

# **Coastal Zone Management Act Federal Consistency Determination**

for

Removal of Pool Debris, Pilings and  
Sandbags

Cape Hatteras National  
Seashore July 2025

## 1. Federal Agency Purpose and Action

Cape Hatteras National Seashore (hereinafter referred to as the "Park," the "Seashore," or the "Cape Hatteras National Seashore") seeks a consistency concurrence from the North Carolina Division of Coastal Management for the removal of abandoned pool debris, wood pilings and sandbags located at 23273 Midgett's Mobile Court on Hatteras Island in Rodanthe, Dare County, North Carolina (Figures 1 and 2).

The purpose of this project is to facilitate the removal of the debris and restore the site back to natural beach conditions within the Seashore, a unit of the National Park Service (NPS). Beach erosion in recent history has resulted in an increased risk of houses collapsing and spreading debris along the Seashore and shoreline erosion in Rodanthe averages approximately 12 feet/year. Since February 2022, many homes have collapsed within the Seashore and the Park has informed 17 homeowners to seek permits to repair and/or remove their homes from the beach to avoid collapse and significant impacts to park resources and public safety. This specific home was relocated many years ago and the pool, pilings and sandbags recently became exposed.

Removal of this abandoned debris would provide for the long-term protection of the Seashore's natural and cultural resources, the public's health and safety, and recreational use. Ultimately, this beach area would be restored to a natural oceanfront shoreline for public use and to preserve natural process.

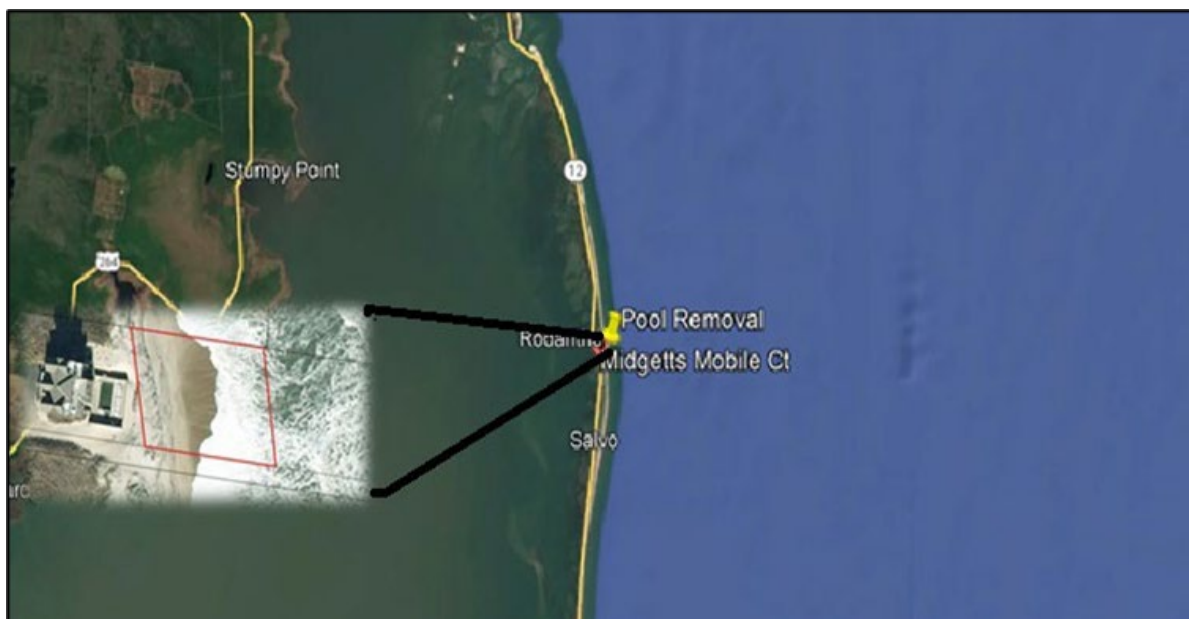


Figure 1- Project Vicinity

The Seashore would hire a contractor whose scope of work would include removal of the pool debris, pilings and all sandbags located on the property and the hauling/disposal of the debris

## FEDERAL CONSISTENCY DETERMINATION

appropriately. Timber piles would be removed fully either by jetting or digging them out. Sandbags were installed in 2009. The sandbags are located directly in front of the pool debris and pilings on the surf line. They would need to be taken/removed at low tide only and they are really shredded up at this point. the goal is to get as many as possible, even the shredded parts. The site would be backfilled and graded level with surrounding grades and if needed, with the sediment available on site from digging out these components within the project area. No sand would be used from the adjacent dunes or from any other source.

