Public Notice

US ARMY CORPS OF ENGINEERS
St. Louis District
Gateway to Excellence

Reply To:
U.S. Army Corps of Engineers
Attn: CEMVS-OD-F
1222 Spruce Street
St. Louis, MO 63103-2833

Public Notice No.
MVS-1985-8503165
Public Notice Date
February 13, 2024
Expiration Date
Postmaster Please Post Conspicuously Until: March 4, 2024

Interested parties are hereby notified that an application has been received for reissuance of a previously authorized Department of the Army permit to conduct maintenance dredging with associated open river disposal, in navigable waters of the United States, as described below and shown in the attachments.

COMMENTS AND ADDITIONAL INFORMATION: Comments on the described work should reference the U.S. Army Corps of Engineers public notice number shown above and must reach this office no later than the above expiration date of the Public Notice to become part of the record and be considered in the decision. Comments should be mailed to the following address:

U.S. Army Corps of Engineers
ATTN: CEMVS-OD-F (Charles Frerker)
1222 Spruce Street
St. Louis, Missouri 63103-2833

JOINT PUBLIC NOTICE: This public notice is issued jointly with the Missouri Department of Natural Resources, Water Protection Program. The Department of Natural Resources will use the comments to this notice in deciding whether to grant Section 401 water quality certification. Commenters are requested to furnish a copy of their comments to the Missouri Department of Natural Resources by email at wpsc401cert@dnr.mo.gov or by mail at P.O. Box 176, Jefferson City, Missouri 65102.

APPLICANT: Oakley's St. Louis, c/o Mr. Fred Taylor, 1 Angelica Street, St. Louis, Missouri 63147.

LOCATION: The proposed maintenance dredging reissuance activities would occur adjacent to the applicant's existing barge unloading dock, located near the right descending bank of the Mississippi River, at approximate river mile 182.9, in the City of St. Louis, St. Louis County, Missouri.

PROJECT DESCRIPTION: The applicant requests reauthorization to conduct periodic maintenance dredging, on an as needed basis only, to remove up to 10,000 cubic yards of accumulated river sediment. The sediment removal area is located within an approximate 200' wide by 1,200' long area beneath and adjacent to Bruce Oakley Inc.'s, existing loading dock (formerly Lange Stegmann). Depending on the availability of equipment, the material would be removed by two potential methods. The first involves removing accumulated river sediment by clamshell or a long reach bucket excavator and placing the material in a barge for transport and unloading in an open river disposal site located between two adjacent chevron structures. The proposed disposal site was selected to minimize and reduce potential impacts to aquatic life and habitat by placing the material in an area identified as a preferred disposal location through previous interagency review with resource agency partners. The second removal method involves using a hydraulic dredge and pumping the accumulated river sediment within a contained pipe to the same proposed disposal site. Previously authorized sediment sampling found the accumulated sediment material to be comprised of sandy material, which has less chemical bonding properties to potentially attach contaminants compared to other materials such as silt and clay. The

activity has been authorized in the past several decades under Department of the Army permits P-2446, P-2180, P-1651, and P-1951. During the most recent previous permit authorization P-2446, the applicant only dredged twice during the 10-year permit validity period, with the dredge quantity only reaching 3,500 cubic yards during one of the dredging events.

Periodic maintenance dredging is necessary to ensure uninterrupted access and continuous operations at Oakley's existing river dock. Periodic accumulated sediment removal activities are necessary to maintain suitable water depths that allow barges and tow boats safe and uninterrupted navigation to and from the facility's existing dock, especially during low river periods and following high river events when above average sediment loads periodically fall out of suspension in unpredictable locations. Periodic removal of accumulated river sediment is only proposed when conditions dictate the need. Fluctuating river levels, sedimentation rates and depth soundings will be used as primary indicators in evaluating the need to initiate the requested activity. Dredging or excavation and transporting the removed material is a very expensive activity that river facilities try to avoid unless unsafe shoaling conditions and potential facility shutdown threaten operations. See attachments for more details.

