



US Army Corps
of Engineers®

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: 24897S

DATE: 6 September 2002

Regulatory Branch
333 Market Street

San Francisco, CA 94105-2197

RESPONSE REQUIRED BY: 6 October 2002

PROJECT MANAGER: Bob Smith

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1. **INTRODUCTION:** The Santa Clara Valley Water District (District), 5750 Almaden Expressway, San Jose, California 95118-3614, [contact Mr. Terry Neudorf, (408) 265-2607] has applied for a Department of the Army permit to construct the Lower Guadalupe River Flood Protection Project (LGRP) along the lower 10.5 kilometers (Km) of the Guadalupe River in the cities of San Jose and Santa Clara in Santa Clara County, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

2. **PROJECT DESCRIPTION:** The LGRP is located on the Guadalupe River (See attached drawings) primarily between Interstate 880 (I-880) and the Union Pacific Railroad (UPRR) bridges in the cities of San Jose and Santa Clara. Some work will occur downstream of the UPRR bridge (the Baylands) along the Alviso Slough. The purpose of the LGRP is to modify previous flood control improvements initiated in 1982 and 1995 to restore the flood conveyance capacity of the existing river channel and provide additional capacity to convey flood flows of approximately 481 cubic meters per second during a design flood event. The LGRP area is located downstream of two flood protection projects: the upper Guadalupe River project and the downtown Guadalupe River project. The LGRP is required to convey design flood flows from both the upper river and the downtown projects. The District must also implement the LGRP improvements before completing the upstream improvements of the downstream project to ensure flood flows in the upper reaches can be conveyed through the lower Guadalupe River reaches. The District states the proposed modifications would balance the need for

flood control structures and channel maintenance with the goal of protecting and enhancing environmental condition and public access. The project would result in 1.36 hectares (3.37 acres) of permanent impacts and 4.39 hectares (10.86 acres) of temporary impacts to waters of the United States. See tables S-1, S-2 for a summary of impacts and mitigation.

The following work would occur in Corps jurisdiction:

Reach A Grade Control Weirs – construction of up to four grade control weirs in the reach A low flow channel would be required to improve the channel and reduce the potential for further channel incision and bank erosion that could result in channel sedimentation. The weirs would be constructed of mounded rock riprap embedded to below the maximum scour depth, 2.5 meters (m), for a total height of 3 m at the weir crest with a width of 1 m. Approximately 450 cubic meters (m³) of riprap would be used at each weir. Placement of the rock weirs would require excavation of a trench into the existing streambed. The rock would be compacted and fine material would be placed in the interstitial spaces between the individual stones. The excavation would be backfilled with natural bed material up to the elevation of the weir crest and seeded and planted with native vegetation. Temporary cofferdams with water diversion pipes would be used to dewater the entire section of the reach during weir construction. (See sheets 12, 13, & 14)

Levee Improvements – the project would require raising and/or widening levees to improve channel flow conveyance and meet freeboard criteria on

existing levees in reaches A-F. The majority of this work is outside of Corps jurisdiction. In areas where raising or widening the levees would encroach into wetlands on the riverside or into private property on the landside, a steeper slope would be used to minimize impacts and encroachments.

Modification of Storm Drain Outfalls – Modification would be limited to placement of hardened surfaces (e.g., rock revetment) adjacent to two existing drainage outfalls to reduce bank erosion that causes channel sedimentation from outfall discharges. (See sheets 15 & 16)

Bridge Scour Protection – Scour protection would be installed on the river banks under the Montague Expressway, Trimble Road, U.S. 101, Airport Island, Airport Parkway, and Skyport Drive bridges. The channel banks would be over-excavated under the bridges and for a distance of 3 m upstream and downstream of the bridge. A blanket of Class III riprap that will be resistant to estimated shear loads would be placed in these excavations. A 1.3-meter thick blanket would be placed on banks with moderate slopes (areas with slopes less than 1V[vertical]:2H[horizontal]). Banks with slopes steeper than 1V:2H would require gabion baskets filled with rock and fine material. Geotextile fabric would be placed behind the riprap blankets to prevent loss of fine material through the blankets. No hardscape would be placed in the River channel. (See sheets 19-27)

