

San Francisco Bay Conservation and Development Commission

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Via Electronic Mail Only

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SUBJECT: Draft Environmental Assessment/Environmental Impact Report: San Francisco Bay Federal Channels Operation and Maintenance Dredging and Sediment Placement Activities, Dredging Years 2025-2034

Dear Mx. Graham-Davis and Ms. Covington:

Thank you for the opportunity to comment on the San Francisco Bay Regional Water Quality Control Board (Water Board) and U.S. Army USACE of Engineers (USACE) Draft Environmental Assessment and Environmental Impact Report (DEA/EIR) for USACE's 2025 through 2035 Operations and Maintenance Dredging Program for San Francisco Bay Federal Navigation Channels (USACE O&M Dredging Program), dated October 2024, released for public review on November 13, 2024. The USACE conducted its review of the proposed project per the National Environmental Policy Act (NEPA), and the Water Board conducted its review of the California Environmental Quality Act (CEQA), but provided a joint document to coordinate these reviews, which is appreciated by the San Francisco Bay Conservation and Development Commission (Commission). It is important to note that the Commission itself has not reviewed the document, but the Commission staff has done so and is providing the following comments on the Commission's behalf.

The Proposed Project includes the continued operation and maintenance dredging of 11 federal navigation channels: the deep draft channels - San Francisco Main Ship, Richmond Inner and Outer Harbor, Suisun, Pinole, Oakland, Redwood City, and San Bruno Shoal; as well as the shallow draft channels - San Rafael Creek, Petaluma River, and Napa River, exclusive of Suisun Slough and the Jack T. Maltester Channel over ten years. The dredged sediment would be



disposed of at the state and federally authorized in-Bay disposal sites or the San Francisco Deep Ocean Disposal Site (SFDODS), and/or beneficially reused at a range of sites depending on the alternatives chosen. In addition, several potential actions, such as a variety of strategic placement pilot projects and restoration projects that would beneficially reuse dredged sediment that are in the planning stages are briefly discussed.

The proposed activities, according to the document, would begin in 2025. The USACE proposes that each federal navigation channel would continue to be dredged as needed, depending on shoaling and available funding. The frequency of dredging would range from annual activities to those that may occur only once during the 10-year planning horizon. The basic project purpose is defined in the document as: *“to provide safe, reliable, and efficient waterborne transportation systems.”*

The DEA/EIR includes a detailed evaluation of six alternatives:

1. No Action Alternative (National Environmental Policy Act Baseline)
2. No Project Alternative (California Environmental Policy Act)
3. Beneficial Use: Diversion from Deep Ocean Disposal (Alternative 1)
4. Beneficial Use: Regional Optimization, Leverage Hopper Dredging (Alternative 2)
5. Beneficial Use: Cost Share Opportunity (Alternative 3)
6. Beneficial Use: Maximized (Alternative 4)

The entire proposed Operations and Maintenance (O&M) Dredging Program activities are located within the San Francisco Bay Coastal Zone, and/or have the potential to affect the San Francisco Bay Coastal Zone. Therefore, for purposes of the National Environmental Policy Act (NEPA) review, the O&M Dredging Program should be evaluated in consideration of the potential effects to the coastal zone, consistent with the federally approved San Francisco Bay Coastal Zone Management Program (SFBCZMP).

In addition, the Commission staff recognizes that the Water Board is the state lead per the California Environmental Quality Act (CEQA). As such, the CEQA portion of the review should address the McAteer-Petris Act, the Suisun Marsh Preservation Act, the San Francisco Bay Plan (Bay Plan), and the Suisun Marsh Protection Plan (Suisun Plan). The proposed project, for purposes of CEQA review, would take place in the Commission's Bay, shoreline band, certain waterways, and Suisun Marsh Primary Management Area. For the authors' convenience, we are including comments on the complete document but differentiating comments specific to NEPA and CEQA below.

General Comments

The Commission commends the USACE and the Water Board in their forward-looking effort to support beneficial reuse of sediment and its innovative regional approach to its program and the effort that has gone into the development of the Regional Dredged Material Management Plan (RDMMP) and this document. We believe these efforts can go a long way to support the

regional Long Term Management Strategy for the Placement of Dredged Material (LTMS) goal of maximizing beneficial reuse of dredged sediment and continued implementation of the LTMS Management Plan. Further, the Commission supports the USACE in reducing its reliance on the San Francisco Deep Ocean Disposal Site (SFDODS) in support of beneficial reuse. We agree with the CEQA finding that Alternative 4, Beneficial Use Maximized is the environmentally superior alternative and support the efforts to implement it. The Commission staff also notes that there has been and likely will be continued federal funding to support additional beneficial reuse of dredged sediment as occurred in 2023 and 2024 as a result of the State Coastal Conservancy and the Commission's efforts on the Water Resources and Development Act (WRDA) 2016, Section 1122 program, which authorizes \$51 million of beneficial reuse over ten years.

While the Commission understands USACE's position that the chosen alternative, described as Alternative 2, would increase beneficial reuse within the federal standard, we disagree that there is no significant impact, based on the "take" of listed species via hopper dredging and will discuss this further below. The Commission notes that NEPA allows for a mitigated Finding of No Significant Impact (FONSI) in cases where an action may pose some significant effects, but where mitigation measures will be adopted to reduce these effects to a level where they are no longer significant (CEQ and CalOPR 2014). Proposed Alternative 2 includes mitigation for impacts to listed species from hopper dredging and therefore would meet the definition of a mitigated FONSI. We believe this is the approach USACE should take when evaluating its preferred alternative and developing the FONSI.

Overarching Comments

The analysis provided is very complex and nuanced. We provide these comments to further clarify, improve, and support the appropriate efforts described therein.

