



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

Public Notice

In Reply to Application Number
CENAB-OP-RMS (ABNERS CRABHOUSE AND MARINA)
2013-60793

PN: 15-44

Comment Period: July 9, 2015 to August 9, 2015

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: Mr. Robert F. Abner
P.O. Box 999
Chesapeake Beach, Maryland 20732

LOCATION: In a marina basin off Fishing Creek located at Abners Crab House and Marina at 3741 Harbor Road in Chesapeake Beach, Calvert County, Maryland.

WORK: To remove an existing 8-foot wide by 196-foot long timber platform and connected finger piers; to construct 198-foot long fiberglass composite bulkhead to extend approximately 60 to 141 feet channelward of the approximate mean high water shoreline within the marina basin; to backfill and grade an existing approximate 20,980 square foot manmade open water marina basin with approximately 4,277 cubic yards of clean fill material; to construct a 5-foot wide by 196-foot long parallel platform on the new bulkhead and to construct six 3-foot wide by 15-foot long tapered finger piers and to install 30 mooring piles to extend approximately 15 feet channelward of the proposed bulkhead .All work is to be completed in accordance with the proposed plan(s). If you have any questions concerning this matter, please contact Mrs. Erica Schmidt of this office at (410) 962-6029 or via email at erica.schmidt@usace.army.mil.

Site layout for this project was based upon the need for additional upland area to accommodate the parking spaces to fully utilize the restaurant. The marina basin was excavated between 1964 and 1971 from uplands. The basin has not been maintained and the current depths range from approximately -18 inches to -4 feet mean high water.

The applicant is proposing to create approximately 10,445 square feet of emergent tidal wetlands within the area adjacent to the proposed project. The material excavated from the mitigation site will be used to fill in the marina basin.

The purposes of the project are creation of a parking lot to service the existing restaurant; shoreline erosion control; and improved navigational access.

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 Gadus morhua (Atlantic Cod) adult, Pleuronectes americanus (winter flounder) juvenile, and adult, Scophthalmus aquosus (windowpane flounder) eggs, larvae, juvenile and adult; Pomatomus saltatrix (blue fish) juvenile and adult; (Lophius americanus) (Monkfish) eggs and larvae, Stenotomus chrysops (scup) juvenile and adult; Centropristus striata (black sea bass) juvenile and adult; Paralichthys dentatus (summer flounder) larvae, juvenile and adult; Urophycis chuss (red hake) eggs, larvae, juvenile; (Peprilus triacanthus (Atlantic butterfly) eggs, juvenile, adult; Clupea harengus (Atlantic sea herring) juvenile and adult; Odontaspis taurus (sand tiger shark) larvae and adult; Squatina dumerili (Atlantic angel shark) larvae, juvenile, and adult; Charcharinus obscurus (dusky shark) larvae; Charcharinus plumbeus (sandbar shark) larvae, juvenile, and adult; Odontaspis taurus sand tiger shark, larvae and juvenile, Sphyrna lewini (scalloped hammerhead shark) juvenile; Rhizopriondon terraenovae (Atlantic sharpnose shark) adult, Prionance glauca (blue shark) adult 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), Spisula solidissima (surf clam) juvenile, 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 0.48 acres of EFH as described under the MSFCMA for the species and life stages identified above. This habitat consists of a mostly sandy and silty sub-tidal substrate that does not support submerged aquatic vegetation (SAV). The proposed project would alter the existing elevations and substrate within the project footprint and the areas filled would not support the current benthos and fishery.

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 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.

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 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, 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 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.

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, 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 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