



Public Notice

**U.S. Army Corps
of Engineers**
Tulsa District

Reply To:

SWT-2017-00279
Public Notice No.

U.S. Army Corps of Engineers
ATTN: Regulatory Office
2488 East 81st Street
Tulsa, Oklahoma 74137-4290

July 11, 2018
Public Notice Date

August 10, 2018
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
2488 EAST 81ST STREET
TULSA, OKLAHOMA 74137-4290**

Application No. SWT-2017-00279

**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 (DA) permit and water quality certification pursuant to Sections 404 and 401 of the Clean Water Act (CWA). The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto.

Applicant: John F. Rosenburg
Whirlpool Corporation
2000 North M-63, MD 3008
Benton Harbor, MI 49022-2692

Agent: Larry Clendenen
Kimley-Horn and Associates, Inc.
13455 Noel Road, Two Galleria Office Tower, Suite 700
Dallas, TX 75240

Location: The proposed project is in the south 1/2 of the northwest 1/4 of Section 34, Township 21 North, Range 13 East near Owasso, Tulsa County, Oklahoma. The project site can be found on the Sperry Oklahoma 7.5 Minute USGS Quadrangle map at north latitude 36.258 and west longitude -95.915.

Project Description: The application is for the placement of fill material in waters of the United States, for the proposed construction of a 800,000 square-foot Class-A Whirlpool Corporation warehouse/distribution facility. Approximately 2,123-lf of ephemeral stream, in two reaches, would be filled/rerouted into stormwater utility lines in order to accommodate the proposed project.

Purpose: The basic purpose of this work is to construct a warehouse/distribution facility. There are no special aquatic sites on the project. A water dependency determination is not necessary since no special aquatic sites are located within the project site.

The overall project purpose is the construction of a factory distribution center immediately adjacent to the existing Whirlpool Corporation Cooking Product

Manufacturing Operations, in Tulsa, Oklahoma, to accommodate increased production capabilities at this facility.

Summary Table of Impacts:

Proposal					
Number or Location	Impact Activity	Type of Water	Type of Fill Material	Qty of Material cys below OHWM	Footprint (lf)
Stream 1	Fill/relocate	Ephemeral Stream	Earthen	227	1,364
Stream 2	Fill/relocate	Ephemeral Stream	Earthen	141	759
Total				368	2,123
cubic yards (cys), ordinary high water mark (OHWM), acre (ac), linear feet (lf)					

Description of Work: The applicant proposes to expand the existing Tulsa Whirlpool facility; currently a manufacturing facility. The expansion would include the placement of fill material into approximately 2,123-lf of unnamed ephemeral streams which are tributaries to Bird Creek. Approximately 368 total cubic yards of clean fill would be placed into these waters. The filling would be conducted as part of the facilities' foundation, parking, and stormwater system development. The filling would be completed with standard earth moving equipment (i.e., backhoe, bulldozer, trackhoe, haul truck, and compactor).

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 studied multiple offsite and onsite alternatives in addition to the preferred alternative. The preferred alternative neither avoids nor minimizes permanent onsite impacts to waters. The preferred alternative was selected for multiple reasons over the other alternatives studied. The Preferred Alternative location was chosen due to its proximity to the existing manufacturing facility, immediate access to convey finished products, provides the ability to reduce truck traffic to and from the current manufacturing location. Temporary construction disturbance would be minimized through the use of appropriate Best Management Practices.

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

The applicant has developed a conceptual mitigation plan that would be designed using Natural Channel Design (NCD) techniques. These techniques seek to provide

functional improvements to stream and riparian areas. The design will address pattern, profile, and dimension as well as in-stream habitat diversity. The project will improve the geomorphic and hydraulic functions of the stream. Approximately one-mile south of the proposed Whirlpool facility, the applicant has identified an approximately 2,200-lf highly modified/straightened ephemeral channel, a tributary to Bird Creek. See Enclosure 3 of 3 (Conceptual Mitigation Plan). Conceptually, NCD techniques would be applied resulting in a proposed channel length of 2,500-lf with a proposed average buffer width of 160-ft. In addition to the in-channel work, approximately 0.5-ac of low quality wetland on the upstream end of the mitigation project would be enhanced with higher quality tree/shrub species. Additionally the mitigation area will be protected with an approximately 10-ac deed restriction.

