

CHAPTER 5: CONSULTATION AND COORDINATION

This chapter provides an overview of public involvement and public agency consultation. It also includes a list of persons involved in the preparation of this Environmental Assessment.

5.1 HISTORY OF PUBLIC INVOLVEMENT

The public was notified of the commencement of this NEPA process through a variety of media outlets, including: regular (USPS) mail, newspaper advertisements, two websites, posted flyers, e-mail, and a press release. On August 1, 2011, mailers announcing the scoping period were sent to the more than 3,900 individuals on the mailing lists maintained by GGNRA, SAFR, the Corps, USCG, and the Presidio Trust. The next day, advertisements of the scoping period and public meetings were published in 15 newspapers, including a Chinese language publication. On August 5, notice was also posted on two separate websites, one managed by NPS and one and managed by the NEPA consultant for this EA. On August 10, flyers were posted throughout the project area. And on August 17, the federal team issued a press release to several Bay Area newspapers, which announced the project name and description, the purpose of the environmental assessment, the duration of the scoping period, the federal agencies involved, the project website addresses.

The federal agency team held public scoping meetings on August 17, 18, and 23, 2011, in Sausalito, San Francisco, and Oakland, respectively. Separate meeting venues were offered to encourage participation by potentially interested parties throughout the Bay Area. All meetings were conducted in an open house format, occurred in the early evening, and offered the same opportunities to participate and comment. Topics addressed during the meetings included: (1) project purpose, need, and objectives; (2) description of the project alternatives under consideration; (3) potential venue plans and management zones; (4) potential impact topics; (5) traffic and access areas for study; (6) potential alternatives; and (6) additional information on opportunities for public participation and comment. Materials displayed at the open house were also made available through the project websites.

The scoping period remained open for a period of 49 days—from August 5 to September 23, 2011. During that time, the federal team received 48 pieces of correspondence, containing 383 comments representing the views of the general public, civic groups, public agencies, businesses, recreational groups, and conservation and preservation groups, among others. Submittals from public (federal) agencies and conservation/preservation groups accounted for about one-quarter of all submittals (six each). These comments came in the form of regular mail, electronic mail, completion of web-based comment forms, comment forms at public meetings, and oral comments. Topics most frequently raised in these comments included: transportation, wildlife and wildlife habitat, recreation, and sustainability. All comments were reviewed by the federal team and incorporated into the project alternatives development process.

5.2 CONSULTATION WITH OTHER AGENCIES AND ORGANIZATIONS

On August 30, 2011, the federal team held an agency scoping meeting in San Francisco. The meeting was attended by a total of 33 people, including representatives of 17 agencies and organizations involved with planning and/or regulating the project under consideration. Public agencies represented at the scoping meeting included the California Department of Fish and Game, California State Parks, U.S. Environmental Protection Agency, Golden Gate Bridge Highway and Transportation District, National Marine Fisheries Service, Regional Water Quality Control Board, San Francisco Port, San Francisco Planning Department, USCG, NPS, Presidio Trust, and the Corps. The meeting consisted of a brief presentation, followed by a round-table discussion of topics of interest to the agencies represented. As with the public scoping meetings, oral comments were recorded on flip-chart paper. Topics of interest to meeting attendees generally centered on: (1) transportation to and throughout the proposed and other potential spectator viewing areas, including the Golden Gate Bridge, the Presidio, and Angel Island; (2) the marine environment and water quality; and (3) identifying and coordinating compliance with various regulatory requirements. National Park staff with expertise on park resources was also consulted. After the close of the scoping period, the federal team continued to coordinate with federal, state, and local agencies, as described below.

5.2.1 Section 7 Consultations Under the Endangered Species Act and Essential Fish Habitat Under the Magnuson-Stevens Fishery Conservation And Management Act

Consultation with U.S. Fish and Wildlife Service

The NPS, USCG, and Corps, have engaged the United States Fish and Wildlife Service (USFWS) to evaluate the implications of the AC34 project upon federally listed species within the project area, as required under Section 7 of the Endangered Species Act. A timeline of consultation during the Biological Assessment (BA) is provided below.

