

# CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN FRANCISCO BAY REGION

## TENTATIVE ORDER

### REISSUED WASTE DISCHARGE REQUIREMENTS and WATER QUALITY CERTIFICATION for:

#### U.S. ARMY CORPS OF ENGINEERS, SAN FRANCISCO DISTRICT MAINTENANCE DREDGING PROGRAM, 2015 THROUGH 2019

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

#### Purpose

1. This Order constitutes Waste Discharge Requirements (WDRs) and provides the Water Quality Certification (Certification) for the U.S. Army Corps of Engineers, San Francisco District (Corps) federal navigation channel maintenance dredging program in the San Francisco Bay Area, and for disposal of dredged material created by these activities over a five-year period. The first two years of the project continue the Corps' current maintenance dredging program in terms of equipment type. Starting in 2017, to fully address potentially significant impacts of hydraulic dredging, i.e., entrainment of fish species listed as threatened or endangered under State and federal Endangered Species Acts, this Order conditions dredging activities to reduce the use of hydraulic suction hopper dredges in San Francisco Bay.

#### Scope

2. The Corps maintains the navigability of federally authorized channels at the entrance to and in San Francisco Bay. The Corps removes accumulated sediment (primarily silt and clay) by hydraulic (e.g. self-propelled hopper; hydraulic cutter head) or mechanical (e.g. clamshell) dredges, and typically disposes of the dredged material by either self-propelled hopper, dump scow, or by use of a pipeline to transport material to beneficial reuse sites.
3. This Order applies only to maintenance dredging, which is performed on a periodic basis to previously authorized depths and removes recently deposited materials. This Order does not apply to "new work" dredging, which removes material to new authorized depths and may involve dredging consolidated materials or historically contaminated materials.
4. For the five-year period covered by this Order, the Corps proposes to perform maintenance dredging at several locations in the Bay Area (Figures 1 - 11). Based on the range of volumes that the Corps has proposed for planning purposes over the next five years (Table 1), the maximum total dredging volume within San Francisco Bay is 12.4 million cubic yards (mcy) and the maximum total dredging volume in the San Francisco Main Ship Channel (MSC) west of the Golden Gate, outside San Francisco Bay is 2.5 mcy.

Long Term Management Strategy for Disposal of Dredged Material

5. The Water Board and the Corps are participants in the Long Term Management Strategy (LTMS) for the Placement of Dredged Material in the San Francisco Bay Region along with the U. S. EPA (EPA), the San Francisco Bay Conservation and Development Commission (BCDC) and the California State Lands Commission (CSLC). These LTMS agencies evaluated alternative management options for disposal and reuse of dredged sediment over a fifty-year planning horizon in a Policy Environmental Impact Statement/Programmatic Environmental Impact Report (EIS/EIR) completed in October 1998. The EIS/EIR indicated that dredged material disposal may have adverse impacts on the beneficial uses of the waters of San Francisco Bay and that in-Bay disposal should be reduced from historical levels.
6. The LTMS agencies determined that the preferred alternative is to reduce disposal in the Bay to a long-term average of 1.25 mcy or less per year, with approximately 80 percent of dredged sediment to be targeted for beneficial reuse or out-of-Bay disposal and only 20 percent targeted for in-Bay disposal. This goal can be accomplished by maximizing beneficial reuse of dredged material suitable for habitat restoration along the Bay margins and disposing suitable dredged material outside the Bay only when beneficial reuse is not practicable. As the science and knowledge regarding climate change and the resulting increase in sea level rise has grown, it is now recognized that the low-lying areas of the Bay, which were once historical marshes, are in jeopardy of being inundated both by increasing sea level and through storm surges that are occurring more frequently and at greater intensity than previously experienced. In addition, in the mid-2000s, scientists from the U.S. Geological Survey identified a significant reduction in suspended sediment loading from the Sacramento-San Joaquin river system. Less sediment in suspension and circulation within the Bay impairs the ability of shorelines, mudflats, and tidal wetlands to withstand erosion and inundation, especially as sea level rises. The Water Board therefore finds that it is in the public interest to encourage beneficial reuse of suitable dredged material as one component of regional adaptation to climate change and reduced suspended sediment loading to the Bay.
7. Specific guidance for implementing the LTMS long-term goal is described in the LTMS Management Plan (Management Plan), approved in July 2001 by the LTMS Executive Committee. To allow time for planning, budgeting, and creating alternatives to in-Bay disposal, the Management Plan established a 12-year transition period for achieving the reduced in-Bay annual disposal goal of 1.25 mcy or less. The transition period's disposal volume limits were voluntary as long as in-Bay goals were met overall. Public assurance that in-Bay disposal would in fact decrease was provided by strict volume allocations to individual dredgers that could be triggered if goals were not met. The transition period successfully concluded in 2012, with in-Bay disposal targets met every three years as described in the Management Plan.

The Corps is the largest dredger in the Bay Area. Efforts by the Corps to reduce in-Bay disposal are critical to successful implementation of the LTMS. In keeping with the LTMS annual disposal goal, the Corps must reserve sufficient monthly capacity at in-Bay sites for smaller non-Corps projects. The 1.25 mcy annual in-Bay disposal goal allocates 250,000 cy/year to "small" dredging projects, defined in the Management Plan as those

with a design depth of less than -12 feet MLLW and generating less than 50,000 cy per year on average, leaving the remaining 1.0 mcy of the disposal goal plus the 0.25 mcy “contingency volume” to be split between the Corps and the medium-sized maritime industry dredgers. The Corps’ average in-Bay disposal volume for 2015 through 2019 is expected to be within 0.625 – 0.750 mcy per year (50 to 60 percent of the 1.0 mcy in-Bay disposal goal plus the 0.25 mcy contingency volume it shares with other dredgers). The total not to exceed in-Bay disposal volume for this Order is 3.5 mcy (calculated as 0.7 mcy times five years). Further action by the Water Board will be required for in-Bay disposal in excess of this quantity.

#### Placement Sites for Dredged Material

8. Sediment dredged from San Francisco Bay may be beneficially reused for a variety of purposes such as wetland creation, levee maintenance, or construction fill. Disposal in the Bay occurs at four designated aquatic disposal sites (Figure 1): the Alcatraz Island Disposal Site (SF-11), the San Pablo Bay Disposal Site (SF-10), the Carquinez Strait Disposal Site (SF-09), and the Suisun Bay Disposal Site (SF-16). Ocean disposal for Bay dredged material occurs at the San Francisco Deep Ocean Disposal Site (SF-DODS), about 55 miles (48 nautical miles) west of the Golden Gate and thus beyond the three nautical mile offshore limit of Water Board jurisdiction. Under the federal Marine Protection, Research and Sanctuary Act, EPA must concur with disposal at SF-DODS.

Existing beneficial reuse sites include: the Montezuma Wetlands Restoration Project (regulated by Water Board Order No. R2-2012-0089), the Cullinan Ranch Restoration Project (regulated by Board Order No. R2-2010-0108), and Winter Island levee maintenance (Figures 1, 5, 6, and 8). At their own discretion, dredging contractors or the project sponsors may propose to use other permitted upland locations. All necessary environmental documentation must be completed for a site prior to it receiving any dredged material.

Sand dredged from the San Francisco Main Ship Channel may be placed for beneficial reuse (nourishment of the San Francisco littoral cell to help combat erosion at Ocean Beach) at the easternmost portion of the San Francisco Bar Disposal Site (SF-8) (Figure 2), within the three nautical mile limit of Water Board jurisdiction. Pre-site-designation studies concluded that the area would be dispersive, meaning that waves would spread the sand shoreward to the surf zone and beach at such a rate that accumulation would be minimal. However, surveys indicate that spreading occurs at a much slower rate than expected and that underwater shoals impair safe operation of hopper dredges during rough seas. The Corps therefore limits use of SF-8 to the extent feasible. The Corps is currently conducting a beach nourishment beneficial reuse pilot demonstration study at the Ocean Beach Demonstration Site (OBDS), which is encompassed by the future SF-17 placement site, in waters of the Pacific Ocean adjacent to the south-of-Sloat-Boulevard stretch of Ocean Beach (Figure 2). The OBDS is located where waves can potentially feed sediment toward the southern reach of Ocean Beach, which may ultimately help mitigate ongoing shoreline erosion in the area that threatens significant municipal infrastructure, including segments of the Great Highway and major sewer lines running underneath and alongside it. SF-17 is in the process of being formally designated as a disposal site under section 404 of the Clean Water Act.

*Dredging Projects Summary*

9. The Corps' maintenance dredging program provides for maintenance of 11 federal navigation channels in the San Francisco Bay, including six channels dredged annually and five channels with non-annual dredging cycles. These 11 channels have a combined surface area of 5,699 acres, which equates to 2.22 percent of the total surface area of San Francisco Bay. During each fiscal year from 2015 to 2019, the Corps plans to dredge the seven channels most critical to the region's maritime trade and to the regional and national economies: Oakland Harbor, Richmond Outer Harbor, Richmond Inner Harbor, Suisun Bay and New York Slough, Pinole Shoal (San Pablo Bay), Redwood City Harbor (not including the San Bruno Channel), and San Francisco Main Ship channels. Other channels that the Corps may dredge at some point during the next five years, if funding becomes available, include the San Rafael (Inner) Canal and Across the Flats, the Napa River (upper and lower reaches), Petaluma River (upper portion and Across the Flats), the Brooklyn Basin (South Channel) portion of Oakland Harbor, San Bruno Channel, and San Leandro Marina (Jack D. Maltester) Channels. Each of these channels is either due or overdue for dredging.

The general locations of the channels are depicted collectively in Figure 1. The channel boundaries are more precisely shown on the project maps provided in Figures 2 - 11. Since this is a five-year WDR/Certification, the actual shoaling locations are not yet known. Dredging will be confined within the channel boundaries shown in Figures 2 - 11 and shall not exceed the project depth, as shown in Table 1, plus an over dredge depth of 2 feet. Placement of dredge material will be confined to the boundaries of the placement sites depicted in Figures 1 - 11.

Table 1 summarizes the Corps' 2015 - 2019 dredging program, including maximum dredging volumes, the Water Board's preferred placement sites, the federal standard placement sites, and alternate placement sites. The volume estimates are based on historical data.

**Table 1. 2015 – 2019 Dredging Project Summary**

<b>Channel</b>	<b>Authorized or Regulatory Depth (feet below MLLW)<sup>1</sup></b>	<b>Dredge Type</b>	<b>Typical Dredging Frequency (years)</b>	<b>Planning Volume per Dredge Episode (cy)</b>	<b>Water Board Preferred Placement Site</b>	<b>Federal Standard Placement Site<sup>2</sup></b>	<b>Placement Site Alternate 1<sup>3</sup></b>	<b>Placement Site Alternate 2<sup>3</sup></b>
Richmond Inner Harbor	41	Clamshell-Bucket	annual	350,000 – 400,000	Habitat Restoration Beneficial Reuse	SF-DODS	Upland Beneficial Reuse	Other In-Bay Site
Outer Harbor	45	Hopper*/Clamshell-Bucket	annual	150,000 – 250,000	Habitat Restoration Beneficial Reuse	SF-11	Other In-Bay Site	Upland Beneficial Reuse
Oakland Inner and Outer Harbor	50	Clamshell-Bucket	annual	350,000 – 700,000	Habitat Restoration Beneficial Reuse	SF-DODS	Upland Beneficial Reuse	In-Bay Site
Pinole Shoal		Hopper*/Clamshell-Bucket	annual	150,000 – 200,000	Habitat Restoration Beneficial Reuse	SF-10	Other In-Bay Site	Upland Beneficial Reuse
Suisun Bay Channel and New York Slough <sup>4</sup>	35	Hopper/Clamshell-Bucket starting in 2017	annual	175,000 – 200,000	Habitat Restoration Beneficial Reuse	SF-16	Other In-Bay Site	Upland Beneficial Reuse
Bulls Head <sup>5</sup> Reach	39							
Redwood City Harbor	30	Clamshell-Bucket (Harbor Channels) Hopper (San Bruno Channel)	1-2	300,000 – 600,000	Habitat Restoration Beneficial Reuse	SF-11	Other In-Bay Site	Upland Beneficial Reuse except for San Bruno Channel; SF-DODS for San Bruno Channel

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Petaluma River Channel (and Across the Flats <sup>^</sup> )	8	Cutterhead-Pipeline (River Channel) Clamshell-Bucket (Across the Flats)	4-7	150,000	Upland (Sponsor Provided) for the River Channel; Habitat Restoration Beneficial Reuse for Across the Flats	Upland (Sponsor Provided) for the River Channel; SF-10 for Across the Flats	Upland Beneficial Reuse	Other In-Bay Site
Napa River Channel <sup>^</sup> Mare Island Strait Causeway to Asylum Slough	15	Cutterhead-Pipeline	6-10	140,000	Upland (Sponsor Provided) or Habitat Restoration Beneficial Reuse	Upland (Sponsor Provided)	Other Upland Site	SF-9 for downstream reach only
Napa River Channel <sup>^</sup> Asylum Slough to Third Street	10							
San Rafael Creek Channel - Across the Flats	8	Clamshell-Bucket	4-7	87,000 – 150,000	Habitat Restoration Beneficial Reuse	SF-11	Other In-Bay Site	Upland Beneficial Reuse
San Rafael Creek Channel – Inner Canal	6							
San Leandro Marina (Jack D. Maltester Channel)	8	Cutterhead-Pipeline	4-6	121,000 – 187,000	Habitat Restoration Beneficial Reuse	Upland (Sponsor Provided such as San Leandro DMMS)	In-Bay Site	Upland Beneficial Reuse

Channel	Authorized or Regulatory Depth (feet below MLLW) <sup>1</sup>	Dredge Type	Typical Dredging Frequency (years)	Planning Volume per Dredge Episode (cy)	Water Board Preferred Placement Site	Federal Standard Placement Site <sup>2</sup>	Placement Site Alternate 1 <sup>3</sup>	Placement Site Alternate 2 <sup>3</sup>
<b>San Francisco Bay 5-Year Maximum Dredge Volume: 12.4 mcy<sup>6</sup></b>								
San Francisco Harbor – Main Ship Channel	55	Hopper	annual	350,000 – 500,000	Ocean Beach Onshore	SF-8	SF-17	Ocean Beach Onshore
<b>Main Ship Channel 5-Year Maximum Dredge Volume: 2.5 mcy</b>								

Notes:

- \* Both Richmond Inner Harbor and Pinole Shoal could not be dredged with a hopper in the same year beginning in 2017 - see Provision 10.
- ^ For areas not dredged since 2000, the last dredging event is reported.
- <sup>1</sup> 2-foot overdredge allowance not shown.
- <sup>2</sup> The federal standard is defined as the least-costly dredged material disposal or placement alternative consistent with sound engineering practices, and meeting the environmental standards established by the 404(b)(1) evaluation process or ocean dumping criteria (33 C.F.R. § 335.7).
- <sup>3</sup> The Corps cannot use placement sites until NEPA and/or CEQA environmental review and acquisition of required environmental approvals from resource and regulatory agencies is completed.
- <sup>4</sup> Aside from regularly scheduled maintenance of this navigation project, the Corps would take urgent action outside the work window, as needed, to remove the hazardous shoaling at Bulls Head Reach.
- <sup>5</sup> Because of rapid shoaling at Bulls Head Reach, this portion of the Suisun Bay Channel may be advance maintenance dredged by up to 4 feet, plus an additional 2 feet of allowable overdepth.
- <sup>6</sup> Assumes Redwood City Harbor is dredged annually and that the smaller, non-annual projects: Napa River Channel, Petaluma River Channel, San Rafael Creek Channel, and San Leandro Marina Channel, are dredged once each during 2015-2019.

