

§ 59cc. Declaration of nonnavigability of portion of Hudson River, New York

(a) Declaration of nonnavigability

Subject to subsections (c), (d), and (e), the area described in subsection (b) is declared to be nonnavigable waters of the United States.

(b) Area subject to declaration

The area described in this subsection is the portion of the Hudson River, New York, described as follows (according to coordinates and bearings in the system used on the Borough Survey, Borough President's Office, New York, New York):

Beginning at a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, having a coordinate of north 1918.003 west 9806.753;

Running thence easterly, on the arc of a circle curving to the left, whose radial line bears north 3°-44'-20" east, having a radius of 390.00 feet and a central angle of 22°-05'-50", 150.41 feet to a point of tangency;

Thence north 71°-38'-30" east, 42.70 feet;

Thence south 11°-05'-40" east, 33.46 feet;

Thence south 78°-54'-20" west, 0.50 feet;

Thence south 11°-05'-40" east, 2.50 feet;

Thence north 78°-54'-20" east, 0.50 feet;

Thence south 11°-05'-40" east, 42.40 feet to a point of curvature;

Thence southerly, on the arc of a circle curving to the right, having a radius of 220.00 feet and a central angle of 16°-37'-40", 63.85 feet to a point of compound curvature;

Thence still southerly, on the arc of a circle curving to the right, having a radius of 150.00 feet and a central angle of 38°-39'-00", 101.19 feet to another point of compound curvature;

Thence westerly, on the arc of a circle curving to the right, having a radius of 172.05 feet and a central angle of 32°-32'-03", 97.69 feet to a point of curve intersection;

Thence south 13°-16'-57" east, 50.86 feet to a point of curve intersection;

Thence westerly, on the arc of a circle curving to the left, whose radial bears north 13°-16'-57" west, having a radius of 6.00 feet and a central angle of 180°-32'-31", 18.91 feet to a point of curve intersection;

Thence southerly, on the arc of a circle curving to the left, whose radial line bears north 75°-37'-11" east, having a radius of 313.40 feet and a central angle of 4°-55'-26", 26.93 feet to a point of curve intersection;

Thence south 70°-41'-45" west, 36.60 feet;

Thence north 13°-45'-00" west, 42.87 feet;

Thence south 76°-15'-00" west, 15.00 feet;

Thence south 13°-45'-00" east, 44.33 feet;

Thence south 70°-41'-45" west, 128.09 feet to a point in the United States Pierhead Line approved by the Secretary of War, 1936;

Thence north 63°-08'-48" west, along the United States Pierhead Line approved by the Secretary of War, 1936, 114.45 feet to an angle point therein;

Thence north 61°-08'-00" west, still along the United States Pierhead Line approved by the Secretary of War, 1936, 202.53 feet;

The following three courses being along the lines of George Soilan Park as shown on map

prepared by The City of New York, adopted by the Board of Estimate, November 13, 1981, Acc. N° 30071 and lines of property leased to Battery Park City Authority and B. P. C. Development Corp.;

Thence north 77°-35'-20" east, 231.35 feet;

Thence north 12°-24'-40" west, 33.92 feet;

Thence north 54°-49'-00" east, 171.52 feet to a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941;

Thence north 12°-24'-40" west, along the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, 62.26 feet to the point or place of beginning;¹

(c) Determination of public interest

The declaration made in subsection (a) shall not take effect if the Secretary of the Army (acting through the Chief of Engineers), using reasonable discretion, finds that the proposed project is not in the public interest—

(1) before the date which is 120 days after the date of the submission to the Secretary of appropriate plans for the proposed project; and

(2) after consultation with local and regional public officials (including local and regional public planning organizations).

(d) Limitation on applicability of declaration

(1) Affected area

The declaration made in subsection (a) shall apply only to those portions of the area described in subsection (b) which are or will be occupied by permanent structures (including docking facilities) comprising the proposed project.

(2) Application of other laws

Notwithstanding subsection (a), all activities conducted in the area described in subsection (b) are subject to all Federal laws which apply to such activities, including—

(A) sections 401 and 403 of this title;

(B) section 1344 of this title; and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) Expiration date

The declaration made in subsection (a) shall expire—

(1) on the date which is 6 years after December 18, 1991, if work on the proposed project to be performed in the area described in subsection (b) is not commenced before such date; or

(2) on the date which is 20 years after December 18, 1991, for any portion of the area described in subsection (b) which on such date is not bulkheaded, filled, or occupied by a permanent structure (including docking facilities).

