



SAN FRANCISCO DISTRICT

PUBLIC NOTICE

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

NUMBER: 27798N DATE: March 19, 2004
RESPONSE REQUIRED BY: April 19, 2004

PERMIT MANAGER: Mark D'Avignon PHONE: 415-977-8507 Email: mdavignon@spd.usace.army.mil

1. **INTRODUCTION:** Shamrock Materials Inc., 181 Lynch Creek Way, Petaluma, California 94975-8044 (Telephone: (707) 781-9070), through its agent Lucy Macmillan, 28 Bernard Street #4, Mill Valley, CA 94941 has applied for a U.S. Army, Corps of Engineers (Corps) permit to discharge a total of 260 cubic yards of excavated fill material into 0.31 acre of jurisdictional seasonal wetland, carry out work activities (i.e. excavation and dredging), demolish existing structures, and place new structures within Corps jurisdiction in association with the construction of the Landing Way Aggregate Distribution Facility in the City of Petaluma, Sonoma County, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).

2. PROPOSED PROJECT:

Project Site: The proposed project site is located on the Petaluma River southeast of Landing Way, and ¼ mile east of Highway 101 in an unincorporated area of Sonoma County, within the boundaries of the City of Petaluma, Sonoma County, California (See attached project vicinity map.). The proposed project site is presently zoned for industrial use, and was formerly occupied by a dock construction and dredging company (Western Dock Enterprises) for twenty years.

The 6-acre proposed project site is generally flat and highly disturbed by past industrial uses. The northern

third of the site was used for construction boat dock facilities and parts of the northern area were used for disposal of dredged material in the past. The southern two thirds of the site are currently vacant and are dominated by non-native upland grasses and scattered coyote bush (*Baccharis pilularis*). This portion of the property has been used in the past as a dredged material disposal area, and it is this area that presently supports the seasonal wetland on the property.

Non-native upland grassland habitat occupies the majority of the site. Plant species that dominate the upland areas include wild oats (*Avena barbata*), soft chess (*Bromus hordeaceus*), rippgut grass (*Bromus diandrus*), cut-leaved geranium (*Geranium dissectum*), and common vetch (*Vicia sativa*). A small area of seasonal wetland (0.41 acre) has developed within the former dredged material disposal area and is dominated by Italian rye grass (*Lolium multiflorum*), bristly ox-tongue (*Picris echinodes*), loosestrife (*Lythrum hyssopifolia*), and rabbits foot grass (*Polypogon monspeliensis*). A band of coastal brackish marsh (0.32 acre) exists along the eastern boundary of the site adjacent to the Petaluma River and contains cord grass (*Spartina sp.*), pickle weed (*Salicornia sp.*) saltgrass (*Distichlis spicata*), salt marsh gumplant (*Grindelia stricta*) and bulrush (*Scirpus sp.*). Approximately 0.78 acre of waters of the U.S. associated with the Petaluma River lies within the property boundary. Of the 1.5 acres of jurisdictional area within the proposed project boundary, 0.31 acre would be filled as a result of the proposed project.

Project Description: The proposed project calls for the establishment of a processed aggregate (sand and gravel) distribution facility. This facility would provide a centrally located site for the purpose of importing aggregates by barge via the Petaluma River for distribution to operational facilities in Sonoma and Marin Counties.

The site is zoned for industrial use (M2 Heavy Industrial District). The attached drawings depict the existing office building, traffic circulation plans, and the approximate location of the typical types of transfer conveyor systems that would be used to stockpile the aggregates. The proposed facility would receive incoming barge loads of pre-processed aggregates (sand and gravel) via the Petaluma River. The proposed facility would accommodate a storage capacity of approximately 80,000 to 90,000 tons of processed aggregate materials. Because the off-loaded material would be pre-processed, facilities for processing (washing, sorting, and disposition of fine sediments) are not proposed at the site.

