

FINDING OF SUITABILITY TO TRANSFER OAKLAND INNER HARBOR TIDAL CANAL (OIHTC)

**CITY OF ALAMEDA AND EAST BAY REGIONAL PARK DISTRICT
ALAMEDA COUNTY, CALIFORNIA**

**Tract A100L - license - 0.00 acres
Tract Prior 43 - fee - 86.50 acres
Tract A101E - easement - 0.00 acres**

DRAFT SUBJECT TO FURTHER REVIEW BY THE ARMY CORPS



**U.S. Army Corps of Engineers
San Francisco District
August 2016**

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**FINDING OF SUITABILITY TO TRANSFER
Oakland Inner Harbor Tidal Canal
City of Alameda and East Bay Regional Park District
Alameda County, California
August 2016**

1. PURPOSE

The purpose of this Finding Of Suitability To Transfer (FOST) is to document the environmental suitability of the Oakland Inner Harbor Tidal Canal (OIHTC) for transfer consistent with Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9620(h) and Department of Defense (DOD) policy. In addition, the FOST includes the CERCLA Notice, Covenant, and Access Provisions and other Deed Provisions and the Environmental Protection Provisions (EPPs) necessary to protect human health and the environment after such transfers.

The properties to be transferred (hereinafter, “the property”) are the southwest section of the canal from the centerline of the canal to the surveyed boundary within the City of Alameda (hereinafter, “Alameda”) to Alameda; and the northeast section of the canal from the centerline of the canal to the surveyed boundary within the City of Oakland (hereinafter, “Oakland”) to the East Bay Regional Park District (EBRPD).

2. PROPERTY DESCRIPTION

The property consists of approximately 1.8 miles of canal connecting the Oakland Inner Harbor just west of the Park Street Bridge to San Leandro Bay. There are no Army structures located on the property. Privately-owned floating docks and moorings extend from adjacent commercial and residential properties into the canal and some of the adjacent properties have additional construction, such as patios and small sheds, supported by pilings, which extend onto the Property. Abandoned pilings are located along both sides of the canal, primarily along the Alameda portion.

There is no documentation that the canal has required government-sponsored maintenance dredging since its completion. In general, tidal flow between San Francisco and San Leandro Bays appears to have been sufficient to prevent excessive sediment buildup within the canal that would impede navigation. As determined by historical photographs, sediment deposition that occurs at the Sausal Creek Outlet is generally kept in check by erosion occurring during seasonal storm events.

Both sides of the canal contain numerous small outlet pipes that drain storm water and overland flow from adjacent properties into the canal. Buried pipelines and conduits also cross the canal.

3. ENVIRONMENTAL DOCUMENTATION

A determination of the environmental condition of the property was made based upon, but not limited to the following documents:

- Environmental Data Resources Corridor Study Report (EDR), Environmental Data Resources, Inc., March 24, 2003.
- Environmental Baseline Study (EBS), USACE, San Francisco District, August 16, 2016.

- Limited Phase II Investigation, Allied Engineering Property, 2421 Blanding Avenue, Alameda, CA, Geologica, September 18, 2014.
- GeoTracker Web-based Database, Accessed August 15, 2016.
- Phase II Environmental Site Assessment, Stone Boatyard, 2517 Blanding Avenue, Alameda, CA, Questa Engineering Corp, November 2004.
- Oakland Tidal Canal Geophysical Survey & Sediment Sampling, Sea Surveyor, Inc., March 2009.
- Order No. R2-2002-0091, Adoption of Site Cleanup Requirements for Cal Steel Coating/US Army Corps of Engineers, SFBRWQCB, September 18, 2002.
- Order No. R2-2014-0026, Rescission of Site Cleanup Requirements (Order No. R2-2002-0091) for Cal Steel Coatings/ US Army Corps of Engineers, SFBRWQCB, June 11, 2014.
- Oakland Inner Harbor Tidal Canal Phase I and II Baseline Study, USACE, Sacramento District, December 2014.

A complete listing of the documents used in evaluating the property can be found in Section 7 of the Environmental Baseline Study dated August 2016. The information provided is the result of a complete search of agency files during the development of the environmental surveys.

4. ENVIRONMENTAL CONDITION OF PROPERTY

The DOD Environmental Condition of Property (ECP) categories for the property are as follows:

- ECP Category 1: Areas where no release or disposal of hazardous substances or petroleum products has occurred (including no migration of these substances from adjacent areas).
- ECP Category 2: Areas where only release or disposal of petroleum products has occurred.
- ECP Category 3: Areas where release, disposal, and/or migration of hazardous substances has occurred but at concentrations that do not require a removal or remedial response.
- ECP Category 4: Areas where release, disposal, and/or migration of hazardous substances has occurred, and all removal or remedial actions to protect human health and the environment have been taken.

CITY OF ALAMEDA SIDE:

The Alameda portion of the canal has 3 known sites on adjacent parcels that have impacted the OIHTC parcel. One area is petroleum only and would warrant a Category 2. Two locations were impacted by metals and would suggest a Category 4 since all federal actions have been completed. One of these locations has been officially closed out while the responsible party is still working with authorities on the second location.

The few areas where impacts have occurred have been documented and all federal actions have been completed. The overall Environmental Condition of Property has been determined to be a Category 4 and is suitable for disposal for civilian reuse.

CITY OF OAKLAND SIDE:

The Oakland portion of the canal is classified as Category 3 based on adjacent land use (current and historical) and current use of the canal property.

4.1 ENVIRONMENTAL REMEDIATION SITES

The portion of the canal adjacent to the previous Nelson Marine Property, also referred to as Cal Steel Coating, 2235 & 2241 Clement Avenue, CA, was remediated in cooperation with the San Francisco Bay Regional Water Quality Control Board (RWQCB) in late 2013 under Order No. R2-2002-0091, Adoption of Site Cleanup Requirements.

There are currently two adjacent sites undergoing remediation on the Alameda side of the canal. The first property is located at 2301 through 2337 Blanding Avenue and is known as Park Street Landing. Gasoline was detected in groundwater on site which is currently being addressed by Chevron in coordination with Alameda County Environmental Health Services. A draft Corrective Action Plan has been submitted.

The second property, known as Allied Engineering and Production Corporation, is located at 2421 Blanding Avenue, Alameda, CA. The current owner of the adjacent property (Allied Engineering) is in negotiations with the RWQCB to remediate the adjacent property and portions of the Tidal Canal.

4.2 STORAGE, RELEASE, OR DISPOSAL OF HAZARDOUS SUBSTANCES

The following table documents the hazardous substances known to have been stored or released on the property, and the remedial actions taken.

Property Description	ECP Condition Category	Remedial Actions
2235 & 2241 Clement Ave	4	Soils removal for metals impacts to soil. All activities are completed and the RWQCB has closed the site, per RWQCB Order R2-2014-0026 dated June 11, 2014.
2301 – 2337 Blanding Ave	2	Petroleum product contamination emanating from an adjacent parcel. This is being addressed by the responsible party in coordination with the RWQCB. No federal actions have been identified.
2421 Blanding Ave	4	Metals contamination emanating from an adjacent parcel. This is being addressed by the responsible party in coordination with the RWQCB. No federal actions have been identified.
The information contained in this table is required under the authority of regulation promulgated under section 120(h) of the Comprehensive Environmental Response, Liability and Compensation Act (CERCLA or "Superfund") 42 U.S.C. § 9620(h). This table provides information on the storage of hazardous substances for one year or more in quantities greater than or equal to 1,000 kilograms or the hazardous substance's CERCLA reportable quantity (whichever is greater). In addition, it provides information on the known release of hazardous substances in quantities greater than or equal to the substance's CERCLA reportable quantity. See 40 C.F.R. Part 373.		

4.3 PETROLEUM AND PETROLEUM PRODUCTS

4.3.1 Underground and Above-ground Storage Tanks (UST/AST)

- Current UST/AST Sites: There are no underground and/or above-ground petroleum storage tanks (UST/AST) on the property.
- Former UST/AST Sites: There is no evidence that underground and/or above-ground storage tanks have ever been located on the property.

4.3.2 Non-UST/AST Storage, Release, or Disposal of Petroleum Products

The Park Street Landing site located at 2301 through 2337 Blanding Avenue has been identified as a site that released petroleum products which migrated to the federal property. Gasoline was detected in groundwater on the site which is currently being addressed by Chevron in coordination with Alameda County Environmental Health Services. A draft Corrective Action Plan has been submitted.

There is no record that the DOD has ever stored petroleum products on the property. There is no record that a release (defined as 55 gallons or more) has occurred at the site.

The property is a public waterway and is subject to potential contamination from passing vessels and from potential spills resulting from the refueling of craft from privately owned docks that extend into the canal. A refueling station (Park Street Landing) exists to the northwest of the property.

An oil sheen was reported near 3253 Fernside Drive, Alameda, on the California Hazardous Material Incident Report System (CHMIRS) database, Office of Environmental Services (OES) Control Number 01-6074) and a release of 5 gallons of diesel fuel was reported on the CHMIRS database at 3313 Fernside Drive, Alameda. These are the only spills found during a search of the databases which directly affected the canal. Reports of oil spills on adjacent properties are listed in Section 5.

There is also the potential that spills which occur within San Francisco and San Leandro Bays may be deposited as residues along the sides of the canal by tidal action, or from watercraft passing through the canal. Numerous storm water outlets also discharge surface water flows along both sides of the canal

4.4 POLYCHLORINATED BIPHENYLS (PCB)

There is no evidence that PCB-containing equipment is located or was previously located on the property.

4.5 ASBESTOS

There are no known man-made or naturally occurring sources of friable asbestos located on the property. It is possible that some of the older buried underground utility pipes crossing the canal may contain or be coated with asbestos containing material (ACM); however, since they are non-friable, they pose no threat to human health and are not considered part of the property transfer.

4.6 LEAD-BASED PAINT (LBP)

Since no buildings were ever constructed by the Department of Defense on the property, there is no source for Army-related LBP on the site. Although a few of the docks which extend onto the property may be old enough to contain some LBP, they are not considered part of the property and are not a part of the transfer.

4.7 RADIOLOGICAL MATERIALS

There is no evidence that radioactive materials or sources were stored or used on the property.

4.8 RADON

Since no buildings or permanent enclosed structures belonging to the Federal Government, exist on the property, no radon surveys were conducted.

4.9 MUNITIONS AND EXPLOSIVES OF CONCERN (MEC)

Based on a review of existing records and available information, there is no evidence that Munitions and Explosives of Concern (MEC) are or ever have been present on the property. In addition, the historical use of the property does not support munitions related activities nor have munitions been discovered on the property. The term "MEC" refers to military munitions that may pose unique explosives safety risks, including: (A) unexploded ordnance (UXO), as defined in 10 U.S.C. § 2710(e)(2); or (B) munitions constituents, e.g., Trinitrotoluene (TNT) and Cyclotrimethylenetrinitramine (RDX), as defined in 10 U.S.C. § 2710(e)(3), present in high enough concentrations to pose an explosive hazard.

4.10 OTHER PROPERTY CONDITIONS

There are no other hazardous conditions on the property that present an unacceptable risk to human health and the environment. A Phase I and II Environmental Baseline Study of the property was prepared by USACE, Sacramento District, in December 2014.

5. ADJACENT PROPERTY CONDITIONS

A study of the properties adjacent to the OIHTC was completed by Environmental Data Resources, Inc. (EDR) in March 2003. EDR performed a search of Federal, state and local records contained in 20 different databases for sites within the vicinity of the canal that have reported contamination, have ASTs or USTs containing petroleum products or that have reportable quantities of hazardous materials stored on the property. These properties are discussed in the Phase I and II Environmental Baseline Study prepared by USACE, Sacramento District, in December 2014. Those properties listed in the EDR that are adjacent to the canal are listed in Enclosure 3.

6. ENVIRONMENTAL REMEDIATION AGREEMENTS

The RWQCB issued an Order for Adoption of Site Cleanup Requirements for the property located at 2241 Clement Avenue known as Nelson's Marine. The landowners and/or operators disposed of building debris, soil, paint solids, metallic shavings, grit and sandblasting slag which impacted soil and marine sediment on that portion of the canal adjacent to the Nelson Marine property. In cooperation with the RWQCB, remedial action removed contamination from the Federal Property and the Order was rescinded. A copy of the Rescission Order can be found in Enclosure 4.

The RWQCB has an open site assessment on 2124 Blanding Avenue in the City of Alameda, which currently belongs to Allied Engineering and Production Corporation.

The RWQCB has an open site assessment on 2301 through 2337 Blanding Avenue in the City of Alameda, which is known as Park Street Landing. Gasoline was detected in groundwater on site which is currently being addressed by Chevron in coordination with Alameda County Environmental Health Services. A draft Corrective Action Plan has been submitted.

There are no other environmental remediation orders, tentative orders, or agreements applicable to the property being transferred. The deed will include a provision reserving the Army's right to conduct future remediation activities if necessary (Enclosure 5).

7. REGULATORY/PUBLIC COORDINATION

The RWQCB was notified of the initiation of this FOST. Regulatory /public comments received during the public comment period will be reviewed and incorporated as appropriate. A copy of the regulatory / public comments and the Army Response are included as Enclosures 7 and 8.

8. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE

The environmental impacts associated with the proposed transfer of the property were analyzed in an Environmental Assessment dated May 2016, see Enclosure 6. Public comment and review took place in July 2016, see Enclosure 7 for the Responsiveness Summary. A Finding of No Significant Impact was signed in August 2016, see Enclosure 6.

9. FINDING OF SUITABILITY TO TRANSFER

Based on the above information, the USACE concludes that all removal or remedial actions necessary to protect human health and the environment have been taken or are in the process of being taken and the property is transferable under CERCLA section 120(h)(3). In addition, all Department of Defense requirements to reach a finding of suitability to transfer have been met, subject to the terms and conditions set forth in the attached Environmental Protection Provisions that shall be included in the deeds for the property. The deeds will also include the CERCLA 120(h)(3) Notice, Covenant, and Access Provisions and Other Deed Provisions.

UNITED STATES OF AMERICA

By: 

JOHN C. MORROW
Lieutenant Colonel, US Army
District Engineer

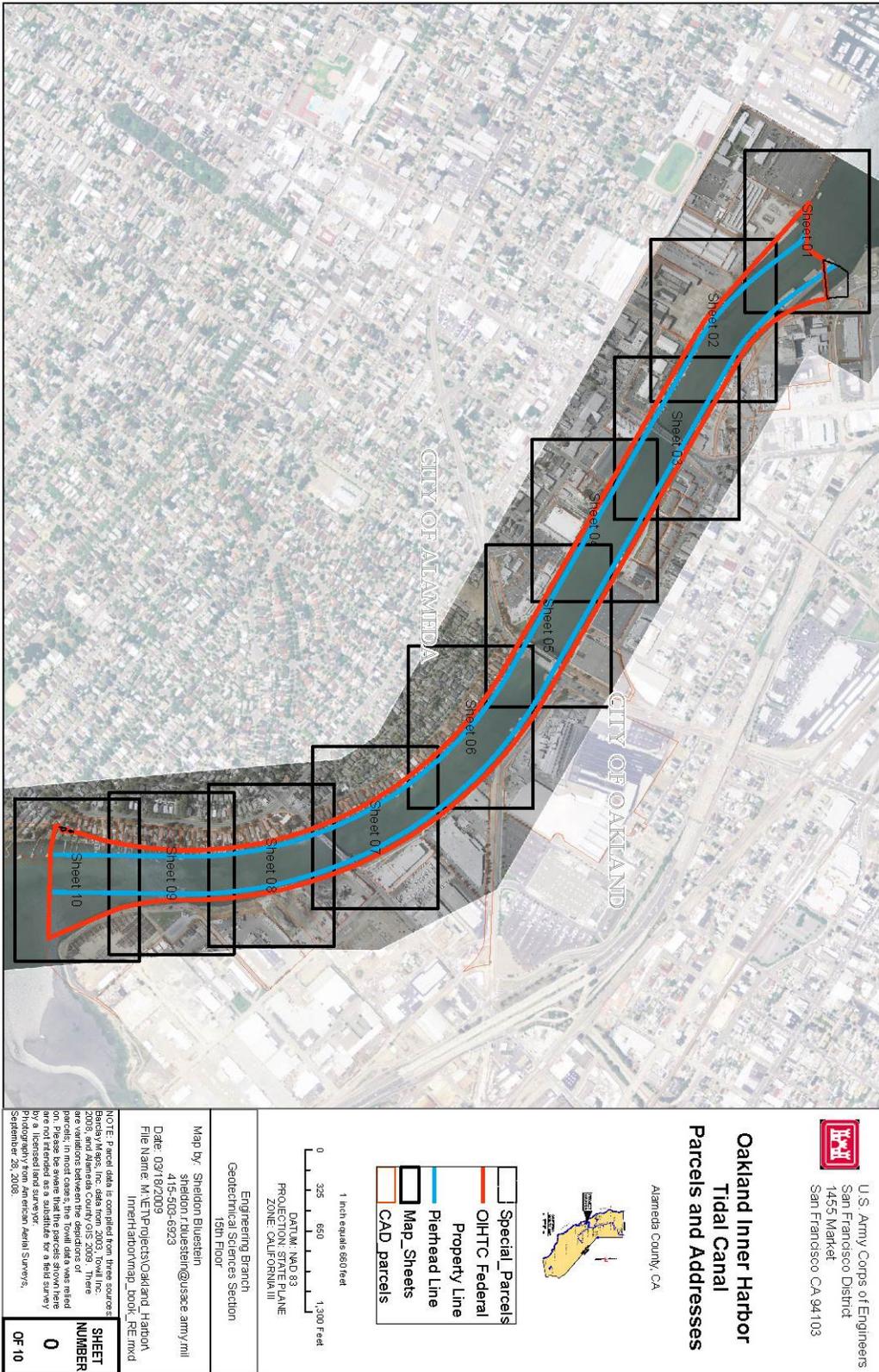
10. ENCLOSURES

- Encl 1 Site Maps of Property
- Encl 2 Description of Property
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ENCLOSURE 1

SITE MAP

SITE MAP



ENCLOSURE 2
PROPERTY DESCRIPTION

A general description of the property can be found in Section 2 of the main text. Attached here is a copy of the legal description that is currently on file in the USACE Offices.

OAKLAND INNER HARBOR TIDAL CANAL
LEGAL DESCRIPTION

Decree No. 3590
Superior Court of Alameda
September 30, 1882

Beginning at a stake near the junction of Brickyard Slough and San Leandro estuary or bay, on the westerly side of said slough, and south 80° east, 15 feet distant from tide-land stake No. 224, shown on a map entitled Map No. 2 of Salt Marsh and Tide Lands, situate in the county of Alameda, State of California, prepared by order of the Board of Tide Land Commissioners in 1871, and which map and the field notes thereof are on file in the office of the State Board of Tide land Commissioners; thence north 20° 03' east, 54 04-100 feet into land claimed by J. D. Farwell; thence north 18° 05' east, 100 feet, to and across the boundary between the land claimed by J. D. Farwell and the land claimed by H. Gibbons, and into the land claimed by said H. Gibbons; thence north 16° 07' east, 100 feet; thence north 14° 09' east, 100 feet; thence north 12° 11' east, 100 feet; thence north 10° 13' east, 100 feet; thence north 8° 15' east, 100 feet; thence north 6° 17' east, 100 feet; thence north 4° 19' east, 100 feet; thence north 2° 21' east, 100 feet; thence north 0° 23' east, 100 feet; thence north 1° 35' west, 100 feet; thence north 3° 33' west, 100 feet; thence north 5° 31' west, 100 feet; thence north 7° 29' west, 100 feet; thence north 9° 27' west, 100 feet; thence north 11° 25' west, 100 feet; thence north 13° 23' west, 100 feet; thence north 15° 21' west, 100 feet; thence north 17° 19' west, 100 feet; thence north 19° 17' west, 100 feet; thence north 21° 15' west, 100 feet, to and across the northwesterly line of said land claimed by H. Gibbons, and across High Street and into land claimed by A. A. Cohen; thence north 23° 13' west, 100 feet; thence north 25° 11' west, 100 feet; thence north 27° 09' west, 100 feet; thence north 29° 07' west, 100 feet; thence north 31° 05' west, 100 feet; thence north 33° 03' west, 100 feet; thence north 35° 01' west, 100 feet; thence north 36° 59' west, 100 feet, to and across the boundary between the said land claimed by A. A. Cohen and the land claimed by P. Sather, and into land claimed by P. Sather; thence north 38° 57' west, 100 feet; thence north 40° 55' west, 100 feet; thence north 42° 53' west, 100 feet, to and across the boundary between the said land claimed by P. Sather and land claimed by A. A. Cohen, and into land claimed by A. A. Cohen; thence north 44° 51' west, 100 feet; thence north 46° 49' west, 100 feet; thence north 48° 47' west, 100 feet; thence north 50° 45' west, 100 feet; thence north 52° 43' west, 100 feet; thence north 54° 41' west, 100 feet, to and across the boundary between the said land claimed by A. A. Cohen and into land claimed by P. Sather; thence north 56° 39' west 100 feet; thence north 58° 37' west, 100 feet, to and across the boundary between the said land claimed by P. Sather and into land claimed by the Central Pacific Railroad Company; thence north 60° 35' west, 100 feet, to and across the boundary between the said land claimed by the Central Pacific Railroad Company and into Washington avenue; thence north 61° 34' west, 3106 58-100 feet, across Washington avenue, to and along the boundary between the land claimed by Valdez and Glascock and Washington avenue, to and across Park Avenue, to and across the boundary between said Park avenue and land claimed by G. G. Briggs, across said land claimed by G. G. Briggs to and across boundary between said land claimed by G. G. Briggs and land claimed by the Oakland Water Front Company, B. S. Alexander, B. S. Brooks, A. A. Cohen, Caroline E. Chipman, Eli Corwin, H. W. Carpentier, O. Eldridge, J. D. Farwell, Mary A. Fitch, E. Forge, Hayes and Caperton, J. G. Kellogg, Annis Merrill, G. H. Mendell, E. B. Mastick, Nathan Porter, Mrs. Julia Page, C. S. Stewart and H. M. Whitney (undivided interests), across the land claimed by the Oakland Water Front Company, B. S. Alexander, B. S. Brooks, A. A. Cohen, Caroline E. Chipman, Eli Corwin, H. W. Carpentier, O. Eldridge, J. D. Farwell, Mary A. Fitch, E. Forge, Hayes and Caperton, J. G.

