Public Notice

US Army Corps of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Number: 200250176
Date: December 27, 2006
Comments Due: January 26, 2007

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, and the Utah Division of Water Quality are evaluating a permit application to construct the Bear River Migratory Bird Refuge Access project, which would result in impacts to approximately 14.96 acres of jurisdictional wetland and 0.46 acre of open waters of waters of the United States, including wetlands, in and adjacent to the Bear River (15.42 total acres impacted). 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 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States and Section 401 for water quality certification.

APPLICANT: Charles Luedders
Federal Highway Administration
Central Federal Lands Highway Division
12300 West Dakota Avenue
Lakewood, Colorado 80228-2583
720-963-3725

LOCATION: The project site is located west of Brigham City and west of the I-15 Forest Street exit. The project is adjacent to the US Fish and Wildlife Service Bear River Migratory Bird National Wildlife Refuge, and the proposed work begins in Section 5, Township 8 North, Range 3 West, Box Elder County, Utah, and can be seen on the Mouth of the Bear River USGS Topographic Quadrangle. Please refer to figures 1, 1a, 2, and 2a.

PROJECT DESCRIPTION: The applicant is proposing to improve 12 miles of the existing Bear River Access Road, Box Elder County Road 523, known locally as West Forest Street. The improvements would include raising and widening the road and paving with asphalt concrete, constructing several low water crossings, replacing culverts, constructing bank revetment (Figures 2 and 2a) and installing a boat ramp on the Bear River. Also, several curves are proposed to be widened along with several turnouts constructed. Based on the available information, the overall project purpose is to improve access to the Bear River Migratory Bird National Wildlife Refuge and private property. The project will widen the road and provide a safe travel way for visitors to the refuge, recreationists, and other users. The paved roadway surface will reduce the amount of sediment contributed to the Bear River system and reduce annual maintenance

The applicant believes there is a need to discharge fill to: 1) widen and raise the Bear River Access Road to provide safe travel and prevent flooding of the roadway up to a 25-year flood event in the Great Salt Lake basin, 2) improve water distribution and reduce annual maintenance cost by replacing existing deteriorated culverts, and installing several new culverts and water control structures, and 3) provide permanent erosion control adjacent to low water crossings (Figures 2 and 2a). A boat ramp accessing the Bear River will be installed which will extend below the Ordinary High Water Mark and include riprap groins to protect the structure. Type and amount of discharge includes: embankment fill (unclassified borrow): 65,449 cubic yards; riprap: 4,889 cubic yards; culvert bedding/backfill: 1,234 cubic yards; and concrete: 55 cubic yards.

The project is proposed to be completed in two phases (Figures 2 and 2a). Phase 1 will extend from the entrance to the Refuge east for 5.57 miles and include improvement on a 0.35 mile segment at the end of the project. Phase 1 is proposed to begin in the spring of 2007 and be completed in the fall of 2007. Phase 2 will improve 6.39 miles and proposed to begin in the spring of 2009 and be completed in the fall of 2009. Miscellaneous activities include a minor amount of roadway obliteration and wetland restoration in phase 1. For more information on project details, please refer to supplement provded for the 404 permit application, this is available upon request (9 pages).

The roadway is proposed to be reconstructed to provide two 11-foot travel lanes and two-foot shoulders. Except for a short segment (320 feet) at the beginning of the project the shoulders and travel lanes will be paved with three-inch asphalt concrete pavement. Fill embankment slopes will be a combination of a 1(V):4(H) for 7.9 feet from the shoulder for safety purposes (clear zone and vehicle recovery) and 1(V):2(H) for the remaining fill embankment to minimize encroachment of wetland. Material for construction of the embankment in phase 1 will include 3,460 cubic yards of material generated from roadway obliteration and about 66,500 cubic yards of material from an offsite commercial source. A similar amount of material is expected to be required for embankment construction in phase 2. Embankment fill will meet standard specifications and consist primarily of unclassified borrow. Granular material will be a well-graded mixture of stone fragments or gravel or sand and may contain a small amount of clay. Three inches of topsoil will be placed on the fill embankment slopes, hydraulically mulched and seeded with an upland seed mix.

For more information on the proposed construction of the low water crossings, drainage structures, embankment stabilization, roadway obliteration, bank revetment, boat ramp and erosion and sediment control, please refer to the supplemental information that was provided with the permit application. This along with design drawings and details are available upon request.

