



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
450 Golden Gate Avenue
San Francisco, CA 94102-3406

PUBLIC NOTICE

PROJECT: Monterey Harbor and Marina Maintenance Dredging

PUBLIC NOTICE NUMBER: 2009-00221S

PUBLIC NOTICE DATE: September 24, 2021

COMMENTS DUE DATE: October 24, 2021

PERMIT MANAGER: Melissa France

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1. INTRODUCTION: The City of Monterey, Office of the Harbor Master, 250 Figueroa Street, Monterey, California 93940 (Contact: Brian Nelson; phone: (831) 646-3950) has applied for a ten-year Department of the Army permit to maintenance dredge accumulated sediment from within the Monterey Harbor and Marina located at the intersection of Del Monte and Lighthouse Avenues in the City and County of Monterey, California. The purpose of the proposed maintenance dredging would be to reestablish and maintain the original design depths within the Monterey Harbor and Marina in order to facilitate safe navigation for recreational and commercial boats. The Monterey Harbor and Marina provides permanent and seasonal mooring and berthing facilities for approximately 600 vessels, and services commercial and recreational fishing, diving, whale watching, sailing, and charter vessels. 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 site is located in the Monterey Marina at 250 Figueroa Street in the city of Monterey, in Monterey County, California.

Project Site Description: The site encompasses the approximately 66-acre Monterey Harbor and Marina and is situated within the Monterey Bay.

Project Description: As shown in the attached drawings, the applicant plans to remove approximately 10,000 cubic yards (cys) of sediment from a 2.7-acre (approximately) portion of the Marina in an initial episode and a total of 100,000 cys over the life of the permit in various locations within the overall permit area. Existing depths range from -7.0 to -14.0 feet mean lower low water (MLLW) in Site 1 and -7.0 to -13.0 feet MLLW in the marina basin. The design depth for the proposed maintenance dredging ranges from -7 feet mean lower low water (MLLW) plus an additional 1-foot overdredge allowance to -10 feet MLLW plus an additional 1-foot overdredge allowance. The dredged material for all dredging episode, including the initial episode, would be removed using a hydraulic or mechanical dredge. Disposal of all dredged material would be at either of two proposed dredged material disposal/beneficial reuse sites located on Del Monte Beach. The first proposed disposal/beneficial reuse site is located just east of the Monterey Marina, and the second is located on Del Monte Beach in front of the Del Monte Beach Townhomes located approximately ½ mile to the north of the Monterey Marina.

Basic Project Purpose: The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by the Corps to determine whether the project is water dependent. Although the purpose of the project, as stated above, is for safe navigational depths, for consideration in Section 404(b)(1) (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 Monterey Harbor and Marina.

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: The proposed dredging would not result in a permanent loss of waters of the United States. Temporary impacts to aquatic resources would be mitigated by proposed minimization and avoidance measures. Therefore, no compensatory mitigation is proposed or required.

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, Central Coast Region Regional Water Quality Control Board, 895 Aerovista Place, Suite 101, San Luis Obispo, CA 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 an 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 California Coastal Commission, 725 Front Street, Suite 300, Santa Cruz, CA 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, 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 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. Based on this review, the Corps has made a preliminary determination that the following federally-listed species and designated critical habitat are present at the project location or in its vicinity, and may be affected by project implementation.

The California Coastal Evolutionary Significant Unit (ESU) chinook salmon (*Oncorhynchus tshawytscha*) was listed as threatened on September 16, 1999 and was again federally listed (i.e. reaffirmed) as threatened on June 28, 2005 (70 FR 37160). Critical habitat was designated on September 2, 2005 (70 FR 52488). Chinook salmon utilize Monterey Bay for feeding and growth to maturity. The Monterey Harbor and Marina would not be a likely place to encounter chinook salmon, however there is a possibility that chinook salmon could be present in the project area during dredging operations. Since the applicant is proposing the use of a hydraulic cutterhead dredge, there is a potential for entrainment and incidental take (i.e. harm and/or mortality) of chinook salmon during dredging operations. Therefore, the Corps will initiate formal consultation with the NMFS for potential take of chinook salmon from this propose dredging project.

