

DRAFT INTEGRATED GENERAL REEVALUATION REPORT AND ENVIRONMENTAL IMPACT STATEMENT

SAN FRANCISCO BAY TO STOCKTON, CALIFORNIA NAVIGATION STUDY

APPENDIX I: Pertinent Correspondence



FEBRUARY 2019



SAN FRANCISCO BAY TO STOCKTON NAVIGATION IMPROVEMENT PROJECT
Draft General Reevaluation Report and Environmental Impact
Statement/Environmental Impact Report

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Pertinent Correspondence

SAN FRANCISCO BAY TO STOCKTON NAVIGATION IMPROVEMENT PROJECT
Draft General Reevaluation Report and Environmental Impact
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Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: March 1, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Notice of a Computer Matching Program Between the Department of Veterans Affairs and the Department of Defense for Verification of Disability Compensation

A. Participating Agencies

Participants in this computer matching program are the Department of Veterans Affairs (VA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The VA is the source agency, *i.e.*, the activity disclosing the records for the purpose of the match. The DMDC is the specific recipient activity or matching agency, *i.e.*, the agency that actually performs the computer matching.

B. Purpose of the Match

The purpose of this agreement is to verify eligibility for DoD/United States Coast Guard (USCG) members of the Reserve forces who receive VA disability compensation or pension to also receive military pay and allowances when performing reserve duty.

The VA will provide to DMDC identifying information on all VA recipients receiving a VA disability compensation or pension. DMDC will match the information with its reserve military pay data and provide for each match (hit) the number of training days, by fiscal year, for which the veteran was paid. The VA will use this information to make, where appropriate, necessary VA payment adjustments.

C. Authority for Conducting the Match

The legal authority for conducting the matching program for use in the administration of VA's Compensation and Pension Benefits Program is contained in 38 U.S.C. 5304(c), Prohibition Against Duplication of Benefits, provides that VA disability compensation or pension based upon his or her previous military service shall not be paid to a person for any period for which such person receives active service pay. 10 U.S.C. 12316, Payment of certain Reserves While on Duty, further provides that a reservist who is entitled to disability payments due to his or her earlier military service and who performs duty for which he or she

is entitled to DoD/USCG compensation may elect to receive for that duty either the disability payments or, if he or she waives such payments, the DoD/USCG compensation for the duty performed.

D. Records To Be Matched

The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match are as follows:

The DMDC will use the system of records identified as DMDC 01, entitled "Defense Manpower Data Center Data Base," last published in the **Federal Register** at November 23, 2011, 76 FR 72391.

The VA will use the system of records identified as "Compensation, Pension, Education and Vocational Rehabilitation and Employment Records-VA" (58 VA 21/22/28), republished in its entirety in the **Federal Register** at July 19, 2012, 77 FR 42593.

E. Description of Computer Matching Program

The VA will submit to DMDC an electronic data of all VA pension and disability compensation beneficiaries as of the end of September. Upon receipt of the data, DMDC will match by SSN with reserve pay data as submitted to DMDC by the military services and the USCG. Upon a SSN match, or a "hit," of both data sets, DMDC will provide VA the individual's name and other identifying data, to include the number of training days, by fiscal year, for each matched record. Training days are the total of inactive duty drills paid plus active duty days paid.

The hits will be furnished to VA, which will be responsible for verifying and determining that the data in the DMDC electronic files is consistent with the VA files and for resolving any discrepancies or inconsistencies on an individual basis. VA will initiate actions to obtain an election by the individual of which pay he or she wishes to receive and will be responsible for making final determinations as to positive identification, eligibility for, or amounts of pension or disability compensation benefits, adjustments thereto, or any recovery of overpayments, or such other action as authorized by law.

The electronic data provided by the VA will contain information on approximately 4.2 million pension and disability compensation recipients.

The DMDC reserve pay data contains information on approximately 890,000 DoD and 10,000 USCG reservists who received pay and allowances for performing authorized duty.

VA will furnish DMDC the name and SSN of all VA pension and disability compensation recipients and DMDC will supply VA the name, SSN, date of birth, and the number of training days by fiscal year of each reservist who is identified as a result of the match.

F. Inclusive Dates of the Matching Program

This computer matching program is subject to public comment and review by Congress and the Office of Management and Budget. If the mandatory 30 day period for comment has expired and no comments are received and if no objections are raised by either Congress or the Office of Management and Budget within 40 days of being notified of the proposed match, the computer matching program becomes effective and the respective agencies may begin the exchange at a mutually agreeable time and thereafter on a quarterly basis. By agreement between VA and DMDC, the matching program will be in effect for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. Address for Receipt of Public Comments or Inquiries

Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301-9010.

[FR Doc. 2016-04832 Filed 3-3-16; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare a Joint Environmental Impact Statement/ Environmental Impact Report for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Study, San Francisco Bay, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (USACE) San Francisco District, the Port of Stockton, and the Contra Costa County Water Agency are preparing an Environmental Impact Statement/Environmental Impact Report

(EIS/EIR) to evaluate the efficiency of the movement of goods along the existing deep-draft navigation route extending from the San Francisco Bay to the Port of Stockton. This Notice of Intent (NOI) represents a supplemental notice to the March 12, 2008, NOI released for the San Francisco Bay to Stockton Navigation Improvement Study. This supplemental NOI also provides an update to the description of the study and discusses current phasing of the project. Because of the amount of time that has passed since 2008, this supplemental NOI is being released to notify the public that work will begin on an EIS/EIR, which is anticipated to be issued for public review in 2016. This NOI also re-opens the public scoping period.

The 2008 NOI discussed the project as a single navigation improvement study/project, proposing to deepen the John F. Baldwin channel from the West Richmond Channel to New York Slough Channel to a maximum depth of -45 feet mean lower low water (MLLW) and the Stockton Deep Water Ship Channel to a maximum depth of -40 feet MLLW.

The forthcoming EIS/EIR proposes to reevaluate the unconstructed portions of the original project described in the 1965 Chief of Engineers Report (House Document 89-208) and authorized by the Rivers and Harbors Act of 1965 (Public Law 89-298), which will be referred to in the EIS/EIR as Phase I (or the proposed project). Additional study authority exists for the entire channel from San Francisco Bay to Stockton, provided by the 2014 United States Senate Committee on Environment and Public Works Committee Resolution and specifying "navigation, ecosystem restoration, flood risk reduction, and other water related resource purposes." This additional study authority will be discussed programmatically in the EIS/EIR.

The study area for the overall project consists of two reaches: The Western Reach and Eastern Reach. The Western Reach extends from Central San Francisco Bay to Avon and includes the West Richmond Channel, Pinole Shoal Channel, and Bulls Head Reach portion of the Suisun Bay Channel. The Eastern Reach extends from Avon to the Port of Stockton and includes the remaining portions of the Suisun Bay Channel (east of Avon), New York Slough Channel, and the Stockton Deep Water Ship Channel. The Western Reach is authorized to a depth of -45 feet mean lower low water (MLLW), but is currently maintained to -35 feet MLLW. Additional deepening of the Eastern Reach requires separate

Congressional authorization for construction.

The forthcoming EIS/EIR for which this NOI is prepared proposes to separate the overall project into two separate phases (Phase I and Phase II) under a navigation improvement programmatic analysis. Under the programmatic analysis, two reaches and two phases are identified.

Phase I of the study is a single purpose navigation improvement project to evaluate incremental deepening to a maximum depth of -40 feet MLLW in the Western Reach. Phase II is a subsequent multipurpose navigation and ecosystem restoration study that would evaluate deepening the Eastern Reach to a maximum depth of -40 feet MLLW. Phase II will also revisit if further deepening of Western Reach up to its authorized depth of -45 feet MLLW is warranted. The Eastern Reach is maintained at its authorized depth of -35 feet MLLW, and any additional deepening in this reach will require a new project authorization through a subsequent Water Resources Development Act (WRDA).

The EIS/EIR will include both a project-level feasibility analysis for implementation of Phase I and a programmatic-level analysis for Phase II. Analysis of Phase II will be conducted using only existing information (*i.e.*, additional studies or data collection will not be conducted). Additional project-level feasibility analysis of Phase II will require execution of a separate Feasibility Cost Sharing Agreement with the local sponsor and pending receipt of federal study funds.

DATES: Submit comments concerning this notice on or before April 4, 2016. There will be no additional public meeting in conjunction with this scoping period.

ADDRESSES: Mail written comments concerning this notice to: U.S. Army Corps of Engineers, San Francisco District, Planning Branch, ATTN: Cynthia J. Fowler, 1455 Market Street, San Francisco, CA 94103-1398. Comment letters should include the commenter's physical mailing address, the project title, and the USACE file number in the subject line.

FOR FURTHER INFORMATION CONTACT: Cynthia J. Fowler, U.S. Army Corps of Engineers, San Francisco District, Planning Branch, 1455 Market Street, San Francisco CA 94103-1398, (415) 503-6870, cynthia.j.fowler@usace.army.mil.

SUPPLEMENTARY INFORMATION: As previously mentioned, the USACE intends to prepare an EIS to reevaluate incremental deepening of the Western

Reach and programmatically assess a multipurpose project involving deepening and ecosystem restoration in both the Western and Eastern Reaches. The Port of Stockton is the lead agency and local sponsor in preparing the EIR. The USACE and the Port of Stockton have agreed to jointly prepare an EIS/EIR to optimize efficiency and avoid duplication. The EIS/EIR is intended to be sufficient in scope to address the federal, state, and local requirements and environmental issues concerning the proposed activities and permit approvals.

Project Area and Background Information: The San Francisco Bay to Stockton Navigation Improvement Project includes the John F. Baldwin and Stockton Ship Channels, which extend 75 nautical miles from the Pacific Ocean, just outside the Golden Gate, to the Port of Stockton. Modern vessels crossing the channels can require up to 55 feet of draft when fully laden. Given that these channels are maintained at -35 feet MLLW, most vessels must be "light-loaded" (*i.e.*, less than fully loaded with cargo) to navigate the channels with sufficient under-keel clearance. Light-loading increases the cost of transportation and, in turn, the cost of the shipped products because more trips must be made to carry the same volume of cargo. Light-loading is also inefficient, requiring more ships to carry cargo than if ships could travel with full loads.

The study area includes the entire extent of the federal navigation channels occurring in the Western and Eastern reaches, which are defined as follows:

Western Reach. This area includes the West Richmond Channel, Pinole Shoal Channel, Carquinez Strait, and the Bulls Head Reach portion of the Suisun Bay Channel. Avon (just east of the Benicia-Martinez Bridge) separates the Western Reach from the Eastern Reach. Western Reach is currently maintained at -35 feet MLLW, although the channels have an authorized depth of -45 feet MLLW.

Eastern Reach. This area includes the remaining portions of the Suisun Bay Channel (*i.e.*, Suisun Bay Channel east of Avon and New York Slough) and all of the Stockton Deep Water Ship Channel (DWSC). The Eastern Reach is also maintained at a depth of -35 feet MLLW.

The Phase I project-level alternatives described below are anticipated to be analyzed in the Draft EIS/EIR. Phase II will be evaluated at a programmatic level because of uncertainties associated with its scope, size, and other details.

No Action, in which dredging to deepen the Western Reach would not occur and all construction-related

activities would be avoided. Maintenance dredging would continue annually or on an as-needed basis and the federal standard placement sites would continue to be used.

Deepening to – 37 feet MLLW, which would deepen the Western Reach to a depth of – 37 feet MLLW with up to 2 feet of overdepth for a maximum depth of – 39 feet MLLW. To account for rapid shoaling, an approximately 800-foot long sediment trap would be constructed at Bulls Head Reach by dredging up to an additional 6 feet (including 2 feet of overdepth) to – 43 feet MLLW.

Deepening to – 38 feet MLLW, which would deepen the Western Reach to a depth of – 38 feet MLLW with up to 2 feet of overdepth for a maximum depth of – 40 feet MLLW. Under this alternative, an approximately 800-foot long sediment trap at Bulls Head Reach would be constructed by dredging up to an additional 6 feet (including 2 feet of overdepth) to – 44 feet MLLW.

Under both deepening alternatives, dredged material is expected to be placed at one or more permitted and economically feasible beneficial reuse sites.

Purpose and Need: The purpose of the Phase I study is to evaluate more efficient deep-draft navigation via incremental deepening of the Western Reach in a manner that minimizes adverse environmental effects. A potential subsequent Phase II multipurpose project involving deepening and ecosystem restoration in both the Western and Eastern Reaches will also be discussed programmatically. The purpose of Phase II is also to evaluate efficient deep-draft navigation and beneficial use opportunities using material generated from the deepening project. The need for the Phase I and Phase II studies is to address vessel restrictions imposed by the existing channel depths, which are inadequate to accommodate vessels with drafts exceeding – 35 feet MLLW.

Issues: The detailed environmental analysis will consider the effect of maintaining or deepening the Western Reach on biological resources, sediments, air quality, greenhouse gas emissions, climate change, water quality, geology, sediments, hydraulics and hydrology, hazards, noise, utilities, navigation, environmental justice, transportation, land use, cultural and historic resources, aesthetics, recreation, and socioeconomic effects, as well as cumulative impacts and other specific potential environmental issues of concern. Where existing information is sufficiently available, the EIS/EIR will also consider the effects of both phases.

Scoping Process: The USACE is seeking participation of all interested federal, state, and local agencies, Native American groups, and other concerned private organizations or individuals through this public notice. The purpose of the public scoping period is to solicit comments regarding the potential impacts, environmental issues, and alternatives associated with the proposed action to be considered in the Draft EIS/EIR; identify other significant issues; provide other relevant information; and recommend mitigation measures. The public comment period is anticipated to run from March 4 to April 4, 2016.

The public will have an additional opportunity to comment once the Draft EIS/EIR is released, which is anticipated to be in the summer of 2016. The USACE will announce availability of the Draft EIS/EIR in the **Federal Register** and other media, and the USACE and Port of Stockton will provide a 45-day review period for the public, organizations, and agencies to review and comment on the Draft EIS/EIR. All interested parties should respond to this notice and provide a current address if they wish to be notified of the Draft EIS/EIR circulation.

John C. Morrow,

Lieutenant Colonel, U.S. Army, District Engineer.

[FR Doc. 2016–04758 Filed 3–3–16; 8:45 am]

BILLING CODE 3720–58–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Notice

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice of Public Hearing.

SUMMARY: Pursuant to the provisions of the Government in the Sunshine Act (5 U.S.C. 552b), notice is hereby given of the Defense Nuclear Facilities Safety Board's (Board) public hearing described below. The Board invites any interested persons or groups to present any comments, technical information, or data concerning safety issues related to the matters to be considered.

DATES: Session I: 5:00 p.m.–6:30 p.m., Session II: 6:45 p.m.–9:00 p.m., March 22, 2016.

PLACE: Santa Fe Community Convention Center, 201 West Marcy Street, Santa Fe, New Mexico 87501. Parking will be available at no cost.

STATUS: Open. The Board has determined that an open hearing furthers the public interests underlying

both the Government in the Sunshine Act and the Board's enabling legislation.

MATTERS TO BE CONSIDERED: In this public hearing, the Board wishes to gather information regarding the hazards to the public and workers posed by the management of transuranic (TRU) waste at Los Alamos National Laboratory (LANL) as well as the Department of Energy's (DOE) plans to address those hazards. The Board will also examine DOE's actions taken or planned to resolve known inadequacies in the current safety basis of the various facilities that manage or store TRU waste at LANL, and actions to improve TRU waste management at LANL in response to the challenges caused by the Waste Isolation Pilot Plant (WIPP) accident and the associated investigation findings.

A senior Board technical staff employee will present information to the Board regarding TRU waste management at LANL, including safety issues identified at Area G including issues with inappropriately remediated nitrate salt-bearing waste, corrective actions resulting from the WIPP accident, and federal oversight. The Board will then receive testimony from senior officials from DOE Headquarters and National Nuclear Security Administration (NNSA) Headquarters regarding federal oversight of LANL transuranic waste management. After a brief recess, the Board will receive testimony from DOE and NNSA Los Alamos Field Office leadership as well as LANL leadership regarding technical resolution of safety issues. Following the public comment period, the hearing will conclude with statements from senior officials from DOE and NNSA as well as the Board Chairman. The public hearing portion of this proceeding is authorized by 42 U.S.C. 2286b.

FOR MORE INFORMATION CONTACT: Mark Welch, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2901, (800) 788–4016.

SUPPLEMENTARY INFORMATION: Public participation in the hearing is invited during the public comment period of the agenda. The Board is setting aside time for presentations and comments from the public. Persons interested in speaking during the public comment period are encouraged to pre-register by submitting a request in writing to the Board's address listed above or by telephone to the Office of the General Counsel at (202) 694–7062 prior to close of business on March 18, 2016. The Board asks that commenters describe the nature and scope of their oral

technology lead over any other Air and Missile Defense (AMD) Command and Control (C2) system existing today.

4. The IBCS sensitive/critical technology is primarily in software. And also resides in the design, developments, and manufacturing of certain components. The list of components containing sensitive/critical technology is classified SECRET.

5. The loss of this hardware, software, documentation and/or data could permit development of information which may lead to a significant threat to future U.S. military operations. If an adversary were to obtain this sensitive technology, the missile system effectiveness could be compromised through reverse engineering techniques.

6. A determination has been made that Poland can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

7. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Poland.

[FR Doc. 2017-25996 Filed 12-1-17; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare a Joint Environmental Impact Statement/ Environmental Impact Report for the San Francisco Bay to Stockton General Reevaluation Report, San Francisco Bay, California

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (USACE) South Atlantic Division and the Port of Stockton are preparing an Environmental Impact Statement and Environmental Impact Report (EIS/EIR) to evaluate the efficiency of the movement of goods along the existing deep-draft navigation route extending from the Golden Gate, through San Pablo Bay and Carquinez Strait, to deep draft facilities at Avon, California. This Notice of Intent (NOI) represents a supplemental notice to the March 4, 2016, NOI released for the San Francisco Bay to Stockton Navigation

Improvement Study. This supplemental NOI is being released to notify the public that the study scope has been reduced to only consider improvements within the portion of the navigation project extending from San Francisco Bay to Avon. Work is now being conducted on an EIS/EIR with a reduced scope and project footprint, which is anticipated to be issued for public review in 2018. This NOI also re-opens the public scoping period.

The 2016 NOI proposed to deepen the John F. Baldwin channel from the West Richmond Channel through the Pinole Shoal Channel, Bulls Head Reach and Suisun Bay Channel to New York Slough Channel to a maximum depth of 45 feet mean lower low water (MLLW) and the Stockton Deep Water Ship Channel to a maximum depth of 40 feet MLLW. As of September, 2017, the portion of the authorized navigation project to the east of Avon is no longer under consideration for formulation of navigation improvements.

The revised study area extends from Central San Francisco Bay to Avon only and includes the West Richmond Channel, Pinole Shoal Channel, and Bulls Head Reach portion of the Suisun Bay Channel (west of Avon). The current authorized depth of this study area is 45 feet mean lower low water (MLLW), but is currently maintained at 35 feet MLLW.

The forthcoming EIS/EIR is a single purpose navigation improvement project to evaluate incremental deepening to a maximum depth of 38 feet MLLW within the channel reaches of the revised study area only.

DATES: Submit comments concerning this notice on or before thirty days after this posting. There will be no additional public meeting in conjunction with this scoping period.

ADDRESSES: Mail written comments concerning this notice to: U.S. Army Corps of Engineers, Jacksonville District, Planning and Policy Division, Environmental Branch, P.O. Box 4970, Jacksonville, FL 32232-0019. Comment letters should include the commenter's physical mailing address and the project title.

FOR FURTHER INFORMATION CONTACT: Stacie Auvenshine, 904-314-6714 or email at Stacie.j.auvenshine@usace.army.mil.

SUPPLEMENTARY INFORMATION: This EIS/EIR is intended to be sufficient in scope to address the federal, state, and local requirements and environmental issues concerning the proposed activities and permit approvals.

Project Area and Background Information: The authorized San

Francisco Bay to Stockton, California, navigation project includes the John F. Baldwin and Stockton Ship Channels, which extend 75 nautical miles from the Pacific Ocean, just outside the Golden Gate, to the Port of Stockton. Modern vessels transiting the channels can require up to 55 feet of draft when fully laden. Given that these channels are maintained at 35 feet MLLW, most vessels utilizing the navigation channels between San Francisco Bay and Avon must be "light-loaded" (*i.e.*, less than fully loaded with cargo) to navigate the channels with sufficient under-keel clearance. Light-loading is inefficient and increases the transportation cost and overall cost of shipped products because more trips must be made to carry the same volume of cargo.

The revised study area includes the West Richmond Channel, Pinole Shoal Channel, Carquinez Strait, and the Bulls Head Reach portion of the Suisun Bay Channel, ending at Avon. These channels are currently maintained at 35 feet MLLW, although the channels have an authorized depth of 45 feet MLLW.

The Draft EIS/EIR will analyze the project alternatives described below:

No Action, in which dredging would not occur and all construction-related activities would be avoided. Maintenance dredging would continue annually or on an as-needed basis and the federal standard placement sites would continue to be used.

Deepening to 37 feet MLLW, which would deepen the study area to a depth of 37 feet MLLW with an additional 2 feet of overdepth for a maximum depth of 39 feet MLLW. To account for rapid shoaling, a sediment trap would be constructed at Bulls Head Reach by dredging an additional 6 feet (including 2 feet of overdepth) to 43 feet MLLW.

Deepening to 38 feet MLLW, which would deepen the study area to a depth of 38 feet MLLW with an additional 2 feet of overdepth for a maximum depth of 40 feet MLLW. Under this alternative, a sediment trap at Bulls Head Reach would be constructed by dredging an additional 6 feet (including 2 feet of overdepth) to 44 feet MLLW.

Under both deepening alternatives, the dredged material will be placed at one or more permitted and economically feasible beneficial reuse sites.

Purpose and Need: The purpose of the project is to provide more efficient deep-draft navigation operations in a manner that minimizes adverse environmental effects. The need for the project is to address vessel restrictions imposed by the existing channel depths, which are inadequate to accommodate

vessels with drafts exceeding 35 feet MLLW.

Issues: The environmental analysis will consider the effects of deepening navigation channels in the study area on biological resources, sediments, air quality, greenhouse gas emissions, climate change, water quality, geology, sediments, hydraulics and hydrology, hazards, noise, utilities, navigation, transportation, land use, cultural and historic resources, aesthetics, recreation, and socioeconomics. The EIS/EIR will evaluate environmental justice and cumulative impacts and potentially other environmental issues.

Scoping Process: The USACE is seeking participation of all interested federal, state, and local agencies, Native American groups, and other concerned private organizations or individuals through this public notice. The purpose of the public scoping period is to solicit comments regarding the potential impacts, environmental issues, and alternatives associated with the proposed action to be considered in the Draft EIS/EIR; identify other significant issues; and provide other relevant information.

The public will have an additional opportunity to comment once the Draft EIS/EIR is released, which is anticipated to be in the summer of 2018. The U.S. Environmental Protection Agency will provide notice of the availability of the Draft EIS/EIR in the **Federal Register** and the USACE and Port of Stockton will provide a 45-day review period for the public, organizations, and agencies to review and comment on the Draft EIS/EIR. All interested parties should respond to this notice and provide a current address if they wish to be notified about circulation of the Draft EIS/EIR.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2017-26051 Filed 12-1-17; 8:45 am]

BILLING CODE 3720-58-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2017-ICCD-0149]

Agency Information Collection Activities; Comment Request; Survey on the Use of Funds Under Title II, Part A: Supporting Effective Instruction Grants—Subgrants to LEAs

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is

proposing a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before February 2, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2017-ICCD-0149. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216-44, Washington, DC 20202-4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Tawanda Avery, 202-453-6471.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in

response to this notice will be considered public records.

Title of Collection: Survey on the Use of Funds Under Title II, Part A: Supporting Effective Instruction Grants—Subgrants to LEAs.

OMB Control Number: 1810-0618.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 6,050.

Total Estimated Number of Annual Burden Hours: 36,300.

Abstract: The Elementary and Secondary Education Act of 1965, as reauthorized by the Every Student Succeeds Act of 2015 (ESSA), provides funds to States to prepare, train, and recruit high-quality teachers, principals, and other school leaders. These funds are provided to districts through Title II, Part A (Supporting Effective Instruction Grants). The purpose of these surveys is to provide the U.S. Department of Education with a better understanding of how local educational agencies (LEAs) utilize these funds. This survey also collects data on teacher salaries funded by Title II, Part A, and professional development provided by LEAs to their teachers.

Similar data have been collected under the Survey on the Use of Funds Under Title II, Part A prior to reauthorization of ESEA. This OMB clearance request is to continue these types of analyses, but using new data collection instruments updated to reflect changes due to the reauthorization of ESEA by the ESSA. The request is to begin data collection and analyses for the 2017-18 school year and subsequent years.

Dated: November 28, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017-25970 Filed 12-1-17; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2017-ICCD-0148]

Agency Information Collection Activities; Comment Request; Quarterly Cumulative Caseload Report

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is

SAN FRANCISCO BAY TO STOCKTON NAVIGATION IMPROVEMENT PROJECT
DRAFT GRR/EIS/EIS
APPENDIX I – PERTINENT CORRESPONDENCE

Table 1. Scoping Comment/Response Matrix 2016

Committer 2016	Comment	Response
Contra Costa Water District (CCWD) -1	Three-dimensional models should continue to be used to study the impact of channel deepening and other bathymetric changes on salinity intrusion into the Delta, in order to capture the effects of stratification and gravitational circulation. The hydrodynamic modeling must be able to accurately represent real conditions, particularly at key Delta locations including CCWD's Delta drinking water intakes located at Mallard Slough, Rock Slough, Old River at Highway 4, and Victoria Canal.	The hydrodynamic model used in this technical study is the 3-D hydrodynamic model UnTRIM. The model is further discussed in the Salinity Modeling Report Appendix.
CCWD-2	Potential water quality impacts include, but are not limited to, exceedances of State Water Resources Control Board Decision 164 1 water quality objectives, changes in the position of the 2 parts per thousand isohaline ("X2"), and degradation of water quality at CCWD's intakes, even if no water quality standards are violated. CCWD's operations are governed by water quality considerations; the water quality impacts will be used to evaluate the Project's impacts on CCWD water supply operations.	This project was evaluated using a salinity model, resulting in a less than significant shift in X2 for salinity. The rationale for this determination is based on thresholds used in the Contra Costa County Water District EIS/EIR in 2010.
CCWD-3	The effects of climate change should be included in the impacts analysis. Increases in sea level and the tidal range can combine with the Project to produce non-linear effects on salinity intrusion into the Delta.	Climate change is addressed in the EIS/EIR.
CCWD-4	Impacts of dredging and the release of pollutants and toxic substances contained in the sediment should be analyzed, and impacts to municipal water supplies and aquatic species should be addressed.	These factors are all analyzed and discussed in the EIS/EIR.
CCWD-5	Placement sites for dredged materials should be evaluated for Delta water quality impacts. The Notice of Intent refers to	The dredged material shall be placed on Cullinan Ranch or Montezuma wetlands. Both

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	placement of dredged materials at "permitted and economically feasible beneficial reuse sites" –the nature of these reuse sites should be described in detail and any impacts resulting from their operation should be fully analyzed as well.	sites are permitted and contain their own EISs that analyzed impacts of having dredged material placed on site.
CCWD-6	Analysis of the impacts of modified shipping patterns, such as the number and types of vessels and the types of cargo transported, should include increased threats to Delta water quality, for instance due to an increased probability of spills from higher volumes of shipping traffic.	The assumption is that demand (for products) is the same in the with and without project condition, and that the cargo transported will remain mainly oil. There will be a reduction in vessel transits/calls with channel deepening. This could result in fewer potential spills.
Native American Heritage Commission (NAHC) – 1	The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of <u>portions</u> of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments. Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws. The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf	The USACE has contacted the NAHC to identify consultation with California Native American tribes. Pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. §306101 et. seq.) obligations regarding USACE Trust Responsibilities to federally-recognized Native American Tribes, consultation is ongoing with Native American tribes having ancestral ties to this region.
NAHC – 2	<u>Tribal Consultation:</u> If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe. (Gov. Code § 65352.3 (a)(2)).	The USACE has contacted the NAHC to initiate consultation with California Native American tribes. Pursuant to Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. §306101 et. seq.) obligations regarding USACE Trust Responsibilities to federally-recognized Native American Tribes, consultation is ongoing with Native American tribes having ancestral ties to this region.

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NAHC –3	<p>Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: http://nahc.ca.gov/resources/forms/</p>	<p>The USACE has contacted the Native American Heritage Commission to request Native American Tribal Contact Lists and Sacred Lands File to initiate consultation with California Native American tribes.</p>
California State Lands Commission (CSLC)-1	<p><u>Programmatic Document</u>: Because the EIS/EIR is being proposed as both a "Programmatic" and a "Project-level" document, the CSLC expects the Project will be presented as a series of distinct but related sequential activities (i.e., Phase I activities and the separate Phase II activities). The State CEQA Guidelines section 15168, subdivision (c)(5) states that a program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible. In order to avoid the improper deferral of mitigation, a common flaw in program-level environmental documents, mitigation measures should either be presented as specific, feasible, enforceable obligations, or should be presented as formulas containing "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (State CEQA Guidelines, § 15126.4, subd. (a)).</p> <p>As such, the EIS/EIR should make an effort to distinguish what activities and their mitigation measures are being analyzed in sufficient detail to be covered under the EIS/EIR without additional project specific environmental review, and what activities will trigger the need for additional environmental analysis (see State CEQA Guidelines, § 15168, subd.(c)).</p>	<p>The programmatic aspect of this project was removed during the reduction in the scope of work prior to the release of the draft EIS/EIR.</p>
CSLC-2	<p><u>Project Description</u>: A thorough and complete Project Description should be included in the EIS/EIR in order to facilitate meaningful environmental review of potential impacts, mitigation measures,</p>	<p>The EIS/EIR contains a thorough project description.</p>

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	<p>and alternatives. The Project Description should be as precise as possible in describing the details of all allowable activities (e.g., types of equipment or methods that may be used, maximum area of impact or volume of sediment removed or disturbed, seasonal work windows, locations for material disposal, etc.), as well as the details of the timing and length of activities. Thorough descriptions will facilitate CSLC staff's determination of the extent and locations of its leasing jurisdiction, make for a more robust analysis of the work that may be performed, and minimize the potential for subsequent environmental analysis to be required.</p>	
<p>CSLC-3</p>	<p>The EIS/EIR should disclose and analyze all potentially significant effects on sensitive species and habitats in and around the Project area, including special- status wildlife, fish, and plants, and if appropriate, identify feasible mitigation measures to reduce those impacts. The Port of Stockton should conduct queries of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) and U.S. Fish and Wildlife Service's (USFWS) Special Status Species Database to identify any special-status plant or wildlife species that may occur in the Project area. The EIS/EIR also include a discussion of consultation with the CDFW and USFWS, including any recommended mitigation measures and potentially required permits identified by these agencies.</p>	<p>This project has been and will continue to be coordinated with the appropriate agencies with regards to effects on fish and wildlife species.</p>
<p>CSLC-4</p>	<p><u>Invasive Species</u>: One of the major stressors in California waterways is introduced species. Therefore, the EIS/EIR should consider the Project's potential to encourage the establishment or proliferation of aquatic invasive species (AIS) such as the quagga mussel, or other nonindigenous, invasive species including aquatic and terrestrial plants. For example, construction boats and barges brought in from long stays at distant projects may transport new species to the Project area via hull biofouling, wherein marine and aquatic organisms attach to and accumulate on the hull and other submerged parts of a vessel. If the analysis in the EIS/EIR finds potentially significant AIS impacts, possible</p>	<p>Deepening the existing navigation channel would not lead to increased invasive species populations. The ships traveling the channels would have the same ballast and hull cleaning requirements as prior to this project.</p>

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	<p>mitigation could include contracting vessels and barges from nearby, or requiring contractors to perform a certain degree of hull-cleaning. The CDFW's Invasive Species Program could assist with this analysis as well as with the development of appropriate mitigation (information at www.dfg.ca.gov/invasives/). In addition, in light of the recent decline of native pelagic organisms and in order to protect at-risk fish species, the EIS/EIR should examine if any elements of the Project (e.g., changes in bankside vegetative cover) would favor non-native fisheries within the San Joaquin River, San Pablo Bay, Central San Francisco Bay and beyond the Golden Gate.</p>	
<p>CSLC-5</p>	<p><u>Construction Noise:</u> The EIS/EIR should also evaluate noise and vibration impacts on fish and birds from any form of construction or dredging activities in the water. Mitigation measures could include species-specific work windows as defined by CDFW, USFWS, and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS). Again, staff recommends early consultation with these agencies to minimize the impacts of the Project on sensitive species.</p>	<p>Noise is analyzed and discussed in the EIS/EIR.</p>
<p>CSLC-6</p>	<p><u>Mercury/Methylmercury:</u> The EIS/EIR study area includes the San Joaquin River and Port of Stockton. Although the EIS/EIR states that Applicant's current dredging procedures include the testing of sediment quality and suitability, CSLC staff requests that the EIS/EIR include avoidance and minimization measures to reduce potential release from Project activities of mercury and other toxins into waterways and onto State lands underlying those waterways.</p> <p>On April 22, 2010, the Central Valley Regional Water Quality Control Board (CVRWQCB) identified the CSLC as both a State agency that manages open water areas in the Sacramento-San Joaquin Delta Estuary and a nonpoint source discharger of methylmercury (Resolution No. RS-2010-0043), because</p>	<p>The project's scope has been reduced and does not include the Port of Stockton. Methylmercury is not expected to be found based on prior testing, however, the material will be tested prior to placement on the beneficial use sites.</p>

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	<p>subsurface lands under the CSLC's jurisdiction are impacted by mercury from legacy mining activities dating back to California's Gold Rush. Pursuant to a CVRWQCB Total Maximum Daily Load (TMDL), the CVRWQCB is requiring the CSLC to fund studies to identify potential methylmercury control methods in the Delta and to participate in an Exposure Reduction Program. The goal of the studies is to evaluate existing control methods and evaluate options to reduce methylmercury in open waters under jurisdiction of the CSLC. Any action taken that may result in mercury or methylmercury suspension within the Sacramento-San Joaquin Delta Estuary may affect the CSLC's efforts to comply with the CVRWQCB TMDL.</p>	
<p>CSLC-7</p>	<p><u>Greenhouse Gases</u>: A greenhouse gas (GHG) emissions analysis consistent with the California Global Warming Solutions Act (Assembly Bill [AB] 32) and required by the State CEQA Guidelines should be included in the EIS/EIR. This analysis should identify a threshold for significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of construction and ultimate build-out of the Project, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce them to the extent feasible. It appears that the proposed Project will include multi-staged evaluation and commencement of the proposed activities. Please include a full evaluation of all the equipment that could be used for any aspect of the dredging activities. Please contact all the Air Quality Management Districts (AQMDs) with regulatory oversight and jurisdiction. Air basins will have different impacts and criteria for analysis based on attainment status. Air impact analysis models for identifying the impacts of the proposed Project should be discussed with the AQMDs. A thorough review of these AQMDs and their regulatory jurisdiction will be a requirement due to the extent and scope of the</p>	<p>The air quality analysis is included in the EIS/EIR as the Environmental Appendix, Attachment 5 Air Quality Report.</p>

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	proposed EIS/EIR.	
CSLC-8	<p><u>Sea-Level Rise</u>: A tremendous amount of State-owned lands and resources under the Commission's jurisdiction will be impacted by rising sea levels. With this in mind, the EIS/EIR should consider discussing in the Draft EIR the effects of sea-level rise on all resource categories potentially affected by the proposed Project. Because of their nature and location, these lands and resources are already vulnerable to a range of natural events, such as storms and extreme high tides. Note that the State of California released the final "Safeguarding California: Reducing Climate Risk, an Update to the 2009 California Climate Adaptation Strategy" (Safeguarding Plan) on July 31, 2014, to provide policy guidance for state decision-makers as part of continuing efforts to prepare for climate risks. The Safeguarding Plan sets forth "actions needed" to safeguard ocean and coastal ecosystems and resources as part of its policy recommendations for state decision-makers.</p> <p>In addition, Governor Brown issued Executive Order B-30-15 in April 2015, which directs state government to fully implement the Safeguarding Plan and factor in climate change preparedness in planning and decision making. Please note that when considering lease applications, CSLC staff will (1) request information from applicants concerning the potential effects of sea-level rise on their proposed projects, (2) if applicable, require applicants to indicate how they plan to address sea-level rise and what adaptation strategies are planned during the projected life of their projects, and (3) where appropriate, recommend project modifications that would eliminate or reduce potentially adverse impacts from sea-level rise, including adverse impacts on public access. As the Project EIS/EIR is being developed, please consider CSLC policy for the proposed Projects as they will impact State sovereign lands.</p>	Climate change and sea level rise is discussed in Appendix B, Water Resources.

