



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: September 24, 2019  
Comment Deadline: October 24, 2019  
Corps Action ID Number: SAW-2019-01155

The Wilmington District, Corps of Engineers (Corps) received an application from the Town of Sunset Beach seeking Department of the Army authorization to perform navigational dredging of Canals A-D, the Feeder Channel, Bay Area and an area of South Jinks Creek on the east end of Sunset Beach with dredged material placement on 1,600 linear ft. of oceanfront beach, in Sunset Beach, Brunswick 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: <https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Public-Notices/>

**Applicant:** Town of Sunset Beach  
Mr. Hiram Marziano  
700 Sunset Boulevard, North  
Sunset Beach, NC 28468

**AGENT (if applicable):** Moffat & Nichol, Inc.  
Mr. Robert Neal  
272 North Front Street  
Wilmington, NC 28401

## 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

Location Description: The proposed project is located within and adjacent to the eastern side of Sunset Beach, near Tubbs Inlet in Brunswick County, North Carolina. The Finger Canal portion of the dredging is located adjacent to Marlin, Sailfish, Dolphin and Cobia Streets. The Feeder Canal runs between Riverside Drive and N. Shore Drive. The Bay Area is south of the Feeder Canal and runs along Canal Drive. Both the Feeder Canal and Bay Areas extend to South Jinks Creek. The proposed placement area of compatible material is on the oceanfront beach between 5th and 12th streets of Sunset Beach.

Project Area (acres): 18

Nearest Town: Sunset Beach

Nearest Waterway: Atlantic Ocean and Jinks Creek

River Basin: Pee Dee (03040208)

Latitude and Longitude: 33.86995 N, -78.501142 W

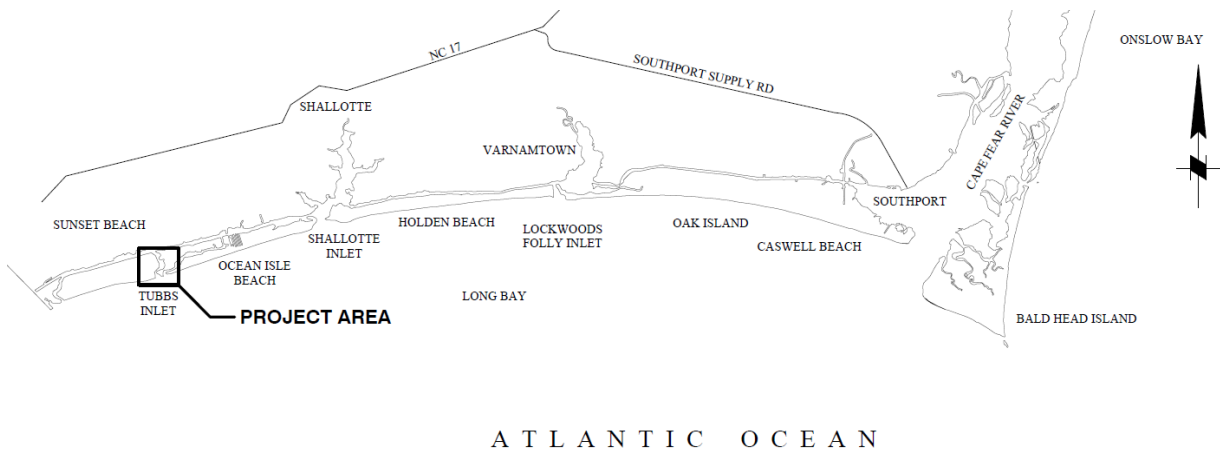


Figure 1. Project Vicinity Map

## Background Information

The initial proposal for the Town of Sunset Beach Canal Dredging Project was presented to the NC Division of Coastal Management on May 5, 2017. The initial proposal included the dredging of Turtle and Mary's Creeks to the north and to dredge the entirety of Jinks Creek and connect the Canal and Bay Areas to the Atlantic Intracoastal Waterway to the north. The proposal of the current dredge footprint and maintenance channel design occurred through coordination efforts with State and Federal agencies, including the NC Division of Coastal Management (DCM), the North Carolina Division of Marine Fisheries (DMF) and the North Carolina Division of Water Resources (DWR), among other agencies through multiple scoping meetings. The applicant developed the current permit application through extensive coordination efforts with state and federal entities in efforts address and minimize the potential impacts to the environment that may occur. Based on extensive discussions and multiple on-site meetings regarding the dredging of Jinks Creek, the applicant has agreed to minimize dredging impacts by limiting the dredging to south Jinks Creek and not connect the canal and Bay Area to the

Atlantic Intracoastal Waterway to the north as originally proposed. However, the application now contains a beach disposal component that was not in the original proposal.

