



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

John Ainsworth, Executive Director
California Coastal Commission
ATTN: Larry Simon
455 Market Street, Suite 228
San Francisco, CA 94105

Re: Coastal Consistency Determination Package for Enlarging the Existing Humboldt Open Ocean Disposal Site (HOODS) Offshore of Eureka, CA

Dear Director Ainsworth:

The U.S. Environmental Protection Agency, Region 9 (EPA) is pleased to provide for Commission review the enclosed Coastal Consistency Determination (CCD) and related documents in support of enlarging the boundaries of the existing Humboldt Open Ocean Disposal Site (HOODS). The HOODS is located three to four miles offshore of Eureka, California, and is crucial for disposal of sediments from ongoing dredging of area navigation channels, marinas, and other maritime facilities. An average of one million cubic yards (cy) of clean, non-toxic dredged material has been disposed at HOODS every year since EPA designated it, with Commission review, in 1995. Now the site has reached capacity, and its boundaries must be enlarged to accommodate ongoing dredging in support of safe navigation.

EPA held public and agency scoping meetings in the Eureka area in August 2019 and presented preliminary information on the proposed expansion to the Commission at its August 9, 2019 meeting. We have been in contact with the potentially affected Tribes, including offering the opportunity to consult on the proposed HOODS expansion pursuant to the EPA Policy on Consultation with Indian Tribes. We recently concluded the public comment period for an Environmental Assessment (EA), a proposed rule, and an updated Site Management and Monitoring Plan (SMMP) concerning this action. Through this process, EPA has determined that enlarging the existing HOODS by one nautical mile to the north and west will have no significant adverse environmental impacts.

EPA has also determined that expansion of the HOODS boundary as proposed, and management of the expanded HOODS under the updated SMMP, is consistent to the maximum extent practicable with applicable sections of the California Coastal Act of 1976, as amended. This determination is detailed in the enclosed documents, which include:

- The CCD, dated July 17, 2020, which addresses all applicable “Chapter 3” policies;
- The draft-final EA, which includes all public comments received and EPA’s responses; and
- A draft of the final rule we propose to publish following Commission review of this package.

Following Commission review of the CCD package, including addressing any comments the Commission may have, we will publish in the Federal Register a final rule to enlarge HOODS. The enlarged site would be available for permitted projects to use no sooner 30 days later, in time to accommodate dredging beginning in 2021.

We look forward to summarizing this action and to addressing any questions the Commission or staff may have at an upcoming Commission meeting. You may contact me, or have your staff coordinate with Brian Ross of our Dredging and Sediment Management Team (ross.brian@epa.gov, 415-972-3475) once the hearing date is established.

Sincerely,

Samuel G. Ziegler
Manager, Wetlands Section

Enclosures

cc: Larry Simon, CA Coastal Commission
Mark Delaplaine, CA Coastal Commission
Tessa Beach, USACE



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

John Ainsworth, Executive Director
California Coastal Commission
ATTN: Meagan Flier
455 Market Street, Suite 228
San Francisco, CA 94105

Re: Clarification to Coastal Consistency Determination CD-0026-20, Enlarging the Existing Humboldt Open Ocean Disposal Site (HOODS) Offshore of Eureka, CA

Dear Director Ainsworth:

On July 22, 2020 EPA transmitted the referenced Coastal Consistency Determination (CCD) and supporting documents for California Coastal Commission (CCC) review. EPA appreciates the work of CCC staff to get this item placed on the Commission meeting agenda for early October. The purpose of this letter is to clarify how EPA proposes to manage HOODS once the rulemaking process is completed.

EPA's proposed action is to expand the HOODS boundary by one nautical mile to the north and west. A smaller alternative was also evaluated which would expand the site by only one-half nautical mile to the north and west. While either alternative would provide multiple decades of capacity for ongoing dredging and ocean disposal at current rates, EPA selected the larger expansion alternative because it provides additional flexibility for adaptive management of disposal at HOODS. In addition, the larger expansion was selected because of the uncertainty regarding the establishment of a Nearshore Sand Placement Site (NSPS) as discussed in the Environmental Assessment. If established in the future, the NSPS would substantially reduce the future need for offshore disposal of sand at HOODS. However, it will be several years before monitored pilot projects are conducted and, assuming the results are positive, the NSPS can then be designated.

Even though EPA proposes to expand the HOODS boundary by a full nautical mile, disposal would be managed for the foreseeable future as if it were only expanded by one-half nautical mile. EPA will do this by including enforceable restrictions in the Site Management and Monitoring Plan (SMMP) that limit all disposal operations to this smaller area. Thus, ongoing disposal will continue to slowly "grow" the existing HOODS mound to the north and west. This approach is consistent with the recommendation from NOAA's National Marine Fishery Service that disposal-related disturbance be kept within the smallest area possible at any time (rather than spreading material thinly throughout the disposal site). The requirements of the SMMP can be updated as necessary, without having to go through rulemaking, should circumstances warrant in the future.

