



US Army Corps
of Engineers®
San Francisco District

Regulatory Division
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SAN FRANCISCO DISTRICT

PUBLIC NOTICE

PROJECT: Searsville Watershed Restoration Project

Notice of Intent to Prepare a Joint Draft Environmental Impact Statement/Environmental Impact Report

PUBLIC NOTICE NUMBER: SPN-2013-00048
PUBLIC NOTICE DATE: February 8, 2023
COMMENTS DUE DATE: April 7, 2023

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1. **INTRODUCTION:** Stanford University (POC: Karla Smith, karlat@stanford.edu), 340 Bonair Siding, Stanford, CA 94305, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit for the Proposed Searsville Watershed Restoration Project, on Stanford lands in Santa Clara and San Mateo Counties, California. This Department of the Army permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (CWA) of 1972, as amended (33 U.S.C. § 1344 *et seq.*) and Section 10 of the Rivers and Harbors Act (RHA) of 1899, as amended (33 U.S.C. § 403 *et seq.*). The project will also require USACE review pursuant to Section 14 of the RHA (33 U.S.C. § 408 *et seq.*).

USACE, as the lead agency under the National Environmental Policy Act (NEPA), and the California Department of Water Resources (DWR), as the lead agency under the California Environmental Quality Act (CEQA), will prepare a joint Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR). A Notice of Intent to prepare an EIS/EIR was published in the Federal Register on February 7, 2023 (<https://www.federalregister.gov/d/2023-02564>).

Affected Federal, State, regional, and local agencies; Native American Tribes; other interested private organizations; and the general public are invited to participate in the NEPA scoping process. USACE is requesting comments on potential alternatives, information,

and analyses relevant to the proposed action, and scope and content of the EIS/EIR.

Two virtual public scoping meetings will be held on February 28, 2023 to present information to the public and to receive comments from the public on the proposed project, alternatives, and the scope of the environmental analysis. The meetings will be presented via Zoom from 3:00-4:30 pm:

(<https://kearnswest.zoom.us/j/82343204260>)

and 6:00-7:30 pm:

(<https://kearnswest.zoom.us/j/89875146206>)

Any changes to the scoping meetings will be posted to the USACE San Francisco District website (<https://www.spn.usace.army.mil/Missions/Regulatory/Public-Notices/>).

2. PROPOSED PROJECT:

Project Site Location: The proposed project includes multiple components throughout the San Francisquito Creek Watershed, including modification of Searsville Dam and Reservoir (37.4072 °N, -122.238 °W) and restoring reaches of Corte Madera Creek and San Francisquito Creek upstream and downstream of the dam, expanding Felt Reservoir (37.3949 °N, -122.1856 °W), and upgrading the existing San Francisquito Creek pump station (37.4226 °N, -122.1883 °W). The project would also have potential indirect effects on the entire 12-mile reach of San Francisquito Creek from Searsville Dam downstream to the mouth at San Francisco Bay (figure 1).

Project Description: Searsville Reservoir is an artificial impoundment created by the construction of Searsville Dam in 1891 on Corte Madera Creek, just upstream of the confluence where it joins with Bear Creek and forms San Francisquito Creek. Stanford owns and operates the Searsville Reservoir and Dam, the San Francisquito Creek Pump Station, and Felt Reservoir and uses these facilities to supply non-potable water for irrigation, stock watering, and fire suppression. Since construction of the dam, Searsville Reservoir has been filling with sediment, and water storage capacity has been reduced from about 1,200 acre-feet to about 100 acre-feet. The reservoir is expected to eventually fill completely with sediment, at which point sediment originating in the upper watershed will pass over the dam and deposit downstream in San Francisquito Creek, increasing the risk of flooding.

To address these issues, Stanford has proposed a multi-phase project with the following components (figure 2): (1) constructing a gated tunnel through Searsville Dam to allow controlled flushing of a substantial amount of trapped sediment, restore natural sediment transport, reestablish fish passage conditions, and improve ecosystem function; (2) restoring a confluence valley supporting a variety of habitats above Searsville Dam; (3) constructing channel improvements to facilitate fish passage conditions below Searsville Dam, through the proposed tunnel, and in restored creek channels upstream of the dam; (4) constructing sediment trapping, habitat improvement, and bank stabilization features on Corte Madera and San Francisquito Creeks between Searsville Dam and I-280; (5) relocating the existing point of diversion at Searsville Reservoir to the San Francisquito Creek Pump Station site and modifying the Pump Station to accommodate increased diversions to Felt Reservoir; and (6) constructing a new dam at Felt Reservoir north of the existing dam in order to expand the reservoir's capacity from approximately 900 acre-feet to a total of 1,800 acre-feet. All of these components would require CWA Section 404 authorization. The controlled flushing of accumulated sediment from Searsville Reservoir into the lower reaches of San Francisquito Creek would also require authorization under RHA Section 10 in tidal reaches, and separate Section 408 review under RHA Section 14 in reaches that are currently under study for Federal flood risk management projects.

