



SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

NUMBER: 22704N DATE: July 29, 2004
RESPONSE REQUIRED BY: August 28, 2004

PERMIT MANAGER: John Yeakel

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1. INTRODUCTION: California Department of Transportation (Caltrans), through Mr. Chuck Morton, Office of Biological Science and Permits, P.O. Box 23660, Oakland, California 94623-0660, (510) 286-5681, has applied for a U.S. Army, Corps of Engineers (Corps) permit to fill and realign portions of Irwin Creek and place fill in unnamed tributaries to San Rafael Creek to accommodate the Marin 101 HOV Lane Gap Closure Project. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).

2. PROPOSED PROJECT:

Project Site: The project will be located in the City of San Rafael, California, on U.S. Route 101, between Andersen Drive and Lincoln Avenue, and Interstate 580 at the 101/580 Interchange. Current conditions at the site consist of predominantly urbanized, commercial and industrial uses in the vicinity of the 101/580 Interchange extending to the San Rafael Viaduct. Specialized marine uses are located on the east side of the highway near the San Rafael Canal, between Harbor Avenue and the Montecito Shopping Center. Mixed retail/office use is located between Second Street and Mission Avenue on the west and

Second and Fourth Streets on the east. Residential/office uses are clustered around Fifth and Mission Avenues on the east.

Along the east side of the northern portion of the study area are single family residential with some duplex and multifamily residential uses located between Belle and Mission Avenues, and south of North San Pedro Road. Dominican College is located along the east side in this area. A portion of the Parks and Open Space District is adjacent to the highway right of way at the northern end of this segment. On the west side between Route 101 and Lincoln Avenue, the land use is mostly high-density residential and mixed-use residential/office with duplex residential along Brookdale Avenue.

The remaining natural communities are generally degraded and of limited size. Some highly modified Oak/Bay Woodland characterized by coast live oak, bay laurel and an occasional madrone with some poison oak and snowberry in the understory forms a remnant community along the open stretches of Irwin Creek. Central Coast riparian scrub ranging from open areas with annual grasses and vines to a dense thicket of willow species also occurs along disturbed open segments of Irwin Creek.

Project Description: As shown in the

Project Description: As shown in the attached drawings (Attachments A and B), the applicant plans to widen the pavement in the median and along the southbound side of Route 101 to close the gap between the existing high occupancy vehicle lanes in San Rafael. An Environmental Impact Statement/Report for the Marin 101 HOV Gap Closure Project was completed in January 2000. Due to funding constraints, the work on the entire corridor was split into five separate construction projects:

Project 1 is the relocation of a bike lane near Ranchitos Road in San Rafael. This is now incorporated into Project 4.

Project 2 in Larkspur, Corte Madera and San Rafael, from the Corte Madera Creek Bridge to the 101/580 separation, is in construction.

Project 3 in Larkspur, Corte Madera and San Rafael, from north of Tamalpais Drive overcrossing to south of the 101/580 separation is in construction and may be completed by September 2005.

Project 4 and 5 are the Gap Closure Project at Irwin Creek and San Rafael Creek.

Project 4 specific details include pavement widening in the median and to the west of Route 101. The profile of Linden Lane will be lowered to accommodate the construction of a new underpass at Linden Lane. Linden Lane and the southbound Lincoln Avenue Undercrossing will be widened. As a result of the Route 101 widening, relocation of the railroad tracks and realignment of Ranchitos Road and the nearby bicycle path will be necessary. It will also be necessary to relocate utility lines and overhead signs. Existing portions of the soundwall at Route 101 will be

demolished and reconstructed to accommodate for the widening. Eight retaining walls will be installed along Route 101. The Route 101 widening and relocation of the railroad right of way will require the relocation of Irwin Creek.

Project 5 will include pavement widening in the median and to the west of Route 101, realignment of the Route 101 northbound exit off Bellam Boulevard, and a realignment of the westbound 101/580 connector. A new San Quentin Way Separation will be constructed to accommodate this project. It will be necessary to relocate Francisco Boulevard West. This will include the relocation of utilities, the demolition of some buildings, the installation of traffic signals, and the reconstruction of the sidewalk, curbs and gutters, driveways and concrete barriers along Francisco Boulevard West. Existing portions of the soundwall at Route 101 will be demolished and reconstructed to accommodate the widening. Seven retaining walls will be installed along Route 101. A new concrete median barrier will be installed. The box culvert at Francisco Boulevard West will be extended to accommodate for the widening. The widening of Route 101 and extending of the box culvert at Francisco Boulevard West will require realignment of the drainage system in the project area.

