



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

Public Notice

Public Notice Number: SPK-2002-50385

Date: September 10, 2007

Comments Due: September 28, 2007

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 1200 West roadway improvement project, which would result in impacts to approximately 0.97 acre of waters of the United States, including wetlands, adjacent to the Great Salt Lake, east of Interstate 15. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Sacramento District 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: Perry City Corporation
3005 South 1200 West
Perry, Utah 84302
Attn: Mayor Jerry Nelson

AGENT: Lorin Gardner, City Engineer
J-U-B Engineers, Inc.
466 North 900 West
Kaysville, Utah 84037
lgardner@jub.com

LOCATION: The project site is located in Perry along 1200 West between 1500 South and 1850 South (Maddox Lane), in Sections 26 and 35, Township 9 North, Range 2 West, Box Elder County, Utah, and can be seen on the Willard USGS Topographic Quadrangle.

PROJECT DESCRIPTION: Perry City is applying for an after-the-fact permit to resolve a Section 404 violation and to construct the road base for a roadway improvement project along an unimproved segment of 1200 West from 1850 South (Maddox Lane) north to 1500 South (just south of Wal-Mart development). Based on the available information, the overall project purpose is to construct a roadway. The applicant believes there is a need to retain wetlands fill and pave 1200 West between 1850 South (Maddox Lane) and 1500 South to connect with the existing two-lane paved roadway at the southern edge of the Wal-Mart complex. Paving this segment of 1200 West would provide the City an alternate north/south road parallel to Highway 89 for emergency vehicles as well as normal traffic. The applicant states that Perry City has an urgent need for a dual corridor, parallel to Highway 89, in cases of emergencies. Highway 89 has been closed in the past due to traffic accidents and could be closed in the future due to a similar incident. When Highway 89 is closed, emergency vehicles coming from Brigham City to the north must travel south on Interstate 15 to the Willard exit, travel east through Willard, and backtrack to Perry, which adds critical time to emergency response.

The project corridor is within the City-owned 66-foot wide right-of-way (ROW) of the historic Utah Idaho Central single-track railroad grade. The State of Utah deeded the abandoned railroad grade to Perry for road purposes. Perry City is applying for a permit to resolve the Section 404 violation, which resulted when the water line installation was overlain with fill and the City regraded and

enlarged the railroad bed footprint by filling adjacent wetlands. Perry is applying to retain the wetlands fill and to pave (asphalt) the unimproved 1200 West roadway. Perry would install new culverts and reconstruct/reshape the roadway to accommodate two 10-foot wide travel lanes with 2-foot shoulders. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Project Background: In the fall of 2002, Perry City installed a water main line beneath the abandoned railroad grade to extend a water line to the Wal-Mart complex at the northern boundary of the city. The abandoned railroad track bed was not restored to its original contours (24 feet wide, toe to toe). During regrading work, the footprint was overlain by additional fill material that extended into adjacent wetlands. Subsequent regrading and fill in wetlands occurred in the spring of 2003, resulting in an average toe-to-toe width of 41.2 feet. According to City officials, prior to installation of the water line to Wal-Mart, this length of railroad bed was gated at the north and south ends and served as a "passable" road for farmers to access adjacent fields. After the water line was installed and fill was discharged in the adjacent wetlands, local residents began using the enlarged unimproved road as a local connector that allowed cars to travel north from the paved portion of 1200 West along the unimproved road to the Wal-Mart complex. Perry's consultant submitted a wetlands delineation report dated July 2007 that quantifies the amount of unauthorized fill impacts to jurisdictional wetlands adjacent to abandoned railroad bed as approximately 2,350 linear feet or 0.93 acre of wetland impact. The City is applying for a permit for impacts to 0.97 acre of wetland (0.93 acre of previous fill plus 0.04 acre of additional impact). The additional wetland fill would be used to make the roadway footprint a more uniform width (increasing toe-to-toe average from 41.2 feet to 41.9 feet).

