



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: Santa Cruz Countywide Partners in Restoration Permit Coordination Program
Regional General Permit 13 Reauthorization

PUBLIC NOTICE NUMBER: 2003-275640S

PUBLIC NOTICE DATE: February 16, 2021

COMMENTS DUE DATE: March 18, 2021

PERMIT MANAGER: Frances Malamud-Roam

TELEPHONE: 415-503-6792

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

1. INTRODUCTION: The Resource Conservation District of Santa Cruz County (POC: Lisa Lurie, 831-464-2950, ext 27), 820 Bay Avenue, Suite 130, Capitola, California, 95010, has applied to renew U.S. Army Corps of Engineers (Corps) Regional General Permit (RGP) 13 for a program to assist landowners in implementing and maintaining conservation practices on private lands in Santa Cruz County, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403). The proposed renewal of this RGP would continue to authorize the implementation and maintenance of fifteen identified conservation practices in Santa Cruz County that improve water quality and wildlife habitat. In the 10-year period from 2010 to 2020, 57 projects were successfully implemented, of which 43 were within waters of the U.S. The renewed RGP would continue to replace the Nationwide Permit Program as the primary permitting instrument for these county-wide restoration partnership projects. Projects covered under this RGP would have no more than minimal adverse effects on waters of the U.S., and would provide a net improvement in habitat functions. Each year the RCD of Santa Cruz County (RCDSCC) would submit annual preconstruction notification of specific project sites implementing the conservation practices and annual post-construction reports for the project actions.

2. PROPOSED PROJECT:

Project Site Location: The Santa Cruz Countywide Partners in Restoration Permit Coordination Program (Program) would cover activities in all areas of Santa Cruz County where the Natural Resources Conservation Service

(NRCS) and Santa Cruz County RCD work with landowners to improve resource conditions on their property (Figure 1).

Project Site Description: The Santa Cruz Countywide Partners in Restoration Permit Coordination Program (Program) would cover implementation and maintenance of fifteen conservation practices on private properties throughout Santa Cruz County over a five-year period. Because projects will be occurring in multiple locations, it is not possible to define specific project sites at this time, although they will all occur on private properties in rural and agricultural areas within Santa Cruz County.

Project Description: The renewed RGP would authorize minor structures or work, including discharges of dredged or fill material, in waters of the U.S. in association with implementation of projects by landowners in Santa Cruz County participating in the Program. The Program would still consist of fifteen specific restoration and conservation practices (see Table 1 for descriptions of practices). Corps-regulated structures and work in streams would be designed in accordance with the "California Salmonid Stream Habitat Restoration Manual, Third Edition, January 1998, as revised" and would include structures for bed and bank stabilization, including digger logs; spider logs; log, root wad, and boulder combinations; brush matting; log cribbing; live vegetative crib wall; log-bank armor; and native material revetment. Other restoration and enhancement activities would include willow sprigging; removal of obstructions to fish passage; embedded culverts, culvert replacements and improvements, riparian revegetation, and activities associated with upslope restoration of roads, eroded hillsides, and other areas contributing excess sediment to

aquatic habitats. Under the proposed Program, regulatory agencies enter into programmatic agreements with the RCD to approve these fifteen specific, standardized conservation practices that would improve habitat and soil stability.

The conservation practices are limited in size, provide a net environmental benefit, and are usually performed for erosion control or restoration in and around waterways. Landowners agree to follow designs and specifications for the conservation work. Follow up and monitoring on each conservation project is done by the RCD with oversight by the regulatory agencies.

Not all projects carried out under the Program would require Corps authorization. This RGP would only authorize those projects that fall under Corps jurisdiction.

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 purpose of this Program is to authorize structures or work, including discharges of dredged or fill material, in waters of the U.S. for activities similar in nature that are environmentally beneficial and have no more than minimal individual and cumulative adverse environmental effects.

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 purpose of this Program is to streamline the permitting of minimal-impact Corps-regulated activities conducted under the Program.

Project Impacts: Temporary and permanent fill discharges into wetlands or streams may result from program activities, including installation of stream bank stabilization structures, construction of (off-channel) sediment and/or water control basins and associated outlets, installation of temporary cofferdams or similar structures needed to dewater a work area, and other structures necessary to achieve the project purpose. The range of fill material may include: non-erodible earth, aggregate (gravel, clay, silt, sand), gabion wire baskets, logs, root wads, timber, rock, and mortar or concrete in limited, discrete locations as energy dissipaters and grade stabilization structures. The project activities would be

beneficial to aquatic habitats and would not result in more than minimal adverse effects.

Proposed Mitigation: The conservation practices have been categorized in a tiered impact matrix, an approach developed by the Central Coast Regional Water Quality Control Board (CCRWQCB). The matrix provides a framework of environmental protection measures that increase in complexity with a practice's or project's increasing impact or complexity. The tiered approach enables the classification of a proposed project into one of four possible tiers. With increasing impacts, a project would be classified into a higher tier, requiring additional environmental protection measures. Projects with very limited resource impacts (upland projects with no expected impacts to special status species) would be placed in Tier I and would have the fewest requirements for surveys, monitoring and other special conditions. Work in streams (bed and bank) would automatically place projects in Tier II or higher, and would have requirements for surveys, monitoring and possibly other special conditions. Projects occurring in habitat for threatened and endangered species (in streams or uplands) and projects that include rock riprap bank protection materials or that propose the removal of large instream barriers would be placed in Tier III. Projects in coho-bearing streams or in streams having high intrinsic potential would be included in Tier IV and would require early consultation with regulatory agency staff. Agency staff would provide detailed input into the proposed designs and monitoring for projects in Tier IV.

