PUBLIC NOTICE

US Army Corps
of Engineers
New York District
Jacob K. Javits Federal Building
New York, N.Y. 10278-0090
ATTN: Regulatory Branch

In replying refer to:
Public Notice Number: **NAN-2015-00459-EPI**
Issue Date: October 30, 2015
Expiration Date: November 30, 2015

The New York District, Corps of Engineers has received an application for a Department of the Army permit pursuant to 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: Optical Communications Group
79-24 71st Avenue
Glendale, New York 11385

ACTIVITY: Installation of submarine duct/cable

WATERWAY: Kill Van Kull

LOCATION: Borough of Staten Island, City of New York, Richmond County, New York across to the City of Bayonne, Hudson County, New Jersey

A detailed description and plans of the applicant's activity are enclosed to assist in your review.

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. That decision will reflect the national concern for both protection and utilization of important resources. The benefit 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, aesthetics, general environmental concerns, wetlands, historic properties, 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, 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 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.

*****PLEASE USE THE 18-CHARACTER FILE NUMBER ON ALL CORRESPONDENCE WITH THIS OFFICE*****

ALL COMMENTS REGARDING THE PERMIT APPLICATION MUST BE PREPARED IN WRITING AND MAILED TO REACH THIS OFFICE BEFORE THE EXPIRATION DATE OF THIS NOTICE, otherwise, it will be presumed that there are no objections to the activity.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments, including names and addresses, will be made a part of the administrative record, 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 person may request, in writing, before this public notice expires, that a public hearing be held to collect information necessary to consider this application. Requests for public hearings shall state, with particularity, the reasons why a public hearing should be held. It should be noted that information submitted by mail is considered just as carefully in the permit decision process and bears the same weight as that furnished at a public hearing.

Our preliminary determination is that the activity for which authorization is sought herein is not likely to affect any Federally endangered or threatened species or their critical habitat. However, pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the District Engineer is consulting with the appropriate Federal agency to determine the presence of and potential impacts to listed species in the project area or their critical habitat.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act (Public Law 104-267), requires all Federal agencies to consult with the National Oceanic and Atmospheric Administration Fisheries Service (NOAA/FS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The proposed construction work, fully described in the enclosed Work Description, could cause minimum disruption of habitat for various life stages of some EFH-designated species as a result of a minor short-term temporary increase in turbidity during construction. However, the New York District has made the preliminary determination that the site-specific minor adverse effects are not likely to be substantial because it is expected that fish populations would avoid the small area of minor disturbance. Further consultation with NOAA/FS regarding EFH impacts and conservation recommendations is being conducted and will be concluded prior to the final decision on this permit application.

Based upon a review of the latest published version of the National Register of Historic Places, there are no known sites eligible for, or included in, the Register within the permit area. Presently unknown archeological, scientific, prehistorical, or historical data may be lost by work accomplished under the required permit.

Review of activities pursuant to Section 404 of the Clean Water Act 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 and the permit applicant will obtain a water quality certificate or waiver from the appropriate state agency in accordance with Section 401 of the Clean Water Act prior to a permit application decision.

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Pursuant to Section 307 (c) of the Coastal Zone Management Act of 1972 as amended [16 U.S.C. 1456 (c)], for activities under consideration that are located within the coastal zone of a state which has a federally approved coastal zone management program, the applicant has certified in the permit application that the activity complies with, and will be conducted in a manner that is consistent with, the approved state coastal zone management program. By this public notice, we are requesting the state's concurrence with, objection to, or waiver of the applicant's certification. No permit decision will be made until one of these actions occurs. For activities within the coastal zone of New York State, the applicant's certification and accompanying information is available from the Consistency Coordinator, New York State Department of State, Division of Coastal Resources and Waterfront Revitalization, Coastal Zone Management Program, One Commerce Plaza, 99 Washington Avenue, Albany, New York 12231, Telephone (518) 474-6000. Comments regarding the applicant's certification, and copies of any letters to this office commenting upon this proposal, should be so addressed. For activities within the coastal zone of New Jersey State, the applicant's certification and accompanying information is available from the New Jersey Department of Environmental Protection, Coastal Management Program, P.O. Box 418, 401 E. State Street, Trenton, NJ, 08625, Telephone (609) 633-2201. Comments regarding the applicant's certification, and copies of any letters to this office commenting upon this proposal, should be so addressed.

