

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-2024-00070 Issue Date: May 8, 2024 Expiration Date: June 8, 2024

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), Section 404 of the Clean Water Act (33 U.S.C. 1344)

APPLICANT: Kinder Morgan Liquid Terminals

78 Lafayette Street Carteret, NJ 07008

ACTIVITY: Ten-year Maintenance Dredging with return flow

WATERWAY: Arthur Kill

LOCATION: Town of Carteret, Middlesex 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 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

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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 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 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 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. This public notice serves as notification to the Administrator of the Environmental Protection Agency (EPA) pursuant to section 401(a)(2) of the Clean Water Act. If EPA determines that the proposed discharge may affect the quality of the waters of any state other than New Jersey, it will so notify such other state, the district engineer, and the applicant. If such notice or a request for supplemental information is not received within 30 days of issuance of this public notice, the district engineer will assume EPA has made a negative determination with respect to section 401(a)(2).

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

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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 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. If you have any questions concerning this application, you may contact this office at jarod.r.ostir@usace.army.mil.

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

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

Digitally signed by Rosita Miranda

FOR AND IN BEHALF OF Stephan A. Ryba Chief, Regulatory Branch

Enclosures

WORK DESCRIPTION

The applicant, Kinder Morgan Liquid Terminals, has requested Department of the Army authorization to conduct dredging, with ten-years maintenance with return flow. The project is located in the Arthur Kill, Town of Carteret, Middlesex County, New Jersey.

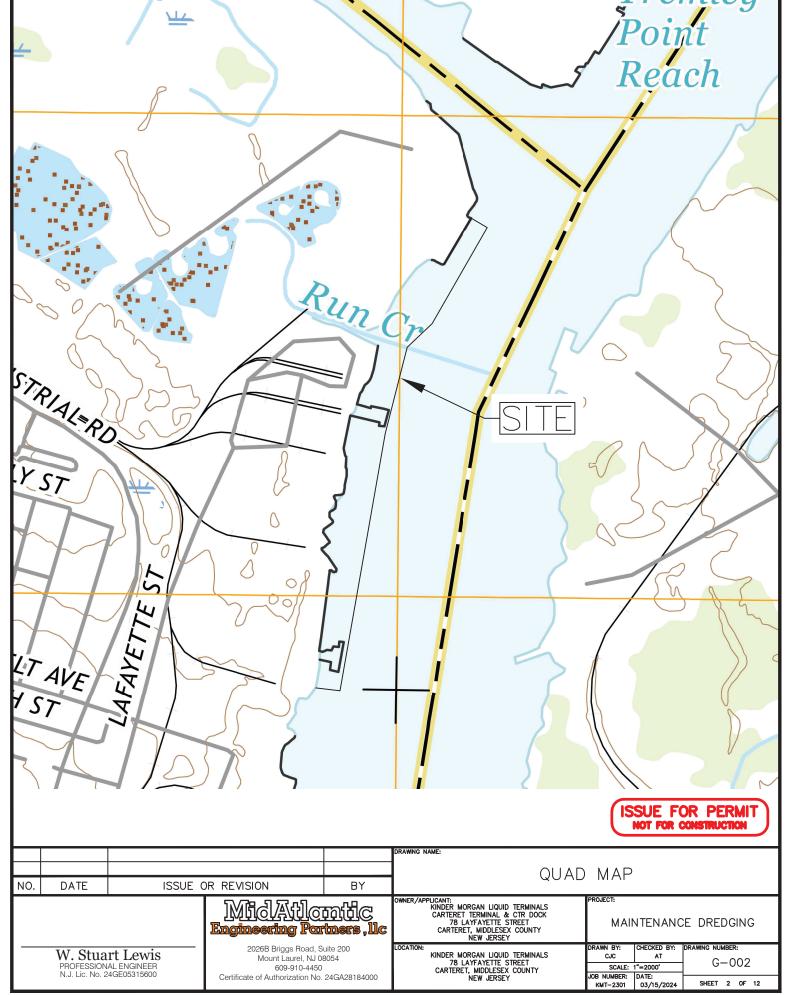
The work would involve the following:

