



US Army Corps  
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San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division  
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San Francisco, CA 94103-1398

# PUBLIC NOTICE

PROJECT: Santa Cruz Countywide Partners in Restoration Permit Coordination Program  
Regional General Permit 13 Reauthorization

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COMMENTS DUE DATE: June 23, 2016

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**1. INTRODUCTION:** The Santa Cruz County Resource Conservation District (RCD), 820 Bay Avenue, Suite 128, Capitola, California 95010, (contact: Kelli Camara, (831) 464-2950) has applied to renew U.S. Army, Corps of Engineers (Corps) Regional General Permit (RGP) 13 for a program to assist landowners in implementing and maintaining conservation practices on private lands in Santa Cruz County, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).

## 2. PROPOSED PROJECT:

**Project Site Location:** The Santa Cruz Countywide Partners in Restoration Permit Coordination Program (Program) would cover activities in all areas of Santa Cruz County where the Natural Resources Conservation Service (NRCS) and Santa Cruz County RCD work with landowners to improve resource conditions on their property (Figure 1).

**Project Site Description:** The Santa Cruz Countywide Partners in Restoration Permit Coordination Program (Program) would cover implementation and maintenance of fifteen conservation practices on private properties throughout Santa Cruz County over a five-year period. Because projects will be occurring in multiple locations, it is not possible to define specific project sites at this time, although they will all occur on private properties within Santa Cruz County.

**Project Description:** The renewed RGP would authorize minor fill discharges into waters of the U.S. in

association with implementation of projects by landowners in Santa Cruz County participating in the Program. The Program would still consist of fifteen specific restoration and conservation practices (see Table 1 for descriptions of practices). Under the proposed Program, regulatory agencies enter into programmatic agreements with the RCD to approve these fifteen specific, standardized, conservation practices that would improve habitat and soil stability. The conservation practices are limited in size, have demonstrated a net environmental benefit, and are usually performed for erosion control or restoration in and around waterways. Landowners agree to follow designs and specifications for conservation work. Follow up and monitoring on each conservation project is done by the RCD, with compliance determinations to be done by the respective agencies.

Not all projects carried out under the Program would require Corps authorization. This RGP would only authorize those projects that fall under Corps jurisdiction.

**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 purpose of this Program is to provide a mechanism for private landowners in Santa Cruz County to work with the RCD to complete environmentally beneficial conservation and restoration projects that require permits and approvals from various regulatory agencies.

**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 this Program is to encourage implementation of practices that will reduce non-point source pollution and streambank erosion and provide associated benefits of streambank protection, groundwater recharge, and aquatic and terrestrial habitat enhancement.

### **Project Impacts:**

The conservation practices have been categorized in a tiered impact matrix, an approach developed by the Central Coast Regional Water Quality Control Board (CCRWQCB). The matrix provides a framework of environmental protection measures that increase in complexity with a practice's or project's increasing impact or complexity. The tiered approach enables the classification of a proposed project into one of four possible tiers. With increasing impacts, a project would be classified into a higher tier, requiring additional environmental protection measures

Projects with very limited resource impacts (upland projects with no expected impacts to special status species) would be placed in Tier I. Tier I projects would have the fewest requirements for surveys, monitoring and other special conditions. Tier I projects would also have a lower level of documentation, shorter notification period (10 days) and would have one to two notification dates. Work in streams (bed and bank) would automatically place projects in Tier II or higher; the presence of threatened and endangered species (in streams or uplands) and projects that include rock riprap bank protection materials or that propose the removal of large instream barriers would be placed in Tier III. Projects in coho-bearing streams or in streams having high intrinsic potential would be included in Tier IV and would require early consultation with regulatory agency staff. Agency staff would provide detailed input into the proposed designs and monitoring for projects in Tier IV.

Structures and techniques that would result in fill discharges in streams would be designed in accordance with the, "*California Salmonid Stream Habitat Restoration Manual, Third Edition, January 1998, as revised,*" and would include such structures as the following: Digger Logs, Spider Logs, Log, Root Wad, and Boulder Combinations, Brush Mattressing, Log Cribbing, Live Vegetative Crib Wall, Logbank Armor, Riprap, Native Material Revetment, Willow Sprigging, Brush Mattressing, removal of obstructions to fish

passage, embedded culverts, culvert replacements and improvements, stream bank stabilization, riparian revegetation, and activities associated with upslope restoration of roads, eroded hillsides, and other areas contributing excess sediment to aquatic habitats. Temporary fill may occur during installation of coffer dams and other structures necessary for dewatering a work area. The range of fill material may include: non-erodible earth, aggregate (gravel, clay, silt, sand), gabion wire baskets, log, root wads, timber, rock, and mortar or concrete in limited, discrete locations as energy dissipaters and grade stabilization structures. For individual projects carried out under the RGP, total permanent (fill) impacts to waterways and wetlands may not exceed 0.5 acre and may not result in (permanent) fill of more than 0.25 acre of wetland per project.

