



US Army Corps  
of Engineers®  
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division  
1455 Market Street, 16<sup>th</sup> Floor  
San Francisco, CA 94103-1398

# PUBLIC NOTICE

PROJECT: Renewal of Regional General Permit 12, Fisheries Restoration Grant Program

PUBLIC NOTICE NUMBER: 2003-279220

PUBLIC NOTICE DATE: May 31, 2016

COMMENTS DUE DATE: June 15, 2016

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1. **INTRODUCTION:** California Department of Fish and Wildlife (POC: Karen Carpio, (916) 327-8658), 830 S Street, Sacramento, California 95811, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, to renew the Department of the Army Regional General Permit 12 to discharge fill material into jurisdictional waters of the United States associated with implementation of salmonid habitat enhancement projects conducted in accordance with the California Department of Fish and Wildlife's Fisheries Restoration Grant Program (FRGP). 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 salmonid habitat enhancement projects would be conducted in various streams and rivers throughout the following coastal California Counties: Alameda, Contra Costa, Del Norte, Glenn, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Luis Obispo (northeast, non-coastal), San Mateo, Santa Clara, Santa Cruz, Siskiyou, Solano, Sonoma, and Trinity. This Regional General Permit (RGP) 12 would apply only to counties that are within the jurisdictional boundaries of the Corps' San Francisco District Regulatory Division (Figure B-1).

**Project Site Description:** The Department of Fish and Wildlife's salmonid habitat restoration activities typically occur in watersheds that have been subjected to significant levels of logging, road building, urbanization, mining, grazing, and other activities that have reduced the quality and quantity of stream habitat available for native

anadromous fish species (i.e. chinook salmon, coho salmon, steelhead trout, and coast cutthroat trout).

**Project Description:** The California Department of Fish and Wildlife, through the Fisheries Restoration Grant Program (FRGP), uses funds mandated to restore degraded anadromous fish habitat in coastal streams for a variety of salmonid habitat restoration projects. These restoration projects must be consistent with procedures found in the *California Salmonid Stream Habitat Restoration Manual*, Fourth Edition, February 1998. The FRGP manages an annual grant cycle initiated in the spring of each year.

The FRGP supports a variety of projects from sediment reduction to watershed education throughout coastal California. Projects selected for funding have two years to be implemented, and most of the habitat restoration activities take place during the dry summer season. The majority of this funding is awarded for habitat restoration projects that improve overhead cover, spawning gravels, and pool habitat; reduce or eliminate erosion and sedimentation impacts; screen diversions, and remove barriers to fish passage. These habitat restoration activities conform to mandates of the California Legislature in the Fish and Game Code and Public Resources Code. Funds are also awarded for indirect habitat restoration activities. The proposed activities are designed to restore salmon and steelhead habitat with the goal of increasing populations of wild anadromous fish in coastal streams and watersheds. Habitat restoration activities and practices, covered in more detail below, include fish passage projects, bank stabilization treatments, upslope road decommissioning or repair, and replacement or modification of culverts that are barriers to fish passage. Proposed in-stream structures would provide predator escape and resting cover, increase spawning habitat, improve upstream and downstream migration corridors, improve pool to riffle ratios, and add

habitat complexity and diversity. Some structures would be designed to reduce sedimentation, protect unstable banks, stabilize existing slides, provide shade, and create scour pools.

The RGP would authorize minor fill discharges of earth, rock, and wood associated with the habitat restoration activities. These activities conform to state law and are implemented consistent with the *California Salmonid Stream Habitat Restoration Manual*, (Flosi et al., 1998). The most current version of the manual is available at:

<http://www.dfg.ca.gov/fish/Resources/HabitatManual.asp>.

General information on the FRGP is available at:

<https://www.wildlife.ca.gov/Grants/FRGP>. The following paragraphs are a descriptive list of the proposed activities as depicted in the project drawings (Figures C-1 to C-39):

a. In-stream habitat improvements: Improvements may include cover structures (divide logs; digger logs; spider logs; and log, root wad and boulder combinations), boulder structures (engineered log jams, boulder weirs; vortex boulder weirs; boulder clusters; and single and opposing boulder wing-deflectors), log structures (log weirs; upsurge weirs; single and opposing log wing-deflectors; and Hewitt ramps), and off-channel or side channel habitat construction. Techniques and practices are identified in Part VII of the *California Salmonid Stream Habitat Restoration Manual*. Techniques for placement of imported spawning gravel are identified on page VII-46 of the *California Salmonid Stream Habitat Restoration Manual*.

