

U.S. Army Corps of Engineers Baltimore District PN-24-28

Public Notice

In Reply to Application Number NAB-2023-61655 M50 (MD Coastal Bays - Reedy Island)

Comment Period: September 16, 2024 to October 15, 2024

THE PURPOSE OF THIS PUBLIC NOTICE IS TO INFORM INTERESTED PARTIES OF THE PROPOSED ACTIVITY AND TO SOLICIT COMMENTS. 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 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344),as described below:

APPLICANT:

Maryland Coastal Bays Program 8219 Stephen Decatur Highway Berlin, Maryland 21811

WATERWAY AND LOCATION OF THE PROPOSED WORK:

The proposed project is located at Reedy Island in Sinepuxent Bay Wildlife Management Area, Isle of Wight Bay, Ocean City, Worcester County, Maryland. (38.379866, -75.073412)

OVERALL PROJECT PURPOSE:

Restore nesting habitat for colonial waterbirds dependent upon bay islands for breeding and conduct long-term management to ensure restored nesting habitat suitability.

PROJECT DESCRIPTION:

Restore Reedy Island within its 1962 footprint. Maryland Department of Natural Resource (MD DNR) manages the island to support nesting colonial waterbirds. The island presently consists of salt marsh, expanding interior open ponds formed by marsh failure, a sand berm with placed shell, and beach. The island lacks submerged aquatic vegetation (SAV).

The project would include (note: all lengths, areas, and material quantities approximate):

- To mechanically or hydraulically dredge a 250 ft long and 40 ft wide by 3-foot-deep mean low water (MLW) access channel on the south side of the island impacting 0.25 acres of bay bottom,
- To place 400 yd3 (CY) of access channel dredged material (sands, clays, and peat) onto Reedy Island and filling existing interior ponds with dredged material properly contained and capped with suitable material,
- To construct six headland breakwaters totaling 1,177 linear feet with an average width of 50 ft, utilizing 6,957 CY of mixed-size rock/sand fill material with boulder toe, impacting a total bottom area of 1.25 acres, and extending a maximum of 209 ft channelward from mean high water (MHW) on the island,
- To construct a living shoreline (beach and salt marsh [below]) that would be 1,222 ft long with an average width of 87 feet utilizing 14,172 CY of sand fill material, with a maximum distance channelward from MHW on the island of 138 ft, creating 1.91 acres of beach.
- The project would temporarily disturb 0.70 acres of existing salt marsh during construction which would be restored to salt marsh, convert 0.59 acres of existing salt marsh to other habitat types or headland breakwaters, restore 2.45 acres of salt marsh creating an increase in 1.86 acres of salt marsh,
- In future years, placing additional rock, shell, and suitable dredged material onto Reedy Island to complete/maintain restored habitats. No specific sources have been identified but required permits would be obtained separately,
- In future years, conducting hydraulic or mechanical maintenance dredging of the access channel.

All work is proposed in accordance with the attached plans prepared by Underwood & Associates, dated 24 February 2024, sheets 1 through 15, plus sheet 1 of prepared 20 April 2023.

A portion of the island would include a 4-foot high (mean water) upland habitat with oyster shell/cobble surface constructed on existing upland sand/shell. Placement of this material would not be regulated under the Clean Water Act.

EFFECTS ON AQUATIC RESOURCES:

Project would include permanent and temporary impacts to aquatic resources, including conversions of habitat type. Please refer to Table 1 for a summary of aquatic resource impacts.

Activity	Habitat Impact (a	Authority			
	Bay Bottom	Beach (MLW to MHW)	Vegetated Wetland – Salt Marsh	(Section 10/404)	
Dredging Access Channel	0.25 (permanent)	0	0	10	
Island Construction Access, Staging	0	0.10 (temporary)	0.70 (temporary)	10/404	
Breakwater	1.25 (permanent conversion to structure)	0	0	10/404	
Living Shoreline	-1.91 (permanent conversion to beach)	+1.91 (permanent conversion from bay bottom)	+2.45* (permanent conversion from bay bottom and interior pond)	10/404	
Supratidal Nesting Habitat	0	0	-0.59* (permanent conversion from salt marsh to supratidal)	404	

* The project would produce a net gain of 1.86 acres of salt marsh

LEAD FEDERAL AGENCY:

The United States Army Corps of Engineers, as the lead federal agency, is responsible for all coordination pursuant to applicable federal authorities.

