US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: May 12, 2017
Comment Deadline: June 12, 2017
Corps Action ID Number: SAW-2015-01381

The Wilmington District, Corps of Engineers (Corps or COE) received an application from Duke Energy seeking Department of the Army authorization to discharge dredged or fill material into waters and wetlands in Hydrologic Unit Code (HUC) 03010103 (Roanoke River Basin), associated with activities related to the excavation and disposal of coal combustion residual (CCR) materials from areas of coal ash fill at the Duke Energy Dan River Steam Station, in Rockingham 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:
Mr. Steve Cahoon
Duke Energy Environmental Services Department
410 South Wilmington Street
Raleigh, North Carolina 27601

Agent:
Mr. Richard Harmon
Amec Foster Wheeler Environment & Infrastructure, Inc.
4021 Stirrup Creek Drive, Suite 100
Durham, North Carolina 27703

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 area is located at the Duke Energy Dan River Steam Station property, located south and east of South Edgewood Road, and north of the Dan River, in Eden, Rockingham County, North Carolina (see COE Figures 1 and 2).

Project Area (acres): 597 Nearest Town: Eden
Nearest Waterway: Dan River River Basin: Roanoke
Latitude and Longitude: 36.492991° N, -79.716671° W

Existing Site Conditions

The proposed project area is located within the Piedmont Physiographic Province, between two of the ten belts of the Piedmont and the Triassic Basin. It is geologically complex. The belts to either side of the Triassic Basin are the Inner Piedmont to the west and the Milton Belt to the east. The Inner Piedmont is metamorphosed rocks, primarily amphibole, which dates from the Cambrian period/late Proterozoic Era, and several forms of schist, which date from the same period. The Milton Belt is metavolcanic rock, felsic and intrusive rocks from the Cambrian period/late Proterozoic Era, 680 to 710 million years before present. Some granitic rocks from the Silurian period (429 million years before present) are also found locally. The Triassic Basin, dating from 290 to 200 million years before present, runs through the middle of the Eden area. According to the Rockingham County Soil Survey, the topography of the Triassic Basin is 50 to 300 feet lower than the surrounding topography of earlier age. The Triassic Basin is predominated by sandstones, conglomerates and unmetamorphosed shale. Streams of Triassic age carried silt, sand and gravel to an environment much like the Holocene East African rift valley.

Site geomorphology generally includes an upland ridge in the northern section of the project area, part of which is an existing dry stack landfill. Three stream drainages run through the project area generally north to south, with an additional drainage running east to west along the northeastern project area boundary, all draining toward the Dan River which runs along the southern project area boundary. The “dredge basin” is located in the middle of the project area, and is a decades-old coal ash disposal area that appears to have been placed in a natural topographic drainage and then bermed at the downstream end along the north side of the two existing coal ash basins, located within the Dan River floodplain. Elevation across the site ranges from approximately 490 to 630 feet above mean sea level (MSL). Soils mapped on site are presented in the table below:

Soil Type	Map Unit Symbol	Hydric / Non-hydric
Ayersville gravelly loam, 4 to 15 % slopes	AyC	Non-hydric
Ayersville gravelly loam, 15 to 45 % slopes	AyF	Non-hydric
Clover sandy loam, 2 to 8 % slopes	CmB	Non-hydric
Clover sandy loam, 8 to 15 % slopes	CmD	Non-hydric
Dan River loam, 0 to 2 % slopes, frequently flooded	DaA	Hydric
Pinkston fine sandy loam, 15 to 45 % slopes	PnF	Non-hydric
Stoneville loam, 2 to 8 % slopes	SvB	Non-hydric
Stoneville loam, 8 to 15 % slopes	SvD	Non-hydric
Stoneville-Urban land complex, 2 to 10 % slopes	SwC	Non-hydric
Udorthents, loamy	Ud	Non-hydric

Among the 11 soil types that occur within the steam station property (see COE Figure 3), only one (DaA) is listed as a hydric map unit. This hydric map unit occurs at the southwest corner of the station and along the southern/southeastern boundary abutting the Dan River. Average annual precipitation for Rockingham County is 41.66 inches.

Since 1948 the project area has been part of the Dan River Steam Station (Station). Prior to current land use, the property was presumably used for farming, with forested areas on the steeper slopes and bottomlands. Currently, the project area is bounded on the north by an electrical power transmission line and forested areas beyond, to the west by an unnamed tributary to the Dan River, to the south by the Dan River and associated floodplain, and to the east by the shuttered coal-fired power plant (demolished in 2016) and new combined-cycle gas turbine power plant that comprises the remainder of the Station property. General area land use outside of the property includes commercial and residential development to the east in the vicinity of Eden, mixed residential-commercial land to the north and west, and agricultural and forested land to the south of the Dan River.