Thank you for the opportunity to provide this clarification to our CCD in advance of the October Commission meeting. If there are any questions please have your staff coordinate with Brian Ross of our Dredging and Sediment Management Team (ross.brian@epa.gov, 415-972-3475).

Sincerely,

Samuel G. Ziegler
Manager, Wetlands Section

cc: Larry Simon, CA Coastal Commission
Mark Delaplaine, CA Coastal Commission
Tessa Beach, USA

COASTAL CONSISTENCY DETERMINATION

EXPANSION OF THE HUMBOLDT OPEN OCEAN DISPOSAL SITE (HOODS) OFFSHORE OF EUREKA, CALIFORNIA

I. PROPOSED ACTION

The U.S. Environmental Protection Agency, Region IX (EPA) is proposing to expand the boundaries of the existing Humboldt Open Ocean Disposal Site (HOODS) offshore of Eureka, California. HOODS was designated by EPA in 1995 for the disposal of clean (non-toxic) material dredged from the Humboldt Bay federal navigation channels and other maritime facilities. Since 1995, an average of 1 million cubic yards of dredged material has been disposed at HOODS each year, and the original 1-square nautical mile site has now reached capacity. EPA is expanding the boundaries of the site in order to provide sufficient disposal capacity for ongoing dredging in support of safe navigation in the region.

As originally designated in 1995, the boundary of HOODS was a square with sides 1 nautical mile (nmi) in length (Figure). Water depths at the original site range from approximately 150 to 180 feet (46 to 55 meters). The proposed action will slightly reorient the site and expand it to a square with sides 2 nmi in length (Figure). Water depths in the expanded site range from 150 to 210 feet (46 to 64 meters). The new site boundaries almost entirely encompass the original site, but no further disposal will be allowed atop the mound that has formed in the original site. The corner coordinates of the expanded HOODS are shown in the Table.

Expanded as proposed, the site's capacity will approximately triple, allowing for roughly 75 more years of disposal at historic rates. However, if a Nearshore Sand Placement Site (NSPS) is established in the future in shallower water along the Samoa Spit, much of the sand currently disposed at HOODS could be re-directed there to provide littoral zone support and help buffer against coastal erosion and the effects of sea level rise in this area.¹ In that case, the effective life of HOODS could be much longer because less sand would be disposed there and consequently less mounding would occur over time.

¹ The proposed action does not establish a NSPS, but the Environmental Assessment (EA) supporting the proposed action discusses the NSPS in some detail and encourages development of a monitored pilot project to evaluate the effects and feasibility of designating the NSPS in the future.

Figure: Proposed Action area, showing the current HOODS site and the two boundary expansion alternatives in relation to Humboldt Bay, the City of Eureka, and the Samoa State Marine Conservation Area. Alternative 1 (proposed action, in yellow) would expand the existing boundaries by 1 nmi to the north and west. Also shown is the location of the potential Nearshore Sand Placement Site and the HOODS sediment reference site.

