
PUBLIC NOTICE



**US Army Corps
of Engineers**

Omaha District

Application No: 2008-01027

Applicant: KEYFM, c/o Mr. John Mountjoy

**Waterway: Un-named Tributaries to Big Papillion Creek
Three Ponds**

Issue Date: September 15, 2008

Expiration Date: October 6, 2008

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. NDEQ 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 NDEQ, this 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. John Mountjoy, KEYFM, 209 South 19th Street, Suite 100, Omaha, Nebraska 68102.

AGENT: Ms. Trilety Wade, Hayes Environmental, L.L.C., 2812 North Main, Elkhorn, Nebraska 68022.

PROJECT LOCATION: Southeast ¼ of Section 2, Township 14 North, Range 12 East, Douglas County, Nebraska.

PROJECT DESCRIPTION: The applicant is proposing to modify the land use of the site from a golf course to a mixed-use development, including apartment housing, mixed use retail/office space, and a grocery store.

The grocery store and associated parking lot, located on the southeastern portion of the site, will impact three existing ponds. Pond 1 (Labeled “Primary Pond Impact” on Site Exhibit) is 0.754 acre in size and will be filled in its entirety to accommodate grocery store parking and the

construction/extension of P Street, which will connect to the proposed 73rd Street and its parallel sidewalks. Pond 2 (Northernmost pond) is 0.752 acre in size and will be filled in its entirety to accommodate grocery store and associated parking lot. Pond 3 (Southernmost pond) is 0.875 acre in size and will be filled in its entirety to accommodate grocery store associated parking and mixed use retail/office space.

Apartment housing will be constructed on the west side of the property. It will consist of 9, 4-story buildings with the 1st story serving as garage. An interior roadway will be constructed to provide access to the apartments. This roadway will cross the existing channels in two locations: Channel A (northwest crossing) will impact 45 linear of channel (0.02 acre) and Channel B (southwest crossing) will impact 65 linear feet of channel (0.03 acre). The crossings will consist of culverts, the size of which has not been provided.

Mitigation for the 0.745 acre of pond impacts is proposed on-site, adjacent to the Big Papillion Creek levee, located along the northern boundary of the project site. The applicant proposes to create 2.381 acres of in-kind open-water, with a flat, 50-foot buffer along the southern edge of the mitigation. A mitigation plan has not been submitted at this time.

PROJECT PURPOSE: The project purpose is to modify the land use from a golf course to a mixed-use development, including apartment housing and a grocery store, to serve the needs of the citizens of the City of Ralston, Nebraska.

SPECIAL AQUATIC SITES: No special aquatic sites will be impacted by this project.

CULTURAL RESOURCES: No activity which may affect historic properties listed, or eligible for listing, in the National Register of historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C.

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 Ms. Laura Banker at the address shown on page one, or by calling (402) 896-0896.

You can also e-mail Ms. Banker 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 purpose is provided as background information for your use in formatting news stories. This notice is not a contract for classified display advertising.