



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102-3404

Operations and Readiness Division

PUBLIC NOTICE

**REQUEST FOR PERMISSION TO ALTER A U.S. ARMY CORPS OF ENGINEERS
PROJECT UNDER SECTION 408**

TITLE: Wildcat Creek – Fish Passage Improvement, 408-SPN-2024-0003

Public notice comment period:

Begins: November 1, 2024

Ends: December 1, 2024

REQUESTER: In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, Contra Costa County Flood Control and Water Conservation District (CCCFCWCD) (requester and non-federal sponsor of the federally authorized project) has requested permission from the U.S. Army Corps of Engineers (USACE) to alter Wildcat Creek, an existing federal flood risk management project, authorized by the Flood Control Act of 1965.

LOCATION: The Project is located on Wildcat Creek within the Cities of Richmond, San Pablo and unincorporated North Richmond in Contra Costa County, California.

REQUESTER'S PROPOSED ACTION: The proposed project includes upgrading an existing fish ladder and sediment basin within Lower Wildcat Creek. The project area is an 1,800-foot-long segment of Wildcat Creek from the downstream (west) Giaramita Street and Wildcat Creek intersection in North Richmond, east (upstream) to the Rumrill Boulevard and Wildcat Creek intersection in the City of San Pablo. The existing fish passage structure currently clogs up with urban debris and sediment, which increases sediment deposition in the fish passage structure. When blocked with debris, the fish passage structure is a barrier to upstream adult migration under all flows. This is because the fish passage structure is blocked and the other bays of the flood control structure are not adequate in depth and velocity for fish passage. The project includes retrofitting the existing fish ladder and expanding the existing sediment basin within the Lower Wildcat Creek Flood Control Channel to create a more natural fish passage corridor. Additionally, modifications would be made to the Wildcat Creek channel upstream of the BNSF Railroad to reduce sediment building up near the City of San Pablo's stormwater outfall. These activities will improve habitat connectivity for Central California Coast steelhead trout (*Oncorhynchus mykiss*), improve channel conveyance, and benefit the local community.

ENVIRONMENTAL IMPACTS OF PROPOSED ACTION: The Wildcat Creek watershed covers 6,848 acres and includes approximately 22 miles of creek channel. Wildcat Canyon is considered the upper watershed. Wildcat Regional Park and Tilden Regional Park, both managed by the East Bay Regional Park District as parkland, cover the upper watershed. The boundary between the upper and lower watershed, falls near highway Interstate 80, where the creek flows out of the canyon onto its alluvial plain. In the lower reaches, Wildcat Creek flows through the heavily urbanized, residential, and commercial areas of the cities of Richmond and San Pablo before reaching salt marshes adjacent to San Pablo Bay. The mid-to-lower Wildcat Creek has an open channel and has a narrow remnant riparian vegetation corridor through most of the urban areas. Much of the City of San Pablo is located in Wildcat Creek's lower watershed. About 2.2 miles of Wildcat Creek run through the City. Downstream, in the unincorporated Contra Costa County community of North Richmond, another 2.5 miles of Wildcat Creek's channel flows into a tidal flat along San Pablo Bay.

USACE determined there is suitable habitat for federally listed species under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) in the vicinity of the project. Therefore, USACE determined there would be no effects to federally listed species, designated critical habitat, or essential fish habitat under the jurisdiction of the USFWS and/or NMFS.

After an initial review, USACE has determined cultural resources may be affected by the proposed project. USACE will initiate consultation with the State Historic Preservation Officer and Native American Tribes under Section 106 of the National Historic Preservation Act, as appropriate.

Upon review of the Section 408 application and other supporting documentation, USACE has made a preliminary determination that the project qualifies for a Categorical Exclusion for the purposes of NEPA.

