



PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

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APPLICATION FOR REGIONAL GENERAL PERMIT City of San Marcos Storm Channel Maintenance Project

Public Notice/Application No.: SPL-2010-00371-RJV

Project: City of San Marcos Storm Channel Maintenance Project

Comment Period: Dec 31, 2013 – Jan 30, 2014

Project Manager: Richard J. Van Sant III; 760-602-4837; Richard.J.Vansant@usace.army.mil

Applicant

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Location

The project will take place within various storm channel facilities (e.g., culverts, storm outlets and inlets, channels, basins, etc.) throughout the city of San Marcos, San Diego County, California (see attached map).

Activity

The city of San Marcos is applying for a Regional General Permit (RGP) to conduct maintenance activities within several storm channel facilities. Maintenance activities would occur annually or as needed. For more information see page 3 of this notice.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawings. We invite you to review today's public notice and provide views on the proposed work. By providing substantive, site-specific comments to the U.S. Army Corps of Engineers (Corps) Regulatory Division, you provide information that support the Corps' decision-making process. All comments received during the comment period become part of the record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied under Section 404 of the Clean Water Act. Comments should be mailed to:

U.S. Army Corps of Engineers - Los Angeles District
Regulatory Division, Carlsbad Field Office
Attn: SPL-2010-00371-RJV

5900 La Place Court, Suite 100
Carlsbad, CA 92008

Alternatively, comments can be sent electronically to: Richard.J.Vansant@usace.army.mil

The mission of the Corps Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable waters and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general

environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

Water Quality- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the San Diego Regional Water Quality Control Board (Regional Board). Section 401 requires that any applicant for a Section 404 permit provide proof of water quality certification to the Corps prior to permit issuance. The City of San Marcos submitted a 401 application for the proposed project to the Regional Board in August 2011 and a revised application in August 2013.

Coastal Zone Management- For those projects in or affecting the coastal zone, the Federal Coastal Zone Management Act requires that prior to issuing the Corps authorization for the project, the applicant must obtain concurrence from the California Coastal Commission that the project is consistent with the State's Coastal Zone Management Plan. This project is located outside the coastal zone and preliminary review indicates that it would not affect coastal zone resources. After a review of the comments received on this public notice and in consultation with the California Coastal Commission, the Corps will make a final determination of whether this project affects coastal zone resources.

Essential Fish Habitat- Preliminary determinations indicate the proposed activity would not adversely affect essential Fish Habitat. Therefore, formal consultation under Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) is not required at this time.

Cultural Resources- The latest version of the National Register of Historic Places has been consulted and the project site does not contain any resources. In addition, the Corps sent a consultation letter to the State Historic Preservation Officer (SHPO) on September 28, 2011 requesting concurrence that the project would have no effect to historic resources, based on research and a pedestrian survey conducted by ASM Affiliates. The SHPO did not respond to the request, therefore the Corps has assumed the SHPO's concurrence, per 36 CFR 800.3(c)(4).

Endangered Species- Preliminary determinations indicate that the proposed activity would not affect federally-listed endangered or threatened species, or their critical habitat. Maintenance activities that occur within suitable habitat for least Bell's vireo (*Vireo bellii pusillus*) will occur outside the breeding season, when the bird has migrated south. No Corps regulated activities will occur in designated critical habitat. Therefore, formal consultation under Section 7 of the Endangered Species Act does not appear to be required at this time.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

Basic Project Purpose- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent (i.e., requires access or proximity to or siting within the special aquatic site to fulfill its basic purpose). Establishment of the basic project purpose is necessary only when the proposed activity would discharge dredged or fill material into a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). The basic project purpose for the proposed project is maintenance of storm conveyance facilities. The project is water dependent.

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' 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, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for the proposed project is to maintain existing storm conveyance facilities within the city of San Marcos.

Additional Project Information

Baseline information- The first facility where maintenance is proposed is within the Mulberry Basin (BAS001, INL10359, OUT10229) located along Mulberry Drive between Vereda Road and Meadowview Lane. This maintenance area consists of approximately 0.13 acre of Corps wetlands vegetated with southern willow scrub and is bordered by residential development to the north, west, and south, and a park and residential development to the east. Mulberry basin is approximately 400 linear feet in length and collects water from nearby residential development. Water leaving the basin flows through underground pipes for approximately ½ mile before discharging into San Marcos Creek. The second facility proposed for maintenance is the San Marcos Creek 5 box culvert (INL11273, CUL002) located east of Twin Oaks Valley Road. This maintenance area consists of 0.06 acre of Corps wetlands consisting of 0.05 acre of freshwater marsh and 0.01 acre of unvegetated channel. Maintenance activities would occur only within and on top of the concrete culvert. The third facility proposed for maintenance is the Dolphin Channel (CH027) located adjacent to the Inland Rail Trail train tracks, north of State Route (SR) 78 and east of Woodland Parkway. This maintenance area is a concrete lined channel (approximately 12 feet wide and 4 feet deep) that runs from east to west and contains approximately 0.52 acre of Corps non-wetland waters of the U.S. Flows enter the channel from a culvert approximately 1,000 feet east of Woodland Parkway, travel west approximately 950 feet before discharging into San Marcos Creek. Although the channel is completely concrete lined, there are patches of freshwater marsh, vegetated mostly with *Typha spp.*, that have established on top of sediment that has built up in the channel; however, the majority of the channel is unvegetated. The fourth facility proposed for maintenance is the Palmac Ditch (CH063) located north-west of the intersection of Las Posas Road and Mission Road, behind Palmac Street. This maintenance area is a concrete and earthen channel that contains approximately 0.04 acre of Corps wetlands at the southern end of the channel (earthen area) vegetated with *Typha spp.*, Palms, and non-native grasses, and 0.15 acre of Corps non-wetland waters of the U.S. at the northern end of the channel (concrete area). Flows enter the concrete portion of the channel near the north end of Palmac Street, travel south for approximately 575 feet until reaching the earthen portion of the channel where they continue for another 175 feet before entering a culvert under Mission Road.

