



Public Notice

U.S. Army Corps of Engineers, Norfolk District

February 27, 2018

CENAO-WR-R
NAO-2013-01120- 17-V1931

FEDERAL PUBLIC NOTICE

The District Commander has received a joint application for Federal and State permits as described below:

APPLICANT

Granite/Parsons/Corman, A Joint Venture
c/o Mr. Glenn Olechnowich
120 White Plains Rd, Suite 310
Tarrytown, NY 10591

WATERWAY AND LOCATION OF THE PROPOSED WORK: The proposed I-64 Southside Widening and High-Rise Bridge, Phase I project (Project) is located on Interstate 64 (I-64) in the City of Chesapeake, Virginia beginning near Rotunda Avenue, approximately 0.6 miles east of the I-264 interchange at Bowers Hill and ending approximately 0.9 miles east of the I-464 interchange (36°45'29.1"N 76°17'50.6"W).

PROPOSED WORK AND PURPOSE: This project is federally funded, and the Federal Highway Administration (FHWA) is the lead Federal Agency. The proposed project will entail widening of a nine-mile corridor of I-64, and the associated construction of a new fixed-span bridge (High Rise Bridge) with 100-foot vertical clearance over the Southern Branch of the Elizabeth River, a federally regulated navigable channel, south of the existing bridge to address insufficient transportation capacity. The widening will accommodate one High Occupancy Toll (HOT) / High Occupancy Vehicle (HOV) lane and two general purpose (GP) lanes, typically within the existing right way, with adjacent shoulders and buffer space between the managed lanes and the general purpose lanes; realignment of the existing I-64 lanes immediately adjacent to the new High-Rise bridge; sound barrier walls; reconstruction and asphalt overlay of the existing roadway; and attendant storm water management features. The Southern Branch of the Elizabeth River in this vicinity is highly industrialized and heavily used by vessels as part of the Inter-coastal Waterway linking the Chesapeake Bay with the Albemarle Sound in North Carolina. A federal navigation channel is maintained in this river reach. Water depths in the project area of the Elizabeth River at the proposed crossing reach nearly 40 feet (ft) in the navigational channel and approximately 10 ft in the rest of the channel.

Project purpose and Need: The overall purpose and need of the I-64 nine-mile widening and new construction of fixed bridge are necessary to improve capacity by addressing congestion, system linkage and lane continuity, and intermodal connectivity; to enhance the corridor safety by addressing conditions that contribute to vehicular crash incidences; to improve the ability of the corridor to function as a key emergency evacuation route; and to address the need for improvements of the High Rise Bridge. The basic purpose is to improve transportation.

Alternatives: The EA evaluated options to improve transportation conditions along the I-64 corridor between the I-464 interchange and the I-664/I-264 interchanges at Bowers Hill in the City of Chesapeake. The proposed project is to implement the Preferred Alternative identified in the EA in two phases. The current project, Phase I, includes improvements beginning near Rotunda Avenue approximately 0.6 miles east of the I-264 interchange at Bowers Hill and ending approximately 0.9 miles east of the I-464 interchange. These improvements as presented in the permit drawings are available in the appendix and described below:

- Construction of four additional lanes (two lanes in each direction) on I-64 with, one high occupancy- toll (HOT) lane in each direction. The total number of lanes on I-64 in this area will change from four total lanes to eight lanes (four in each direction).
- Construction of a new fixed bridge (new High-Rise Bridge) south of the existing bridge and related structures including replacement of the existing fender system and construction of the fender system for the new bridge. The proposed roadway approach will be shifted south by approximately 100 ft to tie in with the proposed location of the new bridge.
- Reconstruction of the I-64 corridor that includes reconstruction of roadway, structures, culverts, storm water management facilities, lighting, signage, ITS structures, and related facilities.

Following circulation of the EA, the Commonwealth Transportation Board (CTB) approved Candidate Build Alternative 2 (CBA 2) as the Preferred Alternative on March 18, 2015. CBA 2, as approved by the CTB, includes the construction of two additional managed lanes in each direction including the construction of a new bridge and eventual replacement of the existing High-Rise Bridge. The replacement of the existing bridge will be completed in Phase II which is not part of the current project and will be done by VDOT sometime in the future.

