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US Army Corps of Engineers ®
San Francisco District

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

PROJECT: Arcata Rails to Trails – Phase 2

PUBLIC NOTICE NUMBER: 2014-00392N
PUBLIC NOTICE DATE: October 25 2016
COMMENTS DUE DATE: November 9 2016

PERMIT MANAGER: L. Kasey Sirkin TELEPHONE: 707-443-0855 E-MAIL: l.k.sirkin@usace.army.mil

1. **INTRODUCTION**: The City of Arcata (POC: Julie Neander, 707-825-2102), 736 F Street, Arcata, CA 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 3 miles of Class 1 multi-use trail, including the construction of 5 bridge crossings, that would follow the Humboldt Bay coastline along the Arcata waterfront. 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*. Given that the project is the second phase of a larger project, is not contentious in nature, and the Corps does not anticipate substantive comments that would change the project, the comment period is limited to 15-days.

2. **PROPOSED PROJECT**:

Project Site Location: The project is located in Arcata, Humboldt County, California. It begins just south of State Route 255 (Samoa Boulevard) and runs through the Arcata Marsh and Wildlife Sanctuary (AMWS); south along the North Coast Railroad Authority Right of Way (ROW), paralleling State Route 101; terminating just to the north of Brainard's Slough, north of Eureka (Enclosure 1). The project assessor parcel numbers include: 501-091-006;021-191-002;021-191-003;503-251-002;503-251-008;503-232-013;503-251-003;503-241-001;503-241-005;503-251-012;503-241-011;503-241-016;503-241-012;503-241-010;503-251-009;503-241-014;503-241-013;503-211-004;501-043-001;501-043-004;501-043-005;501-061-001;501-061-002;506-291-014;501-011-004.

Project Site Description: The project area includes developed and undeveloped lands in the City of Arcata, and Humboldt County, and along Humboldt Bay spanning Jolly Giant Creek, Butcher's Slough, Gannon Slough, Jacoby Creek, and Old Jacoby Creek (Enclosure 2).

Project Description: As shown in the attached drawings, the applicant proposes to construct 3 miles of Class 1 multi use trail (Enclosure 3). The trail would extend a recently completed trail segment that currently follows the NCRA railroad ROW generally southwest through Arcata from near the skate park and Sunset Avenue, at the northern end of town, to just north of SR 255. The proposed trail extension would continue from south of SR 255, adjacent to the existing rail corridor and trails south through AMWS to Butcher Slough, near the Arcata wastewater treatment plant (WWTP), where it would connect with the railroad ROW again. The proposed trail would then follow the railroad ROW south along the eastern shore of Humboldt Bay, with Humboldt Bay National Wildlife Refuge (HBNWR) directly to the west and SR 101 immediately to the east. The proposed trail extension would end just north of Brainard's Slough (Enclosure 4).

The trail would have a two-inch-thick hot mix asphalt surface and be 10 feet wide, on average, with 2-foot unpaved shoulders along each side. The total area of asphalt placed would be approximately 135,000 square feet with an estimated volume of 23,000 cubic feet for the entire trail. All new bridges would be 10 feet wide, with a minimum 4–foot-high pedestrian guard rails. Cutting and filling would be necessary in many areas to obtain an appropriate grade for the trail. This would require an estimated 3,510 cubic yards cut and 10,440 cubic yards fill. Some areas defined as wetlands would be impacted by filling, namely the drainage basin bridge area on the north end of AMWS, the drainage ditches along SR 101, and at the bridge crossings.

Section 1 – Samoa Boulevard to the Arcata Marsh North Entrance This section of trail would follow the

railroad ROW south along the west side of the tracks to the north end of AMWS. Trail construction would consist mostly of grading and compacting the soils in the railroad ROW, adding road base aggregate to a width of about 14 feet, and applying an asphalt concrete surface to create a 10-foot-wide paved trail with 2-foot shoulders along each side. Access for construction of this section would use existing access routes along South I Street and from the north via Samoa Boulevard. Equipment and materials staging would occur in the northernmost parking lot along South I Street and on the private parcel located at the northern terminus of the trail (Enclosure 5).

