SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: 25689N DATE: May 22, 2002
RESPONSE REQUIRED BY: June 21, 2002

PERMIT MANAGER: David Ammerman PHONE: 707-443-0855 dammerman@spd.usace.army.mil

1. **INTRODUCTION:** Kernen Construction, 2350 Glendale Drive, Blue Lake, California 95525, (Contact: Craig R. Newman at 707-826-9075) has applied for a Department of the Army permit to retain 3,040 cubic yards (CY) of fill onto 0.63 acres of seasonal wetlands and to place 5,360 CY of fill onto 3.32 acres of seasonal wetlands, with proposed wetland mitigation at property owned by Kernen Construction (APN 516-151-08, 16 and 17). The proposed project, to place fill for commercial development (Materials Storage and Handling Yard), is located on the south side of Glendale Road, beginning approximately 0.5 miles east of Glendale Market, extending east approximately 0.3 miles to the junction of Glendale Road and Liscom Hill Road, in Humboldt County, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. **PROJECT DESCRIPTION:** As shown in the attached drawings, the applicant plans to retain 3,040 CY of fill on 0.63 acres of freshwater wetland, and place 5,360 CY of fill on 3.32 acres of freshwater wetland for development of a Materials Storage and Handling Yard (here-in known as the "North Yard"). The total surface area of filled wetland would be 3.95 acres. The proposed fill would encompass 144,660 square feet of river run gravel or base gravel. The fill depth would be an average of one foot. All of the proposed fill would take place south of Hall Creek (on the North Yard) that bisects the Kernen Construction property (See Sheet 2 of 6 of the attached project drawings). The fill to be retained is on the northwest side of Hall Creek. Wetlands restoration/mitigation would occur on both the north and south sides of Hall Creek. See the section below under "Wetlands, Special Aquatic Site" below for details on project impacts to wetlands and wetland mitigation/restoration.

In addition to the proposed wetland fill and associated wetland mitigation, the applicant (at the recommendation of the California Department of Fish and Game), proposes to remove two existing culverts and place instream structures into Hall Creek, to enhance fish habitat. Please refer to the section under "Pools and Riffles – Special Aquatic Site" below for details.

The purpose of the proposed project is to develop the North Yard on three parcels of land. Less than two years ago, the applicant discharged unauthorized fill into 0.63 acres of wetland located on the north side of Hall Creek. The applicant now proposes to fill an additional 3.32 acres (122,960 square feet) of fill in conjunction with development of the North Yard. The applicant proposes to mitigate the impacts of the past, and proposed fill by restoring and consolidating wetland in three areas of the property.

The South Yard, not part of the Corps permit, was a former mill site (part of the "Blue Chip Mill" facilities, a subsidiary of Simpson Pulp and Paper Company). The Blue Chip Mill ceased operations in 1992. The South Yard is paved and has existing power, water, telephone, and sewer utilities and

under ground water drainage facilities. The North Yard (subject to a Corps permit) was the former log and lumber storage and handling area.

The use for the North Yard would include placement and grading of soil fill (3.32 acres) to improve drainage and contour of the North Yard. Part of the North Yard has existing fill as described above to be retained on the site. The North Yard would be used as a temporary storage site for organics that can be processed into mulch by a tub grinder for use on construction or other projects, or that can be hauled to a landfill at a time of the year when trucks are not as busy as the summer construction season. The North Yard would be used to stockpile inert non-toxic soil and organic materials with the exception that the area on the north side of Hall Creek would not be used for stockpiling organics. Organics would be stockpiled in the eastern end of the North Yard on the south side of Hall Creek. Stockpiles are not expected to be taller than 30 feet total height. This height is approximately the same height as the log decks that were previously stored at the site (Kernen Construction, Conditional Use Permit application, 2000).

The applicant has indicated a need for the North Yard as temporary storage of soil materials to allow the owner to hold those materials until they are needed as fill on construction projects.

