

## **6.0 PUBLIC INVOLVEMENT, REVIEW AND CONSULTATION**

### **6.1 Report Circulation, Public Meetings and Workshops**

To announce the start of the feasibility phase, a Public Notice was issued to residents, federal, state and local agencies and interest groups. The recipients were invited to provide input into the feasibility study, including the scoping of the environmental issues that should be addressed throughout the study. The notice announced two public meetings, held by the Corps and Coastal Conservancy, which also served as EIS/R scoping meetings. The meetings were conducted on March 25, and March 30, 1998 in the City of Novato. At the public meetings, the public was provided the opportunity to comment on the Feasibility Study.

The draft report was released on August 14, 1998. A 45-day public review and comment period followed the release to solicit comments from the public, regulatory agencies, local interests and other stakeholders. Two public meetings were held during the month of September to solicit any additional comments. The final document addresses the substantive comments that were received during this process.

### **6.2 Feasibility Study Involvement**

#### **6.2.1 Institutional Involvement**

During the Feasibility Study, coordination with the FWS was conducted in accordance with the Fish and Wildlife Coordination Act. The FWS provided the Corps with a Draft Coordination Act Report (DCAR) which includes its evaluation of the alternatives studied. All FWS recommendations have been given full consideration. The FWS has coordinated the DCAR with the National Marine Fisheries Service and the California Department of Fish and Game.

#### **6.2.2 Study Team**

During the Feasibility Study, staff from the SCC and BCDC participated in the study's technical team and contributed directly in the study effort. As a result of this involvement, the SCC and BCDC have expressed their interest in their participation as study team members during the Preconstruction, Engineering and Design phase.

#### **6.2.3 Hamilton Restoration Group**

The Hamilton Restoration Group (HRG), a forum for a variety of interests to provide input on project feasibility, goals, design, and other relevant issues, was established by the National Marine Fisheries Service in the summer of 1995. The lead was handed to the Coastal Conservancy in 1996. Participants in the HRG include the Coastal Conservancy, BCDC, City of Novato, California Regional Water Quality Control Board, California Department of Fish and Game, National Marine Fisheries Service, U.S. Fish and Wildlife Service, U.S. Environmental

Protection Agency, U.S. Army Corps of Engineers, Port of Oakland, University of California, environmental groups, interested public, and congressional representatives.

#### **6.2.4 Coastal America Partnership**

This project is also part of the Coastal America Program. In 1992, the Coastal America Partnership was created to more effectively address critical coastal environmental problems facing our nation. It leverages the resources, expertise, and authorities of the federal natural resource, infrastructure, and military agencies with state, local, tribal, and non-governmental organizations. Federal agencies coalesced to form this partnership focused on habitat restoration, sediment contamination remediation, and non-point source pollution prevention within coastal areas. A national implementation team was established along with eight regional implementation teams. Member agencies include: U.S. Fish and Wildlife Service, National Marine Fisheries Service, U.S. Geological Survey, U.S. Environmental Protection Agency, Department of Transportation, U.S. Air Force, U.S. Navy, U.S. Army, Department of Energy, Department of Housing and Urban Development, and Department of Agriculture. Over 250 projects are either underway or completed.

In April 1995, the National Marine Fisheries Service recommended to the Southwest Implementation Team for Coastal America that the base closure at the Hamilton Army Airfield and the potential for nearly 700 acres of wetland restoration be endorsed as a "Coastal America" project. The wetland restoration proposal was based on wetland reuse as recommended by the Hamilton Reuse Planning Authority and adopted by the City of Novato. The Coastal America partnership served as a catalyst in linking Federal, state, regional, and local interests in the base closure, wetland restoration, and dredged material placement from navigation projects in the San Francisco Bay area.

#### **6.3 Views of the Local Sponsor**

The local sponsor supports Alternative 5 - Wetland Restoration at the Airfield, Navy Ballfields and SLC Property Via Beneficial Reuse of Dredged Material. This alternative would restore wetlands to the HAAF and SLC parcels using dredged material, which would maximize environmental benefits and be most consistent with regional plans. The sponsor has been informed of local cost-sharing requirements associated with ecosystem restoration projects and will furnish a letter of participation at the completion of this Feasibility study.

## **7.0 CONCLUSIONS AND RECOMMENDATIONS**

### **7.1 Conclusions**

Major conclusions of studies conducted to date are:

The selected plan is economically feasible.

The prospective non-Federal sponsor fully supports the project and intends to provide its formal resolution after their January 1999 board meeting. The non-Federal sponsor is negotiating its participation in, and payment for, the design phase of a project restoring tidal and seasonal wetlands, and associated transitional and upland habitat.

The Financial Analysis indicates that the non-Federal sponsor is financially capable of participating in the selected plan.

The selected plan does not negatively impact the environment, hence mitigation is not required.

Non-Federal interests fully understand the cost-sharing requirements for project construction and the responsibility for operation, maintenance, rehabilitation, relocation, and repair for the project.

The selected plan fully meets the federal and non-federal sponsor's ecosystem objectives.

### **7.2 Recommendations**

In making the following recommendation herein, I have considered all significant aspects in the overall public interest, including environmental, social and economic effects; engineering feasibility; and regional needs.

