



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: January 17, 2019
Comment Deadline: February 18, 2019
Corps Action ID Number: SAW-2018-01129

The Wilmington District, Corps of Engineers (Corps) received an application from Piedmont Lithium, Inc. seeking Department of the Army authorization to impact 5,810.5 linear feet of jurisdictional stream channel, 0.14 acre of jurisdictional wetlands, and 0.16 acre of jurisdictional ponds/impoundments, associated with a lithium mine in Gaston 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: Piedmont Lithium, Inc.
Attn: Patrick H. Brindle
5706 Dallas-Cherryville Highway
Bessemer City, North Carolina 28106

AGENT (if applicable): HDR
Attn: Kelly Thames
404 S. Church Street, Suite 900
Charlotte, North Carolina 28202

PLEASE NOTE: Due to the current lapse in funding for other Federal agencies that may have an interest in commenting on the proposed action, the District Engineer (DE) may extend the comment period to allow such agencies to comment so that the he can complete his required Public Interest Review. In cases where the proposed action May Effect a listed species or a species proposed for listing pursuant to Section 7 of the Endangered Species Act, and/or In cases where the proposed action will have an Effect on a property listed, or eligible to be listed, on the National Register of Historic Places pursuant to Section 106 of the National Historic Preservation Act, the DE will be unable to make a final decision on the proposed action until the requirements of the appropriate statute have been satisfied.

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:

linear feet of intermittent stream channel, 0.14 acre of wetlands, and 0.16 acre of open water pond/impoundment would be impacted by waste rock areas. Approximately 249 linear feet of perennial stream channel and 2,264.5 linear feet of intermittent stream channel would be impacted by pit shell areas. Approximately 178 linear feet of perennial stream channel would be impacted by an internal access road stream crossing and 55 linear feet of perennial channel would be impacted by a storm water BMP.

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's preferred alternative would avoid impacts to the entirety of Beaverdam Creek (13,741 feet) and Little Beaverdam Creek (2,848 feet). Impacts have been minimized through utilization of the footprint of an existing crossing for an access road. Avoiding disturbance in the FEMA floodplain will prevent impacts to the entirety of 7.62 acres of wetlands and 0.40 acre of wetlands will also be avoided due to site design. Finally, adhering to the 300-foot mining buffer setback as required by Gaston County Zoning Ordinance, the preferred alternative also avoids impacts to 10,603 feet of stream (totaling 27,192 feet, to include Beaverdam and Little Beaverdam Creeks). Indirect impacts to remaining streams will be avoided through the use of 100-foot stream buffers and storm water management through NPDES BMPs. The applicant has considered alternatives including off-site alternatives, a no-build option, an on-site no impact option, an on-site additional impact option, and an on-site avoidance option as described in the Environmental Assessment submitted with the permit application. Construction equipment would be kept in upland areas. Sediment and erosion control measures would be used to prevent impacts to downstream waters. No live concrete would be allowed to come in contact with surface waters. Water quality monitoring would be conducted to monitor site discharge and runoff. A Section 401 Individual Water Quality Permit is being submitted concurrently with the Section 404 individual permit application. A Storm Water Pollution Prevention Plan is also being developed and will be submitted upon completion to the North Carolina Department of Environmental Quality Division of Energy, Mineral, and Land Resources under the General Permit (No. NCG020000) for Mining Activities.

Compensatory Mitigation

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

There are no active private mitigation banks within Hydrologic Unit Code (HUC) 03050102; therefore, the applicant proposes compensatory mitigation for all permanent impacts through the purchase of stream and wetland mitigation credits from the North Carolina Division of Mitigation Services. The applicant provided supporting documentation from DMS in a letter dated December 21, 2018, indicating that they are willing to accept compensatory mitigation payment for 5,810.5 linear feet of stream

impacts and 0.14 acre of riparian wetland within the South Fork Catawba Sub-Basin within the Catawba River Basin (03050102). The proposed compensatory mitigation ratios are shown in Table 1.

Table 1. Proposed mitigation ratios.

Impact #	Feature	NCSAM/N CWAM Score	Ratio	Amount of Impact	Credits Proposed
Impact 1	Perennial Stream 2	High	2:1	178 lf	356
Impact 2	Intermittent Stream 3	High	1:1	1,090 lf	1,090
Impact 3	Perennial Stream 8	High	2:1	249 lf	498
Impact 4-1	Intermittent Stream 8	Medium	0.5:1	337.5 lf	168.75
Impact 4-2		Medium	0.5:1	211 lf	105.5
Impact 5	Intermittent Stream 9	Low	0	76.5 lf	0
Impact 6	Intermittent Stream 10	High	1:1	520 lf	520
Impact 7	Intermittent Stream 11	High	1:1	30 lf	30
Impact 8-1	Intermittent Stream 15	Low	0	312 lf	0
Impact 8-2		Medium	0.5:1	813.5 lf	406.75
Impact 9	Perennial Stream 15	High	2:1	81 lf	162
Impact 11	Intermittent Stream 12	Medium	1:1	917 lf	548.8
Impact 12	Perennial Stream 12	High	2:1	700 lf	1,400
Impact 13	Perennial Stream 12	High	2:1	55 lf	110
Impact 14	Wetland 9	High	2:1	0.14 ac	0.5
Impact 16	Intermittent Stream 13	High	1:1	240 lf	240
Total Perennial Streams:				1,263 lf	2,526
Total Intermittent Streams:				4,547.5 lf	3,019.5
Stream Totals:				5,810.5 lf	5,545.5
Wetland Totals:				0.14 ac.	0.5

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 would not 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 February 18, 2019 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 will request, upon receipt, 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, February 18, 2019. Comments should be submitted to David L. Shaeffer, Charlotte Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006, at (704) 510-1437 or via e-mail at david.l.shaeffer@usace.army.mil.