



US Army Corps
of Engineers®

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: Cullinan Ranch Restoration Project

NUMBER: 2000-25470N

DATE: August 16, 2010

RESPONSE REQUIRED BY: September 10, 2010

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1. **INTRODUCTION:** U.S. Fish and Wildlife Service, San Pablo Bay National Wildlife Refuge (Mr. Don Brubaker, Refuge Manager, 2100 Highway 37, Petaluma, California 94954), through their agent Ducks Unlimited has applied for a Department of the Army Individual Permit to discharge fill in preparation for restoring tidal influence to a 1,575 acre, diked parcel of land. Northern and eastern perimeter levees will be opened at five locations to return tidal influence with sediment deposition to restore historic tidal marsh land. The southern property boundary of the parcel is a naturally formed levee upon which Highway 37 was constructed. Highway 37 is currently protected by the levees on the perimeter of South and Dutchman Slough along the northern boundary of Cullinan Ranch. In order to maintain the existing level of flood protection following breach to these northern levees, improvements are necessary to protect Highway 37 from wave and wind action. To meet California Transportation (Caltrans) standards, discharge of fill to 10.42 acres of jurisdictional open water ditch and seasonal wetlands is needed. Public access improvements to this parcel and adjacent California Department of Fish and Game (CDFG) holdings require fill to an additional 0.3 acres jurisdictional open water ditch and seasonal wetlands to complete construction of a deceleration lane. Fill discharges for the immediate conversion to marsh plain habitat include discharges to 6.0 acres of jurisdictional open water ditch and seasonal wetlands to create habitat for salt marsh dependent species (Figure 9). Fill discharges as site preparation are needed to protect existing, public service infrastructure: PG&E

support towers, Highway 37 and creation of transition habitat for resident species. The Cullinan Ranch parcel (APN#s 0067040030, 0067040150, -160, -170, 0067030140, -150, and 0067030180) was purchased by U.S. Fish and Wildlife Service (FWS) for the purpose of increasing habitat for salt marsh harvest mouse (*Reithrodontomys raviventris*) and California clapper rail (*Rallus longirostris obsoletus*). Located in Solano County, north of Highway 37, and west of the Napa River in the State of California, Cullinan Ranch is outlined on the map labeled Figure 1. 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 (33 U.S.C. Section 1344).

2. **PROPOSED PROJECT:** The 1,575 acre parcel, known as Cullinan Ranch because of previous land use, contains 1,370 acres jurisdictional open water ditches and seasonal wetlands which will undergo conversion to historic tidal marsh. Figure 2 is a historic survey map of the parcel and Figure 3 presents an overview of the proposed restoration goal. The parcel was purchased to address the agency's federal mandate: to protect, maintain and create habitat for species protected under the Federal Endangered Species Act (ESA). As historic tidal marsh, Cullinan Ranch restoration would support salt marsh harvest mouse, California clapper rail, Delta smelt and anadromous salmonids in the San Francisco Bay ecosystem. In the 1850s, levees were constructed, creating on site borrow ditches and isolating the parcel from tidal action. Farming practices compacted the soil and destroyed the soil

structure, lowering the surface elevation. The land has been unused since 1994 when purchased by FWS. With input from other agencies, the consensus decision for best interim management of the parcel was to stop pumping rain water collecting on the site and allow seasonal wetlands to develop. Jurisdictional waters and wetlands, 1,370 acres, were mapped in 2000 (ECORP) and reconfirmed by USACE in November, 2008. Figure 7 is a jurisdictional map of Section 10 waters and Figure 8 delineates the extent of verified seasonal wetlands. Tidal influence with subsequent sedimentation will return by breaching levees along the northern and eastern boundary, allowing wave action and tides to deposit sediment and reclaim tidal marsh land. Figure 4 shows the location of proposed breaches to the levee.

Discharge of fill into jurisdictional waters will take place prior to breach of levees. The preparations outlined below are designed to construct a levee parallel to Highway 37, immediately outside the right of way, to withstand the forces generated by the return of natural hydrology. The project has been designed to minimize the amount of fill discharged while protecting existing public structures.