PLEASE BE ADVISED THAT PROJECT DRAWING 4 OF 6 CONTAINS THE ACCURATE DELINEATION OF EXISTING WETLANDS AND PROPOSED WETLAND RESTORATION. PROJECT DRAWING 2 OF 6 SHOULD BE USED TO REFER ONLY TO THE LOCATION OF THE PROPOSED PROJECT (STOCKPILING OF SOIL AND OTHER CONSTRUCTION MATERIALS).

Existing wetlands - SHN (SHN, 2000) identified two types of wetlands on the property, including mixed alder/willow palustrine forested wetland and a disturbed, low palustrine emergent wetland type. The palustrine forested wetland consists of Alnus rubra, Salix lucida ssp. lasiandra, S. lasiolepis in the overstory, and Rubus spp., Polystichum munitum, Athyrium felix-femina, Carex spp., Rhamnus purshianus, Juncus ssp., and others in the understory. The riparian corridors (palustrine forested wetland) along Hall Creek and the unnamed tributary range from 100 to 140 feet wide.

The disturbed, low palustrine emergent wetland type consists of herbaceous facultative or obligate wetland species including Agrostis exarata, Polypogon monspeliensis, Cyperus eragrostis, Mentha pulegium (Pennyroyal), Equisetum telmateia, Carex spp., Juncus spp., and in some areas willow seedlings (SHN, 2000). The existing unfilled wetland north of Hall Creek (east end) is dominated by Typha latifolia (cattail). On the north side, within the cattail area, the soils were hydric at the surface down to no more than 4-6 inches. Deeper than 6 inches revealed layers of wood bark and other woody material left over from the site's use as a log deck. Compaction of soils on both sides of the creek and the lack of site use afterwards for many years has allowed thin layers of hydric soils to develop on top of the disturbed layer, encouraging growth of herbaceous wetland vegetation. SHN states of the approximately 30 acre study area, 6.2 acres of wetland was delineated including the riparian corridor of Hall Creek and the unnamed tributary. Another 0.63 acres of palustrine emergent wetland was destroyed by fill placement approximately one to two years prior to the date of this Public Notice. The applicant proposes to retain this fill (0.63 acres) for future commercial use.

The applicant proposes to fill 3.32 acres of wetland on the south side of Hall Creek. Please see Sheet 3 of 6 with the heading "Table 1" for a breakdown of existing and proposed wetland acreages.

Wetland Mitigation/Restoration - The applicant proposes to mitigate onsite for the impacts of the past (0.63 acres), and for the proposed 3.32 acres of new fill onto existing, unfilled wetlands by restoring and consolidating wetland in three areas of the Kernen Construction property: (1) the west end of the property south of Hall Creek and west of the access road; (2) the northeast corner adjacent to Glendale Road and north of Hall Creek; and (3) along the left bank of the eastern reach of Hall Creek (See Sheets 2 of 6, 4 of 6, and 5 of 6). The property owner, Kernen Construction, would be responsible for implementing

the mitigation plan, performing annual monitoring, and long-term management and protection of the area. The second portion of the mitigation plan would mitigate for the proposed reduction in setbacks from the wetland and riparian habitats present on the property (SHN, Mitigation Plan, February 2001), pursuant to recommendations of the California Department of Fish and Game and local government ordinances.

The applicant proposes onsite, in-kind (equivalent or superior quality) replacement of freshwater wetland at a ratio of 1:1, with the exception of one low quality wetland area (43,400 square feet), which would be mitigated at a ratio of 0.5:1 (south side of Hall Creek near Wetland Restoration Area 2, Sheet 2 of 6). The following mitigation/restoration would occur at each of the three restoration areas:

Restoration Area 1 - This area is located at the northeast corner of the property, bounded by existing wetlands to the west, Glendale Road to the north and east, and Hall Creek to the south. The applicant says restoration here would result in a net gain of 0.32 acres (13,900 square feet) of freshwater wetlands. This area would be excavated and replanted in order to create vegetation similar to the riparian corridor adjacent to Hall Creek. The existing ground surface would be excavated and fill removed to a depth not less than 24 inches throughout all 3 areas. Final excavation depth would be determined by the depth at which the native soil surface is exposed. The applicant expects that the excavation of fill would restore wetland hydrology to the entire area, both through enhancing surface ponding and creating a more shallow water table.