ADDITIONAL INFORMATION: Additional information may be obtained by contacting Charles Frerker, U.S. Army Corps of Engineers Regulatory Project Manager, at: charles.f.frerker@usace.army.mil

AUTHORITY: This permit will be processed under the provisions of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

APPLICANT'S STATEMENT OF AVOIDANCE, MINIMIZATION, AND COMPENSATORY MITIGATION FOR UNAVOIDABLE IMPACTS TO AQUATIC RESOURCES: The applicant searched for potential landside dredge disposal locations void of jurisdictional wetlands and other waters of the United States. The activity area is in a highly industrialized setting bound to the west by an active trail network, a floodwall, multiple rail lines, active roadways, and adjacent industrial land under other private ownership. For these reasons, adjacent upland disposal is not a viable option. To avoid and minimize impacts to aquatic resource areas, the applicant coordinated with the Corps of Engineers to identify the most favorable disposal location. The Corps of Engineers conducts periodic interagency coordination with other resource agencies to identify preferred disposal areas that reduce impacts or potentially benefit aquatic habitats and aquatic species. A site located adjacent and riverward of the proposed sediment removal area is an identified preferred disposal site between two existing chevron structures where the applicant agreed to place the relocated sand deposition material. The applicant also committed to remove accumulated sediment only on an as needed basis to reduce dredging frequency and quantities. Sediment accumulations in the project area originate from suspended sediment material the Mississippi River carries on a daily basis in its natural sediment transport, accretion, and scouring patterns. The disposal site is located near the river thalwag where some of the material may resuspend in the water column during higher velocity river events to return some of the material back to the river's natural sediment transport process. No new fill material or permanent impacts should result from the proposed reissuance based on the applicant's proposed methods and the selected avoidance and minimization measures. Compensatory mitigation is deemed unnecessary.

CULTURAL RESOURCES: The river sediment to be periodically removed from the project area is newly formed depositional material. The site is currently an open flowing river space where no cultural items or cultural sites currently exist. The proposal is a request to reissue the same periodic maintenance dredging of newly deposited sediment material from the same project area that has been dredged for several decades. In addition, the existing barge loading dock with associated river and landside infrastructure and stone revetment placed along the bankline has been present and operational for several decades in a highly industrialized portion of the St. Louis Harbor. The St. Louis District will comply with the National Historic Preservation Act of 1966 and 36 CFR 800. However, we will evaluate input by the State Historic Preservation Officer, Tribal Historic Preservation Officers (or Tribe designated representative) and the public in response to this public notice, and we may conduct or require a reconnaissance survey of the permit area to check for unknown historic properties, if warranted.

ENDANGERED SPECIES: The proposed permit reissuance site is within the range of the endangered Indiana bat (*Myotis sodalis*), Northern long-eared bat (*Myotis septentrionalis*), pallid sturgeon (*Scaphirhynchus albus*), the proposed endangered tricolored bat (*Perimyotis subflavus*) and the candidate monarch butterfly (*Danaus plexippus*). A preliminary

determination, in compliance with the Endangered Species Act as amended, has been made that the proposed reissuance of periodic removal of accumulated river deposits with associated open river disposal will have no effect on any of the above-mentioned bat species or the monarch butterfly due to the project involving no disturbance to landside areas or to any vegetation that these species may utilize. The type of dredging and excavation equipment to be used with associated open river disposal at the interagency identified preferred disposal site is not likely to adversely affect the endangered pallid sturgeon. The existing river dock is in a highly disturbed industrial area that is actively used to deliver empty and full barges with tow boat vessels. The site is within a very busy portion of the St. Louis Harbor, slightly downstream of the entrance of the Chain of Rocks Canal, with nearby outfall structures, multiple river bridges and other adjacent river terminal and barge fleeting operations. The proposed method of clam shell excavation involves the use of a crane mounted on a deck barge to swing and lower an open clamshell bucket into the accumulated river deposits where material would be contained within the subsequently closed bucket and placed on an adjacent barge to transport the material to the proposed disposal area where it would be offloaded with an excavator. The alternate hydraulic dredge equipment method would lower its dredge head into the accumulated sand deposits to be removed. A secondary dredge pump would be primed with water before the larger primary dredge pump is engaged to suck the sandy deposit inside an attached pipe that would transport the material and water mix to the disposal site. The proposed types of accumulated sediment removal equipment and the way it would be operated in the highly disturbed industrial project setting typically deters aquatic species presence during construction activities. The proposed activity would occur infrequently and would be completed in a short duration. There are no designated critical habitats in the project area for any of the above-mentioned species. The St. Louis District will comply with Section 7 of the Endangered Species Act. To further complete our evaluation of this activity, comments are solicited from the U.S. Fish and Wildlife Service and other interested agencies and individuals.