SR 237 Bridge Replacement - the eastbound SR 237 Bridge in reaches F and G poses a substantial constriction of the capacity of the lower Guadalupe River channel. To improve channel capacity at this location, the District is proposing to demolish the existing structure and to build a new bridge to match the height of the existing westbound bridge and road profile. The new bridge would be constructed within and immediately adjacent to the existing bridge footprint, and the new bridge piers would be

placed in the same location as existing piers. Bridge construction would be conducted in late spring or early summer during seasonal low flows in the lower Guadalupe River. Temporary cofferdams, temporary access roads and pier construction would occur in Corps jurisdiction.

Maintenance Roads – new maintenance roads would be constructed under all bridges, except Gold Street and the UPRR bridges, and on existing under crossings. In reach G and in the Baylands, depressed maintenance roads would be constructed on the east and west banks to provide access. The new maintenance road system would be 6.4 m (21 feet [ft]) wide and extend from SR 237 to the Gold Street Bridge. The maintenance roads would be surfaced with aggregate base.

Alviso Slough Overflow Weir – the proposed project would contribute additional flow downstream of the project area. The District would construct an overflow weir along Alviso Slough. This weir would be approximately 305 m (1,000 ft) long and would be located immediately across from Alviso in the same general location as an existing natural low spot in the Cargill levee. The levee would be designed to limit peak discharges to Alviso Slough at the existing levels. The construction footprint of this structure, including entrance and exit aprons, is approximately 15.2 by 305 m (50 by 1,000 ft). (See sheets 28-30)

Armoring of Pond A6 Interior Levee – To prevent downcutting or failure of the levee separating Pond A6 from Ponds A5 and A7, portions of the levee would be armored with articulated concrete mats. The mats would extend across the levee top and down the southern bank. The armoring would occur in an area that is typically devoid of vegetation. The mats would be filled with earth to prevent wildlife from getting trapped in the gaps. (See sheet 31)

Mitigation Plan

The District's Pond A4 (See sheet 31) is proposed as the mitigation site for all impacts associated with project construction and project maintenance. The District states they are designing restoration activity for Pond A4 that is scheduled to begin in 2007. The restoration concept for the 121.4-hectare (300-acre) pond includes lowering the outboard levees or breaching them in strategic locations to provide full tidal action to the site. Increasing pond elevation using dredge material and natural sedimentation to create surfaces at an elevation at which mudflats, tidal wetlands and upland habitats can establish. The District is proposing to use a ratio of 2:1 to compensate for permanent impacts on wetlands, and a ratio of 1:1 for temporary impacts on wetlands. For permanent impacts to waters of the U.S., they are proposing a ratio of 2:1 and 1:1 for temporary impacts

Baylands Flooding Mitigation Measure

As currently proposed, the LGRP would induce additional flooding (additional depth and volume) downstream of the project area in the Cargill salt ponds (Ponds A8D and A8W). If constructed, the project could also contribute to erosion caused by increased depth and volume of floodflow from the Guadalupe River over the marina parking area, and the consequential increased risk of levee failure and flooding in the town of Alviso.

To reduce these potential impacts, the District is proposing to implement 4 measures to

- reduce the potential uncontrolled flooding of the Cargill salt ponds along the west side of Alviso Slough,
- reduce flooding of the salt ponds to the east of Alviso Slough,

- prevent flooding over the marina parking area and adjacent levees into the town of Alviso,
- minimize impacts on Alviso Slough because of increased flow, and reduce the duration of flooding in the Cargill salt ponds.

