



# Public Notice

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

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Applicant:  
Constance Newyear

Published: July 18, 2012  
Expires: August 20, 2012

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Application No: 2012-00723  
Section: Ohio

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

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**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).**

The applicant, Constance Newyear, 38367 Beachview Road, Willoughby, Ohio, 44094, has applied for a Department of the Army Permit to demolish existing concrete modules and a concrete slab and place fill in a water of the U.S. for the construction of a steel crib pier. The proposed activity is located at 38367 Beachview Road, City of Willoughby, Lake County, Ohio.

The proposed project includes the demolition of two existing concrete modules and a concrete slab which includes the removal of 4 cubic yards of concrete below the Ordinary High Water (OHW) elevation of Lake Erie, 573.4 feet International Great Lakes Datum, 1985 (IGLD, 1985). The project also includes the construction of a 10' wide by 25' long steel crib pier that will be filled with ODOT "B" stone (58 cubic yards of ODOT "B" stone below OHW), topped with a concrete slab, and run parallel to shore. The proposed pier will be approximately 34' out into the lake and connected to shore by a 5' wide by 34' long steel walkway. Approximately 20 cubic yards of sand prefill is proposed to be placed along the shoreline to create a beach and extends 14' from the shore.

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 be reference the Application Number and be directed to the attention of Peter Krakowiak, who can be contacted at the above address, by calling (716) 879-4363, or by e-mail at: [Peter.j.krakowiak@usace.army.mil](mailto:Peter.j.krakowiak@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 Ohio's approved Coastal Zone Management Program and will be conducted in a manner consistent with that program. Any comments on the consistency of the proposed activity with Ohio's Coastal Zone Management Program should be forwarded to:

Mr. Glen Cobb  
Ohio Department of Natural Resources  
Environmental Policy Coordinator  
Office of Legislative Services  
2045 Morse Road, Building D-3  
Columbus, Ohio 43229  
Phone: (614)265-6888  
FAX: (614) 267-4764  
[glen.cobb@dnr.state.oh.us](mailto:glen.cobb@dnr.state.oh.us)

The following authorization(s) may be required for this project:

Water Quality Certification (or waiver thereof) from the Ohio Environmental Protection Agency.

There do not appear to be any properties listed in, or eligible for listing in, the National Register of Historic Places within the permit area as shown on Sheet 5 of 6. Therefore the Corps has determined that the proposed project will have no effect on historic properties. This notice constitutes initiation of consultation with the Ohio Historic Preservation Office (SHPO) per Section 106 of the National Historic Preservation Act. All currently available historic resource information pertaining to this proposed project if any has been provided to the SHPO. Additional information concerning historic properties should be submitted to the Corps before the end of the comment period of this notice. The Corps will forward that information to the SHPO for their review.

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: Indiana bat (*Myotis sodalis*), Kirtland's warbler (*Setophaga kirtlandii*), piping plover (*Charadrius melodus*), and snuffbox (*Epioblasma triquetra*) 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.