The Central California coast coho salmon ESU was federally listed as threatened on October 31, 1996 and was subsequently downgraded to endangered on June 25, 2005 (64 FR 24049). Critical habitat for this ESU was designated on June 28, 2005(70 FR 37160). California coast coho are known to occur in the San Lorenzo River and Scott Creek in Santa Cruz County. They utilize coastal waters for feeding and growth to maturity before returning to spawn in their native streams. Although the likelihood of encounter coho salmon in the proposed dredging area is small, it is still possible for coho to be present during dredging operations, hence the Corps will consult with NMFS on potential adverse effects to coho salmon including potential take of the species from entrainment by the hydraulic dredging equipment.

The Central California Coast and South-Central California Coast distinct population segments (DPS) of steelhead trout (*Oncorhynchus mykiss*) were first classified as federally threatened in August 1997. Subsequently, various DPSs of West Coast steelhead were again federally listed (i.e. reaffirmed) as threatened on June 28, 2005 (70 FR 37160) and critical habitat was designated on September 2, 2005 (70 FR 52488). The two aforementioned DPSs of steelhead are known spawn in coastal streams below impassible barriers from, but not including the Santa Maria River in San Louis Obispo County to the Russian River in Sonoma County and in tributaries to the San Francisco/San Joaquin Rivers and San Francisco Bay estuary. The Monterey Bay coastal area is known feeding habitat for steelhead and there is a potential for steelhead to be present in the project area during dredging. The use of a hydraulic cutterhead dredge could result in adverse effects including entrainment and take of steelhead. Therefore, the Corps will initiate formal consultation under Section of the ESA with NMFS.

On April 7, 2006, NMFS listed the North American green sturgeon (*Acipenser medirostris*) distinct population segment (DPS) south of the Eel River in California as threatened under the Endangered Species Act (71 FR 17757). On October 9, 2009, NMFS issued the final rule designating critical habitat for green sturgeon (74 FR 52300). Specific areas covered under

the critical habitat designation include: Coastal U.S. marine waters within 60 fathoms (fm) depth from Monterey Bay, California (including Monterey Bay), north to Cape Flattery, Washington, including the Strait of Juan de Fuca, Washington, to its United States boundary; the Sacramento River, lower Feather River, and lower Yuba River in California; the Sacramento-San Joaquin Delta and Suisun, San Pablo, and San Francisco bays in California; the lower Columbia River estuary; and certain coastal bays and estuaries in California (Humboldt Bay), Oregon (Coos Bay, Winchester Bay, Yaquina Bay, and Nehalem Bay), and Washington (Willapa Bay and Grays Harbor). Green sturgeon are known to occur along the California coast and utilize Monterey Bay, and Elkhorn Slough, for feeding and growth to maturity. The proposed use of a hydraulic cutterhead dredge for this project could result in the entrainment and take of green sturgeon utilizing the habitat within the Monterey Harbor and Marina, therefore the Corps will initiate formal Section 7 consultation with NMFS for potential adverse effects and take of green sturgeon from the proposed 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 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.

Marine Protection, Research, and Sanctuaries Act (MPRSA): Section 302 of the MPRSA of 1972, as amended (16 U.S.C. § 1432 *et seq.*), authorizes the Secretary of Commerce, in part, to designate areas of ocean waters, such as the Cordell Bank, Gulf of the Farallones, and Monterey Bay, as National Marine Sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the MPRSA. No Department of the Army Permit will be issued until the applicant obtains the required certification or permit. 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 NHPA further requires federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance.

Because the Marina has been previously dredged, historic or archeological resources are not expected to occur in the project vicinity. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until the

Corps concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the disposal of dredged material is not dependent on location in or proximity to waters of the United States to achieve the basic project purpose. This conclusion raises the (rebuttable) presumption of the availability of a less environmentally damaging practicable alternative to the project that does not require the discharge of dredged or fill material into waters of the U.S.

