



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: Lind Marine Maintenance Dredging

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COMMENTS DUE DATE: August 10, 2020

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1. **INTRODUCTION:** Lind Marine Incorporated (Lind), through its agent Foth Van Dyke, LLC., 384 Bel Marin Keys Blvd., Suite 140, Novato, California 94949 has applied to the U.S. Army Corps of Engineers, San Francisco District, for a 10-year Department of the Army Permit to dredge and perform knockdowns on a portion of the shipyard on Mare Island, Vallejo, Solano County, California. Lind has applied to beneficially reuse the dredged sediment or dispose of the sediment at a designated site in San Francisco Bay or in the Pacific Ocean. The purpose of the dredging is restore navigational and operational depths for ships in the project area. 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.*), Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*) and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 U.S.C. § 1413 *et seq.*).

2. PROPOSED PROJECT:

Project Site Location: The dredge site is located of sediment at Dry Dock 4 and Berth 16 along the western shore of Mare Island Strait. It is of the former U.S. Navy shipyard on Mare Island, Vallejo, Solano County, California (Latitude 38°05'40": Longitude 122°15'48.9").

As shown in the attached drawings, the potential beneficial reuse sites include the Montezuma Wetlands Restoration Project Site (Montezuma) the

Cullinan Ranch River Restoration Site (Cullinan) and any additional site that becomes available. All wetland beneficial reuse sites are permitted separately. Montezuma is located approximately 20 miles east of the dredge site. Cullinan is located approximately 3 miles northwest of the dredge site. The potential aquatic disposal sites include: the Carquinez Strait Disposal Site (SF-9), the San Pablo Bay disposal site (SF-10), the Alcatraz Disposal Site (SF-11), and the San Francisco Deep Ocean Disposal Site (SF-DODS). All the aquatic disposal sites have gone through a separate designation process. SF-9, SF-10 and SF-11 are located in San Francisco Bay. SF-9 is located approximately 2 miles south of the dredge site. SF-10 is located approximately 15 miles southwest of the dredge site. SF-11 is located approximately 20 miles southwest of the dredge site. SF-DODS is located west of the Farallones approximately 50 miles offshore in the Pacific Ocean.

Project Site Description: The dredge site is part of a former U.S. Naval shipyard which began operation in 1854. It is part of industrialized waterfront. Except for the entrance to the dry dock, the entire site is bounded by a quay wall on the shoreward side. Mare Island Strait is an open water estuary with strong currents. Both the approach to dry dock 4 and berth 16 are permanently submerged. Dry dock 4 is one of four graving dry docks in the shipyard and is approximately 400 feet long by 100 feet wide.

Montezuma and Cullinan are both comprised of open space subsided baylands (wetlands and fields) bounded by levees on water sides. Both sites have accepted dredged sediments for several years. The aquatic sites are all open water sites.

Project Description: As shown in the attached drawings, the applicant plans to dredge approximately 40,000 cubic yards of sediment annually and a total of 400,000 cubic yards during the life of the permit from a 3.76 acre dredge site. The dredge site is comprised of the approach to Dry Dock 4 (the dry dock itself does not get dredged) and Berth 16. The existing depths of the dredge site range from -15 feet to -34 feet mean lower low water (MLLW). The applicant proposes to dredge the Dry Dock 4 entrance to a design depth -32 feet MLLW plus 2 feet of overdepth allowance and Berth 16 to a depth of -26 feet MLLW plus 2 feet of overdepth transitioning to -32 feet MLLW plus 2 feet of overdepth toward the center of Mare Island Strait and the dry dock entrance.

The sediment would be removed using a clamshell dredge or other mechanical method. The sediment would then be loaded onto a barge and removed to a beneficial reuse site or an aquatic disposal site. Potential sites include Cullinan, Montezuma, SF-9, SF-10, SF-11, SF-DODS or other permitted beneficial reuse site, or designated aquatic site. Most of the sediment dredged during the previous episodes has been beneficially reused at Cullinan.

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 operational and navigational depths, for consideration in Section 404(b)(1) (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, 375 Beale Street, Suite 510, San Francisco, California 94105, by the close of the comment period.