This mitigation plan is the applicant's proposal. The Corps 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. Compensatory Mitigation for unavoidable impacts may be required to ensure that this activity requiring a Section 404 permit, if issued, complies with the Section 404 (b)(1) Guidelines. 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 located within the Osage Cuestas ecoregion of the Central Irregular Plains. The area is primarily tall grass prairie with some oak-hickory forest. The USGS Topographic Quadrangle Map shows the longer tributary to be a mapped 'blue-line' stream. The area is in the Cherokee Industrial District which has been commercially developed. There are other industrial developments in the area.

Existing Condition:

The study area can be characterized into two distinct vegetation types; upland field, and riparian forest. The upland field, makes up approximately 80% of the study area and is dominated by upland grasses such as little bluestem (*Andropogon virginicus*), and weedy/ruderal species. The riparian forest, makes up approximately 20% of the vegetated study area and is dominated by Eastern cottonwood (*Populus deltoides*), and black willow (*Salix nigra*). The dominant mapped soil types for the study area include; Bates-Coweta complex, 3 to 5 percent slopes; Coweta- Bates complex, 3 to 5 percent slopes; Dennis silt loam, 1 to 3 percent slopes; Dennis-Pharoah complex, 1 to 3 percent slopes; Dennis-Radley complex, 0 to 12 percent slopes; and, Okemah-Parsons-Pharoah complex, 0 to 1 percent slopes.

Cultural Resources: The DE is responsible to ensure compliance with the National Historic Preservation Act of 1966 (NHPA) (Public Law 89-665), as amended, and other cultural resources laws and Executive Orders. A preliminary review of the state's records has been completed for the presence of sites included in, or eligible for, inclusion in the National Register of Historic Places, as well as the Oklahoma Landmark

Inventory Database. There are no known historic properties, as defined by the NHPA, in or within the vicinity of the proposed permit area.

This notice has been provided to the Oklahoma State Historic Preservation Office, Oklahoma Archaeological Survey, Native American Tribal governments, and other interested parties. If you have information pertaining to these or other cultural resources within the permit area, please notify the Corps project manager identified within this notice to assist in a complete evaluation of potential effects. The DE will evaluate any input received and may require further investigations within the permit area, if warranted.

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: Least Tern (*Sterna antillarum*), Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), Whooping Crane (*Grus americana*), and American Burying Beetle (*Nicrophorus americanus*). A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies.

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 effect of our decision on this permit application.

Evaluation Factors: 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.

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 Mr. David Carraway, Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137; or telephone 918-669-7400.

