



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

PUBLIC NOTICE

PROJECT: Courage Drive Study Site

PUBLIC NOTICE NUMBER: 2011-00434N

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COMMENTS DUE DATE: April 20, 2014

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1. **INTRODUCTION:** John Piccetti of DGP Associates, through its agent, LSA Associates, Inc. (POC: Steve Foreman, 510-236-6810), has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to construct two industrial complexes (one of 300,000 square feet and the other 100,800 square feet), that will include warehouse and manufacturing space, associated office space, 360 required parking spaces, landscaping, utilities, and stormwater pollution prevention measures within an established industrial park at 2100 Courage Drive in Fairfield, Solano County, California. This Department of the Army permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*).

2. PROPOSED PROJECT:

Project Site Location: The project site is located in the City of Fairfield, southwest portion, and south of California State Highway 12 and west of Beck Avenue, on the north side of Courage Drive (Figure 1). The site is 22.5 acres and has two Assessor's Parcel Numbers: 002-879-2110 and 002-879-2130, and can be found at 36.239° N latitude and 122.070° W longitude.

Project Site Description: The site ranges in elevation from 15 to 20 feet above sea level. Portions of the site have been heavily disturbed, which includes heavy grading including a significant soil stockpile near the eastern edge of the site. The site has been disked for vegetation control, most recently in 2010. The site drains to the south and southwest. Through a series of culverts, onsite overland sheetflow may, in the cases of extensive rainfall, connect to Ledgewood Creek. Dominant vegetation onsite includes grasses such as Italian rye grass (*Lolium multiflorum*), Mediterranean barley (*Hordeum*

marinum), creeping wild rye (*Leymus triticoides*), soft chess (*Bromus hordeaceus*), rip-gut (*Bromus diandrus*), and wild oats (*Avena fatua*). The site was visited by Corps personnel on February 1, 2012 and a jurisdictional determination was made that concluded the site has 1.29 acres of jurisdictional seasonal wetlands.

Project Description: As shown in the attached drawings, the applicant proposes to develop two industrial complexes of 300,000 square feet and 100,800 square feet, respectively, that would include warehouse and manufacturing space, associated office space, 360 parking spaces, and landscaping. Construction would involve grading, the installation of drainage and utilities, and stormwater pollution prevention measures. The 1.29 acres of seasonal wetlands would be filled to accommodate the building pads and foundation.

Basic Project Purpose: The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by USACE to determine whether the project is water dependent. The basic project purpose is industrial development.

Overall Project Purpose: The overall project purpose serves as the basis for the Section 404(b)(1) alternatives analysis, and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, while allowing a reasonable range of alternatives to be analyzed. The overall project purpose is to develop a multi-user distribution center standard warehouse complex centrally located to provide easy access to highways serving Sacramento and the southern Sacramento Valley, Stockton/northern San Joaquin Valley, and the San Francisco Bay Area.

Project Need: The proposed project is being constructed to meet projected demand for light industrial facilities in the Fairfield/Vacaville area. The proposed project is located within the existing Solano Business Park, which is one of several business parks intended to provide available land for light industrial growth in Fairfield over the next ten years. According to the City of Fairfield General Plan from 2004, Fairfield has over 10 million square feet of existing occupied industrial space and over 1,400 acres of vacant land planned for industrial and business development to provide opportunities for quality business development. Vacaville has reserved 1,600 acres of land for additional industrial and business parks. The City of Suisun City does not have any currently appropriately zoned land for this use.

The Fairfield and Vacaville area provides an ideal location for industrial facilities. With rail access, close proximity to Interstate-80, and near both the Sacramento and San Francisco Bay metropolitan areas, the project site is well suited to reduce local and regional transportation costs.

The project will help meet the City of Fairfield General Plan policies and objectives which include, but are not limited to: a) develop sufficient employment generating uses to maintain a positive City fiscal condition and housing balance; b) provide a variety of employment areas in which industrial and commercial activities will contribute to the continued economic welfare of the people of the City and to stable economic tax bases for the City; c) encourage a mix of large and small industries and businesses to support a strong and diverse economic base. This mix should create a large number of jobs, generate substantial public revenues, and involve high levels of private capital investment; d) effectively concentrate industrial and commercial uses; and e) to minimize traffic impacts, industrial and business activity should be located in areas close to major transportation. Such areas should have room for expansion and sufficient buffers to prevent conditions of potential incompatibility with surrounding uses.

Overall, the proposed project would provide approximately 400,000 square feet of warehouse and manufacturing space on land allocated for industrial use to meet the need for industrial facilities in the City of Fairfield, promote job growth, and provide new employment opportunities.

