



US Army Corps
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San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division, Eureka Field Office
601 Startare Drive, Box 14
Eureka, CA 95501

PUBLIC NOTICE

PROJECT: Manila State Route 255 Shared Use Path Project

PUBLIC NOTICE NUMBER: 2018-00047N
PUBLIC NOTICE DATE: December 23, 2019
COMMENTS DUE DATE: January 24, 2019

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1. **INTRODUCTION:** The County of Humboldt Public Works Department (POC: Hank Seeman, 707-443-8326), 718 3rd street, Eureka, CA 95501, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to construct a Class I, shared use pedestrian trail along the west side of State Route 255 near the town of Manila, Humboldt 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 is in unincorporated Humboldt County along SR 255 (a western alternate to U.S. Highway 101 [US 101]), between the intersection with Dean Street/Pacific Avenue (Post Mile 3.64) and the intersection with Carlson Drive (Post Mile 4.14) in the community of Manila, California. The project is in Section 34 of Township 6 North and Section 3 of Township 5 North, Range 1 West of the Eureka U.S. Geological Survey (USGS) 7.5-minute topographic quadrangle. The northern and southern boundaries of the project are located at latitude 40°51'17.76" N and longitude 124°9'44.85" W, and latitude 40°50'51.90" N and longitude 124°9'58.56" W, respectively. The elevation within the project area ranges from approximately 17 to 25 feet above mean sea level. The project can be accessed from Eureka by taking the SR 255 exit from US 101, crossing the Samoa Bridge, and heading north along SR 255 for approximately 1.6 miles. From Arcata, the project can be accessed by taking the SR 255 exit from US 101 and heading west towards Manila for 4.6 miles.

Project Site Description: The Project site is within the Caltrans SR 255 right of way. The Project site is situated

within an undeveloped area of gently undulating terrain including deflation plains, ruderal grassland and mix of wetland habitats that receives drainage from the highway. This undeveloped area acts as a buffer between the road and the low density residential community of Manila. Caltrans manages the vegetation within the highway right of way to maintain road operations. Management practices include standard road maintenance including mowing and thinning of vegetation within approximately 15-20 feet of the road. Historical photographs and the NWI Wetlands Mapper suggest that the site was once part of a large wetland complex.

Project Description: As shown in the attached drawings, the applicant proposes to construct a Class I bike path (known as shared use path or multi-use trail) for non-motorized use along the west side of SR 255, starting near the Dean Street/Pacific Avenue intersection (Post Mile 3.64) and terminating just north of the Carlson Avenue intersection (Post Mile 4.24). The path would be a paved, 10-foot-wide surface with two, two-foot wide shoulders, situated at least five feet from the edge of a standard eight-foot wide shoulder along SR 255. The path alignment would maximize separation from vehicular traffic to provide for the best user experience, and to accommodate highway operations and maintenance activities. Crosswalks would be provided at the Lupin Avenue and Carlson Avenue path-road crossings. The path's edge of shoulder will be at least 30 feet from the edge of traveled way along SR 255 (i.e., outside the clear recovery zone for an expressway), with the exception of near the three intersections and crosswalks.

The project includes intersection and pedestrian safety improvements along Pacific Avenue, including sidewalk, curb ramps and a crosswalk. The project may include streetlight installation at the southern trail terminus at Dean Street/Pacific Avenue intersection to enhance visibility at

night.

The project also includes approximately 0.88 acres of onsite wetland establishment within the highway right-of-way between Post Mile 3.45 and 3.58 (south of the intersection with Pacific Avenue) and between Post Mile 3.64 and 4.24 (areas adjacent to the proposed trail).

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 multi-use trail.

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 pedestrian trail to provide non-motorized transportation and recreational access.

Project Impacts: The proposed project would result in the loss of approximately 34,689 square feet or (0.79 acres) of palustrine emergent wetlands and 391 square feet of other waters (consisting of man-made ditch). Additional temporary impacts to non-jurisdictional areas would occur from staging areas and areas where ground disturbing activities would occur. These areas would be recontoured and vegetated to pre-project conditions where feasible.

Proposed Mitigation: Wetlands would be established at a ratio of 1.2:1. Palustrine emergent wetlands and one-parameter coastal willow wetlands would be established on site and in-kind. Palustrine scrub-shrub wetlands would be established on-site, and in-kind, but not at the same square footage as impacted. Palustrine scrub-shrub wetlands would not be established within 15 feet of the existing highway shoulder or within 15 feet of the proposed trail in order to reduce the potential for vegetation encroaching on the facilities, and thus reducing the need for regular vegetation maintenance. Due to these constraints, some of the impacted palustrine scrub-shrub wetlands would be mitigated for with establishment of palustrine emergent wetland. For impacts to "waters," an additional 391 square feet (0.009 acres) of palustrine emergent wetland would be established.

Project Alternatives: 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 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, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, 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. 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, the applicant has applied for

a Coastal Development Permit from the County of Humboldt to comply with this requirement.

Coastal zone management issues should be directed to the District Manager, California Coastal Commission, North Coast District Office, 1385 8th Street, #130, Arcata, CA 95521 by the close of the comment period.

Other Local Approvals: Not applicable

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 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 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 Federally-listed species and designated critical habitat are not present at the project location or in its vicinity and that consultation will not be required. 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 USFWS and/or NMFS.

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 National Marine Fisheries Service (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 not present at the project location or in its vicinity and that consultation will not be required. 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 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 Act. 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 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 L. Kasey Sirkin, San Francisco District, Regulatory Division, Eureka Field Office, 601 Startare Drive, Box 14, Eureka, California 95501; 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>.