



# PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS  
LOS ANGELES DISTRICT

BUILDING STRONG®

## APPLICATION FOR PERMIT San Pedro Road at Dudleyville Crossing

**Public Notice/Application No.:** SPL-2008-261-RJD

**Comment Period:** May 1, 2012 through May 30, 2012

**Project Manager:** Robert J. Dummer at 602-230-6952 or email at [robert.j.dummer@usace.army.mil](mailto:robert.j.dummer@usace.army.mil)

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**Applicant**

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**Location**

San Pedro Road at the Dudleyville Crossing (32.916920°N 110.734278°W; Section 17, T6S, R16E) is located approximately one mile west of Dudleyville, Pinal County, Arizona.

**Activity**

To maintain/repair/reconstruct San Pedro Road at the Dudleyville Crossing. Routine maintenance would be conducted approximately monthly. Minor to major repairs would be conducted following typical storm events that damage the crossing. Reconstruction would be conducted following a major storm event that leaves the crossing in an unusable condition. For more information see page 3 of this notice.

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Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the enclosed figures. We invite you to review this public notice and provide your comments on the proposed work. All comments received during the comment period become part of the record and will be considered by the U.S. Army Corps of Engineers (Corps of Engineers) in our decision-making process. This permit will be issued, issued with special conditions, or denied under Section 404 of the Clean Water Act (33 U.S.C. 1344). Comments can be sent electronically to: [Robert.J.Dummer@usace.army.mil](mailto:Robert.J.Dummer@usace.army.mil) or mailed to:

U.S. Army Corps of Engineers  
ATTENTION: Regulatory Division (SPL-2008-261-RJD)  
3636 NORTH CENTRAL AVENUE, SUITE 900  
PHOENIX, ARIZONA 85012-1939

The mission of the Corps of Engineers' Regulatory Program is to protect the Nation's aquatic

resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps of Engineers evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps of Engineers' permits are necessary for any work, including construction and dredging, in the Nation's navigable water and their tributary waters. The Corps of Engineers balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps of Engineers strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps of Engineers considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

### **Evaluation Factors**

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 benefits 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. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, 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 production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

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.

### **Preliminary Review of Selected Factors**

**EIS Determination**- A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

**Water Quality**- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the Arizona Department of Environmental Quality. Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance. For any proposed activity on Tribal land that is subject to Section 404 jurisdiction, the applicant will be required to obtain water quality certification from either the local Tribe, if eligible to administer the water quality standards program, or the U.S. Environmental Protection Agency if the local Tribe is not eligible to administer the water quality standards program.

**Cultural Resources**- A cultural resource survey (An Archaeological Survey in Support of a Clean Water Act Section 404 Individual Permit for the Dudleyville Crossing Right-of-way, Pinal County, Arizona dated December 2010) of the "permit area" was completed and no National Register eligible properties were located within the "permit area". The Corps of Engineers sent this survey to the Arizona State Historic Preservation Office (SHPO), Hopi Tribe, Tohono O'odham Nation, Pascua Yaqui Tribe, and San Carlos Apache Tribe requesting their comments on the results of the survey and assistance in identifying any traditional cultural properties that might be affected. SHPO and the Hopi Tribe responded that no National Register eligible properties would be affected.

**Endangered Species**- The Corp of Engineers has determined that the proposed project may adversely affect the endangered southwestern willow flycatcher (*Empidonax traillii extimus*) and its designated critical habitat. On August 12, 2011 the Corps of Engineers initiated formal consultation with U.S. Fish and Wildlife Service (USFWS) concerning potential project impacts to the southwestern willow flycatcher. A draft USFWS biological opinion has been issued and on January 13, 2012 the Corps of Engineers requested that USFWS finalize the biological opinion. Additionally when formal consultation was initiated the project area was within designated critical habitat for the endangered spikedace (*Meda fulgida*). However, since formal consultation was initiated the USFWS issued a final critical habitat rule for the spikedace that no longer includes the proposed project. Therefore, the Corps of Engineers has changed its determination of project impacts from may adversely impact designated critical habitat to no effect since critical habitat designation has been removed.

