



U.S. Army Corps  
of Engineers  
Baltimore District

# Public Notice

In Reply to Application Number  
NAB-2018-62156 (Avericon Trust c/o Scott Bruce/Living  
Shoreline)

PN 19-16

Comment Period: March 11, 2019 through April 11, 2019

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**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)**, as described below:

**APPLICANT:** Avericon Trust  
c/o Mr. Scott Bruce  
P.O Box 179  
Valley Lee, Maryland 20692

**WATERWAY AND LOCATION:** All work is proposed in the Potomac River at 18873 and 18877 McKays Beach Road, Leonardtown, St. Mary's County, Maryland.

**PROPOSED WORK AND PURPOSE:** The applicant proposes to create a marsh along 90 linear feet of shoreline by depositing approximately 200 cubic yards of clean sloped sand fill and plant marsh vegetation to extend no more than 20 feet channelward of the existing bulkhead shoreline; to construct two 10-foot wide by 63-foot long segmented breakwaters to extend no more than approximately 63 feet channelward of the existing bulkhead shoreline. All work is to be completed in accordance with the attached plans dated May 2018. If you have any questions concerning this matter, please contact Mrs. Erica Schmidt at (410) 962-6029 or [Erica.Schmidt@usace.army.mil](mailto:Erica.Schmidt@usace.army.mil).

The proposed project is to provide improved shoreline erosion control at the project site by creating a living shoreline enhancing existing aquatic habitat. The existing bulkhead is failing and causing erosion concerns for the property owner.

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. No compensatory mitigation is proposed since no wetland fill impacts are proposed. Because the project extends greater than 50 feet channelward of the approximate mean high water line, it does not qualify for authorization pursuant to the MD-SPGP-5 and is being processed as a

standard permit.

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 evaluation of the impacts of the work described above on the public interest will include application of the Clean Water Act 404(b)(1) Guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act.

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.

Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the District Engineer, U.S. Army Corps of Engineers, Baltimore District, [Attn: Mrs. Erica Schmidt, CENAB-OPR-M], 2 Hopkins Plaza, Baltimore, Maryland 21201 or [Erica.Schmidt@usace.army.mil](mailto:Erica.Schmidt@usace.army.mil), within the comment period specified above.

**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). The project site lies in or adjacent to the Potomac River complex for EFH as described under the MSFCMA for *Scophthalmus aquosus* (windowpane flounder) juvenile; *Pomatomus saltatrix* (blue fish) juvenile and adult; *Paralichthys dentatus* (summer flounder) juvenile and adult; and the eggs, larvae, juvenile, and adult stages of

*Urophycis chuss* (red hake), *Leucoraja erinacea* (little skate) adult; *Clupea harengus* (Atlantic herring) juvenile and adult; *Leucoraja ocellata* (winter skate) adult; *Raja eglanteria* (clearnose skate) juvenile and adult, managed species under the MSFCMA.

The project has the potential to adversely affect EFH or the species of concern by loss of spawning, nursery, forage and/or shelter habitat as described under the MSFCMA for the species and life stages identified above. In addition, the site is not located within SAV. The Baltimore District has made a preliminary determination that site-specific impacts would not be substantial and an abbreviated consultation will be conducted with NMFS. No mitigative measures are recommended to minimize adverse effects on EFH at this time. This determination may be modified if additional information indicates otherwise and would change the preliminary determination. The project area is not a Habitat Area of Particular Concern (HAPC).

**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 Maryland Department of the Environment. Any written comments concerning the work described above which relate to water quality certification must be received by the Maryland Department of the Environment, Tidal Wetlands Division, Montgomery Park Business Center, 1800 Washington Blvd., Suite 430, Baltimore, Maryland 21230 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.

**COASTAL ZONE MANAGEMENT PROGRAM:** The applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with the Maryland Coastal Zone Program. This certification statement is available for inspection in the District Office; however, public comments relating to consistency must be received by the Tidal Wetlands Division, Maryland Department of the Environment, Montgomery Park Business Center, 1800 Washington Blvd. Suite 430, Baltimore, Maryland 21230, within the comment period as specified above. It should be noted that the MDE has a statutory limit of 6 months in which to make its consistency determination.

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

**ENDANGERED SPECIES ACT:** A preliminary review of this application indicates that the proposed work will not affect Federal listed threatened or endangered species or their critical habitat, pursuant to Section 7 of the Endangered Species Act, as amended because the proposed work does not extend into water depths sufficient for listed species. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

