



US Army Corps
of Engineers®

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: 24383N DATE: April 26, 2002

RESPONSE REQUIRED BY: May 26, 2002

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

PERMIT MANAGER: Jennifer Gerhardt

PHONE: 415-977-8994 jennifer.gerhardt@spd02.usace.army.mil

1. INTRODUCTION: The City of Fairfield Redevelopment Agency, 1000 Webster Street, Second Floor, Fairfield, California, through its agent, Vollmar Consulting (contact Kurt Johnston at 707-428-7445), has applied for a Department of the Army permit to realign and culvert 980 feet (0.24 acres) of a water of the United States to facilitate the development of the Fairhaven Housing Project. The project site is a 10.0-acre parcel located on the north side of Travis Boulevard approximately 500 feet east of North Texas Street in the City of Fairfield, Solano County, California (APN 033-60-290,300,350). This individual permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

PROJECT DESCRIPTION: As shown in the attached drawings, entitled "Vicinity Map" and "Site Plan" (Figures 1 and 2), the City of Fairfield Redevelopment Agency proposes to develop a currently vacant lot into an affordable residential community. Sixty-five single-family dwellings are to be constructed along with sidewalks, roads and other attendant features. Each home will range from 1040 square feet to 1352 square feet in size. Access to and travel within the development will occur via a circuitous road with the entrance and exit both adjoining Travis Boulevard. Construction of the Fairhaven Housing Development will require realigning and culverting an unnamed storm water drainage channel that runs north to south for 980 feet across the parcel. Realignment of the stream will be initiated by excavating a trench near the

existing channel and placing a 3-foot culvert into the new dry channel. The new culvert section will be connected to pre-existing 3-foot culverts at the north and south ends of the parcel. Once the new culvert has been successfully sealed and the water directed through it, both the pre-existing open channel and newly culverted channel will be backfilled with clean soil and the surface graded. These activities will require the placement of approximately 580 cubic yards of fill (culvert and soil) within waters of the United States. The project will impact 0.24-acre of waters of the United States. To compensate for the loss of open waters, the applicant plans to provide 0.48-acre of mitigation in the form of perched seasonal wetlands and alkaline seasonal wetlands on property owned by the Suisun Marsh Natural History Association (SMNHA). The mitigation location and proposal can be seen on the attached drawings entitled "Patson Development Senior Housing Project" Figures 3, 4, 5 and 6.

3. SITE DESCRIPTION: The 10.0-acre parcel was previously the site of a mobile home park reportedly often troubled by violence and drug abuse. The City of Fairfield, unable to remedy those problems, sought to vacate the mobile home park, clear the land and redevelop the parcel as a residential community aimed at providing affordable single-family housing as part of the City's established redevelopment plan. The site currently consists of a highly disturbed ruderal field with relatively level topography and a traversing drainage channel. A few

depressional areas exist within the parcel as a result of disking and grading activities, however these areas do not meet the criteria of wetlands as defined by the Corps. The dominant vegetation throughout the site consists primarily of non-native grasses and herbs including Italian ryegrass (*Lolium multiflorum*), curly dock (*Rumex crispus*), Bermuda grass (*Cynodon dactylon*), vetch (*Vicia sativa*), and saltgrass (*Distichlis spicata*). Adjacent land uses are of a primarily commercial and residential nature.

A single drainage channel traverses the site from north to south. The drainage enters the north side of the property from an existing culvert, flows through a number of shallow riffle and pool complexes in a southerly direction through the property and is culverted again at the south boundary of the parcel. The water is then conveyed through a lengthy system of culverts and channels and eventually discharges into the Suisun Slough. The steep banks of the channel range from 3 to 6 feet vertically with an average ordinary water depth of 1 to 2 feet. This drainage channel is the principal jurisdictional feature on the site and is considered a "water of the United States" encompassing 0.24-acre. Vegetation along and within the banks of the channel, while sparse, is dominated by cattail (*Typha latifolia*), bristly oxtongue (*Picris echioides*), alkali mallow (*Malvella leprosa*), and rush (*Juncus xiphioides*). The channel is not known to support any animals or plants of special status and is regarded as being of relatively low quality.