Kellogg, Annis Merrill, G. H. Mendell, E. B. Mastick, Nathan Porter, Mrs. Julia Page, C. S. Stewart and H. M. Whitney (undivided interests), to and across the boundary between the said last named tract of land and the land claimed by Meinicke, Baum Muecke, Janssen, and Roeding, across the said land claimed by Meinicke, Baum, Muecke, Janssen, and Roeding to and across the boundary between the said land claimed by Meinicke, Baum, Muecke, Janssen, and Roeding, and the land claimed by T. A. Smith, across the said land claimed by T. A. Smith, to and across the boundary between the said land claimed by T. A. Smith and the land claimed by the Oakland Water Front Company, B. S. Alexander, B. S. Brooks, A. A. Cohen, Caroline E. Chipman, Eli Corwin, H. W. Carpentier, O. Eldridge, J. D. Farwell, Mary A. Fitch, E. Forge, Hayes and Caperton, J. G. Kellogg, Annis Merrill, G. H. Mendell, E. B. Mastick, Nathan Porter, Mrs. Julia Page, C. S. Stewart and H. M. Whitney (undivided interests), into the land claimed by the Oakland Water Front Company, B. S. Alexander, B. S. Brooks, A. A. Cohen, Caroline E. Chipman, Eli Corwin, H. W. Carpentier, O. Eldridge, J. D. Farwell, Mary A. Fitch, E. Forge, Hayes and Caperton, J. G. Kellogg, Annis Merrill, G. H. Mendell, E. B. Mastick, Nathan Porter, Mrs. Julia Page, C. S. Stewart and H. M. Whitney (undivided interests); thence north 57° 34' west, 100 06-100 feet; thence north 53° 33' west, 100 06-100 feet; thence north 49° 33' west, 1157 73-100 feet to a post marked U.S.E. on the edge of the marsh land at the head of San Antonio estuary, and which post is north 88° 19' west, 366 40-100 feet distant from the tide land stake No. 424, shown on a map entitled Map No. 3 of Salt Marsh and Tide Land, situate in the county of Alameda, State of California, prepared by order of the Board of Tide Land Commissioners in 1872, and which map and the field notes thereof are on file in the office of the State Board of Tide Land Commissioners; thence south 88° 19' east, 366 40-100 feet along the edge of the marsh land at the head of San Antonio estuary to tide land stake No. 424, above described; thence north 32° 25' east, 158 60-100 feet, continuing along the edge of the said marsh land; thence north 22° 05' east, 145 feet, continuing along the edge of the said marsh land; thence north 33° 48' east, 79 10-100 feet, continuing along the edge of said marsh land; thence north 88° 45' east, 193 67-100 feet, continuing along the edge of said marsh land; thence south 3° 26' east, 64 15-100 feet, leaving the edge of said marsh land at the head of San Antonio estuary, and into the land claimed by the Oakland Water Front Company, B. S. Alexander, B. S. Brooks, A. A. Cohen, Caroline E. Chipman, Eli Corwin, H. W. Carpentier, O. Eldridge, J. D. Farwell, Mary A. Fitch, E. Forge, Hayes and Caperton, J. G. Kellogg, Annis Merrill, G. H. Mendell, E. B. Mastick, Nathan Porter, Mrs. Julia Page, C. S. Stewart and H. M. Whitney (undivided interests); thence south 8° 41' east, 100 feet; thence south 14° 15' east, 100 feet; thence south 19° 49' east, 100 feet; thence south 25° 23' east, 100 feet; thence south 30° 57' east, 100 feet; thence south 36° 31' east, 100 feet; thence south 42° 05' east, 100 feet; thence south 47° 39' east, 100 feet; thence south 53° 13' east, 100 feet; thence south 58° 47' east, 100 feet, to a stake on the boundary between the said land claimed by the Oakland Water Front Company, B. S. Alexander, B. S. Brooks, A. A. Cohen, Caroline E. Chipman, Eli Corwin, H. W. Carpentier, O. Eldridge, J. D. Farwell, Mary A. Fitch, E. Forge, Hayes and Caperton, J. G. Kellogg, Annis Merrill, G. H. Mendell, E. B. Mastick, Nathan Porter, Mrs. Julia Page, C. S. Stewart and H. M. Whitney (undivided interests), and the land claimed by A. Ford; thence south 61° 34' east, 3113 37-100 feet, across said land claimed by A. Ford, to and across the boundary between the said land claimed by A. Ford and land claimed by G. G. Briggs, into the land claimed by G. G. Briggs, across said land claimed by G. G. Briggs, into the land claimed by G. G. Briggs, to and across the boundary between the said land claimed by G. G. Briggs and Park avenue, across Park avenue to and across the boundary between Park avenue and the land claimed by Valdez and Glascock into and across the said land claimed by Valdez and Glascock to and across the boundary between the said land claimed by Valdez and Glascock and Fruit Vale avenue, across Fruit Vale avenue to and across the boundary between Fruit Vale avenue and the land claimed by P. Sather, into the said land claimed by P. Sather; thence south 59° 36' east, 113 75-100 feet; thence south 57° 38' east, 113 75-100 feet; thence south 55° 40' east, 113 75-100 feet; thence south 53° 42' east, 113 75-100 feet; thence south 51° 44' east, 113 75-100 feet, to and across the boundary between said land claimed by P. Sather and Washington avenue, into Washington avenue; thence south 49° 46' east, 113 75-100 feet to and across the boundary between Washington avenue and the land claimed by the Central Pacific Railroad Company into the said land claimed by the Central Pacific Railroad Company; thence south 47° 48' east, 113 75-100

feet, to and across the boundary between the said land claimed by the Central Pacific Railroad Company and the land claimed by P. Sather, and into the land claimed by P. Sather; thence south 45° 50' east, 113 75-100 feet; thence south 43° 52' east, 113 75-100 feet; thence south 41° 54' east, 113 75-100 feet; thence south 39° 56' east, 113 75-100 feet; thence south 37° 58' east, 113 75-100 feet; thence south 35° 00' east, 113 75-100 feet; thence south 33° 02' east, 113 75-100 feet; thence south 31° 04' east, 113 75-100 feet; thence south 29° 06' east, 113 75-100 feet; thence south 27° 08' east, 113 75-100 feet; thence south 25° 10' east, 113 75-100 feet, to and across the boundary between the said land claimed by P. Sather and High street, and into High street; thence south 23° 12' east, 113 75-100 feet, to and across the boundary between High street and the land claimed by J. D. Farwell, and into the said land claimed by J. D. Farwell; thence south 21° 14', east, 113 75-100 feet; thence south 19° 16' east, 113 75-100 feet; thence south 17° 18' east, 113 75-100 feet; thence south 15° 20' east, 113 75-100 feet; thence south 13° 22' east, 113 75-100 feet, to and across the boundary between the said land claimed by J. D. Farwell and the land claimed by H. Gibbons, into the said land claimed by H. Gibbons; thence south 11° 24' east, 113 75-100 feet, to and across the boundary between the said land claimed by H. Gibbons and land claimed by J. D. Farwell, and into the land claimed by J. D. Farwell; thence south 9° 26' east, 113 75-100 feet; thence south 7° 28' east, 113 75-100 feet; thence south 5° 30' east, 113 75-100 feet, to and across the boundary between the said land claimed by J. D. Farwell and the land claimed by H. Gibbons, and into the said land claimed by H. Gibbons; thence south 3° 32' east, 113 75-100 feet; thence south 1° 34' east, 113 75-100 feet, to and across the boundary between the said land claimed by H. Gibbons and land claimed by R. Simpson, and into the said land claimed by R. Simpson; thence south 0° 24' west, 56 87-100 feet; thence south 1° 11' east, 100 feet; thence south 4° 21' east, 100 feet; thence south 7° 31' east, 100 feet; thence south 10° 41' east, 100 feet; thence south 13° 51' east, 100 feet; thence south 17° 54' east, 49 65-100 feet, to tide land stake No. 220, shown on a map entitled Map No. 2 of Salt Marsh and Tide Lands, situate in the county of Alameda, State of California, prepared by order of the Board Of Tide Land Commissioners in 1871, and which map, and the field notes thereof, are on file in the office of the State Board of Tide Land Commissioners; thence south 24° 30' east, 580 83-100 feet along the boundary between land claimed by R. Simson and land claimed by M. Crooks, and across the said land claimed by M. Crooks to a point on a mud flat on the northwesterly shore of San Leandro estuary or bay; thence west, 700 98-100 feet along the southern boundary of the said land claimed by M. Crooks, to a corner common to the said land claimed by M. Crooks and land claimed by R. Simson; thence north 80° 00' west, 212 23-100 feet along the southern boundary of said land claimed by R. Simson, through the corner common to the said land claimed by R. Simson and land claimed by J. D. Farwell, along the southern boundary of the said land claimed by J. D. Farwell, to the place of beginning.

EXCEPTION THEREFROM, the .97 acre, more or less, reported excess 22 September 1982 (SPK-82-1A) 9-D-CA-1208.

Also noted in the files that there were 0.03 acres quit claimed to August Nolthenius on 26 January 1944.

ENCLOSURE 3
ADJACENT PROPERTY

ADJACENT PROPERTIES

The USACE Sacramento District commissioned Environmental Data Resources, Inc. to perform a search of Federal, State and Local environmental databases for the Oakland Inner Harbor Tidal Canal Phase I and II Environmental Baseline Study for listed properties within a one-fourth mile radius from the center of the canal. The results were published under the title of "The EDR Corridor Study Report" dated March 24, 2003. The results of the study is discussed in the USACE Phase I and II Environmental Baseline and is included in it's entirety as an attachment in that document. The information in this section is from the EDR Corridor Study Report but is limited to those properties considered to be located adjacent to the canal.

The number in parenthesis preceding each property address references the entry number in the EDR Corridor Study Report. The number in parentheses following the database where the site was listed is the EPA Identification Number for that site. The names of the owners given below are the owners or occupants of the property at the time the property was listed in the database(s) and may or may not be the current owners or occupants.

A property may become listed for many reasons including registration of above or below ground storage tanks, storage of hazardous or toxic materials in reportable quantities, generation of hazardous or toxic wastes in the course of business and/or having had a spill or release on the property. Just because a property is listed does not necessarily mean that the property poses an environmental problem.

When determining which properties were actually adjacent to the canal, it is possible that a few of the properties included below may not actually be adjacent to the canal. Whenever there were questions about whether or not a property should be included, it was decided to err on the conservative side and include the property.

LIST OF ACRONYMS / GLOSSARY OF TERMS

AIRS/AFS

Aerometric Information Retrieval System / AIRS Facility Subsystem database. Information on air releases is contained in the Aerometric Information Retrieval System (AIRS), a computer-based repository for information about air pollution in the United States. This information comes from source reports submitted by various stationary sources of air pollution, such as electric power plants, steel mills, factories, and universities, and provides information about the air pollutants they produce. In AIRS, these sources are known as facilities, and the part of AIRS associated with data about sources is called the AIRS Facility Subsystem, or AFS. The information in AFS is used by the states to prepare State Implementation Plans, to track the compliance status of point sources with various regulatory programs, and to report air emissions estimates for pollutants regulated under the [Clean Air Act](#).

AST

Aboveground Storage Tank. The Aboveground Storage Tank database contains registered ASTs. The data comes from the State Water Resources Control Board's Hazardous Storage Container Database.

BRS

The Biennial Reporting System is one of EPA's primary tools for tracking the generation, shipment, and receipt of hazardous waste. It contains information from the Hazardous Waste Reports that must be filed every two years under the RCRA program. RCRA (the Resource Conservation and Recovery Act) is the Federal statute that regulates the generation, treatment, storage, disposal, or recycling of solid and hazardous waste. Facilities must report their activities involving hazardous waste to BRS if they fulfill one of two criteria: (1) they are a Large Quantity Generator (LQG) of waste, or (2) they have treated, stored, or disposed (TSD) of RCRA hazardous waste on site in units subject to RCRA permitting requirements.

Not all hazardous waste is reported within BRS. Some waste that might otherwise be considered hazardous is exempted from regulation within RCRA as part of the original legislation. Some waste treatment units, in particular wastewater treatment units, are not regulated under RCRA but instead under other environmental statutes. However, BRS appears to be the best U.S. hazardous waste tracking database available.

CA FID / CA FID UST

The California Facility Inventory Database contains active and inactive underground storage tank locations. The source of the database is the State Water Resource Control Board.

CA WDS

California Waste Discharge System. General Waste Discharge Requirement (WDR) adopted by the State Water Resources Control Board of California (SWRCB) on May 2, 2006. The goal of the WDR is to provide a consistent statewide approach for reducing Sanitary Sewer Overflows (SSOs). The WDR outlines these requirements for all publicly owned sanitary sewer collection systems in California with more than one mile of sewer pipe. The database used to track this information is the CA WDS. For additional information visit the California EPA's website at www.waterboards.ca.gov/sso/.

CERCLIS

Comprehensive Environmental Response, Compensation, and Liability Information System. CERCLIS is the Superfund (CERCLA) database that is used to support management in all phases of the Superfund program. The system contains information

on all aspects of hazardous waste sites, including an inventory of sites, planned and actual site activities, and financial information. For more information on CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act) go to <http://www.epa.gov/superfund/action/law/cercla.htm> . For additional information concerning the CERCLIS database go to [CERCLIS Database | Superfund Information Systems | US EPA](#)

CHMIRS

California Hazardous Material Incident Report System database contains information on reported hazardous material incidents such as accidental releases or spills. The database is maintained by the Office of Emergency Services (OES).

CLEANERS / DRYCLEANERS

Usually referred to as CLEANERS, this database is a list of drycleaner related facilities that have EPA identification numbers. These are facilities with certain SIC (Standard Industrial Classification) Codes such as power laundries, family and commercial; garment pressing and cleaners' agents; linen supply; coin-operated laundries and cleaning; dry cleaning plants except rugs; carpet and upholstery cleaning; industrial launderers; and laundry and garment services.

CORTESE

This database identifies public drinking water wells with detectable levels of contamination, hazardous substance sites selected for remedial action, sites with known toxic material identified through the abandoned site assessment program, sites with USTS having a reportable release and all solid waste disposal facilities from which there is known migration. The source is the California Environmental Protection Agency / Office of Emergency Information.

EPA / U.S. EPA

United States Environmental Protection Agency.

ERNS

The Emergency Response Notification System records and stores information on reported releases of oil and hazardous substances. The source of this database is the U.S. EPA

FINDS

The Facility Index System contains both facility information and "pointers" to other sources of information that contain more detail. These other sources of information include:

RCRIS

PCS (Permit Compliance System)

AIRS (Aeromatic Information Retrieval System)

FATES (FIFRA [Federal Insecticide Fungicide Rodenticide Act] and TSCA [Toxic Substances Control Act] Enforcement System)

FTTS (FIFRA/TSCA Tracking System)

CERCLIS

DOCKET (Enforcement Docket used to manage and track information on civil judicial enforcement cases for all environmental statutes)

FURS (Federal Underground Injection Control)

FRDS (Federal Reporting Data System)

SIA (Surface Impoundments)

CICS (TSCA Chemical in Commerce Information System)

PADS

RCRA-J (medical waste transporters/disposers)

TRIS
TSCA

The source of this database is the U.S. EPA/NTIS.

FRS

The Facility Registry System is a centrally managed database that identifies facilities, sites or places subject to environmental regulations or of environmental interest. FRS creates high-quality, accurate, and authoritative facility identification records through rigorous verification and management procedures that incorporate information from program national systems, state master facility records, data collected from EPA's Central Data Exchange registrations and data management personnel. The FRS provides Internet access to a single integrated source of comprehensive (air, water, and waste) environmental information about facilities, sites or places. For additional information go to [http://iaspub.epa.gov/edr/frs\\$.startup](http://iaspub.epa.gov/edr/frs$.startup)
HAZNET / CA HAZNET

This database contains data that is extracted from the copies of hazardous waste manifests received each year by the DTSC. The annual volume of manifests is typically 700,000 to 1,000,000 annually, representing approximately 350,000 to 500,000 shipments. Data from non-California manifests and continuation sheets are not included at the present time. Data are from the manifests submitted without correction, and therefore may contain some invalid values for data elements such as generator identification, TSD (Treatment, Storage and Disposal) identification, waste category, and disposal method. The source agency is the Department of Toxic Substance Control (DTSC).

HIST UST / HISTORICAL UST

Historical Underground Storage Tank database.

HMIRS

The Hazardous Materials Incident Report System contains hazardous material spill incidents reported to the Department of Transportation. The source of this database is the U.S.EPA

LUST

Leaking Underground Storage Tanks. The LUST database contains an inventory of incidence reports concerning leaking underground storage tanks. The data come from the State Water Resources Control Board Leaking Underground Storage Tank Information System.

mg/l milligrams per liter

MTBE

MTBE (methyl tertiary-butyl ether) is a chemical compound that is manufactured by the chemical reaction of methanol and isobutylene. MTBE is produced in very large quantities (over 200,000 barrels per day in the U.S. in 1999) and is almost exclusively used as a fuel additive in gasoline. It is one of a group of chemicals commonly known as "oxygenates" because they raise the oxygen content of gasoline. At room temperature, MTBE is a volatile, flammable and colorless liquid that dissolves rather easily in water. MTBE has been used in U.S. gasoline at low levels since 1979 to replace lead as an octane enhancer (helps prevent the engine from "knocking"). Since 1992, MTBE has been used at higher concentrations in some gasoline to fulfill the oxygenate requirements set by Congress in the 1990 Clean Air Act Amendments.

NCDB

The National Compliance Data Base system (NCDB) tracks regional compliance and enforcement activity for the National Pesticides and Toxic Substances Compliance and Enforcement program. The system tracks compliance monitoring and enforcement activities from the time an inspector conducts an inspection until the inspector closes the case or settles any resulting enforcement action(s). NCDB is the national repository of data from the regional and Headquarters FIFRA/TSCA Tracking Systems (FTTS). Most of the data collected in FTTS is transferred to NCDB to support national program management and accomplishment reporting for the following programs:

- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
- Toxic Substances Control Act (TSCA)
- Emergency Planning and Right-to-Know Act, Section 313 (EPCRA)
- Asbestos Hazard Emergency Response (AHERA)

NET

National Emissions Trends. The National Air Pollutant Emission Trends Report(s) presents the estimate of national emissions of the criteria air pollutants. The emissions of each pollutant are estimated for many different source categories, which collectively account for all anthropogenic emissions. Annual reports present the total emissions from all 50 states and serve as a measure of our nation's progress in reducing air pollution emissions as a result of mandatory and voluntary controls and of continuous changes in national activity.

NOTIFY 65

Notify 65 records contain facility notification about any release that could impact drinking water and thereby expose the public to a potential health risk. The data come from the State Water Resources Control Board's Proposition 65 database.

NTI

National Toxics Inventory. EPA's Emission Factor and Inventory Group prepares a national database of air emissions information with input from numerous State and local air agencies, from tribes, and from industry. This database contains information on stationary and mobile sources that emit criteria air pollutants and their precursors, as well as hazardous air pollutants (HAPs). The database includes estimates of annual emissions, by source, of air pollutants in each area of the country, on an annual basis.

OES Office of Emergency Services

PCBs

Polychlorinated biphenyls are mixtures of up to 209 individual chlorinated compounds (known as congeners). There are no known natural sources of PCBs. PCBs are either oily liquids or solids that are colorless to light yellow. Some PCBs can exist as a vapor in air. PCBs have no known smell or taste. Many commercial PCB mixtures are known in the U.S. by the trade name Aroclor.

PCBs have been used as coolants and lubricants in transformers, capacitors, and other electrical equipment because they don't burn easily and are good insulators. The manufacture of PCBs was stopped in the U.S. in 1977 because of evidence they build up in the environment and can cause harmful health effects. Products made before 1977 that may contain PCBs include old fluorescent lighting fixtures and electrical devices containing PCB capacitors, and hydraulic oils.

PCS

The Permit Compliance System database provides information on companies which have been issued permits to discharge waste water into rivers. You can review information on

when a permit was issued and expires, how much the company is permitted to discharge, and the actual monitoring data showing what the company has discharged. The [Water Discharge Permits Query](#) allows you to retrieve preselected data from the PCS database in Envirofacts. The site also contains information on related [laws and regulations](#).

RCRAINFO

[RCRAInfo](#) provides access to hazardous waste data supporting the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments (HSWA) of 1984.

RCRIS

Resource Conservation and Recovery Act database, which includes selected information on sites that generate, store, treat, or dispose of hazardous waste as defined by the Act. The source of this data base is the U.S. EPA

RCRIS-LQG

That part of the Resource Conservation and Recovery Act database that deals with Large Quantity Generators. The definition of Large Quantity Generator is complex, but a simplified version is any site that generates more than 2,200 lbs of RCRA waste in a single month, accumulates more than 2.2 lbs of RCRA acute hazardous waste in any single month, or accumulates more than 220 lbs of spill cleanup material contaminated with RCRA acute hazardous waste in any month.

RCRIS-SQG

That part of the Resource Conservation and Recovery Act database that deals with Small Quantity Generators.

RWQCB

[Regional Water Quality Control Board](#).

SLIC

[Spills, Leaks, Investigation and Cleanup](#) database, also referred to as CA SLIC. SLIC Region information comes from the California Regional Water Quality Control Board.

TRIS

The [Toxic Chemical Release Inventory System](#) identifies facilities that release toxic chemicals to the air, water, and/or land in reportable quantities under SARA Title III, Section 313. The source of this database is the U.S.EPA.

TSCA

The [Toxic Substances Control Act](#) identifies manufacturers and importers of chemical substances included on the TSCA Chemical Substance Inventory list. It includes data on the production volume of these substances by plant site. The U.S. EPA has no current plan to update and/or re-issue this database.

USACE

[United States Army Corps of Engineers](#)

UST

[Underground Storage Tank](#). The UST database contains registered USTs. USTs are regulated under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The data comes from the State Water Resources Control Board's Hazardous Substance Storage Container database.

ADJACENT PROPERTIES WITHIN THE CITY OF ALAMEDA:

- (23) US Navy-Marine Corp Reserve Center
2144 Clement Ave.
Alameda, CA 94501

This property is listed under HAZNET (S104582552) for storage of organic solids; off-specification, aged, or surplus inorganics; other inorganic solid waste; and other empty containers of 30 gallons or more. There are no indications of any pending actions or releases to the environment.

- (40) Dutra Construction Co. Inc.
2199 Clement Ave.
Alameda, CA 94501

This property is listed under RICRIS-SQG (1000597021), FINDS (CAD983610155) and HAZNET as a Small Quantity Generator with unspecified organic liquids and other organic solids.

- (40) Smith-Rice Company Yard
2199 Clement Ave.
Alameda, CA 94501

This property is listed under HISTORICAL UST as having a 6,000-gal. tank containing unleaded fuel. It is also listed under HAZNET and CA FID UST for unspecified oil-containing wastes.

- (43) Park Street Landing
2301 Blanding Ave.
Alameda, CA 94501

This property is listed under CORTESE (S102434979) and by LUST, Alameda County, as having a storage tank.

- (44) S. K. Auto Sales
2241 Clement
Alameda, CA 94501

This property is listed under HAZNET (S1039858510) for having aqueous solutions with less than 10% total organic residues on site.

- (44) Nelson, Harrold
2241 Clement St.
Alameda, CA 94501

This property is listed under HAZNET (S103643232) for having asbestos-containing waste on the property.

- (44) Engine Works
2241 Clement
Alameda, CA 94501

This property is listed under HAZNET (S103643231) for aqueous solutions with less than 10% total organic residues.

- (44) Clement Avenue Project
2241 Clement Ave.
Alameda, CA 94501

This property is listed under the LUST Program (S103576438) as having waste oil contaminated soil discovered during a tank removal. The database states that the contaminated soil was excavated under the Local Oversight Program (Case number 1325) and disposed of in an appropriate manner. The case is closed.

- (44) 2241 Clement Ave,
Alameda, CA 94501

This property is listed under the LUST Program (S105620077) as Regional Water Board Site Number 1325 (case closed).

- (44) CAL Steel Coating Co.
2241 Clement Ave.
Alameda, CA 94501

This property is listed under HAZNET (S103953968) for having off-specification, aged, or surplus organics. It is also listed under FINDS (1004440532, 110001184673) which includes AIRS/AFS (AIRS Facility System), FRS (Facility Registry System), NET (National Emissions Trends), and NTI (National Toxics Inventory) databases.

- (44) Reliance Sheet & Strip Company
2235 Clement Ave.
Alameda, CA 94501

This property is listed under HISTORICAL UST (U001596158) as having a tank containing regular product on site. The database does not indicate if the tank had been removed.

- (44) Nelson Marine
2229 Clement Ave.
Alameda, CA 94501

This property is listed under HAZNET (S101641239) for metal dust (waste from machining operations); for alkaline solutions containing metals (antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, copper, lead, mercury, molybdenum, nickel, selenium, silver, thallium, vanadium and zinc); and for photo chemicals / photo processing wastes. The property is also listed under SLIC Region 2 (Facility ID 01S0274) for subsurface chemical pollutants. The property is currently undergoing remediation under a Regional Water Quality Control Board Tentative Board Order.

- (45) Perforce Software Inc.
2320 Blanding
Alameda, CA 94501

This property is listed under HAZNET (S105086098) as having had asbestos-containing waste which was disposed of at an offsite landfill.

- (46) UNKNOWN
2235 Clement Ave.
Alameda, CA

This property is listed under NOTIFY 65 (S100179085) as having had an incident (spill) description 92405. No other information is currently available.

- (51) American Speedy Printing
2327 Blanding Ave. STE F
Alameda, CA 94501

This property is listed under CLEANERS (CAL000099117) as inactive since 06/30/1998. It is also listed under HAZNET (S100929462) as having photo chemicals / photo processing waste generated on-site.