ADDITIONAL INFORMATION:

Environmental Setting. The Bear River Access Road is within the Bear River Delta portion of the Great Salt Lake Ecosystem which contains numerous wetlands. Wetland types in the project area are described as sparsely vegetated mudflat/playa, wet meadow, emergent marsh, riverine, and open water. The project corridor involves wetlands and riparian vegetation on both

sides of the roadway. The Bear River Refuge is located within the historic river delta of the Bear River at its confluence with the Great Salt Lake. The project corridor crosses the floodplains of both the Bear River and the Great Salt Lake. These floodplains contain expansive mudflat playa, wet meadow, marsh, and riparian wetlands. Both the Bear River and the Great Salt Lake contribute groundwater and surface water sources that support these wetland and riparian areas. The management of agricultural, recreational, and wildlife conservation land uses affect the hydrology of the wetland and riparian areas within the project corridor.

Alternatives. The applicant has provided information concerning project alternatives. These included a "Build" and "No-Build" alternative. The No-Build alternative was evaluated and considered not practical since it did not meet the project's purpose and need. The Build alternative was analyzed in detail because it maximized the use of the existing roadway and included design standards that minimized natural resource impacts while satisfying the purpose and need for the project. (For more information on this analysis refer to the Wetland Avoidance and Minimization Technical Memorandum dated July 2002, available upon request). An Environmental Assessment (EA) was conducted and finalized in March 2003 for this project. As result, it was determined that this project would have no affect to the Refuge or any of the four properties that are eligible for the National Register of Historic Places. Therefore, no other feasible and prudent alternative would accomplish the purpose and need. Also, the loss of 15.42 acres is about 3 acres less than estimated from the preferred alternative evaluated pursuant to NEPA. The main reason for this decrease was increasing the slope of the embankment, minor realignment shifts, and filling on the side away from wetland when practical. The Environmental Assessment is available for review upon request. Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered.

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 has proposed to acquire a 182-acre property located in Section 18, Township 9 North, Range 2 West, please refer to Figure 3. This property will be titled to the US Fish and Wildlife Service (USFWS) and managed as wetland for migratory birds. Wetlands comprise the bulk of the property and have been delineated. The Corps has yet to verify this delineation. The acquisition will preserve the wetlands in perpetuity and serve to mitigate the loss of wetlands from this project. It is hopeful that the area can further provide compensatory mitigation credits for other projects in the general area where on-site mitigation is not available or practicable. This 182-acre property is a result of and determined more favorable by the USFWS after looking at seven other potential mitigation sites. Mitigation options and appropriate mitigation ratios have yet to be determined and will be analyzed during the Individual Permit process.

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 (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 Ms. Shelly Quick, Utah Division of Water Quality, 288 North 1460 West, Post Office Box 144870, Salt Lake City, Utah 84114-4870, **on or before January 26, 2007.**

HISTORIC PROPERTIES: Based on the available information it has been determined that historic/cultural resources were appropriately evaluated with consultation with the associated federal and state agencies and tribes pursuant to Section 106 of the National Historic Preservation Act. Several historic properties eligible for listing in the National Register of Historic Places occur in the area of potential effects. Cultural recordation of these properties was completed. This project, however, will have no adverse effect to these structures and no mitigation is required.

There is potential for cultural resources to be encountered during construction and a testing and monitoring plan will be developed and implemented prior to construction.

Copies of the pertinent correspondence and information in the Environmental Assessment/Finding of No Significant Impact relative to historic/cultural resources is available upon request.

ENDANGERED SPECIES: The project will not affect any Federally-listed threatened or endangered species or their critical habitat that are protected by the Endangered Species Act. The US Fish and Wildlife Service identified the bald eagle (threatened) and the Fat-whorled pondsnail (candidate) as occurring or potentially occurring in the project area. The Federal Highway Administration prepared a Biological Assessment in 2002 and determined this project would have no effect to federally listed species or designated critical habitat. The USFWS concurred with that determination. Correspondence between the Federal Highway Administration and the USFWS is available upon request.

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 Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part

230).

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 200250176**, must be submitted to the office listed below on or before **January 26, 2007**:

Mr. Corey Loveland, Project Manager
US Army Corps of Engineers, Sacramento District
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, Utah 84010-7744
Email: corey.b.loveland@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 Mr. Corey Loveland, 801-295-8380, extension 16, corey.b.loveland@usace.army.mil.

Attachments: 5 drawings

Figure 1: Vicinity map
Figure 1a: Project area vicinity map
Figure 2: Locator map (1)
Figure 2a: Locator map (2)
Figure 3: Mitigation site location map