



PUBLIC NOTICE

US Army
Corps
of Engineers
Baltimore
District

In Reply to Application Number
CENAB-OP-RMN(HOPEWELL POINTE
LLC/MARINA, DREDGING)03-62616-21

Comment Period: 16 April 2003 to 30 April 2003

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC ABOUT THE WORK DESCRIBED BELOW. AT THIS TIME, NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED.

The Baltimore District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (33 U.S.C. 1344) and State authorization pursuant to the Tidal Wetlands Act and/or Nontidal Wetlands Protection Act, as described below:

APPLICANT: *Hopewell Pointe, L.L.C.*
Lou Breitenother
10817 Reisterstown Road
Owings Mills, MD 21117

LOCATION Hopkins Creek, Baltimore County, Maryland

WORK: To grade and fill 23,615 square feet (0.54 acre) of forested nontidal wetlands and 530 linear feet (2,275 square feet) of intermittent stream channel for a road crossing and lot fill; to construct a commercial marina, including Piers A & B with 136 slips and Pier C, an observation/fishing pier; to mechanically or hydraulically dredge an 80-foot by 1,665 foot area (3.1 acres) to a depth of 6 feet below MLW resulting in 7,000 cubic yards of dredge material to be deposited at Hart-Miller Island; and to construct 500 linear feet of stone revetment within a maximum 10 feet channelward of the MHW shoreline. All existing piers are to be removed. The purpose of the project is to provide a mixed-use, residential and commercial development in the Eastern Baltimore County revitalization district. Recreational water access is proposed as an amenity for the housing and commercial restaurant. This work was previously authorized on September 16, 1999 under tracking number 199862241.

The following work was not complete prior to expiration of the previous authorization and must be reauthorized: To dredge approximately 0.72 acres (31,150 square feet); deposit 1,050 cubic yards of dredge material at Hart-Miller Island; construct a commercial marina and community docks with 136 slips and one observation platform (19,155 square feet); impact 975 square feet of nontidal wetlands for a road; and install a submerged aquatic vegetation barrier.

Mitigation includes a \$20,000 fee-in-lieu payment to the Baltimore County Department of Environmental Protection and Resource Management to assist with stream restoration, and the creation of 50,930 square feet of forested nontidal wetlands and 525 square feet of emergent wetlands at the Dundee and Saltpeter Natural Area in Baltimore County. Work on the wetland mitigation area will begin this spring or summer when the weather allows.

Essential Fish Habitat (EFH) Assessment: The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 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 affect EFH. Hopkins Creek, a tributary to Middle River, has designated EFH for the following species: juvenile and adult windowpane flounder (Scopthalmus aquosus), juvenile and adult bluefish (Pomatomus saltatrix), juvenile and adult summer flounder (Paralichthys dentatus), and all life stages of king mackerel (Scomberomus cavalla), Spanish mackerel (Scomberomorus maculatus), cobia (Rachycentron canadum), and red drum (Sciaenops ocellatus). A preliminary assessment indicates that the proposed project will not have a temporary adverse

affect on EFH since no SAV will be directly impacted. Windowpane flounder, king mackerel, Spanish mackerel, cobia and red drum do not occur in the middle to upper Chesapeake Bay, and summer flounder would be rare based on its salinity range. Therefore, juvenile bluefish is the species of concern in the project area. A time of year restriction was included as a special condition of the previous authorization as an EFH conservation measure and would likely to be included in the re-authorization. As the evaluation of this application continues, additional information may become available, which could modify this preliminary determination.

All work is to be completed in accordance with the enclosed plan(s). If you have any questions concerning this matter, please contact *Ms. Jennifer M. Keane* at (410) 962-5675.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal 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, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and, in general, the needs and welfare of the people.

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.

The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act from the Maryland Department of the Environment. Any written comments concerning the work described above which relate to water quality certification must be received by the Standards and Certification Division Maryland Department of the Environment, Montgomery Park Business Center, 1800 Washington Boulevard, Suite 430, Baltimore, Maryland 21230-1708 within the comment period as specified above to receive consideration. Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the District Engineer, US Army Corps of Engineers, Baltimore District, PO Box 1715, Baltimore, Maryland 21203-1715, within the comment period as specified above to receive consideration. The 401 certifying agency has a statutory limit of one year to make its decision.

The applicant must obtain any State or local government permits which may be required.

A preliminary review of this application indicates that the proposed work will not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

Review of the latest published version of the National Register of Historic Places indicates that no registered properties listed as eligible for inclusion therein are located at the site of the proposed work. Currently unknown archeological, scientific, prehistoric, or historical data may be lost or destroyed by the work to be accomplished under the requested permit.

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 of the Clean Water Act. Any person who has an interest which may be adversely affected by the issuance of this permit may request a public hearing. The request, which must be in writing, must be received by the District Engineer, US Army Corps of Engineers, Baltimore District, PO Box 1715, Baltimore, Maryland 21203-1715, within the comment period as specified as above to receive consideration. Also, it must clearly state forth the interest which may be adversely affected by this activity in the manner in which the interest may be adversely affected.

It is requested that you communicate the foregoing information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice.