



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

Public Notice

Comment Period Begins: October 1, 2024
Comment Period Ends: October 16, 2024
File Number: NAP-2024-00438-85
File Name: Indian River Inlet Shoal Dredging and Beach Placement
SX
Contact: Michael D. Yost
Email: michael.d.yost@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: Stephen Williams
Delaware Department of Natural Resources and Environmental
Control, Division of Watershed Stewardship
285 Beiser Boulevard, Suite 102
Dover, Delaware 19904

AGENT: Karen Taylor
Delaware Department of Natural Resources and Environmental
Control, Division of Watershed Stewardship, Shoreline and Waterway
Management Section
901 Pilottown Road
Lewes, Delaware 19958

LOCATION: The proposed activity would occur from Middle Island in Indian River Bay through the Indian River Inlet and along the shoreline on the north side of the Indian River Inlet.

PURPOSE: Maintain the recreational beach and dune system to prevent damage to Coastal Highway and the infrastructure of the Indian River Inlet Bridge.

PROJECT DESCRIPTION:

In response to a request from the Delaware Department of Natural Resources and Environmental Control (DDNREC), the Philadelphia District has been authorized by the United States Army Corps of Engineers (USACE), North Atlantic Division to employ Special Permit Processing Procedures in Emergency Situations pursuant to 33 CFR 325.2(e)(4) in the review of an application to restore the beach and dune system north of the Indian River Inlet to protect Coastal Highway south of Dewey Beach in Sussex County

Delaware. The regulations provide for abbreviated procedures for the review, coordination and decision-making with respect to permit application in emergency situations that "...would result in an unacceptable hazard to life, a significant loss of property or an immediate, unforeseen and significant economic hardship..." It should be noted that these special permitting procedures are not to be utilized to avoid any procedural permitting requirements, such as coordination with federal, state, and local agencies, as well as the affected public.

Since 1990 the sand bypass system at the Indian River Inlet was used to move sand from the south to north side of the inlet to maintain sand levels on the north side to acceptable conditions. After Hurricane Sandy in 2012, the beach and dune along the north side of the inlet suffered significant loss which resulted in the USACE conducting a Flood Control & Coastal Emergency Repair in 2013 pursuant to the Flood Control and Coastal Emergency Act (PL 84-99). This activity placed approximately 500,000 cubic yards of sand on the beach via hydraulic dredging of the Indian River Flood Shoal. In 2019 the sand bypass system became inoperable requiring the DDNREC to add sand to the north side via truck haul. This method can no longer overcome the current rate of erosion which can result in continuous dune breaches affecting infrastructure and travel along Coastal Highway. A dune breach occurred most recently on August 17, 2024, that forced the closure of Coastal Highway for several hours.

The intention of the proposed activity is to model the 2013 USACE project. The proposed project includes the following: 1) Hydraulically dredge approximately 800,000 total cubic yards of sediment from three shoals including the Indian River Inlet flood shoal (down to the authorized federal channel elevation of -24 feet NAVD with 1 foot of allowable over-dredge), Middle Island Shoal and Burton Island Shoal (down to -10 feet NAVD with 1 foot of allowable over-dredge); 2) Transport the dredged material via pipeline to the placement site along the shoreline on the north side of the Indian River Inlet; 3) Spread and grade the dredged material to construct a beach (+9.0 NAVD, 100 to 150-ft-width) and dune system to an overall elevation of +16.0 ft NAVD by 25-ft wide consistent with the 2013 template. The dredged material placement will begin at the north jetty of the Indian River Inlet and extend northward for approximately 5,200 linear feet. The dredged material pipeline will take the most direct open water route from the borrow sites to the westernmost corner of the sidewalk along the north jetty. From there, the pipeline will be routed directly to the beach. Pipeline will be added to reach the working location of the beach fill. The sand placement and dune system will provide protection to critical infrastructure including Coastal Highway, which is an emergency evacuation route. The activity is expected to be completed between November 2024 and March 2025. However, given the amount of material, weather variability, as well as equipment functionality, in-water work may extend longer than expected. Given the impacts to safety and welfare to the general public, it is necessary to complete the entire project without interruptions from an extended in-water work restriction.

For additional project details, see the attached plans identified as: INDIAN RIVER SHOAL DREDGING AND BENEFICIAL USE PERMIT PLAN SET, prepared by the DDNREC, Shoreline and Waterways Section, dated September 24, 2024, 5 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. The applicant has not proposed compensatory as any adverse impacts would be temporary and localized to the project area.

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 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 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/>

Todd A. Schaible
Chief, Regulatory Branch