



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

Public Notice

Comment Period Begins: April 25, 2023
Comment Period Ends: May 10, 2023
File Number: NAP-2018-01087-85
File Name: DDNREC Delaware Bay Beaches Truck Fill KE
Contact: Michael D. Yost
Email: michael.d.yost@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: Terry Deputy, Delaware Department of Natural Resources and Environmental Control, Division of Watershed Stewardship

AGENT: Kathleen Bergin, Delaware Department of Natural Resources and Environmental Control, Division of Watershed Stewardship

LOCATION: Pickering Beach (Lat. 39.13598°N/Long. 75.40881°W) Dover, Kent County, Delaware. Kitts Hummock Beach (Lat. 39.10359°N/Long. 75.40171°W) Dover, Kent County, Delaware. Bowers Beach (Lat. 39.06239°N/Long. 75.439754°W) Frederica, Kent County, Delaware

PURPOSE: These bay beach communities are subject to significant erosion from increased wave action during storm events. As such, the purpose of the project is to provide erosion and storm damage protection to infrastructure, as well as commercial and private structures and improve the beach for recreational use.

PROJECT DESCRIPTION:

The applicant has applied for a Department of The Army permit to conduct beach nourishment activities along 2,600 linear feet at Pickering Beach, 4,800 linear feet at Kitts Hummock and 2,200 linear feet at Bowers Beach, along the Delaware Bay east of Dover and Frederica, Kent County Delaware. Portions of Kitts Hummock were nourished in 2007 and 2014. A portion of Bowers Beach was nourished in 2017, while Pickering Beach was nourished in 2001. The applicant proposes to haul in via dump truck, 27,500 cubic yards of sand to Pickering Beach, 28,000 cubic yards of sand to Kitts Hummock and 24,000 cubic yards of sand to Bowers Beach from an inland borrow source. The sand will be placed utilizing off road hauling equipment and shaped with a bulldozer in accordance with the design template. This activity was previously authorized in January 2019. A storm event in December 2022 resulted in a significant loss in the previously

nourished beach. As such, this project serves to maintain the previously authorized activity.

For additional project details, see the attached plans identified as: KENT COUNTY BAY BEACH TRUCK FILL PERMIT PLANS, prepared by the Delaware Department of Natural Resources and Environmental Control, Division of Watershed Stewardship, Shoreline and Waterway Section, dated January 5, 2023, 10 sheets.

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 the plans indicates that compensatory mitigation is neither practicable nor feasible for the amount of dredged or fill material to be discharged into waters of the United States.

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 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/>

A handwritten signature in black ink, reading "Todd A. Schaible", is written over a circular seal. The seal is partially obscured by the signature and appears to be an official emblem.

FOR: Todd A. Schaible
Chief, Regulatory Branch