidity control in 2004. In the 2017 EA/FONSI states that the Army Corps will comply with the California Eelgrass Mitigation Policy and Implementing Guidelines (NOAA Fisheries 2014) by doing pre-and post-construction surveys and mitigate by transplanting eel grass if necessary, The regional Water Board concurs with this approach to avoid, minimize and mitigate if necessary impacts to eelgrass.

The North Coast Regional Water Board typically receives applications for and issues Clean Water Act section 401 Water Quality Certifications and or Waste Discharge Requirements for similar projects authorized under a federal permit, typically CWA section 404 and or the Rivers and Harbors Act. The 2017 EA/FONSI section 1.3 states that the Bodega Bay Harbor federal navigation channel was authorized by the Rivers and Harbors act of 1938, Pub. L No.75-685,54 Stat. 802. Additionally, section 3.3 describes potential discharges due to dredging activities that may cause increased turbidity in the surrounding waters that may release constituents of concern, though proposed to be less than significant. The dredging, handling and transport of dredged material has the potential of a discharge or threat of a discharge that may exceed water quality objectives and or impact beneficial uses, therefor the need for submittal of application for 401 and or WDRs from the North Coast Regional Water Board.

We appreciate the Best Management Practices and thorough environmental assessment that the Army Corps has implemented in the past in order to conduct important dredging activities to maintain integral navigational channels and look forward to continued coordination on these projects.

Thank you for the opportunity to comment.

Gil Falcone, M.S.  
Environmental Scientist  
Non-Point Source / 401 Certification Unit North Coast Regional Water Quality Control Board  
5550 Skylane Blvd., Suite A  
Santa Rosa, CA 95403-1072  
Voice (707) 576-2830  
Gil.Falcone@waterboards.ca.gov

Ps. Attached is a copy of the 2004 Water Quality Certification issued for Bodega Harbor federal channel maintenance dredging

-----Original Message-----

From: Wiechmann, Mark J CIV USARMY CESP (US) [mailto:Mark.J.Wiechmann@usace.army.mil]

Sent: Wednesday, April 19, 2017 6:08 PM

To: Wiechmann, Mark J CIV USARMY CESP (US) <Mark.J.Wiechmann@usace.army.mil>

Cc: Burton Evans, Jessica L CIV USARMY CESP (US) <Jessica.L.BurtonEvans@usace.army.mil>

Subject: Draft Environmental Assessment and Draft Finding of No Significant Impacts for Bodega Bay Maintenance Dredging in Sonoma Count, California

To whom it may concern:

A draft Environmental Assessment (EA) and draft Finding of No Significant Impact (FONSI) have been prepared by the U. S. Army Corps of Engineers San Francisco District for the proposed 2017 maintenance dredging of Bodega Harbor in Sonoma County, California. These documents can be accessed at:

Blocked<http://www.spn.usace.army.mil/Missions/Projects-and-Programs/Projects-by-Category/Projects-for-Navigable-Waterways/Bodega-Bay/>

Pursuant to 33 C.F.R. § 230.11 (b) U.S. Army Corps of Engineers - Procedures for Implementing [the National Environmental Policy Act] NEPA, notice of the availability of this draft EA and draft FONSI for review and comment is being provided to agencies, organizations, and the interested public. Please address any comments to Dr. Mark Wiechmann at the address above or by e-mail at [mark.j.wiechmann@usace.army.mil](mailto:mark.j.wiechmann@usace.army.mil) . All comments must be mailed prior to the close of the comment period on May 17, 2017. If you have any additional questions, Dr. Wiechmann can be reached by phone at (415) 503-6846.

This notice has been provided to Mr. Brian Ross, Mr. Alan Ota, Ms. Jennifer Siu, and Ms. Morgan Capilla of the United States Environmental Protection Agency; Ms. Elizabeth Christian of the San Francisco Regional Water Quality Control Board; Mr. Gil Falcone of the North Coast Regional Water Quality Control Board; Mr. Mark Delaplaine of the California Coastal Commission; Mr. Gary Stern and Ms. Sara Azat of the National Marine Fisheries Service; Mr. Ryan Olah of the U.S. Fish and Wildlife Service; Ms. Karen Weiss of the California Division of Fish and Wildlife; Mr. Scott Slade of the U.S. Coast Guard; Mr. Alex Saschin of the Northern Sonoma County Air Pollution Control District; Ms. Julianne Polanco of the State Historic Preservation Office; the Greater Farallones Marine Sanctuary; the Bodega Marine Laboratory, UC Davis; and the Federated Indians of Graton Rancheria.

Sincerely,

/s/

Jessica Burton Evans  
Chief, Environmental Section B

## Wiechmann, Mark J CIV USARMY CESP (US)

---

**From:** Aarreberg, Arn@Wildlife <Arn.Aarreberg@wildlife.ca.gov>  
**Sent:** Friday, May 12, 2017 11:46 AM  
**To:** Wiechmann, Mark J CIV USARMY CESP (US)  
**Subject:** [Non-DoD Source] FW: CDFW Comments on Bodega Harbor 2017 Maintenance Dredging

Hi Mark,

I got my email sent back, here is a second try. Please confirm that you received this email when you have a chance.

