

**U.S. Army Corps  
of Engineers**  
Baltimore District

# Public Notice

In Reply to Application Number  
CENAB-OP-RMS (Bunting Family LLC-The Angler) 2012-60773

PN 13-20

Comment Period: April 10, 2013 to May 9, 2013

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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 (DA) 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:** Bunting Family, LLC  
P.O. Box 505  
Ocean City, Maryland 21843

**LOCATION:** In the Sinepuxent Bay at the Angler, south of the Route 50 Bridge, 312 Talbot Street, Ocean City, Worcester County, Maryland.

**WORK:** To construct approximately 37 feet of new bulkhead with a 9 foot long return wall with approximately 62 yards of associated backfill to extend approximately 9 feet channelward of the existing deteriorated bulkhead; to install five 10-foot wide by 20-foot long floating personal water craft platforms along the existing northernmost pier to extend no more than 120 feet channelward of the existing bulkhead in the Sinepuxent Bay directly south of the Route 50 bridge at the Angler, 312 Talbot Street, Ocean City, Worcester County, Maryland. All work is to be completed in accordance with the proposed plan(s). If you have any questions concerning this matter, please contact Ms. Laura Shively of this office at (410) 962-6011 or via email at [laura.shively@usace.army.mil](mailto:laura.shively@usace.army.mil).

The purpose of the project is to improve docking facilities within an existing marina; improve shoreline erosion control; and to improve safety.

As part of the planning process for the proposed project, steps were taken to ensure avoidance and minimization of impacts to waters of the United States to the maximum extent practicable. Compensatory mitigation is not being proposed by the applicant for impacts to open water (inter-tidal and sub-tidal) habitat. A 9-foot channelward encroachment would be necessary to ensure the safety of the adjacent restaurant building, which is partially located on the existing parallel walkway at the project location, during extreme storm and high tide events and, create a single linear bulkhead underneath the building rather than the existing angled bulkhead.

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 effect essential fish habitat (EFH).

The project site lies in or adjacent to EFH as described under MSFCMA for *Pleuronectes americanus* (winter flounder), *Scopthalmus aquosus* (windowpane flounder), *Pomatomus saltatrix* (blue fish), *Stenotomus chrysops* (scup), *Centropristus striata* (black sea bass), and *Paralichthys dentatus* (summer flounder) juvenile and adult; *Urophycis chuss* (red hake) eggs, larvae, and juvenile; *Peprilus triacanthus* (Atlantic butterfish) and *Sphyrna lewini* (scalloped hammerhead shark) juvenile; *Clupea harengus* (Atlantic sea herring) and *Prionace glauca* (blue shark) adult; *Odontaspis taurus* (sand tiger shark) larvae and adult; *Squatina dumerili* (Atlantic angel shark) and *Charcharinus plumbeus* (sandbar shark) larvae, juvenile, and adult; *Charcharinus obscurus* (dusky shark) and *Galeocerdo cuvieri* (tiger shark) larvae; and eggs, larvae, juvenile, and adult stages of *Scomberomorus cavalla* (king mackerel), *Scomberomorus maculatus* (spanish mackerel), and *Rachycentron canadum* (cobia); all managed species under the MSFCMA.

The project has the potential to adversely affect EFH or the species of concern by alteration of spawning, nursery, forage and/or shelter habitat. The project may have an adverse effect on approximately 1,333 square feet of EFH as described under the MSFCMA for the species and life stages identified above. This habitat consists of a mostly sandy sub-tidal substrate that does not support submerged aquatic vegetation (SAV) or hard clams (*Mercenari mercenary*). The proposed project will alter the existing elevations within the project footprint. 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. 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 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 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, PO Box 1715, Baltimore, Maryland 21203-1715, within the comment period as specified above to receive consideration.

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, 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.

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 Coastal Zone Division, Maryland Department of the Environment, 1800 Washington Blvd. Suite 430, Baltimore, Maryland 21230, within the comment period as specified above. It should be noted that CZ Division 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.

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 District Engineer must receive the request, which must be in writing, U.S. 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 that 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.

