



US Army Corps
of Engineers®
Little Rock District

JOINT PUBLIC NOTICE

CORPS OF ENGINEERS – STATE OF ARKANSAS

Application Number: SWL 2019-00104

Date: September 4, 2019

Comments Due: September 30, 2019

TO WHOM IT MAY CONCERN: **Comments are invited on the work described below. Please see the Public Involvement section for details on submitting comments.**

Point of Contact. If additional information is desired, please contact the regulator, Chris Joyner, telephone number: (501) 340-1381, mailing address: Little Rock District Corps of Engineers, Regulatory Division, PO Box 867, Little Rock, Arkansas 72203-0867, email address: Chris.J.Joyner@usace.army.mil

Project Information. Pursuant to Section 404 of the Clean Water Act (33 U.S. Code 1344), notice is hereby given that

**Hogwild Development, LLC
Mattie Crossland-Haverkamp
P.O. Box 45
833 S. East Avenue
Columbus, Kansas 66725**

has requested an after-the-fact (ATF) permit authorization for the placement of dredged and fill material in waters of the United States (WOTUS) associated with the conversion of two existing industrial warehouse facilities to a professional commercial office complex and construction of two additional surface parking lot facilities that will accommodate the relocation of approximately 900 employees from a local corporate campus renovation. The single-and-complete project area consists of approximately 28 acres. Leveling and grading will be required and the proposed project will result in the placement of fill material below the plane of the ordinary high water mark (OHWM) in an intermittent stream (I-1), open water body (OW-1), and multiple wetlands (W-1, W-2 Isolated, W-3 Isolated, W-4, W-5, W-6) that are potentially directly or indirectly in support of an unnamed tributary of Osage Creek, in the NW 1/4 of section 8, T. 19 N., R. 30 W., Bentonville, Benton County, Arkansas.

The purpose of the project is to provide approximately 1,029 parking stalls that will accommodate the minimum parking requirements for the proposed conversion of two existing industrial warehouse facilities to a professional office complex in support of approximately 900 employees. The converted office space will serve the purpose of accommodating the relocation of employees from a local corporate campus during renovation and redevelopment. The project is not water dependent.

Between 2016 and early 2019, Rogers Warehouse Development IV, LLC, (RWD) completed the construction of a warehouse development located south and west of the intersection of SE 28th Street and “J” Street, and east of Phillips Park, in the City of Bentonville, Benton County,

Arkansas (Figure A-1; hereinafter “RWD Project”). The RWD Project included the construction of two warehouse buildings (approximately 234,530 sq. ft.), and associated support infrastructure for warehousing operations on an approximately 15-acre tract of land. The resulting unauthorized activity previously impacted approximately 838 linear feet of intermittent stream, 0.4 acres of wetlands and 0.08 acres of open water. The applicant proposes to mitigate for these previously unauthorized impacts by purchasing credits from approved mitigation banks that service the area.

To support parking needs of the RWD facility conversion, Hogwild Development, LLC, began design of the parking lot expansion to include two tracts, Hogwild Phase II (approximately 5 acres; 411 parking stalls) to the north and Hogwild Phase III (approximately 8 acres; 618 parking stalls) to the northeast of the existing RWD project (Hogwild Project). The Hogwild Project would ultimately add approximately 1,029 parking stalls to accommodate the RWD space conversion. Potential WOTUS identified on the Hogwild Phase II & III property include approximately 0.98 acres of emergent wetland and 0.7 acres of isolated wetland.

As a component to the expanded surface lots, supporting infrastructure will be required to assure complete functionality of the lot. Supporting infrastructure will include utilities (electric and stormwater) as well as pedestrian sidewalks. Stormwater components associated with the project include construction of double 7-foot-wide by 2-foot-tall reinforced concrete box culverts under the northern lot (Phase II) that begin at SE 28th Street on the north then run beneath the proposed surface lot and connect to the existing 14-foot-wide by 2-foot-tall concrete box culvert located to the south (Engineering Drawing – Hogwild Development Phase II: Site Grading & Drainage Plan). The concrete box culvert will convey stormwater runoff from the properties located north of SE 28th Street as well as runoff generated from the surface parking lot that is collected through curb inlets across the proposed parking area. Stormwater runoff from the northeastern lot (Phase III) will be collected by curb inlets that discharge into a 24-inch concrete pipe and through concrete flumes that are directed toward a stormwater detention basin located along the southern edge of the proposed parking lot. The stormwater detention basin has a controlled outlet structure that discharges through an 18-inch reinforced concrete pipe (RCP) that connects downstream to a junction box where the water then enters an existing 24-inch RCP that traverses the RWD Project site (see Engineering Drawing – Hogwild Development Phase III: Site Grading Plan).

The total project impacts from all phases of the proposed single-and-complete project area include the existing unauthorized activity impacts of approximately 838 linear feet of intermittent stream, 0.4 acres of wetlands, and 0.08 acres of open water; and the proposed filling of approximately 0.98 acres of emergent wetlands and 0.7 acres of isolated wetlands for the proposed parking lot additions. Typical best management practices such as silt fencing and other construction methods would be used to mitigate impacts to water quality and other resources.

