US Army Corps of Engineers
Philadelphia District
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100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OP-R

Public Notice

Public Notice No. **CENAP-OP-R-2006-6389-24** Date **May 4, 2018**

Application No. File No.

In Reply Refer to: **REGULATORY BRANCH**

Reference is made to 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), submitted by the Borough of Avalon to perform beach renourishment between 9th and 16th Streets in the Borough of Avalon, Cape May County, New Jersey. The borrow location for obtaining sand is farther south on the Borough's ocean-front beach, between 32nd and 40th Streets. The purpose of this notice is to respond to comments from the general public in response to our public notice for this application issued on April 9, 2018.

After a complete review of the permit application and in full consideration of the comments and recommendations received in response to our public notice, we have decided to issue a Department of the Army permit to the Borough of Avalon. No objections to the issuance of this permit were received from State, local and other federal resource agencies (New Jersey Department of Environmental Protection (NJDEP), U.S. Environmental Protection Agency (USEPA), U.S. Fish and Wildlife Service (USFWS), and the National Marine Fisheries Service (NMFS)) concerning the effects of the proposed work on resources within their jurisdictions.

The NJDEP issued authorization to the Borough for the proposed work on March 20, 2018. That authorization included a Section 401 Water Quality Certificate, as well as concurrence that the proposed work is consistent with the New Jersey Coastal Zone Management Program.

This office has consulted with USFWS pursuant to Section 7 of the Endangered Species Act (ESA). The Service concurred with our determination that the proposed work is not likely to adversely affect federally listed species under their jurisdiction. Our consultation included the development of permit conditions to protect listed species (piping plover and seabeach amaranth). In addition, this office has coordinated and consulted with NMFS pursuant to The Magnuson-Stevens Fishery Conservation and Management Act regarding Essential Fish Habitat (EFH). They concurred with our determination that no EFH Conservation Recommendations are required.

The main concerns expressed in public comments received were in regard to beach conditions that were experienced following the most recent sand-harvesting and back-passing project in 2016. There were comments with regard to the location, timing and depth of scraping, including questions about alternate sources of sand to re-nourish the northern beach area (9th to 16th Streets). These comments included objections to equipment disrupting the beach at the current time of year. Additionally, concerns were expressed for the potential to conduct annual maintenance activities as part of the proposed project.

The Borough, through their engineering consultant, has provided this office with their responses to the comments we received. They cited a report by the Stockton University Coastal Research Center (who conducts ongoing monitoring of the Borough's beach), which stated that "a modest elevation loss seen on the upper beach was likely background changes and not related to the project." The Borough stated further that "observations of the beach borrow area and adjacent beaches has found bars and gullies that form constantly as a natural beach process along the entire beach. The bars and gullies form in reaction to tides, waves, currents, and winds that move sand through natural longshore and cross-shore processes. After sand scraping the beach will restore itself by natural accretion. As the summer wave climate brings sand from beyond the swash zone onto the beach bars and gullies form as the sand moves landward toward the dry beach berm."

The majority of sand to be harvested will be within the intertidal area between the mean low water line and the high tide line elevations. To minimize potential impacts to the dry beach this year, the area of dry beach proposed for harvesting sand has been reduced from the area harvested in 2016. The Borough has stated that the wet areas near the beach paths were not a result of the 2016 back-passing project. Rather, they are a natural feature of that portion of the beach, as well as other beaches farther to the south.

The following alternate sand sources for nourishing the northern area were considered, but they were discounted: a) a supplemental former borrow area below 58th Street (endangered species consideration, current seasonal restrictions and time necessary for ESA consultation with USFWS; b) dredging from Townsends Inlet (not practicable or economically feasible to mobilize a dredge for such a small volume); and c) trucked-in quarry sand (damage to roads and streets). These considerations were driven, in part, by the necessary timing of the project (i.e. completing the work prior to the summer season). The trucks that are necessary to traverse the beach to transport the sand are not street legal. Therefore, the use of the public streets is not feasible.

The Borough harvested sand from the same borrow area in 2012, 2014 and 2016. As demonstrated by their pre- and post-construction surveys, annual beach accretion constantly re-establishes the height and width of the borrow area beach. A March 2018 topographic survey indicates the beach has recovered from being scraped in 2016, with approximately 88,000 cubic yards of sand available for harvesting.

Based on the volume calculations of the fill and borrow areas following the third of four northeasters in March 2018, the Borough determined that approximately 25,000 cubic yards of sand would be required to fill the eroded north end beaches. However, additional erosion occurred in subsequent storms. The footprint of the borrow area requested for this permit is reduced from the 2012 permit application, while the vertical excavation limit remained unchanged (or, in some cases reduced). The authorized 88,000 cubic yards for this year represents the maximum amount available within this previously approved prism. As the Borough has stated at public meetings, the anticipated volume required is significantly less than 88,000 cubic yards. However, should early-spring storms result in additional erosion to the north end shore protection features, volumes greater than 25,000 cubic yards may be required, which is why the maximum volume is indicated in the permit as a "worst case scenario."

The Borough has stated that they will limit the depth and landward limits of scraping to the extent possible given the volume that is necessary. This year's plans are to scrape farther south than they did in 2016, when they were limited to 38th Street due to nearby piping plover activity. This year, they plan to scrape down to 40th Street. Limiting the area of excavation east of the mean high water line would not produce enough sand to ensure the ability to repair the eroded north end beaches. The Borough has stated that they will make every effort to limit the depth of excavation to the extent practicable, and they plan to excavate along the entire length of the borrow area down to 40th Street.

The Borough will continue to monitor the impacts of the back-passing project, as they have done for a number of years in cooperation with Stockton University Coastal Research Center. Based on our prior review of the Borough's original proposal to conduct back-passing, net long-shore transport of sand is from north to south. The Corps of Engineers and the Borough have placed large volumes of sand at the northern end of town in recent years. Much of that sand has since eroded from that area, with some portion of it accreting on the beaches farther south, including the proposed borrow area for this project. The Borough harvested sand from the same borrow area in 2012, 2014 and 2016. As demonstrated by the pre- and post-construction surveys annual beach accretion constantly re-establishes the height and width of the borrow area beach. For any future scraping on the beach for borrow material performed under this permit, the permittee is required to submit a before-scraping survey prior to the planned date of initiation of construction, including a color-filled contour map and an engineering analysis describing how the area has recovered through accretion since the previous scraping.

While we recognize that the Borough's proposed project may have short-term disruption of certain portions of their beach at a time when usage is increasing in late spring, it should avoid the majority of the summer tourist season. Since this is a municipal project on the municipal beach, we defer to the Borough in managing any disruptions to its beaches, including safety of beach-goers while work is in progress. The timing of the Borough's 2018 back-passing project is being dictated by the series of March 2018 storms that have eroded the north-end beaches. This work has been granted an Emergency Authorization by the NJDEP. Waiting until the fall would leave the north end without a protective, dry beach. The dunes in that area are scarped, leaving public safety concerns.

The Corps finds that the project would not have unacceptable environmental or social effects, nor would it be contrary to the public interest. Furthermore, I have determined that a public hearing would not generate any additional information relative to my permit decision on the project. Therefore, such a proceeding is not warranted.

Additional information concerning this permit application may be obtained by calling James Boyer at (215) 656-5826, by electronic mail to James.N.Boyer@usace.army.mil, or by writing to this office at the above address.

Edward E. Bonner
Chief, Regulatory Branch