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# PUBLIC NOTICE



**US Army Corps  
of Engineers**

Omaha District

**Application No: 2011-00926-WEH & 2011-00927-WEH**  
**Applicant: Papio Missouri River Natural Resource**  
**District**  
**Waterway: Unnamed Tributary to Silver Creek**  
**Issue Date: July 12, 2011**  
**Expiration Date: August 1, 2011**

**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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The District Engineer, U.S. Army Engineer District, Omaha, Nebraska is evaluating a mitigation banking umbrella instrument and wetland mitigation banking site plan from the Papio-Missouri River Natural Resources District. Mitigation banks are used to satisfy compensatory mitigation requirements for permits issued under the authority of Section 404 of the Clean Water Act, which regulates the discharge of dredged or fill material in the nation's waters. The purpose of this notice is to inform interested parties of the proposed mitigation bank and to solicit comments. Participation is encouraged so that the U.S. Corps of Engineers is better able to complete a more thorough public interest review. Comments assist the District Engineer to make a reasonable decision based on public interest factors.

### **History, Purpose, and Project Description**

Section 404 of the Clean Water Act establishes a permit requirement, administered by the Corps of Engineers, for projects that involved discharging dredged or fill material into waters of the United States. The Corps of Engineers requires compensatory mitigation as a permit condition for stream or wetland losses that are determined to have greater than minimal effects. The goal of mitigation is to replace the lost physical, chemical, and biological functions of these impacted Waters of the US. The mitigation banking concept was established to provide alternatives to applicant-provided mitigation, and ease the regulatory burden of mitigating permitted impacts to waters of the US.

This is a dual purpose public notice covering both the proposed umbrella instrument and the propose wetland mitigation bank site at Silver Creek Site #11. The proposed umbrella instrument will replace the existing instrument and will include 2008 Mitigation Rule standards. A copy of the umbrella instrument can be found at [http://www.papionrd.org/downloads/coe/umbrella\\_bank.pdf](http://www.papionrd.org/downloads/coe/umbrella_bank.pdf). A paper copy of the information found at the link is available upon request.

The Silver Creek Site #11 is located in Section 21 and 28, Township 22 North. Range 10 East. Burt County, Nebraska. The objective of the proposed mitigation bank is to establish a compensatory mitigation bank that will improve the quality and quantity of aquatic resources within the Silver Creek watershed through the establishment of four sites that will make up the Silver Creek mitigation bank and to meet long term aquatic resource needs within the watershed. The proposed mitigation bank will consist of Palustrine wetlands, such as Palustrine Emergent Temporarily Flooded (PEMA) wetlands and Palustrine Emergent Seasonally Flooded (PEMC) wetlands. Lacustrine fringe wetlands will also be created along the edge of the open water. The Nebraska Wetland Subclass will be Lacustrine Fringe Wetlands, these wetlands are described as vegetated wetland fringes situated around the edge of deep water (>6 feet) lakes.

Silver Creek is a primary tributary to the Missouri River. The bank has a proposed service area of the Blackbird-Soldier 8-digit HUC 10230001. An easement for the mitigation bank area has been developed to protect this site. A copy of the Silver Creek site plan can be found at <http://www.papionrd.org/downloads/coe/scmbp.pdf>. A paper copy of the information found at the link is available upon request.

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

**BANK SPONSOR:** Papio-Missouri Natural Resource District, 8901 South 154<sup>th</sup> Street, Omaha, Nebraska 68138

**PROJECT LOCATION:** The Silver Creek Site #11 is located in Section 21 and 28, Township 22 North. Range 10 East. Burt County, Nebraska, near 41.860180°N, -96.289319°W

**SPECIAL AQUATIC SITES:** A total of 0.95 acres of linear riverine PEMA wetlands are located on the site. However, these wetlands will be impacted and mitigated for through the construction Silver Creek Site #11 dam project, which was evaluated as an individual permit (2007-02988-WEH).

**CULTURAL RESOURCES:** The Corps of Engineers, Omaha District will comply with the National Historic Preservation Act of 1966, as amended. For each bank site we will check the National Register of Historic Places and its current supplements. We will evaluate input by the State Historic Preservation Office and the public in response to this public notice, and we may conduct or require a reconnaissance survey of the mitigation bank area to check for unknown historic or prehistoric properties, if warranted. For Silver Creek Site #11 site plan, the bank sponsor conducted a survey in May of 2010. The survey was forwarded to the Nebraska State Historic Preservation Office (SHPO) for review. The NE SHPO concurred with the survey May 25, 2010.

**ENDANGERED SPECIES:** In compliance with the Endangered Species Act, a preliminary determination will be made for each bank site. In order to complete our evaluation of this activity, comments will be solicited from the US Fish and Wildlife Service and other interested agencies and individuals. For Silver Creek Site #11 site plan, a preliminary determination has been made that the

described work will not affect species designated as threatened or endangered or adversely affect critical habitat.

**FLOODPLAIN:** For each banks site the Corps of Engineers will review it in accordance with Executive Order 11988, Floodplain Management. For Silver Creek Site #11 site plan, 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.

**PUBLIC INTEREST REVIEW:** The decision to approve the umbrella banking instrument and Silver Creek Site #11 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 and the Interagency Review Team to determine whether approve the umbrella banking instrument and Silver Creek Site #11. 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 bank sponsor 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). The link to the umbrella banking instrument is [http://www.papionrd.org/downloads/coe/umbrella\\_bank.pdf](http://www.papionrd.org/downloads/coe/umbrella_bank.pdf) and a link to the Silver Creek Site #11 site plan is <http://www.papionrd.org/downloads/coe/scmbp.pdf>.

**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.