



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: March 13, 2023
Comment Deadline: April 12, 2023
Corps Action ID Number: SAW-2022-01698

The Wilmington District, Corps of Engineers (Corps) received an application on November 3, 2022 with additional information received on February 3, 2023 from the Town of Morehead City seeking Department of the Army authorization to discharge dredged or fill material into and excavate tidal waters in order to construct a living shoreline and wave attenuation system, associated with a shoreline protection and habitat enhancement project at Sugarloaf Island, south of Evans Street, across the Morehead City waterfront, within the waters of/adjacent to Morehead City Harbor Channel, 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: Town of Morehead City
C/o: Christopher Turner, Interim Manager
1100 Bridges Street
Morehead City, NC 28557

AGENT (if applicable): Quible & Associates, P.C.
C/o: Brian Rubino
P.O. Drawer 870
Kitty Hawk, NC 27959

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:

Project Area (acres): ~3.12-acres

Nearest Town: Morehead City

Nearest Waterway: Morehead City Harbor Channel

River Basin: White Oak

Latitude and Longitude: 34.717127 N, -76.71228 W

Existing Site Conditions

The project site is located along the shoreline of the approximate 14-acre Sugarloaf Island within Bogue Sound in Morehead City, Carteret County. This property is an undeveloped island, but contains a restroom facility and a dock for visitors.

The elevation of the high ground on the property is approximately 6' above the normal high water (nhw) level. Vegetation on the property mainly consists of native shrubs and Coastal Wetlands. There is approximately 7,743' of shoreline on this 14-acre tract. Water depths in the project area range from -0.5' to -12.0' normal low water (nlw). The subaqueous substrate is firm with shell. There is a Federal Channel adjacent to the project area (Harbor Channel). These estuarine waters are not classified as a Primary Nursery Area by the North Carolina Division of Marine Fisheries (NC DMF). According to the application, submerged aquatic vegetation (SAV) is not present within the project area. However, the project area is within SAV habitat and according to the North Carolina Division of Coastal Management (NC DCM), historical data suggests the presence of SAV habitat adjacent to the northwest side of Sugarloaf Island. This waterbody is closed to shellfish harvest and is classified as SA; HQW by the North Carolina Division of Water Resources (NC DWR).

Applicant's Stated Purpose

Per the applicant: The island has experienced some erosion conditions as a result of common wind and wave forces, tropical storm events, sea level rise, strong tidal flow, and boat generated wake. The island supports a wide variety of coastal habitats and has become an important protective barrier for the harbors, businesses, residences and the downtown waterfront area in Morehead City as a whole. Rapid loss of the island has exposed portions of the downtown to direct wave impacts and this exposure is expected to continue. In addition to all of the primary needs for island protection and ecological restoration congruent with the State's Coastal Habitat Protection Plan (CHPP) goals and protection of Town infrastructure, it should also be noted that secondary purposes and needs include education and recreation (fishing and boating/swimming/beachgoing).

Project Description

The applicant proposes to construct a wave attenuation and sill system around the entire southern portion of the island and also along the eastern and western shorelines, and conduct dredging within waters adjacent to Harbor Channel.

Sills within tidal waters: The first sill would be adjacent to the northwest end of the island. It would be 5' wide and 840' long (0.09 acre) with 10'-wide openings at 250' intervals. It would be sited in -2' nlw depth with 6" of exposure at low tide. The second sill would be adjacent to the southern shoreline of the island. It would be 5' wide and 2,764' long (0.32 acre) with 10'-wide staggering gaps at 230' intervals. It would be sited in 2' nlw depth approximately 10' waterward of the shoreline, with 6" of exposure at low tide. Materials proposed for use are Oyster Catcher Tables™ and Marsh Rounds™.

Wave Attenuator Revetment within tidal waters: The applicant is also proposing a concrete wave attenuator revetment. It would be constructed predominantly adjacent to the south side of the island and would wrap around the east and west ends of the island, ranging from 40' waterward of the shoreline up to 400' offshore. This proposed revetment would be 18' wide and 3,474' long (1.43 acre) with openings ranging from 27'-wide up to 200'-wide at varying intervals. It would be sited along the -4' nlw depth contour with 3.6' of exposure at low tide. The wave attenuator revetment would have pilings with reflectors and lighting in order to alert vessel operators of the structure's presence during periods of low visibility. These marker pilings would be sited at the openings and at varying intervals along the wave attenuator.

The proposed wave attenuator revetment would tie into the shoreline on eastern terminus of the island and transition into a traditional rip rap revetment. It would be approximately 35' south of the edge of the Federal Channel and within the Federal Channel setback of Harbor Channel. This revetment would also be 18' wide and 206' long (~0.08 acre). Materials proposed for use are Wave Attenuation Device (WAD®) which consists of a concrete pyramidal unit which has holes and gaps.