AUTHORITY: The authority to grant permission for temporary or permanent use, occupation, or alteration of any USACE civil works project is contained in Section 14 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C 408) ("Section 408"). Section 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers, to grant permission for the alteration or occupation or use of a USACE project if the Secretary determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project. The Secretary of Army's authority under Section 408 has been delegated to the USACE, Chief of Engineers. The USACE Chief of Engineers has further delegated the authority to the USACE, Directorate of Civil Works and Division and District Engineers, depending upon the nature of the activity.

LIMITS OF SECTION 408 AUTHORITY: A requester has the responsibility to acquire all other permissions or authorizations required by federal, state, and local laws or regulations, including any required permits from the USACE Regulatory Program under

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Section 404 of the Clean Water Act (33 U.S.C. Section 1344), and/or Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413). In addition, an approval under Section 408 does not grant any property rights or exclusive privileges nor does it authorize any injury to the property or rights of others.

EVALUATION FACTORS: The decision whether to grant the requested permission for project alteration under Section 408 will be based on several factors. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. Review of requests for alteration will be reviewed by a USACE technical review team considering the following factors:

1) Impair the Usefulness of the Project Determination. The review team will determine if the proposed alteration would limit the ability of the USACE project to function as authorized, or would compromise or change any authorized project conditions, purposes or outputs. In order for an alteration to be approved, the requester must demonstrate that the alteration does not impair the usefulness of the federally authorized project.

2) Injurious to the Public Interest Determination. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Factors that may be relevant to the public interest evaluation depend upon the type of USACE project being altered and the nature of the proposed alteration and may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation. This evaluation will consider information received from the interested parties, including tribes, agencies, and the public. The benefits that reasonably may be expected to accrue from the proposal must be compared against its reasonably foreseeable detriments. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks and by the net impact of the alteration on the public interest using the public interest factors.

3) Environmental Compliance. A decision on a Section 408 request is a federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. While USACE is responsible for ensuring environmental compliance, the requester is responsible for providing all information that the San Francisco District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and procedures. NEPA and other analysis completed to comply with other environmental statutes (e.g. Endangered Species Act) should be commensurate with the scale and potential effects of the activity that would alter the USACE project. The San Francisco District will work with the requester to determine

the requirements, which will be scaled to the likely impacts of the proposed alteration and should convey the relevant considerations and impacts in a concise and effective manner. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from activities resulting in the temporary or permanent use, occupation, or alteration of any USACE civil works project. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Section 408 permission for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Operations and Readiness Division.

PUBLIC INVOLVEMENT: The purpose of this notice is to solicit comments from the public; federal, state, and local agencies and officials; tribes; and other interested parties regarding the Proposed Project Name, a proposed alteration to an existing federally authorized project. Comments received within 30 days of publication of this notice will be used in the evaluation of potential impacts of the proposed action on important resources and in the evaluation of whether the proposed alteration would be injurious to the public interest and/or would impair the usefulness of the authorized project. Only the specific activities that have the potential to occupy, use or alter the Wildcat Creek Federal Project will be evaluated. Please limit comments to the area of the alteration and those adjacent areas that would be directly or indirectly affected by the alteration to the Wildcat Creek Federal Project. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act.