The applicant has been 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 EVALUATION: The decision on whether to issue a Department of the Army Permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the project and its intended use on the public interest. Evaluation of the probable impacts requires a careful weighing of the public interest factors relevant in each particular case. The benefits that may accrue from the project must be balanced against any reasonably foreseeable detriments of project implementation. The decision on permit issuance will, therefore, reflect the national concern for both protection and utilization of important resources. Public interest factors which may be relevant to the decision process include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation,

water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

7. CONSIDERATION OF COMMENTS: The Corps is soliciting comments from the public; federal, state and local agencies and officials; Native American Nations or other tribal governments; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by the Corps will be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army Permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental or public interest factors addressed in a final environmental assessment or environmental impact statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the project.

8. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to Melissa France, San Francisco District, Operations and Readiness Division, 450 Golden Gate Avenue, San Francisco, California 94102-3406; 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>.



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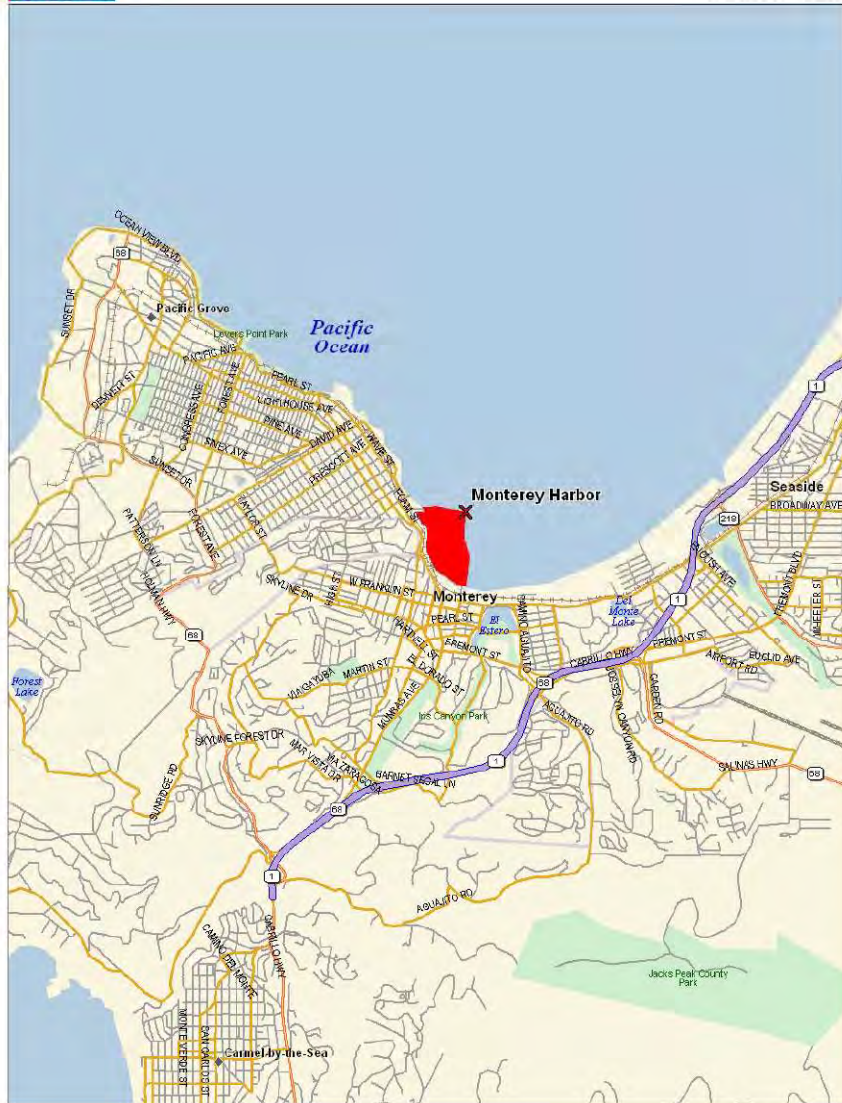
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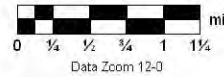
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Figure 1
Regional Map of the Monterey
Harbor Dredging Project
Monterey, California

This document is not intended for detail design work.



