



Public Notice

US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice Number: 199550275

Date: 25 January 2002

Comments Due: 25 February 2002

In reply, please refer to the Public Notice Number

TO WHOM IT MAY CONCERN:

SUBJECT: Application for a Department of the Army permit under authority of Section 404 of the Clean Water Act and for water quality certification under Section 401 of the Clean Water Act to reconstruct and realign 13.5 miles of Utah Forest Highway FH 39 Sevenmile-Gooseberry Road. Ten road crossings are proposed resulting in cumulative total fill to approximately 0.54 acres of wetlands and 0.25 acres of other Waters of the U.S., as shown in the attached exhibits.

APPLICANT: Central Federal Lands Highway Division (FHWA)
Mark Taylor, Project Manager
555 Zang, Room 259
Lakewood, CO, 80228
Contact: Mike Vanderhoof, (303) 716-2141

LOCATION: The project is located within the Fishlake National Forest, Sevier County, Utah. Phase I of the project consists of reconstructing and realigning 13.5 miles of Utah Forest Highway 39 (FH 39) starting at Twin Ponds Road and proceeding to the junction of Interstate 70. The Interstate 70 junction is approximately 7 miles east of Salina, Utah. See Exhibits 1 and 2.

PURPOSE: The purpose for the project has three major components:

1. Improve seasonal access to Fishlake National Forest for recreational and other purposes.
2. Improve highway continuity, maintenance, and safety for the transportation route.
3. Reduce dust and erosion impacts in the surrounding area.

PROJECT DESCRIPTION: The overall 3-phased project route begins at the intersection of FH 42 (Fremont River Road) and FH 13 (Fish Lake Road) and proceeds northward for 29.5 miles to its junction with Interstate 70. This public notice only addresses the first phase of the overall project. Public Lands Highway improvement program are identified and programmed in seven-year, multi-year programs based on the amount of money allocated to each State and the estimated cost of each project. They are planned as single complete actions, as required by the National Environmental Policy Act (NEPA), and are often constructed under separate contracts, or phases due to limits on yearly funding amounts. The size and cost of the UT 39 project have caused it to be split into three construction phases that are spread out over several years. The first phase was programmed in Fiscal Year (FY) 2001. Phase 2 is programmed for FY 2005. Phase 3 funding has not yet been programmed. The NEPA process required the Federal Highway Administration develop impact estimates for the entire project. Mitigation for the entire project has been proposed in the first contract because it provides the opportunity to implement

compensatory replacement prior to the actual impacts, thus improving the probability of functional replacement with little to no temporary loss. The roadway improvements will generally follow the existing alignment, with modifications to geometry to provide for current highway and safety design standards. The roadway will generally be widened and paved to allow for two (11-foot) lanes and (2 foot) shoulders. Drainage improvements will be made throughout the project. Roadside drainage and erosion will be controlled using a combination of paved, earthen, and lined ditches.

The proposed roadway crosses two perennial streams, Gooseberry Creek and Gates Creek and seven (7) ephemeral and intermittent streams which are tributaries to Gates and Gooseberry Creeks. In addition to the crossings, this project will also include some bank stabilization and enhancement on Gooseberry Creek. The following list are the names and locations where impacts to waters of the U.S. including wetlands are described as follows.

Waters of the U.S.

1. Gooseberry Creek crossing No. 1, Section 6, Township 23 South, Range 1 East. UTM 4298300N, 436000E. Replacement of existing concrete box culvert and corrugated metal pipe with a (11x8 ft) concrete box culvert. See Exhibits 3-1, 3-2 and 3-3.
2. Gates Creek crossing, Section 36, Township 22 South, Range 1 East. UTM 4299700N, 435900E. Replacement of two existing corrugated metal pipes with a (11x8 ft) concrete box culvert. See Exhibits 4-1, 4-2 and 4-3.
3. Gooseberry bank protection, Section 8, Township 23 South, Range 2 East. UTM 4297100, 437900E. Toe protection in the form of boulders will be placed along the easterly bank to help divert stream flows along an actively eroding bank. These boulders will be placed for approximately 78.7 feet. Seed mulch matting will also be used to help stabilize this bank. FHWA is considering the use of willow plantings in conjunction with the boulder placement at this location. The applicant is unsure if the seeded herbaceous vegetation will be successful due to the steepness of the banks at this location. See Exhibit 5.

