



US Army Corps  
of Engineers  
Portland District

# PUBLIC NOTICE

## Application for Permit

**Issue Date:** June 20, 2016

**Expiration Date:** July 20, 2016

**US Army Corps of Engineers No:** NWP-2010-535

**Oregon Department of State Lands No:** 58311-RF

### 30-Day Notice

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Interested parties are hereby notified the U.S. Army Corps of Engineers, Portland District (Corps) has received an application for a Department of the Army permit for certain work in waters of the United States, as described below and shown on the attached plans. The Corps is soliciting comments on the proposed work.

**Applicant:** City of Prineville  
Attention: Mr. Eric Klann  
387 N.E. Third Street  
Prineville, Oregon 97754  
Email: [eklann@cityofprineville.com](mailto:eklann@cityofprineville.com)  
Telephone: (541) 447-2357

**Applicant's Agent:** Anderson, Perry and Associates, Inc.  
Attention: Laurie Parry  
P.O. Box 1107  
La Grande, Oregon  
Email: [lperry@andersonperry.com](mailto:lperry@andersonperry.com)  
Telephone: (541) 963-8309

**Location:** The project site is located west of the Crooked River, mile 44.5 to 46, near Highway 26 and east of Highway 370 in Tax Lots 400, 500, 502 and 601, near the City of Prineville, Crook County, Oregon. The site is located in in Section 26 and 35, of Township 14 South, Range 15 East. Latitude and Longitude: 44.318889 North, -120.893951 West

**Waterway:** The project site includes approximately 17.58 acres of wetland distributed among thirteen (13) delineated wetlands adjacent to the Crooked River and approximately 1.5 miles of the Crooked River from river mile 44.5 to 46.

**Project Purpose:** The City of Prineville (City) proposes to initiate creation, restoration and enhancement activities on the Crooked River as a secondary activity to improvements to the City wastewater treatment facility. The purpose of the proposed creation, restoration and enhancement project is to improve quality habitat along 1.5 miles of the Crooked River and 17.58 acres of wetlands affected by prior modifications to the river system. The proposed work abuts the City's 160-acre expansion of an existing wastewater treatment facility which may

increase groundwater availability from new treatment ponds constructed in uplands. Ground water would flow from the treatment facility's treatment lagoons, through native wetlands and through groundwater release into the Crooked River. The proposed project does not include the purpose and need for the City wastewater treatment project.

**Project Description:** Concurrent with City development of a 160-acre water treatment system comprised of onsite ponds and infiltration wetlands constructed in uplands, the applicant proposes the following activities within the Crooked River, and within abutting wetlands:

- Construct 4,600 linear feet of new side channel in ten locations in the Crooked River to include habitat pools constructed three feet below the current Crooked River streambed elevation. The main side channels are "A", "H", "I" and "J".
- Side channel "A" would be constructed with six smaller side channels connecting Side channel "A" to the Crooked River. Side channel "A" would be 3,300 feet long. The smaller side channels "B" through "G" connected to Side channel "A" would be 1,300 linear feet long and contain 62 juniper revetments and four habitat structures. All revetments are designed to be a minimum 20 feet long. Each juniper would be buried trunk end into the bank and would protrude into the channel approximately 5 feet.
- Construct 300 linear feet of Side channel "H" which would contain eight juniper revetments. Side channel "H" would be directly connected to the Crooked River.
- Construct 90 linear feet of Side channel "I" below Ordinary High Water and contain one habitat structure. Side channel "I" would be directly connected to the Crooked River
- Construct 80 linear feet of Side channel "J", include one habitat structure and be constructed within 5.32 acres of wetland abutting the Crooked River. Side channel "J" would be directly connected to the Crooked River
- Install 1,640 linear feet of Type I bank stabilization across five locations in the main stem Crooked River to include 0.02 acres of wetland as shown in the drawings.
- Install 1,340 linear feet of Type II bank stabilization within the main stem Crooked River below Ordinary High Water and 0.2 acre wetland abutting the Crooked River as shown in the drawings.
- Install seven side channel habitat structures in 16.29 acres of wetlands and below Ordinary High Water as shown in the drawings.
- Permanently impact a minimum of 0.25 acres of wetland
- Excavate scour pools approximately two feet deep under all rootwad structures
- Construct one vernal pool in an upland location
- Improve riparian vegetation along the Crooked River to stabilize revetments
- Total permanent and temporary fill volumes below the Crooked River Ordinary High Water is 31,885 cubic yards (cy) and 450 cy respectively.
- Total permanent and temporary fill volumes within wetland is 3,785 cy and 1,050 cy.

