



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

Public Notice

Comment Period Begins: December 12, 2023
Comment Period Ends: January 11, 2024
File Number: NAP-2011-00596-TREC
File Name: Cape May Ferry Terminal Maintenance Dredging
Contact: Adam Fannin
Email: adam.e.fannin@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: Delaware River and Bay Authority
P.O. Box 71
New Castle, Delaware 19720

AGENT: Clare Mueller
S.T. Hudson Engineers, Inc.
900 Dudley Ave
Cherry Hill, New Jersey 08002

LOCATION: The project is located at the Cape May Ferry Terminal near the intersection of Lincoln Boulevard & Beach Drive, in North Cape May, Lower Township, Cape May County, New Jersey.

PURPOSE: The purpose of the project is to restore and maintain adequate water depths for the safe navigation, and continued operation of the Cape May-Lewes Ferry vessels and/or terminals.

PROJECT DESCRIPTION:

The applicant proposes to conduct maintenance dredging of the Cape May Ferry Terminal over an area of 317,117 square feet (7.28 acres) over a 10-year period. An initial volume of approximately 37,566 cubic yards of dredge material is proposed for removal. The maintenance dredging would be to a depth of 12-feet Mean Low Water (MLW) with 1-foot of overdredge. Dredging would be performed by hydraulic means and the dredge material would be hydraulically pumped and conveyed by pipeline to the Delaware River Bay Authority's confined disposal facility (CDF) adjacent to the Ferry Terminal in Lower Township, Cape May County, New Jersey. Return water from the CDF into the Cape May Canal is proposed via an existing discharge weir.

The applicant received a Department of the Army permit (CENAP-OP-R-2011-00596) dated February 6, 2012, authorizing dredging activities for 10 years at the Cape May Ferry terminal. At this time, the applicant is applying for a Department of the Army permit to reauthorize the 10-year maintenance dredging activities at the project site. The applicant anticipates that a total of 300,000 cubic yards of dredge material would be generated over the new 10-year maintenance dredging period.

For additional project details, see the attached plans identified as: *Proposed: Maintenance Dredging, At: Cape May Ferry Terminal, County of: Cape May, Application by: Delaware River & Bay Authority* sheets 1-2 dated August 30, 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 plans indicates that there will be no additional discharge of dredged or fill material in waters of the United States outside of the existing CDF 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.

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 has reviewed 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. The proposed dredging will take place within previously dredged permit area, and the disposal site is an existing upland facility. No historic Properties will be affected by the proposed maintenance dredging.

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 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