b. Unanchored large woody debris: Woody debris may be used to enhance pool formation and improve stream reaches. First through third order streams are generally best suited. Logs selected for placement should have a minimum diameter of 12 inches and a minimum length 1.5 times the mean bankfull width of the stream channel type reach and the deployment site. A root wad should be selected with care and have a minimum root bole diameter of five feet and a minimum length of fifteen feet and at least half the channel type bankfull width. More information can be found on page VII-23 of the *California Salmonid Stream Habitat Restoration Manual*.

c. Fish screens: Screens would be used to prevent entrainment of juvenile salmonids in water diverted for agriculture, power generation, or domestic use, and are needed on both gravity flow and pump diversion systems. Guidelines for functional designs of downstream migrant fish passage facilities at water withdrawal projects are

found in Appendix S of the *California Salmonid Stream Habitat Restoration Manual*. The appendix covers structure placement, approach velocity, sweeping velocity, screen openings, and screen construction.

d. Fish passage at stream crossings: Stream crossing projects include activities that provide fish friendly crossings where the crossing width is at least as wide as the active channel, culvert passes are designed to withstand a 100-year storm flow, and crossing bottoms are buried below the streambed. Examples include replacement of barrier stream crossings with bridges, bottomless arch culverts, embedded culverts, or fords. Guidelines for fish passage practices are covered in Part IX of the *California Salmonid Stream Habitat Restoration Manual*. Baffled culvert (Washington baffles and steel ramp baffles), fishways (step and pool, Denil fishway, Alaskan steep pass and back-flooding weirs), and fish ladders are described in Part VII.

e. Fish Passage Improvements: These activities would include removal of obstructions (i.e. small dams, log jams, beaver dams, waterfalls and chutes and landslides). Suitable large woody debris removed from fish passage barriers that are not used by the project for habitat enhancement shall be left within the riparian zone so as to provide a source for future recruitment of wood into the stream. Logjam barriers are typically less than 10 cubic yards. Guidelines for fish passage improvements are covered in Part VII of the *California Salmonid Stream Habitat Restoration Manual*.

f. Upslope restoration: These activities reduce sediment delivery to anadromous streams including road decommissioning, road upgrading, and storm proofing roads (replacing high risk culverts with bridges, installing culverts to withstand the 100 year flood flow, installing critical dips, installing armored crossings, and removing unstable side-cast and fill materials from steep slopes). Guidelines for upslope restoration practices are covered in Part X of the *California Salmonid Stream Habitat Restoration Manual*.

g. Watershed and stream bank stability activities: These activities would reduce sediment from watershed and stream bank erosion. Examples include slide stabilization, stream bank stabilization, boulder stream bank stabilization structures, log stream bank stabilization structures, tree revetment, native material revetment, mulching, revegetation, willow wall revetment, brush mattress, check-dams, brush check-dams, waterbars, exclusionary fencing. Guidelines for watershed and streambank stability are

covered in Part VII of the *California Salmonid Stream Habitat Restoration Manual*.

All habitat improvements shall be carried out in accordance with techniques in the *California Salmonid Stream Habitat Restoration Manual*.

**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 restore fisheries habitat.

**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 restore anadromous fisheries habitat in non-tidal reaches of rivers and streams, improve watershed conditions impacting salmonid streams, and improve the survival, growth, migration, and reproduction of anadromous fish.

**Project Impacts:** FRGP impacts would be restricted to the minimum needed for habitat enhancement. Rip rap, woody debris, minor grading, and temporary dewatering are the typical materials placed in Corps jurisdictional waters below the ordinary high water mark. No FRGP activities would exceed the scope, or deviate from the intent, of work types described in the *California Salmonid Stream Habitat Restoration Manual*.

**Proposed Mitigation:** The FRGP is intended to enhance aquatic habitat, therefore, no compensatory mitigation is proposed, but avoidance and minimization measures would include the following:

- To avoid impacts to aquatic habitat, the activities undertaken in the restoration program typically occur during the summer dry season. This is generally between June 15 and November 1 or the first rainfall.
- Location of staging/storage areas for equipment, materials, fuels, lubricants, and solvents, will be located outside of the stream's high water channel and associated riparian area. The number of access routes, number and size of staging areas, and the total area of the work site activity shall be limited

to the minimum necessary to complete the restoration action. To avoid contamination of habitat during restoration activities, trash will be contained, removed, and disposed of throughout the project.

