



**US Army Corps  
of Engineers**

Omaha District

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## **PUBLIC NOTICE**

**Application No: 2003-11368**

**Applicant: Nebraska Department of Roads  
Waterway: Beaver Creek & Associated Tributaries &  
Wetlands**

**Issue Date: December 10, 2003**

**Expiration Date: December 30, 2003**

**21 DAY NOTICE**

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Reply To:

NEBRASKA REGULATORY OFFICE – WEHRSPANN

8901 SOUTH 154<sup>TH</sup> STREET, SUITE 1, OMAHA, NEBRASKA 68138-3621

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JOINT PUBLIC NOTICE: This public notice is issued jointly by the U.S. Army Corps of Engineers, Omaha District, and the Nebraska Department of Environmental Quality (NDEQ), P.O. Box 98922, State House Station, Lincoln, Nebraska 68509. They will review the proposed project for state certification in accordance with the provisions of Section 401 of the Clean Water Act. NDEQ hereby incorporates this public notice as its own public notice and procedures by reference thereto. For the purposes of the NDEQ, their public notice will expire 30 days from the issue date shown above.

AUTHORITY: Section 404 of the Clean Water Act (33 USC 1344).

APPLICANT: Mr. Jason Jurgens, Nebraska Department of Roads, 1500 Hwy 2, Lincoln, Nebraska 68509.

**PROJECT LOCATION:**

Site #1—SE ¼ Section 12, Township 10 North, Range 3 West, York County, Nebraska.

Site #2—NW ¼ Section 12, Township 10 North, Range 3 West, York County, Nebraska.

Site #3—SW ¼ Section 1, Township 10 North, Range 3 West, York County, Nebraska.

Site #4—SW ¼ Section 1, Township 10 North, Range 3 West, York County, Nebraska.

Site #5—SE ¼ Section 35, Township 11 North, Range 3 West, York County, Nebraska.

Site #6—NE ¼ Section 25, Township 11 North, Range 3 West, York County, Nebraska.

Site #7—SE ¼ Section 12, Township 10 North, Range 3 West, York County, Nebraska.

Site #8—SE ¼ Section 1, Township 10 North, Range 3 West, York County, Nebraska.

Site #9—NE ¼ Section 12, Township 10 North, Range 3 West, York County, Nebraska.

Site #10—NW ¼ Section 36, Township 11 North, Range 3 West, York County, Nebraska.

**PROJECT DESCRIPTION:** The proposed project, located on U.S. Highway 81 (US 81), consists of realignment of US 81 to the west of York beginning approximately 1.5 miles north of the US 81/Interstate 80 junction and extends northerly for 5.5 miles ending on the current US 81 alignment approximately 0.62 miles north of the existing US 81/US 34 interchange. The following stream channel and/or wetland impacts will occur due to the proposed project.

Site #1—Permanent fill placed for roadway and culvert construction will result in 0.26 acres of PEMA wetland impacts. The existing 10 ft. x 10 ft. concrete box culvert will be extended 119 ft left and 89 ft right of the existing alignment.

Site #2—Permanent fill placed for roadway and culvert construction will result in 0.21 acres of PFOA1 wetland impacts. A new 60 in x 224 ft concrete culvert will be constructed and will result in 150 ft of channel filled. NDOR proposed to replace the channel with 175 ft of channel in the road ditch on the east side of the road. The channel will have more than 30 feet of buffer strips starting above the 100 year storm flow elevation on both sides of the channel. However, the channel will not have a 30 buffer strips from the top of the high bank of the channel.

Site #3—A new 224 ft long 3-span rolled beam steel girder bridge will be constructed over Beaver Creek resulting in 0.04 acres of PFOA1 wetland impacts and the filling of 240 ft of channel. Currently, 440 ft of channel is present at the site. Two hundred and forty feet of channel will be filled. NDOR proposes to replace 400 ft of channel, which will result in a 40 ft loss of channel length.

Site #4—Permanent fill placed for roadway construction will result in 0.09 acres of PEMA wetlands impacts.

Site #5—Permanent fill placed for roadway and culvert construction will result in 0.14 acres of PEMA wetland impacts. A new twin 6 ft x 7.5 ft x 325 CBC will be constructed in the PEMA wetland that flows to Beaver Creek.

Site #6—Permanent fill placed for roadway construction will result in 0.29 acres of PEMA wetland impacts.

Site #7—No jurisdictional Waters of the U.S. will be impacted at the site.

Site #8—A new 128 ft long 3-span deck steel girder bridge will be constructed over Beaver Creek, on existing US 281 alignment, resulting in 0.02 acres of PEMA wetland impacts

Site #9—Permanent fill placed for roadway construction will result in 0.03 acres of PEMA wetland impacts.

Site #10—Permanent fill placed for roadway construction will result in 0.45 acres of PEMA wetland impacts.

**PROJECT PURPOSE:** The project purpose of the project is to accommodate increasing traffic and provide a safer and more efficient roadway.

