

PUBLIC NOTICE

Issue Date: November 2, 2016 Comment Deadline: November 18, 2016 Corps Action ID Number: SAW-2016-02140

The Wilmington District, Corps of Engineers (Corps) received an application from Dare County seeking Department of the Army authorization to utilize US Army Corps of Engineers (USACE) dredges to conduct maintenance dredging on a channel known as the "Connector Channel" on an as-needed basis located between Ocracoke Island and

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington

http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx

Applicant: Dare County

Hatteras Island, North Carolina.

District Web Site at

Attn: Robert Outten

954 Marshall C Collins Drive Manteo, North Carolina 27954

AGENT (if applicable): Mr. Kenneth Willson

CB&I

4038 Masonboro Loop Road

Wilmington, North Carolina 28409

Authority

The Corps evaluates this application and decides whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of the following Statutory Authorities:

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

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)

Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

Location

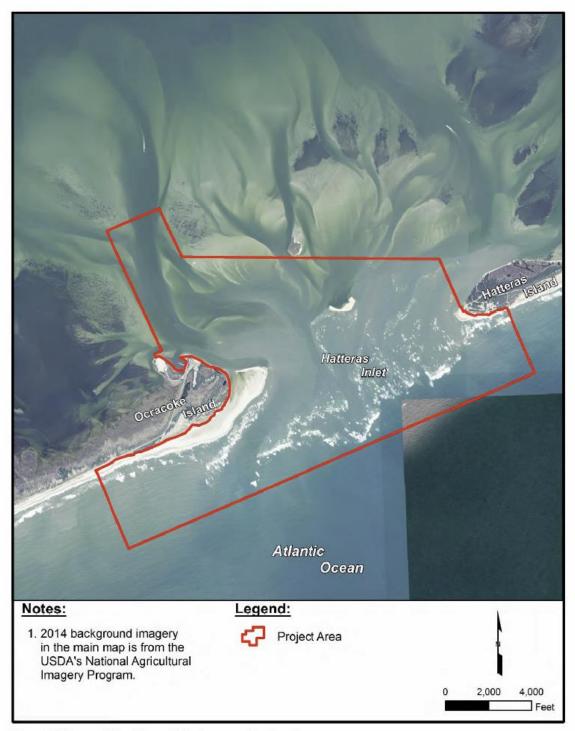


Figure 8. Hatteras Inlet Channel Maintenance Project Area.

Directions to Site: Hatteras Inlet straddles the boundary between Hyde and Dare County, within the Outer Banks of North Carolina.

Project Area (acres): 800 acres Nearest Town: Hatteras Village

Nearest Waterway: Atlantic Ocean River Basin: Atlantic Ocean

Latitude and Longitude: 35.198961 N, -75.774847 W

Existing Site Conditions

The Project Area has been defined as a discrete area within the Hatteras Inlet complex including the easternmost portion of Ocracoke Island, the waters and shoals surrounding the Connector Channel and Hatteras Inlet, and the nearshore marine environment surrounding the nearshore disposal site just south of Ocracoke Island. The Project Area includes a number of habitats including marine and estuarine waters, intertidal flats and shoals, sandy soft bottoms, dry beach communities, and wet beach communities. Hatteras Inlet is subject to littoral processes typical of the barrier islands that line the North Carolina coast. Ocracoke and Hatteras Islands are subject to winds, rising sea levels and strong storms that gradually push sand from the ocean side of the islands to the landside. The Project Area includes the intertidal and subtidal unconsolidated bottoms found within the ocean bar and within the inlet complex.

Applicant's Stated Purpose

The purpose of the proposed project is to reestablish the navigability into Hatteras Inlet via the Connector Channel. The proposed project is needed at this time since there is no safe conduit for commercial and recreational vessels to the inlet gorge that provides access to the Atlantic Ocean. In addition, without adequate accessibility into the inlet, the local economy will continue to be impacted.

