

PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS LOS ANGELES DISTRICT

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APPLICATION FOR PERMIT The Otay Ranch Resort Village Project

Public Notice/Application No.: SPL-2018-00549-CJA

Project: The Otay Ranch Resort Village Project

Comment Period: May 14th, 2021 through June 13th, 2021

Project Manager: Chris Allen; (760) 602-4836; christopher.allen@usace.army.mil

Applicant

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Contact

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Location

The proposed project is located near the community of Otay Mesa of the City of San Diego and within unincorporated San Diego County, California (Latitude: 32.641, Longitude: -116.9135).

Activity

The proposed project includes the construction of a mixed-use residential development and motor vehicle roadway improvements (see attached drawings). The proposed project would result in the discharge of 96,774-cubic yards of native soil material into 2.02-acre of wetland waters of the U.S. and 2.16-acres of non-wetland waters of the U.S. For more information see Additional Project Information section below.

Submittal of Public Comments

Interested parties are hereby notified an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). We invite you to review today's public notice and provide views on the proposed work. By providing substantive, site-specific comments to the Corps Regulatory Division, you provide information that supports the Corps' decision-making process. All comments received during the comment period become part of the record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied under Section 404 of the Clean Water Act.

During the Coronavirus Health Emergency, Regulatory Program staff are teleworking. Please do not mail hard copy documents, including comments to any Regulatory staff. Instead, your comments should be submitted electronically to: Christopher.Allen@usace.army.mil. Should you have any questions or concerns about the

Corps' proposed action or our comment period, you may contact Christopher Allen directly at (760) 602-4836.

The mission of the U.S. Army Corps of Engineers Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable water and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed 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 proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

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.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made an environmental impact statement is not required for the proposed work.

<u>Water Quality</u>- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance.

<u>Coastal Zone Management</u>- This project is located outside the coastal zone and preliminary review indicates it would not affect coastal zone resources. After a review of the comments received on this public notice and in consultation with the California Coastal Commission, the Corps will make a final determination of whether this project affects coastal zone resources after review of the comments received on this Public Notice.

<u>Essential Fish Habitat</u>- No Essential Fish Habitat (EFH), as defined by the Magnuson-Stevens Fishery Conservation and Management Act, occurs within the project area and no EFH is affected by the proposed project.

<u>Cultural Resources</u>- The applicant has conducted a cultural resource inventory and evaluated the resources for their eligibility for listing on the National Register of Historic Places (NRHP). Preliminary findings of the cultural report indicate that there may be historic properties listed or eligible for listing on the NRHP. The Corps would coordinate with the State Historic Preservation Office and other interested parties as to satisfy obligations pursuant to Section 106 of the National Historic Preservation Act.

<u>Endangered Species</u>- Preliminary determinations indicate the proposed activity may affect federally-listed endangered or threatened species, and their designated critical habitat. Therefore, consultation under Section 7 of the Endangered Species Act appears to be required at this time.

<u>Public Hearing</u>- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

<u>Basic Project Purpose</u>- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent (i.e., requires access or proximity to or siting within the special aquatic site to fulfill its basic purpose). Establishment of the basic project purpose is necessary only when the proposed activity would discharge dredged or fill material into a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). The basic project purpose for the proposed project is to provide housing. The project is not water dependent.

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' 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, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for the proposed project is to construct residential housing, a public school, community parks, pedestrian trails, and vehicle roadways. To achieve the overall project purpose, the applicant has proposed to establish the residential community and attendant features listed above within the city of San Diego.

<u>Additional Project Information</u>

Project Description:

The proposed project would result in the discharge of 96,774-cubic yards of native soil material into 2.02-acre of wetland waters of the U.S. and 2.16-acres of non-wetland waters of the U.S. Project related impacts will result in the permanent loss of 1.22-acre of wetland waters of the U.S. and the permanent loss of 2.02-acres of non-wetland waters. The proposed project would also result in temporary impacts to 0.14-acre of non-waters of the U.S. and temporary impacts to 0.80-acre of wetland waters of the U.S. The purpose of the proposed project consists of constructing a mixed-use residential community located in an unincorporated portion of southwestern San Diego County. The entire proposed project area is situated amongst 1,929-acres. The proposed project would include 692.50-acres of on-site residential housing and associated infrastructure (e.g., vehicle circulation roads, pedestrian sidewalks, etc.) development, 59-acres of off-site improvements, 1,107-acres of designated preserve lands, and 70-acres of conserved open space.

Proposed Mitigation:

The proposed mitigation may change as a result of comments received in response to this public notice, the applicant's response to those comments, and/or the need for the project to comply with the 404(b)(1) Guidelines. In consideration of the above, the proposed mitigation sequence (avoidance/minimization/compensation), as applied to the proposed project is summarized below:

Avoidance:

The proposed project design avoids 100% of on-site, non-vernal pool, wetlands. The proposed project design also avoids approximately 73% of the non-wetland waters on-site. In addition, a total of 73% of the on-site vernal pools and 47% of the on-site non-wetland water basins would be avoided. Cumulatively, a total of 74% of all the on-site aquatic resources (acreage) would be avoided. A total of 1.73 acres (4,964 linear feet) of off-site aquatic resources would be permanently impacted by the proposed project. According to the applicant, these off-site impacts are limited to what is necessary to accommodate project engineering and design constraints.

Minimization:

A number of minimization measures, including construction measures and post-construction measures, would be implemented to maximally reduce impacts to aquatic resources. A preliminary stormwater management plan for the applicants preferred project alternative (Alternative H) has been prepared for the project. During construction of the proposed project, typical site design/source control best management practices (BMPs) would be incorporated to minimize impacts to jurisdictional resources to the maximum extent practicable.

