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
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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
CNDDB	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.

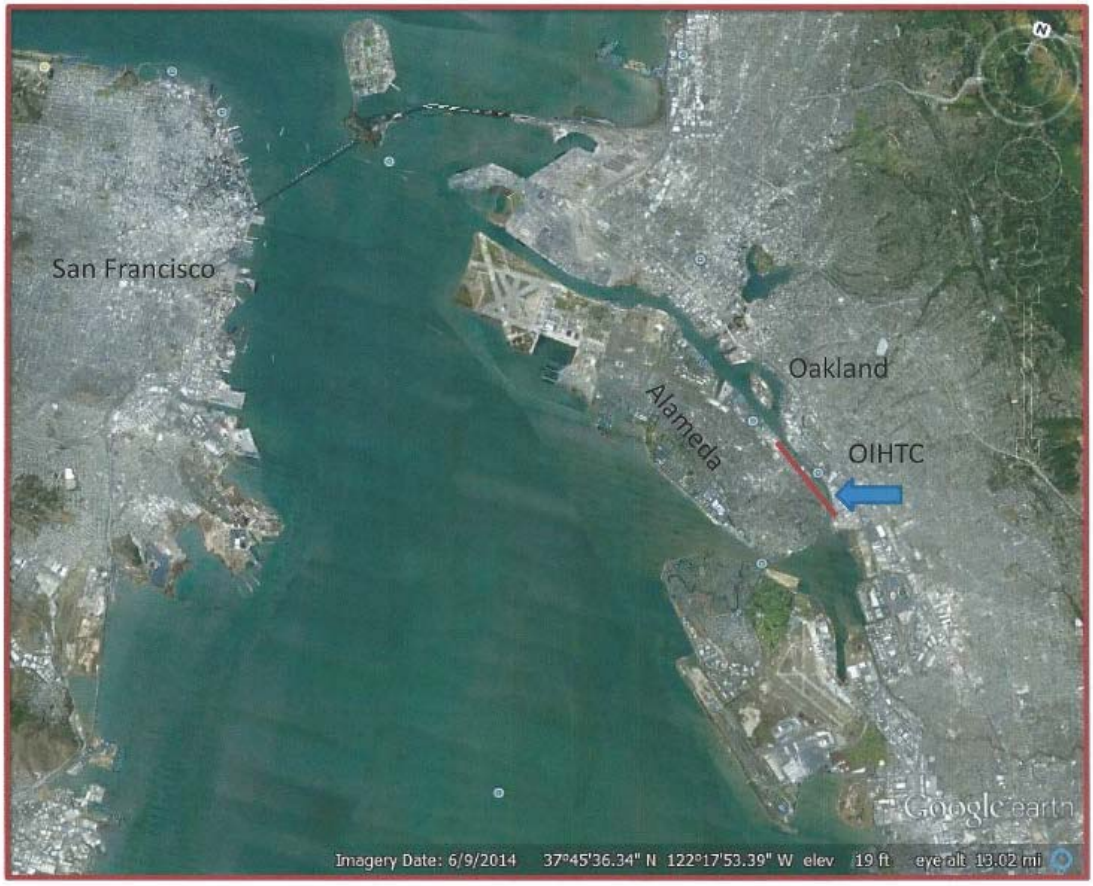

Figure 1 – Location of Oakland Inner Harbor Tidal Canal

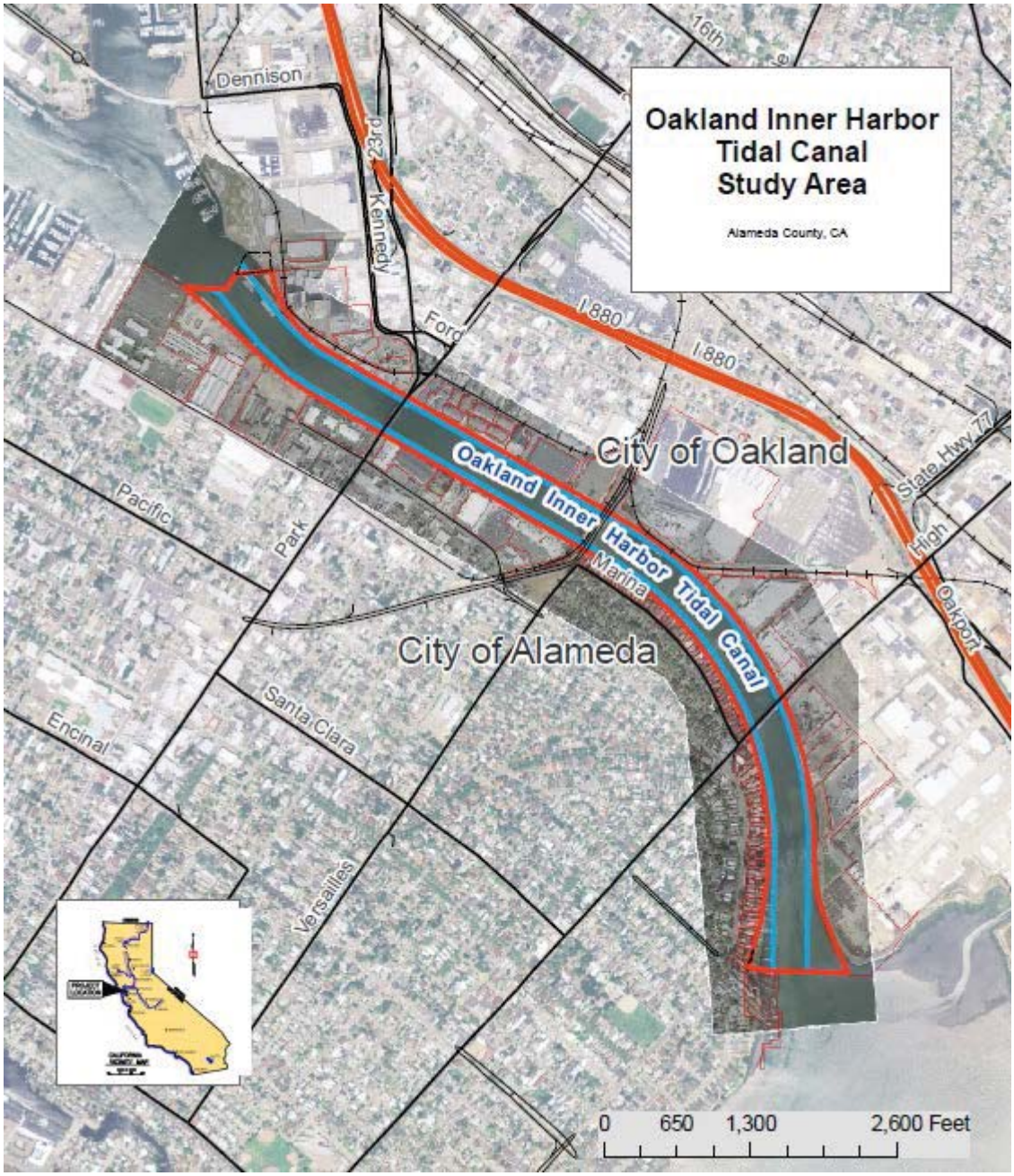

Figure 2 – Aerial Photo of OIHTC

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 lessor 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 course 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 phillipinarum*; 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.

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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 lessor 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 planktivous 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 pallasi, 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-STEVENS 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.

