



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102-3404

Operations and Readiness Division

PUBLIC NOTICE

**REQUEST FOR PERMISSION TO ALTER A U.S. ARMY CORPS OF ENGINEERS
PROJECT UNDER SECTION 408**

TITLE: Coyote Creek - PG&E Tower 013/094 Replacement, 408-SPN-2024-0001

Public notice comment period:
Begins: February 28, 2024
Ends: March 29, 2024

REQUESTER: In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, Pacific Gas & Electric (PG&E) (requester) has requested permission through the Marin County Flood Control & Water Conservation District (non-federal sponsor of the federally authorized project) from the U.S. Army Corps of Engineers (USACE) to alter the Coyote Creek (Marin) Left Bank an existing federal flood risk management project, authorized by the Flood Control Act of 1948, as amended by the Flood Control Act of 1962.

LOCATION: The proposed project is located on the left bank levee along the tidally influenced outlet to Coyote Creek near the intersection of Tennessee Valley Road and Marin Avenue near Mill Valley, Marin County, California. (Lat. 37.877325, Long. -122.526569)

REQUESTER'S PROPOSED ACTION: The proposed project removed the structurally unstable existing Ignacio-Alto-Sausalito 60 kV line Tower 013/094 (tower) located on the levee bank of a channelized tidal tributary to Coyote Creek which in turn drains to Richardson Bay. The tower was cut above the concrete footings and the tower removed and disposed of at an offsite location. A crane, parked on the east side of the channel in a dirt parking lot, would be used to lift the removed tower over the channel and set within the dirt parking lot. The metal tower would be removed and disposed of at an offsite location. A new tower would be constructed within an upland parking lot approximately 210 feet south of the existing tower and south of Marin Avenue.

ENVIRONMENTAL IMPACTS OF PROPOSED ACTION: The existing powerline tower is located on an earthen, trapezoidal levee on the bank of a tidally influenced tributary to Coyote Creek (Marin) which in turn drains to Richardson Bay. The powerline tower is constructed of a steel cage that sits on a concrete foundation. The concrete foundation of the tower extends below the mean high-water line of the channel. All work under the

408 Permission will occur on the levee and no excavation or work within the channel is expected.

USACE determined the channel is suitable habitat for federally listed species under the jurisdiction of the National Marine Fisheries Service (NMFS). The channel may support endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley spring-run Chinook salmon, threatened California Central Valley steelhead (*O.mykiss*), and threatened Central California Coast (CCC) steelhead (*O.mykiss*) seasonally and the threatened southern distinct population segment of North American green sturgeon (*Acipenser medirostris*) throughout the year. The channel and Coyote Creek (Marin) is designated as critical habitat for Sacramento River winter-run Chinook salmon, CCC steelhead, and the southern distinct population segment of North American green sturgeon. The proposed work would not result in temporary or permanent impacts to the channel, therefore, USACE determined there would be no effects to federally listed species, designated critical habitat, or essential fish habitat under the jurisdiction of the NMFS.

After an initial review, USACE has determined no eligible or potentially eligible cultural resources may be affected by the proposed project. USACE will initiate consultation with the State Historic Preservation Officer and Native American Tribes under Section 106 of the National Historic Preservation Act, as appropriate.

Upon review of the Section 408 application and other supporting documentation, USACE has made a preliminary determination that the project may qualify for a Categorical Exclusion for the purposes of NEPA.

AUTHORITY: The authority to grant permission for temporary or permanent use, occupation, or alteration of any USACE civil works project is contained in Section 14 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C 408) ("Section 408"). Section 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers, to grant permission for the alteration or occupation or use of a USACE project if the Secretary determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project. The Secretary of Army's authority under Section 408 has been delegated to the USACE, Chief of Engineers. The USACE Chief of Engineers has further delegated the authority to the USACE, Directorate of Civil Works and Division and District Engineers, depending upon the nature of the activity.

LIMITS OF SECTION 408 AUTHORITY: A requester has the responsibility to acquire all other permissions or authorizations required by federal, state, and local laws or regulations, including any required permits from the USACE Regulatory Program under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Section 404 of the Clean Water Act (33 U.S.C. Section 1344), and/or Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413). In addition, an approval under

Section 408 does not grant any property rights or exclusive privileges nor does it authorize any injury to the property or rights of others.

