



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: April 29, 2022
Comment Deadline: May 30, 2022
Corps Action ID Number: SAW-2020-00406

The Wilmington District, Corps of Engineers (Corps) received an application from North Carolina Department of Transportation (NCDOT) seeking Department of the Army authorization to construct a living shoreline project, associated with stabilization of NC-24 between Cape Carteret, Carteret County and the Town of Swansboro, in Onslow 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: **Philip S. Harris III, P.E., C.P.M., Unit Head**
North Carolina Department of Transportation
1598 Mail Service Center
Raleigh NC, 27699

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: NC-24 located SE of Swansboro, Onslow County

Project Area (acres): 5.0 acres Nearest Town: Swansboro
Nearest Waterway: White Oak River River Basin: White Oak River
Latitude and Longitude: N 34.685031, W -77.114446

Existing Site Conditions

The project is located in the White Oak River Basin (Hydrologic Unit 03020301). This project occurs near the outlet of the White Oak River at its connection with the Atlantic Ocean at Bogue Inlet. The White Oak River at this location is considered High-Quality Waters (HQW) by the North Carolina Division of Water Resources. Currently there is no low marsh habitat at the site however project construction would create this habitat in addition to providing protection for the NC-24 causeway.

Applicant's Stated Purpose

The NCDOT proposes to repair and stabilize the roadway embankment/causeway and adjacent sidewalk along NC 24, immediately southeast of the White Oak River bridge, between Swansboro and Cedar Point, NC.

Project Description

Wave action from several storm events is causing severe erosion, threatening the integrity of the NC 24 roadway embankment/causeway along its northern edge as well as the adjacent sidewalk and the abutment of the White Oak River bridge. The upstream side of the causeway has been partially undermined at the bridge abutment and the sidewalk along NC 24. NCDOT proposes to construct an offshore sill, or living shoreline, to reduce wave energy and protect the roadway from further erosion.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The NCDOT is committed to incorporating all reasonable and practicable design features to avoid and minimize jurisdictional impacts. Avoidance measures were taken during planning and compliance stages; minimization measures were incorporated as part of the project design:

- Granite sill location moved closer to causeway (50' vs 150' originally); sill alignment modified to better follow contours; reduces overall amount of proposed fill.
- Proposed oyster structures and beds to be hand placed without the use of heavy machinery to minimize impacts to the existing environment.
- Oyster structures are built from degradable materials that will eventually decay and leave the natural oyster rock/bed material.
- All proposed stabilization work on embankment to be completed from the NC-24 right-of-way to minimize impacts to the existing environment.
- Access for construction of the proposed living sill and tidal low marsh to utilize a temporary trestle bridge in an effort minimize impacts to the existing environment.
- Currently no low marsh habitat existing at site; proposed plan would add this habitat while also adding resilient protection to the causeway.
- Sill breaks (for all sill types) are placed every 100' to allow for aquatic life passage and to allow water to flow in/out to avoid stagnant water.

- Possible use of sediment curtains around proposed construction areas where practicable to minimize sediment escaping.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: Due to the nature of the work as a habitat enhancement project, it is anticipated that impacts incurred during construction of this project will result in a net gain in coastal marsh. If the project is deemed unsuccessful, compensatory mitigation has been reserved for the 0.22 ac. coastal marsh impact using the Stella Bridge Compensatory Mitigation Site.

Essential Fish Habitat

The Corps' determination is that the proposed project would not effect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

- This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the proposed project would not impact submerged aquatic vegetation. Our initial determination is that the proposed action would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by Fishery Management Councils and the National Marine Fisheries Service (NMFS). Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

NCDOT has provided a SAV Monitoring Plan that proposes mitigation and monitoring plans. The project area is in the vicinity of known submerged aquatic vegetation (SAV) habitat although no actual plants have been observed during surveys performed by NCDWR in 2013, 2017, and 2019 and NCDOT in 2020. However, this area has recently experienced a "mast year" (Fonseca and Uhrin, 2009) where extraordinary numbers of seeds germinate resulting in new eelgrass growth in areas long devoid of cover. Due to the lack of SAV presence at this site in previous surveys, it is suspected that the eelgrass seed germination that occurred in 2022 will not survive through the summer months and therefore no consistent habitat would be established. The occurrence of these "mast years" is episodic, and recruitment varies at individual sites.

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:

- 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. A Cultural Resources Programmatic Agreement Screening Checklist for Section 106 was completed for the project on December 16, 2021 and resulted in no further cultural resources review.

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.

NCDOT has received written concurrence from the USFWS on March 22, 2021 for the biological conclusions presented in the application. Communication with NMFS on May 26, 2021 indicated no anticipated impacts to sea turtles or marine fishes.

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. Unless NCDWR is granted a time review extension, a waiver will be deemed to occur if the NCDWR fails to act on this request for certification within 120 days of the date of this public notice. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, Transportation 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 May 19, 2022 to:

NCDWR Central Office
Attention: Ms. Amy Chapman, Transportation 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.

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, May 30, 2022. Comments should be submitted to Tom Steffens, Washington Regulatory Field Office, 2407 West Fifth Street, Washington, North Carolina 27889, at (910) 251-4615.