

U.S. Army Corps of Engineers Baltimore District

Public Notice

In Reply to Application Number: NAB-OPR-M (DP&L Easton to Bozman – Reconfiguration & Maintenance) 2018-60603-M34

PN 18-56

Comment Period: October 17, 2018 to November 16, 2018

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: Delmarva Power & Light Company (DP&L) A subsidiary of Exelon Corporation C/o Ms. Kim Teoli P.O. Box 9239 Newark, Delaware 19714-9239

WATERWAY AND LOCATION OF THE PROPOSED WORK: In tidal and nontidal wetlands draining to the Miles River from Easton to Bozman, Talbot County, Maryland.

PROPOSED WORK AND PURPOSE: To conduct utility line maintenance and reconfiguration activities along an approximately 12.1 mile long 69 kV aerial transmission line, within the existing maintained right-of-way (ROW), beginning at the Easton Substation located at the intersection of Easton Parkway and West Glenwood Avenue in Easton, Talbot County, Maryland and ending at the Bozman Substation located off St. Michaels Road, in St. Michaels, Talbot County, Maryland (Circuit No. 6782 and 6785) as follows: to emplace temporary construction matting for construction access to upgrade and replace 27 existing wooden pole structures. The project would result in total permanent impacts to approximately 14.14 square feet (0.0003 acres) of nontidal wetlands at two new pole structures; temporary impacts to approximately 209,038 square feet (4.8 acres) of nontidal wetlands for emplacing temporary interlocking composite matting at each line structure; and approximately 22,527 square feet (0.57 acres) of temporary tidal wetland impacts for construction access matting. All pole structures removed would be hauled off-site to an upland (non-wetland) disposal site.

The purpose of the project is to upgrade the existing line's integrity and prevent power outages for improved regional reliability. The work would be achieved by removing and replacing older existing pole structures with new structures, replacing existing braces and cross-arms, and repairing as necessary deteriorated line items as part of the scheduled utility line maintenance activities.

AVOIDANCE AND MINIMIZATION STATEMENT: 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. The majority of the project impacts are

temporary in duration and are a result of emplacing temporary interlocking composite matting for construction vehicle access within the existing maintained utility line ROW easement. The permanent impacts are due to placing two new pole structures in close proximity to the original pole structure positions within nontidal wetlands to keep the centerline of the transmission line from deviating from the existing ROW. Due to the linear nature of the project and the route being limited to the existing ROW, there are few options available for complete avoidance. Of the 27 proposed replacement pole structures, only 2 are proposed in nontidal wetlands. Existing access roads currently used during regular ROW maintenance activities would be utilized to the greatest extent possible. Temporary construction access within wetlands was designed to be the minimum width required for construction vehicle access. All stream crossings would be bank-to-bank with no permanent impacts to channel or flow. Where practicable, stream crossings would occur from existing roadways or culvert crossings or through the use of a temporary bank-to-bank bridge crossing. The proposed project would not require replacement of existing culverts. There is a single tidal crossing where temporary construction access matting would be emplaced within tidal estuarine marsh for access to Pole Structures No. 95 and No. 96 adjacent to the Miles River.

MITIGATION STATEMENT: The applicant has proposed to remediate all temporary construction access impacts following completion of the work. Compensatory mitigation is not being proposed by the applicant for the permanent loss of approximately 14.14 square feet (0.0003 acres) of nontidal wetlands at this time. The permanent impacts are under 1/10th of an acre of loss.

All work is proposed to be completed in accordance with the attached plan(s) and work description. If you have any questions concerning this matter, or would like to submit written comments, please contact: Mr. Jason R. Peters, Baltimore District, Corps of Engineers, Regulatory Branch, Easton Field Office, Talbottown Shopping Center 218 N. Washington Street, Suite 51, (410) 820-8550, Jason.R.Peters@usace.army.mil.

The decision whether to authorize this project will be based on an evaluation of 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 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, Regulatory Branch, Easton Field Office, Talbottown Shopping Center 218 N. Washington Street, Suite 51, Easton, Maryland, 21601, 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 lies in or adjacent to EFH as described under the MSFCMA in the Chesapeake Bay mainstem for *Urophycis chuss* (red hack) juvenile and adult; *Scopthalmus aquosos* (windowpane flounder) juvenile and adult; *Clupea harengu*s (Atlantic sea herring) adult; *Pomatomus saltatrix* (blue fish) juvenile and adult; Peprilus triacanthus (Atlantic butterfish) eggs, larvae, juvenile, and adult; *Paralicthys dentatus* (summer flounder) larvae, juvenile and adult; *Stenotomus chrysops* (scup) juvenile, and adult; stages of *Sciaenops ocellatus* (red drum), *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, managed species, or associated species of concern such as major prey species, including affected life history stages by loss of spawning, nursery, forage and/or shelter habitat as described under the MSFCMA for the species and life stages identified above. Adverse effects would likely be temporary to benthic organisms due to placement of construction vehicle access matting to conduct the overhead utility line maintenance and reconfiguration activities within tidal wetlands. 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 both individually and cumulatively. 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). Mapped submerged aquatic vegetation (SAV) is located within the waterway, however the limits of SAV are outside of the proposed action area and would be entirely within the existing ROW easement. The proposed approximately 22,527 square feet (0.57 acres) impacts proposed to existing tidal estuarine wetland are temporary in duration and would be no more than minimal to prey species. This would involve and would occur within the existing maintained utility line ROW and are used for utility line trucks to access line structures. All temporary matting would be removed in accordance with the best management practices for temporary construction access and those areas impacted returned to preconstruction conditions.

