

## US Army Corps of Engineers Philadelphia District

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

## Public Notice

Date
File No.

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: New Jersey Department of Transportation

Office of Maritime Resources

P.O. Box 600

Trenton, New Jersey 08625-0600 Attn: Ms. Genevieve Clifton

WATERWAY: Forked River Channel, Forked River Middle Branch, Forked River Middle Branch Spur, Forked River South Branch – Elks Spur and Forked River South Branch B Spur Channels.

LOCATION: The project consists of maintenance dredging within the Forked River Complex, located in Lacey Township, Ocean County, New Jersey. The dredged material is proposed to be placed at the Oyster Creek confined disposal facility (CDF) off Route 9 in Lacey Township, New Jersey.

**ACTIVITY:** The applicant proposes to hydraulically dredge accumulated sediment from within portions of the waterways listed above (See enclosures E1-24). The applicant has requested a 10-year maintenance dredging permit.

Maintenance dredging shall consist of hydraulic cutterhead dredging of approximately eighty seven thousand, eight hundred twenty four cubic yards (~87,824 yds³) of sediment comprised of mostly fine grained sediment, from approximately twenty one thousand two hundred and twelve linear feet (~21,212'). The project depth in the Forked River Channel and Forked River Middle Branch Channels is seven feet below mean low water (-7' MLW), plus one foot (1') of allowable overdredge. The project depth in the Forked River Middle Branch Spur, Forked River South Branch Elks Spur and Forked River South Fork B Spur channels is five feet below mean low water (-5' MLW), plus one foot (1') of allowable overdredge. The channel design width ranges from fifty feet (50') to one hundred feet (100'). Channel side slopes are 3:1.

Maintenance dredging of the Forked River was last authorized in 2001 and the material placed into a CDF in Lacey Township that is no longer available for use. The material to be removed was deposited as a result of Superstorm Sandy and is proposed for the restoration of navigability within these existing navigation channels. No new excavation is proposed.

Material will be hydraulically dredged via cutterhead dredge and transported via pipeline for placement at the Oyster Creek CDF in Lacey Township, Ocean County, New Jersey. The dredge pipeline to the placement site will be sunk except when floating to avoid submerged aquatic vegetation. The pipeline shall be marked as per USCG regulations.

PURPOSE: The applicant's stated purpose is to restore the existing navigation channel to authorized project depth thus providing safe navigation for both commercial and recreational vessels currently using the channels, and the beneficial use of the dredged material.

A preliminary review of this application indicates that the proposed work will not effect threatened and endangered species. While Atlantic Sturgeon (<u>Acipenser oxyrinchus</u>), Kemp's ridley sea turtle (<u>Lepidochelys kempii</u>), loggerhead sea turtle (<u>Caretta caretta</u>), green sea turtle (<u>Chelonia mydas</u>), leatherback sea turtle (<u>Dermochelys coriacea</u>) and hawksbill sea turtle (<u>Eretmochelys imbricate</u>) are possibly in the vicinity, due to the infrequent occurrences of the aforementioned species and considering the shallow water depths and boating activity, the project will not affect these species.

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.

Comments on the proposed work should be submitted, in writing, within 30 days to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390.

Review of the National Register of Historic Places indicates that no registered properties or properties listed as eligible for inclusion therein are located within the permit area of the work. The permit area has been so extensively modified and previously dredged that little likelihood exists for the proposed project to impact a historic property.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely effect Essential Fish Habitat (EFH). A preliminary assessment of the species listed in the "Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware", dated March 1999, indicates that the project would result in an adverse effect to EFH. In order to avoid or minimize impacts to EFH species from the dredging, specifically Winter Flounder (*Pseudoplueronectes americanus*), the USACE is recommending no in-water work will be authorized between January 1st and May 31st of any given year. As the process proceeds any additional impacts will be reviewed more extensively as more information becomes available.

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.

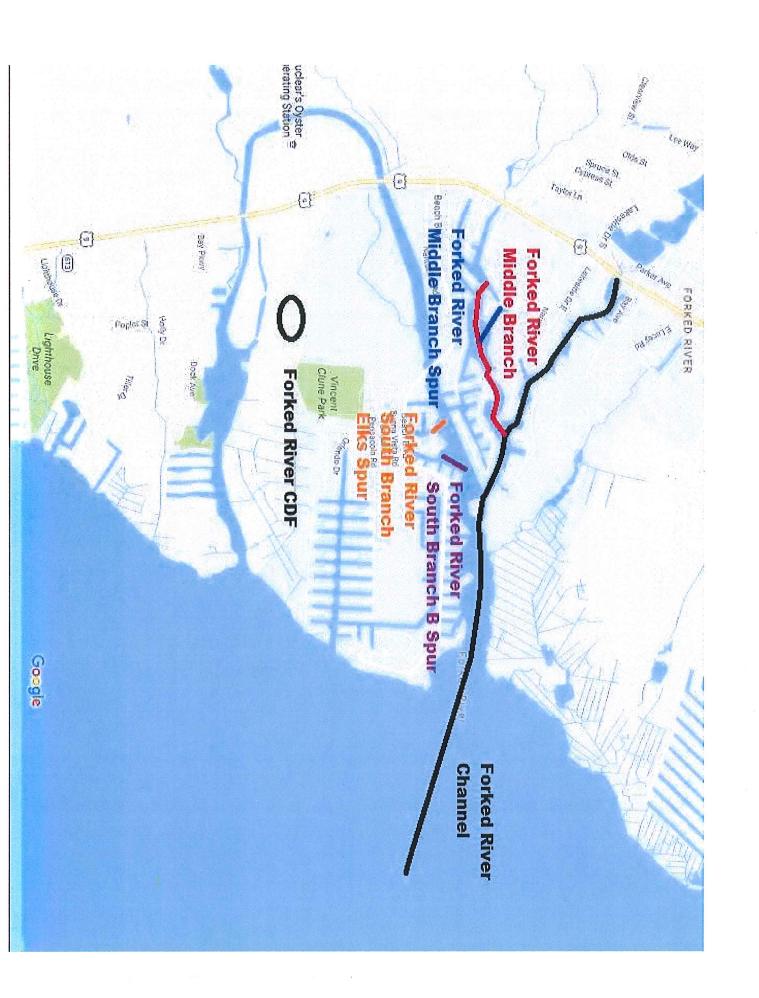
In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary from the State government in which the work is located. Any comments concerning the work described above which relate to Water Quality considerations should be sent to this office with a copy to the State.

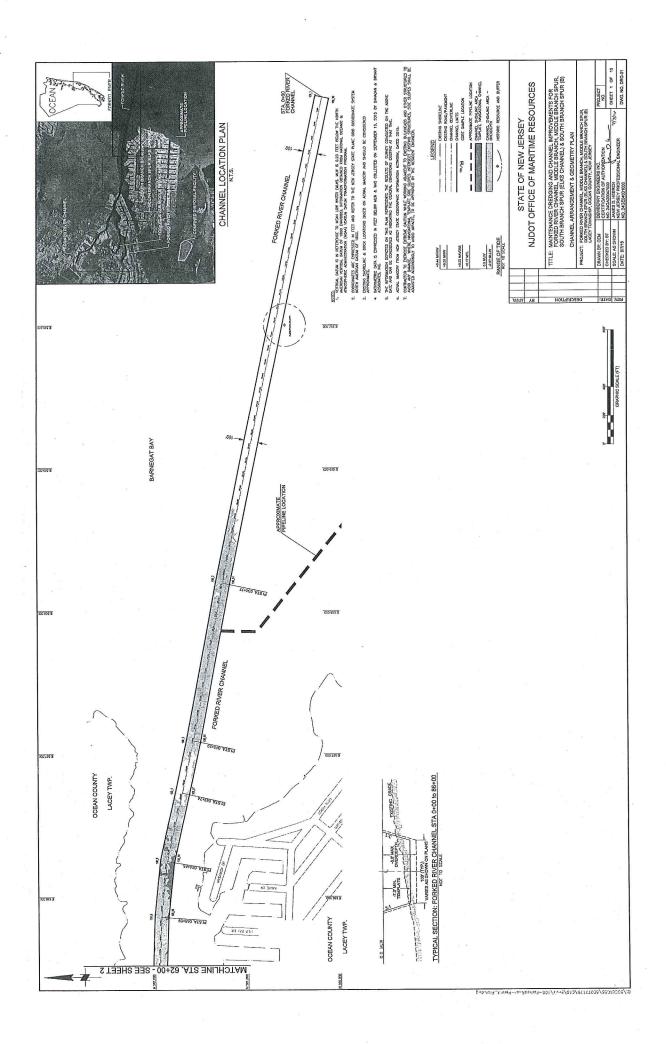
The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act.

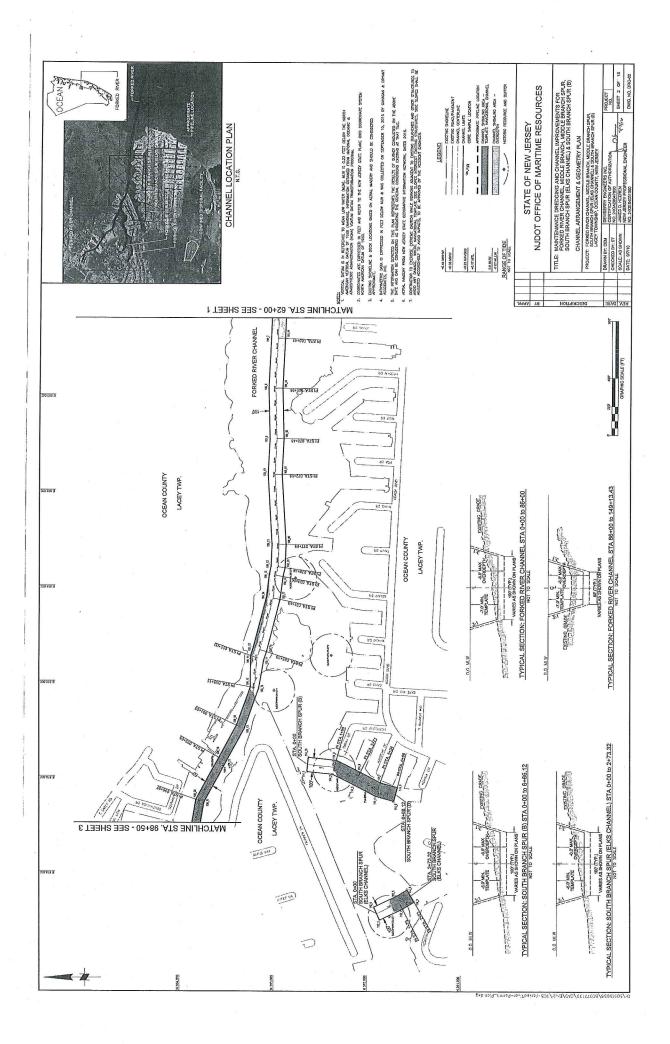
Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

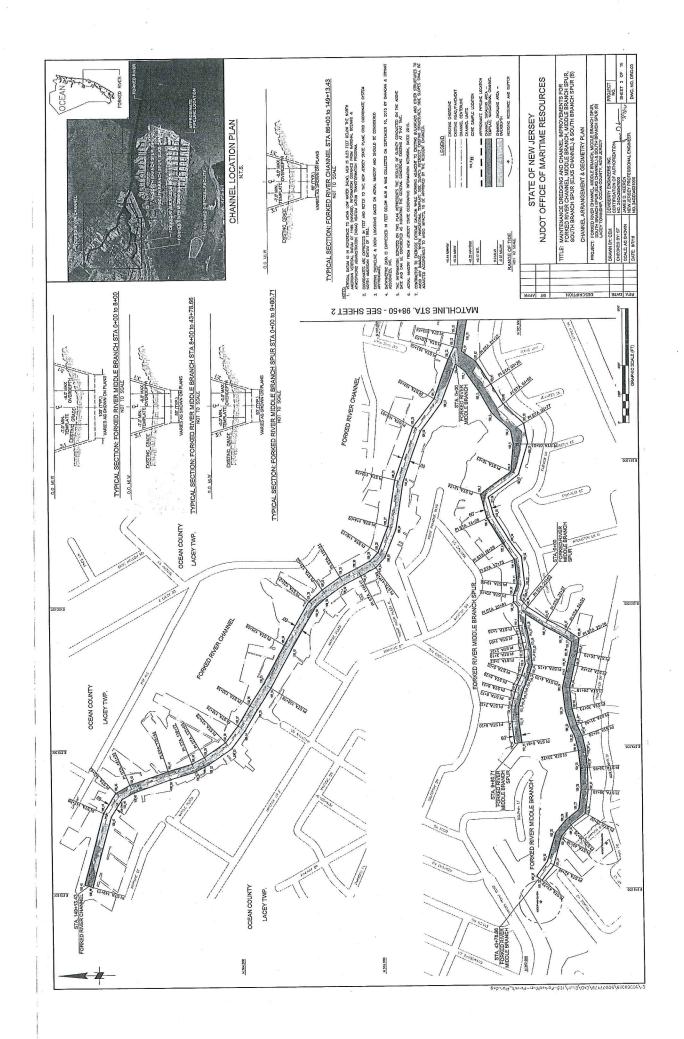
Additional information concerning this permit application may be obtained by calling Mr. Michael Hayduk at (215) 656-5822, via email at <a href="mailto:michael.h.hayduk@usace.army.mil">michael.h.hayduk@usace.army.mil</a> or writing this office at the above address.

Edward E. Bonner Chief, Regulatory Branch









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