



**US Army Corps
of Engineers**®
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
450 Golden Gate Avenue
San Francisco, CA 94102-3404

PUBLIC NOTICE

PROJECT: Pittsburg Marina and Shoreline Maintenance Dredging

PUBLIC NOTICE NUMBER: 2001-26215

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COMMENTS DUE DATE: May 30, 2019

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1. INTRODUCTION: The City of Pittsburg through its agent, Anchor QEA, LLC (POC: Nicholas Duffort, Anchor QEA, LLC., 130 Battery Street, Suite 400, San Francisco, California 94565) has applied to the U.S. Army Corps of Engineers (Corps), San Francisco District, for a 10-year Department of the Army Permit to dredge approximately 457,000 cubic yards (cys) of sediment from the Pittsburg Marina (Marina) in Pittsburg, Contra Costa, California. The purpose of the proposed dredging is to return the Marina's three basins and the Marina Park Residential Channel to its originally permitted depth to allow safe navigational depths for recreational boats. The applicant proposes to beneficially reuse the dredged sediment at the Montezuma Wetlands Restoration Project (Montezuma) or dispose of the dredged material at the Carquinez Strait Disposal Site (SF-9).

This Department of the Army Permit 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 Marina is located along the Contra Costa shoreline, in the north western portion of Pittsburg. It is on the southern shore of New York Slough about a half mile southeast of Honker Bay and approximately 2.5 miles southwest of Browns Island.

Montezuma is located eastern edge of the Suisun Marsh near the town of Collinsville, approximately 17 miles southeast of Fairfield. SF-9 is located in the Carquinez Strait approximately a half mile south of Mare Island.

Project Site Description: As shown on figures 1 and 2, the dredge site comprised of five non-contiguous areas including three separate basins, a launch ramp and a residential channel. The marina is south of New York Slough, Browns Island and the mouth of the Sacramento River.

Project Description: As shown in the attached drawings, the applicant plans to remove approximately 78,000 cys of sediment from the 38.2-acre (approximately) Marina in an initial episode and a total of 457,000 cys over the life of the permit in accordance with table below.

Dredge Areas	Area (Acres)	Approximate Current Depths*	Proposed Design Depth*
Basin I (Yacht Club)	2.3	-2 to -7	-7 plus 2
Basin II (Lowy Basin)	10.7	-2 to -7	-7 plus 2
Basin III	17.3	-3 to -7	-7 plus 2
Marina Park (Residential Channel)	7.4	-3 to -7	-7 plus 2
Launch Ramp	0.5	-2 to -6	-5 plus 2

* Feet Mean Lower Low Water (MLLW)

The material would be removed using a clamshell or hydraulic dredge and removed by barge to either Montezuma or SF-9.

Prior to each dredging episode, the Dredge Material Management Office (DMMO) will evaluate the sediments to be dredged for disposal or reuse suitability. The DMMO includes representatives from the U.S. Environmental Protection Agency, San Francisco Bay Conservation and Development Commission (BCDC), San Francisco Bay Regional Water Quality Control Board (RWQCB), and the U.S. Army Corps of Engineers. The DMMO is tasked with approving sampling and analysis plans in conformity with testing manuals, reviewing the test results and reaching consensus regarding a suitable disposition for the material.

Basic Project Purpose: The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by the Corps to determine whether the project is water dependent. Although the purpose of the project, as stated above, is for safe navigational depths, for consideration in Section 404(b)(1) Guidelines under the Clean Water Act, the basic purpose of the project is the disposal of dredged material.

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 the disposal of dredged material from maintenance dredge projects in the San Francisco Bay Region consistent with the adopted LTMS (Long Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region) EIR/EIS and LTMS Management Plan of 2001.

Project Impacts: The detrimental effects on erosion/sedimentation rates, substrate, water quality, fish habitat, air quality, and noise are all expected to

be minor and short term. No permanent negative effects such as undesired substrate alteration, decreased water quality, loss of fish habitat, decrease air quality, and noise pollution are anticipated. The beneficial effects on economics, employment, safety and navigation, and of the removal of contaminants, are major and long term.

Proposed Mitigation: Compensatory mitigation for this project is not needed and none is proposed.

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.

