



US Army Corps
of Engineers®

Regulatory Branch
1455 Market Street
San Francisco, CA 94103-1398

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: Phase I – South Bay Salt Pond Restoration Project

NUMBER: 27703S

DATE: 2/1/08

RESPONSE REQUIRED BY: 2/29/08

PROJECT MANAGER: Paula C. Gill

PHONE: (415) 503-6776

1. INTRODUCTION:

Subject: The California Department of Fish and Game, Region 3 (7329 Silverado Trail, Napa, California, 94599) and the U.S. Fish and Wildlife Service (Don Edwards San Francisco Bay Wildlife Refuge, 9500 Thornton Ave., Newark, California, 94560) have applied for a Department of the Army permit to conduct work within the Corps' jurisdiction to implement Phase I of the South Bay Salt Pond (SBSP) Restoration Project. Phase I involves discharge of fill within former salt ponds located at the Ravenswood (SF2), Alviso (A5, A6, A7, A8, A16, & A17) and Eden Landing Ponds (E8, E9, E12, and E13). The approximately 4,155 acres of salt ponds are located in San Mateo, Santa Clara, and Alameda Counties (see Figure 1).

Authority: 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 (33 U.S.C. 403).

2. PROPOSED PROJECT:

Project Purpose: The objectives of Phase I of the SBSP Restoration Project are to restore and enhance a mix of wetland habitats and to provide wildlife-oriented public access and recreation in the South San Francisco Bay.

Project Description: A permit for Phase I of the SBSP Restoration project would authorize actions involving tidal habitat restoration, pond reconfiguration and recreation / public access actions, as well as monitoring activities, and applied studies. Ultimately, the larger SBSP Restoration project would provide for a mix of restored tidal and managed pond habitats. The tidal habitat would include salt and brackish marsh, mudflats, subtidal flats and channels, marsh ecotones and upland transitional zones, salt pannes and ponds, and sloughs. Managed pond habitats would include pond reconfiguration and water regime management that would be used to enhance and create ponds with a variety of depths and salinities and associated levee and islands. Phase I would be the first step towards restoration of 15,100 acres of commercial salt ponds purchased from Cargill Salt in March 2003 to a mix of tidal wetlands and other habitats using state, federal, and private foundation funds.

Phase I actions are specific to Ponds A6, A8, A16, SF2, E8A/E8X/E9 and E12/E13 and are required for subsequent SBSP restoration activities. No specific flood management actions (e.g., flood control levees) are proposed in Phase I of the project, although Phase I ponds were chosen because they do not, in and of themselves, require the implementation of flood control measures.

Habitat Restoration Component (tidal restoration and managed ponds): In and around ponds A6, A8, A16, SF2, E8A/E8X/E9, and E12/E13, the proposed work would include breaching and lowering sections of levees, excavation of pilot channels, constructing ditch blocks to fill borrow ditches, enlarging channels, removing or adding water control structures, and the placement of fill (see Figures 2-13) for improved wildlife habitat.

Public Access and Recreation Component: The proposed public access and recreation activities include upgrades to trails, the construction of viewing platforms and interpretative stations (see Figures 9, 13), and a kayak/boat launch. In addition, American Disabilities Act compliant features would be installed as funding allowed.

IMPACTS:

The project would require 609,093 cubic yards of fill with a total excavation footprint of approximately 383 acres (with additional temporary impacts of 40.55 acres). The majority of the material removed as part of the excavation activities would be reused on-site as fill specifically for restoration actions. Totalling all fill and excavation work would result in redistribution of approximately 1,217,436 cubic yards effecting 789.15 acres of Waters of the U.S. Additionally, redistribution of approximately 750 cubic yards of fill would result in effects to 31.2 acres of wetlands.

After implementation of restoration actions, indirect impacts to waters of the U.S. resulting from scour of existing outboard marshes could occur along Mt. Eden Creek, North Creek, Old Alameda Creek, Alameda Creek Flood Control Channel, Mud Slough, Coyote Creek, Alviso Slough, Guadalupe Slough, Stevens Creek, Mountain View Slough, Charleston Slough, and Ravenswood Slough which may total up to approximately 100 acres.

