



**US Army Corps  
Of Engineers**  
Wilmington District

# PUBLIC NOTICE

Issue Date: October 4, 2023  
Comment Deadline: November 3, 2023  
Corps Action ID Number: SAW-2012-00040

The Wilmington District, Corps of Engineers (Corps) received an application on September 7, 2023, from the Village of Bald Head Island (Village) seeking a modification to the Department of the Army authorization, which allowed the construction of a terminal groin along the mouth of the Cape Fear River and the periodic maintenance placement of sand within the groin's fillet (original permit dated November 19, 2014; modification of permit to use Jay Bird Shoals dated July 3, 2018). In conjunction with the maintenance placement of material within the terminal groin's fillet, the Village is proposing to dredge within an additional 72.8-acre expansion area of Jay Bird Shoals not previously dredged, and to include a new placement area onto approximately 6,000 linear feet of shoreline along the east end of South Beach, on Bald Head Island, Brunswick County, North Carolina.

The proposed project would utilize a hydraulic cutter suction dredge and place approximately 500,000 cubic yards in each location (totaling approximately 1,000,000 CYs). Dredging in Jay Bird Shoals borrow area would not exceed -24 feet, NAVD88; dredge cuts would range from 14 - 18 feet in thickness. Work along the eastern South Beach stretch of shoreline is proposed as a one-time event to take place during the November 16, 2024, to March 31, 2025, environmental window.

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:** Village of Bald Head Island  
Attn: Chris McCall  
106 Lighthouse Wynd  
Bald Head Island, North Carolina 28461

**Agent:** Davey Resource Group  
Attn: Greg Finch  
3805 Wrightsville Ave., Suite 15  
Wilmington, NC 28403

## 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: Bald Head Island is a 3-mile long south-facing barrier island located immediately eastward of the mouth of the Cape Fear River. The island forms the southern terminus of the Smith Island complex at Cape Fear Point. Jay Bird Shoals is located westward into the Atlantic Ocean on the opposite side of the Wilmington Harbor federal navigation channel.

Project Area (acres): ~220.0 (beach & borrow area)    Nearest Town: Southport  
Nearest Waterway: Cape Fear River/Atl Ocean    River Basin: Cape Fear  
Latitude and Longitude: 33.85N, -77.9889W

## Existing Site Conditions

An existing groin field of 16 sand tubes is located along the western shoreline of South Beach, perpendicular to the beachfront. The 1,600lf terminal groin structure at western terminus (Sta 48+00) along the Cape Fear inlet shoulder was completed in December 2015 and the groin's fillet has since been nourished, or maintained, one time under the existing permit and three times using dredged material from the maintenance of the Wilmington Harbor navigational channel associated with the federal project. Increased erosion on the eastern end of South Beach has left very little protection in front of the Shoals Club. Placement from the federal project occurred here once in 2021.

There are no wetlands or coastal wetlands expected to be impacted by the proposed project. According to the NC Division of Water Quality's (DWQ) classification of waterbodies, the lower section of the river, from Federal Point to the Atlantic Ocean, is designated as Class "SA". The waters of the Atlantic Ocean in the vicinity of the mouth of the Cape Fear River are designated "SB". "SB" waters are suitable for primary recreational uses as well as all uses identified for "SC" waters (e.g. fishing, fish and wildlife propagation, and secondary recreation). "SA" waters are suitable for marketable shellfishing and all uses identified under the "SC" and "SB" classes (15 NC AC 2B .0311).

A variety of habitat types, including estuarine (salt marsh, unvegetated subtidal and intertidal bottom), beach (wet beach, dry beach, dune, interdunal wetlands, maritime forest), marine (soft bottom and hard bottom), and water column (estuarine and marine) are located within and/or surrounding the project area.

Vibracore sampling was conducted in July 2022; a summary of the vibracore collection methodology and findings of the geotechnical investigation are attached.

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

The purpose of the project is to maintain and restore beach and dune resources and thereby protect adjacent residential homes, businesses, and infrastructure along the south side of Bald Head Island. Proposed beach nourishment is intended to offset chronic and episodic sand losses along the western and eastern reaches of South Beach as well as maintain the terminal groin fillet. Daily use of the beach is, and will continue to be (post-project), recreational (for use by both residents of Bald Head Island and the public).

### **Project Description**

The proposed project involves excavation of beach-compatible sand (to a depth no greater than -24 ft NAVD88) from a 72.8-acre borrow area within Jay Bird Shoals. Dredging of the proposed new expansion area will be by hydraulic cutter suction dredge. Material will be piped to the beach by pipeline and booster pumps (if needed). Placement of sand along approximately 12,936 lf of shoreline along two sections of South Beach; 6,936 lf of the western end of South Beach and the terminal groin fillet (Station 52+64 to 122+00) and 6,000 lf along the eastern end of South Beach (Station 162+00 to 222+00; in front of the Shoals Club). Land-based equipment for material placement will include bulldozers (D8 or similar), dredge pipe, and payloaders. The construction berm will maintain an approximate elevation of +9 ft NGVD. Berm width will vary but not exceed 500 feet. A mild slope in the seaward direction will be graded to reduce post-placement scarping.

It is anticipated that a submerged pipeline can cross the federal navigation project without the need for burial (i.e. seabed placement below the authorized channel depth of -44ft. MLW).

### **Avoidance and Minimization**

The identification and use of the expanded Jay Bird Shoals borrow site was prompted by agency pre-application concerns and comments to develop a sand source site alternative to the Village's original proposal to use Frying Pan Shoals. Resource agencies recommended the prioritization of the use of Jay Bird Shoals over Frying Pan Shoals until such time the BOEM-funded research of the latter is completed. The current expansion project is being proposed as a result of these requests.

Based upon prior Endangered Species Act consultation between the Corps of Engineers and the U.S. Fish and Wildlife Service (FWS) for previous beach nourishment projects on Bald Head Island, project plans are to implement the 2017 North Carolina Coastal Beach Sand Placement Statewide Programmatic Biological Opinion, which will employ several standard conservation measures. These include, but may not be limited to, the following:

1. Nourishment to occur during winter months (reduced biological activity);
2. Utilization of beach quality sand (compatible with recipient site);
3. Visual surveys of escarpments and remediation prior to sea turtle nesting season;
4. Qualitative assessment of sand compaction subsequent to completion of beach placement (typically with staff of NC Wildlife Resource Commission);
5. The project will allow for undredged areas in proximity to be left undisturbed to promote more rapid recolonization of benthos (as was documented for previous Jay Bird Shoals and Bald Head Creek Shoals projects);
6. The project will avoid hard-bottom habitat;
7. The project will avoid Primary Nursery Area (PNA) impacts;
8. Avoidance of shorebird and colonial waterbird nesting areas;
9. The project will utilize hydraulic cutter suction dredge (thereby avoiding and minimizing physical entrainment of species in proximity to the dredge operation); and
10. The project will include post-project physical monitoring of borrow site (i.e. assessment of physical recovery).

The Village proposes to perform physical monitoring of the dredged borrow site immediately after construction, annually for three (3) years, and biennially thereafter. The post-construction bathymetry will be compared with subsequent monitoring results to calculate in-filling of the site. The results of the monitoring will be incorporated into the Village's existing comprehensive Shoreline Monitoring Program and reported annually. The footprint of each monitoring survey will include the entire permitted site as well as the actual area of excavation within. Any changes in morphology to the Jay Bird Shoals formation will be evaluated and included within the results of the monitoring report.

### **Compensatory Mitigation**

At this time, the applicant is not offering any compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment.

### **Essential Fish Habitat**

The Corps' determination is that the proposed project may adversely affect 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 impact marine substrate (soft bottom and hard bottom) and water columns utilized by various life stages of the following species. **A complete EFH will be submitted for review based on comments from this Public Notice.** 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.

- The Corps will consult under the Magnuson-Stevens Act and will not make a permit decision until the consultation process is complete.
- The Corps has initiated consultation under the Magnuson-Stevens Act and will not make a permit decision until the consultation process is complete.

## 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 any 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). **The proposed expanded borrow site has been subject to a remote-sensing survey. The Corps will be corresponding with SHPO on the results of that survey in separate consultation.**
- 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 federally listed endangered or threatened species or their formally designated critical habitat. A table of federally listed species and critical habitat, along with a determination for each, has been provided in the attachments.
- By copy of this public notice, 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 will consult under Section 7 of the ESA and will not make a permit decision until the consultation process is complete. **It is the Corps position that dredging and dredged material placement activities will be covered under the 2017 NC Statewide Programmatic Biological Opinion (SPBO) for beach sand placement; the 2017 Guidelines for Avoiding Impacts to West Indian Manatee; and the 2020 South Atlantic Biological Opinion (SARBO). A copy of this public notice will be sent to NMFS and USFWS for concurrence in the use of these documents.**
- The Corps has initiated consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat. Consultation has been completed for this type of activity and the effects of the proposed activity have been evaluated and/or authorized by the National Marine Fisheries Service (NMFS) in the South Atlantic Regional Biological Opinion (SARBO) or its associated documents, including 7(a)(2) & 7(d) analyses and Critical Habitat assessments.
- 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 applicant did not provide or satisfy all the elements required for a complete 401 certification request. Therefore, the 401 Certification process has not started. 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 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 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, 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, to:

NCDWR Central Office  
Attention: Ms. Stephanie Goss, 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 included the consistency certification, the Corps requests, via this Public Notice 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, November 3, 2023. Comments should be submitted to Emily Hughes, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403, or by email at [Emily.b.hughes@usace.army.mil](mailto:Emily.b.hughes@usace.army.mil) .