



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

Public Notice

Comment Period Begins: March 3, 2023
Comment Period Ends: April 3, 2023
File Number: NAP-2016-00271-97
File Name: CM Cape May Marina
Contact: Kendall Papineau
Email: Kendall.L.Papineau@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).

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: SP Cape May Marina, LCC (c/o Sean Scarborough)

AGENT: Water's Edge Environmental, LLC

LOCATION: Cape Island Creek at 124 Rosemans Lane (Block 1061, Lot 101.05) in the City of Cape May, Cape May County, New Jersey (Center coordinates: 38.947648°, -74.913645°)

PURPOSE: To meet the need for safe navigation and mooring of private recreational vessels.

PROJECT DESCRIPTION:

The applicant seeks authorization to perform mechanical maintenance dredge of approximately 4,517 cubic yards of material over a 102,047 square foot (2.34 acre) area to a depth of -5.20 MLW. Dredged material would be placed in a hopper barge, off-loaded at the Cape May Marina and trucked to CDF Site 983 in Lower Township, Cape May County, New Jersey.

The application also seeks authorization to relocate an existing 6-foot by 191.1-foot and 6-foot by 31-foot L-shaped floating dock and six (6) 3-foot by 24-foot finger piers.

Lastly, the applicant is seeking after-the-fact authorization of the following existing structures: 5-foot by 59.8-foot and 5-foot by 74.2-foot L-shaped floating dock; twenty-two (22) 5-foot by 13.6-foot personal water craft (PWC) floats; two (2) 9.9-foot by 16-foot PWC, two (2) 9.6-foot by 13.6-foot PWC, two (2) 9.6-foot by 13.4-foot PWC, two (2) 9.6-foot by 13.5-foot PWC, a 4.2-foot by 29.8-foot and 2-foot by 5.5-foot finger pier extensions; one (1) 9.8-foot by 12.9-foot open-style boat lift; and three dock boxes.

For additional project details, see the attached plans identified as: "USACOE Permit Plan, Cape May Marina, Cape Island Creek, Lot 1061 in Block 101.05, City of Cape May, Cape May County, New Jersey, Applicant: Sean Scarborough," prepared by Andrew C. Shawl, PE, LLC, dated August 17, 2022, last revised October 13, 2022, sheets 1 through 3.

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 plans indicates that there will be no discharge of dredged or fill material in waters of the United States and as such, compensatory mitigation for the proposed structure(s) and/or work 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.

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