Section 2 – Arcata Marsh North Entrance to Butcher Slough Crossing Here the trail leaves the railroad ROW and surrounding urban area and cross a drainage channel consisting of dense emergent wetland vegetation. This channel conveys drainage from surrounding urban and industrial land surfaces to the AMWS and is not tidally influenced. A bridge would be constructed over the drainage channel to an existing trail on an earthen dike, on the east side of the brackish marsh. This new bridge would consist of four bridge decks extending in a 93-foot-span. The bridge would be placed on concrete footings constructed at the edge of a wetland in the AMWS. Construction of the bridge approaches and footings would require the filling of approximately 250 square feet of wetland area. The trail would continue south, crossing I Street, following an existing trail along the west side of Arcata Marsh pond. From here, the trail would head southeast along an existing trail/service road to Butcher Slough (Enclosure 5).

Trail construction would consist of grading, scarifying, and compacting the existing berm trail soils and adding road base aggregate to a width of 14 feet and applying an asphalt concrete surface to create a 10-foot-wide paved trail, with 2-foot shoulders, along each side, and sloped to match the existing site drainage. In areas within the AMWS that include wetland impacts, impacts would be minimized by reducing the trail width to 8 feet. Construction access to this section of the trail would be from the existing trail entrance at the Arcata WWTP. Staging areas would be located on the north side of the bridge that is east of the brackish marsh, on the south side of I Street, across from the center of AMWS in a vacant lot, and in the parking lot at the south end of the WWTP.

During construction of the bridge over the drainage channel, it would be necessary for work to occur within the existing wetlands and avoidance and minimization measures would adhered to (Enclosure 6). This includes the placement of construction fabrics and protective pads to prevent rutting, compression of the soil, or destroying existing vegetation.

Section 3 – Butcher Slough to the Bracut Intersection The trail would then cross Butcher Slough by constructing a new bridge. After crossing Butcher Slough, the trail would reconnect to the railroad ROW just north of the Arcata WWTP. From here, the trail would follow the railroad ROW south along SR 101, with HBNWR to the west and SR 101 to the east. The trail would terminate south of the Bayside cutoff just north of Brainard Slough. This section of trail would largely be constructed on fill originally used to build the railroad grade prism. This section of the proposed trail is adjacent to tidal–dependent wetland (i.e. salt marsh) that exists on the margins of Humboldt Bay and adjacent waterways with tidal influences, such as Gannon Slough and Jacoby Creek (Enclosure 5).

Trail construction would consist of excavating, grading, scarifying, and compacting the existing railroad fill prism to match the completed trail surface to the surrounding grades and embankments, adding road base aggregate to a width of 14 feet, and applying an asphalt concrete surface to create a 10-foot-wide paved trail, with 2-foot shoulders, along each side.

Trail sections along the SR 101 corridor would encroach on existing drainage ditches considered to be palustrine or estuarine emergent wetlands. Construction access to this section of the trail would be via existing city surface streets and pull outs along SR 101. Staging of construction equipment and materials would be located along the trail alignment in several areas. Staging areas would be located on vacant land and pullouts on the west side of South G Street, in existing parking areas located at the Arcata WWTP, in grassy areas between the edge of pavement along SR 101 and the railway grade at the north and south ends of the new trail bridges (Enclosure 4).

Construction of the Humboldt Bay Trail–North would require five waterway crossings located in stream drainages and tidal sloughs (Drainage ditch, Butcher Slough, Gannon Slough, Old Jacoby Creek, Jacoby Creek), including installation of support piles in or near the stream and slough channels below an elevation of 8 feet above mean sea level. Pertinent elements and considerations of the bridge designs for the purposes of this project description are described in

the following paragraphs proceeding from north to south along the trail alignment (Enclosure 3).