- (53) 2424 Blanding
Alameda, CA

This property is listed under LUST (S105619681) and under the Alameda County LUST Program as Facility ID RO0000671. No further information is available except that the case is closed.

- (53) First Samoan Congregation Church
2425 Blanding Ave.
Alameda, CA. 94501

This property is listed under HAZNET (S105084810) as having other empty containers 30 gallons or more. Containers are disposed of through recycling.

- (53) Allied Engineering and Prod. Corp.
2421 Blanding Ave.
Alameda, CA 94501

This property is listed on HAZNET (S100929246) as having unspecified oil-containing waste, unspecified solvent mixture waste, and waste oil and mixed oil. It is also listed under SLIC Region 2 as an inactive facility and a closed case.

- (57) Stone Boat Yard
2517 Blanding Ave.
Alameda, CA 94501

This property is listed on HAZNET (S102002612) as having oxygenated solvents (acetone, butanol, ethyl acetate, etc.) and asbestos-containing waste.

- (59) Blanding / Park (North side of Park)
Alameda, CA 94501

This property was reported under CHMIRS (S100219411) as a below ground oil release (OES Control Number 9009670) of an unspecified quantity of oil which occurred on January 11, 1990. No other information is currently available.

(62) Fuji Trucolor, Inc.
2639 Blanding Ave.
Alameda, CA 94501

This property was reported under HAZNET (S102813028) as having metal sludge, an alkaline solution with metals (antimony, arsenic, barium, beryllium, cadmium, cobalt, copper, lead, mercury, molybdenum, nickel, selenium, silver, thallium, vanadium, and zinc), and other inorganic solid waste.

(62) Classic Cleaners
2631 Blanding Ave.
Alameda, CA 94501

This property was listed under RCRIS-SQG (1000374406) as a small quantity generator (SQG). The FINDS database (CAD982414971) identified the site under AIRS/AFS, FRS, NET, NTI, and RCRAINFO. HAZNET (no EPA identification number given) lists the site as having liquids with halogenated organic compounds greater than 1000 mg/l. The CLEANERS database, under CA Cleaners, lists the site as inactive on 01/01/1995.

(65) Alpha Beta
2691 Blanding Ave.
Alameda, CA 94501

This property is listed under CORTESE (S100223508) as having a leaking underground storage tank. No other information is available at this time.

(67) Clifford E. Mapes, Inc.
2001 Versailles Ave.
Alameda, CA

Properties listed under (67) may not be adjacent.

This property is listed under the LUST database (S101306285) as being under the Local UST Oversight Program for a leaking UST discovered during removal. The site is classified as "other ground water affected". Testing indicated MTBE present. No action is indicated as having been taken. The property is also listed under LUST Region 2 (Case Number T0600100798) with a case closed status and in CORTESE. (ID 01-0864).

(67) 2001 Versailles Ave.
Alameda, CA

This property is listed under LUST (S105619647) as RWQCB Site ID 607 with a case closed status as of 2/1/99.

(67) EXXON Co.
2001-A Versailles
Alameda, CA 94501

This property is listed under RCRIS-SQG (1000336470) as a small quantity generator. It is also listed in FINDS (CAT000646133) under both FRS and RCRAINFO.

(78) Station "B"
3133 Marina Drive
Alameda, CA 94501

This property is listed under HISTORICAL UST (U001596162) as having a 600 gallon product tank. There is no indication that the tank has been removed.

(82) 3253 Fernside Drive
Alameda, CA 94501

This property is listed under CHMIRS (S105671157). A petroleum sheen was reported by an unknown caller to OES (Control Number 01-6074). No additional information is available at this time.

(84) 3313 Fernside Drive
Alameda, CA 94501

This property is listed under CHMIRS (S100276472). A diesel spill of 5 gallons was reported on 19 October 1990 to OES (Control Number 9099637). The property is also listed on the ERNS database (8873500).

ADJACENT PROPERTIES WITHIN THE CITY OF OAKLAND:

- (4) Oakland Port of Monsanto Co.
Dennison St. and Embarcadero St.
Oakland, CA 94607

This property is listed under RCRIS-SQG (1000985074) as a Small Quantity Generator (SQG). It is also listed under HAZNET (CAR000001842) as having aqueous solutions with 10% or more total organic residues, unspecified oil containing wastes, other organic solids, and waste potentially containing dioxins. FINDS found similar listings under both FRS and RCRAINFO.

- (5) 2301 Embarcadero Union Pt. Basin Marina
Oakland, CA

This property is listed under ERNS (93316402). No other information is available at this time.

- (8) Conagra Inc.
2201 E. 7th St.
Oakland, CA 94606

This property is listed under HAZNET (S103642665, 1002850836) as having other organic solids, laboratory waste chemicals, waste oil mixed oil, asbestos-containing waste, liquids with halogenated organic compounds greater than 1000 mg/l, and unspecified oil-containing waste. It is also listed in CORTESE (ID 01-0442) as having a leaking underground storage tank. FINDS also shows the property listed in the AIRS/AFS, FRS, and NET databases.

- (20) Sea Power Marine
333 Kennedy St.
Oakland, CA 94606

This property is listed under RCRIS-SQG (1004676328) as a Small Quantity Generator (SQG). FINDS shows the property also listed on the FRS and RCRAINFO databases. HAZNET (S104233679) lists the property as having aqueous solutions with less than 10% total organic residues and off-specification, aged, or surplus organics on the property.

- (20) Rhodes & Jamieson Batch P
333 Kennedy St.
Oakland, CA 94606

The property is listed in CORTESE (S102435840; Reg. ID 01-1238) for a leaking underground storage tank.

- (20) Right Away Redy Mix, Inc.
401 Kennedy St.
Oakland, CA 94606

This property is listed on the HISORICAL UST database (U001599136) as having a 12,000 gallon tank containing diesel fuel. The LUST database (1000593721) lists the removal of a leaking diesel tank and subsequent tank and soil removal under the Local Oversight Program for USTs and is noted as case closed. The property is also listed under CORTESE (Reg. ID 01-1241) and FID (01001360). It is not clear if these entries relate to the same tank but the time periods given in each database indicate that it probably is. The property is also listed under HAZNET (S100943522) as having unspecified organic liquid mixtures and oil/water separation sludge on the property.

- (20) Moore and Sons Trucking
410 Kennedy St.
Oakland, CA 94606

This property is listed under RCRIS-SQG (1000985075) as a Small Quantity Generator (SQG). FINDS (CAR000001859) shows the property listed on the FRS and RCRAINFO databases.

- (34) Oakland Yard 019-072-015-00
333 23rd Ave
Oakland, CA

This property is listed on the CA FID UST (S101629608) database. No other information is currently available.

- (35) Iconoco Corp.
2901 Glascock Rd.
Oakland, CA 94601

This property is listed under HAZNET (S105090934) as having liquids with halogenated organic compounds greater than 1000 mg/l on site.

- (35) Traders Paradise
2904 Glascock
Oakland, CA 94601

This property is listed under HAZNET (S101629608) as having aqueous solutions with less than 10% total organic residues and other inorganic solid waste on site.

- (35) Glascock St. Prop.
2901 Glascock St.
Oakland, CA

This property is listed under HAZNET (S103649871) as having polychlorinated biphenyls (PCBs) and material containing PCBs on site.

- (35) 2901 Glascock St.
Oakland, CA

This property is listed on the LUST database (S105619465) as local site number 1138. No other information is available.

- (35) Glascock Partners
2901 Glascock St.
Oakland, CA 94612

This property is listed under HAZNET (S102803809) as having polychlorinated biphenyls (PCBs) and material containing PCBs on site.

- (35) Glascock Ave. Warehouse
2901 Glascock Ave.
Oakland, CA 94601

This property is listed on the LUST database (U003300232) as having a Preliminary Site Assessment and Work Plan dated 1/2/1965 for removing diesel contaminated soil. There is no information if the site was remediated but does show a stop date of 3/31/1999.

(36) Seaworks Inc. Warehouse
333 29th Avenue
Oakland, CA 94606

This property is listed on HAZNET (S100873690) as having unspecified organic liquid mixtures on site.

(49) Iconoco California, Inc.
303 Derby Ave.
Oakland, CA 94601

This property is listed under RCRIS-SQG (1000318052) as a Small Quantity Generator (SQG). FINDS (CAD981436009) shows the property listed on both the FRS and RCRAINFO databases. HAZNET lists the property as having unspecified organic liquid mixtures on site. The State LUST Program (Case Number 38-1114) indicates closure of a tank containing heater fluid and impacted soil as of 8/14/1996. A warning/notice of violation to uncooperative responsible parties (includes a Cease and Desist Order and a Cleanup and Abatement Order) was issued to the property owner. The property is also listed on the CORTESE database (Reg. ID 38-1114).

(49) Simmons Terminal Corp
315 Derby Ave.
Oakland, CA 94601

This property is listed under RCRIS-SQG (1000301608) as a Small Quantity Generator (SQG). It is also listed on the HISTORICAL UST database as having a 500 and a 280 gallon tank containing unleaded fuel.

(49) Petro-Stop, Inc.
315 Derby Ave.
Oakland, CA 94601

This property is listed on CORTESE (S101624291) and CA FID UST as having a 10,000 gallon tank containing unleaded fuel and a 12,000 gallon tank containing diesel fuel on site.

(49) Shell Oil Co. Oakland Plant
315 Derby Ave.
Oakland, CA 94601

This property is listed under RCRIS-SQG (1000288015) as a Small Quantity Generator (SQG). FINDS (CAD0000631200) shows the property listed on the FRS and RCRAINFO databases.

(54) U C Household Shipping Co. (024-0663-002-01)
333 Lancaster St.
Oakland, CA 94601

This property is listed under RCRIS-SQG (1000118205) as a Small Quantity Generator (SQG). FINDS (CAD981692122) located the site on both the FRS and RCRAINFO databases.

(63) 3600 Alameda Ave.
Oakland, CA

This property is listed on the LUST database (S105619338). No other information is given.

(63) Owens Illinois, Inc.
3600 Alameda Ave.
Oakland, CA 94607

This property is listed in the LUST database (S103881513) as having discovered a leaky diesel tank during closure in 1987 (State LUST case number 01S0071). A Work Plan was completed 2/5/1995 and a Preliminary Site Assessment is listed as in progress as of 1995. RCRIS lists the owner, OI Glass Containers, as a Large Quantity Generator (LQG) with waste categories D001 (Ignitable), D002 (Corrosive), D007 (Chromium), D008 (Lead), D018 (Benzene), D039 (Tetrachloroethylene), D040 (Trichloroethylene), and F005 (spent nonhalogenated solvents and solvent mixtures) on site in reportable quantities. Two compliance violations are listed for the site as of 1998. HAZNET (1000319786) lists the presence of liquids with halogenated organic compounds greater than 1000 mg/l, unspecified oil-containing waste, unspecified organic liquid mixture and alkaline solutions with metals (antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, mercury, molybdenum, nickel, selenium, silver, thallium, vanadium, and zinc). The CA HAZNET database contained over 200 records for this site.

The property is also listed on the CORTESE, RICRIS-LQG, TRIS, CA FID UST and HISTORICAL UST databases. FINDS lists the site in AIR/AFS, BRS, FRS, NCDB, NET, NTI, RCRAINFO and TRIS. HISTORICAL UST indicates there are 11 tanks located on the property containing primarily diesel fuel, product and waste oil.

(75) 344 High Street
Oakland, CA 94601

This property is listed on the HIST UST (U001599004) as having 7 tanks on the property containing product (unspecified), diesel fuel, unleaded fuel, and waste oil. The property is also listed on CORTESE (S101624286, 01-0677) and CA FID UST.

(75) Gallagher & Burke Inc.
344 High Street
Oakland, CA 94601

FINDS found this property listed in AIRS/AFS, FRS, NET, and NTI.

(76) Hanson Aggregates Mid-Pacific
4501 Tidewater
Oakland, CA 94601

The property is listed in AST (A100184334) as having an aboveground storage tank. The property is also listed in CA WDS (S104586535) as have a waste discharge permit to discharge 0.04 million gal/day.

- (76) Tidewater Sand & Gravel
4501 Tidewater Ave.
Oakland, CA 94601

This property is listed in HAZNET (U001599032 / S101624303) as having Other Organic Solids, liquids with halogenated organic compounds greater than 1000 mg/l, unspecified organic liquid mixture, and off-specification, aged, or surplus organics. FINDS found this property listed in FRS and PCS. The property is also listed under LUST (case number 2098 – case closed), CORTESE, and HISTORICAL UST, which lists 4 tanks on the property.

- (76) James A. Peterson
4501 Tidewater Ave.
Oakland, CA 94601

This property is listed under HAZNET (S103660328) as having other empty containers 30 gallons or more, and waste oil and mixed oil.

- (76) California Stevedore & BA
4500 Tidewater
Oakland, CA 94601

This property is listed in the LUST database (S102426137) and CORTESE (01-1743, local case 4456) as having remediated a leaking tank (case closed).

- (77) 4575 Tidewater
Oakland, CA 94601

This property is listed in ERNS (94392488) and HMIRS (2000101077, 9900013016, 20015724, 2002084652, 2002084654, 200113916, and 96040623). No further information is currently available at this time.

- (77) ABF Freight Systems, Inc.
4575 Tidewater Ave.
Oakland, CA 94601

This property is listed in RICRIS-SQG (1000114617) as a Small Quantity Generator (SQG); under HAZNET for having oil/water separation sludge and waste oil and mixed oil on site. FINDS located the site on FRS and RCRAINFO. CORTESE, FID and HISTORICAL UST list the site as having storage tanks for unspecified product, diesel, regular, and waste oil on site.

- (80) White Brothers
4801 Tidewater Way
Oakland, CA 94601

This property is listed in LUST (S102441244) and CORTESE as having had a leaking diesel tank on the property. The impacted soil is reported as having been removed from the site.

- (81) Eastshore Lumber
4831 Tidewater Ave.
Oakland, CA 94601

This property is listed on HAZNET (S102805700) as having asbestos-containing waste on the property.

(81) Gary Nohr
4831 Tidewater Ave
Oakland, CA 94601

This property is listed in HAZNET (S103965630) as having asbestos-containing waste and other empty containers 30 gallons or more on the property.

ENCLOSURE 4
RESCISSION OF BOARD ORDER

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

ORDER NO. R2-2014-0026

**RESCISSION OF SITE CLEANUP REQUIREMENTS (ORDER NO. R2-2002-0091) for:
CAL STEEL COATING
U.S. ARMY CORPS OF ENGINEERS**

for the property located at:

SHORELINE PARCEL ADJACENT TO 2241 CLEMENT AVENUE
OAKLAND AND ALAMEDA HARBOR CHANNEL
ALAMEDA, ALAMEDA COUNTY

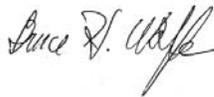
The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter the Regional Water Board), finds that:

1. **Regional Water Board Order:** The Regional Water Board adopted Site Cleanup Requirements Order No. R2-2002-0091 (SCR) for the shoreline bank of the Oakland and Alameda Harbor Channel adjacent to the 2241 Clement Avenue property in Alameda (site) on September 18, 2002. The SCR named Cal Steel Coating and the U.S. Army Corps of Engineers (USACE) as dischargers. The SCR required the development and implementation of a Corrective Action Plan to focus on removing contaminated debris and waste along the site's bank to a depth of two feet below the surface. This included the site's collapsed concrete wharf, sandblast waste and slag material, and soil in the vicinity of the wharf to a depth of two feet below the surface. The SCR also required the impacted area to be restored after remediation. The location of the site is depicted on the attached site location map.
2. **Summary of Investigation and Remediation Activities:** USACE, working in cooperation with U.S. EPA, Cal-Recycle, BCDC, and the adjacent property owner (Francis Collins), removed all of the debris and waste material from the bank and near shore area at the site and disposed it offsite at an appropriate facility. In addition, the bank was fully restored with riprap, thereby protecting it from erosion in the future. No waste remains in-place and long-term monitoring, or engineering or institutional controls, are not needed at the site.
3. **Basis for Rescission:** The SCR addressed debris and pollution at the site. The objective of the SCR was to remove the waste to a depth of two feet below the surface, recognizing the limited funds available, and restore the bank in a manner acceptable to the Executive Officer and protective of human health and the environment. The remedial actions undertaken, as summarized above, have complied with, and exceeded, the requirements of the SCR by removing all waste and debris at the site. The site was properly restored in a manner acceptable to the Executive Officer and no issues remain.

4. **Next Steps Prior to Case Closure:** No further action is needed at the site prior to case closure.
5. **California Safe Drinking Water Policy:** It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. Conditions at this site do not affect in any way potential sources of drinking water. Therefore, this policy does not apply.
6. **CEQA:** This action rescinds an order to enforce the laws and regulations administered by the Regional Water Board. Rescission of the order is not a project as defined in the California Environmental Quality Act (CEQA). There is no possibility that the activity in question may have a significant effect on the environment. (Cal. Code Regs., tit. 14 §§ 15378 and 15061, subd. (b) (3).)
7. **Notification:** The Regional Water Board has notified the dischargers and all interested agencies and persons of its intent under Water Code section 13304 to rescind the SCR for the discharge and has provided them with an opportunity to submit their written comments.
8. **Public Hearing:** The Regional Water Board, at a public meeting, heard and considered all comments pertaining to this discharge.

IT IS HEREBY ORDERED, pursuant to section 13304 of the Water Code, that Order No. R2-2002-0091 is rescinded.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on June 11, 2014.



Digitally signed by Bruce H. Wolfe
DN: cn=Bruce H. Wolfe,
o=SWRCB, ou=Region 2,
email=bwolfe@waterboards.ca.gov,
c=US
Date: 2014.06.18 10:22:17 -07'00'

Bruce H. Wolfe
Executive Officer

Attachment: Site Location Map

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER NO. R2-2002-0091

ADOPTION OF SITE CLEANUP REQUIREMENTS FOR:

CAL-STEEL COATING

U.S. ARMY CORPS OF ENGINEERS

ALAMEDA AND OAKLAND HARBOR CHANNEL
ALAMEDA COUNTY

for the property located at:

USACE property adjacent to 2241 Clement Avenue

Alameda

Alameda County

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter, the "Board") finds that:

FINDINGS:

1. **SITE LOCATION:** The USACE-owned property is located adjacent to 2241 Clement Avenue, between Ordinary High Water (OHW) and Mean High Water (MHW) in the City of Alameda, Alameda County (Figure 1). The northeast boundary of the property is Alameda Estuary, in the Oakland Harbor Channel. The southeast boundary is delineated approximately by a bulkhead that separates it from the remainder of the property at 2241 Clement Avenue (Figure 2). The geographic coordinates are approximately 37° 46' 23" N and 122° 14' 24" W.
2. **SITE DESCRIPTION:** The site is located adjacent to the Oakland Harbor Channel in a predominantly industrial and commercial area. The property line varies from 30 to 48 feet inland of the MHW mark. It is a small triangular-shaped "sliver" about one-quarter acre in size between MHW and OHW, sloping from the bulkhead down about ten feet in elevation. A floating wooden boat dock is

situated approximately 15 to 20 feet offshore from the property waterfront. The site contains a collapsed concrete wharf and other debris. The debris consists of sand blast waste on top of and mixed with soil. Currently, the site is not in use. The debris originated from disposal of waste by previous operators of the property above OWH at 2241 Clement Avenue. These waste piles and debris have the potential to migrate into Waters of the State.

3. **NAMED DISCHARGERS:** The named dischargers include the current owners and a previous operator of the site. These named dischargers are: Cal-Steel Coating and the USACE.

Cal-Steel Coating is named as a discharger because of previous operations at the site during the time when debris was deposited on the USACE-owned property.

The USACE is named as a discharger because it owns and has jurisdiction for the shoreline and channel portion of this property below OHW. The USACE has not, at any time, performed or authorized any activity that caused waste to occur on the site, and is named solely because of ownership of the property.

If additional information is submitted indicating that other parties caused or permitted any waste to be discharged on the site where it entered or could have entered waters of the State, the Board will consider adding those parties' names to this Order.

4. **SITE CHARACTERIZATION:** The USACE has identified the extent of the USACE property in this area. The area of the collapsed concrete wharf has been identified as a potential threat to water quality or public health because of debris and waste related to the concrete wharf and onshore property. The USACE has volunteered to undertake removal of debris/deposits located on the USACE property in order to reduce the risk of exposure from these materials to public health or welfare or the environment. This action is limited to the area owned by the USACE between OHW and MHW where there is visible debris above ground on exposed soil. This action is the subject of this Order.

5. **REGULATORY STATUS:** This site is not currently subject to a Board Order because no business is currently using the site. The site is not currently subject to any enforcement action under provisions set forth in Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C.A. 9601 et seq. (CERCLA). The USACE considers the Nelson Marine cleanup as a voluntary, non-time critical removal action, as set forth in paragraph 300.415b(2) of Executive Order 12580, 52 FR 2923, January 23, 1987 in the National Contingency Plan. This Order provides guidance for undertaking the removal action.

6. **BASIN PLAN:** The Board adopted a revised Water Quality Control Plan for the San Francisco Bay Basin (Bay Plan) on June 21, 1995. This updated and

consolidated plan represents the Board's main water quality control planning document. The revised Basin Plan was approved by the State Water Resources Control Board and the Office of Administrative Law on July 20 and November 13, 1995, respectively. A summary of regulatory provisions is contained in 23 CCR 3912. The Basin Plan defines beneficial uses and water quality objectives for waters of the State, including surface waters and groundwaters.

The existing and potential beneficial uses of San Francisco Bay Lower, of which Oakland Harbor Channel and Alameda Estuary are part of, include:

Ocean, Commercial and Sport Fishing	Estuarine Habitat
Industrial Service Supply	Fish Migration
Preservation of Rare and Endangered Species	Navigation
Water Contact Recreation	Shellfish Harvesting
Noncontact Water Recreation	Wildlife Habitat

At present, there is no known use of groundwater underlying the site.

7. STATE WATER BOARD POLICIES: State Water Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California," applies to this discharge and requires attainment of background levels of water quality, or the highest level of water quality which is reasonable if background levels of water quality cannot be restored. Cleanup levels other than background must be consistent with the maximum benefit to the people of the State, to not unreasonably affect present and anticipated beneficial uses of such water, and not result in exceedance of applicable water quality objectives.

State Water Board Resolution No. 92-49, "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304," applies to this discharge. This order and its requirements are consistent with the provisions of Resolution No. 92-49, as amended.

8. CEQA COMPLIANCE: This order is an action to enforce the Water Quality Control Plan and as such is exempt from the California Environmental Quality Act pursuant to Section 15321 of the Resources Agency Guidelines.

9. COST RECOVERY: Pursuant to the California Water Code (Porter-Cologne), section 13304, the Board is allowed to recover reasonable expenses for overseeing the investigation and cleanup of illegal discharges, contaminated properties, and other unregulated releases adversely affecting or threatening to adversely affect the State's waters. It is our intent to recover such costs for regulatory oversight work conducted in accordance with California Water Code section 13304. To assure that sufficient Board staff resources are available to conduct the necessary reviews and approvals, we intend to include this site in the Region's SLIC Cost Recovery Program, more fully described in the attached Reimbursement Process

for Regulatory Oversight enclosure. Reimbursement costs will be assessed proportionally to those costs already expended to cleanup the site.

10. **BASIS FOR 13304 ORDER:** Pursuant to California Water Code (Porter-Cologne), section 13304 and based on the above findings, the Board finds that the dischargers have caused or permitted waste to be discharged or deposited where it threatens to be and has been discharged into Waters of the State and created and threatens to continue to create a condition of pollution. This order, therefore, contains tasks for mitigating existing and potential future impacts to the Alameda Estuary, Oakland Harbor Channel and San Francisco Bay.

11. **CERCLA COMPLIANCE:** The USACE is authorized as a lead agency in execution of site cleanups under CERCLA and other applicable provisions of federal law to the extent possible. Pursuant to CERCLA, the USACE considers the Clean Water Act and the Porter Cologne Act as Applicable or Relevant Requirements (ARARs). The Board is issuing this order to guide application of those ARARs.

