



**US Army Corps
of Engineers**®
San Francisco District

SAN FRANCISCO DISTRICT

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

PUBLIC NOTICE

PROJECT: Klamath River Dam Removal Project

PUBLIC NOTICE NUMBER: 2003-279850N

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COMMENTS DUE DATE: July 8, 2021

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1. **INTRODUCTION:** Klamath River Renewal Corporation (Renewal Corporation) (Applicant) (POC: Mr. Mark Bransom, 510-914-4199), 2001 Addison Street, Suite 317, Berkeley, CA 94704, through its agent, Camas LLC (POC: Ms. Lisa DeRose, 458-229-8392), 680 G Street, Suite C, Jacksonville, OR 97530, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit, Clean Water Act 404(a) for the placement of approximately 212,000 cubic yards of fill (permanent and/or temporary) within 20 acres of jurisdictional waters in the Klamath River. The Proposed Action under consideration by the USACE describes the Department of the Army's jurisdictional portion of a broader action, Proposed License Surrender (License Surrender Project) under the jurisdiction of the Federal Energy Regulatory Commission (FERC). The License Surrender Project before the FERC is the Renewal Corporation's comprehensive plan to physically remove the Lower Klamath Project (FERC nos. 2082-063, 14803-001) and achieve a free-flowing condition and volitional fish passage, site remediation and restoration, and avoidance of adverse downstream impacts. The License Surrender Project stems from the Application for Surrender of License for Major Project and Removal of Project Works, FERC Project Nos. 2082-063 & 14803-001 (License Surrender), originally submitted to the FERC in September of 2016, and is described in detail in the Definite Decommissioning Plan (DDP), submitted to the FERC in November of 2020 as Exhibits A-1 and A-2 to the Renewal Corporation's amended License Surrender application. 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).

The Renewal Corporation's application with the USACE seeks the required Department of the Army permit associated with the Proposed Action. FERC will serve as the lead federal agency for the License Surrender Project

with respect to compliance with federal environmental laws. On January 25, 2021, the USACE requested that FERC grant the USACE cooperating agency status under the National Environmental Policy Act (NEPA) for the Lower Klamath Project (USACE File Number 2003-2798520).

2. PROPOSED PROJECT:

Project Site Location: The License Surrender Project (License Surrender Project Area) is located in the mainstem of the Klamath River within the hydroelectric reach, from approximately river mile 234 to river mile 193. The hydroelectric reach includes four hydroelectric developments including the J.C. Boyle, Copco No. 1, Copco No. 2 and Iron Gate dams and their associated hydroelectric generation facilities, supporting structures, and reservoirs. The exact location of the four dams are as follows:

Site	State	Latitude	Longitude
J.C. Boyle Dam	Oregon	42.122925	-122.048008
Copco No. 1 Dam	California	41.979381	-122.3347
Copco No. 2 Dam	California	41.979028	-122.340108
Iron Gate Dam	California	41.934319	-122.436347

Additional areas where potential restoration and upgrade activities may occur include mainstem tributaries and existing recreation sites.

Project Site Description: The Klamath River originates just downstream of Upper Klamath Lake in southern Oregon and flows 253 miles southwest through northern California to the Pacific Ocean. The Lower Klamath Basin, with its border beginning at Iron Gate Dam,

is almost 200 miles long and contains four major Klamath River tributaries: the Shasta, Scott, Salmon, and Trinity Rivers.

The basin is generally rural, with a total population of approximately 120,000 people. Downstream of Iron Gate Dam, and for most of the river's length to the Pacific Ocean, the river maintains a relatively steep, high-energy channel. Here, the Klamath River forms a deep canyon surrounded by mountains of the Trinity and Coast Ranges.

Land ownership within and proximal to the License Surrender Project Area boundary in California includes Bureau of Land Management (BLM), USDA Forest Service, State of California, PacifiCorp, and other privately-owned land. Land ownership within and proximal to the License Surrender Project boundary in Oregon includes BLM and PacifiCorp. The closest urban areas to the License Surrender Project are the City of Yreka, California, and Klamath Falls, Oregon. There are also small residential communities and individual residences adjacent to portions of Iron Gate and Copco No. 1 reservoirs (e.g., Copco Village), and downstream.

