US Army Corps
of Engineers ®
Los Angeles District

PUBLIC NOTICE

APPLICATION FOR PERMIT

Los Peñasquitos Lagoon Restoration Phase 1 Project

Public Notice/Application No.: SPL-2022-00498-MAL
Project: Los Peñasquitos Lagoon Restoration Phase 1 Project
Comment Period: February 2, 2023 through March 4, 2023
Project Manager: Max Roseman; (760) 602-4832; Max.E.Roseman@usace.army.mil

Applicant
Luis Schaar, City of San Diego
Engineering and Capitol Projects Department
525 B Street, Suite 750;MS 908A
San Diego, CA 92101

Contact
James Arnhart, City of San Diego
Engineering and Capital Projects Department
525 B Street, suite 750, MS 908A
San Diego, CA 92101

Location
The project is located within the upper portion of Los Peñasquitos Lagoon and upstream riparian corridor within Sorrento Valley, within the City of San Diego, San Diego County, CA (Latitude: 32.909022, Longitude −117.232438)

Activity
The proposed project would consist of ecological restoration including freshwater management, sediment management, and storm drain upgrades and flood management. (See attached Figures 1 and 2).

Submittal of Public Comments

Interested parties are hereby notified an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). We invite you to review today's public notice and provide views on the proposed work. By providing substantive, site-specific comments to the Corps Regulatory Division, you provide information that supports 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 and Section 10 of the Rivers and Harbors Act.

Please do not mail hard copy documents, including comments to any Regulatory staff. Instead, your comments should be submitted electronically to: Max.E.Roseman@usace.army.mil. Should you have any questions or concerns about the Corps' proposed action or our comment period, you may contact Max Roseman directly at (760) 602-4832.

The mission of the U.S. Army Corps of Engineers 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 water 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 of Engineers 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 of Engineers 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 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 California Regional Water Quality Control Board. Section 401 requires any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance.

Coastal Zone Management- The applicant has certified the proposed activity would comply with and would be conducted in a manner consistent with the approved State Coastal Zone Management Program. 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 the project is consistent with the State's Coastal Zone Management Plan.

Essential Fish Habitat- The Corps of Engineers preliminary determination indicates the proposed activity may adversely affect EFH. Pursuant to Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Los Angeles District will initiate EFH consultation.

Cultural Resources- The Corps of Engineers preliminary determination indicates the proposed action may affect cultural resources. Therefore, the Corps will initiate consultations pursuant to Section 106 of the National Historic Preservation Act (NHPA).

Endangered Species- The Corps of Engineers preliminary determinations indicate the proposed action may affect federally-listed endangered or threatened species, or their critical habitat. Specifically, light-footed Ridgway's rail (*Rallus obsoletus levipes*), least Bell's vireo (*Vireo bellii pusillus),* and coastal California gnatcatcher *(Polioptila californica californica*) may be affected. The Corps will initiate consultation pursuant to Section 7 of the Endangered Species Act.

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 for aquatic habitat restoration and enhancement activities. 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 applicant's stated purpose and need is to address impairment of estuarine function, loss of native habitats, and degraded ecosystem services within Los Peñasquitos Lagoon caused by urbanization to meet compliance targets and timelines of the Los Peñasquitos Watershed Management Area Sediment Total Maximum Daily Load (Sediment TMDL)

Additional Project Information

Baseline information- The proposed project would be ecological restoration of the Phase 1 project area within Los Peñasquitos Lagoon. The proposed project largely occurs within Torrey Pines State Natural Reserve, which is owned and managed by California State Parks, but also includes additional open space owned by the California Coastal Conservancy and other vacant land owned by the City of San Diego and other entities. The project area has been degraded through watershed urbanization, adverse sediment and trash loading, increased freshwater input, establishment of invasive plant species, and increased mosquito breeding habitat, resulting in conversion and loss of historical salt marsh and urban flooding.

Phase 1 and Phase 2 of the Lagoon Enhancement will involve distinct areas of upper Los Peñasquitos Lagoon. Phase 1 of the Lagoon Enhancement will take place southwest of the railroad berm as shown in Figure 2.

