



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
450 Golden Gate Ave., 4th Floor
San Francisco, CA 94102-3406

PUBLIC NOTICE

PROJECT: Capitola Wharf Resiliency and Public Access Improvement Project

PUBLIC NOTICE NUMBER: 2020-00076S

PUBLIC NOTICE DATE: July 17, 2020

COMMENTS DUE DATE: August 17, 2020

PERMIT MANAGER: Frances Malamud-Roam

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1. **INTRODUCTION:** City of Capitola (POC: Mr. Kailash Mozumder; 831-475-7300; kmozumder@ci.capitola.ca.us; 420 Capitola Avenue, Capitola, California, 95010), through its agent, Moffatt & Nichol (POC: Taylor Meyers; 206-622-0222; tmeyers@moffattnichol.com), has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to conduct work within jurisdictional waters of the United States associated with the expansion of the Capitola Wharf bridge deck, improvement of the structure's public facilities, and maintenance repairs. 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: This project is located in T11S, R1W, Section 15,) at Wharf Road, City of Capitola, in Santa Cruz County, California (Lat. 36.971533°N, Long. -121.952281°W; APNs 034-072-01, 034-072-02) (Figure 1).

Project Site Description: The wharf extends from Capitola Beach into Monterey Bay and supports one lane of both vehicular and foot traffic. Vehicular and foot traffic is not separated. The Wharf is primarily used for recreational activities and contains a bait shop, boat rentals, boat launch, restaurant, restroom facilities on the backside of the restaurant, and fish cleaning stations. Motor vehicle access is open to the public and primarily serves public boat launching, handicap parking, and restaurant employee and patron parking. A floating dock with access onto the wharf is available in the summer. The wharf structure is approximately 866 feet long, extending from where it connects to the road and beach parking area, and can be

divided into two sections: the 543-foot-long trestle and the 323-foot-long wharf head. The trestle is approximately 20 feet wide, except for an 85-foot-long section at the front of the trestle that is approximately 36 feet wide. The trestle connects the shore to the larger wharf head, which is approximately 60 feet wide. The structure is supported on creosote treated timber piles that are 12 to 14 inches in diameter.

Currently, approximately 458 linear feet of the existing wharf structure is 20 feet wide, creating pedestrian and vehicle conflicts for pier users and vehicles traveling between the wider and the more narrow sections of the wharf. Capitola Beach and the Wharf also currently lack adequate restroom facilities to serve beach-goers and wharf-users. The proposed improvements to the wharf would better accommodate residents and visitors by providing improved access to restroom facilities.

Project Description: As shown in the attached drawings (Figures 2-4), the applicant proposes to expand a section of the wharf's existing narrow trestle system and complete other needed repairs to the structure, as well as construct additional facilities on the expanded deck for the public. The expansion activities include the installation of up to 120 15-inch-diameter composite (fiberglass) piles and an expanded deck area constructed with Ammoniacal Copper Zinc Arsenate (ACZA)-treated timber. In total, the project would increase the overwater structure by 7,400 square feet. The applicant also proposes to repair and/or replace deteriorated wharf elements, including approximately 21 12-inch-diameter creosote-treated piles (replacing them with same diameter round timber or fiberglass piles); 12 steel piles at the wharf head (to be repaired by either splicing on new steel pipe above the bay bottom or by placing fiberglass jackets around the piles and grouting the inside); approximately 26,500 square feet of

existing ACZA-treated timber decking (replacing it and then placing 4,500 square feet of ACZA-treated timber decking on top to serve as vehicle runners); the hoist landing (replacing damaged members and connection hardware in kind); and wharf utilities (relocating utilities above deck). Finally, the applicant proposes to improve public use and access by installing a new security gate, modifying the decorative wharf gate, improving lighting and the number and size of benches, and replacing one public bathroom and installing a new one. Other maintenance proposed includes repairing or replacing up to five piles per year, up to 3,500 square feet of decking, up to 300 feet of deteriorated stringers, up to 200 feet of railing, under pier sewage pump, and damaged utility lines.

Project Purpose and Need: 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 increase resiliency of a public wharf and improve public access.

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 improve public access and safety on the Capitola Wharf, and improve resiliency and extend the service life of the wharf through needed structural repairs.

Project Impacts: The project would not result in discharge of fill within waters of the United States. The project would expand the structure's footprint, requiring installation of 120 additional pilings and an expanding the bridge deck over Monterey Bay by 7,400 square feet.

Proposed Mitigation: The City of Monterey would project would impacts to waters of the U.S. to the maximum extent practicable and the project as proposed would result in very little loss of waters of the U.S., that could be eventually restored by removing the structures, and no fill discharge. Where work in waters of the U.S. cannot be avoided due to safety concerns or logistical considerations, standard best management practices for construction activities would be implemented to minimize adverse effects to aquatic resources. Short-term water quality and hydroacoustic impacts to aquatic species, including protected marine mammals, are associated with pile

replacement/installation, and measures to avoid and minimize these impacts would be determined through consultation with the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service. N the proposed avoidance and minimization measures implemented.

3. STATE AND LOCAL APPROVALS:

Water Quality Certification:

The State has the discretion to require a water quality certification for a Section 10 activity if the state determines that the activity is likely to result in a discharge during construction or operation. If the State determines the need to issue a water quality certification, that certification would be a prerequisite for the issuance of a Department of the Army Permit 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 (email: centralcoast@waterboards.ca.gov), 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. The project area is within the range of North American green sturgeon (*Acipenser medirostris*), Coho salmon Central California coast ESU (*Oncorhynchus kisutch*), chinook salmon Central Valley spring-run ESU (*O. tshawytscha*), chinook salmon California Coastal ESU (*O. tshawytscha*), steelhead Central Coastal California DPS (*O. mykiss*), Leatherback sea turtle (*Dermochelys coriacea*), southern sea otter (*Enhydra lutris nereis*), and marbled murrelet (*Brachyramphus marmoratus*). Designated critical habitat for Leatherback sea turtle and green sturgeon is also present within the project action area. To address project related impacts to these species and designated critical habitat, USACE will initiate formal consultations 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 for species managed under the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, or the *Pacific Coast Salmon FMP* is present at the project location or in its vicinity and that the critical elements of EFH may be adversely affected by project implementation. 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 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 will conduct 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 will make a determination regarding whether historic or archaeological resources are present in the permit area and whether such resources may be adversely affected by the project. To address any project related impacts to historic or archaeological resources, USACE would 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 EVALUTION: 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, 4th Floor, San Francisco, California 94102-3404. 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: <https://www.spn.usace.army.mil/Missions/Regulatory>.