



US Army Corps
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San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division, Eureka Field Office
601 Startare Drive, Box 14
Eureka, CA 95501

PUBLIC NOTICE

PROJECT: Benbow Dam Removal

PUBLIC NOTICE NUMBER: 1999-243160N

PUBLIC NOTICE DATE: September 23, 2015

COMMENTS DUE DATE: October 23, 2015

PERMIT MANAGER: Ms. Cameron Purchio

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1. **INTRODUCTION:** California State Parks, North Coast Redwoods District (POC: Patrick Vaughan, (707) 445-6527 x25, P.O. Box 2006, Eureka, California 95502, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to discharge fill material into jurisdictional waters of the United States associated with the removal of a concrete dam located in southern Humboldt County on the Eel River. 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 is located on an approximately 70 acre portion of the Eel River, Benbow, Humboldt County, California (APNs 222-09-503, -504, -505, and 033-30-113, -114, -117, -118, -119), USGS Garberville Quad, Section 36, Township 5 South, and Range 3 East. The center coordinates of the proposed project area are 40.0666° North and -123.7961° West. The site is located within the Lower East Branch South Fork Eel River watershed.

Project Site Description: The proposed work area contains the Benbow Dam structure at the western edge of the site, as well as associated staging and access areas in to the east of the dam. The Benbow Dam is located 2,500 lineal feet downstream of the South Fork and Eastern Fork-South Fork Eel confluence or approximately 0.6 mile west of the Historic Benbow Inn. The dam is situated after the apex of a channel bend and is founded on sandstone and shale bedrock formations. The right bank near the dam is nearly vertical and composed of a shallow layer of soil covering an assemblage of folded sandstone and shale bedrock. The left-most portion of the dam is

located at the downstream end of a 700 foot long flood terrace that harbors a large grove of old-growth redwoods. The dam was initially constructed in 1931, and provided hydroelectric power to Benbow and Garberville until 1958. The structure has not been operated as a dam since 2007 due to regulatory and environmental concerns.

Project Description: As shown in the attached drawings, the applicant proposes to remove the Benbow dam. This work will be completed in several phases in order to prevent any disruption to flows in the Eel River. The first phase will include construction of an approximately 0.9 mile haul road, staging area, refueling area, sedimentation basin, berm and channel to maintain dewatered work area, and removal of the southern half of the structure. The second phase will include moving the berm and channel to dewater the northern half of the structure, final removal, channel grading, and removal of all staging areas and roads to return any disturbed areas to their preconstruction condition. The haul road will require two river crossings, one using a single span rail car bridge, and the other using multiple culverts. The haul road, berm, sedimentation basin, bridge footings, culverted crossing, and staging area will all be constructed of river run gravel that is present on the site. A third phase will stabilize approximately 800 linear feet of bank on the south side of the Eel River to prevent further damage to old growth redwoods present on the site. This stabilization will be accomplished using erosion control fabric planted with native grasses, willow trees, and alder trees. The proposed work exists as a single and complete project, with the only future work planned being maintenance of the bank stabilization to ensure success of planted materials.

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 aquatic habitat restoration.

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 mitigate channel morphology changes and fish passage obstacles created by the construction and operation of the Benbow Dam.

Project Impacts: The proposed project would require temporary placement of approximately 23,000 cubic yards of fill within 11.8 acres of waters of the U.S. The majority of the material will be placed specifically for construction of haul roads and staging areas to facilitate the removal of the dam structure. Upon completion of the proposed work, all disturbed areas will be returned to their pre-construction condition.

Proposed Mitigation: The project will remove a fish and woody debris passage barrier as well as various other aquatic habitat improvements; therefore, no mitigation measures would be required other than measures taken to minimize or avoid disturbance to sensitive habitat areas. The return of the project site to its pre-development state will result in a net benefit in aquatic function.

Project Alternatives: The Corps has not endorsed the submitted alternatives analysis at this time. The Corps will conduct an independent review of the project alternatives prior to reaching a final permit decision.

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, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, 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 Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Determination 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 Determination 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.

Coastal zone management issues should be directed to the District Manager, California Coastal Commission, North Coast District Office, 710 E Street, Suite 200, Eureka, California 95501, by the close of the comment period.

Other Local Approvals: The applicant has applied for the following additional governmental authorizations for the project: a Lake and Streambed Alteration Agreement to be issued by the California Department of Fish and Wildlife.

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 or 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 insure 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 designated critical habitat is present at the project location or in its vicinity, and may be affected by project implementation. The project reach of the Eel River contains Federally-listed endangered Chinook salmon (*Oncorhynchus tshawytscha*) and steelhead (*Oncorhynchus mykiss*). Critical habitat has also been designated for Coho salmon and steelhead to include all estuarine and river reaches accessible to salmonids below longstanding, naturally impassable barriers. Designated critical habitat consists of the water, streambed, and the adjacent riparian zone. The overall project could potentially induce changes in channel morphology, as well as temporarily increase turbidity directly downstream of the project reach. To address project related impacts to this species and designated critical habitat, USACE will initiate informal consultation with 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 National Marine Fisheries Service (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. The project reach of the Eel River contains the Pacific Coast Salmon FMP. The overall project could potentially induce changes in channel morphology, as well as temporarily increase turbidity directly downstream of the project reach. 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 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 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 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 practicable alternative to the project that would result in less adverse impact to the aquatic ecosystem, while not

causing other major adverse environmental consequences. The applicant has been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines.

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.

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 Ms. Cameron Purchio, San Francisco District, Regulatory Division, Eureka Field Office, 601 Startare Drive, Box 14, Eureka, California 95501; 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 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>.