



US Army USACE
of Engineers

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: 26447S – Values Pacific Shoreline – Moss Landing

DATE: April 17, 2002

RESPONSE REQUIRED BY: May 15, 2002

PERMIT MANAGER Molly Martindale

PHONE: 415-977-8448 mmartindale@spd.usace.army.mil

1. **INTRODUCTION:** Mr. Shepard Kett, Values Pacific, 110 Carlton Road, Watsonville, California 95076, [(831)722-4000] has applied for a Corps of Engineers (USACE) permit to restore approximately 40 feet of property lost over the past two years, adjacent to the shipping channel at the end of Sandholt Road in Moss Landing, Monterey County. 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 place 1,750 cubic yards (cy) of rock riprap, 5,880 cy of sand fill, and 60 pilings constructed of precast concrete, plastic, or steel, at the southwest corner of the intersection of the Elkhorn Slough Channel and the Moss Landing Harbor South shipping channel. The revetment will be approximately 340 feet by 25 feet at its base, about 6.8 feet in height, and 5 feet wide at its peak. The eroded property will be back-filled with clean suitable sands. The substrate in the eroded areas to be filled is currently quite sandy and mobile.

The proposed pier repair will be approximately 267 feet in length and 10 feet in width. Currently 87 linear feet of the damaged pier remain to be repaired, while new piers will have to be added for the remaining 180 feet to the revetment. Approximately 9 piling pairs will be replaced or reused, and 21 new pairs will be added. Six low illumination lights will be placed on the pier, with identification lights as

required by the U.S. Coast Guard.

The applicant intends to conduct aquaculture in the form of oyster farming or a similar activity in the future.

3. **STATE APPROVALS:** Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a USACE permit must obtain a State water quality certification or waiver before a USACE permit may be issued. The applicant has provided the USACE with evidence that he has submitted a valid request for State water quality certification to the Central Coast Regional Water Quality Board. No USACE 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, Central Coast Region, 81 Higuera Street, #200, San Luis Obispo, CA, 93401-5414, by the close of the comment period of this Public Notice.

The applicant must also obtain a determination from the California Coastal Commission that the project is

consistent with the State's coastal zone management program.

4. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): At the conclusion of the public comment period, the USACE 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 and 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): No federally-listed threatened or endangered species have been identified as occurring on site.

Magnuson-Stevens Fishery Conservation and Management Act of 1996: The project site occurs within designated essential fish habitat for coastal pelagic or Pacific groundfish species and consultation is initiated with the National Marine Fisheries Service by this Public Notice.

National Historic Preservation Act of 1966 (NHPA): Due to the very mobile nature of the substrate and the lack of excavation activities associated with the project, it is unlikely to have adverse effects on any cultural resources. 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 Office (SHPO) to take into account any construction-related impacts to these resources.

5. CONCLUSIONS AND RECOMMENDATIONS: Based on an analysis of the above identified impacts, a preliminary determination has been made that it will not be necessary to prepare an Environmental Impact Statement (EIS) for the subject permit application. The Environmental Assessment for the proposed action has however, not yet been finalized and this preliminary determination may be reconsidered if additional information is developed.

6. COMPLIANCE WITH THE SECTION 404 (b)(1) GUIDELINES: 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 was made by this office under the Section 404(b)(1) guidelines and it was determined that the proposed project is water dependent.

7. 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.

8. CONSIDERATION OF COMMENTS: The USACE 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 USACE 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.

9. 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 USACE 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 Molly Martindale of our office at telephone (415) 977-8448 or E-mail: mmartindale@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.