The primary land cover types within and surrounding the License Surrender Project in California are Grassland/Herbaceous, Shrub/Scrub, and Evergreen Forest, along with smaller amounts of Deciduous Forest, Mixed Forest, Pasture/Hay, and Cultivated Crops. Developed land is generally limited to areas near existing roadways. The primary land cover types within and surrounding the License Surrender Project in Oregon are herbaceous, scrub-shrub, Evergreen Forest, Mixed Forest, Deciduous Forest, Open Water, Emergent Herbaceous Wetlands, Barren Land, Developed medium and low intensity, and Developed Open Space. Historically, hillslope and in-channel gold mining and extensive logging have occurred, along with agricultural and ranching activities that divert water in many of the lower tributary basins. These activities have altered stream flows, increased concentrations of suspended sediment and nutrients in watercourses, and increased summer water temperatures.

Within the License Surrender Project area, there are approximately 82 acres of potentially jurisdictional waters. This includes approximately: 63.6 acres of wetlands and 18.13 acres of other waters. Other waters are comprised entirely of perennial streams and reservoir areas.

Project Description: The objective of the License Surrender Project is to accomplish the physical removal of the Lower Klamath Project and achieve a free-flowing condition and volitional fish passage, site remediation and restoration, and measures to avoid or minimize adverse

downstream impacts. To create a free-flowing river to allow volitional fish passage, the License Surrender Project includes the decommissioning of the J.C. Boyle Dam and Powerhouse, Copco No. 1 Dam and Powerhouse, Copco No. 2 Dam and Powerhouse, and Iron Gate Dam and Powerhouse, as well as associated features. Associated features vary by development, but generally include powerhouse intake structures, embankments and sidewalls, penstocks and supports, decks, piers, gatehouses, fish ladders and holding facilities, pipes and pipe cradles, spillway gates and structures, diversion control structures, aprons, sills, tailrace channels, footbridges, powerhouse equipment, distribution lines, transmission lines, switchyards, historic cofferdams, portions of the Iron Gate Fish Hatchery, residential facilities, and warehouses. Facility removal will be completed within an approximately 20-month period. In addition, the Fall Creek Hatchery and the City of Yreka water supply pipeline will be modified.

The License Surrender Project's primary activities to be performed through in-water work include dam and ancillary structure removal, temporary work pad and access road construction, temporary and permanent road/culvert/bridge upgrades, assisted sediment evacuation within the mainstem of the Klamath River and high-priority tributaries, restoration in the former inundated reservoir areas, Klamath River tributary reconnection, City of Yreka water supply line construction, Fall Creek Hatchery modifications, construction of boat ramps at new permanent recreation sites, and adaptive management related to restoration. To access the dams for deconstruction, the Renewal Corporation would perform a controlled reservoir drawdown using both existing and modified infrastructure. Dam demolition would occur over several months using multiple techniques. Please refer to the enclosure document for a summary of activities.

Basic Project Purpose: The basic License Surrender Project purpose comprises the fundamental, essential, or irreducible purpose of the License Surrender Project, and is used by USACE to determine whether the License Surrender Project is water dependent. The basic project purpose is to provide volitional fish passage on the mainstem Klamath River.

Overall Project Purpose: The License Surrender Project purpose serves as the basis for the Section 404(b)(1) alternatives analysis and is determined by further defining the basic License Surrender 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 License Surrender Project purpose is to remove dam associated infrastructure along approximately 41 miles of main stem Klamath River to restore volitional fish passage.

Project Impacts: The Proposed Action would entail the placement of approximately 212,000 cubic yards of fill (permanent and/or temporary) within 20 acres of jurisdictional waters. The License Surrender Project would result in permanent impacts to jurisdictional waters which include but are not limited to, removal of dam embankments and associated structures, placement of fill within powerhouses and tailraces, placement of boulders in the mainstem Klamath River for channel roughness, placement of erosion and protection at the dam sites, removal of reservoir sediments, installation of boat ramps, and bridge installation. Temporary impacts to jurisdictional waters include construction of access roads and work pads to facilitate dam removal, installation of temporary bridges, changes in water quality, and increases in turbidity.

