



US Army Corps  
of Engineers

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

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

NUMBER: 22057S – Palos Colorados

DATE: March 31, 2003

RESPONSE REQUIRED BY: May 1, 2003

PERMIT MANAGER Molly Martindale

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**1. INTRODUCTION:** Mr. Merle Gilliland, Richland Development Company, 1535 North Main Street, Walnut Creek, California, 94596, has applied for a Department of the Army permit to fill wetlands and waters of the United States to construct a housing development and golf course on property located between Moraga Road, St. Mary's Road, and Rheem Boulevard in Moraga, Contra Costa County, California (Figures 1 and 2). This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

**2. PROJECT DESCRIPTION:** The proposed Palos Colorados project would consist of a master-planned residential development (123 "estate-sized" residential lots; associated street, road and utility infrastructure; parks; open space lands) and an 18-hole public golf course with associated clubhouse and practice facilities (Figures 2a and 2b). (The applicant intends to include various hiking trails within the project, but no plan for the trails has yet been submitted to the Corps.)

The 557-acre site contains approximately 5.76 acres of seasonal wetlands, 2.60 acres of ponds, and 20,835 linear feet (7.16 acres) of vegetated and unvegetated intermittent and ephemeral stream channels (Figures 3a and 3b). The site constitutes the only open wildlife corridor (except for three-four road crossings) between the East Bay Municipal Water District's Lafayette Reservoir open space (to the northeast) and the Las Trampas Ridge Regional Wilderness (to the southwest).

As shown in the attached drawings, the applicant plans to fill 1.06 acres of seasonal wetlands, 0.14 acre of ponds, and 7,740 linear feet (1.62 acres) of channel for the proposed project (Figures 4a and 4b). Also, approximately 4.0 acres of preserved wetlands and ponds will have at least 50% of their contributing watersheds developed. The project would effectively eliminate the wildlife corridor connection to the Lafayette Reservoir open space, and convert much of the corridor to housing and golf course landscapes.

The primary drainage on site is known as Coyote Gulch. Coyote Gulch is the incised main channel on site and it is largely unvegetated due to scour caused by high velocity flows during winter rains. Coyote Gulch drains roughly north to south, and empties into Las Trampas Creek. Las Trampas Creek then wanders through communities to the north and eventually empties into Walnut Creek which empties into the Carquinez Strait.

The other streams on site vary in width from 2 to 6 feet and are often eroded and deeply incised, although some do have vegetated reaches. Some streams drain into Las Trampas Creek from the northern and eastern part of the site and others drain to the west into Laguna Creek, which flows into San Leandro Creek and San Leandro Reservoir.

The project design will impact approximately half (3,330 linear feet) of the second- and third-order intermittent stream channels with wetland vegetation. These channels provide the most effective flood-

moderating effects of any of the wet areas on site. Due to the vegetation, the same stream portions are also the best at stabilizing sediment and nutrient uptake and transformation.

The creek system on site is deeply incised and has downcut to bedrock in some locations. The applicant states that “(t)he maximum relief across the site is 400 feet.” The slopes above the streams exhibit evidence of extensive past landsliding (the predominant physical process shaping the hills of this region).

The federally Threatened California red-legged frog (CRLF) (*Rana aurora draytonii*) has been found in all three ponds on site (Figures 5a and 5b), and although the federally Threatened Alameda whipsnake (*Masticophis lateralis euryxanthus*) has not been found in previous site surveys, the site is within the overall Critical Habitat for the species. The California tiger salamander, a federal candidate species, has not been found in five series of surveys on the site, and the applicant believes the site is out of the present and historical range for the species.

### **Aquatic-Related Plant Communities**

**Seasonal Wetlands:** Seasonal wetlands on site (including those in tributary channels) provide hydration habitat and movement corridors for CRLF as well as other species. Common species expected to be using this habitat, usually in combination with adjacent grassland and woodland, include: garter snakes, raccoons, opossums, dusky-footed wood rats, fox squirrels, gray foxes, black-tailed deer, coyotes, American robins, and mourning doves.

**Ponds:** Of the three ponds on site, one retains water throughout normal or better rainfall years, while the other two usually dry out by the end of summer. Large portions of two ponds will be filled and the watersheds of all three ponds will be directly affected by project grading.

In addition to supporting CRLF, the ponds also provide breeding habitat for California newt (*Taricha tarosa*) and Pacific tree frog (*Hyla regilla*). They provide wintering habitat for mallards and other waterfowl, as well as nesting habitat for red-winged blackbirds. However, one of the ponds also contains three species of non-native introduced fish. Other species that have been observed at the ponds include: black phoebe, cliff swallow, tree swallow, killdeer, pie-billed grebe, great blue heron, great egret, greater yellowlegs, and Canada geese.