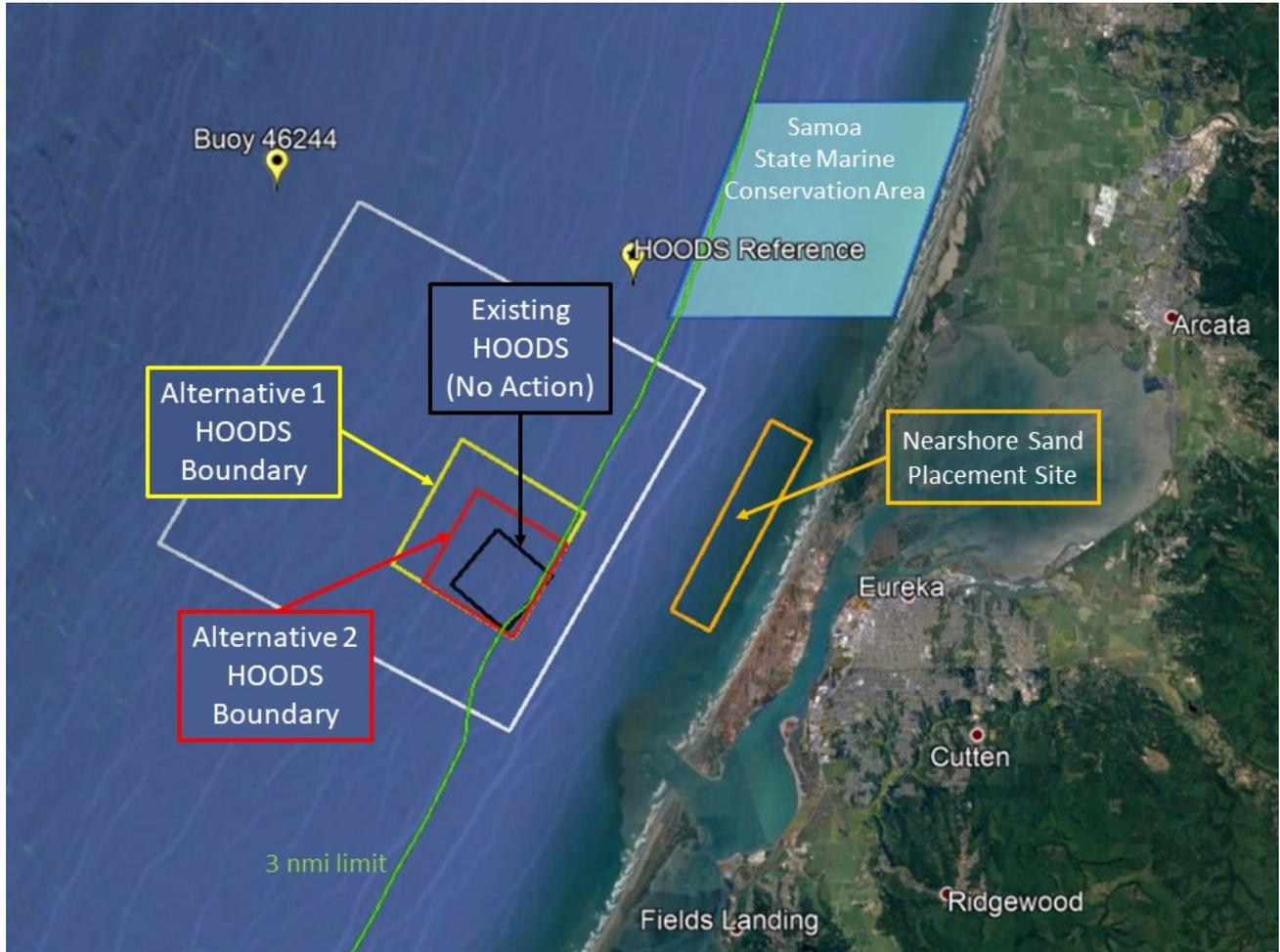


Table: HOODS Expansion Alternative 1 (proposed action) corner coordinates (NAD 83)

Corner	Latitude	Longitude	Centroid Lat.	Centroid Long.
North	40° 50' 18" N	124° 18' 01" W		
East	40° 49' 16" N	124° 15' 46" W	40° 48' 56" N	124° 17' 32" W
South	40° 47' 33" N	124° 17' 05" W		
West	40° 48' 34" N	124° 19' 18" W		

With or without a NSPS, use of the expanded HOODS would continue to be regulated closely under the terms of a Site Management and Monitoring Plan (SMMP). SMMPs are intended to be updated at least every 10 years based on the results of periodic disposal site monitoring. An updated SMMP is included as an appendix to the EA. The SMMP for HOODS includes several requirements, akin to Best Management practices (BMPs), for disposal operations to follow. These include, for example: identification of particular disposal locations for each project within the expanded site (to manage mounding); weather and wave limitations; and disposal vessel tracking, record-keeping, and reporting requirements. These BMPs are attached as enforceable provisions to each ocean disposal permit (or USACE authorization) issued for HOODS.

II. AUTHORITY

EPA has prepared this Coastal Consistency Determination (CCD) under §307(c)(1) of the Coastal Zone Management Act (CZMA) of 1972, as amended (16 U.S.C. §§1451 *et seq.*). An EPA Office of Water policy memorandum dated October 23, 1989, states: "While the applicability of CZMA section 307(c)(1) to EPA site designations as a matter of law is subject to debate, EPA has determined that as a matter of policy it will determine whether proposed [ocean disposal] site designations are consistent to the maximum extent practicable with the federally-approved coastal management plan of the relevant State when dumping at the site may reasonably be expected to result in impacts on the State's coastal zone". Pursuant to this policy, EPA has evaluated the proposed expansion of HOODS for consistency with California's approved coastal zone management program. EPA previously evaluated the original designation of HOODS for consistency with California's approved coastal zone management program in 1995. The present CCD updates that original evaluation, to include enlarged boundaries that encompass the original HOODS. This CCD is being submitted to the California Coastal Commission in accordance with 15 CFR §§930.32, 930.34, and 930.39, Subpart C of the U.S. National Oceanic and Atmospheric Administration's Federal Consistency Regulations.

III. DETERMINATION

EPA has determined that expansion of the HOODS boundary as proposed, and management of the expanded HOODS under the updated SMMP, is consistent to the maximum extent practicable with applicable sections of the California Coastal Act of 1976, as amended. This Act contains the State's approved coastal zone management plan. In summary, the key reasons for EPA's determination are:

- A. The existing HOODS was designated in 1995 based on a full Environmental Impact Statement (EIS), that underwent Coastal Consistency Review of that time. Necessary expansion of the HOODS boundary was thoroughly evaluated in the Draft EA published on May 29, 2020 pursuant to the National Environmental Policy Act (NEPA) and the Marine Protection, Research and Sanctuaries Act (MPRSA). EPA received only four public comments on the Draft EA, proposed rule and SMMP (none of them adverse), and we propose to issue a final rule for the action as proposed, following Coastal Commission review of this CCD package.

