

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

50 California Street • Suite 2600 • San Francisco, California 94111 • (415) 352-3600 • Fax: (415) 352-3606 • www.bcdc.ca.gov

October 25, 2013

Application Summary

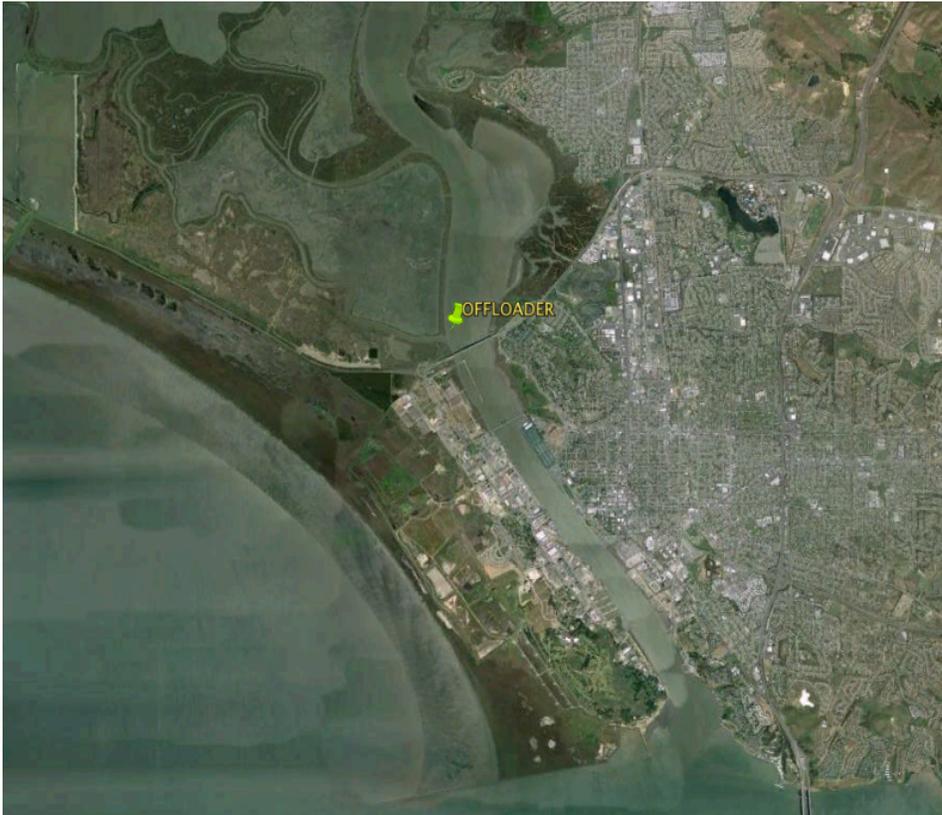
(For Commission consideration on November 7, 2013)

Number: Consistency Determination No. C2004.005.03
Date Filed: October 25, 2013
Action Required By: December 10, 2013
Staff Assigned: Brenda Goeden (415/352-3623, brendag@bcdc.ca.gov)

Summary

Applicant: U.S. Fish and Wildlife Service (USFWS)

Location: In the Commission's certain waterways jurisdiction, at the confluence of Dutchman Slough and the Napa River, adjacent to the federal navigation channel, in the City of Vallejo, Solano County (Exhibit A).



Making San Francisco Bay Better

Project: The proposed project includes the construction and use of a new 16,000-square-foot offloading facility (also known as an “offloader”) to unload and transport dredged sediment from dredge scows to the Cullinan Ranch Wetlands Restoration Project site (Cullinan Ranch) via a 4,800-foot-long, 24-inch-in-diameter pipe placed within Dutchman Slough (Exhibits C, D and E). The sediment would be used to raise site elevations and thereby restore salt marsh habitat at Cullinan Ranch.