Project description -The proposed project includes discharge of dredge and/or fill material in waters of the United States, including wetlands, to restore lagoon habitats through flood flow modifications (construction of new channels, a grade control feature, and deepening of existing tidal channel), construction and maintenance of floodplain enhancement areas to reduce sediment and trash loading, and construction and maintenance of several storm drain outfalls. These essential project components would result in impacts to 124.86 acres of waters of the United States, including 1.93 acres of non-tidal wetlands, 114.37 acres of non-tidal non-wetland waters, and 8.56 acres of tidal non-wetland waters. Modifications are primarily temporary through the implementation of ecological restoration activities; however, up to 6.12 acres of non-wetland waters would result in the permanent loss of either area and/or function through construction of permanent access roads, storm drain improvements, and floodplain enhancement features.

The applicant proposes to construct three floodplain enhancement sediment management features, enhance an existing drainage ditch, upgrade three storm drain outfalls (including diversions of three existing outfalls), and establish permanent access roads in the upstream portion of the project site. These features would use natural floodway processes to allow coarser sediment and trash to be captured and periodically removed through ongoing maintenance. Floodplain enhancement features are designed with bio-engineered grade controls and open cell articulated concrete block to incorporate native vegetation.

In the middle portion of the project site, the applicant proposes the construction of primary and secondary freshwater conveyance channels, along with targeted removal of invasive species in the floodplain and restoration of riparian and non-tidal salt marsh habitats. In the downstream portion of the project site, an elevated grade control feature would be constructed to minimize dry weather inundation of the tidal salt marsh restoration area. The tidal salt marsh restoration area will be supported by newly constructed tidal channels and one-time deepening of the existing tidal channel

sill downstream of the salt marsh restoration area. The tidal salt marsh restoration includes transitional habitat areas to accommodate sea level rise.

Project construction and adaptive management would require the construction of temporary access roads and stockpile areas; some construction access roads would be retained through the adaptive management period. The project would require the export of sediment during construction, as well as during operations and maintenance. Materials excavated and meeting the criteria for geotechnical and chemical properties per the permit requirements would be beneficially used and placed along the beach and/or near shore area of the Torrey Pines State Beach. Remaining excavated material not used on site or for beach and near-shore placement will be taken to the City's Miramar Solid Waste Facility for daily cover material as an alternate beneficial use option. See the attached figures for the details of the project components.

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 project is limited to the degraded upper portion of Los Peñasquitos Lagoon and avoids downstream, high functioning tidal salt marsh.

Minimization: The project proposes infrastructure elements (e.g., floodplain enhancement, storm drain upgrades, and permanent access roads) in the upstream portion of Phase 1 and utilizes bio-engineered designs where practicable. Restoration elements of the project, including one-time tidal channel deepening, are designed to meet the minimum hydrologic requirements to achieve ecological function. Minimization measures during construction consist of best management practices to avoid avian breeding seasons and address erosion, runoff, and pollutants. The applicant has also designed the project to minimize effects on wildlife movement corridors through the project area.

Compensation: The applicant has proposed on-site mitigation to offset infrastructure elements of the Phase 1 project, as well as to provide compensatory credits for future watershed restoration and habitat management activities. Mitigation credits from Phase 1 restoration would not be utilized to facilitate permanent loss of open space preserve areas and would be limited to activities that are necessary to improve and manage ecological functions, such as Phase 2 lagoon restoration. At this time the Corps has not finalized a potential mitigation credit calculation or ratio requirement for the proposed project.