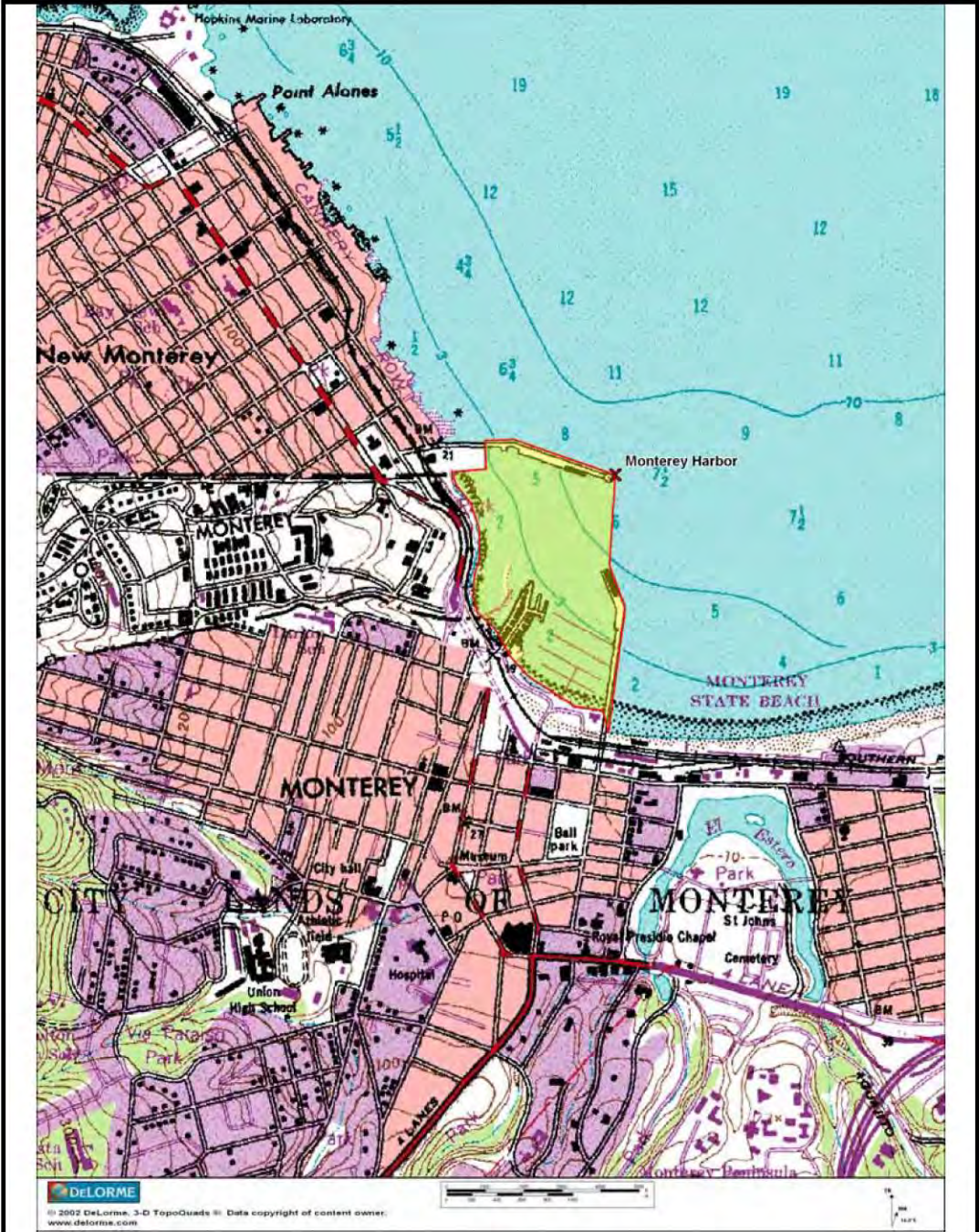
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Figure 2
Vicinity Map of the Monterey
Harbor Dredging Project
Monterey, California

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Figure 3
USGS Quadrangle Map of the
Monterey Harbor Dredging Project
 Monterey Quadrangle
 Monterey, California



