

FINAL INTEGRATED GENERAL REEVALUATION REPORT AND ENVIRONMENTAL IMPACT STATEMENT

SAN FRANCISCO BAY TO STOCKTON, CALIFORNIA NAVIGATION STUDY

APPENDIX F: Real Estate



JANUARY 2020



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1. Introduction

The San Francisco Bay to Stockton Navigation Improvement Project investigates the Federal interest in deepening the Federal deep draft navigation channels extending from the San Francisco Bay to the Port of Stockton, through San Francisco, Marin, Contra Costa, Solano, Sacramento, and San Joaquin Counties, California. The General Reevaluation Review was initiated in 2002 and the Tentatively Selected Plan (TSP) Milestone was successfully completed on 29 June 2016. The Agency Decision Milestone was successfully completed on July 2019. The study area includes the John F. Baldwin Ship Channel (consisting of the San Francisco Bar, Richmond Outer Harbor, West Richmond, Pinole Shoal, and Suisun Bay Channels), and the Stockton Ship Channel. The non-federal sponsor for the study is the Port of Stockton with Contra Costa County only in partnership for the purpose of this study

This Real Estate Plan is intended to support and present the real estate costs and requirements for the integrated General Reevaluation Report, Environmental Impact Statement and Environmental Impact Report for the San Francisco Bay to Stockton, California Navigation Improvement Program.

This report focuses on the Recommended Plan and is to be used for planning purposes only. There may be modifications to the plans that occur during Pre-construction, Engineering and Design (PED) phase, thus changing the final acquisition area(s) and/or administrative and land costs.

2. Project Authority

The San Francisco Bay to Stockton, California, Navigation Improvement Project was originally authorized by Congress in the Rivers and Harbors Act of 1965. The authorization allowed for 45 foot depths, but the channels were only constructed to 35 feet. The study was originally scoped for a 78-mile long navigation project to include the John F. Baldwin and Stockton channels, but has since been re-scoped to a total of 13.2 miles in the Pinole Shoal Channel and Suisun Bay Channel (Bulls Head Reach) to Avon.

3. Project Description

The Recommended Plan would deepen the existing maintained channel depth of the Pinole Shoal Channel and Suisun Bay Channel from -35 feet to -38 feet Mean low lower water (MLLW), with approximately 13.2 miles of new regulatory depths (See Figure 1). Approximately 10 miles of the Pinole Shoal Channel and all 3 miles of the Bulls Head Reach up to Avon would be dredged. A 2,600 foot sediment trap would be constructed at Bulls Head Reach with a depth of -42 feet MLLW, plus 2 feet of overdepth. The sediment trap would be maintained at -42 feet MLLW during future maintenance dredging to reduce rapid shoaling.

If the entire 2-foot overdepth prism were dredged, the Recommended Plan would result in a maximum of 1,603,200 cubic yards of dredged material from an approximate 390-acre footprint. The total volume includes approximately 1,443,900 cubic yards would be dredged from the

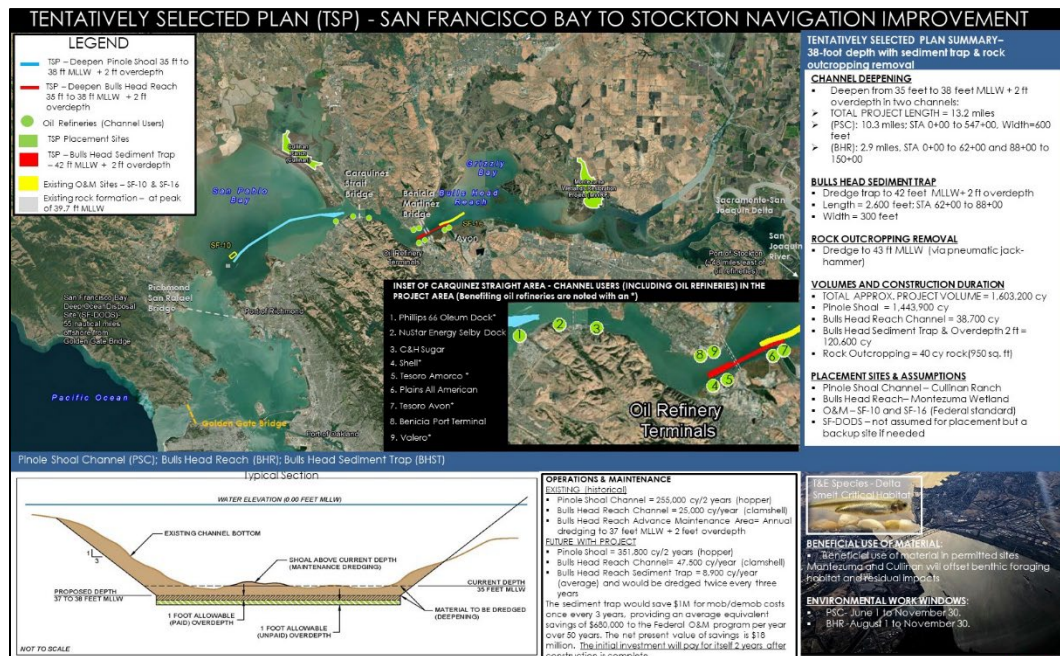
Pinole Shoal Channel and approximately 159,300 cubic yards would be dredged from the Suisun Bay Channel. Approximately 40 cubic yards of rocky obstruction would be also removed from the shipping lane near the Pinole Shoal Channel, An average of approximately 6,500 cubic yards would be dredged each day of construction. At this rate, construction deepening to 38 feet MLLW would take approximately 5.5 months.