Dredge with ten-years maintenance via clam shell bucket the following areas: Dock 1, Berths 1A, 1B, and 1C, Dock 2, Dock 3 and, the CTR dock. Approximately 1,378 cubic yards (CY) of material to be dredged from the area surrounding Dock 1 and Berths 1A, 1B, and 1C across a 2.91-acre area to a maximum depth of 24 feet below the plane of Mean Low Water (MLW). Approximately 430 cubic yards of material to be dredged from the area surrounding Dock 2 across a 2.82-acre area to a maximum depth of 37 feet below the plane of MLW. Approximately 140 CY of material to be dredged from the area surrounding Dock 3 across a 2.05-acre area to a maximum depth of 37 feet below the plane of MLW. Approximately 2,000 CY of material to be dredged from the area surrounding CTR Dock across a 1.72-acre area to a maximum depth of 27 feet below the plane of MLW. The dredged material will be dewatered after a minimum of 24 hours of settling in the scows and then transported to an approved upland source.

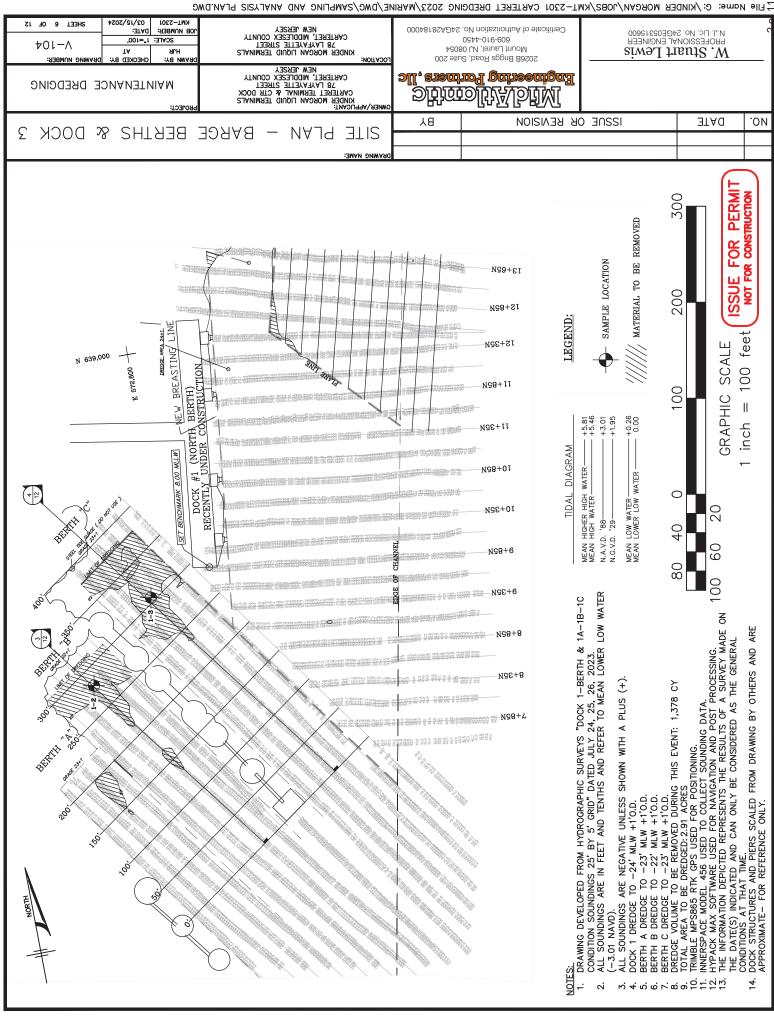
The applicant plans to conduct five (5) additional dredging events within the ten-year maintenance dredging period by removing a maximum of approximately 4,000 CY of material per event from within the same dredging areas with the same dewatering and disposal locations.

The applicant has stated that they have avoided, minimized, and mitigated for potential impacts proposed to the maximum extent practicable by limiting the dredged area to the minimum area required for safe and reasonable navigation. Any potential impacts would be temporary and would be offset by implementing best management practices including the use of a turbidity curtain around the dredge area to minimize turbidity.

The stated purpose of this project is to remove sediments that have been deposited by natural processes within the berthing areas of the terminal over time. The maintenance dredge depths are design to allow berthing of specific maximum size vessels at each designated location. Without the maintenance dredge process, these berths would be unable to function as intended



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