



US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Public Notice Number: 200300349

Date: January 2, 2003

Comments Due: January 30, 2004

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 to discharge fill material below the ordinary high water line of Antioch Creek and adjacent wetlands, as shown in the attached drawings.

APPLICANT: Michael Cady
3127 Vistamont Drive, Suite 100
San Jose, CA 95118

LOCATION: The proposed Nelson Ranch project site is located in Section 28, Township 2 North, Range 2 East, MDB&M, Latitude 37-59-14.0758 Longitude 121-45-11.9519, Antioch, Contra Costa County, California.

PURPOSE: To discharge approximately 10,000 cubic yards (cy) of fill material into approximately 2.68 acres of jurisdictional waters/wetlands to construct a residential subdivision. Impacts regulated by the Corps under the Clean Water Act include the discharged of fill into approximately 0.27 acres of intermittent creek/drainage channel and approximately 2.41 acres of seasonal wetlands as shown in the attached drawings.

PROJECT DESCRIPTION: The proposed project involves development of the 145-acre Nelson Ranch property for residential uses including the construction of 369 housing units, associated roads and infrastructure. The project will include the placement of a segment of Antioch Creek and a second intermittent drainage, originating at Amergosa Drive, into an underground culvert system. The proposed project also includes the fill of all the seasonal wetland features scattered throughout the property. Construction activities associated with development of the Nelson Ranch property would require the discharge of approximately 10,000 cys of fill material into approximately 2.68 acres of non-tidal seasonal wetlands and intermittent creek/drainage channel. (see attached drawings). The applicant has proposed compensatory in-kind, off-site mitigation at a ratio of 2:1 to compensate for 2.68 acres of water/wetland losses attributed to project development. This will be accomplished through the creation of 0.54 acres of riparian habitat and 4.82 acres of seasonal wetlands for a total of 5.36 acres of compensatory mitigation.

AREA DESCRIPTION: The 145 +/- acre Nelson Ranch project site historically consisted of pasture used for cattle grazing. The project site is bordered on the west, and south with residential housing, to the east the project site borders the Highway 4 bypass rout to Tracy and residential development, Highway 4 forms the northern boundary (see attached drawings).

ADDITIONAL INFORMATION: The applicant has not proposed any alternatives which avoid or minimize impacts to waters of the United States as required by the 404(b)(1) guidelines.

The applicant has stated there are no listed, determined or potentially eligible historic properties on the National Register within or immediately adjacent to the project. A cultural resources assessment of the project site, has includes a review of published and unpublished data on file with city, state, and federal agencies. Based on an assessment of the results, there were no cultural resources or historic properties listed or eligible for listing on the National Register of Historic identified. The applicant has also coordinated with the State Historic Preservation Officer to take into account any project effects on such properties. In summary, the archaeological field inspections indicated that there is no evidence of archaeological material, either historic or prehistoric, inside the project area. It is the applicant's opinion that future development of the parcel will have no effect on cultural resources, and no further recommendations are made regarding the location and/or evaluation of cultural materials.

Standard construction-related measures to preserve such resources would be employed if buried artifacts or other archaeological resources were exposed during excavation and grading operations. If unrecorded historic or archaeological resources were discovered during construction, such operations would be suspended until the USACE concluded Section 106 consultation with the State Historic Preservation Officer to take into account any construction - related impacts to these resources.

The applicant has stated that no federally listed species have been found on the project site. The California Natural Diversity Data Base (CNDDB) was reviewed for records of occurrences of special status animals, plants, and natural communities that have been reported in the project vicinity. Consultation under Section 7 of the Endangered Species Act will be initiated with the appropriate agencies by the Corps.

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 **January 30, 2004**. Personal information in comment letters is subject to release to the public through the Freedom of Information Act. 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.

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 LB/L-DUCIII Antioch 330 LLC, Michael Cady, telephone 408-448-2322, or William Guthrie, at the letterhead address, telephone 916-557-5269.

Mark W. Connelly
Lieutenant Colonel,
Corps of Engineers
Acting District Engineer

Enclosures: 3 Drawing(s)