

1 Introduction

1.1 Planning and Project Review Process

The Marin County Flood Control and Water Conservation District (District) is proposing the Corte Madera Creek Flood Risk Management Project, Phase 1 (project) to reduce 25-year flood risk along Corte Madera Creek in the Town of Ross and unincorporated Kentfield and to enhance natural stream functions. This Draft Environmental Impact Report (EIR) has been prepared by the District to describe the project, evaluate the potential for the project to result in adverse effects on the environment, and to consider alternatives to the project as proposed.

The District, a political subdivision of the state of California, is the California Environmental Quality Act (CEQA) Lead Agency for the project. The District's mission is to reduce the risk of flooding for the protection of life and property by implementing effective, transparent, and responsive planning, design, construction, operation, and maintenance of District-owned facilities such as stormwater pump stations, detention basins, bypass drains, creeks, ditches, and levees. The District provides these services to address specific flooding problems in eight zones¹ in Marin County. Corte Madera Creek is within the District's Zone 9.

A Lead Agency is defined by Section 15367 of the CEQA Guidelines as the public agency that has the principal responsibility for carrying out or approving a project. The District intends to use this EIR in a decision process that also involves the Marin County Board of Supervisors, acting as the District Board, to evaluate the environmental impacts of the project and its alternatives. This EIR will become part of a body of evidence that the Board of Supervisors will use in deciding whether or not to approve the project. The District's planning and approval process involves two main steps including (1) circulation of the Draft EIR and (2) certification of the Final EIR and adoption of findings prior to approval of the project or an alternative. The CEQA process includes multiple opportunities for the public to comment on the project and the EIR.

The District is now circulating this Draft EIR to public agencies and members of the public for a 45-day public review period in accordance with CEQA Guidelines Section 15087. Comments should address the adequacy of the Draft EIR. Written comments will be accepted by the District until 4:00 p.m. on the closing day of the review period (March 17, 2021). Written comments should be submitted to the attention of Joanna Dixon, Project Manager at 3501 Civic

¹ These zones are Zone 1: Novato Area; Zone 3: Mill Valley/Coyote Creek Area; Zone 4: Bel Aire Area (Tiburon); Zone 5: Stinson Beach; Zone 6: San Rafael Meadows; Zone 7: Santa Venetia; Zone 9: Ross Valley; and Zone 10: Inverness.

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Center Drive, Suite 304, San Rafael, CA 94903, or to cortemaderacreek@marincounty.org. Oral and written comments will be accepted at a hearing on the Draft EIR on Tuesday, March 2, 2021. The hearing will start at 9:00 am.

After the close of the Draft EIR review period, the District will assemble all comments received during the public review period, including oral comments received at the public hearing on the Draft EIR. As required by CEQA Guidelines Section 15088, the District will evaluate comments received on the environmental issues addressed under CEQA and prepare written responses to each comment. The comments and responses will be included in the Final EIR.

The District will circulate the Final EIR to agencies that commented on the Draft EIR and all interested parties for a minimum of 10 days to review the responses to comments. The District Board will hold a public hearing to evaluate whether the Final EIR complies with CEQA. Notice of the public hearing will be provided in compliance with State law and the County's procedures.

Upon the conclusion of the review, the District Board will consider whether to certify the EIR. In certifying the EIR, the District Board would be affirming that the EIR is adequate and complete pursuant to CEQA requirements. In conjunction with a decision on the project, the District Board would also find that it reviewed and considered the information contained in the Final EIR and exercised its independent judgment prior to taking action on the project or any of the project elements (CEQA Guidelines Section 15090).

No action can be taken to approve the project or any of its elements until the Final EIR has been certified. However, certification of the EIR neither requires nor ensures approval of the project and its elements as evaluated in the EIR. Once the EIR is certified, the District Board may consider approval of the project. At that time, the District Board may decide to approve the project and the mitigation measures specified in the Final EIR, to disapprove the project, or to approve an alternative to the project or elements of alternatives that have been evaluated in the Final EIR.