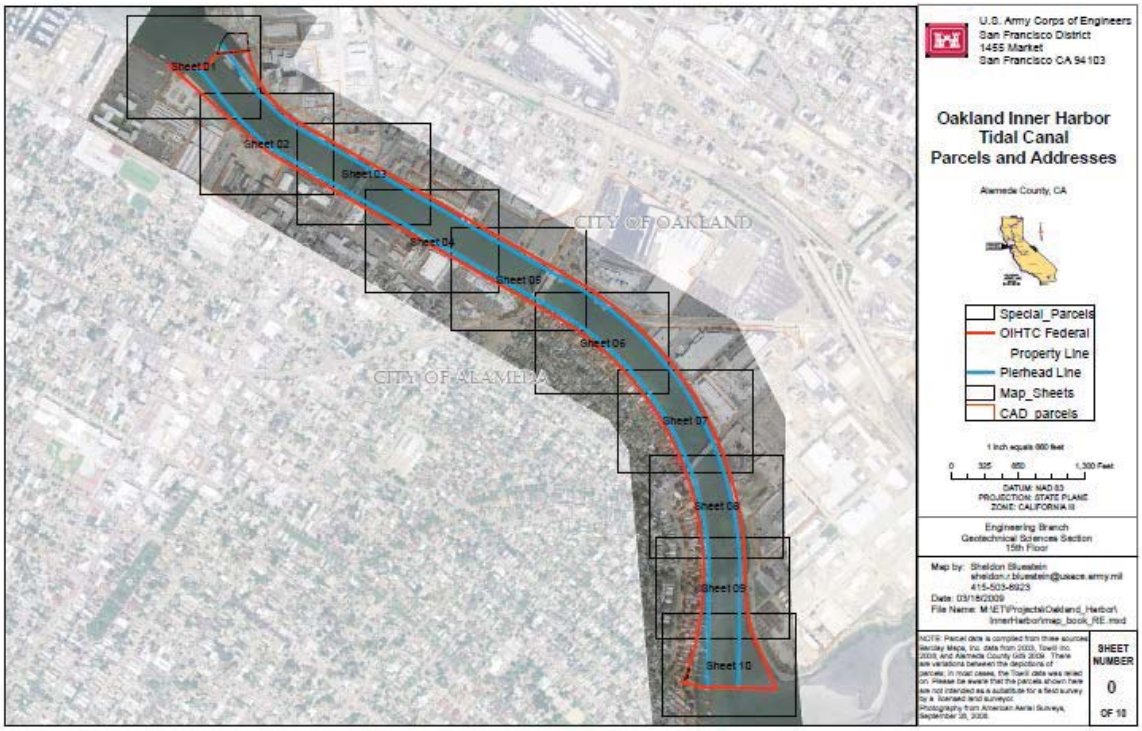
9.0 REFERENCES

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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San Francisco CA 94103
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Geotechnical Sciences Section
15th Floor
Map by: Sheldon Bluestein
sheldon.r.bluestein@usace.army.mil
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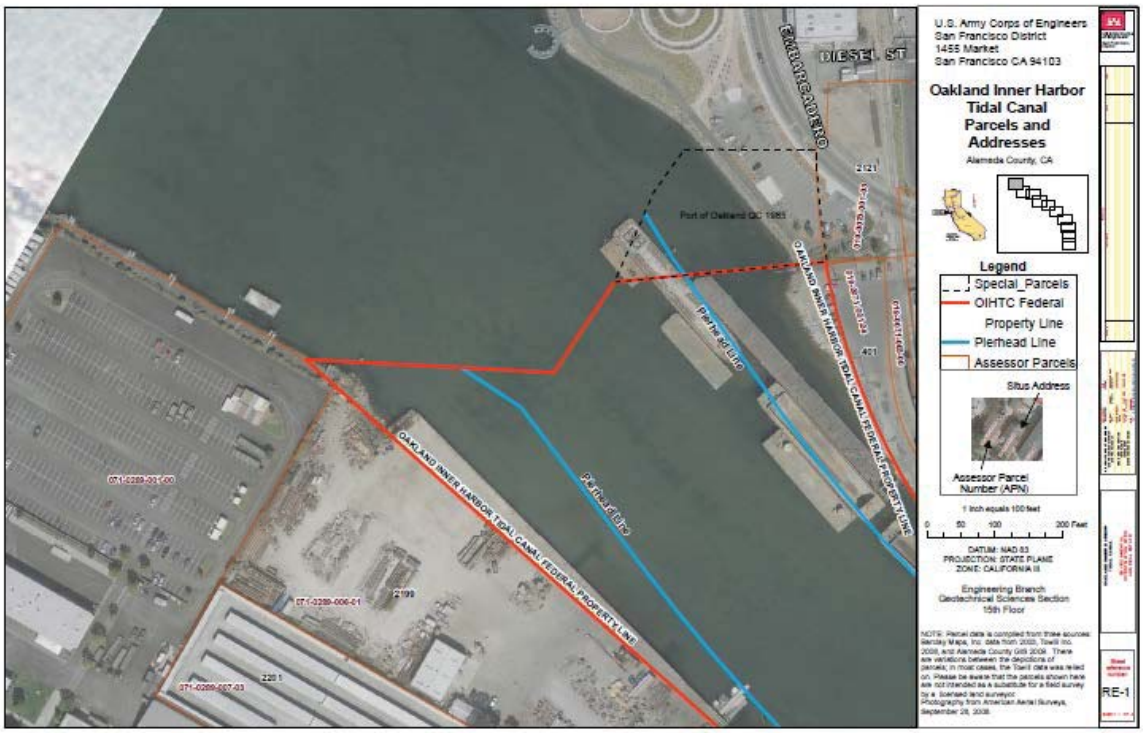
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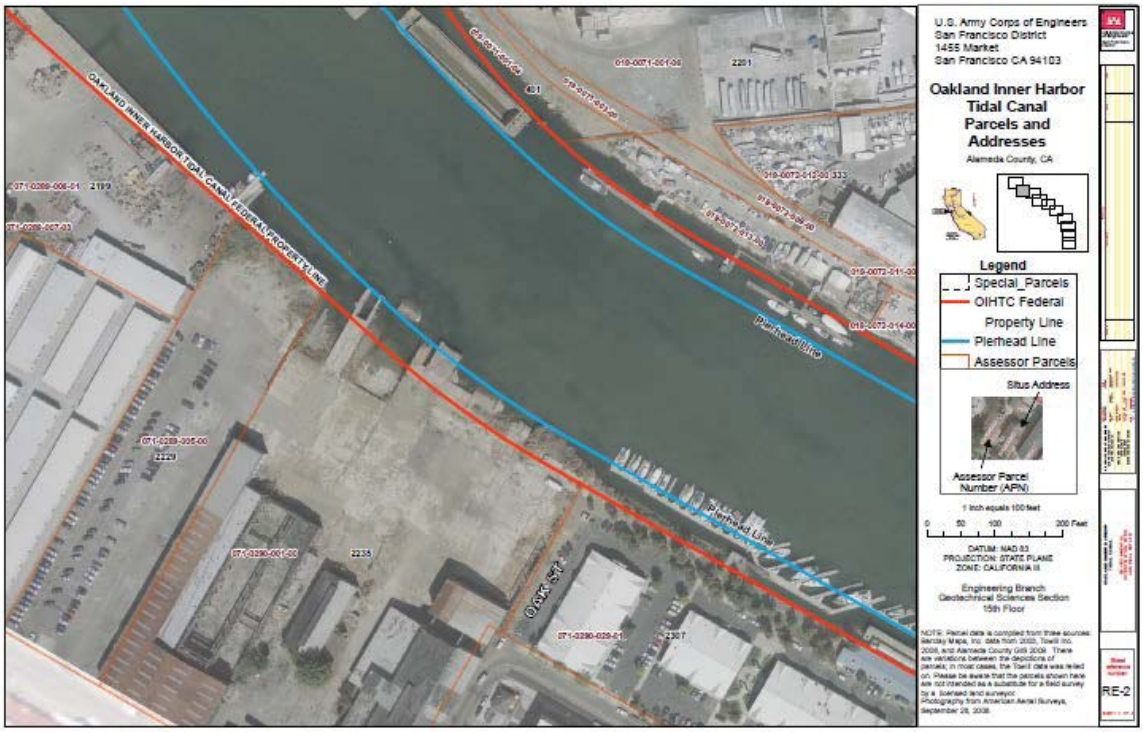
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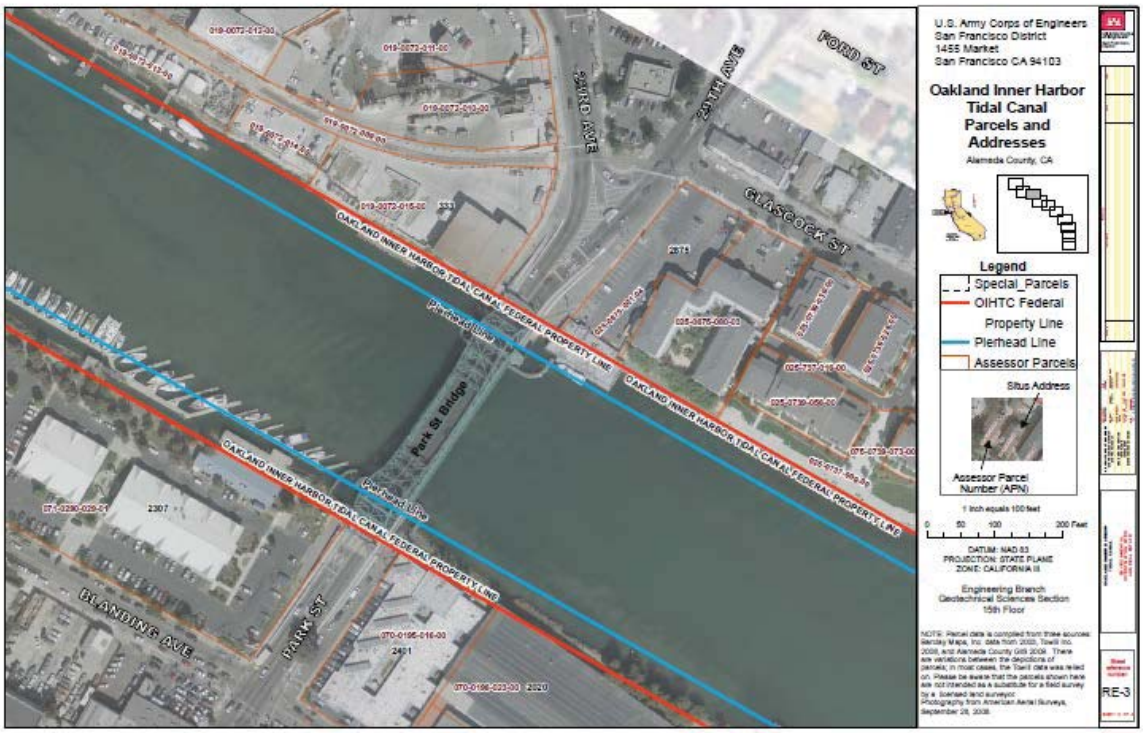
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PARK ST
U.S. Army Corps of Engineers
San Francisco District
1455 Market
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Oakland Inner Harbor Tidal Canal Parcels and Addresses
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Geotechnical Sciences Section
15th Floor
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Engineering Branch
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15th Floor
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Pierhead Line
DELFRY AVE
EVERETT ST
BLANDING AVE