1. **Plain Language Standard.** As the Water Board is likely aware, California Government Code section 6219 requires "[e]ach department, commission, office, or other administrative agency of state government [to] write each document that it produces in plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style." Contrary to this standard, the DEA/EIR uses a significant amount of jargon and technical terms that limit the reader's understanding of what is being proposed and the potential impacts of the alternatives. Specifically, rather than using the regionally established and recognized terminology for dredged sediment disposal -- "beneficial reuse of sediment" -- new, undefined terms are introduced such as "transitional sites." Rather than using clear, established language for disposal of dredged sediment at authorized disposals sites, which have been classified as such for over thirty years, the document uses the term "placement sites," which has been used as standard language for beneficial reuse of dredged sediment at restoration sites or levee maintenance. This conflates disposal of dredged sediment with beneficial reuse, making it more difficult for the public to differentiate between the two.

Like Government Code section 6219, the Federal Plain Writing Act of 2010 (P.L. No. 111-274) requires federal agencies "to use plain writing" in every document an agency

issues. Contrary to this requirement and to further confuse issues, the USACE recently introduced the term “transitional placement sites” and includes in-Bay disposal sites, upland disposal sites, and ocean disposal sites in this category. Commission staff requested from USACE the basis for this new terminology and was provided with a guidance document from the USACE Headquarters dated August 28, 2023, with the subject line: “Expanding Beneficial Reuse of Dredged Material in the USACE” directed to Commanders and District Commands. According to the document, it is intended “to encourage robust innovation, planning, *and categorization of dredged material for beneficial use*. Additionally, this policy memorandum *clarifies which dredged material placement activities shall be classified as beneficial use and how to capture this information in the USACE data systems*. Finally, this memorandum introduces transitional placement as a third description for dredged material.” As described later in the document, “Transitional placement is keeping sediment in the riverine or coastal system as a part of a management process or in a period of transition. Generally, this material will be managed or dredged again and is considered neither beneficial use nor disposal.” After reviewing this document, it appears that it was created for internal USACE use for consistent classification and reporting and is not responsive regional differences.

While the Commission appreciates USACE’s desire to be consistent in naming with its data systems, the characterization of in-Bay, deep ocean, and upland as “transitional placement sites” is not appropriate in this context. First, the in-bay disposal sites are dispersive sites that are designed to move dredged sediment into deep water channels to continue transport downstream. This sediment is not managed, other than to limit the volumes placed at the site to prevent mounding, and there is no plan to dredge it again for future use. The best available science does not support the concept that the sediment disposed of at these sites would reach tidal flats or wetlands over time due to deep water transport patterns. Similarly, sediment disposed of at the San Francisco Deep Ocean Disposal Site by design is completely outside the San Francisco Bay system, and while upland disposal sites have the potential to be beneficially reused, the sediment from these sites is generally dried and disposed of.

Providing summary tables that compare alternatives outcomes would greatly increase the ability to compare and contrast benefits and impacts of the alternatives. The tables included currently provide a lot of information, but additional tables should be created to show the differences between the alternatives.

RECOMMENDATION: Revise the document to reduce jargon and confusing terminology and use plain English. Specifically, use the terms in-bay disposal, beneficial reuse, ocean disposal, which are the regionally accepted terminology and consistent with the current naming conventions of the different disposal sites. Remove the term transitional placement as it only confuses how the sites are used and function. Include summary charts that provide comparisons between the alternatives, such as and including a

summary table that shows how much beneficial reuse, ocean disposal and in-Bay disposal would occur under each alternative.

2. **Transparency and the No Action/No Project Alternative.** While the Commission understands the USACE and Water Board's explanations as to how the NEPA and CEQA regulations call for describing the No Action and No Project Alternative, the document lacks transparency throughout its sections, making it difficult, if not impossible, for the public to understand the context of the USACE Operations and Maintenance Dredging Program. Specifically, the document does not include any reference to the actions regularly associated with the USACE's execution of its dredging program over the last ten years but instead asserts that it performs dredging and does not currently beneficially reuse some or any of its dredged sediment. For example, the USACE regularly dredges some of its projects outside the environmental work window of June 1 to November 30th including Richmond Inner Harbor, Oakland Harbor, and Redwood City by several weeks to months depending on the year. The DE/EIR does not note that when USACE dredges outside the environmental work window, it mitigates for impacts to listed salmonids per NOAA's National Marine Fisheries Service (NMFS) LTMS Amended Biological Opinion (July 2015) and the Commission's Letter of Agreement (LOA) by beneficially reusing dredged sediment at its own cost. Further, there is no acknowledgment in the document that the USACE has received significant federal funding to beneficially reuse dredged sediment through the Water Resources Development Act (WRDA) 2016 Section 1122 Pilot Program and is anticipated to receive additional federal funding through this program. As an example, in 2023, the USACE beneficially reused nearly 2 million cubic yards of sediment with this funding. Taken together, and without context, the document misleads the public in believing that only additional in-bay disposal or increased hopper dredging can provide beneficial reuse which is clearly not the case.

In other places, the document states that there has been no interest in cost sharing the incremental cost of beneficial reuse (that amount above the proposed disposal site use needed for beneficial reuse). In fact, \$6 million dollars was provided by the State of California specifically to cover the incremental cost of beneficial reuse for the Redwood City Project. The State Coastal Conservancy (SCC) repeatedly offered to share the incremental cost when working with USACE on the Section 1122 award and management plan. In addition, SCC worked with the USACE in 2024 on the Petaluma River Project to share the incremental cost as described in WRDA 2020, Section 125, and has expressed interest in working together again in 2025. SCC is also cost sharing the development of Bel Marin Keys V expansion as the local project sponsor, a significant commitment to beneficial reuse by the State.

RECOMMENDATION: Add context to the document so that the public can understand how USACE has operates its program, including recent and expected federal funding. Include discussions about the environmental work windows in the description of the current mitigation activities, explaining when and how the USACE has used beneficial

reuse to mitigate for impacts to listed salmonids with existing equipment (clamshell) as part of the federal standard least cost alternative in accord with NMFS 2015 Amended LTMS Programmatic Biological Opinion. Revise sections of the document that state there has been no interest in cost sharing to reflect the State's interest in cost sharing, both from the legislature and the State Coastal Commission.

