United States Department of the Interior

FISH AND WILDLIFE SERVICE
Pacific Southwest Region
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In Reply Refer To:
08EVEN00-2015-I-0044

Finding of No Significant Impact (FONSI) for Issuance of an Incidental Harassment Authorization for Waterfront Repairs at United States Coast Guard Station Monterey, Monterey County, California

Pursuant to the Council on Environmental Quality regulations (40 Code of Federal Regulations Parts 1500-1508) implementing the procedural provisions of the National Environmental Policy Act (NEPA) (42 United States Code Section 4321 et seq.), the U.S. Fish and Wildlife Service (Service) gives notice that an Environmental Assessment (EA) has been prepared to address impacts resulting from issuance of an Incidental Harassment Authorization (IHA), pursuant to the Marine Mammal Protection Act of 1972, as amended (MMPA, 16 U.S.C. 1361 *et seq.*), to the United States Coast Guard (USCG). The IHA would be valid from November 1, 2014, through October 31, 2015, and would authorize the incidental taking of small numbers of southern sea otters (*Enhydra lutris nereis*) during the course of construction activities associated with waterfront repairs at USCG Station Monterey.

The EA addresses two alternatives, the proposed action (issuance of an IHA) and the no-action alternative (non-issuance). Issuance of the IHA would allow construction activities associated with waterfront repairs at USCG Station Monterey to occur. Based on the analysis in the EA, the Service finds that the proposed action would not have a significant impact on the human environment. This FONSI includes and expressly incorporates by reference the EA. Both the FONSI and EA will be available upon request from the Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003, and will be posted on the internet at http://www.fws.gov/ventura/endangered/species/info/sso.html.

The proposed action would not have a significant effect on the physical or biological environment. No permanent impacts on habitat are proposed or would occur as a result of this project. The proposed action would not increase the pier's existing footprint, and no new structures would be installed that would result in the loss of additional habitat. Any effects on marine mammals, including federally threatened southern sea otters (*Enhydra lutris nereis*), would be short in duration and would affect only a small percentage of the population. The National Marine Fisheries Service (NMFS) has issued an IHA for the Level B harassment of seven species of marine mammals under the MMPA (79 FR 57052; September 24, 2014). The Service has determined, in intra-Service Section 7 consultation under the Endangered Species Act of 1973, as amended, that the proposed action is not likely to adversely affect the southern sea otter. A number of mitigation measures would be implemented to avoid or minimize potential effects on southern sea otters and other marine mammals (see pages 7-8 of the EA).

NMFS determined that the proposed action would adversely affect Essential Fish Habitat (EFH) for various federally managed fish species, but in recognition of the measures proposed by the USCG to avoid and minimize adverse effects, it had no additional EFH conservation recommendations to suggest. With implementation of the proposed mitigation measures (see pages 3-15 and 3-16 of the USCG's EA (URS 2014)), adverse effects on EFH would be temporary and minor. The proposed action would not result in any permanent losses of EFH. Therefore, these effects are not significant.

Implementation of the proposed action would not have significant effects on the socioeconomic environment. The proposed repairs are limited in scope and would be confined to a portion of the existing pier and jetty that is restricted to government-only access.

This FONSI is related to several other documents, including an analysis conducted by the USCG pursuant to NEPA. These documents are discussed on pages 4 and 11 of the EA. This FONSI has been prepared on an action that would not normally require the preparation of an Environmental Impact Statement and is not without precedent. None of the effects are expected to be highly controversial.

DETERMINATION

Based on the information gathered during preparation of this EA, the Service finds that implementing the proposed action will not significantly impact the quality of the human environment. All beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion that there are no significant impacts. According to the requirements of NEPA and the Council on Environmental Quality regulations implementing the procedural provisions of NEPA, an EIS is not necessary and will not be prepared.