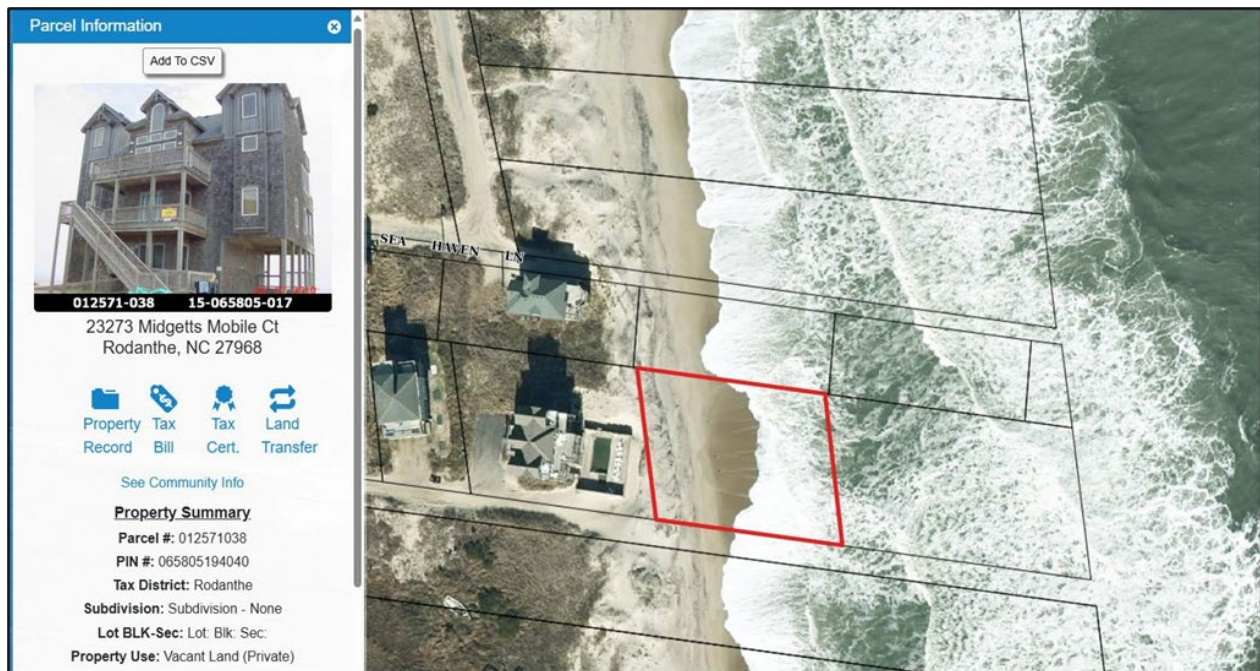


Figure 2 - Dare County Parcel Data

When disposing of any components, the contractor would dispose of all items according to federal, state, and local laws and ordinances. The contractor would obtain all necessary permits for performing removal operations and removal of the debris as may be required by federal, state, county, political subdivision, private persons, utility companies, or others having jurisdiction thereof. Permits would be obtained by the contractor at their own cost and expense, and subject to such terms and conditions as may be imposed by such persons, companies, or authorities.

The contractor would mobilize and start this project the week of July 21<sup>st</sup>. With work starting at 8:00 am and work stopping at 6:00 pm daily. Within that timeline, each day's work would start two hours prior to the low tide with staging equipment. Work would then stop, and equipment moved prior to high tide starting. Most days a work window of six hours is anticipated. Through screening all debris would be removed.

Access will be provided to residents to the beach via a temporary beach access outside of the construction site. The contractor would keep the premises clean, free of accumulated trash and waste materials.

