



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

Public Notice

Comment Period Begins: February 20, 2023
Comment Period Ends: March 13, 2023
File Number: NAP-2011-00806-46
File Name: HUDSON PROPERTY 1527-1529 YACHT AVENUE
Contact: David J. Caplan
Email: David.J.Caplan@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: Daniel Hudson

AGENT: Water's Edge Environmental, LLC

LOCATION: Schellenger Creek, 1527 to 1529 Yacht Avenue, Block 1160, Lots 20, 21, 20.01, and 21.01, in the City of Cape May, Cape May County, New Jersey

PURPOSE: Structural: The applicant's stated purpose is to provide mooring facility for four (4) vessels including an approximate 14' long vessel with a 6'8" beam and approximately 8" draft, and (3) vessels each approximately 26' long with 9'3" beams and approximately 20.5" drafts.

Dredging: The applicant's stated purpose for dredging is to maintain depths of the existing mooring areas and access areas, in order to properly moor the owner's vessels at all phases of the tide. Dredging shall also allow the docks to properly function during low tide events.

PROJECT DESCRIPTION: The applicant proposes to perform mechanical maintenance dredging and dock re-configuration with boat lift construction at the existing property. The proposed boat lift and reconfigured docks will occupy areas that had been previously permitted for structures by Department of the Army permits issued on July 31, 2012 and April 8, 2019 under the subject file number (NAP-2011-00806-46).

The applicant would mechanically dredge approximately 263 cubic yards of material to a depth of -4' mean low water datum. The area to be dredged is approximately 3,649 S.F. (0.085 acres). Dredge material would be placed within a hopper barge, moved to and offloaded at Cape May Marina (124 Rosemans Lane, Cape May, NJ), and then trucked to the CDF Site 983 disposal facility (983 Ocean Drive, Block 793, Lot 15.07, Lower Township, NJ). All work would be performed from the water using barge

mounted equipment (e.g. hopper barge, barge with excavator and work boat). A turbidity curtain would be deployed during such work. The site was originally approved for dredging under authority of an individual permit (NAP-2011-00806) issued to CM Yacht Marine, LLC on July 31, 2012. The applicant requests approval for continued maintenance dredging over the next 10 years. Additionally, the applicant has stated that no over-dredging is proposed.

Dock re-configuration would allow for the relocation of the 4.8' x 24.6' portion of the floating dock, and the installation of two (2) 12' x 12.5 open boat lifts, and one (1) 14' x 12.5' open boat lift. All other dock structures are to remain as approved under authority of a letter of permission (NAP-2011-0806-46) issued to CM Yacht Marine, LLC on April 8, 2019.

For additional project details, please see the attached plans E1 through E4.

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. Furthermore, the proposed work will not result in a permanent loss to aquatic resources beyond those already lost from previously-approved structures.

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) 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 as appropriate. The National Marine Fisheries Service has concurred on this office's determination that the project is not likely to adversely affect listed sea turtles and Atlantic sturgeon. ESA Section 7 consultation would be concluded prior to the final decision on this permit application.

CULTURAL RESOURCES AND TRIBAL TRUST

Under prior permit reviews for similar activities on the subject site, the District's Cultural Resource Specialist and Tribal Liaison reviewed such proposed actions 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 was made that the permit area has been so extensively modified that little likelihood exists for the proposed project to impact a historic property. This office maintains the same determination for the proposed permit actions described herein.

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. It should be noted that no Section 401 Water Quality Certificate is required for this action.

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