



US Army Corps
of Engineers.

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

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Regulatory Branch

333 Market Street

San Francisco, CA 94105-2197

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1. **INTRODUCTION:** The Sonoma County Water Agency (SCWA), P.O. Box 11628, Santa Rosa, California 95406 (POC: Jessica Martini; 707-547-1903), has applied to the U.S. Army Corps of Engineers (USACE) for a five-year Department of the Army permit to periodically breach the mouth of the Russian River, at the Sonoma Coast State Beach, near the Town of Jenner, in Sonoma County, California. Issuance of a permit would enable SCWA to continue breaching the Russian River estuary on an interim basis, while SCWA, USACE, and National Marine Fisheries Service coordinate and prepare a Biological Assessment and Programmatic Biological Opinion to address the effects of various operations and maintenance activities performed in the Russian River Basin on threatened salmonid fish species. This consultation process could eventually result in modifications to the current flow regimes and the manner by which the estuary is managed as an open or closed system. This individual permit 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:** As shown in the attached drawings, a pilot channel would be periodically excavated across the low point of the sand bar at the river mouth when the estuary water level rises between 4.5 to 7.0 feet, as measured by the gage at the Jenner Visitor's Center. Although the sand bar may vary in size with each breaching event, typical breaching work would result in a pilot channel approximately 100 feet long by 25 feet wide and six to eight feet deep, generating up to 1,000 cubic yards of dredged material sidecast on the sand bar below the high tide line. Breaching work would often coincide with high tide conditions to minimize the overall length of the pilot channel. Beginning near the estuary side of the sand bar, a large bulldozer would excavate and push sand to construct the pilot channel towards the ocean. As the pilot channel began to intercept tidal inflows from the ocean, a small wedge of sand would be removed from the estuary end to allow full tidal exchange and rapid down-cutting and widening of the channel.

3. **PURPOSE AND NEED:** SCWA indicates artificial breaching of the sand bar must occur when the estuary water level rises between 4.5 to 7.0 feet under current flow regimes to prevent localized flooding of various low-lying shoreline developed properties in Jenner and nearby agricultural properties. Water levels exceeding 7.0 feet produce high velocity flows during breaching events that endanger the

equipment operators performing the breaching work, cause excessive withdrawal of anoxic water from Willow Creek Marsh, and flush juvenile salmonids from the estuary. Breaching of the sand bar could occur at any time of the year but would likely occur more frequently during the summer and fall, when out-flows are not adequate to maintain an open estuary. In 2001, eight breaching events took place in January, April, May, and October. In 2002, five breaching events took place in June, November, and December. In 2003, three breaching events took place in October and November. Artificial breaching of the sand bar has been routinely occurring for at least many decades but did not become an activity regulated by USACE until 1989.

4. **STATE APPROVALS:** 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 (33 U.S.C. § 1341). SCWA has recently submitted an application to the to the Regional Water Quality Control Board (RWQCB) to obtain water quality certification for the project. No Department of the Army permit will be issued until SCWA obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act. Water quality issues should be directed to the Executive Officer, Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, by the close of the public notice comment period.

Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c)), requires a non-Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to furnish a certification that indicates the activity conforms with the State's coastal zone management program. Generally, no federal license or permit will be issued until the appropriate State agency has concurred with the certification statement or has waived its right to do so. Since the project occurs in the coastal zone and may affect coastal zone resources, SCWA has applied to the California Coastal Commission for a Coastal Development Permit.

The project is also subject to the provisions of a General Lease

Agreement issued by the California State Lands Commission, a 1602 Streambed Alteration Agreement issued by the California Department of Fish and Game, and a Use Permit issued by the California Department of Parks and Recreation.

5. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (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 CFR Parts 1500-1508, and USACE Regulations at 33 CFR 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.

In general, periodic breaching of the estuary would reduce incidences of localized flooding, temporarily alter streamflow patterns and tidal circulation, water quality, and salinity, and temporarily generate increased sedimentation and turbidity in the water column. In addition, periodic breaching of the estuary would cause juvenile salmonids to be prematurely flushed out of the estuary and potentially exposed to increased predation by seals, and enable adult chinook salmon to prematurely migrate upstream under poorer water quality conditions that promote increased potential for stress, predation, and poaching.

