



US Army Corps
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San Francisco District

SAN FRANCISCO DISTRICT

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

PUBLIC NOTICE

PROJECT: Contra Costa County Routine Maintenance Program RGP

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1. **INTRODUCTION:** Contra Costa County (POC: Brian Balbas, 925-313-2000, 255 Glacier Drive, Martinez, California 94553), through its agent, Horizon Water and Environment (POC: Ken Schwarz, 510-986-1851, 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: The proposed RGP would apply to the western and central portions of Contra Costa County (County), referred to here as West County and Central County. West County is southeast of San Pablo Bay and includes the Cities of Richmond, San Pablo, Pinole, and Rodeo. Central County is south of Suisun Bay and includes the Cities of Danville, Alamo, San Ramon, Walnut Creek, Pleasant Hill, Concord, Martinez, and Pittsburg. The areas covered by the Routine Maintenance Program are illustrated in the attached maps (Figures 1-5).

Project Site Description: West County includes portions of the County draining north and west into San Pablo Bay. Central County largely drains north to Suisun Bay, but smaller portions drain south into Alameda Creek and San Francisco Bay. Interstate 80 and 580 are the major highways traversing West County, and Interstate 680 is the major highway traversing Central County. Portions of the County surrounding these highways are relatively flat and densely developed. Adjacent to these densely developed flatlands, the County consists of mountainous areas containing open space and low density development. The Oakland-Berkeley Hills separate West County from Central County, and the Diablo Range separates Central County from East County.

Individual projects would be located in areas of West County and Central County that contain facilities owned and maintained by Contra Costa County Flood Control and Water Conservation District (District) or the Contra Costa County Public Works Department (Department), including District flood control facilities and County roads. The District owns most of the major storm drainage facilities in the County, including flood control channels, basins, and creeks. The Department is responsible for maintaining County roads and rights-of-way, including approximately 75 miles of flood control channels and facilities in the County.

Project Description: As shown in the attached photos (Figures 6-8), the applicant proposes to maintain existing flood control channels, creeks, culverts, bridges, dams, sediment basins, and other facilities owned and managed by the County. Maintenance activities include sediment, debris, and trash removal; culvert repair or replacement; access road and ramp repair; minor slope stabilization treatments; vegetation management; and

various other small scale maintenance activities. Only some of the described maintenance activities would require USACE authorization and would be permitted under the proposed RGP.

Culvert Maintenance

The County owns and maintains numerous culverts that route flow from local collectors or ditches directly to downstream channels. When culverts are constricted by accumulated debris and sediment, they are manually cleared by hand and then flushed with water to remove debris/sediment and ensure proper drainage functioning. Silt fences, floating silt curtain, or other sediment capture devices are typically installed downstream of the work area in the channel to reduce and limit turbidity effects of flushing. After sediment and debris has been manually cleared, the culvert is flushed from the downstream end with water until clean. If necessary, culverts can be flushed from the upstream end as well. This activity typically occurs in fall at the beginning of the rainy season.

On occasion, culverts may require repair or replacement due to material deterioration and structural damage. Causes of failures may include improper sizing, misalignment, and/or the age of materials. Repair or replacement of an existing culvert would occur within the same footprint as the original culvert. Culvert replacement typically involves the replacement of culverts with same size. However, the County may occasionally seek to upsize a culvert because the existing size has proven repeatedly to be insufficient or requires frequent maintenance due to being undersized. Because culverts would be replaced in-kind within the original footprint, no new hardening of the channel banks would occur. New culverts are generally installed using an excavator working from above the channel from the top-of-bank. Culvert repair and replacement activities typically occur during the summer season when water levels are low or absent. Dewatering of the creek may be required depending on site conditions and water levels.

Sediment Removal

To alleviate flood risks and erosion associated with sediment accumulation, excess sediment from flood control channels and other facilities is removed. Sediment removal occurs in natural, engineered and concrete channels, as well as in culverts, sediment basins, and other facilities (i.e., bridges, storm drain outlets, trash racks, other trash capture devices, and water diversion inlets).

For this Maintenance Program, sediment removal activities would be limited to small localized areas that experience sediment deposition or blockages, and work would generally occur under dry channel conditions. However, if maintenance is necessary where water is present, dewatering would be conducted. Silt fences, floating silt curtain, or other devices are typically installed to prevent silt movement downstream of the work area. Sediment removal would involve the use of hand tools, excavators, bulldozers, or front loaders depending on the type of flood control facility, local conditions, sediment amounts, and site sensitivity. Once the sediment is removed from the flood control channel or facility, it is placed in a dump truck for hauling to either a landfill or County owned parcel. The Maintenance Program includes annual limits for linear feet of sediment removal allowed in different channel types.

Trash and Debris Removal

Debris removal involves removing non-sedimentary materials that are deposited in channels as a result of high flows or through human activity. The County routinely monitors its flood control channels to remove debris that impairs hydraulic conditions or reduces flood channel conveyance capacity. The County also routinely monitors ditches, basins, and other minor facilities for presence of debris. Debris removal occurs on an as-needed basis as an outcome of these routine inspections. This activity may also be required to provide access for minor maintenance activities at flap gates or grade control structures. Debris removal activities are generally conducted by work crews using hand tools and occasionally a winch. Non-vegetative debris is removed from the site via dump truck for disposal at a solid waste landfill. Hazardous waste (such as paint and oil) are sealed in protective containers and disposed at an appropriate hazardous waste facility.

