



**US Army Corps
of Engineers**
Philadelphia District

Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OP-R

Public Notice

Public Notice No.
CENAP-OP-R-2019-00070

Date
July 1, 2020

Application No.

File No.

In Reply Refer to:
REGULATORY BRANCH

This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1988 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344)

The purpose of this notice is to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the work described below.

APPLICANT: Pennsylvania Department of Environmental Protection
Bureau of Abandoned Mine Reclamation
P.O. Box 8460
Harrisburg, PA 17105

AGENT: Mr. Shane Erdman
Pennsylvania Department of Environmental Protection
P.O. Box 8460
Harrisburg, PA 17105

WATERWAY: Schuylkill River

LOCATION: New Kernsville Dam and the upstream impoundment (Latitude/Longitude:
40.574250°N, -76.003490°W)

ACTIVITY: The Department of Environmental Protection (DEP) is proposing a project to dredge the New Kernsville Dam impoundment, including the historic Schuylkill River channel, and remove the New Kernsville Dam. The project area is located along the Schuylkill River in Tilden and Windsor Townships, Berks County, Pennsylvania.

The existing dam replaced the Kernsville Dam, which was located approximately 1,500 feet downstream of the current New Kernsville Dam. The dam was constructed as a result of the Pennsylvania Act 441, "Schuylkill River Desilting Project" and is one of many dams along the Schuylkill River constructed to form desilting basins. The construction of the concrete gravity dam was completed in November of 1949 by the Department of Forest and Waters, now known as the Department of Environmental Protection, for the purpose of creating an impounding reservoir to capture and prevent the downstream advancement of coal-rich silt carried by the Schuylkill River. The dam is classified as an Intermediate Size (Class B), High Hazard (Category

1) facility. Therefore, the dam has the potential for extensive property damage and possible loss of life along the Schuylkill River in the event of a failure.

The dam consists of a 600 foot long concrete gravity ogee central spillway with non-overflow sections at each end. On one end of the spillway is a concrete gravity wall which extends approximately 100 feet into an earthen embankment. The end of the embankment extends approximately 340 feet beyond the end of the spillway to high ground. On the opposite end of the spillway there is also a concrete gravity wall extending approximately 100 feet into high ground. The concrete ogee gravity type spillway has a base width of 58'-7" and a height above the foundation of 45'. The crest of the spillway is 18' above the stream bed with the remainder 27' below the riverbed.

Prior to dam removal, hydraulic dredging will be conducted and will cover an area of approximately 8 acres in the New Kernsville impoundment. This will remove approximately 80,000 cubic yards (CY) of accumulated sediment. It is estimated that there is approximately 250,000 CY of material within the post-removal floodplain. The material will be piped approximately one mile to the southeast, just north of the I-78 bridge, to an existing, historic disposal basin. In June of 2018, a bathymetric survey was conducted to determine approximate sediment depths. Sediment samples were also taken from the impoundment and plunge pool. The samples were tested by DEP's Bureau of Labs for organics, metals and PCB's. The results showed that the potential contaminant concentrations fell below threshold numbers for concern.

The dam removal process will include the removal and disposal of left and right concrete abutments, removal and disposal of the left concrete spray wall to elevation 363.0, removal and disposal of the right concrete spray wall to elevation 373.0 or 1 foot below finished grade. Additionally, dam removal project will include the removal and disposal of a 380 foot long by 10 foot high concrete spillway and the removal and disposal of a 220-foot length by 20-foot height of concrete spillway. The concrete rubble will be placed in the plunge pool below the dam in an effort to return the Schuylkill River to its historic channel. This will impact approximately 1.1 acres of the Schuylkill River. After the plunge pool is filled with concrete rubble, the plunge pool will be capped and seeded.

Additionally, the removal and disposal of associated infrastructure is proposed, including the removal of floodlights, hand railings, pipe drains, water stops, stop log guides, stop log frames, cable guiderail, floodlight corrugated metal sleeves, buoys, reinforcement steel, cable winch, drum, steel framing, concrete foundations, a concrete boat ramp and boat slip walls. The site will then be excavated and graded, per the proposed plan.

PURPOSE: Currently, the New Kernsville Dam is being operated and maintained by the Bureau of Abandoned Mine Reclamation (BAMR). The Commonwealth of Pennsylvania owns the dam structure and the surrounding property. The purpose of the dredging of the New Kernsville impoundment and the removal of the New Kernsville Dam is to eliminate issues surrounding trespassing and the inherent safety issues this causes, most notably unauthorized swimming in the Schuylkill River. Additionally, the head waters of the Schuylkill River is no longer dominated by the coal mining industry and the dam no longer serves its design function to capture coal fines. After the dam removal project is completed, removal of the dam and

appurtenant structures, the Department of Conservation and Natural Resources (DCNR) will acquire the encompassing property from BAMR. The property will be designated as a green public recreation area, with uses including, hiking, biking, and bird watching. The Schuylkill River is a navigable water of the United States from its confluence with the Delaware River to Port Carbon, PA. Currently the dam is a major barrier for paddlers and other recreational navigation on the Schuylkill River. Removal of the dam will increase the navigability of the river. Lastly, the removal of the New Kernsville Dam would help restore fish passage on the Schuylkill River by removing an impediment to fish and other wildlife migrating up and down the river channel.

A preliminary review of this application indicates that the proposed work would not affect listed 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.

The decision whether to issue a permit will be based on an evaluation of the activity's probable impact including its cumulative impacts 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 to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and welfare of the people. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

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.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). A preliminary assessment of the species listed in the "Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware", dated March 1999, indicates that there is no EFH in the vicinity of the proposed work. However, the Schuylkill River is important habitat for anadromous fish such as alewife (*Alosa pseudoharengus*), blueback herring (*Alosa aestivalis*), and American shad (*Alosa sapidissima*), which use the river including in and around the proposed project site as migratory and foraging

habitat. The EFH final rule states that prey species are an important component of EFH and that loss of prey may be an adverse effect on EFH and managed species. As part of the permit review, consultation will occur with NMFS.

Compensatory mitigation is not proposed as the project will provide an uplift to the aquatic and riparian environment. During the restoration, minimization and avoidance of impacts to the aquatic environment is difficult as the purpose of the project is to restore the Schuylkill River channel, which is buried in accumulated sediment. This type of restoration work requires in-stream work to occur. Dredging and the placement of fill will allow for the historic Schuylkill River channel and its banks to be restored, which would provide important functions and services for the aquatic ecosystem.

In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. The applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program. No permit will be issued until the State has concurred with the applicant's certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary from the State government in which the work is located. Any comments concerning the work described above which relate to Water Quality considerations should be sent to this office with a copy to the State.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Due to COVID-19, comments on the proposed work are encouraged to be submitted, by email, within 30 days to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District at PhiladelphiaDistrictRegulatory@usace.army.mil. If it is necessary to provide a paper copy, comments should be submitted, by traditional mail, within 30 days to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District.

Additional information concerning this public notice may be obtained by contacting Nathan Fronk at 267-284-6564, via email at nathan.r.fronk@usace.army.mil.

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Michael A. Landis
Chief, Operations Division