

Opportunities and Updates in Federal Ocean Disposal and Water Quality Regulation

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What do we do?

- Clean Water Act and Marine Protection, Research and Sanctuaries Act regulation
- Ocean disposal program
- Wetlands and Ocean research
- Water quality certification
- Waters of the U.S. jurisdiction
- Mitigation
- Wetland Development Program Grants
- Partnership building



Federal Rulemaking - Waters of the U.S.

- Defines what waters and wetlands are regulated under the Clean Water Act
- Navigable Water Protection Rule vacated and remanded August 30, 2021
- Currently implementing the pre-2015 regulatory regime <https://www.epa.gov/wotus/current-implementation-waters-united-states#Pre-2015>
- Proposed Rule announced December 7, 2021 <https://www.epa.gov/wotus/revising-definition-waters-united-states>

Waters of the U.S.

“Navigable Waters”: Waters of the United States,
including the Territorial Seas

303

Water Quality
Standards & TMDLs

311

Oil Spill
Programs

401

State/Tribal
Certification

402

Pollutant
Discharge
Permits

404

Discharge of
Dredged and/or Fill
Material

Federal Rulemaking - Clean Water Act Section 401

- Water Quality certifications for federal permits or licenses that have a discharge – Rivers and Harbors Act Section 10, Clean Water Act Section 404
- 2020 401 Rule vacated October 21, 2021
- Currently implementing the 1971 Regulations
- Ongoing Rulemaking
<https://www.epa.gov/cwa-401>





EPA Ocean Dumping Program Roles

4 categories of ocean disposal permits:

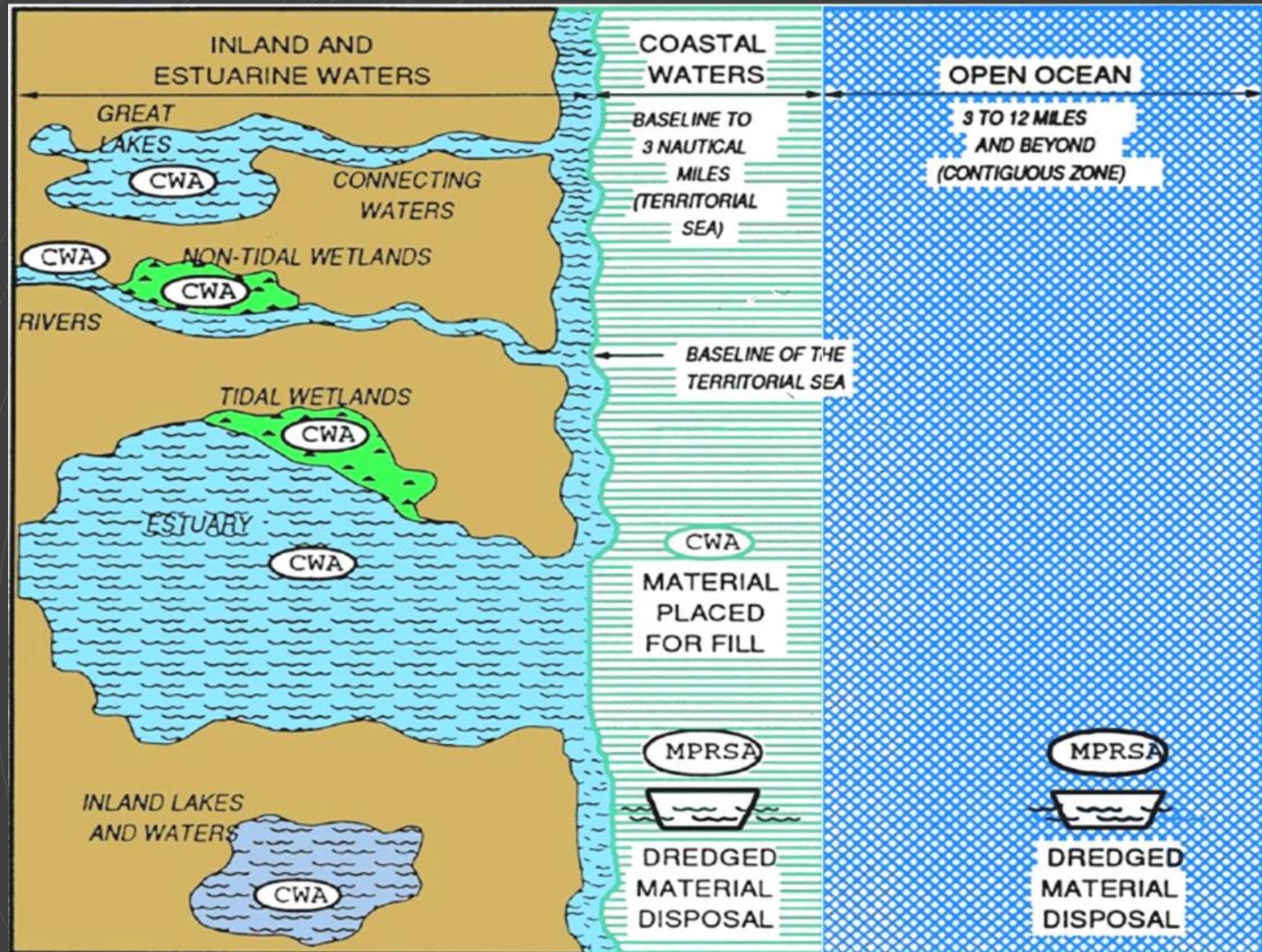
- Dredged Material
- Fish Waste
- Human Remains
- Vessels