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<p>CSLC-9</p>	<p><u>Tribal Cultural Resources</u>: The Port should document and discuss in the draft document how it will comply with the provisions for required consultation with California Native American Tribes pursuant to the requirements added to CEQA by Assembly Bill 52 (Gatto, Stats. 2014, ch. 532), which applies to all CEQA projects initiated after July 1, 2015. These new provisions provide procedural and substantive requirements for lead agency consultation with California Native American Tribes and consideration of effects on tribal cultural resources, as well as examples of mitigation measures to avoid or minimize impacts to tribal cultural resources. Additionally, with respect to significance determinations, section 21084.2 states that, "A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment." When feasible, public agencies must avoid damaging effects to tribal cultural resources, and shall keep information submitted by the tribes confidential.</p>	<p>Pursuant to Section 106 of the NHPA (54 U.S.C. 306108) and respective implementing regulations (36 CFR 800) USACE has initiated consultation with 17 Local tribes identified by the Native American Heritage Commission with interests in the project area. Consultation is ongoing and will continue through the Preliminary, Engineering and Design (PED)</p>
<p>CSLC-10</p>	<p><u>Submerged Resources</u>: The EIS/EIR should evaluate potential impacts to submerged cultural resources in the Project area. The CSLC maintains a shipwrecks database that can assist with this analysis. CSLC staff requests that the Port of Stockton contact Assistant Chief Counsel Pam Griggs (see contact information below) to obtain shipwrecks data from the database and CSLC records for the Project site. The database includes known and potential vessels located on the State's tide and submerged lands; however, the locations of many shipwrecks remain unknown. Please note that any submerged archaeological site or submerged historic resource that has remained in State waters for more than 50 years is presumed to be significant. Because of this possibility, please add a mitigation measure requiring that in the event cultural resources are discovered during any construction activities, Project personnel shall halt all activities in the immediate area and notify a qualified archaeologist to</p>	<p>USACE has identified one submerged archaeological site located within the TSP Area of Potential Effects (APE). Examination of CSLC historical shipwreck database also indicates a potential for additional submerged archaeological sites within the APE. Due to the timing of the San Francisco to Stockton Navigation Improvement project planning, the Corps is currently unable to identify and evaluate cultural resources and determine effects within submerged portions of the TSP on historic properties prior to completion of the EIS/EIR. Therefore; pursuant to 54 U.S.C. 306108 and § 800.4(b)(2), the Corps is deferring final identification and evaluation of historic properties until after project approval, additional funding becomes available, and prior to construction by executing a Programmatic Agreement for this project. Based on the potential</p>

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	determine the appropriate course of action.	for additional submerged cultural resources, USACE recommends submerged cultural resource surveys within areas with a high potential for containing additional cultural resources. Mitigation measures were added in section 4.1.11 in the event that cultural resources are discovered during construction activities.
CSLC-11	<u>Title to Resources:</u> The EIS/EIR should also mention that the title to all abandoned shipwrecks, archaeological sites, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the CSLC (Pub. Resources Code, § 6313). CSLC staff requests that the Port of Stockton consult with Assistant Chief Counsel Pam Griggs (see contact information below), should any cultural resources on state lands be discovered during construction of the proposed Project.	Pub. Resources Code 6312 is incorporated by reference. In Section 4.1.11.
CSLC-12	<u>Deferred Mitigation:</u> In order to avoid the improper deferral of mitigation, mitigation measures should either be presented as specific, feasible, enforceable obligations, or should be presented as formulas containing "performance standards which would mitigate the significant <i>effect</i> of the project and which may be accomplished in more than one specified way" (State CEQA Guidelines, §15126.4, subd. (a)).	The proposed project includes beneficial reuse of the dredged material as a minimization measure to offset environmental effects, therefore, mitigation is not expected to be needed for this project.
CSLC-13	<u>Alternatives:</u> In addition to describing mitigation measures that would avoid or reduce the potentially significant impacts of the Project, the Port of Stockton should identify and analyze a range of reasonable alternatives to the proposed Project that would attain most of the Project objectives while avoiding or reducing one or more of the potentially significant impacts (see State CEQA Guidelines, § 15126.6).	The Alternatives are presented in Chapter 3 of the EIS/EIR.
Center for Biological Diversity (CBD)-1	The Corps Must Analyze How the Project-Related Increase in Ship Noise Will Harm Marine Species The Corps must consider the impacts of increased shipping noise on	Noise effects are discussed in Chapter 4 of the EIS/EIR. We are not anticipating an increase in ship traffic (i.e., trip frequency) or

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	<p>marine species. Any deepening and widening that increases the capacity or the “efficiency” of the Port will lead to an increase in the number of vessels calling at the Port when compared to current Port traffic. In its EIS, the Corps must recognize this and discuss resultant noise impacts accordingly.</p>	<p>size as a result of this project. The assumption is that the existing ships that call (i.e., oil tankers) simply would be more fully loaded, leading to a reduction in vessel transits/calls with channel deepening. Increased noise which likely would be associated with larger ships (McKenna et al. 2013) is not expected to result from this project.</p>
<p>CBD-2</p>	<p>Human-Caused Ocean Noise Harms Marine Species</p> <p>Anthropogenic ocean noise can severely impact marine species. Oceans are much louder today than they were a century ago, primarily due to increased anthropogenic noise.¹ The National Oceanic and Atmospheric Administration (NOAA) has recently began mapping marine noise levels using its SoundMap and CetMap mapping tools.² These maps show that human- caused cumulative and ambient ocean noise pollution has increased ambient sound levels to over 100 decibels (dB) across the majority of the Pacific and Atlantic oceans (see figures 1 and 2, below).³ This sound level is equivalent to attending a live rock concert or standing next to a running chainsaw.⁴</p> <p>Marine mammals use different song, chirp, and whistle frequencies for a variety of purposes, including echolocation for feeding, long-distance communication, environmental imaging, individual identification, and breeding.⁵ Odontocetes, or toothed mammals such as dolphins and killer whales, produce broad-spectrum clicks and whistles that can range between 1 and 200 kilohertz (kHz).⁶ Mysticetes, or baleen whales such as blue and right whales, have much lower-frequency calls, ranging between 0.2 and 10 kHz.⁷ (**more information in actual letter with figures on noise impacts)</p>	<p>Thank you for your comment and references to use for a noise impact analysis. We are not anticipating an increase in ship traffic (i.e., trip frequency) or size as a result of this project. The assumption is that the existing ships that call (i.e., oil tankers) simply would be more fully loaded, leading to a reduction in vessel transits/calls with channel deepening. Increased noise which likely would be associated with larger ships (McKenna et al. 2013) is not expected to result from this project.</p>

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<p>CBD-3</p>	<p>The Corps Should Conduct Sound Mapping Near the Port of Stockton As part of its environmental review, the Corps should conduct sound mapping of the area surrounding the Port, as well as the Port’s shipping lanes to determine an accurate baseline for marine noise. Sound mapping has become an established practice in marine waters.²⁶ In order to better and more accurately understand the sound landscape of the San Francisco Bay and Pacific Ocean shipping routes, the Corps should conduct its own mapping of the Port. Such mapping would be able to give the public and the scientific community a more accurate baseline of the Port’s sound profile, and it would allow the Corps to more accurately estimate the sound impact the Project may have on that sound profile, as well as more accurately describe the effects any proposed mitigation on marine sound.</p>	<p>This project has been reduced in scope from 2016 and the deepening will only go to Avon (i.e., just upstream of the Benicia-Martinez Bridge), not to the Port of Stockton. Consequently, no sound mapping of the Port of Stockton is needed for this project. The 2010 report titled, "Dissolved Oxygen and Water Quality Modeling for Stockton DWSC Final Report" shows minimal changes in dissolved oxygen. This report is available upon request.</p>
<p>CBD-4</p>	<p>The Corps Must Evaluate How Increased Ship Size and Traffic Will Increase the Risk of Ship Strikes The Corps must also consider the effect of increasing the size and number of ships calling at the Port as it relates to the increased risk of harm from ship strikes. Ships striking and killing or maiming marine species is a serious, prevalent problem that the Project may worsen in the Bay Area.</p>	<p>We are not anticipating an increase in ship traffic (i.e., trip frequency) or size as a result of this project. The assumption is that the existing ships that call (i.e., oil tankers) simply would be more fully loaded, leading to a reduction in vessel transits/calls with channel deepening. Therefore, there should be no change in estimated ship strikes or propeller entrainment.</p>
<p>U.S. Environmental Protection Agency (EPA)-1</p>	<p>Several elements of the Action Plan (San Francisco Bay Delta Action Plan) should be considered in the DEIS including: 1) the pending update of estuarine water quality standards in the Bay-Delta Water Quality Control Plan; 2) advancing regional monitoring; 3) accelerating water quality improvement through Total Maximum Daily Load (TMDL) implementation; 4) revised selenium criteria in San Francisco Bay and Delta; and 5) the Bay Delta Conservation Plan (which is no longer proposed as a habitat conservation plan and has been recast as the California WaterFix).</p>	<p>The EIS/EIR discusses environmental effects in Chapter 4.</p>

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EPA-2	<p><i>Selenium Criteria & TMDL Implementation</i></p> <p>Changing the hydrodynamics of the San Francisco Bay and Delta by deepening the ship channel may affect dissolved oxygen levels and alter sensitive organisms' selenium exposure. EPA plans to release draft revised selenium criteria in mid-2016 for the San Francisco Bay and Sacramento-San Joaquin Delta to protect aquatic life and wildlife. The EIS should evaluate how changes in hydrodynamics would affect selenium exposure and protection of fish and wildlife in the context of existing and new modified draft criteria. Similarly the EIS should evaluate how changes in hydrodynamics that would result from deepening the ship channel would impact implementation of selenium and dissolved oxygen TMDLs and other efforts to achieve water quality targets for these stressors.</p>	The EIS evaluates water quality in Section 4.1.3.
EPA-3	<p><i>WaterFix</i></p> <p>The California Department of Water Resources has proposed the California WaterFix project to construct new water diversion intakes on the Sacramento River and a 40 mile twin tunnel conveyance facility under the Delta to existing water export facilities at the south end of the Delta. This project would result in a significant change to the way freshwater moves into and through the Delta. California has launched a separate EcoRestore initiative to pursue the restoration and stewardship of 30,000 acres of floodplains, riparian forests, and wetlands within the Delta. The EIS should discuss the proposed project in the context of the proposed operational scenario for the WaterFix Project (including Central Valley Project and State Water Project operations) as well as in the context of the goals, implementation, and environmental impacts of both WaterFix and EcoRestore.</p>	This project has been reduced in scope from 2016 and the deepening will only go to Avon (i.e., just upstream of the Benicia-Martinez Bridge), not to the Port of Stockton. Impacts to X2 from this project were assessed in the Hydrodynamic and Salinity Intrusion Modeling Report (AnchorQEA 2016) using criteria provided in USFWS (2008), which is the biological opinion assessing the effects of Federal and State Water Project operations on delta smelt (<i>Hypomesus transpacificus</i>).

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EPA-4	<p><i>Beneficial Reuse</i></p> <p>The NOI does not provide an estimate of the volume of dredged material that would be generated by any of the deepening alternatives, but EPA anticipates that it would amount to several million cubic yards.</p> <p>Please note that EPA will not concur on ocean disposal of dredged material if, in our independent evaluation, we determine that there is an alternative to ocean disposal that is practicable. We do not consider that incrementally increased construction costs, alone, necessarily render an alternative to ocean disposal impracticable, especially for a new construction Civil Works project.³ We understand that the EIS must identify the National Economic Development (NED) alternative; however, we also note that USACE is not obligated to select the NED plan.</p> <p>We reiterate the comments from our previous two scoping letters that the EIS should commit to direct beneficial reuse of 100 percent of the dredged material generated by the deepening project. EPA believes reuse of all of the project's dredged material will assist with important efforts to combat the effects of sea level rise and help restore habitat. To this end, the EIS should evaluate in detail the capacity at existing reuse sites (including but not limited to Cullinan Ranch, Winter Island, the Montezuma Wetlands Restoration Project, Ocean Beach, and other sites identified during development of the Sacramento Deep Water Ship Channel DEIS), as well as other potential sites currently in the planning phases (such as Skaggs Island, Bel Marin Keys, Eden Landing, Ravenswood, and the South Bay Salt Ponds). The EIS should also consider potential placement sites being evaluated by the WaterFix project. The EIS should not limit its evaluation to individual beneficial reuse sites capable of accommodating airof the material; reuse opportunities exist along the length of the proposed project, and utilization of a mix of these sites should</p>	<p>This project proposes to use all dredged material for beneficial reuse on Montezuma Wetlands or Cullinan Ranch.</p>
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	also be considered.	
EPA-5	<p><i>Potential Dredging Impacts to Sensitive Species</i> Federal- and State-endangered species including Delta smelt, green sturgeon, various salmon runs, and the state-listed longfin smelt (among other sensitive species) occur in the project area. These species are particularly vulnerable to entrainment via hydraulic dredging (including by hopper dredges), but are generally considered less vulnerable to mechanical clamshell dredging. The choice of dredging method therefore may have a direct relation to the degree of environmental impact caused by both initial deepening and future maintenance dredging activities. The EIS should specifically discuss construction methods and commit to using the least damaging method possible in each project reach. This evaluation should also consider future maintenance dredging.</p>	This project proposes only to use clamshell dredges to reduce and minimize impacts to listed species.
EPA-6	<p><i>Future Maintenance Dredging Needs -Federal Standard</i> The EIS should evaluate whether deepening the channel would affect future maintenance dredging volumes in different reaches. It should then discuss how future maintenance dredging will be accomplished, including whether specific dredge equipment types are absolutely necessary (see comment above) and where placement of maintenance dredged material would occur. We note that the issue of certain dredge equipment types – specifically with regard to entrainment of sensitive species – is already significantly controversial in the project area. Regulatory and resource agencies are calling for reduced hydraulic (hopper) maintenance dredging in the area, and it is possible that USACE will be required to reduce hydraulic dredging in the future, independent of deepening the channel. The EIS should address whether and how the benefit-cost ratio for maintaining the deepened channel would be affected by the type of dredging - mechanical or hydraulic – chosen or required for the different project reaches. This evaluation should not be deferred to a</p>	Maintenance dredging is also discussed in the Civil Design Appendix.

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	<p>future Dredged Material Management Plan (DMMP) exercise for determining the "Federal Standard" for the different reaches, nor should a single "Federal Standard" placement option be presumed for the entire project length.</p>	
<p>EPA-7</p>	<p>Water Quality: The project has the potential to significantly impact water quality in the Delta and San Francisco Bay, and each of the alternatives should include a robust discussion of impacts to water quality. The importance of Delta water quality as a source of drinking water, irrigation water, and as the habitat for many important aquatic species places a spotlight on water quality analyses for the EIS.</p> <p>The California WaterFix project would significantly change the "plumbing" of the Delta and should be considered a reasonably foreseeable future action for this project's EIS. The EIS should include an evaluation of salinity and other water quality impacts of the project, both with and without the proposed major diversion of freshwater around the Delta.</p>	<p>Effects to water quality are discussed in Chapter 4.1.3 of the EIS/EIR.</p>
<p>EPA-8</p>	<p>The EIS should also assess potential direct, indirect and cumulative impacts to water quality from project activities such as sediment dredging and disposal. The analysis in the EIS should describe Clean Water Act Section 303(d) listings of impaired water bodies and TMDLs, and describe how the project could potentially affect these impairments. Of particular relevance to the second phase of the proposed project is the low dissolved oxygen (DO) in the Stockton Deep Water Ship Channel and the fact that existing channel configuration contributes to this impairment. The EIS should consider potential impacts on DO levels in the lower San Joaquin River. This analysis should clearly state assumptions regarding implementation of all aspects of the TMDL (improving ship channel geometry, management of oxygen demanding substances, and River flows). We also recommend that USACE consider if low DO can be reduced through changes in channel</p>	<p>The 2010 report titled, "Dissolved Oxygen and Water Quality Modeling for Stockton DWSC Final Report" shows minimal changes in dissolved oxygen, which in turn would suggest the proposed project would result in minimal changes. This report is available upon request.</p>

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	geometry associated with Project alternatives.	
EPA-9	<p><i>Hydrodynamics</i></p> <p>Channel deepening is expected to affect the hydrodynamics of the Delta and SF Bay. The EIS should describe these effects and the modeling used to inform the determinations. The EIS should also discuss the potential for altered hydrodynamics to directly, indirectly and cumulatively affect water quality, biological resources, and other resources influenced by hydrodynamic conditions in the Project area.</p> <p>EPA is particularly concerned with effects to aquatic life from changes to dissolved oxygen and salinity concentrations that could result from modified hydrodynamics from channel deepening.</p>	<p>The hydrodynamic model used in this technical study is the 3-D hydrodynamic model UnTRIM. Effects are discussed in Chapter 4 of the EIS/EIR, and detailed modeling data/results are located in the Salinity Modeling Report and the Water Resources Appendix. The model estimates no change to hydrodynamics (stage and flow) within the Bay-Delta system. The 2010 report titled, "Dissolved Oxygen and Water Quality Modeling for Stockton DWSC Final Report" shows minimal changes in dissolved oxygen. This report is available upon request.</p>
EPA-10	<p><i>Mitigation</i></p> <p>In addition to baseline and effects analysis, the EIS should describe avoidance and mitigation measures to address water quality degradation from the project. Mitigation should be focused on meeting water quality standards and compliance with the CWA and the Porter-Cologne Water Quality Control Act.</p> <p>The Central Valley and San Francisco Bay Regional Water Quality Control Boards should be consulted as well as EPA, in the development of mitigation measures. Results of this coordination should be described in the EIS.</p> <p>In our 2013 letter, we understood a key water quality mitigation measure for the project would be restoration of tidal action to several thousand acres of lands within the Suisun Marsh. Given that the project is now proposed in two phases, and EPA assumes the majority of the acres needed for mitigation would be in Phase II, our prior concerns with regard to availability of appropriate mitigation should be directed at the programmatic evaluation of Phase II. Both</p>	<p>The EIS/EIR discusses avoidance and minimization measures. In order to minimize impacts, the project is proposing to use all material for beneficial reuse.</p> <p>The scope of this project was reduced to only include Pinole Shoal and a portion of Bulls Head Reach.</p>

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	<p>phases in the EIS should include an evaluation of availability and water quality benefits of any proposed mitigation.</p> <p>As noted in our 2013 letter, if additional water releases from reservoirs are needed for water quality impact mitigation, the EIS should discuss whether such volumes would be possible given the other constraints on the water supply/delivery system. The EIS should disclose how the overall cost of needed mitigation (including water releases) may affect the benefit/cost ration of the project alternatives.</p>	
EPA-11	<p><i>Water Supply</i></p> <p>Because of the importance of the Delta to water supply in California, the EIS should include an analysis and discussion of how the alternatives could affect water supply conditions within both a water delivery and water quality context.</p>	The EIS/EIR discusses environmental effects in Chapter 4 for water supply.
EPA-12	<p><i>Air Quality</i></p> <p>The EIS should provide a detailed discussion of existing ambient air conditions, National Ambient Air Quality Standards (NAAQS) and nonattainment areas, and potential air quality impacts of the project, including cumulative and indirect impacts. Cumulative impacts include, but are not limited to, those from construction, any increased ship traffic, new capacity for larger ships due to channel deepening, increased truck or rail transport, on-dock equipment use, and refinery operations. The expected timing and frequency of dredging and transporting of dredged material should be identified in the EIS. Emissions should be estimated for any construction phases and for maintenance activities, including dredge spoil activities. Measures that could mitigate construction-related emissions should be discussed, including alternative fuels, electrification, minimizing diesel truck trips, etc. An estimate of the air quality benefits that would result from each identified mitigation measure should be included in the EIS.</p>	An air quality analysis was completed and is contained in the Environmental Appendix, Attachment 5 Air Quality Report.

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<p>EPA-13</p>	<p>EPA's General Conformity Rule, established under Section 176(c)(4) of the Clean Air Act, provides a specific process for ensuring federal actions will conform with State Implementation Plans to achieve National Ambient Air Quality Standards. The EIS should include a discussion of the applicability of the General Conformity Rule to the project.</p> <p>The proposed project area falls within both the San Francisco Bay Area and San Joaquin Valley air basins. Both of these basins are designated nonattainment for national ambient air quality standards (NAAQS), including ozone (O₃) and particulate matter smaller than 2.5 microns (PM_{2.5}). The SFBay Area basin is designated marginal nonattainment for 8-hour ozone, and moderate nonattainment for 24-hour PM_{2.5}. The San Joaquin Valley air basin is designated extreme nonattainment for 8-hour O₃, serious nonattainment for 24-hour PM_{2.5}, moderate nonattainment for annual PM_{2.5}, and maintenance for PM₁₀. The Port of Stockton also appears to be located within the Stockton Carbon Monoxide maintenance area.</p>	<p>The EIS/EIR discusses air quality effects in Chapter 4.1.4.</p>
<p>EPA-14</p>	<p>Ecosystem services accounted for in USACE's valuations should include direct and indirect consumer values, and use and non-use values. For example, ecosystem service "costs" due to decline of Delta smelt from this project could be accounted for in multiple ways since the smelt provide both indirect use value as a food source to fishery species and direct non-use, existence value to the general public.</p> <p>Ecosystem service "benefits," such as those from improved wetland habitat from the beneficial reuse of dredged material, should also be included.</p> <p>There are several tools available to help assess costs and benefits of ecosystem services. The USACE 1996 study, "Monetary</p>	<p>The Corps did not specifically do an ecosystem services analysis, however, this proposed project includes minimization measures to offset environmental effects by placing all dredged material onto beneficial reuse sites. These beneficial reuse sites benefit species such as Delta smelt, along with other species, by providing wetland habitat, offsetting sea level rise impacts, and overall using the material to provide habitat for listed and non-listed species.</p>

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	<p>Measurement of Environmental Goods and Services: Framework and Summary of Techniques for Corps Planners"¹⁰ contains a broad overview of valuation methods, and EPA's "Guidelines for Preparing Economic Analyses,"¹¹ updated in 2014, includes guidance for how to include such valuations. Though intended for policy analysis, EPA's recently published "National Ecosystem Services Classification System (NESCS): Framework Design and Policy Application"¹² and "Final Ecosystem Goods and Services Classification System"¹³ offer frameworks for determining those ecosystem services to consider. Two documents published by USACE in 2013, "Incorporating Ecosystem Goods and Services in Environmental Planning - Definitions, Classification and Operational Approaches"¹⁴ and "Using Information on Ecosystem Goods and Services in Corps Planning,"¹⁵ outline specific strategies for incorporating these considerations in planning processes.</p>	
<p>EPA-15</p>	<p><u>Cumulative Effects</u> The Eastern Reach of the project, which would be evaluated at a programmatic level in the EIS, passes adjacent to many areas that are not currently developed for maritime use. Some locations may be particularly subject to additional or different development pressures if this portion of the channel is deepened and Vessel traffic increases (for example, the former Concord Naval Weapons Station). The EIS should generally discuss the degree to which the deepening project may have growth-inducing effects beyond the Port of Stockton itself.</p>	<p>Since 2016, there has been a reduction in scope and the project does not include the eastern reach previously discussed. Cumulative effects are discussed in Chapter 4 of the EIS/EIR.</p>
<p>EPA-16</p>	<p><u>Climate Change</u> EPA recommends that this EIS include a qualitative description of relevant climate change impacts, an estimate of the greenhouse gas (GHG) emissions associated with the project during construction and operation, and practicable mitigation measures</p>	<p>A sea level rise analysis is provided in the Appendix B - Water Resources.</p>

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	<p>to reduce project-related GHG emissions. We suggest the following approach:</p> <p><i>Affected Environment Section</i> Include in the "Affected Environment" section of the EIS a summary discussion of climate change and ongoing and reasonably foreseeable climate change impacts relevant to the project, based on U.S. Global Change Research Program assessments.¹⁶ These future climate scenarios can be useful when considering mitigation to reduce potential impacts of the proposal that could be altered by a changing climate. Impacts to consider include sea level rise and changing hydrology due to differences in timing, frequency and amount of precipitation providing water flows through the project area.</p>	
EPA-17	<p><i>Environmental Consequences Section</i> The EPA recommends that the EIS estimate the GHG emissions associated with the proposal and its alternatives. Example tools for estimating and quantifying GHG emissions can be found on CEQ's website.¹⁷ These emissions levels can serve as a reasonable proxy for climate change impacts when comparing the alternatives and mitigation.</p>	GHG emissions are discussed in Climate Change, Chapter 4 of the EIS/EIR.
EPA-18	<p><i>Cumulative Impacts and Reasonably Foreseeable Actions</i> In addition to looking at the direct impacts of a proposed project, CEQ regulations (Section 1502.16) instruct agencies to consider other effects that are reasonably foreseeable. Thus, in addition to analyzing impacts associated with the construction of the project, we recommend that the EIS analyze reasonably foreseeable impacts resulting from a potential increase in the transportation and combustion of refined petroleum and coal, which are major exports of ports within the proposed project area. We recommend that the study include a calculation of the increased potential for export and consumption of refined petroleum and coal that</p>	This project would not be expected to result in increased ship traffic. The deepening allows the ships to increase the amount of weight, potentially resulting in less ship traffic because the ships can carry more on each load. The Economics Appendix provides a detailed explanation and Chapter 4 of the main report discusses GHG emissions in relation to the alternatives.

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	<p>would result from the proposed action's impact on transportation costs and vessel loads. Even though the ultimate end use of the petroleum and coal is likely to occur outside the US, due to the global nature of climate change, these additional greenhouse gas emissions would impact the U.S. Because of these impacts, it is appropriate and consistent with NEPA and CEQ regulations to disclose the GHG emissions in the EIS. These emissions should be disclosed in the EIS due to their reasonably close causal relationship to the project.</p> <p>The EPA recommends that the EIS describe measures to reduce GHG emissions associated with the project, including reasonable alternatives or other practicable mitigation opportunities and disclose the estimated GHG reductions associated with such measures. The EPA further recommends that the EIS commit to implementation of reasonable mitigation measures that would reduce or eliminate project- related GHG emissions.</p>	
EPA-19	<p><i>Climate Change Adaptation</i> The EPA recommends that USACE discuss how future climate scenarios addressed in the "Affected Environment" section may impact the proposal. Changing climate conditions can affect a proposed project, as well as the project's ability to meet the purpose and need presented in the EIS. In some cases, adaptation measures may avoid the potentially significant environmental impacts of failure to adequately address the threat of a changing climate on the proposal.</p>	Climate change is discussed in the EIS/EIR Chapter 4.
EPA-20	<p><i>Effects of Climate Change on Project Impacts</i> When considering the potential impacts of the proposal, we recommend USACE consider the future climate scenarios in the "Affected Environment" section to determine whether the environmental impacts of the alternatives would be exacerbated by climate change. If impacts may be exacerbated by climate change, additional mitigation measures may be warranted.</p>	Climate change is discussed in the EIS/EIR Chapter 4.

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<p>State Water Contractors (SWC)-1</p>	<p>The SWC would like to emphasize that increasing the depth of the John F. Baldwin and Stockton Ship Channels (Ship Channels) would change Delta hydrology, likely causing degradation in water quality in terms of localized decreased dissolved oxygen concentrations. Additionally, altering the depth of the Ship Channels would change the tidal prism in the Bay-Delta and likely result in increased salinity intrusion. Increased salinity concentrations in the Bay-Delta have wide-reaching effects, including but not limited to adverse impacts on the SWP water supply required to meet D1641 Bay-Delta water quality standards, distribution and health of Pelagic Organism Decline species including delta smelt, and increased water treatment costs for Municipal and Industrial uses.</p>	<p>The salinity modeling report is located as Attachment 1 in the Water Resources Appendix B and does not show a significant increase in the shift of X2.</p>
<p>SWC-2</p>	<p>Previous dredging projects in the Delta have raised concerns that sediments may be contaminated with pesticides and toxic heavy metals, including arsenic, copper, mercury, lead, nickel, and zinc. Dredging these sediments could reintroduce contaminants into the water column, negatively affecting salmon, smelt, and sturgeon that are listed under the Endangered Species Act and the approximately 26 million people that rely on the Delta for their drinking water supply.</p>	<p>Chapter 4 in the EIS/EIR and the Water Resources Appendix B describes the sediment characteristics in the proposed deepening channels.</p>
<p>SWC-3</p>	<p>Aside from water quality concerns, dredging may negatively impact aquatic species through the repeated removal of benthic communities that are a food source for many protected species. Aquatic species may also be negatively impacted by noise caused by dredging, and entrainment in the dredging machinery. There are also issues associated with the disposal of the dredged material that should be considered, including the impact that dredge slurry may have on groundwater and, if disposal sites on Delta islands are being considered, the impact that dredge slurry may have on water quality in the Delta channels.</p>	<p>All environmental impacts are assessed in Chapter 4 in the EIS/EIR. The dredged material is proposed to be placed in one of two beneficial reuse sites, which contain their own permits for accepting dredged material.</p>
<p>SWC-4</p>	<p>The impact of the increased shipping traffic that would likely result from the deepened channel is also a concern, particularly</p>	<p>We are not anticipating an increase in ship traffic (i.e., trip frequency) or size as a result</p>

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	hydrodynamics caused by passing ships, pollution caused by exposure to petroleum products, ship propeller entrainment, and shipping noise. Increased shipping traffic also may exacerbate current adverse impacts from invasive species through transport and release of non-native species into the Delta from ballast water.	of this project. The assumption is that the existing ships that call (i.e., oil tankers) simply would be more fully loaded, leading to a reduction in vessel transits/calls with channel deepening. Therefore, there should be a possible reduction in estimated ship strikes or propeller entrainment.
SWC-5	Due to the reasons described above, the SWC recommends that the Corps perform a thorough evaluation of the past and present impacts associated with implementation of the Navigation Improvement Project on Bay-Delta hydrology, water quality, fisheries, critical habitat, and other ecosystem factors. Through a peer-reviewed process, development and implementation of hydrodynamic and water quality models to accurately assess effects of altering channel depth is also strongly recommended.	A hydrodynamic salinity model was completed and the report is contained as Attachment 1 in Appendix B (Water Resources).
California Department of Transportation (Caltrans)-1	<i>Mitigation Responsibility</i> As the lead agency, Port of Stockton (Port) is responsible for identifying and ensuring the coordinated implementation of all project mitigations. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. Planned improvements on Caltrans' Right-of-way (ROW) should be listed, if any, in addition to identifying viable funding sources per General Plan Guidelines.	The Port of Stockton will coordinate with the appropriate entities and discuss any minimizations to impacts within the EIS/EIR. No mitigation is anticipated at this time due to the minimization measures taken within the proposed project (beneficial reuse, work within environmental windows, and using a clamshell dredge).
Caltrans-2	<i>Freight Planning</i> The Port is a very robust inland river port and they continue to expand their business. With the advent of a deeper channel that will potentially accommodate larger vessels, the project should describe how the ship turning basin at the Port will be modified and should identify if this is a factor in the Environmental Impact Report. Please also describe what analyses are	This project has been reduced in scope from 2016 and the deepening will only go to Avon (i.e., just upstream of the Benicia-Martinez Bridge), not to the Port of Stockton.