All construction is expected to occur during the existing environmental work windows developed by the San Francisco Bay Long Term Management Strategy for the Placement of Dredged Material Management Plan Report unless other work windows are developed during consultation with the resource agencies. The environmental work window for the Pinole Shoal Channel is from June 1 through November 20 and the work window for the Suisun Bay Channel is from August 1 through November 30. Based on the estimated 8.1 month-duration of construction, this project will be constructed in one environmental work window.

Material dredged from Pinole Shoal Channel would be placed at Cullinan Ranch and material dredged from Suisun Bay Channel would be placed at Montezuma Wetlands as these are the least cost placement options. Both of these beneficial reuse sites are currently permitted to receive dredged material. The beneficial reuse placement at Montezuma Wetlands and Cullinan Ranch are currently assumed to offset potential mitigation for benthic foraging habitat and residual impacts to special status species and essential fish habitat.

The Project first cost for the Recommended Plan is \$57,240,000.

Figure 1: The Recommend Plan.



4. Description of Land, Easements, Rights-Of-Way, Relocation, and Disposal Areas (LERRDs)

The project currently does not require the sponsors to acquire any lands for the project, as shown in Figure 2 Project Map.

There are no real estate acquisitions necessary to place material in these existing permitted sites designated to receive material. All material dredged from the Project would be beneficially used at one or more existing designated permitted Dredged Material Beneficial Use Disposal sites – either at Cullinan Ranch and/or Montezuma Wetlands Restoration Site (Montezuma Wetlands) and these costs will be captured under construction.

Dredged Material Beneficial Use Disposal Sites:

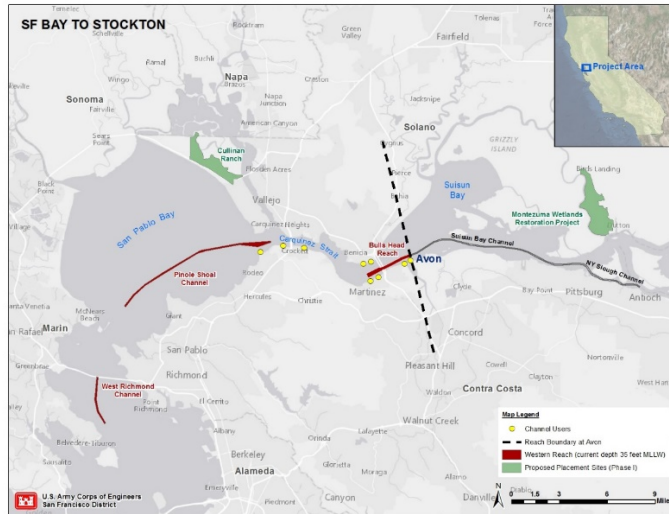
Cullinan Ranch: Cullinan Ranch Wetland Restoration Site, (as previously shown in Figure 1) is a 1,575-acre parcel in the San Pablo Bay National Wildlife Refuge. It was originally purchased by the USFWS for the purpose of increasing habitat for salt marsh harvest mouse and California clapper rail. Located in Solano County, the southern property boundary of the parcel is a naturally formed levee that is the base for State Highway 37. The western property boundary of the parcel comprises Dutchman Slough and South Slough, both of which flow into nearby Napa River. Cullinan Ranch is a tidal restoration project with the goal of restoring diked baylands to historic tidal marsh conditions. There is currently capacity for up to 2.4 million cubic yards of dredged material.