In addition to the required Department of the Army permit, the applicant must obtain a Virginia Water Protection Permit from the Virginia Department of Environmental Quality (DEQ) assuring that applicable laws and regulations pertaining to water quality are not violated and a permit from the Henrico County Wetlands Board. Project drawings are attached.

AUTHORITY: Permits for the work in waters and wetlands are required pursuant to Sections 401 and 404 of the Clean Water Act (Public Law 95-217) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Title 62.1 of the Code of Virginia. The Corps must comply with the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108), 36 CFR Part 800, regulations implementing Section 106 of the

National Historic Preservation Act and 33 CFR Part 325, Appendix C, Processing of Department of the Army Permits.

FEDERAL EVALUATION OF APPLICATION: 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. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected from the proposal must be balanced against its reasonably foreseeable detriments. All of the proposal's relevant factors will be considered, including conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use classification, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The Environmental Protection Agency's "Guidelines for Specification of Disposal Sites for Dredged or Fill Material" will also be applied (Section 404(b) (1) of the Clean Water Act).

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 direct, indirect, and cumulative 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. Anyone may request a public hearing to consider this permit application by writing to the District Commander within 30 days of the date of this notice, stating specific reasons for holding the public hearing. The District Commander will then decide if a hearing should be held.

Preliminary review indicates that: No environmental impact statement will be required; after conducting the NAO ESA Project Review Process, there may be an effect to listed/proposed/candidate species and/or designated/proposed critical habitat under the Endangered Species Act of 1973 and the Official Species List and Species Conclusion Table is attached for review and comment by Fish and Wildlife Service; and (3) properties eligible for inclusion or included in the National Register of Historic Places are in or near the permit area, and will adversely be affected by the proposal. Additional information on Section 106 consultation is listed below. Additional information might change any of these findings.

For compliance with the Coastal Zone Management Act of 1972, as amended for projects located in Tidewater, the applicant must certify that federally licensed or permitted activities affecting Virginia's coastal uses or resources will be conducted in a manner consistent with the Virginia Coastal Zone Management Program (VCP) and obtain concurrence from the Department of Environmental Quality (DEQ), Office of

Environmental Impact Review (OEIR). We have not received a certification from the applicant prior to publication of this public notice. It is the applicant's responsibility to submit a consistency certification to the Office of Environmental Impact Review for concurrence or objection and proof of concurrence must be submitted to the Corps prior to final permit issuance. A template federal consistency certification can be found here: <http://www.deq.virginia.gov/Programs/EnvironmentalImpactReview/FederalConsistencyReviews.aspx#cert> . For more information or to obtain a list of the enforceable policies of the VCP, contact the Department of Environmental Quality, Office of Environmental Impact Review at (804) 698-4330 or e-mail: bettina.sullivan@deq.virginia.gov or john.fisher@deq.virginia.gov.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), 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). The Elizabeth River contains Essential Fish Habitat (EFH) for the egg, larvae, juvenile, and/or adult life stages of multiple species. The habitat which this project would affect consists of tidal waters. The proposed project is described in Proposed Work and Purpose, above. Impacts to EFH as a result of the project should be minor and temporary. Impacts will result from temporary turbidity created during the construction of the bridge. Our rationale for this preliminary determination is based on the expected short-term nature of the direct impacts, increases in turbidity, temporary impacts to tidal wetlands, and the lack of the presence of submerged aquatic vegetation. The applicant proposes no dredging between February 15 and June 30, of any year, in order to minimize impacts on EFH, anadromous fish and federally managed species. Based on comments from the National Marine Fisheries Service in response to this public notice, further EFH consultation may be necessary.

Atlantic Sturgeon (*Acipenser oxyrinchus*)