Proposed Mitigation: The License Surrender Project is at its core a restoration project to reestablish the natural river functions and processes, including those of wetland and riparian habitat. As the License Surrender Project is implemented, the exposed reservoir areas will be restored and stabilized to ensure water quality and ecological benefits. As the Klamath River re-establishes its historic channel, off-channel wetlands, floodplain terrace wetlands, and riparian fringe wetlands and habitats are expected to reform naturally along both the mainstem of the Klamath River and along tributaries to the Klamath River that are currently inundated by the reservoirs. The Renewal Corporation analysis estimates that the License Surrender Project will restore approximately 10.1 acres of wetlands and 65.8 acres of riparian habitat at J.C. Boyle reservoir area, 18.9 acres of wetlands and 96.0 acres of riparian habitat at Copco No. 1 reservoir area, and approximately 18.8 acres of wetlands and 47.7 acres of riparian habitat at the Iron Gate reservoir area. The License Surrender Project includes a suite of avoidance and minimization measures that would minimize potential adverse effects from the License Surrender Project. The avoidance and minimization measures address the timing of work, exclusion of sensitive resources, minimization of work footprints, and adaptive management measures to address unpredictable responses of the recovering environment. The applicant will implement Best Management Practices

(BMPs) where practical during in-water work. These measures are included in management plans the Renewal Corporation filed with the FERC on February 26, 2021, as proposed terms and conditions of license surrender. These management plans were prepared in consultation with state and federal regulatory agencies and the tribes and include the following:

1. Aquatic Resources Management Plan
2. Remaining Facilities Plan
3. Construction Management Plan
4. Reservoir Area Management Plan
5. Erosion and Sediment Control Plan
6. Reservoir Drawdown and Diversion Plan
7. Hatcheries Management and Operations Plan
8. Sediment Deposit Remediation Plan
9. Health and Safety Plan
10. Terrestrial and Wildlife Management Plan
11. Historic Properties Management Plan
12. Waste Disposal and Hazardous Materials Plan
13. Interim Hydropower Operations Plan
14. Water Quality Monitoring Management Plan
15. Recreation Facilities Plan
16. Water Supply Management Plan

If approved by the FERC, these measures will be enforceable obligations of the FERC's license surrender order.

Project Alternatives: A wide range of alternatives to the License Surrender Project have been identified and evaluated. The 2020 Final Environmental Impact Report (FEIR) prepared by the California State Water Control Board analyzed six action alternatives: No Project Alternative, Partial Removal Alternative; Continued Operations with Fish Passage Alternative; Three Dam Removal Alternative; Two Dam Removal Alternative; and a No Hatchery Alternative.

No Project Alternative: This alternative involves not removing the Lower Klamath Project. During the short term, the Lower Klamath Project would continue to operate under an annual license until the disposition of the Lower Klamath Project could be determined through the FERC relicensing process. In the short term, the No Project Alternative would not meet the License Surrender Project's underlying objectives.

Partial Removal Alternative: This alternative involves removal of Lower Klamath Project facilities at all four dam complexes to the extent sufficient to allow a free-flowing river. This alternative would therefore meet the underlying

purpose and all the objectives of the License Surrender Project. However, it would leave in place certain facilities described in *Section 4.3.1.1 Alternative Description* of the 2020 FEIR, thereby reducing the construction footprint and potentially the impact to historic resources from implementation of the License Surrender Project.

Continued Operations with Fish Passage Alternative: This alternative would leave the existing J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate dam complexes in place and proceed with relicensing the dams before the FERC for continued operations but incorporating alterations to allow for anadromous fish passage. This alternative includes: volitional, year-round upstream and downstream fish passage at J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate dams; changes to J.C. Boyle operations to increase minimum flows, while limiting peaking flows (and recreation flows) to once per week; Changes to Copco No. 2 operations to increase minimum flows; flows specified in the NMFS and USFWS 2013 Biological Opinion for the USBR Klamath Irrigation Project; court-ordered flushing and emergency dilution flows downstream of Iron Gate Dam which became required after February 2017; and design and implementation of a Reservoir Area Management Plan.

