



Public Notice

US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice Number: 200075429

Date: October 30, 2000

Comments Due: November 20, 2000

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 (CWA) and for water quality certification under Section 401 of the CWA to discharged dredged and fill material in the Uncompahgre River, as shown in the attached drawings.

APPLICANT: Mr. Robert L. Abbott, Abbott Ready Mix, Incorporated, Post Office Box 40, Ridgway, Colorado 81432

LOCATION: At the Uncompahgre River, approximately 1.2 miles upstream of the State Highway 62 Bridge at the Town of Ridgway within Sections 16 and 21, Township 45 North, Range 8 West, Ouray County, Colorado.

PURPOSE: To annually construct two (2) temporary alluvial berms and two (2) temporary stockpile areas within the ordinary high water mark of the river to facilitate the excavation of an annual average 80,000 cubic yards of alluvial material for sale as construction materials and aggregate.

PROJECT DESCRIPTION: The applicant proposes to excavate alluvium outside the low flow channel of the river. Excavation and construction will be conducted during low flow periods and will require the construction and removal of two temporary alluvial berms and stockpiles annually. After annual spring runoff a diversion berm approximately 300 feet long, 6 feet high and 6 feet wide would be constructed at the south end of the pit area to divert the river to the east side of the pit. An additional berm approximately 1,650 feet long, 12 feet high and 50 feet wide would be constructed adjacent to the newly established low flow channel. The river would then be diverted to the west low flow channel. Mining of the pit area would then commence, and two large stockpiles would be established within the pit area.

ALTERNATIVES: Alternatives were considered under previously issued Department of the Army permit number 199675199. An additional alternatives analysis will be performed by the applicant and/or the Corps of Engineers prior to issuance of a Department of the Army permit to redetermine the least damaging practicable alternative to the proposed project.

AREA DESCRIPTION: The project site is located within a riparian river corridor historically dominated by cottonwood and willow at an elevation of approximately 7,000 feet msl. The project area is currently void of vegetation due to a history of mining within the riparian corridor. Surrounding land use is characterized as agriculture consisting of livestock forage production, grazing and rural residences.

ADDITIONAL INFORMATION: The project was actively mined for aggregate products from 1972 to 1995 under the provision that the discharge of dredged or fill material did not occur below the ordinary high water elevation of the river or in wetlands. In 1996 the project was authorized by Department of the Army permit number 199675199 due to the requirements of permit regulations amended on August 25, 1993, which modified the definition of "discharge of dredged material" to include incidental discharges of dredged material associated with excavation. The applicant is applying for reauthorization to continue aggregate mining, since permit number 199675199 expired on August 29, 1999. Although the decision to regulate incidental discharges associated with excavation activities has since been reversed, changes in the applicant's proposed operational plan require that the applicant obtain a Department of the Army permit to construct berms and stockpiles within the ordinary high water elevation of the river. Both the berms and stockpiles would be removed annually prior to spring runoff.

The applicant has requested water quality certification from the Colorado Department of Public Health and Environment, Water Quality Control Division in accordance with Section 401 of the Clean Water Act. Written comments on water quality certification should be submitted to Mr. Phil Hegeman, Planning and Standards Section, Colorado Department of Public Health and Environment, Water Quality Control Division, 4300 Cherry Creek Drive South, Denver, Colorado, 80222-1530, on or before **November 20, 2000**.

The Colorado Department of Public Health and Environment, Water Quality Control Division also reviews each project with respect to the anti-degradation provision in state regulations. For the project which is the subject of this public notice, the Colorado Department of Public Health and Environment, Water Quality Control Division has preliminarily determined this project will cause only temporary changes in water quality.

For further information regarding anti-degradation provision, please contact Mr. Hegeman at the Colorado Department of Public Health and Environment, Water Quality Control Division, telephone (303) 692-3518.

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. Further cultural resources review is not warranted because the permit area has been extensively modified by previous work.

The Corps of Engineers initiated consultation with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act, as amended, on May 15, 1996, after a "may affect" determination for the Colorado Endangered Fish Species. The determination was predicated on the depletion of approximately 16.67 annual acre-feet of water from the Colorado River Basin due the creation of a 5.0 acres of shallow water development due to excavation under Department of the Army permit application number 199675199. This depletion would remain unchanged under reauthorization of the project.

The FWS responded by letter dated July 26, 1996, stating " On March 5, 1995, the Service issued an intra-Service biological opinion determining that the depletion fee for depletions of 100 acre-feet or less is not longer required because the Recovery Program has made sufficient progress to be the reasonable and prudent alternative to avoid the likelihood of jeopardy to the endangered fishes and to avoid destruction or adverse modification of their critical habitat by depletions of 100 acre-feet or less."

Interested parties are invited to submit written comments on or before **November 20, 2000**. 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.

For activities involving 404 discharges, a permit will be denied if the discharge does not comply with the Environmental Protection Agency's Section 404(b) (1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer determines it would be contrary to the public interest.

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.

Written comments on this permit application should be submitted to the District Engineer at the address listed above. Please furnish a copy of your written comments to the attention of Mr. Ken Jacobson, Chief, Southwestern Colorado Regulatory Office, U.S. Army Engineer District, Sacramento, 402 Rood Avenue, Room 142, Grand Junction, Colorado 81501-2563. For further information, please contact Mr. Ken Jacobson, at telephone number (970) 243-1199, extension 15, or email kjacobson@spk.usace.army.mil.

Michael J. Walsh
Colonel, Corps of Engineers
District Engineer

Enclosures: Drawing(s)