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Job: MHW_Rodanthe_20250401					
Coordinate System: NCSP NAD83 (2011)					
Vertical Datum: NAVD88					
Geoid model: GEOID18					
Units: US Survey Feet					
Point	Northing	Easting	Elevation	Code	Notes
001	689055.915	3051449.321	1.891	Pool Corner	Base of where the exposed structure met the sand at time of survey.
002	689052.824	3051436.447	3.245	Pool Corner	Base of where the exposed structure met the sand at time of survey.
003	689035.354	3051458.777	1.802	Pool Corner	Base of where the exposed structure met the sand at time of survey.
004	689002.431	3051435.157	7.454	Piling (Top)	Approximately 3' of piling exposed above the sand at time of survey.
005	689014.048	3051431.995	7.384	Piling (Top)	Approximately 3' of piling exposed above the sand at time of survey.
006	689040.699	3051424.609	7.473	Piling (Top)	Approximately 3' of piling exposed above the sand at time of survey.
007	689046.521	3051423.007	7.337	Piling (Top)	Approximately 3' of piling exposed above the sand at time of survey.



Figure 3 - Debris Coordinates & Site Photos





Figure 4 – Sandbag Debris Coordinates & Site Photos

## 2. North Carolina Coastal Area Management Act

In 1972, Congress passed the Coastal Zone Management Act (CZMA), which encouraged states to keep the coasts healthy by establishing programs to manage, protect, and promote the country's fragile coastal resources. Two years later, the North Carolina General Assembly passed the landmark Coastal Area Management Act (CAMA). CAMA required local land use planning in 20 coastal counties and provided for a program for regulating development. The North Carolina Coastal Management Program was federally approved in 1978 by the National Oceanic and Atmospheric Administration (NOAA).

### **Areas of Environmental Concern**

North Carolina's coastal zone includes the 20 counties that are adjacent to, adjoining, intersected by, or bounded by the Atlantic Ocean or any coastal sound, including Dare County where the Proposed Action would occur. There are two tiers of regulatory reviews for projects within the coastal zone. The first tier includes Areas of Environmental Concern (AECs) as designated by the state. AECs have more thorough regulatory controls in place than other areas and include coastal wetlands, coastal estuarine waters, public trust areas, coastal estuarine shorelines, ocean beaches, frontal dunes, ocean erosion areas, inlet lands, small surface water supply watersheds, public water supply well fields, and fragile natural resource areas. The second tier includes areas with land uses that have the potential to affect coastal waters, even though they are not defined as AECs. The coastal zone extends seaward to the three-nautical-mile territorial sea.

An AEC is an area of natural importance, and its classification protects the area from uncontrolled development. AECs include almost all coastal waters and about three percent of the land in the 20 coastal counties. The four AECs are as follows:

1. The Estuarine and Ocean System, which includes public trust areas, estuarine coastal waters, coastal shorelines, and coastal wetlands.
2. The Ocean Hazard System, which includes components of barrier island systems.
3. Public Water Supplies, which include certain small surface water supply watersheds and public water supply well fields.
4. Natural and Cultural Resource Areas, which include coastal complex natural areas; areas providing habitat for federal, or state designated rare, threatened, or endangered species, unique coastal geologic formations; or significant coastal archaeological or historic resources.

The following is an analysis of the applicability of policies designed to protect AECs to the proposed plan and the NPS determination of no impact to North Carolina's coastal zone.

## **15A NCAC 07H .0200 (Estuarine and Ocean System)**

15A NCAC 07H .0205 defines and establishes management objectives for coastal wetlands in order "to conserve and manage coastal wetlands so as to safeguard and perpetuate their biological, social, economic and aesthetic values, and to coordinate and establish a management system capable of conserving and utilizing coastal wetlands as a natural resource necessary to the functioning of the entire estuarine system."

The proposed project would be located entirely within the unvegetated oceanfront beach system and would not impact coastal wetlands.

15A NCAC 07H .0206 defines and establishes management objectives for estuarine waters in order "to conserve and manage the important features of estuarine waters so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing estuarine waters so as to maximize their benefits to man and the estuarine and ocean system."

The proposed project would be located within the oceanfront of the ocean system but would be designed to not impact estuarine or ocean systems. Work would be timed to coincide with low tide cycles to ensure minimal work would occur within the water. Once the project has been completed, the project area would be returned to natural oceanfront conditions.

15A NCAC 07H .0207 defines and establishes management objectives for public trust areas in order "to protect public rights for navigation and recreation, and to conserve and manage the public trust areas so as to safeguard and perpetuate their biological, economic, and aesthetic values."

The proposed project actions would remove all structures within the project area to restore the site back to natural conditions and recreational use for the public.

