



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division, Eureka Field Office
601 Startare Drive, Box 14
Eureka, CA 95501

PUBLIC NOTICE

PROJECT: McClean Community Center

PUBLIC NOTICE NUMBER: 2017-00163N

PUBLIC NOTICE DATE: June 6, 2017

COMMENTS DUE DATE: July 6, 2017

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1. **INTRODUCTION:** The McClean Foundation (POC: Dennis Scott, 707-725-1722), 1336 Main Street, Fortuna, CA 95540, through its agent, Greenway Partners (POC: Kirk Cohune, 707-822-0597), 1385 8th Street, Arcata, CA 95521, 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 community center. 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 project site is located within the Fortuna 7.5 minute USGS quadrangle (1975) on portions of Section 1, Township 2N, Range 1W and Section 36, Township 3N, Range 1W, Humboldt Meridian, California. The project site is located outside of the Coastal Zone and within the Strongs Creek Watershed. Strongs Creek borders the east side of the site for a distance of 0.5 miles. The proposed entrance to the site will be located on Newburg Road, across Elizabeth Barus Way. The site's APNs are 200-411-018, 200-411-015 and 202-051-008 (Figure 1).

Project Site Description: The Eel River Valley is located in Humboldt County in rural Northern California. It includes the Cities of Fortuna and Ferndale and a few other small, unincorporated communities. The Valley is characterized by forested meadows on uplands north, south and east of town, rolling valleys and lush riparian areas scattered throughout, and steep gradient creeks merging into floodplains along the Eel River to the west. The Eel River and Highway 101 traverse the western edge of the City. To the west of Fortuna is agricultural land and to the

east is forest-land owned and managed by Humboldt Redwood Company and the Bureau of Land Management.

The 36.87 acre undeveloped site consists of three parcels. The site is bordered by Newburg Road to the northwest, Rohnerville Road to the south, and Newburg Park to the southwest. To the north of Newburg Road are Residential Estates and a cemetery. Residential Single Family zoning is located south and east of this project site. Currently the site is used for cattle grazing and has a small variety of low-lying vegetation. Along the eastern edge of this site is Strongs Creek. On the other side of Strongs Creek is additional grazing for cattle. Residential, industrial and commercial development has occurred in condensed clusters along the downstream portion of Strongs Creek until its confluence with the Eel River.

Approximately, 4.06 acres of jurisdictional wetlands and 2,590 linear feet of jurisdictional other waters were delineated within the study area boundaries (Figure 2). Four distinct wetland features were identified on the site.

Project Description: As shown in the attached drawings, the applicant proposes to develop a 22,000 square foot (SF) Community Center, a 25,000 SF health and fitness building, a 30,000 SF pool or gym, and three 5,000-7,000 SF buildings for various community needs. The developed footprint of the site is approximately 6 acres in size, which is focused almost exclusively on the northwestern portion of Parcel A along Newburg Road (Figure 3). Other site amenities include a parking lot, storm water detention and treatment areas, a 1+ mile trail system, a 0.5 acre community garden, 5+ acres of riparian restoration, soccer fields, playgrounds and other outdoor gathering space.

On site improvements would include site grading and a parking lot with over 260 parking spaces, approximately 6,300 linear feet of new gravel walking trails, new LED streetlights, fire hydrants and Fire Department Connections, a paved loop road servicing the entire developed portion of the property, plus service upgrades for gas, electrical, sewer and water. A large landscaping strip would be located between Newburg Road and the parking lot to create a natural viewshed for neighbors and travelers. Stormwater runoff would be controlled through a system of stormwater detention basins, landscaping swales and pervious paving material. Water filtered and treated through this system would be diverted into the wetland mitigation areas, which would cover approximately 5.5 acres. Low impact development (LID) practices would be incorporated into this project and the City of Fortuna Storm Drain Master Plan was referenced during project planning of the storm water management system.

Off-site improvements necessary for development of this project are focused solely between the entrance to Newburg Park and to the future entrance of the McLean Community Center, which is directly across from the intersection of Elizabeth Barcus Way. Within this approximately 700-foot distance, the project would require upgrades to Newburg Road and associated infrastructure for drainage, bicycle/pedestrian safety and to ensure access for the Humboldt Transit Authority bus, which may access the Center as part of a future route. The upgrades for pedestrian and bicycle safety may result in an encroachment into Newburg Park, where a new trail can be constructed along the property boundary and along the frontage of Newburg Road. This would minimize impacts to existing City drainage infrastructure, and would fit the project within the existing road right of way. This alignment would also provide more roadway separation between bicyclists and pedestrians and motorized vehicles. A new intersection would be created at Newburg Road and Elizabeth Barcus Way that would consist of a four-way control through the use of stop signs.

Many features would be implemented in order to enhance the visual character of the project site upon completion. Currently the site is used for grazing, with less than 15 cattle grazing the site at one time. The project would keep approximately 85% of the project site open space and screening plants and trees would be planted along Newburg Road to minimize impacts to visual aesthetics along Newburg Road and Elizabeth Barcus Way. Native and/or drought resistant plants would be widely dispersed

on the site through planting areas along Newburg Road, in low impact development (LID) design features that would capture, filter, and detain stormwater, and through riparian forest enhancements along Strongs Creek and in wetland enhancement areas.

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 a community center.

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 site new facilities for community-based education, social activities, and recreation.