Proposed Special Conditions

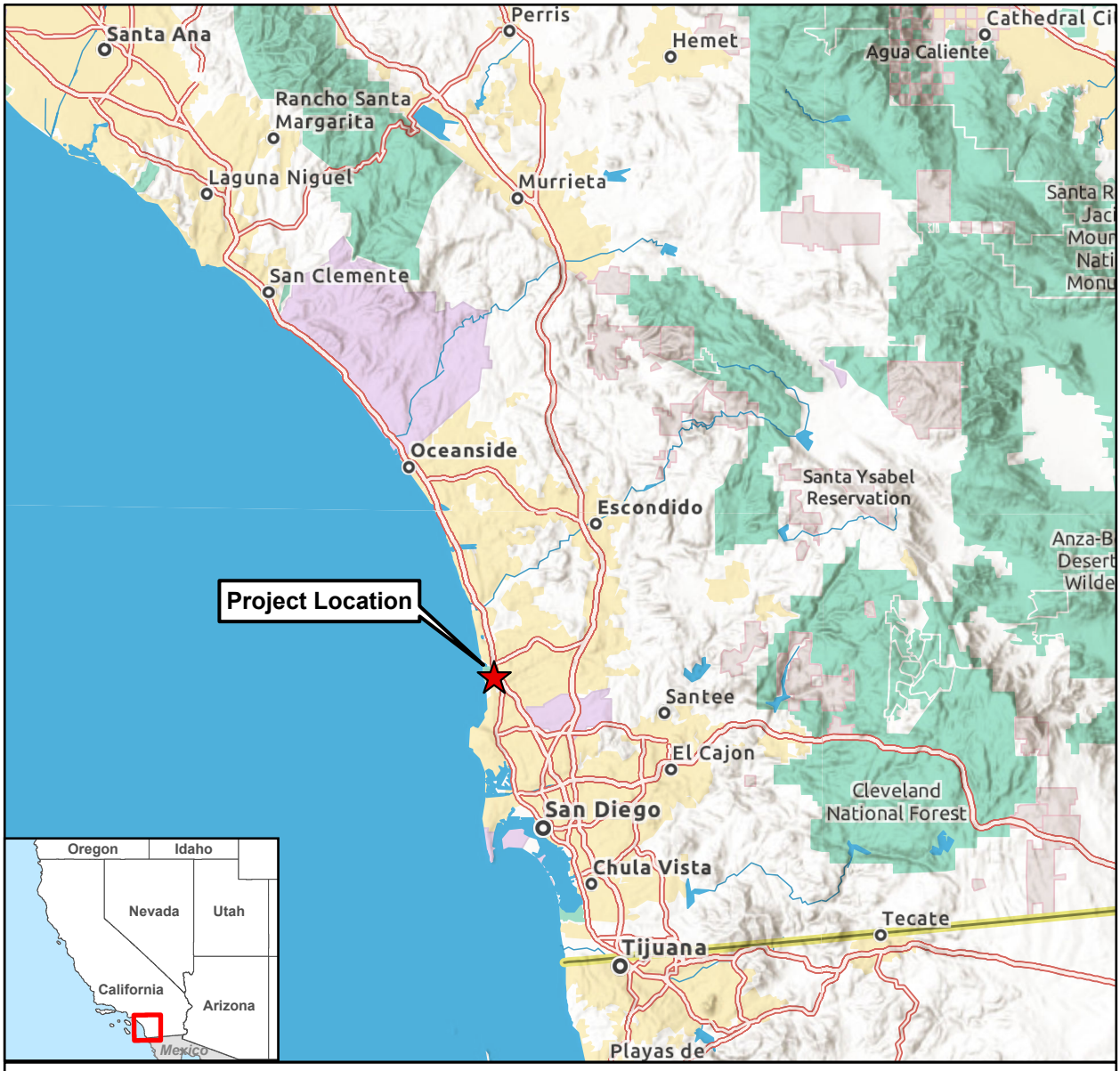
No special conditions are proposed at this time. Special conditions would be developed in part based on the outcome of consultation with the U.S. Fish and Wildlife Service, tribal coordination, State Historic Preservation Officer consultation, the Section 401 Water Quality Certification, and Coastal Zone Management Act, as well as other regulatory requirements.

For additional information please contact Max Roseman of my staff at 760-602-4832 or via e-mail at Max.E.Roseman@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.