I recommend that the plan described herein for wetland restoration at Hamilton Army Airfield, City of Novato, Marin County, California, be authorized for implementation as a Federal project. The plan presented herein is recommended with such modification thereof as in the discretion of the Commander, HQUSACE, may be advisable. The total first cost of the project is currently \$55,100,000 under October 1998 prices. The Federal share is currently estimated at \$41,325,000. I recommend that the Corps of Engineers participate in cost-shared monitoring and minor modifications may be required to ensure the success of the project, as identified by the success criteria outlined within the Operations, Maintenance, Repair, Rehabilitation, and Replacement Plan.

My recommendation is subject to cost-sharing, financing, and other applicable requirements of Federal and State laws and policies, including Public Law 102-580, Section 204, the Water

Resources Development Act of 1992, and in accordance with the following requirements which the non-Federal sponsor shall agree to perform, prior to project implementation, the following items of local cooperation:

- a. Provide all lands, easements, and rights-of-way and perform or ensure the performance of all relocations determined by the Federal Government to be necessary for the construction, operation, and maintenance of the project;
- b. Provide all lands, easements, and rights-of-way to enable the proper placement of dredged or imported material for wetland restoration and operation, maintenance, repair, replacement, or rehabilitation of the project;
- c. Provide during construction any additional amounts as are necessary to make its total contribution equal to 25 percent of total project costs assigned to wetland restoration;
- d. Enter into an agreement which provides, prior to construction, 25 percent of preconstruction, engineering and design (PED) costs.
- e. Provide during construction, any additional funds needed to cover the non-Federal share of PED costs.
- f. Assume responsibility for operating, maintaining, replacing, repairing, and rehabilitating (OMRR&R) the project or completed functional portions of the project without cost to the Federal Government in a manner compatible with the project's authorized purpose and in accordance with applicable Federal and State laws and specific directions prescribed by the Federal Government in the OMRR&R manual and any other subsequent amendments thereto. This provision does not preclude the non-Federal sponsor from transferring this responsibility to a willing Federal agency, such as the U. S. Fish and Wildlife Service, at a later date.
- g. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor now or hereafter owns or controls for access to the project for the purpose of completing, operating, maintaining, repairing, replacing, inspection, and, if necessary after failure to perform by the non-Federal sponsor, for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the project. No completion, operation, maintenance, repair, replacement, or rehabilitation by the Federal Government shall operate to relieve the non-Federal sponsor of responsibility to meet the non-Federal sponsor's obligations, or to preclude the Federal Government from pursuing any other remedy at law or equity to ensure faithful performance;
- h. Hold and save the United States free from all damages arising from the construction, operation, maintenance, repair, replacement, and rehabilitation of the project and any project-related betterments, except for damages due to the fault or negligence of the United States or its contractors;

i. Prevent future encroachments on the project lands, easements, and rights-of-way which might interfere with proper functioning of the project;

j. Provide 25 percent of that portion of total cultural resource preservation, mitigation and data recovery costs attributable to wetland restoration that are in excess of 1 percent of the total amount authorized to be appropriated for wetland restoration;

k. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way required for the operation, maintenance, repair, replacement, and rehabilitation of the project, including those necessary for relocations, and inform all affected persons of applicable benefits, policies, and procedures in connection with said act;

l. Comply with all applicable Federal and State laws and regulations including, but not limited to, Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army;"

m. Keep, and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 Code of Federal Regulations (CFR) Section 33.20;

n. As between the Federal Government and the non-Federal sponsor, the Federal Government shall be considered the potentially responsible party of project lands for the purpose of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601-9675, liability as lands will be transferred to the non-Federal sponsor from the Federal Government;

o. Investigations to identify the existence and extent of any suspected hazardous substances regulated under CERCLA that may exist in, on, or under lands, easements, or rights-of-way necessary for the wetland restoration are being performed by the Federal Government. The Federal Government has agreed to complete the environmental cleanup of the property as required by Section 120(h) of CERCLA, and other applicable laws and regulations prior to transfer of the property to the non-Federal sponsor. The California Coastal Conservancy or any successor, assignee, transferee, lender, or lessee of the California Coastal Conservancy or its successors or assigns, shall have no obligation to fund, participate in, or complete the cleanup of existing contamination, unless said parties have caused or contributed to said contamination or unless said parties have otherwise agreed to in writing;

p. As between the Government and the Non-Federal sponsor, the Non-Federal sponsor shall be considered the operator of the Project for the purposes of CERCLA liability. The Non-Federal sponsor and the Government shall consult with each other to assure that responsible parties bear any necessary cleanup and response costs as defined in CERCLA related to material imported for purpose of wetland restoration. To the maximum extent practicable, the Non-Federal sponsor shall operate, maintain, repair, replace, and rehabilitate the Project in a manner that will not cause liability to arise under CERCLA.

The recommendations contained herein reflect the information available at this time and current Departmental policies governing formulation of individual projects. They do not reflect program and budgeting priorities inherent in the formulation of a national Civil Works construction program nor the perspective of higher review levels within the Executive Branch. Consequently, the recommendations may be modified before they are transmitted to the Congress as proposals for authorization and implementation funding. However, prior to transmittal to the Congress, the sponsor, the State, interested Federal agencies, and other parties will be advised of any modifications and will be afforded an opportunity to comment further.

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