



Public Notice

U.S. Army Corps of Engineers, Norfolk District

November 5, 2013

CENAO-WR-R
NAO-2001-1717

FEDERAL PUBLIC NOTICE

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

APPLICANT

City of Chesapeake Public Works
ATTN: C. Earl Sorey, P.E.
306 Cedar Road
Chesapeake, Virginia 23322

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project is located in wetlands and waters that are tributaries of the Albemarle & Chesapeake Canal and Gum Swamp/North Landing River, along Elbow Road from just past the Virginia Beach/Chesapeake City Line (past the Stumpy Lake spillway) to the Bethel Baptist Church curve in Chesapeake, Virginia.

PROPOSED WORK AND PURPOSE: The applicant proposes roadway and drainage improvements to Elbow Road between Bethel Baptist Church and the Virginia Beach City Line within the City of Chesapeake. The applicant proposes to increase the curve radius and provide new shoulders along Elbow Road at two of the three major curves on the section of Elbow Road from Centerville Turnpike to the Virginia Beach City line. In addition, an historic outfall is proposed to be restored to improve stormwater drainage within the "third crossing" (the third major curve located approximately at the center of the project area). The project is divided into three separate areas:

- 1) *Bethel Baptist Curve:* approximately 1,260 linear feet of radius improvements along the north side of the road are proposed in this location. The improvements include two 12-foot wide travel lanes, paved and gravel shoulders, and curb and gutter. A total of 459 square feet (0.01 acres) of permanent fill in waters of the U.S. at two locations (two ditches) is proposed to accommodate the road improvements. At one of the ditch locations, there will also be 124 square feet of temporary impacts
- 2) *Virginia Beach City Line Curve:* approximately 1,400 linear feet of radius improvements along the south side of the road are proposed in this location. The improvements include two 12-foot wide travel lanes, paved and gravel shoulders, and regraded/relocated twelve-foot wide open ditches on both sides of the road. A total of 0.73 acres of fill in forested wetlands and 663 square feet (0.02 acres) of fill in waters is proposed to accommodate the road improvements. In addition, 37 square feet of wetlands will be temporarily impacted.
- 3) *Third Crossing:* the City proposes to install two (2) 30" x 19" elliptical reinforced concrete pipes (ERCP) under Elbow Road at the *Third Crossing* to convey flood

waters from the pavement surface into the roadside ditches. The City will also install two (2) 30" x 19" ERCP across the Dominion Virginia Power easement south of Elbow Road. These new pipes will lead to geometric improvements to 420 linear feet of historic outfall to further convey floodwaters off the roadway. The existing HRSD easement south of Elbow Road will be spanned by thirty-two (32) linear feet of 30" x 19" ERCP. All proposed pipes will be countersunk six inches. The project will impact a total of 8,290 square feet (0.19 acres) of jurisdictional wetlands.

The applicant's primary purpose of the project is to reduce the number of vehicular accidents on Elbow Road, specifically side-swipes and head-on collisions. Elongating the radius of the curves will increase the sighting distances for drivers, and widening the shoulders will provide emergency areas to avoid driving off the road into ditches. The secondary purpose of this project is to reduce flooding and freezing frequencies and duration with the curves and approaches. Eliminating or reducing the duration of standing water within these curves will provide drivers greater control of their vehicles during and after storm events.

An alternatives analysis, discussing avoidance and minimization methods conducted by the applicant, is attached to this public notice and entitled, "Appendix B, Revised Sections 3 and 9 of JPA".

The total permanent non-tidal wetland/waters impacts for the overall project are 0.97 acres. There will also be a total of 161 square feet of temporary non-tidal wetland impacts associated with Section 1 (*Bethel Baptist Curve*) and Section 3 (*VB City Line Curve*); however, those areas will be restored with wetland seed mix after construction is complete. The proposed permanent wetland impacts can be broken down as follows: 32,668 square feet (0.75 acres) of impacts to a combination of forested wetlands (32,005 sq ft, 0.73 acres) and open water (663 sq ft, 0.2 acres) (*VB City Line Curve*); 8,290 square feet (0.19 acres) of impacts to forested wetlands (0.14 acres direct/secondary effects, 0.05 conversion) (*Third Crossing*); and 459 square feet (0.01 acres) of impacts to open water and/or unconsolidated bottom (*Bethel Baptist Curve*). These impacts are a result of a combination of excavation and fill for drainage infrastructure (Section 2 = *Third Crossing*) and realignment of the roadway at the *Bethel Baptist* and *VB City Line Curves* (Sections 1 and 3, respectively). The applicant proposes to compensate for unavoidable impacts to wetlands via the purchase of 1.82 wetland credits from the Dover Farm Mitigation Bank. A ratio of 2:1 was used for 0.88 acres of permanent impacts to forested wetlands. A ratio of 1:1 was used for 0.05 acres of conversion impacts (forested to emergent/open water) associated with the *Third Crossing*, as well as for 0.02 acres of impacts to open water areas associated with the *VB City Line Curve*. Compensation is not being proposed for 0.01 acres of impacts to palustrine unconsolidated bottom (PUB) associated with the *Bethel Baptist Curve*.

In addition to the required Department of the Army permit, the applicant must obtain a Virginia Water Protection Permit from the Virginia Department of Environmental Quality (DEQ) assuring that applicable laws and regulations pertaining to water quality are not violated. Project drawings are attached.

AUTHORITY: Permits are required pursuant to 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 (3) the City of Chesapeake coordinated with the Virginia Department of Historic Resources (VDHR), regarding effects to historic properties, and received a "No historic properties affected" determination from VDHR dated March 25, 2011. 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.irons@deq.virginia.gov or 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 December 5, 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 Audrey Cotnoir at 757-549-8819 or by email at audrey.l.cotnoir@usace.army.mil.

Attachment:

Drawings

Appendix B, Revised Sections 3 and 9 of JPA