



Public Notice

U.S. Army Corps of Engineers, Norfolk District

CENAO-WRR
NAO-1988-00021

June 16, 2023

NOTICE OF AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT STATEMENT, FEDERAL PUBLIC NOTICE OF JOINT PERMIT APPLICATION, AND NOTICE OF PUBLIC HEARING

The U.S. Army Corps of Engineers (Corps) has prepared a Draft Environmental Impact Statement (DEIS) for the Southeastern Public Services Authority (SPSA) proposal to expand the Regional Landfill at 1 Bob Foeller Drive off merged U.S. Routes 58, 13, and 460 in Suffolk, Virginia. The District Commander has also received a joint permit application for Federal and State permits as described below:

APPLICANT

Mr. Dennis Bagley
Southeastern Public Services Authority (SPSA)
723 Woodlake Drive
Chesapeake, VA 23320

The Corps will hold informational meetings on the joint permit application on June 21 and 22, 2023 and public hearings on July 26 and 27, 2023, at the times and places set forth below.

PROJECT LOCATION: Regional Landfill at 1 Bob Foeller Drive in Suffolk, Virginia off merged U.S. Routes 58, 13, and 460

PROJECT SIZE: The proposed Expansion Area is 137.18 acres.

NEAREST WATERWAY: Burnetts Mill Creek, a tributary to the Nansemond River

LATITUDE AND LONGITUDE: 36.765420, -76.515147

PROJECT DESCRIPTION AND PURPOSE: SPSA proposes to impact 109.64 acres of forested wetlands for the expansion into Cells VIII and IX at the existing Regional Landfill at 1 Bob Foeller Drive in Suffolk, Virginia. The purpose of the project is to allow SPSA to continue meeting its core mission for the next 40 years. As stated in the Code of Virginia §15.2-5102.1, SPSA is responsible for the management of the safe and environmentally sound disposal of regional waste for its Member Localities: the cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk and Virginia Beach, and the

counties of Isle of Wight and Southampton. Based on current and anticipated municipal waste tonnages to be processed by SPSA, the existing landfill area at the Regional Landfill in Suffolk, Cells V and VI, will run out of capacity in 2027. In 2002, the Corps and the State of Virginia authorized an additional landfill, Cell VII. Once in operation, Cell VII will provide approximately 10 additional years of disposal capacity.

AVOIDANCE AND MINIMIZATION: During the initial stages of the EIS process, SPSA proposed to impact 129 acres of wetlands. After redesigning the expansion cells, SPSA proposed 117.36 acres of wetland impacts and that design was reviewed as one of the onsite alternatives in the DEIS. Using a combination of onsite alternatives, SPSA was able to reduce the need within the Expansion Area and avoid approximately 7.72 acres of wetlands, which equated to 109.64 acres of wetland impacts. This onsite alternative, which includes expansion into Cells VIII and IX and utilizing the airspace between Cells V and VII within their current active facility boundary, is SPSA's preferred alternative and was reviewed as such in the DEIS. SPSA evaluated ten onsite alternatives. A comprehensive off-site alternatives analysis, which included a more in-depth review of seven off-site alternatives was completed as part of the EIS process. One of those off-site alternatives, SH 30, located in Southampton County, was carried forward and evaluated in the DEIS. The No Action Alternative involves hauling waste to existing, private landfills and would not require a Corps permit.

COMPENSATORY MITIGATION: SPSA purchased 83 credits from the Chesapeake Mitigation Bank, which is approximately 6.5 miles east of the Expansion site. SPSA also purchased 76 wetland credits from the Davis Wetlands Bank, which is approximately 15 miles southeast of the Expansion site. SPSA proposes to place a conservation easement over the approximately 168-acre area that was to be developed as Cells X, XI and XII and their related stormwater management features. At a 10:1 ratio for wetland preservation, this mitigation measure would generate 16.8 wetland credits. SPSA proposes another 17 wetland mitigation credits to be generated through preservation of 175.41 acres of forested wetlands on the adjoining property, which was recently purchased by SPSA. To achieve 220-acres worth of mitigation, SPSA is in the process of releasing a Request for Proposals for other Permittee Responsible Mitigation within the primary watershed to generate an additional 27 credits.

In addition, the applicant must obtain an Individual Section 401 Water Quality Certification or waiver from the Virginia Department of Environmental Quality (DEQ) assuring that applicable laws and regulations pertaining to water quality are not violated.

