



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

SAN FRANCISCO DISTRICT

Regulatory Division
450 Golden Gate Ave., 4th Floor
San Francisco, CA 94102-3404

PUBLIC NOTICE

**PROJECT: South Bay Salt Pond Restoration Project, Eden Landing Ecological Reserve:
Phase 2**

PUBLIC NOTICE NUMBER: SPN-1999-246270S

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COMMENTS DUE DATE: November 13, 2021

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1. INTRODUCTION: The California Department of Fish and Wildlife (POC: Stephanie Fong, (707) 428-2019), 2825 Cordelia Road, Suite 100, Fairfield, California, through its agent, Ducks Unlimited, Inc. (POC: Nicholas Torrez, (916) 291-3649), 1175 Nimitz Avenue, Suite 110, Vallejo, California, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to conduct ecological restoration activities, and levee improvements within jurisdictional waters of the United States at Eden Landing Reserve associated the South Bay Salt Ponds Restoration Project, Phase 2, in Alameda County, California. 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 Project is located on 3,232 acres within the California Department of Fish and Wildlife (CDFW) owned and managed Eden Landing Ecological Reserve (ELER), located in western Alameda County, California, approximately 17 miles south of Oakland, within the city limits of Hayward (see Figure 1 and Figure 2). Assessor's parcels include APN 482-0090-001-09, 482-0090-002-11, 482-0080-002-26, 482-0090-002-19, 482-0090-002-08, 482-0090-001-07, 482-0090-002-15, 482-0090-001-08, 482-0090-002-12, 482-0080-001-13, 482-0080-002-15, 482-0080-001-12, 482-0080-002-12, 482-0095-003-00, 482-0080-002-17, 482-0080-003-00, 482-0080-002-11, 461-0060-014-00, 543-0366-006-00, 461-0060-009-01, 482-0080-002-06, 461-0099-001-06, 482-0080-002-07, 482-0090-002-16, 482-0050-007-02, 482-0080-002-25, 482-0090-005-00, 482-0080-002-18, 482-

0080-002-13, 482-0090-003-00, 482-0080-001-10, 461-0060-012-00, 482-0040-008-01, 482-0090-004-00, 482-0080-006-00, 482-0090-002-13, 543-0366-004-03, 482-0080-004-00, 482-0080-002-08, 461-0099-002-06, 543-0366-007-00. The project is located on the Redwood Point and Newark, CA USGS 7.5-minute quadrangles. The approximate center of the project area is located at Latitude 37.581904 and Longitude -122.116415.

Project Site Description: The site is bounded by the South San Francisco Bay on the west; Old Alameda Creek (OAC) on the north; Alameda Creek Flood Control Channel (ACFCC) on the south; and a mix of land uses to the east, including suburban/urban communities, the Union Sanitary District (USD) treatment plant, a privately owned landfill, a Cargill-owned parcel comprising a former salt pond no longer in production (Pond CP3C) and two large hills (Turk Island, and another commonly known as Cal Hill), an Alameda County Flood Control and Water Conservation District (ACFCWCD) property consisting of diked marsh (J-Ponds) and a storm water management channel, and a strip of existing tidal marsh between the Bay Ponds and the ACFCC.

The project area historically consisted of tidal marsh. In the mid-1850's, the project area was diked off from San Francisco Bay and put into salt production. The transition of the project area to salt production required the construction of a series of ponds – contained by levees – to evaporate, concentrate, and crystallize salt for commercial harvest. As a result, the project area currently includes both internal and perimeter levees, as well as pumps and other water control structures to move water through the site. In 2003, 15,100 acres of former salt evaporation ponds, including the project area, were purchased from, and donated by, Cargill, Inc. to support long-term habitat restoration efforts in the South Bay. This led to the creation

of the South Bay Salt Pond Restoration Project (SBSRP), a multi-agency effort to restore tidal marsh habitat, reconfigure managed pond habitat, maintain or improve flood risk management, and provide recreation opportunities and public access in recently acquired diked baylands. Immediately after the March 2003 acquisition, the landowners, CDFW and United States Fish and Wildlife Service (USFWS), implemented the Initial Stewardship Plan, which was designed to maintain open and unvegetated pond habitats with enough water circulation to prevent salt production and provide some habitat values. The longer-term planning effort, a 50-year programmatic level plan for restoration, flood risk management, and public access that included a first phase of projects, Phase 1, which included approximately 630 acres of managed ponds in ELER restored to full tidal action, and enhancement of 3 ponds (Ponds E12, E13 and E14) for shorebird and water bird management, particularly for western snowy plover (E14).

