



US Army Corps  
of Engineers  
Portland District

# PUBLIC NOTICE

## Application for Permit

**Issue Date:** March 11, 2016

**Expiration Date:** April 11, 2016

**US Army Corps of Engineers No:** NWP-2012-181-1

**Oregon Department of State Lands No:** N/A

### 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:** Clackamas County Development Agency  
Attention: Mr. Dan Johnson  
Development Services Building  
150 Beaver Creek Road  
Oregon City, Oregon 97045  
Email: danjoh@clackamas.us  
Telephone: (503) 742-4325

**Applicant's Agent:** Pacific Habitat Services  
Attention: Mr. John van Staveren  
9450 Commerce Circle; Suite 180  
Wilsonville, Oregon 97070  
Email: jvs@pacifichabitat.com  
Telephone: (503) 570-0800

**Location:** The project site is located at 1200 SE Capps Road, Happy Valley, Oregon also known as the Clackamas Industrial Opportunity Site. The project is in Section 15, Township 2 South, Range 2 East (Latitude and Longitude: 45.398128 North, 122.540758 West).

**Waterway:** The project will impact a 1.26-acre palustrine forested wetland identified as Wetland A. The wetland is neighboring the Clackamas River, near its confluence with Carli Creek. The wetland is dominated in the overstory by black cottonwood, and in the understory by grasses and forbs.

**Project Purpose:** The project purpose is to provide large industrial development opportunities. This project is Phase 2 of a two-phase development project located in the former rock quarry.

**Project Description:** The project will permanently place 7,851 cubic yards of fill in 1.02 acres of Wetland A. The site will be levelled for complete build-out of two industrial pads, each with a warehouse, loading area, storage, and parking. The northern pad includes a

294,000 square foot industrial building. The southern pad includes a 246,000 square foot building. Stormwater will be collected and treated through an existing stormwater facility constructed under previous authorization in 2015.

**Mitigation:** 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 goals of the mitigation plan include creation of 0.92 acre of palustrine scrub-shrub and 0.35 acre of palustrine emergent wetland. The mitigation site will be located west of the project site. The Corps will determine the type and amount of compensatory mitigation necessary to offset environmental losses from the proposed project.

**Drawings:** Thirteen (13) drawings are attached and labeled Corps No. NWP-2012-181-1. Copies of this public notice, which have been mailed or otherwise physically distributed, feature project drawings in black and white. The electronic version may feature those drawings in color, which we think would more accurately illustrate 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.

**Additional Information:** Phase 1 of the project was verified on February 13, 2015 as authorized under Nationwide Permit 39 (Commercial and Institutional Developments). The project involved constructing an access road, two industrial pads, and a stormwater treatment facility with the capacity to treat the full build-out of the industrial complex. For Phase 1, please reference NWP-2012-181-0. Phase 2 of the project will utilize the same access road and stormwater facility. The site is identified as a Certified Industrial Site by the State of Oregon. The project is expected to meet Clackamas County's prosperity goals as well as the State of Oregon's economic revitalization objectives.

**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. The source of the fill material would be from a commercially obtained source. 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. The Corps' preliminary review indicates the described activity may affect an endangered or threatened species or designated critical habitat. The Corps will initiate consultation under Section 7 of the ESA. The Corps will complete the required consultation prior to finalizing a permit decision.

**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 the vicinity. The Corps will initiate consultation under Section 305(b)(2) of the MSA. The Corps will complete the required consultation prior to finalizing a permit decision.

**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. At this time the Corps is unaware of any cultural resource surveys of the project area.

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 project may require state and local agency land use approvals. The applicant is required to obtain any necessary permits and approvals prior to construction the project.

**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  
Attention: Mr. Dominic Yballe  
P.O. 2946  
Portland, Oregon 97208-2946  
Email: dominic.p.yballe@usace.army.mil  
Telephone: (503) 808-4392

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

**Notice Issued:** March 11, 2016  
**Written Comments Due:** March 11, 2016

**Corps of Engineers No:** NWP-2012-181-1  
**Oregon Department of State Lands No:** N/A

**WHO IS THE APPLICANT:** Clackamas County Development Agency; Attn. Mr. Dan Johnson

**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.