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	<p>needed to ensure safe turning movements for ships. Additionally, impacts to the environment from the potential need for an expanded turning basin should be identified and mitigated.</p>	
<p>Caltrans-3</p>	<p>Structures Maintenance The document indicates that additional 10 feet dredging has been authorized, but this authorization is without Caltrans Structures Maintenance Division's knowledge. There are significant bridges on the navigation channel through multiple counties and within Caltrans' Districts 4 and 10 Jurisdictions. With the potential deepening of the channel, the impacts to bridges from larger vessels being able to navigate the channel should be identified and addressed. Even though these bridges' are not scour critical bridges at this moment, they must analyzed for additional exposed foundation depth.</p>	<p>The areas of the federal channels that will be deepened as part of this project are not in the vicinity of any CALTRANS structures. The channel(s) are naturally deeper than 38-ft MLLW where the CALTRANS structures are located.</p>
<p>Caltrans-4</p>	<p>Please fully address the following subjects described below, which should be addressed by the applicant's Licensed Bridge Hydraulics and supported by calculations:</p> <ul style="list-style-type: none"> • Potential for additional scour within the channel way and at the bridges over those waterways that drain to this channel; • Tidal influence due to additional dredging; • Sediment relocation from the nearby waterway because of additional dredging. If the net sediment transportation (before and after the project) is positive, it may cause exposing the foundation of the bridges over those waterway; • Impacts as it pertains to communications at the bridges or any communications cables that are submerged or attached to any of the bridges in the pathway; and • Provide navigation map for existing route that displays 	<p>Please see Attachment 1 of Appendix B, Water Resources for the Salinity Modeling Report.</p>

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	<p>distances to Caltrans bridge supports. This will provide further information if additional engineering analysis should be provided.</p> <p>Alternatively, the applicant may submit a more accurate proposed dredging location with respect to the bridge supports and datum, which we may review again.</p>	
<p>Caltrans-5</p>	<p>Please ensure that a Transportation Study is prepared providing the information detailed below:</p> <ol style="list-style-type: none"> I. Vicinity map, regional location map, and a site plan clearly showing project access in relation to nearby State roadways. Major State Highway System routes serving the Port should be identified including all ingress and egress for all project components on State ROW. Project driveways, local roads and intersections, car/bike parking, and transit facilities if applicable should be mapped. 2. From reviewing the NOP, it appears that they are increasing the draft to allow for both "new panama" and "post panama" container ships to travel the delta. This would roughly double the amount of cargo transported on a single trip. It would be wise the Port undertake a transportation study that assesses the change in truck AADT, as well as the overall impact to AADT, and assessing peak hour impacts. 3. Project-related trip generation, travel demand distribution, and assignment including per capita use of transit, rideshare, active transportation modes, truck/passenger car equivalency, and vehicle miles traveled (VMT) reduction factors. The assumptions and methodologies used to develop this information should be detailed in the study, utilize the latest place-based research, and be supported with appropriate 	<p>Economics discuss the hinterland as it relates to the inland trade region for origins or destinations of commodities.</p> <p>Panamax containerships are not included in the analysis, as they were not determined to have benefits within the proposed channel deepening area.</p> <p>The proposed project was reduced in scope and no longer include deepening to the Port of Stockton. There is not an expected increase in the number of ships, rather, the amount of material on each ship could be increased due to the deeper channel.</p>

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	<p>documentation.</p> <p>4. Assessment of existing and forecasted conditions to the State Highway System network as a result of increased goods being shipped along the deep draft navigation route extending from the San Francisco Bay to the Port of Stockton in addition to intermodal operations and the increase travel demand of truck traffic traveling into and out of the Port of Stockton. Calculation of cumulative traffic volumes should consider all traffic-generating developments, both existing and future, that would affect State facilities being evaluated.</p> <p>Schematic illustration of walking, biking, vehicle conditions at the project site and study area roadways, trip distribution percentages and volumes as well as intersection geometrics, i.e., lane configurations, for AM and PM peak periods. Potential safety issues for all road users as a result of intermodal operations should be identified and fully mitigated. The analysis should describe an active transportation mitigation measures and safety countermeasures that would be needed as a means of reducing vehicle trips on state highways.</p>	
Caltrans-6	<p><i>Transportation/Alignment Plan</i></p> <p>A Transportation Management Plan (TMP) or construction TIS may be required of the Port for approval by Caltrans prior to construction where traffic restrictions and detours affect State highways. TMPs must be prepared in accordance with California <i>Manual on Uniform Traffic Control Devices</i>. Please ensure that such plans are also prepared in accordance with the transportation management plan requirements of the corresponding jurisdictions. For further IMP assistance, please contact the Office of Traffic Management Plans/Operations Strategies at (510) 286-4579. IMP information is also available at the following webpage: http://www.dot.ca.gov/hq/traffops/engineering/mutcd/pdf/</p>	The proposed project is occurring within an existing navigation channel that is routinely maintained.

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	camutcd2014/Part6.pdf.	
Caltrans-7	<p><i>Encroachment Permit</i></p> <p>Please be advised that any work or traffic control that encroaches onto the State ROW requires an encroachment permit that is issued by Caltrans. Traffic-related mitigation measures should be incorporated into the construction plans prior to the encroachment permit process. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the following address: David Salladay, District Office Chief, Office of Permits, California Department of Transportation, District 4, P.O. Box 23660, Oakland, CA 94623-0660. See the following website for more information: http://www.dot.ca.gov/hq/traffops/developserv/permits.</p>	The proposed project is occurring within an existing navigation channel that is routinely maintained.
San Francisco Bay Conservation and Development Commission (BCDC)-1	In reviewing the NOI, it appears that the proposed project would include the following activities within the Commission's Bay and shoreline band jurisdictions: (1) deepening and widening the channel through dredging; and (2) beneficial reuse of dredged material. In addition, deepening of the channel has the potential to increase the use of the channel, alter circulation patterns within the Bay and Suisun Marsh, affect water quality, or result in other impacts in the coastal zone.	Thank you for your comment, this project has a reduced scope from 2016 and only includes deepening the channel to Avon, with a sediment trap at Bulls Head Reach.
BCDC-2	Dredging and Material Placement. The John F. Baldwin Channel, extending from just outside the Golden Gate to Chipps Island, is in the Commission's Bay jurisdiction. The proposed deepening of the channel from -35 feet mean lower low water (MLLW) to -45 MLLW would involve new dredging and beneficial reuse of dredged sediment. The proposed deepening project would need to be consistent with the Commission's San Francisco Bay Plan (Bay Plan)	Thank you for your comment, this project has a reduced scope from 2016 and only includes deepening the channel to Avon to -38 feet MLLW, with a sediment trap at Bulls Head Reach to -42 feet MLLW.

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	<p>policies, which are available from the Commission's offices or website (http://www.bcdc.ca.gov/publications/). Several of the applicable policies are discussed below.</p>	
<p>BCDC-3</p>	<p>Long Term Management Strategy. As you are aware, the Corps, BCDC, the United States Environmental Protection Agency (EPA), and the San Francisco Bay Regional Water Quality Control Board (Water Board), are partners in the Long Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region (LTMS). As part of this partnership, the LTMS program is dedicated to maximizing beneficial reuse of dredged sediment in the region. It is BCDC staff's understanding that all material dredged during this project would be beneficially reused, however if that is not the case, an analysis should be included to show that any in-Bay disposal is the minimum amount necessary to achieve the project, meets the LTMS goals, and is consistent with BCDC laws and policies.</p>	<p>All material is proposed to be used beneficially at Cullinan Ranch or Montezuma Wetlands.</p>
<p>BCDC-4</p>	<p>Dredging Policies. Bay Plan Dredging Policy No. 1 states, in part, that dredging should be conducted in an environmentally sound manner and that dredgers should reduce disposal in the Bay and certain waterways over time to achieve the LTMS goal of limiting in-Bay disposal volumes. Bay Plan Dredging Policy No. 2 allows dredging when (1) the applicant has demonstrated that the dredging is needed to serve a water-oriented use or other public purpose, such as navigational safety; (2) the materials to be dredged meet the water quality requirements of the Water Board; (3) important fisheries and Bay natural resources would be protected through seasonal restrictions established by the California Department of Fish and Game, the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service, or through other appropriate measures; (4) the siting and design of</p>	<p>The Corps believes that the proposed project is consistent with the policies for the Bay Plan. The EIS/EIR analyzes and describes environmental effects in Chapter 4.</p>

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	<p>the project will result in the minimum dredging volume necessary for the project; and (5) the material would be disposed of in accordance with the Commission's policies.</p> <p>Bay Plan Dredging Policy No. 3 requires dredged material to be reused or disposed outside the Bay, if feasible. In-Bay disposal can be allowed only if there is no feasible alternative and:</p> <ul style="list-style-type: none">(1) the volume is consistent with applicable dredger disposal allocations and disposal site limits adopted by the Commission;(2) the material would be placed at a site designated by the Commission;(3) the quality of material would be consistent with the advice of the Regional Water Quality Control Board and the Dredged Materials Management Office (DMMO); and(4) the disposal activity would be consistent with the advice of the resource agencies. In addition, <p>Bay Plan Dredging Policy No. 5 states that projects "should maximize use of dredged material as a resource consistent with protecting and enhancing Bay natural resources..." The EIS/EIR should analyze the proposed project in relation to the Commission's Dredging policies regarding dredging and disposal, particularly with respect to the Commission's policy preference for beneficial reuse of dredged material. This project involves new work deepening and not maintenance dredging. For new work projects, the LTMS agencies typically require disposal of material outside the Bay and/or placement at a beneficial reuse site. In particular, the EIS/EIR should identify beneficial reuse sites that are currently available and analyze the potential for additional sites to be created.</p>	
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BCDC-5	Minimize Harmful Effects to the Bay. In addition to the dredging policies, the EIS/EIR should address other applicable Bay Plan policies, including a discussion about the Commission's policies for protection of the Bay's natural resources, including fish, other aquatic organisms, and wildlife, and habitats needed for their protection, including tidal flats and marshes and subtidal areas.	Environmental effects to natural resources are discussed in Chapter 4 of the EIS/EIR. Minimization techniques to avoid impacts include using a clamshell dredge, working within construction windows for listed species, and beneficially reusing the dredged material.
BCDC-6	The EIS/EIR should analyze how the entire deepening project, including both Phase I and Phase II of the project, and all portions of the project including those outside the Commission's permit jurisdiction, that will affect the hydrology, sediment dynamics, water quality and biological resources of the Bay and the Suisun Marsh. It should include analysis of the climate change impacts, including the potential impact of sea level rise on tidal prism and channel scour in the project area through the life of the project. Specifically, the EIS/EIR should evaluate the potential impacts of saltwater intrusion and the impacts of higher salinities in the Suisun Marsh and Delta that may be a result of the proposed project. It should also analyze cumulative impacts, including the potential impacts of other projects being planned for the Delta, including deepening of the Sacramento Ship Channel and alternative conveyance facilities for the State Water Project, Central Valley Project, the California Water Fix and proposed restoration activities within the project area and the Delta, as they will have cumulative effects. The EIS/EIR should discuss the Commission's regulatory authority governing the protection of the Bay's natural resources and habitats.	This project has been reduced in scope from 2016 and only includes deepening to Avon. The salinity modeling report located at Attachment 1 in Appendix B (Water Resources) discusses salinity intrusion. The EIS/EIR describes environmental effects and avoidance/minimization measures to species and the Biological Assessment that is submitted to the USFWS and NMFS is included in Appendix G – Attachment 4.

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	<p>The EIS/EIR should address how construction restrictions regarding listed species, including salmon, steelhead, Delta smelt, longfin smelt and, most recently, North American green sturgeon, would be incorporated into the project schedule and provide a discussion of any avoidance, minimization and mitigation measures proposed as part of the project. It should also provide a discussion of biological opinions that the USACE would obtain under the Federal Endangered Species Act for impacts related to listed species and their critical habitat.</p>	
BCDC-7	<p>Water Quality. Pursuant to the Commission's Bay Plan Water Quality policies, pollution in the Bay's water "should be prevented to the greatest extent feasible." Further, in considering this project, the Commission would need to consider the Water Board's evaluation of and advice on the proposed project and any potential water quality impacts. Therefore, it is advisable that the project proponents conduct early consultation with the Water Board in conjunction with BCDC and obtain all necessary authorization to aid the Commission in determining whether the project would adversely impact the Bay's water quality. The EIS/EIR should analyze the impacts of the project on dissolved oxygen, release of pollutants, turbidity and salinity in the Bay and adjacent areas. Specifically, the EIS/EIR should evaluate saltwater intrusion in part of the Suisun Marsh and Delta and the impacts to water quality and water resources in the area.</p>	<p>There was an agency meeting in April of 2016 to discuss the project. Coordination with BCDC is expected to occur throughout the project cycle as well as through the NEPA process. The EIS/EIR discussed saltwater intrusion in Chapter 4 as well as in the Salinity Modeling Report located as Attachment 1 in Appendix B (Water Resources). The 2010 report titled, "Dissolved Oxygen and Water Quality Modeling for Stockton DWSC Final Report" shows minimal changes in dissolved oxygen. This report is available upon request.</p>
BCDC-8	<p>Turbidity. Both dredging and in-Bay disposal of dredged material would increase turbidity in the water column. The EIS/EIR should analyze the expected extent of the resulting plume, impacts on fish</p>	<p>Turbidity is discussed in Chapter 4 of the EIS/EIR.</p>

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	and other aquatic organisms, and whether any lateral movement of the plume would affect important habitat (e.g., eelgrass beds) whose viability is partly dependent on clarity of the water column for both dredging and aquatic disposal if it is proposed.	
BCDC-9	Sandy Deep Water. The Bay Plan's policies on subtidal areas state, in part, that dredging in sandy deep water should be allowed only if (1) there is no feasible alternative; and (2) the project provides substantial public benefit. The EIS/EIR should state the location and size of the affected sandy deep water, any anticipated habitat loss, and expectations as to the type and extent of replacement communities.	The substrate of the channels is described in the EIS/EIR.
BCDC-10	Rocky Habitat. The EIS/EIR should state the location and size of the affected rocky areas, if any, any anticipated habitat loss, and expectations as to the type and extent of replacement communities.	The EIS/EIR describe all existing habitat and effects from the proposed project.
BCDC-11	Mitigation. Environmental impacts to resources within the Bay should be minimized to the greatest extent practicable. In the event that the proposed project would result in adverse environmental impacts that cannot be avoided, the EIS/EIR should discuss proposed mitigation measures. The Commission's policies regarding mitigation state, in part, "projects should be designed to avoid adverse environmental impacts to [the] Bay" and, further, that "[w]henver adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable....[and] measures to compensate for...impacts should be required." The EIS/EIR should fully discuss any mitigation measures proposed. Commission staff will coordinate with local, state, and federal agencies with jurisdiction over Bay resources to determine an appropriate	The project proposes to minimize environmental impacts by using a mechanical clamshell dredge, working within the listed species work windows, and beneficially reuse the dredged material.

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	mitigation program is provided to compensate for the impacts of the proposed project.	
BCDC-12	<p>Commission Jurisdiction. A section of the proposed project would be located in portions of Suisun Bay within Solano County and, thus, in the Commission's primary management jurisdiction of the Suisun Marsh. In this area, the Suisun Marsh Act and the Suisun Marsh Protection Plan contain relevant policies that should be addressed in the EIS/EIR. According to the <i>Suisun Marsh Protection Plan</i> (Marsh Plan) policies, various habitats of the Marsh "...are critical...for marsh-related wildlife and are essential to the integrity of the Suisun Marsh." The EIS/EIR should examine any potential impacts of the construction and potential increase in use of the channel on Suisun Marsh habitat, water quality, and sediment supply and, if necessary, describe measures to mitigate these effects. Additionally, the EIS/EIR should address specifically how changing salinity levels and the location of X2 would impact Suisun Marsh and the species living within the Bay waters and in the marsh itself.</p>	The EIS/EIR describes effects to resources in Chapter 4.
BCDC-13	<p>Utilities and Improvements. Further, the Marsh Plan policies on utilities, facilities and transportation state, in part, that any Marsh waterway should be maintained in conformance with existing project specifications, provided that dredging "{a) is for a water-oriented use or other important public purpose; {b) the materials to be dredged meet the water quality requirements of the San Francisco Bay Regional Water Quality Control Board; and {c) important Marsh fisheries and wildlife and their habitat would be protected." Lastly, regarding dredged material disposal activities in the Marsh, these policies provide similar guidance to that contained in the Bay Plan's dredging policies, including that dredged material</p>	The EIS/EIR describes the alternatives in Chapter 3 and the environmental effects to resources in Chapter 4. All dredged material will be placed on beneficial reuse sites.

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	<p>disposal should occur in "non-tidal areas where the materials can be used beneficially to restore, enhance or manage the Marsh...."</p> <p>In light of these policies of the Marsh Plan, the EIS/EIR should: (1) clearly identify the location of the John F. Baldwin Ship Channel in the Suisun Marsh and show its location in relation to wetland areas; (2) identify any potential project-related impacts to wetlands in the Marsh and measures for mitigating these effects; (3) provide a construction schedule for any work affecting wetland area in the Marsh; (4) identify the width of the proposed channel after deepening; (5) discuss the consistency of construction schedule in the Marsh with fish migration windows; and (6) specify dredging locations on a map and discuss potential beneficial reuse options for dredged material.</p>	
BCDC-14	<p>Water Supply and Quality. The Marsh Plan policies on water supply require that water quality within Suisun Marsh be maintained. These policies also limit the dredging of the John F. Baldwin Ship Channel until an adequate understanding of the impacts resulting from increased salinity intrusion in the Marsh is known. Commission staff understands from the NOI, that there are no additional studies or data collection proposed to assess these impacts of the proposed project (both Phase I and Phase II) in the EIS/EIR. The EIS/EIR should evaluate existing information and provide an analysis of why there is no further information needed to evaluate the impacts of this project that may result in combination with other state and federal water projects, as this has changed significantly since the last issuance of the NOI for the proposed project.</p>	<p>The Salinity Modeling Report has been updated to only include impacts to salinity resulting from deepening of the proposed project. The report is located as Attachment 1 in Appendix B (Water Resources).</p>
BCDC-15	<p>BCDC requests that the EIS/EIR indicate that under CZMA (16 USC 1456(c) and (d)) the Commission is authorized to review any</p>	<p>The EIS/EIR will be reviewed by BCDC. The CZMA compliance is located in the Environmental Appendix.</p>

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	<p>federal actions, permits, licenses and grants affecting any land or water use or natural resources within the Commission's coastal jurisdiction (i.e. San Francisco Bay and Suisun Marsh) and/or project elements impacting the coastal resources and waters (as defined in 16 USC § 1453 (Section 304)) within the Commission's jurisdiction for consistency with the Commission's amended Coastal Zone Management Plan to the maximum extent practicable. Please note that under CZMA Section 307(a), NOAA has promulgated a detailed regulation that defines the term "consistent to the maximum extent practicable," explains that a federal agency may not use a general claim of lack of funding as basis for being consistent to the maximum extent practicable with enforceable policies of a management program, and describes the limited circumstances under which a federal agency may deviate from full consistency (15 C.F.R. § 930.32/0).</p>	
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Table 2. Scoping Comment/Response Matrix December 2017- January 2018

Committer 2017/2018	Comment	Response
Antioch City Manager -1	<p>The City of Antioch, California strongly recommends that the Corps not limit the scope of the environmental impact study to only one portion of the initial project. The City of Antioch is located along the project’s initial scope and, along with other municipalities, would be excluded from the project if the environmental impact study was divided up into different portions or phases. A scaled back project will negatively impact the region because the municipalities located along the initial project’s shoreline would lose their ability to utilize the deep-water ports located along shoreline. The East Bay area is targeted for significant economic development opportunities that could be transformational for the region by redeveloping former industrial sites into thriving economic hubs. These potential developments would be stifled if the Corps decided to limit the scope of the project.</p>	<p>In 2016 preliminary economic analyses indicated that deepening the navigation channel in the eastern reach of the study area did not merit Federal interest owing to a benefit-to-cost ratio below 1.0. Economic benefits cannot be assigned to potential opportunities associated with project implementation and accordingly, there will be no change to municipalities along the eastern reach from a continuation of existing conditions.</p>
Bay Conservation and Development Commission (Commission) - 1	<p>Jurisdiction. Under the CZMA, the Commission has consistency review authority for federal projects that have the potential to affect the coastal zone, in this case, San Francisco Bay and its tributaries. These projects are reviewed for their consistency with the Commission's federally- approved Coastal Management Program and their consistency with the Commission's laws and policies governing proposed activities, including, but not limited to, placement of fill (including dredged sediment disposal), construction, dredging, substantial changes in use and other activities within its jurisdiction.</p>	<p>The EIS/EIR evaluates the effects of the proposed project and Alternatives. The Coastal Zone Management Act Evaluation is located in the Environmental Appendix. The proposed project is not expected to increase the number of ships (see Economics Appendix), but would instead increase the amount of cargo the ships could hold.</p>

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	<p>In reviewing the NOI, it appears that the proposed project would include the following activities within the Commission's Bay and shoreline band jurisdictions: (1) deepening and widening the navigational channels through dredging; (2) creating a sediment trap within Bulls Head Reach; and (3) beneficially reusing of the dredged material. Because the proposed project would take place within the Commission's Coastal Zone Management Program area, and effects to the Coastal Zone are presumed, the impacts must be analyzed. As proposed, the deepening of the channel may result in increased use of the channel by larger and/or more ships, alter water and sediment circulation patterns within the Bay, affect water quality, affect fish and wildlife habitat, or have other impacts in the coastal zone.</p>	
<p>Commission - 2</p>	<p>Long Term Management Strategy. USACE, BCDC, the United States Environmental Protection Agency (EPA), and the San Francisco Bay Regional Water Quality Control Board (Water Board), are partners in the Long Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region (LTMS). The LTMS program is dedicated to maximizing beneficial reuse of dredged sediment and limits the annual in-Bay disposal volumes in the region. The Commission would support the NOI proposal to beneficially reuse all dredged sediment as this would align with the LTMS beneficial reuse goal. The EIS/EIR should provide the estimated deepening volume and annual maintenance volume of sediment to be dredged; identify the preferred and available beneficial reuse sites, and the potential to create additional reuse sites. In addition, the review</p>	<p>The volume of dredged sediment and disposal are located throughout the EIS/EIR in Chapter 4 and in Appendix B, Water Resources. Maintenance dredging is also discussed.</p>

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	<p>should include and discuss how the future maintenance of the deeper channel would be integrated into the USACE's compliance with the LTMS Management plan, maximize beneficial reuse of the sediment, and how the project would, along with the other USACE maintenance dredging project dispose of a maximum of 20 percent of dredged sediment at in-Bay disposal sites.</p>	
<p>Commission - 3</p>	<p>Dredging Policies. Bay Plan Dredging Policy No. 1 states, in part, that dredging should be conducted in an environmentally sound manner and that dredgers should reduce disposal in the Bay and certain waterways over time to achieve the LTMS goal of limiting in-Bay disposal volumes. Bay Plan Dredging Policy No. 2 allows dredging when (1) the applicant has demonstrated that the dredging is needed to serve a water-oriented use or other public purpose, such as navigational safety; (2) the materials to be dredged meet the water quality requirements of the Water Board; (3) important fisheries and Bay natural resources would be protected through seasonal restrictions established by the California Department of Fish and Wildlife (CDFW), the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS), or through other appropriate measures; (4) the siting and design of the project will result in the minimum dredging volume necessary for the project; and (5) the material would be disposed of in accordance with the Commission's policies. Bay Plan</p>	<p>This project is proposing to place all sediment at either Montezuma Wetlands or Cullinan Ranch for beneficial reuse. The Corps is in consultation with appropriate resource agencies to comply with all appropriate measures. The EIS/EIR evaluates all alternatives and provides dredging volumes considered.</p>

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	<p>Dredging Policy No.3 requires dredged material to be reused or disposed outside the Bay, if feasible. In-Bay disposal can be allowed only if there is no feasible alternative and:</p> <p>(1) the volume is consistent with applicable dredger disposal allocations and disposal site limits adopted by the Commission; (2) the material would be placed at a site designated by the Commission; (3) the quality of material would be consistent with the advice of the Water Board and the Dredged Material Management Office (DMMO); and (4) the disposal activity would be consistent with the advice of the resource agencies. In addition, Bay Plan Dredging Policy No. 5 states that projects "should maximize use of dredged material as a resource consistent with protecting and enhancing Bay natural resources..."</p> <p>This project involves new work deepening and eventual maintenance dredging. Please include an analysis of how the proposed volume would be the minimum volume necessary to achieve the project goals. For new work projects, the LTMS agencies require placement of sediment at a beneficial reuse site and/or disposal of material outside the Bay. The EIS/EIR should analyze the proposed project in relation to the Commission's policies regarding dredging and disposal, particularly with respect to the Commission's policy Preference for beneficial reuse of dredged material and the significant need for sediment in Bay Area restoration projects. It is worth noting that the new work dredging necessary for deepening the channel would be</p>	
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	<p>very difficult to permit if the sediment is not beneficially reused because the sediment volume for deepening may be large and may exceed volume restriction on in-Bay disposal sites that are utilized/shared by all dredgers in the Bay Area, including other USACE navigational maintenance projects. Additional in- Bay disposal could trigger mandatory regulatory allocations for the region, creating a significant burden for non- USACE dredging projects. If in-Bay disposal is proposed, then the EIS/EIR should consider the cumulative, long term economic and environmental impacts the project would have on the region due to this factor.</p>	
<p>Commission - 4</p>	<p>Minimize Harmful Effects to the Bay. In addition to the dredging policies, the EIS/EIR should address other applicable Bay Plan policies, including a discussion about the Commission's policies for protection of the Bay's natural resources, including fish, other aquatic organisms, and wildlife, and habitats needed for their protection, including tidal flats and marshes and subtidal areas.</p> <p>The Bay Plan Subtidal Areas policies state, in part, that dredging projects in such areas should be thoroughly evaluated to determine the local and Bay-wide effects such projects would have on bathymetry, tidal hydrology and sediment movement; fish, other aquatic organisms and wildlife; aquatic plants; and the introduction and spread of invasive species. The policies further state that</p>	<p>The EIS/EIR discusses and evaluates the effects of the alternatives in Chapter 4 of the document. Minimization measures to reduce impacts to species include using a clamshell dredge, working within established environmental windows, and beneficially reusing the disposal material.</p>

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	<p>any impacts should be minimized and harmful effects should be avoided where feasible. These subtidal policies also require that dredging in scarce subtidal habitats or those with an abundance or diversity of wildlife only be allowed if there is no feasible alternative to the project and the project provides substantial public benefits. The EIS/EIR should include an analysis showing that there is no feasible alternative to the proposed project and that the project provides substantial public benefits. The Commission staff is concerned that the deepening project may have effects to salt water intrusion further east, affecting wildlife habitat. In addition, staff is concerned that further deepening and creating a sediment trap, which would more than likely trap Bay sands, would impact sediment transport downstream and affect both fine and coarse grain deep water shoals and the associated habitat, circulation of sediment into shallower water, and potentially impact sand mining activities that are currently permitted, having an economic effect on the industry.</p> <p>The Bay Plan policies on fish, other aquatic organisms, and wildlife, state that marshes, mudflats, and subtidal habitat should be "conserved, restored, and increased." The Commission must conserve native species to the Bay and consult with, and give appropriate consideration to the advice of, the state and federal resource agencies. According to the Bay Plan policies on tidal marshes, tidal flats, and subtidal areas, all projects subject to</p>	
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	<p>Commission consideration should also be cited and designed to minimize or avoid adverse resource impacts at these areas. The EIS/EIR should consider the potential impacts of the proposed deepening, as well as future maintenance of the channels and sediment trap on native species and the recolonization of species within the project area. The study should address how construction restrictions to protect listed species, including salmon, steelhead, Delta smelt, longfin smelt and, most recently, North American green sturgeon, would be incorporated into the project schedule; analyze the use of both clamshell and hydraulic dredges, as their impact on species is significantly different; and provide a discussion of any avoidance, minimization and mitigation measures proposed as part of the project. The study should also provide a discussion of biological opinions that the USACE would obtain under the Federal Endangered Species Act and the Port of Stockton's consultations under the California Endangered Species Act, for impacts related to listed species and their critical habitat.</p> <p>The EIS/EIR should analyze how the entire deepening project, including the sediment trap, will affect the hydrology, sediment dynamics, water quality and biological resources of the Bay, the Carquinez Strait and adjacent shoreline marshes. Specifically, the study should evaluate the project impacts to the sand transport to/from the outer coast to Suisun Bay, and how the project may impact dredging needs at nearby refineries. It</p>	
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	<p>should also analyze cumulative impacts of the deeper channels and the sediment trap, and include other planned projects within the region, such as restoration activities near the project area. The EIS/EIR should include analysis of the climate change impacts, as well as the potential impact of sea level rise on tidal prism, channel scour in the project area, downstream and upstream of the project through the life of the project.</p>	
<p>Commission - 5</p>	<p>Water Quality. Pursuant to the Commission's Bay Plan Water Quality policies, pollution in the Bay's water "should be prevented to the greatest extent feasible." The Commission would need to consider the Water Board's evaluation of, and advice on, the proposed project and any potential water quality impacts in determining whether the project would adversely impact the Bay's water quality. The EIS/EIR should include the effects of the project on dissolved oxygen, release of pollutants, turbidity, and salinity in the Bay and adjacent areas. The study should evaluate the impacts of saltwater intrusion and potential higher salinities in the Suisun Bay, Carquinez Strait and parts of the Napa River, and the impacts to water quality and water resources in the area. The study should also analyze the potential impacts of the increased vessel traffic in the project area and what measures would be taken to minimize the risk of oil spills.</p>	<p>The EIS/EIR discusses water quality in Chapter 4 and in the Salinity Modeling Report (Attachment 1 to Appendix B).</p> <p>We are not anticipating an increase in ship traffic. The assumption is that the existing ships that call will be more fully loaded, i.e.; the oil tankers. Therefore, there should be no change in risk associated with oil spills.</p>
<p>Commission - 6</p>	<p>Turbidity. Both dredging and in-Bay disposal of dredged material would increase turbidity in the water column. The EIS/EIR should analyze the expected extent of the resulting plume during dredging, its impacts on fish and other aquatic organisms, and whether any lateral movement of the plume would affect important habitat (e.g.,eelgrass</p>	<p>Turbidity is discussed in the EIS/EIR, but is expected to be temporary during construction.</p>

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	beds) whose viability is partly dependent on clarity of the water column.	
Commission – 7	<p>Sandy Deep Water. The Bay Plan's policies on subtidal areas state, in part, that dredging in sandy deep water should be allowed only if (1) there is no feasible alternative; and (2) the project provides substantial public benefit. The EIS/EIR should state the location and size of the affected sandy, deep-water habitat, any anticipated habitat loss, and expectations as to the type and extent of replacement communities. The Suisun Bay has known sand deposits occurring along the sand transport pathway toward the central San Francisco Bay and the Outer Coast. The Carquinez Strait is also known to be an area of active sediment transport. Deepening the federal navigation channel along this transport pathway could potentially alter the movement of sand that may supply sand for beaches along the pathway. Research has shown that the Suisun Bay can be both accretional (during dry years) and erosional (during wet years). Please evaluate these potential impacts in the EIS/EIR.</p>	The proposed project effects related to this comment are discussed throughout the main report and specifically in Chapter 4, the Civil Design Appendix, and the Water Resources Appendix.
Commission – 8	<p>Rocky Habitat. The EIS/EIR should state the location and size of the affected rocky areas, if any, any anticipated habitat loss, and expectations as to the type and extent of replacement communities.</p>	The rock outcrop identified in the engineering appendix in Pinole Shoal Channel that will need to be deepened will also be discussed in the EIS/R regarding habitat impacts thereto.
Commission – 9	<p>Sediment Trap. The NOI mentions the creation of a 6-foot deep sediment trap along Bulls Head Reach (to a maximum depth of -44 feet MLLW). The EIS/EIR should describe the</p>	The sediment trap and its function is discussed in the Engineering Civil Design Appendix, and the economic justification is discussed in the Economics Appendix.

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	<p>extent and dimensions of the proposed sediment trap, the type of sediment expected to be dredged (fine or coarse grain), the expected time the trap would take to fill and the frequency of maintenance dredging for the trap. In addition to the specifics of the sediment trap, the EIS/EIR should discuss the impact of its construction on habitat, salinity and sediment transport in the area. This particular section of the Carquinez Strait is subject to salinity gradient changes and to particular sediment transport both eastward and westward – moving coarse grain sediment (sand) from the Suisun Bay to the central San Francisco Bay and to the outer coast, nourishing beaches both in the Bay and outer coast. The EIS/EIR should describe the potential impacts of the sediment trap on the hydrogeographic characteristics of these embayments.</p>	
<p>Commission – 10</p>	<p>Mitigation. Environmental impacts to resources within the Bay should be minimized to the greatest extent practicable. In the event that the proposed project would result in adverse environmental impacts that cannot be avoided, the EIS/EIR should discuss proposed mitigation measures. The Commission's policies regarding mitigation state, in part, "projects should be designed to avoid adverse environmental impacts to [the] Bay" and, further, that "[w]henver adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable...[and] measures to compensate for...impacts should be required." The EIS/EIR should fully discuss any mitigation measures proposed. Commission staff will</p>	<p>Adverse effects have been minimized by allowing dredging only with a clamshell dredge and working within the environmental work windows. In addition, all disposal material will be used beneficially at Cullinan Ranch or Montezuma Wetlands.</p>

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	<p>coordinate with local, state, and federal agencies with jurisdiction over Bay resources to determine an appropriate mitigation program is provided to compensate for the impacts of the proposed project.</p>	
<p>Commission – 11</p>	<p>Coastal Zone Management Authority. BCDC requests that the EIS/EIR indicate that under CZMA (16 USC 1456(c) and (d)) the Commission is authorized to review any federal actions, permits, licenses and grants affecting any land or water use or natural resources within the Commission's coastal jurisdiction (i.e., San Francisco Bay and Suisun Marsh) and/or project elements impacting the coastal resources and waters (as defined in 16 USC § 1453 (Section 304)) within the Commission's jurisdiction for consistency with the Commission's amended Coastal Zone Management Program to the maximum extent practicable. Please note that under CZMA Section 307(a), NOAA has promulgated a detailed regulation that defines the term "consistent to the maximum extent practicable," to explain that a federal agency may not use a general claim of lack of funding as basis for being consistent to the maximum extent practicable with enforceable policies of a management program, and describes the limited circumstances under which a federal agency may deviate from full consistency (15 C.F.R. § 930.32).</p>	<p>The CZMA evaluation is located in the Environmental Appendix. The Corps acknowledges that the BCDC will review the NEPA document along with the CZM to provide their determination regarding a Consistency Determination.</p>

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<p>Environmental Protection Agency (EPA) – 1</p>	<p>EPA supports the USACE's decision to eliminate the Eastern Reach from further consideration, as deepening the channels east of Avon would have had the potential to significantly affect water quality and sensitive aquatic life in the Delta and San Francisco Bay. We also support the inclusion of beneficial reuse of dredged material as part of the project description, and recommend that this component be retained as a feature of the final project. Under the regional dredged material management plan, in-Bay disposal is limited, in-Bay capacity is generally unavailable for civil works deepening projects, and state and federal approvals for such disposal would be difficult, if not impossible, to obtain.</p>	<p>Thank you for your support on rescoping the project and of the beneficial reuse of material.</p>
<p>EPA - 2</p>	<p>Scope of Analysis We note that the Port of Stockton remains the lead local agency and non-federal sponsor for this project, despite the downgrade in scope to just the Western Reach. We recommend that the Draft EIS clarify environmental impacts and benefits of the reduced-scope project to the Port of Stockton, as well as other entities that the project would serve.</p> <p><i>Indirect Effects - Induced Growth and Spill Risk</i> EPA recommends that the Draft EIS analyze to what extent the project would induce growth at existing marine terminals located along the study area. For example, there are at least 4 oil refinery terminals adjacent to the study area. Describe what benefits and adverse environmental effects could result from such growth. Identify specific mitigation measures to reduce potential adverse effects from these growth-related impacts.</p> <p>Analyze whether the proposed project would lead to an increase in oil tanker activity within the project area, and, if so, to what extent this increase may elevate the risk of oil spills in the San Francisco Bay Area. Describe current loading practices, include a detailed discussion of best management practices</p>	<p>The Corps does not assume that the proposed project increases oil tanker activity. There is likely to be growth in imports and export with or without the project, therefore, our project would not elevate the risk of oil spills.</p> <p>Benefits of the proposed project include:</p> <ol style="list-style-type: none"> 1. Better efficiencies in vessel transit - same number of ships or less will be able to carry more capacity of oil - less oil tanker activity when compared to the future without project scenario 2. Less ships should lessen risk of oil spills per transit 3. Monetary savings of those efficiencies passed on to consumers <p>No adverse environmental effects are expected. The navigation channel is currently maintained to 35 feet MLLW with 2 feet of</p>

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	<p>(BMPs) that would be committed to in order to minimize such risks, and identify emergency response plans that would be employed in the event of a spill. Clearly indicate the entities responsible for cleanups, as well as any additional measures that would be taken to ensure that BMPs and emergency response plans are implemented as intended.</p>	<p>overdepth. The number of ships is expected to stay the same with the deepening project.</p>
<p>EPA - 3</p>	<p>Dredging and Dredged Material Management <i>Potential Dredging Impacts to Sensitive Species</i> Federal-and State-endangered species, including Delta smelt, green sturgeon, various salmon runs, and the longfin smelt, among other sensitive species, occur in the project area. These species are particularly vulnerable to entrainment via hydraulic dredging (including by hopper dredges), but are generally considered less vulnerable to mechanical clamshell dredging. The choice of dredging method, therefore, may have a direct relation to the degree of environmental impact caused by both initial deepening and future maintenance dredging. In the Draft EIS, include a detailed discussion of construction methods and future maintenance dredging. We encourage the USACE to commit to using the least damaging dredging method possible.</p> <p><i>Beneficial Reuse</i> EPA strongly supports the USACE's decision to require beneficial reuse of all the dredged material to be generated by this deepening project as part of the project description. Reuse of all the project's dredged material would support efforts to protect vital infrastructure from the effects of sea level rise and assist in restoring habitat. This component of the project is also consistent with the regional interagency dredged material management plan (the San Francisco Bay Region Long Term Management Strategy, or LTMS), which strives to maximize beneficial reuse of dredged sediments and strictly limits annual in-Bay disposal</p>	<p>The Corps has committed to using a clamshell dredge to minimize adverse impacts to listed species.</p> <p>Thank you for your support on beneficial reuse.</p>

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	<p>volumes. The Draft EIS should examine all existing or planned placement sites that might be available by the time the project is under construction, using an updated list of sites including, but not limited to, potential sites identified in earlier phases of scoping for this project. Specifically, EPA notes that there are currently at least two nearby, existing beneficial reuse projects capable of accommodating the volume of material to be generated: the Cullinan Ranch Restoration Project and the Montezuma Wetlands Restoration Project. Either of these reuse sites would be considered practicable to use, and other nearby reuse opportunities may be available, as well, by the time the project is being constructed (such as Bel Marin Keys, the Belly Wetland Restoration Project, the Grizzly Slough Floodplain Restoration Project, Sherman Island, Twitchell Island, Holland Tract, and the proposed Jersey Island Placement Site). If practicable reuse site capacity turns out not to be available for some or all of the project volume, ocean disposal remains an option that the Draft EIS should consider. Please note that, in general, in-Bay disposal would not be considered permissible for the construction phase of this project. Finally, the Draft EIS should also discuss the possibility of reuse partnerships, including via use of Measure AA funds, and/or WIIN/WRDA 2016 demonstration project authorities. If you have any questions concerning these or our previous comments on dredged material management or beneficial reuse opportunities, please feel free to contact Brian Ross of our Dredging and Sediment Management Team at 415-972-3475 or ross.brian@epa.gov.</p>	
EPA - 4	<p>Air Quality The project area is located within the San Francisco Bay Area Air Basin (SFBAAB), which is currently in nonattainment for National Ambient Air Quality Standards (NAAQS), including 8-</p>	Please see the Air Quality Appendix for detailed analysis.