- B. Extensive site monitoring by EPA has confirmed that there have been no significant adverse environmental impacts from disposal at HOODS over the past 25 years.
- C. Expansion of capacity at HOODS is needed now, to allow for ongoing dredging in support of continued safe navigation to and from Humboldt Bay and vicinity.
- D. Expansion of HOODS complies with all of EPA's ocean dumping site selection criteria defined at 40 CFR §228.5 and §228.6(a).
- E. Dredged material proposed for disposal at HOODS will continue to be evaluated in advance to determine “suitability” for ocean disposal (i.e., compliance with the provisions of EPA's Ocean Dumping Regulations at 40 CFR Parts 225 – 227 and the related testing procedures defined in the national guidance manual, “*Evaluation of Dredged Material Proposed for Ocean Disposal – Testing Manual*” (EPA and USACE, February 1991, EPA 503/8-91/001). In addition, disposal at HOODS will only be approved when there are no practicable alternatives available for beneficial use of the dredged material, on a case-by-case basis.
- F. Management of disposal operations will continue to occur under an updated SMMP, designed to ensure that unacceptable adverse impacts to the marine environment do not occur.
- G. The SMMP also describes periodic site monitoring to determine whether any site use changes are necessary over time (adaptive management).

The following discussion addresses the relevant California Coastal Act “Chapter 3 Coastal Resources Planning and Management Policies” individually. (Any policies not listed are deemed Not Applicable.) Please see the draft EA and updated SMMP for further details.

IV. CHAPTER 3: COASTAL RESOURCES PLANNING AND MANAGEMENT POLICIES

Article 1. General

Section 30200. Policies as standards; resolution of policy conflicts

(a) Consistent with the coastal zone values cited in Section [30001](#) and the basic goals set forth in Section [30001.5](#), and except as may be otherwise specifically provided in this division, the policies of this chapter shall constitute the standards by which the adequacy of local coastal programs, as provided in Chapter 6 (commencing with Section [30500](#)), and, the permissibility of proposed developments subject to the provisions of this division are determined. All public agencies carrying out or supporting activities outside the coastal zone that could have a direct impact on resources within the coastal zone shall consider the effect of such actions on coastal zone resources in order to assure that these policies are achieved.

(b) Where the commission or any local government in implementing the provisions of this division identifies a conflict between the policies of this chapter, Section [30007.5](#) shall be utilized to resolve the conflict and the resolution of such conflicts shall be supported by appropriate findings setting forth the basis for the resolution of identified policy conflicts.

EPA Statement: The proposed action, expansion of the existing Humboldt Open Ocean Disposal Site (HOODS), is consistent to the maximum extent practicable with the applicable Coastal Resources

Planning and Management Policies of this Chapter, as described in detail below and in the Environmental Assessment supporting this action.

Article 2. Public Access

Section 30210. Access; recreational opportunities; posting

In carrying out the requirement of [Section 4 of Article X of the California Constitution](#), maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

EPA Statement: The proposed expansion of HOODS is consistent with this policy. The proposed expansion does not include any restrictions on recreational use of the area, including for boating and fishing. In fact, expansion of HOODS is necessary to provide for continued dredging to support safe navigation in and around Humboldt Bay, including navigation for recreational purposes. Therefore, the proposed action will have no adverse effect on recreation or access to recreational opportunities. Since the site is 3 to 5 nautical miles offshore, posting is not applicable. However, individual dredging projects may have temporary, localized effects, and appropriate posting at those times and in those locations may warrant posting. Approval of individual dredging projects is subject to separate Coastal Commission approval and is not within the scope of the proposed action to expand HOODS.

Section 30211. Development not to interfere with access

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

EPA Statement: The proposed expansion of HOODS is consistent with this policy. Since the expanded HOODS is 3 to 5 nautical miles offshore, it will have no direct effect on access to shorelines or beaches. Note that individual dredging projects may have temporary, localized effects on access. Approval of individual dredging projects is subject to separate Coastal Commission approval and is not within the scope of the proposed action to expand HOODS.

Section 30212. New development projects

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby, or, (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

- (1) Replacement of any structure pursuant to the provisions of subdivision (g) of [Section 30610](#).
- (2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section [30610](#), that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by [Sections 66478.1 to 66478.14](#), inclusive, of the Government Code and by [Section 4 of Article X of the California Constitution](#).

EPA Statement: The proposed expansion of HOODS is consistent with this policy. The proposed expansion is occurring 3 to 5 nautical miles offshore and will have no effect on public access from the nearest public roadway to the shoreline and along the coast. Furthermore, the proposed expansion of the exiting HOODS does not meet the definition of a new development project. Therefore, provision of new or additional public access is not applicable.

