



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

# Public Notice

Public Notice Number: SPK-2007-751-UO

Date: June 12, 2007

Comments Due: July 14, 2007

In reply, please refer to the Public Notice Number

**SUBJECT:** The U.S. Army Corps of Engineers, Sacramento District, (Corps) and the Utah division of Water Quality are evaluating a permit application to construct the Rice Farms Phases 2-7 project, which are proposed to result in impacts to approximately 1.45 acres of waters of the United States, including wetlands, adjacent to a tributary of the Great Salt Lake. 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 and Section 401 for water quality certification.

**APPLICANT:** Rice Farms Estates, LLC.  
Glen Rice  
814 South 200 East  
Farmington, UT 84025

**LOCATION:** The project site is located in Farmington in Section 30, Township 3 North, Range 1 East, Davis County, Utah, and can be seen on the Farmington, Utah USGS Topographic Quadrangle. More specifically, the proposed project is located at 60 West 700 South, Farmington City, Utah. See attached Project Area Location Map (Figure 1).

**PROJECT DESCRIPTION:** The applicant is proposing to construct a residential subdivision consisting of 28 medium-density housing lots and 52 low-density housing lots, access roads, and utilities. The proposed project would result in approximately 1.45 acres of unavoidable wetland impacts. Approximately 0.59 acre of wetland impact would result from the necessary road construction for access. The remaining 0.86 acre of impact would result from the construction of building pads for home lots. Based on the available information, the overall project purpose is single-family residential development. The applicant believes there is a need to provide additional single-family housing in Farmington City to meet future demand. The attached drawings provide additional project details.

## ADDITIONAL INFORMATION:

**Environmental Setting.** There are approximately 2.2 acres of wet meadow wetlands within the 36.5 acre project area (Figure 2). Historically the site consisted of several cultivated fields and a horse pasture. The wetland areas receive drainage from precipitation, groundwater discharge and from adjacent properties. Common species include: species: hardstem bulrush (*Scirpus acutus*), reed canary grass (*Phalaris arundinacea*), spotted joe-pye-weed (*Eupatoriadelphus maculatus*), purple loosestrife (*Lythrum*

*salicaria*), willow weed (*Polygonum lapathifolium*), broad-leaf cattail (*Typha latifolia*), lesser duckweed (*Lemna minor*), sandbar willow (*Salix exigua*) and Nebraska sedge (*Carex nebrascensis*).

The upland plant communities in the project area consist of cultivated row crops and pasture that are bordered with tree/shrub lines. The upland plant community bordering Wetland A occurs topographically higher and includes: Chinese elm (*Ulma parviflora*), roundleaf mallow (*Malva neglecta*), puncturevine (*Tribulus terrestris*), Japanese brome (*Bromus japonicus*), common burdock (*Arctium minus*), wild carrot (*Daucus carota*), common mullein (*Verbascum thapsus*), skeleton leaf bursage (*Ambrosia tomentosa*), bittersweet nightshade (*Solanum dulcamara*), sedge (*Carex sp.*), white goosefoot (*Chenopodium album*) and Kentucky blue grass (*Poa pratensis*).

**Alternatives.** The applicant has 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.

#### **Alternative A: Preferred Alternative**

The proposed development plan for Phases 2 – 7 has been preliminarily approved by Farmington City (Figure 3). Final City approval is pending USACE permit authorization. The proposed action would include 28 medium density housing lots and 52 low density, single family housing lots.

Beginning in 2004, the proposed development went through an extensive public review and scoping process by the City's Community Development Department, Planning Commission and City Commissioners. Both the City and the Developer have coordinated access to State roadways with the Utah Department of Transportation (UDOT). Issues regarding access through local residential streets were coordinated with local neighborhoods through the City's public review process. Issues regarding the preservation of historic sites were coordinated with Farmington City's Historic Preservation Commission.

Additionally, since 2005, both the City and the Developer have discussed wetland impact issues with the USACE.

The proposed action would have both medium and low density housing. The Proposed Action would have no direct access to State Road 106. Traffic volumes would be dispersed by providing access through 5 existing access points. The western portion of the development adjoins the I-15 Frontage Road. It has the flattest grade and easiest access. Phases 2 and 3 are proposed to be medium density housing for elderly assisted living. Phases 4, 5, 6 and 7 are proposed to be low-density single family housing because they adjoin existing low-density single family neighborhoods, and because they have 4 access points that connect to these neighborhoods.

As required by the City's Historic Preservation Commission, the Rice family farmhouse is proposed to be preserved on Lot 604, and the barns on Lots 701 and 702 would be preserved. These historic preservations reduce the acreage of remaining land for potential home lots because of their larger lot size.

The proposed action would result in approximately 1.45 acres of unavoidable wetland impacts. Approximately 0.59 acre of wetland impact would result from road construction for access. The remaining 0.86 acre of impact would result from the construction of building pads for home lots. The Proposed Action has three fewer lots than the allowable yield approved by the City. These lots were

removed to minimize impacts to the approximately 0.7 acres of existing wetlands. Financial statements were previously provided to the USACE justifying the need to fill the wetlands. The applicant has stated the project cannot afford to lose more than 3 home lots and be financially practicable.