**Proposed Mitigation:** Most of the proposed projects are self-mitigating and provide a net benefit to the aquatic environment. General measures have been developed to reduce or avoid the potential adverse effects associated with actions to be covered by the permit coordination program. These measures, as appropriate for a specific action, would be included as special conditions on any practice installed under the Program. Short-term impacts to aquatic resources that cannot be avoided during project construction would be mitigated through improved long-term water quality and wetland habitat that would result from reduced non-point source pollution and streambank erosion, bioengineered streambank protection, increased groundwater recharge, and aquatic and terrestrial habitat enhancement.

**Project Alternatives:** Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). The goal of the conservation practices and restoration activities covered under the Program is to protect and enhance water quality and sensitive habitats, including wetlands. In some cases, installation of these practices necessitates work in or around water and/or wetlands in order to achieve the ultimate goal of encouraging activities that protect these resources. An evaluation has been made by this office under the guidelines and it was determined that the majority of the proposed projects within this Program that require Corps authorization are water dependent. The designs for projects implemented under the proposed Permit Coordination Program would result from the utilization of the NRCS' Conservation Planning Process and be consistent with the Conservation Practice

Standards and Specifications from the NRCS' Field Office Technical Guide (FOTG) and in some cases the *California Salmonid Stream Habitat Restoration Manual, Third Edition, January 1998, as revised*. Use of these manuals and adherence to the NRCS Conservation Planning Process for all projects implemented under the Program would ensure consistency and quality in the projects that are implemented under the proposed Permit Coordination Program. Given the years of development, research, field experience, and peer review that have gone into the development of the NRCS' Conservation Planning Process, Field Office Technical Guide, and the *California Salmonid Stream Habitat Restoration Manual*, it is unlikely alternative project designs would result in the same level of resource protection and enhancement afforded by these technical resources.

### 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 is hereby notified that, unless USACE is provided documentation indicating a complete application for water quality certification has been submitted to the California Regional Water Quality Control Board (RWQCB) within 30 days of this Public Notice date, the District Engineer may consider the Department of the Army permit application to be withdrawn. 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:** Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c) *et seq.*), requires a non-Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a

Consistency Certification 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 Certification or has waived its right to do so. Since the project occurs in the coastal zone or may affect coastal zone resources, the applicant is hereby advised to apply for a Consistency Certification from the California Coastal Commission to comply with this requirement.

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.

### 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 designated critical habitat may be present at the project location or in its vicinity, and may be affected by project implementation.

#### Plants

- Ben Lomond spineflower, *Chorizanthe pungens var hartwegiana*
- Ben Lomond wallflower (Santa Cruz wallflower), *Erysimum tetetifolium*
- Monterey spineflower, *Chorizanthe p. pungens*
- Robust spineflower (Aptos spineflower), *Chorizanthe robusta var. robusta*
- Santa Cruz cypress, *Cupressus abramsiana*
- Santa Cruz tarplant, *Holocarpha macradenia*
- Scott's Valley polygonum, *Polygonum hickmanii*
- Scott's Valley spineflower, *Chorizanthe robusta var hartwegii*
- Tidestrom's lupine (Clover lupine), *Lupinus tidestromii*
- White-rayed pentachaeta, *Pentachaeta bellidiflora*

#### Animals

- Central California Coast (CCC) Evolutionarily Significant Unit (ESU) coho salmon, *Oncorhynchus kisutch*
- CCC ESU steelhead, *O. mykiss*
- South-Central California Coast ESU steelhead, *O. mykiss*
- Mount Hermon (=Barbate) June beetle, *Polyphylla barbata*
- Ohlone tiger beetle, *Cicindela ohlone*
- Zayante band-winged grasshopper, *Trimerotropis infantilis*
- Tidewater goby, *Euclogobius newberryi*
- California red-legged frog, *Rana draytonii*
- California tiger salamander, *Ambystoma californiense*
- Santa Cruz long-toed salamander, *Ambystoma macrodactylum croceum*
- San Francisco garter snake, *Thamnophis sirtalis tetrataenia*
- Least Bell's vireo, *Vireo bellii pusillus*

- Marbled murrelet, *Brachyramphus marmoratus*

#### Critical Habitat

- CCC ESU coho salmon
- Zayante band-winged grasshopper
- Marbled murrelet
- Monterey spineflower
- Robust spineflower
- Santa Cruz tarplant
- Scott's Valley polygonum
- Scott's Valley spineflower

To address project related impacts to these species and designated critical habitat, USACE will initiate formal 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 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. Since the project occurs in sanctuary waters or may affect sanctuary resources, the applicant is hereby advised to apply for certification or a permit from the Secretary of Commerce, or his designee, to comply with this requirement.

**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. All projects implemented under the Santa Cruz Countywide Permit Coordination Program would be subject to assessment to ensure potential impacts to cultural resources are minimized. For all conservation projects covered by the Program, the RCD shall identify and examine the potential for impacts to cultural resources and ensure that no significant adverse effects will result. Consultation with the State Historic Preservation Office shall be conducted on a case-by-case basis, as needed

**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.

**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 Janelle Leeson, San Francisco District, Regulatory Division, 1455 Market Street, 16<sup>th</sup> 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 Notices* tab on the USACE website: <http://www.spn.usace.army.mil/Missions/Regulatory>.