

7.1 CEQA/NEPA REQUIREMENTS

Before approving a project, the California Environmental Quality Act (CEQA) requires the Lead Agency to prepare and certify a Final Environmental Impact Report (Final EIR). The contents of a Final EIR are specified in Section 15132 of the CEQA Guidelines, which states that:

The Final EIR shall consist of:

- a. The Draft EIR or a revision of the Draft.
- b. Comments and recommendations received on the Draft EIR either verbatim or in summary.
- c. A list of persons, organizations, and public agencies commenting on the Draft EIR
- d. The responses of the Lead Agency to significant environmental points raised in the review and consultation process.
- e. Any other information added by the Lead Agency.

In summary, this Final EIR/EA consists of three volumes, including:

- **Volume 1**—South San Francisco Ferry Terminal Project Draft EIR/EA
- **Volume 1A**—Final EIR/EA Text Changes, Responses to Comments, Mitigation Monitoring and Reporting Program, and Updated Report Preparers
- **Volume 2**—Technical Appendices to the Draft EIR/EA

The determination that The San Francisco Bay Area Water Transit Authority (WTA) is the “lead agency” is made in accordance with Sections 15051 and 15367 of the CEQA Guidelines, which define the lead agency as the public agency that has the principal responsibility for carrying out or approving a project. In addition, the Federal Transit Administration (FTA) is the federal lead agency in accordance with 40 C.F.R. 1508.16, as the project will make use of federal funds. The Lead Agencies must provide each agency that commented on the Draft EIR/EA with a copy of the Lead Agencies’ proposed response at least 10 days before certifying the Final EIR.

7.2 USE OF THE FINAL EIR/EA

The Final EIR/EA allows the public and the WTA an opportunity to review revisions to the Draft EIR/EA, the response to comments, and other components of the EIR/EA, such as the Mitigation Monitoring and Reporting Program, prior to approval of the project. The Final EIR/EA serves as the environmental document to support approval of the proposed project, either in whole or in part, if the project is approved.

After completing the Final EIR/EA, and before approving the project, the Lead Agency must make the following three certifications, as required by Section 15090 of the CEQA Guidelines:

- The Final EIR has been completed in compliance with CEQA
- The Final EIR was presented to the decision-making body of the Lead Agency, and that the decision-making body reviewed and considered the information in the Final EIR prior to approving the project
- The Final EIR reflects the Lead Agency's independent judgment and analysis

As required by Section 15091 of the CEQA Guidelines, no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings (Findings of Fact) for each of those significant effects, accompanied by a brief explanation of the rationale for each finding supported by substantial evidence in the record. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

These certifications and the Findings of Fact are included in a separate Findings document. Both the Final EIR and the Findings are submitted to the WTA for consideration of the proposed project.

NEPA Process

As the NEPA Lead Agency for this project, the FTA will review and approve the EIR/EA through development of the EIR/EA, the public review process, and the Final EIR/EA. The FTA will determine whether to issue a Finding of No Significant Impact (FONSI) for the project or to require preparation of an EIS. In accordance with 40 C.F.R. 1508.9(a), federal agencies use the EA to determine whether proposed projects have the potential to cause significant environmental effects.

7.3 CHANGES TO THE PROJECT SINCE PUBLICATION OF THE DRAFT EIR/EA

7.3.1 FERRY VESSEL DRAFT DEPTH

At the time of publication of the DEIR/EA, the WTA assumed a maximum draft depth of five feet for ferry boat operations along the proposed project route. Since that time, new information has revealed that a maximum draft depth of six feet would be required for the new ferry vessels. While the increase in vessel draft from five feet to six feet does represent a change in the project, the one foot increase of vessel draft

would still be considered a “low draft” vessel. As such, the increase in vessel draft depth would not require an increase in channel depth required for safe navigation. The DEIR/EA evaluation of a minimum required water depth of -10 feet Mean Lower Low Water (MLLW), would still allow for adequate vessel clearance of two feet below keel depth. Therefore, the increase in vessel draft depth from 5 foot to 6 foot does not change the significance of the conclusions regarding dredging, dredge material disposal or navigation safety of the DEIR/EA. However, if due to modifications to daily ferry operations, the WTA determines that a channel depth greater than -10 feet MLLW is required to ensure safe navigation of the ferry vessels and subsequent dredging will be necessary, the WTA shall be required to conform to the Long Term Management Strategy (LTMS) administered by the BCDC Dredged Material Management Office (DMMO) regarding dredging and the disposal of dredge materials. Please also refer to Chapter 9 (Text Changes) for a further discussion regarding the change in vessel draft depth from five foot to six foot.

7.3.2 AGENCY CONSULTATION

The WTA and FTA initiated consultation with several responsible agencies, including the United States Fish and Wildlife Service (USFWS), and the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration (NOAA), pursuant to Section 7 of the Endangered Species Act and the Essential Fish Habitat of the Magnuson Stevens Fishery Conservation and Management Act. During the course of this consultation, it was determined that the proposed project could potentially affect two species that were not initially analyzed in the DEIR/EA, the North American Green Sturgeon, and live native oysters, both of which are a valuable component of the San Francisco Bay ecosystem. Through the consultation process, mitigation measures have been refined to ensure that construction related noise and vibration impacts do not adversely impact aquatic species located within the vicinity of the proposed project site. Additionally, through the consultation process, a determination was made that a survey and monitoring program would be required to assess the native oyster population within the proposed project site, as well as mitigation measures to replace existing oyster habitat as necessary.

As such, modifications have been made to Section 3.1 (Biological Resources) of the DEIR/EA, as well as Appendix B1 (Natural Environment Study), Appendix C of the Natural Environment Study and Appendix B2 (Special-Status Species Table). These modifications have been incorporated into the Final EIR/EA and are shown in sub-sections 9.2.12 through 9.2.15. The correspondance of the consultation process can be found in Chapter 11 (Agency Consultation) of this Final EIR/EA.