November 3, 2014

Date

Ren Lohoefener
Regional Director
U.S. Fish and Wildlife Service
Department of the Interior
Pacific Southwest Region

Environmental Assessment

for

Issuance of an Incidental Harassment Authorization
for Waterfront Repairs at United States Coast Guard Station Monterey

October, 2014

Lead Agency: U.S. Fish and Wildlife Service

Responsible Official: Steve Henry, Field Supervisor, Ventura Fish and Wildlife Office

For Further Information Contact: Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003; phone (805) 644-1766, fax (805) 644-3958

Location: United States Coast Guard (USCG) Station Monterey, 100 Lighthouse Avenue, Monterey, California.

Summary: The U.S. Fish and Wildlife Service (Service) proposes to issue an Incidental Harassment Authorization (IHA) for the take of southern sea otters (*Enhydra lutris nereis*), pursuant to the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq*.) (MMPA). The authorization would be valid from November 1, 2014, to October 31, 2015, and would authorize the incidental taking of small numbers of southern sea otters during waterfront repairs at USCG Station Monterey.

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CHAPTER 1 PURPOSE OF AND NEED FOR ACTION

1.1 DESCRIPTION OF ACTION

The proposed action is issuance of an IHA for "taking" federally threatened southern sea otters by "Level B harassment" in the wild, pursuant to the MMPA, in the course of waterfront repairs at the USCG Station Monterey. The USCG proposes to remove and replace 17 timber piles that structurally support the patrol boat pier, replace the existing potable water line, and improve associated structures to maintain the structural integrity of the Pier and potable water line.

1.1.1 Background

In July 2013, we received a request from the USCG for MMPA authorization to take by harassment southern sea otters incidental to the replacement of pier piles and the potable water line at USCG Station Monterey in Monterey Harbor, California. The USCG proposes to remove and replace 17 timber piles that structurally support the patrol boat pier, replace the existing potable water line, and improve associated structures to maintain the structural integrity of the pier and potable water line. Pile driving activities would be limited to the period from June 15 to October 15, but other construction activities could occur at any time during the 1-year authorization window. On April 3, 2014, we were notified that, due to Federal funding issues affecting its contracting timelines, the USCG was requesting that the start date of its 1-year authorization window be delayed to September 2014. On June 20, 2014, we were notified that the USCG was requesting another delay in its start date, which is now November 1, 2014. A detailed description of the proposed action is contained in the incidental harassment authorization request submitted to us by the USCG (URS 2013). The proposed action is expected to result in take, by Level B Harassment only, of sea otters.

1.1.2 Purpose and Need

Sections 101(a)(5)(A) and (D) of the MMPA, as amended (16 U.S.C. 1371 (a)(5)(A) and (D)), authorize the Secretary of the Interior to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, provided that we make certain findings and either issue regulations or, if the taking is limited to harassment, provide a notice of a proposed authorization to the public for review and comment.

We may grant authorization to incidentally take marine mammals if we find that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. As part of the authorization process, we prescribe permissible methods of taking and other means of effecting the least practicable impact on the species or stock and its habitat, and requirements pertaining to the monitoring and reporting of such takings.

To fulfill its mission, the USCG Station Monterey needs functioning and accessible waterfront facilities. Over time, the existing pier and waterfront waterline have deteriorated. The purpose of the project is to support the operational requirements of the Station and to accommodate a

boat owned and operated by the National Oceanic and Atmospheric Administration, which also uses these facilities.

1.2 OTHER ENVIRONMENTAL ASSESSMENTS/ENVIRONMENTAL IMPACT STATEMENTS/ENVIRONMENTAL DOCUMENTS THAT INFLUENCE SCOPE OF THIS ENVIRONMENTAL ASSESSMENT

The impacts associated with the proposed project are analyzed in the USCG's *Final Environmental Assessment for Waterfront Repairs at United States Coast Guard Station Monterey, Monterey, California* (URS 2014) and associated Finding of No Significant Impact (FONSI) which are hereby incorporated by reference.

