

Public Notice

U.S. Army Corps of Engineers, Norfolk District

July 25, 2012

CENAO-WR-R
NAO-1996-02465
12-V0366

FEDERAL PUBLIC NOTICE

The District Commander has received a joint application for Federal and State permits as described below:

APPLICANT

Department of Game and Inland Fisheries
4010 W. Broad Street
Richmond, Virginia 23230

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project is located in a man-made canal at the entrance to Back Bay from the Princess Anne Wildlife Management Area boat launch facility located at the terminus of Back Bay Landing Road in Virginia Beach, Virginia.

PROPOSED WORK AND PURPOSE: The applicant proposes to realign and improve the navigable entrance of the canal by reconstructing the recently demolished jetties and mechanically dredging to a depth of -3.3 ft at normal water level from just outside the jetty termini to a point approximately 1250 feet inside the entrance of the canal. Approximately 1700 cubic yards of dredge material will be transported by sealed trucks to an upland disposal area located offsite on property at 1433 Munden Road. In addition, 206 linear feet of bulkhead is proposed on the up drift and down drift sides of the canal entrance, and five breaches inside the canal along its southern bank will be stabilized by bulkhead or riprap to prevent further erosion.

The proposed project will result in 0.08 acres of palustrine emergent wetland impacts which are to be compensated for by the purchase of mitigation credits at a 1:1 ratio from an approved mitigation bank that provides service to USGS HUC 03010205.

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 Virginia Beach 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) 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 documented on the project site, or would likely be affected by the proposal; however the proposed dredge disposal site is in proximity to three unevaluated architectural resource hits that would be within the view shed of the disposal site (DHR #'s 134-0196, 134-0195, & 134-0197). Additional information and agency coordination 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). Back Bay contains Essential Fish Habitat (EFH) for the juvenile life stage of windowpane flounder (*Scophthalmus aquosus*), the juvenile and adult stages of bluefish (*Pomatomus saltatrix*), the juvenile and adult stages of summer flounder (*Paralichthys dentatus*), the juvenile stage of scup (*Stenotomus chrysops*), the juvenile stage of black sea bass (*Centropristis striata*), the egg, larval, juvenile, and adult stages of king mackerel (*Scomberomorus cavalla*), the egg, larval, juvenile, and adult stages of Spanish mackerel (*Scomberomorus maculatus*), the egg, larval, juvenile and adult stages of cobia (*Rachycentron canadum*), the egg, larval, juvenile and adult stages of red drum (*Sciaenops ocellatus*), the larval and adult stages of sand tiger shark

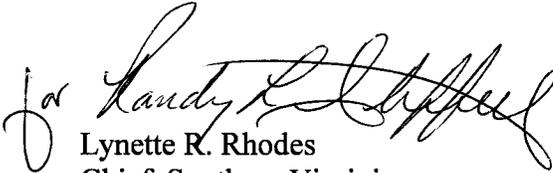
(*Odontaspis taurus*), the adult stage of Atl. Sharpnose shark (*Rhizopriondon terraenovae*), the larval and juvenile stages of dusky shark (*Carcharhinus obscurus*), the larval, juvenile, and adult stages of sandbar shark (*Carcharhinus plumbeus*), the juvenile stage of scalloped hammerhead shark (*Sphyrna lewini*), and the larval, juvenile, and adults stages of tiger shark (*Galeocerdo cuvieri*). The habitat which this project would affect consists primarily of a shallow water man-made canal that is wind-tidal and dominated by palustrine emergent wetland fringe. The proposed project is described in the Proposed Work and Purpose section, above. The dredging project will result in a temporary disturbance to the benthic community. 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 that will occur to subaqueous bottom and vegetated wetlands; as well as the absence of any submerged aquatic vegetation or anadromous fish spawning habitat. 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-R c/o Randy Steffey), 803 Front Street, Norfolk, Virginia 23510-1096, and should be received by the close of business on August 24, 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 Randy Steffey at 757-201-7579 or by email at randy.l.steffey@usace.army.mil.

FOR THE DISTRICT COMMANDER:


Lynette R. Rhodes
Chief, Southern Virginia
Regulatory Section

Attachment: Drawings