Cullinan Ranch has enough capacity to accept all dredged material from the Pinole Shoal Channel. Placing material at Cullinan Ranch meets the objective of maximizing beneficial reuse of dredged material; therefore, this placement site is considered.

Montezuma Wetlands - the approximately 1,800-acre Montezuma Wetlands Restoration Project is a privately owned and operated wetland restoration project located adjacent to Montezuma Slough in northern Honker Bay (Figure 1). It is located on the eastern edge of Suisun Marsh, west of Collinsville, in Solano County. The site can take both clean cover material and material with elevated concentrations of constituents of concern, as long as this sediment is buried under 3 feet of clean cover material. Under all deepening scenarios, Montezuma Wetlands has enough capacity (approximately 15 million cubic yards) to accept all material dredged from the Suisun Bay Channel. Placing material at Montezuma Wetlands meets the objective of maximizing beneficial reuse of dredged material.

After the Project Partnership Agreement (PPA) process is executed, the San Francisco District Engineering Branch will prepare the final design for advertisement and construction. During this process the NFS will be required to provide real estate certification for lands required for the project should there be additional required.

Figure 2. Project Map.



5. LERRDs Owned by the Non-Federal Sponsor and Crediting

There are no lands impacted by the Recommended Plan that are owned by the NFS.

6. Standard Federal Estates and Non-Standard Estates

Currently, the Recommended Plan does not identify additional real estate required for the Project. However, should additional real estate be required, the non-federal sponsor will be required to acquire the minimum interest in real estate that will support the construction and subsequent operation and maintenance of the USACE project.

There are no non-standard estates identified for this project at this time.

7. Description of any Existing Federal Projects in or Partially in the Proposed Project.

The San Joaquin River, Port of Stockton project extends from the San Francisco Bay to the Port of Stockton, through San Francisco, Marin, Contra Costa, Solano, Sacramento, and San Joaquin Counties, California. The project was authorized by the River and Harbor Act of October 27, 1965 - it is a Federally funded project. The Stockton deep water ship channel varies in width from 200 to 600 feet which is maintained at the authorized depth of 35 feet below MLLW. This is an annual dredge project and Federally funded each year. Dredging on the San Joaquin typically starts in September and finishes in late November.

8. Description of any Federally owned Land Needed for the Project

There are no Federally-owned land needed for the Project.

9. Application of Navigation Servitude to the LERRDs Requirement

Navigation Servitude will be applied to this project as it meets the dominant right of the Government under the Commerce Clause of the U.S. Constitution (U.S. CONST. art.I, §, cl.3) to use, control and regulate the navigable waters of the United States and the submerged lands thereunder for various commerce related purposes including navigation and flood control provided in paragraph 12-7 of ER 405-1-12. The determination of availability of the navigation servitude passed the two-step process as the project features aids commerce and has a nexus to navigation. Secondly, it is determined that subject lands are located below the mean high water mark of the navigable watercourse. This project serves a purpose to improve navigation by deepening SF Bay to Stockton, which is located below the mean or ordinary high water mark of a navigable watercourse. SPN-OC reviewed and provided Real Estate with a legal opinion confirming the authority to exercise the Government's rights under the navigation servitude doctrine.

Policy Guidance Letter 44 Revisions, September 27, 2017 (PGL 44) provides guidance to set forth current U.S. Army Corps of Engineers policy regarding the relocation and removal of utilities located in or under navigable water of the U.S. that interfere with Federal navigation improvements implemented under Section 101 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2211). Specifically, the memorandum modifies guidance on the interaction between Federal powers under the navigation servitude and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and the non-Federal sponsor's performance and payments responsibilities for utility relocation. Based current information, PGL 44 does not apply as the current project does not impact any utilities. The Trans Bay Cable is located in the West Richmond Channel which, currently is not dredged. Additional investigations will be conducted during PED to confirm the location and depth of the utility during PED and if impact is identified then the non-Federal sponsor is responsible for performing, or assuring the performance of all utility relocations necessary for the project and PGL 44 would then apply.

10. Anticipated Increased Flooding and Impacts

No induced flooding is expected to occur from the project.

11. Cost Estimate

There are no real estate acquisitions costs associated with the project as all activities will occur within the channel where navigation servitude will be exercised. Therefore there will be no credit issued to sponsor for project lands unless additional acquisition is identified.