1.3 SCOPING SUMMARY

The purpose of scoping is to identify the issues to be addressed and the significant issues related to the proposed action, as well as to identify and to eliminate from detailed study the issues that are not significant or that have been covered by prior environmental review. An additional purpose of the scoping process is to identify the concerns of the affected public and Federal agencies, states, and Indian tribes. CEQ regulations implementing the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq*.) do not require that a draft Environmental Assessment (EA) be made available for public comment as part of the scoping process. However, as described in greater detail in section 1.5.1 of the USCG's final EA, the USCG held a 30-day scoping period from October 4 through November 2, 2012, prior to preparation of the draft EA and considered and addressed, where appropriate, all comments in the final EA. The draft EA was made available to all interested federal, state, and local agencies and the general public on July 24, 2013, for a 30-day review and comment period, during which the USCG received one comment (URS 2014).

1.4 APPLICABLE LAWS AND NECESSARY FEDERAL PERMITS, LICENSES, AND ENTITLEMENTS

This section summarizes federal, state, and local permits, licenses, approvals, and consultation requirements necessary to implement the proposed action and identifies the parties responsible for obtaining them.

1.4.1 National Environmental Policy Act

The National Environmental Policy Act (NEPA) was enacted in 1969 and is applicable to all "major" federal actions significantly affecting the quality of the human environment. A major federal action is an activity that is fully or partially funded, regulated, conducted, or approved by a federal agency. While NEPA does not dictate substantive requirements for permits, licenses, *etc.*, it requires consideration of environmental issues in federal agency planning and decision-making. The procedural provisions outlining federal agency responsibilities under NEPA are provided in the Council on Environmental Quality's implementing regulations (40 CFR Parts 1500-1508). As noted in section 1.2, project impacts are assessed in the USCG's final EA (URS

2014). This EA addresses any additional impacts associated with issuance of an IHA for Level B harassment of southern sea otters.

1.4.2 Endangered Species Act

The purpose of the Endangered Species Act of 1973, as amended (16 U.S.C 1531 *et seq.*) (ESA) is to protect and recover imperiled species and the ecosystems upon which they depend. Under the ESA, species may be listed as either endangered or threatened. "Endangered" means a species is in danger of extinction throughout all or a significant portion of its range. "Threatened" means a species is likely to become endangered within the foreseeable future. The ESA makes it unlawful for a person to take a listed animal without a permit. Take is defined as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct."

1.4.3 Marine Mammal Protection Act

The MMPA prohibits takes of all marine mammals in the U.S. (including territorial seas) with a few exceptions. Section 101(a)(5)(D) of the MMPA directs the Secretaries of Commerce and Interior to allow, upon request, the incidental, but not intentional taking, by harassment, of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made. If the action proposed in the IHA application will result in no more than harassment, have no more than a negligible impact on the species or stock, will not have an unmitigable adverse impact on the availability of the species or stock for subsistence uses, and the permissible methods of taking and required monitoring are set forth, then the Services shall issue the authorization.

1.4.4 Coastal Zone Management Act

Congress enacted the Coastal Zone Management Act (CZMA) (16 U.S.C. 1451 *et seq.*) to protect the coastal environment from growing demands associated with residential, recreational, commercial, and industrial uses (*e.g.,* State and Federal offshore oil and gas development). Those coastal states with an approved Coastal Zone Management Plan, which defines permissible land and water use within the state's coastal zone, can review Federal actions, licenses, or permits for "Federal consistency." "Federal consistency" is the requirement that those Federal permits and licenses likely to affect any land/water use or natural resources of the coastal zone be consistent with the Program's enforceable policies.

CHAPTER 2 ALTERNATIVES INCLUDING THE PROPOSED ACTION

This chapter describes the range of potential actions (alternatives) determined reasonable with respect to achieving the stated objective. This chapter also summarizes the expected outputs and any related mitigation of each alternative.

2.1 ALTERNATIVE 1 – PROPOSED ACTION (ISSUANCE OF IHA)

Under the proposed action, we would issue an IHA for the Level B harassment of southern sea otters incidental to waterfront repairs at the USCG Station Monterey. Once this and other required authorizations are in place, the repairs may commence.