The California Water Code (Porter-Cologne) does not authorize the Board to determine liability under CERCLA. As such, issuance of this Order shall not constitute an assignment of liability under CERCLA. Further, compliance by the USACE of the provisions of this Order shall not constitute an admission of liability under CERCLA by USACE.

12. **NOTIFICATION:** The Board has notified the dischargers and all interested parties of its intent under California Water Code 13304 to prescribe site cleanup requirements for the discharge, and has provided them with an opportunity to submit their written comments.

13. **PUBLIC HEARING:** The Board, at a public meeting, heard and considered all comments pertaining to this discharge.

IT IS HEREBY ORDERED, pursuant to Section 13304, of Division 7 of the California Water Code, that the Dischargers shall cleanup the waste deposited and discharged, abate the effect of the discharge, and take other remedial actions as follows:

A. PROHIBITIONS

1. The discharge of waste or hazardous materials in a manner which will degrade water quality, adversely affect beneficial uses of Waters of the State, or in a way that is contrary to the specifications of this Order is prohibited.
2. Further migration of pollutants by surface transport to waters of the State is prohibited.

3. Activities associated with surface and subsurface investigation and cleanup, which will cause significant adverse migration of pollutants, are prohibited.
4. Wastes shall not be disposed of, in any way, where they can be carried from the site, or temporary storage site, and discharged into Waters of the State.
5. The treatment or storage of waste shall not cause pollution or nuisance as defined in Section 13050 of the California Water Code, and shall not degrade the quality of any water.
6. Disturbance of the Oakland Channel shall be minimized during operation of soil-excavating equipment by appropriate use of silt fencing, shoring, or pilings, as needed.

B. TASKS

Task 1. Corrective Action Plan. DUE DATE: October 30, 2005

The USACE shall submit a Corrective Action Plan acceptable to the Executive Officer that shall include a time schedule no longer than one year for the removal of waste and debris piles from the site. Given the limits of appropriated public funds to this cleanup project at this time, The remedial action will focus on removing contaminated surface debris no more than two feet below the surface, including the concrete wharf, waste sandblasting slag piles, and soil in the vicinity of the concrete wharf.

Task 2. Corrective Action. DUE DATE: within one year of completion of Task 1

The Corrective Action shall consist of the activities described in the approved Corrective Action Plan submitted in Task 1.

Task 3. Corrective Action Completion Report. DUE DATE: within 60 days of completion of Task 2

The USACE shall submit a technical report acceptable to the Executive Officer following completion of the Corrective Action. The report shall identify any area(s) excavated and volume of soils removed. The report shall also document actions undertaken to confirm completion of activities, such as sampling and analysis procedures and results of analyses.

Task 4. Site Restoration. DUE DATE: within 90 days of completion of activities described in Task 3

Upon completion of the corrective action, the USACE shall restore impacted areas of the site in a manner acceptable to the Executive Officer. Excavated areas may be backfilled, compacted, and either repaved or seeded with native grasses. Existing pavement may also require replacement or repair.

Task 5. Site Restoration Report. DUE DATE: within 60 Days of completion of Restoration Activities

The USACE shall submit a report acceptable to the Executive Officer to document the completion of the restoration.

C. PROVISIONS

1. The use of controlled work zones and personal protective equipment shall be used to mitigate on-site worker exposure to potentially hazardous materials at the site. Appropriate dust control measures shall be used to minimize fugitive dust.
2. The proposed removal action will be conducted in compliance with all applicable federal, state, and local environmental laws.
3. If the dischargers are delayed, interrupted or prevented from meeting one or more of the completion dates specified in this Order, the dischargers shall promptly notify the Executive Officer in writing and if accepted, the new dates shall be an addendum to this Order.
4. No nuisance: The storage, handling, treatment, or disposal of polluted soil or other debris shall not create a nuisance as defined in California Water Code Section 13050(m).
5. Good O & M. The dischargers shall maintain in good working order and operate as efficiently as possible any facility or control system installed to achieve compliance with the requirements of this Order.
6. Cost Recovery. The dischargers shall be liable, pursuant to California Water Code Section 13304, to the Board for all reasonable costs actually incurred by the Board to investigate unauthorized discharges of waste and the oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order. If the site addressed by this Order is enrolled in a State Board managed reimbursement program,

reimbursement shall be made pursuant to this Order and according to the procedures established in that program. Any disputes over reimbursement amounts or methods used in that program shall be consistent with the dispute resolution procedures for that program.

7. Access to Site and Records. In accordance with the California Water Code Section 13267, the discharges shall permit the Board or its authorized representative:
 - a. Entry upon premises in which any pollution source exists, or may potentially exist, or in which any required records are kept, which are relevant to this Order.
 - b. Access to copy any records required to be kept under the requirements of this Order.
 - c. Inspection of any monitoring or remediation facilities installed in response to this Order.
 - d. Sampling of any groundwater or soil which is accessible, or may become accessible, as part of any investigation or remedial action program undertaken by the dischargers.
8. Contractor/Consultant Qualifications: All technical documents shall be signed by and stamped with the seal of a California registered geologist, a California certified engineering geologist, or a California registered civil engineer.
9. Laboratory Qualifications: All samples shall be analyzed by State certified laboratories or laboratories accepted by the Board, using approved EPA methods for the type of analysis performed. All laboratories shall maintain quality assurance/quality control records for Board review. This provision does not apply to analyses that can only be reasonably be performed onsite (e.g., temperature).
10. Reporting of Hazardous Substance Release. If any hazardous substance is discharged in or on any water of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the State, the dischargers shall report such discharge to the Regional Board by calling (510) 622-2300 during regular office hours (Monday through Friday 8:00 to 5:00). A written report shall be filed with the Board within five working days. The report shall describe: the nature of the hazardous substance, estimated quantity involved, duration of incident, cause of release, estimated size of affected area, nature of effect, corrective action taken or planned, schedule of corrective actions planned, and persons/agencies notified. This report is in addition to reporting to the

Office of Emergency Services required pursuant to the Health and Safety Code.

11. Document Distribution. Copies of all correspondence, technical reports, and other documents pertaining to compliance with this Order shall be provided to the appropriate parties.
12. Periodic Order Review. The Board will review this Order and may periodically revise it when necessary.

Pursuant to California Water Code Sections 13304 and 13350, if a discharger fails to comply with the provisions of this Order, the Board may schedule a hearing to consider assessing civil monetary penalties and to consider requesting the Attorney General to take appropriate enforcement action against the discharger, including injunctive and civil monetary penalties.

I, Loretta K. Barsamian, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted on September 18, 2002 by the California Regional Water Quality Control Board, San Francisco Bay Region.

Loretta K. Barsamian
Executive Officer

ENCLOSURE 5

CERCLA Notice, Covenant, and Access Provisions and Other Deed Provisions

1. CERCLA NOTICE

For the Property, the GRANTOR provides the following notice, description, and covenants and retains the following access rights:

A. Notices Pursuant to Section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C §§ 9620(h)(3)(A)(i)(I) and (II)):

Pursuant to Section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C §§ 9620(h)(3)(A)(i)(I) and (II)), available information regarding the type, quantity, and location of hazardous substances and the time which such substances were stored, released, or disposed of on the Property, as defined in section 120(h), is provided in Exhibit B, attached hereto and made a part hereof.

B. Description of Remedial Action Taken, if Any, Pursuant to Section 1230(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)):

Pursuant to section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)), a description of the remedial action taken, if any, on the Property is provided in Exhibit B, attached hereto and made a part hereof.

2. CERCLA COVENANT

A. Covenant Pursuant to Section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(ii) and (B)):

Pursuant to Section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(ii) and (B)), the United States warrants that:

(1) all remedial action necessary to protect human health and the environment with respect to any hazardous substance identified pursuant to section 120(h)(3)(A)(i)(I) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 remaining on the Property has been taken before the date of this Deed, and

(2) any additional remedial action found to be necessary after the date of this Deed shall be conducted by the UNITED STATES.

This warranty shall not apply in any case in which the person or entity to whom the property is transferred is a potentially responsible party with respect to such property. For purposes of this warranty, The Grantee shall not be considered a potentially responsible party solely due to the presence of a hazardous substance remaining on the property on the date of this instrument, provided that The Grantee has not caused or contributed to a release of such hazardous substance.

3. CERCLA RIGHT OF ACCESS

A. Access rights pursuant to section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C §9620(h)(3)(A)(iii)):

(1) The United States retains and reserves a perpetual and assignable easement and right of access on, over, and through the Property, to enter upon the Property in any case in which a remedial action or corrective action is found to be necessary on the part of the UNITED STATES, without regard to whether such remedial action or corrective action is on the Property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, test-pitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the UNITED STATES to meet its responsibilities under applicable laws, and as provided for in this instrument. Such easement and right of access shall be binding on the GRANTEE, its successors and assigns, and shall run with the land.

(2) In exercising such easement and right of access, the UNITED STATES shall provide the GRANTEE or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the Property and exercise its rights under this clause, which notice may be severely curtailed or even eliminated in emergency situations. The UNITED STATES shall use reasonable means to avoid and to minimize interference with the GRANTEE'S and the GRANTEE'S successors' and assigns' quiet enjoyment of the Property. At the completion of work, the work site shall be reasonably restored. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the Property at a reasonable charge to the UNITED STATES. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the GRANTEE, nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the UNITED STATES.

(3) In exercising such easement and right of access, neither the GRANTEE nor its successors and assigns, as the case may be, shall have any claim at law or equity against the UNITED STATES or any officer or employee of the UNITED STATES based on actions taken by the UNITED STATES or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this clause; provided, however, that nothing in this paragraph shall be considered a waiver by the GRANTEE or its successors and assigns of any remedy available under the Federal Tort Claims Act.

4. "AS IS" CONDITION

A. The GRANTEE acknowledges that it has inspected or has had the opportunity to inspect the Property and accepts the condition and state of repair of the Property. The

GRANTEE understands and agrees that the Property is conveyed in its “AS IS” condition without any representation, warranty, or guaranty by the GRANTOR as to quantity, quality, title, character, condition, size, or kind, or that the same is in a suitable condition or fit to be used for the purpose(s) intended by the GRANTEE, and no claim for allowance or deduction upon such grounds shall be considered.

B. No warranties, either express or implied, are given with regard to the condition of the Property including, without limitation, whether the Property does or does not contain asbestos or lead-based paint. The GRANTEE shall be deemed to have relied solely on its own judgment in assessing the overall condition of the Property including, without limitation, the presence of any asbestos, lead-based paint, or other conditions on the Property. The failure of the GRANTEE to inspect or to exercise due diligence to be fully informed as to the condition of the Property shall not constitute grounds for any claim or demand against the UNITED STATES.

C. Nothing in this “AS IS” condition provision shall be construed to modify or negate the GRANTOR’S obligation under the covenant pursuant to section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(ii) and (B)), or any other statutory obligations.

5. HOLD HARMLESS

A. To the extent authorized by law, the GRANTEE, its successors and assigns, covenant and agree to indemnify and hold harmless the GRANTOR, its officers, agents, and employees from (1) any and all claims, damages, judgments, losses, and costs, including fines and penalties, arising out of the violation of the covenants, conditions, and restrictions in this Deed by the GRANTEE, its successors and assigns, as applicable, and (2) any and all claims, damages and judgments arising out of, or in any manner predicated upon, exposure to asbestos, lead-based paint, or other condition on any portion of the Property related to a discharge or exposure taking place after the date of conveyance and during the GRANTEE’S, its successors’ and assigns’ ownership of such portion of the Property.

B. The GRANTEE, its successors and assigns, covenant and agree that the GRANTOR shall not be responsible for any costs associated with modification or termination of the covenants, conditions, and restrictions in this Deed including, without limitation, any costs associated with additional investigation or remediation of asbestos, lead-based paint, or other condition on any portion of the Property related to a discharge or exposure taking place after the date of conveyance and during the GRANTEE’S, its successors’ and assigns’ ownership of such portion of the Property.

C. Nothing in this Hold Harmless provision shall be construed to modify or negate the GRANTOR’S obligation under the covenant pursuant to sections 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation,

and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(ii) and (B)), or any other statutory obligations.

6. POST-TRANSFER DISCOVERY OF CONTAMINATION

A. If an actual or threatened release of a hazardous substance or petroleum product is discovered on the Property or any individual Parcel(s), after the date of conveyance, the GRANTEE, its successors or assigns, shall be responsible for such release or threatened release of such newly discovered substance, unless the GRANTEE, its successors or assigns is able to demonstrate that such release or newly discovered hazardous substance or petroleum product was due to the GRANTOR'S activities, use, or ownership of the Property. If the GRANTEE, its successors or assigns, believes the discovered hazardous substance or petroleum product was due to the GRANTOR'S activities, use or ownership of the Property, the GRANTEE, its successors or assigns will immediately secure the site and notify the GRANTOR of the existence of the hazardous substance or petroleum product and the GRANTEE, its successors and assigns shall not further disturb or allow the disturbance of such hazardous substance or petroleum product without the prior written permission of the GRANTOR.

B. The GRANTEE, its successors and assigns, as part of the consideration for the conveyance of the Property or any individual Parcel(s), agree to release the GRANTOR from any liability or responsibility for any claims arising solely out of the release or threatened release of any hazardous substance or petroleum product on any portion of the Property related to a discharge or exposure occurring after the date of the delivery and acceptance of this Deed, where such substance or product was placed on the Property or any individual Parcel(s) by the GRANTEE, its successors, assigns, employees, invitees, agents or contractors, after the conveyance. This paragraph shall not affect the GRANTOR'S responsibility to conduct response actions or corrective actions that are required by applicable laws, rules and regulations.

7. NON-DISCRIMINATION COVENANT

The GRANTEE, its successors and assigns, covenant that such GRANTEE, its successors and assigns, shall not discriminate upon the basis of race, creed, color, religion, sex, disability, age, or national origin in the use, occupancy, sale or lease of any Parcels(s), or in its employment practices conducted on or in relation to the Parcel(s), as long as it holds such interest to the Parcel(s). For the avoidance of doubt, the foregoing covenant shall constitute, with respect to each and every Parcel, a "covenant that runs with the land" that applies to and that obligates the GRANTEE, its successors and assigns. The UNITED STATES shall be deemed a beneficiary of this covenant without regard to whether it remains the owner of any land or interest therein in the locality of the Parcel(s) and shall have the sole right to enforce this covenant in any court of competent jurisdiction.

8. ANTI-DEFICIENCY ACT

The GRANTOR's obligation to pay or reimburse any money under the Deed is subject to the availability of funds appropriated for this purpose to the Department of the Army and nothing in the Deed shall be interpreted to require obligations or payments by the GRANTOR in violation of the Anti- Deficiency Act, 31 U.S.C. § 1341.

9. NO WAIVER

The failure of the GRANTOR to insist in any one or more instances upon complete performance of any obligation of the GRANTEE, its successors or assigns required by the covenants, conditions, or restrictions set forth in the Deed shall not be construed as a waiver or a relinquishment of the GRANTOR'S right to the future performance of any such obligation of the GRANTEE, or its successors or assigns, required by said covenants, conditions, and restrictions, and such obligations of the GRANTEE, its successors and assigns, shall continue in full force and effect.

ENCLOSURE 6
FONSI AND ENVIRONMENTAL ASSESSMENT

DRAFT
FINDING OF NO SIGNIFICANT IMPACT (FONSI)

(33 CFR Part 230-325)

Oakland Inner Harbor Tidal Canal – Surplus Property Divestiture
Alameda County, California

- 1) Action: The Corps intends to divest itself of ownership of a parcel of real property known as the Oakland Inner Harbor Tidal Canal (OIHTC), located within the cities of Oakland and Alameda. The OIHTC is a navigable waterway, approximately 85 acres in size, 400-feet wide, and nearly 2 miles long. A narrow strip of shoreline on each side of the canal is also included in the property footprint. The Federal property begins approximately 1,800 feet northwest of the Park Street Bridge and terminates at the mouth of San Leandro Bay.

The United States does not need the property for any Army related mission and the Corps believes that there is no longer a Federal interest in ownership of the canal. It should therefore be disposed of in accordance with Army regulations. The Corps intends to subdivide the property into several parcels and cede the Alameda side to the City of Alameda and the Oakland side to the East Bay Regional Park District (EBRPD) or another designated public agency. With the transfer of this property to the city of Alameda and the EBRPD, the Corps proposes to end its existing regulatory moratorium (Section 1.3) on permitting of structures in the OIHTC outside of the federal channel. However, the Corps will continue to retain maintenance responsibilities pertaining to the navigation boundaries of the OIHTC, as it is still considered a federally authorized channel until such time as it is de-authorized by an act of Congress.

The High Street Bridge, the Park Street Bridge and the Miller-Sweeney Bridge are highway bridges that span the OIHTC. They are currently owned by the County of Alameda and are not part of the proposed action. The Federal property on which the footings of these three bridges rest, will not be transferred as part of this proposed action. The Fruitvale Avenue Railroad Bridge, which also spans the canal (adjacent to the Miller-Sweeney Bridge), is Federal property and will not be transferred as part of this proposed action. The Corps will retain the responsibility for operation and maintenance of the railroad bridge in accordance with Congressional direction.

- 2) Factors Considered: Factors considered for this FONSI were direct, indirect, and cumulative impacts to air and water quality, aquatic and terrestrial habitat, biologic resources, endangered/threatened species, recreation and public facilities/services, transportation and traffic, noise, aesthetics, land use, hazardous and toxic materials, energy consumption and generation, and cultural and historic resources. There is no change in land use anticipated from this action and

Finding of No Significant Impact – Oakland Inner Harbor Tidal Canal
Surplus Property Divestiture, Alameda County, California

therefore no anticipated impacts from the transfer of title.

- 3) Public Comment: The Environmental Assessment was made available for public comment from July 22, 2016 through August 12, 2016. Notices for this comment period were mailed to all adjacent property owners within a 300 foot radius of the project. A total of six written comments were received. These comments did not identify any impacts from this Federal action.
- 4) Conclusion: Based on a review of information incorporated in the Environmental Assessment, including views of the Corps, general public, and resource agencies having special expertise or jurisdiction by law, the Corps concludes the proposed Federal action would not significantly affect the quality of the human environment. Pursuant to the provisions of the National Environmental Policy Act of 1969, the preparation of an additional Environmental Impact Statement (EIS) will therefore, not be required.

Approved by:



John C. Morrow
Lieutenant Colonel, U.S. Army
District Commander



Date

**ENVIRONMENTAL ASSESSMENT
OAKLAND INNER HARBOR TIDAL CANAL
SURPLUS PROPERTY DIVESTITURE**

**Alameda County, California
Fiscal Year 2016**



**U.S. Army Corps of Engineers
Environmental Section B
San Francisco District
May 2016**

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LIST OF ACRONYMS

ABAG	Association of Bay Area Governments
AC	Alternating Current
APE	Area of Potential Effects
AR	Army Regulation
BCDC	Bay Conservation & Development Commission
BMP	Best Management Practices
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CNDDDB	California Natural Diversity Database
CNPS	California Native Plant Society
CORPS	U.S. Army Corps of Engineers, San Francisco District
CWA	Clean Water Act
DC	Direct Current
DFW	California Department of Fish and Wildlife
DOD	Department of Defense
DWR	California Department of Water Resources
EA	Environmental Assessment
EFH	Essential Fish Habitat
EPA	Environmental Protection Agency
ESA	Endangered Species Act
ESU	Evolutionary Significant Unit
FMP	Fisheries Management Plans
FOST	Finding of Suitability to Transfer
HTWA	Hazardous and Toxic Waste Assessment
MHHW	Mean Higher High Water (Tide)
NEPA	National Environmental Policy Act
NOAA	National Oceanic and Atmospheric Administration
NOAA Fisheries	U.S. National Marine Fisheries Service
NRHP	National Register of Historic Places
OIHTC	Oakland Inner Harbor Tidal Canal
RWQCB	California Regional Water Quality Control Board
SHPO	State Historic Preservation Office
SIP	State Implementation Plan
USACE	U.S. Army Corps of Engineers, San Francisco District
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey

1.0 PURPOSE AND NEED FOR ACTION

1.1 Purpose

This Environmental Assessment (EA) has been prepared by the United States Army Corps of Engineers, San Francisco District (Corps), in accordance with the National Environmental Policy Act (NEPA) of 1969. Its purpose is to identify any possible direct, indirect and/or cumulative significant impacts to the human environment resulting from the proposed action.

1.2 Proposed Action and Need

The Corps intends to divest itself of ownership of a parcel of real property known as the Oakland Inner Harbor Tidal Canal (OIHTC), located within the cities of Oakland and Alameda. The OIHTC is a navigable waterway, approximately 85 acres in size, 400-feet wide, and nearly 2 miles long. A narrow strip of shoreline on each side of the canal is also included in the property footprint. The Federal property begins approximately 1,800 feet northwest of the Park Street Bridge and terminates at the mouth of San Leandro Bay.

The United States does not need the property for any Army related mission and the Corps believes that there is no longer a Federal interest in ownership of the canal. It should therefore be disposed of in accordance with Army regulations. The Corps intends to subdivide the property into several parcels and cede the Alameda side to the City of Alameda and the Oakland side to the City of Oakland or another designated public agency. With the transfer of this property to the cities of Oakland and Alameda, the Corps proposes to end its existing regulatory moratorium (Section 1.3) on permitting of structures in the OIHTC outside of the federal channel. However, the Corps will continue to retain maintenance responsibilities pertaining to the navigation boundaries of the OIHTC, as it is still considered a federally authorized channel until such time as it is de-authorized by an act of Congress.

The High Street Bridge, the Park Street Bridge and the Miller-Sweeney Bridge span over the OIHTC, are currently owned by Alameda County, and are not part the proposed action. The Fruitvale Avenue railroad bridge, which spans the canal (adjacent to the Miller-Sweeney Bridge), and the footings for the High Street Bridge, the Park Street Bridge and the Miller-Sweeney Bridge, are Federal property and will not be transferred as part of this proposed action. The Corps will retain the responsibility for maintaining the railroad bridge in accordance with Congressional decisions.

1.3 Regulatory Moratorium

Over time, dozens of private parties (homeowners, businesses, etc.) built structures on federal land along the canal, on both the Oakland and Alameda sides of the canal. Many private property parcels abutting the OIHTC have docks or other structures that encroach upon Federal property. In accordance with Federal law, any construction on Federal property must be approved by the Corps through a permitting (Regulatory) and licensing (Real Estate) process. Given the lack of planned management of the OIHTC waterfront and the ongoing negotiations to transfer the property to the cities of Oakland and Alameda, on December 18, 2000, the Corps instituted a moratorium. This was to encourage local management of the respective waterfronts, which, as modified in 2003, 2004, and 2007, declares that the Corps will not issue: (1) regulatory permits

for repair; (2) regulatory permits for new work to existing structures; or (3) regulatory permits to start new construction. Exceptions may be granted, however, upon written request to repair an existing structure in-kind that is in such disrepair that it is – or may soon become - hazardous. In this context, the Corps considers maintenance as a one-for-one replacement of a currently serviceable structure such that it does not change the structure's footprint, purpose, or location. "Currently serviceable" refers to a structure that is currently fit for its intended purpose and not so degraded as to essentially require reconstruction.

Upon transfer of ownership of the OIHTC, the Corps would lift the moratorium, since it will no longer be Federal property. Adjacent property owners would then be authorized to apply for regulatory permits to repair and improve existing structures along the waterfront. The Corps, in its regulatory capacity, would review all permit applications to ensure compliance with Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act, in addition to review by other applicable resource agencies with jurisdiction.

1.4 Authority

The land in question was condemned for public use on October 20, 1884. The public interest was to excavate the land for a tidal canal, allowing water from San Leandro Bay into Oakland Harbor to remove sediment and deepen Oakland Harbor, thus improving navigation to the Inner Harbor.

