



**US Army Corps
of Engineers®**

PUBLIC NOTICE

Applicant:
Lind Marine, LLC

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**SPN District
Permit Application No. 2013-00129**

TO WHOM IT MAY CONCERN: The San Francisco District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit to continue commercial sand mining operations at the Middle Ground lease area in the Carquinez Strait. The applicant requests a 10-year permit.

This public notice is being issued to describe and solicit comments for the proposed project pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403).

APPLICANT: Lind Marine LLC
Attn: Bill Butler
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Vallejo, CA 94592

AGENT: Boudreau Associates LLC
Attn: Christine Boudreau
327 Jersey Street
San Francisco, CA 94114

WATERWAY AND LOCATION: The project site is located in open water within an area known as Middle Ground (western Suisun Bay). Suisun Bay is located between San Francisco Bay and the confluence of the Sacramento and San Joaquin rivers in the San Francisco Bay-Delta Estuary. The Middle Ground lease area comprises 367 acres within Carquinez Strait in the middle of the waterway south of Snag Island, east of the Benicia-Martinez Bridge, north of the City of Bay Point, and between Honker Bay and Suisun Bay (38.061334°, -121.987678°).

EXISTING CONDITIONS: The project site is open water ranging in water depths from 15 to 45 feet. Suisun Bay is highly bathymetrically variable and the salinity and turbidity of this area has been historically impacted due to freshwater demand, hydraulic mining, and ship channel deepening.

PROJECT PURPOSE:

Basic: Alluvial sand mining.

Overall: To continue mining construction-grade marine sand from the existing private lease area for commercial sale, primarily for use in construction and building materials.

PROPOSED WORK: The applicant proposes to continue hydraulic dredging of sand from the Middle Ground lease area for a period of 10 years. Marine sand mining is a State-owned mineral resource. When mined, marine sand is used for construction activities within the greater San Francisco Bay Area, either as fill and base material or as an ingredient in readymix concrete and hot mix asphalt. Marine sand is used, for example, in the construction and maintenance of highway and freeway systems, commercial and public buildings, and residential construction.

Proposed Volume: Up to a peak of 120,000 cubic yards of sand per year (with a 100,000 cubic yard maximum annual average over 10 years), for a total of 1,000,000 cubic yards over the 10-year permit period.

Mining Method: Mining would continue to be accomplished using a hydraulic drag arm dredge and stationary potholing method. Stationary potholing involves an initial search for an appropriate sand source, followed by “stationary” mining of sand at a site through anchoring the barge or other means.

AVOIDANCE AND MINIMIZATION: To avoid and minimize impacts to the aquatic environment and sensitive species (e.g., Delta and longfin smelt), the applicant proposes to adhere to previously established annual volume limits and seasonal volume restrictions from December 1 through May 31. Additional measures are proposed to include: (i) positive barrier fish screens to prevent entrainment, (ii) shoreline and depth buffers, (iii) special operational procedures when priming the pump and clearing the drag arm, and (iv) ongoing tracking and monitoring of mining sites.

COMPENSATORY MITIGATION: The applicant states that the project has been designed to avoid and minimize impacts to the aquatic environment. However, to compensate for possible impacts to listed fish species, the applicant has proposed, and expects to be required to, restore spawning and rearing habitat, or to purchase agency-approved mitigation credits in an amount commensurate and proportional to the impacts on the species.

CULTURAL RESOURCES: As required under Section 106 of the National Historic Preservation Act, the Corps is evaluating the undertaking for effects to historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance. Depending on the Corps’ determination as to the effects of the undertaking, consultation with the State Historic Preservation Officer, Tribal Historic Preservation Officer, or Indian tribes may be required. The Corps previously conducted a review of sand mining prior to the last permit, determining at that time that historic or archaeological resources were not likely to be present in the permit area and that the project either had no potential to cause effects to these resources or would have no effect on these resources. The Corps will reevaluate the proposed undertaking and render a final determination on the need for consultation at the close of the comment period. This public notice serves to inform the public of the proposed undertaking and invites comments including those from local,

State, and Federal government agencies. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, federally recognized tribes, and other interested parties.

ENDANGERED SPECIES: Current mining activities were subject to Biological Opinions issued by the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) for Delta smelt, Central Valley steelhead, Central California Coast steelhead, Sacramento River Winter-run Chinook, Central Valley Spring-run Chinook, and North American Green Sturgeon in 2014 and 2015, respectively, which Opinions concluded that the project was not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of proposed or designated critical habitats. As to the immediate permit application, the Corps has made a preliminary determination that the proposed project may affect and is likely to adversely affect longfin smelt, Delta smelt, and the southern distinct population segment of North American green sturgeon. The project may affect but is not likely to adversely affect various salmonid species (Chinook salmon, steelhead) or designated critical habitats. Pursuant to Section 7 of the federal Endangered Species Act, consultation will be conducted with the USFWS and NMFS.

ESSENTIAL FISH HABITAT: Mining is currently conducted consistent with conservation recommendations presented by NMFS pursuant to the Magnuson-Stevens Fishery Conservation and Management Act 1996. Subject to the Act, the Corps intends to consult with NMFS concerning the project's possible effects on Essential Fish Habitat (EFH). The Corps will not make a permit decision until the consultation process is complete. The Corps' final determination of project effects to EFH and the need for measures for avoiding, minimizing, or mitigating such effects is subject to review by and coordination with NMFS.

NAVIGATION: The proposed activity is located partially within a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: The Corps previously received a Water Quality Certification from the San Francisco Bay Regional Water Quality Control Board for sand mining activities during the prior permit term (2015 – 2026), which certified that discharge from the Project would comply with the applicable effluent limitations and water quality standards under the federal Clean Water Act, as well as other applicable requirements under State law. This permit will likewise require a Water Quality Certification from the Regional Board.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic

resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has not been verified by Corps personnel.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The SPN District will receive written comments on the proposed work, as outlined above, until April 10, 2026. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to Jennifer Stabile at Jennifer.l.stabile@usace.army.mil. Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, SPN District, Attention: Jennifer Stabile, 450 Golden Gate Avenue, 4th Floor, San Francisco, California 94102. Please refer to the permit application number in your comments.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.