Access Road and Ramp Maintenance

The majority of County channels have a maintenance access road parallel to the channel above and beyond the top of the channel bank. Channel access road and ramp maintenance primarily includes grading and/or resurfacing access roads at the top of bank and managing adjacent vegetation. The County may also need to re-compact the road. In three channels, maintenance roads are not located along the top of bank but rather the County utilizes ramps to access the channels. The ramps are situated on top of an inset floodplain bench, approximately half-way down the channel bank. The channels with access ramps include: San Pablo Creek near Parr Boulevard, Marsh Creek from

its confluence with Dry Creek to Balfour Road, and a small section of Marsh Creek at Brentwood Boulevard. Maintenance, repair, and compaction of access roads and ramps occur on an as-needed basis.

Erosion Protection

While this Maintenance Program does not include bank stabilization work (e.g., rock slope protection or riprap), it does include minor slope stabilization treatments typically needed along earthen channels. On an as-needed basis, typically after the rainy season, minor erosion is evident along channel banks and requires some stabilization measures. Treatments may include low-impact fixes, such as installation of revetment fencing, erosion protection blankets, straw wattles, and tarping.

Minor Maintenance Activities

In addition to the primary maintenance activities described above, the County conducts a number of other minor small-scale routine maintenance activities in their flood control facilities. These activities are summarized below.

- **Concrete channel repair** includes spall repair and sealing of cracks in the concrete bed and banks of flood control channels. These activities are conducted by hand (no mechanical equipment involved) in August/September when the channel is as dry as possible.
- **Trash rack clearing** occurs at dam spillways, basin inlets, and channel, and culvert inlets, and involves using chainsaws to break up tangled branches and vegetation masses and/or pitchforks and load nets to load debris into dump trucks for disposal. The amount of trash removed annually varies depending on the type of winter. The typical amount of trash and debris removal per trash rack is 75 to 350 cubic yards per year.
- **Dam site maintenance** includes debris removal, earthen repairs, mowing, access road grading, burrow control, and trash rack maintenance.
- **Small structure maintenance** includes maintaining and servicing flap gates, subdrain vaults, tide gates, fish ladders, fish screens, grade control structures, weirs or gates, stream gauge structures, pump station inlet/outlet structures, and energy dissipaters. Maintenance includes inspecting these facilities for any mechanical

repairs and removing any debris on an as-needed basis.

- **Graffiti removal** on concrete walls and ramps involves painting by hand or use of mechanical sprayers.
- **Fence and gate repairs** are conducted as needed to protect public and County property.

Vegetation Management Activities

The primary vegetation management activities conducted routinely through the Maintenance Program include mowing, trimming and pruning, tree removal, herbicide application, grazing, fallen tree removal, and invasive plant removal. The goals of routine vegetation management are to maintain the operational capacity of County flood control facilities; reduce or eliminate invasive/exotic weeds at County facilities; maintain defensible space around County facilities to reduce fire fuel loads and fire risks and hazards; reduce potential areas for encampments; and provide visibility for increased public safety. The County undertakes these types of vegetation management activities routinely and relatively consistently from year to year. The frequency of vegetation management activities is largely dependent on the type of vegetation in, or adjacent to, the channel or other facility and other environmental factors including the degree of solar input and soil and moisture conditions. The majority of the County's vegetation management activities occur outside of USACE jurisdiction. Common vegetation management activities in USACE jurisdiction include trimming and removing perennial wetland vegetation (e.g., cattails) in flood control channels and sediment basins; applying herbicides to perennial wetland vegetation; and repositioning or modifying fallen trees in drainage channels.

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 dredged 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 Contra Costa County.

Project Impacts: Impacts to wetland and non-wetland waters of the U.S. would occur while conducting some of the maintenance activities described above. However, the majority of the Maintenance Program activities are not expected to require USACE authorization, either because the work would be conducted entirely outside of USACE jurisdiction or the work would not involve an activity regulated pursuant to Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act.

The vast majority of impacts to waters of the U.S. under the Maintenance Program 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.

The Maintenance Program's exact temporary and permanent impacts to wetlands and other waters of the U.S. would be determined on an annual basis. The County's annual notification report would include the volume of material removed and discharge and the area of the Program's impacts on jurisdictional wetlands and other waters of the U.S. by maintenance site for each given year.

Quantitative limits on certain activities (e.g., sediment removal) would be included as conditions of the RGP to ensure the Maintenance Program results in minimal individual and cumulative impacts to waters of the U.S. These limits would be consistent with the Nationwide Permit Program.

Proposed Mitigation: The County 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.

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 a portion of the Maintenance Program 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 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.

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 permit, 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 their designated critical habitat are present in the permit area and may be affected by individual projects:

- Central California Coast steelhead (*Oncorhynchus mykiss*)
- California Central Valley steelhead (*O. mykiss*)
- Sacramento River winter-run Chinook salmon (*O. tshawytscha*)
- Central Valley spring-run Chinook salmon (*O. tshawytscha*)
- North American green sturgeon (*Acipenser medirostris*)
- Delta smelt (*Hypomesus transpacificus*)
- California clapper rail (*Rallus longirostris obsoletus*)
- Salt-marsh harvest mouse (*Reithrodontomys raviventris*)
- California tiger salamander (*Ambystoma californiense*)
- California red-legged frog (*Rana draytonii*)
- Alameda whipsnake (*Masticophis lateralis euryxanthus*)
- Soft bird's-beak (*Cordylanthus mollis* ssp. *mollis*)

To address project related impacts to these species and their designated critical habitat, USACE will initiate informal 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 *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. As the Federal lead agency for this undertaking, USACE has made a *preliminary* determination that historic or archaeological resources are not likely to be present in project areas and that projects would either have no potential to cause effects to these resources or have 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 authorization 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 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>.