



US Army Corps
of Engineers.

Regulatory Division
1455 Market Street
San Francisco, CA 94103-1398

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: Mariner's Cove Housing Project

NUMBER: 250740N

DATE: 30 April 2010

RESPONSE REQUIRED BY: 30 May 2010

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1. **INTRODUCTION:** The City of Vallejo, Economic Development Division (City), 555 Santa Clara Street, Vallejo, California 94590, has applied to the U.S. Army Corps of Engineers (USACE) for a permit to place fill material into approximately 1.51 acres of jurisdictional wetlands to facilitate construction of the Mariner's Cove Housing Project. The housing project would be constructed on a 16-acre development parcel bounded on the north by Mare Island Causeway, on the east by Mare Island Way, and on the south and west by Harbor Way, in the City of Vallejo, Solano County, California. This individual permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344). This project has been previously permitted (USACE File No. 250740N) on February 28, 2003. The project was not completed in the previous permit window, plans have not changed, and the applicant has requested that the permit be reissued.

2. **PROPOSED PROJECT:** As shown in the attached drawings, the City proposes to construct approximately 145 units of medium-density, detached or attached housing, with interior roadways, utility infrastructure, and landscaping. Primary vehicular access would be from Harbor Way. These facilities would occupy the entire 16-acre development parcel and necessitate the importation and discharge of approximately 12,100 cubic yards of fill material to raise existing substrate elevations (4.0-7.0 feet NGVD) of the wetland area three feet above the 100-year flood plain (9.0 feet NGVD). The wetlands are non-tidal, brackish and freshwater

marsh, portions of which are dominated by pickleweed. Non-native grasses and ruderal vegetation that are frequently mowed by the City for weed control and aesthetic purposes dominate the remaining non-jurisdictional upland areas of the development parcel. These species include rigpgut brome (*Bromus diandrus*), wild oat (*Avena fatua*), hairy vetch (*Vicia sativa*), black medic (*Medicago lupulina*), and chicory (*Cichorium intybus*).

The development parcel has been periodically used for the deposition of dredged spoils removed from Mare Island Strait to construct and maintain various naval and marina facilities during the 1950s to 1980. Since 1980, the City has pursued the development of its waterfront properties, including various housing configurations on the development parcel. In May 1989, the USACE issued an individual permit (No. 16212E24) to the City, authorizing the discharge of fill material into 10.30 acres of jurisdictional wetlands to construct a multi-story apartment complex. As dredged material and other sources of fill material became available, the wetlands were partially filled and graded to the present jurisdictional limits until the permit expired in March 1994. During this period of time, the City was required to create 10.3 acres of tidal salt marsh on a site just north of American Canyon Creek, approximately one mile east of the Napa River, to compensate for wetland losses on the development parcel. The mitigation site was excavated to subtidal elevations and partially backfilled with soils and inoculum salvaged from the development parcel. Since 1994, mitigation site has been monitored on an annual basis

and currently exhibits a lush salt marsh habitat that exceeds the five-year performance criteria specified in the Mitigation Plan. The USACE believes the created wetlands provide reasonable compensatory mitigation for the loss of any remainder wetlands on the development parcel.

The City indicates the housing project is consistent with its goal to promote the development of residential, commercial, and park uses on currently vacant and underutilized parcels along its 117-acre waterfront area. The City believes that a vibrant waterfront area would improve nearby property values, increase the tax base, and promote economic growth of downtown commercial enterprises that have been otherwise severely affected by the closure of the naval facilities on Mare Island and the construction of regional shopping centers in other jurisdictions.

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. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and 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 Division, 1455 Market Street, San Francisco, California 94103-1398.

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 Regional Water Quality Control Board has previously certified the project in Resolution 88-063 (April, 1988). Those parties concerned with any water quality issue 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)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is not water dependent to achieve the basic project purpose to construct housing. This conclusion raises the (rebuttable) presumption that there is a practicable alternative to the project that would have less adverse effect to the aquatic ecosystem. The City of Vallejo has submitted an analysis of project alternatives (October 16, 2001) for review for compliance with the guidelines. The USACE determined on February 28, 2003 that the Least Environmentally Damaging Practicable Alternative was also the alternative that the applicant preferred.

Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project is consistent with the State's Coastal Zone Management Program, if applicable. The development parcel for the Mariner's Cove Housing Project is presumed to be not subject to the jurisdictional purview of the San Francisco Bay Conservation and Development Commission or 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 impacts, including cumulative impacts, 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, historic 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.

The Preliminary Environmental Assessment resulted in the following findings:

Impacts To The Physical Environment:

a. Substrate: The 16-acre development parcel would undergo substantial substrate alteration to accommodate the project. After excavating and removing topsoil and other unsuitable soils for construction purposes, areas to contain building slabs, foundations, and roads would require the placement of compacted soil or other suitable engineered fill material to establish intended subgrade elevations. Grading and filling activities specifically occurring in the remaining 1.51 acres of jurisdictional wetlands would raise substrate

elevations from four to seven feet to establish a minimum two-foot clearance above the 100-year floodplain, resulting in the discharge of approximately 12,100 cubic yards of impervious fill material for construction purposes. The extensive alteration of substrate conditions of the development parcel would be adverse long-term, and minor to moderate in magnitude.

b. Streamflow and Drainage Patterns: The development parcel was former tidal salt marsh habitat bordering Mare Island Strait and subsequently altered by periodic disposal of dredged material. Wetland vegetation more recently colonized portions of the dredged spoils that either subsided or were graded to facilitate drainage to a flap-gate culvert under Harbor Way to Mare Island Strait. The jurisdictional wetlands are principally recharged by direct rainfall and runoff from upland portions of the development parcel; the lowest reaches of these wetlands may be influenced by groundwater due to the relative proximity of Mare Island Strait and are periodically flooded by backflow from the culvert during extreme high-tide events. Project construction would further alter these drainage patterns by displacing the wetland depressions and swales with concrete gutters, drop inlet structures, and underground storm lines presumably discharging into Mare Island Strait. In view of the altered condition of the development parcel, the effects of project construction on drainage patterns would be adverse, long-term and minor in magnitude.

c. Water Quality: The existing wetlands likely contribute to improved water quality by filtering and assimilating various sediments, nutrients, and pollutants during the stormwater retention and recharge cycles. In view of the small watershed and limited storage capacity associated with these wetland areas, the effects of project construction on water quality would be adverse, long-term and minor in magnitude.

d. Flood Control Function of Wetland: Project construction would displace the existing wetland depressions and swales with impervious fill

material, thereby eliminating any flood control functions of these features. In view of the small watershed and limited storage capacity associated with these wetland areas, the effects of project construction on flood control functions would be adverse, long-term, and minor in magnitude.

e. Air Quality: Various project construction activities and operation of construction equipment would generate an array of air pollutant emissions, including fugitive dust, reactive organic gases, and carbon, nitrogen and sulfur dioxides that may degrade ambient air quality. In view of the relative project scale and limited area of affected jurisdictional wetlands, the effects of air pollutant emissions attributed to project construction and equipment usage would be adverse, short-term, and minor in magnitude.

Impacts To The Biological Environment:

a. Wetlands (Special Aquatic Site): Grading and filling activities associated with project construction would result in the loss of the remainder 1.51 acres of non-tidal jurisdictional wetlands on the development parcel. These wetlands are dominated by monotypic clumps of pickleweed (*Salicornia virginica*) on the lower portions of the site and characterized by a mixture of alkali bulrush (*Scripus maritimus*), spikerush (*Eleocharis macrostachya*), and saltgrass (*Distichlis spicata*) on the somewhat higher depressional areas. The higher transitional areas contain sparse vegetation comprised of rabbitfoot grass (*Polypogon monspeliensis*), brass buttons (*Cotula coronopifolia*), Mediterranean barley (*Hordeum hystrix*), Bermuda grass (*Cynodon dactylon*), fat hen (*Atriplex patula*), and salt marsh sandspurry (*Spergularia marina*). Taking into account the disturbed nature of the development parcel and the relative isolation of these wetlands from other productive habitat corridors, the loss of wetlands attributed to project construction would be adverse, long-term and moderate in magnitude. The adverse effects of wetland loss have been adequately offset by the creation of approximately 10.30 acres of tidal salt marsh habitat adjacent to American Canyon

