

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-2020-00343-EMI Issue Date: October 26, 2021 Expiration Date: November 26, 2021

To Whom It May Concern:

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: The Stavola Companies 175 Drift Road Tinton Falls. NJ 07724
- ACTIVITY: Construct Loading Dock Structures, Bank Stabilization, and Fill an Inlet
- WATERWAY: Passaic River
- LOCATION: 330 Doremus Avenue, City of Newark, Essex 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.

ALL COMMENTS REGARDING THE PERMIT APPLICATION MUST BE PREPARED IN WRITING AND EMAILED TO REACH THIS OFFICE BEFORE THE EXPIRATION DATE OF THIS NOTICE,

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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. Comments provided will become part of the public record for this permit application. All written comments, including contact information, 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 email 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 work, fully described in the attached work description, could cause the disruption of habitat for various lifestages of some EFH-designated species as a result of a temporary increase in turbidity during construction. However, the New York District has made the preliminary determination that the site-specific adverse effects are not likely to be substantial because it is expected that fish populations would avoid the small area of disturbance. Further consultation with NOAA/FS regarding EFH impacts and conservation recommendations is being conducted and will be concluded prior to the final decision.

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.

Reviews 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 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 decision.

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

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permit decision will be made until one of these actions occur. 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 authorization for the activity under consideration:

• New Jersey Department of Environmental Protection

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. Please send all comments and questions concerning this application to <u>Christopher.W.Minck@usace.army.mil</u>.

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

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

FOR AND IN BEHALF OF

Stephan A. Ryba Chief, Regulatory Branch

Enclosures

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WORK DESCRIPTION

The permit applicant, The Stavola Companies, has requested Department of the Army (DA) authorization to construct loading dock structures, stabilize the existing shoreline, and fill an inlet to create upland for the Doremus Avenue Asphalt Plant and Materials Facility. The project is located in the Passaic River at 330 Doremus Avenue in the City of Newark, Essex County, New Jersey.

The proposed work would involve the following:

Remove an approximately 38-foot-wide by 120-foot-long barge, six (6) 12-pile dolphin clusters, deteriorated bulkhead and existing timber structures. An approximately 2,404 square foot (approximately 0.06 acres) inlet will be filled with approximately 302 cubic yards of clean fill below the plane of Spring High Water to create upland.

To stabilize the shoreline, approximately 875 cubic yards of existing riprap, concrete and debris will be excavated below the plane of Spring High Water and a new approximately 732 linear foot riprap revetment will be constructed over approximately 9,895 square feet. Approximately 262 cubic yards of riprap will be discharged below the plane of Spring High Water to construct the revetment.

From the upland property install an approximately four-foot-wide by 60-foot-long ramp leading to a permanently moored approximately 54-foot-wide by 200-foot-long barge anchored by four (4) 36-inch diameter hollow steel pipe piles. Four (4) seven (7) pile dolphin clusters consisting of six (6) 12-inch timber piles and one (1) 18-inch diameter hollow steel pipe king pile each will be installed on the south side of the barge spaced approximately 35 feet apart parallel to the shoreline to allow barges to temporarily moor while offloading materials. South of and adjacent to the ramp, within the riprap revetment approximately 90 linear feet of bulkhead will be installed around an approximately 40-foot-wide by 25-foot-long area to support a crane platform.

The applicant has stated that they have avoided, minimized, and mitigated for potential impacts proposed, to the maximum extent practicable by working at low tide, as practicable, using a turbidity curtain around the project area and by using a vibratory hammer as practicable during pile installation.

The purpose of the project is to stabilize the shoreline and develop the site for production and recycling of asphalt and the production of concrete.

