Two Dam Removal Alternative: In this alternative, the Copco No. 1 and Iron Gate dam complexes in California would be fully removed, while the J.C. Boyle dam complex in Oregon and Copco No. 2 dam complex in California would remain in place. This alternative assumes that the J.C. Boyle and Copco No. 2 dam complexes would be relicensed by the FERC for continued operations under federal mandatory conditions, with changes to J.C. Boyle operations to increase minimum flows, eliminate peaking and/or recreational flows, and allow for a seasonal high flow event in late winter/spring, as well as fishway prescriptions to allow for volitional year-round upstream and downstream fish passage.

Three Dam Removal Alternative: In this alternative, the three California Lower Klamath Project dams would be removed, with J.C. Boyle operating under Mandatory Conditions, except that peaking flows would be completely eliminated. This alternative assumes that the J.C. Boyle facility would be relicensed by the FERC for continued operations under federal mandatory conditions, with changes to J.C. Boyle operations to increase minimum flows, eliminate peaking and/or recreational flows, and allow for a seasonal high flow event in late winter/spring,

as well as fishway prescriptions to allow for volitional year-round upstream and downstream fish passage.

No Hatchery Alternative: This alternative is the License Surrender Project, except with no hatchery operation during or after dam removal. The alternative would reduce construction-related impacts of reopening Fall Creek Hatchery and making modifications at Iron Gate Hatchery.

USACE has not endorsed the 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 received a 401 Water Quality Certification from the State of California State Water Resources Control Board, dated April 7, 2020. The applicant has also received a Clean Water Act Section 401 Certification for the Klamath River Renewal Corporation License Surrender and Removal of the Lower Klamath Project (FERC No. 14803) Klamath County, Oregon, dated September 7, 2018, from the State of Oregon.

Water quality issues for California should be directed to the Executive Officer, State Water Resources Control Board, PO Box 100, Sacramento, CA 95814, and Oregon issues should be directed to Oregon Department of Environmental Quality, Attn: Chris Stine, 165 East Seventh Avenue, Suite 100 Eugene, OR 97401, by the close of the comment period.

Coastal Zone Management: The License Surrender Project does not occur in the coastal zone, and a *preliminary* review by USACE indicates the Proposed Action is not likely to affect coastal zone resources. This presumption of effect, however, remains subject to a final determination by the California Coastal Commission.

Coastal zone management issues should be directed to the Federal Consistency Determination Branch, California Coastal Commission, San Francisco Office, 45 Fremont Street, San Francisco, California 94105, by the close of the comment period.

Other Local Approvals:

The Renewal Corporation consulted with the Oregon Department of Environmental Quality (DEQ), the Oregon Water Resource Department, the Oregon Department of State Lands, and the Oregon Department of Fish and Wildlife to develop a MOU (Oregon MOU). The Oregon MOU addresses state laws and regulations relevant to the License Surrender Project and the procedures that the Renewal Corporation will follow to comply with these requirements.

On September 18, 2020, the California Department of Fish and Wildlife (CDFW) and the Renewal Corporation entered into a MOU (CDFW MOU) that establishes proposed management measures to comply with the California Fish and Game Code sections 1600, et seq. and 2080, et seq.

On May 19, 2021, the Renewal Corporation entered into a MOU with Siskiyou County, that addresses matters that fall under the purview of Siskiyou County Code Title 7 – Public Works Chapter 3 (Department of Public Works).

On March 3, 2021, the Renewal Corporation entered into a MOU with Del Norte County, California on the terms and conditions of a MOU that establishes sediment monitoring measures and related mitigation proposals for any sediment impacts to Crescent City Harbor caused by the License Surrender Project.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

Federal Power Act: 18 C.F.R. §6.1-6.2 requires a licensee to file an application for license surrender with the FERC. In 2016, Renewal Corporation filed *Notice of Applications Filed with the Commission*, FERC Accession no. 20161110-3055 seeking FERC's approval for the Surrender of License for Major Project and Removal of Project Works. On March 15, 2018, FERC amended the Klamath Hydropower license. It created the Lower Klamath Project (FERC Project No. 14803), consisting of J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate Developments. On November 18, 2020 the Renewal Corporation filed an Amended License Surrender Application containing the Definite Decommissioning Plan. On February 26, 2021 the Renewal Corporation filed final design specifications and 16 resource management plans.

