



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

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

PUBLIC NOTICE

PROJECT: San Juan Road Interchange Project
(State Route 101 Post Mile 100 to 101.3 in Monterey County
and 0.0 to 1.6 in San Benito County)

PUBLIC NOTICE NUMBER: 2010-00345S
PUBLIC NOTICE DATE: February 13, 2012
COMMENTS DUE DATE: March 13, 2012

PERMIT MANAGER: Paula Gill

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1. **INTRODUCTION:** The California Department of Transportation, District 5 (POC: Mr. Jim Walth 805-542-4657), has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to complete the San Juan Road Interchange Project located along 2.9 miles of U.S. Route 101, between San Juan Road and Cole Road, north of Prunedale and south of Aromas, in Monterey and San Benito Counties, California (36.85052, -121.63447). The project limits extend just south of Dundarton Road in Monterey County (post mile 100.0) to 1 mile north of Cole Road in San Benito County (post mile 1.6). The project site is depicted in Figure 1. 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.*).

2. PROPOSED PROJECT:

Project Site Description: The project lies within the northeast portion of the Los Carneros watershed which is tributary to Elkhorn slough. There are two unnamed intermittent streams that are tributary to Los Carneros Creek within the project area. The project area is dominated by floodplains and adjacent rolling hills and contains non-native grasslands, oak woodlands, intermittent streams, riparian communities, and seasonal wetlands. Land uses include commercial, residential, and agricultural areas.

Project Description: As shown in the attached drawings (Figures 2 – 15), the applicant proposes to construct an interchange with frontage roads on U.S. Route 101. Additionally a median barrier would be constructed to close existing gaps.

Work would include: (1) construction of an overcrossing at a right angle with Route 101 northeast of the Monterey/San Benito county line. The southbound on-ramp and southbound off-ramp would be a compact diamond interchange configuration, while the northbound off-ramp and northbound on-ramp would be one-quadrant cloverleaf interchange configuration. (2) Closure of access to Route 101 at Dunbarton Road on the west side of the highway through construction of a cul-de-sac. The cul-de-sac would be located at Dunbarton Road and Oak Ridge Road. Dunbarton Road on the east side of U.S. Route 101 would remain as-is, with continued access to U.S. Route 101. (3) Traffic would be restricted to allow only right hand access at Dunbarton Road east of U.S. Route 101, by installation of a concrete barrier. (4) Access would be provided east and west of U.S. Route 101 through construction of an overcrossing and associated local road realignment. (5) Gaps would be closed through construction of a median barrier, where needed. (6) The existing median crossover at Cole Road would be removed. (7) Full access control from 0.4 mile north of Dunbarton Road in Monterey County to 0.2 mile north of Cole Road in San Benito County would

be provided. (8) The existing four-lane expressway would be converted to a freeway, which requires access to private driveways open onto local roads instead of the highway. (9) Utilities would be relocated where necessary. (10) The overcrossing at San Juan Road would be ended at a right-angle intersection, with a public frontage road on the east side of U.S. Route 101. The overcrossing road on the east side of U.S. Route 101 would connect to a frontage road that follows the western edge of the Red Barn parking area, ending at Marilyn Lane with a cul-de-sac. Ballantree Lane would connect to the frontage road. (11) Retaining walls would be constructed near the San Juan Road/Cole Road intersection and near the San Juan Road/Red Barn frontage road intersection and along the southbound on-ramp and off-ramp.

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 to improve traffic safety.

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 is to address transportation issues by reducing congestion and improving safety at the intersections of San Juan Road, Dunbarton Road, and Cole Road with U.S. Route 101.

Project Impacts: Project implementation would result in permanent impact to 0.5 and temporary impact to 0.122 acre of Other Waters of the U.S. (i.e. streams). Additionally work would result in 0.97 acre of permanent and 0.01 acre of temporary impact to wetlands.

Proposed Mitigation: The applicant proposes to compensate for permanent impacts to Other Waters and wetlands off-site at the Carmel River Lagoon.

Caltrans constructed wetlands at this location in 1996 for the Hatton Canyon project. This project was never implemented and therefore Caltrans can apply this previously implemented mitigation work toward the San Juan Road Interchange project. Mitigation ratios and appropriate credits have not yet been determined.

Project Alternatives: A 404(b)(1) alternatives analysis was submitted to the Corps. Caltrans evaluated 19 different alternatives over the life of the project. Alternative evaluation criteria included purpose and need, cost, logistics (e.g. extensive earthwork), effects to traffic flow, and environmental effects.

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. 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, Central Coast Region, 895 Aerovista Place, Suite 101, San Luis Obispo, California 93401, 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. The project does not occur in the coastal zone, and a *preliminary* review by USACE indicates the project would not likely affect coastal zone resources. This presumption of effect, however, remains subject to a final determination by the California Coastal Commission.

Other Local Approvals: The applicant has also applied for a Lake and Streambed Alteration Agreement and 2081 Incidental Take permit to be issued by the California Department of Fish and Game.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act (NEPA): Caltrans has been delegated as NEPA lead by the Federal Highway Administration (FHWA). Upon review of the Department of the Army permit application and other supporting documentation, USACE has made the *preliminary* determination that we concur with Caltrans that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement. 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

concurrency determination 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 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any federally-listed species or its designated critical habitat. Caltrans, delegated as NEPA lead, consulted with the USFWS. Consultation concluded with the issuance of a biological opinion (BO) on October 7, 2009. In the BO, the USFWS concludes that the project is not likely to adversely affect vernal pool fairy shrimp (*Branchinecta lynchi*), Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longientenna*), vernal pool tadpole shrimp (*Lepidurus packardii*), and least Bell's vireo (*Vireo bellii pusillus*). Incidental take statements were provided for California red-legged frog (*Rana aurora draytonii*) and California tiger salamander (*Ambystoma californiense*). With issuance of the BO consultation with the USFWS concluded. USACE will render a final concurrence that provisions of the ESA have been satisfied at the close of the comment period, taking into account any comments provided by USFWS.

The San Juan Road Interchange Project would not impact fish-bearing streams therefore, Caltrans has made a determination that federally-listed species and designated critical habitat are not present at the project location or in its vicinity, and that consultation will not be required for the project. USACE will render a final concurrence determination on the need for consultation at the close of the comment period, taking into account any comments provided by NMFS.

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 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, Caltrans has made a *preliminary* determination that EFH is not present within the project location or in its vicinity, and that consultation will not be required. USACE will render a final concurrence with that determination at the close of the comment period, taking into account any comments provided by NMFS.

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 Caltrans, the Federal lead agency, 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. Caltrans, the Federal lead, has determined the proposed project would not affect cultural resources. Fifteen historic properties were evaluated but all were found not to be eligible for the National Register of Historic Places. The State Historic Preservation Office concurred with Caltrans determination of November 14, 2007. If unrecorded resources are discovered during construction of the project, operations will be suspended until the appropriate federal agency completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

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 not 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 less environmentally damaging practicable alternative to the project that does not require the discharge of dredged or fill material into special aquatic sites. The applicant has submitted an analysis of project alternatives which is being reviewed by USACE.

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.

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/>.

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 Paula Gill, 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