



**US Army Corps  
Of Engineers**  
Wilmington District

# PUBLIC NOTICE

Issue Date: May 9, 2023  
Comment Deadline: June 8, 2023  
Corps Action ID Number: SAW-2022-00574

The Wilmington District, Corps of Engineers (Corps) received an application on May 1, 2023 from the National Park Service (NPS), Cape Lookout National Seashore (CALO) seeking Department of the Army authorization to perform maintenance dredging of two channels accessing NPS docks and placement of fill material onto CALO Lighthouse Beach (soundside), in 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:** National Park Service, Cape Lookout National Seashore  
Attn: Jeff West  
131 Charles Street  
Harkers Island, North Carolina 28531

## 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: NPS Channels to be dredged are located in Lookout Bight (tidal water connecting Barden Inlet to the Atlantic Ocean), and dredged material is to be placed at nearby Lighthouse Beach (soundside) above and below Mean Low Water.

Project Area (acres): ~3.0                      Nearest Town:

Nearest Waterway: Lookout Bight  
Latitude and Longitude: 34.6252N, -76.5322W

River Basin: White Oak

## **Existing Site Conditions**

Cape Lookout National Seashore protects a 56-mile stretch of barrier islands on the North Carolina coast. The project site is located within Lookout Bight and along the soundside shoreline near the Cape Lookout Lighthouse. The lighthouse location contains an approximate 200-foot long T-head docking facility for loading and unloading visitors and facility equipment, lighthouse keeper's quarters, the lighthouse structure, various smaller structures, and picnic areas. At the old USCG facility, the dock is dilapidated but once provided access to the old Cape Lookout Coast Guard Station and the old residential village. All areas of the park except for the Harkers Island Visitor Center are only accessible by personal boat or ferry. There is a federally authorized USACE channel that traverses from Harkers Island to Lookout Bight that connects to the Atlantic Ocean of which the 2 NPS channels connect to. There is currently shoaling in the NPS channel to the lighthouse dock that has impacted public access to the park for private boaters, ferry service, and tour groups. Access channels to the NPS docking facility and old USCG Station have been dredged in past years. Constant erosion on the soundside lighthouse beach threatens the 1873 Lighthouse keeper's quarters and Summer Kitchen.

## **Applicant's Stated Purpose**

The NPS lighthouse dock and USCG channels provide a safe and vital navigational linkage to National Park Service (NPS) properties along the southern reach of CALO and to the iconic Cape Lookout Lighthouse area, on which residents, visitors, businesses and NPS staff depend. These channels were maintained in the past, however there is no record of the last maintenance dredging event or placement location. The channel to the ferry dock experiences the highest boating activity with ferries accessing it multiple times daily (about 110,000 visitors each year ride the ferry). In March 2006, borrow areas within Barden Inlet were dredged and material placed on the soundside beach at Cape Lookout Lighthouse (2005 NPS EA). In the intervening years, this placement has eroded away, and the iconic structures are threatened again. The beneficial use of the dredge materials associated with this project would provide cultural resource protection.

## **Project Description**

The two NPS channels, which connect to the USACE federal channel in Lookout Bight, follow deep water as much as practical for (1) ferry operations that provide visitor access to the Cape Lookout National Seashore (CALO) Lighthouse dock, and (2) access to the old U.S. Coast Guard (USCG) Station dock (the NPS plans to utilize this dock in the future for maintenance operations). Channel dimensions for the channel to the Lighthouse dock will be 40 feet wide by 7 feet deep +1 foot over-depth, and the

channel to the old USCG Station dock will be 40 feet wide by 4 feet deep +2 feet over-depth.

The Lighthouse channel needs immediate maintenance and is planned for winter 2024 as part of a federal channel maintenance contract. Maintenance dredging of this channel would occur with hydraulic pipeline dredge in the same way as the federal channel in Lookout Bight, with placement onto Lighthouse beach, (approximately 34,000 CY). Material will be pumped to the Lighthouse beach and spread in front of the complex with bulldozers. Beach profile design will depend on current beach surveys and actual quantities to be dredged.

Currently, the old USCG channel does not need dredging but may need maintenance in the next 3-5 years. Material will also be placed onto Lighthouse beach.

Pipeline dredging would occur every 3-5 years, based on need and available funding. A 10-year permit is being requested, which would cover 2-3 contracted dredging and placement events. Maintenance between pipeline events may be needed. This would be done via USACE Government Plant (special purpose hopper or sidecaster). Dredging and dredged material placement will occur as described in the Draft EA released 14 April, 2023 (<https://www.saw.usace.army.mil/Missions/Navigation/Dredging/>).

### **Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: Beach placement will occur during the 16 Nov – 30 April window to avoid impacts to nesting sea turtles and hatchlings. All Government Plant dredging will occur 1 October – 31 March to avoid potential impacts to fisheries. Emergency dredging may be required after storm events between 1 April – 30 September; this will be coordinated separately with Federal and State agencies.

### **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 (CHOOSE ALL THAT APPLY- marine substrate, estuarine substrate, water columns, emergent wetlands, submerged aquatic vegetation, artificial reefs, hardbottoms) (see

project description) utilized by various life stages of the following species: (CHOOSE ALL THAT APPLY – coastal migratory pelagics, corals, golden crab, shrimp, snapper grouper, spiny lobster, Atlantic highly migratory species). 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 the Magnuson-Stevens Act and will not make a permit decision until the consultation process is complete. This consultation was initiated via the April 14, 2023 release of the Channel from Back Sound to Lookout Bight, Maintenance of USACE and NPS Navigation Channels Draft Environmental Assessment.

## 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. Consultation with SHPO was initiated on April 19, 2023.
- 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.
- The Corps has initiated consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete. Consultation with the U.S. Fish and Wildlife was initiated via the April 14, 2023 release of the Channel from Back Sound to Lookout Bight, Maintenance of USACE and NPS Navigation Channels Draft Environmental Assessment. As indicated in the Draft EA, the NPS dredging and dredged material placement activities will be covered under the 2017 NC Statewide Programmatic Biological Opinion (SPBO).
- 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. 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 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 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, June 8, 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) .