



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: Maintenance of Public/Special District Facilities Under the Solano Habitat Conservation Plan

PUBLIC NOTICE NUMBERS: SPN-2013-00122N & SPK-2013-00091

PUBLIC NOTICE DATE: January 23, 2017

COMMENTS DUE DATE: March 13, 2017

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1. **INTRODUCTION:** The Solano County Water Agency (SCWA) (POC: Chris Lee, 707- 455-1105), 810 Vaca Valley Parkway #203, Vacaville, CA 95688, through its agent, LSA Associates, Inc. (POC: Steve Foreman, 510-236-6810), 157 Park Place, Point Richmond, CA 94801, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco and Sacramento Districts, for a Department of the Army Region General Permit (RGP) to conduct routine maintenance activities of existing public and special district facilities as authorized under the Solano Habitat Conservation Plan (Solano HCP), located within Solano and Yolo Counties, 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: Solano County is bordered by Yolo and Sacramento Counties to the east, Suisun Bay and Suisun Marsh to the South, and Napa County to the west. The Plan Area covered by this RGP is located within approximately 585,000 acres of land that comprise Solano HCP Zones 1 and 2 (Figure 1). Of this, approximately 577,000 acres occur within Solano County, while approximately 8,000 acres occur within Yolo County. The RGP Plan Area excludes the Travis Air Force Base. The RGP Plan Area contains the western half of the Lower Sacramento watershed, the northern half of the Suisun Bay watershed, and a small portion of the San Pablo Bay watershed is in eastern Solano County.

Project Site Description: Solano County is located within the southern portion of the Sacramento Valley and

is one of the nine counties that constitute the Greater San Francisco Bay Area. Solano County, has historically been and continues to be primarily agricultural due to the vast extent of flat to rolling landscapes and rich soils. More recently however, expansion of the San Francisco and Sacramento metropolitan areas has put development pressure on Solano communities. Commercial and industrial business has also grown such that the economic importance of these business within the County nearly equals that of traditional agriculture.

Project Description: Activities conducted under this RGP would allow the Cities of Dixon, Fairfield, Rio Vista, Suisun, Vacaville, and Vallejo; the Vallejo Sanitation and Flood Control District; Dixon Regional Watershed Joint Powers Authority; Fairfield-Suisun Sewer District; Solano County Water Agency – Green Valley Flood Control Project and Ulatis Flood Control Project; and the Dixon Resource Conservation District (Plan Participants) to implement projects that fall under three general categories as described below:

Bank Protection and Stabilization

These activities will consist of bank stabilization work conducted within stream channels and ditches as needed for erosion prevention, including: replacement of existing bank protection on bank slopes and repair or replacement of existing artificial channel linings. Work will include the placement of riprap and/or the use of bio-engineering techniques along channel banks and temporary structures and fills necessary to construct the bank stabilization.

Silt, Sediment and Flow Obstruction Removal

These activities will consist of sediment removal from culverts, ditches, streams, flood control channels, basins,

and reservoirs as needed to maintain proper drainage, water management and water storage functions. Work will include removal of appurtenant leaf litter, thatch, and debris, including beaver dams, to eliminate flow obstructions

Maintenance Activities

This category will consist of general maintenance activities involving existing structures or facilities, including: replacement, maintenance, or repairs of existing outfalls and intake structures, culverts, bridges, dams, undercrossings, and other appurtenant in-water facilities in order to maintain design functions and capacities. Associated work will include sediment and vegetation removal for maintaining flow capacity, construction site dewatering, and excavation and backfilling of banks as needed for repair or replacement work. Other associated work will include replacement, maintenance, or repair of utility lines owned or managed by Plan Participants, (including associated excavation, backfill, or bedding for the utility lines) provided that there will be no change in pre-construction contours and no seasonal wetlands or vernal pools will be permanently impacted.

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 maintenance of existing public/special district facilities.

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 routine maintenance of storm drains, road crossings, bridges, outfalls, intakes, flood control and water conveyance facilities operated and maintained by Participants covered by the Solano HCP.

