



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: Upper Llagas Creek Flood Protection Project

PUBLIC NOTICE NUMBER: 2014-00086S
PUBLIC NOTICE DATE: January 15, 2016
COMMENTS DUE DATE: February 16, 2016

PERMIT MANAGER: Mr. Jim Mazza

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1. **INTRODUCTION:** Santa Clara Valley Water District (POC: Stephen M. Ferranti, P.E. 408-630-2677), 5750 Almaden Expressway, San Jose CA 95118, 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 construction of flood protection features in the Upper Llagas Creek Watershed in Southern Santa Clara County. 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. APPLICANT'S PROPOSED ACTION:

Project Site Location: The proposed Upper Llagas Creek Project (Project) is located within the Llagas Creek watershed and includes East Little Llagas Creek, West Little Llagas Creek, and Llagas Creek specifically in the City of Morgan Hill, community of San Martin, and the City of Gilroy. The Project consists of seven reaches (4, 5, 6, 7A, 7B, 8, and 14) of Llagas Creek, East Little Llagas Creek, and West Little Llagas Creek. The total length of the Project area is approximately 13.9 miles; 6.1 miles of which are along the main branch of Llagas Creek, 2.8 miles along West Little Llagas Creek; and 3.4 miles of East Little Llagas Creek. An additional 1.6 miles of new diversion channel would also be constructed along West Little Llagas Creek to Llagas Creek. On the north, the physical limits of the Project are at the creek's intersection with Llagas Road on West Little Llagas Creek in Morgan Hill; and, in the south, approximately 800 feet downstream of the creek's intersection with Buena Vista Avenue in Gilroy. The Project is located within the Morgan Hill, Mount Madonna, and Gilroy U.S. Geological Survey (USGS) 7.5-minute quadrangle maps. Specifically, within southern Santa Clara County, approximately 25 miles southeast of San Jose, in

the communities of Morgan Hill, San Martin, and City of Gilroy.

Project Site Description: Prior to Euro-American settlement, Llagas Creek within the Project limits did not maintain a defined channel across the valley floor. Instead the water dissipated into the alluvial soils to recharge groundwater and maintain wetland seeps which were abundant. Riparian vegetation was sparse with riparian scrub and occasional trees interspersed with grasslands leading to a braided stream channel with abundant gravel beds and bars. Nineteenth century orchards, row crops, population expansion and water management actions changed the drainage patterns within the watershed and eliminated many of the wetland seeps on the valley floor. As the result of the construction of an upstream reservoir during the early 1950's for groundwater management via in-stream percolation, riparian habitat within Llagas Creek became more contiguous and dense than that which was present historically. Currently vegetation types within the Project limits reflect both the historic condition, with sparse, open patchy riparian habitat interspersed with ruderal grasslands to dense riparian woodland and scrub where reservoir releases influence stream flow patterns. Presently, the Project area maintains a mix of urban, suburban, and agricultural land use. Within the Project area, there are approximately 57.71 acres of potentially jurisdictional waters. This includes approximately: 10.88 acres of wetlands and 46.83 acres of other waters. Other waters is comprised of 27.61 acres of intermittent stream, 9.9 acres of perennial stream, 1.37 acres of culverts, 0.05 acres of drop structures and 7.9 acres of pond.

Project Description: The Applicant's Proposed Action (Tunnel Alternative) provides flood management for a 1-percent flood within the City of Morgan Hill (Reaches 8, 7A, and 7B); 10-percent flood management for

the semi-urban area along East Little Llagas Creek (Reach 14); and avoids induced flooding elsewhere along Llagas Creek (Reaches 6, 5, and 4) due to upstream modifications.

Channel modifications within Reaches 4, 5, 6, 7B, and 14 would consist of widening and deepening, and would result in a cross section with a low-flow channel, bankfull channel, benches, and engineered banks sloped at 3H:1V. The creek is designed to be properly sized for sediment transport, geomorphic stability and to allow for unimpeded fish passage. A low flow channel conveying approximately 2 cfs, would meander along the channel bottom within the bankfull channel and include in-stream complexities.

Other flood management features and activities include: an underground concrete tunnel beneath existing Nob Hill through downtown City of Morgan Hill to divert high flood flows, maintenance access roads along top of each stream bank, grade control structures, culvert installation, construction of a 1.6 mile diversion channel, construction of a drainage swale, exhume buried bridge crossings, replacing and modifying culverts, construction of a sediment trap and weir, removal of a cinder block wall constricting flows in channel at the upstream Project limit (Llagas Road), relocation and removal of various structures, including one residence, greenhouses, sheds, fencing, etc., installation of a stream gauge, construction of in-stream habitat features (i.e. complexity), relocation and replacement of utilities, and acquisition of fee title and/or permanent easements of land to construct the Project.

