US Army Corps of Engineers

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: 400239S DATE: 5 JUNE 2009

RESPONSE REQUIRED BY: 20 JUNE 2009

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

PROJECT MANAGER: Bob Smith Phone: (415) 503-6792E-mail: robert.f.smith@usace.army.mil

1. **INTRODUCTION:** The City of Livermore has applied for a Department of the Army permit to fill 1.35 acres of wetlands and waters of the US to implement the El Charro Specific Plan located on a 250-acre site on the western side of the City of Livermore (See Figures 1 and 2) in eastern Alameda County immediately south of I-580. California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. **PROPOSED PROJECT:**

The purpose of the El Charro Specific Plan is to provide a greater level of detail than what is provided in the General Plan to guide the development of community/regional commercial uses and associated support services, as well roadway improvements and open space and recreational uses. The objectives of the Specific Plan are to implement General Plan goals, policies, objectives, and land use densities in a manner that achieves the following.

Formulate a specific plan that requires high quality development consistent with the goals and vision of the General Plan.

Ensure development is consistent with Scenic Corridor policies and objectives.

Provide a major east-west roadway connection between State Route (SR 84 and El Charro Road.

Participate in planning full improvements for El Charro Road that accommodate capacity and safety concerns of Specific Plan properties and surrounding land uses.

Realign and upgrade Freisman Road as part of circulation improvements.

Provide three roadways to improve access to the properties located in the eastern and southern parts of the Specific Plan Area.

Plan for development that is compatible with surrounding land uses, including quarries, the Las Positas Golf Course, and the Livermore Municipal Airport.

Ensure protection of environmentally sensitive assets through the formulation of a Specific Plan designating appropriate development envelopes and environmental mitigations.

Include policies in the Specific Plan that encourage coordination with other appropriate entities in planning and implementing current and future phased improvements to El Charro Road, the El Charro/I-580 interchange, and the creek and flood control system.

Identify and implement a funding plan to ensure the provision of public infrastructure necessary to serve El Charro development. Consider and incorporate other agency and landowner projects in the specific program, where feasible, requiring funding by those entities for those studies pertaining to projects or facilities that may involve the Project Area or the larger El Charro area (e.g., additional improvements to El Charro Road, the Zone 7 Water Agency (Zone 7 diversion channel, etc.).

Create certainty regarding development potential and streamline the permit process to require consistency between the Specific Plan and environmental documents. Create a Specific Plan that provides a positive climate for business

investment, minimizes risk, and (through a property-based funding mechanism such as an assessment district) allocates costs for improvements and benefits received in a prudent and equitable manner among participating property owners.

The proposed project would construct 5 new outfalls, recondition one outfall, construct five bridges and remove one abandoned cow bridge on the Arroyo Las Positas. Permanent fill material would be placed into waters of the U.S. to construct the stormwater outfalls with rock slope protection, to construct a new road connecting Jack London Boulevard to El Charro Road (JLB Extension), to construct a storage and diversion area for flood management, to widen El Charro Road and align it with the eastbound onramp to I-580, and to support commercial development. Temporary fill material (cofferdams and bypass pipes) would be placed in the onsite creeks if necessary in order to work on the banks of the creeks during bridge construction or for the installation of falsework.

The proposed project would affect 1.35 acres of jurisdictional seasonal wetlands and waters of the U.S., and 3.29 acres of non-federally regulated water bodies such as golf course ponds, upland drainage ditches, and artificially irrigated seasonal wetlands

The construction of five new stormwater outfalls and reconditioning of one existing stormwater outfall would permanently fill 0.024 acres of the Arroyo Las Positas below the OHWM.

Dual-Pipe Outfall - A new outfall consisting of a 36” and a 48” concrete pipe with cemented rock spillway would be constructed on the north bank of Arroyo Las Positas approximately 120 feet downstream from the fish ladder. The dual-pipe outfall would be constructed at the site of an existing outfall, to be removed, and connect to the storm drain leading from HMP basins #1 and #2, and 3 combined. Most of the construction of the outfall would occur on the bank of the Arroyo Las Positas above the ordinary high water mark. However, the cemented rock spillway would extend approximately 8 feet below OHWM and cover an area approximately 45 feet wide. The resulting loss of waters of the U.S. for this feature would be approximately 0.008 acres. If necessary, to construct the dual pipe outfall, temporary cofferdams, and possibly a bypass pipe, would be used to dewater the creek within the spillway construction area. The contractor will make sure dewatering activities do not cut off downstream flows.

Storm Drain Outfalls -Four new 24-inch diameter corrugated metal pipe (CMP) storm drain outfalls would be constructed on Arroyo Las Positas. Three would be located on the south bank and one on the north bank of the creek (See Figure 1-3a for the locations of these outfalls). Additionally, the invert elevation of an existing 48-inch outfall located on the south bank of the Arroyo Las Positas and downstream from the fish ladder would be lowered.