1. A levee will be constructed along the southern property boundary, adjacent to Highway 37. Fill in the amount of 10.42 acres will be placed in the existing borrow ditch and seasonal wetlands beyond Caltrans right of way to protect Highway 37. The western 12,100 feet will be armored with 27,000 cubic yards of rip-rap over a softened slope of 5:1 (H:V). The last foot of rise will be backfilled with native soil and planted with collected native plants. The remaining 3,500 feet toward the eastern boundary will be armored with 9,000 cubic yards of rip-rap and planted with native plants. Highway 37 protection includes a grassy swale below the highway shoulder to convey rainwater to an existing detention basin. Highway related construction will be coordinated with CalTrans and meet their approval. Typical cross section of the Highway levee are shown in Figure 5. Typical cross-sections shown in Figure 5 are accurate, however, the improvements will be

located beyond Caltrans right of way on FWS property.

2. Completion of 660 feet of deceleration lane, the remaining public access improvement begun under authorization #28695N will place fill in 0.3 acres of waters of the U.S.

3. Placement of 2 acres of fill to block existing farm drainage ditches and alter topography of the farmed land would foster natural slough circulation to re-develop. Approximately 100 linear feet of internal site levee will be excavated and reduced to existing site surface elevation as shown in Figure 9.

4. Approximately 405,000 cubic yards clean fill, will be placed in approximately 10.00 acres seasonal wetlands and open water ditch to convert 30-50 acres to marsh plain habitat along the eastern boundary with Guadalcanal Village and extending westward along the northern levee where the inboard side slope has been softened to encourage accretion, detailed in Figure 9. This immediate restoration is to provide existing salt marsh harvest mouse populations with refuge.

Once preparations have been completed, five areas of levee will be breached to restore tidal flow. A long term monitoring and adaptive management plan, similar to the one in use for the Napa Sonoma Marsh Project and a Mitigation Plan have been submitted.

Long term, the project will result in a net gain of 179 acres of jurisdictional waters. Created habitat, described in item #4 above, by discharge of 405,000 cubic yards of clean fill, will initially provide 30 – 50 acres of habitat for resident species to compensate for the temporary loss of seasonal wetlands which will be inundated during the conversion to historic marsh land. Existing seasonal wetlands will accrete sediment over as long as 60 years to reach the goal of tidal marsh restoration.

In addition to improvements to soil structure and eventual return to near natural elevation of ground surface, inundation will reduce mosquito populations

and accompanying abatement by eliminating stagnant water. Water quality improvements and the range of habitats created by the restoration to historic tidal marsh are referenced below in the Environmental Impact Statement / Environmental Impact Report prepared for Cullinan Ranch and incorporated by reference into this project. Figure 6 presents an overview of Cullinan Ranch within the context of the restored lower ponds of Napa Salt Marsh Restoration Project.

Project preparation and levee protection will place 113.45 acres of fill in jurisdictional waters and wetlands of the US to convert 17.7 acres to uplands. The end result will be a self sustaining parcel of 1,549 acres of tidal marsh, a net increase of 179 acres adjacent to restored ponds and habitats.

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 NEPA decision document will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the decision document 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. We hereby incorporate by reference Environmental Impact Statement/Environmental Impact Report, Cullinan Ranch Restoration Project, Solano and Napa Counties, California, prepared for FWS and CDFG by Ducks Unlimited. Draft is dated April 2008, Final, dated April 2009, and was certified by Record of Decision signed April 2010.

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. . Correspondence dated April 5, 2010 from NMFS concurred with FWS' determination that the restoration project was not likely to adversely affect listed species or designated critical habitat. An intra-Service Section 7 consultation produced a biological opinion, issued by FWS on May 7, 2010.

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 National Marine Fisheries Service (NMFS) on all actions, or proposed actions permitted by the agency that may adversely affect Essential Fish Habitat (EFH). NMFS' response dated April 5, 2010 describes the project area as a Habitat Area of Particular Concern. The evaluation has determined that the proposed project would adversely affect EFH. However, adequate measures are contained in the project to avoid, minimize, mitigate and offset adverse effects and the activities would increase quantity and quality of EFH over the long term.

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. The applicant has submitted an application for Section 401 Conditional Water Quality Certification to San Francisco Bay Regional Water Quality Control Board. 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 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.

National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. The farmstead and accessory buildings were dismantled previously, having been deemed a hazard. 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 Roberta Morganstern of our office at telephone 415-503-6782 or E-mail: Roberta.A.Morganstern@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.