APPLICANT'S PROPOSED AVOIDANCE, MINIMIZATION, AND COMPENSATORY MITIGATION:

As part of the planning process for the proposed project, in addition to the no action alternative, the applicant considered several alternative plans to meet the project's goals of restoring nesting habitat for colonial waterbirds (Table 2).

Alternative Plan	Positive	Negative
No action	No impacts of dredging,	Loss of important nesting
	filling	habitat for rare birds
Place material to fill interior	Temporary island habitat	Eventual loss of habitat to
pond without shoreline	restoration	erosion
stabilization		
Construct a revetment to	Some habitat protected	Habitat protected not
protect shoreline		sustainable nor suitable for
		bird use over time
Vegetated headlands	Environmentally sensitive	Source material
	shoreline protection	challenging to obtain

Table 2: Summar	y of Alternative	Plans
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Coastal modeling was conducted to optimize design for wave protection while remaining environmentally sensitive. No navigation benefits from access channel which otherwise does not connect to any other navigation destination.

Island resiliency over time could be provided for by future material replenishment and or shoreline stabilization. The proposed design incorporates a channel to maintain island habitats over the long term.

No compensatory mitigation is proposed. The project would be self-mitigating for aquatic impacts.

CORPS EVALUATION REQUIREMENTS:

This project will be evaluated pursuant to Corps Regulatory Program Regulations (33 CFR Parts 320-332). 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 evaluation of the impact of this project will also include application of the Clean Water Act Section 404(b)(1) Guidelines promulgated by the Administrator, United States Environmental Protection Agency.

ENDANGERED SPECIES:

A preliminary review of this application indicates that the proposed work is not likely to adversely affect federally 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.

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 on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH), including species of concern, life cycle habitat, or Habitat Areas of Particular Concern. The project site lies in or adjacent to EFH as described under MSFCMA for managed species under the MSFCMA. The Baltimore District has made a preliminary determination that the project will not have a substantial adverse effecton EFH. The Baltimore District has made a preliminary determination that mitigative measures are required to minimize adverse effects on EFH at this time. This determination may be modified if additional information indicates otherwise.

HISTORIC RESOURCES:

Pursuant to Section 106 of the National Historic Preservation Act of 1966 and applicable guidance, the Corps has reviewed the latest published version of the National Register of Historic Places and initially determined that no registered properties listed as eligible for inclusion, therein, are located at the site of the proposed work. The Corps has made the preliminary determination that the proposed project has no potential to cause effects on historic properties. The Corps final eligibility and effect determination will be based on coordination with the State Historic Preservation Office as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps' identified permit area.

TRIBAL RESOURCES:

Section 106 of the National Historic Preservation Act also requires federal agencies to consult with federally recognized American Indian tribes that attach religious and cultural significance to historic properties that may be affected by the agency's undertaking. Corps Tribal Consultation Policy mandates an open, timely, meaningful, collaborative, and effective deliberative communication process that emphasizes trust, respect, and shared responsibility. The policy further emphasizes that, to the extent practicable and permitted by law, consultation works toward mutual consensus and begins at the earliest planning stages before decisions are made and actions taken. The Corps final eligibility and effect determination will be based on coordination with interested tribes, in accordance with the Corps current tribal standard operating procedures as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on tribal resources.

MODIFICATION OF CIVIL WORKS PROJECTS: 33 USC 408 (SECTION 408):

All Section 408 proposals will be coordinated internally at the United States Army Corps of Engineers. The Section 408 decision will be issued along with the Section 404 and/or Section 10 decision. Please see the following link for more information regarding Section 408: <u>https://www.nab.usace.army.mil/Missions/Regulatory/Section-408-Requests/</u>.

WATER QUALITY CERTIFICATION:

The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act.

COASTAL ZONE MANAGEMENT PROGRAMS:

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 Program. By this public notice, we are requesting the State concurrence or objection to the applicant's consistency statement.

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

SUBMISSION OF COMMENTS:

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 and are subject to release to the public through the Freedom of Information 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 United States Army Corps of Engineers, Baltimore District within the comment period specified above through postal mail at the address below or electronic submission to the project manager email address below. Written comments should reference the Application Number NAB-2023-61655.