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 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.

COASTAL ZONE MANAGEMENT PROGRAMS: The applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with the State's federally-approved Coastal Zone Management Program (CZMP). By this public notice, we are requesting the State's concurrence or objection to the applicant's consistency certification statement. Public comments relating to consistency must be received by the Coastal Zone Division, MDE, Montgomery Park Business Center, 1800 Washington Blvd., Suite 430, Baltimore, Maryland, 21230-1708, within the comment period as specified above. It should be noted that Maryland's CZMP has a statutory limit of six (6) months from the date of this public notice 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 using the U.S. Fish and Wildlife Service IPaC online screening tool indicates that the proposed work will not affect any Federal listed threatened or endangered species or their critical habitat, pursuant to Section 7 of the Endangered Species Act (ESA), as amended. The project location and vicinity is not mapped as critical habitat for any known Federally-listed threatened or endangered species under USFWS' jurisdiction. 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. As the evaluation of this proposal continues, additional information may become available which could modify this preliminary determination.

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, District Engineer, U.S. Army Corps of Engineers, Baltimore District, District Engineer, U.S. Army Corps of Engineers, Baltimore District, Regulatory Branch, Easton Field Office, Talbottown Shopping Center, 218 N. Washington Street, Suite 51, Easton, Maryland, 21601, 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