- Any equipment work within the stream channel shall be performed in isolation from the flowing stream. If there is any flow when the work is done, the contractor shall construct cofferdams upstream and downstream of the excavation site and divert all flow from upstream of the upstream dam to downstream of the downstream dam.
- If it is necessary to divert flow around the work site, either by pump or by gravity flow, the suction end of the intake pipe shall be fitted with fish screens meeting Fish and Wildlife and National Marine Fisheries Service criteria to prevent entrainment or impingement of small fish. Any turbid water pumped from the work site itself to maintain it in a dewatered state shall be disposed of in an upland location where it will not drain directly into any stream channel.
- For minor actions, where the disturbance to construct coffer dams to isolate the work site would be greater than to complete the action (e.g. the placement of a single boulder cluster), measures will be put in place immediately downstream of the work site to capture suspended sediment.
- The spread or introduction of invasive exotic plants will be avoided to the maximum extent possible.
- Wildlife encountered during the course of construction will be allowed to leave the construction area unharmed. Any red tree vole nests encountered at a work site will be flagged and avoided during construction.
- Work sites containing western pond turtles, foothill yellow-legged frogs or tailed frogs will use exclusion measures to prevent take or injury to any individual pond turtles or frogs that could occur on the site.
- Ground disturbance that has the potential to affect cultural resources will be avoided through implementation of mitigation measures, including completing cultural resource surveys, fencing, on-site monitoring, and redesigning proposed work to avoid disturbance of cultural resources.
- Specific measures have been developed to avoid

impacts to both State and Federally listed endangered, rare, or threatened species that could occur at specific work sites, and would be implemented as required by State and Federal regulations.

### 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 submitted an application to the State Water Resources Control Board (SWRCB) 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 SWRCB 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 SWRCB to act.

Water quality issues should be directed to the Division of Water Quality, 15<sup>th</sup> floor, State Water Resources Control Board, 1001 I Street, Sacramento, California 95814 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. The proposed fisheries restoration projects may occasionally be within the Coastal Zone and the CDFG will contact the California Coastal Commission on an as needed basis.

Coastal zone management issues should be directed to the District Manager, California Coastal Commission, District Supervisor, California Coastal Commission, North Central Coast District Office, 45 Fremont Street, Suite 2000, San Francisco, California 94105-4508, 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, and prior consultation for the previous renewal of RGP 12, USACE has made a determination that the following Federally-listed species and designated critical habitat may be present at FRGP project locations or in the project vicinity, and may be affected by project implementation: California red-legged frog (*Rana draytonii*), California freshwater shrimp

(*Syncaris pacifica*), Least Bell's vireo (*Vireo bellii pusillus*), Marbled murrelet (*Brachyrampus marmoratus*), Northern spotted owl, (*Strix occidentalis caurina*), Southwestern willow flycatcher (*Empidonax traillii extimus*), Southern Oregon/Northern California Coast (SONCC) coho salmon Evolutionarily Significant Unit (ESU) (*Oncorhynchus kisutch*), Central California Coast coho salmon ESU (*O. kisutch*), Chinook salmon - Sacramento River Winter-Run ESU (*O. tshawytscha*), Chinook salmon - California Coastal ESU (*O. tshawytscha*), Chinook salmon - Central Valley Spring Run ESU (*O. tshawytscha*), Steelhead - Central California Coast ESU (*O. mykiss*), Steelhead - Northern California Coast ESU (*O. mykiss*), Steelhead - Southern-Central California Coast ESU (*O. mykiss*), Steelhead, Southern California Coast (SCC) ESU (*O. mykiss*), Steelhead - Central Valley California ESU (*O. mykiss*), Eulachon Southern Distinct Population (*Thaleichthys pacificus*), North American Green Sturgeon - Southern Distinct Population Segment (*Acipenser medirostris*). To address project related impacts to these species and designated critical habitat, USACE has initiated consultation with USFWS and NMFS, pursuant to Section 7(a) of the Act. Consultation shall be concluded prior to the issuance of a Department of the Army Permit for RGP 12.

**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. The proposed FRGP projects would potentially impact EFH utilized by coho salmon (*Oncorhynchus kisutch*), Chinook salmon (*O. tshawytscha*), and steelhead (*O. mykiss*). To address project related impacts to EFH, USACE has initiated

consultation with NMFS, pursuant to Section 305(5)(b)(2) of the Act. Any required consultation shall be concluded prior to the issuance of a Department of the Army Permit for RGP 12.

**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 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. USACE will ensure there is sufficient consideration of project alternatives.

**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 Justin Yee, 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>.