3. **Proposed Project.** Throughout the document, there are inconsistent descriptions of the Proposed Project, with the executive summary (p. 37), providing the clearest statement with proposed timing for implementation:

"The proposed phased implementation of the Proposed Action/Proposed Project is:

- *2025, No Project Alternative: Continuing the No Project Alternative allows USACE the time necessary to appropriately plan for and implement the changes required for Alternatives 1 and eventually 2.*
- *2026–2027, Alternative 1: The earliest USACE would be able to implement Alternative 1 would be in 2026.*
- *2027–2034, Alternative 2: The earliest USACE would be able to implement Alternative 2 would be in 2027. This time is necessary to allow USACE to work to expand the capacity of its hopper dredges, including utilizing the West Coast Hopper Dredging contract."*

In the Executive Summary, it states "Under CEQA, a detailed and stable project description is fundamental to the purpose of the study, which is to identify and analyze impacts from the Proposed Project." As described in the Executive Summary and throughout the document, the Proposed Project appears to be aspirational rather than a concrete, definite proposal. The proposed project reflects a hope and expectation to transition to Alternatives 1 and 2 but not a firm commitment or proposal to do so. Further, in Section 5.7, it states "If at the conclusion of agency consultation, it is determined that additional mitigation is required, this would make Alternative 2 economically infeasible for consideration as the Federal Standard Base Plan..." Thus, the environmental document itself reflects that the USACE and the Water Board may decide later, based on the results of further consultations, that they will not transition to Alternative 1 or 2. On page 1 of the Findings of No Significant Impact the USACE states "the specific placement location and dredging method will be determined during the contracting process based on cost." This adds further uncertainty regarding the definitiveness of Proposed Project.

As described above, it appears that per CEQA, the Proposed Project does not meet the standard of "a detailed and stable project description." This may be in part due to the document's lack of explicit discussion of how the USACE proposes to balance the cost beyond general statements that one method of dredging a channel may be less

expensive than others. For example, how would the USACE ensure that funds saved on one project be transferred to another project to cover the cost of beneficial reuse. Similarly, what contract solicitation and contract requirements would be incorporated to provide the balanced least cost across the program?

More uncertainty is created by the statements noting that alternatives may not be feasible if additional mitigation is required through consultation with the Resource Agencies. It is our understanding that USACE has considered mitigation part of project costs in the past and has provided beneficial reuse for working outside the work windows, so how would additional mitigation when using potentially lower cost dredge equipment make the proposed project infeasible?

These statements demonstrate that the USACE does not and cannot know anything definitive about future costs associated with implementing increased beneficial under Alternatives 1 and 2. And therefore, there is no factual basis for the conclusory statements about cost in the EA/EIR.

RECOMMENDATION: Provide a more stable and definitive project description, per both CEQA and NEPA, by providing documentation of the cost analysis associated with the conclusionary statements. Provide clear information on how the USACE plans to allocate funding to beneficial reuse from project savings to other projects. Explain the measures the USACE would develop for bid solicitations and contracting measures that would ensure the necessary cost savings and volume of beneficial reuse when working within the work windows. Provide additional mitigation measures to ensure implementation of the proposed project while mitigating for impacts where they cannot be avoided or minimized.

4. **LTMS Program and Increased In-Bay Disposal (Alternatives 1, 2 and 3).** In several areas of the document, it states “Where applicable, the project would be aligned with the goals of the Long Term Management Strategy for the Placement of Dredged Material in the San Francisco Bay Region (LTMS) program, as described in the 1998 LTMS Final Environmental Impact Statement/EIR (USACE et al. 1998) and the 2001 Long Term Management Strategy for the Placement of Dredged Material in San Francisco Bay (LTMS) Management Plan (USACE et al. 2001)” but nowhere in the document does it describe how future dredging would be aligned with the LTMS goals and Program. As described for Alternatives 1,2 and 3, the USACE proposes to exceed the in-bay target limits, which is inconsistent with the LTMS program. In its analysis, it relies on dredging and disposal volumes from the 1970’s through the 1990’s, prior to the LTMS and when there was significantly more dredging in the region due to the presence of large military bases that no longer exist. The result of the USACE proposed action would likely push the region into potential allocations due to its lack of consideration for other dredging projects in the region.

In evaluating each of these alternatives, and the potential impact of additional in-bay disposal, the CEQA and NEPA review appear to completely ignore the existence of other

medium and large dredgers and their use of in-bay disposal under the LTMS program. The analysis includes the 250,000 cubic yard set aside for small dredgers but does not mention or account for in-bay disposal volumes of the regions five ports, seven oil terminals, the US Coast Guard, MARAD, or the ferry terminals. This omission substantially underestimates the amount of in-bay disposal that may occur on an annual and semi-annual basis.

In the Areas of Known Controversy section, it states that the LTMS partner agencies have different interpretations of the LTMS trigger to consider mandatory allocations. While this may be true, there is no written interpretation from any of these agencies to compare for inconsistencies, so this statement represents nothing more than an unsupported assumption. This section goes on to assert that increasing in-bay disposal can help the entire bay system, specifically the Bay bottom keep up with rising seas. This assertion is not supported by any evidence and ignores the fact that the sediment being dredged is from within the Bay, and by the very act of dredging it, the bay must work to refill the areas dredged with sediment in suspension. USACE studied the Carquinez and San Pablo Bay disposal sites in 2012 through modeling exercises (Delta Modeling Associates, McWilliams, et.al.,) and found that most of the sediment disposed at these dispersive sites moved into the deep water channels rather than disperse more broadly as the document appears to be asserting. Further, the aquatic disposal makes the sediment far more erosive by placing it in dispersive sites.

