



# Public Notice

U.S. Army Corps of Engineers, Norfolk District

August 11, 2015

CENAO-WR-R  
2010-0719

## FEDERAL PUBLIC NOTICE

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

### APPLICANT

Kroger Limited Partnership 1

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project is located in waters and wetlands associated with hydrologic unit code (HUC) 02080208 Hampton Roads watershed and HUC 020802080201 New Mill Creek-Southern Branch Elizabeth River in Chesapeake, Virginia.

PROPOSED WORK AND PURPOSE: The applicant proposes to impact 2.1078 acres of jurisdictional waters (31,759 square feet of emergent wetlands, 29,737 square feet of forested wetlands, 27,810 square feet of scrub/scrub wetlands and 2,509 square feet of open waters/ditches) for the construction of a Kroger grocery store in the Grassfield section of Chesapeake. The development includes the building, parking lot, drive aisles, utilities, storm drainage facilities, BMP's and a standalone fuel center.

Applicant is purchasing credits from a bank to offset the impacts to the waters and wetlands associated with this project.

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: there may be an effect to listed/proposed/candidate species and/or designated/proposed critical habitat under the Endangered Species Act of 1973 and the Official Species List and Species Conclusion Table is attached for review and comment by Fish and Wildlife Service; and 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.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: [bettina.sullivan@deq.virginia.gov](mailto:bettina.sullivan@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 September 11, 2015.

**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 Dan Bacon at 757-201-7060 or by email [danny.r.bacon@usace.army.mil](mailto:danny.r.bacon@usace.army.mil).

FOR THE DISTRICT COMMANDER:

Peter Kube  
Chief Eastern Virginia  
Regulatory Section

Attachment: Drawings  
iPAC