Proposed Mitigation: The applicant's proposal for mitigation for impacts to 1.29 acres of seasonal wetlands on the project site will consist of preservation of 2.58 acres of existing wetland habitat (a 2:1 ratio) and restoration of 1.29 acres of seasonal wetland habitat at the

Elsie Gridley Mitigation Bank, or another agency-approved mitigation bank within Solano County, California.

Project Alternatives: The applicant submitted an alternatives analysis that addressed both off-site as well as on-site alternatives. Regarding off-site alternatives, factors such as cost, technology, and logistics were all considered. The applicant reviewed general plans, land use maps, and aerial photography for all jurisdictions with the Fairfield/Vacaville Market Area. In addition, factors such as zoning designation, current location, availability of property for purchase, parcel size and shape, and environmental impacts. Seventy-seven potential parcels/sites were evaluated in Fairfield, and sixty-nine potential parcels/sites were evaluated in Vacaville. Preliminary results of the off-site alternatives screening indicate that there are no practicable off-site alternatives to the proposed project site within the project's market area. Regarding on-site alternatives, factors such as layout and design, as well as access points (two needed) parking space requirements, utilities, easements, stormwater detention, were all considered. The three on-site alternatives are described below:

Alternative 1: Proposed Project. Alternative 1 is the proposed project, and would entail the construction of two industrial complexes (of 300,000 and 100,080 square feet) that will include warehouse and manufacturing space, associated office space, 360 parking spaces, and landscaping. Project construction will involve grading, installation of drainage and utilities, and stormwater pollution prevention measures. This alternative would impact 1.29 acres of jurisdictional seasonal wetlands.

Alternative 2: No Wetland Fill (Avoidance Alternative). Alternative 2 tests the practicability of avoiding (preserving) all jurisdictional seasonal wetlands. Jurisdictional wetlands would be avoided by reducing the development envelope. Under this alternative the size of the two industrial complexes would be reduced and two of the loading docks would be eliminated. It would entail development of two industrial complexes (198,192 square feet and 100,638 square feet), two loading docks, approximately 461 parking spaces, landscaping, drainage and utilities, and stormwater pollution prevention measures. Under this alternative, all wetland features (approximately 1.29 acres) would be preserved and a small buffer would be established around the seasonal wetlands on the project site.

Alternative 3: Partial Wetland Fill (Minimization Alternative). Alternative 3 tests the practicability of avoiding (preserving) jurisdictional wetland areas along

the southern and eastern edges of the project site, as well as the wetland area between the two proposed buildings. Jurisdictional features would be avoided by reducing the development envelope. Under this alternative the size of the two industrial complexes would be reduced and two of the loading docks would be eliminated. It would entail development of two industrial complexes of 256,453 square feet and 100,638 square feet, two loading docks, approximately 443 parking spaces, landscaping, drainage and utilities, and stormwater pollution prevention measures. Total impacts to jurisdictional seasonal wetlands would be approximately 0.26 acres.

The Corps has not endorsed the submitted alternatives analysis at this time. The Corps will prepare its own 404(b)(1) alternatives analysis prior to reaching a final permit decision.

3. STATE AND LOCAL APPROVALS:

Water Quality Certification: State water quality certification or a waiver is a prerequisite for the issuance of a Department of the Army Permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to Section 401 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1341 *et seq.*). The applicant has recently submitted an application to the California Regional Water Quality Control Board (RWQCB) to obtain water quality certification for the project. No Department of the Army Permit will be issued until the applicant obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed, if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act.

Water quality issues should be directed to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612 by the close of the comment period.

Coastal Zone Management: The project does not occur in the coastal zone, and a *preliminary* review by USACE indicates the project would not likely affect coastal zone resources. This presumption of effect, however, remains subject to a final determination by the San Francisco Bay Conservation and Development Commission.

Coastal zone management issues should be directed to the Executive Director, San Francisco Bay Conservation and Development Commission, 50 California Street, Suite 2600, San Francisco, California 94111, by the close of the comment period.

Other Local Approvals: The applicant has applied for the following additional governmental authorizations for the project: A Section 401 Water Quality Certification from the California Regional Water Quality Control Board.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act (NEPA): Upon review of the Department of the Army permit application and other supporting documentation, USACE has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of NEPA. At the conclusion of the public comment period, USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347), the Council on Environmental Quality's Regulations at 40 C.F.R. Parts 1500-1508, and USACE Regulations at 33 C.F.R. Part 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of USACE and other non-regulated activities USACE determines to be within its purview of Federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be incorporated in the decision documentation that provides the rationale for issuing or denying a Department of the Army Permit for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Regulatory Division.

