



US Army Corps
of Engineers®

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: Lichen Oaks Ranch Pond Restoration

NUMBER: 2009-00019S
PROJECT MANAGER: Kyle Dahl

DATE: March 1, 2010
PHONE: (415) 503-6783

RESPONSE REQUIRED BY: April 1, 2010
Email: kyle.j.dahl@usace.army.mil

1. **INTRODUCTION:** E. Floyd and Jean Kvamme, through their agent H.T. Harvey and Associates have applied for a Department of the Army permit to remove sediment from Quail Hollow Pond and to conduct repairs to a failing headwall and culverts downstream of an earthen dam, near the City of Felton, Santa Cruz County, California. The project is bordered by Quail Hollow Road to the southwest, Quail Hollow Park to the northwest and Zayante Creek to the southeast (figure 1). The project site includes Quail Hollow Pond, northwest of the confluences of Quail Hollow Brook and Zayante Creek. 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 project is to restore and maintain a water depth similar to the pond's original bathymetry and to repair and replace the aging existing infrastructure. Increased sediment deposition in Quail Hollow Pond since 2004 was caused by an upstream culvert failure and ongoing creek bank erosion upstream. The goal of the project is to restore the flood capacity of Quail Hollow Pond, protect against potential dam failure and prevent the movement of sediment to downstream reaches. Project measures include conducting repairs to failing culvert infrastructure downstream of an existing dam, including a headwall and culvert (figure 2). The project also proposes the removal of pond sediment within Lichen Oaks Pond to restore the water detention capacity. The project includes both the initial sediment removal and the long term maintenance removal, every 5 to 10 years, of

sediment to maintain water detention capacity.

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.

Federally listed species that may occur in the proposed project area include Mount Hermon June beetle (*Polyphylla barbata*), Zayante band-winged grasshopper (*Trimerotropis infantilis*), California

red-legged frog (*Rana aurora draytonii*), central California coast steelhead (*Oncorhynchus mykiss*), and coho salmon (*Oncorhynchus kisutch*), and Critical Habitat for these species. The Corps initial determination is that the project is not likely to adversely affect listed species. Section 7 consultation with the FWS and NMFS has resulted in a not likely to adversely affect decision for all species addressed excluding the California red-legged frog. FWS has issued a not likely to jeopardize decision for the California red-legged frog based on minimization measures outlined in the biological opinion.

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). There are no EFH concerns with this proposed project.

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 water dependent. The applicant considered many on-site alternatives prior to submission of the Corps permit application. Alternatives include variations in construction methods, project impact areas, and structures to be repaired. These alternatives will be reviewed by the Corps to ensure that the proposed project is the least damaging practicable alternative.

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 not 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. 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.

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 Kyle Dahl of our office at telephone number (415) 503-6783 or E-mail: kyle.j.dahl@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.

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