



**US Army Corps
of Engineers**

Philadelphia District
Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OPR

Public Notice

Public Notice No. **CENAP-OPR-2014-00214-95** Date 09 Jun 2022

Application No. **CENAP-OPR-2014-00214-95** File No.

In Reply Refer to:
REGULATORY BRANCH

This District has received an application for a Department of the Army (DA) permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

The purpose of this notice is to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the work described below.

APPLICANT: New Jersey Department of Transportation
Office of Maritime Resources
Attn: Ms. Genevieve Clifton
P.O. Box 600
1035 Parkway Avenue
Trenton, New Jersey 08625-0600

WATERWAYS: Middle Thoroughfare Lagoon State Channel (#205) (38.958261, -74.876064)
Spicer's Creek State Channel (#206) (38.953362, -74.909124)
Cape Island Creek State Channel (#207) (38.948771, -74.913777)
Schellenger's Creek State Channel (#208) (38.948013, -74.911165)
Devil's Reach State Channel (#209) (38.947748, -74.907472)

LOCATION: Cape May City and Lower Township, Cape May County, New Jersey

ACTIVITY: The applicant, New Jersey Department of Transportation – Office of Maritime Resources (NJDOT-OMR), has requested Department of the Army (DA) authorization to perform ten (10)-year maintenance dredging of the Cape May State Channel Complex: Middle Thoroughfare Lagoon State Channel (#205), Spicer's Creek State Channel (#206), Cape Island Creek State Channel (#207), Schellenger's Creek State Channel (#208), and Devil's Reach State Channel (#209).

All of the dredging work would be accomplished via hydraulic cutterhead dredge. All resultant dredged material, estimated to total approximately 81,686.0-cubic yards of 25% sand and 75% silt and clay, would be transported via floating and submerged pipeline for placement at the U.S. Army Corps of Engineers' Railroad Confined Disposal Facility (CDF) located in uplands along the Cape May Canal in Lower Township, Cape May County, New Jersey

(38.958037, -74.918297). Return water from the Railroad CDF into the Cape May Canal is proposed.

All five channels have been historically maintenance-dredged, most recently under DA Permit Number NAP-2014-00214-35, which expires on December 31, 2024. The subject maintenance dredging project is intended to restore the Cape May State Channel Complex to authorized project dimensions. No lateral expansion or deepening is proposed.

For navigational safety, the hydraulic dredge pipeline will be marked in accordance with U.S. Coast Guard regulations. Additionally, the dredge pipeline would be submerged with the following exceptions: where it exits the dredge, where it enters and exits booster pumps, where it approaches the CDF placement site, and where submerged aquatic vegetation (SAV) is encountered. In these areas the dredge pipeline will be floated on the surface.

Each maintenance dredging event is anticipated to be approximately nine (9) to twelve (12) weeks in duration, including mobilization/demobilization, dredging, and CDF placement activities. Two (2) or three (3) maintenance dredging events are anticipated to be conducted over the next ten (10)-years, with the initial dredging event proposed to be undertaken on or after July 1, 2022.

Middle Thoroughfare Lagoon State Channel (#205)

Maintenance dredging of 20,655.0-cubic yards of shoaled sediments from a 1,537.0-foot-long channel to -14.0-feet below the plane of Mean Low Water (MLW), plus 1.0-foot of allowable overdredge is proposed. The channel design width is 120.0-linear feet, with 3:1 side slopes. The total dredge footprint is approximately 4.23-acres. Middle Thoroughfare Lagoon State Channel was last dredged in 2014.

Spicer's Creek State Channel (#206) & Cape Island Creek State Channel (#207)

Maintenance dredging of 45,241.0-cubic yards of shoaled sediments from a 3,259.0-foot-long channel to -10.0-feet below the plane of Mean Low Water (MLW), plus 1.0-foot of allowable overdredge is proposed. The channel design width varies between 50.0 to 100.0-linear feet, with 3:1 side slopes. The total dredge footprint is approximately 7.48-acres. Spicer's Creek State Channel was last dredged in 2018. Cape Island Creek State Channel was last dredged in 2014.

