



COASTAL RESOURCES DIVISION
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COASTAL MARSHLANDS PROTECTION ACT STAFF'S FINDINGS & RECOMMENDATIONS

December 11, 2020

TO: Coastal Marshlands Protection Committee:
Commissioner Mark Williams, Chairman
Mr. Zach Harris
Mr. Bill Hodges
Mr. Chad Barrow
Mr. Brad Brookshire

FROM: Department Staff to the Committee

APPLICANT: Phillip Rowland
Sulfeo, LLC.
118 East 35 Street
Savannah, GA 31401

AGENT: Stuart Sligh
Sligh Environmental Consultants
31 Park of Commerce Way Suite 200 B
Savannah, GA 31405

LOCATION: 100 Seapoint Boulevard, Savannah, Savannah River, Chatham County
Georgia.

PROJECT: The proposed project is the modification and maintenance of an existing industrial facility, and the construction and maintenance of a deep-water berth.

ARMY CORPS NUMBER: 2019-00751

APPLICABLE LAW: O.C.G.A. §12-5-280 *et seq.*, as amended, Coastal Marshlands Protection Act (CMPA) of 1970.

SUMMARY OF PUBLIC COMMENTS: The Public Notice of the Coastal Marshlands Protection Committee (CMPC) ran from October 31, 2020 to November 30, 2020. Three comments were received in favor of the project.

FINDINGS: Department Staff to the CMPC make the following findings regarding this application:

Project Scope and Justification: O.C.G.A. § 12-5-286:

1. The Sulfco, LLC. project area consists of approximately 226.67 acres of upland and 58 acres of coastal marshlands. The site has historically been used for industrial purposes.
2. The proposed project includes an upland component and marshlands component:
 - a. The marshlands component includes maintenance of existing bulk conveyor systems, dredging of coastal marshlands, and removal of a water-intake structure and a portion of an existing bank stabilization.
 - b. The upland component consists of approximately 19.7 acres. The applicant is proposing the creation of a deep-water berth, installation of a King Pile Bulkhead, construction and maintenance of a confined dredge material containment area (DMCA) and maintenance of a permitted National Pollutant Discharge Elimination System (NPDES) that includes an existing discharge outfall structure on the Savannah River, a discharge drainage ditch and a portion of the NPDES Treatment Lagoon berm.

Marsh Component

3. Existing Bulk Conveyor: An existing bulk conveyor system used for off-loading dry bulk goods from moored vessels is located along the parcel's western property line. This consists of an approximately 6ft. x 71ft. (426sq.ft.) conveyor that extends from the upland connected to the main bulk conveyor system. The main bulk conveyor system consists of an 11.5ft. x 210ft. horizontal belt and a 20.5ft. x 125ft. elevated belt (4,980sq.ft.) and terminates at two (2) 20ft. x 30ft. (1,200sq.ft.) concrete breasting platforms with mooring hardware that includes fenders and bollards. A pile supported steel catwalk, approximately 6ft. x 750ft. (4,500sq.ft.), extends from the concrete platform to two (2) 10 ft. x 12 ft. (480sq.ft.) concrete mooring platforms upstream and downstream of the conveyor. The existing bulk conveyor extends approximately 215ft. into the waterway from Mean Low Water (MLW) where the waterway is approximately 1,815 ft. wide (MLW to MLW). The proposed project includes maintenance of this structure within its current footprint.
4. Existing Water Intake Structure: Downstream of the bulk conveyor system is an existing water intake structure that impacts approximately 1,800sq.ft. of coastal marshlands. This structure will be removed in its entirety.
5. Existing Bank Stabilization: Existing rip-rap bank stabilization measures approximately 6,000ft. x 15ft. x 3ft. (10,000c.y.) and spans the entire Savannah River shoreline landward of the bulk conveyor. Approximately 3,500ft. x 15ft. x 3ft. (5,833c.y.) of existing rip-rap will be removed to allow for construction of the proposed project.
6. Total impacts for the existing bulk conveyor systems and remaining bank stabilization total approximately 48,420sq.ft. (1.1acre).
7. Dredging: The proposed project includes dredging approximately 2.7 million cubic yards of material from an approximately 58-acre area of coastal marshlands that consists of +/-50.25 acres of tidally influenced water bottoms, +/-5.36 acres of the intertidal zone, and +/-1.24 acres of vegetated coastal marshlands.
8. Initial dredging to an average depth of -42ft. mean sea level with 2ft. of over-dredge will be accomplished via hydraulic cutterhead. All dredge material will be piped to an on-site DMCA.
9. Annual maintenance dredging activities will be necessary to maintain the required depths and the applicant proposes future agitation or hydraulic maintenance dredging not to exceed 250,000c.y. annually.
10. Current bathymetry at the site illustrates that -3.4ft. to -42ft. MLW of state owned waterbottoms needs to be dredged in order to achieve the target depth of -42' at MLW.