Creek. This wetland construction commenced on August 3, 1993 and was completed on November 6, 1993. In 1998, the project area exhibited dense vegetation cover (>82%), with a diverse mixture of 14 wetland species dominated by pickleweed and salt grass. As of 1998, adequate mitigation had been achieved. In November 2009, the Corps visited the mitigation site again and reaffirmed that vegetative cover exceeds 80% at the site and consists solely of hydrophytic vegetation, including pickleweed (*Salicornia virginica*) and saltgrass (*Distichlis spicata*).

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. The proposed project will not impact any known threatened or endangered species. Due to the lack of suitable habitat conditions, the federally-listed endangered California clapper rail (*Rallus longirostris obsoletus*) is presumed to not inhabit or otherwise occur on the development parcel. Monk & Associates conducted trapping surveys for the endangered salt marsh harvest mouse (*Reithrodontomys raviventris*), surveys which were approved by the U.S. Fish and Wildlife Service prior to their implementation. These surveys were extensive and were designed to determine the presence or absence of salt marsh harvest mice in the wetland on the project site. A total of 4,800 trap-nights were completed from November 4-19, 2002. No salt marsh harvest mice or any other native rodents were trapped during the surveys. The USACE initiated consultation with the U.S. Fish and Wildlife Service, pursuant to Section 7 of the Endangered Species Act of 1973, as amended. USACE received notification on January 21, 2003 concurring with the USACE determination that the development of the Mariner's Cove project site is not likely to result in take of the salt marsh harvest mouse, and no further action pursuant to the Endangered Species Act is necessary.

Magnuson-Stevens Fisheries Conservation and Management Act: Essential Fish Habitat - The Magnuson-Stevens Fishery Conservation and Management Act requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions permitted by the agency that may adversely affect Essential Fish Habitat (EFH). There are no EFH concerns with this proposed project.

Impacts To The Social And Economic Environment:

a. Economics and Employment: The project would provide temporary construction jobs, generate an expanded housing stock, promote enhanced employment opportunities within the redevelopment area, and increase tax revenues to the City. The beneficial project effects on economics and employment would be both short-term and long-term, and minor to moderate in magnitude.

b. Noise Conditions: Various project construction activities and operation of construction equipment could be audible from nearby marina facilities, commercial office buildings, and residential areas. In view of the relative project scale and limited area of affected jurisdictional wetlands, the effects of noise emissions attributed to project construction and equipment usage would be adverse, short-term, and minor to moderate in magnitude.

Impacts To The Historic And Cultural Environment:

a. Archaeological Resources: Due to past land use activities and the resulting disturbed condition of the development parcel, project construction work would not likely encounter intact archaeological resources. If unrecorded archaeological resources were discovered during the conduct of work, these operations would be suspended until the USACE concluded consultation with the State Historic Preservation Officer, pursuant to Section 106 of the Historic Preservation Act of 1966, as amended.

Conclusions and Recommendations: Based on an analysis of the identified impacts, a preliminary determination has been made that it will not be necessary to prepare an Environmental Impact Statement (EIS) for the project. This Environmental Assessment has not yet been finalized, and the preliminary determination may be reconsidered if additional information indicates the project would significantly affect the aquatic ecosystem.

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 Division, 1455 Market Street, San Francisco, California 94103-1398. 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 Dominic MacCormack of our office at telephone 415-503-6784 or E-mail: Dominic.maccormack@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.