PROPOSED MITIGATION:

Due to the anticipated development of marsh habitats within tidal restoration ponds (E9/E8A/E8X, A6 and reversibly, A8/A8S) resulting from the proposed activities and continued use of Ponds E12/E13, A16, and SF2 as managed ponds for wildlife, there would be no mitigation measures required with the exception of measures taken to minimize or avoid disturbance to sensitive habitat areas. A total of 1,060 to 1,460 acres of tidal marsh habitats would be anticipated to develop within the Phase I ponds if tidal action is restored. Intertidal mudflats would comprise the majority of pond interiors up to year ten (10), with vegetated middle marsh developing as a dominate habitat thereafter. Overall evolution of restored ponds to tidal marsh would occur over 10 to 30 years.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): In accordance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) an EIR and EIS were prepared and released for the entire 15,100-acre SBSP project. This evaluation includes review of the proposed Phase I actions.

The EIS and EIR are currently in review by the lead agency. Comments have been received and are being considered. The Record of Decision is anticipated to be received in early 2008.

The EIS and EIR focus on key issues, including hydrology, water quality, biological resources, and geology and soils. Other resource topics such as air quality, hazardous materials, noise, land use, recreation, and cultural resources were also addressed. Two habitat restoration options were evaluated in the EIR and EIS in addition to evaluation of the no-project alternative.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any federally listed species or their designated critical habitat.

Several listed species are known from the SBSP Phase I Project vicinity, including seven federally listed species including: salt marsh harvest mouse (*Reithrodontomys raviventris*), California clapper rail (*Rallus longirostris obsoletus*), western snowy plover (*Charadrius alexandrinus nivosus*), California least tern (*Sterna antillarum browni*), California brown pelican (*Pelecanus occidentalis californicus*), central California coast steelhead (*Oncorhynchus mykiss*), and its Critical Habitat, and green sturgeon (*Acipenser medirostris*).

A Biological Assessment (BA) was compiled and submitted to the USFWS and NMFS in June of 2007. Separate BA's for Phase I actions were submitted in July and August of 2007. Section 7 Consultation under the Federal Endangered Species Act is currently in progress and the issuance of Biological Opinions from both agencies are pending.

Magnuson-Stevens Fisheries Conservation and Management Act: Essential Fish Habitat - The Magnuson-Stevens Fishery Conservation and Management Act requires all Federal agencies to consult with the NMFS on all actions, or proposed actions permitted by the agency that may adversely affect Essential Fish Habitat (EFH).

A Biological Assessment addressing Project effects on EFH associated with the Coastal Pelagics, Pacific Groundfish, and Pacific Coast Salmon Fisheries Management Plans was prepared and submitted to NMFS in July of 2007. The NMFS' EFH conservation recommendations are pending.

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. 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 issue 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)). A 404(b)(1) alternatives analysis has been prepared by the Applicant and is available on file with this office. For the Project, the basic project purpose is to restore tidal habitat and maintain pond habitats using methods and approaches with a high potential for success. The basic purpose is therefore water dependent; implementation of restoration efforts does require access or proximity to a special aquatic site.

Habitat Restoration (tidal restoration and reconfigured ponds): The actions required for the Phase I of the project have been designed to require the least fill placement within Corps' jurisdiction possible while still attaining project goals. All proposed impacts (e.g., fill placement to create nesting islands) are to create or enhance habitat for listed species and other birds, and to optimize restoration activities; environmental benefits will result from implementation of restoration.

Public Access and Recreation Component: After considering the goals and objectives of this part of the project and site constraints and opportunities, it was concluded that the work related to public access and recreation (e.g., trails, viewing platforms, interpretative stations, and kayak launch) can only be completed in the chosen locations to minimize impacts to Corps' jurisdiction. These features are primarily located on existing levees, with no impacts to wetland habitat. Alternative sites would require additional discharge of fill into Waters of the U.S.

Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project is consistent 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. Concurrent with this application, materials have been forwarded to the San Francisco Bay Conservation and Development Commission (BCDC). Questions related to that application should be forwarded to BCDC, 50 California Street, Suite 2600, San Francisco California 94111.

National Historic Preservation Act of 1966 (NHPA): The EIS and EIR for the larger SBSP Restoration Project addressed potential impacts of all of the sets of options to cultural resources. Mitigation measures were outlined for those impacts that would result in an adverse effect to cultural resources. Consultation with the State Historic Preservation Office (SHPO) and appropriate Native American Tribes in accordance with Section 106 of the National

Historic Preservation Act is pending.

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, historic 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 federally listed 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, 1455 Market Street, San Francisco, California 94103-1398. 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 Paula Gill of our office at telephone 415-503-6776 or E-mail: Paula.C.Gill@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.