
PUBLIC NOTICE



**US Army Corps
of Engineers**

Omaha District

Application No: 2010-01205-WEH
**Applicant: Platte River Recovery Implementation
Program**
Waterway: Platte River
Issue Date: July 6, 2011
Expiration Date: July 27, 2011

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 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: Dr. Jerry Kenny, Executive Director, Platte River Recovery Implementation Program, 4111 4th Ave, Suite 6, Kearney, Nebraska 68845.

PROJECT LOCATION: This project is located in Section 2, 3, 10, 11, and 12, Township 8 North, Range 18 West, Buffalo County, Nebraska.

PROJECT DESCRIPTION: The project includes the construction of an in-channel nesting island to benefit Interior Least Terns, Piping Plovers, and Whooping Cranes. The applicant proposes to construct eight nesting islands ranging from 0.5 to 5 acres in size, for a total acreage of 16.3 acres, at an elevation allowing for a 3,000 to 8,000 cfs overtopping flow. Total fill proposed is approximately 27,000 cubic yards. The fill will come from designated in-channel borrow areas or dredged from the channel if the borrow areas have been scoured by high flows. This will result in 8.3 acres of wetlands filled and excavated and 8.5 acres excavated for borrow, totaling 16.8 acres of impact. Additional information regarding the project can be found at the following link

<http://www.platteriverprogram.org/PubsAndData/ProgramLibrary/Elm%20Creek%20Complex%20404%20Application.pdf>. A paper copy of the information found at the website is available upon request.

PROJECT PURPOSE: The purpose of the project is to restore in-channel nesting island reproductive habitat for Interior Least Terns and Piping Plovers, while improving active channel and unobstructed view widths for Whooping Cranes.

SPECIAL AQUATIC SITES: The proposed project will impact 16.8 of wetlands consisting of 6.6 acres of PEMC wetlands and 10.2 acres of PEMF wetlands.

AVOIDANCE, MINIMIZATION, AND MITIGATION: This project is located in the Middle Platte Buffalo 10200101, 8-digit HUC. The applicant has considered the no action and action alternatives for this project. The impacts to wetlands have been avoided and minimized to the maximum extent. The applicant provided a wetland functional assessment for the impacted wetlands. The proposed project will have a functional loss to 16.8 acres of wetlands (6.6 acres of PEMC and 10.2 acres of PEMF wetlands). The functional assessment indicated that a net gain in functions and services will occur with this proposed project. The functional gain is a result of the recovering habitat for target species and an ecosystem that is more reflective of natural conditions prior man's manipulation of the Platte River Basin. Therefore, due to the functional gain no compensatory wetland mitigation is proposed by the applicant.

CULTURAL RESOURCES: The U.S. Army Corps Engineers (USACE) views the Department of the Interior as the lead Federal Agency for the proposed project and is responsible to ensure compliance with the National Historic Properties Act of 1966. A concurrence determination was received by the Platte River Recovery Implementation Program (PRRIP) on July 20, 2009 from the Nebraska State Historic Preservation Officer (SHPO) that stated no historic properties will be affected by the proposed project. On April 14, 2010 SHPO again made the same determination. We will evaluate input by SHPO and the public relative to this statue in response to this public notice, and we may conduct or require a reconnaissance of the permit area or check for unknown historic properties, if warranted

ENDANGERED SPECIES: The USACE views the Department of Interior as the lead Federal Agency for the proposed project and is responsible to ensure compliance with the Endangered Species Act. A determination of may affect, likely to adversely affect was made for Whooping Crane, Interior Least Tern, Piping Plover, and Pallid Sturgeon in the Final EIS dated April 2006. A determination of likely to adversely affect was made for Whooping Crane critical habitat also. The U.S. Fish and Wildlife Service (USFWS) issued a programmatic biological opinion on June 16, 2006 for the PRRIP. Additionally, in a letter dated March 8, 2010 the USFWS reviewed the proposed project and determined that adverse effect to avian target species through PRRIP land plan restoration, management, operations, maintenances, monitoring, and research activities are covered by the programmatic biological opinion and conservation measures for the western prairie fringed orchid would prevent PRRIP land plans impacts to species. The March 8, 2010 correspondence provides concurrence for Endangered Species Act. 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: The USACE views the Department of Interior as the lead Federal Agency for the proposed project and is responsible to ensure compliance with Executive Order 11988, Floodplain Management, which discourages direct or indirect support of floodplain development whenever there is a practicable alternative.

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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