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	<p>hour ozone (marginal nonattainment) and 24-hour PM2.s (moderate nonattainment). It is also located within a portion of the SFBAAB that is designated as a maintenance area for carbon monoxide. In the Draft EIS, include a detailed discussion of existing ambient air conditions, the NAAQS, and criteria pollutant nonattainment areas. Identify and discuss any air quality impacts that may result from the proposed project, including indirect and cumulative impacts. Relevant impacts include, but are not limited to: those from construction, including expected timing and frequency of dredging and transportation of dredged material; any increase in ship traffic, truck transport, rail transport; new capacity for larger ships due to channel deepening; on-dock equipment use; and refinery operations.</p> <p>While the project may provide air quality benefits by using more fully laden vessels to deliver goods, it may also have the potential to increase vessel traffic in and around the project area. We encourage the project sponsors to work with their shipping partners to reduce any potential increases in vessel emissions resulting from this project, and recommend the following mitigation measures for inclusion:</p> <ul style="list-style-type: none"> • Incentivize the deployment of cleaner vessels that meet or exceed the latest EPA exhaust emissions standards for marine compression-ignition engines (i.e., Tier 4 for Category 1 and 2 vessels, and Tier 3 for Category 3 vessels). 1 • Implement a vessel speed reduction program. • Incentivize the use of at-berth emission reduction technologies. 	
EPA - 5	<p>Environmental Justice and Title VI of the Civil Rights Act Executive Order (EO) 128982 directs federal agencies to pursue Environmental Justice (EJ) to the greatest extent possible by identifying and addressing any disproportionately</p>	<p>Environmental justice is discussed in Chapter 4 of the EIS/EIR.</p>

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	<p>high and adverse human health or environmental effects that the agency's programs, policies, or activities may have on minority and low-income populations. The memorandum accompanying the EO highlights both NEPA and the Civil Rights Act of 1964 (Civil Rights Act) as examples of existing statutory authorities that can be used to address environmental justice.³ The Council on Environmental Quality has developed guidance⁴ to address EJ in the environmental review process. <i>Promising Practices for Environmental Justice Methodologies in NEPA Reviews</i>⁵ (March 2016), may also serve as a useful resource during the environmental review process. This document is a compilation of methodologies from current agency practices identified by the NEPA Committee of the Federal Interagency Working Group on Environmental Justice. The document focuses on the interface of BJ considerations through NEPA processes and provides recommendations on applying BJ methodologies that have been established in federal NEPA practice. In addition, recipients of federal assistance have an obligation to ensure that their programs do not result in discriminatory effects or burdens on populations protected under Title VI of the Civil Rights Act.</p>	
EPA - 6	<p>In the Draft EIS, discuss potential environmental justice concerns, such as air quality, water quality, noise, vibration, odors, etc. Include any environmental justice issues raised during scoping meetings. Clearly and effectively define the "reference community" and the "affected community." These definitions are used to determine whether there are disproportionately high and adverse human health or environmental impacts by comparing the impacts to the affected community with the impacts to the reference community. A well-defined affected community will accurately reflect the demographic characteristics of the populations likely to be adversely impacted by the proposed</p>	<p>The proposed project does not expect to incur adverse effects to environmental justice related issues. The project is occurring within an existing and maintained navigation channel.</p>

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	<p>project. A welldefined reference community will reflect the characteristics of the general population that would benefit from the project (e.g., municipal, regional, state). Disclose whether the proposed project may disproportionately and adversely affect low-income and minority populations in the surrounding area, and identify any measures that could mitigate adverse impacts. We encourage the USACE to use information gathered from public outreach efforts to design mitigation measures that respond to the needs of communities that would be adversely affected by the project. Efforts to reduce environmental justice impacts could assist the Port of Stockton, as a recipient of Federal funds, to meet its potential obligations under Title VI of the Civil Rights Act.</p>	
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April 4, 2016

Cynthia J. Fowler
U.S. Army Corps of Engineers
San Francisco District
Planning Branch
1455 Market Street
San Francisco, CA 94103-1398

Subject: San Francisco Bay to Stockton Navigation Improvement Study

Dear Ms. Fowler:

Contra Costa Water District (CCWD) appreciates this opportunity to provide scoping comments on the U.S. Army Corps of Engineers (USACE) Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Study, San Francisco Bay, California (Project). CCWD has engaged with USACE, the Port of Stockton, and the Contra Costa County Water Agency on this Project in the past, and we look forward to continuing our discussions. Previous studies have indicated that channel deepening could increase salinity at CCWD's Delta drinking water intakes, and we remain concerned about potential water quality impacts..

The following issues should be considered in the EIS/EIR for the Project:

- Three-dimensional models should continue to be used to study the impact of channel deepening and other bathymetric changes on salinity intrusion into the Delta, in order to capture the effects of stratification and gravitational circulation. The hydrodynamic modeling must be able to accurately represent real conditions, particularly at key Delta locations including CCWD's Delta drinking water intakes located at Mallard Slough, Rock Slough, Old River at Highway 4, and Victoria Canal.
- Potential water quality impacts include, but are not limited to, exceedances of State Water Resources Control Board Decision 1641 water quality objectives, changes in the position of the 2 parts per thousand isohaline ("X2"), and degradation of water quality at CCWD's intakes, even if no water quality standards are violated. CCWD's operations are governed by water quality considerations; the water quality impacts will be used to evaluate the Project's impacts on CCWD water supply operations.
- The effects of climate change should be included in the impacts analysis. Increases in sea level and the tidal range can combine with the Project to produce non-linear effects on salinity intrusion into the Delta.
- Impacts of dredging and the release of pollutants and toxic substances contained in the sediment should be analyzed, and impacts to municipal water supplies and aquatic species should be addressed.

Ms. Cynthia J. Fowler

April 4, 2016

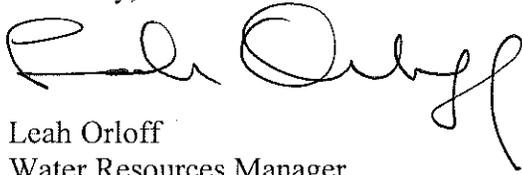
Page 2

- Placement sites for dredged materials should be evaluated for Delta water quality impacts. The Notice of Intent refers to placement of dredged materials at “permitted and economically feasible beneficial reuse sites” – the nature of these reuse sites should be described in detail and any impacts resulting from their operation should be fully analyzed as well.
- Analysis of the impacts of modified shipping patterns, such as the number and types of vessels and the types of cargo transported, should include increased threats to Delta water quality, for instance due to an increased probability of spills from higher volumes of shipping traffic.

If any of these or other analyses show a significant impact to beneficial uses of water in the Delta, those impacts must be mitigated to a less than significant level.

Please notify CCWD of the circulation of the Draft EIS/EIR. If you wish to discuss any of the comments provided or other related issues, please do not hesitate to get in touch with me at (925) 688-8083 or lorloff@ccwater.com, or with Lucinda Shih at (925) 688-8168 or lshih@ccwater.com. We look forward to continuing to work with you on this important project.

Sincerely,



Leah Orloff
Water Resources Manager

LHS

cc: Ryan Hernandez, Contra Costa County

NATIVE AMERICAN HERITAGE COMMISSION

1550 Harbor Blvd., Suite 100
West Sacramento, CA 95691
Phone (916) 373-3710
Fax (916) 373-5471
Email: nahc@nahc.ca.gov
Website: <http://www.nahc.ca.gov>
Twitter: @CA_NAHC

**RECEIVED**

March 21, 2016

MAR 24 2016

Jeff Wingfield
Port of Stockton
2201 W. Washington Street
Stockton, CA 95203

PORT OF STOCKTON
ENVIRONMENTAL DEPARTMENT

RE: SCH#201603210, San Francisco Bay to Stockton Navigation Improvement Study

Dear Mr. Wingfield:

The Native American Heritage Commission has received the Notice of Preparation (NOP) for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.), specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit. 14, § 15064.5 (b) (CEQA Guidelines Section 15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared. (Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1) (CEQA Guidelines § 15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code § 21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code § 21084.3 (a)). **AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. § 800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments. **Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code § 21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code § 21073).
2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code § 21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or environmental impact report. (Pub. Resources Code § 21080.3.1(b)).
- a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18). (Pub. Resources Code § 21080.3.1 (b)).
3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
- a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code § 21080.3.2 (a)).
4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
- a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code § 21080.3.2 (a)).
5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code § 21082.3 (c)(1)).
6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code § 21082.3 (b)).
7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:
- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code § 21080.3.2 (b)).
8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation

monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code § 21082.3 (a)).

9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code section 21084.3 (b). (Pub. Resources Code § 21082.3 (e)).
10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:
 - a. Avoidance and preservation of the resources in place, including, but not limited to:
 - i. Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i. Protecting the cultural character and integrity of the resource.
 - ii. Protecting the traditional use of the resource.
 - iii. Protecting the confidentiality of the resource.
 - c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d. Protecting the resource. (Pub. Resource Code § 21084.3 (b)).
 - e. Please note that a federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code § 815.3 (c)).
 - f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code § 5097.991).
11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An environmental impact report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
 - a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
 - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code § 21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code § 65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code § 65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code section 65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction. (Gov. Code § 65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have been already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.
3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

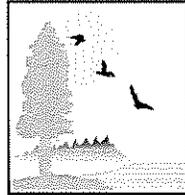
If you have any questions, please contact me at my email address: sharaya.souza@nahc.ca.gov.

Sincerely,



Sharaya Souza
Staff Services Analyst
cc: State Clearinghouse

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



Established in 1938

JENNIFER LUCCHESI, *Executive Officer*
(916) 574-1800 Fax (916) 574-1810
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from Voice Phone 1-800-735-2922

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Contact FAX: (916) 574-1885

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PORT OF STOCKTON
ENVIRONMENTAL DEPARTMENT

April 4, 2016

File Ref: SCH # 2016032010

Jeff Wingfield
Port of Stockton
2201 W. Washington Street
Stockton, CA 95203

Subject: Notice of Preparation (NOP) for an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton Navigation Improvement Study (Project), San Joaquin, County

Dear Mr. Wingfield:

The California State Lands Commission (CSLC) staff has reviewed the subject NOP for an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton Navigation Improvement Study (Project), which is being prepared by the Port of Stockton and the U.S. Army Corps of Engineers (Corps). The Port of Stockton, as State lead agency for the proposed Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), and the Corps is the lead agency under the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.). The CSLC is a trustee agency for projects that could directly or indirectly affect sovereign lands and their accompanying Public Trust resources or uses. Additionally, if the Project involves work on sovereign lands, the CSLC will act as a responsible agency. CSLC staff requests that the Port of Stockton consult with us on preparation of the draft EIR as required by CEQA section 21153, subdivision (a), and the State CEQA Guidelines section 15086, subdivisions (a)(1) and (a)(2).

CSLC Jurisdiction and Public Trust Lands

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. (c), 6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. On navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high water mark, except where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

After reviewing the information contained in the NOP, CSLC staff has concluded that portions of the Project will include State-owned sovereign lands under the jurisdiction of the CSLC, including, but not limited to, portions of San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, New York Slough, San Joaquin River, and the Stockton Deep Water Ship Channel as it relates to the historic beds of the San Joaquin River and Stockton Slough. Therefore, a lease will be required from the CSLC prior to project commencement. CSLC's lease application is available online at <http://www.slc.ca.gov/>. Please contact Al Franzoia, Public Land Management Specialist (see contact information below), for additional information about the CSLC leasing process.

Project Description

The study area for the overall project consists of two reaches: the Western Reach and Eastern Reach. The Western Reach extends from Central San Francisco Bay to the unincorporated community of Avon in Contra Costa County and includes the West Richmond Channel, Pinole Shoal Channel, and Bulls Head Reach portion of the Suisun Bay Channel. The Eastern Reach extends from Avon to the Port of Stockton and includes the remaining portions of the Suisun Bay Channel (east of Avon), New York Slough Channel, and the Stockton Deep Water Ship Channel. The Western Reach is authorized to a depth of -45 feet mean lower low water (MLLW), but is currently maintained 3 to -35 feet MLLW. Additional deepening of the Eastern Reach requires separate Congressional authorization for construction.

The EIS/EIR will include both a project-level feasibility analysis for implementation of Phase I and a programmatic-level analysis for Phase II. Analysis of Phase II will be conducted using only existing information (i.e., additional studies or data collection will not be conducted). Additional project level feasibility analysis of Phase II will require execution of a separate Feasibility Cost Sharing Agreement with the local sponsor and pending receipt of federal study funds.

The Port of Stockton proposes to separate the overall project into two separate phases (Phase I and Phase II) under a navigation improvement programmatic analysis. Under the programmatic analysis, two reaches and two phases are identified. Phase I of the study is a single purpose navigation improvement project to evaluate incremental

deepening to a maximum depth of -40 feet MLLW in the Western Reach. Phase II is a subsequent multipurpose navigation and ecosystem restoration study that would evaluate deepening the Eastern Reach to a maximum depth of -40 feet MLLW. Phase II will also revisit if further deepening of Western Reach up to its authorized depth of -45 feet MLLW is warranted. The Eastern Reach is maintained at its authorized depth of -35 feet MLLW, and any additional deepening in this reach will require a new project authorization through a subsequent Water Resources Development Act (WRDA).

To meet its objectives and needs the Project would proceed as follows.

- Phase I of the study evaluates incremental deepening of the Western Reach to a depth of -40 MLLW.
- Phase II is a subsequent multipurpose navigation and ecosystem restoration study that would evaluate deepening the Eastern Reach to a maximum depth of -40 feet MLLW. Phase II will also revisit if further deepening of Western Reach up to its authorized depth of -45 feet MLLW is warranted. The Eastern Reach is maintained at its authorized depth of -35 feet MLLW, and any additional deepening in this reach will require a new project authorization through a subsequent Water Resources Development Act (WRDA).

From the Project Description, CSLC staff understands that the Project would include the following components:

- Phase I action alternatives involving placement of dredged sediment at one or more permitted and economically viable beneficial reuse sites.
- Phase II at a programmatic level because of uncertainties associated with its scope, size, and other details.

Environmental Review

CSLC staff requests that the Port of Stockton consider the following comments when preparing the EIS/EIR.

General Comments

1. Programmatic Document: Because the EIS/EIR is being proposed as both a "Programmatic" and a "Project-level" document, the CSLC expects the Project will be presented as a series of distinct but related sequential activities (i.e., Phase I activities and the separate Phase II activities). The State CEQA Guidelines section 15168, subdivision (c)(5) states that a program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible. In order to avoid the improper deferral of mitigation, a common flaw in program-level environmental documents, mitigation measures should either be presented as specific, feasible, enforceable obligations, or should be presented as formulas containing "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (State CEQA Guidelines, § 15126.4, subd. (a)). As such, the EIS/EIR should make an effort to distinguish what activities and their

mitigation measures are being analyzed in sufficient detail to be covered under the EIS/EIR without additional project specific environmental review, and what activities will trigger the need for additional environmental analysis (see State CEQA Guidelines, § 15168, subd.(c)).

2. Project Description: A thorough and complete Project Description should be included in the EIS/EIR in order to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. The Project Description should be as precise as possible in describing the details of all allowable activities (e.g., types of equipment or methods that may be used, maximum area of impact or volume of sediment removed or disturbed, seasonal work windows, locations for material disposal, etc.), as well as the details of the timing and length of activities. Thorough descriptions will facilitate CSLC staff's determination of the extent and locations of its leasing jurisdiction, make for a more robust analysis of the work that may be performed, and minimize the potential for subsequent environmental analysis to be required.

Biological Resources

1. The EIS/EIR should disclose and analyze all potentially significant effects on sensitive species and habitats in and around the Project area, including special-status wildlife, fish, and plants, and if appropriate, identify feasible mitigation measures to reduce those impacts. The Port of Stockton should conduct queries of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) and U.S. Fish and Wildlife Service's (USFWS) Special Status Species Database to identify any special-status plant or wildlife species that may occur in the Project area. The EIS/EIR also include a discussion of consultation with the CDFW and USFWS, including any recommended mitigation measures and potentially required permits identified by these agencies.
2. Invasive Species: One of the major stressors in California waterways is introduced species. Therefore, the EIS/EIR should consider the Project's potential to encourage the establishment or proliferation of aquatic invasive species (AIS) such as the quagga mussel, or other nonindigenous, invasive species including aquatic and terrestrial plants. For example, construction boats and barges brought in from long stays at distant projects may transport new species to the Project area via hull biofouling, wherein marine and aquatic organisms attach to and accumulate on the hull and other submerged parts of a vessel. If the analysis in the EIS/EIR finds potentially significant AIS impacts, possible mitigation could include contracting vessels and barges from nearby, or requiring contractors to perform a certain degree of hull-cleaning. The CDFW's Invasive Species Program could assist with this analysis as well as with the development of appropriate mitigation (information at www.dfg.ca.gov/invasives/).

In addition, in light of the recent decline of native pelagic organisms and in order to protect at-risk fish species, the EIS/EIR should examine if any elements of the Project (e.g., changes in bankside vegetative cover) would favor non-native fisheries within the San Joaquin River, San Pablo Bay, Central San Francisco Bay and beyond the Golden Gate.

3. Construction Noise: The EIS/EIR should also evaluate noise and vibration impacts on fish and birds from any form of construction or dredging activities in the water. Mitigation measures could include species-specific work windows as defined by CDFW, USFWS, and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS). Again, staff recommends early consultation with these agencies to minimize the impacts of the Project on sensitive species.

Water Quality

4. Mercury/Methylmercury: The EIS/EIR study area includes the San Joaquin River and Port of Stockton. Although the EIS/EIR states that Applicant's current dredging procedures include the testing of sediment quality and suitability, CSLC staff requests that the EIS/EIR include avoidance and minimization measures to reduce potential release from Project activities of mercury and other toxins into waterways and onto State lands underlying those waterways.

On April 22, 2010, the Central Valley Regional Water Quality Control Board (CVRWQCB) identified the CSLC as both a State agency that manages open water areas in the Sacramento-San Joaquin Delta Estuary and a nonpoint source discharger of methylmercury (Resolution No. R5-2010-0043), because subsurface lands under the CSLC's jurisdiction are impacted by mercury from legacy mining activities dating back to California's Gold Rush. Pursuant to a CVRWQCB Total Maximum Daily Load (TMDL), the CVRWQCB is requiring the CSLC to fund studies to identify potential methylmercury control methods in the Delta and to participate in an Exposure Reduction Program. The goal of the studies is to evaluate existing control methods and evaluate options to reduce methylmercury in open waters under jurisdiction of the CSLC. Any action taken that may result in mercury or methylmercury suspension within the Sacramento-San Joaquin Delta Estuary may affect the CSLC's efforts to comply with the CVRWQCB TMDL.

Climate Change

5. Greenhouse Gases: A greenhouse gas (GHG) emissions analysis consistent with the California Global Warming Solutions Act (Assembly Bill [AB] 32) and required by the State CEQA Guidelines should be included in the EIS/EIR. This analysis should identify a threshold for significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of construction and ultimate build-out of the Project, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce them to the extent feasible. It appears that the proposed Project will include multi-staged

evaluation and commencement of the proposed activities. Please include a full evaluation of all the equipment that could be used for any aspect of the dredging activities. Please contact all the Air Quality Management Districts (AQMDs) with regulatory oversight and jurisdiction. Air basins will have different impacts and criteria for analysis based on attainment status. Air impact analysis models for identifying the impacts of the proposed Project should be discussed with the AQMDs. A thorough review of these AQMDs and their regulatory jurisdiction will be a requirement due to the extent and scope of the proposed EIS/EIR.

6. Sea-Level Rise: A tremendous amount of State-owned lands and resources under the Commission's jurisdiction will be impacted by rising sea levels. With this in mind, the EIS/EIR should consider discussing in the Draft EIR the effects of sea-level rise on all resource categories potentially affected by the proposed Project. Because of their nature and location, these lands and resources are already vulnerable to a range of natural events, such as storms and extreme high tides. Note that the State of California released the final "Safeguarding California: Reducing Climate Risk, an Update to the 2009 California Climate Adaptation Strategy" (Safeguarding Plan) on July 31, 2014, to provide policy guidance for state decision-makers as part of continuing efforts to prepare for climate risks. The Safeguarding Plan sets forth "actions needed" to safeguard ocean and coastal ecosystems and resources as part of its policy recommendations for state decision-makers.

In addition, Governor Brown issued Executive Order B-30-15 in April 2015, which directs state government to fully implement the Safeguarding Plan and factor in climate change preparedness in planning and decision making. Please note that when considering lease applications, CSLC staff will (1) request information from applicants concerning the potential effects of sea-level rise on their proposed projects, (2) if applicable, require applicants to indicate how they plan to address sea-level rise and what adaptation strategies are planned during the projected life of their projects, and (3) where appropriate, recommend project modifications that would eliminate or reduce potentially adverse impacts from sea-level rise, including adverse impacts on public access. As the Project EIS/EIR is being developed, please consider CSLC policy for the proposed Projects as they will impact State sovereign lands.

Cultural Resources

7. Tribal Cultural Resources: The Port should document and discuss in the draft document how it will comply with the provisions for required consultation with California Native American Tribes pursuant to the requirements added to CEQA by Assembly Bill 52 (Gatto, Stats. 2014, ch. 532), which applies to all CEQA projects initiated after July 1, 2015. These new provisions provide procedural and substantive requirements for lead agency consultation with California Native American Tribes and consideration of effects on tribal cultural resources, as well as examples of mitigation measures to avoid or minimize impacts to tribal cultural resources. Additionally, with respect to significance determinations, section

21084.2 states that, "A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment." When feasible, public agencies must avoid damaging effects to tribal cultural resources, and shall keep information submitted by the tribes confidential.

8. Submerged Resources: The EIS/EIR should evaluate potential impacts to submerged cultural resources in the Project area. The CSLC maintains a shipwrecks database that can assist with this analysis. CSLC staff requests that the Port of Stockton contact Assistant Chief Counsel Pam Griggs (see contact information below) to obtain shipwrecks data from the database and CSLC records for the Project site. The database includes known and potential vessels located on the State's tide and submerged lands; however, the locations of many shipwrecks remain unknown. Please note that any submerged archaeological site or submerged historic resource that has remained in State waters for more than 50 years is presumed to be significant. Because of this possibility, please add a mitigation measure requiring that in the event cultural resources are discovered during any construction activities, Project personnel shall halt all activities in the immediate area and notify a qualified archaeologist to determine the appropriate course of action.
9. Title to Resources: The EIS/EIR should also mention that the title to all abandoned shipwrecks, archaeological sites, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the CSLC (Pub. Resources Code, § 6313). CSLC staff requests that the Port of Stockton consult with Assistant Chief Counsel Pam Griggs (see contact information below), should any cultural resources on state lands be discovered during construction of the proposed Project.

Mitigation and Alternatives

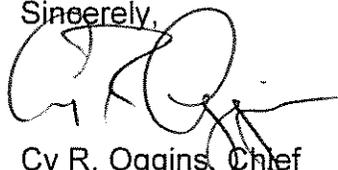
10. Deferred Mitigation: In order to avoid the improper deferral of mitigation, mitigation measures should either be presented as specific, feasible, enforceable obligations, or should be presented as formulas containing "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (State CEQA Guidelines, §15126.4, subd. (a)).
11. Alternatives: In addition to describing mitigation measures that would avoid or reduce the potentially significant impacts of the Project, the Port of Stockton should identify and analyze a range of reasonable alternatives to the proposed Project that would attain most of the Project objectives while avoiding or reducing one or more of the potentially significant impacts (see State CEQA Guidelines, § 15126.6).

Thank you for the opportunity to comment on the NOP for the Project. As a trustee and responsible agency, CSLC staff requests that you consult with us on this Project and keep us advised of changes to the Project description and all other important

developments. Please send additional information on the Project to the CSLC staff listed below as the EIS/EIR is being prepared.

Please refer questions concerning environmental review to Christopher Huitt, Senior Environmental Scientist, at (916) 574-2080 or via e-mail at Christopher.Huitt@slc.ca.gov. For questions concerning archaeological or historic resources under CSLC jurisdiction, please contact Assistant Chief Counsel Pam Griggs at (916) 574-1854 or via email at Pamela.Griggs@slc.ca.gov. For questions concerning CSLC leasing jurisdiction, please contact Al Franzoia, Public Lands Specialist, at (916) 574-0992, or via email at Al.Franzoia@slc.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. R. Oggins', written over the word 'Sincerely,'.

Cy R. Oggins, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
A. Franzoia, CSLC
P. Griggs, CSLC
C. Huitt, CSLC



Via First Class Mail and E-Mail

March 29, 2016

Cynthia J. Fowler
U.S. Army Corps of Engineers
1455 Market St.
San Francisco, CA 94103
cynthia.j.fowler@usace.army.mil

Re: Notice of Intent To Prepare a Joint Environmental Impact Statement/Environmental Impact Report for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Study, San Francisco Bay, CA [Docket No. 2016-04758]

Dear Ms. Fowler,

The Center for Biological Diversity submits these comments in response to the U.S. Army Corps of Engineers' (Corps) notice of intent to prepare a joint environmental impact statement/environmental impact report for the San Francisco Bay to Stockton Navigation Improvement Study in San Francisco Bay, CA (Project), docket number 2016-04758.

In its environmental impact statement (EIS), the Corps must consider the significant impacts arising from increased shipping noise and risk of ship strikes to marine species resulting from increased traffic calling at the Port of Stockton (Port).

I. The Corps Must Analyze How the Project-Related Increase in Ship Noise Will Harm Marine Species

The Corps must consider the impacts of increased shipping noise on marine species. Any deepening and widening that increases the capacity or the "efficiency" of the Port will lead to an increase in the number of vessels calling at the Port when compared to current Port traffic. In its EIS, the Corps must recognize this and discuss resultant noise impacts accordingly.

A. Human-Caused Ocean Noise Harms Marine Species

Anthropogenic ocean noise can severely impact marine species. Oceans are much louder today than they were a century ago, primarily due to increased anthropogenic noise.¹ The National Oceanic and Atmospheric Administration (NOAA) has recently begun mapping marine noise levels using its SoundMap and CetMap mapping tools.² These maps show that human-caused cumulative and ambient ocean noise pollution has increased ambient sound levels to over 100 decibels (dB) across the majority of the Pacific and Atlantic oceans (see figures 1 and 2, below).³ This sound level is equivalent to attending a live rock concert or standing next to a running chainsaw.⁴

Marine mammals use different song, chirp, and whistle frequencies for a variety of purposes, including echolocation for feeding, long-distance communication, environmental imaging, individual identification, and breeding.⁵ Odontocetes, or toothed mammals such as dolphins and killer whales, produce broad-spectrum clicks and whistles that can range between 1 and 200 kilohertz (kHz).⁶ Mysticetes, or baleen whales such as blue and right whales, have much lower-frequency calls, ranging between 0.2 and 10 kHz.⁷

¹ *Phase 1-CetSound*, NOAA, <http://cetsound.noaa.gov/cetsound> (last accessed Oct. 29, 2014).

² *Id.*

³ *Summed Outputs—Sound Field Data Availability*, NOAA,

http://cetsound.noaa.gov/SoundMaps/NorthAtlantic/Basin/Chronic/NA_OceanBasin_Chronic_Sum/NorthAtlantic_Sum_ThirdOctave/Atl_Sum_0050Hz_0005m_ThrdOct.png (last accessed Oct. 29, 2014) (Atlantic Ocean noise pollution levels);

Summed Outputs—Sound Field Data Availability, NOAA,

http://cetsound.noaa.gov/SoundMaps/NorthPacific/Basin/Chronic/NP_OceanBasin_Chronic_Sum/NorthPacific_Sum_ThirdOctave/Pac_Sum_0050Hz_0005m_ThrdOct.png (last accessed Oct. 29, 2014) (Pacific Ocean noise pollution levels).

⁴ *Comparative Examples of Noise Levels*, INDUSTRIAL NOISE CONTROL, INC. (Feb. 2000), <http://www.industrialnoisecontrol.com/comparative-noise-examples.htm>.

⁵ OCEAN NOISE AND MARINE MAMMALS, NAT'L RES. COUNCIL 42-44 (2003), available at

http://www.nap.edu/openbook.php?record_id=10564&page=R1; Jason Gedamke, *Ocean Sound & Ocean Noise: Increasing Knowledge Through Research Partnerships*, NOAA 2 (2014), available at

<http://cetsound.noaa.gov/Assets/cetsound/documents/MMC%20Annual%20Meeting%20Intro.pdf>; Clark, C.W. et al., *Acoustic Masking in Marine Ecosystems as a Function of Anthropogenic Sound Sources*, at *1, available at https://www.academia.edu/5100506/Acoustic_Masking_in_Marine_Ecosystems_as_a_Function_of_Anthropogenic_Sound_Sources (last visited Oct. 29, 2014).

⁶ OCEAN NOISE AND MARINE MAMMALS, NAT'L RES. COUNCIL 41-42 (2003), available at http://www.nap.edu/openbook.php?record_id=10564&page=R1.

⁷ *Id.* at 42.

Figure 1: CetSound Map of Summed Noise Outputs in the Atlantic Ocean⁸

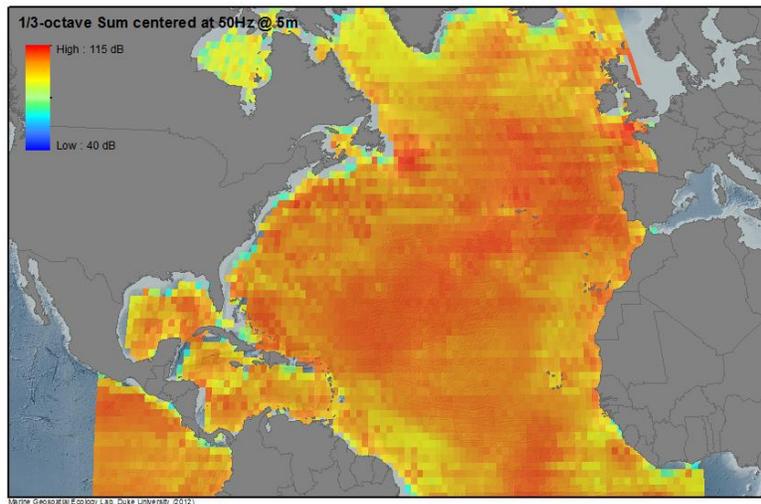
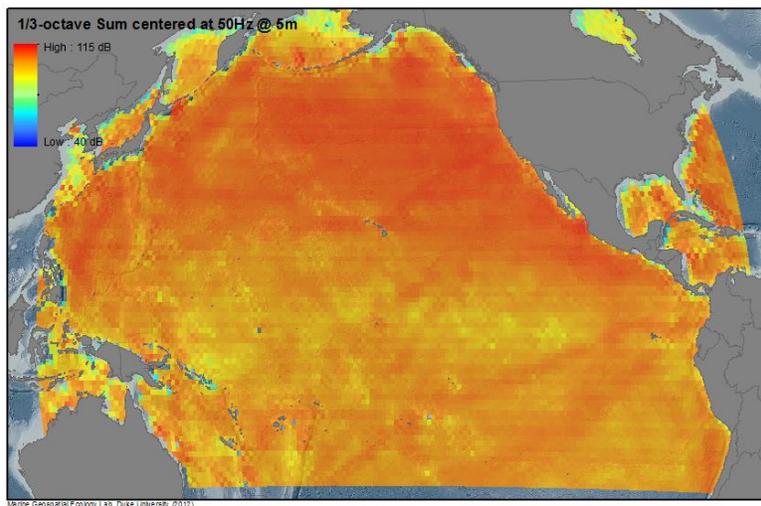


Figure 2: CetSound Map of Summed Noise Outputs in the Pacific Ocean⁹



Anthropogenic noise pollution can mask marine mammal communications at almost all frequencies these mammals use.¹⁰ “Masking” is a “reduction in an animal’s ability to detect

⁸ Image reproduced from NOAA’s CetSound website, http://cetsound.noaa.gov/SoundMaps/NorthAtlantic/Basin/Chronic/NA_OceanBasin_Chronic_Sum/NorthAtlantic_Sum_ThirdOctave/Atl_Sum_0050Hz_0005m_ThrdOct.png (last accessed Nov. 4, 2014).

