



US Army Corps  
of Engineers

Sacramento District  
1325 J Street  
Sacramento, CA 95814-2922

# Public Notice

Number: 200100632

Date: May 13, 2004

Comments Due: June 12, 2004

**SUBJECT:** The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application for an After-the-Fact Permit to recontour an existing streambed in the bottom of Old Ducey's Cove in Bass Lake, Madera County, which resulted in impacts to approximately 0.21-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/cespk-co/regulatory/PNs/index.html>.

**AUTHORITY:** This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

**APPLICANT:** Bass Lake Boat Owners Association  
Attn: Mr. Jay Duhn  
P.O. Box 488  
Bass Lake, California 93604  
559-642-3991

**LOCATION:** The project site is located in Bass Lake in an unnamed stream (or Dogwood Creek) which discharges into Ducey's Cove. This cove is located on the eastern shore, north of The Pines, in Section 16, Township 7 South, Range 21 East, MDB&M, Madera County, California, and can be seen on the Bass Lake USGS Topographic Quadrangle, Latitude 37° 19' 28.4044; Longitude 11° 34' 0.0826.

**PROJECT DESCRIPTION:** The applicant is applying for an After-the-Fact Permit to recontour and redirect an existing unnamed stream within Bass Lake, install support poles for a dock, and reattach the 30-slip boat dock for their boating association.

The applicant placed fill into the cove when they started this project. Approximately 0.21-acres have been impacted and the same area will be impacted further with the creation of this project. The average width of the channel is 20 feet. The applicant excavated and filled approximately 355 cubic yards of lake bottom material was placed under the applicant's docking area. Additionally 90 cubic yards of rip-rap is proposed to be placed against the western slope of the earthen floating dock pad. The applicant proposes to remove 90 cubic yards of the lake bottom to offset the additional 90 cubic yards being introduced into the lake. Approximately 15 support poles are proposed to be installed which will require 0.25 cubic yards of excavation and fill for each pole that is placed in a 42-gallon drum. The applicant has provided the attached drawings provide additional project details.

**ADDITIONAL INFORMATION:**

On July 7, 2003, the applicant was permitted by the Corps of Engineers to replace the dock anchoring poles, and to place rip-rap to stabilize the bends of the creek by Nationwide Permit Numbers 13 and 25. The Regional Water Quality Control Board (RWQCB) only certified the use of Nationwide Permit Number 25. In the fall of 2003 the applicant proceeded with more work than was permitted and began the re-configuration of the channel without approval from the Corps or the RWQCB. The Corps issued a cease and desist letter to the applicant on October 31, 2003 to stop the work.

**Environmental Setting.** The project site is an unvegetated channel that is flooded annually. Corps jurisdiction on Bass Lake is the at spillway elevation of 3376.4' downward toward the lake bottom. The shoreline of this cove is developed with individual homes, and most have their own individual corresponding docks. The applicant proposes to impact 0.21 acres of waters of the United States within the project area. Pacific Gas & Electric Company have a power plant at Bass Lake, and are owners of the greatest portion of the lakebed.

**Alternatives.** The applicant has not provided information concerning project alternatives.

**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 applicant acknowledges that mitigation will be required; yet, they have not proposed any mitigation for the construction of their project at this time.

**OTHER GOVERNMENTAL AUTHORIZATIONS:** Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the California Regional Water Quality Control Board (RWQCB), Fresno Office, is required for this project. The applicant has indicated they have applied for certification, and their fill into waters of the United States was done with out authorization from the RWQCB. Pacific Gas & Electric Company is in charge of Bass Lake and the flood area of the waterway. A California Department of Fish & Game Lake Bed Alteration Agreement will be required for this project.

**HISTORIC PROPERTIES:** Based on the available information, cultural resources are not expected to be within the project's area of potential affect. The Corps will initiate consultation with the State Historic Preservation Officer under Section 106 of the National Preservation Act, as appropriate.

**ENDANGERED SPECIES:** If the proposed activity may affect federally-listed endangered or threatened species or their critical habitat. The Corps will initiate consultation with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act, as appropriate. A pair of bald eagles, which is federally protected, are nesting on Bass Lake, and the California Diversity Data Base states that the foothill yellow legged frog (*Rana boylei*) inhabit Ducey's Cove. The Bass Lake area is considered red-legged frog (*Rana aurora*) habitat.

**ESSENTIAL FISH HABITAT:** The proposed project will not adversely affect Essential Fish Habitat (EFH) as defined in the Magnuson-Stevens Fishery Conservation and Management Act.

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 200100632, must be submitted to the office listed below on or before June 12, 2004:

Kathy Norton, Project Manager  
US Army Corps of Engineers, Sacramento District  
San Joaquin Valley Office  
1325 J Street, Room 1480  
Sacramento, California 95814-2922  
Email: [Kathleen.M.Norton@usace.army.mil](mailto:Kathleen.M.Norton@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; the applicant's consultant, John Wilson, Civil Engineer, at 661-325-4862; or the Corps' project manager Kathy Norton, 916-557-5260, [Kathleen.M.Norton@usace.army.mil](mailto:Kathleen.M.Norton@usace.army.mil).

Attachments: 4 drawings