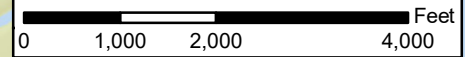
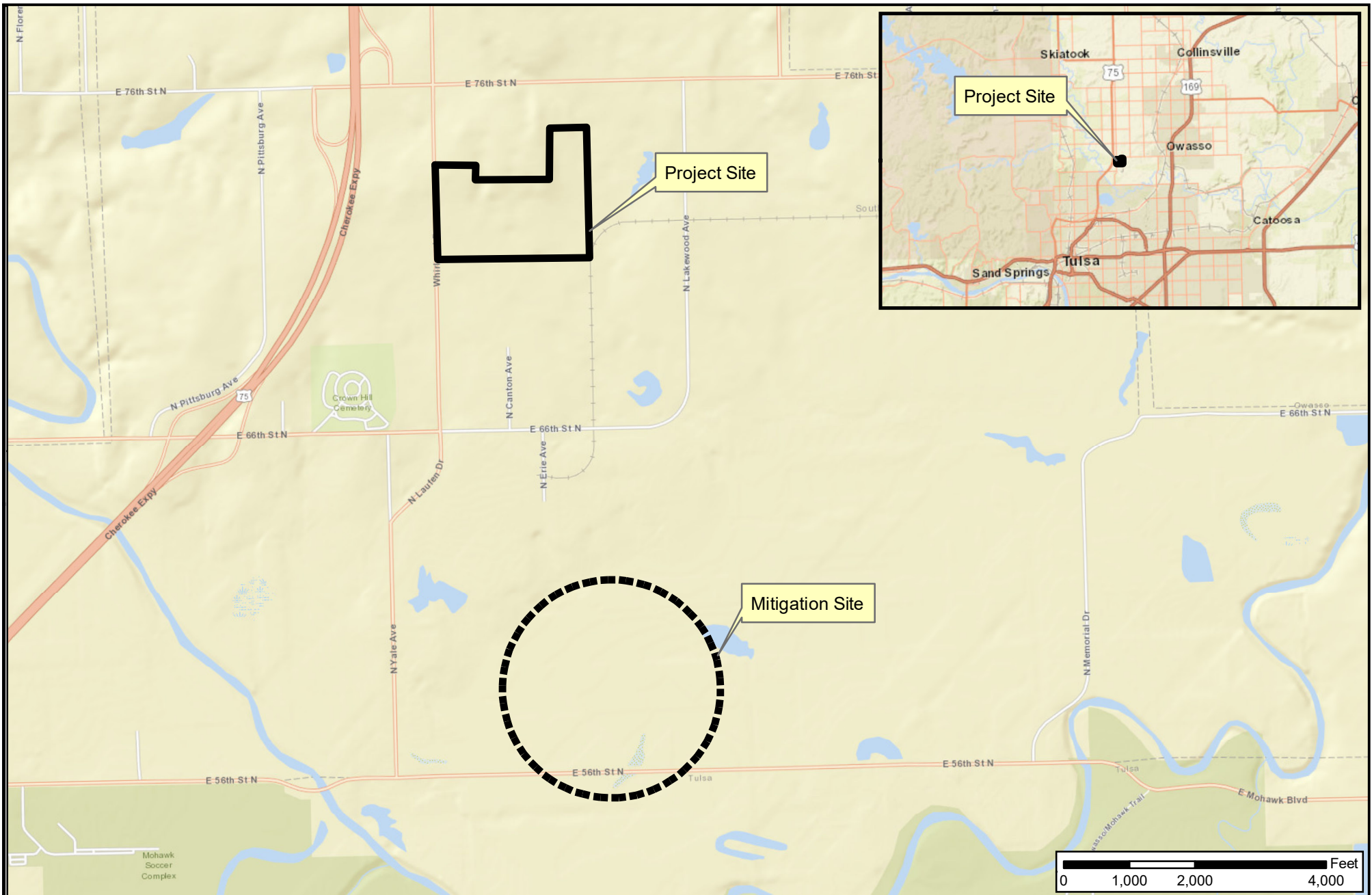
Comments: In order to consider and evaluate the impacts of this proposed activity the Corps is soliciting comments from the public, federal, state, and local agencies and

officials, floodplain administrators, state historic preservation officers, Indian tribes, and other interested parties. Comments concerning the issuance of this permit should be received by the DE no later than the expiration date of this public notice. You may submit comments to mailing address Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137; or email CESWT-RO@usace.army.mil, please include the public notice number SWT-2017-00279 in the subject line of the message.

Comments concerning water quality impacts will be forwarded to ODEQ for consideration in issuing a Section 401 Water Quality 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



1 OF 3	ENCLOSURE
	DATE: 06/27/2018
	DESIGN: MMC
	CHECKED: LDC
	KHA NO.: 168584000




**Project Location and
Mitigation Site Location**
 Aerial: Nearmap, January 2017

SWT-2017-00279
 Whirlpool Corporation
 Whirlpool Tulsa FDC



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This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

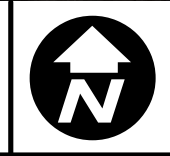
- Legend**
-  Study Area, ~75-acres
 -  Stream 1 - Ephemeral (1,364-linear feet)
 -  Stream 2 - Ephemeral (759-linear feet)



2	ENCLOSURE
	DATE: 06/27/2018
	DESIGN: MMC
	CHECKED: LDC
OF 3	KHA NO.: 168584000

**Aquatic Features Map
with Site Plan**
 Aerial: Nearmap, January 2017

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 Whirlpool Corporation
 Whirlpool Tulsa FDC



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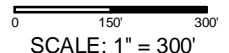


LEGEND

- EXISTING STREAM
- PROPOSED STREAM
- PROPOSED CONSERVATION EASEMENT
- PROPOSED WETLAND ENHANCEMENT

AREAS

EXISTING STREAM LENGTH: ≈2200 LF
 PROPOSED STREAM LENGTH: ≈2500 LF
 PROPOSED CONSERVATION EASEMENT: 10 AC
 PROPOSED WETLAND ENHANCEMENT: 0.65 AC



DATE: 06-27-2018

ENCLOSURE 3 OF 3



WHIRLPOOL TULSA FDC
CONCEPT MITIGATION PLAN
SWT-2017-00279

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