



US Army Corps
of Engineers®
San Francisco District

SAN FRANCISCO DISTRICT

Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

PUBLIC NOTICE

PROJECT: Brighton Village Residential Development

PUBLIC NOTICE NUMBER: 2002-271690N
PUBLIC NOTICE DATE: November 2, 2017
COMMENTS DUE DATE: December 2, 2017

PERMIT MANAGER: Sahrye Cohen

TELEPHONE: 415-503-6779

E-MAIL: sahye.e.cohen@usace.army.mil

1. **INTRODUCTION:** Rancho Tolenas Corporation (POC: Zachary Wright, 916-403-1700), 9216 Kiefer Boulevard, Suite 4, Sacramento, California 95826, through its agent, WRA, Inc. (POC: Leslie Lazarotti, 510-296-0532), 4225 Hollis Street, Emeryville, California 94608, has applied to the U.S. Army Corps of Engineers (USACE), San Francisco District, for a Department of the Army Permit to discharge fill material into jurisdictional waters of the United States associated with the construction of a residential subdivision, located in the northeast portion of the City of Fairfield, Solano County, California. This Department of the Army permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*).

2. **PROPOSED PROJECT:**

Project Site Location: The proposed Brighton Village Residential Development Project (Project) site is located within Section 9, Township 5 North, Range 1 West, MDB&M, on the Elmira 7.5 minute USGS quadrangle. The Project is located on approximately 151 acres in the northeastern area of the city of Fairfield, Solano County, California. It is within the City's Peabody Walters Master Plan and part of the Villages at Fairfield Development Project. The project would be situated to the southeast of Cement Hill and the Putah South Canal, north of Cement Hill Road (future Manuel Campos Parkway) and west of the existing Gold Ridge development.

Project Site Description: The proposed site is mostly flat to slightly undulating terrain that has been used for a variety of agricultural uses in the past including cattle grazing, orchards, and both irrigated and dry crop production. A majority of the site drains to the south and eventually off-site via a culvert at the existing Cement Hill

Road. The majority of the property has been plowed and irrigated in the past for use as grazing pasture. As a result, the site is dominated by non-native upland plant species.

Although this area has not been irrigated since summer 2001, the vegetation and soils have been markedly altered by flood irrigation practices. Primary upland habitat at the proposed site include annual grassland. Annual grassland habitat is characterized by non-native species including wild oats, field barley, soft chess, Harding grass, perennial rye, filaree, and rat-tail fescue. The site supports formerly irrigated pasture characterized by wild rye (*Elymus sp.*), field barley, Mediterranean barley, perennial rye, bird's foot trefoil, broad-leaf peppergrass (*Lepidium latifolium*), and English plantain (*Plantago lanceolata*). Other common species include saltgrass, rip-gut brome, soft chess, curly dock, annual bluegrass (*Poa annua*), orchard grass (*Dactylis glomerata*), and foxtail barley (*Hordeum jubatum*).

Approximately 5.2709 acres of waters of the United States were mapped and verified by the USACE, consisting of: 0.5583 acre of wet swale; and 4.7126 acres of seasonal wetlands.

Project Description: The proposed Project consists of approximately 151 acres of land, comprised of residential development with onsite supporting features such as parks, trails and drainage facilities; and an off-site linear park (approximately 11 acres) that runs from Brighton Village in a northeasterly direction to Peabody Road.

The Project currently provides for would include: (a) 374 low-medium density homes; (b) 252 medium density homes; and (c) 280 high density homes. Homes located on the eastern portion of the site would be integrated with the existing Gold Ridge development. Medium density

residential homes would be located just north of the future Manuel Campos Parkway. High and medium density residential homes would form the southeastern border of Brighton Village, adjacent to the linear park. The proposed residential development would be anchored by a central neighborhood park and the linear park. The central open space corridor would include a detention basin, bio-swale channels and a meandering wetland channel for water quality treatment and storm water conveyance, and would be located adjacent to a seasonal wetland preserve. This channel would replace an existing engineered ditch that currently runs through the site.

Basic Project Purpose: The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by USACE to determine whether the project is water dependent. The basic project purpose is residential housing.

Overall Project Purpose: The overall project purpose serves as the basis for the Section 404(b)(1) alternatives analysis, and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, while allowing a reasonable range of alternatives to be analyzed. The overall project purpose is multi-density residential housing in the City of Fairfield.