15A NCAC 07H .0209 defines and establishes management objectives for estuarine shorelines and public trust shorelines to ensure that shoreline development is "compatible with the dynamic nature of coastal shorelines as well as the values and the management objectives of the estuarine and ocean system." The following key development standards were reviewed and considered during project development:

1. Preserving natural erosion barriers (peat marshland, resistant clay shorelines, and cypress-gum fringe areas).
2. Minimizing the construction of impervious surfaces.
3. Observing mandatory standards of the NC Sedimentation Pollution Control Act of 1973.
4. Minimizing impacts to estuarine resources, including coastal wetlands, submerged aquatic vegetation (SAV), and shellfish beds.

The proposed action would require a total of approximately 0.34 acres of land disturbance. This

includes land disturbance for the removal of existing pilings, sandbags and an abandoned in ground swimming pool. Because the project would not disturb more than 1 acre of land, the park would not be required to submit an erosion and sediment control plan to the Land Quality Section of the North Carolina Department of Environmental Quality.

### **15A NCAC 07H .0300 (Ocean Hazard Areas)**

15A NCAC 07H .0303 defines and establishes management objectives for ocean hazard areas in order "to eliminate unreasonable danger to life and property and achieve a balance between the financial, safety, and social factors that are involved in hazard area development."

The proposed actions would be within an Ocean Hazard Area. The removal of two housing units, and associated components would be a long- term benefit to restoring the natural conditions within the Ocean Hazard Area. This project has been a collaborative effort with the state's Division of Coastal Management to remove structures from the Ocean Hazard Area.

### **15A NCAC 07H .0400 (Public Water Supplies)**

15A NCAC 07H .0403 defines and establishes management objectives for public water supplies. The objective in regulating development within critical water supply areas is the "protection and preservation of public water supply well fields and A-II streams and to coordinate and establish a management system capable of maintaining public water supplies so as to perpetuate their values to the public health, safety, and welfare."

The proposed actions would not have any impact on public water supplies.

### **15A NCAC 07H .0500 (Natural and Cultural Resource Areas)**

15A NCAC 07H .0501 defines fragile coastal natural and cultural resource areas as "areas containing environmental, natural or cultural resources of more than local significance in which uncontrolled or incompatible development could result in major or irreversible damage to natural systems or cultural resources, scientific, educational, or associative values, or aesthetic qualities." The AECs within this category are coastal complex natural areas, coastal areas that sustain remnant species, unique coastal geologic formations, significant coastal archaeological resources, and significant coastal historic or architectural resources.

This project area only contains coastal natural resources. The project area is within a previously developed and disturbed area and the removal of the identified components, would not result in major or irreversible damage to natural systems nor cultural resources but would enhance and preserve the natural coastal processes within the project area, therefore, the project is consistent with this management goal. Consistency with specific objectives and policies are included under each code heading that follows.



15A NCAC 07H .0505 defines and establishes management objectives "to protect unique habitat conditions that are necessary to the continued survival of threatened and endangered native plants and animals and to minimize land use impacts that might jeopardize these conditions." Cape Hatteras National Seashore is known to support nesting habitat for numerous threatened or endangered sea turtle and shorebird species, as well as species protected under the Migratory Bird Treaty Act.

Based on a review of the project area and the federally listed species known to occur in the vicinity of the project area, Seashore staff determined that project activities may affect but are not likely to adversely affect some special status species. Critical habitat for red knot and piping plover exists within the project area however, these species have never nested within the vicinity of the project area. The footprint of work would be minimized to the greatest extent possible. Access to the beach would be via the closest access point to the work site to minimize the area heavy equipment is traversing along the shoreline.

The project area would be surveyed daily by NPS resource staff to minimize impacts of work on wildlife nesting, if found within project area. Work would be adjusted or suspended if impacts to protected species are expected to be greater than MANLAA. The USFWS has concurred with the Seashore's determination for home debris removal projects that the proposed actions may affect, but are not likely to adversely affect piping plover, piping plover critical habitat, red knot, green, hawksbill, Kemp's ridley, leatherback and loggerhead sea turtles and would have no effect on West Indian manatee, Northern long-eared bat, tricolored bat, Eastern black rail, red-cockaded woodpecker, roseate tern, American alligator, seabeach amaranth or sensitive joint-vetch. As such, project actions are consistent with these management objectives and this policy.

