



U.S. Department of Housing and Urban
Development
451 Seventh Street, SW
Washington, DC 20410
www.hud.gov
espanol.hud.gov

**Environmental Review for Activity/Project that is
Categorically Excluded Subject to Section 58.5
Pursuant to 24 CFR 58.35(a)**

Project Information

Project Name: City-of-Martinez-Municipal-Fishing-Pier-Renovation-Project

HEROS Number: 900000010404582

State / Local Identifier: B-23-CP-CA-0236

Project Location: 7 N Court St, Martinez, CA 94553

Additional Location Information:

Project includes the entirety of the fishing pier located at 7 North Court Street in Martinez, California.

Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:

The City of Martinez (City) is proposing to make repairs to the Martinez Municipal Fishing Pier (Pier) located at the northwest corner of the Martinez Marina. The Pier is located on the south side of the Carquinez Strait in Martinez, California. The Pier encompasses 6,144 square feet (sf) and was constructed in 1934, with various additions and sections rebuilt in 1976. The Pier provides year-round free fishing opportunities to the public and is a popular regional recreation area. Over time, the Pier has experienced natural deterioration to both its topside and substructure. Due to structural deficiencies related to damage of the Pier's timber piles, decking support system, railings, decking, and breakwater, the Pier was determined to be unusable and was closed by the City to the public in September 2021 following a scheduled condition survey based on health and safety concerns observed at that time. The City has since completed temporary repairs that restored access to approximately 60% of the Pier; however, additional renovation of the Pier is needed to address the full scope of repairs, provide the public with long-term safe access, and enable re-opening of the entirety of the Pier. Therefore, the purpose of the proposed project is to return the Pier to usable condition and ensure continued safe access to users of the marina by way of the following: -Installing fiberglass sleeves around select, damaged timber pilings -Repairing damaged pile caps and stringers - Replacing existing damaged railings -Replacing existing timber decking -Replacing damaged, existing breakwater aluminum sheet pile wall extending from the southeast corner of the Pier

Level of Environment Review Determination:

Categorically Excluded per 24 CFR 58.35(a), and subject to laws and authorities at §58.5:
58.35(a)(3)(iii)

Funding Information

Grant Number	HUD Program	Program Name	
B-23-CP-CA-	Community Planning and	Community Project Funding (CPF)	\$2,547,600.00

0236	Development (CPD)	Grants	
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Estimated Total HUD Funded Amount: \$2,547,600.00

Estimated Total Project Cost [24 CFR 58.2 (a) (5)]: \$2,547,600.00

Mitigation Measures and Conditions [CFR 1505.2(c)]:

Summarized below are all mitigation measures adopted by the Responsible Entity to reduce, avoid or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure or Condition	Comments on Completed Measures	Complete
2006 programmatic consultation (NMFS 2006)	General Criteria for not likely to adversely affect consultations for NMFS managed species	N/A	All work will be completed in compliance with the conditions specified in all environmental permits.
LTMS Biological Opinion (BO) issued by NMFS (1998)	Compliance with August 1 through November 30 work window.	N/A	All in water work will be completed outside of the specified window, subject to conditions specified by associated agencies.

Determination:

☐	This categorically excluded activity/project converts to EXEMPT per Section 58.34(a)(12), because it does not require any mitigation for compliance with any listed statutes or authorities, nor requires any formal permit or license; Funds may be committed and drawn down after certification of this part for this (now) EXEMPT project; OR
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☒	This categorically excluded activity/project cannot convert to Exempt status because one or more statutes or authorities listed at Section 58.5 requires formal consultation or mitigation. Complete consultation/mitigation protocol requirements, publish NOI/RROF and obtain "Authority to Use Grant Funds" (HUD 7015.16) per Section 58.70 and 58.71 before committing or drawing down any funds; OR
☐	This project is not categorically excluded OR, if originally categorically excluded, is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)).

Preparer Signature: Blair Jenet Date: 6/11/24

Name / Title/ Organization: Blair Jenet / AnchorQEA

Responsible Entity Agency Official Signature: M. Chandler Date: 6/11/24

Name/ Title: Michael Chandler / City Manager

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environment Review Record (ERR) for the activity / project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

**Environmental Review for Activity/Project that is
Categorically Excluded Subject to Section 58.5
Pursuant to 24 CFR 58.35(a)**

Project Information

Project Name: City-of-Martinez-Municipal-Fishing-Pier-Renovation-Project

HEROS Number: 900000010404582

Responsible Entity (RE): City of Martinez, Martinez CA,

State / Local Identifier: B-23-CP-CA-0236

RE Preparer: Blair Jenet

Certifying Officer David Cohen
r:

Grant Recipient (if different than Responsible Entity):

Point of Contact:

Consultant (if applicable):

Point of Contact:

Project Location: 7 N Court St, Martinez, CA 94553

Additional Location Information:

Project includes the entirety of the fishing pier located at 7 North Court Street in Martinez, California.

Direct Comments to: bnorthart@cityofmartinez.org

Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:

The City of Martinez (City) is proposing to make repairs to the Martinez Municipal Fishing Pier (Pier) located at the northwest corner of the Martinez Marina. The Pier is located on the south side of the Carquinez Strait in Martinez, California. The Pier encompasses 6,144 square feet (sf) and was constructed in 1934, with various additions and sections rebuilt in 1976. The Pier provides year-round free fishing opportunities to the public and is a popular regional recreation area. Over time, the Pier has experienced natural deterioration to both its topside and substructure. Due to structural deficiencies related to damage of the Pier's timber piles, decking support system, railings, decking, and breakwater, the Pier was determined to be unusable and was closed by the City to the public in September 2021 following a scheduled condition survey based on health and safety concerns observed at that time. The City has since completed temporary repairs that restored access to approximately 60% of the Pier; however, additional renovation of the Pier is needed to address the full scope of repairs, provide the public with long-term safe access, and enable re-opening of the entirety of the Pier. Therefore, the purpose of the proposed project is to return the Pier to usable condition and ensure continued safe access to users of the marina by way of the following: -Installing fiberglass sleeves around select, damaged timber pilings -Repairing damaged pile caps and stringers -Replacing existing damaged railings -Replacing existing timber decking -Replacing damaged, existing breakwater aluminum sheet pile wall extending from the southeast corner of the Pier

Maps, photographs, and other documentation of project location and description:

Level of Environmental Review Determination:

Categorically Excluded per 24 CFR 58.35(a), and subject to laws and authorities at 58.5:

Determination:

	This categorically excluded activity/project converts to EXEMPT per Section 58.34(a)(12), because it does not require any mitigation for compliance with any listed statutes or authorities, nor requires any formal permit or license; Funds may be committed and drawn down after certification of this part for this (now) EXEMPT project; OR
✓	This categorically excluded activity/project cannot convert to Exempt status because one or more statutes or authorities listed at Section 58.5 requires formal consultation or mitigation. Complete consultation/mitigation protocol requirements, publish NOI/RROF and obtain "Authority to Use Grant Funds" (HUD 7015.16) per Section 58.70 and 58.71 before committing or drawing down any funds; OR

	This project is not categorically excluded OR, if originally categorically excluded, is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)).
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Approval Documents:

[HEROS Signature page 2024-06-11.pdf](#)

**7015.15 certified by Certifying Officer
on:**

**7015.16 certified by Authorizing Officer
on:**

Funding Information

Grant / Project Identification Number	HUD Program	Program Name	Funding Amount
B-23-CP-CA-0236	Community Planning and Development (CPD)	Community Project Funding (CPF) Grants	\$2,547,600.00

**Estimated Total HUD Funded,
Assisted or Insured Amount:** \$2,547,600.00

Estimated Total Project Cost: \$2,547,600.00

Compliance with 24 CFR §50.4, §58.5 and §58.6 Laws and Authorities

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §50.4, §58.5, and §58.6	Are formal compliance steps or mitigation required?	Compliance determination (See Appendix A for source determinations)
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §50.4 & § 58.6		
Airport Hazards Clear Zones and Accident Potential Zones; 24 CFR Part 51 Subpart D	☐ Yes ☒ No	There are no airports in the vicinity of the proposed project area and no

		impacts to airports will occur. Therefore, there would be no impact.
Coastal Barrier Resources Act Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	☐ Yes ☒ No	The Proposed Project does not occur in an area classified by USFWS as a Coastal Barrier Resource. Therefore, there would be no impact.
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	☐ Yes ☒ No	The City carries "All Risk" insurance, which includes flood insurance for the Pier.
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §50.4 & § 58.5		
Air Quality Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	☐ Yes ☒ No	The proposed project will not constitute a significant new source of air pollution. It entails maintenance on an existing pier and will not involve new construction. Additionally, the operation of the proposed project will be consistent with existing conditions and will not contribute to air pollution. Therefore, there will be no impact.
Coastal Zone Management Act Coastal Zone Management Act, sections 307(c) & (d)	☒ Yes ☐ No	The San Francisco Bay Conservation and Development Commission (BCDC) is the Coastal Zone Management Act (CZMA) authority for the project site. The proposed project has received a BCDC permit, which satisfies the requirements of the CZMA. As stated in the BCDC Permit, "The Commission further finds, declares, and certifies that the revised activity or activities authorized herein are consistent with the Commission's Amended Management Program for San Francisco Bay, as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended.
Contamination and Toxic Substances 24 CFR 50.3(i) & 58.5(i)(2)]	☐ Yes ☒ No	The proposed project will install grout-filled fiberglass sleeves around existing creosote timber pilings, which will eliminate the risk of creosote leaching over time. Oils and lubricants will be properly maintained by the City's

		contractor during construction of the proposed project. Therefore, the proposed project would have no impact related to contaminated sediments or toxic materials.
Endangered Species Act Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	☒ Yes ☐ No	This project May Affect, but is Not Likely to Adversely Affect, listed species, and informal consultation was conducted. This project is in compliance with the Endangered Species Act without mitigation.
Explosive and Flammable Hazards Above-Ground Tanks)[24 CFR Part 51 Subpart C	☐ Yes ☒ No	There are no explosive or flammable hazards associated with the proposed project. Therefore, there would be no impact.
Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	☐ Yes ☒ No	The proposed project does not impact any lands classified as farmland. Therefore, there would be no impact.
Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55	☐ Yes ☒ No	The proposed project will not impact wetlands and will not modify the existing floodplain. Therefore, there would be no impact.
Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	☒ Yes ☐ No	The California State Preservation Officer (SHPO) completed consultation with USACE under Section 106 of the National Historic Preservation Act (NHPA). Please see the NHPA compliance documentation included as an attachment.
Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	☐ Yes ☒ No	Construction of the proposed project will only occur during daytime hours. Operation of the proposed project will be consistent with existing use of the Pier. Accordingly, the proposed project will abide by the regulations set forth in the Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B.
Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	☐ Yes ☒ No	The proposed project will not impact any aquifers. Therefore, there would be no impact.

Wetlands Protection Executive Order 11990, particularly sections 2 and 5	☐ Yes ☒ No	The proposed project does not impact any wetlands. Therefore, there would be no impact.
Wild and Scenic Rivers Act Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	☐ Yes ☒ No	The proposed project does not impact any Wild or Scenic Rivers. Therefore, there would be no impact.
HUD HOUSING ENVIRONMENTAL STANDARDS		
ENVIRONMENTAL JUSTICE		
Environmental Justice Executive Order 12898	☐ Yes ☒ No	No residential or disadvantaged communities will be impacted by proposed project activities. The Martinez Pier provides free fishing for anyone in community; therefore, the proposed project will improve community access to recreational resources.

Mitigation Measures and Conditions [40 CFR 1505.2(c)]:

Summarized below are all mitigation measures adopted by the Responsible Entity to reduce, avoid or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure or Condition	Comments on Completed Measures	Mitigation Plan	Complete
2006 programmatic consultation (NMFS 2006)	General Criteria for not likely to adversely affect consultations for NMFS managed species	N/A	All work will be completed in compliance with the conditions specified in all environmental permits.	
LTMS Biological Opinion (BO) issued by NMFS (1998)	Compliance with August 1 through November 30 work window.	N/A	All in water work will be completed outside of the specified	

			window, subject to conditions specified by associated agencies.	
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Project Mitigation Plan

Supporting documentation on completed measures

APPENDIX A: Related Federal Laws and Authorities

Airport Hazards

General policy	Legislation	Regulation
It is HUD's policy to apply standards to prevent incompatible development around civil airports and military airfields.		24 CFR Part 51 Subpart D

1. To ensure compatible land use development, you must determine your site's proximity to civil and military airports. Is your project within 15,000 feet of a military airport or 2,500 feet of a civilian airport?

✓ No

Based on the response, the review is in compliance with this section. Document and upload the map showing that the site is not within the applicable distances to a military or civilian airport below

Yes

Screen Summary

Compliance Determination

There are no airports in the vicinity of the proposed project area and no impacts to airports will occur. Therefore, there would be no impact.

Supporting documentation

[Fishing Pier Airport.jpg](#)

Are formal compliance steps or mitigation required?

Yes

✓ No

Coastal Barrier Resources

General requirements	Legislation	Regulation
HUD financial assistance may not be used for most activities in units of the Coastal Barrier Resources System (CBRS). See 16 USC 3504 for limitations on federal expenditures affecting the CBRS.	Coastal Barrier Resources Act (CBRA) of 1982, as amended by the Coastal Barrier Improvement Act of 1990 (16 USC 3501)	

This project is located in a state that does not contain CBRA units. Therefore, this project is in compliance with the Coastal Barrier Resources Act.

