



US Army Corps
of Engineers

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

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: 25081S

DATE: July 21, 2003

RESPONSE REQUIRED BY: August 20, 2003

PERMIT MANAGER: Clyde Davis

PHONE: 415-977-8449

Email: cdavis@spd.usace.army.mil

1. INTRODUCTION: Tesoro Refining Company 150 Solano Way, Martinez, California 94553-1487, through its agent Mr. Rick Bruno (925) 228-1400, has applied for a Department of the Army permit to construct a pipeway containment project crossing Hastings Slough to prevent oil spills reaching the water at the Golden Eagle Refinery located in the unincorporated area near Martinez, Contra Costa County. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

2. PROJECT DESCRIPTION: As shown in the attached drawings, the applicant plans to provide containment in the event of a discharge, thus protecting tidal wetlands and Hastings Slough, east of Solano Way, along the eastern edge of Tract 1 (fig.1) of the Golden Eagle Refinery located in the unincorporated area near Martinez, Contra Costa County. In order to prevent material from entering Hastings Slough during an accident, Tesoro would construct a concrete containment channel (fig.2) where multiple pipes (photo A-1) cross Hastings Slough (photo A-2). The crossing would require installing approximately 120 linear feet of two 48-inch culverts (figs.2-3) into the slough. This dimension would provide normal tidal flow to the inner marsh. Approximately 20 to 30 feet of loose rock riprap would be installed at the entrance and exit of the culverts for erosion control.

Mitigation for the loss of this 120 linear foot portion of jurisdictional channel (fig. 4) would be the

creation of a "backwater" tidal channel (fig.5) approximately 150 feet long south of the Burlington Northern Railroad tracks and east of Hastings Slough. This channel would be approximately three feet wide and two feet deep. Excavated material would be used to create planting berms (fig.5). These planting berms would begin at approximately the willow/coyote brush area and proceed north approximately 300 feet. The planting would include willow sprigs from onsite willow trees spaced approximately 5 feet on center and coyote brush, one-gallon size, planted in groupings of three every 10 feet.

In all, 1.14 acres of wetlands and waters would be lost to the project; therefore, in addition to the new channel, marshland mitigation would be provided. Full tidal inundation to the inner marsh (fig. 6) would be restored by the removal of the earth fill dam that is partially closing the slough south of the railroad tracks. This enhanced flow capacity would result in the restored inundation of approximately 1.4 acres of marsh from the present 2-foot to the anticipated 4-foot contour (photos A-3-4). The improved tidal circulation would result in enhancement of the entire 10.2 acres of marsh.

3. 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. 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 Board. No Corps permit will be granted until the applicant obtains the required certification or waiver. A will be deemed to have occurred 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.

The project is within the jurisdictional purview of the BCDC. The applicant will be required to obtain a permit from BCDC after the RWQCB has made a determination of water quality certification for this project.

4. 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.

5. 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. The applicant has not submitted an Analysis of Alternatives and has been informed that such an Analysis is required and will be reviewed for compliance with the guidelines.

6. 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 that 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.

7. 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.

8. 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 Clyde Davis of our office at telephone 415-977-8449 or E-mail: clyde.r.davis@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided on request.