Thanks

Arn Aarreberg

Environmental Scientist

Marine Environmental Review and Water Quality Project

California Department of Fish and Wildlife - Marine Region

5355 Skylane Blvd. Suite B, Santa Rosa, CA 95403

Office: (707) 576-2889 Cell Phone: (707) 791-4195

Arn.Aarreberg@wildlife.ca.gov <mailto:Arn.Aarreberg@wildlife.ca.gov>

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From: Aarreberg, Arn@Wildlife  
Sent: Friday, May 12, 2017 11:44 AM  
To: 'Mark.J.Wiechmann@usace.army.mi'  
Cc: Christian, Elizabeth@Waterboards (Elizabeth.Christian@waterboards.ca.gov); 'Brian Ross' (Ross.Brian@epa.gov); Bargsten, Stephen@Waterboards; 'Mark Delaplaine' (Mark.Delaplaine@coastal.ca.gov); William.Paznokas@wildlife.ca.gov; 'Sara Azat - NOAA Federal'  
Subject: CDFW Comments on Bodega Harbor 2017 Maintenance Dredging

Dr. Weichmann,

Thank you for the opportunity to comment on the draft Environmental Assessment (EA) for dredging the Bodega Bay navigational channel in 2017. The California Department of Fish and Wildlife (Department) has the following comments and recommendations for The U.S. Army Corps of Engineers (USACE) consideration.

- \* Dredging reaches 2 and 3 appear to have the highest likelihood of potential impacts to eelgrass along and potentially within the channel based on the 2010 eelgrass survey. Pending the results of the 2017 pre-construction survey, the Department may recommend further minimization measures, such as light monitoring or silt curtains to prevent shading from turbidity. Given that reaches 2 and 3 have a higher percentage of silty mud and eelgrass may be closer to dredging activities, turbidity plumes could be more likely impact eelgrass in those locations.
- \* Has there been any analysis on the channel slope? The 2010 survey indicates eelgrass being near or within the channel. Has there been any discussion to determine if dredging to 12 ft could compromise the slope in these areas potentially removing or impacting eelgrass and eelgrass habitat? I believe in Morro Bay there has been discussion about buffer zones around eelgrass near the channel to avoid a situation where the channel edge is compromised allowing the channel edge to slide toward the center taking eelgrass and/or potential eelgrass habitat with it. Pending the results of the pre-construction survey, the Department recommends that USACE take this approach under consideration, if necessary, to avoid impacting eelgrass and eelgrass habitat along the channel edge.
- \* In the event that eelgrass mitigation or removal and transplanting of eelgrass from the channel is necessary, consultants contracted to conduct the work will be required to have a valid Scientific collection Permit (SCP) and Letter of Authorization from the Department. The two approvals will allow for the contractors to harvest and then transplant eelgrass within Bodega Bay. If the pre-construction survey indicates eelgrass will need to be relocated from the channel, the Department recommends that contractors for USACE start the SCP process as soon as possible as it can be a lengthy process at times.
- \* Being that the pre-construction survey has yet to take place; the Department would appreciate the opportunity to review and comment on the pre-construction survey prior to dredging commencing in 2017.

If you have any questions or concerns with the above comments and recommendations, please let me know.

Arn Aarreberg

Environmental Scientist

Marine Environmental Review and Water Quality Project

California Department of Fish and Wildlife - Marine Region

5355 Skylane Blvd. Suite B, Santa Rosa, CA 95403

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Arn.Aarreberg@wildlife.ca.gov <mailto:Arn.Aarreberg@wildlife.ca.gov>

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## Wiechmann, Mark J CIV USARMY CESP (US)

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**From:** Maria Brown - NOAA Federal <maria.brown@noaa.gov>  
**Sent:** Wednesday, May 17, 2017 4:38 PM  
**To:** Wiechmann, Mark J CIV USARMY CESP (US)  
**Cc:** Ross, Brian; Mark Delaplaine; brush.jason@epa.gov  
**Subject:** [Non-DoD Source] Proposed Bodega Harbor Maintenance Dredging Project

Dr. Wiechmann,

We appreciate the opportunity to comment on proposed ocean disposal of dredged material during US Army Corps of Engineers (USACE) 2017 Bodega Harbor Maintenance Dredging project. We understand that historically, when possible, you have used land disposal and/or beneficial reuse of sediment options: the "Old Airport" site and Doran Beach. However, in this instance, neither site is currently available so you will be allowing the transport of material to SF-DODS, which will require transiting scows full of sediment through the Greater Farallones National Marine Sanctuary.

Comments Specific to the EA/FONSI

The FONSI notes that for shallow draft projects, such as Bodega Bay Harbor, oceangoing scows may be prevented, because of limiting depths, from entering the bay and, therefore, cannot be loaded at the dredge site. The FONSI states that it is expected that the dredged material would be dredged into smaller barges and then re-handled into the larger barges outside of the bay before undertaking the 65-nautical-mile journey to the disposal site.