11. The proposed dredge area extends 386ft. – 900ft. seaward to the southern limit of the Savannah River shipping channel.
12. Dredging will occur in phases, based on available capacity within the DMCA.
13. As proposed, total existing and new impacts from the existing and proposed structures within CMPA jurisdiction will be 102,565sq.ft. or 2.3 acres. In addition, the proposed project includes approximately 58 acres of dredging of coastal marshlands.

O.C.G.A. § 12-5-286 (b) (8) requires a discussion of why the permit should be granted.

14. The proposed construction of a deep-water berth at an existing industrial facility will enable ocean-going vessels an opportunity to benefit from infrastructure, including Class I rail and other transport options that already exist at this location. Approximately 19.63 acres of upland will be excavated for the deep-water berth. Dredging approximately 2.7 million cubic yards of material from an approximately 58-acre area of coastal marshlands will provide suitable depths for a new shipping berth.

Application Form, Applicant Name and Address, Project Plans, Plat, Deed or other instrument, Written permission to carry out project by owner of land, O.C.G.A. § 12-5-286(b)(1-4):

15. Applicant has submitted the application form, name and address, project plans, plats, and deed.

Adjoining Landowners, Non-refundable application fee, O.C.G.A. § 12-5-286 (b)(5,7):

16. Applicant has submitted names and addresses of adjoining property owners as well as the non-refundable application fee.

Local Government Zoning, O.C.G.A. § 12-5-286(b)(6):

17. A letter has been received from Chatham County stating the proposed project does not violate any local zoning laws. The letter is not conditioned.

Alternative Sites Description and Feasibility 12-5-286 (b)(8):

18. Other locations for a deep-water shipping berth along the Savannah River are limited.
19. The applicant evaluated two alternative design options that included construction of a pile supported wharf seaward of the State's CMPA jurisdiction. Both designs would have resulted in permanent impacts from in-water structure and fill associated with construction of the King Pile Wall. Dredging the area would still be required. Both alternatives placed the seaward face of the wharf within 200ft. to 440ft. from the southern limit of the Federal Navigation Channel of the Savannah River. Industry standard for this section of the Savannah River suggest a minimum distance of 500ft. for safe passage for shipping vessels.

Landfill, Hazardous Waste Inquiry, O.C.G.A. § 12-5-286(b)(9):

20. The project site is listed on the State's Hazardous Site Inventory.
21. On January 12, 2009, Tronox Incorporated and 14 of its affiliates filed petitions with the United States Attorney for the Southern District of New York Attorney for the United States of America under Chapter 11 of the Bankruptcy Code. The parties entered into a Consent Decree and Environmental Settlement Agreement. February 14, 2011, Tronox Incorporated emerged from bankruptcy and transferred the Savannah site to Greenfield Environmental Savannah Trust, LLC. The Trust performed environmental remediation under the oversight of the Georgia Department of Natural Resources Environmental Protection Division (GADNR EPD) and the U.S. Environmental Protection Agency (US EPA). In July 2014 a Purchase and Sale

Agreement (PSA) was assigned to Sulfco, LLC, a wholly owned subsidiary of Dulany Industries, Inc. Transfer of the property was completed in September 2017. The PSA included responsibility to complete remediation clean up at the site. US EPA and GADNR EPD executed a Corrective Action Plan (CAP) that included revisions to wastewater treatment on site. The revised NPDES permit (GA 0003646) was executed July 19, 2019 and included the construction of an industrial wastewater treatment pond, an improved NPDES drainage ditch and new outfall into the Savannah River. The CAP is in the final stages of execution and is being overseen by US EPD and GADNR EPD.

Water Quality Certification, O.C.G.A. § 12-5-286(b)(10):

22. A 401 Water Quality Certification was issued on December 3, 2020 for the proposed project.

Adherence to Erosion and Sediment Control Responsibilities, O.C.G.A. § 12-5-286 (b)(11):

23. Applicant has stated their intention to adhere to applicable erosion and sedimentation control responsibilities.

Notification of Proposed Project, O.C.G.A. § 12-5-286(d)(e):

24. Adjacent property owners and interested parties who requested placement on the mailing list were notified in writing of the proposed project. The Public Notice of the CMPC ran from October 31, 2020 to November 30, 2020. Three comments were received in favor of the project.