**SPECIAL AQUATIC SITES:** A total of 1.53 acres of wetlands will be impacted by this project. Of the 1.53 acres of impacts, 1.28 acres are PEMA wetlands and 0.25 acres are PFOA1 wetlands. Of the 1.28 acres of PEMA wetlands, 0.87 acres are riparian and 0.41 acres are depressional.

NDOR proposes to mitigate unavoidable wetland impacts by creation/restoration of a traditional rainwater basin located in the NE ¼ of Section 25, Township 11 North, Range 3 West, York County, Nebraska. The site occurs on Fillmore silt loam (Fm) and Hastings silt loam (Hs) soils and is currently farmed. NDOR will excavate the required replacement area as shown in the conceptual mitigation plan included in Attachment 3. NDOR will create 2.47 acres of PEMA/PEMC wetland acres for replacement of impacted wetlands. A 30 ft wide natural grade buffer will be established along the southern mitigation site boundary to provide silt deposition and encroachment protection from the adjacent agricultural activities. A 30 ft buffer will be established along the new U.S. 81 roadway embankment at the northwest boundary with the exception of roadway drainage ditch discharge point at the extreme western corner of the mitigation site. A 30 ft natural grade buffer will be maintained between the designed excavated area and the existing farmed wetlands east along the BNSF railroad embankment in order to buffer potential hydrology changes within the identified farmed wetland area.

Additionally, NDOR proposes that the existing farmed wetland area identified along the BNSF railroad track will be taken out of agricultural production and will be essentially restored. The farmed wetland area equals 1.51 acres. The indicated water elevation shown in Attachment 3 relates to the surveyed surface elevation of observed springtime inundation. The inclusion of the restored farmed wetland area results in a total of 3.98 acres of created and restored wetlands resulting in a 2.60 acre created/restored to 1.0 acres impacted mitigation ratio.

Also, NDOR proposes that since the objective of the mitigation site is to create/restore a traditional rainwater basin site that occurs along the proposed project, NDOR does not plan to plant trees at the site to mitigate for the PFOA1 wetland impacts. If tree replacement is deemed necessary, NDOR will designate 0.38 acre area along the southern boundary of the excavated mitigation area as the PFOA replacement area that will be planted with applicable seedling tree species.

**CULTURAL RESOURCES:** The Corps of Engineers, Omaha District will comply with the National Historic Preservation Act of 1966 and 36 CFR 800. We have checked the National Register of Historic Places and its current supplements and no property listed or proposed for listing in the Register is located in the project area. This is the extent of our knowledge about historic properties in the permit area at this time. However, we will evaluate input by the State Historic Preservation Officer and the public in response to this public notice, and may require a reconnaissance survey of the project area to check for unknown historic or prehistoric properties, if warranted.

**ENDANGERED SPECIES:** Pursuant to the Endangered Species Act, a preliminary determination has been made 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.

**FLOODPLAIN:** This activity is being reviewed in accordance with Executive Order 11988, Floodplain Management, which discourages direct or indirect support of floodplain development whenever there is a practicable alternative. By this notice, comments are requested from individuals and agencies that believe the described work will adversely impact the floodplain.

**WATER QUALITY CERTIFICATION:** Section 401 of the Clean Water Act (33 USC 1341) requires that all discharges of fill material must be certified by the appropriate state agency as complying with applicable effluent limitations and water quality standards. This public notice serves as an application to the state in which the discharge site is located for certification of the discharge. The discharge must be certified before a Department of the Army permit can be issued. Certification, if issued, expresses the state's opinion that the discharge will not violate applicable water quality standards.

**PUBLIC INTEREST REVIEW:** The decision whether to issue the Corps' permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed/completed 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 their 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 the 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 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 project. 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 activity.

Anyone whose interests may be affected by the proposed/completed work is invited to submit favorable or unfavorable written comments to the Nebraska Regulatory Office – Wehrspann, 8901 South 154<sup>th</sup> Street, Suite 1, Omaha, NE 68138-3621. The District Engineer is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic system's functional values, cumulative and secondary effects and endangered species. All comments received will be considered public information; copies of all comments, including names and addresses of commentors, may be provided to the applicant unless confidentiality is requested. Comments must be submitted on or before the expiration date (located at the top of the first page) of this notice to be considered in the subsequent actions on this application.

**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. If the District Engineer determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location.

**ADDITIONAL INFORMATION:** Additional information about this application may be obtained by writing to Matt Wray at the address shown on page one or by calling him at (402) 896-0896. You can also e-mail him at [matt.t.wray@usace.army.mil](mailto:matt.t.wray@usace.army.mil).

**REQUEST TO POSTMASTERS:** Please post this notice conspicuously and continuously until the expiration date specified at the top of page one.

**NOTICE TO EDITORS:** This notice is provided as background information for your use in formatting news stories. This notice is not a contract for classified display advertising.