The offloading facility would consist of an approximately 16,000-square-foot floating platform with a slurry pump, held in place with four 24-inch-in-diameter spud piles. In addition, three 24-inch-in-diameter mooring piles would be driven to facilitate the moorage of dredge scows during offloading activities. Therefore, the project would result in approximately 16,000 square feet of floating fill and 293 cubic yards of solid Bay fill.

The sediment transport pipeline would be located in Dutchman Slough and would be anchored in place with approximately ten, two-foot concrete blocks to prevent movement of the pipeline and improve navigational safety within the waterway. The pipeline system represents approximately 590 cubic yards of solid fill (Exhibit E).

The offloader facility and associated pipeline would be in place for up to two years. When the dredged sediment placement is completed, the offloading equipment and associated pipeline system would be removed.

Issues Raised:

The staff believes that the consistency determination raises three primary issues: (1) whether the proposed fill is consistent with the McAteer-Petris Act and Bay Plan policies regarding fill in the Bay; (2) whether the proposed project is consistent with Bay Plan policies regarding natural resources; and (3) whether the proposed project is consistent with Bay Plan policies on Dredging and Water Quality.

Background

On September 20, 2010, the Commission approved BCDC Consistency Determination No. C2004.005.01. At that time, the Commission’s authorization included: (1) the restoration of 1,579 acres of tidal marsh at the Cullinan Ranch Wetlands Restoration Project; (2) public access improvements including a kayak boat launch ramp, a fishing pier and 23,700 square feet of new on-site and off-site public access trails and overlooks; (3) a sediment offloading area in Dutchman Slough; (4) the placement of up to 405,000 cubic yards of dredged sediment; and (5) a

buttress levee to protect Highway 37 from flooding. Amendment No. Three to BCDC Consistency Determination No. C2004.005.00 would change the original consistency determination by authorizing the construction and use of the offloading facility and associated pipeline and relocating it further from the restoration site, at the confluence of the Napa River and Dutchman Slough, instead of within Dutchman Slough.

The Cullinan Ranch site was historically a tidal marsh, however much of the site and many of the surrounding sloughs were diked off in the late nineteenth century for agricultural use. Consequently, portions of the Cullinan Ranch site have subsided by as much as six feet and sediment is now needed to raise the restoration site to elevations that will support salt marsh vegetation. The proposed offloading facility would facilitate placing up to 405,000 cubic yards of dredged sediment at the Cullinan Ranch restoration site. The dredged material would originate at various maintenance dredging project sites throughout San Francisco Bay. Specifically, dredged sediment would be placed in a 50-acre area targeted for habitat development suitable for salt marsh harvest mouse, a state and federally listed endangered species endemic to San Francisco Bay (Exhibit A).

Project Description

**Project
Details:**

The consistency determination describes the project as follows:

In the Bay:

- a. Construct, use and maintain for up to two years, a new, 16,000-square-foot offloading facility, consisting of pumping equipment, a floating platform anchored in place by four 24-inch-in-diameter spuds, and a fish screen;
- b. Drive three, 24-inch-in-diameter concrete or steel pilings to moor dredge scows during sediment offloading activities;
- c. Place and use 4,800 feet of 24-inch-in-diameter plastic or steel pipeline for transport of dredged sediment; and
- d. Place up to 10 concrete anchors to hold the above-described pipeline in place during offloading activities.

Bay Fill:

The proposed sediment offloader and associated pipeline would result in approximately 16,000 square feet of floating, spud-supported fill and 983 cubic yards of solid fill (piles, anchors and pipeline) in the Bay for up to two years.

**Public
Access:**

As part of this amendment, the USFWS proposed no additional public access beyond that which was included in the original authorization. At the end of the restoration project, the USFWS will have constructed: (1) acceleration and deceleration lanes along State Route 37 to improve the safety of public access uses; (2) a kayak launch and a kayak haul-out area; (3) one pile supported wooden fishing pier; (4) an overlook and three benches; (5) a viewing platform; and (6) ADA-accessible surfacing on approximately 600 linear feet of the Pond 1 levee trail and provide surface improvements for the remaining 6,400 linear feet of trail.

