



**US Army Corps
of Engineers®**

PUBLIC NOTICE

Applicant:
Robert Outten
Dare County

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**Wilmington District
Permit Application No. SAW-2025-01509**

TO WHOM IT MAY CONCERN: The Wilmington District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) **and** Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403). The purpose of this public notice is to solicit comments from the public regarding the work described below:

APPLICANT: Robert Outten
Dare County
954 Marshall Collins Drive
Manteo, North Carolina 27954

AGENT: Patrick Barrineau
Coastal Science and Engineering, Inc.
160 Gills Creek Parkway
Columbia, South Carolina 29209

WATERWAY AND LOCATION: The project would affect waters of the United States and navigable waters of the United States associated with the Atlantic Ocean. The project/review area is approximately 2.9 miles of oceanfront shoreline including 2.2 miles of Cape Hatteras National Seashore and 0.8 miles in front of the Village of Buxton as well a portion of a borrow site approximately 2-3 miles offshore; at Latitude 35.2560N and Longitude -75.5204W; in Buxton, Dare County, North Carolina.

EXISTING CONDITIONS: The Village of Buxton compasses approximately 3.8 miles of ocean shoreline on a barrier island located on North Carolina's Outer Banks. Variations in beach sediment grain size vary in the near shore zone, with the majority ranging between 0.17 millimeters (mm) to 0.23 mm. Sediments become coarser proceeding seaward in water depths greater than 30 feet about 1-3 miles offshore. These sediments are thought to be associated with relic deposits from former inlets and barrier ridges from earlier sea-level stands. The near shore zone is highly dynamic with exchanges of sand between the bar and the beach, resulting in a predominance of finer type sand.

The width of the berm of the island's dune system varies considerably with location along the town's beach and with the season. A previous beach nourishment action was

completed in 2018 and 2022. The 2022 project involved the deposit of more than 2.6 million cubic yards of sediment on 2.9 miles of beach front.

Beach and terrestrial communities are considered sparsely populated due to the harsh conditions, including salt spray, wind, shifting sands, and soils with low water retention. Extensive coastal development is another factor that could limit species diversity and abundance. Vegetation along the uppermost portions of the dry beach includes beach spurge, sea rocket, and pennywort. The upper dune areas are more stabilized with vegetation consisting of American beach grass, panic grass, sea oats, broom straw, and salt meadow hay.

Organisms in the high-energy, sandy inter-tidal zones include mole crabs, coquina clams, amphipods, isopods, and polychaetes. These species are not commercially important but serve as an important food source for surf-feeding fish and shore birds. According to data collected from the project area, the invertebrate community of the inter-tidal beaches is strongly seasonal.

PROJECT PURPOSE:

Basic: Shoreline protection and storm damage reduction.

Overall: The purpose is to provide shoreline protection of NC Highway 12 and maintain oceanfront and dune systems to protect beach front infrastructure and provide storm damage reduction to public and private development in the Village of Buxton, Dare County, North Carolina.

PROPOSED WORK: The applicant requests authorization to place sand along a 2.9-mile section of the Cape Hatteras National Seashore and the Village of Buxton's oceanfront shoreline. Beach quality sand would be dredged using a self-contained ocean-certified hopper dredge and/or a hydraulic pipeline dredge. Material would be obtained from a borrow area approximately 2-3 miles offshore of Buxton. Placement onto the beach would be accomplished via submerged pipeline with direct pump-out. Once discharged, the sand would be shaped and graded according to the design template using earth-moving equipment such as bulldozers and excavators. The average fill density (volume of nourishment per linear foot of beach) would be approximately 130 cubic yards per linear foot of shoreline.

AVOIDANCE AND MINIMIZATION: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: To prevent and minimize potential adverse impacts associated with the proposed project, certain management and avoidance/minimization measures would be implemented during construction. Upon project completion, the project area would be left to adjust naturally, and no further maintenance or manipulation of the beach would be involved. Additional monitoring activities before, during, and after construction are anticipated in conformance with the Biological Opinion (BO) for the project (to be issued at a later date). The applicant anticipates that state and federal permits required before

this proposed project proceeds with construction would include a variety of conditions specifically related to the protection of water quality and natural resources from construction-related impacts. If the USACE and NPS decide to permit the proposed project, then the following avoidance and minimization measures would be incorporated into the terms and conditions of the USACE federal permit and the NPS Special Use Permit. The Applicant will also adhere to National Marine Fisheries 2020 South Atlantic Regional Biological Opinion and previously identified cultural resource buffers within borrow area and pipeline corridors, and to USFWS dune planting guidelines for North Carolina beaches.

