



**US Army Corps
of Engineers®
Albuquerque District**



JOINT PUBLIC NOTICE

Application Number: SPA-2024-00043

Date: July 15, 2024

Comments Due: August 14, 2024

SUBJECT: The U.S. Army Corps of Engineers, Albuquerque District, (Corps) and the New Mexico Environment Department's Surface Water Quality Bureau (SWQB) are evaluating an application for the Tico Time Wave, located in the Animas River, San Juan County, New Mexico, which would result in impacts to approximately 0.13 acre or 75 linear feet of perennial stream, and 0.02 acre of adjacent wetland, both of which have been preliminarily determined to be waters of the United States (WOTUS). This notice is to inform interested parties of the proposed activity and to solicit comments.

AUTHORITY: This application is being evaluated under Sections 404 and 401 of the Clean Water Act (CWA) for the discharge of dredged or fill material in waters of the U.S. State water quality certification is provided under the authority of 20.6.2 New Mexico Administrative Code.

APPLICANT: Robert Holmes
Tico Time River Resort
20 Road 2050
Aztec, New Mexico 87410

AGENT: Sean Moore
SME Environmental, Inc
679 E 2nd Ave Unit E2
Durango, Co 81301

LOCATION: The project site is located in the Animas River, within Section 15, Township 32 N, Range 10 W, latitude 36.9877608°, longitude - 107.867877°, Tico Time River RV Resort, 20 Road 2050, Aztec, San Juan County, New Mexico (See attached figure 1).

PROJECT DESCRIPTION: The applicant proposes to discharge 823 cubic yards of rock within 0.13 acre of perennial stream and 0.02 acre of adjacent wetlands below the ordinary high-water mark of the Animas River for the construction of a drop structure to have a recreation wave form. Based on the available information, the overall project purpose is recreation. The applicant believes there is a need to provide more white-water recreational opportunities to the guests of Tico Time Resort. Additionally, the general public (non-Tico Time guests) who might pass through the resort property while floating on the Animas River would also have access to the feature. The attached drawings provide additional project details (figure 2-3.3).

PROPOSED MITIGATION: Mitigation is an important part of the U.S. Army Corps of Engineers permitting process. Mitigation is sequential and includes avoidance, minimization, and compensation for unavoidable adverse impacts to aquatic resources. A detailed mitigation plan is not required for issuance of a public notice, but all three aspects of mitigation must be adequately addressed prior to any Corps permit decision. Currently, the applicant is proposing the following mitigation for their proposal: The proposed feature will minimize potential stream impacts by utilizing a grout-free construction method which does not require temporary river realignment. The project proponent states that the proposed feature will benefit the river through the placement of rocks to provide additional shelter and eddies for fish and will provide more resilient aquatic habitat in potential drought conditions. The drop features will also help increase dissolved oxygen in the river. The remaining mitigation will occur through the establishment of a new palustrine emergent/palustrine scrub-shrub (PEM/PSS) wetland area in the northeastern portion of the Tico Time Resort property, in an area well away from recreational and guest use areas of the Resort.

The geographic boundaries of the on-site mitigation are depicted in the attached drawings. The in-stream enhancement will maintain its current hydrological regime, and the on-site wetland mitigation will be hydrologically supported by groundwater from the adjacent Animas River. Construction within the river will not involve stream re-alignment and will take place within the river during low water conditions. Wetland topsoil and surface material in the work zone will be stockpiled and replaced in the temporary impact zones upon construction completion. The designated upland area to convert to PEM/PSS wetland will be graded to the elevation of the adjacent wetland area. Willow stakes will be harvested onsite and installed, and an appropriate seed mix will be planted within the wetland establishment area. Construction of the new 0.05-acre wetland area will occur concurrently with project construction (see attached figure 4).

OTHER AUTHORIZATIONS:

Under Section 401 of the Clean Water Act (CWA), the Corps cannot issue a permit to conduct any activity that may result in a discharge into waters of the

United States unless a Section 401 water quality certification (WQC) is granted, verifying compliance with water quality requirements, or WQC is waived. The New Mexico Environment Department Surface Water Quality Bureau is the certifying authority responsible for making the WQC decision on this proposal.

ADDITIONAL INFORMATION:

Environmental Setting. There are approximately 0.69 acre of PEM/PSS wetlands that are waters of the U.S. within the proposed project area and there are approximately 75 linear feet of perennial streams that are waters of the U.S. within the proposed project area. The site is characterized in the directly adjacent lands as a developed RV resort, up and downstream of the RV resort for several miles in each direction are irrigated agricultural lands.