Dredging and Sediment Management in Region 9

- Beneficial Reuse
- Interagency Partnerships (LTMS/DMMO; DMMT)
- Cross-program Leveraging
- Dredging Project Regulation (MPRSA & CWA 404)
- Ocean Dumping Sites

Clean Water Act



Marine Protection Research and Sanctuaries Act



Region 9 maritime commerce
>\$500 billion/yr

10 million cy/yr dredged
~50% USACE, 50% private

100 projects and 300+ DUs/yr,
each with

- Sampling Plans (SAPs)

- Suitability calls (SARs)

- Alternatives analyses

- Concurrence/conditions

Ocean Disposal Sites

Disposal Site Designation

- Criteria to identify low-impact locations
- NEPA and Rulemaking, incl ESA, CZMA



Sediment suitability and disposal concurrence

- Only clean, non-toxic sediments are “suitable”
- EPA concurrence under MPRSA – analysis of alternatives to ocean dumping
- EPA conditions are incorporated into USACE permitting





Site Management and Monitoring

Periodic Site Monitoring

- Site Management and Monitoring Plan (SMMP) for each site – periodically updated based on lessons learned
- Monitor each site every 10 yr
- Confirm no impacts or I.D. changes

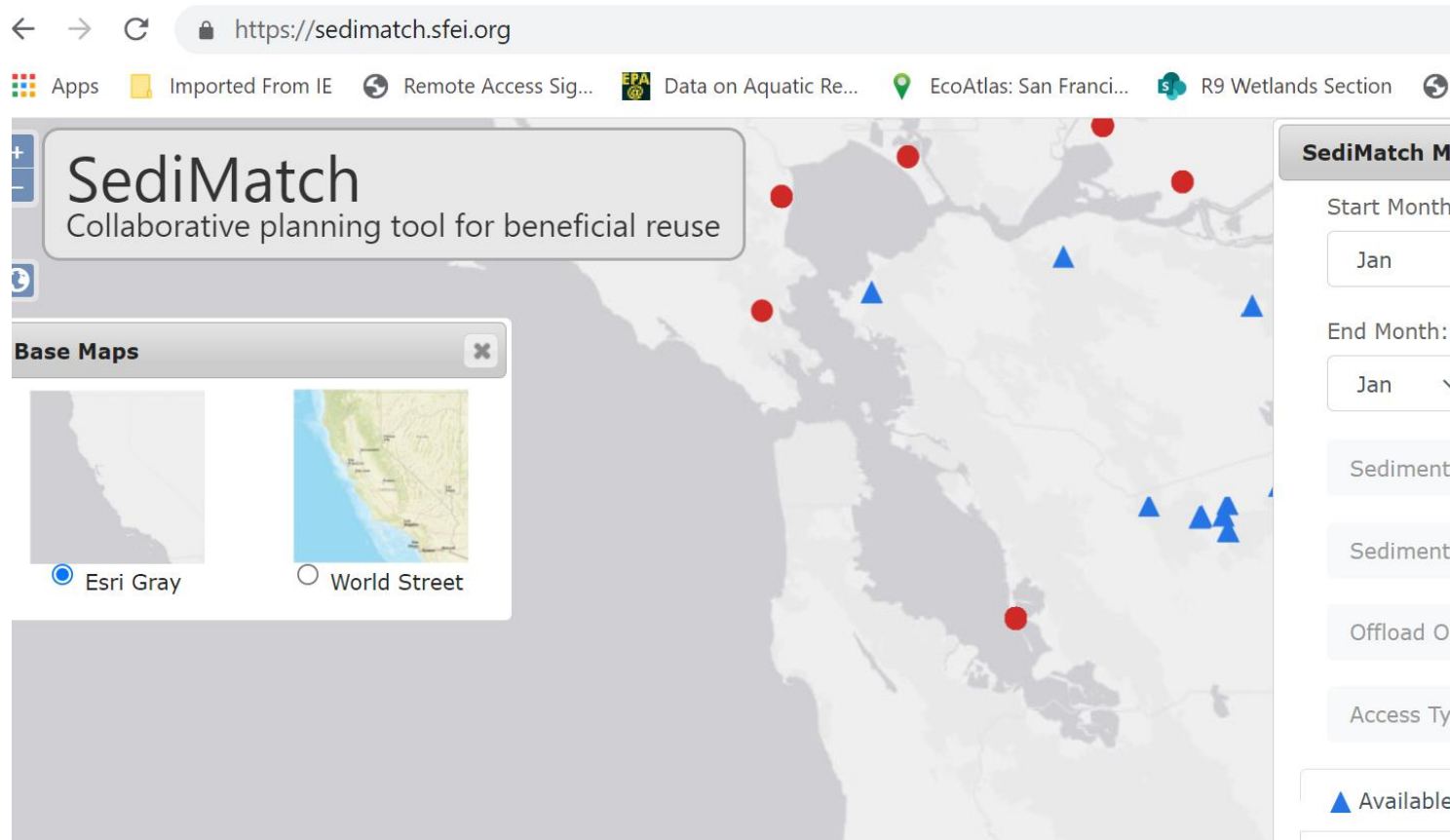
Compliance Monitoring for transport to disposal sites