AUTHORITY:

- () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- (X) Sections 401 and 404 of the Clean Water Act (Public Law 95-217) and Title 62.1 of the Code of Virginia.
- () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972

(33 U.S.C. 1413).

PUBLIC NOTIFICATION: This public notice serves to: provide public notice of the joint permit application, announce the availability of the Draft Environmental Impact Statement for public comment, provide notice of two informational meetings, and provide notice of two public hearings pursuant to 33 C.F.R. § 327.4.

Federal, State and Local agencies, as well as private individuals, organizations or groups, are invited to provide comment for our consideration as we work towards development of a Final EIS and decision on the Joint Permit Application. The DEIS is not the decision document. Rather, its purpose is to inform the public and other agencies of potential impacts associated with the Applicant's proposal. The Corps has analyzed 10 onsite alternatives and one offsite alternative in the DEIS. Alternatives consist of onsite modifications, construction of a new landfill off-site and a "no action" alternative involving hauling to existing landfills. The No Action alternative would not require issuance of a permit by the Corps. If the Project or another action alternative is approved, the Corps would issue a decision and the necessary permit authorizations.

PUBLIC INFORMATIONAL MEETINGS AND HEARINGS: The Corps will be conducting two informational meetings at the beginning of the comment period and two public hearings near the end of the comment period.

The public meeting times and locations follow:

June 21, 2023- Public Meeting from 5:00-7:00 pm at the Regional Landfill, 1 Bob Foeller Drive, Suffolk, VA

June 22, 2023- Public Meeting from 5:00-7:00 pm at Ivor Town Hall, 8430 Bell Avenue Ivor, VA

July 26, 2023- Public Hearing from 5:00-7:00 at East Suffolk Recreation Center, 138 S 6th Street, Suffolk, VA

July 27, 2023- Public Hearing from 5:00-7:00 at Ivor Town Hall 8430 Bell Avenue Ivor, VA

The purpose of the informational meetings is to provide the public with information about the proposed activities and to answer the public questions. No transcript will be generated at the informational meetings, however, and these meetings are not intended to become part of the administrative record. Speakers need not pre-register to participate in the question-and-answer portion of the informational meetings. We ask that each speaker limit themselves to one question, though the Corps will endeavor to answer any remaining questions if time permits at the end of the informational meeting.

The agenda for the informational meetings will be as follows:

1. Open House for 30 minutes
2. Introduction by Corps and Overview of Regulatory Process
3. Proposed Project Description by SPSA
4. Alternatives Analysis by the Corps' third-party consultant
5. Question and Answer Session
6. Open House during remaining time

The purpose of the public hearings is to acquire information which will be considered in evaluating the permit application and to afford the public an opportunity to present their views, opinions, and information on the proposed permit action. To better accommodate public participation, the Corps has scheduled the public hearings and public informational meetings in locations that are close to either the applicant's preferred alternative or the alternative (SH 30) which was carried through the DEIS analysis. The Corps will hold these public hearings in the evening hours to accommodate maximum participation. The public hearings will be held in accordance with the procedures in 33 CFR Part 327.

The agenda for the Public Hearings will be as follows:

1. Introduction by Corps
2. Overview of Regulatory Program
3. Project Description
4. Oral Public Comment

Those who wish to speak must pre-register during sign-in. Each individual wishing to make verbal comments shall be given two (2) minutes and a stenographer will document verbal comments. Due to the expected number of attendees, we request that groups, where appropriate, consolidate comments and elect a representative speaker. The record will remain open for more than 10-days following this hearing for the submission of written comments (ending at close of business on August 15, 2023). These comments will be used to carefully weigh all relevant factors, including balancing our Nation's cultural and ecological resources with the need for reliable waste management. The input received will be considered fully in our permit evaluation process and be used to inform the necessary National Environmental Policy Act analysis and documentation. Information related to these processes including draft or final documents will be made available as appropriate on the above-mentioned website.

AVAILABILITY OF DRAFT EIS AND JOINT PERMIT APPLICATION: The DEIS is electronically available in the following locations:

<http://www.nao.usace.army.mil/Missions/Regulatory/SPSAPermit/>

<http://projects.vhb.com/spsa-eis/>

A copy of the joint permit application can be found on the Virginia Marine Resources Commission's website ([23-1262](tel:23-1262)).

