



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: Salinas River Multi-Benefit Demonstration Project:
Chualar and Gonzales River Management Units
Regional General Permit

PUBLIC NOTICE NUMBER: 22309S

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COMMENTS DUE DATE: August 2, 2014

PERMIT MANAGER: Holly Costa

TELEPHONE: 415-503-6780

E-MAIL: holly.n.costa@usace.army.mil

1. **INTRODUCTION:** The Monterey County Water Resources Agency (MCWRA) (POC: Elizabeth Krafft, Post Office Box 930, Salinas, California 93902), has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Regional General Permit to conduct a demonstration project involving a cooperative planning and design process with agencies, stakeholders, landowners and growers to establish a flood risk reduction approach for a portion of the Salinas River. The project would also maintain ecological conditions for fish and wildlife and be consistent with other priorities for the Salinas River including groundwater recharge. 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 Location: The proposed project includes 11.5 total miles of the Salinas River near the towns of Chualar and Gonzales and west of Highway 101 in Monterey County. The project area is broken into two reaches along the Salinas River. For ease of referral, these two reaches of the river have been named “River Management Units” or RMUs. The RMUs encompass the entire river channel width from bank to bank. The RMUs include primarily privately owned farm properties. These properties either are adjacent to, enter into, or cross the active river channel. The upstream Gonzales RMU begins at river mile 37.7 and ends at river mile 32.7 or 5 miles of the river. The downstream Chualar RMU begins at river mile 29.2 and ends at river mile 22.7 or 6.5 miles of the river.

Project Site Description: Historically, the land adjacent to the Salinas River and its tributaries has experienced restricted and disastrous floods. Within the project areas, the channel has been greatly constrained by agricultural operations in the flood plain and artificially modified with flow rates maintained by releases from the upstream reservoirs during dry months each year (generally May through October). Generally high flow events are muted, resulting in less scouring of accumulated sediment. Low, non-scouring flows are maintained well into the dry season, extending the growing season for vegetation in the low-flow channel; which, in turn, further increases sediment deposition and mid-channel sandbars. Both in-channel vegetation and sandbars reduce the overall water transportation capacity of the river.

Each area of the river included in the RMUs (extending from the left bank to the right bank of the river channel) was mapped using a 2-dimensional flood analyses model and then refined in the field with ecologists, landowners and growers, and MCWRA staff (see Figures 1-3).

Project Description: The project includes vegetation maintenance (mowing and discing), sand/sediment management (channel smoothing), and non-native vegetation removal of giant reed (*Arundo donax*) and tamarisk (*Tamarix parviflora*) within the RMUs to reduce risk of flooding to adjacent farm fields and prevent bank erosion. Project activities would create and maintain a series of linear “secondary channels” adjacent to the existing low-flow channel (see Figure 4) and designed to become active during higher flow events (5-year interval

or approximately 22,000 cfs). These activities would occur annually with reduced activity expected over the 5-year permit period due to 90% of vegetation management occurring in years 1-2 and spot management in years 3, 4 and 5 as vegetation begins regrowth in the channel. Maintenance activities would occur between October 1 and November 15.

The objective of the proposed management activities within these RMUs is to mimic natural braiding in the Salinas River historically provided by higher, scouring flows and especially in secondary channels. The goal is to increase channel complexity, slow velocities in the primary low flow channel, and encourage a wider range of riparian habitat conditions (earlier to later successional vegetation communities) that would have been present historically.

At the conclusion of each year's maintenance season, a summary report would be developed by RMU Program Participants and submitted to MCWRA for review and approval. MCRWA would provide the approved Annual RMU Report to permitting agencies, as necessary. The Annual RMU Report would include documentation of maintenance and mitigation actions for the 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 is to reduce flood risk to agricultural land adjacent to the Salinas River while maintaining and enhancing natural habitat and ecological and hydrological processes.

Project Impacts: The Chualar RMU has 12 proposed secondary channels and the Gonzales RMU has 18 proposed secondary channels. Vegetation removal and sand/sediment management would be undertaken in each of the secondary channels as frequently as annually, based on initiation by the landowners or growers and in review with MCWRA staff. Sediment management would not exceed 250,000 cubic yards over the 5-year permit period and would occur in secondary channels 10 and 11 in

Chualar only. Sediment would be moved outside of the active floodplain. Sediment would be removed from the secondary channels by truck and moved to either integrate into adjacent farm fields or stored in demarcated stockpile areas above the OHWM and outside of any jurisdictional wetlands. The project will use excavators, backhoes, tractors, frontend loaders, and trucks (dump) during maintenance activities. Best Management Practices will be incorporated into all work.

The majority of the work would be conducted below the Ordinary High Water Mark of the Salinas River. The secondary channels comprise 148.7 acres between the two RMUs. This is gross acreage and actual maintenance acreage is expected to be slightly less once pre-maintenance surveys and 41 staking occurs. However, for the purposes of this permit application this is the estimated maximum area of impact for the proposed project over the 11.5 miles of the river.

Proposed Mitigation: Impacts from fill (grading/smoothing and secondary channel tie-ins) are expected to be temporary. This program is not expected to result in a loss of waters of the U.S. Annual impacts to sensitive habitat and vegetation types in the secondary channels from maintenance activity would be calculated at the RMU-level and would be used to determine annual mitigation needs by type. Mitigation needs would be identified after avoidance and minimization measures have been implemented during pre-maintenance surveys and would primarily consist of revegetation of disturbed areas. These would be tracked for each secondary channel and reported in the Annual RMU Report.

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: 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.

Coastal zone management issues should be directed to the District Manager, California Coastal Commission, Central Coast District Office, 725 Front Street, Suite 300, Santa Cruz, California 95060-4508, by the close of the comment period.

Other Local Approvals: The applicant has applied for 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 ensure 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/or designated critical habitat are present at the project location or in its vicinity, and may be affected by project implementation:

- Pinnacles buckwheat (*Eriogonum nortonii*)
- Congdon's tarplant (*Centromadia parryi* ssp. *Congdonii*)
- Toro manzanita (*Arctostaphylos montereyensis*)
- California tiger salamander (*Ambystoma californiense*)
- Steelhead (*Oncorhynchus mykiss*)
- California red-legged frog (*Rana draytonii*)
- Least Bell's Vireo (*Vireo bellii pusillus*)
- San Joaquin Kit Fox (*Vulpes macrotis mutica*)
- Southwestern willow flycatcher (*Empidonax traillii extimus*)

To address project related impacts to these species and designated critical habitat, USACE will initiate consultation with USFWS and NMFS, pursuant to Section 7(a) of the Act. 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 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. To address project related impacts to EFH, USACE will initiate consultation with NMFS, pursuant to Section 305(5)(b)(2) of the Act. 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 MPRS 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 not likely to be present in the permit area, and that the project either has no potential to cause effects to these resources or has no effect to these resources. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, and Native American Nations or other tribal governments. 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 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.

An analysis of project alternatives was provided with the permit application. Onsite alternatives include a No Action Alternative, a Total Vegetation Clearing Alternative and the Multi-Benefit Demonstration Project Alternative (the proposed project). The Corps has not endorsed the submitted alternatives analysis at this time. The Corps will prepare its own 404(b)(1) alternatives analysis prior to reaching a final permit decision.

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.

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 *Public Notices* tab on the USACE website:
<http://www.spn.usace.army.mil/Missions/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 Holly Costa, San Francisco District, Regulatory Division, 1455 Market Street, 16th Floor, San Francisco, California 94103-1398; 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