



Public Notice

U.S. Army Corps of Engineers, Norfolk District

MARCH 10, 2015

CENAO-WRR-S
NAO-2008-0794

PUBLIC NOTICE

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

APPLICANT

Everett P. Skipper c/o City of Newport News
2400 Washington Avenue
Newport News, Virginia 23607

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project is located in the Deep Creek / James River a tributaries to the Chesapeake Bay, at 520 Menchville Road South in Newport News, Virginia 23602. HUC 02080108

PROPOSED WORK AND PURPOSE: The applicant, the City of Newport News proposes to hydraulically maintenance dredge a portion (1510 cubic yards) of existing marina slips. The dredged materials will be placed in sealed trucks and taken to the upland disposal site located at 900 Bland Boulevard in Newport News, Virginia. The purpose of the dredge is to maintenance dredge to the marinas original depth. A portion of the accreted sediment is attached to an intertidal land peninsula. The dredge site will be accessed by upland. No compensatory mitigation is proposed.

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 Newport News 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) and 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 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 15 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) 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: 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 Deep Creek tributary to the James River contains Essential Fish Habitat (EFH) for the larvae, juvenile, and adult life stages of 11 species including; windowpane flounder (*Scopthalmus aquosus*), bluefish (*Pomatomus saltatrix*), Atlantic butterflyfish (*Peprilus triacanthus*), summer flounder (*Paralichthys dentatus*), black sea bass (*Centropristus striata*), king mackerel (*Scomberomorus cavalla*), Spanish mackerel (*Scomberomorus maculatus*), cobia (*Rachycentron canadum*), red drum (*Sciaenops ocellatus*), dusky shark (*Charcharinus obscurus*), sandbar shark (*Charcharinus plumbeus*). The habitat which this project would affect consists of shallow water and intertidal wetlands. The proposed project is described in Proposed Work and Purpose, above. 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, minimal increases in turbidity, the absence of submerged aquatic vegetation, and anadromous fish spawning habitat. 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-WRR-S), 803 Front Street, Norfolk, Virginia 23510-1096, and should be received by the close of business on April 10, 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 Scharlene Floyd at 757-201-7367 or email her at scharlene.a.floyd@usace.army.mil

Attachment:

Aerial showing staked area to be dredged

Drawings

Topographic Map

Photographs

Species Information