



Public Notice

U.S. Army Corps of Engineers, Norfolk District

September 17, 2014

CENAO-WR-R
NAO-2007-1076

FEDERAL PUBLIC NOTICE

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

APPLICANT

City of Norfolk Department of Utilities
ATTN: Kenneth Turner, P.E.
400 Granby Street, 2nd Floor
Norfolk, Virginia 23501

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project is located in the Western Branch Reservoir and Western Branch Nansemond River, a tributary to the Nansemond River, off Route 10 (Godwin Boulevard) to Lockwood Circle, in Suffolk, Virginia.

PROPOSED WORK AND PURPOSE: The City of Norfolk received a permit from the Norfolk District Corps of Engineers for the project described below in June, 2011. The permit expired in May 31, 2014 and was not renewed. A new permit application for the same project has been submitted. The City of Norfolk proposes to impact a total of 2.629 acres of waters and wetlands in order to make improvements to the existing Western Branch Reservoir Dam. The purpose of the project is to provide reliable water supply storage for Norfolk and other communities; prevent a hazard to downstream residents, structures, roadways, or environment from potential failure of a High Hazard dam; comply with the Virginia Department of Conservation and Recreation's (DCR) dam safety regulations; and comply with the City of Norfolk's operating permit. The proposal includes three major areas where work in waters/wetlands is proposed: 1) improvements to the existing embankment on the southern end of the existing dam, 2) improvements to the existing dam spillway structure including riprap placement downstream of the spillway to provide scour protection and fill placement as part of an embankment toe drain for seepage control, and 3) construction of a new emergency spillway.

- 1) Improvements to existing embankment located on southern end of the existing dam (see Sheet 1). Permanent fill impacts to tidal wetlands, subaqueous lands and non-tidal subaqueous lands are proposed for construction of a new downstream berm and installation of riprap. The new berm is proposed because

the existing configuration of the dam does not meet current safety criteria and is susceptible to instability and internal erosion.

- 2) Improvements to the existing dam spillway structure including riprap placement downstream of the spillway to provide scour protection and fill placement as part of an embankment toe drain for seepage control. Both temporary and permanent impacts involving clearing, fill and riprap are proposed within tidal mudflats, tidal subaqueous bottom and non-tidal forested systems to provide riprap scour protection, required 25-foot buffer (Virginia Code §10.1-609.2 requires dams to maintain a 25-foot buffer area free of trees and woody vegetation), and temporary construction access.
- 3) The new emergency spillway (see Sheet 3) (with an overflow height approximately 2 feet above normal water surface elevation currently maintained in the reservoir) will be constructed north of the existing dam structure. The new emergency spillway construction will involve clearing and grubbing in non-tidal forested wetlands along the existing reservoir side of the new spillway. This spillway must be constructed prior to improvements to the existing dam spillway to allow for safe passage of floods up to the 100-year event during the construction. The combined new emergency spillway and the improved existing spillway will provide sufficient spillway flow capacity to safely pass the Probable Maximum Flood without overtopping the dam when all of the improvements have been completed.

Wetland and water impacts for the entire project include a total of 2.629 acres, which include non-tidal subaqueous land, non-tidal forested wetlands, tidal subaqueous lands, tidal wetlands and intertidal areas. The attached Table 1, "Western Branch Dam Safety Modifications- U.S. Waters Impacts"; Table 2 "Western Branch Dam Safety Modifications-Summary of U.S. Waters Impacts"; and Table 3, "Western Branch Dam Safety Modifications- Mitigation Requirements For Permanent Impacts To U.S. Waters" (as revised August 9, 2011) detail the proposed impacts, type of impacts and proposed mitigation. Information on need, avoidance and minimization: Information on the need for the project and avoidance and minimization measures are detailed in a separate document, "Western Branch Reservoir- Need, Avoidance & Minimization", enclosed.

Compensation for waters/wetland impacts: The applicant has purchased 0.473 wetland mitigation credits from the Lewis Farm Wetland Mitigation bank for the impacts to non-tidal wetlands. The applicant purchased 38,115 square feet (0.875) of compensatory tidal mitigation credits from the Chesapeake Land Development Tidal Mitigation Bank.

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 Suffolk 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) after conducting the NAO ESA Project Review Process, no listed /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, however, IPAC indicates the northern long-eared Bat (*Myotis septentrionalis*), a proposed endangered species, may occur in the project area. The Official Species List and Species Conclusion Table is attached for review and comment by Fish and Wildlife Service; and (3) In regard to Section 106 of the National Historic Preservation Act, a Memorandum of Agreement was executed in May of 2011 to address adverse effects to two archeological sites (44SK0531 and 44SK0534). Data recovery has been conducted on these sites and the MOA is still in effect. 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). The applicant's consistency certification is attached to this Public Notice and we are requesting review by DEQ-OEIR for concurrence or objection (the six-month consistency review clock begins when OEIR receives complete information to coordinate the review). 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.virginia.gov/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 October 17, 2014.

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 audrey.l.cotnoir@usace.army.mil.

FOR THE DISTRICT COMMANDER:

Peter Kube
Chief, Eastern Virginia Regulatory Section

Attachments:

Drawings
Western Branch Need, Avoidance & Minimization document
Western Branch Tables 1-3
Western Branch consistency certification
Official Species List and Species Conclusion Table