



US Army Corps
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San Francisco District

Regulatory Division
450 Golden Gate Avenue
San Francisco, California 94102

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

PROJECT: San Mateo County Routine Maintenance Program RGP

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1. **INTRODUCTION:** The County of San Mateo (POC: Mr. Krzysztof Lisaj, (650) 599-1463, 555 County Center, 5th Floor, Redwood City, California 94063), through its agent, Horizon Water and Environment (POC: Mr. Ken Schwarz, (510) 986-1850, 266 Grand Avenue, Suite 210, Oakland, California 94610), has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Regional General Permit (RGP) to implement a routine maintenance program. 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.*). The proposed RGP would authorize routine maintenance activities occurring at County-maintained facilities over a five-year period. The RGP would replace the Nationwide Permit Program as the primary permitting instrument for the County's routine maintenance activities with no more than minimal adverse effects on waters of the U.S. Similar to the Nationwide Permit Program, prior to conducting any given maintenance activity regulated by USACE, the County would be required to receive written verification from USACE that the activity is authorized under the RGP.

2. PROPOSED PROJECT:

Project Site Location: San Mateo County is located immediately south of the City and County of San Francisco and northwest of Santa Cruz and Santa Clara Counties, spanning the San Francisco Peninsula (Lat: 37.463980°, Long: -122.347367°). The proposed maintenance area includes all portions of unincorporated San Mateo County which are managed by the Department of Public Works (DPW) and properties which are managed by the Parks Department. The San Mateo County routine maintenance

program area is illustrated in the attached map (Figures 1-6).

Project Site Description: San Mateo County is divided into two physiographic and hydrologic regions by the north-south oriented Santa Cruz Mountains. The western region drains towards the Pacific Ocean (coastside), and the eastern region drains towards the San Francisco Bay (bayside). Dense urban areas occupy the northern and the eastern portions of the County, while the centrally-located Santa Cruz Mountains and western coastline substantially less developed.

DPW maintains over 300 miles of roadways and associated facilities, including roadway shoulder areas, roadside ditches, ditch relief culverts, bridges, green infrastructure (GI), and low impact development (LID) stormwater facilities, and flood control facilities. DPW also maintains shoreline rock slope protection and vegetation at various locations. The Parks Department maintains County park and recreational facilities, including the Coyote Point Marina, trails, campgrounds, picnic areas, and other park features. Representative maintenance sites are displayed in 7-10.

Project Description: San Mateo County's overall routine maintenance program includes the following categories of activities: maintenance and repairs at culverts, storm drainage facilities, channels, and bridges; maintenance of roadside ditches and swales, GI, and LID stormwater facilities; sediment and debris removal from flood control channels and other facilities; bank stabilization along creeks, including slip-out repairs; vegetation management along County-maintained roads, trails, and other facilities; road and trail maintenance; and non-dredging maintenance activities at Coyote Point Marina and other shoreline maintenance activities. Each of

these activity categories is further described below. Only some of the maintenance activities included under these categories would require USACE authorization and would be permitted under the proposed RGP.

Culvert, Storm Drainage, Bridge Maintenance, and Channel Maintenance

The County is responsible for clearing clogged culverts, flap gates, diversion structures, storm drains, manholes, catch basins, and other storm drainage facilities in unincorporated areas of the County. Culvert maintenance activities also include repair or replacement due to material deterioration, damaged headwalls, or eroding outlets. Bridge maintenance involves conducting erosion protection improvements at the base of bridge abutments, repairing railings and the decking on bridges, patching up cracks on the bridge exterior, removing and re-applying paint, conducting general surface and deck treatments, and clearing debris. Channel maintenance activities include repairing damaged or failed sections of concrete channel walls and beds, repairing existing channel rock slop protection, removing debris and trash at tide gates, and maintaining floodwall and levees along channels.

Maintenance of Roadside Ditches and Swales, GI, and LID Stormwater Facilities

The County is responsible for removing debris, trash, and sediment that accumulates in roadside ditches and swales, GI (e.g., biofiltration areas, rain gardens bulb outs, and flow-through planters), and LID roadside swales and bioretention areas. This work is generally accomplished using a hand vacuum, trencher, backhoe, or shovel, and USACE authorization is rarely required. Removed material is disposed of at an appropriate location outside of USACE jurisdiction.

