



US Army Corps  
of Engineers®  
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division  
1455 Market Street, 16<sup>th</sup> Floor  
San Francisco, CA 94103-1398

# PUBLIC NOTICE

PROJECT: Coyote Point Promenade Improvement Project

PUBLIC NOTICE NUMBER: 2008-00065S

PUBLIC NOTICE DATE: October 13, 2010

COMMENTS DUE DATE: November 13, 2010

PERMIT MANAGER: Paula Gill

TELEPHONE: 415-503-6776

E-MAIL: Paula.C.Gill@usace.army.mil

1. **INTRODUCTION:** The San Mateo County Parks Department (Samuel Herzberg, 650-363-1823, sherzberg@co.sanmateo.ca.us) has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to discharge fill material into jurisdictional waters of the United States associated with the renovation of the Coyote Point Recreation Area (promenade, rock revetment shore protection, and windsurfer ramps) located in San Mateo County, California. This Department of the Army permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*) and Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*).

## 2. PROPOSED PROJECT:

**Project Site Location:** The project is located in Coyote Point County Recreation Area, 1961 Coyote Point Drive, San Mateo, California (APN: 029-321-060). The site is located just beyond the parking lot located at the terminus of Coyote Point Drive within Section 5, Township 4S, Range 4W; USGS quadrangle San Mateo; 37 deg 35 min and 30 sec N; 122 deg 19 min and 56 sec W.

**Project Site Description:** The site is located along the shoreline of the San Francisco Bay and includes sandy beach and portions of the bay. The landward embankment of the beach includes a continuous wall of articulated block mat material, portions of which are failing. The site also includes a parking area and recreational promenade. Two temporary windsurfer access ramps constructed of sand bags are located within the project area.

**Project Description:** The applicant proposes to construct the project in two phases. The first phase would occur along the western reach and would include installation of quarry stone shore protection with three access ramps for wind surfers, construction of a new asphalt concrete promenade, and removal of old materials. The second phase, to occur along the eastern reach, would include beach expansion which would require excavation of the inland reach to the existing beach and backfill of the area with sand, creation of a new earth embankment to form the subgrade of the new promenade roughly paralleling the new shore, construction of a short length of rock revetment, installation of dunes, and removal of old materials. The second phase also includes the demolition and eventual relocation of a restroom, reconfiguration of an existing parking lot, and runoff management. The windsurfer ramps would be installed from the edge of the new promenade and would extend onto the beach, and terminate along the water's edge. The ramps will be approximately 20 feet wide with an additional sloped area 5 feet wide on either side. The project involves excavation of a large amount of existing landfill to create a wider beach that can accommodate sea level rise. Fill below Mean High Water is anticipated to require 3,940 cubic yards of material. Fill below the high tide line is expected to require 4,360 cubic yards of fill material. The limits of excavation would be to the elevation 6 feet NAVD to minimize impacts to the existing beach. Please see figures 1 –11 depicting the proposed project.

**Basic Project Purpose:** The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by USACE to determine whether the project is water dependent. The Applicant's stated basic project purpose is to improve recreation and public access to the San Francisco Bay at the Coyote Point Recreation Area.

**Overall Project Purpose:** The overall project purpose serves as the basis for the Section 404(b)(1) alternatives analysis, and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, while allowing a reasonable range of alternatives to be analyzed. The overall project purpose is to renovate the existing public access features (promenade, rock revetment shoreline protection, and windsurfer ramps) at the Coyote Point Recreation area.

**Project Impacts:** The project is proposed to include excavation to create a wider beach that would accommodate sea level rise and placement of fill to protect the western shoreline with new rock revetment and three new windsurfer access ramps. The limits of excavation have been established at the elevation of 6 feet NAVD to minimize impacts to the existing beach.

In the western reach a total of 18,700 square feet of new rock revetment and 780 square feet of windsurfer ramp would be placed below mean high water. In the eastern reach a total of 2,420 square feet of new breakwater would be placed below mean high water. In the eastern reach the project would also require excavation of 3,200 square feet below mean high water.

**Proposed Mitigation:** The applicant states that every effort has been made to avoid and minimize impacts associated with the project. Installation of the majority of the ramps would occur within existing developed areas that include armor-flex material designed to protect the existing embankment and promenade. All construction activities on the beach would be limited to occur during low tide, and equipment would not be allowed to operate in the water. There is no salt marsh, seasonal wetlands, or flowing streams within the project area. The applicant believes that based on the absence of permanent impacts to aquatic resources, the construction of new beach, and the limited permanent impacts within the tidal zones, mitigation for the project should not be required.

### 3. STATE AND LOCAL APPROVALS:

**Water Quality Certification:** State water quality certification or a waiver is a prerequisite for the issuance of a Department of the Army Permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to Section 401 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1341 *et seq.*). The applicant has recently submitted an application to the California Regional Water Quality Control Board (RWQCB) to obtain water quality

certification for the project. No Department of the Army Permit will be issued until the applicant obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed, if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act.

Water quality issues should be directed 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

**Coastal Zone Management:** Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c) *et seq.*), requires a non-Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Certification that indicates the activity conforms with the State's coastal zone management program. Generally, no federal license or permit will be granted until the appropriate State agency has issued a Consistency Certification or has waived its right to do so.

Coastal zone management issues should be directed to the Executive Director, San Francisco Bay Conservation and Development Commission, 50 California Street, Suite 2600, San Francisco, California 94111, by the close of the comment period.