Butcher Slough Crossing A new bridge is necessary because 1) retrofitting the existing bridge requires evaluation of the existing load-bearing sewer pipe; 2) the sewer pipe may require future replacement which would necessitate replacement of the entire bridge systems; 3) retrofitting the existing bridge would prohibit access during construction; and 4) the existing abutments would need to be widened, therefore making retrofitting the existing bridge impractical. Some excavation near the water's edge to install risers or new concrete cast-in-place footings is required. The proposed bridge would be constructed of a pre-manufactured, 80-foot long by 10-foot wide bridge with pedestrian guardrails and timber decking. No new piles would be required at this location (Enclosure 3).

Gannon Slough Crossing This is the longest of the five proposed pedestrian bridges, with a span of at least 180 feet. It would be located between the current railroad bridge to the west and the southbound lanes of the SR 101 Bridge. This location is adjacent to HBNWR, which is immediately to the west. Eighteen 18-to-20-inch diameter, round cast-in-place steel shell piles (CISS) to be driven using a vibrating pile driver in or near the slough channel would be needed to construct this bridge, ten (10) of which, would be required to be within the active slough channel. The pile placements would consist of four (4) sets of two (2) for the approach decks, and two (2) sets of five for the main span. Three (3) sets of two (2) would be required on the north end of the bridge and one set of two for the approach decks on the south end. The main span piles would be installed in the slough channel below an elevation of 8 feet msl during a minus tide in order to avoid installation in water (Enclosure 3). No trestles would be necessary during the auguring process of the CISS piles and the drill rig would not encroach on the mud bottom. All pile sets on the approaches would be spaced 25-feet apart, with 180-feet between the pile sets supporting the main span. The proposed bridge would be a pre-manufactured, 180-foot long by 10-feet wide, steel bridge, with a concrete or wood surface and pedestrian guardrails. A vista overlook onto Humboldt Bay and interpretive area would be connected to the trail north of the bridge and would also be constructed at this location using existing ground and would not require pile installation.

Jacoby Creek A new bridge would be built as part of the proposed action at this location, which would span approximately 80 feet. Jacoby Creek is free flowing and tidally influenced. The proposed bridge would be constructed of a pre-manufactured, 80-foot long by 10-foot wide, fiberglass bridge structure, with timber decking and pedestrian guardrails. This bridge would require four (4) 18-20-inch diameter CISS piles to be driven using a vibratory pile driver near the creek channel.

Old Jacoby Creek This location would require a new bridge with a span of approximately 80 feet. The proposed bridge would be constructed of a pre-manufactured, 80-foot long by 10-foot wide, fiberglass bridge structure, with timber decking and pedestrian guardrails. This bridge would require four 18-to-20-inch-diameter CISS piles to be driven using a vibratory pile driver near the creek channel.

Basic Project Purpose: Construction of a non-motorized, multi-use public trail.

Overall Project Purpose: The project purpose is to provide substantial nature study opportunities, further enhance non-motorized transportation/community corridor access, increase pedestrian connectivity, and increase public access to and along Arcata's waterfront on Humboldt Bay. The project is intended to encourage nature study, appreciation of the environment and historic uses of the area, increase opportunities for active living to improve public health, increase the safety of non-motorized transportation, improve public safety, and decrease transportation carbon dioxide (CO2) output.

Project Impacts: Impacts from the proposed project include a total of 1.78 acres of permanent loss of jurisdictional wetlands from the placement of fill in non-tidal wetlands and tidal wetlands. Permanent impacts would be comprised of 0.48 acres of impacts to estuarine wetlands and 1.3 acres of impacts to palustrine wetlands. In addition, approximately 0.85 acre of bridge shading impacts would occur in mudflat areas.

Additionally, there would be temporary impacts to approximately 0.93 acre of Wetland Waters of the US from staging and other construction activities.

