



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: Port of San Francisco, Regional General Permit for Maintenance and Repair

PUBLIC NOTICE NUMBER: 2015-00016S

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COMMENTS DUE DATE: October 28, 2023

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1. **INTRODUCTION:** The Port of San Francisco (POC: Kathryn Purcell, (415) 274-0491), Pier 1, The Embarcadero, San Francisco, California 94111, through its agent, Environmental Science Associates (POC: Garrett Leidy, (510) 463-6738), 180 Grand Avenue, Suite 1050, Oakland, California 94612, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to perform maintenance, repair, rehabilitation, restoration or replacement of any previously authorized structure and other deleterious fill. The work locations would be along the Port of San Francisco's 7.5-mile waterfront.

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 proposed work activity locations would be along the Port of San Francisco's 7.5-mile waterfront as depicted in Figure 1 in the enclosure, (centroid Latitude/Longitude: 37.773957, -122.384384).

Project Site Description: The Port of San Francisco 7.5-mile waterfront was historically a hub during the Gold Rush, it then became an industrial area of finger piers, railroad terminals, and warehouses, and during World War II it was a military logistics center where troops, equipment and supplies left the Port in support of the Pacific theater. The port continued to be the West Coast's premier cargo port in the 1950s and was managed by the State. In 1968, the state transferred responsibilities to the City and County of San Francisco through the Burton Act and required the creation of a Port Commission to have

the authority to manage the San Francisco waterfront for the citizens of California. Currently, the Port supports responsibilities such as maritime commerce; navigation and fisheries; restoring the environment; and providing public recreation and shoreline access.

The 7.5-mile San Francisco waterfront project area contains existing over-water wharf and pier areas, piles, submerged debris, soft bottom substrates, and the open waters of San Francisco Bay. Many of the existing structures are old and dilapidated and contain creosote-treated piles that are associated with causing adverse effects to water quality and aquatic biota. The land bordering the project area consists of Bay fill that is developed with hardscape such as paved surfaces and Port facilities. Sediment accumulation along the waterfront is due to current wave patterns causing re-settlement of suspended sediment and natural sediment inflows from rivers, creeks, and surface runoff. Contaminants are also introduced into the Central San Francisco Bay from runoff, sewer overflow, stormwater, spills and leaks, and remobilization from sediment into the water column.

In total, the 7.5-mile Port of San Francisco jurisdiction is 853-acres which includes 205-acres of in-water and over-water structures. The San Francisco Bay bottom along the waterfront has some areas with eelgrass beds as well. Additionally, the waterfront contains 2 creeks, Mission Creek and Islais Creek, that drain into the bay.

Project Description: As shown in the attached project plan descriptions and drawings (enclosure), the applicant proposes to perform the following work activities:

- A. Repair and stabilization of existing banks, including armored and unarmored shorelines, seawalls, dikes, and rip-rap. (Up to 500 linear feet per year / 2,500 linear feet total.)

- B. Restoration of navigation aids and regulatory markers. (Up to 5 per year (approximately 1 cubic yard/year) / 25 total (approximately 5 cubic yards total).)
- C. Removal, repair and replacement of piles. (Up to 1,000 piles per year / 5,000 piles total.)
- D. Repair of piers, wharves, fenders, dolphins, whales, aprons, and minor coring of decks to install related structures. (Up to 100,000 square feet per year / 500,000 square feet total.)
- E. Repair or replacement of fencing and related structures. (Up to 400 linear feet (200 square feet) per year / 2,000 linear feet (1,000 square feet) total.)
- F. Repair of bulkheads and breakwaters. (300 square feet per year (or 100 linear feet) / 1,500 square feet total (or 500 linear feet).)
- G. Replacement or reconfiguration of existing docking facilities (docks, piers, gangways, cap beams including under pier structures such as utilities). (Up to 150,000 square feet per year / 750,000 square feet total.)
- H. Repair or replacement of bollards, cranes, pier canopies, and equipment. (Up to 50 appendages per year / 250 total.)
- I. Removal of existing dilapidated piles and associated structures (pier decks, stringers, beams, girders). (Up to 54,000 square feet structure removal (approximately 2,000 cubic yards pile fill) per year / 270,000 square feet structure removal (10,000 cubic yards pile fill) total.)
- J. Scientific measurement devices. (Up to 10 per year / 50 total.)
- K. Survey activities. (Up to 3 per year / 15 total.)

