



US Army Corps
of Engineers®

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

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

NUMBER: 28032N DATE: June 30, 2004
RESPONSE REQUIRED BY: July 30, 2004

PERMIT MANAGER: Bryan Matsumoto

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1. INTRODUCTION: Delco Builders & Developers (POC: Mr. Dan Hughes; (925) 671-7775), 2552 Stanwell Drive, Suite 203, Concord, California 94520, through its agent Monk & Associates, Inc. (Contact: Hope Kingma; (925) 947-4867 ext. 212), has applied for a U.S. Army Corps of Engineers (Corps) permit to construct the Oak Leaf Ranch Subdivision, a single-family residential development, on a 11.25 acre project site located south of Coombsville Road, east of Highway 101, north of Shurtleff Avenue, with Wyatt Avenue bisecting the project site in the City of Napa, Napa County, California (APNs 46-080-002 and 46-121-002) (Sheet 1 of 4). This project will cause the permanent loss of 1.08 acre of Corps jurisdictional wetlands. The duration of the authorization, should it be accepted, would be for 5 years from the date of issuance. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. PROPOSED PROJECT: As shown on the attached project drawings, the applicant plans to develop 11.25 acres into a 52 single-family housing units with associated public improvements for the development in accordance with local and regional policies (Sheets 2 and 3 of 4). To accommodate the housing project, site grading will be completed, and 1.08 acre of Corps jurisdictional wetlands will be filled.

Mitigation Plan: The applicant has proposed to mitigate for the loss of 1.08 acre of Corps jurisdictional wetlands by purchasing 1.2 acre of

created wetlands at the Mount Burdell Mitigation Bank, Marin County (Contact: Mr. Tony Georges; (415) 454-4151).

3. SITE DESCRIPTION: The project site is currently used for grazing, an equestrian facility, and the northern portion of the project site contains an orchard that has been maintained by the landowner for 15 years. Topography on the northern side of Wyatt Avenue is moderately sloped to the south. This portion of the site contains a few low topographic areas that pool water to form wetlands. Most of the water from the north side flows under Wyatt Avenue via a concrete culvert into the southern portion of the site. The southern portion of the site generally slopes toward the center, forming a bowl-shaped feature that holds water long enough to form wetlands. This water then drains to a storm drain system that drains into the Napa River.

In total, the site contains 10.13 acres of upland habitat that is either unvegetated or dominated by upland grasses, including Italian ryegrass (*Lolium multiflorum*), wild oats (*Avena fatua*), and soft chess brome (*Bromus mollis*), with a few interspersed oaks (*Quercas sp.*). Of the 1.12 acre of wetlands delineated on the project site, only 1.08 were found to be jurisdictional, as 0.04 acre were determined to be isolated (Sheet 4 of 4). Wetlands contained toad rush (*Juncus bufonius*), pennyroyal (*Mentha pulegium*), and hyssop loosestrife (*Lythrum hyssopifolia*) as the dominant vegetation.

4. PROJECT PURPOSE: The applicant indicates

that the project purpose is to develop an economically viable piece of property into a residential development.

5. STATE APPROVALS: 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.

6. 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 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): The applicant's agent, Monk and Associates, Inc., conducted a search, using the California Natural Diversity Data Base (CNDDDB), to determine potential for the project site to support federally listed threatened or endangered species within 5 miles of the project site. The California Native Plant Society's *Inventory of Rare and Endangered Vascular Plants of California* (Sixth Edition) was also searched for special-status plant species occurrences within the Napa 7.5 minute quadrangle, and special status plant surveys were conducted in March, April, June, and August of 2003 and found no rare or listed plant species within the project site. The search found six federally endangered species: endangered Contra Costa goldfields (*Lasthenia conjugans*), endangered Showy Indian clover (*Trifolium amoenum*), endangered soft bird's beak (*Cordylanthus mollis mollis*), endangered California freshwater shrimp (*Syncaris pacifica*), endangered California clapper rail (*Rallus longirostris obsoletus*), and endangered salt marsh harvest mouse (*Reithrodontomys raviventris*). None of these species are believed to inhabit the project site due to the lack of suitable habitat, and negative plant survey results.

The USACE has made a preliminary determination that the project will not affect listed species or critical habitat. However, if new information suggests that federally listed threatened or endangered species are within the project boundary, the USACE will initiate informal consultation with

U.S. Fish and Wildlife Service/National Marine Fisheries Service, pursuant to Section 7(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). The consultation process must be concluded prior to the issuance of any Department of the Army Permit for the project.

Magnuson-Stevens Fishery Conservation and Management Act of 1996 (MSFCMA): The aforementioned Section 7 consultation process, should it be needed, will also address project-related impacts to essential fish habitat.

National Historic Preservation Act of 1966 (NHPA): A Corps of Engineers archaeologist is currently conducting a cultural resources assessment of the permit area, involving review of published and unpublished data on file with city, State, and Federal agencies. If, based upon assessment results, a field investigation of the permit area is warranted, and cultural properties listed or eligible for listing on the National Register of Historic Places are identified during the inspection, the Corps of Engineers will coordinate with the State Historic Preservation Officer to take into account any project effects on such properties.

7. COMPLIANCE WITH THE 404(b)(1) GUIDELINES: 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 the project. An evaluation has been made by this office under the guidelines and it was determined that the proposed project is not water or wetland dependent.

8. 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 that 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 that 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 that 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.

9. 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.

10. 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 that 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 Bryan Matsumoto of our office at telephone 415-977-8476 or E-mail: bryan.t.matsumoto@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.