



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: White Rock Lake Maintenance Project

PUBLIC NOTICE NUMBER: 2013-00225S

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COMMENTS DUE DATE: April 18, 2015

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1. **INTRODUCTION:** White Rock Club (POC: William G. Dorey), 36010 Robinson Canyon Road, White Rock Club, through its agent, WRA Inc. (POC: Leslie Lazarotti (415) 454-8868 ext 130, 2169-G East Francisco Blvd. San Rafael, CA 94901), has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to dredge accumulated sediment from within White Rock Lake, a jurisdictional water of the United States. The project also proposes to implement annual maintenance dredging and minor grading and vegetation planting for enhancing existing California red-legged frog habitat. The project is located in the Santa Lucia highlands above the Carmel Valley within an unincorporated area of Monterey County, California. 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: White Rock Lake is located approximately 1.6 miles south, southeast of Carmel Valley, at 36010 Robinson Canyon Road, Carmel, Monterey County, California (APN's 417-041-007 and 417-041-013) (36.4119° N, Long. -121.7725° W) (Figure 1).

Project Site Description: White Rock Lake is a 3.69 acre man-made impoundment located along a former oxbow of Black Rock Creek, which flows into San Clemente Creek, a tributary of the Carmel River. The area is sited within the Santa Lucia Mountains in Monterey County and has been managed as a recreational area since 1925. The surrounding area is undeveloped with the exception of seasonal cabins. The area is dominated by a mixed woodland overstory composed of primarily western

sycamore (*Platanus racemosa*), bigleaf maple (*Acer macrophyllum*), California bay (*Umbellularia californica*), coast live oak (*Quercus agrifolia*), black cotton wood (*Populus balsamifera*), and madrone (*arbutus menziesii*). Surrounding topography is fairly mountainous and steep providing a confined geomorphology along tributaries within the region.

Project Description: The applicant proposes to initially dredge approximately 4,500 cubic yards of accumulated sediment from a 1.05 acre area (Figure 2). Annual maintenance dredging (5-10 years) will remove subsequent sediment accumulation. The dredged material will be placed within upland areas of existing roads and parking areas. Enhancement of California red-legged frog habitat will occur along a 0.14 acre margin of the lake. The work is being proposed to occur after the removal of flashboards (prior to October 31st) during predominantly dry project site conditions. The applicant will use heavy equipment consisting of an excavator/backhoe, a tractor, two dump trucks and a grader for the proposed project.

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 to remove accumulated sediment from within White Rock Lake in order to maintain the original capacity, as well as enhancing California red-legged frog habitat. The proposed project is water dependent.

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 purpose of the project is to maintain the original capacity within the lake. The applicant has determined that the recreational swimming and fishing functions of the lake have been diminished as the sediment accretion has continued for several years.

Project Impacts: The proposed project would temporarily impact 1.055 acres of White Rock Lake, a jurisdictional Water of the U.S., specifically 1.05 acres of open lake areas and 0.005 acre of two existing stream crossings. Included in the temporary lake impacts are 0.14 acre of impacts associated with the California red-legged frog wetland and riparian enhancement located along the lakes margins.

Proposed Mitigation: The applicant has coordinated the current project design with federal and state regulatory and resource agency input to ensure maximum avoidance of aquatic and other sensitive resources. In addition, the proposed project would include avoidance and minimization measures to reduce impacts to, water quality, fish and wildlife resources, sensitive plant species, and wetland and riparian vegetation. The applicant has asserted that the proposed project is self-mitigating in that it will restore lake capacity to pre-siltation levels and enhance California red-legged frog habitat.

Project Alternatives: The applicant has provided an alternatives analysis and discussion as per 401(1)(b). In considering a range of alternatives including No Action, No Discharge, and "Discharge" Alternatives, if available, to determine which of the alternatives that achieve the project purpose is least environmentally damaging. The project evaluated the Preferred Alternative, the No Action, No Discharge Alternative (Alternative A), and a modified preferred Discharge Alternative (Alternative B). The Alternatives analysis conclude that the preferred alternative is the most practicable alternative as it met the project purpose, was more feasible, and was the least costly.

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 received a Water Quality Certification on September 12, 2014, from the Central

Coast, Regional Water Quality Control Board (RWQCB). 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.

Other Local Approvals: The applicant has applied for the following additional governmental authorizations for the project: California Fish and Wildlife Service has issued Lake and Streambed Alteration Agreement, Notification No. 1600-2012-0170-R4.

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, the survey summary provided, and conservation measures proposed by the applicant, to determine the presence or absence of such species and critical habitat in the project area. Based on this review, USACE made a preliminary determination that Federally-listed California red-legged frog (*Rana Aurorra Draytonii*) and its designated critical habitat are present at the project location or in its vicinity, and may be affected by project implementation.

To address project related impacts to this species and designated critical habitat, USACE has initiated informal consultation with USFWS on August 26, 2014, pursuant to Section 7(a) of the Act. On November 4, 2014 USFWS responded to the request from USACE with a finding of concurrence with the determination that the subject project may affect, but is not likely to adversely affect the California Red-legged frog and its critical habitat. The USFWS found that further consultation, pursuant to section 7(a)(2) of the Federal Endangered Species Act of 1973, as amended (Act), is not necessary.

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 will require the applicant to submit the following: 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 to 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.

As the Federal lead agency for this project, the applicant will be responsible for determining the presence or absence of historic properties or archaeological resources, and the need to conduct consultation. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project. 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 submitted an analysis of project alternatives which is being reviewed by USACE.

6. PUBLIC INTEREST EVALUTION: 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.

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 Lisa Mangione, 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 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*