



Public Notice

US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice Number: 199750745
Date: November 15, 2001
Comments Due: December 15, 2001

In reply, please refer to the Public Notice Number

TO WHOM IT MAY CONCERN:

SUBJECT: Application for a Department of the Army permit under authority of Section 404 of the Clean Water Act and water quality certification under Section 401 of the Clean Water Act to fill approximately 28.58 acres of wetland for a 105-acre development as shown in the attached drawings.

APPLICANT: Roland N. Walker
McNeil Development
2130 South Boulevard
Idaho Falls, Idaho 83402

LOCATION: The project is located within Perry City, in Sections 27 and 34, Township 9 North, Range 2 West, Box Elder County, Utah. See Exhibit 1.

PURPOSE: The applicant proposes to build an architecturally-themed commercial resort development offering lodging, fuel, commercial and retail businesses easily accessible from Interstate 15. The project was jointly designed by the developer and the Box Elder County Office of Economic Development to benefit Perry City, a residential community with no significant commercial tax base.

PROJECT DESCRIPTION: The proposed project consists of land trades between the developer and U.S. Fish and Wildlife Service Bear River Bird Refuge (USFWS), off-site mitigation, land donation, and fill to wetlands for construction of the Bear River Resort at Pointe Perry (hereinafter, Pointe Perry). Approximately 28.58 acres of direct wetland impacts are proposed including 11.33 acres of shallow emergent marsh/wet meadow/natural drainages and 17.25 acres of saltgrass/mudflat playa. Field investigations indicated approximately 46.11 acres of jurisdictional wetland comprised of saltgrass/sedge wet meadow, shallow emergent marsh, natural drainages, and isolated areas of mudflat playa are present within the proposed Pointe Perry development boundaries.

As shown in Exhibit 2, the applicant proposes to exchange his parcels 1 & 3 for USFWS Bear River Bird Refuge parcels 2 & 4. The exchange is intended to provide USFWS with better upland and wetland habitat, while the developer will obtain better commercial property and reduce wetlands impacts. Development area will include 47 acres labelled "Development", and 47 acres of Parcel 2 and 11 acres of Parcel 4, currently owned by USFWS, (herein, BRBR trade properties). The applicant proposes to donate Parcel 5 to USFWS and use Parcel 6 as mitigation, in coordination with the Nature Conservancy.

Construction of the project includes bringing ground up-to-grade, utility installation, sewer, water, irrigation systems, roads and streets, curbs and gutters, trails, sediment detention basins, and preservation of upland/wetland buffer zone (Exhibit 3 & 4). Development of the site will involve the placement of approximately 250,000 cubic yards of earthen fill taken from elsewhere on the project or provided by contract. Complete build-out of the project could take up to 15 years.

AREA DESCRIPTION: The Pointe Perry project site is west of Interstate 15 at Exit 364 and east of the U.S. Fish and Wildlife Service's Bear River Migratory Bird Refuge (BRBR).

The Pointe Perry development is located on broad low lake terraces and lake plains. Elevation ranges from approximately 4230' above sea level along the northeast boundary to 4215' along the west boundary. The land slopes generally to the west. In general, the property is comprised of a complex mosaic of upland, wetland and natural drainages. The Pointe Perry property and the BRBR trade properties historically have been used as unimproved pasture and wildlife habitat. Both the Point Perry property and the BRBR trade properties are on a rotational grazing system.

MITIGATION: The applicant's discussion of alternatives and mitigation measures are included as Exhibit 5. Mitigation is proposed at two primary areas within the same watershed and in close proximity to the impact areas. The trade/purchased properties acquired by the BRBR are located immediately west of, and adjacent to the Point Perry development. The 75-acre Reese property (Parcel 6) mitigation site is located approximately 1,200 feet south of the Pointe Perry development. These properties have similar topography, hydrology, vegetation and soils as the impacted wetlands. See Exhibit 6.

ADDITIONAL INFORMATION: Nationwide Permit 26 No. 199750745 was issued in May 2000 for the widening of the frontage road serving the south half of the project.

The latest published version of the National Register of Historic Places and its monthly supplements have been reviewed and there are no places either listed or recommended as eligible which would be affected. Presently unknown cultural resources may be located in the permit area; the site has not been surveyed.

This activity would not affect any threatened or endangered species or their critical habitat. The District Engineer has made this determination based on information provided by the applicant and on the Corps' preliminary investigation.

Interested parties are invited to submit written comments on or before **December 15, 2001**. 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 hearings shall state, with particularity, the reasons for holding a public hearing.

Certification that the proposed work, if permitted, will not violate applicable water quality standards have been requested from the Utah Division of Water Quality. The Utah Division of Water Quality intends to issue certification, provided that the proposed work will not violate applicable water quality standards. Projects are usually certified where the project may create diffuse sources (nonpoint sources) of wastes which will occur only during the actual construction activity and where best management practices will be employed to minimize pollution effects. Written comments on water quality certification should be submitted by Mr. William O. Moellmer, Utah Division of Water Quality, 288 North 1460 West, PO Box 144870, Salt Lake City, Utah 84114-4870, on or before **December 15, 2001**.

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; among those are 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 and fiber production, mineral needs, consideration of property ownership, and in general, the needs and welfare of the people.

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.

If additional information is required, please contact Mr. Lanning Porter (the applicant's agent), 1970 East Falconhurst Circle, Sandy, Ut 84092 or telephone (801) 523-6101 or Mr. James Thomas of the Utah Regulatory Office, telephone (801) 295-8380, ext. 18 or email jthomas@spk.usace.army.mil. Written comments should reference Public Notice No. 199750745 and should be mailed to the U.S. Army Corps of Engineers, Utah Regulatory Office, ATTN: James Thomas, 533 West 2600 South, Suite 150, Bountiful, Utah 84010. Comments are due **December 15, 2001**.

Michael J. Conrad, Jr.
Colonel, Corps of Engineers
District Engineer

Enclosures