The proposed project would result in the filling of 0.31 acre of seasonal wetlands on the site. Part of the project proposal includes removing the existing boat dock and wooden retaining wall, and installing a new sheet pile retaining wall. The new retaining wall would be set back from the existing retaining wall by approximately 45 feet at the widest point. The surface area between the existing retaining wall and the proposed sheet pile wall is approximately 0.25 acre. Once the new sheet piling is installed and anchored, the area between the new wall and the existing bulkhead would be excavated to a new bottom elevation that would match the navigable river channel. The old bulkhead and boat dock would be removed and the barges would tie up to the new sheet pile wall. This new retaining wall would provide safer access to the site by the barges and provide mooring space outside of the existing navigable channel.

A total of 2,917 cubic yards of material will be dredged and excavated at the proposed project site in this initial episode. The proposed barge berthing area would be dredged to an elevation of -8 feet MLLW with a 1-foot over-depth allowance.

Project Purpose: The overall purpose of this project is to construct a processed aggregate (sand and gravel) distribution facility in order to import aggregates by barge via the Petaluma River for distribution to operational facilities in Sonoma and Marin Counties. The basic purpose of the fill discharge into Corps jurisdiction would be to create an industrial area to accommodate truck circulation, overhead conveyor systems, and stockpiling of aggregates for circulation. The excavation work along the bank of the Petaluma River would be carried out to create an adequate berthing area for barges transporting aggregate materials via the Petaluma River. The project is necessary because the existing conditions on the property are not adequate for the industrial purposes stated above.

Wetland Impact: The project would result in the discharge of 260 cubic yards (cy) of excavated fill material into 0.31 acre of jurisdictional seasonal wetland. In addition, 0.25 acre of upland area along a 350-foot section of the riverbank would be excavated to an elevation that matches the existing river channel in order to accommodate the barges transporting aggregate. Approximately 2,917 cubic yards of material would be dredged/excavated from the Petaluma River and used in the construction of a berm and buffer area. The area to be excavated currently consists of upland grassland and an existing boat dock and wood retaining wall. No wetlands would be directly impacted by the excavation and dredging work.

Mitigation: The applicant has proposed to compensate for unavoidable impacts to 0.31 acre of jurisdictional seasonal wetland by constructing 0.31 acre of seasonal wetland on-site, and by construction

of a storm-water swale along the western and northern boundary of the site to provide storm-water treatment before runoff leaves the site. The proposed mitigation plan also calls for the construction of an earthen berm and buffer area along the eastern edge of the property that would be planted with native vegetation in order to create a dense buffer area between the proposed aggregate facility and the Petaluma River. Also, excavation of a portion of the riverbank for barge access would also create 0.25 acre of open water habitat that currently does not exist.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations, 40 C.F.R. Part 1500-1508, and Corps' Regulations, 33 C.F.R. Part 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. Federally listed threatened and endangered species currently identified as potentially impacted by the proposed project include steelhead (*Oncorhynchus mykiss*), the

California clapper rail (*Rallus longirostris*), and the salt marsh harvest mouse (*Reithrodontomys raviventris*). However, the applicant has proposed mitigation measures, which would restrict work to certain time periods, to avoid and minimize any potential adverse effects to the afore-mentioned federally listed species.

Magnuson-Stevens Fisheries Conservation and Management Act: NMFS and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act. Specific EFH concerns associated with this proposal include EEEEE. Coordination with the NMFS in regard to EFH will be initiated concurrently with the ESA consultation, if necessary.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification 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 Control Board. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification 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.

b. Alternatives: Evaluation of this proposed activity's impact 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. Section 1344(b)). The applicant has submitted an Analysis of Alternatives for the project and it will be reviewed for compliance with the guidelines. The applicant states that there are no practicable alternatives for his project. An evaluation has been made by this office under the guidelines and it was determined that the proposed project is water or wetland dependent.

Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project will comply with the State's Coastal Zone Management Program, if applicable. The proposed project lies outside the jurisdictional area of the San Francisco Bay Conservation and Development Commission (BCDC), therefore no BCDC Permit will be required for the project. The project is also outside the jurisdictional area of the California Coastal Commission.

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 archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including

cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline 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.

5. 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 to determine whether to issue, 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 in the proposed activity.

6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to

reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public 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 name and address are indicated in the first paragraph of this Public Notice or by contacting Mark D'Avignon of our office at telephone 415-977-8507 or 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 upon request.