The dominant terrestrial communities on site comprise pine forest, upland hardwood forest, and mixed pine-hardwood upland forest. Shrub and brushland and open, maintained (grassed) areas occur on the disturbed/altered land within the station property. The pine forest community occurs to the north and west of the complex. This community is dominated by Virginia pine (*Pinus virginiana*) in the canopy and shrub strata. The upland hardwood forest community includes white oak (*Quercus alba*), northern red oak (*Quercus rubra*), American elm (*Ulmus americana*), sweetgum (*Liquidambar styraciflua*), red maple (*Acer rubrum*), mockernut hickory (*Carya alba*), and black cherry (*Prunus serotina*). The mixed pine-hardwood upland forest community is interspersed between the pine and upland hardwood forest areas and comprises plant species common to both communities. The central portion of the complex includes an electrical power transmission line (corridor). This periodically maintained corridor is vegetated with a mixture of grasses, forbs, vines, shrubs and tree seedlings; silverberry (*Elaeagnus umbellata*), an invasive shrub species, is also fairly common.

Amec Foster Wheeler Environment & Infrastructure, Inc. (Amec), consultant for the applicant, conducted a jurisdictional delineation of the site in 2015 (see COE Figure 4). The jurisdictional boundaries, including 12 streams and 17 wetlands were field verified by the Corps on November 13, 2015. All streams on the site carry the North Carolina Division of Water Resources (NCDWR) best usage classification of "C"; this classification refers to those waters protected for uses such as secondary recreation, fishing, wildlife, fish consumption, aquatic life including propagation, survival and maintenance of biological integrity, and agriculture. Secondary recreation includes wading, boating, and other uses involving human body contact with water where such activities take place in an infrequent, unorganized, or incidental manner. There are no designated Outstanding Resource Waters (ORW), High Quality Waters (HQW), Water Supply I (WS-I), or Water Supply (WS-II) waters within 1.0 mile of the project area. The wetlands within the project area are all of the Headwater Forest wetland type, according to the North Carolina Wetland Assessment Method (NCWAM). These features contain a mix of plant assemblages, with forested wetland areas generally dominated by an overstory of sweetgum, red maple and sycamore (*Platanus occidentalis*), and saplings and shrubs of the same species. The vegetation in the non-forested wetlands are dominated by herbaceous species due to the disturbance activities within the maintained areas which prevents development of the canopy and shrub strata. The vegetation includes soft rush (*Juncus effusus*), panicgrass (*Panicum spp*.), sawtooth blackberry (*Rubus argutus*), broomsedge (*Andropogon virginicus*), and bladder sedge (*Carex intumescens*). Soils within these features are primarily loamy with a low chroma (10YR 5/2) matrix and bright (10YR 5/6) redoximorphic concentrations. Typical of wetlands in topographic drainages, these wetlands display hydrology indicators such as water-stained leaves, seasonal saturation, and occasional flooding.

Notably, the "dredge basin" contains CCR material throughout its entire area. The dredge area occurs within a natural topographic drainage, is semi-permanently inundated, has naturalized to be completely vegetated, and is hydrologically connected to Wetland D. The areas were determined to be jurisdictional since they were not covered under any Clean Water Act section 402 permit. This area is dominated by phragmites (*Phragmites australis*), a non-native perennial wetland grass.

Additional details regarding the existing site conditions, including details of each wetland and stream on site, can be found in Section 5.0 of the "Dan River Steam Station Stormwater Diversion Project and Associated Projects Section 404 Individual Permit Support" document, accessible on the District Website at http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx.

Applicant's Stated Purpose

The purpose of the proposed project, as stated by the applicant, is the following:

The purpose of the stormwater diversion project is to divert stormwater to facilitate the excavation and disposal of CCR materials from areas of ash fill within the Station. This purpose is based on the following needs: address North Carolina regulatory requirements

related to diverting stormwater away from the Primary Ash Basin and Secondary Ash Basin and disposal of CCR materials; provide separation between water that has contacted CCR material (contact water) and water that has not contacted CCR material (non-contact water); increase safety by improving site access. The purpose of the Dan River 134 project (DR 134) is to stabilize a portion of the western streambank of Stream 3 with rip-rap to prevent further erosion and increase stability of the streambank. The purpose of the Dan River 131 project (DR 131) is to extend the culvert pipe downstream at the southern road crossing of Stream 3 in order to raise the elevation of the crossing crest for possible future scarp repairs along the Dan River.

