



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

PUBLIC NOTICE

PROJECT: Concord Naval Weapons Station Redevelopment

PUBLIC NOTICE NUMBER: 2010-00190S

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COMMENTS DUE DATE: July 14, 2016

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1. **INTRODUCTION:** The City of Concord, through its agent, HT Harvey & Associates (POC: Steve Rottenborn, 408-458-3205), 983 University Ave, Bldg D, Los Gatos, CA 95032, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to discharge fill material into jurisdictional waters of the United States associated with the proposed redevelopment of portions of the former Concord Naval Weapons Station (CNWS). This Department of the Army permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*)

2. PROPOSED PROJECT:

Project Site Location: The proposed project encompasses the Inland Area of the former CNWS, primarily south of State Highway 4 along the eastern edge of the City of Concord, Contra Costa County, California (Figure 1).

Project Site Description: The CNWS was once the U.S. Navy's primary ammunition depot on the Pacific Coast. In 2005 the CNWS was placed on the closure list in accordance with the Defense Base Closure and Realignment Act of 1990, as amended (BRAC). Approximately 7,000 acres of the former CNWS between State Highway 4 and Suisun Bay was transferred to the U.S. Army. The remaining approximately 5,038 acres, known as the Inland Area, were determined surplus to the needs of the federal government and designated as the Reuse Area, to be conveyed to the City of Concord and other public agencies in accordance with the BRAC reuse and disposal process.

The Reuse Area is bound by the crest of Los Medanos Hills along the northeast boundary and existing suburban development along the southwest boundary, and extends roughly between State Highway 4 on the north and Kirker Pass Road on the south. The area consists mostly of grazed, non-native grasslands south of Highway 4 interspersed with developed areas including storage bunkers, railroad tracks, and roads. Additional developed areas including the Diablo Creek Golf Course and a complex of administrative buildings are located immediately north of Highway 4. The area is bisected by Mt. Diablo Creek, which flows from southeast to northwest toward Suisun Bay. There are a total of 36.50 acres of jurisdictional waters within the Reuse Area, including 23.67 acres of wetlands and 12.83 acres of other waters. Jurisdictional features include Mt. Diablo Creek, Holbrook Channel, Willow Pass Creek, freshwater marsh features (located at pond sites primarily in the Los Medanos Hills, and at the old airfield), seasonal wetlands (located primarily at the airfield and adjacent to Willow Pass Creek), and numerous drainage features (primarily ephemeral drainages located in the Los Medanos Hills that discharge to Mt. Diablo Creek) (Figure 2). The Contra Costa Canal and Clayton Canal also transect the Reuse Area, but will remain under separate ownership and will not be a part of the Navy land transfer or the proposed redevelopment.

The Reuse Area will be comprised of three distinct parcels: (1) An Economic Development Conveyance (EDC) to the City consisting of approximately 2458 acres (the "City Property"); (2) A Public Benefit Conveyance (PBC) to the East Bay Regional Park District (EBRPD) through the National Park Service consisting of approximately 2500 acres (the "EBRPD PBC"); and (3) A PBC to the Contra Costa County Sheriff's Department and the Contra Costa County Fire Protection District through

the U.S. Department of Justice consisting of approximately 80 acres (the “County PBC”). The City Property consists of the area southwest of Mt. Diablo Creek, as well as the area south of Highway 4 and west of Willow Pass Road. The EBRPD PBC is east of Willow Pass Road and northeast of Mt. Diablo Creek. The County PBC is north of Highway 4 and east of the Diablo Creek golf course.

Project Description: In accordance with the Concord Reuse Project (CRP) Area Plan, the City of Concord is proposing to develop a transit-oriented community to accommodate 12,272 residential units and 6.2 million square feet of commercial and retail uses, a four-year university campus, first responder training facility, and over 3500 acres of recreation, open space, and conservation areas (Figure 3). Development of the City Property, restoration of the Mt. Diablo Creek corridor and the restoration/creation of wetlands elsewhere on the City Property, development of the first responder training and command center on the County PBC, creation of a regional park on the EBRPD PBC, and endangered species enhancements within the regional park will be phased over 35 years.

Development of the City Property will focus the highest-intensity uses on the site around the North Concord/Martinez BART Station and within the cores of three villages along the western edge of the site, between Mt. Diablo Creek and the western site boundary, south of Willow Pass Road. The planned central neighborhood, three village centers, and associated village neighborhoods will include a combined 990 acres and 9300 housing units. Within a half-mile of the North Concord/Martinez BART Station, a Transit-oriented Development (TOD) land use category, including approximately 145 acres and 2900 housing units, will allow for a mix of uses including residential, office, retail, community facilities, and parks and recreation. Approximately 25 percent of the housing units will be in multi-unit buildings, 40 percent will be in attached single-unit buildings, 25 percent will be in mixed attached and detached single unit buildings, and 10 percent will be detached single units. Twenty five percent of all housing units, both rental and ownership, will be designated as affordable housing for lower income families, veterans, teachers and first responders. Site development will also include two areas of commercial/retail flex uses covering 210 acres, that will allow varying proportions of light industrial, retail, and office uses.

