



US Army Corps of Engineers

Omaha District

PUBLIC NOTICE

Application No: NWO-2011-1954-BIS
Applicant: Burleigh County Highway Department
Waterway: Missouri River
Activity: Dredging
Issue Date: September 14, 2012
Expiration Date: September 29, 2012

15 Day Notice

North Dakota Regulatory Office

1513 South 12th Street

Bismarck ND 58504

NOTICE OF PENDING PERMIT EVALUATION

Introduction. The District Engineer, U.S. Army Engineer District, Omaha, Nebraska is evaluating a Department of the Army (DA) permit application from the **Burleigh County Highway Department** to dredge a channel across a sandbar that developed on the south side of Fox Island to restore flow from the South Bismarck Stormwater Outfall to the Missouri River. This application is being evaluated under Section 10 of the Rivers and Harbors Act [33 USC 403, et seq.] and Section 404 of the Clean Water Act [33 USC 1251, et seq.]. Section 10 regulates activities in, or affecting, navigable waterways. Section 404 regulates the discharge of dredged or fill material in the Nation's waters. The Missouri River is an interstate waterway that is navigable under Section 10 and subject to Section 404. Burleigh County Highway Department's project includes activities regulated under both Federal laws.

- **PUBLIC NOTICE.** The purpose of this public notice is to inform the public; Indian Tribes; Federal, state and local agencies/officials; and other interested parties of a **15-day comment period** in which written comments in conjunction with Burleigh County Highway Department's project may be submitted to the US Army Corps of Engineers. Solicitation of comments regarding impacts to endangered species, historic properties, water quality, general environmental concerns and other public interest factors are discussed on **pages 3 and 4**. Written comments must be postmarked by **Saturday, September 29, 2012**, prior to closure of the public notice administrative record.
- **PUBLIC HEARING.** Before the expiration date of this notice, anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state the reason(s) for holding a public hearing. The District Engineer shall determine whether a hearing is necessary to obtain additional public interest information. If a public hearing is warranted, interested parties will be notified of the time, date, and location.

Background Information. The Flood of 2011 deposited a significant amount of sand and sediment throughout the Missouri River, Garrison Reach. One such deposit formed at the south (downstream) side of Fox Island at the confluence of the historic Missouri River channel. The South Bismarck Stormwater Outfall is located approximately 2000 yards east of the confluence. Blockage at the confluence and sheetpile installed across the entrance channel of Southport caused water to back up and fill interior drainage ditches in south Bismarck. The Burleigh County Highway Department dredged 120 cubic yards of material from the historic channel to release the water in September 2011. Once the water was released, it flowed south along the east bank of the Missouri River past the sandbar to the main channel of the River. The sandbar has since migrated toward the east bank blocking flow from the historic channel. The blockage causes water to flow north through the Southport Phase I development and out the entrance channel. The culvert system in place was not designed to handle high flows that are expected

to occur in the spring.

PROJECT PROPOSAL.