Restoration Area 2 - A strip of land south of Hall Creek 1,400 feet in length and 35 feet wide would be excavated and replanted to create wetlands and a riparian buffer zone (See Sheets 2 of 6, 4 of 6, and 5 of 6). Dominant plants would be red alder and willow with some black cottonwood. Restoration of this site would result in a net gain of 1.11 acres (48,300 square feet) of wetland.

Restoration Area 3 - This is a triangular area west of the access road and south of Hall Creek that includes 2 existing, small wetlands totaling 2,530 square feet (not including the south ditch). The remaining 2.02 acres of uplands at this site would be restored to wetlands by excavation and planting.

SHN suggests that palustrine scrub-shrub wetland, or palustrine forested wetland, dominated by alder, willow, black cottonwood, Oregon ash, Oregon crabapple, dominated much of the Mad River flood plains. One objective of the wetland restoration is to expand the riparian corridor and its overstory canopy density, which could discourage encroachment by non-native, exotic species such as Himalaya berry.

The above proposed commercial fill project would have a long-term, moderate, direct adverse impact on 3.95 acres of freshwater wetland, most of which is degraded, fragmented wetland in terms of vegetation density, shallow hydric soils, and limited hydrology. The adverse impacts to wetlands would be reduced to neutral or a possible moderate beneficial impact on wetlands provided that wetland/riparian restoration and mitigation is implemented in accordance with SHN's mitigation plan (SHN, February 2001). There is an opportunity to create a higher value and higher functioning wetland and riparian corridor upon completion and diligent monitoring of the mitigation work.

A copy of the wetland mitigation plan for the above project can be obtained by making a request in writing to the Eureka Office of the Corps (refer to the address near the end of this Public Notice) or contact Craig Newman Forestry at 707-826-9075.

At the recommendation of the California Department of Fish and Game, the applicant proposes to remove two road culverts and place approximately eight instream (Large Woody Debris or LWD) enhancement structures in Hall Creek between the private access road and upstream to Glendale Road. The LWD sites would be spaced 80-100 feet apart and consist of large rootwads with stems or rough, knotty cull logs 20-25 feet long and a minimum of 18-20 inches in diameter (See Sheet 6 of 6). The LWD would be placed in an excavated trench perpendicular to the streambanks, ending half-way across the active stream channel. The LWD would

be secured with large boulders and backfill. The LWD sites would alternate right and left streambank and would be located at pool sections. Heavy equipment access would be exclusively from the left streambank. The goal of this stream restoration work is to increase pool depth, sort spawning gravel and provide year round cover for juvenile coho salmon, coastal cutthroat trout and steelhead trout (Preston and Schwabe, January 2001). Where accessible to do so, foreign debris, including iron plates, tires and pressure-treated timbers, would be removed from the stream channel.

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 before a Corps permit may be issued. The applicant has applied to the California Regional Water Quality Board, North Coast Region on February 19, 2000 for Section 401 water quality certification. No Corps permit will be granted until the applicant obtains the required certification. Certification 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, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, by the close of the comment period of this public notice.

4. **Endangered Species** - The proposed filling of 3.32 acres of wetlands, the past filling of 0.63 acres of wetlands, and the proposed wetland/riparian mitigation work would have no impact on endangered or threatened species. However, the proposed Hall Creek stream restoration work may affect listed fish species, including coho salmon (Oncorhynchus kisutch) and its designated critical habitat, and steelhead (O. mykiss). Hall Creek, a tributary to the Mad River, is designated critical habitat for coho salmon. Coho salmon and steelhead are both listed as threatened by the National Marine Fisheries Service (NMFS). Therefore, the Corps will initiate Section 7 consultation with the NMFS pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq), regarding the above project's potential impacts to listed species.

5. **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.

6. **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.

7. **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.

8. **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 David Ammerman of our Eureka Office at telephone 707-443-0855, or e-mail at: dammerman@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.