



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

Public Notice

Public Notice Number: SPK-2007-01485

Date: June 9, 2008

Comments Due: July 14, 2008

In reply, please refer to the Public Notice Number

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to reconstruct the Middle Donkey Reservoir, which would result in impacts to approximately 5.5 acres of waters of the United States, including wetlands, in or adjacent to Donkey Creek. 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 10 of the Rivers and Harbors Act of 1899 for structures or work in or affecting navigable waters of the United States and/or Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

APPLICANT: Mike Ottenbacher
Utah Department of Natural Resources
Division of Wildlife Resources
1470 North Airport Road
Cedar City, Utah 84720
(435) 865-6100

LOCATION: The project site is located in Donkey Creek Drainage in the NW ¼ of Section 16, Township 30 South, Range 4 East, SLB&M, Wayne County, Utah, and can be seen on the Blind Lake USGS Topographic Quadrangle.

PROJECT DESCRIPTION: The applicant is proposing to reconstruct Middle Donkey Reservoir. The project would inundate approximately 5 acres of palustrine wet meadow wetlands. Based on the available information, the overall project purpose is to rebuild the breached portion of the dam at Middle Donkey Reservoir and move the spillway from the north to the south end of the dam. The fill from the original dam is still on site and would be used for the reconstruction. In addition, the dam would need to be cleared and grubbed to excavate any tree root system within 20 feet of the toe. A new outlet would be installed and all disturbed areas would be reclaimed. The outlet of the dam would be set to prevent the draining of the dam, thereby leaving 10 acre-feet of water as a conservation pool for fish. The applicant believes there is a need to increase water storage capacity for irrigation (Teasdale Irrigation Company) and to create and enhance fisheries in the Donkey Creek Drainage (Utah Department of Natural Resources). Currently, water users drain Left Hand Reservoir before Draining Donkey Reservoir. This pattern of use essentially removes all the fish from Left Hand Reservoir and allows the fish in Donkey Reservoir access to spawning habitat that promotes the overpopulation of the reservoir. As a result, very few fish remain in Left Hand Reservoir, while too many are produced in Donkey Reservoir. The Teasdale Irrigation Company would agree to change this pattern of use, thus draining Donkey Reservoir first and Left Hand Reservoir last. The rebuilding of Middle Donkey Reservoir would add some flexibility to the system and allow the water users to make this change. As a result, the Teasdale Irrigation Company could increase their storage capacity by 40-acre feet, while the

Utah Division of Wildlife Resources could add Middle Donkey Reservoir to the list of fisheries in the drainage and enhance the fisheries at Donkey Reservoir and Left Hand Reservoir as well. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. There are approximately 5 acres of wet meadow wetlands and 0.5 acre of open water within the project area. The site is characteristic of its alpine (10,000' elevation) setting atop Boulder Mountain. With the dam having been breached for over 30 years, a sedge wet meadow has developed. A small band of aspen trees encircles the meadow which in turn is surrounded by a coniferous forest.

Alternatives. The applicant has not provided information concerning project alternatives. Additional information concerning project alternatives may be available from the applicant or their agent. 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 create a new wetland 2.5 miles downstream from Middle Donkey Reservoir. The proposed wetland mitigation site is at the base of a small drainage that currently receives seasonal runoff. To provide a perennial water source for the wetland mitigation site, the Teasdale Irrigation Company would agree to not divert flow from a spring-fed drainage into a canal as it currently does. The flow of approximately 0.5 cfs would continue another ¼-mile down the drainage to create a 4 to 5-acre wetland at the mitigation site. The attached drawings provide additional mitigation site details.

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 (non-point sources) of wastes which will occur only during the actual construction activity and where best management practices would be employed to minimize pollution effects. Written comments on water quality certification should be submitted to Ms. Shelly Andrews, Utah Division of Water Quality, 288 North 1460 West, Post Office Box 144870, Salt Lake City, Utah 84114-4870, on or before **July 14, 2008**.

HISTORIC PROPERTIES: The Corps will initiate consultation with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act, as appropriate.

ENDANGERED SPECIES: 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 and/or the National Marine Fisheries Service, pursuant to Section 7 of the Endangered Species Act, as appropriate.

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 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 SPK-2007-01485 must be submitted to the office listed below on or before **July 14, 2008**.

Terry Johnson, Project Manager
US Army Corps of Engineers, Sacramento District
Sacramento Office
1325 J Street, Room 1480
Sacramento, California 95814 2922
Email: terry.l.johnson@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 Terry Johnson, 801-295-8380 x 15, terry.l.johnson@usace.army.mil.

Attachments: 6 drawings