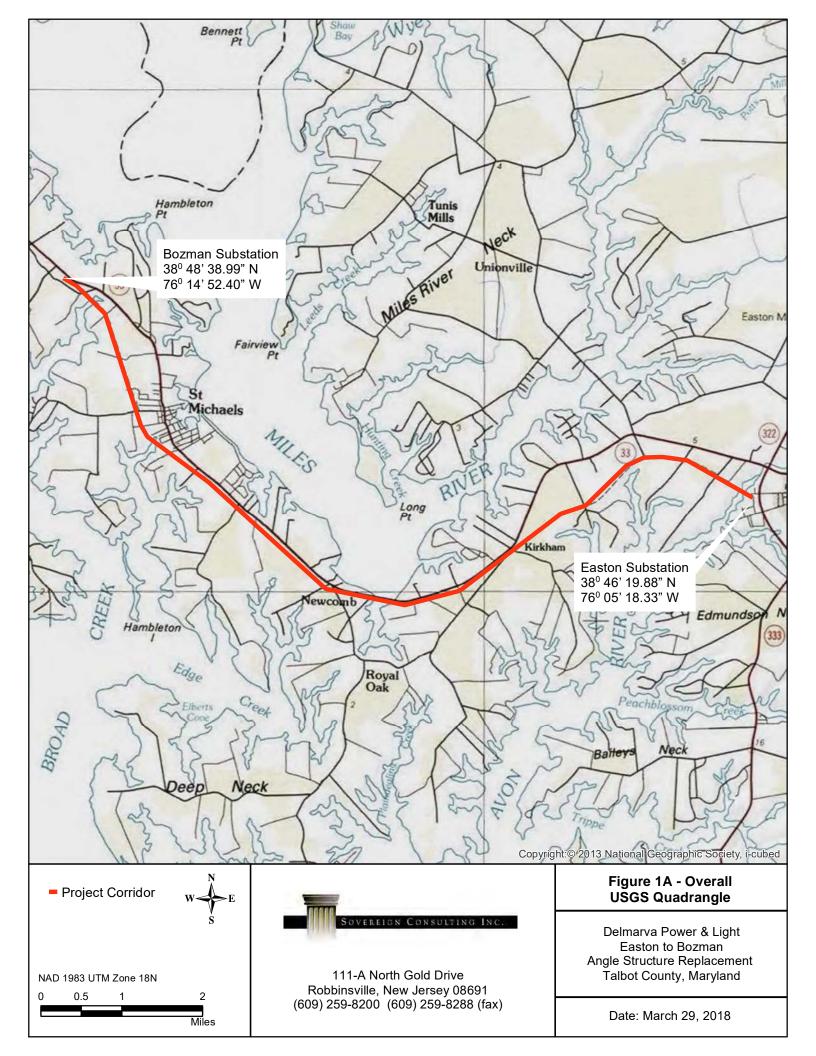


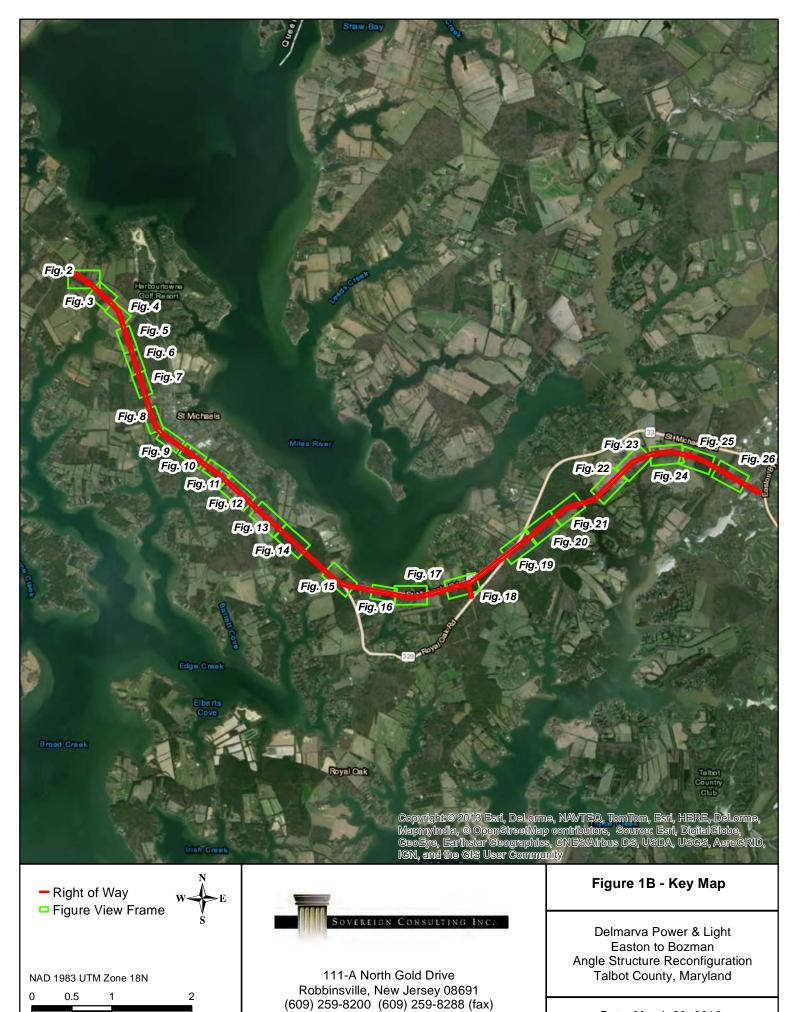
Table 1 below presents regulated activities and related impacts separated by regulatory agency.

Table 1. Regulated activities and their impacts separated out by regulatory agency

MDE Regulated Activities				
Non-Tidal Wetland Structure	14.138 SF			
Non-Tidal Buffer Structure	71.477 SF			
USACE Regulated Activities				
Non-Tidal Wetland Structure	14.138 SF			
Temporary Wetland Impact (BMP) ¹ (Maximum)	209,038 SF/4.799 Ac			
¹ USACE does not regulate wetland buffers and as such, the temporary buffer impacts associated with BMPs are not included				

	Wetland Structure (SF)	Wetland Buffer Structure (SF)	Maximum Temporary Wetland BMP Impact (SF)	Maximum Temporary Wetland Buffer BMP Impact (SF)	Maximum Temporary Tidal Wetland BMP Impact (SF)
Figure 2	0	0	27,887	26,609	0
Figure 3	0	0	0	0	8,316
Figure 4	0	0	2,525	5,489	0
Figure 5	0	0	65,247	49,443	0
Figure 6	0	0	0	0	0
Figure 7	7.069	0	11,388	1,804	0
Figure 8	0	0	0	0	0
Figure 9	0	50.27	0	4,552	0
Figure 10	0	7.069	29,621	10,985	0
Figure 11	7.069	7.069	10,050	14,745	0
Figure 12	0	0	0	0	0
Figure 13	0	0	0	0	0
Figure 14	0	0	821	3,342	0
Figure 15	0	0	0	0	0
Figure 16	0	0	0	0	0
Figure 17	0	7.069	7,951	8,998	14,221
Figure 18	0	0	7,623	7,572	0
Figure 19	0	0	4,394	11,077	0
Figure 20	0	0	12,636	12,120	0
Figure 21	0	0	1,168	9,353	0
Figure 22	0	0	0	0	0
Figure 23	0	0	0	0	0
Figure 24	0	0	0	0	0
Figure 25	0	0	0	0	0
Figure 26	0	0	5,190	10,882	0
TOTAL	14.138	71.477	186,501	176,971	22,537

Table 2. Environmental impact summary broken out by environmental permitting plan sheet



Miles

