



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

PUBLIC NOTICE

PROJECT: Suisun Marsh Dredging Program

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1. **INTRODUCTION:** Suisun Resource Conservation District (SRCD) (POC: Steve Chappell, 707-425-9302), 2544 Grizzly Island Road, Suisun, CA 94585; California Department of Fish and Game (DFG) (POC: Jim Starr), 4001 N. Wilson Way, Stockton, CA 95205; California Department of Water Resources (DWR) (POC: Katie Shulte Joung), 3500 Industrial Boulevard, West Sacramento, CA 95691; and U.S. Bureau of Reclamation (POC: Becky Victorine), 801 I Street, Suite 140, Sacramento, CA 95814, have applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Letter of Permission (LOP) procedure to dredge material from tidal areas of Suisun Marsh in Solano County, California. The material would be used for exterior levee repairs and stabilization and would be dredged from adjacent tidal sloughs, bays, and dredger cuts. This Department of the Army LOP program application is being processed pursuant to the provisions of Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*), and Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*)

2. PROPOSED PROJECT:

Project Site Location: The proposed LOP program area is located in the Suisun Marsh, which is bounded to the west by Interstate 680, Highway 12 to the north, Shiloh Road and Collinsville Road to the east, and Suisun Bay to the south, in southern Solano County west of the Sacramento river Delta, as shown on the attached vicinity map (Figure 1).

Project Site Description: The Suisun Marsh is one of the largest contiguous estuarine marshes in the United States. The marsh is comprised of several islands. Most of the islands are subdivided into various land ownerships. The

landowners in the Suisun Marsh include the State of California, non-profit organizations, private hunting clubs with multiple owners, and private individuals. As shown in Figure 2, there are over 160 separate private land ownerships in the Suisun Marsh. For management purposes, the Marsh is divided into four regions, plus the major Montezuma Slough, which is a boundary between several regions.

Most of the islands in the Suisun Marsh are ringed with large exterior levees which are higher than the adjacent managed wetlands, and are typically 12 to 14 feet wide at the crown, and have 2:1 side slopes. Managed wetlands are contained within the exterior levees. Often, emergent wetlands (tule wetlands) are found between the sloughs and the exterior levees. Most of the land is managed primarily to provide habitat for wintering waterfowl and it also provides valuable wetland habitat for resident and migratory wildlife. Some public land is managed for multiple species benefits, including the resident herd of Tule Elk or for endangered species.

On the landward side of the exterior levees in the managed wetlands is usually a series of smaller interior levees which are 2 to 3 feet in height. Often there is an unpaved gravel or dirt road located on the crown of the levees.

Most of the exterior levees in the Suisun Marsh were originally constructed so that people could farm the islands. Levee construction began in the 1850s. When farming became unprofitable the land was converted to managed wetlands. Most of the managed wetlands in the Suisun Marsh have subsided below the elevation of mean high water. Therefore, the exterior levees are necessary to prevent these lands from becoming tidally inundated and permanently flooded. The interior levees partition areas

from each other so that each area can be managed separately to optimize wetland habitat conditions and wildlife habitats.

Project Description: Suisun Marsh has approximately 199.82 miles of exterior levees. Approximately 66.35 miles of these levees have vegetated berms greater than 50 feet wide and adjacent to the exterior levee, making dredging from these specific locations for levee maintenance impractical. For these 66.35 miles of levee segments, the primary source of maintenance would continue to be from the adjacent managed wetlands or from importation from outside of the Marsh (proposed for permitting under RGP3 reissuance, see Corps Public Notice for file number 2012-00258N). The remaining 133.47 miles of exterior levees would be maintained through a dredging program authorized under a Corps LOP procedure (see Figures 3a and 3b, and Table 1) or the RGP3 reissuance (see Corps Public Notice for file number 2012-00258N). This new dredging program would supplement the continued exterior levee maintenance activities under the RGP3 for the entirety of the 199.82 miles of exterior levees in Suisun Marsh.

The proposed LOP procedure would authorize private landowners (represented by SRCD), DFG, and DWR to dredge material from tidal areas within Suisun Marsh and use the material for levee maintenance and repair. Up to 100,000 cubic yards of material would be dredged from major and minor tidal sloughs and bays on an annual basis, resulting in a total of 1,000,000 cubic yards over the proposed 10-year duration of the LOP. The dredging would impact approximately 19.83 acres or 90,446 linear feet (17.13 linear miles) of waters of the U.S. per year. The dredging and levee maintenance activities proposed for authorization under the LOP program are one component of the Suisun Marsh Habitat Management, Preservation, and Restoration Plan (SMP), a comprehensive 30-year plan designed to address the management of the varied resources within the marsh.