In Section 3.5.4, it states that recent studies (SFEI and Battalio, et.al.) developing the Bay sediment budget for 2001 – 2021 found an overall loss of sediment of 2.0 million metric tons and rightly notes that continuing ocean disposal further exacerbates this issue. What the document does not note, is the net loss over the past 20 years is in large part due to ocean disposal and mining activities that remove sediment from the system entirely. Also of interest, is there is an update to this budget coming out in 2025. Based on the best available science, the USACE should cease using the ocean disposal site in favor of beneficial reuse rather than on a least cost basis. Based on this information, and the Sediment for Survival Report (SFEI 2021) not mentioned in this review, sediment should be maximized at beneficial reuse sites that provide sea level rise resilience and ecological benefits based on the superior use of the sediment, and the USACE should focus this analysis on the WRDA 2020, Section 125 language that allows balancing of costs with benefits provided through The Beneficial Use Decision Document Integration (BUDDI), rather than focusing on increasing in-Bay disposal.

Lastly, while the Commission acknowledges it is working towards a potential Bay Plan amendment that is focused on increasing beneficial reuse, the Commission has not yet voted to initiate that process and its is presumptuous to assert that amending it to increase in Bay disposal is the focus.

RECOMMENDATION: Clearly describe how and when the various alternatives would be aligned with the LTMS goals and program for clarity and transparency. Revise the analysis to include estimates of the in-bay disposal annually and semiannually that includes small dredgers, federal and non-federal medium and large dredging projects, and the USACE so that the full in-bay disposal volumes can be clearly understood. Clearly describe how and where sediment disposed at in-Bay disposal sites are transported. Re-evaluate the need to further increase beneficial reuse based on the best available sediment science, impacts of ocean disposal, ecological benefits to listed species beyond fish, and sea level rise adaptation. In Chapter 5, clarify that the Commission has not yet entered into a Bay Plan Amendment process, and that the focus of the potential Bay Plan Amendment is on increasing beneficial reuse.

5. **Increased Hopper Dredging and Listed Species (No Action Alternatives 1 2, and 3).** In 1993, the US Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) listed the Delta smelt as a threatened species under the Federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA) respectively. In 2009, CDFW increased protections for Delta smelt and changed its status to endangered under (CESA). Delta smelt make limited use of the lower estuary and are found more readily east of the Carquinez Bridge due to salinity and spawning habitat upstream. During wet years, they may be found in areas west of Carquinez Strait. As a result, the USFWS has limited dredging activities in Suisun Bay to clamshell dredging through multiple biological opinions issued on the project, and the USACE has complied. Similarly, in 2009, CDFW listed longfin smelt as threatened under CESA, and in July of 2024, the USFWS listed longfin smelt in San Francisco Bay as threatened under ESA, noting its rapid population decline. Unlike Delta smelt, longfin smelt are present year-round in the Bay, with different life stages inhabiting different areas of the Bay during different times of the year, though the full span of its distribution and timing is not yet well understood. The USACE and the US Environmental Protection Agency (EPA) have initiated but not yet completed consultation with USFWS for the LTMS program's compliant dredging project and its potential impacts to longfin smelt.

Prior to 2015, the USACE dredged two channels (Richmond Outer and Pinole Shoal) per year when the hopper dredge *Essayons* or *Yaquina* was available, and as a backup during high seas at the Main Ship Channel. In 2015, through the NEPA/CEQA review, the Water Board and the Commission recognized that hopper dredging entrains listed longfin smelt and responded by limiting the use of hopper dredges in the Bay to one channel per year as the preferred alternative and included it in the regulatory actions.

In 2017, rather than dredge one in-Bay channel with a hopper dredge and the other with a clamshell dredge as anticipated, USACE decided to comply with the requirement by dredging only one channel with a hopper dredge annually and defer dredging of the other channel to the following year, effectively alternating dredging of Pinole Shoal and Richmond Outer Channel each year. The oil terminals and refineries raised concerns regarding this approach, as did the Commission and Water Board, but the USACE

maintained its position. This is important because in describing the No Action Alternative, the USACE includes dredging both channels annually with a hopper dredge, thereby increasing the amount of hopper dredging and entrainment of listed and native species while not accounting for this change in the analysis. The CEQA review properly notes the No Project Alternative includes hopper dredging in only one channel as has occurred over the last seven years.

In addition to reducing the use of a hopper dredge in 2015, the Commission and the Water Board required monitoring of the hopper dredge, which has verified that take of longfin smelt regularly occurs, though it is not feasible to fully quantify the number of smelt entrained due to the limited ability to fully monitor dredging episodes of tens or hundreds of thousands cubic yards of sediment. Further the Water Board and BCDC required the USACE to mitigate for take of longfin and Delta smelt when using hopper dredges. The previously implemented mitigation required for hopper dredging was calculated using an equation based on the amount of water pumped through the dredge suggested by and agreed to by CDFW. The USACE would then purchase mitigation credits from a mitigation bank, Liberty Island, designed to provide smelt habitat. Liberty Island sold all available credits, and no additional mitigation banks have come online since that closure (approximately 2020). As an alternative to lack of mitigation credits, the Commission and the Water Board have worked with the USACE to accept funding beneficial reuse of more dredged sediment, anticipating additional mitigation banks being created.

In Alternatives 2 and 3 (as described as building on Alternative 2), the USACE proposes to increase hopper dredging to reduce costs of dredging, with the assertion that it would use the cost savings from the program to support beneficial reuse and provides a range of beneficial reuse that may occur. Further, the No Project Alternative includes “emergency” or “navigation safety” dredging with a hopper dredge. In multiple areas of the document, it states that impacts of increased hopper dredging, i.e., entrainment of native and listed species, would be minimized by increasing beneficial reuse of dredged sediment. The assertion made is that increasing beneficial reuse of dredged sediment would increase restoration of tidal marshes and thereby provide more habitat for longfin smelt. Recent monitoring has identified that longfin smelt are found in and adjacent to wetlands, and restoration projects, including those that used dredged sediment to raise elevations, thus precipitating the more rapid breaching and restoration of subsided baylands. Some of this research is still in preparation and recommend further investigation to better understand lifecycle and usage of different areas, including smaller tributaries.

