



**US Army Corps  
of Engineers**  
Omaha District

**PUBLIC NOTICE**

**Applicant: Federal Highways Administration**  
**Corps File No: NWO-2002-90536-MTH**  
**Waterway: Tenmile Creek**  
**Issue Date: October 31, 2012**  
**Expiration Date: December 21, 2012**  
**21-DAY TIME EXTENSION TO NOTICE**

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**Helena Regulatory Office**

**10 West 15<sup>th</sup> Street, Suite 2200**

**Helena, Montana 59626**

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**JOINT PUBLIC NOTICE  
FOR PERMIT APPLICATION SUBMITTED TO  
U.S. ARMY CORPS OF ENGINEERS  
AND  
MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

**The public notice for the proposed project has been modified to extend the public comment period by 21-days. The comment period previously ended on November 30, 2012, but has been extended to December 21, 2012. All other aspects of the original public notice remain the same.**

The application of the Federal Highways Administration, for approval of plans and issuance of a permit under authority of the Secretary of the Army is being considered by the District Engineer, U.S. Army Corps of Engineers, Omaha, Nebraska. **The project described herein is not being proposed by the Corps, but by the applicant; the Corps will evaluate the proposed work to determine if it is permissible under current laws and regulations.**

**Description of Proposed Project:** The proposed project will fill approximately 2,145 linear feet of Tenmile Creek spread across six (6) locations. Approximately 2,880 linear feet of creek will be reestablished or restored to replace the filled areas. In addition to the stream impacts, the proposed project will permanently fill in portions of 13 wetlands along the project route to accommodate roadway widening, impacting a total of 0.43 acre of wetlands.

For additional descriptions and drawings of the proposed project, please see the public notice issued on October 31, 2012.

**Location:** The proposed activity is located near the City of Helena along Montana Forest Highway 98 (MT FH 98) in Section 3, Township 9 North, Range 5 West, Lewis and Clark County, Montana (Latitude: 46.571843°N, -112.218132°W).

**Purpose:** The purpose of the proposed project, as stated by the applicant, is roadway widening/improvements to improve the road's operational safety, maintenance efforts, and to reduce sedimentation into Tenmile Creek.

**Mitigation:** The applicant avoided impacts to aquatic resources outside of the proposed stream relocation sites by moving the road away from the existing stream to the extent possible. By keeping the road away from the stream, the project will minimize risk of the stream cutting into the road bank and minimize sedimentation to the creek. To minimize impacts to aquatic resources, the applicant analyzed the stream impacts and determined that the greatest chance of success is by re-routing the stream channel away from the road prism at specified areas,

with the goal of decreasing the amount of sediment in the stream channel. To compensate for unavoidable impact, the applicant has proposed approximately 2,880 linear feet of onsite stream relocation/restoration throughout the project as mitigation for the impacts. The applicant proposed to construct a new channel approximately 750 linear feet long at site 2. At site 3, the braided channel will be moved into a single channel and enhanced/restored for a total of 910 feet. At site 4, the channel will be pushed away from the road and restored/enhanced for approximately 200 linear feet. At site 5, the west bank of the creek (the side farthest from the road) will be graded down to match the elevation of the existing creek bottom in order to maintain the creek width which would otherwise be impacted by the increased road width and then enhanced/restored for approximately 520 linear feet. At site 6, the west bank of the creek (the side farthest from the road) will be graded down to match the elevation of the existing creek bottom in order to maintain the creek width and then enhanced/restored for approximately 500 linear feet.

**401 Water Quality Certification:** The Montana Department of Environmental Quality, 1520 East 6th Avenue, PO Box 200901, Helena, Montana 59620-0901, will review the proposed project with the intent to certify in accordance with the provisions of Section 401 of the Clean Water Act. The certification, if issued, will express the State's opinion that the operations undertaken by the applicant will not result in a violation of applicable water quality standards. The Montana Department of Environmental Quality hereby incorporates this public notice as its own public notice and procedures by reference thereto.

**Cultural Resources:** Aaberg Cultural Resource Consulting Service completed a Class III cultural resource survey in January 2004 for the project. Based on the report, the project will result in an Adverse effect on two (2) sites, and there will be No Adverse Effect to eleven (11) sites. The State Historic Preservation Office (SHPO) concurred with these findings on March 14, 2008. The Corps of Engineers, Omaha District will comply with the National Historic Preservation Act of 1966, as amended. We will evaluate input by the State Historic Preservation Office and the public in response to this public notice.

**Threatened / Endangered Species:** In compliance with the Endangered Species Act, a preliminary determination has been made by the Federal Highway Administration that the described work will not affect species designated as threatened or endangered, or adversely affect critical habitat. In order to complete our evaluation of this activity, comments are solicited from the U.S. Fish and Wildlife Service and other interested agencies and individuals.

**Evaluation Factors:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, 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 proposed activity 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, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of work on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 C.F.R.; Part 230).

**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. All public notice comments will be considered public information and will be subject to review by the applicant.

Any person may request, in writing and within the comment period specified in this notice, that a public hearing be held for the purpose of gathering additional information. Requests for public hearings must be identified as such and shall state specifically the reasons for holding a public hearing and what additional information would be obtained. The request must be submitted to the U.S. Army Corps of Engineers, 10 West 15<sup>th</sup> Street, Suite 2200, Helena, Montana 59626. If it is decided that additional information is required and that a public hearing should be held, interested parties will be notified of the date, time and location.

Any interested party (particularly officials of any town, city, county, state, or Federal agency; Indian tribe; or local association whose interests may be affected by the work) is invited to submit to this office written facts, arguments, or objections on or before the expiration date listed on the front of this notice. Any agency or individual having an objection to the work should specifically identify it as an objection with clear and specific reasons. Comments, both favorable and unfavorable, will be accepted, made a part of the record and will receive full consideration in subsequent actions on this application. All replies to the public notice should be addressed to the **U.S. Army Corps of Engineers, 10 West 15<sup>th</sup> Street, Suite 2200, Helena, Montana 59626. Please reference the Corps File Number found on the first page of this notice in any correspondence.** Stephanie McCary, telephone number (406) 441-1375, may be contacted for additional information. You may also fax your comments to (406) 441-1380 or email comments to [stephanie.d.mccary@usace.army.mil](mailto:stephanie.d.mccary@usace.army.mil).

Comments postmarked after the expiration date of this public notice or received by email or fax after the closing date, will not be considered.

**Statutory Authorities:** A permit, if issued, will be under the provisions of Section 404 of the Clean Water Act.