



US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Number: 200100692

Date: December 20, 2004

Comments Due: January 26, 2005

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the Ophir Road State Route 70 Freeway Extension Project, which would result in impacts to approximately **2.46-acres** of waters of the United States, including wetlands, in or adjacent to Tailings Creek. 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 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

APPLICANT: Mike Bartlett, Chief, Environmental Manager, 530-741-4598, California Department of Transportation, District 3, P.O. Box 911, Marysville, California 95901

LOCATION: The project site is located south of the city of Oroville in Section 19, 24, 25, 30 and 36, Township 18 North, Range 3 East, and Sections 1 and 2, Township 19 North, Range 3 East, MDB&M Butte County, California, and can be seen on the Palermo USGS Topographic Quadrangle. The southern terminus is 1 mile north of Palermo Road; the northern terminus is 0.3-miles south of SR 162 junction, where the freeway currently begins.

PROJECT DESCRIPTION: The applicant is proposing to upgrade a 3.6 mile segment of State Route (SR) 70 from expressway to four-lane freeway. Project construction would begin 1 mile north of Palermo Road and terminate at a point 0.3 miles south of the SR 162 Junction, where the four-lane freeway currently begins. The mainline freeway would be constructed as close to the current highway alignment as possible. The proposed improvements involve construction of an interchange at Ophir Road and an overcrossing at Georgia Pacific Way, as well as construction of two additional 12-foot lanes with a 61-foot median, 10-foot outside shoulders, and 5-foot median shoulders. In addition, rehabilitation of the existing SR 70 roadway will involve the realignment of the frontage road system to accommodate the proposed interchange and overcrossing, in addition to the elimination of driveway access points. See the attached drawings for additional project details.

The applicant states that the project purpose is to improve safety by restricting access to SR 70 through the elimination of at-grade intersections, as well as correct roadway deficiencies within the project limit by bringing SR 70 up to current safety design standards. In addition, the project will accommodate existing and future traffic volumes at a level of service (LOS) D through the year 2025.

ADDITIONAL INFORMATION:

There are approximately **2.46-acres** of waters of the United States, which include vernal pools, seasonal wetlands, swales, roadside riparian wetlands, freshwater marshes, and a pond within the project area. The highway widening will impact vernal pools and swales located at the south end of the project in the agricultural area. Four willow riparian wetlands are located on both sides of SR 70 in the right of way, within the planned design of the proposed interchange. A portion of project is located adjacent to an industrial area. Two freshwater marshes are located in the catch basins west at the intersection of SR 70 and Pacific Heights Road. Tailings Creek, west of the highway, will be impacted by the addition of two new lanes and the overcrossing at Georgia Pacific Way. To minimize impacts to the creek, a box girder bridge is being designed for the frontage road overcrossing, rather than a box culvert.

Alternatives. The applicant has provided attached drawings of the Alternative D, the Middle Interchange. Additional information concerning project alternatives may be available from the applicant.

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 requires compensatory mitigation. At this time, the applicant has submitted a conceptual mitigation plan.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the State Water Resources Control Board is required for this project. The applicant has indicated they will be applying for this certification. The applicant also indicates a California Department Fish and Game Section 1601 Streambed Alteration Agreement will be obtained.

HISTORIC PROPERTIES: Potentially eligible cultural resources may be affected by the proposed project. The applicant together with the Federal Highway Administration will initiate consultation with the State Historic Preservation Officer under Section 106 of the National Preservation Act, as appropriate.

ENDANGERED SPECIES: The proposed activity could have potential permanent or temporary effects on vernal pool fairy shrimp (*Branchinecta lynchi*) and tadpole shrimp (*Lepidurus packardi*) species, as well as giant garter snake (*Thamnopsis gigas*) and valley elderberry long-horned beetle (*Desmocerus californicus dimorphus*). The applicant together with the Federal Highways Administration will initiate consultation with the U.S. Fish and Wildlife Service, pursuant to Section 7 of the Endangered Species Act, as appropriate.

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: Please submit written comments to Laura Whitney, Project Manager, US Army Corps of Engineers, Sacramento District, Sacramento Valley Office, 1325 J Street, Room 1480, Sacramento, California 95814-2922, email: Laura.A.Whitney@usace.army.mil, on or before **January 26, 2005**.

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's point of contact, Mike Bartlett, Chief, Environmental Manager, 530-741-4598 or Laura Whitney, Regulatory Project Manager, U.S. Army Corps of Engineers, 916-557-7455, Laura.A.Whitney@usace.army.mil.

Attachments: 11 drawings