



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: Colma Creek Flood Control Channel Maintenance Project

PUBLIC NOTICE NUMBER: 2016-00024S
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COMMENTS DUE DATE: March 4, 2016

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1. INTRODUCTION: The County of San Mateo, through its agent, Horizon Water and Environment (POC: Ken Schwarz, 510-986-1851, 180 Grand Avenue, Suite 1405, Oakland, California, California 94612), has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to conduct maintenance activities as necessary along approximately 5.4 miles of the Colma Creek flood control channel located in the City of South San Francisco and the Town of Colma, San Mateo 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.*), and Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*).

2. PROPOSED PROJECT:

Project Site Location: The project is located along 5.4 miles of Colma Creek. The work area is primarily in the City of South San Francisco but limited routine maintenance activities would also occur in the Town of Colma, San Mateo County, California (Section 18, Township 2S, Range 6W, and USGS Quadrangle Map CA-San Francisco South; approximate center point of the project site at Lat: 37.657° N, Lon: -122.417° W).

Project Site Description: Since the original channel was completed in 1974, several additional channel improvements have been constructed including channel widening, vertical channel wall construction, and installing transition structures between channel segments. Land uses adjacent to the project area are diverse and include light manufacturing, residential, commercial space, warehouses, airport services, vehicle services, transportation, and

cemeteries. The project area has been subdivided into three primary reaches (See Figure 2). The portion of channel between San Mateo Avenue and Produce Avenue (Reach 2c) was constructed in 1997, and the channel reaches between Spruce Avenue and San Mateo Avenue (referred to as Reaches 2a and 2b) were constructed in October 2006. In 2003, approximately 300 cubic yards of sediment was removed upstream of Produce Avenue bridge; no other sediment removal has occurred since then. A substantial amount of sediment has accumulated in the channel between 2003 and 2010. In late 2015, even more sediment has accumulated over a larger area in the channel, further reducing the flow carrying capacity of the channel and restricting outlets of local storm drains at some locations.

Project Description: The project's primary activity involves removal of localized sediment deposits along a 0.6-mile long portion of the channel (Spruce Avenue to Produce Avenue within Reach 2). Figure 2 shows the project area, and Figure 3 shows sediment depths in Reach 2. As shown in Figures 2 and 4, the project would also involve repair and replacement of approximately fourteen (14) culverts within Reach 3. Other routine maintenance activities that may occur on an as-needed basis include clearing blocked culvert outfalls; vegetation management in concrete joints on the channel banks and bed; repair of concrete/hardened channel banks and bed; installing and maintaining trash capture devices; removing debris that could accumulate and become flow obstructions; installing and repairing fences on channel banks; repairing access roads; and graffiti abatement. Sediment removal activities are anticipated to occur on a routine basis (every 3-4 years) depending upon annual hydrologic conditions. Other routine maintenance activities would occur annually, or as needed, along approximately 5.4 miles of the Colma Creek flood control channel.

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 provide adequate flood conveyance capacity in Colma Creek.

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 conduct maintenance activities as necessary along approximately 5.4 miles of the Colma Creek flood control channel to provide storm runoff drainage and flood protection for approximately 16.6 square miles of the northern San Francisco Peninsula.

Project Impacts: Approximately 400 cubic yards would be removed from a 0.6 mile long portion of the channel, Reach 2, within the overall 5.4 miles of the channel. Approximately 58 cubic yards of fill would be placed in 0.017 acre for culvert maintenance including HDPE pipe installation, bedding material, and rock slope protection.

Proposed Mitigation: Best management practices (BMPs) would be implemented to avoid impacts where possible and minimize effects to the maximum extent feasible. Such practices include establishing work windows outside of sensitive life stages for special-status species, environmental awareness training, breeding bird surveys, spill prevention and control, etc. Project maintenance activities would include implementation of countywide standard BMPs from the County of San Mateo Watershed Protection Program's *Maintenance Standards* (County of San Mateo 2004) and San Mateo Countywide Water Pollution Prevention Program (County of San Mateo 2012). These measures include minimizing the work site to the minimum area necessary; proper handling of hazardous materials; dust management; protocols for hazardous spills; and many others. These measures would be implemented pre-construction, during construction, and post-construction, as specified. Maintenance for Colma Creek would also have project-specific BMPs.

In addition, compensatory mitigation would re-establish 0.10 acres of tidal wetlands along Colma Creek in Reach 3. Mitigation would consist of re-establishment of an intertidal wetland by lowering the elevation of an upland area adjacent to existing intertidal wetlands along Colma

Creek to allow for tidal influence. Subsurface soil investigations would be undertaken to determine the suitability of the soil to support intertidal marsh. It is intended that the re-established wetland will be passively revegetated, but active revegetation may be implemented as an adaptive management measure.

Project Alternatives: The Corps has not endorsed the submitted alternatives analysis at this time. 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 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 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. Since the project occurs in the coastal zone or may affect coastal zone resources, the applicant has applied for a Consistency Determination from the San Francisco Bay

Conservation and Development Commission to comply with this requirement.

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 has the following additional governmental authorizations for the project: 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 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 and designated critical habitat are present at the project location or in its vicinity, and may potentially be affected by project implementation: Central California Coast steelhead (*Oncorhynchus mykiss*), Southern Distinct Population Segment green sturgeon (*Acipenser medirostris*), and Ridgway's rail (*Rallus obsoletus*). Potentially suitable non-reproductive habitat for green sturgeon exists in Reach 3 and individual steelhead could stray into the work area, but direct harm or measurable affect to spawning, rearing, or migration is not likely to occur. Sediment in the channel may contribute to sustaining wetland habitats downstream used by Ridgway's rail, but the magnitude of sediment removal will likely have insignificant effects to mudflat and wetland habitats downstream. To address project related impacts to these species and designated critical habitat, USACE will initiate informal 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 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 present at the project location or in its vicinity, and that the critical elements of EFH may potentially be adversely affected by project implementation. To address project related impacts to EFH, USACE will 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 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. 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. 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 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 practicable alternative to the project that would result in less adverse impact to the aquatic ecosystem, while not causing other major adverse environmental consequences. The applicant has submitted an analysis of project alternatives which is being reviewed by USACE.

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 Justin Yee, 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>.