At the east end of Cullinan Ranch, pending transfer of title from Caltrans to the USFWS (in process), the project proposes to construct an ADA-accessible trail on an existing levee within the Guadalcanal Village site and a wooden pile-supported fishing pier at the terminus. In addition, the project would provide two new kiosks and interpretive and directional signage in various locations around the site.

Mitigation: No mitigation is proposed with the placement of the temporary offloading facility. A similar facility was included in the original authorization for Cullinan Ranch restoration project. The temporary offloader project would result in 0.39 acres of temporary Bay fill that would facilitate the restoration of the Cullinan Ranch site, resulting in 1,579 acres of tidal marsh.

Site

Operations: Dredged sediments would be transported to the site in barges escorted by tugboats. The dredge barges, accommodating between 800 and 3,000 cubic yards of sediment, would be moored next to the offloading platform, which would take 90 minutes to three hours to offload each barge. Dredged materials would be pumped from the barge to the sediment placement cell. Bay water would be pumped from the Napa River through a fish screen in compliance with NOAA Fisheries Service (NOAA Fisheries), USFWS and California Department Fish and Wildlife (CDFW) guidance, to transport the dredged sediment in a recirculating pump system. The water would be retained on site.

The maximum amount of material that could move through the facility in a 24-hour period would be 30,000 cubic yards, although such a rate is not expected to be sustained for more than two days.

Dredged sediments used for on-site wetland restoration would be pumped through the pipeline to the placement site and allowed to settle so they would not exceed target elevations for tidal marsh restoration. The dredged sediments would be kept wet to maintain wetland sediment qualities suitable for marsh vegetation.

Schedule

And Costs: The USFWS states that proposed project work could begin as soon as November 2013. The offloader would be in place for up to two years. The USFWS estimates the total project cost to be \$500,000.

Staff Analysis

A. **Issues Raised:** The staff believes that the consistency determination raises three primary issues: (1) whether the proposed fill is consistent with the McAtter-Petris Act and Bay Plan policies regarding fill in the Bay; (2) whether the proposed project is consistent with Bay Plan natural resource policies; and (3) whether the proposed project is consistent with Bay Plan policies on Dredging and Water Quality.

1. **Bay Fill.** Section 66605 of the McAtter-Petris Act states, in part, that fill in the Bay can be authorized only when public benefits of the fill exceed the public detriment from the loss of water area, that the fill must be limited to water oriented uses (such as water-related industry), that the fill can be authorized only when no alternative upland location exists for such purposes, that the water area authorized to be filled should be the minimum necessary to achieve the purpose of the fill, and that the nature, location, and extent of any fill should be such that it will minimize harmful effects to the Bay Area, such as, the reduction or impairment of the volume surface area or circulation of water, water quality, fertility of marshes or fish or wildlife resources.

a. **Public Benefits v. Public Detriment.** Approximately 16,000 square feet of floating fill for the offloader platform and 983 cubic yards of solid fill for the mooring piles, spuds and sediment conveyance pipeline placed on the Bay bottom would be placed in the Commission's certain waterway jurisdiction. The dredge material offloader and accompanying mooring piles and pipeline would enable dredged sediment from Bay Area dredging projects to be offloaded from dredge scows and pumped to the

Cullinan Ranch site, approximately 5,000 feet from the offloading site. Beneficially reusing dredged sediment on site to raise the elevations to those suitable for marsh development would substantially reduce the amount of time necessary for tidal marsh to develop at the restoration site, thereby providing endangered species habitat sooner, aiding in their recovery.

This project, along with other beneficial reuse projects, would reduce the volume of dredged material that currently is disposed of in the Bay, reducing water quality impacts to the Bay. In addition, wetland restoration projects have significant benefits to the public such as increased wildlife viewing and recreational opportunities, reduced flooding impacts due to the ability to absorb stormwater, and increased habitat for native, and threatened and endangered species.