⁹ Image reproduced from NOAA’s CetSound website, http://cetsound.noaa.gov/SoundMaps/NorthPacific/Basin/Chronic/NP_OceanBasin_Chronic_Sum/NorthPacific_Sum_ThirdOctave/Pac_Sum_0050Hz_0005m_ThrdOct.png (last accessed Nov. 4, 2014).

¹⁰ See, e.g., John Hildebrand, *Impacts of Anthropogenic Sound on Cetaceans*, in *MARINE MAMMAL RESEARCH: CONSERVATION BEYOND CRISIS* (Reynolds, J.E. III et al., eds. 2006); L. S. Weilgart., *The Impacts of Anthropogenic Ocean Noise on Cetaceans and Implications for Management*, 85 *CANADIAN J. ZOOLOGY* 1091-1116 (2007).

relevant sounds in the presence of other sounds.”¹¹ Ambient ship noise can cover important frequencies these animals use for more complex communications.¹² Some species, such as the highly endangered right whale, are especially vulnerable to masking.¹³ Ship noise can completely and continuously mask right whale sounds at all frequencies.¹⁴ NOAA has recognized that this masking may affect marine mammal survival and reproduction by decreasing these animals’ ability to “[a]ttract mates, [d]efend territories or resources, [e]stablish social relationships, [c]oordinate feeding, [i]nteract with parents, or offspring, [and] [a]void predators or threats.”¹⁵

In addition to masking effects, marine mammals have displayed a suite of stress-related responses from increased ambient and localized noise levels. These include “rapid swimming away from [] ship[s] for distances up to 80 km; changes in surfacing, breathing, and diving patterns; changes in group composition; and changes in vocalizations.”¹⁶ Some avoidance responses to localized marine sounds may even lead to individual or mass strandings.¹⁷ Louder anthropogenic sounds may also lead to permanent hearing loss in marine mammals.¹⁸

¹¹ OCEAN NOISE AND MARINE MAMMALS, NAT’L RES. COUNCIL 96 (2003), available at http://www.nap.edu/openbook.php?record_id=10564&page=R1.

¹² *Id.* at 42, 100 (“An even higher level, an understanding threshold” may be necessary for an animal to glean all information from complex signals.”)

¹³ Clark, C.W. et al., *Acoustic Masking in Marine Ecosystems: Intuitions, Analysis, and Implication*, 395 MARINE ECOLOGY PROGRESS SERIES 201, 218-19 (2009), available at <http://www.int-res.com/articles/theme/m395p201.pdf>; Clark, C.W. et al., *Acoustic Masking in Marine Ecosystems as a Function of Anthropogenic Sound Sources*, at *17, fig. 8, available at https://www.academia.edu/5100506/Acoustic_Masking_in_Marine_Ecosystems_as_a_Function_of_Anthropogenic_Sound_Sources (last visited Oct. 29, 2014).

¹⁴ *Id.* (showing anthropogenic noise masking 100 percent of the frequencies right whales used over the majority of a six-hour study).

¹⁵ Jason Gedamke, *Ocean Sound & Ocean Noise: Increasing Knowledge Through Research Partnerships*, NOAA 2 (2014), available at <http://cetsound.noaa.gov/Assets/cetsound/documents/MMC%20Annual%20Meeting%20Intro.pdf>; Clark, C.W. et al., *Acoustic Masking in Marine Ecosystems as a Function of Anthropogenic Sound Sources*, at *3, available at https://www.academia.edu/5100506/Acoustic_Masking_in_Marine_Ecosystems_as_a_Function_of_Anthropogenic_Sound_Sources (last visited Oct. 29, 2014).

¹⁶ OCEAN NOISE AND MARINE MAMMALS, NAT’L RES. COUNCIL 94 (2003), available at http://www.nap.edu/openbook.php?record_id=10564&page=R1.

¹⁷ *Id.* at 132; BRANDON L. SOUTHALL ET AL., FINAL REPORT OF THE INDEPENDENT SCIENTIFIC REVIEW PANEL INVESTIGATING POTENTIAL CONTRIBUTING FACTORS TO A 2008 MASS STRANDING OF MELON-HEADED WHALES 3 (*PEPONOCEPHALA ELECTRA*) IN ANTSOHIHY, MADAGASCAR, INT’L WHALING COMM’N 4 (2013), available at <http://iwc.int/private/downloads/4b0mkc030sg0gogkg8kog4o4w/Madagascar%20ISRP%20FINAL%20REPORT.pdf>.

¹⁸ Kastak, D. et al., *Noise-Induced Permanent Threshold Shift in a Harbor Seal*, 123 J. ACOUSTICAL SOC’Y OF AM. 2986 (2008); Kujawa, S.G. & Liberman, M.C., *Adding Insult to Injury: Cochlear Nerve Degeneration After “Temporary” Noise-Induced Hearing Loss*, 29 J. NEUROSCIENCE 14,077.

1. Sources of Human-Caused Marine Noise

The greatest source of human-caused marine noise is ship propeller cavitation—the sound poorly designed propellers make as they spin through the water.¹⁹ Cavitation accounts for as much as 85 percent of human caused noise in the world’s oceans.²⁰ Cavitation may also increase due to hull designs that create non-homogenous wake fields behind ships.²¹ However, even well-designed propellers and hulls may begin to cavitate if they are not regularly cleaned and smoothed.²²

Another significant source of anthropogenic marine noise is on-board machinery, especially diesel engines.²³ Other onboard machines may also cause vibrations that migrate underwater.²⁴ Finally, ship noise increases at higher ship speeds, as this increases the degree and volume of cavitation and onboard machine sounds.²⁵

B. The Corps Should Conduct Sound Mapping Near the Port of Stockton

As part of its environmental review, the Corps should conduct sound mapping of the area surrounding the Port, as well as the Port’s shipping lanes to determine an accurate baseline for marine noise. Sound mapping has become an established practice in marine waters.²⁶ In order to better and more accurately understand the sound landscape of the San Francisco Bay and Pacific Ocean shipping routes, the Corps should conduct its own mapping of the Port. Such mapping would be able to give the public and the scientific community a more accurate baseline of the Port’s sound profile, and it would allow the Corps to more accurately estimate the sound impact the Project may have on that sound profile, as well as more accurately describe the effects any proposed mitigation on marine sound.

¹⁹ Joseph J. Cox, *Evolving Noise Reduction Requirements in the Marine Environment*, MARINE MAMMAL COMM’N: CONGRESSIONAL BRIEFING ON OCEAN NOISE, at 12 (2014), available at http://www.mmc.gov/special_events/capitalhill_briefing/cox_capitalhill_briefing_0914.pdf; GUIDELINES FOR THE REDUCTION OF UNDERWATER NOISE FROM COMMERCIAL SHIPPING TO ADDRESS ADVERSE IMPACTS ON MARINE LIFE, INT’L MARITIME ORGANIZATION 1-2 (2014) (definition of cavitation).

²⁰ Joseph J. Cox, *Evolving Noise Reduction Requirements in the Marine Environment*, MARINE MAMMAL COMM’N: CONGRESSIONAL BRIEFING ON OCEAN NOISE 12 (2014), available at http://www.mmc.gov/special_events/capitalhill_briefing/cox_capitalhill_briefing_0914.pdf.

²¹ GUIDELINES FOR THE REDUCTION OF UNDERWATER NOISE FROM COMMERCIAL SHIPPING TO ADDRESS ADVERSE IMPACTS ON MARINE LIFE, INT’L MARITIME ORGANIZATION 4 (2014).

²² GUIDELINES FOR THE REDUCTION OF UNDERWATER NOISE FROM COMMERCIAL SHIPPING TO ADDRESS ADVERSE IMPACTS ON MARINE LIFE, INT’L MARITIME ORGANIZATION 5 (2014) (definition of cavitation).

²³ GUIDELINES FOR THE REDUCTION OF UNDERWATER NOISE FROM COMMERCIAL SHIPPING TO ADDRESS ADVERSE IMPACTS ON MARINE LIFE, INT’L MARITIME ORGANIZATION 4 (2014) (definition of cavitation).

²⁴ GUIDELINES FOR THE REDUCTION OF UNDERWATER NOISE FROM COMMERCIAL SHIPPING TO ADDRESS ADVERSE IMPACTS ON MARINE LIFE, INT’L MARITIME ORGANIZATION 4 (2014).

²⁵ GUIDELINES FOR THE REDUCTION OF UNDERWATER NOISE FROM COMMERCIAL SHIPPING TO ADDRESS ADVERSE IMPACTS ON MARINE LIFE, INT’L MARITIME ORGANIZATION 5 (2014) (definition of cavitation).

²⁶ See, e.g., *Cetacean & Sound Mapping: Underwater Noise and Marine Life*, NAT’L OCEANIC & ATMOSPHERIC ADMIN., <http://cetsound.noaa.gov> (last accessed Jan. 15, 2016); Rob Williams et al., *Quiet(er) Marine Protected Areas*, 100 MARINE POLLUTION BULLETIN 154, 155 (2015).

II. The Corps Must Evaluate How Increased Ship Size and Traffic Will Increase the Risk of Ship Strikes

The Corps must also consider the effect of increasing the size and number of ships calling at the Port as it relates to the increased risk of harm from ship strikes. Ships striking and killing or maiming marine species is a serious, prevalent problem that the Project may worsen in the Bay Area.

Higher traffic volumes of larger ships in the shipping lanes leading up to and within the San Francisco Bay will increase the risk of collisions with marine species. Larger vessels account for a disproportionate number of ship strikes—especially fatal ship strikes.²⁷ Partly due to their greater weight and partly because of their decreased maneuverability, “most, if not all, lethal collisions are caused by large ships rather than small vessels.”²⁸ Most ship strikes to large whales result in death.²⁹

Ship strikes in Pacific shipping lanes pose a severe threat to marine species, especially the large odontocetes and mysticetes, such as humpback, gray, and blue whales. Recovery plans for ESA-protected whale species specifically recommend actions to identify areas where ship strikes occur and to take appropriate action to reduce or eliminate such impacts.³⁰ For example, the blue whale recovery plan concludes that “implementation of appropriate measures designed to reduce or eliminate such problems are essential to recovery” and that such actions “must be taken to prevent a significant decline in population numbers.”³¹ Similarly, the final recovery plans for the sperm whale³² and the fin whale³³ recognize research and protective measures to reduce ship strikes as top priorities.

²⁷ Laist et al., *Collisions Between Ships and Whales*, 17 MARINE MAMMAL SCI. 35, 54 (2001); Silber et al., *Hydrodynamics of a Ship/Whale Collision*, 391 J. EXPERIMENTAL MARINE BIOLOGY & ECOLOGY 11, 18-19 (2010) (ship size correlated to risk and severity of ship strike)

²⁸ Laist et al., *Collisions Between Ships and Whales*, 17 MARINE MAMMAL SCI. 35, 54 (2001); Silber et al., *Hydrodynamics of a Ship/Whale Collision*, 391 J. EXPERIMENTAL MARINE BIOLOGY & ECOLOGY 11, 18-19 (2010).

²⁹ A.S. Jansen & G.K. Silber, *Large Whale Ship Strike Database*, NOAA Technical Memorandum, NMFS-OPR-25, U.S. DEP’T COMMERCE 9, fig. 4 (2004).

³⁰ For example, the blue whale recovery plan includes the following recommendations:

4.1: Identify areas where ship collisions with blue whales might occur, and areas where concentrations of blue whales coincide with significant levels of maritime traffic or pollution.

4.2: Identify and implement methods to reduce ship collisions with blue whales.

R.R. REEVES ET AL., RECOVERY PLAN FOR THE BLUE WHALE (BALAENOPTERA MUSCULUS), NAT’L MARINE FISHERIES SERV. (1998), available at http://www.nmfs.noaa.gov/pr/pdfs/recovery/whale_blue.pdf.

³¹ R.R. REEVES ET AL., RECOVERY PLAN FOR THE BLUE WHALE (BALAENOPTERA MUSCULUS), NAT’L MARINE FISHERIES SERV. 36 (1998), available at http://www.nmfs.noaa.gov/pr/pdfs/recovery/whale_blue.pdf.

³² RECOVERY PLAN FOR THE SPERM WHALE (PHYSETER MACROCEPHALUS), NAT’L MARINE FISHERIES SERV. IV-3, -4, V-8, -9 (2010), available at http://www.nmfs.noaa.gov/pr/pdfs/recovery/final_sperm_whale_recovery_plan_21dec.pdf.

³³ RECOVERY PLAN FOR THE FIN WHALE (BALAENOPTERA PHYSALUS), NAT’L MARINE FISHERIES SERV. IV-3, V-13 (2010), available at <http://www.nmfs.noaa.gov/pr/pdfs/recovery/finwhale.pdf>.

As part of its environmental review, the Corps must consider how lowering the speed of ships entering into the Port may reduce the likelihood of fatal and injurious ship strikes. Scientific research has shown that there is a direct correlation between vessel speed and ship strikes resulting in whale mortality.³⁴ Ship speed affects the likelihood of whale mortality in two ways. First, slower ship speeds provide whales with a greater opportunity to detect the approaching ship and avoid being hit by it.³⁵ Second, while slower speeds may not avoid all collisions between whales and ships, research shows that collisions at slower speeds are less likely to result in the serious injury or death of the whale that has been struck. Laist et al. reported in a historical analysis of ship strikes involving large cetaceans that:

Among collisions causing lethal or severe injuries, 89% (25 of 28) involved vessels moving at 14 kn or faster and the remaining 11% (3 of 28) involved vessels moving at 10-14 kn; none occurred at speeds below 10 kn.³⁶

Vanderlaan and Taggart reported that “as vessel speed falls below 15 knots, there is a substantial decrease in the probability that a vessel strike to a large whale will prove lethal,” but that only at speeds slower than 11.8 knots does the chance of a fatal injury to a large whale drop below 50 percent.³⁷ Pace and Silber found “clear evidence of a sharp rise in mortality and serious injury rate with increasing vessel speed.”³⁸ Specifically, they found that the probability of serious injury or mortality increased from 45 percent at 10 knots to 75 percent at 14 knots, exceeding 90 percent at 17 knots.³⁹ Because ship speed, size, and traffic volume all play a part in increasing the risk of ship strikes, the Corps must analyze each of these risk factors as they relate to the increased activity at the port that the Project facilitates.

³⁴ D. W. Laist et al., *Collisions Between Ships and Whales*, 17 MARINE MAMMAL SCIENCE 35-75 (2001); R. M. Pace & G. K. Silber, *Abstract: Simple Analyses of Ship and Large Whale Collisions: Does Speed Kill?*, Sixteenth Biennial Conference on the Biology of Marine Mammals, San Diego (Dec. 2005); A.S.M. Vanderlaan & C. T. Taggart, *Vessel Collisions with Whales: the Probability of Lethal Injury Based on Vessel Speed*, 23 MARINE MAMMAL SCIENCE 144-156 (2007); Silber et al., *Hydrodynamics of a Ship/Whale Collision*, 391 J. EXPERIMENTAL MARINE BIOLOGY & ECOLOGY 10-19 (2010); Panigata et al., *Mediterranean Fin Whales at Risk from Fatal Ship Strikes*, 52 MARINE POLLUTION BULLETIN 1287-1298 (2006).

³⁵ Silber et al., *Hydrodynamics of a Ship/Whale Collision*, 391 J. EXPERIMENTAL MARINE BIOLOGY & ECOLOGY 10-19 (2010) (“increasing vessel speed . . . may increase response time for a whale attempting to maneuver away from a vessel”).

³⁶ D. W. Laist et al., *Collisions Between Ships and Whales*, 17 MARINE MAMMAL SCIENCE 35, 49 (2001).

³⁷ A.S.M. Vanderlaan & C. T. Taggart, *Vessel Collisions with Whales: the Probability of Lethal Injury Based on Vessel Speed*, 23 MARINE MAMMAL SCIENCE 144, 149, 152 (2007).

³⁸ R. M. Pace & G. K. Silber, *Abstract: Simple Analyses of Ship and Large Whale Collisions: Does Speed Kill?*, Sixteenth Biennial Conference on the Biology of Marine Mammals, San Diego (Dec. 2005).

³⁹ R. M. Pace & G. K. Silber, *Abstract: Simple Analyses of Ship and Large Whale Collisions: Does Speed Kill?*, Sixteenth Biennial Conference on the Biology of Marine Mammals, San Diego (Dec. 2005).

III. Conclusion

In order to ensure the Corps has adequately considered Project-related impacts, it is imperative that the Corps discuss impacts related to increased ship noise and the increased risk of ship strikes.

Thank you for considering our comments. If you have any questions, please contact Nicholas Whipps at the contact information provided below.

Sincerely,

Nicholas Whipps
Legal Fellow
CENTER *for* BIOLOGICAL DIVERSITY
1212 Broadway, Suite 800
Oakland, CA 94612
Tel: (510) 844-7131
E-mail: nwhipps@biologicaldiversity.org



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

April 4, 2016

Cynthia J. Fowler
U.S. Army Corps of Engineers, San Francisco District
Planning Branch
1455 Market Street
San Francisco, California 94103-1398

Subject: Notice of Intent to Prepare an Environmental Impact Statement / Environmental Impact Report for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Study, San Francisco, Marin, Contra Costa, Solano, Sacramento, and San Joaquin Counties, CA

Dear Ms. Fowler:

The U.S. Environmental Protection Agency has reviewed the US Army Corps of Engineers' Notice of Intent to prepare a Draft Environmental Impact Statement / Environmental Impact Report for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Study. Our comments are provided pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. These comments were also prepared under the authority of, and in accordance with, the provisions of the Federal Guidelines (Guidelines) promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act (CWA) and EPA's ocean dumping regulations promulgated at 40 CFR 220-227 under the Marine Protection, Research and Sanctuaries Act (MPRSA).

The NOI is supplemental to the March 12, 2008 notice released for the San Francisco Bay to Stockton Navigation Improvement Study. The previous NOI was for a deepening project that extended the length of the project area. EPA appreciates that the supplemental NOI has separated the proposed project into two phases: Phase I would deepen the Western Reach of the project to Avon; Phase II would deepen the Eastern Reach from Avon to the Port of Stockton, revisit further deepening in the Western Reach, and provide an ecosystem restoration study. According to the NOI, the EIS will evaluate Phase I at a project level and Phase II at a programmatic level. EPA submitted comments on the previous NOI on May 16, 2008 and provided additional comments in a letter dated February 13, 2013 after participating in an interagency In Progress Review (IPR) meeting where additional project details and alternatives were discussed. This letter serves as an update and supplement to our previous scoping letters.

Purpose and Need

The DEIS for the proposed project should clearly identify the underlying purpose and need that is the basis for proposing the range of alternatives (40 CFR 1502.13). The *purpose* of the proposed action is typically the specific objectives of the activity, while the *need* for the proposed action may be to eliminate a broader underlying problem or take advantage of an opportunity.

The statement of purpose and need should explain why the USACE, Port of Stockton, and Contra Costa Water Agency (local sponsors) are considering undertaking the proposed Project, and the objectives that the action is intended to achieve. The NOI states that the purpose of Phases I and II of the study is more efficient deep-draft navigation, and Phase II includes an additional purpose of identifying beneficial reuse opportunities for material generated from the deepening project. The need for the project is stated to be addressing vehicle restrictions imposed by existing channel depths. The EIS should clarify whether the purpose and need include expansion of existing facilities at the Port of Stockton and other locations along the channels, and why this is needed or whether this is considered a connected action for the purposes of the EIS.

For the Phase II programmatic analysis, EPA highlights our recommendation from our 2013 letter that USACE consider an alternative that would move goods by barge from Stockton to the Port of Oakland or other regional ports. The Department of Transportation Maritime Administration (MARAD) provided a grant to the Ports of Oakland, Sacramento, and Stockton to create a new alternative to conventional freight and cargo movement in Northern California. This marine highway concept would avoid impacts of deepening the shipping channel and is an approach that is already widely used elsewhere in the U.S. and around the world. By evaluating goods movement collectively, including intermodal transfers, San Francisco Bay and Central Valley ports can more strategically consider goods movement at a regional scale to optimize investment, avoid environmental impacts, and maximize transportation efficiency. We understand that the marine highway project was attempted and suspended in 2014. The EIS should examine if the project could be a viable alternative in the future.

Regional Context

In 2012, EPA issued the San Francisco Bay Delta Action Plan containing seven priorities for EPA actions and investments designed to work with state and federal partners to reverse the dramatic decline of migratory and resident fisheries, improve water quality and protection of beneficial uses, and advance the restoration of aquatic habitat in the San Francisco Bay, Sacramento-San Joaquin Delta and the Sacramento and San Joaquin River Basins.¹ Several elements of the Action Plan should be considered in the DEIS including: 1) the pending update of estuarine water quality standards in the Bay-Delta Water Quality Control Plan; 2) advancing regional monitoring; 3) accelerating water quality improvement through Total Maximum Daily Load (TMDL) implementation; 4) revised selenium criteria in San Francisco Bay and Delta; and 5) the Bay Delta Conservation Plan (which is no longer proposed as a habitat conservation plan and has been recast as the California WaterFix).

Bay Delta Water Quality Control Plan

The State Water Resources Control Board is in the midst of comprehensively updating water quality standards through the Bay Delta Water Quality Control Plan (Bay Delta WQCP).² EPA is working closely with the State Water Board to ensure that the revised standards are sufficient to protect beneficial uses, address impaired water quality conditions in the Delta, and reverse the sharp declines in the abundance of resident and migratory fishes. In our 2013 letter, we noted that the preliminary modeling results presented at the IPR meeting showed that a deepened channel would cause direct, indirect, and perhaps permanent adverse impacts to water quality and listed species, and that construction and operation may conflict with new or revised water quality standards in the forthcoming WQCP. A deeper ship channel may increase the eastern extent of salinity intrusion and lower dissolved oxygen levels in the Delta. The EIS should discuss the forthcoming WQCP update and how alternatives for the project's two phases would comport or conflict with the plan.

¹ <https://www.epa.gov/sfbay-delta/bay-delta-action-plan>

² http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/index.shtml

Selenium Criteria & TMDL Implementation

Changing the hydrodynamics of the San Francisco Bay and Delta by deepening the ship channel may affect dissolved oxygen levels and alter sensitive organisms' selenium exposure. EPA plans to release draft revised selenium criteria in mid-2016 for the San Francisco Bay and Sacramento-San Joaquin Delta to protect aquatic life and wildlife. The EIS should evaluate how changes in hydrodynamics would affect selenium exposure and protection of fish and wildlife in the context of existing and new modified draft criteria. Similarly the EIS should evaluate how changes in hydrodynamics that would result from deepening the ship channel would impact implementation of selenium and dissolved oxygen TMDLs and other efforts to achieve water quality targets for these stressors.

WaterFix

The California Department of Water Resources has proposed the California WaterFix project to construct new water diversion intakes on the Sacramento River and a 40 mile twin tunnel conveyance facility under the Delta to existing water export facilities at the south end of the Delta. This project would result in a significant change to the way freshwater moves into and through the Delta. California has launched a separate EcoRestore initiative to pursue the restoration and stewardship of 30,000 acres of floodplains, riparian forests, and wetlands within the Delta. The EIS should discuss the proposed project in the context of the proposed operational scenario for the WaterFix Project (including Central Valley Project and State Water Project operations) as well as in the context of the goals, implementation, and environmental impacts of both WaterFix and EcoRestore.

Range of Alternatives

A robust range of alternatives will include options for avoiding significant environmental impacts. The DEIS should clearly describe the rationale used to determine whether impacts of an alternative are significant or not. Thresholds of significance should be determined by considering the context and intensity of an action and its effects (40 CFR 1508.27).

The environmental impacts of the proposal and alternatives should be presented in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decision maker and the public (40 CFR 1502.14). The potential environmental impacts of each alternative should be quantified to the greatest extent possible (e.g. acres of wetlands impacted; change in water quality).

The Phase I project-level alternatives listed in the NOI are No Action, Deepening to -37 feet MLLW, and Deepening to -38 feet MLLW.

EPA strongly recommends that the definition of the baseline conditions for "no action" (that is, without project conditions) be coordinated with federal and state agencies that are also conducting impact analyses for proposed projects affecting the Delta, including WaterFix and EcoRestore. In particular, establishing common baseline assumptions regarding water management projects and their operations is an important step in modeling water movement into and within the Delta and provides a common basis for evaluating impacts of alternatives. Use of a common baseline will also assist evaluation of effects of USACE's project in combination with other proposed projects affecting the Delta.

Dredging and Dredged Material Management

Beneficial Reuse

The NOI does not provide an estimate of the volume of dredged material that would be generated by any of the deepening alternatives, but EPA anticipates that it would amount to several million cubic yards. Please note that EPA will not concur on ocean disposal of dredged material if, in our independent evaluation, we determine that there is an alternative to ocean disposal that is practicable. We do not

consider that incrementally increased construction costs, alone, necessarily render an alternative to ocean disposal impracticable, especially for a new construction Civil Works project.³ We understand that the EIS must identify the National Economic Development (NED) alternative; however, we also note that USACE is not obligated to select the NED plan.

We reiterate the comments from our previous two scoping letters that the EIS should commit to direct beneficial reuse of 100 percent of the dredged material generated by the deepening project. EPA believes reuse of all of the project's dredged material will assist with important efforts to combat the effects of sea level rise and help restore habitat. To this end, the EIS should evaluate in detail the capacity at existing reuse sites (including but not limited to Cullinan Ranch, Winter Island, the Montezuma Wetlands Restoration Project, Ocean Beach, and other sites identified during development of the Sacramento Deep Water Ship Channel DEIS), as well as other potential sites currently in the planning phases (such as Skaggs Island, Bel Marin Keys, Eden Landing, Ravenswood, and the South Bay Salt Ponds). The EIS should also consider potential placement sites being evaluated by the WaterFix project. The EIS should not limit its evaluation to individual beneficial reuse sites capable of accommodating all of the material; reuse opportunities exist along the length of the proposed project, and utilization of a mix of these sites should also be considered.

Stockpiling for Future Beneficial Reuse

To the extent that sufficient capacity may not exist for direct and immediate reuse of all the project's dredged material, the EIS should commit to stockpiling any remainder at locations specifically chosen to facilitate access to and reuse by others in the reasonably near term, as well as to minimize any temporary environmental impacts during the period of stockpiling. Specifically any stockpiling should occur at environmentally appropriate locations that are in proximity to potential/likely reuse areas, or at least at locations that are easily accessible to future users via barge, truck, or rail. Ideally, material would be placed at such locations directly during the dredging process, as opposed to needing to stage and re-handle material after dredging. This reduces costs and impacts associated with moving material multiple times, including air emissions, noise, and cumulative effects to surface and groundwater (if any).

Potential Dredging Impacts to Sensitive Species

Federal- and State-endangered species including Delta smelt, green sturgeon, various salmon runs, and the state-listed longfin smelt (among other sensitive species) occur in the project area. These species are particularly vulnerable to entrainment via hydraulic dredging (including by hopper dredges), but are generally considered less vulnerable to mechanical clamshell dredging. The choice of dredging method therefore may have a direct relation to the degree of environmental impact caused by both initial deepening and future maintenance dredging activities. The EIS should specifically discuss construction methods and commit to using the least damaging method possible in each project reach. This evaluation should also consider future maintenance dredging.

Future Maintenance Dredging Needs – Federal Standard

The EIS should evaluate whether deepening the channel would affect future maintenance dredging volumes in different reaches. It should then discuss how future maintenance dredging will be accomplished, including whether specific dredge equipment types are absolutely necessary (see comment above) and where placement of maintenance dredged material would occur. We note that the issue of certain dredge equipment types – specifically with regard to entrainment of sensitive species – is already significantly controversial in the project area. Regulatory and resource agencies are calling for

³ See, for example, 40 CFR subpart C, parts 227.14-16, and particularly including 227.16(c), "...alternative methods of disposal are practicable when they are available at reasonable incremental cost and energy expenditures, which need not be competitive with the costs of ocean dumping..."

reduced hydraulic (hopper) maintenance dredging in the area, and it is possible that USACE will be required to reduce hydraulic dredging in the future, independent of deepening the channel. The EIS should address whether and how the benefit-cost ratio for maintaining the deepened channel would be affected by the type of dredging – mechanical or hydraulic – chosen or required for the different project reaches. This evaluation should not be deferred to a future Dredged Material Management Plan (DMMP) exercise for determining the “Federal Standard” for the different reaches, nor should a single “Federal Standard” placement option be presumed for the entire project length.

Water Quality

The project has the potential to significantly impact water quality in the Delta and San Francisco Bay, and each of the alternatives should include a robust discussion of impacts to water quality. The importance of Delta water quality as a source of drinking water, irrigation water, and as the habitat for many important aquatic species places a spotlight on water quality analyses for the EIS.

The California WaterFix project would significantly change the “plumbing” of the Delta and should be considered a reasonably foreseeable future action for this project’s EIS. The EIS should include an evaluation of salinity and other water quality impacts of the project, both with and without the proposed major diversion of freshwater around the Delta.

The EIS should also assess potential direct, indirect and cumulative impacts to water quality from project activities such as sediment dredging and disposal. The analysis in the EIS should describe Clean Water Act Section 303(d) listings of impaired water bodies and TMDLs, and describe how the project could potentially affect these impairments. Of particular relevance to the second phase of the proposed project is the low dissolved oxygen (DO) in the Stockton Deep Water Ship Channel and the fact that existing channel configuration contributes to this impairment. The EIS should consider potential impacts on DO levels in the lower San Joaquin River. This analysis should clearly state assumptions regarding implementation of all aspects of the TMDL (improving ship channel geometry, management of oxygen demanding substances, and River flows). We also recommend that USACE consider if low DO can be reduced through changes in channel geometry associated with Project alternatives.

Hydrodynamics

Channel deepening is expected to affect the hydrodynamics of the Delta and SF Bay. The EIS should describe these effects and the modeling used to inform the determinations. The EIS should also discuss the potential for altered hydrodynamics to directly, indirectly and cumulatively affect water quality, biological resources, and other resources influenced by hydrodynamic conditions in the Project area. EPA is particularly concerned with effects to aquatic life from changes to dissolved oxygen and salinity concentrations that could result from modified hydrodynamics from channel deepening.

Mitigation

In addition to baseline and effects analysis, the EIS should describe avoidance and mitigation measures to address water quality degradation from the project. Mitigation should be focused on meeting water quality standards and compliance with the CWA and the Porter-Cologne Water Quality Control Act. The Central Valley and San Francisco Bay Regional Water Quality Control Boards should be consulted as well as EPA, in the development of mitigation measures. Results of this coordination should be described in the EIS.

In our 2013 letter, we understood a key water quality mitigation measure for the project would be restoration of tidal action to several thousand acres of lands within the Suisun Marsh. Given that the project is now proposed in two phases, and EPA assumes the majority of the acres needed for mitigation

would be in Phase II, our prior concerns with regard to availability of appropriate mitigation should be directed at the programmatic evaluation of Phase II. Both phases in the EIS should include an evaluation of availability and water quality benefits of any proposed mitigation.

As noted in our 2013 letter, if additional water releases from reservoirs are needed for water quality impact mitigation, the EIS should discuss whether such volumes would be possible given the other constraints on the water supply/delivery system. The EIS should disclose how the overall cost of needed mitigation (including water releases) may affect the benefit/cost ration of the project alternatives.

Water Supply

Because of the importance of the Delta to water supply in California, the EIS should include an analysis and discussion of how the alternatives could affect water supply conditions within both a water delivery and water quality context.

Aquatic Life

The Delta is a biologically diverse ecosystem that will be affected by the project. Several human induced factors have resulted in degradation of Delta habitats resulting in the federal and state listings of several threatened and endangered species that could be further affected by the project. The EIS should describe baseline habitat conditions and species that occur or could occur in the project area, and areas that could be affected by project activities. The EIS should include a rigorous analysis of potential project effects on both habitats and species, including direct, indirect and cumulative impacts and describe mitigation measures to address any unavoidable impacts of the project on aquatic resources. The EIS should describe coordination efforts with the U.S Fish & Wildlife Service, National Marine Fisheries Service, and the California Department of Fish & Wildlife and consistency with appropriate state and the federal laws implemented by these agencies.

Since the 2008 NOI, populations of several fish species dependent on the Delta ecosystem have continued to decline: endangered Delta smelt and Sacramento River winter-run Chinook salmon, and threatened Central Valley spring-run Chinook salmon, Central Valley steelhead, as well as several non-listed resident and migratory fishes. For example, the 2015 summer townet survey for Delta smelt recorded a zero juvenile Delta smelt abundance index⁴ and the 2015 fall midwater trawl survey recorded an abundance index of 7, the lowest on record for adults and sub-adult abundance.⁵ The continued decline of resident and migratory fish populations suggests that multi-agency efforts to improve protection for aquatic habitat in the San Francisco estuary watershed have not yet been successful in protecting aquatic habitat, reversing population declines, avoiding jeopardy, and/or improving aquatic life beneficial use protection. The EIS should evaluate direct, indirect, and cumulative project impacts on aquatic life in the project area.

Air Quality

The EIS should provide a detailed discussion of existing ambient air conditions, National Ambient Air Quality Standards (NAAQS) and nonattainment areas, and potential air quality impacts of the project, including cumulative and indirect impacts. Cumulative impacts include, but are not limited to, those from construction, any increased ship traffic, new capacity for larger ships due to channel deepening, increased truck or rail transport, on-dock equipment use, and refinery operations. The expected timing and frequency of dredging and transporting of dredged material should be identified in the EIS. Emissions should be estimated for any construction phases and for maintenance activities, including

⁴ California Department of Fish and Wildlife Memorandum (June 26, 2015) to Scott Wilson from Felipa La Luz regarding 2015 Summer Townet Survey Age-0 Delta Smelt Abundance Index.

⁵ California Department of Fish and Wildlife Fall Midwater Trawl Survey <http://www.dfg.ca.gov/delta/data/fmwt/indices.asp>

dredge spoil activities. Measures that could mitigate construction-related emissions should be discussed, including alternative fuels, electrification, minimizing diesel truck trips, etc. An estimate of the air quality benefits that would result from each identified mitigation measure should be included in the EIS.

While we acknowledge the air quality benefits of using more fully laden vessels to deliver goods, we encourage the project sponsors to work with their shipping partners to speed the deployment of cleaner ocean-going vessels, such as those meeting International Maritime Organization Tier 2 and Tier 3 standards.⁶

EPA's General Conformity Rule, established under Section 176(c)(4) of the Clean Air Act, provides a specific process for ensuring federal actions will conform with State Implementation Plans to achieve National Ambient Air Quality Standards. The EIS should include a discussion of the applicability of the General Conformity Rule to the project.