1.2 Project History

The current project design and approach has been developed as a result of several decades of flood-control planning by the U.S. Army Corps of Engineers (USACE), litigation, and community opposition and concerns about various USACE project proposals. Congress directed the USACE to evaluate possible solutions to flooding in the vicinity of Corte Madera Creek under Section 11 of the Flood Control Act of 1944 in response to numerous flood events in the Corte Madera Creek watershed, including a flood in 1942 that caused major damage to surrounding communities. The Corte Madera Creek Flood Control Project (USACE Flood Control Project) was authorized by Congress in the Flood Control Act of 1962. The USACE Flood Control Project was originally conceived to consist of six units with a concrete-lined channel extending approximately 6.5 miles from the San Francisco Bay upstream into Fairfax. The USACE began construction of Units 1, 2, and 3 of the USACE Flood Control Project in 1969. Construction at the downstream end (Units 1 and 2) created a trapezoidal earthen channel and,

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further upstream, a concrete-lined channel part way through the Town of Ross (Unit 3). Construction of Unit 4 as a concrete-lined channel was originally scheduled to begin in 1972, but further implementation of the USACE Flood Control Project beyond Units 1, 2, and 3 was stopped by litigation and environmental concerns from the surrounding community.

On March 5, 1996, the Marin County Board of Supervisors adopted Resolution 96-26, which recognized the need to complete Unit 4 and to redesign Units 2 and 3 under criteria established by the Zone 9 Advisory Board². The criteria included minimizing the use of concrete, retaining adjacent recreational facilities such as the creekside multi-use pathway, using native plants, enhancing riparian and fish spawning habitat, and maximizing the channel capacity while retaining the Lagunitas Road Bridge, an historic structure, as is. The resolution also served as an official request that the USACE proceed with the Project at an overall lower level of design protection, which would meet the environmental concerns of the community. Following another major flood event in 1997, the USACE approved the Project Study Plan for Corte Madera Creek and reactivated the project in 1998. In 2005, following a flood event that damaged the fish ladder and demonstrated that flow restrictions at the Lagunitas Road Bridge existed, the District initiated a reevaluation of flow restrictions and necessary Flood Risk Management measures within the creek. By 2009, the USACE had initiated a General Reevaluation Report for the Project, and the Town of Ross undertook a separate project to replace the Lagunitas Road Bridge.

The USACE, through a local partnership with the District, reinitiated study and design of the USACE Flood Control Project and began preparation of an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Corte Madera Creek Flood Risk Management Project in 2015. The primary goal of the Corte Madera Creek Flood Risk Management Project was to manage flood risk from Corte Madera Creek associated with Unit 4 and to address any potential induced flooding as a result in Units 2 and 3. The USACE published the Draft EIS/EIR in October 2018 and received numerous comments from agencies and the public that indicated there were unresolved environmental issues as well as a lack of local support for elements of the project design.

Upon review of the public comments on the Draft EIS/EIR, the District recognized that additional analysis of project alternatives would be necessary to ensure that public and agency comments were adequately addressed in compliance with CEQA. The additional work would require supplemental funding and time, beyond the congressionally approved budget and schedule authorized for the USACE project feasibility study and as established in the agreement for the “General Reevaluation Report for Corte Madera Creek” (February 19, 2014) between the

² The Zone 9 Advisory Board convenes public meetings to review zone budgets, maintenance plans and potential construction projects, and to advise the District Board of Supervisors on all matters affecting Zone 9.

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USACE and the District. The District Board of Supervisors decided to terminate the agreement with USACE as of December 31, 2019, and transition the project to a locally managed project.

The project has been redesigned by the District since transitioning the project to local leadership. The current project design reduces the scope of activities and addresses many of the concerns raised by the public in the 2018 Draft EIS/EIR. The current project has been designed in coordination with two stakeholders: Town of Ross, and Friends of Corte Madera Creek Watershed. The project is designed to provide 25-year flood risk reduction to residents and businesses within the Town of Ross and Kentfield. The project includes improvements to the Corte Madera Creek flood control channel within Unit 4, Unit 3, and Unit 2. The project elements and their general purpose and function are described in detail in Chapter 2 Project Description of this EIR.

1.3 Purpose of the EIR and Approach to Environmental Analysis

The fundamental purpose of an EIR is to inform the public and decision-makers of the potential effects of a proposed project on the physical environment. An EIR must therefore include a description of the “environmental setting” of a project (CEQA Guidelines, Section 15125[a]). The “environmental setting” is defined as “the physical environmental conditions in the vicinity of the project, as they exist at the time the Notice of Preparation (NOP) is published. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant” (*ibid*). Therefore, the physical conditions of the project area, the various proposed elements, and the surrounding areas at the time that the NOP was issued constitute the baseline, or point of departure, for the environmental analysis.

1.4 Responsible and Trustee Agencies

This EIR will be used by the District (as Lead Agency) and CEQA responsible agencies to ensure that they have met their requirements under CEQA before deciding whether to approve or permit project elements over which they have jurisdiction. Under CEQA, a responsible agency is a public agency, other than the lead agency, that has responsibility to carry out or approve a project (Public Resources Code [PRC] Section 21069). A trustee agency is a state agency that has jurisdiction by law over natural resources that are held in trust for the people of the State of California (PRC Section 21070).

Certification of the Final EIR by the Board of Supervisors is required before any other discretionary approval or permits would be issued for the proposed project. The project will require subsequent approvals and discretionary actions from responsible agencies including the Town of Ross, California Department of Fish and Wildlife (CDFW), and San Francisco Bay Regional Water Quality Control Board (RWQCB).

The following section discusses the state and local agencies who will serve as responsible and trustee agencies for this project. For a complete list of the anticipated permits and approvals

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required for the project, and the agencies responsible for issuing those permits, refer to Chapter 2 Project Description, Section 2.8 Permits and Approvals of this EIR.

1.4.1 California Department of Fish and Wildlife

CDFW authorization of a Section 1602 Lake and Streambed Authorization Agreement is required in order to construct elements of the project within Corte Madera Creek. A 1602 permit is also required prior to removal of riparian vegetation, including trees adjacent to Corte Madera Creek.

1.4.2 San Francisco Bay Regional Water Quality Control Board

The San Francisco Bay RWQCB administers the National Pollutant Discharge Elimination System (NPDES) Permit Program, authorized by the federal Clean Water Act, as well as State laws to protect water quality. The project discharge of dredged or fill material within Corte Madera Creek will require RWQCB authorization through a Clean Water Act Section 401 Water Quality Certification. The Porter-Cologne Water Quality Control Act gives the RWQCB the authority to protect groundwater and surface waters of the State. A Groundwater General Permit would also be required for discharge or reuse of extracted brackish groundwater.

1.4.3 State Lands Commission

The State Lands Commission (SLC) has jurisdiction and management authority over all ungranted tidelands, submerged lands, and beds of navigable lakes and waterways. The SLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. [c]; 6009.1; 6301; 6306). All tidelands and submerged lands granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine. The SLC is a trustee agency for the project because it could directly or indirectly affect State sovereign land and their accompanying Public Trust resources or uses. The project involves work on State sovereign land where the SLC will also act as a responsible agency.

1.4.4 Town of Ross

The Town of Ross owns Frederick Allen Park. The District will need to obtain Town of Ross approval of an easement for construction and maintenance of project elements on Town property. The District will enter into a maintenance agreement with the Town regarding maintenance of project elements within Frederick Allen Park. The Town is a responsible agency under CEQA in the review of project elements within Town jurisdiction. In addition, a Town of Ross tree removal permit is required prior to removing trees within the Town of Ross.

1.4.5 College of Marin

College of Marin owns properties where staging and stockpiling may occur for project construction. The project also includes new floodwalls within areas that could require new or modified easements from College of Marin. The District would obtain College of Marin approval for any required new or modified easement prior to construction. Should a new or

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modified easement be required, the College of Marin is a responsible agency under CEQA in the review of the new or modified easement within the College of Marin properties.

1.5 Notice of Preparation and Scoping

On August 21, 2020, the District issued a NOP of a Draft EIR for the project pursuant to Section 15082 of the CEQA Guidelines. Publication of the NOP started the CEQA 30-day scoping period, during which the District requested comments from responsible and trustee agencies and the public about the scope of the EIR. The 30-day scoping period closed on September 21, 2020. The District held a virtual public scoping meeting on August 27, 2020, regarding the project to solicit agency and public input on the range of environmental effects and alternatives that should be analyzed in the EIR. Oral comments were received at the scoping meeting, and additional written comments were received during the scoping period. The Scoping Summary Report is included in Appendix A of this EIR. A summary of scoping comments is included below, in Table 1.5-1.

