
PUBLIC NOTICE



**US Army Corps
of Engineers**

Omaha District

Application No: 2009-00799-WEH

**Applicant: Papio-Missouri Natural Resources District
Waterway: Unnamed Tributaries to South Papillion
Creek & Wetlands**

Issue Date: March 18, 2010

Expiration Date: April 7, 2010

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 incorporate 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: Ms. Amanda Grint, Papio-Missouri Natural Resource District, 8901 South 154th Street, Omaha, Nebraska 68138.

PROJECT LOCATION: The project is located in SW ½ of Section 19, Township 14 North, Range 12 East, Sarpy County, Nebraska.

PROJECT DESCRIPTION: The proposed project consists of constructing the West Papillion Detention Basin No. 5 (WP-5). The WP-5 structure would be an earthen embankment approximately 1,225 feet in length, 40 feet above the valley floor and 64 feet above the channel bottom. This would require 2,373 cubic yards of clean fill dirt. Two water quality basins are proposed to be constructed west of 132nd street for water quality benefits to WP-5. This project would result in the loss of 0.61 acres of PEMA/C linear riverine wetlands and 1,197 linear feet of perennial stream channel (300 linear feet for two water quality and 765 linear feet for the structure). The drainage area of WP-5 is approximately 5.2 square miles and the principal spillway pool area would be 134 acres at elevation 1,075 feet. This project would inundate 13,918 linear feet of stream channel (12,676 linear feet of perennial stream and 1,241 linear feet of intermittent stream channel).

PROJECT PURPOSE: The purpose of the project is to provide flood protection within the projected full build-out 100 year floodplain of the West Papillion Creek sub watershed.

SPECIAL AQUATIC SITES: A total of 0.61 acres of linear riverine PEMA/C wetlands would be impacted by this project (0.26 acres filled and 0.35 acres inundated). The project would also fill 1,197 linear feet of perennial stream channel and inundate 13,918 linear feet of stream channel.

AVOIDANCE, MINIMIZATION, AND MITIGATION: This project is located in Big Papillion Creek-Mosquito 10230006, 8-digit HUC. The applicant is considering alternatives that would avoid, minimize, and mitigate impacts to Water of the United States, including wetlands. The avoidance alternatives include no-build, zoning, floodplain acquisition, current conservation measures, future conservation measures, wetlands storage areas, stream restoration, inflatable dams, conveyance and raising existing levees and bridges. The minimization alternatives include dry dams, small detention dams, and WP-5 at 1,069 elevations. Wetland mitigation is proposed to be located within the normal pool elevation of 1,175. Stream mitigation is proposed upstream of WP-5 normal pool.

There are no available mitigation banks with enough credits, in-lieu fee programs, or approved watershed plan that would provide opportunities for compensatory mitigation. Therefore, the applicant has on-site or off-site mitigation available to them for compensatory mitigation of unavoidable impacts to waters of the United States. The applicant is proposing to mitigate the 0.61 acres of linear riverine PEMA/C wetland impacts (fill and inundation) by creating approximately 5.0 acres of depressional PEMA/C wetlands within the pool.

The applicant is proposing to mitigate for the loss 1,197 linear feet of perennial stream channel by rehabilitating approximately 1,500 to 2,000 linear feet of channel length. The rehabilitation could consist of constructing bed stabilization structures that will control grade, implementation of natural stream channel designs for erosion control and stream function enhancement and establishing vegetated buffer areas adjacent to the channel. The channel proposed for rehabilitation is located upstream of the proposed water quality basin.

The applicant will be required to prepare and submit a draft mitigation plan in accordance with the 12 components of the Mitigation Rule 33 CFR part 332.4(c)(2) through (c)(14). After addressing comments provided the applicant must prepare a final mitigation plan, which must be approved by the Corps prior to issuing the individual permit. The approved final mitigation plan will be incorporated into the individual permit by reference.

CULTURAL RESOURCES: The Corps of Engineers, Omaha District will comply with the National Historic Preservation Act of 1966, and amendments and the procedures set forth in 33 CFR 325 Appendix C. 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. The applicant conducted a survey for archaeological and historic resources for the proposed project in the summer of 2009. Four archeological sites and three architectural properties were

recorded that may be directly or indirectly impacted by the proposed project. The applicant submitted this survey to the Nebraska State Historical Society for concurrence, and a determination of no effect to archeological or historic properties was included. The Nebraska State Historical Society concurred with this determination in a letter dated September 9, 2009. However, we will evaluate any additional input by the State Historic Preservation Officer and the public in response to this public notice, and may require an additional 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 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.

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

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