4. OFF-SITE MITIGATION: Mitigation for losses to open waters as a result of project completion will occur at an off-site location within an 11.4-acre tract of land owned by the SMNHA. The property is dedicated to wildlife rehabilitation and public environmental education, currently contains previously restored marshland (the location and extent of which will be verified by Corp staff prior to permit issuance), and is adjacent to the 231.0-acre Peytonia Slough Ecological Preserve (operated by the California Department of Fish and Game). The

applicant is under contract to purchase mitigation rights to 0.48-acre of land from the SMNHA. The purchase is part of a 3.0-acre total purchase from the SMNHA all of which will be converted to perched and alkaline seasonal wetlands. As part of the purchase agreement SMNHA will undertake preparation of the site, planting of wetland species and monitoring for a period of 5 years. The applicant's mitigation plan also includes continued enhancement and long-term management of the surrounding uplands to control erosion and the establishment of a new Contra Costa goldfields (*Lasthenia conjugens*) population (a species listed as rare by the State of California and endangered by U.S. Fish and Wildlife Service).

Off-site mitigation is considered biologically superior to on-site mitigation due to the highly urbanized and isolated conditions that on-site mitigation would offer.

5. PURPOSE AND NEED: As part of the City of Fairfield's established redevelopment program, the proposed residential development would provide much needed affordable single-family housing within Fairfield and the Bay Area. The completed project will provide 65 single-family homes. The project is generally consistent with current zoning ordinances within the City of Fairfield. The realignment and culverting of the channel is needed to allow practical design layout of the home sites, roads, waterworks, and drainage. Conversely, leaving the canal open could possibly pose a health and safety risk to neighborhood resident and visiting children.

6. STATE APPROVALS: State water quality certification or 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 (33 U.S.C. 1341). The applicant is hereby notified that, unless the USACE is provided a valid request for water quality certification by the Regional Water

Quality Control Board (RWQCB) within 30 days of the date of this Public Notice, the District Engineer may consider the permit application to be withdrawn. No permit will be issued until the applicant obtains the required certification or waiver. A waiver will be explicit, or it may be presumed if the RWQCB fails or refuses to act on a valid request for certification within 60 days after receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB 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.

The project is not subject to the jurisdictional purview of the San Francisco Bay Conservation and Development Commission or the California Coastal Commission.

7. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): At the conclusion of the public comment period, the U.S. Army Corps of Engineers will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), the Council on Environmental Quality's Regulations at 40 CFR 1500-1508, and USACE Regulations at 33 CFR 230 and 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of the USACE and other non-regulated activities the 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.

Endangered Species Act of 1973 (ESA): A single loggerhead shrike was observed along the property boundary during a field visit on October 9, 2000, however no suitable nesting habitat is present on the site. No other federally-listed threatened or endangered animal or plant species are known to reside on site or in the immediate project vicinity.

Magnuson-Stevens Fishery Conservation and Management Act of 1996 (MSFCMA): The project site does not occur within designated Essential Fish Habitat for the Pacific Salmon Fishery, since the drainage at this location is inaccessible to salmonids and lacks constituent habitat elements necessary for spawning and rearing.

National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State, and Federal agencies, no historic or cultural resources are known to occur on site or in the project vicinity. Standard construction-related measures to preserve such resources would be employed if buried artifacts or other archaeological resources were exposed during excavation and grading operations. If unrecorded historic or cultural resources were discovered during construction, such operations would be suspended until the USACE concluded Section 106 consultation with the State Historic Preservation Officer to take into account any construction-related impacts to these resources.

8. COMPLIANCE WITH THE 404(b)(1) GUIDELINES: Projects resulting in dredged or fill material discharges 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 to be reviewed for compliance with the Guidelines.

9. PUBLIC INTEREST EVALUTION: The decision on whether to issue a 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.

10. CONSIDERATION OF COMMENTS: The USACE 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 the project. All comments received by the 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 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.

11. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to the San Francisco District, Regulatory Branch, North Section, citing the applicant's name and public notice number in the letter. Comments may include a request for a public hearing on the project prior to a determination on the permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All comments will be forwarded to the applicant for resolution or rebuttal. Additional information may be obtained from the applicant or by contacting Ms. Jennifer Gerhardt of the Regulatory Branch at telephone 415-977-8994.