Pursuant to Section 205 of the Water Resources Development Act (WRDA) of 1990, Pub. L. No. 101-640 amended by Section 501(b) of WRDA 1996, Pub. L. No. 104-303 the Corps is authorized to dispose of the entire OIHTC to the cities of Alameda and Oakland, or to adjacent landowners, at fair market value. Section 3182(b) of WRDA 2007, Pub. L. No. 110-114, authorizes the Corps to transfer the canal to the cities of Oakland and Alameda, or to a public entity created or designated by the city of Alameda, without consideration. It further authorizes transfer to the owners of the adjacent land owners, at fair market value.

Current guidance on real estate owned by the Corps is Army Regulation (AR) 405-80 as amended October 10, 1997. This regulation allows the Corps to manage or grant title to real property under its control.

1.5 Previous Documents

Draft Engineering Evaluation/Cost Analysis for the Nelson's Marine Site, Alameda, California prepared for the U.S. Army Corps of Engineers, Sacramento District by Geofon, Inc. May 2, 2000.

Draft Environmental Assessment for the Nelson's Marine Site, Alameda, California prepared for the U.S. Army Corps of Engineers, Sacramento District by Geofon, Inc. May 2, 2000.

1.6 Property Description

1.6.1 Location and Extent

The OIHTC property consists of approximately 85 acres located within the Oakland Inner Harbor Tidal Canal, which spans the stretch of water that separates the City of Alameda from the City of Oakland, in Alameda County. The property begins just southeast of Coast Guard Island and extends to San Leandro Bay. See Figures 1 and 2. Detailed property maps showing parcel and federal boundaries are located in Appendix A.

The OIHTC is entered via the San Francisco Bay and the Oakland Inner Harbor. Oakland Harbor is located in the City of Oakland, in Alameda County, California, along the eastern portion of San Francisco Bay. The strip of land is nearly 400 feet wide, including an upland strip of up to 50 feet wide on each side, and is almost two miles long. One portion is in the City of Oakland, and the other in the City of Alameda.

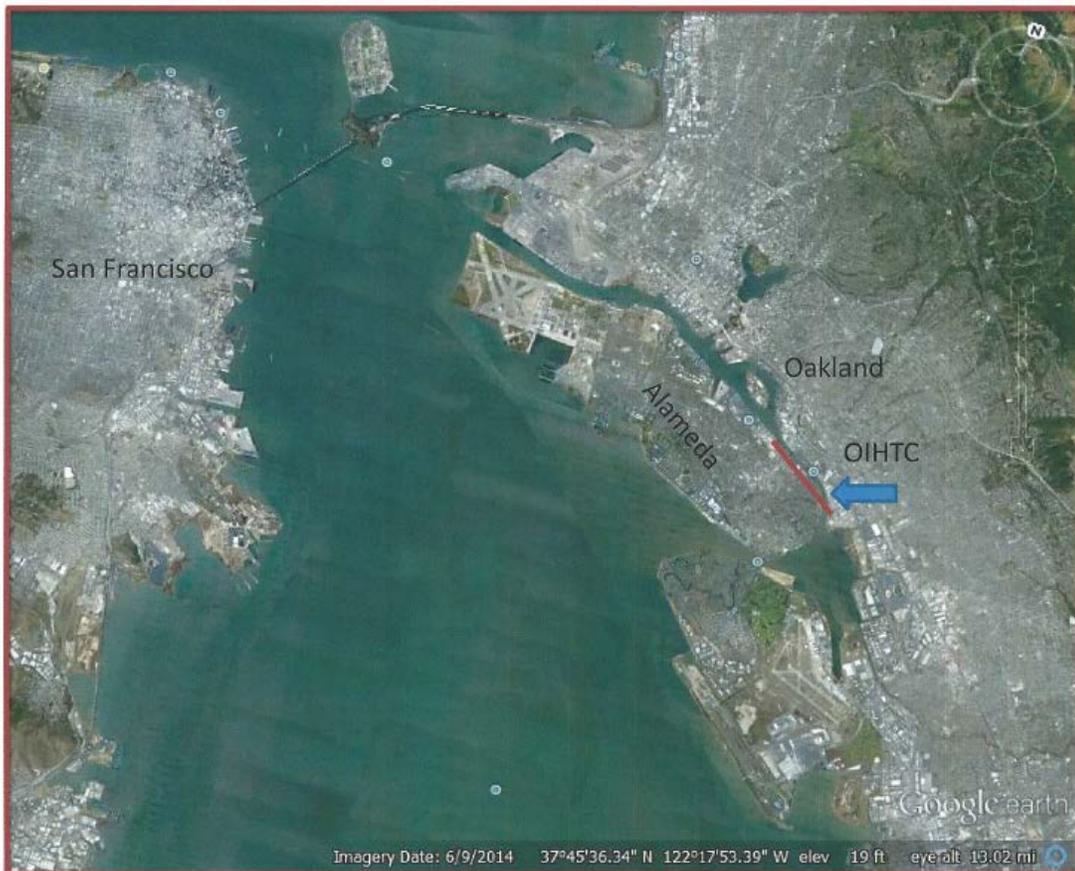


Figure 1 – Location of Oakland Inner Harbor Tidal Canal

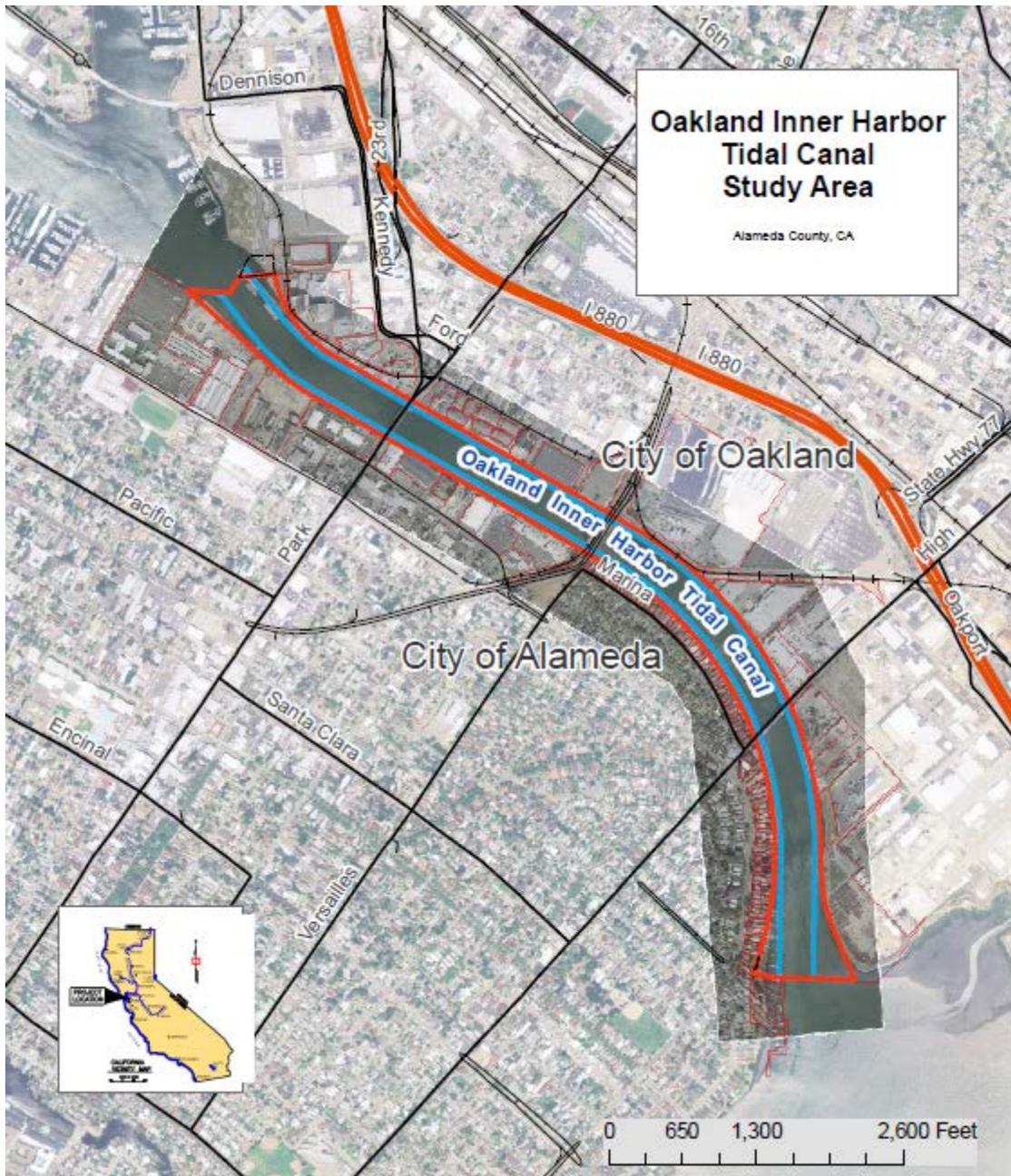


Figure 2 – Aerial Photo of OIHTC

1.6.2 Historical Background

The OIHTC was part of the plan conceived by Colonel G. H. Mendell, San Francisco District Engineer 1871-1895, for harbor improvements to the tidal inlet between Oakland and Alameda. Oakland was the first harbor to receive attention by the Corps of Engineers. Commercial ships could navigate as far east as Government Island, where the Estuary narrowed to an unnavigable channel. The channel ended a few hundred yards further east, whereupon a peninsula connected

Alameda with Oakland. Most of the area bordering the Inner Harbor was marshlands that became the Oakland Harbor. The OIHTC provided a connection between the tidal basin and San Leandro Bay.

In 1884, the Federal Government took ownership of the OIHTC and commenced dredging operations to create the channel that is known as the OIHTC. Soon after the canal was constructed, adjacent property owners began to encroach on the Federal property by constructing wharfs and docks. On June 3, 1913, the Federal Government issued a license to all owners of property adjacent to the canal. This license granted these property owners permission “. . . to occupy, with open-work, nonpermanent structures for wharf purposes, on the portions of the strip of US property fronting their respective properties and situated between the pier head and bulkhead lines approved January 20, 1913, without special lease or charges of any kind. . . .” The rights granted by this license were “. . . revocable at any time when this area may again be required for purposes of navigation. . . .” In 1929, the pier head and bulkhead lines were combined thus rendering the original license invalid. Regardless of the question of validity of the 1913 license, any existing license would have expired automatically upon transfer of that particular adjacent parcel. Prior to the Regulatory Moratorium, the Corps issued several easements and licenses to construct, repair and maintain structures along the OIHTC, including boathouses and docks along the Alameda side of the canal.

1.7 Structures

1.7.1 Oakland Shoreline

As stated in Section 1.6.2 of this document, the Corps granted limited permission to adjacent property owners to erect temporary structures for wharf purposes on June 3, 1913. Since that time, a total of 22 residential structures have encroached on the Oakland side of the canal. The Corps stated in their 1913 permit that “*it is expressly understood that this permission is revocable at any time . . . and shall not be construed as a relinquishment of the government title to the said right of way.*” As of February 25, 1960, the City of Oakland declared all these structures public nuisances as well as health and safety hazards and requested the Federal Government notify the occupants that they were trespassers. Subsequently, the City of Oakland demolished all condemned structures that were entirely or partially built on city property. Three structures located at 3221, 3223 and 3225 Alameda Avenue were not removed by the City because they were situated entirely on Federal property and the City did not have the authority to remove them.

During transfer negotiations, the City of Oakland requested that their parcel (the Oakland waterfront) be freed of all encroachments, by removal or out grant, before it would accept its portion of the property. Since the three Alameda Avenue structures were trespassing in areas under the Corps’ jurisdiction, Corps archeologists conducted background research to determine if the structures had any historical significance, prior to ordering their removal. Some local residents claimed that the structures were “arks”; however, research determined that these structures did not meet “ark” criteria. True arks were brightly colored single story structures built on a barge. Arks were used as summer hideaways moored in lagoons and other resort areas throughout the bay in the early 20th century.

The Corps determined that the three Alameda Avenue structures did not have any redeeming historical significance and that they were, in fact, health and safety hazards. In February and March of 2005 the Real Estate Division of the Sacramento District of the U.S. Army Corps of Engineers served the owners of these structures with notice to remove them within 120 days. The Federal Government filed a complaint in the United States District Court for the Northern District of California for ejection, trespass, injunctive relief, and damages. Pursuant to Consent Decrees of December 2007, the owners of the structures agreed to remove the structures in accordance

with all federal, state, and local laws and regulations. These three structures were subsequently demolished by the owners.

1.7.2 Alameda Shoreline

Residential Activities

There are several encroachments on the Alameda side of the canal, but significantly, these encroachments consist of docks and boathouses that are attached to adjacent parcels and some are not entirely situated on Federal land. There are approximately 93 residential parcels adjacent to the canal and most of these properties contain structures accessing the canal. Most of the property owners received easements and licenses from the Corps to construct the existing structures. However, after the Permitting Moratorium, most of these real estate licenses have expired leaving most of the existing structures technically in trespass.

Upon successful transfer of title of the Alameda side of the canal to the City of Alameda, it is envisioned that the city would, in turn, transfer ownership of individual parcels to the respective adjoining property owners. In this way, these structures would no longer be in trespass and management of the shoreline would be up to the subsequent owners and subject to local, state and federal regulations.

Commercial Activities

Similar to the residential area, there are a few structures in the commercial area on the Alameda side of the Federal property (Park Street Marina, Dutra Construction dock, and Stone Boat Yard docks), which were constructed under real estate licenses from the Corps. The property located at 2235 and 2441 Clement Avenue adjacent to the canal is owned by Francis Collins. The former tenant on this property, Nelson's Marine, conducted sand blasting operations using silica and nickel slag blast grit. Other previous tenants slag blasted with copper and other abrasives. These activities impacted a portion of the OIHTC on Federal property.

Due to contaminants present on the property, the San Francisco Regional Water Quality Control Board (SFRWQCB) issued Order R2-2002-0091 for the clean up of the site. The Corps submitted a Corrective Action Plan (CAP) to meet the final site clean up requirements of the SFRWQCB. The CAP has been completed.

1.8 Organization of this Environmental Assessment

Section 1.0 defines the purpose and need for the proposed action, the project area and location of the proposed action. Section 2.0 presents the regulatory setting for environmental compliance. Proposed project alternatives are listed and defined in Section 3.0. The affected environment and any impacts expected in the study area, assuming one of the action alternatives occurs as a result of this study, as well as cumulative impacts, are discussed in Section 4.0. Section 5.0 discusses possible impacts on Endangered and Threatened Species, and Section 6.0 discusses any possible project affects on Essential Fish Habitat as mandated by the Magnuson-Stevens Act. Section 7.0 presents the agencies and entities consulted for this project, and Section 8.0 presents the conclusion of this EA. Section 9.0 provides references. Section 10.0 provides a Bibliography.

2.0 ENVIRONMENTAL COMPLIANCE

For the proposed action to occur, the Corps must comply with all applicable Federal environmental laws and regulations, including, as applicable, the following.

2.1 Federal Laws

National Environmental Policy Act, 42 U.S.C. §§ 4321-4370(f).

The National Environmental Policy Act (NEPA) requires Federal agencies to consider the environmental impacts of their discretionary activities and to disclose potential impacts to the public. NEPA requires all Federal agencies to identify and assess reasonable alternatives to the proposed actions that will restore and enhance the quality of the human environment and avoid or minimize adverse environmental impacts. This EA will ensure that the transfer of ownership of the canal will comply with all NEPA requirements.

Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801-1883.

The 1996 amendments to the Magnuson-Stevens Conservation and Management Act set forth a number of new mandates for the National Oceanic and Atmospheric Administration (NOAA) Fisheries, regional fishery management councils, and other Federal agencies to identify and protect important marine and anadromous fish habitat. The concept is similar to the critical habitat under the Endangered Species Act; however the measures recommended by NOAA Fisheries for other agencies are advisory.

National Historic Preservation Act, 16 U.S.C. § 470 (2006).

The National Historic Preservation Act (NHPA) requires Federal agencies to evaluate the effects of Federal discretionary actions on historical, archeological, and cultural resources. At the Federal level, the Office of Historic Preservation carries out reviews under Section 106. At the state level, the California Environmental Quality Act (CEQA) requires that public agencies consider the effects of their actions on historical resources eligible for listing in the California Register of Historical Resources. A State Historic Preservation Office (SHPO) consultation is not necessary as the undertaking has no potential to cause effects to historic properties, pursuant to 36 C.F.R. § 800.3.

Clean Air Act, 42 U.S.C. §§ 7401-7671 (2006).

Section 118 of the Clean Air Act (CAA) requires that each Federal agency having jurisdiction over any property or facility or engaged in any activity resulting, or which may result, in the discharge of air pollutants to comply with all Federal, State, interstate, and local requirements respecting the control and abatement of air pollution. Section 176 of the CAA prohibits the federal government to engage in, support in any way or provide financial assistance for, license or permit, or approve, any activity which does not conform to the state implementation plan (SIP).

Clean Water Act, 33 U.S.C. §§ 1251-1376 (2006).

Section 404 of the Clean Water Act establishes a permit program administered by the U.S. Army Corps of Engineers. Although the Corps must substantively comply with Section 404 of the Clean Water Act, it is not required to obtain a Section 404 permit. This act regulates the discharge of fill material into waters of the United States, including wetlands.

Section 401 of the Clean Water Act states that applicants for a Federal permit allowing activities that may result in a discharge to navigable waters or their tributaries must obtain state

certification that the discharge complies with other provisions of the Clean Water Act, and will not violate State and Federal water quality standards.

Endangered Species Act, 16 U.S.C. §§ 1531-1543 (2006).

The Endangered Species Act of 1973 provides protection for threatened and endangered species. The U.S. Fish and Wildlife Service and NOAA Fisheries determine which species need protection and maintain a list of threatened, endangered, and candidate species, as well as species of concern. Appendix A provides the currently listed species that might occur in the project area according to the agencies mentioned above. Section 5.0 of this document describes why this project will have no affect to these species.

Marine Mammal Protection Act, 16 U.S.C. §§ 1361-1421h (2006).

The Marine Mammal Protection Act of 1972 (MMPA), most recently reauthorized in 1994, established a moratorium, with certain exceptions, on the taking of marine mammals in U.S. waters. The term “take” is statutorily defined to mean “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture or kill any marine mammal.” Harassment was defined under the 1994 amendments as any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal in the wild, or has the potential to disturb a marine mammal in the wild by causing disruption to behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering. Under the MMPA, the Secretary of Commerce is responsible for the conservation and management of pinnipeds and cetaceans. This authority has been delegated to the NMFS. The MMPA allows for incidental take for other than scientific research and commercial fisheries only after an involved public process.

Migratory Bird Treaty Act, 16 U.S.C. §§ 703-712 (2006).

The Migratory Bird Treaty Act protects and regulates the taking of migratory birds. It sets seasons and bag limits for hunted species and protects migratory birds, their occupied nests, and their eggs.

Rivers and Harbors Act (RHA), 33 U.S.C. § 403 (2006).

Under Section 10 of the Rivers and Harbors Act of 1899, the construction of structures in, over, or under, excavation of material from, or deposition of material into “navigable waters” are regulated by the Corps. Navigable waters of the United States are defined as those waters subject to the ebb and flow of the tide shoreward to the mean high water mark or those that are currently used, have been used in the past, or may be susceptible to use, to transport interstate or foreign commerce. A Letter of Permission or permit is required from the Corps prior to any work being completed within a navigable waterway. The Corps permit authority under the Rivers and Harbors Act of 1899 is not subject to EPA oversight or any other restrictions of the Clean Water Act and, in some cases, the Rivers and Harbors Act alone will apply to activities occurring in waters of the United States.

Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. § 1456 (2010).

Section 307 of the Coastal Zone Management Act either requires certification that the proposed project will comply with the State's Coastal Zone Management Program or a negative determination that the project will not have an effect on coastal resources, as applicable.

2.2 California State Laws

California Environmental Quality Act, Public Resources Code §§ 21000 et seq.

The California Environmental Quality Act (CEQA) applies to actions directly undertaken, financed, or permitted by State lead agencies, and establishes state policy to prevent significant and avoidable damage to the environment. It requires any public agency to disclose the environmental impacts of its projects to the public through appropriate environmental documentation and to mitigate negative environmental impacts.

California Endangered Species Act, Fish and Game Code §§ 2050 et seq.

The California Endangered Species Act (CESA) requires mitigation for impacts to state-listed endangered, threatened and candidate species. CESA mandates that state agencies should not approve projects which would jeopardize the continued existence of threatened or endangered species if reasonable and prudent alternatives are available that would avoid jeopardy, and requires State lead agencies to consult with the California Department of Fish and Wildlife (CDFW) during the CEQA process. CDFW is required to issue a written finding as to whether a project would jeopardize listed species and to specify reasonable and prudent alternatives that would avoid jeopardy.

Native Plant Protection Act, Fish and Game Code §§ 1900 et seq.

The Native Plant Protection Act requires State agencies to utilize their authority to carry out programs to conserve endangered and rare native plants. The Act prohibits the taking of listed plants from the wild and requires notification of CDFW at least 10 days in advance of any change in land use.

3.0 PROJECT ALTERNATIVES

33 C.F.R. § 320.4(b)(4) and 40 C.F.R. § 230.10(a)

3.1 No Action Alternative

To comply with the National Environmental Policy Act (NEPA), the Corps is required to consider the effects of taking no Federal action as an alternative to disposing of the property in question. The “No Action” Plan defines the “without project” condition. No Action would result in continued Federal ownership of the land that the Corps no longer deems necessary for the navigational purposes for which it was acquired. The Corps would maintain ownership of the OIHTC, including the federal property adjacent to the federal navigation channel. The moratorium on construction in the section of the OIHTC outside of the federal navigation channel would remain in place. The No Action alternative will serve as a baseline to describe existing conditions.

3.2 Action Alternatives

Alternative 1 –Transfer ownership of the Federal property in the OIHTC to the Cities of Alameda and Oakland and remove the moratorium on construction in the section of the OIHTC outside of the Federal navigation channel. The Fruitvale Railroad Bridge is excluded from this property transfer.

Alternative 2 - Transfer ownership of the Federal property in the OIHTC to the Cities of Alameda and Oakland but would still keep the moratorium on construction in the section of the OIHTC outside of the Federal navigation channel.

Alternative 3 –Transfer ownership of the Federal property outside of the Federal channel to the Cities of Alameda and Oakland and remove the moratorium on construction in the section of the OIHTC outside of the Federal navigation channel.

Alternative 4 – Transfer ownership of the Federal property outside of the Federal channel to the Cities of Alameda and Oakland and keep the moratorium on construction in the section of the OIHTC outside of the Federal navigation channel.

3.3 Environmentally Preferred Alternative

The agency preferred alternative is Alternative 1. Transfer ownership of the Federal property in the OIHTC to the Cities of Alameda and Oakland and remove the moratorium on construction in the section of the OIHTC outside of the Federal navigation channel.

4.0 AFFECTED ENVIRONMENT

The assumed without-project conditions serves as the baseline against which the proposed/preferred Action Alternative(s) will be evaluated. Future without-project conditions are likely to be the same as current existing conditions. There is no change in land use anticipated as a result of the proposed action of property transfer. The property along both the Alameda and Oakland sides of the canal is anticipated to remain residential, recreational and industrial/commercial.

Both shorelines along the canal are developed such that the removal of the moratorium on construction would not lead to significant newly developed shoreline. No change in current land use is anticipated as a result of the preferred alternative. Potential effects from future land use modifications or construction would have their own evaluation process.

Alternatives 2, 3 and 4 are lesser permutations of the preferred alternative. For this reason, any effects from proposed actions are anticipated to be greatest for the preferred alternative. Although there are no anticipated changes in land use with the preferred alternative, potential effects to the baseline conditions and cumulative effects are evaluated below.

4.1 Physical Factors

4.1.1. Geology and Soils

The OIHTC is entered via the San Francisco Bay and the Oakland Inner Harbor. The San Francisco Bay occupies a broad north-trending valley approximately 62 miles long and 3 to 14 miles wide. The area surrounding the bay is relatively low and divides the province into northern and southern ranges. Alameda Island, located within the Oakland Inner Harbor, varies in elevation from sea level at the shoreline to approximately 30 to 35 feet above mean sea level (msl) in the central portion of the island.