The Atlantic sturgeon is listed under the ESA within NOAA NMFS jurisdiction as having potential to occur in the action area per *Chesapeake Bay distinct population segment (DPS) of the Atlantic sturgeon (Acipenser oxyrinchus oxyrinchus)*, endangered (77 FR 5880, 2/6/2012) Atlantic sturgeon populates Atlantic Ocean waters and associated bays, estuaries, and coastal river systems. The presence of Atlantic sturgeon has not been documented in the Elizabeth River. According to data from the Wildlife Environmental Review Map Service (WERMS) maintained by the VDGIF the closest observations have been in the James River near the confluence of the James and Elizabeth River approximately 15 miles downstream from the action area. However, it is possible that transient individuals may occur in the Elizabeth River. Designated critical habitat does not extend into the Elizabeth River (82 FR 39160 8/17/2017). Informal Coordination with NOAA Fisheries Protected Species Division has been initiated. An evaluation of acoustics, water quality, habitat, and vessel traffic has been completed. It is our understanding that there will be no adverse effect on sturgeon populations except for the pile driving of hollow steel piles and sheet pile. This activity will be mitigated through adherence with a Time of Year Restriction for the driving of hollow steel piles due to potential effects from acoustics during construction.

Essential Fish Habitat (additional information)

Informal Coordination with NOAA Fisheries is underway regarding the potential for impacts to Essential Fish Habitat (EFH) resulting from the construction of the proposed project pursuant to the *Magnuson-Stevens Fishery Conservation and Management Act* (16 USC 1801 et seq.) A copy of the request for consultation provided to NOAA Fisheries is provided in Appendix H. NOAA's online *EFH Mapper* identified five (5) species as having potential EFH in the action area: Atlantic butterfish, black sea bass, bluefish, summer flounder, and sandbar shark. However, the Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) has recently been amended (Amendment 10 82 FR 42329 9/7/2017) and the action area no longer falls within EFH for sandbar shark (NMFS 2017a). Impacts to EFH species are limited to potential effects to individuals rather than overall population effects or wide-ranging impacts to habitat areas. Individuals that may occur in the direct area of construction could be affected directly by a construction activity or indirectly through noise. However, given that large populations are not expected in the action area there is little likelihood of significant population-level impacts.

Proposed construction will result in the permanent loss of 0.293 acres of aquatic habitat in the Elizabeth River and 0.157 acres of aquatic habitat loss in Deep Creek. This anticipated loss of habitat is not expected to cause an adverse effect to EFH listed species because this area of habitat is relatively small when compared to the greater area of habitat available to EFH listed species. Food-web impacts associated with disturbance to the benthic community and displacement of forage fish due to construction and pile driving activities are expected to be minor and may temporarily impact individuals in the action area. As such, no significant adverse effects to EFH are anticipated because of the proposed project.

Section 106 of the National Historic Preservation Act (NHPA):

Cultural & Historic Resources

The Federal Highway Administration (FHWA) and the Virginia Department of Transportation (VDOT) completed the Section 106 process of the National Historic Preservation Act (NHPA) in 2015 in consultation with the Virginia Department of Historic Resources (DHR). The FHWA determined that the proposed Project will have no adverse effect on historic properties in accordance with the Section 106 of the National Historic Preservation Act. The DHR concurred with this determination on October 14, 2015. During the Section 106 process, an archaeological and architectural reconnaissance survey was completed for the study area to determine if historic architectural resources were located in the Area of Potential Effect (APE). No archaeological resources were found eligible for listing on the National Register of Historic Places (NRHP). One architectural resource within the study area, Sunray Historic District, is currently listed on the NRHP. The Historic District is located within one mile of the proposed Project, however, there is a considerable amount of modern development between the Sunray Historic District and the project. The project would not acquire any property from the Historic District, nor will it impact the resource in any capacity.

COMMENT PERIOD: Comments on this project should be in writing and can be sent by either email to scharlene.a.floyd@usace.army.mil or by regular mail, addressed to the Norfolk District, Corps of Engineers (ATTN: CENAO-WR-R), 803 Front Street, Norfolk, Virginia 23510-1011, and should be received by the close of business on March 27, 2018.

PRIVACY & CONFIDENTIALITY: Comments and information, including the identity of the submitter, submitted in response to this Public Notice may be disclosed, reproduced, and distributed at the discretion of the U.S. Army Corps of Engineers. Information that is submitted in connection with this Public Notice cannot be maintained as confidential by the U.S. Army Corps of Engineers. Submissions should not include any information that the submitter seeks to preserve as confidential.

If you have any questions about this project or the permit process, contact Scharlene Floyd 757-201-7367 – scharlene.a.floyd@usace.army.mil

Attachment(s):

Vicinity Map

Impact Drawings

Permit Drawings

Bridge Drawings

Species List and Species Conclusion Table