



US Army Corps
of Engineers®

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: Alviso Marina County Park Boat Launching Facility

NUMBER: 22824S
PROJECT MANAGER: Paula Gill

DATE: June 17, 2009
PHONE: (415) 503-6776

RESPONSE REQUIRED BY: July 17, 2009
Email: Paula.C.Gill@usace.army.mil

1. **INTRODUCTION:** The Santa Clara County Department of Parks and Recreation (Mr. Mark Fredrick, 298 Garden Hill Drive, Los Gatos, California), through its agent (TranSystems Corporation) has applied for a Department of the Army permit to construct a boat launch ramp and associated facilities in Alviso Marina County Park, San Jose, Santa Clara County, California. This application is being processed pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403) and Section 404 of the Clean Water Act of 1972 (33 U.S.C. Section 1344).

2. **PROPOSED PROJECT:** The Applicant's stated project purpose is to provide motorized watercraft and non-motorized watercraft users with recreational access to south San Francisco Bay by building a small boat launching facility at Alviso Marina County Park on Alviso Slough. The proposed boat launch facility would (1) increase boating access to south San Francisco Bay; (2) meet current guidelines set forth by the State of California Department of Boating and Waterways; (3) provide the only public access to San Francisco Bay in Santa Clara County; (4) serve as an access point to the San Francisco Bay Water Trail; (5) enhance recreational and aesthetic land uses at Alviso Marina County Park; and (6) improve access for search and rescue operations, law enforcement patrol, and environmental monitoring work necessary to manage and protect resources in the South Bay.

Project construction would require installation of the following features: a two lane boat launching ramp and associated rip rap; one standard boarding float; one low boarding float; a new 26 space parking area; parking lot and launch ramp lighting; drainage and erosion controls; direction/interpretive signage; shoreline pathway along parking area perimeter; landscaping and irrigation; and wetland restoration and mitigation areas (see Figures 1 - 8).

The project proposes 2,000 cubic yards of dredging in Alviso Slough to a depth of -11 feet NGVD29 with a one foot over-dredge allowance. The applicant is also requesting approval for a total of 5,000 cubic yards of maintenance dredging over a 10-year multi-episode period. In total, work would require placement of approximately 500 cubic yards of rip rap, approximately 10,300 cubic yards of fill for parking lot construction, and 120 cubic yards for launch ramp construction. Project implementation would adversely affect 0.58 acre of seasonal wetland and approximately 3,100 square feet of brackish marsh within Alviso Slough (rip rap and boat ramp installation).

3. **AVOIDANCE, MINIMIZATION, AND COMPENSATION:** The applicant has proposed to mitigate for the loss of 0.58 acre of seasonal wetland at a ratio of 1.2:1 through construction and enhancement of 0.72 acre of seasonal wetland (see Figure 8). An area of 0.38 acre would be created on the south side of the proposed launch ramp parking lot. An area of 0.34 acre would be created on the west side of the proposed parking lot. Loss of

approximately 3,100 square feet of brackish marsh associated with concrete launch ramp and rip rap installation is also proposed to occur. The applicant has proposed to mitigate for these affects through removal of an existing concrete boat launch ramp and the adjacent wood boarding float to allow natural re-vegetation to occur.

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. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 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 Division, 1455 Market Street, San Francisco, California 94103-1398.

Endangered Species Act of 1973 (ESA): Section 7 of the ESA 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 its designated critical habitat.

Listed species are known to occur within the proposed project vicinity, including California clapper rail (*Rallus longirostris obsoletus*), western snowy plover (*Charadrius alexandrinus nivosus*), central California coast steelhead (*Oncorhynchus mykiss*), and green sturgeon (*Acipenser medirostris*). A Biological Assessment was submitted to the USFWS and NMFS in February 2009. Section 7 Consultation under the ESA 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). The Corps initiated consultation in accordance with the requirements in March of 2009. The proposed project would impact approximately 3,100 square feet of EFH. The Corps' initial determination is that the proposed action may adversely impact EFH or federally managed fisheries in California Waters. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

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)). An alternatives analysis was submitted by

the applicant in December of 2008. Prior to issuance of permit the Corps must determine that the preferred alternative is the least damaging practicable alternative (LEDPA). Three alternative on-site project layouts were examined to determine which design would remain consistent with the project purpose while still minimizing and avoiding impacts to jurisdictional waters of the U.S. An example of identified constraints included policies and regulations stipulated by the California Department of Boating and Waterways grant which would be used to fund the project. The launch ramp is water dependent; while other project components such as the parking area are not water 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 is consistent with the State's Coastal Zone Management Program, if applicable. The proposed project is within the Coastal Zone. No Corps permit will be granted until the applicant obtains the required consistency determination from the Bay Conservation and Development Commission.

National Historic Preservation Act of 1966 (NHPA): 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, 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 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 Division, 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.