Development of a roadway network will include limited crossings of Mt. Diablo Creek and limited roadway access into existing neighborhoods to the west of the site. The City will remove 14 existing Mt. Diablo Creek crossings and construct seven new road crossings: one parallel to Highway 4 on the north side of the highway, one just below the Highway 4 overpass, three between Highway 4 and Willow Pass Road, one just upstream from Willow Pass Road, and one connecting the southeastern portion of the development area to Bailey Road (Figure 4). In addition, two pedestrian bridges are proposed between Willow Pass and Bailey Roads. Each of the new crossings will be a clear-span bridge that avoids placing fill within the creek channel and minimizes floodplain impacts. As a result, there will be fewer Mt. Diablo Creek crossings than currently exist, resulting in a net reduction of bridges and culverts along the creek.

Proposed community facilities will include police, fire, and emergency response; libraries; schools, colleges/universities, and technical schools; community and cultural centers, performing arts centers and other municipal functions; parks and greenways; and a 75-acre tournament sports facility located east of Willow Pass Road north of Mt. Diablo Creek. Recreation facilities will also include a 45-acre park along Olivera Road, a 100-acre park adjacent to the tournament sports facility, a trail along the western side of Mt. Diablo Creek, near the outer edge of an approximately 300-foot-wide creek buffer, and another City trail along the northeastern side of Mt. Diablo creek along an existing railroad track that will connect to the EBRPD’s regional trail within the proposed regional park. The City will continue to operate and maintain the Diablo Creek Golf Course, roughly half of which is currently owned by the City and the other half of which is currently owned by the Navy but will be conveyed to the City.

The City is proposing to establish a 190-acre Mt. Diablo Creek Riparian Corridor, and undertake various conservation projects along Mt. Diablo Creek, Willow Pass Creek, and throughout the Reuse Area. Portions of the Mt. Diablo Creek Riparian Corridor south of Highway 4 will be modified to stabilize eroding creek banks and facilitate flood conveyance. Approximately 20 buried grade control structures composed of boulders will be installed, and 14 existing bridges and culverts will be removed, and the channel will be restored following construction. Existing wetlands near the old airfield may be the focus of wetland enhancement activities or the creation of new wetland areas (Figure 5). To improve breeding habitat for California red-legged frogs and

California tiger salamanders, the City will enhance existing ponds and create new ponds within the EBRPD PBC (Figure 6).

The 2500-acre EBRPD PBC will be enhanced for conservation and passive recreation as part of the proposed Concord Hills Regional Park, to be owned and managed by the EBRPD. The proposed Regional Park will accommodate conservation, passive recreational and educational facilities and associated visitor-serving amenities, and a visitor's center. The initial phase of regional park implementation will begin in 2017 and will occur in the area south of Bailey Road, focusing on development of staging areas for park visitors and conversion of existing roads and rail lines into a passive recreational trail system. Subsequent phases will include the development of the visitor's center area and development of the linear trail between Bailey Road and Willow Pass Road. The park will include three use zones: a 280-acre Conservation Zone 1 designated for Resource Protection and Enhancement with no park uses; a 2306-acre Conservation Zone 2 designated for Resource Protection and Enhancement with limited park uses (consisting primarily of passive recreational trails); and a 40-acre Park Use Zone Overlay to accommodate day-use picnicking, group camping, backpacking, educational uses, a visitor's and interpretation center conveying the history of the Port Chicago Naval Magazine National Memorial and the natural and cultural history of the property, and EBRPD operations and public safety facilities.

The 80-acre County PBC area north of Highway 4 will be conveyed to the Contra Costa County Sheriff's Department and the Contra Costa County Fire Protection District through the DOJ. This already developed site will be redeveloped as a first responder training and emergency command facility.

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 residential and commercial 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 residential and commercial development of the Inland Area of the former Concord NWS.

Project Impacts: Actions planned by the City under the CRP Area Plan would result in fill impacts to 4.50 acres of wetlands and 2.43 acres of other waters within the 5,038-acre Reuse Area (Figure 3). Proposed development of the City Property would require filling and the permanent loss of 4.23 acres of wetlands and 1.42 acres of other waters. The restoration of Mt. Diablo Creek and conservation enhancements for endangered species would result in fill impacts to an additional 0.27 acres of wetlands and 1.01 acres of other waters, with no net loss of these areas. Development of the proposed Regional Park or the County PBC are not anticipated to result in fill impacts to waters of the U.S.

