US Army Corps
of Engineers ®
San Francisco District

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

PROJECT: Suisun Marsh Dredging Letter of Permission Procedure

PUBLIC NOTICE NUMBER: SPN-2012-00259
PUBLIC NOTICE DATE: November 27, 2024
COMMENTS DUE DATE: December 31, 2024

PERMIT MANAGER: Zachary Simmons TELEPHONE: 415-503-2951 E-MAIL: Zachary.M.Simmons@usace.army.mil

1. INTRODUCTION:

Suisun Resource Conservation District (SRCD) (POC: Steve Chappell, 707-425-9302), 2544 Grizzly Island Road, Suisun, CA 94585; California Department of Fish and Wildlife (CDFW) (POC: Laureen Thompson), 2825 Cordelia Road, Fairfield, CA 94534; California Department of Water Resources (DWR) (POC: Phil Choy), 3500 Industrial Boulevard, West Sacramento, CA 95691; and U.S. Bureau of Reclamation (USBR) (POC: Armin Halston), 801 I Street, Suite 140, Sacramento, CA 95814, have applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for renewal of the Department of the Army Letter of Permission (LOP) procedure to dredge material from tidal areas of Suisun Marsh in Solano County, California. The material would be used for exterior levee repairs and stabilization and would be dredged from adjacent tidal sloughs, bays, and dredger cuts. This Department of the Army LOP program 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). The prior LOP procured (LOP 2014) was issued in 2014 and expires December 31, 2024.

2. PROPOSED PROJECT:

Project Site Location: The proposed LOP program area is located in the Suisun Marsh, which is bounded to the west by Interstate 680, Highway 12 to the north, Shiloh Road and Collinsville Road to the east, and Suisun Bay to the south, in southern Solano County west of the Sacramento River Delta, as shown on the attached vicinity map (Figure 1).

Project Site Description: The Suisun Marsh is one of the largest contiguous estuarine marshes in the United States. The marsh is comprised of several islands and most of the islands are subdivided into various land ownerships. The landowners in the Suisun Marsh include the State of California, non-profit organizations, private hunting clubs with multiple owners, and private individuals. As shown in Figure 3, there are over 160 separate private land ownerships in the Suisun Marsh. For management purposes, the Marsh is divided into four regions, plus Montezuma Slough region, which is a boundary between regions (Figure 2).

Most of the islands in the Suisun Marsh are ringed with large exterior levees which are higher than the adjacent managed wetlands and are typically 12 to 14 feet wide at the crown and have 2:1 side slopes.

Managed wetlands are contained within the exterior levees. Often, emergent wetlands (tule wetlands) are found between the sloughs and the exterior levees. Most of the land is managed primarily to provide habitat for wintering waterfowl and it also provides valuable wetland habitat for resident and migratory wildlife. Some public land is managed for multiple species benefits, including the resident herd of tule elk or for endangered species.

On the landward side of the exterior levees in the managed wetlands is usually a series of smaller interior levees which are 2 to 3 feet in height. Often there is an unpaved gravel or dirt road located on the crown of the levees.

Most of the exterior levees in the Suisun Marsh were originally constructed so that people could farm the islands. Levee construction began in the 1850s. When farming became unprofitable the land was converted to managed wetlands. Most of the managed wetlands in the Suisun Marsh have subsided below the elevation of mean high water. Therefore, the exterior levees are necessary to prevent these lands from becoming tidally inundated and permanently flooded. The interior levees partition areas from each other so that each area can be managed separately to optimize wetland habitat conditions and wildlife habitats.

