



PUBLIC NOTICE

APPLICATION FOR PERMIT

**U.S. ARMY
CORPS OF ENGINEERS
CHICAGO DISTRICT**

PUBLIC NOTICE/APPLICATION NUMBER: LRC-2019-00700

COMMENT PERIOD BEGINS: November 12, 2019
COMMENT PERIOD EXPIRES: December 12, 2019

U.S. Army Corps of Engineers
Illinois Environmental Protection Agency

APPLICANT

Joe Keller
Fox Waterway Agency (FWA)
45 South Pistakee Lake Road
Fox Lake, Illinois 60020

PROPOSED ACTION

Proposal to conduct maintenance dredging and debris removal, including hydraulic dredging and mechanical dredging. The applicant previously obtained a 10-year Maintenance Dredging and Debris Removal permit on March 22, 2017, under LRC-2016-174 (previously LRC-2005-246) for mechanical dredging. The applicant had a separate permit for hydraulic dredging under LRC-2007-395 (previously LRC-1997-470). At recommendation of USACE, the applicant has proposed to include both the mechanical and hydraulic dredging under one USACE 10 year maintenance dredging permit (LRC-2019-700). A detailed description of this proposal is provided on page 2 of this notice.

LOCATION OF PROPOSED ACTION

Location is on the Chain-o-Lakes and Fox River from approximately the Illinois/Wisconsin State line to the dam in Algonquin within Lake and McHenry Counties, Illinois. The Fox River – Chain of Lakes (Chain) includes the immediate vicinities of Channel, Catherine, Marie, Bluff, Petite, Grass, Fox, Nippersink and Pistakee Lakes, and connecting channels. (Quarter of Section 9, Township 45 N, Range 9 E Latitude 42.40030, Longitude -88.18698). Please see attached maps.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and as shown on the attached drawings. You are invited to provide your comments by **December 12, 2019** on the proposed work, which will become part of the record and will be considered in the decision. A permit will be issued or denied under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 Action of the Clean Water Act of 1972(33 U.S.C. 1344).

Written comments shall be mailed to:

U.S. Army Corps of Engineers
Chicago District, Regulatory Branch
Attn: **LRC-2019-700**, Kaitlyn Pascus
Regulatory Branch

231 South LaSalle Street, Suite 1500
Chicago, Illinois 60604-1437

It should be noted that ALL comments received by this office (via hard copy or electronic) will only be accepted with the full name and address, and email address, if available of the individual commenting, and must be received by the close of the public notice period. Electronic comments may be sent to the project manager at Kaitlyn.A.Pascus@usace.army.mil.

PROJECT DESCRIPTION

The applicant is proposing to conduct both mechanical and hydraulic maintenance dredging and debris removal to maintain safe navigation depths on the Chain.

For the mechanical dredging, an amphibious or land-based backhoe would be used and the material removed would then be loaded into trucks and place at designated upland site locations (See attached figures). Return flow into waters of the U.S. from the upland disposal sites would occur. The return water from a contained upland disposal area is administratively defined as a discharge of dredged material by 33 CFR 323.2(d), even though the disposal itself occurs in an area that has no waters of the United States and does not require a section 404 permit. This Individual Permit would satisfy the technical requirement for a section 404 permit for the return water where the quality of the return water is controlled by the state through the section 401 certification procedures.

The dredging machinery is incorporated within a floating hull. A cutter with steel blades dislodges sediments and a centrifugal pump vacuums the material. The dredged sediment and water would be pumped via floating dredge pipe to either of the two existing Sediment Dewatering Facilities at Cooper's Farm or Ackerman Island (see attached figures). The applicant has anticipated a maximum of 100,000 cubic yards of sediment would be hydraulically dredged annually from areas north of Route 12 to Lake Marie. Although this amount would likely range between 25,000 to 50,000 cubic yards annually due to existing storage capacity limitations, unless additional facilities and storage capacities are identified and implemented.

The applicant has proposed a maximum dredging depth of 6.7 feet that would only be completed in existing navigational channels and would not begin until after May 1 each year to avoid and minimize impacts to fish spawning and other aquatic species activity.

FWA has also prepared a Blanding's Turtle Conservation Plan and has applied for an Incidental Take Authorization that would include staff training on how to avoid and minimize impacts to the state endangered species. The FWA stated they would continue to abide by the special conditions of their existing mechanical dredging permit that included avoiding designated ecologically sensitive areas and would initiate EcoCat consultations with Illinois Department of Natural Resources annually and prior to each work season.

AVOIDANCE & MINIMIZATION

The applicant has stated the following concerning avoidance and minimization of impacts to Waters of the United States:

The majority of the Chain is a public waterway and the shorelines are owned by private residences and commercial businesses. The proposed ongoing maintenance dredging operation is necessary to maintaining a navigational waterway. The removal of the accumulated silt is imperative to keep the Chain a navigable waterway. By removing the silt from the Chain this will maintain its channels and keep the re-suspension of solids at lower levels that is caused by boat traffic. The proposed activity is vital to maintain access, and preserving the recreational and commercial opportunities on the Chain.

The Chain is constantly accumulating debris from various sources through the Chain. Floating and submerged debris are threat to navigation and an overt public safety concern to the public. Delays in the removal of the debris could result in restricted navigation to the area, causing public safety concerns and hazards to navigational traffic. The proposed ongoing debris removal program is necessary to maintaining a navigable capacity and provide safe recreation opportunities for private and public uses.

