



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: 21 November, 2014
Comment Deadline: 8 December, 2014
Corps Action ID Number: SAW-2011-02228

The Wilmington District, Corps of Engineers (Corps) received an application from the Military Ocean Terminal Sunny Point (MOTSU) seeking Department of the Army authorization to conduct transport of disposal material to previously used disposal sites including the Cape Fear River, MOTSU site and to the New Wilmington Ocean Dredged Material Disposal Site (ODMDS) located approximately seven to 12.5 miles south of Bald Head Island in the Atlantic Ocean, associated with maintenance dredge of the existing access channels, connecting channels, and basins at their navigation facilities in the MOTSU harbor in Brunswick 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: Military Traffic Management Command
Military Ocean Terminal
Sunny Point (MOTSU)
Southport, North Carolina, 28461

AGENT (if applicable): N/A

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

Directions to Site: The project site, Military Ocean Terminal Sunny Point (MOTSU), is a military ocean terminal located in Brunswick County, North Carolina, on the west bank of the Cape Fear River, approximately 10 miles upstream from the river's mouth. The dredged material will be disposed of at the New Wilmington Ocean Dredged Material Disposal site (ODMDS) located approximately seven to twelve miles south of Bald Head Island in the Atlantic Ocean.

Project Area (square nautical miles): 9.4 Nearest Town: Southport
Nearest Waterway: Cape Fear River River Basin: Cape Fear HUC: 03030005
Latitude and Longitude (Decimal Degrees): 34.00365 N, -77.95253 W

Existing Site Conditions

Plans submitted with application show that the work will involve maintenance dredging of the existing access channels, connecting channels, and basins at the MOTSU wharves as originally authorized under DA permit Action ID Number SAW-1995-02844, and as modified under Action ID Number SAW-1998-00432. The deepening authorized by the original permit is complete, and the original permit expired on December 31, 2000. DA permit Action ID SAW-2001-00436 authorized maintenance dredging of the MOTSU navigation facilities and transport of dredged material for ocean disposal. Prior to disposal at an approved ocean dredged material disposal site, sediments dredged under DA authorization must be evaluated pursuant to 40 CFR 220-228. This evaluation and concurrence with disposal criteria has been requested of the United States Environmental Protection Agency (USEPA) Region 4, by letter dated November 7, 2014. USEPA's written concurrence is required before the permit can be issued. This concurrence is valid for three years from the date of the EPA letter.

Applicant's Stated Purpose

The purpose of the work is to enable MOTSU to meet its mission requirements as a unique military port facility designed and constructed specifically for the safe, efficient trans-shipment of explosives, munitions, ordinance, and related material. While adjacent to and dependent on the Wilmington Harbor federal navigation channel project, MOTSU is a separately permitted Military Traffic Management Command facility. Annual dredging is necessary to maintain safe and adequate depth for vessels served by MOTSU. Plans showing work are included with this public notice.

Project Description

The proposed project is to transport dredged material that will be excavated at MOTSU to the U.S. Environmental Protection Agency Section 102 designated Wilmington Ocean Dredged Material Disposal Site (ODMDS) located approximately 7 to 12.5 miles south of Bald Head Island in the Atlantic Ocean. The site was designated by EPA on 5 July 2002

(F.R. Vol 67 No. 129), effective 5 August 2002. The boundary coordinates (NAD 83 Geographic) for the Wilmington ODMDS are:

- 33° 46.0" N 78° 02.5" W
- 33° 46.0" N 78° 01.0" W
- 33° 41.0" N 78° 01.0" W
- 33° 41.0" N 78° 04.0" W

The site is located approximately 5 to 12.5 nautical miles offshore Bald Head Island, North Carolina. The New Wilmington ODMDS has an area of about 9.4 square nautical miles (nmi²). Depths within the ODMDS range from about -35 to -52 feet local mean low water (m.l.l.w.).