Public Interest Considerations, O.C.G.A. § 12-5-286(g):

25. In passing upon application for a permit, the CMPC shall consider the public interest.

a) **The design of the project is such that no unreasonably harmful obstruction to or alteration of the natural flow of navigational water within the affected area will arise as a result of the proposal.** The applicant contends that there will be no unreasonable harmful obstruction to or alteration of the natural flow of navigational water within the affected area as a result of the proposed project. The proposed deep-water berth will be constructed in the upland. Upon completion of construction of the King Pile Bulkhead, approximately 19.63 acres of upland and 3,500lf. of existing bank stabilization currently located in CMPA jurisdiction will be excavated and disposed of at an appropriate upland facility. The proposed project also includes dredging approximately 2.7 million cubic yards of material from an approximately 58-acre area of coastal marshlands (+/-50.25 acres of tidally influenced water bottoms, +/-5.36 acres of the intertidal zone, and +/-1.24 acres of vegetated coastal marshlands) to create a new shipping berth. Initial dredging to an average depth of -42ft. mean sea level with 2ft. of over-dredge is proposed. No unreasonable harmful obstruction to or alteration of the natural flow of navigational water within the affected area is expected as a result of the proposed project.

b) **The design of the project is such that no unreasonably harmful or increased erosion, shoaling of the channels, or stagnant areas of water will be created.** The applicant contends that there will be no harmful or increased erosion, shoaling of channels, or stagnant area resulting from this project as proposed. As proposed, dredging approximately 2.7 million cubic yards of material from an approximately 58-acre area of coastal marshlands will create a new shipping berth adjacent to a federally-maintained navigable channel. Initial dredging to an average depth of -42ft. MLW with 2ft. of over-dredge is proposed. In September 2015, the United States Army Corps of Engineers (USACE) began deepening the entire 40-mile shipping channel and harbor from deep ocean to the Georgia Ports Authority terminal in Garden City. The proposed project is adjacent to the federal

project. No unreasonable harmful or increased erosion, shoaling of channels or stagnant areas of water is expected as a result of the proposed project.

- c) **The proposal will not unreasonably interfere with the conservation of fish, shrimp, oysters, crabs, and clams or any marine life or wildlife or other natural resources including but not limited to water and oxygen supply.** The applicant has stated that the project is not expected to unreasonably interfere with the conservation of fish, shrimp, oysters, crabs, and clams or any marine life or wildlife or other natural resources including but not limited to water and oxygen supply. Additionally, the applicant stated that because construction of the King Pile Bulkhead will occur in the upland, impacts to fish species within the adjacent Savannah River will be minimized. Once the project is complete, the applicant contends the creation of an additional 19.63 acres of open water habitat adjacent to the Savannah River will provide additional habitat for certain fish species. This area of the Savannah River provides habitat for finfish such as spotted seatrout and red drum, and crustaceans such as blue crab and shrimp. Striped bass are known to spawn in this area. Both Shortnose and Atlantic Sturgeon are known to occur in these waters. There are no active shellfish harvest areas in the project vicinity. Marine turtles and manatees may be present in these waters. An environmental analysis of the project area was performed to identify sediment characteristics within the site that would indicate the likely presence of contaminants within the sub-bottom. The results of the investigation indicate that the sub-bottom sediments within the project area are not likely impacted by contaminants. ACOE Special Permit Conditions for Agitation Maintenance Dredging in Savannah Harbor states that the permittee shall avoid maintenance dredging from March 16 through May 31 of each year. The proposed project will employ Best Management Practices in accordance with local, state, and federal regulations.

Leasing of state owned marshland or water bottoms, O.C.G.A. § 12-5-287:

26. A waterbottoms lease is not required for the proposed project.

Restriction on granting of permits; size restriction; activities and structures considered contrary to the public interest, O.C.G.A. § 12-5-288 (a) and (b):

27. The proposed facility is water dependent and dependent on waterfront access.
28. The proposed project cannot be satisfied by use of an alternative non-marshland site or by the use of existing public facilities.
29. Permanent impacts to coastal marshlands from the existing and proposed structures within CMPA jurisdiction will be 102,565sq.ft. or 2.3 acres. In addition, the proposed project includes approximately 58 acres of dredging jurisdictional coastal marshlands.