- March 9, 2011: Thomas Roberts, CWB (ESA) requested and obtained a list from the USFWS of the federally endangered and threatened species that occur in or may be affected by proposed actions in the following U.S. Geological Survey (USGS) 7 ½ Minute Quads: *San Francisco North, San Francisco South, San Quentin, Hunters Point, Point Bonita, San Rafael, Oakland West, Richmond* (Document Number: 110309113214).
- March 9, 2011: USFWS attended an inter-agency meeting with NOAA Fisheries to discuss the proposed action in concept. Ryan Olah attended by phone. At that time, USFWS indicated that it did not anticipate that the project would have large impacts on USFWS listed species at this point, but would need to review the details of the proposed action before making a final determination.
- April 21, 2011: USFWS confirmed via email that longfin smelt would not become federally listed until at the earliest, September 2012. USFWS confirmed that if there is no in-water construction that needs to take place after September 2012, that longfin smelt would not need to be included in this BA.

- May 6, 2011: Thomas Roberts (ESA) and Jillian Blanchard (Boudreau Associates) met with the NPS staff (Michael Savidge and Daphne Hatch) to discuss proposed Conservation Measures and best methods for avoiding any potential impacts to Mission blue butterfly, Western snowy plover and the listed plant species considered in this BA.
- May 25, 2011: Jillian Blanchard forwarded draft Conservation Measures that would require USCG coordination to the USCG staff for input.
- June 1, 2011: Email from USFWS (Ryan Olah) confirming that the America's Cup race events themselves would not affect longfin smelt.
- July 11-15, 2011: Received comments via email and meetings from USCG, the Corps and NPS on the draft BA.
- August-November 2011: Received comments via email and meetings from the Corps, USCG and NPS on the second draft BA. Revised BA to reflect the comments of the three federal action agencies (USCE, the Corps, and NPS).

In November 2011, NPS, USCG, and the Corps submitted the revised BA to USFWS. The document concluded that, with proposed conservation measures, the AC34 project may affect, but is not likely to adversely affect mission blue butterfly, western snowy plover, California least tern, longfin smelt, San Francisco lessingia, Presidio manzanita, Presidio clarkia or Marin dwarf-flax. According to the BA, the effects would be short-term and would be avoided through specific conservation measures identified therein, and incorporated into this Environmental Assessment (EA) (Environmental Science Associates 2011).

Consultation with the National Marine Fisheries Service

The NPS, USCG, and Corps, have engaged the National Marine Fisheries Service to evaluate the implications of the AC34 project upon federally listed species and essential fish habitat within the project area, as required under Section 7 of the Endangered Species Act and Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA). A timeline of consultation is provided below.

- Tom Roberts (Environmental Science Associates) requested and obtained a list from the USFWS of the federally endangered and threatened species that occur in or may be affected by projects in the following U.S.G.S. 7 1/2 Minute Quads: *San Francisco North, San Francisco South, San Quentin, Hunters Point, Point Bonita, San Rafael, Oakland West, Richmond* (Document Number: 110309113214).
- On March 9, 2011, Kelly Capone (Port of San Francisco) and Christine Boudreau (Boudreau and Associates) met informally with Gary Stern and Korie Schaeffer to preliminarily discuss the AC34 and James R. Herman Cruise Terminal projects and NMFS needs and expectations in the BA prepared for the projects.
- On April 28, 2011 Christine Boudreau met with Korie Schaeffer and Amanda Morrison to discuss the BA being prepared for the AC34 project.

- On May 9, 2011 received a revised email from Amanda Morrison confirming ESA species of concern potentially affected by the AC34 project.
- On May 26, 2011 Christine Boudreau had a phone conversation with Korie Schaeffer and Amanda Morrison to discuss proposed avoidance and mitigation measures.
- In addition, there have been three inter-agency work group (IWG) meetings (April 25, May 12, and June 28, 2011) to discuss regulatory processes, project description, preliminary analysis of effects, and avoidance and minimization measures.

In December 2011, NPS, USCG, and the Corps submitted a BA to NMFS. Pursuant to the Section 7 consultation, the document concluded: the AC34 project would not result in permanent impacts to ESA- and EFH-managed species, based on: (a) the avoidance and minimization measures proposed in the BA; (b) the avoidance and minimization measures proposed for pile driving activities; (c) project plans and actions that prevent the introduction and spread of invasive non-native organisms, and (d) the relatively small percentage of habitat and temporary nature of most AC34 project activities that would be involved. The B.A. did note, however, that the project could result in minor temporary impacts to sturgeon and steelhead trout, and potential impacts to Chinook salmon and steelhead trout habitat. Pursuant to the MSFCMA, the BA concluded that the project could affect EFH through: dredging- and construction-related turbidity; disruption of benthic foraging habitat as a result of these activities; potential habitat avoidance during pile driving; temporary loss of foraging habitat due to these activities; and temporary increase in predation of pelagic schooling fish as a result of incidental night-time lighting by temporary floating dock lights (Applied Marine Sciences, Inc., Boudreau Associates, LLC, and Environmental Science Associates 2011). Noted above, with implementation of conservation measures identified therein and included in this EA, such impacts would be avoided or minimized, and temporary.