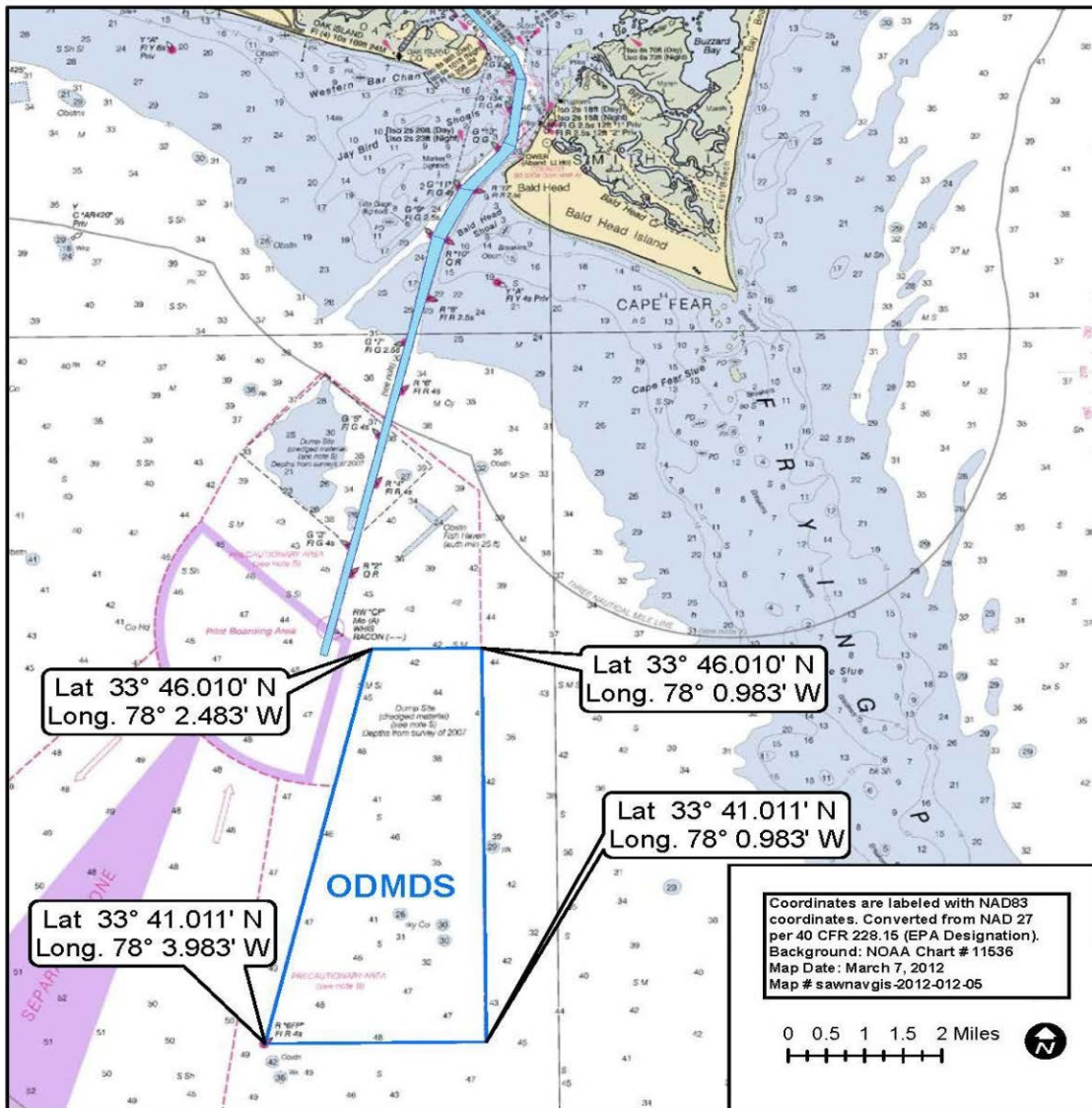


Figure 1. Location of the New Wilmington ODMDS.

The Wilmington ODMDS has received dredged material from the Wilmington Harbor federal navigation channel and MOTSU approximately every year since the site designation. Disposal will take place in accordance with the current Wilmington Ocean Dredged Material Disposal Site Monitoring and Management Plan. MOTSU proposes to transport approximately 1,000,000 cubic yards of dredged material to the Wilmington ODMDS.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The sediments proposed for transportation and disposal have been evaluated pursuant to Section 103 of the Marine Protection Research and Sanctuaries Act (MPRSA) and determined to be acceptable for ocean disposal. This evaluation has been provided to the United States EPA Region IV for their review and concurrence on November 7, 2014. EPA written concurrence will be required for disposal in the ODMDS. The EPA concurrence letter will be valid for three years from the date of issuance. MOTSU will continue to abide by all previously authorized permit conditions.

Compensatory Mitigation

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

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 affect, but is not likely to 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.

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 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 8 December, 2014 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 shall 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, 6 December, 2014. Comments should be submitted to Mr. Tyler Crumbley, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 , at (910) 251-4170.