Screen Summary

Compliance Determination

The Proposed Project does not occur in an area classified by USFWS as a Coastal Barrier Resource. Therefore, there would be no impact.

Supporting documentation

Are formal compliance steps or mitigation required?

Yes

✓ No

Flood Insurance

General requirements	Legislation	Regulation
Certain types of federal financial assistance may not be used in floodplains unless the community participates in National Flood Insurance Program and flood insurance is both obtained and maintained.	Flood Disaster Protection Act of 1973 as amended (42 USC 4001-4128)	24 CFR 50.4(b)(1) and 24 CFR 58.6(a) and (b); 24 CFR 55.1(b).

1. Does this project involve financial assistance for construction, rehabilitation, or acquisition of a mobile home, building, or insurable personal property?

- ✓ No. This project does not require flood insurance or is excepted from flood insurance.

Based on the response, the review is in compliance with this section.

Yes

4. While flood insurance is not mandatory for this project, HUD strongly recommends that all insurable structures maintain flood insurance under the National Flood Insurance Program (NFIP). Will flood insurance be required as a mitigation measure or condition?

Yes

- ✓ No

Screen Summary

Compliance Determination

The City carries "All Risk" insurance, which includes flood insurance for the Pier.

Supporting documentation

Are formal compliance steps or mitigation required?

Yes

- ✓ No

Air Quality

General requirements	Legislation	Regulation
The Clean Air Act is administered by the U.S. Environmental Protection Agency (EPA), which sets national standards on ambient pollutants. In addition, the Clean Air Act is administered by States, which must develop State Implementation Plans (SIPs) to regulate their state air quality. Projects funded by HUD must demonstrate that they conform to the appropriate SIP.	Clean Air Act (42 USC 7401 et seq.) as amended particularly Section 176(c) and (d) (42 USC 7506(c) and (d))	40 CFR Parts 6, 51 and 93

1. Does your project include new construction or conversion of land use facilitating the development of public, commercial, or industrial facilities OR five or more dwelling units?

Yes

✓ No

Based on the response, the review is in compliance with this section.

Screen Summary

Compliance Determination

The proposed project will not constitute a significant new source of air pollution. It entails maintenance on an existing pier and will not involve new construction. Additionally, the operation of the proposed project will be consistent with existing conditions and will not contribute to air pollution. Therefore, there will be no impact.

Supporting documentation

Are formal compliance steps or mitigation required?

Yes

✓ No

Coastal Zone Management Act

General requirements	Legislation	Regulation
Federal assistance to applicant agencies for activities affecting any coastal use or resource is granted only when such activities are consistent with federally approved State Coastal Zone Management Act Plans.	Coastal Zone Management Act (16 USC 1451-1464), particularly section 307(c) and (d) (16 USC 1456(c) and (d))	15 CFR Part 930

1. Is the project located in, or does it affect, a Coastal Zone as defined in your state Coastal Management Plan?

☒ Yes

No

2. Does this project include new construction, conversion, major rehabilitation, or substantial improvement activities?

☒ Yes

No

3. Has this project been determined to be consistent with the State Coastal Management Program?

☒ Yes, without mitigation

Based on the response, the review is in compliance with this section. Document and upload all documents used to make your determination below.

Yes, with mitigation

No, project must be canceled.

Screen Summary

Compliance Determination

The San Francisco Bay Conservation and Development Commission (BCDC) is the Coastal Zone Management Act (CZMA) authority for the project site. The proposed project has received a BCDC permit, which satisfies the requirements of the CZMA. As stated in the BCDC Permit, "The Commission further finds, declares, and certifies that the revised activity or activities authorized herein are consistent with the Commission's Amended Management Program for San Francisco Bay, as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended.

Supporting documentation

[Fishing Pier BCDC Permit.pdf](#)

Are formal compliance steps or mitigation required?

✓ Yes

No

Contamination and Toxic Substances

General requirements	Legislation	Regulations
It is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of the occupants or conflict with the intended utilization of the property.		24 CFR 58.5(i)(2) 24 CFR 50.3(i)

1. **How was site contamination evaluated? Select all that apply. Document and upload documentation and reports and evaluation explanation of site contamination below.**

American Society for Testing and Materials (ASTM) Phase I Environmental Site Assessment (ESA)

ASTM Phase II ESA

Remediation or clean-up plan

ASTM Vapor Encroachment Screening

✓ None of the Above

2. **Were any on-site or nearby toxic, hazardous, or radioactive substances found that could affect the health and safety of project occupants or conflict with the intended use of the property? (Were any recognized environmental conditions or RECs identified in a Phase I ESA and confirmed in a Phase II ESA?)**

✓ No

Explain:

Project site is above water and no ESA was prepared.

Based on the response, the review is in compliance with this section.

Yes

Screen Summary

Compliance Determination

The proposed project will install grout-filled fiberglass sleeves around existing creosote timber pilings, which will eliminate the risk of creosote leaching over time. Oils and

lubricants will be properly maintained by the City's contractor during construction of the proposed project. Therefore, the proposed project would have no impact related to contaminated sediments or toxic materials.

Supporting documentation

Are formal compliance steps or mitigation required?

Yes

✓ No

Endangered Species

General requirements	ESA Legislation	Regulations
Section 7 of the Endangered Species Act (ESA) mandates that federal agencies ensure that actions that they authorize, fund, or carry out shall not jeopardize the continued existence of federally listed plants and animals or result in the adverse modification or destruction of designated critical habitat. Where their actions may affect resources protected by the ESA, agencies must consult with the Fish and Wildlife Service and/or the National Marine Fisheries Service ("FWS" and "NMFS" or "the Services").	The Endangered Species Act of 1973 (16 U.S.C. 1531 <i>et seq.</i>); particularly section 7 (16 USC 1536).	50 CFR Part 402

1. Does the project involve any activities that have the potential to affect species or habitats?

No, the project will have No Effect due to the nature of the activities involved in the project.

No, the project will have No Effect based on a letter of understanding, memorandum of agreement, programmatic agreement, or checklist provided by local HUD office

- ✓ Yes, the activities involved in the project have the potential to affect species and/or habitats.

2. Are federally listed species or designated critical habitats present in the action area?

No, the project will have No Effect due to the absence of federally listed species and designated critical habitat

- ✓ Yes, there are federally listed species or designated critical habitats present in the action area.

3. What effects, if any, will your project have on federally listed species or designated critical habitat?

No Effect: Based on the specifics of both the project and any federally listed species in the action area, you have determined that the project will have absolutely no effect on listed species or critical habitat. in the action area.

- ✓ May Affect, Not Likely to Adversely Affect: Any effects that the project may have on federally listed species or critical habitats would be beneficial, discountable, or insignificant.

Likely to Adversely Affect: The project may have negative effects on one or more listed species or critical habitat.

4. Informal Consultation is required

Section 7 of ESA (16 USC. 1536) mandates consultation to resolve potential impacts to endangered and threatened species and critical habitats. If a HUD-assisted project may affect any federally listed endangered or threatened species or critical habitat, then compliance is required with Section 7. See 50 CFR Part 402 Subpart B Consultation Procedures.

Did the Service(s) concur with the finding that the project is Not Likely to Adversely Affect?

- ✓ Yes, the Service(s) concurred with the finding.

Based on the response, the review is in compliance with this section. Document and upload the following below:

- (1) A biological evaluation or equivalent document
- (2) Concurrence(s) from FWS and/or NMFS
- (3) Any other documentation of informal consultation

Exception: If finding was made based on procedures provided by a letter of understanding, memorandum of agreement, programmatic agreement, or checklist provided by local HUD office, provide whatever documentation is mandated by that agreement.

No, the Service(s) did not concur with the finding.

6. For the project to be brought into compliance with this section, all adverse impacts must be mitigated. Explain in detail the exact measures that must be implemented to mitigate for the impact or effect, including the timeline for implementation. This information will be automatically included in the Mitigation summary for the environmental review. If negative effects cannot be mitigated, cancel the project using the button at the bottom of this screen.

Mitigation as follows will be implemented:

- ✓ No mitigation is necessary.

Explain why mitigation will not be made here:

Screen

NMFS determined the proposed action would adversely affect essential fish habitat (EFH) as follows: (1) minor and temporary increases in turbidity generated by divers and the installation of sheet pile with a vibratory hammer, (2) minor and temporary benthic disturbance beneath the pier, and (3) the temporary displacement of species that may be in the action area during this work. The use of a barge to facilitate repairs will result in temporary increases in shading during construction. These actions are likely to temporarily increase underwater sound, elevate turbidity, disturb benthic habitat, and degrade water quality. However, fish have ample area to disperse and forage within adjacent waters and the project incorporates measures to reduce project-related impacts to habitat and prevent the introduction of contaminants into surface waters. For these reasons, adverse effects to EFH are expected to be minor and NMFS has no EFH conservation recommendations to provide to avoid, minimize, mitigate, or otherwise offset the impact of the proposed action.

Summary

Compliance Determination

This project May Affect, but is Not Likely to Adversely Affect, listed species, and informal consultation was conducted. This project is in compliance with the Endangered Species Act without mitigation.

Supporting documentation

[Fishing Pier USFWS NLAA.pdf](#)
[Fishing Pier NMFS Permit.pdf](#)
[Fishing Pier USACE Permit.pdf](#)

City-of-Martinez-
Municipal-Fishing-Pier-
Renovation-Project

Martinez, CA

900000010404582

Are formal compliance steps or mitigation required?

✓ Yes

No

Explosive and Flammable Hazards

General requirements	Legislation	Regulation
HUD-assisted projects must meet Acceptable Separation Distance (ASD) requirements to protect them from explosive and flammable hazards.	N/A	24 CFR Part 51 Subpart C

1. Is the proposed HUD-assisted project itself the development of a hazardous facility (a facility that mainly stores, handles or processes flammable or combustible chemicals such as bulk fuel storage facilities and refineries)?

✓ No

Yes

2. Does this project include any of the following activities: development, construction, rehabilitation that will increase residential densities, or conversion?

✓ No

Based on the response, the review is in compliance with this section.

Yes

Screen Summary

Compliance Determination

There are no explosive or flammable hazards associated with the proposed project.
Therefore, there would be no impact.

Supporting documentation

Are formal compliance steps or mitigation required?

Yes

✓ No

Farmlands Protection

General requirements	Legislation	Regulation
The Farmland Protection Policy Act (FPPA) discourages federal activities that would convert farmland to nonagricultural purposes.	Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.)	7 CFR Part 658

1. Does your project include any activities, including new construction, acquisition of undeveloped land or conversion, that could convert agricultural land to a non-agricultural use?

Yes

✓ No

If your project includes new construction, acquisition of undeveloped land or conversion, explain how you determined that agricultural land would not be converted:

Based on the response, the review is in compliance with this section. Document and upload all documents used to make your determination below.

Screen Summary

Compliance Determination

The proposed project does not impact any lands classified as farmland. Therefore, there would be no impact.

Supporting documentation

Are formal compliance steps or mitigation required?

Yes

✓ No

Floodplain Management

General Requirements	Legislation	Regulation
Executive Order 11988, Floodplain Management, requires federal activities to avoid impacts to floodplains and to avoid direct and indirect support of floodplain development to the extent practicable.	Executive Order 11988	24 CFR 55

1. Do any of the following exemptions apply? Select the applicable citation? [only one selection possible]

- 55.12(c)(3)
- 55.12(c)(4)
- 55.12(c)(5)
- ✓ 55.12(c)(6)
- 55.12(c)(7)
- 55.12(c)(8)
- 55.12(c)(9)
- 55.12(c)(10)
- 55.12(c)(11)
- None of the above

Based on the response, the review is in compliance with this section.

Screen Summary

Compliance Determination

The proposed project will not impact wetlands and will not modify the existing floodplain. Therefore, there would be no impact.

Supporting documentation

Are formal compliance steps or mitigation required?

- Yes
- ✓ No

Historic Preservation

General requirements	Legislation	Regulation
Regulations under Section 106 of the National Historic Preservation Act (NHPA) require a consultative process to identify historic properties, assess project impacts on them, and avoid, minimize, or mitigate adverse effects	Section 106 of the National Historic Preservation Act (16 U.S.C. 470f)	36 CFR 800 "Protection of Historic Properties" https://www.govinfo.gov/content/pkg/CFR-2012-title36-vol3/pdf/CFR-2012-title36-vol3-part800.pdf

Threshold

Is Section 106 review required for your project?

No, because the project consists solely of activities listed as exempt in a Programmatic Agreement (PA). (See the PA Database to find applicable PAs.)

No, because the project consists solely of activities included in a No Potential to Cause Effects memo or other determination [36 CFR 800.3(a)(1)].

- ✓ Yes, because the project includes activities with potential to cause effects (direct or indirect).

Step 1 – Initiate Consultation

Select all consulting parties below (check all that apply):

- ✓ State Historic Preservation Offer (SHPO) Completed
- ✓ Indian Tribes, including Tribal Historic Preservation Officers (THPOs) or Native Hawaiian Organizations (NHOs)

✓ Native American Heritage
Commission

Completed

Other Consulting Parties

Describe the process of selecting consulting parties and initiating consultation here:

Process determined and implemented by USACE.

