



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: March 30, 2018

Comment Deadline: April 30, 2018

Corps Action ID Number: SAW-2013-00404

The Wilmington District, Corps of Engineers (Corps) received an application from The Town of Topsail Beach, seeking Department of the Army (DA) authorization to modify an existing DA permit, to conduct new and maintenance dredging within the waters of New Topsail Inlet, Banks Channel, Topsail Creek, and Banks Channel Connector, place beach compatible dredged material along 4.56 miles of oceanfront shoreline, and construct a new primary dune along the project boundary, associated with the Topsail Beach 30-year Management Plan project, at Topsail Beach, in Pender 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 <http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

Applicant: The Town of Topsail Beach
Attn: Mr. Michael Rose
820 Sanderson Boulevard
Topsail Beach, North Carolina 28445

Agent: TI Coastal Services, Inc.
Attn: Mr. Jamie Pratt
387-B North Green Meadows Drive
Wilmington, North Carolina 28405

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:

Nearest Town: Topsail Beach

Nearest Waterway: New Topsail Inlet River Basin: Onslow Bay
Latitude and Longitude: 34.3694 N, -77.625 W

Existing Site Conditions

The project area is located on the southern end of Topsail Island, a barrier island located in southeast North Carolina, within the Town limits of Topsail Beach and also located in Topsail Inlet and various federal navigation channels located in between the Atlantic Intracoastal Waterway (AIWW) and Topsail Island.

Applicant's Stated Purpose

The applicants stated purpose is to obtain beach compatible sand in a cost-effective manner and to maintain the originally designed beach fill project, protecting property and public infrastructure within the Town of Topsail Beach, and to maintain the navigational channels surrounding Topsail Beach.

Project Description

The Town of Topsail Beach is planning to dredge: (1) approximately 5,000-linear feet of the southern extent of Topsail Creek, (2) approximately 8,500-linear feet of New Topsail Inlet from Topsail Creek to the mouth of the inlet at the ebb shoals (3) the approximately 3,700-linear foot Banks Connector Channel between New Topsail Inlet and Banks Channel, (4) a 2,000-linear foot cut through channel between Topsail Creek and Banks channel, (5) shoaled areas within Banks Channel along the approximately 28,300-linear feet adjacent to the Town and (6) the two Banks Side Channels which provide homeowners access to Banks Channel within Town limits.

The project will further expand the dredge template beyond the previously permitted channel widths in sections of New Topsail Inlet, Banks Connector Channel, and Banks Channel. Topsail Creek would remain at the currently permitted 150' width, aside from a widener at the confluence of the Cut Through Channel. New Topsail Inlet would widen from 150' to 500' wide from the seaward edge of the ebb shoal to the confluence of Banks Connector Channel and would then narrow to the currently permitted width of 150'. Banks Connector Channel would increase from 150' to 300' wide on its western end, near the confluence of New Topsail Inlet but would remain at its currently permitted 150' width from station 0+00 (at the confluence with Banks Channel) to station 16+50. The Cut Through Channel will be added to the navigational channels to aid in safe navigation for small vessels from Topsail Creek to Banks Channel and will be wide enough for boats to safely pass each other while underway. Banks Channel would widen from the federally authorized 80' to 200' wide as well as deepened from the federally authorized 7+2' to 12+2' MLW depth. Proposed dredging would follow the centerline of the channel system previously dredged in 2013/2014, which established fixed channel positions rather than following the deep water

channel. The centerline of Topsail Inlet has been shifted slightly south from the previous project to reflect a more shore normal alignment and coincide with the current orientation of the Inlet system. The proposed dredging is summarized in the following Table 1 below.

Table 1. Proposed Hydraulic Dredging Channel Dimensions

Dredge Area	Linear Feet Dredging	Current Permitted Depth	Current Permitted Width	Proposed Permitted Depth	Proposed Permitted Width
Topsail Creek (southern end)	5,000-lft	12+2-ft	150-ft	12+2-ft	150-ft
New Topsail Inlet	8,500-lft	16+2-ft	150-ft	16+2-ft	500-ft
Banks Connector (New Topsail Inlet to Banks Channel)	3,700-lft	16+2-ft	150-ft	16+2-ft	300-ft
Banks Channel (adjacent to Town of Topsail Beach)	~28,300-lft (Shoaled areas along that length)	7+2-ft	80-ft	12+2-ft	200-ft
Side Channel 1 & 2	Chan 1: 2,600' Chan 2: 4,300'	7+2-ft	90-ft	7+2-ft	90-ft
Cut Through Channel	2,000-lft	N/A	N/A	16+2-ft	500 to 800 ft

