ode: 4333-15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R8-NWRS-2024-N009; FXRS12610800000-245-FF08R04000]

Beneficial Reuse of Excavated Material in Tidal Marsh Restoration; Intent to Prepare Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The U.S. Fish and Wildlife Service (Service) and the Santa Clara Valley Transportation Authority propose to act in partnership to prepare a joint draft environmental impact statement/environmental impact report to evaluate the impacts on the environment related to placing excavated or other fill material into several former salt production ponds on, and adjacent to, Don Edwards San Francisco Bay National Wildlife Refuge to raise the pond bottoms for the purpose of accelerating the timeline for tidal marsh habitat restoration. The Service is providing this notice to open a public scoping period in accordance with the requirements of the National Environmental Policy Act and its implementing regulations. We invite comment from the public and local, State, Tribal, and Federal agencies.

DATES: To ensure consideration in our reviews, we are requesting submission of new information no later than **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

ADDRESSES: You may submit written comments and materials by one of the following methods:

- *U.S. mail:* San Francisco Bay National Wildlife Refuge Complex, Attn: Beneficial Reuse Project, 1 Marshlands Road, Fremont, CA 94555.
- *Email: fw8plancomment@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Matthew Brown, Complex Manager, San Francisco Bay National Wildlife Refuge Complex, via email at *matthew_brown@fws.gov* or via phone at 510-453-6695. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service (Service) and the Santa Clara Valley Transportation Authority, in cooperation with the Santa Clara Valley Water District, propose to prepare a joint draft environmental impact statement/environmental impact report to evaluate the effects of placing excavated or other fill material into several former salt production ponds around South San Francisco Bay to raise the pond bottoms for the purpose of accelerating the timeline for tidal marsh habitat restoration. The joint draft environmental impact statement/environmental impact report would analyze the Beneficial Reuse of Excavated Material in Tidal Marsh Restoration Project (Beneficial Reuse Project) at both a project level and a programmatic level.

The Beneficial Reuse Project would be analyzed at a project level by explicitly evaluating the potential transport and placement of up to 3.5 million cubic yards of excavated material from VTA's BART Silicon Valley-Phase II Extension Project (BSVII project) for the purpose of raising the deeply subsided pond bottoms. For the project-level analysis, the Beneficial Reuse Project would be implemented at the Pond A8 Complex (consisting of Ponds A5, A7, A8, and A8S), Pond A12, and Pond A13 within the Don Edwards San Francisco Bay National Wildlife Refuge. These ponds are owned by the USFWS and are part of the Alviso Pond Complex. The Beneficial Reuse Project would also be implemented at Pond A4, which is owned by Valley Water. These ponds were

selected for analysis at the project level as they are relatively close to the BSVII Project site compared to other ponds in the South Bay.

The Beneficial Reuse Project would also be analyzed at a programmatic level by evaluating the transport and placement of excavated material from future projects yet to be identified. Placement of such material could occur in the Ravenswood Pond Complex (except Pond SF2), the Alviso Pond Complex (including the A8 Complex, A12, and A13, and excluding A22 and A23), and Pond A4. The programmatic analysis would allow other project proponents to use the joint draft environmental impact statement/environmental impact report as the basis for their future projects that would also transport and place excavated material into the ponds for the purpose of raising pond bottoms. These other project proponents would need to conduct additional environmental analysis at the project-level once their projects are sufficiently defined.

We are requesting comments concerning the scope of the analysis and identification of relevant information and studies.

Purpose and Need for the Proposed Action

The purpose of the Beneficial Reuse Project is to:

- Transport BSVII Project tunnel excavation material and other excavated material to select former salt production ponds in South San Francisco Bay for beneficial reuse.
- Place excavated material within select ponds to raise the elevation of pond bottoms to accelerate the timeline for and increase the certainty of tidal marsh restoration.
- Place excavated material in the Pond A8 Complex and/or other select ponds with legacy mercury to cover and bury contaminated sediments to reduce the potential for mercury to bioaccumulate through the aquatic environment.

