



PUBLIC NOTICE

Application No: NWO-2012-1441-BIS
Applicant: Little Missouri Bank Stabilization
Waterway: Little Missouri River
Activity: Bank Stabilization
Issue Date: January 18, 2013
Expiration Date: February 8, 2013

21 Day Notice

North Dakota Regulatory Office

1513 South 12th Street

Bismarck ND 58504

NOTICE OF PENDING PERMIT EVALUATION

Introduction. The District Engineer, U.S. Army Engineer District, Omaha, Nebraska is evaluating a Department of the Army (DA) permit application from **Billings County Commission** for a proposed bank stabilization project on the Little Missouri River south of Medora, North Dakota. This application is being evaluated under Section 404 of the Clean Water Act [33 USC 1251, *et seq.*]. Section 404 regulates the discharge of dredge or fill material in the Nation's waters. In conjunction with this proposal, fill material would be discharged into jurisdictional waters of the United States.

- **PUBLIC NOTICE.** The purpose of this public notice is to inform the public; Indian Tribes; Federal, State and local agencies/officials; and other interested parties of a **21-day comment period** in which written comments, in conjunction with the proposed project, may be submitted to the U.S. Army Corps of Engineers, North Dakota Regulatory Office. Solicitation of comments regarding impacts to endangered species, historic properties, water quality, general environmental concerns and other public interest factors are discussed on **pages 3 and 4**. Written comments must be postmarked by **February 8, 2013**, prior to closure of the public notice administrative record.
- **PUBLIC HEARING.** Before the expiration date of this notice, anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state the reason(s) for holding a public hearing. The District Engineer shall determine whether a hearing is necessary to obtain additional public interest information. If a public hearing is warranted, interested parties will be notified of the time, date, and location.

The Little Missouri River is subject to regulation under the purview of Section 404 of the Clean Water Act.

PROJECT PROPOSAL.

DETAILS. A DA permit application was initially received on **December 13, 2012**, from Northern Plains Engineering, acting as agent for Billings County. The application was determined complete on **December 31, 2012**.

PROJECT PURPOSE. The applicants stated project purpose is “improve the safety of the road.” The Corps determined that the overall project purpose is bank stabilization.

PROJECT LOCATION. The project is located in Section 27, Township 140 North, Range 102 West, in Billings County, North Dakota
(Latitude: 46.90635 N / Longitude: -103.53147 W).

PROJECT DESCRIPTION. Gradual bank erosion has been occurring on the Little Missouri River for several years. The result of the floods of 2009-2011 has created vertical drop-offs in excess of 25 feet in some locations on the river. A nationwide permit was issued in June 2012, to stabilize 400 feet of bank. Additional erosion is jeopardizing the adjacent road creating safety concerns to the traveling public. Billings County is proposing to stabilize an additional 350 feet of bank along the Little Missouri River south and west of Medora, North Dakota. The project will consist of placing approximately 125 cubic yards of rock rip rap with an estimated half of that amount below the ordinary high water mark to provide long-term stability.

PROJECT'S LIFE CYCLE. The project would be permanent.

CONSTRUCTION METHODS. Construction activities carried out with typical heavy construction equipment and large earth moving machinery not specified in the application.

ANTICIPATED EFFECTS

- ANTICIPATED ENVIRONMENTAL IMPACTS.
 - Wetlands and Other Waters of the United States. No wetlands will be impacted. Approximately 350 linear feet of stream will be impacted as a result of the rip rap placement.
 - Woodlands. No woodland resources are present.
 - Grasslands. Grassland areas immediately surrounding the project area could be temporarily impacted as a result of equipment operations for placement of the materials.

MITIGATION. Compensatory mitigation will not be required for the project and none has been proposed.

ALTERNATIVES. No alternative analysis was provided.

National Environmental Policy Act of 1969 [NEPA] (42 USC 4321 *et seq.*; Public Law 91-190) **NEPA Statement:** NEPA is the Nation's basic charter for protection of the environment. NEPA is to provide decision-makers and the public full disclosure of the environmental consequences of taking an action so they can make informed decisions. NEPA itself does not impose substantive duties mandating particular results, but prescribes the necessary process for preventing uninformed agency action.

National Historic Preservation Act of 1966 [NHPA] (80 Stat 915; 16 USC 470a, *et seq.*) and amendments, including the 1992 amendments (PL 89-665 and PL 96-515). **Cultural Resources Statement:** The Omaha District will comply with the NHPA and amendments and the procedures set forth in 33 CFR, Appendix C. We will evaluate input by Indian Tribes, the North Dakota State Historic Preservation Officer, and any interested parties in response to this public notice. The Corps' preliminary review is that the project would not affect properties listed,

or eligible for listing, on the National Register of Historic Places.