There are sixteen fish screen structures that are part of the water control structures located in the Suisun Marsh. The screens experience significant siltation problems. Silt is deposited around these screens, which impedes the operation of the screen and screen-cleaning brushes. Every few years a relatively small amount of material would be removed from the fish screen basins (about 20 to 100 cubic yards each) by dredging. (This amount is included in the total 1,000,000 cubic yards proposed for dredging in the Marsh for the duration of this LOP). Alternative measures (trying to move silt by hand) have been

ineffective. Dredging around fish screens would be done during low tide to minimize in-water work and minimize turbidity. As the tide returns, the fish screen would be opened to allow turbidity to be drawn into the managed wetland. Dredge spoils would be placed on the crown or landside slope of the exterior levee adjacent to the fish screen. In instances where material cannot be used adjacent to the dredging site, the material may be used on other levees within Suisun Marsh, following the same environmental commitments as identified in the plan.

The dredged material from adjacent exterior tidal slough channels, bays, and dredger cuts would be used for major levee maintenance that involves topping the levee crown and backslope and minor levee maintenance that involves only topping the levee crown. Approximately 50% of the annually dredged material (50,000 cubic yards) would be used for major levee maintenance and 50% would be used for minor levee maintenance. Material used for backslope stabilization during major levee maintenance could incidentally impact waters of the U.S. by placing material within jurisdictional areas but there would not be a permanent loss of waters of the U.S. Any materials placed within waters of the U.S. would be of a minimal amount and would only serve to maintain pre-existing levee contours (no expansion beyond the originally authorized footprint).

Affected Waterways – Under the proposed LOP program, dredging would occur in the following tidal aquatic habitats located adjacent to the levees to be maintained:

- Bays - Open water areas that extend offshore from levees or the water side of tidal emergent vegetation. Major bays in the Suisun Marsh region include Suisun, Grizzly, and Honker Bays to the Contra Costa County line, and Little Honker Bay.
- Major Sloughs – Montezuma and Suisun Sloughs are classified as major. These two sloughs have a combined acreage of 2,212 acres and consist of both shallow and deep channels.
- Minor Sloughs – Minor sloughs include Cordelia, Goodyear, Chadbourn, Peytonia, Boynton, Hill, Cut off, Cross, Nurse, First Mallard, Second Mallard, and Denverton. Minor sloughs are made up of shallow channel habitats and have a combined acreage of 1,108 acres.
- Dredger Cuts – These areas are tidally inundated, manmade borrow ditches adjacent to the toe of the existing exterior levees, isolated from the adjacent

minor and major sloughs by a vegetated berms. Dredger cuts are distributed throughout the Marsh and are very shallow channels.

estimated that about 100,000 cubic yards of material would need to be dredged annually to maintain the 133.5 miles of exterior levees.

Table 1. Total Miles of Exterior Levee to be Maintained by Region/Associated Waterway Types Dredged

	Miles of levee Region 1	Miles of levee Region 2	Miles of levee Region 3	Miles of levee Region 4	Montez. Slough	Total
Bays	0	0	0.13	5.39	0	5.52
Major sloughs	2.89	14.26	0	0	21.45*	38.60
Minor sloughs	28.84	11.98	3.90	3.18	0	47.90
Dredger cuts	8.31	3.50	6.05	14.02	9.57	41.45
Total	40.04	29.74	10.08	22.59	31.02	133.47

*Montezuma Slough is the border between Regions 2 and 4

SRCD and DFG have proposed to develop a benthic invertebrate monitoring program to assess the potential impacts of dredging on benthic invertebrate communities and sediment quality in the vicinity of proposed dredging activities.

Dredging Methods – The material desired for exterior levee maintenance is the compacted bay silts and clays. These compacted materials lie beneath the surface layers of the slough bottoms. Dredging would involve the use of the bucket of an excavator to scoop mud from the bottom of the sloughs. During dredging, the bucket on the end of the excavator boom is pointed downward and is inserted through the unconsolidated surface materials into the desired compacted mud on the bottom of the slough. The bucket is then retracted upward, scooping the material vertically from the bottom, swinging it over and placing it on the crown and backslope of the levee. The material is then smoothed and compacted with the excavator bucket, creating a uniform layer that may range from 1 to 2 feet deep (average height is 1.5 feet). The two methods of dredging proposed for the Marsh are use of a land based long reach excavator from the crown of the levees, or a floating barge dredger or excavator from the water. After 2 to 3 months of drying time, the material would be disced and graded to integrate the new materials with the existing levee. Only minimal amounts of material would incidentally impact waters of the U.S. (the interior managed wetlands and/or the bays and sloughs) because the materials would be deliberately placed and kept on the crown and slopes of the levee.

