



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

Public Notice of Application for Permit

APPLICATION NO.: NWW No. 043200040

APPLICANT: U.S. Fish and Wildlife Service
Bear Lake National Wildlife Refuge

PUBLIC NOTICE DATE: October 8, 2004

21-Day Notice

COMMENTS DUE DATE: October 29, 2004

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States as described below and shown on the attached plans.

APPLICANT - U.S. Fish and Wildlife Service, Bear Lake National Wildlife Refuge, 370 Webster, Box 9, Montpelier, Idaho 83254, contact Mr. Rob Bundy, Refuge Manger, telephone 208-847-1757. For information from the Corps of Engineers, contact Robert Brochu at 208-522-1645.

LOCATION – Mud Lake and adjacent wetlands, Sections 5, 6, 7, 8 and 17, T.15S., R.44E., Boise Meridian, Bear Lake North and Dingle 7.5 minute USGS Quadrangles, near St. Charles, in Bear Lake County, Idaho.

WORK – The discharge of 54,000 cubic yards of dredged wetland soil and 15 cubic yards of concrete and 20 cubic yards of rock riprap into 11.6 acres of wetlands to construct 14,000 linear feet of dike and two water control structures. The location and a description of the work are shown on the enclosed drawing sheets.

CONSTRUCTION PERIOD – Work is proposed when the marsh is dry in late fall and during winter months while the marsh surface is frozen or snow covered, generally from November through March. The permit would authorize construction for a period of 3 years.

PURPOSE – To facilitate and improve the passage of Bonneville cutthroat trout between Bear Lake and St. Charles Creek through Mud Lake and improve waterfowl habitat.

ADDITIONAL INFORMATION – St. Charles Creek is a tributary to Bear Lake and Mud Lake. Flows in St. Charles Creek split to the west (upstream) of U.S. 89 into two channels. Downstream of this split, Little St. Charles Creek flows into Bear Lake and Big St. Charles Creek flows into Mud Lake. The Big St. Charles Creek channel continues below the ordinary high water mark of Mud Lake all the way to Bear Lake where it connects across the Bear Lake causeway road to Bear Lake through the Big Creek fish ladder.

Approximately 14,000 feet of earthen dike would be constructed by dredging wetlands and sidecasting the dredged material to form a linear dike on refuge and adjacent private lands along the north and east banks of Big St. Charles Creek (a.k.a. Big Creek). The southern end of the proposed dike would begin on refuge lands, north of the Bear Lake causeway road and the Big Creek fish ladder. It would extend north through the refuge

along the Big St. Charles Creek channel and then onto private lands, ending at the St. Charles Creek Irrigation District's Hay Bridge diversion structure. This dike would provide a hydrologic separation between St. Charles Creek and Mud Lake, including the Bear Lake Outlet Canal. The proposed dike would vary in width from 18 to 48 feet at its base. A surface width of 12 feet would be formed, graveled and maintained to provide vehicle access. Side slopes would be constructed at a 3:1 slope. The existing marsh ordinary high water elevation is approximately 5922 feet (UP&L datum). The new dike is proposed to maintain a top height of 5925 feet.

The dike construction would create a 508-acre management unit to be known as the St. Charles Creek Unit. The dike would allow the unit to be managed separately from the overall Mud Lake marsh to accomplish the following objectives. First, the dike would confine upstream and downstream migrating Bonneville cutthroat trout (BCT) to the St. Charles Creek Unit, preventing them from moving east and north into Mud Lake marshes where they would be less likely to reproduce (spawn) or grow into adults (rearing). Currently, some BCT in Bear Lake move through the Big Creek fish ladder into Mud Lake but fail to migrate up St. Charles Creek to spawn. In addition, some juvenile BCT migrate down St. Charles Creek into Mud Lake but fail to make it to Bear Lake where they grow into adults. This is suspected to be partially responsible for the decline in the BCT population in Bear Lake. Second, the dike would allow the refuge to control marsh water levels to promote select vegetation communities and waterfowl species.