Section 404(b)(1) Guidelines [Guidelines] (40 CFR 230 Subpart B): These Guidelines are the substantive environmental criteria used in evaluating the discharges of dredged or fill material in waters of the United States under Section 404 of the Clean Water Act and are applicable to all 404 permit decisions. The purpose of these Guidelines is to restore and maintain the chemical, physical, and biological integrity of United States waters through the control of discharges of dredged or fill material. Fundamental to the Guidelines is an understanding that dredge or fill material should not be discharged into such waters unless it is demonstrated that such discharges would not have unacceptable adverse impacts either individually or in combination with existing and/or probable impacts of other activities affecting the environment.

Section 401 of the Clean Water Act [Water Quality Certification] (33 USC Section 1341)

Water Quality Certification Statement: The North Dakota Department of Health, 1200 Missouri Avenue, P.O. Box 5520, Bismarck, North Dakota 58506-5520 will review the proposed project for certification in accordance with the provisions of Section 401 of the Clean Water Act. The certification, if issued, will express the State's opinion that the project undertaken by the applicant will not result in a violation of applicable water quality standards. Although water quality certification is a prerequisite for issuance of a DA permit, certification alone does not guarantee a DA permit will be issued for the project.

Endangered Species Act of 1973 [ESA] (16 USC 1531, *et seq.*) **ESA Statement:** Pursuant to the Endangered Species Act, the proposed project is being reviewed for impacts to threatened and/or endangered species and their critical habitat. The project and action area is located within the known range of the Gray wolf (*Canis lupus*), black-footed ferret (*Mustela nigripes*), and Whooping crane (*Grus Americana*). No piping plover critical habitat exists in the project area, therefore the project will have no effect on critical habitat. The presence of the gray wolf is unlikely in the general area and forested habitat, which is likely habitat for the wolf, is not present in the project area. The most suitable habitat for the gray wolf is found around the Turtle Mountains region located several miles northeast of the project area. We have determined that the proposed work will have no effect on the gray wolf. Agricultural fields adjacent to the project area, wetlands, and ponds could provide suitable habitat for whooping cranes. Construction activities may cause migratory cranes to divert from the area but is not likely to result in any fatalities. The Corps of Engineers has made a determination that the described work may affect, but not likely to adversely affect the whooping crane. A known prairie dog town, the preferred food and dwelling for the ferret, is located in the vicinity of the project. The Corps has made a determination that the described work may affect, but not likely to adversely affect the black-footed ferret due to insignificant effects. This determination is based on the project being of such a nature and short duration and its location that it will not disturb the dog town. 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.

Public Interest Review [33 CFR 325.3(c)(1)]: The public interest review procedures call for weighing the benefits that reasonably may be expected to accrue. These are balanced

against its reasonably foreseeable detriments and results in reaching a determination that expresses the public interest. Public interest factors include all factors which may be, or may become, relevant to this project, such as 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, considerations of property ownership and, in general, the needs and welfare of the people. The decision whether to issue a permit is based on an evaluation of those factors and the probable impact, including cumulative impacts, and reflects the national concern for both the protection and utilization of important natural resources.

The 404(b)(1) Guidelines and the Public Interest Review are both administrative processes required as part of the Regulatory Program, but they are independent of each other. A project must be in compliance with the Guidelines and must not be contrary to the public interest in order to be permitted by the Army Corps of Engineers.

Anyone whose interests may be affected by the applicant's proposed project is invited to submit favorable or unfavorable written comments to the U.S. Army Corps of Engineers [Omaha District] **North Dakota Regulatory Office, 1513 South 12th Street, Bismarck, North Dakota 58504**. Comments must be submitted on or before the date on the front of this notice to be considered in subsequent actions on this application. For additional information, you may contact **Ms. Patsy Crooke**, Project Manager [Patsy.J.Crooke@usace.army.mil] or Daniel Cimarosti North Dakota State Program Manager [Daniel.E.Cimarosti@usace.army.mil] or telephone (701) 255-0015.

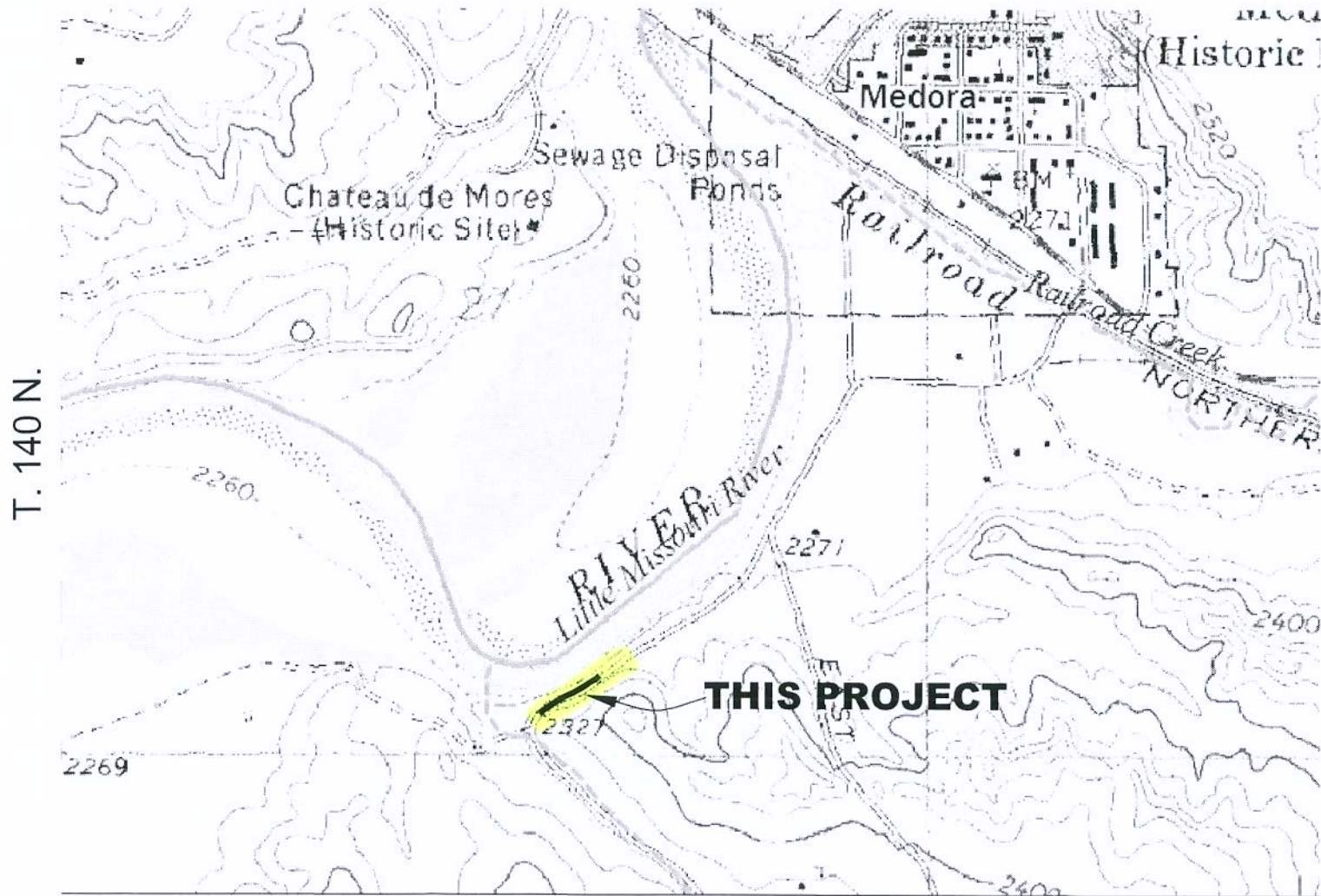
Request to Postmasters: Please post this notice in a conspicuous place until the expiration date specified at the top of page 1.

Notice to Editors: This notice is provided for your use in developing news stories only. No payment for publication will be provided.

ATTACHMENTS – (2 total)

Vicinity Map
River Drive

Sec. 27 T. 140 N., R. 102 W.
Billings County, ND



T. 140 N.

R. 102 W.

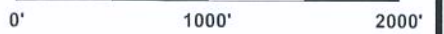
ATTACHMENT I
NWO-2012-1441-BIS
Little Missouri River Bank
Stabilization Project

LEGEND

PROPOSED ROAD PROJECT



SCALE 1" = 1000'



SHEET NAME:	VICINITY MAP	DATE:	12/12/2012	REVISED:	N/A	SCALE:	1"=1000'	PROJECT NO.	1101110	SHEET NO.	1
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ATTACHMENT II
NWO-2012-1441-BIS
LITTLE MISSOURI BANK STABILIZATION PROJECT