An estimated \$25K for Fed and \$25K Non-federal administrative fees is for real estate certification for a total of \$50K and includes a 5% contingency.

12. Relocation Assistance Benefits.

Public Law 91-646, Uniform Relocation Assistance provides entitlement for various payments associated with federal participation in acquisition of real property. Title II makes provision for relocation expenses for displaced persons, and Title III provides for reimbursement of certain expenses incidental to transfer of property. There will be no relocations required for this project. As such, no Title II or Title III costs are associated or identified herein.

13. Mineral / Timber Activity.

There are no known mineral activities in the vicinity of the proposed project that will be affected by construction and O&M.

14. Non-Federal Sponsor's Ability to Acquire.

The non-Federal sponsors have real estate staff and experience in acquiring real estate, under the Port District Act, Statutes 1931, Ch. 1028.

Section 6 subsection 4 provides that the port district can "take by grant (or) purchase...or otherwise acquire...real or personal property of every kind, within or without the port district...".

A Real Estate Acquisition Capability Assessment is attached hereto as Exhibit "A" detailing the sponsor's authority and capability in providing necessary real estate interest. In addition, a Risk Notification Letter is attached hereto as Exhibit "B." This letter identified sponsor risks of acquiring lands prior to signing the PPA and requirements for crediting purposes in accordance with 49 CFR Part 24, dated March 2, 1989, as amended.

15. Zoning Anticipated in Lieu of Acquisition.

There is no zoning in lieu of acquisition planned in connection with the project.

16. Real Estate Acquisition Schedule.

There are no real estate acquisitions associated based on the current project footprint. If any land becomes necessary for the proposed project, the NFS has indicated they will use their in house staff to acquire real estate interest required. The NFS, Project Manager and Real Estate Specialist will formulate an acquisition schedule if required.

17. Description of Facility and Utility Relocations.

There are no impacted Facility and Utility Relocations. This project will not impact the nearby utilities. These utilities are the trans-bay cable transmission line owned by Trans Bay Cable (TBC) and the Rodeo Sanitary District sanitary sewer outfall. Due to the location of the sewer outfall, it was later determined there was no impact to the project and was not further investigated. The trans-bay cable was further analyzed and engineering received as-built drawings that also determined that due to the location of the cable, there would also be no impact.

As previously described in Section 9., additional investigations will be conducted during PED to confirm the location and depth of the utility during PED and if impact is identified then the non-Federal sponsor is responsible for performing, or assuring the performance of all utility relocations necessary for the project and PGL 44 would then apply.

ANY CONCLUSION OR CATEGORIZATION CONTAINED IN THIS REPORT THAT AN ITEM IS A UTILITY OR FACILITY RELOCATION TO BE PERFORMED BY THE NON-FEDERAL SPONSOR AS PART OF ITS LERRD'S RESPONSIBILITIES IS PRELIMINARY ONLY. THE GOVERNMENT WILL MAKE A FINAL DETERMINATION OF THE RELOCATIONS NECESSARY FOR THE CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE PROJECT AFTER FURTHER ANALYSIS AND COMPLETION AND APPROVAL OF FINAL ATTORNEY'S OPINIONS OF COMPENSABILITY FOR EACH OF THE IMPACTED UTILITIES AND FACILITIES.

18. Hazardous, Toxic, and Radiological Waste (HTRW).

According to Appendix G - Attachment 4 - Biological Assessment (Appendix B Sediment Sampling and Analysis to the Biological Assessment), it concludes there is a low probability of encountering HTRW materials that are not suitable for disposal in the marsh restoration sites. Sediment sampling and testing conducted as part of the PED will be done to confirm that project sediments are suitable for disposal in marsh creation sites and in water disposal sites.

19. Attitude of Landowners.

Navigation servitude will be exerted as it's been determined that subject lands are located below the mean high water mark of the navigable watercourse. Additionally, there are no landowner opposition based on this current project footprint.

20. Cultural Resources Impacts.

There is potential for historic properties to be affected by dredging, however it does not appear real estate acquisition would be required.

21. RECOMMENDATION AND SIGNATURE

The subject report is in compliance with current regulator, policy guidance and delegations.

Prepared by:

Bonievee A. Delapaz

Bonievee A. Delapaz
Realty Specialist
Sacramento District

Approved by:

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11:53:28 -07'00'

Adam B. Olson
Chief, Real Estate
Sacramento District

EXHIBIT A

ASSESSMENT OF NON-FEDERAL SPONSOR'S REAL ESTATE ACQUISITION CAPABILITY

I. Legal Authority:

a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? Yes, Chapter 1028 of the statutes of 1931 is the enabling statute of the Port of Stockton.

