

U.S. Army Corps
of Engineers
Baltimore District

Public Notice

In Reply to Application Number
**CENAB-OP-RMS (Kent County Commissioners /
Fairlee Creek/Dredging) 2015-61267**

PN 16-08

Comment Period: January 29, 2016 to February 18, 2016

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE WORK DESCRIBED BELOW. 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: Kent County Commissioners
C/o James M. Wright, Jr. PE
709 Morgnec Road
Chestertown, Maryland 21620

LOCATION: In the Chesapeake Bay at the entrance to Fairlee Creek and Great Oak Marina located near Worton, Kent County, Maryland.

PROPOSED WORK AND PURPOSE: To maintenance dredge by hydraulic method an approximate 1.84 acre area of an entrance channel, to a depth of -7.0 feet mean low water (MLW). The resulting approximately 4,000 cubic yards of sand, silt and clay dredged material is to be deposited by hydraulic means in an existing approved upland (non-wetland) disposal area at Great Oak Marina, near Worton, Kent County, Maryland. Ten year maintenance dredging is requested. The existing depths in the proposed dredge area range from -5.0 feet MLW to -8.0 feet MLW. All work will be completed in accordance with the enclosed plan(s). If you have any questions concerning this matter, please contact Mr. Eugene Morgenthaler at (410) 820-8629 or eugene.j.morgenthaler@usace.army.mil.

Site layout for this project was based upon existing contours that would most practically avoid and minimize impacts to jurisdictional waters. Efforts were made to avoid, to the maximum extent possible, the long and short term adverse impacts associated with the proposed project. The proposed impacts were reduced by proposing the minimum depths required for the recreational and commercial vessels utilizing the Great Oak Marina facility. Compensatory mitigation is not being proposed by the applicant for the dredging impacts. The project would be performed hydraulically and all dredge pipes would be free standing, laid on the bottom, with no pilings required.

The purpose of the proposed project is to restore required depths within the channel into Fairlee Creek and Great Oak Marina.

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 EFH as described under the MSFCMA for the *Scophthalmus aquosus* (windowpane flounder) juvenile and adult; *Pomatomus saltatrix* (blue fish) juvenile and adult; *Paralichthys dentatus* (summer flounder) juvenile and adult; and eggs, larvae, juvenile and adult stages of *Sciaenops ocellatus* (red drum), *Scomberomorus cavalla* (king mackerel), *Scomberomorus maculatus* (spanish mackerel), and *Rachycentron canadum* (cobia), managed species under the MSFCMA.

The project has the potential to adversely affect EFH or the species of concern by loss of nursery, forage and/or shelter habitat. According to the Virginia Institute of Marine Science (VIMS) surveys, there are no SAV species that exist in the Chesapeake Bay and in the channel to Fairlee Creek and Great Oak Marina. Part of the project area has been periodically dredged pursuant to U.S. Army Corps permit numbers 1990-03212 and 1994-69147. The project may have an adverse effect on EFH as described under the Magnuson-Stevens Fishery Conservation and Management Act for the species and life stages identified above. However, the District Engineer has made a preliminary determination that site-specific impacts would not be substantial and an abbreviated consultation will be conducted with NMFS. This determination may be modified if additional information indicates otherwise and would change the preliminary determination.

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 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. 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, P.O. Box 1715, Baltimore, Maryland 21203-1715 within the comment period specified above.

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 Wetlands and Waterways Program, 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. The Section 401 certifying agency has a statutory limit of one year from the date of this public notice to make its decision.

Where applicable, the applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with the approved Coastal Zone Management (CZM) Program. By this public notice, we are requesting the State concurrence or objection to the applicant's consistency statement. It should be noted that the CZM Program has a statutory limit of 6 months to make its consistency determination.

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 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.

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 request permit.

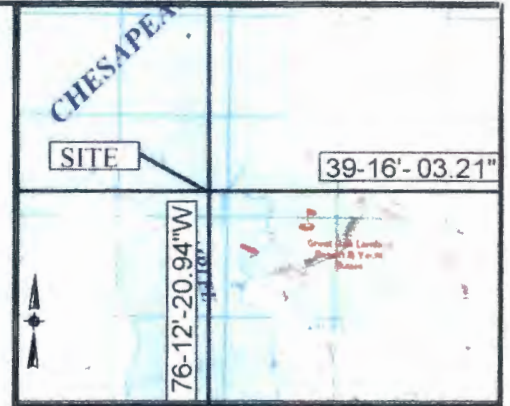
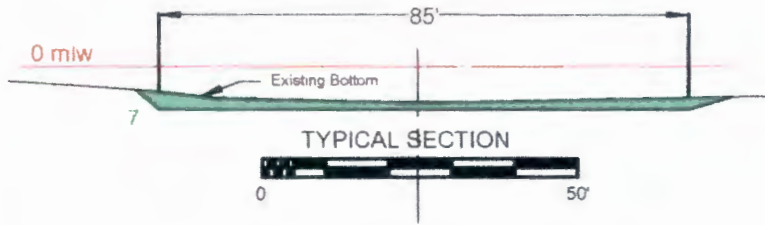
The evaluation of the impact of this project on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act.

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, U.S. Army Corps of Engineers, Baltimore District, P.O. Box 1715, Baltimore, Maryland 21203-1715, 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.

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.

