



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: February 4, 2019  
Comment Deadline: March 6 2019  
Corps Action ID Number: SAW-2019-00175

The Wilmington District, Corps of Engineers (Corps) received an application from Dare County seeking Department of the Army authorization to perform year-round maintenance dredging of the federal project within Oregon Inlet and associated connecting channels, located in the Town Nags Head, Dare County, North Carolina.

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 District Web Site at

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

**Applicant:** Dare County  
Attn: Mr. Robert Outten  
954 Marshall C. Collins Drive  
Manteo, North Carolina 27954

**AGENT (if applicable):** Mr. Kenneth Willson, APTIM  
4038 Masonboro Loop Rd  
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 1.**

Directions to Site: Oregon Inlet is located between the northern tip of Pea Island and the southern tip of Bodie Island, adjacent to the Atlantic Ocean, in the Town of Nags Head, Dare County, North Carolina.

Project Area (acres): 2,500 acres  
Nearest Waterway: Atlantic Ocean

Nearest Town: Town of Nags Head  
River Basin: Pasquotank

Latitude and Longitude: 35.774365 N, -75.531517 W

### **Existing Site Conditions**

The project area encompasses the waters between the southern tip of Bodie Island and the northern portion of Pea Island including the ocean bar channel extending offshore and the connecting channels and waters on the Pamlico Sound side of the existing Bonner Bridge.

The inlet connects the northern end of Pamlico Sound to the Mid Atlantic Bight region of the Atlantic Ocean. Oregon Inlet is approximately 1.5 miles along its axis and 0.6 miles wide. Bodie Island, which forms the inlet's northern shoulder, is a part of the Cape Hatteras National Seashore (Seashore), which is administered by the National Park Service (NPS). The southern end of Bodie Island, including the Oregon Inlet campground and the Oregon Inlet Marina and Fishing Center, is primarily used for recreation. The southern shoulder of the inlet is home to the Pea Island National Wildlife Refuge (Refuge). The Refuge lies within the boundaries of the Seashore and is administered by the U.S. Fish and Wildlife Service (USFWS). The Refuge consists primarily of barrier island beach, dunes, and coastal wetlands. A former U.S. Coast Guard Station building is at the northern end of Hatteras Island. The Station is listed on the National Register of Historic Places (NRHP).

In 1963, the 2.44-mile long Bonner Bridge was constructed and served to connect vehicular traffic along Highway 12 between Bodie Island and Pea Island. The bridge includes a primary navigation span providing 65 feet of vertical clearance above mean high tide and 130 feet horizontal clearance between fenders. An adjacent span with 90 feet of horizontal clearance is often used for navigation as the result of natural channel movement. The primary navigation channel, Oregon Inlet Channel, extends approximately 3 miles and is aligned northeastward in the inlet proper and then turns northwestward to Old House Channel, into Pamlico Sound. Davis Channel, a secondary route just west of Pea Island, runs to the southwest for 2.5 miles and is especially susceptible to shoaling. Because the existing Bonner Bridge is nearing the end of its intended lifespan, the North Carolina Department of Transportation is in the process of constructing a replacement bridge. The new 2.8-mile Bonner Bridge, anticipated to open in the spring of 2019, will be located just west of the existing bridge. The new bridge will include seven navigation spans providing an average of 300 feet of horizontally clearance between spans and a vertical clearance of 70 feet. The navigation zone (navigation span height and width) would be 1,600 to 2,000 feet long. Following the construction of the new bridge, the majority of the original bridge will be demolished with the exception of a 1,000-ft section at the south end that will be repurposed into a fishing pier.

Like most inlets, the geomorphology of Oregon Inlet is dynamic. During relatively storm-free periods, an elongated spit forms along the southern shoulder of Bodie Island and the cross-section of the inlet assumes a narrow, but deep configuration with steep banks. However, during times of stormy weather, when Oregon Inlet's shoulders are well-rounded, the configuration is a shallow channel with wide overbanks on one or both sides.

## **Applicant's Stated Purpose**

The stated purpose of Dare County's proposed action is to have the ability to operate a yet-to-be-constructed dredge within the confines of Oregon Inlet in a manner that aligns with current USACE maintenance practices within Oregon Inlet. This includes the ability to conduct maintenance dredging on a year-round basis. The need of this action is to maintain the county's, regions, and states economic viability while preserving environmental quality and human safety.

## **Project Description**

NC Senate Bill 99 (2017) allocated \$15 Million to Dare County from the State's Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund to provide a forgivable loan to a private partner for the purchase of a shallow draft hopper dredge to be used under the direction of the Oregon Inlet Task Force (OITF), an advisory body appointed by the Dare County Commission. Although the OITF is to coordinate the use of the new dredge for all shallow draft navigation channels located in waters of the State, this particular action is specific to the "*confines of Oregon Inlet and certain connecting channels.*"

Maintenance dredging is currently performed by the Wilmington District dredge fleet (sidecast and hopper dredges) pursuant to its 2004 Finding of No Significant Impact (FONSI) entitled, "*Use of Government Plant to Dredge in Federally Authorized Navigation Projects in North Carolina*". Dare County proposes to work under the subject FONSI to utilize the new dredge on a year-round basis at Oregon Inlet.

The proposed action will utilize a yet-to-be-constructed, privately owned special purpose dredge in the same manner and under the same conditions as what is currently authorized for the Wilmington District Corps of Engineers (Corps) perform maintenance dredging within the waters in proximity to Oregon Inlet, as defined in the Corps' 2004 Finding of No Significant Impact (FONSI) entitled "*Use of Government Plant to Dredge in Federally Authorized Navigation Projects in North Carolina.*" The dredging conducted by the privately owned dredge would not replace dredging performed by the Corps dredge fleet; rather it would complement the Corps' existing efforts.