The Applicant's Proposed Action described above would result in discharge of fill into waters of the United States for Project construction. The proposed fill volumes are approximated as follows; stream bed material excavated from bed and banks during construction and reused to facilitate construction of bankfull geometry (6355 cy); cobbles and gravel (2476 cy); grouted boulders (4257 cy); engineered stream bed material (1213 cy); boulders (3992 cy); aggregate base (339 cy); concrete (385 cy); sheet piles in linear feet (37); culverts in linear feet (2037).

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 flood risk.

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 construct flood control management features in the Upper Llagas Creek Watershed to provide flood protection to the communities of Morgan Hill, San Martin, and Gilroy. Specifically, the Project purpose is to provide a 1-percent flood (100-year flood) exceedance capacity on West Little Llagas Creek through the community of Morgan Hill and a 10-percent flood (10-year flood) exceedance capacity on East Little Llagas Creek, and no induced flooding (approximate 10-year level of flood protection) along the mainstem of Llagas creek.

Project Impacts: Implementation of the Project would result in temporary impacts to 44.43 acres and permanent impacts of 3.82 acres of jurisdictional waters of the United States, for a total of 48.25 acres of impacts. Impacts have been identified by type, temporary or permanent respectively, for nine areas of jurisdictional waters and are approximated as follows: perennial wetlands 0.77 acre and 0.087 acre; seasonal wetlands 4.26 acres and 0.947 acre; intermittent stream 22.55 acres and 1.74 acres; perennial stream 8.98 acres and 0.43 acre; culverts 0.40 acre and 0.03 acre; drop structures 0.17 acre and 0.00072 acre, and pond 7.3 acres and 0.58 acre.

Proposed Mitigation: Preliminary avoidance and minimization strategies included a detailed evaluation of various alternatives including raising Chesbro dam, off-stream detention storage analysis, a bankfull hydraulic geometry analysis in order to quantify emulation of a natural stable channel in the Llagas watershed to avoid and minimize the need for future maintenance as Llagas Creek, including East and West Little Llagas Creeks, in their current state is unstable and incising. Additional avoidance and minimization strategies included: providing 1-percent flood protection in the urban areas of Morgan Hill only where property damage would be greatest; generally limiting the construction footprint by alternating flood protection work to opposite stream banks to avoid higher quality vegetation (i.e. Sycamores); a reduction in maintenance roads and access ramps from the Natural Resources Conservation Service (NRCS) Alternative; modification of design to avoid large clusters of native trees; and conception of an underground tunnel

(Applicant's Proposed Action - Tunnel Alternative) to avoid impacts to Llagas Creek in Reach 8.

The Applicant is proposing to mitigate for temporary and permanent impacts to acres of jurisdictional waters of the United States via on-site compensatory mitigation. The proposed compensatory mitigation plan would include expansion of the current channel and creation of new waters and wetlands within the channel proper. It would also involve the restoration of approximately 2000 linear feet of an abandoned section of Llagas Creek and wetland creation in the adjacent Lake Silveira such that material excavated during construction may be placed in Lake Silveira, a flooded former aggregate quarry along Llagas Creek. The lake will then be converted to a mixture of permanent emergent wetland and open water, and managed as habitat for aquatic and marsh species. Conversion of the existing open water conditions to emergent wetland and riparian habitat would potentially provide mitigation for loss of habitat associated with construction of the Applicant's Proposed Action.

Project Alternatives: The range of alternatives considered by the Applicant includes the No Action Alternative, the Applicant's Proposed Action - Tunnel Alternative, Natural Resources Conservation Service (NRCS) Alternative, Culvert/Channel Alternative, and Reach 6 Bypass Alternative. There are Project features and channel modifications which are common to all of the action alternatives. However most of the differences between the action alternatives are focused on the Project alignment for flood routing and the type of flood management features used in areas in Reach 8 to minimize impacts to existing habitat along West Little Llagas Creek within downtown City of Morgan Hill.

