



US Army Corps
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SAN FRANCISCO DISTRICT

PUBLIC NOTICE

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RESPONSE REQUIRED BY: September 15, 2002

Regulatory Branch
333 Market Street

San Francisco, CA 94105-2197

PROJECT MANAGER: Mark D'Avignon Phone: (415) 977-8507/E-mail: mdavignon@spd.usace.army.mil

1. INTRODUCTION: The Fairfield-Suisun Unified School District, 1975 Pennsylvania Avenue, Fairfield, California 94553 (Contact: Ms. Kim Van Gundy (707) 399-5148) has applied for a Department of the Army permit to place a total of 1438 cubic yards of earth fill material into 0.28 acre of seasonal wetlands, and 0.39 acre of tidal brackish wetlands in association with the construction of the proposed Lawler Ranch School in Suisun City, Solano County, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

2. PROJECT DESCRIPTION: As shown in the attached drawings, the applicant plans to construct an elementary school for the Fairfield-Suisun Unified School District. The site is located at the intersection of Anderson Drive and McCoy Creek Drive just east of Grizzly Island Road south of Route 12, and west of McCoy Creek in the City of Suisun. The proposed project includes the construction of six single story buildings, which cover a total of approximately 48,100 square feet. The buildings would be constructed on a concrete slab on grade with typical spread footings and with mat footing foundations under the larger buildings. The walls would be made of cement plaster on a wood stud frame. The project would include the installation of ball fields, hard courts, general landscaping, concrete or asphalt walks, irrigation systems, and parking areas.

Fill material would be placed into 0.28 acres of seasonal wetlands occurring in shallow depressions and 0.39 acres of tidal brackish wetlands, which occur in excavated drainage ditches. The seasonal wetlands onsite contain hydrophytic plants such as

rabbitfoot grass (*Lolium multiflorum*), salt grass (*Distichlis spicata*), curly dock (*Rumex crispus*), bristly oxtongue (*Picris echioides*), coyote thistle (*Eryngium marmatum*) and bird's-foot trefoil (*Lotus corniculatus*). The tidal wetlands occurring in the drainage ditches support wetland plants such as cattails (*Typha latifolia*), bulrush (*Scirpus robustus*) pickleweed (*Salicornia virginica*), salt grass (*Distichlis spicata*), water parsley (*Oenanthe sarmentosa*) and marsh gumplant (*Grindelia integrifolia*). Due to the proximity of urban development and site disturbance, extensive wildlife usage was not observed during the Corps site inspection, and is not expected to occur. However, the site may occasionally serve as high tide refugia for shorebirds using Hill Slough Tributary.

The applicant states the purpose of the discharge is to elevate the site for a level building platform above the 100-year floodplain. Approximately 478 cubic yards of fill material would be discharged into seasonal wetlands and 960 yards of fill material would be discharged below the high tide line into brackish tidal wetlands in the drainage ditches. Fill material would be clean, granular, and non-expansive. A site grading plan and cross section views of the seasonal wetland areas are included in the attached drawings. Typical construction equipment including graders, bulldozers, and backhoes would be used as means of discharge.

The 10-acre site is the proposed future location of the Lawler Ranch Elementary School, which would replace the existing Crescent Elementary School. In November 1998, the Fairfield-Suisun Unified School District Governing Board directed its staff to immediately close the Crescent Elementary School buildings (95% of the campus) due to health and

safety microbial reports demonstrating evidence of toxic mold (*Stachybotrys mycotoxins*) infestation. In March 2002, Measure C, a local general obligation bond, was passed, enabling the District the funds to replace the unhealthy campus. The applicant states that because of the urgent requirement to open the Lawler Ranch elementary school to replace the closed school, and the fact that this has been deemed a facility hardship by the State Allocation Board, this project is a top priority for the State's educational system.

