



Public Notice

Applicant:
Eagle Creek Outlet, LLC

Published: August 1, 2012
Expires: August 30, 2012

U.S. Army Corps
of Engineers
Buffalo District
CELRB-TD-R

Application No: 1995-09902
Section: NY

All written comments should reference the above Application No. and be addressed to:
U.S. Army Corps of Engineers
Regulatory Branch (Attn: Joshua Frost)
1776 Niagara Street
Buffalo, New York 14207-3199

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.

**Application for Permit under Authority of
Section 10 of the Rivers and Harbors Act of 1899 and
Section 404 of the Clean Water Act (33 U.S.C. 1344).**

APPLICANT: Eagle Creek Outlet, LLC., 1286 Dewey Avenue, in the City of Rochester, Monroe County, New York

WATERWAY & LOCATION: The proposed project is located within Bald Eagle Creek and Lake Ontario at Eagle Creek Marina, 1033 Lakeland Beach Road, in the Town of Kendall, Orleans County, New York.

LATITUDE & LONGITUDE: Latitude North: 43.36608
Longitude West: -78.03025

EXISTING CONDITIONS: Sediment accumulation within the marina channel entrance has created insufficient depths for navigation of vessels utilizing this area. Sediment particle size testing was conducted at the proposed dredging area and indicated that the dredged material is composed of 99% sand. This is consistent with historical sediment particle size analysis. Appropriateness of open lake disposal was determined in accordance with the U.S. Environmental Protection Agency/U.S. Army Corps of Engineers Great Lakes Dredged Material Testing and Evaluation Manual (1998). The evaluation concluded that all sediments were suitable for open-lake placement.

PROPOSED WORK: The proposed project is to re-establish and maintain a bottom elevation of approximately 239 feet International Great Lakes Datum (IGLD) 1985 (4.3 feet below low water datum) within the marina entrance channel. The entrance channel is approximately 85 feet wide by 425 feet long (Sheet 2 of 3). Sand bar removal within the entrance channel will occur as needed to maintain a bottom elevation of 239 feet. It is anticipated that entrance channel maintenance dredging will result in the removal of 200 to 400 cubic yards of sand per year. The proposed dredging will be performed using a barge-mounted excavator. Eagle Creek Outlet, LLC proposes to place the dredged material removed from the entrance channel on the west side of the piers for the first dredging event (Sheet 3 of 3). The dredged material placement location was determined through the analysis of current and historical littoral surveys. Future decisions of dredged material placement on either side of the piers will be determined using similar methods.

PROJECT PURPOSE

Basic: Adequate water navigation and mooring

Overall: To maintain sufficient depth for recreational vessels mooring at the Eagle Creek Marina.

Proposed Mitigation: None Proposed.

Authorization for similar work, including open-lake placement of dredged materials, was granted in the past under Department of the Army permit No. 1995-09902.

Location and details of the above described work are shown on the attached maps and drawings.

Comments or questions pertaining to the work described in this notice should reference the Application Number and be directed to the attention of **Joshua Frost**, who can be contacted at the above address, by calling **(716) 879-4325**, or by e-mail at: **joshua.w.frost@usace.army.mil** A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

The applicant has certified that the proposed activity complies with New York's approved Coastal Zone Management Program and will be conducted in a manner consistent with that program. General Concurrence has not been issued by the New York State Department of State for this work at this time. Any comments on the consistency of the proposed activity with New York State's Coastal Zone Management Program should be forwarded to:

New York Department of State
Division of Coastal Resources
Coastal Management Program
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231
Attn: Consistency Review
Telephone (518) 486-3200

The following authorization is required for this project:

Water Quality Certification (or waiver thereof) from the New York State Department of Environmental Conservation.

There are no registered historic properties or properties listed as being eligible for inclusion in the National Register of Historic Places that will be affected by this project.

Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the Corps of Engineers is consulting, under separate cover, with the USFWS to evaluate any potential impacts to: Bog turtle (*Clemmys muhlenbergii*), and Eastern prairie fringed orchid (*Platanthera leucophaea*) and to ensure that the proposed activity is not likely to jeopardize their continued existence or result in the destruction or adverse modification of critical habitat.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The decision to approve or deny this permit request 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 benefits 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 these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, 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,

considerations 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 are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Diane C. Kozlowski
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.