National Environmental Policy Act (NEPA): FERC is the lead federal agency for the Proposed License

Surrender. As a cooperating agency, USACE will coordinate with FERC, pursuant to 40 C.F.R. Section 1501.8(b) and 1508.7, 33 C.F.R. Part 325, Appendix B, paragraph 8(c), and 33 C.F.R. Section 230.16, to ensure that FERCs resulting NEPA documentation may be adopted by USACE to meet our regulatory authority under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. USACE's 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 Proposed Action. The final USACE 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.

On March 22, 2021, the Renewal Corporation, the FERC's designated non-federal representative for purposes of informal consultation under Section 7, submitted a Draft Biological Assessment (BA) for the Proposed License Surrender in the License Surrender proceeding. On March 31, 2021, NMFS advised FERC that the Draft BA includes sufficient information for the Commission to request initiation of formal consultation under ESA Section 7(a)(2) and 50 CFR 402.14(c) for listed species and designated critical habitat under NMFS jurisdiction. On April 1, 2021, the USFWS advised FERC that the Draft BA includes sufficient information for the Commission to request initiation of formal consultation under ESA Section 7(a)(2) and 50 CFR 402.14(c). As the Federal lead agency for the License Surrender Project, the FERC will conduct a review of existing natural diversity databases for both states, 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, the FERC will make 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: the federally-threatened Southern Oregon Northern California Coast coho salmon (*Oncorhynchus kisutch*) and its critical habitat, threatened Southern Distinct Population Segment

(DPS) green sturgeon (*Acipenser medirostris*) and its critical habitat, threatened Southern DPS Eulachon (*Thaleichthys pacificus*) and its critical habitat, endangered Lost River sucker (*Deltistes luxatus*) and its critical habitat, endangered shortnose sucker (*Chasmistes brevirostris*) and its critical habitat, threatened bull trout (*Salvelinus confluentus*) and its critical habitat, threatened northern spotted owl (*Strix occidentalis caurina*) and its critical habitat, threatened Oregon spotted frog (*Rana pretiosa*) and its critical habitat, and endangered Southern Resident killer whale (*Orcinus orca*) and its critical habitat (proposed revision).

To address project related impacts to these species and designated critical habitat, the FERC will initiate formal consultation with NMFS and USFWS, 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 Proposed Action.

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 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 the License Surrender Project, the FERC will conduct a review of digital maps prepared by NMFS depicting EFH to determine the presence or absence of EFH in the License Surrender Project area. Based on this review, FERC will make a *preliminary* determination that EFH is present at the License Surrender Project location or in its vicinity and that the critical elements of EFH may be adversely affected by project implementation.

EFH has been designated for three species of salmon, 83 groundfish species, and five pelagic species in the License Surrender Project Area. EFH includes freshwater, estuarine and marine waters for salmon, and marine waters for coastal pelagic and groundfish species.

To address project related impacts to EFH, FERC 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 Proposed Action.

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 Greater Farallones (Cordell Bank and 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. The License Surrender Project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the Proposed Action 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, FERC will conduct 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 License Surrender Project Area. Based on this review, FERC will make a *preliminary* determination that historic or archaeological resources are present in the License Surrender Project Area and that such resources may be adversely affected by the License Surrender Project.

On February 26, 2021, the Renewal Corporation submitted a Draft Historic Properties Management Plan (HPMP) for the License Surrender Project in the License Surrender proceeding. On March 22, 2021, the Renewal Corporation submitted a Draft Memorandum of Agreement

Between the Federal Energy Regulatory Commission and the California State Historic Preservation Office the Oregon State Historic Preservation Office (MOA) to the FERC in the License Surrender proceeding. USACE has been invited to concur in the MOA.

To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the License Surrender Project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the Proposed Action. If unrecorded archaeological resources are discovered during implementation of the Proposed Action, those operations affecting such resources will be temporarily suspended until the FERC 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 Proposed Action is dependent on location in or proximity to waters of the United States to achieve the basic project purpose. The USACE will review the project alternatives analysis.

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 Proposed Action 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 Proposed Action must be balanced against any reasonably foreseeable detriments of implementation of the Proposed Action. 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 Proposed Action. 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 Proposed Action. 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 Proposed Action.

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 Proposed Action 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>.