Project Description: As shown in the attached figures, the applicant proposes to restore the Bay Ponds (i.e., Ponds E1, E2, E4, and E7) to tidal marsh, and enhance the managed pond habitat in the Inland Ponds (i.e., Ponds E5, E6, E6C) and Southern Ponds (i.e., E1C, E2C, E4C, and E5C). The project would consist of the following components:

1. Levee improvements to protect habitat and public access infrastructure, and to manage flood risk. Including approximately 11,000 linear feet of bayfront levee along the western edge of Ponds E1 and E2, and in addition, the project would place riprap along up to 2,000 linear feet of the exterior slope of the existing bayfront levee, adjacent to the western edge of Pond E2; 11,800 linear feet of mid-complex levee along the eastern edge of Ponds E7 and E4, and western edge of the J-Ponds; 24,000 linear feet of inland ponds levee around the edge of Ponds E6, E5, and E6C; and approximately 18,200 linear feet of northern and southern levees around Ponds E1C, E2C, E5C and E4C;

2. Levee lowering to facilitate more frequent overtopping and increase hydraulic connectivity between channels and marshes. Levee lowering would occur along approximately 5,700 linear feet of the northern edge of Pond E1, approximately 4,600 linear feet of the southern edges of Pond E2, and 4,400 linear feet along the levee between Ponds E1 and E2;

3. Levee breaching in three external locations on the north side of the Bay Ponds to introduce tidal flows from OAC, and 13 internal locations within the Bay Ponds and the

Southern Ponds to improve circulation through newly restored tidal marsh and enhanced managed ponds and to remove obsolete levee segments; an additional internal breach location in the Pond E6A levee to improve flow to and from the new WCS associated with the installation of the overflow sill;

4. Pilot channel excavation: including two external channels (combined total of 650 linear feet) to reconnect OAC to the Bay Ponds and the Inland Ponds, one main pilot channel (5,000 linear feet) into the Bay Ponds (E1 and E2), spur channels (4,450 linear feet), and an additional channel through Ponds E1C, E2C, E4C and E5C.

5. Water control structures (WCSs) to support CDFW management of the Inland and Southern Ponds. 22 WCS would be removed, replaced/repared, or installed within or between Ponds E1C, E5, E5C, E6, E6A, E6C and E7;

6. Habitat transition zones (HTZ) which would extend from the bottom of some managed ponds onto the adjacent levee side slopes to increase habitat complexity and quality in the ponds, increase connectivity to existing marsh habitat and allow for marsh migration associated with sea level rise. HTZ would have a maximum elevation of 9 feet NAVD88 and transition at a 30:1 (h:v) slope to the adjacent pond bottom. These features would be incorporated into the levee improvement footprints along approximately 11,000 linear feet of the interior bayfront levee, along 9,500 linear feet of the western edge of the mid-complex levee, and along 4,400 linear feet of the northeastern edge of the southern levee.

7. Habitat islands/mounds for roosting, foraging, and nesting birds, and as high tide/upland refugia for other species, and would be recreated from retained or recontoured segments of levees and augmented with material from levee breaches and pilot channels. Habitat islands and mounds would be placed within Ponds E1, E2, E4, E7, E1C, E2C, E4C and E5C;

8. 15 large wood features along the Pond E2 bayfront levee as a pilot study for a feature to trap sediments and other natural material to form beach-like areas, and possibly provide some erosion protection;

9. A gravel beach and berm along the Pond E2 bayfront levee as a pilot to assess the potential for strategically placed material to provide erosion resistance and habitat features at ELER, along the San Francisco Bay. Gravel and/or shell would be placed along approximately 300

linear feet of the toe of the bayfront levee, outboard of Pond E2. The top of the beach would connect to a berm at an elevation of 9 feet NAVD88. The gravel berm would extend horizontally from the outboard of the bayfront levee for approximately 20 feet, transitioning to 40 feet in the southern portion of the beach footprint, sloping away from the berm at a 6:1 slope until the gravel reaches the Bay floor. Three log and rock groins would be placed within the beach and berm to stabilize the structure and limit movement of gravel; two along the ends and one approximately in the center of the feature;

