



US Army Corps
of Engineers®
San Francisco District

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

PROJECT: **State Route 36 Roadway Improvement Project**

PUBLIC NOTICE NUMBER: 2015-00112

PUBLIC NOTICE DATE: March 27, 2015

COMMENTS DUE DATE: April 26, 2015

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1. INTRODUCTION: The Federal Highway Administration (FHA) (POC: Brooke Davis 720-963-3734), 12300 West Dakota Avenue Lakewood Colorado, 80228, 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 construction of roadway improvements to State Route (SR) 36. The FHA in cooperation with the U.S. Forest Service, and the California Department of Transportation, has applied for a five-year Department of Army permit to complete roadway improvements to SR 36 between postmiles 36.1 and 40.5 to enhance traffic safety, while improving mobility for vehicular travel along SR 36. The intent is to reduce vehicular crash severity. This 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 project is located along SR 36 (Project Start: lat. 43.453 and long. -123.654) between postmiles 36.1 and 40.5, Humboldt County, California.

Project Site Description: The project is located in the North Coast Region, which consists of all basins draining into the Pacific Ocean. The project area is located within the Eel River Basin, the Van Duzen River watershed, as well as the Upper Van Duzen River sub-basin. This watershed is 367 square miles and contains 808 miles of streams throughout Humboldt County. The land surrounding the Van Duzen River is mountainous with elevations approaching 5,900 feet. The Van Duzen River flows 75 miles from its headwaters to where it drains into the Eel River below, and eventually flows to

the Pacific Ocean. The project area is characterized by dense forests, steep terrain, and the small, rural and unincorporated towns of Bridgeville and Dinsmore, in Humboldt County, California.

Project Description: As shown in the attached drawings, the applicant plans to improve roadway geometry and provide system continuity, improve traffic mobility, address geologic hazards, and improve safety. The existing roadway within the study area has narrow travel lanes that vary in width and have little or no shoulders. Although traffic currently travels in both directions on the road, most sections of the roadway lack a center stripe and are barely wider than one traffic lane. The sharp horizontal and vertical curves on SR 36 within the study area are also inconsistent with adjacent segments of the highway that do not meet minimum standards in the American Association of State Highway and Transportation Officials (AASHTO) 2011 manual. Some sections of the roadway exceed the 6 percent allowable grade and are as high as 18 percent. There are 127 horizontal curves along the project segment of SR 36, most of which do not meet the criteria for a design speed of 55 miles per an hour (mph) or an operating speed of 30 mph. The project also proposes to improve: mobility conditions due to limited connectivity between U.S. Highway 101 and I-5 in the north coast area, roadway geometry limits for the efficient transport of goods on SR 36, roadway geometry that results in slow vehicular speed, and limited passing opportunities that are available on SR 36 for recreational vehicles. Also, maintenance and stability issues are ongoing due to the roadway's location in an active landslide area. So, the proposed project would address geologic hazard concerns. Finally, the project proposes safety improvements to reduce the high number of collisions and injuries in the project area that exceed state average levels by 29 percent, in some cases.

Construction activities involve: road widening, vegetation and tree removal, culvert replacement, equipment staging, and wetland mitigation. Best Management Practices (BMP's) and other minimization measures would be implemented to minimize project impacts to aquatic and sensitive resources.

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 traffic safety improvements.

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 improve roadway geometry and provide system continuity, improve traffic mobility, address geologic hazards, and improve safety.

Project Impacts: Approximately 20,664 cubic yards of fill would be installed in jurisdictional waters permanently impacting about 1.03 acres of wetlands and 6,438 linear feet of other waters and temporarily impacting 0.29 acre of wetlands and 701 linear feet of other waters.

Proposed Mitigation: The mitigation site is a seven-acre site on the Six Rivers National Forest that is adjacent to the Van Duzen River. It would be excavated to create wetland habitat. The plan involves excavating the new wetland habitat to create connectivity with the Van Duzen River and would be excavated about 18 inches above groundwater. The site would be planted with wetland vegetation and monitored.

Project Alternatives: Two alternatives were evaluated including the proposed alternative and a "no build" alternative. The no build alternative would represent a continuation of existing conditions. The Corps has not endorsed the submitted alternatives analysis at this time.

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 Skyline Boulevard, Suite A, Santa Rosa, California 95403

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.

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, FHA has conducted a review of the California Natural Diversity Data Base, digital maps prepared by USFWS and NMFS depicting critical habitat, and other information, to determine the presence or absence of such species and critical habitat in the project area. Based on this review, FHA has made a determination that the following federally-listed species and designated critical habitat are present at the project location or in its vicinity, and may be affected by project implementation. Species and critical habitat currently identified as potentially impacted by the proposed project include: northern spotted owl (*Strix occidentalis caurina*) and steelhead trout (*Oncorhynchus mykiss*) and its critical habitat. To address project related impacts to these species and designated critical habitat, FHA initiated formal and informal consultations with USFWS and NMFS, respectively, pursuant to Section 7(a) of the Act.

A biological opinion (BO) was issued by USFWS (AFWO-13B0041-13F0052 on May 21, 2014) and a concurrence letter was issued by NMFS (SWR-2013-9425 on June 27, 2014) for this project following consultation by FHA.

The USFWS determined that auditory and visual disturbances have the potential to result in owl mortality by disrupting foraging and/or dispersal behavior. Also, young-of-the-year could disperse prematurely in response to these disturbances. Additionally, trees falling and other construction activities could result in injury and/or death of individuals. These effects are discussed further in the BO that is available on request. However, the USFWS did not consider these impacts to be likely and did not issue terms and conditions with their BO.

The NMFS determined that sediment input and storm water runoff resulting from project construction activities may impact steelhead, its prey base, and its designated critical habitat. However, NMFS determined these impacts would be negligible due to the implementation of BMP's and the distance of the action from these resources.

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.

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, FHA will be responsible for determining the presence or absence of EFH, and the need to conduct consultation. FHA 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, FHA has made a determination that EFH is not present at the project location or in its vicinity, and that consultation will not be required. 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.

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, FHA 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, FHA has made a 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. As the federal lead agency for this project, FHA is responsible for determining the presence or absence of historic properties or archaeological resources, and the need to conduct consultation. FHA has completed consultation with the

State Historic Preservation Office (SHPO) on April 29, 2014, in accordance with Section 106 of the National Historic Preservation Act. The SHPO concurred that there were no historic properties affected for this project.

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 FHA 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. 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.

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 Carol Heidsiek, 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>.