



**U.S. Army Corps  
of Engineers**  
Pittsburgh District

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# Public Notice

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In Reply Refer to  
Notice No. below

US Army Corps of Engineers, Pittsburgh District  
1000 Liberty Avenue  
Pittsburgh, PA 15222-4186

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Application No. 2019-140

Date: March 22, 2019

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Notice No. 19-19

Closing Date: April 22, 2019

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1. TO ALL WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

2. APPLICANT: NLS Asphalt, Inc.  
Empire Plant  
1331 Broad Avenue  
Findlay, Ohio 45840

3. LOCATION: Ohio River, Right Descending Bank, River Mile 56.3, 1422 County Road 7F, Toronto, Knox Township, Jefferson County, Ohio. Latitude: 40.498403° North, Longitude: -80.616607° West.

4. PURPOSE AND DESCRIPTION OF WORK: The applicant is requesting authorization to moor barges, unload aggregate material from barges, to operate an elevated conveyer belt system on the river bank of the Ohio River and to maintain the existing barge unloading area of aggregate materials.

- Barges arrive to offload onto an elevated conveyer belt system setup on the riverbank, the area of the existing fill is approximately 20 feet by 80 feet (0.04 acre), to receive aggregate material and to transport it to the upland storage area.
- A barge with two anchoring points (spuds) is secured approximately 25 feet from the ordinary high water mark (OHWM). This barge consist of an operating platform with a clamshell excavator, feed hopper and a suspended conveyer belt that reaches the conveyer belt on the bank. Additional barges with the aggregate material are secured to the spudded barge to be offloaded. The proposed mooring area is approximately 600 linear feet long by 125 feet wide. Drawings of the proposed mooring area are attached to this notice.

5. WATER QUALITY CERTIFICATION: A Permit will not be granted until Water Quality Certification is received or waived from:

Ohio Environmental Protection Agency (Ohio EPA)  
Section 401 Coordinator  
PO Box 1049  
Columbus, Ohio 43266-0149  
Telephone Number: 614-644-2001

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project may affect, but is not likely to adversely affect endangered species or threatened species, or result in destruction or adverse modification of habitat of such species which has been determined to be critical. This Public Notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended). If the U.S. Fish and Wildlife Service concurs with the may affect, not likely to adversely affect determination please respond with written concurrence. U.S. Fish and Wildlife Service, e-mail dated February 16, 2019.

7. IMPACT ON CULTURAL RESOURCES: The National Register of Historic Places has been consulted, and it has been determined that there are no properties currently listed on the register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

8. PUBLIC INVOLVEMENT: Any person may request, in writing, within the comment period specified in the paragraph below entitled "RESPONSES," that a public hearing be held to consider this application. The requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

9. EVALUATION: Interested parties are invited to state any objections they may have to the proposed work. 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 proposals 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, 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, 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 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 overall public interest of the proposed activity. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

10. **RESPONSES:** A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered in the final determination. Any objections which are received during this period may be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. All responses to this notice should be directed to the Regulatory Division, attn. George Brkovich at the above address, by telephoning (412) 395-7247, or by e-mail at [george.r.brkovich@usace.army.mil](mailto:george.r.brkovich@usace.army.mil) Please refer to CELRP-RG 2019-140 in all responses.

FOR THE DISTRICT ENGINEER:

// SIGNED //

By Tyler Bintrim

Scott A. Hans  
Chief, Regulatory Division