Background

Several projects were authorized by the Corps on the Station property prior to the subject permit application. The Corps authorized the projects in the following table as single and complete projects with independent utility:

Authorization	Project Description	Wetland Impacts (acre)		Stream Impacts (linear feet)		Compensatory Mitigation Required?
		Permanent	Temporary	Permanent	Temporary	
SAW-2016-00331: NWP 33 May, 2, 2017	Temporary equipment crossing and work pad to repair eroding bank below existing ash basin berm.	-	-	-	132	No, and below mitigation threshold
SAW-2016-00331: NWP 13 February 18, 2016	Stabilize eroding bank below existing ash basin berm.	-	-	270	-	No, bank stabilization only
SAW-2015-01670; NWP 39 September 14, 2015 & re-verified April 3, 2017	Prevent uncontaminated stormwater from entering existing ash basin and plug existing faulty 48" culvert	0.41	-	448	-	Yes
SAW-2014-01477: NWP 18 September 29, 2014 & re-verified April 3, 2017	Prevent uncontaminated stormwater from entering existing ash basin and plug existing faulty 36" culvert	0.098	-	61	-	No, below mitigation threshold
SAW-2011-00261: NWP 12 March 23, 2011	Gas line for new combined cycle power plant	0.068	0.008	136	139	Yes
SAW-2009-01653: NWP 39 December 17, 2009	New combined cycle power plant	0.133	-	-	-	Yes

The project in the following table was determined by the Corps to be cumulative with the currently proposed project, regarding Nationwide Permit and Compensatory Mitigation thresholds:

Authorization	Project Description	Wetland Impacts (acre)		Stream Impacts (linear feet)		Compensatory Mitigation Required?
		Permanent	Temporary	Permanent	Temporary	
SAW-2015-01381: NWP 39; August 26, 2015	Extension of culverts for rail line relocation to remove coal ash	-	-	119	-	No, below mitigation threshold

Although impacts related to the 36-inch Pipe Closure and 48-inch Pipe Closure projects were included in the applicant's application package, the Corps determined that both of the projects were single and complete, have independent utility, were re-authorized under

Nationwide Permits 18 and 39, respectively, on April 3, 2017, and have therefore been withdrawn from the application package.

Project Description

Stormwater Diversion Project:

The Station is a 620 megawatt (MW) combined cycle (CC) power generating facility. On August 20, 2014, the North Carolina General Assembly passed S 729, the Coal Ash Management Act of 2014 (CAMA), requiring Duke Energy to phase out wet coal ash handling. Under CAMA, all coal ash in the state will be covered by North Carolina's solid waste laws. At the Station, Duke Energy has initiated the process to transport some of the coal ash from the Station to an existing lined landfill in Jetersville, Virginia. Presently, the excavation and disposal of CCR materials from areas of ash fill would entail the diversion of stormwater to facilitate these actions. Specifically, the implementation of stormwater diversion would require removal of ash from an existing dredge basin, construction of a soil divider berm, and construction of five pipelines. The proposed method for implementing stormwater diversion would incorporate a pump-around operation.

The Project components include the following (see COE Figures 5-8): divider berm; upland flow area (UFA); three water storage areas (WSA), including WSA-1, WSA-2, and WSA-3; and five Pipe Lines, including Pipe Lines 1, 2, 3, 4 and 5. The Project must adhere to federal and state water quality standards during the diversion of stormwater. Therefore, the Project has been designed to provide separation between water that has contacted CCR material (contact water) and water that has not contacted CCR material (non-contact water). Specifically, a divider berm would be created to provide separation of contact and non-contact water during CCR removal activities. The implementation of stormwater diversion would require removal of ash from an existing dredge basin (located between the current footprints of Ash Fill 1 and Ash Fill 2), construction of a soil divider berm, and construction of five pipelines. The diversion of stormwater is a significant element of the overall process to excavate and remove CCR materials from the Station.

All impacts to waters of the U.S. from the implementation of the stormwater diversion operations are classified herein as permanent. The impacts to Wetlands A, D and F, and Stream 1, including 0.41 acre of wetlands and 393 linear feet of stream, would be due to overflooding and permanent conversion of these resources to open water. The construction of the Project component WSA-1 would require removal of vegetation, CCR removal, and regrading to promote drainage within the existing dredge basin area. Specifically, the cumulative impacts to the dredge basin area footprint would include dredging, cut/fill, and overflooding, resulting in impacts to 1.89 acres of wetlands. The initial impact to the dredge basin would be dredging; i.e., the removal of hydrophytic vegetation, primarily phragmites, and the excavation of CCR material. The removed phragmites would be placed in a burn box. The stormwater diversion measures would be in place during the excavation and disposal of CCR materials, which is estimated to occur over a period of approximately three to five years.