### 4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

**National Environmental Policy Act (NEPA):** Upon review of the Department of the Army permit application and other supporting documentation, USACE has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of NEPA. At the conclusion of the public comment period, USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347), the Council on Environmental Quality's Regulations at 40 C.F.R. Parts 1500-1508, and USACE Regulations at 33 C.F.R. Part 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of USACE and other non-regulated activities USACE determines to be within its purview of

Federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Department of the Army Permit for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Regulatory Division.

**Endangered Species Act (ESA):** Section 7(a)(2) of the ESA of 1973, as amended (16 U.S.C. § 1531 *et seq.*), requires Federal agencies to consult with either the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to insure actions authorized, funded, or undertaken by the agency are not likely to jeopardize the continued existence of any Federally-listed species or result in the adverse modification of designated critical habitat. As the Federal lead agency for this project, USACE has conducted a review of the California Natural Diversity Data Base, digital maps prepared by USFWS and NMFS depicting critical habitat, and other information provided by the applicant, to determine the presence or absence of such species and critical habitat in the project area. Based on this review, USACE has made a preliminary determination that the following Federally-listed species and designated critical habitat are present at the project location or in its vicinity, and may be affected by project implementation.

Federally listed species that may occur in the proposed project area include central California coast steelhead (*Oncorhynchus mykiss*), Critical Habitat for the steelhead, green sturgeon (*Acipenser medirostris*), and Critical Habitat for green sturgeon. Section 7 Effects to the listed species are expected to be limited to temporary impacts associated with construction (e.g. turbidity). To address project related impacts to these species and designated critical habitat, USACE will initiate informal consultation with NMFS, pursuant to Section 7(a) of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

**Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA):** Section 305(b)(2) of the MSFCMA of 1966, as amended (16 U.S.C. § 1801 *et seq.*), requires Federal agencies to consult with the NMFS on all proposed actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). EFH is defined as those waters and substrate necessary to fish for spawning, breeding,

feeding, or growth to maturity. EFH is designated only for those species managed under a Federal Fisheries Management Plan (FMP), such as the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, and the *Pacific Coast Salmon FMP*. As the Federal lead agency for this project, USACE has conducted a review of digital maps prepared by NMFS depicting EFH to determine the presence or absence of EFH in the project area. Based on this review, USACE has made a *preliminary* determination that EFH is present at the project location or in its vicinity, and that the critical elements of EFH may be adversely affected by project implementation. Eelgrass beds are known to occur within the project vicinity. It is the applicant's intent to avoid direct loss of eelgrass at all stages of construction. Prior to construction all existing eelgrass patches would be surveyed and flagged. All attempts would be made during construction to avoid direct impacts to these patches. A Construction Monitoring plan would be created prior to construction.

To address project related impacts to EFH, USACE will initiate consultation with NMFS, pursuant to Section 305(5)(b)(2) of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project

**Marine Protection, Research, and Sanctuaries Act (MPRSA):** Section 302 of the MPRSA of 1972, as amended (16 U.S.C. § 1432 *et seq.*), authorizes the Secretary of Commerce, in part, to designate areas of ocean waters, such as the Cordell Bank, Gulf of the Farallones, and Monterey Bay, as National Marine Sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the Act. No Department of the Army Permit will be issued until the applicant obtains the required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project would not likely affect sanctuary resources. This presumption of effect, however, remains subject to a final determination by the Secretary of Commerce, or his designee.

**National Historic Preservation Act (NHPA):** Section 106 of the NHPA of 1966, as amended (16 U.S.C. § 470 *et seq.*), requires Federal agencies to consult with the appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places*. Section 106 of the Act further

requires Federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance. Based on this review, USACE has made a *preliminary* determination that historic or archaeological resources may present in the permit area, and that such resources may be adversely affected by the project. To address project related impacts to historic or archaeological resources, USACE will initiate consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer, pursuant to Section 106 of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until USACE concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

**5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES:** Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the project is dependent on location in or proximity to waters of the United States to achieve the basic project purpose. This conclusion raises the (rebuttable) presumption of the availability of a practicable alternative to the project that would result in less adverse impact to the aquatic ecosystem, while not causing other major adverse environmental consequences.

**6. PUBLIC INTEREST EVALUATION:** The decision on whether to issue a Department of the Army Permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the project and its intended use on the public interest. Evaluation of the probable impacts requires a careful weighing of the public interest factors relevant in each particular case. The benefits that may accrue from the project must be balanced against any reasonably foreseeable detriments of project implementation. The decision on permit issuance will, therefore, reflect the national concern for both protection and utilization of important resources. Public

interest factors which may be relevant to the decision process include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore 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.

**7. CONSIDERATION OF COMMENTS:** USACE is soliciting comments from the public; Federal, State and local agencies and officials; Native American Nations or other tribal governments; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by USACE will be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army Permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental or public interest factors addressed in a final environmental assessment or environmental impact statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the project.

**8. SUBMITTING COMMENTS:** During the specified comment period, interested parties may submit written comments to Paula Gill San Francisco District, Regulatory Division, 1455 Market Street, 16<sup>th</sup> Floor, San Francisco, California 94103-13978; comment letters should cite the project name, applicant name, and public notice number to facilitate review by the Regulatory Permit Manager. Comments may include a request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. Additional project information or details on any subsequent project modifications of a minor nature may be obtained from the applicant and/or agent, or by contacting the Regulatory Permit Manager by telephone or e-mail cited in the public notice letterhead. An electronic version of this public notice may be viewed under the *Current Public Notices* tab on the USACE website: <http://www.spn.usace.army.mil/regulatory/>.