



US Army Corps
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San Francisco District

SAN FRANCISCO DISTRICT

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

PUBLIC NOTICE

PROJECT: Eel River Estuary and Centerville Slough Enhancement Project

PUBLIC NOTICE NUMBER: 2015-00448N

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COMMENTS DUE DATE: December 22, 2017

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1. **INTRODUCTION:** The Wildlands Conservancy (POC: Mr. Dan York, (707)797-8507), P.O. Box 1127, Ferndale, California 95536, through its agent, California Trout Inc. (CalTrout) (POC: Mr. Darren Mierau, (707)825-0420), P.O. Box 715, Arcata, California 95518, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to discharge fill material into jurisdictional waters of the United States associated with the construction of aquatic habitat improvements and agricultural land management on approximately 1,200 acres 4 miles west of Ferndale, California. 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.*) and Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*).

2. **PROPOSED PROJECT:**

Project Site Location: Approximately 1,200 acres encompassing areas of Eel River Estuary and Centerville Slough, including Cut-Off Slough and Russ Creek (APNs 10012105, 10013104, 10014201, 10013103, 10012104, 10012101, and 10014301), located approximately 4 miles west of the City of Ferndale, Humboldt County, California, Sections 5, 6, 20, 29, 30, 31, Townships 2 North and 3 North, and Range 2 West. The coordinates of the approximate center of the project area are 40.6064 North and -124.3286 West.

Project Site Description: The west side of the Project encompasses the nearshore dunes of Centerville Beach and extends to the Pacific Ocean. East of the dunes the Project encompasses a system of sloughs and pastures that comprise a portion of the Salt River watershed, itself a tributary to the Eel River estuary. The north property line borders the Eel River. Two perennial streams, Russ and Shaw Creek

(via Western Drainage) enter the southern half of the Project area.

Much of the Project area east of, and including, former Centerville Slough was reclaimed and has been converted to pasture for cattle grazing. Some of this land represents diked former tidelands separated from the estuarine wetlands by a series of dikes and the Cut-Off Slough tidegates. The project area along with three neighboring landholdings comprise an historic reclamation district that operated with a largely unified vision of managing tidal inundation and the Eel River and Wildcat Hill stream floodwaters.

Eel River Estuary Preserve (EREP) includes agricultural (grazing) land, tidal salt marsh, brackish marsh, riparian scrub, sloughs/open water channels, freshwater ponds and ditches, and nearshore dune ridges and swales. A partially developed upland area occupies the eastern portion of the Project, where vehicular access is gained from Russ Lane. Few structures occur on site, but there are two barns within the upland area near Russ Lane (referred to as the Potato Barn and Quonset Hut); a third barn (North Barn) is located on the back dunes, approximately midway between the north and south property lines of the EREP; and a fourth barn (South Barn) is located in the southwest corner of the EREP. The North and South barns are connected by unimproved roads to the Potato Barn at the Project entrance. The Potato Barn includes a ranch office, and storage for agricultural equipment.

The climate is Mediterranean with precipitation most abundant in the winter months. The average annual rainfall is approximately 48.5 inches. Approximately two thirds of the year, the area is influenced by coastal fog. Prominent water features within the Project area include Russ Creek, remnant Centerville Slough, Cut-Off Slough, and the

Western Drainage Ditch (which in turn conveys the flow of Shaw Creek and Creamery Ditch), as well as smaller (seasonal) slough channels and drainage ditches. The northern end of the Project area borders the mouth of the Eel River. The Project area ranges in elevation from below sea level to an approximate elevation of 30 feet.

Project Description: As shown in the attached drawings, the applicant proposes to

- Repair Cut-Off Slough tidegate structure with modified gates that would improve fish passage;
- Construct a new muted tidegate located on the northern end of the Inner Marsh near the existing tidegate;
- Fill several existing borrow ditches near the toe of the existing dike to adjoining marsh plain elevation;
- Perform habitat enhancements in the Inner Marsh that would require grading approximately 4,320-linear feet of interconnected channel network and approximately 3.3-acres of pond/panne habitat. These activities would include the creation of at least six (6) pond/panne complexes located off the main Centerville Slough channel, modification of surface elevation to maximize suitability, as well as placement of approximately 20 in-channel and marshplain large wood structures;
- Raise the existing interior Inner Marsh dike separating Cut-off Slough from the Inner Marsh to a minimum 8.0 feet elevation, widened in discrete areas and resurfaced with gravel to improve access reliability for operation and maintenance needs. The existing outer dike would also be resurfaced with gravel. Existing culverts connecting the Inner Marsh with Cut-Off and Centerville Sloughs will either be removed and the dike repaired or retrofitted with flap gates;
- Restore Centerville Slough by excavating a channel along its historic alignment. The south end of the proposed Centerville Slough alignment would terminate on TWC property near the southern property boundary adjoining Russ property. The northern end would maintain its current alignment under the existing access bridge and into Cut-off Slough. Material excavated from Centerville Slough would be reused on site to construct refurbished berms or placed in the designated upland agricultural reuse area;
- A new channel would be established that follows an historic Russ Creek alignment to re-establish

connectivity with Centerville Slough;

- Construct a new bridge over the re-established Centerville Slough channel northeast of the South Barn. The proposed bridge would have a span of approximately 75-feet;
- Perform improvements to signage, interpretive facilities, parking, and access;
- Construct a dune walk, kayak launch area, livestock exclusionary fencing, and vault toilet, and;
- Mechanically elevate and reconstruct the dunes that have been lost to overwash events, install sand fencing, large wood placement at select locations, and native vegetation planting. Additionally, approximately 20 acres of non-native beach grass will be removed from this area using a combination of mechanical, hand removal, burning and/or herbicide methods.