These measures are described below. Implementing these measures, collectively referred to as the Baylands Mitigation Measure and shown in figure 4, will reduce the flooding effects of the LGRP project.

Construct West-Perimeter Levee around Alviso - To prevent Guadalupe River floodwaters from flowing around the levee system to Alviso, the District will improve the existing levee on the east bank of Alviso Slough from approximately the UPRR trestle downstream to the northeast corner of the Santa Clara County marina. This will prevent overtopping of the marina's parking area and adjacent levees.

Construct Alviso Slough Overflow Weir - (see description above)

Pump Cargill Salt Ponds - The District would pump floodwaters from the Cargill salt ponds to reduce the depth and duration of floodflows in Ponds A8D and A8W to a level lower than would be expected in these ponds under existing conditions. Pumps would be screened in accordance with NMFS guidelines. Temporary 1.42-cms (50-cfs) pumps would be operated on each pond for up to 12 days once pumps are operational at pump sites following a single flood event (estimated to be approximately 2 weeks for mobilization). Pond 8AD would be pumped to eliminate floodwaters from the pond before the western snowy plover (*Charadrius alexandrinus nivosus*) breeding season. The temporary pump in this pond would run continuously until floodwaters are evacuated completely.

Manage Vegetation in Alviso Slough from UPRR Downstream to Overflow Weir - The District would aggressively manage vegetation on the east bank of Alviso slough extending approximately 225 m (738 ft) from the UPRR bridge opposite the location of the overflow weir. From an access road constructed along the toe of the levee, vegetation will be removed using a shallow dredging technique that removes approximately 1 m (3.3 ft) of sediments. From the limits of the shallow dredging area to 6 m (19.7 ft) from the active channel, vegetation will be controlled with the use of herbicides certified for wetland use.

Sediment Management - Implementation of the structural flood-control features of the Proposed Action would require sediment excavation in reaches B–E to ensure that the “as-built” condition of the channel is maintained for the 100-year life of the project. The *Lower Guadalupe River Sedimentation Study* (Northwest Hydraulic Consultants 2000) indicates that most of the sediment deposition in the lower river is in reaches B–E (approximately 13,610–15,420 metric tons [15,000–17,000 tons] per year). Sediment management activities would occur in the channel during summer and fall when flow inundation in these areas is a low probability.

Vegetation Management - In addition to removal of channel vegetation as part of sediment management activities, long-term LGRP channel capacity would require initial removal of vegetation in areas of the channel to establish initial operating conditions of the project. Once the initial vegetation conditions are established, periodic removal of vegetation to control the size and growth of riparian forest, riparian scrub, seasonal and perennial wetland vegetation, and ruderal herbaceous vegetation would be required. Vegetation management would be required in areas of reach A that are not proposed for riparian planting by the Corps or California Department of

Transportation (Caltrans) or for a 4.5-m (15-ft) buffer area adjacent to the low-flow channel. Vegetation generally would be removed in alternating strips on either side of the channel to ensure that as much wildlife habitat as possible is maintained for each reach.

The goal of the vegetation management program is to balance the need to remove vegetation periodically from the flood-control channel with the need to maintain and enhance ecological functions and values in the lower Guadalupe River. The vegetation management program for reaches A–F would include initial removal of vegetation from bridge transition areas, overbank areas, and levees and would maintain buffer areas along the low-flow channel and riparian corridor. Routine vegetation maintenance would occur in subsequent years to maintain the “as built” channel condition. Woody and herbaceous vegetation would be cut or treated with herbicides in vegetation management areas to reduce vegetation heights to less than 0.3 m (1 ft). Vegetation management would occur during the summer and fall months, when flow inundation in the channel is a low probability.