- Satellite tracking, black-box sensors
- Confirm disposal is as required



Beneficial Reuse

- Almost all dredged material is suitable to be used for beneficial purposes.
- Dredging projects already move large volumes efficiently, and they can be the most cost-effective source for many other projects needing sediment
- Dredged sediment is needed for:
 - Restoring and maintaining wetlands (e.g., LA, CA)
 - Enhancing eroding mudflats, submerged aquatic habitats (eelgrass, etc); and
 - Coastal infrastructure protection and flood control
- **Infrastructure protection is more pressing than ever due to accelerating Sea Level Rise**



Matching Dredging with Beneficial Use

- Dredging and Reuse are usually separate projects. For reuse to be practicable, must match:
 - Dredging vs Placement *Logistics*
 - Project locations (proximity, access, equipment)
 - Project timing (avoid costly stockpiling/rehandling)
 - Dredging vs Placement *Costs*
 - Reuse often more \$ than waste disposal
 - Regulatory Factors
 - State regulations that can treat all sediment as a “waste”
 - Federal policies that limit options, funding source



Goal: Beneficial Reuse vs. Waste Dumping

CA coast

- Main emphasis on sand for beach
- nourishment, SLR/infrastructure,
- Port development fills

SF Bay

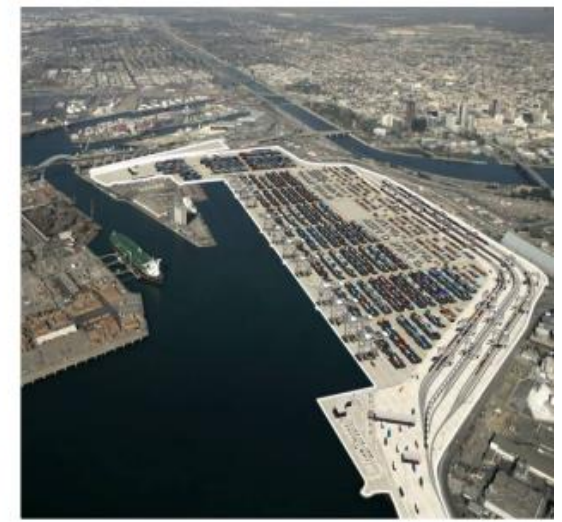
- Main emphasis on wetlands,
- ESA habitat, SLR/infrastructure protection
- Need 450 mcy for wetland restoration to counteract SLR
- Long-Term goal = reuse minimum 40% of dredging
- 2000-2017 actual = 43.3% (26 million cy)

Port of Long Beach – Middle Harbor Terminal Redevelopment Project

- 1 million cy contaminated sediments
- 9 projects providing material
- Coordination between seaport, regional partners and regulatory agencies



Middle Harbor Terminal
Before Construction



Artist's Rendition of Completed Middle
Harbor Terminal Redevelopment



Completed Phase 1 Slip 1 Fill

Hamilton Wetlands

- San Pablo Bay in SF Estuary
- 24.4 mcy of dredged material including 3.5 million cy from the Port of Oakland 50' deepening project
- USACE and CA State Coastal Conservancy
- 988 acres site – seasonal and tidal wetlands





Questions?