



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: Sediment Removal from Butano Creek at Pescadero Creek Road

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COMMENTS DUE DATE: June 12, 2016

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1. **INTRODUCTION:** San Mateo County (POC: Julie Casagrande), 650-599-1457, 555 County Center, 5th Floor, Redwood City, California 94063-1665, through its agent, Horizon Water and Environment (POC: Ken Schwarz, 510-986-1851, 180 Grand Avenue, Suite 1405, Oakland, California 94612), has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to implement the annual sediment removal (5 year duration) of approximately 1,455 cubic yards of sediment from Butano Creek at the Pescadero Creek Road bridge in order to maintain safe vehicular traffic during peak storm events. The sediment removal activities would occur just upstream, within the foot print of, and directly downstream of the Pescadero Creek Road bridge between Highway 1 and the community of Pescadero, in San Mateo County, California (lat:37°15' 00" N, long:-122°23'44"W). 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 project is located at the Pescadero Creek Road crossing of Butano Creek, approximately 0.75 mile west of central Pescadero and 1.3 miles east of Highway 1, in unincorporated San Mateo County. The project site is approximately 55 feet east of the intersection of Pescadero Creek Road and Bean Hollow Road (Section 8S, Township 5W, Range 9); approximate center point of the project site at Lat: 37 15' 00" °N, Lon: 122 23'44" °W)(Figures 1 and 2).

Project Site Description: The Butano Creek watershed drains approximately 21 square miles to its confluence

with Pescadero Creek in Pescadero Marsh. The project site is located within a broad alluvial valley where historical land use (e.g. agriculture and road construction) have confined the riparian corridor and channel location to its current position in the valley. The densely vegetated riparian corridor is dominated by dense stands of Arroyo willow (*Salix lasiolepis*), white alder (*Alnus rhombifolia*), and American dogwood (*Cornus sericea* ssp. *Occidentalis*) (Figure 3). The dominant land use upstream from the bridge remains agricultural and downstream landuse is predominantly managed for preservation by the California Department of Parks and Recreation.

Butano Creek at the Pescadero Creek Road crossing is typically wet year round, except during drought years when this reach of the channel dries out. Historical landuse has contributed to heavily aggraded channel conditions within the lower reach including the project area. This aggraded condition contributes to frequent flooding at the project site which precludes vehicular access (including emergency response) along the primary access road to the community of Pescadero.

Project Description: As shown in the attached drawings, the applicant proposes to initially sediment removal 1,455 cubic yards from within 100 lineal feet of the Butano Creek channel. Following the initial sediment removal annual monitoring will be conducted to assess the need for additional sediment removal (up to 1455 cy) over the next four years. The proposed project involves the construction of coffer dams for clean water diversion within Butano Creek, transporting sediment removed from Butano Creek to three potential stockpile locations, and a temporary parking/staging area would be provided along Pescadero Creek Road (Figure 4). The project also incorporates the establishment of a Conservation Easement (CE) totaling

3.42 acres in size and proposes to utilize 0.56 acre as compensatory mitigation to off-set project impacts (0.28-acre). The CE will be located at the County of San Mateo Public Works Department maintenance yard along Pescadero Road (Figure 4) to provide mitigation for the project. Lastly, the County also proposes to restore 0.33 acre (off-site) of riparian habitat (Figure 4) and will be submitting a compensatory mitigation plan in the next month.

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 reduce annual flooding along Pescadero Road in the vicinity of Butano Creek.

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 reduce the frequency of flooding at Pescadero Creek Road during lower discharge events by removing accumulated sediment in the immediate vicinity of the bridge. However, the sediment removal activities of the proposed project will not preclude flooding from moderate or large events.

Project Impacts: The proposed project would impact 0.28 acre of jurisdictional waters of the U.S. during initial and annual maintenance sediment removal of up to 1,455 cubic yards of material from within 100 linear feet of Butano Creek.