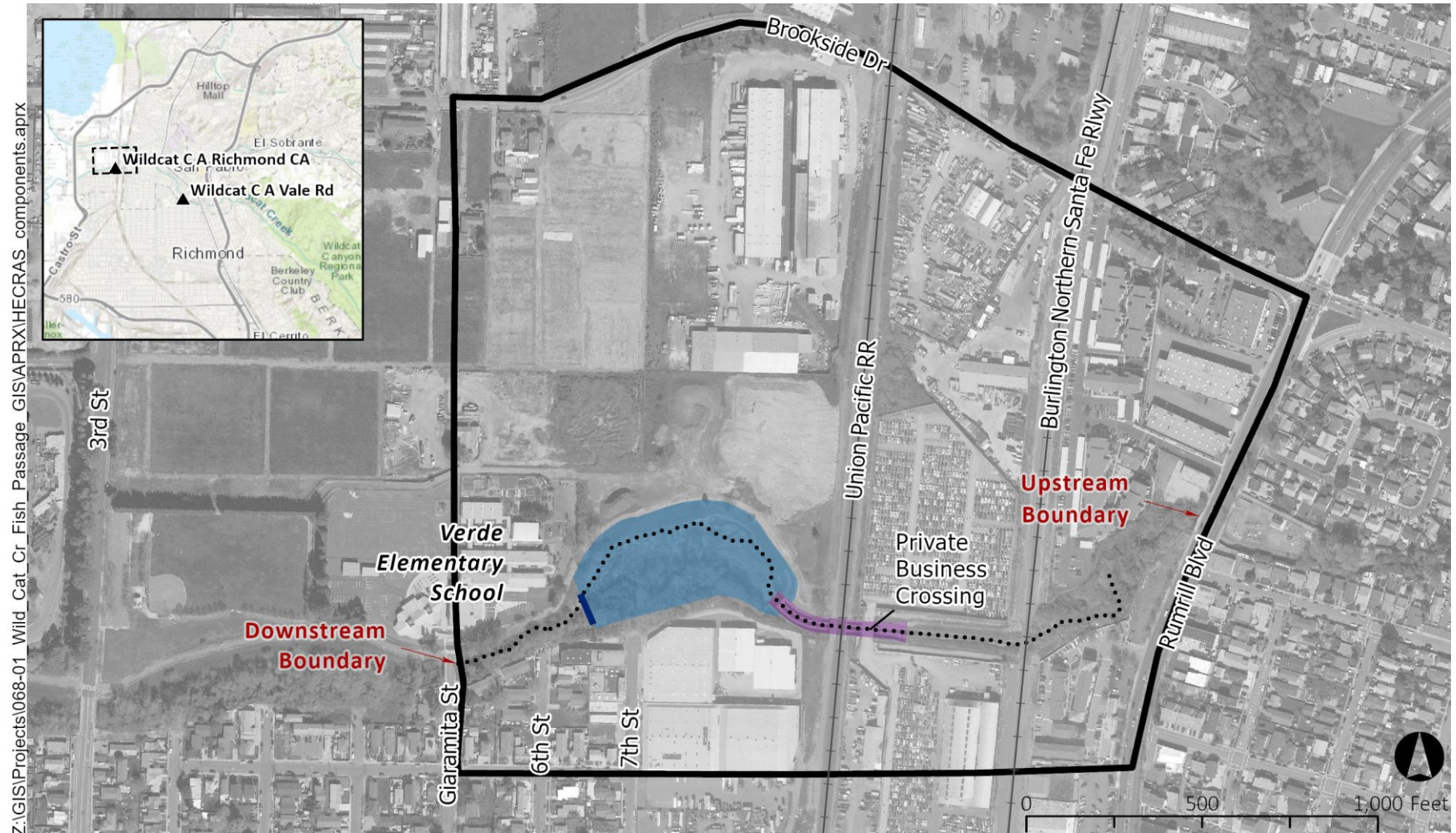
SUBMITTING COMMENTS: Written comments, referencing 408-SPN-2024-0003 must be submitted to the office listed below on or before December 1, 2024.

Jessica Vargas, Section 408 Coordinator
U.S. Army Corps of Engineers, San Francisco District
Operations and Readiness Division
450 Golden Gate Avenue, 4th Floor, Room 1111
San Francisco, California 94102-3404

