



US Army Corps
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SAN FRANCISCO DISTRICT

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

PUBLIC NOTICE

Santa Cruz Countywide Partners in Restoration Permit Coordination Program Regional General Permit 13 Reauthorization

NUMBER: 27564S

DATE: January 21, 2011

RESPONSE REQUIRED BY: February 21, 2011

PROJECT MANAGER: Holly Costa

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1. **INTRODUCTION:** The Santa Cruz County Resource Conservation District (RCD), 820 Bay Avenue, Suite 128, Capitola, California 95010, (contact: Kelli Camara, (831) 464-2950) has applied to renew U.S. Army, Corps of Engineers (Corps) Regional General Permit 13 for a program to assist landowners in implementing and maintaining conservation practices on private lands in Santa Cruz County, CA. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).

2. PROPOSED PROJECT:

Project Site: The Santa Cruz Countywide Partners in Restoration Permit Coordination Program (Program) would cover implementation and maintenance of fifteen conservation practices on private properties throughout Santa Cruz County over a five-year period. Because projects will be occurring in multiple locations, it is not possible to define specific project sites at this time, although they will all occur on private properties within Santa Cruz County.

Purpose and Need: The basic purpose of this Program is to provide a mechanism for private landowners in Santa Cruz County to work with the RCD to complete environmentally beneficial conservation and restoration projects that require permits and approvals from various regulatory

agencies. The overall purpose of this Program is to encourage implementation of practices that will reduce non-point source pollution and streambank erosion and provide associated benefits of streambank protection, groundwater recharge, and aquatic and terrestrial habitat enhancement.

Project Description: Previously, this RGP was issued cooperatively to the RCD and the Natural Resource Conservation Service (NRCS). The NRCS' role in the Santa Cruz program has decreased over the past five years due to a number of factors, including loss of NRCS staff and an increase in the number of NRCS programs provided at the local level. In the short term, the program will continue to be managed by the RCD with the majority of projects selected, funded, and managed by RCD staff. The NRCS will continue to be a partner in both the execution of the program, as well as its renewal. The RCD worked closely with NRCS' biologist, hydrologist, and civil engineers to evaluate limitations to existing practice dimensions, to discuss new practices which would increase the effectiveness of the program, and to determine challenges associated with the current structure of the program. NRCS will continue to play an important engineering role, either completing designs or overseeing the development of designs by outside engineers.

The primary practices utilized for the past five years of this program were Critical Area Planting, Access Road Improvement, and Restoration and Management

of Declining Habitats. These practices were utilized on 16, 14, and 12 sites respectively. Fish Stream Improvement and Structure for Water Control were used on 6 and 9 sites, respectively. Diversion and Filter Strip were not utilized at all during the first five years and the RCD does not expect to use these practices in the future. The RCD is proposing to remove them from the program for the renewal and replace them with two new practices. The Pipeline practice was not utilized during the program but will be included in the renewal under the Upland Wildlife Habitat Management practice as part of broader restoration effort for the Ohlone Tiger Beetle. A summary of all practices and the number of sites at which they were implemented is listed in Table 1 (attached).

The renewed RGP would authorize minor fill discharges into waters of the U.S. in association with implementation of projects by landowners in Santa Cruz County participating in the Program. The Program would still consist of fifteen specific restoration and conservation practices (see Table 2 for descriptions of revised practices). Under the proposed Program, regulatory agencies enter into programmatic agreements with the RCD to approve these fifteen specific, standardized, conservation practices that would improve habitat and soil stability. The conservation practices are limited in size, have demonstrated a net environmental benefit, and are usually performed for erosion control or restoration in and around waterways. Landowners agree to follow designs and specifications for conservation work. Follow up and monitoring on each conservation project is done by the RCD, with compliance determinations to be done by the respective agencies.

Not all projects carried out under the Program would require Corps authorization. This RGP would only authorize those projects that fall under Corps jurisdiction.