The original project alternative (SRP) included realigning the existing Otay Lakes Road. The road realignment would have crossed undisturbed portions of the non-wetland water features within the proposed preserve lands, resulting in an additional 0.09 acres of permanent impacts to waters

compared to applicant's preferred alternative. Under Alternative H, improvements would be made to the existing Otay Lakes Road. However, the road would not be realigned within the project site, thereby eliminating fragmentation of the propose preserve lands. Under the SRP project alternative, basins located within the K6 and K8 mesas were within the development area. Alternative H would provide an area of conserved habitat surrounding the K8 pools, which would total 12.5 acres. Alternative H would eliminate plans for an 11-acre golf course and would also establish an additional 10.3 acres of preservation lands for San Diego thornmint. These additional proposed preserve lands were not included under the SRP project alternative. Alternative H would also reduce impacts from the originally designated development by 69 acres. Compared to other project alternatives, the Alternative H has overall less impacts to aquatic resources, suitable habitat for federally listed species, and cultural resources.

Compensation:

The applicant has proposed to undertake permittee responsible compensatory mitigation for offsetting project related losses of waters of the U.S. To ensure all compensatory mitigation is commensurate with the level of impact, the permittee responsible mitigation plan would follow the South Pacific Division Standard Operating Procedure (12501-SPD Regulatory Program Standard Operating Procedure for Determination of Mitigation Ratios) to determine the amount and type of compensatory mitigation.

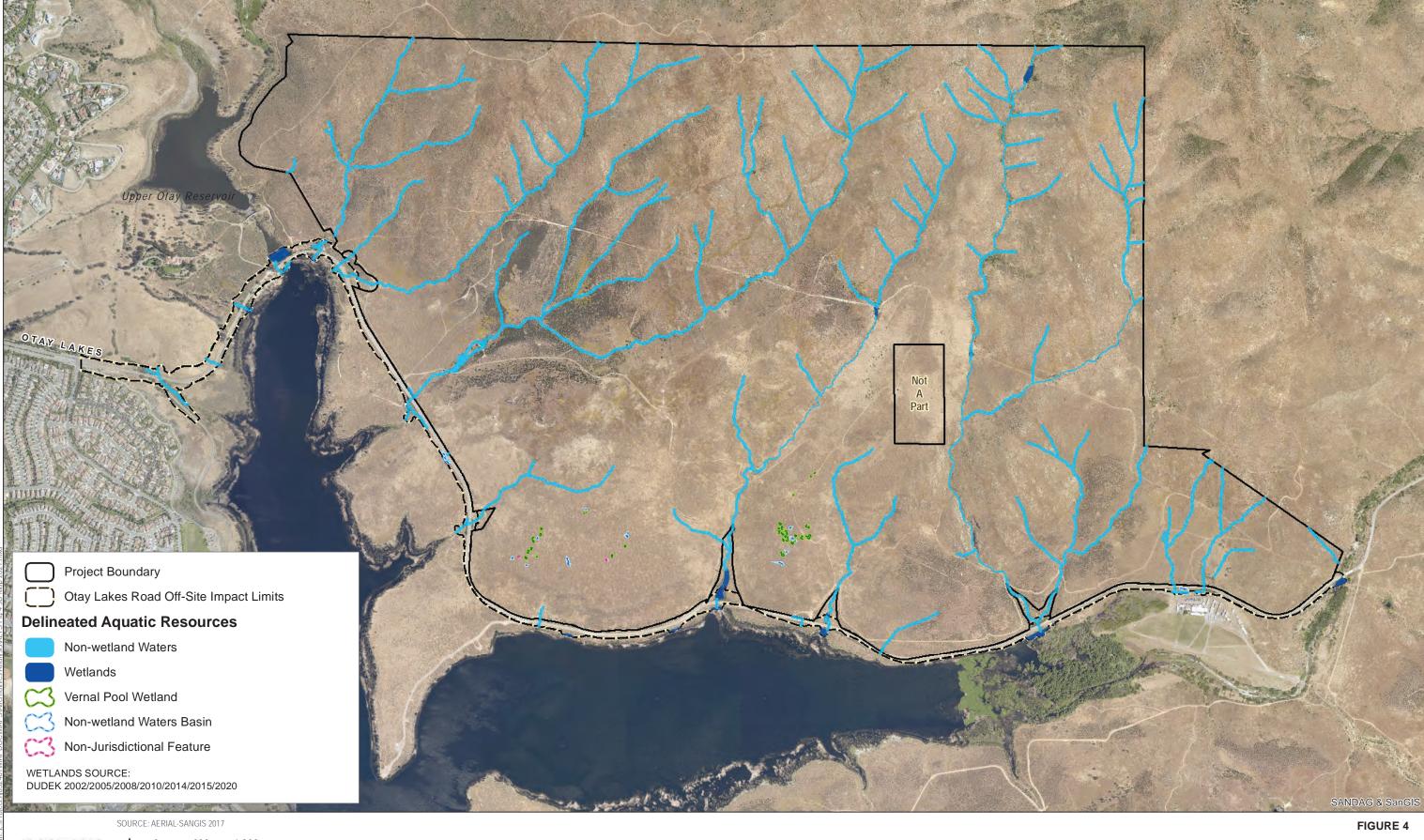
For additional information please call Christopher Allen of my staff at (760) 602-4836 or via e-mail at Christopher.Allen@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.



Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

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LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
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600 1,200 Fee **Aquatic Resources Map**

Alternatives Analysis for Otay Ranch Resort Village