While the Commission absolutely supports increasing beneficial reuse and recognizes the connection between smelt and tidal channels of wetlands and restoring marshes, clarity is needed in these descriptions. It is important to be clear in language. Increasing beneficial reuse of dredged sediment does not minimize impacts from hopper dredges. Per the Draft EA/EIR, hopper dredging increases entrainment over clamshell dredging.

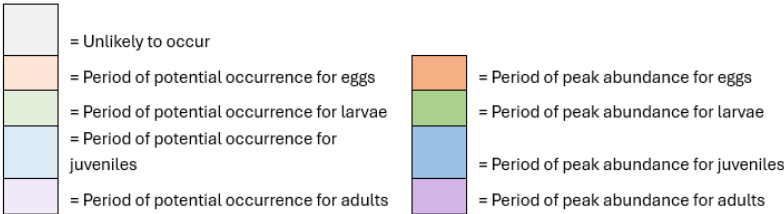
Increasing hopper dredging increases impacts to listed and native fish. Beneficial reuse may be considered a form of mitigation for this impact, but it is not a minimization measure.

The Commission does not agree with the USACE finding of no significant impact to longfin smelt from Alternatives 2 and 3. USACE makes the NEPA finding for the No Action Alternative that “impacts on fish caused by entrainment would be considered less than significant through the implementation of the LTMS windows and other Standard Practices intended to reduce the potential for entrainment.” As noted above, USACE regularly dredges several channels outside the LTMS environmental work windows, so this assertion is inconsistent with how the USACE conducts dredging in the region. Similarly, the NEPA finding asserts that beneficial reuse would further reduce impacts, which is clearly not the case. As described above, we suggest that the USACE adopt a mitigated finding of no significant impact.

The Commission agrees with the Water Board’s finding that mitigation for hopper dredging is required to reduce the impacts to longfin smelt. That said the Commission disagrees with the amount of mitigation required for this impact, as it is simply too little beneficial and will take too long to provide the benefit of restored wetlands as currently proposed. In its assessment, the Water Board uses an equation similar to one previously agreed to by the Commission and CDFW in order to calculate the amount of mitigation credit the USACE should purchase from Liberty Island mitigation bank. It then back calculates the cost of creating wetlands using dredged sediment into cubic yards of dredged sediment, and then multiplies the volume by 2. The Water Board finds this meets both its Dredge and Fill policies and its Mitigation policies. The examples provided equate to 35,000 cubic yards of sediment to 45,000 cubic yards of sediment beneficially reused based on volume of water pumped. What does not appear to be accounted for is the difference between purchasing credits of fully developed wetlands and the use of a nominal amount of dredged sediment at a wetland restoration project that will be dependent on others contributing significant amounts of sediment, variation in depths of subsided sites, and that it may be years or decades before a site is breached. Only when the site is breached would it provide additional habitat for smelt and other fish species. Further, the evaluation does not appear account for the volume of sediment already required as mitigation for salmonids when working outside the work window. In addition, some of the hopper dredging in the alternatives is proposed to occur in the restricted period.

RECOMMENDATION: Clarify the language throughout the document that states hopper dredging minimizes impacts to listed species, specifically, change minimize to mitigates for. Change the USACE finding of no significant impacts to a *mitigated* finding of no significant impacts. For the CEQA document mitigation requirement, increase the multiplier for cubic yards of beneficially reused sediment from 2 to 5 to provide a significant volume of sediment to address the entrainment of smelt, as well as the time it will take to achieve additional habitat benefits for the smelt through this mitigation.

Life Stage	Month											
	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
Egg	Potentially occur in shallows of Suisun and San Pablo bays											
Larvae		Potentially occur in shallows of Suisun and San Pablo bays										
Juvenile	Potentially occur throughout San Francisco Estuary											
Adult		Potentially occur throughout San Francisco Estuary										



Given the challenges of working with a listed species that occurs year-round where dredging occurs, we appreciate the efforts to identify techniques that may lessen the impacts of hydraulic dredging. That said, additional information to further explain the applicability of the proposed minimization measures would be useful. One proposed method includes using eDNA to identify whether smelt are present in the area prior to dredging. Some questions come to mind when considering this measure, including: How can eDNA be used for areas that are not in wetlands, such as the dredging channels, and what strategies will be used to determine if the sample contains eDNA from the area of interest or from another area. Further, given the schedules of hopper dredges and contract dredges, how would the USACE redirect the equipment should smelt be detected, and would repeat sampling be conducted to determine the fish are no longer present?

Regarding the potential use of noise and light to deter smelt from hopper dredging, we appreciate effort to describe potential measures. However, as noted these are experimental and have not yet been shown to cause smelt to leave an area. The Commission would be interested in learning more about these potential studies and how USACE would determine smelt have avoided the area. We note that to reduce confounding factors, the studies should first evaluate smelt responses to deterrents and once that is understood, evaluate the same in combination with hydraulic dredging. In addition, noise and light may have effects on other species such as marine mammals that should be taken into consideration when designing such deterrents.

RECOMMENDATION: Provide analysis of potential entrainment of longfin smelt based on the entrainment data that currently exists. Include the above table and information regarding the use of the estuary by longfin smelt rather than just a percentage of habitat used, which is unknown at this time. Acknowledge that these measures are experiment and that other species may be affected by deterrent methods. If these measures are used, commit to an open and transparent process with the regulatory and resource agencies and include an analysis of potential effects to other species.

7. **Environmental and Social Justice and Tribal and Cultural Resources.** In 2019, the Commission adopted Environmental Justice and Social Justice policies, which are applicable to the DEA/EIR. There is potential for the proposed project to affect these communities as well as tribes that reside within or adjacent to the project area. Rather than include comments specific to these issues in the body of this letter, we are including several comments that we believe will improve the analysis and clarify work that was done to engage these communities, as well as both federal and state policies

that should be applied. These specific comments are attached to this letter and are hereby referenced as included in the Commission's comments.

