

PUBLIC NOTICE



**US Army Corps
of Engineers
Kansas City District**

**Permit No. NWK-2015-00602
Issue Date: July 22, 2015
Expiration Date: August 21, 2015**

30-Day Notice

**WATERSHED LAND TRUST IN-LIEU FEE PROGRAM
MISSION CREEK PROJECT SITE PLAN
BROWN COUNTY, KANSAS**

This notice is to announce the proposed amendment of the Watershed Land Trust (WLT) In-Lieu Fee (ILF) Program instrument with the approval of the Mission Creek Stream, Riparian Buffer Establishment, and Wetland Mitigation Plan (Project). The Kansas City District, Corps of Engineers (Corps), Regulatory Branch requests comments from the public and from local, state, and Federal resource agencies on the proposed amendment. If approved by the district engineer, in consultation with the Interagency Review Team (IRT), this Project will be used to replace lost aquatic resources that result from Department of the Army (DA) permits issued for the discharge of dredged or fill material into waters of the United States that occur within the identified service area. If the Project is approved, the Corps will verify that construction of the Project is authorized by Nationwide Permit (NWP) No. 27. Please review the Project plan and provide comments to: U.S. Army Corps of Engineers, Kanopolis Regulatory Field Office, ATTN: Matthew Mikulecky, 107 Riverside Drive, Marquette, Kansas 67464.

The work plan, for this proposed Project, is available for review at:

<http://www.nwk.usace.army.mil/Media/PublicNotices.aspx>

ILF PROGRAM SPONSOR: Watershed Land Trust
Cherry Hill Business Park
140 Cherry Hill
Belton, Missouri 64012

PROJECT LOCATION: The Project is located in Section 16, Township 4 South, Range 17 East, Brown County, Kansas.

[Latitude: 39.69896 --- Longitude: -95.51962]
USGS QUADRANGLE-- KS-HORTON

AUTHORITY: Section 404 of the Clean Water Act (33 USC 1344).

ACTIVITY: The Project would provide mitigation credits within the Kansas Service Area, as defined in the ILF program instrument, and is located in the eight-digit Delaware River watershed (10270103). Mitigation activities would occur on two tracts (Tract A and B) of land owned by the City of Horton, Kansas (35.35 acres and 29.61 acres, respectively). Mitigation objectives include restoration, enhancement and preservation of stream and wetland resources. For stream mitigation, activities include the stabilization and enhancement of 3,860 linear feet (LF) of streambed and stream banks through a combination of in-stream rock structures, chutes, debris removal and establishment of native riparian buffers. For wetland mitigation, activities include the creation of 0.22 acre of seasonal wetland and enhancement of 1.35 acres of existing seasonal wetland through debris/sediment removal, hydrology improvement and native vegetation establishment and management. The site and conservation values will be protected in perpetuity through the enforcement of a conservation easement filed in 2011. Specific background, design, performance standards and objective details are further described in the complete Project Plan, posted on the Corps webpage at: <http://www.nwk.usace.army.mil/Media/PublicNotices.aspx>.

WETLANDS/AQUATIC HABITAT: Aquatic resources include:

- 1) Mission Creek, a perennial stream that flows through both north and south tracts;
- 2) Unnamed intermittent tributary (1st Order [Reach 1]);
- 3) Unnamed intermittent tributary (1st Order [Reach 5]); and
- 4) Palustrine emergent wetlands, formed in floodplain depressions, adjacent to Mission Creek and its tributaries (1.35 acres)

APPLICANT'S STATEMENT OF AVOIDANCE, MINIMIZATION, AND COMPENSATORY MITIGATION FOR UNAVOIDABLE IMPACTS TO AQUATIC RESOURCES: The Sponsor shall avoid and minimize any adverse impacts to jurisdictional waters to the maximum extent possible. The Project is designed to result in an overall net gain in aquatic resource values and functions.

ADDITIONAL INFORMATION: Additional information about this application may be obtained by contacting Mr. Matthew Mikulecky, Regulatory Project Manager, by writing to U.S. Army Corps of Engineers, Kanopolis Regulatory Field Office, 107 Riverside Drive, Marquette, Kansas 67464 or by calling 816-389-3027 or email at: matthew.j.mikulecky@usace.army.mil.

STATE AUTHORIZATION: The applicant may apply for a permit from the Kansas Department of Agriculture pursuant to Kansas Statutes Annotated 82a-301 to 305.

CULTURAL RESOURCES: Kansas City District will comply with the National Historic Preservation Act of 1966 and 36 CFR 800. We have checked the National Register of Historic Places and the Federal Register and no Historic Properties are located within the Corps permit area. This is the extent of our knowledge about historic properties in the permit area at this time. We will evaluate input by the State Historic Preservation Officer, Tribal Historic Preservation Officers (or Tribe designated representative) and the public in response to this public notice, and we may conduct or require a reconnaissance survey of the permit area to check for unknown historic properties, if warranted.

ENDANGERED SPECIES: The Corps will comply with the Endangered Species Act (ESA). As part of our evaluation of this Project, comments are solicited from the U.S. Fish and Wildlife Service and other interested agencies and individuals. Consultation pursuant to Section 7 of the ESA will be carried out as necessary to insure compliance.

FLOODPLAINS: This activity is being reviewed in accordance with Executive Order 11988, Floodplain Management, which discourages direct or indirect support of floodplain development whenever there is a practicable alternative. By this public notice, comments are requested from individuals and agencies that believe the described work will adversely impact the floodplain.

WATER QUALITY CERTIFICATION: Section 401 of the Clean Water Act (33 USC 1341) requires that all discharges of dredged or fill material must be certified by the appropriate state agency as complying with applicable effluent limitations and water quality standards. The authorization to discharge dredged or fill material into waters of the United States, under the authority of the Clean Water Act, necessary to construct the mitigation bank is likely provided by Nationwide Permit (NWP) No. 27. The Corps will continue to review the proposed project in order to verify this authorization. The Kansas Department of Health and Environment has issued water quality certification for NWP No. 27.

PUBLIC INTEREST REVIEW: The Corps decision on this action will be based on an evaluation of the probable impact including the cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits 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; among those are conservation, economics, esthetics, general environmental concerns, wetlands, cultural values, 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 and, in general, the needs and welfare of the people. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency under authority of Section 404(b) of the Clean Water Act (33 USC 1344). The Corps of Engineers 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 this proposed activity. Any comments received will be considered by the Corps of Engineers. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in 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 and to determine the overall public interest of the proposed activity.

COMMENTS: This notice is provided in order to outline the details of the described activity so that the Kansas City District may consider all pertinent comments prior to determining if the verification of the NWP authorization is in the public interest. Any interested party is invited to submit to this office written facts or objections relative to the activity on or before the public notice expiration date. Comments both favorable and unfavorable will be accepted and made a

part of the record and will receive full consideration in determining whether it would be in the public interest to verify NWP No. 27. Copies of all comments, including names and addresses of commenters, may be provided to the applicant. Comments should be mailed to the Corps of Engineers at the address shown under the heading of Additional Information found on page two of this public notice.

PUBLIC HEARING: Any person may request, in writing, prior to the expiration date of this public notice, that a public hearing be held to consider this application. Such requests shall state, with particularity, the reasons for holding a public hearing.