Sediment Removal

Sediment removal occurs in both natural creeks and engineered channels (e.g., concrete box culverts) and is limited to the as-built channel design. Sediment removal also occurs at smaller ditch relief culverts as well as larger in-channel culverts at road crossings and trails. Sediment removal activities in channels and beneath bridges typically occur at localized sites that experience sediment deposition or blockages. Sediment removal activities under the RGP would be limited to localized sites that are 500 feet in length or less for general activities and 100 feet in width or less for

creek and road crossings. In addition, the annual total sediment removed under the RGP would not exceed 1,500 cubic yards. A vacuum truck is typically used to extract sediment that has accumulated beneath bridges or within culverts, and an excavator is generally used to remove sediment from open channels.

Creek Bank Stabilization and Slip-Out Repairs

Creek bank stabilization activities involve the repair and stabilization of eroded or eroding banks. The number of bank stabilization projects required in any given year varies depending on weather and hydrologic conditions. If a bank repair is necessary, the County considers site-specific conditions to develop the most appropriate treatment that provides stability while minimizing long-term environmental impacts. In the event that biotechnical approaches are deemed unsuitable or have previously failed at a given site, the County would then consider more hardscape engineered solutions. For a given site, the work distance along the streambank is typically 25-100 feet. For the purposes of the proposed RGP, the total work distance would not exceed 250 feet per site. In an average hydrologic year (based on average seasonal precipitation), the total annual work distance along streambanks would not exceed 750 feet for all creek bank stabilization/slip-out repair projects. Following a wet hydrologic year, the total annual work distance would not exceed 1,500 feet for all sites.

Vegetation Management Activities

Vegetation management activities routinely conducted by the County include mowing, trimming and pruning, tree removal, herbicide application, targeted grazing, and fallen tree removal. These vegetation management activities generally do not require USACE authorization. One potential exception would be the movement of trees past in-stream structures.

Road and Trail Maintenance

Routine road and trail maintenance activities are generally outside of USACE jurisdiction but may be covered by this RGP if they are associated with creek bank, culvert, and bridge maintenance.

Coyote Point Marina and other shoreline maintenance activities

Routine non-dredging maintenance activities at Coyote Point Marina include maintaining the pump out facility, dock, water lines, boat launch ramp, and channel entrance and breakwater. Dredging activities at Coyote Point Marina are not included in the County's routine maintenance program or the proposed RGP. In addition, the County is also responsible for maintaining some DPW and Parks Department facilities along the San Francisco Bay shoreline and Pacific Ocean coastline (e.g., Devil's Slide and existing revetments along Mirada Road). The County conducts in-kind repair or replacement of existing rock slope protection along these shoreline areas to prevent and minimize erosion.

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 authorize structures or work, including discharges of dredge or fill material, in waters of the U.S. for the routine maintenance of infrastructure.

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 streamline the permitting of routine, minimal-impact maintenance activities on facilities maintained by San Mateo County.

Project Impacts: Impacts to wetland and non-wetland waters of the U.S. may occur while conducting sediment removal; repairing and replacing culverts; conducting maintenance of storm drainages, roadside ditches and swales, and bridges; stabilizing creek banks; repairing roadway slip-outs along creeks and shoreline rock slope protection; downed tree management; and conducting work at the Coyote Point Marina. Some permanent impacts to waters of the U.S. would occur due to bank stabilization, culvert replacement, and slip-out/slide repairs.

By imposing work length and size limits activities covered under the RGP and limiting the RGP to only maintenance work, the RGP activities would have only minimal individual and cumulative impacts to waters of the U.S. The vast majority of impacts to waters are anticipated to be temporary or not result in any permanent adverse effects to aquatic resources. Permanent impacts would largely be associated with a loss of aquatic resources

function, not area. Furthermore, because the proposed maintenance activities have been ongoing for decades, baseline environmental conditions are not expected to change as a result of issuing the proposed RGP.