Section 30214. Implementation of public access policies; legislative intent

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to [Section 4 of Article X of the California Constitution](#). Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under [Section 4 of Article X of the California Constitution](#).

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

EPA Statement: This policy is not applicable. The proposed expansion of HOODS will have no effect on public access to the coastal zone. Note that individual dredging projects themselves may have temporary, localized effects on access within Humboldt Bay. However, approval of individual dredging

projects is subject to separate Coastal Commission oversight and is not within the scope of the proposed action to expand HOODS.

Article 3. Recreation

Section 30220. Protection of certain water-oriented activities

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

EPA Statement: The proposed expansion of HOODS is occurring 3 to 5 nautical miles offshore and does not include any restrictions on recreational use of the area, including for boating and fishing. Therefore, the proposed action will have no adverse effect on water-oriented activities. In fact, expansion of HOODS is beneficial in this regard because it is necessary to provide for continued dredging to support safe navigation in and around Humboldt Bay, including navigation for recreational purposes. Although individual dredging projects themselves may have temporary, localized effects on existing water-oriented activities within Humboldt Bay, approval of individual dredging projects is subject to separate Coastal Commission oversight and is not within the scope of the proposed action to expand HOODS.

Section 30221. Oceanfront land; protection for recreational use and development

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

EPA Statement: The proposed expansion of HOODS will have no direct effect on oceanfront land suitable for recreational use or development. In fact, expansion of HOODS is necessary to provide for continued dredging to support safe navigation in and around Humboldt Bay, including navigation related to oceanfront recreation or development. Although individual dredging projects could have temporary, localized effects on access to oceanfront land, approval of individual dredging projects is subject to separate Coastal Commission oversight and is not within the scope of the proposed action to expand HOODS.

Section 30222. Private lands; priority of development purposes

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

EPA Statement: The proposed expansion of HOODS will have no effect on the existence or use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation. Nor will expansion of HOODS affect private residential, general industrial, or general commercial development. Although individual dredging projects could have temporary, localized effects on private lands suitable for visitor-serving commercial recreational facilities, approval of individual dredging projects is subject to separate Coastal Commission oversight and is not within the scope of the proposed action to expand HOODS.

Section 30222.5. Oceanfront lands; aquaculture facilities; priority

Oceanfront land that is suitable for coastal dependent aquaculture shall be protected for that use, and proposals for aquaculture facilities located on those sites shall be given priority, except over other coastal dependent developments or uses.

EPA Statement: EPA is not aware of any proposals for aquaculture facilities in the vicinity of the expanded HOODS. And since the proposed expansion of HOODS is occurring 3 to 5 nautical miles offshore, it will have no effect on oceanfront land that is suitable for coastal dependent aquaculture.

Section 30223. Upland areas

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

EPA Statement: The proposed expansion of HOODS is occurring 3 to 5 nautical miles offshore and will have no effect on upland areas necessary to support coastal recreation. Although individual dredging projects could have temporary, localized effects on upland areas necessary to support coastal recreational, approval of individual dredging projects is subject to separate Coastal Commission oversight and is not within the scope of the proposed action to expand HOODS.

Section 30224. Recreational boating use; encouragement; facilities

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

EPA Statement: The proposed expansion of HOODS is consistent with and in direct support this policy. In fact, expansion of HOODS is necessary for continued dredging in the area, to maintain the usefulness of many existing facilities that specifically encourage, support, and provide for recreational boating use. As described in the EA, an average of 1 million cubic yards of sediment is dredged from the federal navigation channels each year, and additional volume must also regularly be dredged from City and Harbor District docks and marinas as well as other commercial facilities. Inability to expand the capacity of HOODS will quickly result in a slowing or even cessation of maintenance dredging of these navigation facilities, and as of now alternatives for management of the material needing to be dredged for these purposes is extremely limited in the area.

Article 4. Marine Environment

Section 30230. Marine resources; maintenance

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

EPA Statement: The proposed expansion of HOODS is consistent with and in direct support of this policy.

First, expansion of HOODS is necessary for continued dredging in the area, to maintain the usefulness of many existing facilities that specifically encourage, support, and provide for recreational boating use. An average of 1 million cubic yards of sediment is dredged from the federal navigation channels each year, and additional volume must also regularly be dredged from City and Harbor District docks and marinas as well as other commercial facilities. Inability to expand the capacity of HOODS will quickly result in a slowing or even cessation of maintenance dredging of these navigation facilities, and as of now alternatives for management of the material needing to be dredged for these purposes is extremely limited in the area.

