



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

Public Notice

Public Notice Number: SPK-1999-50428 (mod.)

Date: September 6, 2007

Comments Due: September 21, 2007

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 modify the existing American Fork Commercial Center project, which would result in impacts to approximately 2.52 acres of waters of the United States, including wetlands, adjacent to the Mitchell Hollow drainage. 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: Woodbury Corporation
2749 East Parleys Way, Suite 310
Salt Lake City, Utah 84109
Attn: Richard Mendenhall

LOCATION: The project site is located north of Interstate 15, across from the (Lehi) Mill Pond, in Section 15, Township 5 South, Range 1 East, SLB&M, American Fork, Utah County, Utah, and can be seen on the Lehi USGS Topographic 7.5' Quadrangle (Figure 1 – Project Location).

PROJECT DESCRIPTION: The applicant is proposing to exchange 3.84 acres of land within the onsite wetland mitigation/preservation area associated with the American Fork Commercial Center. Within the proposed 3.84-acre land exchange area (the impact area), there are approximately 2.52 acres of wetlands and 1.32 acres of uplands. Approximately 24,780 cubic yards of fill would be placed within the wetlands (Figure 2).

Based on the available information, the overall project purpose is to improve the configuration of an existing commercial development. The applicant believes there is a need to change the layout of the commercial center since an undeveloped portion of the center is inaccessible due to its location behind a large retail store. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Project Background. Under the original permit authorization, the applicant filled approximately 25.07 acres of wetlands, including 60 springs. After constructing the commercial center, the applicant found that some undeveloped portions of the commercial center land could not be accessed for other development because the area is located behind a large retail store. The deed restrictions recorded for protecting the Center's onsite mitigation area require the applicant to seek Corps authorization to alter or reconfigure the mitigation area. The applicant is seeking the Corps' permission to exchange 3.84

acres of land within the protected mitigation area for 3.84-acres adjacent to the existing conservation area. The applicant would also utilize 2.28 acres of created and enhanced wetland acreage at the Lehi Mitigation Site.

Environmental Setting. As currently configured, the mitigation site includes approximately 32.58 acres of high-functioning wet meadows, emergent marsh wetlands, and springs, and approximately 11.11 acres of upland buffer. As mentioned above, the land exchange area to be impacted is located within deed-restricted mitigation site. The proposed 3.84-acre impact area within the mitigation site includes approximately 2.52 acres of wetlands and 1.32 acres of uplands. Springs do not occur within this area, however, a spring head does occur approximately 40 feet away from the edge of the proposed edge of fill. Dominant species around the spring include Baltic rush, cattail, hardstem bulrush, sandbar willow, reed canary grass. The dominant species in the proposed fill area include reedtop, creeping bentgrass, teasel, Baltic rush, annual weeds, wheatgrass, and Russian olive.

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.

Preferred Alternative (Alternative A). The applicant's preferred alternative is described above (Figure 2).

Expanded Footprint Alternative (Alternative B). This footprint is similar to the applicant's preferred alternative, except that the nearby spring head would be impacted. The applicant did not select this alternative because suitable mitigation could not be found to compensate for impacts to the spring (Figure 3).

No Action (Alternative C). Use the current permitted site layout, and construct commercial office complex behind large box development. This is not preferred because of poor accessibility to the 3.84-acre property behind a large retail store (Figure 4).

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 create a wet meadow/emergent marsh wetland complex between the existing conservation area and pond. This wetland complex will receive hydrology from an existing underdrain that discharges captured spring water. The flows from the underdrain are perennial and will be sufficient to saturate/inundate the wetland throughout the year. This area will be planted with native grasses, forbs, shrubs, and trees (Figure 5). The applicant anticipates that 3.84-acres of wetlands will be created onsite at a 1.5:1 ratio. The newly created acreage will become part of the deed-restricted conservation area.

The applicant proposes to monitor the newly created mitigation area and nearby spring for 5 years or until the Corps-approved mitigation success criteria have been met. The applicant will evaluate the following parameters to measure the success of the wetland creation:

- 1) Establishment of herbaceous hydrophytic vegetation in created wetland (>50% cover).
- 2) Herbaceous vegetation in wet meadow to exceed 80% ground cover.
- 3) Establishment of woody species (>80% survival rate).
- 4) Observation of saturated/inundated soils in created wetland (continued flow from underdrain).
- 5) Control weedy species (<10% aerial cover).
- 6) Perform photo-documentation of mitigation site and spring 105 from established points.
- 7) Identify areas that require maintenance/management to meet success criteria.
- 8) Submit monitoring reports by November 1st of each monitoring year.

To mitigate for temporal loss of aquatic resources, the applicant also proposes to provide an additional 2.28 acres of offsite wetland mitigation via created and enhanced wetlands in the Lehi Mitigation Site at a 1.5:1 ratio (Figure 6).

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 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 **October 5, 2007**.

HISTORIC PROPERTIES: A cultural resource survey for the project site has not been conducted. 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 applicant conducted enlisted the services of a professional botanist to conduct surveys for the Ute ladies'-tresses orchid, a federally listed (threatened) plant species. Based on the available information in the August 8, 2007, *American Fork Commercial Center Ute ladies'-tresses inventory*, it does not appear that this project will affect any federally-listed species or their critical habitat, pursuant to Section 7 of the Endangered Species Act. The Corps will consult with the U.S. Fish and Wildlife Service to determine if there are any additional ESA concerns.

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 199650428 must be submitted to the office listed below on or before **September 21, 2007**.

James McMillan, Project Manager
US Army Corps of Engineers, Sacramento District
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, Utah 84010

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 James McMillan, 801-295-8380 ext. 17, or email james.m.mcmillan@usace.army.mil.

Attachments: 4 drawings

Figure 1—Location Map
Figures 2, 3, and 4—Alternatives A, B, and C (respectively)
Figure 5—Mitigation Design
Figure 6—Location of Offsite Mitigation