



US Army Corps  
of Engineers®  
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division  
450 Golden Gate Ave., 4<sup>th</sup> Floor  
San Francisco, CA 94102-3406

# PUBLIC NOTICE

PROJECT: Napa County Water Stream Maintenance Program (SMP)

PUBLIC NOTICE NUMBER: SPN-2019-00081

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1. **INTRODUCTION:** Napa Flood Control and Water Conservation District (District) (POC: Michael Gordon, 707-259-8600), 804 First Street, Napa, California 94559, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Regional General Permit to conduct routine stream maintenance activities in flood control channels and other channels covered by a maintenance agreement or easement, in Napa County, California. This Department of the Army permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*) 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 proposed work would occur in the Napa River and its tributaries and channel reaches in Napa County (Enclosure 1). Some key Napa River tributaries and flood control facilities that are more frequently maintained include: Sulphur Creek, Canon Creek, York Creek, Beard Ditch, Hopper Creek, Yountville Outfall and Collector, Dry Creek, Salvador Collector (Solano Ditch), Sheehy Creek, and Fagan Creek. The Napa County Stream Maintenance Program (SMP or maintenance program) also includes creeks in the City of American Canyon region including American Canyon Creek, Newell Creek, Walsh Creek, and Rio Del Mar. The program area also includes routine maintenance at road creek crossings and culverts throughout the County; other affected water bodies include tributaries and creeks within the Putah Creek and Suisun Creek watersheds.

**Project Site Description:** The waterways covered in the program are comprised of four different channel types: 1) engineered channels and “collectors”; 2) modified

channels; 3) semi modified channels; and 4) natural streams. Engineered flood control channels are typically v-shaped or trapezoidal channels (or ditches where they are small). In some locations, such channels are referred to as “collectors” where they may typically collect runoff from other small local drainages, often running parallel to major roads. Modified channels are channels that have been widened or straightened to increase channel conveyance capacity, but not necessarily engineered to a specific design flow or specification. In comparison to modified channels, semi-modified channels typically have natural, unmodified stream beds and support a higher percentage of native vegetation to non-native vegetation, and a moderate to mature riparian corridor. The banks of these channels may have been modified to prevent flooding or bank erosion.

**Project Description:** The SMP includes the following primary activities: vegetation management including invasive plant management, tree maintenance, and downed tree management; erosion protection and bank stabilization; sediment and debris removal; and small habitat enhancement projects. Sediment management refers to the removal of excess accumulated sediment from engineered flood control channels and facilities. Vegetation management refers to the trimming, mowing, and removal of vegetation within the flood control channels and other constructed facilities. Vegetation management activities are conducted to maintain flow conveyance capacity, establish a canopy of riparian trees, control invasive vegetation, remove hazardous vegetation, reduce fire fuel, and increase visibility for public safety. Bank stabilization refers to the repair and stabilization of stream or reservoir banks and is undertaken when a bank is weakened, unstable, or failing. In addition to these primary activities conducted in District, County, or City owned flood control channels, the SMP includes routine maintenance activities

on unpaved roads in upland areas of the County, routine maintenance work at restoration projects along the Napa River, sediment rehandling sites, and flood reduction features of the Flood Protection Project. A SMP Manual has been developed to provide guiding policies and specific direction on approach for the implementation of maintenance activities.

**Basic Project Purpose:** The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by USACE to determine whether the project is water dependent. The basic project purpose is to reduce flood risk.

**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 maintain the flow conveyance capacity of District channels and the structural and functional integrity of their facilities, while also preserving public safety, water quality, and aquatic habitat values.

**Project Impacts:** Impacts from the program would result mostly from bank stabilization, sediment removal, and vegetation management. In jurisdictional waters within the SMP area that are regulated by USACE under Section 404 of the CWA, these three major work activities involve temporary fill impacts related to construction access and dewatering of the channel. Bank stabilization projects may also entail permanent fill impacts within the channel for erosion protection.

**Proposed Mitigation:** Chapter 4 of the SMP manual describes the program's avoidance and minimization measures along with best management practices. Additionally, the applicant has developed a mitigation approach to compensate for the permanent loss of habitat functions and services. Where feasible, the preference is to implement mitigation on-site, immediately adjacent or near the maintenance site, or within the same watershed.

**Project Alternatives:** Evaluation of this proposed activity's impacts includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is not water dependent.