MITIGATION

No compensatory mitigation is proposed.

The Corps has not verified the adequacy of this mitigation proposal at this time and will make the final determination on whether the proposed mitigation is appropriate and practicable in accordance with 33 CFR Part 332.

REGULATORY AUTHORITY

This proposed action will be reviewed according to the provisions of Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act of 1972.

JURISDICTION

This application will be reviewed according to the provisions of Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act of 1972 due to the return water from a contained upland disposal area.

EVALUATION FACTORS

The decision whether to issue a permit will be based on an evaluation of probable impact including 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 benefit 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, 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. In addition, if the proposed activity involves the discharge of dredged or fill material into waters of the United States, the evaluation of the impact on the public interest will include application of Section 404(b)(1) guidelines (40 CFR 230) promulgated by the U.S. Environmental Protection Agency.

The Corps of Engineers is also soliciting comments from the public, Federal, state and local agencies, Indian tribes, and other interested parties in order to consider and evaluate the potential impacts of the proposed activity. Once this office completes a review of the comments received, it will be determined whether to issue, modify, condition, or deny a permit for this proposal.

To prepare this decision, comments are taken into consideration to assess impacts on the public interest factors listed above, as well as endangered species, historic properties, water quality, and general environmental effects. Comments will be used in the preparation of an Environmental Assessment and/or Environmental Impact Statement pursuant to the National Environmental Policy Act. A determination concerning the need for a public hearing will also be based on the comments received.

PRELIMINARY EVALUATION OF SELECTED FACTORS

WATER QUALITY:

The applicant has applied to the Illinois Environmental Protection Agency (IEPA) for water quality certification, or waiver thereof, for the proposed activity in accordance with Section 401 of the Clean Water Act. Certification or waiver indicates that the IEPA believes the activity will not violate applicable water quality standards. The review by the IEPA is conducted in accordance with the Illinois water quality standards under 35 Illinois Administrative Code Subtitle C by providing an antidegradation assessment, which includes an evaluation of alternatives to any proposed increase in pollutant loading that may result from this activity.

The "Fact Sheet" containing the antidegradation assessment for this proposed project may be found on the IEPA's web site, at www.epa.state.il.us/public-notices/. In the event that the IEPA is unable to publish the "Fact Sheet" corresponding to the timeframe of this Joint Public Notice, a separate public notice and "Fact Sheet" will be published by the IEPA at the web site identified

above. You may also obtain a copy of the "Fact Sheet" by contacting the IEPA at the address or telephone number shown below.

Written comments concerning possible impacts to water quality should be addressed to the following agency, along with a copy of the comments provided to the Corps of Engineers:

Illinois Environmental Protection Agency
Bureau of Water
Watershed Management Section
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

If you have any questions please contact the IEPA at (217) 782-3362.

DEPARTMENT OF NATURAL RESOURCES:

The applicant may have to submit an application to the Illinois Department of Natural Resources, Office of Water Resources (IDNR-OWR) for a permit pursuant to the State of Illinois Rivers, Lakes and Streams Act (615 ILCS 5). Comments concerning the IDNR-OWR permit should be addressed to the following agency, along with a copy of the comments provided to the Corps of Engineers:

Illinois Department of Natural Resources
Office of Water Resources
2050 West Stearns Road
Bartlett, Illinois 60103

If you have any questions please contact the IDNR at (847) 608-3116.

ENDANGERED AND THREATENED SPECIES:

The Corps of Engineers has not yet made a determination regarding the proposed activity's effect on Federally-listed endangered/threatened species or designated critical habitat. Consultation with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) may need to be initiated.

HISTORIC PROPERTIES/CULTURAL RESOURCES:

Preliminary review indicates that the proposed activity is not likely to adversely affect any historic property which is listed, or eligible for listing, on the National Register of Historic Places.

ENVIRONMENTAL IMPACT STATEMENT

A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

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 hearing shall state with particularity the reasons for holding a public hearing. A request for a hearing may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

It should be noted that materials submitted as part of the permit application become part of the public record and are thus available to the general public under the procedures of the Freedom of Information Act (FOIA). Individuals may submit a written request to obtain materials under FOIA or make an appointment to view the project file at the Chicago District Corps of Engineers Office of Counsel.

Interested parties wishing to comment on the proposed activity must do so in writing no later than **December 12, 2019**. It is presumed that all parties receiving this notice will wish to respond to this public notice; therefore, a lack of response will be interpreted as meaning that there is no objection to the project as described.

This public notice is not a paid advertisement and is for public information only. Issuance of this notice does not imply Corps of Engineers endorsement of the project as described.

If you have any questions, please contact Kaitlyn A. Pascus of my staff by telephone at (312) 846-5533, or email at Kaitlyn.A.Pascus@usace.army.mil. **It should be noted that ALL comments received by this office (via hard copy or electronic) will only be accepted with the full name and address of the individual commenting.** You can also visit our website at <http://www.lrc.usace.army.mil/Missions/Regulatory.aspx> for more information on our program.

FOR THE DISTRICT COMMANDER:

ORIGINAL SIGNED

Kathleen G. Chernich
Chief, East Section
Regulatory Branch

NOTICE TO POSTMASTERS:

It is requested that this notice be conspicuously and continuously posted until **December 12, 2019**.