



# Public Notice

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

Number: 200500170

Date: October 2, 2006

Comments Due: November 1, 2006

**SUBJECT:** The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the Palisades V, Kirkwood Mountain Resort project, which would result in impacts to approximately 1.72 acres of waters of the United States (WOUS), including wetlands, in or adjacent to the wetlands. This includes 1.70 acres of permanent impact and 0.02 acre of temporary impact. Permanent impacts would occur due to filling of WOUS for the residential development and road crossings. The temporary impact would occur from a temporary crossing across Kirkwood Creek to access the proposed mitigation site. 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:** Kirkwood Mountain Resort, LLC, Nate Whaley  
P.O. Box 1  
Kirkwood, California 95646-0001  
209-258-7291

**LOCATION:** The project site is located in Section 27, Township 10 North, Range 17 East, Amador County, California, and can be seen on the 7.5' Caples Lake USGS Topographic Quadrangle.

**PROJECT DESCRIPTION:** The applicant is proposing to construct three residential developments with two supporting facilities within the Kirkwood Specific Plan area. Based on the available information, the overall project purpose is to construct housing. The applicant believes there is a need to provide a year-round destination resort community. Individual developments include the Palisades (Phases 5 and 6); Martin Point; Timber Creek Village; Timber Creek Lodge Parking; and the elementary school and park. The attached drawings show additional project details.

Palisades 5 and 6 are the remaining two phases of a multi-phased residential development which began in 2000. Palisades 5 and 6 phases include 15 and 21 single-family residential lots, respectively, snow storage and access roads located on approximately 15 acres in Amador and Alpine counties, California. Martin Point is a single phase, residential development containing 34 single-family lots on approximately 17 acres within Amador County.

Timber Creek Village is a 7-lot residential development located on approximately 8.33 acres in Amador County. The Timber Creek Lodge parking will provide expanded parking for the existing Timber Creek Lodge, located across Kirkwood Meadow Drive. Surface parking lots currently occupy part of the area. The elementary school and park would cover a 6-acre parcel in Amador County at the edge of Kirkwood Meadow.

**ADDITIONAL INFORMATION:**

**Environmental Setting.** There are approximately 88.90 acres of WOUS, including 78.45 acres of wetlands, 10.22 acres of drainages, and 0.23 acres of pond within the Kirkwood Specific Plan area. The site is located in the Sierra Nevada Mountains at elevations ranging from 7,700 to 8,000 feet. The proposed project development area is characterized by moderately sloping, open meadows surrounded by lightly to moderately stock coniferous forest. Portions of the proposed project development have been affected by tree cutting, grading for construction of ski trails, roads, and ski lifts. A mitigation area is located within upland portions of Kirkwood Meadow. Approximately 69 acres of Kirkwood Meadow is in a recorded conservation easement in which no new structures, dredging, channelizing, or other activities are permitted, with allowed exceptions defined in the easement.

The forest vegetation on slopes encircling Kirkwood Meadow is dominated by lodgepole pine, red fir, and western white pine. Other coniferous species in the Kirkwood vicinity include mountain hemlock, western juniper, and jeffery pine.

Kirkwood Meadow is a relatively flat area located between two steep ridges. The meadow has a large watershed (2,265 acres) and includes Kirkwood Creek, which meanders from south to north. Meadow vegetation includes herbaceous perennial species, primarily tufted grasses and rhizomatous sedges. Both plant types grow throughout the wet and dry portions of the meadow, with sedges more common in the wetland areas and grasses more common in the upland areas.

Lodgepole pine is common at the meadow edge and in drier patches in the interior of the meadow. Shrubby species are primarily Lemmon's willow, although other willow species are scattered throughout the area. Other herbaceous species occur within the willow thickets.

**Alternatives.** According to the applicant, the residential community of Kirkwood Mountain Resort (Kirkwood) is located within 733 acres owned by Kirkwood and a collection of individuals and entities. The adjacent surround lands are owned by the USDA National Forest Service (NFS), which owns approximately 600,000 acres of public land. Kirkwood maintains a NFS Special Use Permit (SUP) on 2009 acres of NFS lands adjacent to the proposed development area to operate the ski area's lift and trail network. The SUP area is bordered to the east by Mokelumne Wilderness Area, which is an additional 105,000 acres of public land.

The applicant states that private land of equivalent size and in close proximity to the SUP and associated ski areas does not exist. Smaller in-holdings within public land may exist, but are not currently owned by Kirkwood. Development of these in-holdings would require access road easements through public lands and development of utilities, water, and wastewater disposal in addition to vegetation removal. A dispersed development would require additional road maintenance and snow removal, and increased traffic on local roads.

The applicant notes that the Draft Specific Plan was analyzed under the Kirkwood Recirculated Revised Final Environmental Impact Review (2002), and that this included alternative on-site analysis to minimize impacts to waters of the United States.

Further, the applicant states that on-site alternatives are limited because the community of Kirkwood, the on-mountain ski area facilities, and the wastewater treatment plant are already well-established.

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. For impacts of 1.70 acres to WOUS, applicant proposes to provide compensation through creation of a minimum of 3.40 acres of WOUS consisting of emergent wetland and restored open channels (a 2:1 mitigation-to-impact ratio). The applicant states that actual acreage of the mitigation area would be slightly greater than the 3.40 acres required to ensure no net loss. The mitigation area would be located within Kirkwood Meadow and constructed in two phases (Figure 7-8). Approximately 0.02 acre of temporary impacts is proposed during construction of the mitigation site and would be restored to pre-construction conditions. Fiber logs would be installed adjacent to the existing wetland, along the outer banks of Kirkwood Creek, and along the access road for erosion control.

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

**HISTORIC PROPERTIES:** Based on the available information, including a cultural resources inventories of the Kirkwood subdivisions (1996) and the Kirkwood ski area expansion project (1999), cultural resources meeting the National Register of Historic Places criteria do not occur within the project's area of potential effect. The Kirkwood Subdivisions cultural resources survey includes all areas in the proposed project development. There are no historic properties listed on or eligible for listing on the National Register of Historic Places within the proposed project area.

**ENDANGERED SPECIES:** The proposed activity may affect Federally-listed endangered or threatened species or their critical habitat. The Corps will initiate consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, pursuant to Section 7 of the Endangered Species Act, as appropriate.

The Federally threatened bald eagle nests at Caples Lake are located approximately two miles east of the proposed development area. No habitat for the bald eagle exists within the proposed development area. Several surveys were conducted within the proposed project area for special status wildlife and rare plant species as identified by the USFWS, California Department of Fish and Game (CDFG), and the Forest Service. As well, a review of the CDFG's California Natural Diversity Data Base was also undertaken.

**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 200500170, must be submitted to the office listed below on or before November 1, 2006:

Patti Johnson, Project Manager  
US Army Corps of Engineers, Sacramento District  
1325 J Street, Room 1480  
Sacramento, California 95814-2922  
Email: [Patti.P.Johnson@usace.army.mil](mailto:Patti.P.Johnson@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 Patti Johnson, 916-557-6611, [Patti.P.Johnson@usace.army.mil](mailto:Patti.P.Johnson@usace.army.mil).

Attachments: 5 drawings: vicinity map, map of existing and proposed project areas, two maps showing proposed development and waters of the United States, map showing proposed mitigation area (Phases 1 and 2).