### **Existing Site Conditions**

The proposed project areas are comprised of 4 man-made canals that connect to a Feeder Channel and a Bay Area to the south (see figure 1 below). Both the Feeder Channel and the Bay Area connect to South Jinks Creek. The shoreline of the Finger Canals is stabilized primarily by bulkheads, with some sections of riprap. The man-made canals border residential lots developed with single family residences and private docking facilities. The width of the canals is approximately 90 ft. and there are areas of oyster beds and coastal wetlands, mostly consisting of Salt Marsh Cordgrass (*Spartina alterniflora*). The 3,500 linear ft. Feeder Channel area is stabilized by bulkheads with undeveloped lots to the north. The channel averages 90 ft. in width with coastal wetlands, mostly consisting of Salt Marsh Cordgrass (*Spartina alterniflora*), present on each shoreline east of the finger canals. To the south, the Bay Area is stabilized primarily by bulkheads, with some rip rap and sparse vegetation including Sea Ox-eye and Salt Marsh Cordgrass. The Bay Area extends 2,200 linear ft. to the east with widths ranging from 130 ft. to 470 ft in width nearest the confluence with Jinks Creek. Both the Feeder Channel and the Bay Area connect to the 1,700 linear ft. South Jinks Creek project to the east, which transitions into the Atlantic Ocean through Tubbs Inlet to the south and to the AIWW to the north.

A previous maintenance event of the Finger Canals and Feeder Channel was conducted under State Permit No. 45-02, which expired on December 31, 2005. The dredging event authorized the removal of 38,164 cubic yards with excavation to a depth of -5.2 ft. at MLW. This was the first maintenance event for the feeder system since State Permit No. 211-85. There are no permits on file for the dredging of either the Bay Area or South Jinks Creek, but the application states that they both were previously dredged (pre-CAMA) in the early 70's. According to the applicant, significant accretion has occurred in the Finger Canal and Feeder Channel systems, which has restricted navigation since the previous maintenance event. The "box-cut" dredge channel previously authorized within the Finger Canals and Feeder Channel measured approximately 30ft. in width; this proposal would be reduced to 20 ft. in width in the Finger Canals. The application states that the Finger Canals currently have an average water depth of -2 ft. at MLW, the Feeder Channel averages -3 ft. at MLW, the Bay Area averages -2 ft. to -3 ft. at MLW and South Jinks Creek is approximately -1.5 ft. at MLW.



Figure 2. Proposed Project Area Map

### **Applicant's Stated Purpose**

To enhance and protect navigation access to residents and guests to waterways on the east side of Sunset Beach,

### **Project Description**

The applicant is proposing to perform a one-time navigational dredging event of Canals A-D, the Feeder Channel, Bay Area, and an area of South Jinks Creek on the east end of Sunset Beach with beach placement on 1,600 linear ft. of oceanfront beach. The project narrative states that the proposed dredging project would connect the Feeder Channel of the Finger Canals with the Bay Area via South Jinks Creek to create navigation corridors.

According to the application, the dredge channel templates for the Finger Canals A-D and Feeder Channel would be altered from the previous footprint to extend the navigational area approximately 50 ft. within the Finger Canals and to follow deep water in the Feeder Channel. The proposed channel width has been reduced to 20 ft. from the previously permitted 30 ft. due to clearance between docks and the existence of coastal wetlands. The maintenance dredging as proposed would aim to achieve average bottom depths ranging from approximately -5 ft. (-4 + 1 ft. over dredge) at MLW in the Finger Canals to -6 ft. (-5 ft. + 1 ft. over dredge) at MLW in Feeder Channel with side slopes of 3:1. The targeted cut depth in each area allow for a -1' over-dredge buffer. The application indicates that the removal of approximately 10,700 cubic yards of material from the Finger Canals, in an area measuring 3,200 ft. in length and 20 ft. in width, and 22,000 cubic yards of material from the Feeder Channel, in an area measuring 3,500 ft. in length and 30-40 ft. in width, would be performed by means of bucket to barge and disposed of in an approved upland disposal facility.

The Bay Area south of the Feeder Channel is proposed to be dredged to a final depth of -6 ft. (-5 ft.+ 1 ft. over dredge) at MLW in an area measuring 2,200 ft. in length by a varying width of 20 ft. to 80 ft. The proposed dredge footprint widens to a maximum of 80 ft. at the confluence with South Jinks Creek for an estimated volume of 15,900 cubic yards of material with a 3:1 side slope. The proposal states that the Finger Canals, Feeder Channel and Bay Area would be dredged via bucket to barge within the environmental window of November 16th to April 30th. The project narrative states that the proposed dredge spoil from these areas is not beach compatible and will be disposed via offload site at the end of Cobia street to an upland permitted landfill site currently owned by Ike Williamson, who has signed a letter of consent for use. The site is located adjacent to State Rd. 1163 (Old Georgetown R.) and State Rd. 1154 (Hale Swamp Road).

