



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

SAN FRANCISCO DISTRICT

Regulatory Division  
450 Golden Gate Ave., 4<sup>th</sup> Flr, Ste 0134  
P.O. Box 36152  
San Francisco, CA 94102-3406

# PUBLIC NOTICE

PROJECT: Santa Cruz Wharf Maintenance RGP

PUBLIC NOTICE NUMBER: 2018-00492S

PUBLIC NOTICE DATE: February 28, 2019

COMMENTS DUE DATE: April 2, 2019

PERMIT MANAGER: Frances Malamud-Roam

TELEPHONE: 415-503-6792

E-MAIL: frances.p.malamud-roam@usace.army.mil

**1. INTRODUCTION:** City of Santa Cruz (POC: Mr. Jon Bombaci, (831) 420-5724), 337 Locust Street, Santa Cruz, California 95060, through its agent, Moffatt & Nichol (POC: Ms. Taylor Meyers, (206) 501-2319), 2185 N. California Blvd, Walnut Creek, Contra Costa County, California 94596, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to carry out annual wharf maintenance activities including repair and replacement of structural members (piles and deck), appurtenances (utilities, lighting, railing, etc) and buildings to maintain the integrity of the Municipal Wharf, in the City of Santa Cruz, Santa Cruz County, California. This Department of the Army permit application is being processed pursuant to the provisions of 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:** Municipal Wharf at the south end of Pacific Avenue, at the Santa Cruz Main Beach (Santa Cruz CA 7.5 minute USGS Quadrangle Map, Lat. 36.959688° N, Long. -122.019383° W) (Figure 1).

**Project Site Description:** The Santa Cruz Municipal Wharf (Wharf) is located on the north side of Monterey Bay. The Wharf, constructed in 1914, is still its original length of 2700 feet long and is the longest timber pier on the coast of the U.S. and one of the five longest timber piers in the world. Additions have been made at various intervals and repairs have been made continuously, resulting in piles that are from a few years to over one hundred years old. The Wharf structure is timber with 183 bents of vertical timber piles. There are a few batter (slanted) piles located throughout the Wharf to limit lateral deflections of the Wharf.

**Project Description:** As shown in the attached drawings, the applicant proposes to carry out annual maintenance activities, including repairs or replacement of approximately 40 existing piles per year over the next five years (total of 200) with timber piles of similar diameter (16-inches) and treated with ACZA and Polyurea compound; as needed repairs to the Wharf structure, including damaged stringers, decking and caps and any affiliated connections; repairs to the Wharf roadway as needed, replacing sections of the asphalt with similar material or rubberized asphalt throughout the roadway and parking areas; removal of abandoned utility piping beneath the Wharf and replacement of mild steel hangers with galvanized or stainless steel, and other minor utility repairs as needed; and repairs to existing above-deck structures, such as buildings, as necessary, including removing and rebuilding structures as they exceed useful life.

The proposed maintenance and repairs will be accomplished using small equipment and hand tools to the greatest extent possible. The proposed repairs will also require the use of loaders, backhoes, cranes and hammers for pile driving. Repairs near existing water line(s) will be performed from a small boat. Staging will occur on the deck of the Wharf. Construction equipment and materials will be transported by vehicle on the Wharf deck. The use of a barge is not proposed. A wood cushion block is routinely used when driving piles to minimize potential noise impacts.

**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 to maintain the integrity of the Santa Cruz Municipal Wharf.

**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 carry out annual repair/replacement of existing timber piles that are damaged and to conduct as needed repairs to the Wharf structure at the Santa Cruz Municipal Wharf over a period of five years

**Project Impacts:** The project would not include any fill discharge, but in some cases, replacement timber piles would be placed next to the existing, damaged piles, resulting in a slight increase in the footprint of the piles. The maximum amount of increased footprint proposed from pile replacement over the next five years is 280 square feet (0.0064 acre). The project may impact marine mammals and listed fish species due to sound generated by pile-driving; however, minimization measures would reduce these impacts.

**Proposed Mitigation:** The proposed repairs would be minimum necessary to maintain the existing wharf structure, and would not result in increase in overall wharf structure. This project would not result in loss of waters of the U.S., therefore, no mitigation is proposed.

### 3. STATE AND LOCAL APPROVALS:

**Water Quality Certification:** State water quality certification or a waiver thereof 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, Central Coast Region, 895 Aerovista Place, Suite 101, San Luis Obispo, California 93401, 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 applied for a Consistency Certification from the California Coastal Commission to comply with this requirement.

Coastal zone management issues should be directed to the District Manager, California Coastal Commission, Central Coast District Office, 725 Front Street, Suite 300, Santa Cruz, California 95060-4508, by the close of the comment period.

### 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, USACE 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, 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. § 1500-1508, and USACE regulations at 33 C.F.R. § 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 this project, USACE has conducted a review of the California Natural Diversity Data Base, digital maps prepared by USFWS and NMFS depicting critical habitat, and other information provided by the applicant to determine the presence or absence of such species and critical habitat in the project area. Based on this review, USACE 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: California Central Coast (CCC) Coho salmon (*Oncorhynchus kisutch*), Central California Coast (CCC) steelhead (*O. mykiss*), Southern Distinct Population Segment (DPS) Green Sturgeon (*Acipenser medirostris*), black abalone (*Haliotis cracherodii*), East Pacific Green Sea Turtle (*Chelonia mydas*), Olive Ridley sea turtle (*Lepidochelys olivacea*), Leatherback sea turtle (*Dermochelys coriacea*), North Pacific Loggerhead sea turtle (*Caretta caretta*), Blue whale (*Balaenoptera musculus*), Humpback whale (*Megaptera novaeangliae*), Southern resident killer whale (*Orcinus orca*), and Southern sea otter (*Enhydra lutris nereis*). Critical habitat for coho, green sturgeon and black abalone is identified in the project area, but the project would involve maintenance of existing structures and so impacts to critical habitat would not occur. To address project related impacts to these species and designated critical habitat, USACE will initiate formal consultation with USFWS and NMFS, pursuant to Section 7(a) of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

**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*, or the *Pacific Coast Salmon FMP*. As the Federal lead agency for this project, USACE 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, USACE 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 project may have minor adverse effects on EFH for species managed under the Pacific Groundfish FMP, the Coastal Pelagics FMP, and the Pacific Coast Salmon FMP due to temporary impacts to water quality and habitat during construction. To address project related impacts to EFH, USACE will initiate consultation with NMFS, pursuant to Section 305(5)(b)(2) of the Act. 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 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 Act. No Department of the Army Permit will be issued until the applicant obtains any required certification or permit. Since the project occurs in sanctuary waters or may affect sanctuary resources, the applicant is hereby advised to apply for a certification or a permit from the Secretary of Commerce or his designee to comply with this requirement.

**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 the 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 present in the permit area and that such resources may be adversely affected by the project. To address project related impacts to historic or archaeological resources, USACE will initiate consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer, pursuant to Section 106 of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project. 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)). Since the project does not entail the discharge of dredged or fill material into waters of the United States, application of the Guidelines will not be required.

**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 in the project.

**8. SUBMITTING COMMENTS:** During the specified comment period, interested parties may submit written comments to Frances Malamud-Roam, San Francisco District, Regulatory Division, 450 Golden Gate Avenue, 4<sup>th</sup> Floor, Suite 0134, P.O. Box 36152, San Francisco, California 94102-3406; 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 *Public Notices* tab on the USACE website:  
<http://www.spn.usace.army.mil/Missions/Regulatory>.