



# **PUBLIC NOTICE**

## **APPLICATION FOR PERMIT**

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

**PUBLIC NOTICE/APPLICATION NUMBER: LRC-2009-00338**

**COMMENT PERIOD BEGINS:** May 28, 2024  
**COMMENT PERIOD EXPIRES:** June 27, 2024

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

### **APPLICANT**

Jeff Ronaldson  
Will County Division of Transportation  
16841 W Laraway Road  
Joliet, Illinois 60433

### **AFTER-THE-FACT ACTION**

The Corps is considering authorization of after-the-fact impacts to aquatic resources associated with the 135<sup>th</sup> Street Reconstruction project initially authorized under an Individual Permit (IP) No. LRC-2009-00338 issued to the Will County Division of Transportation (WCDOT), formerly known as Will County Highway Department, on September 19, 2012 (2012 IP). Work was not completed prior to the permit expiration date of August 20, 2022, and upon request by the WCDOT, a permit extension to October 15, 2023, was issued. However, there were administrative errors in the extension that created uncertainty about the effectiveness of the extension. This action seeks to resolve these administrative errors and authorize project modifications and additional work not authorized under the 2012 IP.

A description of the previously permitted work, the work completed under the permit extension, and the project modifications are provided in this notice.

### **LOCATION OF AFTER-THE-FACT ACTION**

135<sup>th</sup> Street from Archer Avenue to New Avenue in Romeoville, Lockport, Lemont, and Unincorporated Will County, Will County, Illinois, (Quarter of Section 5, Township 36 N, Range 11 E Latitude 41.641821, Longitude -88.007686).

Interested parties are hereby notified that an application has been received for an after-the-fact 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 **June 27, 2024**, on the work, which will become part of the record and will be considered in the decision. A permit will be issued or denied under Section 404 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-2009-00338**, Mr. Aaron Spencer  
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 [Aaron.D.Spencer@usace.army.mil](mailto:Aaron.D.Spencer@usace.army.mil).

## **PROJECT DESCRIPTION**

The project permitted under the 2012 IP included two main objectives: 1) the road widening of 135<sup>th</sup> Street, and 2) the realignment of the 135<sup>th</sup> Street and Archer Avenue intersection. The original 135<sup>th</sup> Street was a 2-lane road with no shoulder or narrow aggregate shoulder and was replaced with 4-lanes plus a center median having left turn lanes at intersections/driveways. The roadway elevations were constructed higher than the existing roadways to help alleviate flooding of Long Run Creek on 135<sup>th</sup> Street west of Archer Avenue. The purpose of the intersection realignment was to remove a dangerous existing 45-degree angle intersection that had poor sight lines and replace it with a modern, fully signalized, safer intersection capable of efficiently handling a projected increase in traffic. The project also included stormwater Best Management Practices (BMPs) constructed along the roadside right-of-way and planted with IDOT slope and wetland grass/sedge seed mixes to stabilize exposed soil and prevent soil erosion and sedimentation.

The activities described within the original proposal were completed under the IP issued on September 19, 2012, and shown on plans titled 135<sup>TH</sup> STREET RECONSTRUCTION MFT FUNDING (April 6, 2012) and 135<sup>TH</sup> STREET RECONSTRUCTION NON-MFT FUNDING (April 26, 2012).

After-the-fact modifications to the project plans, not authorized under the 2012 IP or the permit extension, included a change in size of the elliptical pipes installed within waterways, a modified outlet to Long Run Creek and the addition of rip rap along drainageways:

- Pipe P42 located at approximately roadway station 53+75 (east of High Road) was changed from an elliptical 60"x38" pipe to dual 48" pipes.
- Pipe P127 located at approximately roadway station 97+00 (east of Smith Road) was changed from an elliptical 76"x48" pipe to dual 48" pipes.

- Pipe P148 located at approximately roadway station 106+80 (east of P127) was changed from an elliptical 76"x48" pipe to dual 42" pipes.
- Pipe P177 located at approximately roadway station 120+10 (west of I-355) was changed from dual elliptical 60"x36" pipes to dual 54" pipes.
- Pipe outlets into Long Run Creek at approximately stations 137+80, 141+50, and 142+00 were modified to outlet directly into Long Run Creek.
- Additional riprap was added to prevent erosion at these outfall locations.

