



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: La Panza Road Widening

PUBLIC NOTICE NUMBER: 2002-272570S

PUBLIC NOTICE DATE: 1-18-2013

COMMENTS DUE DATE: 2-11-2013

PERMIT MANAGER: JUSTIN YEE

TELEPHONE: 415-503-6788

E-MAIL: Justin.J.Yee@usace.army.mil

1. **INTRODUCTION:** The County of San Luis Obispo (the County), Department of Public Works (POC: Katie Drexhage, for Deputy Director, Dave Flynn, 805-781-4469), County Government Center, Room 207, San Luis Obispo, California 93408, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to conduct road widening on an approximate 1.4 mile stretch of La Panza Road. 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: This road widening project is located on La Panza Road between Ryan Road and Hord Valley Road, approximately 1.8 miles south of State Route 41 to 6.6 miles north of State Route 58, east of the community of Creston, San Luis Obispo County, California 93408 (Lat: 35.52 N, Lon: 120.49 W), depicted in the CA-Shedd Canyon USGS quadrangle, APNs: 043-251-019, -010; 043-093-006, -020; 043-091-035, -036, -037, -052; 043-243-006.

Project Site Description: La Panza Road is a two lane rural highway with an average daily traffic count of 1,145 trips (2008) and a speed limit of 55 miles per hour. This area of San Luis Obispo County experiences arid climate. The project area is surrounded by vineyards, open agricultural fields, and a few residences. Typical vegetation consists of grasses such as wild oat, various bromes; forbs include purple owl's clover, Jimson weed; and non-native species include small flower tamarisk, wild mustard, and various chenopods. The drainage channel is adjacent to the southbound travel way and is offset in some areas by less than 6 inches with 1.5:1 or greater side

slope. The ditch was constructed in the 1960s by the County to keep storm water from running down the middle of the road. It has since incised to 2 to 4 feet deep due to erosion caused by insufficient ditch and driveway culvert capacity during large storm events.

Project Description: As shown in the attached drawings, the applicant proposes to expand the road width from the existing two travel lanes measuring 23 feet to two 12-foot lanes with 4-foot paved shoulders. Side slopes would be flattened, existing culverts would be replaced, and three new culverts added. In addition to widening the road, an existing, incised ditch would be filled and replaced with a 4:1 (adjacent to roadway) to 2:1 side-sloped ditch with a 2-foot unpaved shoulder. The new ditch would be hydro-seeded to reduce the risk of erosion. Nine (9) native trees would be removed, and any tree with a diameter at breast height (dbh) of 3 inches or greater would be replaced at a 3:1 ratio. Capacity in the new ditch would be an increase of 2,336 cubic yards, thus decreasing the chance of storm water reaching the road. Staging would occur at the southwest corner of the project site on private land that is a mixture of bare soil and non-native grassland. Construction is anticipated to take approximately 3 months.

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 widen La Panza Road from Ryan Road to Hord Valley Road.

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 widen the road to improve safety and decrease collision rates with more room for vehicle traffic and also bicycle or pedestrian traffic.

Project Impacts: The proposed road widening would fill the adjacent 6,550 linear foot ditch with 4,592 cubic yards (cy) of native fill, resulting in the permanent loss of approximately 2.2 acres of Corps jurisdictional waters. Additionally, rock slope protection (RSP) would be installed at the inlet and outlet of the eight (8) driveway culverts in the new ditch, adding 330 cubic yards, 0.15 acre of additional impact. Total fill would, thus, be 4,922 cy, 2.35 acres. Temporary impacts, such as a staging area, would disturb an area of 4.3 acres. Construction is anticipated to last approximately 3 months

Proposed Mitigation: A new ditch would be created with more gradual side-slopes, increased capacity, native hydro-seeding and 3:1 tree replanting for trees with a dbh of 3-feet or greater. The new ditch capacity would be 7,258 cy, minus 330 cy of culvert RSP. This would be a 2,336 cy increase in capacity over the existing ditch. The new ditch would create approximately 4.5 total acres of Corps jurisdictional waters, an increase of 2.15 acres over the existing ditch. Fourteen (14) trees would be removed, including 9 natives and 4 ornamentals. Twenty-seven (27) 5-gallon, native trees would be planted along the new ditch. The 4.6 acres of temporarily disturbed area would also be hydro-seeded with native seed mix including species such as *Bromus carintus*, *Trifolium tridentatum*, and *Vulpia microstachys*. Monitoring would be done for at least three years, and replacement planting would be done should a 70% survival rate not be met. Best Management Practices (BMPs) would be employed to minimize impacts to species habitat (see Endangered Species Act section below), and downstream impacts such as limiting work to the dry season (May 1 to November 1) and staging 20 meters from any riparian habitat or water body.

Project Alternatives: No other alternatives have been provided. There will be an analysis of alternatives once provided, and any significant changes to the proposed project will be disseminated.

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 submitted an application to the Central Coast California Regional Water Quality Control Board (RWQCB) and obtained water quality certification for the project.

Water quality issues should be directed to the Executive Officer, California Regional Water Quality Control Board, Central Coast Region, 895 Aerovista Place, Suite 101, San Luis Obispo, California 93401, 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. Coastal zone management issues should be directed to the Executive Director, District Manager, California Coastal Commission, Central Coast District Office, 725 Front Street, Suite 300, Santa Cruz, California 95060-4508, by the close of the comment period.

Other Local Approvals: The applicant has applied for the following additional governmental authorizations for the project: an Initial Study and Mitigated Negative Declaration to the State Clearinghouse; a Water Quality Certification application was sent to the Central Coast Regional Water Quality Control Board; a Streambed Alteration Agreement application was sent to the California Department of Fish and Game (CDFG).

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, Caltrans, with delegated authority from the Federal Highway Administration (FHWA), pursuant to Chapter 3 of 23 U.S.C. §323, will be responsible for determining the presence or absence of Federally-listed species and designated critical habitat, and the need to conduct consultation. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project. Caltrans has determined that the proposed project would have no effect on species protected under Section 7 of the ESA.

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, the applicant, Caltrans, with delegated authority from the Federal Highway Administration, will be responsible for determining the presence or absence of EFH, and the need to conduct consultation. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process. 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. As the Federal lead agency for this project, Caltrans, with the FHWA, will be responsible for determining the presence or absence of historic properties or archaeological resources, and the need to conduct consultation. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process. 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 Caltrans concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the project is not dependent on location in or proximity to waters of the United States to achieve the basic project purpose. This conclusion raises the (rebuttable) presumption of the availability of a less environmentally damaging practicable alternative to the project that does not require the discharge of dredged or fill material into special aquatic sites. The applicant has been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines.

6. PUBLIC INTEREST 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 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 *Current Public Notices* tab on the USACE website: <http://www.spn.usace.army.mil/regulatory/>.