



US Army Corps
of Engineers

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: 28591S

DATE: 5 March 2004

RESPONSE REQUIRED BY: 4 April 2004

Regulatory Branch
333 Market Street

San Francisco, CA 94105-2197

PROJECT MANAGER: Bob Smith

Phone: (415) 977-8450/E-mail: rsmith@spd.usace.army.mil

1. **INTRODUCTION:** Granite Construction Company, Monterey Bay Branch, P.O. Box 720, Watsonville, California 95077, through their agent, Mr. Verne Freeman, West Coast Aggregates, [650] 424-1074), has applied for an after the fact Department of the Army permit to retain 0.58 acres of unpermitted fill placed in wetlands during construction of the Freeman Quarry on the Castro Valley Ranch located southwest of Gilroy in southern Santa Clara County. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. **PROJECT DESCRIPTION:** In February 2000, West Coast Aggregates was issued a Department of the Army permit, 23143S, to construct the Freeman (Bluestone) Quarry on the Castro Valley Ranch located southwest of Gilroy. During construction West Coast filled 0.58 acre of wetlands located outside of the permit area (see attached drawings). Subsequently Granite Construction Company acquired the quarry. Granite plans to expand the quarry operations, and has therefore decided to pursue an after the fact permit for the unauthorized fill. West Coast Aggregates has assumed full responsibility for the unauthorized fill.

The Corps is requiring mitigation at a 4:1 ratio for the unauthorized fill. West Coast Aggregates previously constructed 2 acres of wetland onsite as mitigation for the permitted wetlands filled during construction. Based on data collected by Granite it is unlikely that additional onsite wetland construction is possible. They have therefore chosen to pursue an off site location. Granite Construction is working with Wildlands, Inc., (contact – Mr. Greg Lyman, [510] 444-8810) to create 2.5 acres of wetlands on Wildlands proposed 300-acre mitigation bank located

along the former alignment of the Pajaro River on the border of Santa Clara and San Benito Counties. Wildlands is currently working with the Corps and other state and federal Agencies on their initial mitigation bank proposal for this bank.

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 333 C.F.R. Part 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.

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 is notified by this Public Notice that unless he provides the Corps with evidence of a valid request for State water quality certification to the Central Coast Regional Water Quality Board within 30 days of the date of this Public Notice, the Corps may consider this application withdrawn. 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.

b. 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 dependent.

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 Bob Smith of our office at telephone 415-977-8450 or E-mail: rsmith@spd.usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.