- DETAILS. A complete DA permit application was received on **July 10, 2012**.
- PROJECT PURPOSE. The Applicants "**stated project purpose**" is "to reduce the water stages in the South Bismarck stormwater channel and to restore the stormwater system to its original function".
The US Army Corps of Engineers has determined the **basic project purpose** is "stormwater management" and the **overall project purpose** is "to restore flow from the South Bismarck Outfall through the historic Missouri River channel to the Missouri River".
- PROJECT LOCATION. The project is located in the Missouri River at the confluence of the historic river channel on the south end of Fox Island in Bismarck, North Dakota. The legal description at the project site is the NW¼ of Section 19, Township 138 North, Range 80 West, Burleigh County, North Dakota.
- PROJECT DESCRIPTION. Authorization has been requested to dredge a channel perpendicular to the flow of the Missouri River through the sandbar to restore flow from the South Bismarck Stormwater Outfall and the historic Missouri River channel to the Missouri River. Approximately 11,200 cubic yards of material will be mechanically dredged to form a 600-foot long channel. The channel will have a bottom width of 50 feet and 5:1 sideslopes and have a maximum cut of 6 feet. Dredged material is proposed to be discharged on the sandbar south (downstream) of the channel. Approximately 3 acres of sandbar will be raised by 2.5 feet. Total disturbed area on the sandbar is approximately 5 acres.
- PROJECT'S LIFE CYCLE. Instability of the sandbar, water velocity and elevation, wind, and flow through the channel will all factor into how long the channel will remain functional.
- CONSTRUCTION METHODS. Standard large earthmoving equipment, such as: backhoes, trackhoes and dozers are expected to be utilized.
- PROJECT BENEFITS. The project will restore flow from the South Bismarck Stormwater Outfall directly into the Missouri River and prevent it from being redirected to the north through the culvert in Mills Avenue to the Missouri River through the Southport entrance channel. It will also reduce the potential for flooding in south Bismarck during major rain storm events (4-5 inches).
- ANTICIPATED ENVIRONMENTAL IMPACTS.
 - Wetlands. No wetlands are proposed to be impacted by this project.
 - Woodlands. No woodlands are proposed to be impacted by this project.
 - Flowage and Circulation Patterns. The project would direct flows through a channel constructed across the sandbar rather than along the east bank of the Missouri River as it did prior to the flood and sandbar migration to the east or north through the culvert at Mills Avenue and out through the Southport entrance channel.
- COMPENSATORY MITIGATION. No mitigation is proposed or expected to be required.
- ALTERNATIVES. The alternative analysis required by the 404(b)(1) Guidelines would likely include No Action; Burleigh County Highway Department's Preferred Alternative (project described in this public notice); Alternative Project Designs (including, but not limited to, a more extensive dredging project to construct a channel along the east bank, change in disposal option, etc.); and Alternative Sites.

National Environmental Policy Act of 1969 [“NEPA”] (42 USC 4321 *et seq.*; Public Law 91-190) **NEPA Statement:** NEPA is the Nation’s basic charter for protection of the environment. NEPA is to provide decision-makers and the public full disclosure of the environmental consequences of taking an action so they can make informed decisions. NEPA itself does not impose substantive duties mandating particular results, but prescribes the necessary process for preventing uninformed agency action. At this time, the Corps anticipates completion of an Environmental Assessment will achieve the appropriate level of NEPA compliance for this project.

National Historic Preservation Act of 1966 [“NHPA”] (80 Stat 915; 16 USC 470a, *et seq.*) *and amendments, including the 1992 amendments (PL 89-665 and PL 96-515).* **Cultural Resources Statement:** The Omaha District will comply with the NHPA and amendments and the procedures set forth in 33 CFR, Appendix C. We will evaluate input by Indian Tribes, the North Dakota State Historic Preservation Officer (NDSHPO), and any interested parties in response to this public notice. All work would occur on recently deposited sand and sediment. The NDSHPO responded to the Office of the State Engineer’s Solicitation of Views letter with a concurrence of the “No Adverse Effect” and “No Significant Sites Affected” determinations [NDSHPO Ref: 12-1448 OSE: S-1805]. The National Park Service maintains a website located at <http://nrhp.focus.nps.gov>, which contains properties listed on the National Register of Historic Places. The site reveals that twenty-six properties have been listed with none being in the immediate vicinity of this project. The Corps’ initial review is that the project would not affect properties listed, or eligible for listing, on the National Register of Historic Places.

Section 404(b)(1) Guidelines [“Guidelines”] (40 CFR 230 Subpart B): These Guidelines are the substantive environmental criteria used in evaluating the discharges of dredged or fill material in waters of the United States under Section 404 of the Clean Water Act and are applicable to all 404 permit decisions. The purpose of these Guidelines is to restore and maintain the chemical, physical, and biological integrity of United States waters through the control of discharges of dredged or fill material. Fundamental to the Guidelines is an understanding that dredge or fill material should not be discharged into such waters unless it is demonstrated that such discharges would not have unacceptable adverse impacts either individually or in combination with existing and/or probable impacts of other activities affecting the environment.

