



**U.S. Army Corps
Of Engineers**

Walla Walla District
201 North Third Avenue
Walla Walla, WA 99362-1876

Public Notice:

Application for Permit

APPLICATION NO.: NWW-2021-245-I02

WATERWAY: Wetlands adjacent to Porcupine Creek

APPLICANT: Dan Janney

DATE ISSUED: July 27, 2021

END DATE: August 25, 2021

30-Day

Interested parties are hereby notified that the Walla Walla District has received an application for a Department of the Army permit for certain work in Waters of the United States, including wetlands, as described below in the attached documents:

- [NWW-2021-245_PublicNoticeFigures.pdf](#)
- [Howell Ranch Wetland Mitigation Conceptual Design Memo 07.01.2021.pdf](#)

APPLICANT: Dan Janney, 111 S Roop Street, Unit 100, Carson City, Nevada 89702; djanney@altapartners.com

AGENT: Jim Lovell, Confluence Consulting, PO Box 1133, Bozeman, Montana, 59771; (406) 585-9500; jlovell@confluenceinc.com

U.S. ARMY CORPS OF ENGINEERS PROJECT MANAGER: James Joyner, Idaho Falls Regulatory Office, 900 N Skyline Drive, Suite A, Idaho Falls, Idaho 83402; (208) 522-1645; james.m.joyner@usace.army.mil

PURPOSE: Construct a pond for recreational use.

WATERWAY: Wetlands adjacent to Porcupine Creek.

LOCATION: The proposed project would be located at 4774 E 1400 N, within Sections 24 and 25, Township 9 North, Range 44 East, near latitude 44.084220° N and longitude -111.199813° W, in Fremont County, near Ashton, Idaho.

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DRIVING DIRECTIONS: From Highway 20 in Ashton, Idaho take Highway 47 east for 6.1 miles. Turn right (east) onto E 1400 N which turns into Highway 582 (Cave Falls Road). Drive approximately 7.6 miles to the property. **NOTE:** this is private property.

AUTHORITY: This permit will be issued or denied under the authority of Section 404 of the Clean Water Act (33 U.S.C. 1344). A Department of the Army permit is required for the discharge of dredged or fill material into waters of the United States, including wetlands.

WORK: Discharge of approximately 847 cubic yards of dirt fill associated with filling 0.15 acres and excavating 0.9 acres of wetlands adjacent to Porcupine Creek to create a 1.0 acre recreational pond. The project would also temporarily impact another 0.48 acres of wetlands as a result of equipment access and staging. The pond would be constructed along an existing irrigation ditch that would provide a source of water for the pond. Flows from the pond would return to Porcupine Creek.

Specific project elements include:

- Excavation of 0.9 acres of wetlands to create the pond. The pond would be excavated using a tracked excavator and the fill will be removed using a tracked haul truck. Excavated material will be disposed of on-site in three different upland disposal areas. Disposal areas would be revegetated with a native upland seed mix and trees. The area around the pond will be revegetated immediately after construction with wetland sod mats
- Filling 0.15 acres of wetlands to create a berm on the downgradient side of the pond.
- Temporary impacts/disturbance to 0.48 acres of wetlands associated with equipment traffic/access. Temporarily impacted wetland areas will be revegetated with wetland sod stripped from the pond area at the beginning of construction.

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ADDITIONAL INFORMATION:

In addition to the previously mentioned upland spoil disposal areas (shown on project drawings) equipment would be staged and refueled in an upland area approximately 500 feet from Porcupine Creek and 150 feet from wetlands.

CONSTRUCTION PERIOD: Applicant proposes to start construction Summer/Fall 2021. The permit would authorize construction for a period of 3 years.

PROPOSED MITIGATION:

The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to Waters of the United States from activities involving discharges of dredged or fill material.

The applicant proposes to create a 1.12 acre PEM/PSS wetland area southeast of the pond site adjacent to existing wetlands. See the attached Conceptual Mitigation Design.

OTHER ENVIRONMENTAL DOCUMENTS AND DA PERMITS ISSUED TO

APPLICANT: The applicant recently applied for and received verification for a stream restoration and enhancement project on approximately 2000 linear feet of Porcupine Creek under Nationwide Permit 27 (Aquatic Habitat Restoration, Establishment, and Enhancement Activities) (May 14, 2021).