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
WWW.SPL.USACE.ARMY.MIL/MISSIONS/REGULATORY



Project Location

0 5 10 15 20 Miles

Kilometers

0 10 20 30

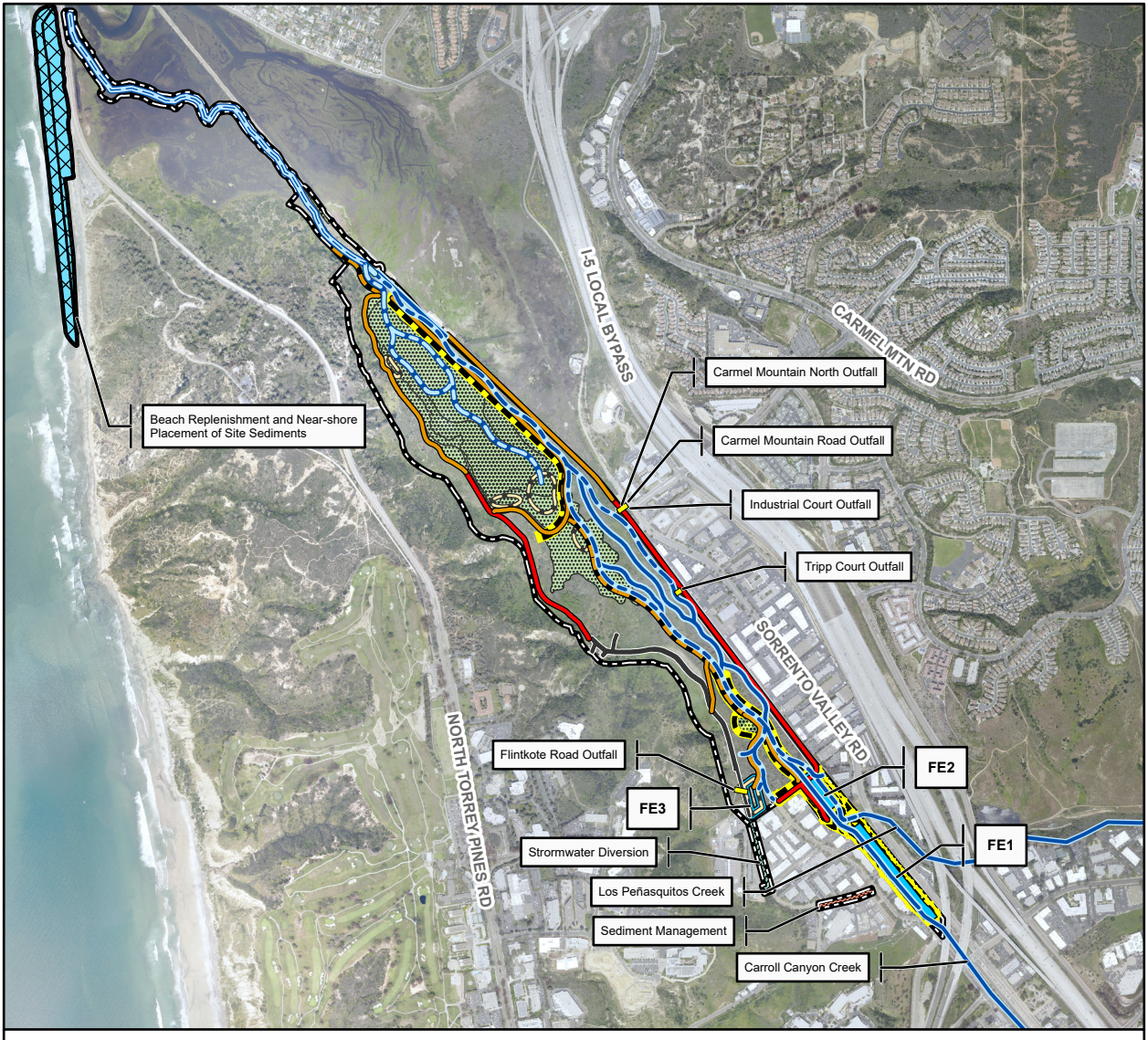
Sources: ESRI, USGS, OpenStreetMap

Los Peñasquitos Lagoon Restoration – Phase 1

The City of SAN DIEGO

FIGURE 1

PROJECT LOCATION MAP



- Planned Existing Tidal Channel Dredging to Remove Sill
- Existing Tidal Channels
- Existing Riparian Corridors / High Flow Freshwater Channels
- Proposed Main Freshwater Channels
- New Tidal Channels
- Adaptive Management Period / Construction Access Roads
- Construction Access Roads
- Permanent / Construction Access Roads
- Existing Paved Road - Construction & Maintenance Access
- Temporary Stockpiles
- Stormdrain Connections for Freshwater and Mosquito Breeding Habitat Management
- Flood Plain Enhancements (FE)
- Planned Grading for Freshwater Channel and Riparian Corridor Habitat Rehabilitation
- Salt Marsh Restoration
- Stormwater Diversion
- Sediment Management Measure - Dunhill Street
- Beach Replenishment and Near-shore Placement of Site Sediments
- Project Boundary

Los Peñasquitos Lagoon Restoration – Phase 1

The City of SAN DIEGO

0 1,000 2,000 Feet

Meters

0 250 500

FIGURE 2
PHASE 1 PROJECT COMPONENTS