



US Army Corps
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San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103

PUBLIC NOTICE

PROJECT: Sir Francis Drake Boulevard Improvement Project

PUBLIC NOTICE NUMBER: SPN-2015-00308

PUBLIC NOTICE DATE: July 26, 2018

COMMENTS DUE DATE: August 26, 2018

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1. INTRODUCTION:

The Federal Highway Administration (FHWA), Central Federal Lands Highway Division (CFLHD) (POC: Nathan Allen, 720-963-3668), 12300 West Dakota Avenue, Lakewood, Colorado 80228, through its agent, Jacobs Engineering, Inc. (POC: Pat Basting, 303-462-7761), 707 17th Street, Suite 2400, Denver, CO 80202, 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 roadway improvements to Sir Francis Drake Boulevard (SFDB). The FHWA-CFLHD, in cooperation with Marin County and the National Park Service, have applied for a five-year Department of the Army permit to complete roadway improvements to approximately 12 miles of SFDB within Point Reyes National Seashore (PRNS). The intent is to restore the structural integrity of SFDB and enhance safety. This 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: The project is located along SFDB in PRNS between Pierce Point Road (lat. 37.998247, long. -122.995122) and Chimney Rock Road (lat. 38.110478, long. -122.888044), Marin County, California.

Project Site Description: The project is located in the Point Reyes watershed, the boundaries of which are synonymous with the boundaries of PRNS. Waters within the watershed drain into Drakes Estero, Abbotts Lagoon, Estero de Limantour, the Pacific Ocean, portions of Bolinas Lagoon, and Tomales Bay. The project area transitions from riparian forest and chaparral to coastal scrub, coastal

grassland, coastal dunes, and pastures as the road traverses west and south down the Point Reyes peninsula. Within PRNS, agricultural and native range lands are still used for ranching operations.

Project Description: As shown in the attached drawings, the applicant proposes to rehabilitate or reconstruct SFDB to provide a consistent 24-foot-wide roadway that is structurally sound and enhances safety. The existing roadway within the study area has pavement widths varying between 18 feet and 24 feet, with no shoulders in many areas. The narrow pavement widths do not meet American Association of State Highway and Transportation Officials design standards (2011) and are not sufficient to provide clearance for vehicles and bicyclists to safely pass each other. Larger vehicles, such as milk trucks and park shuttles, frequently encroach into the opposing travel lane due to the narrow width of the road. This issue is exacerbated by the numerous substandard horizontal and vertical curves along the project corridor, and seasonal flooding within an approximately 0.5-mile segment of the corridor located adjacent to East Schooner Creek. In addition, the existing pavement was not designed for the current traffic loads. The current deteriorating state of the roadway requires maintenance beyond normal pavement preservation, such as frequent patching of potholes, patching of edge failures, and installing tubular traffic marker posts on the edge of the road to mark unsafe pavement edges undercut by water erosion.

In addition to roadway widening, the project proposes to improve the vertical and horizontal alignments of the roadway in select locations, replace two existing corrugated metal pipes at Schooner Creek with a bridge to improve tidal dynamics, replace the existing East Schooner Creek elliptical culvert with a concrete box culvert, raise the grade of the roadway one to four feet for approximately 0.6-mile to reduce flooding, conduct approximately 710 feet of biotechnical bank stabilization along East Schooner Creek, and replace

two existing cattle under-crossings. Additional information can be found here: <https://parkplanning.nps.gov/projectHome.cfm?projectID=53489>

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 maintain and improve SFDB within PRNS (40 C.F.R. Section 230.10(a)(3)).

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 the structural integrity of the roadway while enhancing safety for all users. The project area has identified deficiencies and the applicant plans to address the following concerns: pavement deterioration, substandard roadway widths, and seasonal flooding (Paragraph 9.b.(4) of Appendix B to 33 C.F.R. Part 325 and 40 C.F.R. Section 230.10(a)(2)).

