US Army Corps of Engineers

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

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

## Project: Salmon Creek Estuary Enhancement Project, Phase II

NUMBER: 2005-29931N DATE: August 6, 2010 RESPONSE REQUIRED BY: August 21, 2010

PROJECT MANAGER: Bryan Matsumoto PHONE: 415-503-6786 Email: bryan.t.matsumoto@usace.army.mil

1. **INTRODUCTION:** The United States Fish and Wildlife Service (FWS) (POC: Mr. Eric Nelson, 1020 Ranch Road, Loleta, California, 95551, 707-733-5406), through its agent Trinity Associates (POC: Mr. Aldaron Laird, 980 7th Street, Suite K, Arcata, California 95521, 707-825-8770), has applied for a Department of the Army permit to construct Phase II of the Salmon Creek Estuary Enhancement Project located in South Humboldt Bay, Humboldt County, California. The project would result in a net gain of approximately 0.26 acre of waters of the U.S. The duration of the authorization, should it be accepted, would be five years from the date of permit issuance. 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 purpose of Phase II of the Salmon Creek Estuary Enhancement Project (Project) is to increase and enhance the estuarine and tidal environments in the Salmon Creek Unit of the Humboldt Bay National Wildlife Refuge (HBNWR).

Phase I of this multi-phase project was independent from Phase II and resulted in minimal adverse environmental impacts. Phase I was constructed in 2006 and 2007 under the Nationwide permit Program. Phase I increased Salmon Creek's tidal prism, tidal connectivity, and tidal influence by replacing tide gate structures, constructing a new tide gate structure in the Salmon Creek overflow area, excavating an upstream channel nick point, and reconnecting several off-channel ponds to the Salmon Creek channel.

Proposed Phase II activities include realignment of the Salmon Creek channel, restoration of salt marsh habitat, construction of several new stream channels and off-channel ponds to create additional fish rearing habitat, and a stream channel connection with Cattail Creek would be established to further expand the network of channels and estuarine area in lower Salmon Creek. Phase II activities would increase estuarine habitat by creating 4,605 linear feet of new channels and enhancing approximately 5,300 linear feet of existing tidal channels to augment Salmon Creek's artificial drainage system of channelized ditches. The proposed network of tidally influenced channels and off-channel ponds is anticipated to increase aquatic habitat diversity, as well as establish a suite of vegetative cover types ranging from salt marsh to submergent-emergent aquatic and riparian vegetation.

Diked former tidelands within an existing overflow area were previously reconnected to Hookton Slough with installation of the new tide gate during Phase I. The overflow area would continue to be enhanced during Phase II by raising the surface elevation of approximately 14 acres of subsided land within the overflow area in order to enhance the areas ability to support salt marsh vegetation. Approximately 80 percent of the earthen material excavated during Phase II activities would be used to raise the elevation in the overflow area and for construction of a low elevation levee along Cattail

Creek that is designed to prevent Salmon Creek's floodplain flows from being captured by Cattail Creek. The remaining excavated materials would be used for maintenance and repair of the HBNWR's existing perimeter dikes.

Construction of Phase II would result in direct impacts to Salmon Creek at three locations for the purpose of habitat restoration. Riparian vegetation would be cleared along a 300 linear foot section of streambank that would be excavated in order to widen the stream channel so that it can accommodate a larger tidal prism. The existing Salmon Creek channel would be blocked off at the upstream end of the channel and flows would be routed into the newly constructed channel. The downstream end of the existing Salmon Creek channel would stay connected to the downstream tidal channels. An existing drainage ditch that is connected to lower Salmon Creek that completely drains on the ebbing tide would be temporarily blocked off to facilitate excavation in dry conditions. This drainage ditch would eventually become the downstream outlet of the new Salmon Creek channel. All other proposed pond and channel excavation and grading activities would occur in dry pastures that have been classified by FWS as seasonal freshwater wetlands based on their location within the coastal zone. Phase II activities also include the removal of invasive *Spartina* vegetation, excavation of interior levees, construction of rock grade-control structures in portions of the constructed stream channel, installation of large wood structures in streams and ponds for habitat diversity, installation of wood-willow revetment along a section of streambank, and replanting riparian and wetland vegetation throughout the disturbed project areas. In addition, dewatering would be required using cofferdams and two tide gates that control tide water access into Salmon Creek would be closed during construction of Phase II to facilitate excavation in drier conditions (Sheets 1 thru 31. NOTE: Current project drawings do not depict the new Salmon Creek to Cattail Creek connection as proposed.)

Project completion would result in a net decrease of 8.64 acres of open water and a net increase of 8.90 acres of wetlands for an overall increase of 0.26 acre of waters of the U.S. These losses would be from conversion of one type of water of the U.S. (open water vs. wetlands) to the other. The net increase of wetland is realized from the removal of 200 linear feet of existing upland levee.

It is anticipated that the project would be self mitigating. Monitoring of the site for a minimum of five years would be required.

## 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. The FWS, acting as the Federal lead agency, initiated informal Section 7 consultation with NMFS, and formal Section 7 consultation with FWS. NMFS concluded informal consultation on the Project in a letter dated May 11, 2010, stating that the project would not

likely adversely affect federally listed salmonids. The FWS issued a biological opinion dated July 14, 2006, stating that the project is not likely to jeopardize the continued existence of the tide water goby.

**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 NMFS has stated in the May 11, 2010 letter that the project would adversely affect EFH, but that effects are so minimal that no additional EFH recommendations are necessary.

**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, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403 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. 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 Bryan Matsumoto of our office at telephone 415-503-6786 or E-mail: bryan.t.matsumoto@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.