



# Public Notice

U.S. Army Corps of Engineers, Norfolk District

CENAO-WR-R  
NAO-2012-02060

January 8, 2013

## FEDERAL PUBLIC NOTICE

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

### APPLICANT

Mathews Land Conservancy  
1039 Williams Wharf Road  
P.O. Box 306  
Mathews, Virginia

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project is located within the East River, a tributary to Mobjack Bay and the Chesapeake Bay, at the terminus of Williams Wharf Road in Mathews County, Virginia.

PROPOSED WORK AND PURPOSE: The applicant proposes to construct a pile supported rowing and sailing facility that will extend over approximately 5361 square feet of vegetated and non-vegetated tidal waters. The proposed building will include a 26.67 foot by 83.5 foot fixed dock extending channelward of the structure. Two fixed piers present on the northern portion of the property will be removed and replaced by two 80 foot by 16 foot floating piers that will connect to the aforementioned fixed dock via gangways. Two existing piers in the western portion of the project will also be removed and replaced by a single 62 foot long pier with a 100 foot by 14 foot T-head. An existing pier on the southern shoreline will be extended by 54 linear feet. Finally, approximately 228 linear feet of bulkhead and 182 linear feet of rip rap revetment will be constructed beneath the proposed building and impact approximately 141 square feet of intertidal vegetated wetlands.

The applicant has proposed to compensate for direct and indirect impacts to vegetated tidal wetlands through the planting of an approximately 1630 square foot area located in the southern portion of the project area with *Spartina alterniflora* and *Spartina patens* on 18 inch centers.

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 Mathews 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) known properties eligible for inclusion or included in the National Register of Historic Places are in or near the permit area, or may 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). The East River contains Essential Fish Habitat (EFH) for the egg, larvae, juvenile, and/or adult life stages stages of eleven species including windowpane flounder (*Scopthalmus aquosus*), bluefish (*Pomatomus saltatrix*), Atlantic butterfish (*Peprilus triacanthus*), summer flounder (*Paralichthys dentatus*), scup (*Stenotomus chrysops*), king mackerel (*Scomberomorus cavalla*), Spanish mackerel (*Scomberomorus maculatus*), cobia (*Rachycentron canadum*), red drum (*Sciaenops ocellatus*) dusky shark (*Charcharinus obscurus*) and sandbar shark (*Charcharinus plumbeus*). This area is also mapped as Habitat of Particular Concern for the sandbar shark. . The habitat which this project would affect consists of shallow intertidal and subtidal waters. 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, and the absence of 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 Keith Goodwin), 803 Front Street, Norfolk, Virginia 23510-1096 or sent via email to [keith.r.goodwin@usace.army.mil](mailto:keith.r.goodwin@usace.army.mil), and should be received by the close of business on February 11, 2013.

**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](mailto:keith.r.goodwin@usace.army.mil).

FOR THE DISTRICT COMMANDER:

Rick Henderson  
Deputy Chief  
Regulatory Branch

Attachment: Drawings