Proposed Mitigation: Best management practices (BMPs) would be implemented to avoid impacts where possible and minimize effects to the maximum extent feasible. Such practices include establishing work windows outside of sensitive life stages for special-status species, environmental awareness training, breeding bird surveys, spill prevention and control, etc. Project activities would include implementation of countywide standard BMPs from the San Mateo Countywide Water Pollution Prevention Program (County of San Mateo 2012), County of San Mateo Watershed Protection Program's *Maintenance Standards* (County of San Mateo 2004), County of San Mateo Mid-coast Local Coastal Program Policies (County of San Mateo 2013) and Bay Area Air Quality Management District Best Management Practices

(BAAQMD 2010). These measures include proper handling of hazardous materials; dust management; protocols for hazardous spills; minimizing the work site to the minimum area necessary; and many others. These measures would be implemented pre-construction, during construction, and post-construction, as specified.

To provide compensatory mitigation, the applicant is proposing to establish a conservation easement to preserve 0.56 acre of seasonal wetland and perennial marsh habitat for the California red-legged frog and the San Francisco garter snake habitat. The applicant is also proposing to rehabilitate 0.33 acre (off-site) of riparian habitat as compensatory mitigation (Figure 4).

Project Alternatives: The applicant has considered five alternatives, inclusive of the No Project Alternative. Alternative 1-Proposed Project represents the proposed project and results in impacting 0.28 acre of Butano Creek. Alternative 2-Dredge ROW and Along Historic Channel includes the impacts within Alternative 1 and results in additional impacts along 6,500 linear feet (4.5 acres) of Butano Creek. Alternative 3-Dredge ROW and Parallel to Road Through Butano Marsh includes the impacts within Alternative 1 and results in additional impacts to 3.5 acres to jurisdictional freshwater wetlands as well as jurisdictional tidal waters. Alternative 4 - Construct Elevated Causeway was briefly described however, potential impacts were not analyzed. 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, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612, 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 the applicant has applied for a Consistency Certification from the California Coastal Commission to comply with this requirement.

Coastal zone management issues should be directed to the 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.

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 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 California red-legged frog (*Rana Draytonii*), San Francisco Garter Snake (*Thamnophis sirtalis tetrataenia*), tidewater goby (*Eucyclogobius newberryi*), Steelhead, Central California Coast (*Oncorhynchus mykiss*), Coho salmon Central California Coast (*Oncorhynchus kisutch*) and designated critical habitat for California red-legged frog (*Rana Draytonii*), tidewater goby (*Eucyclogobius newberryi*), Steelhead, Central California Coast (*Oncorhynchus mykiss*) and, Coho salmon Central California Coast (*Oncorhynchus kisutch*) are present at the project location or in its vicinity, and may be affected by project implementation.

Potential direct effects would include injury and mortality of California red-legged frogs, San Francisco garter snake, tidewater goby, Central California Coast steelhead, and Central California Coast Coho salmon during project activities. Small areas of both in-stream habitat and adjacent upland habitat would also be directly affected by sediment removal and stockpiling or parking/staging activities. Direct effects may occur during vegetation clearing, installation and removal of

dewatering facility, crossing replacement and intake construction, heavy equipment operation, grading and stockpiling activities, access road alignment, and species relocation efforts (if needed). Specific direct effects could potentially be attributed to activities that would alter channel morphology, decrease stability, affect the routing of water and sediment, alter riparian vegetation and affect potential rearing habitat. Significant adverse habitat modification or degradation could potentially impair essential behavioral patterns, including, rearing, migrating, feeding and sheltering. Specific effects such as loss of habitat complexity could result from impacts to riparian vegetation, LWD removal, loss of velocity refuge resulting from channel substrate changes, mobilization of fines from worked surface areas are potential concerns. Indirect effects may occur due to suspended sediment delivery, and predation from increased use of the construction site if food waste were left behind by workers. To address project related impacts to these species and designated critical habitat, USACE has initiated 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. The only FMP represented in the project area is the *Pacific Coast Salmon FMP*, which is represented by coho salmon. Based on this review, USACE has made a *preliminary* determination that EFH is present at the project location or in its vicinity. While the project may affect EFH and habitat elements associated with breeding, feeding, or growth, it is not likely to adversely affect EFH based on the short duration

of the work to be conducted and the seasonality of the proposed work schedule. 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 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, 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 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 Keith Hess, 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 Notices* tab on the USACE website: <http://www.spn.usace.army.mil/Missions/Regulatory>.