Access to the project site is located along the east side of McKay Creek from Highway 26 and from Rimrock Acres Road and from Oregon Highway 370. Staging areas for all activities would occur in upland areas. Construction would be accomplished using track-mounted dozers and excavators, scrapers, loaders and rubber-tired dump trucks. To facilitate construction, equipment may be transported through the Crooked River in shallow riffles areas under low-flow conditions. In-water work would occur from July 1 through October 31.

**Mitigation:** The applicant proposes to minimize impacts from the project by avoiding permanent impacts to aquatic resources and by improving riparian conditions along approximately 1.5 miles of the Crooked River. The Corps will determine the type and amount of compensatory mitigation necessary to offset environmental losses from the proposed project.

**Drawings:** Forty-four (44) drawings are attached and labeled Corps No. NWP-2010-535. Copies of this public notice, which have been mailed or otherwise physically distributed, feature project drawings in black and white. To access the electronic version of this public notice, go to the Portland District website at <http://www.nwp.usace.army.mil/> and select Regulatory Branch Permit Information. At the Regulatory page select Regulatory Public Notices.

**Authority:** The proposed project will be evaluated under the following:

Section 404, Clean Water Act (33 U.S.C. 1344), for discharge of dredged or fill material into waters of the United States.

**Clean Water Act Section 404(b)(1) Guidelines:** The described discharge will be evaluated for compliance with guidelines promulgated by the U.S. Environmental Protection Agency under authority of Section 404(b)(1) of the Clean Water Act. The 404(b)(1) Guidelines are the substantive criteria used in evaluating discharges of dredged or fill material into waters of the United States. Should a permit be issued, the Corps will evaluate the fill material source (i.e., borrow site) prior to the start of construction.

**Water Quality Certification:** Section 401 of the Clean Water Act (33 U.S.C. 1341) requires applicants to obtain a water quality certification for proposed discharges into waters of the United States. A permit for the described work will not be issued until certification has been issued or is waived from the certifying state. Attached is the state's notice for a water quality certification.

**Endangered Species:** Section 7 of the Endangered Species Act (ESA) (16 U.S.C 1536) requires federal agencies to consult with the U.S. Fish and Wildlife Service (USFWS) on all actions that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered or that may adversely modify designated critical habitat. The Corps' preliminary review indicates the described activity will not affect any endangered species or designated critical habitat. Consultation under Section 7 of the ESA is not required for the described activity. The Corps will make a final determination on the need to consult after receipt of comments from this public notice including any comments provided by USFWS.

**Essential Fish Habitat:** Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) as amended (16 U.S.C 1855), requires Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The Corps' preliminary review indicates the described activity is outside of public maps of EFH and thus would not adversely affect EFH at the project location or in its vicinity. The Corps will make a final determination on the need to consult on EFH after receipt of comments from this public notice including any comments provided by the NMFS.

**Historic Properties/Cultural Resources:** Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), requires Federal agencies to consult with the

appropriate State and/or Tribal Historic Preservation Officer to take into account the effects of actions they undertake or permit on historic properties listed in or eligible for listing in the National Register of Historic Places. The Corps' preliminary review indicates to the best of our knowledge, the described activity is not located on property registered or eligible for registration in the latest published version of the National Register of Historic Places. Earlier consultation with the State Historic Preservation Office dated August 28, 2014 determined the project would likely have no effect on any significant archaeological objects or sites based on information provided by the applicant.

This notice has been provided to the State Historic Preservation Office (SHPO), interested Native American Indian Tribes, and other interested parties. If you have information pertaining to cultural resources within the permit area, please provide this information to the Corps' project manager identified at the end of this notice to assist in a complete evaluation of potential effects.

**State and Local Authorizations:** The applicant has received assistance from the United States Department of Agriculture (USDA) Office of Rural Development and has obtained Land Use Compatibility Certification from Crook County. The applicant would obtain Oregon Department of Environmental Quality Individual Section 401 Water Quality Certification and appropriate fill and removal permits through Department of State Lands.

**Public Hearing:** 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.

**Evaluation:** The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the described activity 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 described activity, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the described activity 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, consideration of property ownership and, in general, the needs and welfare of the people.

The Corps 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 the proposed project. Comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. 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.

**Submitting Comments:** Interested parties are invited to provide comments on the proposed project. Comments may be submitted by conventional mail or email. All comments received will be considered in determining whether authorizing the work would be contrary to the public interest.