The waterfront repairs would involve removing the existing timber deck, timber stringers, steel pile caps, steel support beams, and hardware to access the 17 timber piles that need to be replaced. The timber piles, which are approximately 14 to 16 inches (in) (36 to 41 centimeters (cm)) in diameter and covered with polyvinyl chloride (PVC) wraps, would be removed by means of a vibratory extractor. Each timber pile would be replaced with a steel pipe pile up to 18 in (46 cm) in diameter, with 0.5 in (1.3 cm) thick walls. Each steel pipe pile would be positioned and installed in the footprint of the extracted timber pile. The new steel pipe piles would not be filled with concrete. Other material and hardware removed to conduct the pile replacement would be replaced with in-kind materials. Due to dense substrate at the project site, a majority of the steel pipe pile installation would likely require impact pile driving, but vibratory pile driving would be conducted to the extent feasible, with an impact hammer used for proofing the piles. Pre-drilling would be permitted but discontinued when the pile tip is approximately 5 feet (ft) (1.5 meters (m)) above the required pile tip elevation. If the steel pipe pile could not be driven 30 ft (9 m) below the mudline with an impact hammer due to the substrate or jetty armor, the pile would be posted onto the armor stone using 36 in (91 cm) diameter concrete pedestals and dowels anchored into the armor stone. Concrete slurry would be used to cement stone within 5 ft (1.5 m) of posted steel pipe piles to further secure the piles. Pile extraction and driving equipment would not be located on the existing Pier but on a barge positioned in a manner that would not impede access to the floating docks or disrupt Pier access. The barge would be secured so that pedestrians would not be able to access it. Several proposed ancillary repairs to the Pier deck and floating dock are associated with this project. Specifically, under-deck repairs would involve restoring bearings at pedestals and sea walls with non-shrink grout pads and replacing underwater pile struts. Above-deck repairs would include removing abandoned mooring hardware, replacing missing sections of curb, and replacing isolated deck planks that have deteriorated. Repairs to the floating dock would include repairing tie rods, repairing concrete spall, relocating and securing gangway wear plate(s), replacing cleats, replacing missing rubstrips, and replacing underwater pile struts.

Best management practices would be employed during demolition and construction activities to prevent debris from falling into the water. A sound attenuation system (bubble curtain) would be used during impact hammer pile driving. The bubble curtain creates an underwater wall of air around the pile to dissipate in-water sound waves. The Applicant has proposed additional measures to reduce impacts on marine mammals. We discuss these measures below.

To facilitate supplementary monitoring of effects on sea otters in or near the project area, the Service has requested, and the USCG has agreed to provide, 24-hour advance notice of pile driving activity and a record of the start and stop times of all pile driving activities once they are completed.

The USCG's proposed waterfront repairs, as permitted by the final IHA, would include the following mitigation measures for southern sea otters:

(a) Use of Noise Attenuation Devices

A pile driving energy attenuator (such as an air bubble curtain system) shall be used for all impact pile driving.

(b) Time Restriction

In-water construction work shall occur only during daylight hours when visual monitoring of marine mammals can be implemented.

(c) Establishment of Level B Harassment Zones of Influence

(i) Before the commencement of in-water pile driving activities, USCG shall establish Level B behavioral harassment zones of influence (ZOIs) where received underwater sound pressure levels (SPLs) are higher than 160 dB (rms) and 120 dB (rms) re 1 µPa for impulse noise sources (impact pile driving) and non-impulse noise sources (vibratory pile driving and mechanic dismantling), respectively.

(ii) Once the underwater acoustic measurements are conducted during initial test pile driving, USCG shall adjust the size of the ZOIs, and monitor these zones as described under the Proposed Monitoring section below.

(d) Monitoring for marine mammal presence shall take place 30 minutes before and 30 minutes after pile driving.

(e) Soft Start

(i) For vibratory hammers, the contractor shall initiate the driving for 15 seconds at reduced energy, followed by a 1 minute waiting period when there has been down time of 30 minutes or more. This procedure shall be repeated two additional times before continuous driving is started. This procedure shall also apply to vibratory pile extraction.

(ii) For impact driving, an initial set of three strikes shall be made by the hammer at 40 percent energy, followed by a 1 minute waiting period, then two subsequent three-strike sets before initiating continuous driving.