Project Description

The proposed action would allow for the utilization of US Army Corps of Engineers (USACE) dredges (sidecast and hopper) to conduct Connector Channel maintenance. Dredging activities would be performed by USACE-owned dredge plants and limited to the proposed Connector Channel corridor to a depth of -12 ft. MLW and 150 ft. wide. Due to the ephemeral nature of the shoals within the Hatteras Inlet complex, the Connector Channel does not remain in a fixed location and therefore a corridor (figure below) where dredging may occur has been established. Prior to each maintenance event, the precise dredging location will be determined within the corridor as a result of a pre-construction bathymetric survey. Generally, the dredging location will follow the natural deep water that connects Ocracoke Island to the inlet gorge. Material excavated by the hopper dredge would be disposed in a previously authorized nearshore disposal site in the Atlantic Ocean just south of Ocracoke Island. The nearshore disposal site will be located approximately 1500 m from the north end of the island, in approximately -10 ft. MLW depths. This depth is considered well within the active littoral system and within the depth of closure. These actions would be performed on an "as needed" basis and are therefore not proposed to be limited to any specific time of year.

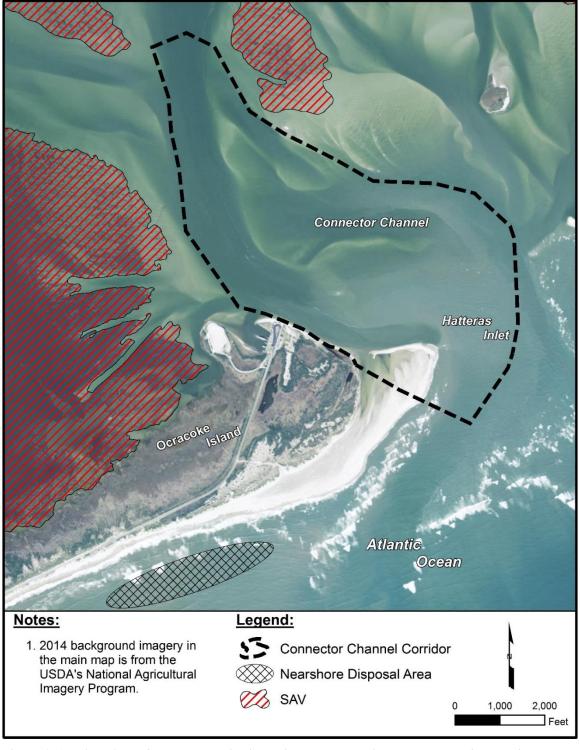


Figure 1. Applicant's preferred alternative including dredge corridor, nearshore disposal site, and proximate SAV resources.

Avoidance and Minimization

The dredging activity will be limited to the area within the Connector Channel corridor as shown above in Figure 1. This corridor was developed with several factors in mind, including the presence of SAV resources and NPS lands. In order to reduce potential affects to these resources, the corridor includes a 100 ft. buffer from any known SAV bed and a 300 ft. buffer from NPS land. Because no recent cultural resource investigations have been performed, the dredging activity will be limited to the area within the proposed Connector Channel Corridor. Dredge Type Construction of the project will be accomplished using USACE-owned sidecast dredges and hopper dredges, or a combination of the two. To minimize impacts from special purpose dredging, the project will follow the standard hopper dredging conditions outline in the 1995 and 1997 South Atlantic Regional Biological Opinion.

Essential Fish Habitat

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this Public Notice initiates the Essential Fish Habitat (EFH) consultation requirements. The Corps' initial determination is that the proposed project may affect, but not likely to adversely affect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service. As part of the pre-application and scoping process, the applicant submitted an EFH assessment to The Nation Marine Fisheries Service for review.

Cultural Resources

the District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that:

Should historic properties, or properties eligible for inclusion in the National Register, be present within the Corps' permit area; the proposed activity requiring the DA permit (the undertaking) is a type of activity that will have no potential to cause an effect to an historic properties.