Reach G would require aggressive vegetation management to remove and prevent regrowth of emergent wetland vegetation to ensure adequate flood conveyance at the SR 237 Bridge. Vegetation management in reach G would involve excavating 17.5-m (57.4-ft)-wide areas on both banks adjacent to the new depressed maintenance road to a depth of approximately 1 m (3.3 ft). This shallow excavation is intended to reduce the frequency of treatment in this reach of the channel and substantially reduce the roughness created by dense stands of bulrush. Between the excavated area and a 6-m (20-ft) low-flow-channel buffer area, vegetation would be managed using herbicide treatment.

Measures to Avoid and Minimize Adverse Effects during Construction

The District would implement preventive actions to avoid and minimize potential adverse effects on aquatic and riparian resources that could occur during construction. Preventive actions were developed during the environmental review process. Contractors would be required to implement a Vegetation Protection Plan to protect (and replace if damaged) vegetation during construction. Contractors would also be required to implement a Storm Water Pollution Prevention Plan as part of the National Pollutant Discharge Elimination System (NPDES) General Construction Activity Storm Water Permit to minimize the potential for sediment input to the aquatic system, including chinook salmon and steelhead spawning and rearing habitats. Contractors would also be required to develop and implement a Toxic Materials Control and Spill Response Plan to regulate the use of hazardous materials, such as the petroleum-based products used as fuel and lubricants for equipment and other potentially toxic materials associated with project construction. The District also would implement a Construction-Area Fish Management Program to emphasize the importance of protecting chinook salmon and steelhead trout and their proposed designated critical habitat. Any activity that would temporarily divert flow from any segment of the river would require implementation of a variety of constraints. The specific elements of these plans are described in the Draft EIR.

3. STATE APPROVALS: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification or waiver before a Corps permit may be issued. The applicant has provided the Corps with evidence that they have submitted a valid request for State water quality certification to the San Francisco Bay Regional Water Quality Board. No Corps permit will be granted until the applicant obtains the required certification or waiver. A waiver

shall be explicit, or it will be deemed to have occurred if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612, by the close of the comment period of this public notice.

4. PRELIMINARY ENVIRONMENTAL ASSESSMENT: The Corps of Engineers will assess the environmental impacts of the action proposed in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), and pursuant to Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and Corps of Engineers' Regulations, 33 CFR 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the jurisdiction of the Corps of Engineers. The documents used in the preparation of this Environmental Assessment will be on file in the Regulatory Branch, Corps of Engineers, 333 Market Street, San Francisco, California.

Cultural Resources - A cultural resources inventory and subsequent archaeological investigations have identified properties eligible for inclusion in the National Register of Historic Places within the Area of Potential Effects. Construction and implementation of the project may result in adverse effects to historic properties. A treatment and mitigation plan is being developed as part of a Programmatic Agreement between the Corps of Engineers, Santa Clara Valley Water District (SCVWD), State Historic Preservation Officer

(SHPO), Advisory Council on Historic Preservation (ACHP), and their consulting parties, to address the adverse effects. The Corps will begin consultation with the SHPO upon completion of a draft Programmatic Agreement. The Corps will make the terms and conditions of the final Programmatic Agreement a part of the conditions of any permit issued by the Corps for the Project.

Endangered Species - Steelhead trout, chinook salmon, Western snowy plover, and the salt marsh harvest mouse occur in the project area and are listed under the Endangered Species act. The Corps will initiate consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service on the affect of the project on these species as required by Section 7 of the Endangered Species Act.

5. EVALUATION OF ALTERNATIVES:

Evaluation of this activity's impact on the public interest will also include application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act, 33 U.S.C. Section 1344(b).

6. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors that become relevant in each particular case. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All

factors that may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are 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: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

8. SUBMISSION OF COMMENTS: Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this notice and should be forwarded so as to reach this office within the comment period specified on page one of this notice. Comments should be sent to the Regulatory Branch. It is Corps policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this notice that a public hearing be held to consider

this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose address is indicated in the first paragraph of this notice, or by

contacting Bob Smith of our office at telephone 415-977-8450 or E-mail: bsmith@spd.usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided on request.