Proposed Mitigation: In order to minimize impacts to watercourses within the project area, no falsework would be required to construct the pedestrian trail bridges. Cranes and/or excavators would be used for lifting and placing pre-manufactured bridge decks onto footings and piles, including pile placement and excavating for cast-in-place concrete footings. Equipment used during construction would be stored on site at designated staging areas. All staging area would occur outside of any watercourse banks

or channels and would be located at least 150 feet from waterways or in an isolated hard-surfaced zone, such as a parking lot. All vehicles would be steam cleaned before any operation below ordinary high water mark. The proposed staging areas are located adjacent to the proposed trail and would not require construction of any additional temporary access routes (Enclosure 6).

To mitigate for the 1.78 acres of permanent wetland impacts, the City is proposing off-site mitigation at two locations. One location ("South I Street") would be at South I Street within the Arcata Marsh Wildlife Sanctuary (AMWS), where the City is proposing to perform wetland enhancement through eradication of invasive *Spartina densiflora* (Spartina) on 9.4 acres. The second location ("Lanphere Parcel") would be at Assessor's Parcel Number 506-291-014, where the City is proposing to create 2.26 acres of palustrine wetlands (Enclosure 7).

The Lanphere parcel is located adjacent to Mad River Slough in north Humboldt Bay, and is roughly bounded by Lanphere Road on the north and west sides, and earthen levee and Mad River Slough on the east side, and the parcel boundary between the Lanphere parcel and the Ralph property on the south side. The USFWS Lanphere Dunes Unit of HBNWR flanks the project site to the west. The 2.26 acres of mitigation is proposed within the southwestern quarter of the parcel an in area that has been determined by the Corps as uplands that do not contain three wetland parameters.

Palustrine Wetland Creation The City is proposing to create palustrine wetlands that are seasonally flooded and are capable of being grazed, should an agricultural use be re-initiated on the parcel. Existing elevations in the mitigation area range from 3 to 7 feet (NAVD88). To create the desired palustrine wetlands, the mitigation area would be graded to approximately 3 feet (NAVD88). A footprint outside of the mitigation area has also been identified to be graded to achieve a stable 3:1 slope, which extends to a maximum of ten feet in some areas. Because this area is currently classified as wetland, it would not count toward project mitigation. However, the excavation in this area would enhance these existing wetlands by providing more frequent and longer winter duration inundation. The 3.5 feet (NAVD88) target elevation was chosen after review of the Humboldt Bay Area Mitigation and Lanphere Concept Design prepared by Caltrans (Caltrans, December 2015) which documents that wetland vegetation associated with wet pasture and freshwater marsh is typically found between 2-4 feet (NAVD88). Within this elevation range and the pasture habitat type, the wetland plants found on the parcel are dominated by pacific rush (*Juncus effuses* var. *pacificus),* silverweed (*Potentilla anserine)* and creeping buttercup (*Ranunculus repens).* To establish the desired wetland vegetation typical of this habitat, the first 12 inches of sod would be removed and stockpiled. The sod would be used later as topsoil and to provide an appropriate seed bank. After excavation of the wetland restoration area, the sod would be replaced; the area is expected to naturally re-vegetate with wetland vegetation from the seeds contained in the sod. Based on the vegetation characteristics and wetland mosaic of the site, desired wetland plants are expected to establish naturally.

Estuarine Salt Marsh Enhancement The South I Street location currently has medium (26-60%) to high (61-100%) vegetation density of Spartina. To effectively control Spartina, primary treatment would remove mature plants and follow-up treatments would remove resprouts and seedlings. Primary treatment would be conducted with a combination of handheld brushcutters and/or rototillers in low to moderate density infestations. These mechanical treatments involve mowing aboveground material, then disturbing the shallow subsurface (top 2-5 inches of marsh) with handheld brushcutters and mini-tillers. Large wrack generation is avoided by chopping aboveground plant material into a fine mulch. The metal blades of the brushcutter or rototiller grind the shallow rhizomes and reduce the seed bank. In a few locations, such as locations where Spartina is growing in riprap, manual removal (excavation with handheld tools such as shovels, pulaskis, and digging bars) may be used. Typically, one to two follow-up resprout treatments are needed to fully kill all established plants. Resprout treatments involve much less disturbance than initial treatments and are conducted with a handheld brushcutter. Seedling treatments are also required, because the bare areas created by Spartina removal are readily colonized by Spartina seedlings. New seedlings are treated by flaming when young, or removed using brushcutters.

