



US Army Corps
of Engineers®
San Francisco District

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

PROJECT: Greater Mill Creek Ecosystem Restoration Project

PUBLIC NOTICE NUMBER: 2019-00239N

PUBLIC NOTICE DATE: April 25, 2020

COMMENTS DUE DATE: May 24, 2020

PERMIT MANAGER: L. Kasey Sirkin

TELEPHONE: 707-443-0855

E-MAIL: l.k.sirkin@usace.army.mil

1. **INTRODUCTION:** Redwood National and State Parks (POC: Mr. Leonel Arguello, 707-445-7701), 1111 Second Street, through its agent, Save the Redwoods League (POC: Rosalind Litzky, 415-365-2352), has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to discharge fill material into jurisdictional waters of the United States associated with the rehabilitation of the Greater Mill Creek Ecosystem, located near the town of Orick, 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 proposed project is located on approximately 34,080 acres in the Del Norte Coast Redwoods State Park and a portion of Redwood National Park. It is located off Hamilton Road along Highway 101 (primarily to the east), approximately 4.5 miles south of Crescent City in Del Norte County, California, at center latitude 41.723856° and longitude -124.139531°. See enclosure 1.

Project Site Description: Del Norte Coast Redwoods State Park (DNCRSP) and Redwood National Park (RNP) are two of four parks that makes up Redwood National and State Parks (RNSP), which is jointly administered by California Department of Parks and Recreation (CDPR) and the National Park Service (NPS) to protect resources and serve visitors. The original DNCRSP, founded in 1927, more than doubled in size in 2002 with the addition of the 25,000-acre Mill Creek property known as the Mill Creek Addition (MCA). Portions of the project area were extensively logged from 1908 to 1939 and from 1954 to 2000 when the land was owned by private commercial

timber companies, resulting in over 27,000 acres of intensively harvested forest (mostly clearcut) and approximately 290 miles of log haul roads and 29 miles of secondary roads within the program area. The scale of harvesting increased significantly in the 1920s and 1930s, when Hobbs-Wall harvested most of the timber on the West Branch from the Mill Creek Campground northward. The project area for the Greater Mill Creek Ecosystem Restoration Program (GMCERP) contains suitable coho salmon stream reaches (approximately 31.5 stream miles) and associated riparian habitat within the Mill Creek watershed within the program area. The project area also includes all potentially suitable coho stream and riparian habitat within the Rock Creek watershed.

Management goals that are relevant to the Proposed Action include protecting and preserving the natural resources of the parks and restoring lands, ecosystems, and processes that have been altered by modern human activities. Natural resource management and protection strategies that guide forest restoration include supporting the perpetuation of ecosystem processes and components, including the redwood forest ecosystem as the prime RNSP resource, and restoring and maintaining RNSP ecosystems as they would have evolved prior to European American settlement of the region in the 1850's.

Project Description: As shown in the attached drawings, the applicant proposes to perform restoration efforts in the Greater Mill Creek Ecosystem Restoration Program (GPCERP) area through a combination of forest and aquatic restoration as well as road removal activities. See enclosure 2. The ecosystem restoration activities will be phased geographically over a thirty year time frame. Phase 1 restoration activities will be described at the project detail level while remaining phases will be described programmatically. The activities will be identical to those in Phase 1, but in different locations. Project level detail for

future phases will be planned in coordination with NMFS. Restoration activities are grouped into three major categories: forest restoration – thinning, snag creation, crown manipulation and vegetation management; road extension, reoccupation and removal, (watershed restoration); and aquatic restoration – placing large wood in streams and riparian planting. See enclosure 2.

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 restore the ecosystem.

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 improve aquatic and upland habitat conditions through forest and stream restoration activities.

Project Impacts: The proposed project would result in the placement of fill beneath the Ordinary High Water Mark of all jurisdictional areas within the project area and would result in a permanent, beneficial effect on the ecosystem.

Proposed Mitigation: The proposed project is comprised wholly of restoration activities that would result in a net benefit to the ecosystem. Therefore, the proposed project does not require compensatory mitigation.

Project Alternatives: USACE has not received an 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 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 Consistency Determination from the California Coastal Commission 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, Suite 130, Arcata, CA, 95521 by the close of the comment period.

Other Local Approvals: The applicant has applied for the following additional governmental authorizations for the project: 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 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, the NPS will be responsible for determining the presence or absence of Federally-listed species and designated critical habitat and the need to conduct consultation. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the NPS concerning the consultation process. 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 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, the NPS will be responsible for determining the presence or absence of EFH and the need to conduct consultation. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the NPS concerning the consultation process. 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 project, the NPS will be responsible for determining the presence or absence of historic properties or archaeological resources and the need to conduct consultation. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the NPS concerning the consultation process. Any required

consultation must be concluded prior to the issuance of a Department of the Army Permit for the project. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until USACE concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the project is not dependent on location in or proximity to waters of the United States to achieve the basic project purpose. This conclusion raises the (rebuttable) presumption of the availability of a less environmentally damaging practicable alternative to the project that does not require the discharge of dredged or fill material into special aquatic sites. The applicant has been informed to submit an analysis of project alternatives to be reviewed for compliance with the Guidelines.

6. PUBLIC INTEREST EVALUTION: The decision on whether to issue a Department of the Army Permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the project and its intended use on the public interest. Evaluation of the probable impacts requires a careful weighing of the public interest factors relevant in each particular case. The benefits that may accrue from the project must be balanced against any reasonably foreseeable detriments of project implementation. The decision on permit issuance will, therefore, reflect the national concern for both protection and utilization of important resources. Public interest factors which may be relevant to the decision process include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

7. CONSIDERATION OF COMMENTS: USACE is soliciting comments from the public; Federal, State, and

local agencies and officials; Native American Nations or other tribal governments; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by USACE will be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army Permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental or public interest factors addressed in a final environmental assessment or environmental impact statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the project.

8. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to 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>.