Schellenger's Creek State Channel (#208)

Maintenance dredging of 11,510.0-cubic yards of shoaled sediments from a 2,402.0-foot-long channel to -13.0-feet below the plane of Mean Low Water (MLW), plus 1.0-foot of allowable overdredge is proposed. The channel design width is 100.0-linear feet, with 3:1 side slopes. The total dredge footprint is approximately 5.51-acres. Schellenger's Creek State Channel was last dredged in 2014.

Devil's Reach State Channel (#209)

Maintenance dredging of 4,280.0-cubic yards of shoaled sediments from a 616.0-foot-long channel to -8.0-feet below the plane of Mean Low Water (MLW), plus 1.0-foot of allowable overdredge is proposed. The channel design width is 50.0-linear feet, with 3:1 side slopes. The total dredge footprint is approximately 0.71-acres. Devil's Reach State Channel was last dredged in 2014.

Dredged Material Placement at Railroad CDF

All resultant dredged material will be hydraulically pumped via pipeline into uplands at the Railroad CDF. Return water from the Railroad CDF into the Cape May Canal is proposed. The Railroad CDF is owned and maintained by the U.S. Army Corps of Engineers. NJDOT has a usage agreement with the U.S. Army Corps of Engineers for placement of dredged material at the Railroad CDF.

PURPOSE: The stated purpose of this project is to maintain safe navigational depths for transiting emergency, commercial, and recreational vessels.

The decision whether to issue a permit will be based on an evaluation of the activity's probable impact including its cumulative impacts 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 to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and welfare of the people. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

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 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.

Due to the potential for extensive telework associated with the COVID-19 situation, all comments on the proposed work should be submitted, within thirty (30) days, via email only to the District Engineer, U.S. Army Corps of Engineers - Philadelphia District at PhiladelphiaDistrictRegulatory@usace.army.mil.

The USACE Cultural Resource Specialist is currently reviewing the proposed permit action for potential impacts to Historic Properties eligible for or listed on the National Register of Historic Places. A determination of effects will be coordinated with the State Historic Preservation Office, the Tribes and other consulting parties.

A preliminary review of this application indicates that the proposed work may affect listed aquatic-based species or their critical habitat. Pursuant to Section 7 of the Endangered Species Act (ESA), the Philadelphia District will evaluate the potential effects from the proposed actions to these species and their habitat and consult with NOAA Fisheries as appropriate. Consultation will be concluded prior to the final decision on this permit application.

Pursuant to Section 7 of the Endangered Species Act (ESA), a preliminary review of this application indicates that the proposed work would not affect land-based species or their critical habitat. Given USACE's no effect determination, as per Section 7 of the ESA, no further consultation with the U.S. Fish & Wildlife Service is required.

The Magnuson-Stevens Fishery Conservation and Management Act requires all federal agencies to consult with the NOAA Fisheries for all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). A preliminary review of this application indicates that EFH is present within the project area. The Philadelphia District will evaluate the potential effects of the proposed actions on EFH and will consult with NOAA Fisheries as appropriate. Consultation will be concluded prior to the final decision on this permit application.

Per Federal Regulations 33 CFR 325.1(d)(7), the applicant has stated that compensatory mitigation is not required as placement of dredged or fill material into Waters of the U.S. is not proposed.

In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. The applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program. No permit will be issued until the State has concurred with the applicant's certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary from the State government in which the work is located. Any comments concerning the work described above which relate to Water Quality considerations should be sent to this office with a copy to the State.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public

hearing shall state, in writing to PhiladelphiaDistrictRegulatory@usace.army.mil, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by contacting Mr. Robert Youhas of our office at via email at robert.youhas@usace.army.mil, or by phone at 215-656-6729.

FOR: Todd A. Schaible
Chief, Regulatory Branch