



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

Public Notice

Public Notice Number: SPK-2007-02309

Date: July 30, 2008, 2008

Comments Due: August 30, 2008

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 construct the Kellogg Creek Bio-Filter Retention project, which would result in impacts to approximately 2.58 acres of waters of the United States, including wetlands, in and/or adjacent to Kellogg Creek. 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 10 of the Rivers and Harbors Act of 1899 for structures or work in or affecting navigable waters of the United States and Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

APPLICANT: Reclamation District 800
1540 Discovery Bay Boulevard, Suite A
Discovery Bay, California 94514
Attn: Jeffery Conway

LOCATION: The project site is located in and adjacent to Kellogg Creek, Section 35, Township 1 North, Range 3 East, MDB&M, Contra Costa County, California, and can be seen on the Woodward Island USGS Topographic Quadrangle.

PROJECT DESCRIPTION: The applicant is proposing to construct an approximately 4-acre bio-filter/sediment retention basin. Based on the available information, the overall project purpose is to construct a water quality basin to remove pollutants and a minimum of 50 percent of the sediment load carried into the Sacramento/San Joaquin Delta at the Town of Discovery Bay by Kellogg Creek. In order to effectively remove pollutants from the incoming stormwater, agricultural and urban runoff the following methods will be utilized: The water entering the basin will be slowed, stored in large shallow pools, brought into contact with large areas of aquatic vegetation where additional biological and photochemical reaction can effectively remove pollutants. The proposed project would be constructed on an approximately 13-acre site located approximately 0.3 miles upstream of the mouth of Lower Kellogg Creek. The applicant believes there is a need to improve water quality in Discovery Bay/ Indian Slough. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. The project area is located immediately north of Highway 4, east of an existing shopping center, and west of the community of Discovery Bay. There are approximately 4.63 acres of seasonal wetlands, 0.03 acres of freshwater marsh, and 1.99 acre of open water within and or immediately adjacent to the project area. The site is characterized by low-lying, relatively level land ranging in elevation from sea level to Fourteen feet above sea level. Surrounding land uses consist primarily of agricultural activities.

Alternatives. The applicant has not 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 has not proposed compensatory mitigation at this time.

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 Central Valley Region 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 will initiate consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, pursuant to Section 7 of the Endangered Species Act, as appropriate.

ESSENTIAL FISH HABITAT: The proposed project may adversely affect Essential Fish Habitat. The Corps will initiate consultation with the National Marine Fisheries Service, pursuant to Magnuson-Stevens Fishery Conservation and Management Act, as appropriate.

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-2007-02309 must be submitted to the office listed below on or before August 30, 2008.

William H. Guthrie, Project Manager
US Army Corps of Engineers, Sacramento District
Sacramento 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 H. Guthrie, (916)557-5269, william.h.guthrie@usace.army.mil.

Attachments: 3 drawings