COMPENSATORY MITIGATION: The applicant has provided the following explanation why compensatory mitigation should not be required: The proposed project would not impact a special aquatic site as described in Subpart E of the Section 404(b)(1) Guidelines and no compensatory mitigation is proposed.

CULTURAL RESOURCES:

The Corps is evaluating the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act. This public notice serves to inform the public of the proposed undertaking and invites comments including those from local, State, and Federal government Agencies with respect to historic resources. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, federally recognized tribes and other interested parties.

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: The Corps has performed an initial review of the application, the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC), National Marine Fisheries Service Section 7 Mapper, and the NMFS Critical Habitat Mapper to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur in the vicinity of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project may affect species and critical habitat listed below. No other ESA-listed species or critical habitat will be affected by the proposed action.

West Indian manatee: Not likely to adversely affect. The proposed project may affect not likely adversely affect the West Indian manatee as habitat does not exist for this species within the defined project area, which is highly energetic and has little to no vegetation.

Piping Plover: The project area is within proposed critical habitat subunit NC-1A for the piping plover. This project was determined to may affect, likely to adversely affect this

species. However, this activity should affect a relatively small portion of any one critical habitat unit. The rest of the critical habitat unit and other critical habitat units should remain functional to serve the intended conservation role for the piping plover. Should the critical habitat designation become final during the permitted project, consultation will be reinitiated. The placement of sand on a beach may also have a beneficial effect if the sand is highly compatible. Removal of debris and relocation of structures off the beach is likely also to have a beneficial effect for piping plover wintering critical habitat. Upon completion of the project, the piping plover would potentially benefit from increasing roosting area produced by a wider beach. In general, the piping plover is considered highly sensitive to climate change, development, construction activities increased frequency of storms, and increased beach use. However, the action is not likely to destroy or adversely modify designated critical habitat for wintering piping plovers. Ultimately, conservation measures were developed and finalized in a Biological Opinion to minimize adverse effects to this species. These measures would be included as special conditions of this permit authorization.

Rufa Red knot: Potential impacts to the red knot would be similar to those of the piping plover therefore it was determined that this project may affect, likely to adversely affect this species. The decline in this species population is linked to climate change and the commercial harvest of horseshoe crabs in Delaware Bay which has the likelihood of being exacerbated from increasing development activities including this and other beach nourishment projects in Dare County. Ultimately, conservation measures were developed and finalized in a Biological Opinion to minimize adverse effects to this species. These measures would be included as special conditions of this permit authorization.

Roseate tern: The proposed project was determined to may affect but not likely to adversely affect this species based on its unlikely occurrence within the action area.

Seabeach Amaranth: Beach nourishment activities could potentially impact the seabeach amaranth. The typical habitat where this species is found includes the lower foredunes and upper beach strands on the ocean side of the primary sand dunes and over wash flats at accreting spits or ends of barrier islands. Seabeach amaranth has been and continues to be threatened by destruction or adverse alteration of its habitat. As a fugitive species dependent on a dynamic landscape and large-scale geophysical processes, it is extremely vulnerable to habitat fragmentation and isolation of small populations. Because seabeach amaranth plants may be present on the beach between April and January, individual plants may be affected during sand placement activities. Sand placement activities may bury or destroy existing plants, resulting in mortality, or bury seeds to a depth that would prevent future germination, resulting in reduced plant populations. Heavy equipment will be required to re-distribute the sand to the original natural beach template. This equipment will have to traverse the to reach the project area, and along the route may crush, bury, or break plants, bury seeds, or otherwise degrade seabeach amaranth habitat. Therefore, it was determined that this project may affect, likely to adversely affect this species.

