



US Army Corps
of Engineers
Portland District

PUBLIC NOTICE

Application for Permit

Issue Date: August 15, 2016

Expiration Date: September 14, 2016

US Army Corps of Engineers No: NWP-2010-593-2

Oregon Department of State Lands No: 51892

30-Day Notice

Interested parties are hereby notified the U.S. Army Corps of Engineers, Portland District (Corps) has received a request to modify 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: Oregon Department of Transportation – Region 3
Attention: Doug Sharp
100 Antelope Road
White City, Oregon 97503
Email: Doug.Sharp@odot.state.or.us
Telephone: (541) 864-8814

Location: The project site is located on Oregon Highway (Hwy) 62, from south of Vilas Road and north to the intersection of Gregory Road and Hwy 62. The site is located in Sections 6, 29, 30, and 31, Townships 36 and 37 South, Range 1 West, in the city of Medford, Jackson County, Oregon.

Latitude and Longitude: Start: 42.4157, -122.8570
End: 42.3874, -122.8655

Waterway: The project modification would impact Whetstone Creek, North and South Swanson Creek, ditches, and associated wetlands, including vernal pool complexes.

Project Purpose: The purpose of the project is to alleviate traffic congestion, improve intersection operation, enhance transportation safety, and provide multimodal opportunities in the Crater Lake Highway corridor between Medford and White City.

Project Background: A Department of the Army permit issued by the Corps (NWP-2010-593) on July 9, 2014 authorized construction of a new 5-mile bypass on OR Hwy 62 to the west and generally parallel to the existing alignment. The original authorized project involved the discharge of 131,175 cubic yards of fill over approximately 9.604 acres of wetlands, and the discharge of 4,276 cubic yards of fill over 0.604 acre of waters below the ordinary high water mark. The project will occur in two phases. Phase 1 will extend from the southern terminus to

just south of Vilas Road. Phase 2 will extend north from Vilas Road to the Medco Haul Road past Justice Road.

A modification (NWP-2010-593-1) was issued on June 13, 2016 to increase the project footprint in a portion of Phase 1. Coker Butte Road will be extended at grade under an elevated portion of OR Hwy 62. Because of the increase in vertical alignment, the footprint of the bypass will be slightly wider. Impacts from the modification will increase the total project impacts by 0.49 acre for a total of 10.094 acres of wetland impacts.

Project Description: ODOT Region 3 has requested to modify the existing permit for the Phase 2 portion of the project. When the original permit was issued, ODOT did not have access to all of the properties within the project area. ODOT conducted fence-line wetland surveys for properties where access was not granted and estimated aquatic resource boundaries for the permit. After permit issuance, ODOT gained access to these areas and completed a routine wetland delineation to update the aquatic resource boundaries for the project. During this process, ODOT reclassified a wide swale/ditch as vernal pool habitat based on species presence. ODOT also shifted the proposed realignment of Crater Lake Avenue to the west south of Fowler Lane to avoid impacts to Whetstone Creek. Impacts from the modification will increase the total project wetland impacts by 3.225 acres for a total of 13.32 acres of wetland impacts and will increase the total project waters impacts by 0.121 acre for a total of 0.725 acre of waters impacts.

Mitigation: The applicant proposes to avoid and minimize impacts from the project by minimizing the footprint and establishing “no work zones” for wetlands onsite that will be avoided, including a mitigation site with vernal pools. ODOT determined several areas could be avoided by slightly changing the side slopes and construction techniques. Realigning the bypass footprint for this modification avoids some impacts to vernal pools and Whetstone Creek. The applicant has provided a proposed compensatory wetland mitigation plan to offset losses of waters of the U.S. that may result from the proposed project. The applicant proposes to expand the boundaries of the current mitigation area (Kinkaid Property Mound Site) to include an additional 51 acres of vernal pool habitat preservation, enhancement, and restoration. The Corps will determine the type and amount of compensatory mitigation necessary to offset environmental losses from the proposed project.

Drawings: Twelve (12) drawings are attached. Copies of this public notice, which have been mailed or otherwise physically distributed, feature project drawings in black and white. The electronic version features those drawings in color, which we think more accurately illustrates the proposed project. 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 National Marine Fisheries Service (NMFS) and/or 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. For this project, the Federal Highway Administration (FHWA), as the lead Federal agency for ESA consultation, completed consultation with the NMFS and the USFWS as required under Section 7 of the ESA. The NMFS issued a biological opinion for this project on March 20, 2013. The USFWS issued a biological opinion for this project on March 14, 2013 and issued an amended biological opinion for this modification on August 3, 2016.

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 would adversely affect EFH at the project location or in its vicinity. For this project, the FHWA, as the lead Federal agency for MSA consultation, completed consultation with the NMFS as required under Section 305(b)(2) of the MSA. The NMFS concurred with the lead agency's effect determination for this project on March 20, 2013

Historic Properties/Cultural Resources: Section 106 of the National Historic Preservation Act (NHPA) 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. For this project, the FHWA, as the lead Federal agency for determining compliance with Section 106 of the NHPA, completed consultation with the State Historic Preservation Officer (SHPO). This notice has been provided to the 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 is concurrently requesting a permit modification from the Department of State Lands (DSL), Application No. 51892.

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
Regulatory Branch
Ms. Carrie Bond
P.O. 2946
Portland, Oregon 97208-2946
Email: Carrie.L.Bond@usace.army.mil
Telephone: (503) 808-4387

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

Notice Issued: August 15, 2016
Written Comments Due: September 14, 2016

Corps of Engineers No: NWP-2010-593-2
Oregon Department of State Lands No: 51892

WHO IS THE APPLICANT: U.S. Department of Transportation – Region 3
Attention: Doug Sharp
100 Antelope Road
White City, Oregon 97503
Email: Doug.Sharp@odot.state.or.us
Telephone: (541) 864-8814

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

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.