Applicant's Proposed Action (Tunnel Alternative)

The key feature of the Tunnel Alternative is to use an underground concrete tunnel instead of channel widening and deepening proposed through downtown Morgan Hill under the NRCS design. The main components of the Tunnel Alternative would include: a 250-foot-long sediment trap and an inlet weir structure would be constructed in the 600 feet of channel between Wright Avenue and Hillwood Lane; a 36-inch-diameter reinforced concrete pipe culvert would be constructed paralleling Hale Avenue, stretching from the weir structure 2,400 feet downstream and discharging into the existing West Little Llagas Creek channel south of West Main Avenue. The 2,400-foot-long earthen channel section of West Little Llagas Creek between Wright Ave and West Main Ave would be replaced with the RCP culvert. The culvert would maintain low flows up to 50

cfs in the existing creek through the downtown area without exceeding the existing West Little Llagas Creek capacity. Two high flow bypass culverts would be constructed. One would be 10 feet by 8 feet in size, while the other would be 10 feet by 9 feet in size. Both culverts would extend from the weir structure parallel to Hale Avenue and stretch 2,750 feet to Warren Avenue where they would convey high flows to the tunnel. A 2,100-foot-long tunnel would be constructed, extending under Nob Hill between Warren Avenue and Del Monte Avenue, continuing under Nob Hill Terrace. This modification also includes constructing underground box culverts for transition to and from the tunnel, and construction of a tunnel portal at the upstream end. The channel would be deepened and widened downstream from the Llagas Road bridge to the inlet of the sediment detention basin near Hillwood Lane. Also as part of this alternative, Reach 7B would be modified with double box culverts from the tunnel outlet at West Dunne Avenue to downstream Ciolino Avenue where high flows will return into existing West Little Llagas Creek.

Natural Resources Conservation Service (NRCS) Action Alternative

The key difference with this action alternative is the proposed channel modifications through the urbanized City of Morgan Hill in Reach 8 beginning at Llagas Road and extending downstream to West Dunne Avenue. The features designed for Reach 8 under this alternative would include the following modifications: the channel will be deepened and widened along a 2,500-foot section of channel downstream from the Llagas Road bridge to Hillwood Lane. Widen and deepen approximately 600 feet of channel between Wright Avenue and Hillwood Lane with an 8-foot-deep trapezoidal channel, with a 20-foot bottom width and 70-foot top width. This channel would be designed to pass the 1-percent flow. Widen and deepen approximately 3,000 feet of channel between West Dunne Avenue and Main Avenue to form a trapezoidal vegetated channel, a channel with two vertical walls, or a hybrid section, as appropriate depending upon available right of way. Replace approximately 2,200 feet of the existing creek between Main Avenue and Wright Avenue with two 10-foot wide by 7- to 8-foot-deep reinforced concrete box culverts following the existing stream alignment, but under Hale Avenue. Replace culverts at West Main Avenue and Wright Avenue. Replace five additional existing undersized culverts with new culverts, 10 feet wide by 9 feet deep, at the following locations: 5th Street, 4th Street/Monterey Highway, 3rd Street, 2nd Street/Del

Monte Avenue, and Warren Avenue .

Culvert/Channel Action Alternative

The key feature of the Culvert/Channel Alternative is elimination of the need for channel deepening and widening through residential properties, and fewer culvert replacements, as proposed for the NRCS Alternative between West Main Avenue and West 2nd Street in Reach 8. The main components of the Culvert/Channel Alternative that are different from those previously described for the NRCS Alternative include the following (all focused in Reach 8); realign an 800-foot segment of the double 10-foot-wide box culverts that, in the NRCS design, would be parallel to Hale Avenue through the Britton School athletic fields up to Del Monte Avenue. The double box culvert would continue under Del Monte Avenue approximately 900 feet to West 2nd Street. Widening and deepening along with culvert replacements would occur at 2nd, 3rd, 4th, and 5th Streets.

Reach 6 Bypass Action Alternative

The Reach 6 Bypass Alternative would construct a high flow bypass channel between Reach 6 of Llagas Creek and Reach 14 of East Little Llagas Creek. The bypass would be designed so that no flood capacity improvements would be needed along the remaining section of Reach 6 or Reach 5 of Llagas Creek downstream of the proposed bypass. Reach 14 would be designed similar to the Tunnel Alternative, except that the channel dimensions will be larger to accommodate the additional high flow routed from the upstream reaches (8, 7B, and 7A) through the Reach 6 bypass, so as not to cause induced flooding.

The proposed high flow bypass would start near the top of Reach 6, about 0.5 mile downstream of Monterey Highway. The 0.5 mile section of Reach 6 between Monterey Highway and the bypass would be widened and deepened as proposed for all of the action alternatives; however, no construction would occur downstream from the bypass channel, over a distance of approximately 2.7 miles in Reach 6 and the entire 0.5 mile length of Reach 5. The bypass channel would run east through open fields, continue under Murphy Avenue and U.S. 101, and connect to Reach 14. The alignment of the bypass channel is situated near the upstream portion of Reach 6. The proposed high flow bypass would be approximately 1,660 feet long. A hydraulic control structure consisting of trapezoidal-shaped weir and five 6-foot by 6-foot individual working sluice gates would be installed at Reach 6 to redirect high flows into the bypass.

