



# LONG TERM MANAGEMENT STRATEGY

October 28, 2004

## SMALL DREDGER PROGRAMMATIC ALTERNATIVES ANALYSIS (SDPAA) FOR DISPOSAL OF MAINTENANCE DREDGED MATERIAL IN THE SAN FRANCISCO BAY REGION

### RESPONSE TO COMMENTS

Before finalizing and adopting the SDPAA, the LTMS agencies sought informal comments on a September 17, 2004 Working Draft of the document from a number of interested and affected parties, including members of the Bay Dredging Action Coalition (BDAC), the Bay Planning Coalition (BPC), the California Marine Affairs and Navigation Conference (CMANC), Save San Francisco Bay, and owners or operators of several of the region's alternative disposal or reuse sites. Several comments and questions were received, all of them constructive. Based on these comments, the agencies made a number of revisions and clarifications to the SDPAA. The substantive revisions, and answers to other questions raised, are summarized below.

#### **Applicability of the SDPAA outside of Environmental Work Windows**

Some reviewers were confused by the draft SDPAA statement that projects dredging outside applicable Work Windows were "not covered under this SDPAA." The intent of this statement was simply to acknowledge that dredging outside applicable Windows could only occur subject to project-specific Endangered Species Act (ESA) consultation. We have clarified the final paragraph of Section 1.2 to reflect that the LTMS agencies will still consider the SDPAA applicable to any project approved for in-Bay disposal under a project-specific ESA consultation.

#### **Role of "market" and "project proponent"**

One commenter was concerned that the terms "market" and "project proponent" were not terms from the Clean Water Act (CWA) regulations. Section 1.3(d) of the SDPAA did not present these as regulatory terms. Rather, the discussion described generally the manner in which EPA and USACE, nationally, can be flexible in applying the Section 404(b)(1) Guidelines, particularly under a pre-existing, adopted plan (such as the LTMS). It is this flexibility that enables the agencies to prepare a single evaluation covering multiple projects, rather than requiring a strict project-by-project showing of compliance with the Guidelines.

#### **Currency of disposal site descriptions**

One commenter was concerned that some of the descriptions of existing and potential alternative disposal and re-use sites may not be up-to-date. In response, we have updated the descriptions for

some sites (including Mare Island, Port Sonoma Marina, and Carneros River Ranch). We have also included additional statements in the document emphasizing that the SDPAA itself will be reviewed and updated as appropriate in the future, if circumstances change that affect the range of alternatives or the practicability for members of the small dredger class to use them.

### **Adding projects to the "Small Dredger" list**

One commenter wanted clarification that the few small dredger projects identified as presently having alternatives to in-Bay disposal, could be considered for in-Bay disposal in the future should their circumstances change. No revisions were made to the document, because Section 2.2 of the SDPAA already includes language to this effect.

### **Role of disposal cost in determining the practicability of an alternative**

One commenter wanted language added to explicitly state that on a project-specific basis, increased cost "alone" *could* be sufficient to render an alternative not practicable. While the statement is true, we have not revised the document because the issue would only be relevant in the context of a detailed project-specific analysis. The intent of the SDPAA is to obviate the need for project-specific analyses.

### **Conclusions about practicability**

One commenter recommended replacing the phrase "is practicable" with "may be practicable" in Section 4.2(g). We have not made this change because Section 4.2(g) presents the "practicability conclusions" stemming from the SDPAA evaluation. The agencies must make affirmative determinations about practicability, and about what constitutes the Least Environmentally Damaging Practicable Alternative (LEDPA) for the SDPAA to be a useful regulatory document. However, we have added a note reiterating that projects whose circumstances change may request that the agencies reconsider the applicability of the SDPAA's conclusions to their project.

### **Longevity of the SDPAA**

Two commenters noted that the SDPAA was not clear about how long it could remain in force, the process for revising it, and the degree of changed circumstance that would necessitate its revision. It is the LTMS agencies' intent to make minor revisions to the SDPAA (such as updating the list of projects meeting the "small dredger" definition, and updating average volumes dredged) whenever needed, and to have the most up-to-date version of the document posted on the DMMO web site at any time. However, changes that could affect the overall evaluation itself would generally require a more extensive revision of the document. This could occur, for example, when a new regional disposal site opens up that could be practicable for members of the small dredger class to use. We would intend to solicit comments from LTMS interested parties on any such major revisions, prior to adopting a "new" SDPAA. We have clarified the final paragraphs of Sections 4.2(g) and 5.0 accordingly.