



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

Public Notice

Public Notice Number: SPK-2008-00107

Date: February 7, 2008

Comments Due: March 7, 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 construct the Kunz–Mickelson Commercial Development project, which would result in impacts to approximately 0.64 acres of waters of the United States, including wetlands, in or adjacent to Proctor Ditch. 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: Karl Kunz
27 West 1530 South
Orem, Utah 84058
Tel: (801) 765-1151

AGENT: Adam Morrill, PEPG Engineering, LLC
421 West 12300 South, Suite 400
Draper, Utah 84020
Tel: (801) 562-2521

LOCATION: The project site is located in, Section 31, Township 5 South, Range 2 East, SLB&M, Utah County, Utah, and can be seen on the Pelican Point USGS Topographic Quadrangle.

PROJECT DESCRIPTION: The applicant is proposing to construct a commercial development. Based on the available information, the overall project purpose is to construct and provide access to three commercial/industrial properties in Lindon, Utah County, Utah. The applicant believes there is a need to provide access the properties from 1800 West Street over Proctor Ditch using culverts and to alter the ditch to accommodate a flow of 225 cubic feet per second flow as directed by Lindon City. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. Within the project limits, there are approximately 0.07 acres of emergent wetlands adjacent to Proctor Ditch consisting mainly of willows and common reeds. The ditch's current condition is a straightened channel with steep banks (1.5:1) and the sources of flow are from springs, storm water runoff, and irrigation tail water. The site is characterized by a heavily disturbed triangular-shaped property bounded by Proctor Ditch on the northwest and another ditch on the southeast (see Exhibit A, drawing 2 of 9). The area surrounding the site is rapidly developing industrial and commercial properties.

Alternatives. The applicant has provided information concerning project alternatives. The alternatives provided by the applicant are as follows:

- **Alternative A:** This alternative proposes to leave the channel as it is currently. This is not the preferred alternative because this will not meet Lindon City requirements. Access points from 1800 West are required for the developed areas, and Lindon City is requiring the channel be modified to accommodate current flow conditions.
- **Alternative B:** Piping Proctor Ditch. This alternative proposes piping Proctor Ditch to decrease annual maintenance. This is not the preferred alternative because it would eliminate a natural feature (man altered channel). This alternative would require offsite mitigation.
- **Alternative C:** This is the preferred alternative. This alternative involves creating a low-flow meandering channel that will accommodate flows of 65 cfs. This will promote the establishment of a diverse vegetative community along the ditch corridor. This alternative also involves installing gentle sloping banks (2:1 slopes) to help disperse flows, thereby creating a wetland floodplain area while reducing the effects of erosion. This floodplain area will support storm water attenuation, nutrient cycling, aquatic habitat, and sediment/pollution removal. This will also provide areas for improved aquatic/wildlife habitat.

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 lay back the slopes of the channel (2:1), create a meandering low-flow channel, and to seed the side slopes with a wetland seed mix. Refer to Exhibit A, drawings 5 of 9 through 8 of 9 for additional 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 Quick, Utah Division of Water Quality, 288 North 1460 West, Post Office Box 144870, Salt Lake City, Utah 84114-4870, on or before **March 7, 2008**.

HISTORIC PROPERTIES: A cultural resource survey for the project site has been conducted. The applicant reported that based on the available information, cultural resources are not within the project's area of potential effect. 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 project will not affect any Federally-listed threatened or endangered species or their critical habitat that are protected by the Endangered Species Act.

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-2008-00107 must be submitted to the office listed below on or before **March 7, 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: Exhibit A (9 drawings)