



PUBLIC NOTICE

**US Army Corps
Of Engineers**
Wilmington District

Issue Date: July 27, 2023
Comment Deadline: August 26, 2023
Corps Action ID Number: SAW-2019-02188

The Wilmington District, Corps of Engineers (Corps) received an application on June 23, 2023 from Carteret County, c/o Mr. Eugene Foxworth seeking Department of the Army authorization to conduct new dredging within coastal wetlands and waters and submerged aquatic vegetation (SAV) and conduct upland excavation, associated with a proposed public boat ramp facility in waters adjacent to the Atlantic Intracoastal Waterway (AIWW) and Bogue Sound, off Highway 24 in Ocean Community, Carteret 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: Mr. Eugene Foxworth
Carteret County
210 Turner Street
Beaufort, North Carolina 28516

AGENT (if applicable): Mr. Doug Huggett
Moffatt and Nichol
305 Commerce Avenue
Morehead City, North Carolina 28557

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 site is located on a 67-acre parcel, south of NC Highway 24, and west of 241 Morada Bay Drive, along the north shore of Bogue Sound, approximately 1 mile east of Goose Creek and 1 mile west of Sanders Creek, in Newport, Carteret County, North Carolina.

Project Area (acres): ~20-acres

Nearest Town: Newport

Nearest Waterway: Bogue Sound

River Basin: Onslow Bay

Latitude and Longitude: 34.69891 N, -76.990414W

Existing Site Conditions

The 64-acre parcel is currently undeveloped/ forested, contains freshwater wetlands which total 14.8 acres, and cross the property in four separate locations. The majority of the site is considered uplands and supports a mature canopy of mixed hardwoods and loblolly pine trees with a moderate shrub layer. The property shoreline along Bogue Sound is 900', has an elevation of 4' along the shoreline and contains coastal wetlands consisting of smooth cordgrass, black needlerush, bullrush, glasswort, and sea oxeye. Based on conducted surveys, submerged aquatic vegetation (SAV), primarily of *Zostera marina* and *Halodule wrightii* are present in proposed project area. A dirt road exists from the eastern property boundary at the terminus of Morada Bay Drive. The Corps issued a Nationwide Permit verification to the county in November 2020 for the purpose of an access road from NC Highway 24 to provide access to uplands throughout the site.

Applicant's Stated Purpose

The applicant states that the purpose of the proposed boat ramp facility is to provide access to recreational and commercial boaters within Carteret County, and surrounding counties, as well as vacationers to the area. Additionally, the applicant states that the proposed facility would alleviate pressures on other boat ramps located on the north shore of Bogue Sound.

Project Description

The applicant proposes to create a public boat launch facility with six ramps, a 100-foot by 8-foot transient floating dock within the basin, and a 159-space boat trailer parking lot and an access channel to the Atlantic Intracoastal Waterway. The proposed upland basin would be 1.54 acres in size and excavated to a depth of -7.2' NAVD88. The

facility would include six launch ramps located within the upland basin. Each of the proposed six ramps would be 253.5' long. Three 60' by 8' floating piers are proposed between the ramps, and a 100' x 8' transient/queuing dock is proposed along the northwest side of the new upland basin. Permanent impacts to waters and wetlands associated with the proposed project include the loss of 0.05-acre coastal wetlands and 0.78-acre SAV and SAV habitat associated with dredging. A +/-450' x 50' (bottom width) access channel is proposed to be dredged to provide vessels access to deep water and the Atlantic Intracoastal Waterway (AIWW). The proposed dredging would result in impacts to +/- 0.78 acres of bottom habitat and will produce approximately 4,625 CY of spoil material.

The proposed project also involves the placement of five Quickreef sills along the shoreline to either side of the proposed access channel. The five sills range in length from 79' to 100 and all have a width of 5'.

Construction methods include: Upland site clearing and grading utilizing standard construction equipment (i.e. graders, dozers, dump trucks, etc.). The upland basin would be excavated using excavators and dozers. The proposed parking area would be paved. An access channel to the AIWW/Bogue Sound would be dredged using mechanical (bucket to barge) methodology. Disposal of dredged material is proposed to be utilized onsite within the uplands at least 20' away from verified wetlands.

Avoidance and Minimization

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

- Based upon an analysis of flushing models for various basin design, a modified and shortened basin was chosen to ensure proper flushing of the basin to reduce potential water quality impacts. A flushing model is provided as an addendum to the application package.
- The proposed access channel base width was reduced from an initial 75' width down to 50' width to lessen impacts to shallow bottom and SAV habitat.
- The basin location was chosen in a way that provided for excavation through the narrowest coastal wetland fringe along the County's property.
- Shellfish surveys conducted at the same time as preliminary SAV surveys indicate no significant accumulation of shellfish within the area of the proposed new channel. However, Carteret County does propose to implement a shellfish relocation effort (following coordination with the N.C. Division of Marine Fisheries) within the area of the new access channel prior to the initiation of dredging activities.