Dan River 134:

The DR 134 project (see COE Figures 9-10) would entail streambank stabilization for a perennial stream located along the eastern boundary of the Station near its confluence with the Dan River. A portion of the western streambank is eroding with some undercutting occurring along the toe of the bank. The area of streambank instability occurs between two culverted road crossings. It is along this area of instability that rip-rap would be placed to armor the bank to prevent further erosion and stabilize the streambank. Without the proposed action, the streambank would continue to erode and the stability of the bank would continue to decline. Undercutting along the toe of the bank would also contribute to the degradation of the stream. Without the proposed action, the eroded sediment material would be transported directly downstream to the Dan River.

The DR 134 Project would result in an impact to 130 linear feet of a perennial stream (Stream 3) from the placement of rip-rap below the Ordinary High Water Mark (OHWM). The rip-rap would be placed along the western bank of the stream between the two culverted road crossings. The impact would be permanent. Separate from the proposed action to stabilize the western bank of the perennial stream was the installation of a culvert at each of the two road crossings of the stream in March of 2016. The Corps authorized the installation of the culverts through Nationwide Permit 13 (Action ID SAW-2016-00331) issued on February 18, 2016. The impacts to the stream were identified as temporary in the NWP 13. The impacts are included in this application as permanent. The culverted road crossings were created to facilitate vehicle and equipment access to the northern shoreline of the Dan River. The two culverts would not be removed and the stream would not be restored (via contour reshaping, etc.) to the pre-impact condition. The impact to the stream (Stream 3) from the installation of the two culverts comprised 86 linear feet (permanent loss); i.e., 43 linear feet of impact for the northern road crossing and 43 linear feet of impact for the southern road crossing.

Dan River 131:

The DR 131 Project (see COE Figures 11-12) is located at the southernmost road crossing of the two culverted road crossings identified in the DR 134 Project. The proposed action would entail the extension of the culvert pipe downstream to raise the elevation of the crest of the southern road crossing and thus provide a more permanent and stable approach for vehicles and equipment. A permanent and stable approach through the southern road crossing would provide safe access to the northern shoreline of the Dan River. Access to the northern shoreline is necessary for scarp repair, as needed, during the closure of the ash basins and the transport of coal ash from the steam station via a barge loadout area. Therefore, the two road crossings would be maintained indefinitely for future necessity and emergency access to this area.

The DR 131 project would result in permanent impact (permanent loss) of 15 linear feet to the perennial stream (Stream 3) from the extension downstream of the culvert pipe at the southern road crossing of the stream. This impact of 15 linear feet is in addition to the

43 linear feet of impact for the southern road crossing during the March 2016 culvert installation referenced for the DR 134 project (Action ID: SAW-2016-00331).

Additional details regarding the applicant's proposed project description, including project plans and other figures, can be found in Section 3.0 and 6.0 of the "Dan River Steam Station Stormwater Diversion Project and Associated Projects Section 404 Individual Permit Support" document, accessible on the District Website at http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx. The above referenced document also contains an Alternatives Analysis in Section 4.0 that includes No Action, On-site, and Off-site Alternatives.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

Appropriate and practicable steps to minimize potential adverse impacts to wetlands, streams, and ponds were considered through analysis of the development concepts during Project planning and the examination of the action alternatives. To generate the final preferred alternative, further design modifications were completed for the Project. The complete avoidance of waters of the U.S. was not practicable as the excavation and disposal of CCR materials at the Station ultimately required under CAMA could not be accomplished without some impact to such waters. However, the stormwater diversion operations would be conducted in a manner to reduce the potential for degradation of downstream waters.

Off-site Alternative for Stormwater Diversion

The off-site alternative for stormwater diversion would include the same design components as the high-volumetric flow rate pump-around alternative (49,000 gallons per minute [gpm]), but would additionally require a series of large tanks to temporarily store the excess stormwater until it could be discharged to the City of Eden. The following discussion provides further details on the off-site alternative.

Duke Energy has a permit with the City of Eden to discharge 200 gpm of flow to the City for treatment with the potential to increase to 400 gpm of discharge; therefore, an off-site alternative was considered to pump stormwater to the City of Eden. The off-site alternative would generally consist of the 49,000 gpm pump alternative with the ultimate discharge point being the City of Eden.