The decision regarding whether or not to grant after-the-fact approval of the activity depends on an evaluation of the probable impact on the public interest and will either allow the work to remain as constructed or require its modification or removal.

### **AVOIDANCE & MINIMIZATION**

The applicant considered other locations and designs to accommodate increased traffic along 135th Street, improve the dangerous intersection at 135th Street and Archer while avoiding and minimizing impacts to aquatic resources; however, the other roadways considered are either not within the jurisdiction of Will County or are have already been approved to be redesigned for roadway improvements.

### **MITIGATION**

Impacts to jurisdictional waters and wetland associated with the project were mitigated through the purchase of mitigation credits as a condition of the 2012 IP. To offset impacts to 1.345 acres of waters of the U.S., the applicant purchased 2.49 acres of wetland credit from the Des Plaines - Towpath Wetland Mitigation Bank.

The approved mitigation plan for the 2012 IP included additional measures to further compensate for the authorized impacts to waters of the U.S. The plan included the realignment of 1,214 feet of Long Run Creek at the 135<sup>th</sup> Street and Archer Avenue intersection, seeding of the adjacent buffer and detention areas with wet prairie and emergent wetland species, creating a V-shaped riffle structures within the creek, and construction of stormwater management BMPs. As is standard industry practice, stormwater BMPs were completed in a stepwise manner following construction of the associated road segment.

The Corps previously issued a partial mitigation plan compliance sign-off to WCDOT for completing the realignment of Long Run Creek per the 2012 IP mitigation plan. The remaining mitigation, including installation of stormwater management BMPs for the road segment extending from Emily Lane west to New Avenue, were completed in the fall of 2023/winter 2024. A site inspection of the stormwater management BMPs will be conducted by this office during spring of 2024 to confirm compliance with the approved mitigation plan.

The Project Mitigation Document is titled LONG RUN CREEK RELOCATION NATIVE SEEDING AND PLANTING AREA-ADAPTIVE MANAGEMENT AND MONITORING PLAN dated January 2012 (Revised March 2012). The Corps verified the adequacy of the mitigation proposal under the original permit and seeks public input on whether the completed mitigation remains adequate for the after-the-fact project modifications in accordance with 33 CFR Part 332.

## **REGULATORY AUTHORITY**

This after-the-fact action will be reviewed according to the provisions of Section 404 of the Clean Water Act of 1972.

## **JURISDICTION**

This application will be reviewed according to the provisions of Section 404 of the Clean Water Act of 1972 due to placement of fill in Waters of the United States.

## **EVALUATION FACTORS**

The decision whether to issue a permit will be based on an evaluation of probable impact including cumulative impacts of the after-the-fact 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 after-the-fact 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 to consider and evaluate the potential impacts of the after-the-fact 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 will apply to the Illinois Environmental Protection Agency (IEPA) for a new water quality certification, or waiver thereof, for the after-the-fact 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 potential increase in pollutant loading that may result from this activity.

The "Fact Sheet" containing the antidegradation assessment for this project may be found on the IEPA's web site, at <https://www2.illinois.gov/epa/public-notices/Pages/section-401-notices.aspx>. If 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 apply 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 determined that the after-the-fact activity will not affect any federally listed endangered or threatened species or critical habitat for any endangered or threatened species, pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). Therefore, consultation with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act does not appear to be warranted at this time.

**HISTORIC PROPERTIES/CULTURAL RESOURCES:**

Review indicates that the after-the-fact 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 after-the-fact 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 after-the-fact activity must do so in writing no later than June 27, 2024. 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 Mr. Aaron Spencer of my staff by telephone at (312) 846-5540, or email at Aaron.D.Spencer@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 <https://www.lrd.usace.army.mil/Wetlands-Permits/Article/3647633/regulatory-program-illinois/> for more information on our program.

### **NOTICE TO POSTMASTERS:**

It is requested that this notice be conspicuously and continuously posted until June 27, 2024.