RECOMMENDATION: Please review the attached comments and address them within the DEA/EIR and further engage these communities as suggested. Include comments and concerns of these communities in the DEA/EIR and how they were responded to.

8. **Commission Authority and Policy.** In a few areas, the DEA/EIR misstates information about the Commission's authority or omits information. Please consider and include the following information.

1.2.1.1 San Francisco Bay Plan – the statement “The Bay Plan was amended in 2019 and included a policy for BCDC to continue to participate in the LTMS, the Dredged Material Management Office (DMMO), and other initiatives conducting research on Bay sediment movement, the effects of dredging and disposal/placement on Bay natural resources, alternatives to in-Bay aquatic disposal, and funding additional costs of transporting dredged material to upland and ocean disposal sites (BCDC 2020)” is incorrect. These policies were included in the Bay Plan amendment of 2000, which incorporated the LTMS Program into the Bay Plan Dredging Policies. The 2019 amendment was focused on Dredging Policy 11 and 12. In addition, please include the Suisun Marsh Preservation Act and the Suisun Marsh Protection Plan in this section.

Table 1-3. please include Fish and Wildlife, as well as Tidal Marshes, Tidal Flats, and Subtidal Areas in the Relevant Resources column associated with the CZMA Consistency Determination.

Section 3.5.1.1 – Federal, Coastal Zone Management Act discussion, please add Suisun Marsh Protection Plan to the description of documents that specify the goals, objectives, and policies for BCDC jurisdictional areas

Section 3.8.1.2 – State and Regional discussion, please include the Suisun Marsh Preservation Act and the Suisun Marsh Protection Plan to this section and applicable policies.

9. **Air Quality Analysis.** While the Commission acknowledges it does not have authority over air quality impacts that do not affect the Bay or its resources, we completed a comprehensive review of the DEA/EIR. Rather than include the specific comments in the body of this letter, we have attached a series of specific comments and concerns regarding the air quality assessment that should be addressed for the USACE and Water Board consideration.

This concludes the Commission's comments regarding the DEA/EIR. The Commission and its staff appreciate the work that went into this document's preparation and the opportunity to comment. Please note, the analysis should include information sufficient to evaluate consistency with the San Francisco Bay Coastal Zone Management Program if the USACE intends to rely on this document for its federal consistency determination. If so, when submitting the

Mx. Jazzy Graham-Davis, Ms. Ellie Covington
Draft EA/EIR for the USACE O&M Dredging Program

Page 15
December 30, 2024

consistency determination, please reference specific sections for ease of reference and efficient review. If you have questions or would like additional information, please feel free to contact me at 415.352.3623 or via email at brenda.goeden@bcdca.gov.

Sincerely,

DocuSigned by:

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BRENDA GOEDEN
Sediment Program Manager

cc: CA State Clearinghouse; <state.clearinghouse@opr.ca.gov>
Mr. Christopher Eng, U.S. Army USACE of Engineers; <Christopher.K.Eng@usace.army.mil>
Ms. Jessica Vargas, U.S. Army USACE of Engineers; <Jessica.M.Vargas@usace.army.mil>
Ms. Jennifer Siu, U.S. Environmental Protection Agency; <Siu.Jennifer@epa.gov>
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<Kevin.Lunde@waterboards.ca.gov>
Ms. Marlene Schroeder, State Lands Commission; <Marlene.Schroeder@slc.ca.gov>
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Mr. Arn Aarreberg, California Department of Fish and Wildlife;
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BG/kr

Environmental and Social Justice/Cultural Resources Specific Comments

Chapter 3

3.4, The entire section would benefit from a revision where the differences between how USACE handles cultural and tribal cultural resources is more clearly defined and separated.

3.4.2, 3.81, Text: “Nonetheless, there is evidence for human occupation of the region as early as 11,700 years ago through to the present, where the Ohlone, Coast Miwok, Bay Miwok, Plains Miwok, and Patwin communities continue to live today.” The list provided in the sentence is not a comprehensive list of all the Native American peoples whose ancestral territories encompass the present-day Bay area. Additional language should be added to the sentence to clarify that the list is not exhaustive to avoid active and continuing erasure of Native American peoples.

3.4.2, 3.82, Text: “Of particular interest are the hundreds of shipwrecks recorded in the region, as well as those that have not yet been identified.” The sentence cited implies that shipwrecks and other maritime artifacts, hold a higher value than tribal cultural resources to the agency. The sentence is unnecessary and should be considered for removal to eliminate any potential misinterpretation. Tribal cultural resources and maritime artifacts should receive equal attention and protections through the National Historic Preservation Act.

3.4.2.3, 3.90, Sending an email and letter to contact tribes is the bare minimum required for consultation. USACE needs to conduct additional outreach to engage with tribes, including phone calls, visitation to tribal offices, outreach with indigenous-led organizations.

3.4.2, 3.81, “Deep time Native American presence” sounds strange. Suggest rewording. “Time immemorial” is commonly used in this context.

3.42, 3.81, The last paragraph on this page provides a beautiful visualizing of the history of the earth in the Bay Area, and the development and roles of Tribes of the area, and then the last sentence cuts all of that to say that Euroamerican colonial based lay alongside tribal cultural resources. I think it’s written awkwardly and seems to be dancing around the actual history. Even just a sentence about the history of how colonialism reshaped the Bay Area would be useful.

3.4.2.1, 3.83 – 3.88, These sections often say, “the *majority* of the APE has no recorded cultural resource investigations.” What about the rest of the APE/the recorded ones? Why are they irrelevant?

3.4.2.2, 3.89, Again, SF-10 says “many of the investigations... are not in response to regulatory requirements.” – What are the other ones?