Leachate generated at the Dan River Landfill would be conveyed to the City of Eden for treatment; therefore, the flow capacity available for diverted stormwater would be less than the permitted capacity. Additionally, the pump system would need to have a capacity of 49,000 gpm to prevent inundation of the stream and wetland complex in the UFA. The maximum allowable permitted flow (200 to 400 gpm, less quantity of leachate generated) is less than the peak runoff rate for the 25-year, 24-hour storm event

(approximately 109 cubic feet per second [cfs] = 49,000 gpm); therefore, large on-site equalization tanks would be required to temporarily store the excess stormwater for eventual discharge to the city. The off-site alternative would require a series of large equalization tanks in addition to the pump, power supply and cost considerations discussed in the 49,000 gpm pump alternative description (i.e., high-volumetric flow rate pump-around alternative). In summary, the Project constraints are such that there is no viable off-site alternative. It is noted that the aforementioned large equalization tanks would not be used under the other on-site action alternatives; i.e., the on-site alternatives would discharge to existing surface drainage features.

Proposed Rip-rap Energy Dissipator

No jurisdictional wetlands or streams would be impacted by the construction of the proposed rip-rap energy dissipator. The energy dissipator is a design component of the pump-around alternative. The siting of this energy dissipator was completed in a manner to avoid a group of wetlands (interconnected by a stream feature) occurring within the northern portion of the Station.

Erosion and Sediment Control (E&SC) Plan

All development projects in North Carolina that disturb an acre or greater of land require an approved E&SC Plan. E&SC Plans must be produced in accordance with the North Carolina Erosion and Sediment Control Planning and Design Manual, dated May 2013. This manual includes best management practices (BMPs) for reducing erosion and sedimentation during construction. This requires proper site preparation techniques, surface stabilization, runoff control measures, diffuse flow through the riparian buffer, inlet and outlet protection, and stream protection. Rockingham County uses this manual when directing developers during new development or redevelopment that exceeds one acre. As Rockingham County is not NPDES Phase II nor is the watershed in a regulated community, it has no post-construction soil and erosion or stormwater control obligations. Rockingham County relies upon the North Carolina Department of Environmental Quality, Winston-Salem Regional Office to oversee and enforce their federal soil and erosion control requirements for new construction. Stormwater diversion activities of the Project would be conducted in a manner to minimize the potential for erosion and sedimentation.

Storm Runoff Event

Typical E&SC impoundments are designed for the 10-year design storm. The proposed divider berm does not have an emergency spillway; therefore, the engineer considered the 25-year event as the appropriate design storm. It should be noted that the water surface elevation of the 25-year event was calculated to be at elevation 548.05 feet MSL. The divider berm elevation is approximately 554 feet MSL, indicating storage capacity in excess of the 25-year event.

Compensatory Mitigation

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

Compensatory mitigation would be provided via the purchase of credits from the North Carolina Division of Mitigation Services (NCDMS) In-Lieu Fee program.

Stormwater Diversion Project:

Impacts to 0.41 acre of wetlands and 393 linear feet of streams would be compensated at a 2:1 mitigation to impact ratio, whereas impacts to 1.89 acres of wetlands within a naturalized dredge basin would be compensated at a 1:1 mitigation to impact ratio.

Dan River 134:

Impacts to a total of 216 linear feet of stream would be compensated at a 2:1 mitigation to impact ratio.

Dan River 131:

Impacts to 15 linear feet of stream would be compensated at a 2:1 mitigation to impact ratio.

Additional details regarding the applicant's compensatory mitigation plan can be found in Section 7.0 of the "Dan River Steam Station Stormwater Diversion Project and Associated Projects Section 404 Individual Permit Support" document, accessible on the District Website at http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx.

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 effect 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-indentified 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, not likely to adversely affect federally listed endangered or threatened species or their formally designated critical habitat. This determination is made specific to the Roanoke logperch (*Percina rex*) for the DR 134 and 131 aspects of the proposed project. 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 June 2, 2017 to:

NCDWR Central Office
Attention: Ms. Karen Higgins, 401 and Buffer Permitting Unit
(USPS mailing address): 1617 Mail Service Center, Raleigh, North Carolina 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 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, June 12, 2017. Comments should be submitted to David E. Bailey, Raleigh Regulatory Field Office,
3331 Heritage Trade Drive, Suite 105 , Wake Forest, North Carolina 27587, at (919) 554-4884 extension 30.