Section 6 subsection 4 provides that the port district can "take by grant (or) purchase...or otherwise acquire...real or personal property of every kind, within or without the port district..."

b. Does the sponsor have the power of eminent domain for this project? Yes, with no limitations.

c. Does the sponsor have "quick-take" authority for this project? No. Although we don't anticipate to acquire real estate for this project, if acquisition is necessary we will utilize authority described above.

d. Are any of the lands/interests in land required for the project located outside of the sponsor's political boundary? No.

e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? No.

II. Human Resource Requirements:

a. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including PL 91-646, as amended? No

b. If the answer to II. A. is "yes", has a reasonable plan been developed to provide such training?

c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? Yes

d. Is the sponsor's projected in-house staffing level sufficient considering its other workload, if any, and the project schedule? Yes

e. Can the sponsor obtain contractor support, if required, in a timely fashion? Yes

f. Will the sponsor likely request USACE assistance in acquiring real estate? No.

III. Other Project Variables:

- a. Will the sponsor's staff be located within reasonable proximity to the project site?

The Port of Stockton together with Contra Costa County is within distance of the project site.

- b. Has the sponsor approved the project/real estate schedule/milestones?

Yes. The sponsors reviewed and approved the project scheduled milestones.

IV. Overall Assessment:

- a. Has the sponsor performed satisfactorily on other USACE projects? YES.

b. With regard to this project, the sponsor is anticipated to be: (Capable – Highly Capable – Not capable, etc.) HIGHLY CAPABLE

V. Coordination:

- a. Has this assessment been coordinated with the sponsor? YES

- b. Does the sponsor concur with this assessment? YES

EXHIBIT B. NFS Notification of Risks Associated with Acquisition



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

May 22, 2019

Real Estate Division

Mr. Jeffrey Wingfield, Director of Environmental and Public Affairs
Port of Stockton
2201 W. Washington St.
Stockton, CA 95203

Dear Mr. Wingfield:

The following is informational regarding real estate acquisition risks and policies during the Feasibility Study and prior to execution of the Project Partnership Agreement (PPA). If the Port of Stockton undertakes real estate activities/acquisition management, and acquisition of land anticipated for the proposed SF Bay to Stockton Project prior to execution of the PPA and prior to the Government's formal notice to proceed with its acquisition after PPA execution, we caution you that there are many risks associated with acquisition under such circumstances and that, as the non-Federal sponsor, your agency assumes full and sole responsibility for any and all costs, or liability arising out of the acquisition effort. Generally, these risks include, but may not be limited to the following:

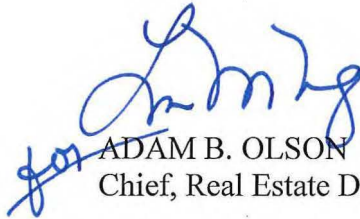
- a. The Congress of the United States may not appropriate funds to construct the proposed project.
- b. A PPA mutually agreeable to the Port of Stockton and the Federal Government may not be executed and implemented.
- c. Port of Stockton may incur liability and expense by virtue of its ownership of contaminated lands, or interests therein, whether such liability should arise out of local, state, or Federal laws or regulations including liability arising out of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42, U.S.C. 9601-9675.
- d. Port of Stockton may acquire interests or estates in real property that are later determined by the Government to be inappropriate, insufficient, or otherwise not required for the project.
- e. Port of Stockton may initially acquire insufficient or excessive real property acreage that may result in additional negotiations, payment of Public Law 91-646 (as amended) benefits, or payments of fair market value to affected landowners that could have been avoided by delaying acquisition until after

PCA execution and the said formal notice by the Corps to commence acquisition of land and right of way.

- f. Port of Stockton may incur costs or expenses in connection with its decision to acquire or perform acquisition activities in advance of the executed PCA and the Government's notice to proceed which may not be creditable under the provisions of Public Law 99-662, The Water Resources Development Act of 1986, or the PCA.

Should you have any questions, please contact Project Manager, Ms. Pamela Castens at (910) 251-4671 or Realty Specialist, Bonieeve Delapaz at (415) 503-6745

Sincerely,



ADAM B. OLSON
Chief, Real Estate Division

Copy Furnished:

Ms. Pamela Castens – USACE Project Manager (VIA EMAIL ONLY)