



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: Halo Ranch Mitigation Bank

PUBLIC NOTICE NUMBER: 2017-00478N

PUBLIC NOTICE DATE: July 5, 2018

COMMENTS DUE DATE: August 4, 2018

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1. **INTRODUCTION:** Halo Ranch, LLC (POC: Mr. David Brazil (707) 974-7237), 4551 Lakeville Highway, Petaluma, CA 94954, through its agent, WRA, Inc., (POC: Matt Richmond (415) 454-8868), 2169-G East Francisco Blvd., San Rafael, CA 94901, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to establish the Halo Ranch Mitigation Bank in unincorporated Sonoma County, California. The Bank will focus on the re-establishment, enhancement, and establishment of wetland and riverine habitats. 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 site is located in Sonoma County approximately 2 miles southeast of the City of Petaluma (Figure 1). It is immediately south of Lakeville Highway and north of the Petaluma River. The total property size is approximately 186.34 acres (Latitude 38.216644, Longitude -122.566718).

Project Site Description: The project site is currently a farmed hayfield dominated by oats and barley with farmed emergent wetlands. Wheat Creek is channelized and runs through the property from Lakeville Highway to the Petaluma River, and ephemeral drainage ditches channel water from north of Lakeville Highway to the Petaluma River. The topography of the site is relatively flat with a gradual slope from the northeast to the southwest. An agricultural levee separates the site from the Petaluma River. The project site contains a total of 65.21 acres of wetlands and other waters that may be jurisdictional waters of the U.S.

Project Description: As shown in the attached drawing (Figure 2), the applicant proposes to create a mitigation bank for re-establishment, enhancement, and establishment of wetland and riverine habitats. The applicant proposes that enhancement, re-establishment, and establishment credits be developed for the various resources.

Wheat Creek would be restored to a more natural, historical alignment, discharging into wetlands that drain to the Petaluma River. The banks of the new creek alignment would be low enough to allow flows during 2-year-flood events to overtop the banks and discharge into the surrounding wetlands. The berm along the ephemeral ditch and the levee between the site and the Petaluma River would both be lowered. Seasonal wetlands and wetland swales would be constructed in the upland area of the site. The southern portion of the site would be restored to tidal wetlands, with tidal channels being excavated to improve hydrology.

The applicant has proposed two service areas (for tidal and seasonal wetlands, Figure 3) based on the watershed approach outlined in the Mitigation Rule (33 C.F.R. Parts 325 and 332). These watersheds are delineated based on the ten-digit Hydrologic Unit Code (HUC-10). Based on this analysis the applicant has proposed a tidal wetland service area that includes the San Pablo Bay and San Francisco Bay tidal areas. The applicant has also proposed a seasonal wetland service area that includes sections Napa, Sonoma, and Marin Counties that are in the San Pablo Bay watershed.

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 create a wetland mitigation bank.

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 create a wetland mitigation and species conservation bank serving the northern counties of the San Francisco Bay Area.

Project Impacts: Projected project impacts from the proposed mitigation bank construction would include the discharge of permanent fill into jurisdictional wetlands of the U.S. and the conversion of seasonal wetlands into tidal wetlands.

Proposed Mitigation: The proposed project is a wetland mitigation bank and would likely not require compensatory impacts to offset unavoidable impacts to jurisdictional waters. The applicant proposes to develop re-establishment, establishment, and rehabilitation credits for seasonal and tidal wetlands.

3. STATE AND LOCAL APPROVALS:

Water Quality Certification: State water quality certification or a waiver thereof 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.*). 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 state's coastal zone management program. Generally, no federal license or permit will be granted until the appropriate State 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 {is hereby advised to apply for a Consistency Determination from the San Francisco Bay Conservation and Development Commission to comply with this requirement.

Coastal zone management issues should be directed to the Executive Director, San Francisco Bay Conservation and Development Commission, 50 California Street, Suite 2600, San Francisco, California 94111.

Other Local Approvals: The applicant will be applying for for the following additional governmental authorizations for the project: California Department of Fish and Game Section 1602 Lake and Streambed Alteration Agreement, Sonoma County grading 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 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 species are present at the project location or in its vicinity, and may be affected by project implementation. The project site contains suitable foraging habitat for the Federally-listed endangered salt marsh harvest mouse (*Reithrodontomys raviventris*) and California Ridgeway's rail (*Rallus obsoletus obsoletus*). These species are known to occur in the Petaluma Marsh Wildlife Area, which is adjacent to the bank. The proposed project would enhance foraging habitat for these species. To address project related impacts to these species, USACE will initiate informal consultation with USFWS, 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 Petaluma River adjacent to the site is considered EFH for Pacific Groundfish FMP and Pacific Coast Salmon FMP. The proposed project may have minor, temporary impacts on water quality when the levee is breached to restore tidal influence to the site. To address project-related impacts to EFH, USACE will initiate 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 practicable alternative to the project that would result in less adverse impacts to the aquatic ecosystem, while not causing other major adverse environmental consequences.

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 Sarah Firestone, 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>.