



US Army Corps  
of Engineers®  
San Francisco District

Regulatory Division  
1455 Market Street, 16<sup>th</sup> Floor  
San Francisco, CA 94103-1398

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

PROJECT: Dublin Crossing

PUBLIC NOTICE NUMBER: 2012-00103S  
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COMMENTS DUE DATE: 5 November 2015

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**1. INTRODUCTION:** Dublin Crossing Venture, LLC. (POC: Tom Stoler: (925) 248-2741, 2392 Morse Avenue, Irvine, California) has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to redevelop 157 acres into a proposed Smart Growth, mixed-use community. This Department of the Army permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (CWA) of 1972, as amended (33 U.S.C. § 1344 *et seq.*).

## 2. PROPOSED PROJECT:

**Project Site Location:** The 189 acre site is located on the north side of Dublin Boulevard, northeast of Scarlett Drive, east of Dougherty Road, and west of Arnold Road, on the Camps Parks Army Base in the City of Dublin. (Latitude: 37.7098° N; Longitude: -121.8997° W). The site is located about 0.3 miles north of U.S. Highway 68. The project site is bounded on the north by 5th and 6th Streets, on the west by Scarlett Drive and Iron Horse Regional Trail, on the south by Dublin Boulevard and 4th Street, and on the east by Arnold Road (see Figure 1).

**Project Site Description:** The project area is situated in relatively flat to gently sloping ground towards the southwest. A majority of the project site is located on the previously existing southern portion of the Camp Parks Cantonment Area and thus contains developed portions (i.e. buildings, storage areas, concrete foundations, and parking lots) and some vacant but previously disturbed areas that support ruderal grassland. The ruderal grassland habitat occurs in previously disturbed areas, evident by concrete footings, asphalt, rebar, and pipes

from demolished buildings. Some of these ruderal grassland areas are mowed or diked for fuel control. Two canals, Chabot Canal and an unnamed canal, flow through the project area.

The project area is bound by residential communities to the west, south and east, and Camp Parks Reserve Forces Training Area and associated facilities to the north.

**Project Description:** The proposed project involves the redevelopment of the 157 acres of land into a proposed Smart Growth, mixed-use community with a combination of medium and high-density residential, commercial, retail, parks, open space, and a school site. Specifically, the proposed project includes: 38 acres of medium-density residential, 33 acres of medium-high density residential, 23 acres of general commercial/medium-high density residential, 12 acres of school space, 33 acres of park/open space, and 18 acres of roads (See figure 2).

Construction of the project as proposed would result in the filling of approximately 0.35 acres of jurisdictional wetlands (0.24 acres of seasonal wetlands and 0.11 acres of wetland drainage ditches) and 1,267 linear feet of other waters of the U.S. (man-made canals). Access to the project site would be from adjacent and existing roads. Staging would occur on the project site.

**Basic Project Purpose:** The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by USACE to determine whether the project is water dependent. The basic project purpose is to construct a commercial and residential development.

**Overall Project Purpose:** The overall project purpose serves as the basis for the Section 404(b)(1) alternatives analysis, and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, while allowing a reasonable range of alternatives to be analyzed. The overall project purpose is to construct a Smart Growth, mixed-used community with a combination of medium and high-density residential, commercial, retail, parks, open space, and a school site within the City of Dublin, California.

**Project Impacts:** Project impacts include the filling of approximately 0.35 acres of jurisdictional wetlands (0.24 acres of seasonal wetlands and 0.11 acres of wetland drainage ditches) and 1,267 linear feet of other waters of the U.S. (man-made canals) (See figure 2).

**Proposed Mitigation:** Avoidance and Minimization measures would be incorporated to reduce impacts to the aquatic environment during construction of the project. The applicant has proposed mitigation consisting of on-site restoration and enhancement. The applicant proposes to restore approximately 60 feet of Chabot Cannel where a concrete-bottomed box culvert exists. The culvert and rip-rap would be completely removed and the banks and substrate of the canal would be re-established and planted with native vegetation. Restoration would also include a 180-foot extension of Chabot Canal at the downstream end of the culvert under future G Street. The enhancement program would be applied to 1,435 feet of Canal 01 and 861 feet of Canal 02, for a total of 2,296 feet of enhanced channel. Enhancement activities would include: 1) Removal of parking lots, buildings, storage yards, chainlink fencing, and roads from reaches of the canal totaling approximately 1,700 feet to allow for the establishment of a 25-foot vegetated buffer; 2) Removal of concrete footings and other concrete structures and pipes along the canal. The areas would be recontoured and native vegetation would be established; 3) Removal of asphalt and concrete rip rap from along the canal. The areas would be recontoured and native vegetation would be established. This will occur along the entire avoided portion of Canal 02; 4) Removal of pollutant sources and other debris. The bed of the canal would be seeded with native plants that are typical of a seasonal swale; and 5) Planting of native riparian trees and shrubs suitable to the relatively dry hydrology of the canal (generally the canal only has flows during and immediately following storm events). Riparian vegetation would include a variety of

species such as California Rose (*Rosa californica*), Valley oak (*Quercus lobata*), and Western Redbud (*Cercis occidentalis*).

**Project Alternatives:** As the lead federal agency, USACE will be evaluating an alternatives analysis in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347) and to ensure compliance with the Section 404(b)(1) Guidelines (40 C.F.R. Part 230).

### 3. STATE AND LOCAL APPROVALS:

**Water Quality Certification:** State water quality certification or a waiver is a prerequisite for the issuance of a Department of the Army Permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to Section 401 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1341 *et seq.*). The applicant has submitted an application to the California Regional Water Quality Control Board (RWQCB) to obtain water quality certification for the project. No Department of the Army Permit will be issued until the applicant obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed, if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act.