Installation of each outfall and the reconditioning of the existing outfall would require excavation into the bank of the creek to position the storm drain at the bottom of the bank and excavation into the bed of the creek channel in order to place rock scour protection and grout. The area below OHWM affected by excavation and backfilling with rock and each new outfall structure would measure approximately 15 feet by 15 feet and 3 feet thick. The four outfalls combined would fill approximately 0.016-acres of Arroyo Las Positas. The lowering of the existing outfall would require the addition of new grout around the outfall pipe, but no new impacts to the creek would occur. If necessary, cofferdams and temporary bypass culverts would be used to dewater each outfall construction area and maintain downstream flow.

West Jack London Boulevard Bridge - A new 100-foot long clear span bridge over the Arroyo Las Positas would be constructed to accommodate the planned extension of Jack London Boulevard (JLB) to El Charro Road. The new bridge has been

designed to avoid filling waters of the U.S., by clear-spaning the creek. Construction of the JLB Bridge would involve placing the bridge superstructure atop 20-feet high abutments located outside the top-of-bank.

Temporary impacts lasting approximately 60 days would occur to the bed and banks of Arroyo Las Positas during construction. Cofferdams and diversion pipe would be placed onto the channel bed to dewater approximately 150 linear feet (approximately 0.10 acre) of the creek Additional temporary impact would result from excavation and backfilling on the channel bank in order to install two-foot-thick, buried rock curtains around the bridge abutments. The rock curtains would start at the face of the abutments and extend downward away from the abutment at a 1.5 to 1 vertical slope until it is four feet below the Arroyo Las Positas flowline elevation. Approximately 120 linear feet of each creek bank below the bridge would be excavated back 22 feet to allow placement of the rock curtain (approximately 97 cy of material). The rock would be deposited into the excavated area and covered with 20 feet of the original bank material. The bank would then be compacted, and restored to preconstruction contours.

In order to construct the bridge, the Arroyo Las Positas would be dewaterd for approximately two months between April 15th and October 1st. Upon completion, all temporary fills would be removed and disturbed areas would be restored to preconstruction contours. Disturbed soils would be stabilized with erosion and sediment control using approved best management practices (BMPs) and revegetated with native seed mixtures or transplants.

Four new bridges would be constructed near the confluence of Arroyo Las Positas and Cottonwood Creek. Three of these bridges (Crosswinds Church Bridge #s 2, 3, and 4) would be constructed over the Arroyo Las Positas and the other bridge (Crosswinds Church Bridge #1) would be constructed over Cottonwood Creek. The new bridges have been designed to avoid waters of the U.S. and would clear span the creek. However, during construction, temporary fills (cofferdams) and diversion pipes will be used to dewater approximately 150 linear feet (approximately 0.10 acre at each location) of the creek under the bridges.

For the three bridges over the Arroyo Las Positas (#'s 2, 3, and 4), additional temporary impacts would occur to the banks due to excavation and backfilling to install two-foot-thick, buried rock curtains around the bridge abutments. The actual abutmnets are outside of Corps jurisdiction. The rock curtains would start at the face of the abutments and extend downward 9.5 to 11 feet and away from the abutments at a 1.5 to 1 vertical slope until it is four feet below the Arroyo Las Positas flowline elevation. Approximately 60 linear feet of each creek bank below the bridge would be excavated to make a trench 9.5 to 11 feet deep and 2 feet wide to allow placement of the rock scour protection (approximately 45 cy of bank material excavated and 45 cy of rock back filled into the trench excavated on each bank). The rock would be deposited into the excavated area and covered with original bank material. The disturbed area at the top of bank would then be compacted, and restored to preconstruction contours.

Temporary impacts may result from the placement of temporary falsework or forms in the channel during construction of the Crosswinds Bridges. No permanent fill material would be placed below OHWM to construct these bridges. All material temporarily discharged into the Arroyo Las Positas (cofferdams or falsework) would be removed and the disturbed areas would be returned to preconstruction contours and elevations upon completion.

Three abandoned bridges (two on Cottonwood Creek and one on Arroyo Las Positas would be removed as part of the project. Cottonwood Creek would be affected by the construction of Crosswinds Church Bridge #1 and the removal of two abandoned bridges. No permanent impacts or

fill would affect the creek but temporary fills (cofferdams) and bypass pipe would used to dewater the construction areas. Approximately 0.10 acre would be temporarily dewatered during the construction of Crosswinds Church Bridge #1 as described above.

To facilitate use of a multi-use trail, a pedestrain bridge would be constructed over Arroyo Las Positas in the southwest portion of the project area, immediately upstream from the fish ladder. No permanent fill would be placed below OHWM to construct this bridge. As described for the previous bridges over Arroyo Las Positas, a 2' thick curtain of rock would be buried, outside of Corps jurisdiction, at the base of each bridge abutment. The rock curtain would start at the face of the abutment and extends downward going away from the abutment at a 1.5' horizontal to 1' vertical slope until it is 2' below the existing Arroyo Las Positas flow line elevation. The rock curtain would run completely along the proposed abutment face and tie back into the bank. Approximately 45 cy of bank would need to be excavated for the installation of each rock curtain. Upon completion the bank would be backfilled to the elevations existing prior to construction and all vegetation restored per separate creek restoration plan.

