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# Public Notice

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U.S. Army Corps  
of Engineers  
Tulsa District

Reply To:

U.S. Army Corps of Engineers  
ATTN: Regulatory Office  
1645 South 101st East Avenue  
Tulsa, OK 74128-4609

SWT-2013-179  
Public Notice No.

June 25, 2013  
Public Notice Date

July 25, 2013  
Expiration Date

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## **PURPOSE**

The purpose of this public notice is to inform you of a proposal for work in which you might be interested and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

## **SECTION 10**

The U.S. Army Corps of Engineers is directed by Congress through Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition, or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

## **SECTION 404**

The U.S. Army Corps of Engineers is directed by Congress through Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharges of dredged and fill material into all waters of the United States. These waters include lakes, rivers, streams, mudflats, sandflats, sloughs, wet meadows, natural ponds, and wetlands adjacent to other waters. The intent of the law is to protect these waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical, and biological integrity.

## **NOTICE TO PUBLISHERS**

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DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, TULSA DISTRICT  
1645 SOUTH 101ST EAST AVENUE  
TULSA, OKLAHOMA 74128-4609

Application Number SWT-2013-179

JOINT PUBLIC NOTICE  
U.S. ARMY CORPS OF ENGINEERS  
AND  
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY (ODEQ)  
(30-DAY COMMENT PERIOD)

Interested parties are hereby notified that the District Engineer (DE) has received an application for a Department of the Army permit and water quality certification pursuant to Sections 404 and 401 of the Clean Water Act. The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto.

The application is for the excavation and redistribution of accumulated sediments to improve recreational opportunities at Zink Lake (Arkansas River).

Name of Applicant:

Mr. Matt Meyer  
River Parks Authority (RPA)  
717 South Houston, Suite 510  
Tulsa, OK 74127-9008

Name of Agent:

Mr. W. B. Smith, P.E., CFM  
HISINC, L.L.C.  
28508 West 41<sup>st</sup> Street South  
Mannford, OK 74044

Location: The proposed project begins in Section 13, Township 19 North, Range 12 East, in Tulsa, Tulsa County, Oklahoma. The project site can be found on the Tulsa, OK 7.5 Minute USGS Quadrangle map.

Latitude North: 36.133064

Longitude West: 95.993689 Decimal Degrees

Purpose:

The basic purpose of this work is to remove and redistribute accumulated sediment in the Arkansas River.

A water dependency determination is not required since no special aquatic sites are located within the project site.

The overall purpose of this work is to deepen the stream channel for compensatory water storage for a future east bank enhancement project to improve recreational and fisheries opportunities, in addition to improving water access for the Public Service of Oklahoma (PSO) intake valve.

Description of Work: The applicant proposes to excavate approximately 250,000 cubic yards (cys) of sand in Zink Lake. The work would involve the removal of accumulated sediments and rock, and the maintenance of the beaches. This equipment would require bulldozers, scrapers, front-end loaders, and rock trucks.

Approximately 9.9 acres (80,000 cys) of sand would be placed in four areas within the Arkansas River to re-build beaches and to partially fill the existing marina to re-create a portion of the natural ground that was present when the marina was created.

The placement of fill material within the Arkansas River and the method of removing the accumulated sediment is a “discharge” of dredged material. This includes the addition, placement, or redistribution of dredged or excavated materials within waters of the United States.

The remaining 170,000 cys would be relocated to upland disposal sites that have not been identified by the applicant. The excavation depth of the upstream portion of Zink Dam to 21<sup>st</sup> Street Bridge is approximately 4 feet in depth. The maximum depth at Zink Lake Dam would be excavated to 9 feet in depth near the dam and 1.75 feet in depth near the 21<sup>st</sup> Street Bridge after the project has been completed.

It is the intent of River Parks Authority, in conjunction with the City of Tulsa, Tulsa County, and PSO, to relocate sand in order to improve water access for the PSO intake valve.

**History:** The construction of the beaches and stormwater drain embankments for Zink Lake was previously authorized by the Corps in 1984. The RPA has been reauthorized to remove 15,000 to 20,000 cubic yards of sand within the Arkansas River channel for maintenance of the PSO Tulsa Station water supply intake and the least tern islands. A proposed project for the structural and operational modification of the Zink Dam and the installation of gate seals on the three bascule gates is currently being reviewed by the Corps for Department of Army authorization (SWT-2012-123).

**Avoidance and Minimization Information:** The applicant provided the following statement with regard to how avoidance and minimization of impacts to aquatic resources was incorporated into the project plan:

Four alternative configurations were considered during the preliminary design of the project.