Total impacts to Waters of the U.S.= 0.25 acres. Riparian vegetation dominates the banks of the streams, creeks, and their tributaries. This vegetation is primarily several species of willows.

Wetland areas.

1. Unnamed drainage, Section 14, Township 23 South, Range 2 East. UTM 4294800N 442900E
2. Unnamed drainage, Section 15, Township 23 South, Range 2 East. UTM 4295300N 441200E
3. Squaw Hollow, Section 16, Township 23 South, Range 2 East. UTM 4294900N 440600E
4. Long Hollow, Section 16, Township 23 South, Range 2 East. UTM 4295700N 439800E
5. German Flat, Section 8, Township 23 South, Range 2 East. UTM 4297800N 437700E
6. Unnamed drainage, Section 18, Township 22 South, Range 1 East. UTM 4304600N, 436000E
7. Unnamed drainage, Section 18, Township 22 South, Range 1 East. UTM 4303800N, 436000E

Total impacts to Wetlands = 0.543 acres. See Exhibits 6-1 and 6-2. The wetlands adjacent to the route primarily consist of palustrine emergent wetlands. Activities to the above mentioned tributaries involve the replacement of the existing drainage structures, which include various sizes of corrugated metal pipe with new corrugated metal pipes sized to convey the 25-year storm event.

The Gooseberry Creek crossing No. 2, Section 25, Township 22 South, Range 1 East. The existing corrugated metal pipe will be removed and replaced with a (145 ft) bridge structure which will span the creek. No waters of the U.S. will be impacted.

AREA DESCRIPTION: The area surrounding the roadway consists of mountains and lowlands with valley drainages. The vegetation on the foothills and flats primarily consists of sagebrush/grass with scattered pinon pine and juniper. At the higher elevations, vegetation shifts to denser pinon/juniper then to dense stands of aspen, Douglas-fir, blue spruce, and white fir.

ALTERNATIVES: Crossing Type Selection for Gates and Gooseberry Creeks.

Based on a field review with the Corps on September 28, 2000, FHWA incorporated alignment shifts at Gates Creek (Site two - Station 37+670) and the first Gooseberry Creek crossing (Site one - Station 36+143) into the project to minimize riparian impacts. FHWA further redesigned the crossings to accommodate fish passage. The culverts at these locations had originally been designed as a 9.8 feet X 6.6 feet steel arch culvert at Gates Creek and a 10 feet X 7 feet steel arch culvert at Gooseberry Creek. To address fish passage concerns, FHWA contacted Utah Department of Natural Resources, Division of Water Resources and Division of Wildlife Resources to determine what requirements might be necessary or preferred when designing stream crossings for fish passage. State agencies recommended a bridge or bottomless arch culvert rather than a box type culvert and provided general design criteria. The concept of an oversized box culvert, buried approximately 8 inches into the streambed, was proposed and concurred with as functional equivalent to a bottomless arch culvert. Guidance issued by the Washington Department of Transportation (WDOT) on fish passage design at road culverts was used to develop the culvert designs, which are currently proposed as 11 feet x 8 feet) buried concrete box culverts. The oversized box culverts have reduced the flow velocities to approximately 2cfs, which was recommended by WDOT for culverts of this length.

FHWA originally proposed a culvert structure at the second Gooseberry Creek crossing (Site three - Station 40+545). To comply with Clean Water Act Section 404(b)1 guidelines FHWA proposed a bridge structure spanning the Creek, resulting in no fill to Waters of the U.S.