Table 1.5-1 Summary of Scoping Comments

Topic	Consideration
Project Description	<ul style="list-style-type: none">• Describe Granton Park stormwater pump station.• Show area of temporary and permanent impacts, floodwalls, landscaping, and operational features.• Quantify earth disturbance and cubic yards of off-haul.• Identify trees that will be removed.• Provide details on floodwall and creek location within Frederick Allen Park.• Provide construction schedule.• Identify areas for construction staging and storage of materials.• Define dewatering and species relocation approach.• Define maintenance responsibilities.
Project Objectives	<ul style="list-style-type: none">• State the purpose of the “Public Access and Recreational Quality” objective.• State the purpose of the “Fiscally Responsible” objective.
Alternatives	<ul style="list-style-type: none">• Provide support for an alternative that only removes the fish ladder• Consider an alternative with floodwall designs that would provide habitat value and would be appropriate for the seawalls on Corte Madera Creek.• Consider an alternative that does not include the project element in the Town of Ross.• Consider an alternative that requires less concrete removal and uses more natural materials.• Consider an alternative that minimizes the need and height of the floodwalls.• Consider an alternative that would eliminate or reduce potentially adverse impacts from sea level rise.• Consider an alternative for area between Sir Francis Drake and Lagunitas Bridge.• Consider an alternative for drainage under Kent Avenue.• Consider an alternative that would address flooding to residents of Sylvan Lane and Shady Lane.

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Topic	Consideration
Aesthetics and Visual Resources	<ul style="list-style-type: none"> • Consider impacts of tree removal on park setting and privacy.
Air Quality	<ul style="list-style-type: none"> • Consider air quality impacts at Frederick Allen Park from tree removal. • Address air quality impacts during construction.
Biological Resources	<ul style="list-style-type: none"> • Address impacts on sensitive species (including special-status plants, fish, and wildlife) and habitats. • Address impacts on fish and wildlife from the proposed creek access. • Address fish passage and fish pools improvement effects. • Address introduction of invasive species. • Address noise and vibration impacts on fish and birds. • Address impacts from tree removal. • Discuss revegetation and restoration in the project area. • Provide plans for dewatering and fish rescue.
Cultural and Tribal Cultural Resources	<ul style="list-style-type: none"> • Obtain approval for the final disposition of archaeological, historical, and paleontological resources recovered on State lands. • Exercise extreme diligence in honoring artifacts uncovered in the project area.
Geology and Soils	<ul style="list-style-type: none"> • Address impacts from sediment erosion and aggradation in the Frederick Allen Park Riparian corridor. • Incorporate geological information from Marin Countywide Plan into the EIR. • Address impacts on the structural integrity of the existing concrete channel from the proposed fish pools.
Greenhouse Gas Emissions	<ul style="list-style-type: none"> • Address impacts from greenhouse gas emissions during construction and operation and consider impacts from disposal of the concrete that will be removed in Unit 2.
Hazards and Hazardous Materials	<ul style="list-style-type: none"> • Address potential impacts from waste entering the creek from surrounding areas. • Discuss increasing risk to public safety from the floodwalls and retaining walls. • Address public safety risk at Frederick Allen Park and potential for people to come in contact with rapidly moving water.
Hydrology and Water Quality	<ul style="list-style-type: none"> • Address impacts from sediment erosion and accumulation, including increased risk of erosion from tree removal. • Address impacts from rising tidal influence and sea level rise. • Address impacts on flow, hydraulics, sediment transport, and sedimentation from new fish pools. • Address impacts from induced flooding in Frederick Allen Park. • Address impacts from overload water flow from Bolinas Avenue, Fernhill, Southwood, Norwood, Ames, and Lagunitas Road. • Address impacts on the flow through Frederick Allen Park. • Discuss flood risk on Kent Avenue. • Discuss accuracy of modeling and calculations. • Compare the 10-year and the 25-year flood risk reduction benefits under existing conditions and existing with cumulative projects. • Address impacts on water quality.

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Topic	Consideration
Noise	<ul style="list-style-type: none">• Address noise impacts from the stormwater pump station.• Address noise impacts during construction.• Address increased noise from Sir Francis Drake Boulevard due to tree removal.
Recreation	<ul style="list-style-type: none">• Address impacts on bicycle route and use of the multi-use pathway.• Discuss impacts on informal pedestrian pathways.
Transportation	<ul style="list-style-type: none">• Address safety of bicyclists and pedestrians on realigned multi-use pathway.• Address impacts from construction truck trips.• Address impacts on access.• Address impacts on bike path.
Cumulative	<ul style="list-style-type: none">• Address cumulative impacts from reasonably foreseeable future projects in the project vicinity.• Address flooding impacts in Granton Park from the access ramp.
General	<ul style="list-style-type: none">• Define CEQA and regulatory procedures applicable to the project.• Address opposition to the project elements with Frederick Allen Park.