Alternative 1: No Action

Alternative 2: Remove Sand/Rock - This proposal is requesting the removal of sand from Zink Lake area and the re-creating of beaches. This is considered as an Alternative to the total removal of the entire deposition that has accumulated. (Current Proposal)

Alternative 3: Sand Removal – There is approximately 1.5 million cubic yards of material that is currently deposited upstream of Zink Dam. The total removal of all sand/rock similar to that was performed in 1980-1981 as an ultimate desire of River Parks Authority to restore Zink Lake to its full functionality, but is currently cost prohibitive.

Alternative 4: Excavate a channel through the sand/silt deposition to the PSO intake of the cooling water lake on the west bank abutment. This option is a temporary fix and it is assumed the channel would be refilled with sand/silt deposition. This is not an acceptable alternative.

The River Parks Authority has chosen Alternative 2, removal of the sand/rock deposition to: 1) restore the PSO water intake for the power plant; 2) restore partial usage of Zink Lake for Tulsa Rowing Club; 3) provide some additional depth of water adjacent to the Zink Lake Dam for normal gate operation; and 4) to provide some areas of deeper pool for restoration of aquatic life.

Mitigation: The applicant has not proposed any compensatory mitigation for the unavoidable impacts to aquatic resources expected from the proposed project:

The removal of the sand/sediment from Zink Lake will be offset by providing more depth of water for aquatic species habitat and for re-establishment of recreational usage and is therefore, in and of itself, a compensatory mitigation effort.

The Corps has made no determination at this time with regard to the adequacy of the proposed mitigation relative to the federal mitigation rules and guidance, including Tulsa District's Mitigation and Monitoring Guidelines. The Corps is accepting comments on the need for and nature of the proposed mitigation, in addition to comments on the applicant's primary proposal. The Corps bears the final decision on the need for and extent of mitigation required if the project proposed herein is authorized.

Project Setting: This project is located within the city limits of Tulsa, in the Oklahoma Ecoregion of Osage Cuestas, which is part of the Central Irregular Plains geomorphic province. The transition is characterized by a series of tall grass prairie and oak-hickory forests that are native to eastern areas. The project is located within a sparse riparian corridor that provides shading for a perennial stream channel.

Existing Condition: The project area is primarily comprised of sand and silts in the Arkansas River bottom which is surrounded by the Tulsa metropolitan area.

Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice (Enclosures 1 through 2). If additional information is desired, it may be obtained from Mr. Marcus Ware, U.S. Army Corps of Engineers, Tulsa District, ATTN: Regulatory Office, 1645 South 101st East Avenue, Tulsa, OK 74128-4609, or telephone 918-669-7403.

Cultural Resources: The DE has consulted the National Register of Historic Places, and has determined that there are no properties currently listed in the National Register which would be directly affected by the proposed work. The DE has also consulted the listing of Eligibility Determinations for Oklahoma and determined that the proposed project is not in the vicinity of properties eligible for listing. This public notice is also being sent to the State Historic Preservation Officer and to Native American Tribal governments to reveal if other known historic or archeological resources that might be eligible for listing in the National Register exist in the project area and which could be directly affected by the proposed work. This coordination is being done to fulfill our requirements under the National Historic Preservation Act of 1966 and associated historic preservation laws. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological or other historic properties which might be affected by the proposed work, the DE will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 (Public Law 89-665), as amended, and 36 CFR Part 800, in accordance with implementing regulations 33 CFR Part 325, Appendix C.

Threatened and Endangered Species: The following federally-listed species are known to occur in the vicinity or are listed for the county in which the proposed action is located: American burying beetle (*Nicrophorus americanus*), bald eagle (*Haliaeetus leucocephalus*), interior least tern (*Sterna antillarum*), and piping plover (*Charadrius melodus*). A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies. This notice constitutes a request to those agencies for information on whether any other listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity.

Our preliminary determination is that the proposed activity will not affect listed threatened or endangered species or their critical habitat, if the work is completed outside of the nesting season of the interior least tern. The IPAC Consultation Tracking Number: 02EKOK00-2013-SLI-0921 for the proposed project would require Section 7 consultation if the work is performed during the nesting season of the interior least tern or would cause a negative effect to the existing least tern islands.

Environmental Considerations: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity and its intended use 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, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownerships, and, in general, the needs and welfare of the people. A permit will be denied if the discharge does not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the 404(b)(1) guidelines and any other applicable Guidelines or criteria, a permit will be granted unless the DE determines that it would be contrary to the public interest.