Endangered Species Act of 1973 (ESA): Naturally spawned populations of coho salmon (*Oncorhynchus kisutch*), steelhead (*Oncorhynchus mykiss*), and chinook salmon (*Oncorhynchus tshawytscha*) inhabiting the California Coast Province, including the Russian River Basin, have been federally-listed as threatened under the Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 *et seq.*). Critical habitat has been also designated for coho salmon to include all estuarine and river reaches accessible to salmonids below longstanding, naturally impassable barriers. Designated critical habitat consists of the water, streambed, and adjacent riparian zone.

The Russian River estuary is important for adult and juvenile passage for all three listed salmonid species. The estuary provides an opportunity for smolts to acclimate to ocean conditions before migrating out of the Russian River, as well as potentially providing juvenile rearing habitat for steelhead and chinook salmon. Adult coho salmon generally enter the Russian River and migrate upstream to spawn from late October to mid-February and die within two weeks after spawning. Yearling juvenile coho salmon tend to migrate downstream to the ocean

from March to mid-June. Steelhead are capable of repeat spawning episodes. Adult steelhead enter the Russian River from late fall through April and begin spawning in December. Juvenile steelhead can remain in fresh water from one to three years and tend to migrate downstream to the ocean during the spring and early summer months. Chinook salmon begin their upstream migration in the late fall, with the advent of heavy rains, and spawn shortly after returning to their natal streams; this migratory period may continue into March or early April and generally peaks in December and January. Juvenile chinook salmon begin their downstream migration in late March or early April, with out migration peaking in mid-May.

To address project-related impacts to salmonid fish species and designated critical habitat, USACE will initiate formal consultation with the National Marine Fisheries Service, pursuant to Section 7(a) of the Endangered Species Act. The consultation process must be concluded prior the issuance of any Department of the Army Permit for the project. No other federally-listed threatened or endangered species are known to occur within the project reach or in the project vicinity.

Magnuson-Stevens Fishery Conservation and Management Act of 1996 (MSFCMA): The Russian River Basin occurs within designated essential fish habitat for the Pacific Salmon Fishery that includes both coho and chinook salmon. Essential fish habitat for these species corresponds to the constituent habitat elements of designated critical habitat for coho salmon. USACE has made a preliminary determination that the project is not likely to adversely affect essential fish habitat for Federally managed fisheries in California waters. The aforementioned Section 7 consultation process will be used to address project related impacts to essential fish habitat.

National Historic Preservation Act of 1966 (NHPA): Based on a review of CEQA documentation on file with various City, State, and Federal agencies, no historic or archaeological resources are known to occur in the project reach or in the project vicinity. Since the exposed sandbar is seasonally scoured and altered by high-tide events, project related grading and excavation activities would not likely encounter intact archaeological resources. If unrecorded archaeological resources were discovered during the breaching event, such operations would be temporarily suspended until USACE concluded Section 106 consultation with the State Historic Preservation Officer to take into account any project-related impacts to these resources.

6. COMPLIANCE WITH THE 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 dependent on location in or proximity to

waters of the United States to achieve the basic project purpose of reducing occurrences of local flooding. This conclusion raises the (rebuttable) presumption of the availability of a practicable alternative to the project that would result in less adverse impact to the aquatic ecosystem, while not causing other major adverse environmental consequences. SCWA has submitted an analysis of project alternatives to be reviewed for compliance with the Guidelines.

7. 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.

8. CONSIDERATION OF COMMENTS: USACE 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 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 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.

9. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to the San Francisco District, Regulatory Branch, North Section, citing the applicant's name and Public Notice Number in the letter. 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 comments will be forwarded to SCWA for resolution or rebuttal. Additional information may be obtained from SCWA or by contacting Mr. Peter Straub of the Regulatory Branch at 415-977-443 or by e-mail at pstraub@spd.usace.army.mil.