Second, as described in the EA, the location of HOODS was originally established to minimize the potential effects of disposal on marine organisms and the biological productivity of coastal waters. Monitoring has confirmed that no significant adverse impacts have occurred outside the disposal site boundaries as a result of over 25 million cubic yards of dredged material disposal at HOODS since its designation in 1995. Surveys of the proposed expansion area confirm that there are no unique or limited habitats that would be affected by expanding the boundaries of the site, and no new or different impacts are expected as a result of continued disposal of material there under a management plan similar to what has been in place for the existing site. (The EA includes an updated Site Management and Monitoring Plan – SMMP – that continues and upgrades the environmental protections that have been in place at HOODS to date.)

Third, only “suitable” (non-toxic) dredged material, for which there are no practicable alternatives to ocean disposal, can be disposed at HOODS. This ensures that there will be no adverse biological impacts on-site or off-site from chemical contamination. Only physical impacts (mounding of sand) have occurred to date, and only within the boundaries of the existing site. The SMMP is designed to ensure that this will remain the case in the future, as well.

Section 30231. Biological productivity; water quality

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

EPA Statement: The proposed expansion of HOODS is consistent with this policy. Pre-dredging sediment testing includes evaluation of potential effects of disposal on water quality. Specifically, no material may be disposed at HOODS (or other ocean disposal sites) that would result in a violation of water quality standards after allowance for initial mixing within the boundaries of the disposal site. This includes biological testing of the elutriate (suspended particulate phase) in order to address the narrative water quality standard (no toxicity after initial mixing).

Section 30232. Oil and hazardous substance spills

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

EPA Statement: The proposed expansion of HOODS is consistent with this policy. Expansion of HOODS is in direct support of continued dredging for safe navigation, including for vessels transporting crude oil, gas, petroleum products, or hazardous substances. In contrast, failure to expand the capacity of HOODS could increase the risk of navigation-related accidents and accidental releases. Note that cleanup of any accidental spills is required under separate State and Federal statutes and regulations, and not within the scope of the proposed action to expand HOODS.

Section 30233. Diking, filling or dredging; continued movement of sediment and nutrients

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
- (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
- (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
- (6) Restoration purposes.
- (7) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

For the purposes of this section, "commercial fishing facilities in Bodega Bay" means that not less than 80 percent of all boating facilities proposed to be developed or improved, where such improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.

(d) Erosion control and flood control facilities constructed on watercourses can impede the movement of sediment and nutrients that would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for these purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

EPA Statement: The proposed expansion of HOODS is consistent with and in direct support of relevant portions of this policy, as follows:

Subpart (a): Dredging of permitted navigation facilities is highly regulated by USACE, EPA, and State agencies including the Commission. The permitting of individual dredging projects themselves is not within the scope of the proposed action to expand HOODS. However, subsequent disposal or beneficial reuse of the dredged material is directly related to the need to expand capacity at HOODS. Two central requirements for approving any dredged material for ocean disposal (or for nearshore beneficial use placement), are that the material is “suitable” (not toxic or physically incompatible with the placement site), and that “there is no feasible less environmentally damaging alternative”. As discussed in detail in the EA, EPA has determined that there is a need for ocean disposal to remain available in the Humboldt Bay region, because alternatives to ocean disposal in this area presently remain very limited. Even if a nearshore site for reuse of clean sand is established in the future, fine sediment (unsuitable for nearshore placement for littoral cell support) will continue to be generated from various Humboldt Bay navigation facilities. Ocean disposal at HOODS is specifically there to accommodate management of dredged material that may be generated from the facilities listed in this policy, including:

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities; and
- (2) Maintenance of existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

Subpart (b): The proposed expansion of HOODS is in direct support of planning and carrying out approved dredging project “to avoid significant disruption to marine and wildlife habitats and water circulation.” As discussed in detail in the EA, the existing HOODS was located specifically in consideration of minimizing impacts to marine organisms and habitats. The proposed expansion of the HOODS boundaries involves the same considerations. There is no unique or limiting habitat in the expansion area or nearby. Use of the existing HOODS for the past 25 years has not resulted in adverse impacts, and EPA believes that continued use under a similar management approach will also have no significant adverse biological impact. Also, to date mounding of sand at HOODS has not affected waves in the area. However, mounding to shallower depths does have the potential to begin affecting the local wave climate near the Humboldt Bay entrance channel, which could have implications for navigational safety. Expanding HOODS is specifically intended to ensure that mounding to shallower depths does not occur, so that effects on circulation/wave climate are not changed.

