



US Army Corps
of Engineers®

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: Sabankaya's Ranch Road

NUMBER: 2002-27037N

DATE: **December 28, 2009** RESPONSE REQUIRED BY: January 27, 2010

PROJECT MANAGER: Kelley Reid

PHONE: 707-443-0855

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1. **INTRODUCTION:** Mr. Mustafa Sabankaya, of San Jose, California, through his agent Mr. Julian Colescott of North State Resources has applied for an after-the-fact Department of the Army permit to fill approximately 1.15 acres of wetlands in association with the construction of an access road. The Sabankaya Select Ranch (APN 021-130-230 and 020-016-021) is located at 12125 North Old Stage Road, Weed, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344). Figure 1 further depicts the project location.

2. PROPOSED PROJECT:

The applicant discharged approximately 7,421 cubic yards (cy) of rock for the road base in the most direct alignment without authorization from the Corps. The unauthorized road was constructed on the Sabankaya Select horse ranch to allow Mr. Sabankaya to provide access to larger truck/trailer rigs than can be accommodated by the existing road. The current alignment includes 7,421 cy of fill into 1.15 acres of wetland waters of the U.S. The road construction was interrupted by the Corps' Cease and Desist order, dated May 27, 2003.

Near Stewart Springs Road, the road is approximately 12 feet wide at the top and 4 feet high. The road is approximately 3800 feet from Stewart Springs Road, south-southwest to the barn where it turns eastwards for 2400 feet to an irrigation ditch, and then north again for approximately 1800 feet to connect with an existing dirt road. The first 1000 feet from Stewart

Springs Road is the portion that crosses wetlands. There is also a culverted crossing over a wet swale in the eastward segment. In addition to the constructed road, Mr. Sabankaya would place culverts spaced 100 feet apart in the road segment through wetlands. Figure 2 depicts the size and extent of the project and the impacts to wetlands. Currently there are no design plans for the road.

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 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. The proposed project would not impact any known threatened or endangered animals; a botanical survey has not been provided to the Corps at this time.

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 evaluation has been made by this office under the guidelines and it was determined that the proposed project is 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. However, the proposed project is not within the Coastal Zone.

National Historic Preservation Act of 1966 (NHPA): The applicant has not provided an archaeological survey at this time. Due to the proximity to the Shasta River, it would be reasonable to expect cultural or historic resources may be on the property. The Corps may need to complete consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act. If a Corps permit is granted and additional unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes another consultation with the SHPO.

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 Mr. Kelley Reid of our office at telephone 707-443-0855 or E-mail: Kelley.e.reid@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.