



# Public Notice

U.S. Army Corps of Engineers, Norfolk District

July 23, 2013

CENAO-WR-R  
NAO-2000-2203 (12-V1378)

## FEDERAL PUBLIC NOTICE

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

### APPLICANT

Plains Marketing, L.P.  
Dean Gore- Director, Environmental  
2201 Goodwin Neck Road  
Yorktown, Virginia 23692

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project is located along the York River at 2201 Goodwin Neck Road, in Yorktown, Virginia.

PROPOSED WORK AND PURPOSE: The applicant is requesting a modification to Department of the Army Permit Number NAO-2000-2203 which authorized impacts to 3.58 acres of jurisdictional wetlands and 1.49 acres of jurisdictional ditches for the redevelopment of an existing petroleum refinery into a crude oil transportation terminal by upgrading and expanding an existing rail track, modifying existing intra-facility piping to allow for unloading crude oil from trains to existing storage tanks, and upgrading and expanding the existing dock piping and loading/unloading equipment to allow for the loading of crude oil onto marine vessels.

The applicant has determined that additional impacts will be necessary to continue with the redevelopment. The applicant is requesting to permanently impact 0.113 acres of nontidal, emergent wetlands; 0.031 acres of nontidal, forested wetlands; and 0.052 acres of jurisdictional ditches. In addition, the applicant is requesting authorization to temporarily impact 0.234 acres of nontidal, emergent wetlands and 1.3 acres of jurisdictional ditches. A portion of these requested impacts outlined above occurred during construction; therefore, permanent impacts to 0.098 acres of wetlands and waters of the U.S. and temporary impacts to 0.238 acres of wetlands and waters of the U.S. will require after-the-fact authorization. The applicant attempted to avoid these impacts during construction, but found that the work could not be completed without these unavoidable impacts. The applicant is proposing to compensate for the impacts through the purchase of credits from the New Kent Environmental Bank at a 2:1 ratio for forested wetlands and 1:1 ratio for emergent wetlands; therefore, a total of 0.18 credits will be purchased. The temporarily impacted wetlands and waters of the U.S. will be restored to pre-existing conditions and contours.

In addition to the required Department of the Army permit, the applicant must obtain a modified 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. Project drawings are attached.

AUTHORITY: Permits are required pursuant 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) after conducting the NAO ESA Project Review Process, no listed/proposed/candidate species and/or designated/proposed critical habitat under the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884), as amended) will be affected. Based on this no effect determination, no further coordination with the Fish and Wildlife Service is required; 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 for projects located in Tidewater, the applicant must certify that federally licensed or permitted activities affecting Virginia's coastal uses or resources will be conducted in a manner consistent with the Virginia Coastal Zone Management Program (VCP) and obtain concurrence from the Department of Environmental Quality (DEQ), Office of Environmental Impact Review (OEIR). We have not received a certification from the applicant prior to publication of this public notice. It is the applicant's responsibility to submit a consistency certification to the Office of Environmental Impact Review for concurrence or objection and proof of concurrence must be submitted to the Corps prior to final permit issuance. A template federal consistency certification can be found

here:

**<http://www.deq.state.va.us/Programs/EnvironmentalImpactReview/FederalConsistencyReviews.aspx#cert>**. For more information or to obtain a list of the enforceable policies of the VCP, contact the Department of Environmental Quality, Office of Environmental Impact Review at (804) 698-4330 or e-mail: [ellie.ironson@deq.virginia.gov](mailto:ellie.ironson@deq.virginia.gov) or [john.fisher@deq.virginia.gov](mailto:john.fisher@deq.virginia.gov).

**COMMENT PERIOD:** Comments on this project should be made in writing, addressed to the Norfolk District, Corps of Engineers (ATTN: CENAO-WR-R), 803 Front Street, Norfolk, Virginia 23510-1096, and should be received by the close of business on August 6, 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 Ms. Melissa Nash at (757) 201-7489 or [melissa.a.nash@usace.army.mil](mailto:melissa.a.nash@usace.army.mil)

FOR THE DISTRICT COMMANDER:

  
for Lynette R. Rhodes  
Chief, Southern Virginia  
Regulatory Section

Attachment: Drawings