15A NCAC 07H .0506 defines and establishes management objectives "to protect the features of a designated coastal complex natural area in order to safeguard its biological relationships, educational and scientific values, and aesthetic qualities." Coastal complex natural areas are defined as "lands that support native plant and animal communities and provide habitat qualities which have remained essentially unchanged by human activity."

The project area was altered with the development of the dunes by the Civilian Conservation Corps in the 1930's and the construction of housing units and the associated components during the 1970's and 80's. Due to shoreline erosion over the last 30 years, the designated coastal complex natural areas have shifted and are now present within the project area. Project actions would restore the area to a natural coastal.

15A NCAC 07H .0507 establishes management objectives to protect unique coastal geologic formations for the purpose of preserving formations' physical components that serve as important scientific and educational sites, or as valuable scenic resources. Currently, the only designated unique coastal geologic formation in North Carolina is Jockey's Ridge [15A NCAC 07H.0507(c)(3)], located in the Town of Nags Head in Dare County, approximately 87 miles from the project area. The proposed project would have no effect on this unique geologic formation. 15A NCAC 07H .0508 defines and establishes use standards for development in designated

fragile coastal natural or cultural areas. As described under "15A NCAC 07H .0501," the project area does not contain coastal historic and architectural resources (no fragile coastal natural areas).

The project area has been highly eroded from ocean over wash and extreme storm events over the last 10 years which has exposed subsurface material around the properties. The Seashore is not aware of cultural resources within or adjacent to the property. To ensure no unknown cultural resources are impacted by project activities, the Seashore would have a qualified archeologist monitor debris removal activity.

15A NCAC 07H .0509 establishes management objectives to conserve significant coastal archeological resources for the purpose of preserving their value as scientific, educational, and aesthetic resources. Currently, the only designated significant coastal archeological resource in North Carolina is Permuda Island [15A NCAC 07H .0509(e)], which is a former barrier island located within Stump Sound in Southwestern Onslow County, over 200 miles south of the project area.

15A NCAC 07H .0510 defines and establishes management objectives "to conserve coastal historic architectural resources of more than local significance which are valuable educational, scientific, associative or aesthetic resources." The project area does not consist of historic architectural resources.

The projects actions are not likely to affect coastal resources and are consistent with managements desired objectives and policies.

### **General Policy Guidelines**

The North Carolina CAMA sets forth eleven General Policy Guidelines, addressing:

1. Shoreline erosion policies
2. Shorefront access policies
3. Coastal energy policies
4. Post-disaster policies
5. Floating structure policies
6. Mitigation policies
7. Coastal water quality policies
8. Policies on use of coastal airspace
9. Policies on water- and wetland-based target areas for military training areas
10. Policies on beneficial use and availability of materials resulting from the excavation or maintenance of navigational channels
11. Policies on ocean mining

The purpose of these rules is to establish generally applicable objectives and policies to be followed in the public and private use of land and water areas within the coastal area of North

Carolina. The following is an analysis of the applicability of these policies to the proposed action.

15A NCAC 7M .0200 (Shoreline Erosion Policies)

The shoreline in the property area has been eroding at a rate of 12 feet/year. This high erosion rate has created an environment in which both private properties have become threatened by continuous erosion and ocean tides. All project actions would primarily be within the beach area during low tide cycles to reduce impacts within the intertidal areas from the temporary impacts of removing the debris such as pilings and sandbags from the sediment. Project actions would not affect or create additional shoreline erosion.

15A NCAC 7M .0300 (Shorefront Access Policies)

The proposed project is located on NPS land on the oceanfront shoreline. The properties would be flagged off during demolition activities, but the contractor would be expected to provide residents access to the beach via a temporary access route around the construction site during the project. Once the project has been completed there would be no changes to shorefront access.

15A NCAC 7M .0400 (Coastal Energy Policies)

The proposed project does not involve the development of any major energy facilities.

15ANC AC 7M .0500 (Post-Disaster Policies)

These policies require that all state agencies prepare for disasters and to coordinate their activities in the event of a coastal disaster. The NPS Outer Banks Group, under which the Seashore is administered, has a long history of working with state and local agencies for disaster preparation and recovery. Current technology offers plenty of advanced warning of major storms (i.e., tropical storms and nor'easters), and the park has developed a Severe Storm Response Plan to minimize risks to human health and safety and to minimize potential property damage during storm events. To help protect life, notice would be given to the contractor during construction activities. The removal of the debris would not impact flood events resulting from these storms systems.