Project Impacts: To develop the community center, 1.2 acres of palustrine wetlands would be permanently filled.

Proposed Mitigation: The proposed project includes a combination of low impact development techniques, and engineered stormwater treatment areas to minimize adverse effects from the increase in impervious surfaces and building construction.

The removal of cattle would be the first step in enhancing existing habitat along the riparian forest on Strongs Creek and in enhancing existing wetlands on the site. The design of the project has been focused on keeping the development footprint along Newburg Road and leaving most of the site in open space. These open space areas, totaling over 30 acres, are designed to provide significant wetland enhancements, re-establish native grasses on the site and enhancements to the riparian forest.

Grading for the development of a trail and wetland enhancements would occur outside a 100-foot setback from the high flow channel or first tree out of the wetted channel. No underground utilities, grading or paving would occur within the 100-foot setback area.

To mitigate the effects this project and ensure this project has no net loss of wetland area or quality, the following mitigation measures have been proposed by the applicant:

1. Wetlands impacted by project development would be mitigated on site through compensatory creation of new wetlands and enhancement of existing wetlands. Approximately 2.64 acres of new wetlands would be established and 2.86 acres of existing wetlands would be enhanced. There would be no temporal loss of wetlands as the compensatory wetland areas would be created before the facility construction begins. Wetlands would be constructed by grading the site using sheep's foot compactors, graders and other heavy equipment, to create 3-4 foot deep oblong and circular basins with a maximum slope of 3:1. Any fill would be sourced on site from cut material or recently removed topsoil. The implementation, maintenance, monitoring, and protection plan would ensure there is no net loss of wetland area, quality, or function. The site would be planted with higher quality and diverse wetland vegetation including native grasses and shrubs to increase biodiversity, habitat availability, and aesthetics. Above ground irrigation would be installed, temporarily, until the vegetation is established. Figure 4 illustrates the locations of wetland mitigation, restoration, and enhancement.

2. Stormwater from the Elizabeth Barcus Way culvert would be diverted through a series of LID features to improve stormwater quality before entering the wetland mitigation site. LID features include pre-treatment cells, sediment containment areas, vegetated swales, and rain gardens. Water would be directed to the wetland mitigation site through swales. Drainage ditches from the Cemetery Road culvert would be improved to increase water quality, reduce erosion, increase the abundance of diverse vegetation, and increase the uptake of nutrients and other substances by vegetation.

3. Removal of cattle would decrease disturbance to wetlands and enable vegetation to become established. Grading and swale modification would improve stabilization, decrease sediment load, prevent pollution, and encourage groundwater recharge. LID features would enhance infiltration and uptake of runoff water from the development area.

In addition to the proposed compensatory mitigation, the Strongs Creek riparian area would be kept and enhanced as a buffer. Some restoration activities, as well as passive recreation (hiking, biking, and sightseeing), would occur within the footprint of the riparian zone, but no other development would occur within 400 feet of the riparian corridor.

Project Alternatives: During the design phase of this project, multiple locations on site for the facilities were researched by the applicant to determine the design that would create the fewest impacts to aquatic resources. The location along Newburg Road was ultimately chosen due to the following factors: Parcel C has a minimal amount of wetland but is mostly in the 100-year flood zone. Building on that parcel could place people and structures in harms way. The site drains from Newburg Road towards Strongs Creek, which is at a lower elevation than the area along Newburg Road. While building in that area would impact wetlands, its central, elevated location would allow stormwater to continue to drain towards the Creek and towards Wetland 2. This also ensures no impact to the riparian habitat. The project is constricted to a 6-acre area along the Newburg Road frontage. This small footprint was chosen to keep open space and to facilitate the creation of higher functioning wetlands in other areas of the site that would provide improved hydrologic function and biological habitat. Building along Newburg would result in impacting either Wetland 1 or Wetland 3. Pushing development west was the better choice to negate traffic impacts. Also, Wetland 3 may be hydraulically connected to Wetland 2. Therefore, condensing development west along Newburg would ensure that connectivity remains.

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, 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 will be granted until the appropriate State agency has issued a Consistency Certification or has waived its right to do so.

The project does not occur in the coastal zone, and a *preliminary* review by USACE indicates the project would not likely affect coastal zone resources. This presumption of effect, however, remains subject to a final determination by the California Coastal Commission.

Other Local Approvals: No other local approvals are necessary for this project.

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 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. According to the information provided, Strongs Creek contains federally threatened Southern Oregon/Northern California Coho Salmon (*Oncorhynchus kisutch*), Coastal California Chinook salmon (*Oncorhynchus tshawytscha*), and North Coast Steelhead (*Oncorhynchus mykiss*) species and their critical habitat. To address project related impacts to these species and designated critical habitat, USACE will initiate consultation with 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*. 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. Essential Fish Habitat for the Pacific Coast Salmon FMP is found in Strongs Creek. Potential adverse effects to EFH include short term increases in turbidity, disruption of rearing or foraging during construction and changes in hydrology from increases in impervious surfaces and installation of storm water detention areas. 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. As the Federal lead agency for this undertaking, USACE has conducted 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 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 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 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

submitted an analysis of project alternatives which is being reviewed by USACE.

6. PUBLIC INTEREST EVALUATION: 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 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 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:
www.spn.usace.army.mil/Missions/Regulatory.