



US Army Corps
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San Francisco District

SAN FRANCISCO DISTRICT

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

PUBLIC NOTICE

PROJECT: S. Jacoby Creek Wetland and Riparian Habitat Enhancement Project

PUBLIC NOTICE NUMBER: 2017-00477N

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COMMENTS DUE DATE: June 16, 2018

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1. **INTRODUCTION:** City of Arcata (POC: Julie Neander, 707-825-2151, 736 F 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 restoration of an approximately 10-acre wetland complex. 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: Old Arcata Road on the left side of the Bayside Cutoff, in the City of Arcata, Humboldt County, Latitude 40.840753°N Longitude -124.04206°W, Section 9, Township 5N, Range 1E of the Arcata South Quadrangle (See Enclosure 1).

Project Site Description: 30 acres of City owned property that is currently managed for agricultural grazing and open space. The project is bounded by Jacoby Creek to the North and is at the bottom of the Jacoby Creek watershed, approximately 0.3 miles upstream of its outlet with Humboldt Bay. The project area is zoned Agriculture Exclusive and Natural Resource with a wetland and creek protection zone. The site is in the 100 year FEMA floodplain within the coastal zone. Site vegetation is comprised of agricultural grasslands and riparian vegetation adjacent to Jacoby Creek. The entire project site has been delineated as three parameter wetlands within Corps jurisdiction.

Project Description: The applicant proposes to restore an approximately ten-acre complex of wetlands associated with Jacoby Creek adjacent to Humboldt Bay

in Humboldt County, California (See Enclosure 1). To achieve project goals, connectivity between Jacoby Creek and its floodplain would be restored; a network of tidally-influenced marsh channels would be constructed; and seasonally flooded wetlands and capture channels would be constructed (See Enclosure 2). In addition, to contain the wetland complex and direct floodwater, a low guide berm would also be constructed (See Enclosure 2). The following elements would be implemented:

1. Restore floodplain connectivity via Jacoby Creek Dike Breach: The Project would breach the existing dike on the south side of Jacoby Creek at a location approximately 1200 feet upstream of the US- 101 crossing of Jacoby Creek. The breach location is at the upper end of the Jacoby Creek estuary. At the breach location, the thalweg elevation of Jacoby Creek is approximately 7.0 feet NAVD 1988, the elevation of Mean Higher High Water (MHHW). As such, the permanently flooded portion of the project would be tidally influenced by the daily higher high tides.
2. Restore Tidal Influence (Marsh Excavations): The Project would excavate 2,000 linear feet (LF) to create a 2.2 acre marsh channel network that would consist of permanently flooded tidally-influenced channels and shallowly flooded marsh plain. Permanent flooding would occur because a series of natural grade controls in Jacoby Creek will limit drainage out of the Project Area for elevations of less than 7.0 feet.
3. Construct guide berm to prevent fish stranding and protect agriculture and infrastructure: The Project would construct a 1.66 acre low-height guide berm along the lower (western) end of the project area. The guide berm would capture flow from Jacoby Creek that overtops channel banks in the upstream portions of the Project Area. Flow would be redirected through the Jacoby Creek breach, thus allowing entrained aquatic species to return to

Jacoby Creek.

4. Construct Seasonal Shallow Depressional Wetlands (Wetlands 1&2): The Project would excavate two shallow depressional wetlands totaling 1.97 acres. The depressional wetlands would be seasonally flooded by Jacoby Creek overflow, direct precipitation, and groundwater exfiltration. The shallow benches would provide foraging habitat for migratory birds and aquatic species. The deeper pool area would provide winter refugia for juvenile endangered salmonids.

5. Construct Freshwater Capture Channel Network: The Project would construct 1,800 linear feet of freshwater capture channels. The channels would intercept overflow waters from Jacoby Creek and redirect the flows back into Jacoby Creek through the seasonal wetlands and estuarine areas. The channel network would consist of a series of pools and riffles ranging between 0.5-feet and three feet deep inset into an approximately 50-foot wide floodplain. The inset floodplain and associated channels would create areas to store overflow waters and allow water to infiltrate and recharge down-slope wetlands. The design of the freshwater capture channels is based on analogs of avulsion channels typically found on alluvial fans.

6. Install Large Woody Debris Structures: In order to create additional fisheries habitat structure and complexity, approximately 30 pieces of large woody debris would be placed within the newly created channels. The large woody debris would be placed individually or in groups to create a debris complex where appropriate.