3.4.2.2, 3.90, Confusing to say “USACE and Regional Water Board reached out to the following tribes” and then not list the tribes. Makes it sounds like the agencies only reached out to the 3 tribes that are discussed later in the paragraph.

3.4.4.1, 3.95, Is the “usual amount of bone” defined?

Chapter 4

4.3, 4.3, Consider adding Ocean Protection Council to list of agencies to contact regarding this project.

4.4, 4.4, “Tribes located in the study area are considered rightsholders.” It would help for USACE to spell this out a bit more. For example, “Tribes located in the study area are rightsholders, meaning they have an inherent right to steward and protect the land.” Increase transparency and provide/serve as a model for others.

4.4, 4.4, “USACE has since developed a suite of mitigation measures aimed at minimizing impacts to cultural and tribal resources.” – if they’re mitigation measures and not elimination measures, they don’t minimize impacts, but rather they offset impacts. Do Tribes accept the mitigation measures?

4.4, 4.4, The list of counties was listed previously in the document as also including San Joaquin and Sacramento. Why aren’t these Tribes listed/why weren’t Tribes in these counties included in the outreach list?

4.5, 4.7, Add BCDC to list of California regulatory agencies that have specific EJ guidelines.

4.5.1, 4.7, Bay Plan EJ&SE Policy #4 seems applicable to this project, unless it has been determined that no dredging will occur within an underrepresented and/or identified vulnerable and/or disadvantaged community. Pollution and noise from dredging and trucking/training dredged material through communities would be an indirect environmental impact of ongoing maintenance dredging.

4.5.2, 4.8, Provide the communications plan created by the USACE and Water Board for communities with environmental justice concerns to increase transparency and provide strong models for other agencies to learn from. Provide the list of community organizations identified and contacted in the final version of the draft EA/EIR including the feedback received, and how they were incorporated into the final version to increase transparency.

4.5.3, 4.11, The USACE utilized BCDC’s Community Vulnerability Mapping Tool yet only focused on communities with social vulnerability and not contamination vulnerability despite the tool offering data on both types of vulnerability. The following language is pulled directly from EO 14096 which is referenced heavily in this section, “Communities with environmental justice concerns experience disproportionate and adverse human health or environmental burdens. These burdens arise from a number of causes, including inequitable access to clean water, clean air, natural places, and resources for other basic human health

and environmental needs; the concentration of pollution, hazardous waste, and toxic exposures; and underinvestment in affordable housing that is safe and healthy and in basic infrastructure and services to support such housing, including safe drinking water and effective sewage management. The cumulative impacts of exposure to those types of burdens and other stressors, including those related to climate change and the environment, further disadvantage communities with environmental justice concerns. People in these communities suffer from poorer health outcomes and have lower life expectancies than those in other communities in our Nation. Moreover, gaps in environmental and human health data can conceal these harms from public view, and, in doing so, are themselves a persistent and pernicious driver of environmental injustice.” It is unclear why the USACE decided to ignore communities experiencing contamination vulnerability within its analysis to identify EJ communities that may be impacted by USACE activities. It is a missed opportunity and a critical gap in the USCAE efforts to reduce direct and indirect impacts on communities already experiencing disproportionate environmental burden.

4.5.2, 4.9, For impacts to water recreation and fishing in vulnerable communities, consider the potential need for measures to offset these negative impacts to public access in environmental justice communities.

4.5.3, 4.9, Should the second sentence in the section be reworded to say, “For this analysis, socially vulnerable communities were defined as US Census block groups with high concentrations of one or a combination of the following socioeconomic indicators:”? The way it’s worded now means that a US Census block group with one person meeting the indicators would qualify as socially vulnerable, which doesn’t make sense.

4.5.3, 4.9, The name of the tool referenced in the last sentence on page 4.9 is BCDC’s “Community Vulnerability and Community Based Organization Directory Map”. Was the CBO Directory part of the tool used to determine group to reach out to? If not, why? This seems like a missed opportunity.

4.5.3, 4.10, Figure 4.1: How was 1.5 miles chosen? This area excludes the Bayview-Hunters Point community by a hair. Is it realistic to expect that dredging the San Bruno Shoal will not have impacts on water recreation and fishing in Bayview-Hunters Point?

4.5.3, 4.10, It appears that all of Yerba Buena Island and part of Treasure Island are included in the 1.5-mile radius of the dredging area. Were any community groups from these areas consulted or reached out to?

4.5.3, 4.11, First paragraph, third sentence: Tract is one-mile east of the outer coast, not one mile east of SF Bay.

4.5.4, 4.12, Last paragraph: If Sacramento and San Joaquin counties were also included in the project scope area, why were these counties excluded from EJ analysis?

4.5.5, 4.15, What were the results of the meeting with EJ community representatives on 10/15? How many attendees showed? What counties were they from? What concerns did they express and how will those concerns be addressed? Please include this information in the final EA/EIR.

Air Quality Analysis. The Commission is providing the following comments on air quality for USACE and Water Board consideration.

1. Page 155, Section 3.2.3 Methodology and Thresholds of Significance, second paragraph states *"The average dredging volume for each location was used for the one-year envelope (Appendix D, Baseline Alternative Tab), which represents a total dredge volume of 2,650,000 cy."*
2. While this clarifies the average dredging volume for one year, the document would benefit in having this information mentioned in the text sooner, such as the Executive Summary's Project Purpose, Need, and Objectives and Section 2.3 Project Description and Alternatives. Both recommended sections currently include a table with volumes under different scenarios (i.e., average volume per episode, maximum volume per episode, and average annual volume over 10-year cycle) that make it difficult to understand the projects overall dredging volume.
3. Pages 156 and 159, Section 3.2.3, Tables 3-5 and 3-9 need further information to understand the difference of what is being shown. Additionally, what is the difference between the No Action Alternative on Table 3-5 and No Action Alternative/No Project Alternative? With the information provide it seems like these two tables should be combined as they both are related to emissions for dredging and placement site transit.
4. Page 156, Section 3.2.3, Table 3-6 state the following *"Clamshell dredging was used to represent both clamshell and cutterhead dredging."* And *"As a result, substituting with clamshell dredging provides a reasonable estimation of total cutterhead dredging emission."* The document specifically states in section 2.3.1.1 what is considered mechanical and hydraulic dredging. Please provide further clarification as to why clamshell dredging is a surrogate to cutterhead.

