



US Army Corps
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San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

PUBLIC NOTICE

PROJECT: Humboldt Bay Power Plant (HBPP) Intake and Discharge Canal Remediation

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COMMENTS DUE DATE: December 20, 2013

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1. **INTRODUCTION:** Pacific Gas and Electric Company (POC: Mark Smith, 707-444-0844), 1000 King Salmon Avenue, Eureka, California 95503, through its agent, CH2M HILL (POC: Douglas Davy, 916-286-0278), 2485 Natomas Park Drive, Suite 600, Sacramento, California 95608, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to conduct work and discharge fill material into waters of the United States in association with the removal of contaminated sediment from the intake and discharge canals that formerly served as part of the once-through cooling system of the Humboldt Bay Power Plant. 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.*).

2. PROPOSED PROJECT:

Project Site Location: The Humboldt Bay Power Plant (HBPP) is located at 1000 King Salmon Avenue, Eureka, Humboldt County, California (APNs 305-131-34 and 305-131-35); Latitude: 40.7406°N, Longitude - 124.2106°W. The power plant's associated intake and discharge canals extend landward from the mouth of Humboldt Bay into the HBPP property which is located just west of Highway 101.

Project Site Description: The project area is a 5-acre portion of the HBPP property (see Figure 1), that includes the intake and discharge canals and areas of potential ground disturbance around the canals and associated structures (e.g., intake structure, outfall structure, and sheet pile wall in Humboldt Bay to isolate the outfall structure). There are 2.89 acres of non-wetland waters of

the United States within the project area, consisting of the open water portions of the intake canal (1.86 acres), the discharge canal (0.78 acre), and a portion of Humboldt Bay (0.25 acre). The intake and discharge canals each contain a sparse amount of submerged aquatic vegetation (eelgrass). Additionally, there is 0.14 acre of wetland waters of the U.S. comprised of palustrine emergent wetlands (dominated by common spike rush, tufted hairgrass, and common rush) adjacent to the discharge canal.

Project Description: As shown in the attached drawings (Figures: 2, and 5 through 9), the applicant proposes to conduct work and discharge fill material into waters of the United States within areas known as the intake and discharge canals. The work is associated with PG&E's decommissioning of the 143-acre HBPP property. Part of the decommissioning involves the currently-proposed canal remediation project, which would remove contaminated sediment from the HBPP intake and discharge canals. Work within Corps jurisdiction would include: installation of water controls (installing water control structures in the intake canal, plugging the outfall pipes of the discharge canal, isolating and severing the circulation water piping, dewatering the canals, and installing a coffer dam in Humboldt Bay to isolate discharge canal levee and outfall pipes); removal of sediment (mechanically removing contaminated sediments from the intake and discharge canals, and managing and dewatering the removed sediments); demolition of the intake and discharge structures; recontouring of the canals; replacement of the levee between the discharge canal and Humboldt Bay (permanently sealing off the discharge canal from Humboldt Bay); removal of the water control structures; and temporary (approximately 4 years) usage of the remediated discharge canal for storage

of clean soils (approximately 28,000 cubic yards) generated by the decommissioning project.

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 purposes are soil remediation and soil storage.

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 remediate sediment within the intake and discharge canals that formerly served as part of the once-through cooling system of the Humboldt Bay Power Plant, and to store clean soils generated by the decommissioning project in the vicinity of the power plant.

Project Impacts: The project would temporarily impact 0.57 acre of non-wetland waters of the U.S. within the intake canal, while the area is dewatered and the contaminated sediment (approximately 1000 cubic yards) is removed. The project would permanently impact 0.78 acre of non-wetland waters of the U.S. within the discharge canal, which would be permanently sealed off from Humboldt Bay and would be used for soil storage for approximately 4 years following the removal of approximately 8,000 cubic yards of contaminated riprap and sediment. Approximately 0.17 acre of non-wetland waters of the U.S. within Humboldt Bay would be temporarily impacted, while work to remove the discharge canal outfall pipes is conducted. Approximately 0.14 acre of wetland waters of the U.S. would be permanently impacted by the work within the discharge canal.

Proposed Mitigation: PG&E intends to avoid impacts to waters of the U.S. to the maximum extent practicable in removing the contaminated sediment. Minimization measures include plans to re-contour the intake canal such that impacts to the aquatic environment are only temporary in nature, and the applicant plans to follow appropriate best management practices during project implementation. A final compensatory mitigation and monitoring plan consistent with USACE's mitigation regulations (33 C.F.R. Part 332) will need to be submitted and approved prior issuing a permit decision.

Project Alternatives: USACE will be evaluating an alternatives analysis in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347) and to ensure compliance with the Section 404(b)(1) Guidelines (40 C.F.R. Part 230).

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.*). The applicant is hereby notified that, unless USACE is provided documentation indicating a complete application for water quality certification has been submitted to the California Regional Water Quality Control Board (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, 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. Since the project occurs in the coastal zone or may affect coastal zone resources, the applicant has applied for a Consistency Certification 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, 710 E Street, Suite 200, Eureka, California 95501, by the close of the comment period.

Other Local Approvals: The applicant has applied for the following additional governmental authorization for the project: a permit for construction on the shore of Humboldt Bay from the Humboldt Bay Harbor, Recreation, and Conservation District.

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 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 are present at the project location or in its vicinity, and may be affected by project implementation. The project site contains areas which may contain federally-listed threatened Southern Oregon/Northern California Coast coho salmon (*Oncorhynchus kisutch*, coho salmon), California Coastal Chinook salmon (*Oncorhynchus tshawytscha*, Chinook salmon), Northern California steelhead (*Oncorhynchus mykiss*, steelhead), and Southern DPS green sturgeon (*Acipenser medirostris*, green sturgeon) and which are designated as critical habitat for the above mentioned species. Additionally, the project site contains areas which may contain federally-listed endangered tidewater goby (*Eucyclogobius newberryi*), and federally-listed threatened marbled murrelet (*Brachyramphus marmoratus*) and western snowy plover (*Charadrius alexandrinus nivosus*). 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 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*, and the *Pacific Coast Salmon FMP* which includes the northern anchovy, Pacific sardine, salmonids, and flatfishes. 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. The project could potentially adversely affect Essential Fish Habitat (EFH) for various life stages of fish species managed with the Pacific Groundfish Fishery Management Plan, Coastal Pelagics Fishery Management

Plan, and Pacific Coast Salmon Fishery Management Plan. This determination is based on the fact the activities could result in the temporary loss of approximately 0.02 acre of submerged aquatic vegetation (eelgrass) within the excavation area of the intake canal, and the permanent loss of spawning and foraging habitat within the discharge canal. 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.

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. 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 canal remediation portion of the project is 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 practicable alternative to the project that would result in less adverse impact to the aquatic ecosystem, while not causing other major adverse environmental consequences. An evaluation pursuant to the Guidelines indicates the soil storage portion of 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 of the project.

8. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to David Wickens, San Francisco District, Regulatory Division, 1455 Market Street, 16th 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 *Public Notices* tab on the USACE website: <http://www.spn.usace.army.mil/Missions/Regulatory>.

