



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

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

PUBLIC NOTICE

PROJECT: Bayfront Canal and Atherton Channel Flood Management & Restoration Project

PUBLIC NOTICE NUMBER: 2018-00161S

PUBLIC NOTICE DATE: August 14, 2019

COMMENTS DUE DATE: September 16, 2019

PERMIT MANAGER: Frances Malamud-Roam

TELEPHONE: 415-503-6792

E-MAIL: frances.p.malamud-roam@usace.army.mil

1. **INTRODUCTION:** The San Mateo County Public Works Department, through its Agent, Horizon Water and Environment (POC: Jeff Thomas, (510) 986-4054, 266 Grand Avenue, Suite 210, Oakland, CA 94602), has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to discharge dredge and fill material and conduct other work within jurisdictional waters of the United States associated with improvements to flood management infrastructure in the Bayfront Canal, in Redwood City, San Mateo 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.*) and Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*).

2. PROPOSED PROJECT:

Project Site Location: The project is located near 3760 Haven Avenue, Redwood City, bordered by Bayfront Expressway and Marsh Road, Section S22, Township 5S, Range 3W, on the Palo Alto 7.5-minute USGS Quadrangle Map (37.4866917°N, 122.17722°W). See Figure 1, Location Map.

Project Site Description: The project site is within historic baylands of the San Francisco Bay that have been extensively modified for salt production and urban development. The topography is generally flat, with elevation ranging from 0 to 14 feet above mean sea level. The project area extends from Bayfront Canal, just south of the Flood Slough tide gates, to Ravenswood Pond (one of the South Bay Salt Ponds) S5 Forebay. Bayfront Canal receives runoff from Redwood City and Menlo Park; additional runoff from Atherton, Woodside, and unincorporated San Mateo County is conveyed to the

Bayfront Canal via the Atherton Channel, west of the project area. The Bayfront Canal merges with the Atherton Channel near Marsh Road, then outlets into Flood Slough through a tide control structure. The project area was historically part of the Cargill infrastructure for management of adjacent salt evaporation ponds. During larger rain events that coincide with higher tide elevations in Flood Slough, the tide gates at the terminus of the Bayfront Canal were designed to prevent the tide from flowing upstream into the Canal. However, the Bayfront Canal does not have enough capacity to store the increased storm runoff when the tide gates are closed, causing the canal to back up and significantly flood adjoining properties and streets (see Figure 2).

Project Description: As shown in the attached drawings (Figures 3-6), the applicant proposes the following four project components: 1) A 60-foot long concrete lateral weir diversion structure would be constructed along the south bank of the Bayfront Canal, just upstream of the Bayfront Canal tide gates; 2) two parallel eight-foot wide by five-foot tall underground box culverts between Bayfront Canal and Ravenswood Pond S5 Forebay; 3) an outlet structure in the Ravenswood Pond S5 Forebay; and 4) dredging/excavation to increase the capacity of the Ravenswood Pond S5 Forebay.

The weir would have a crest height at approximately 3.75 feet NAVD, which would be 4.75 feet above the Bayfront Canal thalweg (-1.0 feet NAVD), allowing higher flood flows in Bayfront Canal to overtop the weir and enter an approximately 14-foot deep entrance chamber to the box culverts. Storm water flows less than 4.75 feet deep in the Bayfront Canal would continue to exit into Flood Slough and ultimately San Francisco Bay via existing tide gates. The overall dimensions of the diversion structure would be approximately 24 feet wide

by 80 feet long, and rock would be installed adjacent to the diversion structure on the south bank of the Bayfront Canal to prevent scour and erosion of the bank.

Two parallel eight-foot wide by five-foot tall box culverts would be installed underground, connecting the lateral weir diversion structure with the outlet into the Pond S5 Forebay. Each box culvert would be approximately 540-foot long. The box culverts would follow the existing alignment of a series of salt production brine conveyance channels, which would be filled in following trenching for and installation of the culverts. The bottom elevations of the box culverts would range from -8 feet NAVD at the diversion structure to 0 feet NAVD at the Pond S5 Forebay outlet. Manhole access shafts above each box culvert would be installed approximately 225 feet west of the Forebay outlet.

A concrete outlet structure (headwall) would be constructed at the outfall into an existing brine conveyance channel adjacent to the Pond S5 Forebay. The brine channel would be recontoured to connect to the Forebay adjacent to the outlet structure. The outlet structure would be fitted with two flap-gates, one per box culvert. The flap-gates would prevent water from reversing course back into the culverts following high flow events. Approximately 90 cubic yards of rock would be installed adjacent to the outfall structure to dissipate flows entering the Forebay. Flood waters entering the Pond S5 Forebay would mix with tidal inflows via water control structures at three different locations in the Ravenswood Pond Complex (installed as part SBSP Restoration), ultimately flowing into San Francisco Bay.