FOR THE DISTRICT ENGINEER:

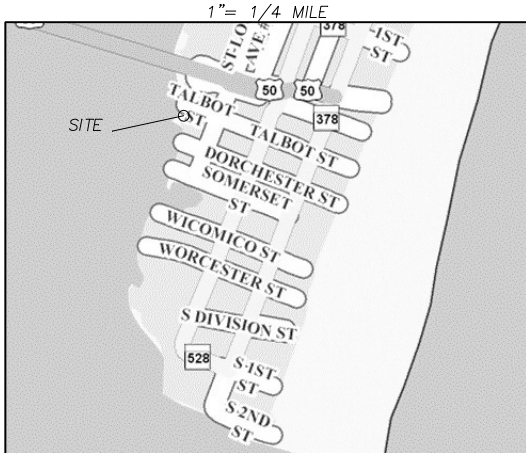
Kathy B. Anderson  
Chief, Maryland Section Southern

# SHORELINE PERMIT DRAWING

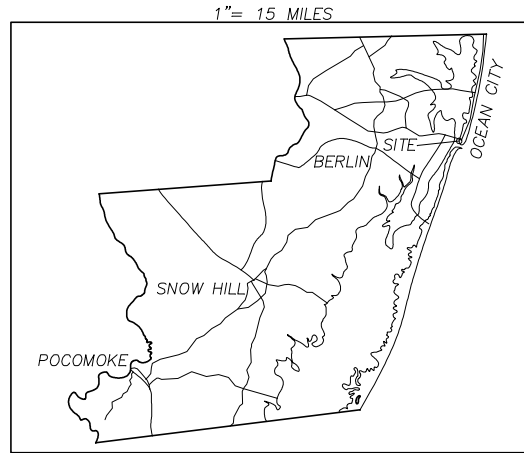
ON LANDS OF  
**BUNTING FAMILY LLC, "THE ANGLER"**

312 TALBOT STREET - OCEAN CITY  
TENTH TAX DISTRICT - TAX MAP 110 PARCEL 2458 - WORCESTER COUNTY

## NEIGHBORHOOD MAP

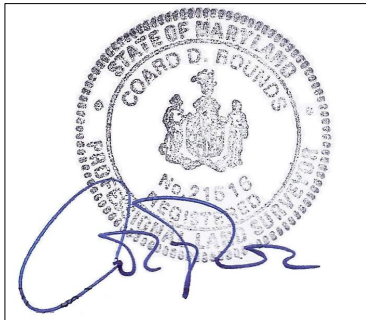


## VICINITY MAP



**GENERAL NOTES:**

1. DEED REFERENCE: S.V.H. 2533-31
2. PROPOSED SHORELINE IMPROVEMENTS TO BE CONSTRUCTED IN THIS ORDER: (1) PROPOSED 145 L.F. OF BULKHEAD, SHALL NOT EXCEED 18" CHANNELWARD, EXCEPTING THOSE AREAS WHERE THE EXISTING BUILDING PROHIBITS CONSTRUCTION, WHERE BULKHEAD SHALL BE CONSTRUCTED AS SHOWN HEREON. (2) MAINTENANCE DREDGING ON EXISTING MARINE BASIN, NOT TO EXCEED 500 CY; SEE FOLLOWING SHEETS FOR DETAILS. (3) FIVE FLOATING P.W.C. DOCKS, NOT TO EXCEED 200 SQ. FT. EACH.
3. ELEVATIONS SHOWN HEREON ARE BASED WITHIN AN ASSUMED DATUM. MEAN HIGH WATER MEASURED AT THE TOP OF LINE OF SATURATION, AND IS HELD AS 0.64' IN THE DATUM ASSUMED HEREON.
4. THERE WAS NO EVIDENCE FOUND OF TIDAL OR NON-TIDAL WETLANDS ON THE SUBJECT PARCEL DURING THE PERFORMANCE OF THE FIELD SURVEY.
5. THE MARYLAND DEPT. OF NATURAL RESOURCES MAPS OF SUB-AQUATIC VEGETATION DO NOT BEAR INDICATION OF ANY S.A.V. RATINGS (S.A.V. 2001-02) OFF SHORE FROM THE SUBJECT PARCEL.
6. NO TREES OR OTHER VEGETATION NEED TO BE REMOVED IN ORDER TO COMPLETE THE PROPOSED IMPROVEMENTS.
7. NO STAGING AREA IS REQUIRED FOR THIS PROJECT.
8. PER OCEAN CITY SEC.110-276, BULK REGULATIONS FOR A PROPERTY ZONED DM, THE FOLLOWING BUILDING RESTRICTIONS APPLY TO THE SUBJECT PARCEL:  
  
 MINIMUM FRONT YARD: 10'  
 MINIMUM SIDE YARD: 5'  
 MINIMUM REAR YARD: 10'
9. CONSTRUCTION OF THE PROPOSED SHORELINE IMPROVEMENTS SHALL COMPLY WITH THE STANDARDS ADOPTED BY THE OCEAN CITY BOARD OF PORT WARDENS.



COARD D. BOUNDS, PROF. LAND SURVEYOR  
MD 21516 - EXP. JULY 15, 2013



### BOUNDS LAND SURVEY LLC

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DRAWN:	FEBRUARY 11, 2012	REVISED:	FEB. 26, 2013 (10th REVISION)
SURVEYED:	FEBRUARY 10, 2012	JOB:	067
		SHEET: 1 OF 3	