Sea Turtles: Sea turtle populations are adversely impacted by climate change (e.g., sea level rise, inundation, nest temperatures, disrupted sex ratios), the decline of seagrass beds, steadily encroaching human development, and nuisance lighting. The proposed project will add incrementally to these cumulative impacts, both in the water column (potential takes by hopper dredge) and on the beach (interference with nesting or hatching activities). Minimization measures will be followed including onboard sea turtle monitors and beach monitors (all nests will be relocated prior to construction) to reduce the likelihood of lethal take on the beach and in near-shore waters. For the loggerhead sea turtle, the NMFS designated the Constricted Migratory Corridor as Critical Habitat for the northwest Atlantic Ocean loggerhead turtle Designated Population Segment (DPS) in July 2014. This habitat is designated primarily because of its high use and constricted narrow width (land to west and Gulf Stream to east). The corridor is used by juvenile and adult loggerheads migrating between nesting, breeding, and foraging areas. Because of the corridor's high use and narrow passageway, the loggerhead sea turtle is more subject to perturbation. However, there is a likelihood that an incidental take could occur, especially for the loggerhead. Therefore, the proposed project may adversely affect sea turtles on the beach or other sea turtles in the nearshore waters. The 2020 NMFS SARBO and the USFWS BO are expected to be utilized for any take that may occur, and the proposed project would be subject to the terms and conditions of these opinions.

North Atlantic right whale: The North Atlantic right whale is the species of whale with the highest likelihood of being in the vicinity of the dredge activity. All other whale species, including finback whales, are not expected to utilize waters in the immediate project vicinity. Marine mammal observers will be stationed onboard dredge(s) to alert crews to take evasive action and suspend work to avoid collisions. The Applicant will also be required to participate in the Right Whale Early Warning System as well as follow any conditions set forth in the permit and the SARBO that reduce potential impacts. Effects of the proposed project are considered to be insignificant or discountable; therefore, the proposed project may affect, but is not likely to adversely affect, any protected whale species with the potential to occur in the project vicinity.

Atlantic Sturgeon: The dredging corridor, defined for the Applicant's preferred alternative, does not include suitable spawning grounds for the Atlantic sturgeon, as the closest spawning grounds are located in the Tar-Pamlico and Roanoke Rivers. However, the capturing of individuals in past tagging studies indicates at least a small presence within the Pamlico Sound. Because this species transits from riverine spawning habitat to the ocean, Atlantic sturgeon do migrate through Oregon Inlet which is located approximately 69 miles north of the project area. Atlantic sturgeon spend much of their life in the marine environment and can be found there year-round; therefore, the possibility that this species may transit through or near the nearshore placement area cannot be ruled out.

The potential for Atlantic sturgeon to be present in the dredging area creates the possibility for interactions with the dredge and draghead. Any Atlantic sturgeon passing through the inlet will likely be subadults or adults, and will therefore be

larger than 36 inches. The size and inherent mobility of these individuals are expected to allow them to avoid approaching slow-moving dredges and entrainment in the dragheads. Furthermore, dredging and placement activities will not occur near spawning grounds and juvenile Atlantic sturgeon, and therefore will not pose any impacts. Although unlikely, the only potential for interaction with this species would be adult individuals within or migrating through the borrow area and/or the spoil placement area. The size and mobility characteristics of adult Atlantic sturgeon that would occur in these areas makes it highly unlikely that any adverse impacts will occur. It is therefore determined that the proposed project may affect, but is not likely to adversely affect, the Atlantic Sturgeon.

Shortnose Sturgeon: Although it is highly unlikely, adult Shortnose sturgeon may be present in areas where dredging would occur under the Applicant's preferred alternative. Encounters in or near the dredge site would most likely occur in the winter and spring, after spawning and the migrations to feeding areas in downstream estuarine waters (NMFS, 1999). Because it is rarely documented within the ocean habitats of the proposed project area, it is therefore determined that the project may affect, but is not likely to adversely affect the Shortnose sturgeon.

Pursuant to Section 7 ESA, any required consultation with the Service(s) will be conducted in accordance with 50 CFR part 402. The USACE is the lead Federal agency for ESA consultation for the proposed action. Any required consultation will be completed by USACE.

This notice serves as request to the U.S. Fish and Wildlife Service and National Marine Fisheries Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

ESSENTIAL FISH HABITAT: Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act 1996, the Corps reviewed the project area, examined information provided by the applicant, and consulted available species information.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action may adversely affect EFH and/or fisheries managed by Fishery Management Councils and the National Marine Fisheries Service (NMFS). Implementation of the proposed project would directly impact approximately 479 acres of nearshore marine water columns. The effects of the project are determined to be minimal and temporary.

Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: 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 180 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

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has been verified by Corps personnel.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact 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 benefits, 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 cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated

by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; 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 to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to 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 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.

The Wilmington District will receive written comments on the proposed work, as outlined above, until September 13, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to Josh Pelletier at josh.r.pelletier@usace.army.mil. Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, Wilmington District, Attention: Josh Pelletier, 2407 W. 5th Street, Washington, North Carolina, 27889. Please refer to the permit application number in your comments.

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.