



US Army Corps  
of Engineers®  
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division  
1455 Market Street, 16<sup>th</sup> Floor  
San Francisco, CA 94103-1398

# PUBLIC NOTICE

PROJECT: Western Drainage Sediment Removal

PUBLIC NOTICE NUMBER: **2012-00021N**

PUBLIC NOTICE DATE: June 15, 2013

COMMENTS DUE DATE: July 15, 2013

PERMIT MANAGER: Roberta Morganstern

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**1. INTRODUCTION:** The Wildlands Conservancy (POC: Dan York: 661-858-1115), 39611 Oak Glen Road Bldg. #12, Oak Glen, California 92390 through its consultant, David Clendenen (telephone: 661-858-1115), has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to remove sediment from the Western Drainage Ditch and discharge on top of the berm located to the east of the ditch. This Department of the Army permit application is being processed pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*).

## 2. PROPOSED PROJECT:

**Project Site Location:** The 1,087 acre parcel, formerly identified as the "Connick Ranch" is located 4 miles west of Ferndale in Humboldt County, California. A vicinity map and location map are at the end of this notice. The west side of the parcel abuts near shore dunes, one mile north of Centerville Beach. The northern property boundary borders the Salt River (joining the Eel River estuary a half mile north). The project location is the Western Drainage Ditch, paralleling the near shore dunes along the coast and discharging into Cutoff Slough, a Salt River drainage feature. Access to the project location is from Russ Lane, one of the agricultural parcels surrounding the property.

**Project Site Description:** Management as farmland over the previous century has altered drainage and the natural landscape. Drainage flows to the northwest although much of the ground surface elevation is below sea level. Drainages have been constructed to maintain existing agriculture and prevent salt water inundation to adjacent farm fields. Historic practices removed sediment from the drainage ditch to maintain a depth of 7 feet and

width of 11 feet. Removed sediment had been placed on the eastern levee top which remains above the high tide line and outside Corps jurisdiction.

**Project Description:** As shown in the attached drawings, the applicant proposes to remove sediment and sand carried with high waves over normally protective dunes into the Western Drainage Ditch. It is during the winter solstice which combines greater frequency of rain resulting in higher tides that may overtop and/or breach the fore dune that sediment build up occurs. It is at this time only that sediment removal could take place. The excavated material would be disposed of on the eastern levee top adjacent to the ditch. The soil conditions of the berm indicate that historic placement of excavated material on the levee top has occurred. The amount of sediment may be up to 10,000 cubic yards depending on weather variability. The Wildlands Conservancy are actively engaged in discussions with local agencies and hydraulic engineers to develop a long term sustainable solution.

**Project Impacts:** A maximum amount of 10,000 cubic yards of sediment would be excavated from Western Drainage Ditch and placed along as much as 2,000 linear feet of upland levee top in an estimated two years out of three.

**Project Alternatives:** The applicant has submitted a description of events if the Western Drainage Ditch does not receive continued maintenance. The No Action alternative would result in salt water inundation to surrounding farm lands. The Corp will conduct an independent alternatives analysis pursuant to NEPA

## 3. STATE AND LOCAL APPROVALS:

**Water Quality Certification:** State water quality certification or a waiver 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.*). 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 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. The applicant is engaged in discussion with Coastal Commission representatives and demonstration of a Consistency Determination prior to issuance of a Corps permit would be necessary to comply with the requirement.

**Other Local Approvals:** The applicant will be applying for required agency approval following plan development.

#### 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. Parts 1500-1508, and USACE Regulations at 33 C.F.R. Part 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of USACE and other non-regulated activities USACE determines to be within its purview of Federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Department of the Army Permit for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Regulatory Division.

**Endangered Species Act (ESA):** Section 7(a)(2) of the ESA of 1973, as amended (16 U.S.C. § 1531 *et seq.*), requires Federal agencies to consult with either the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to ensure actions authorized, funded, or undertaken by the agency are not likely to jeopardize the continued existence of any Federally-listed species or result in the adverse modification of designated critical habitat. As the Federal lead agency for this project, USACE has conducted a review of existing data to determine that it is possible that tidewater goby (*Eucyclogobius newberryi*) may be present in the project area and has initiated formal consultation with FWS on January 31, 2013. Informal consultation will be initiated with NMFS for federally listed Southern Oregon/Northern California Coastal (SONCC) Evolutionarily Significant Unit (ESU) coho salmon (*Oncorhynchus kisutch*), the Northern California (NC) Distinct Population Segment (DPS) steelhead (*O. mykiss*), the California Coastal (CC) ESU Chinook salmon (*O. tshawytscha*) and the Southern Distinct Population Segment (DPS) green sturgeon (*Acipenser medirostris*).

**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*, and the *Pacific Coast Salmon FMP*. Based on this review, USACE has made a *preliminary* determination that EFH is present at the project location and in its vicinity. USACE will initiate informal consultation with NMFS and incorporate their comments into the authorization.

**Marine Protection, Research, and Sanctuaries Act (MPRSA):** Section 302 of the MPRS 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 the required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project would not likely affect sanctuary resources. This presumption of effect, however, remains subject to a final determination by the Secretary of Commerce, or his designee.

**National Historic Preservation Act (NHPA):** Section 106 of the NHPA of 1966, as amended (16 U.S.C. § 470 *et seq.*), requires Federal agencies to consult with the appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places*. Section 106 of the Act further requires Federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance. As the Federal lead agency for this undertaking, USACE has conducted a review of latest published version of the *National Register of Historic Places*, survey information on file with various city and county municipalities, and other information provided by the applicant, to determine the presence or absence of historic and archaeological resources within the permit area. Based on this review, USACE has made a *preliminary* determination that historic or archaeological resources are not likely to be present in the permit area,

and that the project either has no potential to cause effects to these resources or has no effect to these resources. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, and Native American Nations or other tribal governments

**5. 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.

**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 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 of the project.

**7. SUBMITTING COMMENTS:** During the specified comment period, interested parties may submit written comments to Roberta Morganstern San Francisco District, Regulatory Division, 1455 Market Street, 16<sup>th</sup> Floor, San Francisco, California 94103-1398; 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 *Current Public Notices* tab on the USACE website: <http://www.spn.usace.army.mil/regulatory/>.