- The design of the facility was done in a manner that should lead to no shellfish closures -in waters outside of the basin.
- Channel markers (four total) will be utilized to delineate the boundaries of the new channel, which will help ensure that boats utilizing the facility will not stray into adjacent areas of SAV (see permit drawing sheet N-101).
- In order to limit impacts to adjacent shorelines, coastal wetlands, and SAV habitat, Carteret County will request that the entrance channel to the new basin be designated as a “No-Wake Zone” by the N.C. Wildlife Resources Commission.
- Carteret County, in coordination with the N.C. Coastal Federation, will install informational kiosks and signage on high ground educating the public to the importance of avoiding SAV impacts.
- The upland basin will be excavated “in the dry” by leaving an earthen plug between the area to be excavated and the waters of Bogue Sound. A 24-hour period (minimum) after completion of excavation of the basin will elapse prior to plug removal to prevent unnecessary siltation into the adjacent waters.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

To offset the loss of 0.78- acre of SAV and SAV habitat, the applicant proposes to construct living shorelines along the property’s shoreline and south of the proposed boat ramp facility, designed to protect existing SAV beds and promote SAV habitat around dredge spoil islands, establish a water quality monitoring station, and multiple SAV monitoring locations within Bogue Sound.

Mitigation is not proposed for the loss of 0.05-acre of coastal wetlands associated with the dredging of the new access channel and basin.

Essential Fish Habitat (EFH)

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
 - ☒ estuarine substrate
 - ☐ water columns
 - ☐ emergent wetlands
 - ☒ submerged aquatic vegetation
 - ☐ artificial reefs, hard bottoms)
- (See project description) utilized by various life stages of the following species:
- ☐ coastal migratory
 - ☐ pelagics
 - ☐ corals
 - ☐ golden crab
 - ☒ shrimp
 - ☒ snapper grouper
 - ☐ spiny lobster
 - ☒ Atlantic highly migratory species).

Our initial determination is that the proposed action **would 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 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 (i.e., properties listed in or eligible for inclusion in the National Register of Historic Places) be present within the Corps' permit area, the proposed activity requiring the DA permit (the undertaking) is a type of activity that has no potential to cause an effect to an historic property.

- ☐ No historic properties (i.e., properties listed in or eligible for inclusion in the National Register of Historic Places) are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO and/or THPO.
- ☐ Cultural resources that have been determined not eligible for inclusion in the National Register of Historic Places are present within the Corps' permit area; therefore, there will be no historic properties affected by the proposed work. The Corps subsequently requests concurrence from the SHPO and/or THPO.
- ☐ Historic properties (i.e., properties listed in or eligible for inclusion in the National Register of Historic Places), 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 and/or THPO.
- ☐ Historic properties (i.e., properties listed in or eligible for inclusion in the National Register of Historic Places), 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 and/or THPO.
- ☒ No resources listed in or eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work; however, the permit area has not been formally surveyed for the presence of cultural resources. Additional work may be necessary to identify and assess any cultural resources that may be present. This notice serves as a request to SHPO, THPO, and/or other interested parties to provide any information they may have regarding historic properties. Additionally, one archaeological site, 31CR148, is within the permit area for the proposed undertaking. This site has not yet been systematically investigated or assessed for National Register eligibility.

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.
- ☒ For the proposed project, the Corps has made the following determination for federally listed endangered or threatened species or their formally designated

critical habitat: May Affect, Not Likely To Adversely Affect: West Indian Manatee, Northern Long Eared Bat, and Red Cockaded Woodpecker species. Suitable habitat for both the Northern Long Eared Bat and Red Cockaded Woodpecker likely exists onsite, however species surveys and habitat assessments were not included with the permit application. The Corps created a project folder in the IPAC system and generated a May Affect determination for the Northern Long Eared Bat (NLEB) after completing the NLEB Determination key. The project was assigned project code: 2023-0101337.

- ☒ 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.
- ☐ The Corps has initiated consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- ☐ For the proposed project, the Corps has made the following determination for 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 or its associated documents, including 7(a)(2) & 7(d) analyses and Critical Habitat assessments. A copy of this public notice will be sent to the NMFS:
- ☐ 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 should do so in writing, within 30 days of the issue date of the notice by emailing comments to publiccomments@deq.nc.gov with the subject line of "401 Water Quality Certification" or by mail to:

NCDWR Central Office
Attention: Stephanie Goss, 401 and Buffer Permitting Branch
(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 [Request Method](#) the consistency certification, the Corps requests, via the 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, August 26, 2023. Comments should be submitted to Ms. Liz Hair, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403, or via email at sarah.e.hair@usace.army.mil. The Corps Project Manager can be contacted at (910) 251-4049- Comments may also be submitted to WilmingtonNCREG@usace.army.mil.