



# Public Notice

US Army Corps  
of Engineers

Sacramento District  
1325 J Street  
Sacramento, CA 95814-2922

Public Notice Number: 200000160

Date: March 6, 2006

Comments Due: April 5, 2006

In reply, please refer to the Public Notice Number

**SUBJECT:** The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the Sunset Harbor Marina development project, which would result in impacts to approximately 3.09 acres of waters of the United States, including wetlands, in or adjacent to the Dutch Slough. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

**AUTHORITY:** This application is being evaluated under Section 10 of the Rivers and Harbors Act of 1899 for structures or work in or affecting navigable waters of the United States and/or Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

**APPLICANT:** Matt Ellison  
Ellison Framing  
605 Harvest Park, Suite D  
Brentwood, California 94513

**LOCATION:** This project is located at 5998 Bethel Island Road, adjacent to the southeast side of the Bethel Island Bridge and south of Dutch Slough, in Contra Costa County, California and can be seen on the Jersey Island USGS Topographic Quadrangle.

**PROJECT DESCRIPTION:** The applicant is proposing to construct a boat sales facility. Based on the available information, the overall project purpose is to construct a boat sale facility in conjunction with an existing marina. The applicant believes there is a need to offer the public the opportunity to purchase recreational vessels. A previous owner of the marina filled approximately 0.62 acre of perennial and seasonal marsh on the property without prior DOA authorization. Approximately 2.47 acres of waters of the United States remain on the subject property. The current owner, Matt Ellison, has submitted an application for a permit to retain the existing fill and fill the remaining acreage for a total fill of 3.09 acres. The attached drawings provide additional project details.

## **ADDITIONAL INFORMATION:**

**Environmental Setting.** There are approximately 2.47 acres of seasonal wetlands and perennial marsh within the project area. The applicant's agent has stated that the project area was diked in the late 1800's to early 1900's and farmed until 1990. The wetlands are surrounded by roads and an existing parking lot, and have been subject to past filling and dumping (0.62 acre). He also stated that groundwater is the dominant source of water for the wetland, with winter rainfall and runoff from adjacent development also contributing to its moisture regime.

**Alternatives.** The applicant has not provided information concerning project alternatives. Additional information concerning project alternatives may be available from the applicant or their agent. Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered.

**Mitigation.** The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. The applicant has proposed to mitigate by constructing compensatory mitigation wetlands offsite. In their November 2005, *Sunset Harbor Habitat Mitigation Plan*, the applicant proposes to mitigate the loss of 3.09 acres of seasonal wetland off-site, on the east side of Bradford Island. The proposed mitigation area is on an approximately 20-acre farm owned by the applicant. The mitigation site is approximately 4 miles from the proposed development site. The mitigation plan proposes the construction of total of 7.4 acres of perennial marsh and slough habitat. A mixture of riparian woodland and grassland are proposed to be constructed on berms to buffer the mitigation wetlands.

**OTHER GOVERNMENTAL AUTHORIZATIONS:** Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Regional Water Quality Control Board is required for this project. The applicant has/has not indicated they have applied for certification.

**HISTORIC PROPERTIES:** Based on the available information cultural resources not are within the project's area of potential effect.

**ENDANGERED SPECIES:** The project will not affect any Federally-listed threatened or endangered species or their critical habitat that are protected by the Endangered Species Act.

**ESSENTIAL FISH HABITAT:** The proposed project will not adversely affect Essential Fish Habitat (EFH) as defined in the Magnuson-Stevens Fishery Conservation and Management Act.

The above determinations are based on information provided by the applicant and our preliminary review.

**EVALUATION FACTORS:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described 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 described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain 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 activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps 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 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 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.

**SUBMITTING COMMENTS:** Written comments, referencing Public Notice 200000160, must be submitted to the office listed below on or before April 5, 2006:

William Guthrie, Project Manager  
US Army Corps of Engineers, Sacramento District  
Delta Office  
1325 J Street, Room 1480  
Sacramento, California 95814-2922  
Email: [William.H.Guthrie@usace.army.mil](mailto:William.H.Guthrie@usace.army.mil)

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager William Guthrie, 916-557-5269, [William.H.Guthrie@usace.army.mil](mailto:William.H.Guthrie@usace.army.mil).

Attachments: 5 drawings