



US Army Corps
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San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

PUBLIC NOTICE

PROJECT: SCWA Russian River Estuary Management Project

PUBLIC NOTICE NUMBER: 2004-285610N

PUBLIC NOTICE DATE: **January 12, 2011**

COMMENTS DUE DATE: **February 12, 2011**

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1. **INTRODUCTION:** Sonoma County Water Agency (SCWA), P.O. Box 11628, Santa Rosa, California 95406 (POC: Jessica Martini; 707-547-1903 or Dave Cook; 707-547-1944), has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to periodically breach the mouth of the Russian River, at the Goat Rock State Beach, near the Town of Jenner, in Sonoma 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.*). This ongoing activity has been previously authorized by the Corps (File No. 2004-285610N), which expired on December 31, 2010. This office has issued an interim time extension to continue with the activity through December 31, 2011 or until a new permit issued, whichever comes first.

2. PROPOSED PROJECT:

Project Site Location: The project site is located at the mouth of the Russian River where it flows into the Pacific Ocean at Goat Rock State Beach, near the town of Jenner, Sonoma County, California (38° 26' 40" N Latitude, 123° 07' 30" W Longitude). The project area includes the estuary which extends from the mouth of the river upstream approximately 6 miles to the town of Duncans Mills.

Project Site Description: The artificial breaching area subject to Corps jurisdiction consists of an active sandbar devoid of vegetation which connects or separates the Russian River and the Pacific Ocean. The location of the outlet channel, at the interface of the Russian River estuary and the surf zone of the Pacific Ocean, is a dynamic system influenced by multiple and

interdependent factors, such as river discharge, ocean waves, wind speed and sand transport. Beach habitat lies at the interface between terrestrial and aquatic communities. This habitat ranges from large discharges of freshwater during winter rain events to pure seawater at high tides with lower river flows. The width of the outlet channel at the mouth can vary from a few feet to over 100-feet, with water depths varying between a few feet to dry when the mouth is closed. The exact location of the outlet channel varies, as the mouth of the river naturally meanders across the sandbar depending on river flows, wave action and ocean currents.

The estuary may close at any time of year, although, historically, closures occur most often during the spring, summer and fall. Closures result in increasing water levels in the estuary behind the barrier beach and can pose a flood hazard for low-lying shoreline properties in Jenner and nearby agricultural properties. Natural breaching of the barrier beach occurs when the estuary water levels exceed the height of the barrier beach and overtop it, creating an outlet channel connecting the Russian River and the Pacific Ocean. Historically, private citizens artificially breached the barrier beach, enabling the river to flow into the ocean, in an effort to avoid flooding. Beginning in the 1950s, municipalities accepted responsibility for the artificial breaching and continue to do so using heavy equipment with access from Goat Rock State Beach parking area.

Project Description: As shown in the attached drawings, between October 16 and May 14 an outlet channel would be periodically excavated across the barrier beach at the river mouth when the estuary water level rises between 4.5 to 7.0 feet (NGVD 29), as measured by the gage at the Jenner Visitor's Center. Between May 15 to October 15, and in an effort to comply with the

requirements of the Russian River Biological Opinion (NMFS 2008), SCWA will implement adaptive management of the estuary to achieve an average daily water surface elevation of at least 7 feet. Physical establishment of the outlet channel during the period from May 15 to October 15 would be similar in terms of equipment and duration as the period from October 16 to May 14; however, the outlet channel would be cut to a shallower depth, although wider and longer depending on conditions, and maintained to manage water surface elevations in the estuary between 4.0 and 9.0 feet (7.0 target elevation). Although the sand bar may vary in size with each breaching event, typical breaching work during the October 16 to May 14 period would result in a pilot channel approximately 100 feet long by 25 feet wide and six to eight feet deep, generating up to 1,000 cubic yards of dredged material side cast and smoother on the adjacent sand bar below the high tide line. Typical breaching work during the May 15 to October 14 period would result in a pilot channel approximately 100 feet long by 30 feet wide and 0.5 feet to 2.0 feet deep, generating up to 2,000 cubic yards of dredged material side cast and smoothed on the adjacent sand bar below the high tide line. Outlet channel construction and modifications would typically be initiated during low tide so that after several hours of work, the removal of the final portion of the beach berm coincides with high tide. Beginning near the estuary side of the sand bar, a large bulldozer would excavate and push sand to construct the pilot channel towards the ocean.

Alleviating flood risk is the primary concern of SCWA, but NMFS has concluded that artificial breaching techniques done in response to rising water levels behind the barrier beach adversely affects the estuary's water quality and depths by creating a tidal marine environment with shallow depths and high salinity, thereby impacting rearing habitat for salmonids. To meet the dual objectives of enhancing rearing habitat for juvenile salmonids and managing estuary water levels to minimize flood hazard the adaptive management strategy will require: 1) monitoring of biological productivity, water quality, and physical processes in the estuary in response to changes in management actions that control water surface elevations in the estuary-lagoon system; and 2) refinement of management actions to achieve desired water levels to support biological productivity, while simultaneously providing flood control for properties adjacent to the estuary.