Alternatives. Alternatives to the proposed project are analyzed to identify the least environmentally damaging practicable alternative that meets the applicant's project purpose and need. Practicability is based on cost, logistics, and technology. All project alternatives, including those which may be less damaging to the aquatic environment, will be considered. The applicant has provided information concerning project alternatives. Alternatives proposed by the applicant include (see attached figure 5):

- A. Alternative A is the applicant's preferred alternative and would entail the originally proposed location and design. This wave feature would provide the required recreational opportunities within the project purpose and would be located within Tico Time Resort.
- B. Alternative B would entail a similarly designed wave feature approximately 250 feet upriver from the proposed location. This wave feature would provide the required recreational opportunities within the project purpose and would be located within the Tico Time Resort.
- C. Alternative C is the no action alternative and would entail no action and involves no impacts to WOTUS or adjacent wetlands. This alternative does not meet the project purpose because it does not allow for the creation of a recreational river wave feature.
- D. Alternative D would entail a similarly designed wave feature approximately 600 feet upriver from the proposed location. This wave feature would provide the required recreational opportunities and could be accessed by walking or a short drive through the eastern portion of the Tico Time Resort.
- E. Alternative E would entail a similarly designed wave feature approximately 0.95 mile upriver from the proposed location. This wave feature would provide the required recreational opportunities and could be accessed by vehicle.
- F. Alternative F would entail a similarly designed wave feature approximately 1.1 miles down river from the proposed location. This wave feature would provide the required recreational opportunities and could be accessed by vehicle or the river.

G. Alternative G would entail a similarly designed wave feature approximately 2.5 miles down river from the proposed location and would be on BLM land. This wave feature would provide the required recreational opportunities and could be accessed by vehicle or the river.

Other alternatives may develop during the review process for this permit application.

HISTORIC PROPERTIES: The Corps consulted district files and records, the latest version of the National Register of Historic Places (NRHP), and state records of NRHP-eligible and potentially eligible historic properties to determine if there are any historic properties that may be affected by the proposed undertaking. The project area has been recently surveyed for historic properties. Based on this information, the Corps has made a determination that the proposed project will have no effect on historic properties as no historic properties were identified in the recent survey that meet the criteria for inclusion in the NRHP.

ENDANGERED SPECIES: The Corps has reviewed the U.S. Fish and Wildlife Service's latest published version of federally listed endangered and threatened species located in San Juan County, New Mexico to determine if any listed species or their critical habitat may occur in the proposed project area. The Corps has made a preliminary determination that the proposed project will no effect any federally listed endangered or threatened species or their critical habitat that are protected by the Endangered Species Act.

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).

FLOODPLAIN MANAGEMENT: The Corps is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use),

the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

COMMENT SUBMITTAL AND DEADLINES: The Corps and SWQB are soliciting comments from all interested parties to consider and evaluate the impacts of this proposed activity. Any comments received will be considered to determine whether to issue, issue with special conditions, or deny a permit for this proposal.

Submittal of Corps Permit Application Comments: All comments regarding the Corps permit application for the above-described project must be received on or before August 14, 2024, which is the close of the comment period. Comments on state Section 401 certification must be submitted as described below under “Water Quality Certification Comments”. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state the particular 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. Comments and requests for additional information on the Corps permitting action should be submitted to:

Forrest Luna, Project Manager
US Army Corps of Engineers, Albuquerque District
4101 Jefferson Plaza NE
Albuquerque, NM 87109
(505) 342-3678
E-mail: Forrest.Luna@usace.army.mil

Submittal of Water Quality Certification Comments: This notice serves to notify the public that the SWQB will consider issuing a certification under Section 401 of the CWA. The purpose of such certification is to reasonably ensure that the permitted activities will be conducted in a manner compliant with applicable New Mexico water quality standards, including the antidegradation policy, and the statewide water quality management plan. This Notice, including notice of the 30-day public comment period, is also posted on the SWQB website at: <https://www.env.nm.gov/public-notices/>

SWQB will accept and consider written comments regarding the state certification received during the public comment period. Comments may be submitted electronically (preferred) or by hard copy to:

Watershed Protection Program Manager
New Mexico Environment Department SWQB
P.O. Box 5469
Santa Fe, NM 87502-5469
505-827-2793
FAX 505-827-0160
E-mail: wpsprogram.manager@env.nm.gov

Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available through the Freedom of Information Act, the New Mexico Inspection of Public Records Act, or both.

DISTRICT ENGINEER
ALBUQUERQUE DISTRICT
CORPS OF ENGINEERS

BUREAU CHIEF
SURFACE WATER QUALITY BUREAU
NEW MEXICO ENVIRONMENT DEPT

Enclosure