Project Description: The proposed project is the renewal of a 10-year LOP procedure for authorizing the dredging of material from tidal areas of Suisun Marsh to be used for exterior levee repairs and stabilization. Suisun Marsh has approximately 181.87 miles of exterior levees. While approximately 60.66 miles of the external levees cannot be maintained with material from dredging tidal areas, the remaining approximately 121.21 miles of exterior levees have been maintained, in part, through the dredging program authorized under the Corps LOP 2014 procedure. This LOP procedure renewal would continue to supplement the continued exterior levee maintenance activities under the Regional General Permit (RGP) 3 (Corps File #: SPN-2012-00258) that authorizes maintenance of all external levees by authorizing limited amounts of material from the adjacent managed wetlands or from importation from outside of the Marsh. The dredging and levee maintenance activities proposed for authorization under the LOP procedure are one component of the Suisun Marsh Habitat Management, Preservation, and Restoration Plan (SMP), a comprehensive 30-year plan designed to address the management of the varied resources within the marsh.

Table 1. Total Miles of Exterior Levee to be Maintained by Region / Associated Waterway Types Dredged

	Miles of levee					
	Region 1	Region 2	Region 3	Region 4	Montez. Slough	Total
Bays	0.00	0.00	0.00	5.39	0.00	5.93
Major Sloughs	0.00	14.26	0.00	0.00	20.02*	34.28
Minor Sloughs	27.67	11.98	2.26	3.15	0.00	45.06
Dredger cuts	8.31	3.50	4.40	10.70	9.57	36.48
Total	35.98	29.74	6.66	19.24	29.59	**121.21**

* Montezuma Slough is the border between Regions 2 and 4

The proposed LOP procedure would authorize private landowners (represented by SRCD), CDFW, and DWR to dredge material from tidal areas within Suisun Marsh and use the material for levee maintenance and repair. Up to 100,000 cubic yards of material would be dredged from major and minor tidal sloughs, dredger cuts, and bays on an annual basis, resulting in a total of up to 1,000,000 cubic yards over the proposed 10-year duration of the LOP procedure. The dredging would impact up to approximately 19.83 acres or 90,446 linear feet (17.13 linear miles) of waters of the U.S. per year (Table 2). This LOP procedure would authorize dredging in the following tidal aquatic habitats where vegetated tidal berms are less than 50 feet wide: Major bays in the Suisun Marsh region including Suisun, Grizzly, and Honker Bays to the Contra Costa County line; major sloughs (Montezuma and Suisun); all minor sloughs, dredger cuts and fish screen basins (the sixteen fish screen structures and the Roaring River Distribution System (RRDS) fish screen facility along Montezuma Slough). Specific dredging locations authorized under this LOP procedure would be based on levee maintenance

needs. Dredging activities would be tracked by SRCD, and reported to USACE, to ensure dredging does not occur more often than once every 3 years in any location, other than fish screen basins.

The dredged material from adjacent exterior tidal slough channels, bays, and dredger cuts would be used for major levee maintenance that involves topping the levee crown and backslope and minor levee maintenance that involves only topping the levee crown. Approximately 50% of the annually dredged material (50,000 cubic yards) would be used for major levee maintenance and 50% would be used for minor levee maintenance. Material used for backslope stabilization during major levee maintenance could incidentally impact waters of the U.S. by placing material within jurisdictional areas but there would not be a permanent loss of waters of the U.S. Any materials placed within waters of the U.S. would be of a minimal amount and would only serve to maintain pre-existing levee contours (no expansion beyond the originally authorized footprint).

The sixteen fish screen structures in Suisun Marsh and RRDS fish screen facility experience significant siltation problems. Siltation is the main issue for these structures and needs to be removed for adequate water flow and function. The LOP procedure would also continue to authorize the removal of a relatively small amount of material from the fish screen basins (about 20 to 100 cubic yards each) by allowing dredging as frequently as every year. This amount is included in the total 1,000,000 cubic yards proposed for dredging in the Marsh for the duration of this LOP procedure. Alternative measures such as trying to move silt by hand have been ineffective. Dredging around fish screens would be done during low tide to minimize in-water work and minimize turbidity. As the tide returns, the fish screen would be opened to allow turbidity to be drawn into the managed wetland. Dredge spoils would be placed on the crown or landside slope of the exterior levee adjacent to the fish screen. In instances where material could not be used adjacent to the dredging site, the material may be used on other levees within Suisun Marsh.