**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 application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

### **Proposed Activity for Which a Permit is Required**

**Basic Project Purpose**- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps of Engineers to determine whether the applicant's project is water dependent. The basic project purpose for the proposed project is to improve the transportation system. The proposed project is not water dependent.

**Overall Project Purpose**- The overall project purpose serves as the basis for the Corps of Engineers' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for the proposed project is to provide and maintain a public road across the San Pedro River to connect State Route 77 to Camino Rio/Freeman Road.

### **Additional Project Information**

**Baseline information-** On November 20, 2009, the Corps of Engineers issued a Notice of Violation (NOV) to Pinal County, which alleged Clean Water Act (CWA) violations regarding Pinal County's maintenance of San Pedro Road. Pinal County possesses a right-of-way (ROW) on San Pedro Road approximately 2000 feet long by 50 feet wide, between Rio Camino on the west and Dudleyville Road on the east (the Project Area) in Pinal County, Arizona (Dudleyville Crossing). Maintenance activities involved grading, filling, and removing obstacles on the road, created by general weatherization, precipitation, and flooding events, coupled with vehicular traffic wearing down the road (i.e. creating ruts).

Historically there has been at-grade crossing of the San Pedro River used by the public. Over time the alignment of the crossing has changed following various flood events. The crossing is shown on the Dudleyville, Ariz. USGS map dated 1972 that predates passage of the Clean Water Act. However, the Corps of Engineers has no record of ever permitting reconstruction of the crossing following a flood event. Therefore, the purpose of this public notice is to either bring the crossing into compliance with Clean Water Act requirements or find a less damaging practicable alternative.

The current ROW crosses the San Pedro River via an at-grade crossing and is within designated critical habitat for the endangered southwestern willow flycatcher.

**Project description-** Pinal County would undertake three levels of work (Routine Maintenance, Seasonal Maintenance, and Reconstruction).

1. **Routine Maintenance-**Routine (monthly) Maintenance of San Pedro Road within Pinal County's right-of-way would involve grading out irregularities (wash boards, ruts) to the edge of the flowing water with a Caterpillar 140H Motor Grader. No Routine Maintenance activity would occur in flowing water. Vertical irregularities in the road of approximately 6" or less will be bladed smooth. A 4000 gallon water truck would assist with dust control. No fill material outside of the existing roadway would be needed. If there is no flow in the San Pedro River Routine Maintenance activities could be conducted along the entire right-of-way. Routine Maintenance would be limited to the existing 20-foot wide roadway as shown in Figure 4.
2. **Seasonal Maintenance-**Seasonal Maintenance of San Pedro Road within Pinal County's right-of-way would typically follow a storm event that damages the crossing. This maintenance would focus on both the east and west approaches up to the edge of the flowing water. No Seasonal Maintenance activity would occur in flowing water. Pinal County would use a Caterpillar 140H Motor Grader, a Caterpillar 966, and a 15-ton end dump truck or similar sized equipment to complete the maintenance activities. Approximately 2-3 loads (depending on the severity of road damage) of clean fill material would be used to repair the road. The clean fill material would be acquired from the Pinal County San Manuel Pit. The motor grader would blade out irregularities, while the loader would spot dump clean fill material, then back drag any low spots in the approaches up to the edge of the flowing water. The motor grader and loader would also be used to peel back the existing saturated material to the sides of the roadway. Once dried out, the saturated material would be laid back into the roadway by the motor grader. Seasonal Maintenance would be limited to the existing 20-foot wide roadway as shown in Figure 4.
3. **Reconstruction-** Reconstruction of San Pedro Road within Pinal County's right-of-way would occur when a major precipitation event (i.e. 25-, 50-, 100-year event) or other rare circumstances damages the crossing to the extent it is no longer a usable crossing. Reconstruction activities would include all work necessary to restore to San Pedro Road as a functional crossing. If the road crossing cannot be restored to the design and alignment shown in the enclosed figures and changes are proposed Pinal County would have to apply to the Corps of Engineers for a new Section 404 permit for the new crossing. Pinal County can use any equipment necessary to reconstruct the crossing. Reconstruction activities may occur in flowing water but Pinal County wherever practicable will minimize

reconstruction activities in flowing water. Reconstruction would be limited to reconstructing a 20-foot wide roadway within the existing 50-foot wide right-of-way. Roadway width could not change but if post-flood conditions warrant it the alignment within the existing right-of-way could be modified.

