



**US Army Corps
of Engineers**
Portland District

PUBLIC NOTICE

Application for Permit

Issue Date: August 19, 2016

Expiration Date: September 19, 2016

US Army Corps of Engineers No: NWP-2016-264

Oregon Department of State Lands No: 58986

30-Day Notice

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: Oregon Department of Transportation, Region 4
Attention: Allison Cowie
63055 N. Highway 97, Building M
Bend, Oregon 97703
Email: Allison.Cowie@odot.state.or.us
Telephone: (541) 388-6051

Location: The project site is located on OR 140 (Klamath Falls – Lakeview Highway) from mile point 82.8 to mile point 84.8, approximately 12 miles west of Lakeview, in Lake County, Oregon. The site is in Sections, 9, 10, 14, and 15; Township 39 South, Range 18 East.

Latitude and Longitude:

Western terminus: 42.1975, -120.5974

Eastern terminus: 42.1822, -120.5649

Waterway: Antelope Creek and 14 wetlands (Wetlands A through N) are present within the project area. The wetlands include wet meadows and old creek channels dominated by non-native plant species (Wetlands A, C, D, E, G, J, K, L, and M), riparian wetlands supporting a scrub-shrub component (Wetlands A, B, H, and I), and small emergent wetlands dominated by native plant species (Wetlands N and F). The wetland boundaries and location of the ordinary high water mark shown on the project drawings have not yet been verified by the Corps. If the Corps determines the boundaries of the wetland/waters are substantially inaccurate, a new public notice may be published.

Project Purpose: The applicant's stated purpose is to improve safety along the highway corridor.

Project Description: The project would include the discharge of 3,552 cubic yards of fill over 0.75 acre of wetlands and discharge of 5 cubic yards of fill over 54 square feet (42 linear feet) below the ordinary high water mark (OHWM) of Antelope Creek to make improvements to a 2-

mile portion of the OR 140 highway. Additionally, the project would include removal of 227 cubic yards of material from 0.015 acre of wetlands and removal of 3 cubic yards of material from 54 square feet (42 linear feet) below the OHWM of Antelope Creek.

The OR 140 highway is narrow (12 feet wide) with substandard shoulders (1 foot wide) and sharp curves located along a creek. Several accidents have occurred along this stretch of OR 140, and the highway needs safety improvements. The overall project would include realigning the two-mile stretch of OR 140 slightly to the north and widening the roadway to 36 feet with 6-foot shoulders. An existing box culvert would be replaced with a longer box culvert, resulting in the filling of 42 linear feet of stream channel. The new culvert would include streambed simulation material, fish rocks, and a low-flow channel to facilitate fish passage. Wetlands would be filled in order to widen the road and shoulders and to shift the highway to the north.

Additionally, eleven 18-inch cross culverts would be replaced, three of which are located in wetlands. Installation of new guardrail would occur along much of the southern edge of the project. Ground disturbance would take place over a total of 24.36 acres and would include a total of 53,104 cubic yards of removal and 53,104 cubic yards of fill (including upland areas). Excess material would be disposed of onsite in the "false cut" areas. Blasting would take place in mostly two areas in the north part of the project in order to cut slopes. Impervious surfaces to be modified by this project total 5.03 acres while newly created impervious surfaces would total 4.56 acres.

Mitigation: The applicant proposes to conduct the roadway widening to the north of the project area in order to avoid most of the area's wetlands and waters. Additionally, the applicant would install guardrails along much of the south side of the highway to allow for steeper slopes and a smaller project footprint. 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 proposed mitigation would restore and enhance wetland habitat at three sites along Highway 395 to compensate for the loss of 0.75 acre of wetlands. 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 and labeled Corps No. NWP-2016-264. 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. The subgrade would be constructed with onsite material. Material comprising

the aggregate base rock and hot mix asphalt concrete (HMAC) would be obtained from a commercial 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 will not affect any endangered species or designated critical habitat. For this project, the Federal Highways Administration (FHWA), as the lead Federal agency for ESA consultation, will consult with the NMFS and/or the USFWS as required under Section 7 of the ESA.

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 not adversely affect EFH at the project location or in its vicinity. For this project, the FHWA, as the lead Federal agency for MSA consultation, will consult with the NMFS as necessary.

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, will consult with the appropriate State and/or Tribal Historic Preservation Officer as applicable. The Corps will receive documentation of completed Section 106 by FHWA. 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 applied for a Removal-Fill permit from the Department of State Lands (Application No. 58986).

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
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 19, 2016
Written Comments Due: September 19, 2016

Corps of Engineers No: NWP-2016-264
Oregon Department of State Lands No: 58986

WHO IS THE APPLICANT: Oregon Department of Transportation, Region 4

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.