Dredging Methods – The material desired for exterior levee maintenance is the compacted bay silts and clays. These compacted materials lie beneath the surface layers of the slough bottoms. Dredging authorized under this LOP procedure would involve the use of the bucket of an excavator to scoop mud from the bottom of the sloughs and would not remove material deeper than four feet per dredging cycle. During dredging, the bucket on the end of the excavator boom is pointed downward and is inserted through the unconsolidated surface materials into the desired compacted mud on the bottom of the slough. The bucket is then retracted upward, scooping the material vertically from the bottom, swinging it over and placing it on the crown and backslope of the levee. The material is then smoothed and compacted with the excavator bucket, creating a uniform layer that may range from one to two feet deep. After two to three months of drying time, the material would be disced and graded to integrate the new materials with the existing levee. Only minimal amounts of material would incidentally impact waters of the U.S. (the interior managed wetlands and/or the bays and sloughs) because the materials would be deliberately placed and kept on the crown and slopes of the levee.

The two methods of dredging proposed for the Marsh are use of a land based long reach excavator from the crown of the levees, or a floating barge dredger or excavator from the water. The land-based method would use a long-reach excavator (50') from the crown of the exterior levees. The floating barge dredger or excavator uses a clamshell dredge or excavator on a floating barge. Depending on the site conditions, this provides water access to the site and allows the removal of material from deeper areas of the sloughs and channels, due to the increased reach and distance from the levee crown. Barge clamshell dredges are typically not self-propelling and therefore could need a small tugboat to maneuver within the channel.

Amounts of Dredging – The amount of dredging authorized under this LOP procedure would be limited by region, annual volume/area limits, waterway types, and frequency in any one location. Over the next ten years, it is estimated that up to about 100,000 cubic yards of material would need to be dredged annually

to maintain the 121.21 miles of exterior levees. Table 2 provides estimates of the annual cubic yards to be dredged per waterway type in each region.

Table 2. Annual Proposed Dredging Volume per Waterway Type and Region

	Volume (CY)					
	Region 1	Region 2	Region 3	Region 4	Montez. Slough	**Total**
Bays	0	0	0	4,000	0	**4,000**
Major Sloughs	0	10,700	0	0	16,000	**26,700**
Minor Sloughs	21,700	8,900	3,100	2,400	0	**36,100**
Dredger cuts	8,300	2,700	4,500	10,500	7,200	**33,200**
Total	**30,000**	**22,300**	**7,600**	**16,900**	**23,200**	**100,000**

Each site within the Marsh would require specific evaluations annually, but under the LOP procedure the general quantity of dredging per linear foot would range from 0.75 cubic yards per foot (material needed for minor levee maintenance) to 2.1 cubic yards per foot (material needed for major levee maintenance), depending on the levee maintenance needs. The annual allotment for dredging would be divided between state and private property, depending on the current need, and would be limited to a maximum of 2.1 cubic yards per linear foot of channel, based on the linear extent of exterior levees on each property or the length of the dredger cut. This limitation would be provided as a general guideline; however, flexibility would be necessary in case of special conditions such as catastrophic levee failure. The proposed volume may be reduced in any given year if supplemental material is available through beneficial reuse of suitable dredged materials.

As stated above, the proposed LOP procedure could impact up to approximately 19.83 acres (over approximately 90,490 linear feet) of waters of the U.S. annually. Table 3 provides estimates of the Annual Acreage and Linear Feet of Dredging per Waterway Type and Region.

