



PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

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APPLICATION FOR PERMIT Agua Fria River I-10 Underpass Multi-use Bike and Pedestrian Path

Public Notice/Application No.: SPL-2016-00266-JMR

Project: Agua Fria River I-10 Underpass Multi-use Bike and Pedestrian Path
(0000 MA AVN SZ078 01C)

Comment Period: June 18, 2019 through July 18, 2019

Project Manager: Jesse Rice; (602) 230-6854; Jesse.M.Rice@usace.army.mil

Applicant

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2140 W. Hilton, MD E700
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Contact

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Arizona Department of Transportation
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Location

Interstate 10 at the Agua Fria River within the city of Avondale, Maricopa County, AZ
(Latitude: 33.4578159759091 Longitude: -112.331171035734).

Activity

The Arizona Department of Transportation (ADOT) is proposing to construct 0.25 mile of paved multi-use path along the east side of the Agua Fria River, extending north and south of Interstate 10 (I-10). The path would be constructed along the top of the eastern levee except where it crosses under I-10. In order to provide sufficient clearance under the freeway bridges, the path would descend down the face of the levee and into the river channel. The path would then run adjacent and parallel to the base of the eastern levee for approximately 500 feet before ascending back to the top of the levee. To the north of I-10, a bridge would be need to be constructed over the I-10 drainage channel (which parallels the freeway) in order to connect the multi-use path to Friendship Park. If constructed, the project would permanently impact 0.63 acre of waters of the U.S. (including 0.071 acre of wetlands) and temporarily impact 0.774 acre of waters of the U.S. (including 0.037 acre of wetlands). For more information, see Additional Project Information section below.

Interested parties are hereby notified an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). We invite you to review today's public notice and provide views on the proposed work. By providing substantive, site-specific comments to the Corps Regulatory Division, you provide information that supports the Corps' decision-making process. All comments received during the comment period become part of the

record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied under Section 404 of the Clean Water Act. Comments should be mailed to:

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
ATTN: Jesse Rice
3636 North Central Avenue Suite 900
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Alternatively, comments can be sent electronically to: Jesse.M.Rice@usace.army.mil

The mission of the U.S. Army 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 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 permits are necessary for any work, including construction and dredging, in the Nation's navigable water and their tributary waters. The Corps 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 strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps 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 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. 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 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 any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance.

Coastal Zone Management- Not applicable within the State of Arizona.

Essential Fish Habitat- No Essential Fish Habitat (EFH), as defined by the Magnuson-Stevens Fishery Conservation and Management Act, occurs within the project area and no EFH is affected by the proposed project.

Cultural Resources- The latest version of the National Register of Historic Places has been consulted and this site is not listed. This review constitutes the extent of cultural resources investigations by the District Engineer, and he is otherwise unaware of the presence of such resources.

Endangered Species- Preliminary determinations indicate the proposed activity would not affect federally-listed endangered or threatened species, or their critical habitat. Therefore, formal consultation under Section 7 of the Endangered Species Act does not appear to be required at this time.

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 to determine whether the applicant's project is water dependent (i.e., requires access or proximity to or siting within the special aquatic site to fulfill its basic purpose). Establishment of the basic project purpose is necessary only when the proposed activity would discharge dredged or fill material into a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). The basic project purpose for the proposed project is transportation. The project is not water dependent.

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' 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 a safe route for bicyclists, pedestrians, and other non-motorized users along the Lower Agua Fria River corridor and across I-10.

Additional Project Information

Baseline information- The area surrounding the project consists of active agricultural fields as well as residential and commercial developments. Friendship Park, which is operated by the City of Avondale, is located to the immediate north of the project. I-10, which is a major freeway within the Phoenix metropolitan area, crosses the project's southern end. A total of three drainage features occur within the project limits. Two man-made features, the I-10 drainage channel and a local drainage channel, occur in the northern half of the project area. The local drainage channel is a small swale that conveys storm runoff from Friendship Park to the Agua Fria River on the western edge of the project limits. This channel is located north of and adjacent to the I-10 drainage channel, which parallels the freeway. The I-10 drainage channel is a 270-foot-wide, westward-flowing feature that has an unlined channel bottom within the project limits. Perennial flows occur within the I-10 channel, which supports a dense community of hydrophytic vegetation. Because the I-10 drainage channel is primarily fed by stormwater and runoff from agricultural and urban sources, the amount of water it contains fluctuates both seasonally and annually.

The Agua Fria River flows south along the western side of the project. Within the project vicinity, the Agua Fria River is channelized and 14-foot-high soil cement levees are present on both sides of the channel. Although the Agua Fria River is an ephemeral watercourse, flows from the I-10 drainage channel have resulted in periods of standing water or saturated soils sufficient to support hydrophytic vegetation along the eastern bank of the river within the project limits. These wet conditions continue to just south of I-10 where they gradually diminish.