1.6 Organization of the EIR

The Draft EIR is organized into seven chapters, including the Executive Summary, preceded by the Table of Contents. A brief summary of the contents of the Draft EIR is presented below.

Executive Summary: The Executive Summary, prepared in accordance with CEQA Guidelines Section 15123, contains an overview of key elements of the Draft EIR and a summary of the project description and characteristics. An overview of project objectives, with reference to the full text version, is provided pursuant to CEQA Guidelines Section 15124. This chapter also presents a comprehensive table of all significant environmental impacts and mitigation measures along with the level of significance before and after mitigation. This chapter also summarizes impacts of the CEQA alternatives as they compare to the project. Descriptions of growth-inducing impacts, irreversible environmental changes, and significant and unavoidable impacts are also provided in this chapter. Also discussed are major conclusions, areas of controversy, and issues to be resolved in the Draft EIR. Finally, the project’s consistency with County plans and policies is summarized.

Chapter 1 – Introduction: The Introduction describes the Marin County Planning and Program review process as it pertains to the project, presents the technical documents that are incorporated by reference into the Draft EIR (in accordance with CEQA Guidelines Section 15150), and describes the organization of the Draft EIR.

Chapter 2 – Project Description: The Project Description is prepared pursuant to CEQA Guidelines Section 15124 and contains text, figures, and tables conveying project attributes. Specifically, this chapter includes the project objectives, a description of the project elements and locations, and a description of project construction, operation, and maintenance.

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Chapter 3 – Environmental Setting, Impacts, and Mitigation Measures: Chapter 3 contains most of the environmental impact evaluation for the project. A description of the physical and regulatory setting for each environmental issue is provided along with disclosure of the anticipated changes to physical conditions after project implementation. The “environmental setting,” for purposes of this Draft EIR, consists of the existing physical conditions of the area affected by the project, including specific sites identified for project elements and their surroundings (pursuant to CEQA Guidelines Section 151259[a]). The existing physical conditions consist of the physical conditions at the time of NOP publication. Analysis of future conditions without project conditions is provided in the consideration of the No Project Alternative in Chapter 5. The impact analysis focuses on the potential changes to the physical environment that may result from the project. Feasible mitigation measures are identified for significant impacts that would result from implementation of the project, as appropriate.

Environmental impacts are numbered throughout this portion of the Draft EIR, beginning with the chapter section number, followed by sequentially numbered impacts. For example, the first impact in Section 3.2 Air Quality is impact number 3.2-1, and the second impact in this section is 3.2-2. Mitigation measures are numbered to correspond to impacts; therefore, mitigation measures to address Impacts 3.2-1 and 3.2-2 would be Mitigation Measures 3.2-1 and 3.2-2, respectively.

Chapter 4 – Growth-Inducing and Cumulative Effects: Chapter 4 includes CEQA-mandated sections examining the potential growth-inducing effects of the project and the project’s significant cumulative impacts. Cumulative impacts refer to two or more individual effects that, when considered together, are considerable or compound other environmental impacts. In accordance with CEQA Guidelines Section 15130, the analysis in Chapter 4 examines the project’s potential impacts in connection with the effects of other related past, present, and probable future projects.

Chapter 5 – Alternatives: In accordance with CEQA Guidelines Section 15126.6, Chapter 5 of the Draft EIR presents a range of reasonable alternatives designed to feasibly attain most of the basic objectives of the project and avoid or substantially reduce one or more of the project’s significant environmental effects. The potential environmental impacts of the alternatives are discussed in comparison to the impacts that would result from the project, and the ability of the alternatives to meet the project objectives is presented.

Chapter 6 – Report Preparation: This chapter identifies the individuals who were involved in the preparation of the Draft EIR.

Appendices: The Draft EIR contains several appendices of technical or procedural materials that are pertinent to the analysis contained in the body of the document. See the Table of Contents for the full list of appendices.

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