The proposed project area falls within both the San Francisco Bay Area and San Joaquin Valley air basins. Both of these basins are designated nonattainment for national ambient air quality standards (NAAQS), including ozone (O3) and particulate matter smaller than 2.5 microns (PM2.5). The SF Bay Area basin is designated marginal nonattainment for 8-hour ozone, and moderate nonattainment for 24-hour PM2.5. The San Joaquin Valley air basin is designated extreme nonattainment for 8-hour O3, serious nonattainment for 24-hour PM2.5, moderate nonattainment for annual PM2.5, and maintenance for PM10. The Port of Stockton also appears to be located within the Stockton Carbon Monoxide maintenance area.

Ecosystem Services

In 2013, the Council on Environmental Quality (CEQ) released *Updated Principles and Requirements for Federal Investments in Water Resources*⁷, followed in 2014 by *Interagency Guidelines*⁸. These documents define ecosystem services as “the direct or indirect contributions, including economic, environmental and social effects, which ecosystems make to the environment and human populations.” Together, these documents direct specific federal agencies, including USACE, to consider the both the monetized and non-monetized values of ecosystem services in agency planning and decision making processes. The 2015 Presidential Memorandum, “Incorporating Natural Infrastructure and Ecosystem Services in Federal Decision-Making,”⁹ further acknowledges the need to incorporate ecosystem services’ benefits in these processes even as our understanding of these services’ values evolves. EPA recommends that USACE consider the potential changes in monetized values of ecosystem services in its benefit-cost analyses for each alternative proposed and in comparing alternatives to determine the NED.

The Interagency Guidelines highlight three kinds of ecosystem services to consider (page 22):

1. “Provisioning services refer to the food, fuel, fiber, and clean water that ecosystems provide.
2. Regulating services refer to specific ecosystem processes for which people are willing to pay. Examples include pollination, storm protection, climate regulation, and water regulation.

⁶ Tier 2 standards applied to vessels built in or after Jan 2011. Tier 3 standards apply beginning in 2016 and require the use of high efficiency emission control technology such as selective catalytic reduction to achieve NOx reductions 80% below current levels. For more information about these standards, see Annex VI of the International Convention for the Prevention of Pollution from Ships (or MARPOL). <https://www.epa.gov/enforcement/marpol-annex-vi>

⁷ https://www.whitehouse.gov/sites/default/files/final_principles_and_requirements_march_2013.pdf

⁸ *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies; Final Interagency Guidelines.* https://www.whitehouse.gov/sites/default/files/docs/prg_interagency_guidelines_12_2014.pdf

⁹ <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-01.pdf>

3. Cultural services refer to the benefits ecosystems confer that do not directly relate to our physical health or material well-being. Examples include recreation, aesthetic, spiritual, existence, and option “values.” Whereas the first two of these are experiential, the latter “non-use” values depend simply on the continued survival of the ecosystem and its attributes.”

Ecosystem services accounted for in USACE’s valuations should include direct and indirect consumer values, and use and non-use values. For example, ecosystem service “costs” due to decline of Delta smelt from this project could be accounted for in multiple ways since the smelt provide both indirect use value as a food source to fishery species and direct non-use, existence value to the general public. Ecosystem service “benefits,” such as those from improved wetland habitat from the beneficial reuse of dredged material, should also be included.

There are several tools available to help assess costs and benefits of ecosystem services. The USACE 1996 study, “Monetary Measurement of Environmental Goods and Services: Framework and Summary of Techniques for Corps Planners”¹⁰ contains a broad overview of valuation methods, and EPA’s “Guidelines for Preparing Economic Analyses,”¹¹ updated in 2014, includes guidance for how to include such valuations. Though intended for policy analysis, EPA’s recently published “National Ecosystem Services Classification System (NESCS): Framework Design and Policy Application”¹² and “Final Ecosystem Goods and Services Classification System”¹³ offer frameworks for determining those ecosystem services to consider. Two documents published by USACE in 2013, “Incorporating Ecosystem Goods and Services in Environmental Planning – Definitions, Classification and Operational Approaches”¹⁴ and “Using Information on Ecosystem Goods and Services in Corps Planning,”¹⁵ outline specific strategies for incorporating these considerations in planning processes.

Cumulative Effects

The Eastern Reach of the project, which would be evaluated at a programmatic level in the EIS, passes adjacent to many areas that are not currently developed for maritime use. Some locations may be particularly subject to additional or different development pressures if this portion of the channel is deepened and vessel traffic increases (for example, the former Concord Naval Weapons Station). The EIS should generally discuss the degree to which the deepening project may have growth-inducing effects beyond the Port of Stockton itself.

Climate Change

EPA recommends that this EIS include a qualitative description of relevant climate change impacts, an estimate of the greenhouse gas (GHG) emissions associated with the project during construction and operation, and practicable mitigation measures to reduce project-related GHG emissions. We suggest the following approach:

Affected Environment Section

Include in the “Affected Environment” section of the EIS a summary discussion of climate change and ongoing and reasonably foreseeable climate change impacts relevant to the project, based on U.S. Global Change Research Program assessments.¹⁶ These future climate scenarios can be useful when considering mitigation to reduce potential impacts of the proposal that could be altered by a changing

¹⁰ <http://www.iwr.usace.army.mil/Portals/70/docs/iwrreports/96r24.pdf>

¹¹ [https://yosemite.epa.gov/ee/epa/erm.nsf/vwAN/EE-0568-50.pdf/\\$file/EE-0568-50.pdf](https://yosemite.epa.gov/ee/epa/erm.nsf/vwAN/EE-0568-50.pdf/$file/EE-0568-50.pdf)

¹² https://www.epa.gov/sites/production/files/2015-12/documents/110915_nescs_final_report_-_compliant_1.pdf

¹³ https://gispub4.epa.gov/FECS/FECS_home.html

¹⁴ <http://el.erdc.usace.army.mil/elpubs/pdf/er18.pdf>

¹⁵ http://www.iwr.usace.army.mil/Portals/70/docs/iwrreports/EGS_Policy_Review_2013-R-07.pdf

¹⁶ <http://www.globalchange.gov/>

climate. Impacts to consider include sea level rise and changing hydrology due to differences in timing, frequency and amount of precipitation providing water flows through the project area.

Environmental Consequences Section

The EPA recommends that the EIS estimate the GHG emissions associated with the proposal and its alternatives. Example tools for estimating and quantifying GHG emissions can be found on CEQ's website.¹⁷ These emissions levels can serve as a reasonable proxy for climate change impacts when comparing the alternatives and mitigation.

Cumulative Impacts and Reasonably Foreseeable Actions

In addition to looking at the direct impacts of a proposed project, CEQ regulations (Section 1502.16) instruct agencies to consider other effects that are reasonably foreseeable. Thus, in addition to analyzing impacts associated with the construction of the project, we recommend that the EIS analyze reasonably foreseeable impacts resulting from a potential increase in the transportation and combustion of refined petroleum and coal, which are major exports of ports within the proposed project area. We recommend that the study include a calculation of the increased potential for export and consumption of refined petroleum and coal that would result from the proposed action's impact on transportation costs and vessel loads. Even though the ultimate end use of the petroleum and coal is likely to occur outside the US, due to the global nature of climate change, these additional greenhouse gas emissions would impact the U.S. Because of these impacts, it is appropriate and consistent with NEPA and CEQ regulations to disclose the GHG emissions in the EIS. These emissions should be disclosed in the EIS due to their reasonably close causal relationship to the project.

The EPA recommends that the EIS describe measures to reduce GHG emissions associated with the project, including reasonable alternatives or other practicable mitigation opportunities and disclose the estimated GHG reductions associated with such measures. The EPA further recommends that the EIS commit to implementation of reasonable mitigation measures that would reduce or eliminate project-related GHG emissions.

Climate Change Adaptation

The EPA recommends that USACE discuss how future climate scenarios addressed in the "Affected Environment" section may impact the proposal. Changing climate conditions can affect a proposed project, as well as the project's ability to meet the purpose and need presented in the EIS. In some cases, adaptation measures may avoid the potentially significant environmental impacts of failure to adequately address the threat of a changing climate on the proposal.

Effects of Climate Change on Project Impacts

When considering the potential impacts of the proposal, we recommend USACE consider the future climate scenarios in the "Affected Environment" section to determine whether the environmental impacts of the alternatives would be exacerbated by climate change. If impacts may be exacerbated by climate change, additional mitigation measures may be warranted.

We appreciate the opportunity to provide comments on the preparation of the DEIS. Please send one hard copy and one CD of the DEIS to this office at the same time it is officially filed with our Washington D.C. Office. If you have any questions, please contact me at (415) 947-4167 or prijatel.jean@epa.gov.

¹⁷ https://ceq.doe.gov/current_developments/GHG_accounting_methods_7Jan2015.html

Sincerely,

Stephanie Jordan FOR

Jean Prijatel
Environmental Review Section

cc: Douglas Hampton, National Marine Fisheries Service
Sara Azat, National Marine Fisheries Service
Steve Culberson, U.S. Fish and Wildlife Service
Arn Aarreberg, California Department of Fish and Wildlife
Jim Starr, California Department of Fish and Wildlife
Jeff Wingfield, Port of Stockton
John Greitzer, Contra Costa County
Brian Hernandez, Contra Costa County
Becky Victorine, U.S. Bureau of Reclamation
Daniel Yuska, U.S. Maritime Administration
Alan Hicks, U.S. Maritime Administration
Johanna Jensen, State Water Resources Control Board
Beth Christian, Regional Water Quality Control Board, San Francisco Bay
Phil Giovannini, Water Quality Control Board, Central Valley Region
Elizabeth Lee, Water Quality Control Board, Central Valley Region
Jack Broadbent, Bay Area Air Quality Management District
Seyed Sadredin, San Joaquin Valley Air Pollution Control District
Brenda Goeden, Bay Conservation Development Commission
Lucinda Shih, Contra Costa County Water District
Richard Sinkoff, Port of Oakland
Mike Luken, Port of Sacramento

April 6, 2016



U. S. Corps of Engineers, San Francisco District
Planning Branch
ATTN: Cynthia Fowler
1455 Market Street
San Francisco, CA 94103-1398

DIRECTORS

Ray Stokes
President
Central Coast Water
Authority

Douglas Headrick
Vice President
San Bernardino Valley MWD

Mark Gilkey
Secretary-Treasurer
Tulare Lake Basin Water
Storage District

Stephen Arakawa
Metropolitan Water District
of Southern California

Curtis Creel
Kern County Water Agency

Dan Flory
Antelope Valley-East Kern
Water Agency

Cindy Kao
Santa Clara Valley Water
District

Dan Masnada
Castaic Lake Water Agency

Phillip Miller
Napa County FC&WCD

General Manager
Terry L. Erlewine

Re: San Francisco Bay to Stockton Navigation Improvement Study EIS/EIR

Dear Ms. Fowler:

The State Water Contractors (SWC) submits these comments regarding the Notice of Intent (NOI) to prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton Navigation Improvement Study (SFBSNIS). As described in the NOI, the U.S. Army Corps of Engineers (the Corps), in coordination with the Port of Sacramento, proposes to resume construction of navigational improvements to the SFBSNIS (Proposed Action). Implementation of the Proposed Action would improve efficiency for the movement of goods and safety along the existing Federal navigation channel.

The SWC is an organization representing 27 of the 29 public water entities¹ that hold contracts with the California Department of Water Resources (DWR) for the delivery of water from the State Water Project (SWP). Collectively, the members of the SWC provide all, or a part, of the water supply delivered to approximately 26 million Californians, roughly two-thirds of the State's population, and to over 750,000 acres of irrigated agriculture. The members of the SWC provide this water to retailers, who, in turn, serve it to consumers throughout the San Francisco Bay Area, the San Joaquin Valley, the Central Coast, and Southern California.

¹ Alameda County Zone 7 Water Agency, Alameda County Water District, Antelope Valley-East Kern Water Agency, Casitas MWD on behalf of the Ventura County Flood Control District, Castaic Lake Water Agency, Central Coast Water Authority on behalf of the Santa Barbara FC&WCD, City of Yuba City, Coachella Valley Water District, County of Kings, Crestline-Lake Arrowhead Water Agency, Desert Water Agency, Dudley Ridge Water District, Empire West-Side Irrigation District, Kern County Water Agency, Littlerock Creek Irrigation District, The Metropolitan Water District of Southern California, Mojave Water Agency, Napa County FC&WCD, Oak Flat Water District, Palmdale Water District, San Bernardino Valley MWD, San Gabriel Valley MWD, San Geronio Pass Water Agency, San Luis Obispo County FC&WCD, Santa Clara Valley Water District, Solano County Water Agency, and Tulare Lake Basin Water Storage District.

The SWP water supply delivered through the Sacramento-San Joaquin Delta constitutes a significant portion of the water supplies available to SWC members. As a result, the SWC is very interested in matters affecting the quantity and quality of water supplies in the Bay-Delta. As proposed, the geographic extent of the Proposed Action ranges from Central San Francisco Bay to the Port of Stockton. As described in the NOI, the existing channels are maintained at a depth of 35 feet. The Proposed Project will consider deepening the existing Federal navigation channel from 35 feet to 40 feet (mean lower low water) to improve navigational efficiency. The SWC previously sent comments on a similar project in July 2008 (attached), which raised similar concerns to the current project.

The SWC would like to emphasize that increasing the depth of the John F. Baldwin and Stockton Ship Channels (Ship Channels) would change Delta hydrology, likely causing degradation in water quality in terms of localized decreased dissolved oxygen concentrations. Additionally, altering the depth of the Ship Channels would change the tidal prism in the Bay-Delta and likely result in increased salinity intrusion. Increased salinity concentrations in the Bay-Delta have wide-reaching effects, including but not limited to adverse impacts on the SWP water supply required to meet D1641 Bay-Delta water quality standards, distribution and health of Pelagic Organism Decline species including delta smelt, and increased water treatment costs for Municipal and Industrial uses.

Previous dredging projects in the Delta have raised concerns that sediments may be contaminated with pesticides and toxic heavy metals, including arsenic, copper, mercury, lead, nickel, and zinc. Dredging these sediments could reintroduce contaminants into the water column, negatively affecting salmon, smelt, and sturgeon that are listed under the Endangered Species Act and the approximately 26 million people that rely on the Delta for their drinking water supply.

Aside from water quality concerns, dredging may negatively impact aquatic species through the repeated removal of benthic communities that are a food source for many protected species. Aquatic species may also be negatively impacted by noise caused by dredging, and entrainment in the dredging machinery. There are also issues associated with the disposal of the dredged material that should be considered, including the impact that dredge slurry may have on groundwater and, if disposal sites on Delta islands are being considered, the impact that dredge slurry may have on water quality in the Delta channels.

The impact of the increased shipping traffic that would likely result from the deepened channel is also a concern, particularly hydrodynamics caused by passing ships, pollution caused by exposure to petroleum products, ship propeller entrainment, and shipping noise. Increased shipping traffic also may exacerbate current adverse impacts from invasive species through transport and release of non-native species into the Delta from ballast water.

Due to the reasons described above, the SWC recommends that the Corps perform a thorough evaluation of the past and present impacts associated with implementation of the Navigation

Ms. Cynthia J. Fowler
April 6, 2016
Page 3

Improvement Project on Bay-Delta hydrology, water quality, fisheries, critical habitat, and other ecosystem factors. Through a peer-reviewed process, development and implementation of hydrodynamic and water quality models to accurately assess effects of altering channel depth is also strongly recommended.

The SWC looks forward to coordinating with the Corps in the future as development of the EIS/EIR proceeds. We appreciate your consideration of our comments. If you have any questions, please feel free to contact me at (916) 447-7357.

Sincerely,

A handwritten signature in black ink, appearing to read 'T L Erlewine', with a stylized flourish at the end.

Terry L. Erlewine
General Manager

Attachment

July 22, 2008

Sent via email: spnetpa@usace.army.mil

Bill Brostoff, ET-PA
U.S. Army Corps of Engineers, San Francisco District
1455 Market Street
San Francisco, CA 94103-1398

Subject: Sacramento River Deep Water Ship Channel SEIS/SEIR

Dear Mr. Brostoff:

The State Water Contractors (SWC) submits these comments regarding the Notice of Intent (NOI) to prepare a Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report (SEIS/SEIR) for the Sacramento River Deep Water Ship Channel (SRDWSC). As described in the NOI, the U.S. Army Corps of Engineers (Corps), in coordination with the Port of Sacramento, proposes to resume construction of navigational improvements to the SRDWSC (Proposed Action). Implementation of the Proposed Action would improve efficiency for the movement of goods and safety along the existing federal navigation channel.

The SWC is an organization representing 27 of the 29 public water entities¹ that hold contracts with the California Department of Water Resources (DWR) for the delivery of water from the State Water Project (SWP). Collectively, the members of the SWC provide all, or a part, of the water supply delivered to approximately 25 million Californians, roughly two-thirds of the State's population, and to over 750,000 acres of irrigated agriculture. The members of the SWC provide this water to retailers, who, in turn, serve it to consumers throughout the San Francisco Bay Area, the San Joaquin Valley, the Central Coast, and Southern California.

The SWP water supply delivered through the Sacramento-San Joaquin Delta constitutes a significant portion of the water supplies available to SWC members.

¹ Alameda County Zone 7 Water Agency, Alameda County Water District, Antelope Valley-East Kern Water Agency, Casitas MWD on behalf of the Ventura County Flood Control District, Castaic Lake Water Agency, Central Coast Water Authority on behalf of the Santa Barbara FC&WCD, City of Yuba City, Coachella Valley Water District, County of Kings, Crestline-Lake Arrowhead Water Agency, Desert Water Agency, Dudley Ridge Water District, Empire West-Side Irrigation District, Kern County Water Agency, Littlerock Creek Irrigation District, The Metropolitan Water District of Southern California, Mojave Water Agency, Napa County FC&WCD, Oak Flat Water District, Palmdale Water District, San Bernardino Valley MWD, San Gabriel Valley MWD, San Geronio Pass Water Agency, San Luis Obispo County FC&WCD, Santa Clara Valley Water District, Solano County Water Agency, and Tulare Lake Basin Water Storage District.



DIRECTORS

Thomas Hurlbutt
President

Tulare Lake Basin Water
Storage District

Steven Robbins
Vice President

Coachella Valley Water
District

Stephen Arakawa
Secretary-Treasurer
Metropolitan Water District
of Southern California

Curtis Creel
Kern County Water Agency

Russell Fuller
Antelope Valley-East Kern
Water Agency

Joan Maher
Santa Clara Valley Water
District

Dan Masnada
Castaic Lake Water Agency

David Okita
Solano County Water Agency

Ray Stokes
Central Coast Water
Authority

General Manager
Terry Erlewine

Mr. Bill Brostoff

July 22, 2008

Page 2

As a result, the SWC is very interested in matters affecting the quantity and quality of water supplies in the Bay-Delta. As proposed, the geographic extent of the Proposed Action ranges from the Contra Costa County line to the Port of Sacramento. As described in the NOI, a portion of the channel was deepened to the authorized depth of 35 feet beginning in 1989, but construction was suspended in 1990. The Proposed Action involves continuing construction to deepen the existing federal navigation channel from 30 feet to 35 feet (mean lower low water) and widen portions of the channel to improve navigational efficiency.

The SWC would like to emphasize that altering the depth of the SRDWSC would change Delta hydrology, likely causing degradation in water quality in terms of localized decreased dissolved oxygen concentrations and increased salinity intrusion. Additionally, altering the depth of the SRDWSC would change the tidal prism in the Bay-Delta and likely result in increased salinity intrusion. Increased salinity concentrations and the greater tidal prism in the Bay-Delta have wide-reaching effects, including but not limited to, effects on the amount of the SWP water supply required to meet D1641 Bay-Delta water quality standards especially during a drought with environmental and economic impacts in the SWC members' service areas, distribution, and health of Pelagic Organism Decline (POD) species including delta and longfin smelt, and increased water treatment costs for Municipal and Industrial (M&I) uses. These impacts will increase as the result of global climate change and sea level rise.

Previous dredging projects in the Delta have raised concerns that sediments may be contaminated with pesticides and toxic heavy metals, including arsenic, copper, mercury, lead, nickel, and zinc. Dredging these sediments could reintroduce contaminants into the water column, negatively affecting salmon, smelt, and sturgeon that are listed under the Endangered Species Act and the approximately 25 million people that rely on the Delta for their drinking water supply.

Aside from water quality and quantity concerns, dredging may negatively impact aquatic species through the repeated removal of benthic communities that are a food source for many protected species. Aquatic species may also be negatively impacted by noise caused by dredging, and entrainment in the dredging machinery. There are also issues associated with the disposal of the dredged material that should be considered, including the impact that dredge slurry may have on groundwater and, if disposal sites on Delta islands are being considered, the impact that dredge slurry may have on water quality in the Delta channels.

The impact of the increased shipping traffic that would likely result from the deepened channel is also a concern, particularly hydrodynamics caused by passing ships, pollution caused by exposure to petroleum products, ship propeller entrainment, and shipping noise. Increased shipping traffic also may exacerbate current adverse impacts from invasive species through transport and release of non-native species into the Delta from ballast water and other discharges.

Due to the reasons described above, the SWC recommends that the Corps perform a thorough evaluation of the past and present impacts associated with implementation of the Navigation Improvement Project on Bay-Delta hydrology, water quality, fisheries, critical habitat, and other

Mr. Bill Brostoff

July 22, 2008

Page 3

ecosystem factors. In addition, the SWC strongly recommends that the development and implementation of hydrodynamic and water quality models to accurately assess effects of altering channel depth be developed through a peer-review process and include the impacts of global climate change and sea level rise.

The SWC looks forward to coordinating with the Corps in the future as development of the SEIS/SEIR proceeds. We appreciate your consideration of our comments. If you have any questions, please feel free to contact me at (916) 447-7357.

Sincerely,

A handwritten signature in black ink, appearing to read 'TLE', with a stylized flourish at the end.

Terry L. Erlewine
General Manager

DEPARTMENT OF TRANSPORTATION

DISTRICT 4

P.O. BOX 23660

OAKLAND, CA 94623-0660

PHONE (510) 286-5528

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PORT OF STOCKTON
ENVIRONMENTAL DEPARTMENT

April 4, 2016

BAG067
SCH# 2016032010Mr. Jeff Wingfield
Port of Stockton
2201 W. Washington Street
Stockton, CA 95203**San Francisco Bay to Stockton Navigation Improvement Study – Notice of Preparation**

Dear Mr. Wingfield:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above. The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. The project involves several federal deep-draft navigation channels and consists of two reaches that extend from the San Francisco Bay to the Port of Stockton through multiple Counties. Through two separate phases, the project proposes to assess the feasibility of deepening the existing approximate 35-foot channels to realize significant transportation cost savings. The comments below are based on the Notice of Preparation (NOP).

Mitigation Responsibility

As the lead agency, Port of Stockton (Port) is responsible for identifying and ensuring the coordinated implementation of all project mitigations. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. Planned improvements on Caltrans' Right-of-way (ROW) should be listed, if any, in addition to identifying viable funding sources per General Plan Guidelines.

Freight Planning

The Port is a very robust inland river port and they continue to expand their business. With the advent of a deeper channel that will potentially accommodate larger vessels, the project should describe how the ship turning basin at the Port will be modified and should identify if this is a factor in the Environmental Impact Report. Please also describe what analyses are needed to ensure safe turning movements for ships. Additionally, impacts to the environment from the potential need for an expanded turning basin should be identified and mitigated.

Structures Maintenance

The document indicates that additional 10 feet dredging has been authorized, but this authorization is without Caltrans Structures Maintenance Division's knowledge. There are significant bridges on the navigation channel through multiple counties and within Caltrans' Districts 4 and 10 Jurisdictions. With the potential deepening of the channel, the impacts to bridges from larger vessels being able to navigate the channel should be identified and addressed. Even though these bridges' are not scour critical bridges at this moment, they must analyzed for additional exposed foundation depth.

Please fully address the following subjects described below, which should be addressed by the applicant's Licensed Bridge Hydraulics and supported by calculations:

- Potential for additional scour within the channel way and at the bridges over those waterways that drain to this channel;
- Tidal influence due to additional dredging;
- Sediment relocation from the nearby waterway because of additional dredging. If the net sediment transportation (before and after the project) is positive, it may cause exposing the foundation of the bridges over those waterway;
- Impacts as it pertains to communications at the bridges or any communications cables that are submerged or attached to any of the bridges in the pathway; and
- Provide navigation map for existing route that displays distances to Caltrans bridge supports. This will provide further information if additional engineering analysis should be provided.

Alternatively, the applicant may submit a more accurate proposed dredging location with respect to the bridge supports and datum, which we may review again.

Transportation Study

The environmental document should analyze travel demand expected from the proposed project. Early collaboration, such as submitting the transportation study prior to the environmental document, leads to better outcomes for all stakeholders. Caltrans recommends using the *Guide for the Preparation of Traffic Impact Studies* (TIS Guide) for determining which scenarios and methodologies to use in the analysis, available at:

http://dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf.

Please ensure that a Transportation Study is prepared providing the information detailed below:

1. Vicinity map, regional location map, and a site plan clearly showing project access in relation

to nearby State roadways. Major State Highway System routes serving the Port should be identified including all ingress and egress for all project components on State ROW. Project driveways, local roads and intersections, car/bike parking, and transit facilities if applicable should be mapped.

2. From reviewing the NOP, it appears that they are increasing the draft to allow for both “new panama” and “post panama’ container ships to travel the delta. This would roughly double the amount of cargo transported on a single trip. It would be wise the Port undertake a transportation study that assesses the change in truck AADT, as well as the overall impact to AADT, and assessing peak hour impacts.
3. Project-related trip generation, travel demand distribution, and assignment including per capita use of transit, rideshare, active transportation modes, truck/passenger car equivalency, and vehicle miles traveled (VMT) reduction factors. The assumptions and methodologies used to develop this information should be detailed in the study, utilize the latest place-based research, and be supported with appropriate documentation.
4. Assessment of existing and forecasted conditions to the State Highway System network as a result of increased goods being shipped along the deep draft navigation route extending from the San Francisco Bay to the Port of Stockton in addition to intermodal operations and the increase travel demand of truck traffic traveling into and out of the Port of Stockton. Calculation of cumulative traffic volumes should consider all traffic-generating developments, both existing and future, that would affect State facilities being evaluated.
5. Schematic illustration of walking, biking, vehicle conditions at the project site and study area roadways, trip distribution percentages and volumes as well as intersection geometrics, i.e., lane configurations, for AM and PM peak periods. Potential safety issues for all road users as a result of intermodal operations should be identified and fully mitigated. The analysis should describe an active transportation mitigation measures and safety countermeasures that would be needed as a means of reducing vehicle trips on state highways.

Transportation Management Plan

A Transportation Management Plan (TMP) or construction TIS may be required of the Port for approval by Caltrans prior to construction where traffic restrictions and detours affect State highways. TMPs must be prepared in accordance with California *Manual on Uniform Traffic Control Devices*. Please ensure that such plans are also prepared in accordance with the transportation management plan requirements of the corresponding jurisdictions. For further TMP assistance, please contact the Office of Traffic Management Plans/Operations Strategies at (510) 286-4579. TMP information is also available at the following webpage:
<http://www.dot.ca.gov/hq/traffops/engineering/mutcd/pdf/camutcd2014/Part6.pdf>.

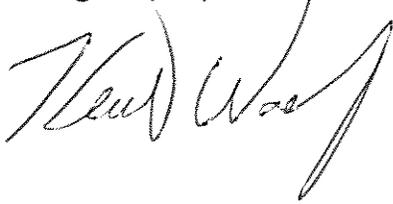
Mr. Jeff Wingfield, Port of Stockton
April 4, 2016
Page 4

Encroachment Permit

Please be advised that any work or traffic control that encroaches onto the State ROW requires an encroachment permit that is issued by Caltrans. Traffic-related mitigation measures should be incorporated into the construction plans prior to the encroachment permit process. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the following address: David Salladay, District Office Chief, Office of Permits, California Department of Transportation, District 4, P.O. Box 23660, Oakland, CA 94623-0660. See the following website for more information: <http://www.dot.ca.gov/hq/traffops/developserv/permits>.

Should you have any questions regarding this letter or require additional information, please contact Sherie George at (510) 286-5535 or by email at: sherie.george@dot.ca.gov.

Sincerely,


for

PATRICIA MAURICE
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse
c: J. Swearingen, Associate Transportation Planner, District 10

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

April 4, 2016

Ms. Cynthia J. Fowler
Department of the Army, Corps of Engineers
San Francisco District
U.S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103-1398

SUBJECT: Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Study, San Francisco Bay, CA

Dear Ms. Fowler:

On March 7, 2016, the San Francisco Bay Conservation and Development Commission (Commission) staff received the Notice of Intent (NOI) to Prepare a Joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Study. In accordance with the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (Corps), the Port of Stockton, and the Contra Costa County Water Agency are preparing an EIS/EIR to evaluate the effects of altering the depth of the existing deep draft navigation route extending from the San Francisco Bay to the Port of Stockton. The NOI dated March 4, 2016 is a supplemental notice to the March 12, 2008 NOI, which BCDC staff provided comments for, and are attached. The revised proposed EIS/EIR will evaluate the project using a phased approach, first evaluating the incremental deepening of portions of the project authorized under the Rivers and Harbors Act of 1965 (Phase I) to a maximum depth of -40 feet MLLW and then include additional study of the entire channel from San Francisco Bay to Stockton (including both the Western and Eastern Reaches) as provided under the 2014 United States Senate Committee on Environment and Public Works Committee Resolution (Phase II), with the Eastern Reach being deepened to -40 feet MLLW and investigation into whether the deepening the Western Reach to -45 feet MLLW is warranted at that time. The proposed deepening of several reaches of the channels from -35 feet mean lower low water (MLLW) in the Western Reach up to -45 MLLW and in the Eastern Reach up to -40 feet MLLW and would involve new dredging and beneficial reuse of dredged material. The proposed action is intended to meet the stated need for improved efficiency of the movement of goods to and from the Port of Stockton.

Although the Commission itself has not reviewed the NOI, the staff comments discussed below are based on the McAteer-Petris Act, the Suisun Marsh Preservation Act, the *Suisun Marsh Protection Plan*, the Commission's *San Francisco Bay Plan* (Bay Plan), the Commission's federally-approved coastal management plan for the San Francisco Bay, and the federal Coastal Zone Management Act of 1972 as amended (CZMA).

Jurisdiction

The Commission's permit jurisdiction includes all tidal areas of the Bay up to the line of mean high tide or, in areas of tidal wetlands, up to five feet above Mean Sea Level or the extent of tidal wetland vegetation; all areas formerly subject to tidal action that have been filled since September 17, 1965; and the shoreline band that extends 100 feet inland from and parallel to the Bay jurisdiction. The Commission also has jurisdiction over certain managed wetlands adjacent to the Bay, salt ponds, and certain waterways. The proposed project would cross the eastern limit of the Commission's Bay permit jurisdiction, which is defined by a line across the Sacramento River between Stake Point and Simmons Point, extending northeast to the mouth of Marshall Cut. However, under the CZMA, the Commission can review projects that would affect the coastal zone, in this instance, San Francisco Bay. The staff believes this project would affect the coastal zone.

Commission permits and consistency determinations are required for placement of fill (including dredged material disposal), construction, dredging, and substantial changes in use within its jurisdiction. Federal actions, permits, licenses and grants affecting the coastal zone are subject to consistency review by the Commission, pursuant to the federal CZMA, for their consistency with the Commission's federally-approved coastal management program for the Bay.

In reviewing the NOI, it appears that the proposed project would include the following activities within the Commission's Bay and shoreline band jurisdictions: (1) deepening and widening the channel through dredging; and (2) beneficial reuse of dredged material. In addition, deepening of the channel has the potential to increase the use of the channel, alter circulation patterns within the Bay and Suisun Marsh, affect water quality, or result in other impacts in the coastal zone.

Dredging and Material Placement. The John F. Baldwin Channel, extending from just outside the Golden Gate to Chipps Island, is in the Commission's Bay jurisdiction. The proposed deepening of the channel from -35 feet mean lower low water (MLLW) to -45 MLLW would involve new dredging and beneficial reuse of dredged sediment. The proposed deepening project would need to be consistent with the Commission's San Francisco Bay Plan (Bay Plan) policies, which are available from the Commission's offices or website (<http://www.bcdc.ca.gov/publications/>). Several of the applicable policies are discussed below.

Long Term Management Strategy. As you are aware, the Corps, BCDC, the United States Environmental Protection Agency (EPA), and the San Francisco Bay Regional Water Quality Control Board (Water Board), are partners in the Long Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region (LTMS). As part of this partnership, the LTMS program is dedicated to maximizing beneficial reuse of dredged sediment in the region. It is BCDC staff's understanding that all material dredged during this project would be beneficially reused, however if that is not the case, an analysis should be included to show that any in-Bay disposal is the minimum amount necessary to achieve the project, meets the LTMS goals, and is consistent with BCDC laws and policies.

Dredging Policies. Bay Plan Dredging Policy No. 1 states, in part, that dredging should be conducted in an environmentally sound manner and that dredgers should reduce disposal in the Bay and certain waterways over time to achieve the LTMS goal of limiting in-Bay disposal volumes. Bay Plan Dredging Policy No. 2 allows dredging when (1) the applicant has demonstrated that the dredging is needed to serve a water-oriented use or other public purpose, such as navigational safety; (2) the materials to be dredged meet the water quality requirements of the Water Board; (3) important fisheries and Bay natural resources would be protected through seasonal restrictions established by the California Department of Fish and Game, the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service, or through other appropriate measures; (4) the siting and design of the project will result in the minimum dredging volume necessary for the project; and (5) the material would be disposed of in accordance with the Commission's policies.

Bay Plan Dredging Policy No. 3 requires dredged material to be reused or disposed outside the Bay, if feasible. In-Bay disposal can be allowed only if there is no feasible alternative and: (1) the volume is consistent with applicable dredger disposal allocations and disposal site limits adopted by the Commission; (2) the material would be placed at a site designated by the Commission; (3) the quality of material would be consistent with the advice of the Regional Water Quality Control Board and the Dredged Materials Management Office (DMMO); and (4) the disposal activity would be consistent with the advice of the resource agencies. In addition, Bay Plan Dredging Policy No. 5 states that projects "should maximize use of dredged material as a resource consistent with protecting and enhancing Bay natural resources..." The EIS/EIR should analyze the proposed project in relation to the Commission's Dredging policies regarding dredging and disposal, particularly with respect to the Commission's policy preference for beneficial reuse of dredged material. This project involves new work deepening and not maintenance dredging. For new work projects, the LTMS agencies typically require disposal of material outside the Bay and/or placement at a beneficial reuse site. In particular, the EIS/EIR should identify beneficial reuse sites that are currently available and analyze the potential for additional sites to be created.

Minimize Harmful Effects to the Bay. In addition to the dredging policies, the EIS/EIR should address other applicable Bay Plan policies, including a discussion about the Commission's policies for protection of the Bay's natural resources, including fish, other aquatic organisms, and wildlife, and habitats needed for their protection, including tidal flats and marshes and subtidal areas.

