



**US Army Corps
of Engineers**
Philadelphia District

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

Public Notice

Application Number:
CENAP-OP-R-2010-311-24

Date:
JUN 28 2018

Applicant:
City of Ocean City

In Reply Refer to:
REGULATORY BRANCH

This notice is in regard to the above referenced 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 application was submitted by the City of Ocean City to:

a) perform maintenance dredging of various lagoons, bay-front areas, marinas and State-designated navigation channels; b) dewater and dispose of dredged material at one of two existing confined (diked) disposal facilities (CDFs); and c) maintain a previously constructed access road in wetlands for the purpose of maintaining capacity for dredged material in their CDF known as Site 83 near Roosevelt Boulevard. The project site is located along Beach Thorofare and other waterways in the City of Ocean City, Cape May County, New Jersey.

The purpose of this notice is to address comments from the general public, which were received in response to our prior public notice of this application issued on October 16, 2017 and which can be found at:

http://www.nap.usace.army.mil/Portals/39/docs/regulatory/publicnotices/Public_Note_2010-0311-24.pdf. After a complete review of the permit application and in full consideration of the comments and recommendations received in response to our public notice, we have decided to issue a Department of the Army permit to the City of Ocean City.

This office has consulted with National Marine Fisheries Service (NMFS) pursuant to Section 7 of the Endangered Species Act (ESA). NMFS concurred with our determination that the proposed work is not likely to adversely affect federally listed species under their jurisdiction. In addition, this office has consulted with NMFS pursuant to the Magnuson-Stevens Fishery Conservation and Management Act regarding Essential Fish Habitat (EFH). Our EFH assessment resulted in a determination that the proposed work would not have a substantial adverse effect on the EFH of any managed species.

The main objections expressed in the public comments that we received were in regard to the access/haul road and its impacts to wetlands, including fish and wildlife. There were some additional comments regarding environmental effects of the dredging. Others expressed concerns about potential flooding as well as noise and traffic from the trucking operations.

The City, through their engineering consultant, has provided this office with their responses to the comments we received. With regard to the dredging, disposal and dewatering activities, the City has performed extensive sampling and testing of the sediments to be dredged. The results of that testing and analysis have been reviewed by the New Jersey Department of Environmental Protection

(NJDEP). The Corps' federal regulations, at 33 CFR 320.4(d), state that "the Clean Water Act assigns responsibility for control of non-point sources of pollution to the states. Certification of compliance with applicable effluent limitations and water quality standards required under provisions of Section 401 of the Clean Water Act will be considered conclusive with respect to water quality considerations ..." The NJDEP has issued the necessary State authorization to the City for the proposed dredging, disposal and release of return water from the disposal facilities. The NJDEP Waterfront Development Permit included Section 401 Water Quality Certification, an Acceptable Use Determination, and their concurrence that the proposed work is consistent with the New Jersey Coastal Zone Management Program.

The CDF roadway in wetlands adjacent to Roosevelt Boulevard is constructed of porous, pervious material. It was designed to an elevation that does not create a barrier to extreme tidal events. In addition to several pipe crossings to allow for flow, the porous nature of the roadway allows tidal flow under and through the roadway.

The access/haul road has impacted 1.31 acres of a City-owned wetland lot that is approximately 80 acres in size. Its location and route avoid the natural tidal marsh channels on either side, which facilitate tidal exchange by flooding and draining the marsh. The City has provided this office with an analysis of alternatives as required for the discharge of fill material in wetlands. In addition to the City's preferred alternative of a permanent roadway, the analysis included "no action," along with the previously approved (and attempted) method of off-loading material from the CDF onto barges for subsequent on-land re-handling and transfer to trucks. We have determined that the applicant has demonstrated that their preferred alternative avoids impacts to the aquatic environment to the maximum extent practicable while minimizing social impacts and fully meeting the project purpose and need. In addition, this office has required compensatory mitigation for the authorized wetland impacts at a 1:1 ratio. As such, the City has agreed to purchase a total of 1.31 "credits" from an approved wetland mitigation bank. This total includes 0.5 credit already purchased (for the previously approved temporary roadway) and an additional 0.81 credit. In addition, the City will monitor the wetlands alongside the road to ensure that they are not degraded by the roadway construction, including any colonization by non-native invasive species.

The City has stated that operation of the haul road site will be limited to the off-season in order to minimize disruption to traffic from the trucks. With the road in place, the City will be able to conduct routine maintenance of the CDF, including emptying, as needed to minimize the duration of operations. While we recognize that trucks using the City's CDF haul road may have short-term impacts with respect to traffic on Roosevelt Boulevard (a County highway) within the City limits, we defer to the City in managing and over-seeing traffic disruptions within their municipal boundaries.

The Corps finds that the project would not have unacceptable environmental or social effects, nor would it be contrary to the public interest. Furthermore, I have determined that a public hearing would not generate any additional information relative to my permit decision on the project. Therefore, such a proceeding is not warranted.

Additional information concerning this permit application may be obtained by calling James Boyer at (215) 656-5826, by electronic mail to James.N.Boyer@usace.army.mil, or by writing to this office at the above address.



Edward E. Bonner
Chief, Regulatory Branch