



# Public Notice

Public Notice Number: 200175014

Date: March 15, 2001

Comments Due: April 14, 2001

US Army Corps  
of Engineers

Sacramento District  
1325 J Street  
Sacramento, CA 95814-2922

In reply, please refer to the Public Notice Number

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## TO WHOM IT MAY CONCERN:

**SUBJECT:** Application for a Department of the Army permit under authority of Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge 2,326 cubic yards of fill material into **1.56 acres** of wetlands adjacent to Elk Creek for a residential and commercial development known as **Elk Creek Village**, as shown in the attached drawings.

**APPLICANT:** Mr. Peter Stalland, Elk Creek Village, LLC, 9983 Arcola Court North, Wyoming, Minnesota 55092

**LOCATION:** The project is located in the Town of Fraser, within Sections 19 and 20, Township 1 South, Range 75 West, Grand County, Colorado.

**PURPOSE:** The project purpose is to construct a mixed use development with year-round residential units along with office and retail space.

**PROJECT DESCRIPTION:** The applicant proposes to develop a mixed use development within the Town of Fraser on three parcels of land that are under the same ownership and separated by existing roads. The development includes multifamily residential units (7 buildings, 24 units) on the North Parcel, a multi-family residential (146 units, 13 buildings) and office/retail building (6000 square feet) on the South Parcel, and a mix of office space and retail on the East Parcel with a 46,200 building and 25,000 square feet of commercial or retail space in 6 other buildings, with two residential units above two of the buildings. The residential units are proposed for year-round residences. The commercial space on the South Parcel includes a restaurant, dry cleaners and flower shop. The East Parcel includes either a small Walmart, Target or City Market in the large space, and a furniture store, real estate agency, and office space for accountants, attorneys, engineers and a title company in the other 6 buildings. The East Parcel includes 329 parking spaces.

The wetland impacts on the North Parcel are from road access to buildings 1, 2 and 3, (0.003 acre) and temporary construction access for buildings 1, 6, and 7 (0.013 acre). The South Parcel creates 1.25 acre of permanent impacts from buildings, roads, parking, site grading and detention ponds. The East Parcel 0.30 acre of impacts primarily from roads and parking with minor impacts from buildings.

**AREA DESCRIPTION:** The project area is within the developed portions of the Town of Fraser. The property is surrounded on three sides by the residential and commercial development of Fraser including a large shopping center to the north and northeast. The Denver and Rio Grand Railroad tracks and embankment form the southern boundary of the South Parcel. The 3.6 acre North Parcel contains a large relatively undisturbed slope wetland in the center comprised of sedges and some stands of willow. The uplands surrounding the wetland are previously disturbed grasslands. The 11.6 acre South Parcel was disturbed in 1980 by the previous owner for road construction and development that was never completed. The road right-of-way was excavated creating shallow pits and berms 5-6 feet higher than the adjacent landscape. A majority of the South Parcel is disturbed with the exception of the wetland complex in the southern corner which will remain undisturbed. The parcel is primarily grassland with the exception of sedge dominated wetlands in some locations and the channel of Elk creek along the northeastern corner. The East Parcel also contains a section of Elk Creek and adjacent wetlands that are relatively undisturbed (600 foot reach). The remainder of the parcel is in a disturbed state although less so than the South Parcel.

On the North Parcel, the wetland is comprised of a large stand of beaked sedge (**Carex utriculata**) with scattered patches of geysers willow (**Salix geeyeriana**). The South Parcel has a mix of different plant communities based on the level of disturbance. In the undisturbed sections are stands of beaked sedge. In the drier sections are communities of clustered field sedge (**Carex pragracilis**), tufted hairgrass (**Deschampsia caespitosa**), baltic rush (**Juncus balticus**), and redbtop (**Agrostis gigantea**). Dandelion (**Taraxacum officinale**), clover (**Trifolium repens**), and yarrow (**Achillea millefolium**) are common in the disturbed wetlands. On the East Parcel, the wetlands adjacent to Elk creek are a willow complex dominated by geysers and wolf (**Salix wolfii**) with shrubby cinquefoil (**Pentaphylloides floribunda**) and silver sage (**Artemisia cana**). Redtop, tufted hairgrass, and Nebraska sedge (**Carex nebrascensis**) are common.

**ALTERNATIVES:** The applicant provided an alternative design for each of the three parcels. For the North and East parcel, the applicant's alternatives create more wetland impact than the proposal. The South Parcel alternative decreases impacts by only 0.077 acre and decreases the number of units from 146 units to 76 units. The applicant considered that this impact was not a practicable alternative due to the economic impact from the loss of residential units available for sale. The applicant states that the no action alternative would not satisfy the project purpose as the land would remain undeveloped. There are other alternatives to explore that were not presented by the applicant. These include simply reducing the density of development to minimize wetland impacts. The juxtaposition of the wetlands on the South Parcel create major difficulties in designing any project to minimize impacts to wetlands.

**ADDITIONAL INFORMATION:** The applicant proposes to mitigate for the 1.56 acres of wetland loss by creating 2.0 acres of wetland on-site. The application included a conceptual mitigation plan which describes how the grade will be lowered in the mitigation areas to the seasonal high water table. Wetland topsoil (12-18 inches) will be removed from the impact sites and spread over the mitigation areas. Wetland plants and seed will be used to revegetate the creation sites and regeneration from the topsoil should supplement the plantings. The applicant has committed to 5 years of monitoring of the creation sites. We will require a detailed final design mitigation plan if a permit is issued for the project. The attached plans depict the locations of the mitigation sites.

The applicant has requested water quality certification from the Colorado Department of Public Health and Environment, Water Quality Control Division in accordance with Section 401 of the Clean Water Act. Written comments on water quality certification should be submitted to Mr. Phil Hegeman, Planning and Standards Section, Colorado Department of Public Health and Environment, Water Quality Control Division, 4300 Cherry Creek Drive South, Denver, Colorado, 80222-1530, on or before **April 14, 2001**.

The Colorado Department of Public Health and Environment, Water Quality Control Division also reviews each project with respect to the anti-degradation provision in state regulations. For further information regarding anti-degradation provision, please contact Mr. Hegeman at the Colorado Department of Public Health and Environment, Water Quality Control Division, telephone (303) 692-3575.

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. 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 **April 14, 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.

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.

For activities involving 404 discharges, a permit will be denied if the discharge does not comply with the Environmental Protection Agency's Section 404(b) (1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer determines it would be contrary to the public interest.

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.

Written comments on this permit application should be submitted to the District Engineer at the address listed above. Please furnish a copy of your written comments to the attention of Mr. Michael Claffey, Western Colorado Regulatory Office, U.S. Army Engineer District, Sacramento, 402 Rood Avenue, Room 142, Grand Junction, Colorado 81501-2563. For further information, please contact Mr. Michael Claffey, at telephone number (970) 243-1199, extension 13, or e-mail [mclaffey@spk.usace.army.mil](mailto:mclaffey@spk.usace.army.mil).

Michael J. Walsh  
Colonel, Corps of Engineers  
District Engineer

Enclosures: Drawing(s)