In order to maintain the pre-flood grade of the low water crossing and the existing pre-flood flow of the river, a loader and end dump would also be used in the delivery and installation of the 6" minus river rock (approximately 2-3 loader buckets, depending on severity of damage to the road). Rock would be installed within the flowing water area. The loader and end dump truck would also be used to spot dump clean fill (sand/gravel) and back drag low spots. 6" minus river rock and clean fill material will be acquired from the Pinal County San Manuel Pit and imported by an end dump truck. The motor grader will be used to blade and smooth the existing dirt road.

**Proposed Mitigation**– The proposed mitigation may change as a result of comments received in response to this public notice, the applicant's response to those comments, and/or the need for the project to comply with the 404(b)(1) Guidelines. In consideration of the above, the proposed mitigation sequence (avoidance/minimization/compensation), as applied to the proposed project is summarized below:

**Avoidance:** An alternatives analysis is being prepared by the applicant and will be submitted prior to completion of the 30-day public notice period to evaluate of-site alternatives.

**Minimization:** Maintenance will be limited to the existing roadway, which is approximately 20-foot wide throughout the length of the ROW. Clean fill material from a local sand and gravel supplier will be employed on the road when needed for smoothing out ruts, ripples, and other deleterious effects from weather and traffic use. Work performed within the flowing segment of the San Pedro River will only take place following events that create significant ruts, scouring, debris and sediment, and other impediments in the ROW. Adjacent vegetation will be trimmed only where it presents a hazard for vehicles; removal of vegetation will not take place except to remove debris or growth from the existing roadway

**Compensation:** No compensation proposed at this time.

### **Proposed Special Conditions**

No special conditions are proposed at this time.

For additional information please call Robert J. Dummer at 602-230-6952 or contact via e-mail at Robert.J.Dummer@usace.army.mil. This public notice is issued by the Chief, Arizona Branch, Regulatory Division.



#### *Regulatory Program Goals:*

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps of Engineers provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps of Engineers' administration of its regulatory program.

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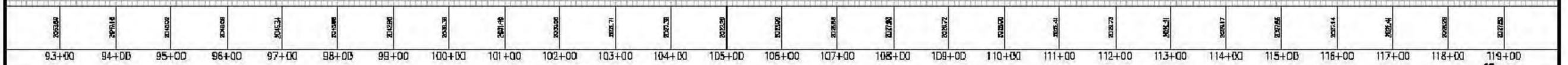
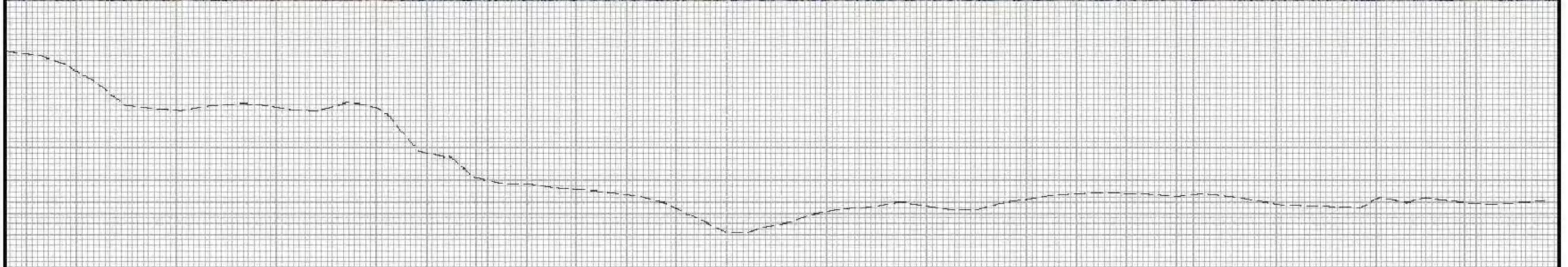
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Clean Water Act - Section 404  
 Applicant: Pinal County  
 File Number: SPL-2008-261-RJD  
 Figure 2 of 4