Project Impacts: The project as proposed would result in the discharge of approximately 1,200 cubic yards of fill material into approximately 0.7614 acre of waters of the United States (wetlands).

Proposed Mitigation: The project as proposed would avoid a total of 4.5095 acres of jurisdictional wetlands located on site. The applicant proposes to accomplish all mitigation for unavoidable impacts to 0.7614 acre of jurisdictional wetlands, through the purchase of wetland credits at a USACE-approved mitigation bank with a service area that includes the Project area.

Project Alternatives: The Corps has not endorsed the submitted alternatives analysis at this time. The Corps will conduct an independent review of the project alternatives prior to reaching a final permit decision.

3. STATE AND LOCAL APPROVALS:

Water Quality Certification: State water quality certification or a waiver is a prerequisite for the issuance of

a Department of the Army Permit to conduct any activity which may result in a fill or pollutant discharge into waters of the United States, pursuant to Section 401 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1341 *et seq.*). The applicant has recently submitted an application to the California Regional Water Quality Control Board (RWQCB) to obtain water quality certification for the project. No Department of the Army Permit will be issued until the applicant obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed, if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act.

Water quality issues should be directed 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.

Coastal Zone Management: Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456(c) *et seq.*), requires a non-Federal applicant seeking a federal license or permit to conduct any activity occurring in or affecting the coastal zone to obtain a Consistency Certification that indicates the activity conforms with the State's coastal zone management program. Generally, no federal license or permit will be granted until the appropriate State agency has issued a Consistency Certification or has waived its right to do so. The project does not occur in the coastal zone, and a *preliminary* review by USACE indicates the project would not likely affect coastal zone resources. This presumption of effect, however, remains subject to a final determination by the San Francisco Bay Conservation and Development Commission.

Coastal zone management issues should be directed to the Executive Director, San Francisco Bay Conservation and Development Commission, 50 California Street, Suite 2600, San Francisco, California 94111, by the close of the comment period, by the close of the comment period by the close of the comment period.

Other Local Approvals: At this time no other required local approvals have been identified.

4. COMPLIANCE WITH VARIOUS FEDERAL

LAWS:

National Environmental Policy Act (NEPA): Upon review of the Department of the Army permit application and other supporting documentation, USACE has made a *preliminary* determination that the project neither qualifies for a Categorical Exclusion nor requires the preparation of an Environmental Impact Statement for the purposes of NEPA. At the conclusion of the public comment period, USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347), the Council on Environmental Quality's Regulations at 40 C.F.R. Parts 1500-1508, and USACE Regulations at 33 C.F.R. Part 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of USACE and other non-regulated activities 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 that provides the rationale for issuing or denying a Department of the Army Permit for the project. The final NEPA analysis and supporting documentation will be on file with the San Francisco District, Regulatory Division.

Endangered Species Act (ESA): Section 7(a)(2) of the ESA of 1973, as amended (16 U.S.C. § 1531 *et seq.*), requires Federal agencies to consult with either the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) to insure actions authorized, funded, or undertaken by the agency are not likely to jeopardize the continued existence of any Federally-listed species or result in the adverse modification of designated critical habitat. As the Federal lead agency for this project, USACE has conducted a review of the California Natural Diversity Data Base, digital maps prepared by USFWS and NMFS depicting critical habitat, and other information provided by the applicant, to determine the presence or absence of such species and critical habitat in the project area. Based on this review, USACE has made a preliminary determination that the following Federally-listed species and designated critical habitat may be present at the project location or in its vicinity, and may be affected by project implementation: two forked clover (*Trifolium amoenum*); California tiger salamander (*Ambystoma californiense*); vernal pool fairy shrimp (*Branchinecta lynchi*); vernal pool tadpole shrimp (*Lepidurus packardii*); Conservancy fairy shrimp (*Branchinecta conservacion*); and designated critical

habitat for these species (as applicable). To address project related impacts to these species and designated critical habitat, USACE initiated informal consultation with USFWS, pursuant to Section 7(a) of the Act. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project.

Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA): Section 305(b)(2) of the MSFCMA of 1966, as amended (16 U.S.C. § 1801 *et seq.*), requires Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all proposed actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. EFH is designated only for those species managed under a Federal Fisheries Management Plan (FMP), such as the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, and the *Pacific Coast Salmon FMP*. USACE has made a *preliminary* determination that EFH is not present at the project location or in its vicinity, and that consultation will not be required. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by NMFS.

Marine Protection, Research, and Sanctuaries Act (MPRSA): Section 302 of the MPRS of 1972, as amended (16 U.S.C. § 1432 *et seq.*), authorizes the Secretary of Commerce, in part, to designate areas of ocean waters, such as the Cordell Bank, Gulf of the Farallones, and Monterey Bay, as National Marine Sanctuaries for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the Act. No Department of the Army Permit will be issued until the applicant obtains the required certification or permit. The project does not occur in sanctuary waters, and a *preliminary* review by USACE indicates the project would not likely affect sanctuary resources. This presumption of effect, however, remains subject to a final determination by the Secretary of Commerce, or his designee.

National Historic Preservation Act (NHPA): Section 106 of the NHPA of 1966, as amended (16 U.S.C. § 470 *et seq.*), requires Federal agencies to consult with the

appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *National Register of Historic Places*. Section 106 of the Act further requires Federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian tribes attach historic, religious, and cultural significance. As the Federal lead agency for this undertaking, USACE has conducted a review of latest published version of the *National Register of Historic Places*, survey information on file with various city and county municipalities, and other information provided by the applicant, to determine the presence or absence of historic and archaeological resources within the permit area. Based on this review, USACE has made a *preliminary* determination that historic or archaeological resources are not likely to be present in the permit area, and that the project either has no potential to cause effects to these resources or has no effect to these resources. USACE will render a final determination on the need for consultation at the close of the comment period, taking into account any comments provided by the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, and Native American Nations or other tribal governments. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for the project, USACE will obtain all necessary supporting documentation from the applicant concerning the consultation process. Any required consultation must be concluded prior to the issuance of a Department of the Army Permit for the project. If unrecorded archaeological resources are discovered during project implementation, those operations affecting such resources will be temporarily suspended until USACE concludes Section 106 consultation with the State Historic Preservation Officer or the Tribal Historic Preservation Officer to take into account any project related impacts to those resources.

5. COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with 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 pursuant to the Guidelines indicates the project is not dependent on location in or proximity to waters of the United States to achieve the basic project purpose. This

conclusion raises the (rebuttable) presumption of the availability of a less environmentally damaging practicable alternative to the project that does not require the discharge of dredged or fill material into special aquatic sites. The applicant has submitted an analysis of project alternatives which is being reviewed by USACE.

6. PUBLIC INTEREST EVALUATION: The decision on whether to issue a Department of the Army Permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the project and its intended use on the public interest. Evaluation of the probable impacts requires a careful weighing of the public interest factors relevant in each particular case. The benefits that may accrue from the project must be balanced against any reasonably foreseeable detriments of project implementation. The decision on permit issuance will, therefore, reflect the national concern for both protection and utilization of important resources. Public interest factors which may be relevant to the decision process include 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: USACE is soliciting comments from the public; Federal, State and local agencies and officials; Native American Nations or other tribal governments; and other interested parties in order to consider and evaluate the impacts of the project. All comments received by USACE will be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army Permit for the project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, and other environmental or public interest factors addressed in a final environmental assessment or environmental impact statement. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the project.

8. SUBMITTING COMMENTS: During the specified comment period, interested parties may submit written comments to Sahrye Cohen, San Francisco District, Regulatory Division, 1455 Market Street, 16th Floor, San Francisco, California 94103-13978; comment letters

should cite the project name, applicant name, and public notice number to facilitate review by the Regulatory Permit Manager. Comments may include a request for a public hearing on the project prior to a determination on the Department of the Army permit application; such requests shall state, with particularity, the reasons for holding a public hearing. All substantive comments will be forwarded to the applicant for resolution or rebuttal. Additional project information or details on any subsequent project modifications of a minor nature may be obtained from the applicant and/or agent, or by contacting the Regulatory Permit Manager by telephone or e-mail cited in the public notice letterhead. An electronic version of this public notice may be viewed under the *Current Public Notices* tab on the USACE website: <http://www.spn.usace.army.mil/Missions/Regulatory/Public-Notices/>.