For persons who cannot access the DEIS electronically, printed copies for viewing are available at the following libraries:

U.S. Army Corps of Engineers
Norfolk District Library
803 Front Street, Norfolk, VA 23510
757-201-7219

By appointment only: Email the librarian at CENAO-Library@usace.army.mil

Morgan Memorial Library
443 W. Washington Street
Suffolk, VA 23434
757-514-7323

North Suffolk Library
2000 Bennetts Creek Park Road
Suffolk, VA 23435
757-514-7150

Troxler Memorial Library
100 Wilson Ave
Wakefield, VA 23888
757-899-6500

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, 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.

The Corps is also accepting comments on the Draft EIS as it works toward preparation of the Final EIS.

ENDANGERED SPECIES: After conducting the Norfolk District Endangered Species Act (ESA) Project Review Process, the Corps has made the preliminary determination that:

There may be an effect to listed/proposed/candidate species and/or designated/proposed critical habitat under the ESA of 1973. The U.S. Fish and Wildlife Service (FWS) Information and Planning and Consultation (IPaC) Official Species List and Species Conclusion Table are attached for review and comment by the FWS and the National Marine Fisheries Service (NMFS). Additional information might change any of these findings.

HISTORIC AND CULTURAL RESOURCES:

Historic Resources eligible for inclusion or included in the National Register of Historic Places (NRHP) may be in or near the Corps permit area could be affected by the proposal. Additional information may change any of these findings.

ESSENTIAL FISH HABITAT: 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 NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH).

There is no EFH in the Corps area of responsibility.

VIRGINIA'S COASTAL ZONE MANAGEMENT PROGRAM: For compliance with the Coastal Zone Management Act of 1972, as amended for projects located in Virginia's Coastal Zone, 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's Coastal Zone Management Program (Virginia CZM Program), and obtain concurrence from the Department of Environmental Quality (DEQ), Office of Environmental Impact Review (OEIR). It is the applicant's responsibility to submit a consistency certification to the OEIR 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 in the Federal Consistency Manual here: <https://www.deq.virginia.gov/permits-regulations/environmental-impact-review/federal-consistency> . For more information or to obtain a list of the enforceable policies of the Virginia CZM Program, contact the DEQ-OEIR at (804) 659-1915 or e-mail: bettina.rayfield@deq.virginia.gov. The applicant will be submitting concurrence documents.

VIRGINIA'S SECTION 401 WATER QUALITY CERTIFICATION PROGRAM: The Clean Water Act (CWA) Section 401 Certification Rule (Certification Rule, 40 CFR 121), effective September 11, 2020, requires certification, or waiver, for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 certification is limited to ensuring that a discharge from a Federally licensed or permitted activity will comply with water quality requirements. To comply with the Virginia Section 401 Water Quality Certification Program and the Certification Rule, the applicant is responsible for adhering to the procedures outlined in the Certification Rule when requesting certification from the certifying authority, the Virginia Department of Environmental Quality. 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 whether 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.

COMMENT PERIOD: Comments on this project should be in writing and can be sent to Ms. Melissa Nash by either email to spsa-eis@usace.army.mil, or by regular mail, addressed to the Norfolk District, Corps of Engineers (ATTN: CENAO-WRR), 803 Front Street, Norfolk, VA 23510-1011, and should be received by the close of business on August 15, 2023.

With respect to the Draft EIS, comments should be as specific as possible. It is also helpful if comments refer to chapters, pages, and line numbers of the DEIS (e.g., Chapter 1, page 1-3, line 10), along with any sources that support your comments. Comments may address the adequacy of specific analyses in the DEIS and the merits of the alternatives formulated and discussed in the document (40 CFR 1503.3). Please note that the preferred alternative may not be the final decision, so it is best to comment on what you like/do not like about each alternative. Additionally, if you identify a new proposed alternative, identify how it would avoid/reduce/mitigate resource impacts better than the alternatives already analyzed in the DEIS. Include in your comments potential mitigation options that could be considered for the Project. Substantive comments (40 CFR 1503.3) will be included in the Final EIS.

PRIVACY AND 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, this Public Notice, or the permit process, contact Ms. Melissa Nash at spsa-eis@usace.army.mil or 757-201-7489.

Attachments: