



**US Army Corps
of Engineers**
Philadelphia District

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

Public Notice

Public Notice No. NAP-2021-00187-39	Date NOVEMBER 3, 2021
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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: Marc Reimer
Orsted Wind Power North America, LLC
399 Boylston Street, 12th Floor
Boston, MA 02116

AGENT: Junetta N. Dix
ACT Engineers, Inc. SBE
320 S. Shore Road, Suite D
Marmora, NJ 08223

WATERWAY: Delta Basin

LOCATION: BLOCK 561, LOT 1; BLOCK 562, LOT 1; BLOCK 563, LOT 1; AND
BLOCK 564, LOTS 1 & 2, in the City of Atlantic City, Atlantic County, New Jersey.

ACTIVITY: The applicant proposes to rehabilitate a former marina facility located near Absecon Inlet. An existing, dilapidated bulkhead would be replaced using steel sheeting. Approximately 215 feet would be constructed along the western boundary, with an approximately 32-foot upland return. Approximately 291 linear feet of existing bulkhead would be replaced along the northern portion of the site. Approximately 6,448 square feet of open water habitat, waterward of the high tide line, and approximately 7,650 square feet of adjoining wetlands, would be filled behind the proposed bulkhead. At the northeast corner of the site, work would be performed to protect an existing outfall structure. Approximately 83 linear feet of a low-profile toe-wall, composed of steel sheets, would be installed to form a triangle with the existing shoreline. Approximately 1,272 square feet of fill, consisting of riprap, waterward of the high tide line, would be placed at the site to protect the outfall structure.

Up to 6 vessels, a maximum length of approximately 98 feet and a beam with of 33-36 feet would be based at the site. Two floating dock structures would be installed to allow for vessels to moor

at the site. These structures would be offset from the bulkhead by 5 feet and would be 99 feet long and 14.5 feet wide. Twenty 24-inch diameter piles would be installed at the site to secure the floating structures. A movable gangway would be attached to the uplands and would cross over the mean high water line to allow for access to the vessels using these structures. Four vessels would be moored to the floating structures and two vessels would be moored to the bulkhead facing west. Electrical, water, sewage and fuel lines would be run internally inside the floating docks in sealed conduits, to supply the vessels.

Work would be performed from both uplands and using an approximate 50 long, 36-foot wide vessel. A smaller support vessel would also be used at the site to allow for the installation of the structures. The waterward extent of the structures would be located approximately 240 feet from the center of the waterway. Dredging at the project site is proposed under the Atlantic City Wide Dredging Project application (NAP-2021-00573-95).

PURPOSE: The applicant's stated purpose is to create a port facility that can service potential wind turbine farms that would be located off the coast of the Mid-Atlantic region of the US.

A preliminary review of this application indicates that species listed under the Endangered Species Act (ESA) or their critical habitat pursuant to Section 7 of the ESA as amended, may be present in the action area. The Corps of Engineers will forward this Public Notice to the United States Fish and Wildlife Service and/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 Corps of Engineers 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 and/or NOAA Fisheries as appropriate. An 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 fifteen (15) 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. A determination of effects will be coordinated with the State Historic Preservation Office, the Tribes and other consulting parties.

The Magnuson-Stevens Fishery Conservation and Management Act requires all federal agencies to consult with the National Marine Fisheries Service 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 and fish species are present within the project area. The Corps of Engineers will evaluate the potential effects of the proposed actions on EFH and will consult with National Marine Fisheries Service as appropriate. Consultation will be concluded prior to the final decision on this permit application.

Compensatory mitigation: 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 United States 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 that construction is a water dependent use, intended as a facility for boats supporting all offshore wind operation. An area of 7,650 SF (0.17 acres) of jurisdictional wetlands are proposed to be filled. Currently, the existing shoreline contains a deteriorating bulkhead, and the shoreline is experiencing significant erosion, resulting in sedimentation and thus, degraded water quality of the area. The site is a former industrial facility and has the potential for runoff and further degradation of water quality. To protect the eroding shoreline, provide flood protection and resiliency, and minimize water quality impacts, a bulkhead is proposed. This proposed bulkhead must be a minimum height to provide flood protection. The bulkhead construction results in the isolation and filling of any wetlands landward of the bulkhead. Use of the historically present marina/industrial site eliminates any potential to avoid or reduce wetland fill impacts associated with the bulkhead construction and redevelopment of the property. It is noted, the jurisdictional wetlands present have been created by the breaching of the deteriorating bulkhead. Additionally, these wetlands are located within the urban area of Atlantic City and on a historically developed marine industrial site. It is not possible to reduce the proposed wetland impacts to less than 0.10 acres. Due to the nature of the disturbed wetlands, the lack of any wildlife habitat on the industrialized site and the fact the wetlands contain no naturally occurring vegetated shoreline and are not functioning as wetlands with

respect to filtering runoff or groundwater recharge. As such, the applicant states that compensatory mitigation should not be required.

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, via email at lawrence.m.slavitter@usace.army.mil, or writing this office at the above address.

Todd A Schaible
Chief, Regulatory Branch