### 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 submitted applications to the California Regional Water Quality Control Boards (RWQCB) and obtained water quality certifications for the project.

Water quality issues should be directed to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612.

**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 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 project does not occur in the coastal zone, and a *preliminary* review by USACE indicates the project is not likely to affect coastal zone resources. This presumption of effect, however, remains subject to a final determination by the San Francisco Bay Conservation and Development Commission.

**Other Local Approvals:** The applicant will be applying for the following additional governmental authorizations for the project: The applicant currently has a Lake and Streambed Alteration Agreement issued by the California Department of Fish and Wildlife.

### 4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

**National Environmental Policy Act (NEPA):** Upon review of the Department of the Army permit application and other supporting documentation, USACE has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of

NEPA. At the conclusion of the public comment period, USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347), the Council on Environmental Quality's regulations at 40 C.F.R. § 1500-1508, and USACE regulations at 33 C.F.R. § 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of USACE and other non-regulated activities USACE determines to be within its purview of Federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Department of the Army Permit for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Regulatory Division.

**Endangered Species Act (ESA):** Section 7(a)(2) of the ESA 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: Steelhead (*Oncorhynchus mykiss*), Central California Coast (CCC) Distinct Population Segment (DPS); Delta smelt (*Hypomesus transpacificus*); Green Sturgeon (*Acipenser medirostris*), Southern DPS; threatened; California clapper rail (*Rallus longirostris obsoletus*); California Least Tern (*Sterna antillarum browni*); Northern Spotted Owl (*Strix occidentalis caurina*); Western Snowy Plover (*Charadrius alexandrinus nivosus*); Salt-marsh harvest mouse (*Reithrodontomys raviventris*); California red-legged frog (*Rana draytonii*); California Freshwater Shrimp (*Syncaris pacifica*); valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*); vernal pool fairy shrimp (*Branchinecta lynchi*); Clara Hunt's milk-vetch (*Astragalus clarianus*);

Contra Costa goldfields (*Lasthenia conjugens*); Keck's checkerbloom (*Sidalcea keckii*); Sebastopol meadowfoam (*Limnanthes vincularis*); and Soft bird's-beak (*Cordylanthus mollis ssp. mollis*). To address project related impacts to Federally-listed species and designated critical habitat, USACE, as the Federal lead agency for the SMP, initiated formal consultations with the USFWS and NMFS, pursuant to Section 7(a) of the ESA. 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*, 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 at the project location or in its vicinity and that the critical elements of EFH may be adversely affected by project implementation. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

**Marine Protection, Research, and Sanctuaries Act (MPRSA):** Section 302 of the MPRSA of 1972, as amended (16 U.S.C. § 1432 *et seq.*), authorizes the Secretary of Commerce, in part, to designate areas of ocean waters, such as the Cordell Bank, Gulf of the Farallones, and Monterey Bay, as National Marine Sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the Act. No Department of the Army Permit will be issued until the applicant obtains any required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project is not likely to affect sanctuary resources. This presumption of effect, however, remains

subject to a final determination by the Secretary of Commerce or his designee.

**National Historic Preservation Act (NHPA):** Section 106 of the NHPA of 1966, as amended (16 U.S.C. § 470 *et seq.*), requires Federal agencies to consult with the appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places*. Section 106 of the Act further requires Federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance. As the Federal lead agency for this undertaking, USACE has conducted 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 permit area. Based on this review, USACE has made a *preliminary* determination that historic or archaeological resources are present in the permit area. However, with the implementation of program best management practices, no adverse effects are expected to result from the implementation of the program activities. 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, Tribal Historic Preservation Officers, 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 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 submitted an analysis of project alternatives which is being reviewed by USACE.

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

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

**8. SUBMITTING COMMENTS:** During the specified comment period, interested parties may submit written comments to L. Kasey Sirkin, San Francisco District, Regulatory Division, 601 Startare Drive, Eureka, California 95501; comment letters should cite the project name, applicant name, and public notice number to facilitate

review by the Regulatory Permit Manager. Comments may include a request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. Additional project information or details on any subsequent project modifications of a minor nature may be obtained from the applicant and/or agent or by contacting the Regulatory Permit Manager by telephone or e-mail (cited in the public notice letterhead). An electronic version of this public notice may be viewed under the *Public Notices* tab on the USACE website: <https://www.spn.usace.army.mil/Missions/Regulatory>.