The geology of the San Francisco Bay area is very complex. The region is underlain by a thick sequence of sedimentary and metamorphic rocks of the Franciscan Assemblage, which have been extensively folded and faulted. Lithologies in this assemblage include shale, greenstone,

greywacke, chert, and serpentine. Bedrock is exposed at the surface in some locations, and covered by younger alluvial or colluvial deposits in other areas. The region is geologically and seismically active, containing young mountain ranges with steep, unstable slopes and large, active fault zones.

Soil at the site consists of loose to densely packed silty sand, with some sand, gravel, lean clay, organic material, and anthropogenic debris (i.e., plastic, wood, concrete, brick, and scrap metal) to a depth of at least 20 feet below the ground surface (bgs). Neither the depth to groundwater nor the direction of groundwater flow has been documented at the site, but the occurrence or movement of groundwater is expected to be tidally influenced. Based on topographic relief, groundwater is expected to occur at a depth of 10 to 15 feet bgs, and likely flows from inland to the Alameda Estuary. The preferred alternative will have no effect on area geology or soils.

4.1.2 Water Resources

The OIHTC is a canal of brackish water suitable for small craft navigation and is influenced by hydrodynamic conditions typical of Central Bay. The Central Bay is a highly dynamic marine region due to strong tidal currents and is most strongly influenced by tidal currents due to its close proximity to the Pacific Ocean. Tidal currents in San Francisco Bay consist of semidiurnal and diurnal partial tides. Two high tides and two low tides occur daily, with unequal amplitudes. The preferred alternative will have no effect on area water resources.

4.2 Water Quality

The OIHTC appears to have enough current to keep it clear without dredging; therefore, the center of the canal is relatively clean. However, as noted in a November 21, 2006 Alameda City Council meeting, some shoaling has occurred around private docks on the Alameda side, especially where there is an outfall. As documented in several investigative efforts, there is contamination in some areas along the edges of the Federal property. This is likely due to the industrial activities over the last 150 years on adjacent properties. The variation in water quality parameters fluctuates less than other areas of the Bay due to the "buffering capacity" of cold ocean waters. Circulation is affected by tides entering the Bay from the Pacific, local winds, basin bathymetry and the local salinity field. The preferred alternative will have no effect on water quality.

4.3 Climate

The overall climate in the project area is dominated by the semi-permanent eastern Pacific high-pressure system centered over the northeastern Pacific Ocean. The high is strongest in summer, when it moves to its northernmost position, which results in strong northwesterly airflow and negligible precipitation. A thermal low-pressure area from the Sonoran-Mojave Desert also causes air to flow onshore during parts of the summer. In winter, the high weakens and moves southwestward toward Hawaii, which allows storms originating in the Gulf of Alaska to reach California. Most precipitation occurs between November and March. The preferred alternative will have no effect on the climate.

4.4 Visual Resources/Aesthetics

Along the Port of Oakland's 19 miles of waterfront are 535 acres of marine terminal facilities, which handle a broad spectrum of import and export cargo. The OIHTC is residential,

recreational and commercial along the Oakland and Alameda waterfronts. No change in land use is anticipated, therefore there will be no effect on existing visual resources from the preferred alternative.

4.5 Cultural Resources

The Corps is required to comply with the historic preservation laws and regulations when considering proposed actions. It is the Corps' responsibility to make a reasonable and good-faith effort to identify historic properties (properties eligible for, or listed in the National Register of Historic Places), within an Area of Potential Effects (APE) that may be affected by the proposed action. Historic properties include, for example, archaeological sites, historic structures, submerged shipwrecks and traditional cultural properties that are determined eligible for listing in the National Register of Historic Places (NRHP). An Area of Potential Effects (APE) is a geographical area in which a project may cause (directly or indirectly) changes in the character or use of a historic property.

A review of project documents, and consideration of any previously identified historic properties as well as those cultural resources not yet evaluated for the National Register of Historic Properties (NRHP), will generally be sufficient to determine whether there are potential effects to such resources. The Corps provides a determination to the State Historic Preservation Officer (SHPO) in accordance with 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act, as amended (NHPA). Section 106 provides the guidelines by which federal agencies meet statutory responsibilities for historic preservation concerns and the needs of federal undertakings.

Because the Oakland Inner Harbor has been maintained and the land and previous disposal sites used for many years, and no new channel or ground-disturbing activities are proposed, the Corps believes it is reasonable not to conduct aquatic or terrestrial surveys for these previously disturbed parts of the APE. In keeping with Corps planning guidance for projects that do not involve new work, we have relied on existing information in the project and cultural resources files. The files revealed that from the 1970's through the 1990's the Corps funded archaeological surveys designed to inventory historic resources for their operating projects in the Oakland Inner Harbor for navigation, maintenance dredging, dredged-material disposal, and for construction.

No known historic properties are located within the OIHTC Federal channel. Historic research indicates that the Oakland Estuary was the location of many historic shipwrecks dating from the 19th Century. Many ships were abandoned, at the end of the Inner Harbor, following the Gold Rush when the maritime trade significantly declined (Corps 1984). During the 1930's a Works Progress Administration (WPA) sponsored project removed obstacles to navigation and cleaned navigable waters of visible obstacles. In the last five years, the USCG promptly marked the sunken Tug Respect with buoys, which is located just west of Park Street Bridge. Its location is also marked on the NOAA navigation chart of that area. There are also the Tug Captain Al, one other sunken vessel and 2 sunken barges in the same area which are not marked. The Corps has removed 2 vessels, the M/V Elizabeth A and the Submarine Chaser Hooker from the channel.

The Corps conducted an updated records search and survey for historic resources in February 2003 and in September 2006. No historic properties listed in the NRHP were identified within the project APE. Previous environmental documents (Corps 1980, 1988; Corps and Port of Oakland 1999) identified no Native American resources in or near the OIHTC and did not find any sites, areas and materials important to Native Americans for religious, spiritual, economic or traditional uses. No areas within the OIHTC are known to be used for gathering, collecting or conducting ceremonies by either groups or individuals on land within or adjacent to the APE appear to be present.

There are two historic properties adjacent to the project APE. The Park Street Bridge and the High Street Bridge are eligible for the NRHP. The bridges are currently owned by Alameda County and within the jurisdiction of the local authorities. These bridges will not be affected by the federal action.

The Cities of Oakland and Alameda are Certified Local Agencies with approved City Development Plans that include historic preservation. The Cities are responsible for California Environmental Quality Act (CEQA) level environmental compliance prior to making discretionary approvals on projects, including Corps Section 10 and Section 404 permits for projects within their respective waterfront areas.

The proposed action will not directly impact or adversely affect any potential prehistoric or historical resources within the APE. Based on the current description, the proposed action would not result in adverse effects or significant impacts to any of the resources located in the project area; therefore, no further investigation or treatment of these resources is recommended.

4.6 Air Quality

The proposed action would not cause any change in the current land use and therefore would not cause any change in current air quality or emissions. With no change in emissions release from the proposed Federal action, pursuant to the Clean Air Act, a conformity analysis with the Bay Area Air Quality Management District (BAAQMD) is not required. The preferred alternative will have no effect on air quality.

4.7 Biology

The Central Bay is a highly dynamic marine region due to strong tidal currents. The benthic substrate is comprised of coarse to fine sediments and rocky outcrops. The dominant benthic species in Central Bay is the clam *Macoma balthica*, particularly in the intertidal areas. Common sub tidal species include the mollusks *Mya arenaria*, *Gemma*, *Musculista senhousia*, and *Venerupis philippinarum*; the amphipods *Ampelisca abdita*, *Grandierella japonica*, and *Corophium sp.*; and the polychaetes *Streblospio benedicti*, *Glycinde sp.*, and *Polydora sp.* The preferred alternative will have no change in land use and no effects on benthic species.

Sacramento winter-run chinook occasionally occur in the Oakland Harbor during migration season (November to May) and the threatened coastal steelhead pass through the area on their way upstream from June through May. Coho salmon also occur in San Francisco Bay during fall months. Central Valley Spring-run chinook may occasionally stray into the Oakland Harbor area while migrating in and out of the Sacramento Delta. The Oakland Harbor is not located within these species' main migration routes and accordingly, few individuals are expected to occur in the Harbor. Please see Chapter 5.0 Endangered and Threatened Species, and Chapter 6.0 Magnuson-Stevens Act Essential Fish Habitat for a detailed description of why the preferred alternative will have no effect on any of these species.

4.8 Noise

The preferred alternative would not cause any change in the current land use and therefore no effect on current noise levels is anticipated.

4.9 Land Use

The land affected by the proposed Federal action lies within a heavily urban environment. The canal is predominantly industrial on the Oakland side and predominantly residential, with some business and commercial use, on the Alameda side. Half of the property is within the City of Alameda and half within the City of Oakland as the jurisdictional boundary runs down the centerline of the channel. While use of the property is within Oakland and Alameda city limits. There is no anticipated change in land use attributable to the preferred alternative, and therefore no effects.

4.10 Transportation and Utilities

The property is surrounded by numerous heavily trafficked thoroughfares such as Park Street, Fruitvale Avenue and High Street. Alameda Avenue in Oakland is used by commercial traffic; the Alameda side sees mostly residential traffic. BART and AC Transit are the main sources of public transportation provided by the County of Alameda. The Fruitvale Avenue Railroad Bridge has not been used in many years. The State of California oversees the bridges and main highways while the U.S. Coast Guard regulates bridges that span navigable waterways. There is no anticipated change in traffic patterns or usage as a result of the proposed action.

The canal is used for small craft navigation. The preferred alternative is not anticipated to effect either vehicular or small watercraft traffic at the site.

4.10.2 Utilities

The preferred alternative will have no effect on the use of utilities.

4.11 Hazardous Materials

There are no records that the DOD has ever stored or used chemical or petroleum products on the property at any time during the canal's existence. A records search by Environmental Data Resources, Inc. (2003) does indicate that potential contaminants do exist on a portion of the Federal property and adjacent properties. Most of these contaminants have been attributed directly to industrial activities of adjacent property owners.

The canal is a public waterway and is subject to potential contamination from passing vessels and from potential spills resulting from the refueling of craft from privately owned docks that extend into the canal. A refueling station (Park Street Landing) exists on adjacent property. There is also potential for contamination of the canal from spills and discharges that occur outside the OIHTC boundaries which can be introduced into the canal through tidal action, and from adjacent properties via storm water discharge.

The Corps has conducted preliminary testing which revealed 5 sites that have concentrations of mercury, arsenic, lead, chromium, and cadmium (Chemicals of Concern) that exceed human health standards. Based on the preliminary test results further testing to determine the extent of the presence of chemicals of concern was conducted. Sample locations for these tests are given

in Appendix B. The test results can be found in the Oakland Inner Harbor Tidal Canal (OIHTC) Site Investigation Report, USACE, June 2009.

Transfer of the property will not affect the environmental condition of the property or the ability to take action should any action be necessary. For this reason the preferred alternative will have no effect on hazardous materials.

4.12 Recreation

The canal is currently used for small craft navigation, which includes recreational traffic. With no anticipated change in land use, shore based recreational activities would not be impacted by the property transfer. The preferred alternative will have no effect on the recreational use of the property.

4.13 Socioeconomic Factors

As stated above, the land affected by the preferred alternative lies within a heavily urban environment. The canal is predominantly industrial on the Oakland side and predominantly residential, with some business and industry, on the Alameda side. The Port of Oakland is a major point of entry for goods from Asia and other Pacific Rim trading partners. The surrounding area is highly industrial with major shipping for trucking and railroad hubs.

4.13.1 Population

The United States census, at <http://factfinder.census.gov>, shows the 2010 population for Oakland, California was 390,724, while the 2010 population for Alameda, California was 73,812. The preferred alternative will have no effect on these populations.

4.13.2 Income

The United States census, at <http://factfinder.census.gov>, shows that in the City of Oakland in 2014, only 36.6% of its households had an income of more than \$75,000 a year. In the same year the City of Alameda had 51.0% of its households earning an income of more than \$75,000 a year. The preferred alternative will have no effect on the incomes of either city.

4.13.3 Public Services

Public services such as surface streets, police, fire protection, ambulance, water, sewage and refuse are currently provided by the Cities of Oakland and Alameda. The preferred alternative will have no effect on the area's public services.

4.14 Cumulative Impacts

As described above there are no effects to the human environment anticipated from the preferred alternative for any of the factors evaluated. The remaining alternatives are lesser permutations of the preferred alternative and therefore are also anticipated to not have any effects on the human environment.

There are no anticipated effects or impacts from the proposed alternatives.

5.0 ENDANGERED AND THREATENED SPECIES

The United States Fish and Wildlife Service and National Oceanic and Atmospheric Administration Fisheries have provided the Corps with lists of federally endangered, threatened and species of concern that may occur in the vicinity of, or be affected by, the proposed action (see Appendix D). Some species identified, but not discussed in this section, do not have habitat in the OIHTC area and will not be impacted.

5.1 Fish

The Sacramento River winter run Chinook salmon, *Oncorhynchus tshawytscha*, and the Steelhead trout, *Oncorhynchus mykiss*, migrate upstream through the estuary starting in late August. Juvenile steelhead usually spend one or two years in freshwater before migrating to sea. Downstream migration occurs in late winter and early spring. The threat to the productivity and existence of these species is due to water diversion projects on the Sacramento River, destruction of upstream spawning habitat, fresh-water intake pump entrainment of juvenile and larvae fish, and effluent discharge. None of these conditions are currently present or would change due to property transfer. Therefore, no impacts are anticipated due to the preferred alternative.

The planktivorous delta smelt, *Hypomesus transpacificus*, occurs only in the Bay-Delta Estuary. The species is mainly found on the open surface and shoal waters of marsh channels and in Suisun Bay. The aquatic habitat in Richmond quadrant is designated as critical habitat for this species, however, this species is not commonly found downstream of Suisun Bay and certainly not in Oakland Harbor. Therefore, no impacts are anticipated due to the preferred alternative.

The green sturgeon, *Acipenser medirostris*, is listed as threatened. This species migrates throughout the Bay-Delta as a long-lived and late-maturing adult. Little is known about the life history of this species, although it is likely that they migrate through the Bay-Delta in the fall and winter to spawn in the spring. Activities in the OIHTC are not anticipated to change upon property transfer. Therefore, no impacts are anticipated due to the preferred alternative.

Tidewater goby, *Eucylogobis newberryi*, occurs in coastal lagoons and brackish bays at the mouth of freshwater streams. There is no habitat for this species in the OIHTC area. Therefore, no impacts are anticipated due to the preferred alternative.

The Pacific herring, *Clupea pallasii*, is not a listed species, but it is ecologically, commercially and recreationally important. Pacific herring are mobile, pelagic fish; they are expected to be able to avoid impact areas throughout the year, except during times of spawning. Due to habitat constraints and location, no spawning is expected to occur in the OIHTC. Therefore, no impacts are anticipated due to the preferred alternative.

5.2 Reptiles and Amphibians.

The threatened Alameda whipsnake, *Masticophis lateralis euryxanthus*, the threatened California red-legged frog, *Rana aurora draytonii*, and California tiger salamander, *Ambystonna californiense*, and all listed reptile and amphibian species of concern reported in the OIHTC area, do not have suitable habitat in the OIHTC and do not inhabit the marine environment. Therefore, no impacts are anticipated due to the preferred alternative.

Based on available distribution data, sea turtles are unlikely to occur in the project area since their preferred foraging and nesting habitat are generally located in ocean waters south of Baja California through Costa Rica and in the western Atlantic Ocean (except *Chelonia agazzi*) surrounding the southern states. Therefore, no impacts are anticipated due to the preferred alternative.

5.3 Birds

The closest roost site for the endangered California brown pelican, *Pelecanus occidentalis californicus*, is known to be at Brooks Island near Richmond Inner Harbor.

The bald eagle, *Haliaeetus leucocephalus*, is listed as threatened. Limited in distribution to North America and northeastern Siberia, bald eagles may be observed anywhere in this range during migrations, and wintering birds are frequently seen away from their breeding areas. In California, they winter throughout the state if prey is available.

In the San Francisco Bay, the endangered California Least Tern, *Sterna antillarum browni*, primarily roosts at the Alameda Naval Air Station and does not forage north of the Berkeley Marina. The direct OIHTC area does not support typical California least tern habitat; however there is potential for these terns to forage in the area.

The Federal government lists the western snowy plover, *Charadrius alexandrinus nivosus*, as threatened. The western snowy plover breeds primarily on coastal beaches from southern Washington to southern Baja California, Mexico. There is no known nesting habitat in the OIHTC area.

Ridgway's rail, *Rallus longirostris obsoletus*, (formerly the California clapper rail) is only found in salt marshes around San Francisco, San Pablo, and Suisun Bays. The rail inhabits tidal salt marshes, especially where they include tidal channels, which are preferred foraging habitat during low tides. Breeding occurs from March to August. There is no known suitable habitat in the OIHTC.

The action of property transfer would not impact foraging, roosting, mating or migration patterns of birds. Therefore, no impacts are anticipated due to the preferred alternative.

5.4 Invertebrates

There is no known habitat for the listed invertebrates. Therefore, no impacts are anticipated due to the preferred alternative.

The Dungeness crab, *Cancer magister*, is not a listed species, but it is ecologically, commercially and recreationally important. There is no known habitat for them in the immediate OIHTC vicinity. Therefore, no impacts are anticipated due to the preferred alternative.

5.5 Mammals

Harbor seals, *Phoca vitulina*, and California sea lions *Zalophus californianus* may infrequently be found in the area of the OIHTC. The proposed real estate transfer will not impact the available habitat. Therefore, no impacts are anticipated due to the preferred alternative.

The only other threatened or endangered mammal reported in the project area is the salt marsh harvest mouse *Reithrodontomys raviventris*. This species and all the listed species of concern reported in the project area USGS quads are terrestrial and not known to have habitat in the OIHTC area. Therefore, no impacts are anticipated due to the preferred alternative.

5.6 Plants

None of the listed plant species (see Appendix A) will be impacted by this real estate transfer.

6.0 MAGNUSON-STEVENSON ACT ESSENTIAL FISH HABITAT

The Essential Fish Habitat (EFH) mandates of the Magnuson-Stevens Act represent a new effort to integrate fisheries management and habitat management by stressing the ecological relationships between fishery resources and the environments upon which they depend. The EFH consultation process will ensure that Federal agencies explicitly consider the effects of their actions on important habitats, with the goal of supporting the sustainable management of marine fisheries. The National Marine Fisheries Service (NOAA Fisheries) administers the EFH (see Appendix B). No EFH consultation is necessary as the property transfer will have no effect on Essential Fish Habitat.

The OIHTC is located in a designated EFH for species managed with the Coastal Pelagics, Pacific Coast Salmon, and Pacific Groundfish Fishery Management Plans (FMPs). Five Evolutionary Significant Units (ESU) of salmonids: the endangered Sacramento River winter-run chinook salmon ESU *Oncorhynchus tshawytscha*, the threatened Central Valley spring-run chinook salmon ESU *Oncorhynchus tshawytscha*, the threatened Central California Coast steelhead ESU *Oncorhynchus mykiss*, the threatened Central Valley steelhead ESU *Oncorhynchus mykiss*, and the Central Valley fall/late fall-run chinook salmon ESU *Oncorhynchus tshawytscha* (a candidate species) are reported as possibly occurring in the Oakland Inner Harbor Channel. The proposed real estate transfer will not impact any habitats in the area. Therefore, no impacts are anticipated.

7.0 COORDINATION

A list of Federal, State, and local environmental agencies with whom this project has been coordinated with includes, but is not limited to:

Bay Area Air Quality Management District
Bay Conservation and Development Commission
California Department of Fish and Wildlife
California State Historic Preservation Office
California State Lands Commission
California State Resources Agency
National Oceanic and Atmospheric Administration Fisheries
San Francisco Bay Regional Water Quality Control Board
United States Coast Guard
United States Environmental Protection Agency
United States Fish and Wildlife Service
United States Maritime Administration
City of Alameda
City of Oakland
Alameda County

8.0 CONCLUSION

Based on review of the preferred alternative, it has been determined that the subject action will have no impacts. It has also been determined that transfer of federal property adjacent to the federal navigation channel and the ending of the moratorium on construction in that area will have less than significant impacts. This project will not jeopardize the continued existence of threatened or endangered species or adversely affect any critical habitat, any known or unknown cultural resources. An Environmental Impact Statement is not necessary for this project and instead a Finding of No Significant Impact (FONSI) shall be prepared.

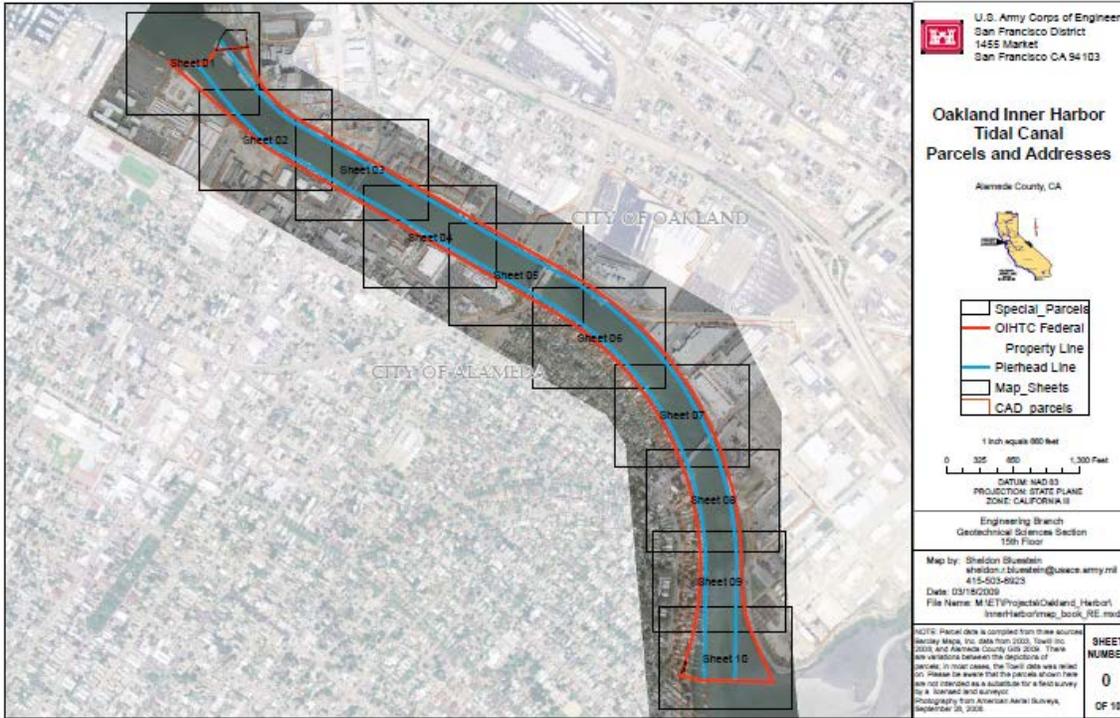
9.0 REFERENCES

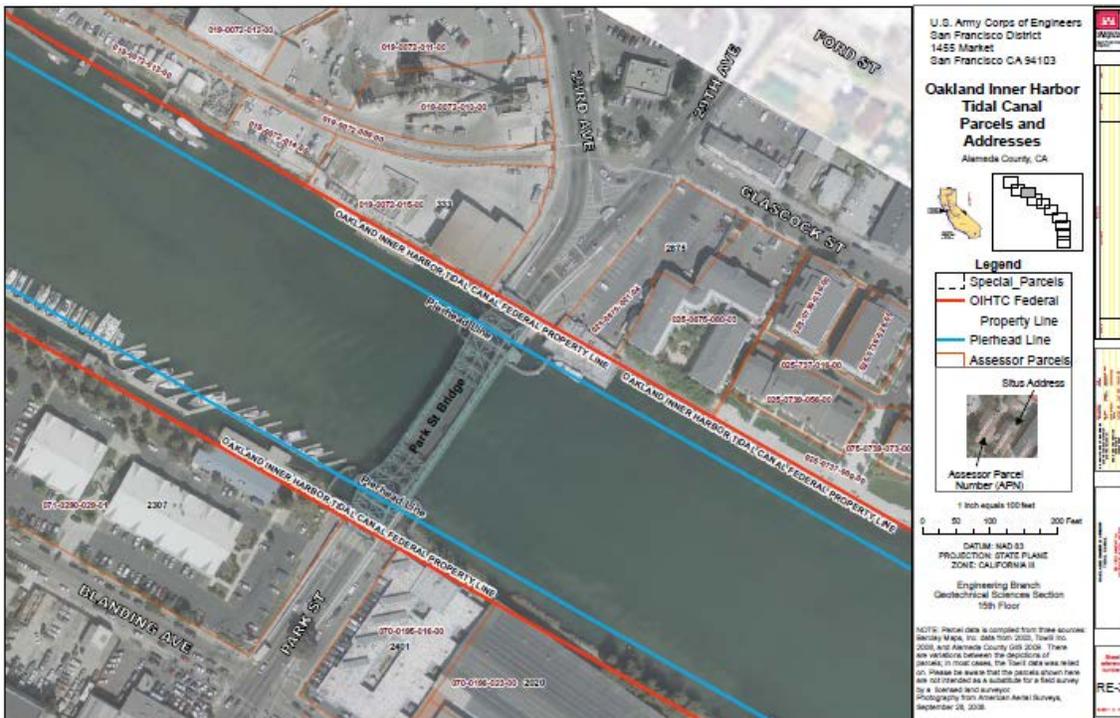
CDFG (California Department of Fish and Game). 2001. California's Living Marine Resources: Status Report. <http://www.dfg.ca.gov/mrd/status/>. Accessed April 22, 2005.

