



**US Army Corps  
Of Engineers**  
Walla Walla District  
201 North Third Avenue  
Walla Walla, WA 99362-1876

# Public Notice: Application for Permit

APPLICATION NO.: NWW-2013-00058

WATERWAY: Falls Creek, adjacent unnamed wetlands

APPLICANT: Mr. Ray Sauer, Ray Sauer Farms, Inc.

DATE ISSUED: February 6, 2014

END DATE: March 8, 2014

30-Day Notice

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Interested parties are hereby notified that this District has received an after-the-fact application for a Department of the Army permit for certain work in waters of the United States, including wetlands, as described below and shown on the attached drawings, entitled *NWW-2013-00058, Sauer Wetland Fill, dated December 2013*. These drawings are available at the Walla Walla District Regulatory Division website at <http://www.nww.usace.army.mil/BusinessWithUs/RegulatoryDivision/PublicNotices.aspx>.

**APPLICANT:** Mr. Ray Sauer, Ray Sauer Farms, Inc.; 945 E 2100 N; Terreton, Idaho 83450; phone number (208) 716-0758

**USACE PM CONTACT:** Jamie Howard; 10095 W Emerald Street, Boise Idaho 83709; phone number (208) 345-2155; e-mail [jamie.n.howard@usace.army.mil](mailto:jamie.n.howard@usace.army.mil)

**PURPOSE:** Project purpose is/was to convert a section of the Falls Creek channel and unnamed palustrine emergent wetlands adjacent to Falls Creek (a tributary to Bear River) into agricultural pasture grass/land and improve the efficiency of the farming operation on the larger parcel.

**WATERWAY:** Falls Creek and adjacent unnamed wetlands

**LOCATION:** The proposed project would be located within Sections 8 and 9, Township 11 South, Range 40 East, near latitude 42.4753° N and longitude -111.7769° W, in Caribou County, near Grace, Idaho.

**DRIVING DIRECTIONS:** From Grace, Idaho, drive South turning left onto Clemins Hill; then left onto Sant Road; project is located on Rassmusson Lane.

**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.

**PREVIOUSLY COMPLETED WORK:** In Fall 2011, applicant plowed and land leveled approximately 110 acres of property which included the placement of fill in Falls Creek and adjacent palustrine emergent wetlands. The activity converted approximately 2.8 acres of wetland to upland pasture. Approximately 6,000 cubic yards of native soil fill material from adjacent uplands was discharged.

**FUTURE PROPOSED WORK:** Applicant does not propose any further discharge of fill material within the project area already impacted other than the permittee-responsible on-site compensatory mitigation being proposed for impacts previously completed and as described above. See “Proposed Mitigation” Section below and 2013 Mitigation Plan for details.

**CONSTRUCTION PERIOD:** Applicant discharged fill material below the ordinary high water mark and into adjacent unnamed palustrine emergent wetlands of Falls Creek in 2011. Construction of the 2.8 acres of proposed permittee-responsible on-site compensatory mitigation would begin in 2014. Any permit the Corps might issue would authorize retention of the previously placed fill material. It would also authorize the construction of the mitigation site for a period of 3 to 5 years.

**PROPOSED MITIGATION:** The applicant proposes the following mitigation measures to compensate for the impacts to waters of the United States that resulted from activities involving discharges of dredged or fill material into a section of Falls Creek and adjacent wetlands:

The applicant proposes mitigation in the form of “*permittee-responsible on-site compensatory mitigation*” through the establishment of wetlands at 1:1 compensation. The proposed 2.8 acre area is adjacent and contiguous with the Reference Site, please see May 2013 Mitigation Plan.

In addition to the wetland establishment, the mitigation proposal would enhance existing adjacent wetlands. Also, both the established and the enhanced areas would be preserved under a conservation easement which would not allow development or agricultural production to occur on the land.

A copy of the proposed May 2013 Mitigation Plan is available on-line at the Regulatory website at <http://www.nww.usace.army.mil/BusinessWithUs/RegulatoryDivision/PublicNotices.aspx>. Additionally, to request a hard copy of the proposed Mitigation Plan, please call (509) 527-7150.

**OTHER ENVIRONMENTAL DOCUMENTS and DA PERMITS ISSUED TO APPLICANT:** None

**WATER QUALITY CERTIFICATION:** This notice will also serve as public notice that the Idaho Department of Environmental Quality (IDEQ) is evaluating whether to certify that the discharge of dredge and/or fill material associated with this project did 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. If water quality certification is not issued, waived or denied within sixty (60) days of this public notice date, and an extension of this period is not requested by and granted to the IDEQ, certification will be considered waived. Additionally, within thirty (30) days of this Public Notice, any person may provide written comments to IDEQ and/or request in writing that IDEQ provide them notice of their preliminary 401 Certification decision. Comments concerning Water Quality Certification for this project should be mailed to: Idaho Department of Environmental Quality, Pocatello Regional Office, 444 Hospital Way, Suite #300, Pocatello, Idaho 83201, and telephone number (208) 236-6160.

**AQUATIC RESOURCE DESCRIPTION:** The aquatic resources impacted consist of an 8,000 linear foot section of Falls Creek with 2.8 acres of adjacent palustrine emergent wetlands that were converted to upland pasture. In many locations it appears that Falls Creek consisted of a vegetated wetland swale rather than a flowing stream with a defined bed and bank. This likely occurred due to reduced flows resulting from upstream irrigation withdrawals. Therefore, impacts to Falls Creek have been included as wetland impacts and incorporated into the overall wetland impacts of 2.8 acres. The area impacted is located on silty

alluvium soil of a Bear River terrace, within an agricultural field utilized for grass hay and pasture. Falls Creek is located within the Deep Creek portion of the Bear River Sub-Basin, HUC 16010202.

**ANTICIPATED IMPACTS ON AQUATIC ENVIRONMENT:** Per the May 2013 Mitigation Plan, conversion of the 2.8 acres of wetlands to pasture grass/land determined a decrease in both dynamic and long term surface water storage, as well as sediment and nutrient retention and removal. Characteristic plant communities and detrital biomass were lost, as were habitat interspersion and connectivity and characteristic bird populations. The losses in all functions were immediate and permanent once the soil and water manipulations occurred.

The greatest loss with the manipulations that occurred is in the long-term surface water storage, which resulted in a functional loss of 2.5 acres of long-term surface water storage. The functional loss of 1.4 acres of the assumed characteristic plant community correlated closely with the functional loss of 1.1 acres of habitat interspersion and connectivity. The assessment found the proposed 1:1 mitigation of 2.8 acres of wetlands will mitigate for all losses caused by the conversion. In addition, several functions are believed to be improved with the proposed mitigation, particularly sediment and nutrient retention and removal. The functional mitigation and improvement in the long term water storage would support the area's hyporheic flow recharge. (See Appendix 9 of the Mitigation Plan for complete assessment).

## **OTHER AUTHORIZATIONS**

**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.

**ENDANGERED SPECIES:** No listed threatened or endangered species or designated critical habitats are known to exist in the project area. 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 (ESA, 7 U.S.C. § 136, 16 U.S.C. § 1531 et seq.)

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

**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  
Jamie Howard  
Boise Regulatory Office  
10095 W Emerald Street  
Boise, Idaho 83704-9754  
[jamie.n.howard@usace.army.mil](mailto:jamie.n.howard@usace.army.mil)

Comments should be received no later than the comment due date of **March 8, 2014**, as indicated on this notice, to receive consideration.

Jamie Howard  
Project Manager  
Walla Walla District

Enclosures