Two feet of soil on average would be excavated from the Pond S5 Forebay (approximately 4.2 acres in size) to increase its flood storage capacity. This would generate approximately 20,328 cubic yards of excavated materials that would be beneficially reused by the adjacent South Bay Salt Pond (SBSP) Restoration of the Ravenswood Pond Complex in upland transition zone areas, on nesting islands, or to raise the bottom of Pond R4. The side-slopes of the recontoured Forebay would be seeded with a native species seed mix comparable to that used in transitional zones for the SBSP Restoration.

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 reduce flooding.

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 provide adequate flood conveyance capacity and effectiveness during times of peak flood flow to protect residences and businesses in the communities south and southwest of the Bayfront Canal, reducing damage to property and potential risks to public health and safety.

Project Impacts: The project would place approximately 2,098 cubic yards of fill within 0.136 acre (1,391 linear feet) of jurisdictional Waters of the U.S. The project would result in the permanent loss of approximately 0.07 acre of wetlands and 0.066 acre of other waters of the U.S. Construction of the project would temporarily impact approximately 4.87 acres of jurisdictional waters, including 4.64 acres of excavation within Pond S5 Forebay.

Proposed Mitigation: Construction best management practices (BMPs) are proposed to avoid and minimize impacts to water quality, and would include provisions to avoid/minimize work in the wetted portions of the project area, measures to avoid and minimize impacts during dewatering, spill prevention and control to avoid and if necessary clean up accidental releases of hazardous materials, and the preparation and implementation of a Storm Water Pollution Prevention Plan. During the period following construction, the County would monitor the sediment and erosion control for effectiveness. Sediment excavated from the Forebay would be beneficially reused by the adjacent SBSP Restoration within the Ravenswood Pond Complex to the extent feasible. Remaining materials that do not meet the testing standards for beneficial reuse would be disposed of at a County landfill. Additional avoidance and minimization measures would be implemented to reduce the impacts of the project to special-status species and their habitats, adapted from the U.S. Fish and Wildlife Service (USFWS) Programmatic Biological Opinion for the Phase 2 SBSP Restoration Project, as well as from standard best management practices from the County of San Mateo Watershed Protection Program's Maintenance Standards and San Mateo Countywide Water Pollution Prevention Program.

Following Project construction, surface topography and drainage would be restored to preconstruction conditions where temporary impacts occur. The levee slopes surrounding the Forebay, where excavation and recontouring occurred, would be reseeded with native

plant species suitable to the salt ponds restoration through consultation with USFWS Refuge staff. Although the Project would impact a narrow band of emergent wetland habitat along the perimeter of the Forebay, these wetlands are expected to reestablish passively after project construction and the reintroduction of tidal flows in the Forebay.

Unavoidable permanent impacts to 0.136 acre of jurisdictional waters and wetlands would be mitigated in a manner consistent with permit terms and conditions, the *Final Rule on Compensatory Mitigation for Losses of Aquatic Resources* (73 CFR 19594), and the *Regional Compensatory Mitigation and Monitoring Guidelines for the South Pacific Division* (USACE 2015, or current version). Compensatory mitigation would include purchase of credits from an approved mitigation bank or in-lieu fee program such as the San Francisco Bay Wetlands Mitigation Bank in Redwood City.

Project Alternatives: An alternatives analysis is currently in preparation. 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, 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 is hereby advised to apply for a Consistency Certification 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, by the close of the comment period.

Other Local Approvals: The applicant has obtained, or will be applying for, the following additional governmental authorizations for the project: California Department of Fish and Wildlife Section 1602 (17 Dec 2018 OpLaw); Special Use Permit from the Don Edwards National Wildlife Refuge, Caltrans Encroachment 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. § 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. California clapper rail [=Ridgway's Rail] (*Rallus longirostris obsoletus*), endangered; Western snowy plover (*Charadrius alexandrinus nivosus*), threatened; California least tern (*Sterna antillarum browni*), endangered; salt marsh harvest mouse (*Reithrodontomys raviventris*), endangered; Green Sturgeon (*Acipenser medirostris*), Southern Distinct Population Segment (DPS), threatened; and Steelhead (*Oncorhynchus mykiss*), Central California Coast DPS, threatened. Critical habitat for green sturgeon and CCC steelhead is located in the project area, within Flood Slough. To address project related impacts to these species and 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), 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. EFH for species managed under the *Coastal Pelagics* and *Pacific Groundfish* FMPs occurs within the Flood Slough and could be affected by sound-pressure waves from sheet pile driving, depending on tidal conditions at the time of pile driving. There is the potential that spills or other chemical contamination from construction equipment could negatively affect EFH in Flood Slough. 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 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 Frances Malamud-Roam, San Francisco District, Regulatory Division, 450 Golden Gate Avenue, 4th Floor, Suite 1111, San Francisco, California 94102-3404; 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>.