(f) "Proposed project" defined

For the purposes of this section, the term "proposed project" means any project for the rehabilitation and development of—

(1) the structure located in the area described in subsection (b), commonly referred to as Pier A; and

(2) the area surrounding such structure.

(Pub. L. 102-240, title I, §1078, Dec. 18, 1991, 105 Stat. 2015.)

¹ So in original. The semicolon probably should be a period.

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d)(2)(C), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 59dd. Declaration of nonnavigability of portions of Cleveland Harbor, Ohio

(a) to (c) Omitted

(d) Area to be declared nonnavigable; public interest

Unless the Secretary of the Army finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of Cleveland Harbor, Ohio, described below, are not in the public interest then, subject to subsections (e) and (f) of this section, those portions of such Harbor, bounded and described as follows, are declared to be nonnavigable waters of the United States:

Situated in the City of Cleveland, Cuyahoga County and State of Ohio, T7N, R13W and being more fully described as follows:

Beginning at an iron pin monument at the intersection of the centerline of East 9th Street (99 feet wide) with the centerline of relocated Erieside Avenue, N.E., (70 feet wide) at Cleveland Regional Geodetic Survey Grid System, (CRGS) coordinates N92,679.734, E86,085.955;

Thence south 56°-06'-52" west on the centerline of relocated Erieside Avenue, N.E., a distance of 89.50 feet to a drill hole set.

Thence north 33°-53'-08" west a distance of 35.00 feet to a drill hole set on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., said point being the true place of beginning of the parcel herein described.

Thence south 56°-06'-52" west on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., a distance of 23.39 feet to a 5/8 inch re-bar set;

Thence southwesterly on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., along the arc of a curve to the left with a radius of 335.00 feet, and whose chord bears south 42°-36'-52" west 156.41 feet, an arc distance of 157.87 feet to a 5/8 inch re-bar set;

Thence south 29°-06'-52" west on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., a distance of 119.39 feet to a 5/8 inch re-bar set;

Thence southwesterly on the northwesterly right-of-way of relocated Erieside Avenue, N.E., along the arc of a curve to the right with a radius of 665.00 feet, and whose chord bears south 32°-22'-08" west 75.50 feet, an arc distance of 75.54 feet to a 5/8 inch re-bar set;

Thence north 33°-53'-08" west a distance of 279.31 feet to a drill hole set;

Thence south 56°-06'-52" west a distance of 37.89 feet to a drill hole set;

Thence north 33°-53'-08" west a distance of 127.28 feet to a point;

Thence north 11°-06'-52" east a distance of 225.00 feet to a point;

Thence south 78°-53'-08" east a distance of 150.00 feet to a drill hole set;

Thence north 11°-06'-52" east a distance of 32.99 feet to a drill hole set;

Thence north 33°-53'-08" east a distance of 46.96 feet to a drill hole set;

Thence north 56°-06'-52" east a distance of 140.36 feet to a drill hole set on the southwesterly right-of-way line of East 9th Street;

Thence south 33°-53'-08" east on the southwesterly right-of-way line of East 9th Street a distance of 368.79 feet to a drill hole set;

Thence southwesterly along the arc of a curve to the right with a radius of 40.00 feet, and whose chord bears south 11°-06'-52" west 56.57 feet, an arc distance of 62.83 feet to the true place of beginning containing 174,764 square feet (4.012 acres) more or less.

(e) Limits on applicability; regulatory requirements

The declaration under subsection (d) shall apply only to those parts of the areas described in subsection (d) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including sections 401 and 403 of this title, section 1344 of this title, and the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(f) Expiration date

If, 20 years from December 18, 1991, any area or part thereof described in subsection (d) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (e) of this section, or if work in connection with any activity permitted in subsection (e) is not commenced within 5 years after issuance of such permit, then the declaration of nonnavigability for such area or part thereof shall expire.

(Pub. L. 102-240, title I, §1079, Dec. 18, 1991, 105 Stat. 2017.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (e), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

CODIFICATION

Section is comprised of section 1079 of Pub. L. 102-240. Subsections (a), (b), and (c) of section 1079 of Pub. L. 102-240 provided for deauthorization of a portion of a project for harbor modification of Cleveland Harbor which was authorized by section 202(a) of the Water Resources Development Act of 1986, Pub. L. 99-662, title II, Nov. 17, 1986, 100 Stat. 4095, which is not classified to the Code.

§ 59ee. Portion of Sacramento River Barge Canal declared to not be navigable waters of United States

For purposes of bridge administration, the Sacramento River Barge Canal, which connects