



US Army Corps
of Engineers

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: 27928N DATE: September 9, 2003

RESPONSE REQUIRED BY: October 9, 2003

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

PERMIT MANAGER: John Knudsen Phone: 41-977-9437/Email: iknudsen@spd.usace.armv.mil

1. **INTRODUCTION:** The California Department of Fish and Game (CaDFG), Yountville, California (contact Mr. Larry Wyckoff at telephone 707-944-5542) has applied to the Corps of Engineers for a Department of the Army permit to perform bank stabilization at Pond 2 in the Napa-Sonoma Marshes State Wildlife Area (NSMWA) in Napa and Solano counties. NSMWA is an approximately 14,000-acre, low-lying area in southern Sonoma, Napa and western Solano Counties (see Figure 1). The site is owned and managed by CaDFG. The wildlife area is bounded by the Huichica Hills to the north, California State Highway 29 to the east, San Pablo Bay to the south, and California State Highway 121 to the west. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. PROPOSED PROJECT:

a. **Project Site**- Pond 2 (at Assessors Parcel Numbers 067-020-120, 048-090-004, 048-100-002, and 048-100-005) is located in the south central portion of NSMWA (see Figure 2). Pond 2 is bordered by China and Devil's Sloughs to the north. China Slough also borders the pond to the east. South Slough borders the pond to the south and west. The pond is presently diked from full tidal action. Water is managed by pumping water from Pond 1 to the south or water control structures within the pond taking tidal water from South and China Sloughs. Water depth in Pond 2 varies from between 3 to 8 feet. Water surface elevations must be kept high to allow flow into other ponds within the wildlife area.

b. **Project Description** - The proposed bank stabilization project will be constructed along approximately 10,200 feet of the southern side of the levee protecting Pond 2 from China Slough. The levee bank at the project site is almost sheer in many places due to erosion caused by wind and wave action. Approximately 600 cubic yards of rock rip rap and earth fill will be placed in jurisdictional waters of the United States to stabilize the levee bank. Earth fill will be obtained from a borrow trench bordering the southern side of the levee. The levee will be repaired by using a long reach excavator which will be barged to the project site.

The levee top is either unvegetated or populated with ice plant (*Carpobrotus edulis*). Where the bank has not eroded or where erosion has resulted in loose fill within or near the waters edge, brackish plant species, such as pickleweed (*Salicornia virginica*) have become established.

c. **Purpose and Need** - Pond 2 is an important element of NSMWA. It is one of the major deep water ponds that will remain as diving duck habitat once the desalination and restoration of the salt ponds in the wildlife area is complete.

d. **Mitigation** - No wetlands will be impacted by the project. Bank erosion has eliminated wetlands that previously existed along the northern shore line of the levee. Therefore, no mitigation will be required for the bank stabilization project.

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 before a Corps permit may be issued. The applicant shall provide the Corps with evidence that a valid request for State water quality certification has been submitted to the Regional Water Quality Control Board (RWQCB). No Corps permit will be granted until the applicant obtains the required certification.

Those parties concerned with any water quality issues associated with this project should write to the Executive Officer, San Francisco Bay Regional Water Quality Control Board, 1515 Clay Street, Suite 1400, Oakland, California, 94612, by the close of the comment period of this public notice.

The project is in the purview of the San Francisco Bay Conservation and Development Commission (BCDC). The applicant will be required to obtain a permit from the BCDC.

4. 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 Regulations at 40 CFR 1500-1508, and USACE Regulations at 33 CFR 230 and 235. 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 and will provide the rationale for issuing or denying a Department of the Army permit for the project.

Endangered Species Act of 1973 (ESA): The applicant (CaDFG) states that no federally or state listed special status plant or animal species were observed at the proposed Pond 2 bank stabilization

project site.

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 cultural resources are known to occur on site or in the project vicinity. Standard construction-related measures to preserve such resources would be employed if buried artifacts or other archaeological resources were exposed during excavation and grading operations. If unrecorded historic or cultural resources were discovered during construction, such operations would be suspended until the USACE concluded Section 106 consultation with the State Historic Preservation Officer to take into account any construction-related impacts to these resources.

5. EVALUATION OF ALTERNATIVES:

Evaluation of the project impacts includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) 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. The applicant, however, 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 his project. The Analysis of Alternatives is available for review in our office.

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. Evaluation of the probable impacts 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 which reasonably may be expected to accrue from the proposal must be balanced against its reasonable 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 which 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 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.

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 John Knudsen of our office at telephone number 415-977-8437 or by e-mail at jknudsen@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.

7. CONSIDERATION OF COMMENTS: The Corps is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes; and other interested parties to consider and evaluate the impacts of this proposed project. Any comments received by the Corps 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 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 addressed to Regulatory Branch, Attn: John Knudsen. It is Corps policy to forward any such comments which may 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