



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

Public Notice

Public Notice Number: SPK-2007-1493

Date: August 4, 2008

Comments Due: September 3, 2008

In reply, please refer to the Public Notice Number

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating the Utah Department of Transportation Northern Utah County Wetlands Mitigation Bank Prospectus (Prospectus). This project proposes to create, restore, enhance and preserve approximately 102 acres of waters of the United States, including wetlands, adjacent to Utah Lake. 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>.

BACKGROUND: Mitigation banks may serve as a mechanism to provide compensation for adverse impacts to wetlands and other aquatic resources typically authorized under Section 404 of the Clean Water Act. Through the use of mitigation banks, the U.S. Army Corps of Engineers Regulatory Division can streamline permitting evaluation processes and provide more effective mitigation for authorized impacts to wetlands and other aquatic resources.

AUTHORITY: The Prospectus is being evaluated by the U.S. Army Corps of Engineers and Interagency Review Team (IRT) for its suitability as a Compensatory Mitigation Bank under 33 CFR Parts 332, Establishing Mitigation Banks and In-Lieu Fee Programs. The IRT consists of representatives from the U.S. Fish and Wildlife Service, State of Utah Division of Wildlife Resources, and the U.S. Environmental Protection Agency.

APPLICANT: Utah Department of Transportation (UDOT), Region 3
658 North 1500 West
Orem, Utah 84057
Bryan Adams, 801-227-8000

LOCATION: The project site is bounded by 200 North, 200 South, 2000 West and Utah Lake in the town of Lindon. The site is located north of the solid waste transfer station, in Section 36, Township 5 South, Range 1 East, and Section 31, Township 5 South, Range 2 East, SLB&M, Utah County, Utah, and can be seen on the Pelican Point, Utah USGS Topographic Quadrangle.

PROJECT DESCRIPTION: A description of the project is best referenced within the attached Prospectus document. In summary, the applicant is proposing to utilize 102 acres of property adjacent to Utah Lake as a Wetlands Mitigation Bank. UDOT is proposing to construct a sole source wetlands mitigation bank to provide compensation for unavoidable stream and wetland impacts resulting from highway projects within the Bank's primary and secondary Geographic Service Area (GSA). The Bank is intended to provide compensatory mitigation for losses of aquatic resources resulting from UDOT projects. Based on the available information, the overall project purpose is to construct a wetlands mitigation bank. The applicant believes there is a need to create an area of contiguous wetlands which would ease the maintenance burden on dispersed wetland mitigation sites and to create a more

sustainable and functional wetland ecosystem. The attached drawings provide additional project details.

The Bank general service area (GSA) is broken down into the primary and secondary service areas. The service areas have been defined in coordination with the US Army Corps of Engineers. The proposed service areas are shown in Figure 1 and Figure 2 of the Prospectus.

The primary service area is proposed as follows:

- Northern Boundary: Utah County/Salt Lake County Line.
- Eastern Boundary: Elevation 4,590 feet above mean sea level (MSL): elevation at the toe of the Provo Level of historic Lake Bonneville.
- Southern Boundary East of Utah Lake: Southern Boundary of the Provo River Hydrological Unit (HUC 16020203).
- Southern Boundary West of Utah Lake: Pelican Point
- Western Boundary: Elevation 4,590 feet MSL: elevation at the toe of the Provo Level of historic Lake Bonneville.

A secondary service area has been proposed for the Lindon Bank site which would account for wetlands that provided different functions and services that normally occur beyond the primary service area. Wetlands impacted within the established secondary service area are proposed to be mitigated at the Lindon site at a higher ratio than those wetlands impacted within the primary service area. The establishment of this additional service area may allow for maximum utilization of the Lindon site and also consider the various functions and services that may be lost.

This secondary service area is proposed to parallel only the eastern boundary (4,590 MSL) of the primary service area and at an elevation of 4,740 feet above mean sea level (MSL). This elevation of 4,740 is representative of Utah Lake Bonneville at the Upper Provo Level.

ADDITIONAL INFORMATION:

Environmental Setting. There are approximately 45.25 acres of waters of the United States, including wetlands within the project area. As seen in Figure 4, these waters include 8.6 acres of open water, 3.02 acres of palustrine forest, 4.95 acres of palustrine scrub/shrub and 28.09 acres of palustrine emergent marsh. The proposed Bank site consists of undeveloped land within 1/4 mile of the western shore of Utah Lake. Most of the site is moderately to intensively grazed at this time by domestic horses and cattle. The topography of the site is relatively flat and the site generally slopes to the southwest. The groundwater table is relatively high throughout much of the site. Groundwater fluctuations occur related to water levels in Utah Lake. Several small springs occur on the western edge of the site near the railroad embankment and are likely connected to the local groundwater table. Surface water would be diverted from existing drainage ditches under existing or acquired water rights associated with Utah Lake and the Jordan River.

Upland areas on the property on the north side of the site are used for composting topsoil, topsoil storage, and a dog kennel. These operations would be cleared off the property if the site were developed for mitigation. However, the solid waste transfer station located to the south, as well as the historic capped landfill along the east side of the proposed bank site would not be relocated.

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 not required for this project as the project is proposed to be authorized under a Nationwide Permit which has already been issued 401 certification by the State of Utah.

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 authorize the mitigation bank 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-2007-1493 must be submitted to the office listed below on or before **September 3, 2008**.

Jason Gipson, Project Manager
US Army Corps of Engineers, Sacramento District

533 West 2600 South, Suite 150
Bountiful, Utah 84010
Email: jason.a.gipson@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 Jason Gipson, 801-295-8380 x 14, jason.a.gipson@usace.army.mil.

Attachments