The applicant has proposed a 0.4-acre onsite mitigation wetland along the western boundary of the site to compensate for the unavoidable loss of the existing tidal wetlands. The onsite mitigation wetland would be fenced and planted with native plants equivalent to those occurring in the existing ditches. In-kind replacement of brackish wetland acreage lost (0.39 acre) would be mitigated onsite in an excavated basin restored to brackish marsh habitat. The pond would be located on the western portion of the Site and connected with a channel to Hill Slough, a tidal channel connected to Suisun Bay. The connection to the Slough would be excavated to an elevation below the high tide line. Hence, the mitigation wetland would be subject to tidal inundation on a daily basis. The mitigation wetland would be inoculated with the wetland vegetation and wetland soils excavated from the existing tidal drainage ditches. A 5-year monitoring plan would include annual vegetation monitoring ensuring at least 80% cover of native wetland indicator species and that inundated or saturated soil conditions exist for a duration of at least 15% of the growing season.

To compensate for unavoidable permanent impacts to seasonal wetlands onsite which contain potential habitat for the federally listed threatened vernal pool fairy shrimp habitat, the applicant proposes to purchase preservation credits from a U. S. Fish and Wildlife Service mitigation bank at a ratio of 2:1

and create seasonal wetlands for vernal pool fairy shrimp at a ratio of 1:1 at the same mitigation bank.

The project environmental consultant, LFR Levine-Fricke (LFR) reviewed a Draft Biological Assessment prepared by LSA Associates, Inc. for the Proposed Lawler Ranch Elementary School, Fairfield, the Biological Assessment and the California Natural Diversity Database "Rarefind" results for the USGS Fairfield South quadrangle, and conducted recent site visits. They concluded that due to the highly disturbed condition of the site resulting from previous filling and annual disking for fire abatement, and the lack of suitable habitat, there is no potential for occurrence of any federally listed animal species except for possibly the federally listed threatened vernal pool fairy shrimp (*Branchinecta lynchi*). Marginally suitable habitat for the fairy shrimp occurs on site in seasonal wetlands; however it is not likely that fairy shrimp are present because of disturbed site conditions and heavy cover of non-native grasses such as ryegrass (*Lolium* spp.) in the seasonal wetlands. The stringent schedule for construction of the school, however, does not allow for the two years of studies necessary to prove absence of the fairy shrimp. Accordingly, the applicants have decided to assume presence of fairy shrimp and mitigate for them (as discussed below), unless the U.S. Fish and Wildlife Service determines otherwise as a result of the Endangered Species Act consultation process. There is no potential for occurrence of Contra Costa goldfields (*Lasthenia conjugens*) or other listed plants on the site because of disturbed conditions. No sensitive plant species were observed by consulting botanists during surveys conducted in the flowering seasons of May 1997 and April 2002.

3. **STATE APPROVALS:** Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification or waiver before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a

valid request for State water quality certification to the San Francisco Bay Regional Water Quality Board. No Corps permit will be granted until the applicant obtains the required certification or waiver. A waiver shall be explicit, or it will be deemed to have occurred if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write 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 of this public notice.

4. EVALUATION OF ALTERNATIVES:

Evaluation of this activity's impacts includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. 1344(b)). An evaluation under the 404(b)(1) Guidelines indicates that the project is not water/wetland dependent. The applicant has not submitted an Analysis of Alternatives and has been informed that such an Analysis is required and will be reviewed for compliance with the guidelines. Evaluation of this activity's impact on the public interest will also include application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act, 33 U.S.C. Section 1344(b).

5. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts which the proposed activity may

have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are 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.

6. CONSIDERATION OF COMMENTS: The Corps of Engineers 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 of Engineers 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 the 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.

7. SUBMISSION OF COMMENTS: Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this notice and should be forwarded so as to reach this office within the comment period specified on page one of this notice. Comments should be sent to the Regulatory Branch. It is Corps policy to forward any such comments which include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose address is indicated in the first paragraph of this notice, or by contacting Mark D'Avignon of our office at telephone 415-977-8507, or the following E-mail: mdavignon@spd.usace.army.mil. Details on any changes of a minor nature which are made in the final permit action will be provided on request.