Determining Project Boundaries, Rule 391-2-3-.02(3):

30. The marsh component of the project consists of existing bulk conveyor systems, dredging coastal marshlands, maintenance dredging and removal of a water-intake structure and a portion of an existing bank stabilization.
31. The upland component of the project consists of approximately 19.7 acres. The applicant is proposing construction of an on-site 19.7 acre DMCA with 500,000c.y. capacity in uplands on the southern end of the project area. Effluent from the DMCA will discharge into an existing NPDES Treatment Lagoon and outfall. The existing earthen perimeter road will remain.
32. The proposed deep-water berth facility project will commence with the construction of a 3,185 linear foot (lf.) King Pile Bulkhead driven at a depth of approximately -56ft. It will be located approximately 200ft. landward of the current CMPA jurisdiction line.

33. Associated with King Pile Bulkhead will be an approximately 3,185ft. x 15ft. x 5ft. (8,847 c.y.) concrete fascia beam supported by 320-24in. concrete piles (1,280sq.ft.) immediately seaward.
34. An additional 350ft. sheet pile bulkhead will be located at the eastern end of the King Pile Bulkhead.
35. Approximately 3,174c.y. of riprap will be placed at the western terminus of the bulkhead to create an armored shoreline transition.
36. Approximately 8,600c.y. (54,145sq.ft.) of armor stone will be placed along the northern, seaward toe of the bulkhead.
37. In total, construction of the proposed bulkhead will include 54,145sq.ft. of structure as the pilings and fascia beam are within the footprint of the armor stone.
38. Approximately 19.7 acres of upland and 3,500lf. of existing bank stabilization (currently located in CMPA jurisdiction) will be excavated and disposed of at an appropriate upland facility.
39. The dredge elevation at the face of the berth, or seaward side of the proposed bulkhead, will be -45.0 MLW in a 17-foot wide trough below the fascia, parallel to the new berth. Upon completion of the dredging, this area will become jurisdictional under the CMPA.
40. Annual maintenance dredging activities will be necessary to maintain the required depths and the applicant proposes future agitation or hydraulic maintenance dredging not to exceed 250,000c.y. annually.
41. An on-site 19.7-acre DMCA with 500,000c.y. capacity will be constructed in uplands on the southern end of the project area.
42. Effluent from the DMCA will discharge into an existing permitted NPDES system, and desiccated material within the DMCA will be removed from within the DMCA to accommodate additional dredge material.
43. The new berth will create approximately 3,185 linear feet of mooring frontage along the Savannah River at this location and will be constructed no closer than 800 ft. from the Savannah River Federal Navigation Channel. The Savannah River is no less than 1,909 ft. MLW-MLW within the project limits. The proposed structure will be approximately 346ft. from the extended property line to the east and 1,175 feet from the extended property line to the west.
44. Documentation (plans and drawings) identifying all areas that are intended to be used in connection with the project as delineated have been submitted and reviewed by staff.

Marshlands Buffer For Upland Component, Rule 391-2-3-.02(4):

45. The 50 ft. marshlands buffer applicable to the upland component of the project has been delineated as shown on the submitted plans and drawings.
46. The project site is a redevelopment of a portion of an existing +226 acre industrial facility. The 50 ft. marshlands buffer is almost exclusively pervious surface and includes unimproved upland, portions of the existing NPDES Treatment Lagoon, treatment lagoon drainage ditch and NPDES permitted outfall on the Savannah River and the seaward berm of the proposed DMCA. In some areas, the seaward slope of the earthen maintenance road along the southern perimeter of the parcel is within the 50ft. marshlands buffer.
47. Land disturbance and construction within the 50 ft. marshlands buffer in the upland component of the project is limited to:
 - a. **Construction and maintenance of temporary structures necessary for construction of the marshland component of the project.**

RECOMMENDATIONS: Should the Committee determine that the proposed project is in the public interest, Department staff recommends the following **STANDARD and SPECIAL conditions**:

COASTAL MARSHLANDS PROTECTION ACT STANDARD CONDITIONS

1. The project must comply, as applicable, for areas permitted herein, with all other federal, state, and local statutes, ordinances, and regulations and the applicant must obtain all licenses and permits prior to commencement of construction.
2. This permit does not resolve actual or potential disputes regarding ownership of, rights in or over the property upon which the subject project is proposed, and shall not be construed as recognizing or denying any such rights or interests.
3. All plans, documents, and materials contained in this permit application, required by Coastal Marshlands Protection Act of 1970, as amended O.C.G.A. § 12-5-280 *et seq.* are a part of this permit and conformance to such plans, documents, and materials are a condition of this permit. No change or deviation from these plans, documents, and materials shall be permitted without prior notification and approval by the Department or CMPC.
4. No further encroachment or construction shall take place within state jurisdiction, except as permitted by the CMPC. Any modification of the plans or structure in the jurisdictional area must be reviewed and approved by the Department or the CMPC, as necessary, prior to construction.
5. No construction or alteration of a project may commence until the expiration of 30 days following the date on which the application is approved; provided however that if a timely appeal is filed, no construction or alteration may commence until all administrative and judicial proceedings are terminated.
6. The permit must be posted onsite within twenty-four (24) hours of beginning construction.
7. A copy of these and all permit conditions must be supplied to the person in charge of construction. All contractors and subcontractors are responsible for strict adherence to all permit conditions.
8. All Best Management Practices (BMPs) should be used to prevent any erosion and sedimentation at the site. No unauthorized equipment, materials, or debris may be placed in, disposed of, or stored in jurisdictional areas. Any visible alterations in the marsh topography will be restored immediately using low-impact hand tools. Any damage to the marsh vegetation that has not recovered naturally during the next growing season will be repaired by a method acceptable to the Department.
9. If the permitted improvements are damaged, fall into disrepair, become dilapidated, or are not meeting their expected usefulness and are not maintained at a serviceable level, it is the responsibility of the owner to remove the improvements. A new permit will be required to retain and repair the structure, improvement, or asset if it loses its structural integrity and is no longer serviceable.
10. The CMPC is not bound in the future to protect any improvement or asset authorized by the permit.

SPECIAL CONDITIONS

1. Permittee must comply with water quality monitoring requirements and discharge limitations included as special conditions in the USACE dredging permit. Should the GADNR-EPD establish a new dissolved oxygen or other standard applicable to permitted activities at this site, these requirements may be modified with notice provided to the permittee.

2. Prior to expiration of this authorization or prior to maintenance dredging of the slip, whichever were to occur first, Sulfco, LLC. shall submit to the DNR CRD, for review and approval, a long term management plan for the upland confined disposal site that assures capacity will be sufficient to contain all dredged material generated at the site, or provide alternative disposal options, for no less than 10 years from the issuance of this permit.
3. Permittee must provide the Department 48 hours notice of commencement of dredging and anticipated duration of dredging.
4. For protection of the Northern Right Whale the permittee must encourage their vessels and other vessels 26 feet in length or greater utilizing the terminal to abide by a 10 knot speed restriction when operating within the Southeast Seasonal Management Area during the period of December 1 through April 30 of every year. The permittee shall coordinate with the GA DNR and National Marine Fisheries Service in an effort to reduce impacts to right whales from shipping operations.
5. Upon completion of the slip deepening, it is required that bumpers or design alternative be placed to keep moored ships at least 4 feet off the sides of the support pilings to prevent crushing Manatees.
6. Permittee must install manatee awareness signage during construction of the facility and ensure permanent signage is in place post-construction. The permittee shall adhere to standard manatee conditions and procedures for aquatic construction as approved by the Savannah District Office of the US Army Corps of Engineers, US Fish and Wildlife Service, and the Georgia Department of Natural Resources.
7. Dredging is limited to the area identified in the proposed project drawings and allows for the dredging of up to 2,700,000c.y. of sediment during the initial dredge event. Maintenance dredging is permitted for up to 250,000c.y. annually.
8. If the method of dredging utilized for maintenance dredging is agitation dredging, permittee must obtain a USACE permit specifically for agitation maintenance dredging.
9. Permittee must provide the Department with a project schedule for all dredging operations. The schedule must be received no less than 30 days prior to commencing with dredging activities.
10. The permittee must install manatee awareness signage during construction of the project and adhere to standard manatee conditions and procedures for aquatic construction as approved by the Savannah District Office of the US Army Corps of Engineers, US Fish and Wildlife Service, and the Georgia Department of Natural Resources.
11. Permittee shall provide to the Department a post-construction bathymetric profile of the dredged area to determine the project effects within 30 days after project completion. Permittee shall include a narrative evaluating the sediment sampling procedure and the resulting changes in bathymetry along with the bathymetric profiles as outlined in GA EPD's December 3, 2020 401 Water Quality Certification.
12. The permittee may be required to provide a post-construction survey that depicts the build-out for marshlands and upland components. Such survey shall comply with the Georgia Plat Act, O.C.G.A. § 15-6-67 et seq.