



**US Army Corps
of Engineers**
Omaha District

PUBLIC NOTICE

Applicant: Jim Brough and Greg Baltrusch
Corps File No: NWO-2012-02179-MTH
Waterway: Milk River
Issue Date: November 8, 2012
Expiration Date: January 9, 2013
30-DAY TIME EXTENSION TO NOTICE

Helena Regulatory Office

10 West 15th Street, Suite 2200

Helena, Montana 59626

**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 30-days. The comment period previously ended on December 9, 2012, but has been extended to January 9, 2012. All other aspects of the original public notice remain the same.

The application of Jim Brough and Greg Baltrusch, 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 application is for the installation of 14 rock barbs on approximately 1901 linear feet of stream bank along the Milk River. Eleven barbs would be installed on two areas of the Brough property and 3 on the Baltrusch property. The project is partially funded through a USDA Natural Resources Conservation Service Environmental Quality Incentives Program contract.

For additional descriptions and drawings of the proposed project, please see the public notice issued on November 8, 2012.

Location: The proposed activity is located on the Milk River, two miles east of Havre in Section 36, Township 33 North, Range 16 East, Hill County, Montana.

Purpose: The purpose of the proposed project, as stated by the applicant, is to stabilize eroding streambank along their property to protect their irrigation structures and recreational facilities along the Milk River.

Mitigation: The applicant minimized the amount of rock fill placed versus a full riprap revetment by designing a rock barb structure which avoids armoring the bank in between the barbs. The barbs are designed so that sediment fills in downstream of each barb and riparian restoration can occur naturally in the spaces between barbs. The applicant has also proposed replanting the inter-barb areas with cottonwoods and willows.

To compensate for unavoidable impact, the applicant proposes a compensatory mitigation plan according to the 2010 Montana Stream Mitigation Procedure that will exclude livestock by fencing approximately 2044 linear feet of bank to create a riparian buffer zone on the other side of the river, remove car bodies and create a riparian zone in between the barbs with cottonwood and willow plantings once sediments were deposited. There are no existing Mitigation Banks in the watershed so the mitigation type will be permittee-responsible.

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: The USDA-Natural Resources Conservation District as the lead federal agency for determining compliance with Section 106 of the National Historic Preservation Act, will consult with the Montana Historic Preservation Office, Federally recognized Indian Tribes, and other interested parties as appropriate. The Omaha District's initial review, based on currently available information, indicates there are no recorded properties within the permit area. The NRCS has determined that the project has no potential to cause effects to properties listed, or eligible for listing, on the National Register of Historic Properties. 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: Threatened/endangered species in Hill County include the Black footed ferret (*Mustella nigripes*). In compliance with the Endangered Species Act, a preliminary determination has been made by NRCS 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 15th 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 15th Street, Suite 2200, Helena, Montana 59626. Please reference the Corps File Number found on the first page of this notice in any correspondence.** Deborah Blank, telephone number (406) 441-1364, may be contacted for additional information. You may also fax your comments to (406) 441-1380 or email comments to Deborah.L.Blank@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.