



**US Army Corps
of Engineers®**

PUBLIC NOTICE

Received

5-12-2025

Scotts Bluff County Clerk
Gering, NE

Applicant:
Doug Hoevet
NDOT

Published: May 8, 2025
Expires: June 7, 2025

**Omaha District
Permit Application No. NWO-2021-01254-WEH**

TO WHOM IT MAY CONCERN: The Omaha District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) **and/or** Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403). This public notice is issued jointly with the Nebraska Department of Environment and Energy (NDEE), 245 Fallbrook Blvd, Suite 100, Lincoln, NE 68521. NDEE will review the proposed project for state certification in accordance with the provisions of Section 401 of the Clean Water Act. NDEE hereby incorporates this public notice as its own public notice and procedures by reference thereto. For purposes of NDEE, this public notice will **expire 30 days** from the issue date shown above. The purpose of this public notice is to solicit comments from the public regarding the work described below:

APPLICANT: Doug Hoevet
NDOT
PO Box 220
Gering, Nebraska 69341

AGENT: Amy Utt
NDOT
1500 Nebraska Parkway
Lincoln, Nebraska 68509

WATERWAY AND LOCATION: The project site is located at middle point, Latitude: 41.816500°, Longitude: -103.343084°; along an 18.47-mile segment of US-26 and L-62A in Morrill and Scottsbluff Counties. The project begins 0.41 miles west of the west Minatare corporate limits at mile marker (MM) 32.63 and extending east to the junction of US-26 and L-62A at MM 41.92. The project continues east on L-62A from the junction with US-26 at MM 0.00 to the junction of US-385 and L-62A at MM 9.19. The project will affect Waters associated with the following Waterways: Bayard Drain, Minatare Drain, Ninemile Creek, Red Willow Creek, West Water Creek, Wildhorse Creek, and unnamed tributaries (UNTs) to these Waters.

EXISTING CONDITIONS: The site is characterized by the transportation corridor along US-26 and N-62A. This 18.47-mile segment of US-26 and L-62A runs through mainly rural agricultural land, east of Minatare, Nebraska.

PROJECT PURPOSE:

Basic: The basic project purpose, as defined by the Corps, is Transportation.

Overall: The overall project purpose, as stated in the application, is to develop an improved transportation corridor connecting the junctions of US-385 and L-62A with the city of Minatare, while meeting Federal and State mandates, and improve efficiency and safety for the travelling public. The attached drawings provide additional project details.

PROPOSED WORK: The applicant, Nebraska Department of Transportation (NDOT), is proposing to completely reconstruct US-26, to a 4-lane divided roadway with a raised median from the project beginning to the east corporate limits of Minatare, and then widening US-26 and L-62A from an existing 2-lane roadway to a 4-lane divided roadway with a depressed median using the strategy of constructing new lanes on the north side of the US-26/L-62a corridor and milling and resurfacing the existing lanes which will remain in place. Improvements will include new paving, milling and resurfacing, culvert and storm sewer work, new guardrail, removing and replacing guardrail, a new bridge, new intersections, improved intersections, access relocations and side road modifications. Grading will be required for the entire length of the project. This work would result in the discharge of fill material into approximately 12 acres of waters of the United States, including wetlands.

The bridge over Ninemile Creek (Structure Number S026 03470, Lat/Long: 41.814793, -103.465127) will be used in place and a new bridge will be built for the new lanes. The following bridge-size box culverts will be extended: Structure Number S026 03505 (Minatare Drain, Lat/Long: 41.814758, -103.458335), S026 03916 (Irrigation Canal, Lat/Long: 41.816354, -103.378893), S026 04114 (Wildhorse Creek, Lat/Long: 41.816497, -103.340564), SL62A 00116 (Wildhorse Canyon, Lat/Long: 41.816143, -103.304452), SL62A 00537 (Tri-State Canal, Lat/Long: 41.816105, -103.223377), SL62A 00582 (Tri-State Canal, Lat/Long: 41.816139, -103.214731), and SL62A 00613 (Tri-State Canal, Lat/Long: 41.816157, -103.208773). The following bridge-sized box culverts will be replaced: SL62A 00152 (Irrigation Canal, Lat/Long: 41.816009, -103.297569), SL62A 00463 (West Water Creek, Lat/Long: 41.816065, -103.237609), SL62A 00595 (Red Willow Creek, Lat/Long: 41.816158, -103.212235), and SL62A 00648 (Irrigation Canal, Lat/Long: 41.816204, -103.201759).

This Project will be constructed under traffic with lane closures controlled by appropriate traffic control devices and practices.

There are approximately 18.236 acres of Palustrine Emergent Temporarily / Seasonally Flooded (PEMA/C) wetlands, 0.067 acre of Palustrine Scrub-Shrub Temporarily Flooded (PSSA) wetlands, 0.174 acre of Palustrine Forested Temporarily Flooded (PFOA) wetlands, and 1.065 acres of Palustrine Emergent Semi-Permanently Flooded

(PEMF) wetlands, within the project area. Six unnamed ephemeral channels, two unnamed intermittent channels, three named intermittent channels, Bayard Drain, West Water Creek, and Red Willow Creek, and four perennial channels, Minatare Drain, Ninemile Creek, Wildhorse Creek/Drain, and an Unnamed Tributary to Wildhorse Creek/Drain, are in the project area. The site is characterized by the transportation corridor along US-26 and N-62A. This 18.47-mile segment of US-26 and L-62A runs through mainly rural agricultural land, east of Minatare, Nebraska.