- b. **Wildlife Refuge.** Section 66605(a) of the McAteer-Petris Act states that, "...further filling of San Francisco Bay...should be...limited to minor fill for water-oriented uses...such as wildlife refuges..."

The purpose of the fill associated with the offloader would be to beneficially reuse dredged material in the restoration of wetlands in the San Pablo Bay Wildlife Refuge, thereby increasing wildlife habitats, and implementing the wildlife refuge priority use designation for Cullinan Ranch.

- c. **Alternative Upland Location.** Currently, there is no feasible way to transport 405,000 cubic yards of dredged sediment to the site via a land route because dredged sediment is first loaded into scows at the dredging site and is then transported via barge to its final placement site. If trucks were used to transport the sediment by land, it would require a shoreside facility with holding cells to dry material and then load it into trucks for transport to the restoration site. This process would be cost prohibitive for the restoration project and cause traffic congestion on Highway 37 and potentially other highways in the region.
- d. **Minimum Necessary Fill.** The proposed Bay fill would be only that needed to provide the dredged material offloader facility, mooring piles, and dredged sediment delivery pipeline. The USFWS states that the fill proposed with the project is the minimum amount necessary to safely and efficiently offload dredged material from scows and to pump the slurried sediment to the project site. The floating footprint of the off-loader currently includes one flat deck barge for pumping equipment, held in place by four spuds. In addition, three mooring piles are necessary for mooring barges during offloading activities. The dredged sediment conveyance pipeline is sized specifically for this job and is the minimum length and size necessary for offloading sediment from the above described scows.

After the two years, the USFWS would remove the offloader, piles, anchors and pipeline from the Bay.

The Commission should determine whether the fill placed in the Bay meets the McAteer-Petris Act's criteria for approving fill in the Bay.

2. **Bay Plan Policies on Natural Resources: Tidal Marshes and Tidal Flats; Subtidal Areas; and Fish, Other Aquatic Organisms and Wildlife.**

The Bay Plan policies on Tidal Marshes and Tidal Flats state, in part, "[w]here feasible, former tidal marshes and tidal flats that have been diked from the Bay should be restored to tidal action in order to replace lost historic wetlands or should be managed to provide important Bay habitat functions, such as resting, foraging and breeding habitat for fish, other aquatic organisms and wildlife..."

The Bay Plan policies on Subtidal Areas state, in part, “[a]ny proposed filling or dredging project in a subtidal area should be thoroughly evaluated to determine the local and Bay-wide effects of the project on: (a) the possible introduction or spread of invasive species; (b) tidal hydrology and sediment movement; (c) fish, other aquatic organisms and wildlife; (d) aquatic plants; and (e) the Bay's bathymetry. Projects in subtidal areas should be designed to minimize and, if feasible, avoid any harmful effects.”

The Bay Plan policies on Fish, Other Aquatic Organisms and Wildlife state, in part, “[t]o assure the benefits of fish, other aquatic organisms and wildlife for future generations, to the greatest extent feasible, the Bay's tidal marshes, tidal flats, and subtidal habitat should be conserved, restored and increased.”

In addition, the policies also state, “[s]pecific habitats that are needed to conserve, increase or prevent the extinction of any native species, species threatened or endangered, species that the California Department of Fish and Game has determined are candidates for listing as endangered or threatened under the California Endangered Species Act, or any species that provides substantial public benefits, should be protected, whether in the Bay or behind dikes.” In reviewing or approving habitat restoration programs the Commission should be guided by the recommendations in the Baylands Ecosystem Habitat Goals report and should, where appropriate, provide for a diversity of habitats to enhance opportunities for a variety of associated native aquatic and terrestrial plant and animal species.