Section 401 of the Clean Water Act [“Water Quality Certification”] (33 USC Section 1341) **Water Quality Certification Statement:** The North Dakota Department of Health, Division of Water Quality, 918 East Divide Avenue, Bismarck, North Dakota 58501-1947 will review the proposed project for State certification 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 project undertaken by Burleigh County Highway Department will not result in a violation of applicable water quality standards. Although water quality certification is a prerequisite for issuance of a DA permit, certification alone does not guarantee a DA permit will be issued for the project.

Endangered Species Act of 1973 [“ESA”] (16 USC 1531, *et seq.*) **ESA Statement:** This project is within the known range of the endangered Interior least tern (*Sterna antillarum*), Whooping crane (*Grus americanis*), Pallid sturgeon (*Scaphirhynchus albus*) and Gray wolf (*Canis lupus*), as well as, the threatened Piping plover (*Charadrius melodus*). Critical habitat for

the Piping plover has also been identified in the Missouri River. Pursuant to the Endangered Species Act, the Corps has made a preliminary determination that the project, as proposed, would have “*no effect*” on the Gray wolf; “*may affect, but not likely to adversely affect*” the Interior least tern, Whooping crane, Pallid sturgeon and Piping plover; and “*may adversely modify*” critical habitat for the Piping plover. Coordination with the US Fish and Wildlife Service will occur as required.

Public Interest Review [33 CFR 325.3(c)(1)]: The public interest review procedures call for weighing the benefits that reasonably may be expected to accrue. These are balanced against its reasonably foreseeable detriments and results in reaching a determination that expresses the public interest. Public interest factors include all factors which may be, or may become, relevant to this project, such as 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. The decision whether to issue a permit is based on an evaluation of those factors and the probable impact, including cumulative impacts, and reflects the national concern for both the protection and utilization of important natural resources.

The 404(b)(1) Guidelines and the Public Interest Review are both administrative processes required as part of the Regulatory Program, but they are independent of each other. A project must be in compliance with the Guidelines and must not be contrary to the public interest in order to be permitted by the Army Corps of Engineers.

Anyone whose interests may be affected by the City of Fargo’s proposal is invited to submit favorable or unfavorable written comments to the U.S. Army Corps of Engineers [Omaha District] **North Dakota Regulatory Office, 1513 South 12th Street, Bismarck, North Dakota 58504**. Comments must be submitted on or before the date on the front of this notice to be considered in subsequent actions on this application. For additional information, you may contact **Ms. Toni R. Erhardt**, North Dakota Project Manager [Toni.R.Erhardt@usace.army.mil] **or Mr. Joseph M. Tanko**, Acting North Dakota Regulatory Program Manager [Joseph.M.Tanko@usace.army.mil] at telephone number (701) 255-0015 **or** visit the North Dakota Regulatory Office.

Request to Postmasters: Please post this notice in a conspicuous place until the expiration date specified at the top of page one.

Notice to Editors: This notice is provided for your use in developing news stories only. No payment for publication will be provided.

