



Public Notice

Public Notice Number: 200250082

Date: April 2, 2002

Comments Due: May 2, 2002

US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

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 and water quality certification under Section 401 to discharge fill material in waters of the U.S. at various locations along State Route 20, as shown in the attached drawings.

APPLICANT: Utah Department of Transportation
Attn: Mr. Lars Anderson
658 North 1500 West
Orem, Utah 84057-

LOCATION: The proposed project begins at milepost 0.0 at the western junction of State Route 20 (SR-20) and Interstate 15 (I-15). The project ends at milepost 20 at the eastern junction of SR-20 and US-89, in Sections 23 and 26, Township 32 South, Range 6 West, and Section 34, Township 31 South, Range 7 West, Iron and Garfield counties, Utah.

PURPOSE: According to the applicant, traffic volumes are high on SR-20 and there is a need to provide safe passing areas along the road because of the terrain, and truck and recreational vehicle traffic. Additionally, accident data show that the accident rate on this section of highway from 1997 to 1999 is higher than the expected rate. There are several roadway deficiencies and other factors that affect safety which are listed in the applicant's operational safety report, including cattle on the roadway, narrow shoulders, steep side slopes, substantial horizontal curves and clear zone violations.

PROJECT DESCRIPTION: Approximately 6470 cubic yards of fill material from approved pits within the project limits will be placed in a total of 1.55 acres of wetlands at various locations as shown in the attached table on wetlands impacts and location maps. To avoid impacts to Bear Creek (see area description below), this project will incorporate guardrail so that side slopes can be steepened beyond the standard. The remaining impacts are on UDOT right-of-way in the valley section where the shoulder widening is necessary, making impacts unavoidable.

AREA DESCRIPTION: The project passes through mountainous terrain and two flat valleys. One of these valleys is where the wetlands impacts are expected. Bear Valley is located between milepost 12 and 17. The wetlands are a combination of wet meadow, emergent marsh and riparian. Bear Creek runs adjacent to the roadway through this area for about 5 miles.

ALTERNATIVES: The applicant identified the "no-build" alternative, leaving the safety deficiencies on this roadway. Several mitigation alternatives are identified below.

ADDITIONAL INFORMATION: The applicant first evaluated mitigation that was both "on-site" and "in-kind" on a stream channel and spring located in the Bear Valley. However, the U.S. Bureau of Land Management owns the land and refused to sell the land to the applicant for mitigation purposes because this would unfairly infringe upon permitted grazing rights. Next, the applicant reviewed parcels of existing wetlands owned by the Evans Family Trust. These wetlands are also being heavily grazed and could be enhanced with grazing removal. The owner declined to sell. The applicant would have to condemn the land under the law of eminent domain. The applicant then investigated the possibility of buying land, where an endangered plant may survive, adjacent to holdings of The Nature Conservancy (TNC) near US-89 and SR-20. TNC owns 40 acres where the Federally-listed endangered plant, Ranunculus acris var. aestivalis (Autumn buttercup) is found. The applicant's efforts were unsuccessful since owners were not willing to sell to the applicant. TNC believes that its future negotiations, with the landowners to either sell to TNC or put the land in easement to preserve the endangered plant, will be successful.

The applicant's final proposal for mitigation is to use in-lieu fee. To purchase 5 acres of land, where the Autumn buttercup may be located, could cost as high as \$1,500 per acre for a total of \$7,500. Including a projection of an additional \$5,000 for professional services in acquiring the land, the applicant proposes to pay \$12,500 to the Nature Conservancy of Utah as an in-lieu fee. In addition to the in-lieu fee, the applicant has identified additional mitigation in cooperation with the BLM. Normally, the BLM right-of-way fence would be placed within one foot of the of the right-of-way. At six locations (see attached table), the fence will be moved, where streams cross under the road and cattle graze to the fence, further onto BLM property. This action would enhance about 0.755 acre of wetlands by eliminating cattle grazing. The applicant also cites its cooperation with the BLM to establish vegetation and reducing erosion on disturbed ground along SR-20 as part of its mitigation.

The latest published version of the National Register of Historic Places and its monthly supplements have been reviewed and there are not any places either listed or recommended as eligible which would be affected. Presently unknown cultural resources may be located in the permit area.

This activity would not adversely affect any threatened or endangered species or their critical habitat. The mitigation plan may affect but would not adversely affect the Autumn buttercup as discussed above. The District Engineer has made this determination based on information provided by the applicant and on the Corps' preliminary investigation.

Interested parties are invited to submit written comments on or before **May 2, 2002**. 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.

Certification that the proposed work, if permitted, will not violate applicable water quality standards have been requested from the Utah Division of Water Quality. 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 (nonpoint 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, PO Box 144870, Salt Lake City, Utah 84114-4870, on or before **May 2, 2002**.

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.

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.

If additional information is required, please contact Mr. Lars Anderson Utah Department of Transportation at 801-227-8089 or Mr. Grady L. McNure of the St. George Regulatory Office, at telephone 435-986-3979 or email Grady.McNure@usace.army.mil. Written comments should reference Public Notice Number 200250082 and should be mailed to the U.S. Army Corps of Engineers, St. George Regulatory Office, ATTN: Mr. Grady L. McNure, 321 North Mall Drive, Suite L-101, St. George, Utah 84790-7314. Comments are due **May 2, 2002.**

Michael J. Conrad, Jr.
Colonel, Corps of Engineers
District Engineer

Enclosures: Drawings and Tables