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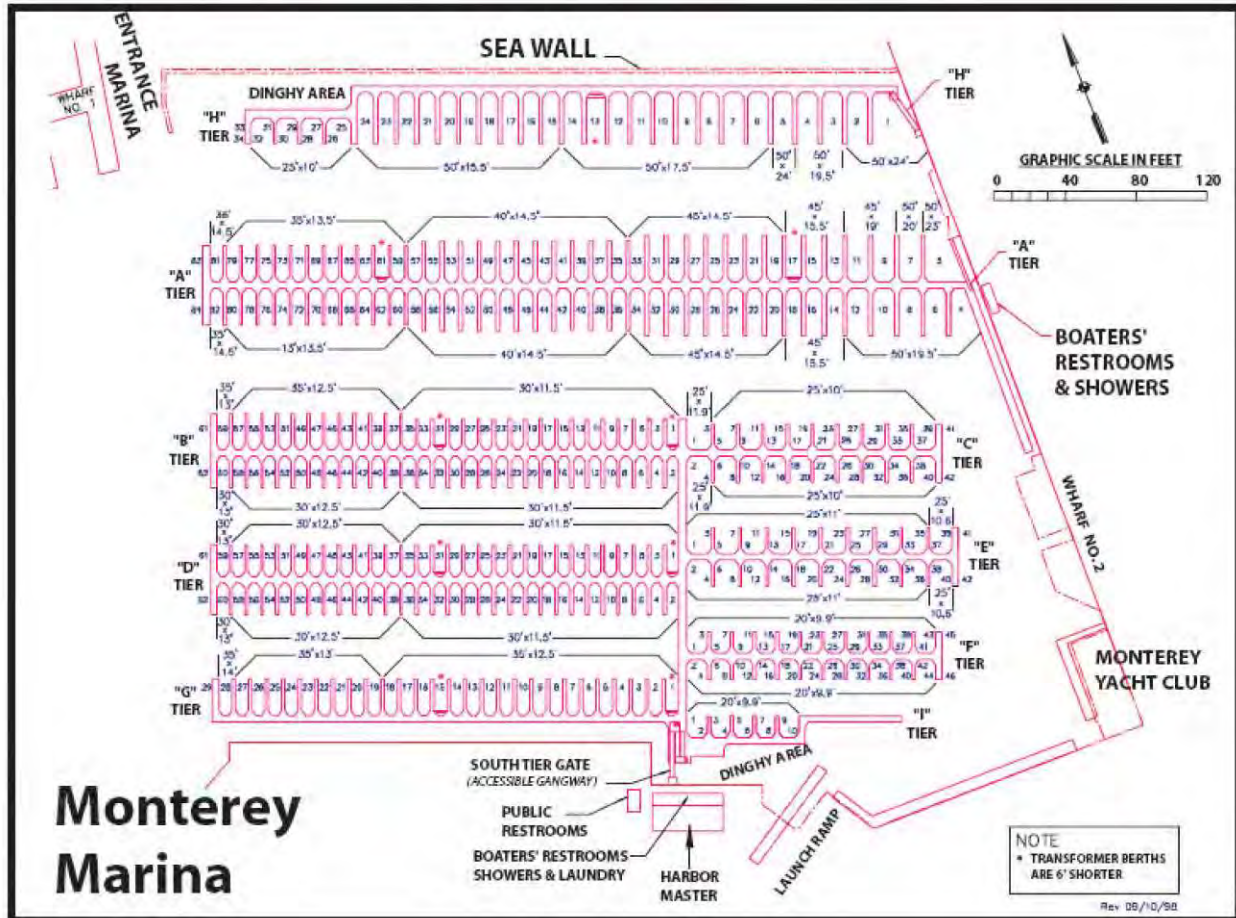
Figure 4
Aerial Photograph of the Monterey
Harbor Dredging Project
Monterey, California



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Figure 5
Monterey Harbor Map
 Monterey, California

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Figure 6
Monterey Marina Map
 Monterey, California

