



US Army Corps
of Engineers®
San Francisco District

Regulatory Division
450 Golden Gate Ave., 4th Floor
San Francisco, CA 94102-3406

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

PROJECT: James Donlon Boulevard Extension Project

PUBLIC NOTICE NUMBER: 2008-00262S
PUBLIC NOTICE DATE: October 2, 2019
COMMENTS DUE DATE: November 1, 2019

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1. **INTRODUCTION:** The City of Pittsburg (POC: Mr. Richard Abono, 925-252-4930, 65 Civic Avenue, Pittsburg, California 94565), through its agent, H.T. Harvey & Associates (POC: Ms. Kelly Hardwicke, 408-458-3236, 983 University Drive, Building D, Los Gatos, California 95032), 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 extension of James Donlon Boulevard, located just south of the City of Pittsburg in Contra Costa 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: The project site is located between Kirker Pass Road and Somersville Road, just south of the City of Pittsburg in Contra Costa County, California (Lat: 37.984343°, Long: -121.885087°). The area is within the Clayton and Antioch South, California, USGS 7.5-minute quadrangles. The project would be a public right-of-way constructed through two privately-owned properties (APN 089-050-056 and 089-020-011). In addition, slope easements or roadway widening along Kirker Pass Road may affect five additional properties (APN 089-050-055, 075-060-007, 089-020-009, 089-020-014, and 089-020-015). Six of the parcels are located within unincorporated Contra Costa County, near the western limits of the City of Antioch and the southern limits of the City of Pittsburg, within the City of Pittsburg's Planning Area, Urban Limit Line, and Sphere of Influence. Parcel No. 089-050-055 is city-owned and is already within city limits. The project location is illustrated in the attached map (Figure 1).

Project Site Description: The project area encompasses approximately 105.04 acres. The site is situated approximately 3.5 miles south of Suisun Bay/San Francisco Bay Delta and includes Kirker Creek and five unnamed tributaries or tributary networks, all of which drain to the Delta via culverts under developed areas of the City of Pittsburg.

The topography of the project area consists mainly of steep rolling hills with 30-50% slopes in some areas. Drainages are evenly spaced across the landscape, flowing mainly from south to north. The hills are composed mainly of poorly consolidated sandstone and shale. Some rock outcrops occur in the southern portion of the site. Vegetation in the project area consists almost entirely of grassland with some scattered oak trees and riparian vegetation. The project area has been used almost exclusively for cattle grazing for the last 150 years.

Project Description: As shown in the attached drawing (Figure 2), the applicant proposes to construct a road extension that would link the western edge of the approved Sky Ranch II subdivision (not yet constructed), located west of Somersville Road, to Kirker Pass Road. From Sky Ranch II, the proposed roadway would merge from a four-lane road to a two-lane road and would meet City and State standards for vehicles traveling up to 55 miles per hour. The intersection configuration at Kirker Pass Road would generally maintain the existing alignment of Kirker Pass Road and create a four-way intersection with the proposed Montreux Drive as the eastbound approach, proposed James Donlan Boulevard as the westbound approach, and Kirker Pass Road as the northbound/southbound approaches. Kirker Pass Road from Nortonville Road to the City limits would be upgraded from rural road standards to urban road

standards. The profile of Kirker Pass Road would be raised to provide acceptable grades at the intersection with James Donlon Boulevard. Additional proposed project features on James Donlon Boulevard include:

- Four-foot-wide concrete interceptor ditches at the top and toe of each slope;
- Six-foot-wide concrete terrace drains on all earthwork benches;
- 30-foot-wide earthwork buttress excavation limits on all north facing cut slopes;
- 20-foot clearing limits beyond the earthwork daylight line to provide access and movement at the top and toe of slopes;
- 100 feet long by 50 feet wide grading limits at the beginning and end of each culvert to complete all anticipated remedial grading;
- The placement of riprap at the beginning and end of all culverts to control erosion;
- The placement of riprap and concrete retaining walls within Kirker Creek to support the upgraded roadway and free span on-ramp to James Donlon Boulevard Extension;
- Relocation of existing ranch road, requiring additional stream crossings;
- Utility re-alignment;
- The identification of potential earthwork borrow sites; and
- The identification of staging areas for construction equipment.

Approximately 96 acres of right-of-way and slope easements would be required for project implementation. The applicant anticipates beginning construction in the spring of 2022. The project would require approximately 2.5 years to complete.