Table 3. Annual Acreage and Linear Feet of Dredging per Waterway Type and Region (acres/linear feet)

	Region 1	Region 2	Region 3	Region 4	Montez. Slough	**Total**
Bays	0.00	0.00	0.00	0.79/ 3620	0.00	**0.79/ 3620**
Major Sloughs	0.00	2.12/ 9685	0.00	0.00	3.16/ 14480	**5.28/ 24165**
Minor Sloughs	4.50/ 20550	1.76/ 8050	0.63/ 2805	0.48/ 2170	0.00	**7.37/ 33575**
Dredger cuts	1.45/ 6600	0.54/ 2445	0.89/ 4070	2.08/ 9500	1.43/ 6515	**6.39/ 29130**
Total	**5.95/ 27150**	**4.42/ 20180**	**1.52/ 6875**	**3.35/ 15290**	**4.59/ 20995**	**19.83/ 90490**

LOP Program Administration – Administration of the LOP 2024 procedure would follow the same process as the prior LOP 2014 procedure. Under the LOP procedure for Suisun Marsh, SRCD would act as the first-line compiler/reviewer for dredging applications. Landowners would submit dredging request applications to SRCD and CDFW in the early part of each year (January 1 through April 30). These applications would include a detailed map of the proposed site, dimensions of the levee, the cubic yardage requested, and description of the dredging source site conditions (dredger cut, minor slough), type of equipment used to conduct the work, and GPS coordinates of the extent of the proposed project. The SRCD would then sort applications within each of the Plan Regions to compare the landowner annual dredging requests with regional annual dredging limitations. As the applications are received, SRCD would review them for completeness and check the history of dredging program participation at each site.

Between May 1 and May 30, SRCD and CDFW would conduct necessary inspection of applicants' sites to assess current site conditions, account for any special considerations such as listed species' restrictions, ensure avoidance of sensitive areas, and review proposed dredging methods for suitability. An inspection may not be necessary at every proposed dredging site if applications are complete and site conditions dictate no need for inspection.

Between June 1 to June 15, SRCD would prepare and submit a yearly application package for authorization to USACE and the other regulatory agencies. Once reviewed and authorized by the agencies, SRCD would send authorization letters to the landowners

identifying dredging allocations for individual ownerships and specific levee segments. This timeline allows the landowners 45 days prior to the start of the work season (Aug.1) to schedule contractors and construction equipment.

USACE would review the application packages submitted by SRCD and provide written concurrence that each of the applicants qualifies for the LOP, as applicable.

Dredging work activities would be completed between August 1 and November 30 of each year. SRCD would conduct post-construction inspections and collect work-completed reports from each of the permittees. Prior to January 31, SRCD would submit yearly summary reports to USACE. The reports would include a summary of total yearly requests, total volume authorized, actual work completed, and a breakdown of dredging activities by region and waterway type. A map would be created showing all levee segments maintained by dredging and additional site-specific information for each project, including pre- and post-construction photos. USACE would review the year-end summary report and provide SRCD and CDFW with any comments, including proposed modifications to the upcoming year's program.

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 levee maintenance.

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 cost-effectively maintain the exterior levee system of the Suisun Marsh with a suitable material source.

Project Impacts: Impacts to waters are discussed above and shown in Tables 2 and 3. During the permit process from 2014 to 2023 there has been an estimated 107,531 cy of material dredged and placed on exterior levees. Based on an estimated 1.425 cy/linear foot, material was placed on approximately 75,460 linear feet (14.29 miles) of levees. Using an estimate of 12.25 sq ft for the average slough bottom area disturbed across all regions and waterway types, there were approximately 924,385 sq ft, or 21.22 acres of habitat temporarily disturbed over the previous 10-year period.

Major dredging may result in the widening of the toe of exterior levees on the managed wetland side. The 2014 permit process estimated up to 1.5 feet of widening at the toe of the levee for 23,810 linear feet of major dredging. This resulted in an estimated 8.2 acres of fill over the 10-year permit process. Based on the actual dredge work completed during that time, approximately 10.7% of the maximum volume was dredged, resulting in less than one acre of fill.

Proposed Mitigation: The following measures have been proposed for the LOP program to avoid and minimize impacts to the aquatic environment:

Timing Restrictions:

- Dredging would be performed during the window of August 1 through November 30.
- To avoid the disturbance of Ridgeway's rails or black rails, activities within or adjacent to designated tidal marsh areas would be avoided during the breeding season from February 1 through August 31.

