



**US Army Corps  
Of Engineers**  
Omaha District

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# PUBLIC NOTICE

**Application Number:** 2006-480-KEA  
**Applicant:** Dan Shaw  
**Waterway:** Big Sandy Creek  
**Issue Date:** January 31, 2007  
**Expiration Date:** February 21, 2007

**21-DAY NOTICE**

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**Reply To:**  
**Kearney Regulatory Office**  
**1430 Central Avenue Kearney, NE 68847**  
**(308) 234-1403**

**<https://www.nwo.usace.army.mil/html/od-rne/nehome.html>**

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**JOINT PUBLIC NOTICE:** This public notice is issued jointly by the US Army Corps of Engineers, Omaha District, and the Nebraska Department of Environmental Quality (NDEQ). The NDEQ, PO 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).

**APPLICANT:** Dan Shaw 30460 Road Q Edgar, Nebraska 68935-3121

**PROJECT LOCATION:** SW<sup>1</sup>/<sub>4</sub> Section 23, Township 6 North, Range 7 West, Clay County, Nebraska

**PROJECT DESCRIPTION:** The applicant is proposing to shift the flow line in two, possibly three, segments of this stream.

Site 1: Shift the channel approximately 20 feet to the southeast. The existing segment is approximately 135 feet long, four feet deep with an 8-foot bottom width. The proposed channel will be approximately 100 feet long, four feet deep with an 8-foot bottom width.

Site 2: This area may not need to be manipulated. If the pivot tower runs too close to the stream bank, the applicant is proposing to shift the flow line to the east three feet. The existing segment is approximately 50 feet long, four-five feet deep with an 8-foot bottom width. The proposed channel will be approximately 45 feet long with the same other dimensions as the existing.

Site 3: Shift the channel approximately 30 feet to the west. The existing segment is approximately 135 feet long, four feet deep with an 8-foot bottom width. The proposed channel will be approximately 110 feet long, four feet deep with an 8-foot bottom width.

The stream channel will lose a total of 65 feet of length. The channel will be shaped/dished out at the other tower locations. This was not a viable option at these three sites because the pivot tower was either running in the channel itself or it was too close to the stream bank.

**PROJECT PURPOSE:** The purpose of the project is to keep the pivot towers from either running in the stream channel itself or preventing the tower from falling into the stream.

**SPECIAL AQUATIC SITES:** Approximately .01 acre of channel wetland will be impacted.

**CULTURAL RESOURCES:** No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C.

**ENDANGERED SPECIES:** In compliance with 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 US 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 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 CFR 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 **Kearney Regulatory Office 1430 Central Avenue Kearney, NE 68847-6856 or send an e-mail to barbara.j.friskopp@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 Mrs. Barb Friskopp 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 or advertising.