Amounts of Dredging – Over the next ten years, it is

Table 2. Annual Proposed Dredging Volume per Waterway Type and Region

	Region 1 Volume (cy)	Region 2 Volume (cy)	Region 3 Volume (cy)	Region 4 Volume (cy)	Montez. Slough Volume (cy)	Total Volume (cy)
Bays	0	0	100	4,000	0	4,100
Major sloughs	2,100	10,700	0	0	16,000	28,800
Minor sloughs	21,600	8,900	3,000	2,400	0	35,900
Dredger cuts	6,300	2,700	4,500	10,500	7,200	31,200
Total	30,000	22,300	7,600	16,900	23,200	100,000

Each site within the Marsh would require specific evaluations annually, but the general quantity of dredging per linear foot would range from 0.75 cubic yards per foot (material needed for minor levee maintenance) to 2.1 cubic yards per foot (material needed for major levee maintenance), depending on the levee maintenance needs. The annual allotment for dredging would be divided between state and private property, depending on the current need, and would be limited to a maximum of 2.1 cubic yards per linear foot of channel, based on the linear extent of exterior levees on each property or the length of the dredger cut. This limitation would be provided as a general guideline; however, some level of flexibility might be written into the LOP to provide for special cases, such as levee failure.

The proposed LOP program would impact approximately 19.83 acres (over approximately 90,490 linear feet) of waters of the U.S. annually (see Table 3). Dredging activities would be tracked by SRCD, and reported to USACE, to ensure dredging does not occur more often than once every 3 years in any location and would not remove material deeper than 4 feet per dredging cycle. Specific dredging locations would be based on levee maintenance needs, but would be limited by region, annual limits, waterway types, and frequency in any one location.

Table 3. Annual Acreage and Linear Feet of Dredging per Waterway Type and Region (acres/linear feet)

	Region 1	Region 2	Region 3	Region 4	Montez. Slough	Total
Bays	0	0	0.02/90	0.79/3620	0	0.81/3700

Major sloughs	0.42/ 1900	2.12/ 9685	0	0	3.16/ 14480	5.7/ 26065
Minor sloughs	4.28/ 19550	1.76/ 8050	0.61/ 2715	0.48/ 2170	0	7.13/ 32485
Dredger cuts	1.25/ 5700	0.54/ 2445	0.89/ 4070	2.08/ 9500	1.43/ 6515	6.19/ 28230
Total	5.95/ 27150	4.42/ 20180	1.52/ 6875	3.35/ 15290	4.59/ 20995	19.83/ 90490

LOP Program Administration – Under the LOP procedure for Suisun Marsh, SRCD would act as the first-line gatekeeper for dredging applications. Landowners would submit dredging request applications to SRCD and DFG in the early part of each year (January 1 through April 30). The applications would need to contain all necessary information to determine compliance with the LOP procedure, including a detailed map of the proposed site, dimensions of the levee, the cubic yardage requested, description of the dredging source site conditions (waterway type and region), photo documentation of current conditions, type of equipment proposed to conduct the work, and GPS coordinates of the extent of the proposed project. SRCD would sort the applications within each of the Marsh’s regions to compare the sum of the landowners’ annual dredging requests with the annual regional dredging caps. SRCD would also review all applications for completeness and check the past history of dredging program participation at each site. In March of each year, SRCD, DFG, and the regulatory agencies would meet to discuss the pending applications, and the agencies would have a chance to provide comments.

Between May 1 and May 30, SRCD and DFG would conduct inspections of applicants’ sites to assess current conditions, account for any special considerations such as listed species’ restrictions, ensure avoidance of sensitive areas, and review proposed dredging methods for suitability. SRCD would preliminarily allocate dredging amounts to the applicants and submit these recommended amounts in an application package to USACE and the other regulatory agencies.

USACE would review the application packages submitted by SRCD and provide written concurrence that each of the applicants qualifies for the LOP, as applicable.

Dredging work activities would be completed between August 1 and November 30 of each year. SRCD would conduct post-construction inspections and collect work-completed reports from each of the permittees. Prior to January 31, SRCD would submit yearly summary reports to USACE. The reports would include a summary of total

yearly requests, total volume authorized, actual work completed, and a breakdown of dredging activities by region and waterway type. A map would be created showing all levee segments maintained by dredging and additional site-specific information for each project, including pre- and post-construction photos. USACE would review the year-end summary report and provide SRCD and DFG with any comments, including proposed modifications to the upcoming year’s program.