10. Removal of some obsolete Pacific Gas & Electric (PG&E) company infrastructure (poles and distribution lines) along Ponds E6A, E6, E7 and E1, and relocation of a second existing power distribution line running along portions of the northern face of the southern levee along Ponds E4C and E5C to the south side of the Pond E4C and E5C levee;

11. Public access improvements, including an extension of the existing Bay Trail spine into the project area. The new trail alignment would extend the Bay Trail from its current alignment part-way through northern ELER to the south along Pond E6A, crossing OAC at the twenty-tide gate structure, and continuing south along the eastern edge of the Inland Ponds. It would cross the proposed pedestrian/bicycle bridge (described below) that would be installed over an ACFCWCD-owned stormwater management channel that connects to the J-Ponds and then wrap around the northern and western edge of the Southern Ponds. At the southern terminus of the proposed trail and approximately 100 feet from the Alameda Creek Regional Trail, the final grade of the proposed Bay Trail and the levee underneath would transition to match the grade of the existing path located at the toe of existing ACFCC levee. The existing path would provide connection from the proposed Bay Trail to Alameda Creek Regional Trail. The trail would be a minimum of 12 feet wide and surfaced consistent with Bay Trail design standards and with the Americans with Disabilities Act (ADA). A pedestrian/bicycle bridge would be constructed over the ACFCWCD-owned stormwater management channel to connect the Bay Trail segments. The 14-foot-wide, 162-foot-long prefabricated bridge would connect Pond E6C with Pond E4C, and would rest on two abutments, one on each side of the stormwater management channel, with rip rap placed along the bottom to protect from scour;

12. An overflow sill from Old Alameda Creek (OAC) into Pond E6A to maintain baseline water surface elevations

within OAC during certain storm events in combination with extreme high tides. The sill would be approximately 20 feet wide and 650 feet long. The levee top and west side slope would be protected from potential erosion during a large storm event by buried riprap or articulated concrete block mat. It is anticipated that the soil cover over the riprap or concrete mat would naturally revegetate after construction is complete; and

13. Operations and maintenance (O&M) activities, including adaptive management, associated with project components unique to this project not otherwise covered in the existing O&M permits for ELER. These include maintenance of the habitat transition zones, gravel beach and berm, large wood features, and the Pond E6A overflow sill.

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 conduct restoration and enhancement activities at former South Bay Salt Ponds at the Eden Landing Ecological Reserve, while maintaining or improving flood risk management, and therefore this project is water-dependent.

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 restore tidal marsh and other aquatic habitats (e.g., pilot channels, levee breaches, habitat transition zones and habitat islands, and gravel beach and berm) for a range of special-status species, to maintain or improve existing levels of flood risk management and to provide wildlife-compatible public access and recreation features at southern ELER.

Project Impacts: Fill discharge and excavation in Waters of the US would be required to meet the purpose of the project. Approximately 23,125 cubic yards of fill would be permanently discharged within 6.46 acres of wetlands and 300 cubic yards of fill would be temporarily placed within 0.14 acre of wetlands. Approximately 504,835 cubic yards of fill would be permanently placed in 143.54 acres of other waters of the US, and 1.7 acres would be temporarily disturbed. Up to 133,800 cubic yards of

material would be dredged from 19.52 acres of waters of the US.

Proposed Mitigation: Conservation measures and best management practices are included in the project design to minimize and avoid adverse effects to environmental resources including water quality, sensitive habitats (including wetlands), and wildlife. The project would convert former industrial salt ponds to high quality tidal marsh wetlands (special aquatic sites) and enhanced managed pond habitat. The applicant believes the project activities are primarily restoration and enhancement, and that the overall increase in restored wetlands would adequately offset unavoidable impacts to jurisdictional waters. The applicant is not proposing additional mitigation.

Project Alternatives: A programmatic alternative (Alternative C) for the larger South Bay Salt Ponds Restoration Project was decided on in 2007 Final Environmental Impact Statement/Report (USFWS/CDFW, 2007), which included up to 90% restoration to tidal marsh, and 10% managed ponds. This programmatic alternative was used for planning and as part of the basis for the Phase 2 restoration activities proposed under the current project. In 2019, CDFW prepared and adopted a 2019 Final EIR, which considered a No Action Alternative, and three action alternatives.