Other Local Approvals: The City of Vallejo is the lead agency under the California Department of Environmental Quality Act (CEQA) and determined that the proposed dredging is exempt in 2009. The applicant has applied for an approval from 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. 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. Since the U.S. Navy owns the dry docks and submerged land

adjacent to the shipyard, and the applicant operates under a lease from the U.S. Navy, the USFWS and NMFS will consider the operations at Berth 16 and Dry Dock 4 in addition to the proposed dredging. Operations include the berthing of ships at Berth 16 and the filling and drawdown of the dry dock. The National Marine Fisheries Service has issued a biological opinion for the proposed dredging and operations at the dry dock over the next ten years. The USFWS issued a biological opinion dredging which was authorized by the previous permit. The Corps will work with the USFWS to determine the appropriate whether informal or formal consultation is appropriate.

The following Federally protected species may be effected by the project.

- a) Endangered winter-run Chinook salmon (*Oncorhynchus tshawytscha*); Winter-run Chinook salmon may 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. There is a concern that salmonids could enter the dredge site during dredging or get trapped in the dry dock.
- b) Threatened Central California populations of steelhead (*Oncorhynchus mykiss*); The steelhead that occur in San Francisco Bay are included in this ESU (evolutionarily significant unit) and therefore receive protection under the Endangered Species Act. There is concern that steelhead migrating through the Bay might enter the dredge site or get trapped in the dry dock.
- c) Threatened North American green sturgeon (*Acipenser medirostris*): Critical habitat for the North American green sturgeon 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. 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. There is a concern that green sturgeon could enter the dredge site during dredging or get trapped in the dry dock.

- d) Threatened Delta smelt (*Hypomesus transpacificus*): Delta smelt occur in the Sacramento-San Joaquin Delta below Isleton on the Sacramento River, below Mosdale on the San Joaquin River and in Suisun Bay. They move into freshwater when spawning, which can occur in the Napa River (including the project site), and San Pablo Bay. There is a concern that Delta smelt could enter the dredge site during dredging or get trapped in the dry dock.

The applicant has proposed several best practices to limit the effect the operation of the drydock on protected fish including;

- a) deploying a net while the dry dock is filling,
- b) deployment of a bubble curtain when dry dock is open,
- c) open the dry dock a maximum of 24 times per year, and
- d) rescue fish trapped in the dry dock.

The Corps proposes to issue a permit which allows dredging throughout the year. In order to minimize the effects of disposal of dredged sediment to endangered salmonids and green sturgeon, any sediment dredged between June 1 and November 30 must be beneficially reused.

Additionally, the Corps has concerns regarding potential impacts to Pacific herring during its annual spawning season during droughts. As a result, the Corps will condition the permit to require the applicant

to coordinate with California Department of Fish and Wildlife during droughts.

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 shipyard 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 Mare Island Strait 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 the dredge site. 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. 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 their designee, by the close of the comment period.

National Historic Preservation Act (NHPA): The dredging site is adjacent to the Mare Island Historic District listed on the National Register of Historic Places. This Historic District is comprised of buildings, sites and structures from 1854 through 1945. Due to this long period of historic significance, the Historic District is characterized by a mix of periods, materials, architectural styles. The Historic District is also a mix of uses including industrial, administrative and residential uses. The dredge site is approximately a half mile to Dry Dock 1 which is included on the National Register of Historic Places. Dry Dock 1 dates from 1891, and was built by the U.S. Navy. It was the first graving dry dock built on the west coast.

The U.S. Navy has completed consultation pursuant to Section 106 of the Historic Preservation Act. This

consultation set forth measures in a Memorandum of Agreement (MOA) between the U.S. Navy, the Advisory Council on Historic Preservation, the California State Historic Preservation Office, the City of Vallejo and the National Park Service to avoid or mitigate adverse effects on Mare Island's historical properties. The U.S. Army Corps of Engineers has reviewed the proposed project determined that it appears to be compliant with the MOA. Therefore, no further consultation is required under Section 106 of the Historic Preservation Act.

Since the Project site has been previously dredged, historic or archeological resources are not expected to occur in the sediments to be dredged. Should unrecorded resources be discovered during the dredging of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

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.

The applicant is hereby informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines to determine if the project is the least environmentally damaging practicable alternative.

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: 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, San Francisco District website:
<http://www.spn.usace.army.mil/Missions/Regulatory>.