Project Impacts: The Solano Maintenance RGP would authorize up to 35.21 acres and/or 320,800 linear feet of permanent impacts on wetlands or other waters over the 5 year term of the RGP. Impact limits are identified by activity type and Plan Participant (Tables A1 through C4). These limits are based on an historical analysis of permitted work within the RGP Plan Area, the number of facilities maintained/operated by each Plan Participant, and

anticipated maintenance tasks provided by Plan Participants.

Proposed Mitigation: Projects authorized under the Solano Maintenance RGP will be required to implement all applicable habitat restoration, preservation, and/or enhancement requirements (see mitigation attachment). A Restoration and Enhancement Plan shall be prepared for restoration and enhancement activities, as described in Section 7.3.2.1 of the Solano HCP. The performance criteria referenced in the plan shall be consistent with the applicable performance criteria contained in Section 7.4 of the Solano HCP (<http://www.scwa2.com/water-supply/habitat/solano-multispecies-habitat-conservation-plan>). The proposed mitigation Restoration and Enhancement Plan is consistent with the mitigation requirements outlined in the USACE 2008 *Compensatory Mitigation for Losses of Aquatic Resources: Final Rule* (33 CFR 332; 2008 Final Rule) and therefore, is proposed as the compensatory mitigation vehicle for impacts to waters of the United States resulting from implementation of covered activities.

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 State Water Resources Control Board (SWRCB) 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 SWRCB 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 SWRCB to act.

Water quality issues should be directed to the Executive Officer, California State Water Resources Quality Control Board (POC: Joanna Jensen, 916-341-5587, Joanna.Jensen@waterboards.ca.gov), 15th Floor, 1001 "I"

Street Sacramento, CA 95814 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 Determination that indicates the activity conforms with the State's coastal zone management program. Generally, no federal license or permit will be granted until the appropriate State agency has issued a Consistency Determination or has waived its right to do so. Applicants seeking coverage under the Solano Maintenance RGP for projects which occur in the coastal zone or may affect coastal zone resources must apply 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: By definition, applicants to the RGP would also be seeking coverage under the Endangered Species Act for impacts to Habitat Plan covered species. Take authorization would be granted through the HCP. Applicants will also be required to apply for a Section 1602 Lake or Streambed alteration agreement for projects that propose to modify streams through 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.

USACE will consult with USFWS and NMFS to ensure the issuance of the RGP will not conflict with the ESA. As the RGP is based on the Habitat Plan, concurrence is expected. The following twenty-four Federally threatened or endangered birds, mammals, amphibians, reptiles, invertebrates, plants, and fish are covered by the Habitat Plan: Suisun Thistle (*Cirsium hydrophilum var. hydrophilum*), Soft Bird's-beak (*Cordylanthus mollis ssp. mollis*), Contra Costa Goldfields (*Lasthenia conjugens*), Colusa grass (*Neostapfia colusana*), San Joaquin Valley Orcutt Grass (*Orcuttia inaequalis*), Solano Grass (*Tuctoria mucronata*), Ridgway's Rail (*Rallus obsoletus obsoletus*), California tiger salamander (*Ambystoma californiense*), California Red-Legged Frog (*Rana draytonii*), Giant Garter Snake (*Thamnophis gigas*), Salt Marsh Harvest Mouse (*Reithrodontomys raviventris*), Delta Green Ground Beetle (*Elaphrus viridis*), Valley Elderberry Longhorn Beetle (*Desmocerus californicus dimorphus*), Callippe Silverspot Butterfly (*Speyeria callippe callippe*), Delta Smelt (*Hypomesus transpacificus*), Sacramento River winter-run Chinook salmon ESU (*Oncorhynchus tshawytscha*), Central Valley spring-run Chinook salmon ESU (*O. tshawytscha*), Central California Coast steelhead DPS (*O. mykiss*), Central Valley steelhead DPS (*O. mykiss*), North American green sturgeon southern DPS (*Acipenser medirostris*).

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 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 MPRSA 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. The Corps will determine if the activities proposed for authorization under this RGP would affect cultural resources listed in or eligible for listing in the National Register of Historic Places and will initiate consultation with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act, as appropriate.

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 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 William Connor, 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>.