No historic properties, nor properties eligible for inclusion in the National Register, are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO (or THPO).

Pursuant to Section 106 of the National Historic Preservation Act of 1966, Appendix C of 33 CFR Part 325, and the 2005 Revised Interim Guidance for Implementing Appendix C,

Corps' permit area; there will be <u>no historic properties affected</u> by the proposed work. The Corps subsequently requests concurrence from the SHPO (or THPO).

Properties ineligible for inclusion in the National Register are present within the

	Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; however, the undertaking will have <u>no adverse effect</u> on these historic properties. The Corps subsequently requests concurrence from the SHPO (or THPO).
	Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; moreover, the undertaking <u>may have an adverse effect</u> on these historic properties. The Corps subsequently initiates consultation with the SHPO (or THPO).
	The proposed work takes place in an area known to have the potential for the presence of prehistoric and historic cultural resources; however, the area has not been formally surveyed for the presence of cultural resources. No sites eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work. Additional work may be necessary to identify and assess any historic or prehistoric resources that may be present.
coord consi	District Engineer's final eligibility and effect determination will be based upon lination with the SHPO and/or THPO, as appropriate and required, and with full deration given to the proposed undertaking's potential direct and indirect effects on ric properties within the Corps-indentified permit area.
Enda	angered Species
exam	ant to the Endangered Species Act of 1973, the Corps reviewed the project area, ined all information provided by the applicant and consulted the latest North lina Natural Heritage Database. Based on available information:
	The Corps determines that the proposed project would not affect federally listed endangered or threatened species or their formally designated critical habitat.
	The Corps determines that the proposed project may affect, not likely to adversely affect federally listed endangered or threatened species or their formally designated critical habitat. The Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
	The Corps is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. The Corps will make a final determination on the effects of the proposed project upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National

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Marine Fisheries Service.

Other Required Authorizations

The Corps forwards this notice and all applicable application materials to the appropriate State agencies for review.

North Carolina Division of Water Resources (NCDWR): The Corps will generally not make a final permit decision until the NCDWR issues, denies, or waives the state Certification as required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice, combined with the appropriate application fee, at the NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. A waiver will be deemed to occur if the NCDWR fails to act on this request for certification within sixty days of receipt of a complete application. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, 401 and Buffer Permitting Unit, 512 North Salisbury Street, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for a 401 Certification should do so, in writing, by November 18, 2016 to:

NCDWR Central Office

Attention: Ms. Karen Higgins, 401 and Buffer Permitting Unit (USPS mailing address): 1617 Mail Service Center, Raleigh, NC 27699-1617

Or,

(physical address): 512 North Salisbury Street, Raleigh, North Carolina 27604

North Carolina Division of Coastal Management (NCDCM):

The application did not include a certification that the proposed work complies with and would be conducted in a manner that is consistent with the approved North Carolina Coastal Zone Management Program. Pursuant to 33 CFR 325.2 (b)(2) the Corps cannot issue a Department of Army (DA) permit for the
proposed work until the applicant submits such a certification to the Corps and the NCDCM, and the NCDCM notifies the Corps that it concurs with the applicant's consistency certification. As the application did not include the consistency certification, the Corps will request, upon receipt,, concurrence or objection from the NCDCM.
Based upon all available information, the Corps determines that this application for a Department of Army (DA) permit does not involve an activity which would affect the coastal zone, which is defined by the Coastal Zone Management (CZM) Act (16 U.S.C. § 1453).

Evaluation

The decision whether to issue a permit will be based on an evaluation of the probable impacts 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, flood plain values (in accordance with Executive Order 11988), 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. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

Commenting Information

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; 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 (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, November 18, 2016. Comments should be submitted to Josh Pelletier, Washington Regulatory Field Office, 2407 West Fifth Street, Washington, North Carolina 27889, at (910) 251-4605.