In addition to any required water quality certificate and coastal zone management program concurrence, the applicant has obtained or requested the following governmental authorizations for the activity under consideration:

- New York State Department of Environmental Conservation Permit
- New Jersey Department of Environmental Protection

In order for us to better serve you, please complete our Customer Service Survey located at: http://www.nan.usace.army.mil/Missions/Regulatory/CustomerSurvey.aspx.

It is requested that you communicate the foregoing information concerning the activity to any persons known by you to be interested and who did not receive a copy of this notice. If you have any questions concerning this application, you may contact this office a (917) 790-8533 and ask for Randy Piersol.

For more information on New York District Corps of Engineers programs, visit our website at http://www.nan.usace.army.mil.

Christopher S. Mallery, Ph.D.
Acting Chief, Regulatory Branch

Enclosures

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WORK DESCRIPTION

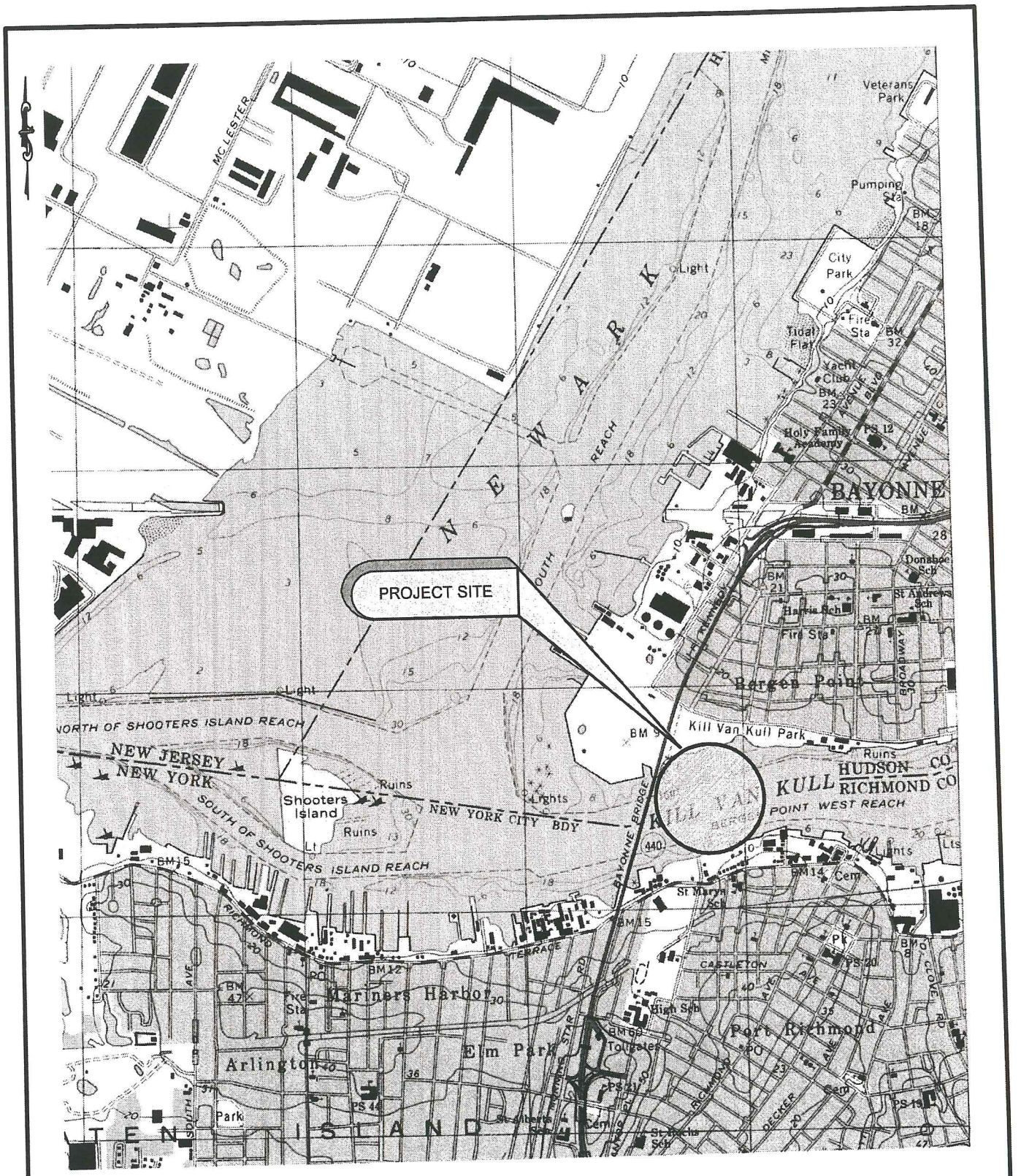
The applicant, Optical Communications Group, has requested Department of the Army authorization to install a new fiber optic line duct to replace a submerged coaxial cable. The project crosses the Kill Van Kull, extending from the Borough of Staten Island, City of New York, Richmond County, New York to the City of Bayonne, Hudson County, New Jersey.