CEQA = California Environmental Quality Act

cy = cubic yards

mcy = million cubic yards

NEPA = National Environmental Policy Act

Ocean Beach Onshore = Onshore Ocean Beach placement site

San Leandro DMMS = Upland San Leandro Dredged Material Management Site

SF-8 = San Francisco Bar Channel Disposal Site (ocean site)

SF-9 = Carquinez Strait placement site (in-Bay site)

SF-10 = San Pablo Bay placement site (in-Bay site)

SF-11 = Alcatraz Island placement site (in-Bay site)

SF-16 = Suisun Bay placement site (in-Bay site)

SF-17 = Ocean Beach placement site (near shore site, includes the Ocean Beach demonstration site)

SF-DODS = San Francisco Deep Ocean Disposal Site (55 miles west of Golden Gate)

### Review of Dredging Episodes

10. The Water Board participates in the Dredged Material Management Office (DMMO); a working group with representatives of the State and federal agencies with regulatory authority over Bay Area dredging projects. Staff representatives of the Water Board, the Corps, EPA, BCDC, and CSLC meet regularly to jointly review dredging projects and make consensus-based recommendations to their respective agencies about the suitability of sediments for proposed placement sites based on sediment testing conducted according to DMMO testing requirements. Material proposed to be dredged and placed at ocean, inland aquatic, or upland/beneficial reuse sites requires sediment characterization to predict the environmental impacts associated with dredging and dredged material placement activities. The objective of the sediment testing requirements is to ensure that disposal of dredged material at designated disposal sites occurs without causing unreasonable degradation to the surrounding environment. Generally, sediments are tested for physical and chemical attributes and/or the potential for biological toxicity.

Representatives from the California Department of Fish and Wildlife (CDFW), the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) also participate in the DMMO in an advisory capacity. Each DMMO agency retains its independent decision-making authority, but the group has significantly reduced project review time by concurrent consideration of projects. The Corps handles the logistics for the operation of the DMMO.

This Order requires that dredging episodes carried out under this Order will be reviewed by the DMMO for a recommendation on the suitability for disposal or beneficial reuse of the dredged material. Each dredging episode must be approved in writing by Water Board staff.

### Barring and Knock-down Dredging

11. **Barring as part of a dredging episode:** The Corps plans to implement “barring”, as a routine part of dredging episodes to smooth out high-spots as needed after dredging has occurred. This method involves using a tug to pull a weighted blade across the channel bottom. As the blade encounters material, it scrapes the material into the adjoining areas with deeper depressions, redistributing the shoaled material within the project area. Barring will be restricted to the channel footprint and the project depth, including the over dredge depth allowance. If barring were not utilized as part of dredging episodes, the vessel operator would likely have to dredge below project depth in certain areas in order to ensure safe navigation, resulting in an increased volume of material dredged and decreasing overall efficiency.

**Knock-down performed in lieu of dredging:** Separate from barring which is implemented at the end of dredging episodes, the Corps anticipates performing several “knock-down” events in lieu of conducting full dredging episodes. Knock-downs would use the same equipment and procedures as barring, but would apply to isolated shoals or high-spots rather than an entire channel. Knock-downs are most useful when time constraints may not allow for normal dredging, or when a shoal threatening navigation covers a small area of a project area that is otherwise at or below its permitted depth. Conducting separate knock-down operations is often more efficient than mobilizing



dredging equipment and transporting the material to a disposal site. Knock-down events occurring separately from full dredging episodes, or in combination with a dredging episode occurring in a different location within the same channel, will be subject to the same coordination with the DMMO as full dredging episodes. The volume of material above project design depth to be knocked down under these separate operations is not anticipated to exceed 15,000 cy per year in each deep draft channel. Each knock-down that is a stand-alone event, and not associated with a dredging episode, must be approved by Water Board staff. Depending on the volume of sediment, contaminant concentrations, and other project-specific details, water quality monitoring may be required and will be coordinated during the episode approval process described in Provision 3.

#### Advance Maintenance Dredging

12. Advance maintenance dredging is utilized in areas where typical shoaling patterns create navigational restrictions on an ongoing basis. Advance maintenance dredging that does not exceed the yearly maximum volume of dredge material shall be allowed and shall be coordinated through the typical DMMO process. Advance maintenance is restricted to areas that exhibit rapid shoaling and the material shall be characterized through the standard DMMO process. If advance maintenance dredging for any channel is expected to exceed the maximum volume shown in Table 1, or reconfiguration of a channel becomes necessary, the Corps will notify the Executive Officer pursuant to Provision 2.

#### Emergency Dredging

13. The Corps is required to ensure that all navigation channels are dredged to a safe depth. If an area is found to be an unacceptable hazard to life or navigation, or threatens to cause an immediate and unforeseen significant economic hardship if corrective action is not taken quickly, the Corps may carry out dredging on a limited basis even though that project is not scheduled for dredging. In such cases, an expedited testing and approval process is often necessary. The Corps does not anticipate performing more than three emergency dredging episodes consisting of less than 30,000 cy each per year. The Water Board recognizes the need for expedited review of emergency dredging episodes, and expects that the Corps will still follow the procedures outlined in Provision 3 of this Order for written approval of emergency dredging episodes.

In atypical conditions, such as after an extraordinary storm event, a shoaling situation may be such an immediate hazard that even an expedited review process is not feasible. The Water Board recognizes that the Corps has the authority to remove the immediate hazard without the Executive Officer's approval pursuant to this Order.

#### Management of the in-Bay Disposal Sites

14. The in-Bay disposal sites are operated as "dispersive" sites, that is, material disposed of at the sites should be dispersed by currents and tidal flows, and the sites should not accumulate material. The Corps is responsible for managing and monitoring the sites. The Corps manages the total volume, timing, and locations of disposal at the sites, and performs regular bathymetric surveys at the sites to determine whether dredged material is accumulating.

15. In the late 1980s, Corps surveys of the Alcatraz disposal site showed a drastic decline in depth and unexpected bottom topography ("mounding"). The Corps changed management practices at the Alcatraz site, directing disposal episodes to specific areas within the disposal site, and reducing the monthly allowable volume of disposal during winter months (Corps Public Notice No. 93-3). Table 2, below, shows the monthly and annual maximum volume targets for all dredgers currently in effect for the in-Bay disposal sites. This Order requires that the Corps continue to enforce these maximum disposal volume targets in order to minimize water quality impacts associated with in-Bay disposal of dredged material.

**Table 2.** Monthly and Annual Maximum Volume Targets

Designated Disposal Site	Monthly Target Volume (cy)	Annual Target Volume (cy)
Alcatraz Island (SF-11)		
October – April	400,000	NA
May – September	300,000	NA
Carquinez Strait (SF-9) – Any Month	1,000,000	NA
San Pablo Bay (SF-10) – Any Month	500,000	NA
Suisun Bay (SF-16)		200,000
Three-year average of the total in-Bay Disposal Volume		1.25 million <sup>a</sup>

a. This volume does not include an allowable contingency volume of 250,000 cy per year, but does include the 250,000 cy small dredger allowance

Impacts of Dredging and in-Bay Disposal

16. **Consultations and Work Windows for Dredging:** During the preparation of the 1998 LTMS EIS/EIR, the LTMS agencies initiated State and federal Endangered Species Act (ESA) consultations with CDFW, NMFS, and the USFWS for maintenance dredging and disposal projects, covering threatened and endangered species and species of special concern, such as the Pacific herring. These programmatic consultations reduced the need for consultation on each individual dredging project by establishing programmatic work windows. These programmatic work windows are based on presence/absence information for various sensitive species, and establish times and locations where dredging and disposal activities may take place without further consultation.

In the event that a project cannot be completed during the work window, the Corps must consult with the appropriate resource agencies. The outcome of the individual consultation determines whether any additional dredging period for that project is appropriate; and if necessary, provides a “take authorization.”

The programmatic consultations resulted in biological opinions issued by NMFS and USFWS that provide federal endangered or threatened species “incidental take” authorization for projects operating in the environmental work window for their area. This “take authorization” protects the dredger from enforcement action in the event of accidental harm to a listed species as a result of the dredging project. The programmatic biological opinions issued by NMFS and USFWS do not address incidental take of State-

listed species. Coordination with CDFW is necessary if take of State-listed species is expected. As a federal agency, the Corps is not required to obtain authorization from CDFW for incidental take of State-listed species because there has been no waiver of federal sovereignty with respect to the California Endangered Species Act (CESA). The Water Board, however, as explained further in Finding 18, must comply with CESA when issuing WDRs and Certification.

Since 2011, the USFWS has required the Corps to consult annually on impacts to delta smelt during dredging of Suisun Bay Channel and New York Slough because of documented occurrences of entrainment during monitoring of hopper dredge use in 2011. The Corps will continue to complete annual consultations for hopper dredging of Suisun Bay Channel and New York Slough, as required by USFWS.

The Corps and EPA have reinitiated formal endangered species consultation with NMFS to update its programmatic LTMS biological opinion to include green sturgeon, which was listed as threatened under the federal ESA in 2006. As stated in the October 14, 2014, Corps/EPA letter documenting agreement with NMFS' Santa Rosa office staff on the updated LTMS Program project description, the updated biological opinion will expand the salmonid work window to year-round if dredging is conducted with a clamshell dredge and dredged material is placed at a beneficial reuse site that NMFS agrees will provide aquatic habitat benefits for salmonids, such as a tidal wetlands restoration. Under the updated biological opinion, the Corps may opt to dredge certain federal navigation channels with a clamshell dredge outside the work windows and place sediment at a beneficial reuse site without additional consultation with NMFS. All other dredging outside the work window (i.e., hydraulic dredging or clamshell dredging with placement at a non-beneficial reuse site) would require consultation with NMFS and, if applicable, the other resource agencies.

This Order requires that the Corps comply with the programmatic LTMS work windows established through consultation with CDFW, NMFS, and USFWS, or initiate individual project consultation and obtain written authorization from the resource agencies for work proposed outside of these windows.

17. **Entrainment of Special-Status including Longfin Smelt and Delta Smelt:** All forms of dredging have the potential to incidentally remove organisms from the environment with the dredged material, a process referred to as entrainment. Organisms on the dredged material may be entrained, in addition to organisms in the water column near the dredging apparatus. In general, smaller organisms with limited or no swimming capabilities are more susceptible to entrainment. Mechanical dredging is generally accepted to entrain far fewer fish than hydraulic dredging, because much less water is removed along with the sediment; but it still may remove demersal fish and crustaceans that live in or on the sediment. Entrained fish are likely to suffer mechanical injury or suffocation during dredging, resulting in mortality. Longfin smelt and delta smelt are not strong swimmers, and are presumed susceptible to entrainment in the flow fields created around the intakes of hydraulic suction dredges. Longfin smelt have the potential to occur in any of the project areas in any season. Delta smelt have potential to occur in the portions of the Estuary that include the Napa River Channel, San Pablo Bay/Mare Island Strait, and Suisun Bay Channel dredge areas during certain seasons. Delta smelt occur in San Pablo Bay in

lower numbers than in the Napa River or Suisun Bay; however, they may be present in San Pablo Bay in increased numbers during high water outflow years. Delta smelt are not expected to occur in the other federal channels.

**Entrainment Study:** Over the past decade, according to CDFW survey data, abundance indices for various life stages of delta smelt have hit record lows, indicating that the species is in imminent danger of extinction. In response, the State elevated its listing status from threatened to endangered in 2010. The USFWS listed the delta smelt as threatened on March 5, 1993, and designated critical habitat for this species on December 19, 1994. On April 7, 2010, the USFWS submitted a 12-month petition finding to reclassify the delta smelt as endangered. They found that reclassification is warranted, but precluded by other higher priority listing actions. Similarly for longfin smelt, CDFW annual abundance indices from the fall mid-water trawl surveys show that the population has declined 99 percent or more in the last 45 years, with record lows in the past decade. On March 9, 2009, the State Fish and Game Commission listed longfin smelt as threatened under CESA. On April 2, 2012, the USFWS released a 12-month review of longfin smelt status in which it concluded that the listing of the longfin smelt as a threatened species is warranted, but is currently precluded by other higher priority listing actions. As a result, the longfin smelt is currently a candidate species for listing under the federal ESA.