It is anticipated that maintenance of the outlet channel could be necessary on a weekly basis; therefore, up to 18 maintenance events are assumed from the period May 15

to October 15, while an additional 13 maintenance events may be necessary from the period October 16 to May 14, for a total that could range as high as 31 events per year.

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 basic project purpose is flood control.

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, in addition to flood risk abatement throughout the year, is to adaptively manage the outlet channel at mouth of the Russian River to enhance freshwater rearing habitat for salmonids in the estuary during the period May 15 to October 15.

Project Impacts: During the period May 15 to October 15, typical breaching work would result in a pilot channel approximately 100 feet long by 30 feet wide and 0.5 feet to 2.0 feet deep, generating up to 2,000 cubic yards of dredged material side cast and smoothed on the adjacent sand bar below the high tide line in the wave wash zone. During the period October 16 to May 14, typical breaching work would result in a pilot channel approximately 100 feet long by 25 feet wide and six to eight feet deep, generating up to 1,000 cubic yards of dredged material side cast and smoother on the adjacent sand bar below the high tide line in the wave wash zone. All impacts would be temporary in nature, as they occur on an active sand bar subject to wave action, river outflows, tidal inflows, wind, and ocean currents. Work will be isolated to the barrier beach connecting or separating the Russian River and the Pacific Ocean. Equipment would be driven onto the beach via an existing access point adjacent to a parking lot at Goat Rock State Beach.

Proposed Mitigation: Impacts to jurisdictional waters are temporary in nature and the project is considered to be self-mitigating. No vegetation clearing is required, nor will permanent structures be constructed as part of the estuary management. Avoidance and minimization measures will be in place to restrict mechanical breaching activities to a small, localized area along the barrier beach, avoiding hauled-out pinnipeds.

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. The applicant is hereby notified that, unless USACE is provided documentation indicating a complete application for water quality certification has been submitted to the California Regional Water Quality Control Board (RWQCB) within 30 days of this Public Notice date, the District Engineer may consider the Department of the Army permit application to be withdrawn. 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, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, 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. Since the project occurs in the coastal zone or may affect coastal zone resources, the applicant has applied for a Consistency Determination from the California Coastal Commission to comply with this requirement.

Coastal zone management issues should be directed to the District Supervisor, California Coastal Commission, North Central Coast District Office, 45 Fremont Street, Suite 2000, San Francisco, California 94105-4508, by the

close of the comment period.

Other Local Approvals: The applicant has applied for the following additional governmental authorizations for the project: A General Lease Agreement to be issued by the California State Lands Commission; a Temporary Use Permit to be issued by California State Parks; a Lake and Streambed Alteration Agreement to be issued by the California Department of Fish and Game.

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. The project reach of the Russian River contains Federally-listed endangered Central California Coast Coho salmon (*Oncorhynchus kisutch*), Federally-listed threatened Central California Coast Steelhead (*Oncorhynchus mykiss*), Federally-listed threatened California Coastal Chinook salmon (*Oncorhynchus tshawytscha*), and critical habitat has been designated for each above mentioned species in the project area. The overall proposed project, which incorporates the requirements set forth by NMFS in the Reasonable and Prudent Alternative section of their Biological Opinion issued on September 24, 2008 entitled “Water Supply, Flood Control Operations, and Channel Maintenance conducted by the U.S. Army Corps of Engineers, the Sonoma County Water Agency, and the Mendocino County Russian River Flood Control and Water Conservation Improvement District in the Russian River Watershed,” also known as the Russian River Biological Opinion (NMFS File No. 151422SWR2000SR150), will attempt to enhance rearing habitat for salmonids, while simultaneously reducing flood risk. The proposed project has already been consulted on, pursuant to Section 7(a) of the Endangered Species Act, and an incidental take statement has been issued by NMFS in the above mentioned Biological Opinion. 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 National Marine Fisheries Service (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. The proposed project occurs within EFH for various Federally-managed fish species with Pacific Salmon Fishery Management Plan (FMP), the Coastal Pelagics FMP, and the Pacific Groundfish FMP. To address project related impacts to EFH, consultation with NMFS, pursuant to Section 305(5)(b)(2) of the Act, has already been concluded and NMFS issued Conservation Recommendations for the proposed project in the Russian River Biological Opinion (NMFS File No. 151422SWR2000SR150). 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. As the Federal lead agency for this undertaking, USACE has conducted a review of latest published version of the *National Register of Historic Places*, survey information on file with various city and

county municipalities, and other information provided by the applicant, to determine the presence or absence of historic and archaeological resources within the permit area. Based on this review, USACE has made a *preliminary* determination that historic or archaeological resources are present in the permit area. However, since ground-disturbing activities associated with the outlet channel creation would occur in areas where materials have been recently deposited and are annually disturbed, there is very low potential that cultural materials 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. The applicant has been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines.

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 Mr. James Mazza, San Francisco District, Regulatory Division, 1455 Market Street, 16th 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/>.