Water quality issues should be directed to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612, by the close of the comment period.

**Coastal Zone Management:** Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c) *et seq.*), requires a Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Determination that indicates the activity conforms with the State's coastal zone management program. Generally, no federal license or permit will be granted until the appropriate State agency has issued a Consistency Determination or has waived its right to do so. The project does not occur in the coastal zone, and a *preliminary* review by USACE indicates the project would not likely affect coastal zone resources. This presumption

of effect, however, remains subject to a final determination by the California Coastal Commission.

Coastal zone management issues should be directed to the Executive Director, San Francisco Bay Conservation and Development Commission, 50 California Street, Suite 2600, San Francisco, California 94111, by the close of the comment period

#### 4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

**National Environmental Policy Act (NEPA):** Upon review of the Department of the Army permit application and other supporting documentation, USACE has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of NEPA. At the conclusion of the public comment period, USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347), the Council on Environmental Quality's Regulations at 40 C.F.R. Parts 1500-1508, and USACE Regulations at 33 C.F.R. Part 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of USACE and other non-regulated activities USACE determines to be within its purview of Federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Department of the Army Permit for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Regulatory Division.

**Endangered Species Act (ESA):** Section 7(a)(2) of the ESA of 1973, as amended (16 U.S.C. § 1531 *et seq.*), requires Federal agencies to consult with either the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to insure actions authorized, funded, or undertaken by the agency are not likely to jeopardize the continued existence of any Federally-listed species or result in the adverse modification of designated critical habitat. As the Federal lead agency for this project, USACE has conducted a review of the California Natural Diversity Data Base, digital maps prepared by USFWS and NMFS depicting critical habitat, a biological assessment dated February 12,

2015, and prepared by Cardno on behalf of the applicant, and other pertinent information, to determine the presence or absence of such species and critical habitat in the project area.

Based on this review, USACE has made a *preliminary* determination that the following federally-listed species may be present at the project location or in its vicinity, but that project implementation will have no effect on these species: vernal pool fairy shrimp (*Branchinecta longiantenna*), California red-legged frog (*Rana draytonii*), California tiger salamander (*Ambystoma californiense*), and San Joaquin kit fox (*Vulpes macrotis mutica*).

To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

**Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA):** Section 305(b)(2) of the MSFCMA of 1966, as amended (16 U.S.C. § 1801 *et seq.*), requires Federal agencies to consult with the NMFS on all proposed actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. EFH is designated only for those species managed under a Federal Fisheries Management Plan (FMP), such as the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, and the *Pacific Coast Salmon FMP*. As the Federal lead agency for this project, NMFS will be responsible for determining the presence or absence of EFH, and the need to conduct consultation. To complete the administrative record and the decision on whether to issue a Department of the Army RGP, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process. Any required consultation must be concluded prior to the issuance of a Department of the Army RGP, or other permit, for the proposed projects.

**Marine Protection, Research, and Sanctuaries Act (MPRSA):** Section 302 of the MPRS of 1972, as amended (16 U.S.C. § 1432 *et seq.*), authorizes the Secretary of Commerce, in part, to designate areas of ocean waters, such as the Cordell Bank, Gulf of the

Farallones, and Monterey Bay, as National Marine Sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the Act. No Department of the Army Permit will be issued until the applicant obtains the required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project would not likely affect sanctuary resources. This presumption of effect, however, remains subject to a final determination by the Secretary of Commerce, or his designee.

**National Historic Preservation Act (NHPA):** Section 106 of the NHPA of 1966, as amended (16 U.S.C. § 470 *et seq.*), requires Federal agencies to consult with the appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places*. Section 106 of the Act further requires Federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance. As the Federal lead agency for this undertaking, USACE has conducted a review of latest published version of the *National Register of Historic Places*, survey information on file with various city and county municipalities, and other information provided by the applicant, to determine the presence or absence of historic and archaeological resources within the permit area. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, and Native American Nations or other tribal governments. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until USACE concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

**5. PUBLIC INTEREST EVALUTION:** The decision on whether to issue a Department of the Army Permit will

be based on an evaluation of the probable impacts, including cumulative impacts, of the project and its intended use on the public interest. Evaluation of the probable impacts requires a careful weighing of the public interest factors relevant in each particular case. The benefits that may accrue from the project must be balanced against any reasonably foreseeable detriments of project implementation. The decision on permit issuance will, therefore, reflect the national concern for both protection and utilization of important resources. Public interest factors which may be relevant to the decision process include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

**6. CONSIDERATION OF COMMENTS:** USACE is soliciting comments from the public; Federal, State and local agencies and officials; Native American Nations or other tribal governments; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by USACE will be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army Permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental or public interest factors addressed in a final environmental assessment or environmental impact statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the project.

**7. SUBMITTING COMMENTS:** During the specified comment period, interested parties may submit written comments to Holly Costa, San Francisco District, Regulatory Division, 1455 Market Street, 16<sup>th</sup> Floor, San Francisco, California 94103-13978; comment letters should cite the project name, applicant name, and public notice number to facilitate review by the Regulatory Permit Manager. Comments may include a request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. Additional project information or details on any subsequent project modifications of a minor nature may be

obtained from the applicant and/or agent, or by contacting the Regulatory Permit Manager by telephone or e-mail cited in the public notice letterhead. An electronic version of this public notice may be viewed under the *Public Notices* page on the USACE San Francisco District website:

<http://www.spn.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>.