



**US Army Corps
of Engineers**
Philadelphia District

Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OPR

Public Notice

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| Public Notice No. | Date |
| CENAP-OPR-2012-00399-39 | October 5, 2020 |

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| Application No. | File No. |
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In Reply Refer to:
REGULATORY BRANCH

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: Vahe Hovsepian
Philadelphia Water Department
1101 Market Street, 2nd Floor
Philadelphia, Pennsylvania 19107

AGENT: Robert R. Bowers
O'Brien & Gere Engineers, Incorporated
751 Arbor Way, Suite 200
Blue Bell, Pennsylvania 19422

WATERWAY: Canal Intake Channel and Manayunk Schuylkill Canal/Schuylkill River

LOCATION: Along the Schuylkill River Trail, in the City of Philadelphia, Philadelphia County, Pennsylvania

ACTIVITY: The applicant proposes to construct a diversion facility in the intake channel of the Manayunk Schuylkill Canal to replace the flow intake function of the existing lock (No. 68) and canal feeder structure located at the project site, creating a new abutment connection for Flat Rock Dam, and perform maintenance work along the existing intake channel containment structure and spillway located parallel to the Schuylkill River. The existing lock and feeder structure were decommissioned and permanently closed in 1940s, disrupting the flow of river water through the canal, leading to degraded water quality in the canal.

Along the intake channel containment structure, approximately 410 linear feet of the structure (wall) would be rehabilitated. As part of this, the existing overflow spillway would be rebuilt, impacting approximately 2,250 square feet inside the intake channel, waterward of ordinary high water, filling approximately 0.05 acres. Approximately 350 square feet within the Schuylkill River, waterward of ordinary high water would be impacted by the new overflow spillway. No additional fill would be placed at the base of the spillway.

The new flow control structure would be constructed approximately 300 feet upstream of the existing lock and feeder system. Concrete would be poured in place to create the new structure. Approximately 0.38 acres of open water and emergent wetlands would be impacted by the new control structure. An additional 0.19 acre of the open water habitat would be filled along the shoreline on the canal path side of the diversion channel to help protect the shoreline and to channel water from the shoreline to the new flow intake structure. A floating debris collection buoy would be strung across the intake canal to protect the proposed dam structure from debris in the waterway. A structural concrete channel, excavated in uplands, would connect the channel diverted from the Schuylkill River to the Manayunk Schuylkill Canal. The remaining uplands on the site would have an access road and a stormwater basin constructed to allow for operations of the new control structure.

It will be necessary to temporarily create 'dry conditions' in order to construct and rehabilitate the infrastructure. The locations of these 'dry conditions' will be in the intake channel, the area immediately outshore of the spillway, and the portion of the Manayunk Canal downstream of the existing lock. An aggregate area of approximately 0.80 acres (340 linear feet) of open water or emergent wetlands will be dewatered by use of temporary sheetpile, fill and sandbag cofferdams to allow for the work to be performed in appropriately dry conditions at the site.

PURPOSE: The applicant's stated purpose is to improve water quality in the Manayunk Schuylkill Canal by reintroducing flow from the diversionary channel of the Schuylkill River; to address the structural stability of portions of Flat Rock Dam owned by the City of Philadelphia; and to manage sediment and debris in the Canal Intake Channel.

A preliminary review of this application indicates that species listed under the Endangered Species Act or their critical habitat pursuant to Section 7 of the ESA as amended, may be present in the action area. The ACOE will forward this PN to the US Fish and Wildlife Service or National Marine Fisheries Service 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. The Philadelphia District will evaluate the potential effects of the proposed actions on ESA listed species or their critical habitat and will consult with the US Fish and Wildlife Service or NOAA Fisheries as appropriate. ESA Section 7 consultation will be concluded prior to the final decision on this permit application.

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 those 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. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and

evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. 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.

Due to the potential for extensive telework associated with the COVID-19 situation, all comments on the proposed work should be submitted, within thirty (30) days, via email only to the District Engineer, U.S. Army Corps of Engineers - Philadelphia District at PhiladelphiaDistrictRegulatory@usace.army.mil. If you do not have access to email you may submit written comments, within 30 days of this notice, to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390.

The USACE Cultural Resource Specialist is currently reviewing the proposed permit action for potential impacts to Historic Properties eligible for or listed on the National Register of Historic Places. The USACE, in consultation with the PASHPO, the Tribes and other consulting parties have determined that the proposed permit action will have an Adverse Effect on historic properties eligible for or listed on the National Register of Historic Places. A Memorandum of Agreement is being negotiated among the USACE, the PASHPO, the Tribes and other Consulting Parties to stipulate measures to mitigate for the Adverse Effects.

The Magnuson-Stevens Fishery Conservation and Management Act requires all federal agencies to consult with the NOAA Fisheries 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 not present within the project area. As such, no further action is required is required by this office with respect to the Act.

According to Federal regulation located at 33 CFR 325.1(d)(7) and 33 CFR 332.4 (b)(1), applicants wishing to discharge fill material into waters of the U.S. must include a statement on how they have avoided and minimized impacts as well as how they intend to compensate for unavoidable impacts. The applicant has avoided/minimized impacts to the aquatic environment by incorporating engineering/construction procedures into the process that will substantially reduce impacts to aquatic resources. Additionally, the applicant states the Flat Rock Dam-Manayunk Canal Diversion Project will improve the water quality in the 1.75-mile long Manayunk Canal, as documented by studies and modeling performed by the Philadelphia Water Department, also improving water quality in the Schuylkill River downstream of the Canal's discharge, a source of drinking water for the City. The Project will also upgrade the stability of Flat Rock Dam, protecting hundreds of acres of open water and wetlands habitat upstream of the structure. No further mitigation is proposed in compensation for the less than 0.6-acre permanent impact to Waters of the United States associated with these improvements.

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 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 Coastal Zone Management (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 of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary 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.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by calling Lawrence Slavitter at 215-656-6734 or via email at: lawrence.m.slavitter@usace.army.mil.

Todd A. Schaible
Chief, Regulatory Branch