Project Impacts: Improvements along SFDB would result in the permanent loss of approximately 2.3 acres of jurisdictional wetlands and approximately 11,504 linear feet of other waters of the U.S. Additionally, the roadway project would temporarily impact 1.5 acres of wetlands and 2,470 linear feet of other waters of the U.S.

As a result of constructing three mitigation sites (one at Drakes Beach parking lot and two on Home Ranch), a total of 0.1 acre of wetlands would be permanently impacted and 0.6 acre would be temporarily impacted.

Proposed Mitigation: Mitigation for unavoidable impacts resulting from roadway improvements would be completed within Point Reyes National Seashore at the Drakes Beach parking lot. A portion of the existing parking lot would be removed and restored to wetland. In addition, two ponds would be created on Home Ranch within the national seashore that would serve as both wetland mitigation and aquatic breeding habitat for California red-legged frog.

Mitigation of impacts would result in no net loss of wetlands. Wetland impacts resulting from construction of the two ponds on Home Ranch are considered self-mitigating. No permanent impacts to waters of the U.S. would occur at Drakes Beach parking lot and, therefore, no

mitigation is required for improvements at the parking lot.

Project Alternatives: Two alternatives were evaluated including the Action Alternative and a “No Action” alternative. The No Action Alternative would represent a continuation of existing conditions. USACE has not endorsed the submitted alternatives analysis at this time. 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 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 Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Determination 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 Determination or has waived its right to do so. Since the project occurs in the coastal zone or may affect coastal zone resources, a Consistency Determination is required. The applicant has concluded that the project is consistent to the maximum extent practicable with the California Coastal Management Program. This determination, however, remains subject to a final determination by the California Coastal Commission.

Coastal zone management issues should be directed to the District Manager, California Coastal Commission, North Coast District Office, 45 Fremont Street, Suite 2000, San Francisco, California 94105-2219, 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 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, FHWA-CFLHD has conducted a review of the California Natural Diversity Database, digital maps prepared by USFWS and NMFS depicting critical habitat, and other information to determine the presence or absence of such species and critical habitat in the project area. Based on this review, FHWA-CFLHD has made a 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. Species and critical habitat currently identified as potentially

impacted by the proposed project include: Northern Spotted Owl (*Strix occidentalis caurina*); central California coast coho salmon, ESU (*Oncorhynchus kisutch*) and its critical habitat; central California Coast steelhead, DPS (*Oncorhynchus mykiss*) and its critical habitat; California red-legged frog (*Rana draytonii*) and its critical habitat; Yellow-billed Cuckoo (*Coccyzus americanus*) and Myrtle's silverspot butterfly (*Speyeria zerene myrtleae*). To address project related impacts to these species and designated critical habitat, FHWA-CFLHD has initiated formal consultations with USFWS and NMFS pursuant to Section 7(a) of the Act.

To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process. 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, FHWA-CFLHD 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, FHWA-CFLHD has made a determination that EFH for Pacific coast salmon, Pacific groundfish, and Pacific pelagic fish species may be present at the project location or in its vicinity, and that the project would not adversely affect EFH and is likely to result in a net benefit for EFH in the long term. Consultation with NMFS has been initiated for EFH. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process. 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 (SHPO) 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. FHWA-CFLHD requested a search of the Sacred Lands files from the Native American Heritage Commission and initiated consultation with the Federated Indians of Graton Rancheria in 2015 and again in 2018. As the Federal lead agency for this undertaking, FHWA-CFLHD has conducted a review of the 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, FHW-CFLHD has made a determination that historic or archaeological resources are present in the permit area, and that the project would have no adverse effect to these resources. FHWA-CFLHD has completed consultation with the SHPO on September 17, 2015, and February 23, 2018, in accordance with Section 106 of the National Historic Preservation Act. The SHPO concurred with the finding of no adverse effect for the undertaking.

If unrecorded archaeological resources are discovered

during project implementation, those operations affecting such resources would be temporarily suspended until FHWA-CFLHD concludes Section 106 consultation with the SHPO 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 not 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 William M. Connor by email (william.m.connor@usace.army.mil), or by letter: 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>.