U.S. Army Corps of Engineers
San Francisco District
1455 Market
San Francisco CA 94103
Oakland Inner Harbor Tidal Canal Parcels and Addresses
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Engineering Branch
Geotechnical Sciences Section
15th Floor
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OAKLAND INNER HARBOR TIDAL CANAL FEDERAL PROPERTY LINE
Pierhead Line
LANCASTER ST
FRUITVALE AVE
ALAMEDA AVE
Fruitvale Ave RR Bridge
Miller-Sweeney Hwy Bridge
BLANDING AVE
TILDEN WAY
MARINA DR

U.S. Army Corps of Engineers
San Francisco District
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San Francisco CA 94103
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CAMBRIDGE DR
WINDSOR DR
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U.S. Army Corps of Engineers
San Francisco District
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San Francisco CA 94103
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Geotechnical Sciences Section
15th Floor
RE-7
WINDSOR DR
MARINA DR
CORNELL DR
HIGH ST
TIDEWATER AVE
High St Bridge
Pierhead Line

U.S. Army Corps of Engineers
San Francisco District
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San Francisco CA 94103
Oakland Inner Harbor Tidal Canal Parcels and Addresses
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15th Floor
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HIGH ST
FERNSIDE BLVD
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Fernside Bridge
OAKLAND INNER HARBOR TIDAL CANAL FEDERAL PROPERTY LINE
Pierhead Line

U.S. Army Corps of Engineers
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MONTE VISTA AVE
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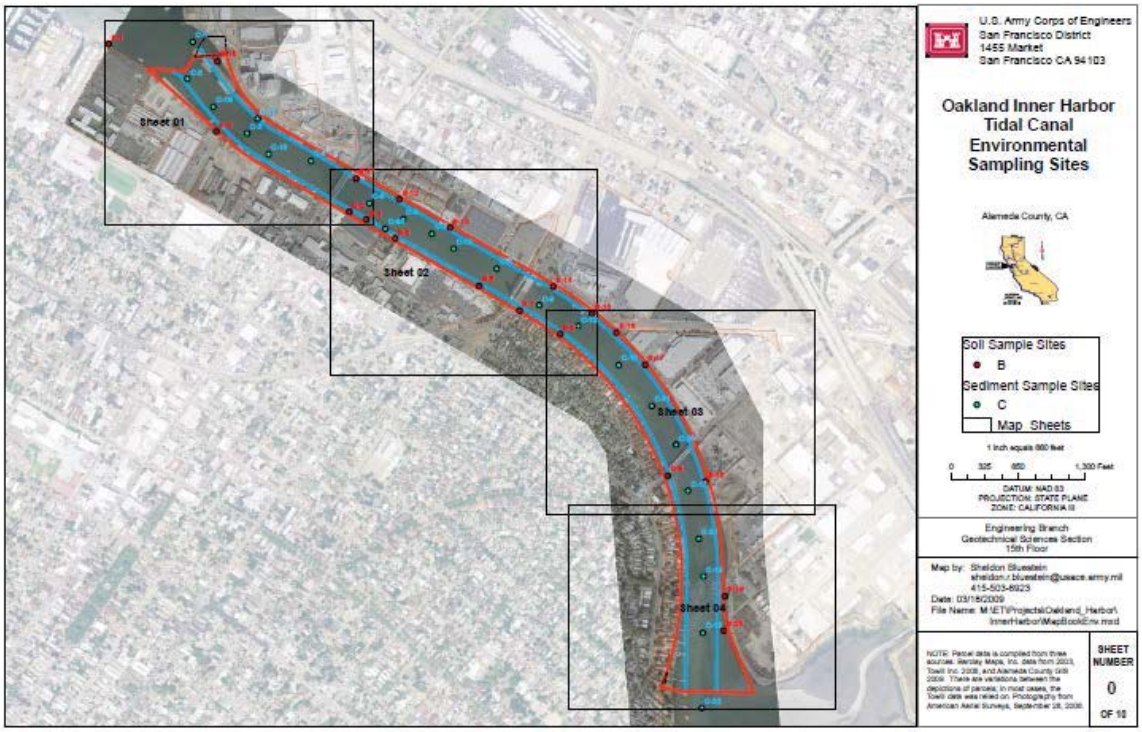
APPENDIX B

