



US Army Corps  
Of Engineers  
Walla Walla District  
201 North Third Avenue  
Walla Walla, WA 99362-1876

# Public Notice:

## Application for Permit

APPLICATION NO.: NWW-2012-125

WATERWAY: Yankee Fork of the Salmon River

APPLICANT: US Forest Service & JR Simplot Co.

DATE ISSUED: June 21, 2012

END DATE: July 12, 2012

21-Day Notice

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Interested parties are hereby notified that this District has received an application for a Department of the Army permit for certain work in waters of the United States, including wetlands, as described below and shown on the attached drawings, entitled Sheets 1 through 14, dated 12 June 2012 and Sheets 15 through 20, dated 12 June 2012.

**APPLICANTS:** US Forest Service, Salmon-Challis National Forest, HC 63, Box 1669, Challis, Idaho 83226; contact Ms. Kris Martinson (208) 879-4100 and JR Simplot Co., PO Box 27, Boise, Idaho 83707; contact Mr. Vic Conrad at (208) 336-2110.

**USACE PM CONTACT:** Idaho Falls Regulatory Office, 900 N Skyline Drive, Suite A, Idaho Falls, Idaho 83402; contact Mr. James Joyner at 208-522-1676.

**PURPOSE:** The purpose of the proposed project is to improve fish habitat and to enhance juvenile salmonid habitat in the Pond Series 3 (PS3) side channel.

**WATERWAY:** Yankee Fork of the Salmon River.

**LOCATION:** The proposed project would be located along the Yankee Fork of the Salmon and adjacent wetlands within Section 29, Township 12 North, Range 15 East, near latitude 44.34224° N and longitude -114.72301° W in Custer County, Idaho.

**DRIVING DIRECTIONS:** From Stanley, Idaho (intersection of Highway 21 and Highway 75) travel east on Highway 75 for approximately 13.0 miles, turn left (north) onto Yankee Fork Road and travel approximately 6.0 miles to the project site. The project is east of Yankee Fork Road between the Cabin Bridge and Cearley Creek Bridge.

**AUTHORITY:** This permit will be issued or denied under the authority of Section 404 of the Clean Water Act (33 U.S.C. 1344). A Department of the Army permit is required for the discharge of dredged or fill material into waters of the United States, including wetlands.

**WORK:** The proposed action at the PS3 Side Channel would involve the discharge of approximately 15,975 cubic yards of gravel/tailings, 745 cubic yards of rock and 125 cubic yards of wood below the ordinary high water mark of the Yankee Fork, a side channel of the Yankee Fork, and adjacent wetlands to improve habitat for juvenile salmonids by creating channel habitat and floodplain wetlands in areas that are currently shallow ponds with little cover or structure. The habitat improvement project would fill approximately 0.1 acres of wetland and 3.2 acres of other waters of the United States. The project would result in the creation of 4.70 acres of wetlands and enhance approximately 0.5 miles of side

channel as habitat for juvenile salmonids. Each work activity is generally listed here in upstream to downstream order.

- Excavating an alcove and reinforcing two existing berms along the left (facing downstream) bank of the mainstem.
- Constructing an inlet channel and off-channel inlet control structure (sheet pile).
- Removing a 36-inch corrugated metal pipe (CMP) culvert and associated fill and constructing a roughened channel (rock) upstream of, through, and downstream of the existing culvert embankment.
- Removing four beaver dams (two upstream of the existing culvert and two downstream of it).
- Removing an old road embankment across a floodplain.
- Removing two check dams and temporarily protecting and operating one existing check dam, then removing it after several years.
- Regrading tailings piles adjacent to and through the pond series.
- Placing wood habitat structures.
- Revegetating with aquatic, wetland, riparian, and upland species.
- Regrading the right bank of the mainstem using material excavated from the mainstem.

The proposed design elements are shown in attached figures. The proposed action area is located between river mile (RM) 6.6 and RM 5.9 on the mainstem Yankee Fork, but all of the design elements, except three, are located away from the mainstem and contained within the existing pond series.

**CONSTRUCTION PERIOD:** Applicant proposes to start construction 1 August 2012 and end 31 October 2012. The permit would authorize construction for a period of 3 years.

