



Public Notice

U.S. Army Corps of Engineers, Norfolk District

August 7, 2012
CENAO-WR-R
NAO-2012-01384
12-V0990

PUBLIC NOTICE

The District Commander has received a permit application for work described below:

APPLICANT

Anderson's Neck, LLC
2302 East Marshall Street
Richmond, Virginia 23223

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project will be located on 64.5 acres of leased oyster grounds in Morris Bay on Poropotank Creek, a tributary to the York River, within Gloucester County and King and Queen County, Virginia. Activities associated with the project will also be located on 76 acres of leased oyster grounds along the north shore of the York River west of its' confluence with Poropotank Creek.

PROPOSED WORK AND PURPOSE: The applicant proposes to establish an oyster nursery to grow native *Crassostrea virginica* from seed on approximately 64.5 acres of leased oyster grounds in Morris Bay on Poropotank Creek. The nursery is proposed to include a maximum of 6900 floating oyster cages attached to approximately 690 160-foot long lines spaced approximately 28 feet apart. The dimensions of the proposed cages are 4.5 foot long by 3 foot wide by 18 inches deep. Also proposed are two 28 foot by 20 foot enclosed floating structures containing 2 solar powered upwellers that will be moored by four mooring balls, as well as four stand-alone 20 foot by 8 foot solar powered upweller platforms. Finally, approximately 500 off-bottom cages attached to approximately 50 long lines are proposed within 76 acres of leased oyster ground on the York River for the final stages of grow-out of the Morris Bay oysters.

AUTHORITY: Permits are required pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

FEDERAL EVALUATION OF APPLICATION: 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. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected from the proposal must be balanced against its reasonably foreseeable detriments. All of the proposal's relevant factors will be considered, including conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use classification, 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.

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 direct, indirect, and cumulative 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. Anyone may request a public hearing to consider this permit application by writing to the District Commander within 30 days of the date of this notice, stating specific reasons for holding the public hearing. The District Commander will then decide if a hearing should be held.

Preliminary review indicates that: (1) no environmental impact statement will be required; (2) no species of fish, wildlife, or plant (or their critical habitat) listed as endangered or threatened under the Endangered Species Act of 1973 (PL 93-205) will be affected; and (3) no known properties eligible for inclusion or included in the National Register of Historic Places are in or near the permit area, or would likely be affected by the proposal. Additional information might change any of these findings. For compliance with the Coastal Zone Management Act of 1972, as amended, the applicant must certify that federally licensed or permitted activities affecting Virginia's coastal zone (Tidewater) will be conducted in a manner consistent with the Virginia Coastal Resources Management Program (VCP). For more information or to obtain a list of the enforceable programs of the VCP, contact the Department of Environmental Quality, Office of Environmental Impact Review at (804) 698-4330 or e-mail: elirons@deq.virginia.gov.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), 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). Poropotank Creek and the York River contain Essential Fish Habitat (EFH) for juvenile and/or adult life stages of nine species including bluefish (*Pomatomus saltatrix*), Atlantic butterfish (*Peprilus triacanthus*), summer flounder (*Paralichthys dentatus*), black sea bass (*Centropristus striata*), king mackerel (*Scomberomorus cavalla*), Spanish mackerel (*Scomberomorus maculatus*), cobia (*Rachycentron canadum*), red drum (*Sciaenops ocellatus*), and sandbar shark (*Charcharinus plumbeus*). The habitat which this project would affect consists of shallow sub-tidal waters. No submerged aquatic vegetation (SAV) has been documented within the project areas. The proposed project is described in above. Our assessment of the project leads us to a preliminary determination that it may adversely affect various species, but the site-specific adverse effect on EFH will not be substantial. A final determination relative to project impacts to EFH will be subject to review by and coordination with the National Marine Fisheries Service.

COMMENT PERIOD: Comments on this project should be made in writing, addressed to the Norfolk District, Corps of Engineers (ATTN: CENAO-WR-R, c/o Keith Goodwin), 803 Front Street, Norfolk, Virginia 23510-1096 or sent via email to keith.r.goodwin@usace.army.mil, and should be received by the close of business on September 10, 2012.

PRIVACY & CONFIDENTIALITY: Comments and information, including the identity of the submitter, submitted in response to this Public Notice may be disclosed, reproduced, and distributed at the discretion of the U.S. Army Corps of Engineers. Information that is submitted in connection with this Public Notice cannot be maintained as confidential by the U.S. Army

Corps of Engineers. Submissions should not include any information that the submitter seeks to preserve as confidential.

If you have any questions about this project or the permit process, contact the project manager, Mr. Keith R. Goodwin, at (757) 201-7327 or by email at keith.r.goodwin@usace.army.mil.

FOR THE DISTRICT COMMANDER:



Nicholas L. Konchuba
Chief, Northern Virginia
Regulatory Section

Attachment: Drawings