Email: *spn.operationsdivision@usace.army.mil*

ATTACHMENTS: Vicinity Map

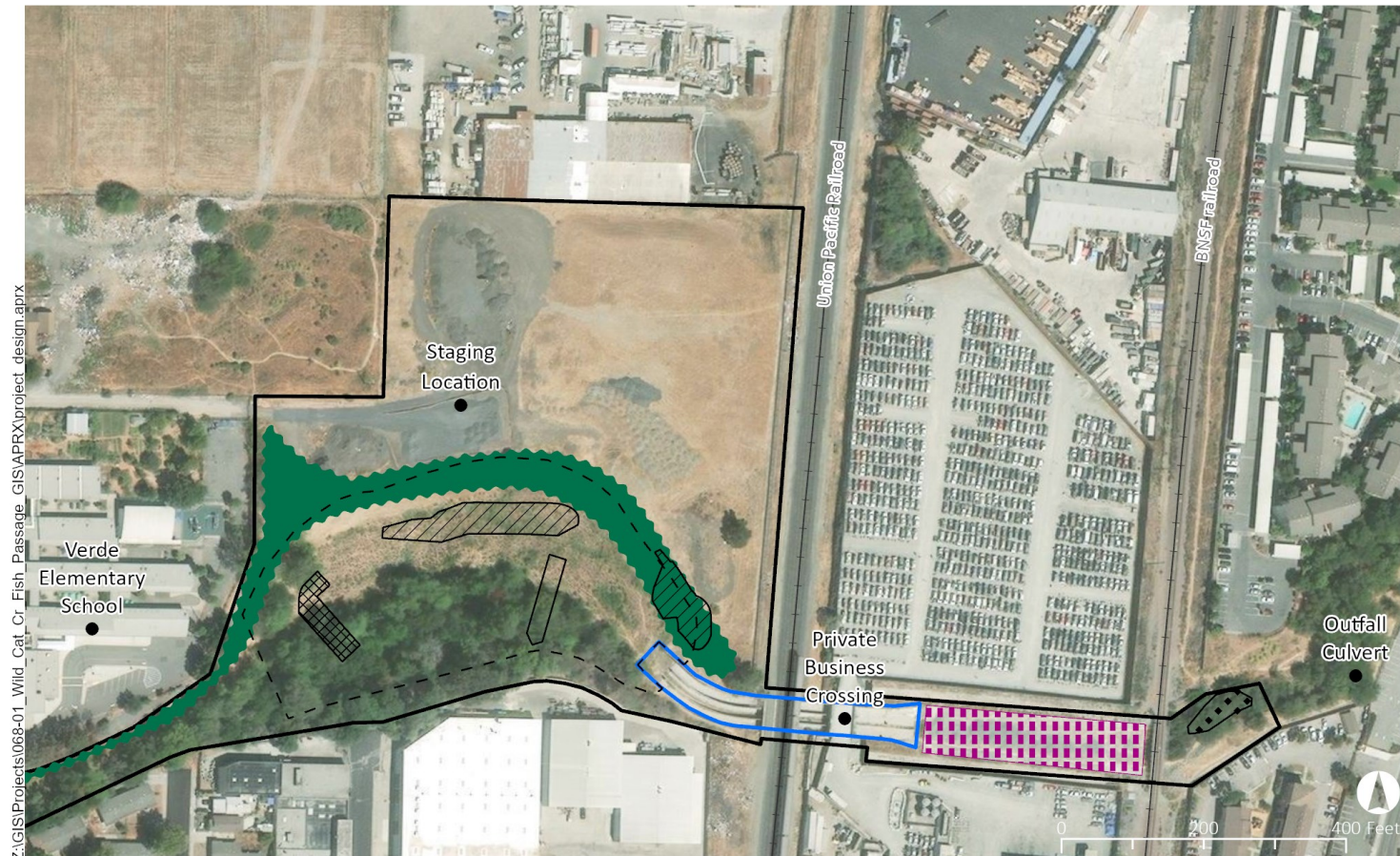
FIGURE 15: MODEL DOMAIN.



Legend

-  2D Model Domain
-  Sedimentation Basin Weir
-  Thalweg (2022)
-  Concrete Channel and Fish Passage Structure
-  Sediment Basin

FIGURE 1: PROJECT ELEMENTS



Legend

	Existing Sediment		Access Ramp		Community Amenities and Interpretive Features
	Basin Boundary		Flow Training Dike		Fish Passage Structure
	Railroads		Flow Training Dike and Access Ramp		Channel Modifications
	Project Footprint		Eastern Access Ramp		Potential Native Riparian and Upland Revegetation