



# Public Notice

U.S. Army Corps of Engineers, Norfolk District

June 1, 2015

CENAO-WR-RE  
NAO-2007-2718

## FEDERAL PUBLIC NOTICE

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

### APPLICANT

Colonna's Shipyard  
c/o Mark Essert, Director of Operations  
400 East Indian River Road  
Norfolk, Virginia 23523

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project is located in Pescara Creek, a tributary to the Eastern Branch of the Elizabeth River, at 400 East Indian River Road in Norfolk, Virginia.

PROPOSED WORK AND PURPOSE: In order to improve navigational access to the Colonna's Shipyard facility, the applicant proposes to mechanically dredge one area approximately 5.79 acres in size, removing approximately 60,000 cubic yards of material. This area was last dredged in 2000. In addition, approximately 65,300 cubic yards of material will be removed from a second area approximately 4.48 acres in size. This is new dredging. The total, initial volume of dredged material to be removed is approximately 125,300 cubic yards; the total dredge footprint is approximately 10.27 acres. Colonna's Shipyard anticipates that approximately 60,000 cubic yards of material will be dredged from this area every 10 years. The material is being tested to determine its suitability for placement at the Craney Island Dredged Material Management Area (CIDMMA). If the dredged material can't be placed at CIDMMA, it will be disposed of at an approved upland disposal area.

Dredging impacts will be minimized by using an environmental bucket to remove finer materials; that bucket may also be used in other areas if testing determines that the dredged material is contaminated. In addition, turbidity curtains will be evaluated for use during dredging operations, especially in the shallow areas near the back of Pescara Creek.

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 Norfolk 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/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.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](mailto:john.fisher@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 Eastern Branch of the Elizabeth River contains Essential Fish Habitat (EFH) for various life stages of 12 species including windowpane flounder (adult life stage), bluefish (juvenile and adult life stages), Atlantic butterfish (egg, larval, juvenile, and adult life stages), summer flounder (larval, juvenile, and adult life stages), black sea bass (juvenile and adult), king mackerel (egg, larval, juvenile, and adult), Spanish mackerel (egg, larval, juvenile, and adult), cobia (egg, larval, juvenile, and adult), red drum (egg, larval, juvenile, and adult), dusky shark (larval), sandbar shark (larval, juvenile, and adult, and Habitat Area of Particular Concern). The habitat which this project would affect consists of shallow and deeper estuarine waters from six to forty feet deep. The proposed project is described in Proposed Work and Purpose, above. The project may affect Essential Fish Habitat by converting shallow water areas to deeper water areas, and may result in temporary increases in turbidity. These impacts may be mitigated through the use of turbidity curtains and environmental dredging buckets. 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 and minimal increases in turbidity, as well as the absence of vegetated wetlands and submerged aquatic vegetation. 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-RE, George Janek) 803 Front Street, Norfolk, Virginia 23510-1011, and should be received by the close of business on July 1, 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 George Janek at (757) 201-7135 or by email at [george.a.janek@usace.army.mil](mailto:george.a.janek@usace.army.mil)

Attachment: Drawings