



US Army Corps
of Engineers®

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: Carmel River Maintenance Regional General Permit Renewal

NUMBER: 244600S
PROJECT MANAGER: Kyle Dahl

DATE: 10/8/2010
PHONE: (415) 503-6783

RESPONSE REQUIRED BY: 11/7/2010
Email: kyle.j.dahl@usace.army.mil

1. **INTRODUCTION:** Monterey Peninsula Water Management District (MPWMD) has applied for the re-authorization of a Department of the Army Regional General Permit (RGP) to continue to conduct maintenance and restoration activities along an 18.6 miles segment of the Carmel River from the Carmel River Lagoon to the San Clemente Dam, Monterey County, California. Please refer to Figures 1, 2, and 2a through 2c. 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:** Three basic types of activities are proposed: erosion protection and channel restoration/re-alignment projects; vegetation management and maintenance of previously authorized projects; and habitat enhancement projects.

Erosion protection projects would involve measures including the excavation and backfill of the channel bottom, importation and placement of fill material along degraded banks, installation of rip rap slope protection along degraded banks, and temporary channel diversion. Channel restoration and re-alignment projects would include the excavation of sand, cobble and gravel materials to establish a stable channel and backfill of cobble and gravel material in certain areas to construct pool and riffle sequences. Activities related to the implementation of these projects would require the use of heavy machinery (e.g. bulldozer, loader, backhoe, and excavator).

Work required for erosion protection and channel restoration/ re-alignment projects would be limited to a total of 0.7 stream miles annually.

Vegetation management and maintenance of previously authorized projects would include re-vegetation of riparian plant species, modification or removal of vegetation and woody debris from the channel bottom, and maintenance of projects implemented under the initial RGP. Re-vegetation of riparian plant species would include plantings of willow, cottonwood, sycamore, box elder, elderberry, and other native riparian species along banks and low floodplain terraces. Modification or removal of vegetation and woody debris from the channel bottom would involve the removal of vegetation along the channel bottom and the modification of large wood to decrease bank erosion and to maintain channel capacity. Maintenance of previously authorized activities would include irrigation operation and repair, weed removal, and installation of supplemental plantings. Activities related to the implementation of these projects would utilize hand tools (e.g. chainsaw and loppers). Work required for vegetation management would be limited to a total of 3 stream miles annually.

Habitat enhancement projects would include fisheries habitat enhancement and the installation of engineered large wood structures. Fisheries habitat enhancement would involve the creation of pool and riffle sequences and placement of log and boulder to provide additional habitat. Installation of engineered large wood structures would involve placement of

large wood along stream banks in certain stream reaches to stabilize streambanks. Activities related to habitat enhancement would require use of heavy machinery (e.g. backhoe). Work required for habitat enhancement projects would not be restricted to an annual limit.

Projects implemented under the previous authorization of this RGP, valid from June 4, 2004 until November 1, 2009, included vegetation removal along a total of approximately 4,185 lineal feet of the Carmel River and the removal of 3 concrete slabs/abutments ranging in length from five to fourteen feet along the riverbed.

In addition to MPMWD sponsored restoration projects, MPMWD would also act as an agent for other public and private sponsored projects that qualify for authorization under this RGP. MPMWD would assume the responsibility for screening applicants, conducting pre-project evaluations, and inspecting project sites after completion to ensure compliance with criteria outlined in the RGP.

MPMWD will be responsible for the preparation of annual notification/ compliance reports. These reports would contain information on all projects constructed under the RGP for a given year, MPMWD evaluation forms prepared for each site, and project specific information including project descriptions, project impacts, maps, quantities and types of fill material, and compliance with the Federal Endangered Species Act. MPMWD will also provide in these reports acreages of jurisdictional waters of the United States affected by project implementation. These acreages along with a conceptual mitigation plan agreed upon by MPMWD and the Corps will determine the compensatory mitigation requirements.

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 project area include steelhead trout (*Oncorhynchus mykiss*) and California red-legged frog (*Rana draytonii*) and critical habitat for these species. The Corps initial determination is that the project may adversely affect listed species. Section 7 consultation with the FWS and NMFS is currently in progress. Our final determination relative to project impacts and the need for mitigation measures is contingent on the ongoing consultation with these agencies.

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). The Corps' initial determination is that the proposed action could potentially have a adverse impact on EFH or federally managed fisheries in California Waters. Our final determination relative to project impacts and the need

for mitigation measures is contingent on the ongoing consultation with NMFS.

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.

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. A portion of the proposed project is within the Coastal Zone.

National Historic Preservation Act of 1966 (NHPA): 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 Kyle Dahl of our office at telephone (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.