



**US Army Corps
of Engineers**

Omaha District

PUBLIC NOTICE

Application No: 2010-00952-KEA

Applicant: James Egley, Donald Kilchenmann

Waterway: Elkhorn River

Issue Date: August 13, 2010

Expiration Date: September 3, 2010

21 DAY NOTICE

Reply To:

NEBRASKA REGULATORY OFFICE – KEARNEY

2214 2ND AVENUE, KEARNEY, NEBRASKA 68847

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). NDEQ P. O. Box 98922, Lincoln, Nebraska 68509-8922 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 above issue date.

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

CO-APPLICANTS: James Egley, 1408 Homewood Drive, Norfolk, Nebraska 68701; Donald Kilchenmann, 83521 536 ½ Avenue, Stanton, Nebraska 68779

PROJECT LOCATION: Southwest ¼ of Section 25 and the Northwest ¼ of Section 36, Township 23 North, Range 1 East, Stanton County, Nebraska

PROJECT DESCRIPTION: The applicant proposes to construct 9 broken concrete jetties along approximately 1,350 feet of the right bank, at approximately 170-foot spacings. The length of each jetty extending into the channel is approximately 25 feet, with the remaining 15 feet trenched into the bank. The top width of each jetty is 15 feet. Height of each jetty is about 9 feet, including a 5-foot water depth. Side slopes will be 1:1, making the bottom width of each jetty approximately 33 feet. The fill impact of each jetty is 825 square feet, for a total fill impact of 7,425 square feet (0.17 acre) for all 9 jetties. An estimated 30 feet of bank was lost in spring, 2010. Extensive bank erosion occurred as a result of the June, 2010 flood. A channel width of 560 feet in June, 2009 has increased to an estimated 930 feet at the present. It is not known how much of the width includes the point bar vs. the active channel.

PROJECT PURPOSE: Stabilize the bank as designated by the applicant's plans to meet a private need to prevent further loss of upland property to bank erosion.

SPECIAL AQUATIC SITES: Corps of Engineers staff visited the site on May 21, 2010, prior to the flood. The bank was actively eroding on that date and was not a special aquatic site.

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 there are no known National Register sites in the vicinity. However, we will evaluate input by the State Historic Preservation Office, Tribes, and the public in response to this public notice, and we may conduct or require a reconnaissance survey of the permit area to check for unknown historic or prehistoric properties, if warranted.

ENDANGERED SPECIES: In compliance with the Endangered Species Act, a preliminary determination has been made that the described work may affect species designated as threatened or endangered or adversely affect critical habitat. The following species may be affected: interior least tern, piping plover. In order to complete our evaluation of this activity, comments are solicited from the U. S. Department of Interior, 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, 2214 2nd Avenue, Kearney, Nebraska 68847** or send an e-mail to **dwight.k.tillotson@usace.army.mil**. 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: For additional information, please call **Keith Tillotson at (308) 234-1403**.

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.