Endangered Species Act (ESA): Section 7(a)(2) of the ESA of 1973, as amended (16 U.S.C. § 1531 *et seq.*), requires Federal agencies to consult with either the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to ensure actions authorized, funded, or undertaken by the agency are not likely to jeopardize the continued existence of any Federally-listed species or result in the adverse modification of designated critical habitat. As the Federal lead agency for this project, USACE has conducted a review of the California Natural Diversity Data Base,

digital maps prepared by USFWS and NMFS depicting critical habitat, and other information provided by the applicant, to determine the presence or absence of such species and critical habitat in the project area. Based on this review, USACE has made a *preliminary* determination that Federally-listed species and designated critical habitat are not present at the project location or in its vicinity, and that consultation will not be required. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by USFWS and/or NMFS.

Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA): Section 305(b)(2) of the MSFCMA of 1966, as amended (16 U.S.C. § 1801 *et seq.*), requires Federal agencies to consult with the NMFS on all proposed actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. EFH is designated only for those species managed under a Federal Fisheries Management Plan (FMP), such as the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, and the *Pacific Coast Salmon FMP*. As the Federal lead agency for this project, USACE has conducted a review of digital maps prepared by NMFS depicting EFH to determine the presence or absence of EFH in the project area. Based on this review, USACE has made a *preliminary* determination that EFH is not present at the project location or in its vicinity, and that consultation will not be required. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by NMFS.

Marine Protection, Research, and Sanctuaries Act (MPRSA): Section 302 of the MPRS of 1972, as amended (16 U.S.C. § 1432 *et seq.*), authorizes the Secretary of Commerce, in part, to designate areas of ocean waters, such as the Cordell Bank, Gulf of the Farallones, and Monterey Bay, as National Marine Sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the Act. No Department of the Army Permit will be issued until the applicant obtains the required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project would

not likely affect sanctuary resources. This presumption of effect, however, remains subject to a final determination by the Secretary of Commerce, or his designee.

National Historic Preservation Act (NHPA): Section 106 of the NHPA of 1966, as amended (16 U.S.C. § 470 *et seq.*), requires Federal agencies to consult with the appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places*. Section 106 of the Act further requires Federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance. As the Federal lead agency for this undertaking, USACE has conducted a review of latest published version of the *National Register of Historic Places*, survey information on file with various city and county municipalities, and other information provided by the applicant, to determine the presence or absence of historic and archaeological resources within the permit area. Based on this review, USACE has made a *preliminary* determination that historic or archaeological resources are not likely to be present in the permit area, and that the project either has no potential to cause effects to these resources or has no effect to these resources. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, and Native American Nations or other tribal governments. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until USACE concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the project is not dependent on location in or proximity to waters of the United States to achieve the

basic project purpose. This conclusion raises the (rebuttable) presumption of the availability of a less environmentally damaging practicable alternative to the project that does not require the discharge of dredged or fill material into special aquatic sites. The applicant has submitted an analysis of project alternatives which is being reviewed by USACE.

6. PUBLIC INTEREST EVALUTION: The decision on whether to issue a Department of the Army Permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the project and its intended use on the public interest. Evaluation of the probable impacts requires a careful weighing of the public interest factors relevant in each particular case. The benefits that may accrue from the project must be balanced against any reasonably foreseeable detriments of project implementation. The decision on permit issuance will, therefore, reflect the national concern for both protection and utilization of important resources. Public interest factors which may be relevant to the decision process include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

7. CONSIDERATION OF COMMENTS: USACE is soliciting comments from the public; Federal, State and local agencies and officials; Native American Nations or other tribal governments; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by USACE will be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army Permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental or public interest factors addressed in a final environmental assessment or environmental impact statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the project.

8. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to Dominic MacCormack, San Francisco District, Regulatory Division, 1455 Market Street, 16th Floor, San Francisco, California 94103-1398; comment letters should cite the project name, applicant name, and public notice number to facilitate review by the

Regulatory Permit Manager. Comments may include a request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. Additional project information or details on any subsequent project modifications of a minor nature may be obtained from the applicant and/or agent, or by contacting the Regulatory Permit Manager by telephone or e-mail cited in the public notice letterhead. An electronic version of this public notice may be viewed under the *Public Notices* tab on the USACE website: <http://www.spn.usace.army.mil/Missions/Regulatory>.