The proposed work activities include the installation of a new fiber optic line duct in an existing easement to replace an existing submerged coaxial cable that crosses the Kill Van Kull. The fiber optic line duct would be installed by horizontal directional drill from the Staten Island side of the Kill Van Kull. The staging area for the horizontal directional drill would be located in an upland area more than 50-feet from the Mean High Water line of the Kill Van Kull. The existing coaxial cable is surface laid and would be removed by reclamation barge. The new fiber optic line duct would be connected to the existing fiber line duct on each side of the river by the trenching method and maintain a minimum depth of -8 feet below the entire waterway bottom.

Slurry from the proposed drilling would be transported off site in accordance with all local, state and federal rules and regulations. There is no fill proposed to be placed in the waterways below the spring high water line (SHW).

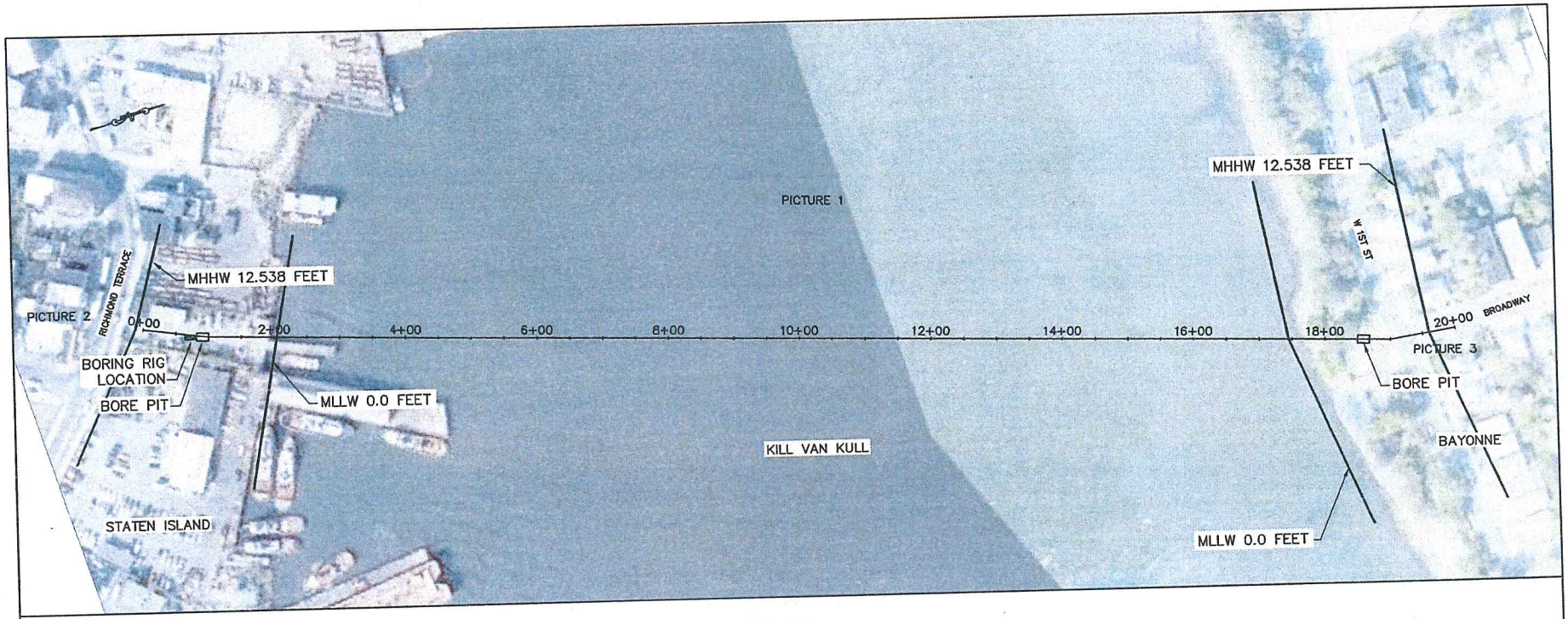
The applicant has stated that they have avoided, minimized, and mitigated for impacts proposed to the maximum extent practicable by limiting construction to the smallest area practicable.