7. Create Planting Islands: The project would construct planting islands within the larger wetland complex. Planting islands would be frequently flooded, and portions would be subject to tidal influence. They would be topographically diverse, add habitat complexity to the wetland system, and provide habitat for avian and amphibian species.

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 create floodplain, wetland, and fisheries habitat.

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 restore floodplain and stream connectivity for anadromous and freshwater aquatic species, enhance wetlands, and enhance habitat for migratory birds, reptiles, and amphibians.

Project Impacts: The proposed project will have permanent impacts on approximately 30-acres of three parameters wetlands, including and adjacent to the areas that would have ground disturbing activities (10-acre wetland complex) that would be restored. These impacts would be from the changes in the hydrology of the area and the changes in seasonal flooding patterns. Additional temporary impacts would occur on the 10-acre wetland complex where ground disturbing activities would occur. Impacts would occur from the placement of heavy equipment and temporary ground disturbing activities that will take place during construction of the project.

According to the project plans provided, approximately 20,548 cubic yards of fill would be placed into Corps jurisdictional wetlands. This volume consists of the fill from the following proposed features: (1) 838 cy from the creation of 1,800 linear feet of freshwater channels; (2) 1,692 cy from the creation of 1.97 acres of shallow depressional seasonal wetlands; (3) 5,175 cy from the creation of multiple planting islands; (4) 12,785 cy from the creation of the 1.66 acre guide berm; (5) 40 cubic yard from the placement of approximately 30 large woody debris structures, and (6) 18.5 cy for the construction of the project entrance to be used by heavy equipment. Approximately 7,828 cubic yards of fill would be used to create the guide berm and marsh islands. The remainder of the fill, approximately 12,426 cubic yards would be disposed of at appropriate locations to achieve project objectives and planned design features.

Proposed Mitigation: Overall, the proposed project will result in a net benefit to anadromous and freshwater aquatic species, birds, reptiles, and amphibians, as well as creating new tidal and freshwater wetlands and enhancing existing wetland waters of the US. The overall project would result in a net increase in aquatic resource functions and services. Given the overall benefit of the proposed project, therefore no compensatory mitigation is required.

The City proposes to prevent adverse environmental impacts by undertaking the proposed project in the summer or early fall when Jacoby Creek is at its lowest flows and the surrounding wetlands are driest. The timing would also minimize compaction and reduce damage to vegetation. The work is planned for the dry season when aquatic species are not reproducing so eggs and larvae would not be present when work is being performed.

The City would install silt fences to isolate all work

sites from Jacoby Creek and in channel work would be kept to the minimum amount necessary. A Stormwater Pollution Prevention Plan will be prepared to prior to construction and adequate BMPs would be employed to minimize soil erosion and sedimentation.

When flowing water is present (i.e. during levee breach), the work site would be isolated. To isolate the work area, a silt fence would be installed. If additional measures are required to isolate the area, a clean water diversion would be implemented. Prior to installing the flow bypass, the work area would be surveyed for fish species by a qualified biologist, and fish rescue would be employed if necessary.

3. STATE AND LOCAL APPROVALS:

Water Quality Certification: State water quality certification or a waiver thereof 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. Since the project occurs in the coastal zone or may affect coastal zone resources, the applicant has applied for a

Consistency Determination 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, 1385 8th street #130, Arcata, CA 95521, by the close of the comment period.

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. § 1500-1508, and USACE regulations at 33 C.F.R. § 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 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 be affected by project implementation. The project reach of Jacoby Creek contains Federally-listed endangered Coho salmon (*Oncorhynchus kisutch*), threatened Chinook salmon (*Oncorhynchus tshawytscha*), and threatened Steelhead trout (*Oncorhynchus mykiss*). Critical habitat has been also designated for Coho salmon to include all estuarine and river reaches accessible to salmonids below longstanding, naturally impassable barriers. Designated critical habitat consists of the water, streambed, and the adjacent riparian zone. The overall project could potentially induce changes in channel morphology, including the loss of pool and riffle habitat and degradation of the riverbed; promote the stranding of salmonids on the affected bars; cause the loss of riparian vegetation and large wood debris; and generate turbidity and downstream sedimentation, the deposition of which would likely contribute to the degradation of spawning gravels. To address project related impacts to these species and designated critical habitat, USACE will initiate formal 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*, or 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. The project area contains Pacific Coast Salmon EFH. 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. 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 any required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project is not likely to 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 the 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. To address project related impacts to historic or archaeological resources, USACE will initiate consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer, pursuant to Section 106 of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until USACE concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the project is 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 impacts 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. 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 in 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: <http://www.spn.usace.army.mil/Missions/Regulatory>.