Bridges and Culvert

Bridges and culverts would be necessary to cross three ephemeral and three intermittent stream and drainage features, including Kirker Creek. Culverts would be sized for 100-year storm events. Additional culverts would be provided to accommodate wildlife movement and cattle ranch operations across James Donlon Boulevard. Culverts would range in size from 30-inches to 138-inches in diameter, with 12-foot by 12-foot box culverts for cattle/wildlife crossings.

Grading

Project grading would require a substantial amount of cut and fill due to the steep terrain within the project area. Grading activities may require the export of native soils and the import of engineered fill material. Approximately 2,575,000 cubic yards of cut and 1,986,000 cubic yards of fill would be required for the roadway. Additionally, landslides have been identified in the project area that would require remediation prior to the start of construction. The project would use a buttressing technique to support slopes at a 2:1 gradient.

Bank Stabilization/Scour Protection

The banks of Kirker Creek would be stabilized with concrete retaining walls and keyed-in riprap. Additionally, all culvert entrances and outlets for the culverted stream crossings would have riprap installed to a depth of five feet. Riprap would also be installed at proposed storm drain outlets. Riprap in Kirker Creek would be installed at grade or slightly below so it would be covered by sediment over time.

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 construct a roadway.

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 a limited access arterial roadway between Kirker Pass Road and Somersville Road south of the existing City of Pittsburg limits to serve existing and future regional circulation needs and to reduce traffic volumes along Buchanan Road.

Project Impacts: The proposed project would permanently impact approximately 2.82 acres (6,310 linear feet) of waters of the U.S. for grading, culverting, and placement of riprap and retaining walls. The permanent impact area would include 0.70 acre of ephemeral stream habitat, 2.10 acre of intermittent stream habitat, 0.06 acre of perennial seep wetland, and <0.01 acre of seasonal wetlands. Permanent fill material would

include approximately 50,190 cubic yards of soil, 19,961 cubic yards of riprap, and 14,170 cubic yards of concrete. The project would also result in temporary impacts to 0.168 acre (376 linear feet) of waters of the U.S. for remedial grading, including 0.12 acre of ephemeral stream habitat and 0.05 acre of intermittent stream habitat. Temporary impact areas would be restored to pre-project contours and conditions immediately following construction.

Proposed Mitigation: The project has been designed to avoid and minimize impacts to aquatic resources to the greatest extent practical by reducing the road width, using buttresses to minimize fill slope size, sizing culverts for large storm events, and selecting an alignment alternative that would require less remedial grading. Drainage crossings would be as close to perpendicular as possible to minimize impacts to streams. Bridges would clear-span Kirker Creek to avoid impacts to stream habitat. Areas outside the roadway that would be impacted and/or graded would be revegetated using a native seed mix. The applicant would control the discharge of stormwater pollutants in accordance with State requirements: a Storm Water Management Plan would be developed and maintained during the project and would include the use of best management practices to protect water quality during and following construction. Low Impact Development practices would be incorporated into the design to prevent stormwater runoff pollution, promote infiltration, and hold/slow down the volume of water coming from the site.

Unavoidable impacts to aquatic resources would be mitigated through payment of wetland and waters specialty fees under the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP), which will fund a specific mitigation site or sites tied directly to this project.

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.*). 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.

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; and Endangered Species Act incidental take coverage through the East Contra Costa County HCP/NCCP.

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 may be present at the project location or in its vicinity and may be affected by project implementation: California red-legged frog (*Rana draytonii*), California tiger salamander (*Ambystoma californiense*), and San Joaquin kit fox (*Vulpes macrotis mutica*). To address project related impacts to these species, USACE will initiate formal consultation with USFWS, pursuant to Section 7(a) of the ESA. Furthermore, for this particular project, the Corps will request concurrence from the USFWS that the proposed federal action and any associated incidental take of California red-legged frog, California tiger salamander, and San Joaquin kit fox were considered in the internal ESA Section 7 consultation for the ESA Section 10(a)(1)(B) permit associated with the East Contra Costa County HCP/NCCP. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

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 NHPA 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 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 NHPA. 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 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 Naomi Schowalter, San Francisco District, Regulatory Division, 450 Golden Gate Avenue, 4th Floor, San Francisco, California 94102; 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>.