Impact: The conservation practices have been categorized in a tiered impact matrix, an approach developed by the Central Coast Regional Water

Quality Control Board (CCRWQCB). The matrix provides a framework of environmental protection measures that increase in complexity with a practice's or project's increasing impact or complexity. The tiered approach enables the classification of a proposed project into one of four possible tiers. With increasing impacts, a project would be classified into a higher tier, requiring additional environmental protection measures (Note: CCRWQCB's tiered approach included a fourth tier for projects involving streambank rock riprap protection and the removal of in-stream barriers. Tier IV of this program would entail work in coho-bearing streams or in streams having high intrinsic potential – see Appendix A).

Projects with very limited resource impacts (upland projects with no expected impacts to special status species) would be placed in Tier I. Tier I projects would have the fewest requirements for surveys, monitoring and other special conditions. Tier I projects would also have a lower level of documentation, shorter notification period (10 days) and would have one to two notification dates. Work in streams (bed and bank) would automatically place projects in Tier II or higher; the presence of threatened and endangered species (in streams or uplands) and projects that include rock riprap bank protection materials or that propose the removal of large instream barriers would be placed in Tier III. Projects in coho-bearing streams would be included in Tier IV and would require early consultation with regulatory agency staff. Agency staff would provide detailed input into designs, monitoring, etc. for projects in this tier.

For each project carried out under the Program, total permanent fill to waterways and wetlands may not exceed 0.5 acre and may not result in permanent fill of more than 0.1 acre of wetland. If potential wetlands are identified in the project areas where individual projects would be implemented under the proposed Program, wetland delineations would be performed to assist in avoiding impacts to wetlands. The range of fill material may include: non-erodible earth, aggregate (gravel, clay, silt, sand), logs, root wads, timber, rock, and mortar or concrete in

limited, discrete locations as energy dissipaters and grade stabilization structures. No project would be initiated by the RCD that results in a net loss in the quality, quantity and/or permanence of wetland acreage and values in Santa Cruz County watersheds.

Mitigation: Most of these projects are self-mitigating and provide a net benefit to the aquatic environment. General measures have been developed to reduce or avoid the potential adverse effects associated with actions to be covered by the permit coordination program (see Appendix B). These measures, as appropriate for a specific action, would be included as special conditions on any practice installed under the Program. Short-term impacts to aquatic resources that cannot be avoided during project construction would be mitigated through improved long-term water quality and wetland habitat that would result from reduced non-point source pollution and streambank erosion, bioengineered streambank protection, increased groundwater recharge, and aquatic and terrestrial habitat enhancement.

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. Part 1500-1508, and Corps' Regulations, 33 C.F.R. Part 230 and 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): The Corps will be the lead agency for compliance with 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 any projects authorized under this Program could adversely affect any Federally listed threatened or endangered species or its designated critical habitat. Species and critical habitat currently identified as potentially impacted by the Program include:

Plants

- Ben Lomond spineflower, *Chorizanthe pungens* var *hartwegiana*
- Ben Lomond wallflower (Santa Cruz wallflower), *Erysimum tetetifolium*
- Monterey spineflower, *Chorizanthe p. pungens*
- Robust spineflower (Aptos spineflower), *Chorizanthe robusta* var. *robusta*
- Santa Cruz cypress, *Cupressus abramsiana*
- Santa Cruz tarplant, *Holocarpha macradenia*
- Scott's Valley polygonum, *Polygonum hickmanii*
- Scott's Valley spineflower, *Chorizanthe robusta* var *hartwegii*
- Tidestrom's lupine (Clover lupine), *Lupinus tidestromii*
- White -rayed pentachaeta, *Pentachaeta bellidiflora*

Animals

- Central California Coast (CCC) Evolutionarily Significant Unit (ESU) coho salmon, *Oncorhynchus kisutch*
- CCC ESU steelhead, *O. mykiss*
- South-Central California Coast ESU steelhead, *O. mykiss*
- Mount Hermon (=Barbate) June beetle, *Polyphylla barbata*
- Ohlone tiger beetle, *Cicindela ohlone*
- Zayante band-winged grasshopper, *Trimerotropis infantilis*
- Tidewater goby, *Euclogobius newberryi*
- California red-legged frog, *Rana aurora draytonii*
- California tiger salamander, *Ambystoma californiense*
- Santa Cruz long-toed salamander, *Ambystoma macrodactylum croceum*
- San Francisco garter snake, *Thamnophis sirtalis tetrataenia*
- Least Bell's vireo, *Vireo bellii pusillus*
- Marbled murrelet, *Brachyramphus marmoratus*