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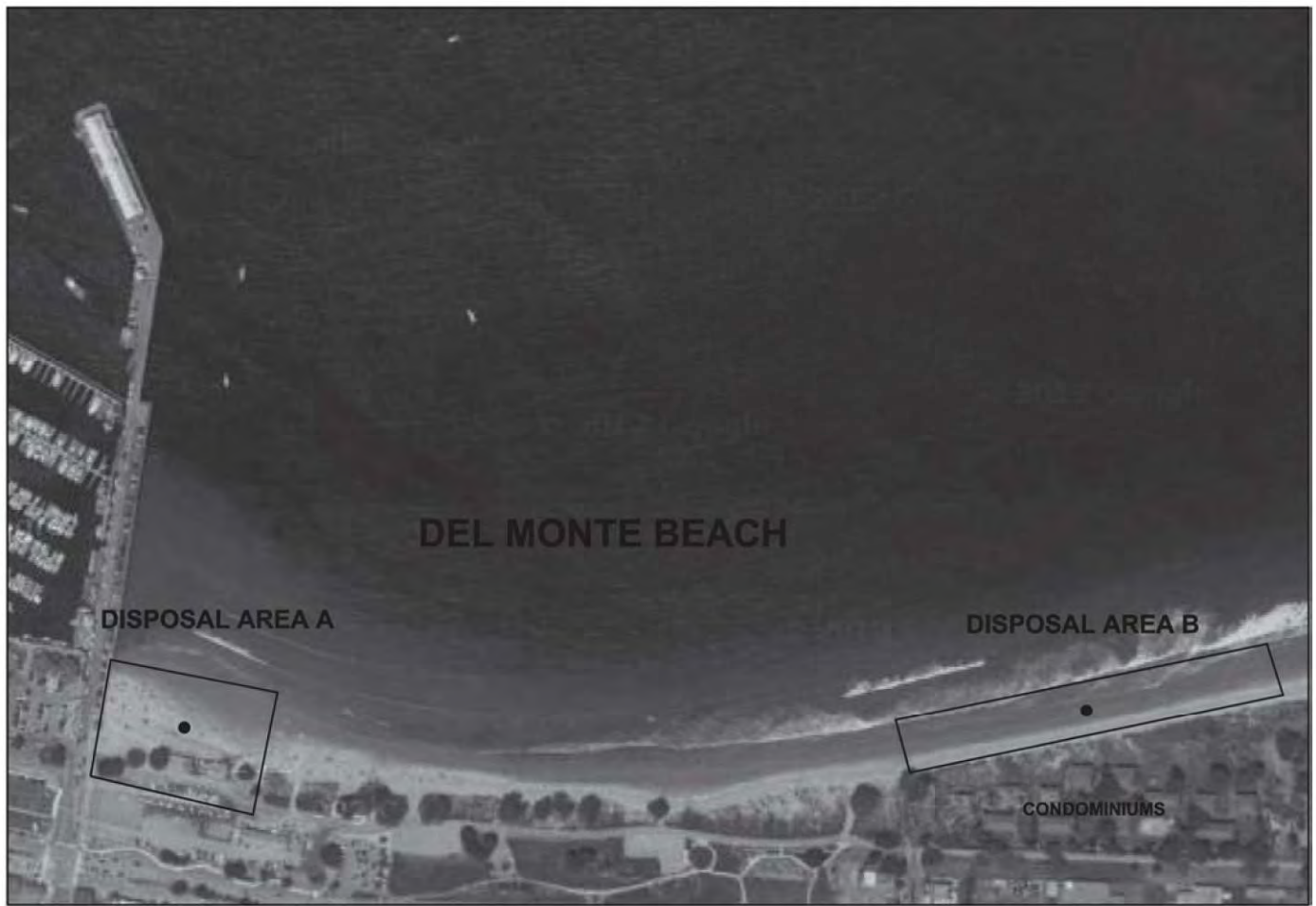
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SCALE IN FEET

EXPLANATION

S1-1 ● 2021/2022 Dredge Episode Sample Location and Designation



TITLE				SITE MAP SHOWING DREDGE SITES AND SAMPLE LOCATIONS			
PREPARED FOR				City of Monterey Marina 256 Figueroa Street Monterey, California			
SK		PROJ. NO.		RH1102		FIG: 7	



EXPLANATION

- DISPOSAL AREA (A) COMP SAMPLE LOCATION
- DISPOSAL AREA (B) COMP SAMPLE LOCATION



0 500
SCALE IN FEET



TITLE	BEACH SITES SHOWING SAMPLE LOCATIONS		
PREPARED FOR	City of Monterey Marina 256 Figueroa Street Monterey, California		
SK	PROJ. NO.	RH1102	FIG: 8

