



**US Army Corps
of Engineers**
Philadelphia District
1650 Arch Street
Philadelphia, PA 19103-2004
Attn: CENAP-OPR

Public Notice

Comment Period Begins: February 7, 2025
Comment Period Ends: March 10, 2025
File Number: NAP-2023-01074-85
File Name: DDNREC Indian River Dredge and Beneficial Reuse SX
Contact: Michael D. Yost
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This District has received an application for a Department of the Army 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: Stephen Williams, DDNREC, Division of Watershed Stewardship

AGENT: Peter Kotulak, Moffatt & Nichol

LOCATION: The project is located within and along the Indian River Federal Navigation Channel from the Indian River Bay to Cupola Park in Sussex County, Delaware. The center coordinates for the site are 38.587488°N/75.226119°W.

PURPOSE: Maintain the navigational servitude of the Federal Navigation Channel, while utilizing the dredged material to restore and enhance tidal wetlands along the shoreline.

PROJECT DESCRIPTION:

The activity involves performing hydraulic maintenance dredging of approximately 6 miles of the Indian River Federal Navigation Channel in Sussex County, Delaware, from the Indian River Bay confluence with the Indian River to Cupola Park in the town of Millsboro. The channel will be dredged to the authorized federal dimensions. Approximately 7,200 linear feet of the proposed dredging is authorized to a base width of 60-feet, 80-feet top width, and 4-feet below Mean Low Water (MLW) depth. The remaining 25,300 linear feet of the proposed dredging is authorized to a base width of 80-feet, top width of 120-feet, and 9-feet below MLW depth. Approximately 360,000 cubic yards of material will be dredged from the waterways and used for wetland restoration and thin layer placement along the Indian River shoreline. The proposal identifies 3 wetland restoration sites and 3 thin layer placement sites. The material will be contained at the placement sites utilizing coir logs, armored sand containment dikes or geotubes. Placement method consists of spraying a thin layer (six inches or less) of dredged sediment over marshes. In this process, the sediment is sprayed directly over the

marshes in a layer thin enough to prevent any significant damage to the vegetation. A high-pressure nozzle is used that allows for a fine mist of sediment to be distributed over a wide area. The system allows for the slurry to be accurately regulated and controlled. It is estimated that the restoration sites encompass approximately 38.5 acres and could be restored with approximately 250,000 cubic yards of material. The thin layer placement sites encompass approximately 417 acres and could utilize 340,000 cubic yards of material for wetland enhancement. Because there is not enough material to restore/enhance all of the disposal areas in a single maintenance dredging interval, the applicant is requesting that these disposal sites remain available for disposal over a 10-year maintenance dredging period.

For additional project details, see the attached plans identified as: DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL DOVER, DELAWARE INDIAN RIVER CHANNEL MAINTENANCE DREDGING, prepared by Moffatt & Nichol, dated January 27, 2025, 30 sheets.

MITIGATION

The applicant has stated that the proposed project has been designed to avoid and minimize adverse effects on the aquatic environment to the maximum extent practicable. Information provided in the application and on the plans indicates that compensatory mitigation is neither practicable nor feasible as the discharge of dredged material will not result in the loss of wetlands, but will result in the restoration and enhancement of wetlands, thereby providing a net increase in aquatic resource functions.

CORPS EVALUATION FACTORS

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 these factors 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.

The evaluation of the impact of this project will also include application of the Clean Water Act Section 404(b)(1) Guidelines promulgated by the Administrator, U.S. Environmental Protection Agency if the project includes a discharge of dredge or fill material pursuant to Section 404 of the Clean Water Act.

ENDANGERED SPECIES

A preliminary review of this application indicates that species and/or their critical habitat pursuant to Section 7 of the Endangered Species Act (ESA) may be present in the action area. This office will forward this Public Notice to the U.S. Fish and Wildlife Service (USFWS) and/or National Marine Fisheries Service (NMFS) with a request for technical assistance on whether any ESA-listed species or their critical habitat may be present in the area which would be affected by the proposed activity. This office will evaluate the potential effects of the proposed actions on ESA-listed species or their critical habitat and will consult with the USFWS and/or NMFS, as appropriate. ESA Section 7 consultation would be concluded prior to the final decision on this permit application.

CULTURAL RESOURCES AND TRIBAL TRUST

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

ESSENTIAL FISH HABITAT

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires all federal agencies to consult with the NMFS 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. This office will evaluate the potential effects of the proposed actions on EFH and will consult with NMFS, as appropriate. Consultation would be concluded prior to the final decision on this permit application.

WATER QUALITY CERTIFICATE

In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate (WQC) is required 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.

COASTAL ZONE MANAGEMENT ACT

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 (CZM) 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 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 on the State's coastal zone should be sent to this office with a copy to the State's CZM office.

SUBMISSION OF COMMENTS AND PUBLIC HEARING REQUEST

Any comments received will be considered by this office to determine whether to issue, modify, condition, or deny a permit for this proposed project. To make this decision, comments are used to assess the probable impact on the public interest. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the proposed work must be submitted, in writing, within the comment period indicated in the header above. Any person may request, within the comment period specified in this notice, that a public hearing be held to consider this application. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Requests for a public hearing must be in writing and state the reasons for holding a public hearing.

Please provide any comments, request for a public hearing, or requests for additional information to the Regulatory Project Manager indicated above. All Public Notices are posted on our website at:

<https://www.nap.usace.army.mil/Missions/Regulatory/Public-Notices/>

FOR: Todd A. Hoernemann
Chief, Applications Section I