The need for the Beneficial Reuse Project is as follows:

- The BSVII Project will generate a considerable amount of excavated material on a daily basis during construction of the 5-mile-long tunnel and other facilities. The material must be hauled off site regularly to keep pace with construction and limited onsite storage facilities.
- The former salt production ponds in South San Francisco Bay require large quantities of sediment to raise the elevation of deeply subsided pond bottoms to eventually reach marsh plain elevation where tidal marsh restoration can occur (as part of a future action). Placing excavated material into the pond bottoms would accelerate the timeline for eventual tidal marsh restoration relative to sedimentation from natural processes (i.e., tidal action) alone. This is especially important in the face of sea-level rise and the sediment deficit in San Francisco Bay.
- There is high mercury concentration in the sediments of the Pond A8 Complex and nearby ponds as a result of historic mining operations in the Guadalupe River watershed. Natural tidal action can cause the resuspension of sediment containing mercury and increase the potential for bioaccumulation of mercury in aquatic organisms. Placing excavated material into the pond bottoms would cover sediment contaminated with mercury and reduce the potential for mercury to bioaccumulate through the aquatic environment.

Preliminary Proposed Action and Alternative

One Proposed Action Alternative and the No Action Alternative will be evaluated in the draft environmental impact statement/environmental impact report. The draft environmental impact statement/environmental impact report will analyze the Proposed Action Alternative on a project-level and a programmatic level, as discussed below.

The project-level components of the Proposed Action Alternative would send all excavated material from the BSVII Project to the project-level ponds (Ponds A4, A8

Complex, A12, and A13). The Proposed Action Alternative would include two methods for hauling excavated material from the BSVII Project to the project-level ponds: truck haul method and rail haul method. Under the truck haul method, the Proposed Action Alternative assumes use of a truck haul route on State Route 237, then use of local streets to reach the project-level ponds. Under the rail haul method, the Proposed Action Alternative would include the use of rail to haul material from the future BSVII Project Newhall Maintenance Facility. This method would include construction of additional tracks at the maintenance facility, an option to construct a spur track near Pond A12, and an option to use an existing spur track that leads to the GreenWaste Zanker Resource Recovery Facility near Los Esteros Road in San Jose. Under the rail haul method, improvements would be required at the future BSVII Project Newhall Maintenance Facility. The truck haul method and the rail haul method could be used exclusively or in combination.

The Proposed Action Alternative would include three methods for the placement of excavated material within the project-level ponds once it is offloaded near a pond shoreline by truck or conveyor belt: conventional equipment method, hydraulic methodologies, and/or conveyor system methodologies. The Proposed Action Alternative could use one, two, or all three of these methods at any project-level pond.

The programmatic analysis would evaluate the addition of excavated material from future projects yet to be identified for all the ponds covered in the joint draft environmental impact statement/environmental impact report. The programmatic analysis would allow other project proponents to use the joint draft environmental impact statement/environmental impact report as the basis for their future projects that would also transport and place excavated material into the ponds for the purpose of raising pond bottoms. These other project proponents would need to conduct additional environmental analysis at the project-level once their projects are sufficiently defined.

Under the No Action Alternative, all excavated material generated by the BSVII Project would be transported to the disposal sites identified in Santa Clara Valley Transportation Authority's 2018 *BART Silicon Valley-Phase II Extension Project Final Supplemental Environmental Impact Statement/Subsequent Environmental Impact Report and Section 4(f) Evaluation*, which includes landfills and quarries. No excavated material from the BSVII Project or any other project would be sent to any of the Beneficial Reuse Project project-level or programmatic-level ponds to be placed in the ponds for the purpose of raising the pond bottoms to accelerate the timeline for tidal marsh habitat restoration.