**NATIONAL HISTORIC PRESERVATION ACT:** 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

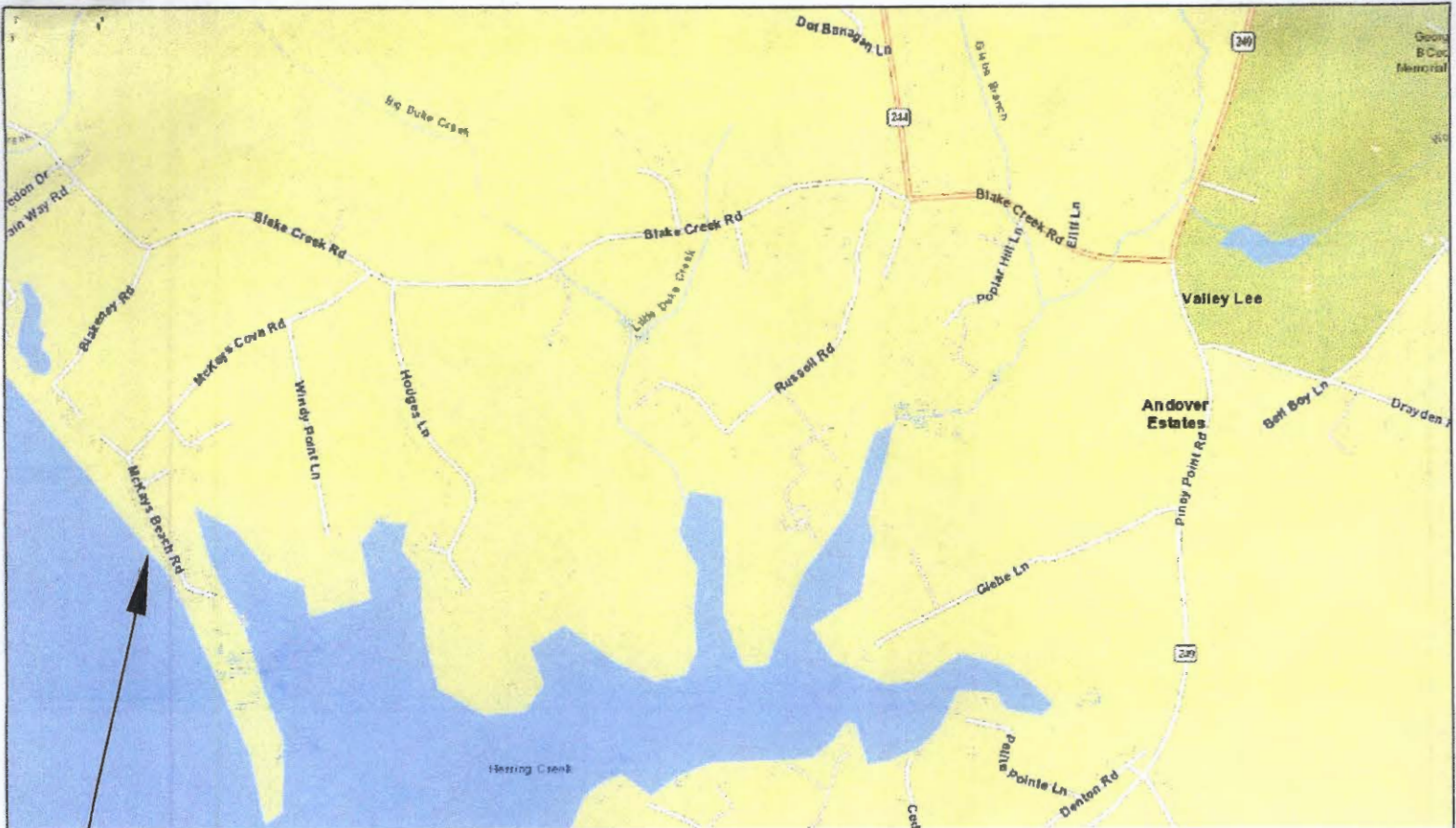
unknown archeological, scientific, prehistoric, or historical data may be lost or destroyed by the work to be accomplished under the requested permit.

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 District Engineer must receive the request, which must be in writing, to the U.S. Army Corps of Engineers, Baltimore District, 2 Hopkins Plaza, Baltimore, Maryland 21201, within the comment period as specified as above to receive consideration. Also, it must clearly state the interest that may be adversely affected by this activity and 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. If you have any questions concerning this matter, please contact Mrs. Erica Schmidt at (410) 962-6029 or [Erica.Schmidt@usace.army.mil](mailto:Erica.Schmidt@usace.army.mil).

FOR THE DISTRICT ENGINEER:

KATHY B. ANDERSON  
Chief, Maryland Section Southern



18873 & 7 MCKAYS BEACH RD.



**Colliflower & Peterson, Inc.**

Marine Contractors  
 P. O. Box 135  
 Callaway, MD 20620  
 301.994.2824

PROJECT:	SEGMENTED BREAKWATER LIVING SHORELINE	TAX MAP:	061A	DEED:	183/71 # 4590/482
OWNER:	SCOTT BRUCE	PARCEL:	33 # 34	LOT:	
COUNTY:	ST. MARYS	STREET:	18873 & 18877 MCKAYS BEACH RD		
WATERWAY:	POTOMAC RIVER	DATE:	12/15/2018	SHEET:	1 OF 2



**Collflower & Peterson, Inc.**  
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 P. O. Box 135  
 Callaway, MD 20620  
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<b>PROJECT:</b> SEGMENTED BREAKWATER LIVING SHORELINE	<b>TAX MAP:</b> 061A	<b>DEEDS:</b> 183/71 & 4590/482
<b>OWNER:</b> SCOTT BRUCE	<b>PARCEL:</b> 33 & 34	<b>LOT:</b>
<b>COUNTY:</b> ST. MARYS	<b>STREET:</b> 18873 & 18877 MCKAYS BEACH RD	
<b>WATERWAY:</b> POTOMAC RIVER	<b>DATE:</b> 12/15/2018	<b>SHEET:</b> 2 OF 2