Based on the current use of the RWD Project as an industrial warehouse and that resource impacts have already occurred, alternative considerations for that area are minimal. Removal and restoration of the property is an alternative. However, given the commitment by the Applicant to permit and mitigate post-construction impacts as part of this permit application, the

removal and restoration alternative is not considered in the public interest. Alternatives include those considered for the currently proposed parking lot facilities.

The requirement for expansion of the existing surface parking lots associated with the planned commercial office space conversion dictates that those parking spaces be provided contiguous to the site. A review of available property adjacent to the RWD Project facility to accommodate the surface parking lot expansion indicated that the areas available were limited to property located to the east and north (proposed site). The Applicant considered purchasing the property located south of the existing RWD Project and south of the recreational ball field entrance drive which is approximately 20 acres; however, the site has been or is under contract to be purchased and is planned for development as a large multi-family complex. No additional off-site alternatives within the vicinity of the project were available for development that could serve the projects need.

Hogwild Development, LLC considered the avoidance of jurisdictional aquatic resources on the Phase II portion of the project. Avoidance of the existing wetlands would require the loss of approximately 200 parking stalls and elimination of the planned ingress and egress. The entrance road location is dictated by City and roadway standards including the alignment of other entrances opposite SE 28th Street and the proximity to the intersection of SE 28th Street and SE "J" Street. After careful review and consultation with their civil engineer, the Applicant determined that to accommodate the extensive parking expansion, the emergent wetland could not be avoided.

Site planners and engineers were unable to avoid impacts to the emergent wetlands (W-1, W-2 Isolated, and W-3 Isolated); however, they intend to incorporate measures that would minimize and protect water quality downstream of the project site by using best management practices during construction. The previously constructed detention to the south on the Rogers Warehouse Property provides both flood retention and serves to minimize sediment transport downstream. Improved vegetation in the detention may further improve water quality and serve to treat parking lot runoff. In addition, the proposed detention basin directly south of the Hogwild Development Phase III parking lot will further minimize impacts to water quality and flood storage due to the loss of emergent wetlands (W-2 Isolated and W-3 Isolated).

Compensatory mitigation requirements for impacts to the wetlands were assessed utilizing the 2002 Charleston Method with Little Rock District Addendum and the 2011 Little Rock Stream Method for impacts to streams. The applicant proposes to mitigate for unavoidable impacts by purchasing credits from approved mitigation banks that service the area.

The location and general plan for the proposed work are shown on the enclosed sheets (Sheets 1-7 of 7).

Water Quality Certification. By copy of this public notice, the applicant is requesting water quality certification from the Arkansas Department of Environmental Quality (ADEQ) in accordance with Section 401(a)(1) of the Clean Water Act. Upon completion of the comment period and a public hearing, if held, a determination relative to water quality certification will be made. Evidence of this water quality certification or waiver of the right to certify must be

submitted prior to the issuance of a Corps of Engineers permit.

Cultural Resources. A Corps staff archeologist will review topographic maps, the National Register of Historic Places, and other data on reported sites in the area. The District Engineer invites responses to this public notice from Native American Nations or tribal governments; Federal, State, and local agencies; historical and archeological societies; and other parties likely to have knowledge of or concerns with historic properties in the area.

Endangered Species. Our preliminary determination is that the proposed activity will not affect listed Endangered Species or their critical habitat. A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies and constitutes a request to those agencies for information on whether any listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity.

Floodplain. We are providing copies of this notice to appropriate floodplain officials in accordance with 44 Code of Federal Regulations (CFR) Part 60 (Floodplain Management Regulations Criteria for Land Management and Use) and Executive Order 11988 on Floodplain Management.

Section 404(b)(1) Guidelines. The evaluation of activities to be authorized under this permit, which involves the discharge of dredged or fill material will include application of guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act. These guidelines are contained in 40 Code of Federal CFR 230.

Public Involvement. Any interested party is invited to submit to the above-listed POC written comments or objections relative to the proposed work on or before **September 30, 2019**. Substantive comments, both favorable and unfavorable, will be accepted and made a part of the record and will receive full consideration in determining whether this work would be in the public interest. The decision whether to issue a permit will be based on an evaluation of the 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.

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 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 and to determine the overall public interest of the proposed activity.

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. The District Engineer will determine if the issues raised are substantial and whether a hearing is needed for making a decision.

NOTE: The mailing list for this Public Notice is arranged by state and county(s) where the project is located, and includes any addressees who have asked to receive copies of all public notices. Please discard notices that are not of interest to you. If you have no need for any of these notices, please advise us so that your name can be removed from the mailing list.

Enclosures

Approximate Coordinates of Project Center

Latitude: **36.34187**

Longitude: **-94.20078**

UTM Zone: **15N**

North: **4022573** East: **392244**