The stated purpose of this project is to replace a submerged coaxial cable.

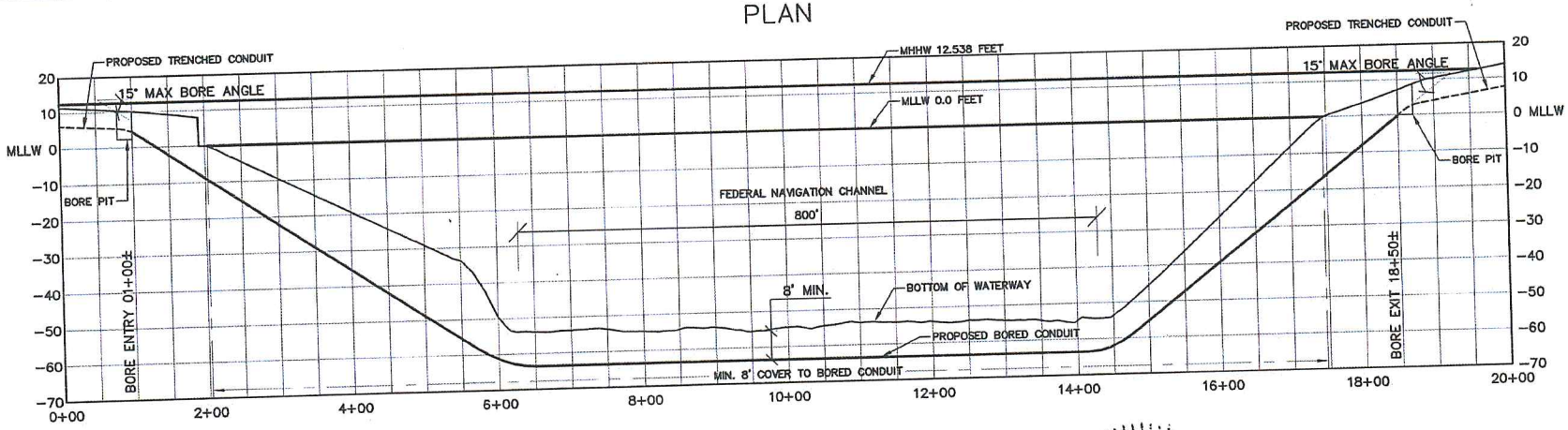


DATE: JUNE 2015

J R F A — J. ROBERT FOLCHETTI & ASSOCIATES, P.E., L.S. CIVIL / ENVIRONMENTAL ENGINEERS www.jrfa.com 31 SODOM ROAD BREWSTER, NY 10509 845-363-1560	OPTICAL COMMUNICATION GROUP KILL VAN KULL - DIRECTIONAL BORING LOCATION MAP	FIGURE: _____ SCALE: 1" = 2,000' DWG. NO. _____



PLAN



PROFILE

DATUM:
MEAN LOW LOW WATER (MLLW)

STATE OF NEW JERSEY
TODD W. ATKINSON
LICENSED PROFESSIONAL ENGINEER
084089

DATE: OCTOBER 2015

J R F A
J. ROBERT FOLCHETTI & ASSOCIATES L.L.C.
CIVIL / ENVIRONMENTAL ENGINEERS
247 ROUTE 100
SOMERS, NY 10589
914-232-2500

OPTICAL COMMUNICATION GROUP
FIBER OPTIC CABLE CONDUIT

KILL VAN KULL
PLAN AND PROFILE

FIGURE: C-001.00
SCALE: 1"=250'
DWG. NO. 53501-KILL VAN KULL

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