Either conventional mail or e-mail comments must include the Corps reference number as shown on page 1 and include the commenter's name and address. In order to be accepted, e-mail comments must originate from the author's e-mail account and must include on the subject line of the e-mail message the Corps reference number. All comments received will become part of the administrative record and are subject to public release under the Freedom of Information Act including any personally identifiable information such as names, phone numbers, and addresses.

Additional information about the proposed project may be obtained from the Corps Project Manager listed below. All comments, whether by conventional mail or email, must be received no later than the expiration date of this public notice to ensure consideration. Comments should be submitted to the following mailing address or email address:

U.S. Army Corps of Engineers  
Anita Andazola  
Eugene Field Office  
211 E. 7<sup>th</sup> Avenue, Suite 105  
Eugene, Oregon 97401-2722  
Email: [anita.m.andazola@usace.army.mil](mailto:anita.m.andazola@usace.army.mil)  
Telephone: (541) 465-6894

**PUBLIC NOTICE**  
**Oregon Department of Environmental Quality (DEQ)**  
**Water Quality 401 Certification**

**Notice Issued:** June 20, 2016  
**Written Comments Due:** July 20, 2016

**Corps of Engineers No:** NWP-2010-535  
**Oregon Department of State Lands No:** 58311-RF

**WHO IS THE APPLICANT:** Mr. Eric Klann  
City of Prineville  
387 N.E. Third Street  
Prineville, Oregon 97754  
Email: [eklann@cityofprineville.com](mailto:eklann@cityofprineville.com)  
Telephone: (541) 447-2357

**LOCATION OF CERTIFICATION ACTIVITY:** See attached U.S. Army Corps of Engineers public notice.

**WHAT IS PROPOSED:** See attached U.S. Army Corps of Engineers public notice on the proposed project.

**NEED FOR CERTIFICATION:** Section 401 of the Federal Clean Water Act requires applicants for Federal permits or licenses to provide the Federal agency a water quality certification from the State of Oregon if the proposed activity may result in a discharge to waters of the state.

**DESCRIPTION OF DISCHARGES:** See attached U.S. Army Corps of Engineers public notice on the proposed project.

**WHERE TO FIND DOCUMENTS:** Documents and materials related to water quality issues as a result of the proposal are available for examination and copying at Oregon Department of Environmental Quality, 401 Water Quality Certification Coordinator, Northwest Region, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232. Other project materials are available by contacting the Corps per the attached public notice.

Scheduling an appointment will ensure that water quality documents are readily accessible during your visit. To schedule an appointment please call DEQ Water Quality at Northwest Region at (503) 229-5263.

Any questions on the water quality certification process may be addressed to the 401 Program Coordinator at (503) 229-6030 or toll free within Oregon at (800) 452-4011. People with hearing impairments may call the Oregon Telecommunications Relay Service at 1-800-735-2900.

## **PUBLIC PARTICIPATION:**

**Public Hearing:** Oregon Administrative Rule (OAR) 340-48-0032 (2) states that “The Corps provides public notice of and opportunity to comment on the applications, including the application for certification, provided that the department (DEQ), in its discretion, may provide additional opportunity for public comment, including public hearing.”

### **Written comments:**

Written comments on project elements related to water quality must be received at the Oregon Department of Environmental Quality by 5 p.m. on the date specified in the upper right section on page one of this notice. Written comments may be emailed, mailed or faxed as described below:

Email - [401publiccomments@deq.state.or.us](mailto:401publiccomments@deq.state.or.us)

Mail - Oregon Department of Environmental Quality, Northwest Region  
700 NE Multnomah Street, Suite 600  
Portland, Oregon 97232  
Attn: 401 Water Quality Certification Coordinator

Fax - (503) 229-6957

**WHAT HAPPENS NEXT:** DEQ will review and consider all comments received during the public comment period. Following this review, certification of the proposal may be issued as proposed, issued with conditions, or denied. You will be notified of DEQ's final decision if you submit comments during the comment period. Otherwise, if you wish to receive notification, please call or write DEQ at the above address.

**ACCESSIBILITY INFORMATION:** This publication is available in alternate format (e.g. large print, Braille) upon request. Please contact DEQ Office of Communications and Outreach at (503) 229-5317 or toll free within Oregon at 1-800-452-4011 to request an alternate format. People with a hearing impairment can receive help by calling the Oregon Telecommunications Relay Service at 1-800-735-2900.