



US Army Corps  
of Engineers®  
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division  
1455 Market Street, 16<sup>th</sup> Floor  
San Francisco, CA 94103-1398

# PUBLIC NOTICE

PROJECT: West Fork Russian Riverbank Stabilization

PUBLIC NOTICE NUMBER: 2017-00596N

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COMMENTS DUE DATE: May 5, 2018

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1. **INTRODUCTION:** The Coyote Valley Band of Pomo Indians (POC: Chairman Michael Hunter, 707-485-8723), PO Box 39, Redwood Valley, CA 95470 through its agent, Ms. Emily Luscombe (707-485-8723), PO Box 39, Redwood Valley, CA 95470 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 stabilization of 1,462 linear feet of West Fork Russian Riverbank, located along the border of the Coyote Valley Reservation in Mendocino County, 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.*).

## 2. PROPOSED PROJECT:

**Project Site Location:** West bank of the West Fork Russian River in APN 165-070-01 and 165-060-02; Section 17, Township 16N, Range 12W, Redwood Valley Quadrangle Map, Lat/Long 39.253372/-123.20443. South of Redwood Valley, California in Mendocino County. Refer to Figure 1, Project Location.

**Project Site Description:** The West Fork of the Russian River is a perennial river, though above-ground flows during the summer are minimal. Within the project site, the river contains gravel bars dominated by either willows or white alder. The bank on the western side of the river is very steep and approximately 50 feet high. The top of the bank is upland forest or residential back yards. Residential properties are located within 60 feet of top of bank. The project site contains 1.717 acres of jurisdictional waters within the ordinary high water mark of the West Fork Russian River.

**Project Description:** As shown in the attached drawings, the applicant proposes to focus work on two sections of the bank: Repair Areas 1 and 2. These areas would be regraded and stabilized with rock riprap. A keyway would be excavated along a total of 900 linear feet of the river, and the larger base riprap within the Repair Areas would be installed in this keyway. Also, a 20-foot-high shotcrete soil nail wall would be installed along 850 linear feet of bank from Repair Area 1 to 150 feet downstream of Repair Area 2. Vertically, the wall would start approximately 20 feet above the river bed, overlapping the rock slope protection by approximately 5 feet, and extend to approximately 40 feet above the river bed. After stabilization, the bluff above the shotcrete soil nail wall would be planted with native shrubs and trees and hydroseeded with native species. Subsequent to completion of Repair Areas 1 and 2, additional repairs would occur as needed directly upstream of Repair Area 1 on approximately 350 linear feet of riverbank on private property. This work has been conceptually described and no specific designs completed pending results of the critical repairs on Area 1 and 2. However, this work would generally entail stabilizing the western bank by regrading and flattening approximately 350 linear feet of bank slope, and potentially installing 30-50 linear feet of riprap. This area would then be revegetated with woody plants, a willow wall, and hydroseeded.

**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 protect and maintain residential properties, located adjacent to the western bank of the West Fork Russian River, from erosion.

**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 protect residential properties from erosion by stabilizing the western bank of the West Fork Russian River.

**Project Impacts:** The proposed project would permanently discharge approximately 2,000 cubic yards of fill (soil and rock riprap) and 75 cubic yards of woody debris within the ordinary high water mark of West Fork Russian River along 1,462 linear feet.

**Proposed Mitigation:** The proposed project would not result in a permanent loss of waters of the U.S. Temporary impacts to in-stream habitat would be fully mitigated by the proposed restoration actions. Therefore, no mitigation is required.

**Project Alternatives:** The applicant discusses a no-action alternative, which would result in the loss of residential property and continued sediment discharge into the river. It could also result in a major collapse of the bluff, which would result in a large amount of sediment and housing debris being discharged into the river. The applicant is in the process of preparing a more detailed alternatives analysis which would evaluate additional alternatives besides the current preferred alternative (the proposed project) and the no-action alternative. 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:** A 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.*). The applicant has recently submitted an application to the United States Environmental Protection Agency (U.S. EPA) 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 U.S. EPA 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 U.S. EPA to act.

The applicant also plans to submit a 401 application to the California Regional Water Quality Control Board (RWQCB) for state water quality certification or waiver for the portions of the project that would occur on private property after Repair Areas 1 and 2 are completed. The EPA and RWQCB will coordinate on water quality issues for the project.

Water quality issues should be directed to Jennifer Siu, U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105 by the close of the comment period.

**Coastal Zone Management:** The project does not occur in the coastal zone, and a *preliminary* review by USACE indicates the project is not likely to affect coastal zone resources. This presumption of effect, 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, 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: a Lake and Streambed Alteration Agreement to be issued by the California Department of Fish and Wildlife.

### 4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

**National Environmental Policy Act (NEPA):** Upon review of the Department of the Army permit application and other supporting documentation, USACE has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of NEPA. At the conclusion of the public comment period, USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347), the Council on Environmental Quality's regulations

at 40 C.F.R. § 1500-1508, and USACE regulations at 33 C.F.R. § 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. The project reach of the West Fork Russian River contains Federally-listed threatened California Coastal Chinook salmon (*Oncorhynchus tshawytscha*) and threatened Central California Coast steelhead (*Oncorhynchus mykiss*) and may contain Federally-listed threatened California red-legged frog (*Rana draytonii*). Critical habitat has been also designated for Chinook salmon and Central California Coast steelhead to include all estuarine and river reaches accessible to salmonids below longstanding, naturally impassable barriers. Designated critical habitat consists of the water, streambed, and the adjacent riparian zone. The overall project could potentially: induce changes in channel morphology, including the loss of gravel bars and riparian vegetation; change erosion patterns in the river, resulting in increased erosion or sediment deposition; and result in direct mortality of salmonids during the installation of the riprap and shotcrete soil nail wall. To address project related impacts to these species and designated critical

habitat, USACE will initiate formal consultation with NMFS and 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*, or 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 location on the West Fork Russian River is considered EFH for California Coastal Chinook Salmon (*Pacific Coast Salmon FMP*). The proposed project would decrease the sediment load in the river, potentially improving EFH, and potentially change the water velocity and erosion patterns in the river. 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. 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.

**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 any required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project is not likely to 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 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, 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 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 been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines.

**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 in 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, 16<sup>th</sup> 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>.