The dredging dimensions of the current Corps authorization include a 14-foot deep by 400-foot wide channel through Oregon Inlet and the ocean bar. An approximate 16,050-footlong portion of the channel from Oregon Inlet to Hell's Gate (12-foot deep by 100-foot wide) and an approximate 2,850-footlong portion of Old House Channel (12-foot deep by 100-foot wide) in Dare County. Because the Corps' authorization allows for the maintenance dredging to follow best water, the footprints of the areas to be dredged are not fixed. A bathymetric survey will be performed prior to each dredge event in an effort to determine the location of the best water for the channel. For the proposed project, a "dredge corridor" has been developed and will serve as the domain in which dredging could be performed in the future. (Figure 2)

The nearshore disposal sites for material dredged under this authorization would be identical to what is currently authorized by the Corps. These areas include nearshore disposal off the north end of Pea Island and in deep scour holes beneath the Herbert C. Bonner Bridge. Because it is anticipated that the majority of the existing Bonner Bridge will be demolished in the near future, the disposal of material for this proposed action will be limited to the areas surrounding the remaining bridge pilings.

The applicant is seeking authorization to be able to perform maintenance dredging on a year-round basis utilizing the yet-to-be-constructed dredge. Utilizing the Corps' 2004 EA/FONSI, the dredge will be constructed to the specifications that were developed to reduce the potential impacts to threatened and endangered species. These specifications will be implemented for the operation of the privately owned dredge as well.

It is anticipated that the volume of material that will be dredged from the Oregon Inlet bar, as well as the connecting channels, will average between 900,000 and 1,000,000 cubic yards annually.

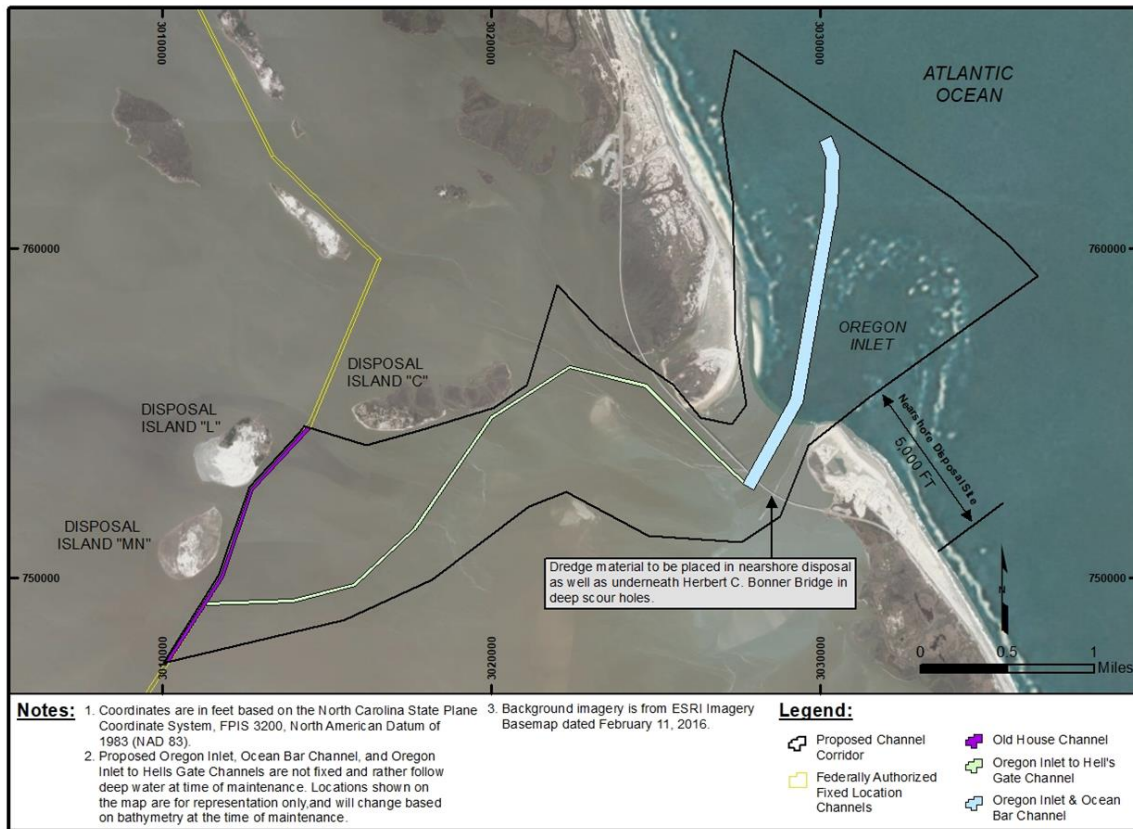


Figure 2.

## Avoidance and Minimization

The applicant has performed an alternatives analysis for this permit action. This included the evaluation of a status-quo alternative and the preferred alternative. The alternatives were identified and evaluated through the scoping and pre-application process, and further

detailed descriptions of these alternatives may be reviewed in the application and associated applicant-prepared Environmental Assessment.

### **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, a copy of the EA, including an EFH assessment, has been sent to The Nation Marine Fisheries Service for review.

### **Cultural Resources**

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, 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).
- Properties ineligible for inclusion in the National Register are present within the Corps' permit area; there will be no historic properties affected by the proposed work. 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; however, the undertaking will have no adverse effect 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 may have an adverse effect 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.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

### **Endangered Species**

Pursuant to the Endangered Species Act of 1973, the Corps reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina 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 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 March 6, 2019 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 that 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 March 6, 2019. Comments should be submitted to Mr. Josh Pelletier, Washington Regulatory Field Office, 2407 West Fifth Street , Washington, North Carolina 27889, at (910) 251-4605.