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 aquatic habitat restoration and wetland agricultural land management.

Overall Project Purpose: The overall project purpose serves as the basis for the Section 404(b)(1) alternatives analysis, and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, while allowing a reasonable range of alternatives to be analyzed. The overall project purpose is to improve geomorphic and ecosystem functions in the Eel River Estuary and Centerville Slough that enhance habitat for native fisheries and aquatic species, support waterfowl and wildlife species, and benefit agricultural land management by more effectively managing onsite flooding and sedimentation.

Project Impacts: Work within Waters of the U.S. would include the permanent placement of approximately 300,000 cubic yards of material within an area of approximately 1,200 acres.

Proposed Mitigation: The project will convert approximately 122 acres of agricultural wetland to other tidal and freshwater wetland types. While these are all types of jurisdictional wetlands, tidal wetlands are an increasingly rare wetland type with high ecological function, value and biodiversity. The project also fills approximately 3.1 acres of wetland habitats to create

uplands and structures necessary to manage the drainage system. This loss would be mitigated by creation of 3.1 acres of wetlands in areas that are currently uplands. The project does not propose to mitigate for wetland conversion

Project Alternatives: According to the information provided by the applicant, 3 alternatives were considered to the proposed project; Full Tidal Exchange (no improvements beyond tidegate removal), EREP Only (work restricted to TWC property), and No Project. 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, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, 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 Manager, California Coastal Commission, North Coast District Office, 710 E Street, Suite 200, Eureka, California 95501, by the close of the comment period.

Other Local Approvals: The applicant has applied for the following additional governmental authorizations for the project: California Department of Fish and Wildlife Incidental Take Permit and 1602 Lake or Streambed Alteration Agreement, Humboldt County Conditional Use Permit and Grading Permit / Flood Certification, and a State Lands Commission Lease.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act (NEPA): Upon review of the Department of the Army permit application and other supporting documentation, USACE has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of NEPA. At the conclusion of the public comment period, USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347), the Council on Environmental Quality's Regulations at 40 C.F.R. Parts 1500-1508, and USACE Regulations at 33 C.F.R. Part 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of USACE and other non-regulated activities USACE determines to be within its purview of Federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Department of the Army Permit for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Regulatory Division.

Endangered Species Act (ESA): Section 7(a)(2) of the ESA or 1973, as amended (16 U.S.C. § 1531 et seq.), requires Federal agencies to consult with either the U.S. Fish and Wildlife Service (USFWS) or the National Marine

Fisheries Service (NMFS) to insure actions authorized, funded, or undertaken by the agency are not likely to jeopardize the continued existence of any Federally-listed species or result in the adverse modification of designated critical habitat. As the Federal lead agency for this project, 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. Western snowy plover (*Charadrius nivosus nivosus*, threatened), could be displaced during construction activities (including *Ammophila* removal) as well as post project due to increased human activity on the site. Coho salmon (*Oncorhynchus kisutch*, threatened) Southern Oregon/Northern California Coast ESU, steelhead (*O. mykiss*, threatened) Northern California DPS, Chinook salmon (*O. tshawytscha*, threatened) California Coast ESU, green sturgeon (*Acipenser medirostris*, threatened) Southern DPS tidewater goby (*Eucyclogobius newberryi*, endangered) and their critical habitat may be affected by construction activities (including tide gate improvements, inner marsh improvements, dewatering, and other in-water work). Yellow-billed cuckoo (*Coccyzus americanus*, threatened) Western DPS could face disturbance during construction due to noise and proximity. Beach layia (*Layia carnosa*, endangered) and Menzies' wallflower (*Erysimum menziesii*, endangered) will be protected by exclusionary fencing during construction and are not expected to be significantly impacted.

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 National Marine Fisheries Service (NMFS) on all proposed actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. EFH

is designated only for those species managed under a Federal Fisheries Management Plan (FMP), such as the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, and the *Pacific Coast Salmon FMP*. As the Federal lead agency for this project, 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 project would have a short term, minor adverse effect on EFH for species managed under the Pacific Groundfish Fishery Management Plan and Pacific Coast Salmon Fishery Management Plan through the disturbance of benthic habitat and potential increased turbidity. To address project related impacts to EFH, USACE will initiate consultation with NMFS, pursuant to Section 305(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. 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 may be present in the permit area, and that such resources may be adversely affected by the project. To address project related impacts to historic or archaeological resources, USACE will initiate consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer, pursuant to Section 106 of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until 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 Ms. Cameron Purchio, San Francisco District, Regulatory Division, Eureka Field Office, 601 Startare Drive, Box 14, Eureka, California 95501; comment letters should cite the project name, applicant name, and public notice number to facilitate review by the Regulatory Permit Manager. Comments may include a request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. Additional project information or details on any subsequent project modifications of a minor nature may be obtained from the applicant and/or agent, or by contacting the Regulatory Permit Manager by telephone or e-mail cited in the public notice letterhead. An electronic version of this public notice may be viewed under the *Public Notices* tab

on the USACE website:
<http://www.spn.usace.army.mil/Missions/Regulatory>.