

Town of Sunset Beach
Navigation Project
April 9, 2018 3rd Agency Coordination Meeting Notes

Attendees:

Jan Harris	Town of Sunset Beach	Chad Coburn	NCDEQ-DWR-401
John Corbett	Town of Sunset Beach		
Charles Nern	Town of Sunset Beach	Maria Dunn	NCDEQ-NCWRC
Mark Benton	Town of Sunset Beach		
Rich Cerrato	Town of Sunset Beach	Tyler Crumbley	USACE
Hiram Marziano	Town of Sunset Beach		
Dustin Graham	Town of Sunset Beach	Kathy Matthews	USFWS
Cameron Weaver	NCDEQ-DEACS	Fritz Rohde	NOAA-Fisheries
Gregg Bodnar	NCDEQ-DMF	Tracy Skrabal	NCCF
Curt Weychert	NCDEQ-DMF	Ted Wilgis	NCCF
Debbie Wilson	NCDEQ-DCM	Dawn York	Moffatt & Nichol
Heather Coats	NCDEQ-DCM	Robert Neal	Moffatt & Nichol
Tara MacPherson	NCDEQ-DCM		

Acronyms:

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| AIWW – Atlantic Intracoastal Waterway | OIB – Ocean Isle Beach |
| DCM – Division of Coastal Management | PNA – Primary Nursery Area |
| DMF – Division of Marine Fisheries | USACE – U.S. Army Corps of Engineers |
| MLW – Mean Low Water | USFWS – U.S. Fish & Wildlife Service |
| NEPA – National Environmental Policy Act | |

The 3rd Agency Coordination Meeting provided discussion on the following items of concern:

- Confirmation on compliance measures necessary for 15A NCAC 07H.0208 (b) (F) in terms of how DCM would evaluate Jinks Creek in its entirety as a connecting waterbody.
- Jinks Creek Shellfish Survey Results
- Minimization & Avoidance measures proposed for N. Jinks Creek
- The agency recommended permitting strategy for N. Jinks Creek

Compliance Measures Necessary for 15A NCAC 07H.0208 (b) (F)

DCM confirmed the state interprets the referenced rule to require the dredge depth in the Feeder Canal or Bay Area to be no deeper than the governing depth in N. Jinks Creek or Tubbs Inlet. The administrative code stipulates that no dredging may create a deeper water body than the connecting waters. For this project that means a path to either the AIWW or Atlantic Ocean must be provided at a depth equal to or greater than the proposed dredge depth of the Feeder Canal and Bay Area.

Discussion followed this clarification to show the initial permit (45-02) for dredging the Feeder Canal only required a small portion of Jinks Creek to be dredged at the Feeder Canal and Jinks Creek confluence. No clarification was provided as to why the previous permit did not require a ‘deep water’ path to the connecting waters; however, follow-up discussion suggested DCM may support a variance request to the CRC, if the Town elected to pursue one. **DCM noted additional discussion with DWR may be necessary to confirm no other state agency held elevated concerns regarding the dredging of the Feeder Canal or Bay Area without the inclusion of a ‘deep-water’ connection to the AIWW or Atlantic Ocean.** (DWR staff had to leave the meeting prior to this discussion due to another commitment.)

Jinks Creek Shellfish Survey:

The results of the shellfish survey were discussed without comment. The findings indicated the survey identified approximately 50,000 oyster within Jinks Creek under the following classifications:

- Spat (6,000) – 144 / Acre
- Sublegal (34,000) – 769 / Acre
- Legal (10,000) – 2,346 / Acre

A majority of the oysters identified were located outside the proposed dredge footprint. However, DMF protocol considers the entire survey area the same with no separation between intertidal and sub-tidal areas. The survey protocol estimated approximately 1,131 oyster per acre over the approximate 44-acre site.

The largest concentration of oyster identified existed within the northern 1,600 ft of Jinks Creek. Based on the survey results, the dredge footprint would most likely not be able to avoid all the potential impacts and still connect with the AIWW from the Feeder Canal. Traveling south in Jinks Creek from this area, the survey generally identified oyster along the shoreline, outside of the dredge footprint. Direct impacts could most likely be avoided within the southern approximate 4,200 ft of the survey area.