Vegetation within undeveloped parts of the project area is typical of the Lower Colorado River subdivision of the Sonoran Desertscrub Biotic Community. However, within the I-10 drainage channel and saturated portions of the Agua Fria River, wetland plant species are present and consist of southern cattail (*Typha domingensis*), pale smartweed (*Polygonum lapathifolium*), rabbitsfoot grass (*Polypogon monspeliensis*), and cosmopolitan bulrush (*Schoenoplectus maritimus*). A small number of scattered Goodding's willows (*Salix gooddingii*), small tamarisks (*Tamarix* spp.), and Fremont cottonwoods (*Populus fremontii*) are also present within these areas. Dense patches of upland species such as Mexican paloverde (*Parkinsonia aculeata*), London rocket (*Sisymbrium irio*), desert broom (*Baccharis sarothroides*), Bermudagrass (*Cynodon dactylon*), and fourwing saltbush (*Atriplex canescens*) occur within the local drainage channel, the drier portions of the ADOT drainage channel, the drier portions of the Agua Fria River channel, and upon their associated embankments/levees.

Project description- ADOT is assisting the City of Avondale with constructing a paved multi-use pathway project within the City of Avondale, Maricopa County, Arizona. This project is part of the West Valley Multi-Modal Transportation Corridor Master Plan, which connects communities along the New River and Lower Agua Fria River corridors through a 42-mile trail network for pedestrians, bicyclists, and other non-motorized trail users. The project would occur on ADOT and City of Avondale owned land.

The pathway would connect a planned path along the Agua Fria River's east levee to the existing pedestrian and bicycle path system at Friendship Park located north of I-10 (see attached drawing). Starting at the south end of the project, the path would leave the top of the eastern levee on a ramp down to the Agua Fria River bed approximately 300 feet south of I-10, cross under I-10 adjacent to the existing soil concrete levee with approximately 10 feet of clearance, then proceed up a ramp to return to the top of the levee. The path would then turn east along the south levee of the I-10 drainage channel for approximately 350 feet before turning and crossing the drainage channel on a two-span, single pier, steel truss bridge to Avondale's Friendship Park. Within Waters of the U.S., the following activities would occur:

- Construct a soil cement ramp and toe downs to accommodate the path crossing under I-10. This would require excavation of approximately 4,000 cubic yards (CY) of river bottom material and the placement of 4,300 CY of soil cement. Following construction of the soil cement, the work area would be backfilled with 700 CY of previously excavated material. Approximately 3,300 CY of excess material would be removed from the project site. No stockpiling of materials within the river bed would be allowed during non-working hours.
- Construct a 16-foot-wide multi-use path using PCC pavement on new soil cement constructed below the top of the existing levees. A maintenance access road would also be constructed adjacent to the soil cement and surfaced with aggregate base.
- Construct a two-span, steel truss bridge across the ADOT drainage channel with abutments on the top of the south and north levees above the Ordinary High Water Mark. A single pier would be constructed in waters of the U.S. measuring approximately 16 feet by 2.75 feet.
- Install hand railing along the new soil cement ramp slopes by drilling holes and filling around the rail posts with grout.
- The construction area would be accessed on the north from Avondale Boulevard via the ADOT drainage channel and Friendship Park and on the south from Van Buren Street. No fill material or dewatering will be required for access. However, dewatering may be needed to construct the soil cement ramps or the bridge pier depending on fluctuating groundwater levels in the area.

Work in waters of the U.S. would occur in two phases. Phase I would consist of the path under I-10 and the soil cement ramps into Agua Fria River. Construction would start in the fall when flows in the river and the I-10 channel are at their lowest. Phase II, which would occur at a future date, would consist of the bridge over the I-10 drainage channel and the terminus at Friendship Park.

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: Complete avoidance of waters of the U.S. is not practical for this project. To construct the undercrossing of I-10 and the connection to Friendship park, the path would need to be located within the ordinary high water mark of the Agua Fria River and the I-10 drainage channel. Alternatives that avoid waters of the U.S., such as routing the path over I-10 or tunneling under I-10 behind the levee, are not practicable.

Minimization: Impacts to waters of the U.S. have been minimized in the following manner:

- Waters of the U.S. have been avoided to the maximum extent possible by moving most of the activity to upland areas.

- Staging of vehicles, equipment, and materials would occur outside of waters of the U.S. and would be restricted to two 0.8-acre sites. Disturbance to vegetation would be minimized to the greatest extent practicable and no trees with a diameter at breast-height ≥ 12 inches would be removed.
- No construction activities shall be conducted within the Agua Fria River or I-10 drainage channel during storm events or other periods when high flows are present.
- Site access to the project location would occur via existing maintenance roads and ramps to the extent possible. These maintenance roads and ramps will be accessed from Avondale Boulevard via the paved portions of the ADOT drainage channel; from Van Buran Street along the east levee of the Agua Fria River; and from Friendship park around the west end of the north levee of the ADOT drainage channel.
- The 12-month construction duration would begin in the fall when the Agua Fria River's and ADOT drainage channel flows are typically at their lowest to minimize the volume of water diverted.
- A Stormwater Pollution and Prevention Plan will be developed and implemented.
- Upon project completion, all temporarily disturbed areas would be restored to their original contours, elevations, and/or uses. Previously vegetated areas would be restored by seeding and/or planting native species at a ratio similar to the pre-construction condition.