Document and upload all correspondence, notices and notes (including comments and objections received below).

Was the Section 106 Lender Delegation Memo used for Section 106 consultation?

Yes

No

Step 2 – Identify and Evaluate Historic Properties

- 1. Define the Area of Potential Effect (APE), either by entering the address(es) or uploading a map depicting the APE below:**

We included in our APE the undertaking's areas of direct effects from construction and the access route along the constructed soil-and-rock breakwater. The vertical APE would extend to a maximum of 10 feet below grade in the locations where damaged timber piles would have grout-filled fiberglass sleeves installed and the 35 linear feet of replacement sheet pile breakwater. Elsewhere, the vertical APE would extend from the top of the structure to the water.

In the chart below, list historic properties identified and evaluated in the APE. Every historic property that may be affected by the project should be included in the chart.

Upload the documentation (survey forms, Register nominations, concurrence(s) and/or objection(s), notes, and photos) that justify your National Register Status determination below.

Address / Location / District	National Register Status	SHPO Concurrence	Sensitive Information
7 N Court St, Martinez, CA 94553	Not Eligible	Yes	✓ Not Sensitive

Additional Notes:

2. Was a survey of historic buildings and/or archeological sites done as part of the project?

✓ Yes

Document and upload surveys and report(s) below.

For Archeological surveys, refer to HP Fact Sheet #6, Guidance on Archeological Investigations in HUD Projects.

Additional Notes:

No

Step 3 –Assess Effects of the Project on Historic Properties

Only properties that are listed on or eligible for the National Register of Historic Places receive further consideration under Section 106. Assess the effect(s) of the project by applying the Criteria of Adverse Effect. (36 CFR 800.5)] Consider direct and indirect effects as applicable as per guidance on direct and indirect effects.

Choose one of the findings below - No Historic Properties Affected, No Adverse Effect, or Adverse Effect; and seek concurrence from consulting parties.

✓ No Historic Properties Affected

Based on the response, the review is in compliance with this section. Document and upload concurrence(s) or objection(s) below.

Document reason for finding:

✓ No historic properties present.

Historic properties present, but project will have no effect upon them.

No Adverse Effect

Adverse Effect

Screen Summary

Compliance Determination

The California State Preservation Officer (SHPO) completed consultation with USACE under Section 106 of the National Historic Preservation Act (NHPA). Please see the NHPA compliance documentation included as an attachment.

Supporting documentation

[Fishing Pier USACE Section 106.pdf](#)

Are formal compliance steps or mitigation required?

✓ Yes

No

Noise Abatement and Control

General requirements	Legislation	Regulation
HUD's noise regulations protect residential properties from excessive noise exposure. HUD encourages mitigation as appropriate.	Noise Control Act of 1972 General Services Administration Federal Management Circular 75-2: "Compatible Land Uses at Federal Airfields"	Title 24 CFR 51 Subpart B

1. What activities does your project involve? Check all that apply:

New construction for residential use

Rehabilitation of an existing residential property

A research demonstration project which does not result in new construction or reconstruction

An interstate land sales registration

Any timely emergency assistance under disaster assistance provision or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster

✓ None of the above

Screen Summary

Compliance Determination

Construction of the proposed project will only occur during daytime hours. Operation of the proposed project will be consistent with existing use of the Pier. Accordingly, the proposed project will abide by the regulations set forth in the Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B.

Supporting documentation

Are formal compliance steps or mitigation required?

City-of-Martinez-
Municipal-Fishing-Pier-
Renovation-Project

Martinez, CA

900000010404582

Yes

✓ No

Sole Source Aquifers

General requirements	Legislation	Regulation
The Safe Drinking Water Act of 1974 protects drinking water systems which are the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health.	Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300f et seq., and 21 U.S.C. 349)	40 CFR Part 149

1. Does the project consist solely of acquisition, leasing, or rehabilitation of an existing building(s)?

✓ Yes

Based on the response, the review is in compliance with this section.

No

Screen Summary

Compliance Determination

The proposed project will not impact any aquifers. Therefore, there would be no impact.

Supporting documentation

Are formal compliance steps or mitigation required?

Yes

✓ No

Wetlands Protection

General requirements	Legislation	Regulation
Executive Order 11990 discourages direct or indirect support of new construction impacting wetlands wherever there is a practicable alternative. The Fish and Wildlife Service's National Wetlands Inventory can be used as a primary screening tool, but observed or known wetlands not indicated on NWI maps must also be processed. Off-site impacts that result in draining, impounding, or destroying wetlands must also be processed.	Executive Order 11990	24 CFR 55.20 can be used for general guidance regarding the 8 Step Process.

1. Does this project involve new construction as defined in Executive Order 11990, expansion of a building's footprint, or ground disturbance? The term "new construction" shall include draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of the Order

✓ No

Based on the response, the review is in compliance with this section.

Yes

Screen Summary

Compliance Determination

The proposed project does not impact any wetlands. Therefore, there would be no impact.

Supporting documentation

Are formal compliance steps or mitigation required?

Yes

✓ No

Wild and Scenic Rivers Act

General requirements	Legislation	Regulation
The Wild and Scenic Rivers Act provides federal protection for certain free-flowing, wild, scenic and recreational rivers designated as components or potential components of the National Wild and Scenic Rivers System (NWSRS) from the effects of construction or development.	The Wild and Scenic Rivers Act (16 U.S.C. 1271-1287), particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c))	36 CFR Part 297

1. Is your project within proximity of a NWSRS river?

✓ No

Yes, the project is in proximity of a Designated Wild and Scenic River or Study Wild and Scenic River.

Yes, the project is in proximity of a Nationwide Rivers Inventory (NRI) River.

Screen Summary

Compliance Determination

The proposed project does not impact any Wild or Scenic Rivers. Therefore, there would be no impact.

Supporting documentation

[Fishing Pier Wild Rivers.jpg](#)

Are formal compliance steps or mitigation required?

Yes

✓ No

Environmental Justice

General requirements	Legislation	Regulation
Determine if the project creates adverse environmental impacts upon a low-income or minority community. If it does, engage the community in meaningful participation about mitigating the impacts or move the project.	Executive Order 12898	

HUD strongly encourages starting the Environmental Justice analysis only after all other laws and authorities, including Environmental Assessment factors if necessary, have been completed.

1. Were any adverse environmental impacts identified in any other compliance review portion of this project's total environmental review?

Yes

✓ No

Based on the response, the review is in compliance with this section.

Screen Summary

Compliance Determination

No residential or disadvantaged communities will be impacted by proposed project activities. The Martinez Pier provides free fishing for anyone in community; therefore, the proposed project will improve community access to recreational resources.

Supporting documentation

Are formal compliance steps or mitigation required?

Yes

✓ No



United States Department of the Interior

FISH AND WILDLIFE SERVICE
San Francisco Bay-Delta Fish & Wildlife Office
650 Capitol Mall, Suite 8-300
Sacramento, California 95814-4700



In reply refer to:
2024-0026475-S7-001

February 16, 2024

Stephen Ryan
Regulatory Project Manager
Regulatory Division
U.S. Army Corps of Engineers
San Francisco District
450 Golden Gate Avenue
San Francisco, California 94102-3406

Subject: Informal Section 7 Conference and Consultation on the City of Martinez
Municipal Fishing Pier Renovation Project, City of Martinez, Contra Costa
County, California (U.S. Army Corps of Engineers File Number: SPN-2012-
00070S)

Dear Mr. Ryan:

This letter is in response to the U.S. Army Corps of Engineers' (Corps') December 13, 2023, letter requesting initiation of informal consultation and conference with the U.S. Fish and Wildlife Service (Service) for the City of Martinez Municipal Fishing Pier Renovation Project (proposed project), in the City of Martinez, Contra Costa County, California. The Corps determined the proposed project may affect but is not likely to adversely affect the federally threatened delta smelt (*Hypomesus transpacificus*) and its critical habitat and the federally proposed as endangered San Francisco Bay-Delta distinct population segment (DPS) of the longfin smelt (*Spirinchus thaleichthys*). Critical habitat for the longfin smelt has not been proposed. This response is provided under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), and in accordance with the implementing regulations pertaining to interagency cooperation (50 CFR § 402).

In considering your request, we have based our evaluation on the following: (1) the Corps' December 13, 2023, letter with enclosed documents; (2) several emails between the Service the Corps; and (3) other information available to the Service.

Proposed Project Description

The City of Martinez (City) proposes to make repairs to the Martinez Municipal Fishing Pier

(Pier) located at the northwest corner of the Martinez Marina on the south side of the Carquinez Strait. The Pier encompasses 6,144 square feet and was constructed in 1934, with various additions and sections rebuilt in 1976. The Pier provides year-round free fishing opportunities to the public and is a popular regional recreation area. The Pier is currently partially closed to the public based on health and safety reasons. The purpose of the proposed project is to return the Pier to usable condition and ensure continued safe access to users of the marina by way of the following:

- Installing fiberglass sleeves around select, damaged timber pilings
- Repairing damaged pile caps and stringers
- Replacing existing damaged railings
- Replacing existing timber decking
- Replacing damaged, existing breakwater aluminum sheet pile wall extending from the southeast corner of the Pier

Pile Repairs

Thirty-one piles located at the Pier would undergo repair with repair work completed from a barge, small skiffs, and floats. The proposed repairs would entail installing grout-filled fiberglass sleeves around select piles from the mudline to the top of the pile. The sleeves are placed by hand with the aid of commercially trained divers experienced in this work, and then the annulus between the existing pile and new sleeve is pumped full of grout, encapsulating the damaged member. Sleeves designated for full-length repairs will be inserted a minimum of 12 inches and up to 2 feet into the bay floor (consisting of sandy soil to allow proper encapsulation of the piles). Some locations could receive partial sleeve repairs and utilize a bottom seal per the manufacturer rather than extending all the way to the mudline. Existing cross-braces would be removed to perform pile sleeve work and replaced. The repairs would require an estimated 3 weeks.

Structural Repairs

Repairs to the existing decking support system would entail replacing pile caps and stringers in-kind with new treated timber members that are the same size of the existing decking support system. All existing railings would be removed and replaced. Existing benches would be removed and replaced. Damaged, weathered existing timber decking would be removed and replaced with new Americans with Disabilities Act compliant decking. The removal of the entire deck allows access for the replacement of existing pile caps and stringers. The replaced portions of the Pier would be reconstructed in-kind, and removed sections would be replaced like-for-like with pressure-treated timber and galvanized steel hardware. Pressure-treated timber elements of the Pier above mean high water would use modern marine-grade treatment in accordance with the American Wood Preservers Association Category UC4B and pressure-treated elements extending below mean high water would be treated in accordance with Category UC5B. A preservative (likely ammoniacal copper zinc arsenate or another preservative approved for use by the State of California) would be applied by the lumber supplier before the lumber and timbers arrive at the site. None of the treated sections would be fully submerged in water; rather, the

repaired diagonal timber bracing would be subjected to inundation for a portion of its height with the rising and falling tides and occasional splashing. Metal fasteners would not leach zinc or other chemicals into river waters. All treated timber members would be pre-measured and cut landside and brought to the construction site to eliminate dust and contaminants that would be released from cutting above water. The existing steel beam bridge from landside to the Pier would be replaced with a prefabricated aluminum walkway with no change in cover area over the waterway. All structural repairs other than diagonal bracing would occur overwater, not in water.

Breakwater Repairs

Repairs to the existing aluminum breakwater would require the installation of approximately 35 feet of aluminum sheet pile and a timber waler at the top as originally constructed (or epoxy-coated steel sheet piles without a timber waler at the top) to replace missing sheet piles in the existing breakwater. The sheet pile would be installed using a vibratory hammer and is expected to require one to two days to install.

Conservation Measures

The City and/or its contractor would implement avoidance and minimization measures, including but not limited to:

1. All in-water work would be constructed during the in-water work windows applicable to the proposed project site, which spans from August 1 to November 30 to minimize effects to salmonids and smelt.
2. Netting, sandbags, tarps, or other forms of barriers would be placed around staging areas to prevent debris from entering the water.
3. Any debris which enters the water would be immediately retrieved for proper handling and disposal.
4. Construction material which could wash or blow away would be covered every night and during any rainfall event.
5. Vibratory equipment would be used for repairs to the sheet pile breakwater.
6. Pile driving would be performed with a vibratory pile driver.

The Service concurs with the Corps' determination that the proposed project may affect but is not likely to adversely affect the threatened delta smelt and its critical habitat and the proposed endangered longfin smelt. This conclusion is based on: (1) the in-water work is minimal (other than pile driving), localized, and temporary and is not likely to rise above baseline conditions; (2) piling driving will be temporary (1-2 days) and will be performed with a vibratory pile driver

minimizing hydroacoustic effects; (3) the proposed project will occur between August 1 and November 30 to avoid the smelts' spawning seasons and when delta smelt are least likely to be present; (4) work activities would not result in a net change in in overwater coverage or in-water fill; and (5) the proposed *Conservation Measures* will be implemented to minimize contaminants entering the water.

REINITIATION – CLOSING STATEMENT

This concludes informal conference and consultation on the City of Martinez Municipal Fishing Pier Renovation Project.

