



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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San Francisco, CA 94105

NOV 24 2015

LTC John Morrow, District Engineer
ATTN: **Bryan Matsumoto**
U.S. Army Corps of Engineers
1455 Market Street
San Francisco, CA 94103

Subject: Public Notice 2003-281040, Dutra Haystack Asphalt Plant Project, Sonoma County, CA

Dear LTC Morrow:

Thank you for the opportunity to comment on the subject PN dated September 15, 2015, for which the comment period has been extended through November 30, 2015. The applicant proposes to construct an asphalt plant adjacent to the Petaluma River in Sonoma County, CA. According to the PN, the proposed project would result in permanent impacts to approximately 1.84 acres of waters of the United States, for which the applicant proposes on-site wetland mitigation including reestablishment (2.66 acres), restoration (0.02 acres), enhancement (8.27 acres), and preservation (0.9 acres). The following comments are provided pursuant to our authorities under the Clean Water Act and the related Federal Guidelines (Guidelines) published at 40 CFR Part 230.

EPA is concerned that the information presented in the PN appears to be incomplete in some important ways, as outlined below. Without this information we cannot conclude that the applicant has demonstrated compliance with the restrictions on discharges under the Guidelines. We recommend USACE evaluate these issues closely, including information presented during the local CEQA proceedings, before issuing any permit for this non-water dependent project.

1. Offloading Access

It is unclear whether the applicant actually has access and authority to utilize the existing barge docking and offloading area on the nearby Landing Way property. Without such access, a separate barge offloading facility could be required. Any such new facility in the general area of the proposed project would almost certainly have significantly greater impacts to waters of the U.S., as well as complications regarding restriction of navigation within the federal channel boundaries. In that case, a thorough alternatives analysis would be needed for this aspect of the project alone. In order to avoid inappropriate piecemealing, no USACE permit for filling the wetlands on the onshore portion of the property should be issued unless and until authority to use the existing offloading facility has been secured and documented.

2. PG&E Easement and Pipelines

We understand that a PG&E easement with two natural gas pipelines crosses the Petaluma River in the

project area. The PN presents no information about these pipelines, or about the locations of the conveyor system supports through the wetland areas between the offloading site and the proposed asphalt plant. EPA is concerned that buried pipelines could be affected by construction of either supports for the proposed conveyor system, or a new barge docking/offloading facility (should one ultimately be proposed at this location). At a minimum, the applicant should be required to depict the precise location of the easement and the pipelines, in relation to specific locations for proposed conveyor supports. Construction methods for the supports, and any other work in and near the PG&E easement, should be specified.

3. Existing Wetland Mitigation Area

The proposed conveyor system would cross an existing wetland mitigation area, and disturbance and fill to construct the supports for the conveyor system are to be expected. The PN does not include specific information about impacts of the project on this mitigation area, and it is unclear whether the total acres of affected wetlands listed in the PN include such impacts. At a minimum, alternative conveyor system routing that avoids this existing wetland mitigation area should be evaluated.

4. Alternatives Analysis

The proposed project is not water dependent. As such, it is the applicant's responsibility to clearly demonstrate that their proposal is the least environmentally-damaging practicable alternative (LEDPA). The PN notes that USACE has not endorsed the applicant's alternatives analysis; EPA has not received or reviewed this analysis. We believe each of the issues raised above are directly pertinent to an adequate 404 alternatives analysis, and EPA would be pleased to comment on the applicant's analysis.

In summary, EPA finds that the applicant has not clearly established their proposed project to be the LEDPA. In addition, we are concerned about the potential for piecemealing if access to the existing offloading facility (on another property) is not documented, about public safety if PG&E pipelines are not specifically taken into consideration, and about presumably avoidable impacts to an existing wetland mitigation area. We strongly recommend that USACE not issue a permit for this project until all of these issues are thoroughly evaluated.

Thank you for the opportunity to provide comments on the Public Notice. If there are any questions about EPA's concerns, please contact Brian Ross of my staff at (415) 972-3475, or ross.brian@epa.gov.

Sincerely,



Jason Brush
Supervisor
Wetlands Office

Ecc: DMMO agencies