WATER QUALITY CERTIFICATION: The Idaho Department of Environmental Quality (IDEQ) is evaluating whether to certify that the discharge of dredge and/or fill material proposed for this project will not violate existing water quality standards. A Department of the Army permit will not be issued until water quality certification has been issued or waived by the IDEQ, as required by Section 401 of the Clean Water Act. Comments or questions concerning Water Quality Certification for this project should be mailed to: Idaho Department of Environmental Quality, Idaho Falls Regional Office, 900 N Skyline Drive, Suite B, Idaho Falls, Idaho 83402 or sent to Troy Saffle at troy.saffle@deq.idaho.gov.

AQUATIC RESOURCE DESCRIPTION: Approximately 6.3 acres of wetlands adjacent to Porcupine Creek were identified in the project area, although there are additional wetlands in and along Porcupine Creek in the immediate vicinity of the project. Wetlands on the site are considered SLOPE/RIVERINE under the HGM

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classification system and palustrine emergent (PEM) under the USFWS Classification system. Dominant herbaceous plant species include, Nebraska sedge (*Carex nebrascensis*), timothy (*Phleum pratense*), and Kentucky bluegrass (*Poa pratensis*).

ANTICIPATED IMPACTS ON AQUATIC ENVIRONMENT: The project would result in the loss of 0.15 acres of wetland as a result of construction of the pond berm and conversion of 0.90 acres of wetland to open water (pond), although it is anticipated some shallow water wetlands would establish along the pond's edges. 0.48 acres of wetlands are anticipated to be temporarily impacted during construction associated with access.

OTHER AUTHORIZATIONS: N/A.

CULTURAL RESOURCES: Coordination is currently being conducted with the office of the Idaho State Historic Preservation Officer to determine if this activity will affect a site that is listed on the National Register of Historic Places, or a site that may be eligible for listing on the Register. We are also coordinating with the appropriate Tribal entity or the Tribal Historic Preservation Offices for the Shoshone-Bannock Tribes, to determine if there are any tribal historic or cultural interests within the project area.

TRIBAL TREATY RIGHTS and INTERESTS: Federal agencies acknowledge the federal trust responsibility arising from treaties, statutes, executive orders and the historical relations between the United States and American Indian Tribes. The federal government has a unique trust relationship with federally recognized American Indian Tribes, including the Shoshone-Bannock Tribes. The Corps has a responsibility and obligation to consider and consult on potential effects to Tribal rights, uses and interests. The Corps further recognizes there may be a need for additional and on-going consultation.

ENDANGERED SPECIES: The project is within the known or historic range of Canada Lynx (*Lynx canadensis*), Grizzly Bear (*Ursus arctos horribilis*), and Ute Ladies'-tresses (*Spiranthes diluvialis*). Coordination is currently being conducted with the U.S. Fish and Wildlife Service (USFWS) to determine if the activity will have any effect on species designated as endangered or threatened under the Endangered Species Act, or their critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844).

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all

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Federal agencies to consult with the National Marine Fisheries Service on all actions or proposed actions, permitted, funded or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). No EFH species are known to use the project area. Preliminarily, we have determined the described activity would have no effect on EFH.

ENVIRONMENTAL IMPACT STATEMENT: Preliminary review indicates the proposed activities will not require preparation of an Environmental Impact Statement. Comments provided will be considered in preparation of an Environmental Assessment.

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. This 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, consideration of property ownership and in general, the needs and welfare of the people. In addition, our evaluation will include application of the EPA Guidelines (40 CFR 230) as required by Section 404(b)(1) of the Clean Water Act.

CONSIDERATION OF PUBLIC COMMENTS: The Corps of Engineers is soliciting comments from the general public; Federal, State and local agencies and officials, Tribal entities 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.

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 proposed activity. Requests for a public hearing shall state specific reasons for holding a public hearing. A

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request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

COMMENT & REVIEW PERIOD: Interested parties are invited to provide comments on the proposed activity, which will become a part of the record and will be considered in the final decision.

Please mail all comments to:

U.S. Army Corps of Engineers

Walla Walla District

James M. Joyner

Idaho Falls Regulatory Office

900 N Skyline Drive, Suite A

Idaho Falls, Idaho 83402-1700

james.m.joyner@usace.army.mil

Comments should be received no later than the comment due date of **August 25, 2021**, as indicated on this notice, to receive consideration.