



U.S. Army Corps  
of Engineers  
Buffalo District  
CELRB-TD-R

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# Public Notice

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Applicant: Donald  
Newberry and Heather  
Schieda

Published: February 6, 2015  
Expires: March 9, 2015

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Application No: 2014-00650  
Section: OH

All written comments should reference the above Application No. and be addressed to:  
**US Army Corps of Engineers, Buffalo District**  
**Regulatory Branch (Attn:) L. Chantelle Carroll**  
1776 Niagara Street  
Buffalo, NY 14207

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**THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE WORK DESCRIBED BELOW. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED AT THIS TIME.**

**Application for Permit under Authority of**  
**Section 10 of the Rivers and Harbors Act of 1899 and**  
**Section 404 of the Clean Water Act (33 U.S.C. 1344).**

APPLICANT: Donald Newberry and Heather Schieda

WATERWAY & LOCATION: 33206 Lake Road, Avon Lake, OH 4102, Lake Erie

LATITUDE & LONGITUDE: Latitude North: 41.5094  
Longitude West: -82.0375

**EXISTING CONDITIONS:**

Description of delineation of waters of the US, if applicable: Lake Erie

**PROPOSED WORK:** The applicant has proposed to construct a new 140 linear foot (LF) seawall and a 10 foot wide by 45 foot long pier (Sheets 1 to 3 of 5). The seawall and pier will be both constructed of concrete modules that are filled with concrete requiring the discharge of approximately 169 cubic yards (CY) of material below ordinary high water (OHW) of Lake Erie (573.4 International Great Lakes Datum (IGLD), 1985). The concrete modules are to be placed on the shale bedrock at an elevation of 569.0 IGLD, 1985. The pier will be connected to the seawall via a steelwalkway . The seawall will be backfilled with concrete rubble and capped with

concrete resulting in the discharged of approximately 99 CY below OHW (Sheet 4 of 5). In order to limit wave reflection at the eastern end of the proposed seawall, approximately 2-4 tons of armor stone of which approximately 14 CY will be place below OHW. Prior to construction, the applicant will dredge and sidecast down drift all materials (sand and gravel) that would be covered by the footprint of the seawall, pier, and armor stone. A retaining wall and boat house will be constructed and the bluff will be regraded above the OHW. This phase of the project and will not require Department of the Army authorization.

#### PROJECT PURPOSE

Basic: Shore protection and lake access.

Overall: Provide safe but private access to homeowner's boat on Lake Erie as well as protect shoreline from further erosion.

Water Dependency Determination: This is a water dependant project.

AVOIDANCE AND MINIMIZATION INFORMATION: To allow littoral transport of material, there will be a ten (10) foot opening underneath the steel walkway from the seawall to the pier.

PROPOSED MITIGATION: No mitigation has been proposed for this project  
Location and details of the above described work are shown on the attached maps and drawings.

Comments or questions pertaining to the work described in this notice should be reference the Application Number and be directed to the attention of Chantelle Carroll, who can be contacted at the above address, by calling (440) 437-8970\*113, or by e-mail at: Lchantelle.carroll@usace.army.mil. A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

The applicant has certified that the proposed activity complies with Ohio's approved Coastal Zone Management Program and will be conducted in a manner consistent with that program. Any comments on the consistency of the proposed activity with Ohio's Coastal Zone Management Program should be forwarded to:

Mr. John Kessler  
Ohio Department of Natural Resources  
Office of Real Estate  
2045 Morse Rd.  
Columbus, OH 43229-6605  
phone: 614-265-6621  
email: john.kessler@dnr.state.oh.us

The following authorization is required for this project:

Water Quality Certification (or waiver thereof) from the Ohio Environmental Protection Agency

Based on preliminary findings, there do not appear to be any properties listed in, or eligible for listing in, the National Register of Historic Places within the permit area as shown on Sheet 1 of 5. This notice constitutes initiation of consultation with the Ohio Historic Preservation Office (SHPO) per Section 106 of the National Historic Preservation Act. All currently available historic resource information pertaining to this proposed project if any has been provided to the SHPO. Additional information concerning historic properties should be submitted to the Corps before the end of the comment period of this notice. The Corps will forward that information to the SHPO for their review.

Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the Corps of Engineers is consulting, under separate cover, with the USFWS to evaluate any potential impacts to Indiana Bat (*Myotis sodalis*), Northern Long-eared bat (*Myotis septentrionalis*), Kirtland's Warbler (*Setophaga kirtlandii*), Piping Plover (*Charadrius melodus*), Rufus Red Knot (*Calidris canutus rufa*) and the Bald Eagle (*Haliaeetus leucocephalus*) and to ensure that the proposed activity is not likely to jeopardize their continued existence or result in the destruction or adverse modification of critical habitat.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is 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 individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The decision to approve or deny this permit request 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 benefits 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 these 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 need for a public hearing and to determine the overall public interest of the proposed activity.

Diane C. Kozlowski  
Chief, Regulatory Branch

**SIGNED**

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.