**PROPOSED MITIGATION:** Historic mining activities have removed and limited the establishment of wetland habitat in the project area. The proposed project design has identified and avoided impacts to the largest and highest quality wetlands in the project area. Wetland creation as part of the habitat improvement project on mine tailings and adjacent to excavated ponds is intended to create and establish higher quality wetlands within the Yankee Fork drainage.

Additional compensatory mitigation for the Yankee Fork habitat improvement project is not anticipated as 4.70 acres of wetland (4.60 acres net gain) will be created as part of the proposed project. A monitoring plan for the created wetland and upland riparian communities has been provided as part of the application. Wetland monitoring will meet requirements provided in the USACE and USEPA Compensatory Mitigation Rule (2008).

**OTHER ENVIRONMENTAL DOCUMENTS and DA PERMITS ISSUED TO APPLICANT:**

The applicants have provided a wetland delineation, functional assessment, and monitoring plan for the project with their application. One of the project sponsors, the Bonneville Power Administration (BPA), has prepared a Biological Assessment and initiated Section 7, Endangered Species Act, consultation for the project.

No other Corps permits have been issued to the applicant(s) related to this project.

**WATER QUALITY CERTIFICATION:** This notice will also serve as public notice that the Idaho Department of Environmental Quality (IDEQ) is evaluating whether to certify that the discharge of dredge and/or fill material proposed for this project will not violate existing water quality standards. A Department of the Army permit will not be issued until water quality certification has been issued or waived by the IDEQ, as required by Section 401 of the Clean Water Act. If water quality certification is not issued, waived or denied within sixty (60)-days of this public notice date, and an extension of this

period is not requested by and granted to the IDEQ, certification will be considered waived. Additionally, within thirty (30)-days of this Public Notice, any person may provide written comments to IDEQ and request in writing that IDEQ provide them notice of their preliminary 401 Certification decision. Comments concerning Water Quality Certification for this project should be mailed to: Idaho Department of Environmental Quality, Idaho Falls Regional Office, 900 N Skyline Drive, Suite B, Idaho Falls, Idaho 83402.

**AQUATIC RESOURCE DESCRIPTION:** The project area is approximately 14 acres in size and contains 0.88 acre of wetlands (Wetland A) and nearly 7 acres of waters of the United States. Overall, functions and values of Wetland A represent a Category III wetland with functional attributes ranging from low to moderate with exceptions pertaining to fisheries and wildlife attributes. These higher scoring attributes are largely associated with the wetlands' proximity to the Yankee Fork, which provides documented habitat for Federal and State sensitive fish species. Wetland A is a high scoring Category III wetland as evaluated by the Montana Department of Transportation's (MDT) Montana Wetland Assessment Method (Berglund and McEldowney, 2008) (61 percent of total points possible). Category III wetlands are more common, generally less diverse, and often smaller and more isolated than those in Categories I and II. Category III wetlands can provide many functions and values, although they might not be assigned high ratings for as many parameters as Categories I and II wetlands. Category III wetlands exhibit total actual functional points less than 65 percent but greater than 30 percent.

The functional potential and acreage of Wetland A has been reduced by historical mine activity. Steep, cobbled spoil piles have eliminated much of the historical floodplain and reduced the surface area that would intersect with ordinary high water events and drives the establishment of wetland vegetation. Wetland A received low scores for flood attenuation, sediment nutrient and toxicant removal, and uniqueness. Moderate scores were calculated for general fish/aquatic habitat, short-and long-term surface water storage, sediment/shoreline stabilization, and groundwater discharge/recharge. High functional scores were associated with Federal and State sensitive species, general wildlife habitat, and production export/food chain support.

Despite the high functional attributes scored for Wetland A (Federal and State sensitive species), actual site conditions pertaining to these attributes are more limited than the assessment methods indicate. High scores associated with presence of Federal and State sensitive species, do not consider the actual condition of the species habitat where tailings presently confine the existing channel, thereby inhibiting lateral migration, prevent channel/floodplain interactions, and disconnect tributaries from the mainstem. The current simplified channel and lack off floodplain connections reduce the amount of available juvenile rearing habitat, high-flow refugia, and adult holding and spawning habitat.