Alternative Eden B proposed restoring the entire project area to tidal marsh in one stage through major levee alterations and improvements. The easternmost levees would be improved to provide flood risk management to inland communities, and the internal levees along the J-Ponds and other ACFWC-owned channels would be improved, as needed. Tidal marsh habitats would be enhanced with habitat islands, HTZs, and pilot channels to improve fish habitat connectivity. Large wood features would be used to trap sediment and create beach-like zones on the Bay side of Pond E2. This alternative included new water management infrastructure to facilitate tidal restoration and potential use of treated wastewater from adjacent facilities (i.e., USD) to provide water for HTZs in the Inland and Southern Ponds, and to add a salinity gradient to the marsh. Public access and recreational opportunity improvements included trail improvements around the Southern and Inland Pond levees and OAC, as well as new viewing platforms on the OAC and ACFCC.

Alternative Eden C proposed the Inland and Southern Ponds would be retained as managed ponds, and the Bay

Ponds would be restored to tidal marsh. A mid-complex levee would be constructed, and water control structures installed within the Inland and Southern Ponds to allow for water levels within the ponds to be managed. Tidal marsh habitat enhancements would be similar to the project (i.e., mounds, HTZs, pilot channels), but in different locations. All recreational opportunities from Eden B would be created under this alternative, but additional trails would be constructed along OAC, along with a bridge over OAC and a new viewing platform. This alternative also included construction of a bridge to extend the Bay Trail over the ACFCC beyond the ELER boundary; however, importantly, this bridge was noted as being possibly available to all alternatives.

Alternative Eden D proposed the Phase 2 Eden Landing ponds would be restored to tidal marsh in a staged approach. The first stage of this alternative would restore the Bay Ponds to tidal marsh and retain the Inland and Southern Ponds as managed ponds using a mid-complex levee and water control structures. Once tidal marsh established in the Bay Ponds, the Inland and Southern Ponds could be restored to tidal marsh by removing the water control structures in the mid-complex levee and introducing tidal flows to the Inland Ponds (unless monitoring demonstrated the transition would result in significant adverse impacts overall waterbird use, and particularly to nesting western snowy plover). The proposed recreational features for this alternative would be identical to Alternative Eden B.

The Preferred Alternative would have the Bay Ponds be restored to tidal marsh. The project needs to balance multiple types of habitat restoration and enhancement actions. The long-term operation of those ponds as enhanced managed ponds may be necessary to achieve the full balance of the project's intended ecological goals. The Inland Ponds would be enhanced and maintained as managed ponds. Pond E6C is proposed to be enhanced and maintained as seasonal habitat for western snowy plover and other pond nesting birds in the summer, while providing deeper open water for overwintering diving ducks and dabbling ducks, among other migratory bird species during the spring and fall migration periods. The Southern Ponds would also be enhanced and could be operated as enhanced managed ponds and not left open to constant muted tidal flows.

USACE has not endorsed the submitted alternatives analysis at this time. USACE will conduct an independent

review of the project alternatives prior to reaching a final permit decision.

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.*). 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 is hereby advised to apply for 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, 375 Beale St., Suite 510, San Francisco, CA 94105 by the close of the comment period.

Other Local Approvals: The applicant will be applying for the following additional governmental

authorizations for the project: A General Lease Agreement to be issued by the California State Lands Commission.

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 Ridgway's rail (California Clapper rail) (*Rallus obsoletus obsoletus*), western snowy

plover (*Charadrius nivosus nivosus*), California least tern (*Sternula antillarum browni*), salt marsh harvest mouse (*Reithrodontomys raviventris raviventris*), Central California Coast Steelhead ESU (*Oncorhynchus mykiss*), Southern DPS North American green sturgeon (*Acipenser medirostris*), and critical habitat for western snowy plover.

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 Pacific Coast Salmon FMP, the Pacific Coast Groundfish FMP, and the Coastal Pelagic Species FMP are present in the project area and may be affected due to increased turbidity and degraded water quality during construction, elevated underwater sound levels, and disturbance of benthic habitat. 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. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project is not likely to 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 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. The Eden Landing Salt Works Historic Landscape (Primary # P-01-011437), previously recommended as eligible for inclusion on the National Register of Historic Places (NRHP), one additional new archaeological site, identified as a salt processing site, and the remains of the J. Quigley Alvarado Salt Works (P-01-012138) have been identified in the project area. 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)). 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 impacts to the aquatic ecosystem while not causing other major adverse environmental consequences. The applicant has submitted an analysis of project alternatives which is being reviewed by USACE.

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, 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>.