MITIGATION: To compensate for wetland, riparian, and stream habitat losses associated with the reconstruction of the 29.5 miles of the overall 3-phased Utah Forest Highway 39 project, the applicant proposes to mitigate all water resource impacts at a single location. The entire 29.5 mile route is estimated to impact a total of 2.0 acres of water resources, inclusive of 0.79 acres of impacts for phase I. An 8-acre parcel that is within the project location has been selected as the mitigation site. The mitigation will be a combination of off-site and in-kind for stream and riparian impacts and off-site and out-of-kind for wetland impacts. This mitigation option was chosen to minimize impacts to valuable upland habitat associated with on-site wetland creation. Gooseberry Creek runs through this parcel and is currently degraded in large part to overgrazing and an undersized culvert that is preventing optimum hydrology. The undersized culvert has contributed to significant upstream channel incision. The upstream reach has been inundated by floodwaters that were not adequately conveyed by the culvert. This has led to extensive deposition of material. This situation likely promoted rapid and extensive bank failure as the stream banks were saturated to relatively high levels. Trampling of the stream banks by cattle would have exacerbated bank failure and channel instability. Mitigation will consist of restoration of (1,900) ft of Gooseberry Creek resulting in enhancement, restoration, and creation of 7.904 acres of stream, riparian, wetland, and adjacent upland habitat. Mitigation activities will consist of bank protection using bio-engineered techniques, repair of degraded areas, riparian and upland vegetation establishment, creation of a new channel and floodplain to replace an existing culvert, and removal of disturbance factors through acquisition and fencing of the site. The

culvert replacement will return normal hydrologic functions to the stream reach and provide for fish passage where none now exists. Deed restrictions will be implemented to maintain this area as a perpetual wetland mitigation/wildlife habitat preserve. A mitigation plan was completed in December 2001, is available from FHWA. See Exhibits 7-1, 7-2 and 7-3 for plan and cross section views.

Proposed Best Management Practices to be used during construction to minimize Erosion and Siltation are described in Exhibit 8.

ADDITIONAL INFORMATION: An EA was completed for this project in December of 1995 and a FONSI was issued in January of 1997. The document is available from FHWA.

The latest published version of the National Register of Historic Places and its monthly supplements have been reviewed and there are no places either listed or recommended as eligible which would be affected. FHWA has completed Section 106 consultation in accordance with the National Historic Preservation Act.

This activity would not affect any threatened or endangered species or their critical habitat. The District Engineer has made this determination based on information provided by the applicant and on the Corps's preliminary investigation.

Certification for this project, according to Section 401 of the Clean Water Act, has been requested from the Utah Division of Water Quality. The Utah Division of Water Quality intends to issue certification, provided that the proposed work will not violate applicable water quality standards. Projects are usually certified where the project may create diffuse sources (nonpoint sources) of wastes which will occur only during the actual construction activity, and where best management practices will be employed to minimize pollution effects. Written comments on water quality certification should be submitted to Mr. William Moellmer, Utah Division of Water Quality, 288 North 1460 West, P.O. Box 144870, Salt Lake City, Utah 84114-4870, on or before February 25, 2002.

Interested parties are invited to submit written comments on or before **February 25, 2002**. 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 hearings shall state, with particularity, the reasons for holding a public hearing.

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; among those are 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 and fiber production, mineral needs, consideration of property ownership, and in general, the needs and welfare of the people.

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.

If additional information is required, please contact Mr. Michael Vanderhoof with The Federal Highway Administration (303) 716-2141, or Mr. Shawn Zinszer of the Utah Regulatory Office, telephone (801) 295-8380 extension 16, or email szinszer@spk.usace.army.mil.

Written comments should reference Public Notice No. 199550275 and should be mailed to the U.S. Army Corps of Engineers, Utah Regulatory Office, ATTN: Shawn Zinszer, 533 West 2600 South, Suite 150, Bountiful, Utah 84010.

Michael J. Conrad, Jr.
Colonel, Corps of Engineers
District Engineer

Enclosures: Exhibits 1-8