(f) Shutdown Measures

A Level A harassment exclusion zone shall include all areas where underwater sound pressure levels are expected to reach or exceed 190 dB re 1 µPa. Modeled distances to the 190 dB isopleth are 33 ft (10 m) or less for attenuated noise and 75 ft (23 m) or less for unattenuated noise. The Level A harassment zone shall be adjusted, in consultation with the Service, once field conditions for impulse and non-impulse noise sources are established through hydroacoustic monitoring. Regardless of the results of field measurements, the radius of the Level A exclusion zone shall be a minimum of 33 feet (10 m) to prevent the injury of sea otters from machinery. Pile extraction or driving shall not commence (or re-commence following a shutdown) until sea otters are not sighted within the exclusion zone for a 30-minute period. If a sea otter enters the exclusion zone during pile replacement work, work shall stop until the animal leaves the exclusion zone.

The USCG's proposed waterfront repairs, as permitted by the final IHA, would include the following monitoring measures for southern sea otters:

(a) Protected Species Observers

USCG shall employee Service-approved protected species observers (PSOs) to conduct marine mammal monitoring for its Station Monterey waterfront repair project.

(b) Baseline Biological Monitoring

(i) Baseline biological monitoring shall be conducted to survey the potential Level A and B harassment zones on 2 separate days within 1 week before the first day of construction.

(ii) Biological information collected during baseline monitoring will be used for comparison with results of monitoring during pile driving and removal activities.

(c) Monitoring of marine mammals around the construction site shall be conducted using high-quality binoculars (*e.g.*, Zeiss, 10 x 42 power).

(d) Marine mammal visual monitoring shall be conducted from the best vantage point available, including the USCG pier, jetty, and adjacent docks within the harbor, to maintain an excellent view of the exclusion zone and adjacent areas during the survey period. Monitors shall be equipped with radios or cell phones for maintaining contact with work crews.

(e) Vessel-based visual marine mammal monitoring within the 120 dB and 160 dB ZOIs shall be conducted during 10 percent of the vibratory pile driving and removal and impact pile driving activities, respectively.

(f) Data collection during marine mammal monitoring shall consist of a count of all marine mammals by species, a description of behavior (if possible), location, direction of

movement, type of construction that is occurring, time that pile replacement work begins and ends, any acoustic or visual disturbance, and time of the observation. Environmental conditions such as weather, visibility, temperature, tide level, current and sea state shall also be recorded.

(g) Activities related to the monitoring described in this Authorization do not require a separate scientific research permit issued under section 104 of the Marine Mammal Protection Act.

The USCG's proposed waterfront repairs, as permitted by the final IHA, would include the following reporting measures for southern sea otters:

(a) USCG shall submit to the Service weekly monitoring reports that summarize the monitoring results, construction activities, and environmental conditions.

(b) USCG shall provide the Service with a draft monitoring report within 90 days of the conclusion of the construction work. This report shall detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of sea otters that may have been harassed.

(c) If comments are received from the Service on the draft report, a final report shall be submitted to the Service within 30 days thereafter. If no comments are received from the Service, the draft report will be considered to be the final report.

(d) USCG shall call the Monterey Bay Aquarium's sea otter 24-hour emergency line (831-648-4840) immediately upon sighting an injured sea otter in the vicinity of the construction site and notify the Service's Southern Sea Otter Recovery Coordinator by telephone within one hour of such a sighting. USCG shall call the Monterey Bay Aquarium's sea otter 24-hour emergency line and notify the Service's Southern Sea Otter Recovery Coordinator no later than 24 hours after sighting a dead sea otter in the vicinity of the construction site. The USCG shall provide a description of the condition of the animal(s) or carcass(es), location, time of discovery, observed behavior (if alive), and photographic or video documentation, if available. In the unanticipated event that the construction activities clearly cause the injury or death of a sea otter, the USCG shall immediately suspend all activities and immediately report the incident by telephone to the Monterey Bay Aquarium's sea otter 24-hour emergency line and the Service's Southern Sea Otter Recovery Coordinator. The USCG shall not resume activities until notified by the Service by email, letter, or telephone.

2.2 ALTERNATIVE 2 – NO ACTION (DO NOT ISSUE IHA)

Under the no action alternative, the Service would not issue an IHA. As a result, the USCG could not conduct its waterfront repairs.