Project Alternatives: According to the information in the application packet, 5 alternatives were considered before the preferred alternative was selected (Enclosure 8; pages 16 and 17).
The Corps has not endorsed the submitted alternatives analysis at this time. The Corps would 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 has recently 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 would 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, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403 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 would be granted until the appropriate State agency has issued a Consistency Certification or has waived its right to do so. Since the project occurs in the coastal zone or may affect coastal zone resources, the applicant the applicant has obtained a Coastal Development Permit from the California Coastal Commission to comply with this requirement.

Coastal zone management issues should be directed to the District Manager, California Coastal Commission, North Coast District Office, 710 E Street, Suite 200, Eureka, California 95501, by the close of the comment period.

Other Local Approvals: The applicant has obtained the following additional governmental authorizations for the project: a Lake and Streambed Alteration Agreement from the California Department of Fish and Wildlife.

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 would 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 would 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 would 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 would be on file with the San Francisco District, Regulatory Division.

Endangered Species Act (ESA): Section 7(a)(2) of the ESA or 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, 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 and designated critical habitat are present at the project location or in its vicinity, and may be affected by project implementation. The projects areas which cross the above mentioned drainages contain federally-listed Southern Oregon/Northern California Coast (SONCC) coho salmon ESU (*Oncorhynchus kisutch*) Threatened (70 Fed. Reg. 37,160; Jun. 28, 2005) Critical habitat (64 Fed. Reg.

24,049; May 5, 1999); Steelhead, Northern California (NC) ESU (*Oncorhynchus mykiss*) Threatened 71 Fed. Reg. 834, (Jan. 5, 2006) Critical habitat (70 Fed. Reg. 52488, Sep. 2, 2005); Chinook salmon California Coastal (CC) ESU (*Oncorhynchus tshawytscha*) Threatened 70 Fed. Reg. 37,160 (Jun. 28, 2005) Critical habitat 70 Fed. Reg. 52,488 (Sep. 2, 2008); North American Green Sturgeon Southern Distinct Population Segment (*Acipenser medirostris*) threatened 71 Fed. Reg. 17,757 (Apr. 7, 2006) Critical habitat 74 Fed. Reg. 52,300 (Oct. 9, 2009); and Tidewater Goby (*Eucyclogobius newberryi*) Endangered 59 Fed. Reg 5,494 (Feb. 4, 1994) Critical habitat 78 Fed. Reg. 8,746 (Feb. 6, 2013).

Impacts to these species from the proposed project include potential temporary increases in turbidity, potential harm from the installation of piles within and around the existing watercourses, and potential impacts from harm or mortality from the operation of heavy equipment in and around all watercourses where crossings would be installed.

To address project related impacts to these species and designated critical habitat, USACE would initiate consultation with USFWS and NMFS, 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 National Marine Fisheries Service (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*. Based on this review, USACE has made a *preliminary* determination that EFH is present at the project location or in its vicinity, and that the critical elements of EFH may be adversely affected by project implementation. According to the EFH maps, the project area contains EFH for Pacific Salmon. Potential adverse effects to critical elements of EFH include increases in turbidity during pile driving and construction activity, temporary loss of prey items, changes in the bottom substrate in and around the proposed piles, and changes to the velocity of waters in existing watercourses in response to the installed piles. To address project related impacts to EFH, USACE would initiate consultation with NMFS, pursuant to Section 305(5(b)(2) of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

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 would 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. Based on this review, USACE has made a *preliminary* determination that historic or archaeological resources are not likely to be present in the permit area, and that the project either has no potential to cause effects to these resources or has no effect to these resources. USACE would 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 would 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 would 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 would, 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 would 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 L. Kasey Sirkin, San Francisco District, Regulatory Division, Eureka Field Office, 601 Startare Drive, Box 14, Eureka, California 95501; 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 would 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.