The Bay Plan Subtidal Areas policies state, in part, that dredging projects in such areas should be thoroughly evaluated to determine the local and Bay-wide effects such projects would have on bathymetry, tidal hydrology and sediment movement; fish, other aquatic organisms and wildlife; aquatic plants; and the introduction and spread of invasive species and that any impacts should be minimized and harmful effects should be avoided where feasible. These subtidal policies also require that dredging in scarce subtidal habitats only be allowed if there is no feasible alternative to the project and the project provides substantial public benefits. The EIS/EIR should include an analysis showing that there is no feasible alternative to the proposed project and that the project provides substantial public benefits.

The Bay Plan policies on fish, other aquatic organisms, and wildlife, state that marshes, mudflats, and subtidal habitat should be "conserved, restored, and increased." Furthermore, the Commission must conserve native species to the Bay and consult with and give appropriate consideration to the advice of the state and federal resource agencies. According to the Bay Plan policies on tidal marshes, tidal flats, and subtidal areas, all projects subject to Commission consideration should also be sited and designed to minimize or avoid adverse resource impacts at these areas. Additionally, the EIS/EIR should also consider the potential impacts of the phased deepening approach to the proposed project and the potential impacts on the recolonization of species within the project area as compared to the potential impacts of disturbance if the project were to be conducted as a single event, as well as the future maintenance of the channel and its impacts on native species. The EIS/EIR should analyze the project and maintenance with both a clamshell and hydraulic dredge, as the type of equipment proposed is not fully described at this time.

The EIS/EIR should analyze how the entire deepening project, including both Phase I and Phase II of the project, and all portions of the project including those outside the Commission's permit jurisdiction, that will affect the hydrology, sediment dynamics, water quality and biological resources of the Bay and the Suisun Marsh. It should include analysis of the climate change impacts, including the potential impact of sea level rise on tidal prism and channel scour in the project area through the life of the project. Specifically, the EIS/EIR should evaluate the potential impacts of saltwater intrusion and the impacts of higher salinities in the Suisun Marsh and Delta that may be a result of the proposed project. It should also analyze cumulative impacts, including the potential impacts of other projects being planned for the Delta, including deepening of the Sacramento Ship Channel and alternative conveyance facilities for the State Water Project, Central Valley Project, the California Water Fix and proposed restoration activities within the project area and the Delta, as they will have cumulative effects. The EIS/EIR

should discuss the Commission's regulatory authority governing the protection of the Bay's natural resources and habitats.

The EIS/EIR should address how construction restrictions regarding listed species, including salmon, steelhead, Delta smelt, longfin smelt and, most recently, North American green sturgeon, would be incorporated into the project schedule and provide a discussion of any avoidance, minimization and mitigation measures proposed as part of the project. It should also provide a discussion of biological opinions that the USACE would obtain under the Federal Endangered Species Act for impacts related to listed species and their critical habitat.

Water Quality. Pursuant to the Commission's Bay Plan Water Quality policies, pollution in the Bay's water "should be prevented to the greatest extent feasible." Further, in considering this project, the Commission would need to consider the Water Board's evaluation of and advice on the proposed project and any potential water quality impacts. Therefore, it is advisable that the project proponents conduct early consultation with the Water Board in conjunction with BCDC and obtain all necessary authorization to aid the Commission in determining whether the project would adversely impact the Bay's water quality. The EIS/EIR should analyze the impacts of the project on dissolved oxygen, release of pollutants, turbidity and salinity in the Bay and adjacent areas. Specifically, the EIS/EIR should evaluate saltwater intrusion in part of the Suisun Marsh and Delta and the impacts to water quality and water resources in the area.

Turbidity. Both dredging and in-Bay disposal of dredged material would increase turbidity in the water column. The EIS/EIR should analyze the expected extent of the resulting plume, impacts on fish and other aquatic organisms, and whether any lateral movement of the plume would affect important habitat (e.g., eelgrass beds) whose viability is partly dependent on clarity of the water column for both dredging and aquatic disposal if it is proposed.

Sandy Deep Water. The Bay Plan's policies on subtidal areas state, in part, that dredging in sandy deep water should be allowed only if (1) there is no feasible alternative; and (2) the project provides substantial public benefit. The EIS/EIR should state the location and size of the affected sandy deep water, any anticipated habitat loss, and expectations as to the type and extent of replacement communities.

Rocky Habitat. The EIS/EIR should state the location and size of the affected rocky areas, if any, any anticipated habitat loss, and expectations as to the type and extent of replacement communities.

Mitigation. Environmental impacts to resources within the Bay should be minimized to the greatest extent practicable. In the event that the proposed project would result in adverse environmental impacts that cannot be avoided, the EIS/EIR should discuss proposed mitigation measures. The Commission's policies regarding mitigation state, in part, "projects should be designed to avoid adverse environmental impacts to [the] Bay" and, further, that "[w]henver adverse impacts cannot be avoided, they should be minimized to the greatest extent

practicable....[and] measures to compensate for...impacts should be required." The EIS/EIR should fully discuss any mitigation measures proposed. Commission staff will coordinate with local, state, and federal agencies with jurisdiction over Bay resources to determine an appropriate mitigation program is provided to compensate for the impacts of the proposed project.

Suisun Marsh

Commission Jurisdiction. A section of the proposed project would be located in portions of Suisun Bay within Solano County and, thus, in the Commission's primary management jurisdiction of the Suisun Marsh. In this area, the Suisun Marsh Act and the Suisun Marsh Protection Plan contain relevant policies that should be addressed in the EIS/EIR. According to the *Suisun Marsh Protection Plan* (Marsh Plan) policies, various habitats of the Marsh "...are critical...for marsh-related wildlife and are essential to the integrity of the Suisun Marsh." The EIS/EIR should examine any potential impacts of the construction and potential increase in use of the channel on Suisun Marsh habitat, water quality, and sediment supply and, if necessary, describe measures to mitigate these effects. Additionally, the EIS/EIR should address specifically how changing salinity levels and the location of X2 would impact Suisun Marsh and the species living within the Bay waters and in the marsh itself.

Utilities and Improvements. Further, the Marsh Plan policies on utilities, facilities and transportation state, in part, that any Marsh waterway should be maintained in conformance with existing project specifications, provided that dredging "(a) is for a water-oriented use or other important public purpose; (b) the materials to be dredged meet the water quality requirements of the San Francisco Bay Regional Water Quality Control Board; and (c) important Marsh fisheries and wildlife and their habitat would be protected." Lastly, regarding dredged material disposal activities in the Marsh, these policies provide similar guidance to that contained in the Bay Plan's dredging policies, including that dredged material disposal should occur in "non-tidal areas where the materials can be used beneficially to restore, enhance or manage the Marsh...."

In light of these policies of the Marsh Plan, the EIS/EIR should: (1) clearly identify the location of the John F. Baldwin Ship Channel in the Suisun Marsh and show its location in relation to wetland areas; (2) identify any potential project-related impacts to wetlands in the Marsh and measures for mitigating these effects; (3) provide a construction schedule for any work affecting wetland area in the Marsh; (4) identify the width of the proposed channel after deepening; (5) discuss the consistency of construction schedule in the Marsh with fish migration windows; and (6) specify dredging locations on a map and discuss potential beneficial reuse options for dredged material.

Water Supply and Quality. The Marsh Plan policies on water supply require that water quality within Suisun Marsh be maintained. These policies also limit the dredging of the John F. Baldwin Ship Channel until an adequate understanding of the impacts resulting from increased

Ms. Cynthia J. Fowler, US Army Corps of Engineers

April 4, 2016

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salinity intrusion in the Marsh is known. Commission staff understands from the NOI, that there are no additional studies or data collection proposed to assess these impacts of the proposed project (both Phase I and Phase II) in the EIS/EIR. The EIS/EIR should evaluate existing information and provide an analysis of why there is no further information needed to evaluate the impacts of this project that may result in combination with other state and federal water projects, as this has changed significantly since the last issuance of the NOI for the proposed project.

Coastal Zone Management Authority.

BCDC requests that the EIS/EIR indicate that under CZMA (16 USC 1456(c) and (d)) the Commission is authorized to review any federal actions, permits, licenses and grants affecting any land or water use or natural resources within the Commission's coastal jurisdiction (i.e., San Francisco Bay and Suisun Marsh) and/or project elements impacting the coastal resources and waters (as defined in 16 USC § 1453 (Section 304)) within the Commission's jurisdiction for consistency with the Commission's amended Coastal Zone Management Plan to the maximum extent practicable. Please note that under CZMA Section 307(a), NOAA has promulgated a detailed regulation that defines the term "consistent to the maximum extent practicable," explains that a federal agency may not use a general claim of lack of funding as basis for being consistent to the maximum extent practicable with enforceable policies of a management program, and describes the limited circumstances under which a federal agency may deviate from full consistency (15 C.F.R. § 930.32/0).

Thank you for the opportunity to comment on this NOI. If you have any questions regarding this letter or the Commission's policies, please contact me at (415) 352-3624 or via email at anniken.lydon@bcdcc.ca.gov.

Sincerely,



ANNIKEN LYDON

Coastal Program Analyst

AL/as

Enc.



141649, San Francisco Bay Conservation and Development Commission

May 7, 2008

Ms. Nancy Ferris
Department of the Army
San Francisco District
U.S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103-1398

SUBJECT: Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project, California

Dear Ms. Ferris:

On March 13, 2008, the San Francisco Bay Conservation and Development Commission (Commission) staff received the Notice of Intent (NOI) to Prepare a Joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Project. In accordance with the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (Corps), the Port of Stockton, and the Contra Costa County Water Agency are preparing an EIS/EIR to evaluate the effects of altering the depth of the existing deep draft navigation route extending from the San Francisco Bay to the Port of Stockton. The proposed deepening of several reaches of the channels from -35 feet mean lower low water (MLLW) to -45 MLLW would involve new dredging and disposal and/or beneficial reuse of dredged material. The proposed action is intended to meet the stated need for improved efficiency of the movement of goods.

Although the Commission itself has not reviewed the NOI, the staff comments discussed below are based on the McAteer-Petris Act, the Suisun Marsh Preservation Act, the *Suisun Marsh Protection Plan*, the Commission's *San Francisco Bay Plan* (Bay Plan), the Commission's federally-approved coastal management plan for the San Francisco Bay, and the federal Coastal Zone Management Act (CZMA).

Jurisdiction

The Commission's permit jurisdiction includes all tidal areas of the Bay up to the line of mean high tide or, in areas of tidal wetlands, up to five feet above Mean Sea Level or the extent of tidal wetland vegetation; all areas formerly subject to tidal action that have been filled since September 17, 1965; and the shoreline band that extends 100 feet inland from and parallel to the Bay jurisdiction. The Commission also has jurisdiction over certain managed wetlands adjacent to the Bay, salt ponds, and certain waterways.

The proposed project would cross the eastern limit of the Commission's Bay jurisdiction, which is defined by a line across the Sacramento River between Stake Point and Simmons Point, extending northeast to the mouth of Marshall Cut.

Commission permits are required for placement of fill, including dredged material disposal, construction, dredging, and substantial changes in use within its jurisdiction. Permits are issued when the Commission finds proposed activities to be consistent with its laws and policies. In addition to any needed permits under its state authority, federal actions, permits, licenses and grants affecting the coastal zone are subject to review by the Commission, pursuant to the federal CZMA, for their consistency with the Commission's federally-approved coastal management program for the Bay.

From reviewing the NOI, it appears that the proposed project would include the following activities within the Commission's Bay and shoreline band jurisdictions: (1) dredging; (2) disposal of dredged material; and (3) and beneficial reuse of dredged material. In addition, deepening of the channel outside the Commission's jurisdiction in the Stockton Ship Channel has the potential to alter circulation patterns, affect water quality, or result in other impacts in the Commission's Bay jurisdiction.

Commission's Bay Jurisdiction

Dredging and In-Bay Disposal. The John F. Baldwin Channel, extending from just outside the Golden Gate to Chippis Island, is in the Commission's Bay jurisdiction. The proposed deepening of the channel from -35 feet mean lower low water (MLLW) to -45 MLLW would involve new dredging and disposal and/or beneficial reuse of dredged material. The proposed deepening project would need to be consistent with the Commission's dredging policies, which are available from the Commission's offices or website (www.bcdc.ca.gov). Several of the applicable policies are discussed below.

Long Term Management Strategy. As you know, the Corps, BCDC, the United States Environmental Protection Agency, and the San Francisco Bay Regional Water Quality Control Board (Regional Board), along with other agencies and stakeholders, are partners in the Long Term Management Strategy (LTMS) for the Placement of Dredged Material in the San Francisco Bay Region. Bay Plan Dredging Policy No. 1 states, in part, that dredgers should reduce disposal in the Bay and certain waterways over time to achieve the LTMS goal of limiting in-Bay disposal volumes to a maximum of one million cubic yards per year.

Dredging Policies. Bay Plan Dredging Policy No. 2 allows dredging when (1) the applicant has demonstrated that the dredging is needed to serve a water-oriented use or other public purpose, such as navigational safety; (2) the materials to be dredged meet the water quality requirements of the San Francisco Bay Regional Water Quality Control Board; (3) important fisheries and Bay natural resources would be protected through seasonal restrictions established by the California Department of Fish and Game, the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, or through other appropriate measures; (4) the siting and design of the project will result in the minimum dredging volume necessary for the project; and (5) the material would be disposed of in accordance with the Commission's policies.

Bay Plan Dredging Policy No. 3 requires dredged material to be reused or disposed outside the Bay, if feasible. In-Bay disposal can be allowed only if there is no feasible alternative and: (1) the volume is consistent with applicable dredger disposal allocations and disposal site limits adopted by the Commission; (2) the material would be placed at a site designated by the Commission; (3) the quality of material would be consistent with the advice of the Regional Water Quality Control Board and the Dredged Materials Management Office (DMMO); and (4) the disposal activity would be consistent with the advice of the resource agencies. The EIS/EIR should analyze the proposed project in relation to the Commission's Dredging policies regarding dredging and disposal, particularly with respect to the Commission's policy preference for beneficial reuse of dredged material. In particular, the EIS/EIR should identify beneficial reuse sites that are currently available and analyze the potential for additional sites to be created.

Analysis should include the potential impacts of climate change, including sea level rise. Analysis of wetland restoration projects should describe how the formation of methylmercury will be minimized and monitored.

Beyond use in approved fill projects, the Commission has strict policies regarding beneficial reuse of dredged material to enhance or restore natural resources in the Bay, such as the Oakland Middle Harbor enhancement project. Bay Plan Dredging Policy No. 11 states, in part, that the Commission shall allow dredged material to be used to create, restore, or enhance Bay natural resources if it determines that: (1) the project would provide substantial net improvement in habitat for Bay species; (2) no feasible alternative exists to achieve the project purpose with fewer adverse impacts to Bay resources; (3) the amount of dredged material to be used would be the minimum amount necessary to achieve the purpose of the project; (4) beneficial uses and water quality of the Bay would be protected; and (5) there is a high probability that the project would be successful and not result in unmitigated environmental harm. The EIS/EIR should analyze the project with respect to all the Commission's policies on in-Bay beneficial reuse.

Minimize Harmful Effects to the Bay. The proposed project would need to be consistent with all applicable Bay Plan policies. Therefore, the EIS/EIR should address other applicable Bay Plan policies, including a discussion about the Commission's regulatory requirements governing the protection of the Bay's natural resources, including fish, other aquatic organisms, and wildlife, and certain habitat needed for their protection, including tidal flats and marshes and subtidal areas. The Bay Plan policies regarding subtidal areas state, in part, that dredging projects in such areas should be thoroughly evaluated to determine the local and Bay-wide effects such projects would have on bathymetry, tidal hydrology and sediment movement, fish, other aquatic organisms and wildlife; aquatic plants; and the introduction and spread of invasive species. The Bay Plan policies on fish, other aquatic organisms, and wildlife, state that marshes, mudflats, and subtidal habitat should be "conserved, restored, and increased." Furthermore, the Commission must consult with and give appropriate consideration to the state and federal resource agencies, and not authorize any project resulting in a "taking" of a listed species unless the appropriate authorization has been issued by the resource agencies. According to the Bay Plan policies on tidal marshes and tidal flats, and subtidal areas, all projects subject to Commission consideration should also be sited and designed to minimize or avoid adverse resource impacts at these areas.

The EIS/EIR should analyze how the entire deepening project, not just the portion within the Commission's permit jurisdiction, will affect the hydrology, sediment dynamics, water quality and biological resources of the Bay. It should include analysis of the climate change impacts, including the potential impact of sea level rise on tidal prism and channel scour in the project area. It should also analyze cumulative impacts, including the potential impacts of other projects being planned for the Delta, including deepening of the Sacramento Ship Channel and alternative conveyance facilities for the State Water Project and Central Valley Project. The EIS/EIR should discuss the Commission's regulatory authority governing the protection of the Bay's natural resources and habitats.

Work Windows. The EIS/EIR should address how restrictions regarding listed species, including salmon, steelhead, Delta smelt, and, most recently, North American green sturgeon, would be incorporated into the project schedule. The environmental window for dredging and disposal in the area between the Carquinez Bridge and Collinsville is between August 1 and November 30 of each calendar year, consistent with current restrictions to protect certain sensitive fish species. The environmental window for dredging and disposal in the area between the San Francisco Bay Bridge and Sherman Island is between June 1 and November 30 of each calendar year.

Water Quality. Pursuant to the Commission's water quality policies in the Bay Plan, pollution in the Bay's water "should be prevented to the greatest extent feasible." Further, in considering this project, the Commission would need to consult with and base its decision on the Regional Board's evaluation of and advice on the proposed project and any potential water quality impacts. Therefore, it is advisable that the project proponents conduct early consultation with and obtain all necessary authorization from the Regional Board to aid the Commission in determining whether the project would adversely impact the Bay's water quality. The EIS/EIR should analyze the impacts of the project on dissolved oxygen and salinity in the Bay.

Turbidity. Dredging and in-Bay disposal of dredged material would increase turbidity in the water column. The EIS/EIR should analyze the expected extent of the resulting plume, impacts on fish, and whether any lateral movement of the plume would affect important habitat (e.g., eelgrass beds) whose viability is partly dependent on clarity of the water column.

Sandy Deep Water. The Bay Plan's policies on subtidal areas state, in part, that dredging in sandy deep water should be allowed only if (1) there is no feasible alternative; and (2) the project provides substantial public benefit. The EIS/EIR should state the location and size of the affected sandy deep water, any anticipated habitat loss, and expectations as to the type and extent of replacement communities.

Rocky Habitat. The EIS/EIR should state the location and size of the affected rocky areas, any anticipated habitat loss, and expectations as to the type and extent of replacement communities.

Mitigation. In the event that the proposed project would result in adverse environmental impacts that cannot be avoided, the EIS/EIR should discuss mitigation measures. The Commission's policies regarding mitigation state, in part, that "projects should be designed to avoid adverse environmental impacts to [the] Bay" and, further, that "[w]henver adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable....[and] measures to compensate for...impacts should be required."

Suisun Marsh

Commission Jurisdiction. A section of the proposed project would be located in portions of the Suisun Bay within Solano County and, thus, in the Commission's primary management jurisdiction of the Suisun Marsh. According to the *Suisun Marsh Protection Plan* (Marsh Plan) policies, various habitats of the Marsh "...are critical...for marsh-related wildlife and are essential to the integrity of the Suisun Marsh." The EIS/EIR should examine any potential impacts of the construction and potential increase in use of the channel on Suisun Marsh habitat, and, if necessary, describe measures to mitigate these effects.

Utilities and Improvements. Further, the Marsh Plan policies on utilities, facilities and transportation state, in part, that any Marsh waterway should be maintained in conformance with existing project specifications, provided that dredging "(a) is for a water-oriented use or other important public purpose; (b) the materials to be dredged meet the water quality requirements of the San Francisco Bay Regional Water Quality Control Board; and (c) important Marsh fisheries and wildlife and their habitat would be protected." Lastly, regarding dredged material disposal activities in the Marsh, these policies provide similar guidance to that contained in the Bay Plan's dredging policies, including that dredged material disposal should occur in "non-tidal areas where the materials can be used beneficially...."

In light of these policies of the Marsh Plan, the EIS/EIR should: (1) clearly identify the location of the John F. Baldwin Ship Channel in the Suisun Marsh and show its location in relation to wetland areas; (2) identify any potential project-related impacts to wetlands in the Marsh and measures for mitigating these effects; (3) provide a construction schedule for any

work affecting wetland area in the Marsh; (4) identify the width of the proposed channel after deepening; (5) discuss the consistency of construction schedule in the Marsh with fish migration windows; and (6) specify dredging locations on a map and discuss potential beneficial reuse options for dredged material.

Commission's Shoreline Band Jurisdiction

Some beneficial reuse of dredged material associated with the proposed project may be located in the Commission's shoreline band jurisdiction. Section 66602 of the McAteer-Petris Act states, in part, that: "...that maximum feasible public access, consistent with a proposed project, should be provided." In evaluating projects with potential impacts on existing or future public access to the Bay, the Commission relies on its law and also related policies of the Bay Plan.

Public Access. The Commission's law and policies regarding public access state, in part, that shoreline band projects should provide the maximum feasible public access consistent with the project. Therefore, the project proponent should initiate the process of exploring and preparing appropriate public access improvements as early as possible in the planning process. If on-site access is not feasible due to the nature of the proposal, then in-lieu access at an appropriate location should be considered and explored. Inclusion of a proposed public access package in the EIS/EIR will allow the Commission staff and the other interested parties an opportunity for early comment and input.

Public Views. Based on its regulations, the Commission must consider a project's potential impacts on public views of the Bay. Further, the Commission's Bay Plan policies on appearance, design and scenic views state, in part, that "[a]ll bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay. Maximum efforts should be made to provide, enhance, or preserve views of the Bay and shoreline, especially from public areas...." Therefore, the EIS/EIR should include figures that depict the potential view impacts associated with the project.

Thank you for the opportunity to comment on this NOI. If you have any questions regarding this letter or the Commission's policies, please call me at (415) 352-3660.

Sincerely,

JESSICA HAMBURGER
Coastal Program Analyst

JH/rca



January 3, 2018

U.S. Army Corps of Engineers
Jacksonville District,
Planning and Policy Division,
Environmental Branch, P.O. Box 4970,
Jacksonville, FL 32232-0019.

Lieutenant General Semonite:

I write to you today regarding the Federal Register Notice on the U.S. Army Corps Engineers' (Corps) Environmental Impact Statement/Environmental Impact Report for the San Francisco Bay to Stockton General re-evaluation report.

The City of Antioch, California strongly recommends that the Corps not limit the scope of the environmental impact study to only one portion of the initial project. The City of Antioch is located along the project's initial scope and, along with other municipalities, would be excluded from the project if the environmental impact study was divided up into different portions or phases. A scaled back project will negatively impact the region because the municipalities located along the initial project's shoreline would lose their ability to utilize the deep-water ports located along shoreline. The East Bay area is targeted for significant economic development opportunities that could be transformational for the region by redeveloping former industrial sites into thriving economic hubs. These potential developments would be stifled if the Corps decided to limit the scope of the project.

Please feel free to contact me directly if you have questions or would like additional feedback.

Sincerely,

A handwritten signature in blue ink that reads "Ron Bernal". The signature is written in a cursive style.

Ron Bernal
City Manager
City of Antioch
925-779-6820 Direct
925-779-7011 Office of the City Manager
rbernal@ci.antioch.ca.us

cc: Rep. Mark DeSaulnier
Senator Diane Feinstein
Senator Kamala Harris

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

January 3, 2018

Ms. Stacie Auvenshine
U.S. Army Corps of Engineers
Jacksonville District
Planning and Policy Division, Environmental Branch
P.O. Box 4970
Jacksonville, FL 32232-0019

SUBJECT: Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report for the San Francisco Bay to Stockton General Reevaluation Report, San Francisco Bay, CA

Dear Ms. Auvenshine:

The San Francisco Bay Conservation and Development Commission (Commission) staff has reviewed the December 4, 2017 Notice of Intent (NOI) to Prepare a Joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton General Reevaluation Report. In accordance with the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (USACE), South Atlantic Division and the Port of Stockton, are preparing a joint EIS/EIR to evaluate the effects of altering the depth of the existing deep draft navigation route extending from the Golden Gate to Avon, California. The NOI dated December 4, 2017 is a supplemental notice to the March 4, 2016 NOI for the San Francisco Bay to Stockton Navigation Improvement Study, for which Commission staff provided the attached comment letter. The re-evaluation report will analyze a revised project that is reduced in scope from the project proposed in the March 4, 2016 NOI, and will consider the navigational needs in the channel from the Central San Francisco Bay, through San Pablo Bay and Carquinez Strait ending at Avon in Contra Costa County. The proposed EIR/EIS will evaluate the deepening of the West Richmond Channel, Pinole Shoal Channel, and the Bulls Head Reach portion of Suisun Bay Channel from -35 feet mean lower low water (MLLW) down to -38 MLLW plus two feet of overdepth, and the creation of a sediment trap to a depth of -44 feet MLLW in Bulls Head Reach. The deepening of the channels and construction of the sediment trap would involve new dredging and the beneficial reuse of dredged sediment. The proposed action is intended to meet the stated need for improved navigation and efficiency of the movement of goods to and from the Golden Gate and the Port of Stockton.

The staff comments discussed below are based on the federal Coastal Zone Management Act of 1972 as amended (CZMA), the Commission's federally-approved Coastal Management Program for San Francisco Bay, which includes the McAteer-Petris Act, the Commission's San Francisco Bay Plan (Bay Plan), the Suisun Marsh Preservation Act, and the Suisun Marsh Protection Plan.



Jurisdiction. Under the CZMA, the Commission has consistency review authority for federal projects that have the potential to affect the coastal zone, in this case, San Francisco Bay and its tributaries. These projects are reviewed for their consistency with the Commission's federally-approved Coastal Management Program and their consistency with the Commission's laws and policies governing proposed activities, including, but not limited to, placement of fill (including dredged sediment disposal), construction, dredging, substantial changes in use and other activities within its jurisdiction.

In reviewing the NOI, it appears that the proposed project would include the following activities within the Commission's Bay and shoreline band jurisdictions: (1) deepening and widening the navigational channels through dredging; (2) creating a sediment trap within Bulls Head Reach; and (3) beneficially reusing of the dredged material. Because the proposed project would take place within the Commission's Coastal Zone Management Program area, and effects to the Coastal Zone are presumed, the impacts must be analyzed. As proposed, the deepening of the channel may result in increased use of the channel by larger and/or more ships, alter water and sediment circulation patterns within the Bay, affect water quality, affect fish and wildlife habitat, or have other impacts in the coastal zone.

Long Term Management Strategy. USACE, BCDC, the United States Environmental Protection Agency (EPA), and the San Francisco Bay Regional Water Quality Control Board (Water Board), are partners in the Long Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region (LTMS). The LTMS program is dedicated to maximizing beneficial reuse of dredged sediment and limits the annual in-Bay disposal volumes in the region. The Commission would support the NOI proposal to beneficially reuse all dredged sediment as this would align with the LTMS beneficial reuse goal. The EIS/EIR should provide the estimated deepening volume and annual maintenance volume of sediment to be dredged; identify the preferred and available beneficial reuse sites, and the potential to create additional reuse sites. In addition, the review should include and discuss how the future maintenance of the deeper channel would be integrated into the USACE's compliance with the LTMS Management plan, maximize beneficial reuse of the sediment, and how the project would, along with the other USACE maintenance dredging project dispose of a maximum of 20 percent of dredged sediment at in-Bay disposal sites.

Dredging Policies. Bay Plan Dredging Policy No. 1 states, in part, that dredging should be conducted in an environmentally sound manner and that dredgers should reduce disposal in the Bay and certain waterways over time to achieve the LTMS goal of limiting in-Bay disposal volumes. Bay Plan Dredging Policy No. 2 allows dredging when (1) the applicant has demonstrated that the dredging is needed to serve a water-oriented use or other public purpose, such as navigational safety; (2) the materials to be dredged meet the water quality requirements of the Water Board; (3) important fisheries and Bay natural resources would be protected through seasonal restrictions established by the California Department of Fish and Wildlife

(CDFW), the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS), or through other appropriate measures; (4) the siting and design of the project will result in the minimum dredging volume necessary for the project; and (5) the material would be disposed of in accordance with the Commission's policies.

Bay Plan Dredging Policy No. 3 requires dredged material to be reused or disposed outside the Bay, if feasible. In-Bay disposal can be allowed only if there is no feasible alternative and: (1) the volume is consistent with applicable dredger disposal allocations and disposal site limits adopted by the Commission; (2) the material would be placed at a site designated by the Commission; (3) the quality of material would be consistent with the advice of the Water Board and the Dredged Material Management Office (DMMO); and (4) the disposal activity would be consistent with the advice of the resource agencies. In addition, Bay Plan Dredging Policy No. 5 states that projects "should maximize use of dredged material as a resource consistent with protecting and enhancing Bay natural resources..."

This project involves new work deepening and eventual maintenance dredging. Please include an analysis of how the proposed volume would be the minimum volume necessary to achieve the project goals. For new work projects, the LTMS agencies require placement of sediment at a beneficial reuse site and/or disposal of material outside the Bay. The EIS/EIR should analyze the proposed project in relation to the Commission's policies regarding dredging and disposal, particularly with respect to the Commission's policy preference for beneficial reuse of dredged material and the significant need for sediment in Bay Area restoration projects. It is worth noting that the new work dredging necessary for deepening the channel would be very difficult to permit if the sediment is not beneficially reused because the sediment volume for deepening may be large and may exceed volume restriction on in-Bay disposal sites that are utilized/shared by all dredgers in the Bay Area, including other USACE navigational maintenance projects. Additional in-Bay disposal could trigger mandatory regulatory allocations for the region, creating a significant burden for non-USACE dredging projects. If in-Bay disposal is proposed, then the EIS/EIR should consider the cumulative, long term economic and environmental impacts the project would have on the region due to this factor.

Minimize Harmful Effects to the Bay. In addition to the dredging policies, the EIS/EIR should address other applicable Bay Plan policies, including a discussion about the Commission's policies for protection of the Bay's natural resources, including fish, other aquatic organisms, and wildlife, and habitats needed for their protection, including tidal flats and marshes and subtidal areas.

The Bay Plan Subtidal Areas policies state, in part, that dredging projects in such areas should be thoroughly evaluated to determine the local and Bay-wide effects such projects would have on bathymetry, tidal hydrology and sediment movement; fish, other aquatic organisms and wildlife; aquatic plants; and the introduction and spread of invasive species. The policies further state that any impacts should be minimized and harmful effects should be avoided where feasible. These subtidal policies also require that dredging in scarce subtidal habitats or those with an abundance or diversity of wildlife only be allowed if there is no

feasible alternative to the project and the project provides substantial public benefits. The EIS/EIR should include an analysis showing that there is no feasible alternative to the proposed project and that the project provides substantial public benefits. The Commission staff is concerned that the deepening project may have effects to salt water intrusion further east, affecting wildlife habitat. In addition, staff is concerned that further deepening and creating a sediment trap, which would more than likely trap Bay sands, would impact sediment transport downstream and affect both fine and coarse grain deep water shoals and the associated habitat, circulation of sediment into shallower water, and potentially impact sand mining activities that are currently permitted, having an economic effect on the industry.

The Bay Plan policies on fish, other aquatic organisms, and wildlife, state that marshes, mudflats, and subtidal habitat should be "conserved, restored, and increased." The Commission must conserve native species to the Bay and consult with, and give appropriate consideration to the advice of, the state and federal resource agencies. According to the Bay Plan policies on tidal marshes, tidal flats, and subtidal areas, all projects subject to Commission consideration should also be sited and designed to minimize or avoid adverse resource impacts at these areas. The EIS/EIR should consider the potential impacts of the proposed deepening, as well as future maintenance of the channels and sediment trap on native species and the recolonization of species within the project area. The study should address how construction restrictions to protect listed species, including salmon, steelhead, Delta smelt, longfin smelt and, most recently, North American green sturgeon, would be incorporated into the project schedule; analyze the use of both clamshell and hydraulic dredges, as their impact on species is significantly different; and provide a discussion of any avoidance, minimization and mitigation measures proposed as part of the project. The study should also provide a discussion of biological opinions that the USACE would obtain under the Federal Endangered Species Act and the Port of Stockton's consultations under the California Endangered Species Act, for impacts related to listed species and their critical habitat.

The EIS/EIR should analyze how the entire deepening project, including the sediment trap, will affect the hydrology, sediment dynamics, water quality and biological resources of the Bay, the Carquinez Strait and adjacent shoreline marshes. Specifically, the study should evaluate the project impacts to the sand transport to/from the outer coast to Suisun Bay, and how the project may impact dredging needs at nearby refineries. It should also analyze cumulative impacts of the deeper channels and the sediment trap, and include other planned projects within the region, such as restoration activities near the project area. The EIS/EIR should include analysis of the climate change impacts, as well as the potential impact of sea level rise on tidal prism, channel scour in the project area, downstream and upstream of the project through the life of the project.

Water Quality. Pursuant to the Commission's Bay Plan Water Quality policies, pollution in the Bay's water "should be prevented to the greatest extent feasible." The Commission would need to consider the Water Board's evaluation of, and advice on, the proposed project and any potential water quality impacts in determining whether the project would adversely impact the

Bay's water quality. The EIS/EIR should include the effects of the project on dissolved oxygen, release of pollutants, turbidity, and salinity in the Bay and adjacent areas. The study should evaluate the impacts of saltwater intrusion and potential higher salinities in the Suisun Bay, Carquinez Strait and parts of the Napa River, and the impacts to water quality and water resources in the area. The study should also analyze the potential impacts of the increased vessel traffic in the project area and what measures would be taken to minimize the risk of oil spills.

Turbidity. Both dredging and in-Bay disposal of dredged material would increase turbidity in the water column. The EIS/EIR should analyze the expected extent of the resulting plume during dredging, its impacts on fish and other aquatic organisms, and whether any lateral movement of the plume would affect important habitat (e.g., eelgrass beds) whose viability is partly dependent on clarity of the water column.

Sandy Deep Water. The Bay Plan's policies on subtidal areas state, in part, that dredging in sandy deep water should be allowed only if (1) there is no feasible alternative; and (2) the project provides substantial public benefit. The EIS/EIR should state the location and size of the affected sandy, deep-water habitat, any anticipated habitat loss, and expectations as to the type and extent of replacement communities. The Suisun Bay has known sand deposits occurring along the sand transport pathway toward the central San Francisco Bay and the Outer Coast. The Carquinez Strait is also known to be an area of active sediment transport. Deepening the federal navigation channel along this transport pathway could potentially alter the movement of sand that may supply sand for beaches along the pathway. Research has shown that the Suisun Bay can be both accretional (during dry years) and erosional (during wet years). Please evaluate these potential impacts in the EIS/EIR.

Rocky Habitat. The EIS/EIR should state the location and size of the affected rocky areas, if any, any anticipated habitat loss, and expectations as to the type and extent of replacement communities.

