



US Army Corps
of Engineers®

SAN FRANCISCO DISTRICT

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

PUBLIC NOTICE

Project: Chadd Creek Flow Capacity Improvement Project

NUMBER: 2012-00046N

DATE: 4/19/2012

RESPONSE REQUIRED BY: 5/31/2012

PROJECT MANAGER: Nina Cavett-Cox

PHONE: 415-503-6765

1. INTRODUCTION:

The Humboldt County Department of Public Works (HCPW) (Natural Resource Division 1106 Second Street, Eureka, Ca 95501), has applied for a ten year Department of the Army permit to periodically excavate sediment from Chadd Creek to improve flow capacity and prevent flooding along Holmes Flat Road. The project is located on Holmes Flat Road, within APN 209-351-076, 0.03 miles southeast of State Highway 254, near the City of Redcrest, Humboldt County California (see enclosure 1). This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. PROPOSED PROJECT:

Project Site Location: The project is located on Holmes Flat Road, within APN 209-351-076, 0.03 miles southeast of State Highway 254, near the City of Redcrest, Humboldt County California (40.4153 latitude 123.9612 longitude) (see enclosure 1).

Project Site Description: HCPW maintains a cast-concrete culvert crossing over Chadd Creek, on Holmes Flat Road. The Holmes Flat County Road is the only access route into the community of Holmes Flat. This road also serves the community of Larabee during the summer months. According to the applicant the concrete culvert was installed sometime during the turn of the century. Due to high volume sediment loads transported from the upper watershed, excavation activities have been a

regular occurrence since the installation of the box culvert. Chadd Creek is a fish bearing stream tributary to the Main Stem of the Eel River. Plant communities native to Chadd Creek include coast riparian corridor surrounded by Douglas Fir/Redwood forest. Chadd Creek is a un-vegetated perennial relatively permanent second order stream within the U.S. Army Corps of Engineers (Corps) jurisdiction.

Project Description: As shown in the attached drawings (enclosure 2), the applicant proposes to remove and grade sediment within Chadd Creek at the concrete box culvert located beneath Holmes Flat Road. Excavation and grading activities would occur by way of mechanical excavation. Prior to excavation the applicant proposes to install fish exclusion fencing across the wetted channel, both upstream and downstream of the work area. Once the work area is secured fish would be removed and relocated by utilizing the "broom" technique or by seining with a modified bloocknet (weighted), and/or hazing them to, and through the downstream fish exclusion fencing. Following fish relocation, sediment removal would occur by staging an excavator, backhoe, or Grade-All on the County Road or turnout adjacent to the County Road out of the Corps` jurisdiction. Work would require the periodic removal of approximately 90 cubic yards of fill from 1,200 square feet of Chadd Creek. Sediment excavated from Chadd Creek would be taken to an approved upland location out of the Corps jurisdiction. After the sediment has been removed, the channel would be graded in order to

restore the creek's natural contours. Following excavation and grading activities all temporary structures would be removed.

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 transportation.

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 periodically excavate sediment from Chadd Creek to improve flow capacity and prevent flood along Holmes Flat Road.

Project Impacts: The estimated total area of stream channel disturbance associated with the project is the excavation and grading of approximately 90 cubic yards of sediment within a 1,200 square foot area below ordinary high water mark (OHWM). In addition project activities would permanently impact four Alder trees.

Proposed Mitigation: The applicant intends to avoid and further minimize impacts to jurisdictional waters by implementing the following measures: working during the dry time of the year within a short timeframe, staging and operating heavy equipment from the road to avoid further impacts to the creek channel, re-vegetating impacted vegetation along the banks, and returning the impacted area back to pre-construction conditions. Given that impacts are expected to be temporary, the applicant believes compensatory mitigation should not be required to offset unavoidable impacts to jurisdictional waters.

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. 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 Corps initiated Formal Section 7 consultation with NMFS to address impacts to Coho Salmon (*Oncorhynchus Kisutch*) and designated critical habitat associated with this species on March 8, 2012. The Corps is in the process of investigating whether Federally-listed USFWS species would be impacted by the proposed project activities. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

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 would not have a substantial 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 subject to review by and coordination with the NMFS. There are no EFH concerns with this proposed project.

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 not water dependent. 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.

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 not 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 Nina Cavett-Cox of our office at telephone 415-503-6765 or E-mail: Christina.Cavett-Cox@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.