The project will permanently impact 7.93-acres of PEMA/C N/A wetlands, 1.192-acres of PEMA/C playa depression (PD) wetlands, 1.372-acres of PEMA/C riverine channel (RC) wetlands, 0.045-acre of PSSA RC wetlands, 0.211-acres of PFOA RC wetlands, 1.009-acres of PEMF floodplain depression (FD) wetlands and 2.044-acre (7,125-linear feet (lf)) of stream channel. The project will also temporarily impact 0.325-acre of PEMA/C N/A wetlands, 0.070-acre of PEMA/C PD wetlands, 0.118-acre of PEMA/C RC wetlands, 0.022-acre of PFOA RC wetlands, 0.012-acre of PEMA/C FD wetland, and 0.193-acre (392-lf) of stream channel.

AVOIDANCE AND MINIMIZATION: Avoidance and minimization efforts undertaken by the applicant across the proposed project reduced permanent wetland and stream channel impacts. This reduction in impacts was achieved by adhering to minimum design standards throughout the project while also incorporating design elements that minimized channel and wetland impacts. Avoidance and minimization efforts included implementation of 2+2 construction, utilizing the existing transportation corridor to minimize impact footprint to wetlands and channels, using the existing foreslopes instead of regrading to avoid and minimize impacts to channels and wetlands, lowering the roadway structure profile at certain locations to reduce wetland fill impacts, design modifications at intersections to avoid wetland filling, culvert design revisions to align with existing channels to avoid permanent stream and wetland impacts, modifications to ditches to avoid and minimize impacts to wetlands, reducing shoulder foreslopes to avoid wetland impacts, moving parcel access to avoid wetland impacts.

COMPENSATORY MITIGATION: The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. The applicant has proposed to utilize the Scottsbluff - Minatare Wetland Mitigation Bank owned by NDOT (Latitude: 41.829629, Longitude: -103.563484). Stream impacts that require mitigation will be mitigated on-site along the project where applicable.

CULTURAL RESOURCES: Potentially eligible cultural resources may be affected by the proposed project. The Federal Highway Administration (FHWA) is the lead federal agency for this project and has initiated consultation with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act, as appropriate. The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full

consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

ENDANGERED SPECIES: The proposed activity may affect Federal and State listed endangered or threatened species or their critical habitat. FHWA is the lead federal agency for this project with NDOT acting on their behalf. FHWA (NDOT), consulted with USFWS and NGPC per Section 7(a)(2) of the ESA to ensure that the proposed project will not jeopardize the continued existence of any threatened and endangered species, or adversely modify critical habitat designated for those species if the proposed project may affect federally listed species. USFWS and NGPC concurred with FHWA (NDOT) determination of "may affect, not likely to adversely affect" via concurrence letter on February 12, 2025, for proposed impacts on the Black-footed ferret (*Mustela nigripes*), northern long-eared bat (*Myotis septentrionalis*), tri-colored bat (*Perimyotis subflavus*), and swift fox (*Vulpes Velox*) (state-listed) with the application's implementation of conservation conditions for the proposed project. The FHWA (NDOT) determined the project will have "no effect" on all other federally listed species. USFWS and NGPC made the concurrence determination based on the applicant's commitment to implement conservation measures during the construction and operations to avoid impacts on federally listed species.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: Section 401 of the Clean Water Act (33 USC 1341) requires that all discharges of fill material must be certified by the appropriate state agency as complying with applicable effluent limitations and water quality standards. The discharge must be certified before a Department of the Army permit can be issued. Certification, if issued, expresses the State's opinion that the discharge will not violate applicable water quality standards. It is the responsibility of the applicant to contact NDEE as soon as possible in the permitting process to discuss requirements for certification. Please contact:

CWA Section 401 Coordinator
Water Quality Division, Planning Unit
Nebraska Department of Environment and Energy 245 Fallbrook Blvd, Suite 100
Lincoln, NE 68509-8922
Phone: 402.471.2875
Fax: 402.471.2909
E-mail: NDEE.401certification@nebraska.gov

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has been verified by Corps personnel.

EVALUATION: 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 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 cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The Corps 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 to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to 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 (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The Omaha District will receive written comments on the proposed work, as outlined above, until **June 7, 2025**. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to **Brett Harbison** at brett.harbison@usace.army.mil. Alternatively, you may submit comments in writing to the Commander, **U.S. Army Corps of Engineers, Omaha District, Attention: Brett Harbison, Nebraska Regulatory Office, 8901 South 154th Street, Suite 2, Omaha, Nebraska 68138-3635**. Please refer to the permit application number in your comments (NWO-2021-01254-WEH).

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

ATTACHMENTS: Figure 1: Location Map

Figure 1: Location Map