Finally, the policies direct the Commission to consult with the CDFW and the USFWS or NOAA Fisheries whenever a proposed project may adversely affect an endangered or threatened...species, and the policies direct the Commission to not authorize projects that would result in the "taking" of any listed species unless the project applicant has obtained the appropriate "take" authorization from the appropriate resource agencies. Further, the Commission may permit a minor amount of fill or dredging in wildlife refuges, shown on the Plan Maps, necessary to enhance habitat.

- a. **Tidal Marsh and Tidal Flats.** Prior to being diked for agriculture, Cullinan Ranch was historically a tidal marsh. The site is currently in the construction phase of the restoration project, and needs additional sediment to fill deep areas to elevations that will support 50 acres of salt marsh mouse habitat, a key component in the restoration project, and in the salt marsh harvest mouse recovery plan. The Commission has previously authorized the importation of dredged sediment with offloading activities to take place upstream from the proposed location in Dutchman Slough. However, the location in Dutchman Slough is significantly shallower and in the three years since Cullinan Ranch was authorized, no dredging project has brought dredged sediment to this site. USFWS was able to obtain a small amount of fill from the City of Vallejo, but it is much less than is needed to create the target elevations. To enable an offloader in a more accessible location, the USFWS obtained a State Lands Commission lease for the new location on the Napa River, and is actively seeking dredging projects where the sediment would be appropriate to restore wetlands at the Cullinan Ranch site.

The consistency determination states, “the purpose and need of the project is to fulfill the federal mandate to protect and create habitat for endangered and threatened salt marsh-dependent species. In addition, the site would provide migratory bird habitat for several decades as the site accretes to marsh plain elevation.” It will likely take up to 60 years to develop into a fully vegetated tidal

marsh as much of the site will remain open water and mudflat habitat for decades, providing valuable habitat for diving ducks and shorebirds. However, in selected areas where dredged sediment is placed, marsh habitat will be expedited. The USFWS further states that the “[sediment] would be placed to...create a minimum 30-acre area salt marsh harvest mouse habitat along Dutchman and South Sloughs and Guadalcanal Village that would be available for near-term establishment of mid to high marsh vegetation” and “up to 50 acres of additional marsh habitat may be created adjacent to Guadalcanal Village if sufficient material and budget are available.” The restoration project would result in greater hydraulic connectivity among habitats within and adjacent to the project site, including the previously restored Guadalcanal Village tidal marsh, South and Dutchman Sloughs. Improved tidal circulation would allow for healthier habitat in all these sites as well as increased movement of wildlife between habitat types. Therefore, the offloader facility, if authorized, would aid in the restoration of tidal marsh and tidal flats in this area.

- b. **Subtidal Areas and Aquatic Organisms.** Potential impacts to the subtidal habitat and sensitive species from the construction and use of the proposed offloader and accompanying pipeline may include: (1) shading; (2) entrainment or impingement of fish and invertebrates; (3) noise from pile driving; (4) smothering under the pipeline; and (5) impacts to listed species.

- (1) **Shading.** According to the State Lands Commission CEQA document, the placement of the new floating offloader would result in maximum net shading of approximately 16,000 square feet of subtidal habitat. Shade cast from over-water structures has been shown to reduce the amount of ambient light within the environment beneath the structure and can affect invertebrate and vertebrate community composition, reduce fish prey forage, and alter fish species composition and predator-prey relationships over normal open-water conditions (Nightingale and Simenstad 2001). The area of shade that would result from the proposed project is small, relative to the size of the Napa River estuary. Given the large amount of similar adjacent habitat, impacts from shading on fish and invertebrates would be considered minimal.

Decreased light beneath the structures can also have an effect on phytoplankton production and the presence and growth of marine algae. However, in the turbid waters of Dutchman Slough and Napa River, marine algae and aquatic vegetation does not occur in this area according to NOAA Fisheries surveys, and therefore would not be impacted by shading.