Most of the proposed projects covered under the RGP would provide a net benefit to the aquatic environment. General mitigation measures have been developed to reduce or avoid the potential adverse effects associated with actions to be covered by the Program. These measures, as appropriate for a specific action, would be included as special conditions to project authorizations under the RGP. Short-term impacts to aquatic resources that cannot be avoided during project construction would be mitigated through improved long-term water quality and wetland habitat that would result from reduced non-point source pollution and streambank erosion, bioengineered streambank protection, increased groundwater recharge, and aquatic and terrestrial habitat enhancement.

Project Alternatives: The goal of the conservation practices and restoration activities covered under the Program is to protect and enhance water quality and sensitive habitats, including wetlands, utilizing designs and techniques developed by the NRCS' Conservation

Planning Practice Process to be consistent with the Conservation Practice Standards and Specifications from the NRCS Field Office Technical Guide and/or the *California Salmonid Stream Habitat Restoration Manual, Third Edition, January 1998, as revised*. Use of these manuals and adherence to the NRCS Conservation Planning Process for all project actions implemented under the Program would ensure consistency and quality in the projects and no more than minimal individual and cumulative adverse effects. The alternatives to re-issuing this RGP would be the No Action alternative (no re-issuance of the RGP) or issuing an RGP that is different in nature and scope to the proposed RGP. The No Action alternative would require using the Nationwide Permit program to authorize projects, which would not meet the overall project purpose. No alternative RGP has been proposed as the existing RGP meets the project purpose and would not result in more than minimal adverse effects to aquatic habitats.

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 is hereby notified that, unless USACE is provided documentation indicating a complete application for water quality certification has been submitted to the RWQCB within 30 days of this Public Notice date, the District Engineer may consider the Department of the Army permit application to be withdrawn. 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, Central Coast Region, 895 Aerovista Place, Suite 101, San Luis Obispo, California 93401, 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. As part of the Master Permit (No. 03-0513, dated April 20, 2015) that was authorized by the County of Santa Cruz for the proposed Program, a Coastal Development Permit, per the Santa Cruz County Local Coastal Program (LCP) was included as part of the overall Master Permit issued to the Santa Cruz County RCD for administration of the proposed Program.

Coastal zone management issues should be directed to the District Manager, California Coastal Commission, Central Coast District Office, 725 Front Street, Suite 300, Santa Cruz, California 95060-4508, 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 the Department of the Army Regional General Permit. 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 may be present in the permit area or in its vicinity, and may be affected by project implementation.

Plants

- Ben Lomond spineflower, *Chorizanthe pungens* var. *hartwegiana*
- Ben Lomond wallflower (Santa Cruz wallflower), *Erysimum tetetifolium*
- Monterey spineflower, *Chorizanthe pungens* var. *pungens*
- Robust spineflower (Aptos spineflower), *Chorizanthe robusta* var. *robusta*
- Santa Cruz cypress, *Cupressus abramsiana*
- Santa Cruz tarplant, *Holocarpha macradenia*
- Scott's Valley polygonum, *Polygonum hickmanii*
- Scott's Valley spineflower, *Chorizanthe robusta* var. *hartwegii*
- Tidestrom's lupine (Clover lupine), *Lupinus tidestromii*
- White-rayed pentachaeta, *Pentachaeta bellidiflora*

Animals

- Central California Coast (CCC) Evolutionarily Significant Unit (ESU) coho salmon, *Oncorhynchus kisutch*
- CCC ESU steelhead, *O. mykiss*
- South-Central California Coast ESU steelhead, *O. mykiss*
- Mount Hermon (=Barbate) June beetle, *Polyphylla barbata*
- Ohlone tiger beetle, *Cicindela ohlone*
- Zayante band-winged grasshopper, *Trimerotropis infantilis*
- Tidewater goby, *Euclogobius newberryi*

- California red-legged frog, *Rana draytonii*
- California tiger salamander, *Ambystoma californiense*
- Santa Cruz long-toed salamander, *Ambystoma macrodactylum croceum*
- San Francisco garter snake, *Thamnophis sirtalis tetrataenia*
- Least Bell's vireo, *Vireo bellii pusillus*
- Marbled murrelet, *Brachyramphus marmoratus*

Critical Habitat

- CCC ESU coho salmon
- Zayante band-winged grasshopper
- Marbled murrelet
- Monterey spineflower
- Robust spineflower
- Santa Cruz tarplant
- Scott's Valley polygonum
- Scott's Valley spineflower

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 Regional General Permit.

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 in the permit area or in its vicinity, and that the critical elements of EFH may be adversely affected by project implementation. 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 Regional General Permit.

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. Since covered activities occur in sanctuary waters or may affect sanctuary resources, the applicant has applied for certification or a permit from the Secretary of Commerce or his designee to comply with this requirement.

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. All projects implemented under the Santa Cruz Countywide Permit Coordination Program would be assessed for potential impacts to cultural resources. Consultation with the State Historic Preservation Office shall be conducted on a case-by-case basis, as needed.

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. PUBLIC INTEREST EVALUTION: The decision on whether to issue a Department of the Army Regional

General Permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the permit 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 permit 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.

6. 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 permit. All comments received by USACE will be considered in the decision on whether to issue, modify, condition, or deny the Department of the Army Permit. 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 permit.

7. 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, San Francisco, California 94102-3404; comment letters should cite the permit 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 permit 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: <https://www.spn.usace.army.mil/Missions/Regulatory>.

Figure 1

Santa Cruz Countywide Partners in Restoration
Permit Coordination Program Service Area

