

Public Comments on Items Not on Posted Agenda

Written Comments Received By 12pm on 05/13/2024



May 13, 2024
City Council Meeting

From: Beckmeyer, Sue
Sent: Saturday, May 11, 2024 8:23 PM
To: Public Comment
Subject: Fwd: Rockaway Quarry letter to US Army Corps of Engineers and US Fish and Wildlife Service

Please add Mr. Jones' comment to the public record for the proposed quarry reclamation project.
— Sue B.

From: Paul Jones [REDACTED]
Sent: Saturday, May 11, 2024 4:31:14 PM
To: _City Council <citycouncil@ci.pacifica.ca.us>; City Manager <cmoffice@pacifica.gov>; Murdock, Christian <cmurdock@pacifica.gov>; Hauser, Samantha <hausers@ci.pacifica.ca.us>; aferguson@ci.pacifica.ca.us <aferguson@ci.pacifica.ca.us>; Berman, Lauren <bermanl@ci.pacifica.ca.us>; Godwin, James <godwinj@ci.pacifica.ca.us>; Redfield, Chris <CRedfield@ci.pacifica.ca.us>; Wright, Greg <gwright@ci.pacifica.ca.us>; Devine, Daniella <ddevine@ci.pacifica.ca.us>
Cc: Dinah Verby [REDACTED]; Peter Loeb1 [REDACTED]
Subject: Rockaway Quarry letter to US Army Corps of Engineers and US Fish and Wildlife Service

[CAUTION: External Email]

To All: this letter was signed and emailed to your City email addresses; however, twice the system blocked transmission. The first time was due to the letter being a PDF attachment. The second time, the letter was copied from the PDF and pasted into an email.

I'm trying again, this time by copying and pasting from a Word document. I hope this works. Otherwise, you will receive a hardcopy by regular mail.

Paul

9 May 2024

[REDACTED]
[REDACTED]

Mr. Greg Brown
US Army Corps of Engineers, San Francisco District

450 Golden Gate Avenue
San Francisco, CA 94102

Mr. Ryan Olah
US Fish and Wildlife Service
2800 Cottage Way, Suite W-2605
Sacramento, CA 95824-1846

Subject: Rockaway Quarry Reclamation Project (USACE file number 2015-00286 and FWS reference 2022-0017412-S7-001)

Dear Mr. Brown and Mr. Olah:

We are writing to express concern with the way the subject project has been portrayed to you by the applicant and the City of Pacifica, as they may have omitted important facts related to the near-future development of the site. We obtained the Corps' provisional approval letter dated October 31, 2022, about the nationwide permit and the FWS's associated Biological Opinion through a Public Records Act request. These documents were referred to, but not provided in, either the DEIR or FEIR for the subject project. The City Council's current workplan (Figure 1) clearly shows an intention to create a Specific Plan to develop the quarry property in the very near future.

Additionally, the City of Pacifica's General Plan Update, adopted on July 11, 2022, references a target of approximately 448,400 square feet of new non-residential and possibly residential development in the "Rockaway Quarry Site" as shown in Table 4-3 of that document (Figure 2). According to the 2040 General Plan, this is "Pacifica's most prominent potential development site" and will support "such potential uses as a resort hotel, boutique hotels, visitor attractions, and retail uses integrated with the Rockaway Beach district" (Figure 3). Furthermore, the General Plan Land Use Map shows that the ultimate end use of the Quarry is "Visitor-Serving Commercial" – not "undeveloped open space" as stated repeatedly in the Reclamation Plan. The map shows that the Visitor-Serving Commercial designation includes "the Pad" where most of the imported fill will be deposited and where existing wetlands will be destroyed, as well as the entire "Flats" or Eastern Parcel where the new mitigation wetlands will be placed. (Figure 4) This is not consistent with the end use of conservation or open space.

The specific planning effort, to be led by the City Council and the Planning Department, is expected to incur reimbursable costs up to \$1 million be paid by the owner of the quarry site for a "specific plan." The City already allocated \$425,000 for this effort in last year's budget, which strongly indicates that further development is not only reasonably foreseeable, but probable.

The Planning Department states correctly that reclamation is a prerequisite to development of the property but errs when it implies that the two phases of the project are separate. Furthermore, the planning director for the City of Pacifica said in a public

hearing in June 2023 that there will be three planning processes or phases to the development of the quarry site, the first being the reclamation, the second being the Specific Plan, and the third being actual development. This is not only counter to the spirit and regulations under CEQA and the Clean Water Act, but it makes no practical sense. Why seek multiple approvals for the project when the entirety of the development can be scoped, discussed at the community level, and then finalized before seeking agency approvals for development?

We believe that this is a single project with a reclamation phase and a development phase. The owner/applicant has obtained a provisional authorization to use NWP 44 to implement the reclamation phase and a Biological Opinion that is responsive to the request for consultation from the Corps.

However, these regulatory actions are entirely predicated on just the reclamation actions presented and omit discussion of the plans for near-term development of the site. It is 100% predictable that there will be another round of applications, reviews, and decision making required by your agencies if this proposed action is allowed to go forward as presented. There will be additional impacts to waters of the US and surrounding species habitat.

