



US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Number: 200000659

Date: May 28, 2004

Comments Due: June 17, 2004

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application for a Department of the Army Regional General Permit (RGP) to dredge and/or modify selected diversions in the South Delta, as shown in the attached drawings. 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/cespk-co/regulatory/PNs/index.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.

APPLICANT: Katherine F. Kelly, Chief, Office of State Water Project (SWP) Planning, California Department of Water Resources (DWR), 1416 Ninth Street, Sacramento, California 95814

LOCATION: The project area is Middle River from the confluence of Old River to Highway 4, Victoria Canal and North Canal, Old River south of North Canal to Head, Grant Line Canal, and Fabian-Bell Canal, in unsurveyed Sections of Township 1 South, Range 3 East, San Joaquin County, California as shown on the attached drawing.

PROJECT DESCRIPTION: The applicant has stated the project purpose is to mitigate for lowered water levels in the above South Delta waterways associated with operation of the SWP and the Central Valley Project, including temporary barriers. The proposed project would include dredging and/or modifying and/or relocating existing irrigation diversions at 65 existing agricultural diversions in the South Delta when and if the need arises during the term of the permit. The applicant proposes to dredge and remove accumulated sediments and/or modify selected agricultural water diversion structures and facilities in the project area to allow continued and reliable agricultural irrigation. The applicant proposes to do only that work minimally necessary to allow continued and reliable diversion of water for agricultural purposes. Potential modifications include removing the existing diversion and replacing the structure with a new one at a nearby site, relocating the existing diversion structure to a nearby location, lowering or extending the existing intake further into the river channel, and replacing the existing structure with a more reliable type of diversion (e.g., replacing a siphon with a turbine pump). The work may include driving new pilings or other supports, moving, replacing, or adding riprap only as necessary to insure the stability of the new diversion structure. Dredging is proposed to restore the waterway in the immediate vicinity of the diversion to the approximate dimensions that existed when the diversion structure was built.

The applicant proposes to implement Best Management Practices (BMP), including silt screens, timing windows, tidal timing for sediment removal, watertight (environmental) clamshell dredges, certified dredging inspectors and incorporation of the DWR hazardous material spill/release notification guidance, in performing this work. The BMP are outlined on page 8 of DWR's April 2002, *Proposed Mitigated Negative Declaration and Initial Study* for this project. Dredging would not extend further than 200 feet in any direction from a diversion and would normally be conducted during daylight hours between August 1 and October 14th. Any dredging outside of this window would take place only if specifically approved by the Corps, in consultation with the regulatory fishery agencies (U.S. Fish and Wildlife Service, National Marine Fisheries Agency and the California Department of Fish and Game). All dredged material would be transported to a designated disposal site on U.S. Bureau of Reclamation (BOR) land at the west end of Fabian Tract.

The applicant asserts the proposed dredging would not affect levee stability, channel banks would be dredged to their existing slopes to minimize erosion and channels would not be dredged to depths greater than approximately (-)9.0 feet NGVD. The applicant states the project is not expected to cause more deposition or change deposition patterns in the project area. Proposed diversion modifications and/or relocations would include removing the existing pump and replacing the structure with a new one at a nearby site; 2) relocating the existing structure to a nearby location which may offer more favorable diversion conditions; 3) lowering or extending the existing intake further into the river channel; or 4) replacing the existing diversion with a different type of diversion that would more reliably supply irrigation water, e.g. replacing siphon with a turbine pump. Examples of potential diversion modification work in different situations are attached.

ADDITIONAL INFORMATION: Since work at any given diversion would only occur if necessary, and the specific course of action and impacts at each location would not be precisely determined until that time, this application is being processed for a RGP. The applicant would provide a detailed pre-construction notification to the Corps, FWS, NMFS and other appropriate entities in advance of initiating work at a site.

DWR's April 2002, *Proposed Mitigated Negative Declaration and Initial Study, Dredging and Modification of Selected Diversions of the South Delta* is available from the applicant.

Environmental Setting. Many channel banks in the project area are leveed and rip rapped. The applicant has stated little freshwater emergent marsh, riparian forest or riparian scrub remain within the project area. Agricultural operations take place on the land side of most of the levees in the South Delta. The delta islands surrounding this project have subsided. Their interior surfaces which range from sea level to 10 feet below sea level. Cross sections of channels indicate sediment accumulates in portion so of the South Delta, but not all. While portions of channels consistently have 20' of depth, other channels silt in to within 2 feet NGVD. The installation of rock barriers in Grantline Canal and Old River at Tracy lower downstream levels by 0.5 feet. This combination of lowered water levels and sediment load has an impact on agricultural diversions in the South Delta.

Alternatives. The applicant has not provided detailed information concerning project alternatives. Additional information concerning project alternatives may be available from the applicant or their agent.

Mitigation. The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. The applicant has stated their mitigation measures will include avoidance, minimization and replacement or restoration of lost habitat and that all dredging will normally occur between August 1 and October 14 in any year. The applicant proposes to mitigate at a 3:1 ratio for the loss of shallow water habitat at the Kimball Island Mitigation Bank or at another Corps approved mitigation site. DWR plans to purchase six Palustrine Emergent Marsh habitat credits in advance and draw that credit down as impacts occur. DWR would then continue to purchase such credits in advance of work in three-acre increments, if the original 6 credits are used.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Central valley regional Water Quality Control Board is required for this project. DWR has indicated they have applied for certification. The applicant has stated on August 15, 2002, they received a California Department of Fish and Game Streambed Alteration Agreement for this work.

HISTORIC PROPERTIES: The applicant states that a cultural resources survey was performed in 1996 for the current project area and that there are no known cultural resources in the immediate vicinity of the existing diversions. Based on the available information no cultural resources are within the project's area of potential affect.

ENDANGERED SPECIES AND ESSENTIAL FISH HABITAT: Federally-listed fish species, including Central Valley steelhead (*Oncorhynchus mykiss*), winter-run chinook salmon (*Oncorhynchus tshawytscha*), Central Valley spring-run chinook salmon (*Oncorhynchus tshawytscha*), delta smelt (*Hypomesus transpacificus*), designated critical habitat and Essential Fish Habitat for Pacific Salmon may be adversely affected by the proposed work. The Corps initiated consultation with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) pursuant to Section 7 of the Endangered Species Act and Section 305(b) (2) of the Magnuson-Stevens Act. The FWS issued a December 10, 2002, Biological Opinion (1-1-02-F-0246) for the work while temporary barriers are used. NMFS issued an October 27, 2003, Biological Opinion (WR-02-SA-6433:JSS for the project. Any work that cannot be completed in adherence to the terms and conditions of those opinions, including work windows, would require separate consultation under these federal laws prior to any work in waters of the United States.

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 200000659, must be submitted to the office listed below on or before June 17, 2004:

Michael Finan, Chief, San Joaquin Valley Office
US Army Corps of Engineers, Sacramento District
1325 J Street, Room 1480
Sacramento, California 95814-2922
Email: Michael.C.Finan@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's representative, Mark Holderman at DWR, telephone (916) 653-7429, or the Corps' project manager Michael Finan, 916-557-5324, Michael.C.Finan@usace.army.mil.

Attachments: 6 drawings