EVALUATION FACTORS: The decision whether to grant the requested permission for project alteration under Section 408 will be based on several factors. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. Review of requests for alteration will be reviewed by a USACE technical review team considering the following factors:

1) Impair the Usefulness of the Project Determination. The review team will determine if the proposed alteration would limit the ability of the USACE project to function as authorized, or would compromise or change any authorized project conditions, purposes or outputs. In order for an alteration to be approved, the requester must demonstrate that the alteration does not impair the usefulness of the federally authorized project.

2) Injurious to the Public Interest Determination. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Factors that may be relevant to the public interest evaluation depend upon the type of USACE project being altered and the nature of the proposed alteration and may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation. This evaluation will consider information received from the interested parties, including tribes, agencies, and the public. The benefits that reasonably may be expected to accrue from the proposal must be compared against its reasonably foreseeable detriments. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks and by the net impact of the alteration on the public interest using the public interest factors.

3) Environmental Compliance. A decision on a Section 408 request is a federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. While USACE is responsible for ensuring environmental compliance, the requester is responsible for providing all information that the San Francisco District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and procedures. NEPA and other analysis completed to comply with other environmental statutes (e.g. Endangered Species Act) should be commensurate with the scale and potential effects of the activity that would alter the USACE project. The San Francisco District will work with the requester to determine the requirements, which will be scaled to the likely impacts of the proposed alteration and should convey the relevant considerations and impacts in a concise and effective manner. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts

that result from activities resulting in the temporary or permanent use, occupation, or alteration of any USACE civil works project. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Section 408 permission for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Operations and Readiness Division.

PUBLIC INVOLVEMENT: The purpose of this notice is to solicit comments from the public; federal, state, and local agencies and officials; tribes; and other interested parties regarding the Coyote Creek - PG&E Tower 013/094 Replacement, 408-SPN-2024-0001, a proposed alteration to an existing federally authorized project. Comments received within 30 days of publication of this notice will be used in the evaluation of potential impacts of the proposed action on important resources and in the evaluation of whether the proposed alteration would be injurious to the public interest and/or would impair the usefulness of the authorized project. Only the specific activities that have the potential to occupy, use or alter the Coyote Creek (Marin) Left Bank will be evaluated. Please limit comments to the area of the alteration and those adjacent areas that would be directly or indirectly affected by the alteration to the Coyote Creek (Marin) Left Bank. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act.

SUBMITTING COMMENTS: Written comments, referencing Coyote Creek - PG&E Tower 013/094 Replacement, 408-SPN-2024-0001 must be submitted to the office listed below on or before March 29, 2024.

Jessica Vargas, Section 408 Coordinator
U.S. Army Corps of Engineers, San Francisco District
Operations and Readiness Division
450 Golden Gate Avenue, 4th Floor, Room 1111
San Francisco, California 94102-3404











Email: sfn.operationsdivision@usace.army.mil

ATTACHMENTS: Vicinity map, location map, and proposed project footprint in relation to federal project.

Ignacio-ALto-SausalitoTower_013/094_Enc1_NWMI.mxd ProjectAE 12/5/2023 4:38:53 PM



Legend

-  Existing Tower 013/094
 -  Temporary Wood Pole
 -  Temporary Light Duty Steel Pole
 -  Tree Trimming
 -  Existing Ignacio-Alto-Sausalito 60 kV line
 -  Temporary Ignacio-Alto-Sausalito 60 kV line
 -  Access Path
 -  Work Area
- National Wetlands Inventory Data**
-  Estuarine and Marine Wetland
 -  Riverine

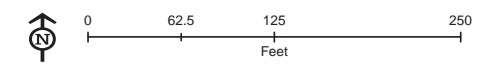


FIGURE 1
Project Features and
Waters of the United States
Ignacio-Alto-Sausalito Tower 013/094
 Marin County, CA





Photograph 1: Preconstruction Photo- Portions of the concrete footings of Tower 013/094 that extend into the mean high-water line of the channel, taken October 18, 2023, facing west.



Photograph 2: Preconstruction Photo- Footings of existing Tower 013/094 with channel to the right looking downstream, taken October 18, 2023, facing north.