Furthermore, Table 3-6 focuses specifically on the use of dredge equipment by alternative. Currently, it is difficult to see and understand the correlation between the percent change in dredging equipment and alternatives. Please provide further details to understand this correlation.

5. Page 157, Section 3.2.3, Table 3-7 indicates that clamshell and hoppers are to be used for various placement locations, particularly in-Bay and deep ocean disposal. It is our understanding that the hopper does not transit to the deep ocean site. Also, the hopper has no offloading capabilities as places sediment via bottom release. Please clarify how this dredging equipment are to be used at the placement locations.
6. Page 158, Section 3.2.3, Table 3-8 shows the average daily and maximum annual threshold for various pollutants. Is this table representative of thresholds for dredging and transit regarding the proposed action/proposed project? Or does the table represent a general overview of the bay area pollutant threshold?

7. Page 160, Table 3-10 states the percent distribution of sediment at different placement sites. However, there seems to be a few additional categories/column or data points missing as the total percentage does not sum up to 100 percent. In the text above Table 3-10, it states *“Material volume would remain the same across all alternatives for nearshore strategic placement and upland (sponsor provided) site placements.”* Furthermore, the table in Appendix D for the Baseline: No Action Alternative/No Project Alternative seem to have these additional two categories (i.e., Nearshore Strategic Placement and Upland (sponsor provided) included into their calculations. Comparing the values in Appendix D, the percentage data under the Nearshore Strategic Placement and Upland (sponsor provided) sum up the missing percentage, which is approximately 13 percent. Please clarify why these two additional categories were not included in Table 3-10.
8. Page 163, Section 3.2.4.2, the last paragraph states *“Alternative 2 was used to quantify the reductions as the reductions would be lowest for this alternative. Table 3-13 presents the reduction (\$2,585,800) for Alternative 2.”* Please provide additional information in the text to further understand this statement and how this quantification was used for the other alternatives in an appendix. Additionally, Table 3-13 seems to be inconsistent with the dollar amount reported in Appendix D – SCC GHG Alternative 2. Please verify there is consistency within the values.
9. Page 246, Section 3.5.3, the last paragraph states an average volume of dredge sediment to be from 2.13 million cy to 2.73 million cy. This is inconsistent and the end range should be changed to 2.815 million cy as this is the actual maximum that could occur, particularly the no action alternative/no project alternative.

Appendix D – Air Quality Calculations

- a. Table formatting is inconsistent across the Baseline Alternative-No Action and Alternative(s) 1-4 with potential information missing (see below for example). Please revise the tables so they are all formatted the sample.
- i. Reported table for the Baseline Alternative -No Action

Placement Sites	In Bay Placement ^[1]	
	30%	40%
Average	35%	899,500
Max transit distance on-way	41.2	-

- ii. Reported table for Alternatives 1-4

Placement Sites	In Bay Placement ^[1]
-----------------	---------------------------------

Alt 1	30%	40%
Average	35%	899,500
Max transit distance on-way	41.2	-

- b. Page 11, Tab D, has a table in which the proposed volume to be dredged at the San Francisco Harbor is separated into two, while the data table for the alternatives are reported as one. Please clarify if this is a typo or if there is reason why this volume was broken down into two.
- c. Page 12, Tab E, there is inconsistency between the title of the alternative(s) within the appendix and the main document. For example, Alternative 1 in the appendix is switches between *“Beneficial Use – Diversion from Deep Ocean Disposal”* and *“Beneficial Use – Richmond Inner Split Summary”* Whereas the main document details Alternative 1 as *“Beneficial Use – Diversion from Deep Ocean Disposal”*. Please clarify why *“Richmond Inner Split Summary”* was included as the title or if this is also a typo.
- d. Pages 11-12, Tab D and E, a table stating the percent information regarding use of dredging equipment is missing. Please include the additional tables for these two categories.
- e. The volume reported under the *“analyzed dredged cy for this alternative: 2,650,000 cy”* seems to be inconsistent with what is provided in tables one and three for this category. For example, the volumes reported under the first table add up to 2,570,000 cy. This is roughly a 80,000 cy difference between the two values. Please clarify which is the correct volume being considered for this environmental impact report.
- f. Pages 6 through 10, Alternative 2-4 calculations, the reported percentage for the equipment contribution seem to be inconsistent. For example, on page 8, Alternative 1, it states that 71% of 2,570,000 cy is 1,835,000 cy. This is not correct as it should be 1,824,000 cy. Please confirm that these values are correct. If there is some piece of the data that is missing, please do let us know so there is no confusion.
- g. Continuing the focus on the tables on pages 6-10, there is confusion on the significance of the reported percentages that are included in the *“average row.”* For example, the Alternative 1 table has an average of 35% with a 42% underneath. However, under the average of 55%, there is a volume of 1,079,400 cy (see below for example). It is our understanding, based on the information from Section 2.3.3 Diversion from Deep Ocean Disposal, that Alternative 1 proposes to increase in-Bay placement by 35% to 55% from the No Action Alternative/No Project Alternative (i.e., 30% and 40%). Does the 1,079, 400 cy

signify that it is 55% of the analyzed dredged cy for this alternative, which is 2,570,000 cy? Please clarify what is the meaning of these percentages and verify that the values are also correct.

i. Alternative 1. Beneficial Use - Diversion from Deep Ocean Disposal Table

Placement Sites	In Bay Placement ^[1]	
Alt 1	35%	55%
Average	42%	1,079,400
Max transit distance on-way	41.2	-