- (2) **Entrainment and Impingement.** Sediment offloaded from scows would be slurried and pumped to Cullinan Ranch using water from the Napa River. Pumping of fine grain dredged sediment requires a mixture of approximately 80% water to 20% sediment. Drawing water has the potential to entrain or impinge aquatic organisms, including fish and invertebrates. Entrainment and impingement of marine organisms would be minimized through the use of a fish screen on the water intake pipeline that would comply with NOAA Fisheries, USFWS and CDFW guidelines to protect listed species, including salmonids, longfin and Delta smelt.

- (3) **Pile Driving.** In-water pile driving activities have the potential to create underwater sound waves that can harm or kill marine organisms, including marine mammals, fish and invertebrates. The CEQA analysis states, in part, “[w]hen piles are driven with a vibratory hammer, less sound energy is produced than with the impact hammer. Peak sound pressures of 206 dB are not anticipated to occur with the vibratory installation of the piles. It is estimated that every pile would be driven in approximately 10 minutes (600 seconds). There would be about 1,800 seconds of operation if all three piles were driven in one day. A conservative assessment assumes all pile strikes are at the same distance to the receiver (i.e., a fish) and all pile strikes produce the maximum levels of sound waves. Under this scenario, the accumulated SEL at about 35 ft would be approximately 195 dB. The distance over which the 187 dB accumulated SEL level would be exceeded is about 105 ft [for thirty minutes].”

The CEQA document continues, “The values have been calculated for a hollow steel pile. If wooden piles are installed, the 187 dB accumulated SEL level would not be exceeded. With respect to marine mammals, the pile installation would not produce sound levels above the Level A Harassment threshold (190 dB). The Level B Harassment threshold (120 dB) would be exceeded over a distance of up to one mile for steel piles. If wooden piles are installed, the threshold would be exceeded over a distance of 600 feet. However, background underwater sound levels in the lower Napa River are expected to be greater than 120 dB due to regular boat traffic, which may produce sound levels of 150 dB or more (Richardson et. al 1995). As a result, the area over which pile-driving could affect marine mammals would be much less than one mile. Given the short duration of pile-driving (1800 seconds total) and the distribution of marine mammals (no haul outs or other regular use areas on the Napa River) it is unlikely that any marine mammals would experience harassment.”

In addition, the USFWS would conduct in water pile driving activities during the in-water construction period, when sensitive species are not present. If construction activities must occur during periods when sensitive species could be present, the USWFS would consult with NOAA Fisheries and CDFW to determine what, if any, additional mitigation measures may be required.

- (4) **Smothering.** There is potential for smothering of benthic organisms in the area of the pile driving and the placement of the sediment conveyance pipeline. In driving the piles, any non-mobile organisms, primarily clams, worms and other invertebrates, will likely be killed by the pile driving activity in the precise location where the piles are driven, as well as the precise areas affected by the offloader spuds. In addition, there is potential for non-mobile organisms to be smothered by the pipeline in Dutchman Slough if the pipeline is laid on the bottom or moves up and down with the tides. It is likely these relatively small areas would recover quickly once the offloader, piles and pipeline is removed in two years.
- (5) **Listed Species.** Special-status fish, listed at both the state and federal level, such as anadromous salmonids, Delta smelt, longfin smelt, and green sturgeon, have the potential to occur in the Napa River and Dutchman Slough, including the location of the offloader and pipeline. With the exception of longfin smelt and green sturgeon, these special status fish species are unlikely to be present in the lower Napa River outside of migration periods. Although there are no haul-outs for harbor seals (*Phoca vitulina*) or California sea lions (*Zalophus californianus*) on the Napa River, these species may occasionally be present in the lower Napa River during foraging forays.