CDFG. 2003. Atlas of the Biodiversity of California. <http://atlas.dfg.ca.gov/>. Accessed February 1, 2005.

APPENDIX A

MAP WITH PARCELS





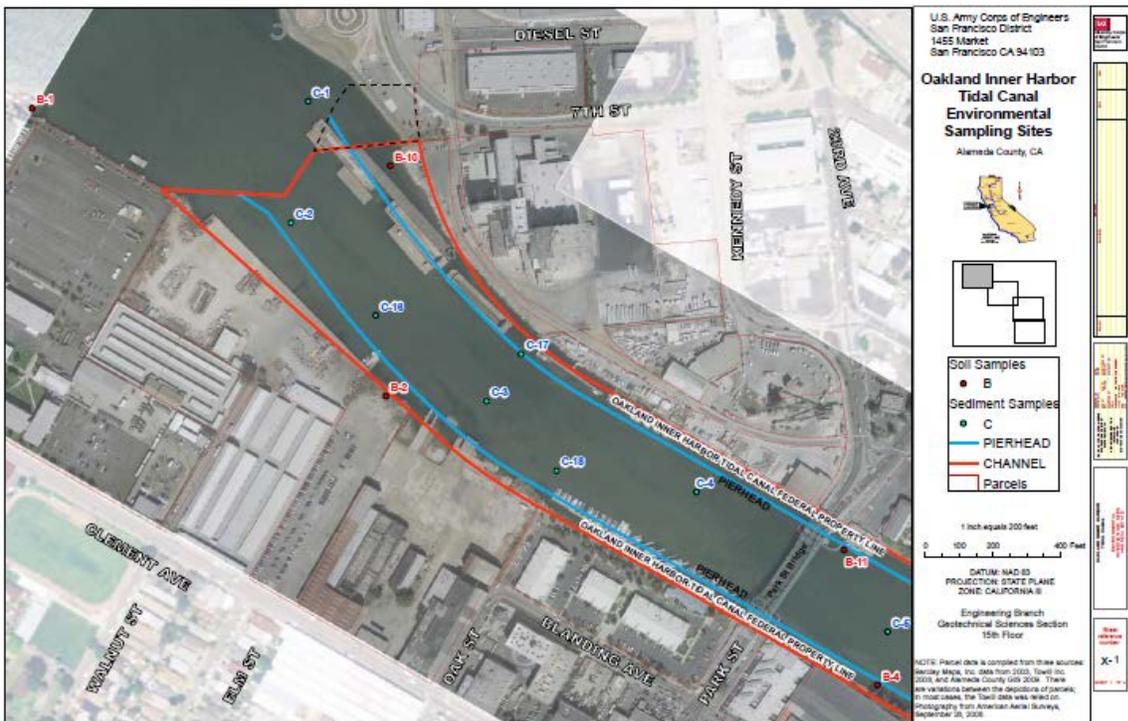
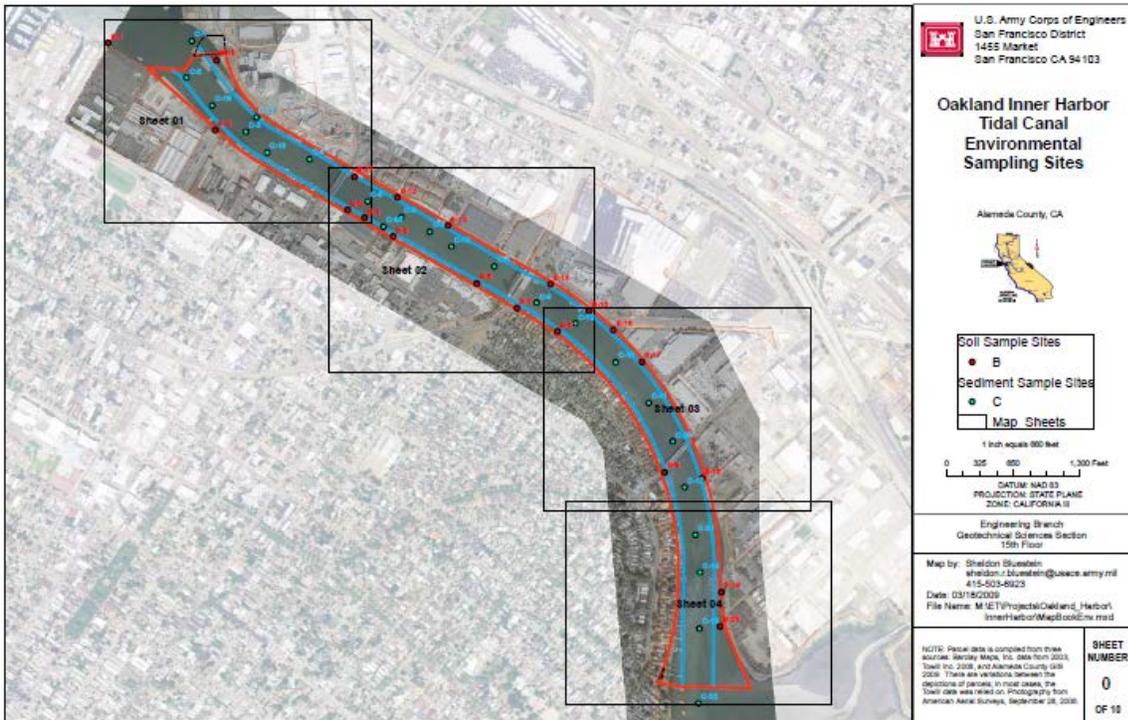


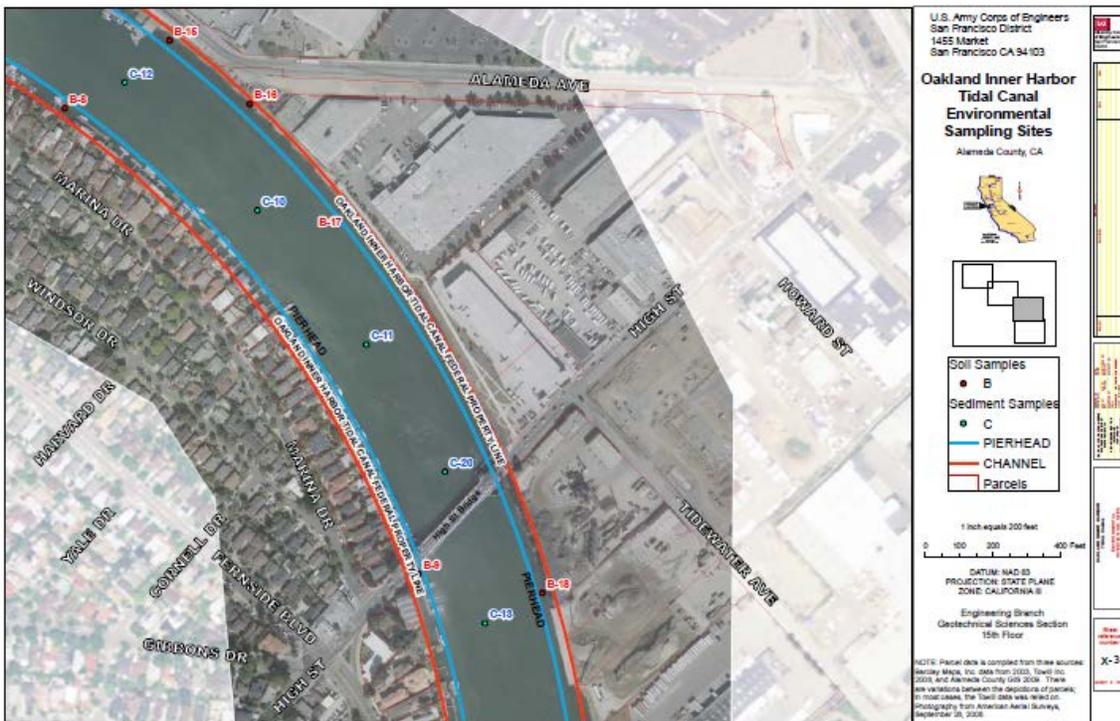
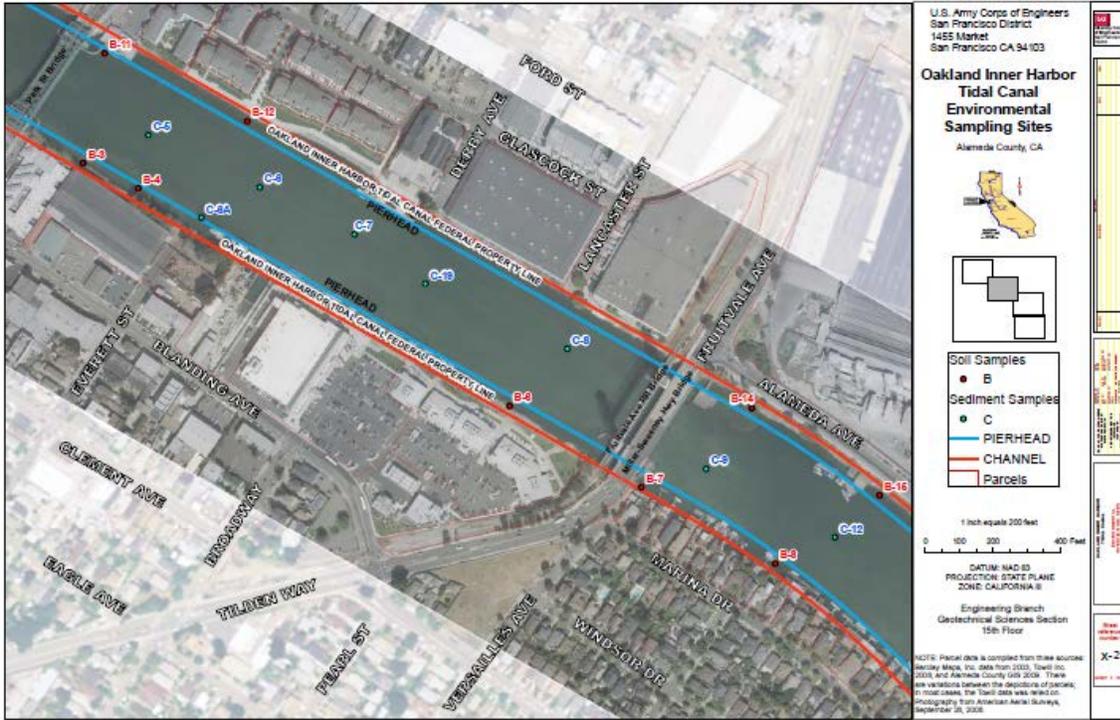




APPENDIX B

BASELINE TESTING MAP







APPENDIX C

ENDANGERED SPECIES LISTS



United States Department of the Interior

FISH AND WILDLIFE SERVICE
San Francisco Bay-Delta Fish and Wildlife
650 CAPITOL MALL, SUITE 8-300 SACRAMENTO, CA 95814
PHONE: (916)930-5603 FAX: (916)930-5654
URL: kim_squires@fws.gov



Consultation Code: 08FBDT00-2016-SLI-0114
Event Code: 08FBDT00-2016-E-00070
Project Name: Oakland Inner Harbor Tidal Canal

April 04, 2016

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)

(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at: <http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment

Official Species List

Provided by:

San Francisco Bay-Delta Fish and Wildlife
650 CAPITOL MALL
SUITE 8-300
SACRAMENTO, CA 95814
(916) 930-5603
[http://kim_squires@fws.gov](mailto:kim_squires@fws.gov)

Expect additional Species list documents from the following office(s):

Sacramento Fish and Wildlife Office
FEDERAL BUILDING
2800 COTTAGE WAY, ROOM W-2605
SACRAMENTO, CA 95825
(916) 414-6600

Consultation Code: 08FBBDT00-2016-SLI-0114

Event Code: 08FBBDT00-2016-E-00070

Project Type: LAND - DISPOSAL / TRANSFER

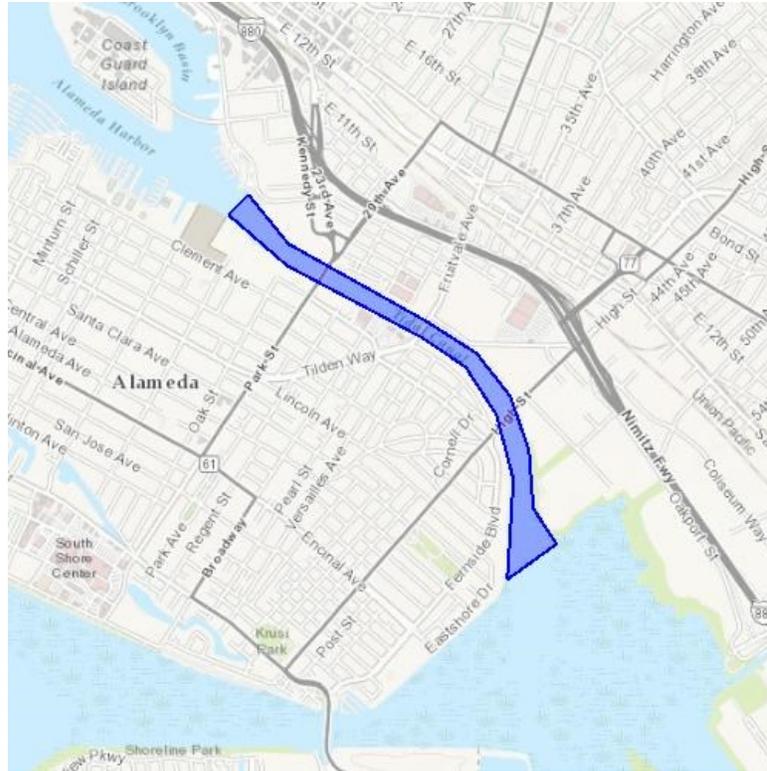
Project Name: Oakland Inner Harbor Tidal Canal

Project Description: The Federal Government intends to divest itself of ownership of the Oakland

Inner Harbor Tidal Canal (OIHTC). The OIHTC is located within the cities of Oakland and Alameda. It is a nearly 2 mile long stretch of open water and shoreline that begins approximately 1,800 feet northwest of the Park Street Bridge and terminates at San Leandro Bay.

Please Note: The FWS office may have modified the Project Name and/or Project Description, so it may be different from what was submitted in your previous request. If the Consultation Code matches, the FWS considers this to be the same project. Contact the office in the 'Provided by' section of your previous Official Species list if you have any questions or concerns.

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-122.24246978759764 37.774615805204256, -122.23877906799316 37.77213949976112, -122.23023891448975 37.76850969670358, 122.22757816314699 37.767050940611725, -122.22556114196776 37.764642233850665, -122.22448825836182 37.761419193645686, -122.22491741180421 37.75646561597495, -122.2217845916748 37.75822994194451, -122.22328662872314 37.75996029769667, -122.22354412078856 37.76287806082098, -122.224702835083 37.765592155744706, 122.22684860229491 37.767763359972506, -122.23002433776854 37.76935779748217, -122.23869323730467 37.773157169570695, -122.24126815795897 37.77566736187935, -122.24246978759764 37.774615805204256)))

Project Counties: Alameda, CA

Endangered Species Act Species List

There are a total of 15 threatened or endangered species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

Amphibians	Status	Has Critical Habitat	Condition(s)
California red-legged frog (<i>Rana draytonii</i>) Population: Entire	Threatened	Final designated	
California tiger Salamander (<i>Ambystoma californiense</i>) Population: U.S.A. (Central CA DPS)	Threatened	Final designated	
Birds			
California Clapper rail (<i>Rallus longirostris obsoletus</i>) Population: Entire	Endangered		
California Least tern (<i>Sterna antillarum browni</i>)	Endangered		
western snowy plover (<i>Charadrius nivosus ssp. nivosus</i>) Population: Pacific coastal pop.	Threatened	Final designated	
Fishes			

Delta smelt (<i>Hypomesus transpacificus</i>)	Threatened	Final designated	
Population: Entire			
steelhead (<i>Oncorhynchus (=salmo) mykiss</i>) Population: Northern California DPS	Threatened	Final designated	
Flowering Plants			
Pallid manzanita (<i>Arctostaphylos pallida</i>)	Threatened		
Presidio clarkia (<i>Clarkia franciscana</i>)	Endangered		
Robust spineflower (<i>Chorizanthe robusta var. robusta</i>)	Endangered	Final designated	
Insects			
Bay Checkerspot butterfly (<i>Euphydryas editha bayensis</i>) Population: Entire	Threatened	Final designated	
Callippe Silverspot butterfly (<i>Speyeria callippe callippe</i>) Population: Entire	Endangered		
San Bruno Elfin butterfly (<i>Callophrys mossii bayensis</i>) Population: Entire	Endangered		

Mammals			
Salt Marsh Harvest mouse <i>(Reithrodontomys raviventris)</i> Population: wherever found	Endangered		
Reptiles			
Alameda whipsnake <i>(Masticophis lateralis euryxanthus)</i>	Threatened	Final designated	
Population: Entire			

Critical habitats that lie within your project area

There are no critical habitats within your project area.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
FEDERAL BUILDING, 2800 COTTAGE WAY, ROOM W-2605
SACRAMENTO, CA 95825
PHONE: (916)414-6600 FAX: (916)414-6713



Consultation Code: 08ESMF00-2016-SLI-1186
Event Code: 08ESMF00-2016-E-02590
Project Name: Oakland Inner Harbor Tidal Canal

April 04, 2016

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, under the jurisdiction of the U.S. Fish and Wildlife Service (Service) that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the Service under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Please follow the link below to see if your proposed project has the potential to affect other species or their habitats under the jurisdiction of the National Marine Fisheries Service:

http://www.nwr.noaa.gov/protected_species/species_list/species_lists.html

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required

to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at: <http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment

Official Species List

Provided by:

Sacramento Fish and Wildlife Office
FEDERAL BUILDING
2800 COTTAGE WAY, ROOM W-2605
SACRAMENTO, CA 95825
(916) 414-6600

Expect additional Species list documents from the following office(s):

San Francisco Bay-Delta Fish and Wildlife
650 CAPITOL MALL
SUITE 8-300
SACRAMENTO, CA 95814
(916) 930-5603
[http://kim_squires@fws.gov](mailto:kim_squires@fws.gov)

Consultation Code: 08ESMF00-2016-SLI-1186

Event Code: 08ESMF00-2016-E-02590

Project Type: LAND - DISPOSAL / TRANSFER

Project Name: Oakland Inner Harbor Tidal Canal

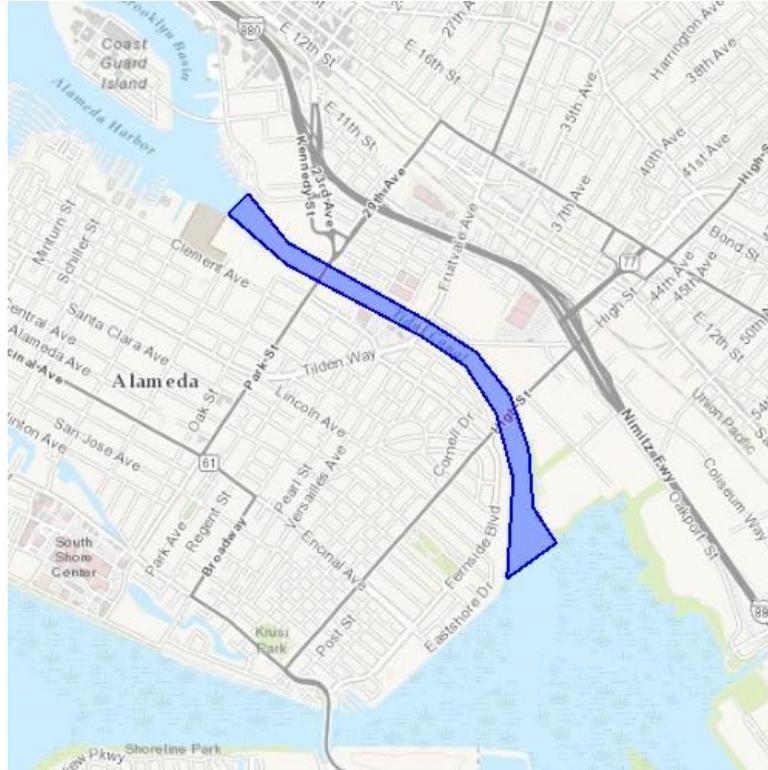
Project Description: The Federal Government intends to divest itself of ownership of the Oakland

Inner Harbor Tidal Canal (OIHTC). The OIHTC is located within the cities of Oakland and Alameda. It is a nearly 2 mile long stretch of open water and shoreline that begins approximately

1,800 feet northwest of the Park Street Bridge and terminates at San Leandro Bay.

Please Note: The FWS office may have modified the Project Name and/or Project Description, so it may be different from what was submitted in your previous request. If the Consultation Code matches, the FWS considers this to be the same project. Contact the office in the 'Provided by' section of your previous Official Species list if you have any questions or concerns.

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-122.24246978759764
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37.764642233850665, -
122.22448825836182 37.761419193645686, -122.22491741180421
37.75646561597495, -
122.2217845916748 37.75822994194451, -122.22328662872314 37.75996029769667, -
122.22354412078856 37.76287806082098, -122.224702835083 37.765592155744706,
122.22684860229491 37.767763359972506, -122.23002433776854
37.76935779748217, -
122.23869323730467 37.773157169570695, -122.24126815795897
37.77566736187935, -
122.24246978759764 37.774615805204256)))

Project Counties: Alameda, CA

Endangered Species Act Species List

There are a total of 17 threatened or endangered species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

Amphibians	Status	Has Critical Habitat	Condition(s)
California red-legged frog (<i>Rana draytonii</i>) Population: Entire	Threatened	Final designated	
California tiger Salamander (<i>Ambystoma californiense</i>) Population: U.S.A. (Central CA DPS)	Threatened	Final designated	
Birds			
California Clapper rail (<i>Rallus longirostris obsoletus</i>) Population: Entire	Endangered		
California Least tern (<i>Sterna antillarum browni</i>)	Endangered		
western snowy plover (<i>Charadrius nivosus ssp. nivosus</i>) Population: Pacific coastal pop.	Threatened	Final designated	
Crustaceans			

Vernal Pool fairy shrimp <i>(Branchinecta lynchi)</i>	Threatened	Final designated	
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Population: Entire			
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Fishes

Delta smelt (<i>Hypomesus transpacificus</i>) Population: Entire	Threatened	Final designated	
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steelhead (<i>Oncorhynchus (=salmo) mykiss</i>) Population: Northern California DPS	Threatened	Final designated	
--	------------	------------------	--

Tidewater goby (<i>Eucyclogobius newberryi</i>) Population: Entire	Endangered	Final designated	
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Flowering Plants

Pallid manzanita (<i>Arctostaphylos pallida</i>)	Threatened		
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Presidio clarkia (<i>Clarkia franciscana</i>)	Endangered		
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Robust spineflower (<i>Chorizanthe robusta var. robusta</i>)	Endangered	Final designated	
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Insects

Bay Checkerspot butterfly <i>(Euphydryas editha bayensis)</i> Population: Entire	Threatened	Final designated	
Callippe Silverspot butterfly <i>(Speyeria callippe callippe)</i> Population: Entire	Endangered		
San Bruno Elfin butterfly <i>(Callophrys mossii bayensis)</i> Population: Entire	Endangered		

Mammals			
Salt Marsh Harvest mouse <i>(Reithrodontomys raviventris)</i> Population: wherever found	Endangered		
Reptiles			
Alameda whipsnake <i>(Masticophis lateralis euryxanthus)</i> Population: Entire	Threatened	Final designated	

Critical habitats that lie within your project area

There are no critical habitats within your project area.

