



**US Army Corps
of Engineers**
Philadelphia District
100 South Independence Mall West
Philadelphia, PA 19106
Attn: CENAP-OPR

Public Notice

Comment Period Begins: March 7, 2023
Comment Period Ends: April 6, 2023
File Number: NAP-2023-00116-95
File Name: Ocean Casino Resort – Beach Fill Project
Contact: Robert Youhas
Email: robert.youhas@usace.army.mil

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: Ocean Casino Resort
Attn: Mr. Joseph Muskett
500 Boardwalk
Atlantic City, New Jersey 08401

AGENT: Jerome Associates
Attn: Mr. Ian Jerome
426 South Shore Road
Absecon, New Jersey 08201

LOCATION: Atlantic Ocean beach berm area between Garden Pier and the Massachusetts Avenue groin at 500 Boardwalk, Atlantic City, Atlantic County, New Jersey; Approximate Center Coordinates: 39.360246, -74.414315).

PURPOSE: The stated purpose of this project is to provide for shore protection and recreational beach at an eroded beach berm area within a portion of the Absecon Island Coastal Storm Risk Management Federal Civil Works Project.

PROJECT DESCRIPTION:

The applicant, Ocean Casino Resort, has requested Department of the Army (DA) authorization to renourish an Atlantic Ocean beach berm area within the federal design template of the Absecon Island Coastal Storm Risk Management Federal Civil Works Project.

Specifically, one-time placement of approximately 12,700.0-cubic yards of sand along 5.349-acres of Atlantic Ocean beach berm is proposed. Approximately 7,265.0-cubic yards out of the estimated total of 12,700.0-cubic yards would be placed within 1.757-acres below the High Tide Line. Beach compatible sand will be sourced from an offsite, upland borrow area(s) and delivered by dump trucks to a temporary stockpile site on the New Hampshire Avenue Beach. From the stockpile site, the sand will be loaded by front-end loaders into articulated off-road dump trucks, which will haul the sand to the fill area. The sand will be spread and graded within the fill area by bulldozers to authorized federal design template specifications.

For additional project details, see the attached plans identified as: E-1 through E-4 all entitled "NAP-2023-00116-95" and all dated 01 March 2023.

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 for the amount of dredged or fill material to be discharged into waters of the United States.

Given that the proposed project would restore/renourish eroded shoreline within the federal design template of the Absecon Island Coastal Storm Risk Management Federal Civil Works Project, compensatory mitigation is not proposed.

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 National Marine Fisheries Service (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. 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. Schaible
Chief, Regulatory Branch