Minimization & Avoidance Measures proposed for N. Jinks Creek

Minimization and avoidance measures proposed for the project include following the deep water conduit through N. Jinks Creek to avoid potential oyster habitat along the shoreline as well as reduce the potential for impacts to the adjacent PNA along the shoreline of Jinks Creek. The design also follows or exceeds the minimum recommended safety standards for navigation channels suggested by the American Society of Civil Engineers (ASCE), and PIANC (The World Association for Waterborne Transport Infrastructure) in regards to depth and width. The design also considers the recommended safety standards provided by the UFC (Unified Facilities Criteria) for small craft for a 30 ft long vessel with a 10 ft beam and 2 ft draft.

The minimization measures were noted in discussion but significant concerns were still expressed by the agencies regarding the proposed dredge depth of -5MLW +1.

The Agency Recommended Permitting Strategy for N. Jinks Creek

The general consensus for the easiest permitting path focused on removing N. Jinks Creek from the overall plan. This would allow the Town to remove sediment shoaling identified in the Feeder Canal, Bay Area, and South Jinks Creek but may not fully meet the design intent through N. Jinks Creek. However, if N. Jinks Creek is included in the project, mitigation efforts for the potential oyster impacts as well as additional environmental documentation most likely will be required by the state and federal agencies. Removing N. Jinks Creek from the project would require a variance from the CRC for compliance with 15A NCAC 07H .0208 (b) (F). Requesting the variance would also be considered as an additional avoidance or minimization measure during the permit review.

Another option for consideration included the potential to develop an Inlet Management Plan for Tubbs Inlet. This option would establish a 'deep-water' connection to the Atlantic Ocean and would satisfy the requirements of 15A NCAC 07H.0208 (b) (F). However, the cost and scope of this option has not been fully evaluated but would be expected to increase significantly from the current project.

Additional Questions / Concerns

As part of the scoping meeting, the Town Council provided a list of questions to be addressed to help clarify the project status and pathway. The list below shows the questions presented and their respective answers.

Question 1: If Jinks Creek is dredged, the Town may have to do oyster mitigation along with a 3 to 5 year evaluation. What is the purpose of the evaluation?

If the mitigation is not successful, does that mean the town must perform additional mitigation until one is successful?

Where will the mitigation occur?

Response 1: The monitoring evaluation would be required to ensure the Jinks Creek ecosystem does not experience a net loss of oyster habitat. If the monitoring determines the mitigation was not successful, the Town would most likely have to do additional mitigation no later than during the next maintenance dredging event. The mitigation would most likely need to occur within or approximate to Jinks Creek. This requirement helps to ensure the mitigation is conducted to help the project or impacted area, as opposed to a different ecosystem or environment.

Question 2: Jinks Creek is designated as a non-PNA by default. The study back in the early '70's to determine if Jinks Creek is a PNA was truncated before enough study had been performed to give an accurate determination. Thus, the non-PNA designation. WE REALLY DON'T KNOW IF JINKS CREEK IS OR ISN'T A PNA. We know all the area on all sides of Jinks Creek is a PNA. All visible evidence points to the fact that Jinks may very well be a PNA.

Do we not owe the citizens of NC, to whom those waters belong, an accurate and true evaluation before we destroy one of (until 2004) the best shell fishing areas in Brunswick County?

Response 2: NOAA staff commented that Jinks Creek was not designated as a PNA during the early 70's because the creek was considered a connecting channel for navigation between Tubbs Inlet and the AIWW. NMFS staff provided this insight from being a former employee of DCM and the responsible agency for designating the PNA.

Question 3: Sunset Beach CAMA Land Use Vision Statement.

The Sunset Beach CAMA Land Use Vision Statement states "The Town of Sunset Beach desires to maintain its unique coastal town character by promoting lower-density and single family residential development as its primary growth pattern. The Town also recognizes that it coexists with a fragile coastal environment, and shall seek to preserve and conserve the land and estuarine waters, including its beach and golf course amenities that have made this community a highly desirable place to live.

Why is this committee ignoring the Sunset Beach CAMA Land Use Plan Vision Statement.

Response 3: DCM clarified they rely on the Town to ensure compliance with the local Land Use Plan as the applicant; however, during the permit review process compliance will be reviewed by DCM staff. (The review process will not begin until submittal of a formal application.)