



Public Notice

U.S. Army Corps
of Engineers
Tulsa District

Reply To:

U.S. Army Corps of Engineers
ATTN: Regulatory Office
1645 South 101st East Avenue
Tulsa, Oklahoma 74128-4609

SWT-2015-0069
Public Notice No.

June 30, 2015
Public Notice Date

July 29, 2015
Expiration Date

PURPOSE

The purpose of this public notice is to inform you of a proposal for work in which you might be interested and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

SECTION 10

The U.S. Army Corps of Engineers is directed by Congress through Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) to regulate all work or structures in or affecting the course, condition, or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404

The U.S. Army Corps of Engineers is directed by Congress through Section 404 of the Clean Water Act (33 U.S.C. 1344) to regulate the discharges of dredged and fill material into all waters of the United States. These waters include lakes, rivers, streams, mudflats, sandflats, sloughs, wet meadows, natural ponds, and wetlands adjacent to other waters. The intent of the law is to protect these waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical, and biological integrity.

NOTICE TO PUBLISHERS

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DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, TULSA DISTRICT
1645 SOUTH 101ST EAST AVENUE
TULSA, OKLAHOMA 74128-4609

Application No. SWT-2015-0069

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS
AND
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY (ODEQ)
(30-DAY COMMENT PERIOD)

Interested parties are hereby notified that the District Engineer (DE) has received an application for a Department of the Army permit and water quality certification pursuant to Sections 404 and 401 of the Clean Water Act. The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto.

The applicant proposes to build a 4-acre wet detention pond to control runoff for a 90-acre tract for a planned development upstream of the detention pond.

Name of Applicant: Mr. Tim McNulty
Warren Professional Building Corporation
6568 S. Yale, Suite 1040
Tulsa, OK 74136

Name of Agent: Mr. Larry Clendenen
Kimley-Horn
12750 Merit Drive, Suite 1000
Dallas, TX 75251

Location: The proposed project is in the Southeast 1/4 of the Southeast 1/4 of Section 18, Township 18 North, Range 14 East, near East 91st Street and South Garnet Road, City of Tulsa, Tulsa County, Oklahoma. The project site can be found on the Broken Arrow, Oklahoma 7.5 Minute USGS Quadrangle map at North Latitude 36.0358 and West Longitude 95.851940.

Purpose: The purpose of this work is to provide storm water detention during rain events from runoff of a 90-acre tract of land that is to be used for a planned development for future development. The wet basin detention pond would serve as a water feature for the development that is currently at this location.

A water dependency statement determination is unnecessary since no special aquatic sites are located at the project site.

The overall purpose of this work is to provide a regional wet basin storm water detention pond. The regional storm water detention facility would include an approximately 4-acre

wet detention pond located within an 8.7-acre tract named the study area. The detention pond is intended to serve an approximately 90-acre planned future development, located north of East 91st Street South and west of South Garnett. The regional detention pond would be designed and sized to serve current storm water detention needs as well as anticipated future growth.

Table of Impact:

Current Proposal					
Number or Location	Impact Activity	Type of Impact	Type of Fill Material	Qty of Material cys below OHWM	Footprint (ac and/or lf)
Feature I1	Excavation of unnamed Tributary	Permanent	Native earthen material	800	0.16 ac/899 lf
Feature I2	Excavation of unnamed tributary	Permanent	Native earthen material	300	0.06 ac/500 lf
Feature I3	Excavation of unnamed tributary	Permanent	Native earthen material	50	0.01 ac/41 lf

Description of Work: The applicant proposes to excavate approximately 4 acres of land to include a total of approximately 1,440 linear feet of intermittent stream channel and place 0.26 acre (1,150 cubic yards) of fill material into waters of the United States to create a wet basin detention pond for a future 90-acre planned development upstream of the detention pond. The wet basin detention pond would act as a water feature for the entrance to the current development and for the future development. At this time the applicant does not have any plans to encroach on waters of the United States when the 90-acre planned development constructed.

Avoidance and Minimization Information: The applicant provided the following statement with regard to how avoidance and minimization of impacts to aquatic resources was incorporated into the project plan:

The applicant provided a no action alternative which is not acceptable to the applicant. The applicant also proposed a dry bed detention pond but this action would incorporate approximately 5.6 acres for the dry basin and require a total of 12.2 acres to develop the entire area. This alternative would also impact approximately 1,660 linear feet of stream. The preferred alternative would be to build the 4-acre wet basin detention pond on study area tract.