Basic Project Purpose: The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by USACE to determine whether the project is water dependent. The basic project purpose is to maintain the functionality of the Port of San Francisco's waterfront by performing maintenance on an ongoing basis.

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 perform regular maintenance to the Port of San Francisco's waterfront in order to maintain navigational and

recreational safety, protect and improve water quality, and improve shoreline access and appearance, which would keep the Port's facilities operational and avoid the release of debris from dilapidated structures.

Project Impacts: Temporary and permanent fill discharges into waters of the U.S. may result from project activities though these impacts would be minimal. The RGP would include a range of anticipated impacts (temporary and permanent) for the five year period as listed in the Project Description.

Proposed Mitigation: Avoidance and minimization measures would be implemented including, measures to reduce noise impacts from pile driving, minimizing sediment removal and substrate disturbance to reduce impacts to water quality, removal of or complete avoidance of debris, contaminants, and hazardous materials, as well as implementing a spill prevention and response plan. Minimal ground disturbance would occur to prevent stormwater impacts, and appropriate handling of materials and treated wood would be implemented. Please refer to enclosure 1, section 1.6.2 to read about these measures in more detail.

Project Alternatives: The maintenance projects to be conducted under the terms of the Regional General Permit are considered to be minimal. The Federal Register states that "where a category of 404 discharges is so minimal in its effects that it has been placed under a general permit, there is no need to perform a case-by-case alternatives analysis" (40 CFR 230.2). Therefore, no alternatives analysis will be required for the individual designs of specific projects authorized under the Regional General Permit.

3. STATE AND LOCAL APPROVALS:

Water Quality Certification: State water quality certification or a waiver thereof is a prerequisite for the issuance of a Department of the Army Permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to Section 401 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1341 *et seq.*). The applicant has recently submitted an application to the California Regional Water Quality Control Board (RWQCB) to obtain water quality certification for the project. No Department of the Army Permit will be issued until the applicant obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed if the RWQCB fails or refuses to act on a complete application

for water quality certification within 180 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. Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c) *et seq.*), requires a Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Determination 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 Determination 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 obtained a Consistency Certification 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, California by the close of the comment period.

Other Local Approvals: The applicant has obtained the following additional governmental authorizations for the project: a Major Permit from the Bay Conservation and Development Commission (BCDC Permit No. M1977.017.19) in September of 2016, and a Categorical Exclusion under CEQA from the San Francisco Planning Department (CATEX No. 2021 003773ENV) in June of 2021. The applicant has applied for the following additional governmental authorization: a 401 Water Quality Certification from the San Francisco Bay Regional Water Quality Control Board.

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 and vicinity along the 7.5-mile San Francisco waterfront contains Federally-listed endangered Sacramento River winter-run ESU Chinook salmon (*Oncorhynchus tshawytscha*), threatened

Central Valley spring-run ESU Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley DPS steelhead (*Oncorhynchus mykiss*), threatened Central California Coast DPS steelhead (*Oncorhynchus mykiss*), threatened Southern population of North American DPS green sturgeon (*Acipenser medirostris*), and proposed endangered San Francisco Bay-Delta DPS longfin smelt (*Spirinchus thaleichthys*). Critical Habitat has been designated and occurs within the project vicinity for the following species: Sacramento River winter-run ESU Chinook salmon, Central valley spring-run ESU Chinook salmon, Central Valley DPS steelhead, Central California Coast DPS steelhead, and Southern population of North American DPS green sturgeon. The project would likely impact the listed species' habitat as a result of sediment disturbance, water quality disturbance, and noise disturbance. To address project related impacts to these species and designated critical habitat, USACE will initiate informal 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 Groundfish FMP, Coastal Pelagic FMP, and Pacific Coast Salmon FMP, as well as the habitat of particular concern (HAPC), eelgrass beds (*Zostera marina*) would likely be impacted by project activities. Potential impacts would include temporarily impaired water quality and increased turbidity, disturbance of benthic habitats, and increased underwater noise. 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 would not be adversely affected by the project. Within the project APE there are five historic districts and nine individual buildings and structures that have either been listed on or determined eligible for listing on the National Register. Additionally, there are three building and structures that meet the recommended age threshold

of 45 years and that were previously recommended as eligible for listing on the California Register of Historical Resources but were not previously evaluated under the National Register criteria. To address 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. No analysis of project alternatives was submitted because there are no practicable alternatives to the proposed minor or incidental discharges that would have less adverse effect on the aquatic ecosystem and no alternative locations for conducting the shoreline maintenance.

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 Jenna Rais, 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>.