



Public Notice

US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice Number: 200500325

Date: November 8, 2005

Comments Due: December 8, 2005

In reply, please refer to the Public Notice Number

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to fill waters of the United States to construct the Silver Springs East (Lot P) project. 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: Eleni Tsakopoulos-Kounalakis, AKT Development, 7700 College Town Drive, Suite 101, Sacramento, California 95826-2397; 916-383-2500. **AGENT:** Ken Whitney, Foothill Associates, 655 Menlo Drive, Suite 100, Rocklin, California 95765.

LOCATION: The proposed project would be located on a site known as Lot P, which is an approximately 85-acre parcel northwest of the intersection of Calvine and Excelsior Roads and adjacent to Laguna Creek. The site is southeast of Sacramento, northeast of Elk Grove, in Section 15, Township 7 North, Range 6 East, as shown on the U.S.G.S. Elk Grove 7.5' quadrangle, in Sacramento County, California.

PROJECT DESCRIPTION: The overall project purpose is to construct a small residential subdivision in southern Sacramento County within the County of Sacramento's Urban Services Boundary. The proposed project is to grade the Lot P site and construct 82 single-family homes, associated roads and infrastructure, as shown on the attached drawings. This project would result in the loss of all 10.78 acres of on-site waters of the United States, including 9.26 acres of vernal pools and 1.52 acres of vernal swale/riverine seasonal wetlands and associated habitat. The applicant states the proposed project is sited to take advantage of existing infrastructure, including existing water and sewer mains, as well as existing stormwater drainage improvements located west of the project site, and will provide conveyance for storm water drainage collected from an approximately 400-acre watershed east of the project site.

ADDITIONAL INFORMATION: The Lot P site was established as a wetland avoidance and preservation parcel pursuant to the applicant's prior development of portions of the surrounding land, including the existing Silver Springs residential development. Previous Corps' Nationwide permit authorization for other wetland fills which have occurred for surrounding development relied upon the Lot P site being avoided and maintained as wetland and wildlife habitat in perpetuity, since it contained some of the densest and highest quality wetlands of this type on the Calvine 1100-acre project site. The U.S. Environmental Protection Agency (EPA) has characterized these wetlands as Aquatic Resources of National Importance. In December 1999 the applicant applied for a Corps permit to fill the wetlands on this site for a similar nearly identical development proposal. In August 2003, the Corps determined the proposed project was not the least environmentally damaging practicable alternative, that the proposed discharges did not comply with the EPA's Section 404 (b)(1) guidelines, and that it would not be in the public's interest to issue a permit to develop the Lot P site. Based on these determinations, the Corps denied a permit to the applicant to fill these wetlands for the project as proposed. Previous local land use entitlement required the site to be maintained as open space. The applicant is separately pursuing

modifications to zoning and specific plan requirements through the County of Sacramento which are necessary for the applicants proposed development on this site.

Environmental Setting. The Lot P site proposed for this development is an irregularly shaped parcel encompassing approximately 85 acres which abuts and provides a connected corridor with a Laguna Creek wetland mitigation area adjacent to rural residential parcels along its northern boundary. The site is bounded on the east and south by Excelsior and Calvine Roads and predominantly rural residential areas, and on the west by the Silver Springs residential development.

The site is generally level to gently rolling and drains primarily from east to west. The site receives drainage flow from the east from culverts beneath Excelsior Road and from roadside collector ditches and wetland swales and channels on the site are tributary to Laguna Creek through the storm drain system of the Silver Springs residential development on the western boundary of the site. The predominant plant community on site is annual grassland, including non-native grasses and forbs. The site supports a vernal pool and seasonal wetland drainage swale complex which contains native and non-native wetland plant species, as well as characteristic vernal pool invertebrate and amphibian populations. There is no woody vegetation on the project site. Historically this land and adjacent developed areas were used for grazing. However, the applicant has indicated no significant livestock grazing has occurred on the proposed project site for years.

Alternatives. The applicant has not provided any new specific information concerning project alternatives. Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, including a range of off-site and on-site 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. To mitigate for the loss of wetlands which would occur if the project is implemented as proposed, the applicant proposes to preserve a 184-acre parcel which contains approximately 19.06 acres of wetlands, including 16.16 acres of vernal pools. The applicant also proposes to construct approximately 9.26 acres of vernal pool habitat and 1.52 acres of seasonal marsh habitat at an unspecified offsite location.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Regional Water Quality control Board is required for this project. The applicant has not indicated they have applied for certification. The project would also require local land use authorizations from the County of Sacramento.

HISTORIC PROPERTIES: Based on the available information there are no cultural resources within the area of potential effect for this project.

ENDANGERED SPECIES: The proposed activity may affect Federally-listed endangered or threatened species or their critical habitat. Some vernal pools on the project site are known to harbor vernal pool tadpole shrimp (*Lepidurus packardi*) and vernal pool fairy shrimp (*Branchinecta lynchi*), species listed under the federal Endangered Species Act. Sacramento Orcutt grass (*Orcuttia viscida*) also listed under the federal Endangered Species Act is known to occur in the vicinity of the proposed project site but has not been specifically located on the project site. A Biological Opinion was issued by The U.S. Fish and Wildlife Service on November 19, 2002, for the project previously denied a permit by the Corps. The Corps may 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: Written comments, referencing Public Notice 200500325, must be submitted to the office listed below on or before December 8, 2005:

Michael Finan, Project Manager
US Army Corps of Engineers, Sacramento District
Delta Office
1325 J Street, Room 1480
Sacramento, California 95814-2922
Email: Michael.C.Finan@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, agent, or the Corps' project manager Michael Finan, 916-557-5324, Michael.C.Finan@usace.army.mil.

Attachments: 3 drawings