#### **Alternative B: No Action**

The No Action alternative would continue to keep the farm in agricultural production. This alternative does not meet the stated purpose of the project and is impracticable because the farm is too small to be economically viable as a stand-alone agricultural business. The farm is situated within the incorporated City limits and surrounded by single family neighborhoods. The adjoining neighborhoods have also complained in the past about farm smells and rodents.

#### **Alternative C: Total Wetland Avoidance**

Due to the logistical constraints of project access, the full development of the uplands on the site cannot be achieved without a road(s) crossing the existing wetlands. The partial development of the site would result in no less than 12 fewer home lots if wetlands were totally avoided, which the applicant has stated is economically impracticable.

#### **Alternative D: Full Wetland Development**

Under this alternative, the maximum development allowed by the City would be constructed. The design layout would be the same as the proposed action, but the entire 2.2 acres of existing wetlands would be filled and proposed to be mitigated off-site at a wetland mitigation bank. This alternative would be the most economically profitable alternative. It would yield 55 low density, single family home lots, and would be compliant with all of the City's requirements assuming the USACE would approve the filling of wetlands and issue a 404 Permit.

#### **Alternative E: On-site Wetland Mitigation**

This alternative would entail a redesign of the road system to further minimize the filling of wetlands, and to partially mitigate impacts on-site by creating replacement wetlands (Figure 3). A total of 0.95 acres of wetlands would be filled. A total of 1.26 acres of wetlands would be avoided. A total of 0.5 acre of wetland would be proposed to be created on-site as partial mitigation. The remainder of the wetland impact would be proposed to be mitigated off-site by purchasing credits from a wetland mitigation bank. This alternative would result in 45 low density, single-family home lots, and would be compliant with the City's requirements. However, this alternative would have 7 fewer lots than the proposed action and the applicant has stated this would not be economically viable.

#### **Alternative F: Increase Medium Density Development**

This alternative would involve the avoidance of all wetlands within the project area. This would require the establishment of medium-density housing (i.e., duplex, fourplexes or townhomes) both east and west of the avoided wetlands, whereas the proposed action would only have medium density located along the I-15 frontage road to the west of the wetlands. The applicant has stated the additional density would have to be sufficient to offset the loss of single-family home lots and increased costs in the improvements of public infrastructure in order to be economically viable.

The City prepared a letter dated March 23, 2007 addressing the problems of establishing higher density housing on the east side of the wetlands. The City would have to amend its zoning plan to allow for high density development in the project area, which would involve a lengthy public process. As indicated in the City letter, the main concerns are:

- increased traffic through single family neighborhoods because UDOT would not permit direct

access on to State Road 162;

- incompatibility with the historic preservation of the farmhouse and barns on the east side of the development;
- impacts to property values and quality of life to the existing neighborhoods with single family homes that would adjoin the higher density areas; and
- the practicability of recapturing increased development costs.

**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 has proposed to purchase 1.45 acres of credit from a Corps approved Wetlands Mitigation Bank.

The approximately 0.7 acre of avoided wetlands is proposed to remain as is and would be deed restricted to preclude any future development. The avoided wetland would be left in its native condition and protected by installing a perimeter fence and an upland buffer, averaging about 20-feet in width, between it and adjacent residential home lots. A pedestrian sidewalk would be constructed along the perimeter of the 20-foot buffer. The project's homeowners association would be responsible for maintaining and managing the avoided wetlands, buffer, sidewalk and fence. There would be no upland buffer between avoided wetland and the adjoining 60-foot right-of-ways for 50 East Street and 750 South Street.

**OTHER GOVERNMENTAL AUTHORIZATIONS:** Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Utah Division of Water Quality, is not required for this project. The Utah Division of Water Quality intends to issue certification provided that the proposed work will not violate applicable water quality standards. Projects are usually certified where the project may create diffuse sources (non-point sources) of wastes which will occur only during the actual construction activity and where best management practices would be employed to minimize pollution effects. Written comments on water quality certification should be submitted to Ms. Shelly Quick, Utah Division of Water Quality, 288 North 1460 West, Post Office Box 144870, Salt Lake City, Utah 84114-4870, on or before **July 14, 2007**.

**HISTORIC PROPERTIES:** Based on the available information there are potentially eligible cultural resources on site that may be affected by the proposed project.

**ENDANGERED SPECIES:** Based on preliminary review, the project will not affect any Federally-listed threatened or endangered species or their critical habitat that are protected by the Endangered Species Act. The Corps will not initiate consultation with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act unless additional information warrants consultation.

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 SPK-2007-751-UO must be submitted to the office listed below on or before **July 14, 2007**:

John E. Urbanic, Project Manager  
US Army Corps of Engineers  
Utah Regulatory Office  
533 West 2600 South, Suite 150  
Bountiful, Utah 84010-7744  
Email: [john.e.urbanic@usace.army.mil](mailto:john.e.urbanic@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 John E. Urbanic, 801-295-8380 x13, [john.e.urbanic@usace.army.mil](mailto:john.e.urbanic@usace.army.mil).

Attachments: **3**