Proposed Mitigation: The County of San Mateo would avoid impacts to waters of the U.S. to the maximum extent practicable. Where waters cannot be avoided due to safety concerns or logistical considerations, standard best management practices (BMPs) for construction activities in waters of the U.S. would be implemented to minimize adverse effects to aquatic resources. The County has provided an extensive list of BMPs, including general measures, erosion control measures, sediment/water quality control measures, dewatering measures, and measures to avoid and protect cultural resources and biological resources and habitat. To compensate for unavoidable permanent adverse effects to waters of the U.S., USACE may determine that compensatory mitigation is appropriate on a case-by-case basis. If compensatory mitigation is determined to be necessary, the County of San Mateo would be required to provide compensatory mitigation in accordance with the 2008 Mitigation Rule.

Within current or formal tidal lands adjacent to the San Francisco Bay, the San Francisco Bay Wetland Mitigation Bank would likely be the most appropriate compensatory mitigation option. For routine maintenance activities located outside of tidal habitat, the County has stated a preference for on-site mitigation. To account for situation where off-site mitigation is necessary or preferable, the County has identified several off-site mitigation opportunities, including future restoration efforts at the San Vicente Creek Enhancement Project; future projects within Pescadero Creek Park; invasive plant and tree removal on Park lands; gully repair and large woody debris implementation projects in the Pescadero-Butano Creek watershed; invasive plant removal at Quarry Park in Half Moon Bay; creek restoration in Junipero Serra County Park; and removal of concrete from El Zanjon Creek.

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 routine maintenance program. 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 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 has applied for a Consistency Certification from the San Francisco Bay Conservation and Development Commission and the California Coastal Commission to comply with this requirement.

Coastal zone management issues along the San Francisco Bay should be directed to the Executive Director, San Francisco Bay Conservation and Development Commission, 50 California Street, Suite 2600, San Francisco, California 94111, by the close of the comment period. Coastal zone management issues along the Pacific Ocean should be directed to the District Supervisor, California Coastal Commission, North Central Coast District Office, 45 Fremont Street, Suite 2000, San Francisco, California 94105-4508, 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 in the maintenance or in its vicinity and may be affected by project implementation:

- San Mateo thorn-mint (*Acanthomintha duttonii*)

- Crystal Springs fountain thistle (*Cirsium fontinale* var. *fontinale*)
- Robust spineflower (*Chorizanthe robusta* var. *robusta*)
- San Mateo woolly sunflower (*Eriophyllum latilobum*)
- Butano Ridge cypress (*Hesperocyparis abramsiana* var. *butanoensis*)
- Marin western flax (*Hesperolinon congestum*)
- San Francisco lessingia (*Lessingia germanorum*)
- White-rayed pentachaeta (*Pentachaeta bellidiflora*)
- Hickman's cinquefoil (*Potentilla hickmanii*)
- Bay checkerspot butterfly (*Euphydryas editha bayensis*)
- Mission blue butterfly (*Icaricia icarioides missionensis*)
- San Bruno elfin butterfly (*Incisalia mossii bayensis*)
- Callippe silverspot butterfly (*Speyeria callippe callippe*)
- Tidewater goby (*Eucyclogobius newberryi*)
- California red-legged frog (*Rana aurora draytonii*)
- California tiger salamander (*Ambystoma californiense*)
- San Francisco garter snake (*Thamnophis sirtalis tetrataenia*)
- Marbled murrelet (*Brachyramphus marmoratus*)
- California Ridgway's rail (*Rallus obsoletus obsoletus*)
- Western snowy plover (*Charadrius nivosus nivosus*)
- Central California Coast steelhead (*Oncorhynchus mykiss*)
- Central California Coast coho salmon (*Oncorhynchus kisutch*)
- North American green sturgeon (*Acipenser medirostris*)

To address project related impacts to these species and their 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 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). 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. EFH for species managed under the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, or the *Pacific Coast Salmon FMP* is present in the project area. 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.

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. 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. 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 under the proposed RGP. 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. USACE is preparing an analysis that considers alternatives to the proposed RGP; however, the preliminary alternatives analysis indicates that because the proposed permitting program is built on USACE's nationwide permitting framework, it is likely the least environmentally damaging practicable alternative.

6. PUBLIC INTEREST EVALUATION: 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>.