You may ask the Service to confirm the conference concurrence as a consultation concurrence issued through informal consultation if the action hasn't occurred yet or is ongoing when and if the longfin smelt is listed. The request must be in writing. If you determine that the proposed project has not changed and the Service finds that there have been no significant changes in the project as planned or in the information used during the conference, the Service will confirm the conference concurrence as the consultation concurrence on the proposed project and no further section 7 consultation will be necessary.

For the informal consultation, as provided in 50 CFR § 402.16,

(a) Reinitiation of consultation is required and shall be requested by the Federal agency or by the Service, where discretionary Federal involvement or control over the action has been retained or is authorized by law and:

- (1) If the amount or extent of taking specified in the incidental take statement is exceeded;
- (2) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered;
- (3) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion or written concurrence; or
- (4) If a new species is listed or critical habitat designated that may be affected by the identified action.

(b) An agency shall not be required to reinitiate consultation after the approval of a land management plan prepared pursuant to 43 U.S.C. 1712 or 16 U.S.C. 1604 upon listing of a new species or designation of new critical habitat if the land management plan has been adopted by the agency as of the date of listing or designation, provided that any authorized actions that may affect the newly listed species or designated critical habitat will be addressed through a separate action-specific consultation. This exception to reinitiation of consultation shall not apply to those land management plans prepared pursuant to 16 U.S.C. 1604 if:

(1) Fifteen years have passed since the date the agency adopted the land management plan prepared pursuant to 16 U.S.C. 1604; and

(2) Five years have passed since the enactment of Public Law 115-141 [March 23, 2018] or the date of the listing of a species or the designation of critical habitat, whichever is later.

Please address any questions or concerns regarding this response to Kim Squires, Section 7 Division Manager via email at Kim_Squires@fws.gov. Please refer to the Service File Number: 2024-0026475-S7-001 in any future correspondence regarding this project.

Sincerely,

**KIMBERLY
SQUIRES** Digitally signed by
KIMBERLY SQUIRES
Date: 2024.02.16
09:46:30 -08'00'

For Jana Affonso
Assistant Field Supervisor



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404-4731

April 24, 2024

Refer to NMFS No: WCRO-2023-03459

James Mazza
Chief, Regulatory Division
U.S. Department of the Army
San Francisco District, Corps of Engineers
450 Golden Gate Avenue, 4th Floor
San Francisco, California 94102-3404

Re: Endangered Species Act Section 7(a)(2) Expedited Concurrence Letter and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Proposed Repairs to the Martinez Municipal Fishing Pier

Dear Mr. Mazza:

This letter responds to your December 13, 2023, request for concurrence from the NOAA's National Marine Fisheries Service (NMFS) pursuant to Section 7 of the Endangered Species Act (ESA) for the subject action. Your request qualified for our expedited review and concurrence because it contained all required information on your proposed action and its potential effects to threatened Central California Coast steelhead (*Oncorhynchus mykiss*), threatened Central Valley steelhead, threatened southern Distinct Population Segment (DPS) of North American green sturgeon (*Acipenser medirostris*), threatened Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), endangered Sacramento River winter-run Chinook salmon, and designated critical habitat for Sacramento winter-run Chinook salmon and the southern DPS of North American green sturgeon.

This response to your request was prepared by NMFS pursuant to section 7(a)(2) of the ESA and implementing regulations at 50 CFR 402. On July 5, 2022, the U.S. District Court for the Northern District of California issued an order vacating the 2019 regulations that were revised or added to 50 CFR part 402 in 2019 ("2019 Regulations," see 84 FR 44976, August 27, 2019) without making a finding on the merits. On September 21, 2022, the U.S. Court of Appeals for the Ninth Circuit granted a temporary stay of the district court's July 5 order. On November 14, 2022, the Northern District of California issued an order granting the government's request for voluntary remand without vacating the 2019 regulations. The District Court issued a slightly amended order two days later on November 16, 2022. As a result, the 2019 regulations remain in effect, and we are applying the 2019 regulations here. For purposes of this consultation and in an abundance of caution, we considered whether the substantive analysis and conclusions articulated in the letter of concurrence would be any different under the pre-2019 regulations. We have determined that our analysis and conclusions would not be any different.

We reviewed the Corps' consultation request document and the materials enclosed therein. Based on our knowledge, expertise, and your submitted materials, we concur with your



conclusions that the proposed action is not likely to adversely affect NMFS ESA-listed species and designated critical habitats.

This letter underwent pre-dissemination review using standards for utility, integrity, and objectivity in compliance with applicable guidelines issued under the Data Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Public Law 106-554). The concurrence letter will be available through NMFS' Environmental Consultation Organizer [<https://www.fisheries.noaa.gov/resource/tool-app/environmental-consultation-organizer-eco>]. A complete record of this consultation is on file at the NMFS North-Central California Coast Office in Santa Rosa, California.

Reinitiation of consultation is required and shall be requested by the Corps or by NMFS, where discretionary Federal involvement or control over the action has been retained or is authorized by law and (1) the proposed action causes take; (2) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the written concurrence; or (4) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16). This concludes the ESA consultation.

NMFS also reviewed the proposed action for potential effects on essential fish habitat (EFH) designated under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), including conservation measures and any determination you made regarding the potential effects of the action. This review was pursuant to section 305(b) of the MSA, implementing regulations at 50 CFR 600.920, and agency guidance for use of the ESA consultation process to complete EFH consultation.

Section 305 (b) of the MSA directs Federal agencies to consult with NMFS on all actions or proposed actions that may adversely affect EFH. Under the MSA, this consultation is intended to promote the conservation of EFH as necessary to support sustainable fisheries and the managed species' contribution to a healthy ecosystem. For the purposes of the MSA, EFH means "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity", and includes the associated physical, chemical, and biological properties that are used by fish (50 CFR 600.10). Adverse effect means any impact that reduces quality or quantity of EFH, and may include direct or indirect physical, chemical, or biological alteration of the waters or substrate and loss of (or injury to) benthic organisms, prey species and their habitat, and other ecosystem components, if such modifications reduce the quality or quantity of EFH. Adverse effects may result from actions occurring within EFH or outside of it and may include direct, indirect, site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions (50 CFR 600.810). Section 305(b) of the MSA also requires NMFS to recommend measures that can be taken by the action agency to conserve EFH. Such recommendations may include measures to avoid, minimize, mitigate, or otherwise offset the adverse effects of the action on EFH (50 CFR 600.0-5(b)).

NMFS determined the proposed action would adversely affect EFH as follows: (1) minor and temporary increases in turbidity generated by divers and the installation of sheet pile with a

vibratory hammer, (2) minor and temporary benthic disturbance beneath the pier, and (3) the temporary displacement of species that may be in the action area during this work. The use of a barge to facilitate repairs will result in temporary increases in shading during construction. These actions are likely to temporarily increase underwater sound, elevate turbidity, disturb benthic habitat, and degrade water quality. However, fish have ample area to disperse and forage within adjacent waters and the project incorporates measures to reduce project-related impacts to habitat and prevent the introduction of contaminants into surface waters. For these reasons, adverse effects to EFH are expected to be minor and NMFS has no EFH conservation recommendations to provide to avoid, minimize, mitigate, or otherwise offset the impact of the proposed action.

The Corps must reinitiate EFH consultation with NMFS if the proposed action is substantially revised in a way that may adversely affect EFH, or if new information becomes available that affects the basis for NMFS' EFH conservation recommendations (50 CFR 600. 920(l)).

Please direct questions regarding this letter to Joel Casagrande at (707) 575-6016, or via email at Joel.Casagrande@noaa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Darren Howe". The signature is fluid and cursive, with the first name "Darren" and last name "Howe" clearly distinguishable.

Darren Howe
San Francisco Bay Branch Supervisor
North-Central Coast Office

cc: Caroline Frentzen, Corps, Caroline.A.Frentzen@usace.army.mil
Copy to ARN File# 151422WCR2024SR00054

San Francisco Bay Regional Water Quality Control Board

Sent via electronic mail: No hard copy will follow

March 29, 2024
Place ID 891194
RM 454996
Corps File SPN-2012-00070S

Mr. Brandon Northart
City of Martinez
525 Henrietta Street
Martinez, CA 94553
Email: bnorthart@cityofmartinez.org

Subject: Notice of Applicability for Enrollment of the Martinez Municipal Fishing Pier Maintenance Project under the General Waste Discharge Requirements and Water Quality Certification for Construction and Maintenance of Overwater Structures, Contra Costa County

Dear Mr. Northart:

On November 9, 2023, the City of Martinez (Applicant) provided the San Francisco Bay Regional Water Quality Control Board (Water Board) a Notice of Intent (NOI) to enroll the Martinez Municipal Fishing Pier Maintenance Project (Project) for coverage under the state's certification of Nationwide Permit 3a (*Maintenance*). We determined that the Project qualifies for coverage under the subject General Waste Discharge Requirements ([Order No. R2-2018-0009](#)) (General Certification). The full application fee of \$3,985 was paid in full on March 8, 2024, and was calculated as a "Category E – Low Impact Discharge."

Project: The Project is located at the Martinez Municipal Fishing Pier (Pier), which is situated at the northwest corner of the Martinez Marina on the south side of the Carquinez Strait (lat. 38.027661, long. -122.139567). The Pier encompasses 6,144 square feet (SF) and was constructed in 1934, with various additions and sections rebuilt in 1976. The Pier provides year-round free fishing opportunities to the public and is a popular regional recreational area. The wooden pier structure extends approximately 600 feet offshore and primarily offers fishing at the T-shaped end.

Over time the Pier has experienced natural deterioration to both its topside and substructure. Due to health and safety concerns associated with structural deficiencies the Pier was closed in 2021. The Permittee has since completed temporary repairs that restored access to approximately 60% of the Pier (NOA issued June 22, 2022, RM

ALEXIS STRAUSS HACKER , CHAIR | EILEEN M. WHITE, EXECUTIVE OFFICER

448161). Additional Pier renovation is needed to address the full scope of repairs, provide the public with long-term safe access, and enable the whole Pier to reopen.

To return the Pier to usable condition the Project will implement the following work, which is described and shown in NOI Appendix A:

- Install fiberglass sleeves around select, damaged timber pilings, At the time of repair design, 31 damaged timber pilings in need of grout-filled fiberglass sleeves were identified.
- Repair damaged pile caps and stringers.
- Remove and replace damaged existing railings with new steel and composite material railings with integrated lighting.
- Replace existing timber decking with Americans with Disabilities Act (ADA)-compliant decking of approximately 9,725 square feet (SF) with no net increase or decrease in cover area over the waterway.
- Replace the existing steel beam bridge from landside to the Pier with a prefabricated aluminum walkway.
- Replace a damaged portion of the aluminum sheet pile breakwater wall that extends from the southeast corner of the Pier with no change in use or footprint. The existing condition of missing sheet piles exacerbates shoaling of the marina and increases the need for maintenance dredging. New sheet piles will be installed using a vibratory pile hammer.
- Remove and replace existing benches.
- Repair bracing and supports for existing water testing equipment at the Department of Water Resources station.

Pile Repairs: The pile repair work will be completed from a barge, small skiffs, and floats. The repair will involve installation of grout-filled fiberglass sleeves around select piles from the mudline to the top of the pile. The sleeves will be placed by hand with the aid of commercially trained divers experienced in this work, and then the annulus between the existing pile and new sleeve will be pumped full of grout, encapsulating the damaged member. Sleeves designated for full-length repairs will be inserted a minimum of 12 inches and up to two feet into the bay floor, which consists of sandy soil. Some locations may receive partial sleeve repairs and utilize a bottom seal per the manufacturer rather than extending all the way to the mudline. Existing cross-braces will be removed to perform pile sleeve work, and then replaced. The repairs will require an estimated three weeks to complete.

Structural Repairs: Repairs to the existing decking support system will entail replacing pile caps and stringers in-kind with new treated timber members. All existing railings and benches will be removed and replaced. The damaged and weathered existing timber decking will be removed and replaced with new ADA-compliant decking. Removing the entire deck allows access to replace existing pile caps and stringers.

The replaced Pier portions will be reconstructed in-kind, and removed sections will be replaced like-for-like with pressure-treated timber and galvanized steel hardware. Pressure-treated timber Pier elements above mean high water will use modern marine-grade treatment in accordance with the American Wood Preservers Association Category UC4B and pressure-treated elements extending below mean high water will be treated in accordance with Category UC5B. A preservative (likely ammoniacal copper zinc arsenate (ACZA)) will be applied by the lumber supplier before the timber's arrive at the site. None of the treated sections will be fully submerged in water; rather, the repaired diagonal timber bracing will be subjected to inundation for a portion of its height with the rising and falling tides and occasional splashing. Metal fasteners are not expected to leach zinc or other chemicals into river waters. All treated timber members will be pre-measured and cut landside to eliminate potential for discharge of dust and contaminants to the water. The existing steel beam bridge from landside to the Pier will be replaced with a prefabricated aluminum walkway with no change in cover area over the waterway. All structural repairs other than diagonal bracing will occur overwater, not in water.