BASELINE TESTING MAP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Engineering Branch
Geotechnical Sciences Section
15th Floor
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sheldon.r.bluestein@usace.army.mil
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Sheet 03
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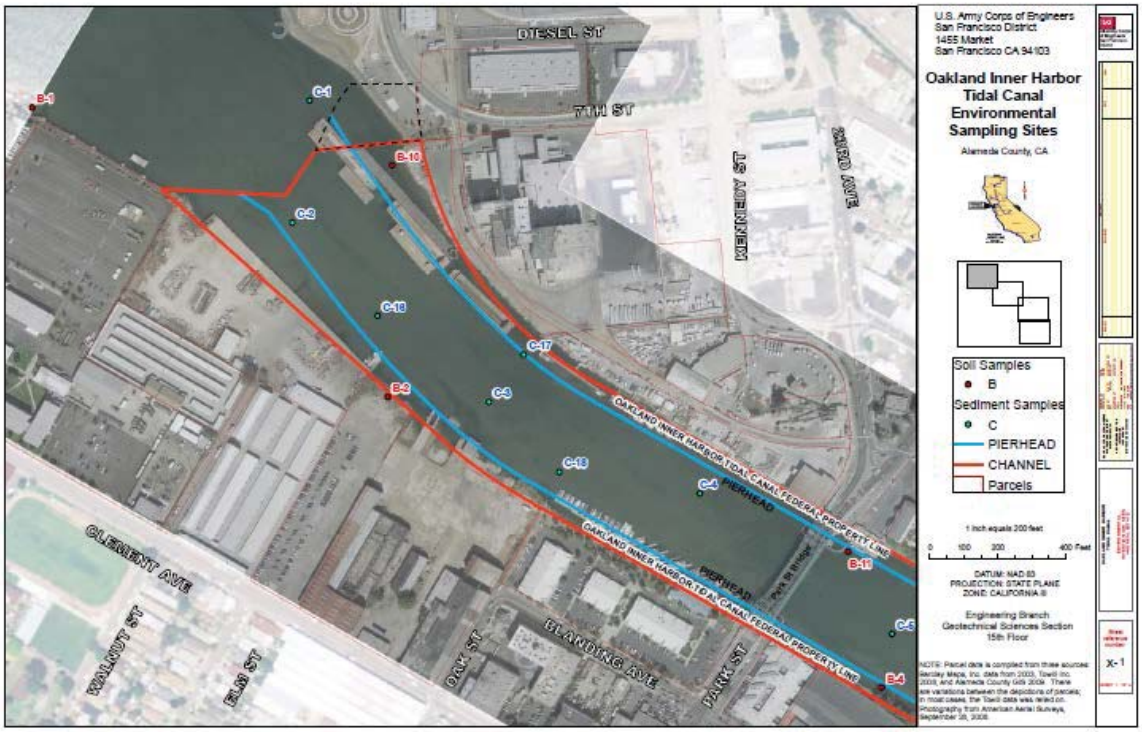
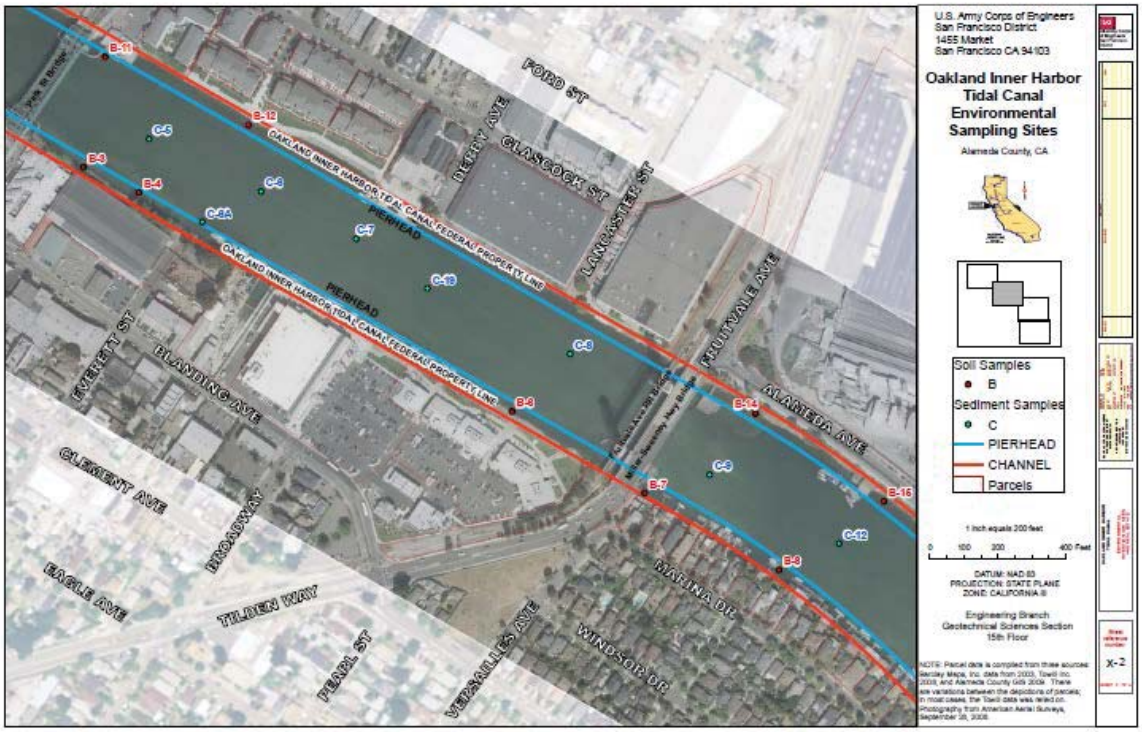