Coastal zone management issues should be directed to the Executive Director, San Francisco Bay Conservation and Development Commission, 455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102, by the close of the comment period.

Other Local Approvals: The applicant has applied for a Streambed Alteration Agreement to be issued by the California Department of Fish and Game.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act (NEPA): Upon review of the Department of the Army Permit application and other supporting documentation, the Corps has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of NEPA. At the conclusion of the public comment period, the Corps 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 the Corps 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 the Corps and other non-regulated activities the Corps 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 insure 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. Based on this review, the Corps has made a preliminary determination that the following federally-listed species and designated critical habitat are present at the project location or in its vicinity, and may be affected by project implementation.

Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*) were federally-listed as endangered on January 4, 1994 (59 Fed. Reg.442). Adult winter-run Chinook salmon migrate through San Francisco Bay, as well as Suisun Bay and Honker Bay, to spawning areas in the upper Sacramento River during the late fall and early winter. Juveniles travel downstream through San Francisco Bay to the Pacific Ocean in the late fall as well. The movements of adult and juvenile salmon through the Bay system are thought to be rapid during these migrations. Since impacts to the water column during disposal events would be short-term, localized and minor in magnitude, no potentially adverse effects to winter-run Chinook salmon that may be near the disposal site are anticipated, if the dredge work is conducted from June 1 through November 30.

Central Valley Spring-Run ESU Chinook salmon (*Oncorhynchus tshawytscha*) were listed as threatened on September 16, 1999 (64 FR 50394). Spring-run Chinook salmon typically migrate upstream through San Francisco Bay to spawning areas between March and July. Spawning usually occurs between late-August and early October with a peak in September. Juveniles travel downstream through San Francisco Bay in late fall to spring and then to the Pacific Ocean once they have undergone

smoltification. Since impacts to the water column during disposal events would be short-term, localized and minor in magnitude, no potentially adverse effects to spring-run Chinook salmon that may be near the disposal site are anticipated, if the dredge work is conducted from June 1 through November 30.

The Central Valley California Distinct Population Segment (DPS) steelhead (*Oncorhynchus mykiss*) was federally-listed as threatened on March 19, 1998 (63 FR 13347), and were reconfirmed as threatened on January 5, 2006 (71 FR 834). Critical habitat for central valley California steelhead was designated on September 2, 2005 (70 FR 52488). The DPS includes all naturally spawned populations of steelhead (and their progeny) in the Sacramento and San Joaquin Rivers and their tributaries. Excluded are steelhead from San Francisco and San Pablo Bays and their tributaries. All Central Valley steelhead are currently considered winter steelhead. Juvenile steelheads live in freshwater between one and four years, then become smolts and migrate to the sea from November through May. To protect the Central Valley steelhead, dredging shall only occur from June 1 through November 30.

Delta smelt (*Hypomesus transpacificus*) is listed as threatened (March 5, 1993, 58 FR 12854), and critical habitat for delta smelt was designated on December 19, 1994. Delta smelt are a relatively small (60-70 mm), slender bodied fish that occur in Suisun Bay and the Sacramento-San Joaquin River Estuary. This osmerid fish is a euryhaline (tolerant of a wide salinity range) species that spawns in fresh water. They occur in the Sacramento-San Joaquin Delta (Delta) below Isleton on the Sacramento River, below Mosdale on the San Joaquin River, and in Suisun Bay. It is the only smelt endemic to California and the only true native estuarine species found in the Delta. They move into freshwater when spawning, which can occur in the Sacramento River, the Delta, Montezuma Slough, Suisun Bay, Suisun Marsh, Carquinez Strait, Napa River, and San Pablo Bay. Most spawning occurs in the dead-end sloughs and shallow edge-waters of channels in the western Delta. The primary threat for the delta smelt population is the large freshwater exports from the

Sacramento and San Joaquin Rivers. The Corps will consult under Section 7 of the Endangered Species Act with the FWS on adverse effects to delta smelt by the proposed project. Depending on the outcome of the consultation for this proposed project, any Corps permit issued may include a condition that the work shall be restricted to the work window of August 1 through November 30 to minimize the effects to delta smelt.