15A NCAC 7M .0700 (Mitigation Policy)

North Carolina's mitigation policy states that "Coastal ecosystems shall be protected and maintained as complete and functional systems by mitigating the adverse impacts of development as much as feasible, by enhancing, creating, or restoring areas with the goal of improving or maintaining ecosystem function and areal proportion."

The project area was previously developed as a private property area with a housing unit and associated components. The removal of all the remaining abandoned debris would restore this site back to natural conditions and would improve the ecosystem function along this section of shoreline. Activities for the removal of the identified debris would follow all federal, state, and

local requirements.

#### 15A NCAC 7M .0800 (Coastal Water Quality Policies)

Project activities would not cause degradation of water quality that would impair traditional uses of coastal waters. The project area would impact 0.34 acres of a previously disturbed active beach environment. Project activities would occur during low tide cycles to mitigate temporary in-water work. Due to the active tides, any adverse impacts to water quality of the project site would be quickly dispersed as the tides come in and out. The proposed actions would be consistent with this policy.

### **3. North Carolina Dredge and Fill Law**

The North Carolina Dredge and Fill Law (§ 113-229. Permits to dredge or fill in or about estuarine waters or State-owned lakes) states that, "...before any excavation or filling project is begun in any estuarine waters, tidelands, marshlands, or State- owned lakes, the party or parties desiring to do such shall first obtain a permit from the Department." The proposed project would not involve any permanent dredge or fill activity within estuarine waters, ocean system, or State-owned lakes, however, there would be minor excavation below the high tide line, on occasion. Work would occur during low tide cycles to ensure work remains out of the intertidal area as much as possible, but there may be temporary minor impacts of excavation for the removal of pilings, pool debris and sandbags below the high tideline. The Clean Water Act Section 401 water quality certification is triggered by Section 404 Permits issued by the US Army Corps of Engineers. This action would be covered under the Clean Water Act Section 404 Nationwide Permit 18 in which a Water Quality General Certification No. 4249 applies.

### **4. Dare County Coastal Management Policies**

CAMA required local governments in each of the 20 coastal counties in North Carolina to prepare and implement a land use plan and ordinances for its enforcement consistent with established federal and state policies. Specifically, policy statements are required for resource protection, resource production and management, economic and community development, continuing public participation, storm hazard mitigation, post-disaster recovery, and evacuation plans. Upon approval by the North Carolina Coastal Resources Commission, the plan becomes part of the North Carolina Coastal Management Plan.

The Dare County Land Use Plan (LUP) was certified by the North Carolina Coastal Resources Commission in 2009 and addresses land use planning in relation to CAMA. Of these policies, the following are applicable to the removal of the abandoned debris.

#### **Public Access**

##### Policy PA #1

Dare County supports the preservation and protection of the public's right to access and use of



the public trust areas and waters.

The removal of the pool debris, pilings and sandbags would allow this area of the beach to be restored back into a natural state to provide more access and use of the ocean facing beachfront in Rodanthe.

Policy PA #2

Dare County reserves the right to review, comment, advocate, or oppose any proposed Federal or State regulations or programs that affect the public trust waters or public trust areas.

The NPS has been working collaboratively with Dare County regarding buyout programs for shoreline property to preserve public trust areas.

Policy PA #3

Dare County supports North Carolina's shoreline access policies and grant programs and recognizes the importance of shoreline access to our residents and our tourist economy. Thus, the County would continue to seek opportunities to expand access, including opportunities for the disabled, and to secure funding for beach nourishment to maintain wide sandy beaches.

Project actions would allow full beach access on federal property and allow natural shoreline processes to occur.

Policy PA #8

Dare County supports the maintenance of wildlife preservation areas and refuges. Access by the public, including vehicular access to beaches, for wildlife harvesting and observation should not be prohibited.

Project actions would allow full beach access on federal property as well wildlife habitat preservation by removing the abandoned debris from the Seashore.

**Land Use Compatibility**

Policy LUC #16

The vast amount of Dare County land currently owned by public agencies and/or non-profit agencies should be recognized by agencies wishing to acquire additional parcels for public and/or non-profit ownership. Additional acquisitions should be evaluated in terms of public purpose benefits and impacts on tax revenues for Dare County.

