



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

PUBLIC NOTICE

Applicant: Shadow Creek V, LLC
& Shadow Creek VI, LLC
CEMVR-OD-P-2020-148-1

Date: November 16, 2021
Expires: December 15, 2021
Section 404

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

1. **Applicant:** Shadow Creek LLC, c/o Mr. Derek or Scott Temple, 2400 86th Street, Suite 24, Urbandale, Iowa 50322.

2. **Project Location:** Wetlands and streams within a parcel of property located in Section 21, Township 79 North, Range 26 West, Dallas County, Iowa. UTM Z 15 NAD 83. Latitude 41.6336, Longitude-93.8702.

3. **Project Description:**

a. In 2020, the Applicant was issued a DA Permit to impact 1.44 acres of emergent wetland, 0.04 acres of forested wetlands, 481 linear feet of intermittent streams and 129 linear feet of perennial streams. The impacts were for the development of a new residential subdivision that included tree removal, mass grading, utility installation, road construction and the installation of two storm water detention basins. The project is currently underway and the required compensatory wetland and stream mitigation has been completed.

b. The purpose of this public notice is to solicit comments to modify the permit to include an additional 0.31 acres of wetland, 634 linear feet of perennial stream and 185 linear feet of ephemeral stream. These impacts are for additional impacts as part of the expansion of the permitted subdivision. Impacts will include streets, grading for homes and additional utilities. In addition to these impacts, the Applicant self-reported 190 linear feet of perennial impacts to a portion of a stream from the previously permitted area.

c. Mitigation for this modification will be required and will be done through the use of an approved wetland and stream mitigation bank. Wetlands will be mitigated at a 1:1 ratio and the stream impacts will be calculated by using the Iowa Stream Mitigation Method, 0.31 acres of emergent wetland will be required and following the ISMM, 824 feet of perennial and 185 feet of ephemeral stream will be assessed using the ISMM.

4. **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 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 E. 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).

5. Historical/Archaeological: The District Archaeologist consulted with the Iowa geographic information systems archeological site and survey databases online. Including the HILD and Notable Locations layers. The applicant has provided a Phase I cultural resources assessment for the proposed project. Two historic properties were recorded in the survey. One is a historic period farmstead and the other is a single prehistoric artifact. The report was considered adequate and the District Archaeologist concurred with the recommendations that there will be no historic properties affected by the project. Therefore, it is the recommendation of the District Archaeologist that there will be **no historic properties affected** issuance of the permit 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).

6. 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 threatened or endangered species are listed by the United States Fish and Wildlife Service (FWS) as occurring in Dallas County, Iowa:

- Indiana Bat (*Myotis sodalist*)
- Northern Long-eared Bat (*Myotis septentrionalis*)
- Least Tern (*Sterna antillarum*)
- Topeka Shiner (*Notropis Topeka*)
- Prairie Bush-clover (*Lespedeza leptostachya*)
- Western Prairie Fringed Orchid (*Platanthera praeclara*)

b. This project will have no effect on the Least Tern, Topeka Shiner, Prairie Bush-clover or the Western Fringed Prairie Orchid. Habitat for these species is not present. We have requested a survey of the forested habitat to assist in our determination of the habitat for the two bat species.

c. The proposed project is being coordinated with the FWS through this public notice. Any comments it may have concerning Federally-listed threatened or endangered species or their critical habitat will be considered in the final assessment of the proposed project. Accordingly, our preliminary determination is subject to change should further information become available.

7. 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).

8. **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.

9. **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.

10. **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.

11. **Reply to the Corps:** Comments concerning the Corps permit should be addressed to the District Engineer, US Army Corps of Engineers, Rock Island District, ATTN: OD-P (Frohlich), Clock Tower Building - Post Office Box 2004, Rock Island, Illinois 61204-2004. For additional information contact **Mr. Albert Frohlich (309/794-5859)** or email: Albert.J.Frohlich@usace.army.mil.



Mr. Albert J. Frohlich
Se. Project Manager, Western Section
Regulatory Division

Attach
Plan

REQUEST TO POSTMASTERS: Please post this notice conspicuously and continuously until the expiration date specified at the top of page 1.

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