



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

Public Notice

Public Notice Number: 199550605

Date: March 4, 2008

Comments Due: March 31, 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 Yellowstone Sluicing project, which would result in impacts to approximately acres of waters of the United States, including wetlands, in or adjacent to Yellowstone 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 by the Corps under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

APPLICANT: Moon Lake Electric
Attn: Kenneth Winder
PO Box 278
Roosevelt, Utah 84066
435-722-5406

LOCATION: The project site is located in the Yellowstone River in the Ashley National Forest's Roosevelt Ranger District, approximately 11 miles NW of Altonah, in Section 15, Township 2 North, Range 4 West, Uintah Special Meridian, Duchesne County, Utah, and can be seen on the Burnt Mill Spring USGS Topographic Quadrangle. Yellowstone Reservoir is located approximately 5 miles upstream Uintah and Ouray Indian Reservation tribal lands.

PROJECT DESCRIPTION: Moon River Electric operates and maintains a Federal Energy Regulatory Commission (FERC) licensed diversion dam and hydroelectric facility on the Yellowstone River. Approximately 32,00 cubic yards of material were dredged from the reservoir in 1995 under Department of the Army Permit No. 199250065. A special condition of that permit required that Moon Lake Electric develop an appropriate maintenance plan for the reservoir that would allow for the periodic transport of sediments into the river downstream of the reservoir. The Corps issued a sluicing permit in 2000 under Permit No. 199550605; this permit expired in February 2007. The applicant is proposing to renew the for annual sluicing of Yellowstone Reservoir (project ID Number 199550605) for another 7 years. Sluicing of the reservoir is conducted annually just prior to the high spring runoff, usually in early May. When sluicing occurs, the sediment removed from the reservoir flows downstream into the Yellowstone River channel below the dam to be deposited at various distances from the dam. Based on the available information, the overall project purpose is to remove sediments from the Yellowstone Reservoir and allow the sediments to be deposited downstream during high flows which will help disperse the sluiced silts throughout the river below the reservoir to reduce the impact of the sediment input. The applicant believes there is a need to remove accumulated sediments to maximize the hydroelectric production, while enhancing the fishery and recreation provided by the reservoir and its downstream river channel. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. The proposed sluicing project would directly impact the Yellowstone Reservoir, which consists of open water and relatively steep embankments. Indirect impacts would occur to the Yellowstone River downstream from the reservoir dam. According to annual monitoring reports, the previous sluicing activities have not degraded the downstream fisheries habitat or river corridor. The US Forest Service, the US Fish and Wildlife Service, the Utah Division of Wildlife Resources, the Corps of Engineers and the Federal Energy Regulatory Commission participated in developing of the operating plan and monitoring plan (protocols) for the Yellowstone Reservoir. The Forest Service is the lead agency for monitoring the sluicing activities and impacts.

Alternatives. The applicant has not provided information concerning project alternatives. 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 reservoir sluicing activity was monitored for the term of the previous permit to assure that the sluicing had not degraded the downstream fish habitat. Since construction of the reservoir, the river immediately below the dam has been sediment deprived. The sluicing of the Reservoir, annually during early May, is beneficial to the section of river below the dam.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Utah State Department of Water Quality is required for this project.. Written comments on water quality certification should be submitted to Ms. Shelly Adrews, Utah Division of Water Quality, 288 North 1460 West, P.O. Box 144870, Salt Lake City, Utah 84114-4870, on or before **March 31, 2008**.

HISTORIC PROPERTIES: Based on a letter dated, May 17, 1999, from James L. Dykmann, Compliance Archaeologist for the Utah State Historical Society, the sluicing would have a no effect on cultural resources.

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. No threatened or endangered species have been identified, within a two mile radius according to GIS data from the Utah Data Conservation Center.

ESSENTIAL FISH HABITAT: The proposed project will not adversely affect Essential Fish Habitat.

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 199550605 must be submitted to the office listed below on or before March 31, 2008

Hollis Jencks, Project Manager
US Army Corps of Engineers, Sacramento District
Nevada-Utah Regulatory Branch
2600 South 533 West, Suite 150
Bountiful, Utah 84098
Email: hollis.g.jencks@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 reasons 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, Hollis Jencks.

Attachments: 2 drawings