Dredging within tidal waters: Immediately waterward of wave attenuator revetment, the applicant is proposing to excavate approximately 7,000 cubic yards of material (4,000 cubic yards of material below nlw) along the northeast tip of Sugarloaf Island adjacent to Harbor Channel. This proposed 20,000 square foot excavation would tie into the -12' nlw depth within the center of the Federal Channel. The purpose of the dredging activity is to prevent further island migration into the federal channel and source backfill material for proposed future habitat enhancement activity. The proposed dredge method is bucket to barge.

Habitat Enhancement: The excavated spoil material would be temporarily contained within a 3,000 square foot unvegetated area immediately landward of the rip rap revetment. This spoil material is later proposed for habitat restoration efforts in the nearshore areas of Sugarloaf Island, landward of the proposed wave attenuator system's alignment. According to the applicant, the intent of this proposed fill would be

to enhance SAV and Coastal Wetland habitats with associated native coastal riparian plantings.

Plantings: The applicant proposes incorporate native riparian plantings on sand flats and areas adjacent to coastal wetlands. Plantings waterward of the MHW mark would primarily occur after the wave attenuation systems have been installed. Areas above the mhw mark would be planted sooner.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The applicant provided no specific details regarding avoidance and minimization given the nature of the project.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: Compensatory mitigation is not proposed as a part of this project.

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, estuarine substrate, water columns, emergent wetlands, submerged aquatic vegetation) (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 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.

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. 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.
- 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.
- 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 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, by April 3, 2023 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.

Section 408

Interested parties are hereby notified that an application has been received for Department of the Army Section 408 (Section 14 of the Rivers and Harbors Act of 1899; 33 U.S.C. 408) approval to conduct proposed work at the federally constructed Morehead City Harbor channel, as described above and shown on the attached maps. Written comments are being solicited from anyone having an interest in the requested alteration. Comments received will become part of the U.S. Army Corps of Engineers' (USACE) administrative record and will be considered in determining whether to approve the request. Comments supporting, opposing, or identifying concerns that should be considered by the USACE in its decision process are welcome. Comments providing substantive information and/or a rationale for the commenter's position are the most helpful.

This public notice is not a paid advertisement and is for public information only. Issuance of this notice does not imply USACE endorsement of the project as described. The decision whether to grant the requested permission for federal project modification under Section 408 will be based on several factors and 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. Review of the request for modification will be reviewed by a USACE technical review team and will consider, but not necessarily be limited to, the following factors:

1. Impair the Usefulness of the Project Determination. The review team will determine if the proposed alteration would limit the ability of the project to function as authorized, or would compromise or change any authorized project conditions, purposes, or outputs. The decision whether to approve a request for modification would be based on a determination of no impairments.

2. Injurious to the Public Interest Determination. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Evaluation of the probable public interest impacts of the proposed alteration to the USACE requires a careful weighing of all relevant factors in each particular case. Factors that may be relevant to the public interest depend upon the type of USACE project being altered and may include, but are not limited to, conservation, economic development, historic properties/cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation. The decision whether or not to approve an alteration to a federal project will be determined by the consideration of whether benefits are commensurate with risks. If the potential detriments are found to outweigh the potential benefits, then it may be determined that the proposed alteration is injurious to the public interest.
3. Environmental Compliance. A decision on a Section 408 request is a federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. While ensuring compliance is the responsibility of the USACE, the requester provides all information necessary to satisfy applicable federal laws, executive orders, regulations, policies, ordinances, and any other environmental requirements. The NEPA and other analyses completed to comply with environmental statutes, such as the Endangered Species Act, should be commensurate with the scale and potential effects of the activity that would alter the federal project. The scope of analyses for the NEPA and environmental compliance evaluations pursuant to Section 408 are limited to the area of alteration and adjacent areas that may be directly or indirectly affected by the alteration. A preliminary determination has been made that an environmental impact statement is not required for the proposed action.
4. Technical Analysis. The USACE will ensure that the requester provides all technical plans, maps, drawings, and specifications to facilitate a thorough review of the proposal. A USACE-led Agency Technical Review (ATR) is being conducted to determine any potential adverse impacts to the federal project.

Any comments received will be considered by the USACE in determining whether to issue, modify, condition or deny a permission for this proposal if received before the comment period expiration date. To make its decision, the USACE will review comments received to supplement and inform its assessment of impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments will be taken into consideration in the preparation of an appropriate document pursuant to the NEPA (e.g. Environmental Assessment). Comments will also be used to determine the need for a public hearing and to determine overall public interest in the proposed action.

It should be noted that materials submitted as part of Section 408 requests become part of the public record and will be available to the general public under the provisions of the Freedom of Information Act (FOIA). Individuals may submit

a written request to obtain materials under the FOIA or make an appointment to view the project file at the USACE Wilmington District's Office of Counsel.

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, April 12, 2023. Comments should be submitted to Liz Hair, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 , at sarah.e.hair@usace.army.mil. Comments may also be submitted to WilmingtonNCREG@usace.army.mil