



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: Alameda Creek – West End North Turnaround Replacement, 408-SPN-2024-0006

Public notice comment period:

Begins: November 4, 2024

Ends: December 4, 2024

REQUESTER: In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, Alameda County Flood Control and Water Conservation District (AFCWCD) (requester, Non-Federal Sponsor) has requested permission from the U.S. Army Corps of Engineers (USACE) to alter Alameda Creek RB, an existing federal flood risk management project, authorized by the Flood Control Act of 1962.

LOCATION: The proposed project is located along the north (right) bank levee at the mouth of Alameda Creek (Zone 5, Line A) in Fremont, Alameda County, California.

REQUESTER'S PROPOSED ACTION: The AFCWCD proposes to reconstruct the Alameda Creek West End North Levee Turnaround located on the right bank levee of the Alameda Creek flood control project. The Project would construct a new circular turnaround structure approximately 600 feet upstream from the original location to avoid future impacts related to shoreline erosion and anticipated sea level rise. The turnaround would be reconstructed based on the original U.S. Army Corps of Engineers' (USACE) design standards described in *Alameda Creek Flood Protection Channel's Operation and Maintenance Manual* dated June 1977.

ENVIRONMENTAL IMPACTS OF PROPOSED ACTION: The Alameda Creek Watershed is the largest watershed that feeds into the southern San Francisco Bay and the third largest tributary to the San Francisco Estuary. Alameda Creek (Zone 5, Line A) was designed and constructed by USACE and maintained by the District since completion in the 1970s. Maintenance vehicle access roads are located along the levee tops with turnaround points at the levee ends at the mouth of the creek. These roads also provide recreation use for pedestrians as the Alameda Creek Trail. The terminus of the existing levee and vehicular turnaround at the north (right) bank levee has been gradually eroding over the years due to wave and tidal action from San Francisco Bay.

The majority of the circular turnaround area has been eroded to the extent that prohibits a safe turning radius.

The project's immediate vicinity is primarily undeveloped tidal marsh and ruderal grassland. Habitats in the vicinity of the Project site include intertidal marsh, bay, and slough channel waterways. The Project will permanently impact 0.053 acre of intertidal marsh, and temporarily impact 0.019 acre of intertidal marsh to reconstruct the vehicle turnaround. These impacts to wetland habitat would be mitigated at a 3:1 ratio for permanent impacts and 0.1:1 ratio for temporary impacts, thus restoring a total of 0.161 acre of marsh habitat.

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. Ridgway's rail (formerly known as the California clapper rail) (*Rallus longirostris obsoletus*), Saltmarsh harvest mouse (*Reithrodontomys raviventris*), and Steelhead, central California coast DPS (*Oncorhynchus mykiss*) have the potential to be present in the area. Therefore, USACE determined the proposed project may affect federally listed species, designated critical habitat, or essential fish habitat under the jurisdiction of the USFWS and/or NMFS. USACE will initiate consultation with the USFWS and/or NMFS in compliance with the ESA.

After an initial review, the Corps has determined no eligible or potentially eligible 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 neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement 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 Alameda Creek – West End North Turnaround Replacement, 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 Alameda Creek RB 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 Alameda Creek RB. 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-2024-0006 must be submitted to the office listed below on or before December 4, 2024.

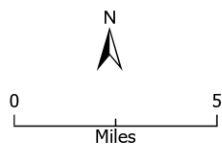
Jessica Vargas, Section 408 Coordinator
U.S. Army Corps of Engineers, San Francisco District
Operations and Readiness Division
450 Golden Gate Avenue, 4th Floor, Room 1111
San Francisco, California 94102-3404

Email: sfn.operationsdivision@usace.army.mil

ATTACHMENTS: Vicinity Map



Figure 1
Project Vicinity



● Project Location