Breakwater Repairs: Repairs to the existing aluminum breakwater will require the installation of approximately 35 linear feet of aluminum sheet pile and a timber waler at the top as originally constructed (or epoxy-coated steel sheet piles without a timber waler at the top). The sheet pile will be installed using a vibratory hammer.

Avoidance and Minimization of Impacts: The protection measures listed below have been integrated into the Project to avoid potential adverse effects to the environment. These measures are considered an integral part of the Project and will be implemented by the Permittee and its contractors during, prior to, and after construction.

- The contractor will fully understand and adhere to the terms and conditions of approvals and permits obtained, as well as all Project best management practices.
- All in-water work will be constructed during the in-water work window applicable to the site, which spans from June 1 through November 30.
- All construction activities will occur within the designated Project footprint and landside staging areas.
- Netting, sandbags, tarps, or other forms of barriers will be placed around staging areas to prevent debris from entering the water.
- If debris reaches the water, personnel in workboats will immediately retrieve the debris for proper handling and disposal.
- All debris and trash will be collected and disposed of in appropriate waste containers by the end of each construction day. Discharge of hazardous materials at the Project site will be prohibited.
- All construction-related equipment will be inspected daily and maintained in good working order to minimize the potential for hazardous waste spills. Current hazardous material spill prevention and cleanup plans will be maintained on site. Hydraulic attachments will be placed on plywood and covered with plastic or a comparable material prior to the onset of rain to prevent run-on and runoff.

- Construction material that could wash or blow away will be covered every night and during any rainfall event.
- Construction materials will be stored in an area that does not freely drain to the water, is free from standing water and wet soil, and is protected from rain. If necessary, materials will be stored on skids or support timbers to be kept off the ground.
- Adequate erosion control supplies will be kept on site during all construction activities to ensure that waste materials are kept out of waterbodies.
- Vibratory equipment will be used for repairs to the sheet pile breakwater.
- A radius of 100 meters and beyond will be scanned prior to and during pile driving to ensure that marine mammals are no closer than 100 meters of Project activities. If marine mammals are within a radius of 100 meters of pile driving activities, pile driving will be stopped until the animal transits the area.

The Project is required to implement all necessary Best Management Practices (BMPs) to fully avoid and minimize impacts to waters of the state and fully comply with the requirements in the General Certification.

The Executive Officer finds that the Project meets the General Certification's eligibility criteria and, accordingly, hereby authorizes coverage of the Project under the General Certification. The following additional conditions shall apply:

1. The Permittee shall comply with all requirements established for the Project by the National Marine Fisheries Service (NMFS) as a result of the Corps' consultation regarding potential impacts to special status fish species. If any Project elements are modified as a result of the NMFS consultation then the Permittee shall submit, acceptable to the Executive Officer, all details of the Project modifications.
2. The Permittee shall comply with all requirements established for the Project by the United States Fish & Wildlife Service (USFWS) as described in their February 16, 2024, consultation letter (2024-0026475-S7-001).
3. In addition to the above-described environmental protection measures, the Permittee shall include the following measures during Project implementation:
 - Floating booms shall be used as needed during the removal of Pier materials to contain any debris discharged into the water.
 - If debris is discharged to water, it will be removed as soon as possible, and no later than the end of each workday. Debris will be disposed of at an authorized upland disposal site.
 - Pile jackets shall be filled with marine-grade grout and installation and application of cementitious grout/fill shall be conducted when predicted weather and water conditions allow effective control and containment, and

allow the grout to remain dry until cured. Jackets shall be installed during low tide to the extent feasible and work shall cease during rain.

4. No later than 30 days after Project completion, the Applicant shall submit to the Water Board a Notice of Completion (NOC) and shall demonstrate that the Project has been carried out in accordance with the Project description provided in the Application. The NOC must include a map of the Project location, final boundaries of the Project area and pre- and post-project photographs. Each photograph shall include a descriptive title, date taken, and photographic site identification. The NOC shall include the Project name, RM 454996, and shall be submitted via email RB2-401Reports@waterboards.ca.gov with **NOC_454996_Martinez Fishing Pier** in the Subject line, or by mail to the attention of 401 Certification Reports at the Water Board (see address on the letterhead).

Please be advised that failure to comply with all the provisions in the attached General Certification is a violation of state law and is subject to administrative civil liability pursuant to California Water Code Section 13350. Failure to meet any condition of this Certification may subject you to civil liability imposed by the Water Board to a maximum of \$5,000 per day of violation or \$10 for each gallon of waste discharged in violation of the Certification.

If you have any questions, please contact Kathryn Hart at (510) 622-2356 or by e-mail to Kathryn.Hart@waterboards.ca.gov.

Sincerely,

for Eileen White
Executive Officer

Enc.: General Waste Discharge Requirements and Water Quality Certification for the Construction and Maintenance of Overwater Structures (link [Order No. R2-2018-0009](#))

cc: State Board, DWQ, stateboard401@waterboards.ca.gov
Water Board, Victor Aelion, victor.aelion@waterboards.ca.gov
U.S. Army Corps:
Katerina Galacatos, Katerina.Galacatos@usace.army.mil
Caroline Frentzen,

cc (cont.):

U.S. EPA:

Jennifer Sui, siu.jennifer@epa.gov

EPA 401 Mailbox, r9cwa401@epa.gov

Anchor QEA, LLC:

Blair Jenet, bjenet@anchoragea.com

Josh Burnam, jburnam@anchoragea.com



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102

February 6, 2024

Regulatory Division (SPN-2012-00070S)

Ms. Julianne Polanco
State Historic Preservation Officer
California Department of Parks and Recreation
1725 23rd Street, Suite 100
Sacramento, California 95816
Calshpo.ohp@parks.ca.gov

Dear SHPO Polanco:

In accordance with Section 106 of the National Historic Preservation Act of 1966, as amended, and all applicable regulations, we are requesting your review and comments on the determination of eligibility that issuing a permit would have on historic properties within the Area of Potential Effects (APE) for the City of Martinez Municipal Fishing Pier Renovation Project.

The project would affect waters of the United States. Therefore, the City of Martinez (City) (Applicant), is seeking authorization from the U.S. Army Corps of Engineers (USACE) under Section 10 of the Rivers and Harbors Act. The approximately 1-acre project site is located at the existing City of Martinez Municipal Fishing Pier, which is located adjacent to 7 North Court Street in the City of Martinez, Contra Costa County, California (Lat. 38.027661°, Long. -122.139567°). The attached *Cultural Resources Assessment, City of Martinez Municipal Fishing Pier Renovation Project*, prepared by Anchor QEA for the City of Martinez, dated January 18, 2024, (Enclosure 1) contains a location map, figures, project plans, historic pier layovers, historic aerial photographs, and a Department of Parks and Recreation form.

Undertaking

The federal undertaking that requires a Department of the Army authorization pursuant to current regulations consists of issuing a permit to install fiberglass sleeves around select, damaged timber piles; repair damaged pile caps and stringers; replace existing damaged railings; replace existing degraded timber decking; and replace missing aluminum sheet piles of the breakwater extending from the southeast corner of the pier (see enclosed plans in the cultural resources report). Approximately 40 damaged timber piles would have grout-filled fiberglass sleeves installed, which would impact approximately 68.8 square feet of bay floor (Sheets S1 – S5, Enclosure 1). Damaged pile caps and stringers would be replaced in-kind with new treated-timber members of the same size, resulting in approximately 407 linear feet of timber bracing and supports. Approximately 1,080 linear feet of new railings would replace damaged railings. Approximately 9,950 square feet (0.228 acre) of existing weather-damaged

decking would be replaced. The existing 240-square foot steel beam bridge from landside to the pier would be replaced with a prefabricated aluminum walkway of the same dimensions. Approximately 35-linear feet of new sheet piles would be installed using a vibratory hammer to replace missing sheet piles in the existing breakwater. (Sheet S5, Enclosure 1). The proposed work would restore safe public access to the entire pier, which is currently partially closed to the public for safety concerns. The majority of the work would be performed from floating barges, with equipment staged in a public parking lot (Sheet PI1, Enclosure 1).

Area of Potential Effects (APE)

We identified the geographic area of potential effects (APE) that the undertaking may directly or indirectly cause alterations in the character or use of historic properties in accordance with 36 CFR 800.16(d), if any such properties exist. We included in our APE the undertaking's areas of direct effects from construction and the access route along the constructed soil-and-rock breakwater as depicted in the APE Figure, Enclosure 2. The access route along North Court Street and the proposed staging area as depicted in Sheet PI1 of Enclosure 1, were not included in the area of potential affect because these activities may occur without the issuance of a Department of the Army Permit, and therefore do not meet all three tests in 33 CFR 325, Appendix C(g)(1). The vertical APE would extend to a maximum of 10 feet below grade in the locations where damaged timber piles would have grout-filled fiberglass sleeves installed and the 35 linear feet of replacement sheet pile breakwater. Elsewhere, the vertical APE would extend from the top of the structure to the water. (Sheet PI5, Enclosure 1).

Historic Property Identification Effort

The historic property identification included a records search, review of historic aeriels for prior disturbance and occupation, Native American coordination, and a cultural resources report. Documentation is summarized below; additional detailed information may be found in Enclosure 1.

In order to determine past historical ground disturbance and the presence of buildings, structures, or other properties within the APE, we reviewed historic aerial images (historicaerials.com and Google Earth Pro) and maps as early as 1913 to the present. Viewing this historic imagery shows that the Martinez Marina appears to have been built between 1959 and 1968, including the construction of the breakwater. The ferry wharf appears to have been built in 1913, altered between 1939 and 1948, and then modified to its current configuration between 1968 and 1980. Remnants of the ferry wharf access pier, which was located directly west of the existing earthen breakwater,

appear to have been removed completely from the marina area between 2007 and 2008.

A records search was conducted of the Native American Heritage Commission's Sacred Lands File by the Native American Heritage Commission on December 26, 2023, at the request of USACE. No cultural resources were identified in the APE. Additionally, Anchor QEA submitted two Departments of Parks and Recreation Primary Records for historic-era structures that have not been previously analyzed for eligibility: the Martinez-Benicia Ferry Wharf/Public Wharf and the Martinez Municipal Fishing Pier. (Enclosure 1).

No pedestrian survey was completed for this project because all work occurs entirely over or within the Carquinez Strait.

The USACE reviewed the results of the enclosed cultural resources report for the presence of cultural resources within the APE. We identified two cultural resources that have not yet been analyzed for eligibility in the National Historic Register of Places: the Martinez Municipal Fishing Pier and the Martinez-Benicia Ferry Wharf/Public Wharf (Enclosure 1).

Consultation Record

Native American coordination was initiated by USACE via emailed letters on January 10, 2024. Consultation is ongoing, however two tribes, the Confederated Villages of Lisjan Nation and the Ohlone Indian Tribe, responded to the outreach within one day.

The Confederated Villages of Lisjan Nation requested that they be contacted should any cultural resources or burial sites be found. The Corps responded to the Confederated Villages of Lisjan Nation and stated that the Department of the Army Permit would include a special condition requiring that the Confederated Villages of Lisjan Nation be contacted should any cultural resources or burial sites be found.

The Ohlone Indian Tribe requested the professional archaeological recommendations for the project. The Corps provided the Ohlone Indian Tribe with determination of *no potential to affect* for both buried cultural resources and to historic-era structures in the project area, as proposed by the architectural historian and archaeologist from Anchor QEA.

Description of Findings

We identified two historic-era structures within the APE, the Martinez-Benicia Ferry Wharf/Public Wharf and the Martinez Municipal Fishing Pier.

The Martinez-Benicia Ferry Wharf/Public Wharf was initially constructed in 1913 and was used by the Martinez-Benicia ferry until 1962, when the Benicia-Martinez Bridge opened; the Martinez-Benicia Ferry Wharf/Public Wharf is a newly identified potential resource. The first Martinez-Benicia Ferry was constructed in 1847 at a different location and was at the time known as the Semple Ferry. This ferry allowed passage across the Carquinez Strait and is considered to have been the first regular and the longest-operating ferry service in the San Francisco Bay Area. Dr. Robert Semple, who first established the Martinez-Benicia Ferry, published one of the first American newspapers in California and later became a primary founder of the City of Benicia. The Martinez-Benicia Ferry likely contributed to the development of the Cities of Benicia and Martinez. The Martinez-Benicia Ferry discontinued service in the 1890's, but the ferry route was reopened under a new owner in 1913 at a new ferry landing and wharf within the APE being analyzed in this letter. The new ferry landing was located at the north terminus of Court Street in downtown Martinez. This 1913 ferry landing is the structure being analyzed in this document and is in the same location as the Martinez Municipal Fishing Pier. The remnants of the Martinez-Benicia Ferry wharf at this location are therefore not associated with Dr. Robert Semple, nor with the development of the Cities of Benicia or Martinez.