5.2.2 Section 106 of the National Historic Preservation Act Consultation

Each federal agency involved in the AC43 event, including the NPS, the Presidio Trust, the United States Coast Guard (USCG), and the United States Army Corps of Engineers (Corps) is pursuing compliance with Section 106 independently, yet in a coordinated fashion, to address effects on cultural resources that may occur as a result of their permitting activities. Provided below is a summary of the various agency's compliance processes to date. As required under NHPA regulations (36 C.F.R. 800.2(d)) this Environmental Assessment (EA) provides the public with information about each agency's proposed action(s) and their effects on historic properties. The comment period following publication of this draft will provide the public with an opportunity to comment on the agency actions under consideration.

Compliance with Sections 106 and 110(f) of the NHPA is being conducted by the NPS as a separate effort that has been coordinated with NEPA compliance. This compliance is being conducted in accordance with the Programmatic Agreements (PAs) between the NPS, the California SHPO, and the Advisory Council on Historic Preservation (ACHP). The GGNRA has entered into two Programmatic Agreements (PAs) with SHPO and the ACHP: one that covers cultural resources parkwide and another that specifically addresses potential effects on the resources of the Presidio. Under these PAs, the

GGNRA is exempted from further consultation with SHPO and the ACHP if all effects of a project on cultural resources can be reduced to a non-adverse level (i.e., no more than minor effects). SAFR and the Presidio Trust executed similar PAs with SHPO and the ACHP regarding the resources under its jurisdictions. The NPS and the Presidio report on all activities reviewed under these PAs on an annual basis, ensuring that both SHPO and the ACHP maintain oversight of these activities. The Presidio Trust will rely on the NPS to assess potential cumulative effects from AC34 for the Presidio NHL as a whole. Section 106 compliance for AC34-related activities that take place in Presidio Trust-administered lands (Area B) will be managed by the Trust's PA.

This EA, and a site conditions assessment report (AC34 Section 106 Report) prepared by ESA for the GGNRA and SAFR, will be used to determine if the finding of "No Adverse Effects" can be made for the AC34 project, and consequently, whether Section 106 review can be completed internally by the NPS under the PAs with SHPO and the ACHP. The AC34 Section 106 Report is being prepared to identify all cultural resources subject to project effects within the APE on GGNRA and SAFR lands, assess the current condition of each resource and its vulnerability to project effects, and identify measures to protect the resources from adverse effects during the AC34 events. NPS use of the AC34 Section 106 Report to meet Section 106 requirements was discussed with SHPO in March and April 2011, as notification that the GGNRA and SAFR intended to conduct compliance activities for the AC34 project under the aforementioned PAs.

The USCG has determined that its permitting actions would have no potential to affect any historic properties, and that it has no further responsibilities under Section 106 for the AC34 project. Concurrence with this determination was received from SHPO on April 3, 2012 (Appendix G).

The United States Army Corps of Engineers (Corps) has made a similar determination regarding the potential cultural resources impacts of its permitting and subsequent in-water dredging and construction actions. A letter with the finding of no adverse effect to historic properties has been prepared and sent to SHPO for review. If SHPO concurs with the Corps' assessment, this agency will have fulfilled its responsibilities with regard to Section 106 compliance. Documentation relating to the Corps' Section 106 process for NHPA compliance is provided as an attachment to this document (Appendix G).

As described in Section 3.6.2, all federal agency documentation regarding compliance with Section 106 has been made available for public review and comment on the NPS Planning, Environment, and Public Comment (PEPC) website (<http://parkplanning.nps.gov/>).

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5.5 REFERENCES

Applied Marine Sciences, Inc., Boudreau Associates, LLC, and Environmental Science Associates

- 2011 Endangered Species and Essential Fish Habitat Biological Assessment – The 34th America’s Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza. Prepared for U.S. Coast Guard, U.S. Army Corps of Engineers, and National Park Service. December 2011.

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- 2011 Biological Assessment – The 34th America’s Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza. Prepared for the U.S. Fish and Wildlife Service. November 2011.