



US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Number: 199950372

Date: August 26, 2004

Comments Due: September 27, 2004

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) and Utah Division of Water Quality are evaluating a permit application to construct the Ricks Property Ponds project, which would result in impacts to approximately 2.67 acres of waters of the United States. 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 10 of the Rivers and Harbors Act of 1899 for structures or work in or affecting navigable waters of the United States and/or Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States and Section 401 of the Clean Water Act for water quality certification.

APPLICANT: Nathan Ricks
J.R.R.T. Enterprises
2491 River Front Drive
Santa Clara, Utah 84765

LOCATION: The project site is located in Sections 1, 2, 4 and 10, Township 3 South, Range 10 West, SLB&M, northwest of Fruitland, in Duchesne and Wasatch counties, Utah, and can be seen on the Strawberry and Deep Creek Canyon USGS Topographic Quadrangles.

PROJECT DESCRIPTION: The overall project purpose is to provide sufficient water to irrigate the applicant's 54-acre pasture. The applicant is proposing to construct three dams to create in-stream ponds in Water Hollow Creek. The ponds would provide water storage for irrigation purposes, to fully utilize the 0.8 cubic feet per second (cfs) water right that flows down the creek. Construction of the dams and ponds would fill or inundate 2.46 acres of wet meadow and scrub/shrub wetlands and 3,010 linear feet (0.21 acre) of stream channel. The ponds would function as reservoirs and would be drawn down as water was needed to irrigate the pasture downstream. Pond sites 7 and 8 contain 1.35 acres of scrub/shrub wetlands and 985 linear feet of stream channel. Pond site 6 contains 1.14 acres of palustrine emergent and wet meadow wetlands and 2,025 linear feet of stream channel. The wetlands within the proposed project footprint are of high function and value.

The Corps verified work under the Nationwide Permit 26 on July 19, 1996, for Mr. Ricks to construct three ponds (the Meeks Pond, Pond 3 and Pond 9) as seen on the enclosed drawings. Pond 9 was originally constructed by the Bureau of Reclamation as a sediment detention pond for the Central Utah Project (CUP) diversion dam located upstream. Work conducted on Pond 9 under this permit included raising the existing dike 3 feet and reconstructing the spillway. Work on Pond 3 included the enlargement of an existing pond, impacting an additional 200 feet of stream channel. The Meeks Pond was constructed in an upland pasture but is fed by a spring.

ADDITIONAL INFORMATION:

Environmental Setting. There are approximately 7.16 acres of palustrine emergent, wet meadow and scrub/shrub wetlands within the wetland delineation survey area. The site is located in a rural, agricultural area characterized by high elevation meadow at approximately 7,000 feet, surrounded by mountains in excess of 8,000 feet in elevation. The proposed pond sites are located within a narrow, perennial drainage known as Water Hollow Creek, which is a tributary to Current Creek. Vegetation within the Water Hollow Creek drainage consists of palustrine emergent and wet meadow species (sedges and rushes) and scrub/shrub species (willow and Wood's rose) adjacent to the creek. The area transitions into sagebrush upslope from the creek and eventually into pinyon/juniper/conifer forest habitat as the elevation increases.

Alternatives. The applicant has supplied information regarding alternatives to the proposed project. See the attached **404(b)1 Guidelines Alternatives Analysis, Water Hollow Pond Project.**

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. One option for mitigation the applicant has proposed is to restore a former oxbow of Current Creek (approximately 1.25 acres), which lies in the northeast portion of the applicant's property. Additionally, the applicant proposes to include the 0.5-acre "wetland fringe" that may develop around the ponds and 4.75 acres of open water habitat of the ponds as mitigation for the impacted waters. However, the wetland fringe and the open water habitat of the ponds would be seasonal, as the ponds would be operated as small reservoirs and drawn down to provide irrigation water.

Alternatively, the Corps preferred mitigation option could be to construct the entire mitigation site adjacent to Current Creek. This alternative is pending further analysis to determine if hydrologic and soil conditions would permit a successful mitigation site at this location. An on-site evaluation is planned to tour the site to help identify additional minimization measures for impacts to waters and opportunities for successful mitigation sites.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Utah Division of Water Quality, is required for this project. 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 (non-point 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 O. Moellmer, Utah Division of Water Quality, 288 North 1460 West, Post Office Box 144870, Salt Lake City, Utah 84114-4870, on or before September 27, 2004.

HISTORIC PROPERTIES: Based on the available information, no cultural resources are known to occur within the project's footprint. The Corps will initiate consultation with the State Historic Preservation Officer (SHPO) under Section 106 of the National Historic Preservation Act, as appropriate, if the SHPO finds reason to believe cultural resource may be located within the footprint or are discovered during project implementation.

ENDANGERED SPECIES: Based on the available information, habitat for the federally-listed Ute Ladies'-tresses orchid (*Spiranthes diluvialis*) may be present in the project area. The Corps will continue to evaluate the available information and will coordinate with the U.S. Fish and Wildlife Service, pursuant to Section 7 of the Endangered Species Act, as appropriate.

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 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230), or of their criteria.

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 199950372, must be submitted to the office listed below on or before **September 27, 2004**:

Jason Gipson, Project Manager
US Army Corps of Engineers, Sacramento District
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, Utah 84010-7744
E-mail: jason.a.gipson@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 Jason Gipson at 801-295-8380, extension 22, or e-mail: jason.a.gipson@usace.army.mil.

Attachments: 7 drawings and alternatives analysis