Critical Habitat

- CCC ESU coho salmon
- Zayante band-winged grasshopper
- Marbled murrelet
- Monterey spineflower

- Robust spineflower
- Santa Cruz tarplant
- Scott's Valley polygonum
- Scott's Valley spineflower

The Corps has requested formal Section 7 Consultation with the FWS and NMFS for the Program to assess potential impacts to these species and develop protection measures to minimize impacts. The RCD has worked with these agencies to develop and refine species-specific protection measures to be implemented as conditions of approval for the Program. Agencies will formalize these conditions in standard permits or agreements issued for the Program. These conditions will be incorporated into the individual projects carried out under the auspices of the Program. The protection measures may also be modified by the regulatory agencies on a case-by-case or site-by-site basis to provide for greater resource protection and application of adaptive management.

Magnuson-Stevens Fisheries Conservation and Management Act: NMFS and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act. Specific EFH concerns associated with this proposal include temporary impacts to substrate during implementation of conservation practices. Temporary adverse effects associated with these practices would be offset by the long-term beneficial effects of improvements to stream habitat expected. Once installed, erosion control and streambank stabilization projects would reduce the amount of fine sediment entering streams that would otherwise clog and bury spawning gravels and redds. The quality of habitat would also be improved through the installation of structures such as large woody debris and boulders that create refuge habitat for juvenile and over-wintering steelhead and coho. Measures to minimize potential impacts to fisheries habitat during construction will be included in the Biological Opinion to be issued by NMFS for the Program.

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 provided the Corps with evidence that she has submitted a valid request for State water quality certification to the Central Coast 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 issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, Central Coast Region, 895 Arrow Vista Pl. Suite 101, San Luis Obispo, CA 93401, 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)). The goal of the conservation practices and restoration activities covered under the Program is to protect and enhance water quality and sensitive habitats, including wetlands. In some cases, installation of these practices necessitates work in or around water and/or wetlands in order to achieve the ultimate goal of encouraging activities that protect these resources. An evaluation has been made by this office under the guidelines and it was determined that the majority of the proposed projects within this Program that require Corps authorization are water dependent. The designs for projects implemented under the proposed Permit Coordination Program would result from the utilization of the NRCS' Conservation Planning Process and be consistent with

the Conservation Practice Standards and Specifications from the NRCS' Field Office Technical Guide (FOTG) and in some cases the *California Salmonid Stream Habitat Restoration Manual, Third Edition, January 1998, as revised*. Use of these manuals and adherence to the NRCS Conservation Planning Process for all projects implemented under the Program would ensure consistency and quality in the projects that are implemented under the proposed Permit Coordination Program. Given the years of development, research, field experience, and peer review that have gone into the development of the NRCS' Conservation Planning Process, Field Office Technical Guide, and the *California Salmonid Stream Habitat Restoration Manual*, it is unlikely alternative project designs would result in the same level of resource protection and enhancement afforded by these technical resources.

Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project will comply with the State's Coastal Zone Management Program, if applicable. No Corps permit will be issued until the State has concurred with the applicant's certification. The applicant is working with the California Coastal Commission to ensure that the Program is consistent with the Santa Cruz County Local Coastal Program. Coastal development issues should be directed to the California Coastal Commission (CCC), 725 Front Street, Suite 300, Santa Cruz, CA 95060.

National Historic Preservation Act of 1966 (NHPA): All projects implemented under the Santa Cruz Countywide Permit Coordination Program would be subject to assessment to ensure potential impacts to cultural resources are minimized. For all conservation projects covered by the Program, the RCD shall identify and examine the potential for impacts to cultural resources and ensure that no significant adverse effects will result. Consultation with the State Historic Preservation Office shall be conducted on a case-by-case basis, as needed.

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, historical 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 Branch, 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 Ms. Holly Costa of our office at telephone 415-503-6780 or E-mail: holly.n.costa@usace.army.mil.

Details on any changes of a minor nature that are made in the final permit action will be provided upon request.