Project description- The city of San Marcos is proposing to conduct regulated maintenance activities (discharge of fill material associated with sediment, trash, and debris removal and vegetation

clearing) at four specific locations within the city, two of which consist of only placing water diversion structures. The overall storm channel maintenance plan for the city includes maintenance activities at 61 locations; however, impacts and activities have been minimized and/or altered or will occur within currently serviceable, previously authorized structures so that many of the proposed activities are not regulated by the Corps under Section 404 of the Clean Water Act. Maintenance activities will occur annually or as needed based on site inspections. Equipment used to perform the regulated maintenance activities would include, but are not limited to, bobcat's, grade-all's, front end loaders, and dump trucks.

Location	Maintenance Description	Impacts	Frequency
Mulberry Basin (BAS001, INL10359, OUT 10229)	Mechanical equipment to remove 10' wide pilot channel through basin during the first year of maintenance. Remove vegetation, cut at trunk or pull by roots, as necessary. Minimize stump removal – remove vegetation to allow equipment access down centerline of channel. Spot apply herbicide to cut trunks. No disturbance of trees on banks and channel edges. In future years, keep narrow pilot channel clear by cutting new saplings at trunks and spot applying herbicides. Allow more tree growth on sides of channel bottom to develop overhead canopy and prevent cattail growth.	Permanent - 0.07 acre wetlands (southern willow scrub)	Major maintenance once within the first 5 years. Annual inspections, minor vegetation trimming and removal every 2 years.
San Marcos Creek 5 box culvert (INL11273, CUL002)	Mechanical equipment to remove <1 foot of sediment and vegetation and clear concrete bottom flow line. Use a bladder type of pumping diversion structure to move water from immediate work area.	Permanent - 0.05 acre wetlands (coastal and valley freshwater marsh), 0.01 acre non-wetlands (unvegetated channel)	Annual removal of accumulated sediment.
Dolphin Channel (CH027)	Use a bladder or pumping diversion structure to divert water around the immediate work area.	Temporary - <0.01	Annual.
Palmac Ditch (CH063,CUL069)	Use a bladder or pumping diversion structure to divert water around the immediate work area.	Temporary - <0.01	Every two years.

Proposed Mitigation– The proposed mitigation may change as a result of comments received in response to this public notice, the applicant's response to those comments, and/or the need for the project to comply with the 404(b)(1) Guidelines. In consideration of the above, the proposed mitigation sequence (avoidance/minimization/compensation), as applied to the proposed project is summarized below:

Avoidance: The original 2011 submittal by the city of San Marcos proposed impacts to 2.86 acres of Corps wetland and non-wetland waters of the U.S. By re-evaluating the needs of the city and performing maintenance only in areas where a real need was identified, impacts have been reduced to 0.12 acre of Corps non-wetland/wetland waters. Forty-one facilities previously identified for maintenance have been excluded.

Minimization: The city's original plan proposed complete clearing of many channels and basins. Through minimization measures, such as clearing only the outlets and inlets or only clearing a pilot channel, as well as "skirting" trees instead of full removal, impacts have been substantially minimized. In addition, the city will develop and install Best Management Practices (BMPs) (contractor education, silt booms, fiber rolls, gravel bags, etc.) to minimize water quality impacts. Potential impacts to least Bell's vireo have been minimized through scheduling maintenance activities in areas with suitable least Bell's vireo habitat outside the breeding season.

Compensation: The city proposes to mitigate impacts to waters of the U.S. through the purchase of mitigation credits (0.07 acre of riparian wetland establishment, 0.14 acre of riparian wetland enhancement, 0.05 acre of emergent wetland establishment and enhancement, and 0.01 acre of ephemeral stream establishment) at a Corps approved mitigation bank.

For additional information please contact R.J. Van Sant at 760-602-4837 or via e-mail at Richard.J.Vansant@usace.army.mil . This public notice is issued by the Chief, Regulatory Division.



Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

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