U.S. Army Corps of Engineers
San Francisco District
1455 Market
San Francisco CA 94103
Oakland Inner Harbor
Tidal Canal
Environmental
Sampling Sites
Alameda County, CA
Soil Samples
B
Sediment Samples
C
PIERHEAD
CHANNEL
Parcels
1 inch equals 200 feet
0 100 200 400 Feet
DATUM: NAD 83
PROJECTION: STATE PLANE
ZONE: CALIFORNIA III
Engineering Branch
Geotechnical Sciences Section
15th Floor
X-1
DIESEL ST
7TH ST
I-5 ADELINE
3RD AVE
CLEMENT AVE
WALNUT ST
ELM ST
OAK ST
BLANDING AVE
PARK ST
OAKLAND INNER HARBOR TIDAL CANAL FEDERAL PROPERTY LINE
PIERHEAD
B-1
B-2
B-4
B-10
B-11
C-1
C-2
C-3
C-4
C-5
C-16
C-17
C-18


U.S. Army Corps of Engineers
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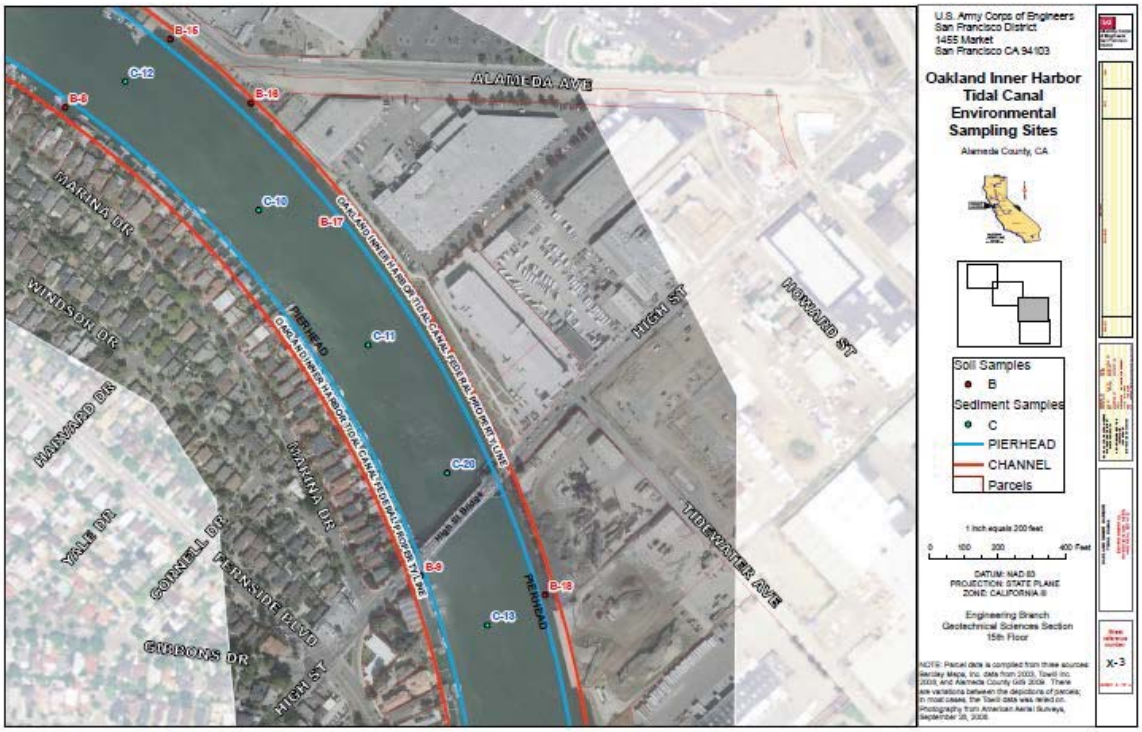
ZONE: CALIFORNIA III
Engineering Branch
Geotechnical Sciences Section
15th Floor
X-2
FORD ST
DERBY AVE
GLASCOCK ST
LANCASTER ST
FRUITVALE AVE
ALAMEDA AVE
EVERETT ST
BLANDING AVE
CLEMENT AVE
BROADWAY
EAGLE AVE
TILDEN WAY
PEARL ST
VERMILLES AVE
WINDSOR DR
MARINA DR
PIERHEAD
OAKLAND INNER HARBOR TIDAL CANAL FEDERAL PROPERTY LINE
B-11
B-12
B-3
B-4
B-8
B-7
B-14
B-16
B-9
C-5
C-6
C-8A
C-7
C-10
C-9
C-12