Pond Series 3 is a side channel east of the Yankee Fork and is associated with and the result of, historical mine tailing piles and dredging activities. Because of their shape and extent, the tailings have limited the establishment of wetland resources on adjacent floodplains within the study area. Common wetland vegetation identified in the study area includes Geyers willow (*Salix geyeriana*), peachleaf willow (*S. amygdaloides*), and grey willow (*Alnus incana*) in the shrub layer, and Baltic rush (*Juncus balticus*), reed canarygrass (*Phalaris arundinacea*), Northwest Territory sedge (*Carex rostrata/c. utriculata*), smooth brome (*Bromus inermis*), slender wheatgrass (*Elymus trachycaulus*), and red top (*Agrostis stolonifera*) in the emergent layer. Across the study area, wetland communities are limited to thin margins adjacent to Pond Series 3 where fluctuating surface water elevations support wetland hydrology.

**ANTICIPATED IMPACTS ON AQUATIC ENVIRONMENT:** Total impacted waters of the United States associated with the proposed action at Pond Series 3 include:

- 0.1 acres of wetland and approximately 3.26 acres of other waters of the United States from discharges associated with creating and enhancing Pond Series 3 side channel habitat.

**OTHER AUTHORIZATIONS:** Other authorizations obtained or requested include Water Quality Certification by the Idaho Department of Environmental Quality and a stream channel alteration permit from the Idaho Department of Water Resources. Other permits may also be necessary.

**CULTURAL RESOURCES:** Coordination is currently being conducted with the office of the Idaho State Historic Preservation Officer to determine if this activity will affect a site that is listed on the National Register of Historic Places, or a site that may be eligible for listing on the Register. We are also coordinating with the appropriate Tribal entity or the Tribal Historic Preservation Offices for the Shoshone-Bannock Tribes, to determine if there are any tribal historic or cultural interests within the project area.

**TRIBAL TREATY RIGHTS and INTERESTS:** Federal agencies acknowledge the Federal Trust's responsibility arising from treaties, statutes, executive orders and the historical relations between the United States and American Indian Tribes. The Federal Government has a unique trust relationship with federally recognized American Indian Tribes, including the Shoshone-Bannock Tribes. The Corps has a responsibility and obligation to consider and consult on potential effects to Tribal rights, uses and interests. The Corps further recognizes there may be a need for additional and on-going consultation.

**ENDANGERED SPECIES:** The project is within the known or historic range of Chinook salmon (*Oncorhynchus tshawytscha*), steelhead (*Oncorhynchus mykiss*) and bull trout (*Salvelinus confluentus*). Formal consultation was initiated with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) on 11 May 2012 to determine the affect the proposed project may have on species designated as endangered or threatened or their critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). On 29 May 2012 the USFWS provided a Biological Opinion for the project. The USFWS determined that the project is not likely to jeopardize the US conterminous population of bull trout and is not likely to result in destruction or adverse modification of designated critical habitat. An opinion from the NMFS is still pending. Any comments the Services may have concerning endangered or threatened fish, wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

**ESSENTIAL FISH HABITAT:** The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The project area is within the known range of Chinook salmon. Coordination is currently being conducted with the NMFS to determine the affect of the proposed project on essential fish habitat for Chinook salmon.

**ENVIRONMENTAL IMPACT STATEMENT:** Preliminary review indicates the activity will not require preparation of an Environmental Impact Statement (EIS). An Environmental Assessment will be prepared to determine if there are significant impacts requiring preparation of an EIS. Comments provided in response to this Public Notice will be considered in preparation of an Environmental Assessment.

**EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. This 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 proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal 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. In addition, our evaluation will include application of the EPA Guidelines (40 CFR 230) as required by Section 404(b)(1) of the Clean Water Act.

**CONSIDERATION OF PUBLIC COMMENTS:** The Corps of Engineers is soliciting comments from the general public; Federal, State and local agencies and officials, Tribal entities 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 of Engineers 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 the 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.

**PUBLIC HEARING:** Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this proposed activity. Requests for a public hearing shall state specific reasons for holding a public hearing.

**COMMENT & REVIEW PERIOD:** Interested parties are invited to provide comments on the proposed activity, which will become a part of the record and will be considered in the final decision.

Please mail all comments to:

U.S. Army Corps of Engineers  
James M. Joyner  
Idaho Falls Regulatory Field Office  
900 N Skyline Drive, Suite A  
Idaho Falls, Idaho 83402

Comments should be received no later than the comment due date of **July 11, 2012**, as indicated on this notice, to receive consideration.

James M. Joyner  
Sr. Project Manager  
Walla Walla District

Enclosures