
PUBLIC NOTICE



**US Army Corps
of Engineers**

Omaha District

Application No: 2004-11554
Applicant: Steve Faller, Deer Creek Highlands L.L.C.
Waterway: Wetlands adjacent to Big Papillion Creek
Issue Date June 8, 2005
Expiration Date: June 29, 2005

21 DAY NOTICE

Reply To:
NEBRASKA REGULATORY OFFICE – WEHRSPANN
8901 SOUTH 154TH STREET, SUITE 1, OMAHA, NEBRASKA 68138-3621

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: Steve Faller, Deer Creek Highlands L.L.C., c/o Landmark Construction, 4852 South 133rd Street, Suite 101, Omaha, Nebraska, 68137.

PROJECT LOCATION: The project is located in the Southwest $\frac{1}{4}$ of Section 30, Township 16 North, Range 12 East, Douglas County, Nebraska.

PROJECT DESCRIPTION: The project is an expansion of the previous Phase 1 and 2 of Deer Creek Development. The new phase (Phase 3) will be developed on approximately 225 acres of agricultural land and consist of a nine-hole golf course and 312 single-family homes. Approximately 2.1 acres of a 4.3 acre PEMA wetland and a 0.4 acre PFOA wetland will be filled as part of the development. Soil from on-site excavation will be used as fill material.

The discharge of fill material into the wetlands is necessary to allow for construction of a residential street and associated lots, and to elevate the golf green in order to establish turf grass. The residential street is required to provide access to Potter Street, which leads to 132nd Street. The golf green is the only part of that hole that will fill wetlands, and the remaining wetland will not be impacted. In addition, the golf hole cannot be moved any further west to avoid wetland because of its proximity to 132nd Street.

Proposed mitigation (mitigation plan forthcoming) consists of on-site restoration of the un-impacted portion of the farmed PEMA wetland (2.2 acres), the creation of an additional 1.4 acres of PEMA wetland adjacent to the existing wetland that will be restored, and 0.8 acres of PFOA wetland adjacent to the existing, restored wetland. Restored wetlands and the created wetland will have a 50-foot buffer (see attached drawing).

PROJECT PURPOSE: The purpose of this project is to complete the next phase of the Deer Creek Development and expand the existing golf course.

SPECIAL AQUATIC SITES: Approximately 2.1 acres of PEMA wetland and 0.4 acres of PFOA wetland will be impacted by this project. The proposed mitigation consists of the restoration of impacted 1.4 acres of PEMA at a 1.5:1 ratio totaling 2.25 acres, creation of impacted 0.7 acres of PEMA at a 2:1 ratio totaling 1.4 acres, and creation of impacted 0.4 acres of PFOA at a 2:1 ratio totaling 0.8 acres (see attached drawing).

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 154th 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 Laura Banker at the address shown on page one or by calling her at (402) 896-0896. You can also e-mail her at Laura.Banker@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.