Purpose and Need: The basic purpose of this project is to provide a continuous HOV lane on Route 101 in Marin County by closing the gap in the present HOV lane system. The overall purpose of this project is to reduce the existing traffic delay and address projected congestion as well as improve traffic operations and safety.

Caltrans Office of Traffic has determined that adding one HOV lane in each direction can lower the commute time by as much as 4 minutes in the southbound direction and by 26 minutes in the northbound direction.

Impact: The project will result in approximately 539 cubic yards (cy) of fill placed in 0.178 acre (1,332 linear feet) of Corps jurisdictional waters and 0.020 acre (154 linear feet) of wetlands. Irwin Creek will be filled at four locations adjacent to southbound 101 (refer to the following table and attached maps):

I-1) Approximately 0.066 acre (262 linear feet), south of Linden Lane (Attachments C and H).

I-2) Approximately 0.017 acre, 146 linear feet, north of Brookdale Avenue and south of Grand Avenue (Attachments D and H).

I-3) Approximately 0.017 acre, 173 linear feet, south of Grand Avenue (Attachment D and H).

I-4) Approximately 0.042 acre, 687 linear feet, north of Grand Avenue and south of Myrtle Avenue (Attachments D, E and H).

There will also be two additional locations impacted as a result of widening Route 101:

I-5) Approximately 0.020 acre, 154 linear feet, of wetlands at the Route 580 on-ramp to northbound 101 (Attachment F and K) will be filled.

I-6) Approximately 0.016 acre, 64 linear feet, of Waters of the U.S. at Harbor Street (Attachment G and L) will be affected by the extension of the culvert.

Mitigation: To compensate for impacts to Irwin Creek during the railroad relocation,

the creek will be enhanced at five locations adjacent to southbound 101 between Lincoln Avenue to the north and Brookdale Avenue to the south (Attachments D, E, I and J). Caltrans will compensate for other impacts to wetlands and Waters of the U.S. within the right of way (Attachments D, E, I and J). The applicant has proposed to restore 1,200 feet of riparian zone associated with Irwin Creek to compensate for impacts to aquatic resources that could not be avoided. In this area, existing vegetation, primarily Eucalyptus and other non-native vegetation, will be removed. The portions of Irwin Creek that are in a culvert will be daylighted. The creek banks will be laid back and replanted with appropriate native riparian vegetation, including a mix native of willows and alders with an understory of meadow barley and red fescue. In some locations along the creek, slope protection will include the installation of large woody material collected on site.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations, 40 C.F.R. Part 1500-1508, and Corps' Regulations, 33 C.F.R. Part 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 Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file

with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197.

Endangered Species Act of 1973 (ESA):

Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. No listed species or their critical habitat is currently identified as potentially impacted by the proposed project.

Magnuson-Stevens Fisheries Conservation and Management Act:

NMFS and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act. Coordination with the NMFS in regard to EFH will be initiated concurrently with the ESA consultation, if necessary.

Clean Water Act of 1972 (CWA):

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

assume a waiver of water quality certification 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.

b. Alternatives: Evaluation of this proposed activity's impact includes 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)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is not water or wetland dependent. The applicant has not submitted an Analysis of Alternatives and has been informed that such an Analysis is required and will be reviewed for compliance with the guidelines.

Coastal Zone Management Act of 1972 (CZMA):

Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project will comply with the State's Coastal Zone Management Program, if applicable. No Corps permit will be issued until the State has concurred with the applicant's certification. Coastal development issues should be directed to the San Francisco Bay Conservation and Development

Commission (BCDC), 50 California Street, Suite 2600, San Francisco, California 94111.

National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline 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.

5. 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 to determine whether to issue, 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 in the proposed activity.

6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. It is the 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 Public 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 name and address are indicated in the first paragraph of this Public Notice or by contacting John Yeakel of our office at telephone (415) 977-8472 or Email: john.j.yeakel@spd02.usace.army.mil.

Details on any changes of a minor nature which are made in the final permit action will be provided upon request.