The project area was formerly a private property in which the home was relocated to another site many years ago. The homeowners left behind a pool, pilings and sandbags after they moved their home. Project actions would restore the site to natural conditions for the long-term benefit of allowing public access and use of the shoreline within this area.

**Natural Hazard Areas**

Policy NH #1

Oceanfront shoreline development should continue to be managed to protect and preserve the natural and recreational resources along the oceanfront. The appropriate tools for this are the existing CAMA permit program and the Areas of Environmental Concerns (AECs) designated under the CAMA program. Dare County reserves the right to review, comment, advocate, or oppose any proposed regulations or programs that may affect the regulation of ocean hazards areas of environmental concern.

The NPS is submitting this federal consistency review to North Carolina Division of Coastal Management to ensure project actions are consistent with state regulatory policies.

**Water Quality**

Policy WQ #2

Development projects shall be designed and constructed to minimize detrimental impacts on surface water quality, groundwater quality, and air quality. Structures would be designed to fit the natural topographic conditions and vegetation versus modifications to natural conditions to accommodate structures.

The proposed action would be designed to take into consideration water quality impacts to adjacent water sources and ground water and would have no effect to this policy.

Policy WQ #5

Efforts to manage stormwater runoff should be based on local conditions and natural features. Properties immediately adjacent to SA classified waters should be consistent with dimensional standards and lot coverage limitations of the Dare County Zoning Ordinance. Vegetative buffers and other low-impact development methods identified by the UNC Coastal Studies Institute are appropriate tools to address stormwater runoff adjacent to SA waters.

The project is adjacent to SB classified waters of the Atlantic Ocean and project actions would have no effect to this policy.

Policy WQ #7

Dare County advocates the use of existing (2009) state and federal regulatory programs for protecting and preserving coastal wetland areas of environmental concern. Dare County reserves the right to review, comment, advocate, or oppose any proposed regulations or programs that may affect the regulation of coastal wetland areas of environmental concern. The NPS is submitting this federal consistency review to North Carolina Division of Coastal Management to ensure project actions are consistent with state regulatory policies.

Policy WQ #8

Dare County supports the U.S. Army Corps of Engineers nationwide permit program as administered in 2009. This support is based on the current scope of permitting limits of the nationwide program and not any changes that may result in a different policy. Dare County

reserves the right to review, comment, advocate, or oppose any proposed regulations or programs that may affect the Army Corps of Engineers nationwide permit program.

Work would occur during low tide cycles to ensure work remains out of the intertidal area as much as possible, however, there may be temporary impacts of digging out and removing pilings and sandbags below the high tideline. This action would be covered under the Clean Water Act Section 404 Nationwide Permit 18 without the need for written notification/approval because the action would not excavate more than 10 cubic yards below the plane of the ordinary high-water mark, or the high tide line and all actions would comply with all the general conditions of the permit.

### **Local Areas of Concern**

#### Policy LAC #7

The quality of life of Dare County residents should be carefully balanced with the tourist-based economy of the Outer Banks. Maintaining a good quality of life for our permanent population and ensuring a safe and enjoyable vacation experience should be a goal of all local, state, and federal agencies responsible for the promotion of tourism in Dare County and North Carolina.

Project actions would provide the public with a safe and accessible beach area once the pool, piling and sandbag debris are removed from the oceanfront.

## **5. Other Anticipated Permits**

A categorical exclusion is being prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended (42 USC 4332[2] [C]); the implementing regulations of the Council on Environmental Quality (40 CFR 1500- 1508); the Department of the Interior NEPA regulations (43 CFR Part 46); and NPS Director's Order #12: Conservation Planning, Environmental Impact Analysis and Decision-Making and the accompanying NEPA Handbook. A separate assessment of No Historic Properties Affected documentation has been prepared to comply with Section 106 of the National Historic Preservation Act of 1966, as amended.

The contractor would seek all applicable permits from North Carolina Department of Environmental Quality for the removal of the debris and the transport of the debris to approved landfills

## **6. Conclusion**

In conclusion, the NPS has determined that implementation of the proposed action would be fully consistent with the relevant enforceable policies of protecting North Carolina's coastal zone. This was based on the review of the proposed project against the relevant National Oceanographic Atmospheric Administration approved enforceable policies of North Carolina's Coastal Management Program and Dare County's land use plan policies.