As you know, the NWP program has anti-piecemeal provisions, and the CWA Section 404 program in general disallows serial applications for authorizations or approvals by applicants for the same project. Projects must have single and complete utility. Segmenting is also counter to the CEQA and NEPA regulations. Because the City of Pacifica is beginning a Specific Plan process soon and because of the controversial nature of the subject project (which has little to no public support and active community opposition), we would respectfully recommend that the Corps withhold its provisional authorization for the reclamation and that the USFWS consider withdrawing its Biological Opinion until such time as the full extent of impacts from any near-future residential or commercial development is established through the anticipated specific plan process.

The District Engineer has discretionary authority over the issuance of a NWP if the project results “in more than minimal or individual or cumulative adverse environmental effects or may be contrary to the public interest.” Corps regulations go on to refer to the exercise of discretionary authority if the project’s effects are more than minimal regarding “other aspects of the public interest.” We would suggest that the disposal of over 874,000 cubic yards of waste soil into the quarry pit with the 146 daily dump truck trips for 4 years is more than minimal, to speak not of the production of a specific plan and the creation of nearly 500,000 square feet of “new non-residential development.”

Under the “Independent Utility” test, the Corps regulations state that a “single and complete non-linear project” would have to demonstrate that it could “be constructed absent the construction of other projects in the project area.” By the City’s and the owner’s declared intentions, this reclamation is being done in conjunction with the proposed non-residential development.

Clearly, the owner is not going to undertake reclamation of the former quarry out of some act of benevolence toward Pacifica. Additionally, the City and landowner envision “indirect effects” to take place when the next phase of development occurs, and these fit the Corps’ definition in the regulations in that they will occur “later in time or farther removed in distance, but still reasonably foreseeable.” There are wetlands and an ephemeral stream between the proposed mitigation area in the north part of the “eastern parcel” that will have to be impacted.

Single and complete non-linear projects are defined at 33 CFR 330.2(i) as “the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers and must have independent utility.” Unless the owner/applicant is willing to commit to a legally binding agreement that the reclamation project is single and complete and will further protect the site under a conservation easement in perpetuity with third-party oversight, then the reclamation can only be seen as a necessary phase to the ultimate goal of commercial (or residential) development.

Thank you for your time in considering these issues as you proceed with final decision making concerning this project. We would greatly appreciate meeting with Greg and Katerina Galacatos, South Branch Chief, to discuss this new information and your intentions regarding the next regulatory steps.

If you have any questions or comments, please feel free to contact Paul Jones at [REDACTED] or [REDACTED].

Paul Jones, Retired Wetland Scientist, US Environmental Protection Agency

Peter Loeb, Former Mayor, City of Pacifica

Dinah Verby, Esq; Retired Administrative Law Judge

Cc: Councilmembers, City of Pacifica
Kevin Woodhouse, City Manager, City of Pacifica
Christian Murdock, Planning Director, City of Pacifica
Planning Commissioners, City of Pacifica

Oceane Ringuette, California Coastal Commission
Sahrye Cohen, Wetlands and Oceans Section Manger, USEPA
Tahsa Sturgis, San Francisco Waterboard

Figure 1. Portion of the City of Pacifica's City Council Work Plan 2022-2023

8. Prepare a Quarry Site Specific Plan

Description: Conduct substantial community engagement and develop a specific plan containing land use and other policies for the future use of the former Rockaway Quarry.

Goals Fulfilled:

- Fiscal Sustainability
- An Engaged Community
- A Healthy and Compassionate Community
- Environmental Sustainability

Current Status: Work on this item will begin following adoption of the Sharp Park Specific Plan and after final City action on the Quarry Reclamation Plan. Completed reclamation of the Rockaway Quarry is a prerequisite to any future land use change at the site.

Budget Notes: The FY 2022-2023 budget allocated \$425,000 for this item.

The budget allocation reflects a portion of the overall project cost for this multi-year project (total cost estimated at \$750,000-\$1,000,000). All costs for this item are reimbursable by the property owner who has requested that the City undertake this activity. The FY 2022-2023 budget also allocated \$40,000 of City funds for a companion update to the Rockaway Beach Specific Plan in conjunction with the Quarry Site Specific Plan (total RBSP update cost estimated at \$102,500).

Target Completion Date: FY 2023-2024

Lead/Support Department: Planning Department

Milestones:

- By 2nd Quarter 2023, and pending final City action on the Quarry reclamation plan, publish a request for proposals (RFP) for consultant assistance to lead the community engagement and planning processes;
- By 3rd Quarter 2023 (FY 2023-2024), begin community engagement process;
- By 4th Quarter 2023, prepare draft plan;
- By 1st Quarter 2024, adopt specific plan.
- TBD, obtain Coastal Commission Certification of specific plan.

Figure 2. Table 4-3 from the City of Pacifica's General Plan

Figure 3. Portion of 2040 General Plan Pertaining to the Quarry Site

Figure 4. Land Use Map from the 2040 Pacifica General Plan Showing Central Pacifica