FLOODPLAINS: The periodic relocation of accumulated river deposits from areas beneath the water surface of the Mississippi River to an adjacent submerged river disposal site would not introduce new or additional fill material in the floodplain of the Mississippi River. The activity is being reviewed in accordance with Executive Order 11988, Floodplain Management, which discourages direct or indirect support of floodplain development whenever there is a practicable alternative. By this public notice, comments are requested from individuals and agencies that believe the described work will adversely impact the floodplain.

WATER QUALITY CERTIFICATION: The Clean Water Act (CWA) Section 401 Water Certification Improvement Rule (Certification Rule, 40 CFR 121), effective November 27, 2023, requires certification for any license or permit that authorizes an activity that may result in a discharge. The scope for CWA Section 401 certification by the certifying authority shall evaluate whether the activity will comply with applicable water quality requirements. The certifying authority's evaluation is limited to the water quality-related impacts from the activity subject to the Federal license or permit, including the activity's construction and operation. The applicant is solely responsible for requesting certification and providing required information to the certifying agency. In accordance with Certification Rule part 121.12, the Corps will notify the U.S. Environmental Protection Agency Administrator when it has received a Department of the Army (DA) permit application and the related certification. The Administrator is responsible for determining if the discharge may affect water quality in a neighboring jurisdiction. The DA permit may not be issued pending the conclusion of the Administrator's determination of effects on neighboring jurisdictions.

PUBLIC INTEREST REVIEW: The decision to issue a permit will be based on an evaluation of the probable impact including the 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 those are conservation, economics, esthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain 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, in general, the needs and welfare of the people. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency under authority of Section 404(b) of the Clean Water Act (33 USC 1344). 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 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.

ENVIRONMENTAL JUSTICE: In accordance with E.O. 12898, E.O. 14008, and E.O. 14096, the Corps of Engineers will specifically consider the effects of the proposed action on communities with environmental justice concerns, including economically disadvantaged communities, communities of color, and other socioeconomic groups that could be disproportionately affected by environmental and other effects. Following our initial screening of the project, our preliminary determination is that the project will have no effect upon communities having environmental justice concerns. As part of our environmental justice review, the Corps of Engineers seeks additional information from the public, community leaders, local officials and others regarding issues of environmental justice as related to the proposed action.

COMMENTS: The U.S. Army Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Tribes; and other interested parties to consider and evaluate the impacts of the proposed activity. Any comments received will be considered by the U.S. Army 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 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. Additional information may be obtained by contacting Charles Frerker, Project Manager, U.S. Army Corps of Engineers, via e-mail at charles.f.frerker@usace.army.mil.

To join our public notice mailing list and receive all of our Public Notices electronically, please email your request to: MVS-Regulatory@usace.army.mil and include your name, email, and phone number with your statement of request to be added to the Public Notice mailing list.

PUBLIC HEARING: Any person may request, in writing, prior to the expiration date of this public notice, that a public hearing be held to consider this application. Such requests shall state, with particularity, the reasons for holding a public hearing.

Robert S. Gramke

Robert S. Gramke
Chief, Regulatory Branch

Attachments

NOTICE TO POSTMASTERS:
It is requested that this notice be conspicuously and continually placed for 21 days from the date of this issuance of this notice.