Summary of Expected Impacts

Based on our initial evaluation of the Proposed Action Alternative, the following impacts would be expected: construction waste reuse; greenhouse gas emissions reductions; short-term disturbance to and changes in habitat conditions for listed and sensitive species; fill in waters of the U.S. and State of California, temporary increases in dust and other air pollutants during construction; changes to movement of water within ponds caused by changing the elevation of pond bottoms; temporary impacts to water quality during material placement; temporary changes to existing public access; and temporary increases in construction traffic on the roadways within the vicinity of the ponds, including the Alviso neighborhood. Indirect benefits would result from facilitating future restoration of tidal marsh habitat by raising the bottoms of former salt production ponds, allowing vegetated marsh to be restored much more quickly when tidal restoration occurs in the future by others.

Anticipated Permits and Authorizations

The following permits and other authorizations are anticipated to be required:

- U.S. Army Corps of Engineers Clean Water Act (CWA) section 404 permit and Rivers and Harbors Act section 10 permit and others, if appropriate;

- San Francisco Bay Regional Water Quality Control Board CWA section 401 water quality certification;
- California Department of Fish and Wildlife lake and streambed alteration agreement;
- California Department of Fish and Wildlife section 2081(b) incidental take permit;
- San Francisco Bay Conservation and Development Commission consistency determination;
- Refuge special-use permit to the Santa Clara Valley Transportation Authority for construction access and activities on Refuge lands;
- Consultation pursuant to section 7 of the Federal Endangered Species Act with the U.S. Fish and Wildlife Service and National Marine Fisheries Service;
- Consultation with the National Marine Fisheries Service regarding essential fish habitat under the Magnuson-Stevens Fishery Conservation and Management Act, and consultation regarding marine mammals pursuant to the Marine Mammal Protection Act; and
- Consultation with Tribes and the State Historic Preservation Officer pursuant to section 106 of the National Historic Preservation Act.

Schedule for the Decision-Making Process

Processing of the environmental impact statement, from the public scoping stage to the signing of the record of decision, is expected to take up to 2 years. The draft environmental impact statement/environmental impact report is scheduled for release in early 2025. The final environmental impact statement is scheduled for completion by mid-2025, with the record of decision expected to be issued in mid-2025. Permitting is expected to be completed at approximately the same time as the signing of the record of

decision. Subsequent actions will involve the processing of all required permits needed to implement the beneficial reuse of excavated materials.

Environmental Impact Statement Public Scoping Process

This notice of intent initiates the 45-day scoping process, which guides the development of the draft environmental impact statement. The scoping process is designed to elicit comments from the public, public agencies, Tribal governments, and other interested parties on the scope of the draft environmental impact statement. All interested parties are encouraged to provide written comments on the scope of the environmental impact statement.

Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

The Service requests comments concerning the scope of the analysis and identification of relevant information and studies. All interested parties are invited to provide input related to the identification of potential alternatives, information, and analyses relevant to the Proposed Action Alternative in writing. All written comments should be submitted via any of the methods provided under **ADDRESSES**.

Lead and Cooperating Agencies

The Service is the lead agency for the environmental impact statement. The Santa Clara Valley Transportation Authority will serve as the lead State agency.

Decision Maker

The Decision Maker is the Service's Regional Director for the U.S. Fish and Wildlife Service, Pacific Southwest Region.

Nature of Decision To Be Made

The Regional Director, after considering the analysis and information provided in the final environmental impact statement, as well as the comments received throughout the draft environmental impact statement review process, will determine if the proposed

action sufficiently achieves the purpose and need for the project. The decision, which will be documented in the Record of Decision, will also consider the consistency of the action with agency policies, regulations, and applicable laws, and the contribution the action will make towards achieving the purposes for which the Don Edwards San Francisco Bay National Wildlife Refuge was established, while also contributing to the mission and goals of the National Wildlife Refuge System.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

This document is published under the authority of the National Environmental Policy Act regulations pertaining to the publication of a notice of intent to issue an environmental impact statement (40 CFR 1501.9(d)).

Jill Russi,
Acting Regional Director,
Pacific Southwest Region.

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