Construction Practices - Best management practices (BMPs) to minimize impacts to the aquatic environment would include the following:

- BMPs would be implemented to minimize water quality impacts such as temporary turbidity increases.
- Dredging would not occur in areas that have been tidally restored.
- A berm would be constructed on the channel-side of the levee crown to prevent runoff into adjacent aquatic areas.

• Dredging would occur in the deepest portions of the adjacent slough or dredger cut areas, as practicable
• Emergent vegetation would be avoided during construction to the greatest extent possible. In cases where disturbance is unavoidable, SRCD and USACE would develop construction guidance prior to project authorization and commencement.

Compensation – The applicants have proposed providing compensatory mitigation for projects in which removal of emergent vegetation cannot be avoided. Aside from these occasional project impacts, the LOP program would not result in a permanent loss of waters of the U.S. Any unavoidable loss of emergent vegetation resulting from the LOP is proposed to be compensated for by implementing tidal wetland restoration at a ratio of 3:1, or 2:1 if restoration is provided for in advance of the impact.

Project Alternatives: This public notice is for a proposed permit process and is not reviewing a single proposed project and so there are no project alternatives available.

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 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 (CZMA), 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 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 would apply to the San Francisco Bay Conservation and Development Commission (BCDC) annually for a Marsh Development Permit for LOP activities. As part of the Marsh Development Permit, the BCDC would complete a CZMA consistency determination 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.

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 the SMP, the USBR will be responsible for determining the presence or absence of Federally-listed species and designated critical habitat, and the need to conduct consultation. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the USBR concerning the consultation process. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

The USBR and USACE consulted with the National Marine Fisheries Service (NMFS) under Section 7 and received a biological opinion (BO) on June 3, 2013, (2012-02390) for the project's effects on the following federally listed fish species: North American green sturgeon (*Acipenser medirostris*), Central California Coast threatened steelhead (*Oncorhynchus mykiss*), Central Valley threatened steelhead (*O. mykiss*), Central Valley spring-Run threatened Chinook salmon (*O. tshawytscha*), and Sacramento River winter-run endangered Chinook (*O. tshawytscha*); and designated critical habitat for North American green sturgeon.

The USBR and USACE consulted with the U.S. Fish and Wildlife Service (USFWS) under Section 7 and received a BO on June 10, 2013, (08ESMF00-2012-F-0602-2) for the project's effects on the following federally listed species: salt marsh harvest mouse (*Reithrodontomys raviventris*), California clapper rail (*Rallus longirostris obsoletus*), Soft bird's beak (*Cordylanthus mollis var. mollis*), delta smelt (*Hypomesus transpacificus*), California least tern (*Sternula antillarum browni*), and Suisun thistle (*Cirsium hydrophilum var. hydrophilum*); and designated critical habitat for delta smelt. The work authorized under this permit could adversely and/or beneficially impact endangered species.

The USBR and USACE are currently consulting with the USFWS to update the biological opinion to include the project's effects on the recently listed longfin smelt (*Spirinchus thaleichthys*).

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 Pelagic FMP,* or the *Pacific Coast Salmon FMP*. As the Federal lead agency for this project, the USBR determined that the project may adversely affect EFH for all three FMPs and completed consultation with NMFS for these potential impacts in the June 3, 2013, BO. The results of the EFH consultation are in Enclosure 2 of the BO and includes two conservation recommendations.

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 compliance with the NHPA 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 not likely to be present in the permit area and that the project either has no potential to cause effects to these resources or has no effect to these resources. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, and Native American Nations or other tribal governments.

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 been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines.

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:

Zachary Simmons
San Francisco District, Regulatory Division
450 Golden Gate Avenue, 4th Floor
San Francisco, California 94102-3404
Zachary.M.Simmons@usace.army.mil

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