This project proposes adaptive management of the channel system seeking to contribute to the success of the previous project by extending the time period between dredge work. The capacity created during the 2013 project maintained sufficient navigable water for all neighboring channels for 3 years, however the long term goal is to achieve a 5 year project lifespan, which is anticipated to be gained from this iteration of the management plan. This allows for robust environmental rebound for coastal organisms between projects—again building on the successful biological rebound of all monitored species since the previous job. As such, all proposed dredging would be conducted from November 16, 2018 to March 31, 2019 in order to avoid times of peak biologic activity. A hydraulic or cutter head suction dredge would be used.

The proposed beach fill consists of placing 1.5 million cubic yards of sand along the oceanfront shoreline of Topsail Beach. Re-nourishment operations will occur along the 24,700-lft of beach, the same area as previous projects, extending from approximately 1,000-ft south of Goodwin Avenue to approximately 2,000-ft north of the Town limits. All beach fill will be placed within the 30-year easement secured and utilized during the winter 2011 beach nourishment event.

This project will bring the Town's project to the specifications of their adapted 30-Year Management Plan and provide a level of protection consistent with the coastal storm damage reduction project as designed by the USACE. A full main frontal dune will be constructed in front of the existing dune system, at an elevation of 12' NAVD88 and with a dune crest width of 25-linear feet. The previously built beach berm width, averaging 120 feet will be constructed seaward of the dune to a height of 5-ft (NAVD88) with a 1:20 fill slope extending from the water ward edge of the berm to the intertidal zone of the beach. Included in the 23,576-lft is an approximately 500-lft transitional zone or fill taper from Goodwin Avenue south and an approximately 500-lft transitional zone or northern fill taper ending just beyond Town limits. Around the Jolly Roger fishing pier, dune construction will continue, however there will be no berm construction directly adjacent to the pier structure.

While 1.5 million CY of sand is required to fill the design template, the proposed channel alignments contain 3.2 million CY of beach quality sand. The proposed project intends to only dredge the volume needed to fill the beach fill template of 1.5 million CY. This represents approximately half of the total available sediment within the channel dredging templates. Work for this project will focus on the problematic shoaling areas of New Topsail Inlet, Banks Connector Channel, Topsail Creek, and the Cut Through Channel. The remaining volume of sand, existing primarily in Banks Channel, will be left as a contingency plan for future or emergency nourishment projects.

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 states that the proposal will reduce the frequency of maintenance dredging and deposition along the beach, which will reduce the disruption of bottom habitat and the upland, intertidal, and submerged beach.

Before the Interim Project initiated construction in 2009, the side cast dredge was working in New Topsail Inlet and Topsail Creek an average of 4 times per year and the AIWW Inlet Crossings at Topsail Creek, and Howards Channel were dredged an average of every other year. The material dredged from the AIWW crossings was often placed on the oceanfront shoreline of Topsail Beach, impacting the upland, intertidal and submerged beach every other year. The Federal 50-Year Plan has a return period of 4 years between work, but does not include a navigation component. The Federal Project utilizes offshore borrow areas as a sand source, therefore requiring separate attention to remove shoaling from the channel system. As such, the side cast dredge would most likely be used to fulfill this requirement, returning to its 3-4 projects per year cycle.

Additionally, the applicant proposes to conduct dredging from November 16, 2018 to March 31, 2019 in order to avoid times of peak biologic activity.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant does not propose to provide any compensatory mitigation.

Essential Fish Habitat

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this Public Notice initiates the Essential Fish Habitat (EFH) consultation requirements. The Corps' initial 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.

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.
- 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 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. A waiver will be deemed to occur if the NCDWR fails to act on this request for certification within sixty days of receipt of a complete application. 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 30, 2018** to:

NCDWR Central Office
Attention: Ms. Karen Higgins, 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 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, **April 30, 2018**. Comments should be submitted to Ms. Liz Hair, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 , or at sarah.e.hair@usace.army.mil.