SRCD and DFG has proposed establishing formal check-in points with the regulatory agencies at years 1, 4, and 8 to review the LOP procedure and the associated Biological Opinions to ensure the original impact analysis, scope of the dredging program, results of the benthic invertebrate monitoring program, and the anticipated level of landowner participation have held true.

Basic Project Purpose: The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by USACE to determine whether the project is water dependent. The basic project purpose is levee maintenance.

Overall Project Purpose: The overall project purpose serves as the basis for the Section 404(b)(1) alternatives analysis, and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, while allowing a reasonable range of alternatives to be analyzed. The overall project purpose is to cost-effectively maintain the exterior levee system of the Suisun Marsh with a suitable material source.

Proposed Mitigation: The following measures have been proposed for the LOP program to avoid and minimize impacts to the aquatic environment:

Timing Restrictions:

- Dredging would be performed during the window of August 1 through November 30.
- To avoid the disturbance of California clapper rails or black rails, activities within or adjacent to designated tidal marsh areas would be avoided during the breeding season from February 1 through August 31.

Construction Practices - Best management practices (BMPs) to minimize impacts to the aquatic environment would include the following:

- BMPs would be implemented to minimize water quality impacts such as temporary turbidity increases.
- Dredging would not occur in areas that have been tidally restored.
- A berm would be constructed on the channel-side of the levee crown to prevent runoff into adjacent aquatic areas.
- Dredging would occur in the deepest portions of the adjacent slough or dredger cut areas, as practicable
- Emergent vegetation would be avoided during construction to the greatest extent possible. In cases where disturbance is unavoidable, SRCD and USACE would develop construction guidance prior to project authorization and commencement.

Compensation – The applicants have proposed providing compensatory mitigation for projects in which removal of emergent vegetation cannot be avoided. Aside from these occasional project impacts, the LOP program would not result in a permanent loss of waters of the U.S. Any unavoidable loss of emergent vegetation resulting from the LOP is proposed to be compensated for by implementing tidal wetland restoration at a ratio of 3:1, or 2:1 if restoration is provided for in advance of the impact.

3. STATE AND LOCAL APPROVALS:

Water Quality Certification: State water quality certification or a waiver is a prerequisite for the issuance of a Department of the Army Permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to Section 401 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1341 *et seq.*). The applicant has recently submitted an application to the California Regional Water Quality Control Board (RWQCB) to obtain water quality certification for the project. No Department of the Army Permit will be issued until the applicant obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed, if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act.

Water quality issues should be directed 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.

Coastal Zone Management: Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c) *et seq.*), requires a non-Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Certification that indicates the activity conforms with the State’s coastal zone management program. Generally, no federal license or permit will be granted until the appropriate State agency has issued a Consistency Certification or has waived its right to do so. Since the project occurs in the coastal zone or may affect coastal zone resources, the applicant has obtained a Consistency Determination from the San Francisco Bay Conservation and Development Commission to comply with this requirement.

Coastal zone management issues should be directed to the Executive Director, San Francisco Bay Conservation and Development Commission, 50 California Street, Suite 2600, San Francisco, California 94111, by the close of the comment period.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act (NEPA): The Corps has acted as a cooperating agency (per 40 CFR §1501.6) throughout the process of developing the NEPA document, an Environmental Impact Statement (EIS), for which the U.S. Bureau of Reclamation is the federal lead. A joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) was published in November 2011 by the United States Bureau of Reclamation, United States Fish and Wildlife Service, and the California Department of Fish and Game. At the conclusion of the public comment period, USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347), the Council on Environmental Quality's Regulations at 40 C.F.R. Parts 1500-1508, and USACE Regulations at 33 C.F.R. Part 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of USACE and other non-regulated activities USACE determines to be within its purview of Federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be incorporated in the

decision documentation that provides the rationale for issuing or denying a Department of the Army Permit for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Regulatory Division.

Endangered Species Act (ESA): Section 7(a)(2) of the ESA of 1973, as amended (16 U.S.C. § 1531 *et seq.*), requires Federal agencies to consult with either the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to ensure actions authorized, funded, or undertaken by the agency are not likely to jeopardize the continued existence of any Federally-listed species or result in the adverse modification of designated critical habitat. As the Federal lead agency for the SMP, the U.S. Bureau of Reclamation will be responsible for determining the presence or absence of Federally-listed species and designated critical habitat, and the need to conduct consultation. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the U.S. Bureau of Reclamation concerning the consultation process. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

The U.S. Bureau of Reclamation initiated formal Section 7 consultation with the National Marine Fisheries Service (NMFS) on June 7, 2012, for the project's effects on the following federally listed fish species: North American green sturgeon (*Acipenser medirostris*), Central California Coast threatened steelhead (*Oncorhynchus mykiss*), Central Valley threatened steelhead (*Oncorhynchus mykiss*), Central Valley spring-Run threatened Chinook salmon (*Oncorhynchus tshawytscha*), and Sacramento River winter-run endangered Chinook (*Oncorhynchus tshawytscha*); and designated critical habitat for North American green sturgeon.