Mitigation: The applicant proposes the following as compensatory mitigation for the unavoidable impacts to aquatic resources expected from the proposed project:

The applicant has not submitted a proposed mitigation plan. The applicant has suggested that a 25-acre site, 0.5 mile downstream is available for possible mitigation for the unavoidable impacts to waters of the United States.

This mitigation plan is the applicant's proposal. The U.S. Army Corps of Engineers, Tulsa District has made no determination at this time with regard to the adequacy of the proposed mitigation relative to the federal mitigation rules and guidance, including Tulsa District's Mitigation and Monitoring Guidelines. The Corps is accepting comments on the need for and nature of the proposed mitigation in addition to comments on the applicant's primary proposal. The Corps bears the final decision on the need for and extent of mitigation required if the project proposed herein is authorized.

Project Setting The project is set in the Central Irregular Plains ecological region. The typical vegetation in the immediate area is Hackberry (*Celtis occidentalis*), American elm (*Ulmus americana*), Black willow (*Salix nigra*) are typical overstory in the area.

Existing Condition: The existing condition of this area is the remnant of highly incised creek that is showing signs of further degradation. There are two old ponds on the property whose dams seemed to have been cut sometime prior to a 1995 aerial photo. The three stream beds are incising. A dry basin detention pond for the Saint Francis South Hospital was built prior to 2010 that has increased the rate at which the southernmost I2 stream is being incised. The stream banks from Garnett Road back to the first pond dam has been undercut approximately 8 feet.

Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice. If additional information is desired, it may be obtained from U.S. Army Corps of Engineers, Tulsa District, ATTN: Dale Davidson, 1645 South 101st East Avenue, Tulsa, OK 74128-4609, or telephone 918-669-4321.

Cultural Resources: The DE has consulted the National Register of Historic Places regarding the potential effects from the proposed action. The DE will comply with the requirements of the National Historic Preservation Act of 1966 for any known or presently unknown historic or archeological resources that may exist in the project vicinity and which could be directly affected by the proposed work. This public notice is being sent to the State Historic Preservation Officer and to Native American Tribal governments to reveal if other known historic or archeological resources may be eligible for listing in the National Register exist in the project area and which could be directly affected by the proposed work. This coordination is being done to fulfill our requirements under the National Historic Preservation Act of 1966 (Public Law 89-665) and associated historic preservation laws. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological or other historic properties which may be affected by the proposed work, the DE will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966, as amended, and 36 CFR Part 800, in accordance with implementing regulations 33 CFR 325, Appendix C.

Threatened and Endangered Species: The following federally listed species are known to occur in the vicinity or are listed for the county in which the proposed action is located: Interior least tern (*Sterna antillarum*), American burying beetle (*Nicrophorus americanus*), and Piping plover (*Charadrius melodus*). A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies. This notice constitutes a request to those agencies for information on whether any other listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity.

We are currently assessing the potential effects of the proposed action on these species and will comply with the Endangered Species Act with regard to any affect of our decision on this permit application.

Environmental Considerations: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof: 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 ownerships, and, in general, the needs and welfare of the people. A permit will be denied if the discharge does not comply with the Environmental Protection Agency's 404(b)(1) Guidelines. Subject to the 404(b)(1) Guidelines and any other applicable guidelines or criteria, a permit will be granted unless the DE determines that it would be contrary to the public interest.

Comments: In order to consider and evaluate the impacts of this proposed activity the Corps is soliciting comments from the public, federal, state, and local agencies and officials, Indian tribes, and other interested parties. Comments concerning the issuance of this permit should be received by the DE no later than 30 days from the date of this public notice. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. 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 proposed activity. Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

At the request of the Oklahoma Water Resources Board's National Flood Insurance Program State Coordinator, we are sending a copy of this notice to the local floodplain administrator to apprise the administrator of proposed development within their jurisdiction. In accordance with 44 CFR Part 60 (Floodplain Management Regulations Criteria for Land Management and Use), participating communities are required to review all proposed development to determine if a floodplain development permit is required. The local floodplain administrator is required to perform this review for all proposed development and maintain records of such review.

The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto. Comments concerning water quality impacts will be forwarded to ODEQ for consideration in issuing a water quality Section 401 certification for the proposed project. Work may not commence until decisions have been made on both Sections 401 and 404.

Andrew R. Commer
Chief, Regulatory Office

Enclosures