



US Army Corps
of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Public Notice Number: SPK-2001-75341

Date: November 6, 2008

Comments Due: December 6, 2008

In reply, please refer to the Public Notice Number

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the Betterview Business Park Lots 4 & 5 project, which would result in impacts to approximately 0.9879 acre of waters of the United States, including wetlands, in or adjacent to wetlands adjacent to an unnamed tributary to the Yampa River. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

AUTHORITY: This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

APPLICANT: Mr. Benjamin Spiegel
Gerencser, Incorporated
2673 Jacob Circle, Suite 200
Steamboat Springs, Colorado 80487

LOCATION: The project site is located at wetlands adjacent to a tributary to the Yampa River, within the SE ¼ NW ¼, Section 7, Township 6 North, Range 84 West, 6th PM, Routt County, Colorado, and can be seen on the Steamboat Springs USGS Topographic Quadrangle.

PROJECT DESCRIPTION: The Betterview Business Park is a 6-lot industrial-zoned subdivision, established in 2007. The project received Army Corps of Engineers approval in 2005. The permit was modified twice, the final modification approved on April 10, 2007. According to the final Permit Modification Request, the total wetland impact of the project was 21,775 square feet, or 0.4999 acre.

The original permit authorization, prior to the final 2007 modification, was approved on October 11, 2005. Compensatory mitigation required by that permit included construction of 0.37 acres of palustrine emergent wetland, enhancement of 0.06 acres of wetland, and preservation of 0.56 acres of wetland via deed restriction within the on-site preserve as proposed in the applicant's original permit application. The compensatory mitigation was constructed; however, the remaining wetlands were never deed-restricted, nor were the new buyers notified that the wetlands were required to be preserved. Therefore, the original permit is currently in non-compliance with permit conditions.

Based on the assumption that the impacts requested in the permit application were calculated accurately and built as proposed, the total impacts that have occurred to date on the entire Betterview Business Park subdivision are 15,946 square feet, or 0.3661 acre. Consequently, there remains 5,830 square feet, or 0.1338 acre still remaining to be filled if the applicant were to remain below the ½ acre threshold of the originally authorized Nationwide Permit #39.

The applicant is proposing to construct a 2,360 square foot office building for Spiegel and Sons Inc. and Architectural Doors and Windows, Inc. (ADW). The building would also provide a 7,220 square foot shop space for ADW on lot 5. The applicant is also proposing mixed-use commercial buildings (6 individual units each) and 2 hotel buildings (12 total units) on Lot 4. Based on the available information, the overall project purpose is to provide light industrial facilities and affordable employee lodging facilities in the vicinity of the City of Steamboat Springs. The applicant believes there is a need for additional industrial properties, mixtures of industrial, live/work, and long-term employee rental units for the out-of-town workforce. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. There are approximately 1.6 acres of palustrine emergent wetlands within the project area. The site is located in an industrial corridor within the City of Steamboat Springs. The site is characterized by a high water table fed by snowmelt, runoff, and hillside seeps. There is a roadside ditch at the front of the property that runs water during most of the year. The ditch is directly tributary to the Yampa River, a Traditionally Navigable Water (TNW).

Alternatives. The applicant has provided information concerning project alternatives. These alternatives are discussed in the attachments to this public notice. Additional information concerning project alternatives may be available from the applicant or their agent. Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered.

Mitigation. The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. The applicant has proposed two compensatory mitigation alternatives based upon the applicant's preferred alternative; they are as follows:

Wetland Compensatory Mitigation Alternative C-1

Under Mitigation Alternative C-1, the entirety of the project's wetland impacts would be offset at a 1:1 ratio via a purchase of 0.9879 acre of wetland credit at the Finger Rock Wetland Bank. In addition, the applicant would place a deed restriction on the property, prohibiting any future wetland impacts on the remaining 0.5924 acre wetland.

Wetland Compensatory Mitigation Alternative C-2

Under Mitigation Alternative C-2, the applicant would mitigate by a combination of on-site enhancement and purchase of wetland credits at Finger Rock Wetland Bank. Enhancement of the remaining wetland area would be accomplished by planting riparian shrubs (willows, alders, and/or dogwoods) on 6' centers throughout the wetland. Enhancement credits would be calculated at a rate 2:1; that is, the applicant would receive mitigation credit calculated by dividing the acreage of the wetland enhancement area by 2. This would yield 0.2962 acre of on-site enhancement wetland credit. These enhanced wetlands would also be deed restricted. The remaining compensatory mitigation area would be purchased at Finger Rock at a ratio of 1:1, which would require purchase of 0.6917 acre of wetland credits to make up the difference.

It is the applicant's opinion that this mitigation proposal is equitable since it would deed restrict the remaining wetlands from future impacts, would improve the ecological function of the remaining wetlands, and would trade impacts to low quality wetlands for purchase of high quality wetland credits at the Mitigation Bank.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the State of Colorado is required for this project. The applicant has indicated they have not applied for certification.

HISTORIC PROPERTIES: Based on the available information, cultural resources are not within the project's area of potential effect.

ENDANGERED SPECIES: The project will not affect any Federally-listed threatened or endangered species or their critical habitat that are protected by the Endangered Species Act.

ESSENTIAL FISH HABITAT: The proposed project will not adversely affect Essential Fish Habitat (EFH) as defined in the Magnuson-Stevens Fishery Conservation and Management Act.

The above determinations are based on information provided by the applicant and our preliminary review.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those 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, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps 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, 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.

SUBMITTING COMMENTS: Written comments, referencing Public Notice SPK-2001-75341 must be submitted to the office listed below on or before **December 6, 2008**.

Nathan Green, Project Manager
US Army Corps of Engineers, Sacramento District
Colorado West Regulatory Branch
400 Rood Avenue, Room 142
Grand Junction, Colorado 81501-2563
Email: Nathan.j.green@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager, Nathan Green.

Attachments: 21 pages