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# PUBLIC NOTICE



**US Army Corps  
of Engineers**

Omaha District

**Application No: 2011-01552-WEH**  
**Applicant: Mark Hackel**  
**Waterway: North Branch Mira Creek**  
**Issue Date: September 13, 2011**  
**Expiration Date: October 4, 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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**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 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:** Mark Hackel, Hackel Feedlot, 80643 476<sup>th</sup> Ave, Ord, Nebraska, 68862.

**PROJECT LOCATION:** This project is located in Section 20, Township 18 North, Range 14 West, Valley County, Nebraska.

**PROJECT DESCRIPTION:** The project consists of construction of a new sediment basin designed to store 25 year storm event. Construction of the dike for the basin will impact 0.2 acres. Feedlot solids will accumulate over the rest of the wetland area, thereby impacting an additional 0.6 acres, for a total of 0.8 acres of wetland impact for the proposed project.

**PROJECT PURPOSE:** The applicant's purpose of the project is to control manure runoff; to reduce sheet and rill erosion; and to maintain plant productivity.

**SPECIAL AQUATIC SITES:** The proposed project would result in the unavoidable discharge of fill material into Waters of the U.S. by impacting 0.8 acres of riverine floodplain PEMA/C wetlands.

**AVOIDANCE, MINIMIZATION, AND MITIGATION:** The USACE views the Natural Resources Conservation Service (NRCS) as the lead Federal Agency for the proposed project. The Environmental Evaluation Worksheet (NRCS Form CPA-52), prepared by the NRCS details avoidance efforts and the consideration of alternatives.

The applicant proposes to offset unavoidable wetland impacts of 0.8 acres through the construction of a mitigation site wetland (MWM). The MWM is located in the SE¼ of Section 20, Township 18 North, Range 14 West, in Valley County, Nebraska.

**CULTURAL RESOURCES:** The USACE views the NRCS as the lead Federal Agency for the proposed project and is responsible to ensure compliance with the National Historic Properties Act of 1966. Database and field surveys for historic and archaeological resources have been conducted by NRCS. No sites on or eligible for listing on the National Register of Historic Places occur within the project. We will evaluate input by SHPO and the public relative to this statute 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 NRCS as the lead Federal Agency for the proposed project and is responsible to ensure compliance with the Endangered Species Act. NRCS has completed an Environmental Evaluation Worksheet documenting potential impacts to federally listed threatened or endangered species, federally proposed critical habitat, and state species of concern. NRCS has concluded that the project will have no effect on American Burying Beetle, Piping Plover, Least Tern, and Western Prairie Fringed Orchid. Relative to Whooping Crane, NRCS has concluded that the project may affect but is Not Likely to Adversely Affect (NLAA) the species with the requirement of conservation conditions.

**FLOODPLAIN:** The USACE views the NRCS 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. It appears the project site occurs within Valley County Effective Flood Zone A. The applicant has not applied for a floodplain permit.

**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 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 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 Dale Vagts at the address shown on page one or by calling him at (402) 896-0896. You can also e-mail him at [dale.r.vagts@usace.army.mil](mailto:dale.r.vagts@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.