U.S. Army Corps of Engineers
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B
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C
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0 100 200 400 Feet
DATUM: NAD 83
PROJECTION: STATE PLANE
ZONE: CALIFORNIA III
Engineering Branch
Geotechnical Sciences Section
15th Floor
X-3
ALAMEDA AVE
MARINA DR
WINDSOR DR
HAYWARD DR
YALE DR
CORNELL DR
MERRIMADE BLVD
GIBBONS DR
HIGH ST
HOWARD ST
TIDEWATER AVE
PIERHEAD
OAKLAND INNER HARBOR TIDAL CANAL FEDERAL PROPERTY LINE
B-15
B-18
B-17
B-9
B-13
C-12
C-10
C-11
C-20
C-13

BAYO VISTA AVE
HIGH ST
FAIRVIEW AVE
THOMPSON AVE
MONTE VISTA AVE
FERNSIDE BLVD
C-21
C-14
C-15
C-22
B-18
B-20
PIERHEAD
U.S. Army Corps of Engineers
San Francisco District
1455 Market
San Francisco CA 94103
Oakland Inner Harbor Tidal Canal Environmental Sampling Sites
Alameda County, CA
Soil Samples
B
Sediment Samples
C
PIERHEAD
CHANNEL
Parcels
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0 100 200 400 Feet
DATUM: NAD 83
PROJECTION: STATE PLANE
ZONE: CALIFORNIA III
Engineering Branch
Geotechnical Sciences Section
15th Floor
X-4

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 April 04, 2016
Event Code: 08FBDT00-2016-E-00070
Project Name: Oakland Inner Harbor Tidal Canal

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

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: 08FBDT00-2016-SLI-0114
Event Code: 08FBDT00-2016-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 *(Rana draytonii)* Population: Entire	Threatened	Final designated	
California tiger Salamander *(Ambystoma californiense)* Population: U.S.A. (Central CA DPS)	Threatened	Final designated	
Birds			
California Clapper rail *(Rallus longirostris obsoletus)* Population: Entire	Endangered		
California Least tern *(Sterna antillarum browni)*	Endangered		
western snowy plover *(Charadrius nivosus ssp. nivosus)* Population: Pacific coastal pop.	Threatened	Final designated	
Fishes			

Delta smelt *(Hypomesus transpacificus)*	Threatened	Final designated	

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

Mammals			
Salt Marsh Harvest mouse *(Reithrodontomys raviventris)* Population: wherever found	Endangered		
Reptiles			
Alameda whipsnake *(Masticophis lateralis euryxanthus)*	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 April 04, 2016
Event Code: 08ESMF00-2016-E-02590
Project Name: Oakland Inner Harbor Tidal Canal

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

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 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 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 *(Rana draytonii)* Population: Entire	Threatened	Final designated	
California tiger Salamander *(Ambystoma californiense)* Population: U.S.A. (Central CA DPS)	Threatened	Final designated	
Birds			
California Clapper rail *(Rallus longirostris obsoletus)* Population: Entire	Endangered		
California Least tern *(Sterna antillarum browni)*	Endangered		
western snowy plover *(Charadrius nivosus ssp. nivosus)* Population: Pacific coastal pop.	Threatened	Final designated	
Crustaceans			

Vernal Pool fairy shrimp *(Branchinecta lynchi)*	Threatened	Final designated	

Population: Entire			
Fishes			
Delta smelt *(Hypomesus transpacificus)* Population: Entire	Threatened	Final designated	
steelhead *(Oncorhynchus (=salmo) mykiss)* Population: Northern California DPS	Threatened	Final designated	
Tidewater goby *(Eucyclogobius newberryi)* Population: Entire	Endangered	Final designated	
Flowering Plants			
Pallid manzanita *(Arctostaphylos pallida)*	Threatened		
Presidio clarkia *(Clarkia franciscana)*	Endangered		
Robust spineflower *(Chorizanthe robusta var. robusta)*	Endangered	Final designated	
Insects			

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

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

Critical habitats that lie within your project area

There are no critical habitats within your project area.