Additionally, the majority of the 1913 Martinez-Benicia Ferry structure at this location was removed between 1948 and 1980. Although the existing Martinez Municipal Fishing Pier sits upon and uses some of the 1913 ferry wharf's piles, the decking, stringers, pile caps, and configuration of the original ferry wharf are no longer present. One of the ferry slips appears to have been removed between 1939 and 1980. A larger ferry slip was installed between 1939 and 1948 at the end of the elongated wharf and is still extant today. A series of funding grants from the federal Public Works Administration between 1935 to 1944 allowed renovations to the ferry wharf, including the installation of the larger ferry slip, widening of the ferry wharf, replacing pier railings, and reinforcing the deck and joists of the pier. The addition of the larger ferry slip and the widening of the ferry wharf is believed to have been one of the last projects funded by the PWA, which ended the year the project was funded, in 1944. The larger ferry slip and the updated wharf were used until 1962, when the Benicia-Martinez Bridge opened and effectively ended the need for ferry operations. The larger ferry slip appears to be the only remaining portion of the 1913 Martinez-Benicia Ferry landing. The City of Martinez began to use the old ferry wharf as a fishing pier in the late 1960's. The existing ferry slip is directly adjacent to the area of potential effects and would not have work done on it.

The Martinez Municipal Fishing Pier (Pier) is a publicly accessible wooden pier that was constructed from 1975 to 1976 abutting the north side of the existing ferry slip to replace the older, derelict ferry wharf that served the Martinez-Benicia Ferry. The Pier

sits upon and uses some of the ferry wharf's piles, but the decking, stringers, pile caps, and configuration of the ferry wharf are no longer present. The original ferry wharf piles that were not used for the smaller, existing Pier were removed to an unknown location. Although some of the decking from the 1913 ferry wharf was possibly reused during the initial construction of the Pier, this decking was replaced during the 1948 to 1980 construction and reconfiguration of the Pier, and the piles, if they are in fact the piles from the 1939 to 1948 additions to the Ferry Wharf, would be protected in place and are only obliquely visible when standing on the main portion of the Pier. During this time, the fishing pier was heavily altered relative to its original construction as part of the former Martinez-Benicia Ferry wharf (discussed below) and does not retain sufficient integrity to convey potential significance as a remnant of the ferry wharf. The Pier, including the walkway directly north of the ferry slip, was in active use as a fishing pier from the late 1960's until recent damage required closure of the structure in September 2021. This active use included the periodic minor maintenance and replacement of damaged sections with modern materials as needed. Many other fishing piers from a similar time period and of similar construction style exist within the San Francisco Bay Area.

Determination of Eligibility

We have determined that the Martinez-Benicia Ferry Wharf/Public Wharf does not meet the Criteria as eligible for inclusion in the National Register of Historic Places (NRHP). As discussed above, the ferry slip, the only remaining portion of the 1913 Ferry Wharf for the Martinez-Benicia Ferry service, is not associated with events that have made a significant contribution to history (Criterion A), is not associated with a significant person (Criterion B), does not embody a distinctive type, period, design, or method of construction (Criterion C), and is not likely to yield important information in history or prehistory (Criterion D). The Corps has made a determination of ineligible for listing in the NRHP because the 1913 Ferry Wharf does not meet any of the four National Register Criteria. Additionally, although this property retains its original location and setting, it has been substantially altered and no longer conveys integrity as a ferry wharf.

We have also determined that the Martinez Municipal Fishing Pier does not meet the Criteria as eligible for inclusion in the National Register of Historic Places (NRHP). As discussed above, the Pier is not associated with events that have made a significant contribution to history (Criterion A), is not associated with a significant person (Criterion B), does not embody a distinctive type, period, design, or method of construction (Criterion C), and is not likely to yield important information in history or prehistory (Criterion D). The Corps has made a determination of ineligible for listing in the NRHP because the Martinez Municipal Fishing Pier does not meet any of the four National Register Criteria.

Determination of Effect

We have determined that the undertaking would have no effect on historic properties (i.e., no historic properties affected). We have determined that the Martinez Municipal Fishing Pier and the Martinez-Benicia Ferry Wharf/Public Wharf is not eligible for inclusion in the NRHP, as discussed above. Therefore, we did not identify any historic properties within in the APE.

Your review and comment on our determinations of eligibility and effect is requested. Please provide us with your response on or before March 7, 2024. Please refer to identification number SPN-2012-00070S in any correspondence concerning this project. If you have any questions, please contact Caroline Frentzen by email at Caroline.A.Frentzen@usace.army.mil, or by telephone at 415-503-6779. For more information regarding our program, please visit our website at www.spn.usace.army.mil/Missions/Regulatory.aspx.

Sincerely,

Katerina Galacatos
South Branch Chief, Regulatory Division

Enclosures

Electronic Copy Furnished:

City of Martinez, Martinez, CA (Attn: Brandon Northart, bnorthart@cityofmartinez.org)

Anchor QEA, San Francisco, CA (Attn: Josh Burnam, jburnam@anchorgea.com)



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102

May 1, 2024

Regulatory Division

Subject: File Number SPN-2012-00070

Mr. Brandon Northart
City of Martinez
525 Henrietta Street
Martinez, California 94553
bnorthart@cityofmartinez.org

Dear Mr. Northart:

This correspondence is in reference to your submittal of November 13, 2023, concerning Department of the Army (DA) authorization for the City of Martinez Municipal Fishing Pier Renovation Project located adjacent to 7 North Court Street in the City of Martinez, Contra Costa County, California; Latitude 38.027661°, Longitude -122.137567°.

Work within U.S. Army Corps of Engineers (Corps) jurisdiction will include installing fiberglass sleeves around select, damaged timber piles; repairing damaged pile caps and stringers; replacing existing damaged railings; replacing existing degraded timber decking; replacing damaged, existing breakwater aluminum sheet pile wall extending from the southeast corner of the pier. Work will require placement of 8.6 cubic yards of structure within 68.8 square feet of the Carquinez Strait and will involve work above and within approximately 10,160 square feet of the Carquinez Strait. All work shall be completed in accordance with the plans and drawings titled: "USACE File #SPN-2012-00070S, City of Martinez Municipal Fishing Pier Renovation Project, City of Martinez, Contra Costa County, CA" dated May 1, 2024, in 9 sheets, provided as enclosure 1.

Section 404 of the Clean Water Act (CWA) generally regulates the discharge of dredged or fill material below the plane of ordinary high water in non-tidal waters of the United States, below the high tide line in tidal waters of the United States, and within the lateral extent of wetlands adjacent to these waters. Section 10 of the Rivers and Harbors Act (RHA) generally regulates construction of structures and work, including excavation, dredging, and discharges of dredged or fill material occurring below the plane of mean high water in tidal waters of the United States; in former diked baylands currently below mean high water; outside the limits of mean high water but affecting the navigable capacity of tidal waters; or below the plane of ordinary high water in non-tidal waters designated as navigable waters of the United States. Navigable waters of the United States generally include all waters subject to the ebb and flow of the tide; and/or all waters presently used, or have been used in the past, or may be susceptible for future use to transport interstate or foreign commerce.

Based on a review of the information in your submittal the project qualifies for authorization under Department of the Army Nationwide Permit (NWP) 3 Maintenance (86 Fed. Reg. 73522, December 11, 2021), pursuant to Section 10 of the Rivers and Harbors Act (RHA) of 1899, as amended (33 U.S.C. § 403 et seq.). The project must be in compliance with the terms of the NWP, the general conditions of the Nationwide Permit Program, and the San Francisco District regional conditions cited on our website (www.spn.usace.army.mil/Missions/Regulatory/Permitting/Nationwide/). You must also be in compliance with any special conditions specified in this letter for the NWP authorization to remain valid. Non-compliance with any term or condition could result in the revocation of the NWP authorization for your project, thereby requiring you to obtain an Individual Permit from the Corps. This NWP authorization does not obviate the need to obtain other State or local approvals required by law. Upon completion of the project and all associated mitigation requirements, you shall sign and return the Certification of Compliance, enclosure 2, verifying that you have complied with the terms and conditions of the permit.

The State has the discretion to require a water quality certification for a Section 10 activity if the state determines that the activity is likely to result in a discharge during construction or operation. The San Francisco Bay Regional Water Quality Control Board issued the *Notice of Applicability for the Enrollment of the Martinez Municipal Fishing Pier Maintenance Project under the General Waste Discharge Requirements and Water Quality Certification for Construction and Maintenance of Overwater Structures* on March 29, 2024 (enclosure 3). All conditions of this general order are part of this DA permit.

This authorization will not be effective until you have obtained a concurrence from the San Francisco Bay Conservation and Development Commission that your project will comply with California's Coastal Zone Management Act. If the Commission fails to act on a valid request for concurrence with your certification within six months after receipt, the Corps will presume a concurrence has been obtained. You shall submit a copy of the concurrence to the Corps prior to the commencement of work.

General Condition 18 stipulates that project authorization under a NWP does not allow for the incidental take of any federally-listed species in the absence of a biological opinion with incidental take provisions. As the principal federal lead agency for this project, the Corps initiated consultation with the United States Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) to address project related impacts to listed species, pursuant to Section 7(a) of the Endangered Species Act of 1973, as amended, 16 U.S.C. § 1531 et seq. By letters of February 16, 2024, and April 24, 2024, cited in enclosure 4 and 5, the USFWS and the NMFS, respectively, concurred with the determination that the project was not likely to adversely affect delta smelt (*Hypomesus transpacificus*), longfin smelt (*Spirinchus thaleichthys*), Central

California Coast steelhead (*Oncorhynchus mykiss*), Central Valley steelhead, southern Distinct Population Segment North American Green sturgeon (*Acipenser medirostris*), Central Valley Spring-run Chinook salmon (*O. tshawytscha*), Sacramento River Winter-run Chinook salmon, and designated critical habitat for these species.

In order to ensure compliance with this NWP authorization, the following special conditions shall be implemented:

1. The USFWS and the NMFS concurred with the determination that the project was not likely to adversely affect delta smelt (*Hypomesus transpacificus*), longfin smelt (*Spirinchus thaleichthys*), Central California Coast steelhead (*Oncorhynchus mykiss*), Central Valley steelhead, southern Distinct Population Segment North American Green sturgeon (*Acipenser medirostris*), Central Valley Spring-run Chinook salmon (*O. tshawytscha*), Sacramento River Winter-run Chinook salmon and designated critical habitat for this species. This concurrence was premised, in part, on project work restrictions and the description of the proposed action outlined in enclosures 4 and 5, respectively. These work restrictions are incorporated as special conditions to the NWP authorization for your project to ensure unauthorized incidental take of species and loss of critical habitat does not occur.
2. If future operations by the United States require the removal, relocation, or other alteration of the work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required, upon due notice from the U. S Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
3. Should any buried archaeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archaeological indicators include: obsidian and chert flakes, and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars, and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps, and old trails. The Corps and the

Confederated Villages of Lisjan Nation shall be notified of the discovery and a professional archaeologist shall be retained by the permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Corps for approval, and project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Corps.

4. A post-construction report shall be submitted 45 days after the conclusion of construction activities. The report shall document construction activities and contain as-built drawings (if different from drawings submitted with application) and include before and after photos.

You may refer any questions on this matter to me by telephone at 415-503-6779 or by e-mail at Caroline.A.Frentzen@usace.army.mil. All correspondence should be addressed to the Regulatory Division, South Branch, referencing the file number at the head of this letter.

The San Francisco District is committed to improving service to our customers. The Regulatory staff seeks to achieve the goals of the Regulatory Program in an efficient and cooperative manner while preserving and protecting our nation's aquatic resources. If you would like to provide comments on our Regulatory Program, please complete the Customer Service Survey Form available on our website:
www.spn.usace.army.mil/Missions/Regulatory.aspx.

Sincerely,

Caroline Frentzen
Project Manager, Regulatory Division

Enclosures

cc:

Anchor QEA, San Francisco, CA (Attn: Josh Burnam, jburnam@anchorgea.com)
CA RWQCB, Oakland, CA (Attn: Kathryn Hart, Kathryn.hart@waterboards.ca.gov)
USFWS, Sacramento, CA (Attn: Kimberly Squires, kim_squires@fws.gov)
NMFS, Santa Rosa, CA (Attn: Joel Casagrande, joel.casagrande@noaa.gov)
BCDC, San Francisco, CA (Attn: Katharine Pan, katharine.pan@bcdcc.ca.gov)

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600

State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

Transmitted Via Electronic Mail

June 7, 2024

TO: City of Martinez
525 Henrietta Street
Martinez, California 94553

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)

SUBJECT: Instructions for Completing BCDC Permit Amendment No. M1999.018.03
(Amendment No. Three); Martinez Municipal Fishing Pier Renovation

Dear BCDC Permit Holder:

Enclosed please find a copy of your BCDC Amended Permit, executed by the Executive Director. The amended language has been incorporated into the authorization, special conditions, findings, and standard conditions sections of the permit consistent with BCDC laws and policies.

All permittees must (1) **complete** the acknowledgment section of the permit¹, which indicates that you have read and that you understand all of the terms and conditions of the permit, and (2) **return** the entire permit within the ten-day time period (see Standard Conditions IV-A). The [Notice of Completion and Declaration of Compliance Form](#), shall be returned to the Commission upon project completion.

Furthermore, your permit contains special conditions which require you to take certain specific actions. Please understand that **no** work may commence on the project until the permit is executed and returned to the Commission. Until the Commission receives the executed permit, the permittee does not have the necessary authorization for the work authorized under the permit. The commencement of any work within the Commission's jurisdiction without the necessary authorization from the Commission is a violation of the McAtter-Petris Act and could subject you to substantial fines.

If you should have any questions regarding the permit or the procedure outlined above, please contact our staff at 415-352-3600 or info@bcdc.ca.gov.