The USFWS has completed a Section 7 consultation with the USFWS Endangered Species Branch (ESB). The ESB issued a biological opinion (BO) on May 7, 2010 that found that the project would be unlikely to adversely affect the threatened delta smelt (*Hypomesus transpacificus*) as long as specific conservation and mitigation measures are met, such as diluting any waters containing low dissolved oxygen concentrations prior to breaching, and implementing other best management practices. Further, the BO anticipates the project would benefit delta smelt by flushing nutrients and food into the Napa River once the site is breached. USFWS staff further stated in an email communication to the project manager on March 13, 2012, that the offloading facility would not significantly affect Delta Smelt if a 50 gpm pump and a fish screen appropriate for Delta smelt was used on the intake pipe.

Similarly, on April 5, 2010, NOAA Fisheries issued a biological opinion (BO) that found that the proposed action was not likely to adversely affect threatened steelhead, endangered winter run Chinook salmon, threatened spring run Chinook salmon, or threatened green sturgeon. Further, the BO found that the project has the potential to result in impacts to Essential Fish Habitat (EFH). However, NFMS states that the conservation and mitigation measures proposed by the USFWS should be adequate to offset any adverse impacts and ultimately the project would result in an increase in quantity and quality of EFH within the project area. Additional communication with NOAA Fisheries in July 2011 included further discussion of the offloading facility. Conservation and mitigation measures included for salmonids and green sturgeon limit in-water construction to periods outside of the salmonid migration, and the provision to use a fish screen consistent with NOAA Fisheries guidelines.

Lastly, USFWS is in conversation with CDFW regarding longfin smelt, and anticipates similar conservation and mitigation measures to those for salmonids – minimize impacts from pumping water by using a fish screen and potentially limited periods of operation. The USFWS has agreed to follow recommendations from CDFW.

- (6) **Minimizing Impacts.** In order to minimize impacts to endangered or special status species, the USFWS has incorporated the following construction techniques: (1) the Army Corps of Engineers is currently in informal consultation with NOAA Fisheries and, at its recommendation, has included fish exclusion screens on the water intake area of the offloader. This would reduce the amount of fish and larger invertebrates that would otherwise be entrained in the intake pipes; (2) the USFWS would drive the necessary piles for the project during the period of year when endangered or special status species would not be present in San Pablo Bay. In the event that the project required driving piles during periods when endangered species are present, sound attenuation techniques such as a vibratory hammer, hammer dampening, bubble curtains or other measures would be taken to minimize the impacts due to pile driving.

The Commission should determine whether the project is consistent with its policies regarding Tidal Marshes and Tidal Flats, Subtidal Areas and Fish, Other Aquatic Organisms, and Wildlife.

3. **Dredging and Water Quality Policies.**

The Bay Plan policies on water quality state that “bay water pollution should be prevented to the greatest extent feasible. The Bay’s tidal marshes, tidal flats, and water surface area and volume should be conserved and, whenever possible, restored and increased to protect and improve water quality...” and that “the policies, recommendations, decisions, advice, and authority of the State Water Resources Control Board and the Regional Board should be the basis for carrying out the Commission’s water quality responsibilities.”

Bay Plan Dredging Policy Three states, in part, that “Dredged materials should, if feasible, be reused or disposed outside the Bay and certain waterways...” Dredging Policy Five states, in part, that “To ensure adequate capacity for necessary Bay dredging projects and to protect Bay natural resources, acceptable non-tidal disposal sites should be secured...Further, dredging projects should maximize use of dredged material as a resource consistent with protecting and enhancing Bay natural resources, such as creating, enhancing, or restoring tidal and managed wetlands, creating and maintaining levees and dikes, providing cover and sealing material for sanitary landfills, and filling at approved construction sites.” Finally, Dredging Policy Ten states, in part, that “[i]nterested agencies and parties are encouraged to explore and find funding solutions for the additional costs incurred by transporting dredged materials to non-tidal and ocean disposal sites, either by general funds contributed by ports and other relevant parties, dredging applicants or otherwise.”