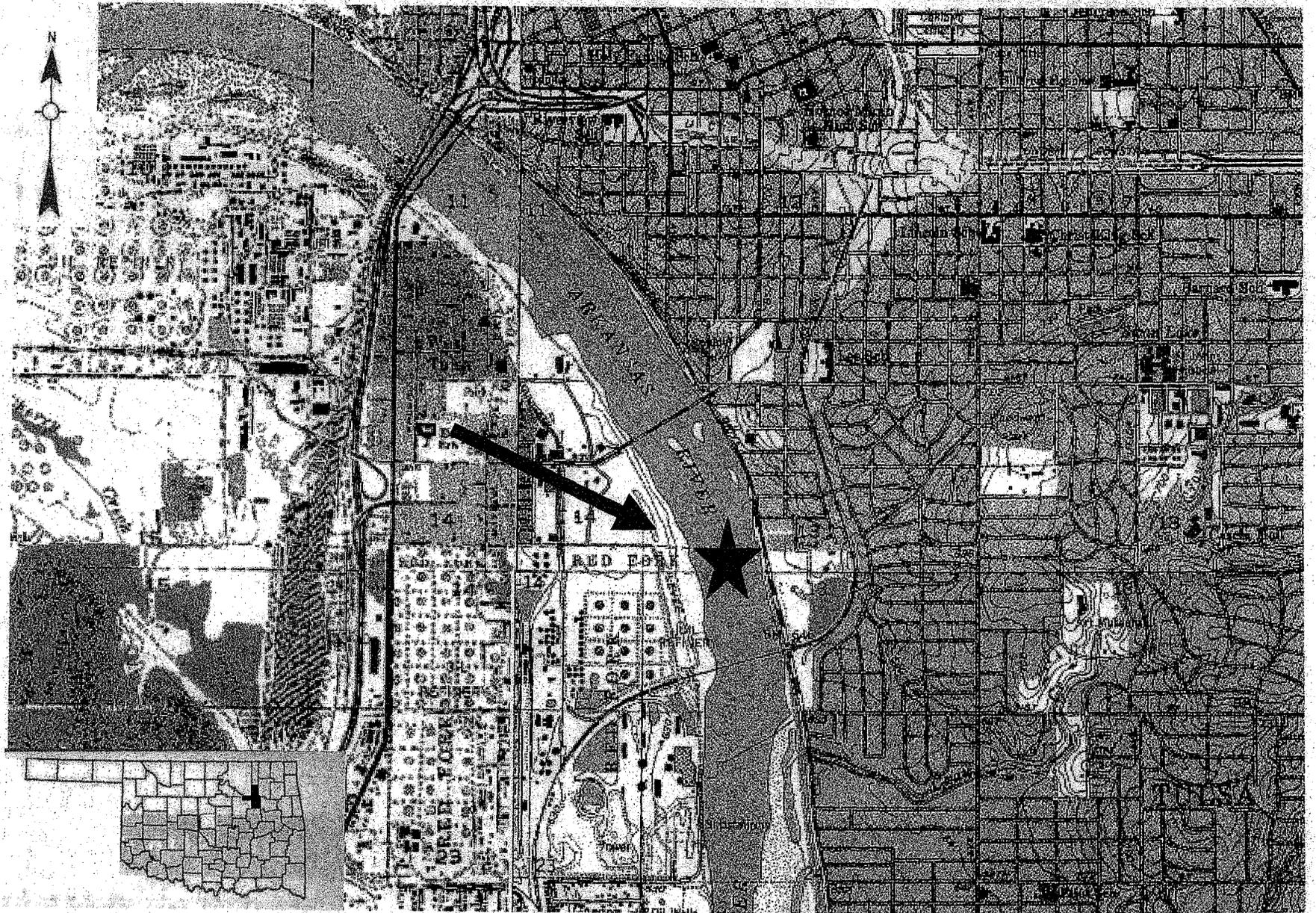
Comments: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Comments concerning the issuance of this permit should be received by the DE not later than 30 days from the date of this public notice. 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 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. Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

At the request of the Oklahoma Water Resources Board's National Flood Insurance Program (NFIP) State Coordinator, we are sending a copy of this notice to the local Floodplain Administrator to apprise the administrator of proposed development within their jurisdiction. In accordance with 44 CFR Part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), participating communities are required to review all proposed development to determine if a flood plain development permit is required. The local Floodplain Administrator is required to perform this review for all proposed development and maintain records of such review.

Comments concerning water quality impacts will be forwarded to the ODEQ for consideration in issuing a water quality Section 401 certification for the proposed project. Work may **not** commence until decisions have been made on both Sections 401 and 404.

Andrew R. Commer  
Chief, Regulatory Office

Enclosures



SWT-2012-179  
Sand Dredging Project  
River Parks Authority  
Arkansas River  
Tulsa, Tulsa County, Oklahoma  
Enclosure 1 of 2