¹ For your convenience, you will receive an email copy of the amended permit via DocuSign for your acknowledgement and e-signature.



San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600

State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

PERMIT NO. M1999.018.03

AMENDMENT NO. THREE

(Original Issued on May 4, 2000, As
Amended Through June 7, 2024)

City of Martinez
525 Henrietta Street
Martinez, California 94553

I. Authorization

A. **Authorized Project.** Subject to the conditions stated below, the permittee, the City of Martinez, is hereby authorized to do the following:

Location: In the Bay and within the 100-foot shoreline band, at the Martinez Marina in the Martinez Regional Shoreline, along the northern boundary of the City of Martinez, in Contra Costa County.

Description: As part of improving an existing shoreline park:

1. Construct, use, and maintain the public access improvements, as generally shown on the plan entitled “Plaza and Ramp Area Site Plan” and other related plans dated August, 2003, and additional plans regarding demolition, grading, signage, and safety railing dated June, 2003, all prepared by Bluewater Design Group, including:
 - a. Developing an approximately 530-foot-long public access shoreline promenade varying in width from 8 to 15 feet and including a plaza area constructed of 14,450 square feet of concrete pavers, a ship’s hull structure measuring 106 feet long and 28 feet wide with a seating/planter wall and a 120-square-foot raised viewing deck, approximately 13,880 square feet of landscaped area including three planters with seatwalls, installing approximately 24 benches, three trash containers, one bicycle rack, a 720-square-foot public shelter, lighting, historic and habitat interpretive signage, and an informational kiosk;



PERMIT NO. M1999.018.03 (AMENDMENT NO. THREE)

City of Martinez

June 7, 2024

Page 2

- b. Installing a 255-foot-long, 12-foot-wide sheet pile retaining wall with a concrete abutment and a 3.5-foot-high guardrail;
 - c. Constructing a 16,400-square-foot extension of the existing boat launch ramp to raise the crown elevation; and
 - d. Removing two buried fuel tanks and installing approximately 50 linear feet of a new fuel line. The shoreline trail will connect to the San Francisco Bay Trail, Ridge Trail, and the Carquinez Shoreline Park to the waterfront (Amendment No. One).
2. Remove an approximately 15,000-square-foot pile-supported pier deck, substructure, and piles, and temporarily use a 6,000-square-foot area along the shoreline for staging construction activities (Amendment No. Two).
3. In the Bay, renovate the existing Martinez Municipal Fishing Pier through the following activities (Amendment Three):
 - a. Repair approximately 40 damaged timber pilings with grout-filled, fiberglass sleeves;
 - b. Remove 23 damaged pile caps, eight timber subcaps, and eleven stringers and blocking, and replace with 23 treated timber caps, eight treated timber subcaps, and eleven treated timber stringers and blocking;
 - c. Remove existing damaged railings and replace with approximately 1,080 linear feet of new metal and timber railings;
 - d. Remove 9,950 square-feet of existing timber decking and replace it with 9,950 square-feet of pressure-treated timber decking with galvanized steel hardware;
 - e. Remove existing steel beam bridge and replace with a 6.67-foot by 40-foot prefabricated aluminum walkway;
 - f. Replace approximately 35 linear feet of aluminum sheet pile with 25 linear feet of steel sheet pile breakwater with timber waler at the top, extending from the southeast corner of the pier;
 - g. Remove 34 damaged timber braces and replace with 34 treated timber braces; and,
 - h. Remove and replace existing lighting on the pier.

B. Based on Application Dated. This amended authority is generally pursuant to and limited by the application dated March 4, 1991, the letter dated March 3, 2003, requesting Amendment No. One, the letter dated August 19, 2004, requesting Amendment No. Two, and the letter dated November 7, 2023, requesting Amendment No. Three, including all accompanying exhibits and all conditions of this amended permit.

C. Deadlines for Commencing and Completing Authorized Work. Work authorized in the original permit was to commence prior to May 4, 2001, or permit was to lapse and become null and void. Such work was also to be diligently pursued to completion and be completed by May 4, 2002, unless an extension of time was granted by further amendment of the original permit.

Work authorized in Amendment No. One was to commence prior to September 1, 2004, or this amended permit was to lapse and become null and void. Such work was also to be diligently pursued to completion and be completed by September 1, 2006, unless an additional extension of time was granted by further amendment of this amended permit.

Work authorized in Amendment No. Two was to commence prior to January 1, 2006, or this amended permit was to lapse and become null and void. Such work was also to be diligently pursued to completion and be completed by January 1, 2008, unless an additional extension of time was granted by further amendment of this amended permit.

Work authorized in Amendment No. Three must commence prior to November 31, 2025, and be diligently pursued to completion within three years of commencement or no later than November 31, 2028, whichever date is earlier. This amended permit will lapse and become null and void if the authorized work is not commenced as specified, unless an extension is granted by further amendment of this permit.

II. Special Conditions

The amended authorization made herein shall be subject to the following special conditions, in addition to the standard conditions in Part IV:

A. Specific Plans and Plan Review

1. **Plan Review.** No work whatsoever shall be commenced pursuant to this amended permit until final precise site, demolition, construction, engineering, grading, architectural, landscaping plans, and any other relevant criteria, specifications, and plan information for that portion of the work have been submitted to, reviewed, and approved in writing by or on behalf of the Commission. The specific drawings and information required will be determined by the staff. To save time, preliminary drawings should be submitted and approved prior to final drawing. Such final plans shall generally conform to the project plans dated August, 2003, prepared by Blue Water Design Group, project information and project details associated with the original BCDC Permit Application, dated March 4, 1999, and pursuant to the Design Review Board's (DRB) suggestions of the April 7, 1998 DRB meeting (Amendment No. One). The site plans dated November 1, 2004 prepared by

Bluewater Design Group and entitled "Ferry Pier Removal - Demolition Plan" (Amendment No. Two).-The improvements authorized by Amendment No. Three shall be built generally in conformance with the plan entitled "City of Martinez Municipal Fishing Pier Permit Set of Drawings", prepared by COWI North America, dated October 16, 2023. No changes to the design of the project shall be made without the prior written approval of the BCDC staff.

- a. **Site, Architectural, and landscaping Plans.** Site, architectural, and landscaping plans shall include and clearly label the 2.57-foot (N.G.V.D.) contour line (the mean high tide line), the line 100 feet inland of the line of mean high tide, property lines, the boundaries of all areas to be reserved for public access purposes and open space, grading, details showing the location, types, dimensions, and materials to be used for all structures, irrigation, landscaping, drainage, seating parking, signs, lighting, fences, kiosks, paths, trash containers, utilities and other proposed improvements.
- b. **Engineering Plans.** Engineering plans shall include a complete set of contract drawings and specifications and design criteria. The design criteria shall be appropriate to the nature of the project, the use of any structures, soil and foundation conditions at the site, and potential earthquake-induced forces. Final plans shall be signed by the professionals of record and be accompanied by:

Plans submitted shall be accompanied by a letter requesting plan approval, identifying the type of plans submitted, the portion of the project involved, and indicating whether the plans are final or preliminary. Approval or disapproval shall be based upon:

- (1) Completeness and accuracy of the plans in showing the features required above, particularly the line of mean high tide, property lines, and the line 100 feet inland of the mean high tide, and any other criteria required by this amended permit.
- (2) Consistency of the plans with the terms and conditions of this amended permit.
- (3) The provisions of the amount and quality of public access to and along the shoreline and in and through the project to the shoreline required by this amended permit.
- (4) Assuring that any fill in the Bay does not exceed this amended permit and will consist of appropriate shoreline protection materials as determined by or on behalf of the Commission; and
- (5) Consistency of the plans with the recommendations of the Design Review Board.

Plan review shall be completed by or on behalf of the Commission within 45 days after receipt of the plans to be reviewed.

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City of Martinez

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2. **Conformity with Final Approved Plans.** All work, improvements, and uses shall conform to the final approved plans. Prior to any use of the facilities authorized herein, the appropriate design professional(s) of record shall certify in writing that, through personal knowledge, the work covered by this amended permit has been performed in accordance with the approved design criteria and in substantial conformance with the approved plans. No noticeable changes shall be made thereafter to any final plans or to the exterior of any constructed structure, outside fixture, lighting, landscaping, signage, parking area, or shoreline protection work without first obtaining written approval of the change(s) by or on behalf of the Commission.
3. **Discrepancies between Approved Plans and Special Conditions.** In case of any discrepancy between final approved plans and special conditions of this amended permit or legal instruments approved pursuant to this amended permit, the special condition or the legal instrument shall prevail. The permittee is responsible for assuring that all plans accurately and fully reflect the special conditions of this amended permit and any legal instruments submitted pursuant to this amended permit.

B. Public Access

1. **Area.** The approximately 41,100-square-foot area, along approximately 530 lineal feet of shoreline as generally shown on the revised Exhibit "A" shall be made available exclusively to the public for unrestricted public access for walking, bicycling, sitting, viewing, fishing, picnicking, and related purposes. If the permittee wishes to use the public access area for other than public access purposes, it must obtain prior written approval by or on behalf of the Commission (Amendment No. One).
2. **Improvements Within the Total Public Access Area.** Prior to September 1, 2006, the permittee shall complete the following improvements (Amendment No. One):
 - a. Improving the connection to the mole by reorienting the western portion of the plaza and recapturing the original idea of the master plan (Amendment No. One);
 - b. Installing accent tree massing and opening the visual approach along the north Court Street (Amendment No. One);
 - c. Design the railing to provide maximum visual access for the public;
 - d. A ship's structure which replicates the Forrester and includes a raised viewing deck and seating wall (Amendment No. One);
 - e. A 720-square-foot public shelter;
 - f. An information kiosk;
 - g. An approximately 14,450-square-foot paved promenade and public plaza including an approximately 530-foot-long public access shoreline promenade varying in width from 8 to 15 feet (Amendment No. One);

- h. Historic and habitat interpretive signage;
 - i. Landscaping in the entire proposed project area, including three planters with seatwalls (Amendment No. One);
 - j. Connections to the San Francisco Bay Trail, Bay Ridge Trail, and the Carquinez Shoreline Park and Trail to the waterfront;
 - k. Site furnishings, including two benches, planters, a bicycle rack, drinking fountains, three garbage containers and lighting, to be approved by or on behalf of the Commission pursuant to Special Condition II-A herein (Amendment No. One);
 - l. A 255-linear-foot, 12-foot-wide sheet pile retaining wall with a concrete abutment and a 3.5-foot-high guardrailing (Amendment No. One); and
 - m. An extension of a 16,400-square-foot portion of the existing boat launch ramp to raise the crown elevation (Amendment No. One).
3. **Maintenance.** The areas and improvements within the total 41,100-square-foot public access area shall be permanently maintained by and at the expense of the permittee or its assignees. Such maintenance shall include, but is not limited to: repairs to all path surfaces; replacement of any trees or other plant materials that die or become unkempt; repairs or replacement as needed of any public access amenities such as signs, benches, drinking fountains, trash containers and lights; periodic clean-up of litter and other materials deposited within the access areas; removal of any encroachments into the access areas; and assuring that the public access signs remain in place and visible. Within 30 days after notification by staff, the permittee shall correct any maintenance deficiency noted in a staff inspection of the site.
4. **Minimizing Construction interruptions.** The permittee shall make every effort to minimize impacts to existing public access areas, including constructing detours to ensure continuous public access during construction, along the Martinez Marina in the Martinez Regional Shoreline.
5. **Reasonable Rules and Restrictions.** The permittee may impose reasonable rules and restrictions for the use of the public access areas to correct particular problems that may arise. Such limitations, rules, and restrictions shall have first been approved, in writing, by or on behalf of the Commission upon a finding that the proposed rules would not significantly affect the public nature of the area, would not unduly interfere with reasonable public use of the public access areas, and would tend to correct a specific problem that the permittee has both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.

6. **Assignment.** The permittee shall transfer maintenance responsibility to a public agency or another party acceptable to the Commission at such time as the property transfers to a new party in interest but only provided that the transferee agrees in writing, acceptable to counsel for the Commission, to be bound by all terms and conditions of this amended permit.
7. **Use of Shoreline for Construction Staging.** The use of a 6,000-square-foot shoreline area for construction staging activities related to the removal of the ferry pier shall be temporary only and shall occur primarily during the winter months, November 1 to March 1 of the calendar year. In the event that diverting public access around the staging area is necessary for public safety reasons, a detour path shall be implemented around the site. Following the removal of the ferry pier, the staging area shall be restored to its existing condition prior to its use for construction staging and left suitable for its intended purpose for public access (Amendment No. Two).

C. Creosote Treated Wood. No pilings or other wood structures that have been pressure-treated with creosote shall be used in any area subject to tidal action in the Bay or any certain waterway, in any salt pond, or in any managed wetland within the Commission's jurisdiction as part of the project authorized herein.

D. Construction Operations and Debris Removal. All construction operations shall be performed so as to minimize turbidity and the roiling of waters, to prevent construction materials from falling, washing, or blowing into any tidal areas of the Bay or drifting and presenting a navigation or pollution hazard. In the event that any such material is placed or escapes into any area subject to tidal action of the Bay, the permittee(s), its assigns or successors in interest, or the owner of the improvements shall immediately retrieve and remove such material at its expense. All construction debris shall be removed to an authorized location outside the Commission's jurisdiction (Amendment No. Three).

