



**US Army Corps
of Engineers** ®
Rock Island District

PUBLIC NOTICE

Applicant: Osceola County Rural Water System, Inc. Date: November 10, 2022

Expires: December 9, 2022

CEMVR-RD-2021-0918

Section 404

**Joint Public Notice
US Army Corps of Engineers
Iowa Department of Natural Resources**

1. **Applicant:** Osceola County Rural Water System, Inc., c/o Douglass Westerman, 2270 Walnut Avenue, May City, Iowa 51354.

2. **Project Location:** Ocheyedan River, Section 6, Township 98 North, Range 39 West, Osceola County, Iowa: UTM NAD-83 Zone15, Lat: 43.339753, Long: -95.498589.

3. **Project Description and Purpose:**

a. This is a Supplemental Public Notice to correct an error in the initial Public Notice's location. The initial Public Notice expired 9/31/21.

b. The applicant proposes to construct a rock-riffle low head dam structure within the channel of the Ocheyedan River. An estimated 0.05 acres of riverbed will be filled as a result and the applicant plans to allow water to flow over the top of the dam structure during times of normal flow. The purpose of this project is to increase drought resiliency for the alluvial aquifer that supplies drinking water to the local populace. Wetland impacts are not anticipated, and stream mitigation has not been proposed due to the overall low impact total.

4. **Avoidance and Minimization:** The only avoidance measures considered by the applicant are "No Action" and "Proceed as originally planned." The applicant has previously agreed to minimize by removing one proposed location and proceeding with the eastern site. The applicant's project purpose and need are meant to increase drought resiliency. If allowed to proceed as planned, the applicant believes that this project should decrease the risks associated with running out of drinking water for the local populace. The Applicant's project plans also minimize impacts to Waters of the United States by installing the rock-riffle low head-dam structure at only one location, not multiple as was previously requested.

5. **Agency Review.**

a. Department of the Army, Corps of Engineers. The Department of the Army application is being processed under the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

b. State of Iowa. The project plans have been submitted to the Iowa Department of Natural Resources (IDNR) for state certification of the proposed work in accordance with Section 401 of the Clean Water Act. The certification, if issued, will express the Department's opinion that the proposed activity will comply with Iowa's water quality standards (Chapter 61 IAC). The applicant has also applied for authorization of work in the floodplain pursuant to Chapter 455B of the Iowa Code and other applicable state permits. Written comments concerning possible impacts to waters of Iowa should be addressed to: Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319. A copy of the comments should be provided to the Corps of Engineers office (see paragraph 11. of this public notice for address).

6. Historical/Archaeological. The District consulted with the Iowa I-Sites online geographic information systems (GIS) archeological site and survey databases (including the HILD layers) and determined the permit area has not been surveyed. Based on a review of almost 100 years of aerial photos and the LIDAR imagery the project area appears to be located inside the active meander belt of the previously channelized and now actively re-meandering Ocheyedon River. Therefore, it is the opinion of the District the project has **no potential to affect historic properties** because “the nature, scope, and magnitude of the work, and/or structures to be permitted are such that there is little likelihood that a historic property exists or may be affected” (33 CFR Part 325, Appendix C.3.b).

7. Endangered Species.

a. District staff has performed a preliminary review of this application for the potential impact on threatened or endangered species pursuant to Section 7 of the Endangered Species Act as amended. The following all have potential habitat in Osceola County, Iowa.

- Northern Long-Eared Bat (*Myotis septentrionalis*),
- Topeka Shiner (*Notropis topeka*),
- Monarch Butterfly (*Danaus plexippus*),
- Poweshiek Skipperling (*Oarisma poweshiek*),
- Prairie Bush-clover (*Lespedeza leptostachya*),
- Western Prairie Fringed Orchid (*Platanthera praeclara*)

b. The project area overlaps with established critical habitat for listed species Topeka Shiner. An email was sent to United States Fish and Wildlife Services (USFWS), on 8/18/21 requesting verification that the project area is in fact Topeka Shiner critical habitat. USFWS responded on 8/26/21 that no known Topeka Shiners are found within the Ocheyedon River. The project area is entirely within the riverbed and as such does not contain wet prairies, sedge meadows, or tree density capable of sustaining listed bat species habitat. Due to this, our preliminary determination is that this project is “**No Effect**” to Federally endangered species or critical habitat. This determination was previously coordinated with the USFWS during the initial Public Notice period which expired 9/31/21. Accordingly, our preliminary determination is subject to change should further information become available.

8. Dredge/Fill Material Guidelines. The evaluation of the impact of the proposed activity on the public interest will also include application of the guidelines promulgated by the Administrator of the United States Environmental Protection Agency under authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

9. **Public Interest Review.** The decision whether to issue the Corps 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, cultural values, 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 production and, in general, the needs and welfare of the people.

10. **Who Should Reply.** 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. These statements should be submitted on or before the expiration date specified at the top of page 1. These statements should bear upon the adequacy of plans and suitability of locations and should, if appropriate, suggest any changes considered desirable.

11. **Public Hearing Requests.** 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. A request may be denied if substantive reasons for holding a hearing are not provided.

12. **Reply to the Corps.** Comments concerning the Corps permit should be addressed to the US Army Corps of Engineers, Rock Island District, Attn: RD (D. Hardy), Clock Tower Building - Post Office Box 2004, Rock Island, Illinois 61204-2004. **Mrs. Donna Hardy** may be contacted for additional information at (309) 794-5378 or email at donna.r.hardy@usace.army.mil.

Attach
Plans
Project Location Map, sheet 1 of 2
Structure Details, sheet 2 of 2

Mrs. Wendy M. Frohlich
Acting Chief, Western Branch
Regulatory Division