If a permit is issued for this proposed project it will contain a condition that dredging is allowed only from June 1 through November 30. Dredging outside this environmental work window would require consultation with the National Marine Fisheries Service (NMFS) (pursuant to Section 7 of the Endangered Species Act) and approval from the NMFS and the U.S. Army Corps of Engineers.

The North American green sturgeon (*Acipenser medirostris*) was listed as threatened on July 6, 2006 (71 Fed. Reg. 52300). The southern DPS includes the Sacramento River, lower Feather River, lower Yuba River, Sacramento-San Joaquin Delta, Suisun Bay, San Pablo Bay, and San Francisco Bay in California and was designated on October 9, 2009 (74 Fed. Reg. 52300). The southern DPS consists of populations originating from coastal watersheds south of the Eel River with spawning confirmed in the Sacramento River system. Adult green sturgeon must travel through the San Francisco Estuary to pass between the ocean and the Upper Sacramento River Basin spawning area. Additionally, the San Francisco Estuary provides important rearing and holding areas for juvenile and sub-adult green sturgeon.

Please note that programmatic biological opinions (BOs) were issued by USFWS (March 12, 1999) and NMFS (July 9, 2015) for the LTMS. As a result of the BOs there are allowable time frames to dredge to protect the habitat for threatened (and endangered) species and the species themselves per Section 7 of the Endangered Species Act of 1973, as amended. If the dredge work is conducted within those time frames, there is no need for consultation.

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 National Marine Fisheries Service (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 Corps has conducted a review of digital maps prepared by NMFS depicting EFH to determine the presence or absence of EFH in the project area. Based on this review, the Corps has made a preliminary determination that EFH is present at the project location or in its vicinity, and that the critical elements of EFH may be adversely affected by project implementation. The proposed project is located within an area managed under the Pacific Groundfish, the Coastal Pelagic and/or the Pacific Coast Salmon FMPs.

The Corps and NMFS completed a programmatic EFH consultation on June 9, 2011 for maintenance dredging. One of NMFS's key concerns with dredging is potential impacts to eelgrass beds. The "Baywide Eelgrass Inventory of San Francisco Bay," prepared by Merkel and Associates, dated October 2004, does not show the area in and around the Pittsburg Marina as having any eelgrass beds. Therefore, eelgrass is not expected to be established in this area and the Corps does not anticipate that the proposed dredging would affect eelgrass. Therefore, eelgrass minimization measures are not required.

The recently-deposited bottom sediments to be dredged during maintenance dredge activities are composed mainly (approximately 95%) of silts and clays (mud). It is presumed that fish species utilizing the area would be using it for feeding during a period of growth. When dredging occurs, the fish should be

able to find ample and suitable foraging areas in and along New York Slough. As the infaunal community recovers in the dredged area, fish species will return to feed. Therefore, the proposed dredging is expected to have only short-term, minor adverse effects on EFH.

Marine Protection, Research, and Sanctuaries Act (MPRSA): Section 302 of the MPRSA 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 MPRSA. 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 the Corps 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, by the close of the comment period.

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 NHPA 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.

Because the Marina has been previously dredged, historic or archeological resources are not expected to occur in the project vicinity. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until the Corps 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 disposal of dredged material is not 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 less environmentally damaging practicable alternative to the project that does not require the discharge of dredged or fill material into waters of the U.S.

On October 29, 2004 the U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, San Francisco Bay Conservation and Development Commission, and the San Francisco Bay Regional Water Quality Control Board adopted the “Small Dredger Programmatic Alternatives Analysis (SDPAA) for Disposal of Maintenance Dredged Material in the San Francisco Bay Region.” Due to the limited disposal alternatives in the San Francisco Bay region, small dredgers (as defined in the SDPAA) are not required to submit an alternatives analysis for disposal of maintenance-dredged material.

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: The Corps 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 the Corps 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 Debra O’Leary, San Francisco District, Operations and Readiness Division, 450 Golden Gate Avenue, 4th Floor, Room 1111, San Francisco, California 94102-3404; comment letters should cite the project name, applicant name, and public notice number to facilitate

review by the 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 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 US Army Corps of Engineers, S. F. District website: <http://www.spn.usace.army.mil/Missions/Regulatory>.