Compensation: ADOT has proposed to mitigate for unavoidable impacts through the purchase of credits from the Arizona Game and Fish Department in-lieu fee (ILF) program. The credits would be purchased from the Arlington ILF site, which services the project area. The amount of credits to be purchased will be determined at a later date using the South Pacific Division's Mitigation Ratio Setting Checklist.

Proposed Special Conditions

The following list is comprised of proposed Permit Special Conditions, which are required of similar types of projects:

1. Mitigation.

Within 60 days of permit issuance and prior to initiating construction in waters of the U.S., the Permittee shall provide documentation verifying purchase of XX restoration/enhancement credits from the Corps-approved Arizona Game and Fish Department (AZGFD) in-lieu fee program (ILFP). These credits will mitigate for impacts to 0.071 acre of wetlands and 0.559 acres of non-wetland waters of the U.S. at a (to be determined ratio). The Permittee shall not initiate work in waters of the U.S. prior to receiving written confirmation (by letter or e-mail) from the Corps Regulatory Division as to compliance with this special condition. The Permittee retains responsibility for providing the compensatory mitigation until the number and resource type of credits described above have been secured from AZGFD and the district engineer has received documentation that confirms that AZGFD has accepted the responsibility for providing the required compensatory mitigation in accordance with the ILFP instrument.

2. Phase II (I-10 Channel Crossing) Design Sheets.

Because Phase II (The crossing of the I-10 drainage channel) is planned for a later date and design is preliminary, final design drawings and impact sheets must be submitted to the Corps prior to initiating this phase of construction. If the design or impacts to waters of the U.S. have changed since permit issuance, permit modification and additional compensatory mitigation may be required. The Permittee shall not initiate work in waters of the U.S. prior to receiving written confirmation (by letter or e-mail) from the Corps Regulatory Division as to compliance with this special condition.

3. Notification.

The permittee shall provide notification, either written or verbal, to the Corps of Engineers at least one week prior to the start of work for each phase of construction, as to the anticipated beginning and ending dates of construction. The permittee shall allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished within the terms and conditions of the permit.

4. Permit Availability.

A copy of this permit and its attachments shall be on the job site at all times during construction. The permittee shall provide a copy of this permit to all construction representatives. The permittee shall require that all construction representatives read this authorization in its entirety and acknowledge they understand its contents and their responsibility to ensure compliance with all general and special conditions contained herein.

5. Flagging of Project Boundaries.

The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S. shown on the impact sheets. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

6. Dewatering.

Appropriate measures must be taken to maintain near normal downstream flows. If dewatering of the worksite is required, water removed from the worksite will be returned to the channel without an increase in sediment load or turbidity downstream of the project site. To prevent erosion at the discharge point, energy dissipation and/or scour protection will be utilized as appropriate, and must be removed after dewatering operations have ceased.

7. Temporary Fills.

Temporary fills must consist of materials, and placed in a manner, that will not be eroded by expected normal flows. No stockpiling or staging of materials and equipment is authorized within waters of the U.S. After the initial construction activity is completed, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations, to the maximum extent possible. The location of the temporary fills must avoid the removal of mature trees, utilize previously disturbed areas to the maximum extent possible, and minimize the total area of disturbance. All project areas disturbed by construction-related activities must be stabilized and upland areas reseeded with native seed mixture once construction is complete.

8. Excess Material.

Any excess material excavated from waters of the U.S. will be disposed of in an upland location. No material removed from the site shall be allowed to reenter waters of the U.S. or be placed where it may be washed by rainfall or runoff into waters of the U.S.

9. Fill Free of Contaminants.

All fill placed in waters of the U.S. must be of suitable material (no trash, debris, asphalt, etc.). All discharges of fill material into waters of the U.S. must be free from toxic pollutants in toxic amounts (Section 307 of the CWA).

10. Invasive species.

The Permittee is responsible for controlling and preventing the spread of noxious invasive species in waters of the U.S. The Permittee shall utilize integrated vegetation and pest management practices in accordance with State and Federal Laws and Executive Orders to manage invasive species in waters of the U.S.

11. Migratory Birds and Bald and Golden Eagles.

The Permittee is responsible for ensuring their action complies the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The Permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether incidental take permits are necessary and available for a particular activity.

For additional information please call Jesse Rice of my staff at (602) 230-6854 or via e-mail at Jesse.M.Rice@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.



Regulatory Program Goals:

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

DEPARTMENT OF THE ARMY
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