FOR THE DISTRICT ENGINEER:

KATHY B. ANDERSON
Chief, Maryland Section Southern



VICINITY MAP KENT CO.
ADC Map 7, C-8



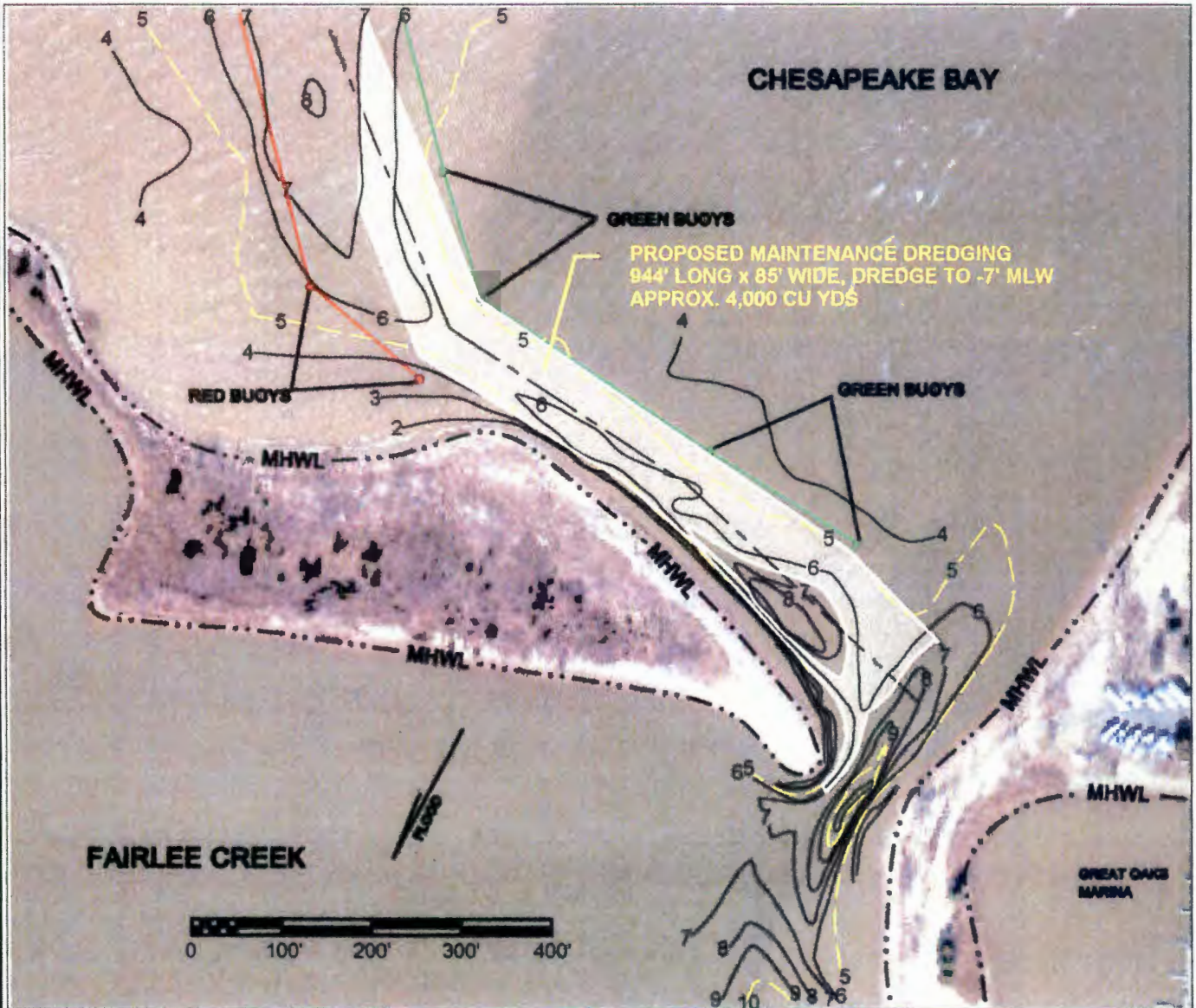
**PROPOSED MAINTENANCE
DREDGING**

NOTES

- 1 TIDAL WATERS
- 2 ELEVATIONS BASED ON 0 MLW, TIDE BOARD ON THE CORNER OF THE PIER AT GREAT OAKS MARINA 4PK NAILS AT +4' MLW
- 3 PROPOSED WORK IS TO MAINTENANCE DREDGE THE ENTRANCE CHANNEL INTO FAIRLEE CREEK TO A -7' MLW AND DISPOSE OF THE DREDGE MATERIAL IN THE EXISTING SPOIL SITE ON THE GREAT OAKS MARINA SITE

IN FAIRLEE CREEK
TOWN. NEAR WORTON
COUNTY. KENT
STATE. MARYLAND
APPL BY KENT COUNTY
James M Wright Jr P.E
County Engineer
709 Morgnec Road
Chestertown MD 21620

DATE SEPT, 2015



NOTE THIS CHANNEL WAS DREDGED IN 1991 AS A STATE FUNDED PROJECT AND EMERGENCY DREDGING AFTER STORMS IN 1995

PROPOSED MAINTENANCE DREDGING

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IN: FAIRLEE CREEK
 TOWN: NEAR WORTON
 COUNTY: KENT
 STATE: MARYLAND
 APPL BY: KENT COUNTY
 James M Wright, Jr P E
 County Engineer
 709 Morgnac Road
 Chestertown, MD 21620

DATE: SEPT, 2015



Shell Point Farm & Forest LLC
1691 Ten Mile Square Rd
PO Box 325
East Charleston, VT 05833

Cliff Road Properties LLC
Attn: Randall Cooper
870 High Street
Chestertown, MD 21620

Great Oak Landing LP
c/o Meisel & Cohen Properties
6000 Executive Blvd, Suite 700
Rockville, MD 20852

Proposed dredge
material site

1 inch = 400 feet

Source: Kent County Department of Planning, Housing and Zoning, MdProperty View 2013. Aerial taken Spring 2013. Map prepared August 2015.