Subpart (b) of this policy also states that dredged material “that is suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.” Annual dredging of the Humboldt Bay Federal Channels by the USACE generates an average of 1 million cubic yards of clean sand that is indeed suitable for nearshore placement to support the littoral cell and help buffer against the effects of coastal erosion and sea level rise. EPA strongly supports such use and believes that if a nearshore sand placement site is established in the future the entrance channel sand historically disposed at HOODS (outside the littoral zone) should be placed at the nearshore site to the maximum extent practicable. To that end, the EA for expanding HOODS discusses a potential Nearshore Sand Placement Site (NSPS) in substantial detail. The intent of that discussion is to facilitate a possible future monitored pilot project (and the EA even includes a recommended monitoring program). Such a pilot project could provide the data necessary to allow Federal and State agencies to consider formal approval of a NSPS for ongoing use. If an NSPS were to be designated, not only could a substantial volume of sand be returned to the local littoral cell, but the effective lifetime of the expanded HOODS would be substantially extended. Note however that establishment of a NSPS would be a separate action, and that action would occur pursuant to the Clean Water Act. The expansion of HOODS is occurring under the Marine Protection, Research, and Sanctuaries Act (aka the Ocean Dumping Act), and the need to expand HOODS is independent of the current availability of a potential NSPS.

Section 30234. Commercial fishing and recreational boating facilities

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

EPA Statement: The proposed expansion of HOODS is consistent with and in direct support of this policy. Although the proposed action does not establish, upgrade, or move any commercial fishing or recreational boating facilities or harbor space, it directly supports continued dredging to maintain the usefulness of such facilities or even to expand them to the extent that demand increases. In contrast, failure to expand the capacity of HOODS could adversely affect commercial and recreational boating to the extent that ongoing shoaling limits access to docks and marinas. This could in turn lead to an artificial decrease in both supply of and demand for such facilities in the region.

Section 30234.5. Economic, commercial, and recreational importance of fishing

The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

EPA Statement: The proposed expansion of HOODS is consistent with and in direct support of this policy. Commercial and recreational fishing are recognized as important drivers of the maritime economy of the Humboldt Bay region. Although the proposed action does not directly affect any commercial or recreational fishing facilities or harbor space, it does directly support continued dredging to maintain such facilities and uses or even to expand them to the extent that demand increases. In contrast, failure to expand the capacity of HOODS could adversely affect commercial and recreational fishing to the extent that ongoing shoaling limits access to docks and marinas used by fishing boats.

Section 30235. Construction altering natural shoreline

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

EPA Statement: This policy is only indirectly applicable. The proposed action to expand HOODS is occurring 3 to 5 nautical miles offshore, and does not include and construction of new revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, or otherwise alter natural shoreline processes. However, dredged material approved for disposal at HOODS comes from maintaining existing harbor channels. Most relevant to this policy is that continued use of HOODS to dispose of clean sand from the Humboldt Bay entrance channel will continue the removal of sand from the local littoral cell. Since HOODS was designated in 1995, over 25 million cubic yards of sand have been disposed at HOODS in depths outside the littoral zone, and USACE monitoring of the shoreline along the Samoa Spit since then has confirmed that some net coastal erosion is occurring there. Expansion of HOODS will not in itself exacerbate or otherwise effect this ongoing situation, but neither will it do anything to mitigate it. However, the EA for expanding HOODS discusses a potential Nearshore Sand Placement Site (NSPS) in substantial detail. The intent of that discussion is to facilitate a possible future monitored pilot project (and the EA even includes a recommended monitoring program). Such a pilot project could provide the data necessary to allow Federal and State agencies to consider formal approval of a NSPS for ongoing use. If an NSPS were to be designated, not only could a substantial volume of sand be returned to the local littoral cell, but the effective lifetime of the expanded HOODS would be substantially extended. Note however that establishment of a NSPS would be a separate action, and that action would occur pursuant to the Clean Water Act. The expansion of HOODS is occurring under the Marine Protection, Research, and Sanctuaries Act (aka the Ocean Dumping Act), and the need to expand HOODS is independent of the current availability of a potential NSPS.

Article 5. Land Resources.

Section 30240. Environmentally sensitive habitat areas; adjacent developments

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

EPA Statement: This policy is generally not applicable. The proposed expansion of HOODS is occurring 3 to 5 nautical miles offshore and will not directly affect any environmentally sensitive land resources. However, continued use of HOODS to dispose of clean sand from the Humboldt Bay entrance channel will continue the removal of sand from the local littoral cell. Since HOODS was designated in 1995, over 25 million cubic yards of sand have been disposed at HOODS in depths outside the littoral zone, and USACE monitoring of the shoreline along the Samoa Spit since then has confirmed that some net coastal erosion is occurring there. Expansion of HOODS will not in itself exacerbate or otherwise effect this ongoing situation, but neither will it do anything to mitigate it. However, the EA for

expanding HOODS discusses a potential Nearshore Sand Placement Site (NSPS) in substantial detail. The intent of that discussion is to facilitate a possible future monitored pilot project (and the EA even includes a recommended monitoring program). Such a pilot project could provide the data necessary to allow Federal and State agencies to consider formal approval of a NSPS for ongoing use. If an NSPS were to be designated, a substantial volume of sand would be returned to the local littoral cell to help support shoreline resilience against coastal erosion and sea level rise. Note however that establishment of a NSPS would be a separate action, and that action would occur pursuant to the Clean Water Act. The expansion of HOODS is occurring under the Marine Protection, Research, and Sanctuaries Act (aka the Ocean Dumping Act), and the need to expand HOODS is independent of the current availability of a potential NSPS.

Section 30244. Archaeological or paleontological resources

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

EPA Statement: The proposed action to expand HOODS is consistent with this policy. As discussed in the EA, EPA coordinated with California concerning historic shipwrecks along the shoreline in the area. EPA also evaluated buried “magnetic anomalies” discovered near the offshore disposal site that could indicate potential unregistered wrecks or debris from wrecks. Based on that evaluation EPA determined that the proposed action will have no effect on these resources. However, if a NSPS is proposed in the future (as a separate CWA action), additional evaluation may be needed concerning any potential for effect of nearshore placement on the historic shipwrecks.

Article 6. Development.

Section 30251. Scenic and visual qualities

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

EPA Statement: The proposed action is consistent with this policy. Expansion of HOODS does not involve any new development and will have no effect on existing visual qualities. However, expansion of HOODS is in direct support of dredging to maintain safe navigation to and from many Humboldt Bay area facilities. Therefore, it is relevant to maintenance of the long-standing maritime-related scenic and visual character of the region. Expansion of HOODS will not result directly in a change to or an increase in dredging or other vessel traffic, or its visual character.

Section 30252. Maintenance and enhancement of public access

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities

or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

EPA Statement: The proposed action to expand HOODS is consistent with this policy. There is no new development involved in the proposed action, and it will not directly affect any existing development including public access associated with such development. However, expansion of HOODS is in direct support of continued dredging to maintain safe navigation in the area. Navigation is an important aspect of the public's access to and enjoyment of coastal resources in this area. Failure to expand capacity at HOODS may eventually result in reduced boating-based access to these resources, and increase the demand for alternative means of land-based access potentially including automobiles and facilities to support more automobile access (such as additional parking, restrooms, etc.).

Section 30253. Minimization of adverse impacts

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- (3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.
- (4) Minimize energy consumption and vehicle miles traveled.
- (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

EPA Statement: The proposed action is consistent with and in direct support of this policy. Expansion of HOODS does not involve any new development. However, expansion of disposal capacity at HOODS is specifically needed for dredging to continue to provide for safe navigation and use of maritime facilities in and around Humboldt Bay. In addition, it is needed to avoid any safety risk that could otherwise be associated in the future with a change in offshore wave behavior if mounding to shallower depths were to occur at HOODS.

Expansion of HOODS will not in itself directly cause or contribute to erosion or geologic instability, but the annual disposal of large volumes of entrance channel sand at HOODS will continue to remove that sand from the active littoral zone, which in turn contributes to ongoing erosion along Samoa Spit. Therefore the EA discusses, and EPA supports, further evaluation of a potential NSPS, including a monitored pilot project.

Projects disposing of dredged material at HOODS are expected to utilize equipment that is compliant with all relevant air pollution requirements.

HOODS was originally established as close as possible to where dredging occurs, consistent with minimizing other environmental impacts to the ocean and remaining economically feasible to use. The expansion area similarly is as close as possible. Use of the expansion area at HOODS will be slightly

farther than in the past, but the extra distance is not considered significant in terms of fuel usage or emissions. The distance to the potential NSPS discussed in the EA is slightly less, which may help encourage use of that site by USACE, should it be established in the future following analysis of results from a monitored pilot project.

Expansion of HOODS will have no effect on special communities or neighborhoods.

Section 30255. Priority of coastal-dependent developments

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

EPA Statement: The proposed action is consistent with this policy. Expansion of HOODS does not involve any new developments; however, it is in direct support of dredging to maintain safe navigation to and from existing (and potential new) coastal-dependent facilities in and around Humboldt Bay. Approval of specific developments, and determinations concerning coastal dependency, are subject to separate oversight by the Commission and are outside the scope of this proposed action.

Article 7. Industrial Development

EPA Statement: The policies in this Article 7, overall, are not applicable. The proposed expansion of HOODS does not directly involve any new industrial development, including tanker facilities, oil and gas development, refineries or petrochemical facilities, pipelines or other offshore oil transportation works, or thermo-electric generating plants. Therefore the remaining subsections are not addressed individually.

However, although not expressly addressed in these Section 7 policies, the Commission should be aware that potential future offshore energy development proposals (such as wind power facilities) could be affected by the expansion of HOODS to the extent that such facilities require any utility connection to shore through the coastal zone in the vicinity of HOODS. The routing of any future cables or other utilities would need to avoid the area near HOODS entirely if they would be near the sediment surface. As discussed in the EA, the presence of unburied cables, etc., through or near the expanded HOODS would be an incompatible use. Not only could dredged material disposal potentially damage such equipment within the boundaries of HOODS, but periodic monitoring of the disposal site and the area immediately surrounding it employs sampling equipment that penetrates up to 2 feet into the sediment and could physically damage or destroy such cables.

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