The Regional Water Quality Control Board (Water Board) has issued an Order for the Cullinan Ranch project including the placement of up to 405,000 cubic yards of dredged sediment from offsite sources. The Order found that “potential water quality impacts, their [USFWS’s] applicable proposed mitigation measures, and whether the impact duration is on-going or only during the construction phase, were found to be insignificant with the exceptions of dissolved oxygen (DO) and pH, which could be adversely impacted by the project.”

The Order contains special conditions which require the USFWS to address the topics of low DO and pH as well as other water quality parameters in order to ensure that water quality impacts are avoided or minimized. At the time of issuance, the final construction plans were not finalized for the offloading facility. Therefore, the Water Board included a condition that requires “a final offloading facility construction and operation plan” be submitted prior to construction of the facility. In a communication with the USFWS in August 2011, Water Board staff confirmed that the proposed offloading facility is within the current authorization, and no amendment to the Water Board’s Order is necessary.

Regarding potential discharges to the Bay waters that were not previously authorized, the USFWS stated that it will retain water used to slurry the dredged sediment on site at Cullinan Ranch until the water quality standards described in the Water Board’s Order are met. Further discussion with the Water Board will provide additional guidance upon review and approval of the offloading plan required and described above.

Similarly, the Commission has previously authorized the beneficial reuse of up to 405,000 cubic yards of dredged sediment at the site, and required a dredged sediment management plan, in accordance with Bay Plan policies that encourage beneficial reuse of dredged sediment for wetland restoration and other appropriate uses. In this instance, the USFWS has identified the need for dredged sediment and is working with dredging contractors to build an offloading facility in a different location and size than previously envisioned in order to better facilitate beneficial reuse of sediment at their site.

The Commission should determine whether the proposed project is consistent with the policies on Water Quality and Dredging.

- B. **Review Boards.** The proposed project was not reviewed by either the Design Review Board or the Engineering Criteria Review Board.
- C. **Environmental Review.** Pursuant to the National Environmental Policy Act (NEPA), the USFWS and the CDFW (formerly the Department of Fish and Game) certified a joint Environmental Impact Statement and Report (EIS/EIR). In 2013, in preparation for issuing their lease, the State Lands Commission completed and certified an Addendum to the EIR specifically for the offloading facility. The USFWS completed an Environmental Action Statement, which concluded that no significant new circumstances or information relevant to environmental concerns warrant preparation of a supplemental EIS (Exhibit E).
- D. **Relevant Portions of the McAteer Petris Act**
 - 1. Section 66602
 - 2. Section 66605
 - 3. Section 66632
 - 4. Section 66663
- E. **Relevant Portions of the San Francisco Bay Plan**
 - 1. *San Francisco Bay Plan* Policies on Fish, Other Aquatic Organisms, and Wildlife (page 15)
 - 2. *San Francisco Bay Plan* Policies on Water Quality (page 17)
 - 3. *San Francisco Bay Plan* Policies on Water Surface Area and Volume (page 20)
 - 4. *San Francisco Bay Plan* Policies on Tidal Marshes and Tidal Flats (page 21)
 - 5. *San Francisco Bay Plan* Policies on Subtidal Areas (page 27)
 - 6. *San Francisco Bay Plan* Policies on Dredging (page 44)
 - 7. *San Francisco Bay Plan* Policies on Navigation Safety and Oil Spill Prevention (page 88)
- F. **Relevant Portions of Federal Laws and Regulations**
 - 1. Relevant Portions of the Coastal Zone Management Act
 - Section 304(1)
 - Section 307(c)(1)
 - 2. Relevant Portions of the Department of Commerce, National Oceanographic and Atmospheric Administration Regulations
 - Section 930.32(a)
 - Section 930.34
 - Section 930.35
 - Section 930.39

Exhibits

- A. **Vicinity Map, Exhibit A**
- B. **Offloader Plan, Exhibit B**
- C. **Offloader Improvements - Section Drawing, Exhibit C**
- D. **Sediment Transport Pipeline, - Section Drawing, Exhibit D**
- E. **Environmental Action Statement, Exhibit E**