ATTACHMENTS



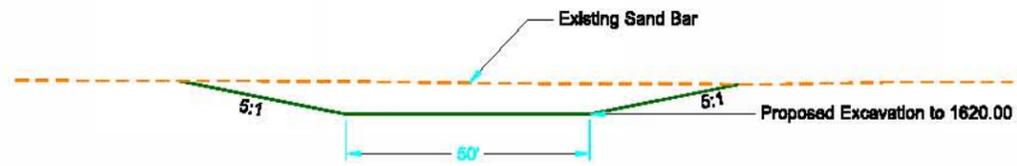
Proposed Dredge Location

Tavis Road
Pump Station



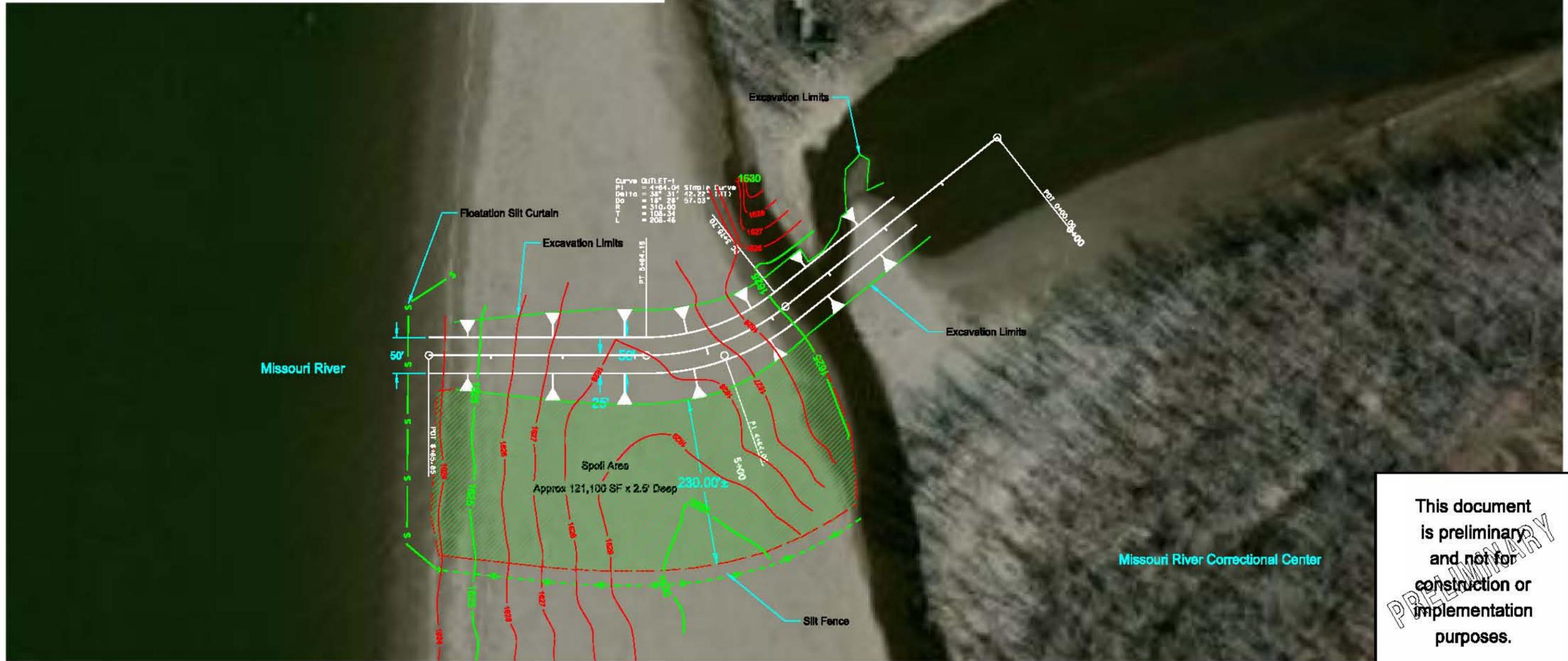
Apex Engineering Group, Inc.
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Office: 701-323-3950
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Apex Pro
Date: _____
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Approved



Typical Cross Section

Vertical Datum: NAVD 88



This document is preliminary and not for construction or implementation purposes.

REVISIONS		
Issue #	Description	Date
1	???	00/00/10

Plan View

Dredge Outlet to Missouri River
Burleigh County Highway Department

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Apex Project #: 12.127.0067
Date: June 27, 2012
Drawn By: SK
Checked By: SH
Approved By: _____

Figure:
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