



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

Public Notice

Comment Period Begins: January 25, 2023
Comment Period Ends: February 24, 2023
File Number: NAP-2020-00615-97
File Name: 1600 Freemansburg Avenue Site Development NO
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 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: Barnsdale Associates, LLC (c/o Angie Brong)

AGENT: ARM Group, LLC (c/o Kathryn Murray)

LOCATION: 1600 Freemansburg Ave, Bethlehem, Pennsylvania (Center
Coordinates: 40.636426°, -75.338781°)

PURPOSE: To reclaim an abandoned, pre-Act quarry to alleviate public safety hazard and support future land uses.

PROJECT DESCRIPTION:

Discharge of fill material into wetlands and waters located within an abandoned quarry mine to bring the site to grade and create a slope from the existing 6,500 feet of 30- to 60-foot-high vertical high wall. Total impacts include 2.17 acres of wetlands, 0.32-acre open-water, 0.28-acres of stream impacts and 450-linear feet impacts to piped stream. A combination of mitigation bank credits and on-site, permittee responsible mitigation is proposed to compensate for unavoidable impacts (see Mitigation Section, below).

For additional project details, see the attached plans identified as: "Joint Permit Application – Pre-Act Quarry Reclamation Barnsdale Associates LLC," prepared by ARM Group LLC, dated July 08, 2022, last revised July 15, 2022, sheets 2 and 3; "Baseflow Mitigation System Plan – Pre-Act Quarry Reclamation Barnsdale Associates LLC," prepared by ARM Group LLC, dated January 12, 2023, unrevised, sheet 1 and 4; and "Erosion and Sediment Control Plan – Pre-Act Quarry Reclamation Barnsdale Associates LCC," prepared by ARM Group LLC, dated December 4, 2020, last revised November 3, 2022, sheet 25.

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. For unavoidable impacts to aquatic resources, the applicant has proposed compensatory mitigation.

Proposed compensatory mitigation includes the purchase of 2.17 wetland credits from Quaker Mitigation Bank for losses of wetlands. Loss of non-wetland waters are proposed to be compensated for by on-site, in-kind permittee responsible mitigation including, i) construction of a baseflow mitigation system to re-establish the baseflow provided to Nancy Run by Wetland D, Wetland F, Channel 3 and Channel 2, ii) rehabilitation of the lower, piped portion of Channel 2 by abandonment of existing vertical standpipe and creation of a new rock-lined channel with plunge pools conveying flow to Nancy Run (0.05 acre), iii) and rehabilitation of existing plunge pool in Nancy Run to allow opportunity for aquatic life movement upstream (0.02 acre).

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 the proposed work would not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act (ESA). As a result, consultation with the U.S. Fish and Wildlife Service (USFWS) and/or National Marine Fisheries Service (NMFS) pursuant to Section 7 of the ESA is not necessary. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

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 not present within the project area. Therefore, consultation with NMFS pursuant to EFH provisions of the MSA is not necessary. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

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. The applicant has received a WQC from the State for the subject project.

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