Concerns were expressed by US Environmental Protection Agency (Brian Ross email dated April 24, 2017) about possible double-handling of sediment into larger scows for transport to either SF-DODS or SF-8, and the consequent inadvertent spillage of sediment during the double-handling process, which would be considered an unauthorized ocean discharge.

Any inadvertent spillage that would occur from either double-handling or overfilling scows would also be considered a prohibited activity through the regulations of the Sanctuary if it occurs in the Sanctuary. Our jurisdiction includes Bodega Bay, but not Bodega Harbor. Any dredged material spillage would be considered an unlawful discharge or deposit of any material or other matter from within or into the Sanctuary. [15 CFR 922.82 (a)(2)]

We were copied on the USACE response to USEPA concerns regarding double-handling. It was subsequently stated that USACE will address this concern by placing language into the contract prohibiting the double-handling of dredged material. We support this action along with USACE placing other conditions in the contract that limit the loading of the scows past any capacity that would cause inadvertent spills. Increasing the risk of spills in sanctuaries can jeopardize both pelagic and benthic ocean habitat. Limiting the scow fill ratio based on sea state and weather are critical components to any dredged material disposal project that transits through the Sanctuary. We have been and will continue to be vigilant about reporting any spilling or leaking events to NOAA Office of Law Enforcement.

## General Comments Regarding Ocean Disposal

The Sanctuary encourages beneficial reuse of available, non-polluted sediment resources whenever practicable. It is disappointing that large volumes of clean, non-polluted sediment continues to go to the ocean. We would like to work with you to figure out ways to minimize ocean disposal and increase beneficial reuse of sediment such as working with or advocating to state and local governments and ports to reduce ocean disposal of dredged material. For example, we are hopeful that the new measure AA funding could potentially help fund incremental costs incurred by choosing projects that send sediment for beneficial reuse, and we could support and encourage LTMS committee actions that would encourage the use of measure AA funding.

Thank you for the opportunity to provide comments. We hope our comments are helpful and look forward to working with the USACE on developing opportunities for more options for beneficial reuse of sediment. If you have any questions, please do not hesitate to contact me or my staff, Karen Reyna, by phone at 415-970-5247 or email at [karen.reyna@noaa.gov](mailto:karen.reyna@noaa.gov) <<mailto:karen.reyna@noaa.gov>> .

Sincerely,

Maria Brown

Superintendent

cc: LTC John C. Morrow, Commander and District Engineer

Brian Ross, US Environmental Protection Agency

Jason Brush, US Environmental Protection Agency

Mark Delaplaine, California Coastal Commission

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Maria Brown  
Superintendent  
Greater Farallones National Marine Sanctuary  
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Protecting an ocean wilderness beyond the Golden Gate

**From:** [THPO@gratonrancheria.com](mailto:THPO@gratonrancheria.com)  
**To:** [Wiechmann, Mark J CIV USARMY CESP \(US\)](mailto:Wiechmann, Mark J CIV USARMY CESP (US))  
**Subject:** [Non-DoD Source] Bodega Bay Maintenance Dredging in Sonoma County  
**Date:** Tuesday, June 27, 2017 3:59:36 PM

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Dear Mark Wiechman,

The Federated Indians of Graton Rancheria (FIGR) has received your project notification, and has reviewed your project and concluded that the project may impact Tribal Cultural Resources. Due to the location of the project's area of potential effect (APE) and the proximity to a site, there is a possibility for an inadvertent discovery of cultural resources, both prehistoric and historic. The project should have a notification provision to contact the FIGR Tribal Heritage Preservation Officer (THPO) if cultural resources are encountered during any ground disturbing activities.

Sincerely,

Buffy McQuillen

Tribal Heritage Preservation Officer (THPO)

Native American Graves Protection and Repatriation Act (NAGPRA)

Office: 707.566.2288; ext. 137

Cell: 707.318.0485

FAX: 707.566.2291

Antonette Tomic

THPO Administrative Assistant

Federated Indians of Graton Rancheria

6400 Redwood Drive, Suite 300

Rohnert Park, CA 94928

Office: 707.566.2288, ext. 143

Fax: 707.566.2291

atomic@gratonrancheria.com <<mailto:atomic@gratonrancheria.com>>

P please consider our environment before printing this email.

Federated Indians of Graton Rancheria and Tribal TANF of Sonoma & Marin - Proprietary and Confidential  
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**DEPARTMENT OF THE ARMY**  
**SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS**  
**1455 MARKET ST.**  
**SAN FRANCISCO, CALIFORNIA 94103-1399**

April 19, 2017

REPLY TO  
ATTENTION OF

Environmental Section B

**Subject: Draft Environmental Assessment and Draft Finding of No Significant Impacts for  
Bodega Bay Maintenance Dredging in Sonoma County, California**

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Sincerely,

Jessica Burton Evans  
Chief, Environmental Section B

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