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 ecological restoration of San Francisquito Creek and water supply reliability.

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 restore hydrogeomorphic processes, riparian habitat, and fish passage conditions within the upper San Francisquito Creek watershed; to avoid increasing future flood risk associated with Searsville Reservoir filling with sediment, and to replace Searsville Reservoir's historic non-potable water storage and supply while improving seismic safety at Felt Reservoir.

Project Alternatives: Multiple alternatives, including the no action alternative and the Applicant's preferred alternative (proposed project) will be evaluated. Additional alternatives to be analyzed currently include:

- **Dam Removal:** similar to the proposed project, except the dam would be removed completely after sufficient sediment has been flushed, and offstream detention basins would be constructed adjacent to San Francisquito Creek downstream of Searsville Dam to provide flood attenuation; also includes Felt Reservoir and Pump Station components described for proposed project.
- **Bypass Channel:** restore fish passage and sediment transport by constructing a bypass channel around Searsville Dam; accumulated sediment in the reservoir would be left in place, and detention basins would be built as described above; also includes Felt Reservoir and Pump Station components described for proposed project.

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.*). 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 certifying authority fails or refuses to act on a complete application for water quality certification within a reasonable period of time determined by USACE.

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, 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 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.

Coastal zone management issues should be directed to the Executive Director, San Francisco Bay Conservation and Development Commission, 375 Beale St., Suite 510, San Francisco, CA 94105 by the close of the comment period.

Other Local Approvals: The applicant has been coordinating with the California Department of Fish and Wildlife regarding a Lake and Streambed Alteration Agreement for the project, as well as the San Francisquito Creek Joint Powers Authority regarding potential effects to planned flood risk management projects in the downstream reaches of San Francisquito Creek.

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 determined that the project requires the preparation of an Environmental Impact Statement pursuant to 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. USACE will invite the National Marine Fisheries Service to participate as a cooperating agency in the preparation of the EIS/EIR. USACE will also work closely with the DWR, as lead CEQA agency, in the preparation of the joint EIS/EIR.

The EIS/EIR will analyze the environmental consequences of construction, operation, and maintenance of reasonable alternatives carried forward for detailed analysis. Potentially significant issues to be analyzed include effects on aesthetics and visual resources; air quality and greenhouse gas emissions; biological resources including wetlands and special status species; cultural and tribal cultural resources; energy; environmental justice and socioeconomic; geology, soils and paleontology; hazardous materials and wildfire; flood risk, hydrology, and water quality; land use, agricultural and forestry resources; noise and vibration; population and housing; transportation; and utilities and public services. The draft EIS/EIR is scheduled to be available for public review and comment in October 2023. A subsequent public notice will be published when the draft EIS/EIR is available for public comment. The decision-making process for the related permitting action will not be completed until all NEPA requirements have been met.

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 in the project vicinity and may be affected by project implementation.

- Steelhead (*Oncorhynchus mykiss*, Central California Coast ESU) and critical habitat are present in San Francisquito Creek downstream of Searsville Dam.
- California red-legged frogs (*Rana draytonii*) occur in upper San Francisquito Creek watershed upstream of Searsville Reservoir, but have not been documented in the project area in recent decades.
- California tiger salamanders (*Ambystoma californiense*) occur around Lake Lagunita and other undeveloped Stanford lands northeast of I-280, but are not likely to occur in the project area.
- Bay checkerspot butterflies (*Euphydryas editha bayensis*) and critical habitat are present on Jasper Ridge east of Searsville Reservoir and south of San Francisquito Creek, but are not likely to occur in the project area.

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 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 in the lower tidal reach of San Francisquito Creek and may be adversely affected by project implementation. To address project related impacts to EFH, USACE will initiate

consultation with NMFS, pursuant to Section 305(b)(2) of the MSFCMA. 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): The MPRSA of 1972, as amended (16 U.S.C. § 1431 *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 (54 U.S.C. § 306108), 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 and that such resources may be adversely affected by the project. To address project related impacts to historic or archaeological resources, USACE will initiate consultation with the State Historic Preservation Officer or the Tribal

Historic Preservation Officer, pursuant to Section 106 of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project. 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 (40 C.F.R. pt. 230) 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 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 impacts to the aquatic ecosystem while not causing other major adverse environmental consequences. 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 in the project.

8. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to Greg Brown, San Francisco District, Regulatory Division, 450 Golden Gate Avenue, 4th Floor, San Francisco, California 94102-3404, or by email to gregory.b.brown@usace.army.mil. Requests to be placed on the email or surface mail notification lists should also be sent to this address. 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>.