The dike would be constructed by dredging adjacent wetlands with a track hoe excavator and dragline and forming the side-cast dredged material into a linear dike with a bulldozer. Dredging would occur on one or both sides of the proposed dike. The preferred method would be to dredge on both sides. To protect existing, higher quality vegetation communities such as riparian areas, dredging may occur only on one side of the proposed dike. Approximately 54,000 cubic yards of marsh soil would be dredged to form the dike, resulting in up to 28,000 feet of channel (14,000 feet on each side of dike) and 18-acres of open water. Most dredging activity will be in the densely vegetated marsh and not in open water areas. However at the northern end, on private lands, approximately 800 feet of St. Charles Creek would be dredged to form approximately 800 feet of dike. At this location, the dike would be relatively low. Here the creek is wide and shallow and dredging is proposed both to enhance channel definition for fish passage and to obtain dike material. The channel dredging would facilitate trout passage through the St. Charles Creek Irrigation Company's Hay Bridge diversion structure's fish ladder. The proposed dredging depth would not exceed two feet below existing bed levels.

To regulate water levels in the proposed St. Charles Unit, two 30 cubic feet per second water control structures with rotating drum fish screens are proposed in the dike at the locations depicted on the drawing sheets. Each structure would be fitted with a Waterman control gate, which will allow flow in either direction to be variably opened or completely shut off. Rock riprap would be discharged on both sides of the dike at each water control structure to provide scour protection during higher flow periods.

AREA DESCRIPTION – The wetlands are part of a large mosaic of wetlands that create the shallow marsh and open water system known as Mud Lake. The Bear Lake National Wildlife Refuge comprises the largest block and the central portion of Mud Lake. The refuge is approximately 18,000 acres. The wetlands consist principally of seasonally inundated emergent meadows (91%), although small areas of open water (5%), wet meadows (2.5%), riparian (<1%), upland (<1%), and other (<1%) vegetation are present. The refuge and project area are essentially flat. Emergent vegetation in the project area consists of large stands of hardstem bulrush (*Scirpus acutus*). The depth and duration of marsh flooding depends on the winter snow pack and storage of Bear River flows in and subsequent releases from Bear Lake. PacifiCorp controls the storage and release of water within Bear Lake in coordination with the Bear Lake National Wildlife Refuge.

ANTICIPATED IMPACTS ON AQUATIC ENVIRONMENT - Approximately 11.6 acres of wetlands would be filled to construct the dike. A small portion of the dike is expected to retain wetland characteristics due to raised water levels within the management unit and the fine soil textures. Native wetland plants would be planted on the side slopes and adjacent vegetation will colonize the road slopes. No attempt has been made to quantify this modified wetland area. Another 18 acres of wetlands will be converted into open water due to the dredging. The applicant anticipates that more efficient use of St. Charles Creek irrigation water to the north and east of the project area will result in the creation of approximately 30 acres of wet meadow habitat on adjacent private lands.

OTHER AUTHORIZATIONS - Other authorizations obtained or requested include, but are not necessarily limited to: Approval from PacifiCorp to retain and release water in the new management unit.

WATER QUALITY CERTIFICATION - This will also serve as public notice that Idaho Department of Environmental Quality (IDEQ) is evaluating whether to certify that the discharges of dredged and 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 60 days of this public notice date, and an extension of this period is not granted to the IDEQ Quality, certification will be considered waived. Additionally, within thirty (30) days of this public notice, any person may provide written comments to IDEQ and/or request in writing that IDEQ provide them notice of their preliminary 401 certification decision. Comments concerning certification for this project should be mailed to: Idaho Department of Environmental Quality, Pocatello Regional Office, 444 Hospital Way, #300, Pocatello, Idaho 83301.

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.

ENDANGERED SPECIES - Coordination is currently being conducted with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to determine if the activity will have any affect on species designated as endangered or threatened under the Endangered Species Act, or their critical habitat.

ENVIRONMENTAL IMPACT STATEMENT - Preliminary review indicates that the activity will not require preparation of an Environmental Impact Statement. Comments provided will be considered in preparation of an Environmental Assessment.

AUTHORITY - This permit will be issued or denied under the authority of Section 404 of the Clean Water Act.

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. 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 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 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 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 AND REVIEW PERIOD - Interested parties are invited to provide their comments on the proposed activity, which will become a part of the record and will be considered in the decision. **Comments should be mailed to:**

**U.S. Army Corps of Engineers
Idaho Falls Regulatory Office
900 North Skyline Drive, Suite A
Idaho Falls, Idaho 83402**

Comments should be received not later than the comments due date of this notice to receive consideration.

A. Bradley Daly
Chief, Regulatory Division