Construction of the JLB Extension would fill approximately 700 linear feet of DD-1 and 330 linear feet of DD-2. The JLB Extension would connect with El Charro Road (as shown on Figures 1-3a and 1-3b) with an elevated crossing over Arroyo Las Positas (described previously in this document) and a box culvert crossing of the new South Storage Diversion Area (described above). The new road would be constructed on a raised base along the southeast edge of the golf course. Where the road crosses the South Storage Diversion Area, ten, 8-feet by 12-feet box culverts would be constructed to allow 100-year flood flow release under the road and into the South Storage Diversion Area. Construction of the JLB Extension would fill approximately 200 linear feet of DD-1 north of the South Storage Diversion Area, approximately 500 linear feet of DD-1 south of the South Storage Diversion Area, and approximately 330 linear feet of DD-2 south of the airport.

The South Storage Diversion Area would result in the excavation of approximately 585 linear feet of drainage ditch DD-1 (federally regulated) and the filling of 3.2 acres of isolated golf course ponds (the man made ponds are not federally regulated).The overall stormwater management plan for the project area has been designed to direct the 100-year flood under the West JLB Extension through the 10 box culverts (constructed as part of the JLB Extension, described below) and into a new bypass called the South Storage Diversion Area (Figure 1-3a). The South Storage Diversion Area would effectively treat flood water prior to discharging it back into the Arroyo Las Positas through the refurbished outfall (described earlier).

In order to accommodate the widening of El Charro Road, connections to the eastbound I-580 on-ramp, and to complete commercial development, grading activities would fill three seasonal wetlands (0.90 acres) located near El Charro Road and I-580.

A conceptual mitigation and monitoring plan was submitted to the Corps in December 2008 which describes the City's plans for onsite compensatory mitigation. Mitigation will occur at five separate locations within the project area (See Figures 1-3a and 1-3b):

Conservation Area 1 (9.20 acres): Conservation Area 1 will be located on Arroyo Las Positas and will include the construction and planting of floodplain benches, riparian in-planting, and riparian buffer planting areas

Conservation Area 2 (1.55 acres): Conservation Area 2 will be located on Cottonwood Creek and will also include the construction and planting of floodplain benches, riparian in-planting, and riparian buffer planting areas.

Bridge Removal Areas: Two bridges will be removed along Arroyo Las Positas. The streambanks will be regraded and the disturbed areas planted with native riparian overstory and understory plant species.

A ditch totaling approximately 1,550 feet in length will be excavated on the south side of Arroyo Las Positas and planted with seasonal .

wetland vegetation to compensate for impacts to ditches and seasonal wetlands.

Realignment of Drainage Ditch 2 (DD-2): This drainage ditch is located on the south side of the airport and will be relocated including the creation of approximately 256 feet of ditch and planting with seasonal wetland vegetation

Estimated mitigation areas for each program component are provided in the table below.

Estimated Mitigation Area

Location	Program Component	Estimated Area (acres)	Estimated Length (feet)
Conservation Area 1 (Arroyo Las Positas)	Floodplain / Floodplain Benches	1.1	1,875
	Riparian In-Planting	2.0	1,875
	Buffer Area	6.1	1,875
Conservation Area 2 (Cottonwood Creek)	Floodplain / Floodplain Benches	0.76	388
	Riparian In-Planting	0.21	388
	Buffer Area	0.58	388
Bridge Removal Sites	Riparian In-Planting	0.22	130
Drainage Ditch DD-1	Ditch creation (including seasonal wetland planting)	1.07	1550
Drainage Ditch DD-2	Ditch creation (including seasonal wetland planting)	0.012	256

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. Consultation under Section 7 of the federal Endangered Species Act (ESA) was initiated on May 23, 2009 with the FWS. The FWS issued a Biological Opinion in 2008 stating the project is not likely to jeopardize the continued existence of the listed species, the California red-legged frog.

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. A water quality certification was issued by the California Regional Water Quality Control Board, San Francisco Bay Region on January 7, 2009.

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)).

National Historic Preservation Act of 1966 (NHPA): As part of Section 106 compliance, Jones & Stoke completed a multi-phased identification and evaluation study for the ECSP project. Three cultural resources were previously identified within the project APE. As part of the identification process, a program of mechanical subsurface testing was completed with 52 trenches excavated in areas of highest sensitivity and proposed ground disturbing activities. No new cultural resources were identified during survey or subsurface testing within the project area. The result of this study (identification and evaluation) is a finding of no historic properties affected. Because the Amador-Livermore Valley is sensitive for buried archaeological resources in general, especially near the Arroyo Las Positas and Arroyo Mocho, a program of archaeological construction monitoring would be employed in much of the project area. 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 Bob Smith of our office at telephone (415) 503-6792 or E-mail: robert.f.smith@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.