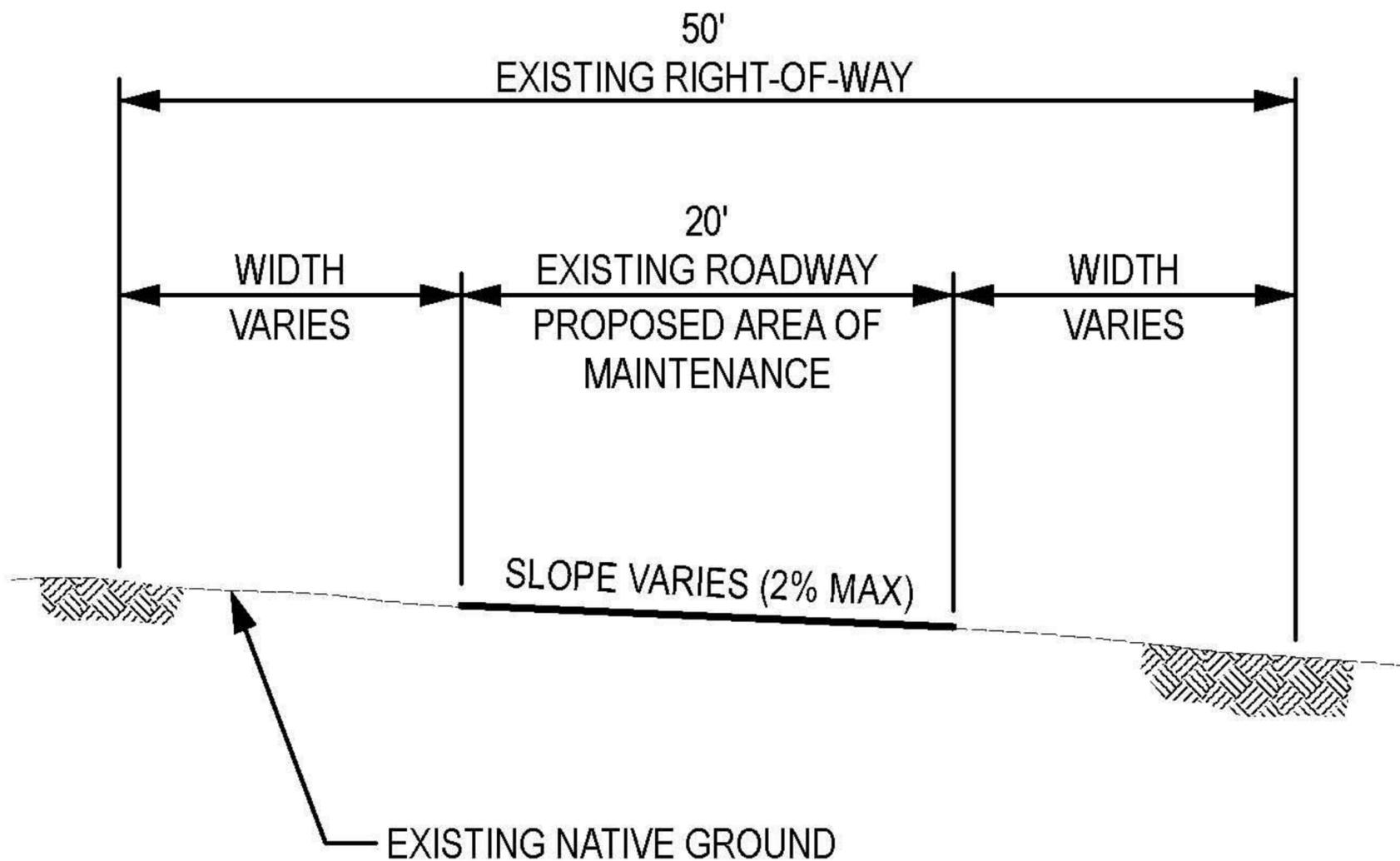
**San Pedro Road at San Pedro River**



Plan and profile view.

Clean Water Act - Section 404  
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 Figure 3 of 4

# SAN PEDRO ROAD MAINTENANCE AT SAN PEDRO RIVER



## VIEW LOOKING WEST

Typical Cross Section Following Maintenance.