### **Central Coast Live Oak and Willow Riparian**

**Woodland:** These woodland types cover approximately 18 acres and 2 acres of the site, respectively. The Coast Live Oak woodland occurs primarily in the tributary and main branch of Coyote Gulch. This habitat supports nesting red-tailed hawks and great horned owls. The Willow Riparian woodland occurs in channels and seeps. These woodlands support the following additional bird species: black-headed grosbeak, downy woodpecker, acorn woodpecker, Nuttalls woodpecker, western scrub-jay, Steller’s jay, chestnut-backed chickadee, dark-eyed junco, white-crowned sparrow, Anna’s hummingbird, raven, wren, northern flicker, California quail, California towhee, brewer’s blackbird, oak titmouse, song sparrow, scrub jay, house finch, yellow-rumped warbler, mockingbird, Bewick’s wren, and bushtit.

Other fauna that are expected in these habitats include: deer mouse, striped skunk, adult California newt, California slender salamander, ensatina, black-tailed deer, and possibly bobcat.

### **Upland Plant Communities**

**Central Coast Live Oak Woodland:** This community grows on 14.4 acres of steep north-facing slopes. It is very similar to central Coast Live Oak Riparian Woodland, with the addition of madrone, black oak, California bay, and California buckeye.

**Valley Oak Woodland:** Three stands of this woodland type occur on the site, on a total of approximately 35 acres, in the northeast and southeast portions of the site. Valley oaks dominate the community, with a few coast live oaks included.

**Poison Oak Scrub:** Stands of dense shrubs dominated by poison oak intermixed with coyote brush occur adjacent to the coast live oak woodland, central coast live oak riparian forest and the valley oak woodland communities. This community covers approximately 13 acres of the project site.

**Diablan Sage Scrub:** Small stands of this sage habitat occur on the step hillsides in the southern portion of the site, covering a total of 1.6 acres. Dominant species are California sage, coyote brush, silver bush lupine, and coyote mint.

Six reptile species have been identified using scrub habitats on the project site, including western yellow-bellied racer, California kingsnake, Pacific ringneck snake, northwestern fence lizard, California alligator lizard, and Skilton skink. The habitat also supports wrentit, spotted towhee, and California quail, and other birds.

**Non-Native Annual Grassland:** Introduced grasses such as wild oat, foxtail brome, ripgut brome, and soft chess dominate the non-native annual grasslands on site.

The grassland habitat is hunting territory for raptors such as the red-tailed hawk, northern harrier, merlin, Northern kestrel, and golden eagle. It is also foraged by meadowlark, western bluebird, lark sparrow, killdeer, mourning dove, and house finch, and supports gopher snake, California meadow vole, Western harvest mouse, Botta's pocket gopher, and black-tailed deer.

**3. PROPOSED MITIGATION:** All mitigation would occur on-site (Figures 6a and 6b).

**Wetlands:** Approximately 2.84 acres of wetlands creation are proposed, ranging in size from 0.01 acre to 0.25 acre, and including 47 seasonal wetlands and five new ponds. Seasonal wetland creation will be focused on the slopes and terraces of the Las Trampas Creek watershed, but there will also be some in the Laguna Creek watershed.

In general, the wetlands will be formed by excavating a "scalped" basin, creating a compacted clay berm on the "downstream" end, spreading a thin layer of soil from wetlands filled elsewhere on site, and seeding with native wetland species.

The applicant also proposes to enhance selected seeps by expanding them and accelerating the vegetative rejuvenation that is expected to occur upon removal of grazing activities. Plants from selected seeps would be divided and the divisions re-planted in the newly-expanded areas of each seep.

Also, the applicant would seed and plant native grassland and woody vegetation in upland buffer areas between the edge of development and the wetland mitigation areas. The intent is to improve habitat value and shield the mitigation areas.

**Stream Channels:** The applicant proposes two types of channel mitigation. First, approximately 10,600 linear feet of new channel would be created within areas that are not currently jurisdictional. These channels would primarily be drainage paths to route rainwater around developed areas and into existing streams.

Secondly, the applicant proposes to improve existing stream habitat by seeding slopes with erosion-control mix, planting woody riparian species where appropriate, doing selective head-cut and nickpoint repairs, and implementing bank repairs where needed.

**4. STATE APPROVALS:** Under Section 401 of

the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification or waiver before a Corps permit may be issued. 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.

**5. ENVIRONMENTAL ASSESSMENT:** The Corps of Engineers will assess the environmental impacts of the action proposed in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), and pursuant to Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and Corps of Engineers' Regulations, 33 CFR 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 jurisdiction of the Corps of Engineers. The documents used in the preparation of the Environmental Assessment will be on file in the Regulatory Branch, Corps of Engineers, 333 Market Street, San Francisco, California.

**6. EVALUATION OF 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/wetland dependent, since its basic purpose is to provide shelter. However, the applicant has submitted an Analysis of Alternatives for the project and it will be reviewed for compliance with the Guidelines in relation to the overall project purpose of constructing a mid-sized upscale residential community with an associated 18-hole golf course. The applicant states that there are no practicable

alternatives for his project. The Alternatives Analysis is available for review in our office.

**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 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.

**8. 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.

**9. 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 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 to the applicant for resolution or rebuttal any such comments that include objections. 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](mailto: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.