



**U.S. Army Corps
of Engineers**
Baltimore District
PN 20-56

Public Notice

**In Reply to Application Number
NAB-2020-00242 (C&O Canal/Wall Repair)**

Comment Period: August 21, 2020 to September 05, 2020

THE PURPOSE OF THIS PUBLIC NOTICE IS TO INFORM INTERESTED PARTIES OF THE PROPOSED ACTIVITY AND TO SOLICIT COMMENTS. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED AT THIS TIME.

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 and/or Section 404 of the Clean Water Act (33. U.S.C. 1344) as described below:

APPLICANT: The United States National Park Service
c/o Joseph Reed, CFM
1850 Dual Highway, Suite 100
Hagerstown, Maryland 21740

WATERWAY AND LOCATION OF THE PROPOSED WORK: In the Chesapeake and Ohio Canal (Canal) at 3207 Grace Street Northwest, Washington, District of Columbia 20007.

PROJECT PURPOSE: The purpose of the work is stabilize the deteriorating canal wall. The applicant proposes to complete this work in the dry by closing the locks and draining out the water out of the canal.

PROPOSED WORK: The applicant proposes, in accordance with the attached plans, to stabilize a section of the canal wall by installing a 30-foot wide by 137-foot long cofferdam, excavating approximately 83 cubic yards of sediment from a 4,110 square foot section of the canal and depositing the material at an upland disposal site; to install a 4-foot long wide by 88-foot long concrete footer with twelve 1-foot by 22-foot structural steel bracings perpendicular to the canal wall; to install a 4-foot long wide by 68-foot long concrete footer with twelve 1-foot by 23-foot steel bracings at a 45 degree angle to the canal wall; to install a 22-foot high by 65-foot long timber lagging wall with approximately 40 cubic yards of stone backfill between the steel braces and canal wall, all to extend more than 30 feet channelward of the approximate ordinary high water mark (canal wall).

The work is proposed in accordance with the enclosed plans dated June 12, 2020.

If you have any questions concerning this matter, please contact Ms. Laura Coleman at (410) 853-2051 or Lamuelle.L.Coleman@usace.army.mil.

AVOIDANCE, MINIMIZATION, AND COMPENSATORY MITIGATION:

As part of the planning process for the proposed project, steps were taken to ensure avoidance and minimization of impacts to aquatic resources to the maximum extent practicable based on

the existing site conditions. Compensatory mitigation is not being proposed by the applicant for impacts to open water habitat. No wetland fill impacts are proposed.

CORPS EVALUATION REQUIREMENTS: This project will be evaluated pursuant to Corps Regulatory Program Regulations (33 CFR Parts 320-332). The decision whether to issue a permit will be based on an evaluation of the probable impacts, 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 reasonable 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, economic, 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, mineral needs, and consideration of property ownership and in general, the 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.

ENDANGERED SPECIES: A preliminary review of this application indicates that the proposed work will have no effect on Federal listed threatened or endangered 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.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267), requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH), including species of concern, life cycle habitat, or Habitat Areas of Particular Concern. The project site does not lie in or adjacent to EFH as described under MSFCMA for managed species under the MSFCMA. The Baltimore District has made a preliminary determination that mitigative measures are not required to minimize adverse effects on EFH at this time. This determination may be modified if additional information indicates otherwise.

HISTORIC RESOURCES: Pursuant to Section 106 of the National Historic Preservation Act of 1966 and applicable guidance, the Corps has reviewed the latest published version of the National Register of Historic Places and initially determined that registered properties listed as eligible for inclusion, therein, are located at the site of the proposed work. The Corp's final eligibility and effect determination will be based on coordination with the State Historic Preservation Office and/or interested tribes, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps' identified permit area.

SECTION 408 MODIFICATION OF CIVIL WORKS PROJECTS: Through the Civil Works program, the US Army Corps of Engineers (USACE) serves the public by providing the Nation with quality and responsive management of the Nation's water resources. As a result, USACE, in partnership with stakeholders, has constructed many Civil Works projects, including the maintenance of federal navigation channels across the Nation's landscape. Given the widespread locations of these projects and federal navigation channels, many embedded within

communities, over time there may be a need for others outside of USACE to alter or occupy these projects and their associated lands. Reasons for alterations could include improvements to the projects; relocation of part of the project; or installing utilities or other non-project features.

In order to ensure that federal Civil Works projects continue to provide their intended benefits to the public, Congress mandated that any use or alteration of a Civil Works project or federal navigation channel by another party is subject to the approval of USACE. This requirement was established in Section 14 of the Rivers and Harbors Act of 1899, which has since been amended several times and is codified at 33 USC 408 (Section 408).

Section 408 provides that USACE may grant permission for another party to alter a Civil Works project or federal navigation channel upon a determination that the alteration proposed will not be injurious to the public interest and will not impair the usefulness of the Civil Works project or federal navigation channel. All Section 408 proposals will be coordinated internally at USACE. The Section 408 decision will be issued along with the Section 404 and/or Section 10 decision.

If this project requires a Section 408 review, the applicant does not need to re-apply for a Section 408 permit. All Section 408 proposals will be coordinated internally at USACE. The Section 408 decision will be issued along with the Section 404 and/or Section 10 decision.

WATER QUALITY CERTIFICATION: The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act from the Washington D.C. Department of Energy and Environment. Any written comments concerning the work described above which relate to water quality certification must be received by the Washington D.C. Department of Energy and Environment, Water Quality Division, 1200 First Street NE, Washington, DC 20002, 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.

SUBMISSION OF COMMENTS: 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 provided will become part of the public record for this action and are subject to release to the public through the Freedom of Information Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the U.S. Army Corps of Engineers, Baltimore District within the comment period specified above through postal mail at the address below or electronic submission to the project manager email address below. Written comments should reference the Public Notice Number and Application Number cited at the top of this Public Notice.

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 within the comment period as specified above to receive consideration. Also it must clearly set forth

the interest which may be adversely affected by this activity and the manner in which the interest may be adversely affected. The public hearing request may be submitted by electronic mail or mailed to the following address:

Project Manager Name
U.S. Army Corps of Engineers, Baltimore District
Regulatory Branch
2 Hopkins Plaza
Baltimore, Maryland 20201

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

If you have any questions concerning this matter, please contact Mrs. Lamuelle L. Coleman at Lamuelle.l.coleman@usace.army.mil and at 443-853-2051.

FOR THE DISTRICT ENGINEER:

Kathy B. Anderson
Chief, Maryland South Section