In 2013, the United States Army Engineer Research and Development Center (ERDC) prepared a modeling study of entrainment of longfin and delta smelt in San Francisco Bay by hydraulic dredges. In the study, the risk of smelt entrainment was assessed by comparing fish abundances in the environment (CDFW monthly trawls described above) to fish collections in entrainment monitoring samples (screened sub-samples of dredged material) collected during dredging by the hopper dredge *Essayons* in San Francisco Bay in 2010 and 2011. Due to the technical and logistical limitations of sampling on board the working vessel, only a very small fraction, less than one percent of the total volume dredged, was actually sampled.

Modeled estimates of longfin smelt entrainment during hydraulic dredging in 2011 based on 2011 abundance indices are 3,848 for the low entrainment scenario, 6,528 for the medium entrainment scenario, and 10,260 for the high entrainment scenario (up to approximately 8 percent of the median annual population abundance). Modeled estimates of delta smelt entrainment during hydraulic dredging in 2011 based on 2011 abundance indices are 394 for the low entrainment scenario, 1,444 for the medium entrainment scenario, and 3,694 for the high entrainment scenario (up to approximately 29 percent of the median annual population abundance). Many factors are associated with the accuracy of these projections. The small sample size of entrained fish (18 longfin smelt and 4 delta smelt), combined with the low percentage of dredged material sampled result in a high degree of uncertainty as to the accuracy of the entrainment estimates.

18. **Compliance with CESA:** As a federal agency, the Corps is not required to obtain authorization from CDFW for incidental take of State-listed species because there has been no waiver of federal sovereignty with respect to CESA. The Water Board, however, must comply with CESA when issuing WDRs and Certification. In a letter to CDFW dated February 13, 2014, the Water Board requested guidance on the

significance of entrainment impacts to special status fish species and on appropriate mitigation measures. In its reply to the Water Board dated March 14, 2014, CDFW indicated that impacts would be significant. It noted the ERDC estimates of entrainment, and stated that “the Project, as proposed, would substantially reduce the number of an endangered, rare, or threatened species.” To reduce dredging-related impacts to special status fish species to a less-than-significant level, CDFW recommended reducing hopper dredging to a minimum in San Francisco Bay and implementing the avoidance, minimization, and mitigation measures listed below.

Fish & Game Code section 2053 states "the policy of the State that State agencies should not approve projects ... which would jeopardize the continued existence of any endangered species ... if there are reasonable and prudent alternatives available consistent with conserving the species." This Order includes the measures identified by CDFW to avoid, minimize and mitigate for entrainment impacts, consistent with conserving the species.

**Avoidance, Minimization, and Mitigation Measures for Entrainment Impacts:** Based on the ERDC entrainment study and guidance from CDFW, the Water Board has determined that implementation of the following measures combined with minimization of hopper dredge use in San Francisco Bay and compensatory mitigation, as required under Provisions 10 and 11, will mitigate potential entrainment impacts to a less-than-significant level:

- a. No dredging would occur in water ranging from 0 to 5 parts per thousand salinity between December 1 and June 30.
- b. The Corps will coordinate with the appropriate regulatory and resource agencies to perform compensatory mitigation for hydraulic dredging anywhere when water temperature is below 22.0°C.
- c. Implement a worker education program for listed fish species that could be adversely impacted by dredging. The program would include a presentation to all workers on biology, general behavior, distribution and habitat needs, sensitivity to human activities, legal protection status, and project-specific protective measures.
- d. At the beginning and end of each hopper load, pump priming, drag head clearing, and suction of water would be conducted within three feet of the seafloor.
- e. Hopper drag head suction pumps would be turned off when raising and lowering the drag arms from the seafloor.
- f. Completing hydraulic dredging in Suisun Bay between August 1 and September 30, to avoid impacts to spawning adult longfin and delta smelt.
- g. Completing hydraulic dredging in Central Bay between August 1 and November 30 to avoid impacts to young-of-the-year and spawning adult longfin smelt.
- h. Monitoring drag head, cutterheads, and pipeline intakes so that they maintain contact with the seafloor during suction dredging.
- i. Keeping the drag head water intake doors closed to the maximum extent feasible in locations most vulnerable to entraining smelt. In circumstances when the doors need to be opened to alleviate clogging, the doors would be opened incrementally

(i.e., the doors would be opened in small increments and tested to see if the clog is removed) to ensure that doors are not fully opened unnecessarily.

19. The Water Board has implemented the San Francisco Estuary Regional Monitoring Program for Trace Substances (RMP) since 1992. The RMP is a coordinated and comprehensive long-term monitoring program with the goal of monitoring water and sediment quality to provide the scientific foundation for managing and improving the health of the San Francisco Bay aquatic ecosystem. Additionally, the RMP provides for special and pilot studies of interest to program participants. The Corps is a participant in the RMP, and contributes to the program by funding the United States Geological Survey (USGS) to monitor suspended sediments at an array of locations in the Bay. This monitoring has and will continue to improve understanding of sediment transport processes and create a comprehensive database for various numerical modeling efforts.

#### CEQA

20. **California Environmental Quality Act (CEQA):** On December 5, 2014, the Water Board issued a draft Environmental Impact Report (EIR) for public review and filed a Notice of Completion with the State Clearinghouse (SCH). (Cal. Code Regs., tit. 14, § 15085.) The public comment period for the draft EIR (SCH No. 2013022056) was from December 5, 2014 to January 20, 2015. The Water Board received and evaluated comments on the draft EIR from public agencies and the other interested parties. Responses to comments received during the comment period have been provided. The Water Board has considered, certified, and approved the final EIR (FEIR) pursuant to California Code of Regulations, title 14, sections 15090 - 15092.

The FEIR considers four alternatives:

- No Project Alternative - Section 15126.6(e)(3)(A) of the CEQA Guidelines states that “when the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the no project alternative will be the continuation of the existing plan, policy or operation into the future.” Therefore, under the No Project Alternative, the Corps would continue current maintenance dredging practices for the projects it maintains in San Francisco Bay, which include hydraulic suction hopper dredging in three channels inside the Bay (Suisun Bay/New York Slough, Pinole Shoal, and Richmond Outer Harbor) with implementation of all but four of the avoidance, minimization, and mitigation measures for entrainment impacts to longfin smelt and delta smelt listed in Finding 18 and Provision 12.
- Proposed Project Alternative - Dredging and placement would be conducted as under the No Project Alternative. Also, the Corps would implement four additional avoidance, minimization, and mitigation measures for entrainment impacts to longfin smelt and delta smelt (measures f, g, h, and i in Finding 18 and Provision 12) and purchase 0.92 acre mitigation credit at the Liberty Island Conservation Bank, or other approved site, annually for potential impacts to listed species. Provision 12 includes the details on calculation of this mitigation credit.
- Reduced Hopper Dredge Use Alternative 1 (MSC and One In-Bay Channel) The government hopper dredge *Essayons*, or similarly sized hopper dredge,

would only be used to dredge the MSC and a maximum of one in-Bay federal channel, either the Richmond Outer Harbor or the Pinole Shoal Channel, annually. The channel not selected as the additional hopper dredge channel (i.e., either Pinole Shoal or Richmond Outer Harbor) would be dredged with a mechanical dredge. Suisun Bay/New York Slough Channel would be dredged with a mechanical dredge under this alternative, instead of a hopper dredge. The Corps would purchase mitigation credit for entrainment impacts to listed smelt species during hopper dredging in Pinole Shoal or Richmond Harbor as described in the Proposed Project Alternative.

- Reduced Hopper Dredge Use Alternative 2 (MSC only, No In-Bay channels)  
The government hopper dredge *Essayons*, or similarly sized hopper dredge, would be used to dredge the MSC. Pinole Shoal, Richmond Outer Harbor, and Suisun Bay/New York Slough Channel would be dredged with a mechanical dredge under this alternative, instead of a hopper dredge. All other dredging, placement activities would be as described for the Proposed Action/Project.

Public Resources Code section 21002 declares the policy of the State that “agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” (See also, Cal. Code Regs., tit. 14, §§ 15041 [“A lead agency for a project has authority to require feasible changes in any or all activities involved in the project in order to substantially lessen or avoid significant effects on the environment”] and 15042 [“A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment would occur if the project were approved as proposed”].) Information in the record to date indicates that both Alternative 1 and Alternative 2 will substantially lessen the significant environmental effects of the Proposed Project. The FEIR concludes that both of these alternatives will reduce the impacts to less than significant. This is also consistent with CDFW’s letter to the Water Board dated March 14, 2014, stating that impacts could be made less than significant by reducing hopper dredging to a minimum, implementing the other avoidance, minimization, and mitigation measures identified in Finding 18 and Provision 12, and implementing the compensatory mitigation approach described above. There is no information in the record to date that indicates either Alternative 1 or Alternative 2 is infeasible. For this reason, this Order permits either Alternative 1 or 2.

This Order will not have a significant impact on the environment except as specified below. For the following impacts, this Order has eliminated or substantially lessened all significant effects on the environment where feasible. Pursuant to California Code of Regulations, title 14, sections 15091 and 15093, the Water Board makes the following CEQA Findings and Statement of Overriding Considerations in conjunction with the approval of this Order:

### **CEQA Findings**

#### **Impact 3.6-4: Potential Adverse Effects from Entrainment on Special-Status or Commercially and Recreationally Important Marine Species, Not Including Delta Smelt and Longfin Smelt**

During all forms of dredging, organisms on the dredged material may be entrained, in addition to organisms in the water column near the dredging apparatus.

**Findings:** With implementation of the LTMS work windows as required by Provision 13 and other avoidance, minimization, and mitigation measures intended to reduce the potential for entrainment required by Provision 12, effects to special-status and commercially important species, not including delta smelt and longfin smelt, would not be significant.

### **Impact 3.6-5: Potential Substantial Adverse Effects and Cumulative Impacts to Delta Smelt from Entrainment**

Delta smelt are not strong swimmers, and are presumed susceptible to entrainment in the flow fields created around the intakes of hydraulic suction dredges. Delta smelt have potential to occur in the portions of the Estuary that include the Napa River Channel, San Pablo Bay/Mare Island Strait, and Suisun Bay Channel dredge areas during certain seasons.

**Findings:** Changes or alterations have been required in, or incorporated into, this Order that avoid or substantially lessen the significant environmental effect as identified in the FEIR.

#### **Facts Supporting the Findings:**

- This Order requires implementation of reduced hopper dredge use inside San Francisco Bay starting in 2017. At a maximum, a hopper dredge would be used to maintain one federal channel inside the Bay and possibly urgent action removal of a hazardous shoal at Bulls Head Reach in the eastern approach to the Benicia-Martinez Bridge in Suisun Bay Channel if a mechanical dredge is not available (Provision 10).
- This Order requires compensatory mitigation for delta smelt entrainment in the form of mitigation credit purchase at a resource agency-approved habitat conservation bank. The amount of mitigation credit is calculated from an equation ( $3.0 \text{ million acre-feet} / 800 \text{ acres} = \text{volume dredged} / X \text{ acres of mitigation habitat}$ ) that was developed by resource agencies to determine mitigation requirements for other projects with entrainment impacts as a result of pumping water (Provision 11).
- This Order requires implementation of specific avoidance, minimization, and mitigation measures, which combined with minimization of hopper dredge use, mitigates potential entrainment impacts to a less-than-significant level (Provision 12).

### **Impact 3.6-6: Potential Substantial Adverse Effects and Cumulative Impacts to Longfin Smelt from Entrainment**

Longfin smelt are not strong swimmers, and are presumed susceptible to entrainment in the flow fields created around the intakes of hydraulic suction dredges. Longfin smelt have the potential to occur in any of the project areas in any season.



**Findings:** Changes or alterations have been required in, or incorporated into, this Order that avoid or substantially lessen the significant environmental effect as identified in the FEIR.

**Facts Supporting the Findings:**

- This Order requires implementation of reduced hopper dredge use inside San Francisco Bay starting in 2017. At a maximum, a hopper dredge would be used to maintain one federal channel inside the Bay and possibly urgent action removal of a hazardous shoal at Bulls Head Reach in the eastern approach to the Benicia-Martinez Bridge in Suisun Bay Channel if a mechanical dredge is not available (Provision 10).
- This Order requires compensatory mitigation for longfin smelt entrainment in the form of mitigation credit purchase at a resource agency-approved habitat conservation bank. The amount of mitigation credit is calculated from an equation ( $3.0 \text{ million acre-feet} / 800 \text{ acres} = \text{volume dredged} / X \text{ acres of mitigation habitat}$ ) that was developed by resource agencies to determine mitigation requirements for other projects with entrainment impacts as a result of pumping water (Provision 11).
- This Order requires implementation of specific avoidance, minimization, and mitigation measures, which combined with minimization of hopper dredge use, mitigates potential entrainment impacts to a less-than-significant level (Provision 12).

**Impacts 3.7-1, 3.7-2, and 3.7-3: Disturbance of Archaeological Resources, Human Remains, and Paleontological Resources**

Although unlikely, given the repeated dredging and dredged material placement activities that have historically occurred at the federal navigation channels and existing placement sites, there remains the potential that archaeological materials, human remains, or paleontological materials could be inadvertently uncovered by project activities.

**Findings:** With implementation of the mitigation measures required by Provision 22, impacts to cultural and paleontological resources would be less than significant. These measures consist of immediate suspension of dredging upon discovery of a resource and consultation with a qualified expert for the particular resource discovered (e.g. archaeologist, paleontologist, local coroner, Native American Heritage Commission).

**Statement of Overriding Considerations**

The Water Board recognizes that prior to implementation of reduced hopper dredge use in 2017, the project could have significant, unavoidable impacts to biological resources as identified in the FEIR. The Water Board has considered and balanced the economic, legal, social, technological, and other benefits of this Order. The Water Board finds that the unavoidable adverse impacts are acceptable due to overriding concerns. Specifically, the following benefits outweigh the adverse impacts:

- The San Francisco Bay/Delta Estuary is one of the critical maritime thoroughfares in the nation, supporting international trade, commercial and recreational fishing, and recreation. Maintenance dredging is necessary to provide a safe, reliable, and efficient waterborne transportation system (federal channels, harbors, and waterways) for the movement of commerce, national security, and recreation.
- Maintaining the federal channels to their regulatory depths, is critical to the region's maritime trade and to the regional and national economies.

In accordance with Title 14 of the California Code of Regulations, section 15094, the Water Board will file a Notice of Determination with the State Clearinghouse within five working days from the issuance of the Order.

### Basin Plan

21. **San Francisco Bay Basin Water Quality Control Plan (Basin Plan)**

California Water Code section 13240 authorizes the Water Board to develop a Water Quality Control Plan for the San Francisco Bay Basin, which is the Water Board's master water quality control planning document (the Basin Plan). The Basin Plan designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes implementation programs and policies to achieve those objectives for all waters addressed through the plan. The Basin Plan was duly adopted by the Water Board and approved by the State Water Board, U.S. EPA, and the Office of Administrative Law where required. The latest version can be found on the Water Board's website at [http://www.waterboards.ca.gov/sanfranciscobay/basin\\_planning.shtml](http://www.waterboards.ca.gov/sanfranciscobay/basin_planning.shtml). Requirements in this Order implement the Basin Plan.

The existing beneficial uses of San Francisco Bay in the vicinity of the dredging and disposal areas are:

- Industrial service supply (IND)
- Industrial process supply (PROC)
- Commercial and sport fishing (COMM)
- Shellfish harvesting (SHELL) (Central Bay only)
- Estuarine Habitat (EST)
- Fish migration (MIGR)
- Preservation of rare and endangered species (RARE)
- Fish Spawning (SPWN)
- Wildlife habitat (WILD)
- Water contact recreation (REC-1)
- Noncontact water recreation (REC-2)
- Navigation (NAV)

### Notification

22. The Corps and interested persons have been notified of the Water Board's intent to issue requirements for the Corps and have been provided with the opportunity to submit their written comments.

The Water Board, in a properly noticed public hearing on May 13, 2015, heard and considered all comments pertaining to the project.

IT IS HEREBY ORDERED, pursuant to the provisions of Division 7 of the California Water Code and regulations adopted thereunder, and other State regulations, as applicable, and to the provisions of the federal Clean Water Act, as amended, and regulations and guidelines adopted thereunder, that the Corps shall comply with the following:

**A. RECEIVING WATER LIMITATIONS**

1. The dredging and disposal activities shall not create a nuisance as defined in section 13050(m) of the California Water Code.
2. The discharge of waste shall not cause the following conditions to exist in waters of the State that cause a nuisance or adversely affect beneficial uses at any place:
  - a. Floating, suspended, or deposited macroscopic particulate matter or foam;
  - b. Aquatic growths;
  - c. Significant alteration of temperature, turbidity, or apparent color beyond present natural background levels;
  - d. Visible, floating, suspended, or deposited oil or other products of petroleum origin;
  - e. Toxic or other deleterious substances in concentrations or quantities which will cause deleterious effects on aquatic biota, wildlife, or waterfowl, or which render any of these unfit for human consumption either at levels created in the receiving waters or as a result of biological concentration.
3. The discharge of waste shall not cause violations of the following limits in the water column at dredging and disposal sites:
  - a. Dissolved Oxygen: 5.0 mg/l minimum downstream of the Carquinez Bridge, 7.0 mg/l minimum upstream of the Carquinez Bridge. When natural factors cause lesser concentrations, then this discharge shall not cause further reduction in the concentration of dissolved oxygen.
  - b. Dissolved Sulfide: 0.1 mg/l maximum.
  - c. pH: A variation of natural ambient pH by more than 0.5 pH units.
  - d. Un-ionized Ammonia: 0.025 mg/L as N, annual median; and 0.16 mg/L as N, maximum.
  - e. Salinity: The project shall not increase total dissolved solids or salinity to adversely affect beneficial uses

4. The discharge shall not cause a violation of any applicable water quality objectives for receiving waters adopted by the Water Board and the State Water Board as required by the Clean Water Act and regulations adopted thereunder. If more stringent applicable water quality standards are promulgated or approved pursuant to section 303 of the Clean Water Act, or amendments thereto, the Water Board will revise and modify this Order in accordance with such more stringent standards.

## **B. PROVISIONS**

### Project and Project Changes

1. This Order authorizes:
  - San Francisco Bar Channel - Placement of approximately 2.5 mcy of sand at SF-8, OBDS/SF-17, and, if approved by applicable regulatory and resource agencies, the Ocean Beach onshore placement site.
  - San Francisco Bay - Dredging up to 12.4 mcy of sediment (based on maximum dredging volumes in Table 1, assuming that Redwood City Harbor is dredged annually and that the smaller, non-annual projects [Napa River Channel, Petaluma River Channel, San Rafael Creek Channel, and San Leandro Marina Channel] are dredged once each during 2015-2019) with disposal of a maximum of 3.5 mcy at the in-Bay disposal sites. Placement of dredged material at beneficial reuse locations within the Water Board's jurisdiction is regulated through site-specific Water Board orders for each location. Disposal of dredged material may also occur at the Deep Ocean Disposal Site, SF-DODS, beyond the jurisdiction of the Water Board.
2. The District Engineer shall inform the Executive Officer in writing of any changes to the project plan in Table 1 of this Order. The Executive Officer shall determine whether such a proposed change requires modification of the WDRs and Certification issued herein, in which case the District Engineer shall submit a request for revised WDRs and Certification for action by the Board. Proposed changes that would require modification to this Order include but are not limited to any changes that may result in an overall increase in the amount of in-Bay disposal or an increased threat to water quality. The Executive Officer may approve minor project changes that do not require modification to this Order and which will not result in an increased threat to water quality.

### Episode Approval

3. Individual dredging and disposal episodes, including knockdown events, shall not commence until authorized in writing by Water Board staff following review by the DMMO. The Corps shall provide an episodic approval package to Water Board staff for each proposed project. This package shall name the proposed disposal or beneficial reuse location and verify that placement of dredged material there is in line with the Corps' current evaluation of alternative disposal sites described in Provision 9. The package shall also contain the current condition survey, the estimated volume to be dredged based on that survey, and either a Tier I Evaluation or the sampling and analysis data report. The estimated volume will include the two feet of allowable over depth and this will be identified separately from the volume of material above project depth. This episodic

approval package shall request concurrence pursuant to a favorable suitability determination from the DMMO agencies.

**Episode Approval Package Due Date:** A minimum of 30 days prior to anticipated dredging start date.

4. The Corps conducts a pre-dredge (in Corps terminology, before-dredge, or “BD”) survey within 30 days to two weeks before the dredge start date. The estimated volumes based on the BD survey shall be evaluated against the volumes estimated from the condition survey. If there is a 15 percent or greater increase in the dredge volumes, the Corps shall notify Water Board staff immediately. This notification shall include the new estimated volume and the Corps proposal for placement of that material. The Corps shall notify Water Board staff of any changes in material placement location, regardless of any volume changes.

#### Dredging and Disposal Operations

5. Dredging at each project location shall be limited to the project depths shown in Table 1 with no more than two feet of over-dredge allowance.
6. **Overflow/Decanting:** No water entrained during dredging (aka overflow or decant water) shall be discharged from any vessel containing dredged material characterized as containing greater than 20 percent fines (silt- and clay-size particles), with the exception of spillage incidental to clamshell bucket operations.

Exceptions may be granted on a project-specific basis if the Corps submits an overflow monitoring plan, acceptable to the Executive Officer, at least 90 days prior to the anticipated dredging start date. The plan shall describe the process for monitoring compliance with the following receiving water limits within 500 feet of the dredge footprint (a shorter distance may apply in Richmond and Oakland Inner Harbors depending on the distance to the nearest eelgrass bed or patch):

- Turbidity  $\leq 50$  NTU (or up to 10 percent greater than turbidity at a background reference location sampled concurrently with the dredging location, if the background turbidity is greater than 50 NTU)
- Dissolved oxygen  $\geq 5.0$  mg/L ( $\geq 7.0$  mg/L east of the Carquinez Bridge)
- $6.5 \leq \text{pH} \leq 8.5$

In addition, the monitoring plan shall: 1) describe how the temporal and spatial extent of the suspended sediment plume associated with overflow/decant discharge will be characterized; 2) describe how the effectiveness of economic barge loading, i.e. total cubic yards of material placed into a scow, vs. amount of suspended sediment released to the Bay will be evaluated with and without overflow; 3) describe reporting format and frequency; and 4) include a contingency plan in the event of an observed exceedance of one or more water quality objectives caused by overflow/decant discharges.

**Project-Specific Overflow Monitoring Plan Due Date:** A minimum of 90 days prior to anticipated dredging start date. Dredging may not commence until the plan is approved in writing by Water Board staff.

7. Return water overflow from hopper-type suction dredges shall be limited to no longer than 15 minutes at the dredge site for each hopper load except in channels where the shoaled material contains greater than 80% sand. There is no overflow restriction if the dredged material is greater than 80% sand.
8. During transportation from the dredging site to the placement site, no dredged material shall be permitted to overflow, leak, or spill from barges, bins or dump scows.

#### Alternatives Analysis

9. For each dredging episode where in-Bay disposal is proposed, the Corps shall, as part of the episode approval process, submit to the Water Board an evaluation of alternative disposal sites pursuant to Section 404(b)(1) of the Clean Water Act. This type of evaluation, also known as an “Integrated Alternatives Analysis,” or IAA, shall incorporate all Corps dredging projects (annual and non-annual) over as many years/dredging cycles as possible, up to a maximum of five years, and shall evaluate the practicability of the following beneficial reuse and disposal options:
  - Habitat Restoration: The Corps shall evaluate the feasibility of placing dredged material at habitat restoration sites within the San Francisco Bay region and take dredged material to those sites where it is feasible. The Corps shall make good faith efforts to coordinate with habitat restoration projects that are seeking dredged material.
  - Levee Restoration: The Corps shall evaluate the feasibility of placing the dredged material in question at levee restoration sites within the San Francisco Bay region and take dredged material to those sites where it is feasible. The Corps shall make good faith efforts to coordinate with levee restoration projects that are seeking dredged material.
  - Beneficial Reuse and Rehandling Sites: The Corps shall evaluate the feasibility of placing the dredged material in question at beneficial reuse sites and dredged material rehandling sites within the San Francisco Bay region and take dredged material to those sites where it is feasible.
  - Coordination with other Corps Projects: The Corps shall evaluate the feasibility of combining placement of dredged material with that from other Corps projects implementing beneficial reuse when both projects will occur at similar times or locations, or will be performed by the same contractor.

#### Protection of Special Status Species

10. **Phased-In Reduction of Hydraulic Suction Hopper Dredging Inside San Francisco Bay:** According to CDFW, minimization of hopper dredging inside San Francisco Bay, combined with the measures described in Provision 12, is necessary to mitigate potential entrainment impacts to longfin and delta smelt to a less-than-significant level. Currently, the Corps proposes to continue using a government hopper dredge in Richmond Outer

Harbor, Suisun Bay and New York Slough, and Pinole Shoal. Due to the Corps' three-year budget process for its operations and maintenance program, the earliest that the San Francisco District could obtain additional funding to transition from hopper dredging to mechanical dredging in the three channels listed above would be federal fiscal year 2017 (FY 2017), October 1, 2017, through September 30, 2018. Therefore, starting in FY 2017, the Corps shall significantly reduce hydraulic dredging inside San Francisco Bay by the government hopper dredge *Essayons*, or similarly sized hopper dredge, by implementing one of the following options on an annual basis:

- **MSC and One In-Bay Channel:** Limit hopper dredge use to a maximum of one in-Bay federal channel, either the Richmond Outer Harbor or the Pinole Shoal Channel, but not the Suisun Bay Channel. Certain conditions, including rough seas, strong currents, fog, heavy rain, strong winds, heavy vessel traffic, or a combination of these factors may preclude safe dredging with a hopper dredge at the MSC. Dredging an in-Bay channel, whereby the dredge would move into San Francisco Bay and work on the identified channel, then return to the MSC as soon as conditions allow, would maximize efficient use of the hopper dredge.

The MSC, Pinole Shoal Channel, and Richmond Outer Harbor are not within the typical range of the delta smelt; therefore, the potential adverse effects to delta smelt resulting from dredge entrainment would be largely eliminated under this alternative. Because urgent action dredging of the Bulls Head Reach may occur at any time of year, it is likely that some longfin smelt and delta smelt would be entrained during some dredging episodes if a mechanical dredge is unavailable and a hopper dredge must be used. The potential for entrainment would be reduced with the use of a mechanical dredge. Because the extent and frequency of critical dredging episodes at Bulls Head Reach cannot be predicted, appropriate mitigation for these episodes, if warranted based on expected impacts, would be determined in coordination with regulatory agencies at time they occur.

- **MSC Only, No In-Bay Channels:** Limit hopper dredge use to the MSC and urgent action removal of any hazardous shoal at Bulls Head Reach in the eastern approach to the Benicia-Martinez Bridge in Suisun Bay Channel if a mechanical dredge is not available. Due to the strong currents and waves in the MSC, a hopper dredge is the only equipment that can safely dredge the channel. Because this option avoids and minimizes entrainment take of longfin and delta smelt to the maximum extent practicable, no compensatory mitigation or further entrainment monitoring is required.

Because urgent action dredging of the Bulls Head Reach may occur at any time of year, it is likely that some longfin smelt and delta smelt would be entrained during some dredging episodes if a mechanical dredge is unavailable and a hopper dredge must be used. The potential for entrainment would be reduced with the use of a mechanical dredge. Because the extent and frequency of critical dredging episodes at Bulls Head Reach cannot be predicted, appropriate mitigation for these episodes, if warranted based on expected impacts, would be determined in coordination with regulatory agencies at time they occur.

11. **Compensatory Mitigation for Implementation of Reduced Hopper Dredging Option 10 a.:** Because reduced hopper dredge use may not be implemented until fiscal year 2017, the Corps shall purchase 0.92 acre mitigation credit at Liberty Island Conservation Bank for potential impacts to longfin smelt in fiscal years 2015 and 2016 if a hopper dredge is used in the Suisun Bay and New York Slough, Pinole Shoal, and Richmond Outer Harbor Channels. The 0.92 acre mitigation credit was calculated from an equation ( $3.0 \text{ million acre-feet} / 800 \text{ acres} = \text{volume dredged} / X \text{ acres of mitigation habitat}$ ) that was developed by resource agencies to determine mitigation requirements for other projects with entrainment impacts as a result of pumping water, including the State Water Project. For volume dredged, available government-hopper-dredge-pumped total sediment and water volumes for 2006 through 2012 were reviewed. The highest volume for each of the in-Bay channels (Pinole Shoal, Richmond Outer Harbor, and Suisun Bay Channel/New York Slough) from this period was used in the calculation. Of the 0.92 acre mitigation credit, 0.19 acre mitigation credit is for Pinole Shoal, 0.34 acre mitigation credit is for Richmond Outer Harbor, and 0.39 acre mitigation credit is for Suisun Bay Channel and New York Slough.

Beginning in fiscal year 2017 and each subsequent year, the Corps shall purchase no less than 0.19 acre mitigation credit at the Liberty Island Conservation Bank, or other CDFW-approved conservation bank providing habitat benefitting listed smelt species if Pinole Shoal is dredged with a hopper, and no less than 0.34 acre mitigation credit if Richmond Outer Harbor is dredged with a hopper.

12. **Avoidance, Minimization, and Mitigation Measures for Entrainment Impacts:** The Corps shall implement the following measures to mitigate potential entrainment impacts to a less-than-significant level:
- a. No dredging would occur in water ranging from 0 to 5 parts per thousand salinity between December 1 and June 30.
  - b. The Corps will coordinate with the appropriate regulatory and resource agencies to perform compensatory mitigation for hydraulic dredging anywhere when water temperature is below 22.0°C.
  - c. Implement a worker education program for listed fish species that could be adversely impacted by dredging. The program would include a presentation to all workers on biology, general behavior, distribution and habitat needs, sensitivity to human activities, legal protection status, and project-specific protective measures.
  - d. At the beginning and end of each hopper load, pump priming, drag head clearing, and suction of water would be conducted within three feet of the seafloor.
  - e. Hopper drag head suction pumps would be turned off when raising and lowering the drag arms from the seafloor.
  - f. Completing hydraulic dredging in Suisun Bay between August 1 and September 30, to the extent feasible<sup>1</sup>, to avoid impacts to spawning adult longfin and delta smelt.

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<sup>1</sup> Feasibility is contingent upon the availability of federal funds (e.g., timing of Congressional appropriations) to execute the dredging work, as well as by the availability of dredging equipment to perform the dredging work at the referenced time and locations.



- g. Completing hydraulic dredging in Central Bay between August 1 and November 30, to the extent feasible<sup>1</sup>, to avoid impacts to young-of-the-year and spawning adult longfin smelt.
  - h. Monitoring drag head, cutterheads, and pipeline intakes so that they maintain contact with the seafloor during suction dredging.
  - i. Keeping the drag head water intake doors closed to the maximum extent feasible in locations most vulnerable to entraining smelt. In circumstances when the doors need to be opened to alleviate clogging, the doors would be opened incrementally (i.e., the doors would be opened in small increments and tested to see if the clog is removed) to ensure that doors are not fully opened unnecessarily.
13. **Entrainment Monitoring for Implementation of Reduced Hopper Dredging Option 10 a.:** The Corps shall submit an entrainment monitoring plan, acceptable to the Executive Officer, for collecting data to increase the accuracy of existing entrainment rate estimates for delta smelt, longfin smelt, and other special status fish species in hydraulic hopper dredges during maintenance dredging in San Francisco Bay. At a minimum, the plan shall include the following elements:
  - On-board monitoring during active dredging.
  - Sampling during all phases of the dredging cycle.
  - Sampling both drag-arms to capture a greater percentage of the pump volume during active dredging.
  - Sampling associated with flood/ebb tides and spring/neap tides.
  - Visual monitoring of vessel hold for fish that are not captured by sampling screens during active dredging.
  - Presence/absence fish monitoring in the immediate vicinity of the dredge during active dredging to understand if sampling is effective.

The plan shall also describe procedures for evaluating the effectiveness of the measures required by Provision 12 and include a schedule for completing the monitoring and submitting a final report to the Water Board.

**Entrainment Monitoring Plan Due Date:** July 31, 2015.

14. Dredging and disposal activities shall be limited to the work windows set out by CDFW, NMFS, and USFWS in their most recent programmatic consultations on the LTMS unless the Corps consults individually with the appropriate resource agencies and provides Water Board staff with written authorization from the resource agency or agencies consulted, to work outside these windows.
15. This Order does not allow for the take, or incidental take, of any special status species. The Corps is required, as prescribed in the State and federal Endangered Species Acts, to consult with the appropriate agencies prior to commencement of the project. The Corps shall use the appropriate protocols, as approved by the CDFW, NMFS, and/or the USFWS, to ensure that project activities do not adversely impact preservation of rare and

endangered species, a beneficial use of San Francisco Bay and its tributaries as set forth in the Basin Plan.

16. The Corps shall comply with the Conservation Measures set forth in the June 9, 2011, Programmatic Essential Fish Habitat (EFH) Consultation Agreement between the Corps, EPA, and NMFS. The Conservation Measures are intended to enhance the environmental protectiveness of the LTMS program for EFH, which the Magnuson-Stevens Fishery Conservation and Management Act defines as “waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity,” for all managed fish species.

*Management and Monitoring of Dredging and Disposal of Dredged Material*

17. The Corps shall maintain administrative controls on disposal volumes at the in-Bay disposal sites for all navigation dredging projects under the LTMS so that target volumes in Table 2 of this Order are not exceeded. The Corps shall manage overall disposal volumes and disposal locations within each site to prevent build-up of dredged material at the sites.
18. **Post-Dredge Survey:** The Corps shall ensure that post-dredge bathymetric surveys for federal dredging projects are conducted within 30 days of completion of dredging in all federal navigation channels, regardless of whether they are dredged by a contractor or by a federal government dredge.
19. **Post-Dredge Report:** The Corps shall provide a post-dredge report shall to Water Board staff and the Corps DMMO database manager within 60 days of completion of dredging operations for each federal dredging project. The report shall contain the dates of dredging, maps of the dredging footprint, the calculated final dredging volume, and the placement location, or locations and volumes per location if more than one site was used. In addition, for hydraulic dredging projects, the report submitted to Water Board staff shall describe the implementation and effectiveness of all applicable entrainment mitigation measures listed in Provision 12.
20. The Corps shall provide a technical report that documents monitoring efforts designed to evaluate the water quality impacts of the dredged material discharge on waters of the State, pursuant to California Water Code (Water Code) section 13267.

**Regional Monitoring Program:** Please be aware that Provision 19 is a requirement for a technical report. The Water Board requires dischargers of waste materials to the Bay, including those who dispose of dredged material, to monitor the impacts of their discharges under Water Code section 13267. This monitoring provides necessary information about ambient Bay water quality and potential long-term impacts of dredged material disposal.

In previous years, the Corps has participated in the San Francisco Estuary Regional Monitoring Program for Trace Substances (RMP) by funding the USGS to monitor suspended sediments at an array of locations in the Bay. The RMP is a coordinated and comprehensive long-term monitoring program with the goal of monitoring water and sediment quality to provide the scientific foundation for managing and improving the health of the San Francisco Bay aquatic ecosystem. Suspended sediment monitoring has and will continue to improve understanding of sediment transport processes and create a

comprehensive database for various numerical modeling efforts. Implementation or funding of the RMP study program or other Water Board-approved study will constitute fulfillment of this provision.

21. The Corps shall continue bathymetric monitoring of the in-Bay disposal sites (monthly surveys at the Alcatraz Disposal site, quarterly surveys elsewhere). The Corps shall keep a record of these surveys on file and shall make them available for inspection by the Water Board, other regulatory agencies, and interested members of the public upon written request to the Corps staff.

*Disturbance of Historical or Unique Archaeological Resources, Human Remains, or Significant Paleontological Resources*

22. In the unlikely event that any of the resources listed above are discovered during maintenance dredging in the federal channels, the Corps will immediately cease dredging, notify Water Board staff, and consult a qualified expert for the particular resource discovered (e.g. archeologist, paleontologist, local coroner, Native American Heritage Commission).

*Standard Provisions*

23. The discharge of dredged materials to the waters of the State shall cease immediately whenever violations of this Order are detected by the Corps or by Water Board staff as determined by the Executive Officer, and the discharge shall not resume until compliance can be assured to the Executive Officer's satisfaction.
24. The Corps shall provide the Water Board or its authorized representative, in accordance with California Water Code Section 13267(c), with the following:
  - Entry upon premises in which any required records are kept.
  - Access to copy any records required to be kept under terms and conditions of this order.
  - Access to inspect monitoring equipment or records.
  - Access to sample any discharge.
  - Small craft transport to offshore locations or vessels for the purpose of inspection, provided that it is within normal business hours.
25. **Certification**  
The Water Board hereby certifies that any discharge from the referenced project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards), and with other applicable requirements of State law. Clean Water Act section 401 directs the agency responsible for certification to prescribe effluent limitations and other limitations necessary to ensure compliance with the Clean Water Act and with any other appropriate requirement of State law. Section 401 further provides that State certification conditions shall become conditions of any

- federal license or permit for the project. The conditions of this certification must be met to ensure that the project will comply with water quality standards, any applicable effluent limitation, standard of performance, prohibition, effluent standard, or pretreatment standard required pursuant to the Clean Water Act sections listed above and to ensure that the project will comply with any other appropriate requirements.
26. This Order applies to the project as proposed in the application materials and conditioned and approved in this Order. Failure to implement the project as proposed is a violation of this Order. Violation or threatened violation of the conditions of this Order is subject to remedies including, but not limited to, penalties or injunctive relief as provided under applicable State or federal law.
  27. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23 (23 CCR), section 3867. The Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and implementation plans adopted and approve pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act, or in response to new information concerning the conditions of the project.
  28. This Order is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
  29. This Order does not remove liability under federal, State, or local laws, regulations or rules of other programs and agencies, nor does this Order authorize the discharge of wastes without appropriate permits from other agencies or organizations.
  30. This Order supersedes Order No. R2-2007-0020. Order R2-2007-0020 is hereby rescinded.

I, Bruce H. Wolfe, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on May 13, 2015.

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BRUCE H. WOLFE  
EXECUTIVE OFFICER

ATTACHMENTS:

Figure 1. Federal Navigation Projects and Dredged Material Placement Sites

Figure 2. San Francisco Main Ship Channel

Figure 3. Oakland Harbor

Figure 4. Richmond Harbor

Figure 5. Suisun Bay Channel and New York Slough

Figure 6. Pinole Shoal

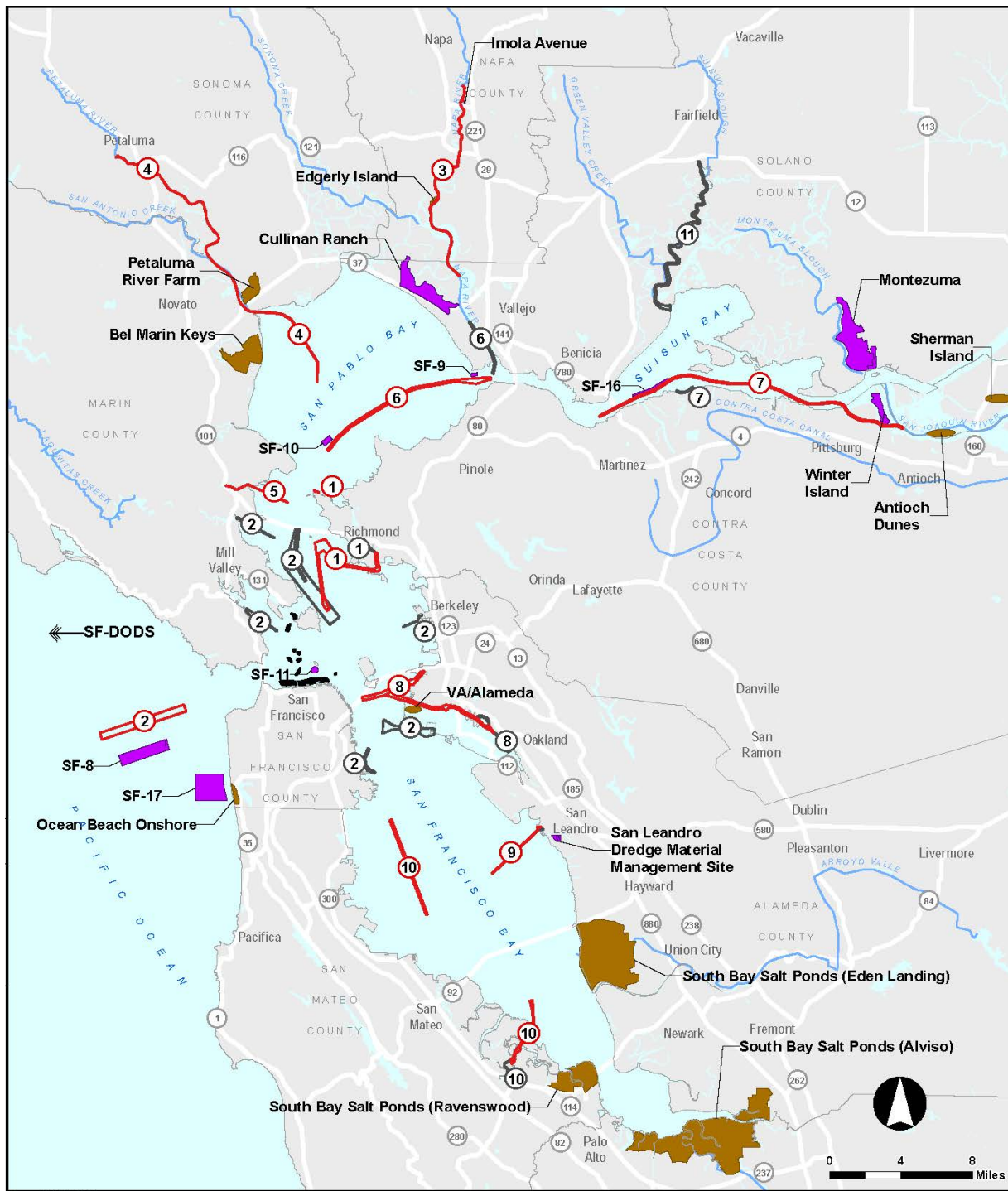
Figure 7. Redwood City Harbor

Figure 8. Napa River Channel

Figure 9. Petaluma River Channel

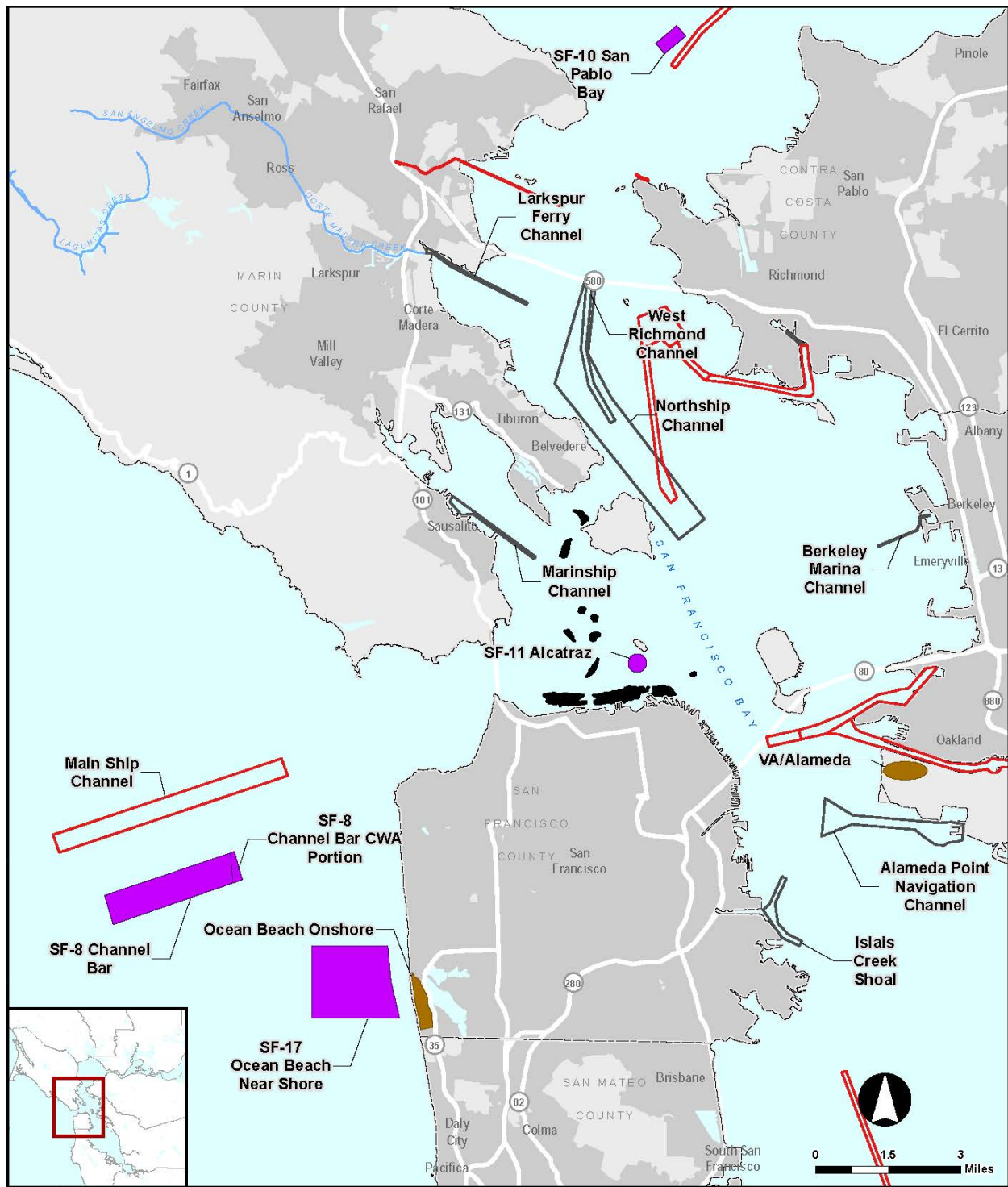
Figure 10. San Rafael Creek Channel

Figure 11. San Leandro Marina (Jack D. Maltester Channel)



- |  |   |  |
|--|---|--|
|  Existing Placement Site              |  1 Richmond Harbor                   |  7 Suisun Bay Channel                             |
|  Potential Future Placement Site      |  2 San Francisco Harbor              |  8 Oakland Harbor                                 |
| <b>Dredge Locations</b>  |  3 Napa River Channel                |  9 San Leandro Marina (Jack D. Maltester Channel) |
|  Included in EA/EIR                   |  4 Petaluma River Channel            |  10 Redwood City Harbor                           |
|  Not Included in EA/EIR               |  5 San Rafael Creek Channel          |  11 Suisun Slough Channel                         |
|  Shoaling Area—Not included in EA/EIR |  6 San Pablo Bay/ Mare Island Strait |  |

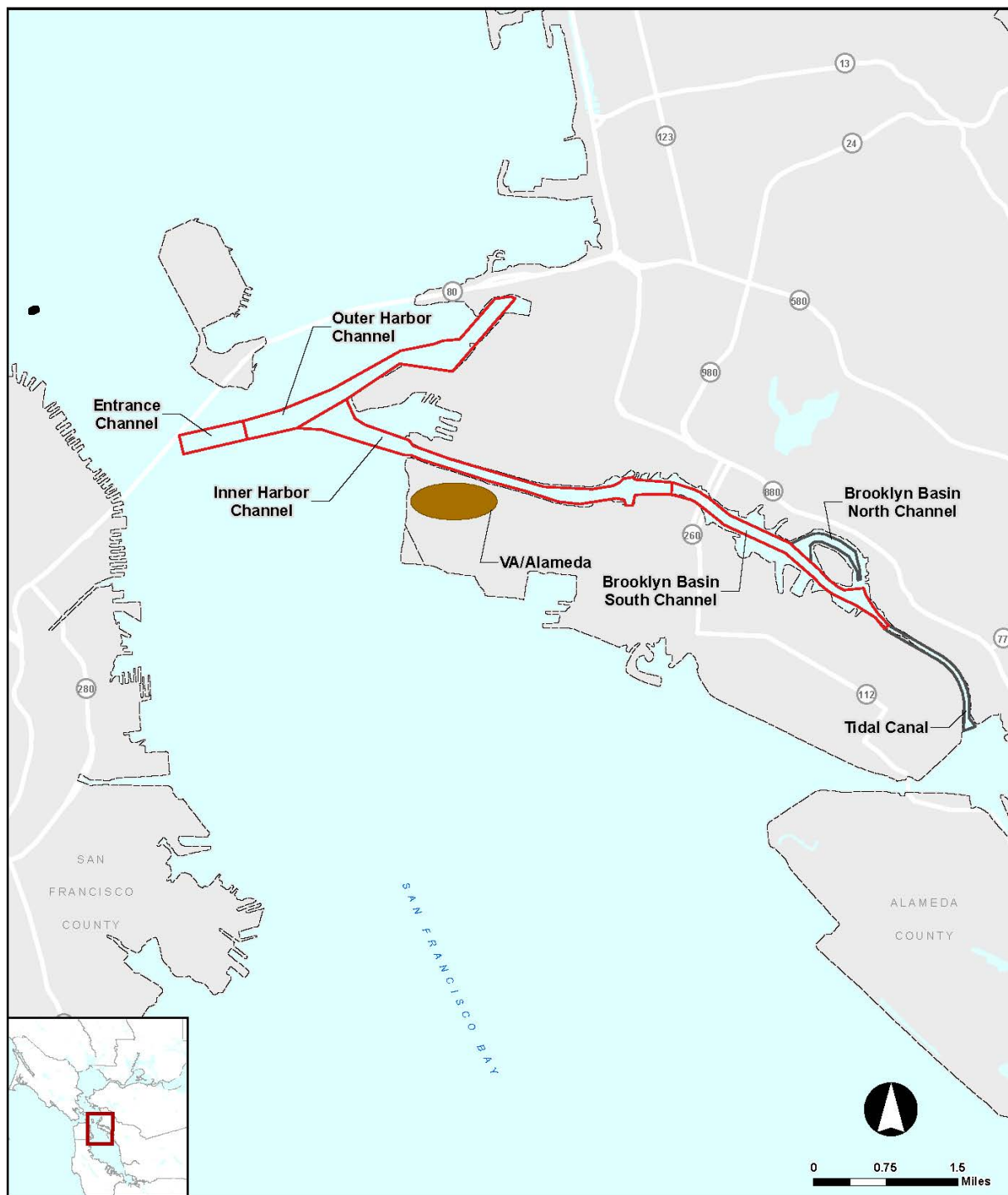
**Figure 1. Federal Navigation Projects and Dredged Material Placement Sites**



- ① Highway
- Existing Placement Site
- Potential Future Placement Site
- County boundary
- Dredge Locations Included in EA/EIR
- Dredge Locations Not Included in EA/EIR
- Shoaling Dredge Area – Not included in EA/EIR

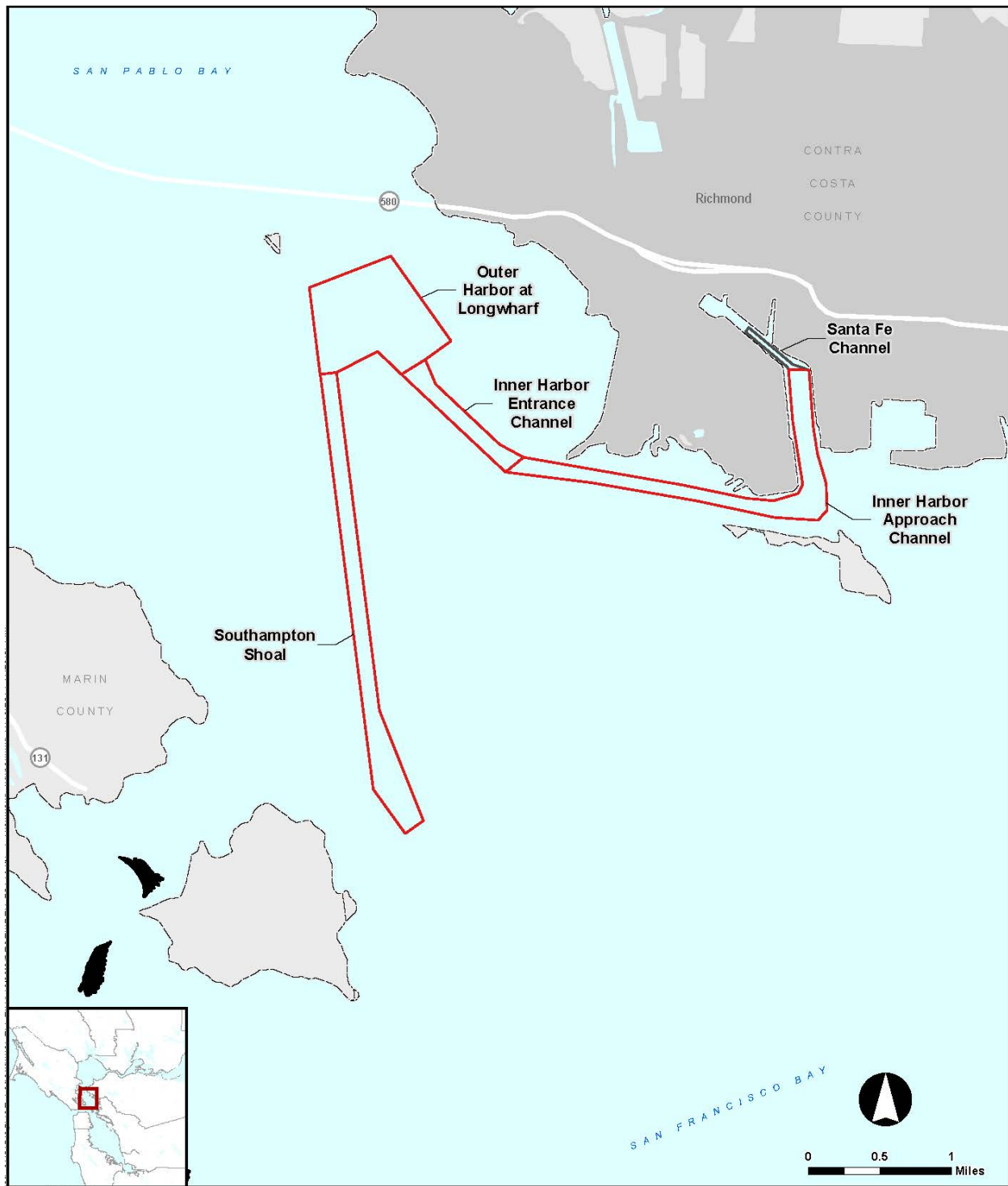
**Figure 2. San Francisco Harbor – Main Ship Channel**





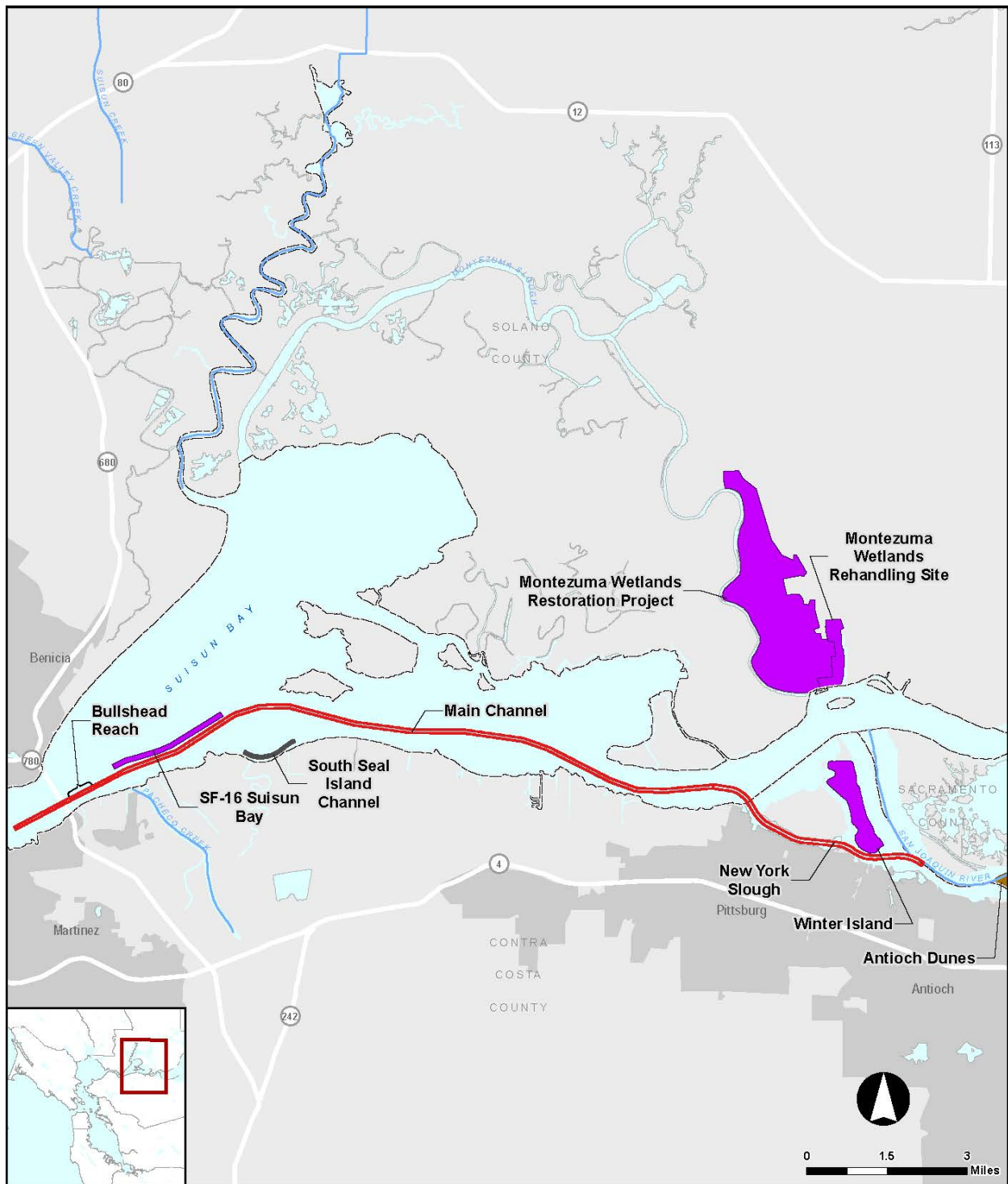
**Figure 3. Oakland Harbor**



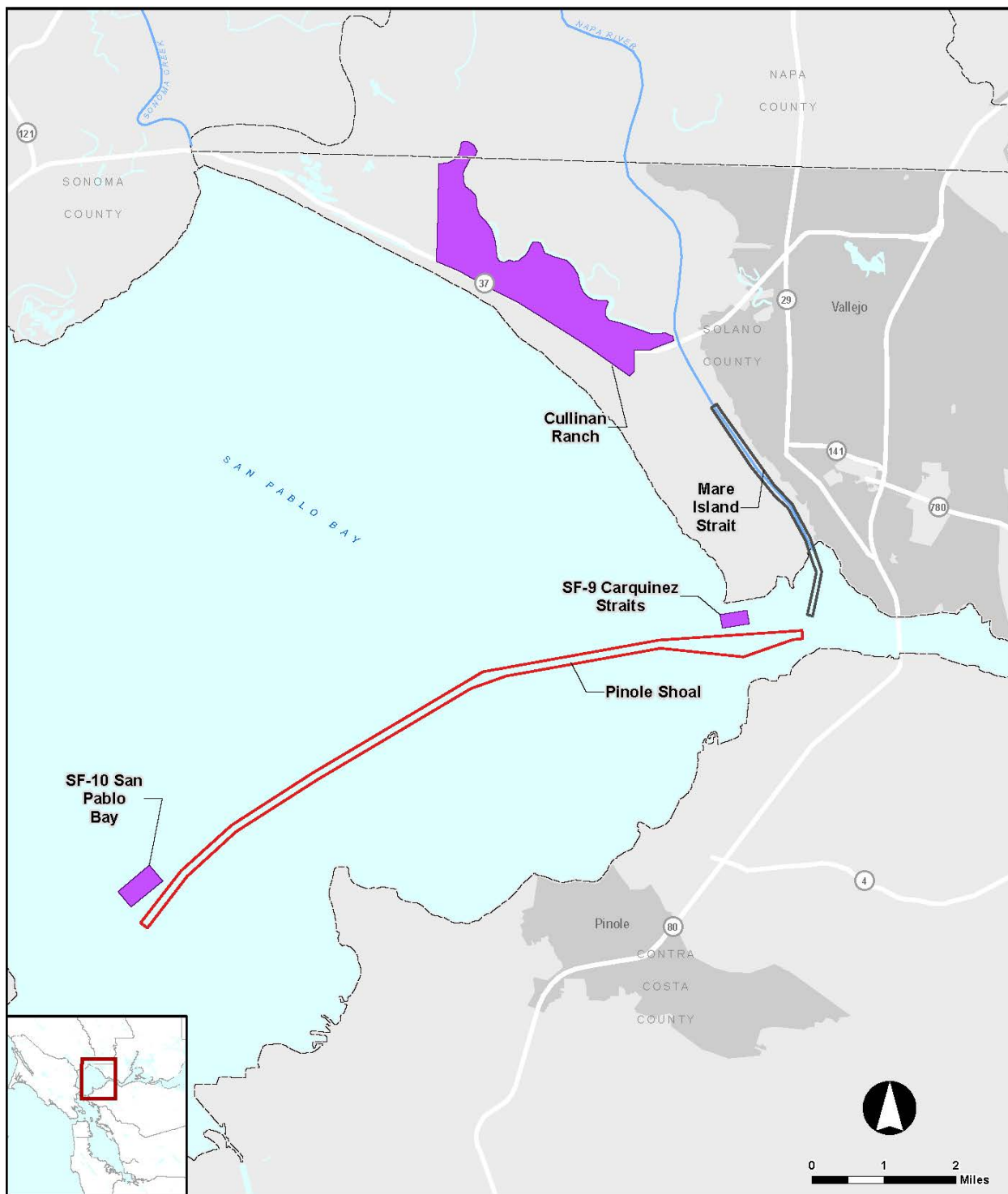


- ① Highway
- County boundary
- Dredge Locations Included in EA/EIR
- Dredge Locations Not Included in EA/EIR
- Shoaling Dredge Area – Not included in EA/EIR

**Figure 4. Richmond Harbor**

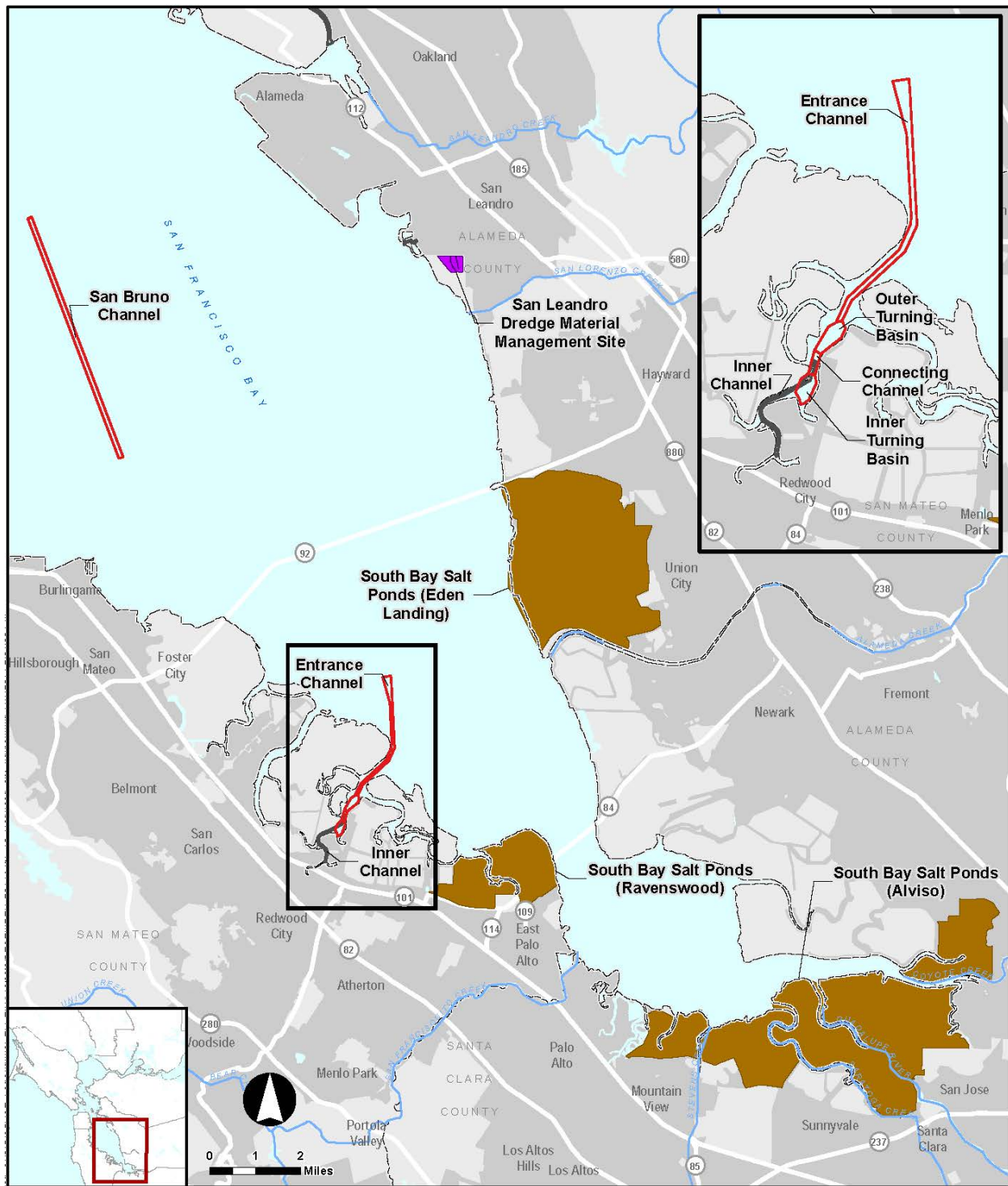


**Figure 5. Suisun Bay Channel and New York Slough**



- ① Highway
- Placement site
- County boundary
- Dredge Locations Included in EA/EIR
- Dredge Locations Not Included in EA/EIR

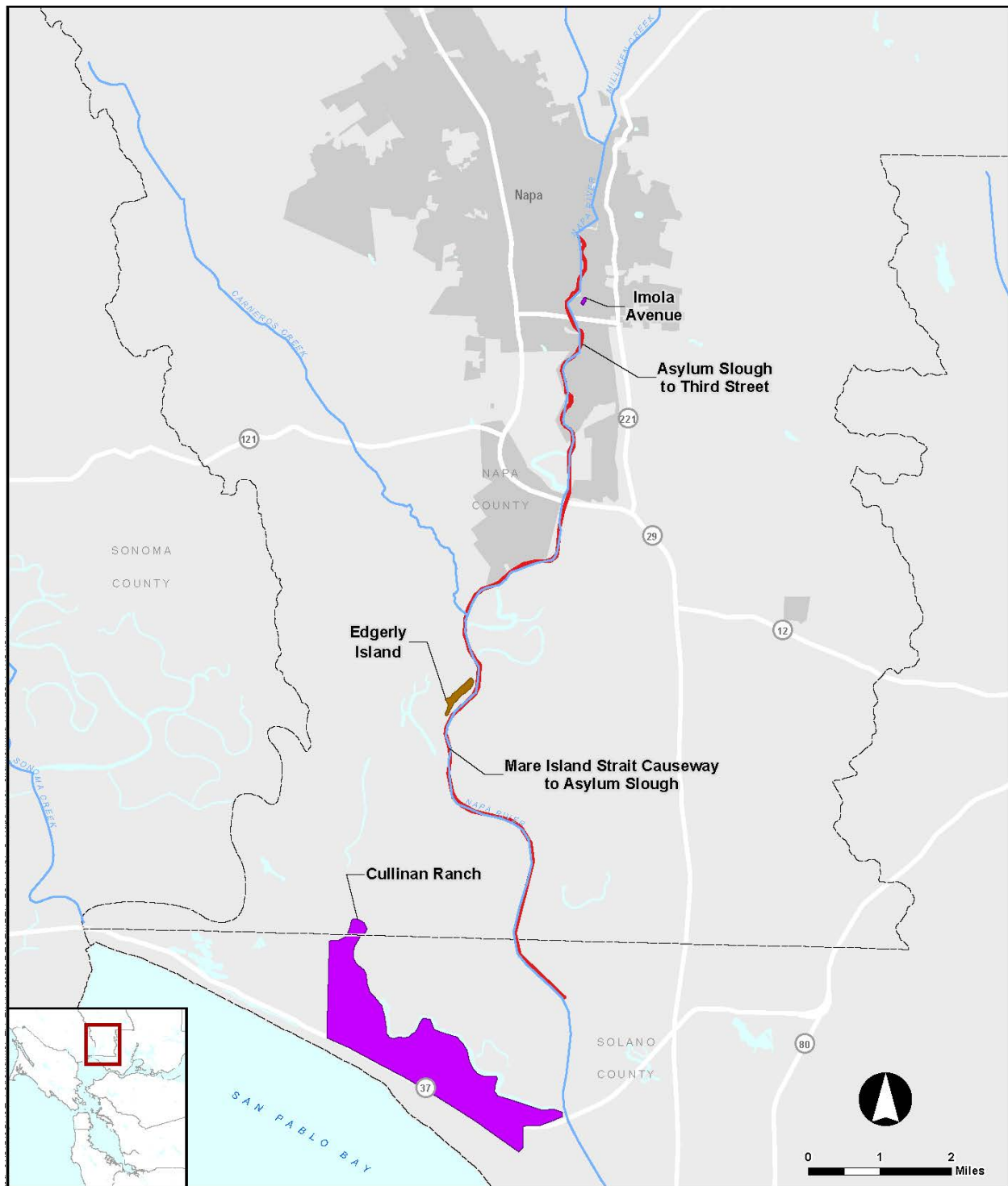
**Figure 6. Pinole Shoal**



- ① Highway
- Existing Placement Site
- Potential Future Placement Site
- County boundary
- Dredge Locations Included in EA/EIR
- Dredge Locations Not Included in EA/EIR

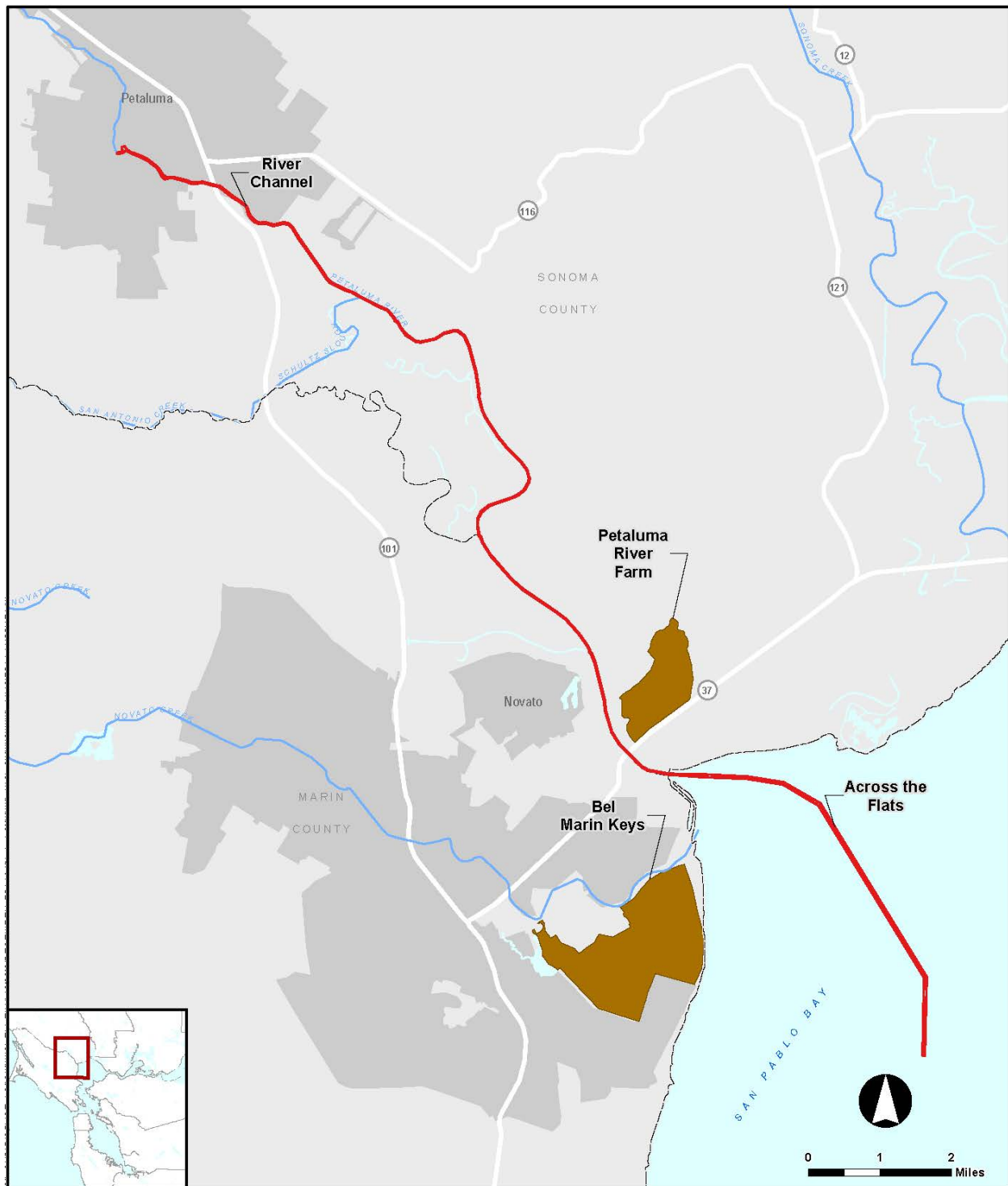
**Figure 7. Redwood Harbor**





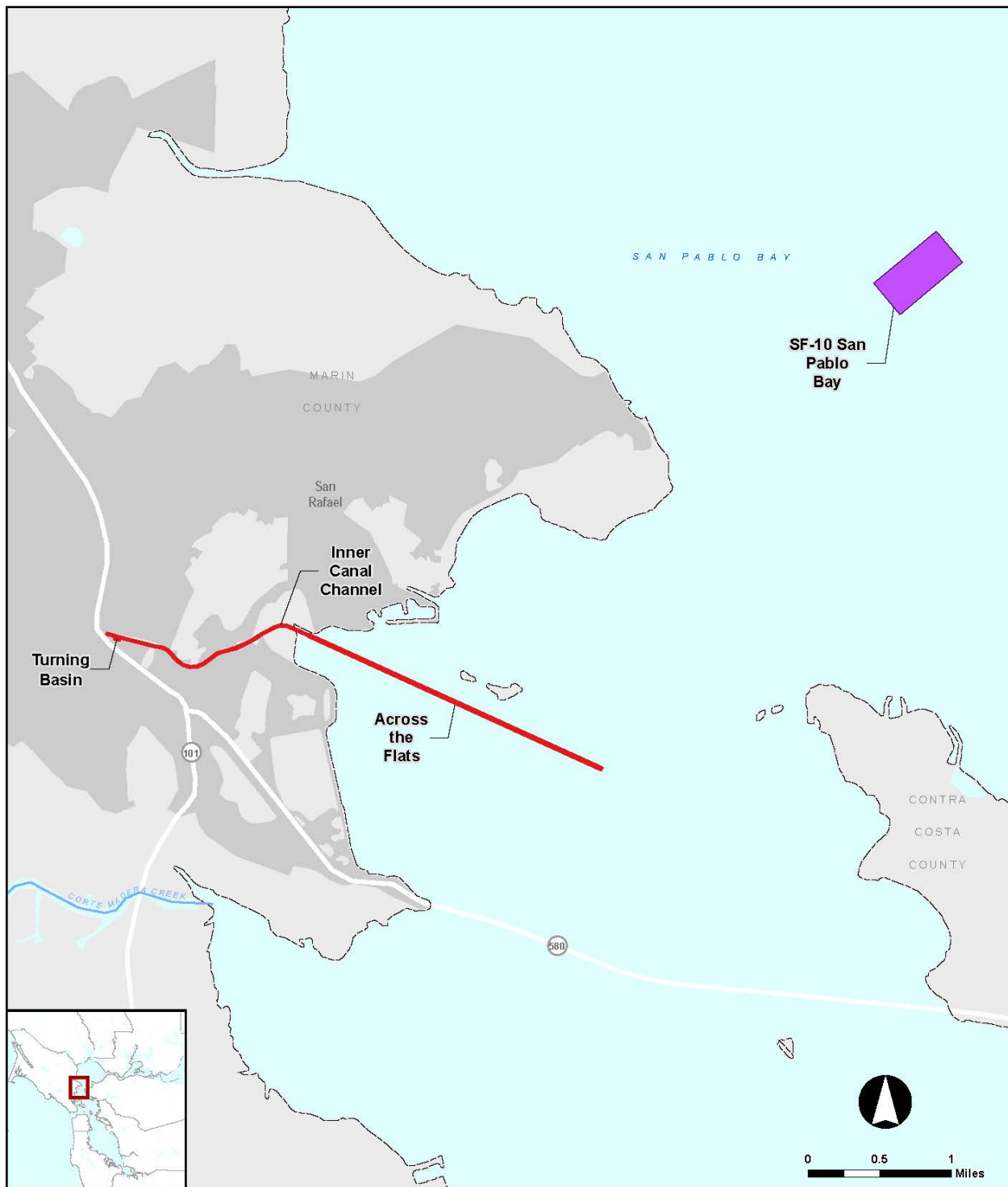
- ① Highway
- Existing Placement Site
- Potential Future Placement Site
- County boundary
- Dredge Locations Included in EA/EIR

**Figure 8. Napa River Channel**



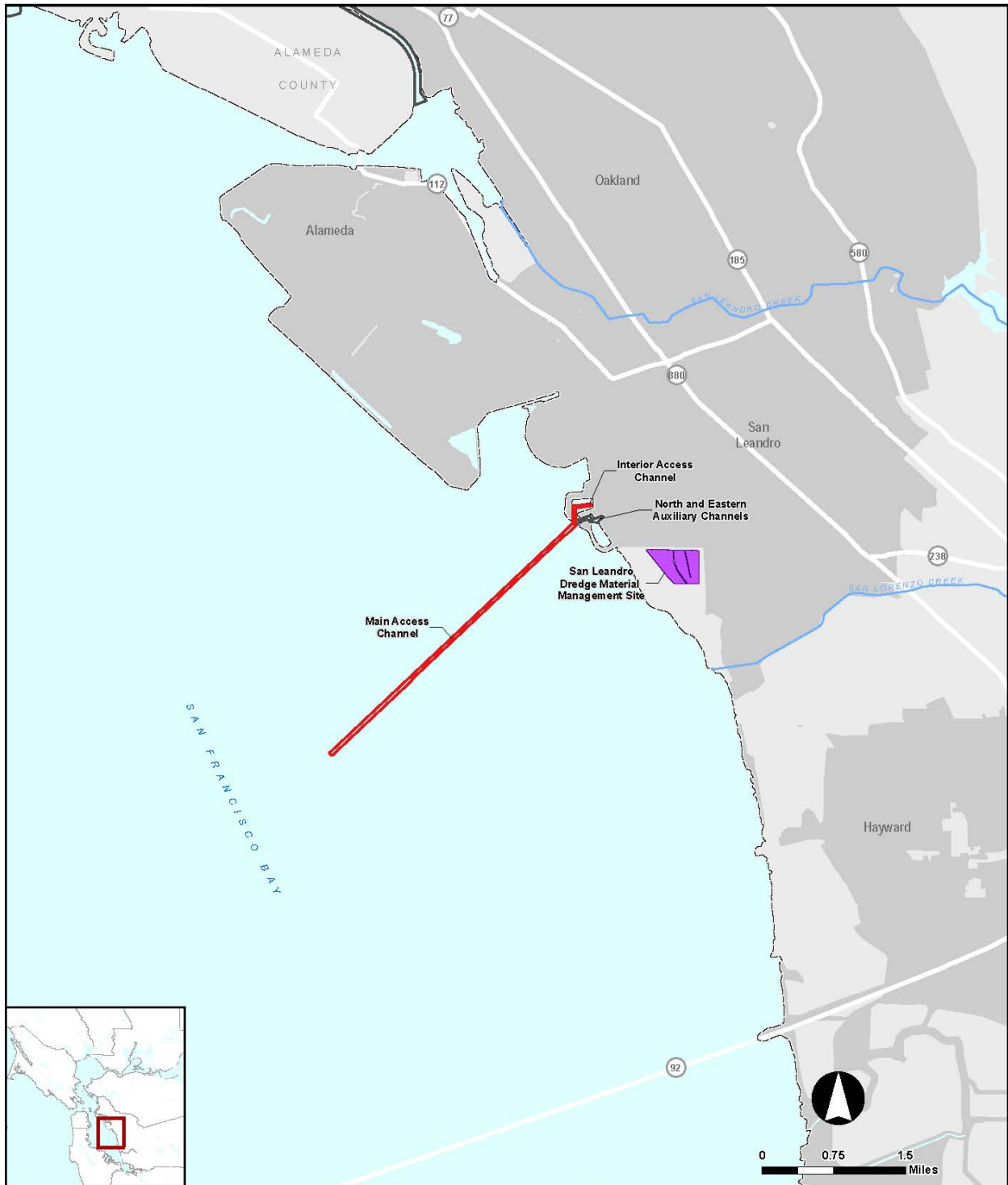
- ① Highway
- Potential Future Placement Site
- County boundary
- ▭ Dredge Locations Included in EA/EIR

**Figure 9. Petaluma River Channel**



- ① Highway
- County boundary
- ▭ Dredge Locations Included in EA/EIR
- ▭ Existing Placement Site

**Figure 10. San Rafael Creek Channel**



- ① Highway
- Placement site
- County boundary
- Dredge Locations Included in EA/EIR
- Dredge Locations Not Included in EA/EIR

**Figure 11. San Leandro Marina (Jack D. Maltester Channel)**