



Public Notice

US Army Corps
of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Numbers: 200400728
200400729
200400774
200400902

Date: October 2, 2006
Comments Due: November 2, 2006

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the East Cypress corridor property owners development project, which would result in impacts to 59.37 acres of waters of the United States, including seasonal wetlands, drainage ditches, and sloughs. This notice is to inform interested parties of the proposed project and to solicit comments. This notice may also be viewed at the USACE website 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.

APPLICANTS: D.R. Horton, 6658 Owens Drive, Pleasanton, California 94588. Phone: (925)-737-1080, Fax: (925)-226-0714. Bethel Island LLC, 820 Kains Avenue, Suite 108, Albany, CA 94706. Phone: (510)-524-1911, Fax: (510)-524-4210. KB Home South Bay, 6700 Koll Center Parkway, Suite 200, Pleasanton, California 94566. Phone: (925)-750-1700, Fax: (925)-750-1823.

LOCATION: The 1,255-acre project site is located east of the City of Oakley in Township 2 North, Range 3 East, Contra Costa County, California, and can be seen on the Jersey Island USGS Topographic Quadrangle.

PROJECT DESCRIPTION: The applicants are proposing to construct a residential subdivision and retail/commercial development and related infrastructure. Based on available information, the overall project purpose is to construct a large scale mixed-use residential/commercial development within the Contra Costa County area. The applicants believe there is a need to provide homes and related services. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. There are approximately 140.78 acres of seasonal wetlands and tributary drainages within the project area. Current land use within the project area consists of irrigated and dry pasture for cattle and horse grazing. Other vegetation communities present include non-native annual grassland/ruderal habitat, interior dune community, alkali meadow and grassland, Great Valley riparian forest/willow scrub, and valley freshwater marsh/seasonal wetland. Additionally, there are three major roadways as well as fenced-off natural gas wells, P.G.&E. and WAPA power lines, mobile homes and other rural residences, horse pastures and paddocks, barns, and associated outbuildings. Existing agricultural levees that do not meet urban standards are present on the northern, eastern, and southern boundaries of the project area, separating it from the Delta (Rock Slough, Sandmound Slough, and Dutch

Slough). The majority of the project site is below sea level. The applicants state the project include construction of an Urban Standard Levee system that will be constructed to protect from a projected 300-year flood event. The levee to be constructed by the applicants will connect with the Urban Standard Levee being constructed to protect from a projected 100-year flood event by the adjacent Summer Lake residential development.

Alternatives. The applicants have 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's proposed mitigation includes placement of 207.43 acres of the Dal Porto North property and 26.83 acres of the Biggs property for a total of approximately 234 acres of habitat into a conservation easement to be preserved and managed in perpetuity as wetland and dune habitat (Figures 3A and 3D). A total of approximately 84 acres of the wetlands on site would be avoided and preserved within the Dal Porto North and Biggs property conservation easement areas. Approximately 30 acres of wetlands would be created on the Dal Porto North and Biggs conservation easement areas. The combination of on-site wetland preservation and creation would total 88 acres avoided and preserved and 30 acres created, for a total of 118 acres of wetlands on site after development. Proposed off-site mitigation for project impacts to jurisdictional wetlands would occur through the purchase of wetland mitigation credits from Wildlands, Inc. at the Kimball Island Mitigation Bank in combination with a second wetland creation area located off site. Off-site wetland mitigation creation is currently in the planning stages on an approximate 260-acre property located on Holland Tract less than 1/2 mile to the east of the project site. The applicants have proposed wetland mitigation at a minimum 1.2:1 ratio (impacted:created). In addition, the applicants have stated they intend to preserve in perpetuity a 43-acre property located just west of Clifton Court Forebay near Byron, which is characterized by a mosaic of vernal pool and alkali wetland habitats.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the California Regional Water Quality Control Board is required for this project. The applicant has indicated they have applied for certification.

HISTORIC PROPERTIES: The Corps will initiate consultation with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act, as appropriate.

ENDANGERED SPECIES: The proposed activity may affect Federally-listed endangered or threatened species or their critical habitat. The Corps has initiated consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, pursuant to Section 7 of the Endangered Species Act, for the following federally-listed species: giant garter snake, (*Thamnophis gigas*), delta smelt (*Hypomesus transpacificus*), winter-run and spring-run Chinook salmon (*Oncorhynchus tshawytscha*), Central Valley steelhead (*Oncorhynchus mykiss*), green sturgeon (*Acipenser medirostis*), Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) and designated Critical Habitat.

ESSENTIAL FISH HABITAT: The proposed project may adversely affect Essential Fish Habitat. The Corps has initiated consultation with the National Marine Fisheries Service, pursuant to 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 200400729, must be submitted to the office listed below on or before October 19, 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

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.

Attachments: 9 drawings