

US Army Corps of Engineers Philadelphia District

Wanamaker Building 100 Penn Square East Philadelphia, PA 19107-3390 ATTN: CENAP-OP-R

Public Notice

Public Notice No.
CENAP-OP-R-2008-0050-39

Date

10 August 2020

Application No.

File No.

In Reply Refer to:

REGULATORY BRANCH

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: Delaware City Refining Company LLC

AGENT: Brian J. Devine

Duffield Associates, Incorporated

5400 Limestone Rd.

Wilmington, Delaware 19808

WATERWAY: Delaware River

LOCATION: Dredging would be performed at tax map number 12-009-00-001 (as shown on the attached plans) and dredged material would be disposed on property identified as 1771 River Road and 22 Washington Street, all sites located within Delaware City, New Castle County, Delaware.

ACTIVITY: The applicant proposes to perform maintenance dredging at the Delaware City Refining facilities navigation channel, berthing area and the cooling water intake channel. This office previously issued a permit for work at these locations on December 28, 2000 (file number CENAP-OP-R-200001583-39) and in 2010 under the above referenced file number. As previously authorized, work would be performed using hydraulic dredging equipment with the dredged material being disposed at the applicant's permanent disposal sites known as CDF Area 1, CDF Area 2, CDF Area 3A and Area 3B, located at Delaware City Refining Company LLC owned property.

Approximately 14,150 linear feet of the facilities navigation channel, approximately three hundred (300) feet in width, would be dredged to a depth thirty seven (37) feet below mean low water \pm 2 feet over-dredge; the approximately twenty (20) acre berthing area would be dredged to a depth of forty (40) feet below mean low water \pm 2 feet over-dredge; and approximately ten (10) acres of the cooling water intake would be dredged to a depth of twelve (12) feet below mean low water \pm 2 feet over-dredge. The dredged material, composed primarily of silt, with clay and sand, would be pumped via pipeline to the disposal site(s) indicated above. Vessels

using the site to offload product are up to nine hundred (900) feet in length, with a draft of thirty nine (39) feet. The access channel and berthing area are typically dredged annually or every three (3) years, and typically generates approximately nine hundred thousand (900,000) cubic yards of material annually within ninety three (93) acres of the waterway. The cooling water intake is typically dredged two (2) times a year and typically generating one hundred seventy five (175,000) thousand cubic yards of material within approximately ten (10) acres of the waterway. As such, the applicant has requested that if a permit is issued for this activity, that a permit condition be added to allow for ten (10) years of maintenance dredging at the project site.

PURPOSE: The applicant's stated purpose is to allow access to the refinery and the need for the increased depth at the site is to maintain ship access and to reduce ship/barge traffic and lightening events for vessels using the site.

A preliminary review of this application indicates that species listed under the Endangered Species Act or their critical habitat pursuant to Section 7 of the ESA as amended, may be present in the action area, the shortnose sturgeon (Acipenser brevirostrum) and the second would be Atlantic sturgeon (Acipenser oxyrhynchus) and its critical habitat. The ACOE will forward this PN to the National Marine Fisheries Service with a request for technical assistance on whether any ESA listed species or their critical habitat maybe present in the area which would be affected by the proposed activity. The Philadelphia District will evaluate the potential effects of the proposed actions on ESA listed species or their critical habitat and will consult with NOAA Fisheries as appropriate. ESA Section 7 consultation will be concluded prior to the final decision on this permit application.

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.

Comments on the proposed work should be submitted, in writing, within 30 days to the District Engineer, via regular mail to U.S. Army Corps of Engineers, Philadelphia District,

Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390 or via email at Philadelphiadistrictregulatory@usace.army.mil. Due to the COVID19 situation, we strongly encourage comments be submitted electronically.

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.

The Magnuson-Stevens Fishery Conservation and Management Act requiresall federal agencies to consult with the NOAA Fisheries 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.

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, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by calling Lawrence Slavitter at 215-656-6734, via email at lawrence.m.slavitter@usace.army.mil, or writing this office at the above address.

Todd A. Schaible Chief, Regulatory Branch

































































