



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

Public Notice

Comment Period Begins: September 25, 2023
Comment Period Ends: October 25, 2023
File Number: NAP-2022-01214-45
File Name: Mallard Point Park
Contact: Mr. Bryan P. Bellacima, (215) 656-6732
Email: bryan.p.bellacima@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: Ms. Joanne Bergin
Brick Township
401 Chambers Bridge Road
Brick, NJ 08723

AGENT: Mr. Austin Bazuk
CME Associates
1460, Route 9 South
Howell, NJ 07731

LOCATION: The project is located on the property known as Mallard Point Park, located in the waterway known as Tunes Branch, at 41 Tunes Brook Drive, block 365, lot 551.01, in Brick, Brick Township, Ocean County, New Jersey. Center coordinates: (40.031296°, -74.135147°).

PURPOSE: The purpose of the project is to restore and protect/stabilize the existing eroding shoreline to prevent further erosion and loss of the Mallard Point Park property. Additionally, the applicant proposes to repair/replace the existing fixed pier in order to maintain public access and recreational use of the township park.

PROJECT DESCRIPTION:

The project involves the placement of clean sand material to restore an existing eroded shoreline, the installation of two, stone rip-rap groins/breakwaters for protection of the restored shoreline, and to repair/reconstruct an existing fixed pier.

As indicated by the applicant, historically, erosional forces at Mallard Point Park have removed approximately 30 feet (about 0.56 feet per year) of shoreline since the 1970's,

and will eventually threaten the existing and newly proposed park facilities, including Tunes Brook Drive. At this time, the applicant proposes to restore 30 feet of shoreline to its previous location, impacting **0.12 acres** of tidal Waters of the United States (U.S.), and **0.002 acres** of emergent wetlands. Furthermore, additional deposition and grading of sand material would be required to provide for a safe and stable transitional slope within the waterway. The additional slope grading would impact **0.24 acres** of tidal Waters of the U.S. The shoreline restoration activities would be accomplished by trucking sand to the property, and then dispersing and grading the sand, using a small excavator/dozer, to achieve the proper grades and/or elevations. An excavator would also be used to install the rock rip-rap groins/breakwaters.

To protect the restored shoreline from erosional forces, the applicant proposes to install two, 16.25 feet wide rock rip-rap groins/breakwaters within tidal Waters of the U.S. and emergent wetlands. As stated, the groins/breakwaters would be installed using an excavator to put the 18 inch-diameter rock rip-rap into place. Approximately **0.081 acres** of tidal Waters of the U.S., and **0.004 acres** of emergent wetlands would be impacted due to the installation of the rock rip-rap groins/breakwaters. The final activity proposed by the applicant is to repair/replace the existing fixed pier located on the park property.

As shown on the project plans stated below, the existing 67 feet long by 2.9 feet wide and associated 104 feet long by 3.5 feet wide T-shaped fixed pier would be reconstructed in-place. The reconstruction would involve the removal and replacement of 24, 8-inch piling, and all existing decking and other components. The new piling would be installed using a barge mounted vibratory hammer, while the decking and proposed boardwalk would be installed by hand. The applicant intends to use pressure treated lumber for the installation of all piling, and composite materials (plastic) for the pier decking and proposed boardwalk. The fixed pier would be extended to meet the proposed boardwalk. The boardwalk would span the existing emergent wetlands and tie into the proposed park walkway. At this time, no impacts to navigation have been identified due to the proposal to repair/reconstruct the existing fixed pier.

For additional project details, see the attached plans identified as: "...Mallard Point Park Improvements...", sheets 1-2 of 2, dated February 1, 2023, last revised July 31, 2023, plans prepared by CME Associates.

MITIGATION

At this time, 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. In addition, based on the information provided in the application on the plans, compensatory mitigation is neither practicable nor feasible at this time.

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. The applicant has received a WQC from the State for the subject project.

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 received a CZM consistency concurrence from the State for the subject project.

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