

# PUBLIC NOTICE



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

**Permit No. NWK-2021-00785  
Issue Date: February 10, 2022  
Expiration Date: March 3, 2022**

**21-Day Notice**

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**APPLICANT:** City of Shawnee, Kansas  
11110 Johnson Drive  
Shawnee, Kansas 66203

**PROJECT LOCATION** (As shown on the attached drawings): The project site is located in a tributary to Little Mill Creek. The site runs from just north of the Augsburg Lutheran Church, south under 67<sup>th</sup> Street, west between some residential lots, under Cottonwood Drive, and southwest to the sanitary sewer crossing. The project location is within the City of Shawnee in Section 16, Township 12 South, Range 24 East, northern Johnson County, Kansas.

USGS QUAD: Shawnee  
Latitude: 39.007564 – Longitude: -94.746673

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

**ACTIVITY** (As shown on the attached drawings): The applicant proposes to place fill material within waters of the United States for construction of a storm drainage improvement project. The project includes replacement of two culvert road crossings, the realignment of the stream at the 67<sup>th</sup> Street culvert, the construction of five sections of vertical retention walls on one or both banks, the installation of a grade control structure west of Cottonwood Drive, and the remainder of the area subject to grading and the installation of riprap rock protection along the toe of each bank. The purpose of the project, as stated by the applicant, is to reduce flooding and erosion concerns in the channel such that it can contain the flow from a 100-year storm event. Construction of the storm drainage improvement project would result in permanent fill along approximately 1,200 linear feet (lf) of stream, and the loss of approximately 50 lf of stream length.

**WETLANDS/AQUATIC HABITAT:** Waters identified within the project area include approximately 1,200 lf of a tributary to Little Mill Creek. The tributary is a perennial stream.

**APPLICANT'S STATEMENT OF AVOIDANCE, MINIMIZATION, AND COMPENSATORY MITIGATION FOR UNAVOIDABLE IMPACTS TO AQUATIC RESOURCES:** In the permit application, the applicant states – "Erosion and sediment control will be established at the upstream and downstream ends of the [replaced] culverts to protect the stream during the construction of the in-stream structures. Filtrexx Siltroxx will be used

throughout the project site areas to protect the stream during bank grading. The existing channel is an urban channel with little or no aquatic or terrestrial habitat. The improvements to the channel, while designed to resolve flooding problems, will also prevent future erosion and discharge to any downstream aquatic and terrestrial habitat; therefore additional stream mitigation is not anticipated.”

**ADDITIONAL INFORMATION:** Additional information about this application may be obtained by contacting Mr. Jesse Cochran, U.S. Army Corps of Engineers, Kansas City Regulatory Office, 601 East 12<sup>th</sup> Street, Room 402, Kansas City, Missouri 64106, by telephone at 816-389-3739, or by email at [jesse.s.cochran@usace.army.mil](mailto:jesse.s.cochran@usace.army.mil). All comments to this public notice should be directed to the above address.

**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 property listed in the Register or proposed for listing is located in the permit area. This is the extent of our knowledge about historic properties in the permit area at this time. However, 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:** In compliance with the Endangered Species Act, a preliminary determination has been made that the described work is not likely to adversely affect species designated as threatened or endangered or adversely affect critical habitat. Primary consideration was given to Northern Long-Eared Bat (*Myotis septentrionalis*) in relation to the approximately 2 acres of tree clearing estimated for this project. Documentation related to the Corps final determination will be sent to the U.S. Fish and Wildlife Service at a later date. In order to complete our evaluation of this activity, comments are solicited from the U.S. Fish and Wildlife Service and other interested agencies and individuals.

**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. This public notice serves as notification to the Administrator of the U.S. Environmental Protection Agency (USEPA) pursuant to section 401(a)(2) of the Clean Water Act for neighboring jurisdiction review and begins the 30-day clock for USEPA to notify affected states.

The Corps will submit a request for water quality certification to the state in which the discharge site is located at a later date once additional information is available. In accordance with 33 CFR 325.2(b)(ii), no Department of the Army permit will be granted until required certification has been obtained or has been waived. A waiver may be explicit or will be deemed to occur if the certifying agency fails or refuses to act on a request for certification within 60 days after receipt of such a request unless the district engineer determines a shorter or longer period is reasonable for the state to act. Certification, if issued, expresses the state's opinion that the discharge will not violate applicable water quality standards.

**PUBLIC INTEREST REVIEW:** The decision to issue a permit 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 determine whether to issue, modify, condition or deny a permit for this proposal. 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 to outline details of the above-described activity so this District may consider all pertinent comments prior to determining if issuance of a permit would be 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 issue the DA permit. Copies of all comments, including names and addresses of commenters, may be provided to the applicant. Comments should be mailed to the address shown on page 2 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.