The U.S. Bureau of Reclamation initiated formal Section 7 consultation with the U.S. Fish and Wildlife Service on June 6, 2012 for the project's effects on the following endangered birds, mammals, and plants: salt marsh harvest mouse (*Reithrodontomys raviventris*), California clapper rail (*Rallus longirostris obsoletus*), Soft bird's beak (*Cordylanthus mollis* var. *mollis*), delta smelt (*Hypomesus transpacificus*), California least tern (*Sternula antillarum browni*), and Suisun thistle (*Cirsium hydrophilum* var. *hydrophilum*); and designated critical habitat for delta smelt. The work authorized under this

permit could adversely and/or beneficially impact endangered species.

Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA): Section 305(b)(2) of the MSFCMA of 1966, as amended (16 U.S.C. § 1801 *et seq.*), requires Federal agencies to consult with the NMFS on all proposed actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. EFH is designated only for those species managed under a Federal Fisheries Management Plan (FMP), such as the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, and the *Pacific Coast Salmon FMP*. As the Federal lead agency for this project, the U.S. Bureau of Reclamation made an initial determination that the project may result in adverse impacts to EFH for Chinook salmon, and consequently initiated consultation with NMFS for these potential impacts on June 7, 2012. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the U.S. Bureau of Reclamation concerning the consultation process. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

Marine Protection, Research, and Sanctuaries Act (MPRSA): Section 302 of the MPRS of 1972, as amended (16 U.S.C. § 1432 *et seq.*), authorizes the Secretary of Commerce, in part, to designate areas of ocean waters, such as the Cordell Bank, Gulf of the Farallones, and Monterey Bay, as National Marine Sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the Act. No Department of the Army Permit will be issued until the applicant obtains the required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project would not likely affect sanctuary resources. This presumption of effect, however, remains subject to a final determination by the Secretary of Commerce, or his designee.

National Historic Preservation Act (NHPA): Section 106 of the NHPA of 1966, as amended (16 U.S.C.

§ 470 *et seq.*), requires Federal agencies to consult with the appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places*. Section 106 of the Act further requires Federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance. As the Federal lead agency for this undertaking, USACE has conducted a review of latest published version of the *National Register of Historic Places*, survey information on file with various city and county municipalities, and other information provided by the applicant, to determine the presence or absence of historic and archaeological resources within the permit area. Based on this review, USACE has made a *preliminary* determination that historic or archaeological resources are not likely to be present in the permit area, and that the project either has no potential to cause effects to these resources or has no effect to these resources. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, and Native American Nations or other tribal governments.

If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until USACE concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with 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)). An evaluation pursuant to the Guidelines indicates the project is dependent on location in or proximity to waters of the United States to achieve the basic project purpose. This conclusion raises the (rebuttable) presumption of the availability of a practicable alternative to the project that would result in less adverse impact to the aquatic ecosystem, while not

causing other major adverse environmental consequences. The applicant has been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines.

6. PUBLIC INTEREST EVALUATION: The decision on whether to issue a Department of the Army Permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the project and its intended use on the public interest. Evaluation of the probable impacts requires a careful weighing of the public interest factors relevant in each particular case. The benefits that may accrue from the project must be balanced against any reasonably foreseeable detriments of project implementation. The decision on permit issuance will, therefore, reflect the national concern for both protection and utilization of important resources. Public interest factors which may be relevant to the decision process include 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.

7. CONSIDERATION OF COMMENTS: USACE is soliciting comments from the public; Federal, State and local agencies and officials; Native American Nations or other tribal governments; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by USACE will be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army Permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental or public interest factors addressed in a final environmental assessment or environmental impact statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the project.

8. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to Dominic MacCormack, San Francisco District, Regulatory Division, 1455 Market Street, 16th Floor, San Francisco, California 94103-1398; comment letters should cite the project name, applicant name, and public notice number to facilitate review by the Regulatory Permit Manager. Comments may include a

request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. Additional project information or details on any subsequent project modifications of a minor nature may be obtained from the applicant and/or agent, or by contacting the Regulatory Permit Manager by telephone or e-mail cited in the public notice letterhead. An electronic version of this public notice may be viewed under the *Current Public Notices* tab on the USACE website: <http://www.spn.usace.army.mil/regulatory/>.