PUBLIC HEARING REQUESTS:

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 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. The public hearing request may be submitted by electronic mail or mailed to the following address:

Mr. Chris Spaur <u>christopher.c.spaur@usace.army.mil</u> United States Army Corps of Engineers, Baltimore District Regulatory Branch 2 Hopkins Plaza Baltimore, Maryland 21201-2930

It is requested that you communicate this information concerning the proposed work to any persons known by you to be interested, who did not receive a copy of this notice.

General information regarding the Corps' permitting process can be found on our website at <u>https://www.nab.usace.army.mil/Missions/Regulatory.aspx</u>. This public notice has been prepared in accordance with Corps implementing regulations at 33 CFR 325.3. If you have any questions concerning this specific project or would like to request a paper copy of this public notice, please contact Mr. Chris Spaur at (443) 759-0680 or at <u>christopher.c.spaur@usace.army.mil</u>. This public notice is issued by the Chief, Regulatory Branch.





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	PLANTING PLAN & CRITICAL AREA MITIGATION SCHEDULE											
Planting Zone	Symbol	Total Area (Ft^2)	Common Name	Scientific Name	Туре	Size	Distribution	Avg Spacing (ft)	Quantity	Credit Area (SF per plant)	Total Credit Area (SF)	Description
Lowmarsh Cordgrass	plus signs	25,975	Lowmarsh Cordgrass	Spartina alterniflora	Herbaceous	Gal	Random	2	6,494	2	12,988	Between MLW and MHW.
Highmarsh Cordgrass	triangles	80,787	Highmarsh Cordgrass	Spartina patens	Herbaceous	Gal	Random	2	20,197	2	40,394	Above MHW to elevation 2.5 ft.
Critical Area Mitigation Calculations		Total Area of Disturbed Tidal Marsh (SF)		In-Kind Mitiga	In-Kind Mitigation Ratio Total In-Kind Mitigation (l Mitigation Credit Requ	uired (SF)	Total In-Kind C	redit Area (SF)	Percent Mitigation (%)	
		2	5,561	1:1		25,561		53,:	382	209%		

HABITAT IMPACTS AND CREATION ANALYSIS

Zono		Impacted (sf)			Proposed (sf)		Proposed Gain/Loss (sf)			
20112	Unvegetated	Vegetated	Totals	Unvegetated	Vegetated	Totals	Unvegetated	Vegetated	Totals	
Below MLW	126,853	0	126,853	31,753	0	31,753	-95,100	0	-95,100	
MLW to MHW	66,242	41,712	107,954	18,079	74,208	92,287	-48,163	32,496	-15,667	
MHW to MHHW	10,013	315	10,328	1,516	3,586	5,102	-8,497	3,271	-5,226	
MHHW to ULW	954	2,575	3,529	6,418	11,901	18,319	5,464	9,326	14,790	
Above ULW	328	0	328	57,275	44,256	101,531	56,947	44,256	101,203	
Totals	204,390	44,602	248,992	115,041	133,951	248,992	-89,349	89,349	0	

Note: the information presented in this table is based on tidal ranges and existing/proposed elevation

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UNDERWOOD & ASSOCIATES			dee eee
LANDSCAPE ARCHITECTURE	Scale	AS SHOWN	PROJECT DATA TABLES
A DESIGN/BUILD Co.	Drawn By	J.K./J.H.	
and the second	Approved By	K.B.	
I de la companya	Sheet No.	15 Of 15	
TTER ERLING TRAU - ANNAROLIS - NR STOC	Project No.	21-032	
tel. 410-849-3211 fax. 410-849-2136	Proposal No.		FORMERLY MAP 0113, GRID 0009, PARCEL 6704 5 1st ELECTION DISTRICT, WORCESTER COUNTY 8



Proposed Plan Marsh Totals								
	Low Marsh (SF) High Marsh (SF) Total (
Existing Pre-	56 212	0	56 212					
Project	50,212	0	50,212					
Existing to	20 651	0	20 651					
Remain	50,051	0	50,051					
Proposed	25,975	80,787	106,762					
Net Change	+414	+80,787	+81,201					