



LRH 2015-533-GMR

*Posted 11/6/2015*

ATTACHMENTS

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**TO WHOM IT MAY CONCERN:** The following application has been submitted for a Department of the Army Permit (DA) under the provisions of Section 404 of the Clean Water Act. This notice serves as the United States Army Corps of Engineers' (Corps) request to the Ohio Environmental Protection Agency (OEPA) to act on the Section 401 Water Quality Certification for the following application.

**APPLICANT:** Ohio Department of Natural Resources (ODNR)  
2045 Morse Road, Building E-3  
Columbus, Ohio 43229

**LOCATION:** As depicted on the attached *Project Location Map* (Sheet 1), the proposed project would be located in Loramie Creek and an adjacent wetland located at Lake Loramie State Park in McLean Township, Shelby County, Ohio (40.358924° N, -84.359871° W).

**DESCRIPTION OF PROPOSED WORK:** The applicant proposes to discharge approximately 2,854 cubic yards of dredged and fill material into 0.42 acre of one wetland (W-03) and 485 linear feet of one perennial stream (Loramie Creek) in order to bring the dam spillway into compliance with the ODNR dam safety regulations. The existing spillway would be removed down to 4 feet below the normal pool elevation, and the remaining structure would be abandoned in place. The existing pedestrian bridge deck and concrete substructure would be removed in their entirety. A new 113-foot wide and 8.9-foot tall labyrinth spillway would be constructed to the northwest adjacent to the existing structure. A new lake drain system would be incorporated into the spillway which would serve to control the lake level and lower the lake during emergency drawdown situations. The existing normal pool elevation would be maintained with the new structure. A new earthen embankment would be constructed to tie the existing embankment to the proposed new spillway. Of the 485 linear feet of Loramie Creek proposed to be filled, approximately 300 linear feet downstream of the existing spillway would be converted to upland in order to accommodate the earthen embankment for the proposed new spillway. Approximately 185 linear feet downstream of the proposed new spillway would be lined with riprap and topped with native bed material to create substrate habitat similar to the conditions currently existing within Loramie Creek. As a result of the proposed project, an additional 105 linear feet of Loramie Creek immediately downstream of the existing spillway would be converted to open water habitat (Lake Loramie). A new channel totaling approximately 120 linear feet would be constructed to connect the proposed new spillway to the existing channel. Plans of the work are attached to this notice (See Sheet 2: *Existing Conditions Plan*, Sheet 3: *Proposed Site Plan*, and Sheet 4: *Cross Sections*).

**ALTERNATIVE ANALYSIS:** A total of 0.42 acre of wetland and 590 linear feet of perennial stream would be impacted as a result of the overall proposal. The project does not require access or proximity to or siting within the wetlands to fulfill its basic purpose and is considered a non-water dependent activity. The Section 404(b)(1) Guidelines state that for non-water dependent activities in special aquatic sites, practicable alternatives that do not involve wetlands are presumed to be available, unless clearly demonstrated otherwise. The applicant is required to provide an alternative analysis that must overcome that presumption prior to receiving authorization for the discharge of fill material into the wetlands. The applicant has submitted the required alternatives analysis. A complete copy of the applicant's alternatives analysis can be reviewed by appointment at the above address. No permit will be issued until our review of the alternatives analysis clearly shows that upland alternatives are not available to achieve the project purpose.

**AVOIDANCE AND MINIMIZATION:** In evaluating a project area containing waters of the United States, consideration must be given to avoiding impacts on these sites. If waters of the United States cannot be avoided, then impacts must be minimized. Avoidance and minimization efforts were incorporated into the proposal. Approximately 1,800 linear feet of one perennial stream (Loramie Creek), 0.68 acre of three (3) wetlands (W-01, W-02, and W-03), and 1.00 acre of open water (Lake Loramie) subject to Section 404 Clean Water Act regulation exist within the proposed project area. According to the applicant, alternative plans were considered. Avoidance and minimization efforts were incorporated into the proposal to reduce the footprint of the proposed project. The proposed project has been designed to completely avoid impacts to the remaining 0.26 acre of wetlands (38.3%), 1,210 linear feet of perennial stream (67.2%), and 1.00 acre of open water (100%) within the project area. The applicant would be required to obtain stormwater permits and implement stormwater protection plans as needed for site construction following the requirements of the National Pollutant Discharge Elimination System (NPDES) program. Based on the application, the applicant has applied for the required NPDES permit from the OEPA.

**COMPENSATORY MITIGATION PLAN:** To compensate for the discharge of dredged and/or fill material into 0.42 acre of W-03, the applicant proposes to purchase wetland mitigation credits from an approved wetland mitigation bank. To compensate for the discharge of dredged and/or fill material into 485 linear feet of Loramie Creek, the applicant has proposed to purchase stream mitigation credits from an approved in-lieu fee program. Additionally, as a result of the proposed project, approximately 120 linear feet of perennial stream channel would be constructed to connect the proposed new spillway to the existing stream channel.

**WATER QUALITY CERTIFICATION:** A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the OEPA. Based on the application, the applicant has applied for the required Section 401 Water Quality Certification from the OEPA.

**HISTORIC AND CULTURAL RESOURCES:** The National Register of Historic Places (NRHP) has been consulted and it has been determined there are no properties currently listed on the NRHP which would be indirectly or directly affected by the proposed work. A *Phase I Archaeological Investigation* and a companion *Historic Resources Survey and Determination of Eligibility Report* have been performed by Michael Baker International on behalf of the applicant for the entire 11.3 acre project area. The Corps is currently reviewing these surveys. A copy of this public notice, the *Phase I Archaeological Investigation* and the *Historic Resources Survey and Determination of Eligibility Report* will be furnished to the State Historic Preservation Office for their review and comment.

**THREATENED AND ENDANGERED SPECIES:** The project is located within the known or historic range of the following threatened and endangered species: endangered Indiana bat (*Myotis sodalis*), threatened northern long-eared bat (*Myotis septentrionalis*), and endangered rayed bean mussel (*Villosa fabalis*). The Corps has consulted the most recently available information, and based on the proposed implementation of the seasonal tree clearing restrictions, the project may affect, but is not likely to adversely affect the Indiana bat and northern long-eared bat. Based on the lack of suitable habitat within the project area, the Corps has determined the project will not affect the rayed bean mussel. Based on this information, the proposed project is not likely to adversely affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. This public notice serves as a request to the United States Fish and Wildlife Service for any additional information they may have 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 activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

**PUBLIC INTEREST REVIEW AND CUMULATIVE EFFECTS:** This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the Corps, and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the United States Environmental Protection Agency pursuant to Section 404(b)(1) of the Clean Water Act (40 CFR part 230). The decision whether to issue a permit will be based on an evaluation of the probable impacts, 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 that may be relevant to the proposal will be considered, including the cumulative effects thereof; among those factors 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.

**SOLICITATION OF 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. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any person may request, in writing, within the comment period specified in the 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. 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 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. Written statements received in this office on or before the expiration date of this Public Notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

**CLOSE OF COMMENT PERIOD:** All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no

comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

United States Army Corps of Engineers

ATTN: CELRH-RD-N

Public Notice No. LRH-2015-533-GMR-Loramie Creek

502 Eighth Street

Huntington, West Virginia 25701-2070.

Please note names and addresses of those who submit comments in response to this Public Notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this Public Notice, please contact Ms. Leah Morgan of the North Branch at 304-399-5210.