Most of the City's development-related fill of waters and wetlands would occur around former munitions bunkers within the proposed BART Station TOD, and in connection with commercial development east of Mt. Diablo Creek in the area around Willow Pass Creek. This commercial development would result in filling 1.42 acres of Willow Pass Creek and 2.01 acres of adjacent wetlands. The remaining 2.22 acres of development-related wetland fill would occur across the western end of the development area between the BART station, the old airfield, and Mt. Diablo Creek.

Prior to project-related fill impacts, the U.S. Navy is conducting cleanup of contaminated soil under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), which will result in permanently filling approximately 0.94 acre of wetlands and 0.33 acres of other waters (Figure 3). Fill impacts from CERCLA cleanup activities are not subject to Clean Water Act Section 404 jurisdiction.

Proposed Mitigation: City development activities would avoid the largest jurisdictional wetlands (two seasonal wetland features totaling approximately 7.9 acres near the old airfield, shown on Figure 5) and the majority of the Holbrook Drainage Channel (0.94 acre), which is a vegetated ditch that flows along the north side of Willow Pass Road and behind existing residences on San Vicente Drive. In addition, fill impacts to Mt. Diablo Creek would be minimized by using clear-span bridges for the 9 planned new vehicle or pedestrian crossings. Unavoidable impacts from development resulting in the loss of 4.23 acres of wetlands and 1.42 acres of other waters would be mitigated through the creation of new wetland areas. A

total of 0.59 acre of new wetland area would be created in association with expansion and enhancement of existing salamander breeding ponds. In addition, the City is proposing creation of up to 10 acres of new wetland area downstream of a spring near the old airfield (Figure 5). A final mitigation plan would need to be submitted to and approved by USACE prior to the issuance of a Department of the Army Permit for the project.

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 is hereby notified that, unless USACE is provided documentation indicating a complete application for water quality certification has been submitted to the California Regional Water Quality Control Board (RWQCB) within 30 days of this Public Notice date, the District Engineer may consider the Department of the Army permit application to be withdrawn. 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 non-Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Certification 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 Certification 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 San Francisco Bay Conservation and Development 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.

Other Local Approvals: The applicant will be applying for a Lake and Streambed Alteration Agreement and an Incidental Take Permit from the California Department of Fish and Wildlife.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act (NEPA): As lead federal agency for NEPA review of the project, the U.S. Navy is preparing an Environmental Impact Statement (EIS) 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 the Navy's NEPA implementing procedures. USACE is a cooperating agency for preparation of the EIS. For additional information about this EIS, visit the Navy BRAC PMO website (<http://www.bracpmo.navy.mil/>). Information from the final EIS will be incorporated into the USACE decision document 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 the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS) to ensure 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. USACE has conducted a review of the California Natural Diversity Data Base, digital maps prepared by USFWS and NMFS depicting critical habitat, and other information provided by the applicant, to determine the presence or absence of such species and critical habitat in the project area. Based on this review, USACE has determined that the project site is not within any listed species critical habitat, but that

the following federally listed species are likely to occur on the project site:

- California tiger salamander (*Ambystoma californiense*)
- California red-legged frog (*Rana aurora draytonii*)
- Alameda whipsnake (*Masticophis lateralis euryxanthus*)

To address project related impacts to these species, the Navy and USACE have initiated formal consultation with USFWS, pursuant to Section 7(a) of the ESA. 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, USACE has conducted a review of digital maps prepared by NMFS depicting EFH to determine the presence or absence of EFH in the project area. Based on this review, USACE has made a *preliminary* determination that EFH is not present at the project location or in its vicinity, and that consultation will not be required. 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 NMFS.

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 any 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 NHPA 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 NHPA compliance, the Navy has determined that historic or archaeological resources are present in the project area, and that such resources may be adversely affected by the project. To address project related impacts to historic or archaeological resources, the Navy has initiated consultation with the State Historic Preservation Officer, pursuant to Section 106 of the NHPA. 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 Navy concerning the NHPA consultation process. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project. 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 to take into account any project related impacts to those resources.

5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the project is not dependent on location in or proximity to waters of the United States to achieve the basic project purpose. This conclusion raises the (rebuttable) presumption of the availability of a less

environmentally damaging practicable alternative to the project that does not require the discharge of dredged or fill material into special aquatic sites. The applicant has been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines.

6. 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.

7. 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.

8. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to Greg Brown, San Francisco District, Regulatory Division, 1455 Market Street, 16th Floor, San Francisco, California 94103-1398; 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* tab on the USACE website: <http://www.spn.usace.army.mil/Missions/Regulatory>.