CHAPTER 3 AFFECTED ENVIRONMENT

The affected environment is described in detail in Chapter 3 of the USCG's final EA, which is incorporated by reference in this EA.

CHAPTER 4 ENVIRONMENTAL CONSEQUENCES

This chapter represents the scientific and analytic basis for comparison of the direct, indirect, and cumulative effects of the alternatives. Regulations for implementing the provisions of NEPA require consideration of both the context and intensity of a proposed action (40 CFR Parts 1500-1508).

4.1 EFFECTS OF ALTERNATIVE 1: PROPOSED ACTION (ISSUANCE OF IHA)

Issuance of an IHA for Level B harassment of southern sea otters would allow the USCG to conduct waterfront repairs at its USCG Station Monterey. Effects of the proposed waterfront repairs are analyzed in Chapter 3 of the USCG's final EA (URS 2014), which is incorporated by reference in this EA.

4.2 EFFECTS OF ALTERNATIVE 2: NO ACTION (DO NOT ISSUE IHA)

The No Action Alternative would not result in impacts to the environment, including special-status species and sensitive habitats, because if the Service does not issue an IHA to the USCG, no construction activities will take place.

4.3 SUMMARY OF COMPLIANCE WITH APPLICABLE LAWS, NECESSARY FEDERAL PERMITS, LICENSES, AND ENTITLEMENTS

As summarized below, the Service has determined that the proposed IHA is consistent with the purposes, policies, and applicable requirements of the ESA, MMPA, and CZMA.

4.3.1 Endangered Species Act

We have completed intra-Service Section 7 consultation under the Endangered Species Act of 1973, as amended, and have determined that issuance of an IHA for the proposed waterfront repairs is not likely to adversely affect the southern sea otter. Our intra-Service Section 7 consultation is available from the Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003, and is hereby incorporated by reference.

4.3.2 Marine Mammal Protection Act

The USCG applied for an IHA from the National Marine Fisheries Service (NMFS) for Level B harassment of seven marine mammal species and an IHA from the Service for Level B harassment of southern sea otters. NMFS issued a final IHA to the USCG on September 24, 2014 (79 FR 57052). We published a proposed IHA in the Federal Register on September 30, 2014 (79 FR 58796) and received one comment, from the Marine Mammal Commission, during the 30-day comment period. The Marine Mammal Commission recommended issuance of the IHA with the proposed mitigation and monitoring measures.

4.3.3 Coastal Zone Management Act

We have reviewed the Federal Agency Guide for the State of California Coastal Management Program, specifically the "List of Federal Licenses and Permits Subject to Certification for Consistency," and ascertained that issuance of an IHA does not require a Consistency Certification.

4.4 COMPARISON OF ALTERNATIVES

The Proposed Action (issuance of an IHA to the USCG) would allow the USCG to proceed with waterfront repairs and would result in temporary impacts from construction on biological resources, geology and soils, water quality, hazardous materials, air quality, noise and vibration, visual resources, recreation, and transportation and access. However, the Proposed Action would provide indirect longer-term benefits with respect to geology and soils, water quality, and human safety. With implementation of the mitigation measures proposed and/or agreed to by the USCG to minimize potential construction impacts on marine mammals and special-status fish species, the Proposed Action's potential impacts on biological resources are less than significant.

The No Action Alternative (no issuance of an IHA to the USCG) would have fewer impacts than the Proposed Action; however, the No Action Alternative would not satisfy the USCG's need for the project.

LITERATURE CITED

URS. 2013. Incidental Harassment Authorization for Waterfront Repairs at USCG Station Monterey, Monterey, California. Prepared for U.S. Coast Guard Civil Engineering Unit Oakland, 2000 Embarcadero, Suite 200, Oakland, California 94606.

URS. 2014. Final Environmental Assessment for Waterfront Repairs at United States Coast Guard Station Monterey, Monterey, California. Prepared for U.S. Coast Guard Civil Engineering Unit Oakland, 1301 Clay Street, Suite 700N, Oakland, California, 94612.