E. Impacts to Fish from Pile Driving. The permittee shall assure that sound pressure levels generated from pile driving or similar activities do not exceed injury threshold levels for fish established by the National Marine Fisheries Service. Two criteria have been established to determine the onset of physical injury to fish: peak sound pressure level of 206 decibels (dB) or more, and accumulated sound exposure level (SEL). The criterion for accumulated SEL is based upon the mass of the fish under consideration. The onset of physical injury is expected if fish smaller than 2 grams are present and 183 dB SEL is exceeded. If larger fish are present, physical injury is expected if 187 dB SEL is exceeded (Amendment No. Three).

F. Sheet Pile Replacement Methods. Existing sections of the sheet pile breakwater that will be replaced shall be removed with a vibratory hammer where feasible and be removed slowly to minimize turbidity and sediment disturbance. The pile hammer operator shall utilize a slow start up technique to break the bond between the structure and soil before beginning removal. No hydraulic jetting shall be used to move sediment away from the sheet pile breakwater. All removed components shall be placed into a containment basin on a work barge and taken outside of the Commission's jurisdiction for disposal (Amendment No. Three).

G. Notice to Contractor. The permittee(s) shall provide a copy of this amended permit to any contractor or person working in concert with the permittee(s) to carry out the activities authorized herein and shall point out the special conditions contained herein.

H. Certification of Contractor Review. Prior to commencing any grading, demolition, or construction, the general contractor or contractors in charge of that portion of the work shall submit written certification that she/he has reviewed and understands the requirements of the amended permit and the final BCDC-approved plans, particularly as they pertain to any public access or open space required herein, or environmentally sensitive areas.

I. Certificate of Occupancy or Use. Prior to occupancy or use of any of the improvements authorized herein, the permittee shall submit the Notice of Completion and Compliance required herein and request in writing an inspection of the project site by the Commission staff. Within 30 days of receipt of the written request for an inspection, the Commission's staff will inspect the project site and provide the permittee with written notification of all outstanding permit compliance problems, if any. The permittee shall not occupy or make use of any improvements authorized herein until the staff has confirmed that the identified permittee compliance problems have been satisfactorily resolved and has provided the permittee with a Certificate of Occupancy or Use. Failure by the staff to perform such inspection and notify the permittee of any deficiencies of the project within this 30-day period shall not deem the project to be in compliance with the amended permit, but the permittee may occupy and use the improvements authorized herein.

J. Water Quality. The discharge of any solid or liquid wastes, including bilge water, grey water, or sewage, into the Bay within the marina basin is prohibited. Furthermore, the permittee shall ensure that all runoff is in compliance with non-point source water quality requirements of the Regional Water Quality Control Board, San Francisco Bay Region, pursuant to the federal Porter-Cologne Act, the Clean Water Act and the Coastal Zone Management Act.

K. Other Governmental Approvals (Amendment Three). To minimize disturbance to special-status species, the permittee shall conduct activities authorized herein occurring in the Commission's Bay, Certain Waterway, Salt Pond, and Managed Wetland jurisdictions in compliance with restrictions identified the following:

1. The San Francisco Bay Regional Water Quality Control Board ("RWQCB") Waste Discharge Requirements and Water Quality Certification dated March 29, 2024;
2. United States Fish and Wildlife Service Formal Consultation on the City of Martinez Municipal Fishing Pier Renovation Project, dated February 16, 2024; and
3. The Concurrence Letter and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Proposed Repairs to the Martinez Municipal Fishing Pier, dated April 24, 2024.

III. Findings and Declarations

A. Minor Repair or Improvement

1. **Original Project Through Amendment No. Two.** The project originally authorized by this permit and in Amendment Nos. One and Two, involves work within the 100-foot shoreline-band, including grading and excavation needed to create 41,100 square feet of shoreline public access area and a variety of public access improvements including a shoreline promenade, a public shelter, lighting, landscaping, benches, etc., which involves the placement and extraction of small amounts of inorganic fill in existing upland areas which will not have a substantial adverse impact on present or possible future maximum feasible public access to the Bay, as defined in Regulation Section 10601(b)(1), and the demolition of a pile-supported pier, which involves routine repairs and removal that do not involve any substantial enlargement or change in use, as defined in Regulation Section 10601(a)(6), and thus is a “minor repair or improvement” for which the Executive Director may issue: (1) a permit, pursuant to Government Code Section 66632(f) and Regulation Section 1062(a); and (2) an amendment to a permit, pursuant to Regulation Section 10812.

The revised project authorized by this amended permit is consistent with the McAteer-Petris Act and the *San Francisco Bay Plan* in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay. The plan review condition is necessary to ensure that the project is designed to maximize its attractiveness and usability for public access. Various conditions have been included to assure that the construction activities associated within the project site will not adversely impact the natural resources or water quality of the Bay, nor pose a navigation hazard.

The public access improvements will all occur within an area designated on Bay Plan Map No. 2 as a Waterfront Park. All of the authorized uses are consistent with this designation in that they are all designed to promote public use of the shoreline and emphasize hiking, bicycling, riding trails, picnic facilities, and viewpoints, as required by the Bay Plan Policies on shoreside parks. For these reasons, the Commission finds that the revised project provides the maximum feasible public access consistent with the amended project, as required by the McAteer-Petris Act. Amendment No. One authorizes a number of revisions to the original public access plan and improvements to reflect a change in the funding originally available to carry out the earlier plan.

The demolition of a pile-supported ferry pier involves the removal of fill from the Bay that does not involve substantial enlargement or change of use of the affected area, and thus is an activity defined in Regulation Section 10601(a)(6) as a “minor repair or improvement.” The use of a shoreline area over a limited period of time in a manner that, as conditioned by Special Condition B.7, will not adversely affect public access and, further does not conflict with a priority use or impact the environment, is also defined as a “minor repair or improvement” in Regulation Section 10601(b)(1). Thus, pursuant to Regulation Section 10810, the Executive Director may issue a non-material amendment to an administrative permit for both activities (Amendment No. Two).

2. **Amendment No. Three.** The project authorized in Amendment No. Three involves the renovation of the Martinez Municipal Fishing Pier, located at the northwest corner of the Martinez Marina on the south side of the Carquinez Strait. The Pier was originally constructed in 1934, encompassing a total of 6,144 square feet, and was removed and later rebuilt in 1976 (per BCDC Permit No. M1974.039.00). In 2021 the Pier was closed by the City after it was determined to be unsafe due to deteriorated conditions. The Pier provides public fishing opportunities and is a popular regional recreational area. The wooden pier structure extends approximately 600 feet offshore and primarily offers fishing at the T-shaped end. The repairs authorized in this amendment are to provide long-term safe access to the Pier, and enable the whole Pier to reopen for public access.

Renovations include repairs to damaged pilings, repairs to pile caps and stringers, replacing timber decking (with no increase in overwater fill), replacing the existing steel beam bridge with an aluminum gangway, replacing a damaged portion of the sheetpile breakwater, and replacing existing railings and benches. Total net Bay fill from all activities authorized in this amendment is not to exceed 8.3 cubic yards.

Special Condition II.D was included to ensure construction activities do not result in adverse impacts to water quality and that debris is appropriately removed from the project site. Special Condition II.E ensures that noise impacts from pile driving are kept to a level set forth by the National Marine Fisheries Service (NMFS), and Special Condition II.F requires the permittee to conduct the piling removal according to specific methods.

Special Condition II.K was included to ensure that all project activities authorized in this amendment comply with the conditions, restrictions, and minimization measures set forth by the San Francisco Regional Water Quality Control Board, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service.

As conditioned, the activities authorized by this amended permit involve the repair and renovations to an overwater fishing pier, which are activities that are similar to the "routine repairs, reconstruction, replacement, removal, or maintenance of a structure that do not involve any substantial enlargement or change in use", as defined by Regulation Section 10601(a)(6), 10601(a)1), and 10601(e)(3). Thus, is a minor repair or improvement for which the Executive Director may issue an amendment to this permit, pursuant to Regulations Section 10810 and Government Code Section 66632(f).

The revised project authorized by this amended permit is consistent with the McAteer-Petris Act and the *San Francisco Bay Plan* in that it will not adversely affect the Bay nor public access to and enjoyment of the Bay. The plan review condition is necessary to ensure that the project is designed to maximize its attractiveness and usability for public access. Various conditions have been included to assure that the construction activities associated within the project site will not adversely impact the natural resources or water quality of the Bay, nor pose a navigation hazard.

B. Coastal Zone Management Act. The Commission further finds, declares, and certifies that the revised activity or activities authorized herein are consistent with the Commission's Amended Management Program for San Francisco Bay, as approved by the Department of Commerce under the Federal Coastal Zone Management Act of 1972, as amended.

C. California Environmental Quality Act. Pursuant to Regulation Section 11501, the project authorized by this amended permit is categorically exempt from the requirement to prepare an environmental impact report because the authorized activities are minor repairs and/or improvements.

D. Administrative Listing. Pursuant to Regulation Section 10620, the original project was listed with the Commission on April 6, 2000.

IV. Standard Conditions

A. Permit Execution. This permit shall not take effect unless the permittees execute the original of this permit and return it to the Commission within ten days after the date of the issuance of the permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

B. Notice of Completion. The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work.

C. Permit Assignment. The rights, duties, and obligations contained in this permit are assignable. When the permittees transfer any interest in any property either on which the activity is authorized to occur or which is necessary to achieve full compliance of one or more conditions to this permit, the permittees/transferrors and the transferees shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignees execute and the Executive Director receives an acknowledgment that the assignees have read and understand the permit and agree to be bound by the terms and conditions of the permit, and the assignees are accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the permit.

D. Permit Runs With the Land. Unless otherwise provided in this permit, the terms and conditions of this permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.

E. Other Government Approvals. All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city or county in which the work is to be performed, whenever any of these may be required. This permit does not relieve the permittees of any obligations imposed by State or Federal law, either statutory or otherwise.

F. Built Project must be Consistent with Application. Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the permit and any plans approved in writing by or on behalf of the Commission.

G. Life of Authorization. Unless otherwise provided in this permit, all the terms and conditions of this permit shall remain effective for so long as the permit remains in effect or for so long as any use or construction authorized by this permit exists, whichever is longer.

H. Commission Jurisdiction. Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this permit. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

I. Changes to the Commission's Jurisdiction as a Result of Natural Processes. This permit reflects the location of the shoreline of San Francisco Bay when the permit was issued. Over time, erosion, avulsion, accretion, subsidence, relative sea level change, and other factors may change the location of the shoreline, which may, in turn, change the extent of the Commission's regulatory jurisdiction. Therefore, the issuance of this permit does not guarantee that the Commission's jurisdiction will not change in the future.

J. Violation of Permit May Lead to Permit Revocation. Except as otherwise noted, violation of any of the terms of this permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on reasonable notice to the permittees or their assignees if the permit has been effectively assigned. If the permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this permit shall be removed by the permittees or their assignees if the permit has been assigned.

K. Should Permit Conditions Be Found to be Illegal or Unenforceable. Unless the Commission directs otherwise, this permit shall become null and void if any term, standard condition, or special condition of this permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this permit becomes null and void, any fill or structures placed in reliance on this permit shall be subject to removal by the permittees or their assignees if the permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.

L. Permission to Conduct Site Visit. The permittees shall grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being and has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.

M. Abandonment. If, at any time, the Commission determines that the improvements in the Bay authorized herein have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittee(s), its assignees or successors in interest, or by the owner of the improvements, within 60 days or such other reasonable time as the Commission may direct.

N. Best Management Practices

- 1. **Debris Removal.** All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittee(s), its assignees, or successors in interest, or the owner of the improvements, shall remove such material, at their expense, within ten days after they have been notified by the Executive Director of such placement.
- 2. **Construction Operations.** All construction operations shall be performed to prevent construction materials from falling, washing or blowing into the Bay. In the event that such material escapes or is placed in an area subject to tidal action of the Bay, the permittee(s) shall immediately retrieve and remove such material at its expense.

O. **In-Kind Repairs and Maintenance.** Any in-kind repair and maintenance work authorized herein shall not result in an enlargement of the authorized structural footprint and shall only involve construction materials approved for use in San Francisco Bay. Work shall occur during periods designated to avoid impacts to fish and wildlife. The permittee(s) shall contact Commission staff to confirm current restricted periods for construction.

Executed at San Francisco, California, on behalf of the San Francisco Bay Conservation and Development Commission on the date first above written.

DocuSigned by:
Larry Goldzband
FD166E908010417...

LAWRENCE J. GOLDZBAND
Executive Director
San Francisco Bay Conservation
and Development Commission

LJG/SF/ra

cc: U. S. Army Corps of Engineers, Attn: Regulatory Functions Branch
San Francisco Bay Regional Water Quality Control Board,
Attn: Certification Section
Environmental Protection Agency

* * * * *

Receipt acknowledged, contents understood and agreed to:

Executed at Martinez, California

City of Martinez
Permittee

On 6/7/2024

DocuSigned by:
Michael Chandler
1328CC9B7EE9401...

Signature

Michael Chandler City Manager
Print Name and Title