Sediment Trap. The NOI mentions the creation of a 6-foot deep sediment trap along Bulls Head Reach (to a maximum depth of -44 feet MLLW). The EIS/EIR should describe the extent and dimensions of the proposed sediment trap, the type of sediment expected to be dredged (fine or coarse grain), the expected time the trap would take to fill and the frequency of maintenance dredging for the trap. In addition to the specifics of the sediment trap, the EIS/EIR should discuss the impact of its construction on habitat, salinity and sediment transport in the area. This particular section of the Carquinez Strait is subject to salinity gradient changes and to particular sediment transport both eastward and westward – moving coarse grain sediment (sand) from the Suisun Bay to the central San Francisco Bay and to the outer coast, nourishing beaches both in the Bay and outer coast. The EIS/EIR should describe the potential impacts of the sediment trap on the hydrogeographic characteristics of these embayments.

Ms. Stacie Auvenshine, U.S. Army Corps of Engineers

January 3, 2018

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Mitigation. Environmental impacts to resources within the Bay should be minimized to the greatest extent practicable. In the event that the proposed project would result in adverse environmental impacts that cannot be avoided, the EIS/EIR should discuss proposed mitigation measures. The Commission's policies regarding mitigation state, in part, "projects should be designed to avoid adverse environmental impacts to [the] Bay" and, further, that "[w]henver adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable...[and] measures to compensate for...impacts should be required." The EIS/EIR should fully discuss any mitigation measures proposed. Commission staff will coordinate with local, state, and federal agencies with jurisdiction over Bay resources to determine an appropriate mitigation program is provided to compensate for the impacts of the proposed project.

Coastal Zone Management Authority.

BCDC requests that the EIS/EIR indicate that under CZMA (16 USC 1456(c) and (d)) the Commission is authorized to review any federal actions, permits, licenses and grants affecting any land or water use or natural resources within the Commission's coastal jurisdiction (i.e., San Francisco Bay and Suisun Marsh) and/or project elements impacting the coastal resources and waters (as defined in 16 USC § 1453 (Section 304)) within the Commission's jurisdiction for consistency with the Commission's amended Coastal Zone Management Program to the maximum extent practicable. Please note that under CZMA Section 307(a), NOAA has promulgated a detailed regulation that defines the term "consistent to the maximum extent practicable," to explain that a federal agency may not use a general claim of lack of funding as basis for being consistent to the maximum extent practicable with enforceable policies of a management program, and describes the limited circumstances under which a federal agency may deviate from full consistency (15 C.F.R. § 930.32).

Thank you for the opportunity to comment on this NOI. If you have any questions regarding this letter or the Commission's policies, please contact me at (415) 352-3669 or via email at pascale.soumoy@bcdca.gov.

Sincerely,


PASCALE SOUMOY
Coastal Program Analyst

PS/cj

Enc.

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

April 4, 2016

Ms. Cynthia J. Fowler
Department of the Army, Corps of Engineers
San Francisco District
U.S. Army Corps of Engineers
1455 Market Street, 15th Floor
San Francisco, CA 94103-1398

SUBJECT: Notice of Intent to Prepare a Joint Environmental Impact Statement/Environmental Impact Report for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Study, San Francisco Bay, CA

Dear Ms. Fowler:

On March 7, 2016, the San Francisco Bay Conservation and Development Commission (Commission) staff received the Notice of Intent (NOI) to Prepare a Joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Study. In accordance with the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (Corps), the Port of Stockton, and the Contra Costa County Water Agency are preparing an EIS/EIR to evaluate the effects of altering the depth of the existing deep draft navigation route extending from the San Francisco Bay to the Port of Stockton. The NOI dated March 4, 2016 is a supplemental notice to the March 12, 2008 NOI, which BCDC staff provided comments for, and are attached. The revised proposed EIS/EIR will evaluate the project using a phased approach, first evaluating the incremental deepening of portions of the project authorized under the Rivers and Harbors Act of 1965 (Phase I) to a maximum depth of -40 feet MLLW and then include additional study of the entire channel from San Francisco Bay to Stockton (including both the Western and Eastern Reaches) as provided under the 2014 United States Senate Committee on Environment and Public Works Committee Resolution (Phase II), with the Eastern Reach being deepened to -40 feet MLLW and investigation into whether the deepening the Western Reach to -45 feet MLLW is warranted at that time. The proposed deepening of several reaches of the channels from -35 feet mean lower low water (MLLW) in the Western Reach up to -45 MLLW and in the Eastern Reach up to -40 feet MLLW and would involve new dredging and beneficial reuse of dredged material. The proposed action is intended to meet the stated need for improved efficiency of the movement of goods to and from the Port of Stockton.

Although the Commission itself has not reviewed the NOI, the staff comments discussed below are based on the McAteer-Petris Act, the Suisun Marsh Preservation Act, the *Suisun Marsh Protection Plan*, the Commission's *San Francisco Bay Plan* (Bay Plan), the Commission's federally-approved coastal management plan for the San Francisco Bay, and the federal Coastal Zone Management Act of 1972 as amended (CZMA).

Jurisdiction

The Commission's permit jurisdiction includes all tidal areas of the Bay up to the line of mean high tide or, in areas of tidal wetlands, up to five feet above Mean Sea Level or the extent of tidal wetland vegetation; all areas formerly subject to tidal action that have been filled since September 17, 1965; and the shoreline band that extends 100 feet inland from and parallel to the Bay jurisdiction. The Commission also has jurisdiction over certain managed wetlands adjacent to the Bay, salt ponds, and certain waterways. The proposed project would cross the eastern limit of the Commission's Bay permit jurisdiction, which is defined by a line across the Sacramento River between Stake Point and Simmons Point, extending northeast to the mouth of Marshall Cut. However, under the CZMA, the Commission can review projects that would affect the coastal zone, in this instance, San Francisco Bay. The staff believes this project would affect the coastal zone.

Commission permits and consistency determinations are required for placement of fill (including dredged material disposal), construction, dredging, and substantial changes in use within its jurisdiction. Federal actions, permits, licenses and grants affecting the coastal zone are subject to consistency review by the Commission, pursuant to the federal CZMA, for their consistency with the Commission's federally-approved coastal management program for the Bay.

In reviewing the NOI, it appears that the proposed project would include the following activities within the Commission's Bay and shoreline band jurisdictions: (1) deepening and widening the channel through dredging; and (2) beneficial reuse of dredged material. In addition, deepening of the channel has the potential to increase the use of the channel, alter circulation patterns within the Bay and Suisun Marsh, affect water quality, or result in other impacts in the coastal zone.

Dredging and Material Placement. The John F. Baldwin Channel, extending from just outside the Golden Gate to Chipps Island, is in the Commission's Bay jurisdiction. The proposed deepening of the channel from -35 feet mean lower low water (MLLW) to -45 MLLW would involve new dredging and beneficial reuse of dredged sediment. The proposed deepening project would need to be consistent with the Commission's San Francisco Bay Plan (Bay Plan) policies, which are available from the Commission's offices or website (<http://www.bcdc.ca.gov/publications/>). Several of the applicable policies are discussed below.

Long Term Management Strategy. As you are aware, the Corps, BCDC, the United States Environmental Protection Agency (EPA), and the San Francisco Bay Regional Water Quality Control Board (Water Board), are partners in the Long Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region (LTMS). As part of this partnership, the LTMS program is dedicated to maximizing beneficial reuse of dredged sediment in the region. It is BCDC staff's understanding that all material dredged during this project would be beneficially reused, however if that is not the case, an analysis should be included to show that any in-Bay disposal is the minimum amount necessary to achieve the project, meets the LTMS goals, and is consistent with BCDC laws and policies.

Dredging Policies. Bay Plan Dredging Policy No. 1 states, in part, that dredging should be conducted in an environmentally sound manner and that dredgers should reduce disposal in the Bay and certain waterways over time to achieve the LTMS goal of limiting in-Bay disposal volumes. Bay Plan Dredging Policy No. 2 allows dredging when (1) the applicant has demonstrated that the dredging is needed to serve a water-oriented use or other public purpose, such as navigational safety; (2) the materials to be dredged meet the water quality requirements of the Water Board; (3) important fisheries and Bay natural resources would be protected through seasonal restrictions established by the California Department of Fish and Game, the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service, or through other appropriate measures; (4) the siting and design of the project will result in the minimum dredging volume necessary for the project; and (5) the material would be disposed of in accordance with the Commission's policies.

Bay Plan Dredging Policy No. 3 requires dredged material to be reused or disposed outside the Bay, if feasible. In-Bay disposal can be allowed only if there is no feasible alternative and: (1) the volume is consistent with applicable dredger disposal allocations and disposal site limits adopted by the Commission; (2) the material would be placed at a site designated by the Commission; (3) the quality of material would be consistent with the advice of the Regional Water Quality Control Board and the Dredged Materials Management Office (DMMO); and (4) the disposal activity would be consistent with the advice of the resource agencies. In addition, Bay Plan Dredging Policy No. 5 states that projects "should maximize use of dredged material as a resource consistent with protecting and enhancing Bay natural resources..." The EIS/EIR should analyze the proposed project in relation to the Commission's Dredging policies regarding dredging and disposal, particularly with respect to the Commission's policy preference for beneficial reuse of dredged material. This project involves new work deepening and not maintenance dredging. For new work projects, the LTMS agencies typically require disposal of material outside the Bay and/or placement at a beneficial reuse site. In particular, the EIS/EIR should identify beneficial reuse sites that are currently available and analyze the potential for additional sites to be created.

Minimize Harmful Effects to the Bay. In addition to the dredging policies, the EIS/EIR should address other applicable Bay Plan policies, including a discussion about the Commission's policies for protection of the Bay's natural resources, including fish, other aquatic organisms, and wildlife, and habitats needed for their protection, including tidal flats and marshes and subtidal areas.

The Bay Plan Subtidal Areas policies state, in part, that dredging projects in such areas should be thoroughly evaluated to determine the local and Bay-wide effects such projects would have on bathymetry, tidal hydrology and sediment movement; fish, other aquatic organisms and wildlife; aquatic plants; and the introduction and spread of invasive species and that any impacts should be minimized and harmful effects should be avoided where feasible. These subtidal policies also require that dredging in scarce subtidal habitats only be allowed if there is no feasible alternative to the project and the project provides substantial public benefits. The EIS/EIR should include an analysis showing that there is no feasible alternative to the proposed project and that the project provides substantial public benefits.

The Bay Plan policies on fish, other aquatic organisms, and wildlife, state that marshes, mudflats, and subtidal habitat should be "conserved, restored, and increased." Furthermore, the Commission must conserve native species to the Bay and consult with and give appropriate consideration to the advice of the state and federal resource agencies. According to the Bay Plan policies on tidal marshes, tidal flats, and subtidal areas, all projects subject to Commission consideration should also be sited and designed to minimize or avoid adverse resource impacts at these areas. Additionally, the EIS/EIR should also consider the potential impacts of the phased deepening approach to the proposed project and the potential impacts on the recolonization of species within the project area as compared to the potential impacts of disturbance if the project were to be conducted as a single event, as well as the future maintenance of the channel and its impacts on native species. The EIS/EIR should analyze the project and maintenance with both a clamshell and hydraulic dredge, as the type of equipment proposed is not fully described at this time.

The EIS/EIR should analyze how the entire deepening project, including both Phase I and Phase II of the project, and all portions of the project including those outside the Commission's permit jurisdiction, that will affect the hydrology, sediment dynamics, water quality and biological resources of the Bay and the Suisun Marsh. It should include analysis of the climate change impacts, including the potential impact of sea level rise on tidal prism and channel scour in the project area through the life of the project. Specifically, the EIS/EIR should evaluate the potential impacts of saltwater intrusion and the impacts of higher salinities in the Suisun Marsh and Delta that may be a result of the proposed project. It should also analyze cumulative impacts, including the potential impacts of other projects being planned for the Delta, including deepening of the Sacramento Ship Channel and alternative conveyance facilities for the State Water Project, Central Valley Project, the California Water Fix and proposed restoration activities within the project area and the Delta, as they will have cumulative affects. The EIS/EIR

should discuss the Commission's regulatory authority governing the protection of the Bay's natural resources and habitats.

The EIS/EIR should address how construction restrictions regarding listed species, including salmon, steelhead, Delta smelt, longfin smelt and, most recently, North American green sturgeon, would be incorporated into the project schedule and provide a discussion of any avoidance, minimization and mitigation measures proposed as part of the project. It should also provide a discussion of biological opinions that the USACE would obtain under the Federal Endangered Species Act for impacts related to listed species and their critical habitat.

Water Quality. Pursuant to the Commission's Bay Plan Water Quality policies, pollution in the Bay's water "should be prevented to the greatest extent feasible." Further, in considering this project, the Commission would need to consider the Water Board's evaluation of and advice on the proposed project and any potential water quality impacts. Therefore, it is advisable that the project proponents conduct early consultation with the Water Board in conjunction with BCDC and obtain all necessary authorization to aid the Commission in determining whether the project would adversely impact the Bay's water quality. The EIS/EIR should analyze the impacts of the project on dissolved oxygen, release of pollutants, turbidity and salinity in the Bay and adjacent areas. Specifically, the EIS/EIR should evaluate saltwater intrusion in part of the Suisun Marsh and Delta and the impacts to water quality and water resources in the area.

Turbidity. Both dredging and in-Bay disposal of dredged material would increase turbidity in the water column. The EIS/EIR should analyze the expected extent of the resulting plume, impacts on fish and other aquatic organisms, and whether any lateral movement of the plume would affect important habitat (e.g., eelgrass beds) whose viability is partly dependent on clarity of the water column for both dredging and aquatic disposal if it is proposed.

Sandy Deep Water. The Bay Plan's policies on subtidal areas state, in part, that dredging in sandy deep water should be allowed only if (1) there is no feasible alternative; and (2) the project provides substantial public benefit. The EIS/EIR should state the location and size of the affected sandy deep water, any anticipated habitat loss, and expectations as to the type and extent of replacement communities.

Rocky Habitat. The EIS/EIR should state the location and size of the affected rocky areas, if any, any anticipated habitat loss, and expectations as to the type and extent of replacement communities.

Mitigation. Environmental impacts to resources within the Bay should be minimized to the greatest extent practicable. In the event that the proposed project would result in adverse environmental impacts that cannot be avoided, the EIS/EIR should discuss proposed mitigation measures. The Commission's policies regarding mitigation state, in part, "projects should be designed to avoid adverse environmental impacts to [the] Bay" and, further, that "[w]henver adverse impacts cannot be avoided, they should be minimized to the greatest extent

practicable....[and] measures to compensate for...impacts should be required." The EIS/EIR should fully discuss any mitigation measures proposed. Commission staff will coordinate with local, state, and federal agencies with jurisdiction over Bay resources to determine an appropriate mitigation program is provided to compensate for the impacts of the proposed project.

Suisun Marsh

Commission Jurisdiction. A section of the proposed project would be located in portions of Suisun Bay within Solano County and, thus, in the Commission's primary management jurisdiction of the Suisun Marsh. In this area, the Suisun Marsh Act and the Suisun Marsh Protection Plan contain relevant policies that should be addressed in the EIS/EIR. According to the *Suisun Marsh Protection Plan (Marsh Plan)* policies, various habitats of the Marsh "...are critical...for marsh-related wildlife and are essential to the integrity of the Suisun Marsh." The EIS/EIR should examine any potential impacts of the construction and potential increase in use of the channel on Suisun Marsh habitat, water quality, and sediment supply and, if necessary, describe measures to mitigate these effects. Additionally, the EIS/EIR should address specifically how changing salinity levels and the location of X2 would impact Suisun Marsh and the species living within the Bay waters and in the marsh itself.

Utilities and Improvements. Further, the Marsh Plan policies on utilities, facilities and transportation state, in part, that any Marsh waterway should be maintained in conformance with existing project specifications, provided that dredging "(a) is for a water-oriented use or other important public purpose; (b) the materials to be dredged meet the water quality requirements of the San Francisco Bay Regional Water Quality Control Board; and (c) important Marsh fisheries and wildlife and their habitat would be protected." Lastly, regarding dredged material disposal activities in the Marsh, these policies provide similar guidance to that contained in the Bay Plan's dredging policies, including that dredged material disposal should occur in "non-tidal areas where the materials can be used beneficially to restore, enhance or manage the Marsh...."

In light of these policies of the Marsh Plan, the EIS/EIR should: (1) clearly identify the location of the John F. Baldwin Ship Channel in the Suisun Marsh and show its location in relation to wetland areas; (2) identify any potential project-related impacts to wetlands in the Marsh and measures for mitigating these effects; (3) provide a construction schedule for any work affecting wetland area in the Marsh; (4) identify the width of the proposed channel after deepening; (5) discuss the consistency of construction schedule in the Marsh with fish migration windows; and (6) specify dredging locations on a map and discuss potential beneficial reuse options for dredged material.

Water Supply and Quality. The Marsh Plan policies on water supply require that water quality within Suisun Marsh be maintained. These policies also limit the dredging of the John F. Baldwin Ship Channel until an adequate understanding of the impacts resulting from increased

Ms. Cynthia J. Fowler, US Army Corps of Engineers

April 4, 2016

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salinity intrusion in the Marsh is known. Commission staff understands from the NOI, that there are no additional studies or data collection proposed to assess these impacts of the proposed project (both Phase I and Phase II) in the EIS/EIR. The EIS/EIR should evaluate existing information and provide an analysis of why there is no further information needed to evaluate the impacts of this project that may result in combination with other state and federal water projects, as this has changed significantly since the last issuance of the NOI for the proposed project.

Coastal Zone Management Authority.

BCDC requests that the EIS/EIR indicate that under CZMA (16 USC 1456(c) and (d)) the Commission is authorized to review any federal actions, permits, licenses and grants affecting any land or water use or natural resources within the Commission's coastal jurisdiction (i.e., San Francisco Bay and Suisun Marsh) and/or project elements impacting the coastal resources and waters (as defined in 16 USC § 1453 (Section 304)) within the Commission's jurisdiction for consistency with the Commission's amended Coastal Zone Management Plan to the maximum extent practicable. Please note that under CZMA Section 307(a), NOAA has promulgated a detailed regulation that defines the term "consistent to the maximum extent practicable," explains that a federal agency may not use a general claim of lack of funding as basis for being consistent to the maximum extent practicable with enforceable policies of a management program, and describes the limited circumstances under which a federal agency may deviate from full consistency (15 C.F.R. § 930.32/0).

Thank you for the opportunity to comment on this NOI. If you have any questions regarding this letter or the Commission's policies, please contact me at (415) 352-3624 or via email at anniken.lydon@bcdcc.ca.gov.

Sincerely,



ANNIKEN LYDON

Coastal Program Analyst

AL/as

Enc.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

**75 Hawthorne Street
San Francisco, CA 94105-3901**

JAN 03 2018

Ms. Stacie Auvenshine
U.S. Army Corps of Engineers
Jacksonville District
Planning and Policy Division
Environmental Branch
P.O. Box 4970
Jacksonville, Florida 32232-0019

Subject: Notice of Intent to Prepare an Environmental Impact Statement / Environmental Impact Report for the San Francisco Bay to Stockton General Reevaluation Report, San Francisco, Marin, Solano, and Contra Costa Counties, California

Dear Ms. Auvenshine:

The U.S. Environmental Protection Agency (EPA) has reviewed the Notice of Intent (NOI) to prepare a Draft Environmental Impact Statement (EIS)/Environmental Impact Report for the San Francisco Bay to Stockton General Reevaluation Report. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. These comments were also prepared under the authority of, and in accordance with, the provisions of the Federal Guidelines (Guidelines) promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act (CWA) and EPA's ocean dumping regulations promulgated at 40 CFR 220-227 under the Marine Protection, Research, and Sanctuaries Act (MPRSA).

This NOI is supplemental to the March 4, 2016 NOI released for the San Francisco Bay to Stockton (John F. Baldwin and Stockton Ship Channels) Navigation Improvement Study, and the initial NOI published on March 12, 2008. The 2016 NOI proposed to deepen navigation channels from the San Francisco Bay to Stockton and separated the project into two phases: Phase I would have deepened the Western Reach (from San Francisco Bay to Avon), and Phase II would have deepened the Eastern Reach (from Avon to the Port of Stockton). The 2017 NOI states that the study scope has since been reduced to only the Western Reach, and therefore no longer extends to Stockton. EPA supports the USACE's decision to eliminate the Eastern Reach from further consideration, as deepening the channels east of Avon would have had the potential to significantly affect water quality and sensitive aquatic life in the Delta and San Francisco Bay. We also support the inclusion of beneficial reuse of dredged material as part of the project description, and recommend that this component be retained as a feature of the final project. Under the regional dredged material management plan, in-Bay disposal is limited, in-Bay capacity is generally unavailable for civil works deepening projects, and state and federal approvals for such disposal would be difficult, if not impossible, to obtain.

EPA submitted comments on the 2008 NOI on May 16, 2008; provided additional comments in a letter dated February 13, 2013 after participating in an interagency In Progress Review (IPR) meeting; and submitted a third comment letter in response to the 2016 NOI on April 4, 2016. We incorporate by

reference the comments and recommendations included in our previous letters that pertain to the Western Reach, and offer the following additional comments for the USACE's consideration as it proceeds in developing the Draft EIS for the reduced-scope project.

Scope of Analysis

We note that the Port of Stockton remains the lead local agency and non-federal sponsor for this project, despite the downgrade in scope to just the Western Reach. We recommend that the Draft EIS clarify environmental impacts and benefits of the reduced-scope project to the Port of Stockton, as well as other entities that the project would serve.

Indirect Effects – Induced Growth and Spill Risk

EPA recommends that the Draft EIS analyze to what extent the project would induce growth at existing marine terminals located along the study area. For example, there are at least 4 oil refinery terminals adjacent to the study area. Describe what benefits and adverse environmental effects could result from such growth. Identify specific mitigation measures to reduce potential adverse effects from these growth-related impacts.

Analyze whether the proposed project would lead to an increase in oil tanker activity within the project area, and, if so, to what extent this increase may elevate the risk of oil spills in the San Francisco Bay Area. Describe current loading practices, include a detailed discussion of best management practices (BMPs) that would be committed to in order to minimize such risks, and identify emergency response plans that would be employed in the event of a spill. Clearly indicate the entities responsible for clean-ups, as well as any additional measures that would be taken to ensure that BMPs and emergency response plans are implemented as intended.

Dredging and Dredged Material Management

Potential Dredging Impacts to Sensitive Species

Federal-and State-endangered species, including Delta smelt, green sturgeon, various salmon runs, and the longfin smelt, among other sensitive species, occur in the project area. These species are particularly vulnerable to entrainment via hydraulic dredging (including by hopper dredges), but are generally considered less vulnerable to mechanical clamshell dredging. The choice of dredging method, therefore, may have a direct relation to the degree of environmental impact caused by both initial deepening and future maintenance dredging. In the Draft EIS, include a detailed discussion of construction methods and future maintenance dredging. We encourage the USACE to commit to using the least damaging dredging method possible.

Beneficial Reuse

EPA strongly supports the USACE's decision to require beneficial reuse of all the dredged material to be generated by this deepening project as part of the project description. Reuse of all the project's dredged material would support efforts to protect vital infrastructure from the effects of sea level rise and assist in restoring habitat. This component of the project is also consistent with the regional interagency dredged material management plan (the San Francisco Bay Region Long Term Management Strategy, or LTMS), which strives to maximize beneficial reuse of dredged sediments and strictly limits annual in-Bay disposal volumes. The Draft EIS should examine all existing or planned placement sites that might be available by the time the project is under construction, using an updated list of sites including, but not limited to, potential sites identified in earlier phases of scoping for this project.

Specifically, EPA notes that there are currently at least two nearby, existing beneficial reuse projects capable of accommodating the volume of material to be generated: the Cullinan Ranch Restoration Project and the Montezuma Wetlands Restoration Project. Either of these reuse sites would be considered practicable to use, and other nearby reuse opportunities may be available, as well, by the time the project is being constructed (such as Bel Marin Keys, the Belly Wetland Restoration Project, the Grizzly Slough Floodplain Restoration Project, Sherman Island, Twitchell Island, Holland Tract, and the proposed Jersey Island Placement Site). If practicable reuse site capacity turns out not to be available for some or all of the project volume, ocean disposal remains an option that the Draft EIS should consider. Please note that, in general, in-Bay disposal would not be considered permissible for the construction phase of this project. Finally, the Draft EIS should also discuss the possibility of reuse partnerships, including via use of Measure AA funds, and/or WIIN/WRDA 2016 demonstration project authorities. If you have any questions concerning these or our previous comments on dredged material management or beneficial reuse opportunities, please feel free to contact Brian Ross of our Dredging and Sediment Management Team at 415-972-3475 or ross.brian@epa.gov.

Air Quality

The project area is located within the San Francisco Bay Area Air Basin (SFBAAB), which is currently in nonattainment for National Ambient Air Quality Standards (NAAQS), including 8-hour ozone (marginal nonattainment) and 24-hour PM_{2.5} (moderate nonattainment). It is also located within a portion of the SFBAAB that is designated as a maintenance area for carbon monoxide. In the Draft EIS, include a detailed discussion of existing ambient air conditions, the NAAQS, and criteria pollutant nonattainment areas. Identify and discuss any air quality impacts that may result from the proposed project, including indirect and cumulative impacts. Relevant impacts include, but are not limited to: those from construction, including expected timing and frequency of dredging and transportation of dredged material; any increase in ship traffic, truck transport, rail transport; new capacity for larger ships due to channel deepening; on-dock equipment use; and refinery operations.

While the project may provide air quality benefits by using more fully laden vessels to deliver goods, it may also have the potential to increase vessel traffic in and around the project area. We encourage the project sponsors to work with their shipping partners to reduce any potential increases in vessel emissions resulting from this project, and recommend the following mitigation measures for inclusion:

- Incentivize the deployment of cleaner vessels that meet or exceed the latest EPA exhaust emissions standards for marine compression-ignition engines (i.e., Tier 4 for Category 1 and 2 vessels, and Tier 3 for Category 3 vessels).¹
- Implement a vessel speed reduction program.
- Incentivize the use of at-berth emission reduction technologies.

Environmental Justice and Title VI of the Civil Rights Act

Executive Order (EO) 12898² directs federal agencies to pursue Environmental Justice (EJ) to the greatest extent possible by identifying and addressing any disproportionately high and adverse human health or environmental effects that the agency's programs, policies, or activities may have on minority and low-income populations. The memorandum accompanying the EO highlights both NEPA and the

¹ See EPA's Exhaust Emission Standards for Marine Compression-Ignition Engines, available at: <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100OA0B.pdf>

² Available at: <https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf>

Civil Rights Act of 1964 (Civil Rights Act) as examples of existing statutory authorities that can be used to address environmental justice.³ The Council on Environmental Quality has developed guidance⁴ to address EJ in the environmental review process. *Promising Practices for Environmental Justice Methodologies in NEPA Reviews*⁵ (March 2016), may also serve as a useful resource during the environmental review process. This document is a compilation of methodologies from current agency practices identified by the NEPA Committee of the Federal Interagency Working Group on Environmental Justice. The document focuses on the interface of EJ considerations through NEPA processes and provides recommendations on applying EJ methodologies that have been established in federal NEPA practice. In addition, recipients of federal assistance have an obligation to ensure that their programs do not result in discriminatory effects or burdens on populations protected under Title VI of the Civil Rights Act.

In the Draft EIS, discuss potential environmental justice concerns, such as air quality, water quality, noise, vibration, odors, etc. Include any environmental justice issues raised during scoping meetings. Clearly and effectively define the “reference community” and the “affected community.” These definitions are used to determine whether there are disproportionately high and adverse human health or environmental impacts by comparing the impacts to the affected community with the impacts to the reference community. A well-defined affected community will accurately reflect the demographic characteristics of the populations likely to be adversely impacted by the proposed project. A well-defined reference community will reflect the characteristics of the general population that would benefit from the project (e.g., municipal, regional, state). Disclose whether the proposed project may disproportionately and adversely affect low-income and minority populations in the surrounding area, and identify any measures that could mitigate adverse impacts. We encourage the USACE to use information gathered from public outreach efforts to design mitigation measures that respond to the needs of communities that would be adversely affected by the project. Efforts to reduce environmental justice impacts could assist the Port of Stockton, as a recipient of Federal funds, to meet its potential obligations under Title VI of the Civil Rights Act.

We appreciate the opportunity to provide scoping comments for this Draft EIS. Please send one hard copy and one electronic copy of the Draft EIS when it becomes available to this office (mail code: ENF-4-2). If you have any questions, please feel free to contact me at 415-972-3504 or capilla.morgan@epa.gov.

Sincerely,



Morgan Capilla
Environmental Review Section

³ Available at: https://www.epa.gov/sites/production/files/2015-02/documents/clinton_memo_12898.pdf

⁴ Council on Environmental Quality. (1997). Environmental Justice: Guidance Under the National Environmental Policy Act. Available at: https://www.epa.gov/sites/production/files/2015-02/documents/ej_guidance_nepa_ceq1297.pdf

⁵ Available at: https://www.epa.gov/sites/production/files/2016-08/documents/nepa_promising_practices_document_2016.pdf

Electronic copy:

Douglas Hampton, National Marine Fisheries Service
Sara Azat, National Marine Fisheries Service
Steve Culberson, U.S. Fish and Wildlife Service
Arn Aarreberg, California Department of Fish and Wildlife
Jeff Wingfield, Port of Stockton
John Greitzer, Contra Costa County
Ryan Hernandez, Contra Costa County
Jack Broadbent, Bay Area Air Quality Management District
Joanna Jensen, State Water Resources Control Board
Beth Christian, Regional Water Quality Control Board, San Francisco Bay
Brenda Goeden, Bay Conservation Development Commission
Lucinda Shih, Contra Costa County Water District
Daniel Yuska, U.S. Maritime Administration

From: [Shafer, Mark D CIV USARMY CESWD \(US\)](mailto:Shafer, Mark D CIV USARMY CESWD (US))
To: Elizabeth.christian@waterboards.ca.gov
Cc: [Roth, Stacey L CIV USARMY CESAJ \(US\)](mailto:Roth, Stacey L CIV USARMY CESAJ (US)); [Auvenshine, Stacie J CIV USARMY CESAJ \(US\)](mailto:Auvenshine, Stacie J CIV USARMY CESAJ (US)); [Castens, Pamela G CIV \(US\)](mailto:Castens, Pamela G CIV (US)); [Beach, Tessa E CIV USARMY CESP \(USA\)](mailto:Beach, Tessa E CIV USARMY CESP (USA))
Subject: FW: 401 Water Quality Certification letter template - SF Bay to Stockton (UNCLASSIFIED)
Date: Thursday, February 07, 2019 1:17:28 PM
Attachments: [CA RWQCB TEMPLATE Endorsement to defer WQC to PED V 12MAR18 HQok-SFBay-Stockton.docx](#)

Ms Christian

Attached is the 401 WQC draft letter we spoke of back in December. I have included addressees and project information. As you will see there are two individuals to be addressed because the planning is being done out of the South Atlantic Division of the USACE while the implementation of the project will be carried forward by the South Pacific Division (SPD) of the USACE. Tessa Beach of SPD should be copied as she will manage the PED phase of environmental compliance.

Though I work for yet a different division of the USACE, I am responsible for the WQ portion of the draft and final study documents.

Please let me know if you need additional information for this letter.

Thank You

Mark Shafer, PE.
Environmental Engineer
Planning Division
SWD
1100 Commerce Street
Dallas, Texas
469-487-7020 (w)
904-514-6169 (c)

-----Original Message-----

From: Shafer, Mark D CIV USARMY CESWD (US)
Sent: Wednesday, November 21, 2018 11:42 AM
To: Elizabeth.christian@waterboards.ca.gov
Subject: FW: 401 Water Quality Certification letter template - SF Bay to Stockton (UNCLASSIFIED)

Ms Christian.

Thanks for speaking with me this morning. As I mentioned, I will send you the draft letter as well as the information to be discussed during the dec 7th meeting. Will likely be in touch the week of 7th dec.

Thank you

Mark shafer p.e.
Environmental Engineer
Southwestern Division USACE
Dallas, Tx
75242

[final letter to be printed on RWQCB leaderhead stationery]

[March 12, 2018]

Eric Bush
Chief, Planning and Policy
Director, Deep Draft Navigation Planning Center of Expertise
U.S. Army Corps of Engineers, South Atlantic Division
60 Forsyth St SW
Atlanta, GA 30303

Mr. Tom Kendall
Chief of Planning
San Francisco District
U.S. Army Corps of Engineers
San Francisco District (SPN)
450 Golden Gate Avenue, 4th Floor
San Francisco, CA 94102

SUBJECT: *[/San Francisco]* Regional Water Quality Control Board Support for Water Quality Certification Application during Pre-Construction Engineering and Design Phase for the *[San Francisco Bay to Stockton Navigation Improvement Project]*

Dear *[Mr. Bush and Mr. Kendall]*:

Thank you for the *[San Francisco/]* District of the U.S. Army Corps of Engineers' (USACE) request that the *[San Francisco Bay]* Regional Water Quality Control Board (RWQCB) accept the application for Water Quality Certification (WQC) for the *[navigation]* project proposed by the USACE's *[San Francisco Bay to Stockton Navigation Improvement]* Study during the project's Pre-Construction Engineering and Design (PED) phase. The project is described in the Draft Integrated Report dated April _____, 2019, and has been the center of detailed discussions between the project proponents, USACE, and RWQCB staff. The Report includes the Clean Water Act (CWA) Section 404(b)(1) analysis for the project.

As the proposed project would be constructed by the federal government, with some local and *[state]* funding, the USACE is required to submit a request for WQC pursuant to Section 401 of the federal CWA for review and acceptance by the Board prior to commencing any work. The request will include a complete copy of the federal application, and documentation that California Environmental Quality Act (CEQA) compliance has been accomplished.

The Board views the proposed federal activities, *at this stage*, as being *[conditionally]* consistent with Section 401 of the CWA and the Porter-Cologne Act and should not compromise state water quality standards. The Board looks forward to the RWQCB staff's formal review and action pursuant to Section 401 of the CWA during the PED phase, during which more information will be available for the RWQCB to review as the USACE demonstrates complete compliance with the CWA.

If you have any further questions, please contact [\[name\]](#) of my staff at [\[###-###-####\]](#), or by email at [\[name\]@waterboards.ca.gov](mailto:[name]@waterboards.ca.gov).

Sincerely,
[\[name\]](#)
[\[Executive Officer\]](#)

CC:

[Tessa Beach](#)

Chief, Environmental Sections
San Francisco District
U.S. Army Corps of Engineers
San Francisco District (SPN)
450 Golden Gate Avenue, 4th Floor
San Francisco, CA 94102

DRAFT

[final letter to be printed on RWQCB leaderhead stationery]

[March 12, 2018]

Eric Bush
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Sincerely,
[\[name\]](#)
[\[Executive Officer\]](#)

CC:

[Tessa Beach](#)

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San Francisco District
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DRAFT