Environmental Setting. Agricultural lands are located adjacent along both sides of the ROW and segment of unimproved 1200 West roadway proposed for paving. The 100-foot wide wetlands study corridor for the project encompasses 50 feet on either side of the existing centerline along the 2,350 linear foot segment of fill in the 66-foot wide ROW of the abandoned railroad grade. According to the July 2007 delineation report, the defined corridor study area totals 5.40 acres and includes 3.60 acres of palustrine emergent, seasonally flooded wetlands. The footprint of the current unpaved 1200 West roadway includes 0.93 acre of wetlands that were filled without Section 404 authorization (post-water main installation) to enlarge the footprint of the railroad bed roadway.

The topography of the project study area is fairly flat (0-3%) and can be classified as a low lake plain along the Great Salt Lake. Fill slopes stemming from the old railroad grade (1200 West) are generally 2:1 or 20-33%. The annual average rainfall is 18.45 inches; average annual snowfall is 29.4 inches. Historically, hydrology was derived from snowmelt, precipitation events, and runoff from the Wasatch Mountains to the east. The area has been altered for agricultural purposes and historic drainage flows have been altered by roads and development. Irrigation and roadside ditches convey water into the lower elevations of the defined project study area, which acts as a catch basin. There are five scattered 18-inch plastic culverts that aid in surface water conveyance through the unimproved roadway and facilitate drainage flows in a westerly direction to the Great Salt Lake.

Common wetland vegetation within the project study area includes Baltic rush, cattail, soft-stem bullrush, red canary grass, cow's clover, salt grass, and Nebraska sedge. Three poorly drained alkaline soils were identified for the project study area: Cudahy silt loam, Logan silty clay loam, and Roshe Springs silt loam. All three soil types are as hydric on the Box Elder County soils list.

Alternatives. Perry City has provided information concerning 2 project alternatives. Additional information concerning project alternatives may be available from the City or their agent. Other alternatives may develop during the review process for this application. All reasonable alternatives will be considered, particularly those which may be less damaging to the aquatic environment.

Alternative A is the applicant's proposed project. This proposal would impact 0.97 acre of wetlands beyond the historic railroad footprint. This acreage includes the 0.93 acre of wetlands filled without a permit after installation of the water main line. This footprint would include paving of two 10-foot wide traffic lines and 2-foot wide shoulders and 0.04 acre of additional fill to widen the toe to toe width to a more uniform footprint.

Alternative B is the applicant's long-term build-out plan for the corridor. This proposal illustrates the applicant's potential build-out plans for the ROW that, based on City growth and development, could occur 5 to 20 years or more in the future. The Alternative B proposal would maximize use of the ROW as a transportation corridor by extending the roadway footprint to include wider travel lanes and a center turn lane, curb, gutter and sidewalk, a parking strip, and an adjacent bike trail. Slope easements or ROW acquisitions would likely be required to accommodate the anticipated 5-foot fill slopes associated with Alternative B, which extends beyond either side of the existing 66-foot ROW.

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 proposed to pursue off-site in-kind mitigation, stating one option might be purchasing compensatory mitigation credits from the pending Machine Lake Mitigation Bank. The City stated on-site mitigation such as preservation or enhancement of wetlands was not being considered because Perry's long-term plans in response to growth include future enlargement of the 1200 West footprint.

OTHER GOVERNMENTAL AUTHORIZATIONS: Under Section 401 of the Clean Water Act, water quality certification or a waiver is required from the Utah Division of Water Quality 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, P. O. Box 144870, Salt Lake City, Utah 84114-4870, on or before **October 10, 2007**.

HISTORIC PROPERTIES: Based on the available information, cultural resources are not located within the project's area of potential effect. The proposed roadway footprint is within the ROW of an abandoned, single-track railroad bed. The land along both sides of the roadway footprint to be paved is in agricultural use and no historic buildings, structures or historical markers were observed.

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.

These 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-2002-50385 must be submitted to the office listed below on or before **September 28, 2007**.

Kathleen Anderson, Project Manager
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, Utah 84010
Email: kathleen.anderson@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 Kathleen Anderson, 801-295-8380, ext. 10, kathleen.anderson@usace.army.mil.

6 Attachments: Vicinity Map, 2 Delineation Drawings, Alternative A, Alternative B, Table 3