



# Public Notice

U.S. Army Corps of Engineers, Norfolk District

CENAO-WR-RE  
11-V0942

31 August 2012

## FEDERAL PUBLIC NOTICE

The District Commander has received an application for a permit modification as described below:

### APPLICANT

Weanack Land LLLP  
C/O: Charles Carter  
Shirley Plantation

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project is located in Shirley Cove, which is on the east bank of the James River, located on the southern end of Shirley Plantation off of Route 106 in Charles City County, Virginia.

PROPOSED WORK AND PURPOSE: The applicant has requested modification of the Department of Army permit number 03-V0027 issued on January 10, 2005, set to expire on January 5, 2015 (a modification of the original permit 95-0509-07) as follows:

1. Increase the dredge depth in the Weanack Access Channel between stations 14+00 and 20+00 to -22 feet MLLW rather than the previously authorized -20 feet MLLW due to elevated siltation. This area encompasses 194,266 ft<sup>2</sup> or 4.46 acres and would require the removal of an additional 13,500 cubic yards of material to achieve target depth.
2. Expand the dredging area within Shirley Cove for mooring and staging area to include an additional 942,920 ft<sup>2</sup> or 21.646 acres to be dredged to a depth of -13 ft MLLW. The polygonal area to be dredged contains approximately 130,000 cubic yards of dredge material which would allow for the safe maneuvering of barges, tugboats, and other vessels utilizing Shirley Cove.
3. Revised Dredged Material Placement Sequence in Shirley Cove Dredged Material Management Area alters the footprint of the Weanack Restoration Plan received by the Corps on April 29, 2003:
  - The new configuration encompasses Phases 1-4. Phase 1 has been completed; Phase 2 has been constructed but not completed.
  - Prior to completion of Phase 3, Culvert "A" (currently permitted, but not yet constructed, under 03-V0027) will be installed with two 4' high by 5' wide box culverts, providing a hydrologic connection between Phase 1 and the James River. Phase 3 containment cells will be completed after the installation of Culvert "A".
  - Phase 4 will be completed after Phase 3. Once dredged material placement has been completed in Phase 4, Weanack will construct a ditch where the easternmost containment berm of Phase 4 was constructed. The ditch will be stabilized, vegetated, and then connected to Eppes Creek through a *new* proposed culvert-

Culvert "B". Culvert B will establish a hydrologic connection with the installation of a single four foot diameter round culvert which will impact approximately 300 ft<sup>2</sup> of freshwater tidal emergent wetlands. Culvert placement was chosen to minimize impacts to wetlands.

Once all phases have been completed, Weanack will have restored 61 acres that will be a mosaic of open water, tidal emergent, scrub-shrub, and forested wetlands. Weanack will have also reestablished the ancestral documented wetlands hydrologic connections to the James River and Eppes Creek.

In addition to the required Department of the Army permit, the applicant must obtain a Virginia Water Protection Permit/401 certification from the Virginia Department of Environmental Quality assuring that applicable laws and regulations pertaining to water quality are not violated and a permit from the Charles City County Wetlands Board. Project drawings are attached.

AUTHORITY: Permits are required pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Sections 401 and 404 of the Clean Water Act (Public Law 95-217) and Title 62.1 of the Code of Virginia.

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 Environmental Protection Agency's "Guidelines for Specification of Disposal Sites for Dredged or Fill Material" will also be applied (Section 404(b)(1) of the Clean Water Act).

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) It does not appear that any 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 will 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](mailto: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). James River contains Essential Fish Habitat (EFH) for the larvae, juvenile, and adult life stages of nine species including: windowpane flounder (*Scophthalmus aquosus*), 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*), and red drum (*Sciaenops ocellatus*). The primary habitat which this project would affect consists of subaqueous bottom and a small portion of tidal emergent wetlands. The proposed project is described in Proposed Work and Purpose, above. Our assessment of the project leads us to a preliminary determination that it will not have a substantial adverse effect on EFH and therefore expanded EFH consultation is not required. Our rationale for this preliminary determination is based on the expected short-term nature of the direct impacts/minimal increases in turbidity/changes in water temperature or salinity caused by the proposed work/the absence of vegetated wetlands, submerged aquatic vegetation, and anadromous fish spawning habitat/ existing poor water quality/unsuitable substrate. Based on comments from the National Marine Fisheries Service in response to this public notice, further EFH consultation may be necessary.

COMMENT PERIOD: Comments on this project should be made in writing, addressed to the Norfolk District, Corps of Engineers (ATTN: CENAO-WR-RE), Ms. Chelsea Bowman, 803 Front Street, Norfolk, Virginia 23510-1096, and should be received by the close of business on September 31, 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 Ms. Chelsea Bowman at 757-201-7060 or via email at [Chelsea.B.Bowman@usace.army.mil](mailto:Chelsea.B.Bowman@usace.army.mil).

FOR THE DISTRICT COMMANDER:



Kimberly Prisco-Baggett  
Chief, Eastern Virginia  
Regulatory Section

Attachment: Drawings