The proposed dredging of the South Jinks Creek area is proposed to be dredged to a final depth of -6 ft. (-5 Ft.+1 ft. over dredge) at MLW in an area measuring approximately 1,750 ft. in length by 100 ft. in width for a total volume of 40,500 cubic yards of material. The proposed template has a 5:1 slope throughout the dredge footprint. This material has been analyzed and the application states that it is compatible with NC standards for Beach Compatibility (see Narrative and Tab G). The material is proposed to be hydraulically dredged and placed via pipeline on a 1,600 linear ft. area of oceanfront beach between 5th Street and 12th Street extending up to 120 ft. below NHW (see figure 2 above). The proposed placement template would enhance the existing berm width of 275 ft. with a maximum height of +9.0 MLW. The proposed placement footprint and pipeline placement are described in the permit drawings section of the application.

The application indicates that the proposed pipeline would be anchored to the bottom waterward of MLW at the confluence of the Feeder Channel, Bay Area and South Jinks Creek. To avoid potential navigation concerns, the pipeline as proposed would cross the AIWW perpendicularly, limiting the amount of pipeline length within the existing navigation channel. The dredged material would then be transported via pipeline along the shoreline of the east end of Sunset Beach as close to the dune line as possible without impacting existing vegetation. The pipeline would have standard markings and



emergency access areas for disposal seaward of the existing dunes. The application states that temporary in-situ sand dikes or berms would be used during beach placement to facilitate settlement and retention of sand on the beach which would allow the sandy material to settle out before the water re-enters the ocean.

Conservation measures submitted by the applicant include an environmental window of November 16-April 30 for implementation of dredging activities and beach placement. The application also states that there would be a minimum 10 ft. buffer from any Coastal Wetland Areas (see Tab S). There is also a discussion about a potential Variance request to rule NCAC 07H .0208 (b)(F) due to shallow connecting water depths, which range from 0ft. to 2 ft. at MHW on the northern proposed Jinks creek project area to - 0 ft. to - 5ft. at MHW in the southern proposed Jinks Creek project area.

### **Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

- Maintaining buffers from coastal marsh and avoiding channel areas with potential high concentrations of shellfish habitat.
- Restricting dredging operations to between Nov 16 & April 30
- Coordinating with NCWRC for beach pipeline placement;
- Abiding by USFWS guidelines for avoiding West Indian manatee;
- Following NOAA recommendations for avoiding sea turtle and smalltooth sawfish potential impacts.

### **Compensatory Mitigation**

The applicant did not propose a compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment. The project as proposed will have no direct or indirect effects on wetlands or other special aquatic sites.

### **Essential Fish Habitat**

The Essential Fish Habitat (EFH) consultation has been completed for this project pursuant to the Magnuson-Stevens Fishery Conservation and Management Act.

The applicant completed an EFH assessment for this project in November 2018 and a Shellfish Survey Report in February 2018. The Corps determined that the proposed project would adversely affect EFH due largely to the scale of impacts (18 acres of shallow subtidal soft bottom, and 8.5 acres of intertidal beach habitat), and inclusions of dredging and beach fill components. No SAVs are present in the project area. The area is not designated as PNA. An Essential Fish Habitat (EFH) Assessment was submitted with the application, which predicted only short-term impacts to EFH from increases in

turbidity, siltation, and noise during construction. The applicant has proposed limiting dredging activities to November 16 through April 30 , in an effort to alleviate concerns regarding impacts to EFH and adjacent PNA. According to the submitted Shellfish Survey Report, the proposed project may impact clams present in South Jinks Creek, however the existing oyster beds appear to be located outside of the dredge channels. Conservation measures submitted by the applicant include an environmental window of November 16-April 30 for implementation of dredging activities and beach placement. The application also states that there would be a minimum 10 ft. buffer from any Coastal Wetland Areas.

In a letter dated August 2, 2019, NOAA's National Marine Fisheries Service offered no EFH recommendations based on the Applicant's acceptance and incorporation of the NMFS recommendation to protect the northern portion of Jinks Creek and implement the Conservation Measures mentioned above.

### **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 has determined that:

- 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. Additionally, the application contains correspondence from the NC Department of Natural and Cultural resources dated October 3, 2017 that states there is no knowledge of historic resources that would be affected by the project and no comment on the project was submitted.

### **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 data and a Biological Assessment provided by the Applicant (revised August, 2019):

- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat.
  - The Corps has requested initiation of consultation with United States Fish and Wildlife Service (USFWS) and the Nation Marine Fisheries Service (NMFS) under Section 7 of the ESA and will not make a permit decision until the consultation process is complete. The Corps has requested to utilize the August 28, 2017 State Programmatic Biological Opinion for North Carolina Beach Sand Placement

(SPBO) for species managed by the USFWS and the South Atlantic Regional Biological Opinion for species managed by the NMFS Protected Resources Division.

### **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). By letter to the Applicant on August 1, 2019, the NCDWR provided Approval of the 401 Water Quality Certification with Additional Conditions (Attached).

### **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 will 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, October 24, 2019. Comments should be submitted to Mr. Tyler Crumbley, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 , at (910) 251-4170.