



SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

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

NUMBER: 25314N      DATE: July 26, 2004  
RESPONSE REQUIRED BY: August 10, 2004

PERMIT MANAGER: Mark D'Avignon      PHONE: 415-977-8507      Email: mdavignon@spd.usace.army.mil

**1. INTRODUCTION:** The Pine Creek Homeowners Association (Contact: Mr. Gary Ryan, Pine Creek Homeowners Association, 775 South Eliseo Drive, #2 Greenbrae, California 94904, ((415) 461-0917), through its agent Mike Cheney, 6630 Heartwood Drive, Oakland, California has applied for a U.S. Army, Corps of Engineers (Corps) permit to replace a deteriorated boat dock and place a total of 75 cubic yards of fill material into a total of 0.01 acre of jurisdictional wetland and 0.025 acre of inter-tidal waters in association with the stabilization of 170 feet of eroding shoreline at the Pine Creek Condominiums on Corte Madera Creek, Marin County, California. 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 Description:** As shown in the attached drawings, the applicant plans to replace the existing boat dock and stabilize the eroding shoreline of Corte Madera Creek at the property located at 775 South Eliseo Drive # 2, Greenbrae, Marin County, California.

The applicant proposes to begin work by removing the existing pier, gangway and dock float, including removing the old concrete deadmen and supporting stiff-arms and cables. A barge with a small clamshell excavator and rock on it will then be floated in and first used to salvage native wetland

vegetation and topsoil from the existing 170 feet of shoreline as well as eliminate the invasive Atlantic cordgrass (*Spartina alterniflora*) on-shore. This material would be stored on the adjacent uplands for the one to two week construction period. The clamshell excavator would then cut a shallow bench along the existing bank at Mean Higher High Water (MHHW) elevation and a second trench at a lower elevation parallel to the upper bench. The excavated material will be used to create an even slope on the remainder of the shoreline. Filter fabric will then be placed on the slope and approximately 75 cubic yards of 6-inch to 12-inch rock riprap placed over the filter fabric in the two trenches to create two shoreline protection slopes separated by a planting bench, which will be at an elevation between Mean High Water (MHW) and MHHW. The planting bench would then be revegetated with the salvaged native vegetation and topsoil to restore wetland functions and values. Four new piles would then be driven into the shoreline in the old pile locations with supports to secure the structures. The piles would be either untreated greenheart timber or steel. Finally, as shown on the attached project plans, the pier, gangway and dock float would be replaced.

The existing shoreline at the proposed project site has eroded over the past two decades and is now primarily mudflat with a thin fringe (0 feet to 5 feet wide; 3.5 feet average width) of tidal marsh vegetation. This totals approximately 595 square feet (0.01 acre) of tidal marsh vegetation. The vegetation is mixed and includes native species such as pickleweed (*Salicornia virginica*) as well as the

Atlantic cordgrass. Almost all of this vegetation would be eliminated; the project would also eliminate the invasive cordgrass and, accordingly, halt this infestation in this location. Additionally, approximately 5 to 8 feet of mudflat (6.5 ft average width) over the length of the shoreline would be covered by rock rip-rap; this totals about 1100 square feet (0.03). The planting bench will be 3 to 4 feet wide (3.5 feet average) and will, accordingly, provide for 595 square feet of tidal marsh revegetation.

The proposed project has been redesigned from an earlier proposal submitted to the Corps in 2000, and incorporates input from the regulatory agencies. The resulting design includes a vegetative planting zone to allow for the reestablishment of wetland vegetation while stabilizing the shoreline. The use of purely bio-technical bank stabilization methods at this location was determined to be infeasible due to the high wave action and energy at this location.

The proposed project includes three years of monitoring of the planted area to ensure that this zone is dominated by native species and does not again host the Atlantic cordgrass. Geomorphology, hydrology, and revegetation will all be monitored with annual reports provided to the Corps.

**Purpose and Need:** The purpose of the proposed project is to provide shoreline erosion protection that includes wetland revegetation and to replace the dilapidated support structures for an existing small boat pier, gangway and dock float. The shoreline protection is necessary to ensure that the condominium building foundations and existing structures are not adversely affected by the continuing erosion at the proposed project location. The shoreline at this location has been steadily receding for decades and is now within feet of the existing homes on the property.

### 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. Species and critical habitat currently identified as potentially impacted by the proposed project include Central California Coast threatened steelhead (*Oncorhynchus mykiss*), Central Valley threatened steelhead (*Oncorhynchus mykiss*), Central Valley Spring-Run chinook (*Oncorhynchus tshawytscha*), Sacramento River Winter-Run chinook (*Oncorhynchus tshawytscha*), Central California Coast threatened coho salmon (*Oncorhynchus kisutch*), and designated critical habitat for these salmonid fish species.

**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)). The applicant has submitted an Analysis of Alternatives for the project and it will be reviewed for compliance with the guidelines. The applicant states that there are no practicable alternatives for his project. An evaluation has been made by this office under the guidelines and it was determined that the proposed project is water or wetland dependent.

**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 Mark D'Avignon of our office at telephone 415-977-

8507 or E-mail: [mdavignon@spd.usace.army.mil](mailto:mdavignon@spd.usace.army.mil). Details on any changes of a minor nature which are made in the final permit action will be provided upon request.