This alternative would also require the construction of three bridges at the following locations: Murphy Avenue, U.S. 101 southbound, and U.S. 101 northbound.

Summary of Jurisdictional Waters Impacts by Alternative (acres)

Alternative	Permanent Impacts		Total Permanent Impacts	Temporary Impacts		Total Temporary Impacts
	Wetlands	Other Waters		Wetlands	Other Waters	
No Action	N/A	N/A	N/A	N/A	N/A	N/A
Tunnel Alternative	1.03	2.2	3.23	5.03	32.1	37.13
NRCS Alternative	1.35	3.43	4.78	5.03	32.1	37.13
Culvert/Channel Alternative	0.72	2.95	3.67	5.03	32.1	37.13
Reach 6 Bypass Alternative	1.00	2.05	3.05	4.29	25.68	29.97

The USACE has not endorsed the submitted alternatives analysis at this time. The USACE 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 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, Central Coast Region, 895 Aerovista Place, Suite 101, San Luis Obispo, California 93401, by the close of the comment period.

Other Local Approvals: The applicant will be applying 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; a County of Santa Clara Floodplain permit; a County of Santa Clara Roads and Airports encroachment permit; a Caltrans encroachment permit; a City of Morgan Hill tree removal permit; and a City of Gilroy tree removal permit.

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 does not qualify for a Categorical Exclusion. However, it was determined that the project has the potential to significantly affect the quality of the human environment and therefore requires the preparation of an Environmental Impact Statement (EIS) for the purposes of NEPA. A Notice of Availability of a Draft EIS was posted to the Federal Register on December 31, 2015. The Draft EIS is available for viewing here:

<http://www.spn.usace.army.mil/Missions/Regulatory/RegulatoryOverview/ActionsofInterest.aspx>. Public comment period for the Draft EIS closes on February 16, 2016. 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 are present at the Project location or in its vicinity, and may be affected by Project implementation.

A list of special-status species was compiled for the Project Area based on the following sources: the California Department of Fish and Wildlife (CDFW), California Natural Diversity Data Base (CNDDB) (Appendix A), and the U.S. Fish and Wildlife Service (USFWS) species lists for the Project quadrangles and for Santa Clara County. Baseline information on wildlife resources in the Project Area, including special-status species and their habitats, was compiled from existing published and unpublished literature describing biological resources in the region, environmental database searches, consultation with local wildlife professionals, and information provided by staff from the CDFW, NMFS, USFWS Pacific Southwest Region, and SCVWD. The federally listed wildlife species identified in the above sources as present in Santa Clara County were evaluated by the Applicant for the potential to be present in the Project Action Area as follows; San Joaquin kit fox (*Vulpes macrotis mutica*), least Bell's vireo (*Vireo bellii pusillus*), California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana aurora draytonii*), bay checkerspot butterfly (*Euphydryas editha bayensis*), South-central California coast steelhead (*Oncorhynchus mykiss*). No federally listed plant species were determined to have the potential to occur in the Project Area. Based on the literature reviewed and extensive biological surveys only California tiger salamander (CTS) upland habitat and South-central California coast (S-CCC) steelhead are likely to occur in the Project Action Area. Effects of the Project on CTS are

expected to be minimal given that CTS have not been consistently documented in the area, no critical habitat is present in the Action Area, and habitat quality in the Action Area has been described as poor for CTS. Critical habitat does exist within 2.5 miles of the Project, but is beyond the migration and dispersal range for the species. While unlikely that CTS could occur in the Action Area, mitigation and minimization measures have been included to reduce adverse effects to any individuals that may migrate in the Action Area. Critical habitat for S-CCC steelhead is present in the Project Area from Reach 4 (Llagas Creek at Buena Vista Avenue) through Reach 6 (Llagas Creek at Monterey Road) (70 FR 52488). Reaches 14, 7A, 7B, 8 and the remainder of Little Llagas Creek were not included in the critical habitat designation. Llagas Creek is part of the Pajaro River Sub-basin Hydrologic Unit (HU) 3305 and within the South Santa Clara Valley Hydrologic Subarea (HSA) 330530 (NMFS 2005c). The Project has the potential to impact rearing habitat for the S-CCC steelhead therefore the Project has mitigation measures in place to conserve and improve on the habitat values of Reaches 4, 5, 6 and the compensatory mitigation by ensuring these reaches provide opportunities for migration, spawning, and rearing at or above existing levels.

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 not present at the Project location or in its vicinity, and that consultation will

not be required. 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 NMFS.

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. 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 Mr. Jim Mazza, 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>.