



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: Glen Loma Ranch West Development

PUBLIC NOTICE NUMBER: 2012-00300S
PUBLIC NOTICE DATE: September 23, 2016
COMMENTS DUE DATE: October 23, 2016

PERMIT MANAGER: Naomi Schowalter

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1. **INTRODUCTION:** Glen Loma Corporation (POC: Augie Dent, 831-970-0318, 7888 Wren Avenue, Suite D143, Gilroy, California 95020), through its agent, Zander Associates (POC: Michael Zander, 415-897-8781, 1563 Solano Avenue, #255, Berkeley, California 94707), 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 construction of a residential subdivision located in the City of Gilroy, Santa Clara County, California. 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 Glen Loma Ranch West property is bordered by Santa Teresa Boulevard to the west and south, Miller Avenue to the east, and the Debell Uvas Creek Preserve to the north, in the City of Gilroy, Santa Clara County, California (Figure 1, Vicinity Map). The project site encompasses approximately 213 acres of undeveloped lands within the south-central portion of Gilroy. The approximate center point of the site is located at Latitude 36.993461° N, Longitude -121.595281° W.

Project Site Description: Glen Loma Ranch West is directly south of Uvas Creek, a tributary to the Pajaro River and Monterey Bay. The property is divided by an east-west trending bluff, creating a lower terrace parallel to Uvas Creek to the north and higher terrace to the south.

Historically, the area was used for agriculture, with row crops planted in the lower terrace and forage crops planted in the upper terrace. In recent years, Ascension

Solorsano Middle School was built on the lower terrace, just outside of the project area. The upper terrace is presently comprised of flat to rolling hayfields divided by several north-south trending drainages that converge and flow northeasterly toward Christmas Hill Park and Uvas Creek.

Other portions of the property consist of oak woodlands and serpentine grassland. Mixed oak woodland species along with commercial fruit and olive trees are found on the slope of the bluff down to Christmas Hill Park. Oak woodland species also occur with typical riparian vegetation along the more prominent drainages through the site. There is a prominent serpentine hill toward the southern boundary of the site along Santa Teresa Boulevard.

Eight ephemeral drainages and two wetlands were mapped within the project area. Of the eight drainages identified, six are tributaries to Uvas Creek and two are non-jurisdictional. The six jurisdictional drainages are unevenly distributed across the property, one occurring to the northwest and five occurring to the southeast. The drainage to the northwest is a channelized reach of McCutchin Creek that flows north through the central portion of the lower terrace, connecting to Uvas Creek through a culvert. The drainages to the southeast include a named blue-line stream, Reservoir Canyon Creek, and its tributaries. Reservoir Canyon Creek has a well-developed riparian corridor that parallels Miller Avenue to the east. The wetlands occur along the northern base of the serpentine hill.

Project Description: As shown in Figures 2 and 3, the applicant proposes to construct 11 residential neighborhoods with 908 residential units; a circulation

system (streets, trails); natural open space, fuel transition zones, and open space buffers; and a city park area. Most natural drainages on the site will be preserved with flows allowed to follow their natural course unobstructed. Stormwater runoff from developed areas will be pretreated before entering natural channels.

Three jurisdictional waters, all of which are channelized drainages that carried stormwater away from the cultivated fields on the former ranch, will be affected by the project. Approximately 1,076 linear feet of the channelized reach of McCutchin Creek will be reconfigured to allow for construction of infrastructure and lots for the Palomino Neighborhood and a future city park; about 221 linear feet of a former agricultural drainage will be filled to allow for construction of road crossings connecting the Canyon Creek and Malvasia Neighborhoods; and about 501 linear feet of an artificial drainage ditch that currently directs road runoff from Santa Teresa Boulevard into Reservoir Canyon Creek will be filled to allow for construction of a stormwater treatment basin and infrastructure and lots for the Rock Knoll Neighborhood.

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 residential neighborhoods.

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 develop residential neighborhoods consistent with the Glen Loma Ranch Specific Plan and City of Gilroy policies for the Neighborhood District land use designation.

Project Impacts: The proposed project would result in the permanent discharge of 897 cubic yards of clean soil fill within 1,798 linear feet of ephemeral drainages (0.21 acre).

Proposed Mitigation: Project design avoids most of the natural drainages in the project area and includes them in a designated natural open space. A road crossing over the most prominent, named blue-line stream (Reservoir Canyon Creek) would span the creek in an area of little

riparian cover; no fill in waters of the United States would be necessary and vegetation removal in that area will be limited. Only three road crossings of the former agricultural drainage would be necessary; the remainder of that drainage would be preserved and enhanced. To compensate for unavoidable impacts to jurisdictional drainages, the channelized reach of McCutchin Creek would be realigned, lengthened, and restored as a functional riparian corridor. The realigned channel would be extended in a northwesterly direction along Santa Teresa Boulevard for 2,135 linear feet before connecting to an existing 60-inch stormdrain outfall in Uvas Creek.

Project Alternatives: The applicant has not yet submitted an alternative analysis. The Corps will conduct an independent review of the project alternatives prior to reaching a final permit decision.

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, Central Coast Region, 895 Aerovista Place, Suite 101, San Luis Obispo, California 93401, by the close of the comment period.

Coastal Zone Management: 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.

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 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. 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, 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 made a preliminary determination that the following Federally-listed species are present at the project location or in its vicinity, and may be affected by project implementation.

The reach of Uvas Creek immediately north of the project area contains Federally-listed threatened South Central California Coast Steelhead (*Oncorhynchus mykiss*) and has been designated as critical habitat for this species. The project could potentially indirectly affect steelhead within Uvas Creek by altering the quality and quantity of water reaching the creek channel. Additionally, the increase in the human population surrounding the creek would likely result in an increase in human disturbances.

The Federally-threatened California tiger salamander (*Ambystoma californiense*) has been documented approximately 2,000 feet southeast of the project area, though no critical habitat is present. The proposed action may directly affect this species through injury or mortality of any individuals present within the project area during construction. Indirect effects to California tiger salamander may result from the loss of dispersal and foraging habitat and from the increase in human concentration and activity in the vicinity of suitable habitat.

To address project related impacts to these species, USACE will initiate formal consultation with USFWS, pursuant to Section 7(a) of the Act. 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 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 will conduct 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. Based on this review, USACE will determine the likelihood for historic or archaeological resources to be present in the permit area and whether the project would affect these resources. 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. To address project related impacts to historic or archaeological resources, USACE will initiate consultation with the State Historic

Preservation Officer or the Tribal Historic Preservation Officer, pursuant to Section 106 of the Act. 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 or the Tribal 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 Naomi Schowalter, 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>.