APPENDIX D

PUBLIC NOTICING

The following public notice was mailed to all property owners within a 300 foot radius of the OIHTC.

**PUBLIC NOTICE
OF AVAILABILITY**

PUBLIC NOTICE DATE:
July 22, 2016

EXPIRATION DATE:
August 12, 2016

PROJECT NAME:
Oakland Inner Harbor Tidal Canal

SUBJECT

Public Notice of Availability (NOA) of a draft Environmental Assessment (EA). The U.S. Army Corps of Engineers San Francisco District (Corps) has prepared, pursuant to the National Environmental Policy Act, an EA for the proposed Oakland Inner Harbor Tidal Canal property divestment. The above referenced draft EA is available to the public at the following website under "Oakland Inner Harbor Tidal Canal Draft EA": bit.ly/usace-notice.

PROPOSED ACTION

The Corps intends to divest itself of ownership of a parcel of real property known as the Oakland Inner Harbor Tidal Canal (OIHTC), located within the cities of Oakland and Alameda. The OIHTC is a navigable waterway, approximately 85 acres in size, 400-feet wide, and nearly 2 miles long. A narrow strip of shoreline on each side of the canal is also included in the property footprint. The Federal property begins approximately 1,800 feet northwest of the Park Street Bridge and terminates at the mouth of San Leandro Bay. This proposed action solely consists of a real estate property transaction; no ground disturbance or on-site activities are proposed or anticipated. Details and maps are included in the draft EA.

Written comments and/or a request for a paper copy of the draft EA may be submitted to the Corps environmental coordinator, Edward Keller, at the San Francisco District Office, 415-503-6841, email: Edward.P.Keller@usace.army.mil. This draft EA is open for a 15-day public comment period.

Comments must be received by August 12, 2016.

APPENDIX E

COMMENTS AND RESPONSIVENESS SUMMARY

Responsiveness Summary
 Environmental Assessment
 Oakland Inner Harbor Tidal Canal
 Surplus Property Divesture
 Dated: May 2016

This summary documents the written comments received on the Environmental Assessment (EA) during the comment period of July 22, 2016 through August 12, 2016. The written comments received follow this summary.

Commenter	Comment Summary	Comment Response Taken
Aileen N Hodgkin	Requested a paper copy of the EA.	Paper copy was provided. No effect on the EA.
Jerry D. Andersen	Requested a paper copy of the EA.	Paper copy was provided. No effect on the EA.
Lucy Seereiter	Concern with how the parcel will be sub divided by the City of Alameda. This is beyond the scope of the EA	This was discussed with Ms. Seereiter and her concerns were forwarded to the City of Alameda. No effect on the EA.
Edward R. Payne	Expressed his support for this transfer and how it will hopefully streamline the permit process.	Comment noted. No effect on the EA
Charles & Judy Woo	Expressed interest in the transfer and requested a paper copy of the EA.	Paper copy was provided. No effect on the EA.
Paul Mabry	Expressed his support for moving forward with the transfer process but also expressed concerns on the sub division of the property. Detailed a history of homeowner improvements made along the Alameda side of the canal which likely have prevented erosion and perhaps federal costs over time. He wanted to ensure that homeowner contributions have not been overlooked.	Homeowner contributions, may have aided in the protection of the canal banks, however any of these improvements are not a part of this actual transfer. No direct effect on the EA. Comment was forwarded to the City of Alameda.

None of the comments received had a direct effect on the EA as written. The nature of the concerns expressed had to do primarily with how the property will be sub divided and conveyed by the City of Alameda. This action is beyond the scope of this document and therefore no changes are to be made to the EA which was made available to the public for review. No comments were received that would indicate any impacts from this federal action that would warrant the preparation of an EIS.

This concludes the public review process for this federal action and a Finding of No Significant Impact (FONSI) will be prepared for signature.

Keller, Edward P RAO @ HQ

From: Alleen Hodgkin [REDACTED]
Sent: Wednesday, July 27, 2016 4:21 PM
To: Keller, Edward P RAO @ HQ
Subject: [EXTERNAL] Draft EA - Oakland Inner Harbor Tidal Canal

Yes, please forward a paper copy of the draft EA to me at:

Alleen N. Hodgkin
3243 Fernside Blvd.
Alameda, CA 94501

Thank you,

Alleen N. Hodgkin

Keller, Edward P RAO @ HQ

From: Jerry Andersen [REDACTED]
Sent: Thursday, July 28, 2016 11:03 AM
To: Keller, Edward P RAO @ HQ
Subject: [EXTERNAL] Oakland Inner Harbor Tidal Canal Draft EA

Sir,

I hereby request a paper copy of the subject document
be mailed to me at:

Jerry D. Andersen
3017 Marina Drive
Alameda, CA 94501

Thanks in advance,

jer

Keller, Edward P RAO @ HQ

From: [REDACTED]
Sent: Thursday, July 28, 2016 4:34 PM
To: Keller, Edward P RAO @ HQ
Cc: [REDACTED]
Subject: [EXTERNAL] Oakland Inner Harbor Tidal Canal

Edward P. Keller

July 28, 2016

U.S. Army Corp of Engineers

Project Name: Oakland Inner Harbor Tidal Canal

Sir,

My husband and I own a home at 2937 Marina Drive in Alameda on the Estuary. In 1989 we requested and obtained permits from the CORPS, the BCDC the city of Alameda and the States Land Commission to build a floating dock and permanent deck on CORPS land in the Alameda Estuary.

Our concerns with this proposed transfer of CORPS land is not environmental in nature but has to do with the way in which the City of Alameda proposes to partial the CORPS land to the homeowners on the estuary.

Even though the CORPS has imposed a moratorium on construction in the estuary since 2000 new construction and repairs with further encroachment on CORPS land have occurred with alarming regularity. Once the CORPS divests itself of the property on the estuary, the city of Alameda will partial the area to the adjacent homeowners on the estuary. This is a serious concern to law abiding owners on the estuary because the city wants to draw the partials so that no existing structures, docks or deck on the water are intersected. Meaning that at an angle from bulkhead the city proposes to draw straight lines into the estuary avoiding any structures on the water. Hence a small encroachment on an illegally built deck can becomes a difference of about four to six feet when the straight line is drawn out to the proposed frontage on the estuary. What this does is reward one property owner with more area on the water at the expense of their neighbor, thus devaluing one homeowner's property in favor of the neighbor. This is especially maddening when the favored homeowner obtained the area because of their illegally built structures.

We have proposed that the city draw the lines into the water as they should be, from the property lines on shore. Any structures intersected could be remedied when repairs are needed and permits are obtained.

We are requesting help from the CORPS in this matter. We are negatively affected by the proposed division of estuary land by the city of Alameda. We have spoken to the city Attorney, Andrico Penick and the city planner, Andrew Thomas. They have changed the lines on one side of our proposed property but the other since it will intersect a part of our neighbor's deck they will not move the line where it should be.

Thank you for your time and please note this as a serious concern when time comes to divest.

Mike and Lucy Seereiter

2937 Marina Drive

Alameda, Calif

Keller, Edward P RAO @ HQ

From: [REDACTED]
Sent: Monday, August 08, 2016 11:14 AM
To: Keller, Edward P RAO @ HQ
Cc: [REDACTED]
Subject: [EXTERNAL] Property Transfer of OIHTC

Attn: Mr. Keller

Sir:

I am in favor of the transfer of the OIHTC property, and I believe this will address a number of issues.

I have lived on the Estuary for 40+ years and I have applied for 4 permits over the years. Each permit, red-tape, expense & hoops one has to jump through has progressively gotten worse over the years. Because of this, more and more people are opting for doing their work without permits, hoping they will not get caught. I have also seen people give up on getting permits, including docks that have deteriorated to the point they have literally fallen in the water. (I personally have been wanting to improve our boathouse, but have not done so, largely because of the permit issue.)

My hope is this transfer could lead to homeowners being able to maintain, repair and improve their property legally, to the benefit of all concerned.

Respectfully,

Capt. Edward R. Payne

Keller, Edward P RAO @ HQ

From: Charles Woo [REDACTED]
Sent: Monday, August 08, 2016 11:44 AM
To: Keller, Edward P RAO @ HQ
Subject: [EXTERNAL] Please forward a paper copy of the draft Environmental Assessment.

Hello,

My name is Charles Woo. My wife Judy and I are the owners of the property at 3033 Marina Dr., Alameda, CA 94501. We received your public notice of availability of the draft Environmental Assessment (EA) regarding the divestment of parcels of real property at the Oakland Inner Harbor Tidal Canal. Since we are the owners of a property along the canal, we are greatly interested in this real estate transaction, especially the parcel behind our house! Please let us know when this real estate transaction is available and when it would be feasible to act. Also, we would like to request a paper copy of the draft EA be sent to us at the above address. If there are any questions, please do not hesitate to contact us. Thank you.

Sincerely,

Charles and Judy Woo

Keller, Edward P RAO @ HQ

From: [REDACTED]
Sent: Thursday, August 11, 2016 11:36 PM
To: Keller, Edward P RAO @ HQ
Subject: [EXTERNAL] Public Comment to Environmental Assessment to the Oakland Tidal Canal
Attachments: PM Comments to USACE - Alameda Estuary.pdf

Dear Mr. Keller,
Please find my comments attached regarding the Environmental Assessment for the Oakland Inner Harbor Tidal Canal.
If you have any difficulties in opening or viewing the attached pdf file, please let me know as soon as possible.
Thank you for this opportunity.
Sincerely,
Paul

Paul H Mabry

Certified Federal Surveyor

3351 Fernside Blvd

Alameda, CA 94501
253-678-2229

Paul Mabry

3351 Fernside Blvd.

Alameda, CA

U.S. Army Corps of Engineers, San Francisco District
Attn: Corps environmental coordinator Edward Keller
San Francisco District Office
1455 Market Street
San Francisco, CA 94103
415-513-6841
Edward.P.Keller@usace.army.mil

Re: Invitation for Public Comment in the Matter of the Oakland Inner Harbor Tidal Canal
Environmental Assessment

Dear Mr. Keller:

As an affected homeowner and on behalf of the residential homeowners fronting the Alameda side generally of the Oakland Inner Harbor Tidal Canal (OIHTC), I am writing to comment on my support for and observations concerning the Environmental Assessment (EA) and anticipated Finding of No Significant Impact for the planned surplus property divestiture of the Oakland Inner Harbor Tidal Canal. Specifically, I highlight the beneficial role of fronting owners, both historically and in the future. Secondly, I mention the importance of conveying property with equitable, surveyed, and locatable boundaries.

THE ALAMEDA EXPERIMENT

On August 30th, 1912, Stuart Rawley recorded a map of the subdivision of Waterside Terrace, thereby creating about half of the approximately 93 current fronting canal lots in Alameda.¹ My home is one of these historic lots. A few months later, on June 3, 1913, the Secretary of War issued a license to all fronting owners granting them permission to occupy and build structures for “wharf purposes.”² It is worth noting that a license is by definition revocable at will and that

¹ Map of Waterside Terrace, recorded August 30th, 1912, official records of Alameda County, CA.

² Army Corps of Engineers, San Francisco District, Environmental Assessment Oakland Inner Harbor Tidal Canal Surplus Property Divestiture, § 1.6.2, <http://www.spn.usace.army.mil/Library/Freedom-of-Information-Act/FOIA-Hot-Topics/>.

Paul Mabry

3351 Fernside Blvd.

Alameda, CA

a licensee acquires no real property interests merely by virtue of exercising a right to occupy, build or maintain the property of another.³ This joint invitation to build on and enjoy the waterfront was a huge success – by 1939 a majority of the lots were occupied and the owners had constructed many waterfront docks, wharves, bulkheads and similar improvements.⁴ Although the density of waterfront homes has increased slightly over the years, the fronting properties and the use of the waterfront has remained largely unchanged for the past 100 years.⁵ The residential nature of this Alameda community today continues much as it has since it was subdivided in 1912. Other Alameda waterfront communities repeat a similar refrain – land was made available with the express invitation to build homes and maintain waterfront improvements and this tradition has survived and thrived, at least until the 2000 moratorium.

With military and industrial uses climaxing after the second World War, the island evolved and then declined economically for several decades as manufacturing needs moved elsewhere. This period resulted in some of the particularly bad uses of waterside property although generally not within the residential portions of the Alameda frontage. Much has been made of the failure of a few owners, primarily industrial in nature, to adequately maintain or protect the natural resources entrusted them as waterfront owners.⁶ However, it is important to remember the contributions that fronting residential property owners have made over the years to the public good.

Residents of Alameda fronting the canal have for many years, built and maintained bulkheads, seawalls and retaining walls to prevent the castings of the canal dredging from subsiding, eroding or impairing the functionality of the canal. Unlike the Oakland side of the canal, the

³ *Id.* See also Brian Garner, *Black's Law Dictionary* (8th ed., West 2004).

⁴ Earth Sciences and Map Library, University of California, Berkeley, 1939 aerial photograph image No. BUT-1939_259-59.

⁵ A review of current tax parcel maps shows that many lots have been narrowed or reconfigured or have tandem lots front to back that increase the density of residences somewhat from the original lot configuration of 1912.

⁶ Environmental Assessment Oakland Inner Harbor Tidal Canal Surplus Property Divestiture, §1.7.2 (referencing contamination on a portion of an industrial site).

Paul Mabry

3351 Fernside Blvd.

Alameda, CA

Alameda side has not been armored and covered with “rip-rap.” Instead, the homeowners themselves have generally created and installed a system of retaining walls, seawalls and bulwarks to separate the uplands from the submerged lands. The miles of improvements privately maintained over these many years represent a significant investment. Furthermore, the continued maintenance of these structures tends to stabilize the landward improvements as well. For illustration, imagine if no improvements had ever been built and no effort made to maintain the shoreline... It is reasonably foreseeable that many of the upland lots would have slumped towards or eroded into the canal and consequently the canal and the San Francisco Bay could have unnecessarily suffered increased infill through erosion, reliction and associated sedimentary processes associated with the strong tidal currents sweeping through the canal. And, assuming such erosion was desirous of being prevented, a significant public expense would have been needed to stabilize and protect the Alameda side of the canal in a similar fashion to that presently existing on the Oakland side. Consequently, the fronting Alameda homeowners, in addition to enjoying water access, also contributed favorably to defray the public expense of ongoing maintenance on property owned by the federal government.

This contribution seems to be overlooked in the EA.⁷ While it may be technically true that an expired license places a “structure” in the category of trespass, it is equally true that these structures play an important and ongoing role in maintaining the integrity of the shoreward/waterward boundary. A recognition of the partnership role that homeowners have in good faith played for these many decades would not be undeserved. I look forward to effectively managing my responsibilities as an owner of the canal just as my predecessors in interest took seriously their responsibilities as licensees.

⁷ *Id.* § 1.7.2 (concluding, “after the Permitting Moratorium, most of these real estate licenses have expired leaving most of the existing structures technically in trespass.”).

Paul Mabry

3351 Fernside Blvd.

Alameda, CA

The Waterfront Home Owner's Association of Alameda (WHOAA) has also taken a proactive role in promoting homeowner cooperation with the City and local agencies. For over 10 years, the WHOAA has alerted homeowners to the moratorium and possible changes to applicable regulations. All of the members of the WHOAA understand the benefits and responsibilities that come with ownership of waterfront property. They are actively committed to ending the moratorium and allowing the needed maintenance, repair and replacement of these vital but seemingly unrecognized structures that stabilize the land and promote the ongoing vitality of the tidal canal. Led by their executive committee, the WHOAA will continue to provide education and outreach to the community and lead the way forward in promoting responsible stewardship of the future tidal canal parcels.

ENDING THE MORATORIUM

The Environmentally Preferred Alternative in the EA proposes ending the moratorium in conjunction with a transfer of Federal property to Alameda.⁸ The EA envisions “that the City would, in turn, transfer ownership of individual parcels to the respective adjoining property owners.”⁹ The City has published notice of the same and held a public hearing to consider public comment.¹⁰ The City has since received public comment and conditionally approved a tentative map that lays out, roughly, the lotting pattern that would be used in a conveyance of lots to the adjoining owners.¹¹ I fully support ending the moratorium and have no preference on whether the land remains in federal ownership or is conveyed to the adjoining owners.¹²

⁸ Environmental Assessment Oakland Inner Harbor Tidal Canal Surplus Property Divestiture § 3.3, 10.

⁹ *Id.* at § 1.7.2, 6.

¹⁰ Ltr. From City of Alameda to fronting lot owners (June, 2016), *Notice of Availability and of a Public Hearing to Consider a Mitigated Negative Declaration for the Oakland Inner Harbor Tidal Canal Tentative Map, Estuary Zoning Amendment, and Property Acquisition and Transfer*.

¹¹ Tidal Canal Tentative Map Tract 8337, <https://alamedaca.gov/tidal-canal-project>.

¹² Ownership of the land makes little difference as long as a method exists to obtain permits. The permits required before construction or maintenance will likely be comparable no matter who or what entity owns the underlying lands.

Paul Mabry

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Alameda, CA

Assuming the Preferred Alternative is chosen and the land is divided and distributed to the adjoining owners, I am concerned that such a conveyance be done equitably and according to lawful procedures.

EQUITABLE DISTRIBUTION REQUIRED

In conveying a grant of land in fee to adjoining riparian owners, the grantor must allocate and convey such lands as are just and equitable.¹³ The Supreme Court set forth some basic rules: New lands should be divided in accordance with the proportionate amount of new frontage as compared with their existing lot frontage.¹⁴ Upon dividing the new waterward limits into segments, the lot lines were to be drawn from the existing lot corners and extended out to the new segment ends.¹⁵ In other words, large existing lots get larger pieces and smaller lots get smaller pieces – each in accordance with the proportion of whatever the new total frontage of waterfront is measured to be.

I call attention to the fact that when new lots are created, they must adjoin the old lots. This may seem self evident, for if a lot be “adjoining” it must be collinear with another line. However, to clarify the point: The lot corners of existing lots must be used as the starting point for each new line that will extend out to the water. The tentative map and all other information made available to the public to date do not make this requirement of equity clear. The current tentative map, understandably not a final or accurate map, appears to show many of the new lot lines drawn at arbitrary places – apparently to fit physical features observed in aerial photography but not relating to the existing legal title lines of the current waterfront lots.¹⁶

¹³ *Johnston v. Jones*, 66 U.S. 209 (1862)

¹⁴ *Id.* at 222

¹⁵ *Id.* at 223 (noting that, “to complete the division, lines are to be drawn from the points at which the proprietors respectively bounded on the old, to the points thus determined [on the new].”)

¹⁶ For example, the Tentative Map, Sheet 10, shows a Lot 95 to be 32 feet in width. Although not shown on the map, the adjoining (existing) lot is only 30 feet in width. This excess of two feet is not “adjoining” and could lead to

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Of course there is host of supporting case law and federal regulations promulgated since 1862.¹⁷

As a Certified Federal Surveyor, I have been called upon to apply many of these equitable principles in similar surveys I have done over the years. I have completed such surveys for the U.S. Fish and Wildlife Service, the Bureau of Land Management, the U.S. Forest Service, the Corps of Engineers and other military branches of the Department of Defense. My work has taken me to Oregon to Crimms Island on the Columbia River, to Washington on the Black River, Willapa Bay and Puget Sound, to various tribes across the Pacific Northwest and in many other places and agencies in the western United States.

CONCLUSION

As the EA process moves towards completion, I would encourage the responsible parties to continue to reach out to the owners, to WHOAA, and to those who have offered their expertise to assist in any way we can. Who knows what hurdles may lie ahead? Together we are stronger. We the owners look forward to continuing the important role we have long played in keeping our homes well maintained and the canal a wonderful public asset.

Sincerely,



Paul Mabry
2016.08.11
23:24:41 -07'00'

Paul Mabry
Homeowner and Certified Federal Surveyor No. 1109
(via Email)

irreparable harm if conveyed in this configuration. Other lots share this apparent anomaly between lot corners on existing lots.

¹⁷ U.S. Dept. of the Interior, 2009 *Manual of Surveying Instructions*, § 8-126, 208 (Gov. Printing Office 2009) http://www.cfeds.org/docs/sml/ManualOfSurveyingInstructions2009_060414.pdf, ("Partitioning or the division of accretions must result in equitable apportionment and is achieved where the results place the accretions in front of the basic holding. If a selected method fails to do this, an alternate method, such as those discussed in § 8-133 through 8-145 should be selected.")

See also *Id.* ("Any riparian owner, including the Government, is entitled to accreted or relict lands *in front of* their basic holdings, in the same relative proportions to neighboring parcels as was established by earlier survey). See also *Rule for Establishing Boundaries of Riparian Claims in the North Half of the Bed of Red River, Oklahoma*, 50 Pub. Lands Dec. 216 (1923). Note however that various state laws and doctrines of equity may also apply in establishing side boundaries.

ENCLOSURE 7
RESPONSIVENESS SUMMARY

**Responsiveness Summary
Environmental Assessment
Oakland Inner Harbor Tidal Canal
Surplus Property Divesture**

Dated: May 2016

This summary documents the written comments received on the Environmental Assessment (EA) during the comment period of July 22, 2016 through August 12, 2016. The written comments received follow this summary.

Commenter	Comment Summary	Comment Response Taken
Aileen N Hodgkin	Requested a paper copy of the EA.	Paper copy was provided. No effect on the EA.
Jerry D. Andersen	Requested a paper copy of the EA.	Paper copy was provided. No effect on the EA.
Lucy Seereiter	Concern with how the parcel will be sub divided by the City of Alameda. This is beyond the scope of the EA	This was discussed with Ms. Seereiter and her concerns were forwarded to the City of Alameda. No effect on the EA.
Edward R. Payne	Expressed his support for this transfer and how it will hopefully streamline the permit process.	Comment noted. No effect on the EA
Charles & Judy Woo	Expressed interest in the transfer and requested a paper copy of the EA.	Paper copy was provided. No effect on the EA.
Paul Mabry	Expressed his support for moving forward with the transfer process but also expressed concerns on the sub division of the property. Detailed a history of homeowner improvements made along the Alameda side of the canal which likely have prevented erosion and perhaps federal costs over time. He wanted to ensure that homeowner contributions have not been overlooked.	Homeowner contributions, may have aided in the protection of the canal banks, however any of these improvements are not a part of this actual transfer. No direct effect on the EA. Comment was forwarded to the City of Alameda.

None of the comments received had a direct effect on the EA as written. The nature of the concerns expressed had to do primarily with how the property will be sub divided and conveyed by the City of Alameda. This action is beyond the scope of this document and therefore no changes are to be made to the EA which was made available to the public for review. No comments were received that would indicate any impacts from this federal action that would warrant the preparation of an EIS.

This concludes the public review process for this federal action and a Finding of No Significant Impact (FONSI) will be prepared for signature.