



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

# Public Notice

Number: 200701076

Date: July 2, 2007

Comments Due: August 1, 2007

**SUBJECT:** The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the Clear Valley Estates Pond Project, which would result in impacts to approximately 2.204 acres of waters of the United States, including wetlands, in or adjacent to Mexican Gulch, a perennial surface tributary to the Uncompahgre River. 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:** Scott Stryker

**AGENT:** Bill Coughlin, Western Steam Works, LLC

**LOCATION:** The project site is located approximately 2.5 miles west of the intersection of Main and Townsend Avenues in Section 31, Township 49 North, Range 9 West, Montrose County, Colorado, and can be seen on the Montrose West USGS Topographic Quadrangle.

**PROJECT DESCRIPTION:** The applicant is proposing to construct a 4.86 acre recreational pond. Approximately 2.223 acres of wetlands will be created along the fringe of the impoundment. The applicant's stated project purpose is to enhance the functions and values of the ecosystem. The attached drawings provide additional project details.

## **ADDITIONAL INFORMATION:**

**Environmental Setting.** There are approximately 2.361 acres of wetlands within the project area. The site is characterized as 21.22 acres in size, and is located in a deeply incised gully. Mexican Gulch, a perennial surface tributary to the Uncompahgre River, bisects the project area running south-north. Four (4) levees have been constructed to the south of the proposed project site, two of which are presently impounding water. Mexican Gulch flows north from the project site, passing beneath a culvert in an existing levee and underneath the Spring Creek Road bridge. Uplands are comprised of cottonwood, skunkbrush, Chinese elm, Russian olive, sagebrush, four-wing saltbush, rabbitbrush, tamarisk, saltgrass, western wheatgrass, and others. Wetland vegetation includes narrow-leaved cat-tail, water smartweed, various rushes (*Juncus balticus*, *Juncus drummondii*, and *Juncus torreyi*), alkali bulrush, and scratchgrass.

**Alternatives.** The applicant has stated that no offsite alternatives exist, and that Mexican Gulch is the only location in which the basic project purpose can be realized. The applicant investigated the possibility of creating an off-channel pond adjacent to Mexican Gulch and concluded that it was not practicable due to topography and monetary expense. Additional information concerning project alternatives is 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. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. The applicant has proposed to mitigate for the loss of existing wetlands by creating and enhancing approximately 2.223 acres of wetlands along the pond fringe and an existing fringe wetland along Mexican Gulch located north of the proposed pond.

**OTHER GOVERNMENTAL AUTHORIZATIONS:** Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Colorado Department of Public Health and Environment, Water Quality Control Division, is required for this project. Application status is unknown.

**HISTORIC PROPERTIES:** The levee on the north side of the project was constructed in 1944 and may be eligible for listing. The Corps will initiate consultation with the State Historic Preservation Officer under Section 106 of the National Preservation Act, as appropriate.

**ENDANGERED SPECIES:** We have determined that a depletion of an unknown quantity of water may affect the Colorado Pikeminnow (*Ptychocheilus lucius*), bonytail chub (*Gila elegans*), humpback chub (*Gila cypha*), and razorback sucker (*Xyrauchen texanus*), Federally-listed endangered species. The depletion of water results from an increased evaporation rate of water made possible by the creation of the pond. The Corps will initiate consultation with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act as appropriate.

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 2007-1076-GB, must be submitted to the office listed below on or before August 1, 2007.

Mr. Steve Moore, Project Manager  
US Army Corps of Engineers, Sacramento District  
Colorado/Gunnison Basin Regulatory Office  
400 Rood Avenue, Room 142  
Grand Junction, Colorado 81501-2563  
Email: [stephen.a.moore@usace.army.mil](mailto:stephen.a.moore@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, Steve Moore at 970-243-1199 extension 13, or email [stephen.a.moore@usace.army.mil](mailto:stephen.a.moore@usace.army.mil).

Attachments: 6 drawings